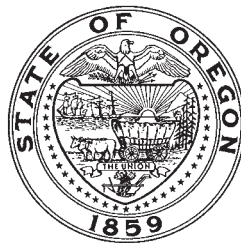


OREGON BULLETIN

Supplements the 2011 *Oregon Administrative Rules Compilation*

Volume 50, No. 11
November 1, 2011

For September 16, 2011–October 14, 2011



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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 on-line *Oregon Bulletin*. The *Oregon Administrative Rules Compilation* is an annual print publication containing the complete text of Oregon Administrative Rules (OARs) filed during the previous year through November 15, or the last workday before that if the 15th falls on a weekend or holiday. The *Oregon Bulletin* is a monthly on-line supplement that contains rule text amended after publication of the print *Compilation*, as well as proposed rulemaking and rulemaking hearing notices. The *Bulletin* also publishes certain non-OAR items such as Executive Orders of the Governor, Opinions of the Attorney General, and Department of Environmental Quality cleanup notices.

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.

How to Cite

Every administrative rule uses the same numbering sequence of a three-digit chapter number followed by a three-digit division number and a four-digit rule number (000-000-0000). Example: Oregon Administrative Rules, chapter 166, division 500, rule 0020 (short form: OAR 166-500-0020).

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 on-line *OAR Compilation* is updated on the first of each month to include all rule actions filed with the Administrative Rules Unit, Secretary of State’s office by the 15th of the previous month, or by the last workday before the 15th if that date falls on a weekend or holiday. The annual printed *OAR Compilation* contains the full text of all rules filed during the previous year through November 15, or the last workday before that if the 15th falls on a weekend or holiday. Subsequent changes to individual administrative rules are listed by rule number in the OAR Revision Cumulative Index which is published monthly in the on-line *Oregon Bulletin*. These listings include the effective date, the specific rulemaking action, and the

issue of the *Bulletin* that contains the full text of the amended rule. The *Bulletin* contains the full text of permanent and temporary rules filed for publication.

Locating Administrative Rules Unit Publications

The *Oregon Administrative Rules Compilation* and the *Oregon Bulletin* are available on-line through the Oregon State Archives web site at <<http://arcweb.sos.state.or.us>>. Printed volumes of the *Compilation* are deposited in Oregon’s Public Documents Depository Libraries listed in OAR 543-070-0000. Complete sets and individual volumes of the *Compilation* 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

2010–2011 Oregon Bulletin Publication Schedule

The Administrative Rules Unit accepts proposed rulemaking notices and administrative rule filings Monday through Friday, 8:00 am to 5:00 pm, 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 deadlines:

Submission Deadline — Publishing Date

December 15, 2010	January 1, 2011
January 14, 2011	February 1, 2011
February 15, 2011	March 1, 2011
March 15, 2011	April 1, 2011
April 15, 2011	May 1, 2011
May 13, 2011	June 1, 2011
June 15, 2011	July 1, 2011
July 15, 2011	August 1, 2011
August 15, 2011	September 1, 2011
September 15, 2011	October 1, 2011
October 14, 2011	November 1, 2011
November 15, 2011	December 1, 2011

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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TABLE OF CONTENTS

	<i>Page</i>
Information and Publication Schedule	2
Table of Contents	3, 4
Other Notices	5, 6
Notices of Proposed Rulemaking Hearings/Notices	
The citations and statements required by ORS 183.335(2)(b)(A)–(D) have been filed with and are available from the Secretary of State.	
Board of Accountancy, Chapter 801	7, 8
Board of Licensed Professional Counselors and Therapists, Chapter 833	8
Board of Licensed Social Workers, Chapter 877	8
Board of Nursing, Chapter 851	8
Board of Parole and Post-Prison Supervision, Chapter 255	8, 9
Board of Pharmacy, Chapter 855	9
Bureau of Labor and Industries, Chapter 839	9
Columbia River Gorge Commission, Chapter 350	9
Construction Contractors Board, Chapter 812	10
Department of Agriculture, Chapter 603	10, 11
Department of Consumer and Business Services, Building Codes Division, Chapter 918	11
Division of Finance and Corporate Securities, Chapter 441	11
Insurance Division, Chapter 836	11–13
Oregon Occupational Safety and Health Division, Chapter 437	13–15
Department of Corrections, Chapter 291	15
Department of Energy, Chapter 330	15, 16
Department of Environmental Quality, Chapter 340	16
Department of Fish and Wildlife, Chapter 635	16
Department of Geology and Mineral Industries, Chapter 632	16
Department of Human Services, Administrative Services Division and Director’s Office, Chapter 407	16, 17
Children, Adults and Families Division: Child Welfare Programs, Chapter 413	17, 18
Self-Sufficiency Programs, Chapter 461	18–21
Department of Justice, Chapter 137	21, 22
Department of Oregon State Police, Office of State Fire Marshal, Chapter 837	22
Department of Revenue, Chapter 150	22, 23
Department of Transportation, Chapter 731	23, 24
Department of Transportation, Driver and Motor Vehicle Services Division, Chapter 735	24, 25
Highway Division, Chapter 734	25, 26
Motor Carrier Transportation Division, Chapter 740	26
Rail Division, Chapter 741	27
Employment Department, Chapter 471	27
Employment Relations Board, Chapter 115	27
Land Conservation and Development Department, Chapter 660	27, 28
Landscape Contractors Board, Chapter 808	28, 29
Oregon Film and Video Office, Chapter 951	29, 30
Oregon Health Authority, Chapter 943	30
Oregon Health Authority, Addictions and Mental Health Division: Addiction Services, Chapter 415	30
Mental Health Services, Chapter 309	31
Division of Medical Assistance Programs, Chapter 410	31–34
Office for Oregon Health Policy and Research, Chapter 409	34
Oregon Educators Benefit Board, Chapter 111	34, 35
Public Health Division, Chapter 333	35, 36
Oregon Health Licensing Agency, Chapter 331	36, 37
Oregon Health Licensing Agency, Nursing Home Administrators Board, Chapter 853	37, 38
Oregon Public Employees Retirement System, Chapter 459	38, 39
Oregon State Lottery, Chapter 177	39
Oregon University System, Chapter 580	39, 40
Oregon University System, Oregon State University, Chapter 576	40
Parks and Recreation Department, Chapter 736	40
Public Utility Commission, Chapter 860	41
Secretary of State, Elections Division, Chapter 165	41
Water Resources Department, Chapter 690	41
Administrative Rules	
The citations and statements required by ORS 183.335(2)(b)(A)–(D) have been filed with and are available from the Secretary of State.	
Board of Examiners for Speech-Language Pathology and Audiology, Chapter 335	42–45
Board of Nursing, Chapter 851	45–48
Board of Psychologist Examiners, Chapter 858	48–53
Bureau of Labor and Industries, Chapter 839	53–64
Columbia River Gorge Commission, Chapter 350	64–66
Construction Contractors Board, Chapter 812	66–84
Department of Agriculture, Chapter 603	84–91
Department of Agriculture, Oregon Fine Fescue Commission, Chapter 604	91, 92
Oregon Raspberry and Blackberry Commission, Chapter 611	92
Department of Consumer and Business Services, Building Codes Division, Chapter 918	92–100
Director’s Office, Chapter 440	100, 101
Division of Finance and Corporate Securities, Chapter 441	101, 102
Insurance Division, Chapter 836	102
Oregon Occupational Safety and Health Division, Chapter 437	102–104
Department of Corrections, Chapter 291	104–106
Department of Energy, Chapter 330	106–120
Department of Fish and Wildlife, Chapter 635	120–135
Department of Human Services, Administrative Services Division and Director’s Office, Chapter 407	135–145
Children, Adults and Families Division: Child Welfare Programs, Chapter 413	145–168
Self-Sufficiency Programs, Chapter 461	168–198
Seniors and People with Disabilities Division, Chapter 411	198, 199
Department of Justice, Chapter 137	199, 200
Department of Public Safety Standards and Training, Chapter 259	200–203
Department of Revenue, Chapter 150	203, 204
Department of Transportation, Chapter 731	204
Department of Transportation, Highway Division, Chapter 734	204, 205
Oregon Commission on Children and Families, Chapter 423	205
Oregon Health Authority, Addictions and Mental Health Division: Mental Health Services, Chapter 309	205–207
Division of Medical Assistance Programs, Chapter 410	207–215
Office for Oregon Health Policy and Research, Chapter 409	215–218
Oregon Educators Benefit Board, Chapter 111	218–225
Public Employees’ Benefit Board, Chapter 101	225
Public Health Division, Chapter 333	225–276
Oregon Health Licensing Agency, Chapter 331	276–278

TABLE OF CONTENTS

Oregon Health Licensing Agency, Board of Direct Entry Midwifery, Chapter 332	278–285
Board of Licensed Dietitians, Chapter 834	285
Oregon Housing and Community Services Department, Chapter 813	285–293
Oregon Medical Board, Chapter 847	293–299
Oregon Public Employees Retirement System, Chapter 459	299–304
Oregon University System, Oregon State University, Chapter 576	304, 305
Portland State University, Chapter 577	305, 306
Public Utility Commission, Chapter 860	306–320
Racing Commission, Chapter 462	320–329
Secretary of State, Archives Division, Chapter 166	329, 330
Corporation Division, Chapter 160	330
Elections Division, Chapter 165	330–336
Travel Information Council, Chapter 733	336
OAR Revision Cumulative Index	337–393

OTHER NOTICES

REQUEST FOR COMMENTS PROPOSED CLEANUP ACTION FOR BEND GARAGE COMPANY

COMMENTS DUE: 5 p.m., November 30, 2011

PROJECT LOCATION: 345 SE Third Street, Bend, Oregon

PROPOSAL: Pursuant to Oregon Revised Statute (ORS) 465.320 DEQ is providing a thirty-day opportunity for public review and comment on Bend Garage Company (BGC) administrative records that support a No Further Action (NFA) finding. The BGC facility has been used as automotive sales and repair operations since 1968, and this property is currently occupied and operated in a similar manner by Lithia Motors.

HIGHLIGHTS: Lithia Motors requested BGC to obtain a No Further Action (NFA) from DEQ with respect to site investigation and cleanup of storm drain drill holes and underground hydraulic hoists. BGC entered DEQ's Voluntary Cleanup Program (VCP) on March 1, 2011.

HOW TO COMMENT: Send comments by 5 p.m., November 30, 2011, to DEQ Project Manager Cliff Walkey at walkey.cliff@deq.state.or.us

A thirty-day public opportunity to review and comment will extend from November 1, 2011 through November 30, 2011.

To review the project file, call Cliff Walkey at (541) 633-2003 for a file review appointment.

To access site summary information and other documents in DEQ's Environmental Cleanup Site Information database, go to <http://www.deq.state.or.us/lq/ECSI/ecsi.htm>, then enter ECSI #4203 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI # 4203 in the Site ID/Info column.

THE NEXT STEP: DEQ intends to issue a No Further Action (NFA) finding conditioned upon comments received during the public opportunity to review the Bend Garage Company administrative record during November 2011. DEQ will consider and respond to all comments received.

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 and Outreach, 503-229-5696 or toll free in Oregon at 800-452-4011; fax to 503-229-6762; or email to deqinfo@deq.state.or.us.

People with hearing impairments may call 711.

REQUEST FOR COMMENTS PROPOSED CLEANUP ACTION FOR HOBART OIL COMPANY

COMMENTS DUE: 5 p.m., November 30, 2011

PROJECT LOCATION: 112 Dixon Avenue, Molalla, Oregon

PROPOSAL: Pursuant to Oregon Revised Statute (ORS) 465.320 DEQ is providing a thirty-day opportunity for public review and comment on Hobart Oil Company administrative records that support a conditional No Further Action (NFA) finding. The Hobart Oil Company facility has been used as an active bulk fuel supply location since 1929.

HIGHLIGHTS: Hobart Oil Company requested a No Further Action (NFA) from DEQ with respect to site investigation and cleanup of petroleum-based contaminants in site soils and site groundwater. Hobart Oil Company entered DEQ's Voluntary Cleanup Program (VCP) on June 29, 2011. Phased site investigations have demonstrated low level petroleum contaminants and underlying constituents in site groundwater at concentrations not expected to adversely impact human health or the environment.

HOW TO COMMENT: Send comments by 5 p.m., November 30, 2011, to DEQ Project Manager Cliff Walkey at walkey.cliff@deq.state.or.us

A thirty-day public opportunity to review and comment will extend from November 1, 2011 through November 30, 2011.

To review the project file, call Cliff Walkey at (541) 633-2003 for a file review appointment.

To access site summary information and other documents in DEQ's Environmental Cleanup Site Information database, go to <http://www.deq.state.or.us/lq/ECSI/ecsi.htm>, then enter ECSI # 5356 in the Site ID box and click "Submit" at the bottom of the page.

Next, click the link labeled ECSI # 5356 in the Site ID/Info column. **THE NEXT STEP:** DEQ intends to issue a conditional No Further Action (NFA) finding contingent upon comments received during the public opportunity to review the Hobart Oil Company administrative record during November 2011. DEQ will consider and respond to all comments received. DEQ will provide an Easement and Equitable Servitudes (E&ES) that will be recorded with Clackamas County that will prohibit future site groundwater appropriation and impose other affirmative obligations related to site redevelopment.

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 and Outreach, 503-229-5696 or toll free in Oregon at 800-452-4011; fax to 503-229-6762; or email to deqinfo@deq.state.or.us.

People with hearing impairments may call 711.

REQUEST FOR COMMENTS PROPOSED CONDITIONAL NO FURTHER ACTION FOR TIDEWATER OIL BULK PLANT

COMMENTS DUE: 5 p.m., Nov. 30, 2011

PROJECT LOCATION: 3365 17th St., Baker City

PROPOSAL: The Oregon Department of Environmental Quality's Voluntary Cleanup Program proposes to issue a conditional no further action determination for the former Tidewater Bulk Plant site located at 3365 17th St. in Baker City. DEQ issues a no further action determination when a cleanup has met regulatory standards.

HIGHLIGHTS: The former petroleum bulk plant operated from 1930 to 1967. Petroleum releases were first documented at the site in 2005. Characterization of the nature and extent of contaminants was performed in 2006.

The Voluntary Cleanup Program has reviewed site assessment and remedial activities performed at the site. All of the potential exposure concerns are addressed through elimination during development of the site-specific conceptual site model or through institutional controls in the form of an Easement and Equitable Servitude placed on the site and the adjacent property. The E&ES prohibits beneficial use of groundwater.

HOW TO COMMENT: Send comments by 5 p.m., Nov. 30, 2011, to DEQ Project Manager Katie Robertson by phone at 541-278-4620, by mail at 700 SE Emigrant, Suite 330, Pendleton, OR 97801, by email at robertson.katie@deq.state.or.us or by fax at 541-278-0168.

To access site summary information and other documents in DEQ's Environmental Cleanup Site Information database, go to www.deq.state.or.us/lq/ECSI/ecsi.htm, select "Search complete ECSI database" link, enter 3013 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 3013 in the Site ID/Info column. To review the project file, contact the project manager above for a file review appointment.

THE NEXT STEP: DEQ will consider all public comments received before making a final decision on the proposed Conditional No Further Action determination. The site will remain listed on the Confirmed Release List and Inventory of Hazardous Substances. DEQ will provide written responses to all public comments received.

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. If you need information in another format, please contact DEQ toll free in Oregon at 800-452-4011, email at deqinfo@deq.state.or.us, or 711 for people with hearing impairments.

REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION FOR UNION PACIFIC RAILROAD DERAILMENT SITE (RR MP 378)

COMMENTS DUE: 5 p.m., Nov. 30, 2011

OTHER NOTICES

PROJECT LOCATION: Railroad milepost 378 near the Weatherby Rest Stop, Baker County

PROPOSAL: The Oregon Department of Environmental Quality's Voluntary Cleanup Program proposes to issue a No Further Action determination for the Union Pacific Railroad derailment site located at railroad milepost 378 near the Weatherby Rest Stop, approximately 15 miles northwest of Huntington in Baker County. This site also includes Union Pacific Railroad's Huntington Rail Yard, where damaged railcars were taken for processing. DEQ issues a no further action determination when a cleanup has met regulatory standards.

HIGHLIGHTS: On Dec. 31, 2010, a westbound train hauling box cars of copper concentrate broke a wheel, causing a derailment of 16 cars. Approximately 6,740 pounds of copper concentrate and surface soil was removed from the derailment site and transported to Finley Buttes Regional Landfill for disposal. Confirmation soil sampling performed at both the derailment site and the rail yard have documented cleanup actions are complete.

HOW TO COMMENT: Send comments by 5 p.m., Nov. 30, 2011, to DEQ Project Manager Katie Robertson by phone at 541-278-4620, by mail at 700 SE Emigrant, Suite 330, Pendleton, OR 97801, by e-mail at robertson.katie@deq.state.or.us or by fax at 541-278-0168.

To access site summary information and other documents in DEQ's Environmental Cleanup Site Information database, go to www.deq.state.or.us/lq/ECSI/ecsi.htm, select "Search complete ECSI database" link, enter 5475 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 5475 in the Site ID/Info column. To review the project file, contact the Project Manager above for a file review appointment.

THE NEXT STEP: DEQ will consider all public comments received before making a final decision on the proposed No Further Action determination. DEQ will provide written responses to all public comments received.

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. If you need information in another format, please contact DEQ toll free in Oregon at 800-452-4011, email at deqinfo@deq.state.or.us, or 711 for people with hearing impairments.

REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION FOR CHEVRON STATION 9-4783

COMMENTS DUE: 5 p.m., Nov. 30, 2011

PROJECT LOCATION: 676 SW Fourth Ave., Ontario

PROPOSAL: The Oregon Department of Environmental Quality's Voluntary Cleanup Program proposes to issue a No Further Action determination for the former Chevron Station 9-4783 site located at 676 SW Fourth Ave. in Ontario. DEQ issues a no further action determination when a cleanup has met regulatory standards. The site is also proposed for de-listing from DEQ's Confirmed Release List (CRL) and Inventory of Hazardous Substances (Inventory).

HIGHLIGHTS: The former petroleum service station operated from 1966 to 1983. Petroleum releases were first documented at the site in 1989. Characterization of the nature and extent of contaminants was performed both on the site and on the surrounding properties.

Chevron performed remedial actions in accordance with DEQ's *Record of Decision* dated October 16, 2006. Remedial actions included preparation of a *Hazard Communication and Soil/ Groundwater Management Plan*, groundwater monitoring, and soil gas and ambient air testing in the building on the adjacent property.

HOW TO COMMENT: Send comments by 5 p.m., Nov. 30, 2011, to DEQ Project Manager Katie Robertson by phone at 541-278-4620, by mail at 700 SE Emigrant, Suite 330, Pendleton, OR 97801, by e-mail at robertson.katie@deq.state.or.us or by fax at 541-278-0168.

To access site summary information and other documents in DEQ's Environmental Cleanup Site Information database, go to www.deq.state.or.us/lq/ECSI/ecsi.htm, select "Search complete ECSI database" link, enter 0526 in the Site ID box and click

"Submit" at the bottom of the page. Next, click the link labeled 0526 in the Site ID/Info column. To review the project file, contact the Project Manager above for a file review appointment.

THE NEXT STEP: DEQ will consider all public comments received before making a final decision on the proposed No Further Action determination and proposed de-listing of the Site from the CRL and Inventory. DEQ will provide written responses to all public comments received.

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. If you need information in another format, please contact DEQ toll free in Oregon at 800-452-4011, email at deqinfo@deq.state.or.us, or 711 for people with hearing impairments.

REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION FOR FORMER A&F AUTO PAINTS SITE

COMMENTS DUE: 5 p.m. Nov. 30, 2011

PROJECT LOCATION: 5431 SE McLoughlin Blvd., Portland, OR

PROPOSAL: The Oregon Department of Environmental Quality proposes that no further investigative or remedial action is required to address petroleum and volatile organic compound contamination at the former A&F Auto Paints site in Portland. As part of the decision, officially known as a no further action determination, the site will also be delisted from the DEQ Confirmed Release List. DEQ seeks public comment on this proposal.

HIGHLIGHTS: Tests conducted in the mid-1990s found that concentrations of petroleum and other volatile organic compounds in site's soil and groundwater exceeded protective criteria established by DEQ. The property owners entered into DEQ's Voluntary Cleanup Program in November 2007 to address the historic petroleum and volatile organic compound contamination. Between November 2007 and June 2011, the owners completed several rounds of soil and groundwater sampling and measured sub-surface soil gas in order to determine the nature and extent of the contamination. Testing showed that volatile organic compounds are not present in soil or groundwater at levels that present a risk to site workers, or nearby residential and commercial properties. Soil gas samples show that there is no vapor intrusion threat to the commercial site or nearby residential properties. Based on these findings, DEQ has determined that no cleanup action is required and that no further investigation is needed.

HOW TO COMMENT: Send comments by 5 p.m., Nov. 30, 2011, to DEQ Project Manager Chuck Harman at DEQ's Northwest Region Office by mail at 2020 SW Fourth Ave., Suite 400, Portland, OR 97201; by email at harman.charles@deq.state.or.us; or by fax at 503-229-6899

To review the project file, call Dawn Weinberger at 503-229-6729 for an appointment.

To access site summary information and other documents in DEQ's Environmental Cleanup Site Information database, go to www.deq.state.or.us/lq/ECSI/ecsi.htm, then enter '1739' in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled '1739' in the Site ID/Info column.

THE NEXT STEP: The DEQ project manager will review all comments received and determine if a no further action determination and delisting from the Confirmed Release List is appropriate. If DEQ receives no comments that warrant delaying a no further action decision, DEQ will issue a final letter confirming the 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 and Outreach, 503-229-5696 or toll free in Oregon at 800-452-4011; fax to 503-229-6762; or email to deqinfo@deq.state.or.us

People with hearing impairments may call 711.

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 Accountancy
Chapter 801

Rule Caption: Adopt rules for confidentiality of investigation files and update the professional standards effective date.

Date: 11-15-11 **Time:** 9 a.m. **Location:** Board of Accountancy
3218 Pringle Rd. SE
Salem, OR 97302

Hearing Officer: L. Patrick Hearn

Stat. Auth.: ORS 183.332, 673.410, 670.310, 673.410, 673.170, 673.400

Stats. Implemented: ORS 183.332, 673.410, 670.310, 673.170, 673.400

Proposed Amendments: 801-001-0035

Proposed Ren. & Amends: 801-010-0190 to 801-001-0040

Last Date for Comment: 12-2-11

Summary: The 2011 Legislative assembly passed HB 2067 allowing the Board to hold pending investigations confidential until a preliminary finding or dismissal on the matter is made.

The professional standards as used throughout OAR Chapter 801 are those that are in effect as of January 1, 2012.

Rules Coordinator: Kimberly Bennett

Address: Board of Accountancy, 3218 Pringle Rd. SE, Suite 110, Salem, OR 97302

Telephone: (503) 378-2268

.....
Rule Caption: Adds a definition for active status, retired status and expired status. Modifies inactive status.

Date: 11-15-11 **Time:** 9 a.m. **Location:** Board of Accountancy
3218 Pringle Rd. SE
Salem, OR 97302

Hearing Officer: L. Patrick Hearn

Stat. Auth.: ORS 670.310

Stats. Implemented: ORS 670.310 & 673.410

Proposed Amendments: 801-005-0010, 801-005-0300

Last Date for Comment: 12-2-11

Summary: The 2011 Legislative Assembly passed HB 3181 which amends the time a license can be lapsed. In addition, the bill modified what can and cannot be performed by a licensee who has an inactive license.

Rules Coordinator: Kimberly Bennett

Address: Board of Accountancy, 3218 Pringle Rd. SE, Suite 110, Salem, OR 97302

Telephone: (503) 378-2268

.....
Rule Caption: Increase late fees, modify supervisor licensee requirements, modify status requirements and CPA firm ownership amendments.

Date: 11-15-11 **Time:** 9 a.m. **Location:** Board of Accountancy
3218 Pringle Rd. SE
Salem, OR 97302

Hearing Officer: L. Patrick Hearn

Stat. Auth.: ORS 670.310, 673.040, 673.060, 673.100, 673.150, 673.160, 197.720, 673.153, 673.220

Stats. Implemented: ORS 673.060, 673.410, 192.440, 673.297, 673.050, 673.100, 673.075, 673.040, 673.153, 673.170, 673.220

Proposed Amendments: 801-010-0010, 801-010-0040, 801-010-0065, 801-010-0073, 801-010-0075, 801-010-0079, 801-010-0080, 801-010-0085, 801-010-0110, 801-010-0115, 801-010-0120, 801-010-0125, 801-010-0130, 801-010-0340, 801-010-0345

Last Date for Comment: 12-2-11

Summary: Late filing of renewals for all license types has been increased to match the dollar amount of the license. Inactive status is amended to reflect new legislation brought forth from the passage of House Bill 3181. New limitations of six years (3 renewal cycles) for lapsed licenses is outlined in rule as well as reinstatement requirements for lapsed and inactive statuses. Retired status is now available for qualified licensees.

CPE will be required to maintain an Inactive license.

Supervisor requirements have been modified to only allow supervisions by an individual who is licensed in the state where the supervision takes place.

Rules Coordinator: Kimberly Bennett

Address: Board of Accountancy, 3218 Pringle Rd. SE, Suite 110, Salem, OR 97302

Telephone: (503) 378-2268

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Rule Caption: Establish CPE requirements for Inactive licensees and modify reinstatement requirements, housekeeping.

Date: 11-15-11 **Time:** 9 a.m. **Location:** Board of Accountancy
3218 Pringle Rd. SE
Salem, OR 97302

Hearing Officer: L. Patrick Hearn

Stat. Auth.: ORS 670.310, 673.040, 673.060, 673.100, 673.150, 673.160, 197.720, 673.153, 673.220

Stats. Implemented: ORS 673.060, 673.410, 192.440, 673.297, 673.050, 673.100, 673.075, 673.040, 673.153, 673.170, 673.220

Proposed Amendments: 801-040-0010, 801-040-0020, 801-040-0090, 801-040-0100, 801-040-0160

Last Date for Comment: 12-2-11

Summary: Rules were amended to establish CPE requirements for inactive license holders. In addition, reinstatement requirements were modified to require a licensee in lapsed status to renew to active status only.

Rules Coordinator: Kimberly Bennett

Address: Board of Accountancy, 3218 Pringle Rd. SE, Suite 110, Salem, OR 97302

Telephone: (503) 378-2268

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Rule Caption: General housekeeping and authority to grant extensions for peer review deadline.

NOTICES OF PROPOSED RULEMAKING

Date: 11-15-11
Time: 9 a.m.
Location: Board of Accountancy
3218 Pringle Rd. SE
Salem, OR 97302

Hearing Officer: L. Patrick Hearn

Stat. Auth.: ORS 673.455

Stats. Implemented: ORS 673.455

Proposed Amendments: 801-050-0010, 801-050-0020, 801-050-0040

Last Date for Comment: 12-2-11

Summary: General housekeeping items to reflect correct references to rules and revision to allow the Board to grant an extension on deadlines relating to peer review.

Rules Coordinator: Kimberly Bennett

Address: Board of Accountancy, 3218 Pringle Rd. SE, Suite 110, Salem, OR 97302

Telephone: (503) 378-2268

Board of Licensed Professional Counselors and Therapists Chapter 833

Rule Caption: Changes to criminal history check procedures.

Stat. Auth.: ORS 675.705–675.835

Stats. Implemented: ORS 675.785

Proposed Amendments: 833-120-0011, 833-120-0021, 833-120-0031, 833-120-0041

Proposed Repeals: 833-120-0011(T), 833-120-0021(T), 833-120-0031(T), 833-120-0041(T)

Last Date for Comment: 11-30-11, 5 p.m.

Summary: Simplifies and clarifies criminal history check process for applications for license or internship and for licensee and intern renewals to ease the criminal background check process.

- Allows license applicants with fingerprint based criminal history checks provided by another public agency within one year prior to submitting a license application to submit a verification form instead of a new fingerprint based history check.

- Adds registered interns to requirements section

- Adds that misleading statements or intended omissions as part of criminal background check may result in discipline

- Adds that criminal history checks will be conducted on each licensee or intern every 5 years

- Changes the cost of criminal history checks from the board's actual cost to \$47.25 for each criminal history check.

Rules Coordinator: Becky Eklund

Address: Board of Licensed Professional Counselors and Therapists, 3218 Pringle Rd. SE, Suite 250, Salem, OR 97302

Telephone: (503) 378-5499, ext. 3

Board of Licensed Social Workers Chapter 877

Rule Caption: Clarifies licensure and continuing education requirements, duties of Board Chair. Implements House Bill 2314 (2011).

Date: 12-9-11
Time: 8 a.m.
Location: Board Offices
3218 Pringle Rd. SE, Suite 240
Salem, OR 97302

Hearing Officer: Martin Pittioni

Stat. Auth.: ORS 675.510–675.600

Other Auth.: House Bill 2314 (2011) & HB 5009 (2011)

Stats. Implemented: ORS 675.530, 675.532, 675.533, 675.535, 675.537, 675.550, 675.560, 675.565, 675.571, 675.595 & 675.600

Proposed Amendments: 877-001-0020, 877-010-0015, 877-010-0020, 877-015-0105, 877-015-0108, 877-015-0136, 877-020-0005, 877-020-0008, 877-020-0010, 877-020-0016, 877-020-0036, 877-025-0006, 877-025-0011, 877-040-0050

Last Date for Comment: 12-9-11, 9 a.m.

Summary: The proposed rule revisions in effect adopt as permanent rules the temporary rules filed by the Board of Licensed Social Work-

ers on July 5, 2011. The proposed rule therefore proposes to make the following changes to Board rules (OAR Chapter 877) on a permanent basis, effective January 1, 2012: Limits applicability of LCSW late renewal fee increase to \$200 adopted by the Board effective January 1, 2011 (legislatively ratified in HB 5009–2011) to LCSWs renewing on active status; provides Board authority to waive fees for licensees on active military duty and deployed outside of Oregon for 90 days or more; clarifies authority of Board Chair including administrative approvals between Board meetings related to licensure; removes requirement that applicant for LCSW licensure must hold LMSW license (implementing House Bill 2314 – 2011); clarifies process and requirements for out-of-state applicants for LCSW who intend to practice prior to issuance of LCSW; specifies types of continuing education that will meet the requirements for licensure or certification renewal for LCSWs, LMSWs, and RBSWs; makes other housekeeping and technical changes.

Rules Coordinator: Martin Pittioni

Address: Board of Licensed Social Workers, 3218 Pringle Rd. SE, Suite 240, Salem, OR 97302

Telephone: (503) 373-1163

Board of Nursing Chapter 851

Rule Caption: Eliminate renewal fees to persons on active duty with the Uniformed Services of the United States.

Date: 11-17-11
Time: 9 a.m.
Location: 17938 SW Upper Boones Ferry Rd.
Portland, OR 97224

Hearing Officer: Pat Markesino, Board President

Stat. Auth.: ORS 678.385 & 678.390

Stats. Implemented: ORS 678.370, 678.372, 678.375, 678.380 & 678.390

Proposed Amendments: 851-002-0000

Last Date for Comment: 11-15-11, 5 p.m.

Summary: These rules would eliminate renewal fees assessed while any person holding a license or certificate with the Board is on active duty with the Uniformed Services of the United States.

Rules Coordinator: Peggy A. Lightfoot

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

Telephone: (971) 673-0638

Board of Parole and Post-Prison Supervision Chapter 255

Rule Caption: Amend rule to comply with ORS 163.105(4) and ORS 144.285.

Stat. Auth.: ORS 163.105(4) & 144.285
Stats. Implemented: ORS 163.105(4) & 144.285
Proposed Amendments: 255-032-0035

Last Date for Comment: 11-28-11

Summary: 2009 OL Ch. 660 amended ORS 163.105(4) specifying the interval of time that must pass before an inmate convicted of aggravated murder is allowed to petition for a change in the terms of confinement. These administrative rules bring the Board's rules into compliance with the statute(s), stating that the Board may not grant a subsequent hearing that is less than two years, or more than 10 years, from the state the petition is denied. The amendments provide the procedures for implementing the statutory changes.

Rules Coordinator: Michelle Mooney

Address: Board of Parole and Post-Prison Supervision, 2575 Center St. NE, Salem, OR 97301

Telephone: (503) 945-0914

Rule Caption: Prison Term hearings for Inmates Found Likely to be Rehabilitated.

NOTICES OF PROPOSED RULEMAKING

Stat. Auth.: ORS 144.120

Other Auth.: OAR 255-030-0012 (1982), 255-032-0005(1) (1982, 195), *Janowski/Feming v. Board of Parole*, 349 Or 432 (2010), *Severy/Wilson v. Board of Parole*, 349 Or 461 (2010)

Stats. Implemented: ORS 144.120

Proposed Adoptions: 255-032-0037

Last Date for Comment: 11-28-11

Summary: The Oregon Supreme Court (*Janowski/Fleming v. Board of Parole*, 349 Or 432 (2010); *Severy/Wilson v. Board of Parole*, 349 Or 461 (2010)) has found that for each inmate who has been convicted of aggravated murder and subsequently been found likely to be rehabilitated within a reasonable period of time under ORS 163.105, the Board must hold a hearing, using the procedures it deems appropriate, to set the inmate's parole release date according to the matrix in effect when he committed his crime. This rule establishes the procedure and rules to be applied under the court ruling.

Rules Coordinator: Michelle Mooney

Address: Board of Parole and Post-Prison Supervision, 2575 Center St. NE, Salem, OR 97301

Telephone: (503) 945-0914

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Board of Pharmacy
Chapter 855

Rule Caption: Amend or adopt new Collaborative Therapy, Immunization, Intern, Pharmacy Depots, Manufacturer, Controlled Substance and fee Rules.

Date:	Time:	Location:
11-22-11	9 a.m.	800 NE Oregon St., Conference Rm. 1-A Portland, OR 97232

Hearing Officer: Courtney Frank

Stat. Auth.: ORS 689.205

Other Auth.: 2009 OL Ch. 536

Stats. Implemented: ORS 689.151, 689.155, 689.207, 689.225, 689.275, 689.645 & 689.505

Proposed Adoptions: 855-060-0004, 855-080-0103

Proposed Amendments: Rules in 855-019, 855-041, 855-080, 855-110

Last Date for Comment: 11-22-11, 4:30 p.m.

Summary: Division 19 rules amend to clarify the requirements for Collaborative Therapy and Administration of Vaccines. Division 31 Intern rules are amended for clarification. Division 041 Pharmacy Depot rules are amended to update and allow for exceptions. Division 60 updates the Manufacturer rules to more clearly identify which entities must register as drug manufacturers. Division 80 amends the Animal Euthanasia rules to reflect changes that were made to the Veterinary Medical Examining Board and the elimination of Certified Animal Euthanasia Technicians. Division 110 rules propose to permanently adopt fees that were previously established by temporary rule in June 2011. These rules include fee increases that were necessary and included in the Board's 2011-13 Budget. The rules amend licensing fees for the registration and renewal for individuals and certain drug outlets. The temporary rule also included minor house-keeping changes. A complete copy of these proposed rules may be found on the Board's web site at, www.pharmacy.state.or.us

Rules Coordinator: Karen MacLean

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

Telephone: (971) 673-0001

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Bureau of Labor and Industries
Chapter 839

Rule Caption: New and amended rule language to conform to and implement statutes relating to veterans' employment.

Stat. Auth.: ORS 659A.805

Other Auth.: HB 2241, HB 3207, SB 72, SB 277, Oregon Legislative Assembly 2011

Stats. Implemented: HB 2241 (List of eligible uniformed services protected by discrimination statute), HB 3207 (requires public employers interview veterans qualifying for eligibility list), SB 72 (clarifies definition of disabled veteran), SB 277 (clarifies veterans' preference for promotions), Oregon Legislative Assembly 2011, ORS 408.225-408.235, 659A.082

Proposed Adoptions: Rules in 839-006

Proposed Amendments: 839-006-0440, 839-006-0450, 839-006-0455, 839-006-0470, 839-006-0480, Rules in 839-006

Proposed Renumberings: Rules in 839-006

Proposed Ren. & Amends: Rules in 839-006

Last Date for Comment: 12-9-11, Close of Business

Summary: The proposed rules would implement HB 2241, which expands the definition of "uniformed service" for purpose of employment protections to match federal definitions.

The proposed rules would implement HB 3207, which requires public employers to interview each veteran who applies for a civil service position or eligibility list and who has obtained through military education or experience skills that substantially relate to the civil service position.

The proposed rules would implement SB 72, which clarifies the definition of "disabled veteran" for purposes of statutes relating to veterans' preference in public employment.

The proposed rules would implement SB 277, which clarifies that a veteran or disabled veteran who applies for a vacant civil service position or who seeks promotion to a civil service position with a higher maximum salary rate is entitled to veterans' preference.

Rules Coordinator: Marcia Ohlemiller

Address: Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232

Telephone: (971) 673-0784

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Columbia River Gorge Commission
Chapter 350

Rule Caption: Proposed Rule Revising Dates and Notice Requirements for Development of Review Decisions and Incorporating SMA Changes.

Date:	Time:	Location:
2-14-12	9 a.m.	Hood River Best Western Inn 1108 E. Marina Way Hood River, OR

Hearing Officer: Columbia River Gorge Commission

Stat. Auth.: ORS 196.050

Other Auth.: RCW 43.97.015; 16 USC Sec. 544d(c)(5)(A), 544e(c)(1) & 544f(l)

Stats. Implemented: ORS 196.150

Proposed Amendments: 350-081-0020, 350-081-0036, 350-081-0038, 350-081-0042, 350-081-0054, 350-081-0082, 350-081-0190, 350-081-0370, 350-081-0550, 350-081-0600, 350-081-0620

Last Date for Comment: 1-30-12

Summary: Currently, the Executive Director of the Gorge Commission must review a development review application for completeness within 14 days after receiving it, and must issue a decision on a standard development review application within 72 days after accepting the application as complete and an expedited review application within 30 days. The proposed rule changes those time periods into goals that the Executive Director will attempt to make. The proposed rule also eliminates the requirements that the Commission publish notices of development review applications in the local newspaper and send a notice to the local library. Finally, the proposed rule incorporates changes to the Management Plan for the Special Management Areas that the Forest Service provided to the Commission in 2011 and the Commission adopted without change.

Rules Coordinator: Nancy A. Andring

Address: Columbia River Gorge Commission, P.O. Box 730, White Salmon, WA 98672

Telephone: (509) 493-3323

NOTICES OF PROPOSED RULEMAKING

Construction Contractors Board Chapter 812

Rule Caption: Housekeeping – cite reference changes.

Date: 12-6-11 **Time:** 11 a.m. **Location:** West Salem Roth's IGA
Santiam Rm.
425 Glen Creek Rd.
Salem, OR

Hearing Officer: Rob Yorke

Stat. Auth.: ORS 183.310–183.500, 670.310, 701.235, 701.515, 701.992 & 701.995

Stats. Implemented: ORS 87.093, 279C.590, 701.005, 701.021, 701.026, 701.042, 701.046, 701.073, 701.091, 701.098, 701.106, 701.109, 701.227, 701.335, 701.315, 701.330, 701.345, 701.480, 701.485, 701.510, 701.515, 701.995 & 701.995

Proposed Amendments: 812-002-0260, 812-005-0800

Last Date for Comment: 12-6-11, Close of Hearing

Summary: 812-002-0260 and 812-005-0800 are amended to correct cite references.

Rules Coordinator: Catherine Dixon

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

Telephone: (503) 934-2185

Rule Caption: Home Inspector Rule Amendments to Implement SB 153 (2011).

Date: 12-6-11 **Time:** 11 a.m. **Location:** West Salem Roth's IGA
Santiam Rm.
425 Glen Creek Rd.
Salem, OR

Hearing Officer: Rob Yorke

Stat. Auth.: ORS 670.310, 701.235, 701.350 & 701.355

Other Auth.: 2011 OL Ch. 79 Sec. 1

Stats. Implemented: ORS 701.081, 701.084, 701.350 & 701.355

Proposed Amendments: 812-008-0000, 812-008-0020, 812-008-0030

Last Date for Comment: 12-6-11, Close of Hearing

Summary: • 812-008-0000 is amended to implement Senate Bill 153, which authorizes the CCB to adopt rules to determine whether an inspection and report, which is limited to one or more specific systems or components of a residential structure or appurtenance, is a sufficient assessment of the overall physical condition of the structure or appurtenance to constitute the services of a home inspector.

• 812-008-0020, as amended, reflects three types of businesses that do not inspect the overall physical condition of homes but rather provide specialized services. These services include energy audits, forensic evaluation and home performance testing. Each term is defined. The term “home inspection” specifically excludes these services. The terms “component” and “system” are clarified with respect to home energy appliances — namely, hot water heaters, furnaces and air conditioners.

• 812-008-0030 is amended to do the following: (1) Clarify the “grandfather” exemption created under earlier law; and (2) Add new exemptions for: (a) energy audit; (b) forensic evaluation; and (c) home performance testing. The references to ORS 701.350(1) and 701.350(2) are removed from sections (1) and (2) of the rule. Those statutory provisions do not contain express exemptions. The only statutory exemption is for “grandfathered” contractors, in OAR 812-008-0030(3)(a).

Rules Coordinator: Catherine Dixon

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

Telephone: (503) 934-2185

Department of Agriculture Chapter 603

Rule Caption: Addresses how the department will implement Oregon Laws 2011 Chapter 436 regarding the humane treatment of egg-laying hens.

Date: 11-21-11 **Time:** 1 p.m. **Location:** Oregon Dept. of Agriculture
Hearings Rm.
635 Capitol St. NE
Salem, OR

Hearing Officer: Kathryn Alvey

Stat. Auth.: 2011 OL Ch. 436

Stats. Implemented:

Proposed Adoptions: 603-018-0001, 603-018-0003, 603-018-0005, 603-018-0007, 603-018-0009, 603-018-0011, 603-018-0013

Last Date for Comment: 11-29-11, 5 p.m.

Summary: Oregon Laws 2011 Chapter 436 (Senate Bill 805) requires the department to develop administrative rules to clarify how the department will implement the provisions of Sections 1 to 4 of the 2011 Act. These rules add definitions, provide clarity on the humane conditions that are to be met when confining egg-laying hens in enclosures, how to provide proof of meeting such standards, responsibilities of distributors and purchasers of eggs and egg products (as stipulated by law), and what information is to be included in Farm Business Plans. These rules also include enforcement alternatives, civil penalty implementation, and department access and subpoena authority.

Rules Coordinator: Sue Gooch

Address: Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301

Telephone: (503) 986-4583

Rule Caption: Implementation of the wolf depredation compensation and financial assistance grant program.

Date: 11-17-11 **Time:** 1 p.m. **Location:** 635 Capitol St. NE
Salem, OR

Hearing Officer: Staff

Stat. Auth.: 2011 OL Ch. 690

Stats. Implemented: 2011 OL Ch. 690

Proposed Adoptions: 603-019-0001, 603-019-0005, 603-019-0010, 603-019-0015, 603-019-0020, 603-019-0025, 603-019-0030, 603-019-0035

Last Date for Comment: 12-5-11

Summary: The purpose of these rules is to provide criteria and procedures for implementation and administration of the Wolf Depredation Compensation and Financial Assistance Grant Program. Grant funds will be awarded to qualified county programs for compensation to persons who suffer death of or injury to livestock or working dogs that is attributed to wolf depredation. Grant funds may also be awarded for financial assistance to persons who implement livestock management techniques or nonlethal wolf deterrence techniques designed to discourage wolf/livestock interactions and reduce wolf depredations. Grant funds may also compensate counties for expenses associated with up to 90% of the implementation of the County Program as defined in this rule.

Rules Coordinator: Sue Gooch

Address: Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301

Telephone: (503) 986-4583

Rule Caption: Biomass-based diesel definition and related amendments of the term “other renewable diesel.”

Date: 11-29-11 **Time:** 10–11 a.m. **Location:** Oregon Dept. of Agriculture
Hearings Rm.
635 Capitol St. NE
Salem, OR

NOTICES OF PROPOSED RULEMAKING

Hearing Officer: Staff

Stat. Auth.: ORS 646.925 & 646.957

Stats. Implemented: ORS 646.922

Proposed Amendments: 603-027-0410, 603-027-0420, 603-027-0430, 603-027-0440, 603-027-0490

Last Date for Comment: 12-6-11, 5 p.m.

Summary: The purpose of this proposed rule is to: (1) amend the definition of "other renewable diesel" to "biomass-based diesel" consistent with the Federal Trade Commission (FTC) definition; (2) amend language throughout the rule associated with the term "other renewable diesel"; (3) editorial corrections of alphabetical listings; (4) editorial renumbering due to these proposed amendments; (5) amend dispenser labeling requirements for biomass-based diesel to be consistent with FTC rules; (6) editorial corrections of the word "shall" to "must" to be more consistent with the State of Oregon rule-making protocol; and (7) include biomass-based diesel blends not meeting ASTM International specifications into the enforcement proceedings section of the rule.

Rules Coordinator: Sue Gooch

Address: Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301

Telephone: (503) 986-4583

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

Rule Caption: Adopts the 2011 Boiler and Pressure Vessel Specialty Code.

Date:	Time:	Location:
11-15-11	9 a.m.	1535 Edgewater St. NW Salem, OR 97304

Hearing Officer: Mike Graham

Stat. Auth.: ORS 455.020, 480.545 & 480.550

Stats. Implemented: ORS 480.545 & 480.550

Proposed Adoptions: Rules in 918-225

Proposed Amendments: Rules in 918-225

Proposed Repeals: Rules in 918-225

Last Date for Comment: 11-18-11, 5 p.m.

Summary: The proposed rules adopt minimum safety standards for the safe installation and operation of boilers and pressure vessels in Oregon by adopting provisions of national boiler and pressure vessel model codes and standards. The proposed rules adopt the model codes and standards with additional Oregon amendments that will be referred to as the 2011 Oregon Boiler and Pressure Vessel Specialty Code.

Additional rules are amended to change the format of the tables with no changes to the text.

Rules Coordinator: Stephanie Snyder

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

Telephone: (503) 373-7438

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

Rule Caption: Repeals additional counseling fee for debt management service providers in accordance with statutory sunset.

Stat. Auth.: ORS 697.840

Stats. Implemented: 2009 OL Ch 604 § 9a & 30

Proposed Amendments: 441-910-0000

Proposed Repeals: 441-910-0092

Last Date for Comment: 11-30-11, 5 p.m.

Summary: During the 2009 regular session, the Legislature passed House Bill 2191 to govern the activities of debt management service providers. As part of the updated law, the Legislature placed statutory limits on the amount of fees that a registered debt management service provider could charge, including for counseling clients. During deliberations on the fee limits, the Legislature authorized a

temporary, additional counseling fee that a registered debt management service provider may charge. In implementing the bill, the Department of Consumer and Business Services (DCBS) adopted rules clarifying under what circumstances a registered debt management service provider could charge the additional counseling fee. On January 1, 2012, the authority in statute for the additional counseling fee sunsets and will no longer be in force. Because the underlying authority for the rules will no longer be in force, DCBS is proposing to repeal these implementing rules.

Rules Coordinator: Shelley Greiner

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

Telephone: (503) 947-7484

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Rule Caption: Repealing appraisal management company rules to transfer responsibility to the Appraiser Certification and Licensure Board.

Stat. Auth.: 2011 OL Ch 447 § 26 (Enrolled HB 2499)

Stats. Implemented: 2011 OL Ch 447 § 6 (Enrolled HB 2499)

Proposed Repeals: 441-674-0005, 441-674-0100, 441-674-0120, 441-674-0130, 441-674-0140, 441-674-0210, 441-674-0220, 441-674-0230, 441-674-0240, 441-674-0250, 441-674-0310, 441-674-0510, 441-674-0520, 441-674-0910, 441-674-0915, 441-674-0920

Last Date for Comment: 11-30-11, 5 p.m.

Summary: This notice proposes to repeal the entire division of administrative rules that govern the registration and auditing of appraisal management companies (AMCs), on the condition that the rules are superseded by temporary or permanent rulemaking by the Appraiser Certification and Licensure Board (ACLB). Currently, AMCs doing business in Oregon must register with the Department of Consumer and Business Services (DCBS). In response to new federal standards for AMCs contained within the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 110-203), the Oregon Legislature passed legislation to transfer authority over AMCs from DCBS to ACLB. HB 2499 takes effect on January 1, 2012. Section 6 of the bill states that DCBS' rules remain in effect until "superseded or repealed by rules" of the ACLB. In order to ensure continuity for regulated entities and to prepare for the transition, this rulemaking activity provides notice to the general public that DCBS' rules governing AMCs will be permanently repealed when the ACLB adopts temporary or permanent rules to implement HB 2499.

Rules Coordinator: Shelley Greiner

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

Telephone: (503) 947-7484

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Department of Consumer and Business Services, Insurance Division Chapter 836

Rule Caption: Aligns Oregon surplus lines laws with federal Nonadmitted and Reinsurance Reform Act of 2010.

Date:	Time:	Location:
12-5-11	1:30 p.m.	350 Winter St. NE Conference Rm. F Salem, OR

Hearing Officer: Jeannette Holman

Stat. Auth.: ORS 731.244, 735.410, 735.425

Stats. Implemented: ORS 735.410 & 735.425 & 2011 OL Ch. 660 Sec. 5 (Enrolled HB 2679)

Proposed Adoptions: 836-071-0501

Proposed Amendments: 836-071-0500

Last Date for Comment: 12-5-11, Close of Business

Summary: This rulemaking implements House Bill 2679 enacted in the 2011 legislative session. House Bill 2679 aligns Oregon surplus lines laws with the Nonadmitted and Reinsurance Reform Act of

NOTICES OF PROPOSED RULEMAKING

2010 (NRRRA) that is part of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act. The rules will amend the current surplus lines licensing and filing requirements rules and provide new insured and surplus lines licensee requirements regarding reporting of allocation information on Oregon home state risks.

Rules Coordinator: Sue Munson

Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Rm. 440, Salem, OR 97301

Telephone: (503) 947-7272

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Rule Caption: Changes to rates and form filing rules to reflect Interstate Insurance Product Regulation Commission membership.

Date:	Time:	Location:
11-29-11	1:30 p.m.	350 Winter St. NE, Conference Rm. F Salem, OR 97301

Hearing Officer: Jeannette Holman

Stat. Auth.: ORS 731.244 & 731.296

Other Auth.: 2011 OL Ch. 520 Sec. 2-4 (Enrolled HB 2095)

Stats. Implemented: ORS 731.296, 737.205, 737.207, 742.001, 743.015, 743.018 & 2011 OL Ch. 520 (Enrolled HB 2095)

Proposed Amendments: 836-010-0000, 836-010-0011

Proposed Repeals: 836-010-0012

Last Date for Comment: 12-9-11, Close of Business

Summary: The 2007 Legislative Assembly granted authority to the Director of the Department of Consumer and Business Services to specify by rule categories of life insurance, annuities or disability insurance for which the director need not consider or review an individual policy form that an insurer has filed before approving the form for delivery or issuance for delivery in this state if those products were approved by the Interstate Insurance Product Regulation Commission (IIPRC). In 2011, the Legislative Assembly enacted House Bill 2095, becoming a member of the IIPRC. As a member of the IIPRC, the rules adopted pursuant to the 2007 legislation are no longer necessary because all products approved by the IIPRC are now accepted in Oregon without further review and approval. This rulemaking is necessary to remove the obsolete references to those earlier approved products.

The rules will take effect on and apply to products filed after January 1, 2011, the date Oregon becomes a member of the IIPRC.

Rules Coordinator: Sue Munson

Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Rm. 440, Salem, OR 97301

Telephone: (503) 947-7272

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Rule Caption: Requires vendors to obtain limited license to sell portable electronics insurance.

Date:	Time:	Location:
12-7-11	1:30 p.m.	350 Winter St. NE, Conference Rm. F Salem, OR 97301

Hearing Officer: Jeannette Holman

Stat. Auth.: 2011 OL Ch. 393 Sec. 7 (Enrolled HB 3411)

Other Auth.: ORS 705.135

Stats. Implemented: 2011 OL Ch. 393 Sec. 1-7 (Enrolled HB 3411)

Proposed Adoptions: 836-071-0550, 836-071-0560, 836-071-0565, 836-071-0570

Last Date for Comment: 12-14-11, Close of Business

Summary: This rulemaking implements House Bill 3411 enacted in the 2011 legislative session. House Bill 3411 requires that vendors who sell or lease portable electronics devices, such as cell phones or electronic tablets, must obtain a limited insurance producer license from the Department of Consumer and Business Services before issuing, selling or offering portable electronics insurance coverage to customers. The proposed rules will establish the vendor application and renewal requirements, including fees, and training requirements for a vendor's employees, agents or authorized representatives.

Rules Coordinator: Sue Munson

Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Rm. 440, Salem, OR 97301

Telephone: (503) 947-7272

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Rule Caption: Requirements for health insurers' report on services provided by expanded practice dental hygienists.

Date:	Time:	Location:
1-6-12	1:30 p.m.	350 Winter St. NE Conference Rm. F Salem, OR

Hearing Officer: Jeannette Holman

Stat. Auth.: ORS 731.244, 705.135

Other Auth.: 2011 OL Ch. 716 Sec. 12 (Enrolled SB 738)

Stats. Implemented: 2011 OL Ch. 716 Sec. 12 (Enrolled SB 738)

Proposed Adoptions: 836-011-0600

Last Date for Comment: 1-13-12, Close of Business

Summary: Senate Bill 738 requires that a health insurance policy covering dental health services must cover services provided by an expanded practice dental hygienist if the same services would be covered when provided by a licensed dentist and the expanded practice dental hygienist has entered into a provider contract with the insurer. Section 12 of SB 738 requires the Department of Consumer and Business Services (DCBS) to adopt rules requiring health insurers to report to DCBS on the reimbursement of services to expanded practice dental hygienists and requires DCBS to report the reimbursement information to the Oregon Board of Dentistry (OBD).

This new rule would establish those reporting requirements for health insurers that provide coverage for dental services in Oregon. The rule also defines "expanded practice dental hygienist" and "health insurer" for purposes of the reporting requirement.

Rules Coordinator: Sue Munson

Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Rm. 440, Salem, OR 97301

Telephone: (503) 947-7272

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Rule Caption: Prompt pay requirements and internal and external review procedures for long term care insurance.

Date:	Time:	Location:
1-3-12	1:30 p.m.	350 Winter St. NE, Conference Rm. F Salem, OR 97301

Hearing Officer: Jeannette Holman

Stat. Auth.: ORS 731.244, 743.655 & 2011 OL Ch. 69 Sec. 2 (Enrolled SB 88)

Other Auth.: & 2011 OL Ch. 69 Sec. 2 & 5 (Enrolled SB 88)

Stats. Implemented: ORS 743.655 & 2011 OL Ch. 69 Sec. 2, 3, 5 & 8 (Enrolled SB 88)

Proposed Adoptions: 836-052-0768, 836-052-0770

Proposed Amendments: 836-052-0508

Last Date for Comment: 1-10-12, Close of Business

Summary: This rulemaking is necessary to implement chapter 69, Oregon Laws 2011 (Enrolled Senate Bill 88). Senate Bill 88, which became effective May 19, 2011, directs the Department of Consumer and Business Services to adopt rules requiring prompt payment of claims and establishing internal and external review procedures to appeal a determination about whether the conditions of a benefit trigger have been met. This rulemaking satisfies that requirement by establishing an internal and external appeals process for determinations related to benefit triggers and implementing prompt pay requirements. The rules are modeled after the National Association of Insurance Commissioners' Model Regulation #641, Long Term Care Insurance Model Regulations.

Rules Coordinator: Sue Munson

Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Rm. 440, Salem, OR 97301

Telephone: (503) 947-7272

NOTICES OF PROPOSED RULEMAKING

Rule Caption: Implementation of legislation enacting state and federal health insurance reform.

Date: 11-30-11
Time: 1:30 p.m.
Location: 350 Winter St. NE,
 Conference Rm. F
 Salem, OR

Hearing Officer: Jeannette Holman

Stat. Auth.: ORS 731.244, 743.018, 743.019, 743.020, 743.601743.610, 743.737, 743.754, 743.758, 743.769, 743.804, 743.814, 743.819 743.857, 743.858 & 743.862

Other Auth.: 2011 OL Ch. 500 Sec. 4 & 4a (Enrolled SB 89) & 2009 OL Ch. 73 Sec. 2

Stats. Implemented: ORS 742.003, 742.005, 742.007, 743.018, 743.019, 743.020, 743.601, 743.610, 743.730, 743.731, 743.737, 743.754, 743.760, 743.766 to 743.769, 743.699, 743.801, 743.804, 743.806, 743.807, 743.814, 743.817, 743.819, 743.821, 7432.829, 743.837, 743.857, 743.858, 743.862 & 743A.012 & 2011 OL Ch. 500 Sec. 4 & 4a (Enrolled SB 89) & 2009 OL Ch. 73 Sec. 2

Proposed Adoptions: 836-053-0415, 836-053-0825, 836-053-0830, 836-053-0857, 836-053-0862, 836-053-1033, 836-053-1035

Proposed Amendments: 836-053-0410, 836-053-0851, 836-053-1000, 836-053-1030, 836-053-1060, 836-053-1070, 836-053-1080, 836-053-1100, 836-053-1110, 836-053-1140, 836-053-1310, 836-053-1340, 836-053-1342, 836-053-1350

Proposed Repeals: 836-053-0856, 836-053-0861, 836-053-0866

Last Date for Comment: 12-7-11, Close of Business

Summary: These rules implement provisions of Chapter 500, Oregon Laws 2011 (Enrolled Senate Bill 89). The proposed rules ensure that the Oregon Insurance Code is consistent with the federal Affordable Care Act, the federal health care reform law signed by President Obama on March 23, 2010; and also make changes to Oregon administrative rules to ensure consistency with other state and federal legislation. The changes are generally in these areas:

- Revisions to Oregon’s rescission provisions including requirements for the contents of the notice required to be provided to enrollees whose coverage is rescinded, and requirements and timelines for notice of rescissions that insurers must provide to the director of the Department of Consumer and Business Services Division.
- Clarifying when notice requirements are triggered when an insurer takes administrative action to cancel coverage under an individual health benefit plan.
- Implementing the changes made to the state continuation laws including clarifying the requirements of the notice that insurers must send to covered persons and qualified beneficiaries eligible for state continuation coverage; defining or clarifying statutory terms such as “enrollee,” “certificate holder,” “claim,” “coverage,” “dissolution,” “notice,” and “similar;” and explaining circumstances under which a person is not considered to be a qualified beneficiary.
- Defining requirements for cultural and linguistic appropriateness in accordance with federal law.
- Implementing changes to Oregon’s internal and external review processes for adverse benefit determinations in a manner that is consistent with and approved by federal regulators.
- A number of changes to clarify and make the rules consistent with the statutory changes enacted by Senate Bill 89.

Rules Coordinator: Sue Munson

Address: Department of Consumer and Business Services, Insurance Division, 350 Winter St. NE, Rm. 440, Salem, OR 97301

Telephone: (503) 947-7272

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

Rule Caption: Proposed changes to Division 1, General Administrative Rules – Penalties and others.

Date: 12-2-11
Time: 10 a.m.
Location: Oregon OSHA Field Office
 1140 Willagillespie, Suite 42
 Eugene, OR 97401-2101

12-7-11
 10 a.m.
 Fremont Place, Bldg. I
 1750 NW Naito Pkwy., Suite 112
 Portland, OR 97209 2533

Hearing Officer: Sue Joye

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

Stats. Implemented: ORS 654.001–654.295

Proposed Amendments: 437-001-0015, 437-001-0075, 437-001-0145, 437-001-0160, 437-001-0165, 437-001-0175, 437-001-0230, 437-001-0255, 437-001-0400, 437-001-0405, 437-001-0410, 437-001-0411, 437-001-0415, 437-001-0420, 437-001-0430, 437-001-0435, 437-001-0760

Proposed Repeals: 437-001-0260

Last Date for Comment: 12-14-11

Summary: This rulemaking would make adjustments to the penalty rule to more effectively use Oregon OSHA’s existing penalty authority. Both nationally and at state levels, it has been suggested that Oregon OSHA penalties are not as effective as they might be in promoting health and safety in the workplace. The proposal grows not out of a desire to increase penalties (although many worker advocates suggest larger penalties would be appropriate) but is instead an effort to develop a more effective approach to use penalties to encourage employers to comply with safety and health rules.

The assessment of penalties takes into account a number of factors. Oregon OSHA is proposing several changes in how penalties are calculated. The proposed changes include:

1. increasing the difference between small employer and large employer penalties,
2. a decrease in penalty amounts for those employers who demonstrate “good faith” efforts to promote workplace safety and health,
3. a removal of the current decrease in penalty amounts based on an employer’s immediate correction of violations,
4. a change in the reduction of penalties given employers history,
5. an increase in the base penalty amount for death violations, and
6. a change in the definition of repeat violations to focus on repeat behavior rather than technical issues related to the code.

The rationale for these proposals is discussed below.

1. The change to increase the difference between small employer and large employer penalties is proposed as a way to better motivate larger employers. The current penalty structure may motivate the small employer but is unlikely to motivate the larger employer to the same degree. Hence, a sliding scale with multiple thresholds based on size of the employer is being proposed. This proposed change would not require any additional assessment on the part of the enforcement officer nor would it depend upon their individual judgment.

2. An assessment of the employer’s “good faith” efforts would allow enforcement officers to better reflect the overall commitment of a company to safety and health. It would allow for a reduction to the base penalty amount in recognition of an employer’s efforts put forth “prior to the inspection”. The proposal allows more flexibility to provide penalties appropriate to a particular situation. A “good faith” assessment would introduce an element requiring a judgment be made based upon an established set of criteria. Similar to what enforcement officers currently do when assessing probability factors to determine base penalties.

3. The current practice of providing a reduction in penalties for employers who immediately abate violations provides an incentive for employers to reduce employee exposure at the time of the inspection. The proposed change to the rule takes into account that correction of a violation is already an employer obligation and should take place without the incentive of a penalty reduction. It may even be argued that failure to abate violations prior to an inspection represents a lack of good faith effort on the part of the employer. Current practice may be viewed as rewarding undesirable behavior.

NOTICES OF PROPOSED RULEMAKING

4. A fourth proposed change to the penalty rule relates to the current 35% reduction given employers with a better-than-average history of injuries and illnesses. The new proposal is to reduce that adjustment to 10%. This change would continue to credit employers who maintain a positive history over time, but would eliminate the distortion created by relatively large penalty adjustments on the basis of relatively small statistical variations in injury and illness rates.

5. The base penalty in the penalty matrix for death is increasing from \$1,500 to \$2,100 for violations assessed as low/death. The base penalty for violations assessed as medium/death are increasing from \$2,500 to \$3,000. The increase of the base penalty for high/death violations will be from \$5,000 to \$7,000. The increases in the penalty amounts for a death violation are simply to encourage stronger efforts by employers to promote safety and health in the workplace. The increase provides a stronger incentive for employers to put forth additional compliance efforts.

6. A change in the assessment and penalties for repeat violations is also proposed. We often cite employers for general responsibility rules and a second violation becomes a repeat even when the circumstances are completely different. This change in the rule would eliminate some of those repeats. The proposal is to change the language to more clearly identify that a repeat violation must be a second violation that is substantially similar to the previously cited violation

Please visit our web site www.orsosha.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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Rule Caption: Proposed changes to General Industry, Construction, Agriculture, and Maritime with federal changes from Standards Improvement Project III.

Date:	Time:	Location:
11-29-11	10 a.m.	Labor and Industries Bldg. 350 Winter St. NE Basement – Conference Rm. F Salem. OR 97301-3882

Hearing Officer: Sue Joye

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

Stats. Implemented: ORS 654.001–654.295

Proposed Adoptions: 437-002-0134, 437-002-1001, 437-002-1017, 437-002-1018, 437-002-1025, 437-002-1027, 437-002-1028, 437-002-1029, 437-002-1043, 437-002-1044, 437-002-1045, 437-002-1047, 437-002-1048, 437-002-1050, 437-002-1051, 437-002-1052; 437-003-0062, 437-003-1101, 437-003-1127, 437-003-3060

Proposed Amendments: 437-002-0005, 437-002-0120, 437-002-0140, 437-002-0220, 437-002-0340, 437-002-0360, 437-002-0364; 437-003-0001, 437-003-0015, 437-003-0096; 437-004-1110; 437-005-0001, 437-005-0002, 437-005-0003

Proposed Repeals: 437-002-0123, 437-002-0125, 437-002-0127, 437-002-0128, 437-002-0130, 437-002-0135, 437-002-0136, 437-002-0137

Last Date for Comment: 12-2-11

Summary: Oregon OSHA proposes changes to rules in general industry, construction, agriculture, and maritime. Federal OSHA published a number of rule changes in these industries in the June 8, 2011 Federal Register. This is Phase III of the Standards Improvement Project (SIP III), the third in a series of rulemaking by Federal OSHA to improve and streamline the standards. This removes or revises individual requirements within rules that are confusing, outdated, duplicative, or inconsistent.

Oregon OSHA proposes to adopt the majority of the federal changes that include:

- Personal Protective Equipment – Division 2/I, remove requirements that employers prepare and maintain written training certification records.

- Respiratory Protection – revise requirements for breathing-gas containers.

- Material Handling/Slings – revise standards in general industry, construction, and maritime standards.

- Commercial Division Operations – Division 2/T, remove two obsolete recordkeeping requirements.

- General industry and construction – remove requirements in numerous standards for employers to transfer specific records to the National Institute for Occupational Safety and Health (NIOSH).

- Lead – amend trigger levels in general industry and construction.

In connection with rule changes in the SIP III rulemaking process, Oregon OSHA is proposing additional changes to the subdivisions and rules opened during this rulemaking activity. We will also make reference changes to Underground Installations in Division 3/P.

Oregon OSHA is repealing all of Division 2/I rules with the exception of 1910.134 Respiratory Protection, 1910.137 Electrical Protective Equipment, 437-002-0138 Additional Oregon Rule for Electrical Protective Equipment, 437-002-0139 Working Underway on Water, and 437-002-1139 Working Over or In Water.

To replace them, Oregon OSHA will adopt the new Oregon-initiated rule, 437-002-0134 Personal Protective Equipment, that includes sections covering scope/application, hazard assessment, equipment, training, payment, fall protection, clothing, high visibility garments, eye, head, foot, leg, hand and skin protection.

The change in format simplifies the existing text while making little change to the overall rule requirements with the following exceptions:

- Modifying the hazard assessment requirement to clarify that employers must identify hazards to the entire body, including the torso and extremities, when performing the assessment. The assessment is currently limited to head, hands, eyes and face and foot protection.

- Change the fall protection component criteria to align with the systems criteria found in 1926.502 of the construction standards. The training requirement in this rule would also cover those parts not previously covered, such as fall protection.

Definition of “potable water”:

Previously, Oregon OSHA did not adopt 1910.141(a)(1), so the SIP-III changes to the definition of potable water must be addressed through Oregon-initiated rules. We will maintain the current definition of potable water at Division 2/J, 437-002-0141(1)(a), Sanitation and Division 4/J, 437-004-1105(1)(b), Sanitation. However, for consistency, we are proposing to change the definition of potable water in Division 4/J, 437-004-1110, Field Sanitation for Hand Labor Work, and Division 3/D, 437-003-0015 Drinking Water to the same definition.

For Substance-specific rules:

We propose to adopt new Oregon-initiated rules in Divisions 2/Z, 3/D, and 3/Z, that replace the respiratory protection program paragraphs in the 1910 and 1926 substance specific rules referencing 1910.134 Respiratory Protection. The new rules expand the 1910.134 reference to include paragraphs (e) Medical Evaluation, and (o) Appendices. Also, notes are proposed to be added following each of these new rules to clarify that these requirements are in addition to other medical evaluation and respiratory-protection-related requirements in each rule.

In most instances, the change in the requirement for a respirator medical evaluation (1910.134(e)) is a change in timing. Employers in many instances are already required to provide respirator medical evaluations based on contaminant exposure and required use of a respirator. Employers subject to the substance-specific rules would be required to provide a respirator medical evaluation to determine the employee's ability to wear a respirator without adverse health effects before the employee is fit tested or required to use a respirator in the workplace.

NOTICES OF PROPOSED RULEMAKING

By adding section (o) of 1910.134, the proposed rules specify that all the Appendices to 1910.134 apply, providing approved procedures and respirator protocols to employers. These include Appendix A, Fit Testing Procedures; Appendix B-1, User Seal Check Procedures; Appendix B-2, Respirator Cleaning Procedures; Appendix C, OSHA Respirator Medical Evaluation Questionnaire; and Appendix D, Information for Employees Using Respirators When Not Required under the Standard.

MOCA – 4,4’-Methylene bis (2-chloroaniline):

As a logical extension of the Federal OSHA SIP-III changes to 29 CFR 1910.1003, 13 Carcinogens, we propose to amend the Oregon Rules for MOCA (4,4’-Methylene bis (2-chloroaniline)) at Division 2/Z, 437-002-0364. The requirements for respiratory protection are updated and the requirements for transfer of records is simplified. Most transfer of medical records to NIOSH is eliminated with the SIP III rulemaking. The employer is required to follow the requirements of the Respiratory Protection rule and select appropriate respirators based on the selection criteria in 1910.134(d). (The type of respirator to use is no longer specified.)

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 Corrections Chapter 291

Rule Caption: Capital Punishment (Death by Lethal Injection).

Date:	Time:	Location:
11-22-11	2 p.m.	Labor and Industries Bldg. Room 260 350 Winter St. NE Salem, OR, 97301

Hearing Officer: Leonard Williamson

Stat. Auth.: ORS 137.463, 137.473, 179.040, 423.020, 423.030, & 423.075

Stats. Implemented: ORS 137.463, 137.473, 179.040, 423.020, 423.030, & 423.075

Proposed Amendments: 291-024-0005 – 291-024-0090

Last Date for Comment: 11-22-11, Close of Business

Summary: On May 18, 2011, Marion County Circuit Court Judge Joseph C. Guimond issued a Death Warrant in State v. Gary Haugen, Marion County Circuit Court Case No. 04C46224, authorizing and commanding the Superintendent of the Oregon State Penitentiary to execute the court’s judgment that defendant Gary Haugen be punished by death. Adoption of these temporary rule amendments is necessary in order for ODOC to conform its rules to ODOC’s current organizational structure and personnel, to conform the existing rule regarding media interviews with condemned inmates to ODOC policies regarding the same as established in ODOC’s rule on Media Access to Designated Inmates, OAR 291-204-0060, and to make desired changes in operational policies and procedures, including changing the time of day that executions will be carried out by the Superintendent.

Rules Coordinator: Janet R. Worley

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

Telephone: (503) 945-0933

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Rule Caption: Reimbursement to Counties for Costs of Incarcerating Persons Sentenced for DUII.

Stat. Auth.: ORS 179.040, 423.020, 423.030, 423.075, & 813.012

Other Auth.: 2011 OL Ch. 598

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 813.012

Proposed Adoptions: 291-208-010 – 291-208-0050

Last Date for Comment: 12-22-11, Close of Business

Summary: These rules are necessary to establish the manner in which a county may submit a claim to the Department of Corrections for reimbursement for incarceration costs of persons who committed the crime of Felony Driving Under the Influence of Intoxicants. These rules implement 2011 legislation, SB 395.

Rules Coordinator: Janet R. Worley

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

Telephone: (503) 945-0933

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Rule Caption: Use of the Static 99 to Establish Inmate Eligibility for Participation in an AIP.

Stat. Auth.: ORS 179.040, 421.500–421.512, 423.020, 423.030, & 423.075 & 2008 OL Ch 35

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

Proposed Amendments: 291-062-0110, 291-062-0140

Last Date for Comment: 12-22-11, Close of Business

Summary: These rule amendments are necessary to expressly incorporate by reference and identify by exhibits filed with the rules the Static 99 risk assessment tool adopted by the department to establish certain eligibility criteria for inmates to participate in an alternative incarceration program (AIP). Under the department’s eligibility criteria, inmates who score six or higher on the Static 99 risk assessment tool are ineligible for participation in an AIP.

Rules Coordinator: Janet R. Worley

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

Telephone: (503) 945-0933

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Rule Caption: Use of the Static 99 to Determine an Inmate’s Eligibility for On-site Work Assignments.

Stat. Auth.: ORS 179.040, 421.445, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 421.445, 423.020, 423.030 & 423.075

Proposed Amendments: 291-082-0105, 291-082-0110

Last Date for Comment: 12-22-11, Close of Business

Summary: These rule amendments are necessary to expressly incorporate by reference and identify by exhibits filed with the rules the Static 99 risk assessment tool adopted by the department to establish specific criteria for an inmate to be eligible for on-site work assignments. These work assignments are on the grounds of the facility where an inmate is housed, but outside the perimeter fence of the facility. Under the department’s eligible criteria, inmates who score six or higher on the Static 99 risk assessment tool are ineligible for on-site work assignments.

Rules Coordinator: Janet R. Worley

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

Telephone: (503) 945-0933

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Department of Energy Chapter 330

Rule Caption: Amendments to Residential Energy Tax Credit rules to align with House Bill 3672 (2011).

Date:	Time:	Location:
11-23-11	9:30 a.m.	625 Marion St. NE Salem, OR 97301

Hearing Officer: Jo Morgan

Stat. Auth.: ORS 469.160–469.180 & 2011 OL Ch. 730 Sec. 67–75

Stats. Implemented: 2011 OL Ch. 730 Sec. 67–75

Proposed Adoptions: 330-070-0029

Proposed Amendments: 330-070-0010, 330-070-0013, 330-070-0014, 330-070-0019, 330-070-0020, 330-070-0021, 330-070-0022, 330-070-0024, 330-070-0025, 330-070-0026, 330-070-0027, 330-070-0040, 330-070-0045, 330-070-0048, 330-070-0055, 330-070-

NOTICES OF PROPOSED RULEMAKING

0059, 330-070-0060, 330-070-0062, 330-070-0063, 330-070-0064, 330-070-0070, 330-070-0073, 330-070-0085, 330-070-0089, 330-070-0091, 330-070-0097.

Last Date for Comment: 11-30-11, 5 p.m.

Summary: The rule amendments are for changes to the Residential Energy Tax Credit (RETC) rules. The rules are modified to change the definitions to eliminate alternative fuel vehicles and certain appliances and establish the appropriate level of incentive for eligible alternative energy devices.

Rules Coordinator: Kathy Stuttaford

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

Telephone: (503) 373-2127

Department of Environmental Quality

Chapter 340

Rule Caption: Water Quality Standards Rules Revision, Rule For Klamath River Restoration Time Schedule.

Date:	Time:	Location:
12-6-11	6 p.m.	Oregon Institute of Technology College Union Auditorium Campus Dr. Klamath Falls, OR

Hearing Officer: DEQ staff

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048

Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048

Proposed Amendments: 340-041-0185

Last Date for Comment: 12-15-11, 5 p.m.

Summary: The Oregon Department of Environmental Quality proposes a rule stating DEQ's policy and procedures for evaluating whether to certify that the removal of J.C. Boyle dam on the Klamath River will comply with water quality standards. The U.S. Secretary of Interior will determine whether or not the dam should be removed. The rulemaking clarifies DEQ's authority and intent to allow a time schedule for the dam removal to comply with water quality standards if DEQ can make the findings specified in the rule. Conditions will be placed in DEQ's certification to protect water quality to the maximum extent practicable during the dam removal process and to ensure that the long term water quality and fish habitat improvements outweigh the expected short term water quality impacts.

Rules Coordinator: Maggie Vandehey

Address: Department of Environmental Quality, 811 SW Sixth Ave., Portland, OR 97204-1390

Telephone: (503) 229-6878

Department of Fish and Wildlife

Chapter 635

Rule Caption: Amendments to Rules for Commercial and Recreational Groundfish Fisheries and Fish Dealer Records and Reports.

Date:	Time:	Location:
12-2-11	8 a.m.	Ramada Inn & Suites Portland Airport 6221 NE 82nd Ave. Portland, OR

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 496.138, 496.146, 496.162, 497.121, 506.109, 506.119, 506.129, 508.530 & 508.535

Stats. Implemented: ORS 496.004, 496.009, 496.162, 506.109, 506.119, 506.129, 508.025, 508.040, 508.535 & 508.550

Proposed Adoptions: Rules in 635-004, 635-006, 635-039

Proposed Amendments: Rules in 635-004, 635-006, 635-039

Proposed Repeals: Rules in 635-004, 635-006, 635-039

Last Date for Comment: 12-2-11

Summary: These amended or adopted rules, as determined justified, will modify commercial and sport groundfish fisheries; establish annual groundfish management measures for 2012; and modify requirements for fish dealer records and reports, including Fish

Receiving Tickets and Monthly Remittance Reports. 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: Adopts Rules for Contracts for Geoscientific Surveys and Analysis.

Stat. Auth.: ORS 516.090

Stats. Implemented: ORS 516.035

Proposed Adoptions: 632-001-0020

Last Date for Comment: 11-21-11, 4 p.m.

Summary: OAR 632-001-0020 Contracts for Geoscientific Surveys and Analysis.

(1) Prior to entering into an agreement authorized under ORS 516.035(6), the State Geologist shall consider whether the scope of the agreement is consistent with the department's mission statement and applicable objectives of the strategic plan and the extent to which the agreement will benefit the citizens of Oregon.

(2) The State Geologist shall report annually to the Governing Board on the number and dollar value of agreements that were executed under the authority of ORS 516.035(6).

Rules Coordinator: Gary W. Lynch

Address: Department of Geology and Mineral Industries, 229 Broadalbin St. SW, Albany, OR 97321

Telephone: (541) 967-2053

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

Rule Caption: Abuse of Mistreatment Reporting and Protective Services in Community Programs for Adults with Developmental Disabilities.

Stat. Auth.: ORS 179.040 & 409.050

Other Auth.: HB 2009, enacted in 2009 OL Ch. 595, Sec. 19-25

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, 407-045-0320

Last Date for Comment: 11-22-11, 5 p.m.

Summary: These proposed rules remove any references to "mental illness" in community programs serving adults with mental illness. The mental health portion of the program has moved under the Oregon Health Authority as part of HB 2009 which created the Oregon Health Authority and transferred to the Authority the Department of Human Services' divisions responsible for health and health care. Amendments were also made to align the rules with current practice and to clarify language.

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

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

Rules Coordinator: Jennifer Bittel

Address: Department of Human Services, Administrative Services Division and Director's Office, 500 Summer St. NE, Salem, OR 97301

Telephone: (503) 947-5250

Rule Caption: Privacy Rules Setting Forth General Procedures Governing the Collection, Use and Disclosure of Protected Information.

Stat. Auth.: ORS 409.050

Other Auth.: HB 2009, enacted in 2009 OL Ch. 595, Sec. 19-25 & 45 CFR parts 160-164

NOTICES OF PROPOSED RULEMAKING

Stats. Implemented: ORS 409.010 & 433.045

Proposed Adoptions: 407-014-0015

Proposed Amendments: 407-014-0000, 407-014-0020, 407-014-0030, 407-014-0040, 407-014-0050, 407-014-0060, 407-014-0070

Proposed Repeals: 407-014-0000(T), 407-014-0015 (T), 407-014-0020(T), 407-014-0030(T), 407-014-0040(T), 407-014-0050(T), 407-014-0060(T), 407-014-0070(T)

Last Date for Comment: 11-22-11, 5 p.m.

Summary: These rules govern the collection, use and disclosure of protected information by the Department about individuals and to explain the rights and specific actions that individuals may take or request to be taken regarding the uses and disclosures of their protected information. The proposed adoption and amendment of these rules also set forth Department requirements governing the use and disclosure of protected health information for purposes of HIPAA, 42 USC 1320-d through 1320d-8, Pub L 104-191, sec. 262 and 264, and the implementing HIPAA privacy rules, 45 CFR parts 160 and 164. Adoption of these proposed rules will repeal the temporary rules, currently in effect through December 27, 2011.

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: Department of Human Services, Administrative Services Division and Director's Office, 500 Summer St. NE, Salem, OR 97301

Telephone: (503) 947-5250

Rule Caption: Amendment and Repeal of Abuse of Individuals in State Hospitals and Residential Training Centers.

Stat. Auth.: ORS 179.040 & 409.050

Other Auth.: HB 2009, enacted in 2009 OL Ch. 595, Sec. 19-25

Stats. Implemented: ORS 179.390, 426.385, 427.031, 430.210, 430.735-430.765

Proposed Amendments: 407-045-0400

Proposed Repeals: 407-045-0410, 407-045-0420, 407-045-0430, 407-045-0440, 407-045-0450, 407-045-0460, 407-045-0470, 407-045-0480, 407-045-0490, 407-045-0500, 407-045-0510, 407-045-0520, 407-045-0400(T)

Last Date for Comment: 11-22-11, 5 p.m.

Summary: HB 2009 (2009) created the Oregon Health Authority (Authority) and transferred to the Authority the Department of Human Services' (Department) divisions with respect to health and health care. Effective July 1, 2011, a temporary rule was filed to move these rules (OAR 407-045-0400 to 407-045-0520) to the Authority's rule chapter, OAR 943-045-0400 to 943-0400, as part of the operational transfer from functions previously performed by the Department as a result of HB 2009 (2009). With the creation of this new agency, the administration of state hospitals has moved to the Authority. These rules are needed to reflect the separation of the Department and the Authority. Upon amendment of these proposed rules, the current temporary rules will be repealed.

These 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: Department of Human Services, Administrative Services Division and Director's Office, 500 Summer St. NE, Salem, OR 97301

Telephone: (503) 947-5250

Department of Human Services, Children, Adults and Families Division: Child Welfare Programs Chapter 413

Rule Caption: Changing OARs affecting Child Welfare programs.

Date:	Time:	Location:
11-22-11	8:30 p.m.	500 Summer St. NE, Rm. 255 Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 409.050, 418.005 & 418.640

Stats. Implemented: ORS 409.010, 418.005 & 418.625-418.645

Proposed Amendments: 413-200-0270, 413-200-0272, 413-200-0274, 413-200-0276, 413-200-0278, 413-200-0281, 413-200-0283, 413-200-0285, 413-200-0287, 413-200-0289, 413-200-0292, 413-200-0294, 413-200-0296

Last Date for Comment: 11-25-11, 5 p.m.

Summary: These rules (OAR 413-200-0270 through 413-200-0296) about Department responsibilities for certification and supervision of foster parents, relative caregivers, and adoptive applicants are being amended to promote child safety, clarify the Department's responsibilities, clarify when declaration of citizenship status is required, prohibit electronic monitoring devices as a mechanism to manage behavior, and update the rules to match current practices.

OAR 413-200-0270 about the purpose of the Department's rules concerning Department responsibilities for certification and supervision of foster parents, relative caregivers, and adoptive applicants is being amended to clarify the purpose of the rules, making the distinction between a certified family and an adoptive applicant.

OAR 413-200-0272 about the definitions of key terms used in these rules is being amended to add current and remove and revise outdated definitions of certain terms used throughout these rules.

OAR 413-200-0274 about the responsibilities for certification of foster parents and relative caregivers and assessment of an adoptive applicant is being amended to clarify the processes which must be completed during the assessment and certification of a foster parent or relative caregiver, and the assessment of an adoptive applicant.

OAR 413-200-0276 about determining the maximum number of children placed in the home is being amended to clarify how the Department determines the maximum number for which the home is certified.

OAR 413-200-0278 about the Department responsibilities for issuing a certificate of approval is being amended to state the responsibilities of the supervisor for both expedited and two-year certificates of approval.

OAR 413-200-0281 is being amended to clarify requirements regarding respite providers and babysitters and to state when criminal history checks will be conducted on respite providers.

OAR 413-200-0283 is being amended to state the timeframes for home visits during the period of an expedited certificate of approval.

OAR 413-200-0285 is being amended to clarify when a Placement Support Plan is required.

OAR 413-200-0287 is being amended to state the responsibilities for recertification of a home and to describe circumstances when a two year certificate of approval will not expire.

OAR 413-200-0289 is being amended to state when a child-specific certificate of approval will terminate.

OAR 413-200-0292 is being amended to state circumstances when individualized training plans may be approved in connection with the recertification of a previously certified home.

OAR 413-200-0294 is being amended to clarify certifier responsibilities for inactive referral status.

OAR 413-200-0296 is being amended to state circumstances when a certificate of approval must be revoked and circumstances when, despite an expiration date, a certificate of approval will not expire.

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

Written comments may be submitted until November 25, 2011 at 5:00 p.m. Written comments may be submitted via e-mail to

NOTICES OF PROPOSED RULEMAKING

Annette.Tesch@state.or.us, faxed to 503-373-7032, or mailed to Annette Tesch, Rules Coordinator, DHS - Children, Adults, and Families Division, 500 Summer Street NE, E-48, Salem, Oregon, 97301. The Department provides the same consideration to written comment as it does to any oral or written testimony provided at the public hearing.

Rules Coordinator: Annette Tesch

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

Telephone: (503) 945-6067

Rule Caption: Changing OARs affecting Child Welfare programs.

Date:	Time:	Location:
11-22-11	8:30 a.m.	500 Summer St. NE, Rm. 255 Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 409.050, 418.005 & 418.640

Stats. Implemented: ORS 409.010, 418.005 & 418.625-418.645

Proposed Amendments: 413-200-0301, 413-200-0305, 413-200-0306, 413-200-0308, 413-200-0314, 413-200-0335, 413-200-0348, 413-200-0352, 413-200-0354, 413-200-0358, 413-200-0362, 413-200-0371, 413-200-0377, 413-200-0379, 413-200-0383, 413-200-0386, 413-200-0388, 413-200-0390, 413-200-0393, 413-200-0394, 413-200-0395, 413-200-0396

Last Date for Comment: 11-25-11, 5 p.m.

Summary: These rules (OAR 413-200-0301 through 413-200-0396) about certification standards for foster parents, relative caregivers, and potential adoptive resources are being amended to promote child safety, clarify the certification standards, clarify when a declaration of citizenship status is required, prohibit electronic monitoring devices as a mechanism to manage behavior, and update the rules to match current practices.

OAR 413-200-0301 about the purpose of the Department's rules regarding the certification standards is being amended to clarify the purpose of the rules.

OAR 413-020-0306 about the definitions of key terms used in these rules is being amended to add current and remove and revise outdated definitions of certain terms used throughout these rules.

OAR 413-200-0308 about the personal qualifications of applicants and certified families is being amended to add current personal qualifications and clarify when declaration of citizenship status is required.

OAR 413-200-0314 is being amended to restate the process to apply to become a certified family or an approved adoptive applicant.

OAR 413-200-0335 about the certification standards regarding the home environment is being reorganized and amended to clarify when carbon-monoxide detectors are required.

OAR 413-200-0348 about the number of children and young adults in the home is being amended to clarify maximum numbers of children in the home.

OAR 413-200-0352 is being amended to restate that a certified family must work cooperatively with the Department regarding specific care requirements for a child or young adult.

OAR 413-200-0354 is being amended to restate the requirements that a certified family has regarding monitoring the ongoing progress of a child's education.

OAR 413-200-0358 about certification standards regarding a child's discipline is being amended to clarify differences between discipline and punishment. It is also being amended to state when specific training is required if physical restraint is used.

OAR 413-200-0362 about a child's physical and mental health care is being amended to clarify the certified family's responsibilities in ensuring appropriate physical and mental health care and documentation requirements.

OAR 413-200-0371 is being amended to clarify the type of criminal history background check required for a respite care provider.

OAR 413-200-0379 about required training is being amended to state when individualized training plans can be approved by the Department.

OAR 413-200-0383 about notifications is being amended to clarify when the Department must be notified of changes in the home, surrounding property or type of care which the certified family wishes to provide.

OAR 413-200-0388 is being amended to clarify the purpose of the assessment of the certified home during a home visit.

OAR 413-200-0390 about maintaining a certificate of approval is being amended to state circumstances when a certificate will not expire.

OAR 413-200-0393 about inactive referral status is being amended to correct the title of a related set of administrative rules.

OAR 413-200-0394 is being amended to clarify circumstances when a certificate of approval is terminated and when a certificate of approval does not expire.

OAR 413-200-0395 is being amended to clarify the circumstances when a certificate will not expire during a revocation process.

OAR 413-200-0396 is being amended to update the rule and make it consistent with other rules about the contested case process.

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

Written comments may be submitted until November 25, 2011 at 5:00 p.m. Written comments may be submitted via e-mail to Annette.Tesch@state.or.us, faxed to 503-373-7032, or mailed to Annette Tesch, Rules Coordinator, DHS - Children, Adults, and Families Division, 500 Summer Street NE, E-48, Salem, Oregon, 97301. The Department provides the same consideration to written comment as it does to any oral or written testimony provided at the public hearing.

Rules Coordinator: Annette Tesch

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

Telephone: (503) 945-6067

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

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients.

Date:	Time:	Location:
11-22-11	10 a.m.	500 Summer St. NE, Rm. 255 Salem, OR

Hearing Officer: Annette Tesch

Stat. Auth.: ORS 93.268, 409.050, 410.070, 410.075, 411.060, 411.070, 411.083, 411.400, 411.404, 411.598, 411.600, 411.704, 411.706, 411.816, 411.892, 412.006, 412.009, 412.014, 412.016, 412.017, 412.049, 412.114, 412.124, 414.025, 414.115, 414.231, 414.712, 414.826, 414.831, 414.839, 416.340, 416.350, 2011 Oregon Laws 604, HB 2049 (2011)

Other Auth.: 42 USC 602(a), 42 USC 1396b, 42 USC 1396e, 42 USC 1396p, 98 CFR 42, 42 CFR 433.36, 42 CFR 435.916, 42 CFR 435.930, 20 CFR 416.2099, 7 CFR 273.2(i), 7 CFR 273.9(c)(5), P.L. 92-336, Oregon Medicaid/State Children's Health Insurance Program (SCHIP) Health Insurance and Flexibility and Accountability (HIFA) Section 115 Demonstration

Stats. Implemented: ORS 409.010, 409.050, 410.070, 410.075, 411.010, 411.060, 411.070, 411.083, 411.117, 411.400, 411.404, 411.439, 411.598, 411.600, 411.694, 411.700, 411.704, 411.706, 411.708, 411.795, 411.816, 411.892, 412.001, 412.006, 412.009, 412.014, 412.016, 412.017, 412.042, 412.049, 412.064, 412.084, 412.114, 412.124, 414.025, 414.115, 414.231, 414.712, 414.826, 414.831, 414.839, 416.310, 416.340, 416.350, 2011 Oregon Laws 207, 2011 Or Laws 212 section 2, 2011 Or Laws 212 section 13,

NOTICES OF PROPOSED RULEMAKING

2011 Oregon Laws 604, 2011 Or Laws 720 section 224, HB 2049 (2011)

Proposed Adoptions: 461-115-0016, 461-135-0485

Proposed Amendments: 461-001-0025, 461-115-0030, 461-115-0050, 461-115-0230, 461-115-0690, 461-130-0327, 461-130-0330, 461-130-0335, 461-135-0089, 461-135-0475, 461-135-0780, 461-135-0832, 461-135-0845, 461-135-0950, 461-135-0990, 461-135-1195, 461-145-0130, 461-145-0220, 461-145-0410, 461-155-0150, 461-155-0180, 461-155-0235, 461-155-0250, 461-155-0270, 461-155-0300, 461-155-0320, 461-155-0360, 461-160-0015, 461-160-0580, 461-160-0620, 461-175-0290, 461-180-0050, 461-180-0070, 461-180-0085, 461-180-0130

Proposed Repeals: 461-115-0016(T), 461-115-0030(T), 461-115-0050(T), 461-115-0230(T), 461-115-0690(T), 461-130-0330(T), 461-130-0335(T), 461-135-0089(T), 461-135-0485(T), 461-135-0950(T), 461-135-0960, 461-135-1195(T), 461-145-0410(T), 461-155-0320(T), 461-155-0528, 461-155-0575, 461-155-0693, 461-160-0015(T), 461-180-0050(T), 461-180-0070(T)

Last Date for Comment: 11-25-11, 5 p.m.

Summary: OAR 461-001-0025 about the definitions of terms, components, and activities in the Job Opportunity and Basic Skills (JOBS), Post-Temporary Assistance for Needy Families (Post-TANF), Pre-Temporary Assistance for Needy Families (Pre-TANF), and Temporary Assistance for Needy Families (TANF) programs is being amended in response to recent legislation (House Bill 2049 (2011)) to add and revise the definitions of certain terms used throughout the chapter 461 administrative rules.

OAR 461-115-0016 is being adopted to establish policies for a reservation list in the Employment Related Day Care program. This rule can be implemented as budget needs arise to keep caseload within budget levels and caps in accordance with legislative funding. This rule indicates which clients remain eligible once the reservation list is in place, which clients are placed on the reservation list, and how clients move from the reservation list into the program. This rule is also being adopted to make permanent the temporary rule adopted on August 1, 2011.

OAR 461-115-0030 is being amended to align how the Department determines the date of request for purposes of eligibility for current recipients of benefits in the Continuous Eligibility for OHP-CHP Pregnant Women (CEC), Continuous Eligibility for Medicaid (CEM), Extended Medical Assistance (EXT), Healthy KidsConnect (HKC), Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF), Oregon Health Plan (OHP), Oregon Supplemental Income Program Medical (OSIPM), Refugee Assistance Medical (REFM), and Medical Coverage for Children in Substitute or Adoptive Care (SAC) programs. This amendment aligns the processes for recipients of these programs who are sent an auto-pend (DHS Form 945) with those who are sent a DHS 6623 at medical redetermination. When either form is sent, the Department or the Oregon Health Authority has established a date of request on behalf of the recipient. This rule is also being amended to make permanent changes made by temporary rule on August 1, 2011.

OAR 461-115-0050 is being amended as part of the implementation of HB 3536 (2011) to indicate when clients who have had their medical case suspended as a result of incarceration with an anticipated stay of one year or less do not need a new application to resume medical benefits.

OAR 461-115-0230 about interviews of clients is being amended to make permanent temporary changes that were made on July 22, 2011 changing the interview policies in the Supplemental Nutrition Assistance Program (SNAP). The statement about face-to-face SNAP interviews occurring is removed, and interviews for expedited SNAP may no longer be postponed. This rule is also being amended to clarify when hardship criteria must be met for waiving a face to face interview. Currently, this rule indicates that all programs except BCCM, HKC, MAA, MAF, OHP and SAC must meet the hardship criteria to waive the face-to-face interview; it is being amended to

reflect that only the TANF program requires the hardship criteria to be met.

OAR 461-115-0690 about verification is being amended to reflect that interviews cannot be postponed for expedited SNAP households. Interviews must be conducted prior to an eligibility determination being made. This amendment makes a temporary rule change from July 22, 2011 permanent.

OAR 461-130-0327 about what the Department considers to be good cause for non-participation in a Department employment program is being amended to include good cause for non-participation if there are no appropriate activities available or support services to support an activity. This rule is also being amended to make permanent changes made by temporary rule on July 1, 2011.

OAR 461-130-0330 about the disqualification penalty in the Department's Temporary Assistance for Needy Families program is being amended to change the levels of disqualifications and the penalty in the final month in the Job Opportunity and Basic Skills (JOBS) program. The amendment also adds a two month ineligibility period if a client does not begin cooperation in the final month of disqualification. As a result of legislative changes during the 2011 legislative session, the levels and penalty for non-cooperation in the JOBS program are being changed. The amendment changes the levels of disqualification from four to two. There are three months in the first level and one month in the second level. The amendment also stipulates that a client who does not begin cooperation in the second level month will have the TANF grant closed and would not be eligible for TANF program benefits for two-consecutive month. This amendment also makes permanent changes adopted by temporary rule on October 1, 2011.

OAR 461-130-0335 about removing a disqualification penalty and the effects on benefits is being amended to change how a disqualification is ended depending on the level of disqualification in the Temporary Assistance for Needy Families (TANF) program. In the first level of disqualification a disqualified individual must cooperate for two consecutive weeks in all activities of a new or revised case plan. In the second level of disqualification, the disqualified individual must begin the two consecutive weeks of cooperation prior to the end of the month or their TANF grant will be closed for two consecutive months, after which the individual would need to re-apply for TANF program benefits. If the individual begins and cooperates for the two consecutive months, TANF benefits are restored effective the date the two consecutive weeks ended. As a result of legislative changes during the 2011 legislative session, the levels and penalty for non-cooperation in the JOBS program are being changed. This amendment was needed to comply with the legislative changes. This rule is also being amended to clarify the meaning of the term "household" and to make permanent the changes made by temporary rule on October 1, 2011.

OAR 461-135-0089 about the disqualification penalty for non cooperation with substance abuse and mental health requirements in the Department's Temporary Assistance for Needy Families program is being amended to describe how to end a penalty imposed under OAR 461-135-0085. The amendment specifies what a client must do in order to end a disqualification imposed under OAR 461-135-0085. These changes are a result of legislative changes during the 2011 legislative session, the levels and penalty for non-cooperation in the JOBS program is being changed. This rule is also being amended to make permanent changes adopted by temporary rule on October 1, 2011.

OAR 461-135-0475 about the specific requirements for the Pre-TANF program is being amended to implement HB 2049 (2011) and address budget constraints that reduce TANF program service levels. These amendments set out the requirements for employability screenings and participating in an overview of the JOBS program. This rule is also being amended to set out the reductions to basic living expenses payments for shelter, utility and household supplies in the Pre-TANF program. This rule is also being amended to change the basic living expenses payment from 200 percent of the TANF

NOTICES OF PROPOSED RULEMAKING

payment standard for the benefit group to 100 percent of the payment standard. This rule is also being amended to clarify the availability of support services payments for Pre-TANF clients. This rule is also being amended to make permanent changes to this rule made by temporary rule on July 1 and October 1, 2011.

OAR 461-135-0485 is being adopted to implement HB 2049 (2011) by setting out the requirements to complete an employability assessment and orientation for the Job Opportunity and Basic Skills (JOBS) program. These are new requirements for individuals applying for the Temporary Assistance to Need Families (TANF) program. This rule is also being adopted to make the permanent the temporary rule adopted on October 1, 2011.

OAR 461-135-0780 about eligibility for Pickle Amendment clients in the OSIPM program, 461-145-0220 about treatment of the home, 461-155-0250 about income and payment standard for OSIPM, 461-155-0270 about room and board standards for OSIPM, 461-155-0300 about shelter-in-kind standard for OSIP, OSIPM and QMB, 461-160-0015 about resource limits, 461-160-0580 about excluded resources (community spouse provision) OSIPM program (except OSIP-EPD and OSIPM-EPD), and 461-160-0620 and income deductions and client liability for Long Term Care Services and Waivered Services are being amended to adjust these standard to reflect the annual federal cost of living adjustments that happen every January. These amendments keep Oregon in line with current federal standards for Department Medicaid programs and changes in the cost of living.

OAR 461-135-0832 about definitions for the estate recovery program is being amended to include a definition for a new type of real property deed, created by Oregon Laws 2011, chapter 212, known as a "Transfer on Death Deed."

OAR 461-135-0845 about valuation of life estates, transfer on death deeds, reversionary interest, and property is being amended to clarify that the new "Transfer on Death Deeds" created by Oregon Laws 2011, chapter 212 are subject to estate recovery claims for recoverable public assistance, and to establish how they will be valued for estate recovery purposes.

OAR 461-135-0950 is being amended as part of the implementation of HB 3536 (2011) to state that clients who become incarcerated for less than 12 months may have their medical benefits suspended rather than closed. This legislation was based on a request by local jails that have been experiencing an influx of inmates with high medical needs. These inmates have had their medical benefits terminated upon incarceration, and were not able to get their benefits reinstated upon release without completing a new application and/or submitting a reservation list request for OHP benefits. Reinstating medical benefits without a new application when an individual reports their release timely result in more timely medical benefits. This rule is also being amended to include the age criteria previously in OAR 461-135-0960 for individuals in state psychiatric institutions and training centers for the Oregon Supplemental Income Program Medical (OSIPM) and Medical Coverage for Children in Substitute or Adoptive Care (SAC) programs. The age criteria are being corrected from under the age of 21 to under the age of 22, and the section about a State Training Center is being removed because there are no longer any such training centers in existence. This rule is also being amended to make permanent changes adopted by temporary rule on October 1, 2011.

OAR 461-135-0960 regarding the age criteria for Oregon Supplemental Income Program Medical (OSIPM, assistance to the aged and people with disabilities) and Children in Substitute or Adoptive Care (SAC) when the individual is in a State Psychiatric Institution or Training Center is being repealed because this topic is now being covered in OAR 461-135-0950, where the information is being updated and corrected. This repeal will make permanent a temporary rule suspension adopted on October 1, 2011.

OAR 461-135-0990 about reimbursement of cost-effective, private or employer-sponsored health insurance premiums is being amended to align it with the revision of OAR 410-120-1960 by the Oregon

Health Authority and revise who may be reimbursed for private or employer-sponsored health insurance premiums.

OAR 461-135-1195 about the specific eligibility requirements for the Department's State Family Pre-SSI/SSDI (SFPSS) program is being amended to expand eligibility to one-adult families with each child in the household are on Social Security Income (SSI). As a result of budget constraints during the 2011 legislative session, the SFPSS grants are being reduced by removing enhanced grants. The grant will equal what the clients would have been receiving in a Temporary Assistance for Needed Families (TANF) grant. Because of this change, families with one adult where their child or all their children in the household are receiving SSI will have an SFPSS grant equal to a TANF grant. Prior to the grant amount changing, these families would have received less on SFPSS than TANF. Therefore they were not allowed to be on SFPSS program. They were provided all other SFPSS services. This rule is also being amended to make permanent temporary rule amendments adopted on October 1, 2011.

OAR 461-145-0130 about how earned income is treated in the eligibility process for several Department programs is being amended to remove an incorrect reference concerning cafeteria benefits plans and SNAP earned income deductions, and to clarify that a reimbursed cafeteria-style benefits cannot be excluded when reimbursed and are counted as earned income.

OAR 461-145-0410 about how benefits from one program are treated in determining eligibility for another program is being amended to remove a reference to a repealed rule affecting the TANF program.

OAR 461-155-0150 about child care eligibility standards, payment rates, and copayments in the ERDC, JOBS, JOBS Plus, and TANF programs is being amended to change the definitions of infants and toddlers for the purpose of setting DHS rates to licensed (registered or certified) child care providers. Licensed providers will receive infant rates up to 18 months instead of up to 12 months.

OAR 461-155-0180 is about the poverty related income standards in the Department's public assistance, medical and SNAP programs. This rule is being amended to reflect the annual increase in the federal poverty guidelines. The Department converts the annual poverty guidelines published in the Federal Register to a monthly, rounded amount and uses the result to determine the new income limits.

OAR 461-155-0235 is about the premium standards for the Oregon Health Plan Standard (OHP-OPU). This rule is being amended to reflect the annual increase in the federal poverty guidelines. The Department and the Oregon Health Authority (OHA) convert the annual poverty guidelines published in the Federal Register to a monthly, rounded amount and uses the result to determine the amount of premium billed for each OHP Standard client who is required to pay a monthly premium. Some OHP Standard clients are exempt from the premium requirement.

OAR 461-155-0320 about the payment standard for the Department's State Family Pre-SSI/SSDI (SFPSS) program is being amended to set new and lower payment standards. As a result of budget constraints during the 2011 legislative session, the SFPSS grants are being reduced by removing enhanced grants. The grant will equal what the clients would have been receiving in a Temporary Assistance for Needed Families (TANF) grant. This rule is also being amended to make permanent changes made by temporary rule on August 19, 2011.

OAR 461-155-0360 about requirements for clients to pursue cost-effective employer sponsored health insurance is being amended to align this rule with revision of OAR 410-120-1960 by the Oregon Health Authority. This amendment removes the step by step instructions for field workers on how to determine cost effective employer-sponsored health insurance for the purpose of applying OAR 461-120-0345, and states that the Health Insurance Group determines if employer sponsored health insurance meets the criteria for the purpose of applying OAR 410-120-1960 as well as OAR 461-120-0345 for failure to pursue cost effective employer sponsored insurance.

NOTICES OF PROPOSED RULEMAKING

OAR 461-155-0528 about emergency assistance payments in the Oregon Supplemental Income Program Medical (OSIPM) program is being repealed. This repeal will have the effect of making the temporary changes to this rule on August 1, 2011 permanent.

OAR 461-155-0575 about in-home supplemental payments in the Oregon Supplemental Income Program Medical (OSIPM) program is being repealed. This repeal will have the effect of making the temporary changes to this rule on July 15, 2011 permanent.

OAR 461-155-0693 about transportation services payments in the Oregon Supplemental Income Program Medical (OSIPM) program is being repealed. This repeal will have the effect of making the temporary changes to this rule on July 15, 2011 permanent.

OAR 461-160-0015 is being amended to update the resource limit for SNAP households that include at least one member who is elderly or an individual with a disability. The resource limit for these SNAP households prior to October 1, 2011 is \$3,000. Based on an increase in the Consumer Price Index (CPI) the new resource limit as of October 1, 2011 is \$3,250. There is no change in the resource limit for other SNAP households. This amendment makes permanent the temporary rule change from October 1, 2011

OAR 461-175-0290 about overpayment repayment notices is being amended to clarify when notices are sent to reduce benefits for recovery of an overpayment.

OAR 461-180-0050 about effective date for suspending or closing benefits or Job Opportunity and Basic Skills (JOBS) support services is being amended to fix a conflict between two rules and correct an error applicable to TANF program notices, changing the reference to the notice period from 30 to 45 days. This rule is also being amended as part of the implementation of HB 3536 (2011) to set out the policy on the effective date for suspending benefits for inmates. This rule is also being amended to make permanent changes made by temporary rule on October 1, 2011.

OAR 461-180-0070 about effective dates for initial month of benefits is being amended to clarify the initial date for TANF benefits when a client has received Pre-TANF benefits in the context of other changes to the Pre-TANF program due to state legislation and budget constraints. This rule is also being amended to make permanent changes made by temporary rule on October 1, 2011.

OAR 461-180-0085 about redetermining medical eligibility prior to reducing or ending medical benefits is being amended to change how it specifies who will remain eligible if additional information is needed to make an eligibility decision after the Department initiates a redetermination.

OAR 461-180-0130 about the restoration of benefits is being amended to make permanent a temporary rule change adopted October 1, 2011 so that the effective date for restoring benefits that have been suspended refers to the policy in OAR 461-135-0950(8) which sets effective dates for restoring medical benefits of inmates who have had medical benefits suspended. This rule is also being amended to make permanent a temporary rule change adopted June 29, 2011 to align the time period for clients in the TANF program to be eligible for restoration of administrative error underpayments with the time period for the SNAP program and with other public assistance programs covered by the rule. This amendment shortens the time period for the TANF program.

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

Written comments may be submitted until November 25, 2011 at 5:00 p.m. Written comments may be e-mailed to Annette.Tesch@state.or.us, faxed to 503-373-7032, or mailed to Annette Tesch, Rules Coordinator, DHS - Children, Adults, and Families Division, 500 Summer Street NE, E-48, Salem, Oregon, 97301. The Department provides the same consideration to written comment as it does to any oral or written testimony provided at the public hearing.

Rules Coordinator: Annette Tesch

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

Telephone: (503) 945-6067

Department of Justice Chapter 137

Rule Caption: Implements 2011 legislative changes to child support; partner access to support records; and LEP services.

Stat. Auth.: ORS 25.020, 25.080, 25.082, 25.125, 25.245, 25.260, 25.270–25.290, 25.323, 25.414, 25.610, 25.750, 180.345, 416.455 & 293

Other Auth.: 28 CFR 42.405

Stats. Implemented: ORS 18.345, 18.645, 25.020, 25.080, 25.082, 25.085, 25.125, 25.245, 25.260, 25.270–25.290, 25.321–25.343, 25.414, 25.610, 25.670, 25.750, 30.701, 107.108, 107.135, 127.005, 183.415, 411.320, 416.415, 416.422, 416.425 & 416.429

Proposed Adoptions: 137-055-2100

Proposed Amendments: 137-050-0750, 137-055-1100, 137-055-1140, 137-055-1800, 137-055-2160, 137-055-3220, 137-055-3430, 137-055-3640, 137-055-4130, 137-055-4520, 137-055-5400, 137-055-5420, 137-055-6021, 137-055-6200, 137-055-6220, 137-055-6240, 137-055-6260

Proposed Repeals: 137-055-1145, 137-055-6100

Last Date for Comment: 12-9-11, 5:00 p.m.

Summary: OAR 137-055-1100 is being amended to clarify processing of continuation of services cases.

OAR 137-055-1140 is being amended to remove a reference to the partner access rule (OAR 137-055-1145), which is being repealed because it is no longer needed.

OAR 137-055-1800 is being amended to clarify how services are provided to limited English proficiency customers.

OAR 137-050-0750 and 137-055-2100 through 137-055-6260 are being enacted or amended to reflect changes made by the 2011 Legislature to child support program processes.

Please submit written comments by 5:00 p.m. Friday, December 9, 2011, to Vicki Tungate, Policy Analyst, Division of Child Support, 494 State Street, Suite 300, Salem, Oregon 97301. Questions may be directed to that address or you may call (503) 986-6086.

Rules Coordinator: Carol Riches

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

Telephone: (503) 947-4700

Rule Caption: Implements 2011 legislative changes to child support lien rule.

Stat. Auth.: ORS 18.150 & 180.345

Stats. Implemented: ORS 18.158, 25.670 & 25.690

Proposed Amendments: 137-055-4400

Last Date for Comment: 12-9-11, 5 p.m.

Summary: OAR 137-055-4400 is being amended to reflect changes made by the 2011 Legislature.

Please submit written comments by 5:00 p.m. Friday, December 9, 2011, to Vicki Tungate, Policy Analyst, Division of Child Support, 494 State Street, Suite 300, Salem, Oregon 97301. Questions may be directed to that address or you may call (503) 986-6086.

Rules Coordinator: Carol Riches

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

Telephone: (503) 947-4700

Rule Caption: Amends Attorney General's legal sufficiency rules, Division 45.

Stat. Auth.: ORS 291.045, 291.047 & 291.049

Stats. Implemented: ORS 291.045, 291.047 & 291.049

Proposed Amendments: 137-045-0010, 137-045-0015, 137-045-0020, 137-045-0030, 137-045-0035, 137-045-0050, 137-045-0052,

NOTICES OF PROPOSED RULEMAKING

137-045-0055, 137-045-0060, 137-045-0070, 137-045-0080, 137-045-0090

Last Date for Comment: 11-18-11, 10 a.m.

Summary: Rules concerning the Attorney General's review of state contracts for legal sufficiency are being amended to clarify review requirements. The amendments confirm that legal sufficiency approval is required for a contract calling for the state to receive or pay value over \$150,000 even if the value is other than money, services or goods.

Rules Coordinator: Carol Riches

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

Telephone: (503) 947-4700

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Rule Caption: Amends Attorney General's Model Public Contract Rules, Divisions 46-49.

Stat. Auth.: ORS 279A.065; 279B.055; 279B.060; 279B.065; 279B.070; 279B.075; 279C.125; 279B.400; 279B.405; 279B.410; 279C.335; 279C.340; 279C.405.

Stats. Implemented: ORS 200.035; 200.065; 200.075; 279A.015; 279A.030; 279A.050; 279A.055; 279A.065; 279A.105; 279A.110; 279A.120; 279A.125; 279A.128; 279A.180; 279A.205; 279A.210; 279A.215; 279A.220; 279A.225; 279B.015; 279B.030; 279B.036; 279B.050; 279B.055; 279B.060; 29B.065; 279B.070; 279B.075; 279B.080; 279B.085; 279B.100; 279B.110; 279B.115; 279B.120; 279B.130; 279B.135; 279B.140; 279B.400; 279B.405; 279B.410; 279B.415; 279B.425; 279C.107; 279C.110; 279C.120; 279C.115; 279C.125; 279C.110-279C.125; 279C.300; 279C.305; 279C.307; 279C.315; 279C.320; 279C.325; 279C.335; 279C.340; 279C.345; 279C.360; 279C.365; 279C.370; 279C.375; 279C.380; 279C.385; 279C.390; 279C.395; 279C.400; 279C.405; 279C.410; 279C.400-279C.410; 279C.430; 279C.435; 279C.440; 279C.445; 279C.450; 279C.460; 279C.505-580; 279C.585; 279C.590; 279C.605; 279C.650; 279C.655; 279C.660; 279C.665; 279C.670; 279C.800; 279C.830; 279C.835; 279C.870; 305.385; 351.086; 468A.720; 671.530; 701.005; 701.420; 701.055.

Proposed Adoptions: 137-048-0270

Proposed Amendments: 137-046-0100, 137-046-0110, 137-046-0120, 137-046-0130, 137-046-0200, 137-046-0210, 137-046-0300, 137-046-0310, 137-046-0320, 137-046-0400, 137-046-0410, 137-046-0420, 137-046-0430, 137-046-0440, 137-046-0450, 137-046-0460, 137-046-0470, 137-046-0480, 137-047-0000, 137-047-0100, 137-047-0250, 137-047-0255, 137-047-0257, 137-047-0260, 137-047-0261, 137-047-0265, 137-047-0270, 137-047-0275, 137-047-0280, 137-047-0285, 137-047-0290, 137-047-0300, 137-047-0310, 137-047-0320, 137-047-0330, 137-047-0400, 137-047-0410, 137-047-0420, 137-047-0430, 137-047-0440, 137-047-0450, 137-047-0460, 137-047-0470, 137-047-0480, 137-047-0490, 137-047-0500, 137-047-0525, 137-047-0550, 137-047-0575, 137-047-0600, 137-047-0610, 137-047-0620, 137-047-0630, 137-047-0640, 137-047-0650, 137-047-0660, 137-047-0670, 137-047-0700, 137-047-0710, 137-047-0720, 137-047-0730, 137-047-0740, 137-047-0745, 137-047-0750, 137-047-0760, 137-047-0800, 137-047-0810, 137-048-0100, 137-048-0110, 137-048-0120, 137-048-0130, 137-048-0200, 137-048-0210, 137-048-0220, 137-048-0230, 137-048-0240, 137-048-0250, 137-048-0260, 137-048-0300, 137-048-0310, 137-048-0320, 137-049-0100, 137-049-0110, 137-049-0120, 137-049-0130, 137-049-0140, 137-049-0150, 137-049-0160, 137-049-0200, 137-049-0210, 137-049-0220, 137-049-0230, 137-049-0240, 137-049-0250, 137-049-0260, 137-049-0270, 137-049-0280, 137-049-0290, 137-049-0300, 137-049-0310, 137-049-0320, 137-049-0330, 137-049-0340, 137-049-0350, 137-049-0360, 137-049-0370, 137-049-0380, 137-049-0390, 137-049-0395, 137-049-0400, 137-049-0410, 137-049-0420, 137-049-0430, 137-049-0440, 137-049-0450, 137-049-0460, 137-049-0470, 137-049-0490, 137-049-0600, 137-049-0610, 137-049-0620, 137-049-0630, 137-049-0640, 137-049-0645, 137-049-0650, 137-049-0660, 137-049-0670, 137-049-0680, 137-049-0690, 137-049-0800, 137-049-0810, 137-049-0815, 137-049-

0820, 137-049-0830, 137-049-0840, 137-049-0850, 137-049-0860, 137-049-0870, 137-049-0880, 137-049-0890, 137-049-0900, 137-049-0910

Proposed Repeals: 137-047-0262; 137-047-0263.

Last Date for Comment: 11-18-11, 10 a.m.

Summary: The rule changes amend the Attorney General's model public contract rules applicable to state and local contracting agencies to respond to 2011 legislative changes and clarify and improve procurement processes. Revisions to Divisions 46 and 47: add a discretionary preference for goods fabricated or processed in Oregon or services or personal services performed in Oregon, under amendments to ORS 279A.128 made by HB 3000 (2011); provide more flexibility in selection processes for multistep and multi-tiered bidding and proposals; clarify when contracts may be amended; and clarify requirements related to inclusion of contractual terms and conditions in solicitation documents. Revisions to Division 48: add "Photogrammetric Mapping, Transportation Planning or" to any references to "Architectural, Engineering and Land Surveying Services" to address the expansion of qualifications-based selection processes under HB 3316 (2011); clarify defined terms; clarify selection procedures applicable to local contracting agencies as well as state contracting agencies under HB 3316; clarify the procurement procedures for "mixed" contract situations; add provisions for procurement of services in the context of expert testimony for a claim, lawsuit or alternative dispute resolution proceeding; clarify provisions pertaining to contracting agencies' public disclosure of proposals; modify direct appointment, informal and formal selection procedures; and clarify that the process for breaking ties cannot be based on pricing information. A new rule describes use of price agreements and work orders. The revisions to Division 49: clarify when discussions with proposers are permitted; clarify when negotiations or discussions with proposers may be terminated; and incorporate changes to ORS 279C.830 made by SB 178 (2011) relating to prevailing rate of wage.

Rules Coordinator: Carol Riches

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

Telephone: (503) 947-4700

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Department of Oregon State Police, Office of State Fire Marshal Chapter 837

Rule Caption: Removes fee language from administrative rules. Adds reference to Oregon Revised Statutes for fee amounts.

Stat. Auth.: ORS 476.030 & 480.310-480.385

Stats. Implemented: ORS 480.310-480.385

Proposed Amendments: 837-020-0080, 837-020-0085, 837-020-0115

Last Date for Comment: 11-28-11, 5 p.m.

Summary: This rule change removes specific fee language from administrative rules and adds language to refer the reader to the appropriate Oregon Revised Statute, where the fees are set.

Rules Coordinator: Connie Dalke

Address: Department of Oregon State Police, Office of State Fire Marshal, 4760 Portland Rd. NE, Salem, OR 97305-1760

Telephone: (503) 934-8211

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Department of Revenue Chapter 150

Rule Caption: E-file mandate; withholding on tip income, apportionment factors; repeal of BETC eligibility.

Date:	Time:	Location:
11-21-11	10:30 a.m.	Revenue Bldg. 955 Center St. NE Salem, OR

Hearing Officer: Program Analyst

Stat. Auth.: ORS 305.100

NOTICES OF PROPOSED RULEMAKING

Stats. Implemented: ORS 267.380, 314.280, 315.354, 317.710 & 2011 OL Ch. 24 Sec. 23;

Proposed Adoptions: 150-314.HB2071(A)

Proposed Amendments: 150-267.380(2) 150-314.280-(F) 150-317.710(5)(b)

Proposed Repeals: 150-315.354

Last Date for Comment: 11-21-11, 5 p.m.

Summary: 150-314.HB2071(A) (Corporation E-file Mandate) – Implementing the corporation electronic filing mandate per HB 2071 from the 2011 session. HB 2071 allows the department by rule to require a corporation to e-file its tax return if the corporation is required to e-file its federal corporation tax return.

150-267.380(2) Wages Exempt From Transit Payroll Tax – removing an incorrect statement that tips are not subject to withholding.

150-314.280-(F) Apportionment Factors – Clarifying that “Unless otherwise provided by rule” the provisions within this rule apply and to delete the invalidated section related to other factors.

150-317.710(5)(b) Different Apportionment Factors – Amending the rule to reflect the legislative changes of HB 2653 (2009). HB 2653 removed the double-weighted apportionment formula for certain forest product companies for tax years beginning on or after January 1, 2010; all forest product companies must now use a single sales factor formula.

150-315.354 Business Energy Tax Credit: Eligibility – Repealing the outdated rule that is no longer needed based on the 2011 legislative changes of HB 3606. The 2011 legislation removed the provision related to when a transferee may first claim the credit from ORS 315.354 and placed the provision in ORS 469.220.

Rules Coordinator: Ken Ross

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

Telephone: (503) 945-8890

Rule Caption: E-file mandate, credit auction; wage garnishment exemption; submitting informational returns.

Date:	Time:	Location:
11-21-11	10:30 a.m.	Revenue Bldg. 955 Center St. NE Salem, OR 97301

Hearing Officer: Program Analyst

Stat. Auth.: ORS 305.100

Stats. Implemented: 2011 OL Ch. 24 (HB 2071); 2011 OL Ch. 730, Sec 23 (HB 3672), ORS 18.385 & 314.360

Proposed Adoptions: 150-314.HB2071(B), 150-315.HB3672

Proposed Amendments: 150-18.385, 150-18.385(A), 150-314.360

Last Date for Comment: 11-21-11, 5 p.m.

Summary: 150-314.HB2071(B) This rule implements HB 2071 which allows the department to mandate the electronic filing of tax returns by paid preparers when the paid preparer is required to do so by federal law. It also delineates when a waiver to the mandate will be granted.

150-315.HB3672 This rule explains the rules and procedures surrounding the tax credit auctions (for fiscal year 2011) mandated by OR Laws 2011 Chapter 730, Sec 23 (HB 3672).

150-18.385 The rule describes tax garnishments of wages, the numbers and examples need updating.

150-18.385(A) HB 2682 changed the minimum wage exemption for the garnishment of wage exemption calculation. Numbers and examples are updated.

150-314.360 This rule defines which information returns must be filed electronically. The change is to add back language explaining that DOR can require filing of informational returns for those not already required to file.

Rules Coordinator: Ken Ross

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

Telephone: (503) 945-8890

Rule Caption: Amending property tax rules: stating tax rates; adopting, publishing a budget; technical corrections.

Date:	Time:	Location:
11-21-11	10:30 a.m.	Revenue Bldg. 955 Center St. NE Salem, OR 97301

Hearing Officer: Program Analyst

Stat. Auth.: ORS 305.100, 294.495

Stats. Implemented: ORS 294.435, 294.480, 294.525, 307.250, 308.290, 311.216

Proposed Amendments: 150-294.435(1)-(A), 150-294.435(1)-(C), 150-294.480, 150-294.525-(A), 150-308.290(4)(b), 150-311.216

Proposed Ren. & Amends: 150-307.250(1)(c) to 150-307.250

Last Date for Comment: 11-21-11, 5 p.m.

Summary: 150-294.435(1)-(A): This rule clarifies ORS 294.435 in regard to the form of property tax levies that are approved by the budget committee and imposed by a local government. This amendment better reflects the language in ORS 310.060 that requires the tax amount or rate for each levy to be stated separately. The language of the existing rule could give the erroneous impression that levy amounts or rates could be combined.

150-294.435(1)-(C): This rule clarifies the requirements for publishing an amended budget. Statutes were changed by HB 2425 so existing cites in the rule are to the wrong statute, and to a statute that is now repealed.

150-294.480: Amending this rule to describe the requirements for adopting a supplemental budget and for publishing the notices required by ORS 294.480 and Chapter 473, Section 10, Oregon Laws 2011.

150-294.525-(A): This amendment removes language for a requirement that no longer exists in statute.

150-308.290(4)(b): Removing language stating the department will allow 14 days to resubmit an incomplete industrial property tax return after the date the department mailed the return to the taxpayer. The existing rule exceeds statutory authority. Also renumbering the rule.

150-311.216: To correct the statement that property could only be added as omitted if it was “due to the assessor’s lack of knowledge.” Also renaming, updating language and formatting to make more readable.

Statute requires that if omitted property “has from any cause been omitted, it must be added to the roll. When the rule was revised in 1994, the intent of the rule writer was to offer one example of when omitted property could be added. However the wording did not convey the intended meaning, but rather that only property that had been omitted “due to the assessor’s lack of knowledge of its existence” could be added to the roll.

150-307.250: Renumbering the rule, making a technical correction and inserting the statute cite rather than the 2007 laws.

Rules Coordinator: Ken Ross

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

Telephone: (503) 945-8890

Department of Transportation Chapter 731

Rule Caption: Procurement Rules Addressing 2011 Legislative Changes and DOJ Model Rules updates for Public Contracting.

Stat. Auth.: ORS 184.616, 184.619, 279A.065

Stats. Implemented: ORS 279A.050, 279A.065, 279C, 2011 HB 3316 (changes to ORS 279C.100-125)

Proposed Amendments: 731-146-0010, 731-146-0020, 731-146-0025, 731-146-0030, 731-146-0050, 731-146-0060, 731-147-0010, 731-148-0010, 731-149-0010

Proposed Repeals: 731-147-0060, 731-148-0020

Last Date for Comment: 11-21-11, Close of Business

NOTICES OF PROPOSED RULEMAKING

Summary: The revisions to Chapter 731, Divisions 146 through 149 include the following:

- 731-146-0020, 0030, 0050 and 0060 – 2011 HB 3316 changed statutes regarding “Architectural, Engineering and Land Surveying Services” and added Photogrammetric Mapping and Transportation Planning as services that must be procured using qualification based selection;

- 731-146-0025 – ODOT’s Information Asset Handling Requirements requires removal of requirement to include contractor’s Social Security Number in contract. Also added language to allow ODOT to rescind award or terminate contract for failure to comply with requirements of this section.

- 731-146-0030 & 0050 – The changes are to clarify requirements and remove redundancies;

- 731-147-0010 – This section was revised to remove 137-047-0270(3) from the exceptions to DOJ Model Rules adoption. DOJ updated this rule regarding amendments to Intermediate Procurements. The ODOT Procurement Office has determined it is now unnecessary to adopt a separate rule for amendments.

- 731-147-0060 – Repealed per comment above regarding 147-0010.

- 731-148-0010 – 2011 HB 3316 changed statutes regarding “Architectural, Engineering and Land Surveying Services” and added Photogrammetric Mapping and Transportation Planning as services that must be procured using qualification based selection;

- 731-148-0020 – Repealed. The 2012 update to Division 48 of DOJ’s Model Rules included addition of a new section regarding price agreements. The ODOT Procurement Office has determined it is now unnecessary to adopt a separate rule for price agreements.

- 731-149-0010 – The only amendment to this rule is to change effective dates.

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, 3930 Fairview Industrial Dr. SE, Salem, OR 97302

Telephone: (503) 986-3171

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Rule Caption: Procedures for grants and loans under the Multimodal Transportation Fund program

Stat. Auth.: ORS 184.616, 184.619, 367.082 & 2005 OL Ch. 816

Stats. Implemented: 2011 OL Ch. 624 Sec. 20, 21 & 22

Proposed Amendments: 731-035-0020, 731-035-0040, 731-035-0050, 731-035-0060, 731-035-0070, 731-035-0080

Last Date for Comment: 11-21-11, Close of Business

Summary: The proposed amendments implement Sections 20, 21 and 22 of HB 5036, to remove obsolete language and to authorize the Oregon Transportation Commission to award funds available in the Multimodal Transportation Fund due to earnings, loan repayment and refunds of grant awards.

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, 3930 Fairview Industrial Dr. SE, Salem, OR 97302

Telephone: (503) 986-3171

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

Rule Caption: Repeal Obsolete Rules: References in DMV Documents, Social Security Number, Financial Responsibility Hearing, Probationary Permit.

Stat. Auth.: ORS 184.616, 184.619, 802.010

Stats. Implemented:

Proposed Repeals: 735-001-0030, 735-016-0080, 735-050-0090, 735-064-0085

Last Date for Comment: 11-21-11, Close of Business

Summary: DMV proposes to repeal the following four rules that make up this rulemaking as they are no longer needed.

OAR 735-001-0030 was adopted in 1985 and amended in 1988 to establish that if a reference to a statute or rule that had been renun-

bered was on any DMV document with the old reference, then it actually referred to the current statute number. After twenty plus years this rule is no longer needed as all rules, orders, forms, etc. have been updated to reflect the correct statute or rule number.

OAR 735-016-0080 was adopted in 1999 establishing that DMV may request a social security number of a person requesting a driver license, identification card or vehicle transaction for purposes of establishing identity or residency or domicile in Oregon. However ORS 807.021 now requires proof of a person’s social security number on all driver license, driver permit and identification card transactions for purposes of establishing identity, if one has been assigned by the Social Security Administration. DMV does not use a social security number in determining residency or domicile and is removing this requirement from the form used by applicants. Therefore OAR 735-016-0080 is no longer necessary.

OAR 735-050-0090 was adopted to implement ORS 809.450. DMV proposes to repeal the rule because the requirements of ORS 809.450 are non-ambiguous and do not require an administrative rule for clarification.

OAR 735-064-0085 was adopted in 2002 when ORS 807.270 was amended to change the length of time a probationary permit is valid. The rule is no longer necessary because the transition has been completed since all permits issued prior to the law change have expired.

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

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Driver and Motor Vehicle Services Division, 3930 Fairview Industrial Dr. SE, Salem, OR 97302

Telephone: (503) 986-3171

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Rule Caption: Amends DMV Rules Pertaining to Oregon Low-Emission Vehicle Program Standards.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 803.350

Stats. Implemented: ORS 803.350

Proposed Amendments: 735-030-0330

Last Date for Comment: 11-21-11, Close of Business

Summary: Pursuant to ORS 803.350, DMV must deny registration to new motor vehicles, with 7,500 miles or less that do not meet Oregon DEQ rules, adopted under OAR Chapter 340 as the Oregon Low Emission Vehicle Program (Oregon LEV standards).

On April 21, 2011, DEQ amended OAR 340-257-0060, which sets forth the exemptions from the Oregon LEV standards. ORS 803.350(8) requires that DMV rules be consistent with the DEQ rules. To be consistent with OAR 340-257-0060, DMV is amending OAR 735-030-0330 to exempt from the registration requirements for Oregon LEV standards, vehicles purchased by Oregon residents while assigned to active government service, outside the State of Oregon.

Currently, the exemption applies to vehicles purchased by Oregon residents while assigned to active military service, outside the State of Oregon.

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

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Driver and Motor Vehicle Services Division, 3930 Fairview Industrial Dr. SE, Salem, OR 97302

Telephone: (503) 986-3171

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Rule Caption: Increases the manufacturing fee amount collected for a pair of vehicle registration plates.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 803.570

Stats. Implemented: ORS 803.570

Proposed Amendments: 735-032-0010

Last Date for Comment: 11-21-11, Close of Business

Summary: The rule amendment is needed to bring OAR 735-032-0010 into compliance with ORS 803.570. Failure to amend the rule

NOTICES OF PROPOSED RULEMAKING

will result in an inconsistency between the statute and rule, and result in a loss of revenues collected for the State Highway Fund.

ORS 803.570 requires DMV to establish, by rule, the plate manufacturing fee charged for a registration plate or pair of registration plates. Plate manufacturing fees are retained by DMV to cover the actual cost of manufacturing the plates. Fee amounts established by DMV must be calculated by taking the cost to manufacture a single plate or pair of plates, and rounding the fee amount(s) charged DMV customers to the next higher half-dollar.

DMV has adopted OAR 735-032-0010 to set plate manufacturing fee amounts. Currently, the fee amount for a single plate is \$2 and \$3 for a pair of plates. Due to an increase in manufacturing costs for a pair of plates [emphasis], DMV is amending OAR 735-032-0010 to increase from \$3 to \$3.50, the manufacturing fee amount collected by DMV for each pair of plates issued. As a result, the total fee for a pair of plates will rise from the current amount of \$23.00 to \$23.50. The increase, which becomes effective January 1, 2012, covers DMV's actual cost to manufacture the plates (rounded to the next higher half-dollar) as required by ORS 803.570. There is no change to the manufacturing fee for a single plate.

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, 3930 Fairview Industrial Dr. SE, Salem, OR 97302

Telephone: (503) 986-3171

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Rule Caption: Amends DMV Vehicle Dismantler Rules – Implements Chapter 433, Oregon Laws 2011.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.125, 822.130, 822.135, 822.137 & 2011 OL Ch. 433

Stats. Implemented: ORS 822.100, 822.105, 822.110, 822.115, 822.120, 822.125, 822.130, 822.133, 822.135, 822.137, 822.140, 822.145, 822.150 & 2011 OL Ch. 433

Proposed Amendments: 735-152-0000, 735-152-0005, 735-152-0020, 735-152-0040, 735-152-0050, 735-152-0060

Last Date for Comment: 11-21-11, Close of Business

Summary: This rulemaking is needed to implement legislation enacted by the 2011 Legislative Assembly.

Chapter 433, Oregon Laws 2011 creates new statutory provisions and amends ORS 822.115, 822.133, 822.145 in part to: (1) require an applicant for a dismantler certificate to include a National Motor Vehicle Title Information System identification number with the application; (2) establish requirements and definitions related to mobile motor vehicle crushers; (3) add new dismantler violations; and (4) grant DMV additional authority to impose civil penalties and sanctions on vehicle dismantlers.

The proposed amendments add new definitions and revise language concerning the civil penalties and sanctions DMV may impose against dismantlers found in violation of applicable laws and rules. Other non-substantive changes are made for purposes of clarity.

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, 3930 Fairview Industrial Dr. SE, Salem, OR 97302

Telephone: (503) 986-3171

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Rule Caption: Amendment specifies what constitutes proof that an applicant is qualified to receive disabled veteran plates.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 805.100

Other Auth.: USC Title 38, Part II, §1110

Stats. Implemented: ORS 805.100

Proposed Amendments: 735-040-0030

Last Date for Comment: 11-21-11, Close of Business

Summary: Disabled veteran registration plates are part of a special registration program available to qualified disabled veterans pursuant to ORS 805.100. The registration is permanent with a one-time registration fee and no renewal fees.

ORS 805.100(2) specifies who qualifies as a disabled veteran entitled to receive disabled veteran registration [emphasis]. The statute authorizes DMV to accept a letter from the U.S. Department of Veterans Affairs (VA) or a branch of the U.S. Armed Forces as proof the person is a disabled veteran.

OAR 735-040-0030 specifies the information an applicant must submit to DMV as proof the applicant is qualified to receive disabled veteran registration plates. Current proof is a letter issued by the U.S. Department of Veterans Affairs or branch of the U.S. Armed Forces indicating the applicant meets the requirements of ORS 805.100. Because the statute requires that the veteran be honorably discharged, DMV has only accepted letters that indicate an honorable discharge as proof of eligibility to receive disabled veteran registration.

Recently, DMV learned from the Oregon Department of Veterans Affairs that under federal law, service-related disability benefits are only granted by the VA to veterans discharged or released under honorable conditions. USC Title 38, Part II, §1110. Letters issued by the VA or military branch may or may not contain specific discharge information. Therefore, DMV proposes to amend OAR 735-040-0030 to specify that DMV will accept as proof that an applicant is qualified to receive disabled veteran registration under ORS 805.100, any letter, including a DD214 form, issued by the VA or branch of the U.S. Armed Forces that indicates the applicant received a service-related disability, regardless of whether the letter specifically shows an honorable discharge.

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, 3930 Fairview Industrial Dr. SE, Salem, OR 97302

Telephone: (503) 986-3171

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Department of Transportation, Highway Division Chapter 734

Rule Caption: Procedures for the Establishment of Variable Speed Zones on Certain Public Roads.

Stat. Auth.: ORS 184.616, 184.619, 810.180, 811.111

Stats. Implemented: ORS 810.180, 811.111

Proposed Adoptions: 734-020-0018, 734-020-0019

Last Date for Comment: 11-21-11, Close of Business

Summary: ORS 810.180 authorizes the Department of Transportation to conduct speed zone investigations and set speeds on most public roads, including interstate highways. As proposed, this rule gives authority to the Department and other road authorities to establish variable speed zones on sections of highway when an engineering investigation and analysis determines that a range of speeds in response to recurring conditions provides for better traffic safety and operation than a single set speed. This rule applies to all public roads except where the Department has delegated its authority to establish designated speeds on low volume or unpaved roads under ORS 810.180(5)(f).

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

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Highway Division, 3930 Fairview Industrial Dr. SE, Salem, OR 97302

Telephone: (503) 986-3171

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Rule Caption: Removing Personal Property from Illegal Campsites on State Highway Rights-of-Way.

NOTICES OF PROPOSED RULEMAKING

Stat. Auth.: ORS 184.616, 377.650, 2011 OL Ch. 84 (SB 447)
Stats. Implemented: ORS 377.650 & 2011 OL Ch. 84 (SB 447)
Proposed Amendments: 734-035-0010, 734-035-0040
Last Date for Comment: 11-21-11, Close of Business

Summary: The Department of Transportation may remove personal property that is left on state highway rights of way. SB 447 is specific to personal property that is under a state highway bridge, on property along a river, and within an urban growth boundary and requires written notice be provided each time the Department intends to remove personal property from these areas. The bill also outlines the style and content of the written notice. ORS 377.650 addresses removal of personal property in other locations.

These rules modify the procedure for removing personal property specifically from illegal campsites that are located on state highway rights of way under both ORS 377.650 and Chapter 84, 2011 Oregon Laws (SB 447).

Rules Coordinator: Lauri Kunze
Address: Department of Transportation, Highway Division, 3930 Fairview Industrial Dr. SE, Salem, OR 97302
Telephone: (503) 986-3171

Rule Caption: Roadside Memorial Program.
Stat. Auth.: ORS 184.616, 184.619 & 201 OL Ch. 668
Stats. Implemented: 2011 OL Ch. 668
Proposed Adoptions: 734-026-0010, 734-026-0020, 734-026-0030, 734-026-0040, 734-026-0045

Last Date for Comment: 11-21-11, Close of Business
Summary: House Bill 3039 enacted by the 76th Oregon Legislative Assembly requires that ODOT erect and maintain roadside memorial signs that commemorate a police officer killed in the line of duty if the Legislative Assembly adopts a concurrent resolution that recognizes the police officer killed in the line of duty and fees are paid to cover the costs of erecting, maintaining and removing the signs. The bill also requires ODOT to establish by rule the fees to be collected and the design standards for such signs. The bill becomes effective January 1, 2012.

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

Rules Coordinator: Lauri Kunze
Address: Department of Transportation, Highway Division, 3930 Fairview Industrial Dr. SE, Salem, OR 97302
Telephone: (503) 986-3171

Rule Caption: Update of Oregon Coordinate Systems.
Stat. Auth.: ORS 184.616, 184.619 & 2011 OL Ch. 179
Stats. Implemented: 209.130, 209.155, 209.250, 390.770 & 2011 OL Ch. 179
Proposed Adoptions: 734-005-0005, 734-005-0010, 734-005-0015

Last Date for Comment: 11-21-11, Close of Business
Summary: SB 877 requires the Oregon Department of Transportation to develop a rule pertaining to the Oregon Coordinate System. The bill effectively moves all definitions of the existing Oregon State Plane Coordinate System from ORS Chapter 93 to Oregon Administrative Rules (to be created by ODOT). In addition, all definitions for the new Oregon Coordinate Reference System will be added to the new OAR. Sections of ORS 93, 209, and 390 will be amended to point to the new location of these definitions.

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

Rules Coordinator: Lauri Kunze
Address: Department of Transportation, Highway Division, 3930 Fairview Industrial Dr. SE, Salem, OR 97302
Telephone: (503) 986-3171

Department of Transportation, Motor Carrier Transportation Division Chapter 740

Rule Caption: Legibility of highway use tax reports.
Stat. Auth.: ORS 184.616, 184.619 & 823.011
Stats. Implemented: ORS 825.137, 825.139, 825.232 & 825.490
Proposed Amendments: 740-055-0010

Last Date for Comment: 11-21-11, Close of Business
Summary: This rule describes payment of weight-mile tax and reporting period variations. The proposed amendment will establish the standard criteria for which highway use tax reports submitted to the Department will be accepted as legible and readable. A report will be considered legible and readable if the observer is able to identify all letters and numerals and if the observer is able to recognize a group of letters or numerals as words or complete numbers. A report considered to be illegible or unreadable will be returned to the motor carrier to correct and must be re-filed by the due date of the report to be considered received on time. The rule is necessary to provide a method in which the Department can identify highway use tax reports that are illegible or unreadable and return the report to the motor carrier.

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, Motor Carrier Transportation Division, 3930 Fairview Industrial Dr. SE, Salem, OR 97302
Telephone: (503) 986-3171

Rule Caption: Revision of rule governing the Maximum Fine Schedule.
Stat. Auth.: ORS 184.616, 184.619 & 823.011
Stats. Implemented: ORS 153.012, 153.015, 153.018, 825.252, 825.990

Proposed Amendments: 740-100-0100
Last Date for Comment: 11-21-11, Close of Business
Summary: This rule adopts the Maximum Fine Schedule published by the Commercial Vehicle Safety Alliance (CVSA) and describes the calculation used to determine foundation fine amounts. House Bill 2712 established one presumptive fine for each class of violation and eliminated the confusing way fines have historically been calculated to determine a foundation amount. The proposed amendments are needed to implement HB 2712. Effective January 1, 2012, there will not be a separate unitary assessment for the Oregon Department of Revenue or county assessment; in addition, the offense surcharge will be eliminated. The assessment amounts will now be included in the presumptive fine. Minimum and maximum fines were specified for each class of traffic violation. The proposed amendment will assign the Groups from the CVSA Maximum Fine Schedule to be equal to the Class categories from the presumptive class traffic violations. To remain revenue neutral and to simplify the fine schedule, the proposed amendment takes the approach of assigning the Maximum Fine Schedule Groups to be equal to the presumptive traffic violation Class.

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, Motor Carrier Transportation Division, 3930 Fairview Industrial Dr. SE, Salem, OR 97302
Telephone: (503) 986-3171

NOTICES OF PROPOSED RULEMAKING

Department of Transportation, Rail Division Chapter 741

Rule Caption: Adoption of procedures to implement ORS 271.310.

Date:	Time:	Location:
11-21-11	11 a.m.	ODOT Mill Creek Office Crown Point Conf. Rm. 555 13th St. NE Salem, OR

Hearing Officer: Kathy Holmes

Stat. Auth.: ORS 184.616, 184.619, 823.011, 271.310

Stats. Implemented: ORS 271.310

Proposed Adoptions: 741-040-0010, 741-040-0020, 741-040-0030, 741-040-0040, 741-040-0050, 741-040-0060, 741-040-0070

Last Date for Comment: 11-21-11, Close of Hearing

Summary: ODOT is adopting procedures necessary to implement changes to ORS 271.310 as a result of HB 2370.

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

Rules Coordinator: Lauri Kunze

Address: Department of Transportation, Rail Division, 3930 Fairview Industrial Dr. SE, Salem, OR 97302

Telephone: (503) 986-3171

Employment Department Chapter 471

Rule Caption: Defines “against equity and good conscience”.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657

Proposed Amendments: 471-030-0053

Last Date for Comment: 11-22-11, 5 p.m.

Summary: Senate Bill 725 allows for benefits overpaid under ORS 657.315 to be waived if recovery is “against equity and good conscience”. The rule change defines “against equity and good conscience” by taking into account the individual’s financial ability to repay the overpaid benefits.

The proposed change makes additional plain language and consistency updates. It removes the definition of ‘Recovery’ which is defined in statute. It also replaces in the text of the rule the Manager of Benefits with the Director as the one who authorizes employees to waive overpayments under ORS 657.317. This change is consistent with other rules in this chapter.

Rules Coordinator: Courtney Brooks

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

Telephone: (503) 947-1724

Employment Relations Board Chapter 115

Rule Caption: Makes temporary rules permanent; amends fees charged for unfair labor practice and mediation services.

Stat. Auth.: ORS 240.086(3) & 243.667(7)

Other Auth.: SB 5556 (2011)

Stats. Implemented: ORS 243.672(3), 240.610(2), 663.180(2), 663.185(2) & 662.425(2)

Proposed Amendments: 115-035-0000, 115-035-0035, 115-035-0045, 115-040-0005, 115-070-0000, 115-070-0035, 115-070-0050, 115-080-0010

Last Date for Comment: 12-1-11, 5 p.m.

Summary: Makes temporary agency rules permanent to conform with SB 5556, which was adopted by the 2011 Legislature and was effective July 1, 2011. Filing fees for unfair labor practice complaints, charges, answers, and intervention are increased from \$250 to \$300. Mediation fees increase from \$1,000 for all mediation sessions to a graduated scale that is based on the number of mediation sessions.

Rules Coordinator: Leann G. Wilcox

Address: Employment Relations Board, 528 Cottage St. NE, Suite 400, Salem, OR 97301-3807

Telephone: (503) 378-8610

Rule Caption: Makes temporary rules permanent; amends computation of time to file document when agency is closed.

Stat. Auth.: ORS 240.086(3) & 243.667(7)

Stats. Implemented:

Proposed Amendments: 115-010-0012

Last Date for Comment: 12-1-11, 5 p.m.

Summary: Makes permanent amendments to agency rules to account for statewide furlough closure days and the possibility of other closure days (e.g., natural disaster, inclement weather) in the computation of time for filing of documents.

Rules Coordinator: Leann G. Wilcox

Address: Employment Relations Board, 528 Cottage St. NE, Suite 400, Salem, OR 97301-3807

Telephone: (503) 378-8610

Land Conservation and Development Department Chapter 660

Rule Caption: Amend Transportation Planning Rules to simplify, clarify and streamline local plan amendments and rezonings.

Date:	Time:	Location:
12-8-11	8:30 a.m.	Columbia Gorge Discovery Ctr. 5000 Discovery Dr. The Dalles, OR

Hearing Officer: LCDC

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 197.040, 197.712, 197.717, 197.732, 195.025 & 2011 OL Ch. 432

Proposed Amendments: 660-012-0005, 660-012-0060, 660-024-0020

Last Date for Comment: 12-8-11, Close of Hearing

Summary: The proposed amendment would add a new section to OAR 660-012-0060 that would facilitate economic development by allowing for partial mitigation of the transportation effects of a rezoning (or amendment to a plan or development regulation). The proposed amendment would add a new section to OAR 660-012-0060 to allow local governments to designate areas where congestion standards would not be applied when evaluating rezonings (or amendments to plans or development regulations). The proposed amendment would add a new section OAR 660-012-0060 to exempt a rezoning from the rule if it is consistent with prior acknowledged planning. The proposed amendment would amend existing sections within the rule to clarify the definition of a significant effect to the transportation system and to allow more options for how a local government responds when the rezoning (or amendment to a plan or development regulation) would have a significant effect.

Rules Coordinator: Casaria Tuttle

Address: Land Conservation and Development Department, 635 Capitol St. NE, Suite 150, Salem, OR 97301

Telephone: (503) 373-0050, ext. 322

Rule Caption: Amendments to implement new laws regarding changes to comprehensive plans and land use regulations.

Date:	Time:	Location:
12-8-11	8:30 a.m.	Columbia Gorge Discovery Ctr. 5000 Discovery Dr. The Dalles, OR

Hearing Officer: LCDC

Stat. Auth.: ORS 197.040

Other Auth.: Statewide Planning Goals (OAR 660-015)

Stats. Implemented: ORS 197.610–197.625 & 2011 OL Ch. 280

Proposed Amendments: Rules in 660-018

Proposed Repeals: 660-018-0030, 660-018-0140

Last Date for Comment: 12-8-11, Close of Hearing

NOTICES OF PROPOSED RULEMAKING

Summary: The proposed amendments would modify rules pertaining to notice of changes to acknowledged comprehensive plans and land use regulations and related topics. The proposed amendments, including the repeal of two rules, are needed in order to implement new laws (Oregon Laws 2011, chapter 280) regarding changes to comprehensive plans and land use regulations and are needed in order to conform existing rules to these new laws.

The Commission may consider other minor amendments based on testimony and comments received during the public comment period, and may adopt minor clarifications or technical corrections and amendments that may be proposed during the public comment period.

Rules Coordinator: Casaria Tuttle
Address: Land Conservation and Development Department, 635 Capitol St. NE, Suite 150, Salem, OR 97301
Telephone: (503) 373-0050, ext. 322

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Rule Caption: Amendments to existing rules in order to implement new laws regarding periodic review.

Date:	Time:	Location:
12-8-11	8:30 a.m.	Columbia Gorge Discovery Ctr. 5000 Discovery Dr. The Dalles, OR

Hearing Officer: LCDC
Stat. Auth.: ORS 197.040
Other Auth.: Statewide Planning Goals (OAR 660-015)
Stats. Implemented: ORS 197.626–197.646 & 2011OL Ch. 469 (HB 2130)

Proposed Amendments: Rules in 660-025
Last Date for Comment: 12-8-11, Close of Hearing
Summary: The proposed amendments would modify rules pertaining to periodic review and related topics. The proposed amendments are needed in order to implement new laws (Oregon Laws 2011, chapter 469) regarding periodic review, and are needed in order to conform existing rules to these new laws.

The Commission may consider other minor amendments based on testimony and comments received during the public comment period, and may adopt minor clarifications or technical corrections and amendments that may be proposed during the public comment period.

Rules Coordinator: Casaria Tuttle
Address: Land Conservation and Development Department, 635 Capitol St. NE, Suite 150, Salem, OR 97301
Telephone: (503) 373-0050, ext. 322

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Landscape Contractors Board Chapter 808

Rule Caption: Removes full time employment for managing employee and clarifies requirements prior to planting on a structure.

Date:	Time:	Location:
11-28-11	1 p.m.	2111 Front St. NE, Suite 2-101 Salem, OR

Hearing Officer: Lisa Walter Sedlacek
Stat. Auth.: ORS 670.310 & 671.670
Stats. Implemented: ORS 671.520 & 671.595
Proposed Adoptions: 808-003-0126
Proposed Amendments: 808-002-0625, 808-003-0040, 808-005-0020

Last Date for Comment: 11-28-11, Close of Hearing
Summary: 808-002-0625 – Removes requirement that managing employee be a full time employee.

808-003-0040 – Moves a section to 808-003-0126.

808-003-0126 – New section to clarify requirements prior to planting on a structure.

808-005-0020 – Cite reference change.

Rules Coordinator: Kim Gladwill-Rowley

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

Telephone: (503) 967-6291, ext. 223

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Rule Caption: Amends qualifications for testing and licensing as a landscape construction professional.

Date:	Time:	Location:
11-28-11	1 p.m.	2111 Front St. NE, Suite 2-101 Salem, OR

Hearing Officer: Lisa Walter Sedlacek
Stat. Auth.: ORS 670.310 & 671.670
Stats. Implemented: ORS 671.570
Proposed Amendments: 808-003-0025

Last Date for Comment: 11-28-11, Close of Hearing
Summary: 808-003-0025 – Amends alternative experience for licensing as a landscape construction professional. Allows two years of related landscaping experience, six months of related landscape experience to substitute for cooperative work experience, a current membership as a Certified Professional member of APLD or any other landscaping related certified membership on an individual basis to be determined by the Board. It also eliminates the requirement to hold an active license under ORS 701 and only requires a current certification with the International Society of Arboriculture as a Certified Arborist.

Rules Coordinator: Kim Gladwill-Rowley
Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301
Telephone: (503) 967-6291, ext. 223

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Rule Caption: Clarifies new legislation regarding bond coverage of backflow assemblies and landscape irrigation control wiring and outdoor landscape lighting.

Date:	Time:	Location:
11-28-11	1 p.m.	2111 Front St. NE, Suite 2-101 Salem, OR

Hearing Officer: Shelley Sneed
Stat. Auth.: ORS 670.310 & 671.670
Stats. Implemented: ORS 671.690, 2011 OL Ch. 104
Proposed Amendments: 808-004-0320

Last Date for Comment: 11-28-11, Close of Hearing
Summary: 808-004-0320 – Clarifies a claim may be accepted for negligent or improper work for work performed or contracted to be performed on or after January 1, 2012 for backflow assembly testing services, the installation, repair or maintenance of backflow assemblies for irrigation system and ornamental water features and the installation of irrigation control wiring and outdoor landscape lighting.

Rules Coordinator: Kim Gladwill-Rowley
Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301
Telephone: (503) 967-6291, ext. 223

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Rule Caption: Nonexempt business with employees must submit proof of workers' compensation, exempt business using a leasing company must verify leasing agency has workers' compensation coverage.

Date:	Time:	Location:
11-28-11	1 p.m.	2111 Front St. NE, Suite 2-101 Salem, OR

Hearing Officer: Lisa Walter Sedlacek
Stat. Auth.: ORS 670.310 & 671.670
Stats. Implemented: ORS 671.565, 671.610 & 2011 OL Ch. 283
Proposed Adoptions: 808-002-0390, 808-003-0620

Proposed Amendments: 808-003-0015, 808-003-0090, 808-005-0020

Last Date for Comment: 11-28-11, Close of Hearing
Summary: 808-002-0390 – Adds new rule to define Family Members.

NOTICES OF PROPOSED RULEMAKING

808-003-0015 – Requires certificates of insurance verifying workers' compensation insurance coverage for all employees if the applicant qualifies as nonexempt.

808-003-0090 – Clarifies exempt and nonexempt classifications and what is required for documentation for each classification. Also requires an exempt business to notify the agency in writing within 30 days, register as "nonexempt" and submit documentation when that business hires employees or no longer qualifies for the exempt status.

808-003-0620 – Clarifies what documentation is required for nonexempt applicant, that workers' compensation must be continuously in effect and a new certificate must be on file prior to the expiration date of the previous certificate. Clarifies when an exempt business enters into a contract with a leasing company for workers that documentation shall be provided to the agency within 10 days of entering into that contract, during a investigator or site check or at any other time the agency requests it to verify the maintenance of workers' compensation coverage for all employees.

808-005-0020 – Sets civil penalty amounts and suspensions for failure to verify workers' compensation coverage, hiring employees while licensed as exempt and conduct that is dishonest or fraudulent or that the board finds injurious to the welfare of the public.

Rules Coordinator: Kim Gladwill-Rowley
Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301
Telephone: (503) 967-6291, ext. 223

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Rule Caption: Reduced the number of continuing education hours required, eliminates the minimum hours in each category and the course approval process.

Date:	Time:	Location:
11-28-11	1 p.m.	2111 Front St. NE, Suite 2-101 Salem, OR

Hearing Officer: Lisa Walter Sedlacek

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.676

Proposed Amendments: 808-040-0020, 808-040-0025, 808-040-0030, 808-040-0050, 808-040-0060, 808-040-0080

Last Date for Comment: 11-28-11, Close of Hearing

Summary: 808-040-0020 – Reduces the number of continuing education hours required and eliminates the minimum hours in each category.

808-040-0025 – Eliminates references to program approvals prior to course offerings, clarifies one credit is allowed for every three hours of qualifying volunteer work with a maximum credit not to exceed four hours in a two year period.

808-040-0030 – Eliminates references to program approvals prior to course offerings.

808-040-0050 – Eliminates the course approval process.

808-040-0060 – Eliminates documentation requirements for program approvals prior to course offerings.

808-040-0080 – Deletes old references.

Rules Coordinator: Kim Gladwill-Rowley
Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301
Telephone: (503) 967-6291, ext. 223

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Rule Caption: Creates a new license for planting only.

Date:	Time:	Location:
11-28-11	1 p.m.	2111 Front St. NE, Suite 2-101 Salem, OR

Hearing Officer: Lisa Walter Sedlacek

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.570

Proposed Amendments: 808-003-0035, 808-003-0040, 808-003-0060, 808-003-0045

Last Date for Comment: 11-28-11, Close of Hearing

Summary: 808-003-0035 – Adds a Planting license category and clarifies it is part of the All Phase license.

808-003-0040 – Defines what landscaping work a Planting limited license holder may perform and removes a previous contract minimum standard regarding subcontracting.

808-003-0060 – Renames the exam sections.

808-003-0045 – Clarifies which exam sections must be passed to change the phase of license.

Rules Coordinator: Kim Gladwill-Rowley
Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301
Telephone: (503) 967-6291, ext. 223

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Rule Caption: Clarifies a probationary applicant may apply a subsequent time as a probationary applicant; passing scores from first application are expired.

Date:	Time:	Location:
11-28-11	1 p.m.	2111 Front St. NE, Suite 2-101 Salem, OR

Hearing Officer: Lisa Walter Sedlacek

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.570

Proposed Amendments: 808-003-0030, 808-003-0065

Last Date for Comment: 11-28-11, Close of Hearing

Summary: 808-003-0030 – Clarifies a probationary application may submit another application for a probation license after the previous application has expired or may submit an application for a regular license at any time prior to be issued a probationary license along with the required documentation to show compliance with the qualifications. Also clarifies a probationary application expires two years after the application is received or one year after first sitting for any section of the exam, whichever is first.

808-003-0065 – Clarifies a passing scores for a probationary applicant will expire upon expiration of the application.

Rules Coordinator: Kim Gladwill-Rowley
Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301
Telephone: (503) 967-6291, ext. 223

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Rule Caption: Requires a description of the materials to be installed on a landscape job and that changes or amendments to landscaping contracts and subcontracts to identify the scope of the change and be in writing.

Date:	Time:	Location:
11-28-11	1 p.m.	2111 Front St. NE, Suite 2-101 Salem, OR

Hearing Officer: Lisa Walter Sedlacek

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.625

Proposed Amendments: 808-002-0020

Last Date for Comment: 11-28-11, Close of Hearing

Summary: 808-002-0020 – requires description of materials on all landscaping contracts and subcontracts. Requires changes or amendments to landscaping contracts and subcontracts to identify the scope of the change or amendment, to be agreed to by both parties and to be in writing.

Rules Coordinator: Kim Gladwill-Rowley
Address: Landscape Contractors Board, 2111 Front Street NE, Suite 2-101, Salem, OR 97301
Telephone: (503) 967-6291, ext. 223

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Oregon Film and Video Office Chapter 951

Rule Caption: Rule intended to clarify reporting requirements for Greenlight Rebate.

Date:	Time:	Location:
11-17-11	10 a.m.	1001 SE Water Ave, Suite 430 Portland, OR 97214

Hearing Officer: Vince Porter

NOTICES OF PROPOSED RULEMAKING

Stat. Auth.: ORS 284.335 & 2005 OL Ch. 559
Stats. Implemented: 2005 OL Ch. 559
Proposed Amendments: 951-004-0003, 951-004-0004
Last Date for Comment: 11-28-11, 5 p.m.

Summary: To clarify that the Oregon Film and Video Office will issue a pre-certification pending verification that taxes required have been paid and that a subsequent final certification will be issued upon such verification.

To explain that a Qualifying Film Production may use a third-party to pay compensation on behalf of the Qualifying Film Production. Explains and clarifies reporting requirements to claim the Greenlight Oregon Labor Rebate.

Rules Coordinator: Jane Ridley
Address: Oregon Film and Video Office, 1001 SE Water Ave., Suite 430, Portland, OR 97214
Telephone: (503) 229-5832

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Oregon Health Authority
Chapter 943

Rule Caption: Review Process When Self-Defense Asserted to "Substantiated" Findings at State Hospitals and State Operated Programs.

Stat. Auth.: ORS 179.040 & 413.042
Other Auth.: HB 2009, enacted in 2009 OL Ch. 595 Sec. 19-25
Stats. Implemented: ORS 179.390, 426.385, 427.031, 430.210 & 430.735-430.768

Proposed Adoptions: 943-045-0000

Proposed Repeals: 943-045-0000(T)

Last Date for Comment: 11-21-11, 5 p.m.

Summary: This rule adopts and incorporates by reference the Department of Human Services' Review of Substantiated Physical Abuse When Self-Defense is Asserted at State Hospitals and State Operated Residential 24-hour Programs rules: chapter 407-0000 through 0110.

HB 2009 (2009) created the Oregon Health Authority and transferred to the Authority the Department of Human Services' (Department) Divisions responsible for health and health care. Effective July 1, 2011 the Authority needs to adopt and incorporate by reference the Department's rules which provide the Authority with the legal authority to conduct abuse investigations with respect to individuals residing in state hospitals and state operated 24-hour programs. These rules set forth the review process when self defense is asserted by individuals in response to a "substantiated" determination.

Rules Coordinator: Evonne Alderete
Address: Oregon Health Authority, 500 Summer St. NE, Salem, OR 97301
Telephone: (503) 932-9663

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Rule Caption: Requirements for organizations and users seeking or receiving access to Authority information assets.

Stat. Auth.: ORS 413.042
Other Auth.: HB 2009, enacted in 2009 OL Ch. 595 Sections 9-25 & Health Insurance Portability & Accountability Act (HIPAA) security rules: 45 CFR § 164.304
Stats. Implemented: ORS 182.122

Proposed Adoptions: 943-014-0300, 943-014-0305, 943-014-0310, 943-014-0315, 943-014-0320

Proposed Repeals: 943-014-0300(T), 943-014-0305(T), 943-014-0310(T), 943-014-0315(T), 943-014-0320(T)

Last Date for Comment: 11-21-11, 5 p.m.

Summary: These rules apply to anyone who seeks access to the Oregon Health Authority's (Authority) information assets, systems, and networks. It establishes access controls for all organizations and users and requires organizations to establish a risk management plan addressing common safeguards and HIPAA compliance. These rules allow for audits of organizations handling Authority information

assets, address privilege changes, and establish requirements for reporting incidents and resolutions.

Rules Coordinator: Evonne Alderete
Address: Oregon Health Authority, 500 Summer St. NE, Salem, OR 97301
Telephone: (503) 932-9663

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Rule Caption: Abuse or Mistreatment Reporting and Protective Services in Community Programs for Adults with Mental Illness.

Stat. Auth.: ORS 179.040 & 413.042, 414.715 & 430.731
Other Auth.: HB 2009, enacted in 2009 OL Ch. 595 Sec. 19-25
Stats. Implemented: ORS 413.032, 430.735-430.765, 443.400-443.460, 443.705-443.825

Proposed Adoptions: 943-045-0250; 943-045-0260; 943-045-0280; 943-045-0290; 943-045-0300; 943-045-0310; 943-045-0320; 943-045-0330; 943-045-0340; 943-045-0350; 943-045-0360; 943-045-0370

Proposed Repeals: 943-045-0250(T), 943-045-0260(T), 943-045-0280(T), 943-045-0290(T), 943-045-0300(T), 943-045-0310(T), 943-045-0320(T), 943-045-0330(T), 943-045-0340(T), 943-045-0350(T), 943-045-0360(T), 943-045-0370(T)

Last Date for Comment: 11-21-11, 5 p.m.

Summary: HB 2009 created the Oregon Health Authority and transferred to the Authority the Department of Human Services' Divisions responsible for health and health care. With the creation of a new agency, the community programs and community facilities serving adults with mental illness moved to the Authority. Community programs and facilities serving adults with developmental disabilities will continue to be governed by the Department of Human Services' rule found at OAR 407-045-0250 to 0370. The Authority needs to adopt these rules to reflect the separation of the Department of Human Services and Oregon Health Authority.

These rules are being revised to include the definition of mistreatment.

Rules Coordinator: Evonne Alderete
Address: Oregon Health Authority, 500 Summer St. NE, Salem, OR 97301
Telephone: (503) 932-9663

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Oregon Health Authority,
Addictions and Mental Health Division:
Addiction Services
Chapter 415

Rule Caption: Health Professionals' Services Program.

Date:	Time:	Location:
11-17-11	10 a.m.	500 Summer St. NE, Rm. 166 Salem, OR 97301-1118

Hearing Officer: Nola Russell

Stat. Auth.: ORS 413.042, 409.050 & 676.190

Stats. Implemented: ORS 676.185 & 676.200

Proposed Amendments: 415-065-0065

Last Date for Comment: 11-22-11

Summary: These rules establish consolidated, statewide health professionals' monitoring program for licensees of participating health licensing boards, who are unable to practice with professional skill and safety due to substance use disorders, mental health disorder or both types of disorders.

Rules Coordinator: Nola Russell
Address: Oregon Health Authority, Addictions and Mental Health Division: Addiction Services, 500 Summer St. NE, E86, Salem, OR 97301-1118

Telephone: (503) 945-7652

NOTICES OF PROPOSED RULEMAKING

Oregon Health Authority, Addictions and Mental Health Division: Mental Health Services Chapter 309

Rule Caption: Central Oregon Health Council and Regional Health Improvement Plan.

Date:	Time:	Location:
12-7-11*	1 p.m.	St. Charles Medical Center 2500 Neff Rd. Bend, OR 97701
12-7-11*	1 p.m.	500 Summer St. NE, Rm. 137-A Salem, OR 97301-1118

Hearing Officer: Nola Russell

Stat. Auth.: ORS 413.042

Other Auth.: 2011 OL Ch. 418 Sec. 13-20

Stats. Implemented: ORS 243.125 & 243.864

Proposed Adoptions: 309-014-0300, 309-014-0310, 309-014-0320, 309-014-0330, 309-014-0340

Proposed Repeals: 309-014-0300(T), 309-014-0310(T), 309-014-0320(T), 309-014-0330(T), 309-014-0340(T)

Last Date for Comment: 12-9-11

Summary: *This will be a single hearing convened in two locations, using video conferencing equipment. The Hearing Officer will convene and facilitate the hearing from the Salem location.

These rules relate to the implementation of Chapter 418, Oregon Laws 2011, Sections 13 through 20, which call for the creation of the Central Oregon Council and the implementation of the Central Oregon Health Improvement Plan.

Rules Coordinator: Nola Russell

Address: Oregon Health Authority, Addictions and Mental Health Division: Mental Health Services, 500 Summer St. NE, E86, Salem, OR 97301-1118

Telephone: (503) 945-7652

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Oregon Health Authority, Division of Medical Assistance Programs Chapter 410

Rule Caption: January 2012 Health Services Commission Prioritized List changes and other rule clarifications.

Date:	Time:	Location:
11-16-11	10:30 a.m.	HSB Bldg., Rm. 137B 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 413.042, 414.065 & 414.707

Stats. Implemented: ORS 414.065 & 414.707

Proposed Amendments: 410-123-1060, 410-123-1220, 410-123-1260, 410-123-1490

Last Date for Comment: 11-18-11, Close of Business

Summary: Ref#: 123jan-n1011, Dental Services Program. The Division of Medical Assistance Programs (Division) will amend rules to:

- Correspond with the biennial review of the Health Services Commission's Prioritized List of Services for January 1, 2012, which reprioritizes some dental procedures above the funding line that had not previously been covered and moves other procedures below the funding line, to medical line, or to the excluded (never-covered) list;
- Clarify requests for prior authorizations for outpatient hospital or ambulatory surgical center services for clients assigned to a Physician Care Organization (PCO);
- Change the title of the Limited Permit Dental Hygienist to Expanded Practice Dental Hygienist in accordance with legislation passed in the 2011 Legislative Session;
- Reference the updated "Covered and Non-Covered Services document" and other minor clarifications.
- Clarify current policies and procedures to ensure these rules are not open to interpretation by the provider or outside parties and to help eliminate confusion possibly resulting in non-compliance and

help facilitate provider compliance with eligibility, service coverage and limitations, and billing requirements.

- Revise text to improve readability and take care of "housekeeping" corrections if needed.

Proposed rules are available on the DMAP website: <http://www.dhs.state.or.us/policy/healthplan/rules/notices.html>

For hardcopy requests, call: (503) 947-5081

Rules Coordinator: Darlene Nelson

Address: Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301

Telephone: (503) 945-6927

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Rule Caption: Legislatively-approved budget with provider rate changes.

Date:	Time:	Location:
11-16-11	10:30 a.m.	HSB Bldg., Hearing Rm. 137B 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 413.042

Other Auth.: HB 5529, 2011 OR Legislative Assembly

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-127-0060

Last Date for Comment: 11-18-11, Close of Business

Summary: Ref# PR 252-0112, Home Health Services Program. The Home Health Services Program administrative rules govern the Division of Medical Assistance Programs' (Division), payments for services provided to certain Medicaid-eligible clients. In August 2011, the Division temporarily amended OAR 410-127-0060 to implement rate changes to HH providers to comply with budget limitations required by the 2011 Legislative Assembly in SB 5529 and implement adjustments based on provider and association Rules Advisory Committee (RAC) input. With this Notice, the Division will permanently amend the rule including revisions for rate changes and Medical supply daily maximums, and revert back to rebasing and recalculation of rates as in the previous rule. However, implementation of these amendments is subject to approval by the Centers for Medicare and Medicaid Services (CMS).

Proposed rules are available on the Division's website: <http://www.dhs.state.or.us/policy/healthplan/rules/notices.html>

For hardcopy requests, call: (503) 947-5081

Rules Coordinator: Darlene Nelson

Address: Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301

Telephone: (503) 945-6927

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Rule Caption: Federal and state requirements for hospice services in a nursing facility and rule language clarification.

Date:	Time:	Location:
11-16-11	10:30 a.m.	HSB Bldg., Hearing Rm. 137B 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 413.042, 414.065, Federal statute, Title XIX (Sec. 1902.[42U.S.C. 139a (a) & Sec. 1905(o)(3)])

Stats. Implemented: ORS 414.065

Proposed Adoptions: 410-142-0290

Proposed Amendments: 410-142-0020, 410-142-0040

Last Date for Comment: 11-18-11, Close of Business

Summary: Ref#: PR 255 0112, Hospice Services Program. The Division will adopt a new rule (OAR 410-142-0290) and amend 410-142-0020 and 410-142-0040 to incorporate federal compliance requirements for payment when a client resides in a nursing facility (NF) and elects hospice care; clarify language; and update definitions based on provider, stakeholder, and state hospice association participation and input in the Rules Advisory Committee (RAC).

Proposed rules are available on the Division's website: <http://www.dhs.state.or.us/policy/healthplan/rules/notices.html>

NOTICES OF PROPOSED RULEMAKING

For hardcopy requests, call: (503) 947-5081

Rules Coordinator: Darlene Nelson
Address: Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301
Telephone: (503) 945-6927

Rule Caption: Enhancing OHP Standard hospital benefit to OHP Plus benefit; add clarifying language for hospital dentistry.

Date:	Time:	Location:
11-16-11	10:30 a.m.	HSB Bldg., Hearing Rm. 137B 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson
Stat. Auth.: ORS 413.042 & 414.065
Stats. Implemented: ORS 413.042 & 414.065
Proposed Amendments: 410-125-0045, 410-125-0047, 410-125-0080, 410-125-0085, 410-125-0140, 410-125-0220
Last Date for Comment: 11-18-11, Close of Business
Summary: Ref.#: PR 259 0112, Hospital Services Program. The Division needs to amend the following rules:
410-125-0080 and 410-125-0220: clarifies language for hospital dentistry prior authorization requirements
410-125-0045, 410-125-0047, 410-125-0080, 410-125-0085 and 410-125-0140: clarifies prior authorization requirements, reflecting the changes to the Standard Limited Hospital benefits to the OHP plus hospital benefit.

Proposed rules are available on the Division's website:
<http://www.dhs.state.or.us/policy/healthplan/rules/notices.html>

For hardcopy requests, call: (503) 947-5081

Rules Coordinator: Darlene Nelson
Address: Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301
Telephone: (503) 945-6927

Rule Caption: Add and delete codes not covered and require prior authorization; clarify language and budget reductions.

Date:	Time:	Location:
11-16-11	10:30 a.m.	HSB Bldg., Hearing Rm. 137B 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson
Stat. Auth.: ORS 413.042
Other Auth.: SB 5529, 2011 OR Legislative Assembly
Stats. Implemented: ORS 414.025 & 414.065
Proposed Amendments: 410-130-0000, 410-130-0200, 410-130-0220, 410-130-0255, 410-130-0368, 410-130-0595
Last Date for Comment: 11-18-11, Close of Business
Summary: Ref.#: PR 253 0112, Medical-Surgical Services Program. The Division will amend the rules as follows:
410-130-0000: add birthing centers as covered provider types;
410-130-0200: add codes for ventricular assist devices, gastric bypass, MRI and CT scans and Synagis to the list of codes requiring prior authorization (PA);
410-130-0220: add and delete codes to reflect the current Excluded List;

410-130-0255: change text to reflect PA requirement for Synagis; recommendations for who may receive flu vaccines; to not use 90460 and 90461 for VFC administration; that providers may bill the Division directly for VFC administration if a client has private insurance;
410-130-0368: change requirements to bill anesthesia time in minutes (not units of 15 minutes of time) and add qualifier MJ to claims; and
410-130-0595: permanently amend the temporary rule and add that providers can bill six additional Maternity Case Management (MCM) Home Visits if client has received MCM services for three months or more. The Division repeals 410-130-0595(T).

Proposed rules are available on the Division's website:
<http://www.dhs.state.or.us/policy/healthplan/rules/notices.html>

For hardcopy requests, call: (503) 947-5081

Rules Coordinator: Darlene Nelson
Address: Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301
Telephone: (503) 945-6927

Rule Caption: January '12 – Amend rules for clarity and consistency.

Date:	Time:	Location:
11-16-11	10:30 a.m.	HSB Bldg., Hearing Rm. 137B 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson
Stat. Auth.: ORS 432.042 & 414.065
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-131-0040, 410-131-0080, 410-131-0100, 410-131-0120, 410-131-0160
Proposed Repeals: 410-131-0060, 410-131-0140, 410-131-0180, 410-131-0200, 410-131-0270, 410-131-0275, 410-131-0280
Last Date for Comment: 11-18-11, Close of Business
Summary: Ref.#: PR 256 0112, Physical and Occupational Therapy Services Program. The Division will amend rules listed above to ensure clarity and consistency. As a continued effort to make administrative rules more efficient, the Division will also delete OARs 410-131-0060, 410-131-0140, 410-131-0180, 410-131-0200, 410-131-0270, 410-131-0275, 410-131-0280, placing information in more appropriate rules being amended, or repeal entirely if information is not needed in rule.

Proposed rules are available on the Division's website:
<http://www.dhs.state.or.us/policy/healthplan/rules/notices.html>

For hardcopy requests, call: (503) 947-5081

Rules Coordinator: Darlene Nelson
Address: Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301
Telephone: (503) 945-6927

Rule Caption: The Division's Medical Unit is responsible for prior authorization for Medically Fragile Children Unit.

Date:	Time:	Location:
11-16-11	10:30 a.m.	HSB Bldg., Hearing Rm. 137B 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson
Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Proposed Amendments: 410-148-0060
Last Date for Comment: 11-18-11, Close of Business
Summary: Ref.#: PR 260 0112, Home Enteral/Parenteral and IV Services Program. The Division will amend the following rule:
410-148-0060 – revise prior authorization responsibility for medically fragile children's unit to the Divisions Medical Unit.

Proposed rules are available on the Division's website:
<http://www.dhs.state.or.us/policy/healthplan/rules/notices.html>

For hardcopy requests, call: (503) 947-5081

Rules Coordinator: Darlene Nelson
Address: Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301
Telephone: (503) 945-6927

Rule Caption: Legislatively-approved budget with provider rate changes, PDL updates, PA updates, and dispensing limitations.

Date:	Time:	Location:
11-16-11	10:30 a.m.	HSB Bldg., Hearing Rm. 137B 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson
Stat. Auth.: ORS 409.025, 409.040, 409.110, 413.042, 414.065 & 414.0325
Stats. Implemented: ORS 414.065, 414.325, 414.332 & 414.334

NOTICES OF PROPOSED RULEMAKING

Proposed Amendments: 410-121-0000, 410-121-0030, 410-121-0032, 410-121-0040, 410-121-0061, 410-121-0146, 410-121-0147, 410-121-0160, 410-121-0185, 410-121-0190

Last Date for Comment: 11-18-11, Close of Business

Summary: Ref.#: PR 250 0112, Pharmaceutical Services Program. The Division will amend rules as follows:

410-121-0000: House Bill 2100 removes the statutory requirement of public consideration of pricing for the Preferred Drug List (PDL) selection. The Division will remove the definition for Average Net Price (ANP).

410-121-0030: Pursuant to HB 2100, the Division will remove all ANP language from the rule and update semi-annual Preferred Drug List (PDL).

410-121-0032: Pursuant to HB 2100, the Division will remove all language in this rule that refers to ANP.

410-121-0040: Updates to the exclusions table and new drug policy criteria.

Third line diabetic – New criteria to ensure the correct use of third line diabetic drugs.

Contingent upon the Pharmacy & Therapeutics Committee approval, the Division may also revise rules as follows:

Long Acting Opioids and new start Methadone – Update Long Acting Opioids (LAO) criteria to ensure non-preferred products are used for above the line diagnosis, safe use of LAOs, and new criteria for new starts methadone.

New drug products – Insert a newly developed general PA criteria for all new Food and Drug Administration approved drugs for the first six months after their release for our fee-for-service clients. Some drugs will be exempt from the new requirements.

410-121-0061: Add language directing providers to Medical Surgical Services Program rules for physician administered drug rules.

410-121-0146: 15 day supply limits – To limit new starts to a 15-day supply for certain high cost drugs. Maintenance fill program – Proposed changes to dispensing limitations to allow a fill for a 100-day supply or 100 units on selected medications. Bypass 34-day supply edit – Proposed changes to dispensing limitations to bypass the 34-day supply edit when the package size cannot be divided and includes more than a 34-day supply.

410-121-0147: Clarify language specific to items not covered by the Pharmaceutical Services program and where to find rules about Medicare Part D covered drugs.

410-121-0160: Permanently amend the temporary rule for agency budget reductions related to dispensing fee rates.

410-121-0185: Update billing instructions to include the Provider Web Portal.

410-121-0190: Update billing instructions to include the Provider Web Portal.

Proposed rules are available on the DMAP website: <http://www.dhs.state.or.us/policy/healthplan/rules/notices.html>

For hardcopy requests, call: (503) 947-5081

Rules Coordinator: Darlene Nelson

Address: Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301

Telephone: (503) 945-6927

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Rule Caption: Providers billing and retroactive reimbursement for visual materials for clients with primary Medicare coverage.

Date:	Time:	Location:
11-16-11	10:30 a.m.	HSB Bldg., Hearing Rm. 137B 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-140-0080, 410-140-0260, 410-140-0400

Last Date for Comment: 11-18-11, Close of Business

Summary: Ref.#: 140 PR 270-0112, Visual Services Program. The Division's current sole optical services contractor is not a Medicare credentialed provider and cannot bill Medicare, therefore, the Division needs to amend rules listed above to allow vision providers to bill and be reimbursed for visual materials (i.e., frames, lenses, specialty frames, and miscellaneous items) ordered from any visual materials supplier for Oregon Health Plan clients who receive services on a fee-for-service basis and have primary Medicare coverage. The revisions also allow providers to resubmit claims to the Division retroactively for 18-months, for dates of service beginning June 1, 2010.

Proposed rules are available on the DMAP website: <http://www.dhs.state.or.us/policy/healthplan/rules/notices.html>

For hardcopy requests, call: (503) 947-5081

Rules Coordinator: Darlene Nelson

Address: Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301

Telephone: (503) 945-6927

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Rule Caption: Budget/provider rate changes, definition revision, OHP hospital benefits, fraud & abuse, PHI, permanently amend temps.

Date:	Time:	Location:
11-16-11	10:30 a.m.	HSB Bldg., Hearing Rm. 137B 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.025, 414.065, 414.115, 414.125, 414.135 & 414.145, 414.705, 414.706, 414.707, 414.708, 414.710, 414.755

Proposed Amendments: 410-120-0000, 410-120-0006, 410-120-1160, 410-120-1200, 410-120-1210, 410-120-1340, 410-120-1510, 410-120-1920, 410-120-1960

Last Date for Comment: 11-18-11, Close of Business

Summary: Ref.#: 120 PR 249 0112, General Rules. Need for Rule(s): The General Rules program administrative rules govern Division payments for services to clients. The Division needs to amend as follows:

- OAR 410-120-0000, Definitions: Changes the definition from a Limited Access Permit to an Expanded Practice Permit for Dental hygienist. The scope of practice and name was revised upon passage of SB738.

- OAR 410-120-0006, Medical Eligibility Standards: To permanently amend the prior temporary rules filed to reference the Department of Human Services eligibility rules. Temporary rules were filed in July, August and October 2011. With this Notice, the Division will also amend the rule to update the reference date for the DHS January 2012 revisions.

- OAR 410-120-1160, Provider guides: Technical correction to update text referring to the client medical ID cards.

- OAR 410-120-1200, Excluded services and Limitations: DUII related services covered under the intoxicated driver fund exclusion are eliminated. HB 2103 includes treatment for services covered under Medicaid.

- OAR 410-120-1210, Benefit Package: OHP Standard limited hospital benefit is being restored to OHP Plus package. Hospital tax revenue funds the OHP Standard benefit packages. A legislatively approved tax increase provides funding to change the hospital benefit.

- OAR 410-120-1340, Payment: Having temporarily amended 410-120-1340 effective August 1, 2011, the Division will permanently amend this rule to reference the reimbursement methodology changes indicated in HB SB 5529 (2011 Legislative session).

- OAR 410-120-1510, Fraud and Abuse: To comply with the Affordable Care Act (Section 6402(h)(2)) to reflect that states may not receive federal funding if they fail to suspend payments when there is pending an investigation of a credible allegation of fraud.

NOTICES OF PROPOSED RULEMAKING

• OAR 410-120-1920, Institutional Reimbursement: To include the Centers for Medicare and Medicaid's proposed addition to the methods used to comply with the public notice requirement. The rule would be revised accordingly.

• OAR 410-120-1960, Private Health Insurance: To merge the HIPP and PHI programs into a single program, update the chart used to determine if it is cost-effective, and reflect the new design.

Proposed rules are available on the DMAP website: <http://www.dhs.state.or.us/policy/healthplan/rules/notices.html>

For hardcopy requests, call: (503) 947-5081

Rules Coordinator: Darlene Nelson

Address: Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301

Telephone: (503) 945-6927

Rule Caption: Adoption for rebate agreements and amendment for other DMEPOS rules due to budget reductions.

Date:	Time:	Location:
11-16-11	10:30 a.m.	HSB Bldg., Hearing Rm. 137B 500 Summer St. NE Salem, OR

Hearing Officer: Darlene Nelson

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065 & 413.042

Proposed Adoptions: 410-122-0188

Proposed Amendments: 410-122-0186, 410-122-0630, 410-122-0520

Last Date for Comment: 11-18-11, Close of Business

Summary: Ref.#: 122 PR 251 0112, Durable Medical Equipment, Prosthetics, Orthotics and Supplies. The Division will adopt a new rule that allows the Division to execute rebate agreements for preferred durable medical equipment, and; to permanently amend temporary rule 410-122-0630 governing incontinence supplies to curtail waste and impose limits as a cost saving to meet budget mandates; to permanently amend temporary rule 410-122-0186 governing payment methodology to allow the Division to implement new payment methodology to support budget mandates, and amend 410-122-0520 to clarify billing procedures. The Division will repeal OAR 410-122-1086(T) and 410-122-0630(T).

Proposed rules are available on the Division website: <http://www.dhs.state.or.us/policy/healthplan/rules/notices.html>

For hardcopy requests, call: (503) 947-5081

Rules Coordinator: Darlene Nelson

Address: Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301

Telephone: (503) 945-6927

Oregon Health Authority, Office for Oregon Health Policy and Research Chapter 409

Rule Caption: Amendments to the Pain Management Commission Rules.

Stat. Auth.: ORS 409.570

Stats. Implemented: ORS 409.500-409.570

Proposed Amendments: 409-050-0110, 409-050-0120

Proposed Repeals: 409-050-0110(T), 409-050-0120(T)

Last Date for Comment: 11-21-11, 5 p.m.

Summary: The Oregon Health Authority, Office for Oregon Health Policy and Research is implementing amendments to the Pain Management Commission rules to clarify the process the OHA director must follow to fulfill the statutory requirements in soliciting recommendations prior to making appointments to the Pain Management Commission. The proposed amendment also completes the listing of licensing healthcare professionals required to complete the pain management education program developed by the Commission.

These proposed rules are available on the OHPR Website: <http://www.oregon.gov/OHA/OHPR/rulemaking/index.shtml>

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

Rules Coordinator: Zarie Haverkate

Address: Oregon Health Authority, Office for Oregon Health Policy and Research, 1225 Ferry St. SE, Salem, OR 97301

Telephone: (503) 373-1574

Oregon Health Authority, Oregon Educators Benefit Board Chapter 111

Rule Caption: Revised language clarifies when grandchildren are eligible for OEBB benefit coverage.

Date:	Time:	Location:
11-16-11	10 a.m.	OEBB Boardroom 1225 Ferry St. SE Salem, OR 97301

Hearing Officer: OEBB Staff

Stat. Auth.: ORS 243.860-243.886

Stats. Implemented: ORS 243.864 (1)(a)

Proposed Amendments: 111-010-0015

Last Date for Comment: 11-30-11, 5 p.m.

Summary: The revisions to OAR 111-010-0015 include clarifying language on when a grandchild is eligible for benefit coverage.

Rules Coordinator: April Kelly

Address: Oregon Health Authority, Oregon Educators Benefit Board, 1225 Ferry St. SE, Salem, OR 97301

Telephone: (503) 378-6588

Rule Caption: Amends rules relating to retroactive terminations, rescissions, and coverage effective dates for grandchildren.

Date:	Time:	Location:
11-16-11	10 a.m.	OEBB Boardroom. 1225 Ferry St. SE Salem, OR

Hearing Officer: OEBB Staff

Stat. Auth.: ORS 243.860-243.886

Stats. Implemented: ORS 243.864(1)(a)

Proposed Amendments: 111-040-0001, 111-040-0005, 111-040-0015, 111-040-0025, 111-040-0040

Last Date for Comment: 11-30-11, 5 p.m.

Summary: OAR 111-040-0001 is amended to state when eligible grandchildren's coverage is effective. Amendments to OARs 111-040-0005, 111-040-0015, 111-040-0025 and 111-040-0040 result in additional clarification on retroactive terminations and rescissions provided by DOJ regarding the federal Healthcare Reform Act.

Rules Coordinator: April Kelly

Address: Oregon Health Authority, Oregon Educators Benefit Board, 1225 Ferry St. SE, Salem, OR 97301

Telephone: (503) 378-6588

Rule Caption: Amends rules relating to retroactive terminations, rescissions, and coverage effective dates for grandchildren.

Date:	Time:	Location:
11-16-11	10 a.m.	OEBB Boardroom 1225 Ferry St. SE Salem, OR 97301

Hearing Officer: OEBB Staff

Stat. Auth.: ORS 243.860-243.886

Stats. Implemented: ORS 243.864(1)(a)

Proposed Amendments: 111-050-0015, 111-050-0025, 111-050-0030, 111-050-0045, 111-050-0050

Last Date for Comment: 11-30-11, 5 p.m.

Summary: OAR 111-050-0025 is amended to state when eligible grandchildren's coverage is effective. Amendments to OARs 111-050-0015, 111-050-0030, 111-050-0045 and 111-050-0050 result in additional clarification on retroactive terminations and rescissions provided by DOJ regarding the federal Healthcare Reform Act.

Rules Coordinator: April Kelly

Address: Oregon Health Authority, Oregon Educators Benefit Board, 1225 Ferry St. SE, Salem, OR 97301

Telephone: (503) 378-6588

NOTICES OF PROPOSED RULEMAKING

Rule Caption: Amendments to the overpayment and underpayment rule.

Date: 11-16-11
Time: 10 a.m.
Location: OEBB Boardroom
1225 Ferry St. SE
Salem, OR 97301

Hearing Officer: OEBB Staff

Stat. Auth.: ORS 243.860–243.886

Stats. Implemented: ORS 243.864(1)(a)

Proposed Amendments: 111-080-0005

Last Date for Comment: 11-30-11, 5 p.m.

Summary: OAR 111-080-0005 needs to be amended to update the rule to be consistent with changes in the OEBB contracts with the insurance carriers.

Rules Coordinator: April Kelly

Address: Oregon Health Authority, Oregon Educators Benefit Board, 1225 Ferry St. SE, Salem, OR 97301

Telephone: (503) 378-6588

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**Oregon Health Authority,
Public Health Division
Chapter 333**

Rule Caption: Requires correctional facilities to test inmates with risk factors for tuberculosis when incarcerated 15 days.

Date: 11-18-11
Time: 10 a.m.
Location: Portland State Office Bldg.
800 NE Oregon St., Rm. 1E
Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 431.110, 432.060, 433.001–433.035, 433.110–433.220 & 437.030

Stats. Implemented: ORS 431.150, 431.155, 431.170, 433.001–433.035, 433.110–433.220 & 437.030

Proposed Adoptions: 333-019-0042

Proposed Amendments: 333-019-0041

Last Date for Comment: 11-22-11, 5 p.m.

Summary: The Oregon Health Authority, Public Health Division is proposing to permanently adopt and amend rules in chapter 333, division 19 related to tuberculosis (TB) screening. OAR 333-019-0042 is being adopted to replace subsection (2)(a) of OAR 333-019-0041, which requires correctional facilities to follow inmate TB screening recommendations as outlined in the Centers for Disease Control Guideline “Prevention and Control of Tuberculosis in Correctional Facilities: Recommendations from the CDC”. The proposed rule provides specific guidance that inmates should be screened for symptoms of TB disease at intake and tested for latent TB infection if TB risk factors are present at 15 days of consecutive incarceration. This rule change is being made to provide correctional facilities with better clarity as to when TB screening should take place and which populations need TB screening.

Rules Coordinator: Brittany Sande

Address: Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232

Telephone: (971) 673-1291

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Rule Caption: Vaccine stewardship, requiring storage/handling/administration training; changing ALERT IIS data use and reporting requirements.

Date: 11-29-11
Time: 9 a.m.
Location: Portland State Office Bldg.
800 NE Oregon St., Rm. 1D
Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 432.119, 433.094, 433.096, 433.098, 433.100, 689.645

Other Auth.: HB 2371 (2011 OL Ch. 362), SB 107 (2011 OL Ch. 71)

Stats. Implemented: ORS 433.094, 433.096, 433.098, 433.100, 689.645

Proposed Adoptions: 333-047-0010, 333-047-0020, 333-047-0030, 333-047-0040, 333-047-0050

Proposed Amendments: 333-049-0010, 333-049-0040, 333-049-0050, 333-049-0065, 333-049-0070, 333-049-0090

Last Date for Comment: 12-1-11, 5 p.m.

Summary: The Oregon Health Authority, Public Health Division, Office of Family Health is proposing to permanently adopt rules in chapter 333, division 47. These rules outline the training requirements for any entity who receives vaccine from the Oregon Health Authority’s Immunization Program, including training in clinical administration of vaccine, and vaccine storage and handling.

The Authority is also proposing to permanently amend rules in chapter 333, division 49 to clarify Oregon ALERT Immunization Information System (IIS) data use protocols, while also documenting the data elements and timelines for data submission for all entities receiving state-supplied vaccine.

Rules Coordinator: Brittany Sande

Address: Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232

Telephone: (971) 673-1291

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Rule Caption: Update of rules pertaining to licensure of Emergency Medical Services Providers.

Date: 11-16-11
Time: 10 a.m.
Location: Portland State Office Bldg.
800 NE Oregon St., Rm. 1C
Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 676.165, 676.175, 682.017, 682.025, 682.028, 682.204, 682.208, 682.212, 682.215, 682.216, 682.220, 682.224, 682.265

Other Auth.: SB 234 (2011 OL Ch. 703)

Stats. Implemented: ORS 682.017–682.991

Proposed Amendments: 333-265-0000, 333-265-0010, 333-265-0012, 333-265-0014, 333-265-0015, 333-265-0016, 333-265-0018, 333-265-0020, 333-265-0022, 333-265-0023, 333-265-0025, 333-265-0030, 333-265-0040, 333-265-0050, 333-265-0060, 333-265-0070, 333-265-0080, 333-265-0083, 333-265-0085, 333-265-0087, 333-265-0090, 333-265-0100, 333-265-0105, 333-265-0110, 333-265-0140, 333-265-0150, 333-265-0160, 333-265-0170

Last Date for Comment: 11-22-11, 5 p.m.

Summary: The Oregon Health Authority, Public Health Division, Emergency Medical Services and Trauma Systems program is proposing to make changes in Oregon Administrative Rules, chapter 333, division 265, to streamline and clarify rules, address requirements for training, testing and licensure of emergency medical services providers, to comply with SB 234 passed during the 2011 legislative session, and to implement upcoming curriculum changes and certification levels.

Rules Coordinator: Brittany Sande

Address: Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232

Telephone: (971) 673-1291

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Rule Caption: Updates rules for county issuance of certified copies and state amendment of vital records.

Date: 11-18-11
Time: 11:30 a.m.
Location: Portland State Office Bldg.
800 NE Oregon St., Rm. 1C
Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 432.005, 432.010, 432.030, 432.085, 432.121, 432.235

Stats. Implemented: ORS 432.005, 432.010, 432.030, 432.085, 432.121, 432.235

Proposed Amendments: 333-011-0006, 333-011-0016, 333-011-0061, 333-011-0101

Last Date for Comment: 11-22-11, 5 p.m.

NOTICES OF PROPOSED RULEMAKING

Summary: The Oregon Health Authority, Public Health Division, Center for Health Statistics is proposing to permanently amend administrative rules in chapter 333, division 11 related to vital records. The proposed amendments clarify and update the rules to current procedures for county registration and issuance of vital records, and amendment of vital records at the State Vital Records office.

The proposed amendments: Defines registrant for purposes of amending records and obtaining certified copies; Clarifies that all requested data, including health and statistical, is required prior to registration of vital record; Describes method to amend declarations of Oregon registered domestic partnerships and reports of dissolution of domestic partnerships; Limits amendments to parent information on certificates of birth; Revises process of issuing certified copies of vital records at county offices; and Modifies time to forward vital records to the State Vital Records office.

Rules Coordinator: Brittany Sande

Address: Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232

Telephone: (971) 673-1291

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Rule Caption: New Definitions and New Cancer Reporting Requirements.

Date:	Time:	Location:
11-16-11	1 p.m.	Portland State Office Bldg. 800 NE Oregon St., Rm. 918 Portland, OR 97232

Hearing Officer: Jana Fussell

Stat. Auth.: ORS 432.500, 432.510, 432.520, 432.530, 432.540

Stats. Implemented: ORS 432.500–432.900

Proposed Adoptions: 333-010-0032

Proposed Amendments: 333-010-0000, 333-010-0010, 333-010-0020, 333-010-0030, 333-010-0035, 333-010-0040, 333-010-0050, 333-010-0055, 333-010-0060, 333-010-0070, 333-010-0080

Last Date for Comment: 11-22-11, 5 p.m.

Summary: The Oregon Health Authority, Public Health Division is proposing to permanently amend administrative rules in chapter 333, division 10 related to cancer reporting. The proposed amendments will amend the cancer reporting regulations to reflect amendments to ORS 432.500–432.900, and amend the cancer reporting regulations to: a) require submission of pathology reports by clinical laboratories for diagnoses of certain pre-cancerous conditions; b) modify patient notification procedures; and c) expand the provisions for special studies to include the potential procurement of pathological tissue samples in connection with public health investigations.

Rules Coordinator: Brittany Sande

Address: Oregon Health Authority, Public Health Division, 800 NE Oregon St., Suite 930, Portland, OR 97232

Telephone: (971) 673-1291

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Oregon Health Licensing Agency Chapter 331

Rule Caption: Adopt education/training and application requirements for body art practitioners, and streamline rules for consistency.

Date:	Time:	Location:
12-1-11	9 a.m.	Veterans Affairs Auditorium 700 Summer St. NE Salem, OR

Hearing Officer: Callie Zink

Stat. Auth.: ORS 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690.405, 690.407, 690.410 & 690.415

Other Auth.: ORS 345

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 690.385, 690.390, 690.405, 690.407, 690.410, 690.415, 2011 OL Ch. 346, Sec. 22 & 35.

Proposed Adoptions: 331-900-0000, 331-900-0005, 331-900-0010, 331-900-0015, 331-900-0020, 331-900-0025, 331-900-0030, 331-900-0035, 331-900-0040, 331-900-0045, 331-900-0050, 331-900-0055, 331-900-0060, 331-900-0065, 331-900-0070, 331-900-0075, 331-900-0080, 331-900-0085, 331-900-0090, 331-900-0095, 331-900-0100, 331-900-0105, 331-900-0110, 331-900-0115, 331-900-0120, 331-900-0125, 331-900-0130, 331-900-0135, 331-900-0140, 331-900-0145, 331-900-0150, 331-900-0155, 331-900-0160, 331-900-0165, 331-900-0170, 331-900-0175, 331-900-0180, 331-900-0185, 331-900-0190, 331-900-0195, 331-900-0200, 331-910-0000, 331-910-0005, 331-910-0010, 331-910-0015, 331-910-0020, 331-910-0025, 331-910-0030, 331-910-0035, 331-910-0040, 331-910-0045, 331-910-0050, 331-910-0055, 331-910-0060, 331-910-0065, 331-910-0070, 331-910-0075, 331-910-0080, 331-910-0085, 331-910-0090, 331-910-0095, 331-910-0100, 331-910-0105, 331-910-0110, 331-910-0115, 331-910-0120, 331-910-0125, 331-910-0130, 331-920-0000, 331-920-0005, 331-920-0010, 331-920-0015, 331-920-0020, 331-920-0025, 331-920-0030, 331-920-0035, 331-920-0040, 331-920-0045, 331-920-0050, 331-920-0055, 331-920-0060, 331-920-0065, 331-920-0070, 331-920-0075, 331-920-0080, 331-920-0085, 331-920-0090, 331-920-0095, 331-920-0100, 331-920-0105, 331-920-0110, 331-920-0115, 331-920-0120, 331-920-0125, 331-920-0130, 331-920-0135, 331-920-0140, 331-920-0145, 331-920-0150, 331-920-0155, 331-930-0000, 331-940-0000

Proposed Repeals: 331-205-0020, 331-205-0030, 331-210-0000, 331-210-0010, 331-210-0020, 331-210-0021, 331-215-0000, 331-215-0010, 331-215-0020, 331-215-0030, 331-215-0040, 331-220-0000, 331-220-0010, 331-220-0020, 331-220-0030, 331-220-0040, 331-220-0050, 331-220-0060, 331-220-0080, 331-225-0000, 331-225-0020, 331-225-0030, 331-025-0040, 331-025-0050, 331-025-0060, 331-025-0070, 331-025-0080, 331-025-0090, 331-025-0100, 331-025-0110, 331-025-0120, 331-025-0130, 331-025-0140, 331-025-0150, 331-025-0160, 331-505-0000, 331-505-0010, 331-510-0000, 331-515-0000, 331-515-0010, 331-515-0020, 331-515-0030, 331-520-0000, 331-520-0010, 331-520-0030, 331-520-0040, 331-520-0070, 331-525-0000, 331-525-0020, 331-525-0035, 331-525-0038, 331-525-0040, 331-525-0055, 331-525-0060, 331-525-0065, 331-530-0000, 331-230-0020, 331-535-0000, 331-535-0010, 331-535-0020, 331-535-0030, 331-535-0040, 331-535-0050, 331-535-0060, 331-535-0070, 331-535-0080, 331-540-0000, 331-540-0010, 331-540-0020, 331-540-0030, 331-545-0000, 331-545-0020, 331-550-0000, 331-555-0010, 331-555-0030, 331-555-0040, 331-560-0000, 331-560-0010, 331-560-0020, 331-560-0030, 331-560-0040, 331-560-0060, 331-565-0000, 331-565-0020, 331-565-0025, 331-565-0030, 331-565-0040, 331-565-0050, 331-565-0060, 331-565-0080, 331-565-0085, 331-565-0090, 331-565-0095, 331-570-0000, 331-570-0020, 331-575-0000, 331-575-0010, 331-575-0020, 331-575-0030, 331-575-0040, 331-575-0050, 331-580-0000, 331-580-0010, 331-580-0020, 331-580-0030, 331-585-0000, 331-585-0010, 331-585-0020, 331-585-0030, 331-585-0040, 331-590-0000, 331-590-0020

Last Date for Comment: 12-1-11

Summary: During the 2011 Legislative Session the House Health Care Committee introduced House Bill 2013 which creates a Board of Body Art Practitioners (Board) within the Oregon Health Licensing Agency (Agency), beginning January 1, 2012 and abolished the Advisory Council for Electrologists, Permanent Color Technicians and Tattoo Artists. The Board was created to advise the Agency with regard to the regulation of body piercing, dermal implanting, electrology, scarification and tattooing including administrative rules.

The Agency is proposing to repeal administrative rules for the Advisory Council for Electrologists, Permanent Color Technicians and Tattoo Artists (Council) OAR Chapter 331, Division 500 through 590 and the Body Piercing Licensing Program (Program) OAR Chapter 331, Division 205 through 225 and merge the text into Chapter 331, Division 900 which will relate to the Board of Body Art Practitioners.

NOTICES OF PROPOSED RULEMAKING

Adopt amend and repeal rules to align with current industry, agency and statewide rulemaking standards and principles. Administrative rules have been streamlined to be consistent with statutory authority and Agency protocol.

Definitions:

Adopt definitions which merge Council and Program definitions with definitions relevant to body art in order to meet rulemaking protocols and define relevant terms where utilized within the rule for efficiency including defining specific types of piercing services standard, single point and earlobe.

Education & Training:

Proposed rules create an approved education or training program for *standard* body piercing. Currently there is no Department of Education Private Career Schools licensed under ORS 345 in Oregon. A training program has been developed to include 1000 of combined theory and practical hours and 100 various body piercings (360 theory and 640 practical). The training would require direct supervision of an agency approved supervisor. The training program includes various health and piercing related topics within its curriculum (jewelry, applied sciences and standards.)

Certain body art procedures are being contemplated by the Agency to be excluded from *standard* body piercing scope of practice. The Agency has requested the Oregon Medical Board (OMB) review and provide feedback regarding the following body art procedures: *scarification, dermal implanting and the following piercing service: single point (anchor or microdermals), cheek, corset, nape, and uvula*. These body art procedures may become prohibited or may require specialty certification pursuant to ORS 676.615. HB 2013 requires the Agency consult the OMB regarding genital piercings and dermal implanting *prior* to rulemaking.

Education for electrology and tattooing has been streamlined to be consistent with statutory authority and Agency protocol.

Licensing:

Currently the Agency licenses earlobe piercers separate from body piercers; however HB 2013 does not delineate between these two practices. A temporary earlobe license has been created to permit an individual to perform earlobe piercing services only on a temporary basis for up to two years. Qualifications to become a temporary earlobe piercer cardiopulmonary resuscitation, basic first aid and aftercare by an agency approved provider.

HB 2013 states that as of January 1, 2011, any individual practicing body piercing **must** hold a body piercing license unless they are a *student* under the direct supervision of a faculty of a school licensed under ORS 345. In order to allow training for body piercers to commence the Agency is contemplating providing a "*temporary body piercing license*" to an individual who has met certain standards including completing blood borne pathogens, cardiopulmonary resuscitation, basic first aid and aftercare by an Agency approved provider and under the direct supervision of an agency approved supervisor. Passage of Agency approved written and practical examination(s) would also be required.

The proposed administrative rules address application requirements, including examinations, for the following pathways to become licensed as a standard body piercer:

- Graduate from an Oregon licensing career school;
- Qualification through temporary body piercing licensing under the direct supervision of an agency approved supervisor; and
- Reciprocity.

Administrative rules address standard body piercing supervisor approval and requirements for becoming a supervisor. Requirements to become a supervisor include holding an active standard body piercing license with no current or pending disciplinary action, passage of Agency approved written and practical examination. Standards that a supervisor must adhere to are supervising a one to one ratio, notification of a supervisor change and documentation.

Licensing requirements for electrology and tattooing has been streamlined to be consistent with statutory authority and Agency protocol.

Examinations

Create new division which specifically addresses approved examinations for specific fields of practice including agency administered practical examinations. Also includes general examination information and retake information per field of practice.

Renewal

Rule changes include standardizing renewal requirements to describe a license as active, inactive or expired and the process for renewal including continuing education requirements. As of January 2012 body piercers who currently hold a body piercing license will be required to take and pass the Agency approved written and practical examinations before renewing their standard body piercing license. Current body piercers will not be able to practice body piercing procedures in review by the OMB including *single point (anchor or microdermals), cheek, corset, nape, and uvula*.

Rule changes include amending continuing education auditing requirements in order to streamline with agency protocols and documentation requirements. Also includes disciplinary authority for failing to meet continuing education requirements.

Revise renewal requirements related to notification of changes to business name or ABN for facility license holders.

Facility Licensing

Align facility license application requirements for electrology, tattooing and body piercing which have been streamlined to be consistent with statutory authority and Agency protocol including age requirement and current registration of business name or Assumed Business Name (ABN) as filed with the Secretary of State, Corporations Division corporations .

Standards

Merge standards for licensees and facility standards to individual divisions per field of practice. All sterilizing devices must be tested monthly documentation of test results must be available for two years. Disinfecting requirements for body piercing and tattooing must include *both* heat and pressure and must be confirmed using "*integrator strips*" which verify pressure. Update sterilization standards to be germicidal and more specifically for skin cleansing use of germicidal *antiseptics* and for hard surfaces germicidal *disinfectants*.

For all waste that comes in contact with blood or bodily fluids waste must be double bagged to protect the public from contact.

Civil Penalties

Shift civil penalties for each field of practice under one division and align statutory and administrative rule references.

Scarification and Dermal Implanting

All rules to permit licensure for dermal implanting and scarification, including education and practice standards will not be available until consultation with the Oregon Medical Board is complete. See ORS 690.405.

Rules Coordinator: Samantha Patnode

Address: Oregon Health Licensing Agency, 700 Summer St. NE, Suite 320, Salem, OR 97301-1287

Telephone: (503) 373-1917

Oregon Health Licensing Agency, Nursing Home Administrators Board Chapter 853

Rule Caption: Standardization with other professions regulated by OHLA.

Stat. Auth.: ORS 678 676.605, 676.606, 676.607, 676.608, 676.615

Stats. Implemented: ORS 678.710, 678.720, 678.025, 678.730, 678.740, 678.750, 678.760, 678.770, 678.775, 678.780, 678.790, 678.800, 678.810, 678.820, 678.990

Proposed Adoptions: 853-020-0000, 853-030-0000, 853-030-0010, 853-030-0020, 853-030-0030, 853-030-0040, 853-030-0050, 853-030-0060, 853-030-0070, 853-040-0000, 853-050-0000, 853-050-0010, 853-060-0000, 853-060-0010

NOTICES OF PROPOSED RULEMAKING

Proposed Repeals: 853-001-0000, 853-001-0005, 853-001-0020, 853-001-0025, 853-001-0030, 853-010-0010, 853-010-0015, 853-010-0017, 853-010-0020, 853-010-0025, 853-010-0035, 853-010-0040, 853-010-0045, 853-010-0050, 853-010-0055, 853-010-0060, 853-010-0065, 853-010-0070, 853-010-0074, 853-010-0075, 853-010-0076, 853-010-0077, 853-010-0078, 853-010-0079, 853-010-0080

Last Date for Comment: 11-28-11, 5 p.m.

Summary: The Oregon Health Licensing Agency (Agency) and the Nursing Home Administrators Board (NHAB) are proposing to adopt the NHAB administrative rules Chapter 853 Divisions 20 – 60. Rule changes are necessary to standardize and streamline rules for consistency with other professions regulated by OHLA and to allow for the adoption of rules that will align with current industry, agency and statewide rulemaking standards and principles.

Adopt 853-020-0000 Definitions: in order to meet rulemaking protocols and define relevant terms where utilized within the rule for efficiency.

Adopt 853-030-0000 Nursing Home Administrator Application Requirements: to establish standardized pathways for licensure and to streamline the application process. The pathways include:

- Qualification through the AIT program
- Qualification through dual facility experience
- Qualification through advanced education and experience
- Reciprocity

Adopt 853-030-0010 Provisional Licenses –Application and Issuance: for bona fide emergencies.

Adopt 853-030-0020 Application for Registration as an AIT: for individuals applying for an AIT registration.

Adopt 853-030-0030 Application for Registration as a Preceptor: to strengthen the AIT supervisory role and to outline minimum qualifications that a preceptor must meet in order to qualify to train AITs.

Adopt 853-030-0040 Administrator-in-Training (AIT) Program: requirements in order to add clarity and to provide the AIT with a streamlined process for the training period.

Adopt 853-030-0050 General Examination Information: requirements to include all information related to examinations are streamlined into one administrative rule.

Adopt 853-030-0060 Examination Retake: to clarify the retake process.

Adopt 853-030-0070 Nursing Home Administrator Issuance and Renewal: to align with statutory provisions pursuant to ORS 678.775, by establishing a reactivation fee and the number of years a licensee can renew late up to three years to align with renewal requirements and agency protocol. The rule also addresses those authorizations that have expired beyond three years.

Adopt 853-040-0000 Fees: establishing and changing fees.

Adopt 853-050-0000 Continuing Education Requirements: to clarify and establish continuing education credit criteria. Nursing Home Administrators must complete a minimum of 2.0 credits or 20 hours every year.

Adopt 853-050-0010 Continuing Education: Audit, Required Documentation and Sanctions: provide the licensee clarity regarding the process if selected for an audit of attested continuing education credits.

Adopt 853-060-0000 Standards of Practice: to establish and maintain a high standard of integrity and dignity in the profession of nursing home administrators.

Adopt 853-060-0010 Standards of Professional Conduct: to protect the public against unprofessional conduct on the part of nursing home administrator.

Rules Coordinator: Samantha Patnode

Address: Oregon Health Licensing Agency, Nursing Home Administrators Board, 700 Summer St. NE, Suite 320, Salem, OR 97301-1287

Telephone: (503) 373-1917

Oregon Public Employees Retirement System Chapter 459

Rule Caption: Amend rules to implement provisions of House Bill 2113 (2011).

Date:
11-22-11

Time:
2 p.m.

Location:
PERS Boardroom
11410 SW 68th Pkwy.
Tigard, OR

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.650, 238A.450 & 243.470

Stats. Implemented: ORS 238, 238A.010, 238A.115, 238A.300, 238A.305, 243.401-243.507 & 2011 OL Ch. 722

Proposed Adoptions: 459-050-0045, 459-050-0076

Proposed Amendments: 459-005-0001, 459-075-0060, 459-080-0010, 459-050-0000, 459-050-0001, 459-050-0005, 459-050-0030, 459-050-0050, 459-050-0070, 459-050-0072, 459-050-0075, 459-050-0077, 459-050-0080, 459-050-0090, 459-050-0150, 459-050-0200, 459-050-0210, 459-050-0220, 459-050-0230, 459-050-0250, 459-050-0300

Last Date for Comment: 12-1-11

Summary: The 2011 Oregon Legislative Assembly passed House Bill 2113 (chapter 722, Oregon Laws 2011), which became effective on August 5, 2011. As described in the Legislative Session Adjournment Report at the July 29, 2011 board meeting, the bill contains technical corrections introduced at PERS' request by the Governor: modifications to the retirement plan options available to legislators; clean-up of trustee to trustee transfer retirement credit purchases; and clarification of vesting standards for OPSRP Pension Program and IAP members. The amended bill also includes provisions addressing the dual membership problem presented by members who withdraw from the IAP but are not eligible to withdraw from the OPSRP Pension Program. Lastly, the bill includes provisions authorizing the Oregon Savings Growth Plan (OSGP) to offer a Roth IRA account to conform to a change in federal law. New and revised administrative rules dealing with these topics are needed to clarify and implement the new provisions.

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

Rules Coordinator: Daniel Rivas

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

Telephone: (503) 603-7713

Rule Caption: Update IRC salary limitations in OAR to coincide with IRC reconnection in Senate Bill 301 (2011).

Date:
11-22-11

Time:
2 p.m.

Location:
PERS Boardroom
11410 SW 68th Pkwy.
Tigard, OR

Hearing Officer: Daniel Rivas

Stat. Auth.: ORS 238.630, 238.650, 238A.005

Stats. Implemented: ORS Chapter 238 & OL 2011 Ch. 7

Proposed Amendments: 459-005-0525, 459-005-0545

Proposed Repeals: 459-080-0500

Last Date for Comment: 12-1-11

Summary: The 2011 Oregon Legislative Assembly passed Senate Bill 301 (chapter 7, Oregon Laws 2011), which became effective on September 29, 2011. The bill updates the connection date to federal Internal Revenue Code and other provisions of federal tax law. The rule amendments are needed to update the rules to reflect the most current salary limitations. 459-080-0500 is proposed for repeal because the information is already covered in 459-005-0545.

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

NOTICES OF PROPOSED RULEMAKING

Rules Coordinator: Daniel Rivas
Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281
Telephone: (503) 603-7713

Rule Caption: Adopt new rule to implement the provisions of House Bill 2252 (2011).

Date:	Time:	Location:
11-22-11	2 p.m.	PERS Boardroom 11410 SW 68th Pkwy. Tigard, OR

Hearing Officer: Daniel Rivas
Stat. Auth.: ORS 238.650, 293.240
Stats. Implemented: ORS 293.240 & 2011 OL Ch. 223
Proposed Adoptions: 459-005-0620
Last Date for Comment: 12-1-11

Summary: The 2011 Oregon Legislative Assembly passed House Bill 2252 (chapter 223, Oregon Laws 2011), which became effective on June 2, 2011. The bill allows a state agency to write off uncollectible debts on its account. Also, the bill requires that a state agency must adopt Attorney General-approved criteria for determining when debts are uncollectible. A new administrative rule is needed to address these provisions.

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

Rules Coordinator: Daniel Rivas
Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281
Telephone: (503) 603-7713

Rule Caption: New rules are needed to implement the tax remedy provisions of House Bill 2456 (2011).

Date:	Time:	Location:
11-22-11	2 p.m.	PERS Boardroom 11410 SW 68th Pkwy. Tigard, OR

Hearing Officer: Daniel Rivas
Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238.380, 238.385 & 2011 OL Ch. 653
Proposed Adoptions: 459-013-0310, 459-013-0320, 459-013-0330, 459-013-0340
Last Date for Comment: 12-1-11

Summary: The new rules implement the provisions of HB 2456, which prohibits the Public Employees Retirement Board from paying an increased benefit under the tax remedy provisions of HB 3349 (chapter 569, Oregon Laws 1995) if a person receiving payments is not a resident of Oregon and is not subject to Oregon personal income tax under ORS 316.127(9).

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

Rules Coordinator: Daniel Rivas
Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281
Telephone: (503) 603-7713

Rule Caption: The administration of death and survivor benefits is not clarified in rule.

Date:	Time:	Location:
11-22-11	2 p.m.	PERS Boardroom 11410 SW 68th Pkwy. Tigard, OR

Hearing Officer: Daniel Rivas
Stat. Auth.: ORS 238.650
Stats. Implemented: ORS 238.390–238.407

Proposed Adoptions: 459-014-0001, 459-014-0040, 459-014-0050, 459-014-0060, 459-014-0070

Proposed Amendments: 459-014-0030

Last Date for Comment: 12-1-11

Summary: The administration of death and survivor benefits is not clarified in rule. Rulemaking is also needed to address audit findings.

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

Rules Coordinator: Daniel Rivas
Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281
Telephone: (503) 603-7713

Oregon State Lottery Chapter 177

Rule Caption: Increase price; Modify matrix; Increase Match 5 prize to \$1,000,000 (\$2,000,000 with Power Play); other changes.

Date:	Time:	Location:
11-15-11	2–2:30 p.m.	Oregon Lottery 500 Airport Rd. SE Salem, OR

Hearing Officer: Larry Trott

Stat. Auth.: ORS 461

Other Auth.: OR Const. Art. XV, Sec. 4(4)

Stats. Implemented: ORS 461.020, 461.210, 461.220, 461.230, 461.240, 461.250 & 461.260

Proposed Amendments: 177-085-0000, 177-085-0005, 177-085-0010, 177-085-0015, 177-085-0020, 177-085-0025, 177-085-0030, 177-085-0035, 177-085-0065

Last Date for Comment: 11-15-11, 2:30 p.m.

Summary: The Oregon State Lottery has initiated permanent rulemaking to amend the above referenced administrative rules.

The Lottery intends to amend the Powerball® game rules to increase the price of the Powerball® ticket from \$1 to \$2 per ticket (\$3 with Power Play®), modify the game prize matrix and the probability of winning matrix, increase the Match 5 prize amount from \$200,000 to \$1,000,000, increase the Match 5 Power Play® prize amount from \$1,000,000 to \$2,000,000, modify the Power Play option to offer set prizes, and eliminate the Match 5 Bonus Roll Down prize.

These changes are necessary to implement changes to the Powerball® game rules made by the national organization that administers the multi-state Powerball® game, and will be effective with sales starting January 15, 2012. Other changes include housekeeping changes.

Rules Coordinator: Mark W. Hohlt

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

Telephone: (503) 540-1417

Oregon University System Chapter 580

Rule Caption: To amend OAR 580-040-0035 and supersede all prior Summer Session fee book rules.

Date:	Time:	Location:
12-1-11	10 a.m.	Memorial Union, Board Rm. Oregon State Univ. Corvallis, OR
12-2-11	10 a.m.	Erb Memorial Union, Rm. 111 Univ. of Oregon Eugene, OR

Hearing Officer: Barbara Russell, Marcia Stuart

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Proposed Amendments: 580-040-0035

Last Date for Comment: 12-14-11, Close of Business

NOTICES OF PROPOSED RULEMAKING

Summary: To establish Tuition and Fees for the Summer Session 2012, including room and board rates. Supersedes all prior Summer Session fee book rules.

In addition to the two scheduled public hearings, the Agency will make available an online forum where the public can review the proposed Fee Book and provide online comment via a dedicated email address. This online option will be available from the beginning of the public comment period (November 23, 2011) through the last day for public comment (December 14, 2011) and can be accessed on the Oregon University System's website at <http://www.ous.edu/factreport/tuition/summer>

Rules Coordinator: Marcia M. Stuart
Address: Oregon University System, PO Box 3175, Eugene, OR 97403-0175
Telephone: (541) 346-5749

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**Oregon University System,
 Oregon State University
 Chapter 576**

Rule Caption: Sets fees/charges at Oregon State University for January 1–June 30, 2012.

Date:	Time:	Location:
12-6-11	1 p.m.	Memorial Union, Rm. 206 OSU Campus Corvallis, OR

Hearing Officer: Barbara Melton
Stat. Auth.: ORS 351.070, 352.360
Other Auth.: OAR 580-040-0010
Stats. Implemented: ORS 351.070, 352.360
Proposed Amendments: 576-010-0000
Last Date for Comment: 12-07-11, Close of Business

Summary: The proposed amendment will set fees and charges for designated services at Oregon State University for the balance of fiscal year 2011–2012. The rule states: "The University hereby adopts by reference a list of fees and charges for fiscal year 2011-2012. The list of fees and charges is available in Kerr Administration Building, Room 524 on the Oregon State University campus, and is hereby incorporated by reference in this rule."

Rules Coordinator: Barbara Melton
Address: Oregon University System, Oregon State University, 638 Kerr Administration Bldg., Corvallis, OR 97331-2128
Telephone: (541) 737-6262

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Rule Caption: Confidentiality and Inadmissibility of Workplace Interpersonal Dispute Mediation Communications.

Date:	Time:	Location:
12-6-11	1 p.m.	Memorial Union, Rm. 206 OSU Campus Corvallis, OR

Hearing Officer: Barbara Melton
Stat. Auth.: ORS 36.224
Stats. Implemented: ORS 36.230(4)
Proposed Adoptions: 576-001-0060
Proposed Repeals: 576-001-0060(T)
Last Date for Comment: 12-07-11, Close of Business

Summary: Provides for confidentiality and inadmissibility of workplace interpersonal mediation communications.

Rules Coordinator: Barbara Melton
Address: Oregon University System, Oregon State University, 638 Kerr Administration Bldg., Corvallis, OR 97331-2128
Telephone: (541) 737-6262

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Rule Caption: Amends Oregon State University's Policy on Smoking.

Date:	Time:	Location:
12-6-11	1 p.m.	Memorial Union, Rm. 206 OSU Campus Corvallis, OR

Hearing Officer: Barbara Melton

Stat. Auth.: ORS 243.345, 243.350, 351.070 & 433.835–433.860
Stats. Implemented: ORS 243.345, 243.350, 351.070 & 433.835–433.860

Proposed Amendments: 576-040-0010, 576-040-0012, 576-040-0015

Proposed Repeals: 576-040-0025, 576-040-0030, 576-040-0035

Last Date for Comment: 12-7-11, Close of Business

Summary: The proposed amendments and repeals implement a smoke-free campus at Oregon State University's Corvallis campus.

Rules Coordinator: Barbara Melton
Address: Oregon University System, Oregon State University, 638 Kerr Administration Bldg., Corvallis, OR 97331-2128
Telephone: (541) 737-6262

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**Parks and Recreation Department
 Chapter 736**

Rule Caption: ATV rule changes as required by House Bill 2829.

Date:	Time:	Location:
11-29-11	6 p.m.	OPRD Headquarters Office 725 Summer St. NE, Suite C Salem OR 97301
11-30-11	6 p.m.	Bend Senior Center 1600 SE Reed Market Rd. Bend, OR 97702
12-1-11	6 p.m.	Rogue Rm. Valley Banquet "A" Meeting Rm. 2300 Biddle Rd. Medford, OR 97504

Hearing Officer: Wayne Rawlins
Stat. Auth.: ORS 183 & 390

Stats. Implemented: ORS 390.124(1)

Proposed Adoptions: Rules in 736-004

Proposed Amendments: Rules in 736-004

Proposed Repeals: Rules in 736-004

Last Date for Comment: 12-09-11, 4 p.m.

Summary: The proposed rules will codify procedures necessary to implement House Bill 2329 which alters the definitions of Class I, II and III all-terrain vehicles and creates definition of Class IV all-terrain vehicle. The bill also exempts Class IV all-terrain vehicles from laws relating to vehicle registration, titling and accident reporting. The bill adds Class IV all-terrain vehicle to various offenses relating to all-terrain vehicles and creates offense of operation of Class IV all-terrain vehicle without driving privileges. The bill adds two members to All-Terrain Vehicle Advisory Committee.

Each public hearing meeting noted above is scheduled for 2 hours from 6:00 to 8:00 p.m. PST on the stated dates.

Rules Coordinator: Vanessa DeMoe
Address: Parks and Recreation Department, 725 Summer St. NE, Suite C, Salem, OR 97301
Telephone: (503) 986-0719

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Rule Caption: Adopting rules for the Oregon Natural Heritage Programs, a program transferred in 2011 from DSL.

Stat. Auth.: ORS 390 & 273

Other Auth.: SB 58 2011 Legislative Session

Stats. Implemented: ORS 273.563–273-591

Proposed Adoptions: Rules in 736-045

Last Date for Comment: 12-1-11, 4 p.m.

Summary: Adopt the rules for Oregon Natural Heritage Program, formerly known as OAR 141-050, with minor modifications to adapt them to the Oregon Parks and Recreation Department.

Rules Coordinator: Vanessa DeMoe
Address: Parks and Recreation Department, 725 Summer St. NE, Suite C, Salem, OR 97301
Telephone: (503) 986-0719

NOTICES OF PROPOSED RULEMAKING

Public Utility Commission Chapter 860

Rule Caption: In the Matter of Revising Electric Service Reliability Rules to Reflect Current National Standards.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 757.020

Proposed Repeals: 860-023-0080, 860-023-0090, 860-023-0100, 860-023-0110, 860-023-0120, 860-023-0130, 860-023-0140, 860-023-0150, 860-023-0160

Last Date for Comment: 11-22-11, Close of Business

Summary: On October 13, 2011, the Commission adopted electric service reliability rules to be effective January 1, 2012. These new electric service reliability rules comport with the latest version of the national standard. The existing rules were left in place to govern until the new rules become effective. This rulemaking proposes to repeal the current existing electric services reliability rules effective January 1, 2012. Repealing these rules is necessary to avoid conflict with the new rules effective January 1, 2012.

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 552 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 all filings online at <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=16868>

Rules Coordinator: Diane Davis

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

Telephone: (503) 378-4372

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

Rule Caption: Revises Rule On Insufficient and Sufficient Circulator Certifications.

Stat. Auth.: ORS 246.150, 248.008, 249.008, 249.875, 250.105, 250.215, 250.315 & 255.175

Stats. Implemented: ORS 248.008, 249.008, 249.875, 250.105, 250.215, 250.315 & 255.175

Proposed Amendments: 165-014-0270

Last Date for Comment: 11-25-11, Close of Business

Summary: This proposed rule amendment would update the list of sufficient circulator certification to allow a circulator who has crossed out their own signature and certification date to re-sign and re-date the circulator certification.

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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**Water Resources Department
Chapter 690**

Rule Caption: Requirements for the construction of closed top loop ground source heat pump borings.

Date:	Time:	Location:
11-22-11	2-3 p.m.	North Mall Office Bldg., Rm. 124 725 Summer St. NE Salem, OR

Hearing Officer: Tom Paul

Stat. Auth.: ORS 536.027 & 537.780

Stats. Implemented:

Proposed Adoptions: 690-240-0040, 690-240-0043, 690-240-0046, 690-240-0049

Proposed Amendments: 690-240-0010

Last Date for Comment: 12-1-11, 5 p.m.

Summary: The proposed rules provide guidance and standards for installers to meet when constructing closed loop ground source heat pump borings, cased or uncased, that are greater than 18 feet deep. Although the construction methods required in the proposed rules are not significantly different from the performance standards in existing rule, the proposed rules provide more clarity, consistency and certainty than the existing rules.

Rules Coordinator: Ruben Ochoa

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

Telephone: (503) 986-0874

ADMINISTRATIVE RULES

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

Hist.: SPA 1-2001, f. & cert. ef. 3-12-01; SPA 2-2008, f. & cert. ef. 4-10-08; SPA 1-2009, f. 6-9-09, cert. ef. 7-1-09; SPA 2-2011, f. & cert. ef. 10-10-11

Rule Caption: Outlines licensing requirements; designates accrediting bodies; clarifies SLPA supervisor qualifications; clarifies reporting requirements.

Adm. Order No.: SPA 2-2011

Filed with Sec. of State: 10-10-2011

Certified to be Effective: 10-10-11

Notice Publication Date: 7-1-2011

Rules Adopted: 335-060-0006, 335-060-0007

Rules Amended: 335-005-0010, 335-060-0005, 335-080-0005, 335-080-0010, 335-080-0015, 335-080-0025, 335-095-0030, 335-095-0040, 335-095-0050

Subject: Outlines educational and other requirements for licensure of speech-language pathologists (SLPs) and audiologists to be consistent with updated American Speech-Language hearing Association (ASHA) standards.

Specifies requirements for all licensees regarding English language fluency.

Specifies approved accrediting bodies for training programs.

Clarifies SLPA supervision requirements and reporting guidelines.

Lists qualifications for SLPA supervision by SLPs licensed by Board or Teacher Standards and Practices Commission.

Conforms rules to changes in ORS 681 made in 2011 and ORS 676 made in 2009 Legislative Session.

Changes miscellaneous text for clarity.

Rules Coordinator: Sandy Leybold—(971) 673-0220

335-005-0010

Definitions

(1) Misrepresentation includes any untrue statements or statements that are likely to mislead. Misrepresentation also includes the failure to state any information that is material and that reasonably ought to be considered.

(2) Unprofessional Conduct includes:

(a) Failure or refusal of an applicant for a license from the Board or of a licensee of the Board to cooperate fully in any investigation conducted by the Board.

(b) Making a false statement to the Board.

(c) Attempting to obtain a license from the Board by means of fraud, misrepresentation, or concealment of material facts.

(d) Sexual misconduct with a client.

(e) Any act of theft, dishonesty or misrepresentation involving a client, another practitioner, third party providers, or a government agency.

(f) Habitual or excessive use of intoxicants, drugs or controlled substances.

(g) Assisting or permitting any person to practice speech-language pathology or audiology without a license.

(h) Practicing speech-language pathology or audiology when impaired by drugs, alcohol or any other substance.

(i) Verbal or physical abuse of a client.

(j) Sexual harassment: Any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(A) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(B) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(C) Such conduct unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

(k) Violating an employer's ethics or conduct policy.

(l) Conviction of a crime or admitting to an act that even in the absence of a conviction would constitute a crime.

(m) Failing to report to this Board a misdemeanor or felony conviction or arrest for a felony crime within 10 days after the conviction or arrest.

(n) Failing to immediately report to the Board any adverse action taken against a license or certificate holder by a state or federal agency; or another state speech-language pathology or audiology licensing agency; or professional association.

(o) Unprofessional conduct as defined in ORS 676.150.

Stat. Auth.: ORS 681

Stat. Implemented: ORS 681.330

335-060-0005

Definitions

(1) An Inactive License or Certificate may be obtained by those otherwise qualified individuals who are not employed in the field of speech-language pathology or audiology, not residing in Oregon, or are retired from the profession.

(2) A Conditional License is a license certificate issued by the Board to applicants who have completed degree requirements in OAR 335-060-010, and are engaged in post-graduate supervised clinical experience. The examination is not required for a conditional license.

(3) Equivalent credentials for licensure are defined as follows:

(a) For regular licenses in speech-language pathology, if completing a doctoral program in which a master's degree has not been conferred, an applicant must submit a transcript showing completion of course work equivalent to, or exceeding, a master's degree that meets the requirements in OAR 335-060-0006. In addition to the transcript, the Board may require a letter from the academic department chair or program director documenting that the applicant has completed coursework equivalent to or exceeding a master's degree.

(b) For applicants for conditional licenses in speech-language pathology or initial licenses in audiology, when the applicant has completed all degree requirements, but the university is not scheduled to confer the degree for up to 90 days from the date of application, the Board will accept a letter from the university registrar, documenting that the applicant has completed all degree requirements, and has been approved to receive the degree. An official transcript showing the conferral of the degree must be submitted within 60 days of license issuance.

(c) For applicants who completed their professional training in speech pathology or audiology outside of the United States, the Board requires a determination letter from a credential evaluation service approved by the American Speech-Language Hearing Association to determine equivalency to a master's degree or doctoral degree issued by an accredited program.

(d) Applicants for licensure or certification educated in foreign countries must submit documentation that course work was completed in an institution of higher education that is regionally accredited or recognized by the appropriate regulatory authority for that country.

(4) For the purposes of licensing speech-language pathologists under ORS 681.260 or audiologists under ORS 681.264, and for purposes of student placement in supervised field work under ORS 681.230:

(a) The "accrediting organization" that approves graduate programs is the Council on Academic Accreditation in Audiology and Speech-Language Pathology (CAA) of the American Speech-Language-Hearing Association.

(b) All graduate or undergraduate coursework must be completed at an institution of higher education that is regionally accredited by one of the following:

(i) Commission of Higher Education, Middle States Association of Colleges and Schools;

(ii) Commission on Institutions of Higher Education, New England Association of Schools and Colleges;

(iii) Commission on Institutions of Higher Education, North Central Association of Colleges and Schools;

(iv) Commission on Colleges, Northwest Association of Schools and Colleges;

(v) Commission on Colleges, Southern Association of Colleges and Schools;

(vi) Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges

Stat. Auth.: ORS 681.340, 681.360, 681.420 & 681.460

Stats. Implemented: ORS 681.460

Hist.: SPA 1-2001, f. & cert. ef. 3-12-01; SPA 1-2002(Temp), f. 11-8-02, cert. ef. 12-1-02 thru 5-1-03; SPA 1-2003, f. & cert. ef. 5-7-03; SPA 4-2006, f. & cert. ef. 11-3-06; SPA 1-2007, f. & cert. ef. 2-1-07; SPA 1-2011, f. 1-28-11, cert. ef. 2-1-11; SPA 2-2011, f. & cert. ef. 10-10-11

335-060-0006

Licensure of Speech-Language Pathologists

(1) "Degree requirements" under ORS 681.260(2) for those speech-language pathologists completing their professional training after January 1, 2006 are those outlined in the 2005 Certification Standards for Speech-Language Pathologists as promulgated by the Council For Clinical Certification (CFCC) of the American Speech-Language-Hearing Association:

ADMINISTRATIVE RULES

(a) A minimum of 75 semester hours pertinent to speech-language pathology, which include:

(b) At least 36 graduate credits in speech-language pathology;

(c) A clinical practicum of 400 clock hours, of which 25 must be observational hours and 375 must be direct clinical interaction. Supervision must be provided by a speech-language pathologist who holds a Certificate of Clinical competency from the American Speech-Language-Hearing Association. At least 325 of these clock hours must be completed while in an accredited graduate program.

(d) Credit earned for a thesis or capstone project, if part of the accredited graduate program.

(2) For those speech-language pathologists completing their professional training after January 1, 2006 "supervised clinical experience" under ORS 681.260(3) means a program of clinical work that is:

(a) Begun after completing all graduate degree requirements;

(b) Supervised by a speech-language pathologist who holds a Certificate of Clinical competency from the American Speech-Language-Hearing Association;

(c) A minimum of 35 hours per week for 36 weeks of practice, or its equivalent, for a total of not less than 1,260 hours;

(d) A minimum of 80% of the hours spent in direct client/patient contact (assessment/diagnosis/evaluation, screening, treatment, report writing, family/client consultation, and/or counseling), with the remainder in related record keeping and administrative duties.

(3) For those speech-language pathologists completing their professional training after January 1, 2006, "examinations" under ORS 681.260(4) means the Praxis Examination in Speech-Language Pathology as administered by the Educational Testing Service. Applicants must score a minimum of 600 to qualify for licensure.

(4) Applicants whose first language is not English may be required to submit scores from the following standardized tests to demonstrate English language fluency:

(a) The internet-based Test of English as a Foreign Language (TOEFL) with minimum scores of 100 overall, 26 in writing, and 26 in speaking; or

(b) The paper-based TOEFL and Test of Spoken English (TSE) with minimum scores of 600 overall; 5 on the essay; and 50 on the TSE; or

(c) The computer-based TOEFL and TSE with minimum scores of 250 overall; 5 on the essay; and 50 on the TSE.

(5) For those speech-language pathologists completing their training before January 1, 2006, "degree requirements", "supervised clinical experience" and "examinations" mean those in effect for ASHA certification at the time training was completed.

Stat Authority: ORS 681.

Stats Implemented: ORS 681.250 & 681.260

Hist.: SPA 2-2011, f. & cert. ef. 10-10-11

335-060-0007

Licensure of Audiologists

(1) "Degree requirements" under ORS 681.264(2):

(a) For those applicants completing their graduate program after 1993 but prior to August 1, 2007 are those outlined in the 1993 Certification Standards for Audiologists as promulgated by the Council For Clinical Certification (CFCC) of the American Speech-Language-Hearing Association.

(i) Completion of at least 75 graduate credits in audiology;

(ii) A clinical practicum of 350 clock hours of direct patient care, of which 250 must be at the graduate level. Supervision must be provided by an audiologist who holds a Certificate of Clinical competency from the American Speech-Language-Hearing Association or certification from the American Board of Audiology.

(iii) Credit earned for a thesis or capstone project, if part of the accredited graduate program.

(b) For those applicants completing their graduate program after August 1, 2007 are those outlined in the 2007 Certification Standards for Audiologists as promulgated by the Council For Clinical Certification (CFCC) of the American Speech-Language-Hearing Association.

(i) Completion of a coursework required by an accredited program granting the clinical doctorate degree in audiology;

(ii) Includes supervised clinical experience of not less than 1,820 hours (52 weeks at 35 hours per week).

(2) "Supervised clinical experience" under ORS 681.264(3) means:

(a) For those applicants completing their graduate program after 1993 but prior to August 1, 2007 a program of clinical work that is:

(i) Begun after completing all graduate degree requirements;

(ii) Supervised by an audiologist who holds a Certificate of Clinical competency from the American Speech-Language-Hearing Association or certification from the American Board of Audiology;

(iii) A minimum of 35 hours per week for 52 weeks of practice, or its equivalent, for a total of not less than 1,820 hours;

(iv) A minimum of 50% of the hours spent in direct client/patient contact (assessment/diagnosis/evaluation, screening, treatment, report writing, family/client consultation, and/or counseling), with the remainder in related record keeping and administrative duties.

(b) For those applicants completing their graduate program after August 1, 2007 a program of clinical work that is:

(i) Incorporated into an accredited graduate program awarding a clinical doctorate (Au.D.) degree in audiology;

(ii) Supervised by an audiologist who holds a Certificate of Clinical competency from the American Speech-Language-Hearing Association or certification from the American Board of Audiology;

(iii) A minimum of 1,820 hours.

(3) "Examinations" under ORS 681.264(4) means the Praxis Examination in Audiology as administered by the Educational Testing Service. Applicants must score a minimum of 600 to qualify for licensure.

(4) Applicants whose first language is not English may be required to submit scores from the following standardized tests to demonstrate English language fluency:

(a) The internet-based Test of English as a Foreign Language (TOEFL) with minimum scores of 100 overall, 26 in writing, and 26 in speaking; or

(b) The paper-based TOEFL and Test of Spoken English (TSE) with minimum scores of 600 overall; 5 on the essay; and 50 on the TSE; or

(c) The computer-based TOEFL and TSE with minimum scores of 250 overall; 5 on the essay; and 50 on the TSE.

(5) For those audiologists completing their graduate program before 1993, "degree requirements", "supervised clinical experience" and "examinations" mean those in effect for ASHA certification at the time training was completed.

Stat Authority: ORS 681

Stats Implemented: ORS 681.250 & 681.264

Hist.: SPA 2-2011, f. & cert. ef. 10-10-11

335-080-0005

Definitions

(1) A Conditional License is a license certificate issued by the Board to applicants who have completed degree requirements in OAR 335-060-0006, and are engaged in post-graduate supervised clinical experience. The examination is not required for a conditional license.

(2) Supervisor means a licensed speech-language pathologist or audiologist who undertakes responsibility for managing and directing a conditional licensee in nine months of full-time post-educational professional employment. A supervisor must hold an active license in speech-language pathology issued by the Board or hold their Certificate of Clinical Competency in Speech-Language Pathology issued by the American Speech-Language Hearing Association.

Stat. Auth.: ORS 681

Stat. Implemented: ORS 681.325, 681.260(4) & (5)

Hist.: SPA 1-2001, f. & cert. ef. 3-12-01; SPA 2-2006, f. & cert. ef. 5-8-06; SPA 2-2011, f. & cert. ef. 10-10-11

335-080-0010

Licensing; Qualifications; Procedure

(1) A person who intends to practice under a conditional license must apply with the Board on such forms as the Board shall provide for this purpose. Application shall include:

(a) The name and address of the supervisor and place of supervision;

(b) The area of employment; whether it will be speech-language pathology or audiology or both;

(c) The education, training, and experience of the conditional licensee;

(d) A description of the duties and tasks expected to be performed by the conditional licensee.

(2) The applicant must meet the degree requirements as stated in OAR 335-060-0006.

Stat. Auth.: ORS 681

Stat. Implemented: ORS 681.260 & 681.270

Hist.: SPA 1-2001, f. & cert. ef. 3-12-01; SPA 2-2011, f. & cert. ef. 10-10-11

ADMINISTRATIVE RULES

335-080-0015

Supervisors Responsibility and Nature of Supervision

(1) The supervisor shall manage and direct the duties and functions of the conditional licensee and oversee the work performed by the conditional licensee.

(2) The supervisor shall keep records of the tasks performed by the conditional licensee and whether the work is performed competently.

(3) The board reserves the right to limit the number of conditional licensees supervised by any one supervisor at any one time.

(4) Any changes in supervision must be reported to the Board immediately.

(5) Supervision will be provided to meet requirements for the supervised clinical experience as defined in OAR 335-060-0006.

Stat. Auth.: ORS 681

Stat. Implemented: ORS 681.260(4), 681.325(2) & (3)

Hist.: SPA 1-2001, f. & cert. ef. 3-12-01; SPA 2-2011, f. & cert. ef. 10-10-11

335-080-0025

Written Evidence of Conditional License Completion

(1) At the conclusion of the conditional licensee's licensing period, the supervisor shall certify in writing that the conditional licensee has completed the required supervised clinical experience.

(2) The supervisor shall also briefly describe the nature and extent of the duties and tasks performed by the conditional licensee; the nature and extent of the management and direction of the supervisor; and the competency of the work performed by the conditional licensee.

Stat. Auth.: ORS 681

Stat. Implemented: ORS 681.260

Hist.: SPA 1-2001, f. & cert. ef. 3-12-01; SPA 2-2011, f. & cert. ef. 10-10-11

335-095-0030

Certification of Speech-Language Pathology Assistants

Applicants must submit all of the following to be eligible for certification.

(1) Official transcripts showing 45 quarter hours or 30 semester hours of speech-language pathology technical course work; and

(2) Official transcripts showing 45 quarter hours or 30 semester hours of general education credit, and

(3) Written evidence of 100 clock contact hours of clinical interaction.

(4) Clinical interaction must be face to face interaction with clients and supervised 100% of the time. Activities may include speech and hearing screenings and individual or small group and classroom sessions over a recommended 8-12-week period.

(5) Tasks such as clerical tasks, passive observations, materials preparation and meetings with the supervisor may not be included in the 100 hours.

(6) Clinical interaction documentation must show the date, clinical activity, amount of time and the supervisor's initials and signature. While the practicum student is in training, the supervisor for the clinical interaction must be licensed by Board, or hold the ASHA Certificate of Clinical Competency.

(7) The supervising speech-language pathologist and the applicant will complete the Board's Competency Checklist upon completion of 100 hours. If there is more than one clinical interaction supervisor, each supervisor must complete and sign a Board Competency Checklist.

(8) Applicants presenting transcripts showing practicum course(s) with the required number of clock contact hours of clinical interaction are not required to submit the completed Board Competency Checklist.

(9) Applicants whose first language is not English may be required to submit scores from the following standardized tests to demonstrate English language fluency:

(i) The internet-based Test of English as a Foreign Language (TOEFL) with minimum scores of 100 overall, 26 in writing, and 26 in speaking; or

(ii) The paper-based TOEFL and Test of Spoken English (TSE) with minimum scores of 600 overall; 5 on the essay; and 50 on the TSE; or

(iii) The computer-based TOEFL and TSE with minimum scores of 250 overall; 5 on the essay; and 50 on the TSE.

Stat. Auth.: ORS 681.360, 681.375, 681.420 & 681.460

Stat. Implemented: ORS 681.360 & 681.375

Hist.: SPA 1-2003, f. & cert. ef. 5-7-03; SPA 1-2004, f. & cert. ef. 2-6-04; SPA 2-2004, f. & cert. ef. 5-26-04; SPA 3-2006, f. & cert. ef. 5-8-06; SPA 3-2008, f. & cert. ef. 4-10-08; SPA 1-2009, f. 6-9-09, cert. ef. 7-1-09; SPA 1-2010(Temp), f. & cert. ef. 8-11-10 thru 2-4-11; SPA 1-2011, f. 1-28-11, cert. ef. 2-1-11; SPA 2-2011, f. & cert. ef. 10-10-11

335-095-0040

Qualifications for Supervising Speech-Language Pathology Assistants

(1) All supervision of services provided by a speech-language pathology assistant must be performed by a speech-language pathologist who:

(a) Holds an active, valid license issued by the Board of Examiners for Speech-Language Pathology and Audiology; or

(b) Is exempt from licensure under ORS 681.230(2) and holds an active, valid basic or standard teaching license with an endorsement in speech impaired or an initial or continuing teaching license with an endorsement in communication disorders issued by the Teacher Standards and Practices Commission.

(2) The supervising speech-language pathologist must have the following professional work experience:

(a) At least two years of professional speech-language pathology work experience following completion of their graduate degree in speech-language pathology or communications disorders. The clinical post-graduate fellowship year may be counted as one year of professional experience.

(b) If exempt from licensure under ORS 681.230(2), and initially licensed by the Teacher Standards and Practices Commission prior to 1999, a minimum of five years of professional work experience in speech-language pathology within the ten years preceding the provision of supervision. The supervising speech-language pathologist must have held an active basic or standard teaching license with an endorsement in standard speech impaired or an initial or continuing teaching license with an endorsement in communication disorders issued by the Teacher Standards and Practices Commission during qualifying work experience. Work experience while holding a restricted transitional license, conditional assignment permit, or other provisional license issued by the Teacher Standards and Practices Commission is excluded from qualifying work experience.

(3) The supervising speech-language pathologist must agree to supervise according to Board requirements, as outlined in OAR 335-095-0050.

Stat. Auth.: ORS 681.360, 681.375, 681.420 & 681.460

Stat. Implemented: ORS 681.360 & 681.375

Hist.: SPA 1-2003, f. & cert. ef. 5-7-03; SPA 3-2008, f. & cert. ef. 4-10-08; SPA 1-2010(Temp), f. & cert. ef. 8-11-10 thru 2-4-11; SPA 1-2011, f. 1-28-11, cert. ef. 2-1-11; SPA 2-2011, f. & cert. ef. 10-10-11

335-095-0050

Requirements for Supervising Licensed Speech-Language Pathology Assistants

(1) The amount and type of supervision required will be based on the skills and experience of the speech-language pathology assistant.

(a) For the first 90 calendar days of licensed employment, with a given employer, a minimum of 30% of all the time an assistant is providing clinical interaction must be supervised. A minimum of 20% of hours spent in clinical interaction must be directly supervised.

(b) Subsequent to the first 90 calendar days of licensed employment with a given employer, a minimum of 20% of all the time an assistant is providing clinical interaction must be supervised. A minimum of 10% of hours spent in clinical interaction must be directly supervised.

(c) The supervising speech-language pathologist must be able to be reached throughout the work day. A temporary supervisor may be designated as necessary.

(d) If the supervising speech-language pathologist is on extended leave, an interim supervising speech-language pathologist who meets the requirements stated in 335-095-0040 must be assigned.

(e) The caseload of the supervising speech-language pathologist must allow for administration, including speech-language pathology assistant supervision, evaluation of clients and meeting times. Speech-language pathology assistants may not have a caseload; therefore, all clients are considered part of the supervising speech-language pathologist's caseload. The supervising speech-language pathologist is responsible to make all diagnostic and treatment related decisions for all clients on the caseload, and to supervise any speech-language pathology assistants assigned to assist with that caseload.

(f) Supervision requirements must be met for all clients on the caseload who receive treatment from the speech-language pathology assistant.

(2) The supervising speech-language pathologist may not supervise more than the equivalent of two full-time speech-language pathology assistants.

(3) The supervising speech-language pathologist must co-sign each page of records.

(4) Supervision of speech-language pathology assistants must be documented.

(5) Documentation must include the following elements: date, activity, clinical interaction hours, and direct or indirect supervision hours. Clinical logs documenting supervision must be completed and supervision

ADMINISTRATIVE RULES

hours calculated for each calendar month for each caseload. Each entry should be initialed by the supervising speech-language pathologist. Each page of documentation should include the supervising speech-language pathologist's signature and license numbers issued by this Board and the Teacher Standards and Practices Commission if applicable. Supervision documentation must be retained by the speech-language pathology assistant for four (4) years.

(b) Documentation must be available for audit requests from the Board.

(5) In remote geographic areas of the state or in other situations with severe shortages of licensed personnel, where Direct Supervision requirements cannot be met by an on-site Speech-Language Pathologist, educational facilities may apply for a one year exemption from certain requirements for supervision of certified Speech-Language Pathology Assistants.

(a) This exemption allows educational facilities to use the review and evaluation of audio- or video-taped records or live audio- or video-conferencing of clinical interactions, or a combination thereof, to provide a portion of the required Direct Supervision hours, up to a maximum of 75% of the required Direct Supervision hours.

(b) During the exemption period, a licensed Speech-Language Pathologist may supervise up to four full-time equivalent certified Speech-Language Pathology Assistants.

(c) This exemption will expire on July 31st of the year in which it is granted. An exemption shall only be granted for a maximum of two years out of each consecutive five year period.

Stat. Auth.: ORS 681.360, 681.370, 681.375, 681.420 & 681.460
Stat. Implemented: ORS 681.360, 681.370 & 681.375
Hist.: SPA 1-2003, f. & cert. ef. 5-7-03; SPA 4-2006, f. & cert. ef. 11-3-06; SPA 1-2007, f. & cert. ef. 2-1-07; SPA 3-2008, f. & cert. ef. 4-10-08; SPA 4-2008(Temp), f. & cert. ef. 8-13-08 thru 2-8-09; Administrative correction 2-18-09; SPA 1-2009, f. 6-9-09, cert. ef. 7-1-09; SPA 2-2011, f. & cert. ef. 10-10-11

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Rule Caption: Reverts speech-language pathology and audiology licensing and delinquent fees to level approved by 2011 Legislature.

Adm. Order No.: SPA 3-2011(Temp)

Filed with Sec. of State: 10-10-2011

Certified to be Effective: 10-11-11 thru 4-4-12

Notice Publication Date:

Rules Amended: 335-060-0010

Subject: Lowers application fee to \$40.

Lowers delinquent fee to \$50.

Lowers active SLP and Audiologist license fee to \$160.

Lowers conditional SLP and Audiologist license fee to \$50.

Lowers active Speech-Language Pathology Assistant license fee to \$50.

Rules Coordinator: Sandy Leybold—(971) 673-0220

335-060-0010

Fees

In accordance with the provisions of ORS 681.340 and 681.360, the following fees, where applicable, are payable to the Board by check, money order, or electronic payment if available:

(1) All Applicants:

(a) Application fee shall be \$40, non-refundable.

(b) Delinquent fee shall be \$50.

(c) A delinquent fee will be charged for each or all of the following, as applicable:

(i) Renewal applications postmarked or submitted electronically after December 31st of odd-numbered years;

(ii) Renewal applications postmarked by December 31st of odd numbered years which are incomplete or otherwise unable to be processed;

(iii) Conditional license renewals or conditional license upgrade applications postmarked less than 30 days prior to the expiration date of the conditional license;

(iv) Requests for special approval of professional development received 30 days or more after the activity is completed;

(d) A delinquent fee may be charged for each or all of the following, as applicable:

(i) Failure to respond to audit by the prescribed deadline;

(ii) Audit responses postmarked by the deadline which are incomplete or otherwise unable to be processed;

(iii) Failure to complete all required hours of professional development prior to January 1st of even-numbered years;

(e) The Board may provide for waiver of the license or certificate fee where the license or certificate is issued less than 45 days before the date on which it will expire.

(2) Speech-Language Pathologists and Audiologists:

(a) Biennial license fee and renewal thereof shall be \$160.

(b) Biennial inactive license fee and renewal thereof shall be \$50.

(c) Conditional license fee and renewal thereof shall be \$50.

(3) Speech-Language Pathology Assistants:

(a) Biennial certificate fee and renewal thereof shall be \$50.

(b) Biennial inactive certificate fee and renewal thereof shall be \$20.

Stat. Auth.: ORS 681.340, 681.360, 681.420 & 681.460

Stats. Implemented: ORS 681.340(1), 681.360(2)(b) & 681.360(3)(b)

Hist.: SPA 2-1993(Temp), f. 12-8-93, cert. ef. 12-10-93; SPA 1-1994, f. & cert. ef. 6-10-94; SPA 1-2001, f. & cert. ef. 3-12-01; SPA 1-2002(Temp), f. 11-8-02, cert. ef. 12-1-02 thru 5-1-03; SPA 1-2003, f. & cert. ef. 5-7-03; SPA 1-2005, f. & cert. ef. 9-13-05; SPA 3-2008, f. & cert. ef. 4-10-08; SPA 1-2009, f. 6-9-09, cert. ef. 7-1-09; SPA 1-2010(Temp), f. & cert. ef. 8-11-10 thru 2-4-11; SPA 1-2011, f. 1-28-11, cert. ef. 2-1-11; SPA 3-2011(Temp), f. 10-10-11, cert. ef. 10-11-11 thru 4-4-12

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Board of Nursing Chapter 851

Rule Caption: Rules to clarify nurse prescriber authority related to off label, compounded, and grandfathered drugs.

Adm. Order No.: BN 3-2011

Filed with Sec. of State: 10-6-2011

Certified to be Effective: 10-6-11

Notice Publication Date: 9-1-2011

Rules Amended: 851-056-0000, 851-056-0010, 851-056-0012, 851-056-0016

Subject: These rules cover the authority of the Clinical Nurse Specialist and Nurse Practitioner to prescribe and dispense drugs. These rule amendments clarify their ability to prescribe off label, compounded, and grandfathered drugs.

Rules Coordinator: Peggy A. Lightfoot—(971) 673-0638

851-056-0000

Definitions

(1) "Addiction" means a primary, chronic, neurobiological disease with genetic, psychosocial, and environmental factors influencing its development and manifestations. It is characterized by behaviors that include one or more of the following: impaired control over drug use, compulsive use, continued use despite harm, and craving. Neither physical dependence nor tolerance alone, as defined by these rules, constitutes addiction.

(2) "Administer" means the direct application of a drug or device, whether by injection, inhalation, ingestion, or any other means to the body of a patient or research subject.

(3) "Assessment" means a process of collecting information regarding a client's health status including, but not limited to, illness, response to illness, health risks of individuals, families and groups, resources, strengths and weaknesses, coping behaviors, and the environment. The skills employed during the assessment process may include, but are not limited to, obtaining client histories, conducting physical examinations, and ordering, interpreting, and conducting a broad range of diagnostic procedures (e.g., laboratory studies, EKGs, and X-rays).

(4) "Client(s) or patient(s)" means a family, group or individual who has been assessed by and has a client/patient record established by the clinical nurse specialist or nurse practitioner.

(5) "Clinical education in patient management" means a set of structured learning activities, including but not limited to, supervised clinical practice in the pharmacological management of individual clients, as well as other learning activities to promote understanding of pharmacological interventions.

(6) "Compounded Drug" means a combination preparation of the active ingredients of which are components of an FDA approved drug, or a drug which is still in common usage and predates the FDA approval process.

(7) "Diagnosis" means identification of actual or potential health problems or need for intervention based on analysis of the data collected.

(8) "Differential diagnosis" means the process of determining a medical diagnosis from among similar diseases and conditions based upon collection and analysis of clinical data.

(9) "Discrete pharmacology course" means an advanced pharmacology course with pharmacologically specific requirements, objectives, and content, which is offered for academic or continuing education credit, and is not integrated into other coursework.

ADMINISTRATIVE RULES

Hist.: BN 10-2006, f. & cert. ef. 10-5-06; BN 13-2009, f. 12-17-09, cert. ef. 1-1-10; BN 3-2011, f. & cert. ef. 10-6-11

(10) "Dispense" or "dispensing" means the labeling and distribution of a medication to the clinical nurse specialist's or nurse practitioner's client which is prepackaged by a manufacturer registered with the State Board of Pharmacy, or repackaged by a pharmacist licensed with the State Board of Pharmacy.

(11) "Dispensing authority" means to prepare and deliver substances to the client provided the authority is exercised in compliance with applicable federal and state laws.

(12) "Distribute" means the delivery of a drug other than by administering or dispensing, such as prepackaged samples.

(13) "Functional impairment" means:

(a) Practicing nursing when unable/unfit to perform procedures and/or make decisions due to physical impairment as evidenced by documented deterioration of functioning in the practice setting and/or by assessment of a health care provider qualified to diagnose physical condition/status.

(b) Practicing nursing when unable/unfit to perform procedures and/or make decisions due to psychological or mental impairment as evidenced by documented deterioration of functioning in the practice setting, and/or by the assessment of a health care provider qualified to diagnose mental condition/status.

(c) Practicing nursing when physical or mental ability to practice is impaired by use of drugs, alcohol, or mind-altering substances.

(14) "Legend Drug" means:

(a) A drug which is required by federal law, prior to being dispensed or delivered, to be labeled with the following statement: "Caution: federal law prohibits dispensing without a prescription" or

(b) A drug which is required by any applicable federal or state law or regulation to be dispensed by prescription only or restricted to use by practitioners only.

(15) "Off Label" means the use of an FDA approved drug for other than FDA approved indications or dosing.

(16) "Orphan Drug" means a drug which has received orphan status from the US Food and Drug Administration because it targets a disease which affects less than 200,000 persons in the US.

(17) "Pain" means an unpleasant sensory and emotional experience related to adverse nociceptive or neuropathic stimuli. It may also be idiopathic in nature.

(a) "Acute pain" is brief and responds to timely intervention or subsides as healing takes place. Inadequate treatment may delay recovery. Such pain responds to anti-inflammatory and opioid medications, as well as to other approaches.

(b) "Chronic pain" is on going or frequently recurring and may become unresponsive to intervention over time.

(c) "Intractable pain" means a pain state in which the cause cannot be removed or otherwise treated and no relief or cure has been found after reasonable efforts.

(18) "Pharmacodynamics" means the study of the biochemical and physiologic effects of drugs and their mechanism of action.

(19) "Pharmacokinetics" means the action of drugs in the body over a period of time.

(20) "Pharmacotherapeutics" means the study of the uses of drugs in the treatment of disease.

(21) "Physical dependence" means the physiologic adaptation to the presence of a medication characterized by withdrawal when its use is stopped abruptly.

(22) "Prescribe" means a written, verbal, or electronic legal directive to procure or designate for use legend drugs or controlled substances. Additionally, a prescription may be issued or required for use of over-the-counter medications.

(23) "Prescribing authority" means the legal permission to determine which drugs and controlled substances shall be used by or administered to a client.

(24) "Specialty" means the defined area of expertise such as that provided by academic education, clinical training, and may include additional legal or professional credentialing mechanisms.

(25) "Target audience" means a population for whom an educational program is designed.

(26) "Therapeutic device" means an instrument or an apparatus intended for use in diagnosis or treatment and in the prevention of disease or maintenance or restoration of health.

(27) "Tolerance" means the physiologic adaptation to a controlled substance over time, resulting in the need to increase the dose to achieve the same effect, or in a reduction of response with repeated administration.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.370, 678.372, 678.375, 678.380, 678.385, 678.390

851-056-0010

Prescription Requirements

(1) A written prescription shall include the date, printed name, legal signature, specialty category/title, business address, and telephone number of the prescribing nurse practitioner or clinical nurse specialist in addition to the required patient and drug information.

(2) An electronically transmitted prescription as defined in OAR 855-006-0015 of the Pharmacy Act shall include the name and immediate contact information of the prescriber and be electronically encrypted or in some manner protected by up-to-date technology from unauthorized access, alteration or use. Controlled substances have additional restrictions as defined by the DEA which shall be followed.

(3) A tamper resistant prescription shall meet criteria as defined in OAR 855-006-0015 of the Pharmacy Act.

(4) Prescriptions may be written for over the counter drugs, durable medical equipment (DME) and devices.

(5) Prescriptions shall be signed by the prescriber with the abbreviated specialty title of the nurse practitioner as per OAR 851-050-0005(9) or the title CNS as per OAR 851-054-0015.

(6) The nurse practitioner or clinical nurse specialist shall comply with all applicable laws and rules in prescribing, administering, and distributing drugs, including compliance with the labeling requirements of ORS Chapter 689.

(7) A nurse practitioner or clinical nurse specialist shall only prescribe controlled substances in conjunction with their own valid and current DEA registration number appropriate to the classification level of the controlled substance.

(8) Clinical nurse specialists and nurse practitioners with prescriptive authority are authorized to prescribe legend and controlled substances in Schedule II-V. Additionally, they may prescribe:

(a) Over-the-counter drugs;

(b) Appliances and devices;

(c) Orphan drugs;

(d) Limited access drugs;

(e) Antibiotics to partner(s) of patients diagnosed with a sexually transmitted infection without first examining the partner of the patient, consistent with Department of Human Services guidelines regarding Expedited Partner Therapy; and

(f) Off label.

(9) All prescribed, dispensed, and distributed drugs shall have Food and Drug Administration (FDA) approval except the following:

(a) Compounded drugs;

(b) Drugs provided through a United States IRB approved clinical trial;

(c) Drugs prescribed under limited access programs;

(d) Drugs which are still in common usage and predate the FDA approval process.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.370, 678.372, 678.375, 678.380, 678.385, 678.390

Hist.: BN 10-2006, f. & cert. ef. 10-5-06; BN 5-2008, f. & cert. ef. 6-24-08; BN 13-2009, f. 12-17-09, cert. ef. 1-1-10; BN 3-2011, f. & cert. ef. 10-6-11

851-056-0012

Standards for Clinical Nurse Specialists and Nurse Practitioners with Prescriptive Authority

(1) Evaluation of appropriate prescribing by the Board is constructed based on the following premises:

(a) Nurse practitioners may provide care for specialized client populations within each nurse practitioner category/scope of practice;

(b) Clinical nurse specialists may provide care for individuals and populations within their specialty scope of practice;

(c) Prescribing is limited by the individual's scope of practice and knowledge base within that scope of practice;

(d) Clinical nurse specialists and nurse practitioners may prescribe the drugs appropriate for patients within their scope of practice as defined by OAR 851-050-0005; or OAR 851-054-0020 and 0021;

(e) Clinical nurse specialists and nurse practitioners shall be held independently accountable for their prescribing decisions;

(f) All drugs prescribed shall have Food and Drug Administration (FDA) approval unless mentioned as an exception in OAR 851-056-0010.

Stat. Auth.: ORS 678.385

Stats. Implemented: ORS 678.385, 678.390

Hist.: BN 10-2006, f. & cert. ef. 10-5-06; BN 2-2007, f. & cert. ef. 3-13-07; BN 4-2007, f. & cert. ef. 5-2-07; BN 6-2007, f. & cert. ef. 6-26-07; BN 9-2007, f. & cert. ef. 10-1-07; BN 12-

ADMINISTRATIVE RULES

2007, f. & cert. ef. 11-21-07; BN 1-2008, f. & cert. ef. 2-25-08; BN 5-2008, f. & cert. ef. 6-24-08; BN 3-2011, f. & cert. ef. 10-6-1

851-056-0016

Conduct Derogatory to the Standards for Prescriptive or Dispensing Authority

(1) The Board may deny, suspend or revoke the authority to write prescriptions and/or dispense drugs for the causes identified in ORS 678.111(1) or with proof that the authority has been abused.

(2) The abuse of the prescriptive or dispensing authority constitutes conduct derogatory to nursing standards and is defined as:

(a) Prescribing, dispensing or distributing drugs which are not FDA approved unless done in accordance with the Boards policies and regulations on exceptions.

(b) Prescribing, dispensing, administering, or distributing drugs for other than therapeutic or prophylactic purposes;

(c) Prescribing, dispensing, or distributing drugs to an individual who is not the clinical nurse specialist's or nurse practitioner's client unless written under Expedited Partner Therapy guidelines from the Department of Human Services or is not within the scope of practice or type of client population served;

(d) Prescribing, dispensing, or distributing drugs for personal use;

(e) Prescribing, dispensing, administering, or distributing drugs while functionally impaired;

(f) Prescribing, dispensing, administering, or distributing drugs in an unsafe or unlawful manner or without adequate instructions to the client according to acceptable and prevailing standards or practice;

(g) Prescribing, dispensing, or distributing drugs which are specifically restricted under federal law;

(h) Failure to properly assess and document client assessment when prescribing, dispensing, administering, or distributing drugs;

(i) Selling, purchasing, trading, or offering to sell, purchase or trade any drug sample;

(j) Dispensing medications without dispensing authority granted by the Board or other dispensing authority issued by the State of Oregon; and

(k) Charging a client or any third party payer in a grossly negligent manner.

Stat. Auth: ORS 678.111, 678.113, 678.150

Stats. Implemented: ORS 678.350, 678.370, 678.372, 678.375, 678.380, 678.385

Hist.: BN 10-2006, f. & cert. ef. 10-5-06; BN 5-2008, f. & cert. ef. 6-24-08; BN 13-2009, f. 12-17-09, cert. ef. 1-1-10; BN 3-2011, f. & cert. ef. 10-6-1

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Rule Caption: Rule correction: one incorrect word and one typographical error.

Adm. Order No.: BN 4-2011

Filed with Sec. of State: 10-6-2011

Certified to be Effective: 10-6-11

Notice Publication Date: 9-1-2011

Rules Amended: 851-063-0030

Subject: Under OAR 851-063-0030 Authorized Duties and Standards for Certified Nursing Assistants, (1)(c)(A)(vi) **Preventing hydration** should read: **Preventing dehydration**. In addition, OAR 851-063-0030(1)(c)(B)(vi) **Providing catheter care including the application of an removal of external urinary catheters** should read: **Providing catheter care including the application of and removal of external urinary catheters**.

Rules Coordinator: Peggy A. Lightfoot—(971) 673-0638

851-063-0030

Authorized Duties and Standards for Certified Nursing Assistants

(1) Under the supervision of a licensed nurse, the CNA may provide care and assist clients with the following tasks:

(a) Tasks associated with infection control and Standard or Transmission Based Precautions:

(A) Bedmaking and handling of linen;

(B) Caring for the client's environment;

(C) Handling and disposal of hazardous wastes;

(D) Handling of contaminated materials;

(E) Handwashing and hand hygiene;

(F) Maintaining client cleanliness and grooming; and

(G) Utilizing personal protective equipment.

(b) Tasks associated with safety and emergency procedures:

(A) Moving and transferring clients;

(B) Transporting clients in wheelchairs and specialized chairs;

(C) Turning and positioning clients;

(D) Using lifts and safe client handling devices;

(E) Turning oxygen on and off or transferring oxygen between wall and tank at pre-established flow rate for stable clients;

(F) Managing hazards in the workplace;

(G) Preventing burns;

(H) Preventing falls; and

(I) Performing cardiopulmonary resuscitation.

(c) Tasks associated with activities of daily living (ADL):

(A) Assisting with nutrition and hydration:

(i) Assisting with feeding;

(ii) Measuring and recording height and weight;

(iii) Measuring and recording intake and output;

(iv) Positioning clients for nutritional and fluid intake;

(v) Preventing choking and aspiration; and

(vi) Preventing dehydration.

(B) Assisting with elimination:

(i) Administering bowel evacuation suppositories that are available without a prescription;

(ii) Administering enemas;

(iii) Assisting with the use of bedpan and urinal;

(iv) Assisting with toileting;

(v) Collecting specimens; sputum, stool, and urine including clean catch urine specimens;

(vi) Providing catheter care including the application of and removal of external urinary catheters;

(vii) Providing ostomy care for established, healthy ostomy including cleaning the ostomy site and emptying the ostomy bag or changing the ostomy bag which does not adhere to the skin; and

(viii) Providing perineal and incontinence care.

(C) Assisting with personal care:

(i) Bathing;

(ii) Providing comfort care;

(iii) Dressing and undressing;

(iv) Grooming to include: application and care of dentures, eye glasses, and hearing aides.

(v) Nail care;

(vi) Oral hygiene;

(vii) Shampooing and caring for hair;

(viii) Shaving; and

(ix) Skin Care to include: application of non-prescription pediculicides; application of topical, non-prescription barrier creams and ointments for prophylactic skin care; maintenance of skin integrity; prevention of pressure, friction, and shearing; and use of anti-pressure devices.

(D) Assisting with positioning devices and restraints;

(E) Assisting with restorative care:

(i) Ambulating;

(ii) Assisting with and encouraging the use of self-help devices for eating, grooming and other personal care tasks;

(iii) Assisting with bowel and bladder training;

(iv) Assisting with feeding and ADL programs;

(v) Assisting with the use of crutches, walkers, or wheelchairs;

(vi) Caring for, applying, and removing antiembolus stockings, braces, orthotic devices, and prosthetic devices.

(vii) Elevating extremities;

(viii) Maintaining alignment;

(ix) Performing range of motion exercises;

(x) Using footboards; and

(xi) Utilizing and assisting clients with devices for transferring, ambulation, and alignment.

(d) Tasks associated with observation and reporting:

(A) Assisting with coughing and deep breathing;

(B) Observing and reporting changes of condition to licensed nurse; and

(C) Measuring and recording:

(i) Temperature, apical and radial pulse, respiration and blood pressure (manual and electronic-upper arm only and orthostatic blood pressure readings);

(ii) Emesis;

(iii) Liquid stool;

(iv) Pain level using a facility approved pain scale;

(v) Pulse oximetry; and

(vi) Urinary output, both voided and from urinary drainage systems.

(e) Tasks associated with documentation.

(f) Tasks associated with end of life care.

ADMINISTRATIVE RULES

(2) The CNA may, as an unlicensed person, provide care as delegated or assigned by a nurse pursuant to the terms and conditions in OAR 851-047-0000 through OAR 851-047-0040.

(3) ORS 678.440(5) defines the term “nursing assistant” as a person who assists licensed nursing personnel in the provision of nursing care. Consistent with that definition, a CNA must either:

(a) Be regularly supervised by a licensed nurse; or

(b) Work in a community-based care setting or other setting where there is no regularly scheduled presence of a licensed nurse provided there is periodic supervision and evaluation of clients under the provisions of OAR 851-047-0000 through OAR 851-047-0040.

(4) Under no circumstance shall a CNA work independently without supervision or monitoring by a licensed nurse who provides assessment of clients as described in OAR 851-063-0030(3)(a)(b).

(5) A CNA may accept verbal or telephone orders for medication from a licensed health care professional who is authorized to independently diagnose and treat only when working in the following settings under the specified administrative rule:

(a) When working in Adult Foster Homes, as permitted under OAR Chapter 411, division 050;

(b) When working in Residential Care Facilities, as permitted under OAR Chapter 411, division 054; and

(c) When working in Assisted Living Facilities, as permitted under OAR Chapter 411, division 054.

(6) Standards of Care for Certified Nursing Assistants. In the process of client care the CNA shall consistently:

(a) Apply standard precautions according to the Centers for Disease Control and Prevention guidelines;

(b) Use hand hygiene between episodes of care;

(c) Use appropriate body mechanics to prevent injury to self and client;

(d) Follow the care plan as directed by the licensed nurse;

(e) Use appropriate communication with client, client’s family and friends, and coworkers;

(f) Use alternatives to physical restraints, or apply physical restraints as directed by the licensed nurse;

(g) Determine absence of pulse and/or respiration, and initiate an emergency response;

(h) Report to the licensed nurse any recognized abnormality in client’s signs and symptoms;

(i) Record observations and measurements, tasks completed, and client statements about condition or care;

(j) Apply safety concepts in the workplace;

(k) Report signs of abuse, neglect, mistreatment, misappropriation or exploitation;

(l) Demonstrate respect for rights and property of clients and coworkers; and

(m) Maintain client confidentiality.

Stat. Auth: ORS 678.440, ORS 678.442, 678.444

Stats. Implemented: ORS 678.440, ORS 678.442, 678.444

Hist.: BN 6-1999, f. & cert. ef. 7-8-99; BN 3-2004, f. 1-29-04, cert. ef. 2-12-04; BN 11-2009, f. & cert. ef. 12-17-09; BN 11-2010, f. & cert. ef. 6-25-10; BN 1-2011(Temp), f. 6-6-11, cert. ef. 6-23-11 thru 12-20-11; BN 4-2011, f. & cert. ef. 10-6-11

Board of Psychologist Examiners Chapter 858

Rule Caption: Changes educational and residency requirements for licensure; adds applied psychologist licensure track; corrections and updates.

Adm. Order No.: BPE 3-2011

Filed with Sec. of State: 9-27-2011

Certified to be Effective: 9-27-11

Notice Publication Date: 9-1-2011

Rules Adopted: 858-010-0011, 858-010-0012, 858-010-0013

Rules Amended: 858-010-0001, 858-010-0002, 858-010-0010, 858-010-0015, 858-010-0016, 858-010-0017, 858-010-0020, 858-010-0025, 858-010-0036, 858-010-0037, 858-010-0038, 858-010-0039

Subject: Defines additional terms for Chapter 858, division 10. Modifies the educational requirements for clinical psychologist licensure to align with current practices. This includes changes to required coursework, in-residence requirements at the educational institution, organized practicum and internship requirements. Creates a new licensure track for “applied psychologists” and lays out the educational requirements. Adds clarification to the standard and non-stan-

dard application procedures. Requires the reviewer of an application for licensure to send a letter to the applicants stating the reason the application is incomplete. Modifies the guidelines for supervised work experience. This includes a change to the definition of psychological work (services), a change to require that a licensed psychologist facilitate group supervision, and requirement that the supervisor provide both an interim and a final resident evaluation report. Also includes various minor housekeeping items.

Rules Coordinator: Debra Orman McHugh—(503) 373-1155

858-010-0001

Definitions

(1) The practice of psychology is defined to include:

(a) **Evaluation** means assessing or diagnosing mental disorders or mental functioning, including administering, scoring, and interpreting tests of mental abilities or personality;

(b) **Therapy** means treating mental disorders;

(c) **Consultation** means conferring or giving expert advice on the diagnosis or treatment of mental disorders;

(d) **Supervision** means the ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular, documented individual consultation, guidance and instruction with respect to the skills and competencies of the person supervised.

(2) **Applicant** means a person who submits a complete application for licensure with the appropriate fees.

(3) **Applied psychology** means providing psychological services outside of the health and mental health field and shall include:

(a) The provision of direct services to individuals and groups, using psychological principles, methods, and/or procedures for the purpose of enhancing individual and/or organizational effectiveness; and

(b) The provision of services to organizations that are provided for the benefit of the organization and do not involve direct services to individuals.

(4) **Board** means the Oregon Board of Psychologist Examiners.

(5) **Candidate for Licensure** means a person who has satisfactorily completed the appropriate educational and experience requirements for licensure and has been deemed eligible by the Board to sit for the required examinations.

(7) **Client or patient** means direct recipients of psychological services, which may include child, adolescent, adult, older adult, couple, family, group, organization, community, or any other individual.

(8) **Demonstrable areas of competence** means those therapeutic and assessment methods and techniques, and populations served, for which one can document adequate graduate training, workshops, or appropriate supervised experience.

(9) **Developed Areas of Practice means:**

(a) National recognition of the practice area by a national organization(s) whose purpose includes recognizing or representing and developing the practice area, by relevant divisions of the APA, or by involvement in similar umbrella organizations;

(b) An accumulated body of knowledge in the professional literature that provides a scientific basis for the practice area including empirical support for the effectiveness of the services provided;

(c) Representation by or in a national training council that is recognized, functional, and broadly accepted;

(d) Development and wide dissemination by the training council of doctoral educational and training guidelines consistent with the Accreditation Guidelines & Principles;

(e) Existence of the practice area in current education and training programs; and

(f) Geographically dispersed psychology practitioners who identify with the practice area and provide such services.

(10) **Full-Time Graduate study** is defined as six semester hours or nine quarter hours.

(11) **Internship** means an ongoing, supervised and organized practical experience obtained in an integrated training program identified as a psychology internship. Other supervised experience or on-the-job training does not constitute an internship.

(12) **Professional psychology program** means an integrated program of doctoral study designed to train professional psychologists to deliver services in psychology.

(13) **Regional accrediting agency** means one of the six regional accrediting agencies recognized by the United States Secretary of Education established to accredit senior institutions of higher education.

(14) **Residency** means a post-terminal degree, supervised experience approved by the board.

ADMINISTRATIVE RULES

(15) **Specialty** means a defined area of psychological practice that requires advanced knowledge and skills acquired through an organized sequence of education and training. The advanced knowledge and skills specific to a specialty are obtained subsequent to the acquisition of core scientific and professional foundations in psychology.

(16) **Supervision** means the ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular, documented individual and group consultation, guidance and instruction with respect to the skills and competencies of the person supervised.

(17) **Supervisor** means an individual who assumes full responsibility for the education and training activities of a person and provides the supervision required by such a person.

(18) **Treatment** means services provided to an individual, group or organization for the purpose of improving mental health and/or alleviating behavioral, emotional or mental disorders.

Stat. Auth.: ORS 675.010 - 675.150

Stats. Implemented: ORS 675.110

Hist.: BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 3-2011, f. & cert. ef. 9-27-11

858-010-0002

Guidelines for Supervising Technicians

A licensee may delegate administration and scoring of tests to technicians as provided in ORS 675.010(4) if the licensee ensures the technicians are adequately trained to administer and score the specific test being used; and ensures that the technicians maintain standards for the testing environment and testing administration as set forth in the American Psychological Association Standards for Educational and Psychological Tests (1999) and Ethical Principles for Psychologists (2002).

Stat. Auth.: ORS 675.010 - 675.150

Stats. Implemented: ORS 675.010

Hist.: BPE 2-2004, f. & cert. ef. 8-30-04; BPE 3-2011, f. & cert. ef. 9-27-11

858-010-0010

Education Requirements — Clinical Psychologist

To meet the education requirement of ORS 675.030(1), applicants for licensure must:

(1) Possess a doctoral degree in psychology from:

(a) A program accredited by the American Psychological Association or the Canadian Psychological Association as of the date the degree was awarded;

(b) A program at an institution of higher learning that was accredited by a regional accrediting agency as of the date the degree was awarded;

(c) For Canadian universities, an institution of higher education that is provincially or territorially chartered; or

(d) A foreign program evaluated to be equivalent to American Psychological Association accreditation as of the date the degree was awarded. Evaluation must be completed by a credentialing body recognized by the Board. Submission of proof of foreign degree equivalency and cost of the foreign degree equivalency determination are the responsibility of the applicant.

(2) Show that his or her doctoral program in psychology meets all of the following requirements:

(a) Authorization to operate in Oregon by the Oregon Office of Degree Authorization.

(b) A minimum of three academic years of full-time graduate study.

(c) A minimum of one continuous year in residence at the institution from which the degree is granted.

(A) One continuous year means two consecutive semesters or three consecutive quarters.

(B) In residence means physical presence, in person, at an educational institution or training facility in a manner that facilitates acculturation into the profession, the full participation and integration of the individual in the educational and training experience, and includes faculty and student interaction.

(C) The doctoral program may include distance education, but a minimum of one continuous year of the program shall be in-residence. Programs that use physical presence, including face-to-face contact for durations of less than one continuous year, (e.g., multiple long weekends and/or summer intensive sessions) or that use video conferencing or other electronic means as a substitute for physical presence at the institution in order to meet the residency requirement are deemed not to be acceptable for licensure.

(D) Training models that rely exclusively on physical presence for periods of less than one continuous year (e.g., multiple long weekends and/or summer intensive sessions) or that use video conferencing or

other electronic means as a substitute for physical presence at the institution do not meet the in residence requirement.

(d) The program, wherever it may be administratively housed, must be clearly identified and labeled as a program in psychology. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists.

(e) The psychology program must stand as a recognizable, coherent organizational entity within the institution.

(f) There must be a clear authority and primary responsibility for the core and specialty areas, whether or not the program cuts across administrative lines.

(g) The program must be an integrated, organized sequence of study.

(h) There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities and a psychologist responsible for the program.

(i) The program must have an identifiable body of students who are matriculated in that program for a degree.

(j) The program must include a coordinated, sequential and supervised practicum appropriate to the practice of psychology as described in OAR 858-010-0012.

(k) The program must include a coordinated, sequential and supervised internship, field or laboratory training appropriate to the practice of psychology as described in OAR 858-010-0013.

(l) The curriculum of the program must:

(A) Encompass a minimum of three academic years of full time graduate study, including a minimum of one continuous year in residence at the educational institution granting the doctoral degree; and

(B) Require an original dissertation or equivalent that was psychological in nature that meets the requirement for an approved doctoral program.

(m) The core program shall require every student to demonstrate competence in each of the following substantive areas. This typically will be met through substantial instruction in each of these foundational areas, as demonstrated by a minimum of three graduate semester hours, five or more graduate quarter hours (when an academic term is other than a semester, credit hours will be evaluated on the basis of 15 hours of classroom instruction per semester hour).

(A) Scientific and professional ethics and standards;

(B) Research design and methodology;

(C) Statistics;

(D) Psychometric theory;

(E) Biological bases of behavior such as physiological psychology, comparative psychology, neuropsychology, sensation and perception, and psychopharmacology;

(F) Cognitive-affective bases of behavior such as learning, thinking, motivation, and emotion; and

(G) Social bases of behavior such as social psychology, group processes, organizational and systems theory.

(n) All professional education programs in psychology must include course requirements in developed practice areas/specialties.

(o) The program must demonstrate that it provides training relevant to the development of competence to practice in a diverse and multicultural society.

(3) Provide syllabi or other documentation regarding course content upon the Board's request.

(4) Demonstration of competence in clinical psychology shall be met by including a minimum of at least 3 or more semester hours or 5 or more quarter hours in each of the following clinical psychology content areas:

(a) Individual differences in behavior (e.g. personality theory, cultural difference and diversity);

(b) Human development (e.g. child, adolescent, geriatric psychology);

(c) Dysfunctional behavior, abnormal psychology or psychopathology;

(d) Theories and methods of intellectual assessment and diagnosis;

(e) Theories and methods of personality assessment and diagnosis including practical application;

(f) Effective interventions and evaluating the efficacy of interventions; and

(g) Consultation and supervision (e.g. community mental health, organizational behavior, consultation liaison).

Stat. Auth.: ORS 675.030

Stats. Implemented: ORS 675.030(1)(b)(c)

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 1-1992, f. & cert. ef. 1-16-92; PE 3-1992, f. & cert. ef. 7-14-92; PE 1-1996, f. & cert. ef. 6-25-96; PE 1-1997, f. & cert. ef. 6-17-97; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 1-2011, f. & cert. ef. 1-25-11; BPE 2-2011, f. & cert. ef. 5-31-11; BPE 3-2011, f. & cert. ef. 9-27-11

ADMINISTRATIVE RULES

858-010-0011

Education Requirements — Applied Psychologist

To meet the education requirement of ORS 675.030(1), applicants for licensure must:

(1) Possess:

(a) A doctoral degree in psychology from a program accredited by the American Psychological Association or the Canadian Psychological Association as of the date the degree was awarded;

(b) A doctoral degree in psychology from a program at an institution of higher learning that was accredited by a regional accrediting agency as of the date the degree was awarded;

(c) For Canadian universities, an institution of higher education that is provincially or territorially chartered; or

(d) A foreign degree from a program evaluated to be equivalent to American Psychological Association accreditation as of the date the degree was awarded. Evaluation must be completed by a credentialing body recognized by the Board. Submission of proof of foreign degree equivalency and cost of the foreign degree equivalency determination are the responsibility of the applicant.

(2) Show that his or her doctoral program in psychology meets all of the following requirements:

(a) Authorization to operate in Oregon by the Oregon Office of Degree Authorization.

(b) A minimum of three academic years of full-time graduate study.

(c) A minimum of one continuous year in residence at the institution from which the degree is granted.

(A) One continuous year means two consecutive semesters or three consecutive quarters.

(B) In residence means physical presence, in person, at an educational institution or training facility in a manner that facilitates acculturation into the profession, the full participation and integration of the individual in the educational and training experience, and includes faculty and student interaction.

(C) The doctoral program may include distance education, but a minimum of one continuous year of the program shall be in-residence. Programs that use physical presence, including face-to-face contact for durations of less than one continuous year, (e.g., multiple long weekends and/or summer intensive sessions) or that use video teleconferencing or other electronic means as a substitute for physical presence at the institution in order to meet the residency requirement are deemed not to be acceptable for licensure.

(D) Training models that rely exclusively on physical presence for periods of less than one continuous year (e.g., multiple long weekends and/or summer intensive sessions) or that use video teleconferencing or other electronic means as a substitute for physical presence at the institution do not meet the in residence requirement.

(d) The program, wherever it may be administratively housed, must be clearly identified and labeled as a program in psychology. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists.

(e) The psychology program must stand as a recognizable, coherent organizational entity within the institution.

(f) There must be a clear authority and primary responsibility for the core and specialty areas, whether or not the program cuts across administrative lines.

(g) The program must be an integrated, organized sequence of study.

(h) There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities and a psychologist responsible for the program.

(i) The program must have an identifiable body of students who are matriculated in that program for a degree.

(j) The program must include a coordinated, sequential and supervised practicum appropriate to the practice of psychology as described in OAR 858-010-0012.

(k) The program must include a coordinated, sequential and supervised internship, field or laboratory training appropriate to the practice of psychology as described in OAR 858-010-0013.

(l) The curriculum of the program must:

(A) Encompass a minimum of three academic years of full time graduate study, including a minimum of one continuous year in residence at the educational institution granting the doctoral degree; and

(B) Require an original dissertation or equivalent that was psychological in nature that meets the requirement for an approved doctoral program.

(m) The core program shall require every student to demonstrate competence in each of the following substantive areas. This typically will be

met through substantial instruction in each of these foundational areas, as demonstrated by a minimum of three graduate semester hours, five or more graduate quarter hours (when an academic term is other than a semester, credit hours will be evaluated on the basis of 15 hours of classroom instruction per semester hour).

(A) Scientific and professional ethics and standards;

(B) Research design and methodology;

(C) Statistics;

(D) Psychometric theory;

(E) Biological bases of behavior such as physiological psychology, comparative psychology, neuropsychology, sensation and perception, and psychopharmacology;

(F) Cognitive-affective bases of behavior such as learning, thinking, motivation, and emotion; and

(G) Social bases of behavior such as social psychology, group processes, organizational and systems theory.

(n) All professional education programs in psychology must include course requirements in developed practice areas/specialties.

(o) The program must demonstrate that it provides training relevant to the development of competence to practice in a diverse and multicultural society.

(3) Provide syllabi or other documentation regarding course content upon the Board's request.

(4) Demonstration of competence in applied psychology shall be met by including a minimum of at least 18 semester hours or 30 quarter hours in a concentrated program of study in an identified area of psychology, e.g., developmental, social, cognitive, motivation, applied behavioral analysis, industrial/organizational, human factors, personnel selection and evaluation.

Stat. Auth.: ORS 675.010 - 675.150

Stats. Implemented: ORS 675.030 & 675.110

Hist.: BPE 3-2011, f. & cert. ef. 9-27-11

858-010-0012

Practicum

(1) The doctoral degree program required in ORS 675.030(1) must include an organized practicum of at least two semesters (or three quarters) and at least 300 hours of direct experience, 100 hours of which must be in supervision.

(2) Supervision must include the following:

(a) Discussion of services provided by the student;

(b) Selection of service plan for and review of each case or work unit of the student;

(c) Discussion of and instruction in theoretical concepts underlying the work;

(d) Discussion of the management of professional practice and other administrative or business issues;

(e) Evaluation of the supervisory process by the student and the supervisor;

(f) Discussion of coordination of services among the professionals involved in the particular cases or work units;

(g) Discussion of relevant state laws and rules;

(h) Discussion of ethical principles including principles applicable to the work;

(i) Review of standards for providers of psychological services; and

(j) Discussion of reading materials relevant to cases, ethical issues and the supervisory process.

Stat. Auth.: ORS 675.010 - 675.150

Stats. Implemented: ORS 675.030 & 675.110

Hist.: BPE 3-2011, f. & cert. ef. 9-27-11

858-010-0013

Internship

(1) Applicants must successfully complete an organized internship as part of the doctoral degree program required in ORS 675.030(1).

(2) The internship must include at least 1,500 hours of supervised experience and be completed within twenty-four months.

(3) The internship program must meet the following requirements:

(a) The internship must have a written statement or brochure describing the goals and content of the internship, stating clear expectations and quality of student work, and made available to prospective interns.

(b) A psychologist licensed by the appropriate state or provincial licensing authority must be clearly designated as responsible for the integrity and quality of the internship program.

(c) Interns must use titles indicating their training status.

ADMINISTRATIVE RULES

(d) The internship must be designed to provide a planned sequence of training experiences focusing on breadth and quality of training. Supervision and training related to ethics must be ongoing.

(e) At least twenty-five percent of the internship experience must be in direct client contact providing assessment and intervention services.

(f) For every 40 hours of internship experience, the student must receive:

(A) At least 2 hours of regularly scheduled, formal, face-to-face individual supervision that addresses the direct psychological services provided by the intern; and

(B) At least 2 hours of other learning activities such as case conferences, seminars on applied issues, conducting co-therapy with a staff person including discussion of the case, and group supervision.

(3) Supervision of the internship experience.

(a) The internship setting must have two or more psychologists available as supervisors, at least one of whom is licensed as a psychologist.

(b) The internship experience must be supervised by the person(s) responsible for the assigned casework.

(c) At least seventy-five percent of the supervision must be by a licensed psychologist with two years post-license experience.

Stat. Auth.: ORS 675.010 - 675.150

Stats. Implemented: ORS 675.030 & 675.110

Hist.: BPE 3-2011, f. & cert. ef. 9-27-11

858-010-0015

Education Requirements — Clinical Psychologist Associate

(1) To meet the education requirement of ORS 675.030(1), an applicant must possess a masters degree in psychology from a program at an institution of higher learning that was accredited by a regional accrediting agency at the graduate level as of the date the degree was awarded, or for Canadian universities, an institution of higher education that was provincially or territorially chartered.

(2) The masters program must include at least 45 quarter hours or 30 semester hours of graduate credit, 30 quarter hours or 20 semester hours of which must be in graded (not "pass-no pass") courses. Hours must be from at least five of the basic areas of psychology including:

(a) Experimental psychology; Learning theory; Physiological psychology; Motivation; Perception; Comparative psychology; Statistical methods; Design of research; Developmental psychology; Individual differences; Social psychology; Organizational psychology; Personality theory; Abnormal psychology; and

(b) A minimum of one graduate level course in ethics; and

(c) A minimum of one graduate level course psychological tests and measurements.

Stat. Auth.: ORS 675.065

Stats. Implemented: ORS 675.065(1)(4)(c)

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 1-1979, f. & ef. 9-5-79; PE 1-1989(Temp), f. & cert. ef. 2-24-89; PE 2-1989, f. & cert. ef. 5-24-89; PE 3-1989(Temp), f. & cert. ef. 9-7-89; PE 1-1990, f. & cert. ef. 2-16-90; PE 3-1992, f. & cert. ef. 7-14-92; PE 1-1993(Temp), f. & cert. ef. 2-12-93; PE 3-1993, f. & cert. ef. 4-13-93; PE 5-1993, f. & cert. ef. 10-6-93; PE 1-1995, f. & cert. ef. 2-16-95; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 1-2002(Temp), f. & cert. ef. 1-28-02, cert. ef. 1-31-02 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 1-2011, f. & cert. ef. 1-25-11; BPE 3-2011, f. & cert. ef. 9-27-11

858-010-0016

Standard Application Procedure

(1) **Filing of Applications.** Upon receipt of an application for licensure, the Board shall process the application and determine if the application is ready for review. An application is considered ready for review when the following items have been received:

(a) Proof of masters or doctorate degree;

(A) Final graduate level transcript imprinted with date degree was awarded; or

(B) A Verification of Educational Degree Form;

(b) University Accreditation Form (non-APA accredited schools only);

(c) Reference forms;

(d) Educational Record in Psychology Form (non-APA accredited schools only);

(e) Social Security Number Authorization Form;

(f) Verification of pre-degree supervised work;

(g) Verification of post-degree supervised work experience (if any);

(h) National written examination (EPPP) score (if any);

(i) Verification of licensure in other states (if any);

(j) Verification of ABPP status (if any);

(k) Application fee;

(l) Criminal background check fee, and

(m) Other clarifying information requested by the Board.

(2) The Board may issue a license if the candidate for licensure:

(a) Meets the education requirements of OAR 858-010-0010, 858-010-0011, or 858-010-0015;

(b) Completes the supervised work experience requirements of OAR 858-010-0037 or 858-010-0038.

(c) Passes the national written examination (EPPP); and

(d) Passes the Oregon jurisprudence examination.

Stat. Auth.: ORS 675.030

Stats. Implemented: ORS 675.030(1)(a)(b)(c)(d)(e)(2)

Hist.: BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 2-2011, f. & cert. ef. 5-31-11; BPE 3-2011, f. & cert. ef. 9-27-11

858-010-0017

Non-Standard Application Procedure

(1) **ABPP Board Certified.** If an applicant is ABPP Board Certified by the American Board of Professional Psychology (ABPP), the applicant's ABPP file will be accepted as primary source documentation and the Board may issue a license if the applicant:

(a) Has met the educational requirements for licensure of OAR 858-010-0010, 858-010-0011, or 858-010-0015;

(b) Has complied with the supervised work experience requirements of OAR 858-010-0037 or 858-010-0038;

(c) Submits a complete application for licensure as described in OAR 858-010-0016(1);

(d) Requests ABPP to send a copy of the applicant's Certification file directly to the Oregon Board;

(e) Passes the Oregon jurisprudence examination;

(f) Has received a passing score on the National Written Examination (EPPP);

(g) Pays the criminal background check fee; and

(h) Pays the application fee.

(2) **Certificate of Professional Qualification (CPQ).** If an applicant holds a valid Certificate of Professional Qualification (CPQ) issued by the Association of State and Provincial Psychology Board (ASPPB), the applicant's CPQ file will be accepted as primary source documentation and the Board may issue a license if the applicant:

(a) Has met the educational requirements for licensure of OAR 858-010-0010, 858-010-0011, or 858-010-0015;

(b) Has complied with the supervised work experience requirements of OAR 858-010-0037 or 858-010-0038;

(c) Submits a complete application for licensure as described in OAR 858-010-0016(1);

(d) Requests ASPPB to send a copy of the applicant's CPQ file directly to the Oregon Board;

(e) Passes the Oregon jurisprudence examination;

(f) Has received a passing score on the National Written Examination (EPPP);

(g) Pays the criminal background check fee; and

(h) Pays the application fee.

(3) **Health Service Provider in Psychology (HSPP).** If an applicant holds a valid HSPP credential issued by the National Register, the applicant's HSPP file will be accepted as primary source documentation and the Board may issue a license if the applicant:

(a) Has met the educational requirements for licensure of OAR 858-010-0010, 858-010-0011, or 858-010-0015;

(b) Has complied with the supervised work experience requirements of OAR 858-010-0037 or 858-010-0038;

(c) Possesses and has maintained an active license as a psychologist in another state for at least five years;

(d) Submits a complete application for licensure as described in OAR 858-010-0016(1);

(e) Requests the National Register to send a copy of the applicant's HSPP file directly to the Board;

(f) Passes the Oregon jurisprudence examination;

(g) Has received a passing score on the National Written Examination (EPPP);

(h) Pays the criminal background check fee; and

(i) Pays the application fee.

(4) **Licensed in Another State.** If an applicant possesses a license to practice psychology based on a doctoral degree in psychology that is issued by a board with licensing standards equivalent to Oregon, the applicant's licensure file will be accepted as primary source documentation and the Board may issue a license if the applicant:

(a) Has met the educational requirements for licensure of OAR 858-010-0010, 858-010-0011, or 858-010-0015;

ADMINISTRATIVE RULES

(b) Has complied with the supervised work experience requirements of OAR 858-010-0037 or 858-010-0038;

(c) Submits a complete application for licensure as described in OAR 858-010-0016(1);

(d) Requests the state(s) in which the applicant is licensed to send a copy of the applicant's licensure file directly to the Oregon Board;

(e) Passes the Oregon jurisprudence examination;

(f) Has received a passing score on the National Written Examination (EPPP);

(g) Pays the criminal background check fee; and

(h) Pays the application fee.

Stat. Auth.: ORS 675.030

Stats. Implemented: ORS 675.030

Hist.: BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 2-2011, f. & cert. ef. 5-31-11; BPE 3-2011, f. & cert. ef. 9-27-11

858-010-0020

Process and Disposition of Application for License

(1) Application Review Procedure. When the application and all of the required supporting documents have been received, the application file shall be reviewed for eligibility. The reviewer shall either:

(a) Approve the application. When the reviewer determines the application is complete, a letter of approval shall be sent notifying the applicant of eligibility to take the EPPP and the Jurisprudence examination and to enter into a Resident Supervision Contract.

(b) Deny the application. If the application is denied, the reviewer shall send the applicant a letter stating the reason.

(c) Full Board review. Under unusual circumstances, the application will be reviewed by the full Board for determination of disposition.

(d) Incomplete Application. If the application is incomplete, the reviewer shall send the applicant a letter stating the reason.

(e) Request for Review. Applicants for licensure may request, in writing, that any decision by the reviewer be reconsidered by the Board.

(2) Active Application. The Board shall maintain an incomplete application file for one year from the date the application was received. A file shall be presumed inactive if correspondence from the Board is returned as "undeliverable."

(3) The Board may extend the application period upon written request prior to the one year expiration date. Failure to receive a courtesy reminder notice from the Board shall not relieve an applicant of the responsibility to request an extension.

(4) Reapplication. If an application for licensure has been denied by the Board for any reason, the Board will not review a second application until at least one year has lapsed from the date of the previous denial.

(5) Information Changes. An Applicant must notify the Board immediately if any information submitted on the application changes, including but not limited to: name; address and telephone number; complaints; disciplinary actions; and, civil, criminal, or ethical charges and employment investigations which lead to termination or resignation. Failure to do so may be grounds for denial of the application or revocation of the license, once issued.

Stat. Auth.: ORS 675.040, 675.045 & 675.050

Stats. Implemented: ORS 675.040(1)(2)(3), 675.045(1)(2)(a)(b), 675.050(1)(a)(b)(2)

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 2-1989, f. & cert. ef. 5-24-89; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 3-2011, f. & cert. ef. 9-27-11

858-010-0025

Procedure for Written Examination

(1) National Written Examination. The Board shall utilize the Examination for Professional Practice in Psychology (EPPP) developed by the Professional Examination Service (PES) for the Association of State and Provincial Psychology Boards (ASPPB).

(a) Candidates for licensure who are prepared to take the EPPP must submit a written request to the Board. The Board shall provide PES with the names of eligible candidates.

(b) Candidates for licensure who have taken the EPPP prior to April 20, 1990, must have passed the examination by achieving a score at or above the national mean of doctoral candidates taking the examination for the first time on that day. Candidates who have taken the EPPP prior to April 1993 must have passed the examination by achieving a score at or above the national mean of doctoral candidates taking the examination for the first time on that day or 75 percent, whichever is lower. The passing score for the EPPP from April 1993 to April 2001 shall be 140 or 70 percent. For computer administered forms of the EPPP, the Board requires a scaled score of 500.

(c) Special Accommodations. The Board shall provide PES an approval for special accommodations for a verified disability or for English as a second language upon written request by the candidate as described in OAR 858-010-0030(5).

(2) Re-examination. Any candidate who fails to achieve a passing score on the EPPP shall be allowed to take the examination a second time. If the examination is failed twice, the candidate must submit a written study plan for the Board to review and approve.

Stat. Auth.: ORS 675.040 & 675.045

Stats. Implemented: ORS 675.040 & 675.045

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 1-1979, f. & cert. ef. 9-5-79; PE 1-1980, f. & cert. ef. 3-10-80; PE 1-1981(Temp), f. & cert. ef. 12-9-81; PE 1-1982, f. & cert. ef. 6-1-82; PE 2-1982, f. & cert. ef. 7-23-82; PE 2-1989, f. & cert. ef. 5-24-89; PE 1-1990, f. & cert. ef. 2-16-90; PE 1-1991, f. & cert. ef. 4-3-91; PE 3-1993, f. & cert. ef. 4-13-93; PE 4-1993, f. & cert. ef. 7-19-93; PE 1-1995, f. & cert. ef. 2-16-95; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 3-2011, f. & cert. ef. 9-27-11

858-010-0036

Guidelines for Supervised Work Experience

(1) Policy. Two years of supervised work experience is required for licensure. A minimum of one year of the required work experience must take place after the doctorate degree is conferred.

(a) One year of supervised work experience is defined as 1,500 hours of clinical or applied psychological services performed over a period not less than twelve months.

(b) The Board may approve one year of pre-doctoral supervised work experience if the experience was a formal requirement of the applicant's doctoral program.

(c) Psychological services are defined as direct psychological services to an individual, group or organization; diagnosis and assessment; completing documentation related to services provided; client needs meetings and consultation; psychological testing; research related to client services; report writing; and receiving formal training including workshops and conferences.

(d) For the purposes of licensure, psychological services do not include business development; credentialing activities; marketing; purchasing; creating forms; administrative billing or other business management activities.

(2) The following guidelines shall be used by the Board to define supervised employment.

(a) While obtaining postdoctoral supervised work experience, the candidate for licensure must be in a Board approved Resident Supervision Contract:

(A) Working under the supervision of an Oregon licensed psychologist licensed in Oregon for at least two years; or

(B) Working under the supervision of an Oregon licensed psychologist licensed for at least two years in a state with licensing standards comparable to Oregon.

(b) To receive supervised work experience credit from other jurisdictions, the experience must be a formal arrangement under the supervision of a psychologist who has been licensed for at least two years in a state with licensing standards comparable to Oregon.

(3) Candidates for licensure shall be eligible to enter into a Resident Supervision Contract as described in subsection (2)(a) of this rule.

(a) Resident status shall begin the date the Board approves the Resident Supervision Contract.

(b) Termination of a Resident Supervision Contract will be granted by the Board at the written request of the supervisor or the resident. The termination shall be effective at the time the Board approves the request in writing, or on the date indicated by the supervisor in the final residency evaluation, whichever is later.

(c) If the supervisor is to be paid for supervision payment must be in the form of a per-hour fee.

(d) Supervision of more than three residents concurrently shall require prior approval by the Board.

(4) Resident's Responsibilities. The resident's conduct must conform to the following standards:

(a) Title. The resident must be designated at all times by the title "clinical psychologist resident" or "applied psychologist resident." All signed materials, letterhead, business cards, telephone directory listings, internet postings, brochures, insurance billing and any other public or private representation must include the individual's title as "clinical psychologist resident" or "applied psychologist resident" and the supervisor's name and designation "supervisor."

(b) Scope of Practice. The resident will only offer services in those areas that the supervisor is competent.

ADMINISTRATIVE RULES

(c) Nature of Supervision. The resident must obtain frequent and regular supervision meetings throughout the duration of the Resident Supervision Contract. The resident must provide the supervisor with a periodic evaluation of all cases and psychological activities in which the resident is engaged. The resident's practice must comply with Oregon laws and administrative rules.

(d) The supervisor is not required to be working on-site with the resident.

(e) Non-routine individual supervision may occur by electronic means when geographical distance, weather or emergency prohibit a face-to-face meeting.

(f) Frequency. If a resident works 1–20 hours in a week the resident must at least one hour of individual supervision every week. If a resident works more than 20 hours in a week the resident must receive at least two hours of supervision every week. One hour must be individual and one hour may be group supervision. On a non-routine basis individual supervision may be delayed up to 14 days to accommodate vacations, illness, travel or inclement weather.

(A) Group supervision must be:

(i) A formal and on-going group of at least three mental health professionals;

(ii) Facilitated by a licensed psychologist;

(iii) Approved by the resident's supervisor; and

(iv) All legal and ethical issues must be referred back to the supervisor if the group facilitator is not a licensed psychologist.

(g) Duration. The resident status is a transitional step toward licensure and is not intended as a means to avoid licensure. A Resident Supervision Contract shall be effective for a period, not to exceed two years from the date of Board approval. The Board may extend the contract beyond two years upon a written request from the resident and the supervisor prior to the expiration of the contract. Failure to receive a courtesy reminder notice from the Board shall not relieve the resident of the responsibility to request an extension.

(h) Confidentiality. The resident must advise all clients orally and in their informed consent policy that the supervisor may have access to all information and material relevant to the client's case.

(i) Promptly communicate to the Board any significant interruption or expected termination of the Resident Supervision Contract;

(j) The resident must discuss with their supervisor the Supervisor Evaluation Report at the conclusion or termination of the Resident Supervision Contract.

(5) Responsibilities of the Supervisor. The supervisor's conduct must conform to the following standards:

(a) Closely review, supervise and evaluate representative and problem cases with attention to diagnostic evaluation, treatment planning, ongoing case management, emergency intervention, recordkeeping and termination;

(b) Countersign all psychological reports and professional correspondence produced by the resident; and ensure that letterhead, business cards, telephone directory listings, internet postings, brochures, insurance billing and any other public or private representation includes the appropriate title of "clinical psychologist resident" or "psychologist associate resident" and the supervisor's name and designation as "supervisor." Client progress notes do not need to be co-signed by the supervisor.

(c) Review with the resident, Oregon laws and administrative rules related to the practice of psychology, including the current APA "Ethical Principles of Psychologists and Code of Conduct," professional relationships and referrals, protection of records, billing practices, recordkeeping and report writing;

(d) Assist the psychologist resident in developing a plan to prepare for the national written exam and the Oregon jurisprudence examination;

(e) Promptly communicate to the Board any professional or ethical concerns regarding the resident's conduct or performance;

(f) Promptly communicate to the Board any significant interruption or expected termination of the Resident Supervision Contract;

(g) Ensure that the resident has access to supervision by telephone to discuss urgent matters, if the supervisor is unavailable for any reason, during a period not to exceed fourteen days;

(h) In the absence of the primary supervisor, not to exceed fourteen days, one-on-one supervision hours may be conducted retro-actively;

(i) Keep notes of each supervisory session, and provide them to the Board upon request;

(j) Maintain a record of hours of supervision and provide it to the Board upon request;

(k) Provide the Board with an interim Resident Evaluation Report upon request; and

(l) Provide the Board with a final Resident Evaluation Report at the conclusion or termination of the Resident Supervision Contract.

(6) Associate Supervisor. Any supervision of the resident by a person other than the primary supervisor must be identified in the Resident Contract and approved by the Board.

(a) The associate supervisor is responsible for providing supervision as described in section (5) of this rule in the event that the primary supervisor is unavailable for any reason; and

(b) The associate supervisor is responsible for reporting any professional or ethical concerns regarding the resident's conduct or performance to the primary supervisor and the Board.

Stat. Auth.: ORS 675.030, 675.040, 675.045, 675.050, 675.065 & 675.110

Stats. Implemented: ORS 675.030, 675.040, 675.045, 675.050, 675.065, 675.110

Hist.: PE 1-1988, f. & cert. ef. 7-25-88; PE 1-1990, f. & cert. ef. 2-16-90; PE 1-1991, f. & cert. ef. 4-3-91; PE 2-1991, f. 8-15-91, cert. ef. 8-16-91; PE 4-1993, f. & cert. ef. 7-19-93; PE 1-1996, f. & cert. ef. 6-25-96; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 4-2002, f. & cert. ef. 10-11-02; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 1-2011, f. & cert. ef. 1-25-11; BPE 2-2011, f. & cert. ef. 5-31-11; BPE 3-2011, f. & cert. ef. 9-27-11

858-010-0037

Supervised Work Experience — Clinical Psychologist Associate

(1) Applicants must complete a one year full-time internship or one year of other supervised learning practicum deemed equivalent by the Board. The internship or practicum must meet the requirements of OAR 858-010-0012 or 858-010-0013.

(2) Applicants must complete three years of full-time post-masters degree supervised work experience. The guidelines used by the Board to define the three-year supervised work experience requirement for psychologist associate applicants shall conform to those guidelines used in OAR 858-010-0036, except that:

(a) The resident shall be designated at all times by the title "clinical psychologist associate resident"; and

(b) A Resident Supervision Contract will be effective for a period not to exceed four years. The Board, in its discretion, may extend the contract beyond four years.

Stat. Auth.: ORS 675.065 & 675.110

Stats. Implemented: ORS 675.065 & 675.110

Hist.: BPE 1-2010, f. & cert. ef. 1-8-10; BPE 3-2011, f. & cert. ef. 9-27-11

858-010-0038

Continued Supervision — Licensed Clinical Psychologist Associate

Before the initial license is issued, the psychologist associate and the supervising psychologist must submit a "Contract for Continued Supervision of a Licensed Clinical Psychologist Associate." Day-to-day supervision of the licensed clinical psychologist associate is the responsibility of the supervisor and includes such face-to-face consultation as is required by the nature of the work of the clinical psychologist associate, and is consistent with accepted professional practices in psychology.

Stat. Auth.: ORS 675.065 & 675.110

Stats. Implemented: ORS 675.065 & 675.110

Hist.: BPE 1-2010, f. & cert. ef. 1-8-10; BPE 3-2011, f. & cert. ef. 9-27-11

858-010-0039

Application for Independent Status — Clinical Psychologist Associate

A licensed clinical psychologist associate may apply to the Board for approval to function as an independent clinical psychologist associate. Independent status will be granted only after at least three years of work as a licensed clinical psychologist associate or a clinical psychologist at a demonstrated high level of professional proficiency.

Stat. Auth.: ORS 675.065 & 675.110

Stats. Implemented: ORS 675.065 & 675.110

Hist.: BPE 1-2010, f. & cert. ef. 1-8-10; BPE 1-2011, f. & cert. ef. 1-25-11; BPE 3-2011, f. & cert. ef. 9-27-11

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Bureau of Labor and Industries Chapter 839

Rule Caption: Amends the prevailing rates of wage for the period beginning July 1, 2011.

Adm. Order No.: BLI 7-2011

Filed with Sec. of State: 10-12-2011

Certified to be Effective: 10-12-11

Notice Publication Date:

Rules Amended: 839-025-0700

Subject: The amended rule amends the prevailing rates of wage as determined by the Commissioner of the Bureau of Labor and industries for the period beginning July 1, 2011.

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

ADMINISTRATIVE RULES

839-025-0700

Prevailing Wage Rate Determination/Amendments to Determination

(1) Pursuant to ORS 279C.815, the Commissioner of the Bureau of Labor and Industries has determined that the wage rates stated in the publication of the Bureau of Labor and Industries entitled *Prevailing Wage Rates on Public Works Contracts in Oregon* dated July 1, 2011, are the prevailing rates of wage for workers upon public works in each trade or occupation in the locality where work is performed for the period beginning July 1, 2011, and the effective dates of the applicable special wage determination and rates amendments: Amendments to Oregon Determination 2011-02 (effective October 1, 2011).

(2) Copies of *Prevailing Wage Rates on Public Works Contracts in Oregon* dated July 1, 2011, are available from any office of the Wage and Hour Division of the Bureau of Labor and Industries. The offices are located in Eugene, Portland and Salem and are listed in the blue pages of the phone book. Copies are also available on the bureau's webpage at www.oregon.gov/boli or may be obtained from the Prevailing Wage Rate Coordinator, Prevailing Wage Rate Unit, Wage and Hour Division, Bureau of Labor and Industries, 800 NE Oregon Street #1045, Portland, Oregon 97232; (971) 673-0839.

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

Stats. Implemented: ORS 279C.815

Hist.: BLI 7-1998(Temp), f. & cert. ef. 10-29-98 thru 4-27-99; BLI 1-1999, f. 1-8-99, cert. ef. 1-15-99; BLI 4-1999, f. 6-16-99, cert. ef. 7-1-99; BLI 6-1999, f. & cert. ef. 7-23-99; BLI 9-1999, f. 9-14-99, cert. ef. 10-1-99; BLI 16-1999, f. 12-8-99, cert. ef. 1-1-00; BLI 4-2000, f. & cert. ef. 2-1-00; BLI 9-2000, f. & cert. ef. 3-1-00; BLI 10-2000, f. 3-17-00, cert. ef. 4-1-00; BLI 22-2000, f. 9-25-00, cert. ef. 10-1-00; BLI 26-2000, f. 12-14-00 cert. ef. 1-1-01; BLI 1-2001, f. & cert. ef. 1-5-01; BLI 3-2001, f. & cert. ef. 3-15-01; BLI 4-2001, f. 3-27-01, cert. ef. 4-1-01; BLI 5-2001, f. 6-21-01, cert. ef. 7-1-01; BLI 8-2001, f. & cert. ef. 7-20-01; BLI 14-2001, f. 9-26-01, cert. ef. 10-1-01; BLI 16-2001, f. 12-28-01, cert. ef. 1-1-02; BLI 2-2002, f. 1-16-02, cert. ef. 1-18-02; BLI 8-2002, f. 3-25-02, cert. ef. 4-1-02; BLI 12-2002, f. 6-19-02 cert. ef. 7-1-02; BLI 16-2002, f. 12-24-02 cert. ef. 1-1-03; BLI 1-2003, f. 1-29-03, cert. ef. 2-14-03; BLI 3-2003, f. & cert. ef. 4-1-03; BLI 4-2003, f. 6-26-03, cert. ef. 7-1-03; BLI 5-2003, f. 9-17-03, cert. ef. 10-1-03; BLI 9-2003, f. 12-31-03, cert. ef. 1-5-04; BLI 1-2004, f. 4-9-04, cert. ef. 4-15-04; BLI 6-2004, f. 6-25-04, cert. ef. 7-1-04; BLI 11-2004, f. & cert. ef. 10-1-04; BLI 17-2004, f. 12-10-04 cert. ef. 12-13-04; BLI 18-2004, f. 12-20-04, cert. ef. 1-1-05; Renumbered from 839-016-0700, BLI 7-2005, f. 2-25-05, cert. ef. 3-1-05; BLI 8-2005, f. 3-29-05, cert. ef. 4-1-05; BLI 18-2005, f. 9-19-05, cert. ef. 9-20-05; BLI 19-2005, f. 9-23-05, cert. ef. 10-1-05; BLI 26-2005, f. 12-23-05, cert. ef. 1-1-06; BLI 1-2006, f. 1-24-06, cert. ef. 1-25-06; BLI 2-2006, f. & cert. ef. 2-9-06; BLI 4-2006, f. 2-23-06, cert. ef. 2-24-06; BLI 14-2006, f. 3-30-06, cert. ef. 4-1-06; BLI 20-2006, f. & cert. ef. 6-16-06; BLI 21-2006, f. 6-16-06 cert. ef. 7-1-06; BLI 23-2006, f. 6-27-06 cert. ef. 6-29-06; BLI 25-2006, f. & cert. ef. 7-11-06; BLI 26-2006, f. & cert. ef. 7-13-06; BLI 28-2006, f. 7-21-06, cert. ef. 7-24-06; BLI 29-2006, f. 8-8-06, cert. ef. 8-9-06; BLI 32-2006, f. & cert. ef. 9-13-06; BLI 33-2006, f. 9-28-06, cert. ef. 10-1-06; BLI 36-2006, f. & cert. ef. 10-4-06; BLI 37-2006, f. & cert. ef. 10-19-06; BLI 40-2006, f. 11-17-06, cert. ef. 11-20-06; BLI 43-2006, f. 12-7-06, cert. ef. 12-8-06; BLI 45-2006, f. 12-26-06, cert. ef. 1-1-07; BLI 5-2007, f. 1-30-07, cert. ef. 1-31-07; BLI 6-2007, f. & cert. ef. 3-5-07; BLI 7-2007, f. 3-28-07, cert. ef. 3-30-07; BLI 8-2007, f. 3-29-07, cert. ef. 4-1-07; BLI 9-2007, f. & cert. ef. 4-2-07; BLI 10-2007, f. & cert. ef. 4-30-07; BLI 12-2007, f. & cert. ef. 5-31-07; BLI 13-2007, f. 6-8-07, cert. ef. 6-11-07; BLI 14-2007, f. 6-27-07, cert. ef. 6-28-07; BLI 15-2007, f. & cert. ef. 6-28-07; BLI 16-2007, f. 6-29-07, cert. ef. 7-1-07; BLI 18-2007, f. 7-10-07, cert. ef. 7-12-07; BLI 21-2007, f. 8-3-07, cert. ef. 8-8-07; BLI 22-2007, cert. ef. 8-30-07; BLI 23-2007, f. 8-31-07, cert. ef. 9-4-07; BLI 24-2007, f. 9-11-07, cert. ef. 9-12-07; BLI 25-2007, f. 9-19-07, cert. ef. 9-20-07; BLI 26-2007, f. 9-25-07 cert. ef. 9-26-07; BLI 27-2007, f. 9-25-07 cert. ef. 10-1-07; BLI 28-2007, f. 9-26-07 cert. ef. 10-1-07; BLI 31-2007, f. 11-20-07, cert. ef. 11-23-07; BLI 34-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 1-2008, f. & cert. ef. 1-4-08; BLI 2-2008, f. & cert. ef. 1-11-08; BLI 3-2008, f. & cert. ef. 2-21-08; BLI 6-2008, f. & cert. ef. 3-13-08; BLI 8-2008, f. 3-31-08, cert. ef. 4-1-08; BLI 9-2008, f. & cert. ef. 4-14-08; BLI 11-2008, f. & cert. ef. 4-24-08; BLI 12-2008, f. & cert. ef. 4-30-08; BLI 16-2008, f. & cert. ef. 6-11-08; BLI 17-2008, f. & cert. ef. 6-18-08; BLI 19-2008, f. & cert. ef. 6-26-08; BLI 20-2008, f. & cert. ef. 7-1-08; BLI 23-2008, f. & cert. ef. 7-10-08; BLI 26-2008, f. & cert. ef. 7-30-08; BLI 28-2008, f. & cert. ef. 9-3-08; BLI 30-2008, f. & cert. ef. 9-25-08; BLI 31-2008, f. 9-29-08, cert. ef. 10-1-08; BLI 32-2008, f. & cert. ef. 10-8-08; BLI 36-2008, f. & cert. ef. 10-29-08; BLI 41-2008, f. & cert. ef. 11-12-08; BLI 42-2008, f. & cert. ef. 12-1-08; BLI 44-2008, f. & cert. ef. 12-29-08; BLI 45-2008, f. 12-31-08, cert. ef. 1-1-09; BLI 1-2009, f. & cert. ef. 1-6-09; BLI 2-2009, f. & cert. ef. 1-12-09; BLI 4-2009, f. & cert. ef. 2-11-09; BLI 6-2009, f. & cert. ef. 3-17-09; BLI 7-2009, f. & cert. ef. 3-24-09; BLI 8-2009, f. 3-31-09, cert. ef. 4-1-09; BLI 10-2009, f. 6-9-09, cert. ef. 6-10-09; BLI 11-2009, f. 6-29-09, cert. ef. 6-30-09; BLI 12-2009, f. 6-29-09, cert. ef. 7-1-09; BLI 13-2009, f. & cert. ef. 7-1-09; BLI 14-2009, f. & cert. ef. 7-10-09; BLI 15-2009, f. & cert. ef. 7-16-09; BLI 16-2009, f. & cert. ef. 7-22-09; BLI 17-2009, f. & cert. ef. 7-29-09; BLI 19-2009, f. & cert. ef. 8-18-09; BLI 20-2009, f. & cert. ef. 9-14-09; BLI 21-2009, f. & cert. ef. 9-21-09; BLI 22-2009, f. 9-30-09, cert. ef. 10-1-09; BLI 23-2009, f. & cert. ef. 10-8-09; BLI 24-2009, f. & cert. ef. 11-12-09; BLI 25-2009, f. & cert. ef. 11-23-09; BLI 29-2009, f. 12-31-09, cert. ef. 1-1-10; BLI 1-2010, f. 1-8-10, cert. ef. 1-12-10; BLI 2-2010, f. 1-11-10, cert. ef. 1-13-10; BLI 3-2010, f. & cert. ef. 1-19-10; BLI 4-2010, f. & cert. ef. 1-27-10; BLI 13-2010, f. & cert. ef. 4-1-10; BLI 17-2010, f. 6-29-10, cert. ef. 7-1-10; BLI 20-2010, f. & cert. ef. 10-1-10; BLI 24-2010, f. 12-30-10, cert. ef. 1-1-11; BLI 2-2011, f. 3-25-11, cert. ef. 4-1-11; BLI 4-2011, f. 6-30-11, cert. ef. 7-1-11; BLI 7-2011, f. & cert. ef. 10-12-11

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Rule Caption: New and amended rule language to conform to and implement statutes and correct typographical errors.

Adm. Order No.: BLI 8-2011

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Rules Amended: 839-003-0005, 839-003-0025, 839-003-0100, 839-005-0010, 839-005-0026, 839-005-0031, 839-005-0070, 839-005-0080, 839-005-0200, 839-005-0206, 839-005-0220, 839-006-0240, 839-006-0275, 839-006-0307, 839-006-0455, 839-009-0210, 839-009-0250, 839-009-0280, 839-009-0330, 839-009-0340, 839-009-0365, 839-009-0400, 839-009-0450

Subject: The proposed rules and amendments would clarify that service animals may be a reasonable accommodation in housing for an individual with a disability; implement statutes prohibiting discrimination based on disability in public accommodation consistent with federal law; conform definition of "in loco parentis" as used in the Oregon Family Leave Act (OFLA) with federal definition; clarify that the period of time for an employer to ask for more information about a request for OFLA leave and the period of time the employee has to respond is more than a total of 5 days; clarify the amount of time employers have to provide notice that an employee using unforeseeable OFLA leave must use accrued paid leave; clarify acceptable means of notice that employees taking OFLA must use paid leave; clarify amount of time employer has to notify employees they are eligible for OFLA leave; and clarify how a discrimination complaint is verified.

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

839-003-0005

Definitions

For purposes of these rules:

(1) "Administrator" means the Administrator of the Civil Rights Division of the Bureau of Labor and Industries or a designee of the administrator.

(2) "Bureau" means the Bureau of Labor and Industries.

(3) "Commissioner" means the Commissioner of the Bureau of Labor and Industries or a designee of the commissioner.

(4) "Complaint" means for the purpose of ORS Chapter 659A, except housing discrimination complaints under ORS 659A.145 or 659A.421 or federal housing law, a written, verified statement that:

(a) Gives the name and address of the complainant and the respondent;

(b) Identifies the protected class basis of the complaint;

(c) Is signed by the complainant;

(d) Describes the actions complained of, including:

(A) The date(s) of occurrence;

(B) What the action was and how it harmed the complainant; and

(C) The causal connection between the complainant's protected class and the alleged harm.

(5) "Complainant" means a person filing a complaint personally or through an attorney.

(6) "Days," unless otherwise stated in the text of a document, means calendar days. "Work days" means Monday through Friday, except holidays officially recognized by the State of Oregon or the federal government.

(7) "Division" means the Civil Rights Division of the Bureau of Labor and Industries.

(8) "EEOC" means the Equal Employment Opportunity Commission of the federal government.

(9) "Federal Housing Law" means The Fair Housing Act (42 U.S.C. 3601 et seq.) for which the U.S. Department of Housing And Urban Development ("HUD") has jurisdiction.

(10) "Notice" means written information delivered personally or sent by mail to the person's last known personal or business address or business address of the person's designated representative.

(11) "OSEA" means the Oregon Safe Employment Act, ORS 654.001 et seq.

(12) "Protected class" means a group of people protected by law from discrimination on the basis of a shared characteristic, or a perception of that characteristic, such as race, sex, age, disability or other.

(13) "Person" has the meaning given in ORS 659A.001(9).

(14) "Respondent" includes any person or other entity against whom a complaint or charge of unlawful practices is filed with the division or whose name has been added to such complaint or charge pursuant to ORS 659A.835(1).

(15) "Formal Charges" are formal charges drafted and issued by the bureau's Hearings Unit.

ADMINISTRATIVE RULES

(16) "Substantial evidence" means proof that a reasonable person would accept as sufficient to support the allegations of the complaint.

(17) "Substantial Evidence Determination" means the division's written findings of substantial evidence.

(18) "Written verified complaint" means a complaint that is:

- (a) In writing; and
- (b) Under oath or affirmation.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS ch. 659A

Hist.: BL 7-1981, f. & ef. 6-25-81; BL 7-1982, f. & ef. 4-22-82; BL 4-1996, f. & cert. ef. 3-12-96; BLI 11-2000, f. & cert. ef. 3-24-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 36-2007 f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 6-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

839-003-0025

Filing a Complaint

This section does not apply to housing discrimination complaints under ORS 659A.145 or 659A.421 or federal housing law. Complaints of housing discrimination must be filed in accordance with OAR 839-003-0200.

(1) A person or the person's attorney may file a complaint, in person or by mail, with the division at any bureau office in the state of Oregon. The complaint must meet the standards provided in OAR 839-003-0005(4).

(2) The filing date is the date the division receives a complaint that meets the standards contained in OAR 839-003-0005(4).

(3) Except as provided in section (5) of this rule, a person must file a complaint with the division no later than one year after the alleged unlawful practice. If the alleged unlawful practice is of a continuing nature, the right to file a complaint exists so long as the person files the complaint within one year of the most recent date the unlawful practice occurred.

(4) A person alleging constructive discharge must file a discrimination complaint with the division within one year of the date the discharge occurred.

(5) A person alleging discrimination for reporting or opposing unsafe or unhealthy work conditions under ORS 654.062 must contact the division within 90 days of having reasonable cause to believe that such violation has occurred. An employee would have reasonable cause to believe a violation has occurred on the earliest date that the employee:

(a) Believed retaliation had occurred against the employee for opposing employee health and safety hazards; and

(b) Knew or should have known of the right to file a complaint with the division and of the requirement that the complaint be filed within 90 days of the alleged retaliation.

(A) If a notice required by OSEA, as provided in OAR 437-001-0275(2)(a), was properly posted in the employee's workplace, continuously on and following the date of the alleged retaliation, the division will find that the employee knew or should have known of the 90-day filing requirement.

(B) If the employer failed to post the required OSEA poster, the 90-day filing requirement will begin on the date the employee learned of the right to file a complaint and of the 90-day filing requirement. The employee may establish this date based on the employee's own statement or other evidence offered by the employee.

(C) If the employer disagrees with the employee's presented date as the date the employee learned of the right to file a complaint, the burden is on the employer to show that the employee knew or should have known on an earlier date.

(D) If extenuating circumstances exist, the division may extend the 90-day period as provided in 29 CFR 1977.15(d)(3).

(6) The procedures for filing a complaint are as follows:

(a) A person or the person's attorney makes an inquiry to the division;

(b) The division may provide the person or the person's attorney with a letter of information and/or questionnaire to assist in determining if there is a basis for filing a complaint;

(c) If the division determines the person has a basis for filing a complaint, the division will draft a complaint based upon the information provided by the person and send or give the complaint to the person or the person's attorney for verification. The person or the person's attorney will request any necessary changes to the complaint.

(d) The person will verify and sign the complaint. The complaint will then be submitted to the division.

(e) If the person is an unemancipated minor the complaint must be signed by the minor and the parent or legal guardian of the minor.

Stat. Auth.: ORS 659A.805
Stats. Implemented: ORS 654.062 & Ch 659A

Hist.: BL 7-1981, f. & ef. 6-25-81; BL 4-1996, f. & cert. ef. 3-12-96; BL 2-1998, f. & cert. ef. 2-3-98; BLI 11-2000, f. & cert. ef. 3-24-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 12-2004, f. 10-22-04 cert. ef. 10-25-04; BLI 19-2007(Temp), f. & cert. ef. 7-18-07 thru 1-1-08; BLI 29-2007, f. 9-27-07 cert. ef. 10-1-07; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 6-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

839-003-0100

Commissioner's Complaint

This section does not apply to housing discrimination complaints under ORS 659A.145 or 659A.421 or federal housing law. Commissioner's complaints of housing discrimination are addressed in OAR 839-003-0245.

(1) The Commissioner of the Bureau of Labor and Industries may make, sign and file a complaint whenever the commissioner has reason to believe that any person or group of persons has been denied rights due to an unlawful practice or employment practice. The complaint will be processed in the same manner as any other complaint filed under OAR 839-003-0025.

(2) In the matter of concurrent complaints, nothing in these rules will be construed to:

(a) Require or prohibit the filing of a commissioner's complaint involving the same or similar issues or allegations stated in any other complaint filed with the division or circuit court by an individual under ORS 659A.820, 659A.825, or 659A.885;

(b) Require or prohibit the continued processing or initiation of a commissioner's complaint in the event that a complaint filed with the division or circuit court by an individual under ORS 659A.820, 659A.825, or 659A.885, is resolved or dismissed, with or without remedy to the individual; or

(c) Alter or limit an individual's private right of action provided under ORS 659A.870 to 659A.885.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.820, 659A.825 & 659A.870 - 659A.885

Hist.: BL 7-1985(Temp), f. & ef. 10-17-85; BL 11-1986, f. & ef. 10-29-86; BL 4-1996, f. & cert. ef. 3-12-96; BLI 11-2000, f. & cert. ef. 3-24-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

839-005-0010

Discrimination Theories: Employment

(1) Substantial evidence of intentional unlawful discrimination exists if the division's investigation reveals evidence that a reasonable person would accept as sufficient to support the following elements:

(a) The respondent is a respondent as defined by ORS 659A.001(10) and OAR 839-005-0003(12) of these rules;

(b) The complainant is a member of a protected class;

(c) The complainant was harmed by an action of the respondent; and

(d) The complainant's protected class was the motivating factor for the respondent's action. In determining whether the complainant's protected class was the reason for the respondent's action, the division uses whichever of the following theories applies:

(A) Specific Intent Theory: The respondent knowingly and purposefully discriminates against an individual because of that individual's membership in a protected class, unless the respondent can show that a bona fide occupational qualification or a bona fide voluntary, court-ordered affirmative action plan (OAR 839-005-0013) allows the action.

(B) Different or Unequal Treatment Theory: The respondent treats members of a protected class differently than others who are not members of that protected class. When the respondent makes this differentiation because of the individual's protected class and not because of legitimate, non-discriminatory reasons, unlawful discrimination exists. In establishing a case of different or unequal treatment:

(i) There must be substantial evidence that the complainant was harmed by an action of the respondent under circumstances that make it appear that the respondent treated the complainant differently than comparably situated individuals who were not members of the complainant's protected class. Substantial evidence of discrimination exists if the division's investigation reveals evidence that a reasonable person would accept as sufficient to support that protected class membership was a motivating factor for the respondent's alleged unlawful action. If the respondent fails to rebut this evidence with evidence of a legitimate non-discriminatory reason, the division will conclude that substantial evidence of unlawful discrimination exists.

(l) Pretext: If the respondent rebuts the evidence with evidence of a legitimate non-discriminatory reason, but there is substantial evidence that the respondent's reason is a pretext for discrimination, the division will conclude there is substantial evidence of unlawful discrimination.

ADMINISTRATIVE RULES

(II) Mixed Motive: If the respondent presents substantial evidence that a legitimate, non-discriminatory reason contributed to the respondent's action, but the division finds the individual's protected class membership was also a substantial factor in the respondent's action, the division will determine there is substantial evidence of discrimination.

(ii) The complainant at all times has the burden of proving that the complainant's protected class was the reason for the respondent's unlawful action.

(2) Adverse Impact Discrimination: Substantial evidence of adverse impact discrimination does not require establishment of intentional discrimination as provided in (1) of this rule. Adverse impact discrimination exists if the division's investigation reveals evidence that a reasonable person would accept as sufficient to support the following elements:

(a) The respondent is a respondent as defined by ORS 659A.001(10) and OAR 839-005-0003(10) of these rules;

(b) The respondent has a standard or policy that is applied equally.

(c) The standard or policy has the effect of screening out or otherwise affecting members of a protected class at a significantly higher rate than others who are not members of that protected class; and

(d) The complainant is a member of the protected class adversely affected by the respondent's standard or policy and has been harmed by the respondent's application of the standard or policy.

(3) An employer must reasonably accommodate an employee or applicant's religious belief, observance or practice unless the employer can demonstrate that such accommodation would cause undue hardship on the employer's business (see OAR 839-005-0140).

(4) Harassment: Harassment based on an individual's protected class is a type of intentional unlawful discrimination. In cases of alleged unlawful sexual harassment in employment see OAR 839-005-0030.

(a) Conduct of a verbal or physical nature relating to protected classes other than sex is unlawful when substantial evidence of the elements of intentional discrimination, as described in section (1) of this rule, is shown and:

(A) Such conduct is sufficiently severe or pervasive to have the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment;

(B) Submission to such conduct is made either explicitly or implicitly a term or condition of employment; or

(C) Submission to or rejection of such conduct is used as the basis for employment decisions affecting that individual.

(b) The standard for determining whether harassment is sufficiently severe or pervasive to create a hostile, intimidating or offensive working environment is whether a reasonable person in the circumstances of the complaining individual would so perceive it.

(c) Employer Proxy: An employer is liable for harassment when the harasser's rank is sufficiently high that the harasser is the employer's proxy, for example, the employer's president, owner, partner or corporate officer.

(d) Harassment by Supervisor plus Tangible Employment Action: An employer is liable for harassment by a supervisor with immediate or successively higher authority over an individual when the harassment results in a tangible employment action that the supervisor takes or causes to be taken against the individual. A tangible employment action includes, but is not limited to, any of the following:

(A) Terminating employment, including constructive discharge;

(B) Failing to hire;

(C) Failing to promote; or

(D) Changing a term or condition of employment, such as work assignment, work schedule, compensation or benefits or making a decision that causes a significant change in an employment benefit.

(e) Harassment by Supervisor, No Tangible Employment Action: When harassment by a supervisor with immediate or successively higher authority over the individual is found to have occurred, but no tangible employment action was taken, the employer is liable if:

(A) The employer knew of the harassment, unless the employer took immediate and appropriate corrective action.

(B) The employer should have known of the harassment. The division will find that the employer should have known of the harassment unless the employer can demonstrate:

(i) That the employer exercised reasonable care to prevent and promptly correct any harassing behavior; and

(ii) That the complaining individual unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to otherwise avoid harm.

(f) Harassment by Coworkers or Agents: An employer is liable for harassment by the employer's employees or agents who do not have immediate or successively higher authority over the complaining individual when the employer knew or should have known of the conduct, unless the employer took immediate and appropriate corrective action.

(g) Harassment by Non-Employees: An employer is liable for harassment by non-employees in the workplace when the employer or the employer's agents knew or should have known of the conduct unless the employer took immediate and appropriate corrective action. In reviewing such cases, the division will consider the extent of the employer's control and any legal responsibility the employer may have with respect to the conduct of such non-employees.

(h) Withdrawn Consent: An employer may be liable for harassment by the employer's supervisory or non-supervisory employees, agents or non-employees even if the acts complained of were of a kind previously consented to by the complaining individual, if the employer knew or should have known that the complaining individual had withdrawn consent to the offensive conduct.

(i) When employment opportunities or benefits are granted because of an individual's submission to an employer's harassment, the employer is liable for unlawful discrimination against other individuals who were qualified for but denied that opportunity or benefit.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS Ch 659A

Hist.: BL 9-1982, f. & ef. 6-11-82; BL 4-1996, f. & cert. ef. 3-12-96; BLI 6-1998, f. & cert. ef. 10-22-98; BLI 19-2000, f. & cert. ef. 9-15-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 3-2007, f. 1-29-07, cert. ef. 2-2-07; BLI 36-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

839-005-0026

Protections and Rights Relating to Pregnancy

(1) Pregnant women are protected from sex discrimination in employment.

(2) In judging the physical ability of an individual to work, pregnant women must be treated the same as males, non-pregnant females and other employees with off-the-job illnesses or injuries.

(3) The statutes prohibit discrimination regarding employee and dependent spouse or domestic partner benefits for pregnancy when employee and dependent spouse or domestic partner benefits exist for other medical conditions.

(4) Women needing to be absent from work because of pregnancy or childbirth may have rights under the Oregon Family Leave Act, as provided in ORS 659A.150 to 659A.186 and OAR 839-009-0200 to 839-009-0320.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.029, 659A.030, 659A.150- 659A.186

Hist.: BLI 19-2000, f. & cert. ef. 9-15-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 35-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

839-005-0031

Exceptions to Discrimination Based on Sexual Orientation

(1) The following actions are not unlawful practices under ORS chapter 659A, including housing discrimination under ORS 659A.145 or 659A.421 or federal housing law:

(a) Housing and the use of facilities. It is not an unlawful practice for a bona fide church or other religious institution to take any action with respect to housing or the use of facilities when:

(A) The action taken is based on a bona fide religious belief about sexual orientation; and

(B) The housing or the use of facilities involved is closely connected with or related to the primary purpose of the church or institution; and

(C) The housing or the use of facilities involved is not connected with a commercial or business activity that has no necessary relationship to the church or institution.

(b) Employment Preference. It is not an unlawful employment practice for a bona fide church or other religious institution, including but not limited to a school, hospital or church camp, to prefer an employee, or an applicant for employment, of one religious sect or persuasion over another if:

(A) The employee or applicant belongs to the same religious sect or persuasion as the church or institution; and

(B) In the opinion of the church or institution, the preference will best serve the purposes of the church or institution; and

ADMINISTRATIVE RULES

(C) The employment involved is closely connected with or related to the primary purposes of the church or institution; and

(D) The employment involved is not connected with a commercial or business activity that has no necessary relationship to the church or institution.

(c) Employment Actions. It is not an unlawful employment practice for a bona fide church or other religious institution to take any employment action based on a bona fide religious belief about sexual orientation when:

(A) The employment position involved is directly related to the operation of the church or other place of worship, such as clergy, religious instructors and support staff;

(B) The employment position involved is in a nonprofit religious school, nonprofit religious camp, nonprofit religious day care center, nonprofit religious thrift store, nonprofit religious bookstore, nonprofit religious radio station or nonprofit religious shelter; or

(C) The employment position involves religious activities, as long as the employment position:

(i) Is closely connected with or related to the primary purpose of the church or institution; and

(ii) Is not connected with a commercial or business activity that has no necessary relationship to the church or institution.

(d) Dress Code. An employer is not prohibited from enforcing an otherwise valid dress code or policy, as long as the employer provides, on a case-by-case basis, for reasonable accommodation of an individual based on the health and safety needs of the individual.

(2) The above exceptions do not excuse a failure to provide reasonable and appropriate accommodations permitting all persons access to restrooms consistent with their expressed gender.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS Ch 659A

Hist.: BLI 35-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; Renumbered from 839-005-0016, BLI 7-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

839-005-0070

Unlawful Discrimination

(1) It is an unlawful employment practice for an employer to obtain or use for employment purposes information contained in the credit history of an applicant for employment or an employee, or to refuse to hire, discharge, demote, suspend, retaliate or otherwise discriminate against an applicant or an employee with regard to promotion, compensation or the terms, conditions or privileges of employment based on information in the credit history of the applicant or employee.

(2) Obtainment or use of credit history information may not be conducted in a manner that results in adverse impact discrimination as prohibited by 42 U.S.C. § 2000e-2, ORS 659A.030 and OAR 839-005-0010. A finding of adverse impact discrimination does not require establishment of intentional discrimination.

(3) OL 2010, Ch. 102 permits an employer to obtain or use for employment purposes information contained in the credit history of an applicant or employee under circumstances described at OL 2010, Ch. 102(2). OL 2010, Ch. 102(2)(d) permits an employer to obtain or use information contained in the credit history of an applicant or employee if the credit history information is substantially job-related, and the employer's reasons for the use of such information are disclosed to the employee or prospective employee in writing.

(4) The burden of proving the employer's disclosure to the employee of its reasons for the use of such information rests with the employer.

Stat. Auth.: OL 2010, Ch. 102(5), 659A.805

Stats. Implemented: OL 2010, Ch. 102

Hist.: BLI 16-2010, f. 6-1-10, cert. ef. 7-1-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

839-005-0080

Substantially Job-Related

(1) The determination of whether credit history information is substantially job-related must be evaluated with respect to the position for which the individual is being considered or holds.

(2) Credit history information of an applicant or employee is substantially job-related if:

(a) An essential function of the position at issue requires access to financial information not customarily provided in a retail transaction that is not a loan or extension of credit. Financial information customarily provided in a retail transaction includes information related to the exchange of cash, checks and credit or debit card numbers; or

(b) The position at issue is one for which an employer is required to obtain credit history as a condition of obtaining insurance or a surety or fidelity bond.

Stat. Auth.: OL 2010, Ch. 102(5), 659A.805

Stats. Implemented: OL 2010, Ch. 102

Hist.: BLI 16-2010, f. 6-1-10, cert. ef. 7-1-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

839-005-0200

Definitions

(1) "Aggrieved person" includes a person who believes that the person:

(a) Has been injured by an unlawful practice or discriminatory housing practice; or

(b) Will be injured by an unlawful practice or discriminatory housing practice that is about to occur.

(2) "Complainant" means an individual who files a complaint with the division, personally or through the individual's attorney, pursuant to the guidelines provided under OAR 839-003-0200 for complaints alleging housing discrimination filed under ORS 659A.145, 659A.421 or federal housing law.

(3) "Disability" means:

(a) A physical or mental impairment that substantially limits one or more major life activities of the individual.

(b) A record of having a physical or mental impairment that substantially limits one or more major life activities of the individual. An individual has a history of, or has been misclassified as having, a physical or mental impairment that substantially limits one or more major life activities of the individual.

(c) A physical or mental impairment that the individual is regarded as having.

(A) An individual is regarded as having a physical or mental impairment if the individual has been subjected to an action prohibited under ORS 659A.112 to 659A.139 because of an actual or perceived physical or mental impairment, whether or not the impairment limits or is perceived to limit a major life activity of the individual.

(B) An individual is not regarded as having a physical or mental impairment if the individual has an impairment that is minor and that has an actual or expected duration of six months or less.

(4) "Dwelling" means any building, structure, or portion of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location of any building, structure, or portion of such a building or structure. "Family" includes a single individual.

(5) "Familial status" means the relationship between one or more individuals who have not attained 18 years of age and the individual with whom they are domiciled who is:

(a) A parent or another person having legal custody of the individual; or

(b) The designee of the parent or other person having such custody, with the written permission of the parent or other person.

(c) "Familial status" includes any individual, regardless of age or domicile, who is pregnant or is in the process of securing legal custody of an individual who has not attained 18 years of age.

(d) "Domiciled" includes but is not limited to part-time residence in a dwelling where an individual has a reasonable expectation of a continuing right to return.

(6) "Federal Housing Law" means The Fair Housing Act (42 U.S.C. 3601 et seq.) for which the U.S. Department of Housing And Urban Development has jurisdiction.

(7) "Major life activity" includes, but is not limited to:

(a) Caring for oneself;

(b) Performing manual tasks;

(c) Seeing;

(d) Hearing;

(e) Eating;

(f) Drinking;

(g) Sleeping;

(h) Walking;

(i) Standing;

(j) Lifting;

(k) Bending;

(L) Twisting;

(m) Speaking;

(n) Breathing;

(o) Cognitive functioning;

(p) Learning;

(q) Education;

ADMINISTRATIVE RULES

- (r) Reading;
- (s) Concentrating;
- (t) Remembering;
- (u) Thinking;
- (v) Communicating;
- (w) Working;

(A) To be substantially limited in the major life activity of working, an individual must be significantly restricted in the ability to perform a class of jobs or a broad range of jobs in various classes as compared to the ability of an average person with comparable skill, experience, education or other job-related requirements needed to perform those same positions;

- (x) Socialization;
- (y) Sitting;
- (z) Reaching;
- (aa) Interacting with others;
- (bb) Sexual relations;
- (cc) Employment;
- (dd) Ambulation;
- (ee) Transportation;
- (ff) Operation of a major bodily function, including but not limited to:
 - (A) Functions of the immune system;
 - (B) Normal cell growth; and
 - (C) Digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions; and

(gg) Ability to acquire, rent or maintain property.

(8) "Misclassified," as used in ORS 659A.100(2)(b), means an erroneous or unsupported medical diagnosis, report, certificate or evaluation.

(9) "Person" includes one or more individuals, partnerships, associations, labor organizations, limited liability companies, joint stock companies, corporations, legal representatives, trustees, trustees in bankruptcy or receivers, fiduciaries, mutual companies, trusts and unincorporated organizations and public bodies as defined in ORS 30.260 that have the primary purpose of serving, representing or otherwise benefiting the protected class.

(10) "Physical or mental impairment" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, traumatic brain injury, emotional or mental illness, and specific learning disabilities.

(11) "Property" and "real property" means property used or intended for commercial, business or residential purposes including, but not limited to a dwelling.

(12) "Purchaser" includes an occupant, prospective occupant, renter, prospective renter, lessee, prospective lessee, buyer or prospective buyer.

(13) "Receipt or alleged receipt of treatment for a mental disorder," as used in ORS 659A.142(5), means actual treatment of an individual for a mental condition or an assertion that the person received such treatment.

(14) "Regarded as having an impairment," as used in ORS 659A.100(2)(c), means:

(a) An individual having a physical or mental impairment that does not substantially limit a major life activity but who has been treated as having an impairment by a seller, lessor, advertiser, real estate broker or salesperson, or the agent of any seller, lessor, advertiser, real estate broker or salesperson;

(b) An individual having a physical or mental impairment that substantially limits a major life activity only as a result of the attitude of others toward such impairment; or

(c) An individual having no physical or mental impairment but who is treated as having an impairment by a seller, lessor, advertiser, real estate broker or salesperson, or the agent of any seller, lessor, advertiser, real estate broker or salesperson.

(15) "Residential real estate related transaction" means any of the following:

(a) The making or purchasing of loans or providing other financial assistance:

(A) For purchasing, constructing, improving, repairing or maintaining a dwelling; or

(B) Secured by residential real estate; or

(b) The selling, brokering or appraising of residential real property.

(16) "Substantially limits" means that an individual has an impairment, had an impairment or is perceived as having an impairment that restricts one or more major life activities of the individual.

(a) An impairment that substantially limits one major life activity of the individual need not limit other major life activities of the individual.

(b) To have a disability (or to have a record of a disability) an individual must be substantially limited in performing a major life activity as compared to most people in the general population.

(c) An impairment that is episodic or in remission is considered to substantially limit a major life activity of the individual if the impairment would substantially limit a major life activity of the individual when the impairment is active.

(d) The term "substantially limits" shall be construed in favor of broad coverage of individuals to the maximum extent permitted by the terms of ORS 659A.100 to 659A.145 and 659A.400 to 659A.425, and should not require extensive analysis.

(17) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(18) "Treatment" includes examination, evaluation, diagnosis and therapy by a health professional within the scope of the professional's applicable license.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.103 – 659A.142; 659A.145, 659A.421

Hist.: BLI 36-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

839-005-0206

Discrimination Theories: Housing

(1) For the purposes of housing discrimination complaints under ORS 659A.145 or 659A.421 or discrimination complaints under federal housing law, a complainant need not be a member of a protected class. An aggrieved person may file a complaint of housing discrimination.

(2) Substantial evidence of intentional unlawful discrimination exists if the division's investigation reveals, based on the totality of circumstances known at the time of the decision, evidence that a reasonable person would accept as sufficient to support the following elements:

(a) The respondent is a respondent as defined by ORS 659A.001(10) and OAR 839-005-0003(12); and

(b) The individual to whom an action of respondent is directed or to be directed is a member of a protected class; and

(c) The individual or aggrieved person was harmed by an action of the respondent; and

(d) The individual's protected class was the motivating factor for the respondent's action. In determining whether the individual's protected class was the reason for the respondent's action, the division uses whichever of the following theories applies:

(A) Specific Intent Theory: The respondent knowingly and purposefully discriminates against an individual because of that individual's membership in a protected class.

(B) Different or Unequal Treatment Theory: The respondent treats members of a protected class differently than others who are not members of that protected class. When the respondent makes this differentiation because of the individual's protected class and not because of legitimate, non-discriminatory reasons, unlawful discrimination exists. In establishing a case of different or unequal treatment:

(i) There must be substantial evidence that the individual was harmed or was about to be harmed by the action of the respondent under circumstances that make it appear that the respondent treated the individual differently than comparably situated individuals who were not members of the individual's protected class. Substantial evidence of discrimination exists if the division's investigation reveals evidence that a reasonable person would accept as sufficient to support that protected class membership was a motivating factor for the respondent's alleged unlawful action. If the respondent fails to rebut this evidence with evidence of a legitimate non-discriminatory reason, the division will conclude that substantial evidence of discrimination exists.

(I) Pretext: If the respondent rebuts the evidence with evidence of a legitimate non-discriminatory reason, but there is substantial evidence that the respondent's reason is a pretext for discrimination, the division will conclude there is substantial evidence of unlawful discrimination.

(II) Mixed Motive: If the respondent presents substantial evidence that a legitimate, non-discriminatory reason contributed to the respondent's action, but the division finds the individual's protected class membership was also a substantial factor in the respondent's action, the division will determine there is substantial evidence of unlawful discrimination.

ADMINISTRATIVE RULES

(ii) The complainant at all times has the burden of proving that the individual's protected class was the motivating factor for the respondent's unlawful action.

(3) Adverse Impact Discrimination in Housing:

(a) For the purposes of interpreting ORS 90.390, a court or the commissioner may find that a person has violated or is going to violate ORS 659A.145 or 659A.421 if:

(A) The person applies a facially neutral housing policy to a member of a protected class;

(B) Application of the policy adversely impacts members of the protected class to a greater extent than the policy impacts persons generally.

(b) In determining under subsection (a) of this section whether a violation has occurred or will occur and, if it is determined that a violation has occurred or will occur, what relief should be granted, a court or the commissioner will consider:

(A) The significance of the adverse impact on the protected class;

(B) The importance and necessity of any business purpose for the facially neutral housing policy; and

(C) The availability of less discriminatory alternatives for achieving the business purpose for the facially neutral housing policy.

(4) As used in enforcing ORS 659A.145 or 659A.421 or federal housing law, harassment on the basis of a protected class is an unlawful practice in housing when:

(a) Conduct of a verbal or physical nature relating to protected classes is unlawful when substantial evidence of the elements of intentional discrimination, as described in section (2) of this rule is shown; and

(A) Such conduct is sufficiently severe or pervasive to have the purpose or effect of creating an offensive, intimidating, hostile, or offensive environment; or

(B) Submission to such conduct is made either explicitly or implicitly a term or condition of housing; or

(C) Submission to or rejection of such conduct is used as the basis for housing decisions affecting that individual.

(b) The standard for determining whether harassment is sufficiently severe or pervasive to create a hostile, intimidating or offensive environment is whether a reasonable person in the circumstances of the individual against whom the harassment is directed would so perceive it.

(5) Tenant-on-tenant harassment: A housing provider is liable for a resident's harassment of another resident when the housing provider knew or should have known of the conduct, unless the housing provider took immediate and appropriate corrective action.

(6) Harassment by Employees or Agents: A housing provider is liable for harassment of a resident by the housing provider's employees or agents when the housing provider knew or should have known of the conduct, unless the housing provider took immediate and appropriate corrective action.

(7) Discrimination based on disability may involve intentional discrimination, including harassment, or discrimination that need not be intentional, including adverse impact, or the failure to permit reasonable modifications, the refusal to make reasonable accommodations or the failure to design and construct covered buildings under applicable rules. To be protected from discrimination based on disability, an individual must have a disability, as described in ORS 659A.104 and the relevant rules. Reasonable accommodation in real property transactions is covered by ORS 659A.145 and OAR 839-005-0220. Reasonable modifications in housing and the design and construction of covered buildings are covered by ORS 659A.145. Claims of disability discrimination brought under federal housing law are defined under that law.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.103 – 659A.142; 659A.145, 659A.421

Hist.: BLI 8-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

839-005-0220

Individuals with Disabilities

(1) Individuals protected from discrimination on the basis of disability in real property transactions include any individual with a disability associated with a purchaser.

(2) In addition to the prohibitions in OAR 839-005-0205, discrimination in real property transactions based on an individual's disability includes, but is not limited to:

(a) Failure to design and construct a covered multifamily dwelling as required by the Fair Housing Act (42 U.S.C. 3601 et seq.);

(b) Refusing to permit, at the expense of an individual with a disability, reasonable modifications of existing premises occupied or to be occupied by that individual if such modifications may be necessary to afford that individual full enjoyment of the premises, except that, in the case of rental,

the landlord may, where it is reasonable to do so, condition permission for modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(A) In the case of a rental, a disabled renter is only required to restore the interior premises to the condition that existed before the modification when the landlord required restoration as a condition to granting the disabled renter's reasonable modification request.

(c) Refusing to make reasonable accommodations in rules, policies, practices or services when such accommodations may be necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling;

(A) A housing provider may not require verification of the disability-related need for a requested accommodation if that need is readily apparent or otherwise known;

(B) If a disability or a disability-related need for a requested accommodation is not readily apparent or otherwise known, the provider may request only information that is necessary to evaluate the disability-related need for the accommodation;

(C) It is a violation of this section for a housing provider to refuse to permit a disabled person to live in a covered dwelling with an animal that mitigates one or more of the person's disability-related needs, except when a specific animal poses a direct threat to the health or safety of other individuals and the threat cannot be eliminated or significantly reduced; and

(D) A housing provider may not charge a resident or applicant deposits or other fees for keeping an animal covered under this section.

(3) Direct Threat. A lessor or agent may engage in conduct otherwise prohibited by ORS 659A.145 when:

(a) Leasing or rental of the subject property by an individual with a disability would constitute a direct threat to the health or safety of other individuals or would result in substantial physical damage to the property of others; and

(b) No reasonable accommodation is possible that would eliminate or acceptably minimize the risk to health and safety.

(4) A determination that a direct threat exists must rely on an individualized assessment that is based on reliable objective evidence (e.g., current conduct, or a recent history of overt acts posing a risk to health and safety). The assessment must consider:

(a) The nature, duration and severity of the risk of injury;

(b) The probability that injury will actually occur; and

(c) Whether there are any reasonable accommodations that will eliminate the direct threat.

(5) A lessor or agent must allow alterations of existing premises if the premises are occupied by or to be occupied by an individual with a disability, and the individual with a disability pays for the alterations, as provided in section 2 of this rule.

(6) Receipt or alleged receipt of treatment for a mental disorder does not constitute evidence of an individual's inability to acquire, rent or maintain property.

(7) In the sale, lease or rental of real estate, a person may not disclose to any person that an occupant or owner of real property has or died from human immunodeficiency virus or acquired immune deficiency syndrome.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.103 – 659A.142; 659A.145 & 659A.421

Hist.: BLI 36-2007, f. 12-27-07 cert. ef. 1-1-08; BLI 7-2008(Temp), f. 3-20-08, cert. ef. 3-25-08 thru 9-21-08; Administrative correction 10-21-08; BLI 40-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 5-1-09; BLI 43-2008, f. 12-3-08, cert. ef. 12-5-08; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

839-006-0240

Progressive Impairments

Conditions that are progressive (including, but not limited to, cancer, Hodgkin's disease, multiple sclerosis and HIV infection, whether or not such condition substantially limits the individual in any major life activity at the time of the alleged discrimination) may not form the basis for an employer to refuse to employ or promote; bar or discharge from employment; or discriminate in compensation, terms, conditions or privileges of employment.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.103 - 659A.142

Hist.: BL 2-1984, f. & ef. 1-31-84; BL 15-1990, f. 10-29-90, cert. ef. 11-1-90; BL 4-1996, f. & cert. ef. 3-12-96; BL 2-1998, f. & cert. ef. 2-3-98; BLI 15-2000, f. & cert. ef. 8-11-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

ADMINISTRATIVE RULES

839-006-0275

Definitions — Disability

- (1) “Disability” has the meaning given in OAR 839-006-0205(1) and (8).
- (2) “Major life activity” has the meaning given in OAR 839-006-0205(6).
- (3) “Physical or mental impairment” has the meaning given in OAR 839-006-0205(9).
- (4) “Substantially limits” has the meaning given in OAR 839-006-0205(12).

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.103, 659A.104, 659A.106, 659A.109, 659A.139, 659A.142

Hist.: BLI 21-2005, f. 10-20-05, cert. ef. 10-21-05; BLI 14-2008, f. 5-30-08, cert. ef. 6-6-08; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

839-006-0307

Discrimination Theories: Public Accommodation of Individuals with Disabilities

(1) A violation of discrimination laws against individuals with disabilities may involve either intentional or unintentional discrimination. Discrimination against individuals with disabilities need not be intentional to be unlawful. Unintentional discrimination may occur in situations involving adverse impact, the failure to permit reasonable modifications, the refusal to make reasonable accommodations, the failure to design and construct covered buildings under applicable rules or the failure to remove physical barriers from facilities as provided in OAR 839-006-0310. To be protected from discrimination based on disability, an individual must have a disability, as described in ORS 659A.104 and the relevant rules. Reasonable modifications in services, programs or activities, provision of auxiliary aids, services by state government, removal of barriers to facilities, goods and services and provision of auxiliary aids by public accommodations are covered by ORS 659A.142 and these rules.

(2) Substantial evidence of intentional unlawful discrimination exists if the division’s investigation reveals evidence that a reasonable person would accept as sufficient to support the following elements:

- (a) The respondent is a respondent as defined by ORS 659A.001(10) and OAR 839-005-0003(12) of these rules;
- (b) The complainant is an individual with a disability;
- (c) The complainant was harmed by an action of the respondent; and
- (d) The complainant’s disability was the motivating factor for the respondent’s action. In determining whether the complainant’s disability was the motivating factor for the respondent’s action, the division uses whichever of the following theories applies:

(A) Specific Intent Theory: The respondent knowingly and purposefully discriminates against an individual because that individual has a disability.

(B) Different or Unequal Treatment Theory: The respondent treats individuals with disabilities differently than others who do not have disabilities. When the respondent makes this differentiation because of the individual’s disability and not because of legitimate, non-discriminatory reasons, unlawful discrimination exists. In establishing a case of different or unequal treatment:

(i) There must be substantial evidence that the complainant was harmed by an action of the respondent under circumstances that make it appear that the respondent treated the complainant differently than comparably situated individuals who do not have disabilities. Substantial evidence of discrimination exists if the division’s investigation reveals evidence that a reasonable person would accept as sufficient to support that an individual’s disability was a motivating factor for the respondent’s alleged unlawful action. If the respondent fails to rebut this evidence with evidence of a legitimate non-discriminatory reason, the division will conclude that substantial evidence of unlawful discrimination exists.

(I) Pretext: If the respondent rebuts the evidence with evidence of a legitimate non-discriminatory reason, but there is substantial evidence that the respondent’s reason is a pretext for discrimination, the division will conclude there is substantial evidence of unlawful discrimination.

(II) Mixed Motive: If the respondent presents substantial evidence that a legitimate, non-discriminatory reason contributed to the respondent’s action, but the division finds the individual’s disability was also a substantial factor in the respondent’s action, the division will determine there is substantial evidence of discrimination.

(ii) The complainant at all times has the burden of proving that the complainant’s disability was the motivating factor for the respondent’s unlawful action.

(3) Adverse impact by a place of accommodation on the basis of disability: Substantial evidence of adverse impact discrimination does not

require establishment of intentional discrimination as provided in (2) of this rule. Adverse impact discrimination exists if the division’s investigation reveals evidence that a reasonable person would accept as sufficient to support the following elements:

(a) The respondent is a respondent as defined by ORS 659A.001(10) and OAR 839-005-0003(12) of these rules;

(b) The respondent has a standard or policy that is applied equally.

(c) The standard or policy has the effect of screening out or otherwise affecting members of a protected class at a significantly higher rate than others who are not members of that protected class; and

(d) The complainant is a member of the protected class adversely affected by the respondent’s standard or policy and has been harmed by the respondent’s application of the standard or policy.

(4) Harassment by a place of public accommodation on the basis of disability:

(a) Conduct of a verbal or physical nature on the basis of disability is unlawful when substantial evidence of the elements of intentional discrimination, as described in section (2) of this rule, is shown and:

(A) Such conduct is sufficiently severe or pervasive to have the purpose or effect of creating an intimidating, hostile or offensive environment; or

(B) Submission to such conduct is made either explicitly or implicitly a term or condition of public accommodations; or

(C) Submission to or rejection of such conduct is used as the basis for decisions affecting that individual.

(b) The standard for determining whether harassment is sufficiently severe or pervasive to create a hostile, intimidating or offensive environment is whether a reasonable person in the circumstances of the individual against whom the harassment is directed would so perceive it.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.103 & ORS 659A.142

Hist.: BLI 8-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

839-006-0455

Employment Preference for Promotions

(1) A public employer will grant a preference to a person seeking promotion and who is employed by the public employer in a permanent civil service position only if the person:

(a) Was granted military leave by the public employer to serve in the Armed Forces of the United States;

(b) Returned from the military leave to the civil service position;

(c) Qualified as a veteran or disabled veteran, as defined in OAR 839-006-0440(5) and (9), by reason of the person’s service during the military leave or otherwise;

(d) Successfully completed a test or examination for the promotional position; and

(e) Meets the minimum qualifications and any special qualifications for the promotional position.

(2) If a person meets the criteria for a promotional preference under subsection (1) of this rule, the public employer will add five preference points to a veteran’s score and ten preference points to a disabled veteran’s score.

(3) For the purposes of a promotional preference under subsection (1) of the rule, if a public employer uses an application examination that consists of an evaluation method of ranking an applicant that does not result in a score, the public employer will devise and apply methods by which the public employer gives special consideration in the public employer’s hiring decision to veterans and disabled veterans.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 408.225, 408.230, 408.235

Hist.: BLI 37-2008, f. 11-6-08, cert. ef. 11-10-08; BLI 8-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

839-009-0210

Definitions

(1) “Alternate duty” means work assigned to an employee that may consist of:

(a) The employee’s same duties worked on a different schedule; or

(b) Different duties worked on the same or different schedule.

(2) “Child,” for the purposes of parental and sick child leave only (not for the purposes of serious health condition leave), means a biological, adopted, foster or stepchild, the child of an employee’s same-gender domestic partner or a child with whom the employee is or was in a relationship of in loco parentis. The child must be:

(a) Under the age of 18; or

(b) An adult dependent child substantially limited by a physical or mental impairment as defined by ORS 659A.104(1)(a), (3), and (4).

ADMINISTRATIVE RULES

(3) "Covered employer" means any employer employing 25 or more persons in the state of Oregon for each working day during each of 20 or more calendar work weeks in the calendar year in which the leave is to be taken or in the calendar year immediately preceding the year in which the leave is to be taken.

(4) "Domestic partner" means an individual joined in a domestic partnership.

(5) "Domestic partnership" for the purposes of ORS Chapter 659A means two individuals of the same sex who have received a Certificate of Registered Domestic Partnership from the State of Oregon in compliance with ORS 432.405(1) and rules adopted by the State Registrar of the Center for Health Statistics.

(6) "Eligible employee" means an employee employed in the state of Oregon on the date OFLA leave begins. For eligibility of employees reemployed following a period of uniformed service, see subsections (c) and (d) of this section.

(a) For the purpose of taking parental leave, an employee must be employed by a covered employer for at least 180 calendar days immediately preceding the date on which OFLA leave begins.

(b) For purposes of taking all other types of OFLA leave, including pregnancy disability leave, an employee must have worked for a covered employer for an average of at least 25 hours per week during the 180 calendar days immediately preceding the date OFLA leave begins.

(A) In determining that an employee has been employed for the preceding 180 calendar days, the employer must count the number of days an employee is maintained on the payroll, including all time paid or unpaid. If an employee continues to be employed by a successor in interest to the original employer, the number of days worked are counted as continuous employment by a single employer.

(B) In determining 25 hours average per week, the employer must count actual hours worked using guidelines set out pursuant to the Fair Labor Standards Act (See 29 CFR Part 785).

(c) The federal Uniformed Services Employment and Reemployment Act, 38 USC 43 (USERRA) provides that an employee reemployed following a period of uniformed service is entitled to the seniority and seniority-based rights and benefits that the employee had on the date the uniformed service began, plus any seniority and seniority-based rights and benefits that the employee would have attained if the employee had remained continuously employed. Federal Department of Labor regulation 20 CFR 1002.210 provides that in determining entitlement to seniority and seniority-based rights and benefits, the period of absence from employment due to or necessitated by uniformed service is not considered a break in employment. The rights and benefits protected by USERRA upon reemployment include those provided by the employer and those required by statute. Under USERRA, a reemployed service member would be eligible for leave under OFLA if the number of days and the number of hours of work for which the service member was employed by the civilian employer, together with the number of days and number of hours of work for which the service member would have been employed by the civilian employer during the period of uniformed service, meet OFLA's eligibility requirements. In the event that a service member is denied OFLA leave for failing to satisfy the OFLA days and hours of work requirement due to absence from employment necessitated by uniformed service, the service member may have a cause of action under USERRA but not under OFLA.

[Note: USERRA also applies to leave under the federal Family and Medical Leave Act of 1993, 29 USC 2601-2654 (FMLA).]

(d) ORS 659A.082-659A.088 provides that an employee reemployed following a period of uniformed service is entitled to the seniority and seniority-based rights and benefits that the employee had on the date the uniformed service began, plus any seniority and seniority-based rights and benefits that the employee would have attained if the employee had remained continuously employed. In determining entitlement to seniority and seniority-based rights and benefits, the period of absence from employment due to or necessitated by uniformed service is not considered a break in employment. If a reemployed service member was eligible for leave under OFLA prior to the date uniformed service began, OFLA's eligibility requirements are considered met.

(e) For the purpose of qualifying as an eligible employee, the employee need not work solely in the state of Oregon.

(7) "Family member" means the spouse, same-gender domestic partner, custodial parent, non-custodial parent, adoptive parent, foster parent, biological parent, parent-in-law, parent of same-gender domestic partner, grandparent or grandchild of the employee, or a person with whom the employee is or was in a relationship of in loco parentis. It also includes the biological, adopted, foster or stepchild of an employee or the child of an employee's same-gender domestic partner. For the purposes of OFLA, an

employee's child in any of these categories may be either a minor or an adult at the time serious health condition leave is taken.

(8) "FMLA" is the federal Family and Medical Leave Act, 29 USC 2601.

(9) "Foreseeable leave" means leave taken for a purpose set out in ORS 659A.159 that is not "unforeseeable leave" as defined in OAR 839-009-0210(21).

(10) "Foster child" means a child, not adopted, but being reared as a result of legal process, by a person other than the child's natural parent.

(11) "Gender" means an individual's assigned sex at birth, gender identity, or gender expression.

(12) "Gender expression" means the manner in which an individual's gender identity is expressed, including, but not limited to, through dress, appearance, manner, speech, or lifestyle, whether or not that expression is different from that traditionally associated with the individual's assigned sex at birth.

(13) "Gender identity" means an individual's gender-related identity, whether or not that identity is different from that traditionally associated with the individual's assigned sex at birth, including, but not limited to, a gender identity that is transgender or androgynous.

(14) "Health care provider" means:

(a) The person primarily responsible for providing health care to an eligible employee or to a family member of an eligible employee: and

(b) Who is a physician licensed to practice medicine or surgery, including a doctor of osteopathy; or

(c) A podiatrist, a dentist, a clinical psychologist, an optometrist, a naturopath, a nurse practitioner, a licensed physician's assistant, a direct entry midwife, a nurse-midwife or a clinical social worker authorized to practice and perform within the scope of a professional license as provided by law; or

(d) A Christian Science practitioner listed with the First Church of Christ Scientist in Boston, Mass: or

(e) A chiropractor, but only to the extent that a chiropractor provides treatment consisting of manual manipulation of the spine to correct a subluxation demonstrated to exist by X-rays.

(15) "In loco parentis" means in the place of a parent, having financial or day-to-day responsibility for the care of a child. A legal or biological relationship is not required.

(16) "Intermittent leave" means leave taken in multiple blocks of time and/or requiring an altered or reduced work schedule.

(17) "OFLA" is the Oregon Family Leave Act, ORS 659A.150 to 659A.186.

(18) "OFLA leave" means a leave of absence for purposes described in ORS 659A.159 and OAR 839-009-0230(1) through (4). Except that "OFLA leave" does not include leave taken by an eligible employee who is unable to work because of a disabling compensable injury, as defined in ORS 656.005, unless the employee has refused a suitable offer of light duty or modified employment under ORS 659A.043(3)(a)(D) or 659A.046(3)(d).

See ORS 659A.162, OAR 839-006-0131(2) and 839-006-0136(4).

(19) "OFLA leave year," for calculating the OFLA leave year entitlement, means a calendar year (January to December), a fixed 12-month period such as a fiscal year, a 12-month period measured forward from the date of the employee's first OFLA leave, or a 12-month period measured backward from the date the employee uses any OFLA leave. The option selected must be applied to all employees. In the absence of an employer policy or collective bargaining agreement defining how an OFLA leave year will be measured, a calendar year will be used.

(20) "Serious health condition" means an illness, injury, impairment or physical or mental condition of an employee or family member:

(a) That requires inpatient care in a medical care facility such as a hospital, hospice or residential facility such as a nursing home. When a family member resides in a long-term residential care facility, leave applies only to:

(A) Transition periods spent moving the family member from one home or facility to another, including time to make arrangements for such transitions;

(B) Transportation or other assistance required for a family member to obtain care from a physician; or

(C) Serious health conditions as described in (b) through (h) of section (20) of this rule.

(b) That the treating health care provider judges to pose an imminent danger of death, or that is terminal in prognosis with a reasonable possibility of death in the near future;

(c) That requires constant or continuing care such as home care administered by a health care professional;

ADMINISTRATIVE RULES

(d) That involves a period of incapacity. Incapacity is the inability to perform at least one essential job function, or to attend school or perform regular daily activities for more than three consecutive calendar days and any subsequent required treatment or recovery period relating to the same condition. This incapacity must involve:

- (A) Two or more treatments by a health care provider; or
- (B) One treatment plus a regimen of continuing care.

(e) That results in a period of incapacity or treatment for a chronic serious health condition that requires periodic visits for treatment by a health care provider, continues over an extended period of time, and may cause episodic rather than a continuing period of incapacity, such as asthma, diabetes or epilepsy;

(f) That involves permanent or long-term incapacity due to a condition for which treatment may not be effective, such as Alzheimer's disease, a severe stroke or terminal stages of a disease. The employee or family member must be under the continuing care of a health care provider, but need not be receiving active treatment;

(g) That involves multiple treatments for restorative surgery or for a condition such as chemotherapy for cancer, physical therapy for arthritis, or dialysis for kidney disease that if not treated would likely result in incapacity of more than three days; or

(h) That involves any period of disability of a female due to pregnancy or childbirth or period of absence for prenatal care.

(21) "Unforeseeable leave" means leave taken as a result of:

(a) An unexpected serious health condition of an employee or family member of an employee; or

(b) An unexpected illness, injury or condition of a child of the employee that requires home care; or

(c) A premature birth or a placement for adoption or foster care the exact date of which cannot be previously determined with certainty.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.150-659A.186, 659A.043, 659A.046

Hist.: BL 2-1995, f. 9-8-95, cert. ef. 9-9-95; BLI 5-2000, f. & cert. ef. 2-1-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 35-2006, f. 10-3-06, cert. ef. 10-4-06; BLI 44-2007, f. 12-31-07, cert. ef. 1-1-08; BLI 10-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

839-009-0250

Notice by Employee; Designation by Employer; Notice by Employer Regarding Eligibility or Qualification

(1) Except in situations described in sections (2) and (3) of this rule, a covered employer may require an eligible employee to give 30 days written notice of the need for foreseeable leave, including an explanation of the need for leave, before starting OFLA leave. The employee is not required to specify that the request is for OFLA leave.

(a) An employee able to give advance notice of the need to take OFLA leave must follow the employer's known, reasonable and customary procedures for requesting any kind of leave, absent unusual circumstances.

(b) An employer may request additional information to determine that a requested leave qualifies for designation as OFLA leave, except in cases of parental leave.

(c) The employer may provisionally designate an absence as OFLA leave until sufficient information is received to make a determination. An employee who calls in sick without providing further information will not be considered to have provided sufficient notice to trigger an employer's obligations under OFLA.

(d) An employee on OFLA leave who needs to take more leave than originally authorized must give the employer reasonable notice prior to the end of the authorized leave, following the employer's known, reasonable and customary procedures for requesting any kind of leave. However, when an authorized period of OFLA leave has ended and an employee does not return to work, an employer having reason to believe the continuing absence may qualify as OFLA leave must request additional information, and may not treat a continuing absence as unauthorized unless requested information is not provided or does not support OFLA qualification.

(2) When an employee is unable to give the employer 30 days notice but has some advance notice of the need for leave, the employee must give the employer as much advance notice as is practicable.

(3) When taking OFLA leave in an unforeseeable situation, an employee must give verbal or written notice within 24 hours before or after commencement of the leave. This notice may be given by any other person on behalf of an employee taking unforeseeable OFLA leave. The employer may require written notice by the employee within three days of the employee's return to work.

(4) If an employee fails to give notice as required by sections (1), (2), and (3) of this rule or the employer's policies:

(a) The employer may reduce the period of unused OFLA leave by an amount no greater than the number of days of leave the employee has taken without providing timely notice of leave. This reduction of leave may not exceed three weeks in a one-year leave period (see ORS 659A.165(4)); and

(b) The employer may also be subject to disciplinary action under an employer's uniformly applied policy or practice. This practice must be consistent with the employer's discipline for similar violations of comparable rules.

(5) Except in the case of sick child leave, when an employee requests OFLA leave, or when the employer acquires knowledge that an employee's leave may be for an OFLA-qualifying reason, the employer must provide the employee within five business a written request for information to verify whether the leave is OFLA-qualifying. Within five business days of receiving the requested information, the employer must notify the employee whether or not the employee is eligible and qualifies to take OFLA leave absent extenuating circumstances. All OFLA absences for the same qualifying reason are considered a single leave event and employee qualification as to that reason for leave does not change during the applicable 12-month period unless the reason is no longer qualifying. If an employer determines that an employee does not qualify for OFLA leave for the reason requested, the employer must notify the employee in writing that the employee does not qualify.

(a) The written notice that the employee does not qualify must state that the employee is ineligible or the reason for requested leave does not qualify for OFLA leave and at least one reason why the employee is not eligible or the reason does not qualify for leave.

(b) If an employer determines that an employee does not qualify for OFLA leave for the reason requested because a medical verification is incomplete or insufficient, the written notice that the employee does not qualify must state what additional information is required to make the verification complete or sufficient, and the employee must be afforded a reasonable period of time to correct the deficiency.

(6) An employer may not request medical verification of the need for sick child leave until after an employee's third occurrence of sick child leave in the same OFLA leave year.

(7) When an employee fails to respond to reasonable employer requests for medical verification of the employee's requested reason for leave to determine whether the leave is OFLA qualifying, the employer may deny use of OFLA leave until medical verification is received.

(8) An employer may not reduce an employee's available OFLA leave or take disciplinary action unless the employer has posted the required Bureau of Labor and Industries Family Leave Act notice or the employer can otherwise establish that the employee had actual knowledge of the notice requirement.

(9) Federal regulations prohibit reducing the leave period under FMLA, but allow an employer to delay the start of leave because of improper notice (see 29 CFR Section 825.304).

(10) When an employee is subject to both FMLA and OFLA, the employer must apply the discipline available under (4)(a), (b) or (6) of this rule that is most beneficial to the employee's individual circumstances.

(11) An employee who refuses an offer of employment under ORS 659A.043(3)(a)(D) or 659A.046(3)(d) and who otherwise is entitled to OFLA leave under 659A.150 to 659A.186:

(a) Automatically commences a period of OFLA leave upon refusing the offer of employment; and

(b) Need not give notice to the employer that would otherwise be required by this rule that the employee is commencing a period of leave. See ORS 659A.162, OAR 839-006-0131(2) and 839-006-0136(4).

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.150-659A.186, 659A.043, 659A.046

Hist.: BL 2-1995, f. 9-8-95, cert. ef. 9-9-95; BLI 5-2000, f. & cert. ef. 2-1-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 1-2007, f. 1-16-07, cert. ef. 1-17-07; BLI 44-2007, f. 12-31-07, cert. ef. 1-1-08; BLI 10-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

839-009-0280

Use of Paid Leave

(1) Except as provided in this rule or the terms of a collective bargaining agreement, an agreement between the eligible employee and the covered employer, or an employer policy, OFLA leave is not required to be granted with pay.

(2) An employee eligible to take OFLA leave is entitled to use accrued paid sick leave, personal leave, vacation leave or any other paid leave that is offered in lieu of vacation leave, during the period of OFLA leave. As used in this rule, accrued paid sick leave does not include disability insurance or disability benefits.

ADMINISTRATIVE RULES

(3) An employer may require an employee to use available paid leave during OFLA leave that would otherwise be unpaid, and may determine the order in which paid leave is to be used if to do so is consistent with a collective bargaining agreement or other written agreement between the eligible employee and the covered employer or an employer policy. The employer may exercise these prerogatives only if:

(a) Prior to the commencement of OFLA leave, the employer provides written notice to the employee that accrued paid leave is to be used during OFLA leave; or

(b) Within five business days of the employee's notice of unforeseeable leave, the employer provides written notice to the employee.

(4) An eligible employee or covered employer may choose to have the employee's OFLA leave run concurrently with a type of paid or unpaid leave not referenced in these rules, as provided or allowed under an employer policy, except that an employer may not reduce the amount of OFLA leave available to an eligible employee by any period the employee is unable to work because of a disabling compensable injury, as defined in ORS 656.005 (see ORS 659A.162(6)).

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.150 – 659A.186

Hist.: BL 2-1995, f. 9-8-95, cert. ef. 9-9-95; BLI 5-2000, f. & cert. ef. 2-1-00; BLI 10-2002, f. & cert. ef. 5-17-02; BLI 47-2006, f. 12-29-06, cert. ef. 1-3-07; BLI 44-2007, f. 12-31-07, cert. ef. 1-1-08; BLI 10-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

839-009-0330

Prohibited Discrimination

It is an unlawful employment practice for a covered employer to deny leave under ORS 659A.270 to 659A.285 for victims of domestic violence, sexual assault or stalking to an eligible employee or to discharge, threaten to discharge, demote, suspend or in any manner discriminate or retaliate against an employee with regard to promotion, compensation or other terms, conditions or privileges of employment because the employee inquires about, applies for, or takes leave as provided under ORS 659A.270 to 659A.285 for victims of domestic violence, sexual assault or stalking.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.270 – 659A.285

Hist.: BLI 32-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

839-009-0340

Definitions

(1) "Covered employer" means an employer who employs 6 or more individuals in the state of Oregon for each working day during each of 20 or more calendar workweeks in the calendar year in which an eligible employee takes leave under ORS 659A.270 to 659A.285 for victims of domestic violence, sexual assault or stalking or in the calendar year immediately preceding the year in which an eligible employee takes the leave.

(2) "Eligible employee" means an employee who is employed in the state of Oregon on the date leave under ORS 659A.270 to 659A.285 for victims of domestic violence, sexual assault or stalking begins; and

(a) Worked an average of more than 25 hours per week for a covered employer for at least 180 calendar days immediately preceding the date the employee takes the leave.

(A) In determining that an employee has been employed for the preceding 180 calendar days, the employer must count the number of days an employee is maintained on the payroll, including all time paid or unpaid. If an employee continues to be employed by a successor in interest to the original employer, the number of days worked are counted as continuous employment by a single employer.

(B) In determining more than 25 hours average per week, the employer must count actual hours worked using guidelines set out pursuant to the regulations under the Fair Labor Standards Act (See 29 CFR Part 785).

(C) For the purpose of qualifying as an eligible employee, the employee need not perform work solely in the state of Oregon.

(D) Eligibility of employees reemployed following a period of uniformed service:

(i) The federal Uniformed Services Employment and Reemployment Act, 38 USC 43 (USERRA) provides that an employee reemployed following a period of uniformed service is entitled to the seniority and seniority-based rights and benefits that the employee had on the date the uniformed service began, plus any seniority and seniority-based rights and benefits that the employee would have attained if the employee had remained continuously employed. Federal Department of Labor regulation 20 CFR 1002.210 provides that in determining entitlement to seniority and seniority-based rights and benefits, the period of absence from employment due to or necessitated by uniformed service is not considered a break in employment. The rights and benefits protected by USERRA upon reemployment include those provided by the employer and those required by

statute. Under USERRA, a reemployed service member would be eligible for leave under ORS 659A.270 to 659A.285 for Victims of Domestic Violence, Sexual Assault or Stalking if the number of days and the number of hours of work for which the service member was employed by the civilian employer, together with the number of days and number of hours of work for which the service member would have been employed by the civilian employer during the period of uniformed service, meet the eligibility requirements of these rules. In the event that a service member is denied leave under ORS 659A.270 to 659A.285 for Victims of Domestic Violence, Sexual Assault or Stalking for failing to satisfy the days and hours of work requirement due to absence from employment necessitated by uniformed service, the service member may have a cause of action under USERRA but not under these statutes.

(ii) ORS 659A.082–659A.088 provides that an employee reemployed following a period of uniformed service is entitled to the seniority and seniority-based rights and benefits that the employee had on the date the uniformed service began, plus any seniority and seniority-based rights and benefits that the employee would have attained if the employee had remained continuously employed. In determining entitlement to seniority and seniority-based rights and benefits, the period of absence from employment due to or necessitated by uniformed service is not considered a break in employment. If a reemployed service member was eligible for leave under ORS 659A.270 to 659A.285 for victims of domestic violence, sexual assault or stalking prior to the date uniformed service began, the leave eligibility requirements are considered met.

(b) Is a victim of domestic violence, sexual assault or stalking or is the parent or guardian of a minor child or dependent who is the victim of domestic violence, sexual assault or stalking.

(3) "Dependent" means an adult dependent child substantially limited by a physical or mental impairment as defined by ORS 659A.104(1)(a), (3), and (4) or any adult of whom the employee has guardianship.

(4) "Foster child" means a child, not adopted, but being reared as a result of legal process, by a person other than the child's natural parent.

(5) "Health care professional" means a physician or other health care practitioner who is licensed, certified or otherwise authorized by law to provide health care services.

(6) "Immediate family" means spouse, domestic partner, father, mother, sibling, child, stepchild, grandparent, or any person who had the same primary residence as the victim at the time of the domestic violence, sexual assault or stalking.

(7) "In loco parentis" means in the place of a parent, having financial or day-to-day responsibility for the care of a child. A legal or biological relationship is not required.

(8) "Intermittent leave" means leave taken in multiple blocks of time and/or requiring an altered or reduced work schedule.

(9) "Law enforcement officer" means all police, corrections, and parole and probation officers who are included in the Public Safety Standards and Training Act as described in ORS 181.610 and 181.651.

(10) "Minor child;" means a biological, adopted, foster or stepchild, or a child with whom the employee is or was in a relationship of in loco parentis. It also includes the biological, adopted, foster or stepchild of an employee's registered domestic partner. The minor child must be under the age of 18.

(11) "Parent or guardian" means a custodial parent, non-custodial parent, adoptive parent, foster parent, biological parent or an employee who is or was in relationship of in loco parentis with a minor child or a dependent with whom the employee is or was in a relationship of in loco parentis.

(12) "Protective order" means an order authorized by ORS 30.866, 107.095(1)(c), 107.700 to 107.735, 124.005 to 124.040 or 163.730 to 163.750 or any other order that restrains an individual from contact with an eligible employee or the employee's minor child or dependent.

(13) "Reasonable leave" means any amount of leave that does not cause an undue hardship on a covered employer's business.

(14) "Victim of domestic violence" means:

(a) An individual who has been threatened with abuse or who is a victim of abuse, as defined in ORS 107.705; or

(b) Any other person who has suffered financial, social, psychological or physical harm as a result of domestic violence committed against the victim as defined in (a), including a member of the victim's immediate family.

(c) In no event will the alleged perpetrator of the domestic violence be considered a victim for the purposes of these rules.

(15) "Victims services provider" means a prosecutor-based victim assistance program or a nonprofit program offering safety planning, coun-

ADMINISTRATIVE RULES

selling, support or advocacy related to domestic violence, sexual assault or stalking.

(16) "Victim of sexual assault" means:

(a) An individual against whom a sexual offense has been threatened or committed as described in ORS 163.305 to 163.467 or 163.525; or

(b) Any other person who has suffered financial, social, psychological or physical harm as a result of a sexual assault committed against the victim as defined in (a), including a member of the victim's immediate family.

(c) In no event will the alleged perpetrator of the sexual offense be considered a victim for the purposes of these rules.

(17) "Victim of stalking" means:

(a) An individual against whom stalking has been threatened or committed as described in ORS 163.732; or

(b) Any other person who has suffered financial, social, psychological or physical harm as a result of a stalking committed against the victim as defined in (a), including a member of the victim's immediate family.

(c) In no event will the alleged perpetrator of the stalking be considered a victim for the purposes of these rules.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.270 - 659A.285

Hist.: BLI 32-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 10-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

839-009-0365

Enforcement and Denial of leave under ORS 659A.270 to 659A.285 for Victims of Domestic Violence, Sexual Assault or Stalking

(1) A covered employer's duties and obligations under ORS 659A.270 to 659A.285 extend to a successor employer as defined in 29 CFR 825.107.

(2) It is an unlawful employment practice for a covered employer to count leave under ORS 659A.270 to 659A.285 against an employee in determining the employee's compliance with attendance policies or to count such leave against an employee when determining eligibility for bonuses based on attendance. An employee is entitled to continue eligibility for a bonus based on attendance upon return from leave under ORS 659A.270 to 659A.285 and may not be disqualified from the bonus as a result of taking leave.

(3) Pursuant to ORS 659A.030(1)(g), it is an unlawful employment practice for any person, whether an employer or an employee, to aid, abet, incite, compel or coerce the doing of any of the acts in violation of ORS 659A.270 to 659A.285 or to attempt to do so.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 659A.270 - 659A.285

Hist.: BLI 32-2007, f. 12-27-07, cert. ef. 1-1-08; BLI 10-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

839-009-0400

Prohibited Discrimination

It is an unlawful employment practice for a covered employer to deny OMFLA leave to an eligible employee or to discharge, threaten to discharge, demote, suspend, or in any manner retaliate or in any way discriminate against any person with respect to hiring, promotion, compensation, tenure or any other terms, privileges or conditions of employment because the person inquires about OMFLA, submits a request for Oregon Military Family Leave, or invokes any provision of the Oregon Military Family Leave Act.

Stat. Auth.: ORS 659A.093(6)

Stats. Implemented: ORS 659A.090 - 659A.099

Hist.: BLI 10-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

839-009-0450

Job Protection

(1) An employer must restore an employee returning from OMFLA leave, including intermittent and alternative duty leave, to the employee's former position if the job still exists, even if it has been filled during the employee's OMFLA leave. The former position is the position held by the employee at the time OMFLA leave began, regardless of whether the job has been renamed or reclassified. (For example, a delivery driver must be returned to the same route, at the same rate of pay and benefits, driving the same truck, delivering the same goods, on the same shift and working from the same location as when the driver started OMFLA leave.)

(2) Any worker hired during an eligible employee's leave to perform the same work that the eligible employee performed before the leave was taken is a replacement worker. When the eligible employee notifies the employer that the employee is ready to return to work, the employer must give that employee the opportunity to work any hours that the replacement worker would otherwise have been scheduled to work.

(3) The employee is not entitled to return to the former position if the employee would have been displaced if OMFLA leave had not been taken.

(4) If the position held by the employee at the time OMFLA leave began has in fact been eliminated and not merely renamed or reclassified, the employer must restore the employee to any available, equivalent position.

(a) An available position is a position that is vacant or not permanently filled.

(b) An equivalent position is a position that is the same as the former position in as many aspects as possible. If an equivalent position is not available at the employee's former job site, the employee may be restored to an equivalent position within 20 miles of the former job site.

(5) Unless the terms of a collective bargaining agreement, other agreement or the employer's policy provide otherwise:

(a) An employee on OMFLA leave does not accrue seniority, production bonuses or other benefits that would accrue while the employee is working;

(b) An employee has no greater right to a job or other employment benefits than if the employee had not taken OMFLA leave; and

(c) An employee is subject to layoff the same as similarly situated employees not taking OMFLA leave.

(6) Except for benefits used while on OMFLA leave, benefits an employee was entitled to prior to starting OMFLA leave must be restored in full upon the employee's return to work. The benefits do not have to be restored, however, if such benefits have been eliminated or changed for similarly situated employees. This applies to all benefit provisions.

(a) An employer electing to continue health or other insurance coverage for an employee on OMFLA leave may require that the employee pay only the same share of health or other insurance premium during the leave that the employee paid prior to the leave.

(b) If an employee cannot or will not pay such costs, the employer may elect to discontinue benefit coverage, unless to do so would render the employer unable to restore the employee to full benefit coverage as required in section (6) of this rule.

(c) If an employer pays any portion of any employee's benefit coverage for employees on non-OMFLA leave, the employer must pay that portion during OMFLA leave.

(d) If the employer pays (directly or indirectly, voluntarily or as required by state or federal statute) any part of the employee's share of health or other insurance premium while an employee is on OMFLA leave, the employer may deduct up to 10 percent of the employee's gross pay each pay period after the employee returns to work until the amount is repaid.

(e) Unless the cause is a serious health condition for which the employee would be entitled to OFLA leave or another circumstance beyond the employee's control, if an employee fails to return to work, the employer may recover the employee's share of benefits paid by the employer. The employer may use any legal means to collect the amount owed for the employee's share of benefits paid by the employer, including deducting the amount from the employee's final paycheck.

(8) If an employee gives unequivocal notice of intent not to return to work from OMFLA leave:

(a) The employee is entitled to complete the approved OMFLA leave, providing that the original need for OMFLA leave still exists. The employee remains entitled to all the rights and protections under OMFLA, including but not limited to, the use of vacation, sick leave and health benefits; except

(A) The employer's obligations under OMFLA to restore the employee's position and to restore benefits upon the completion of leave cease, except as required by federal COBRA laws, 29 USC 1161 et seq.; and

(B) The employer is not required to hold a position vacant or available for the employee giving unequivocal notice of intent not to return.

(9) An employer may not use the provisions of these rules as a subterfuge to avoid the employer's responsibilities under OMFLA.

Stat. Auth.: ORS 659A.093(6)

Stats. Implemented: ORS 659A.090 - 659A.099

Hist.: BLI 10-2010, f. & cert. ef. 2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11

Columbia River Gorge Commission Chapter 350

Rule Caption: Temporary Rule Revising Dates for Development Review Decisions.

Adm. Order No.: CRGC 3-2011(Temp)

Filed with Sec. of State: 10-5-2011

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ADMINISTRATIVE RULES

Rules Amended: 350-081-0036, 350-081-0042, 350-081-0054

Subject: Currently, the Executive Director of the Gorge Commission must review a development review application for completeness within 14 days after receiving it, and must issue a decision on a standard development review application within 72 days after accepting the application as complete and an expedited review application within 30 days. This temporary rule changes those time periods into goals that the Executive Director will attempt to make.

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

350-081-0036

Acceptance of Application

The Executive Director shall review the application for completeness and if complete, shall accept the application for review.

(1) No application shall be accepted until all documented omissions and deficiencies have been corrected by the applicant. The Executive Director shall notify the applicant of all omissions and deficiencies in writing. The Executive Director shall review supplemental application materials to determine if the application is complete.

(2) No application for a proposed use, which is explicitly prohibited by this ordinance, shall be accepted.

(a) The application shall be returned to the applicant.

(b) A letter, signed by the Executive Director, stating that the proposed use is prohibited and citing the guideline which explicitly prohibits the proposed use, shall be sent to the applicant.

(c) Issuance of this letter shall not prohibit the applicant from appealing the decision pursuant to 350-70.

(3) As a goal, the Executive Director shall attempt to accept the application as complete or notify the applicant of omissions and deficiencies within 14 days of receipt of the application. The Executive Director shall attempt to review supplemental materials within 14 days of receipt. The 14-day time periods in this rule are effective retroactively to all development review applications that have been submitted to the Commission and for which the Executive Director has not made a decision.

Stat. Auth.: ORS 196.150, RCW 43.97.015 & 16 U.S.C. sec. 544c(b)

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 2-2011(Temp), f. & cert. ef. 6-16-11 thru 10-12-11; CRGC 3-2011(Temp), f. 10-5-11, cert. ef. 10-13-11 thru 2-9-12

350-081-0042

Decision of the Executive Director

(1) In making a decision on a proposed use or development the Executive Director shall:

(a) Consult with the applicant and such agencies as the Executive Director deems appropriate;

(b) Consider information submitted by the applicant and all other relevant information available;

(c) Consider all comments submitted pursuant to Commission Rule 350-81-040; and

(d) Solicit and consider the comments of the Forest Service.

(2) The Executive Director shall approve a proposed use or development only if it is consistent with the standards of section 6 and the purposes of P.L. 99-663 and Commission Rule 350-81.

(a) In approving a proposed development action, the Executive Director may impose conditions as necessary to ensure consistency with the guidelines of Commission Rule 350-81.

(b) Conditions attached to approval of a proposed development action shall be recorded in county deeds and records to ensure notice of the conditions to successors in interest. The Executive Director's decision shall include this requirement.

(3) The Executive Director shall issue a decision on a proposed use or development including findings of fact and conclusions of law and any conditions to ensure consistency with the standards of section 6 and the purposes of P.L. 99-663 and Commission Rule 350-81. As a goal, the Executive Director shall attempt to issue a decision within 72 days after acceptance of the application.

(4) The Executive Director shall send a copy of the decision to the applicant, the Forest Service, the applicable state, the four Indian tribal governments, the applicable county and/or city and each person who submitted comments under Commission Rule 350-81-040. The decision shall set forth the rights of appeal under Commission Rule 350-70.

(5) The decision of the Executive Director shall be final unless a Notice of Appeal is filed in accordance with Commission Rule 350-70. An applicant who chooses to proceed with an approved development during the appeal period shall assume all associated risks and liabilities.

(6) The 72-day time period in this rule is effective retroactively to all development review applications that have been submitted to the Commission and for which the Executive Director has not made a decision.

Stat. Auth.: ORS 196.150, RCW 43.97.015 & 16 U.S.C. sec. 544c(b)

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08; CRGC 2-2011(Temp), f. & cert. ef. 6-16-11 thru 10-12-11; CRGC 3-2011(Temp), f. 10-5-11, cert. ef. 10-13-11 thru 2-9-12

350-081-0054

Procedures for Expedited Review Process

(1) Applications

(a) Prior to initiating any use or development which requires review and approval by the Executive Director, an application shall be completed pursuant to 350-81-054.

(b) The Executive Director shall accept and review the application pursuant to 350-81-054 for consistency with the appropriate guidelines of this rule.

(c) The Commission may charge a fee for review of applications after a public hearing. The Gorge Commission shall set the fee.

(d) Standard application forms shall be available at the Commission Office, and shall be provided to county and city planning offices for which this ordinance is effective and the Forest Service.

(e) Applications for uses eligible for expedited review shall include the information required for review uses listed in 350-81-032(5). They shall also include elevation drawings if the proposed development would be visible from a key viewing area. The drawing shall show natural grade and finished grade.

(2) Acceptance of Application

(a) The Executive Director shall review the application for completeness, and if complete, shall accept the application for review.

(b) No application shall be accepted until all documented omissions and deficiencies have been corrected by the applicant. The Executive Director shall notify the applicant of all omissions and deficiencies in writing. The Executive Director shall review supplemental application materials to determine if the application is complete.

(c) As a goal, the Executive Director shall attempt to accept the application as complete or notify the applicant of omissions and deficiencies in writing within 14 days of receipt of the application. The Executive Director shall attempt to review supplemental application materials within 14 days of receipt of the materials.

(3) Notice of Development Review

(a) Within 7 days of the acceptance of an application, the Executive Director shall issue notice of a proposed development review. The notice shall provide the following information:

(A) The name of the applicant;

(B) The general and specific location of the subject property;

(C) A brief description of the proposed action;

(D) The deadline for rendering a decision; and

(E) The deadline for filing comments on the proposed action.

(b) The notice shall state that the application and supporting documents are available for inspection at the Commission office during normal working hours.

(c) The notice shall state the applicant must comply with all applicable local, state, and federal laws.

(d) The notice shall be mailed to the Forest Service, the four Indian tribal governments, applicable county or city planning office(s), libraries and other agencies and interested parties that request a notice or that the Executive Director determines should be notified.

(e) A copy of the notice shall be filed in the records of the Commission.

(4) Comment Period: Any interested person or party shall submit written comments within 10 days from the date a notice is sent.

(5) Written Decision

(a) In making a decision on a proposed use or development the Executive Director shall:

(A) Consult with the applicant and such agencies as the Executive Director deems appropriate;

(B) Consider information submitted by the applicant and all other relevant information available;

(C) Consider all comments submitted pursuant to 350-81-054(4); and

(D) Solicit and consider the comments of the Forest Service.

(b) The Executive Director shall approve a proposed use or development only if it is consistent with the standards of section 6 and the purposes of P.L. 99-663 and Commission Rule 350-81.

ADMINISTRATIVE RULES

(A) In approving a proposed development action, the Executive Director may impose conditions as necessary to ensure consistency with the guidelines of Commission Rule 350-81.

(B) Conditions attached to approval of a proposed development action shall be recorded in county deeds and records to ensure notice of the conditions to successors in interest. The Executive Director's decision shall include this requirement.

(c) The Executive Director shall issue a decision on a proposed use or development including findings of fact and conclusions of law and any conditions to ensure consistency with the standards of section 6 and the purposes of P.L. 99-663 and Commission Rule 350-81. As a goal, the Executive Director shall attempt to issue a decision within 30 days after acceptance of the application.

(d) The decision of the Executive Director shall be final unless a Notice of Appeal is filed in accordance with Commission Rule 350-70. An applicant who chooses to proceed with an approved development during the appeal period shall assume all associated risks and liabilities.

(6) Notice of Decision and Opportunity to Appeal

(a) The Executive Director shall send a copy of a decision issued under the expedited review process to the four Indian tribal governments, the Forest Service, landowners within 200 feet of the perimeter of the subject parcel, and anyone who submitted comments pursuant to 350-81-054(4).

(b) Any person shall be allowed to appeal a decision issued under the expedited review process in accordance with Commission Rule 350-70.

(7) Expiration of Approvals. Approvals issued under the expedited review process shall expire in accordance with the standards for expiration of approvals for review uses (Commission Rule 350-81-044, above).

(8) Changes or Alterations to an Approved Action. Changes or alterations to an approval issued under the expedited review process shall be made in accordance with the standards for changes or alterations to approved actions for review uses (Commission Rule 350-81-046, above).

(9) The time periods in this rule are effective retroactively to all expedited review applications that have been submitted to the Commission and for which the Executive Director has not made a decision.

Stat. Auth.: ORS 196.150, RCW 43.97.015 & 16 U.S.C. sec. 544c(b)
Stats. Implemented: ORS 196.150
Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 2-2011(Temp), f. & cert. ef. 6-16-11 thru 10-12-11; CRGC 3-2011(Temp), f. 10-5-11, cert. ef. 10-13-11 thru 2-9-12

Construction Contractors Board Chapter 812

Rule Caption: Housekeeping — Correct Statutory Cite References.

Adm. Order No.: CCB 10-2011

Filed with Sec. of State: 9-29-2011

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Rules Amended: 812-002-0060, 812-002-0160, 812-002-0280, 812-002-0760, 812-002-0780, 812-005-0800

Subject: 812-002-0060, 812-002-0160, 812-002-0280, 812-002-0760, 812-002-0780, 812-005-0800 are amended to correct or add statutory reference of ORS 701.021 (operative 7/1/2010).

Rules Coordinator: Catherine Dixon—(503) 934-2185

812-002-0060

Bid

“Bid” as used in ORS 701.021(2) does not include a prospectus for an art project.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 279C.460 & 701
Hist.: CCB 4-1998, f. & cert. ef. 4-30-98; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 18-2008, f. & cert. ef. 11-20-08; CCB 10-2011, f. 9-29-11, cert. ef. 10-1-11

812-002-0160

Construction Management

“Construction management” is the coordinating of a construction project, including, but not limited to, selecting contractors to perform work on the project, obtaining permits, scheduling specialty contractors' work, and purchasing materials. “Construction management” does not include consulting work performed by a registered engineer or a licensed architect when operating as provided by ORS 701.010(7).

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.005, 701.021, 701.026 & 701.238
Hist.: CCB 4-1998, f. & cert. ef. 4-30-98; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 10-2011, f. 9-29-11, cert. ef. 10-1-11

812-002-0280

For Compensation or With the Intent to Sell

“For compensation or with the intent to sell” as used in ORS 701.005 is not intended to include real estate licensees engaged in professional real estate activities as defined in ORS 696.010(13).

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.005, 701.010, 701.021, 701.026 & 701.131
Hist.: CCB 4-1998, f. & cert. ef. 4-30-98; CCB 4-2003, f. & cert. ef. 6-3-03; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 10-2011, f. 9-29-11, cert. ef. 10-1-11

812-002-0760

Work as a Contractor Includes

“Work as a contractor”, as used in ORS 701.021 includes, but is not limited to:

(1) Except as modified by section (8) of this rule, construction, alteration, repair, improvement, inspection, set-up, erection, moving, or demolition of a structure or any other improvement to real estate, including activities performed on-site in the normal course of construction, or receiving and accepting any payments for the above.

(2) Concrete, asphalt and other testing that involves structural modifications, and soils testing associated with planned or existing structures.

(3) Construction management.

(4) Excavation, backfill, grading, and trenching for the structure or its appurtenances or to accomplish proper drainage and not for landscaping.

(5) Improvement of lots with the intent of selling lots with structure(s). This may include contracting with a primary contractor to construct, alter or improve structures.

(6) Inspection of cross connections and testing of backflow prevention devices performed by persons licensed under ORS 448.279 by the Health Division except when performed by a person licensed as a landscape contracting business as provided under ORS 671.510 through 671.710 or when performed by an employee of a water supplier as defined in ORS 448.115.

(7) Labor only, regardless of whether compensated by the hour or by the job.

(8) Pest control, if in the course of that work any structural modifications are performed. Structural modifications do not include the following when performed by a pesticide operator licensed under ORS 634.116. Installation of soil vapor barriers; sealing of holes, cracks, construction junctures or other small openings that allow the ingress of pests with mortar, plaster, caulking, or similar materials; installation of screens, bird netting and bird repellent devices; installation of rodent shields around utility entrances, doorways and other points of rodent ingress; and drilling of holes equal to or smaller than 3/8 inch in diameter for the purpose of injecting insecticides into small voids, removal and replacement of floor tiles for the purpose of drilling a slab floor for the control of subterranean termites; and the drilling of slab floors for control of termites.

(9) Shoring.

(10) Shelving attached to a structure.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 448.115, 448.279, 671.510-671.710, 701.005, 701.021 & 701.026
Hist.: CCB 4-1998, f. & cert. ef. 4-30-98; CCB 2-2005, f. 6-29-05, cert. ef. 7-1-05; CCB 7-2007, f. 12-13-07, cert. ef. 1-1-08; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 10-2011, f. 9-29-11, cert. ef. 10-1-11

812-002-0780

Work as a Contractor Does Not Include

“Work as a contractor”, as used in ORS 701.021, does not include:

(1) Sign painting unless the total area of all signs is more than 60 square feet.

(2) Work performed by persons engaged in creating objects, which exist exclusively for aesthetic reasons and have no other function, for example, murals, sculptures, etc., if said work by such person does not incorporate electrical or plumbing.

(3) Work performed by government agencies, except a school district.

(4) Work performed in setting, placing, removing, or repairing grave markers or monuments in cemeteries.

(5) Work by an employee when both the employer and employee are in compliance with applicable employer/employee requirements of ORS Chapters 305, 314, 316, 317, 318, 656, 657, and state and federal wage and hour laws.

(6) Concrete pumping.

(7) Utility connections done by utility company employees when the connection is owned by a utility company.

(8) Installation or repair of stand-alone industrial equipment when such activities are exempt from the requirement for a building permit under the Oregon Structural Specialty Code.

(9) Inspections done under contract with government agencies.

ADMINISTRATIVE RULES

(10) Cable television work done by cable television franchise holders.

(11) Operation of a crane, including the lifting and placement of trusses or other construction materials onto the structure.

(12) Improvement of lots with the intent of selling the lots without structures when contracting with licensed contractors to perform the improvement of lots.

(13) Arranging for work to be performed by a licensed construction contractor when the person who arranges for the work is a real estate licensee, licensed under ORS Chapter 696; the real estate licensee is representing the seller of the property; and the real estate licensee is acting as the agent for the seller, as evidenced by a contract or agreement between the real estate licensee and the seller.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 634.116, 701.010, 701.021 & 701.026

Hist.: CCB 4-1998, f. & cert. ef. 4-30-98; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 1-2001, f. & cert. ef. 4-6-01; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 10-2011, f. 9-29-11, cert. ef. 10-1-11

812-005-0800

Schedule of Penalties

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

(1) \$600 for advertising or submitting a bid to do work as a contractor in violation of ORS 701.021 and OAR 812-003-0120, which may be reduced to \$200 if the respondent becomes licensed or to \$50 if the advertisement or bid is withdrawn immediately upon notification from the agency that a violation has occurred and no work was accepted as a result of the advertisement or bid; and

(2) \$700 per offense without possibility of reduction for advertising or submitting a bid to do work as a contractor in violation of ORS 701.021 and OAR 812-003-0120, when one or more previous violations have occurred, or when an inactive, lapsed, invalid, or misleading license number has been used; and

(3) \$1,000 per offense for performing work as a contractor in violation of ORS 701.021 when the Board has no evidence that the person has worked previously without having a license and no consumer has suffered damages from the work, which may be reduced to \$700 if the respondent becomes licensed within a specified time; and

(4) \$5,000 per offense for performing work as a contractor in violation of ORS 701.021, when an owner has filed a complaint for damages caused by performance of that work, which may be reduced to \$700 if the contractor becomes licensed within a specified time and settles or makes reasonable attempts to settle with the owner.

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

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

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

(5) \$5,000 per offense for performing work as a contractor in violation of ORS 701.021, when one or more violations have occurred, or when an inactive, lapsed, invalid, or misleading license number has been used; and

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

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

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

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

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

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

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

(13) Violation of OAR 812-012-0130(1), failure to provide a Consumer Notification form; \$100 first offense; \$500 second offense;

\$1,000 third offense; and \$5,000 for subsequent offenses. Civil penalties shall not be reduced unless the agency determines from clear and convincing evidence that compelling circumstances require a suspension of a portion of the penalty in the interest of justice. In no event shall a civil penalty for this offense be reduced below \$100.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ADMINISTRATIVE RULES

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

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

(30) Violation of work practice standards for lead-based paint (LBP) activity pursuant to OAR 812-007-0140 or 812-007-0240 first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000 plus suspension of license for up to one year. The civil penalty is payable to the Construction Contractors Board LBP Activities Fund as provided in ORS 701.995 and OAR 812-007-0025.

(31) Violation of work practice standards for LBP renovation pursuant to OAR 812-007-0340 or violation of recordkeeping and reporting requirements pursuant to OAR 333-070-0110: first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000 and suspension of the certified LBP renovation contractor license for up to one year. The civil penalty is payable to the Construction Contractors Board LBP Activities Fund as provided in ORS 701.995 and OAR 812-007-0025.

(32) Violation of OAR 812-007-0100, 812-007-0200 or 812-007-0300: first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000. The civil penalty is payable to the Construction Contractors Board Lead-Based Paint (LBP) Activities Fund as provided in ORS 701.995 and OAR 812-007-0025.

(33) Violation of ORS 279C.590:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(45) Undertaking, offering to undertake, or submitting a bid to work as a locksmith when an individual is not certified as a locksmith or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(46) Undertaking, offering to undertake, or submitting a bid to provide locksmith services when a business is not a licensed construction contractor or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(47) Using the title of locksmith, locksmith professional, commercial locksmith, lock installer or any title using a form of the word "locksmith" that indicates or tends to indicate that the individual is a locksmith, unless an individual is certified as a locksmith or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(48) Using the title of locksmith, locksmith professional, commercial locksmith, lock installer or any title using a form of the word "locksmith" that indicates or tends to indicate that the business providing locksmith services, unless a business (a) is a licensed construction contractor and (b) is owned by or employs a certified locksmith or is otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(49) Violating any applicable provision of the rules in division 30, including violating any standard of professional conduct other than OAR 812-030-0300(4): first offense, \$1,000; second offense, \$3,000; third offense, \$5,000 and revocation of the certificate.

(50) Violating OAR 812-030-0300(4): first offense, \$200; second offense, \$500; third offense, \$1,000.

Stat. Auth.: ORS 183.310 to 183.500, 670.310, 701.235, 701.515, 701.992 & 701.995
Stats. Implemented: ORS 87.093, 279C.590, 701.005, 701.021, 701.026, 701.042, 701.046, 701.073, 701.091, 701.098, 701.106, 701.109, 701.227, 701.305, 701.315, 701.330, 701.345, 701.480, 701.485, 701.510, 701.515, 701.992 & 701.995
Hist.: 1BB 4-1982, f. & ef. 10-7-82; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0080(13); 1BB 3-1983, f. 10-5-83, ef. 10-15-83; 1BB 3-1984, f. & ef. 5-11-84; 1BB 3-1985, f. & ef. 4-25-85; BB 1-1987, f. & ef. 3-5-87, BB 1-1988(Temp), f. & cert. ef. 1-26-88; BB 2-1988, f. & cert. ef. 6-6-88; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 2-1990, f. 5-17-90, cert. ef. 6-1-90; CCB 3-1990(Temp), f. & cert. ef. 7-27-90; CCB 4-1990, f. 10-30-90, cert. ef. 11-1-90; CCB 3-1991, f. 9-26-91, cert. ef. 9-29-91; CCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 4-1992, f. & cert. ef. 6-1-92; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 2-1994, f. 12-29-94, cert. ef. 1-1-95; CCB 3-1995, f. 9-7-95, cert. ef. 9-9-95; CCB 4-1995, f. & cert. ef. 10-5-95; CCB 3-1996, f. & cert. ef. 8-13-96; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 7-1999(Temp), f. & cert. ef. 11-1-99 thru 4-29-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 13-2000(Temp), f. & cert. ef. 11-13-00 thru 5-11-01; CCB 2-2001 f. & cert. ef. 4-6-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 1-2002(Temp), f. & cert. ef. 3-1-02 thru 8-26-02; CCB 2-2002, f. & cert. ef. 3-1-02; CCB 7-2002, f. 6-26-02 cert. ef. 7-1-02; CCB 8-2002, f. & cert. ef. 9-3-02; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 6-2004, f. 6-25-04, cert. ef. 9-1-04; CCB 9-2004, f. & cert. ef. 12-10-04; CCB 5-2005, f. 8-24-05, cert. ef. 1-1-06; Renumbered from 812-005-0005, CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 2-2006, f. & cert. ef. 1-26-06; CCB 7-2006, f. & cert. ef. 6-23-06; CCB 15-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 4-2007, f. 6-28-07, cert. ef. 7-1-07; CCB 2-2008(Temp), f. & cert. ef. 1-2-08 thru 6-29-08; CCB 5-2008, f. 2-29-08, cert. ef. 7-1-08; CCB 13-2008, f. 6-30-08, cert. ef. 7-1-08; CCB 17-2008, f. 9-26-08, cert. ef. 10-1-08; CCB 19-2008, f. & cert. ef. 11-20-08; CCB 1-2009, f. 1-30-09, cert. ef. 2-1-09; CCB 4-2009, f. 5-6-09, cert. ef. 6-1-09; CCB 6-2009, f. & cert. ef. 9-1-09; CCB 2-2010, f. & cert. ef. 2-1-10; CCB 8-2010, f. & cert. ef. 4-28-10; CCB 13-2010(Temp), f. & cert. ef. 7-7-10 thru 1-2-11; Administrative correction 1-25-11; CCB 1-2011, f. 2-28-11, cert. ef. 3-1-11; CCB 4-2011, f. 6-24-11, cert. ef. 7-1-11; CCB 10-2011, f. 9-29-11, cert. ef. 10-1-11

Rule Caption: Amend and Adopt rules to implement SB 939, Dispute Resolution Services Change to Mediation Only Process.

Adm. Order No.: CCB 11-2011

Filed with Sec. of State: 9-29-2011

Certified to be Effective: 10-1-11

Notice Publication Date: 9-1-2011

Rules Adopted: 812-004-1001, 812-004-1110, 812-004-1120, 812-004-1140, 812-004-1160, 812-004-1180, 812-004-1195, 812-004-1210, 812-004-1240, 812-004-1250, 812-004-1260, 812-004-1300, 812-004-1320, 812-004-1340, 812-004-1350, 812-004-1360, 812-004-1400, 812-004-1420, 812-004-1440, 812-004-1450, 812-004-1460, 812-004-1480, 812-004-1490, 812-004-1500, 812-004-1505, 812-004-1510, 812-004-1520, 812-004-1530, 812-004-1537, 812-004-1600

Rules Amended: 812-004-0001, 812-004-0110, 812-004-0120, 812-004-0140, 812-004-0300, 812-004-0320, 812-004-0340, 812-004-0600, 812-009-0010, 812-010-0020

Rules Repealed: 812-004-0001(T), 812-004-1001(T), 812-004-1110(T), 812-004-1120(T), 812-004-1140(T), 812-004-1160(T), 812-004-1180(T), 812-004-1195(T), 812-004-1210(T), 812-004-1240(T), 812-004-1250(T), 812-004-1260(T), 812-004-1300(T),

ADMINISTRATIVE RULES

812-004-1320(T), 812-004-1340(T), 812-004-1350(T), 812-004-1360(T), 812-004-1400(T), 812-004-1420(T), 812-004-1440(T), 812-004-1450(T), 812-004-1460(T), 812-004-1480(T), 812-004-1490(T), 812-004-1500(T), 812-004-1505(T), 812-004-1510(T), 812-004-1520(T), 812-004-1530(T), 812-004-1537(T), 812-004-1600(T), 812-009-0010(T), 812-010-0020(T)

Subject: • 812-004-0001, 812-009-0010, and 812-010-0020 are amended to implement Ch. 630 OR Laws 2011 (SB 939). They identify the existing rules as applicable to complaints filed before July 1, 2011.

- 812-004-0110 is amended to reflect the current poverty guidelines.

- 812-004-0120 is amended to correct citation for definition of term “licensee”. The definition is now at OAR 812-004-0450.

- 812-004-0140 is amended to correct citation for exemption for owner’s property. The exemption is now at ORS 701.010(7).

- 812-004-0300 is amended to correct statutory reference of ORS 701.139 (2010 legislation).

- 812-004-0320 is amended to correct statutory reference of ORS 701.021 (operative 7/1/2010).

- 812-004-0340 is amended for clarity and consistency with new rules.

- 812-004-0600 is amended to remove reference to section (5) which is repealed, to make subsequent bond responsible for the complaint if the initial bond was cancelled more than 14 months before the agency received the complaint. This is consistent with the requirements of ORS 701.150(3), which is retained by Ch. 630 OR Laws 2011 (SB 939). And, is amended to delete section that apportions multiple surety bonds. These were bonds that were used by persons of whom the agency required an increased bond. For example, if the agency required a \$75,000 bigger bond, some contractors obtained four \$20,000 bonds. The law no longer permits this practice. Therefore, the rule is unnecessary and is repealed.

- 812-004-1001, 812-004-1110, 812-004-1120, 812-004-1140, 812-004-1160, 812-004-1180, 812-004-1195, 812-004-1210, 812-004-1240, 812-004-1250, 812-004-1260, 812-004-1300, 812-004-1320, 812-004-1340, 812-004-1350, 812-004-1360, 812-004-1400, 812-004-1420, 812-004-1440, 812-004-1450, 812-004-1460, 812-004-01480, 812-004-1490, 812-004-1500, 812-004-1505, 812-004-1510, 812-004-1520, 812-004-1530, 812-004-1537, 812-004-1600 are adopted to implement Ch. 630 OR Laws 2011 (SB 939).

Rules Coordinator: Catherine Dixon—(503) 934-2185

812-004-0001

Application of Rules

(1) The rules in division 4 of OAR chapter 812 apply to a complaint involving work on a residential structure or an appurtenance to the structure and any other complaint filed under ORS 701.145 before July 1, 2011.

(2) Except as provided in section (4) of this rule, the following rules apply to a complaint involving work on a large commercial structure or an appurtenance to the structure and any other complaint filed under ORS 701.146:

- (a) OAR 812-004-0001 through 812-004-0240;
- (b) OAR 812-004-0260 through 812-004-0320;
- (c) OAR 812-004-0340, except 812-004-0340(2)(c), (2)(i) and (8);
- (d) OAR 812-004-0420;
- (e) OAR 812-004-0520; and
- (f) OAR 812-004-0550 through 812-004-0600.

(3)(a) Except as provided in subsection (3)(b) of this rule, the rules that apply to a complaint involving work on a residential structure under section (1) of this rule apply to a complaint involving work on a small commercial structure or an appurtenance to the structure.

(b) The rules that apply to the complaint involving work on a large commercial structure under section (2) of this rule apply to a complaint involving work on a small commercial structure or an appurtenance to the structure if the complainant files the complaint under ORS 701.146.

(4) The rules that apply to a complaint involving work on a residential structure under section (1) of this rule apply to a complaint involving work on a large commercial structure or an appurtenance to the structure if:

- (a) The complaint is filed by the owner of the structure;
- (b) The total contract for the work is \$25,000 or less; and

(c) The complainant files the complaint under ORS 701.145.

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

Stats. Implemented: ORS 701.139, 701.140, 701.145 & 701.146

Hist.: CCB 1-1989, f. & cert. ef. 11-1-89; CCB 2-1990, f. 5-27-90, cert. ef. 6-1-90; CCB 2-1991, f. 6-28-91, cert. ef. 7-1-91; CCB 3-1991, f. 9-26-91, cert. ef. 9-29-91; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 2-1994, f. 12-29-94, cert. ef. 1-1-95; CCB 1-1995, f. & cert. ef. 2-2-95; CCB 4-1995, f. & cert. ef. 10-5-95; CCB 4-1997, f. & cert. ef. 11-3-97; CCB 4-1998, f. & cert. ef. 4-30-98; CCB 6-1998, f. 8-31-98, cert. ef. 9-1-98; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 9-2004, f. & cert. ef. 12-10-04; CCB 15-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-0110

Complaint Processing Fee; Waiver of Fee

(1) The complaint processing fee authorized under ORS 701.133 is \$50 for a complaint filed under ORS 701.145. There is no complaint processing fee for a complaint filed under ORS 701.146.

(2) The agency must collect the processing fee under OAR 812-004-0400.

(3) A complainant may request that the agency waive the complaint processing fee described in section (1) of this rule by submitting a properly executed waiver request. The waiver request must be submitted on a form provided by the agency.

(4) The agency may waive the complaint processing fee if the waiver request submitted by the complainant shows that:

(a) The complainant is an individual;

(b) The complainant has no significant assets except the home that is the subject of the complaint and one automobile; and

(c) The complainant’s gross income does not exceed the 2011 Department of Health and Human Services Poverty Guidelines published in the Federal Register, Vol. 76, No. 13, January 20, 2011, pp. 3637–3638.

(5) A complainant, who requests a waiver of the complaint processing fee under section (3) of this rule, must certify that the information on the request is true.

(6) The agency may require that the complainant pay a complaint processing fee of \$97 if the agency finds that the complainant provided false information on a request for a waiver of the complaint processing fee submitted under section (3) of this rule.

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

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.133 & 701.146

Hist.: CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 14-2003(Temp), f. 12-24-03, cert. ef. 1-1-04 thru 6-18-04; 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 15-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 5-2007, f. 6-28-07, cert. ef. 7-1-07; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 10-2008, f. 6-30-08, cert. ef. 7-1-08; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-0120

Liability of Licensee

A licensee, as defined in OAR 812-002-0450, participating in a corporation wholly-owned by the licensee, or a limited liability partnership, limited liability company, joint venture, limited partnership or partnership, may be held individually liable for complaints brought under ORS 701.131 to 701.180, whether or not the corporation, limited liability partnership, limited liability company, joint venture, limited partnership, or partnership was licensed as required by ORS Chapter 701.

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

Stats. Implemented: ORS 701.102, 701.139, 701.140 & 701.145

Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 3-2005, f. & cert. ef. 8-24-05; CCB 15-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-0140

Liability of Contractor for Complaint Related to Contractor’s Property

(1) If an employee complaint, material complaint or subcontractor complaint arises from property owned by a licensed contractor, the licensed contractor is a contractor subject to ORS Chapter 701 unless the contractor supplies pre-contract written notice to suppliers, subcontractors, and other potential complainants that the property is for the contractor’s personal use and that the contractor is not subject to ORS Chapter 701, as provided in ORS 701.010(7).

(2) If a licensed contractor files a complaint against another licensed contractor arising from property owned by the contractor filing the complaint, the contractor filing the complaint is a contractor subject to ORS Chapter 701 unless the property is for the contractor’s personal use and occupancy.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701

ADMINISTRATIVE RULES

Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 15-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-0300

Filing Date of Complaints

(1) Except as provided under section (3) of this rule, a complaint submitted to the agency for processing under ORS 701.139 is deemed to have been filed when a Breach of Contract Complaint is received by the agency that:

(a) Meets the requirements of OAR 812-004-0340(1) and (2)(m); and

(b) Contains information sufficient to identify the complainant and respondent.

(2) The agency must return a Breach of Contract Complaint that does not meet the requirements of section (1) of this rule to the person who submitted the complaint.

(3) If the agency returns a Breach of Contract Complaint to a person under section (2) of this rule because the person did not meet the requirements of OAR 812-004-0340(2)(m) related to pre-complaint notice, that person may resubmit the Breach of Contract Complaint with the required evidence. If the resubmitted Breach of Contract Complaint satisfies the agency that the person met the requirements under OAR 812-004-0340(2)(m) before the agency received the original Breach of Contract Complaint, the complaint is deemed to have been filed on the date the Breach of Contract Complaint was first received by the agency.

(4) A Breach of Contract Complaint that does not fully comply with the requirements of OAR 812-004-0340 is subject to OAR 812-004-0350.

(5) The date of filing of a complaint submitted to the agency for processing under ORS 701.146 is the date when the complainant complies with ORS 701.133(1) and 701.146(2).

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.139, 701.143, 701.145 & 701.146

Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 8-2004, f. & cert. ef. 10-1-04; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 15-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-0320

Jurisdictional Requirements

(1) A complaint must be of a type described under ORS 701.140.

(2) A complaint must be filed with the agency within the time allowed under ORS 701.143.

(3) A complaint will be processed only against a licensed entity. Whether a respondent is licensed for purposes of this section must be determined as follows:

(a) For an owner, primary contractor or subcontractor complaint, the respondent will be considered licensed if the respondent was licensed during all or part of the work period.

(b) For a material complaint, the respondent will be considered licensed if one or more invoices involve material delivered while the respondent was licensed. Damages will be awarded only for material delivered within the period of time that the respondent was licensed.

(c) For an employee or employee trust complaint, the respondent will be considered licensed if the respondent was licensed on one or more days that the complainant or the employee that is the subject of the trust performed work that was not paid for. Damages will be awarded only for unpaid wages or benefits provided on days on which the respondent was licensed.

(4)(a) The complainant must have been properly licensed at the time the bid was made or the contract was entered into and must have remained licensed continuously throughout the work period if:

(A) The work at issue in the complaint requires that the complainant be licensed under ORS 701.021 in order to perform the work; and

(B) The complaint does not arise from defects, deficiencies or inadequate performance of construction work.

(b) As used in section (4) of this rule, "properly licensed" means the complainant:

(A) Had a current valid license issued by the agency and was not on inactive status;

(B) Was licensed for the type of work at issue in the complaint;

(C) Complied with the requirements of ORS 701.035 and OAR 812-003-0250 as they applied to the complainant's license status as an "exempt" or "nonexempt" contractor; and

(D) Complied with any other requirements and restrictions on the complainant's license.

(5) Complaints will be accepted only when one or more of the following relationships exist between the complainant and the respondent:

(a) A direct contractual relationship based on a contract entered into by the complainant and the respondent, or their agents;

(b) An employment relationship or assigned relationship arising from a Bureau of Labor and Industries employee claim;

(c) A contract between the complainant and the respondent providing that the complainant is a trustee authorized to receive employee benefit payments from the respondent for employees of the respondent; or

(d) A real estate purchase conditioned upon repairs made by the respondent.

(6) Complaints will be accepted only for work performed within the boundaries of the State of Oregon or for materials or equipment supplied or rented for fabrication into or use upon structures located within the boundaries of the State of Oregon.

(7) The agency may refuse to process a complaint or any portion of a complaint that includes an allegation of a breach of contract, negligent or improper work or any other act or omission within the scope of ORS 701.140 that is the same as an allegation contained in a complaint previously filed by the same complainant against the same respondent, except that the agency may process a complaint that would otherwise be dismissed under this section (7) if the previously filed complaint was:

(a) Withdrawn before the on-site meeting;

(b) Closed without a determination on the merits before the on-site meeting;

(c) Closed because the complainant failed to pay the complaint processing fee required under OAR 812-004-0110.

(d) Closed or dismissed with an explicit provision allowing the subsequent filing of a complaint containing the same allegations as the closed or dismissed complaint; or

(e) Closed or withdrawn because the respondent filed bankruptcy.

(8) Nothing in section (7) of this rule extends the time limitation for filing a complaint under ORS 701.143.

(9) A complaint by a person furnishing material, or renting or supplying equipment to a contractor may not include a complaint for non-payment for tools sold to a licensee, for equipment sold to a licensee and not fabricated into a structure, for interest or service charges on an account, or for materials purchased as stock items.

(10) Complaints by a contractor or by persons furnishing material, or renting or supplying equipment to a contractor will not be processed unless they are at least \$150 in amount, not including the processing fee required by 812-004-0110.

(11) The agency may process a complaint against a licensed contractor whose license was inactive under OAR 812-003-0330, 812-003-0340, 812-003-0350, 812-003-0360 and 812-003-0370 during the work period.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.131, 701.133, 701.139, 701.140, 701.143, 701.145 & 701.146

Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 7-2003, f. & cert. ef. 8-8-03; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 8-2004, f. & cert. ef. 10-1-04; CCB 9-2004, f. & cert. ef. 12-10-04; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 15-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 10-2008, f. 6-30-08, cert. ef. 7-1-08; CCB 7-2009, f. 11-30-09, cert. ef. 1-1-10; CCB 12-2010, f. 6-24-10, cert. ef. 7-1-10; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-0340

Form of Complaints, Pre-Complaint Notice

(1) A complaint must be submitted on a complaint form provided by the agency. The complaint form shall be entitled "Breach of Contract Complaint." The agency may require the use of the most recent revision of the complaint form.

(2) The complainant must submit the following information on or with the complaint form required under section (1) of this rule if applicable:

(a) The name, address and telephone number of the complainant;

(b) The name, address, telephone number and license number of the respondent;

(c) The amount, if known at the time the complaint is filed, that the complainant alleges is due from the licensee after crediting payments, offsets and counterclaims in favor of the respondent to which the complainant agrees;

(d) Identification of the type of complaint;

(e) The date on which the contract was entered into;

(f) If the contract was in writing, a copy of the contract, including all relevant attachments, if any;

(g) The location of the work at issue in the complaint, described by a postal address or other description sufficient to locate the work site on a map and on the ground;

(h) The beginning and ending date of the work or invoices;

(i) Payments, offsets and counterclaims of the respondent, if known;

ADMINISTRATIVE RULES

(j) Whether the project involves work on a residential, small commercial or large commercial structure;

(k) A certification by the complainant that the information provided on the complaint form is true;

(l) If a court judgment or arbitration award is the basis for the complaint, a copy of the judgment or award, the original complaint and any answers or counter-suits related to the parties to the complaint filed in the court action or arbitration;

(m) Documents described in section (9) of this rule that are related to the pre-complaint notice requirement in ORS 701.133.

(n) Additional information required under sections (3) through (8) of this rule.

(3) A subcontractor complaint must include copies of each original invoice relating to the complaint.

(4) An employee complaint must include evidence that an employee worked for a contractor and evidence of the amount of unpaid wages or benefits. Evidence may include:

- (a) Time cards;
- (b) Paycheck stubs;
- (c) W-4 forms; or

(d) A sworn affidavit or written declaration under perjury of a third-person stating facts that indicate the employee worked for the contractor. A written declaration under perjury must contain the following statement, "I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury."

(5) An employee trust complaint must include the name of each employee that is the subject of the complaint, the dates that employee worked without payment of employee benefits and the following information for each date and employee:

- (a) The hours worked without payment of employee benefits;
- (b) The amount of the unpaid benefits;
- (c) The address of the job site where the employee worked; and
- (d) Whether the structure at the job site is a residential structure, small commercial structure or large commercial structure.

(6) A construction lien complaint must include evidence that the complainant paid the primary contractor, a copy of the notice of right to lien, a copy of the lien bearing the county recorder's stamp and signature, a copy of each invoice or billing constituting the basis of the lien, a copy of the ledger sheet or other accounting of invoices from the lienor, if applicable, and any foreclosure documents.

(7) A material complaint must include recapitulation of the indebtedness showing the job site address, the date of each invoice, each invoice number, each invoice amount and a copy of each original invoice relating to the complaint.

(8) A complaint involving negligent or improper work must include a list of the alleged negligent or improper work. A complaint involving a breach of contract must describe the nature of the breach of contract.

(9) A complaint must include one of the following:

(a) A copy of the pre-complaint notice required under ORS 701.133 and of the certified or registered mail receipt for the pre-complaint notice; or

(b) Written evidence that the respondent had actual notice of the dispute that is the subject of the complaint at least 30 days before the complainant filed the complaint. The agency will only accept evidence under this subsection (9)(b) if it is in one of the following forms:

(A) A return receipt signed by the respondent indicating receipt of a notice of intent to file a complaint sent to the respondent by the complainant; or

(B) A letter signed by the respondent acknowledging receipt of a notice of intent to file a complaint.

(c) Written evidence that the complainant and the respondent are parties to mediation, arbitration or a court action arising from the same contract or issues that are the subject of the complaint. The agency will only accept evidence under this subsection (9)(c) if it is in one of the following forms:

- (A) Copies of a complaint or answer in the court action; or
 - (B) Copies of a document that initiated the mediation or arbitration.
- (d) Evidence that the complainant and the respondent are parties to another complaint filed with the agency arising from the same contract or issues that are the subject of the complaint.

(10) Except as provided in subsections (9)(c) and (9)(d), the agency may not accept a statement by the complainant alleging that the respondent had actual knowledge of the dispute as written evidence required under section (9) of this rule.

(11) The completed complaint form must be signed by the complainant or an agent of the complainant.

(12) A complaint form submitted to the agency that does not comply with the requirements of this rule is subject to OAR 812-004-0350.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.139, 701.140, 701.143, 701.145 & 701.146

Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 2-2001, f. & cert. ef. 4-6-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 15-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 7-2010, f. & cert. ef. 4-28-10; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-0600

Payment From Surety Bond, Letter of Credit or Cash Deposit

(1) The agency may notify the surety company or financial institution of complaints pending.

(2) The agency must notify the surety company or financial institution of complaints ready for payment. This notice constitutes notice that payment is due on the complaints. A complaint is ready for payment when all of the following have occurred:

(a)(A) A final order was issued in a contested case and 30 days have elapsed to allow the respondent time to pay the order; or

(B) An arbitration award was issued and is ready for payment under OAR 812-010-0470 and 30 days have elapsed to allow the respondent time to pay the award;

(b) The agency has received no evidence that the respondent has complied with the award or final order;

(c) The agency has not granted a stay of enforcement of the final order or award pending judicial review by the Court of Appeals; and

(d) All other complaints filed against the respondent within the same 90-day filing period under ORS 701.150 have either been resolved, been closed or have reached the same state of processing as the subject complaint.

(3) Complaints related to a job that are satisfied from a surety bond, letter of credit or cash deposit must be paid as follows:

(a) If a surety bond, letter of credit or cash deposit was in effect when the work period began and that bond, letter of credit or cash deposit was not cancelled more than 14 months before the agency received the complaint, payment must be made from that surety bond, letter of credit or cash deposit.

(b) If no surety bond, letter of credit or cash deposit was in effect when the work period began and that bond, letter of credit or cash deposit was not cancelled more than 14 months before the agency received the complaint, but a surety bond, letter of credit or cash deposit subsequently became effective during the work period of the contract, payment must be made from the first surety bond, letter of credit or cash deposit to become effective after the beginning of the work period.

(c) A surety bond, letter of credit or cash deposit that is liable for a complaint under subsection (3)(a) or (b) of this rule is liable for all complaints related to the job and subsequent surety bonds, letters of credit or cash deposits have no liability for any complaint related to the job.

(4) If during a work period the amount of a surety bond, letter of credit or cash deposit is changed and a complaint is filed relating to work performed during that work period, the complainant may recover from the surety bond, letter of credit or cash deposit up to the amount in effect at the time the contract was entered into.

(5) If the contractor holds a residential surety bond, that bond is available only for payments ordered by the agency involving residential or small commercial structures or for the development of property zoned or intended for use compatible with residential or small commercial structures.

(6) If the contractor holds a commercial surety bond, that bond is available only for payments ordered by the agency involving small or large commercial structures or for development of property zoned or intended for use compatible with small or large commercial structures.

(7) If more than one complaint must be paid from a surety bond, letter of credit or cash deposit under section (3) of this rule and the total amount due to be paid exceeds the total amount available from the surety bond, letter of credit or cash deposit, payment on a complaint must be made in the same proportion that the amount due on that complaint bears to the total due on all complaints that must be paid.

(8) The full penal sum of a bond is available to pay complaints under this rule, notwithstanding that the penal sum may exceed the bond amount required under OAR 812-003-0170 or 812-003-0171.

(9) Unless the order provides otherwise, if an award or a final order provides that two or more respondents are jointly and severally liable for an amount due to a complainant and payment is due from the surety bonds, let-

ADMINISTRATIVE RULES

ter of credit or cash deposit of the respondents, payment must be made in equal amounts from each bond, letter of credit or cash deposit subject to payment. If one or more of the bonds, letters of credit or cash deposits is or becomes exhausted, payment must be made from the remaining bond, letter of credit or cash deposit or in equal amounts from the remaining bonds, letters of credit or cash deposits. If one of the respondents liable on the complaint makes payment on the complaint, that payment shall reduce the payments required from that respondent's bond, letter of credit or cash deposit under this section by an amount equal to the payment made by the respondent.

(10) A surety company or financial institution may not condition payment of a complaint on the execution of a release by the complainant.

(11) Inactive status of the license of the respondent does not excuse payment by a surety company or financial institution required under this rule.

Stat. Auth.: ORS 670.310, 701.150 & 701.235

Stats. Implemented: ORS 701.081, 701.084, 701.088 & 701.150

Hist.: 1BB 6-1980, f. & ef. 11-4-80; 1BB 3-1981, f. 10-30-81, ef. 11-1-81; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0075; 1BB 6-1984(Temp), f. & ef. 9-18-84; 1BB 3-1985, f. & ef. 4-25-85; BB 3-1987, f. 12-30-87, ef. 1-1-88; BB 2-1988, f. & cert. ef. 6-6-88; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 4-1997, f. & cert. ef. 11-3-97; CCB 1-1998, f. & cert. ef. 2-6-98; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98, Renumbered from 812-004-0070; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 2-2001, f. & cert. ef. 4-6-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 4-2002(Temp), f. & cert. ef. 5-23-02 thru 11-19-02; CCB 8-2002, f. & cert. ef. 9-3-02; CCB 6-2004, f. 6-25-04, cert. ef. 9-1-04; CCB 8-2004, f. & cert. ef. 10-1-04; CCB 9-2004, f. & cert. ef. 12-10-04; CCB 2-2005, f. 6-29-05, cert. ef. 7-1-05; CCB 15-2006, f. 12-12-06, cert. ef. 1-1-07; 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 5-2008, f. 2-29-08, cert. ef. 7-1-08; CCB 11-2008, f. 6-30-08, cert. ef. 7-1-08; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1001

Application of Rules

(1) The rules in 812-004-1001 to 812-004-1600 apply to all complaints filed under ORS 701.145 on or after July 1, 2011.

(2) The following rules apply to a complaint filed under ORS 701.146:

- (a) OAR 812-004-1001 through 812-004-1240;
- (b) OAR 812-004-1260 through 812-004-1320;
- (c) OAR 812-004-1340, except 812-004-1340(2)(c), (2)(i) and (8);
- (c) OAR 812-004-1420;
- (d) OAR 812-004-1520; and
- (e) OAR 812-004-1600.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: Ch. 630 OL 2011 (SB 939)

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1110

Complaint Processing Fee; Waiver of Fee

(1) The complaint processing fee authorized under ORS 701.133 is \$50 for a complaint filed under ORS 701.145. There is no complaint processing fee for a complaint filed under ORS 701.146.

(2) The agency must collect the processing fee under OAR 812-004-1400.

(3) A complainant may request that the agency waive the complaint processing fee described in section (1) of this rule by submitting a properly executed waiver request. The waiver request must be submitted on a form provided by the agency.

(4) The agency may waive the complaint processing fee if the waiver request submitted by the complainant shows that:

- (a) The complainant is an individual;
- (b) The complainant has no significant assets except the home that is the subject of the complaint and one automobile; and
- (c) The complainant's gross income does not exceed the 2011 Department of Health and Human Services Poverty Guidelines published in the Federal Register, Vol. 76, No. 13, January 20, 2011, pp. 3637-3638.

(5) A complainant, who requests a waiver of the complaint processing fee under section (3) of this rule, must certify that the information on the request is true.

(6) The agency may require that the complainant pay a complaint processing fee of \$97 if the agency finds that the complainant provided false information on a request for a waiver of the complaint processing fee submitted under section (3) of this rule.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: Ch. 630 OL 2011 (SB 939)

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1120

Liability of Licensee

A licensee, as defined in OAR 812-002-0450, participating in a corporation wholly owned by the licensee, or a limited liability partnership, limited liability company, joint venture, limited partnership or partnership, may be held individually liable for complaints brought under ORS 701.131 to 701.180, whether or not the corporation, limited liability partnership, limited liability company, joint venture, limited partnership, or partnership was licensed as required by ORS Chapter 701.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: Ch. 630 OL 2011 (SB 939)

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1140

Liability of Contractor for Complaint Related to Contractor's Property

(1) If an employee complaint, material complaint or subcontractor complaint arises from property owned by a licensed contractor, the licensed contractor is a contractor subject to ORS Chapter 701 unless the contractor supplies pre-contract written notice to suppliers, subcontractors, and other potential complainants that the property is for the contractor's personal use and that the contractor is not subject to ORS Chapter 701, as provided in ORS 701.010(7).

(2) If a licensed contractor files a complaint against another licensed contractor arising from property owned by the contractor filing the complaint, the contractor filing the complaint is a contractor subject to ORS Chapter 701 unless the property is for the contractor's personal use and occupancy.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: Ch. 630 OL 2011 (SB 939)

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1160

Establishment of Co-Complainant

The agency may allow a person to become a co-complainant, with the complainant's permission, even though that person did not sign the complaint form if the person would otherwise qualify as a complainant.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: Ch. 630 OL 2011 (SB 939)

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1180

Complainant's Responsibility to Pursue Complaint

(1) Throughout the processing of a complaint, a complainant has the responsibility to pursue the complaint and to respond in a timely manner to requests from the agency for information or documents.

(2) The agency may close a complaint under OAR 812-004-1260 if:

(a) The complainant does not respond to a written request from the agency, or to provide requested information or documents within a time limit specified in that request; or

(b) The complainant does not respond in writing to a written request from the agency, after being instructed to do so by the agency.

(3) A written request from the agency under section (2) of this rule must comply with the requirements of OAR 812-004-1260(2).

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: Ch. 630 OL 2011 (SB 939)

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1195

Exhibits

(1) If a party to a complaint submits a document that is larger than 8-1/2 inches by 14 inches or a photograph as an exhibit, the agency may require that the party submit four copies of the document or photo.

(2) The disposal of large exhibits is subject to OAR 812-001-0130.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: Ch. 630 OL 2011 (SB 939)

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1210

Address of Complainant and Respondent

(1) All communications directed to the last known address of record of a party to a complaint is considered delivered when deposited in the United States mail and sent by regular mail.

(2) A party must notify the agency in writing within 10 days of any change in the party's address, withdrawal or change of the party's attorney

ADMINISTRATIVE RULES

or change of address of the party's attorney during the processing of the complaint and until 90 days after the date the agency notifies the parties that the complaint is closed.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: Ch. 630 OL 2011 (SB 939)
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1240

Exhaustion of Surety Bond, Letter of Credit or Cash Deposit

The agency may continue processing a complaint even though the surety bond, letter of credit or cash deposit related to that complaint is exhausted by prior complaints.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: Ch. 630 OL 2011 (SB 939)
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1250

Payments From the Bond for Court Costs, Complaint Processing Fee, Interest and Other Costs

(1) For complaints filed under ORS 701.145, the agency may include the following costs in the amount of a judgment that is subject to payment by a surety or financial institution:

- (a) Court costs;
- (b) Interest;
- (c) Costs, other than attorney fees, to pursue litigation or the complaint; or
- (d) Service charges or fees.

(2) For complaints filed under ORS 701.145, the agency's determination of payment due from a surety or financial institution may not include amounts arising out of claims for anything other than construction work involving negligence, improper work or breach of contract.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: Ch. 630 OL 2011 (SB 939)
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1260

Closing a Complaint

(1) The agency may close a complaint because:

(a) The complainant did not act in response to a request from the agency;

(b) The complaint is not the type of complaint that the agency has jurisdiction to determine under ORS 701.140;

(c) The complaint was not filed within the time allowed under ORS 701.143;

(d) The complainant failed to pay the complaint processing fee as required under OAR 812-004-1110 and 812-004-1400;

(e) The complaint contains a mediation or arbitration agreement that the complainant has not waived;

(f) The complainant does not comply with the on-site meeting requirements as provided in OAR 812-004-1450(2);

(g) The complainant and respondent settle the complaint as provided in OAR 812-004-1500;

(h) The complainant does not, within 30 days of the date of completion of the settlement agreement, notify the agency whether the terms of the settlement agreement have been fulfilled;

(i) The complainant fails to provide documents to the agency as required by OAR 812-004-1520; or

(j) The agency does not timely receive evidence of a stay or counter-suit on a construction lien complaint, as provided in OAR 812-004-1530.

(2) The agency may close a complaint under section (1) of this rule if the agency notifies the complainant that complainant must provide information or that complainant must comply with an agency rule and that:

(a) Failing to respond to the agency's request may result in closing the complaint; and

(b) Closing the complaint will prevent access to the bond, letter of credit or cash deposit.

(3) The agency may not close the complaint sooner than 14 days after giving the notice required in subsection (2) of this rule.

(4) The agency may, within 60 days after closing a complaint, reopen a complaint closed under section (1) of this rule if the complainant did not comply with the agency's request or failed to comply with an agency rule due to excusable neglect by the complainant. The agency may reopen the complaint after receiving evidence supporting reopening the complaint.

(5) The agency's determination to close a complaint is an order in other than a contested case.

(6) The agency's determination to close a complaint is subject to judicial review under ORS 183.484.

(7) A party must file a motion for reconsideration of the agency's determination to close a complaint before seeking judicial review of the order.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: Ch. 630 OL 2011 (SB 939)
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1300

Filing Date of Complaint

(1) Except as provided under section (3) of this rule, a complaint filed with the agency under ORS 701.139 is deemed to have been filed when a complaint is received by the agency that:

(a) Meets the requirements of OAR 812-004-1340(1) and (2)(m); and
(b) Contains information sufficient to identify the complainant and respondent.

(2) The agency must return a complaint that does not meet the requirements of section (1) of this rule to the person who submitted the complaint.

(3) If the agency returns a complaint to a person under section (2) of this rule because the person did not meet the requirements of OAR 812-004-1340(2)(m) related to pre-complaint notice, that person may resubmit the complaint with the required evidence. If the resubmitted complaint satisfies the agency that the person met the requirements under OAR 812-002-1340(2)(m) before the agency received the original complaint, the complaint is deemed to have been filed on the date the complaint was first received by the agency.

(4) A complaint that does not fully comply with the requirements of OAR 812-004-1340 is subject to OAR 812-004-1350.

(5) The date of filing of a complaint submitted to the agency for processing under ORS 701.146 is the date when the complainant complies with ORS 701.133(1) and 701.146(2).

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: Ch. 630 OL 2011 (SB 939)
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1320

Jurisdictional Requirements

(1) A complaint must be of a type described under ORS 701.140.

(2) A complaint must be filed with the agency within the time allowed under ORS 701.143.

(3) A complaint will be processed only against a licensed entity. Whether a respondent is licensed for purposes of this section must be determined as follows:

(a) For an owner, primary contractor or subcontractor complaint, the respondent will be considered licensed if the respondent was licensed during all or part of the work period.

(b) For a material complaint, the respondent will be considered licensed if one or more invoices involve material delivered while the respondent was licensed. A surety company or financial institution is only liable for payments for material delivered within the period of time that the respondent was licensed.

(c) For an employee or employee trust complaint, the respondent will be considered licensed if the respondent was licensed on one or more days that the complainant, or the employee that is the subject of the trust, performed work that was not paid for. A surety company or financial institution is only liable for payments for unpaid wages or benefits provided on days on which the respondent was licensed.

(4)(a) The complainant must have been properly licensed at the time the bid was made or the contract was entered into and must have remained licensed continuously throughout the work period if:

(A) The work at issue in the complaint requires that the complainant be licensed under ORS 701.021 in order to perform the work; and

(B) The complaint does not arise from defects, deficiencies or inadequate performance of construction work.

(b) As used in section (4) of this rule, "properly licensed" means the complainant:

(A) Had a current valid license issued by the agency and was not on inactive status;

(B) Was licensed for the type of work at issue in the complaint;

(C) Complied with the requirements of ORS 701.035 and OAR 812-003-1250 as they applied to the complainant's license status as an "exempt" or "nonexempt" contractor; and

ADMINISTRATIVE RULES

(D) Complied with any other requirements and restrictions on the complainant's license.

(5) Complaints will be accepted only when one or more of the following relationships exist between the complainant and the respondent:

(a) A direct contractual relationship based on a contract entered into by the complainant and the respondent, or their agents;

(b) An employment relationship or assigned relationship arising from a Bureau of Labor and Industries employee claim;

(c) A contract between the complainant and the respondent providing that the complainant is a trustee authorized to receive employee benefit payments from the respondent for employees of the respondent; or

(d) A real estate purchase conditioned upon repairs made by the respondent.

(6) Complaints will be accepted only for work performed within the boundaries of the State of Oregon or for materials or equipment supplied or rented for fabrication into or use upon structures located within the boundaries of the State of Oregon.

(7) The agency may refuse to process a complaint or any portion of a complaint that includes an allegation of a breach of contract, negligent or improper work or any other act or omission within the scope of ORS 701.140 that is the same as an allegation contained in a complaint previously filed by the same complainant against the same respondent, except that the agency may process a complaint that would otherwise be closed if the previously filed complaint was:

(a) Withdrawn before the on-site meeting;

(b) Closed without a determination on the merits before the on-site meeting;

(c) Closed because the complainant failed to pay the complaint processing fee required under OAR 812-004-0110 or 812-004-1110.

(d) Closed or dismissed with an explicit provision allowing the subsequent filing of a complaint containing the same allegations as the closed or dismissed complaint; or

(e) Closed or withdrawn because the respondent filed bankruptcy.

(8) Nothing in section (7) of this rule extends the time limitation for filing a complaint under ORS 701.143.

(9) A complaint by a person furnishing material, or renting or supplying equipment to a contractor may not include a complaint for non-payment for tools sold to a licensee, for equipment sold to a licensee and not fabricated into a structure, for interest or service charges on an account, or for materials purchased as stock items.

(10) Complaints by a contractor or by persons furnishing material, or renting or supplying equipment to a contractor will not be processed unless they are at least \$150 in amount, not including the processing fee required by 812-004-1110.

(11) The agency may process a complaint against a licensed contractor whose license was inactive under OAR 812-003-0330, 812-003-0340, 812-003-0350, 812-003-0360 and 812-003-0370 during the work period.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: Ch. 630 OL 2011 (SB 939)

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1340

Form of Complaints, Pre-Complaint Notice

(1) A complaint must be submitted on a complaint form provided by the agency. The agency may require the use of the most recent revision of the complaint form.

(2) The complainant must submit the following information on or with the complaint form required under section (1) of this rule if applicable:

(a) The name, address and telephone number of the complainant;

(b) The name, address, telephone number and license number of the respondent;

(c) The amount, if known at the time the complaint is filed, that the complainant alleges is due from the respondent after crediting payments, offsets and counterclaims in favor of the licensee to which the complainant agrees;

(d) Identification of the type of complaint;

(e) The date on which the contract was entered into;

(f) If the contract was in writing, a copy of the contract, including all relevant attachments, if any;

(g) The location of the work at issue in the complaint, described by a postal address or other description sufficient to locate the work site on a map and on the ground;

(h) The beginning and ending date of the work or invoices;

(i) Payments, offsets and counterclaims of the respondent, if known;

(j) Whether the project involves work on a residential, small commercial or large commercial structure;

(k) A certification by the complainant that the information provided on the complaint form is true;

(l) If a court judgment or judgment based on an arbitration award is the basis for the complaint, a copy of the judgment, arbitration award, the original complaint and any answers or counter-suits related to the parties to the complaint filed in the court action or arbitration;

(m) Documents described in section (9) of this rule that are related to the pre-complaint notice requirement in ORS 701.133.

(n) Additional information required under sections (3) through (8) of this rule.

(3) A subcontractor complaint must include copies of each original invoice relating to the complaint.

(4) An employee complaint must include evidence that an employee worked for a contractor and evidence of the amount of unpaid wages or benefits. Evidence may include:

(a) Time cards;

(b) Paycheck stubs;

(c) W-4 forms; or

(d) A sworn affidavit or written declaration under perjury of a third-person stating facts that indicate the employee worked for the contractor. A written declaration under perjury must contain the following statement, "I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury."

(5) An employee trust complaint must include the name of each employee that is the subject of the complaint, the dates that employee worked without payment of employee benefits and the following information for each date and employee:

(a) The hours worked without payment of employee benefits;

(b) The amount of the unpaid benefits;

(c) The address of the job site where the employee worked; and

(d) Whether the structure at the job site is a residential structure, small commercial structure or large commercial structure.

(6) A construction lien complaint must include evidence that the complainant paid the primary contractor, a copy of the notice of right to lien, a copy of the lien bearing the county recorder's stamp and signature, a copy of each invoice or billing constituting the basis of the lien, a copy of the ledger sheet or other accounting of invoices from the lienor, if applicable, and any foreclosure documents.

(7) A material complaint must include recapitulation of the indebtedness showing the job site address, the date of each invoice, each invoice number, each invoice amount and a copy of each original invoice relating to the complaint.

(8) A complaint involving negligent or improper work must include a list of the alleged negligent or improper work. A complaint involving a breach of contract must describe the nature of the breach of contract.

(9) A complaint must include one of the following:

(a) A copy of the pre-complaint notice required under ORS 701.133 and of the certified or registered mail receipt for the pre-complaint notice; or

(b) Written evidence that the respondent had actual notice of the dispute that is the subject of the complaint at least 30 days before the complainant filed the complaint. The agency will only accept evidence under this subsection (9)(b) if it is in one of the following forms:

(A) A return receipt signed by the respondent indicating receipt of a notice of intent to file a complaint sent to the respondent by the complainant; or

(B) A letter signed by the respondent acknowledging receipt of a notice of intent to file a complaint.

(c) Written evidence that the complainant and the respondent are parties to mediation, arbitration or a court action arising from the same contract or issues that are the subject of the complaint. The agency will only accept evidence under this subsection (9)(c) if it is in one of the following forms:

(A) Copies of a complaint or answer in the court action; or

(B) Copies of a document that initiated the mediation or arbitration.

(d) Evidence that the complainant and the respondent are parties to another complaint filed with the agency arising from the same contract or issues that are the subject of the complaint.

(10) Except as provided in subsections (9)(c) and (9)(d), the agency may not accept a statement by the complainant alleging that the respondent had actual knowledge of the dispute as written evidence required under section (9) of this rule.

ADMINISTRATIVE RULES

(11) The completed complaint form must be signed by the complainant or an agent of the complainant.

(12) A complaint form submitted to the agency that does not comply with the requirements of this rule is subject to OAR 812-004-1350.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: Ch. 630 OL 2011 (SB 939)

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1350

Procedure if Information on Complaint Form is Incomplete

If the agency receives a complaint form that does not meet the requirements of OAR 812-004-0340, the agency may close the complaint if the complainant does not provide the missing information in response to a written request for the information from the agency. The written request and closure must comply with OAR 812-004-0260.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: Ch. 630 OL 2011 (SB 939)

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1360

Addition of Complaint Items at On-Site Meeting

If the agency holds an on-site meeting, the complainant may add new complaint items up to and through the initial on-site meeting. New items added to a timely filed complaint under this rule are considered timely filed.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: Ch. 630 OL 2011 (SB 939)

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1400

Initial Administrative Processing of Complaints; Collection of Fee

(1) Upon receipt of a complaint, the agency must:

(a) Send a copy of the complaint to the respondent;

(b) Verify that the complainant has provided information required under OAR 812-004-1340 and request additional information from the complainant if necessary;

(c) Make a preliminary determination that the board has or lacks jurisdiction over the complaint based on the information provided by the complainant;

(2) If the agency makes a preliminary determination under subsection (1)(c) of this rule that it has jurisdiction over the complaint and the agency does not waive the complaint processing fee required under OAR 812-004-1110, the agency must request payment of the complaint processing fee. The agency may suspend processing of the complaint until complainant pays this fee.

(3) If the complainant does not pay the fee required under OAR 812-004-1110 within 14 days of written notification that the fee is due, the agency may close the complaint. The agency may extend the time for payment of the fee upon a showing of good cause by the complainant.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: Ch. 630 OL 2011 (SB 939)

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1420

Processing Owner and Primary Contractor Complaints Together

If an owner complaint based on the same facts and issues is received at any time during the processing of a primary contractor complaint, the two complaints will be processed together.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: Ch. 630 OL 2011 (SB 939)

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1440

Contracts With Arbitration Agreements

(1) If a complaint is based on a contract that contains an agreement by the parties to mediate disputes arising out of the contract, the specific terms of the mediation agreement supersede agency rules except as set forth in ORS 701.180.

(2) If the contract requires mediation, the agency will be the mediator unless the contract requires mediation by a specific mediator other than the agency.

(3) If the contract requires mediation by a specific mediator other than the agency, the agency must inform the respondent by written notice that, if the respondent wants to mediate under the terms of the contract, the respondent must initiate the contractual mediation process within the time allowed under ORS 701.180 and submit evidence to the agency within 40 days from

the date of the agency's written notice that respondent initiated mediation under the terms of the contract.

(4) If mediation under the contract is timely commenced under ORS 701.180, the agency must suspend processing the complaint until the mediation is complete.

(5) Notwithstanding receipt of a notice of intent to file a complaint under ORS 701.133 or any prior communication from the agency referencing a complaint, for purposes of ORS 701.180, a respondent receives notice of a complaint when the agency sends the respondent the notice described under section (3) of this rule.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: Ch. 630 OL 2011

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 8-2011(Temp), f. & cert. ef. 9-2-11 thru 12-28-11; CCB 9-2011(Temp), f. & cert. ef. 9-9-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1450

On-site Meeting and Telephone Mediation; Attendance of the Complainant

(1) The agency may schedule one or more on-site meetings or telephone mediations among the parties for the purpose of discussing a settlement of a complaint under ORS 701.145. The agency must mail notice of an on-site meeting no less than 14 days before the date scheduled for the meeting. The notice must include notice of the requirements of section (2) and (3) of this rule and must comply with the requirements of OAR 812-004-1260(2).

(2) If the agency schedules an on-site meeting, the following apply:

(a) The complainant must allow access to the property that is the subject of the complaint.

(b) The complainant or an agent of the complainant must attend the meeting. An agent of the complainant must have knowledge of all complaint items included in the complaint and must have authority to enter into a settlement of the complaint.

(c) The complainant must allow the respondent to be present at the on-site meeting as required by ORS 701.145.

(3) If the complainant does not comply with the requirements of section (2) of this rule, the agency may close the complaint. OAR 812-004-1260 applies to closure of a complaint under this section.

(4) Notwithstanding subsection (2)(b), the agency may continue to process the complaint if the respondent does not appear at the on-site meeting.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: Ch. 630 OL 2011 (SB 939)

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1460

Agency Recommendation of Resolution

If it appears that the respondent has breached a contract or performed work negligently or improperly, the agency may recommend to the complainant and respondent a resolution consistent with the terms of the contract, generally accepted building practices, and industry standards.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: Ch. 630 OL 2011 (SB 939)

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1480

Resolution by Settlement and Construction of Settlement Agreement

(1) The agency may present a settlement proposal to the complainant and respondent for their consideration and agreement at or after an on-site meeting or telephone mediation conducted under OAR 812-004-0450.

(2) If the complainant and respondent sign a settlement agreement, the agreement shall be binding upon each party unless breached by the other.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: Ch. 630 OL 2011 (SB 939)

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1490

Subsequent On-Site Meetings; Determining Compliance; Closing Complaint

(1) If a dispute arises as to whether the respondent complied with the settlement agreement, the agency may schedule a subsequent on-site meeting.

(2) If the agency determines that the respondent complied with the terms of the settlement agreement, the agency may close the complaint.

(3) If the agency determines that the respondent did not comply with the terms of the settlement agreement, the complainant must obtain a judg-

ADMINISTRATIVE RULES

ment and submit the judgment to the agency in order to recover under the respondent's bond.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: Ch. 630 OL 2011 (SB 939)
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1500

Closure of Complaint After Settlement

If the complainant and respondent agree to a settlement, within 30 days from the date the settlement agreement requires completion of the terms of the settlement, the complainant must notify the agency in writing whether the terms of the settlement have been fulfilled.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: Ch. 630 OL 2011 (SB 939)
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1505

Complaint Not Settled

(1) For other than a BOLI final order, if the complainant and respondent do not settle the complaint, the complainant must obtain a court judgment, including a judgment on an arbitration award, in order to recover from the respondent's bond.

(2) The agency will process the judgment and issue its determination as to the amount of the judgment that complainant is entitled to recover from respondent's bond.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: Ch. 630 OL 2011 (SB 939)
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1510

Court Judgments, Arbitration Awards and Bureau of Labor and Industries Final Orders

(1) A judgment based on a court action or arbitration award or a Bureau of Labor and Industries (BOLI) final order constitute the basis for a complaint if:

(a) A complaint is filed under OAR 812-004-1300 and 812-004-1340 within the time limit in ORS 701.143; and

(b) All or a portion of the judgment or the BOLI final order is within the jurisdiction of the agency.

(2) A complaint based on a judgment or BOLI final order will be processed under OAR 812-004-1520.

(3) This rule does not apply to a complaint filed and processed under ORS 701.146.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: Ch. 630 OL 2011 (SB 939)
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1520

Processing of Complaint Based on Judgments and Bureau of Labor and Industries Final Orders

(1) The agency may suspend processing a complaint if:

(a) The complainant or respondent submits to a court, arbitrator or BOLI a complaint based on the same facts and issues contained in the complaint filed with the agency; or

(b) The complainant in an owner complaint involving a residential structure submits copies of a notice of defect required under ORS 701.565 and the registered mail receipt for the notice and the notice of defect relates to the same facts and issues contained in the complaint.

(2) Beginning six months after the date that the agency suspends processing the complaint and no less frequently than every sixth month thereafter, the complainant must deliver to the agency a written report describing the current status of the notice of defect or action before the court, arbitrator or BOLI.

(3) The agency may, at any time, demand from the complainant a written report describing the current status of the notice of defect or the action before the court, arbitrator or BOLI. The complainant must deliver a written response to the agency within 30 days from the date the agency mails the demand letter.

(4) Within 30 days from the date of final action by the court or BOLI, the complainant must deliver to the agency a certified copy of the final judgment or BOLI final order. The agency may extend the time in which to submit the final judgment or BOLI final order if it determines there is good cause to do so.

(5) If the complainant does not comply with sections (2), (3) or (4) of this rule, the agency may close the complaint under OAR 812-004-1260(1)(i).

(6) If the agency suspends processing a complaint because respondent filed a court action, the complainant must file its complaint as a countersuit, complaint or counter-claim in the court, arbitration or other proceedings and submit evidence, including a copy of the countersuit, complaint or counter claim, to the agency. The complainant must provide this information within 30 days from the date that the agency suspended processing the complaint, unless the agency determines there is good cause to extend the permissible time period.

(7) If the complainant does to submit the evidence required under subsection (6) of this rule, the agency may close the complaint.

(8) At its discretion and with the agreement of the complainant and respondent, the agency may hold an on-site meeting under OAR 812-004-1450 before suspending complaint processing under section (2) of this rule if the agency finds that an on-site meeting may help the parties to resolve the complaint.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: Ch. 630 OL 2011 (SB 939)
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1530

Construction Lien Complaints

(1) The agency may schedule one or more on-site meetings or telephone mediations among the parties to a construction lien complaint filed under ORS 701.145 for the purpose of discussing settlement of the complaint. Notice of the meeting must comply with OAR 812-004-1450(1). The agency may invite the lienor to participate in the settlement discussions. The on-site meeting may be held on the property of the complainant or another mutually agreeable site. OAR 812-004-1450(2), (3) and (4) apply to an on-site meeting held under this section.

(2) If the complaint does not settle, the complainant must:

(a) Join the respondent in an action to foreclose the lien if the lienor has filed such an action; or

(b) File an action against respondent to recover damages caused by respondent's failure to pay for material, rental services, labor or subcontractor services that gave rise to the lien.

(3) The agency will suspend processing the complaint while the complainant complies with section (2) of this rule. If complainant fails, within 60 days from the date of the last on-site meeting or telephone mediation, to comply with section (2) of this rule, the agency may close the complaint. The agency may extend the time to comply with section (2) for good cause.

(4) While the court action described in section (2) is proceeding, the complainant must comply with OAR 812-004-1520.

(5) If a construction lien complaint involves the same facts and issues as any other open complaint, the agency must process the complaints together.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: Ch. 630 OL 2011 (SB 939)
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-004-1537

Standards of Care and Workmanship

(1) For purposes of this rule, "NASCLA Standards" mean the Residential Construction Standards, dated March 20, 2009, as adopted by the National Association of State Contractors Licensing Agencies.

(2) Except as provided in section (3) of this rule, the agency will apply NASCLA standards; to the extent such standards cover the work at issue, in order to determine if construction work performed on a residential structure meets the standards of care and workmanship in the industry.

(3) The agency may apply a standard different than the NASCLA standard if:

(a) The contract between the parties provides for a standard of care and workmanship that differs from the NASCLA standard; or

(b) The work involved installation of a product for which the manufacturer provided installation instructions that establish a standard that differs from the NASCLA standard.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: Ch. 630 OL 2011 (SB 939)
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

ADMINISTRATIVE RULES

812-004-1600

Payment From Surety Bond, Letter of Credit or Cash Deposit

(1) The agency must notify the surety company or financial institution the agency's determination. The determination is the amount of the judgment that is subject to payment by the surety or financial institution.

(2) A complaint is ready for payment when there is a court judgment and 30 days have elapsed or there is a BOLI final order and 60 days have elapsed and:

(a) The respondent has not paid the judgment or BOLI order;

(b) A court has not granted a stay of judgment or BOLI has not granted a stay of its final order; and

(c) All other complaints filed against the respondent within the same 90-day filing period under ORS 701.150 are resolved, closed or have reached the same state of processing as the subject complaint.

(3) For purposes of section (2), a BOLI final order is final except that the 60-day period for judicial review has not expired.

(4) Complaints related to a job that are satisfied from a surety bond, letter of credit or cash deposit must be paid as follows:

(a) If a surety bond, letter of credit or cash deposit was in effect when the work period began and that bond, letter of credit or cash deposit was not cancelled more than 14 months before the agency received the complaint, payment must be made from that surety bond, letter of credit or cash deposit.

(b) If no surety bond, letter of credit or cash deposit was in effect when the work period began and that bond, letter of credit or cash deposit was not cancelled more than 14 months before the agency received the complaint, but a surety bond, letter of credit or cash deposit subsequently became effective during the work period of the contract, payment must be made from the first surety bond, letter of credit or cash deposit to become effective after the beginning of the work period.

(c) A surety bond, letter of credit or cash deposit that is liable for a complaint under subsection (4)(a) or (b) of this rule is liable for all complaints related to the job and subsequent surety bonds, letters of credit or cash deposits have no liability for any complaint related to the job.

(5) If during a work period the amount of a surety bond, letter of credit or cash deposit is changed and a complaint is filed relating to work performed during that work period, the complainant may recover from the surety bond, letter of credit or cash deposit up to the amount in effect at the time the contract was entered into.

(6) If the contractor holds a residential surety bond, that bond is available only for payments ordered by the agency involving residential or small commercial structures or for the development of property zoned or intended for use compatible with residential or small commercial structures.

(7) If the contractor holds a commercial surety bond, that bond is available only for payments ordered by the agency involving small or large commercial structures or for development of property zoned or intended for use compatible with small or large commercial structures.

(8) If more than one complaint must be paid from a surety bond, letter of credit or cash deposit under section (4) of this rule and the total amount due to be paid exceeds the total amount available from the surety bond, letter of credit or cash deposit, payment on a complaint must be made in the same proportion that the amount due on that complaint bears to the total due on all complaints that must be paid.

(9) The full penal sum of a bond is available to pay complaints under this rule, notwithstanding that the penal sum may exceed the bond amount required under OAR 812-003-0170 or 812-003-0171.

(10) If two or more respondents are jointly and severally liable for an amount due to a complainant and payment is due from the surety bonds, letter of credit or cash deposit of the respondents, payment must be made in equal amounts from each bond, letter of credit or cash deposit subject to payment. If one or more of the bonds, letters of credit or cash deposits is or becomes exhausted, payment must be made from the remaining bond, letter of credit or cash deposit or in equal amounts from the remaining bonds, letters of credit or cash deposits. If one of the respondents liable on the complaint makes payment on the complaint, that payment shall reduce the payments required from that respondent's bond, letter of credit or cash deposit under this section by an amount equal to the payment made by the respondent.

(11) A surety company or financial institution may not condition payment of a complaint on the execution of a release by the complainant.

(12) Inactive status of the license of the respondent does not excuse payment by a surety company or financial institution required under this rule.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: Ch. 630 OL 2011 (SB 939)

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-009-0010

Application of Rules

Subject to OAR 812-004-0590, contested case hearings on complaints filed before July 1, 2011, arising under ORS 701.139-701.180 are governed by OAR 812-009-0020-812-009-0220 and 137-003-0501-137-003-0700.

Stat. Auth.: ORS 670.310, 701.145, 701.235 & OL 1999, Ch. 849, Sec. 8

Stats. Implemented: ORS 183.413 - 183.470 & 701.145

Hist.: CCB 1-2000(Temp), f. 1-20-00, cert. ef. 1-24-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 6-2002 f. 6-10-02 cert. ef. 7-1-02; CCB 15-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

812-010-0020

Applicability of Rules; Application of ORS 36.600-36.740

(1) The rules in division 10 of this chapter apply to complaints filed before July 1, 2011, when:

(a) A complaint is referred to the Office of Administrative Hearings for arbitration under OAR 812-004-0590.

(b) The parties to the arbitration agree that the Construction Contractors Board may arbitrate a construction dispute and the agency accepts the dispute for arbitration under ORS 701.148.

(c) A timely complaint is filed relative to work performed under a contract that contains an arbitration clause specifying that the Construction Contractors Board must arbitrate disputes arising from the contract and the agency accepts the dispute for arbitration under ORS 701.148.

(d) Arbitration by the Construction Contractors Board is ordered by a court under ORS 36.600 or 36.625.

(2) Except as otherwise provided in the rules in division 10 of this chapter, an arbitration conducted under this division is governed by ORS 36.600 to 36.740, and sections 3 and 31, Chapter 598, Oregon Laws 2003.

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

Stats. Implemented: ORS 36.600-36.740, ch. 183, 701.133, 701.139 & 701.148

Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 5-1999, f. & cert. ef. 9-10-99; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 6-2002 f. 6-10-02 cert. ef. 7-1-02; CCB 8-2002, f. & cert. ef. 9-3-02; CCB 7-2003, f. & cert. ef. 8-8-03; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 4-2004, f. 5-28-04, cert. ef. 6-1-04; CCB 8-2004, f. & cert. ef. 10-1-04; CCB 15-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11

Rule Caption: Lead-Based Paint Rule Updated to Conform to Oregon Health Authority Rules.

Adm. Order No.: CCB 12-2011

Filed with Sec. of State: 9-29-2011

Certified to be Effective: 10-1-11

Notice Publication Date: 9-1-2011

Rules Amended: 812-007-0000, 812-007-0020, 812-007-0100, 812-007-0110, 812-007-0130, 812-007-0150, 812-007-0200, 812-007-0210, 812-007-0230, 812-007-0250, 812-007-0300, 812-007-0350, 812-007-0370, 812-007-0372, 812-007-0374

Subject: • 812-007-0000 is amended to revise the Oregon Department of Human Services, Health Division, name which has changed to the Oregon Health Authority. These rules use the acronym "OHA" instead of the term "Authority" which is used in the OHA rules. The reason is that the term "authority" is already used in both OHA and CCB rules and, we believe, it would be confusing to use that term to refer to another agency.

• 812-007-0020 is amended to replace "Department" with "OHA"; revise language re: accredited training program to be consistent with language in recently revised OHA rule; make grammatical corrections (number format); remove definition for "lead-based paint (LBP) hazard" because it is not used in the CCB rules; change heat gun temperature to correspond to changed OHA work practice standards. See OAR 333-070-0090(6)(c). This higher temperature is permitted by federal law.

• 812-007-0100, 812-007-0110, 812-007-0130, 812-007-0200, 812-007-0210, 812-007-0230 are amended to replace the word "Department" with the word "OHA".

• 812-007-0150 is amended to replace the word "Department" with the word "OHA" and change reference to statutes for contested case hearings to reflect statutes that have been repealed.

• 812-007-0250 and 812-007-0350 are amended to replace the word "Department" with the word "OHA" and change reference to

ADMINISTRATIVE RULES

statutes for contested case hearings to reflect statutes that have been repealed.

- 812-007-0300 is amended to remove date that has passed.
- 812-007-0370 is amended to replace the word “person” with the word “individual” as used in OHA rule, OAR 333-070-0095(1)(b)(B)(iii).
- 812-007-0372 is amended to add language contained in OHA notification requirements, common areas, OAR 333-070-0095(2)(b)(B).
- 812-007-0374 is amended to add language contained in OHA notification requirements, child-occupied facilities, OAR 333-070-0095(4)(c)(B).

Rules Coordinator: Catherine Dixon—(503) 934-2185

812-007-0000

Authority, Purpose, Scope

(1) Authority. These rules are promulgated in accordance with and under the authority of ORS 701.505 to 701.520 and 701.995.

(2) Purpose. These rules establish a system to license individuals certified by the Oregon Health Authority (OHA) to perform lead-based paint (LBP) activities. These rules establish a system to license contractors as LBP activities contractors and as certified LBP renovation contractors.

(3) Scope. These rules:

(a) Prescribe the requirements for, and the manner of, licensing applicants.

(b) Establish fees.

(c) Prescribe actions that constitute failure to achieve or maintain licensing requirements, or that otherwise are contrary to the public interest, for which the board may deny, suspend or revoke a license.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

Hist.: CCB 6-1996(Temp), f. & cert. ef. 11-26-96; Administrative Renumber from 812-007-0005, 5-19-97; CCB 1-1997, f. & cert. ef. 5-15-97; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 13-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 2-2010, f. & cert. ef. 2-1-10; CCB 12-2011, f. 9-29-11, cert. ef. 10-1-11

812-007-0020

Definitions

The following definitions apply to division 7 of OAR chapter 812.

(1) “Abatement” means any measure or set of measures designed to permanently eliminate LBP hazards.

(2) “Accredited training program” means a training program provisionally accredited or accredited by the OHA, the Environmental Protection Agency (EPA) or an EPA-authorized state or tribal program.

(3) “Certified” means certified by OHA to perform LBP activities.

(4) “Certified lead-based paint renovation contractor” means a construction contractor that is licensed by the board to conduct LBP renovation under ORS 701.515.

(5) “Certified renovator” means an individual who has successfully completed a renovator course accredited by OHA, EPA, or EPA authorized program.

(6) “Child-occupied facility” means a building, or portion of a building, constructed before 1978 and visited regularly by the same child, under age six, on at least two different days within any week (Sunday through Saturday), provided that each day’s visit lasts at least three hours and the combined weekly visit lasts at least six hours, and the combined annual visits last at least 60 hours. Child-occupied facilities may include, but are not limited to, day-care centers, preschools and kindergarten classrooms. Child-occupied facilities may be located in target housing or in public or commercial buildings. With respect to common areas in public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only those common areas that are routinely used by children under age six, such as restrooms and cafeterias. Common areas that children under age six only pass through, such as hallways, stairways, and garages are not included. In addition, with respect to exteriors of public or commercial buildings that contain child-occupied facilities, the child-occupied facility encompasses only the exterior sides of the building that are immediately adjacent to the child-occupied facility or the common areas routinely used by children under age six.

(7) “Component or building component” means specific design or structural elements or fixtures of a building or residential dwelling that are distinguished from each other by form, function, and location. These include, but are not limited to: interior components such as ceilings, crown molding, walls, chair rails, doors, door trim, floors, fireplaces, radiators and other heating units, shelves, shelf supports, stair treads, stair risers, stair stringers, newel posts, railing caps, balustrades, windows and trim (including

sashes, window heads, jambs, sills or stools and troughs), built-in cabinets, columns, beams, bathroom vanities, counter tops, and air conditioners; and exterior components such as painted roofing, chimneys, flashing, gutters and downspouts, ceilings, soffits, fascias, rake boards, corner boards, bulkheads, doors and door trim, fences, floors, joists, lattice work, railings and railing caps, siding, handrails, stair risers and treads, stair stringers, columns, balustrades, window sills or stools and troughs, casings, sashes and wells, and air conditioners.

(8) “Course completion certificate” means documentation issued by an accredited training program to an individual as proof of successful completion of an accredited renovator training program (initial or refresher).

(9) “Deteriorated lead-based paint (LBP)” means any interior or exterior paint or other covering that is peeling, chipping, chalking, cracking, flaking or any paint or coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate.

(10) “Dust-lead hazard” means surface dust that contains a mass-per-area concentration of lead equal to or exceeding 40 $\mu\text{g}/\text{ft}^2$ on floors or 250 $\mu\text{g}/\text{ft}^2$ on interior windows or 400 $\mu\text{g}/\text{ft}^2$ in troughs based on wipe samples.

(11) “Inspection” means a surface-to-surface investigation to determine the presence of LBP and an accompanying report explaining the results of the investigation.

(12) “Lead abatement contractor” means a construction contractor that is licensed by the board to perform abatement.

(13) “Lead assessor” or “risk assessor” means an individual who has been trained by an accredited training program and certified by the Department to conduct risk assessments.

(14) “Lead-based paint” or “LBP” means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5 percent by weight.

(15) “Lead-based paint activities” means, in the case of target housing and child-occupied facilities, inspection, risk assessment, and abatement.

(16) “Lead inspection contractor” means a construction contractor that is licensed by the board to perform inspections or risk assessments.

(17) “Lead inspector” means an individual who has been trained by an accredited training program and certified by OHA to conduct inspections.

(18) “Lead supervisor” means an individual who has been trained by an accredited training program and certified by OHA to supervise and conduct abatements and prepare abatement reports.

(19) “Lead worker” or “lead abatement worker” means an individual who has been trained by an accredited training program and certified by OHA to perform abatements.

(20) “Minor repair and maintenance” means activities, (including minor heating, ventilation, air conditioning work, electrical work, or plumbing) that disrupt 6 square feet or less of painted surface per room for interior activities or 20 square feet or less of painted surface for exterior activities, that do not involve prohibited or restricted work activities and do not involve window replacement or painted surface demolition. Jobs, other than emergency renovations, performed within the same 30 days must be considered the same job for the purpose of determining whether the job is a minor repair and maintenance activity.

(21) “Prohibited or restricted work activities” include:

(a) Open flame burning or torching;

(b) Machines to remove paint through high-speed operation without HEPA exhaust control; and

(c) Operating a heat gun at temperatures at or above 1100 degrees Fahrenheit.

(22) “Recognized test kit” means a commercially available kit recognized by EPA under 40 CFR § 745.88 as being capable of allowing a user to determine the presence of lead at levels equal to or in excess of 1.0 milligrams per square centimeter, or more than 0.5 percent lead by weight, in a paint chip, paint powder, or painted surface.

(23) “Renovation” means the modification of any existing structure, or portion thereof, which results in the disturbance of painted surfaces, unless that activity is performed as part of an abatement. The term renovation includes, but is not limited to:

(a) Removal, modification or repair of painted surfaces or painted components, such as modification of painted doors, surface restoration, window repair, surface preparation activity (such as sanding, scraping or other such activities that may generate paint dust);

(b) The removal of building components, such as walls, ceilings, plumbing and windows;

(c) Window replacement;

ADMINISTRATIVE RULES

(d) Weatherization projects, such as cutting holes in painted surfaces to install blown-in insulation or to gain access to attics, or planing thresholds to install weather-stripping;

(e) Interim controls that disturb painted surfaces. A renovation for the purpose of converting a building, or part of a building, into target housing or a child-occupied facility is a renovation. The term "renovation" does not include minor repair and maintenance.

(24) "Renovation Right Pamphlet" means the pamphlet entitled *Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools* or any pamphlet approved by the Environmental Protection Agency (EPA) for the same purpose.

(25) "Risk assessment" means an on-site investigation to determine the existence, nature, severity, and location of a LBP hazard and an accompanying report explaining the results of the investigation and options for reducing LBP hazards.

(26) "Soil lead hazard" means 400 ppm of lead in child play areas or 1200 ppm in non-child play areas.

(27) "Target housing" means any housing constructed before 1978, except housing for the elderly or persons with disabilities or any housing with no bedrooms.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.505 - 701.520

Hist.: CCB 6-1996(Temp), f. & cert. ef. 11-26-96; Administrative Renumber from 812-007-0015, 5-19-97; CCB 1-1997, f. & cert. ef. 5-15-97; CCB 4-1997, f. & cert. ef. 11-3-97; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 13-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 2-2010, f. & cert. ef. 2-1-10; CCB 5-2010(Temp), f. & cert. ef. 3-11-10 thru 9-3-10; CCB 10-2010(Temp), f. & cert. ef. 6-1-10 thru 9-3-10; CCB 14-2010, f. 8-24-10, cert. ef. 9-1-10; CCB 12-2011, f. 9-29-11, cert. ef. 10-1-11

812-007-0100

Licenses Required for Lead-Based Paint Activities — Individuals

No individual shall offer to perform or perform LBP activities in target housing or child-occupied facilities without first receiving certification from OHA and a license from the board, unless such individual is exempt from the board's licensing requirements. The following are individuals that perform LBP activities:

- (1) Lead assessor;
- (2) Lead inspector;
- (3) Lead supervisor;
- (4) Lead worker.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10; CCB 12-2011, f. 9-29-11, cert. ef. 10-1-11

812-007-0110

Application and Eligibility Requirements for Lead-Based Paint Activity Licenses — Individuals

(1) An individual applying for a license as a lead assessor must submit the following:

- (a) Completed application on a form provided by the board;
- (b) The fee established in OAR 812-007-0160; and
- (c) Proof that OHA certified the individual as a certified risk assessor.

(d) Copy of OHA photo identification badge.

(2) An individual applying for a license as a lead inspector must submit the following:

- (a) Completed application on a form provided by the board;
- (b) The fee established in OAR 812-007-0160; and
- (c) Proof that OHA certified the individual as a certified inspector.

(d) Copy of OHA photo identification badge.

(3) An individual applying for a license as a lead supervisor must submit the following:

- (a) Completed application on a form provided by the board;
- (b) The fee established in OAR 812-007-0160; and
- (c) Proof that OHA certified the individual as a certified supervisor.

(d) Copy of OHA photo identification badge.

(4) An individual applying for a license as a lead worker must submit the following:

- (a) Completed application on a form provided by the board;
- (b) The fee established in OAR 812-007-0160; and
- (c) Proof that OHA certified the individual as a certified abatement worker.

(d) Copy of OHA photo identification badge.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10; CCB 12-2011, f. 9-29-11, cert. ef. 10-1-11

812-007-0130

Renewal of Lead-Based Paint Activity Licenses — Individuals

Individuals licensed under these rules may renew their licenses by submitting the following:

(1) A properly completed application for license renewal on a form provided by the board;

(2) The fee established in OAR 812-007-0160; and

(3) Proof that the individual is certified by OHA.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10; CCB 12-2011, f. 9-29-11, cert. ef. 10-1-11

812-007-0150

Denial, Suspension or Revocation of Lead-Based Paint Activity Licenses — Individuals

(1) The board may deny, suspend, or revoke an individual's license on the following grounds:

(a) Obtaining OHA certification through misrepresentation of certification requirements such as education, training, professional registration, or experience;

(b) Gaining admission to or completing continuing education by misrepresenting initial or previous education;

(c) Obtaining a license through invalid documentation;

(d) Permitting the duplication or use of the license by another;

(e) Failing to comply with applicable work practice standards set forth in these rules and OAR 333-069-0070; or

(f) Being subject to a final administrative order or criminal conviction based on engaging in a prohibited act under rules of OHA or the board.

(2) Hearings on denial, suspension or revocation of a license shall be conducted as a contested case in accordance with ORS 183.310 to 183.470.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10; CCB 12-2011, f. 9-29-11, cert. ef. 10-1-11

812-007-0200

Licenses Required for Lead-Based Paint Activities — Contractors

(1) No contractor shall offer to perform or perform LBP abatement in target housing or child-occupied facilities without first receiving certification from OHA and a license from the board as a lead abatement contractor, unless such contractor is exempt from the certification or licensing requirements.

(2) No contractor shall offer to perform or perform LBP inspection or risk assessment in target housing or child-occupied facilities without first receiving certification from OHA and a license from the board as a lead inspection contractor, unless such contractor is exempt from the certification or licensing requirements.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10; CCB 12-2011, f. 9-29-11, cert. ef. 10-1-11

812-007-0210

Application and Eligibility Requirements for Lead-Based Paint Activity Licenses — Contractors

(1) A person applying for a license as a lead abatement contractor must submit the following:

(a) Completed application on a form provided by the board;

(b) Proof that the person is licensed by the board as a construction contractor;

(c) The fee established in OAR 812-007-0260;

(d) Proof that the applicant is owned by or employs one or more persons who are licensed lead supervisor(s); and

(e) Proof that OHA certified the person as qualified to perform abatement.

(2) A person applying for a license as a lead inspection contractor must submit the following:

(a) Completed application on a form provided by the board;

(b) Proof that the person is licensed by the board as a construction contractor;

(c) The fee established in OAR 812-007-0260;

(d) Proof that the applicant is owned by or employs one or more persons who are licensed lead inspector(s) or licensed lead risk assessor(s); and

(e) Proof that OHA certified the person as qualified to perform inspection or risk assessment.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10; CCB 12-2011, f. 9-29-11, cert. ef. 10-1-11

ADMINISTRATIVE RULES

812-007-0230

Renewal of Lead-Based Paint Activity Licenses — Contractors

Persons licensed under these rules may renew their licenses by submitting the following:

- (1) A properly completed application for license renewal on a form provided by the board;
- (2) Proof that the person is licensed by the board as a construction contractor;

(3) The fee established in OAR 812-007-0260; and

(4) Proof that the contractor is certified by OHA.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10; CCB 12-2011, f. 9-29-11, cert. ef. 10-1-11

812-007-0250

Denial, Suspension or Revocation of License for Lead-Based Paint Activities — Contractors

(1) The board may deny, suspend, or revoke a license of a lead abatement contractor or a lead inspection contractor on the following grounds:

(a) Obtaining OHA certification through misrepresentation of certification requirements such as education, training, professional registration, or experience;

(b) Obtaining a license through invalid documentation;

(c) Performing work requiring a license without having a current valid original license identification card available at the job site for inspection;

(d) Performing work for which there is no current, appropriate certification issued by OHA;

(e) Permitting the duplication or use of the license by another;

(f) Failing to comply with applicable work practice standards set forth in these rules and OAR 333-069-0070;

(g) Failing to comply with local, state, or federal statutes or regulations including execution of a consent agreement in settlement of an enforcement action;

(h) Failing to maintain required records;

(i) Being subject to a final administrative order or criminal conviction based on engaging in a prohibited act under rules of the Department or the board;

(j) Failing to comply with a consent agreement in settlement of an enforcement action;

(k) For a lead abatement contractor, failing to have an owner or employee that is a licensed lead supervisor or lead worker; or

(l) For a lead inspection contractor, failing to have an owner or employee that is a licensed lead inspector or licensed lead assessor.

(2) Hearings on denial, suspension or revocation of a license shall be conducted as a contested case in accordance with ORS 183.310 to 183.470.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10; CCB 12-2011, f. 9-29-11, cert. ef. 10-1-11

812-007-0300

License Required for Lead-Based Paint Renovation

No contractor shall offer to perform or perform renovation in target housing or child-occupied facilities without first receiving a certified LBP renovation contractor license from the board, unless such contractor is exempt from the board's licensing requirements.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10; CCB 12-2011, f. 9-29-11, cert. ef. 10-1-11

812-007-0350

Denial, Suspension or Revocation of Certified Lead-Based Paint Renovation Contractor License

(1) The board may deny, suspend, or revoke a license of a certified LBP renovation contractor on the following grounds:

(a) Obtaining a license through invalid documentation;

(b) Permitting the duplication or use of the license by another;

(c) Violating a rule of the board; or

(d) Violating OAR 333-070-0090 (work practice standards), 333-070-0100(4) (renovator responsibilities), or 333-070-0110 (recordkeeping and reporting requirements.) For purposes of recordkeeping and reporting requirements, as used in OAR 333-070-0110, the terms "Oregon Health Authority" and "Authority" to the board.

(2) Hearings on denial, suspension or revocation of a license shall be conducted as a contested case in accordance with ORS 183.310 to 183.470.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10; CCB 8-2010, f. & cert. ef. 4-28-10; CCB 12-2011, f. 9-29-11, cert. ef. 10-1-11

812-007-0370

Notification Requirements for Certified Lead-Based Paint Renovation Contractors — Renovation in Target Housing Dwelling Units

(1) No more than 60 days before beginning renovation in target housing dwelling units, the contractor must provide the owner of the dwelling unit with an Renovation Right Pamphlet and do one of the following:

(a) Obtain from the owner a written acknowledgment that the owner has received the Renovation Right Pamphlet; or

(b) Obtain a certificate of mailing of the Renovation Right Pamphlet dated at least 7 days before the start of the renovation.

(2) In addition to the requirements of (1), if the owner does not occupy the dwelling unit, the contractor must provide the Renovation Right Pamphlet to an adult occupant of the dwelling unit and comply with one of the following:

(a) Obtain, from the adult occupant, a written acknowledgment that the occupant has received the Renovation Right Pamphlet;

(b) Obtain a certificate of mailing of the Renovation Right Pamphlet at least 7 days before the start of the renovation; or

(c) Certify in writing that the contractor delivered the Renovation Right Pamphlet to the dwelling unit but was unsuccessful in obtaining a written acknowledgment from an adult occupant. Certification must include:

(A) The address of the dwelling unit undergoing renovation;

(B) The date and method of delivery of the Renovation Right Pamphlet;

(C) The name of the individual delivering the Renovation Right Pamphlet;

(D) A reason for lack of acknowledgment (e.g., occupant refuses to sign, no adult occupant available);

(E) The signature of an owner or employee of the contractor; and

(F) The date the contractor's owner or employee signed the certification.

(3) The written acknowledgment required by paragraphs (1)(a) and (2)(a) must:

(a) Include a statement acknowledging receipt of the Renovation Right Pamphlet before the start of the renovation, the name of the recipient, the address undergoing renovation, the signature of the recipient and the date of signature;

(b) Be either a separate sheet of paper or part of a written contract or service agreement for the renovation; and

(c) Be written in the same language as the agreement for renovation or, in the case of non-owner target housing, the same language as the lease or rental agreement.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10; CCB 12-2011, f. 9-29-11, cert. ef. 10-1-11

812-007-0372

Notification Requirements for Certified Lead-Based Paint Renovation Contractors — Renovation in Target Housing Common Areas

(1) No more than 60 days before beginning renovation in target housing common areas, the contractor must provide the owner of the target housing with an Renovation Right Pamphlet and do one of the following:

(a) Obtain from the owner a written acknowledgment that the owner has received the Renovation Right Pamphlet; or

(b) Obtain a certificate of mailing of the Renovation Right Pamphlet dated at least 7 days before the start of the renovation.

(2) In addition to the requirements of (1), the contractor must comply with one of the following:

(a) Notify, in writing, each affected dwelling unit occupant and make the Renovation Right Pamphlet available upon request before the start of renovation. The written notice should describe:

(A) The general nature and locations of the planned renovation activities;

(B) The expected starting and ending dates; and

(C) A statement of how the occupant can obtain the Renovation Right Pamphlet, at no charge, from the contractor performing the renovation.

(b) While the renovation is ongoing, post signs describing the general nature and locations of the renovation and the anticipated completion date. These signs must be posted in areas where they are likely to be seen by the occupants of all of the affected dwelling units. The signs must be accompanied by:

(A) A posted copy of the Renovation Right Pamphlet; or

(B) Information on how interested occupants can review or obtain a copy of the Renovation Right Pamphlet from the contractor at no cost.

ADMINISTRATIVE RULES

(c) The posted signs must also include information on how interested occupants may review a copy of the records required by OAR 333-070-0110 or obtains a copy from the contractor at no cost to the occupants.

(3) The contractor must prepare, sign, and date a statement describing the steps taken to notify occupants of the intended renovation and to provide the Renovation Right Pamphlet.

(4) The written acknowledgment required by paragraphs (1)(a) and (2)(a) must:

(a) Include a statement acknowledging receipt of the Renovation Right Pamphlet before the start of the renovation, the name of the recipient, the address undergoing renovation, the signature of the recipient and the date of signature;

(b) Be either a separate sheet of paper or part of a written contract or service agreement for the renovation; and

(c) Be written in the same language as the agreement for renovation or, in the case of non-owner target housing, the same language as the lease or rental agreement.

(5) If the scope, location, or expected starting or ending dates of the planned renovation change and the contractor provided written notification in accordance with (1) or (2)(a), the contractor must provide further written notification to the owners and occupants including revised information on the ongoing or planned renovation. This subsequent notification must be provided before the contractor performing the renovation initiates work beyond that described in the original notice.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10; CCB 12-2011, f. 9-29-11, cert. ef. 10-1-11

812-007-0374

Notification Requirements for Certified Lead-Based Paint Renovation Contractors — Renovation in Child-Occupied Facilities

(1) No more than 60 days before beginning renovation in any child-occupied facility, the contractor performing the renovation must provide the building owner with the Renovation Right Pamphlet and comply with one of the following:

(a) Obtain from the owner a written acknowledgment that the owner has received the Renovation Right Pamphlet; or

(b) Obtain a certificate of mailing of the Renovation Right Pamphlet dated at least 7 days before the start of the renovation.

(2) In addition to the requirements of (1), if the owner does not occupy the building, the contractor must provide the Renovation Right Pamphlet to an adult representative of the child-occupied facility and comply with one of the following:

(a) Obtain, from the adult representative, a written acknowledgment that the adult representative has received the Renovation Right Pamphlet;

(b) Obtain a certificate of mailing of the Renovation Right Pamphlet at least 7 days before the start of the renovation; or

(c) Certify in writing that the contractor delivered the Renovation Right Pamphlet to the dwelling unit but was unsuccessful in obtaining a written acknowledgment from an adult occupant. Certification must include:

(A) The address of the facility undergoing renovation;

(B) The date and method of delivery of the Renovation Right Pamphlet;

(C) The name of the person delivering the Renovation Right Pamphlet;

(D) A reason for lack of acknowledgment (e.g., occupant refuses to sign, no adult occupant available);

(E) The signature of an owner or employee of the contractor; and

(F) The date the contractor's owner or employee signed the certification.

(3) In addition to the requirements of (1) and (2), the contractor must provide the parents and guardians of children using the child-occupied facility with the Renovation Right Pamphlet and information describing the general nature and locations of the renovation and the anticipated completion date. The contractor may comply by doing one of the following:

(a) Mail or hand-deliver the Renovation Right Pamphlet and the renovation information to each parent or guardian of a child using the child-occupied facility;

(b) While the renovation is ongoing, post signs describing the general nature and locations of the renovation and the anticipated completion date. These signs must be posted in areas where they are likely to be seen by the parents or guardians of the children frequenting the child-occupied facility. The signs must be accompanied by:

(A) A posted copy of the Renovation Right Pamphlet; or

(B) Information on how the parents or guardians can review or obtain a copy of the Renovation Right Pamphlet from the contractor at no cost.

(c) The posted signs must also include information on how interested parents or guardians of children frequenting the child-occupied facility may review a copy of the records required by OAR 333-070-0110 or obtains a copy from the contractor at no cost to the parents or guardians.

(4) The contractor must prepare, sign, and date a statement describing the steps performed to notify all parents and guardians of the intended renovation activities and to provide the pamphlet.

(5) The written acknowledgment required by paragraphs (1)(a) and (2)(a) must:

(a) Include a statement acknowledging receipt of the Renovation Right Pamphlet before the start of the renovation, the name of the recipient, the address undergoing renovation, the signature of the recipient and the date of signature;

(b) Be either a separate sheet of paper or part of a written contract or service agreement for the renovation; and

(c) Be written in the same language as the agreement for renovation.

Stat. Auth.: ORS 670.310, 701.235 & 701.515

Stats. Implemented: ORS 701.510 & 701.515

Hist.: CCB 2-2010, f. & cert. ef. 2-1-10; CCB 12-2011, f. 9-29-11, cert. ef. 10-1-11

Rule Caption: Residential Continuing Education (RCE) exemptions, and CCB CORE class requirements, and housekeeping.

Adm. Order No.: CCB 13-2011

Filed with Sec. of State: 9-29-2011

Certified to be Effective: 10-1-11

Notice Publication Date: 9-1-2011

Rules Adopted: 812-021-0021

Rules Amended: 812-021-0015, 812-021-0025, 812-021-0028, 812-021-0031, 812-021-0035

Rules Repealed: 812-021-0015(T), 812-021-0021(T), 812-021-0028(T)

Subject: • 812-021-0015 is amended. The CCB board determined that mandatory core requirements should be limited to (1) BEST, (2) building codes and (3) laws, regulations and business practices. Education on "green" or sustainable building practices should be treated as elective education. However, since some contractors have already completed the requirement in advance of renewing their licenses or obligated themselves to take such education, the board will continue to credit the education towards the mandatory core requirement provided that it is completed on or before September 30, 2011.

This permanent rule also incorporates a (slightly modified) temporary rule, adopted July 1, 2011, to allow for building code courses that were approved by the Building Codes Division or the International Codes Council to qualify for the mandatory building code requirement, if completed by July 1, 2012. Thereafter, only CCB-approved courses will qualify.

The rule also clarifies when contractor renews between October 1, 2011, and October 1, 2013, it may use core education obtained before the previous license period (10/1/2009–10/1/2011) provided that the education was obtained no earlier than July 1, 2009.

• OAR 812-021-0021 is adopted to incorporate a (slightly modified) temporary rule adopted July 1, 2011, that exempts from BEST and building codes those contractors that are licensed plumbing or electrical contractors and exempts those contractors that have an owner or officer licensed as an architect or a professional engineer, regardless of whether the architect or engineer is acting within the scope of their license. (Those individuals are already exempt from ORS chapter 701 under ORS 701.010(8)(a) and (8)(b)). In addition, the amendment exempts from residential continuing education BEST and building codes for those contractors that do not "touch" a residential structure that is a "dwelling" or "outbuilding." The rule amendment defines the terms "dwelling" and "outbuilding." The rule amendment lists examples of contractors that are exempt, and those that are not. The rule amendment requires that contractors exempt

ADMINISTRATIVE RULES

from mandatory BEST and building code hours must complete an equivalent number of elective hours.

- 812-021-0025 is amended because the agency will no longer approve providers to offer education on “green” or sustainable building practices for mandatory core continuing education. However, the rule extends the use of such courses, if offered by an approved provider, so long as the course is completed on or before September 30, 2011.

- 812-021-0028 is amended because the agency will no longer approve providers to offer education on “green” or sustainable building practices for mandatory core continuing education. However, the rule extends the use of such courses, if offered by an approved provider, so long as the course is completed on or before September 30, 2011.

- 812-021-0031 is amended because the agency will no longer approve providers to offer education on “green” or sustainable building practices for mandatory core continuing education. However, the rule extends the use of such courses, if offered by an approved provider, so long as the course is completed on or before September 30, 2011.

- 812-021-0035 is a housekeeping amendment; to make section (3) the same as section (2).

Rules Coordinator: Catherine Dixon—(503) 934-2185

812-021-0015

Minimum Continuing Education Requirements — Continuing Education for Residential Contractors

(1) Residential contractors, other than residential limited contractors, shall have an owner, officer, RMI or employee, or a combination of those persons, who complete a minimum of 16 hours of continuing education every license period as described in sections (3) and (4).

(2) Residential limited contractors shall have an owner, officer, RMI or employee, or a combination of those persons, who complete:

- (a) A minimum of eight hours of continuing education as described in subsection (3)(a), for license renewals on or after October 1, 2011, and before October 1, 2013;

- (b) A minimum of eight hours of continuing education, for license renewals on or after October 1, 2013 as follows:

- (A) Five core hours as described in subsection (4)(a); and

- (B) Three elective hours as described in OAR 812-021-0019.

- (3) For a residential contractor renewing on or after October 1, 2011, and before October 1, 2013, continuing education hours shall consist of the following:

- (a) Eight core hours consisting of the following:

- (A) Three hours of BEST offered by the agency or an approved provider;

- (B) Two hours of education on one or more building codes offered by:

- (i) A provider approved by the agency to offer courses in building codes; or

- (ii) A provider offering a building codes course completed by the contractor on or before June 30, 2012, and approved by the Oregon Department of Consumer and Business Services, Building Codes Division, or the International Codes Council; and

- (C) Three hours of education on laws, regulations, and business practices offered by the agency.

- (b) For residential contractors renewing on or after October 1, 2011, and before October 1, 2013, education on “green” or sustainable building practices may satisfy the requirement for education on one or more building codes as required in paragraph (B) of subsection (a) provided that the contractor completes the education on “green” or sustainable building practices on or before September 30, 2011.

- (c) Eight elective hours which may be satisfied by completing additional core hours or by completing other construction related courses or as otherwise set forth in OAR 812-021-0019.

- (4) If a residential contractor renews its license on or after October 1, 2011, but before October 1, 2013, for that renewal period only, the contractor may include any core hours that it earned between July 1, 2009, and September 30, 2009.

- (5) For a residential contractor renewing on or after October 1, 2013, continuing education hours shall consist of the following:

- (a) Five core hours consisting of the following:

- (A) Two hours of education on one or more building codes offered by a provider approved by the agency to offer courses in building codes; and

- (B) Three hours of education on laws, regulations, and business practices offered by the agency.

- (b) Eleven elective hours which may be satisfied by completing additional core hours or by completing other construction related courses or as otherwise set forth in OAR 812-021-0019.

- (6) Courses shall be a minimum of one clock hour to qualify for one hour of continuing education credit.

- (7) Credit shall not be given for a person repeating the same continuing education course during a two-year period.

- (8) If, during the two years immediately preceding the expiration date of the license, a residential contractor served on active duty in the United States armed forces, including but not limited to mobilization or deployment, the continuing education requirement is waived for that two-year period. This exemption applies only if the residential contractor is a:

- (a) Sole proprietor without employees;

- (b) Sole owner of a corporation; or

- (c) Sole member of a limited liability company.

Stat. Auth.: ORS 670.310, 701.126 & 701.235

Stats. Implemented: ORS 701.126

Hist.: CCB 5-2009, f. 6-25-09, cert. ef. 7-1-09; CCB 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; CCB 13-2011, f. 9-29-11, cert. ef. 10-1-11

812-021-0021

Exemptions from Continuing Education

(1) For purposes of this rule, “dwelling” means a shelter in which people live, such as buildings used exclusively for residential occupancy, including single-family, two-family (e.g. duplex) and multi-family (e.g. apartment) buildings.

(2) For purposes of this rule, “outbuilding” means a building accessory to a dwelling that is used by the persons who occupy the dwelling, including detached garages, shops, sheds and barns.

(3) The following persons are exempt from obtaining BEST education as required under OAR 812-021-0015(2) or (3)(a)(A):

- (a) Contractors that are licensed as:

- (A) Plumbing contractors under ORS 447.010 to 447.156; or

- (B) Electrical contractors under ORS 479.630.

- (b) Contractors that have an owner or officer who is licensed as:

- (A) An architect under ORS 671.010 to 671.220, whether or not operating within the scope of that license; or

- (B) A professional engineer under ORS 672.002 to 672.325, whether or not operating within the scope of that license.

- (c) Unless provided otherwise, contractors that do not perform work on a residential structure that is a dwelling or an outbuilding, including but not limited to:

- (A) Contractors that only perform tree pruning, tree and stump removal, or tree and limb guying;

- (B) Contractors that only forge, weld or fabricate ornamental iron, so long as the contractor does not attach or install the ornamental iron in or on a residential structure that is a dwelling or outbuilding;

- (d) The following contractors are not exempt under subsection (c) of this section:

- (A) Contractors that perform excavation for residential construction;

- (B) Contractors that perform grading for residential construction;

- (C) Contractors that perform concrete work for residential construction; and

- (D) Contractors that perform paving for residential construction.

(4) The following persons are exempt from obtaining education in building codes as required under OAR 812-021-0015(2), (3)(a)(B) or (4)(a)(A):

- (a) Contractors that are licensed as:

- (A) Plumbing contractors under ORS 447.010 to 447.156; or

- (B) Electrical contractors under ORS 479.630.

- (b) Contractors that have an owner or officer who is licensed as:

- (A) An architect under ORS 671.010 to 671.220, whether or not operating within the scope of that license; or

- (B) A professional engineer under ORS 672.002 to 672.325, whether or not operating within the scope of that license.

- (c) Unless provided otherwise, contractors that do not perform work on a residential structure that is a dwelling or outbuilding, including but not limited to:

- (A) Contractors that only perform tree pruning, tree and stump removal, or tree and limb guying;

- (B) Contractors that only forge, weld or fabricate ornamental iron, so long as the contractor does not attach or install the ornamental iron in or on a residential structure that is a dwelling or an outbuilding;

ADMINISTRATIVE RULES

(d) The following contractors are not exempt under subsection (c) of this section:

- (A) Contractors that perform excavation for residential construction;
- (B) Contractors that perform grading for residential construction;
- (C) Contractors that perform concrete work for residential construction; and
- (D) Contractors that perform paving for residential construction.

(5) Contractors that are exempt from the continuing education requirements under sections (3) or (4) of this rule must complete additional elective continuing education, as provided in OAR 812-021-0019, in an amount totaling the number of core hours that the contractor would otherwise be required to complete under OAR 812-021-0015 but for the exemption.

Stat. Auth.: ORS 670.310, 701.126 & 701.235
Stats. Implemented: ORS 701.126
Hist.: CCB 6-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; CCB 8-2011(Temp), f. & cert. ef. 9-2-11 thru 12-28-11; CCB 13-2011, f. 9-29-11, cert. ef. 10-1-11

812-021-0025

Provider Approval, Standards, Fees and Renewal for Core — Continuing Education for Residential Contractors

(1) The agency will review and approve providers offering core continuing education.

(2) Providers will apply for approval on a form prescribed by the agency. Providers may, but need not, apply for approval at the same time they apply for course approval.

(3) Providers seeking approval to offer training in BEST or building codes must submit the following to the agency:

- (a) Name, address and contact information of the provider;
- (b) Business entity type of the provider and, if applicable, the Corporation Division business registry number;
- (c) Description of provider business plan;
- (d) Description of the core subject area(s) provider intends to offer;

and
(e) Such other information or documentation as the agency may request.

(4) Notwithstanding sections (1) through (3) of this rule, a provider offering education on “green” or sustainable building practices that obtained provider approval before January 1, 2011, may continue to offer courses qualifying for mandatory core continuing education until September 30, 2011.

(5) Providers must remit to the agency together with their application:

- (a) A non-refundable fee of \$2,000 if applying to offer BEST;
- (b) A non-refundable fee of \$500 if applying to offer building codes;

or

(c) A non-refundable fee of \$2,500 if applying to offer both BEST and building codes.

(6) To qualify for approval, providers must:

(a) Certify the programs offered meet the minimum standards and content objectives established by the Board;

(b) Employ or contract with educators who have at least two years work experience or two years of education, or any combination of both, in the subject that they instruct;

(c) Be capable of entering and transmitting electronic data to the agency;

(d) Describe a process for prompt resolution of complaints by registrants;

(e) Describe a process for cancellations and refunding registrant payments; and

(f) If applying to offer BEST, provide a surety bond in an amount of \$20,000 obligating the surety to pay registrants to whom the provider owes money for cancellation or other refunds that the provider fails to pay. The bond must be in the form adopted by the board as the “Continuing Education Provider Surety Bond” dated December 1, 2009.

(7) Provider approval will be valid for two (2) years from the date the provider is approved by the agency.

(8) Providers must re-submit application and fees required under sections (3) and (5) of this rule for renewal of approval. Renewal of approval will be subject to the same requirements as initial approval.

Stat. Auth.: ORS 670.310, 701.126 & 701.235
Stats. Implemented: ORS 701.126
Hist.: CCB 5-2009, f. 6-25-09, cert. ef. 7-1-09; CCB 8-2009, f. 12-28-09, cert. ef. 1-1-10; CCB 14-2010, f. 8-24-10, cert. ef. 9-1-10; CCB 13-2011, f. 9-29-11, cert. ef. 10-1-11

812-021-0028

Course Approval, Standards, Fees and Renewal for Core — Continuing Education for Residential Contractors

(1) The agency will approve courses that provide training in BEST or building codes.

(2) Approved courses may be offered as an individual course or as part of a comprehensive curriculum.

(3) A provider seeking approval of its courses must submit the following:

(a) Course name, course description, objectives of the offered course, and number of hours of continuing education credit;

(b) A written description of the course educator’s credentials;

(c) Copies of the course materials provided to registrants as described in section (4)(b);

(d) Cost of the offered course(s) to registrant;

(e) For live classes and classes held in real-time:

(A) Anticipated date, time, place of the course; and

(B) Number of registrants that each course can accommodate;

(f) For self-study courses:

(A) Anticipated date when the course will first be offered;

(B) Description of provider’s procedures to answer student questions;

and

(C) The length of time a student has to complete the course and receive credit; and

(g) A non-refundable fee of \$50 per credit hour submitted for approval.

(4) To meet minimum standards for course approval, the provider must:

(a) Submit the course syllabus describing the course objectives and content on BEST or building codes, as appropriate;

(b) Submit a comprehensive course outline on BEST or building codes, as appropriate;

(c) Have materials for each registrant:

(A) Of sufficient explanation and quality to provide information about the subject of BEST or building codes, as appropriate;

(B) A course syllabus; and

(C) A statement that the provider is responsible for the content of the course.

(d) Have no attendance restrictions except for payment of money or membership in the provider organization.

(5) Notwithstanding sections (1) through (4) of this rule, a course on “green” or sustainable building practices that obtained approval before January 1, 2011, may continue to qualify for mandatory core continuing education if completed on or before September 30, 2011.

(6) Providers seeking to offer BEST must offer training substantially equivalent to criteria established by the agency.

(7) Except as provided in section (5) of this rule, course approval will be valid for two (2) years from the date the course is approved by the agency.

(8) Providers must re-submit application and fees under this section for renewal of approval. Renewal of approval will be subject to the same requirements as initial approval.

Stat. Auth.: ORS 670.310, 701.126 & 701.235
Stats. Implemented: ORS 701.126
Hist.: CCB 5-2009, f. 6-25-09, cert. ef. 7-1-09; CCB 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; CCB 13-2011, f. 9-29-11, cert. ef. 10-1-11

812-021-0031

Core Hours: Building Codes — Continuing Education for Residential Contractors

(1) Any provider approved by the agency in building codes may offer training in their approved subject area.

(2) Approved providers may charge contractors for building code training in an amount determined by the provider.

(3) Notwithstanding sections (1) and (2) of this rule, a provider approved by the agency before January 1, 2011 as qualified to offer training in “green” or sustainable building practices for mandatory core education may:

(a) Offer such training, so long as the course is completed on or before September 30, 2011; and

(b) Charge contractors for such training in an amount determined by the provider.

Stat. Auth.: ORS 670.310, 701.126 & 701.235
Stats. Implemented: ORS 701.126
Hist.: CCB 5-2009, f. 6-25-09, cert. ef. 7-1-09; CCB 13-2011, f. 9-29-11, cert. ef. 10-1-11

ADMINISTRATIVE RULES

812-021-0035

Agency Tracking of Hours — Continuing Education for Residential Contractors

- (1) The agency will track completion of core hours.
- (2) The agency may notify contractors, in advance of their renewal dates, of the number and type of core hours left to be completed before renewal.
- (3) The agency may notify contractors, in advance of their renewal dates, of the reported elective hours and the number left to be completed before renewal.

Stat. Auth.: ORS 670.310, 701.126 & 701.235

Stats. Implemented: ORS 701.126

Hist.: CCB 5-2009, f. 6-25-09, cert. ef. 7-1-09; CCB 13-2011, f. 9-29-11, cert. ef. 10-1-11

Department of Agriculture

Chapter 603

Rule Caption: Labeling and product registration rules for animal feeds.

Adm. Order No.: DOA 16-2011

Filed with Sec. of State: 9-19-2011

Certified to be Effective: 9-19-11

Notice Publication Date: 5-1-2011

Rules Amended: 603-058-0125

Subject: Amending rule 603-058-0125 to correct the wording mistake in the text of the first filing. Need to change customer to custom. No other changes are being made in the text of the original filing.

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

603-058-0125

Label Format for Custom Feeds

Custom mixed feed shall be accompanied with the information prescribed in this regulation using labels, invoice, delivery ticket, or other shipping document bearing the following information:

- (1) The name and address of the manufacturer;
- (2) The name and address of the purchaser;
- (3) The date of sale or delivery;
- (4) The custom mixed feed name and brand name if any;
- (5) If intended for Dairy or swine it shall also bear the guaranteed analysis as stipulated in OAR 603-058-0130(4);
- (6) The product name and net quantity of each registered commercial feed and each other ingredient used in the mixture;
- (7) The directions for use and precautionary statements as required by OAR 603-058-0130(6);
- (8) If a drug containing product is used:
 - (a) The Purpose of the medication (claim Statement);
 - (b) The established name of each active drug ingredient and the level of each drug used in the final mixture expressed in accordance with OAR 603-058-0130(2). The statement: "This feed is formulated for (insert name of final consumer). No resale to other users is allowed."

Stat. Auth.: ORS 633.006-089, 633.992, 561.605 & 561.620

Stats. Implemented:

Hist.: DOA 13-2011, f. & cert. ef. 8-12-11; DOA 16-2011, f. & cert. ef. 9-19-11

Rule Caption: Noxious weed regulation updates including responsibilities for "A" and "B" weeds.

Adm. Order No.: DOA 17-2011

Filed with Sec. of State: 9-29-2011

Certified to be Effective: 9-29-11

Notice Publication Date: 7-1-2011

Rules Amended: 603-052-1200

Subject: Oregon's Noxious Weed Statutes were consolidated and updated into ORS 569 in 2009. The proposed amendments to the noxious weed quarantine clarify the responsibilities of ODA, County Weed Inspectors and landowners relative to "A" and "B" weeds. "A" weeds are targeted for exclusion and/or early detection and rapid response (EDRR). "B" weeds are targeted for management on a priority basis as resources allow. Changes to the list, deletes: skeleton leaf bursage, Texas blueweed, giant horsetail and quackgrass; adds Spanish heath and creeping water primrose.

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

603-052-1200

Quarantine; Noxious Weeds

(1) Establishing Quarantine. A quarantine is established against the noxious weeds listed herein. Noxious weeds have been declared a menace to the public welfare (ORS 569.180 and 569.350) because of the environmental degradation that occurs when they become established.

(2) Areas Under Quarantine. The entire state of Oregon and all other States of the United States and all foreign countries.

(3) Covered Plants. For purposes of this rule the term "plants" applies to whole plants, plant parts, and seeds. This rule applies to all "A" and "B" state designated noxious weeds listed herein, except as provided in section (6). Plants on the Federal Noxious Weed List (7 C.F.R. 360.200) are also covered by this rule, with the exception of Japanese blood grass, *Imperata cylindrica*, var. Red Baron and Chinese water spinach, *Ipomoea aquatica*.

(4) "A" weeds

(a) "A" designated weeds. Weeds of known economic importance which occur in the state in small enough infestations to make exclusion, eradication, or containment possible; or which are not known to occur, but their presence in neighboring states makes future occurrence in Oregon seem imminent.

(b) "A" weeds are controlled through exclusion, early detection, and rapid response (EDRR). Control of "A" weeds is a high priority for ODA and the primary goal is to prevent introduction and permanent establishment of "A" weeds. If "A" weeds are introduced, and eradication is not feasible, the secondary goal is to implement control measures to contain the "A" weeds to as small an area as possible so as to prevent widespread occurrence in Oregon.

(c) When "A" weeds are detected, control actions are mandatory and the goal of such control is eradication. Any person owning or occupying property upon which "A" weeds are detected must contact the Oregon Department of Agriculture within 48 hours of detection.

(d) Upon detection of "A" weeds, ODA may develop a survey, eradication, and monitoring plan to control or eradicate detected weeds. ODA may either develop and conduct appropriate measures to control or eradicate such weeds or may enter into a contract for the purpose of controlling or eradicating "A" weeds.

(e) Control or eradication of "A" weeds may be implemented at no cost to a person owning or controlling land within this state upon which "A" weeds are detected. However, ODA may request any person owning or controlling land within this state to control, prevent the spread of, or eradicate where feasible "A" weeds, subject to supervision of such activities by the ODA.

(f) If ODA or a county are unable to control or eradicate "A" weeds on private property, any person owning or controlling land within this state must control and take measures to eliminate or prevent the possibility of spread of "A" weeds to other lands and ownerships. Control measures for "A" weeds must be implemented in a timely manner as determined by ODA. Treatments must provide sufficient levels of control to make progress toward the goal of eradication.

(g) ODA inspectors may access all lands within Oregon for the purpose of ORS 569.175 to 569.195 including carrying out the control or eradication of "A" weeds.

(h) Any person owning or controlling land within this state found in violation of ORS 569.175 to 569.195 or these rules may be subject to fines up to the maximum for Class B violations.

(i) The following is a list of "A" weeds:

- (A) African rue — *Peganum harmala*;
- (B) Camelthorn — *Alhagi pseudalhagi*;
- (C) Coltsfoot — *Tussilago farfara*;
- (D) Common reed — *Phragmites australis* ssp. *australis*;
- (E) Cordgrasses:

- (i) Common — *Spartina anglica*;
- (ii) Dense-flowered — *Spartina densiflora*;
- (iii) Saltmeadow — *Spartina patens*;
- (iv) Smooth — *Spartina alterniflora*.

- (F) European water chestnut — *Trapa natans*;
- (G) Flowering rush — *Butomus umbellatus*;
- (H) Giant hogweed — *Heracleum mantegazzianum*;

(I) Goatgrasses:

- (i) Barbed — *Aegilops triuncialis*;
 - (ii) Ovale — *Aegilops ovata*.
- (J) Hawkweeds:
- (i) King-devil — *Hieracium piloselloides*;
 - (ii) Meadow — *Hieracium pratense*;
 - (iii) Mouse-ear — *Hieracium pilosella*;

ADMINISTRATIVE RULES

- (iv) Orange — *Hieracium aurantiacum*;
- (v) Yellow — *Hieracium floribundum*.
- (K) Hydrilla — *Hydrilla verticillata*;
- (L) Japanese dodder — *Cuscuta japonica*;
- (M) Kudzu — *Pueraria lobata*;
- (N) Matgrass — *Nardus stricta*;
- (O) Oblong spurge — *Euphorbia oblongata*;
- (P) Paterson's curse — *Echium plantagineum*;
- (Q) Silverleaf nightshade — *Solanum elaeagnifolium*;
- (R) Squarrose knapweed — *Centaurea virgata*;
- (S) Starthistles:
 - (i) Iberian — *Centaurea iberica*;
 - (ii) Purple — *Centaurea calcitrapa*.
- (T) Syrian bean-caper — *Zygophyllum fabago*;
- (U) Thistles:
 - (i) Plumeless — *Carduus acanthoides*;
 - (ii) Smooth distaff — *Carthamus baeticus*;
 - (iii) Taurian — *Onopordum tauricum*;
 - (iv) Woolly distaff — *Carthamus lanatus*;
 - (v) White bryonia — *Bryonia alba*.
- (W) Yellow floating heart — *Nymphoides peltata*;
- (X) Yellowtuft — *Alyssum murale* and *Alyssum corsicum*.
- (5) "B" Weeds

(a) "B" designated weeds means weeds of economic importance which are regionally abundant, but which may not occur or have limited distribution in some counties. "B" weeds shall be managed on a priority basis as resources allow. Control of "B" weeds may vary according to ODA-established priorities as well as site-specific or case-by-case factors. When available, biological control may be the primary long-term control strategy.

(b) The goal of "B" weed management is control and prevention of new infestations of "B" weeds in Oregon. ODA may advise persons owning or controlling lands upon which "B" weeds are detected on the control of "B" weeds on those lands as well as how to prevent "B" weeds from infesting new lands. As determined by ODA or a county, "B" weeds may be controlled or eradicated in the same manner as "A" weeds when "B" weeds appear in parts of the state where they were not previously detected or established.

(c) Pursuant to ODA's determination as to treatment of "B" weeds, ODA may develop a regional control plan or cooperate with a county, local entity, or persons owning or controlling private lands to develop and implement a plan to control "B" weeds. ODA may assist with implementing control measures.

(d) Persons owning or controlling lands where "B" weeds are detected may request assistance from their respective local County Weed Inspector.

(e) Cost-share assistance grants may be available for the control of State listed noxious weeds to any person owning or occupying land upon which "A" or "B" weeds are detected. If within a county weed control district or special weed control district the county may provide assistance by applying for cost-share assistance grants. Information on cost-share assistance grants may be found at ODA's Plant Division website.

(f) As determined by ODA, biological control agents may be available for some "B" weeds. Information on the current availability of biological control agents is provided on ODA's Plant Division website. Releases of some biological control agents targeting noxious weeds may require reporting to ODA for tracking purposes.

(g) The following is a list of "B" weeds:

- (A) Armenian (Himalayan) blackberry — *Rubus armeniacus* (R. procerus, R. discolor);
- (B) Bidly-bidly — *Acaena novae-zelandiae*;
- (C) Brooms:
 - (i) French — *Genista monspessulana*;
 - (ii) Portuguese — *Cytisus striatus*;
 - (iii) Scotch — *Cytisus scoparius*;
 - (iv) Spanish — *Spartium junceum*;
- (D) Buffalobur — *Solanum rostratum*;

(E) Butterfly bush — *Buddleja davidii/varabilis** (*Plants being sold in Oregon that are labeled "Butterfly Bush" are assumed to be *B. davidii* and will be subject to a stop sale order. ODA approved sterile varieties of *Buddleja* that produce less than 2% viable seed and inter-specific hybrids that are not regulated, and may be propagated and sold if labeled with the approved variety name. Information concerning process, criteria and approved seedless varieties is available online at: <<http://oregon.gov/ODA/PLANT/NURSERY/>>.);

- (F) Common bugloss — *Anchusa officinalis*;
- (G) Common crupina — *Crupina vulgaris*;
- (H) Creeping yellow cress — *Rorippa sylvestris*;
- (I) Cutleaf teasel — *Dipsacus laciniatus*;
- (J) Dodder — *Cuscuta* spp.* (*except northwest natives);
- (K) Dyers woad — *Isatis tinctoria*;
- (L) English ivy — *Hedera helix/hibernica*;
- (M) Eurasian watermilfoil — *Myriophyllum spicatum*;
- (N) False brome — *Brachypodium sylvaticum*;
- (O) Field bindweed — *Convolvulus arvensis*;
- (P) Garlic Mustard — *Alliaria petiolata*;
- (Q) Geranium:
 - (i) Herb Robert — *Geranium robertianum*;
 - (ii) Shiny leaf geranium — *Geranium lucidum*;
- (R) Gorse — *Ulex europaeus*;
- (S) Halogeton — *Halogeton glomeratus*;
- (T) Houndstongue — *Cynoglossum officinale*;
- (U) Johnsongrass — *Sorghum halepense*;
- (V) Jointed goatgrass — *Aegilops cylindrica*;
- (W) Jubata grass — *Cortaderia jubata*;
- (X) Knapweeds:
 - (i) Diffuse — *Centaurea diffusa*;
 - (ii) Meadow — *Centaurea pratensis* (*C. jacea* x *nigra*);
 - (iii) Russian — *Acroptilon repens*;
 - (iv) Spotted — *Centaurea maculosa* (*C. stoebe*).
- (Y) Knotweeds:
 - (i) Giant — *Fallopia sachalinensis* (*Polygonum*);
 - (ii) Himalayan — *Polygonum polystachyum*;
 - (iii) Japanese (fleece flower) — *Fallopia japonica* (*Polygonum cuspidatum*).
- (Z) Kochia — *Kochia scoparia*;
- (AA) Lesser celandine — *Ranunculus ficaria*;
- (BB) Mediterranean sage — *Salvia aethiopsis*;
- (CC) Medusahead rye — *Taeniatherum caput-medusae*;
- (DD) Old man's beard — *Clematis vitalba*;
- (EE) Parrots Feather — *Myriophyllum aquaticum*;
- (FF) erennial peavine — *Lathyrus latifolius*;
- (GG) Perennial pepperweed — *Lepidium latifolium*;
- (HH) Poison hemlock — *Conium maculatum*;
- (II) Policeman's helmet — *Impatiens glandulifera*;
- (JJ) Puncturevine — *Tribulus terrestris*;
- (KK) Purple loosestrife — *Lythrum salicaria*;
- (LL) Ragweed — *Ambrosia artemisiifolia*;
- (MM) Rush skeletonweed — *Chondrilla juncea*;
- (NN) Saltcedar — *Tamarix ramosissima*;
- (OO) Small broomrape — *Orobanche minor*;
- (PP) South American waterweed (*Elodea*) — *Egeria (Elodea) densa*;
- (QQ) Spanish heath — *Erica lusitanica*;
- (RR) Spikeweed — *Hemizonia pungens*;
- (SS) Spiny cocklebur — *Xanthium spinosum*;
- (TT) Spurge laurel — *Daphne laureola*;
- (UU) Spurges:
 - (i) Leafy — *Euphorbia esula*;
 - (ii) Myrtle — *Euphorbia myrsinites*.
- (VV) Sulfur cinquefoil — *Potentilla recta*;
- (WW) Swainsonpea — *Sphaerophysa salsula*;
- (XX) Tansy ragwort — *Senecio jacobaea*;
- (YY) Thistles:
 - (i) Bull — *Cirsium vulgare*;
 - (ii) Canada — *Cirsium arvense*;
 - (iii) Italian — *Carduus pycnocephalus*;
 - (iv) Musk — *Carduus nutans*;
 - (v) Scotch — *Onopordum acanthium*;
 - (vi) Slender-flowered — *Carduus tenuiflorus*.
- (ZZ) Toadflax:
 - (i) Dalmation — *Linaria dalmatica*;
 - (ii) Yellow — *Linaria vulgaris*.
- (AAA) Velvetleaf — *Abutilon theophrasti*;
- (BBB) Water primrose — *Ludwigia peploides*, *L. hexapetala*, *L. grandiflora*
- (CCC) Whitetops:
 - (i) Hairy — *Lepidium pubescens*;
 - (ii) Lens-podded — *Lepidium chalapensis*;
 - (iii) Whitetop (hoary cress) — *Lepidium draba*.
- (DDD) Yellow flag iris — *Iris pseudacorus*;

ADMINISTRATIVE RULES

- (EEE) Yellow nutsedge — *Cyperus esculentus*;
- (FFF) Yellow starthistle — *Centaurea solstitialis*;
- (6) Exemptions

(a) Agricultural seed as defined in Oregon's Seed Law, ORS 633.511 to 633.750, is exempt from this quarantine but subject to the noxious weed seed tolerances in OAR 603-056-0205.

(b) Other commodities, such as, but not limited to, wheat are exempt from this quarantine to the extent that they are contaminated with noxious weed seed.

(7) Prohibited and Permitted Acts

(a) All plants covered in section (3) of this rule are prohibited entry into the State of Oregon.

(b) All plants listed in section (3) of this rule are prohibited from transport, purchase, sale or offering for sale in the State of Oregon.

(c) All plants listed in section (3) of this rule are prohibited from being propagated in the State of Oregon.

(d) All plants listed in section (3) may be collected from the wild in areas that are already infested with the specific species that is collected, provided that the plants, plant parts, or seed are not used for propagation or sale within the State of Oregon.

(8) Disposition of Plants in Violation of the Quarantine. All covered plants listed in section (3) of this rule are found to be in violation of this quarantine shall be returned immediately to point of origin by the Oregon receiver, if from out of state, or at the owner's option be destroyed under the supervision of the department, without expense to or indemnity paid by the department.

(9) Exceptions. The director may issue a permit allowing entry into this state, propagation, or research on plants covered by this rule, upon request, and upon investigation and finding that unusual circumstances exist justifying such action, and that the benefits of granting the permit outweigh the potential harm that may result from the requested action. The director may impose specific conditions on any permit issued hereunder, and the permit may be canceled for failure to meet the conditions therein. Any permit issued under this section shall be for a limited duration not to exceed one year.

Stat. Auth.: ORS 561.190, 561.510 & 569

Stats. Implemented: ORS 561.510

Hist.: DOA 5-1999, f. & cert. ef. 4-5-99; DOA 13-2000, f. & cert. ef. 5-8-00; DOA 7-2002, f. & cert. ef. 2-1-02; DOA 26-2002, f. & cert. ef. 12-10-02; DOA 27-2004, f. & cert. ef. 12-28-04; DOA 1-2006, f. & cert. ef. 1-13-06; DOA 2-2007, f. & cert. ef. 1-30-07; DOA 11-2008, f. & cert. ef. 3-7-08; DOA 6-2010, f. & cert. ef. 2-4-10; DOA 17-2011, f. & cert. ef. 9-29-11

Rule Caption: Lists Downy Brome as prohibited contaminate in grass seed certified for Oregon Sod Quality.

Adm. Order No.: DOA 18-2011

Filed with Sec. of State: 10-4-2011

Certified to be Effective: 10-4-11

Notice Publication Date: 8-1-2011

Rules Amended: 603-056-0145

Subject: Oregon's Sod Quality Seed certification program is used as a tool for marketing premium Oregon grass seed. Annually more than 110,000 tags are issued to certify that grass seed meets Oregon sod quality seed standards. However, in February 2011 a change was made to the "All States Noxious Weed List" which now allows Downy Brome — *Bromus tectorum*, as a restricted weed seed in Oregon Sod Quality seed lots. The allowance of this contaminate diminishes the value of Oregon Sod Quality certification, as such, the Oregon Seed Trade and Oregon Seed Council has requested a change in rule to prohibit Downy Brome.

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

603-056-0145

Standards for Sod Quality Certification

(1) The seed lots submitted shall meet all standards for certification by Oregon State University.

(2) The seed standards for "Oregon Sod Quality Seed" of hard fescue, sheep fescue, blue fescue, Kentucky bluegrass, red fescue, chewings fescue, perennial ryegrass, bentgrass and tall fescue shall be as set out in Table 1.

(3) "Noxious Weed" and "Crop and Weed" analyses shall be based on a 20 gram sample for hard fescue, sheep fescue and blue fescue, 25 gram sample for Kentucky bluegrass (except a 10 gram *Poa annua* search), 30 gram sample for red fescue and chewings fescue, 50 gram sample for ryegrass and tall fescue, and a 2-1/2 gram sample for bentgrass. Testing shall

be discontinued when results of the tests exceed the maximum limits set forth in Table 1.

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

Stat. Auth.: ORS 561.190 & 633.520

Stats. Implemented: ORS 633.680

Hist.: AD 1040(30-74), f. 8-20-74, ef. 9-11-74; AD 1060(6-75), f. 5-30-75, ef. 6-25-75; AD 2-1979, f. & ef. 1-29-79; AD 9-1982, f. & ef. 9-9-82; AD 3-1990, f. & cert. ef. 3-16-90; AD 1-1991, f. & cert. ef. 1-14-91; DOA 25-2000, f. & cert. ef. 9-15-00; DOA 10-2011(Temp), f. 6-30-11, cert. ef. 7-1-11 thru 12-20-11; DOA 18-2011, f. & cert. ef. 10-4-11

Rule Caption: Approved invertebrates for pet trade, biological control, education and permit process for non-approved species.

Adm. Order No.: DOA 19-2011

Filed with Sec. of State: 10-13-2011

Certified to be Effective: 10-13-11

Notice Publication Date: 8-1-2011

Rules Adopted: 603-052-1300, 603-052-1310, 603-052-1320, 603-052-1330, 603-052-1340, 603-052-1350, 603-052-1360, 603-052-1370

Subject: This proposed rules would create an approved list of invertebrates species that could be imported, transported, sold, or released in Oregon. Two hundred and twenty-five species are proposed for non-regulated status, including biological control agents, pets, pollinators and species used for educational purposes. Importing species not on the approved list would require a permit. Plant pests moved in violation of the rules would be considered a public nuisance.

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

603-052-1300

Purpose and General Information

(1) The purpose of these rules is to protect Oregon's agriculture, economy, biodiversity, natural resources, and native species from harmful plant pests (ORS 570.205). These rules further this goal by regulating human activities associated with plant pests capable of causing significant economic damage in this state or capable of having a significant adverse effect on the environmental quality of Oregon.

Stat. Auth.: 570.205, 570.210 & 570.215

Stats. Implemented: ORS 570.215

Hist.: DOA 19-2011, f. & cert. ef. 10-13-11

603-052-1310

Definitions

As used in these rules, unless the context or a specially applicable definition requires otherwise:

(1) "Approved species" means an invertebrate species that is not a plant pest that the Department has placed on the approved list.

(2) "Department" or "ODA" means the Oregon Department of Agriculture.

(3) "Import or importation" means to bring or cause live invertebrates to be transported into Oregon by any means.

(4) "Invertebrate" means an animal without a backbone.

(5) "Plant pest" is defined in ORS 570.205.

(6) "Species" means a unit of classification of animals, which are capable of interbreeding and producing fertile offspring.

(7) "Wildlife" means animals covered by Oregon Department of Fish and Wildlife rules, ORS 496.004 and OAR 635-045-002.

Stat. Auth.: 570.205, 570.210 & 570.215

Stats. Implemented: ORS 570.215

Hist.: DOA 19-2011, f. & cert. ef. 10-13-11

603-052-1320

Approved Species (Non-Regulated)

(1) Invertebrate species listed as approved may be imported, possessed, sold, purchased, exchanged, transported, or released in Oregon without a permit from the Department. This applies only to stock collected within the continental United States. Species marked with an asterisk (*) have additional restrictions as noted below the sections in which they appear.

(2) A permit for the importation, possession, or intrastate transportation of some ODA-approved species may be required by the United States Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine: (http://www.aphis.usda.gov/plant_health/permits/organism/index.shtml).

(3) Live invertebrates not on the list of approved invertebrates in any life stage may not be imported, possessed, sold, purchased, exchanged, transported, or released in the state unless a permit is first obtained from the Department.

ADMINISTRATIVE RULES

(4) These rules apply to all life stages, but do not apply to dead specimens.

(5) These rules do not apply to marine or aquatic invertebrates.

(6) Placement on this list does not constitute an endorsement by the Department of the efficacy of listed biological control agents, suitability of listed invertebrates as pets, or anything else except that trade in listed species does not pose a plant pest risk in Oregon.

(7) The following is a list of approved invertebrates that may be imported, possessed, sold, purchased, exchanged, transported, or released in Oregon. This list provides the common name, scientific name, and common use.

(a) Snails (Gastropoda).

(A) None.

(B) For other Mollusks defined as wildlife (shellfish), e.g. clams, mussels, and oysters, see Department of Fish and Wildlife rules: ORS 506.011 and OAR 635-056-0050.

(b) Earthworms (Annelida).

(A) Grindal worm or pot worm, *Enchytraeus buchholzi* (pet food).

(B) Red worm, *Lumbricus rubella* (composter, pet food, bait).

(C) European earthworm, *Lumbricus terrestris* (composter, pet food, bait).

(D) Earthworm, *Lumbricus variegatus* (composter, pet food, bait).

(E) No common name, *Stylaria* spp. (education, research).

(c) Crustacea

(A) Pillbug, *Armadillium* spp. (education).

(B) Land hermit crab, *Coenobita clypeatus* (pet).

(C) Sowbug, *Oniscus* spp. (education).

(D) For other Crustacea defined as wildlife (shellfish), e.g. shrimp, crabs, crayfish, see Department of Fish and Wildlife rules: ORS 506.011 and OAR 635-056-0050.

(d) Millipedes (Diplopoda)

(A) Giant African millipede, *Archispirostreptus gigas* (pet).

(B) Giant African black millipede, *Lophostreptus* (= *Scaphiostreptus*) rutilans (education, pet).

(C) Desert millipede, *Orthoporus ornatus* (pet).

(D) Millipede, *Spirobolus* spp. (education).

(E) Giant millipede, *Thyrophygus* spp. (education, pet).

(e) Mites (Acari)

(A) Bindweed gall mite, *Aceria malherbae* (weed biocontrol agent).

(B) Tulip bulb mite, *Aceria tulipae* (research).

(C) Predatory mite, *Amblyseius barkeri* (arthropod biocontrol agent).

(D) Predatory mite, *Amblyseius cucumeris* (arthropod biocontrol agent).

(E) Predatory mite, *Amblyseius degenerens* (arthropod biocontrol agent).

(F) Spider mite predator, *Amblyseius hibisci* (mite biocontrol agent).

(G) Spider mite predator, *Amblyseius mckenziei* (arthropod biocontrol agent).

(H) Rush skeletonweed gall mite, *Eriophyes chondrillae* (weed biocontrol agent).

(I) Spider mite predator, *Galendromus occidentalis* (mite biocontrol agent).

(J) Fungus gnat larval predator, *Hypoaspis aculeifer* (insect biocontrol agent).

(K) Spider mite predator, *Mesoseiulus longipes* (mite biocontrol agent).

(L) Spider mite predator, *Neoseiulus californicus* (mite biocontrol agent).

(M) Spider mite predator, *Neoseiulus fallacis* (mite biocontrol agent).

(N) Cyclamen mite, *Phytonemus pallidus* (research).

(O) Spider mite predator, *Phytoseiulus persimilis* (mite biocontrol agent).

(P) Gorse spider mite, *Tetranychus lintearius* (weed biocontrol agent).

(Q) Two-spotted spider mite, *Tetranychus urticae* (research).

(R) Fungus gnat larval predator, *Stratiolaelaps scimitus* (insect biocontrol agent).

(f) Spiders (Araneae)

(A) Chilean rose-haired tarantula, *Gramastola rosea* (education, pet).

(B) Texan brown tarantula, *Aphonopelma hentzi* (education, pet).

(C) Cellar spider, *Pholcus phalangioides* (education).

(D) Wolf spider (Family Lycosidae) (education)*.

(E) Orb weaver spider, (Family Araneidae) (education)*.

*only from stock collected in the Pacific Northwest

(g) Scorpions

(A) Emperor scorpion, *Pandinus imperator* (education, pet).

(h) Dragonflies and Damselflies (Odonata)

(A) Dragonfly, *Aeschna* spp. (education).

(i) Roaches (Blattaria)

(A) Giant cockroach, *Blaberus* spp. (education, pet).

(B) Oriental cockroach, *Blatta orientalis* (education, research).

(C) German cockroach, *Blattella germanica* (education, research).

(D) Madagascar hissing cockroach, *Gromphadorhina portentosa* (education, pet).

(E) American cockroach, *Periplaneta americana* (education, research).

(j) Isoptera (Termites)

(A) Western subterranean termite, *Reticulitermes hesperus* (education).

(B) Western dampwood termite, *Zootermopsis angusticollis* (education).

(k) Crickets and Grasshoppers (Orthoptera)

(A) House cricket, *Acheta domesticus* (education, pet food).

(B) Tropical house cricket, *Gryllobates sigillatus* (education, pet food)

(l) Mantids (Mantodea)

(A) European mantis, *Mantis religiosa* (education, insect biocontrol agent).

(B) Chinese mantis, *Tenodera aridifolia sinensis* (education, insect biocontrol agent).

(m) True Bugs (Hemiptera)

(A) Western boxelder bug, *Boisea rubrolineata* (education).

(B) Western tarnished plant bug, *Lygus hesperus* (education).

(C) Tarnished plant bug, *Lygus lineolaris* (education).

(D) Large milkweed bug, *Oncopeltus fasciatus* (education).

(E) Insidious flower bug, *Orius insidiosus* (insect biocontrol agent).

(n) Plant Lice, Mealybugs, Scales, and Whiteflies (Homoptera)

(A) Bluegreen aphid, *Acyrtosiphon kondoi* (research).

(B) Pea aphid, *Acyrtosiphon pisum* (research).

(C) Cowpea aphid, *Aphis craccivora* (research).

(D) Bean aphid, *Aphis fabae* (research).

(E) Melon or cotton aphid, *Aphis gossypii* (research).

(F) Corn root aphid, *Aphis maidiradicis* (research).

(G) Oleander aphid, *Aphis nerii* (research).

(H) Rose scale, *Aulacaspis rosae* (research).

(I) Foxglove aphid, *Aulacorthum solani* (research).

(J) Cabbage aphid, *Brevicoryne brassicae* (research).

(K) Artichoke aphid, *Capitophorus elaeagni* (research).

(L) Carrot aphid, *Cavariella aegopodii* (research).

(M) Woolly apple aphid, *Eriosoma lanigerum* (research).

(N) Boat gall aphid, *Hayhurstia atriplicis* (research).

(O) Oystershell scale, *Lepidosaphes ulmi* (research).

(P) Turnip aphid, *Lipaphis pseudobrassicae* (research).

(Q) Potato aphid, *Macrosiphum euphorbiae* (research).

(R) Rose aphid, *Macrosiphum rosae* (research).

(S) Green peach aphid, *Myzus persicae* (research).

(T) European fruit lecanium, *Parthenolecanium corni* (research).

(U) Longtailed mealybug, *Pseudococcus longispinus* (research).

(V) European fruit scale, *Quadraspidiotus ostreaeformis* (research).

(W) Greenbug, *Schizaphis graminum* (research).

(X) Spotted alfalfa aphid, *Therioaphis trifolii* (research).

(Y) Greenhouse whitefly, *Trialeurodes vaporariorum* (research).

(o) Thrips (Thysanoptera)

(A) Tobacco thrips, *Frankliniella fusca* (research).

(B) Western flower thrips, *Frankliniella occidentalis* (research).

(C) Predatory six-spotted thrips, *Scolothrips sexmaculatus* (mite biocontrol agent)*.

(D) Gladiolus thrips, *Thrips simplex* (research).

(E) Onion thrips, *Thrips tabaci* (research).

(p) Lacewings (Neuroptera)

(A) Common green lacewing, *Chrysopa carnea* (insect biocontrol agent).

(B) Green lacewing, *Chrysopa rufilabris* (insect biocontrol agent).

(q) Beetles (Coleoptera)

(A) St. Johnswort borer, *Agrilus hyperici* (weed biocontrol agent).

(B) Brown dot leafy spurge flea beetle, *Aphthona cyparissiae* (weed biocontrol agent).

(C) Black dot leafy spurge flea beetle, *Aphthona czwalinae* (weed biocontrol agent).

(D) Copper or amber leafy spurge flea beetle, *Aphthona flava* (weed biocontrol agent).

ADMINISTRATIVE RULES

- (E) Brown-legged leafy spurge flea beetle, *Apthona lacertosa* (weed biocontrol agent).
- (F) Black dot leafy spurge flea beetle, *Apthona nigricutis* (weed biocontrol agent).
- (G) Broad-nosed seed head weevil, *Bangasternus fausti* (weed biocontrol agent).
- (H) Yellow star thistle bud weevil, *Bangasternus orientalis* (weed biocontrol agent).
- (I) Scotch broom bruchid, *Bruchidius villosus* (weed biocontrol agent).
- (J) Pea weevil, *Bruchus pisorum* (education, research).
- (K) Cowpea weevil, *Callosobruchus maculatus* (education, research).
- (L) Histerid beetle, *Carcinops pumilio* (insect biocontrol agent).
- (M) Corn sap beetle, *Carpophilus dimidiatus* (education, research).
- (N) Dried fruit beetle, *Carpophilus hemipterus* (education, research).
- (O) Canada thistle stem weevil, *Ceutorhynchus litura* (weed biocontrol agent).
- (P) Klamathweed beetle, *Chrysolina hyperici* (weed biocontrol agent).
- (Q) Klamathweed beetle, *Chrysolina quadrigemina* (weed biocontrol agent).
- (R) Mealybug destroyer, *Cryolaemus montrouzieri* (insect biocontrol agent).
- (S) Knapweed root weevil, *Cyphocleonus achates* (weed biocontrol agent).
- (T) Dermestid beetle, *Dermestes* spp. (education, museum specimen preparation).
- (U) Yellow star thistle hairy weevil, *Eustenopus villosus* (weed biocontrol agent).
- (V) Scotch broom seed weevil, *Exapion fuscirostre* (weed biocontrol agent).
- (W) Gorse seed weevil, *Exapion ulicis* (weed biocontrol agent).
- (X) Black-margined loosestrife beetle, *Galerucella californiensis* (weed biocontrol agent).
- (Y) Golden loosestrife beetle, *Galerucella pusilla* (weed biocontrol agent).
- (Z) Toadflax seed capsule weevil, *Gymnetron antirrhini* (weed biocontrol agent).
- (AA) Convergent ladybeetle, *Hippodamia convergens* (insect biocontrol agent).
- (BB) Loosestrife root weevil, *Hylobius transversovittatus* (weed biocontrol agent).
- (CC) Yellow star thistle flower weevil, *Larinus curtus* (weed biocontrol agent).
- (DD) Lesser knapweed flower weevil, *Larinus minutus* (weed biocontrol agent).
- (EE) Blunt knapweed flower weevil, *Larinus obtusus* (weed biocontrol agent).
- (FF) Cigarette beetle, *Lasioderma serricorne* (education, research).
- (GG) Tansy ragwort flea beetle, *Longitarsus jacobaeae* (weed biocontrol agent).
- (HH) Toadflax stem weevil, *Mecinus janthinus* (weed biocontrol agent).
- (II) Puncturevine seed weevil, *Microlarinus lareynii* (weed biocontrol agent).
- (JJ) Puncturevine stem weevil, *Microlarinus lypriformis* (weed biocontrol agent).
- (KK) Loosestrife seed weevil, *Nanophyes marmoratus* (weed biocontrol agent).
- (LL) Red-necked leafy spurge stem borer, *Oberea erythrocephala* (weed biocontrol agent).
- (MM) Bess beetle, *Odontotaenium disjunctus* (education).
- (NN) Merchant grain beetle, *Orzaeophilus mercator* (education).
- (OO) Sawtoothed grain beetle, *Orzaeophilus surinamensis* (education).
- (PP) Mediterranean sage root weevil, *Phrydiuchus tau* (weed biocontrol agent).
- (QQ) Lesser grain borer, *Rhyzopertha dominica* (education).
- (RR) Granary weevil, *Sitophilus granaria* (education).
- (SS) Granary weevil, *Sitophilus oryzae* (education).
- (TT) Bronze knapweed root borer, *Sphenoptera jugoslavica* (weed biocontrol agent).
- (UU) Drugstore beetle, *Stegobium paniceum* (education).
- (VV) Yellow mealworm, *Tenebrio molitor* (education, pet food).
- (WW) Yellow mealworm, *Tenebrio obscurus* (education, pet food).
- (XX) Cadelle, *Tenebroides mauritanicus* (education).
- (YY) Red flour beetle, *Tribolium castaneum* (education, research).
- (ZZ) Confused flour beetle, *Tribolium confusum* (education, research).
- (AAA) Giant mealworm, *Zophobas morio* (education, pet food).
- (r) Butterflies and Moths (Lepidoptera)
- (A) Luna moth, *Actias luna* (education).
- (B) Sulfur knapweed moth, *Agapeta zoegana* (weed biocontrol agent).
- (C) Polyphemus moth, *Antheraea polyphemus* (education)*.
- (D) St. Johnswort moth, *Aplocera plagiata* (weed biocontrol agent).
- (E) Silkworm, *Bombyx mori* (education, research).
- (F) Almond moth, *Cadra cautella* (research).
- (G) Raisin moth, *Cadra figulilella* (research).
- (H) Toadflax moth, *Calophasia lunula* (weed biocontrol agent).
- (I) Russian thistle or tumbleweed casebearer, *Coleophora klimeschiella* (weed biocontrol agent).
- (J) Russian thistle stem-mining moth or tumbleweed stem moth, *Coleophora parthenica* (weed biocontrol agent).
- (K) Orange sulfur or alfalfa caterpillar, *Colias eurytheme* (education, releases).
- (L) Mexican jumping bean, *Cydia deshaisiana* (education, pet).
- (M) Monarch butterfly, *Danaus plexippus* (education, releases)*.
- (N) Mediterranean meal moth, *Ephesia kuehniella* (education).
- (O) Saltmarsh caterpillar, *Estigmene acrea* (education)*.
- (P) Greater wax moth, *Galleria mellonella* (education, pet food, research).
- (Q) Corn earworm/cotton bollworm/tomato fruitworm, *Helicoverpa zea* (research).
- (R) Tobacco budworm, *Heliothis virescens* (research).
- (S) Brown house moth, *Hofmannophila pseudospretella* (research).
- (T) Ceanothus silk moth, *Hyalophora euryalus* (education, release)*.
- (U) Whitelined sphinx moth, *Hyles lineata* (education).
- (V) Scotch broom twig miner, *Leucoptera spartifoliella* (weed biocontrol agent).
- (W) Tomato hornworm, *Manduca quinquemaculata* (education, research).
- (X) Tomato hornworm, *Manduca sexta* (education, research).
- (Y) Spotted knapweed seedhead moth, *Metzneria paucipunctella* (weed biocontrol agent).
- (Z) Mourning cloak, *Nymphalis antiopa* (education, release).
- (AA) Rusty tussock moth, *Orgyia antiqua* (research).
- (BB) Western tiger swallowtail butterfly, *Papilio rutulus* (education, release).
- (CC) Anise swallowtail butterfly, *Papilio zelicaon* (education, release).
- (DD) Cabbage white or imported cabbageworm, *Pieris rapae* (education).
- (EE) Indian meal moth, *Plodia interpunctella* (education, pet food, research).
- (FF) Meal moth, *Pyralis farinalis* (education, pet food, research).
- (GG) Woolly bear, *Pyrrarctia isabella* (education)*.
- (HH) Cabbage looper, *Trichoplusia ni* (research).
- (II) Cinnabar moth, *Tyria jacobaeae* (weed biocontrol agent).
- (JJ) Mourning cloak, *Vanessa antiopa* (education, release).
- (KK) Red admiral, *Vanessa atlanta* (education, release).
- (LL) Painted ladies, *Vanessa cardui*, *V. virginiensis* (education, release).
- *only from stock collected in the western U.S.
- (s) Diptera (Flies)
- (A) Aphid predator midge, *Aphidoletes aphidimyza* (insect biocontrol agent).
- (B) Ragwort seed head fly, *Botanophila seneciella* (weed biocontrol agent).
- (C) Darkwinged fungus gnats, *Bradysia* spp. (research).
- (D) Blow and bottle flies, *Calliphora* spp. (education).
- (E) Knapweed peacock fly, *Chaetorellia acrolophi* (weed biocontrol agent).
- (F) Yellow star thistle peacock fly, *Chaetorellia australis* (weed biocontrol agent).
- (G) Mosquito, *Culex* spp. (education, research).
- (H) Rush skeletonweed gall midge, *Cystiphora schmidtii* (weed biocontrol agent).
- (I) Seedcorn maggot, *Delia platura* (research).
- (J) Vinegar fly, *Drosophila melanogaster* (education, pet food, research).
- (K) Vinegar fly, *Drosophila mohavensis* (education, research).

ADMINISTRATIVE RULES

- (L) Vinegar fly, *Drosophila hydei* (education, research).
- (M) Vinegar fly, *Drosophila virilis* (education, research).
- (N) Black soldier fly, *Hermetia illucens* (composter).
- (O) Serpentine leafminer, *Liriomyza brassicae* (research).
- (P) Filth fly parasitoid, *Musciidifurax zaraptor* (insect biocontrol agent).
- (Q) Filth fly parasitoid, *Nasonia vitripennis* (insect biocontrol agent).
- (R) Grey flesh fly, *Sarcophaga bullata* (education, research).
- (S) Filth fly parasitoid, *Spalangia cameroni* (insect biocontrol agent).
- (T) Filth fly parasitoid, *Spalangia endius* (insect biocontrol agent).
- (U) Green clearwing fly, *Terellia virens* (seed biocontrol agent).
- (V) Banded gall fly, *Urophora affinis* (seed biocontrol agent).
- (W) Canada thistle stem gall fly, *Urophora cardui* (weed biocontrol agent).
- (X) UV knapweed seed head fly, *Urophora quadrifasciata* (weed biocontrol agent).
- (Y) Yellow star thistle gall fly, *Urophora sirunaseva* (weed biocontrol agent).
- (Z) Bull thistle seed head gall fly, *Urophora stylata* (weed biocontrol agent).
- (t) Ants, Bees, and Wasps (Hymenoptera)
- (A) Weevil larva parasitoid, *Anisopteromalus calandrae* (insect biocontrol agent).
- (B) Aphid parasitoid, *Aphidius colemani* (insect biocontrol agent).
- (C) Aphid parasitoid, *Aphidius ervi* (insect biocontrol agent).
- (D) Aphid parasitoid, *Aphidius matricariae* (Insect biocontrol agent).
- (E) Italian honeybee, *Apis mellifera ligustica* (pollinator).
- (F) European honeybee, *Apis mellifera mellifera* (pollinator).
- (G) Bumblees native to Oregon, e.g. *Bombus vosnesenkii*, *B. appositus*, *B. bifarius*, *B. californicus*, *B. griseocolis*, *B. melanopygus*, *B. mixtus*, *B. nevadensis*, *B. sitkensis* (pollinators).
- (H) Egg and larval parasitoid of stored product pests, *Bracon hebetor* (insect biocontrol agent).
- (I) Egg and larval parasitoid of stored product pests, *Cotesia plutellae* (insect biocontrol agent).
- (J) Whitefly parasitoid, *Encarsia formosa* (insect biocontrol agent).
- (K) Whitefly parasitoid, *Eretmocerus californicus* (insect biocontrol agent).
- (L) Aphid parasitoid, *Lysiphlebus testaceipes* (insect biocontrol agent).
- (M) Alfalfa leafcutter bee, *Megachile rotundata* (pollinator).
- (N) Parasitoid of fly pupae, *Melittobia digitata*.
- (O) Alkali bee, *Nomia melanderi* (pollinator).
- (P) Blue orchard bee or mason bee, *Osmia lignaria* (pollinator).
- (Q) Harvester ant, *Pogonomyrmex owyheei* (education).
- (R) Harvester ant, *Pogonomyrmex salinus* (education).
- (S) Parasitoid of Lepidoptera eggs, *Trichogramma minutum* (insect biocontrol agent).
- (T) Parasitoid of Lepidoptera eggs, *Trichogramma pretiosum* (insect biocontrol agent).
- (U) Parasitoid of Lepidoptera eggs, *Trichogramma platneri* (insect biocontrol agent).
- (V) Aphid parasitoid, *Trioxys pallidus* (insect biocontrol agent).

Stat.Auth.: 570.205, 570.210 & 570.215
Stats. Implemented: ORS 570.215
Hist.: DOA 19-2011, f. & cert. ef. 10-13-11

603-052-1330

Changes to List of Approved Invertebrates

(1) Interested persons may petition the Department to make changes or additions to the list of approved invertebrates by following the procedures in the Administrative Procedures Act, ORS 183.390.

(a) The agency must either deny the petition or initiate rulemaking within 90 days of receiving the petition. In deciding whether to grant or deny a petition the Department may request additional information from the petitioner necessary for completing a determination of whether the invertebrate is capable of having a significant adverse effect on the environmental quality of this state or causing significant level of economic damage in Oregon.

(b) The Department may deny a petition if information provided by the petitioner is insufficient to allow the Department to make a science-based assessment of whether an invertebrate poses a significant risk of adverse effect to the environmental quality of this state or a significant level of economic damage in Oregon.

Stat.Auth.: 570.205, 570.210 & 570.215
Stats. Implemented: ORS 570.215
Hist.: DOA 19-2011, f. & cert. ef. 10-13-11

603-052-1340

Permits

(1) The Department may issue a permit allowing the possession or movement of a plant pest within this state only if the Department determines that the proposed possession or movement will not create a hazard to agricultural, forest or horticultural interests within the state or to the environmental quality of the state or upon conditions the Department may specify in any permit.

(2) Person requesting a permit shall petition the Department in writing and include any additional information the Department determines is necessary for review of such application.

(3) The Director of the Department of Agriculture retains the final authority to approve or deny special permit requests. Any action under a permit obtained from the Department shall be subject to any conditions or restrictions set forth in the permit. Permit conditions and restrictions may vary depending on the proposed action and its potential risk as determined by the Department.

(4) Any permit holder who does not comply with the conditions of a permit issued by the Department may be deemed in violation of ORS 570.205 and ORS 570.215 and these rules.

Stat.Auth.: 570.205, 570.210 & 570.215
Stats. Implemented: ORS 570.215
Hist.: DOA 19-2011, f. & cert. ef. 10-13-11

603-052-1350

Premises and Permit Accessible to Department Officials

(1) Department officials shall have access to the premises where the invertebrates are housed and to the permit during normal business hours. The permit holder must keep a copy of the permit until it expires, the invertebrates are no longer alive, or for one year after release if release is allowable under the permit.

Stat.Auth.: 570.205, 570.210 & 570.215
Stats. Implemented: ORS 570.215
Hist.: DOA 19-2011, f. & cert. ef. 10-13-11

603-052-1360

Violations

(1) A plant pest, other than a plant pest possessed or moved in compliance with these rules is a public nuisance.

(2) The Department may abate a public nuisance as described in ORS 570.105-570.190 including the summary processes described in ORS 570.170 and 570.180.

(3) Any and all invertebrates possessed or moved in violation of these rules must be returned immediately to the point of origin by the Oregon receiver. The owner or person possessing or moving invertebrates in violation of these rules shall return such invertebrates to the point of origin under the direction of the Department and at the expense of the possessor, owner, or agent of the owner.

(4) If the owner or person possessing or moving invertebrates in violation of these rules fails to ship such invertebrates to the point of origin, or at the discretion of the Department, such invertebrates may be treated or destroyed under supervision of the Department at the expense of the possessor, owner, or agent of the owner.

(5) As provided in ORS 570.225(3), the Department is not required to compensate a person for any loss incurred by the possessor, owner, or agent of the owner under these rules.

Stat.Auth.: 570.205, 570.210 & 570.215
Stats. Implemented: ORS 570.215
Hist.: DOA 19-2011, f. & cert. ef. 10-13-11

603-052-1370

Civil Penalties

(1) In addition to any applicable fine or other penalty, the Department may impose a civil penalty not to exceed \$10,000 if a person violates these rules or the conditions of a permit obtained from the Department pursuant to OAR 603-052-1340 above. See OAR 603-054-0070 for the civil penalty matrix.

Stat.Auth.: 570.205, 570.210 & 570.215
Stats. Implemented: ORS 570.215
Hist.: DOA 19-2011, f. & cert. ef. 10-13-11

Rule Caption: Housekeeping amendments to update scientific names of threatened or endangered species.

Adm. Order No.: DOA 20-2011

Filed with Sec. of State: 10-13-2011

Certified to be Effective: 10-13-11

Notice Publication Date: 7-1-2011

ADMINISTRATIVE RULES

Rules Amended: 603-073-0070

Subject: update scientific names for nine species of threatened or endangered plants: pink sand-verbena, northern wormwood, Snake River goldenweed, Cusick's lupine, rough popcornflower, white-topped aster, wayside aster, barren milk-vetch, and Oregon or Kincaid's lupine. Eliminate Dalles Mountain buttercup, *Ranunculus reconditus*, from the list of endangered plants as this species is no longer considered taxonomically valid.

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

603-073-0070

State List of Endangered and Threatened Species

The state list of endangered and threatened species is as follows:

(1) Plant Species Listed as Endangered:

(A) *Abronia umbellata* Lam. var. *breviflora* (Standl.) L. A. Galloway — Pink sand-verbena;

(B) *Artemisia campestris* L. var. *wormskioldii* (Besser ex Hook) Cronquist — Northern wormwood;

(C) *Astragalus applegatei* Peck — Applegate's milk-vetch;

(D) *Astragalus mulfordiae* M.E. Jones — Mulford's milk-vetch;

(E) *Calochortus coxii* Godfrey & Callahan — Crinite mariposa-lily;

(F) *Calochortus indecorus* Ownbey & Peck — Sexton Mountain mariposa-lily;

(G) *Calochortus umpquaensis* Fredricks — Umpqua mariposa-lily;

(H) *Castilleja levisecta* Greenm. — Golden paintbrush;

(I) *Cordylanthus maritimus* Nutt. ex Benth. subsp. *palustris* (Behr.)

Chuang & Heckard — Saltmarsh bird's-beak;

(J) *Delphinium leucophaeum* Greene — White rock larkspur;

(K) *Delphinium pavonaceum* Ewan — Peacock larkspur;

(L) *Erigeron decumbens* Nutt. — Willamette daisy;

(M) *Fritillaria gentneri* Gilkey — Gentner's fritillary;

(N) *Ivesia rhypara* Erter & Reveal var. *rhypara* — Grimy ivesia;

(O) *Lilium occidentale* Purdy — Western lily;

(P) *Limnanthes floccosa* How. subsp. *grandiflora* Arroyo — Big-flowered wooly meadowfoam;

(Q) *Lomatium bradshawii* (Rose) Math. & Const. — Bradshaw's desert parsley;

(R) *Lomatium cookii* Kagan — Cook's desert parsley;

(S) *Lomatium erythrocarpum* Meinke & Const. — Red-fruited lomatium;

(T) *Lupinus cusickii* Wats. — Cusick's lupine;

(U) *Lupinus lepidus* Douglas ex Lindl. var. *cusickii* (S. Watson) C.L. Hitchc. — Cusick's lupine;

(V) *Mentzelia mollis* Peck — Smooth mentzelia;

(W) *Mirabilis macfarlanei* Const. & Roll. — MacFarlane's four-o'clock;

(X) *Plagiobothrys hirtus* (Greene) Johnst. — Rough popcornflower;

(Y) *Plagiobothrys lamprocarpus* (Piper) Johnst. — Shiny-fruited allocarya;

(Z) *Pyrrocoma radiata* Nutt. — Snake River goldenweed;

(AA) *Silene spaldingii* Wats. — Spalding's campion;

(BB) *Stephanomeria malheurensis* Gottl. — Malheur wire-lettuce;

(CC) *Thelypodium howellii* Wats. subsp. *spectabilis* (Peck) Al-Shehbaz — Howell's thelypody;

(DD) *Trifolium owyheense* Gilkey — Owyhee clover.

(2) Plant Species Listed as Threatened:

(A) *Amsinckia carinata* Nels. & Macbr. — Malheur Valley fiddle-neck;

(B) *Astragalus collinus* Dougl. ex Hook. var. *laurentii* (Rydb.) Barn. — Lawrence milk-vetch;

(C) *Astragalus cusickii* A. Gray var. *sterilis* (Barneby) Barneby — Barren milk-vetch;

(D) *Astragalus diaphanus* Dougl. var. *diurnus* (Wats.) Barn. — South Fork John Day milk-vetch;

(E) *Astragalus peckii* Piper — Peck's milk-vetch;

(F) *Astragalus tyghensis* Peck — Tygh Valley milk-vetch;

(G) *Botrychium pumicola* Cov. in Underw. — Pumice grape-fern;

(H) *Calochortus howellii* Wats. — Howell's mariposa-lily;

(I) *Eriogonum chrysops* Rydb. — Golden buckwheat;

(J) *Eriogonum crosbyae* Reveal — Crosby's buckwheat;

(K) *Erythronium elegans* Hammond & Chamb. — Coast Range fawn lily;

(L) *Eucephalus vialis* Bradshaw — Wayside aster [synonym: *Aster vialis* (Brads.) Blake];

(M) *Gratiola heterosepala* Mason & Bacig. — Boggs Lake hedge-hyssop;

(N) *Hackelia cronquistii* J.L. Gentry — Cronquist's stickseed;

(O) *Hastingsia bracteosa* Watson var. *bracteosa* — Large-flowered rush lily;

(P) *Lepidium davisii* Roll. — Davis' peppergrass;

(Q) *Limnanthes floccosa* How. subsp. *pumila* (How.) Arroyo — Dwarf meadowfoam;

(R) *Lomatium greenmanii* Mathias — Greenman's desert parsley;

(S) *Lupinus oregonus* A. Heller — Oregon -or- Kincaid's lupine [synonym: *Lupinus sulphureus* Douglas ex Hook. subsp. *kincaidii* (Smith) Phillips];

(T) *Mentzelia packardiae* Glad — Packard's mentzelia;

(U) *Microseris howellii* Gray — Howell's microseris;

(V) *Oenothera wolfii* (Munz) Raven, Dietrich & Stubbe — Wolf's evening-primrose;

(W) *Phacelia argentea* Nels. & Macbr. — Silvery phacelia;

(X) *Pleuropogon oregonus* Chase — Oregon semaphore grass;

(Y) *Sericocarpus rigidus* Lindl. — White-topped aster (synonym: *Aster curtus* Cronquist);

(Z) *Sidalcea nelsoniana* Piper — Nelson's checker-mallow;

(AA) *Silene douglasii* Hook var. *oraria* (Peck) C.L. Hitchc. & Maguire — Cascade Head catchfly;

(BB) *Thelypodium eucosmum* Robins. — Arrow-leaf thelypody.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 564.110

Hist.: AD 16-1989, f. & cert. ef. 10-27-89; AD 13-1995, f. & cert. ef. 7-12-95; DOA 18-2001, f. & cert. ef. 9-6-01; DOA 19-2003, f. & cert. ef. 6-11-03; DOA 20-2011, f. & cert. ef. 10-13-11

Rule Caption: Amends brucellosis testing and importing requirements for cattle.

Adm. Order No.: DOA 21-2011

Filed with Sec. of State: 10-14-2011

Certified to be Effective: 10-14-11

Notice Publication Date: 8-1-2011

Rules Amended: 603-011-0270

Subject: The Oregon Department of Agriculture, Animal Health Division has the responsibility to protect the livestock of this state from disease. Brucellosis is a highly contagious disease spread by direct contact. The domestic livestock in the United States are currently considered free from brucellosis infection. These amendments will update and clarify the rule and bring it into alignment with national guidelines.

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

603-011-0270

Importation of Cattle: Brucellosis Testing and Vaccination Requirements

(1) Definitions: As used in this rule:

(a) "Eligible Cattle" means all sexually intact cattle over 18 months of age, including pregnant heifers or those that have calved under 18 months of age;

(b) "Non-vaccinated" means all sexually intact female cattle over four months of age not vaccinated for brucellosis;

(c) "Vaccinated" means all female cattle vaccinated for brucellosis;

(d) "Designated Area" means an area, herd or herds described by USDA and/or the State Animal Health Official/State Veterinarian of the state-of-origin as containing cattle potentially infected with or exposed to brucellosis and thereby subject to movement restrictions and/or additional brucellosis testing;

(e) "Registered Dry Feedlot" means an area, approved and registered by the Department, surrounded by a cattle-tight fence in which livestock are confined and wherein they must be supplied both feed and water for their survival, but does not mean any pasture or corral wherein livestock are only fed occasionally or as a supplement to natural forage growing in the pasture or corral;

(2)(a) In addition to the permit requirements for importation of livestock into Oregon, official vaccination for brucellosis (either calfhood or mature) is required for the importation of all female cattle over four months of age for any purpose other than directly to slaughter or to be fed in a registered dry feedlot or a licensed terminal feedlot (not pasture) and then sent directly to slaughter from that facility. Evidence of such vaccination shall be by an official tattoo in the right ear of the animal.

ADMINISTRATIVE RULES

(b) All eligible cattle not originating in a Designated Area are specifically exempt from brucellosis testing before entry into the State of Oregon; or

(c) All eligible cattle not originating in a Designated Area may enter Oregon directly to a licensed slaughtering establishment or to an approved state-federal market and then to a licensed slaughter plant if the identity to the out-of-state herd of origin is maintained.

(d) All sexually intact cattle over 4 months not originating from a Designated Area and consigned to an approved state-federal market which, upon sale, are to go to ranches/farms in Oregon for breeding and/or dairy purposes, must be vaccinated for brucellosis. Evidence of such vaccination is an official tattoo and/or official vaccination tag in the right ear of the animal. The cost of vaccination at the market, if required, shall be the responsibility of the buyer.

(e) All sexually intact cattle originating in a Designated Area may be imported on a case-by-case basis as determined by the State Veterinarian, based on an assessment of risk to the cattle of the state. The cattle must be officially and individually identified. The official identification, identity to the out-of-state herd of origin and its physical location must be maintained.

(3) Registered Dry Feedlot: Cattle may be imported into the State of Oregon, consigned to a registered dry feedlot subject to the following conditions:

(a) Cattle may be of any age, vaccinated or not vaccinated, but may not originate from a Designated Area without specific permission from the State Veterinarian before entry;

(b) On movement from registered dry feedlots, non-vaccinated cattle may move to slaughter or to another registered feedlot only. There are no restrictions on steers and spayed heifers, vaccinated heifers under 18 months old or eligible vaccinated cattle.

(c) No illegally imported cattle are permitted entry to registered dry feed lots. Records of cattle entering and leaving feedlot shall be available to Departmental personnel at all reasonable times.

Stat. Auth.: ORS 561 & 596.341
Stats. Implemented: ORS 596.341

Hist.: AD 890(20-68), f. 10-28-68, ef. 11-1-68; AD 1047(37-74), f. 9-20-74, ef. 10-11-74; AD 1082(5-76), f. & ef. 3-1-76; AD 1095(16-76), f. & ef. 4-26-76; AD 9-1977, f. & ef. 4-6-77; AD 9-1978, f. & ef. 7-3-78; AD 8-1979, f. 8-8-79, ef. 9-1-79; AD 1-1981, f. & ef. 1-9-81; AD 2-1981, f. & ef. 1-12-81; AD 8-1981(Temp), f. & ef. 5-18-81; AD 9-1981, f. & ef. 6-9-81; AD 3-1984, f. & ef. 1-20-84; AD 11-1984, f. & ef. 8-28-84; AD 16-1986, f. & ef. 12-31-86; AD 12-1987, f. & ef. 11-19-87; AD 1-1993, f. & cert. ef. 1-7-93; DOA 21-2011, f. & cert. ef. 10-14-11

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**Department of Agriculture,
Oregon Fine Fescue Commission
Chapter 604**

Rule Caption: Includes Highland Bentgrass to crops assessed by Fine Fescue Commission; adds a commissioner.

Adm. Order No.: CRFC 2-2011

Filed with Sec. of State: 10-7-2011

Certified to be Effective: 10-7-11

Notice Publication Date: 9-1-2011

Rules Amended: 604-010-0005, 604-010-0011, 604-010-0015, 604-030-0010, 604-030-0020

Rules Repealed: 604-010-0005(T), 604-010-0011(T), 604-010-0015(T), 604-030-0010(T), 604-030-0020(T)

Subject: The changes allow the Fine Fescue Commission to incorporate the assessment of Highland Bentgrass seed (*Agrostis castellana*), or any mixture containing at least 50% of Highland Bentgrass seed, pursuant to the authority in SB 946 (2011) and ORS 576. The assessment rate and method of paying assessments remains the same as it was under the Highland Bentgrass Commission, which was dissolved by SB 946 (2001). Further, the Fine Fescue Commission is adding a producer of Highland Bentgrass seed to the commission, bringing the total number of commissioners to nine. These Permanent Rules will replace the Temporary Rules adopted by the Commission June 30, 2011.

Rules Coordinator: Lisa Ostlund—(503) 364-2944

604-010-0005

Definitions

As used in OAR 604-010-0011 and 604-010-0015, unless otherwise required by context:

(1) "Person" means any individual, corporation, association, partnership, and joint stock company.

(2) "Commission" means the Fine Fescue Commission.

(3) "Casual Sale" means any sale or sales of Chewings Fescue seed, Creeping Red Fescue seed or Highland Bentgrass seed, or blend consisting of 50 percent or more of Highland Bentgrass seed, made by the producer direct to the consumer where the total accumulated sales during a calendar year is not more than 100 pounds.

(4) "First Purchaser" means any person who buys Chewings Fescue seed, Creeping Red Fescue seed or Highland Bentgrass seed, or blend consisting of 50 percent or more of Highland Bentgrass seed, from the producer in the first instance, or handler who received the seed in the first instance from the producer for resale or processing.

(5) "Producer" means a person or other legal entity producing Chewings Fescue seed, Creeping Red Fescue seed or Highland Bentgrass seed, or blend consisting of 50 percent or more of Highland Bentgrass seed, for market, whether as landowner, landlord, tenant, sharecropper, or otherwise.

(6) "Handler" means any producer, processor, or distributor, or other person engaged in the handling or marketing of or dealing in Chewings Fescue seed, Creeping Red Fescue seed or Highland Bentgrass seed, or blend consisting of 50 percent or more of Highland Bentgrass seed, whether as an owner, agent, employee, broker, or otherwise.

(7) "Fescue" means Chewings Fescue seed or Creeping Red Fescue seed.

(8) "Highland Bentgrass" means Highland Bentgrass seed (*Agrostis castellana*).

Stat. Auth.: ORS 576, SB 946 (2011)

Stats. Implemented: ORS 576, SB 946 (2011)

Hist.: CFC 1, f. 5-1-56, ef. 4-26-56; CFC 3, f. 9-27-57; CRFC 1-2001, f. & cert. ef. 6-12-01; CRFC 1-2011(Temp), f. & cert. ef. 6-30-11 thru 11-22-11; CRFC 2-2011, f. & cert. ef. 10-7-11

604-010-0011

Assessments

(1) Any person who is a first purchaser (or who otherwise is required to pay an assessment to the Oregon Fine Fescue Commission) for all purchases made on or after April 1, 2002, shall deduct and withhold an assessment of one percent (1%) of the price per pound of seed purchased from the price paid to the producer thereof for all Fescue seed grown in Oregon.

(2) Any person who is a first purchaser (or who otherwise is required to pay an assessment to the Oregon Fine Fescue Commission) shall deduct and withhold an assessment of \$1.75 for each 100 pounds on a clean seed basis from the price paid to the producer thereof, on and after July 1, 2010, for Highland Bentgrass seed or any commodity or mixture which contains more than 50 percent of Highland Bentgrass seed.

Stat. Auth.: ORS 576, SB 946 (2011)

Stats. Implemented: ORS 576.325 - 576.375, SB 946 (2011)

Hist.: CFC 6, f. & ef. 11-7-62; CFC 8, f. 4-5-63, ef. 7-1-63; CFC 10, f. 6-18-64; CFC 11, f. 6-25-65, ef. 7-1-65; CFC 12, f. 7-6-70, ef. 7-1-70; CFC 1-1979, f. 6-7-79, ef. 7-1-79; CFC 1-1988, f. 7-1-88, cert. ef. 8-1-88; CFC 1-1989, f. 6-15-89, cert. ef. 7-1-89; CFC 1-1991(Temp), f. 7-30-91, cert. ef. 8-1-91; CFC 1-1995, f. & cert. ef. 11-29-95; CRFC 1-2002, f. 3-25-02, cert. ef. 4-1-02; CRFC 1-2011(Temp), f. & cert. ef. 6-30-11 thru 11-22-11; CRFC 2-2011, f. & cert. ef. 10-7-11

604-010-0015

Reports and Payment by First Purchaser

(1) First purchasers and handlers, as defined in 604-010-0005(4) and (6), must submit completed and signed assessment reports on commission approved form.

(2) Assessment reports shall include all purchases by or deliveries to a first purchaser or handler of Fescue seed (net paid weight) and all purchases by or deliveries to a first purchaser or handler of Highland Bentgrass seed or any commodity or mixture which contains more than 50 percent of such Highland Bentgrass seed.

(3) Quarterly assessment reports are due in the commission office postmarked on or before the 30th day of the reporting month specified below. Quarterly assessments shall be reported as follows:

(a) January, February, March assessments are reported on or before April 30th;

(b) April, May, June assessments are reported on or before July 30th;

(c) July, August, September assessments are reported on or before October 30th;

(d) October, November, December assessments are reported on or before January 30th.

(4) Within 30 days after the end of each quarter, the first purchaser must forward to this Commission forms furnished by and approved by the Commission. The forms shall be signed by the first purchaser and completely filled out and shall include in addition to all other required information and figures:

ADMINISTRATIVE RULES

- (a) The date each transaction is made;
 - (b) The name of each grower;
 - (c) The crop year;
 - (d) The variety (Chewings Fescue seed, Creeping Red Fescue seed or Highland Bentgrass seed or any commodity or any blend consisting of 50 percent or more of Highland Bentgrass seed);
 - (e) The pounds of cleaned seed;
 - (f) The price per pound for Chewings Fescue seed and Creeping Red Fescue seed; and
 - (g) The tax assessment deducted and withheld.
- Stat. Auth.: ORS 576, SB 946 (2011)
Stats. Implemented: ORS 576, SB 946 (2011)
Hist.: CFC 2, f. 5-29-56; CRFC 1-2001, f. & cert. ef. 6-12-01; CRFC 1-2011(Temp), f. & cert. ef. 6-30-11 thru 11-22-11; CRFC 2-2011, f. & cert. ef. 10-7-11

604-030-0010

Number of Commissioners, Terms

The Oregon Fine Fescue Commission will consist of nine (9) members appointed by the Director of the Oregon Department of Agriculture for a term of three (3) years or, if for a term following a prior term for that person, ending three (3) years from the date of expiration of any prior term. There shall be no limit on the number of terms a commissioner may serve.

Stat. Auth.: 2003 OL Ch. 604, ORS 576.
Stats. Implemented: 2003 OL Ch. 604, ORS 576
Hist.: CRFC 1-2003, f. 11-26-03, cert. ef. 1-1-04; CRFC 1-2011(Temp), f. & cert. ef. 6-30-11 thru 11-22-11; CRFC 2-2011, f. & cert. ef. 10-7-11

604-030-0020

Qualifications of Commissioners

(1) For purposes of this rule:

(a) A "producer" is a person growing or producing within this state or procuring within the state, its rivers or the offshore waters, but not the Columbia River, for commercial handling within the state, a commodity for market, or receiving a share thereof as landowner, landlord, tenant, sharecropper, boat skipper or otherwise. A producer must have paid the commission assessment on the commodity in each of the preceding three calendar years.

(b) A "handler" is any producer, processor, distributor or other person engaged in handling or marketing of or dealing in the commodity, whether as owner, agent, employee, broker or otherwise. A handler must have collected the commission assessment, if any, each of the preceding three calendar years.

(2) Members of the Oregon Fine Fescue Commission will have the following qualifications, which will continue during the term of office of the member:

(a) One member of the commission will be a member of the public with an active interest in the positive economic development, production and/or marketing of the commodity, but who is not associated with the production or handling of Chewings Fescue seed, Creeping Red Fescue seed or Highland Bentgrass seed;

(b) A majority of the members will be producers;

(c) At least one member will be a handler;

(d) Seven members who are not a handler or the public member will be producers; no less than six members will be producers of Chewings Fescue seed or Creeping Red Fescue seed; one member will be a producer of Highland Bentgrass seed.

(3) All members of the Oregon Fine Fescue Commission will serve from the state at large, except that two members of the Commission shall be from Union County, and all members must reside within the State of Oregon.

Stat. Auth.: 2003 OL Ch. 604, ORS 576
Stats. Implemented: 2003 OL Ch. 604, ORS 576
Hist.: CRFC 1-2003, f. 11-26-03, cert. ef. 1-1-04; CRFC 1-2011(Temp), f. & cert. ef. 6-30-11 thru 11-22-11; CRFC 2-2011, f. & cert. ef. 10-7-11

Department of Agriculture, Oregon Raspberry and Blackberry Commission Chapter 611

Rule Caption: Amend 611-010-0005 to change "Casual Sale" to not more than 5,000 lbs during calendar year.

Adm. Order No.: ORBC 1-2011

Filed with Sec. of State: 9-29-2011

Certified to be Effective: 9-29-11

Notice Publication Date: 6-1-2011

Rules Amended: 611-010-0005

Subject: Amend OAR 611-010-0005 (3) "Casual Sale" to state: "Casual Sale" any sale or sales of caneberries made by the producer direct to the consumer where the total accumulated sales during a calendar year is not more than 5,000 lbs.

This proposed rule will allow the commodity commission to collect assessments on Casual Sales of more than 5,000 lbs.

Rules Coordinator: Rachel Denué—(541) 758-4043

611-010-0005

Definitions

(1) "Person" means any individual, corporation, association, partnership or joint stock company.

(2) "Commission" means the Oregon Raspberry and Blackberry Commission.

(3) "Casual Sale" means any sale or sales of caneberries made by the producer direct to the consumer where the total accumulated sales during a calendar year is not more than 5,000 lbs.

(4) "First Purchaser" means any person who buys caneberries from the producer in the first instance, or handler who receives the caneberries in the first instance from the producer for resale or processing.

(5) "Producer" means a person or other legal entity producing caneberries in Oregon for market, whether as a landowner, landlord, tenant, sharecropper or otherwise.

(6) "Handler" means any producer, processor, distributor or other person engaged in handling or marketing of or dealing in caneberries, whether as owner, agent, employee, broker or otherwise.

(7) Caneberries consists of the trailing berries species:

(a) *Rubus* sp. hyb. (including, but not limited to, the cultivars Boysen, Logan, and Marion); and

(b) *R. Laciniatus West.* (Evergreen Thornless Blackberry) and raspberries species including, but not limited to;

(c) *R. idaeus-strigosus* L. (Red Raspberry); and

(d) *R. occidentalis* L. (Blackcap Raspberry). All caneberry cultivars sold commercially are to be included.

Stat. Auth.: ORS 576
Stats. Implemented: ORS 576.325
Hist.: OCC 2-1981, f. 7-22-81, ef. 7-23-81; ORBC 1-2011, f. & cert. ef. 9-29-11

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

Rule Caption: Adopts minimum safety standards for recreational vehicles & non-substantive changes to recreational parks and campgrounds.

Adm. Order No.: BCD 26-2011

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 10-1-11

Notice Publication Date: 9-1-2011

Rules Amended: 918-525-0005, 918-525-0035, 918-525-0040, 918-525-0042, 918-530-0070, 918-650-0000, 918-650-0005, 918-650-0010, 918-650-0020, 918-650-0025, 918-650-0030, 918-650-0035, 918-650-0040, 918-650-0045, 918-650-0050, 918-650-0055, 918-650-0060, 918-650-0065, 918-650-0070, 918-650-0075, 918-650-0080

Rules Repealed: 918-650-0015

Subject: These rules adopt the most current editions of nationally recognized standards for the construction, conversion, alteration, and repair of recreational vehicles and recreational park trailers with Oregon amendments. These rules also make non-technical housekeeping changes to the park and camp rules in OAR chapter 918, division 650. These changes make these rules uniform and consistent with other Division code program rules by correcting references and removing duplicative language.

Rules Coordinator: Stephanie Snyder—(503) 373-7438

918-525-0005

Definitions

The following definitions shall apply to OAR chapter 918, divisions 520, 525, and 530 and are in addition to those included in ORS 446.003 and 455.010:

(1) "Accessible" means having access thereto, but which may require removal of an access panel or opening a door.

ADMINISTRATIVE RULES

(2) "Accessory Building" means an accessory building which specifically includes, but is not limited to, cabanas, ramadas, storage sheds, and garages.

(3) "Accessory Structure" means an accessory structure which specifically includes, but is not limited to, awnings, carports, decks, steps, and ramps.

(4) "Additional Living Space," as used in these rules has two meanings:

(a) As it relates to a cabana, means a freestanding, self-supporting accessory building installed adjacent to a recreational vehicle and subject to OAR 918-530-0320; or

(b) As it relates to additions to a recreational vehicle, means any attached structure that is dependent upon the recreational vehicle for support or systems. These attached structures shall be within the maximum allowable gross floor area of a non-motorized recreational vehicle, as identified in OAR 918-525-0035, and are subject to OAR 918-525-0040 standards for recreational vehicles or recreational park trailers as appropriate.

(5) "Adjustment of Equipment" means the adjustment of the rate, flow, speed, temperature, etc. as necessary for the continued operation of the equipment but does not include the repair, replacement, conversion, alteration, or addition to any equipment.

(6) "Anchoring System" means any equipment or device designed to secure a recreational vehicle for the purpose of resisting uplift, sliding, and overturning.

(7) "Controlled Fill" means fill intended to bear a structural load in which the fill material is placed in layers of soil, crushed stone or masonry waste material, compacted and tested to ensure it meets specified compaction standards determined by laboratory tests of soil samples from the fill material.

(8) "Design Option" means an option to a model or model group submitted with the original model or with a model supplement.

(9) "Earthquake-resistant Bracing System" means a certified anchoring system, bracing system, or other devices designed and constructed to protect the health and safety of the occupants of, and reducing damage to, a recreational park trailer in the event of an earthquake.

(10) "Field Technical Service" means the clarification of technical data, including but not limited to division interpretations, investigations, or training relating to the application of laws, rules, standards, and regulations administered and enforced by the Building Codes Division.

(11) "Full Foundation System" means a certified, engineered system of prefabricated foundation supports installed to the pier manufacturer's installation instructions.

(12) "Labeled" means equipment or materials, used in the manufacture or installation of a recreational vehicle, to which has been attached a label, symbol, or other identifying mark of a nationally recognized testing laboratory, inspection agency, or other organization, which evaluates products to nationally recognized standards and periodically inspects production of equipment and materials to show compliance with those standards for usage in a specified manner.

(13) "Listing Agency" means an agency that:

(a) Is regularly engaged in conducting its own tests, or listing, labeling, or contracting its testing procedures to a nationally recognized testing agency;

(b) Maintains a periodic inspection program on production of currently listed products; and

(c) Publishes, at a minimum, an annual report which is used to determine whether products have been tested to such national standards and found safe for use in a specified manner.

(14) "Load Bearing Device" means any equipment or device used in the support of a recreational vehicle including, but not limited to, footings, piers, caps, and shims.

(15) "Main Frame" means the part of the structural system of a recreational vehicle normally used to transfer design load to the support system.

(16) "Minor Repair" means a simple repair such as replacing broken glass, fittings, devices, or fixtures, using approved component parts, but does not include the repair or replacement of major portions of the structural, plumbing, electrical, or mechanical systems or conversions, alterations, or additions.

(17) "Model" means an individual recreational vehicle designated by the manufacturer to be manufactured to a specific floor plan, which includes specific structural components, plumbing, electrical, and mechanical equipment, and installed and located in accordance with the plans submitted to the division.

(18) "Model Group" means two or more models with identical floor plans and plumbing, electrical and mechanical systems but identified by different names, numbers, or letters.

(19) "Noncompliance" means a failure of a recreational vehicle, equipment, or installation to comply with these rules or the codes and standards described in OAR 918-525-0040.

(20) "Notice of Violation" means written notification by the division stating the recreational vehicle or equipment may not be used, rented, leased, or sold or offered for sale, rent, or lease due to violations of ORS chapter 446 or these rules.

(21) "Option Ready" means a provision made during the manufacture of a recreational vehicle to facilitate the future installation of an appliance or other equipment (e.g., air conditioner, generator, dishwasher).

(22) "Park Trailer" or "Recreational Park Trailer" means a recreational vehicle built on a single chassis, mounted on wheels, which may be connected to utilities necessary for operation of installed fixtures and appliances, and with a gross trailer area not exceeding 400 square feet when in the set-up mode. Such a vehicle shall be referred to and identified by the manufacturer or converter as a recreational vehicle.

(23) "Pier" means that portion of the support system between the footing and the recreational vehicle.

(24) "Plan Supplement" means the revision, modification, or updating of an existing division-approved plan.

(25) "Prefabricated Pier" means a listed or approved pier which is manufactured at an off-site location but does not include concrete blocks.

(26) "Ramada" means a stationary structure having a roof extending over a recreational vehicle, which may also extend over a patio or parking space for motor vehicles, and is used principally for protection from snow, ice, sun, or rain.

(27) "Readily Accessible" means having direct access without the necessity of removing a panel, door, or similar obstruction.

(28) "Recreational Vehicle" means a vehicle as defined in ORS 446.003 and specifically includes camping trailers, camping vehicles, motor homes, recreational park trailers, bus conversions, van conversions, tent trailers, travel trailers, truck campers, combination vehicles which include a recreational vehicle use, and any vehicle converted for use or partial use as a recreational vehicle. Recreational Vehicles contain eating and sleeping facilities and are equipped with one or more of the following:

(a) Holding tank(s);

(b) Liquid petroleum gas; or

(c) A 110 to 240 volt electrical systems.

(29) "Recreational Vehicle Site" means a designated parcel of land designed to accommodate a recreational vehicle, its accessory structures or buildings and accessory equipment for the exclusive use of the occupant's recreational vehicle.

(30) "Registered Design Professional" as defined in the Oregon Residential Specialty Code is an individual who is registered or licensed to practice their respective design profession as defined by the statutory requirements of the professional registration laws of the state or jurisdiction in which the project is to be constructed.

(31) "Regulated Repair" means an alteration, repair, or conversion regulated by the codes and standards described in OAR 918-525-0040 but excludes those unregulated repairs described in ORS 446.003(2)(b) and OAR 918-525-0350(2).

(32) "Repair" means the reconstruction or renewal of any part of an existing recreational vehicle or piece of equipment for the purpose of its maintenance.

(33) "Repair Operation" means any person in the business of making alterations, repairs, or conversions to recreational vehicles or recreational vehicle equipment regulated by the division under ORS Chapter 446 and these rules.

(34) "Replacement in Kind" means replacing equipment or accessories with approved like equipment or accessories such as switches, thermostats, fittings, elements, or motors, but does not include the replacement of major portions of the structural, plumbing, electrical, or mechanical systems.

(35) "Stabilizing Devices" means all components of the anchoring system and support systems such as piers, footings, ties, anchoring equipment, ground anchors, and any other equipment which supports or secures the recreational vehicle to the ground.

(36) "Stand" means that area of the recreational vehicle site which has been reserved for the placement of a recreational vehicle or accessory structure.

ADMINISTRATIVE RULES

(37) "Support System" means a combination of footings, piers, caps, and shims that will, when properly installed, support the weight of the recreational vehicle, and all imposed live loads.

(38) "Technician" means a quality assurance technician approved by the division to perform inspections according to a repair operation's quality assurance manual.

(39) "Testing Laboratory" or "Testing Agency" means an organization:

- (a) In the business of testing equipment and systems;
 - (b) Qualified and equipped to perform or to observe experimental testing to approved standards;
 - (c) Not under the jurisdiction or control of any single manufacturer or supplier for an affected industry;
 - (d) Publishing reports, including specific information about the equipment and systems tested and found safe for use in a specified manner; and
 - (e) Whose methods and standards have been approved by the division.
- (40) "Travel Mode" means the overall size of the recreational vehicle as it travels on a highway including all horizontal projections except for expandable rooms, retractable awnings, exterior plumbing, mechanical, or electrical fixtures, or equipment or other minor exterior attachments.

(41) "Visual inspection" means an inspection by the division of the visible portions of completed construction for the purpose of identifying code violations or approving and issuing an insignia of compliance.

Stat. Auth.: ORS 446.160

Stats. Implemented: ORS 446.160

Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 25-1996, f. 11-8-96, cert. ef. 1-1-97; BCD 11-1997, f. 7-23-97, cert. ef. 1-1-98; BCD 9-1999, f. 7-14-99, cert. ef. 9-1-99; BCD 29-2000, f. & cert. ef. 12-19-00; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 12-2011(Temp), f. 4-29-11, cert. ef. 5-2-11 thru 10-29-11; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

918-525-0035

Allowable Floor Areas

(1) Recreational vehicles and recreational park trailers are limited to a maximum gross floor area of 400 square feet in the setup mode, including all tip-outs, slide-outs, expandable rooms, and other horizontal projections. The 400 square foot limitation does not apply to:

- (a) Motorized recreational vehicles;
- (b) Fifth wheel trailers up to 430 square feet in the setup mode;
- (c) Vertical multi-level additions such as basements, second stories, lofts (mezzanines), or overhead storage with a maximum ceiling height of five feet;
- (d) Any space less than five feet in height which does not increase the size of the recreational vehicle or extend horizontally beyond the recreational vehicle floor line;
- (e) Bay windows, walk-a-bays, and other window projections with a floor or platform at least 12 inches above the vehicle floor;
- (f) Space occupied by drawbars, couplings, hitches, or lights;
- (g) Exterior chassis mounted decks, landings, platforms, or porches that are not enclosed;
- (h) Eaves, awnings, or porch roof overhangs; or
- (i) Freestanding, self-supporting cabanas approved for use as accessory buildings adjacent to the recreational park trailer according to OAR 918-530-0320.

(2) Factory-built porches, decks, roof overhangs, and other similar construction that is built by the manufacturer and connected to and supported by a recreational vehicle shall not be enclosed with walls, glass, or other solid materials if the gross floor area of the enclosure and the recreational vehicle combined would exceed the maximum allowable gross floor area.

(3) The gross floor area of a recreational vehicle shall not be increased through the use of a manufactured dwelling, another recreational vehicle, or through any other means except as specifically permitted by these rules.

(4) Additions that are structurally attached to a recreational vehicle and depend on the recreational vehicle for structural support or that are connected to the plumbing, mechanical, or electrical systems of the recreational vehicle, shall be considered part of the recreational vehicle or recreational park trailer, constructed to the recreational vehicle or recreational park trailer codes as described in OAR 918-525-0040 and shall be included within the maximum gross floor area allowed for the recreational vehicle and recreational park trailer.

(5) The gross floor area of a combination vehicle shall not exceed the maximum allowable gross floor area if there is no permanent separation between the recreational vehicle and the other use (i.e., horse trailer/recreational vehicle). When a combination vehicle has a permanent wall separating the two uses, only the recreational vehicle portion of the combination vehicle is limited to the maximum gross floor area.

Stat. Auth.: ORS 446.003 & 446.160

Stats. Implemented: ORS 446.003 & 446.160

Hist.: BCD 25-1996, f. 11-8-96, cert. ef. 1-1-97; BCD 9-1999, f. 7-14-99, cert. ef. 9-1-99; BCD 10-2000(Temp), f. 6-21-00, cert. ef. 6-23-00 thru 12-19-00; BCD 29-2000, f. & cert. ef. 12-19-00; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 12-2011(Temp), f. 4-29-11, cert. ef. 5-2-11 thru 10-29-11; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

918-525-0040

Adopted Minimum Safety Standards

Effective October 1, 2011 the following standards are adopted by reference as the standards for the manufacture, conversion, alteration, or repair of recreational vehicles, recreational park trailers, accessory buildings, and accessory structures:

(1) The 2011 Edition of NFPA 1192, Standard on Recreational Vehicles, as published by the National Fire Protection Association, and further amended by the Division.

(2) The 2009 Edition of ANSI 119.5, Standard for Recreational Park Trailers, as published by the American National Standards Institute, and further amended by the Division.

(3) The 2011 Edition of NFPA 70, National Electrical Code, specifically but not limited to, Article 551 pertaining to Recreational Vehicles and Article 552 Park Trailers, as published by the National Fire Protection Association, and further amended by the Division.

(4) The 2011 Edition of ANSI/RVIA Standard for Low Voltage Systems in Conversion and Recreational Vehicles, as published by the Recreational Vehicle Industry Association.

(5) The **Oregon Residential Specialty Code**, as adopted in OAR chapter 918, division 480, and those standards referenced within are adopted as the Division's standards for the construction, manufacture, alteration, repair, and conversion of accessory buildings and accessory structures used in conjunction with recreational vehicles and recreational park trailers.

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

Stat. Auth.: ORS 183.325 - 183.410 & 446.003 - 446.285

Stats. Implemented: ORS 446.185

Hist.: BCA 1-1990, f. & cert. ef. 1-2-90; BCA 22-1990(Temp), f. & cert. ef. 9-4-90; BCA 27-1990, f. 11-28-90, cert. ef. 11-30-90; BCA 16-1993, f. 8-12-93, cert. ef. 9-1-93; BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 16-1996, f. 8-6-96, cert. ef. 9-1-96; BCD 25-1996, f. 11-8-96, cert. ef. 1-1-97; BCD 11-1997, f. 7-23-97, cert. ef. 1-1-98; BCD 22-1998, f. 11-9-98, cert. ef. 1-1-99; BCD 9-1999, f. 7-14-99, cert. ef. 9-1-99; BCD 10-2000(Temp), f. 6-21-00, cert. ef. 6-23-00 thru 12-19-00; BCD 29-2000, f. & cert. ef. 12-19-00; BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

918-525-0042

Amendments to the Adopted Minimum Safety Standards

(1) Amend NFPA 1192, Section 5.4 Fuel-Burning Appliances by adding the following language after Section 5.4.1. "Solid-fuel-burning appliances shall not be installed in recreational vehicles, except where specifically permitted in these rules."

(2) Amend ANSI 119.5 as follows:

(a) Amend Chapter 1 by inserting the following language after Section 1-5.

(A) Each loft area shall have a minimum of one electrical light fixture and a convenience receptacle.

(B) Each enclosed stairway shall have a light fixture that is controlled by switches from both the top and the bottom of the stairway. The light fixture in subparagraph (A) of this rule may be used to serve this purpose.

(b) Amend Section 2-6 Fuel-Burning Appliances by inserting the following language after Section 2-6.1. "Wood-burning stoves, wood-burning fireplaces and pellet fired appliances may be installed if they are approved and listed for recreational vehicle use or for manufactured home use and installed according to the manufacturer's installation instructions."

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

Stat. Auth.: ORS 183.325 - 183.410 & 446.003 - 446.285

Stats. Implemented: ORS 446.185

Hist.: BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 1-2010, f. 3-1-10, cert. ef. 4-1-10; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

918-530-0070

Electrical Connections

(1) Recreational park trailers shall be connected to power sources according to **Article 552** of the **NFPA 70**, National Electrical Code

(2) Accessory equipment, structures, and buildings shall not be powered by the recreational park trailer electrical system.

(3) At the time of installation, all recreational park trailers shall be tested to the following criteria:

(a) All 110 volt electrical receptacle outlets shall be subjected to a polarity test to determine all connections have been made properly; and

(b) All electrical lights, equipment, ground fault circuit interrupters, and appliances shall be subjected to an operational test to demonstrate all equipment is connected and in working order.

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

ADMINISTRATIVE RULES

Stat. Auth.: ORS 446.185
Stats. Implemented: ORS 446.185
Hist.: BCA 30-1993, f. 12-1-93, cert. ef. 1-1-94; BCD 9-1999, f. 7-14-99, cert. ef. 9-1-99;
BCD 25-2008, f. 10-31-08, cert. ef. 11-1-08; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

918-650-0000

Reasonable Notice to Interested Parties

Prior to the adoption, amendment or repeal of any rule relating to the minimum safety standards for the design and construction of recreational parks and organizational camps as authorized in ORS 455.680, the Building Codes Division must give notice of the proposed action:

- (1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days prior to the effective date.
- (2) By notifying persons and organizations on the interested parties mailing list established under ORS 183.335(8) and OAR 918-001-0210.

Stat. Auth.: ORS 455.020, 455.110 & 455.680

Stats. Implemented: ORS 183.335

Hist.: BCA 10-1987, f. & ef. 9-18-87, Renumbered from 814-029-0000; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

918-650-0005

Definitions

As used in OAR 918-650-0000 to 918-650-0085, unless the context requires otherwise, the following definitions apply:

(1) "Alteration" means any change, addition or modification of roads, streets, spaces or construction, but does not include normal maintenance or replacement in kind.

(2) "Approved" means accepted in writing by the Division or its designee.

(3) "Area" means the land within the property or boundary lines of a recreation park or organizational camp.

(4) "Building" is any structure used or intended for supporting or sheltering any use or occupancy regulated by the **State Building Code** as defined in ORS 455.010.

(5) "Campground." See Recreation Parks.

(6) "Combination Park" means a park which includes facilities for two or more types of recreation parks or a combination of a recreation park, organizational camp or mobile home park facility.

(7) "Construction" means work regulated by the **State Building Code** as defined in ORS 455.010.

(8) "Facilities" means the permanent work, such as but not limited to, streets, roads, embankments, space, refuse collection stands, fire pit enclosures, fire protection equipment etc., but does not include buildings and structures, and electrical and plumbing installations.

(9) "Hostel" means any establishment as defined in ORS 446.310.

(10) "Organizational Camp" as defined in ORS 446.310 means any area designated by the person establishing, operating, managing or maintaining the same as being for recreational use by groups or organizations. Organizational camp includes, but is not limited to, youth camps, scout camps, summer camps, day camps, nature camps, survival camps, athletic camps or camps operated and maintained under the guidance, supervision or auspices of religious, public and private educational systems and community service organizations.

(11) "Picnic Park." See Recreation Park.

(12) "Recreation Park" as defined in ORS 446.310 means an area designated by the person establishing, operating, managing or maintaining the same as being for picnicking or overnight camping by the general public or any segment of the public. Recreation park includes, but is not limited to, areas open to use free of charge or through payment of a tax or fee or by virtue of rental, lease, license, membership, association or common ownership. Recreation park includes, but is not limited to, areas divided into two or more lots, parcels, units or other interests for purposes of such use. As further defined in these rules, a recreation park includes, but is not limited to, a "campground," a "picnic park" or a "recreational vehicle park":

(a) "Campground" means a recreation park which provides facilities and space for tents, tent vehicles, or camping vehicles;

(b) "Picnic Park" means a recreation park which is for day use only and provides no recreational vehicle or overnight camping spaces;

(c) "Recreational Vehicle Park" means a plot of land upon which two or more recreational vehicle sites are located, established or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreational or vacation purposes.

(13) "Recreational Vehicle" means a vehicle as defined in ORS 446.003 and as further defined in OAR chapter 918, division 525.

(14) Registered Design Professional. An individual who is registered or licensed to practice their respective design profession as defined by the

statutory requirements of the professional registration laws of the State of Oregon.

(15) "Solid Waste" means decomposable or nondecomposable waste including but not limited to garbage, rubbish, refuse, ashes, waste paper and cardboard.

(16) "Space" means that portion of a park reserved for the location of a recreation vehicle, tent, tent vehicle or camping vehicle.

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

Stat. Auth.: ORS 455.020, 455.110 & 455.680

Stats. Implemented: ORS 455.680

Hist.: BCA 10-1987, f. & ef. 9-18-87, Renumbered from 814-029-0060; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

918-650-0010

Scope and Purpose

(1) OAR chapter 918, division 650 establishes minimum safety standards for the design and construction of recreation parks and organizational camps as authorized in ORS 455.680.

(2) These rules establish design and construction requirements for recreation parks and organizational camps for the purpose of protecting the life, health, safety and welfare of persons using these facilities.

EXCEPTIONS:

1- These rules do not apply to parking areas offering access to beaches, marinas, boat ramps, piers, ski areas, rivers, trails and similar facilities, where no recreational vehicle utility connections are provided.

2- The area development permit does not include permits or related fees for buildings, mobile home setups, mechanical, plumbing or electrical systems, boiler, or elevators, or permits required by other agencies.

Stat. Auth.: ORS 455.020, 455.110 & 455.680

Stats. Implemented: ORS 455.680

Hist.: BCA 10-1987, f. & ef. 9-18-87, Renumbered from 814-029-0050; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

918-650-0020

Permit Required

No person may establish or enlarge the facilities of any recreation park or organizational camp or do any construction within the recreation park or organizational camp or cause the same to be done without first obtaining all required permits from the building official and paying the prescribed permit fees. Multiple permits may be required when the proposed work involves two or more code areas (i.e., structural, electrical, plumbing, or mechanical).

EXCEPTION: Applications for permits, submission of plans and payment of fees are not required for additions, alterations, relocation and maintenance of picnic tables, play equipment, fire pits and similar facilities in existing parks.

Stat. Auth.: ORS 455.020, 455.110 & 455.680

Stats. Implemented: ORS 455.680

Hist.: BCA 10-1987, f. & ef. 9-18-87, Renumbered from 814-029-0065; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

918-650-0025

Coordinating Regulation

Permit Issuance:

(1) The application, plans, specifications, computations and other data filed by an applicant must be reviewed by the building official. Such plans may be reviewed by other departments or agencies to verify compliance with any applicable laws under their jurisdiction. If the building official finds that the work described in the application for a permit and the plans, specifications and other data filed conform to the requirements of these rules and other pertinent laws and ordinances, and that the fees have been paid, the building official must issue a permit to the applicant. Regulations that also apply to recreation parks and organizational camps are:

(a) Land Use. Land use must comply with the regulations of the unit of government which has planning authority over the proposed construction site;

(b) Flood Zones. Buildings or areas used within a flood zone must be approved by the agency having jurisdiction prior to the issuance of permits;

(c) Water Supply. Water supply systems must comply with regulations under the Department of Human Services Oregon Health Authority;

(d) Sewage Disposal. Sewage treatment and disposal facilities, including, but not limited to, on-site facilities, solid waste container wash-down facilities, gray water waste disposal systems, pit privies, vaults and chemical toilets, must comply with regulations under the Oregon Department of Environmental Quality;

(e) Solid Waste Disposal. Solid waste disposal must comply with regulations under the Department of Human Services Oregon Health Authority and such waste must be disposed of in a manner that complies with regulations under the Oregon Department of Environmental Quality;

(f) Eating and Drinking Establishments. Eating and drinking establishments must comply with regulations under the Department of Human Services Oregon Health Authority;

ADMINISTRATIVE RULES

(g) Ice Machines. Ice machines must comply with regulations under the Oregon State Department of Agriculture;

(h) State Building Code. Buildings and structures must comply with the State Building Code and where applicable to rules adopted thereunder;

(i) Highway, Street and Driveway Permits. Access must comply with the regulations of the city, county or State Highway Division having jurisdiction over access to the public roads;

(j) Fire Protection. Fire protection facilities must comply with the requirements of the appropriate jurisdiction's fire protection regulations;

(k) Liquefied Petroleum Gas (LPG). Liquefied petroleum gas installations must comply with the regulations of the Oregon State Fire Marshal;

(l) Swimming Pools and Spas. Swimming Pools and spas must comply with regulations under the Department of Human Services Oregon Health Authority;

(m) Hostels. Hostels must comply with the Oregon State Building Code and with regulations under the Department of Human Services Oregon Health Authority;

(n) Engineers/Architects Design. When required, park and camp designs must be prepared by a registered design professional.

(2) Recreation Park and Organizational Camp Operating License Approved parks and camps must comply with any operating license requirements established by the Department of Human Services Oregon Health Authority.

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

Stat. Auth.: ORS 455.020, 455.110 & 455.680

Stats. Implemented: ORS 455.680

Hist.: BCA 10-1987, f. & ef. 9-18-87, Renumbered from 814-029-0070; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

918-650-0030

Fees — Expiration — Validation

(1)(a) Area Development Fee. The area development fee is determined from **Table 1** using the valuation for all facilities for which the permit is issued. The fees in **Table 1** are based upon valuation **Table 2** for recreation parks or may be determined by the applicant with documentation acceptable to the issuing authority. Permit fees must be paid before any work begins.

NOTE: The Area Development Permit does not include permits or related fees for buildings, manufactured dwelling installations, accessory buildings and structures, mechanical, plumbing or electrical systems, boilers, elevators, or permits required by other agencies. [Tables not included. See ED. NOTE.]

NOTE: Table 1 is based on Table 3-A of the 1988 Uniform Building Code. [Tables not included. See ED. NOTE.]

(b) Plans Review Fee. The area development Plan Review Fee is 65 percent of the area development permit fee set forth in subsection (1)(a) of this rule and must be paid when plans and specifications are submitted for review;

(c) Other Fees:

(A) Inspections outside of normal business hours (minimum charge — two hours), \$50/hour;

(B) Reinspection fee, \$50/hour;

(C) Inspection for which no fee is specifically indicated (minimum charge — one-half hour), \$50/hour;

(D) Additional plan review required by changes, additions or revisions to approved plans (minimum charge — one-half hour), \$50/hour;

(E) Consultation fee (minimum one hour), \$30/hour.

(2) Other Fees:

(a) A special inspection is required and a special inspection fee must be paid before a permit may be issued for work started without a permit. The special inspection fee must be equal to and in addition to the amount of the permit fee required by these rules;

(b) Other Inspection Fees. In addition to the called for inspections, the building official may make or require inspections of any construction work to confirm compliance with the provisions of this code and other laws which are enforced by the building official;

(c) Reinspection Fees. A reinspection fee may be assessed for each inspection or reinspection when the work for which inspection is called is not complete or when corrections called for are not made.

NOTE: This subsection is not intended to require reinspection fees the first time a job is rejected for failure to comply with the requirements of this code, but is to control the practice of calling for inspections before the job is ready for such inspection or reinspection.

(3) Expiration and Validity of Plans and Permits:

(a) Expiration of Plan Approval. Area Development plan approval expires one year after the date that the approval is granted if no area development permit is issued. Upon receipt of a written request from the applicant the building official may extend the time for action by the applicant for a period of not to exceed 180 days. To renew action on an application after

the expiration of a plan approval, the applicant must resubmit plans and pay a new plan review fee;

(b) Expiration of Area Development Permit. An area development permit expires if the work it authorizes is not commenced within 180 days from the date of issuance of the permit, or if the work is suspended or abandoned for 180 days at any time after it is commenced. A permittee holding an unexpired permit may apply for an extension of the time within which the work may be commenced under that permit. The time for action by the permittee may not exceed 180 days. Requests for extensions must be in writing, and no permit may be extended more than once. If such work is not recommenced, before a permit or extension expires a new permit must be obtained. The fee is one-half the amount required for the first permit, provided that:

(A) No changes have been made in the original plans and specifications; and

(B) The duration of the suspension of work or abandonment has not exceeded one year.

(c) Validity. The issuance or granting of an area development permit or approval of area development plans and specifications may not be construed to be a permit for, or approval of, any violation of any of the provisions of these rules. The issuance of a permit based upon plans and specifications may not prevent the building official from later requiring the correction of errors in such plans;

(d) Suspension or Revocation. The building official may, in writing, suspend or revoke an area development permit when the permit is issued in error or on the basis of incorrect information supplied, or in violation of any provision of these rules, or any other ordinances.

(4)(a) The fees established in this rule apply to the Division.

(b) Municipalities who have been delegated the park and camp program by the Division may establish their own fee schedule or adopt the Division's fee schedule through local ordinance.

(c) The amount of the fee may not exceed the costs of administering the park and camp program.

(d) The municipality, quarterly, must remit 15 percent of the collected fees to the Division for monitoring municipal programs and for providing informational material necessary to maintain a uniform state program.

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

Stat. Auth.: ORS 455.020, 455.110, 455.170, 455.210 & 455.680

Stats. Implemented: ORS 455.680

Hist.: BCA 10-1987, f. & ef. 9-18-87, Renumbered from 814-029-0075; BCA 16-1991(Temp), f. 6-7-91, cert. ef. 7-1-91; BCA 36-1991, f. 10-23-91, cert. ef. 10-31-91; BCD 12-2008, f. 6-30-08, cert. ef. 7-1-08; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

918-650-0035

Plans and Specifications

(1) Plans. With each application for a plan review the applicant must submit two sets of construction plans and specifications. Plans and specifications must be drawn to scale, of sufficient clarity to indicate the nature and extent of the work proposed and to show in detail that the construction will conform to all relevant laws, rules and regulations of the State of Oregon pertaining to recreation parks and organizational camps.

NOTE: The construction shown on these plans may contain construction details required by other rules or regulations in order to aid other agencies in determining compliance with their coordinating regulations.

(2) Design. All plans must be designed in accordance with the requirements of the various codes and administrative rules and, where required, must be designed by a registered design professional.

(3) Plan Format and Sequence. The following plan format and sequence specification are guidelines for both the designer and the plan reviewer. Deviations are permitted from strict compliance with the plan format and sequence specifications when such deviation will produce the same result:

(A) The cover sheet of each set of plans must give the following:

(A) The name of the recreation park or organizational camp and the location (vicinity map);

(B) The name of the owner;

(C) The name of the operator;

(D) The name of the person who prepared or submitted the plans;

(E) The symbols used; and

(F) The design maximum occupancy load for organizational camps.

(b) The plot plan (on a separate sheet) must include:

(A) Both proposed and existing construction; and

(B) A scale drawing of the general layout of the entire recreation park or organizational camp showing property survey monuments in the area of work and distances from park or camp boundaries to public utilities located outside the park or camp (indicated by arrows without reference to scale).

EXCEPTION: When the work involves an addition to, or a remodeling of, an exist-

ADMINISTRATIVE RULES

ing recreation park or organizational camp, the plot plan must show the facilities related to the addition and/or the facilities to be remodeled.

(4)(a) The following features must be clearly shown and identified:

(A) The permanent buildings (dwellings, mobile homes, washrooms, recreation buildings, and similar structures);

(B) The fixed facilities in each space (fire pits, fireplaces or cooking facilities);

(C) The property line boundaries and survey monuments in the area of work;

(D) The location and designation of each space by number, letter or name; and

(E) Plans for combination parks must also show which portions of the parks are dedicated to camp ground, organizational camp, mobile home park, picnic park, recreational vehicle park and joint use.

(b) Park and organizational camp utility systems must be clearly shown and identified on a separate sheet:

(A) Location of space sewer connections, space water connections and service electrical outlets;

(B) Location and source of domestic water supply;

(C) Location of water and sewer lines (showing type, size and material);

(D) Park or camp street layout and connections to public street(s);

(E) Disposal systems, such as septic tanks and drain fields, recreational vehicle dump stations, gray water waste disposal sumps, washdown facilities, sand filters, and sewer connections;

(F) Fire protection facilities, such as fire hydrants, fire lines, tanks and reservoirs, hose boxes and apparatus storage structures;

(G) Solid waste disposal system and solid waste collection features, such as refuse can platforms and supports, and wash-down facilities; and

(H) Liquid Petroleum Gas (LPG) tanks and gas lines.

(c) Park Topography. Park topography must be shown in the area of work when any existing grade or slope exceeds five percent.

Stat. Auth.: ORS 455.020, 455.110 & 455.680

Stats. Implemented: ORS 455.680

Hist.: BCA 10-1987, f. & ef. 9-18-87, Renumbered from 814-029-0080; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

918-650-0040

Inspections

(1)(a) General. All construction or work for which a permit is required must be subject to inspection by the building official;

(b) It is the duty of the permit applicant to cause the work to be accessible and exposed for inspection purposes. Neither the employee nor the building official are liable for expense entailed in removal or replacement of any material required to allow inspection.

(2)(a) Inspection Requests. It is the duty of the person doing the work authorized by a permit to notify the building official that such work is ready for inspection. The building official may require every request for inspection to be filed at least three working days before such inspection is desired. Such requests may be in writing or by telephone at the option of the building official;

(b) It is the duty of the person requesting any inspections required by these rules to provide access to and means for proper inspection of such work.

(3) Approval Required. Approval may be given only after an inspection has been made on each successive step in the construction as indicated on each of the inspections required in section (4) of this rule.

(4) Required Inspections. The building official, upon notification from the permit holder or the permit holders agent, must make the following inspections and must either approve that portion of the construction as completed or must notify the permit holder or agent wherein the same fails to comply with these rules:

(a) Rough Grading. When rough grading of roads and spaces are completed;

(b) Prior to Paving. Before any asphaltic concrete or portland cement concrete is placed;

(c) Final Inspection. A final inspection may be made after finish grading and all permanent facilities are in place;

(d) Coordinating Regulation Inspections. Inspection required by the Coordinating Regulations specified in these rules.

Stat. Auth.: ORS 455.020, 455.110 & 455.680

Stats. Implemented: ORS 455.680

Hist.: BCA 10-1987, f. & ef. 9-18-87, Renumbered from 814-029-0085; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

918-650-0045

General Construction Requirements

General:

(1) Combination Parks. The portions of combination parks which are dedicated to campground, organizational camp, picnic park, mobile home park or recreational vehicle park use must be identified and each use must comply with the applicable regulations. Jointly used areas must be designated accordingly.

(2) Space Separation and Designation. Building or space separation and space designation must be as follows:

(a) The distance between buildings must be as required in the Oregon Structural Specialty Code;

(b) The distance between spaces must be as provided in OAR 918-650-0055(1);

(c) Spaces must be identified by signs or markings corresponding to the letters, numbers or names indicated on the approved plans.

(3) Access. Each space designed for vehicular use within a recreation park or organizational camp must have direct access to a park, street or road. The access may not be obstructed by grade or vertical clearance. The entrance to roads with impaired clearance must be provided with warning signs.

(4) Street Width. Park streets intended for use by the public must be of adequate width to accommodate the planned parking and traffic load. Each traffic lane must be ten feet minimum width. Where parking is permitted on park streets, each parking lane must be ten feet minimum width. All two-way streets without parking must be 20 feet minimum width.

(5) Connection to a Public Way. The park street system must have direct connection to a public way.

(6) Park Roads and Streets. Roads and streets intended for use by the public must be designed for minimum nine-ton gross loads and streets and walkways must be well drained. The street surface may be asphaltic-concrete, portland cement concrete, crushed rock, gravel or other approved surface material.

(7) Cleanable Construction. Fireplaces, fire pits or cooking facilities must be of cleanable construction and designed to permit easy removal of ash and other waste.

(8) Screens. All openings, except doors with self-closing devices, into the outer air of permanent kitchens, dining rooms, toilets and shower facilities must be effectively screened. Screens may not be less than sixteen mesh per inch, and all screen doors must be equipped with a self-closing device.

(9) Solid Waste Containers. Solid waste containers must be in place at the time of final inspection. Solid waste containers or bins must:

(a) Have tight-fitting lids, covers or closable tops; and

(b) Be durable, rust-resistant, water tight, rodent-proof and washable;

(c)(A) Containers in recreational vehicle parks must be provided at a rate of one 30-gallon container for each four recreational vehicle parking spaces and be located within 300 feet of each recreational vehicle parking space. Containers may be grouped;

(B) Containers in picnic parks, campgrounds and organizational camps must be provided at a rate of one 30-gallon container for each 20 occupants or fraction thereof that the camp or park is designed to accommodate. Containers may be grouped.

EXCEPTION: The requirement for solid waste containers in picnic parks, campgrounds and organizational camps may be waived by the regulating authority for areas not accessible by road.

(10) Water Systems in Flood Zones. Potable water systems located in, or partially in flood zones, must be provided with valves to isolate that portion of the system in the flood zone from the rest of the system, and fittings must be installed to permit flushing and treatment of the flood zone portion of the water system.

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

Stat. Auth.: ORS 455.020, 455.110 & 455.680

Stats. Implemented: ORS 455.680

Hist.: BCA 10-1987, f. & ef. 9-18-87, Renumbered from 814-029-0090; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

918-650-0050

Toilets

(1) Toilet facilities must be provided in every recreation park or organizational camp. They must be convenient and accessible and must be located within 500 feet of any recreational vehicle space or camping site not provided with an individual toilet facility or sewer connection.

EXCEPTION: The requirement for toilets in picnic parks, campgrounds and organizational camps may be waived by the regulating authority for areas not accessible by road.

(2)(a) Sanitary facilities must be as required in **Table 2**;

(b) Toilet Bowls. Toilet bowls for public use must be elongated bowls with open-front seats. Any room with flush toilets must be provided with a floor drain as required in the Oregon Plumbing Specialty Code;

ADMINISTRATIVE RULES

(c) Signs. Toilets must either be marked for the designated sex or be provided with a privacy lock. If not apparent, the location of toilets must be indicated by appropriate direction signs;

(d) Flush Toilets and Showers. Flush toilets and showers and the buildings containing them must be constructed in accordance with the State Building Code;

(e) Unisex Toilets. Toilet facilities designed to serve an occupant load of 15 persons or less may serve both sexes. Such toilet facilities must be equipped with a urinal.

(3) Nonwater-Carried Toilets. Nonwater-carried toilets, including, but not limited to, chemical or vault toilets or pit privies, must be constructed and located in accordance with the requirements of the Department of Environmental Quality. **Table 2** [Tables not included. See ED. NOTE.]

[Tables: Tables referenced are available from the Agency.]

Stat. Auth.: ORS 455.020, 455.110 & 455.680

Stats. Implemented: ORS 455.680

Hist.: BCA 10-1987, f. & ef. 9-18-87; BCA 7-1988, f. & ef. 4-1-88, Renumbered from 814-029-0095; Administrative Reformatting 1-19-98; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

918-650-0055

Special Rules for Overnight Campgrounds

(1) Spacing. Each camping space must be large enough to accommodate the designated class of recreational vehicle or tent and be located a minimum of ten feet from any other camping space, building or building appurtenance or any boundary line abutting upon a public street or highway, and five feet from any property line. The space area must be designed to minimize the obstruction of any public or private roadway or walkway by vehicles or tents.

(2) Faucets. Camping space faucets and hydrants must be equipped with an approved back flow prevention device as required by the Oregon Plumbing Specialty Code.

(3) Gray Water Waste Disposal System. Recreation parks which supply water must provide a sewage disposal system or a gray water waste disposal sump for each six spaces that meets the requirements of the Department of Environmental Quality.

Stat. Auth.: ORS 455.020, 455.110 & 455.680

Stats. Implemented: ORS 455.680

Hist.: BCA 10-1987, f. & ef. 9-18-87, Renumbered from 814-029-0100; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

918-650-0060

Special Rules for Organizational Camps

Sleeping Spaces. Permanently installed beds or bunks must have:

(1) A minimum of 30 inches of lateral separation between beds and a minimum of 30-inch vertical separation between tiers of beds or between the top tier and the ceiling.

(2) A maximum of two tiers of bunks.

(3) Not less than ten inches of space between the floor and the underside of the beds. In lieu of such space, a bed may have a continuous base which is attached to the floor.

Stat. Auth.: ORS 455.020, 455.110 & 455.680

Stats. Implemented: ORS 455.680

Hist.: BCA 10-1987, f. & ef. 9-18-87, Renumbered from 814-029-0105; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

918-650-0065

Temporary Recreation Parks

(1) The building official may exempt any requirement of these rules regarding toilets, waste water disposal, spacing or plan review and plan review fees, to meet special short-term campground needs if public health will not be endangered.

(2) Exemptions issued under this rule expire on the date stated in the exemption, but no exemption is valid for more than six months.

(3) The building official may establish reasonable conditions for the operation of a temporary park.

Stat. Auth.: ORS 455.020, 455.110 & 455.680

Stats. Implemented: ORS 455.680

Hist.: BCA 10-1987, f. & ef. 9-18-87, Renumbered from 814-029-0109; BCA 15-1992(Temp), f. & cert. ef. 8-7-92; BCA 8-1993, f. 4-29-93, cert. ef. 5-1-93; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

918-650-0070

Alternate, Materials and Interpretations; Appeals

(1) These rules are not intended to prevent the use of any alternate material, design, or method of construction for recreation parks or organizational camps which the rules do not specifically prescribe, provided that the building official has approved such alternate.

(2) Modifications. Wherever there are practical difficulties involved in carrying out the provisions of these rules, the building official may grant modifications for individual cases, provided the building official:

(a) Determines that a special individual reason makes the strict compliance with the letter of OAR 918, division 650 impractical;

(b) Ensures that the modification does not lessen any fire protection requirements or any degree of structural integrity or create any health or safety hazards; and

(c) Maintains the details of any such action granting modifications in the files of the municipality.

Stat. Auth.: ORS 455.020, 455.110 & 455.680

Stats. Implemented: ORS 455.680

Hist.: BCA 10-1987, f. & ef. 9-18-87, Renumbered from 814-029-0110; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

918-650-0075

Existing Parks

(1) Parks or camps existing prior to September 18, 1987 may have their existing use continued if the use was legal at the time of construction, provided that this continued use is not a threat to life, health, property, and general welfare of the public and is maintained in a safe and healthful condition.

(2) Any alteration to a recreation park or organizational camp must comply with the requirements of ORS Chapter 446 and these rules for new parks or camps.

Stat. Auth.: ORS 455.020, 455.110 & 455.680

Stats. Implemented: ORS 455.680

Hist.: BCA 10-1987, f. & ef. 9-18-87, Renumbered from 814-029-0115; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

918-650-0080

Enforcement

(1)(a) As set forth in ORS 455.680, the permit issuing authority with respect to the construction of recreation parks and organizational camps is the Division;

(b) Delegation to municipalities. The Division may delegate to any municipality which requests any of the authority, responsibilities and functions of the Division relating to recreational parks, organizational camps and picnic parks as defined in ORS 446.310, including but not limited to plan review and sanitation inspections if the Division determined that the municipality is willing and able to carry out the rules of the Division relating to such authority, responsibilities and functions. The Division may review and monitor a municipality's performance under this subsection. In accordance with ORS 183.310 to 183.550, the Division may suspend or rescind a delegation under this subsection. If it is determined that a municipality is not carrying out such rules or the delegation is suspended, the unexpended portion of the fees collected under OAR 918-650-0030(4)(a) must be available to the Division for carrying out the authority, responsibility and functions under this section;

(2) Plan Review and Inspection. The building official must perform plan reviews and construction inspections to assure that the construction complies with the approved plans.

(3) Correction Notice for Violations. All deviations from the requirements of the statutes or these rules must be specified in writing and a copy furnished to the permittee. An additional copy of this notice may be posted at the site of work or mailed or delivered to the permittee or the permittee's agent at the address shown on the permit. The building official may provide information as to the meaning or application of the statutes or rule. Refusal, failure or neglect to correct deviations from the minimum standards specified in the notice of violation within 20 days of receipt or posting of the notice of violation may be considered a separate violation of the statutes or these rules.

(4) Stop Orders. Whenever any work is being done contrary to the provisions of these rules, the building official may order the work stopped by notice in writing served on any person engaged in causing such installation to be made, or by posting a copy thereof at the site of the installation, and thereafter no person may proceed with the work until authorized to do so by the building official.

(5) Suspension or Revocation. The building official may, in writing, suspend or revoke a permit issued under these rules, whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any rules, regulations or statute.

(6) Right of Entry. Whenever it may be necessary to make an inspection to enforce any provision of these rules, or whenever the building official has reasonable cause to believe that there exists in any building or upon any premises any condition which makes that building or those premises unsafe under these rules, the building official may enter that building or those premises at any reasonable time to inspect them or to perform any duty imposed upon the building official by these rules. If that building or those premises be occupied, the building official must first present proper

ADMINISTRATIVE RULES

credentials and demand entry; and if that building or those premises be unoccupied, the building official must first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the building official may have recourse to every remedy provided by law to secure entry.

(7) Appeals.

(a) Any person aggrieved by the final decision of a municipal appeals board or of a subordinate officer of the Division as to the application of any provision of these rules may, within 30 days after the date of the decision, appeal that decision as provided for in ORS 455.690.

(b) Alternate appeals process. A person aggrieved by a decision made by a building official may appeal the decision as specified in ORS 455.475. Stat. Auth.: ORS 455.020, 455.110, 455.475, 455.680, & 455.690
Stats. Implemented: ORS 455.690
Hist.: BCA 10-1987, f. & ef. 9-18-87, Renumbered from 814-029-0121; BCD 26-2011, f. 9-30-11, cert. ef. 10-1-11

Rule Caption: Establishes specialized inspector training and certifications as required by House Bill 3462 (2009).

Adm. Order No.: BCD 27-2011

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 10-1-11

Notice Publication Date: 9-1-2011

Rules Adopted: 918-098-1580

Rules Amended: 918-098-1510, 918-098-1530

Subject: HB 3462 (2009) authorized the Building Codes Division to create a program for training, qualifying and certifying individuals as specialized building inspectors authorized to perform inspections and enforce portions of Oregon's specialty codes. These new inspector certifications will cover limited commercial and other multidisciplinary inspections that presently are not independently authorized by the Division's existing inspector certifications. These rules specifically address specialized electrical inspector training.

Rules Coordinator: Stephanie Snyder—(503) 373-7438

918-098-1510

Purpose and Scope

(1) The specialized inspector certification program, in OAR 918-098-1510 through 918-098-1580, establishes a program for training, qualifying and certifying individuals as specialized building inspectors authorized to perform inspections and enforce portions of the state building code. Inspector certifications cover limited commercial and other multidisciplinary inspections that presently are not independently authorized by the division in existing inspector certifications.

(2) Specialized inspectors may, after receiving certification issued under these rules, conduct inspections as provided in these rules. These rules apply to applicants and certificate holders, training providers, and participating jurisdictions for the purposes of administering and enforcing the restrictions and requirements under these rules.

Stat. Auth.: ORS 455.720, 455.730 & 455.735
Stats. Implemented: ORS 455.720, 455.730 & 455.735
Hist.: BCD 10-2011(Temp), f. 4-15-11, cert. ef. 5-1-11 thru 6-30-11; BCD 15-2011, f. 6-30-11, cert. ef. 7-1-11; BCD 25-2011(Temp), f. & cert. ef. 8-18-11 thru 10-1-11; BCD 27-2011, f. 9-30-11, cert. ef. 10-1-11

918-098-1530

Training Programs

(1) Approved applicants must complete an appropriate division-approved training program and pass a division-approved examination for the desired specialized certification. Training program requirements are stated in OAR 918-098-1560 for the Specialized Solar Photo-Voltaic Inspector Certification, in OAR 918-098-1570 for the Specialized Plumbing Inspector Certification, and in OAR 918-098-1580 for the Specialized Electrical Inspector Certification.

(2) Instructor Qualifications. Specialized certification training course instructors must be approved by the division under these rules.

(a) Training course instructors may apply for approval as part of the course approval process or independent of the course approval process.

(b) Approved training course instructors must be qualified by training, licensure, and experience to teach the subject matter and supervise the corresponding fieldwork training inspections of a specialized inspector certification training program.

(c) Approved fieldwork supervisors must be qualified by training, licensure, and experience to perform the specialized inspector certification fieldwork inspections being performed.

(d) Division staff teaching training courses of supervising related fieldwork in the normal course of their duties are considered approved instructors for the purposes of these rules.

(3) Fieldwork Training. A specialized inspector certification applicant is eligible to perform the required fieldwork training after the applicant has begun the required academic coursework.

(4) Fieldwork Supervision. All specialized certification fieldwork training must be supervised and verified by an inspector with a valid Oregon Inspector Certification required to conduct the inspections being performed.

(a) An applicant's fieldwork training must be documented on a division-approved form and signed by the inspector who supervised the inspections.

(b) An inspector supervising and verifying an applicant's fieldwork training may not be qualified to conduct the inspections performed based solely on a specialized inspector certification issued according to these rules.

(5) Fieldwork Training Approval. A specialized inspector certification applicant must submit proof of completed fieldwork training to the division for verification and approval, and issuance of specialized inspector certification.

(6) Examination Approval. A specialized inspector certification applicant is eligible to take a certification examination after the division receives proof that the applicant has successfully completed the required academic coursework and fieldwork training.

Stat. Auth.: ORS 455.720, 455.730 & 455.735
Stats. Implemented: ORS 455.720, 455.730 & 455.735
Hist.: BCD 10-2011(Temp), f. 4-15-11, cert. ef. 5-1-11 thru 6-30-11; BCD 15-2011, f. 6-30-11, cert. ef. 7-1-11; BCD 25-2011(Temp), f. & cert. ef. 8-18-11 thru 10-1-11; BCD 27-2011, f. 9-30-11, cert. ef. 10-1-11

918-098-1580

Specialized Electrical Inspector Certification

(1) Scope of Activities and Authority.

(a) Specialized Electrical Inspectors may conduct electrical inspections in buildings less than 75 feet above grade as defined in the Oregon Structural Specialty Code where the building service or the feeder to the electrical installation being inspected is not more than 400 amps at less than 150 volts to ground or 200 amps at 150 volts or more to ground.

(b) A Specialized Electrical Inspector may not inspect any of the following:

(A) Separately derived systems, other than renewable energy, rated more than 150kw;

(B) Renewable energy systems rated more than 25kw;

(C) Occupancies classified as Assembly or Education, or any (I)-Institutional Occupancies as defined in the Oregon Structural Specialty Code;

(D) Installations governed by Chapter 5 or Articles 610, 668, 669, 695 and 700 of the Oregon Electrical Specialty Code, except for the following:

(i) Electrical connection to or alteration of a single mobile home, recreational vehicle or manufactured dwelling, including the service but excluding park construction, alteration or enlargement.

(ii) Agricultural buildings that do not contain excessive dust or corrosive areas as defined in the Oregon Electrical Specialty Code 547.1 (A) and (B).

(E) New or replacement motor loads over 100 HP.

(2) Procedure for Qualification. An applicant for certification under this rule must meet the general qualifications in OAR 918-098-1520 and Section (3) of this rule, complete a training program that meets minimum requirements established by the division, make application, pay the required fees, and pass a division-approved examination.

(3) Experience, Education, and Training Requirements. Specialized Electrical Inspector Certification applicants must have:

(a) A current One- and Two-Family or Residential Electrical Inspector Oregon Code Certificate;

(b) Held a current One- and Two-Family or Residential Electrical Inspector Oregon Code Certificate for one year prior to applying for Specialized Electrical Inspector Certification; and

(c) Been employed as an inspector and performed inspections in the specialty code area listed in (a) above for a minimum of one year prior to applying for Specialized Electrical Inspector Certification.

(4) Certification. Upon completion of all training, and after passing a division-approved examination, the division will certify an applicant as a Specialized Electrical Inspector, and issue the appropriate documentation.

Stat. Auth.: ORS 455.720, 455.730 & 455.735
Stats. Implemented: ORS 455.720, 455.730 & 455.735
Hist.: BCD 25-2011(Temp), f. & cert. ef. 8-18-11 thru 10-1-11; BCD 27-2011, f. 9-30-11, cert. ef. 10-1-11

ADMINISTRATIVE RULES

Rule Caption: Amends 2010 Oregon Structural Specialty Code regarding alternate braced wall panels.

Adm. Order No.: BCD 28-2011

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 10-1-11

Notice Publication Date: 9-1-2011

Rules Amended: 918-460-0015

Subject: This rule amends 2010 Oregon Structural Specialty Code, Section 2308.9.3.2 alternate braced wall panel adjacent to door or window opening. This rule removes the requirement for a 4,200 pound tie-down and adjusts the panel size to compensate for this change.

Rules Coordinator: Stephanie Snyder—(503) 373-7438

918-460-0015

Amendments to the Oregon Structural Specialty Code

The 2010 Oregon Structural Specialty Code is adopted and amended pursuant to OAR chapter 918, division 8. Amendments adopted for inclusion into the 2010 Oregon Structural Specialty Code are placed in this rule, showing the section reference, a descriptive caption, and a short description of the amendment.

(1) Effective January 1, 2011 the 2010 Oregon Structural Specialty Code is amended by adding Section 1811 Radon Control Methods for Public Buildings and Section 1812 Radon Control Methods for R-2 and R-3 Occupancies.

(a) Radon mitigation provisions in Section 1811 applicable to new public buildings are adopted January 1, 2011 but do not become enforceable until April 1, 2013 as authorized by Chapter 83, 2010 Laws (Senate Bill 1025).

(b) Radon mitigation provisions in Section 1812 applicable to residential buildings indentified as Group R-2 or R-3 are adopted January 1, 2011 but do not become enforceable until April 1, 2011 as authorized by Chapter 83, 2010 Laws (Senate Bill 1025).

(2) Effective April 1, 2011 the **2010 Oregon Structural Specialty Code** Section 908 "Emergency Alarm Systems" is amended by adding new subsection 908.7 requirements for Carbon Monoxide Alarms.

(3) Effective May 13, 2011, Section 2308.9.3.2 alternate braced wall panel adjacent to a door or window opening is amended for tie-down devices.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 447.231, 447.247, 455.030, 455.110, 455.112, & 455.610
Stats. Implemented: ORS 447.247, 455.110 & 455.112
Hist.: BCA 18-1993, f. 8-24-93, cert. ef. 8-29-93; BCA 28-1993, f. 10-22-93, cert. ef. 1-1-94; BCD 6-1994, f. 2-25-94, cert. ef. 5-1-94; BCD 22-1994, f. 9-28-94, cert. ef. 1-1-95; BCD 31-1994(Temp), f. & cert. ef. 12-23-94; BCD 32-1994, f. & cert. ef. 12-30-94; BCD 2-1995, f. & cert. ef. 2-9-95; BCD 5-1995, f. & cert. ef. 3-15-95; BCD 2-1996, f. 2-2-96, cert. ef. 4-1-96; BCD 6-1996, f. 3-29-96, cert. ef. 4-1-96; BCD 12-1997, f. 9-10-97, cert. ef. 10-1-97; BCD 19-1998, f. 9-30-98, cert. ef. 10-1-98; BCD 24-1998(Temp), f. & cert. ef. 12-1-98 thru 5-29-99; Temporary Rule repealed by BCD 3-1999, f. 3-12-99, cert. ef. 4-1-99; BCD 5-1999, f. 6-17-99, cert. ef. 10-1-99; BCD 12-1999(Temp), f. 9-23-99, cert. ef. 11-1-99 thru 4-28-00; BCD 2-2000 f. 1-14-00, cert. ef. 4-1-00; BCD 20-2000, f. 9-15-00, cert. ef. 10-1-00; BCD 8-2001, f. 7-17-01, cert. ef. 10-1-01; BCD 18-2001, f. 12-21-01, cert. ef. 1-1-02; BCD 14-2003, f. 8-13-03, cert. ef. 10-1-03; BCD 18-2003(Temp) f. & cert. ef. 11-14-03 thru 5-11-04; BCD 5-2004, f. & cert. ef. 4-1-04; BCD 16-2004, f. 9-24-04, cert. ef. 10-1-04; BCD 21-2004, f. & cert. ef. 10-1-04; BCD 9-2005(Temp), f. & cert. ef. 4-7-05 thru 9-30-05; BCD 14-2005, f. & cert. ef. 7-5-05; BCD 18-2005(Temp), f. & cert. ef. 7-12-05 thru 9-30-05; BCD 22-2005, f. 9-29-05, cert. ef. 10-1-05; BCD 23-2005, f. 9-29-05, cert. ef. 10-1-05; BCD 1-2006, f. & cert. ef. 2-1-06; BCD 9-2006, f. 6-30-2006, cert. ef. 7-1-06; BCD 1-2007, f. 2-15-07, cert. ef. 4-1-07; BCD 9-2008(Temp), f. & cert. ef. 6-25-08 thru 12-22-08; BCD 20-2008, f. 9-30-08, cert. ef. 10-1-08; BCD 4-2010, f. 5-14-10, cert. ef. 7-1-10; BCD 19-2010, f. 12-30-10, cert. ef. 1-1-11; BCD 1-2011, f. & cert. ef. 2-15-11; BCD 14-2011(Temp), f. & cert. ef. 5-13-11 thru 11-9-11; BCD 28-2011, f. 9-30-11, cert. ef. 10-1-11

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Rule Caption: Amends the 2011 Oregon Reach Code.

Adm. Order No.: BCD 29-2011

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 10-1-11

Notice Publication Date: 9-1-2011

Rules Amended: 918-465-0040, 918-465-0070

Subject: These rules implement a portion of Senate Bill 79 (2009) requiring the director of the Department of Consumer and Business Services to adopt a set of optional construction standards, separate from the state building code, designed to increase the energy efficiency of buildings. The Oregon Reach Code is based on the second public version of the International Green Construction Code (IGCC) with significant Oregon specific amendments including provisions from the 2012 International Energy Conservation Code and

ASHRAE 90.1, as the commercial provisions of the Oregon Reach Code (ORC). These rules amend the Oregon Reach Code to include residential provisions. The residential provisions are largely based off the 2011 Oregon Residential Specialty Code with amendments to provide options for selective measures and also a modeling path.

These rules also amend the Oregon Reach Code to establish standards and allow builders to install vegetative roofs on commercial Reach Code buildings. In addition, the proposed rule contains amendments to the minimum boiler efficiencies table, reducing the required efficiencies for gas fueled hot water boilers.

Rules Coordinator: Stephanie Snyder—(503) 373-7438

918-465-0040

Amendments to the Oregon Reach Code

The Oregon Reach Code is adopted and amended pursuant to OAR chapter 918, division 8. Amendments to the Oregon Reach Code are placed in this rule, with the section reference, a descriptive caption, and a short explanation of the amendment.

(1) Effective October 1, 2011, the following sections of the Oregon Reach Code are amended to address residential occupancies:

(a) Section 102.4.11 Residential Occupancies

(b) Section 102.4.11.1 Residential Mixed Use Occupancies

(c) Chapter 13 Residential Provisions. Chapter 13 addresses the requirements for residential construction, reconstruction, alterations and repairs proceeding under the Reach Code.

(2) Effective October 1, 2011, the following sections of the Oregon Reach Code are amended to address vegetative roofs:

(a) Table 303.1 Project Electives Checklist. Adding "Roof covering — vegetative roofs."

(b) Section 404.3 Roof Coverings.

(c) Section 404.3.2 Vegetative Roofs. Allowing extensive or intensive vegetative roofs.

(d) Section 405.6 Vegetative Roofs. Addressing standards for installation of vegetative roofs.

(3) Effective October 1, 2011, Table 607.2.4(5) of the Oregon Reach Code is amended to address gas fueled Hot Water Boiler efficiencies:

(a) Minimum efficiency for gas fueled hot water boilers under 300,000 BTUs is 95.5% AFUE.

(b) Minimum efficiency for gas fueled hot water boilers between 300,000 BTUs and 2.5mBTUs is 94%.

[Publications: Publications referenced are available for review at the agency.]

Stat. Auth.: ORS 185.335, 455.020 455.496 & 455.500

Stat. Implemented: ORS 183.335, 455.020 & 455.500

Hist.: BCD 16-2011, f. 6-30-11, cert. ef. 7-1-11; BCD 29-2011, f. 9-30-11, cert. ef. 10-1-11

918-465-0070

Fees for Plan Review and Permits

Fees for plan review and permits issued by the Division for construction, alteration and repair of prefabricated structures and of buildings and other structures as established by these rules and authorized by ORS 455.210, shall be determined in accordance with 918-460-0030, 918-440-0050, 918-480-0020 and 918-309-0030 through 918-309-0070 as appropriate.

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

Stat. Auth.: ORS 455.210

Stats. Implemented: ORS 455.210

Hist.: BCD 16-2011, f. 6-30-11, cert. ef. 7-1-11; BCD 29-2011, f. 9-30-11, cert. ef. 10-1-11

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Department of Consumer and Business Services,

Director's Office

Chapter 440

Rule Caption: 2012 Workers' Compensation Premium Assessment Rates.

Adm. Order No.: DO 1-2011

Filed with Sec. of State: 10-14-2011

Certified to be Effective: 1-1-12

Notice Publication Date: 9-1-2011

Rules Amended: 440-045-0020, 440-045-0025

Subject: The director adopts by rule the workers' compensation premium assessment rate that is paid by all employers based on their workers' compensation premium and is collected by the insurer at the time the employer pays the premium. This assessment is used to fund workers' compensation related programs and workplace safety and health programs that serve Oregon employers and workers. In addition,

ADMINISTRATIVE RULES

tion, the rule adopts the rate for an additional assessment percentage amount that is collected from all self-insured employers as well as all self-insured employer groups to fund the Self-Insured Employers Adjustment Reserve and the Self-Insured Employer Group Adjustment Reserve. These reserves are established to assure benefits are available in the event of a financial failure of a self-insured employer or self-insured employer group. These rules establish the assessment rate for calendar year 2012.

Rules Coordinator: Win Lombardi—(503) 947-7866

440-045-0020

Assessment Rate

The assessment to be levied against insurers, self-insured employers and self-insured employer groups for Calendar Year 2012 shall be 6.2 percent of direct earned premium and the direct earned premium self-insured employers and self-insured employer groups would have paid had they been insured employers.

Stat. Auth.: ORS 705.135 & 656.612
Stats. Implemented: ORS 656.612 & 656.614
Hist.: DO 2-1999, f. 10-1-99, cert. ef. 1-1-00; DO 1-2000, f. 10-11-00; DO 3-2001, f. 10-22-01, cert. ef. 1-1-02; DO 4-2002, f. 10-17-02 cert. ef. 1-1-03; DO 3-2003, f. 10-22-03, cert. ef. 1-1-04; DO 1-2004 f. 10-21-04 cert. ef. 1-1-05; DO 1-2005, f. 10-20-05, cert. ef. 1-1-06; DO 3-2006, f. 10-19-06, cert. ef. 1-1-07; DO 1-2007, f. 10-4-07, cert. ef. 1-1-08; DO 2-2008, f. 10-1-08, cert. ef. 1-1-09; DO 1-2009, f. 10-7-09 cert. ef. 1-1-10; DO 3-2010, f. 9-24-10, cert. ef. 1-1-11; DO 1-2011, f. 10-14-11, cert. ef. 1-1-12

440-045-0025

Adjustment Reserve Rate

In addition to the assessments established in OAR 440-045-0020, self-insured employer groups and self insured employers for the Calendar Year 2012 shall be assessed an additional 0.2 percent to fund the Self-Insured Employer Group Adjustment Reserve and the Self-Insured Employer Adjustment Reserve.

Stat. Auth.: ORS 705.135 & 656.612
Stats. Implemented: ORS 656.612 & 656.614
Hist.: DO 2-1999, f. 10-1-99, cert. ef. 1-1-00; DO 1-2000, f. 10-11-00, cert. ef. 1-1-01; DO 3-2001, f. 10-22-01, cert. ef. 1-1-02; DO 4-2002, f. 10-17-02 cert. ef. 1-1-03; DO 3-2003, f. 10-22-03, cert. ef. 1-1-04; DO 1-2004 f. 10-21-04 cert. ef. 1-1-05; DO 1-2005, f. 10-20-05, cert. ef. 1-1-06; DO 3-2006, f. 10-19-06, cert. ef. 1-1-07; DO 1-2007, f. 10-4-07, cert. ef. 1-1-08; DO 2-2008, f. 10-1-08, cert. ef. 1-1-09; DO 1-2009, f. 10-7-09 cert. ef. 1-1-10; DO 3-2010, f. 9-24-10, cert. ef. 1-1-11; DO 1-2011, f. 10-14-11, cert. ef. 1-1-12

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

Rule Caption: Repeal banking rule governing charging off real estate assets.

Adm. Order No.: FCS 7-2011

Filed with Sec. of State: 10-3-2011

Certified to be Effective: 10-3-11

Notice Publication Date: 9-1-2011

Rules Repealed: 441-505-1135

Subject: In 2010, the Department of Consumer and Business Services, Division of Finance and Corporate Securities, conducted a rule-making to clarify that the initial minimum charge-off of real estate that an Oregon-chartered bank owns or holds pursuant to ORS 708A.175(3) and (4) must occur within 12 months of the vesting of the property, rather than within the same calendar year as the date of vesting (FCS 11-2010). The 2011 Legislature amended ORS 708A.590 (Enrolled House Bill 2614) to eliminate the requirement for a minimum 5% annual charge-off of such real estate by Oregon-chartered banks. This rulemaking repeals OAR 441-505-1135, which governed the charging off of such real estate assets, to comply with Enrolled House Bill 2614.

Rules Coordinator: Shelley Greiner—(503) 947-7484

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Rule Caption: Amends fees for mortgage banker, mortgage broker and mortgage loan originator licenses.

Adm. Order No.: FCS 8-2011

Filed with Sec. of State: 10-3-2011

Certified to be Effective: 10-3-11

Notice Publication Date: 9-1-2011

Rules Amended: 441-860-0101, 441-880-0400

Rules Repealed: 441-860-0101(T), 441-880-0400(T)

Subject: In 2009, the Director of the Department of Consumer and Business Services adopted fees for licensing mortgage bankers, mortgage brokers and mortgage loan originators (see FCS 12-2009). Under ORS 291.050 et seq., all fees adopted by state agencies are automatically rescinded after the next regular legislative session unless adopted by the Legislature through enabling legislation. During the 2011 regular legislative session, the Legislature adopted reduced licensing fees for mortgage bankers, mortgage brokers and mortgage loan originators in enabling legislation (2011 House Bill 5014). In order to immediately remove any conflict between the previously-adopted administrative rules and the enabling legislation, DCBS adopted temporary rules in June 2011 that matched the reduced licensing fees for mortgage bankers, mortgage brokers and mortgage loan originators in the enabling legislation. These rules adopt the reduced fees on a permanent basis, as well as repeal the temporary rules.

Rules Coordinator: Shelley Greiner—(503) 947-7484

441-860-0101

Fees Payable to the Director

In addition to any fees required to participate in the National Mortgage Licensing System and Registry, a mortgage banker or a mortgage broker shall pay to the director the following fees at the time of application or renewal:

(1) A nonrefundable application fee for a mortgage banker or mortgage broker license of \$960 plus a \$330 nonrefundable application fee for each branch the mortgage banker or mortgage broker establishes in Oregon.

(2) A nonrefundable renewal application fee for a mortgage banker or mortgage broker license of \$480 plus a \$165 nonrefundable renewal application fee for each branch the mortgage banker or mortgage broker maintains in Oregon.

Stat. Auth.: ORS 86A.136
Stat. Implemented: ORS 86A.106, 2011 OL Ch. 618 § 1
Hist.: FCS 12-2009, f. 12-2-09, cert. ef. 1-1-10; FCS 5-2011(Temp), f. 6-30-11, cert. ef. 7-1-11 thru 12-28-11; FCS 8-2011, f. & cert. ef. 10-3-11

441-880-0400

Fees Payable to the Director

(1) In addition to any fees required to participate in the National Mortgage Licensing System and Registry, a person applying for a mortgage loan originator license shall pay to the director a nonrefundable fee of \$80 for the issuance of a mortgage loan originator license.

(2) In addition to any fees required to participate in the National Mortgage Licensing System and Registry, a person renewing a mortgage loan originator license shall pay to the director a nonrefundable fee of \$65 for the renewal of a mortgage loan originator license.

Stat. Auth.: ORS 86A.242
Stat. Implemented: ORS 86A.136, 86A.206, 2011 OL Ch. 816 § 1
Hist.: FCS 12-2009, f. 12-2-09, cert. ef. 1-1-10; FCS 5-2011(Temp), f. 6-30-11, cert. ef. 7-1-11 thru 12-28-11; FCS 8-2011, f. & cert. ef. 10-3-11

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Rule Caption: Amend fees for master trustees and certified providers.

Adm. Order No.: FCS 9-2011

Filed with Sec. of State: 10-3-2011

Certified to be Effective: 10-3-11

Notice Publication Date: 9-1-2011

Rules Amended: 441-930-0270

Rules Repealed: 441-930-0270(T)

Subject: In 2010, the Division of Finance and Corporate Securities, Department of Consumer and Business Services, conducted a rule-making to revise administrative rules related to the regulation of master trustees and certified providers. As part of that rulemaking, the Division adopted increased fees for both regulated entities. (FCS 14-2010). Under ORS 291.050 et seq., all fees adopted by state agencies are automatically rescinded after the next regular legislative session unless they are adopted by the Legislature. The 2011 Legislature recommended reductions in the increases of licensing fees for master trustees and certified providers (Chapter 618, 2011 Laws; House Bill 5014).

Rules Coordinator: Shelley Greiner—(503) 947-7484

ADMINISTRATIVE RULES

441-930-0270

Fees Assessed to Certified Providers and Registered Master Trustees

The director shall annually assess the following fees for each registered master trustee, certified provider, or applicant:

- (1) Certification Fee — \$390 per certified provider. Each location is a separate entity for purposes of this fee.
- (2) Registration Fee — \$390 per master trustee.
- (3) Limited Operations Fee — \$80.
- (4) Exam Fees — \$75 per hour for each examiner, plus costs of an examination.
- (5) If the books and records are located outside Oregon, the certified provider or master trustee must pay travel and per diem expenses.

Stat. Auth.: ORS 97.926, 97.933 & 97.935

Stats. Implemented: ORS 97.933, 97.935, 2011 HB 5014

Hist.: DO 1-2002, f. & cert. ef. 1-10-02; Renumbered from 440-300-0270; FCS 3-2004, f. & cert. ef. 9-30-04; FCS 7-2004, f. 12-14-04, cert. ef. 1-1-05; FCS 3-2005, f. & cert. ef. 9-6-05; FCS 2-2006, f. & cert. ef. 2-22-06; FCS 8-2008, f. & cert. ef. 8-28-08; FCS 14-2010, f. 12-30-10, cert. ef. 1-1-11; FCS 6-2011(Temp), f. 6-30-11, cert. ef. 7-1-11 thru 12-28-11; FCS 9-2011, f. & cert. ef. 10-3-11

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**Department of Consumer and Business Services,
Insurance Division
Chapter 836**

Rule Caption: Correction of Self-Insured Reporting Rules to Add Definition of Qualified Actuary for Health Insurance.

Adm. Order No.: ID 13-2011

Filed with Sec. of State: 9-21-2011

Certified to be Effective: 9-21-11

Notice Publication Date: 8-1-2011

Rules Amended: 836-011-0255

Subject: This rulemaking corrects an oversight in a rule adopted on February 4, 2011 in a rulemaking to address annual financial statements required for self-insured groups established by three or more public bodies. The rules apply to self-insurance programs that are exempt from the Insurance Code under ORS 30.282 and 731.036.

In order to be exempt, the self-insurance program must meet certain financial requirements related to reserve adequacy provisions. To demonstrate compliance with those requirements, a qualified actuary must submit a written actuarial report. Under the rules as originally adopted, "qualified actuary" defines the qualifications for an actuary submitting a report for property or casualty self-insurance exempt under ORS 30.282(6)(d) and 731.036(4) and (5). However, the rules failed to define "qualified actuary" for purposes of self-insured health coverage exempt under ORS 731.036 (6). This is in error as it would be inappropriate for a property or casualty actuary to submit the report for health insurance. This rulemaking adds a definition for a qualified actuary submitting the report for health insurance.

Rules Coordinator: Sue Munson—(503) 947-7272

836-011-0255

Reserve Adequacy

In order to demonstrate that a self-insurance program complies with the reserve adequacy provisions contained in ORS 30.282(6)(d) or 731.036(4), (5) or (6), the demonstration of compliance must be accompanied and supported by the written actuarial report issued by a qualified actuary. As used in this rule, "qualified actuary" means:

- (1) For property or casualty insurance, a person who is either:
 - (a) A member in good standing of the Casualty Actuarial Society; or
 - (b) A member in good standing of the American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries.

- (2) For health insurance, a person who is a member in good standing of the American Academy of Actuaries, or a person recognized by the American Academy of Actuaries as qualified for such actuarial valuation.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 30.282, 731.036

Hist.: ID 1-2011, f. & cert. ef. 2-4-11; ID 13-2011, f. & cert. ef. 9-21-11

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

Rule Caption: Adopt changes to Division 1, General Administrative Rules.

Adm. Order No.: OSHA 2-2011

Filed with Sec. of State: 9-29-2011

Certified to be Effective: 10-1-11

Notice Publication Date: 8-1-2011

Rules Amended: 437-001-0057, 437-001-0706

Subject: This rulemaking makes relatively minor adjustments to the scheduling rule changes adopted in September of 2009. First, the existing rule establishes the size of each tier based on outdated data from the workers compensation system. The department can now develop more reliable estimates of size for most industries using data from the Employment Department. Second, this rule improves the ranking of industries by employing a more sophisticated statistical technique. Additionally, the rule replaces the industry tiers with the criteria that will be used to develop those tiers now and in the future.

This rulemaking also amends OAR 437-001-0706 Recordkeeping for Health Care Assaults, to remove the reporting requirement. This requirement has been satisfied and no longer needs to be included in the rule.

Please visit our website: www.orosha.org

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

Rules Coordinator: Sue C. Joye—(503) 947-7449

437-001-0057

Scheduling Inspections

The following rules are intended to predominantly focus enforcement activities on the places of employment that the director reasonably believes to be the most unsafe.

- (1) The Division will schedule programmed inspections according to a priority system based on written neutral administrative standards.

- (2) The Division will identify the most hazardous industries and places of employment through information obtained from the Department of Consumer and Business Services claim and employer files, the Bureau of Labor Statistics Occupational Injury and Illness Survey, the Bureau of Labor Statistics Census of Fatal Occupational Injuries, the Oregon Employment Department, and knowledge of recognized safety and health hazards associated with certain processes. Health hazards include carcinogens, lead, silica, toxic metals and fumes, vapors or gases, toxic or highly corrosive liquids or chemicals, chemical sensitizers, pesticides, fungicides, solvents, harmful physical stress agents, and biological agents.

- (3) Scheduling lists will be provided by the Division to its field offices, at least annually.

Note: An employer will be exempt from a programmed inspection of a fixed site from seven days prior to the scheduled date of an Oregon OSHA consultation to 60 days after receipt of the written consultation report.

An employer will be exempt from a programmed inspection of a construction, forest activities or Agriculture Labor Housing site from seven days prior to the scheduled date of an Oregon OSHA consultation to 30 days after receipt of the written consultation report.

- (4) Scheduling Safety Inspections for Fixed Places of Employment.

- (a) The scheduling lists are compiled, using an electronic scheduling system, for safety enforcement managers to schedule inspections at fixed places of employment for each compliance officer. Written neutral administrative standards (the seven criteria listed below) are standardized using a statistical weighting method involving t-scores. These weighted scores are averaged across the seven criteria to create a composite score. This composite score is used to determine the position of each industry (using the 4-digit NAICS code) on the list from most to least hazardous. Table not included. See Ed. Note. Lists are divided into 10 tiers. Places of employment are randomly selected for inspection within each tier using the following percentages whenever a list is generated. The percentages will not be affected by the places of employment excluded in (4)(b) unless the number of exclusions makes it impossible to meet the target percentage. When that occurs, all remaining eligible places of employment will be selected. The scheduling lists will be sorted by field office.

- (A) 30 percent of places of employment under the NAICS identified as Tier A.

ADMINISTRATIVE RULES

(B) 25 percent of places of employment under the NAICS identified as Tier B.

(C) 20 percent of places of employment under the NAICS identified as Tier C.

(D) 15 percent of places of employment under the NAICS identified as Tier D.

(E) 12.5 percent of places of employment under the NAICS identified as Tier E.

(F) 10 percent of places of employment under the NAICS identified as Tier F.

(G) 7.5 percent of places of employment under the NAICS identified as Tier G.

(H) 5 percent of places of employment under the NAICS identified as Tier H.

(I) 2.5 percent of places of employment under the NAICS identified as Tier I.

(J) No more than 0.05 percent of places of employment under the NAICS not otherwise identified in Tiers A through I.

(b) Places of employment will be exempt from programmed inspections if any of the following conditions apply:

(A) A location has received a comprehensive safety inspection within the previous 36 months.

(B) A location has received Voluntary Protection Program (VPP) status.

(C) A location is in its second year, or later, of the Safety and Health Achievement Recognition Program (SHARP).

(D) A location has graduated from the Safety and Health Achievement Recognition Program (SHARP). Locations are exempt from inspection for 36 months after graduation.

(E) A location has received two consecutive comprehensive safety inspections with no serious, willful, or egregious violations, and with no inspections of any type resulting in serious, willful, or egregious violations since the date of the first of the two consecutive comprehensive inspections.

(F) A location has received certification as meeting the British Standards Institute's OHSAS 18001 standards (Occupational Health and Safety Management Systems). Evidence of certification must be provided before the start of an inspection.

(G) A location has a MOD rate of 0.50 and they provide evidence to that effect before the start of an inspection.

(c) The field office managers will provide each compliance officer a list of inspections that are assigned in descending order from tiers A through J. The compliance officer will make a reasonable effort to inspect each place of employment on that list prior to receiving another list; however, failure to inspect all places of employment on a list will not invalidate subsequent inspections. The compliance officer's list will generally be followed in descending order but may be inspected in any order to use the compliance officer's time efficiently.

(5) Scheduling Safety Inspections for Construction and Forest Activities.

(a) Construction and forest activities scheduling lists will be used by safety enforcement managers and compliance staff to focus enforcement efforts on employers with the most hazardous places of employment. Employers will be selected and placed on one of two lists based on the following criteria:

(A) Construction List – The following written neutral administrative standards will be used to select and rank employers on this list. Construction employers that have one or more accepted disabling claims in the first 12 of the previous 18 months and are ranked in the top 500 construction employers. The employers on this list will be ranked statewide using violation history, weighted claims rate, and weighted claims count as described in subsection (b) of this section. The 500 employers with the most points will be placed on a list.

(B) Forest Activities List – The following written neutral administrative standards will be used to select and rank employers on this list. Forest activities employers that have one or more accepted disabling claims in the first 12 of the previous 18 months and are ranked in the top 50 forest activities employers. The employers on this list will be ranked statewide using violation history, weighted claims rate, and weighted claims count as described in subsection (b) of this section. The 50 employers with the most points will be placed on a list.

(b) Ranking Factors: Construction and forest activities employers are ranked using violation history, weighted claims rate, and weighted claims count. The rankings from each factor are combined to produce a score for each employer, and the employers are ranked based on their score. The top

500 construction employers will be on one list and the top 50 forest activities employers will be on another list:

(A) Violation History: Employers with a violation history will be assigned points for each violation on citations that have become a final order within the previous 36 months. Willful violations are assigned five points, failure to abate violations four points, repeat violations three points, serious violations two points, and other-than-serious violations one point. Average points per citation will be determined with the employer having the most points receiving a ranking of one followed by the employer with the next highest points receiving a ranking of two, etc. Employers not inspected within 36 months are given a ranking of zero, that will put them at the top of this category.

(B) Weighted Claims Count: Selected claims from the first 12 of the previous 18 months are assigned points based on the seriousness of the claim. These points are totaled for each employer. Employers are ranked on the total points with the employer having the most points receiving a rank of one, followed by the second highest weighted claims count receiving a ranking of two, etc.

(C) Weighted Claims Rate: Employers are ranked in this category with the highest weighted claims rate receiving a ranking of one, followed by the second highest weighted claims rate receiving a ranking of two, etc. The weighted claims count described in (B) above is used to determine the claims rate.

NOTE: The selected claims and the points assigned to the selected claims will be identified by the agency in a program directive.

(c) The field office manager will provide selected compliance officers the construction and/or forest activities lists. The compliance officers will make a reasonable effort to locate and inspect those employers on the construction and forest activities lists, however failure to inspect all employers on a list will not invalidate subsequent inspections.

(6) Scheduling Health Inspections for Fixed Places of Employment.

(a) The scheduling lists are designed as an electronic scheduling system used by health enforcement managers to schedule inspections at fixed places of employment for each compliance officer. Places of employment will be listed by NAICS and randomly selected within each tier using the following percentages whenever a list is generated. The scheduling lists will be sorted by field office.

(A) 7.5 percent of places of employment under the NAICS identified as Tier A.

(B) 2.5 percent of places of employment under the NAICS identified as Tier B.

(C) Not more than 0.05 percent of places of employment under NAICS not identified in Tiers A and B.

(b) Places of employment will be exempt from programmed inspections if any of the following conditions apply:

(A) A location has received a comprehensive health inspection within the previous 36 months.

(B) A location has received Voluntary Protection Program (VPP) status.

(C) A location is in its second year, or later, of the Safety and Health Achievement Recognition Program (SHARP).

(D) A location has graduated from the Safety and Health Achievement Recognition Program (SHARP). Locations are exempt from inspection for 36 months after graduation.

(E) A location has received two consecutive comprehensive health inspections with no serious, willful, or egregious violations, and with no inspections of any type resulting in serious, willful, or egregious violations since the date of the first of the two consecutive comprehensive inspections.

(F) A location has received certification as meeting the British Standards Institute's OHSAS 18001 standards (Occupation Health and Safety Management Systems). Evidence of certification must be provided before the start of an inspection.

(G) A location has a MOD rate of 0.50 and they provide evidence to that effect before the start of an inspection.

(c) The field office managers will provide each compliance officer a list of inspections that are assigned in descending order from the health scheduling lists. The compliance officer will make a reasonable effort to inspect each place of employment on that list prior to receiving another list; however, failure to inspect all places of employment on a list will not invalidate subsequent inspections. The compliance officer's list will generally be followed in descending order, but may be inspected in any order to use the compliance officer's time efficiently.

(7) Scheduling Health Inspections for Nonfixed Places of Employment – An inspection may be scheduled when information such as recognized health hazards known to be associated with certain processes are reasonably thought to exist at a place of employment.

ADMINISTRATIVE RULES

(8) Random Inspections – The Division will conduct random inspections of places of employment that are scheduled and conducted under written neutral administrative standards. Program directives will be issued and changed when the director believes it necessary to preserve the random nature of the inspections.

(9) Emphasis Inspections – An inspection may be made if the place of employment is included in a national or local safety or health emphasis program. Emphasis programs are established by identifying the most hazardous industries and processes through information obtained from the Department of Consumer and Business Services claim files, the Bureau of Labor Statistics Occupational Injury and Illness Survey, the Oregon Employment Department, and knowledge of recognized hazards associated with certain processes. Program directives will be issued to establish and describe emphasis programs and the written neutral administrative standards that will be used to schedule the inspections.

(10) Farm Labor Housing Inspections – Farm labor housing is a national and local emphasis program. A list of all known farm labor housing locations will be sent to field offices annually. Locations may be selected and inspected in any order to make efficient use of available resources. Housing locations not on the list may also be inspected. Farm labor housing is not an agricultural operation; therefore, the agriculture exemption for employers of 10 or fewer permanent, year-round employees does not apply to farm labor housing inspections.

(11) The Division will annually make reasonable efforts to notify, in writing, each employer whose place of employment is rated as one of the most unsafe places of employment, that there is increased likelihood of inspection of the employer's place of employment and consultative services are available.

(12) Agricultural employers with 10 or fewer permanent, year-round employees, both full-time and part-time, will be subject to scheduled inspections only if any of the following has occurred:

(a) A valid complaint has been filed according to ORS 654.062, or

(b) Within the preceding two-year period, an accident at the employer's agricultural place of employment resulted in death or a serious disabling injury from a violation of the Oregon Safe Employment Act or rules adopted under the act, or

(c) The employer and principal supervisors of the agricultural establishment have not annually completed at least four hours of instruction on agricultural safety or health rules and procedures. This instruction must be documented.

(A) Instruction includes any instruction conducted or accepted by Oregon OSHA or instruction related to agricultural safety and health that is offered or approved by any public or private college, university, or governmental agency. The employer must maintain documentation of the instruction. The documentation must include the date, provider, subject, and duration of the instruction, and the signature of the person completing the instruction.

NOTE: Certified Applicator Training Core A and B offered by the Oregon Department of Agriculture will satisfy a portion of the required training. One hour credit will be allowed annually for this training.

(B) For purposes of these sections, the time period begins to run when the instruction is received, or

(d) Within the preceding four-year period, the agricultural establishment has not had a comprehensive consultation by an individual acting in a public or private consultant capacity. For purposes of this section, the time period begins to run when the consultation is received, or

(e) If the consultation was done and the agricultural employer has failed to correct violations noted in the consultation report within 90 days after receiving the report.

NOTE: For purposes of determining the number of employees, members of the agricultural employer's immediate family are excluded. This includes grandparents, parents, children, step-children, foster children, and any blood relative living as a dependent of the core family.

(13) Evaluation of Enforcement Scheduling:

(a) Each year Oregon OSHA will complete a summary evaluation of enforcement scheduling, including (but not limited to) the number of scheduled inspections and the basis for those inspections, the number of attempted scheduled inspections that could not be completed, and the results of those inspections.

(b) At least every three years beginning by July 1, 2012, Oregon OSHA will assess the enforcement scheduling system and other available data to ensure that the scheduling system continues to accomplish its statutory purpose of predominantly focusing Oregon OSHA enforcement resources on those places of employment reasonably believed to be the most unsafe.

NOTE: See Safety by NAICS, Safety by Tier/Rank, Health by NAICS, to review safety and health scheduling lists of employers identified by NAICS codes and their placement in appropriate tiers.

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

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

Stats. Implemented: ORS 654.001 - 654.326, 654.412 - 654.423 & 654.991

Hist.: WCD 4-1981, f. 5-22-81, ef. 7-1-81; WCD 6-1982, f. 6-28-82, ef. 8-1-82; APD 6-1987, f. 12-23-87, ef. 1-1-88; APD 7-1988, f. 6-17-88, ef. 7-1-74; OSHA 7-1992, f. 7-31-92, cert. ef. 10-1-92; OSHA 10-1995, f. & cert. ef. 11-29-95; OSHA 2-1996, f. & cert. ef. 6-13-96; OSHA 11-1999(Temp), f. & cert. ef. 10-20-99 thru 4-14-00; OSHA 4-2000, f. 4-14-00, cert. ef. 4-15-00; OSHA 7-2006, f. & cert. ef. 9-6-06; OSHA 10-2009, f. & cert. ef. 10-5-09; OSHA 2-2011, f. 9-29-11, cert. ef. 10-1-11

437-001-0706

Recordkeeping for Health Care Assaults

NOTE: For further information, instructions, and resources, visit Oregon OSHA's healthcare workplace violence assault log web page at: www.cbs.state.or.us/osha/subjects/health_care_assault_log.html.

(1) Purpose. This rule implements the amendments to the Oregon State Employment Act, ORS 654.412 through 654.423, providing specific provisions for the recordkeeping and reporting requirements of health care assaults, and additional recordkeeping requirements as authorized under ORS 654.025(2) and 656.726(4)(a).

NOTE: For the ease of the reader, ORS 654.412 through 654.423 is reprinted as Appendix B to OAR 437-001-0706.

(2) Scope and Definitions. This rule applies to health care employers and home health care services provided by health care employers. Health care employers only include hospitals and ambulatory surgical centers, which are defined in ORS 442.015: "Hospital" means a facility with an organized medical staff, with permanent facilities that include inpatient beds and with medical services, including physician services and continuous nursing services under the supervision of registered nurses, to provide diagnosis and medical or surgical treatment primarily for but not limited to acutely ill patients and accident victims, to provide treatment for the mentally ill or to provide treatment in special inpatient care facilities. "Ambulatory surgical center" means a facility that performs outpatient surgery not routinely or customarily performed in a physician's or dentist's office, and is able to meet health facility licensure requirements.

(3) Health care assault recordkeeping. In addition to existing general recordkeeping requirements in OAR 437-001-0700, Recordkeeping and Reporting, health care employers must use the Health Care Assault Log, or equivalent, to record assaults.

See ORS 654.412 through 654.423 for details required to be recorded. Appendix A of 437-001-0706 provides instructions for completing the form.

NOTE: If the incident results in an overnight hospitalization, a catastrophe, or fatality, it must be immediately reported to Oregon OSHA. Record recordable injuries, illnesses, fatalities on the OSHA 300 Log. See OAR 437-001-0700.

(4) Other recordkeeping information. The following sections of OAR 437-001-0700 apply to health care assault recordkeeping and reporting:

Section (6) Work-relatedness

Section (14)(b) Forms

Section (15) Multiple Business Establishments

Section (16) Covered Employees

Section (19) Change of Business Ownership

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

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

Stats. Implemented: ORS 654.412 - 654.423

Hist.: OSHA 11-2007, f. 12-21-07, cert. ef. 1-1-08; OSHA 8-2008, f. & cert. ef. 7-14-08; OSHA 2-2011, f. 9-29-11, cert. ef. 10-1-11

Department of Corrections Chapter 291

Rule Caption: Controlled Feeding Status for Inmates.

Adm. Order No.: DOC 18-2011

Filed with Sec. of State: 10-6-2011

Certified to be Effective: 10-6-11

Notice Publication Date: 8-1-2011

Rules Amended: 291-083-0010, 291-083-0015

Subject: These amendments provide further clarification on the procedure for placing an inmate on controlled feeding status. Other modifications align the rules with organizational changes within the department.

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

291-083-0010

Definitions

(1) Acceptable Behavior: Behavior that does not include throwing or misusing food or human waste or misuse of eating trays or utensils.

(2) Controlled Feeding Status: Status in which the form of food is modified and served as Nutra Loaf in order to reduce the use of food, eating utensils and human waste as weapons against staff and others.

ADMINISTRATIVE RULES

(3) Functional Unit Manager: Any person within the Department of Corrections who reports to the Director, an Assistant Director, or an administrator and has responsibility for the delivery of program services or the coordination of program operations. In a correctional setting, the functional unit manager or designee is the superintendent.

(4) Human Waste: Materials issued from the human body, including but not limited to, blood, feces, urine, and other potentially infectious materials.

(5) Nutra Loaf: A product made from a combination of food items used in the preparation of mainline meals or medically assigned diets using standardized portion sizes and nutritionally balanced recipes. Recipes are kept on file by the Food Services Manager. The dietician is responsible for updating recipes and retaining nutritional information.

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

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

Hist.: CD 13-1989(Temp), f. & cert. ef. 7-11-89; CD 28-1989, f. & cert. ef. 12-29-89; DOC 18-2011, f. & cert. ef. 10-6-11

291-083-0015

Procedures

(1) Inmates may be placed immediately on controlled feeding status with the approval of the functional unit manager or designee for the following behavior:

(a) Throwing or misusing food or human waste.

(b) Failure to voluntarily return the eating utensils and tray to staff after each meal.

(2) The staff member who observes the adverse behavior shall prepare a disciplinary report as outlined in the Department of Corrections Rule on Inmate Prohibited Conduct and for Processing Disciplinary Actions (OAR 291-105), containing the charges and other appropriate information.

(3) The housing unit officer in charge shall recommend to the functional unit manager or designee that an inmate be placed on controlled feeding status.

(4) Upon approval of the functional unit manager or designee, the housing unit officer in charge shall submit, prior to the end of the shift, a copy of the controlled feeding order form to the Food Services Manager or designee and retain the original form in the housing unit.

(5) Upon receipt of the controlled feeding order, the Food Services Manager or designee shall provide Nutra Loaf for the inmate on controlled feeding to coincide with the regular meal schedule.

(6) A review of the controlled feeding order shall be conducted by the functional unit manager or designee and the housing unit officer in charge every 24 hours from the reported misconduct. The 24 hour review shall be noted on the controlled feeding form and in the housing unit log. The completed original feeding form will be sent to the functional unit manager for archival disposition. A copy of the completed form, retained as part of the housing unit log, will suffice as documentation within the housing unit.

(7) Return to normal feeding and the outcome of the disciplinary hearing process are not necessarily related. Controlled feeding status shall be rescinded when the inmate demonstrates a return to acceptable behavior for a period of 24 hours. Return to normal feeding status does not affect the disciplinary process or the application of sanctions for rule violations.

(8) Seven days shall be the maximum length of time that an inmate shall remain on controlled feeding status per incident.

(9) If, after returning to regular feeding status, the disruptive behavior recurs, the inmate may be returned to controlled feeding status as outlined in this rule.

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

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

Hist.: CD 13-1989(Temp), f. & cert. ef. 7-11-89; CD 28-1989, f. & cert. ef. 12-29-89; CD 13-1994, f. 7-19-94, cert. ef. 8-1-94; DOC 18-2011, f. & cert. ef. 10-6-11

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Rule Caption: Agency Certification of Employees to Provide Mental Health Services to Inmates in DOC Facilities.

Adm. Order No.: DOC 19-2011

Filed with Sec. of State: 10-11-2011

Certified to be Effective: 10-11-11

Notice Publication Date: 8-1-2011

Rules Adopted: 291-124-1000, 291-124-1010, 291-124-1020, 291-124-1030, 291-124-1040, 291-124-1050

Subject: These rules are necessary to establish the Department of Corrections standards for certifying DOC employees (mental health specialists) that provide mental health services to inmates as qualified mental health professionals or mental health associates. Mental health specialists must be certified under these rules to pro-

vide mental health services to inmates in DOC institutions. These rules implement 2011 Or Laws, ch 333 (SB 423).

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

291-124-1000

Purpose and Policy

(1) Purpose: The purpose of these rules OAR 291-124-1000 through -1040 is to establish standards for the Department of Corrections to certify employees that provide mental health services to inmates in DOC facilities as qualified mental health professionals or qualified mental health associates.

(2) Policy: It is the policy of the Department of Corrections that employees providing mental health services to inmates meet the standards established in these rules and be certified accordingly by the department.

Stat Auth: ORS 179.040, 423.020, 423.030, 423.075 & 2011 OL ch 333

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 2011 OL ch 333

Hist.: DOC 12-2011(Temp), f. & cert. ef. 6-16-11 thru 12-13-11; DOC 19-2011, f. & cert. ef. 10-11-11

291-124-1010

Definitions for Rules OAR 291-124-1000 through 291-124-1050

(1) Behavioral Health Services Administrator: The person responsible for the overall organization and delivery of mental health services to inmates.

(2) Behavioral Health Services (BHS): A Health Services unit with primary responsibility for the assessment and treatment of inmates with mental illness and developmental disabilities.

(3) Case Management: Delivery of mental health services to inmates. Case management activities include:

(a) Identifying, screening and evaluating inmates to determine their eligibility for services;

(b) Implementing individualized service plans, assistance in applying for financial benefits;

(c) Coordinating release planning services with other agencies and resources,

(d) Participating in case staffing;

(e) Providing emotional support and counseling;

(f) Crisis intervention for immediate safety concerns; and

(g) Daily structure, support, supervision, and skills training;

(4) Clinical Director: The person responsible to monitor clinical operations statewide who reports to the Behavioral Health Services Administrator. The clinical director must have a minimum of eight years of experience providing mental health services, a Master's degree, two years of post graduate clinical supervision and licensure in the State of Oregon.

(5) Clinical Supervisor: The Behavioral Health Services program manager that supervises mental health treatment services provided by mental health specialists to inmates. The clinical supervisor must meet the requirements of a qualified mental health professional and have a minimum of five years of experience providing mental health services, with at least one year that includes supervision of staff.

(6) Crisis: An urgent or emergency situation that occurs when an inmate's stability or functioning is disrupted and there is an immediate need to resolve the situation to prevent serious deterioration or self injury.

(7) Diagnosis: A diagnosis consistent with the current "Diagnostic and Statistical Manual of Mental Disorders (DSM)" published by the American Psychiatric Association.

(8) Mental Health Assessment: A process in which an inmate's need for mental health services is determined through an evaluation of the inmate's strengths, goals, needs, and current level of functioning.

(9) Mental Status Examination: An overall assessment of an inmate's mental functioning and cognitive abilities.

(10) Mental Health Specialist: A Behavioral Health Services employee responsible for the delivery of mental health services to inmates.

Stat Auth: ORS 179.040, 423.020, 423.030, 423.075 & 2011 OL ch 333

Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 2011 OL ch 333

Hist.: DOC 12-2011(Temp), f. & cert. ef. 6-16-11 thru 12-13-11; DOC 19-2011, f. & cert. ef. 10-11-11

291-124-1020

Credentialing and Certification Process

(1) The clinical director is responsible for credentialing employees hired as mental health specialists.

(2) A mental health specialist must meet the requirements established in OAR 291-124-1030 as a qualified mental health associate (QMHA) or qualified mental health professional (QMHP).

(3) The clinical director shall review the employee's education, experience and competencies to determine if the employee can be certified as

ADMINISTRATIVE RULES

meeting the professional standards of a qualified mental health associate or qualified mental health professional.

(4) Personnel Documentation: A copy of transcripts, academic degrees, licenses, certifications, and a verification form used to record the credentialing and certification information shall be retained in the employee's personnel file.

(5) The employee will be provided with a position description that includes a description of duties that a qualified mental health associate or qualified mental health professional are certified to provide.

Stat Auth: ORS 179.040, 423.020, 423.030, 423.075 & 2011 OL ch 333
Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 2011 OL ch 333
Hist.: DOC 12-2011(Temp), f. & cert. ef. 6-16-11 thru 12-13-11; DOC 19-2011, f. & cert. ef. 10-11-11

291-124-1030

Qualified Mental Health Associate and Qualified Mental Health Professional Standards

(1) A qualified mental health associate (QMHA) must meet the following minimum qualifications:

- (a) Bachelor's degree in a behavioral sciences field; or
- (b) A combination of at least three years relevant work, education, training or experience; and
- (c) Demonstrate the competency necessary to communicate effectively; understand mental health assessment, treatment and service terminology and apply these concepts; provide psychosocial skills development; implement interventions as assigned on an individual plan of care; and provide behavior management and case management duties.

(2) A qualified mental health professional (QMHP) is a licensed medical practitioner or any other person who holds any of the following educational degrees and meets the following minimum qualifications:

- (a) Graduate degree in psychology;
- (b) Bachelor's degree in nursing and licensed by the State of Oregon;
- (c) Graduate degree in social work;
- (d) Graduate degree in a behavioral science field;
- (e) Graduate degree in recreational, music, or art therapy
- (f) Bachelor's degree in occupational therapy and licensed by the State of Oregon; and

(g) Whose education and experience demonstrate the competency to identify precipitating events; gather histories of mental and physical disabilities, alcohol and drug use, past mental health services and criminal justice contacts; assess family, social and work relationships; conduct a mental status examination; document a multiaxial DSM diagnosis; write and supervise an individual plan of care; conduct a mental health assessment and provide individual, family or group therapy within the scope of their training.

Stat Auth: ORS 179.040, 423.020, 423.030, 423.075 & 2011 OL ch 333
Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 2011 OL ch 333
Hist.: DOC 12-2011(Temp), f. & cert. ef. 6-16-11 thru 12-13-11; DOC 19-2011, f. & cert. ef. 10-11-11

291-124-1040

Supervision of Qualified Mental Health Associates and Qualified Mental Health Professionals

(1) A qualified mental health associate shall deliver mental health services to inmates under the direct supervision of a qualified mental health professional.

(2) A qualified mental health professional shall deliver mental health services to inmates under the direct supervision of a clinical supervisor.

(3) Clinical Supervisor: A clinical supervisor shall demonstrate the competency to oversee and evaluate the mental health treatment services provided by qualified mental health professionals and qualified mental health associates.

Stat Auth: ORS 179.040, 423.020, 423.030, 423.075 & 2011 OL ch 333
Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 2011 OL ch 333
Hist.: DOC 12-2011(Temp), f. & cert. ef. 6-16-11 thru 12-13-11; DOC 19-2011, f. & cert. ef. 10-11-11

291-124-1050

Variations

(1) The Behavioral Health Services Administrator has the authority to grant a variance to the criteria used to determine the status of a qualified mental health professional or a clinical supervisor.

(2) The clinical director must document the reason for the variance and propose a timeline for the duration of the variance.

(3) Signed documentation from the Behavioral Health Services Administrator indicating support of the proposed variance shall be retained in the employee's personnel file.

Stat Auth: ORS 179.040, 423.020, 423.030, 423.075 & 2011 OL ch 333
Stats. Implemented: ORS 179.040, 423.020, 423.030, 423.075 & 2011 OL ch 333

Hist.: DOC 12-2011(Temp), f. & cert. ef. 6-16-11 thru 12-13-11; DOC 19-2011, f. & cert. ef. 10-11-11

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Department of Energy
Chapter 330

Rule Caption: Amendments to Business Energy Tax Credit rules to align with House Bill 3606 (2011).

Adm. Order No.: DOE 6-2011

Filed with Sec. of State: 9-29-2011

Certified to be Effective: 9-29-11

Notice Publication Date: 9-1-2011

Rules Amended: 330-090-0110, 330-090-0130, 330-090-0133, 330-090-0140

Rules Repealed: 330-090-0110(T), 330-090-0130(T), 330-090-0133(T), 330-090-0140(T)

Subject: These rules amendments reverse the existing temporary rules amendments made April 18, 2011 and implement changes made by House Bill 3606 (2011) to the Business Energy Tax Credit program. These amendments implement statutory changes that specify that federal grants received in connection with a facility reduce the final cost of a facility, and confirm applicability of these changes. The rules provide new definitions of "certified cost" and "federal grant".

Rules Coordinator: Kathy Stuttaford—(503) 373-2127

330-090-0110

Definitions

For the purposes of Oregon Administrative Rules, Chapter 330, Division 90, the following definitions apply unless the context requires otherwise:

(1) "Alternative Fuel": A motor vehicle fuel, other than petroleum gasoline or diesel, certified by the U.S. Environmental Protection Agency for roadway use that results in equivalent or lower exhaust emissions or higher energy efficiency when used. Alternative fuels include electricity, biofuels, hydrogen, hythane, methane, methanol, natural gas, liquefied natural gas, liquefied petroleum gas (propane), renewable diesel and other fuels the Director allows. Blends of these alternative fuels with conventional fuels will only be considered an alternative fuel under these rules when the concentration of the alternative fuel is 20 percent of the entire volume of the blended fuel or greater. Hydrated fuels must have a water content of 10 percent of the entire volume of the blended fuel or greater to be considered eligible as an alternative fuel under these rules.

(2) "Alternative Fuel Fueling Station": A renewable energy resource facility necessary to refuel alternative fuel vehicle fleets. This will include the facilities for mixing, storing, compressing, charging, and dispensing alternative fuels, and any other necessary and reasonable equipment. It can be a facility for either public or private use.

(3) "Alternative Fuel Vehicle (AFV)" is a vehicle designed to operate on an alternative fuel and includes vehicles direct from the factory or vehicles modified to allow the use of alternative fuels. AFV does not include vehicles owned or leased by the State of Oregon acquired to comply with federal requirements for fleet acquisition of alternative fueled vehicles or vehicles leased by an investor-owned utility (IOU) to others. For purposes of qualifying for a BETC, gasoline-hybrid AFVs purchased on or after January 1, 2010 must also be designed for electrical plug-in.

(4) "Applicant": An applicant means:

(a) A person who applies for a preliminary certification of a BETC under this section includes:

(A) Individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies.

(B) Any cooperative, non-profit corporation, or federal, state or local governments including school districts, water districts, or any other special districts. These entities are qualified applicants when they have a qualified pass-through partner, or commit to select such a partner prior to final certification. These entities must follow all procurement processes, including competitive bid, where applicable.

(C) A contractor installing an alternative fueled vehicle fueling station in a dwelling.

(b) A person who applies for a final certification of a BETC under this section must be the facility owner listed on the preliminary certification.

(c) The tax credit certificate will be issued to a facility owner or a qualified pass-through partner, but the tax credit may only be claimed pursuant to ORS 315.354.

ADMINISTRATIVE RULES

(d) An applicant for preliminary certification or final certification or a tax credit recipient may not include any business or non-profit corporation or cooperative that restricts membership, sales or service on the basis of race, color, creed, religion, national origin, sexual preference or gender.

(5) "Biofuels": A motor vehicle or thermal combustion fuel other than petroleum gasoline or diesel which includes ethanol or is an ethanol blend at concentrations of 11 percent of the entire volume of the blended fuel or greater or biodiesel or is a biodiesel blend at concentrations of 20 percent of the entire volume of the blended fuel or greater, including:

(a) Biodiesel which is a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, and meeting the requirements of American Standards and Testing Measurement (ASTM) D 6751 in effect on December 1, 2007 and is registered with the US EPA as a fuel and a fuel additive under Section 211(b) of the Clean Air Act,

(b) Biodiesel Blends is biodiesel fuel meeting the requirements of ASTM D 6751 in effect on December 1, 2007, blended with petroleum-based diesel fuel, designated BXX, where XX represents the volume percentage of biodiesel fuel in the blend,

(c) Ethanol (CH₃CH₂OH) is an alcohol fuel also known as ethyl alcohol, grain alcohol, and EtOH made from starch crops or from cellulosic biomass materials, such as grass, wood, crop residues, or used cellulose materials where component sugars are fermented into ethanol meeting the requirements of ASTM designation D 4806-01a; "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel" in effect on December 1, 2007,

(d) Ethanol Blends which is ethanol fuel meeting the requirements of ASTM D 4806, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel" in effect on December 1, 2007, blended with petroleum-based gasoline fuel, designated EXX, where XX represents the volume percentage of ethanol fuel in the blend, and

(e) "E85," a motor vehicle fuel that is a blend of agriculturally derived denatured ethanol and gasoline or natural gasoline that typically contains 85 percent ethanol by volume, but at a minimum must contain 75 percent ethanol by volume. For the purposes of this chapter, the energy content of E85 is considered to be eighty-two thousand BTUs per gallon. E85 produced for use as a motor fuel shall comply with ASTM specification D 5798-99 in effect on December 1, 2007.

(6) "Biomass": An organic matter such as agricultural crops and residue, wood and wood waste, animal waste, aquatic plants and organic components of municipal and industrial wastes comprised of uncontaminated carbohydrates and other cellulosic material, and organic by products from wood pulping and other biologically derived materials including organic fibers that are available on a renewable or naturally recurring basis. This definition excludes cordwood or wood used for burning in fireplaces.

(7) "Building Automation Controls Facility": Energy facilities that control energy consuming equipment in a building are eligible when energy saving features exceed standard practice and applicable building code requirements. Eligible cost does not include costs associated with operations, maintenance, or repair as defined in these rules. Facilities are eligible when energy saving features meet the following requirements and applicable code:

(a) For existing systems within their service life, the following standards apply:

(A) The baseline will be based on the existing system's capabilities in fully functional and operating condition.

(B) Eligible costs will be based on the incremental cost and energy savings of the proposed system as compared to a fully functioning baseline system (savings and costs associated with maintenance and repair activities are not eligible).

(b) For systems beyond service life or new buildings, the following standards apply:

(A) Eligible costs and energy savings will be based on the incremental cost and energy savings between the proposed system and the baseline system.

(B) Only the components of the project that achieve energy savings will be considered eligible. If the component does not achieve energy savings it will not be considered an eligible cost.

(C) The baseline system must incorporate similar technologies to the proposed system. The minimum standard or baseline system will have the following features, plus any additional features required by code: a start/stop program, night setback program, enthalpy control program (economizer), lighting control program (sweep > 5,000 sq.ft.) and a variable flow (10 hp and above).

(8) "Building Code": Applicable state and local codes as defined in ORS 455.010 that are in effect the date the Department receives the application for preliminary certification.

(9) "Building Envelope": That element of a building which encloses conditioned spaces through which thermal energy may be transmitted to or from the exterior or to or from unconditioned spaces.

(10) "Car Sharing Facility": A facility in which drivers pay to become members in order to have joint access to a fleet of cars from a common parking area on an hourly basis. It does not include operations conducted by a car rental agency.

(11) "Certified cost": The cost certified in the final certification issued pursuant to ORS 469.215.

(12) "Combined Heat and Power (Cogeneration)": Means a facility designed to generate electrical power and thermal energy from a single fuel source with a fuel-chargeable-to-heat rate calculation demonstrating a heat rate of 6,120 Btu/kWh or less (10 percent better than the 6,800 Btu/kWh current standard generation). This facility may be eligible for a 35 percent BETC. Facilities that do not meet this heat rate requirement may still qualify in part for a credit relating to the heat recovery portion of the project. The equation for the fuel chargeable to power heat rate calculation is $FCP = (FI - FD) / P$, where:

(a) FCP = Fuel chargeable to power heat rate.

(b) FI = Annual fuel input applicable to the co-generation process in Btu (higher heating value).

(c) FD = Annual fuel displaced in any industrial or commercial process, heating, or cooling application by supplying useful thermal energy from a co-generation facility.

(d) P = Annual net electric output of the co-generation facility in kilowatt-hours.

(13) "Commercial New Construction Facility": An energy facility which includes a new structure or one of the following:

(a) An addition to an existing structure, which provides additional square footage;

(b) An alteration to an existing structure, which changes the functional use of the entire structure;

(c) An alteration to an existing structure occurring within six months of a change in the facility's ownership; or

(d) A major renovation to 50 percent or more of the square footage of an existing structure in which three or more building systems are changed. Systems include but are not limited to: envelope, space conditioning, lighting, water heating and process.

(14) "Commercial Process": An energy facility that is an energy-using system (e.g., lighting, HVAC, or water heating). Such a system can be studied and judged on its own.

(15) "Commuter Parking Space" means a facility that is a parking space that is:

(a) Located in an area where parking spaces are regularly available for lease by the day or month to the public.

(b) Leased by the employer for an employee's use:

(A) Separate from the lease for the business premises.

(B) As an integral part of the lease for the business premises if the employer has the right to sublease the parking space to a commuter.

(c) Owned by the employer.

(d) Not located in a lot used primarily for business customers.

(e) Not provided to an employee for parking a vehicle the employee regularly uses to perform the employee's job duties.

(16) "Completed Application": Contains all of the information required in these rules and payments under OAR 330-090-0150. All questions on the application must be answered. Except for a facility using or producing renewable energy resources with a certified cost that exceeds \$10 million, a completed application for final certification must also include a completed, signed pass-through partner(s) agreement form, where the facility owner chooses to transfer the tax credit. Except as provided in Oregon Laws, 2011, Chapter 693, Section 3(2)(c) and OAR 330-090-0133, no application for a final certification in which the facility owner has indicated a choice to transfer the tax credit under ORS 469.206 is considered complete until the Department receives both the completed final certification application form from the facility owner **and** the completed pass-through partner agreement form for the tax credit, or portion of the tax credit, being transferred to the pass-through partner.

(17) "Completed Facility": A facility for which all costs have been paid or committed by a binding contract or agreement and that is installed and operating or, in the case of a Research, Development and Demonstration facility, which the Director determines the applicant has

ADMINISTRATIVE RULES

made all reasonable efforts to operate, including making changes required by the Department.

(18) "Component Parts of Electric Vehicles": means component parts for use solely in Electric Vehicles and not in conventional vehicles. Component parts shall be distinguished by their absence from conventional vehicles and shall not include components that can be used interchangeably in both electric and conventional vehicles. For the purpose of this definition, "conventional vehicle" is a production vehicle that is powered with an internal combustion engine, excluding hybrids.

(19) "Cooperative Agreement Organization": The Department may enter into cooperative agreements with qualified public purpose, governmental, or other organizations to assist in the development and qualification of BETC applications, with the scope of the agreement defined by the Department based on the qualifications of the organization and subject to conditions specified in the agreement.

(20) "Cost": The actual capital costs and expenses needed to acquire, erect, design, build, modify, or install a facility that is eligible to receive a BETC. Costs that are incurred to bring a facility up to building code standards or otherwise repair the building in order to install the facility are considered necessary features, and may not be eligible. Costs financed with federal funds, subject to specific restrictions, terms and conditions may be eligible expenses, including but not limited to costs incurred by federal agencies directly for capital, operating, or other expenses.

(a) Cost can include payments for:

(A) Fees to finance, design or engineer the facility, including but not limited to debt fees and equity fees;

(B) Title searches, escrow fees, government fees, excluding fees required by OAR 330-090-0150, and shipping;

(C) All materials and supplies needed for the erection, construction, installation or acquisition of the proposed facility; and

(D) Work performed by employees or independent contractors of the applicant based on the following conditions:

(i) Employees or contractors must be certified, accredited, licensed, or otherwise qualified to do the work;

(ii) The work must be associated with the erection, construction, installation or acquisition of the proposed facility or in the case of a research development and demonstration facility, the work shall be directly related to the research, development, demonstration, facility design, monitoring, assessment, evaluation and reporting related to the product or technology;

(iii) Project management and other similar costs may only account for up to 15 percent of the total eligible costs; and

(iv) Costs for employee's or contractor's work on the energy facility must be detailed and documented as to specific tasks, hours worked, and compensation costs. Donated, in-kind or volunteer labor is not eligible.

(E) Costs for legal counsel that is directly related to the development of a qualifying facility (non-litigation related) or directly linked to the research, development or demonstration facility (excluding patents, copyrights, etc.); and

(F) Facilities or equipment required for vehicles to provide transportation services to serve riders (such as a wheelchair lift system) under the American with Disabilities Act.

(b) Cost may not include:

(A) Interest and warranty charges;

(B) Litigation or other operational-related legal fees and court costs;

(C) Patent searches, application and filing payments;

(D) Costs to maintain, operate, or repair a facility;

(E) Administrative costs to apply for grants, loans, tax credits or other similar funding for a facility including, but not limited to, the BETC review charge, costs associated with the creation and development of the CPA verification letter and costs associated with securing a pass-through partner for the facility;

(F) Routine operational or maintenance costs associated with the facility, other than a transportation services facility, including services, supplies and labor;

(G) Expenses related to training, education or other related expenses;

(H) Expenses that are directly or indirectly offset with federal fee waivers; or

(I) Other costs the Director excludes.

(c) If a facility is built under a lease, lease-option or lease-purchase contract, the lessee's cost to acquire the facility is the value paid for the facility. If that amount is not known, the cost is the sum of:

(A) Tax credits passed through by the lessor to the lessee;

(B) The amount paid when the facility is transferred; and

(C) The lease payments not including taxes, insurance, interest, and operating costs.

(D) Payments to be made in the future must be discounted to present value.

(d) If a facility serves more than one purpose, cost includes only items needed to save energy and/or use renewable energy resources. This includes new or replacement equipment that costs more because of its energy saving features. The Department may do inspections to verify eligible costs.

(e) Incremental cost is the cost above a reasonable minimum expected to construct a similar facility without energy efficient features. Cost may be limited to incremental cost for conservation applications for new facilities or for the replacement of facilities beyond their service life, including when a code, standard or other base system is required.

(A) In commercial new construction, it is the difference between building to code, or standard practice if this exceeds code, and building to meet or exceed the standards for substantial energy savings.

(B) In other facilities, it is the difference between prevailing practices for that business or industry and a more energy efficient method.

(f) Eligible facility costs are limited by the following:

(A) Facilities must have a more than one to 15-year simple payback period unless otherwise specified in these rules. If the simple payback period exceeds those limits, eligible costs will be prorated down to the highest amount that would result in a qualifying payback; and

(B) Facilities must have a simple payback of more than one year and less than the service life of the facility.

(C) Rental dwelling weatherization facilities are limited to a 30-year simple payback.

(D) Solar photovoltaic (PV) facilities are limited by the maximum eligible facility cost ratio (MEC), expressed in terms of \$/watt. PV facility eligible cost shall be calculated by multiplying the appropriate rate provided below by the facility size. Once a facility has received preliminary certification the calculated cost shall be effective for 36 months for facilities to be owned by the public and 12 months for all other facilities, from the date of certification. If the Department has not received a complete application for final certification within this time, the cost shall be recalculated based on the rate in effect at that time the final application is submitted. The minimum module performance certified by the manufacturer shall be used to calculate eligible cost. The MEC for a facility rated to produce:

(i) Up to and including 30 kW is \$7.50/watt.

(ii) More than 30 kW, but less than 200 kW, is $-0.01 \times (\text{system size in kW}) + 7.8$.

(iii) 200 kW or more is \$5.80/watt.

(E) Costs for a facility, or portion thereof, that has previously received a BETC.

(F) Costs to replace the same baseline facility more than once.

(i) The Department may require the baseline facility to be specifically identified and/or permanently decommissioned.

(G) For solar thermal (ST) systems,

(i) The maximum eligible cost (MEC), not including pool heating facilities, shall be calculated using the following formula: $MEC = SOC \times \text{Number of modules} \times \text{Solar Thermal Rate}$. Standard Oregon Conditions (SOC) is based on the OG-100 collector performance data published by the Solar Rating and Certification Corporation (SRCC) on the date the preliminary application is issued. SOC is calculated using a weighted average of the values in the "Mildly Cloudy" (1500Btu/ft²-day) test data using the following equation:

$SOC = 0.1(\text{Category A}) + 0.2(\text{Category B}) + 0.3(\text{Category C}) + 0.4(\text{Category D})$.

(ii) The system size is defined as the SOC multiplied by the number of collectors in the system. The following thermal rates are divided into three tiers based on the system size:

(I) For a system size of less than 100KBtu/day, the rate is \$220/KBtu/day

(II) For a system size that is 100 KBtu/day or greater, but less than 250 KBtu/day, the rate is \$210/KBtu/day

(III) For a system size greater than 250 KBtu/day, the rate is \$200/KBtu/day.

(H) Sustainable building practices facilities, recycling market development, high performance homes, homebuilder installed renewable energy facilities and transportation facilities, excluding efficient truck technology, are exempt from simple payback requirements.

(I) For renewable energy facility installations, the following are ineligible costs: roofing, re-roofing and engineering for roofing on renewable facilities.

(g) Costs for space conditioning or individual metering of a facility(s) are limited to incremental costs, except when existing equipment is within its Service Life when costs will be limited to the total eligible facility costs.

ADMINISTRATIVE RULES

Incremental costs are limited to 40 percent of the cost to install a replacement space or hot water heating system in rental dwellings, except as defined in (i) below.

(h) Eligible costs for transportation facilities include, but are not limited to, telework, commuter pool vehicles, bicycles, Transportation Management Association fees, incentive programs, transit passes, car sharing, vanpool, individualized behavior change program, Research, Development and Demonstration (RD&D), purchasing or otherwise obtaining alternative fuel vehicles that are designed to transport five or more passengers, transportation services and transportation services for K-12 students. Except for RD&D facilities, bicycle purchases, and commuter pool vehicles with special equipment, the maximum eligible cost for transportation facilities is the result of the cost-per-vehicle mile calculated by a formula adopted by the Oregon Department of Energy multiplied by the estimated vehicle miles reduced (VMR) by the facility.

(i) Costs for premium efficient appliances as defined in this rule are limited to incremental costs. The Department may determine the incremental cost as a portion of the facility cost based on similar facilities up to forty percent of the purchase cost.

(j) In implementing the utility pass-through in OAR 330-090-0140(2), utilities may set a minimum eligible cost to participate. The following requirements apply:

(A) The utility must submit exact specifications of the limit to and receive approval by the Department prior to implementation of the limit.

(B) The utility must provide notification to the customer that there is no minimum when applying directly to the Department, however, payments required by OAR 330-090-0150(3) do apply.

(k) Sustainable building practices facilities are exempt from the previous requirements of this definition, as the eligible cost for these facilities is calculated using data established in **Table 1**. [Table not included. See ED. NOTE]

(L) The sum of any rebates or cash payments under ORS 469.631 to 469.645, 469.649 to 469.659, 469.673 to 469.683, or 757.612(5)(a), or from a public purpose organization or federal grants or credits and the BETC may not exceed total costs.

(21) "Cost-per-Vehicle Mile": The total cost of one vehicle mile driven by a single occupant. The components of calculating the total cost include, but are not limited to, vehicle operation cost, fuel cost, travel time, congestion and pollution. The calculation formula for the total costs is available on the Department's website.

(22) "Director": The Director of the Oregon Department of Energy or designees.

(23) "Energy Department": The Department of Energy.

(24) "Energy Facility": is defined in ORS 469.185 (5).

(25) "Facility": is defined in ORS 469.185 (6) and also includes a Research, Development & Demonstration (RD&D) facility that complies with these rules. A facility must be located within the geographical confines of Oregon. The dollar value of the first year energy savings must be less than the cost of such facility, except as allowed for a Research Development & Demonstration facility, transportation or recycling market development.

(a) An energy conservation measure (ECM), is a facility if it results in substantial savings in the amount of purchased energy used at a site by a business or other eligible entity. Energy conservation measures include equipment installed for the purpose of reducing energy use.

(b) Costs for a facility needed to obtain substantial energy savings for a new commercial, institutional, or industrial building. Savings will be compared to energy used by a building, unit, or industrial process that does not have the proposed conservation. But, such buildings must comply with the Building Code and have the same use, size, space heat fuel, and orientation as the applicant's building, unit, or industrial process.

(c) A space conditioning system(s) is a facility if it provides substantial energy savings and complies with the following BETC program requirements:

(A) A report demonstrating any mercury-switch thermostats that is replaced or have been recycled and, if so, how.

(B) Space conditioning systems installed in an existing dwelling unit must not involve changing the fuel source. An incremental upgrade, as defined in these rules, of a fuel switching facility will be allowed if the upgrade complies with these rules.

(d) For buildings to be owned, leased, or otherwise operated and maintained by the state, including the State System of Higher Education, to qualify for the credit it must comply with the requirements of the State Energy-Efficient Design Program (SEED) as defined in OAR Chapter 330, Division 130 and associated guidelines, in addition to meeting requirements of these rules.

(e) For a solar photovoltaic facility to be eligible to receive a BETC, all qualifying installations must meet the following minimum facility specifications:

(A) Facility must be permitted and in compliance with all applicable building and electrical codes.

(B) All facility equipment must be rated for the temperature and exposure conditions in which it will operate.

(C) All facility components must be new (modules, inverter, batteries, mounting hardware).

(D) Array mounting must not reduce the expected life or durability of the structure on which it is located.

(E) The facility must include all building code required signage and a customer manual.

(F) A customer manual must contain the following information:

(i) Facility documentation, including:

(I) As-built drawings that accurately describe the components installed and the wiring design, including wire sizes, and estimated length of wire runs.

(II) Facility site plan that indicates array and inverter location.

(III) Sunchart used to determine facility total solar resource fraction.

(IV) Operation and maintenance requirements including the name and phone number of person(s) or company to call in the case of a facility failure.

(ii) Warranties and installation documentation

(I) Minimum two-year contractor warranty for materials and workmanship

(II) Manufacturer's warranty for PV modules and inverter

(III) Permit documentation

(iii) Manuals and data sheets

(I) Bill of material listing all primary facility components including part numbers

(II) Inverter owner's manual

(III) Manufacturer data sheets for major components, including but not limited to: inverters, modules, racking/mounting facility, charge controller and batteries.

(G) All facilities must include one or more meters that are capable of recording the facility's total energy production. Meters must be equivalent to American National Standards Institute (ANSI) certified revenue meters with a 0.5 or better accuracy class and, if digital, it must have non-volatile data memory.

(H) Array must be sized to operate within the current, voltage and power limits approved and warranted by the inverter manufacturer. The temperature-adjusted voltage must remain within the inverter limits at the historical record low temperature for the location in which it is installed.

(I) Wires must be sized to keep the total voltage drop below 2 percent on the DC conductors from the array to the inverter including the existing wire whips on the PV modules, and/or 2 percent on the AC conductors from the inverter to the point of interconnection (total not to exceed 4 percent).

(J) The installing contractor must provide a minimum 24-month full warranty on parts and labor to the facility owner.

(K) The solar array must be used exclusively for business purposes. The applicant must supply a recent utility billing statement and a power purchase or net metering agreement, with a local utility in the name of the business. If the system is being placed on a rental dwelling, a signed rental agreement must be provided and the property must remain a rental property for at least five years. Arrays erected at a location that includes a residence that is not a rental dwelling, must be separately metered from the residence to qualify for a BETC.

(L) Facilities participating in the pilot Feed-In Tariff program under ORS 757.365 are not eligible to receive a BETC.

(f) For a solar thermal facility to be eligible to receive a BETC, all qualifying installations must meet the following minimum facility specifications:

(A) The facility must be permitted and in compliance with all applicable building, electrical, and plumbing codes.

(B) All equipment must be rated for the temperature and exposure conditions in which it will operate.

(C) All primary facility components must be new (collectors, tanks, controls, pumps).

(D) Array mounting must not reduce the expected life or durability of the structure on which it is located.

(E) The facility must include a customer manual containing the following information:

(i) Facility documentation, including:

ADMINISTRATIVE RULES

(I) As-built drawings that accurately describe the components installed, including a valve chart.

(II) Facility site plan that indicates the location of collectors and storage tank.

(III) Sunchart used to determine facility total solar resource fraction.

(IV) Operation and maintenance requirements including the name and phone number of person(s) or company to call in the case of a facility failure.

(V) Permit documentation.

(i) Warranties and installation documentation, including:

(I) A minimum two-year contractor warranty for materials and workmanship

(II) Manufacturer's warranty for collector, tanks, pumps and heat exchanger (if present) and any other components under warranty by the manufacturer.

(III) Permit documentation.

(iii) Manuals and data sheets, including:

(I) Bill of material listing all primary facility components, including part numbers

(II) Facility controller owner's manual

(III) Manufacturer data sheets for major components, including, but not limited to: collectors, tank, controllers, pumps, Btu meter, expansion tank, etc.

(F) Facility is sized appropriately for the load. The solar savings fraction is not to exceed 0.70 for domestic water heating systems without a means of rejecting heat once the load is met.

(G) Thermal storage is adequate to accommodate daily use pattern. For typical domestic load profiles, this is defined as a minimum of 1.25 gallons per square foot of collector area. For facilities with loads that are coincident with solar generate this storage amount may be reduced if documentation is provided.

(H) All solar storage tanks must be insulated with not less than R15 insulation.

(I) The following standards are for pipe insulation:

(i) Collector loop insulation must be rated for conditions in which it operates. Pipe insulation shall have a maximum K value of 0.25 Btu in/hr. sq. ft. F° and a minimum thickness of 0.75 inches.

(ii) Potable water pipe located outdoors must be insulated to a minimum R-value of 12. Pipe insulation must be protected with a U-V rated tape or pipe jacket. U-V paint is not sufficiently durable.

(J) Anti-convective pipe loop or trap is required on the inlet and outlet of the storage tank. These loops or traps shall have a minimum 8-inch vertical drop to constitute an effective convective heat barrier. Heat trap nipples alone are not reliable in stopping heat migration, and will not meet this requirement.

(K) Install thermometers on collector supply and return pipes. One movable thermometer for two wells is sufficient.

(L) Install a BTU meter capable of measuring total delivered energy on all facilities with standard Oregon conditions rating greater than 250 KBtu/day. A Btu meter must have a designated flow meter and temperature sensors and be located on the load side of the system.

(M) Install a properly sized thermostatic mixing valve on the output of the domestic hot water system to ensure that delivered temperature does not exceed 140°F.

(N) Solar thermal facilities must be installed in compliance with the Oregon Mechanical Specialty Code (Chapter 14 OMSC), the Oregon Residential Specialty Code (Chapter 23), the Oregon Plumbing Specialty Code and all other local regulations with jurisdiction.

(O) Facilities must be designed and installed for complete automatic operation including protection from freeze damage and overheating of collectors.

(P) Pressurized storage tanks must not be allowed to be heated above 180°F.

(g) A facility does not include:

(A) A residential structure or dwelling that is being used for a residence, except for residential structures that are used exclusively as a rental dwelling or that qualify as a licensed homebuilder installed renewable energy facility or high performance home facility.

(B) A renewable energy system or device, other than a homebuilder installed renewable energy facility or high performance home facility, that is placed on or at a residence, except for those used exclusively as a rental dwelling, for the purpose of supplying energy to the residence.

(C) Swimming pools and hot tubs used to store heat.

(D) Wood stoves.

(E) Space conditioning systems and back-up heating systems, including systems that do not meet code or minimum standards listed in the BETC rules.

(F) Devices and substances whose use is common in the applicant's business, except hog fuel boilers that replace fossil fuel boilers.

(G) Pollution control facilities and alternate energy devices for which a tax credit or ad valorem tax relief is granted under ORS 307.405, 316.097 or 316.116.

(H) Devices or materials which are standard practice.

(I) Recycling automotive air conditioning chlorofluorocarbons (CFC).

(J) Conservation in rental dwellings, for applicants listed in ORS 469.205(1)(c)(A) and (B), which were issued an occupancy permit on or after January 1, 1996.

(K) Other items the Director finds are not allowed under ORS 469.185 to 469.225.

(26) "Facility Eligible Square Footage": For the purpose of calculating the tax credit amount for a Sustainable Building Practices Facility, facility eligible square footage includes all temperature-conditioned floor areas, and one level of parking structures or parking structure elements of the facility. It does not include exterior square footage beneath overhangs, awnings, canopies; walkways or unconditioned plaza areas beneath conditioned portions of the building.

(27) "Facility Operator": The person or people to whom the applicant gives authority to manage a facility. Such person or people will be the applicant's agent for all reasons related to the facility once its development begins.

(28) "Facility Owner": An applicant who purchases and owns a qualified facility.

(29) "Facility Start" prior to erection, construction, installation or acquisition: The earliest date on or after the date of the application that meets one of the following criteria:

(a) A non-refundable deposit will be placed on the facility equipment;

(b) A purchase order will be placed for the equipment;

(c) A contract for the design of the facility will be executed;

(d) A document that obligates the applicant to proceed with a facility will be executed; or

(e) Any other type of financial commitment towards the erection, construction, installation or acquisition of the facility, or

(f) For a Sustainable Building Practices Facility, the eligible cost date is within 30 days of receiving the LEED registration number, before 50 percent of Design Document for the facility are complete, or prior to receiving building permits for the facility, or

(g) For a renewable energy facility, the applicant shall not be considered to have started erection, construction, installation or acquisition of a proposed facility until excavation or actual physical construction of the renewable energy facility has begun. Eligible costs include all costs as defined in these rules, including costs incurred prior to the receipt by the department of the preliminary certification application related to site and facility development and approval. Applicants who start a facility prior to issuance of preliminary certification shall not be eligible to reapply.

(30) "Federal Grant": Any grant received from the federal government in connection with a facility, includes grants authorized under §1603 of the American Recovery and Reinvestment Act of 2009 (ARRA).

(31) "Final Certification": Final certificate issued after completion of an approved BETC facility.

(32) "Geothermal Energy": Natural heat in any form below the earth's surface. It also means minerals in solution, or other products of naturally heated substances below the earth's surface. It includes:

(a) Products of geothermal processes, such as steam, hot water, and hot brines; or

(b) Steam and gases, hot water and brine caused by injecting substances into the earth; or

(c) Heat or other related energy in the earth; or

(d) By-products of (a) through (c).

(33) "Ground Source Heat Pump": means a heating, ventilating and air-conditioning system, also known as a ground water heat pump, earth-coupled heat pump, geothermal heat pump or ground loop alternative energy device that utilizes a subsurface closed loop heat exchanger to extract or reject heat to the earth. A ground source heat pump is eligible for a 35 percent BETC.

(34) "High Efficiency Combined Heat and Power" (Cogeneration): means a renewable energy resource facility designed to generate electrical power and thermal energy from a single fuel source with a fuel-chargeable-to-heat rate yielding annual average energy savings of 20 percent is eligible

ADMINISTRATIVE RULES

for a 50 percent BETC. The fuel chargeable-to-heat rate calculations shall demonstrate a heat rate of 5,440 Btu/kWh or less (20 percent better than the 6,800 Btu/kWh current standard generation). Facilities that do not meet this requirement may still qualify for a 35 percent tax credit (see Combined Heat and Power) or in part for a tax credit relating to the heat recovery portion of the project. The equation for the fuel chargeable to power heat rate calculation is $FCP = (FI - FD) / P$, where:

(a) FCP = Fuel chargeable to power heat rate.

(b) FI = Annual fuel input applicable to the co-generation process in Btu (higher heating value).

(c) FD = Annual fuel displaced in any industrial or commercial process, heating, or cooling application by supplying useful thermal energy from a co-generation facility

(d) P = Annual net electric output of the co-generation facility in kilowatt-hours.

(35) "High Performance Home": Meets the criteria in ORS 469.185(8) and 469.197 and is a home that is a dwelling unit constructed by a licensed builder under the Oregon Residential Specialty Code with its own space conditioning and water heating facilities and intended for sale to an end-use homebuyer. The facility must meet the following requirements:

(a) Shall be certified through the ENERGY STAR® Homes Northwest program.

(b) Designed and constructed to reduce net purchased energy through use of both energy efficiency and on-site renewable energy resources;

(c) Meet the criteria established for a high-performance home under ORS 469.197

(d) The building shell shall be constructed to at least the minimum values specified in the following prescriptive path:

(A) Ceilings: $U \leq 0.030$

(B) Walls: above grade $U \leq 0.050$

(C) Walls: below grade $U \leq 0.060$

(D) Floors: above grade $U \leq 0.025$

(E) Floors: on grade, [slab edge] perimeter R-15 min. 2 feet vertical or combined vertical/horizontal – heated slab also requires R-10 foam board under slab.

(F) Windows and glass doors: $U \leq 0.32$ (weighted average). Exception: solar glazing that is part of a passive solar design may have a higher U-factor. Glass doors are doors that contain 50 percent or more glazing.

(G) Glazing area: glazing to floor area ratio ≤ 16 percent (including windows, skylights, and glass doors considered as glazing in the code) for homes larger than 1,500 square feet of conditioned space floor area and < 18 percent for homes 1,500 square feet of conditioned space floor area and smaller.

(H) Shell tightness: 5.0 ACH50 Pa confirmed by blower door test

(e) HVAC system and air ducts shall be incorporated into conditioned space, or eliminate forced-air ductwork.

(f) Space conditioning equipment shall meet one of the following requirements:

(i) Two-stage gas or propane furnace, minimum AFUE 0.92

(ii) Gas or propane boiler, minimum AFUE 0.88

(iii) Central AC SEER ≥ 14 (if installed)

(iv) Ducted heat pump \geq HSPF 8.5, air source, and ground source COP ≥ 3.0

(v) Ductless mini-split heat pump with inverter drive, no incorporated electric backup heat, sized and installed as per ENERGY STAR® Homes Northwest specifications in affect at the time the preliminary application is issued.

(g) A Renewable Energy Facility shall provide on-site energy savings or generation of not less than 1kWh/yr per square foot of conditioned floor space.

(h) Water heating systems shall meet ENERGY STAR® Homes Northwest specifications including secondary water heating equipment that backs up solar domestic water heating facilities.

(i) Includes at least one of the following measures:

(A) Obtain certification through a Green Building program recognized by the Department.

(B) Meet ENERGY STAR Homes Northwest Builder Option Package #2 ventilation specifications through the use of a heat or energy recovery ventilator, except that the sensible recovery efficiency shall be > 50 percent at 32°F and the EUI shall be < 1.5 Watts/cfm.

(C) Use a gas or propane water heater with a minimum EF of 0.80 for primary water heating. The water heater may not also be used for space heating or as the backup to a solar water heating facility to be considered a qualifying measure under this section.

(j) A High performance home may meet a package of alternate shell or HVAC measures that are equivalent to these requirements. Shell measures may be increased to offset HVAC efficiency, however HVAC measures may not be used to reduce minimum shell requirements.

(a) Shell measures shall be a combination of assemblies that together have a total $U \times A$ no higher than a base case home described in section (C)(c), above. Trade-offs will be evaluated according to the thermal trade-off procedure in Oregon Residential Specialty Code Chapter 11, Energy Efficiency, Table N1104.1(1).

(b) Mechanical facilities will be evaluated for comparable annual energy use.

(k) Shall be a detached single-family dwelling unit or a single-family dwelling unit constructed in a group of two or more attached units in which each unit extends from foundation to roof and with open space on at least two sides.

(36) "Homebuilder Installed Renewable Energy Facility" is defined in ORS 469.185(9). The amount of the tax credit for homebuilder-installed renewable energy facilities shall be capped at \$9,000 per high performance home. For purposes of this section, renewable energy resource facilities may include: photovoltaic, solar domestic water heating, active solar space heating, passive solar, and ground source heat pumps. The following requirements must be met:

(a) Photovoltaic: The credit amount is based on \$3 per watt of installed capacity as determined by the Department. Eligible installations have a Total Solar Resource Fraction of at least 75 percent using the Total Solar Resource Fraction (TSRF) method as described in the BETC application. Installations must be verified by a Tax Credit Certified Solar PV Technician. This verification must cover performance, longevity, and proper documentation of the facility design, operation and maintenance. Installers must provide a warranty covering all parts and labor for two years.

(b) Solar domestic water heating: The credit amount is equal to \$0.60 per kWh saved annually. The savings are based on values published by the Solar Rating and Certification Corporation (SRCC) plus 100 kWh, which are added to represent Oregon water heating loads. Solar thermal domestic water heating installations must have a Total Solar Resource Fraction (TSRF) of at least 75 percent and be designed to provide no less than 25 percent but not more than 70 percent of the annual domestic water heating load. Installations must be OG-300 certified. Installations must be verified by a solar thermal Tax Credit Certified Technician. This verification must cover performance, longevity, and proper documentation of the facility design, operation and maintenance. Installers must provide a warranty covering all parts and labor of the facility for two years.

(c) Active solar space heating: The credit amount is equal to \$0.60 per kWh saved based on a calculation procedure approved by Department staff. Active solar space heating installations must demonstrate a whole building annual energy savings of at least 15 percent to be eligible. Installations that combine space heating and domestic water heating are allowed providing that the solar storage tank is not heated by a backup heat source (e.g. gas or electric water heater). Installations must be verified by a solar thermal Tax Credit Certified Technician. This verification must cover performance, longevity, and proper documentation of the facility design, operation and maintenance. Installers must provide a warranty covering all parts and labor of the facility for two years.

(d) Passive solar: The credit amount is equal to \$600 per home plus \$0.60 per square foot of heated floor space. Passive solar design strategies must demonstrate a whole building annual energy savings of at least 20 percent to be eligible. This can be achieved by either meeting the prescriptive requirements for a passive solar home under the Residential Energy Tax Credit or demonstrated with whole building energy modeling and certified by a professional engineer.

(e) Ground source heat pumps: Ground source heat pumps must have a coefficient of performance (COP) of 3.5 or greater. The savings is based on the incremental savings over the energy savings provided by the ground source heat pump with a COP of 3.0. The credit amount is equal to \$0.60 per kWh saved.

(f) Other: Other renewable energy resource facilities (e.g. wind turbines, fuel cells) will be evaluated on a case-by-case basis and the credit amount will be equal to \$0.60 per kWh saved. Facilities must be connected to home's main service panel and installers must provide a warranty covering all parts and labor of the facility for two years.

(37) "HVAC Equipment": Heating, Ventilation, and Air Conditioning (HVAC) systems are eligible for a 35 percent BETC.

(a) Eligible combustion equipment (furnaces, boilers, water heaters, and burners) must have a minimum combustion efficiency of 86 percent

ADMINISTRATIVE RULES

Annual Fuel Use Efficiency (AFUE) rating. An exception may be granted if the system efficiency is proven to be higher due to application of a different distribution system (e.g.: radiant systems in high infiltration spaces), control strategies (e.g.: pony boilers), or reduced stand-by losses (e.g.: low-mass boilers).

(b) Heat pumps must have an energy input that is entirely electric and be rated with a Heating Season Performance Factor (HSPF) or Coefficient of Performance (COP) as follows or higher:

(A) Air source heat pumps: 8.5 HSPF

(B) Water source heat pumps: ten percent greater than COP listed in Oregon Energy Efficiency Specialty Code Chapter 5, Table 503.2.3(2)

(C) Air Conditioning: ten percent greater than COP listed in Oregon Energy Efficiency Specialty Code Chapter 5, Table 503.2.3(1)

(38) "Hybrid Electric Vehicle": An energy facility that is a vehicle which draws propulsion energy from onboard sources of stored energy which include both an internal combustion engine and a rechargeable energy storage system. The charging system for the energy storage system must have an operating voltage of 100 Volts or higher. In addition to a hybrid drive train, a Hybrid Electric Vehicle (HEV) must also have a regenerative braking system. A vehicle purchased after January 1, 2010 is not eligible to receive a BETC.

(39) "Individualized Travel Behavior Change Program": A facility that is a program approved by the Oregon Department of Energy that reduces vehicle miles traveled through one-on-one contact with participants in a specific geographical area or in a targeted group.

(40) "Lease Contract": A contract between a lessor and a lessee of a facility.

(a) In a lease-purchase contract the lessee owns the facility at the end of the lease and is eligible for the BETC.

(b) In a lease or lease-option contract the lessor owns the facility through the life of the contract and is eligible for the BETC.

(41) "Lighting Facility": An energy facility that will reduce the affected lighting energy use by at least 25 percent or by at least 10 percent for a new facility. For non-residential structures, an eligible facility must also report whether there will be any lamps in the facility that will be subsequently replaced and if those lamps will be recycled, how.

(42) "Low Interest Loan":

(a) For an electric utility, a loan with interest that is not more than 6.5 percent per year for those measures identified as cost effective in the utility audit. All other measures identified in the utility audit will be financed by a rate established by the OPUC. The combined interest rate will not exceed 12 percent.

(b) For all utilities, the loan principal or interest rate will be reduced by the present value of the tax credit earned under these rules. If the principal or interest is reduced to zero by applying the present value of the credit without allotting all that value, the excess will accrue to the owner who receives the loan. The loan will be repaid in a reasonable time not more than 10 years after it is issued.

(c) Some utilities may offer cash payment incentives as an option to a loan. The present value of the tax credit may be added to this incentive as provided in OAR 330-090-0140(2) of this rule.

(43) "Mass Transit District": A mass transit district included in ORS 184.675(7).

(44) "Metropolitan Service District": A metropolitan service district included in ORS 184.675(7).

(45) "Necessary Feature": A necessary feature does not qualify as an eligible cost and is a feature for which the primary purpose is:

(a) Complying with the Building Code, including remodeling or new construction that includes facilities to comply with the Building Code;

(b) Complying with specific state or federal statutes or requirements for pollution control or recycling facility equipment. Recycling facilities are necessary features except as noted under the definition of "Recycling Facility" in ORS 469.185(11); or

(c) Routine maintenance or repair, such as replacing water damaged insulation, a broken window, dry-rotted wood siding or trim.

(46) "Net Present Value": A cash payment equivalent to the net present value of the BETC as determined under OAR 330-090-0140. This is also referred to as the "pass-through rate."

(47) "Organization": A corporation, association, firm, partnership, limited liability company, joint stock company, cooperative, non-profit corporation, or federal, state or local government including school district, water district, or any other special district.

(48) "Pass-through Option": An option that allows a facility owner to transfer the facility's tax credit eligibility to certain persons or businesses in return for a cash payment equivalent to the net present value. A tax credit

may be transferred one time only, from the facility owner to an eligible pass-through partner or partners.

(49) "Pass-through Partner": A personal income tax payer, individual, C corporation or S corporation that is transferred a tax credit certificate in return for a cash payment equivalent to the net present value of the BETC.

(50) "Preliminary Certification": Preliminary certificate issued upon successful completion of the first stage in obtaining a BETC.

(51) "Premium Efficient Appliance": An energy facility that is an appliance that has been certified by the Department to have premium energy efficiency characteristics. Residential appliances are listed in the Department's Alternative Energy Devices Systems Directory. Commercial appliances are listed in the Department's Premium Efficient Commercial Appliances Directory.

(52) "Public Purpose Organization": The entity administering the conservation and renewable public purpose funds described in ORS 757.612(3)(b)(A) and (B) or its agents.

(53) "Qualified Transit Pass Contract": is defined in ORS 469.185(10).

(54) "Recycling": A process to change a waste stream into a useable product or material. It does not include re-use in the same way the product or material first was used unless it changes the product or material. It does not include the combustion or incineration of a waste stream or components thereof, although these processes may be a part of an "Energy Facility" or "Waste to Energy Facility" where they include characteristics required to meet those definitions.

(55) "Recycling Facility": is defined in ORS 469.185(11)

(56) "Recycling Market Development Facility": Facilities that stimulate demand for recycled materials. It includes facilities that meet one of the following criteria:

(a) The facility uses recycled materials as feedstock to produce new products; or

(b) Equipment that allows reuse of pre or post consumer waste in the production of new products; or

(c) Recycled material equipment which yields a feedstock with new and changed characteristics for the production of new products; or

(d) Equipment that enables a higher amount of recycled material feedstock to be used in the manufacture of a product.

(57) "Renewable Diesel": A diesel fuel derived from biomass as defined in United States Energy Policy Act 2005 Section 45K (C)(3), using the process of thermal depolymerization that meets the following:

(a) Registration requirements for fuels and chemicals established by the EPA under Section 211 of the Clean Air Act (42 U.S.C. 7454) in effect on December 1, 2007, and

(b) Requirements of the ASTM D975 or D396 in effect on December 1, 2007, and

(c) Has a producer's Certificate of Analysis which certifies that the lot, batch or produced volume for sale has an organic content concentration of greater than 50 percent of the entire volume of the resultant fuel and the organic feedstock material is described.

(58) "Renewable Energy Resource": is defined in ORS 469.185(12).

(59) "Renewable Energy Resource Facility": means an energy facility used in the processing utilization, or storage of renewable energy resources to:

(a) Replace a substantial part or all of an existing use of electricity, petroleum or natural gas;

(b) Provide the initial use of energy where electricity, petroleum or natural gas would have been used;

(c) Generate electricity to replace an existing source of electricity or to provide a new source of electricity for sale by or use in the trade or business;

(d) Perform a process that obtains energy resources from material that would otherwise be solid waste as defined in ORS 459.005; or

(e) Manufacture or distribute alternative fuels, including but not limited to electricity, ethanol, methanol, gasohol or biodiesel.

(60) "Renewable Energy Resource Equipment Manufacturing Facility": means a facility as defined in ORS 469.185 (13) and subject to standards adopted by the Oregon Department of Energy in these rules.

(61) "Renewable Energy Storage Device": A facility that enables the storage of energy derived from Renewable Energy Resources as defined in ORS 469.185(12). To qualify as a renewable energy storage device a facility does not need to be directly connected to a renewable energy resource, but a beneficial relationship must be demonstrated between the energy output of the resource or resources and the charge and discharge capabilities of the facility. A Renewable Energy Storage Device includes, but is not limited to, batteries or similar devices used to provide propulsive energy in elec-

ADMINISTRATIVE RULES

tric vehicles. The storage device may be designed to store energy for transmission lines provided that the transmission lines serve, at least in part, renewable energy resources.

(62) "Rental Dwelling": means any property that meets the requirements of the state building codes and contains a dwelling unit or rooming unit with permanent living facilities. Living facilities include facilities for sleeping, eating, cooking and sanitation, for one or more persons, other than the property owner, which is subject to a rental agreement that provides for meaningful compensation to the owner and which compensation is subject to Oregon income or excise tax.

(63) "Rental Weatherization": means energy conservation and efficiency measures that improve the energy efficiency of a rental dwelling. In order to qualify for a BETC, an applicant must meet requirements (a) through (c):

(a) An applicant must be planning to perform a minimum of two weatherization measures on the rental dwelling if one of the measures is to replace windows on the rental dwelling. Eligible second measures include one of the following:

- (A) Adding floor insulation to R-21,
- (B) Attic/ceiling/roof insulation to R-38 or cavity fill,
- (C) Wall insulation to R-13 or cavity fill,
- (D) Replacing exterior doors to R-5,
- (E) Duct sealing and testing by a contractor certified by the Residential Energy Tax Credit program, or

(F) An applicant can demonstrate that the measures (A) through (E) above have already been completed by providing an energy audit from the Energy Trust of Oregon or the applicant's utility, if unavailable the Department may approve another type of energy audit.

(b) Prior to being eligible to receive a BETC for installing a renewable facility on a rental dwelling, all standard weatherization measures, including roof insulation to a minimum of R-38, floor to minimum of R-21 and walls to a minimum of R-13 (where achievable on outside walls where no insulation is present) must be completed. An applicant shall provide appropriate documentation, such as an energy audit as described above in section (a)(F), to verify standard weatherization measures.

(c) For purposes of meeting the requirements of ORS 469.207, when a utility audit is not available, a vendor-provided audit demonstrating substantial savings and approved by the Department will suffice. A self-audit based upon the following list may be substituted when accompanied by U-values, areas, and other appropriate general information regarding the measures, including:

(A) Caulking, weather-stripping and other prescriptive actions to seal the heated space and ducts in a dwelling;

(B) Insulation of ceilings or attics to R-38 if achievable in areas with R-19 or less, including insulation installed on flat roofs and associated ventilation;

(C) Insulation of outside walls to a nominal R-13 if achievable in areas where no insulation is present, of unfinished walls adjacent to unheated areas to R-21 if achievable in areas where no insulation is present, and of finished walls adjacent to unheated areas to R-11 if achievable in areas where no insulation is present;

(D) Insulation of floors over unheated spaces to at least R-25 if achievable in areas where no insulation is present, and materials to support the insulation and needed ground cover and ventilation;

(E) Insulation and sealing of supply and return air ducts in unheated spaces to at least R-8 if achievable and no insulation is present and the ducts are in unheated areas;

(F) Insulation of water heaters, water pipes, or steam pipes in unheated spaces and for at least 10 feet from the water heater in unheated areas to at least R-3 if achievable and no insulation is present;

(G) Double-glazed windows (including sliding doors) with a U-value of 0.30 or lower, when replacing single-glazed windows;

(H) Insulated exterior doors with a U-value of 0.20 or lower (R-5 or higher);

(I) Programmable thermostats; or

(J) Blower door tests and blower door assisted whole house air sealing or duct sealing performed by a contractor certified by the Department's Residential Energy Tax Credit technician certification program.

(d) If an applicant undertakes envelope measures, the following requirements apply:

(A) Replacement windows must have a U-value of 0.30 or less for residences.

(B) U-values must be 10 percent better (lower) than code requirements for commercial.

(C) Insulation that exceeds code requirements or when not required by code is an eligible measure if substantial savings and economic criteria were met in the OARs are met.

(64) "Research, Development, and Demonstration Facility (RD&D)": A facility that complies with (a) through (f):

(a) A facility that is not standard practice and that is likely to produce or produces products or technologies that are likely to qualify as a facility in Oregon when commercialized. BETC RD&D applicants' total lifetime project costs will be determined for a defined period established at the time of the initial application and will be capped at \$20,000,000 for renewable energy RD&D and high efficiency CHP RD&D and \$10,000,000 for all other RD&D project types. Additionally, eligible RD&D facilities must comply with one or more of the following criteria:

(A) Research facilities that include a test bench research, prototype or pilot scale construction of a theoretically proved or primary researched technology;

(B) Development facilities that include the new manufacture or initiation of the capability to produce or deliver facilities in Oregon, excluding development facilities that increase established manufacturing or production capacity in Oregon;

(C) Demonstration facilities that are likely to resolve questions on how to apply new technology or that inform the public about new or improved technology though pilot or production scale applications of technology;

(D) Innovative travel reduction facilities that reduce vehicle miles traveled. The applicant must conduct pre and post surveys that measure travel reductions and submit the results with the application for final certification. A transportation district, mass transit district, or metropolitan service district within a community of 50,000 or more people may not qualify for more than \$2 million annually in eligible costs for innovative travel reduction programs;

(E) Facilities that improve energy efficiency in a focused geographic area through the replacement of outmoded energy equipment with energy-efficient equipment; or

(F) Facilities in the Director's determination are likely to achieve Oregon Department of Energy goals.

(b) A facility that demonstrates a reasonable potential to result in energy or conservation benefits in Oregon for which the value is likely to exceed the value of the tax credit, based on information filed with the application for preliminary certification.

(c) A qualifying RD&D facility that exclusively supports renewable energy resource use will be eligible for a 50 percent BETC; all other qualifying RD&D facilities will be eligible for a 35 percent tax credit.

(d) Eligible costs for a Research, Development or Demonstration facility may include:

(A) Engineering, design and administrative costs

(B) Costs inherent in a research, development and demonstration facility that may not result directly in saved or produced energy. Such costs may include:

(i) Facility design, monitoring, assessment, evaluation and reporting. This includes but is not limited to: the development of standards, specifications, policies and procedures facilitating technology transfer; instruments, and controls.

(ii) Other equipment needed to monitor, assess or evaluate the facility and the impacts of the facility.

(C) The following costs related to demonstration model(s) may be considered eligible:

(i) Materials for the demonstration model(s).

(ii) The manufacturing, construction, assembly, and/or installation of the demonstration model(s).

(iii) Testing and monitoring the demonstration model(s).

(D) Eligible costs for a Research, Development or Demonstration facility are not subject to OAR 330-090-0110 (20)(f).

(E) Other eligible costs defined by Oregon Administrative Rule.

(e) Ineligible costs for a Research, Development or Demonstration facility may include:

(A) The lease or purchase of land or building(s) unless the applicant can clearly demonstrate to the Director that the cost is necessary and exclusive to the facility.

(B) Other ineligible costs defined by Oregon Administrative Rule.

(f) A Research, Development or Demonstration facility is not eligible to receive a BETC when the facility's activities are a refinement of an existing technology and do not represent a strategic, new or potentially large benefit to Oregon.

ADMINISTRATIVE RULES

(65) “Residential Dwelling”: means a structure or the part of a structure that meets the requirements of the state building codes and is used as a permanent home, residence or sleeping place by one or more persons who maintain a household or by two or more persons who maintain a common household. A BETC may not be claimed for a renewable energy facility located in, adjacent to, or on a one or two family home unless the home is used exclusively as a rental dwelling.

(66) “Residential Energy Tax Credit Qualifying Equipment”: means equipment that qualifies under the standards and rules for the Residential Energy Tax Credit from the Department. The equipment is eligible for the BETC in either of the two following methods:

(a) A facility that consists solely of equipment that is on the qualifying equipment list at the time of the application submittal may apply as outlined in the Oregon Administrative Rules 330-090-0105 using operating schedules, capacity, efficiency and cost information to prove qualification; or

(b) The facility, made up of qualifying equipment may also effectively qualify what would otherwise be an eligible Residential Energy Tax Credit facility through the BETC Program by using the following formula. Residential tax credit amount (from qualifying appliance list) ÷ 0.35 = BETC eligible cost.

(67) “Riders”: Employees, students, clients, customers, or other individuals using transportation facilities or transportation facilities for travel.

(68) “Service Life”: Equipment service life is as established in the 2007 edition of the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE) Heating, Ventilating and Air Conditioning (HVAC) Applications Handbook or as determined by the Director for equipment not rated by ASHRAE. The Department may prorate the eligible project cost based on the remaining service life of the equipment. If the baseline facility has exceeded its service life, only an incremental facility will be considered eligible for a tax credit.

(69) “Simple Payback”: The total eligible cost of a facility divided by the expected yearly energy cost savings, stated in years.

(70) “Standard Practice”: Conventional equipment or material applied in a way that it may be observed as a common or necessary feature of new and existing businesses.

(a) In new commercial construction it may include but is not limited to: electronic fluorescent ballasts; T-8 fluorescent lamps, compact fluorescent lamps that are not hard wired; parabolic louvered fluorescent fixtures; R-19 insulated walls in wood frame construction; variable air volume space conditioning systems; the portion of energy management controls that monitor for life safety, maintenance, or control process for purposes other than saving energy.

(b) In other energy facilities it may include but not be limited to propane powered lift trucks, electric golf carts or curbside recycling bins.

(c) Any other equipment, material, or applications of equipment or material as determined by the Director.

(71) “Substantial Energy Savings”: Means that the Department has determined that:

(a) A facility, other than a lighting retrofit or sustainable building facility and excluding Research Development & Demonstration, transportation, recycling market development, recycling facility, will save at least 10 percent of the energy used in a given facility;

(b) A lighting retrofit facility will reduce the affected lighting system energy use by at least 25 percent;

(c) The energy facility is a sustainable building practices facility as defined under “Sustainable Building Practices Facility” of this rule; or

(d) The facility measures are measures that would qualify under or are measures recommended in an energy audit completed under ORS 469.631 to 469.645, 469.649 to 469.659, and 469.673 to 469.683.

(72) “Sustainable Building Practices Facility”: Means a building facility as defined under “Commercial New Construction” of this rule and that:

(a) Is rated and certified LEED-NC™, LEED-CS™, or LEED-CI™ under the Leadership in Energy & Environmental Design (LEED™) Green Building Rating System managed by the U.S. Green Building Council or is rated and certified by a program approved by the Department that provides comparable performance on environmental measures and equivalent or better energy performance as documented by whole building energy modeling, is commissioned and is verified by an independent third party. In addition, a facility must:

(A) In achieving its LEED™ rating, the facility must earn at least two points under Energy & Atmosphere Credit 1 (Optimize Energy Performance).

(B) In achieving its LEED™ rating, the facility must earn at least one point under Energy & Atmosphere Credit 3 (Enhanced Commissioning).

(b) Each LEED-NC™ or LEED-CS™ facility must calculate and report the building’s annual solar income in Btu (not the site income). The calculation must account for the contribution from each face (orientation with surfaces exposed to direct sunlight) and must take into account any existing or reasonably expected shading (by other buildings or vegetation, e.g.) of these surfaces. Calculations may ignore such things as rooftop or wall-mounted mechanical facility components.

(c) Facilities using on-site renewable energy production technologies such as photovoltaic or wind technologies may treat these elements as a separate renewable energy resource facility for tax credit purposes, provided that any points earned for such features in the LEED™ rating are not required to achieve the rating on which the Sustainable Building facility credit is to be based. In cases where subtracting such points would result in a lowering of the LEED™ rating (e.g. from Gold to Silver), the tax credit will be awarded on the basis of the lower rating. The rating point total, net of renewable generation credits, can never be less than that required for a Silver rating.

(73) “Total Cost”: The eligible cost of a facility not limited by ORS 469.200

(74) “Transportation District”: A transportation district included in ORS 184.675(7).

(75) “Transportation Facility”: A facility that reduces energy used for traveling, including but not limited to traveling to and from work or school, work-related travel or travel to obtain medical or other services. A transportation facility must meet one or more of the following criteria:

(a) Telework defined as working from home instead of commuting a longer distance to the principal place of employment. It does not include home-based businesses or extension of the workday. Telework equipment must be installed to reduce employee vehicle miles traveled a minimum of 45 working days per 12 consecutive months. Eligible costs include purchase and installation of new equipment at the telework site. Computer, facsimile device, modem, phone, printer, software, copier, and other equipment necessary to facilitate telework as determined by the Director are eligible costs. Eligible cost for telework facilities does not include replacement cost for equipment at the principal place of business when that equipment is relocated to the telework site; fees for maintenance and operation of any equipment; office furniture and office supplies or training costs.

(b) Telework for the purpose of reducing business vehicle miles traveled must reduce employee business related travel by 25 percent.

(c) Commuter pool vehicles transporting three or more riders dedicated to reducing vehicle miles traveled. The vehicle must be used a minimum of 150 working days per 12 consecutive months. Eligible cost includes the purchase or cost of the vehicle(s). If vehicles with special equipment are being purchased, a copy of the sales quotation showing the additional cost for the equipment must be submitted. The vehicle must remain in service for five years. Where vehicles are used for business travel other than transporting riders, eligible cost shall be reduced based on the estimated percent of miles dedicated to reducing travel. Transportation districts, mass transit districts, or metropolitan service districts within communities of 50,000 or more people are not eligible if they receive other federal or state funding for the purposes of offsetting the costs.

(d) Transit passes used by an applicant’s riders or in fareless zones to reduce vehicle miles traveled. Eligible cost includes the cost of the transit pass or the cost specified in the contract for providing the fareless zone. Transportation districts, mass transit districts, or metropolitan service districts within communities of 50,000 or more people are not eligible. Eligible cost also includes the cost of equipment used as a shelter for riders waiting for transit. To be eligible, the shelter must be part of a transit pass facility. Applicants must subtract any employee contributions for transit passes from eligible costs.

(e) Bicycle used by an applicant’s riders to reduce vehicle miles traveled a minimum of 45 work days per 12 consecutive months. Maximum eligible costs of \$800 include purchase of bicycles and equipment used to store bicycles. Accessory items, such as locks, panniers, rain gear helmets, etc. are not eligible, except for bicycle lights.

(f) Fees paid by an applicant to a Transportation Management Association (TMA) or nonprofit organization that provides transportation services for the purpose of reducing vehicle miles traveled by a passenger. The fee must be part of a transportation facility and cannot exceed the cost of the transportation facility. To be eligible, the applicant must provide verification of an agreement with the transportation provider for specific services that reduce vehicle miles traveled.

ADMINISTRATIVE RULES

(g) The cost of an incentive program paid by the applicant that provides a financial incentive to a passenger for reducing vehicle miles a minimum of 45 work days per 12 consecutive months. To be eligible the applicant must provide a written incentive program plan for Energy Department approval.

(h) Car sharing is defined as a program in which drivers pay to become members in order to have joint access to a fleet of cars. Eligible cost for car sharing includes the cost of operating a car sharing program, including the fair market value of parking spaces used to store the cars available for the car sharing program, but does not include the cost of the fleet of cars. It does not include operations conducted by a car rental agency.

(i) Transportation Service is defined as a facility that provides transportation services to reduce vehicle miles driven by a single occupant vehicle. The eligible cost for a transportation service facility is the cost for providing the transportation service, but does not include the cost of the vehicle. The transportation service facility must provide service for a minimum of 150 days per 12 consecutive months. Transportation districts, mass transit districts, and metropolitan service districts in communities with 50,000 or more people are not eligible if they receive other federal or state funding for the purposes of offsetting the costs. Applicants must subtract any fare-box contributions from eligible costs.

(j) Individualized Travel Behavior Change is defined as a facility that is a program approved by the Oregon Department of Energy that reduces vehicle miles traveled through one-on-one contact with the participants in a specific geographical area or in a targeted group. Pre and post-facility surveys must be conducted. The applicant must submit a report with the results of these surveys to measure travel reduction. Eligible costs include capital expenditures, administrative and communication costs. Facilities are subject to the VMR cost-effectiveness formula.

(k) Vanpool Program is defined as a facility that is an employer-sponsored or organization sponsored program that provides transportation to registered members to commute on a regular basis. Eligible costs include vehicle operation costs, but do not include the cost of the vehicle. The applicant must conduct pre and post-facility surveys and submit a report with the results of these surveys to measure reduction in vehicle miles. The program must provide service for a minimum of 150 work days per 12 consecutive months. Facilities are subject to the VMR cost-effectiveness formula.

(L) Transportation Services for K-12 Students is defined as a facility that is a program that provides transportation services for K-12 students during the school year. All entities, including transportation districts, mass transit districts, or metropolitan service districts within communities of greater than 50,000 people, are eligible.

(A) The tax credit amount shall be based on the cost per student and a reasonable estimate of the actual number of students served.

(B) Eligible agencies shall develop a monthly cost per student service, based on but not limited to lost revenues, added costs, and VMR cost-effectiveness to be approved by the Department.

(C) The applicant must conduct pre and post-facility surveys and submit a report with the results of these surveys to measure reduction in vehicle miles.

(m) The purchase of efficient truck technology for trucks and related truck trailers, as defined in ORS 801.580, for commercial motor vehicles, as defined in ORS 801.208, that are registered under ORS 803.420, or for commercial motor vehicles that are proportionally registered under ORS 826.009 or 826.011. Eligible efficient truck technology, such as an auxiliary power unit (APU), must be recognized as a verified technology by the U.S. Environmental Protection Agency (USEPA) SmartWay Transport Partnership to potentially qualify.

(A) Eligible projects must meet the following requirements:

(i) Retrofit a truck or add to a newly manufactured truck one or more USEPA SmartWay efficiency measures. With a newly manufactured truck, a new trailer with one or more SmartWay efficiency measures may also be included with this project. The new trailer and newly manufactured truck must independently qualify for tax credits; and

(ii) Eligible vehicles must demonstrate Oregon registration with a current Cab Card as part of the Application for Preliminary Certification by:

(1) Commercial (Oregon-only registration operated solely in Oregon) with a red Oregon-only commercial "YC" plate from the Oregon Motor Carrier Transportation Division (MCTD); or

(2) International Registration Plan (IRP), also referred to as Apportioned registration, with a red Apportioned "YA" plate from the Oregon MCTD. For IRP vehicles, eligible facilities must meet the following requirements as part of the application for preliminary certification:

(a) Provide the two most recent calendar year IRP billing notices that document the percentage of a vehicle's annual mileage that was driven in Oregon.

(b) For proposed eligible facilities that have no recent calendar year IRP billing notice documentation, provide a signed project owner statement indicating the anticipated percentage of miles that will be driven in Oregon over the next two years.

(B) Applicants that can document that 15 to 50 percent of the annual mileage of a vehicle that meets the requirement in (A) of this subsection occurs in Oregon are eligible to receive a tax credit equal to 35 percent of 71.5 percent of the facility's otherwise eligible certified costs.

(C) Applicants that can document that more than 50 percent of the annual mileage of a vehicle that meets the requirement in (A) of this subsection occurs in Oregon are eligible to receive a tax credit of 35 percent of the facility's eligible certified costs.

(D) Proof that the applicant has a sufficient nexus with the state of Oregon. This includes a dedicated location in Oregon for maintenance, dispatch, and monitoring of facilities.

(E) The facility's simple payback period must be between more than one and fifteen years.

(76) "Transportation Provider": is defined in ORS 469.185(16).

(77) "Transportation Services Contract": is defined in ORS 469.185(17).

(78) "Utility": Gas or electric utilities as defined below.

(a) An Investor Owned Utility (IOU) as defined in ORS 757.005, or its subsidiaries and affiliated interests as defined in ORS 757.015; or

(b) A Publicly Owned Utility (POU) and people's utility district as defined in ORS 261.010, or a municipal or cooperative utility.

(79) "Vanpool Program": means a program that provides opportunities for a designated group of riders to share the usage of a vehicle to commute between different communities/neighborhoods on a regular basis.

(80) "Vehicle Miles Reduced (VMR)": Reduction in miles achieved by a facility when compared to single occupant vehicles.

(81) "Waste-to-Energy Facility": means an energy resource facility that recovers materials and energy from a waste stream under conditions listed below. The BETC program intends to encourage the responsible use of all resources including waste streams. Generally, recovery of a material will be preferred in comparison to recovery of energy. In order to respect the embedded energy of a material stream the following criteria have been established to define facilities that do not meet the definition of a recycling facility, but provide environmentally responsible recovery from a waste stream. Therefore, equipment used to recover materials and energy from a waste stream is an eligible facility when all of the following conditions are met:

(a) The value of the marketable materials and energy resources recovered from the waste stream, less the value of the external energy resources consumed in the recovery process is greater than the magnitude of the costs incurred or revenues derived in disposal of the waste stream in standard industry practice.

(b) Recovered material/end product, exclusive of fuel or lubricant, exceeds 50 percent or higher on a dry mass basis.

(c) The facility does not increase the release of toxins, fossil-derived greenhouse gas emissions, or other emissions.

(d) The facility does not divert materials from a higher value use.

(e) The facility has an acceptable energy balance as determined by the Director.

(82) "Wind Facility": means a facility that converts wind power into another energy resource.

(83) "Year": Calendar year.

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

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

Stat. Auth.: ORS 469.040 & 469.165

Stats. Implemented: ORS 469.185 - 469.225

Hist.: DOE 7-1985, f. 12-31-85, ef. 1-1-86; DOE 3-1986, f. & ef. 8-29-86; DOE 2-1988, f. & cert. ef. 3-17-88; DOE 3-1989, f. 12-28-89, cert. ef. 1-1-90; DOE 3-1990, f. & cert. ef. 9-20-90; DOE 4-1991, f. & cert. ef. 12-31-91; DOE 2-1992(Temp), f. 12-14-92, cert. ef. 12-15-92; DOE 2-1993, f. & cert. ef. 1-28-93; DOE 5-1993, f. & cert. ef. 12-14-93; DOE 2-1995, f. 12-12-95, cert. ef. 12-15-95; DOE 3-1996, f. & cert. ef. 11-27-96; DOE 2-1997, f. 12-15-97, cert. ef. 1-1-98; DOE 4-1998, f. 12-14-98, cert. ef. 12-15-98; DOE 2-1999, f. 12-22-99, cert. ef. 1-1-00; DOE 1-2001, f. 10-5-01, cert. ef. 10-8-01; DOE 2-2004, f. & cert. ef. 1-21-04; DOE 3-2004, f. & cert. ef. 7-1-04; DOE 1-2005, f. 12-30-05, cert. ef. 1-1-06; DOE 2-2006, f. 9-29-06, cert. ef. 10-1-06; DOE 3-2006, f. 11-27-06, cert. ef. 12-1-06; DOE 3-2008, f. & cert. ef. 3-21-08; DOE 4-2008, f. 6-19-08, cert. ef. 6-20-08; DOE 2-2009(Temp), f. & cert. ef. 11-3-09 thru 5-1-10; DOE 3-2010, f. & cert. ef. 4-30-10; DOE 4-2010(Temp), f. 5-21-10, cert. ef. 5-27-10 thru 11-2-10; Administrative correction 11-23-10; DOE 14-2010, f. & cert. ef. 11-23-10; DOE 3-2011(Temp), f. 4-15-11, cert. ef. 4-18-11 thru 10-14-11; DOE 6-2011, f. & cert. ef. 9-29-11

ADMINISTRATIVE RULES

330-090-0130

How the Oregon Department of Energy Processes a BETC Application

(1) General:

(a) The Director reviews a BETC application in two stages. The first stage is called preliminary certification. The second stage is called final certification. The final certification consists of the determination of eligible costs for purposes of the tax credit and the issuance of the BETC final certificate.

(b) To begin the review process for each stage, or to change the facility during the review process, an applicant must submit an application on the form approved by the Department. Applications for facilities that use or produce renewable energy resources, or are listed as renewable energy resources as defined under ORS 469.185, must be submitted under the tiered priority system described in OAR 330-090-0350 and include any additional requirements under this section.

(c) A facility owner planning to use a Pass-through Partner will select the pass-through option on the Application for Preliminary Certification.

(d) The Director may impose conditions in approving a preliminary or final certification that the facility must operate in accordance with the representations made by the applicant, and is in accordance with the provisions of ORS 469.185 to 469.225 and any applicable rules or standards adopted by the Director.

(e) If the Department determines that the applicant qualifies for a BETC, the Department may issue a preliminary certification. The preliminary certification may contain specific criteria and conditions for the facility to meet in order to obtain a final certification based on the information provided in the application for the BETC and type of facility that is described in the application. In addition, the Department may require the applicant to enter a performance agreement or other similar agreement as a condition of approval.

(2) **Pre-Approval of Preliminary Certifications:** The Director has pre-approved preliminary certifications for the following facilities that the Department has reviewed and determined to be otherwise qualified under these rules:

(a) Alternate energy devices qualifying for a tax credit under the Residential Energy Tax Credit Program, OAR 330-070-0010 through 330-070-0097, for which the Department has determined qualified costs, energy savings, and eligible tax credits. A facility owner may file for a preliminary certification to present documentation supporting different determinations for review and approval.

(b) Pre-qualified hybrid-electric vehicles.

(3) **Preliminary Certification Review Process:** Except as provided in OAR 330-090-0130(1) and (2), a completed application for preliminary certification shall be received by the Department on or prior to the erection, construction, installation or acquisition of a facility.

(a) Within 60 days after an application for preliminary certification is filed, the Director will decide if it is complete. An application is incomplete if it does not include information needed to demonstrate substantive compliance with the provisions of ORS 469.185 to 469.225 and any applicable rules or standards adopted by the Director. The Director will provide the applicant a written notice relating to the incomplete application and the information needed to make the application complete. If no action is taken within 30 days by the applicant, the application will expire.

(b) Within 120 days after a completed application is submitted the Director will notify the applicant of the status of the application, except as otherwise provided in subsection (5), if the applicant has not been notified otherwise the application has been denied.

(A) If it complies, the Director will approve the preliminary certification. The preliminary certification will state the amount of the costs that are eligible (eligible costs) for a BETC up to the maximum amount of certifiable costs under ORS 496.200. It may differ from the amount requested for reasons explained in the preliminary certification and based on these rules. Also, it will state any conditions that must be met before development, final certification, or some other event can occur. The Director will explain why each condition is needed to comply with these rules.

(B) If it does not comply, the Director will deny the application. No later than 60 days after the Director issues an order denying the application, the applicant may request reconsideration as provided in OAR 330-090-0133(4).

(C) An applicant can re-submit an application that is denied if features of the facility change, the applicant provides data the absence of which resulted in the denial, or other changes warrant. An application for preliminary certification can be amended or withdrawn by the applicant before the Director issues a preliminary certification. If an application is amended, the

time within which review occurs starts over. An applicant may request reconsideration of an application denial under this rule.

(4) **Renewable Energy Resource Equipment Manufacturing Facility:** If under the provisions of ORS 469.200(2), the Director intends to certify less than the total or no amount of eligible costs of a renewable energy resource equipment manufacturing facility, the Director will notify the applicant in writing of that intent before approving the preliminary certification. The applicant will have 30 calendar days from the date notification was issued to inform the Director in writing whether it wishes to withdraw the application or suspend further consideration of the application until a future date specified or submit additional information in support of the application. If the Director has not received notification or additional information in support of the application within that period of time, the Director may certify less than the total or no amount of eligible costs of the renewable energy resource equipment manufacturing facility. Once eligible costs are certified and a preliminary certification is issued under this section, the certified eligible costs may be revised if conditions under ORS 469.200(2) change or upon notification from the applicant or other information indicating that the scope of the project or the energy facility has changed in such a way to impact the preliminary certificate.

(5) Preliminary Certification After Start of a Facility:

(a) If a facility has been started an applicant may file a written request with the Director for approval of a preliminary certification after facility start. Such a request must contain information in accord with OAR 330-090-0120 and OAR 330-090-0130(5)(b).

(b) The Director may approve preliminary certification after facility start if:

(A) The request is in accord with OAR 330-090-0120;

(B) Special circumstances make application for preliminary certification before facility start up impracticable. Such circumstances include process delays beyond the applicant's control, facility funding and energy supplies or markets; and

(C) The Director receives the waiver request within 90 days of facility start date. Under extraordinary circumstances the Director may extend the waiver period provided the facility serves the aims of the program.

(D) Failing to submit an application for preliminary certification before signing contracts for the facility does not constitute special circumstances supporting a waiver.

(6) **How Preliminary Certification Can be Revoked:** The Director may alter, condition, suspend, deny or revoke a preliminary certification for a reason listed in this section

(a) A facility, other than a renewable energy resource equipment manufacturing facility, is not completed and a complete final certification application received before 1,095 days (3 years) after the preliminary certification was issued or a further 730 days (2 years) if an extension has been approved. A renewable energy equipment manufacturing facility is not completed and a complete final certification application received before 1,825 days (5 years) after the preliminary certification was issued.

(b) Permits, waivers, and licenses required by OAR 330-090-0120 are not filed with the Department before facility development starts.

(c) The facility undergoes changes without the changes being approved under OAR 330-090-0130(7).

(d) Any other reason allowed by the amendments to ORS 469.210 (3) in Oregon Laws, 2010, Chapter 76, Section 11.

(7) **Amendments to Preliminary Certifications:** To change a facility that has a preliminary certification and amend the preliminary certification, the applicant must file a written request with the Director prior to the project completion date.

(a) The request must describe the change to the facility and reasons for the change. It may include changes in cost, tax credit amount, facility design, and materials. The request may also include changes in the amount of energy saved or produced, jobs created, project financing, the applicant, the location, or other matters that demonstrate substantial change in the project's scope. The request must be accompanied by the appropriate fee.

(b) If a request does not include information needed to demonstrate substantive compliance with the provisions of ORS 469.185 to 469.225 and any applicable rules or standards adopted by the Director, the department will provide the applicant a written notice relating to the information needed to make the request complete. If the applicant does not provide all of the requested information to the Department within 30 days, the request will expire and no changes will be made to the preliminary certification.

(c) Preliminary certifications issued for facilities using or producing renewable energy resources, or facilities listed as renewable energy resources as defined under ORS 469.185, shall not be eligible for consideration of amendments other than those listed below in (A) through (C). An

ADMINISTRATIVE RULES

eligible amendment cannot change the tier within which the application was reviewed.

(A) Equipment capacity within 10 percent of the approved specification;

(B) Amendments to the facility that do not result in an increased potential tax credit amount, but increase output or otherwise improve the facility; or

(C) Changes in ownership.

(d) Within 60 days after the applicant files the change request, the Director will decide if the facility as modified complies with these rules.

(A) If it complies, the Director may issue an amended preliminary certification which may contain new or amended criteria, conditions and requirements.

(B) If it does not comply, the Director will issue an order that denies the change and provide written reasons for the denial.

(e) The amendments to ORS 315.354, 315.356 and 469.220 by Oregon Laws, 2011, Chapter 693 Section 1 do not provide a basis for applicants to obtain amendments to certifications issued under ORS 469.210 or 469.215.

(8) **If the facility does not proceed:** The applicant must inform the Director in writing if it does not proceed with the facility or proceeds without the tax credit. In that case, the Director will cancel the preliminary certification.

(9) Pass-through Option Process and Application:

(a) In addition to the application for preliminary certification, an applicant who plans to transfer the tax credit certificate to a Pass-through Partner must complete and file the Pass-through Option Application form supplied by the Department.

(b) If the Pass-through Partner is not yet secured at the time of the Application for Preliminary Certification, the facility owner will complete that section of the application by inserting "Partner to be identified" and will submit an updated application when the Pass-through Partner is secured.

(c) The Department will not transfer and issue a final certificate to a pass-through partner until the facility owner provides evidence to the Department that the owner has received the pass-through payment in full.

(10) **Extension of Preliminary Certification:** Applicants, other than for renewable resource manufacturing facilities, who have not previously extended their certification and whose preliminary certification is anticipated to expire prior to completion of the facility may apply for an extension of an additional two years from the current expiry of the preliminary certification.

(a) Applicants must submit a written request to the department, accompanied by the appropriate fee, describing the progress made in developing the facility since the department issued the preliminary certification and verifying that the project will be developed in accordance with the initial approval, within two years from the current end of the preliminary certification and prior to the sunset date of the program. The request shall include the new proposed facility completion date. Requests may be made no earlier than 6 months prior to the expiration of the existing preliminary certification.

(b) If an applicant wishes to make changes other than to the completion date, the applicant must submit a request for amendment as described in ORS 330-090-0130(7).

(c) If a request or original application does not include information needed to demonstrate substantive compliance with the provisions of ORS 469.185 to 469.225 and any applicable rules or standards adopted by the Director the department will provide the applicant a written notice specifying the information needed to make the request complete. If the applicant does not provide all of the requested information to the Department within 30 days, the request will expire and no extension will be made to the preliminary certification expiration date.

(d) The department will review the previously approved application against current statute and rules. Within 60 days after the department receives the extension request, the Director will decide if the request complies with these rules.

(A) If it complies, the Director may issue an amended preliminary certification which may contain new or amended criteria, conditions and requirements.

(B) If it does not comply, the Director will issue an order that denies the extension and provide written reasons for the denial.

(11) **Final Certification Review Process and Application:** An application for final certification must be filed after the facility is completed as defined in these rules.

(a) An application for final certification must include:

(A) Evidence to demonstrate that:

(i) The facility complies with all conditions and criteria of the preliminary certification and with the provisions of ORS Chapter 469 and the rules adopted thereunder;

(ii) The facility remains in compliance with local, state, and federal laws, including local land use laws and with any conditions imposed by the local government as a condition of land use approval; and

(iii) The facility will be maintained and operated for at least five years after the facility is placed into operation, or a lesser period if approved and specified on the preliminary certification.

(B) An account of the facility costs, including prorated costs.

(i) If facility costs are less than \$50,000, the account may be records of facility costs paid or incurred based on canceled checks, invoices, receipts, a binding contract or agreement, or other documentation as may be required under these rules unless required by the Director to supply verification from a certified public accountant, who is not otherwise permanently employed by the facility owner or pass-through partner. If an applicant has an outstanding binding contract or loan agreement, the account shall demonstrate that payments on contract or loan are not in default; or

(ii) If the facility costs are \$50,000 or more, a certified public accountant, who is not otherwise permanently employed by the facility owner or pass-through partner, must complete a written review and summary of costs paid or incurred based on canceled checks, invoices, or receipts, a binding contract or agreement, or other documentation as may be required under these rules. If an applicant has an outstanding binding contract or loan agreement, the certified public accountant shall include sufficient information to demonstrate that accounts directly related to the facility are not in default.

(iii) The application must include information regarding any federal grants applied for or received in connection with the facility including, without limitation, the grant(s) applied for, the date of each application, the amount of the requested grant(s), when applicant expects to receive notice of grant approval or denial and any other information that may be required by the director. Final total costs will be reduced dollar for dollar by any federal grant amount received by a taxpayer in connection with the facility.

(C) For a Sustainable Building Practices Facility, a copy of the facility U.S. Green Building Council (USGBC) Rating Certificate, USGBC Final LEED™ Review, Energy Performance Documentation, Narrative for Energy and Atmosphere Credit 1, Annual Solar Income as described in the rules and method of calculation will be accepted in lieu of facility cost receipts.

(D) Proof the facility is completed and operating.

(E) If the facility is leased or rented, a copy of the lease or rental agreement.

(F) For Alternative Fuel Vehicle facilities, proof of conversion must include a copy of vehicle emission test performance results from DEQ or a conversion shop.

(G) Documentation that the applicant and facility owner or owners are current on their property taxes where the facility is located if appropriate; and

(H) Other data the Director finds are needed to assure a facility complies with these rules and conditions imposed in the preliminary certificate

(I) The names of the person or persons who are to be issued the final certificate. If the final certificate is to be issued to a pass-through partner, the Department will not issue the certificate until the appropriate criteria, conditions and requirements of the preliminary and final certification and these rules are satisfied.

Stat. Auth.: ORS 469.040 & 469.165

Stats. Implemented: ORS 469.185 - 469.225

Hist.: DOE 7-1985, f. 12-31-85, ef. 1-1-86; DOE 3-1989, f. 12-28-89, cert. ef. 1-1-90; DOE 4-1991, f. & cert. ef. 12-31-91; DOE 2-1992(Temp), f. 12-14-92, cert. ef. 12-15-92; DOE 2-1993, f. & cert. ef. 1-28-93; DOE 5-1993, f. & cert. ef. 12-14-93; DOE 2-1995, f. 12-12-95, cert. ef. 12-15-95; DOE 3-1996, f. & cert. ef. 11-27-96; DOE 2-1997, f. 12-15-97, cert. ef. 1-1-98; DOE 4-1998, f. 12-14-98, cert. ef. 12-15-98; DOE 2-1999, f. 12-22-99, cert. ef. 1-1-00; DOE 1-2001, f. 10-5-01, cert. ef. 10-8-01; DOE 2-2004, f. & cert. ef. 1-21-04; DOE 3-2004, f. & cert. ef. 7-1-04; DOE 1-2005, f. 12-30-05, cert. ef. 1-1-06; DOE 2-2006, f. 9-29-06, cert. ef. 10-1-06; DOE 3-2007, f. 11-30-07, cert. ef. 12-1-07; DOE 3-2008, f. & cert. ef. 3-21-08; DOE 4-2008, f. 6-19-08, cert. ef. 6-20-08; DOE 2-2009(Temp), f. & cert. ef. 11-3-09 thru 5-1-10; DOE 3-2010, f. & cert. ef. 4-30-10; DOE 4-2010(Temp), f. 5-21-10, cert. ef. 5-27-10 thru 11-2-10; Administrative correction 11-23-10; DOE 14-2010, f. & cert. ef. 11-23-10; DOE 3-2011(Temp), f. 4-15-11, cert. ef. 4-18-11 thru 10-14-11; DOE 6-2011, f. & cert. ef. 9-29-11

330-090-0133

How ODOE Processes a Final Application

(1) **Processing the Final Certification:** To qualify for a Final Certification, the facility must be completed as described in the Application for Preliminary Certification and the Preliminary Certificate. Any changes to the Preliminary Certificate and/or Application for Preliminary

ADMINISTRATIVE RULES

Certification must complete the amendment process outlined in these rules prior to the project completion date. Failure to obtain approval through the amendment process may result in denial of the Final Certification Application.

(a) Applications shall be considered received for the purposes of ORS 469.220 on the date marked received by the department, unless the application is incomplete. If the application for final certification is not complete, the date marked received by the department on the complete application containing all of the required information shall be considered the received date.

(A) When a facility owner chooses to transfer the tax credit under ORS 469.206, the Department may hold the application for final certification until pass-through partner(s) information is received by the Department. Except for a facility using or producing renewable energy resources with a certified cost that exceeds \$10 million, any application in which the facility owner has indicated a choice to transfer the tax credit under ORS 469.206 is not a "completed application" until the Department receives both the completed final certification application form from the facility owner and the completed pass-through partner agreement form for the tax credit, or portion of the tax credit, being transferred to that pass-through partner. The receipt of the completed application by the Department begins the certification period, as provided in ORS 469.220.

(B) As provided in Oregon Laws, 2011, Chapter 693, Section(2)(c), a facility using or producing renewable energy resources with a certified cost that exceeds \$10 million and that receives final certification under ORS 469.215 after January 1, 2010, a final certification application shall be considered complete without the identification of a transferee for purposes of ORS 469.206 or 469.208.

(C) If more than one pass-through partner is being transferred the credit, facility owners may have up to 18 months from the date the first pass-through partner agreement form is received by the Department to begin each certification period of the tax credit. For pass-through partner(s) agreement forms received by the Department after the 18-month period, the certification period begins 18 months from the date the first pass-through partner agreement form was received by the Department.

(D) For purposes of administering the sunset of the program, the Department may issue a Final Certificate to a facility owner who previously indicated a choice to transfer a tax credit to a pass-through partner under ORS 469.206, if the Department has not received a completed application that includes the signed pass-through partner agreement form at least sixty days prior to the sunset date for the BETC program provided under ORS 315.357. The Final Certificate will be issued to a facility owner if the only piece causing the application for final certification to be incomplete is the pass-through partner(s) agreement form.

(b) Within 30 days after a final certification application is received, the Director will determine whether the application is complete. An application is incomplete if it does not include information needed to demonstrate substantive compliance with the provisions of ORS 469.185 to 469.225 and any applicable rules or standards and preliminary certification conditions adopted by the Director. If it is not complete, the applicant will be provided a written explanation describing deficiencies. If it is complete, the Director will process the application. Within 60 days after a completed final certification application is received the director will either approve or deny the final certification. Prior to the program sunset, the Director will process a complete final certification application received by April 30, 2012. The Director does not guarantee that a complete final certification application received after April 30, 2012 will be processed prior to the program sunset.

(c) If the Director approves the application, the Director will issue final certification, which will state the amount of certified costs and the amount of the tax credit approved. The final certification may contain additional criteria and conditions that must be met in order to retain tax credit benefits or the tax credit certificate may be subject to revocation. If the facility fails to meet any of the criteria, conditions and requirements established in the final certification, the facility owner must notify the Department within 30 days.

(d) For efficient truck technology facilities the department may, upon the request of the applicant, issue no more than two final certificates for each preliminary certification, up to the amount of the preliminary certification.

(2) Basis for Denying Tax Credit Benefits:

(a) If the Director does not approve the application, the Director will provide written notice of the action, including a statement of the findings and reasons for the denial by regular and certified mail.

(b) A final certification application that is denied can be submitted again. A final certification application can be amended or withdrawn by the applicant. If an application is submitted again or amended, the time within which final certification review occurs starts over.

(c) If the Director does not issue a final certification within 60 days after an application is filed, the application is denied pursuant to ORS 469.215(4).

(d) The Director may deny a final certificate if:

(A) The applicant does not provide information about the facility in a reasonable time after the Director requests it;

(B) The facility is significantly different than the proposed facility for which the preliminary certification was issued;

(C) The applicant misrepresents or fails to construct or operate the facility;

(D) The applicant fails to demonstrate that the facility described in the application is separate and distinct from previous or current applications reviewed by the Department;

(E) The facility does not meet all of the conditions and requirements contained in the preliminary certificate; or

(F) The applicant is unable to demonstrate that the facility complies with all applicable provisions of ORS Chapter 469 and the rules adopted thereunder.

(3) Basis for Revoking Tax Credit Benefits:

(a) The Director may revoke certificates as provided in ORS 469.225 and ORS 315.354 (5). For the purposes of this section, "fraud or misrepresentation" means any misrepresentation made by an applicant for a preliminary or final certification, including but not limited to, misrepresentations as to the applicant's financial viability, facility construction and operation, or any other information provided as part of an application for a preliminary or final certification.

(b) After the Director issues a final certificate, an applicant must notify the director in writing of any of the following conditions:

(A) The facility has been moved;

(B) Title to the facility has been conveyed;

(C) The facility is subject to or part of a bankruptcy proceeding;

(D) The facility is not operating; or

(E) The term of a leased facility has ended.

(c) Pursuant to ORS 469.225, upon receiving information that a BETC certification was obtained by fraud or misrepresentation, or that the facility has not been constructed or operated in compliance with the requirements in the certificate, the Director shall revoke the certificate for the facility.

(d) A revocation of the final certification or portion of a certification due to fraud or misrepresentation results in the loss of all prior and future tax credits in connection with that facility. If all or a part of the tax credit certificate has been transferred to a Pass-through partner under ORS 469.206, the certificate is not considered revoked as to the Pass-through partner, but the facility owner is liable for the amount of tax credits claimed or that could be claimed.

(e) For a facility other than a renewable energy resource equipment manufacturing facility, the revocation of a certificate due to failure to construct or operate the facility in compliance with the certificate results in the loss of any tax credits not yet claimed by the facility owner. If all or a part of the tax credit certificate has been transferred to a Pass-through partner under ORS 469.206, the certificate is not considered revoked as to the Pass-through partner, but the facility owner is liable for the amount of tax credits claimed or that could be claimed.

(f) For a renewable energy resource equipment manufacturing facility, revocation of the certificate due to misrepresentation, fraud or failure to construct or operate the facility in compliance with the certificate results in the loss of all prior and future tax credits. If all or a part of the tax credit certificate has been transferred to a Pass-through partner under ORS 469.206, the certificate is not considered revoked as to the Pass-through partner, but the facility owner is liable for the amount of tax credits claimed or that could be claimed.

(4) Sale or Disposition of the Facility after Final Certification:

(a) Pursuant to ORS 315.354(5), upon receiving notice that the facility has been sold or otherwise transferred, the Director will revoke the final certificate, as of the date of the disposition of the facility, unless the BETC for the facility has already been transferred under ORS 468.206.

(b) The new owner or new or renewed lessee of a facility may apply for a final certificate. The request must comply with OAR 330-090-0130(10) and include information to allow the Director to determine the amount of tax credit not claimed by the former owner or former lessee. If the facility continues to comply with the requirements set out in these rules

ADMINISTRATIVE RULES

and any applicable conditions imposed by the Director, the Director will issue a new final certification consistent with the provisions of ORS 315.354(5).

(5) **Request for Reconsideration:** No later than 60 days after the Director issues an order on a preliminary certification, amendment to a preliminary certification, final certification, or canceling or revoking a final certificate under these rules, the applicant or certificate holder may request reconsideration in writing.

(6) **Inspections:** After an application is filed under ORS 469.205 or ORS 469.215 or a tax credit is claimed under these rules, the Department may inspect the facility. The Department will schedule the inspection during normal working hours, following reasonable notice to the facility operator.

Stat. Auth.: ORS 469.040 & 469.165
Stats. Implemented: ORS 469.185 - 469.225
Hist.: DOE 2-2009(Temp), f. & cert. ef. 11-3-09 thru 5-1-10; DOE 3-2010, f. & cert. ef. 4-30-10; DOE 4-2010(Temp), f. 5-21-10, cert. ef. 5-27-10 thru 11-2-10; Administrative correction 11-23-10; DOE 14-2010, f. & cert. ef. 11-23-10; DOE 3-2011(Temp), f. 4-15-11, cert. ef. 4-18-11 thru 10-14-11; DOE 6-2011, f. & cert. ef. 9-29-11

330-090-0140

Pass-through Option Facilities

(1) A pass-through Partner may purchase a BETC certificate from an applicant with a facility that is otherwise eligible for the tax credit in return for a cash lump-sum pass through payment equivalent to the net present value of the transferable tax credit. For the purposes of these rules, the net present value of the credit for purposes of the pass through payment is calculated based on the formulas below:

(a) For original preliminary certifications issued on or after January 1, 2010:

(A) **For a five year tax credit** the net present value is determined by taking the total tax credit amount divided by 1.3579.

Tax Credit/1.3579

(B) **For a one year tax credit** the net present value is determined by taking the tax credit amount divided by 1.0309.

Tax Credit/1.0309

(b) For original preliminary certifications issued on or before December 31, 2009:

(A) 50 percent BETC more than \$20,000 in eligible costs — 33.5 percent pass-through rate.

(B) 50 percent BETC \$20,000 or less in eligible costs — 43.5 percent pass-through rate.

(C) 35 percent BETC more than \$20,000 in eligible costs — 25.5 percent pass-through rate.

(D) 35 percent BETC \$20,000 or less in eligible costs — 30.5 percent pass-through rate.

(E) Homebuilder Installed Renewable Energy Facility or High Performance Home tax credits — 87 percent of tax credit amount.

(c) If an applicant elects to use the pass through option, the net present value of the credit (the pass through payment) for a facility is determined by the date the department issues the initial preliminary certification for the project.

(2) An Investor-Owned Utility may choose to become a utility Pass-through Partner under the provisions of this section or participate as a Pass-through Partner under other Provisions of these rules that would apply to any other Pass-through Partner.

(a) An investor-owned utility (IOU) that complies with this section may choose to become a Utility Pass-through Partner.

(b) Preliminary certification standards and process:

(A) The application for preliminary certification must include an estimate of the total installation cost of the qualifying measures for which the applicant expects to make payments under OAR 330-090-0140(2) for that year.

(B) Within 60 days after an application for preliminary certification of the pass-through is filed, the Director shall decide if it is complete. If it is not complete, the application will be rejected and returned to the applicant. The applicant may resubmit a complete application.

(C) Within 120 days after a completed application is filed, the Director shall notify the applicant of the status of the application, if the applicant has not been notified otherwise the application has been denied.

(D) The application for preliminary certification of the pass-through must include a detailed work plan. The applicant and ODOE must mutually agree upon the work plan and program. The detailed work plan must include:

(i) A copy or reference to any proposed or required OPUC tariff and all evaluations of the program through which the pass-through will be delivered,

(ii) A not to exceed estimate of the total eligible costs that will be incurred for that calendar year with an estimate of the number of rental dwellings that will be affected, and

(iii) An agreement that upon submitting the complete final certification application the applicant will provide a detailed description of each facility owner, site address, facility description or type, number of dwelling units for multifamily facilities, total facility cost, energy savings, energy type saved and tax credit amount passed through.

(c) Final certification standards and process: Final application for a pass-through tax credit must include a summary and total of each facility's owner, site address, facility description or type, number of dwelling units for multifamily facilities, total facility cost, energy savings, energy type saved and tax credit amount passed through. The applicant must retain records for each facility including all of the information required in 110-090-0130(11) of these rules.

(A) An application must contain:

(i) An itemized list of costs for each rental dwelling unit weatherized, premium efficient appliance, each alternative fuel vehicle, alternative fuel vehicle for company use, and alternative fuel fueling station, and the total facility costs made that period for which the applicant is applying for credit.

(ii) The nominal value of credits for which the applicant applies, not to exceed the total eligible costs multiplied by the existing net present value of the tax credit for the pass-through payment as defined in OAR 330-090-0140(1).

(iii) The name, address, and phone number of the owner of each rental unit, alternative fuel vehicle, or alternative fuel fueling station listed in OAR 330-090-0140(2)(c)(A)(i). A sample selected by the Department of individual weatherization location audit reports will be submitted for at least 15 percent of the facility sites.

(iv) Certification that each rental dwelling unit energy conservation measure (ECM) is a measure that would qualify under or is a measure recommended in an energy audit completed under ORS 469.633(2).

(v) Certification that the ECMs paid for were installed and inspected in accordance with the IOU's appropriate allowed tariff(s),

(vi) Certification that the ECMs paid for were installed and inspected in accordance with the IOUs' Model Conservation Standards tariff or equivalent program as approved by ODOE.

(vii) If costs associated with an individual rental dwelling are \$50,000 or more or if required by the Director, a written review and summary completed by a certified public accountant, who is not otherwise employed by the facility owner or pass-through partner, of costs paid based on canceled checks, invoices, receipts, a binding contract or agreement, or other documentation as may be required by these rules.

(viii) If a contractor installed fueling station: the name, address, and phone number of the contractor as defined under OAR 330-090-0130(4) of this rule and the site at which the fueling station is installed.

(B) Within 60 days after a complete final certification application is filed, the Director will approve or deny final certification, with reasons for the action. The Director will deny the final certification if the applicant has not complied with the requirements of this rule. No later than 60 days after the Director issues an order denying the final certification, the applicant may request reconsideration as provided in OAR 330-090-0133(5). The Director will approve final certification if:

(i) The applicant provides the owners of existing rental dwelling units listed in OAR 330-090-0140(2)(c)(A)(i) with:

(I) A low-interest loan, as defined by these rules, up to \$5,000 per dwelling unit for ECMs included in OAR 330-090-0140(2)(c)(A)(iv);

(II) A cash payment for ECMs included in OAR 330-090-0140(2)(c)(A)(iv). The payment must be a percentage of the cost-effective portion of the energy conservation measures as approved by the Oregon Public Utility Commission, including installation (but not including the dwelling owner's own labor), not to exceed the cost of those measures; including the net present value of the tax credit for the pass through payment as defined in OAR 330-090-0170(1) for the EMCs at that specific site address the IOU may claim; or

(III) Such other payments approved by the Director to pay for ECMs in rental dwellings. This includes a payment for the net present value of the tax credit that exceeds the amount of the low-interest loan. This payment will apply first to reduce the amount of the loan with the balance paid to the owner of the rental dwelling unit.

(ii) The amount of the credit is the sum of payments and loans listed in OAR 330-090-0140(2)(c)(A)(i) for ECMs that were installed and inspected.

Stat. Auth.: ORS 469.040 & 469.165
Stats. Implemented: ORS 469.185 - 469.225

ADMINISTRATIVE RULES

Hist.: DOE 7-1985, f. 12-31-85, ef. 1-1-86; DOE 3-1989, f. 12-28-89, cert. ef. 1-1-90; DOE 3-1990, f. & cert. ef. 9-20-90; DOE 4-1991, f. & cert. ef. 12-31-91; DOE 2-1993, f. & cert. ef. 1-28-93; DOE 5-1993, f. & cert. ef. 12-14-93; DOE 2-1995, f. 12-12-95, cert. ef. 12-15-95; DOE 3-1996, f. & cert. ef. 11-27-96; DOE 2-1997, f. 12-15-97, cert. ef. 1-1-98; DOE 4-1998, f. 12-14-98, cert. ef. 12-15-98; DOE 2-1999, f. 12-22-99, cert. ef. 1-1-00; DOE 1-2001, f. 10-5-01, cert. ef. 10-8-01; DOE 2-2004, f. & cert. ef. 1-21-04; DOE 3-2004, f. & cert. ef. 7-1-04; DOE 3-2007, f. 11-30-07, cert. ef. 12-1-07; DOE 3-2008, f. & cert. ef. 3-21-08; DOE 2-2009(Temp), f. & cert. ef. 11-3-09 thru 5-1-10; DOE 1-2010, f. & cert. ef. 1-8-10; DOE 4-2010(Temp), f. 5-21-10, cert. ef. 5-27-10 thru 11-2-10; Administrative correction 11-23-10; DOE 14-2010, f. & cert. ef. 11-23-10; DOE 3-2011(Temp), f. 4-15-11, cert. ef. 4-18-11 thru 10-14-11; DOE 6-2011, f. & cert. ef. 9-29-11

Department of Fish and Wildlife Chapter 635

Rule Caption: Directed Commercial Sardine Fishery Third Allocation Period Closes September 21, 2011.

Adm. Order No.: DFW 131-2011(Temp)

Filed with Sec. of State: 9-19-2011

Certified to be Effective: 9-21-11 thru 12-31-11

Notice Publication Date:

Rules Amended: 635-004-0017

Rules Suspended: 635-004-0017(T)

Subject: This amended rule closes the third allocation period of the directed commercial sardine fishery effective September 21 through December 31, 2011. This modification conforms to federal rule changes posted for public inspection on September 19, 2011 to be published in the Federal Register on Thursday, September 22, 2011.

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

635-004-0017

Inclusions and Modifications

(1) OAR Chapter 635, Division 004, modifies or is in addition to provisions contained in **Code of Federal Regulations, Title 50, Part 660, Subpart I** (October 1, 2010 ed.).

(2) The Code of Federal Regulations (CFR), **Title 50, Part 660, Subpart I** (cfr) provides requirements for commercial sardine fishing in the Pacific Ocean. However, additional regulations may be promulgated subsequently, and these supersede, to the extent of any inconsistency, the **Code of Federal Regulations**.

(3) Notwithstanding the regulations as defined in OAR 635-004-0016, the National Oceanic and Atmospheric Administration (NOAA), by means of Docket No. 0912281446-0111-02 dated 7/7/11, for public inspection at <http://www.federalregister.gov/inspection.aspx> with intent to publish in the Federal Register on day, July 12, 2011, announced inseason management measures effective 12:01 a.m. Pacific Daylight Time, July 12, 2011, including but not limited to, closure of the directed sardine fishery through 11:59 p.m., September 14, 2011. The directed sardine fishery will open for the third allocation period on September 15, 2011.

(4) Notwithstanding the regulations as defined in OAR 635-004-0016, the National Oceanic and Atmospheric Administration (NOAA), by means of Docket No. 0912281446-0111-02 filed 09/19/11 for public inspection at <http://www.federalregister.gov/inspection.aspx> with intent to publish in the Federal Register on Thursday, September 22, 2011, announced inseason management measures effective 10:00 a.m. Pacific Daylight Time, September 21, 2011, including but not limited to, closure of the directed sardine fishery through December 31, 2011.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109 & 506.129

Hist.: DFW 38-2009, f. & cert. ef. 4-22-09; DFW 78-2009(Temp), f. 6-30-09, cert. ef. 7-1-09 thru 12-28-09; DFW 85-2009(Temp), f. 7-17-09, cert. ef. 7-18-09 thru 12-31-09; DFW 116-2009(Temp), f. & cert. ef. 9-23-09 thru 12-31-09; Administrative correction 1-25-10; DFW 79-2010(Temp), f. 6-11-10, cert. ef. 6-12-10 thru 6-30-10; Administrative correction 7-27-10; DFW 104-2010(Temp), f. 7-21-10, cert. ef. 7-22-10 thru 9-14-10; Administrative correction 9-22-10; DFW 133-2010(Temp), f. 9-22-10, cert. ef. 9-24-10 thru 12-31-10; Administrative correction 1-25-11; DFW 19-2011(Temp), f. 3-2-11, cert. ef. 3-4-11 thru 6-30-11; DFW 56-2011, f. & cert. ef. 5-26-11; DFW 89-2011(Temp), f. 7-11-11, cert. ef. 7-12-11 thru 9-14-11; Administrative correction 9-23-11; DFW 131-2011(Temp), f. 9-19-11, cert. ef. 9-21-11 thru 12-31-11

Rule Caption: Tillamook Terminal Area Ocean Sport Chinook Fishery Opens October 1, 2011.

Adm. Order No.: DFW 132-2011(Temp)

Filed with Sec. of State: 9-20-2011

Certified to be Effective: 10-1-11 thru 10-31-11

Notice Publication Date:

Rules Amended: 635-013-0009

Subject: This amended rule implements a change to the daily bag limit for Chinook salmon from one to two per day in the 2011 Tillamook Terminal Area ocean recreational Chinook salmon fishery. Housekeeping and technical corrections to the regulations were made to ensure rule consistency with Northwest Zone Chinook salmon fisheries in the areas adjacent to the Tillamook Terminal Area.

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

635-013-0009

Tillamook Terminal Area Ocean Fishery

(1) In addition to the open seasons prescribed in OAR 635-013-0004 there are open seasons for Chinook salmon in the areas described in Section (2) of this rule.

(2) The Pacific Ocean waters inside an area south of Twin Rocks (45°35'54" N. Lat.) and north of Pyramid Rock (45°29'48" N. Lat.) and seaward three nautical miles offshore are open for Chinook salmon September 1 through October 31.

(3) During the open season for coho salmon in the ocean, the Terminal Area described in section (2) of this rule is open to angling for salmon consistent with federal sport salmon management measures for the area from Cape Falcon to Humbug Mountain.

(4) During the period of October 1 through October 31, in the area described in section (2) above two (2) Chinook salmon may be retained per day, but no more than one (1) non fin-clipped Chinook salmon may be retained per day and no more than ten (10) non fin-clipped Chinook salmon may be retained in the seasonal aggregate when combined with all other waters in the Northwest Zone with a ten (10) Chinook salmon seasonal aggregate limit. Seasonal aggregate applies to all non fin-clipped Chinook salmon retained between August 1 and December 31, except in the Nehalem Basin where the seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between July 1 and December 31. For purposes of this rule, it is unlawful to take Chinook salmon less than 24 inches in length.

(5) No more than two single-point, single-shank barbless hooks are required in the ocean when these ocean waters are open for the coho salmon fishery and in the ocean outside the Terminal Area at all times.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 45-1983(Temp), f. & ef. 9-16-84; FWC 57-1984(Temp), f. & ef. 9-15-84; FWC 64-1984(Temp), f. & ef. 9-21-84; FWC 59-1985(Temp), f. & ef. 9-13-85; FWC 59-1986(Temp), f. & ef. 9-19-86; FWC 76-1987, f. & ef. 9-15-87; FWC 84-1988, f. & cert. ef. 9-9-88; FWC 83-1989, f. 8-31-89, cert. ef. 9-16-89; FWC 86-1990, f. 8-24-90, cert. ef. 9-1-90; FWC 42-1991, f. 4-29-91, cert. ef. 5-1-91; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 19-1997(Temp), f. 3-17-97, cert. ef. 4-15-97; FWC 30-1997, f. & cert. ef. 5-5-97; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 25-2008(Temp), f. 3-13-08, cert. ef. 3-15-08 thru 9-10-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; Administrative correction 1-23-09; DFW 27-2009(Temp), f. 3-11-09, cert. ef. 3-15-09 thru 9-10-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; Administrative correction 1-25-10; DFW 33-2010(Temp), f. 3-12-10, cert. ef. 3-15-10 thru 9-10-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 132-2011(Temp), f. 9-20-11, cert. ef. 10-1-11 thru 10-31-11

Rule Caption: Treaty Indian Fall Commercial Fisheries for Columbia River Continue.

Adm. Order No.: DFW 133-2011(Temp)

Filed with Sec. of State: 9-21-2011

Certified to be Effective: 9-22-11 thru 10-31-11

Notice Publication Date:

Rules Amended: 635-041-0075

Rules Suspended: 635-041-0075(T)

Subject: This amended rules extends the ongoing Treaty Indian commercial Fall fisheries in the Columbia River by an additional 3.5 day fishing period. The additional fishing period begins at 6:00 a.m. Monday, September 26 and runs through 6:00 p.m. Thursday, September 29, 2011. Modifications are consistent with action taken September 21, 2011 by the Columbia River Compact agencies of Oregon and Washington in cooperation with the Columbia River Treaty Tribes.

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

ADMINISTRATIVE RULES

635-041-0075

Fall Salmon Season

(1) Commercial sales of platform and hook-and-line caught fish from Zone 6 of the mainstem Columbia River are allowed until further notice.

(a) Salmon, steelhead, shad, walleye, carp, bass, catfish and yellow perch landed during an open commercial fishing period may be sold at any time or retained for subsistence purposes.

(b) White sturgeon between 43 and 54 inches in fork length taken in The Dalles and John Day pools and white sturgeon between 38 and 54 inches in fork length taken in the Bonneville Pool may not be sold but may be retained for subsistence use.

(c) Gear is restricted to subsistence fishing gear: hoopnets, dipnets and rod and reel with hook-and-line are allowed.

(d) Closed areas in Zone 6, except the Spring Creek sanctuary, are as set forth in OAR 635-041-0045 and remain in effect.

(2) Commercial sales of gill net caught fish from Zone 6 of the mainstem Columbia River is allowed if caught during the following periods: 6:00 a.m. Monday, August 22 through 6:00 p.m. Thursday, August 25, 2011 (3.5 days); from 6:00 a.m. Monday, August 29 through 6:00 p.m. Friday, September 2, 2011 (4.5 days); from 6:00 a.m. Tuesday, September 6 through 6:00 p.m. Saturday, September 10 (4.5 days); from 6:00 a.m. Monday, September 12 through 6:00 p.m. Friday, September 16, 2011 (4.5 days); from 6:00 a.m. Monday, September 19 through 6:00 p.m. Friday, September 23, 2011 (4.5 days); and from 6:00 a.m. Monday, September 26 through 6:00 p.m. Thursday, September 29, 2011 (3.5 days).

(a) Salmon, steelhead, shad, yellow perch, bass, walleye, catfish and carp landed during any open gill net fishing period may be sold at any time or retained for subsistence purposes.

(b) Sturgeon may not be sold, but white sturgeon between 43 and 54 inches in fork length taken from The Dalles and John Day pools and white sturgeon between 38 and 54 inches in fork length taken from the Bonneville Pool may be retained for subsistence use.

(c) Gear is restricted to gill nets. Only gill nets with a minimum mesh size of 8 inches may be used.

(d) Closed areas in Zone 6, including the Spring Creek Hatchery sanctuary, are as set forth in OAR 635-041-0045 and remain in effect. Effective 6:00 a.m. Monday, September 26, 2011 the Spring Creek sanctuary is reduced to a 150-foot diameter around the hatchery ladder.

(3) Sales of fish caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; Drano Lake; and Big White Salmon River are allowed during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods and concurrent with periods when sales from Zone 6 platform and hook-and-line fisheries are allowed.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982(Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984(Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f. & ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & ef. 8-15-88; FWC 72-1988(Temp), f. & ef. 8-19-88; FWC 77-1988(Temp), f. & ef. 9-2-88; FWC 91-1988(Temp), f. & ef. 9-16-88; FWC 95-1988(Temp), f. & ef. 9-27-88, cert. ef. 9-28-88; FWC 54-1989(Temp), f. & ef. 8-7-89; FWC 87-1989(Temp), f. & ef. 9-1-89; FWC 95-1989(Temp), f. & ef. 9-19-89; FWC 96-1989(Temp), f. & ef. 9-21-89; FWC 99-1989(Temp), f. & ef. 9-27-89; FWC 100-1989(Temp), f. & ef. 9-28-89; FWC 80-1990(Temp), f. & ef. 8-7-90, cert. ef. 8-8-90; FWC 90-1990, f. & ef. 8-31-90; FWC 96-1990(Temp), f. & ef. 9-7-90, cert. ef. 9-10-90; FWC 98-1990(Temp), f. & ef. 9-17-90; FWC 85-1991, f. & ef. 8-7-91, cert. ef. 8-12-91; FWC 96-1991, f. & ef. 9-9-91; FWC 101-1991(Temp), f. & ef. 9-10-91; FWC 103-1991(Temp), f. & ef. 9-17-91; FWC 110-1991(Temp), f. & ef. 9-27-91; FWC 73-1992(Temp), f. & ef. 8-10-92; FWC 86-1992(Temp), f. & ef. 9-2-92; FWC 87-1992(Temp), f. & ef. 9-4-92, cert. ef. 9-7-92; FWC 91-1992(Temp), f. & ef. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. & ef. 9-22-92, cert. ef. 9-23-92; FWC 105-1992(Temp), f. & ef. 10-2-92, cert. ef. 10-5-92; FWC 107-1992(Temp), f. & ef. 9-9-92; FWC 47-1993, f. & ef. 8-6-93, cert. ef. 8-9-93; FWC 52-1993, f. & ef. 8-30-93; FWC 57-1993(Temp), f. & ef. 9-9-93; FWC 59-1993(Temp), f. & ef. 9-17-93, cert. ef. 9-20-93; FWC 61-1993(Temp), f. & ef. 9-24-93; FWC 55-1994(Temp), f. & ef. 8-26-94, cert. ef. 8-29-94; FWC 61-1994(Temp), f. & ef. 9-7-94, cert. ef. 9-8-94; FWC 74-1994(Temp), f. & ef. 10-12-94; FWC 68-1995(Temp), f. & ef. 8-25-95, cert. ef. 8-29-95; FWC 72-1995(Temp), f. & ef. 9-1-95; FWC 75-1995(Temp), f. & ef. 9-12-95, cert. ef. 9-13-95; FWC 46-1996, f. & ef. 8-23-96; FWC 48-1996(Temp), f. & ef. 8-29-96, cert. ef. 9-2-96; FWC 51-1996(Temp), f. & ef. 9-6-96, cert. ef. 9-9-96; FWC 53-1996(Temp), f. & ef. 9-26-96; FWC 54-1996(Temp), f. & ef. 9-23-96; FWC 48-1997, f. & ef. 8-25-97; FWC 52-1997(Temp), f. & ef. 8-29-97, cert. ef. 9-2-97; FWC 57(Temp), f. & ef. 9-9-97; FWC 60-1997(Temp), f. & ef. 9-16-97, cert. ef. 9-17-97; FWC 68-1998(Temp), f. & ef. 8-25-98 thru 9-25-98; DFW 76-1998(Temp), f. & ef. 9-8-98

thru 9-25-98; DFW 77-1998(Temp), f. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. 9-2-99, cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. 9-21-99, cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. 9-10-01, cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. 10-14-02, cert. ef. 10-15-02 thru 12-31-02; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. 9-12-03, cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. & cert. ef. 9-22-03, cert. ef. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. 9-26-03, cert. ef. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. 10-3-03, cert. ef. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 104-2004(Temp), f. 10-12-04, cert. ef. 10-13-04 thru 12-31-04; DFW 110-2004(Temp), f. & cert. ef. 10-29-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 104-2005(Temp), f. & cert. ef. 9-12-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 113-2005(Temp), f. & cert. ef. 9-28-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 1-19-06; DFW 71-2006(Temp), f. 7-31-06, cert. ef. 8-1-06 thru 12-31-06; DFW 86-2006(Temp), f. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 94-2006(Temp), f. 9-8-06, cert. ef. 9-11-06 thru 12-31-06; DFW 101-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 107-2006(Temp), f. 9-28-06, cert. ef. 10-3-06 thru 12-31-06; DFW 115-2006(Temp), f. 10-13-06, cert. ef. 10-15-06 thru 12-31-06; Administrative correction 1-16-07; DFW 60-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 12-31-07; DFW 77-2007(Temp), f. 8-17-07, cert. ef. 8-22-07 thru 12-31-07; DFW 88-2007(Temp), f. 9-10-07, cert. ef. 9-11-07 thru 12-31-07; DFW 95-2007(Temp), f. 9-21-07, cert. ef. 9-25-07 thru 12-31-07; DFW 100-2007(Temp), f. 9-28-07, cert. ef. 10-3-07 thru 12-31-07; DFW 110-2007(Temp), f. 10-16-07, cert. ef. 10-20-07 thru 12-31-07; DFW 106-2008(Temp), f. 9-4-08, cert. ef. 9-6-08 thru 10-31-08; DFW 109-2008(Temp), f. 9-12-08, cert. ef. 9-15-08 thru 10-31-08; DFW 112-2008(Temp), f. 9-17-08, cert. ef. 9-18-08 thru 10-31-08; DFW 117-2008(Temp), f. & cert. ef. 9-22-08 thru 10-31-08; DFW 122-2008(Temp), f. & cert. ef. 9-29-08 thru 10-31-08; DFW 125-2008(Temp), f. 10-6-08, cert. ef. 10-7-08 thru 10-31-08; DFW 134-2008(Temp), f. & cert. ef. 10-17-08 thru 10-31-08; DFW 141-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 11-30-08; DFW 88-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 95-2009(Temp), f. 8-19-09, cert. ef. 8-24-09 thru 12-31-09; DFW 111-2009(Temp), f. 9-11-09, cert. ef. 9-13-09 thru 9-30-09; DFW 114-2009(Temp), f. 9-18-09, cert. ef. 9-21-09 thru 10-31-09; DFW 119-2009(Temp), f. & cert. ef. 9-29-09 thru 10-31-09; DFW 129-2009(Temp), f. 10-13-09, cert. ef. 10-14-09 thru 10-31-09; Administrative correction 11-19-09; DFW 111-2010(Temp), f. 7-30-10, cert. ef. 8-1-10 thru 10-31-10; DFW 120-2010(Temp), f. 8-18-10, cert. ef. 8-24-10 thru 10-31-10; DFW 128-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; DFW 136-2010(Temp), f. 9-24-10, cert. ef. 9-27-10 thru 10-31-10; DFW 142-2010(Temp), f. 10-8-10, cert. ef. 10-9-10 thru 10-31-10; DFW 149-2010(Temp), f. 10-18-10, cert. ef. 10-19-10 thru 10-31-10; Administrative correction 11-23-10; DFW 103-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 10-31-11; DFW 119-2011(Temp), f. 8-26-11, cert. ef. 8-29-11 thru 10-31-11; DFW 124-2011(Temp), f. 9-8-11, cert. ef. 9-12-11 thru 10-31-11; DFW 130-2011(Temp), f. 9-15-11, cert. ef. 9-19-11 thru 10-31-11; DFW 133-2011(Temp), f. 9-21-11, cert. ef. 9-22-11 thru 10-31-11

Rule Caption: Fall Commercial Drift Gill Net Season In Columbia River Mainstem Rescinded.

Adm. Order No.: DFW 134-2011(Temp)

Filed with Sec. of State: 9-21-2011

Certified to be Effective: 9-22-11 thru 9-30-11

Notice Publication Date:

Rules Amended: 635-042-0031

Rules Suspended: 635-042-0031(T)

Subject: Amended rule rescinds a 10-hour commercial fall salmon drift gill net season previously authorized for the Columbia River mainstem beginning at 8:00 p.m. on Thursday, September 22, 2011 in the area of Zones 4 and 5. Rescinding this fishing period is necessary to prevent commercial gill net fishers from exceeding their preseason allocation of this valuable resource.

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

635-042-0031

Early Fall Salmon Season

(1) Salmon and white sturgeon may be taken for commercial purposes in the waters of the Columbia River:

(a) Zones 1-5, as identified in OAR 635-042-0001 as follows: 9:00 p.m. Sunday, September 18 to 6:00 a.m. Monday, September 19, 2011 (9 hours)

(b) Zones 4-5, the deadline at the lower end of Zone 4 is defined as a straight line projected from the Warrior Rock Lighthouse on the Oregon shore easterly through the green navigation buoy #1 and continuing to the Washington shore, as follows:

8:00 p.m. Monday, September 19 to 6:00 a.m. Tuesday, September 20, 2011 (10 hours); and

ADMINISTRATIVE RULES

8:00 p.m. Tuesday, September 20 to 6:00 a.m. Wednesday, September 21, 2011 (10 hours).

(2) Only drift gill nets may be used. It is unlawful to use a gill net having a mesh size less than 8 inches or more than 9.75 inches (as described in OAR 635-042-0010 (4)). Nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater. Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(3) A maximum of seven (7) white sturgeon, 43–54 inches in fork length, may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday). The sturgeon possession and sales limit includes mainstem fisheries only. Sales of white sturgeon from fall Select Area fisheries is prohibited. Retention of green sturgeon is prohibited.

(4) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-A, Cowlitz River, Kalama-A, Washougal River and Sandy River sanctuaries are in effect during open fishing periods identified above. Only the Washougal River and Sandy River sanctuaries are in effect for fisheries described in section (1)(b) above.

Stat. Auth.: ORS 496.118, 506.109 & 506.129

Stats. Implemented: ORS 506.119 & 507.030

Hist.: FWC 63-1987, f. & cert. 8-7-87; FWC 67-1988, f. & cert. 8-15-88; FWC 68-1988(Temp), f. & cert. 8-15-88; FWC 54-1989(Temp), f. & cert. 8-7-89; FWC 56-1989(Temp), f. & cert. 8-11-89; FWC 58-1989(Temp), f. & cert. 8-14-89; FWC 80-1989(Temp), f. & cert. 8-28-89, cert. 8-29-89; FWC 80-1990(Temp), f. & cert. 8-8-90; FWC 85-1991, f. & cert. 8-7-91, cert. 8-12-91; FWC 91-1991(Temp), f. & cert. 8-29-91; FWC 73-1992(Temp), f. & cert. 8-10-92; FWC 46-1996, f. & cert. 8-23-96; FWC 53-1996(Temp), f. & cert. 9-16-96; FWC 49-1997, f. & cert. 8-24-97; DFW 74-1998(Temp), f. & cert. 8-25-98 thru 8-26-98; DFW 59-1999(Temp), f. & cert. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. & cert. 9-29-99, cert. 9-30-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. & cert. 8-21-00 thru 9-9-00; DFW 52-2000(Temp), f. & cert. 8-23-00, cert. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. & cert. 8-7-01, cert. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. 8-24-01 thru 12-31-01; DFW 86-2001(Temp), f. & cert. 8-4-01 thru 12-31-01; DFW 81-2002(Temp), f. & cert. 8-2-02, cert. 8-4-02 thru 8-9-02; DFW 87-2002(Temp), f. & cert. 8-9-02 thru 8-12-02; DFW 89-2002(Temp), f. & cert. 8-16-02, cert. 8-18-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. 8-1-03 thru 12-31-03; DFW 77-2003(Temp), f. & cert. 8-13-03 thru 12-31-03; DFW 82-2003(Temp), f. & cert. 8-25-03 thru 12-31-03; DFW 87-2003(Temp), f. & cert. 8-27-03 thru 12-31-03; DFW 81-2004(Temp), f. & cert. 8-12-04 thru 12-31-04; DFW 82-2004(Temp), f. & cert. 8-16-04 thru 12-31-04; DFW 86-2004(Temp), f. & cert. 8-19-04 thru 12-31-04; DFW 88-2004(Temp), f. & cert. 8-23-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 85-2005(Temp), f. & cert. 8-3-05 thru 12-31-05; DFW 88-2005(Temp), f. & cert. 8-11-05, cert. 8-14-05 thru 12-31-05; DFW 90-2005(Temp), f. & cert. 8-17-05 thru 12-31-05; DFW 96-2005(Temp), f. & cert. 8-22-05 thru 12-31-05; DFW 98-2005(Temp), f. & cert. 8-24-05, cert. 8-25-05 thru 12-31-05; Administrative correction 1-19-06; DFW 72-2006(Temp), f. & cert. 8-2-06 thru 12-31-06; DFW 82-2006(Temp), f. & cert. 8-11-06, cert. 8-13-06 thru 12-31-06; DFW 88-2006(Temp), f. & cert. 8-21-06 thru 12-31-06; DFW 89-2006(Temp), f. & cert. 8-25-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. & cert. 8-1-07 thru 10-31-07; DFW 72-2007(Temp), f. & cert. 8-17-07, cert. 8-23-07 thru 8-31-07; Administrative Correction 9-16-07; DFW 85-2008(Temp), f. & cert. 8-1-08 thru 12-31-08; DFW 93-2008(Temp), f. & cert. 8-12-08 thru 12-31-08; DFW 95-2008(Temp), f. & cert. 8-14-08 thru 9-30-08; DFW 100-2008(Temp), f. & cert. 8-22-08, cert. 8-25-08 thru 9-30-08; DFW 102-2008(Temp), f. & cert. 8-26-08 thru 9-1-08; Administrative correction 9-29-08; Administrative correction 10-21-08; DFW 89-2009(Temp), f. & cert. 8-3-09, cert. 8-4-09 thru 12-31-09; DFW 90-2009(Temp), f. & cert. 8-7-09, cert. 8-8-09 thru 12-31-09; DFW 96-2009(Temp), f. & cert. 8-21-09 thru 8-31-09; DFW 97-2009(Temp), f. & cert. 8-25-09 thru 8-31-09; DFW 100-2009(Temp), f. & cert. 8-27-09 thru 8-31-09; Administrative correction 9-29-09; DFW 112-2010(Temp), f. & cert. 8-3-10 thru 8-31-10; DFW 121-2010(Temp), f. & cert. 8-18-10, cert. 8-19-10 thru 8-31-10; Administrative correction 9-22-10; DFW 132-2010(Temp), f. & cert. 9-21-10, cert. 9-22-10 thru 10-31-10; DFW 137-2010(Temp), f. & cert. 9-24-10 thru 10-31-10; Administrative correction 11-23-10; DFW 105-2011(Temp), f. & cert. 8-2-11, cert. 8-4-11 thru 8-31-11; DFW 120-2011(Temp), f. & cert. 8-26-11, cert. 8-28-11 thru 9-14-11; DFW 128-2011(Temp), f. & cert. 9-14-11, cert. 9-18-11 thru 9-30-11; DFW 134-2011(Temp), f. & cert. 9-21-11, cert. 9-22-11 thru 9-30-11

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Rule Caption: In-season Modifications to Pacific Halibut, Ocean Sport Rockfish and Other Marine Species Seasons.

Adm. Order No.: DFW 135-2011(Temp)

Filed with Sec. of State: 9-21-2011

Certified to be Effective: 10-1-11 thru 12-31-11

Notice Publication Date:

Rules Amended: 635-039-0085, 635-039-0090

Rules Suspended: 635-039-0085(T), 635-039-0090(T)

Subject: Amended rules: (1) Re-opens the ocean for lingcod, flatfish and rockfish, cabezon, skates, and “other fish” marine species listed under “Marine Fish” on page 5 of the “2011 Oregon Sport Ocean Regulations for Salmon, Halibut and Other Marine Fish

Species” and pages 102-103 of the “2011 Oregon Sport Fishing Regulations” booklet, to all depths from October 1 through December 31 as adopted pre-season; and (2) Allows retention of groundfish when Pacific halibut are onboard the vessel in the re-opened nearshore halibut fishery from October 1 through October 31, 2011.

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

635-039-0085

Halibut Seasons

(1) The Pacific halibut sport fishery in Oregon is regulated by the federal government and the International Pacific Halibut Commission (IPHC). OAR Chapter 635, Division 039 incorporates into Oregon Administrative Rules, by reference:

(a) **Title 50 of the Code of Federal Regulations, Part 300, Subpart E** (October 1, 2010 ed.), as amended; and

(b) **Federal Register Vol. 76, No. 51**, dated March 16, 2011 (76 FR 14300).

(2) Therefore, persons must consult all publications referenced in this rule in addition to Division 039 to determine applicable halibut fishing seasons.

(3) Effective 11:59 p.m., Saturday, June 4, 2011 the Columbia River sub-area (Cape Falcon, OR to Leadbetter Pt., WA) is closed to the retention of Pacific halibut.

(4) Effective 11:59 p.m., Friday, July 1, 2011, the Central Oregon sub-area (Cape Falcon to Humbug Mountain) all-depth spring season is closed to the retention of Pacific halibut.

(5) Effective 11:59 p.m., Wednesday, July 6, 2011, the Central Oregon sub-area (Cape Falcon to Humbug Mountain) nearshore (inside 40 fathoms) season is closed to the retention of Pacific halibut.

(6) Effective at 11:59 p.m. Friday, August 12, 2011, the Central Oregon sub-area (Cape Falcon to Humbug Mountain) all-depth spring season is closed to the retention of Pacific halibut.

(7) Effective at 12:01 a.m. Saturday, August 13, 2011 the Central Oregon sub-area (Cape Falcon to Humbug Mountain) nearshore (inside 40 fathoms) season is open to the retention of Pacific halibut. Groundfish retention and possession is prohibited when Pacific halibut are on board the vessel.

(8) Effective at 12:01 a.m. Saturday, October 1, 2011 in the Central Oregon sub-area (Cape Falcon to Humbug Mountain) nearshore (inside 40 fathoms), groundfish retention and possession is permitted when Pacific Halibut are onboard the vessel.

Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 496.162 & 506.129

Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 56-2005, f. 6-21-05, cert. 7-1-05; DFW 89-2005(Temp), f. & cert. 8-12-05 thru 12-12-05; DFW 107-2005(Temp), f. 9-14-05, cert. 9-15-05 thru 10-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. 10-18-05 thru 12-31-05; Administrative correction 1-19-06; DFW 34-2006(Temp), f. 5-25-06, cert. 5-27-06 thru 8-3-06; Administrative correction 8-22-06; DFW 3-2007, f. & cert. 1-12-07; DFW 35-2007(Temp), f. 5-25-07, cert. 5-26-07 thru 8-2-07; DFW 67-2007(Temp), f. 8-9-07, cert. 8-12-07 thru 9-30-07; DFW 76-2007(Temp), f. 8-17-07, cert. 8-24-07 thru 9-30-07; DFW 84-2007(Temp), f. 9-5-07, cert. 9-15-07 thru 9-30-07; DFW 87-2007(Temp), f. 9-10-07, cert. 9-14-07 thru 10-28-07; DFW 90-2007(Temp), f. 9-19-07, cert. 9-20-07 thru 10-31-07; Administrative correction 11-17-07; DFW 57-2008(Temp), f. 5-30-08, cert. 6-1-08 thru 7-31-08; DFW 81-2008(Temp), f. 7-11-08, cert. 8-2-08 thru 9-30-08; DFW 92-2008(Temp), f. & cert. 8-11-08 thru 9-30-08; DFW 101-2008(Temp), f. 8-25-08, cert. 8-29-08 thru 9-30-08; DFW 107-2008(Temp), f. 9-5-08, cert. 9-7-08 thru 12-31-08; DFW 111-2008(Temp), f. & cert. 9-16-08 thru 12-31-08; DFW 120-2008(Temp), f. 9-25-08, cert. 9-27-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. 1-1-09; DFW 39-2009, f. & cert. 4-27-09; DFW 55-2009(Temp), f. & cert. 5-22-09 thru 8-6-09; DFW 94-2009(Temp), f. 8-14-09, cert. 8-16-09 thru 12-31-09; Administrative correction 1-25-10; DFW 32-2010, f. & cert. 3-15-10; DFW 37-2010, f. 3-30-10, cert. 4-1-10; DFW 100-2010(Temp), f. 7-15-10, cert. 7-17-10 thru 10-31-10; DFW 118-2010(Temp), f. & cert. 8-13-10 thru 10-31-10; Administrative correction 11-23-10; DFW 24-2011, f. & cert. 3-22-11; DFW 58-2011(Temp), f. 5-27-11, cert. 6-4-11 thru 8-4-11; DFW 82-2011(Temp), f. 6-30-11, cert. 7-1-11 thru 8-4-11; DFW 85-2011(Temp), f. 7-5-11, cert. 7-6-11 thru 10-31-11; DFW 114-2011(Temp), f. & cert. 8-12-11 thru 10-31-11; DFW 135-2011(Temp), f. 9-21-11, cert. 10-1-11 thru 12-31-11

635-039-0090

Inclusions and Modifications

(1) The **2011 Oregon Sport Fishing Regulations** provide requirements for sport fisheries for marine fish, shellfish, and marine invertebrates in the Pacific Ocean, coastal bays, and beaches, commonly referred to as the Marine Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2011 Oregon Sport Fishing Regulations**.

(2)(a) For the purposes of this rule, a “sport harvest cap” is defined as the amount that may be impacted (combined landings and other fishery related mortality) by the Oregon sport fishery in a single calendar year.

ADMINISTRATIVE RULES

(b) For 2011, the sport harvest cap for black rockfish is 440.8 metric tons.

(3) For the purposes of this rule, "Other nearshore rockfish" means the following rockfish species: black and yellow (*Sebastes chrysomelas*); brown (*S. auriculatus*); calico (*S. dalli*); China (*S. nebulosus*); copper (*S. caurinus*); gopher (*S. carnatus*); grass (*S. rastelliger*); kelp (*S. atrovirens*); olive (*S. serranoides*); quillback (*S. maliger*); and treefish (*S. serriceps*).

(4) For the purposes of this rule a "sport landing cap" is defined as the total landings for a given species, or species group, that may be taken in a single calendar year by the ocean boat fishery. For 2011 the sport landing caps are:

- (a) Black rockfish and blue rockfish combined, 481.8 metric tons.
- (b) Other nearshore rockfish, 13.6 metric tons.
- (c) Cabezon, 15.8 metric tons.
- (d) Greenling, 5.2 metric tons.

(5) Effective Wednesday, July 20, 2011 at 11:59 p.m. retention of cabezon, as identified in subsection (4)(c) above, is prohibited in the ocean boat and estuary boat fisheries. Angling for and retention of shore-based cabezon is permitted.

(6) In addition to the regulations for Marine Fish in the **2011 Oregon Sport Fishing Regulations**, the following apply for the sport fishery in the Marine Zone in 2011:

(a) Lingcod (including green colored lingcod): 2 fish daily bag limit.

(b) All rockfish ("sea bass" "snapper"), greenling ("sea trout"), cabezon, skates, and other marine fish species not listed in the **2011 Oregon Sport Fishing Regulations** in the Marine Zone, located under the category of Species Name, Marine Fish: 7 fish daily bag limit in aggregate (total sum or number), of which no more than one be a cabezon from April 1 through September 30. Retention of yelloweye rockfish and canary rockfish is prohibited.

(c) Flatfish (flounder, sole, sanddabs, turbot, and all halibut species except Pacific halibut): 25 fish daily bag limit in aggregate (total sum or number).

(d) Retention of all marine fish listed under the category of Species Name, Marine Fish, except Pacific cod, sablefish, herring, anchovy, smelt, sardine, striped bass, hybrid bass, and offshore pelagic species (excluding leopard shark and soupfin shark), is prohibited when Pacific halibut is retained on the vessel during open days for the all-depth sport fishery for Pacific halibut north of Humboldt Mountain. Persons must also consult all publications referenced in OAR 635-039-0080 to determine all rules applicable to the taking of Pacific halibut.

(e) Harvest methods and other specifications for marine fish in subsections (6)(a), (6)(b) and (6)(c) including the following:

- (A) Minimum length for lingcod, 22 inches.
- (B) Minimum length for cabezon, 16 inches.
- (C) Minimum length for greenling, 10 inches.

(D) May be taken by angling, hand, bow and arrow, spear, gaff hook, snag hook and herring jigs.

(E) Mutilating the fish so the size or species cannot be determined prior to landing or transporting mutilated fish across state waters is prohibited.

(f) Sport fisheries for species in subsections (6)(a), (6)(b) and (6)(c) and including leopard shark and soupfin shark are open January 1 through December 31, twenty-four hours per day, except that ocean waters are closed for these species during April 1 through July 20, outside of the 40-fathom curve (defined by latitude and longitude) as shown on **Title 50 Code of Federal Regulations Part 660 Section 384 Vol. 71, No. 189**, dated September 29, 2006. A 20-fathom, 25-fathom, or 30-fathom curve, as shown on Title 50 Code of Federal Regulations Part 660 Section 391 Vol. 71, No. 189, dated September 29, 2006 may be implemented as the management line as in-season modifications necessitate. Ocean waters are closed for species in subsections (6)(a), (6)(b) and (6)(c) during July 21 through September 30, outside of the 20 fathom curve (defined by latitude and longitude) as shown on **Title 50 Code of Federal Regulations Part 660 Section 391 Vol. 71, No. 189**, dated September 29, 2006.

(g) The Stonewall Bank Yelloweye Rockfish Conservation Area (YRCA) is defined by coordinates specified in **Title 50 Code of Federal Regulations Part 660 Section 70** (October 1, 2010 ed.). Within the YRCA, it is *unlawful* to fish for, take, or retain species listed in subsections (6)(a), (6)(b) and (6)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut using recreational fishing gear. A vessel engaged in recreational fishing within the YRCA is prohibited from possessing any species listed in subsections (6)(a), (6)(b) and (6)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut. Recreational fishing vessels in possession of species listed in subsections (6)(a), (6)(b) and (6)(c) and including leopard

shark, soupfin shark, and Pacific halibut may transit the YRCA without fishing gear in the water.

(7) Razor clams may be taken by hand, shovel, or cylindrical gun or tube. The opening of the gun/tube must be either circular or elliptical with the circular gun/tube opening having a minimum outside diameter of 4 inches and the elliptical gun/tube opening having minimum outside diameter dimensions of 4 inches long and 3 inches wide.

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

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

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 22-1994, f. 4-29-94, cert. ef. 5-2-94; FWC 29-1994(Temp), f. 5-20-94, cert. ef. 5-21-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 43-1994(Temp), f. & cert. ef. 7-19-94; FWC 83-1994(Temp), f. 10-28-94, cert. ef. 11-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 25-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 26-1995, f. 3-29-95, cert. ef. 4-2-95; FWC 36-1995, f. 5-3-95, cert. ef. 5-5-95; FWC 43-1995(Temp), f. 5-26-95, cert. ef. 5-28-95; FWC 46-1995(Temp), f. & cert. ef. 6-2-95; FWC 58-1995(Temp), f. 7-3-95, cert. ef. 7-5-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 28-1996(Temp), f. 5-24-96, cert. ef. 5-26-96; FWC 30-1996(Temp), f. 5-31-96, cert. ef. 6-2-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 68-1999(Temp), f. & cert. ef. 9-17-99 thru 9-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 6-2-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 114-2003(Temp), f. 11-18-03, cert. ef. 11-21-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 83-2004(Temp), f. 8-17-04, cert. ef. 8-18-04 thru 12-31-04; DFW 91-2004(Temp), f. 8-31-04, cert. ef. 9-2-04 thru 12-31-04; DFW 97-2004(Temp), f. 9-22-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 34-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 75-2005(Temp), f. 7-13-05, cert. ef. 7-16-05 thru 12-31-05; DFW 87-2005(Temp), f. 8-8-05, cert. ef. 8-11-05 thru 12-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. ef. 10-18-05 thru 12-31-05; DFW 129-2005(Temp), f. & cert. ef. 11-29-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 138-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 141-2005(Temp), f. 12-12-05, cert. ef. 12-30-05 thru 12-31-05; Administrative correction 1-19-06; DFW 61-2006, f. 7-13-06, cert. ef. 10-1-06; DFW 65-2006(Temp), f. 7-21-06, cert. ef. 7-24-06 thru 12-31-06; DFW 105-2006(Temp), f. 9-21-06, cert. ef. 9-22-06 thru 12-31-06; DFW 134-2006(Temp), f. 12-21-06, cert. ef. 1-1-07 thru 6-29-07; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 10-2007, f. & cert. ef. 2-14-07; DFW 66-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 73-2008(Temp), f. 6-30-08, cert. ef. 7-7-08 thru 12-31-08; DFW 97-2008(Temp), f. 8-18-08, cert. ef. 8-21-08 thru 12-31-08; DFW 105-2008(Temp), f. 9-4-08, cert. ef. 9-7-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 7-2009(Temp), f. & cert. ef. 2-2-09 thru 7-31-09; DFW 39-2009, f. & cert. ef. 4-27-09; DFW 110-2009(Temp), f. 9-10-09, cert. ef. 9-13-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 103-2010(Temp), f. 7-21-10, cert. ef. 7-23-10 thru 12-31-10; DFW 157-2010, f. 12-6-10, cert. ef. 1-1-11; DFW 24-2011, f. & cert. ef. 3-22-11; DFW 97-2011(Temp), f. & cert. ef. 7-20-11 thru 12-31-11; DFW 135-2011(Temp), f. 9-21-11, cert. ef. 10-1-11 thru 12-31-11

Rule Caption: Fall Commercial Drift Gill Net Seasons Extended in Columbia River Mainstem.

Adm. Order No.: DFW 136-2011(Temp)

Filed with Sec. of State: 9-28-2011

Certified to be Effective: 9-28-11 thru 10-5-11

Notice Publication Date:

Rules Amended: 635-042-0031

Rules Suspended: 635-042-0031(T)

Subject: Amended rule expands the 2011 commercial fall salmon drift gill net season for the Columbia River mainstem to include one new 10-hour fishing period, from 8:00 p.m. Wednesday, September 28 to 6:00 a.m. Thursday, September 29, 2011, in the area of Zones 1 through 5.

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

635-042-0031

Early Fall Salmon Season

(1) Salmon and white sturgeon may be taken for commercial purposes in the waters of the Columbia River Zones 1-5, as identified in OAR 635-042-0001 as follows: 8:00 p.m. Wednesday, September 28 to 6:00 a.m. Thursday, September 29, 2011 (10 hours)

(2) Only drift gill nets may be used. It is *unlawful* to use a gill net having a mesh size less than 8 inches or more than 9.75 inches (as described in OAR 635-042-0010 (4)). Only nets specifically authorized for use in this fishery may be onboard the vessel. Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(3) A maximum of seven (7) white sturgeon, 43–54 inches in fork length, may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday). The sturgeon possession and sales limit includes mainstem fisheries only. Sales of white sturgeon from

ADMINISTRATIVE RULES

fall Select Area fisheries is prohibited. Retention of green sturgeon is prohibited.

(4) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-B, Cowlitz River, Kalama-B, Lewis-B, Washougal River and Sandy River sanctuaries are in effect during the open fishing period identified above.

Stat. Auth.: ORS 496.118, 506.109 & 506.129
Stat. Implemented: ORS 506.119 & 507.030
Hist.: FWC 63-1987, f. & cert. ef. 8-7-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 68-1988(Temp), f. & cert. ef. 8-15-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 56-1989(Temp), f. & cert. ef. 8-11-89; FWC 58-1989(Temp), f. & cert. ef. 8-14-89; FWC 80-1989(Temp), f. & cert. ef. 8-28-89; FWC 80-1990(Temp), f. & cert. ef. 8-8-90; FWC 85-1991, f. & cert. ef. 8-12-91; FWC 91-1991(Temp), f. & cert. ef. 8-29-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 53-1996(Temp), f. & cert. ef. 9-16-96; FWC 49-1997, f. & cert. ef. 8-20-97; FWC 74-1998(Temp), f. & cert. ef. 8-25-98 thru 8-26-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. & cert. ef. 9-29-99, cert. ef. 9-30-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. & cert. ef. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 52-2000(Temp), f. & cert. ef. 8-23-00, cert. ef. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. & cert. ef. 8-7-01, cert. ef. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. ef. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. ef. 8-24-01 thru 12-31-01; DFW 86-2001(Temp), f. & cert. ef. 9-4-01 thru 12-31-01; DFW 81-2002(Temp), f. & cert. ef. 8-2-02, cert. ef. 8-4-02 thru 8-9-02; DFW 87-2002(Temp), f. & cert. ef. 8-9-02 thru 8-12-02; DFW 89-2002(Temp), f. & cert. ef. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 82-2003(Temp), f. & cert. ef. 8-25-03 thru 12-31-03; DFW 87-2003(Temp), f. & cert. ef. 8-27-03 thru 12-31-03; DFW 81-2004(Temp), f. & cert. ef. 8-12-04 thru 12-31-04; DFW 82-2004(Temp), f. & cert. ef. 8-16-04 thru 12-31-04; DFW 86-2004(Temp), f. & cert. ef. 8-19-04 thru 12-31-04; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 85-2005(Temp), f. & cert. ef. 8-3-05 thru 12-31-05; DFW 88-2005(Temp), f. & cert. ef. 8-11-05, cert. ef. 8-14-05 thru 12-31-05; DFW 90-2005(Temp), f. & cert. ef. 8-17-05 thru 12-31-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 98-2005(Temp), f. & cert. ef. 8-25-05 thru 12-31-05; Administrative correction 1-19-06; DFW 72-2006(Temp), f. & cert. ef. 8-2-06 thru 12-31-06; DFW 82-2006(Temp), f. & cert. ef. 8-11-06, cert. ef. 8-13-06 thru 12-31-06; DFW 88-2006(Temp), f. & cert. ef. 8-21-06 thru 12-31-06; DFW 89-2006(Temp), f. & cert. ef. 8-24-06, cert. ef. 8-25-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. & cert. ef. 8-1-07 thru 10-31-07; DFW 72-2007(Temp), f. & cert. ef. 8-23-07 thru 8-31-07; Administrative Correction 9-16-07; DFW 85-2008(Temp), f. & cert. ef. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 93-2008(Temp), f. & cert. ef. 8-12-08 thru 12-31-08; DFW 95-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; DFW 100-2008(Temp), f. & cert. ef. 8-22-08 thru 9-30-08; DFW 102-2008(Temp), f. & cert. ef. 8-26-08 thru 9-1-08; Administrative correction 9-29-08; Administrative correction 10-21-08; DFW 89-2009(Temp), f. & cert. ef. 8-4-09 thru 12-31-09; DFW 90-2009(Temp), f. & cert. ef. 8-7-09, cert. ef. 8-8-09 thru 12-31-09; DFW 96-2009(Temp), f. & cert. ef. 8-21-09 thru 8-31-09; DFW 97-2009(Temp), f. & cert. ef. 8-25-09 thru 8-31-09; DFW 100-2009(Temp), f. & cert. ef. 8-27-09 thru 8-31-09; Administrative correction 9-29-09; DFW 112-2010(Temp), f. & cert. ef. 7-30-10, cert. ef. 8-3-10 thru 8-31-10; DFW 121-2010(Temp), f. & cert. ef. 8-18-10, cert. ef. 8-19-10 thru 8-31-10; Administrative correction 9-22-10; DFW 132-2010(Temp), f. & cert. ef. 9-21-10, cert. ef. 9-22-10 thru 10-31-10; DFW 137-2010(Temp), f. & cert. ef. 9-24-10 thru 10-31-10; Administrative correction 11-23-10; DFW 105-2011(Temp), f. & cert. ef. 8-4-11 thru 8-31-11; DFW 120-2011(Temp), f. & cert. ef. 8-26-11, cert. ef. 8-28-11 thru 9-14-11; DFW 128-2011(Temp), f. & cert. ef. 9-14-11, cert. ef. 9-18-11 thru 9-30-11; DFW 134-2011(Temp), f. & cert. ef. 9-21-11, cert. ef. 9-22-11 thru 9-30-11; DFW 136-2011(Temp), f. & cert. ef. 9-28-11 thru 10-5-11

Rule Caption: Closure of the Non-finclipped Coho Fishery in the Umpqua River and Bay.

Adm. Order No.: DFW 137-2011(Temp)

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 10-1-11 thru 12-31-11

Notice Publication Date:

Rules Amended: 635-016-0090

Rules Suspended: 635-016-0090(T)

Subject: Amended rule closes the Umpqua River and Bay non fin-clipped coho fishery which opened on September 15.

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

635-016-0090

Inclusions and Modifications

(1) The **2011 Oregon Sport Fishing Regulations** provide requirements for the Southwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2011 Oregon Sport Fishing Regulations**.

(2) Notwithstanding all other requirements provided in the **2011 Oregon Sport Fishing Regulations**, the following restrictions apply to angling in waters of the Southwest Zone:

(a) Within the Umpqua River Basin the following additional rules apply:

(A) Open for non adipose fin-clipped coho salmon in the Mainstem Umpqua River and Bay from the mouth to Scottsburg Bridge at RM 27.5 from September 15 through the earlier of November 30 or attainment of an adult coho quota of 1,300 non adipose fin-clipped coho. The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho, and no more than 2 total adult

non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 2 adult non adipose fin-clipped coho salmon seasonal aggregate limit.

(B) Mainstem Umpqua River and Bay from the mouth to Scottsburg Bridge at RM 27.5 closed to retention of non adipose fin-clipped coho salmon beginning 12:01 a.m. Saturday, October 1, 2011.

(b) Within the Coos River Basin the following additional rules apply:

(A) All waters of the South Fork Coos River upstream from the head of tidewater at Dellwood at RM 10.0 are closed for all salmon angling from August 1 through December 31 and closed for steelhead from August 1 through November 14; and

(B) Open for non adipose fin-clipped coho salmon upstream to the head of tide at Dellwood at RM 10.0 on the South Coos River and to the East Fork/West Fork Millicoma confluence from September 15 through the earlier of November 30 or attainment of an adult coho quota of 1,200 non adipose fin-clipped coho. The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon, and no more than 5 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(c) Within the Coquille River Basin the following additional rules apply:

(A) Open for non adipose fin-clipped coho salmon in Coquille River and Bay upstream to the Highway 42S bridge (Sturdivant Park) at RM 24.0 from September 15 through the earlier of November 30 or attainment of an adult coho quota of 825 non adipose fin-clipped coho. The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon, and no more than 5 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(d) Within the Tenmile Lakes Basin the following additional rules apply:

(A) Tenmile Lakes (Coos County) upstream from Hilltop Bridge are open for non adipose fin-clipped coho salmon from October 1 through the earlier of December 31 or attainment of an adult coho quota of 875 non adipose fin-clipped coho. The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon, and no more than 5 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone. Only one rod per angler may be used while angling for coho. Streams that empty into North and South Tenmile Lakes are not open to coho salmon angling, nor is the canal that connects North and South Tenmile Lakes.

(e) All waters of Floras Creek upstream of the County Road 124 bridge over Floras Creek at RM 5.0 are closed for Chinook salmon from August 1 through December 31.

(f) Within the Sixes River Basin the following additional rules apply:

(A) All waters of the Sixes River Basin that are open for Chinook salmon are limited to no more than 1 adult non fin-clipped Chinook salmon per day and 10 adult non fin-clipped Chinook salmon in the seasonal aggregate when combined with waters of the Elk River and Elk River Ocean Terminal Area. Seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between August 1 and December 31.

(B) Closed to Chinook salmon upstream of Edson Creek at RM 10.0 from August 1 through December 31.

(g) Within the Elk River Basin the following additional rules apply:

(A) All waters of the Elk River Basin that are open for Chinook salmon are limited to no more than 1 adult non fin-clipped Chinook salmon per day and 10 adult non fin-clipped Chinook salmon in the seasonal aggregate when combined with waters of the Sixes River and Elk River Ocean Terminal Area. Seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between August 1 and December 31.

(h) All waters of the Chetco River mainstem upstream of the power-line crossing at RM 2.2 are closed to angling from August 1 through November 4.

(i) All waters of the Winchuck River mainstem, including tidewater, are closed to angling from August 1 through November 4.

(j) Diamond Lake is open April 23 through October 31, 2011.

(A) Effective April 23-30 and October 28-31, 2011 trout catch limits are 5 per day, two daily limits in possession; 8-inch minimum length, only one trout over 20 inches may be taken per day; and use of bait is not allowed.

(B) Effective May 1 through October 27 trout catch limits are increased to 8 per day — all other regulations remain as stated in section (2)(h)(A) above and in the **2011 Oregon Sport Fishing Regulations**.

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

ADMINISTRATIVE RULES

Stat. Auth.: ORS 496.138 & 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 80-1993(Temp), f. 12-21-93, cert. ef. 1-1-94; FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 79-1994(Temp), f. 10-21-94, cert. ef. 7-22-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 57-1995(Temp), f. 7-3-95, cert. ef. 7-4-95; FWC 59-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 82-1995(Temp), f. 9-29-95, cert. ef. 10-1-95; FWC 90-1995(Temp), f. 11-29-95, cert. ef. 1-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 52-1996, f. & cert. ef. 9-11-96; FWC 61-1996, f. & cert. ef. 10-9-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 32-1997(Temp), f. & cert. ef. 5-23-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 24-1998(Temp), f. & cert. ef. 3-25-98 thru 9-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 52-1998(Temp), f. 7-10-98, cert. ef. 7-11-98 thru 7-24-98; DFW 55-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 48-2000(Temp), f. 8-14-00, cert. ef. 8-15-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 8-2001, f. & cert. ef. 3-5-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 42-2001(Temp), f. 5-25-01, cert. ef. 5-29-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 97-2001(Temp), f. 10-4-01, cert. ef. 11-1-01 thru 12-31-01; DFW 105-2001(Temp), f. 10-26-01, cert. ef. 11-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 55-2002(Temp), f. 5-28-02, cert. ef. 7-1-02 thru 11-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 124-2002(Temp), f. & cert. ef. 10-30-02 thru 12-31-02 (Suspended by DFW 125-2002(Temp), f. 11-8-02, cert. ef. 11-9-2002); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 127-2004, f. 12-22-04, cert. ef. 1-1-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 24-2006(Temp), f. 4-25-06, cert. ef. 5-13-06 thru 10-31-06; DFW 37-2006(Temp), f. 6-2-06, cert. ef. 6-5-06 thru 12-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 47-2007(Temp), f. 6-18-07, cert. ef. 6-21-07 thru 10-31-07; DFW 56-2007(Temp), 7-6-07, cert. ef. 8-1-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 137-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 54-2008(Temp), f. 5-28-08, cert. ef. 6-1-08 thru 7-31-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 138-2008(Temp), f. 10-28-08, cert. ef. 11-1-08 thru 11-30-08; DFW 140-2008(Temp), f. 11-4-08, cert. ef. 11-5-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 57-2009(Temp), f. 5-27-09, cert. ef. 6-1-09 thru 7-31-09; DFW 77-2009(Temp), f. 6-29-09, cert. ef. 7-1-09 thru 7-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 113-2009(Temp), f. & cert. ef. 9-18-09 thru 12-31-09; DFW 141-2009(Temp), f. 11-4-09, cert. ef. 11-7-09 thru 12-21-09; DFW 143-2009(Temp), f. 11-17-09, cert. ef. 11-19-09 thru 12-31-09; DFW 144-2009, f. 12-18-09, cert. ef. 1-1-10; DFW 65-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 5-31-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 143-2010(Temp), f. 10-8-10, cert. ef. 10-10-10 thru 12-31-10; DFW 152-2010(Temp), f. 10-27-10, cert. ef. 10-30-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 31-2011(Temp), f. 4-18-11, cert. ef. 5-1-11 thru 10-27-11; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 137-2011(Temp), 9-30-11, cert. ef. 10-11-11 thru 12-31-11

Rule Caption: Treaty Indian Fall Commercial Fisheries for Columbia River Continue.

Adm. Order No.: DFW 138-2011(Temp)

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 10-3-11 thru 10-31-11

Notice Publication Date:

Rules Amended: 635-041-0075

Rules Suspended: 635-041-0075(T)

Subject: This amended rules extends the ongoing Treaty Indian commercial Fall fisheries in the Columbia River by an additional 3.5 day fishing period. The additional fishing period begins at 6:00 a.m. Monday, October 3 and runs through 6:00 p.m. Thursday, October 6, 2011. Modifications are consistent with action taken September 29, 2011 by the Columbia River Compact agencies of Oregon and Washington in cooperation with the Columbia River Treaty Tribes.

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

635-041-0075

Fall Salmon Season

(1) Commercial sales of platform and hook-and-line caught fish from Zone 6 of the mainstem Columbia River are allowed until further notice.

(a) Salmon, steelhead, shad, walleye, carp, bass, catfish and yellow perch landed during an open commercial fishing period may be sold at any time or retained for subsistence purposes.

(b) White sturgeon between 43 and 54 inches in fork length taken in The Dalles and John Day pools and white sturgeon between 38 and 54 inches in fork length taken in the Bonneville Pool may not be sold but may be retained for subsistence use.

(c) Gear is restricted to subsistence fishing gear: hoopnets, dipnets and rod and reel with hook-and-line are allowed.

(d) Closed areas in Zone 6, except the Spring Creek sanctuary, are as set forth in OAR 635-041-0045 and remain in effect.

(2) Commercial sales of gill net caught fish from Zone 6 of the mainstem Columbia River is allowed if caught during the following periods: 6:00 a.m. Monday, August 22 through 6:00 p.m. Thursday, August 25, 2011 (3.5 days); from 6:00 a.m. Monday, August 29 through 6:00 p.m. Friday, September 2, 2011 (4.5 days); from 6:00 a.m. Tuesday, September 6 through 6:00 p.m. Saturday, September 10 (4.5 days); from 6:00 a.m. Monday, September 12 through 6:00 p.m. Friday, September 16, 2011 (4.5 days); from 6:00 a.m. Monday, September 19 through 6:00 p.m. Friday, September 23, 2011 (4.5 days); from 6:00 a.m. Monday, September 26 through 6:00 p.m. Thursday, September 29, 2011 (3.5 days); and from 6:00 a.m. Monday, October 3 through 6:00 p.m. Thursday, October 6, 2011 (3.5 days).

(a) Salmon, steelhead, shad, yellow perch, bass, walleye, catfish and carp landed during any open gill net fishing period may be sold at any time or retained for subsistence purposes.

(b) Sturgeon may not be sold, but white sturgeon between 43 and 54 inches in fork length taken from The Dalles and John Day pools and white sturgeon between 38 and 54 inches in fork length taken from the Bonneville Pool may be retained for subsistence use.

(c) Gear is restricted to gill nets. Only gill nets with a minimum mesh size of 8 inches may be used.

(d) Closed areas in Zone 6, including the Spring Creek Hatchery sanctuary, are as set forth in OAR 635-041-0045 and remain in effect. Effective 6:00 a.m. Monday, September 26, 2011 the Spring Creek sanctuary is reduced to a 150-foot diameter around the hatchery ladder.

(3) Sales of fish caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; Drano Lake; and Big White Salmon River are allowed during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods and concurrent with periods when sales from Zone 6 platform and hook-and-line fisheries are allowed.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 25-1979, f. & cert. ef. 8-2-79; FWC 36-1979(Temp), f. & cert. ef. 8-22-79; FWC 47-1979(Temp), f. & cert. ef. 9-21-79; FWC 44-1980(Temp), f. & cert. ef. 8-22-80; FWC 46-1980(Temp), f. & cert. ef. 9-13-80; FWC 33-1981(Temp), f. & cert. ef. 9-15-81; FWC 58-1982(Temp), f. & cert. ef. 8-27-82; FWC 62-1982(Temp), f. & cert. ef. 9-7-82; FWC 63-1982(Temp), f. & cert. ef. 9-14-82; FWC 75-1982(Temp), f. & cert. ef. 10-29-82; FWC 36-1983, f. & cert. ef. 8-18-83; FWC 49-1983(Temp), f. & cert. ef. 9-26-83; FWC 51-1983(Temp), f. & cert. ef. 9-30-83; FWC 55-1983(Temp), f. & cert. ef. 10-4-83; FWC 46-1984, f. & cert. ef. 8-30-84; FWC 55-1984(Temp), f. & cert. ef. 9-10-84; FWC 58-1984(Temp), f. & cert. ef. 9-17-84; FWC 61-1984(Temp), f. & cert. ef. 9-21-84; FWC 70-1984(Temp), f. & cert. ef. 10-9-84; FWC 47-1985, f. & cert. ef. 8-23-85; FWC 60-1985(Temp), f. & cert. ef. 9-13-85; FWC 63-1985(Temp), f. & cert. ef. 9-24-85; FWC 42-1986, f. & cert. ef. 8-15-86; FWC 53-1986(Temp), f. & cert. ef. 9-4-86; FWC 54-1986(Temp), f. & cert. ef. 9-5-86; FWC 57-1986(Temp), f. & cert. ef. 9-11-86; FWC 60-1986(Temp), f. & cert. ef. 9-26-86; FWC 62-1986(Temp), f. & cert. ef. 10-2-86; FWC 63-1987, f. & cert. ef. 8-7-87; FWC 74-1987(Temp), f. & cert. ef. 9-4-87; FWC 75-1987(Temp), f. & cert. ef. 9-1-87; FWC 78-1987(Temp), f. & cert. ef. 9-15-87; FWC 80-1987(Temp), f. & cert. ef. 9-18-87; FWC 87-1987(Temp), f. & cert. ef. 10-9-87; FWC 89-1987(Temp), f. & cert. ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988(Temp), f. 9-27-88, cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 96-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 98-1989(Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. 8-7-90, cert. ef. 8-8-90; FWC 90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. 9-7-90, cert. ef. 9-10-90; FWC 98-1990(Temp), f. 9-14-90, cert. ef. 9-17-90; FWC 85-1991, f. 8-7-91, cert. ef. 8-12-91; FWC 96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-1991(Temp), f. 9-17-91, cert. ef. 9-18-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. 9-1-92, cert. ef. 9-2-92; FWC 87-1992(Temp), f. 9-4-92, cert. ef. 9-7-92; FWC 91-1992(Temp), f. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. 9-22-92, cert. ef. 9-23-92; FWC 105-1992(Temp), f. 10-2-92, cert. ef. 10-5-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. 9-17-93, cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. 8-26-94, cert. ef. 8-29-94; FWC 61-1994(Temp), f. 9-7-94, cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. 8-25-95, cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. 9-12-95, cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. 8-29-96, cert. ef. 9-2-96; FWC 51-1996(Temp), f. 9-6-96, cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. 8-29-97, cert. ef. 9-2-97; FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. 9-16-97, cert. ef. 9-17-97; DFW 68-1998(Temp), f. & cert. ef. 8-25-98 thru 9-25-98; DFW 76-1998(Temp), f. & cert. ef. 9-8-98 thru 9-25-98; DFW 77-1998(Temp), f. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. 9-2-99, cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. 9-21-99, cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. 9-10-01, cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. 10-14-02, cert. ef. 10-15-02 thru 12-31-02; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03;

ADMINISTRATIVE RULES

DFW 81-2003(Temp), f. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. 9-12-03 cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. 9-22-03, cert. ef. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. 9-26-03, cert. ef. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. 10-3-03, cert. ef. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 104-2004(Temp), f. 10-12-04 cert. ef. 10-13-04 thru 12-31-04; DFW 110-2004(Temp), f. & cert. ef. 10-29-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 104-2005(Temp), f. & cert. ef. 9-12-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 113-2005(Temp), f. & cert. ef. 9-28-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 1-19-06; DFW 71-2006(Temp), f. 7-31-06, cert. ef. 8-1-06 thru 12-31-06; DFW 86-2006(Temp), f. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 94-2006(Temp), f. 9-8-06, cert. ef. 9-11-06 thru 12-31-06; DFW 101-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 107-2006(Temp), f. 9-28-06, cert. ef. 10-3-06 thru 12-31-06; DFW 115-2006(Temp), f. 10-13-06, cert. ef. 10-15-06 thru 12-31-06; Administrative correction 1-16-07; DFW 60-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 12-31-07; DFW 77-2007(Temp), f. 8-17-07, cert. ef. 8-22-07 thru 12-31-07; DFW 88-2007(Temp), f. 9-10-07, cert. ef. 9-11-07 thru 12-31-07; DFW 95-2007(Temp), f. 9-21-07, cert. ef. 9-25-07 thru 12-31-07; DFW 100-2007(Temp), f. 9-28-07, cert. ef. 10-3-07 thru 12-31-07; DFW 110-2007(Temp), f. 10-16-07, cert. ef. 10-20-07 thru 12-31-07; DFW 106-2008(Temp), f. 9-4-08, cert. ef. 9-6-08 thru 10-31-08; DFW 109-2008(Temp), f. 9-12-08, cert. ef. 9-15-08 thru 10-31-08; DFW 112-2008(Temp), f. 9-17-08, cert. ef. 9-18-08 thru 10-31-08; DFW 117-2008(Temp), f. & cert. ef. 9-22-08 thru 10-31-08; DFW 122-2008(Temp), f. & cert. ef. 9-29-08 thru 10-31-08; DFW 125-2008(Temp), f. 10-6-08, cert. ef. 10-7-08 thru 10-31-08; DFW 134-2008(Temp), f. & cert. ef. 10-17-08 thru 10-31-08; DFW 141-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 11-30-08; DFW 88-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 95-2009(Temp), f. 8-19-09, cert. ef. 8-24-09 thru 12-31-09; DFW 111-2009(Temp), f. 9-11-09, cert. ef. 9-13-09 thru 9-30-09; DFW 114-2009(Temp), f. 9-18-09, cert. ef. 9-21-09 thru 10-31-09; DFW 119-2009(Temp), f. & cert. ef. 9-29-09 thru 10-31-09; DFW 129-2009(Temp), f. 10-13-09, cert. ef. 10-14-09 thru 10-31-09; Administrative correction 11-19-09; DFW 111-2010(Temp), f. 7-30-10, cert. ef. 8-1-10 thru 10-31-10; DFW 120-2010(Temp), f. 8-18-10, cert. ef. 8-24-10 thru 10-31-10; DFW 128-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; DFW 136-2010(Temp), f. 9-24-10, cert. ef. 9-27-10 thru 10-31-10; DFW 142-2010(Temp), f. 10-8-10, cert. ef. 10-9-10 thru 10-31-10; DFW 149-2010(Temp), f. 10-18-10, cert. ef. 10-19-10 thru 10-31-10; Administrative correction 11-23-10; DFW 103-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 10-31-11; DFW 119-2011(Temp), f. 8-26-11, cert. ef. 8-29-11 thru 10-31-11; DFW 124-2011(Temp), f. 9-8-11, cert. ef. 9-12-11 thru 10-31-11; DFW 130-2011(Temp), f. 9-15-11, cert. ef. 9-19-11 thru 10-31-11; DFW 133-2011(Temp), f. 9-21-11, cert. ef. 9-22-11 thru 10-31-11; DFW 138-2011(Temp), f. 9-30-11, cert. ef. 10-3-11 thru 10-31-11

Rule Caption: Closure of the Non-adipose Finclipped Adult Coho Fishery in the Tillamook Bay Basin.

Adm. Order No.: DFW 139-2011(Temp)

Filed with Sec. of State: 10-3-2011

Certified to be Effective: 10-6-11 thru 12-31-11

Notice Publication Date:

Rules Amended: 635-014-0090

Subject: The amended rule closes the Tillamook Bay Basin non-adipose finclipped adult coho fishery which opened on September 15 due to the expected attainment of the 600 non-adipose finclipped adult coho allocation.

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

635-014-0090

Inclusions and Modifications

(1) The **2011 Oregon Sport Fishing Regulations** provide requirements for the Northwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2011 Oregon Sport Fishing Regulations** pamphlet.

(2) Notwithstanding all other requirements provided in the **2011 Oregon Sport Fishing Regulations** pamphlet, the following additional rules apply to adult salmon angling in waters of the Northwest Zone:

(a) All waters of the Necanicum River Basin, Nehalem River Basin (including North Fork), Tillamook Bay Basin, (including the Miami, Kilchis, Wilson, Trask, and Tillamook rivers), and the Nestucca River Basin (including the Little Nestucca and Three Rivers) and Salmon River that are open for Chinook salmon are limited to no more than 1 adult non fin-clipped Chinook salmon per day, or 2 adult non finclipped Chinook salmon per day from the Siletz or Yaquina rivers, and 10 adult non fin-clipped Chinook salmon in the seasonal aggregate when combined with all other waters in the Northwest Zone and all state waters terminal area seasons in the Marine Zone with a 10 adult non fin-clipped Chinook salmon seasonal aggregate limit. Seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between August 1 and December 31 except in the Nehalem Basin where the seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between July 1 and December 31 and except in the Tillamook Terminal Area where the seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between October 1-31.

(b) Within the Nehalem Basin (including the North Fork) the following additional rules apply:

(A) Mainstem (bay) closed to all salmon and steelhead angling seaward from a line extending from Nehalem Bay State Park Boat Ramp to Fishery Point July 1 through September 14 and closed to all Chinook salmon angling upstream of Peterson Creek (RM 10.2) July 1 through December 31.

(B) Nehalem tidewater from the jetty tips upstream to Peterson Creek (RM 10.2) on South Fork and North Fork Road Bridge on the North Fork is open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 1,200 non adipose fin-clipped coho salmon.

(C) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 2 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 2 adult non adipose fin-clipped coho salmon seasonal aggregate limit.

(c) Within the Tillamook Bay Basin the following additional rules apply:

(A) Tillamook Bay tidewater from the jetty tips upstream to Hwy. 101 Bridge on Miami, Kilchis, Wilson, and Trask rivers and Burton Bridge on Tillamook River is open for non adipose fin-clipped coho salmon from September 15 through 12:00 midnight Wednesday, October 5, 2011 attainment of a quota of 600 non adipose fin-clipped adult coho salmon is expected to have been met.

(B) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 1 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 1 adult non adipose fin-clipped coho salmon seasonal aggregate limit.

(d) Within the Nestucca Basin (including the Little Nestucca River and Three Rivers) the following rules apply:

(A) Mainstem Nestucca upstream of First Bridge (RM 15.8) near Beaver closed to all Chinook angling August 1 through December 31.

(B) Nestucca Bay tidewater (excluding Little Nestucca tidewater) from the bay mouth upstream to the Cloverdale Bridge (RM 7.1) is open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 200 non adipose fin-clipped coho salmon.

(C) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 1 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 1 adult non adipose fin-clipped coho salmon seasonal aggregate limit.

(e) Within the Siletz River Basin the following additional rules apply:

(A) Mainstem and tributaries above Ojalla Bridge (RM 31) closed to Chinook August 1-December 31; Drift Creek (Siletz River Basin) upstream of the confluence with Quarry Creek at RM 8 is closed for Chinook salmon from August 1 through December 31;

(B) Siletz River and Bay upstream to Ojalla Bridge (RM 31) is open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 700 non adipose fin-clipped coho salmon; and

(C) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 5 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(f) Within the Yaquina River Basin the following additional rules apply:

(A) All waters of the Yaquina River upstream of the confluence of the Yaquina River and Big Elk Creek at RM 18.3 and all waters of Big Elk Creek (Yaquina River Basin) are closed for Chinook salmon from August 1 through December 31;

(B) The Yaquina River and Bay upstream to the confluence of the Yaquina River and Big Elk Creek are open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 575 non adipose fin-clipped coho salmon; and

(C) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 5 total adult non adipose fin-clipped coho

ADMINISTRATIVE RULES

salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(g) Within the Alsea River Basin the following additional rules apply:

(A) All waters of Drift Creek (Alsea River Basin) within the Drift Creek Wilderness Area and upstream are closed for Chinook salmon from August 1 through December 31;

(B) All waters of the Alsea River upstream of the confluence with Five Rivers at RM 21 are closed for Chinook salmon from August 1 through December 31;

(C) All waters of Five Rivers are closed for Chinook salmon from August 1 through December 31.

(D) The Alsea River and Bay upstream to the confluence of the Alsea River and Five Rivers are open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 675 non adipose fin-clipped coho salmon; and

(E) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 5 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(h) Within the Siuslaw River Basin the following additional rules apply:

(A) All waters of the Siuslaw River upstream of the confluence with Lake Creek at RM 30.0 are closed for Chinook salmon from August 1 through December 31;

(B) All waters of Lake Creek are closed for Chinook salmon August 1 through December 31 and all waters of Lake Creek downstream of Fish Creek are closed to all angling from September 1 through November 30;

(C) The Siuslaw River and Bay upstream to the confluence of the Siuslaw River and Lake Creek are open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 900 non adipose fin-clipped coho salmon; and

(D) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 5 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

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

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

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 28-1995(Temp), f. 3-31-95, cert. ef. 5-1-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 19-1996, f. & cert. ef. 5-16-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 29-1996, f. & cert. ef. 5-31-96; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 55-1996(Temp), f. 9-25-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 58-1997, f. 9-8-97, cert. ef. 10-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 69-1998, f. 8-28-98, cert. ef. 9-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 81-2001, f. & cert. ef. 8-29-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 118-2002(Temp), f. 10-22-02, cert. ef. 12-1-02 thru 3-31-03; DFW 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 38-2003(Temp), f. 5-7-03, cert. ef. 5-10-03 thru 10-31-03; DFW 51-2003(Temp), f. & cert. ef. 6-13-03 thru 10-31-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 108-2003(Temp), f. 10-28-03, cert. ef. 12-1-03 thru 3-31-04; DFW 123-2003(Temp), f. 12-10-03, cert. ef. 12-11-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 126-2003(Temp), f. 12-11-03, cert. ef. 1-1-04 thru 3-31-04; DFW 60-2004(Temp), f. 6-29-04, cert. ef. 7-1-04 thru 7-15-04; DFW 90-2004(Temp), f. 8-30-04, cert. ef. 10-1-04 thru 12-31-04; DFW 103-2004(Temp), f. & cert. ef. 10-4-04 thru 12-31-04; DFW 108-2004(Temp), f. & cert. ef. 10-18-04 thru 12-31-04; DFW 111-2004(Temp), f. 11-16-04, cert. ef. 11-20-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 62-2005(Temp), f. 6-29-05, cert. ef. 7-1-05 thru 7-10-05; Administrative correction 7-20-05; DFW 105-2005(Temp), f. 9-12-05, cert. ef. 10-1-05 thru 12-15-05; DFW 127-2005(Temp), f. & cert. ef. 11-23-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 53-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 7-9-06; Administrative correction 7-20-06; DFW 64-2006(Temp), f. 7-17-06, cert. ef. 8-1-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 104-2006(Temp), f. 9-19-06, cert. ef. 10-1-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 63-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 25-2008(Temp), f. 3-13-08, cert. ef. 3-15-08 thru 9-10-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 43-2009(Temp), f. 5-5-09, cert. ef. 5-22-09 thru 10-31-09; DFW 67-2009(Temp), f. 6-9-09, cert. ef. 6-15-09 thru 10-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 99-2009(Temp), f. 8-26-09, cert. ef. 9-1-09 thru 12-31-

09; DFW 115-2009(Temp), f. & cert. ef. 9-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 44-2010(Temp), f. 4-20-10, cert. ef. 4-21-10 thru 9-30-10; DFW 73-2010(Temp), f. 5-27-10, cert. ef. 6-1-10 thru 9-30-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 89-2010(Temp), f. 6-28-10, cert. ef. 7-1-10 thru 9-30-10; Administrative correction 10-26-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 57-2011(Temp), f. 5-27-11, cert. ef. 6-1-11 thru 6-30-11; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 139-2011(Temp), f. 10-3-11, cert. ef. 10-6-11 thru 12-31-11

Rule Caption: Additional Fall Commercial Drift Gill Net Season In Columbia River Mainstem.

Adm. Order No.: DFW 140-2011(Temp)

Filed with Sec. of State: 10-4-2011

Certified to be Effective: 10-5-11 thru 10-12-11

Notice Publication Date:

Rules Amended: 635-042-0031

Rules Suspended: 635-042-0031(T)

Subject: Amended rule extends the 2011 commercial fall salmon drift gill net season for the Columbia River mainstem to include one new 10-hour fishing period, from 9:00 p.m. Wednesday October 5 to 7:00 a.m. Thursday October 6, 2011, in the area of Zones 1 through 5.

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

635-042-0031

Early Fall Salmon Season

(1) Salmon and white sturgeon may be taken for commercial purposes in the waters of the Columbia River: Zones 1-5, as identified in OAR 635-042-0001 as follows: 9:00 p.m. Wednesday, October 5 to 7:00 a.m. Thursday, October 6, 2011 (10 hours)

(2) Only drift gill nets may be used. It is *unlawful* to use a gill net having a mesh size less than 8 inches or more than 9.75 inches (as described in OAR 635-042-0010 (4)). Only nets specifically authorized for use in this fishery may be onboard the vessel. Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(3) A maximum of four (4) white sturgeon, 43–54 inches in fork length, may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday). The sturgeon possession and sales limit includes mainstem fisheries only. Sales of white sturgeon from fall Select Area fisheries is prohibited. Retention of green sturgeon is prohibited.

(4) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomin-B, Cowlitz River, Kalama-B, Lewis-B, Washougal River and Sandy River sanctuaries are in effect during the open fishing period identified above.

Stat. Auth.: ORS 496.118, 506.109 & 506.129

Stats. Implemented: ORS 506.119 & 507.030

Hist.: FWC 63-1987, f. & cert. ef. 8-7-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 68-1988(Temp), f. & cert. ef. 8-15-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 56-1989(Temp), f. & cert. ef. 8-11-89; FWC 58-1989(Temp), f. & cert. ef. 8-14-89; FWC 80-1989(Temp), f. 8-28-89, cert. ef. 8-29-89; FWC 80-1990(Temp), f. 8-7-90, cert. ef. 8-8-90; FWC 85-1991, f. 8-7-91, cert. ef. 8-12-91; FWC 91-1991(Temp), f. & cert. ef. 8-29-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 53-1996(Temp), f. & cert. ef. 9-16-96; FWC 49-1997, f. 8-20-97, cert. ef. 8-24-97; DFW 74-1998(Temp), f. & cert. ef. 8-25-98 thru 8-26-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. 9-29-99, cert. ef. 9-30-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 52-2000(Temp), f. 8-23-00, cert. ef. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. 8-7-01, cert. ef. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. ef. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. ef. 8-24-01 thru 12-31-01; DFW 86-2001(Temp), f. & cert. ef. 9-4-01 thru 12-31-01; DFW 81-2002(Temp), f. 8-2-02, cert. ef. 8-4-02 thru 8-9-02; DFW 87-2002(Temp), f. & cert. ef. 8-9-02 thru 8-12-02; DFW 89-2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 82-2003(Temp), f. & cert. ef. 8-25-03 thru 12-31-03; DFW 87-2003(Temp), f. & cert. ef. 8-27-03 thru 12-31-03; DFW 81-2004(Temp), f. & cert. ef. 8-12-04 thru 12-31-04; DFW 82-2004(Temp), f. & cert. ef. 8-16-04 thru 12-31-04; DFW 86-2004(Temp), f. 8-19-04 thru 12-31-04; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 88-2005(Temp), f. 8-11-05, cert. ef. 8-14-05 thru 12-31-05; DFW 90-2005(Temp), f. & cert. ef. 8-17-05 thru 12-31-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 98-2005(Temp), f. 8-24-05, cert. ef. 8-25-05 thru 12-31-05; Administrative correction 1-19-06; DFW 72-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 82-2006(Temp), f. 8-11-06, cert. ef. 8-13-06 thru 12-31-06; DFW 88-2006(Temp), f. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 89-2006(Temp), f. 8-24-06, cert. ef. 8-25-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 72-2007(Temp), f. 8-17-07, cert. ef. 8-23-07 thru 8-31-07; Administrative correction 1-16-07; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 93-2008(Temp), f. & cert. ef. 8-12-08 thru 12-31-08; DFW 95-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; DFW 100-2008(Temp), f. 8-22-08, cert. ef. 8-25-08 thru 9-30-08; DFW 102-2008(Temp), f. & cert. ef. 8-26-08 thru 9-1-08; Administrative correction 9-29-08; Administrative correction

ADMINISTRATIVE RULES

10-21-08; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 90-2009(Temp), f. 8-7-09, cert. ef. 8-8-09 thru 12-31-09; DFW 96-2009(Temp), f. & cert. ef. 8-21-09 thru 8-31-09; DFW 97-2009(Temp), f. & cert. ef. 8-25-09 thru 8-31-09; DFW 100-2009(Temp), f. & cert. ef. 8-27-09 thru 8-31-09; Administrative correction 9-29-09; DFW 112-2010(Temp), f. 7-30-10, cert. ef. 8-3-10 thru 8-31-10; DFW 121-2010(Temp), f. 8-18-10, cert. ef. 8-19-10 thru 8-31-10; Administrative correction 9-22-10; DFW 132-2010(Temp), f. 9-21-10, cert. ef. 9-22-10 thru 10-31-10; DFW 137-2010(Temp), f. & cert. ef. 9-24-10 thru 10-31-10; Administrative correction 11-23-10; DFW 105-2011(Temp), f. 8-2-11, cert. ef. 8-4-11 thru 8-31-11; DFW 120-2011(Temp), f. 8-26-11, cert. ef. 8-28-11 thru 9-14-11; DFW 128-2011(Temp), f. 9-14-11, cert. ef. 9-18-11 thru 9-30-11; DFW 134-2011(Temp), f. 9-21-11, cert. ef. 9-22-11 thru 9-30-11; DFW 136-2011(Temp), f. & cert. ef. 9-28-11 thru 10-5-11; DFW 140-2011(Temp), f. 10-4-11, cert. ef. 10-5-11 thru 10-12-11

Rule Caption: Closure of Non-adipose Finclipped Adult Coho Fishery In Siuslaw, Yaquina, and Nestucca River Basins.

Adm. Order No.: DFW 141-2011(Temp)

Filed with Sec. of State: 10-6-2011

Certified to be Effective: 10-10-11 thru 12-31-11

Notice Publication Date:

Rules Amended: 635-014-0090

Rules Suspended: 635-014-0090(T)

Subject: The amended rule closes the Siuslaw, Yaquina, and Nestucca River Basin non-adipose finclipped adult coho fishery which opened on September 15 due to the expected attainment of the 900, 575, and 200 non-adipose finclipped adult coho allocation, respectively.

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

635-014-0090

Inclusions and Modifications

(1) The **2011 Oregon Sport Fishing Regulations** provide requirements for the Northwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2011 Oregon Sport Fishing Regulations** pamphlet.

(2) Notwithstanding all other requirements provided in the 2011 Oregon Sport Fishing Regulations pamphlet, the following additional rules apply to adult salmon angling in waters of the Northwest Zone:

(a) All waters of the Necanicum River Basin, Nehalem River Basin (including North Fork), Tillamook Bay Basin, (including the Miami, Kilchis, Wilson, Trask, and Tillamook rivers), and the Nestucca River Basin (including the Little Nestucca and Three Rivers) and Salmon River that are open for Chinook salmon are limited to no more than 1 adult non fin-clipped Chinook salmon per day, or 2 adult non fin-clipped Chinook salmon per day from the Siletz or Yaquina rivers, and 10 adult non fin-clipped Chinook salmon in the seasonal aggregate when combined with all other waters in the Northwest Zone and all state waters terminal area seasons in the Marine Zone with a 10 adult non fin-clipped Chinook salmon seasonal aggregate limit. Seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between August 1 and December 31 except in the Nehalem Basin where the seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between July 1 and December 31 and except in the Tillamook Terminal Area where the seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between October 1-31.

(b) Within the Nehalem Basin (including the North Fork) the following additional rules apply:

(A) Mainstem (bay) closed to all salmon and steelhead angling seaward from a line extending from Nehalem Bay State Park Boat Ramp to Fishery Point July 1 through September 14 and closed to all Chinook salmon angling upstream of Peterson Creek (RM 10.2) July 1 through December 31.

(B) Nehalem tidewater from the jetty tips upstream to Peterson Creek (RM 10.2) on South Fork and North Fork Road Bridge on the North Fork is open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 1,200 non adipose fin-clipped coho salmon.

(C) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 2 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 2 adult non adipose fin-clipped coho salmon seasonal aggregate limit.

(c) Within the Tillamook Bay Basin the following additional rules apply:

(A) Tillamook Bay tidewater from the jetty tips upstream to Hwy. 101 Bridge on Miami, Kilchis, Wilson, and Trask rivers and Burton Bridge on Tillamook River is open for non adipose fin-clipped coho salmon from September 15 through 12:00 midnight Wednesday, October 5, 2011 attainment of a quota of 600 non adipose fin-clipped adult coho salmon is expected to have been met.

(B) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 1 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 1 adult non adipose fin-clipped coho salmon seasonal aggregate limit.

(d) Within the Nestucca Basin (including the Little Nestucca River and Three Rivers) the following rules apply:

(A) Mainstem Nestucca upstream of First Bridge (RM 15.8) near Beaver closed to all Chinook angling August 1 through December 31.

(B) Nestucca Bay tidewater (excluding Little Nestucca tidewater) from the bay mouth upstream to the Cloverdale Bridge (RM 7.1) is open for non adipose fin-clipped coho salmon from September 15 through 11:59 p.m. Sunday, October 9, 2011 when attainment of a quota of 200 non adipose fin-clipped adult coho salmon is expected to have been met.

(C) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 1 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 1 adult non adipose fin-clipped coho salmon seasonal aggregate limit.

(e) Within the Siletz River Basin the following additional rules apply:

(A) Mainstem and tributaries above Ojalla Bridge (RM 31) closed to Chinook August 1-December 31; Drift Creek (Siletz River Basin) upstream of the confluence with Quarry Creek at RM 8 is closed for Chinook salmon from August 1 through December 31;

(B) Siletz River and Bay upstream to Ojalla Bridge (RM 31) is open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 700 non adipose fin-clipped coho salmon; and

(C) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 5 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(f) Within the Yaquina River Basin the following additional rules apply:

(A) All waters of the Yaquina River upstream of the confluence of the Yaquina River and Big Elk Creek at RM 18.3 and all waters of Big Elk Creek (Yaquina River Basin) are closed for Chinook salmon from August 1 through December 31;

(B) The Yaquina River and Bay upstream to the confluence of the Yaquina River and Big Elk Creek are open for non adipose fin-clipped coho salmon from September 15 through 11:59 p.m. Sunday, October 9, 2011 when attainment of a quota of 575 non adipose fin-clipped adult coho salmon is expected to have been met; and

(C) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 5 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(g) Within the Alsea River Basin the following additional rules apply:

(A) All waters of Drift Creek (Alsea River Basin) within the Drift Creek Wilderness Area and upstream are closed for Chinook salmon from August 1 through December 31;

(B) All waters of the Alsea River upstream of the confluence with Five Rivers at RM 21 are closed for Chinook salmon from August 1 through December 31;

(C) All waters of Five Rivers are closed for Chinook salmon from August 1 through December 31.

(D) The Alsea River and Bay upstream to the confluence of the Alsea River and Five Rivers are open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 675 non adipose fin-clipped coho salmon; and

(E) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 5 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

ADMINISTRATIVE RULES

(h) Within the Siuslaw River Basin the following additional rules apply:

(A) All waters of the Siuslaw River upstream of the confluence with Lake Creek at RM 30.0 are closed for Chinook salmon from August 1 through December 31;

(B) All waters of Lake Creek are closed for Chinook salmon August 1 through December 31 and all waters of Lake Creek downstream of Fish Creek are closed to all angling from September 1 through November 30;

(C) The Siuslaw River and Bay upstream to the confluence of the Siuslaw River and Lake Creek are open for non adipose fin-clipped coho salmon from September 15 through 11:59 p.m. Sunday, October 9, 2011 when attainment of a quota of 900 non adipose fin-clipped adult coho salmon is expected to have been met; and

(D) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 5 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

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

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

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 28-1995(Temp), f. 3-31-95, cert. ef. 5-1-95; FWC 34-1995, f. & cert. ef. 5-5-97; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 19-1996, f. & cert. ef. 5-16-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 29-1996, f. & cert. ef. 5-31-96; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 55-1996(Temp), f. 9-25-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 58-1997, f. 9-8-97, cert. ef. 10-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 69-1998, f. 8-28-98, cert. ef. 9-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 81-2001, f. & cert. ef. 8-29-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 118-2002(Temp), f. 10-22-02, cert. ef. 12-1-02 thru 3-31-03; DFW 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 38-2003(Temp), f. 5-7-03, cert. ef. 5-10-03 thru 10-31-03; DFW 51-2003(Temp), f. & cert. ef. 6-13-03 thru 10-31-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 108-2003(Temp), f. 10-28-03, cert. ef. 12-1-03 thru 3-31-04; DFW 123-2003(Temp), f. 12-10-03, cert. ef. 12-11-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 126-2003(Temp), f. 12-11-03, cert. ef. 1-1-04 thru 3-31-04; DFW 60-2004(Temp), f. 6-29-04, cert. ef. 7-1-04 thru 7-15-04; DFW 90-2004(Temp), f. 8-30-04, cert. ef. 10-1-04 thru 12-31-04; DFW 103-2004(Temp), f. & cert. ef. 10-4-04 thru 12-31-04; DFW 108-2004(Temp), f. & cert. ef. 10-18-04 thru 12-31-04; DFW 111-2004(Temp), f. 11-16-04, cert. ef. 11-20-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 62-2005(Temp), f. 6-29-05, cert. ef. 7-1-05 thru 7-10-05; Administrative correction 7-20-05; DFW 105-2005(Temp), f. 9-12-05, cert. ef. 10-1-05 thru 12-15-05; DFW 127-2005(Temp), f. & cert. ef. 11-23-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 53-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 7-9-06; Administrative correction 7-20-06; DFW 64-2006(Temp), f. 7-17-06, cert. ef. 8-1-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 104-2006(Temp), f. 9-19-06, cert. ef. 10-1-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 63-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 25-2008(Temp), f. 3-13-08, cert. ef. 3-15-08 thru 9-10-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 43-2009(Temp), f. 5-5-09, cert. ef. 5-22-09 thru 10-31-09; DFW 67-2009(Temp), f. 6-9-09, cert. ef. 6-15-09 thru 10-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 99-2009(Temp), f. 8-26-09, cert. ef. 9-1-09 thru 12-31-09; DFW 115-2009(Temp), f. & cert. ef. 9-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 44-2010(Temp), f. 4-20-10, cert. ef. 4-21-10 thru 9-30-10; DFW 73-2010(Temp), f. 5-27-10, cert. ef. 6-1-10 thru 9-30-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 89-2010(Temp), f. 6-28-10, cert. ef. 7-1-10 thru 9-30-10; Administrative correction 10-26-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 57-2011(Temp), f. 5-27-11, cert. ef. 6-1-11 thru 6-30-11; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 139-2011(Temp), f. 10-3-11, cert. ef. 10-6-11 thru 12-31-11; DFW 141-2011(Temp), f. 10-6-11, cert. ef. 10-10-11 thru 12-31-11

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Rule Caption: Treaty Indian Fall Commercial Fisheries for Columbia River Modified.

Adm. Order No.: DFW 142-2011(Temp)

Filed with Sec. of State: 10-6-2011

Certified to be Effective: 10-8-11 thru 10-31-11

Notice Publication Date:

Rules Amended: 635-041-0063, 635-041-0075

Rules Suspended: 635-041-0063(T), 635-041-0075(T)

Subject: Amended rules discontinues sales of fish caught from the platform and hook-and-line fishery in Zone 6 of the Columbia River. Modifications also discontinue sales of steelhead caught in Yakama

Nation tributary fisheries, and requires a Yakama Nation Permit to sell Chinook, coho, Pink, and chum salmon caught in those fisheries. Modifications are consistent with action taken October 6, 2011 by the Columbia River Compact agencies of Oregon and Washington in cooperation with the Columbia River Treaty Tribes.

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

635-041-0063

Sturgeon Setline Fishery

(1) White sturgeon may be taken by setline for commercial purposes from 6:00 a.m. Monday, October 10 through 6:00 p.m. Monday, October 31, 2011, or until harvest guidelines are met, 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. Fish caught during open fishing periods may be sold at any time.

(2) Closed areas, with the exception of Spring Creek Hatchery sanctuary, as 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; DFW 88-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; Administrative correction 1-25-10; DFW 103-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 10-31-11; DFW 142-2011(Temp), f. 10-6-11, cert. ef. 10-8-11 thru 10-31-11

635-041-0075

Fall Salmon Season

(1) Commercial sales of platform and hook-and-line caught fish from Zone 6 of the mainstem Columbia River are allowed until 6:00 p.m. Saturday, October 8, 2011. Subsistence fishing will remain open.

(a) Salmon, steelhead, shad, walleye, carp, bass, catfish and yellow perch landed during an open commercial fishing period may be sold at any time or retained for subsistence purposes.

(b) White sturgeon between 43 and 54 inches in fork length taken in The Dalles and John Day pools and white sturgeon between 38 and 54 inches in fork length taken in the Bonneville Pool may not be sold prior to 6:00

ADMINISTRATIVE RULES

p.m. Monday, October 10, 2011 but may be retained for subsistence use. Beginning 6:00 p.m. Monday, October 10 through 6:00 a.m. Monday, October 31, 2011 sturgeon caught during times when the sturgeon setline fishery is open may be sold at any time.

(c) Gear is restricted to subsistence fishing gear: hoopnets, dipnets and rod and reel with hook-and-line are allowed.

(d) Closed areas in Zone 6, except the Spring Creek sanctuary, are as set forth in OAR 635-041-0045 and remain in effect.

(2) Commercial sales of gill net caught fish from Zone 6 of the mainstem Columbia River is allowed if caught during the following periods: 6:00 a.m. Monday, August 22 through 6:00 p.m. Thursday, August 25, 2011 (3.5 days); from 6:00 a.m. Monday, August 29 through 6:00 p.m. Friday, September 2, 2011 (4.5 days); from 6:00 a.m. Tuesday, September 6 through 6:00 p.m. Saturday, September 10 (4.5 days); from 6:00 a.m. Monday, September 12 through 6:00 p.m. Friday, September 16, 2011 (4.5 days); from 6:00 a.m. Monday, September 19 through 6:00 p.m. Friday, September 23, 2011 (4.5 days); from 6:00 a.m. Monday, September 26 through 6:00 p.m. Thursday, September 29, 2011 (3.5 days); and from 6:00 a.m. Monday, October 3 through 6:00 p.m. Thursday, October 6, 2011 (3.5 days).

(a) Salmon, steelhead, shad, yellow perch, bass, walleye, catfish and carp landed during any open gill net fishing period may be sold at any time or retained for subsistence purposes.

(b) Sturgeon may not be sold, but white sturgeon between 43 and 54 inches in fork length taken from The Dalles and John Day pools and white sturgeon between 38 and 54 inches in fork length taken from the Bonneville Pool may be retained for subsistence use.

(c) Gear is restricted to gill nets. Only gill nets with a minimum mesh size of 8 inches may be used.

(d) Closed areas in Zone 6, including the Spring Creek Hatchery sanctuary, are as set forth in OAR 635-041-0045 and remain in effect. Effective 6:00 a.m. Monday, September 26, 2011 the Spring Creek sanctuary is reduced to a 150-foot diameter around the hatchery ladder.

(3) Sales of fish caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; Drano Lake; and Big White Salmon River are allowed during those days and hours when the tributaries are open under lawfully enacted tribal fishing periods and concurrent with periods when sales from Zone 6 platform and hook-and-line fisheries are allowed until 6:00 p.m. Saturday, October 8, 2011.

(a) Steelhead caught in Yakama Nation tributary fisheries may not be sold but may be retained for subsistence purposes, and;

(b) Sales of salmon caught in these fisheries will require a permit issued by the Yakama Nation.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982(Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984(Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f. & ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & ef. 8-15-88; FWC 72-1988(Temp), f. & ef. 8-19-88; FWC 77-1988(Temp), f. & ef. 9-2-88; FWC 91-1988(Temp), f. & ef. 9-16-88; FWC 95-1988(Temp), f. & ef. 9-27-88, cert. ef. 9-28-88; FWC 54-1989(Temp), f. & ef. 8-7-89; FWC 87-1989(Temp), f. & ef. 9-1-89; FWC 95-1989(Temp), f. & ef. 9-19-89; FWC 96-1989(Temp), f. & ef. 9-21-89; FWC 99-1989(Temp), f. & ef. 9-27-89; FWC 100-1989(Temp), f. & ef. 9-28-89; FWC 80-1990(Temp), f. & ef. 8-8-90; FWC 90-1990, f. & ef. 8-31-90; FWC 96-1990(Temp), f. & ef. 9-7-90, cert. ef. 9-10-90; FWC 98-1990(Temp), f. & ef. 9-14-90, cert. ef. 9-17-90; FWC 85-1991, f. & ef. 8-12-91; FWC 96-1991, f. & ef. 9-9-91; FWC 101-1991(Temp), f. & ef. 9-10-91; FWC 103-1991(Temp), f. & ef. 9-17-91, cert. ef. 9-18-91; FWC 110-1991(Temp), f. & ef. 9-27-91; FWC 73-1992(Temp), f. & ef. 8-10-92; FWC 86-1992(Temp), f. & ef. 9-1-92, cert. ef. 9-2-92; FWC 87-1992(Temp), f. & ef. 9-4-92, cert. ef. 9-7-92; FWC 91-1992(Temp), f. & ef. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. & ef. 9-22-92, cert. ef. 9-23-92; FWC 105-1992(Temp), f. & ef. 10-2-92, cert. ef. 10-5-92; FWC 107-1992(Temp), f. & ef. 10-9-92; FWC 47-1993, f. & ef. 8-6-93, cert. ef. 8-9-93; FWC 52-1993, f. & ef. 8-30-93; FWC 57-1993(Temp), f. & ef. 9-13-93; FWC 59-1993(Temp), f. & ef. 9-17-93, cert. ef. 9-20-93; FWC 61-1993(Temp), f. & ef. 9-24-93; FWC 55-1994(Temp), f. & ef. 8-26-94, cert. ef. 8-29-94; FWC 61-1994(Temp), f. & ef. 9-7-94, cert. ef. 9-8-94; FWC 74-1994(Temp), f. & ef. 10-12-94; FWC 68-1995(Temp), f. & ef. 8-25-95, cert. ef. 8-29-95; FWC 72-1995(Temp), f. & ef. 9-1-95; FWC 75-1995(Temp), f. & ef. 9-12-95, cert. ef. 9-13-95; FWC 46-1996, f. & ef. 8-23-96; FWC 48-1996(Temp), f. & ef. 8-29-96, cert. ef. 9-2-96; FWC 51-1996(Temp), f. & ef. 9-6-96, cert. ef. 9-9-96; FWC 53-1996(Temp), f. & ef. 9-26-96; FWC 54-1996(Temp), f. & ef. 9-23-96; FWC 48-1997, f. & ef. 8-25-97; FWC 52-1997(Temp), f. & ef. 8-29-97, cert. ef. 9-2-97; FWC 57(Temp), f. & ef. 9-9-97; FWC 60-1997(Temp), f. & ef. 9-16-97, cert. ef. 9-17-97; FWC 68-1998(Temp), f. & ef. 8-25-98 thru 9-25-98; FWC 76-1998(Temp), f. & ef. 9-8-98

thru 9-25-98; DFW 77-1998(Temp), f. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. 9-2-99, cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. 9-21-99, cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. 9-10-01, cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. 10-14-02, cert. ef. 10-15-02 thru 12-31-02; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. 9-12-03 cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. 9-22-03, cert. ef. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. 9-26-03, cert. ef. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. 10-3-03, cert. ef. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 104-2004(Temp), f. 10-12-04 cert. ef. 10-13-04 thru 12-31-04; DFW 110-2004(Temp), f. & cert. ef. 10-29-04 thru 12-31-04; Administrative correction 2-18-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 104-2005(Temp), f. & cert. ef. 9-12-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 113-2005(Temp), f. & cert. ef. 9-28-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; Administrative correction 1-19-06; DFW 71-2006(Temp), f. 7-31-06, cert. ef. 8-1-06 thru 12-31-06; DFW 86-2006(Temp), f. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 94-2006(Temp), f. 9-8-06, cert. ef. 9-11-06 thru 12-31-06; DFW 101-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 107-2006(Temp), f. 9-28-06, cert. ef. 10-3-06 thru 12-31-06; DFW 115-2006(Temp), f. 10-13-06, cert. ef. 10-15-06 thru 12-31-06; Administrative correction 1-16-07; DFW 60-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 12-31-07; DFW 77-2007(Temp), f. 8-17-07, cert. ef. 8-22-07 thru 12-31-07; DFW 88-2007(Temp), f. 9-10-07, cert. ef. 9-11-07 thru 12-31-07; DFW 95-2007(Temp), f. 9-21-07, cert. ef. 9-25-07 thru 12-31-07; DFW 100-2007(Temp), f. 9-28-07, cert. ef. 10-3-07 thru 12-31-07; DFW 110-2007(Temp), f. 10-16-07, cert. ef. 10-20-07 thru 12-31-07; DFW 106-2008(Temp), f. 9-4-08, cert. ef. 9-6-08 thru 10-31-08; DFW 109-2008(Temp), f. 9-12-08, cert. ef. 9-15-08 thru 10-31-08; DFW 112-2008(Temp), f. 9-17-08, cert. ef. 9-18-08 thru 10-31-08; DFW 117-2008(Temp), f. & cert. ef. 9-22-08 thru 10-31-08; DFW 122-2008(Temp), f. & cert. ef. 9-29-08 thru 10-31-08; DFW 125-2008(Temp), f. 10-6-08, cert. ef. 10-7-08 thru 10-31-08; DFW 134-2008(Temp), f. & cert. ef. 10-17-08 thru 10-31-08; DFW 141-2008(Temp), f. 11-10-08, cert. ef. 11-12-08 thru 11-30-08; DFW 88-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 95-2009(Temp), f. 8-19-09, cert. ef. 8-24-09 thru 12-31-09; DFW 111-2009(Temp), f. 9-11-09, cert. ef. 9-13-09 thru 9-30-09; DFW 114-2009(Temp), f. 9-18-09, cert. ef. 9-21-09 thru 10-31-09; DFW 119-2009(Temp), f. & cert. ef. 9-29-09 thru 10-31-09; DFW 129-2009(Temp), f. 10-13-09, cert. ef. 10-14-09 thru 10-31-09; Administrative correction 11-19-09; DFW 111-2010(Temp), f. 7-30-10, cert. ef. 8-1-10 thru 10-31-10; DFW 120-2010(Temp), f. 8-18-10, cert. ef. 8-24-10 thru 10-31-10; DFW 128-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; DFW 136-2010(Temp), f. 9-24-10, cert. ef. 9-27-10 thru 10-31-10; DFW 142-2010(Temp), f. 10-8-10, cert. ef. 10-9-10 thru 10-31-10; DFW 149-2010(Temp), f. 10-18-10, cert. ef. 10-19-10 thru 10-31-10; Administrative correction 11-23-10; DFW 103-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 10-31-11; DFW 119-2011(Temp), f. 8-26-11, cert. ef. 8-29-11 thru 10-31-11; DFW 124-2011(Temp), f. 9-8-11, cert. ef. 9-12-11 thru 10-31-11; DFW 130-2011(Temp), f. 9-15-11, cert. ef. 9-19-11 thru 10-31-11; DFW 133-2011(Temp), f. 9-21-11, cert. ef. 9-22-11 thru 10-31-11; DFW 138-2011(Temp), f. 9-30-11, cert. ef. 10-3-11 thru 10-31-11; DFW 142-2011(Temp), f. 10-6-11, cert. ef. 10-8-11 thru 10-31-11

Rule Caption: Closure of the Non-adipose Fin-clipped Adult Coho Fishery In the Alsea River Basin.

Adm. Order No.: DFW 143-2011(Temp)

Filed with Sec. of State: 10-10-2011

Certified to be Effective: 10-11-11 thru 12-31-11

Notice Publication Date:

Rules Amended: 635-014-0090

Rules Suspended: 635-014-0090(T)

Subject: The amended rule closes the Alsea River Basin non-adipose fin-clipped adult coho fishery which opened on September 15 due to the expected attainment of the 675 non-adipose fin-clipped adult coho allocation.

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

635-014-0090

Inclusions and Modifications

(1) The **2011 Oregon Sport Fishing Regulations** provide requirements for the Northwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2011 Oregon Sport Fishing Regulations** pamphlet.

(2) Notwithstanding all other requirements provided in the 2011 Oregon Sport Fishing Regulations pamphlet, the following additional rules apply to adult salmon angling in waters of the Northwest Zone:

(a) All waters of the Necanicum River Basin, Nehalem River Basin (including North Fork), Tillamook Bay Basin, (including the Miami, Kilchis, Wilson, Trask, and Tillamook rivers), and the Nestucca River Basin

ADMINISTRATIVE RULES

(including the Little Nestucca and Three Rivers) and Salmon River that are open for Chinook salmon are limited to no more than 1 adult non fin-clipped Chinook salmon per day, or 2 adult non fin-clipped Chinook salmon per day from the Siletz or Yaquina rivers, and 10 adult non fin-clipped Chinook salmon in the seasonal aggregate when combined with all other waters in the Northwest Zone and all state waters terminal area seasons in the Marine Zone with a 10 adult non fin-clipped Chinook salmon seasonal aggregate limit. Seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between August 1 and December 31 except in the Nehalem Basin where the seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between July 1 and December 31 and except in the Tillamook Terminal Area where the seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between October 1–31.

(b) Within the Nehalem Basin (including the North Fork) the following additional rules apply:

(A) Mainstem (bay) closed to all salmon and steelhead angling seaward from a line extending from Nehalem Bay State Park Boat Ramp to Fishery Point July 1 through September 14 and closed to all Chinook salmon angling upstream of Peterson Creek (RM 10.2) July 1 through December 31.

(B) Nehalem tidewater from the jetty tips upstream to Peterson Creek (RM 10.2) on South Fork and North Fork Road Bridge on the North Fork is open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 1,200 non adipose fin-clipped coho salmon.

(C) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 2 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 2 adult non adipose fin-clipped coho salmon seasonal aggregate limit.

(c) Within the Tillamook Bay Basin the following additional rules apply:

(A) Tillamook Bay tidewater from the jetty tips upstream to Hwy. 101 Bridge on Miami, Kilchis, Wilson, and Trask rivers and Burton Bridge on Tillamook River is open for non adipose fin-clipped coho salmon from September 15 through 12:00 midnight Wednesday, October 5, 2011 attainment of a quota of 600 non adipose fin-clipped adult coho salmon is expected to have been met.

(B) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 1 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 1 adult non adipose fin-clipped coho salmon seasonal aggregate limit.

(d) Within the Nestucca Basin (including the Little Nestucca River and Three Rivers) the following rules apply:

(A) Mainstem Nestucca upstream of First Bridge (RM 15.8) near Beaver closed to all Chinook angling August 1 through December 31.

(B) Nestucca Bay tidewater (excluding Little Nestucca tidewater) from the bay mouth upstream to the Cloverdale Bridge (RM 7.1) is open for non adipose fin-clipped coho salmon from September 15 through 11:59 p.m. Sunday, October 9, 2011 when attainment of a quota of 200 non adipose fin-clipped adult coho salmon is expected to have been met.

(C) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 1 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 1 adult non adipose fin-clipped coho salmon seasonal aggregate limit.

(e) Within the Siletz River Basin the following additional rules apply:

(A) Mainstem and tributaries above Ojalla Bridge (RM 31) closed to Chinook August 1–December 31; Drift Creek (Siletz River Basin) upstream of the confluence with Quarry Creek at RM 8 is closed for Chinook salmon from August 1 through December 31;

(B) Siletz River and Bay upstream to Ojalla Bridge (RM 31) is open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 700 non adipose fin-clipped coho salmon; and

(C) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 5 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(f) Within the Yaquina River Basin the following additional rules apply:

(A) All waters of the Yaquina River upstream of the confluence of the Yaquina River and Big Elk Creek at RM 18.3 and all waters of Big Elk Creek (Yaquina River Basin) are closed for Chinook salmon from August 1 through December 31;

(B) The Yaquina River and Bay upstream to the confluence of the Yaquina River and Big Elk Creek are open for non adipose fin-clipped coho salmon from September 15 through 11:59 p.m. Sunday, October 9, 2011 when attainment of a quota of 575 non adipose fin-clipped adult coho salmon is expected to have been met; and

(C) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 5 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(g) Within the Alsea River Basin the following additional rules apply:

(A) All waters of Drift Creek (Alsea River Basin) within the Drift Creek Wilderness Area and upstream are closed for Chinook salmon from August 1 through December 31;

(B) All waters of the Alsea River upstream of the confluence with Five Rivers at RM 21 are closed for Chinook salmon from August 1 through December 31;

(C) All waters of Five Rivers are closed for Chinook salmon from August 1 through December 31.

(D) The Alsea River and Bay upstream to the confluence of the Alsea River and Five Rivers are open for non adipose fin-clipped coho salmon from September 15 through 12:00 midnight Monday, October 10, 2011 when attainment of a quota of 675 non adipose fin-clipped adult coho salmon is expected to have been met; and

(E) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 5 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(h) Within the Siuslaw River Basin the following additional rules apply:

(A) All waters of the Siuslaw River upstream of the confluence with Lake Creek at RM 30.0 are closed for Chinook salmon from August 1 through December 31;

(B) All waters of Lake Creek are closed for Chinook salmon August 1 through December 31 and all waters of Lake Creek downstream of Fish Creek are closed to all angling from September 1 through November 30;

(C) The Siuslaw River and Bay upstream to the confluence of the Siuslaw River and Lake Creek are open for non adipose fin-clipped coho salmon from September 15 through 11:59 p.m. Sunday, October 9, 2011 when attainment of a quota of 900 non adipose fin-clipped adult coho salmon is expected to have been met; and

(D) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 5 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

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

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

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 28-1995(Temp), f. 3-31-95, cert. ef. 5-1-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 19-1996, f. & cert. ef. 5-16-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 29-1996, f. & cert. ef. 5-31-96; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 55-1996(Temp), f. 9-25-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 58-1997, f. 9-8-97, cert. ef. 10-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 69-1998, f. 8-28-98, cert. ef. 9-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 81-2001, f. & cert. ef. 8-29-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 118-2002(Temp), f. 10-22-02, cert. ef. 12-1-02 thru 3-31-03; DFW 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 38-2003(Temp), f. 5-7-03, cert. ef. 5-10-03 thru 10-31-03; DFW 51-2003(Temp), f. & cert. ef. 6-13-03 thru 10-31-03; DFW 90-2003(Temp), f. 9-12-03, cert. ef. 9-13-03 thru 12-31-03; DFW

ADMINISTRATIVE RULES

108-2003(Temp), f. 10-28-03, cert. ef. 12-1-03 thru 3-31-04; DFW 123-2003(Temp), f. 12-10-03, cert. ef. 12-11-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 126-2003(Temp), f. 12-11-03, cert. ef. 1-1-04 thru 3-31-04; DFW 60-2004(Temp), f. 6-29-04, cert. ef. 7-1-04 thru 7-15-04; DFW 90-2004(Temp), f. 8-30-04, cert. ef. 10-1-04 thru 12-31-04; DFW 103-2004(Temp), f. & cert. ef. 10-4-04 thru 12-31-04; DFW 108-2004(Temp), f. & cert. ef. 10-18-04 thru 12-31-04; DFW 111-2004(Temp), f. 11-16-04, cert. ef. 11-20-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 62-2005(Temp), f. 6-29-05, cert. ef. 7-1-05 thru 7-10-05; Administrative correction 7-20-05; DFW 105-2005(Temp), f. 9-12-05, cert. ef. 10-1-05 thru 12-15-05; DFW 127-2005(Temp), f. & cert. ef. 11-23-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 53-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 7-9-06; Administrative correction 7-20-06; DFW 64-2006(Temp), f. 7-17-06, cert. ef. 8-1-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 104-2006(Temp), f. 9-19-06, cert. ef. 10-1-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 63-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 25-2008(Temp), f. 3-13-08, cert. ef. 3-15-08 thru 9-10-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 43-2009(Temp), f. 5-5-09, cert. ef. 5-22-09 thru 10-31-09; DFW 67-2009(Temp), f. 6-9-09, cert. ef. 6-15-09 thru 10-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 99-2009(Temp), f. 8-26-09, cert. ef. 9-1-09 thru 12-31-09; DFW 115-2009(Temp), f. & cert. ef. 9-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 44-2010(Temp), f. 4-20-10, cert. ef. 4-21-10 thru 9-30-10; DFW 73-2010(Temp), f. 5-27-10, cert. ef. 6-1-10 thru 9-30-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 89-2010(Temp), f. 6-28-10, cert. ef. 7-1-10 thru 9-30-10; Administrative correction 10-26-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 57-2011(Temp), f. 5-27-11, cert. ef. 6-1-11 thru 6-30-11; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 139-2011(Temp), f. 10-3-11, cert. ef. 10-6-11 thru 12-31-11; DFW 141-2011(Temp), f. 10-6-11, cert. ef. 10-10-11 thru 12-31-11; DFW 143-2011(Temp), f. 10-10-11, cert. ef. 10-11-11 thru 12-31-11

Rule Caption: Fall Commercial Drift Gill Net Season In Columbia River Mainstem Authorized.

Adm. Order No.: DFW 144-2011(Temp)

Filed with Sec. of State: 10-11-2011

Certified to be Effective: 10-13-11 thru 10-31-11

Notice Publication Date:

Rules Amended: 635-042-0031

Rules Suspended: 635-042-0031(T)

Subject: Amended rule authorizes two 12-hour fishing periods for the 2011 commercial fall salmon drift gill net season in the Columbia River mainstem. The first 12-hour period begins at 6:00 a.m. Thursday, October 13, 2011 in the area of Zones 1-3; and the second 12-hour period begins at 7:00 p.m. Thursday, October 13, 2011 in the area of Zones 4 & 5.

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

635-042-0031

Early Fall Salmon Season

(1) Salmon and white sturgeon may be taken for commercial purposes in the waters of the Columbia River:

(a) Zones 1-3, as identified in OAR 635-042-0001 as follows:

6:00 a.m. Thursday, October 13 to 6:00 p.m. Thursday, October 13, 2011 (12 hours).

(b) Zones 4-5, as identified in OAR 635-042-0001 as follows: 7:00 p.m. Thursday, October 13 to 7:00 a.m. Friday, October 14, 2011 (12 hours).

(2) During the fishing period described in section (1)(a) above, only unslackened floater gill nets with a maximum mesh size of six (6) inches may be used and nets not specifically authorized for use in this fishery may be onboard the vessel if properly stored. During the fishing period described in section (1)(b) above, only drift gill nets with 8-inch minimum and 9.75-inch maximum mesh sizes may be used. And nets not specifically authorized for use in this fishery may not be stored onboard the vessel. Nets that are fished at any time between official sunset and official sunrise must have lighted buoys on both ends of the net unless the net is attached to the boat. If the net is attached to the boat, then one lighted buoy on the opposite end of the net from the boat is required.

(3) A maximum of two (2) white sturgeon, 43-54 inches in fork length, may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday). The sturgeon possession and sales limit includes mainstem fisheries only. Sales of white sturgeon from fall Select Area fisheries is prohibited. Retention of green sturgeon is prohibited.

(4) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomina-B, Cowlitz River, Kalama-B, Lewis-B, Washougal River and Sandy River sanctuaries are in effect during the open fishing period identified above.

Stat. Auth.: ORS 496.118, 506.109 & 506.129

Stats. Implemented: ORS 506.119 & 507.030

Hist.: FWC 63-1987, f. & cert. ef. 8-7-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 68-1988(Temp), f. & cert. ef. 8-15-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 56-1989(Temp), f. & cert. ef. 8-11-89; FWC 58-1989(Temp), f. & cert. ef. 8-14-89; FWC 80-

1989(Temp), f. 8-28-89, cert. ef. 8-29-89; FWC 80-1990(Temp), f. 8-7-90, cert. ef. 8-8-90; FWC 85-1991, f. 8-7-91, cert. ef. 8-12-91; FWC 91-1991(Temp), f. & cert. ef. 8-29-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 53-1996(Temp), f. & cert. ef. 9-16-96; FWC 49-1997, f. 8-20-97, cert. ef. 8-24-97; DFW 74-1998(Temp), f. & cert. ef. 8-25-98 thru 8-26-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 75-1999(Temp), f. 9-29-99, cert. ef. 9-30-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 52-2000(Temp), f. 8-23-00, cert. ef. 8-23-00 thru 8-24-00; Administrative correction 6-20-01; DFW 68-2001(Temp), f. 8-7-01, cert. ef. 8-8-01 thru 8-9-01; DFW 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; DFW 79-2001(Temp), f. & cert. ef. 8-22-01 thru 12-31-01; DFW 80-2001(Temp), f. & cert. ef. 8-24-01 thru 12-31-01; DFW 86-2001(Temp), f. & cert. ef. 9-4-01 thru 12-31-01; DFW 81-2002(Temp), f. 8-2-02, cert. ef. 8-4-02 thru 8-9-02; DFW 87-2002(Temp), f. & cert. ef. 8-9-02 thru 8-12-02; DFW 89-2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 82-2003(Temp), f. & cert. ef. 8-25-03 thru 12-31-03; DFW 87-2003(Temp), f. & cert. ef. 8-27-03 thru 12-31-03; DFW 81-2004(Temp), f. & cert. ef. 8-12-04 thru 12-31-04; DFW 82-2004(Temp), f. & cert. ef. 8-16-04 thru 12-31-04; DFW 86-2004(Temp), f. 8-19-04 thru 12-31-04; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 88-2005(Temp), f. 8-11-05, cert. ef. 8-14-05 thru 12-31-05; DFW 90-2005(Temp), f. & cert. ef. 8-17-05 thru 12-31-05; DFW 96-2005(Temp), f. & cert. ef. 8-22-05 thru 12-31-05; DFW 98-2005(Temp), f. 8-24-05, cert. ef. 8-25-05 thru 12-31-05; Administrative correction 1-19-06; DFW 72-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 82-2006(Temp), f. 8-11-06, cert. ef. 8-13-06 thru 12-31-06; DFW 88-2006(Temp), f. 8-18-06, cert. ef. 8-21-06 thru 12-31-06; DFW 89-2006(Temp), f. 8-24-06, cert. ef. 8-25-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 72-2007(Temp), f. 8-17-07, cert. ef. 8-23-07 thru 8-31-07; Administrative Correction 9-16-07; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 93-2008(Temp), f. & cert. ef. 8-12-08 thru 12-31-08; DFW 95-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; DFW 100-2008(Temp), f. 8-22-08, cert. ef. 8-25-08 thru 9-30-08; DFW 102-2008(Temp), f. & cert. ef. 8-26-08 thru 9-1-08; Administrative correction 9-29-08; Administrative correction 10-21-08; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 90-2009(Temp), f. 8-7-09, cert. ef. 8-8-09 thru 12-31-09; DFW 96-2009(Temp), f. & cert. ef. 8-21-09 thru 8-31-09; DFW 97-2009(Temp), f. & cert. ef. 8-25-09 thru 8-31-09; DFW 100-2009(Temp), f. & cert. ef. 8-27-09 thru 8-31-09; Administrative correction 9-29-09; DFW 112-2010(Temp), f. 7-30-10, cert. ef. 8-3-10 thru 8-31-10; DFW 121-2010(Temp), f. 8-18-10, cert. ef. 8-19-10 thru 8-31-10; Administrative correction 9-22-10; DFW 132-2010(Temp), f. 9-21-10, cert. ef. 9-22-10 thru 10-31-10; DFW 137-2010(Temp), f. & cert. ef. 9-24-10 thru 10-31-10; Administrative correction 11-23-10; DFW 105-2011(Temp), f. 8-2-11, cert. ef. 8-4-11 thru 8-31-11; DFW 120-2011(Temp), f. 8-26-11, cert. ef. 8-28-11 thru 9-14-11; DFW 128-2011(Temp), f. 9-14-11, cert. ef. 9-18-11 thru 9-30-11; DFW 134-2011(Temp), f. 9-21-11, cert. ef. 9-22-11 thru 9-30-11; DFW 136-2011(Temp), f. & cert. ef. 9-28-11 thru 10-5-11; DFW 140-2011(Temp), f. 10-4-11, cert. ef. 10-5-11 thru 10-12-11; DFW 144-2011(Temp), f. 10-11-11, cert. ef. 10-13-11 thru 10-31-11

Rule Caption: Closure of the Non-finclipped Coho Fishery In the Coquille River and Bay.

Adm. Order No.: DFW 145-2011(Temp)

Filed with Sec. of State: 10-11-2011

Certified to be Effective: 10-12-11 thru 12-31-11

Notice Publication Date:

Rules Amended: 635-016-0090

Rules Suspended: 635-016-0090(T)

Subject: Amended rule closes the Coquille River and Bay non finclipped coho fishery which opened on September 15 due to the anticipated attainment of the preseason harvest allocation for this fishery.

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

635-016-0090

Inclusions and Modifications

(1) The 2011 Oregon Sport Fishing Regulations provide requirements for the Southwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the 2011 Oregon Sport Fishing Regulations.

(2) Notwithstanding all other requirements provided in the 2011 Oregon Sport Fishing Regulations, the following restrictions apply to angling in waters of the Southwest Zone:

(a) Within the Umpqua River Basin the following additional rules apply:

(A) Open for non adipose fin-clipped coho salmon in the Mainstem Umpqua River and Bay from the mouth to Scottsburg Bridge at RM 27.5 from September 15 through the earlier of November 30 or attainment of an adult coho quota of 1,300 non adipose fin-clipped coho. The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho, and no more than 2 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 2 adult non adipose fin-clipped coho salmon seasonal aggregate limit.

(B) Mainstem Umpqua River and Bay from the mouth to Scottsburg Bridge at RM 27.5 closed to retention of non adipose fin-clipped coho salmon beginning 12:01 a.m. Saturday, October 1, 2011.

(b) Within the Coos River Basin the following additional rules apply:

ADMINISTRATIVE RULES

(A) All waters of the South Fork Coos River upstream from the head of tidewater at Dellwood at RM 10.0 are closed for all salmon angling from August 1 through December 31 and closed for steelhead from August 1 through November 14; and

(B) Open for non adipose fin-clipped coho salmon upstream to the head of tide at Dellwood at RM 10.0 on the South Coos River and to the East Fork/West Fork Millicoma confluence from September 15 through the earlier of November 30 or attainment of an adult coho quota of 1,200 non adipose fin-clipped coho. The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon, and no more than 5 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(c) Within the Coquille River Basin the following additional rules apply:

(A) Open for non adipose fin-clipped coho salmon in Coquille River and Bay upstream to the Highway 42S bridge (Sturdivant Park) at RM 24.0 from September 15 through the earlier of November 30 or attainment of an adult coho quota of 825 non adipose fin-clipped coho. The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon, and no more than 5 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(B) Mainstem Coquille River and Bay from the mouth to Highway 42S Bridge at RM 24 closed to retention of non adipose fin-clipped coho salmon beginning 12:01 a.m. Wednesday, October 12, 2011.

(d)(A) Within the Tenmile Lakes Basin the following additional rules apply:

(B) Tenmile Lakes (Coos County) upstream from Hilltop Bridge are open for non adipose fin-clipped coho salmon from October 1 through the earlier of December 31 or attainment of an adult coho quota of 875 non adipose fin-clipped coho. The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon, and no more than 5 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone. Only one rod per angler may be used while angling for coho. Streams that empty into North and South Tenmile Lakes are not open to coho salmon angling, nor is the canal that connects North and South Tenmile Lakes.

(e) All waters of Floras Creek upstream of the County Road 124 bridge over Floras Creek at RM 5.0 are closed for Chinook salmon from August 1 through December 31.

(f) Within the Sixes River Basin the following additional rules apply:

(A) All waters of the Sixes River Basin that are open for Chinook salmon are limited to no more than 1 adult non fin-clipped Chinook salmon per day and 10 adult non fin-clipped Chinook salmon in the seasonal aggregate when combined with waters of the Elk River and Elk River Ocean Terminal Area. Seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between August 1 and December 31.

(B) Closed to Chinook salmon upstream of Edson Creek at RM 10.0 from August 1 through December 31.

(g) Within the Elk River Basin the following additional rules apply:

(A) All waters of the Elk River Basin that are open for Chinook salmon are limited to no more than 1 adult non fin-clipped Chinook salmon per day and 10 adult non fin-clipped Chinook salmon in the seasonal aggregate when combined with waters of the Sixes River and Elk River Ocean Terminal Area. Seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between August 1 and December 31.

(h) All waters of the Chetco River mainstem upstream of the power-line crossing at RM 2.2 are closed to angling from August 1 through November 4.

(i) All waters of the Winchuck River mainstem, including tidewater, are closed to angling from August 1 through November 4.

(j) Diamond Lake is open April 23 through October 31, 2011.

(A) Effective April 23-30 and October 28-31, 2011 trout catch limits are 5 per day, two daily limits in possession; 8-inch minimum length, only one trout over 20 inches may be taken per day; and use of bait is not allowed.

(B) Effective May 1 through October 27 trout catch limits are increased to 8 per day — all other regulations remain as stated in section (2)(h)(A) above and in the 2011 Oregon Sport Fishing Regulations.

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

Stat. Auth.: ORS 496.138 & 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 80-1993(Temp), f. 12-21-93, cert. ef. 1-1-94; FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 79-1994(Temp), f. 10-21-94, cert. ef. 7-22-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 34-1995, f. & cert. ef. 5-1-95;

FWC 57-1995(Temp), f. 7-3-95, cert. ef. 7-4-95; FWC 59-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 82-1995(Temp), f. 9-29-95, cert. ef. 10-1-95; FWC 90-1995(Temp), f. 11-29-95, cert. ef. 1-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 52-1996, f. & cert. ef. 9-11-96; FWC 61-1996, f. & cert. ef. 10-9-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 32-1997(Temp), f. & cert. ef. 5-23-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; FWC 24-1998(Temp), f. & cert. ef. 3-25-98 thru 9-15-98; FWC 34-1998, f. & cert. ef. 5-4-98; FWC 52-1998(Temp), f. 7-10-98, cert. ef. 7-11-98 thru 7-24-98; FWC 55-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; FWC 70-1998, f. & cert. ef. 8-28-98; FWC 100-1998, f. 12-23-98, cert. ef. 1-1-99; FWC 36-1999, f. & cert. ef. 5-20-99; FWC 96-1999, f. 12-27-99, cert. ef. 1-1-00; FWC 48-2000(Temp), f. 8-14-00, cert. ef. 8-15-00 thru 12-31-00; FWC 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; FWC 1-2001, f. 1-25-01, cert. ef. 2-1-01; FWC 8-2001, f. & cert. ef. 3-5-01; FWC 40-2001(Temp) f. & cert. ef. 5-24-01 thru 11-20-01; FWC 42-2001(Temp), f. 5-25-01, cert. ef. 5-29-01 thru 7-31-01; FWC 70-2001, f. & cert. ef. 8-10-01; FWC 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; FWC 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; FWC 97-2001(Temp), f. 10-4-01, cert. ef. 11-1-01 thru 12-31-01; FWC 105-2001(Temp), f. 10-26-01, cert. ef. 11-1-01 thru 12-31-01; FWC 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; FWC 123-2001, f. 12-31-01, cert. ef. 1-1-02; FWC 5-2002(Temp) f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; FWC 26-2002, f. & cert. ef. 3-21-02; FWC 37-2002, f. & cert. ef. 4-23-02; FWC 55-2002(Temp), f. 5-28-02, cert. ef. 7-1-02 thru 11-31-02; FWC 91-2002(Temp) f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by FWC 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); FWC 124-2002(Temp), f. & cert. ef. 10-30-02 thru 12-31-02 (Suspended by FWC 125-2002(Temp), f. 11-8-02, cert. ef. 11-9-2002); FWC 130-2002, f. 11-21-02, cert. ef. 1-1-03; FWC 90-2003(Temp), f. 9-12-03, cert. ef. 9-13-03 thru 12-31-03; FWC 125-2003, f. 12-11-03, cert. ef. 1-1-04; FWC 117-2004, f. 12-13-04, cert. ef. 1-1-05; FWC 127-2004, f. 12-22-04, cert. ef. 1-1-05; FWC 136-2005, f. 12-7-05, cert. ef. 1-1-06; FWC 24-2006(Temp), f. 4-25-06, cert. ef. 5-13-06 thru 10-31-06; FWC 37-2006(Temp), f. 6-2-06, cert. ef. 6-5-06 thru 12-1-06; FWC 79-2006, f. 8-11-06, cert. ef. 1-1-07; FWC 47-2007(Temp), f. 6-18-07, cert. ef. 6-21-07 thru 10-31-07; FWC 56-2007(Temp), 7-6-07, cert. ef. 8-1-07 thru 12-31-07; FWC 136-2007, f. 12-31-07, cert. ef. 1-1-08; FWC 137-2007, f. 12-31-07, cert. ef. 1-1-08; FWC 54-2008(Temp), f. 5-28-08, cert. ef. 6-1-08 thru 7-31-08; FWC 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; FWC 138-2008(Temp), f. 10-28-08, cert. ef. 11-1-08 thru 11-30-08; FWC 140-2008(Temp), f. 11-4-08, cert. ef. 11-5-08 thru 12-31-08; FWC 156-2008, f. 12-31-08, cert. ef. 1-1-09; FWC 57-2009(Temp), f. 5-27-09, cert. ef. 6-1-09 thru 7-31-09; FWC 77-2009(Temp), f. 6-29-09, cert. ef. 7-1-09 thru 7-31-09; FWC 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; FWC 113-2009(Temp), f. & cert. ef. 9-18-09 thru 12-31-09; FWC 141-2009(Temp), f. 11-4-09, cert. ef. 11-7-09 thru 12-21-09; FWC 143-2009(Temp), f. 11-17-09, cert. ef. 11-19-09 thru 12-31-09; FWC 144-2009, f. 12-8-09, cert. ef. 1-1-10; FWC 65-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 5-31-10; FWC 76-2010, f. 6-8-10, cert. ef. 8-1-10; FWC 143-2010(Temp), f. 10-8-10, cert. ef. 10-10-10 thru 12-31-10; FWC 152-2010(Temp), f. 10-27-10, cert. ef. 10-30-10 thru 12-31-10; FWC 171-2010, f. 12-30-10, cert. ef. 1-1-11; FWC 31-2011(Temp), f. 4-18-11, cert. ef. 5-1-11 thru 10-27-11; FWC 83-2011, f. 6-30-11, cert. ef. 7-1-11; FWC 137-2011(Temp), 9-30-11, cert. ef. 10-1-11 thru 12-31-11; FWC 145-2011(Temp), f. 10-11-11, cert. ef. 10-12-11 thru 12-31-11

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Rule Caption: Statutorily Set Fees for Commercial Licenses and Permits Adopted by Fish and Wildlife Commission.

Adm. Order No.: DFW 146-2011

Filed with Sec. of State: 10-14-2011

Certified to be Effective: 10-14-11

Notice Publication Date: 9-1-2011

Rules Amended: 635-006-1025, 635-006-1075, 635-006-1085

Subject: Amended rules relating to statutorily set commercial license and permit fees. Modifications implement changes to commercial fees as set by the 2011 Legislative Assembly in HB 3657 Enrolled (2011).

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

635-006-1025

Permit Fee

The annual fee to participate in limited entry fisheries is as follows:

(1) Gillnet salmon:

(a) The annual fee is \$100.00 (plus a \$2.00 license agent fee) for resident applicants and \$150.00 (plus a \$2.00 license agent fee) for nonresident applicants. See ORS 508.790, 508.775 and Section 6, Chapter 512, Oregon Laws 1989.

(b) A fee of \$100.00 shall be charged for each transfer of participation rights under this section.

(2) Troll salmon:

(a) The annual fee is \$100.00 (plus a \$2.00 license agent fee) for resident applicants and \$150.00 (plus a \$2.00 license agent fee) for nonresident applicants. See ORS 508.816, ORS 508.822 and Section 6, Chapter 512, Oregon Laws 1989.

(b) A fee of \$100.00 shall be charged for each transfer of participation rights under this section.

(3) Shrimp:

(a) The annual fee is \$125.00 (plus a \$2.00 license agent fee) for resident applicants and \$175.00 (plus a \$2.00 license agent fee) for nonresident applicants. See ORS 508.901 and 508.907.

(b) A fee of \$100.00 shall be charged for each transfer of participation rights under this section.

(4) Scallop:

ADMINISTRATIVE RULES

(a) The annual fee is \$125.00 (plus a \$2.00 license agent fee) for resident applicants and \$175.00 (plus a \$2.00 license agent fee) for nonresident applicants. See ORS 508.858 and 508.840.

(b) A fee of \$100.00 shall be charged for each transfer of participation rights under this section.

(5) Roe-herring:

(a) The annual fee is \$125.00 (plus a \$2.00 license agent fee) for resident applicants and \$175.00 (plus a \$2.00 license agent fee) for nonresident applicants. See ORS 508.765.

(b) A fee of \$100.00 shall be charged for each transfer of participation rights under this section.

(6) Sea Urchin:

(a) The annual fee is \$100.00 (plus a \$2.00 license agent fee) for resident applicants and \$150.00 (plus a \$2.00 license agent fee) for nonresident applicants. See ORS 508.760.

(b) A fee of \$100 shall be charged for each transfer of participation rights under this section.

(7) Ocean Dungeness crab:

(a) The annual fee is \$125.00 (plus a \$2.00 license agent fee) for resident applicants and \$175.00 (plus a \$2.00 license agent fee) for nonresident applicants. See ORS 508.941(4).

(b) A fee of \$100.00 shall be charged for each transfer of participation rights under this section.

(8) Black rockfish/blue rockfish/nearshore fishery - \$100.00 (plus a \$2.00 license agent fee). See ORS 508.949 and ORS 508.957. A fee of \$100.00 shall be charged for each transfer of participation rights under this section.

(9) Brine Shrimp: The annual fee is \$100.00 (plus a \$2.00 license agent fee) for applicants.

(10) Bay clam dive fishery: The annual fee is \$100.00 (plus a \$2.00 license agent fee) for applicants.

(11) Sardine fishery: The annual fee is \$100.00 (plus a \$2.00 license agent fee) for applicants.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 145-2009, f. 12-9-09, cert. ef. 1-1-10; DFW 146-2011, f. & cert. ef. 10-14-11

635-006-1075

Renewal of Permit

(1) An individual who obtained a limited entry permit may renew the permit as follows:

(a) Gillnet salmon - Permits may be renewed by submission to the Department of a \$100.00 fee (plus a \$2.00 license agent fee) for resident applicants and \$150.00 fee (plus a \$2.00 license agent fee) for nonresident applicants and a complete application, see ORS 508.781 and 508.790;

(b) Troll salmon — Permits may be renewed by submission to the Department of a \$100.00 fee (plus a \$2.00 license agent fee) for resident applicants and \$150.00 fee (plus a \$2.00 license agent fee) for nonresident applicants and a complete application, see ORS 508.807 and 508.816;

(c) Shrimp — see ORS 508.892 and 508.907;

(d) Scallop — see ORS 508.849 and 508.858;

(e) Roe-herring permit - Permits may be renewed by submission to the Department of a \$125.00 fee (plus a \$2.00 license agent fee) for resident applicants and \$175.00 fee (plus a \$2.00 license agent fee) for nonresident applicants and a complete application;

(f) Sea Urchin permit:

(A) Permits may be renewed by submission to the Department of a \$100.00 fee (plus a \$2.00 license agent fee) for resident applicants and \$150.00 fee (plus a \$2.00 license agent fee) for nonresident applicants and a complete application date-stamped or postmarked by January 31 of the year for which renewal is sought; and

(B) The permittee shall have annually lawfully landed 5,000 pounds of sea urchins in Oregon. If a permittee obtained a permit later than January of the prior year (because the permit was obtained through the lottery, or as a result of the Commercial Fishery Permit Board actions or surrender of a permit by a permit holder), the permittee shall not be required to make the 5,000 pound landing requirement by the following January. Instead, at the next renewal thereafter, the permittee shall be required to demonstrate that the 5,000 pound landing requirement was fulfilled during the first full year (twelve-month period) in which the permit was held.

(g) Ocean Dungeness crab permit — see ORS 508.941. A permit which is not renewed by December 31 lapses, and may not be renewed for subsequent years.

(h) Black rockfish / blue rockfish / nearshore fishery — see ORS 508.947.

(i) Brine Shrimp permit:

(A) Permits may be renewed by submission to the Department of a \$100.00 fee (plus a \$2.00 license agent fee) and a complete application date-stamped or postmarked by January 31 of the year for which renewal is sought; and

(B) The permittee shall have lawfully landed 5,000 pounds of brine shrimp in Oregon in the prior year.

(j) Bay clam dive fishery:

(A) Permits may be renewed by submitting to the Department \$100.00 fee (plus a \$2.00 license agent fee) and a complete application date-stamped or postmarked by January 31 of the year for which renewal is sought and;

(B) The permittee shall have lawfully made five landings consisting of at least 100 pounds each landing or an annual total of 2,500 pounds of bay clams, using dive gear in Oregon in the prior calendar year;

(C) Logbooks required under OAR 635-006-1110 must be turned into an ODFW office by the application deadline for renewal of a permit.

(D) If a permit is transferred under OAR 635-006-1095(10)(d), annual renewal requirements are waived in the year the transfer occurred.

(k) Sardine fishery:

(A) Permits may be renewed for the following year:

(i) by submitting \$100.00 fee (plus a \$2.00 license agent fee) and a complete application to the Department date-stamped or postmarked by December 31 of the year the permit is sought for renewal and;

(ii) submitting the logbooks required under OAR 635-006-1110; and

(iii) if during the year preceding the calendar year for which the permit is sought for renewal, the federal coastwide maximum harvest guideline referenced in OAR 635-004-0016 was greater than 100,000 metric tons and the permitted vessel lawfully landed into Oregon either (I) a minimum of 10 landings of sardines of a least 5 metric tons each, or (II) landings of sardines having an aggregate ex-vessel price of at least \$40,000.

(B) The Commercial Fishery Permit Board may waive the landing requirements of section (A)(iii) of this rule if it finds that the failure to meet these requirements is due to the permit holder's illness or injury, or to circumstances beyond the control of the permit holder. Final Orders shall be issued by the Commercial Fishery Permit Board and may be appealed as provided in ORS 183.480 through 183.550.

(C) The Commission may, at its discretion, waive the landing requirements of section (A)(iii) of this rule for all Limited Entry Sardine Permit holders due to unusual market conditions.

(2) An application for renewal in any limited entry fishery shall be considered complete if it is legible, has all information requested in the form, and is accompanied by the required fee in full. Any application which is not complete shall be returned, and unless it is thereafter resubmitted and deemed complete by December 31 of the permit year sought, the individual shall not be considered to have applied for renewal in a timely manner.

(3) It is the responsibility of the permittee to ensure that an application is complete and is filed in a timely manner. Failure of the Department to return an application for incompleteness or of an individual to receive a returned application shall not be grounds for treating the application as having been filed in a timely and complete manner.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109, 506.129 & 508.921 - 508.941

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96; DFW 92-1998, f. & cert. ef. 11-25-98; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 23-2006, f. & cert. ef. 4-21-06; DFW 2-2007, f. & cert. ef. 1-12-07; DFW 86-2007(Temp), f. & cert. ef. 9-10-07 thru 9-17-07; Administrative correction 10-16-07; DFW 3-2008, f. & cert. ef. 1-15-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 38-2009, f. & cert. ef. 4-22-09; DFW 145-2009, f. 12-9-09, cert. ef. 1-1-10; DFW 155-2010(Temp), f. 11-22-10, cert. ef. 11-23-10 thru 5-21-11; Administrative correction 6-28-11; DFW 146-2011, f. & cert. ef. 10-14-11

635-006-1085

Lottery for Certain Limited Entry Fisheries

(1) A lottery process is provided in all limited entry fisheries except ocean Dungeness crab.

(2) A lottery for issuance of permits shall be conducted as follows:

(a) Gillnet salmon — see ORS 508.792;

(b) Troll salmon — see ORS 508.819;

(c) Shrimp — see ORS 508.904;

(d) Scallop — see ORS 508.861. If the number of permits issued in accordance with ORS 508.849 falls below 25, the Department in the next succeeding calendar year may issue permits by a lottery system. However, the total number of permits issued shall not exceed 25;

(e) Roe-herring — If the number of permits issued in accordance with OAR 635-006-1035 falls below six, the Department in the next succeeding

ADMINISTRATIVE RULES

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 \$100.00 (plus a \$2.00 license agent fee) for resident applicants and \$150.00 fee (plus a \$2.00 license agent fee) for nonresident applicants;

(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 black rockfish and blue rockfish permits or 50 for black rockfish and blue rockfish permits with a nearshore endorsement.

(h) Brine Shrimp — If the number of permits issued in accordance with OAR 635-006-1035 falls below three, the Department in the next succeeding calendar year may issue permits by a lottery system. However, as a result of any such lottery, the total number of permits issued shall not exceed three;

(i) Bay clam dive fishery — If the number of permits issued in accordance with OAR 635-006-1035 falls below ten for coast-wide permits or five for south-coast permits, the Department may issue permits by a lottery system. However, as a result of any such lottery, the total number of permits issued shall not exceed ten for coast-wide permits or five for south-coast permits;

(j) Sardine fishery:

(A) If the number of permits issued in accordance with OAR 635-006-1035 falls below 24, the Department in the next succeeding calendar year may issue permits by a lottery system. However, as a result of such a lottery the total number of permits issued shall not exceed 26.

(3) Each applicant for a permit lottery shall complete the application form prescribed by the Department.

(4) Application for vessel permits shall only be accepted for vessels, which in the judgment of the Department, are capable of operating the gear necessary to legally participate in the fishery. Vessels of a size or design incapable of harvesting the permitted species are not eligible for the lottery.

(5) Only one application per vessel may be submitted for each permit fishery lottery.

(6) Any application which is not legible, has incomplete information, or is postmarked after the deadline will not be entered in the lottery. Applications for all permits will be accepted at the Salem headquarters office of the Department, and shall be postmarked or date stamped no later than March 31 of the year for which the permit is issued.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; DFW 11-2003(Temp), f. & cert. ef. 2-10-03 thru 6-30-03; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 70-2004(Temp), f. & cert. ef. 7-12-04 thru 12-31-04; Administrative correction, 2-18-05; DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 149-2008, f. & cert. ef. 12-17-08; DFW 17-2009(Temp), f. 2-25-09, cert. ef. 2-26-09 thru 8-24-09; DFW 38-2009, f. & cert. ef. 4-22-09; DFW 145-2009, f. 12-9-09, cert. ef. 1-1-10; DFW 146-2011, f. & cert. ef. 10-14-11

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

Rule Caption: Addition of Potentially Disqualifying Abuse to Background Checks for DHS and OHA Providers.

Adm. Order No.: DHSD 7-2011(Temp)

Filed with Sec. of State: 10-12-2011

Certified to be Effective: 10-12-11 thru 11-1-11

Notice Publication Date:

Rules Amended: 407-007-0200, 407-007-0210, 407-007-0220, 407-007-0230, 407-007-0240, 407-007-0250, 407-007-0290, 407-007-0300, 407-007-0315, 407-007-0320, 407-007-0325, 407-007-0330, 407-007-0340, 407-007-0350

Subject: The Department of Human Services and the Oregon Health Authority are implementing ORS 409.027 which allows for the use of abuse investigations in determining a subject individual's fitness to provide care to vulnerable individuals. The use of certain abuse investigations where a subject individual is found to be responsible for the abuse as a potentially disqualifying condition shall be included in the background check process handled by the Background Check Unit. If a subject individual has potentially disqualifying abuse, only the Background Check Unit may make a final fitness determination.

Amendments to these rules also correct grammatical and stylistic errors, and clarify current processes. In addition, ORS 183.459 allowing the use of union representatives in contested case hearings for homecare workers is implemented.

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—(503) 947-5250

407-007-0200

Purpose and Scope

(1) The purpose of these rules, OAR 407-007-0200 to 407-007-0370, is to provide for the reasonable screening under ORS 181.534, 181.537, and 409.027 of subject individuals to determine if they have a history of criminal or abusive behavior such that they should not be allowed to work, volunteer, be employed, reside, or otherwise perform in positions covered by these rules.

(2) These rules apply to evaluating criminal records and potentially disqualifying conditions of a subject individual when conducting fitness determinations based upon such information. The fact that a subject individual is approved does not guarantee employment or placement. These rules do not apply to individuals subject to OAR 407-007-0000 to 407-007-0100.

(3) Providers for the Department of Human Services (Department) and the Oregon Health Authority (Authority) are subject to background and abuse checks. The Authority authorizes the Department to act on its behalf in carrying out background and abuse checks associated with the administration of programs or activities administered by the Authority. References in these rules to the Department or the Authority shall be construed to be references to either or both agencies.

Stat. Auth.: ORS 181.534, 181.537, 183.459, 409.025, 409.027, 409.050, 410.020, 411.060, 411.122, 418.016, 418.640, 441.055, 443.730, 443.735 & 678.153

Stats. Implemented: ORS 181.534, 181.537, 183.459, 409.010, 409.025, 409.027, 411.060, 411.122 & 443.004

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; Renumbered from 410-007-0200, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-

ADMINISTRATIVE RULES

2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11

407-007-0210

Definitions

As used in OAR 407-007-0200 to 407-007-0370, unless the context of the rule requires otherwise, the following definitions apply:

(1) "Abuse" has the meaning given in the administrative rules promulgated by the Department of Human Services (Department) or Oregon Health Authority (Authority) corresponding to the setting in which the abuse was alleged or investigated.

(2) "Abuse check" means obtaining and reviewing abuse allegations, abuse investigation reports, and associated exhibits and documents for the purpose of determining whether a subject individual has a history as a perpetrator of potentially disqualifying abuse (a potentially disqualifying condition) as described in OAR 407-007-0290(11).

(3) "Abuse investigation report" means a written report completed after an investigation into suspected abuse and retained by the Department or the Authority pursuant to ORS 124.085, 419B.030, or 430.757, or a similar report filed in another state agency or by another state.

(4) "Appointing authority" means the individual designated by the qualified entity responsible for appointing authorized designees and contact persons. Examples include but are not limited to human resources staff with the authority to offer and terminate employment, business owners, a member of the board of directors, a director, or a program administrator.

(5) "Approved" means, with regard to a fitness determination, that a subject individual, following a final fitness determination, is fit to work, volunteer, be employed, or otherwise perform in the position listed on the Background Check Request form.

(6) "Approved with restrictions" means an approval in which some restriction is made including but not limited to the subject individual, the subject individual's environment, the type or number of clients for whom the subject individual may provide care, or the information to which the subject individual has access.

(7) "Authority" means the Oregon Health Authority.

(8) "Authorized designee (AD)" means an individual designated by the Department, the Authority, or an approved qualified entity authorized by the Department or Authority to receive and process criminal records check request forms from subject individuals and criminal records information from the Background Check Unit. Only ADs employed by the Department or the Authority are authorized to receive abuse investigation reports, associated exhibits or documents from the Department or the Authority.

(9) "Background check" means an abuse check and a criminal records check under these rules.

(10) "Background Check Unit (BCU)" means the Background Check Unit, performing background checks for the Department.

(11) "Care" means the provision of care, treatment, education, training, instruction, supervision, placement services, recreation, or support to children, the elderly, or individuals with disabilities (see ORS 181.537).

(12) "Children, Adults and Families Division (CAF)" means the Department of Human Services, Children, Adults and Families Division.

(13) "Client" means any individual who receives services, care, or funding for care through the Department or the Authority.

(14) "Closed case" means a background check application that has been closed without a final fitness determination.

(15) "Contact person (CP)" means an individual who is designated by the Department, the Authority, or an approved qualified entity to receive and process criminal records check request forms from subject individuals, but who is not authorized to receive criminal records information or abuse investigation reports, associated exhibits or documents.

(16) "Criminal records check" means obtaining and reviewing criminal records as required by these rules and includes any or all of the following:

(a) An Oregon criminal records check where criminal offender information is obtained from the Oregon State Police (OSP) using the Law Enforcement Data System (LEDS). The Oregon criminal records check may also include a review of other criminal records information.

(b) A national criminal records check where records are obtained from the Federal Bureau of Investigation (FBI) through the use of fingerprint cards sent to OSP and other identifying information. The national criminal records check may also include a review of other criminal records information.

(c) A state-specific criminal records check where records are obtained from law enforcement agencies, courts, or other criminal records informa-

tion resources located in, or regarding, a state or jurisdiction outside Oregon.

(17) "Criminal offender information" means records, including fingerprints and photographs, received, compiled, and disseminated by OSP for purposes of identifying criminal offenders and alleged offenders and maintained as part of an individual's records of arrest, the nature and disposition of criminal charges, sentencing, confinement, and release, but does not include the retention by OSP of records of transfer of inmates between penal institutions or other correctional facilities.. It also includes the OSP Computerized Criminal History System (see OAR 257-010-0015).

(18) "Denied" means, with regard to a fitness determination, that a subject individual

(a) Following a fitness determination including a weighing test, is not fit to work, volunteer, be employed, reside, or otherwise hold the position listed on the Background Check Request form.

(b) If determined to be a subject individual under OAR 407-007-0275, is not eligible to hold the position at or through the qualified entity listed on the Background Check Request form due to a conviction for one or more crimes listed in OAR 407-007-0275.

(19) "Department" means the Department of Human Services.

(20) "Fitness determination" means the decision in a case that is not closed, and includes:

(a) The decision regarding a Background Check Request form and preliminary review (a preliminary fitness determination); or

(b) The decision regarding a Background Check Request form, completed background check, including gathering other information as necessary, and a final review by an AD (a final fitness determination).

(21) "Founded or substantiated" has the meanings given in the Department's administrative rules corresponding to the setting in which the abuse was alleged or investigated.

(22) "Good cause" means a valid and sufficient reason for not complying with time frames set during the background check process or contested case hearing process that includes but is not limited to an explanation of circumstances beyond a subject individual's reasonable control.

(23) "Hearing representative" means a Department employee representing the Department in a contested case hearing.

(24) "Hired on a preliminary basis" means a condition in which a qualified entity allows a subject individual to work, volunteer, be trained, or reside in an environment following the submission of a completed Background Check Request form. Hired on a preliminary basis may also be called probationary status.

(25) "Office of Investigation and Training (OIT)" means the Office of Investigation and Training of the Department.

(26) "Other criminal records information" means information obtained and used in the criminal records check process that is not criminal offender information from OSP. Other criminal records information includes but is not limited to police investigations and records, information from local or regional criminal records information systems, justice records, court records, information from the Oregon Judicial Information Network, sexual offender registration records, warrants, Oregon Department of Corrections records, Oregon Department of Transportation's Driver and Motor Vehicle Services Division information, information provided on the Background Check Request forms, disclosures by a subject individual, and any other information from any jurisdiction obtained by or provided to the Department for the purpose of conducting a fitness determination.

(27) "Position" means the position listed on the Background Check Request form which determines whether the individual is a subject individual under these or Department program rules.

(28) "Qualified entity (QE)" means a community mental health or developmental disability program, local health department, or an individual, business, or organization, whether public, private, for-profit, nonprofit, or voluntary, that provides care, including a business or organization that licenses, certifies, or registers others to provide care (see ORS 181.537).

(29) "Subject individual (SI)" means an individual on whom the Department may conduct an abuse check and a criminal records check, and from whom the Department may require fingerprints for the purpose of conducting a national criminal records check.

(a) An SI includes any of the following:

(A) An individual who is licensed, certified, registered, or otherwise regulated or authorized for payment by the Department and who provides care.

(B) An employee, contractor, temporary worker, or volunteer who provides care, or has access to clients, client information, or client funds,

ADMINISTRATIVE RULES

within any entity or agency licensed, certified, registered, or otherwise regulated by the Department.

(C) Any individual who is paid directly or indirectly with public funds who has or will have contact with recipients of:

- (i) Services within an adult foster home (defined in ORS 443.705);
- (ii) Services within a residential facility (defined in ORS 443.400);
- (iii) Services through in-home care agencies (defined on ORS 443.305); or
- (iv) Services through home health agencies (defined in ORS 443.005).

(D) Any direct care staff secured by any residential care facility, assisted living facility, or nursing facility through the services of a personnel services or staffing agency who works in the facility.

(E) Except as excluded in section (21)(b)(C) and (D) of this rule, an individual who lives in a facility that is licensed, certified, registered, or otherwise regulated by the Department to provide care. The position of this SI includes but is not limited to resident manager, household member, or boarder.

(F) An individual working or volunteering for a private licensed child caring agency or system of care contractor providing child welfare services pursuant to ORS chapter 418.

(G) A homecare worker as defined in ORS 410.600, personal care services provider, or an independent provider employed by a Department client who provides care to the client if the Department helps pay for the services.

(H) A child care provider and their employees reimbursed through the Department's child care program and other individuals in child care facilities that are exempt from certification or registration by the Child Care Division of the Oregon Employment Department (OED). This includes all individuals who reside in or who are frequent visitors to the residence or facility where the child care services are provided and who may have unsupervised access to the children (see OAR 461-165-0180).

(I) An AD or CP in any entity or agency licensed, certified, registered, otherwise regulated by the Department, or subject to these rules.

(J) An individual providing on the job certified nursing assistant classes to staff within a long term care facility.

(K) A student at a long term care facility enrolled in a certified nursing assistant class for employment at the facility.

(L) Any individual serving as an owner, operator, or manager of a room and board facility pursuant to OAR chapter 411, division 68.

(M) Any individual who is required to complete a criminal records check pursuant to other Department program rules or a contract with the Department or if the requirement is within Department's statutory authority. Specific statutory authority or reference to these rules and the positions under the contract subject to a criminal records check must be specified in the contract. This inclusion as a subject individual would not be negated by section (21)(b) of this rule.

(b) An SI does not include:

(A) Any individual under 16 years of age.

(B) An individual receiving training in a Department-licensed or Department-certified facility as part of the required curriculum through any college, university, or other training program and who is not an employee in the facility in which training is provided. The individual may not be considered a volunteer under these rules. Facilities must ensure that all students or interns have passed a substantially equivalent background check process through the training program or are:

- (i) Actively supervised at all times as defined in OAR 407-007-0315; and
- (ii) Not allowed to have unsupervised access to vulnerable individuals.

(C) Department clients or QE clients, unless specific written permission to conduct a criminal records check is received from the Department. The only circumstance in which the Department shall allow a check to be performed on a client pursuant to this paragraph is if the client falls within the definition of "subject individual" as listed in sections (21)(a)(A)-(D) and 21(a)(F)-(M) of this rule.

(D) Individuals working in child care facilities certified or registered by the OED.

(E) Individuals employed by a private business that provides services to clients and the general public and is not regulated by the Department.

(F) Individuals employed by a business that provides appliance or structural repair for clients and the general public, and who are temporarily providing these services in an environment regulated by the Department. The QE shall ensure active supervision of these individuals while on QE property and the QE may not allow unsupervised contact with QE clients or

residents. This exclusion does not apply to a business that receives funds from the Department for care provided by an employee of the business.

(G) Individuals employed by a private business in which a client of the Department is working as part of a Department-sponsored employment service program. This exclusion does not apply to an employee of a business that receives funds from the Department for care provided by the employee.

(H) Employees and volunteers working in hospitals, ambulatory surgical centers, special inpatient care facilities, outpatient renal dialysis facilities, and freestanding birthing centers as defined in ORS 442.015.

(I) Volunteers, who are not under the direction and control of any entity licensed, certified, registered, or otherwise regulated by the Department.

(J) Individuals employed or volunteering in a Medicare-certified health care business which is not subject to licensure or certification by the State of Oregon.

(K) Individuals working in restaurants or at public swimming pools.

(L) Hemodialysis technicians.

(M) Employees, contractors, temporary workers, or volunteers who provide care, or have access to clients, client information, or client funds of an alcohol and drug program that is certified, licensed, or approved by the Department's Addictions and Mental Health Division to provide prevention, evaluation, or treatment services. This exclusion does not apply to programs specifically required by other Department rules to conduct criminal records checks in accordance with these rules.

(N) Individuals working for a transit service provider which conducts background checks pursuant to ORS 267.237.

(O) Individuals being certified by the Department as interpreters pursuant to ORS 409.623. This exclusion does not apply to Department-certified interpreters when being considered for a specific position.

(P) Provider group categories that were authorized for payment by the Department for care if the provider group categories were not covered by a Department criminal record check process prior to 2004.

(Q) Emergency medical technicians and first responders certified by the Department's Emergency Medical Services and Trauma Systems program.

(R) Employees, contractors, temporary workers, or volunteers of continuing care retirement communities registered under OAR chapter 411, division 067.

(30) "Weighing test" means a process in which one or more ADs consider available information to make a fitness determination when an SI has potentially disqualifying convictions or conditions.

Stat. Auth.: ORS 181.537, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 77-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0210, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; Hist.: DHSD 2-2008(Temp), f. & cert. ef. 3-31-08 thru 9-26-08; DHSD 7-2008, f. 8-29-08, cert. ef. 9-1-08; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 8-2010(Temp), f. & cert. ef. 8-12-10 thru 2-7-11; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11

407-007-0220

Background Check Required

(1) The Department or a Department authorized QE shall conduct criminal records checks on all SIs through LEDS maintained by OSP in accordance with ORS chapter 181 and the rules adopted thereto (see OAR chapter 257, division 15).

(2) If a national criminal records check of an SI is necessary, OSP shall provide the Department the results of national criminal records checks conducted pursuant to ORS 181.534, including fingerprint identification, through the FBI.

(3) The Department shall conduct abuse checks on all SIs using available abuse investigation reports and associated documents.

(4) An SI is required to have a background check in the following circumstances:

(a) An individual who becomes an SI on or after the effective date of these rules.

(b) The SI changes employers to a different QE.

(c) Except as provided in section (5) of this rule, the individual, whether previously considered an SI or not, changes positions under the same QE, and the new position requires a background check.

(d) The individual, whether previously considered an SI or not, changes Department-issued licenses, certifications, or registrations, and the license, certification, or registration requires a background check under these rules.

ADMINISTRATIVE RULES

(e) A background check is required by federal or state laws or regulations, other Department administrative rules, or by contract with the Department.

(f) When the Department or the AD has reason to believe that a background check is justified. Examples include but are not limited to any indication of possible criminal or abusive behavior by an SI or quality assurance monitoring of a previously conducted criminal records check or abuse check.

(5) A background check is not required under the following circumstances:

(a) A personal care services provider, Lifespan Respite care provider, or an independent provider paid with Department funds who changes or adds clients, and the prior, documented criminal records check or abuse check conducted within the previous 24 months through the Department has been approved without restrictions.

(b) The SI is a child care provider as described in OAR 461-165-0180 who has been approved without restrictions and who changes or adds clients.

(c) The SI remains with a QE in the same position listed on the Background Check Request Form while the QE merges with another QE, is sold to another QE, or changes names. The changes may be noted in documentation attached to the notice of fitness determination but do not warrant a background check.

(6) An AD must document in writing the reason why a new background check was not completed.

(7) Background checks are completed on SIs who otherwise meet the qualifications of the position listed on the Background Check Request Form. A background check may not be used to screen applicants for a position.

Stat. Auth.: ORS 181.537, 409.027 & 409.050
Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004
Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 77-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0220, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11

407-007-0230 Qualified Entity

(1) A QE and its appointing authorities must be approved in writing by the Department pursuant to these rules in order to appoint an AD or CP. Unless specifically indicated otherwise in these rules, all QEs and appointing authorities discussed in these rules are considered approved.

(2) Except as provided in section (3) of this rule, all QEs shall ensure the completion of background checks for SIs who are the QE's employees, volunteers, or other SIs under the direction or control of the QE.

(a) The QE's appointing authority shall appoint ADs or CPs within 30 calendar days following Department approval, or within time frames required by Department program offices.

(b) Unless specifically allowed by the Department, an appointing authority may not appoint themselves as an AD.

(c) Appointing authorities in all QEs shall appoint one or more ADs, or have a written agreement with another QE to handle AD responsibilities.

(d) Appointing authorities in all QEs may also appoint one or more CPs, or may have a written agreement with another QE to perform CP responsibilities.

(3) The Department's appointing authorities shall appoint ADs and CPs within the Department. Department-employed ADs shall make fitness determinations for the following QEs:

(a) Private QEs with fewer than 10 employed SIs are not eligible to appoint ADs. These QEs shall do one of the following:

(A) Use another QE to perform AD responsibilities instead of using the Department. If another QE is used, the two QEs must have a written agreement. The QE must provide the Department with a copy of the agreement.

(B) Appoint one or more CPs, or have a written agreement with another QE to perform CP responsibilities. The QE must provide the Department with a copy of the agreement.

(b) QEs with SIs not under the direction and control of the QE but who provide care under programs administered by the QE may have the Department ADs make fitness determinations.

(A) The QE shall appoint one or more CPs, or use an AD or CP appointed under section (2) of this rule to perform CP responsibilities.

(B) The QE may appoint an AD for SIs not under the direction and control of the QE if the QE chooses to do so or is required to do so under other Department program rules or contract with the Department. The QE

shall notify the Department in writing which programs are affected and which AD shall perform the responsibilities for each program.

(c) QEs may have specific direction by administrative rule or Department program about AD or CP appointments.

(A) Administrative rules governing certain QEs may prohibit AD appointment or CP appointment, such as private licensed child caring agencies.

(B) Department program offices may determine that:

(i) Certain QEs may not have their own ADs or CPs, but must use ADs or CPs at a local Department branch or a local QE. Examples include but are not limited to adult foster homes and child foster homes.

(ii) Specific QEs may have specific AD or CP requirements resulting from licensing actions, sanctions, or from quality assurance monitoring.

(d) The Department may require certain QEs to use Department-employed ADs to make fitness determinations. Examples include but are not limited to initial opening of a new QE, newly adopted administrative rules creating a new type of QE, or Department investigation or review of the QE.

(4) The Department may revoke approval of the QE to appoint or maintain ADs if the Department is investigating a compliance issue or determines that the QE, or an AD or CP appointed by the QE, has failed to comply with these rules. The BCU and the appropriate entity or program office within the Department may develop a plan of action to resolve the compliance issues.

(5) The QE's appointing authorities shall appoint ADs and CPs as needed to remain in compliance with these rules. If a QE no longer has an AD or CP for any reason, the appointing authorities shall ensure that new ADs or CPs are appointed within 30 calendar days from the date of no longer having ADs or CPs, and shall communicate any changes to the BCU.

(6) The Department shall provide QEs with periodic training and on-going technical assistance.

(7) Any decisions made by the Department in regard to these rules are final and may not be overturned by any QE, its ADs or CPs.

Stat. Auth.: ORS 181.537, 409.027 & 409.050
Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004
Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 77-2004(Temp), f. & cert. ef. 10-1-04 thru 3-29-05; OMAP 85-2004(Temp), f. & cert. ef. 11-4-04 thru 3-29-05; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0230, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11

407-007-0240 Authorized Designees and Contact Persons

(1) All requirements in this section must be completed within 90 calendar days. To receive Department approval, all ADs and CPs must meet the following requirements:

(a) ADs and CPs for the Department must be employed by the Department. For QEs, the ADs and CPs must be one of the following:

(A) Employed by the agency for which they will handle criminal records check information.

(B) Contracted with the QE to perform as an AD or CP.

(C) Employed by another similar QE or a parent QE (e.g., assisted living facility AD helping another assisted living facility).

(b) ADs and CPs shall complete a certification program and successfully pass any testing as required by the Department.

(c) An appointing authority shall appoint an AD or CP in writing on a form provided by the Department. The applicant AD or CP shall complete and submit the form to the Department for processing and registration.

(d) The Department shall conduct an abuse check, an Oregon criminal records check, a national criminal records check, and if necessary, a state-specific criminal records check. The AD or CP must have:

(A) No conviction for a potentially disqualifying permanent review crime;

(B) No convictions for any other crime in the past 15 years;

(C) No potentially disqualifying conditions; and

(D) If an AD, Criminal Justice Information Systems (CJIS) clearance and approval to view criminal records in accordance with OSP rules.

(E) With consideration of OAR 407-007-0290(11), no determination that the AD or CP was found responsible for potentially disqualifying abuse of a vulnerable person.

(2) The Department shall deny the individual's status as an AD or CP if the individual does not meet the AD or CP requirements. Once denied, the individual may no longer perform the duties of an AD or CP. There are no exceptions for individuals who do not meet the AD or CP requirements.

(3) Approved ADs and CPs shall have the following responsibilities:

ADMINISTRATIVE RULES

(a) Demonstrate understanding of and adherence to these rules in all actions pertaining to the background check process.

(b) Act as the Department's designee in any action pursuant to these rules and the background check process. The AD or CP may not advocate for an SI during any part of the background check process, including conducting a fitness determination.

(c) Ensure that adequate measures are taken to protect the confidentiality of the records and documents required by these rules. Only an AD may view criminal offender information. A CP may not view criminal offender information. The AD and CP may not view abuse investigation reports and associated abuse investigation exhibits or documents as part of the background check process.

(d) Verify the identity of an SI. The AD or CP shall verify identity or ensure that the same verification requirements are understood by each individual responsible for verifying identity.

(A) If conducting a background check on the SI for the first time or at rehire of the SI, the AD or CP shall verify identity by using methods which include but are not limited to asking the SI for current and valid government-issued photo identification and confirming the information on the photo identification with the SI, the information written on the Background Check Request form, and the information written on the fingerprint card if a national criminal records check is conducted.

(B) If an AD or CP is verifying the identity of an SI who is being rechecked, review of government-issued photo identification may not be necessary, but the AD or CP shall verify the SI's name, current address, and any aliases or previous names. (e) Ensure that an SI is not permitted to work, volunteer, reside, or otherwise hold any position covered by these rules before the completion of a preliminary fitness determination and submission of the Background Check Request form to the Department along with a fingerprint card if the SI discloses out of state criminal records or residency.

(f) Ensure that when an SI is hired on a preliminary basis, the need for active supervision is understood by each individual responsible for providing active supervision.

(g) Ensure that if an SI is removed from working on a preliminary basis, the SI is immediately removed from the position and remains removed until the completion of a final fitness determination or unless the BCU reinstates hired on a preliminary basis.

(h) Notify the Department of any changes regarding an SI who still has a background check being processed, including but not limited to address or employment status changes.

(i) Monitor the status of background check applications and investigate any delays in processing.

(j) Ensure that documentation required by these rules is processed and maintained in accordance with these rules.

(k) Notify the BCU immediately if arrested, charged, or convicted of any crime, or if found responsible for abuse by the Department.

(4) A CP may not conduct final fitness determinations. A CP has the following limitations when making preliminary fitness determinations:

(a) The CP may review the SIs completed Background Check Request form to ensure completeness of the form, verify identity, and to determine if the SI has any potentially disqualifying convictions or conditions.

(b) The CP may allow the SI to be hired on a preliminary basis only after the CP has reviewed the Background Check Request form and determined there is no indication that the SI has any potentially disqualifying convictions under OAR 407-007-0280 or conditions under OAR 407-007-0290.

(c) The CP shall not allow an SI who discloses any potentially disqualifying convictions or conditions to work on a preliminary basis.

(d) If the SI discloses potentially disqualifying convictions or conditions, the CP shall forward the Background Check Request form to an AD for preliminary fitness determination, or to the BCU for processing if there is no local AD available.

(5) In addition to the responsibilities listed in section (3) of this rule, the AD shall:

(a) Review the completed Background Check Request form (if not already done so by a CP) and conduct a preliminary fitness determination to determine eligibility for probationary status before forwarding the Background Check Request form to the BCU.

(b) Make a final fitness determination on all SIs when the Department returns their Background Check Request form to the AD for final review. The decision of an AD may not be overruled by an employee, owner, or board member of a QE who is not an AD.

(c) Participate in the appeal process if requested by the Department.

(d) Ensure the confidentiality and integrity of criminal records check documents. After the completion of a background check, ADs not involved with original fitness determinations may not review criminal records check documents to gain information on an SI's criminal history unless a new background check is being conducted. If a review is necessary, the AD must have written approval from the Department prior to reviewing any documents.

(6) An AD may not have access to criminal offender information, other criminal information (except the Background Check Request form), or make a fitness determination if there is a conflict of interest between the AD and the SI.

(a) A conflict of interest includes but is not limited to the following situations:

(A) If the AD is related to the SI. In this context, "related" means spouse, domestic partner, natural parent, child, sibling, adopted child, adopted parent, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew, or cousin.

(B) If the AD has a close personal or financial relationship, other than an employee-employer relationship, with the SI.

(b) When there is a conflict of interest and the QE has no other ADs available to conduct the fitness determination, the Department shall complete the fitness determination.

(7) The Department may change AD or CP status in the following circumstances which include but are not limited to:

(a) The Department shall inactivate AD or CP status when the AD or CP position with the QE ends or when the QE terminates the appointment. The QE shall notify the Department immediately upon the end of the position or termination of the appointment.

(b) The Department or QE shall suspend or revoke the appointment if an AD or CP fails to comply with responsibilities or fails to continue to meet the requirements for AD or CP, as applicable. After suspending or revoking the appointment, the QE must immediately notify the BCU in writing. If the Department takes the action, it must immediately notify the QE in writing.

(c) The Department shall revoke AD or CP status if an AD or CP fails to recertify.

(8) Any changes to AD or CP status are not subject to appeal rights unless the denial or termination results in immediate loss of employment or position. ADs or CPs losing employment or position have the same hearing rights as other SIs under these rules. (9) If an AD or CP leaves employment with the QE for any reason, the Department shall inactivate AD or CP status. If the individual finds employment with another QE, a new appointment, application, and registration must be completed.

(10) The Department shall review and recertify appointments of ADs and CPs, up to and including a new application, background check and additional training, under the following circumstances:

(a) Every three years; or

(b) Any time the Department has reason to believe the individual no longer meets the AD or CP requirements including but not limited to indication of criminal or abusive behavior or indication of noncompliance with these rules.

Stat. Auth.: ORS 181.537, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0240, DHS 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHS 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHS 2-2009, f. & cert. ef. 4-1-09; DHS 7-2009, f. & cert. ef. 10-1-09; DHS 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHS 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHS 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHS 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11

407-007-0250

Background Check Process

(1) A QE and SI shall use the Background Check Request form to request a background check which shall include the following information:

(a) Name and aliases;

(b) Date of birth;

(c) Address and recent residency information;

(d) Driver license or identification card information;

(e) Position the SI is completing the Background Check Request form;

(f) Disclosure of all criminal history;

(A) The SI must disclose all arrests, charges, and convictions regardless of outcome or when the arrests, charges, or convictions occurred.

(B) The disclosed crimes and the dates must reasonably match the SI's criminal offender information and other criminal records information, as determined by the Department.

ADMINISTRATIVE RULES

(g) Disclosure of other information to be considered in the event of a weighing test.

(2) The Background Check Request form shall include the following notices:

(a) A notice regarding disclosure of Social Security number indicating that:

(A) The SI's disclosure is voluntary; and

(B) The Department requests the Social Security number solely for the purpose of positively identifying the SI during the criminal records check process.

(b) A notice that the SI may be subject to fingerprinting as part of a criminal records check.

(c) A notice that the BCU shall conduct an abuse check on the SI. The SI is not required to disclose any history of potentially disqualifying abuse, but may provide the BCU with mitigating or other information.

(3) The BCU shall review each Background Check Request form received for completeness and timeliness. If the BCU rejects the form, the QE's AD or CP shall immediately remove the SI from the position. If the QE still plans to hire the SI, the QE shall resolve the reasons for rejection and re-submit the form.

(4) Using identifying information submitted on the Department's Background Check Request form, the Department shall conduct an abuse check to determine if the subject individual has potentially disqualifying abuse.

(5) The Department shall conduct an Oregon criminal records check after a completed Background Check Request form is received. Using information submitted on the Background Check Request form, the Department or QE may obtain criminal offender information from LEDS and may request other criminal records information as needed.

(6) The Department and all QEs receiving LEDS information shall handle criminal offender information in accordance with applicable OSP requirements in ORS chapter 181 and the rules adopted pursuant thereto (see OAR chapter 257, division 15).

(7) The Department may conduct a fingerprint-based national criminal records check after an Oregon criminal records check has been completed.

(a) A fingerprint-based national criminal records check may be completed under any of the following circumstances:

(A) The SI has been outside Oregon:

(i) For 60 or more consecutive days during the previous 18 months and the SI is a child care provider or other individual included in OAR 461-165-0180.

(ii) For 60 or more consecutive days during the previous five years for all other SIs.

(B) The LEDS check, SI disclosures, or any other criminal records information obtained by the Department indicate there may be criminal records outside of Oregon.

(C) The SI has an out-of-state driver license or out-of-state identification card.

(D) The Department has reason to question the identity or criminal record of the SI.

(E) A fingerprint-based criminal records check is required by federal or state laws or regulations, other Department rules, or by contract with the Department.

(F) The SI is an AD or CP.

(G) The Department has reason to believe that fingerprints are needed to make a final fitness determination.

(b) The Department must receive consent from the parent or guardian to obtain fingerprints from an SI under 18 years of age.

(c) The SI shall complete and submit a fingerprint card when requested by the Department. The Department shall send the request to the QE and the AD or CP shall notify the SI.

(A) The SI shall use a fingerprint card provided by the Department. The Department shall give the SI notice regarding the Social Security number as set forth in OAR 407-007-0250(2)(a).

(B) The SI shall submit the fingerprint card to the BCU within 21 calendar days of the request.

(i) The Department shall close the application, making it a closed case, if the fingerprint card is not received within 21 calendar days. When a case is closed, the SI may not be allowed to work, volunteer, be employed, or otherwise perform in positions covered by these rules, and shall be immediately terminated and removed from the position.

(ii) The Department may extend the time allowed for good cause provided by the SI or QE.

(C) The Department may require new fingerprint cards if previous cards are rejected by OSP or the FBI.

(8) The Department may also conduct a state-specific criminal records check instead of or in addition to a national criminal records check. Reasons for a state-specific criminal records check include but are not limited to:

(a) When the Department has reason to believe that out-of-state criminal records may exist and a national criminal records check may not be accomplished.

(b) When the Department has been unable to complete a national criminal records check due to illegible fingerprints.

(c) When the national criminal records check results show incomplete information about charges or criminal records without final disposition.

(d) When there is indication of residency or criminal records in a state that does not submit all criminal records to the FBI.

(e) When, based on available information, the Department has reason to believe that a state-specific criminal records check is necessary.

(9) In order to complete a background check and fitness determination, the Department may require additional information from the SI including but not limited to additional criminal, judicial, other background information, or proof of identity.

(10) The Department may conduct a background check in situations of imminent danger.

(a) If the Department determines there is indication of criminal or abusive behavior that could more likely than not pose an immediate risk to vulnerable individuals, the Department shall conduct a new criminal records check on an SI without the completion of a new Background Check Request form.

(b) If the Department determines that a fitness determination based on the new background check would be adverse to the SI, the Department shall provide the SI, if available, the opportunity to disclose criminal records, potentially disqualifying conditions, and other information as indicated in OAR 407-007-0300 before the completion of the fitness determination.

(11) All criminal records checks conducted under this rule shall be documented in writing.

Stat. Auth.: ORS 181.537, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0250, DHS 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHS 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHS 2-2009, f. & cert. ef. 4-1-09; DHS 7-2009, f. & cert. ef. 10-1-09; DHS 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHS 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHS 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHS 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11

407-007-0290

Other Potentially Disqualifying Conditions

The following are potentially disqualifying conditions:

(1) The SI makes a false statement to the QE, AD, or Department, including the provision of materially false information, false information regarding criminal records, or failure to disclose information regarding criminal records. Nondisclosure of violation or infraction charges may not be considered a false statement.

(2) The SI is a registered sex offender in any jurisdiction. There is a rebuttable presumption that an SI is likely to engage in conduct that would pose a significant risk to vulnerable individuals if the SI has been designated a predatory sex offender in any jurisdiction under ORS 181.585 or found to be a sexually violent dangerous offender under ORS 144.635 (or similar statutes in other jurisdictions).

(3) The SI has an outstanding warrant for any crime in any jurisdiction.

(4) The SI has a deferred sentence, conditional discharge, or is participating in a diversion program in any jurisdiction for any potentially disqualifying crime.

(5) The SI is currently on probation, parole, or post-prison supervision for any crime in any jurisdiction, regardless of the original conviction date (or date of guilty or no contest plea if there is no conviction date).

(6) The SI has been found in violation of post-prison supervision, parole, or probation for any crime in any jurisdiction, regardless of the original conviction date (or date of guilty or no contest plea if there is no conviction date), within five years from the date the Background Check Request form was signed or the date the Department conducted a criminal records check due to imminent danger.

(7) The SI has an unresolved arrest, charge, or a pending indictment for any crime in any jurisdiction.

(8) The SI has been arrested in any jurisdiction as a fugitive from another state or a fugitive from justice, regardless of the date of arrest.

ADMINISTRATIVE RULES

(9) The SI has an adjudication in a juvenile court in any jurisdiction, finding that the SI was responsible for a potentially disqualifying crime that would result in a conviction if committed by an adult. Subsequent adverse rulings from a juvenile court, such as probation violations, shall also be considered potentially disqualifying if within five years from the date the Background Check Request form was signed or the date the Department conducted a criminal records check due to imminent danger.

(10) The SI has a finding of “guilty except for insanity,” “guilty except by reason of insanity,” “not guilty by reason of insanity,” “responsible except for insanity,” “not responsible by reason of mental disease or defect,” or similarly worded disposition in any jurisdiction regarding a potentially disqualifying crime, unless the local statutes indicate that such an outcome is considered an acquittal.

(11) Potentially disqualifying abuse as determined from abuse investigation reports which have an outcome of founded, substantiated, or valid and in which the SI is determined to have been responsible for the abuse.

(a) For SIs associated with child foster homes licensed through the Department’s Seniors and People with Disabilities Division, child foster homes licensed through a private licensed child caring agency or adoptive families through an private licensed child caring agency, potentially disqualifying abuse includes:

(A) Child protective services history held by the Department regardless of the date of initial report or outcome;

(B) Child protective services history reviewed pursuant to the federal Adam Walsh Act requirements, determined by BCU ADs to be potentially disqualifying; and

(C) Adult protective services investigations of physical abuse, sexual abuse, or financial exploitation initiated on or after January 1, 2010, as provided to BCU by the Office of Investigation and Training and the Seniors and People with Disabilities Division based on severity.

(b) For staff and volunteers of a private licensed child caring agency:

(A) Child protective services history held by the Department regardless of the date of initial report or outcome; and

(B) Adult protective services investigations of physical abuse, sexual abuse, or financial exploitation initiated on or after January 1, 2010, as provided to BCU by the Office of Investigation and Training and the Seniors and People with Disabilities Division based on severity.

(c) For child care providers and associated subject individuals defined in OAR 407-007-0210(29)(a)(H);

(A) Child protective services history held by the Department regardless of the date of initial report, date of outcome and considered potentially disqualifying pursuant to OAR 461-165-0420; and

(B) Adult protective services investigations of physical abuse, sexual abuse, or financial exploitation initiated on or after January 1, 2010, as provided to BCU by the Office of Investigation and Training and the Seniors and People with Disabilities Division based on severity.

(d) For all other SIs, potentially disqualifying abuse includes founded or substantiated adult protective services investigations of physical abuse, sexual abuse, or financial exploitation initiated on or after January 1, 2010, as provided to the BCU by the Office of Investigation and Training and the Seniors and People with Disabilities Division based on severity.

Stat. Auth.: ORS 181.537, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0290, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11

407-007-0300

Weighing Test

When making a fitness determination, the AD shall consider any of the following factors if an SI has potentially disqualifying convictions or conditions as disclosed by the SI or which is otherwise known:

(1) Circumstances regarding the nature of potentially disqualifying convictions and conditions including but not limited to:

(a) The details of incidents leading to the charges of potentially disqualifying convictions or resulting in potentially disqualifying conditions.

(b) Age of the SI at time of the potentially disqualifying convictions or conditions.

(c) Facts that support the convictions or potentially disqualifying conditions.

(d) Passage of time since commission of the potentially disqualifying convictions or conditions.

(e) Consideration of state or federal laws, regulations, or rules covering the position, facility, employer, or QE regarding the potentially disqualifying convictions or conditions.

(2) If applicable, circumstances regarding the nature of potentially disqualifying abuse including but not limited to:

(a) Circumstances leading to the incident of abuse;

(b) The nature and type of abuse; and

(c) Other information gathered during the scope of the abuse investigation.

(d) The date of the abuse incident and abuse investigation, and the age of the SI at the time of the abuse.

(e) The quality of the abuse investigation including, if applicable, any exhibits and related documents with consideration taken into account regarding completeness, objectivity, and sufficiency.

(f) Due process provided to the SI after the abuse investigation.

(g) Required action resulting from the founded or substantiated abuse including but not limited to training, counseling, corrective or disciplinary action, and the SI’s compliance.

(3) Other factors when available including but not limited to:

(a) Other information related to criminal activity including charges, arrests, pending indictments, and convictions. Other behavior involving contact with law enforcement may also be reviewed if information is relevant to other criminal records or shows a pattern relevant to criminal history.

(b) Periods of incarceration.

(c) Status of and compliance with parole, post-prison supervision, or probation.

(d) Evidence of alcohol or drug issues directly related to criminal activity or potentially disqualifying conditions.

(e) Evidence of other treatment or rehabilitation related to criminal activity or potentially disqualifying conditions.

(f) Likelihood of repetition of criminal behavior or behaviors leading to potentially disqualifying conditions, including but not limited to patterns of criminal activity or behavior.

(g) Information from the Department’s protective services, abuse or other investigations in which the investigator documented behavior or conduct by the SI that would pose a risk to or jeopardize the safety of vulnerable individuals.

(h) Changes in circumstances subsequent to the criminal activity or disqualifying conditions including but not limited to:

(A) History of high school, college, or other education related accomplishments.

(B) Work history (employee or volunteer).

(C) History regarding licensure, certification, or training for licensure or certification.

(D) Written recommendations from current or past employers, including Department client employers.

(i) Indication of the SI’s cooperation, honesty, or the making of a false statement during the criminal records check process, including acknowledgment and acceptance of responsibility of criminal activity and potentially disqualifying conditions.

(4) The AD shall consider the relevancy of the SI’s criminal activity or potentially disqualifying conditions to the paid or volunteer position, or to the environment in which the SI will reside, work, or visit.

Stat. Auth.: ORS 181.537, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0300, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11

407-007-0315

Hired on a Preliminary Basis

A preliminary fitness determination is required to determine if an SI may work, volunteer, be employed, or otherwise perform in the position listed on the Background Check Request form prior to a final fitness determination. The SI may not be hired on a preliminary basis prior to the completion of a preliminary fitness determination.

(1) The SI must complete required information on a Background Check Request form and the AD or CP must review the form.

(2) The AD or CP shall review the Background Check Request form, complete a preliminary fitness determination and shall then make one of the following determinations

(a) An SI may be hired on a preliminary basis, only during the period of time prior to a final fitness determination, into the position listed on the

ADMINISTRATIVE RULES

Background Check Request form and be allowed to participate in training, orientation, and position activities under the one of the following circumstances:

(A) If there is no indication of a potentially disqualifying conviction or condition on the Background Check Request form and the AD or CP have no reason to believe the SI has potentially disqualifying history. This is the only situation in which a CP may hire an SI on a preliminary basis.

(B) If the SI discloses any potentially disqualifying convictions or conditions, the SI may be hired on a preliminary basis only after the completion of a weighing test by an AD. The SI may be hired on a preliminary basis only if, based on information available at the time, the AD determines that more likely than not that the SI poses no potential threat to vulnerable individuals.

(b) The QE may not hire a SI on a preliminary basis under any of the following circumstances:

(A) Being hired on a preliminary basis or probationary status is not allowed by program rules.

(B) The SI has disclosed potentially disqualifying convictions or conditions and the QE does not have an AD to make a preliminary fitness determination.

(C) The AD or Department determine that:

(i) More likely than not, the SI poses a potential threat to vulnerable individuals, based on a preliminary fitness determination and weighing test;

(ii) The SI's most recent background check under these rules or other Department criminal records check rules or abuse check rules resulted in a denial; or

(iii) The SI is currently involved in contesting a background check under these or other Department criminal records check rules or abuse check rules.

(D) An outcome of no hiring on a preliminary basis may only be overturned by the Department.

(3) The QE shall forward the Background Check Request form to the Department immediately upon completion of the preliminary fitness determination or, if the QE cannot make a preliminary fitness determination, immediately after the SI's completion of the form and verification of the SI's identity.

(4) The Department shall review the preliminary fitness determination made by the QE.

(a) The Department may change the outcome of the preliminary fitness determination based on available information.

(b) A QE without access to an AD may request the Department make a preliminary fitness determination if the SI discloses potentially disqualifying convictions or conditions.

(5) An SI hired on a preliminary basis shall be actively supervised at all times.

(a) The individual providing active supervision at all times shall do the following:

(A) Be in the same building as the SI or, if outdoors of QE buildings or any location off the QE property, be within line-of-sight and hearing, except as provided in section (5)(b)(B) of this rule;

(B) Know where the SI is and what the SI is doing; and

(C) Periodically observe the actions of the SI.

(b) The individual providing the active supervision may be either:

(A) An SI who has been approved without restrictions pursuant to these rules or previous Department criminal records check rules; or

(B) The adult client, an adult client's adult relation, the client's legal representative, or a child's parent or guardian. Active supervision by these individuals is appropriate in situations where care is given directly to clients usually in a home such as but not limited to in-home care, home health, or care by home care workers, personal care assistants, or child care providers.

(i) The adult client may actively supervise a homecare worker, personal care services provider, independent provider, or an employee of an in-home care agency or home health agency if the client makes an informed decision to employ the provider. Someone related to the client may also provide active supervision if the relative has been approved by the Department, the AD, or the private-pay client receiving services through an in-home care or home health agency.

(ii) A child client's parent or guardian shall be responsible for providing active supervision in the case of child care providers. The supervision is not required to be performed by someone in the same building as the child.

(6) An SI approved without restrictions within the previous 24 months through a documented criminal records check or abuse check pursuant to these rules or prior Department criminal records check rules or abuse check rules may be hired on a preliminary basis without active supervision.

Twenty-four months is calculated from date of previous approval to the date of hire in the new position. This exemption from active supervision is not allowed in any of the following situations:

(a) If the SI cannot provide documented proof that he or she worked continuously under the previous approval for at least one year.

(b) If there is evidence of criminal activity or potentially disqualifying abuse within the previous 24 months.

(c) If, as determined by the AD or the Department, the job duties in the new position are so substantially different from the previous position that the previous fitness determination is inadequate for the current position.

(7) Revocation of hired on a preliminary basis is not subject to hearing or appeal. The QE or the Department may immediately revoke hired on a preliminary basis for any of the following reasons:

(a) There is any indication of falsification of application.

(b) The QE or Department determines that allowing the SI to be hired on a preliminary basis is not appropriate, based on the application, criminal record, position duties, or Department program rules.

(8) Nothing in this rule is intended to require that an SI who is eligible to be hired on a preliminary basis be allowed to work, volunteer, be employed, or otherwise perform in the position listed on the Background Check Request form prior to a final fitness determination.

(9) Preliminary fitness determinations must be documented in writing, including any details regarding a weighing test, if required.

Stat. Auth.: ORS 181.537, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004

Hist.: DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11

407-007-0320

Final Fitness Determinations

The AD shall make a final fitness determination after all necessary background checks have been received and a weighing test, if necessary, has been completed. The AD may obtain and consider additional information as necessary to complete the final fitness determination.

(1) The final fitness determination results in one of the following outcomes:

(a) The AD may approve an SI if:

(A) The SI has no potentially disqualifying convictions or potentially disqualifying conditions; or

(B) The SI has potentially disqualifying convictions or potentially disqualifying conditions and, after a weighing test, the AD determines that more likely than not that the SI poses no risk to the physical, emotional, or financial well-being of vulnerable individuals.

(b) The AD may approve an SI with restrictions if the AD determines that more likely than not that the SI poses no risk to the physical, emotional, or financial well-being of vulnerable individuals, if certain restrictions are placed on the SI. Restrictions may include but are not limited to restrictions to one or more specific clients, job duties, or environments. A new background check and fitness determination shall be completed on the SI before removing a restriction.

(c) The AD shall deny an SI whom the AD determines, after a weighing test, more likely than not poses a risk to the physical, emotional, or financial well-being of vulnerable individuals.

(2) The Department shall make a final fitness determination in the following situations:

(a) A national or state-specific criminal records check has been completed on the SI;

(b) The Department determines that the SI has potentially disqualifying abuse as described in OAR 407-007-0290(11).

(c) If Oregon laws or program administrative rules governing the QE or the position require that the Department makes the final fitness determination;

(d) The SI has the following history regarding criminal records checks or abuse checks:

(A) The SI's most recent criminal records check or abuse check under these rules or other Department rules resulted in a denial; or

(B) The SI's most recent criminal records check or abuse check under these or other Department rules required a weighing test which was completed by the Department.

(e) If, after conducting a criminal records check or abuse check, the Department determines that, based on the presence of a potentially disqualifying crime or condition, there is a potential for imminent danger to vulnerable individuals;

ADMINISTRATIVE RULES

(f) If the QE requests the Department to make the final fitness determination because the QE is temporarily unable to provide an AD to conduct a fitness determination;

(g) Upon request of an AD, the Department may provide technical assistance or make the final fitness determination;

(h) If the Department has reason to believe a final fitness determination has not been conducted in compliance with these rules, the Department may repeat the background check and make a final fitness determination; or

(i) If the QE or AD is under investigation regarding compliance with these rules and the status of all ADs have been suspended during the investigation.

(3) The Department may review final fitness determinations made by local ADs and make a new final fitness determination at its discretion.

(4) Upon completion of a final fitness determination, the Department or AD making the decision shall provide written notice to the SI.

(a) The notice shall be in a Department-approved format.

(b) If approved, the Background Check Request form shall indicate the final fitness determination and the completed Background Check Request form shall be the notice of fitness determination.

(A) If the final fitness determination is completed by the Department, the QE shall ensure that the SI receives a copy of the Background Check Request form after the Department returns the Background Check Request form to the QE.

(B) If the final fitness determination is completed by the local AD, the local AD shall ensure that the SI receives a copy of the Background Check Request form after the AD completes the Background Check Request form.

(c) If denied or approved with restrictions, the notice of fitness determination shall include the potentially disqualifying convictions or conditions that the outcome was based upon, information regarding appeal rights and the notice becoming a final order in the event of a withdrawal or failure to appear at the hearing.

(A) If the final fitness determination is completed by the Department, the Department shall ensure that the SI receives a copy of the notice of fitness determination and the Background Check Request form. The Department shall provide the QE with a copy of the Background Check Request form to the QE with indication of the final fitness determination being either denied or approved with restrictions.

(B) If the final fitness determination is completed by the local AD, the local AD shall ensure that the SI receives a copy of the notice of fitness determination and the Background Check Request form after the AD completes the Background Check Request form.

(d) The notice shall be mailed or hand-delivered to the SI within 14 calendar days after the final fitness determination has been completed. The effective date of action shall be recorded on the notice.

(5) When an SI is denied, the SI shall not be allowed to work, volunteer, be employed, or otherwise perform in the position listed on the Background Check Request form. A denial applies only to the position and application in question. A denial shall result in immediate termination, dismissal, or removal of the SI.

(6) When an SI is approved with restrictions, the SI shall only be allowed to work, volunteer, be employed, or otherwise perform in the position listed on the Background Check Request form and only under the stated restrictions. A restricted approval applies only to the position and application in question. A restricted approval shall result in immediate implementation of the restrictions.

(7) Final fitness determinations must be documented in writing, including any details including but not limited to the potentially disqualifying convictions or conditions, the factors considered during weighing test, and restrictions in a restricted approval. The authorized designee shall also maintain any documents obtained during the fitness determination, such as written statements and certificates from the subject individual, police reports, or court records.

(8) The Department or AD shall make new fitness determinations for each application. The outcome of previous fitness determinations does not set a precedent for subsequent fitness determinations.

Stat. Auth.: ORS 181.537, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0320, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11

407-007-0325

Closed Case

If the SI discontinues the application or fails to cooperate with the criminal records check or fitness determination process, the application is considered incomplete and may be closed.

(1) Discontinuance or failure to cooperate includes but is not limited to the following circumstances:

(a) The SI fails to disclose all criminal history on the Background Check Request form.

(b) The SI refuses to be fingerprinted when required by these rules.

(c) The SI fails to respond within a stated time period to a request for corrections to the application, fingerprints, or any other information necessary to conduct a criminal records check or an abuse check and there is not enough information available to make a fitness determination.

(d) The SI withdraws the application, leaves the position prior to completion of the background check, or the Department cannot locate or contact the subject individual.

(e) The SI is determined to be ineligible for the position for reasons other than the background check.

(2) When the application is closed without a final fitness determination, the SI does not have a right to contest the closure.

(3) When a case is closed, the SI shall not be allowed to work, volunteer, be employed, or otherwise perform in the position listed on the Background Check Request form. A closed case applies only to the position in question. A closed case shall result in immediate termination, dismissal, or removal of the SI.

(4) The AD or CP shall document in writing the reasons for a closed case, and shall provide that information to the SI.

Stat. Auth.: ORS 181.537, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004

Hist.: DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11

407-007-0330

Contesting a Fitness Determination

(1) A final fitness determination of denied or restricted approval is considered an adverse outcome. An SI with an adverse outcome may contest that fitness determination.

(2) If an SI is denied, the SI may not hold the position, provide services or be employed, licensed, certified, or registered, or otherwise perform in positions covered by these rules. An SI appealing a restricted approval may only work under the terms of the restriction during the appeal.

(3) If an adverse outcome is changed at any time during the appeal process, the change does not guarantee employment or placement.

(4) An SI may challenge the accuracy or completeness of information provided by the OSP, the FBI, or other agencies reporting information to the Department, by appealing to the entity providing the information. These challenges are not subject to the Department's appeal process.

(5) An SI has the right to represent him or herself or have legal representation during the appeal process. For the purpose of this rule, the term "SI" shall be considered to include the SI's legal representative.

(a) An SI who is appealing an adverse outcome regarding the position of homecare worker as defined in ORS 410.600 may be represented by a labor union representative pursuant to ORS 183.459.

(b) For all other SIs, the SI may not be represented by a lay person.

(6) An SI may contest an adverse fitness determination by requesting a contested case hearing. The contested case hearing process is conducted in accordance with ORS 183.411 to 183.497 and the Attorney General's Uniform and Model Rules of Procedure for the Office of Administrative Hearings (OAH), OAR 137-003-0501 to 137-003-0700.

(a) To request a contested case hearing, the SI shall complete and sign the Hearing Request form.

(b) The completed and signed form must be received by the Department within 45 calendar days after the effective date of action listed on the notice of the fitness determination.

(c) In the event an appeal is not timely, the Department shall determine, based on a written statement from the SI and available information, if there is good cause to proceed with the appeal.

(d) The Department may refer an untimely request to the OAH for a hearing on the issue of timeliness.

(7) The Department may conduct an administrative review before referring the appeal to OAH.

(a) The SI must participate in the administrative review. Participation may include but is not limited to providing additional information or additional documents requested by the BCU within a specified amount of time.

(b) The administrative review is not open to the public.

ADMINISTRATIVE RULES

(8) The Department may conduct additional criminal records checks or abuse checks during the contested case hearing process to update or verify the SI's potentially disqualifying convictions or conditions and factors to consider in the weighing test. If needed, the Department shall amend the notice of fitness determination while still maintaining the original hearing rights and deadlines.

(9) The Department shall be represented by a hearing representative in contested case hearings. The Department may also be represented by Department of Justice Office of the Attorney General.

(a) The Department shall provide the administrative law judge and the SI a complete copy of available information used during the background checks and fitness determinations. The notice of contested case and pre-hearing summary and other documents may be mailed by regular first class mail.

(b) An SI may not have access to confidential information contained in abuse investigation reports or other records collected or developed during the abuse check process without a protective order limiting further disclosure of the information.

(A) A protective order issued pursuant to this section must be issued by an administrative law judge as provided for in OAR 137-003-0570(8) or by a court of law.

(B) In conjunction with a protective order issued pursuant to this section, individually identifying information relating to clients, witnesses, and other persons identified in abuse investigation reports or other records collected or developed during the abuse check process shall be redacted prior to disclosure, except for the information identifying the SI.

(c) The contested case hearing is not open to the public.

(d) The administrative law judge shall make a new fitness determination based on evidence and the contested case hearing record.

(e) The only remedy an administrative law judge may grant is a fitness determination that the subject individual is approved, approved with restrictions, or denied. Under no circumstances shall the Department or the QE be required to place an SI in any position, nor shall the Department or the QE be required to accept services or enter into a contractual agreement with an SI.

(f) A hearing pursuant to these rules may be conducted in conjunction with a licensure or certification hearing for the SI.

(10) The notice of fitness determination issued is final as if the SI never requested a hearing in the following situations:

(a) The SI failed to request a hearing in the time allotted in this rule. No other document will be issued after the notice of fitness determination.

(b) The SI withdraws the request for hearing at any time during the appeal process.

(11) The Department may make an informal disposition based on the administrative review. The Department shall issue a final order and new notice of fitness determination. If the resulting fitness determination is an adverse outcome, the appeal shall proceed to contested case hearing.

(12) The Department shall issue a dismissal order in the following situations:

(a) The SI may withdraw a hearing request verbally or in writing at any time before the issuance of a final order. A dismissal order due to the withdrawal is effective the date the withdrawal is received by the Department or the OAH. The SI may cancel the withdrawal in writing within 14 calendar days after the date of withdrawal.

(b) The Department shall dismiss a hearing request when the SI fails to participate in the administrative review. Failure to participate in the administrative review shall result in termination of hearing rights. The order is effective on the due date for participation in the administrative review. The Department shall review a good cause request to reinstate hearing rights if received in writing by the Department within 14 calendar days.

(c) The Department shall dismiss a hearing request when the SI fails to appear at the time and place specified for the contested case hearing. The order is effective on the date scheduled for the hearing. The Department shall review a good cause request to reinstate hearing rights if received in writing by the Department within 14 calendar days of the order.

(13) After a hearing, the administrative law judge shall issue a proposed and final order.

(a) If no written exceptions are received by the Department within 14 calendar days after the service of the proposed and final order, the proposed and final order becomes the final order.

(b) If timely written exceptions to the proposed and final order are received by the Department, the Department's Director or designee shall consider the exceptions and serve a final order, or request a written response or a revised proposed and final order from the administrative law judge.

(14) Final orders, including dismissal and default orders, are subject to reconsideration or rehearing petitions within 60 calendar days after the order is served, pursuant to OAR 137-003-0675.

(15) The Department may provide the QE's AD with the results of the appeal.

Stat. Auth.: ORS 181.537, 183.459, 409.027 & 409.050
Stats. Implemented: ORS 181.534, 181.537, 183.459, 409.010, 409.027 & 443.004
Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0330, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 2-2008(Temp), f. & cert. ef. 3-31-08 thru 9-26-08; DHSD 7-2008, f. 8-29-08, cert. ef. 9-1-08; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11

407-007-0340

Record Keeping, Confidentiality

(1) All LEDS reports are confidential and the AD shall maintain the reports in accordance with applicable OSP requirements in ORS chapter 181 and the rules adopted pursuant thereto (see OAR chapter 257, division 15).

(a) LEDS reports are confidential and may only be shared with another AD if there is a need to know consistent with these rules.

(b) The LEDS report and any photocopies may not be shown or given to the SI.

(2) The results of a national criminal records check provided by the FBI or the OSP are confidential and may not be disseminated by the Department unless:

(a) If a fingerprint-based criminal records check was conducted on the SI, the SI shall be provided a copy of the results if requested.

(b) The state and national criminal offender information shall be provided as exhibits during the contested case hearing.

(3) The results of an abuse check are confidential and may not be disseminated by the Department except in compliance with confidentiality statutes and guidelines of the Department. An SI may not have access to confidential information contained in abuse investigation reports or other records collected or developed during the abuse check process without a protective order limiting further disclosure of the information during the contested case hearing process.

(4) All completed Background Check Request forms, other criminal records information, and other records collected or developed during the background check or contested case process shall be kept confidential and disseminated only on a need-to-know basis.

(5) The Department shall retain and destroy all criminal records check documents pursuant to federal law and records retention schedules published by Oregon State Archives.

(6) Documents may be requested and reviewed by the Department and the OSP for the purposes of determining and ensuring compliance with these rules.

(7) Neither local ADs nor the Department may re-create past notices of fitness determinations. If an error is discovered on a notice of fitness determination, the local AD or the Department may correct it by issuing an amended notice of fitness determination.

Stat. Auth.: ORS 181.537, 409.027 & 409.050
Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004
Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0340, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11

407-007-0350

Immunity from Liability

(1) The Department, QE, AD, or CP, acting within the course and scope of employment, have immunity from any civil liability that might otherwise be incurred or imposed for determining, in accordance with ORS 181.537, that an SI is fit or not fit to hold a position, provide services, or be employed, licensed, certified, or registered.

(2) The Department, QE, AD, or CP, acting within the course and scope of employment, and an employer or employer's agent are not liable for the failure to hire a prospective employee or the decision to discharge an employee on the basis of the QE's decision if they in good faith comply with:

(a) ORS 181.537 and ORS 409.027; and

(b) The decision of the QE or employee of the QE acting within the course and scope of employment.

(3) No employee of the state, a business, or an organization, acting within the course or scope of employment, is liable for defamation, inva-

ADMINISTRATIVE RULES

sion of privacy, negligence, or any other civil claim in connection with the lawful dissemination of information lawfully obtained under ORS 181.537.
Stat. Auth.: ORS 181.537, 409.027 & 409.050
Stats. Implemented: ORS 181.534, 181.537, 409.010, 409.027 & 443.004
Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0350, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; DHSD 7-2009, f. & cert. ef. 10-1-09; DHSD 10-2009, f. 12-31-09, cert. ef. 1-1-10; DHSD 1-2011(Temp) f. & cert. ef. 4-15-11 thru 10-11-11; DHSD 7-2011(Temp), f. & cert. ef. 10-12-11 thru 11-1-11

**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 19-2011

Filed with Sec. of State: 9-19-2011

Certified to be Effective: 9-19-11

Notice Publication Date: 7-1-2011

Rules Amended: 413-120-0020, 413-120-0021, 413-120-0035, 413-120-0060

Subject: OAR 413-120-0020 about adoption placement selection options is being amended to clarify the actions the Department may be taking in searching for a child's relatives when considering how to move forward with adoption selection processes. This rule is also being amended to clarify how an adoption selection is made when the Department has granted an exception to the order of preference in adoption selection.

OAR 413-120-0021 about adoption placement selection by a caseworker is being amended to clarify the actions the Department may take when a relative first expresses interest in being considered as a potential adoptive resource at a later stage in the process.

OAR 413-120-0035 about the invitation to and notification of the adoption committee is being amended to clarify the actions the Department may take when a relative first expresses interest in being considered as a potential adoptive resource at a later stage in the adoption committee process. This rule is also being amended to state when an exception to timelines set forth in the rule can be implemented.

OAR 413-120-0060 is being amended to clarify the Department staff who must receive notice upon receipt of a request for the review of an adoption selection decision.

These rules are also being amended to make permanent the temporary rule changes adopted on March 22, 2011.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-120-0020

Adoption Placement Selection Options

When a child has a permanency plan of adoption, the Department uses one of three options to make an adoption placement selection:

(1) Selection by Caseworker. After considering the input from the child's team and following consultation with the supervisor, the caseworker may make the adoption placement selection for a child or sibling group under consideration as part of case-planning using the process in OAR 413-120-0021 when the requirements of at least one of the following subsections is met:

(a) The child is identified as an Indian child and the adoption placement selection complies with Child Welfare Policy I-E.2.1, "Placement of Indian Children", OAR 413-070-0100 to 413-070-0260.

(b) The child is identified as a refugee child and the adoption placement selection complies with Child Welfare Policy I-E.2.2, "Placement of Refugee Children", OAR 413-070-0300 to 413-070-0380.

(c) A relative of a child is being considered alone as the potential adoptive resource for a child or sibling group under consideration, unless subsections (3)(c), (3)(d), or (3)(e) of this rule apply.

(d) The Department has conducted a diligent search and is not assessing, identifying, nor is the Department or another entity conducting an adoption home study for any relative as a potential adoptive resource and, unless subsections (3)(c), (3)(d), or (3)(e) of this rule apply, the requirements of one of the following paragraphs is met:

(A) A current caretaker is being considered alone for a child or sibling group under consideration.

(B) The child is under six years of age with no extraordinary needs and each potential adoptive resource is a general applicant, unless subsection (2)(d) of this rule applies.

(2) Local Adoption Committee and ADS. The local adoption committee recommends an adoptive resource, and the ADS makes the adoption placement selection when section (3) of this rule does not apply and at least one of the following subsections applies:

(a) The child is six years of age or older.

(b) The child has extraordinary needs.

(c) A sibling group is being placed together for the purpose of adoption and each potential adoptive resource is a general applicant.

(d) The identified potential adoptive resources include the child's current foster parent being considered as a general applicant with other general applicants.

(3) Central Office Adoption Committee and ADS. The central office adoption committee recommends an adoptive resource, and the ADS makes the adoption placement selection when one of the following subsections applies:

(a) The potential adoptive resources include:

(A) More than one relative as defined in OAR 413-120-0010(16)(a)–(c);

(B) A relative as defined in OAR 413-120-0010(16)(d) and a current caretaker;

(C) A current caretaker considered under OAR 413-120-0595 and a general applicant; or

(D) A relative, current caretaker, or specific general applicant for whom an exception to the order of preference has been granted under OAR 413-120-0760.

(b) The potential adoptive resources include more than one current caretaker being considered for siblings who will be placed together in adoption.

(c) A DHS staff member is a potential adoptive resource, and the requirements of the DHS-060-002, "Conflict of Interest Policy" and the "Conflict of Interest Policy Addendum for CAF Employees" apply.

(d) A non-DHS staff member with a potential conflict of interest with the Department is a potential adoptive resource.

(e) The potential adoptive resource is an individual living outside the USA, or Child Welfare Policy I-G.1.14, "Intercountry Adoption Pursuant to the Hague Convention and Intercountry Adoption Act", OAR 413-120-0900 to 413-120-0970 applies.

(4) The caseworker, following consultation with the supervisor, may request that the adoption placement selection be made by an ADS following an adoption committee recommendation based on the complexities or dynamics of a case. The request must be approved by:

(a) The Child Welfare Program Manager or designee for the use of a local adoption committee rather than a caseworker selection; and

(b) The Adoption Program Manager, Assistant Adoption Program Manager, or designee for the use of a central office adoption committee rather than a local adoption committee.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285, 419B.192

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SCF 9-1997(Temp), f. & cert. ef. 8-15-97; SOSCF 7-1998, f. & cert. ef. 2-10-98; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 2-2007(Temp), f. & cert. ef. 2-26-07 thru 8-24-07; CWP 13-2007, f. & cert. ef. 8-1-07; Administrative correction 9-16-07; CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 5-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 19-2011, f. & cert. ef. 9-19-11

413-120-0021

Adoption Placement Selection by Caseworker

(1) Before making an adoption placement selection, the child's caseworker must comply with the provisions of Child Welfare Policy I-G.1.2, "Identification and Consideration of Potential Adoptive Resources", OAR 413-120-0700 to 413-120-0760.

(2) When the caseworker, after considering the input from the child's team and following consultation with the supervisor, has identified up to three potential adoptive resources to be considered for adoption placement selection, the caseworker must consult with the adoption worker for each of the identified families to:

(a) Provide the adoption worker with written information, redacted to remove identifying information, about the history and needs of each child under consideration; and

(b) Discuss the ability of the potential adoptive resource to meet the needs of each child under consideration.

(3) The adoption workers must complete all of the following:

ADMINISTRATIVE RULES

(a) Provide the identified potential adoptive resources with the information described in subsection (2)(a) of this rule.

(b) Describe the adoption placement selection process to the potential adoptive resources to:

(A) Inform them of the individuals who will be reviewing their adoption home study or other information during the adoption placement selection process; and

(B) Assure all appropriate releases of information described in OAR 413-120-0016(1) and (2) have been obtained.

(c) Confirm with the caseworker for each child who is under consideration that the potential adoptive resource is willing and available to be considered.

(4) When the caseworker has confirmed that the identified potential adoptive resources are available and appropriate to be considered, the caseworker must set a date for the adoption placement selection and notify the adoption worker for each of the identified potential adoptive resources.

(5) At least ten business days before the adoption placement selection, the caseworker must complete all of the following:

(a) Notify the following individuals of the up to three potential adoptive resources to be considered and the date the adoption placement selection will occur:

(A) The CASA;

(B) The child's attorney;

(C) A tribal representative if the child is an Indian child; and

(D) A member of the RCWAC, if the child is a refugee child.

(b) Ensure that the individuals identified in subsection (a) of this section are sent copies of the adoption home study and any additional written information released under OAR 413-120-0016 for each potential adoptive resource, unless the individual has notified the caseworker that they do not want a copy of the materials.

(c) Notify the individuals identified in subsection (a) of this section that any input regarding the ability of a potential adoptive resource to meet the current and lifelong needs of the child or sibling group must be received at least two days before the date of the adoption placement selection to assure it will be considered.

(6) When the caseworker has provided the notifications in section (5) of this rule and a child's relative now expresses interest in being considered as a potential adoptive resource, the Child Welfare Program Manager or designee must:

(a) Review the diligent efforts to identify a child's relatives required under Child Welfare Policy I-E.1.1, "Search for and Engagement of Relatives", OAR 413-070-0060 to 413-070-0063;

(b) Consider the impact of a delay in achieving permanency on the best interests of the child; and

(c) Make a determination whether it is in the child's best interest for an adoption home study to be conducted with a relative despite the delay in achieving permanency.

(7) When a Child Welfare Program Manager informs the caseworker of the determination to consider a relative identified under section (6) of this rule, the caseworker must notify each individual in subsection (5)(a) of this rule and the adoption worker for each identified potential adoptive resource that the adoption selection process has been suspended.

(8) When the adoption selection process has been suspended, the adoption workers must notify each identified potential adoptive resource that the adoption selection process has been suspended.

(9) The timelines in this rule may be changed when the caseworker, the adoption worker for each of the identified potential adoptive resources, and each individual in section (5) of this rule agree on a new timeline.

(10) After considering the input from individuals in section (5) of this rule, the caseworker — following consultation with his or her supervisor — makes the adoption placement selection for a child or sibling group under consideration when OAR 413-120-0020(1) applies.

(11) On the day that the selection is made, the child's caseworker must notify the adoption workers for each of the identified potential adoptive resources who were considered for the adoption placement selection.

(12) By the end of the next business day following the adoption placement selection, the child's caseworker must send written notification of the adoption placement selection to each of the following individuals:

(a) The CASA;

(b) The child's attorney;

(c) A tribal representative if the child or young adult is an Indian child; and

(d) A member of the RCWAC, if the child is a refugee child.

(13) By the end of the next business day following the adoption placement selection, written notification on a form approved by the Department

must be sent to each identified potential adoptive resource of whether or not they were selected as the adoptive resource by the following individuals:

(a) A Department adoption worker; or

(b) The child's caseworker when the adoption worker is a private agency employee.

(14) Notifications in sections (12) and (13) of this rule must contain information on the Department's review process as described in OAR 413-120-0060, unless the identified potential adoptive resources were all general applicants.

(15) Within three days of the adoption placement selection, the caseworker must assure that:

(a) The adoption placement selection and the basis for that selection are documented on a Department-approved form; and

(b) The central office Adoption Program is notified of the adoption placement selection.

(16) Any individual who received a copy of an adoption home study or other written documents during the adoption selection process must return the materials to the Department within seven business days of the notice of the adoption placement selection.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285, 419B.192

Hist.: CWP 31-2010, f. & cert. ef. 12-29-10; CWP 5-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 19-2011, f. & cert. ef. 9-19-11

413-120-0035

Invitation to and Notification of Adoption Committee

(1) In preparation for and prior to scheduling an adoption committee, the caseworker for each child and the adoption worker for each potential adoptive resource must comply with the provisions of Child Welfare Policy I-G.1.2, "Identification and Consideration of Potential Adoptive Resources", OAR 413-120-0700 to 413-120-0760.

(2) No later than ten business days before the scheduled adoption committee, the Department must send the ADS and each individual identified in OAR 413-120-0025(1), (2), and (3) all of the following:

(a) Notification of the date, time, and location of the adoption committee.

(b) A copy of each of the up to three adoption home studies and the written information released under OAR 413-120-0016(1) and (2).

(c) Written information about the needs of each child under consideration.

(d) A notice that confidential information may not be re-released, under OAR 413-120-0016(4).

(e) A request to thoroughly review all of the information provided before the date of the adoption committee when the individual will be serving as a committee member.

(3) Information in subsections (2)(b), (2)(c), (2)(d) and (2)(e) of this rule need not be provided again to the caseworker for each child under consideration and the adoption worker for each potential adoptive resource.

(4) Individuals identified in OAR 413-120-0025(1), (2), and (3) may request that the Department invite individuals to the adoption committee to present information regarding a child's needs.

(5) The Department has the discretion to invite the following individuals to attend and present information regarding the child's current and lifelong needs to an adoption committee:

(a) The child, on a case by case basis, when the child's caseworker determines the child's attendance is appropriate;

(b) The child's current or previous substitute caregiver, unless the individual is being considered as a potential adoptive resource for the child; and

(c) Any other individual who has significant information about the current and lifelong needs of the child relevant to the selection of an adoptive resource.

(6) Any individual invited to provide information related to the child's needs may present information to the adoption committee in person, by telephone, through electronic communication, or in writing.

(7) A potential adoptive resource may provide supplemental information regarding his or her ability to meet the current and lifelong needs of the child or sibling group under consideration through the adoption worker. An identified potential adoptive resource and his or her legal or personal advocate may not attend an adoption committee.

(8) When the notification in section (2) of this rule has been provided and a child's relative now expresses interest in being considered as a potential adoptive resource, the Child Welfare Program Manager or designee must:

ADMINISTRATIVE RULES

(a) Review the diligent efforts to identify a child's relatives under Child Welfare Policy I-E.1.1., "Search for and Engagement of Relatives", OAR 413-070-0060 to 413-070-0063;

(b) Consider the impact of a delay in achieving permanency on the best interests of the child; and

(c) Make a determination whether it is in the child's best interest for an adoption home study to be conducted with the relative despite the delay in achieving permanency.

(9) When a Child Welfare Program Manager informs the caseworker of the determination to consider a relative identified under section (8) of this rule, the caseworker must notify each individual identified in OAR 413-120-0025(1), (2), and (3) that the adoption selection process has been suspended.

(10) When the adoption selection process has been suspended, the adoption workers must notify each identified potential adoptive resource that the adoption selection process has been suspended.

(11) The timelines in this rule may be changed by the committee facilitator when the individuals identified in OAR 413-120-0025(1), (2), and (3) agree on a new timeline.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

Hist.: SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 2-2001(Temp), f. & cert. ef. 1-24-01 thru 7-21-01; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07; CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 5-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 19-2011, f. & cert. ef. 9-19-11

413-120-0060

Review of the Adoption Placement Selection

(1) A review may not be requested of an adoption placement selection when each potential adoptive resource was a general applicant.

(2) Except as provided in section (1) of this rule:

(a) Each of the following individuals may request a review of the process and the adoption placement selection under OAR 413-120-0021(10) or 413-120-0057(1):

- (A) The child.
- (B) The child's attorney.
- (C) The CASA.
- (D) A tribal representative.
- (E) A member of the RCWAC.

(F) The child's caseworker, with the approval of the caseworker's supervisor and the Child Welfare Program Manager or designee.

(G) A relative or current caretaker who was considered as the adoptive resource but was not selected.

(b) A request for review of the process and decision made in the adoption placement selection must be in writing and received by the Adoption Program Manager or designee within seven calendar days of the notification of the adoption placement selection under OAR 413-120-0021(12)-(13) or 413-120-0057(2)(b).

(c) When a request for review has been received, the Adoption Program Manager or designee must notify the DHS Assistant Director for CAF or designee and must send written notice of the request to the following individuals:

(A) Each of the potential adoptive resources considered by the caseworker or adoption committee and ADS;

(B) The child's caseworker;

(C) The adoption worker for each of the potential adoptive resources considered;

(D) The supervisors of the workers;

(E) The child's attorney;

(F) The child's CASA;

(G) The tribe, if the child is an Indian child;

(H) A member of the RCWAC, if the child is a refugee child; and

(I) The local Child Welfare Program Manager.

(d) The DHS Assistant Director for CAF or designee must decide whether to grant a review of the adoption placement selection within 14 calendar days after the notice of the adoption placement selection under OAR 413-120-0021(12)-(13) or 413-120-0057(2)(b). Written notice of the decision whether or not to conduct a review must be sent to the individuals listed in subsection (c) of this section and to the Adoption Program Manager. This written notice is not required to be provided within the 14 calendar day timeline for the decision whether to grant a review.

(e) The DHS Assistant Director for CAF or designee may, on his or her initiative and without a request for a review, give notice of intent to review the adoption placement selection when the decision to review is made within seven calendar days following the date of the notice of the

adoption placement selection in OAR 413-120-0021(12)-(13) or 413-120-0057(2)(b).

(f) The DHS Assistant Director for CAF or designee may conduct the review by any of the following methods:

(A) Personally conduct a review of information considered in making the adoption placement selection and may consider additional, relevant information about the child or potential adoptive resource.

(B) Refer the adoption placement selection to a review committee appointed by and at the discretion of the DHS Assistant Director for CAF or designee to:

(i) Review the information considered in making the original adoption placement selection;

(ii) Consider additional relevant information about the child or potential adoptive resources; and

(iii) Issue a recommendation that the DHS Assistant Director for CAF or designee affirm or modify the original adoption placement selection of the caseworker or the ADS or recommend a different adoption placement selection.

(C) Appoint another individual to:

(i) Review the information considered in making the original adoption placement selection;

(ii) Consider additional relevant information about the child or potential adoptive resources; and

(iii) Issue a recommendation that the DHS Assistant Director for CAF or designee affirm or modify the original adoption placement selection of the caseworker or the ADS, or recommend a different adoption placement selection.

(g) The DHS Assistant Director for CAF or designee must provide written notification of the decision affirming or changing the original adoption placement selection to the individuals identified in subsection (2)(c) of this rule and the Adoption Program Manager.

(3) Notwithstanding sections (1) and (2) of this rule, the DHS Assistant Director for CAF may reconsider a decision and require the actions in subsection (2)(f) of this rule to occur when the following conditions exist:

(a) The time to request review of an adoption placement selection under subsection (2)(b) of this rule has expired;

(b) There is no request for review pending; and

(c) The deadline set by statute for a person entitled to seek judicial review of an adoption placement selection entered under this rule has not expired.

(4) The adoption placement selection made by the DHS Assistant Director for CAF or designee under this rule is final.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 418.280, 418.285

Hist.: SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SCF 9-1997(Temp), f. & cert. ef. 8-15-97; SOSCF 7-1998, f. & cert. ef. 2-10-98; SOSCF 16-1999, f. & cert. ef. 8-12-99; SOSCF 2-2001(Temp), f. & cert. ef. 1-24-01 thru 7-21-01; SOSCF 35-2001, f. 6-29-01 cert. ef. 7-1-01; SOSCF 47-2001, f. 12-31-01 cert. ef. 1-1-02; CWP 13-2007, f. & cert. ef. 8-1-07; CWP 23-2007(Temp), f. & cert. ef. 12-12-07 thru 6-9-08; CWP 4-2008, f. 5-30-08, cert. ef. 6-1-08; CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 31-2010, f. & cert. ef. 12-29-10; CWP 5-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 19-2011, f. & cert. ef. 9-19-11

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Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 20-2011

Filed with Sec. of State: 9-19-2011

Certified to be Effective: 9-19-11

Notice Publication Date: 7-1-2011

Rules Amended: 413-120-0730, 413-120-0750, 413-120-0760

Subject: OAR 413-120-0730 is being amended to clarify the order of preference in identifying potential adoptive resources for a child.

OAR 413-120-0750 is being amended to clarify when an exception can be made for the required recruitment efforts seeking an appropriate adoptive resource for a child.

OAR 413-120-0760 is being amended to clarify the identification of potential adoptive resources for a child. This rule is also being amended to state the considerations and circumstances to grant an exception to the order of preference in the selection of potential adoptive resources.

These three rules are also being amended to make permanent changes adopted by temporary rule on March 22, 2011.

Rules Coordinator: Annette Tesch—(503) 945-6067

ADMINISTRATIVE RULES

413-120-0730

Order of Preference for Identification of Potential Adoptive Resources

(1) Except as provided in sections (2) and (3) of this rule, when identifying potential adoptive resources for a child or sibling group under consideration, the caseworker must consider the needs and the best interest of each child, and assess the knowledge, skills, and abilities of each potential adoptive resource in the following order of preference:

(a) A relative as defined in OAR 413-120-0710(12)(a)–(c).

(b) A relative as defined in OAR 413-120-0710(12)(d), or a current caretaker (except when OAR 413-120-0580(2)(b)(B) applies), or both.

(c) A current caretaker and a general applicant, when a determination has been made under OAR 413-120-0580(2)(b)(B).

(d) Except as provided in subsection (c) of this section, a general applicant.

(2) When the child is identified as an Indian child, the caseworker must comply with Child Welfare Policy I-E.2.1, “Placement of Indian Children”, OAR 413-070-0100 to 413-070-0260.

(3) When the child is identified as a refugee child, the caseworker must comply with Child Welfare Policy I-E.2.2, “Placement of Refugee Children”, OAR 413-070-0300 to 413-070-0380.

Stat. Auth.: ORS 109.309, 418.005

Stats. Implemented: ORS 109.309, 418.005, 418.285, 419B.090, 419B.192

Hist.: CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 35-2010, f. & cert. ef. 12-29-10; CWP 4-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 20-2011, f. & cert. ef. 9-19-11

413-120-0750

Recruitment Efforts

(1) Except as provided in section (2) of this rule, the Department’s recruitment efforts may not consider the race, color, or national origin of a potential adoptive resource or a child.

(2) When recruiting potential adoptive resources for an Indian child, the Department may consider the cultural heritage of a potential adoptive resource or the child under Child Welfare Policy I-E.2.1, “Placement of Indian Children”, OAR 413-070-0100 to 413-070-0260.

(3) The Department must begin recruitment for the child or sibling group under consideration in a timely manner that is appropriate to each child’s permanency and concurrent permanent plans.

(4) When a child is not fully free for adoption, the legal assistance specialist must:

(a) Determine when recruitment may begin;

(b) Determine whether recruitment may begin for a child with extraordinary needs before the Department initiates the process to free the child for adoption; and

(c) Notify the caseworker to begin recruitment efforts.

(5) As part of the identification of general applicants who will be considered in the adoption placement selection process, the child’s caseworker must conduct recruitment activities including, at a minimum, ensuring a Waiting Child Bulletin has been posted, for at least 30 days, unless one or more of the following subsections applies:

(a) An exception to this timeline has been approved by the Assistant Adoption Program Manager or designee.

(b) The Department has determined, under Child Welfare Policy I-E.3.6, “Legal Permanency, Concurrent Planning and Use of Permanency Committee”, OAR 413-070-0516, that an individual known to the child or sibling group under consideration, should be assessed for consideration as the potential adoptive resource, based upon the following:

(A) The best interest of each child under consideration;

(B) The strength of the relationship between each child under consideration and the individual;

(C) The likelihood that the individual will have a positive adoption home study and be able to meet the Department standards under Child Welfare Policy I-G.1.3, “Adoption Applications, Adoption Home Studies, and Standards for Adoption, OAR 413-120-0246(1); and

(D) The individual has demonstrated the knowledge, skills, abilities, and commitment to raise each child under consideration for adoption; and

(E) The individual has the capacity to meet the current and lifelong safety, permanency, and well-being needs of the child under Child Welfare Policy I-E.3.1, “Placement Matching”, OAR 413-070-0640.

(c) An exception to the order of preference was granted by the Adoption Program Manager under OAR 413-120-0760.

(6) Recruitment activities under section (5) of this rule are not required when the Department has planned for:

(a) The child or sibling group under consideration to be adopted by a relative of at least one of the siblings under consideration; or

(b) The child or sibling group under consideration to be adopted by a current caretaker.

(7) The Department’s recruitment efforts for a child or sibling group under consideration must be documented in the Department’s information system.

Stat. Auth.: ORS 109.309, 418.005

Stats. Implemented: ORS 109.309, 418.005, 418.285, 419B.090, 419B.192

Hist.: CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 35-2010, f. & cert. ef. 12-29-10; CWP 4-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 20-2011, f. & cert. ef. 9-19-11

413-120-0760

Identification of a Child’s Potential Adoptive Resources

(1) When identifying potential adoptive resources for a child, the child’s caseworker may:

(a) After discussion with his or her supervisor and on a case-by-case basis, consult with a birth parent to identify one to three potential adoptive resources; and

(b) Provide a birth parent with non-identifying information from the adoption home study of a potential adoptive resource who is a general applicant not known to the parent or child.

(2) When more than one relative is interested in being an adoptive resource, the Department must consult with those interested to facilitate agreement on the most appropriate potential adoptive resource.

(a) When agreement cannot be reached, the Department considers relatives among both maternal and paternal family members who have expressed an interest, and chooses up to a total of three families for adoption home studies, to be conducted by either the Department or another public or private agency.

(b) When an adoption home study has been initiated and the potential adoptive resource is not approved or withdraws, the Child Welfare Program Manager or designee decides whether the Department will initiate adoption home studies with additional relatives based upon:

(A) The best interest of the child; and

(B) The impact on achieving permanency when pursuing additional studies.

(3) The child’s caseworker must comply with the requirements of all of the following subsections:

(a) Make reasonable efforts to identify and place the child with an adoptive resource in a timely manner.

(b) Request input about the knowledge, skills, abilities, and commitment a potential adoptive resource needs to best be able to meet the current and lifelong needs of the child from:

(A) Professionals who have worked closely with the child, when applicable; and

(B) The child’s attorney, CASA, tribal representative, RCWAC representative, and substitute caregiver, when applicable.

(c) Receive and review adoption home studies in a timely manner.

(d) Following consultation with his or her supervisor, identify up to three potential adoptive resources following the order of preference in OAR 413-120-0730 to be considered for adoption placement selection who:

(A) Meet the standards of an adoptive home in Child Welfare Policy I-G.2.1, “Adoption Applications, Adoption Home Studies, and Standards for Adoption”, OAR 413-120-0246;

(B) Have the knowledge, skills, abilities, and commitment to raise each child under consideration for adoption; and

(C) Have the capacity to meet the current and lifelong safety, permanency, and well-being needs of the child under Child Welfare Policy I-E.3.1, “Placement Matching”, OAR 413-070-0640.

(4) If the caseworker is unable to identify any potential adoptive resources for adoption placement selection in the first order of preference set forth in OAR 413-070-0730(1) who are relatives as defined in OAR 413-120-0710(12)(a)–(c) and meet the criteria in paragraphs (3)(d)(A)–(C) of this rule, the caseworker may identify one to three potential adoptive resources who meet the criterion in paragraphs (3)(d)(A)–(C) of this rule who may include a relative or relatives as defined in OAR 413-120-0710(12)(d) or a current caretaker.

(5) If the caseworker is unable to identify any potential adoptive resources for adoption placement selection in the first or second order of preference set forth in OAR 413-070-0730(1) — who are relatives as defined in OAR 413-120-0710(12)(a)–(d) or a current caretaker and meet the criteria in paragraphs (3)(d)(A)–(C) of this rule — or a Child Welfare Program Manager has made the decision to consider a current caretaker along with general applicant under OAR 413-120-0580(2), the caseworker must identify one to three general applicants as potential adoption resources.

(6) The caseworker may, in consultation with his or her supervisor, submit a written recommendation to the Child Welfare Program Manager that an exception to the order of preference set forth in OAR 413-120-

ADMINISTRATIVE RULES

0730(1) be requested to allow consideration of additional potential adoptive resources for adoption placement selection when the caseworker believes that an exception is in the best interest of each child.

(a) Upon the recommendation of a caseworker and supervisor, the Child Welfare Program Manager may submit a written request for an exception to the order of preference set forth in OAR 413-120-0730(1) from the Adoption Program Manager if the Child Welfare Program Manager determines that an exception is in the best interest of each child.

(b) The Child Welfare Program Manager's written request must include the following documentation:

(A) The potential adoptive resources already identified for the adoption placement selection process;

(B) The relative, current caretaker, or specific general applicant the caseworker is requesting for inclusion in the adoption placement selection process;

(C) How the relative, current caretaker, or specific general applicant meets the criteria in subsection (3)(d) of this rule;

(D) Why inclusion of the relative, current caretaker, or specific general applicant in the adoption placement selection process is in the best interest of each child;

(E) The special needs of each child; and

(F) Whether and how the relative, current caretaker, or specific general applicant support the child's ability to continue emotionally significant relationships with relatives.

(c) Within 30 calendar days of receipt of the request for exception, the Adoption Program Manager must review the materials submitted and determine whether or not to grant the exception to the order of preference and include the relative, current caretaker, or specific general applicant in the adoption selection process.

(d) In reviewing the request and determining whether or not to grant the exception, the Adoption Program Manager shall consider the following factors:

(A) How the relative, current caretaker, or specific general applicant meets the criteria in subsection (3)(d) of this rule;

(B) Why inclusion of the relative, current caretaker, or specific general applicant in the adoption placement selection process is in the best interest of each child;

(C) The special needs of each child; and

(D) Whether and how the relative, current caretaker, or specific general applicant supports the child's ability to continue emotionally significant relationships with relatives.

(E) The length of a child's placement with an individual may not be considered as the sole basis for granting an exception.

(e) Within ten business days of making a determination whether or not to grant the exception, the Adoption Program Manager must specify in writing to the Child Welfare Program Manager:

(A) Whether or not the exception was granted;

(B) How the determination supports the best interest of each child; and

(C) The relative, current caretaker, or specific general applicant to be included in the adoption placement selection process along with the one to three potential adoptive resources already identified by the caseworker.

(7) In consultation with the supervisor, the caseworker must determine the appropriate adoption selection process pursuant to Child Welfare Policy I-G.1.5, "Adoption Placement Selection", OAR 413-120-0020.

(8) The caseworker must consult with the adoption worker for each of the identified potential adoptive resources pursuant to Child Welfare Policy I-G.1.5, "Adoption Placement Selection", OAR 413-120-0021(2).

(9) The caseworker must document the actions taken under this rule in the Department's information system.

Stat. Auth.: ORS 109.309, 418.005

Stats. Implemented: ORS 109.309, 418.005, 418.285, 419B.090, 419B.192

Hist.: CWP 16-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 35-2010, f. & cert. ef. 12-29-10; CWP 4-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 20-2011, f. & cert. ef. 9-19-11

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Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 21-2011

Filed with Sec. of State: 9-19-2011

Certified to be Effective: 9-19-11

Notice Publication Date: 7-1-2011

Rules Amended: 413-110-0132

Subject: OAR 413-110-0132 about the process to be followed and considerations to be made when separating siblings for purposes of adoption is being amended to clarify when the Department utilizes

a permanency committee process for seeking a sibling separation decision, clarify when this is not required, and to make the rule easier to follow. This rule is also being amended to make permanent temporary rule changes adopted on April 4, 2011.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-110-0132

Consideration of Sibling Separation

(1) A permanency committee is used to consider the permanent separation of siblings in the legal custody of the Department through adoption, unless an adoptive resource has been selected for one or more siblings.

(2) The permanency committee must consider the best interests of each child in the sibling group under consideration, and each of the following factors when making a recommendation:

(a) The current and lifelong needs of each child and of each sibling in the sibling group under consideration;

(b) The existence of each child's significant emotional ties to each sibling in the sibling group under consideration;

(c) The needs of each child and each sibling in the sibling group under consideration for each of the following:

(A) Physical and emotional safety;

(B) Ability to develop and maintain current and lifelong connections with the child's family;

(C) Continuity and familiarity;

(D) Appropriate educational, developmental, emotional, and physical support;

(E) Stability and permanency; and

(F) Maintaining his or her identity, cultural, religious, and spiritual heritage.

(3) The permanency committee considers all of the information, deliberates, and, when committee members agree, makes a recommendation to the Child Welfare Program Manager or designee including one or more of the following options:

(a) Separation of a child from one or more siblings in the sibling group under consideration is not in the best interest of the child or the siblings, and the caseworker must continue to make efforts to place the siblings together for the purpose of adoption;

(b) Separation of a child from one or more siblings in the sibling group under consideration for the purpose of adoption is in the best interests of the child or the siblings; or

(c) When there are multiple siblings, recommendations with respect to which siblings in the sibling group under consideration should remain together for the purpose of adoption and how those matches are in the best interests of each sibling.

(4) When the permanency committee cannot reach agreement, each permanency committee member makes his or her respective recommendations known to the committee facilitator.

(5) The Child Welfare Program Manager or designee who makes the decision on behalf of the Department must consider all of the following when making the decision:

(a) The considerations in subsections (2)(a)–(c) of this rule;

(b) The information presented to the permanency committee; and

(c) The recommendations of the permanency committee.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005, 419B.192

Hist.: CWP 13-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 30-2010, f. & cert. ef. 12-29-10; CWP 6-2011(Temp), f. & cert. ef. 4-4-11 thru 10-1-11; CWP 21-2011, f. & cert. ef. 9-19-11

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Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 22-2011

Filed with Sec. of State: 9-19-2011

Certified to be Effective: 9-19-11

Notice Publication Date: 7-1-2011

Rules Amended: 413-070-0550

Subject: OAR 413-070-0550 about the approval and implementation of an APPLA permanency plan is being amended to clarify the individual who can make a decision on behalf of the Department to change a child's permanency plan to APPLA prior to approaching the court. This rule is also being amended to make permanent the temporary rule changes adopted on March 22, 2011.

Rules Coordinator: Annette Tesch—(503) 945-6067

ADMINISTRATIVE RULES

413-070-0550

Approval and Implementation of an APPLA Permanency Plan

(1) The permanency committee must consider the best interests of the child or young adult under consideration and consider each of the following factors when making a recommendation regarding APPLA:

(a) How an APPLA permanency plan meets safety, permanency, and well-being needs of the child or young adult, and is in the best interests of the child or young adult.

(b) Whether the Department has provided the child or young adult, and the child or young adult's parents, an opportunity to identify available permanency resources.

(c) The parents' acceptance of APPLA as a permanency plan and their desire for continued contact with the child or young adult.

(d) Whether the child or young adult's substitute caregiver is able to meet the child or young adult's needs pursuant to OAR 413-070-0640 in Child Welfare Policy I-E.3.1, "Placement Matching".

(e) Consideration of each of the more preferred permanency plans described in OAR 413-070-0536(1) and identification of the compelling reasons why return home, adoption, or guardianship cannot be achieved.

(f) When the child or young adult has siblings, the sufficiency of the plan for continued contact unless such contact is not in the best interests of the child or young adult and each sibling.

(2) After completing the review under section (1) of this rule, the permanency committee considers all of the information, deliberates, and, when committee members agree, makes a recommendation to the Child Welfare Program Manager.

(3) When the permanency committee cannot reach agreement, each permanency committee member makes his or her respective recommendations known to the committee facilitator.

(4) The Child Welfare Program Manager who makes the decision on behalf of the Department must consider all of the following when making the decision:

(a) The considerations in section (1) of this rule.

(b) The information presented to the permanency committee.

(c) The recommendation of the permanency committee.

(5) Within 30 days of the Department's decision to approve an APPLA permanency plan under OAR 413-070-0519, the caseworker must request a permanency hearing before the court. At the court hearing, the caseworker must:

(a) Recommend that the court issue an order approving the APPLA plan;

(b) Set forth the compelling reasons why it would not be in the best interests of the child or young adult to return home, be placed for adoption, or be placed with a guardian;

(c) Set forth a timetable for the child or young adult's placement in another planned permanent living arrangement;

(d) Set forth the reasonable services the Department may offer each parent to meet the best interests of the child or young adult until a more preferred permanency plan is achieved, the child reaches the age of majority, reaches independence, or the juvenile court relieves the Department of legal custody of the child or young adult; and

(e) Set forth the type and amount of parent-child and child-sibling contact and involvement until a more preferred permanency plan is achieved, the child reaches age of majority, reaches independence, or the juvenile court relieves the Department of legal custody of the child or young adult.

(6) When the court previously has ordered or the Department recommends that no contact be allowed between parent and child, or child and sibling, the caseworker must request that the court issue a standing protective order, including the reasons why no contact is allowed.

(7) When the APPLA plan does not receive Department approval, within 30 days the caseworker must:

(a) Inform the child or young adult, the child's or young adult's substitute caregivers, the child's or young adult's parents, the child's or young adult's attorney, the child's court appointed special advocate, and other persons with significant involvement in the child's or young adult's life; and

(b) Consult with the child's team to reconsider the child's or young adult's other permanency options.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005, 419A.004

Hist.: CWP 17-2009, f. & cert. ef. 11-3-09; CWP 13-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; CWP 28-2010, f. & cert. ef. 12-29-10; CWP 2-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 22-2011, f. & cert. ef. 9-19-11

Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 23-2011

Filed with Sec. of State: 9-19-2011

Certified to be Effective: 9-19-11

Notice Publication Date: 7-1-2011

Rules Amended: 413-070-0514, 413-070-0516, 413-070-0518, 413-070-0519

Subject: OAR 413-070-0514 about working with a child's team regarding a permanency plan and concurrent permanency plan is being amended to clarify the individual who can make a decision on behalf of the Department to change a child's permanency plan to APPLA prior to approaching the court. This rule is also being amended to clarify when a caseworker must determine the Department has taken action on potential permanency resources prior to considering a change in the permanency plan.

OAR 413-070-0516 about the use of a permanency committee is being amended to clarify and reference an exception to the process described in these rules to use a permanency committee to make a recommendation that a foster parent be considered as a child's potential adoptive resource.

OAR 413-070-0518 about the composition, scheduling, responsibilities, and recommendation of the permanency committee is being amended to modify its description of who is considered a member of the permanency committee and broaden the individuals who may be invited to come and present information to the permanency committee.

OAR 413-070-0519 about the decision of the permanency committee and the notice of that decision is being amended to modify the rule title to better match the content of the rule.

These four rules are also being amended to make permanent the temporary rule changes adopted on March 22, 2011.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-070-0514

Working with a Child's Team Regarding a Permanency Plan and Concurrent Permanent Plan

(1) The caseworker must consult with a team of individuals, knowledgeable about the child or young adult's needs, including the ongoing assessment of the most appropriate permanency plan and concurrent permanent plan for the child or young adult, throughout the course of the case.

(a) The team must include the following individuals to the extent required in each of the following paragraphs:

(A) The parents, unless a supervisor approves not including a specified parent because the contact may compromise a child, young adult's, or another individual's safety; parental rights have been terminated; or the parent has signed a release and surrender agreement;

(B) The parent's attorney, unless parental rights have been terminated or the parent has signed a release and surrender agreement;

(C) The child or young adult, whenever developmentally appropriate;

(D) The CASA;

(E) A child or young adult's attorney;

(F) A tribal representative if the child or young adult is an Indian child; and

(G) A member of the RCWAC, if the child is a refugee child.

(b) The team may include:

(A) The child or young adult's substitute caregiver;

(B) The substitute caregiver's certifier;

(C) The child's or young adult's relatives;

(D) Persons with a caregiver relationship;

(E) Other individuals with involvement in the child or young adult's life; and

(F) Individuals with expertise in permanency.

(2) The caseworker utilizes the ongoing contact with these individuals to:

(a) Monitor the progress toward achieving the permanency plan;

(b) Provide the child or young adult, and the child or young adult's parents, the opportunity to identify available permanency resources should reunification not be achievable;

(c) Review the efforts to identify and place the child or young adult with a relative and to place siblings together;

(d) Consider the parents' acceptance of a plan other than reunification and their desire for continued contact with the child or young adult;

ADMINISTRATIVE RULES

(e) Identify and consider which concurrent permanent plan best meets the child or young adult's current and lifelong needs for safety, permanency, and well-being in the following preferential order:

(A) Adoption;

(B) Guardianship, which may be considered only when there are compelling reasons why adoption cannot be achieved; or

(C) Another Planned Permanency Living Arrangement, which may be considered only when there are compelling reasons why adoption or guardianship cannot be achieved.

(3) After the caseworker has complied with section (2) of this rule and prior to considering a change in permanency plan, the caseworker must determine that the Department has taken action on the potential permanency resources identified by the Department, the child or young adult, the family of child or young adult, or a member of the team of the child or young adult; and the caseworker must review with the team of the child or young adult:

(a) The outcome of the assessment of potential permanency resources; and

(b) The Department's efforts to develop and maintain the relationship of the child or young adult with potential permanency resources.

(4) When the caseworker determines a change in permanency plan should be considered, the caseworker must determine which permanency plan best:

(a) Meets the safety, permanency, and well-being of the child or young adult;

(b) Provides the child or young adult with support and connections in adulthood; and

(c) Must document the basis for the determination.

(5) The legal assistance specialist must approve changing the permanency plan to adoption prior to the caseworker recommending adoption to the court.

(6) The permanency committee must make recommendations; and

(a) A Child Welfare Program Manager or designee must make the decision on behalf of the Department:

(A) To approve changing the permanency plan to guardianship prior to the caseworker recommending the plan to the court; and

(B) To identify the substitute caregiver as the appropriate permanency placement resource for the plan of guardianship.

(b) A Child Welfare Program Manager must make the decision on behalf of the Department:

(A) To approve changing the permanency plan to APPLA prior to the caseworker recommending the plan to the court; and

(B) To identify the substitute caregiver as the appropriate permanency placement resource for the plan of APPLA.

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 27-2010, f. & cert. ef. 12-29-10; CWP 3-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 23-2011, f. & cert. ef. 9-19-11

413-070-0516

Use of Permanency Committee

A permanency committee must be scheduled when any of the following sections applies:

(1) The caseworker is recommending a change in permanency plan to guardianship. The permanency committee provides a recommendation based upon the considerations in OAR 413-070-0660 and 413-070-0665.

(2) The caseworker is recommending a change in permanency plan to APPLA. The permanency committee provides a recommendation based upon the considerations in OAR 413-070-0550(1).

(3) A foster parent's request to be considered an adoptive resource as a current caretaker pursuant to Child Welfare Policy I-G.1.1, "Foster Parent Request for Consideration as a Current Caretaker", OAR 413-120-0500 to 413-120-0595. The permanency committee provides a recommendation based upon the considerations in OAR 413-120-0570.

(4) A caseworker is considering the separation of siblings in adoption under OAR 413-100-0132. The permanency committee provides a recommendation based upon the considerations in OAR 413-110-0132(2).

(5) The caseworker requests that a permanency committee review the relationship between a general applicant and a child whose permanency plan is adoption. The permanency committee provides a recommendation based upon the considerations in OAR 413-120-0750(5)(b).

Stat. Auth.: ORS 418.005

Stats Implemented: ORS 418.005

Hist.: CWP 27-2010, f. & cert. ef. 12-29-10; CWP 3-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 23-2011, f. & cert. ef. 9-19-11

413-070-0518

Composition, Scheduling, Responsibilities and Recommendations of the Permanency Committee

(1) Composition. A permanency committee includes the following individuals.

(a) Two individuals who have been appointed by a Child Welfare Program Manager to attend a permanency committee.

(A) A committee facilitator, who must be a Department staff member and who must ensure all of the following:

(i) The meeting is held according to the requirements of Chapter 413 of the Oregon Administrative Rules.

(ii) Individuals are informed of the responsibilities of the committee and the confidentiality of information presented during the meeting.

(iii) Thorough and accurate documentation of the committee recommendations.

(B) A second individual who may be either a community partner or another Department staff member.

(C) These two individuals must meet the requirements of all of the following paragraphs:

(i) Be knowledgeable about permanency issues.

(ii) Be knowledgeable of the importance of lifelong family attachment and cultural connections.

(iii) Have no current personal or professional relationship to the child or a potential placement resource or potential adoptive resource being considered.

(b) The following members of the child's team:

(A) The caseworker of the child or young adult;

(B) The attorney of the child or young adult;

(C) The CASA of the child or young adult;

(D) A tribal representative, if the child or young adult is an Indian child; and

(E) A member of the RCWAC, if the child or young adult is a refugee child.

(2) The substitute caregiver of the child or young adult, or any other individual from the child's team who a caseworker, in consultation with the supervisor, believes can provide important input into the issue before the permanency committee, may be invited to come and present information to the permanency committee, but is excused after presenting information and responding to questions.

(3) The Child Welfare Program Manager or designee responsible for making the decision on behalf of the Department attends the permanency committee and may ask clarifying questions, but does not participate in the deliberation and recommendation.

(4) Scheduling. The Department is responsible for scheduling and notifying the following individuals of the date, time, and location of the permanency committee.

(a) Appointed permanency committee members;

(b) The Child Welfare Program Manager or designee making a decision on the issue before the permanency committee;

(c) Each member of the child's or young adult's team identified in subsection (1)(b) of this rule; and

(d) Any other individual invited to present specific information to the permanency committee.

(5) Confidentiality. Each individual attending a permanency committee is bound by Oregon statutes regarding confidentiality and Child Welfare Policy I-A.3.2, "Confidentiality of Client Information" OAR 413-010-0000 to 413-010-0075.

(6) Consideration, review, and recommendation.

(a) The permanency committee must consider and review the information presented by any individual invited to the permanency committee, whether the information is presented in person, by phone, through other electronic communication, or in writing.

(b) The permanency committee may seek clarifying and request additional information during the presentations.

(c) The permanency committee must consider the safety, permanency, and well-being needs of the child or young adult and when there are siblings, the safety, permanency, and well-being needs of each sibling; and make a recommendation regarding the issue brought before the committee to the Child Welfare Program Manager or designee.

(d) When members of the permanency committee have not come to consensus on a recommendation, the committee facilitator must document all recommendations and the basis provided by the permanency committee member for that recommendation.

(e) The committee facilitator must provide the written documentation of the permanency committee's recommendation or recommendations to

ADMINISTRATIVE RULES

the Child Welfare Program Manager or designee within three business days of the date on which the permanency committee was held.

Stat. Auth.: ORS 418.005
Stats Implemented: ORS 418.005
Hist.: CWP 27-2010, f. & cert. ef. 12-29-10; CWP 3-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 23-2011, f. & cert. ef. 9-19-11

413-070-0519

Decision and Notice

(1) Except to the extent that section (2) of this rule indicates otherwise, the Child Welfare Program Manager or designee must:

(a) Consider the recommendations of the permanency committee;

(b) Make a decision within one business day following the receipt of the written recommendations of the permanency committee; and

(c) Provide written notification of the decision and the basis of the decision to the caseworker on a form approved by the Department.

(2) When the decision of the permanency committee applies to changing a permanency plan to APPLA, the Child Welfare Program Manager must make the decision and cannot appoint a designee.

(3) The caseworker must notify the following individuals of the decision under section (1) of this rule:

(a) Each child or young adult, when required by law and developmentally appropriate;

(b) Each child's or young adult's attorney, if one has been appointed;

(c) Each child's or young adult's CASA, if one has been appointed;

(d) Each child's or young adult's tribal representative, when a child or young adult is an Indian child;

(e) The member of the RCWAC when a child or young adult is a refugee child; and

(f) Each child's or young adult's substitute caregiver.

Stat. Auth.: ORS 418.005
Stats Implemented: ORS 418.005
Hist.: CWP 27-2010, f. & cert. ef. 12-29-10; CWP 3-2011(Temp), f. & cert. ef. 3-22-11 thru 9-18-11; CWP 23-2011, f. & cert. ef. 9-19-11

Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 24-2011(Temp)

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 10-1-11 thru 12-27-11

Notice Publication Date:

Rules Amended: 413-070-0900, 413-070-0905, 413-070-0917, 413-070-0925, 413-070-0934, 413-070-0939, 413-070-0949, 413-070-0964, 413-070-0974

Rules Suspended: 413-070-0900(T), 413-070-0905(T), 413-070-0917(T), 413-070-0925(T), 413-070-0934(T), 413-070-0939(T), 413-070-0949(T), 413-070-0964(T), 413-070-0974(T)

Subject: OAR 413-070-0900 about the purpose the rules about guardianship assistance, which was amended by temporary rule on June 30, 2011, is being further amended to indicate that these rules now cover when guardianship assistance may be extended for certain young adults who had qualified for disability services.

OAR 413-070-0917 about eligibility, which was amended by temporary rule on June 30, 2011, is being further amended to clarify when a child who is turning 18 and has a disability may qualify for an extension of guardianship assistance.

OAR 413-070-0925 about the approval of potential guardians for guardianship assistance, which was amended by temporary rule on June 30, 2011, is being further amended to specify requirements that a potential guardian must agree to concerning the education of the child.

OAR 413-070-0934 about application requirements, which was amended by temporary rule on June 30, 2011, is being further amended to indicate when extenuating circumstances can delay the negotiation of a guardianship assistance agreement.

OAR 413-070-0939 about guardianship assistance payments, medical assistance, and nonrecurring guardianship expenses — which was amended by temporary rule on June 30, 2011 — is being further amended to restate the eligibility of a child for medical assistance.

OAR 413-070-0949 about guardianship assistance agreement requirements, which was amended by temporary rule on June 30, 2011, is being further amended to indicate that the agreement may

state that guardianship assistance can continue when a child or young adult moves out of the guardian's home for school or work.

OAR 413-070-0964 about information and reports the guardian must provide to the Department, which was amended by temporary rule on June 30, 2011, is being further amended to restate and clarify the circumstances that a guardian needs to report to the Department.

OAR 413-070-0974 about review, adjustment, suspension, expiration, and termination of guardianship assistance — which was amended by temporary rule on June 30, 2011 — is being further amended to restate and more fully explain the conditions under which a guardianship assistance agreement may be reviewed, adjusted, suspended, or terminated, and to state the policy about the expiration of guardianship assistance agreements.

OAR 413-070-0900 to 413-070-0974 about guardianship assistance are also being amended to clarify the rules, for internal consistency, accurate cross-references, and to reflect current Department terminology, policy and practice.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-070-0900

Purpose

(1) The purpose of these rules, OAR 413-070-0900 to 413-070-0974, is to describe Department criteria for program eligibility and receipt of guardianship assistance for:

(a) A child in the care or custody of the Department or a participating tribe;

(b) A young adult on whose behalf an initial guardianship assistance agreement was entered into when the young adult was a child of age 16 or 17; or

(c) A young adult who qualifies for disability services and on whose behalf an initial guardianship assistance agreement was entered into when the young adult was a child.

(2) The State of Oregon is not responsible for guardianship assistance for a child or young adult placed for guardianship in Oregon by a public child welfare agency other than the Department.

Stat. Auth.: ORS 418.005 & 418.340
Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340
Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11

413-070-0905

Definitions

The following definitions apply to OAR 413-070-0900 to 413-070-0974:

(1) "Base rate payment" means a payment to the foster parent or relative caregiver for the costs of providing the child or young adult with the following:

(a) Food — including the cost to cover a child or young adult's special or unique nutritional needs;

(b) Clothing — including purchase and replacement;

(c) Housing — including maintenance of household utilities, furnishings, and equipment;

(d) Daily supervision — including teaching and directing to ensure safety and well-being at a level which is appropriate based on the child or young adult's chronological age;

(e) Personal incidentals — including personal care items, entertainment, reading materials, and miscellaneous items; and

(f) The cost of providing transportation — including local travel associated with expenditure for gas and oil, and vehicle maintenance and repair associated with transportation to and from extracurricular, child care, recreational, and cultural activities.

(2) "CANS screening" means Child and Adolescent Needs and Strengths screening, a process of gathering information on a child or young adult's needs and strengths used for one or more of the following purposes:

(a) Identifying case planning, service planning, and supervision needs of the child or young adult in substitute care with a certified family;

(b) Determining the level of care payment while in substitute care with a certified family; and

(c) Determining the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.

ADMINISTRATIVE RULES

- (3) "Child" means a person under 18 years of age.
- (4) "Department" means the Department of Human Services, Child Welfare.
- (5) "Enhanced supervision" means the additional support, direction, observation, and guidance necessary to promote and ensure the safety and well-being of the child or young adult when the child or young adult qualifies for a level of care payment.
- (6) "Guardian" means an individual who has been granted guardianship of a child through a judgment of the court.
- (7) "Guardianship assistance" means assistance on behalf of an eligible child or young adult to offset the costs associated with establishing the guardianship and meeting the ongoing needs of the child or young adult. Guardianship assistance may be in the form of a payment, medical coverage, or reimbursement of guardianship expenses.
- (8) "Guardianship assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian or guardian setting forth the assistance the Department is to provide on behalf of the child or young adult, the responsibilities of the guardian and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.
- (9) "Guardianship assistance agreement only" means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian or guardian of an eligible child or young adult, when the potential guardian or guardian is not receiving a guardianship assistance payment or medical coverage at the time of the agreement but may request it at a later date.
- (10) "Guardianship assistance base rate" means the portion of the guardianship assistance payment that is negotiated with the potential guardian or guardian and cannot exceed the amount of the Oregon foster care base rate payment for the child or young adult's age.
- (11) "Guardianship assistance payment" means a monthly payment made by the Department to the guardian on behalf of the eligible child or young adult.
- (12) "Guardianship Assistance Review Committee" means a committee composed of local and central office staff who have expertise in the area of guardianship.
- (13) "Level of care payment" means the payment provided to an approved or certified family, a guardian, a pre-adoptive family, or an adoptive family based on the child or young adult's need for enhanced supervision as determined by applying the CANS algorithm to the results of the CANS screening.
- (14) "Nonrecurring guardianship assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the potential guardian of an eligible child for a one-time payment to reimburse the guardian for the reasonable and necessary expenses incurred in legally finalizing the guardianship.
- (15) "Nonrecurring guardianship expenses" means a one-time payment of up to \$2,000 per child which the Department will make to a guardian to assist with the reasonable and necessary expenses associated with obtaining legal guardianship of an eligible child.
- (16) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, ORS 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood unless a court finds that the putative father is not the legal father.
- (17) "Participating tribe" means a federally recognized Indian tribe in Oregon with a Title IV-E agreement with the Department.
- (18) "Permanency Committee" means a group of individuals who are responsible for making a recommendation regarding a permanency plan or potential permanency resource when the child or young adult likely is not returning to his or her parent.
- (19) "Potential guardian" means an individual who:
- Has been approved by the Department or participating tribe to be a child's guardian; and
 - Is in the process of legalizing the relationship to the child through the judgment of the court.
- (20) "Registered Domestic Partner" means an individual joined in a domestic partnership that is registered with a county clerk in accordance with ORS 106.300 to 106.340.
- (21) "Relative" means:
- An individual with one of the following relationships to the child or young adult through the child or young adult's parent:
 - Any blood relative of preceding generations denoted by the prefixes of grand, great, or great-great.
 - Any half-blood relative of preceding generations denoted by the prefixes of grand, great, or great-great (individuals with one common biological parent are half-blood relatives).
 - A sibling, also to include an individual with a sibling relationship to the child through a putative father.
 - An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.
 - A spouse of anyone listed in paragraphs (A) to (D) of this subsection, even if a petition for annulment, dissolution, or separation has been filed or the marriage is terminated by death or divorce. To be considered a relative under this paragraph, the child or young adult must have had a relationship with the spouse prior to the child or young adult entering substitute care.
 - For the purposes of an international adoption, relative means an individual described in paragraphs (A) to (D) of this subsection.
 - An individual with one of the following relationships to the child or young adult:
 - An individual defined as a relative by the law or customs of the child or young adult's tribe if the child or young adult is an Indian child under the Indian Child Welfare Act or in the legal custody of a tribe.
 - An individual defined as a relative of a refugee child or young adult under Child Welfare Policy I-E.2.2, "Placement of Refugee Children," (OAR 413-070-0300 to 413-070-0380).
 - A stepparent described in OAR 413-100-0020(27)(c) or a former stepparent if the child or young adult had a relationship with the former stepparent prior to the child or young adult entering substitute care; a stepbrother, or a stepsister.
 - The Registered Domestic Partner of the child or young adult's parent or former Registered Domestic Partner of the child or young adult's parent if the child or young adult had a relationship with the former domestic partner prior to the child or young adult entering substitute care.
 - The adoptive parent of a child or young adult's sibling.
 - The unrelated legal or biological father or mother of a child's half-sibling when the child's half-sibling is living with the unrelated legal or biological father or mother.
 - An individual identified by the child or young adult or the child or young adult's family, or an individual who self-identifies, related to the child or young adult through the child or young adult's parent by blood, adoption, or marriage to a degree other than an individual specified as a child or young adult's relative in paragraphs (A) to (D) of subsection (a) of this section.
 - An individual, although not related by blood, adoption, or marriage, identified as:
 - A member of the family by the child or young adult or the child or young adult's family; and
 - Who had an emotionally significant relationship with the child or young adult or the child or young adult's family prior to the time the Department placed the child in substitute care.
- (e) For the purposes of these rules, OAR 413-070-0900 to 413-070-0974:
- A stepparent is considered a parent and is not a relative under these rules unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the child's adoptive or biological parent has been terminated by divorce or death:
 - A foster parent may be considered a relative under these rules when:
 - There is a compelling reason why adoption is not an achievable permanency plan;
 - The foster parent is currently caring for a child in the legal custody of the Department who has a permanency plan or concurrent permanency plan of guardianship;
 - The foster parent has cared for the child for at least the past 12 consecutive months; and
 - A Permanency Committee has recommended the foster parent for consideration as a guardian.
- (22) "Sibling" means one of two or more children or young adults related:
- By blood or adoption through a common legal parent;
 - Through the marriage of the children or young adults' legal or biological parents; or

ADMINISTRATIVE RULES

(c) Through a legal or biological parent who is the Registered Domestic Partner of the children or young adults' legal or biological parent.

(23) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(24) "Substitute caregiver" means a relative caregiver, foster parent, or provider authorized to provide care to a child or young adult in the legal or physical custody of the Department.

(25) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005 & 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11

413-070-0917

Eligibility

(1) Eligibility: Child.

(a) Guardianship assistance will not be established for a child placed outside of the United States or a territory or possession thereof.

(b) A guardianship assistance agreement must be signed by the potential guardian and a Department representative before guardianship has been legally established by a state or participating tribal court.

(c) To be eligible for guardianship assistance, a child must meet all of the following:

(A) Be a United States citizen or qualified alien as described in OAR 413-100-0210(2) and in 8 USC 1641(b) or (c).

(B) Be removed from his or her home pursuant to a voluntary placement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child.

(C) The Department or participating tribe has determined that neither return home nor adoption is an appropriate permanency option for the child.

(D) Be eligible for Title IV-E foster care maintenance payments during a six consecutive month period during which the child resided in the home of the potential guardian who was fully licensed, certified, or approved by the state or a participating tribe as meeting the licensure or certification requirements for a foster family home in the state where the home is located. The Department determines a child's eligibility for a Title IV-E maintenance payment under Child Welfare Policy I-E.6.1, "Title IV-E Foster Care, Adoption Assistance and Guardianship Assistance Eligibility", OAR 413-100-0000 to 413-100-0345.

(E) Be in the Department's or participating tribe's legal custody for a minimum of:

(i) Six months, if the potential guardian is the child's relative as defined by OAR 413-070-0905(21)(a) through (d); or

(ii) Twelve months, if the potential guardian is a substitute caregiver who meets the definition of a relative under OAR 413-070-0905(21)(e)(B).

(F) Demonstrate a strong attachment to the potential guardian.

(G) Be consulted regarding the guardianship arrangement when the child has attained 14 years of age.

(2) When guardianship as a permanency plan has been approved, the caseworker must document each of the following in the child's case plan.

(a) How the child meets the eligibility requirements;

(b) The steps the Department has taken to determine that return to the home or adoption is not appropriate;

(c) The efforts the Department has made to discuss adoption with the child's relative caregiver and the reasons why adoption is not an option;

(d) The efforts the Department has made to discuss kinship guardianship with the child's parent or parents or the reasons why efforts were not made;

(e) The reason why a permanent placement with a potential relative guardian and receipt of a kinship guardian assistance payment is in the child's best interests; and

(f) The reasons for any separation of siblings during placement. If the child's placement with the prospective relative guardian does not include siblings, the case plan must also include a description of the reasons why the child is separated from siblings during placement.

(3) Extension of Guardianship Assistance for a Young Adult.

(a) The Department may approve an extension of a guardianship assistance agreement for an individual under the age of 21 when the individual reaches the age of 18 on or after October 1, 2011 and meets para-

graph (A) of this subsection, or when the individual reaches the age of 18 on or after June 30, 2011 and meets paragraph (B) of this subsection.

(A) An initial guardianship assistance agreement is entered into on behalf of a child and at the time of the child's 18th birthday, he or she:

(i) Qualifies as an individual with a developmental disability as determined by the Oregon Department of Human Services, Developmental Disabilities Services;

(ii) Qualifies as an individual with a developmental disability as determined by the equivalent developmental disability program if living in a state other than Oregon; or

(iii) Qualifies for Supplemental Security Income (SSI) as determined by the Social Security Administration.

(B) An initial guardianship assistance agreement is entered into on behalf of a child who is age 16 or 17 when the child, upon reaching the age of 18, is:

(i) Completing secondary school (or equivalent);

(ii) Enrolled in post-secondary or vocational school;

(iii) Participating in a program or activity that promotes or removes barriers to employment;

(iv) Employed for at least 80 hours a month; or

(v) Determined incapable of any of the above due to a documented medical condition, physical disability, or mental disability.

(b) In order for the extension of guardianship assistance as described in paragraph (a)(A) of this section to continue on behalf of a young adult, the guardian or potential guardian must submit to the Department, upon request and before the child's 18th birthday, documentation from the agency making the determination described in subparagraphs (a)(A)(i) to (iii) of this section.

(c) If an individual does not meet the requirements under subsection (a) of this section or the guardian or potential guardian does not submit the documentation before the individual's 18th birthday as required in subsection (b) of this section, the Department may not approve an extension of a guardianship assistance agreement.

(d) An extension of guardianship assistance approved pursuant to subsection (a) of this section will continue until the young adult turns 21 years old.

(e) In order for the extension of guardianship assistance as described in paragraph (a)(B) of this section to continue on behalf of a young adult, the guardian must submit to the Department, upon request:

(A) Proof that the young adult continues to be enrolled in a secondary, post-secondary, vocational school, or a program or activity that promotes or removes barriers to employment;

(B) Proof that the young adult is employed for at least 80 hours a month; or

(C) Verification from a medical or mental health professional that the young adult is incapable of attending school or obtaining employment due to a medical condition.

(f) The Department will review the eligibility of the young adult for continued guardianship assistance when an extension of guardianship assistance has been granted under subsection (a) of this section:

(A) At least annually; or

(B) When information is received that indicates the young adult may no longer be eligible for guardianship assistance or may be eligible for guardianship assistance in a different amount.

(g) The guardian must notify the Department, orally or in writing, of any changes in circumstances that may make the young adult:

(A) Ineligible for guardianship assistance; or

(B) Eligible for guardianship assistance in a different amount.

(4) Siblings. Each sibling of a child or young adult eligible for guardianship assistance is also eligible for guardianship assistance, without meeting the eligibility requirements set forth in subsections (1)(c)(B) to (F) of this rule, when:

(a) The sibling is placed in a guardianship with the same potential guardian or guardian, whether the siblings are placed at the same time or not; and

(b) The potential guardian or guardian and the Department agree that both of the following are appropriate:

(A) Placing the child's sibling in the home of the potential guardian or guardian; and

(B) Guardianship as a permanency plan for the sibling.

Stat. Auth.: ORS 418.005 & 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-

ADMINISTRATIVE RULES

10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11

413-070-0925

Eligibility: Prospective Guardian

The Department may approve a potential guardian for guardianship assistance when the potential guardian --

(1) Meets the requirements of Child Welfare Policy I-E.3.6.1, "Guardianship as a Permanency Plan", OAR 413-070-0665(2), and:

(2) Agrees to ensure that, if the child has attained the minimum age for compulsory attendance under the law of the state of residence but has not completed secondary school, the child is:

(a) Enrolled in an elementary or secondary school as determined by the law of the state of residence;

(b) Home schooled in accordance with the law of the state of residence;

(c) Enrolled in an independent study program in accordance with the law of the state of residence;

(d) Incapable of attending school due to a documented medical condition.

Stat. Auth.: ORS 418.005 & 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11

413-070-0934

Application Requirements

(1) Except as described in subsections (a) - (c) of this section, the Adoption Assistance and Guardianship Assistance Unit must begin negotiation of the guardianship assistance agreement no later than 60 days after receipt of the completed guardianship assistance application.

(a) The Department may delay negotiation of the guardianship assistance base rate when the child is due for an updated CANS screening, a new CANS screening is warranted, or a CANS screening is in process or completed but a decision is pending regarding the level of care payment under OAR 413-020-0230.

(b) When there are extenuating circumstances regarding the child or family, the Department may delay negotiation following a request by the caseworker, guardian, or potential guardian.

(c) When a guardianship assistance application is delayed, the Adoption Assistance and Guardianship Assistance Unit must begin negotiation of the guardianship assistance base rate no later than 30 days from receipt of the final decision regarding the level of care payment.

(2) A guardianship assistance application is considered complete when the Adoption Assistance and Guardianship Assistance Unit has received a signed application and all supporting documentation.

Stat. Auth.: ORS 418.005, & 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; Suspended by CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0965, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11

413-070-0939

Guardianship Assistance Payments, Medical Assistance, and Nonrecurring Guardianship Expenses

(1) When a guardianship assistance payment or medical assistance is not being provided, a potential guardian or guardian may enter into a guardianship assistance agreement only.

(2) The monthly guardianship assistance payment may not exceed the total of:

(a) The guardianship assistance base rate; and

(b) When applicable, the level of care payment determined by the CANS screening conducted under OAR 413-020-0230.

(3) The monthly guardianship assistance base rate:

(a) Is determined through discussion and negotiation between the Department and the potential guardian or guardian.

(b) May not exceed the current foster care base rate payment the child or young adult would be eligible to receive in foster care as determined by OAR 413-090-0010(1)(b).

(c) Is negotiated between the potential guardian of a child or guardian of a child or young adult and the Department, taking into consideration relevant factors which include, but are not limited to:

(A) The ordinary and special needs of the child or young adult.

(B) The services and goods required to meet the needs of the child or young adult.

(C) The cost of the services and goods required to meet the needs of the child or young adult.

(D) The circumstances of the potential guardian or guardian and their ability to provide the required services and goods for the child or young adult.

(E) The resources available to the potential guardian or guardian such as medical coverage, private health insurance, public education, other income sources, and community resources.

(F) A guardianship assistance payment may be reduced when other sources of income are received by the potential guardian or guardian or the child or young adult.

(d) Is intended to combine with the resources of the potential guardian or guardian to provide for the needs of the child or young adult.

(4) When, during negotiation of the guardianship assistance base rate payment, the Adoption Assistance and Guardianship Assistance Coordinator and the potential guardian or the guardian are unable to reach agreement, the Adoption Assistance and Guardianship Assistance Coordinator, the potential guardian, or the guardian may request a review by the Guardianship Assistance Review Committee. When a review is requested:

(a) An Adoption Assistance and Guardianship Assistance Coordinator must:

(A) Prepare documentation for the scheduled Guardianship Assistance Review Committee;

(B) Notify the potential guardian or guardian and the assigned caseworkers of the date of the committee; and

(C) Attend and participate in the Guardianship Assistance Review Committee.

(b) The potential guardian or guardian may provide written documentation to the Adoption Assistance and Guardianship Assistance Coordinator for review and consideration by the Guardianship Assistance Review Committee.

(c) The caseworker for the potential guardian and the caseworker for the child may participate in a Guardianship Assistance Review Committee meeting and may present information and respond to questions. The caseworkers may not participate in the deliberations of the Guardianship Assistance Review Committee.

(d) The Guardianship Assistance Review Committee members must:

(A) Consider written documentation provided by the potential guardian or guardian, caseworkers, and the Adoption Assistance and Guardianship Assistance Coordinator.

(B) Review materials submitted to the Guardianship Assistance Review Committee, deliberate, and make a recommendation regarding the guardianship assistance base rate.

(e) At the conclusion of the Guardianship Assistance Review Committee, the Adoption Assistance and Guardianship Assistance Coordinator must:

(A) Document the recommendation of the Guardianship Assistance Review Committee; and

(B) Submit the recommendation to the Assistant Adoption Program Manager or designee within one business day of the Guardianship Assistance Review Committee meeting.

(f) The Assistant Adoption Program Manager or designee must:

(A) Attend the Guardianship Assistance Review Committee and may ask clarifying questions, but does not participate in the deliberation or recommendation of the Guardianship Assistance Review Committee; and

(B) Make a decision and provide written notification of the decision regarding the guardianship assistance base rate to the Adoption Assistance and Guardianship Assistance Coordinator within one business day of receipt of the documentation from the Guardianship Assistance Review Committee.

(g) The Adoption Assistance and Guardianship Assistance Coordinator must notify the potential guardian or guardian of the Assistant Adoption Program Manager or designee's decision, including a written notice, within ten business days of the decision.

(5) A potential guardian or guardian unsatisfied with the guardianship assistance base rate decision of the Assistant Adoption Program Manager or designee under paragraph (4)(f)(B) of this rule may submit a written request for review of the decision by the Adoption Program Manager or

ADMINISTRATIVE RULES

designee within 14 days of the written notice in subsection (4)(g) of this rule.

(6) The Adoption Program Manager or designee must complete each of the following actions.

(a) Review and consider:

(A) The materials submitted to the Guardianship Assistance Review Committee;

(B) The recommendation of the committee;

(C) The decision made by the Assistant Adoption Program Manager or designee following the review committee recommendation; and

(D) The information presented by the potential guardian or guardian in the request submitted under section (5) of this rule.

(b) Make a decision within 60 days of the date of the request for review.

(c) Provide written notification to the potential guardian or guardian and the Adoption Assistance and Guardianship Assistance Coordinator within ten business days of the decision in subsection (b) of this section.

(7) The monthly level of care payment:

(a) Is determined based on the results of a CANS screening conducted under OAR 413-020-0230.

(b) Cannot exceed the amount of the level of care payment set forth in OAR 413-090-0010(2)(g).

(c) Is included in the guardianship assistance payment when the child or young adult qualifies for a level of care payment and when requested by the potential guardian or guardian.

(8) When a potential guardian or guardian is unsatisfied with the final guardianship assistance offer from the Department, consisting of the guardianship assistance base rate and, when applicable, a level of care payment, the potential guardian or guardian has the right to a contested case hearing under Child Welfare Policy I-A.5.2, "Contested Case Hearings", OAR 413-010-0500 to 413-010-0535.

(9) An initial guardianship assistance payment begins on the date the state or tribal court legally establishes the guardianship provided there is a written guardianship assistance agreement signed by all parties.

(10) A guardianship assistance payment to a guardian for the child or young adult is inalienable, not assignable or transferable, and exempt from execution, levy, attachment, garnishment, and other legal process under the laws of Oregon, as long as the payment can be identified as a guardianship assistance payment and is kept separate from other money in the guardian's possession.

(11) The guardian may apply to be the designated payee for any benefit the child or young adult receives if the benefit program allows such application.

(12) Medical assistance and social services.

(a) A child or young adult who is the subject of a guardianship assistance agreement funded by Title IV-E funds as authorized by the Fostering Connection to Success and Increasing Adoptions Act of 2008 (Public Law 110-351) is categorically eligible for medical assistance through Title XIX and social services under Title XX when:

(A) The guardianship is in effect; and

(B) A guardianship assistance payment is being made to the guardian.

(b) A child or young adult who is not eligible for Title XIX medical assistance is eligible for medical assistance under Child Welfare Policy I-E.6.2, "Title XIX and General Assistance Medical Eligibility", OAR 413-100-0400 to 413-100-0610 when:

(A) The child or young adult resides in Oregon; or

(B) The child or young adult resides outside of Oregon but in the United States or a territory or possession thereof and is not able to obtain medical assistance in his or her place of residence.

(c) Medical assistance is not provided for a child or young adult who resides outside of the United States or a territory or possession thereof.

(13) Nonrecurring guardianship expenses.

(a) The Department will reimburse a guardian up to \$2,000 per eligible child for approved nonrecurring guardianship expenses, including but not limited to:

(A) The cost of a home study;

(B) Court costs;

(C) Attorney fees;

(D) Physical and psychological examinations required for the guardianship; and

(E) Travel to visit with the child prior to placement.

(b) Payment for nonrecurring guardianship expenses may not duplicate expenses covered by the Interstate Compact for Placement of Children or another resource available to the potential guardian.

(c) Documentation of nonrecurring guardianship expenses is required and must be submitted prior to execution of the nonrecurring guardianship assistance agreement. The nonrecurring guardianship assistance agreement, indicating the nature and amount of the nonrecurring guardianship expenses, must be signed by the potential guardian and a Department representative prior to the establishment of the guardianship.

(d) Payment for nonrecurring guardianship expenses is made when the Department receives the court order establishing the guardianship.

(14) Overpayment.

(a) If the Department issues a guardianship assistance payment on behalf of a child or young adult after the date the guardianship assistance agreement automatically expires, the Department may seek reimbursement of the overpayment and the guardian must repay the Department.

(b) If the guardian fails to comply with any provisions of the guardianship assistance agreement, including failing to notify the Department of any of the events or circumstances described in OAR 413-070-0964 and 413-070-0974(2), the Department may collect any guardianship assistance payment or medical assistance which the Department would not have provided had the guardian complied with the provisions of the guardianship assistance agreement.

Stat. Auth.: ORS 418.005 & 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0930, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 11-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11

413-070-0949

Guardianship Assistance Agreement Requirements

(1) Before a guardian may receive guardianship assistance, there must be a negotiated written guardianship assistance agreement between the Department and the potential guardian or guardian signed by all parties prior to the court order establishing the legal guardianship.

(2) The guardianship assistance agreement must include each of the following:

(a) A statement indicating that a guardianship assistance agreement remains in effect without regard to the state of residency of the guardian.

(b) The effective date of the initial guardianship assistance agreement is the date of the court order of guardianship.

(c) That the Department will pay the nonrecurring guardianship expenses associated with obtaining legal guardianship of the child, to the extent the nonrecurring guardianship expenses do not exceed \$2,000 per child.

(d) That the child or young adult for whom the Department is providing a guardianship assistance payment remains eligible for medical assistance provided:

(A) The guardianship remains in effect;

(B) A payment is being made; and

(C) The child or young adult is placed in the United States, a territory or possession thereof.

(e) Information regarding garnishment of guardianship assistance payments as set forth in OAR 413-070-0939(10).

(f) That the guardian agrees to comply with the reporting requirements under OAR 413-070-0964.

(g) That the guardian understands that a guardianship assistance agreement may be reviewed and the guardianship assistance may be adjusted, suspended, or terminated under OAR 413-070-0974.

(h) A statement indicating that the guardian understands that the provisions of ORS 192.520 allow the Oregon Health Plan (OHP) and the OHP managed care plans without the authorization of the guardian, child, or young adult to exchange the following protected health information for the purpose of treatment activities related to the behavioral or physical health of the child or young adult when the child or young adult is the recipient of OHP services:

(A) The name and Medicaid recipient number of the child or young adult;

(B) The name of the hospital or medical provider of the child or young adult;

(C) The Medicaid number of the hospital or medical provider;

(D) Each diagnosis for the child or young adult;

(E) Each treatment activity's date of service;

(F) Each treatment activity's procedure or revenue code;

(G) The quantity of units or services provided; and

(H) Information about medication prescription and monitoring.

ADMINISTRATIVE RULES

(i) The amount of the guardianship assistance and the manner in which it is to be provided.

(j) The basis and requirements for periodic changes in the guardianship assistance payment, in consultation with the guardian, based on the circumstances of the guardian and the needs of the child or young adult.

(k) The additional services and assistance for which the child or young adult and guardian are eligible under the agreement and the procedure by which the guardian may apply for such services.

(l) When the Department has agreed to include such language, that the Department may continue to provide guardianship assistance for a child or young adult when the child or young adult moves out of the home of the guardian to attend college or live independently.

(3) The Department must provide the guardian with a copy of the guardianship assistance agreement.

Stat. Auth.: ORS 418.005 & 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 49-2003(Temp), f. 12-31-03, cert. ef. 1-1-04 thru 4-28-04; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0935, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11

413-070-0964

Changes That Must be Reported and Annual Report

(1) A guardian receiving guardianship assistance must immediately report, orally or in writing, to the Adoption Assistance and Guardianship Assistance Unit any changes in circumstances of the child, young adult, or guardian that makes the child or young adult ineligible for guardianship assistance including when:

(a) The child or young adult:

- (A) Is emancipated;
- (B) Dies;
- (C) Marries; or
- (D) Is adopted.

(b) The court:

(A) Vacates the guardianship; or
(B) Terminates wardship over the child or young adult, unless the guardianship is a tribal court guardianship and the guardianship remains in effect under tribal law.

(2) A guardian receiving a guardianship assistance payment must immediately report, orally or in writing, to the Department's Adoption Assistance and Guardianship Assistance Unit any changes in circumstances of the child, young adult, or guardian that may make the child or young adult ineligible for guardianship assistance including when:

(a) The child or young adult:

(A) Is out of the home of a guardian for more than a thirty day period or, if more than one guardian, is out of the home of both guardians for more than a thirty day period;

(B) Has a change in needs including but not limited to eligibility for a change in the level of care payment based on a new CANS screening;

(C) Is placed in substitute care;

(D) Is no longer receiving financial support from a guardian or, if there is more than one guardian, both guardians;

(E) Is incarcerated for more than three consecutive months; or

(F) Has a change in any benefit received other than tribal dividend payments.

(b) A guardian is, or if more than one guardian, both guardians are:

(A) No longer legally responsible for the financial support of the child or young adult;

(B) No longer responsible for the child or young adult; or

(C) No longer providing support to the child or young adult.

(c) A guardian seeks to terminate or modify the guardianship.

(d) The court:

(A) Modifies the guardianship, or

(B) Awards child custody or guardianship to another individual.

(3) A guardian receiving a guardianship assistance payment must immediately report, orally or in writing, to the Adoption Assistance and Guardianship Assistance Unit the following:

(a) When there are two guardians and one guardian dies, the surviving guardian must notify the Department.

(b) When there is a change in address.

(c) When a guardian, child, or young adult is planning to move from his or her state of residency.

(4) The guardian, within 30 days after each annual anniversary of the court appointment of guardianship, must file a written report with the court and submit a copy of the report to the Adoption Assistance and Guardianship Assistance Unit.

(5) When the court does not require an annual report under section (4) of this rule as part of the appointment of guardianship, the Department requires the guardian to submit an annual report to the Adoption Assistance and Guardianship Assistance Unit within 30 days after each anniversary of the appointment of guardianship.

Stat. Auth.: ORS 418.005 & 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 19-2003(Temp), f. & cert. ef. 1-23-03 thru 6-20-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0945 & 413-070-0955, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11

413-070-0974

Review, Adjustment, Suspension, Expiration, and Termination of Guardianship Assistance

(1) The Department may review a guardianship assistance agreement when the Department:

(a) Receives information indicating that the child or young adult may no longer be eligible for guardianship assistance or may be eligible for guardianship assistance in a different amount, including when the Department receives information regarding any of the circumstances described in OAR 413-070-0964;

(b) Determines, when the child or young adult is not residing in the home of the guardian, that periodic review of the guardianship assistance agreement is required;

(c) Receives information that indicates a review is necessary based on a change in the needs of the child or young adult or circumstances of the family;

(d) Receives information that the young adult no longer meets the requirements for continued assistance, if the Department has agreed to extend guardianship assistance under OAR 413-070-0917(3); or

(e) Determines that the guardian has not complied with the requirements of the guardianship assistance agreement.

(2) Department review of a guardianship assistance agreement may result in a renegotiation, suspension, adjustment, or termination of the guardianship assistance agreement or guardianship assistance payments.

(3) Guardianship assistance may be adjusted at any time by mutual agreement between the guardian and the Department.

(4) When there is an across-the-board reduction or increase in the level of care payment, the child or young adult would be eligible to receive if the child or young adult were in foster care, as determined by OAR 413-090-0010(2)(g), the Department may, after a case-by-case review and without concurrence of the guardian, reduce or increase the monthly guardianship assistance level of care payment under 413-070-0939(7) to the amount the child or young adult would be eligible to receive if in foster care.

(5) When there is an across-the-board reduction or increase in the base rate payment the child or young adult would be eligible to receive if the child or young adult were in foster care, as determined by OAR 413-090-0010(1)(b), the Department may, after a case-by-case review and without the concurrence of the guardian, adjust the guardianship assistance base rate payment as follows:

(a) When the guardianship assistance base rate payment exceeds the new foster care base rate payment, the Department may reduce the guardianship assistance base rate payment to the amount of the new foster care base rate payment.

(b) When the foster care base rate payment increases, the Department, considering the needs of the child or young adult and the circumstances of the guardian, may increase the guardianship assistance base rate payment to an amount that does not exceed the new foster care base rate payment.

(6) If, upon review under section (1) of this rule or an adjustment under section (4) of this rule, the Department intends to adjust guardianship assistance without the concurrence of the guardian, the Department will provide the guardian and the child or young adult with written notice. In the case of a decrease in guardianship assistance, the Department will provide the notice at least 10 days prior to the date the Department intends to make the change.

(7) Unless terminated under sections (8) or (9) of this rule, the guardianship assistance agreement and the Department's obligation to pro-

ADMINISTRATIVE RULES

vide guardianship assistance expires automatically on the date any of the following events occur:

(a) When the child:

(A) Reaches the age of 18 or, when an extension has been granted under OAR 413-070-0917(3), under the age of 21 as documented in the guardianship assistance agreement;

(B) Is emancipated;

(C) Dies;

(D) Marries;

(E) Is adopted; or

(F) No longer meets the requirements for continued guardianship assistance if the Department has agreed to continue guardianship assistance under OAR 413-070-0917(3).

(b) A guardian dies, or if more than one guardian, both die.

(c) The court:

(A) Vacates the guardianship order or otherwise terminates the guardianship;

(B) Terminates wardship over the child or young adult, unless the guardianship is a tribal court guardianship and the guardianship remains in effect under tribal law; or

(C) Appoints another individual as guardian of the child or young adult.

(8) Guardianship assistance may be suspended at any time by mutual agreement between the Department and the guardian.

(9) After a review and on a case-by-case basis, the Department may terminate a guardianship assistance agreement upon ten days written notice to the potential guardian or guardian when the Department determines that:

(a) The potential guardian or guardian is no longer responsible for the child or young adult;

(b) The potential guardian or guardian is no longer providing support to the child or young adult;

(c) The child or young adult is no longer eligible for guardianship assistance or is eligible for guardianship assistance in a different amount.

Stat. Auth.: ORS 418.005 & 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SOSCF 18-1999(Temp), f. & cert. ef. 9-14-99 thru 3-12-00; SOSCF 7-2000, f. & cert. ef. 2-10-00; SOSCF 43-2001, f. 12-31-01, cert. ef. 1-1-02; CWP 14-2003, f. & cert. ef. 1-9-03; CWP 26-2003, f. & cert. ef. 7-31-03; CWP 8-2004, f. & cert. ef. 4-1-04; CWP 5-2009(Temp), f. & cert. ef. 3-31-09 thru 9-27-09; CWP 7-2009(Temp), f. & cert. ef. 7-1-09 thru 9-27-09; CWP 12-2009, f. & cert. ef. 9-28-09; Renumbered from 413-070-0940, CWP 18-2009(Temp), f. & cert. ef. 12-16-09 thru 6-14-10; CWP 1-2010(Temp), f. & cert. ef. 2-1-10 thru 6-14-10; CWP 6-2010, f. & cert. ef. 6-15-10; CWP 11-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 24-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-27-11

Rule Caption: Changing OARs affecting Child Welfare programs.

Adm. Order No.: CWP 25-2011(Temp)

Filed with Sec. of State: 9-30-2011

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Notice Publication Date:

Rules Adopted: 413-130-0055

Rules Amended: 413-130-0010, 413-130-0020, 413-130-0040, 413-130-0050, 413-130-0070, 413-130-0075, 413-130-0077, 413-130-0080, 413-130-0090, 413-130-0100, 413-130-0110, 413-130-0125, 413-130-0130

Rules Suspended: 413-130-0010(T), 413-130-0020(T), 413-130-0040(T), 413-130-0050(T), 413-130-0055(T), 413-130-0070(T), 413-130-0075(T), 413-130-0077(T), 413-130-0080(T), 413-130-0090(T), 413-130-0100(T), 413-130-0110(T), 413-130-0125(T), 413-130-0130(T)

Subject: OAR 413-130-0020 about special needs determination for adoption assistance eligibility, which was amended by temporary rule on June 30, 2011, is being further amended to clarify the requirements the Department needs in order to determine that a child meets the federal guidelines for "special needs".

OAR 413-130-0050 about the adoption assistance application process, which was amended by temporary rule on June 30, 2011, is being further amended to indicate when extenuating circumstances can delay the negotiation of an adoption assistance agreement.

OAR 413-130-0055 about the extension of adoption assistance for a young adult, which was adopted by temporary rule on June 30, 2011, is being amended to clarify the conditions under which a child who is turning 18 may be eligible to extend adoption assistance. This

amendment also explains explain how a child with a disability may qualify for an extension of adoption assistance.

OAR 413-130-0125 about adjustments of adoption assistance, which was amended by temporary rule on June 30, 2011, is being further amended to restate how an adoption assistance payment may be modified by an across-the-board increase or reduction.

OAR 413-130-0010 to 413-130-0130 about adoption assistance are also being amended to clarify the rules, for internal consistency, accurate cross-references, and to reflect current Department terminology, policy and practice.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-130-0010

Definitions

The following definitions apply to OAR 413-130-0000 to 413-130-0130:

(1) "Adoption assistance" means assistance provided on behalf of an eligible child or young adult to offset the costs associated with adopting and meeting the on-going needs of the child or young adult. Adoption assistance may be in the form of payments, medical coverage, reimbursement of nonrecurring expenses, or special payments.

(2) "Adoption assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the pre-adoptive family or adoptive family of an eligible child or young adult, setting forth the assistance the Department is to provide on behalf of the child or young adult, the responsibilities of the pre-adoptive family or adoptive family and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

(3) "Adoption assistance agreement only" means a written agreement, binding on the parties to the agreement, between the Department and the pre-adoptive family or adoptive family of an eligible child or young adult, when the pre-adoptive family or adoptive family is not receiving an adoption assistance payment or medical coverage at the time of the agreement but may request it at a later date.

(4) "Adoption assistance base rate" means the portion of the adoption assistance payment that is negotiated with a pre-adoptive family or an adoptive family and cannot exceed the amount of the Oregon foster care base rate payment for the child's or young adult's age.

(5) "Adoption assistance payment" means a monthly payment made by the Department to the pre-adoptive family or adoptive family on behalf of an eligible child or young adult.

(6) "Adoption Assistance Review Committee" means a committee composed of local and central office staff with expertise in the area of adoption.

(7) "Adoptive family" means an individual or individuals who have legalized a parental relationship to the child who joined the family through a judgment of the court.

(8) "Applicable child" has the same meaning as in OAR 413-100-0335.

(9) "Base rate payment" means a payment to the foster parent or relative caregiver for the costs of providing the child or young adult with the following:

(a) Food — including the cost to cover a child's or young adult's special or unique nutritional needs;

(b) Clothing — including purchase and replacement;

(c) Housing — including maintenance of household utilities, furnishings, and equipment;

(d) Daily supervision — including teaching and directing to ensure safety and well-being at a level which is appropriate based on the child's or young adult's chronological age;

(e) Personal incidentals — including personal care items, entertainment, reading materials, and miscellaneous items; and

(f) The cost of providing transportation — including local travel associated with expenditure for gas and oil, and vehicle maintenance and repair associated with transportation to and from extracurricular, child care, recreational, and cultural activities.

(10) "CANS screening" means Child and Adolescent Needs and Strength screening, a process of gathering information on a child's or young adult's needs and strengths used for one or more of the following purposes:

(a) Identifying case planning, service planning, and supervision needs of the child or young adult in substitute care with a certified family; and

(b) Determining the level of care payment while in substitute care with a certified family; and

ADMINISTRATIVE RULES

(c) Determining the level of care payment included in an adoption assistance agreement or guardianship assistance agreement.

(11) "Child" means a person under 18 years of age.

(12) "Department" means the Department of Human Services, Child Welfare.

(13) "Enhanced supervision" means the additional support, direction, observation, and guidance necessary to promote and ensure the safety and well-being of a child or young adult when the child or young adult qualifies for a level of care payment.

(14) "Legally free" means that, with respect to a child, the legal rights of all parents with legal standing have been judicially terminated, voluntarily relinquished, or otherwise terminated by operation of law, thus allowing for the child to be adopted.

(15) "Level of care payment" means the payment provided to an approved or certified family, a guardian, a pre-adoptive family, or an adoptive family based on the child's or young adult's need for enhanced supervision as determined by applying the CANS algorithm to the results of the CANS screening.

(16) "Licensed adoption agency" means an adoption agency licensed by the state of Oregon to place children for adoption, or an adoption agency that holds a license from another state and is authorized under the laws of that state to place children for adoption.

(17) "Nonrecurring adoption assistance agreement" means a written agreement, binding on the parties to the agreement, between the Department and the pre-adoptive family of an eligible child for a one-time payment to reimburse the adoptive family for the reasonable and necessary expenses incurred in legally finalizing the adoption of a child who has been determined to have special needs.

(18) "Nonrecurring expenses" mean a one-time payment up to \$1,500 per child, which the Department will pay to an adoptive family to assist with the reasonable and necessary expenses incurred in legally finalizing the adoption of an eligible child.

(19) "Parent" means the biological or adoptive mother or the legal father of the child. A legal father is a man who has adopted the child or whose paternity has been established or declared under ORS 109.070, 416.400 to 416.465, or by a juvenile court. In cases involving an Indian child under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the child by assuming or attempting to assume responsibilities normally associated with parenthood unless a court finds that the putative father is not the legal father.

(20) "Participating tribe" means a federally recognized Indian tribe in Oregon with a Title IV-E agreement with the Department.

(21) "Pre-adoptive family" means an individual or individuals who:

(a) Has been selected to be the child's adoptive family; and

(b) Is in the process of legalizing the relationship to the child through the judgment of the court.

(22) "Qualified alien" has the same meaning as in OAR 413-100-0210(2) and 8 USC 1641(b).

(23) "Qualified vendor attorney" means an attorney who has a price agreement with the Department to process the adoption of a child who is eligible for adoption assistance.

(24) "Sibling" means one of two or more children or young adults related:

(a) By blood or adoption through a common legal parent;

(b) Through the marriage of the legal or biological parents of the children or young adults; or

(c) Through a legal or biological parent who is the registered domestic partner of the legal or biological parent of the children or young adults.

(25) "Special payment" means a payment for unanticipated short-term costs which are directly related to the special needs of the child or young adult or are essential to the welfare of the child or young adult, and are not covered by another resource available to the adoptive family.

(26) "Substitute care" means the out-of-home placement of a child or young adult who is in the legal or physical custody and care of the Department.

(27) "Young adult" means a person aged 18 through 20 years.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 23-2005(Temp), f. 12-30-05, cert. ef. 1-1-06; CWP 16-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11

413-130-0020

Special Needs Determination for Adoption Assistance Eligibility

(1) In order to be eligible for adoption assistance, funded through either federal or state funds, a child must be determined to have special needs.

(2) The Department must make the determination that the child has special needs under each of the following subsections:

(a) The child cannot or should not be returned to the home of his or her parent or parents. This decision is based on one of the following paragraphs:

(A) An order from a court of competent jurisdiction terminating parental rights.

(B) The existence of a petition for termination of parental rights.

(C) A voluntary relinquishment of parental rights for a child under the jurisdiction of the court, in the custody of the Department, or in a subsequent adoption when there was an adoption assistance agreement in place during the prior adoption.

(D) A voluntary relinquishment of parental rights and a judicial determination that remaining in the home of a specified relative as defined in Child Welfare Policy I-E.6.1, "Title IV-E Foster Care, Adoption Assistance, and Guardianship Assistance Eligibility", OAR 413-100-0020 would be contrary to the child. The request for the judicial determination must be filed within six months of the time the child last lived with the specified relative.

(E) For a child who can be adopted in accordance with state or tribal law without a termination of parental rights or voluntary relinquishment of parental rights, the valid reason why the child cannot or should not be returned to the home of his or her parents; or

(F) In the case of an orphan, verification of the death of the parent or parents.

(b) The child has at least one of the following factors or conditions that make adoptive placement difficult to achieve:

(A) A documented medical, physical, mental, emotional condition or other clinically diagnosed disability, or a documented history of abuse or neglect or other identified predisposing factor that places the child at significant risk for future problems that need treatment;

(B) Is a member of a sibling group which will be placed together and is difficult to place because there are three or more children, or if in a sibling group of two, at least one of the children is six years of age or older;

(C) Is a member of an ethnic, racial, or cultural minority (such as African American, Hispanic, Asian, Indian, or Pacific Islander); or

(D) Is eight years of age or older.

(3) A reasonable but unsuccessful effort to place the child with an appropriate adoptive family for adoption without adoption assistance has been made, unless such an effort is not in the best interest of the child for reasons including placement with a relative or another person with whom the child has an established significant relationship.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11

413-130-0040

Eligibility for Adoption Assistance Payments

(1) In determining eligibility for an adoption assistance payment, the Department may not impose an income eligibility requirement for the pre-adoptive family or adoptive family.

(2) To be eligible for a Title IV-E funded adoption assistance payment, a child must meet all of the following requirements.

(a) Be a citizen of the United States or a qualified alien as described in OAR 413-100-0210(2) and in 8 USC 1641(b) or (c).

(b) When the child is a qualified alien and is placed with a pre-adoptive parent who is an unqualified alien, the child must meet the five year residency requirement set forth in The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193.

(c) Be determined eligible for Title IV-E adoption assistance under OAR 413-100-0335.

(3) A licensed adoption agency, participating tribe, or another individual applying to receive adoption assistance on behalf of a child determined to have special needs must make all requested efforts to assist the Department in establishing Title IV-E eligibility.

(4) Except as provided in section (5) of this rule, a child determined to be ineligible for a Title IV-E adoption assistance payment is eligible for

ADMINISTRATIVE RULES

a state-funded adoption assistance payment when the child meets all of the following criteria.

- (A) Is in the legal custody of:
- (A) The Department;
- (B) A participating tribe; or
- (C) A licensed adoption agency and the child is placed with a family residing in Oregon.

(b) Is not eligible for or receiving adoption assistance for the same child through another state.

(c) Is determined to have special needs in accordance with OAR 413-130-0020.

(d) Meets the requirements in section (6) of this rule.

(5) A child relinquished by a parent directly to a family residing in Oregon who is not eligible for a Title IV-E funded adoption assistance payment is only eligible for a state funded adoption assistance payment when:

(a) A state funded adoption assistance agreement was previously in effect on behalf of the child;

(b) The pre-adoptive family or adoptive family is not eligible for or receiving adoption assistance for the same child through another state.

(c) The child is in a subsequent adoption; and

(d) The child meets the requirements in section (6) of this rule.

(6) In addition to the eligibility requirements in section (4) or (5) of this rule, a child must also be a citizen of the United States to receive a state funded adoption assistance payment when the child is being brought into the United States for the purpose of adoption or being placed outside of the United States, or a territory or possession thereof.

(7) When an adopted child becomes legally free for re-adoption due to the voluntary relinquishment of parental rights, the termination of the rights of the legal parent or parents, or the death of the legal parent or parents:

(a) The child must be determined to have special needs under OAR 413-130-0020 at the time the child again becomes available for adoption; and

(b) The determination of funding eligibility of the adopted child for adoption assistance remains as it was the last time the child was determined eligible for adoption assistance.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 11-1999(Temp), f. & cert. ef. 6-3-99 thru 11-30-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11

413-130-0050

Adoption Assistance Application Requirements and Responsibilities

(1) A licensed adoption agency recommending adoption assistance for a pre-adoptive family must verify and document that recruitment efforts under OAR 413-130-0020(2)(c) were made for the child.

(2) A pre-adoptive family under OAR 413-130-0040(5) may contact the Adoption Assistance and Guardianship Assistance Unit for help in submitting a written adoption assistance application directly to the Department.

(3) A pre-adoptive family of a child in the custody of the Department must notify the Department in writing if they choose not to accept any form of adoption assistance.

(4) An adoption assistance application is considered complete when the Adoption Assistance and Guardianship Assistance Unit has received a signed adoption assistance application form and all supporting documentation.

(5) Except as described in subsection (a) to (c) of this section, the Adoption Assistance and Guardianship Assistance Unit must begin negotiation of the adoption assistance agreement no later than 60 days after receipt of a completed adoption assistance application submitted for a legally free child in the home of an approved pre-adoptive family.

(a) The Department may delay negotiation of the adoption assistance base rate for a completed application when the child is due for an updated CANS screening, a new CANS screening is warranted, or a CANS screening is in process or completed but a decision is pending regarding the level of care payment.

(b) The Department may delay negotiation following a request by the caseworker, the pre-adoptive family, or adoptive family when there are extenuating circumstances regarding the child or family.

(c) When negotiation is delayed under subsections (a) or (b) of this section, the Adoption Assistance and Guardianship Assistance Unit must

begin negotiation of the adoption assistance base rate no later than 30 days from receipt of the final decision regarding the level of care payment.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11

413-130-0055

Extension of Adoption Assistance for a Young Adult

(1) The Department may approve an extension of an adoption assistance agreement for an individual under the age of 21 when the individual reaches the age of 18 on or after October 1, 2011 and meets subsection (a) or (b) of this section.

(a) An initial adoption assistance agreement was entered into on behalf of a child, and at the time of his or her 18th birthday, he or she:

(A) Qualifies as an individual with a developmental disability as determined by the Oregon Department of Human Services, Developmental Disabilities Services;

(B) If living in a state other than Oregon, qualifies as an individual with a developmental disability as determined by the equivalent developmental disability program in that state; or

(C) Qualifies for Supplemental Security Income (SSI) as determined by the Social Security Administration.

(b) An initial adoption assistance agreement was entered into on behalf of a child who is age 16 or 17, and upon reaching the age of 18, he or she is:

(A) Completing secondary school (or equivalent);

(B) Enrolled in post-secondary or vocational school;

(C) Participating in a program or activity that promotes or removes barriers to employment;

(D) Employed for at least 80 hours a month; or

(E) Determined incapable of any of the above due to a documented medical condition, physical disability, or mental disability.

(2) In order for the extension of adoption assistance as described in subsection (1)(a) of this rule to continue on behalf of a young adult, the adoptive family must submit to the Department, upon request and before the child's 18th birthday, documentation from the agency making the determination described in paragraphs (1)(a)(A) through (C) of this rule.

(3) If an individual does not meet the requirements under subsection (1)(a) of this rule or the adoptive family does not submit the documentation before the individual's 18th birthday as required in section (2) of this rule, the Department may not approve an extension of an adoption assistance agreement.

(4) An extension of adoption assistance approved pursuant to subsection (1)(a) of this rule will continue until the young adult turns 21 years old.

(5) In order for the extension of adoption assistance as described in subsection (1)(b) of this rule to continue on behalf of a young adult, the adoptive family must submit to the Department, upon request:

(a) Proof that the young adult continues to be enrolled in a secondary, post-secondary, vocational school, or a program or activity that promotes or removes barriers to employment;

(b) Proof that the young adult is employed for at least 80 hours a month; or

(c) Verification from a medical or mental health professional that the young adult is incapable of attending school or obtaining employment due to a medical condition.

(6) The Department will review the young adult's eligibility for continued adoption assistance when an extension of adoption assistance has been granted under subsection (1)(b) of this rule:

(a) At least annually; or

(b) When information is received that indicates the young adult may no longer be eligible for adoption assistance or may be eligible for adoption assistance in a different amount.

(7) The adoptive family must notify the Department, orally or in writing, of any changes in circumstances that may make the young adult:

(a) Ineligible for adoption assistance; or

(b) Eligible for adoption assistance in a different amount.

Stat. Auth.: ORS 418.005 & 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11

ADMINISTRATIVE RULES

413-130-0070

Negotiation and Determination of the Monthly Adoption Assistance Payment

(1) When adoption assistance is not provided, a pre-adoptive family or adoptive family may enter into an adoption assistance agreement only.

(2) The monthly adoption assistance payment may not exceed the total of:

(a) The adoption assistance base rate; and

(b) When applicable, the level of care payment determined by the CANS screening conducted under OAR 413-020-0230.

(3) The monthly adoption assistance base rate:

(a) Is determined through discussion and negotiation between the Department and the pre-adoptive family or adoptive family.

(b) May not exceed the current foster care base rate payment the child or young adult would be eligible to receive in foster care under OAR 413-090-0010(1)(b).

(c) Is negotiated between the pre-adoptive family or adoptive family and the Department, taking into consideration relevant factors which include, but are not limited to:

(A) The ordinary and special needs of the child or young adult;

(B) The services and goods required to meet the needs of the child or young adult;

(C) The cost of the services and goods required to meet the needs of the child or young adult;

(D) The circumstances of the pre-adoptive family or adoptive family and their ability to provide the required services and goods for the child or young adult; and

(E) The resources available to the pre-adoptive family or adoptive family such as medical coverage, private health insurance, public education, other income sources and community resources.

(4) When, during negotiation of the adoption assistance base rate, the Adoption Assistance and Guardianship Assistance Coordinator and the pre-adoptive family or adoptive family are unable to reach agreement, the Adoption Assistance and Guardianship Assistance Coordinator or the family may request a review by the Adoption Assistance Review Committee. When a review is requested:

(a) An Adoption Assistance and Guardianship Assistance Coordinator must:

(A) Prepare documentation for the scheduled Adoption Assistance Review Committee;

(B) Notify the pre-adoptive family or adoptive family and the assigned caseworkers of the date of the committee; and

(C) Attend and participate in the Adoption Assistance Review Committee.

(b) The pre-adoptive family or adoptive family may provide written documentation to the Adoption Assistance and Guardianship Assistance Coordinator for the review and consideration by the Adoption Assistance Review Committee.

(c) The caseworker for the pre-adoptive family or adoptive family and the caseworker for the child or young adult may participate in an Adoption Assistance Review Committee meeting and may present information and respond to questions. The caseworkers may not participate in the deliberations of the Adoption Assistance Review Committee.

(d) The Adoption Assistance Review Committee members must:

(A) Consider written documentation provided by the pre-adoptive family or adoptive family, the caseworker for the pre-adoptive family or adoptive family, the caseworker for the child or young adult, and the Adoption Assistance and Guardianship Assistance Coordinator.

(B) Review materials submitted to the Adoption Assistance Review Committee, deliberate, and make a recommendation regarding the adoption assistance base rate.

(e) At the conclusion of the Adoption Assistance Review Committee, the Adoption Assistance and Guardianship Assistance Coordinator must:

(A) Document the recommendation of the Adoption Assistance Review Committee; and

(B) Submit the recommendation to the Assistant Adoption Program Manager or designee within one business day of the Adoption Assistance Review Committee meeting.

(f) The Assistant Adoption Program Manager or designee must:

(A) Attend the Adoption Assistance Review Committee and may ask clarifying questions, but does not participate in the deliberation or recommendation of the Adoption Assistance Review Committee; and

(B) Make a decision and provide written notification of the decision regarding the adoption assistance base rate to the Adoption Assistance and

Guardianship Assistance Coordinator within one business day of the Adoption Assistance Review Committee meeting.

(g) The Adoption Assistance and Guardianship Assistance Coordinator must notify the pre-adoptive family or adoptive family of the Assistant Adoption Program Manager or designee's decision, including a written notice, within ten business days of the decision.

(5) A pre-adoptive family or adoptive family unsatisfied with the adoption assistance base rate decision of the Assistant Adoption Program Manager or designee under paragraph (4)(f)(B) of this rule may submit a written request for a review of the decision by the Adoption Program Manager or designee within 14 days of the date of the written notice in subsection (4)(g) of this rule.

(6) The Adoption Program Manager or designee must complete each of the following actions.

(a) Review and consider:

(A) The materials submitted to the Adoption Assistance Review Committee;

(B) The recommendation of the committee;

(C) The decision made by the Assistance Adoption Program Manager or designee following the committee recommendation; and

(D) The information presented by the pre-adoptive family or adoptive family in the request submitted under section (5) of this rule.

(b) Make a decision within 60 days of the date of the request for review.

(c) Provide written notification to the pre-adoptive family or adoptive family and the Adoption Assistance and Guardianship Assistance Coordinator within ten business days of the decision in subsection (b) of this section.

(7) The monthly level of care payment:

(a) Is determined based on the results of a CANS screening conducted under OAR 413-020-0230;

(b) May not exceed the amount of the level of care payment set forth in OAR 413-090-0010(2)(g); and

(c) Is included in the adoption assistance payment when the child or young adult qualifies for a level of care payment and when requested by the pre-adoptive family or adoptive family.

(8) When a pre-adoptive family or adoptive family is unsatisfied with the final adoption assistance offer from the Department, consisting of the adoption assistance base rate and, when applicable, a level of care payment, the pre-adoptive family or adoptive family has the right to a contested case hearing under Child Welfare Policy I-A.5.2, "Contested Case Hearings", OAR 413-010-0500 to 413-010-0535.

(9) An initial adoption assistance payment begins on a date determined by the Department when all of the following criteria are met:

(a) The child is legally free for adoption;

(b) Unless the child is in the custody of a pre-adoptive family eligible to apply for adoption assistance under OAR 413-130-0040(5) or the Department has approved an adoptive family to apply for adoption assistance under OAR 413-130-0130, the Department, participating tribe, or licensed adoption agency has approved the pre-adoptive family as the adoptive placement; and

(c) An adoption assistance agreement has been signed by the pre-adoptive family or adoptive family and by the Department representative.

(10) An adoption assistance payment is issued at the end of each month of eligibility.

(11) An adoption assistance payment made to a pre-adoptive family or an adoptive family by the Department is inalienable by any assignment or transfer and exempt from garnishment, levy, or execution under the laws of this state.

Stat. Auth.: ORS 418.005 & 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 23-2008, f. & cert. ef. 10-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11

413-130-0075

Renegotiation of an Adoption Assistance Payment

(1) The Department, pre-adoptive family, or adoptive family may request renegotiation of an adoption assistance agreement. When the pre-adoptive family or adoptive family has previously signed an adoption assistance agreement only and requests adoption assistance at a later date, it is considered a renegotiation.

(2) A request for renegotiation of the adoption assistance agreement made by a pre-adoptive family or adoptive family must:

ADMINISTRATIVE RULES

(a) Be in writing in a format provided by the Department to the pre-adoptive family or adoptive family;

(b) Document changes in the circumstances of the pre-adoptive family or adoptive family, when applicable;

(c) Document the needs of the child or young adult;

(d) Provide information about the financial expenses of the pre-adoptive family or adoptive family in meeting the needs of the child or young adult; and

(e) Provide additional documentation of the child's or young adult's current behaviors when the child or young adult meets the eligibility requirements for consideration of a level of care payment under OAR 413-020-0230 and the pre-adoptive family or adoptive family is requesting a level of care payment.

(3) Renegotiation of the adoption assistance base rate will be conducted using the negotiation process described in OAR 413-130-0070(2)-(8).

(4) A new adoption assistance agreement must be signed by all parties each time adoption assistance payment changes as a result of renegotiation.

(5) The Department may authorize a renegotiated adoption assistance payment increase or decrease for the period commencing the first day of the month in which the Department receives the documentation required to complete the requested renegotiation, or another date agreed upon by the pre-adoptive family or adoptive family and the Department.

(6) The Department may approve up to twelve months of retroactive payments unless a contested case hearing was requested and a subsequent decision necessitates a payment of more than twelve months. The decision includes any decision by the Department, including:

(a) A final order;

(b) A stipulated final order;

(c) A settlement agreement; or

(d) Any other agreement resulting in withdrawal of the contested case.

Stat. Auth.: ORS 418.005, 418.340

Stats Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11

413-130-0077

Eligibility for Nonrecurring Expenses

(1) Except as provided in section (2) of this rule, a pre-adoptive family is eligible for reimbursement of nonrecurring expenses through Title IV-E funding on behalf of a child determined to have special needs under OAR 413-130-0020 when the child is in the custody of:

(a) The Department, a participating tribe, a licensed adoption agency; or

(b) An Oregon family following a relinquishment of parental rights by the legal parent directly to the Oregon family.

(2) For applications received on or after October 1, 2010, reimbursement for nonrecurring expenses is prohibited on behalf of an applicable child who:

(a) Is not a citizen or resident of the United States; and

(b) Was either adopted outside the United States or was brought to the United States for the purpose of being adopted.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11, Renumbered from 413-130-0030; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11

413-130-0080

Payment for Nonrecurring Expenses

(1) An agreement, indicating the nature and amount of nonrecurring expenses, must be signed prior to the final judgment of adoption. Payment for nonrecurring expenses is made when the Department receives the final judgment of adoption.

(2) The Department will reimburse an adoptive family up to \$1,500 for each eligible child for approved nonrecurring expenses, including but not limited to:

(a) The cost of a home study;

(b) Court costs;

(c) Legal fees, as authorized by the Department;

(d) Physical and psychological examinations required for the adoption; and

(e) Travel to visit with the adoptive child prior to the placement.

(3) The Department will consider requests for nonrecurring expenses that:

(a) Are submitted with written documentation to the Adoption Assistance and Guardianship Assistance Unit;

(b) Are not in violation of state or federal law; and

(c) Do not duplicate expenses covered by:

(A) The Interstate Compact for Placement of Children;

(B) A Department contract with a licensed adoption agency; or

(C) Another resource available to the adoptive family.

(4) When a pre-adoptive family indicates that they will be using a qualified vendor attorney, the Adoption Assistance and Guardianship Assistance Unit must send the pre-adoptive family a list of qualified vendor attorneys.

(5) The pre-adoptive family may select and contact an attorney from the list of qualified vendor attorneys, in which case the pre-adoptive family must:

(a) Sign the legal fees agreement; and

(b) Send the legal fees agreement to the attorney, who will sign it and return it to the Department for payment after the judgment of adoption is received.

(6) The pre-adoptive family may privately retain an attorney, in which case:

(a) The adoptive family is responsible for paying the attorney; and

(b) The Department will reimburse the adoptive family reasonable charges equal to the amount allowed for a qualified vendor attorney unless the Adoption Assistance and Guardianship Assistance Coordinator has determined that a higher amount may be considered due to extraordinary circumstances.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 23-2005(Temp), f. 12-30-05, cert. ef. 1-1-06; CWP 16-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11

413-130-0090

Special Payments

(1) A request for a special payment:

(a) May be made after finalization of the adoption by an adoptive family who has an existing adoption assistance agreement with the Department; and

(b) Must include documentation from the adoptive family when requested by the Department.

(2) The Department may authorize a special payment for a limited duration, on a case-by-case basis, subject to the availability of resources.

(3) An approved special payment may only be issued to the adoptive family.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SCF 6-1996, f. & cert. ef. 9-17-96; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11

413-130-0100

Medical Assistance

(1) A child or young adult who is the subject of an adoption assistance agreement funded by Title IV-E funds is subject to be eligible for medical assistance through Title XIX and eligible for social services through Title XX.

(2) A child or young adult who is the subject of an adoption assistance agreement funded with state general funds is eligible for medical assistance under Child Welfare Policy I-E.6.2, "Title XIX and General Assistance Medical Eligibility", OAR 413-100-0400 to 413-100-0610 when:

(a) The child or young adult resides in Oregon; or

(b) The child or young adult resides outside of Oregon but in the United States or a territory or possession thereof and is not able to obtain medical assistance in his or her place of residence.

(3) When the adoptive child or young adult resides outside of Oregon, the Department provides the necessary documentation to the state of residence of the child or young adult through the Interstate Compact on Adoption and Medical Assistance (ICAMA) to assist the pre-adoptive family or adoptive family in obtaining medical assistance for the child or young adult.

ADMINISTRATIVE RULES

(4) Medical assistance is not provided for a child or young adult who resides outside of the United States, a territory or possession thereof.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11

413-130-0110

Administration of Approved Adoption Assistance

(1) Except as provided in OAR 431-130-0130, in order for the Department to provide adoption assistance on behalf of an eligible child:

(a) An adoption assistance agreement must be signed by each individual who is a party to the agreement and a Department representative; and

(b) The adoption assistance agreement must be in effect before the judgment of adoption.

(2) An adoption assistance agreement must include each of the following:

(a) A statement indicating that an adoption assistance agreement remains in effect regardless of the state or residency of the pre-adoptive family or the adoptive family and the child.

(b) An effective date which:

(A) Must be after the completion of a signed adoption assistance application; and

(B) Except as provided in OAR 413-120-0130, must be before the date of the judgment of adoption.

(c) Information identifying the eligibility of the child or young adult to receive medical assistance and specifying the eligibility of the child or young adult for Title XIX and XX.

(d) Information that ORS 192.520 allows the Oregon Health Plan (OHP) and OHP managed care plans to exchange the following protected health information without authorization from the pre-adoptive family or adoptive family for the purpose of treatment activities related to behavioral or physical health of the child or young adult when the child or young adult is the recipient of OHP services:

(A) The name and Medicaid recipient number for the child or young adult;

(B) The hospital or medical provider for the child or young adult;

(C) The hospital or medical provider's Medicaid number;

(D) Each diagnosis for the child or young adult;

(E) Each treatment activity's date of service;

(F) Each treatment activity's procedure or revenue code;

(G) The quantity of units or services provided; and

(H) Information about medication prescription and monitoring.

(e) Specification of the amount and nature of all adoption assistance to be provided.

(f) A statement informing the pre-adoptive family or adoptive family of the right to a contested case hearing under Child Welfare Policy I-A.5.2, "Contested Case Hearings", OAR 413-010-0500 to 413-010-0535.

(3) The Department remains financially responsible for providing the services specified in the adoption assistance agreement if the needed service is not available in the new state or service area of residence, except as described in OAR 413-130-0100(4).

(4) The foster care base rate payment, level of care payment, any level of personal care payment, and medical coverage end when adoption assistance begins. Medical assistance, as determined by the child's eligibility, may continue when requested by the pre-adoptive family or adoptive family.

(5) The Department may require documentation from the pre-adoptive family or adoptive family verifying that the child:

(a) Is enrolled in an elementary or secondary school as determined by the law of the state of residence;

(b) Is home schooled in accordance with the law of the state of residence;

(c) Is enrolled in an independent study program in accordance with the law of the state of residence;

(d) Has completed secondary school; or

(e) Is incapable of attending school due to a documented medical condition, mental disability, or physical disability.

(6) A pre-adoptive family or adoptive family must immediately inform the Adoption Assistance and Guardianship Assistance Unit of a change in circumstances that may make them ineligible for adoption assistance or eligible for an adoption assistance payment in a different amount.

(7) An individual who is a party to an adoption assistance agreement may request a change of payee due to a divorce, legal separation, or other judicially recognized modification of custody.

(a) The requesting individual must provide the Department with the current address and telephone number of the current payee.

(b) The Department must notify the current payee that there has been a request to change the payee within 30 days of receipt of a request for a change of payee.

(c) Unless the current payee submits a challenge to the request to change payee within 30 days of the date the Department sends the notice in subsection (b) of this section, the request to change payee will be approved.

(d) If the change of payee is challenged, the Department requires legal documentation describing physical custody of the child to make a change in payee.

(e) The new payee must be one of the parties to the adoption assistance agreement.

(8) Overpayment.

(a) If the Department issues an adoption assistance payment on behalf of a child or young adult after the date the adoption assistance agreement automatically expires, the Department may seek reimbursement of the overpayment and the pre-adoptive family or the adoptive family must repay the Department.

(b) If the pre-adoptive family or adoptive family fails to comply with any provisions of the adoption assistance agreement, including failing to notify the Department of any of the events or circumstances described in section (6) of this rule, the Department may collect any adoption assistance payment or medical assistance which the Department would not have provided had the pre-adoptive family or adoptive family complied with the provisions of the adoption assistance agreement.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 11-1999(Temp), f. & cert. ef. 6-3-99 thru 11-30-99; SOSCF 22-1999, f. & cert. ef. 11-24-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2006, f. 6-30-06, cert. ef. 7-1-06; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11

413-130-0125

Adjustments of Adoption Assistance

(1) The Department may request updated information from the pre-adoptive family or the adoptive family when the Department becomes aware of a change in circumstances that may make the pre-adoptive family or the adoptive family ineligible for adoption assistance or eligible for adoption assistance in a different amount.

(2) When the adoptive family divorces, legally separates, or is party to a judicially recognized modification of custody, the Department may request updated information, including financial information, to reflect the change in family circumstances.

(3) When there is an across-the-board reduction or increase in the base rate payment or level of care payment, the Department, following a case-by-case review, based on the specific needs of the child or young adult and without concurrence of the adoptive family, may adjust the adoption assistance payment to an amount that does not exceed the new foster care payment the child or young adult would receive if currently in foster care. In the case of a reduction, only those payments that exceed the amount the child or young adult would be eligible for if currently in foster care would be reduced, and the reduction would only be to the amount that the child or young adult would be eligible to receive if currently in foster care.

(4) The Department, with the concurrence of the pre-adoptive family or adoptive family, may adjust or suspend the adoption assistance payment to reflect a change in the pre-adoptive family or adoptive family's circumstances or expenses on behalf of the child or young adult.

(5) The Department will terminate the adoption assistance agreement upon ten days written notice to the pre-adoptive family or adoptive family when it becomes known to the Department that the pre-adoptive family or adoptive family is no longer providing any support to the child or young adult or is no longer legally responsible for the support of the child or young adult, including under the following circumstances:

(a) When the parental rights of the adoptive family have been terminated or relinquished.

(b) When the child becomes an emancipated minor.

(c) When the child or young adult:

(A) Marries.

(B) Enlists in the military.

(C) Dies.

ADMINISTRATIVE RULES

(d) When the young adult no longer meets the eligibility requirements in 413-130-0055.

(6) The adoption assistance agreement automatically expires when the child reaches the age of 18 or, when an extension has been granted under OAR 413-130-0055, no later than when the young adult reaches the age of 21 as documented in the adoption assistance agreement.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: CWP 16-2003, f. 1-21-03, cert. ef. 2-1-03; CWP 38-2003(Temp), f. & cert. ef. 11-19-03 thru 5-17-04; CWP 4-2004, f. & cert. ef. 4-1-04; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11

413-130-0130

Post Judgment of Adoption Applications for Adoption Assistance

(1) An adoptive family asking to apply for adoption assistance after the judgment of adoption must submit a written request to the Adoption Assistance and Guardianship Assistance Unit, 500 Summer Street NE, E-71, Salem, Oregon 97301, based on one or more of the following extenuating circumstances:

(a) Relevant facts regarding the child, the biological family, or background of the child were known, but not shared with the adoptive family prior to legal finalization of the adoption;

(b) Adoption assistance was denied based on an assessment of the financial need of the adoptive family;

(c) The Department determined the child was ineligible for adoption assistance, but information becomes known which indicates a review of the determination is appropriate; or

(d) The Department failed to advise the adoptive family of a special needs child of the availability of adoption assistance.

(2) Upon receipt of the written request, the Department must determine, within 30 days, whether the child meets Title IV E eligibility requirements.

(3) The Department or adoptive family may seek historic information regarding the child to determine eligibility for adoption assistance through a:

(a) Request to the adoption registry as provided by ORS 109.425 through 109.507; or

(b) Court order to review the sealed adoption file.

(4) When a child is Title IV-E eligible, a decision is made through a contested case hearing on whether the adoptive family may apply for adoption assistance after the judgment of adoption based on the extenuating circumstances in section (1) of this rule:

(a) The Adoption Assistance and Guardianship Assistance Coordinator must write a summary of the situation and submit a hearing referral and supporting documentation to the Office of Administrative Hearings within 45 days of receipt of the request in section (1) of this rule.

(b) An adoptive family has the burden of proof to show that extenuating circumstances exist. The Department may provide corroborating facts to both the adoptive family and the administrative law judge.

(c) The contested case hearing is conducted under Child Welfare Policy I-A.5.2, "Contested Case Hearings", OAR 413-010-0500 to 413-010-0535.

(5) When a child does not meet Title IV E eligibility requirements, the Adoption Program Manager determines if extenuating circumstances under section (1) of this rule exist that justify accepting an adoption assistance application from the adoptive family.

(a) The Adoption Assistance and Guardianship Assistance Coordinator must prepare information for review by the Adoption Program Manager including information submitted by both the adoptive family and Department records.

(b) A written finding will be sent to the adoptive family within 60 days of the receipt of the request for review.

(c) When the Adoption Program Manager finds that extenuating circumstances do not exist, the adoptive family may request a contested case hearing under Child Welfare Policy I-A.5.2, "Contested Case Hearings", OAR 413-010-0500 to 413-010-0535.

(A) The administrative law judge in the contested case hearing reviews whether the adoptive family may submit an application for adoption assistance.

(B) The approval of the adoption assistance application is a separate determination made by the Department.

(6) When the decision, through a contested case hearing or Adoption Program Manager review, is that the adoptive family is eligible to apply for adoption assistance on behalf of the child, an adoption assistance application may be signed, effective the date of the written request described in

section (1) of this rule. The process for application in OAR 413-130-0050 and negotiation in 413-130-0070 apply.

Stat. Auth.: ORS 418.005, 418.340

Stats. Implemented: ORS 418.005, 418.330, 418.335 & 418.340

Hist.: SCF 2-1995, f. & cert. ef. 8-21-95; SCF 6-1995, f. 12-22-95, cert. ef. 12-29-95; SOSCF 8-1999, f. & cert. ef. 5-17-99; SOSCF 7-2002, f. 3-28-02, cert. ef. 4-1-02; CWP 16-2008, f. & cert. ef. 7-1-08; CWP 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; CWP 22-2009, f. & cert. ef. 12-29-09; CWP 16-2011(Temp), f. & cert. ef. 6-30-11 thru 12-27-11; CWP 25-2011(Temp), f. 9-30-11, & cert. ef. 10-1-11 thru 12-27-11

Rule Caption: Changing OARs affecting Child Welfare programs.
Adm. Order No.: CWP 26-2011(Temp)

Filed with Sec. of State: 10-5-2011

Certified to be Effective: 10-6-11 thru 4-3-12

Notice Publication Date:

Rules Amended: 413-010-0705, 413-010-0710, 413-010-0712, 413-010-0720, 413-010-0722, 413-010-0723, 413-010-0732, 413-010-0735, 413-010-0738, 413-010-0740, 413-010-0743, 413-010-0745, 413-010-0746, 413-010-0748, 413-010-0750

Subject: The Department is amending OAR 413-010-0705, 413-010-0710, 413-010-0712, 413-010-0720, 413-010-0722, 413-010-0723, 413-010-0732, 413-010-0735, 413-010-0738, 413-010-0740, 413-010-0743, 413-010-0745, 413-010-0746, 413-010-0748, and 413-010-0750 about notice and review of founded dispositions in child protective services to transfer the decision making authority of founded disposition review committees from the committee to a designated individual. These rules are also being amended to assure their accuracy, integrity, internal consistency, and to remove outdated language.

Rules Coordinator: Annette Tesch—(503) 945-6067

413-010-0705

Definitions

For the purposes of OAR 413-010-0700 to 413-010-0750, the following terms have these meanings:

(1) A "Local Child Welfare Office CPS Founded Disposition Review" is a process wherein a Local Child Welfare Office CPS Founded Disposition Review Committee reviews a founded disposition, makes recommendations to a Child Welfare Program Manager or designee, and the Child Welfare Program Manager or designee makes a decision to uphold, overturn, or change the abuse type of the founded disposition.

(2) A "Local Child Welfare Office Review Committee" is a group of three child welfare employees. One of the members must be a Manager and one must be staff trained in CPS assessment and dispositions. No one may serve on the Local Child Welfare Office Review Committee in the review of an assessment in which he or she was involved. Further requirements of the Local Child Welfare Office Review Committee are found in OAR 413-010-0735 and 413-010-0738.

(3) A "Central Office CPS Founded Disposition Review" is a process wherein a Central Office CPS Founded Disposition Review Committee reviews a founded disposition, makes recommendations to the CPS Program Manager or designee, and the CPS Program Manager or designee makes a decision to uphold, overturn, or change the abuse type of the founded disposition.

(4) A "Central Office CPS Founded Disposition Review Committee" is a group of three child welfare employees, none of whom was involved in either the Local Child Welfare Office Review or in the assessment that resulted in the CPS Founded Disposition under review. Further requirements of the Central Office CPS Founded Disposition Review Committee are found in OAR 413-010-0745 and 413-010-0746. The three child welfare staff on the committee must include:

(a) Either the Assistant Director for the Department's child welfare programs or a designee;

(b) Either the Manager for Child Protective Services or a designee; and

(c) A CPS consultant.

(5) "CPS" refers to the Department's Child Protective Services program, that is responsible for, among other duties, the assessment of alleged child abuse.

(6) "CPS Disposition" is a determination that completes a CPS assessment. Dispositions are discussed in OAR 413-015-1000 and include founded, unfounded, and unable to determine.

(a) "Founded disposition" means there is reasonable cause to believe that child abuse occurred;

ADMINISTRATIVE RULES

(b) “Unfounded disposition” means no evidence of child abuse was identified or disclosed; or

(c) “Unable to Determine” means there are some indications of child abuse, but there is insufficient data to conclude that there is reasonable cause to believe that child abuse or neglect occurred.

(7) “CPS Founded Disposition” means that the Department determined, after completing a CPS assessment, that there is reasonable cause to believe that child abuse occurred.

(8) “Department” means the Department of Human Services.

(9) “Juvenile” means a person younger than the age of 18 years who is identified as a perpetrator. OAR 413-010-0716 provides specific requirements regarding application of these rules to juveniles.

(10) “Legal finding” means a court or administrative finding, judgment, order, stipulation, plea, or verdict that determines who was responsible for the child abuse that is the subject of a CPS Founded Disposition.

(11) “Legal proceeding” means a court or administrative proceeding that may result in a legal finding.

(12) “Local Child Welfare office” means the Department’s child welfare office that conducted the CPS assessment that resulted in the CPS Founded Disposition subject to review under these rules.

(13) “Perpetrator” means the person the Department has reasonable cause to believe is responsible for child abuse in a CPS Founded Disposition.

(14) “Person Requesting Review” or “Requestor” means a perpetrator, his or her attorney, or, if a juvenile is identified as the perpetrator, the person who may request a review on behalf of the juvenile, who requests a review of the founded disposition because they believe the founded disposition is in error.

(15) “Request for a Central Office CPS Founded Disposition Review” means a written request for a Central Office CPS Founded Disposition Review from a requestor who has received a Local Child Welfare Office CPS Founded Disposition Review Decision (Form CF 314) to retain a founded disposition. The specific requirements for a request for review by Central Office are described in OAR 413-010-0740.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; SOSCF 9-2001, f. 6-29-01, cert. ef. 7-1-01; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12

413-010-0710

Required Forms

(1) Several Department forms are referred to by form number in these rules. The forms are available at the Department’s website. When use of a form is required by these rules, the current version of the form must be used.

(2) To be effective, a form required by these rules must be complete.

(3) The following forms are required to be used by these rules:

(a) Form CF 313, “Notice of CPS Founded Disposition”.

(b) Form CF 314A, “Notice of Local Child Welfare Office CPS Founded Disposition Review Decision to Retain as Founded”.

(c) Form CF 314B, “Notice of Local Child Welfare Office CPS Founded Disposition Review Decision to Change Disposition”.

(d) Form CF 314C, “Notice of Local Child Welfare Office CPS Founded Disposition Review Decision to Change Abuse Type”.

(e) Form CF 315A, “Notice of Central Office CPS Founded Disposition Review Decision to Retain as Founded”.

(f) Form CF 315B, “Notice of Central Office CPS Founded Disposition Review Decision to Change Disposition”.

(g) Form CF 315C, “Notice of Central Office CPS Founded Disposition Review Decision to Change Abuse Type”.

(h) Form CF 316, “Notice of Waived Rights”.

(i) Form CF 317, “Notice of Legal Proceeding”.

(j) Form CF 318, “Notice of Legal Finding”.

(k) Form CF 319, “Notice of CPS Founded Disposition for an Employee”.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12

413-010-0712

Overview of the Procedures Required by These Rules

These rules regulate the following subjects:

(1) Applying Department employee policies if the person identified as responsible in a CPS Founded Disposition is an employee of the Department (see OAR 413-010-0714);

(2) Providing notice of a CPS Founded Disposition as a result of a CPS Disposition (see OAR 413-010-0715);

(3) Providing notice of a CPS Founded Disposition and other documents to juveniles (see OAR 413-010-0716);

(4) Inquiring about a review of a CPS Founded Disposition completed before August 4, 2000, (see OAR 413-010-0717);

(5) Inquiring about a review of a CPS Founded Disposition when a person believes they have not received a notice (see OAR 413-010-0718);

(6) Local Child Welfare office responsibilities when a person inquires about a review of a CPS founded disposition (see OAR 413-010-0719);

(7) Information included in the notice of CPS Founded Disposition (Form CF 313) (see OAR 413-010-0720);

(8) Making a Request for a review of a CPS Founded Disposition (see OAR 413-010-0721);

(9) Determining when legal findings preclude a right to request a review and providing notice of legal proceeding (see OAR 413-010-0722);

(10) Providing a notice of legal finding (see OAR 413-010-0723);

(11) Local Child Welfare office responsibilities related to notices and reviews (see OAR 413-010-0732);

(12) Local Child Welfare office reviews of CPS founded dispositions (see OAR 413-010-0735);

(13) Providing a notice of the local Child Welfare office’s decision (see OAR 413-010-0738);

(14) Requesting a Central Office review of CPS Founded Disposition (see OAR 413-010-0740);

(15) Local Child Welfare office responsibilities in the case of a request for Central Office review (see OAR 413-010-0743);

(16) Central Office review (see OAR 413-010-0745);

(17) Providing a notice of Central Office’s decisions (see OAR 413-010-0746);

(18) Discretion of CPS Program Manager to review CPS founded dispositions (see OAR 413 010 0748); and

(19) Revising CPS founded dispositions in the Department’s records (see OAR 413 010 0750).

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12

413-010-0720

Information Included in the “Notice of a CPS Founded Disposition” (Form CF 313)

The “Notice of a CPS Founded Disposition” (Form CF 313) must include the following:

(1) The case and sequence numbers assigned to the CPS assessment that resulted in the CPS Founded Disposition;

(2) The full name of the individual who has been identified as responsible for the child abuse as it is recorded in the case record;

(3) A statement that the CPS disposition was recorded as “founded” including a description of the type of child abuse or neglect identified;

(4) A description of the CPS assessment that briefly explains how the CPS founded disposition was determined;

(5) A statement about the right of the individual to submit a request for review of the CPS founded disposition;

(6) Instructions for making a request for review, including the requirement that the requestor provide a full explanation why the requestor believes the CPS founded disposition is in error;

(7) A statement that the Department will not review a CPS founded disposition when a legal proceeding is pending and that the person requesting a review maintains the right to request a review for 30 days following resolution of the pending legal proceeding unless the proceeding results in a legal finding that is consistent with the CPS founded disposition.

(8) A statement that the person waives the right to request a review if the request for review is not received by the local Child Welfare office within 30 calendar days from the date of receipt of the “Notice of CPS Founded Disposition,” as documented by a returned receipt.

(9) A statement that the Local Child Welfare Office will consider relevant documentary information contained in the Department’s case file, including the CPS assessment and disposition, screening information, assessment information and narrative, related police reports, medical reports, and information submitted with the request for review by the person requesting review.

ADMINISTRATIVE RULES

(10) A statement that the review process will not include re-interviewing the victim; interviewing or meeting with the person requesting a review, with others associated with the requestor, or with others mentioned in the assessment; or conducting a field assessment of the allegation of child abuse; and

(11) A statement that the local Child Welfare office will send the requestor a "Notice of Local Child Welfare Office CPS Founded Disposition Review Decision" (Form CF 314) within 30 days of receiving a request for review.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12

413-010-0722

Determining When Legal Findings Preclude a Right to Request a Review and Providing Notice of Legal Proceeding (Form CF 317)

(1) The Department does not conduct a review when there is a legal finding consistent with the CPS founded disposition. In that case, a "Notice of Legal Finding" must be provided as provided in OAR 413-010-0723(1).

(2)(a) If the Department is aware that a legal proceeding is pending, the Local Child Welfare Office will not review the disposition until the legal proceeding is completed.

(b) If the Department is aware that a legal proceeding is pending, the local Child Welfare office must prepare and deliver a notice of legal proceedings (CF 317), within 30 days after receipt of a request for review. This informs the requestor that the Department will not review the disposition until the legal proceeding is completed and will take no further action on the request.

(c) The requestor may, at the conclusion of the legal proceeding, again submit a request for review within 30 days.

(d) The requestor retains the right to request a review for 30 days following resolution of the legal proceeding.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12

413-010-0723

Providing a Notice of Legal Finding (Form CF 316)

If a requestor inquires about a review of a CPS Founded Disposition and there is a legal finding consistent with the CPS Founded Disposition, the Local Child Welfare office staff must prepare and deliver a "Notice of Legal Finding" (Form CF 318) that informs the requestor that the Department will not review the disposition.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12

413-010-0732

Local Child Welfare Office Responsibilities Related to Notices and Reviews

(1) If an individual asks to review Department records for the purpose of reviewing a CPS Founded Disposition, state and federal confidentiality law, including OAR 413-010-0000 to 413-010-0075 and 413-350-0000 to 413-350-0090 govern the inspection and copying of records.

(2) The local Child Welfare office must maintain records to demonstrate the following, when applicable:

(a) Whether the Department delivered a "Notice of CPS Founded Disposition;"

(b) Whether or not the Notice of CPS Founded Disposition was received by the addressee, as evidenced by a returned receipt documenting that the notice was received, refused, or not received within the 15-day period provided by the United States Postal Service;

(c) The date a Request for a local Child Welfare office review was received by the local Child Welfare office;

(d) If a review is conducted by a Local Child Welfare Office, whether the "Notice of the Local Child Welfare Office CPS Founded Disposition Review Decision" (Form CF 314) was received by the addressee as evidenced by a returned receipt documenting that the notice was received, refused, or not received within the 15-day period as provided by the United States Postal Service; and

(e) The date a request for review by Central Office was received by the Department.

(3) The Child Welfare supervisor in each local Child Welfare office or designee must maintain a comprehensive record of the reviews completed by the Local Child Welfare Office on CPS founded dispositions arising out of the local Child Welfare office to which the supervisor is assigned. The record must include the date, case number, sequence number, and the committee decision for each review completed by the Local Child Welfare Office.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12

413-010-0735

Local Child Welfare Office Review CPS Founded Dispositions

(1) The Local Child Welfare Office must conduct a review and issue a "Notice of Local Child Welfare Office CPS Founded Disposition Review Decision" (Form CF 314) to the requestor within 30 days from the date the local Child Welfare office receives a request for review of a CPS Founded Disposition.

(2) If the request for review was delayed because a legal proceeding was pending as provided in OAR 413-010-0720(6), or the proceeding has been completed without a legal finding that would preclude a review, the review must occur within 30 days from the date the local Child Welfare office receives a new request for review.

(3) The Local Child Welfare Office Review must occur as follows:

(a) The review may not include re-interviewing the victim; interviewing or meeting with the person requesting a review, with others associated with the requestor, or with others mentioned in the assessment; or conducting a field assessment of the allegation of child abuse or neglect.

(b) The review must be based on current child welfare practice and definitions of child abuse. Procedural rules in place at the time the CPS assessment was completed also must be considered.

(c) The following must be considered:

(A) Relevant documentary information contained in the Department's child welfare case file including the CPS assessment and disposition, screening information, assessment information and narrative, related police reports, medical reports, and information provided by the person requesting review;

(B) Whether there is reasonable cause to believe that child abuse occurred;

(C) Whether there is reasonable cause to believe that the person requesting review is responsible for the child abuse; and

(D) Whether there is reasonable cause to believe that the type of abuse for which the CPS assessment was founded is correctly identified in the assessment.

(d) The Local Child Welfare Office CPS Founded Disposition Review Committee must:

(A) Make recommendations as follows:

(i) Retain the founded disposition;

(ii) Change the disposition to unfounded or unable to determine;

(iii) Change the type of abuse (see OAR 413-015-1000(3) for a list of the types of abuse) for which the CPS disposition was founded.

(B) When the Review Committee members all agree, the committee must make one recommendation.

(C) When the Review Committee members cannot reach agreement, each member must make his or her respective recommendation.

(D) At the conclusion of the Review Committee, the committee facilitator must document the committee's recommendation or recommendations and the basis for the recommendation or recommendations.

(e) The Child Welfare Program Manager or designee may:

(A) Observe the Review Committee; and

(B) Ask questions of the committee members.

(f) The Child Welfare Program Manager or designee must:

(A) Review the committee's recommendation or recommendations and the basis for the recommendation or recommendations, including but not limited to the considerations listed in subsection (3)(c) above.

(B) Make one of the following decisions:

(i) Retain the founded disposition;

(ii) Change the disposition to unfounded or unable to determine;

(iii) Change the type of abuse (see OAR 413-015-1000(3) for a list of the types of abuse) for which the CPS disposition was founded.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

ADMINISTRATIVE RULES

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12

413-010-0738

Notice of Local Child Welfare Office CPS Founded Disposition Review Decision

(1) The Child Welfare supervisor or designee must prepare a "Notice of Local Child Welfare Office CPS Founded Disposition Review Decision" (Form CF 314) as described in OAR 413-010-0738.

(2) The "Notice of Local Child Welfare Office CPS Founded Disposition Review Decision" (Form CF 314) must include the following:

(a) Whether there is reasonable cause to believe that child abuse occurred;

(b) Whether there is reasonable cause to believe the person requesting the review was responsible for the child abuse;

(c) The decision resulting from the Local Child Welfare Office Review;

(d) If the CPS Founded Disposition is changed, whether it will be changed to "unable to determine" or to "unfounded;"

(e) If the Local Child Welfare Office Review results in a decision that the CPS Founded Disposition should be retained but that the type of abuse for which the disposition was founded should be changed, the type of abuse that should be founded and the reason for this change.

(f) If the CPS Founded Disposition is retained but the type of abuse is changed, notice that the person requesting the review has the right to request a new Local Child Welfare Office Review of the change;

(g) A summary of the information and reasoning of the Local Child Welfare Office Review upon which the decisions were based;

(h) If a CPS Founded Disposition is determined to be "unable to determine" or "unfounded," notice that the change will be noted in the CPS assessment narrative;

(i) If the founded disposition is retained, a statement about how to request a review by Central Office, as described in OAR 413-010-0740.

(3) The Local Child Welfare Office must place the request for review and a copy of the "Local Child Welfare Office CPS Founded Disposition Review Decision" (Form CF 314) in the child welfare case file. A change may not be made in the existing written child welfare case file except to add the determinations.

(4) The Department must send the "Local Child Welfare Office CPS Founded Disposition Review Decision" (Form CF 314) by certified mail, restricted delivery, with a return receipt requested, to the person requesting review within 30 days of the request for review.

(5) When as a result of a Local Child Welfare Office CPS Founded Disposition Review, a decision is made to change a CPS Founded Disposition, the Child Welfare supervisor or designee must assure the revised disposition is reflected in the Department's information system. The Child Welfare supervisor or designee forwards the necessary information (Form CF 322) to the Department's Office of Information Services (OIS) Service Desk.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12

413-010-0740

Requesting a Central Office Review

(1) A person entitled to the notice described in OAR 413-010-0738 may, within 30 days of receipt of the notice, request a review by Central Office.

(2) A person requesting a Central Office Review of a CPS Founded Disposition may use a copy of the request for Local Child Welfare Office Review or prepare a new request for Central Office Review, following the requirements outlined in OAR 413-010-0721.

(3) A person requesting a Central Office Review of a CPS Founded Disposition must deliver the request to the local Child Welfare office within 30 days of the date the "Notice of Local Child Welfare Office CPS Founded Disposition Review Decision" (Form CF 314) was received by the requestor, as evidenced on a United States Postal Service return receipt.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12

413-010-0743

Local Office Responsibilities in a Request for Central Office CPS Founded Disposition Review

Within 10 calendar days after receiving a request for Central Office CPS Founded Disposition Review, the local Child Welfare office must forward the following documents to the Department's Central Office CPS Program Unit:

(1) The request for review; and

(2) A copy of the child welfare case records pertinent to the CPS Founded Disposition, including the information reviewed as part of the Local Child Welfare Office Review.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12

413-010-0745

Central Office Review of CPS Founded Dispositions

(1) Central Office must conduct a review and issue a "Notice of Central Office CPS Founded Disposition Review Decision" (Form CF 315) within 60 days from the date the CPS Program Unit receives a request for a review.

(2) The Central Office Review must occur as follows:

(a) The CPS program office schedules a review of the CPS founded disposition when a written request for review and case file information is received from the local Child Welfare office.

(b) The review may not include re-interviewing the victim; interviewing or meeting with the person requesting a review, with others associated with the requestor, or with others mentioned in the assessment; or conducting a field assessment of the allegation of child abuse or neglect.

(c) The review must be based on current child welfare practice and definitions of child abuse and neglect. Procedural rules in place at the time the CPS assessment was completed also must be considered.

(d) The following must be considered:

(A) Relevant documentary information contained in the Department's child welfare case file, including the CPS assessment and disposition, screening information, assessment information and narrative, related police reports, medical reports, and information provided by the person requesting review.

(B) Whether there is reasonable cause to believe that child abuse or neglect occurred;

(C) Whether there is reasonable cause to believe that the person requesting review is responsible for the child abuse or neglect; and

(D) Whether there is reasonable cause to believe that the type of abuse is correctly identified in the assessment.

(e) The Central Office CPS Founded Disposition Review Committee must:

(A) Make recommendations as follows:

(i) Retain the founded disposition;

(ii) Change the disposition to unfounded or unable to determine;

(iii) Change the type of abuse (see OAR 413-015-1000(3) for a list of the types of abuse) for which the CPS disposition was founded.

(B) When the Review Committee members all agree, the committee must make one recommendation.

(C) When the Review Committee members cannot reach agreement, each member must make his or her respective recommendation.

(D) At the conclusion of the Review Committee, the committee facilitator must document the committee's recommendation or recommendations and the basis for the recommendation or recommendations.

(f) The Central Office CPS Program Manager or designee may:

(A) Observe the Review Committee; and

(B) Ask questions of the committee members.

(g) The Central Office CPS Program Manager or designee must:

(A) Review the committee's recommendation or recommendations and the basis for the recommendation or recommendations, including but not limited to the considerations listed in subsection (d) of this section.

(B) Make one of the following decisions:

(i) Retain the founded disposition;

(ii) Change the disposition to unfounded or unable to determine;

(iii) Change the type of abuse (see OAR 413-015-1000(3) for a list of the types of abuse) for which the CPS disposition was founded.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12

ADMINISTRATIVE RULES

413-010-0746

Notice of Central Office CPS Founded Disposition Review Decision

(1) Within 60 calendar days of the date the Central Office Review Committee receives the request for review from the local Child Welfare office, a CPS Program Coordinator or designee prepares and sends to the requestor by certified mail, restricted delivery, with a return receipt requested, a "Notice of Central Office CPS Founded Disposition Review Decision" (Form CF 315) that includes the following information:

(a) Whether there is reasonable cause to believe that child abuse occurred;

(b) Whether there is reasonable cause to believe that the person requesting review was responsible for the child abuse;

(c) The decisions resulting from the Central Office CPS Founded Disposition Review;

(d) If the CPS Founded Disposition is changed, whether the change will be to "unable to determine" or to "unfounded disposition;"

(e) If the Central Office CPS Founded Disposition Review results in a decision that the CPS Founded Disposition should be retained but the type of abuse for which the disposition was founded should be changed, the new type of abuse and the reason for this change;

(f) If the CPS Founded Disposition is retained but the type of abuse or neglect is changed, notice that the person requesting the review has the right to request a new Central Office CPS Founded Disposition Review based on the change;

(g) A summary of the information used as part of the Central Office CPS Founded Disposition Review and the reasoning for reaching the decision; and

(h) If a CPS Founded Disposition is changed to "unable to determine" or "unfounded," notice that the change will be made to the CPS assessment narrative.

(2) A "Notice of Central Office CPS Founded Disposition Review Decision" (Form CF 315) is sent to the person requesting review, the local Child Welfare office for filing in the child welfare case record, the CPS worker, and the supervisor involved in the initial CPS assessment and determination of disposition.

(3) The CPS Program Office maintains a comprehensive record of the reviews of CPS founded dispositions conducted by Central Office. The record includes the date of the review, case number, sequence number, a copy of the materials used in the review and the decision that resulted from the review for each review conducted by Central Office.

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

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12

413-010-0748

Review Initiated by the Department

The CPS Program Manager may direct that either the Local Child Welfare Office or Central Office review a founded disposition if there is good cause to do so, such as a determination that there is a legal finding that contradicts the CPS Founded Disposition.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 16-2004, f. & cert. ef. 10-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12

413-010-0750

Revising Founded Child Abuse Dispositions in the Department's Electronic Information System

When as a result of a Central Office Review, a decision is made to change a CPS Founded Disposition, the CPS Program Coordinator or designee forwards the necessary information (Form CF 322) to the Department's Office of Information Services (OIS) Service Desk or other appropriate organizational unit to make changes in the Department's Electronic Information System.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 418.005

Hist.: SOSCF 18-2000, f. & cert. ef. 8-4-00; CWP 1-2003, f. & cert. ef. 1-7-03; CWP 45-2003, f. 12-31-03, cert. ef. 1-1-04; CWP 2-2005, f. & cert. ef. 2-1-05; CWP 26-2011(Temp), f. 10-5-11, cert. ef. 10-6-11 thru 4-3-12

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

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients.

Adm. Order No.: SSP 25-2011

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 10-1-11

Notice Publication Date: 5-1-2011

Rules Adopted: 461-115-0232, 461-190-0212

Rules Amended: 461-001-0000, 461-025-0310, 461-025-0371, 461-110-0370, 461-115-0071, 461-115-0140, 461-115-0450, 461-120-0510, 461-125-0170, 461-130-0310, 461-135-0070, 461-135-0570, 461-135-1110, 461-155-0190, 461-155-0610, 461-155-0660, 461-155-0680, 461-160-0420, 461-160-0430, 461-160-0620, 461-190-0199, 461-190-0211, 461-195-0501, 461-195-0521, 461-195-0541, 461-195-0621

Rules Repealed: 461-125-0170(T), 461-130-0310(T), 461-135-0070(T), 461-135-1110(T), 461-160-0620(T), 461-190-0199(T), 461-190-0211(T), 461-190-0212(T), 461-193-1190

Subject: OAR 461-001-0000 about defined terms used in rules about public assistance, medical assistance, supplemental nutrition assistance programs and OAR 461-115-0140 about the authorized representative or alternate payee in the Supplemental Nutrition Assistance Program are being amended to update and revise references to administrators and program managers.

OAR 461-025-0310 about hearing requests is being amended to clarify that a hearing request may be submitted for a claimant by an authorized representative or an attorney.

OAR 461-025-0371 about orders issued by the Office of Administrative Hearings (OAH) and the Department in contested cases is being amended to streamline the process the rule requires for varying the type of order the Department requests. This rule is also being amended to add the option of a proposed and final order as described in OAR 137-003-0645(4), to lengthen and clarify the timeline for submitting written exceptions to the Department, and to conform to current practices.

OAR 461-110-0370 about filing groups, 461-155-0190 about income and payment standards, and 461-160-0430 about income deductions are being amended to implement the annual increase in the standards for the SNAP Program. OAR 461-160-0420 is being amended to reflect the annual change in the Standard Utility Allowances. Each year Oregon surveys utility companies and the general public about increases in utility costs. The utility allowances are derived from these surveys and approved by the Food and Nutrition Service in the SNAP Program State Plan. There are four utility allowances. The full utility allowance (FUA) is for those households that have heating and cooling costs. The limited utility allowance (LUA) is for those households with more than one non-heating/cooling utility cost. The individual utility allowance (IUA) is for those households with a single non-heat cost. The single utility allowance (TUA) is for those households with only a telephone cost. These rules are also being amended to clarify when amounts listed are monthly amounts.

OAR 461-115-0071 related to the General Assistance (GA) and General Assistance Medical (GAM) Programs (currently not funded), Oregon Supplemental Income Program Medical (OSIPM, medical assistance for seniors and persons with disabilities) and Qualified Medicare Beneficiary (QMB) programs is being amended to no longer require that both adults must sign the application for benefits when married spouses live together. This rule is also being amended to remove references to the Oregon Supplemental Income Program (OSIP, cash assistance to seniors and persons with disabilities).

OAR 461-115-0232 is being adopted to allow the Department to close cases that do not comply with required interview during month

ADMINISTRATIVE RULES

12 of their 24 month certification. This rule will only affect households that have been approved for 24 months.

OAR 461-115-0450 is being amended to allow households with all adult members who are elderly or have disability, and in which there is no earned income to be certified for 24 months for the Supplemental Nutrition Assistance Program (SNAP), as permitted by The Food and Nutrition Act of 2008.

OAR 461-120-0510 about age requirements for clients to receive benefits in various programs is being amended for the Oregon Supplemental Income Program-Aid to the Disabled program (OSIP-AD, cash assistance for persons with disabilities) to change the age requirement — from 18 years or older and under the age of 65 — to under the age of 65. This rule is also being amended to add cross-references to defined terms.

OAR 461-125-0170 about when deprivation exists based on the unemployment or underemployment of a primary wage earner in the Temporary Assistance for Needy Families (TANF) and Medical Assistance Assumed programs, in response to recent legislation (House Bill 2049, 2011), is being amended to revise the criteria for determining deprivation for a primary wage earner separated from his or her most recent employment. This rule is also being amended to make permanent temporary rule changes adopted on July 1, 2011.

OAR 461-130-0310 about how the Department assigns clients to one or more participation classifications in the Post-Temporary Assistance for Needy Families (Post-TANF), Pre-Temporary Assistance for Needy Families (Pre-TANF), Refugee (REF), Supplemental Nutrition Assistance Program (SNAP), and Temporary Assistance for Needy Families (TANF) programs is being amended to expand the list of which Post-TANF, Pre-TANF, or TANF program clients are exempt from employment program participation and potential disqualification from program benefits. This rule is also being amended to make permanent the temporary rule changes adopted on July 1, 2011.

OAR 461-135-0070 about the specific eligibility requirements in the Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF) and Temporary Assistance for Needy Families (TANF) programs is being amended in response to recent legislation (House Bill 2049 (2011)) to revise the definition of “most recent employment”. This rule also is being amended to restate when a need group (the individuals whose basic and special needs are used in determining eligibility and benefit level) is not eligible for TANF program benefits due to a caretaker relative in the need group being separated from his or her most recent employment. This rule is also being amended to make permanent the temporary rule changes adopted on July 1, 2011.

OAR 461-135-0570 is being amended to allow individuals awarded state or federal work-study to be considered eligible students in the SNAP program when it is found the school they are attending does not have any work-study jobs available. This rule is also being amended to allow individuals receiving Unemployment Compensation through the Employment Department or participating in any of the following to be considered to meet the student criteria: The Trade Readjustment Allowance (TRA) program serving displaced workers under the Trade Act; The Training Unemployment Insurance (TUI) program; The Self-Employment Assistance (SEA) program; The Apprenticeship Program (APT); regular UC benefits through the Employment Department (ED).

OAR 461-135-1110 about when a student enrolled in higher education is eligible or ineligible for the Oregon Health Plan - Adults program (OHP-OPU, which provides coverage for adults who qualify under the 100 percent income standard) is being amended in response to a recent change in federal guidelines to revise the definition for the term “meets the requirements for a Pell grant” and update the school years that apply. This rule also needs to be amend-

ed to make permanent the temporary rule amendment adopted on July 1, 2011.

OAR 461-155-0610 about special needs payments for moving costs made to certain General Assistance (GA is currently not funded), Oregon Supplemental Income Program (OSIP, assistance to seniors and people with disabilities) and Oregon Supplemental Income Program Medical (OSIPM) program clients is being amended to clarify that the client must be the age of 18 or older.

OAR 461-155-0660 about shelter payments made to certain Oregon Supplemental Income Program (OSIP, assistance to seniors and people with disabilities) and Oregon Supplemental Income Program Medical (OSIPM) program clients is being amended to clarify that the client must be the age of 18 or older.

OAR 461-155-0680 about telephone allowance payments made to certain Oregon Supplemental Income Program Medical (OSIPM, assistance to seniors and people with disabilities) program clients is being amended to clarify that the client must be the age of 18 or older.

OAR 461-160-0620 about the income deductions allowed in and the calculation of an Oregon Supplemental Income Program Medical (OSIPM) client’s liability when the client is receiving long-term care or waived services is being amended to reflect the federal changes effective July 1, 2011 in the amounts used when calculating the maintenance needs allowance and the dependent income allowance deducted from the income of an institutionalized spouse. This rule is also being amended to make permanent a temporary rule change adopted July 1, 2011.

OAR 461-190-0199 about the operation of and the eligibility, selection, and participation requirements for the Parents as Scholars (PAS) component of the Job Opportunity and Basic Skills (JOBS) program, in response to recent legislation (House Bill 2049, 2011), is being amended to state which clients, effective July 1, 2011, may participate in PAS and how the Department manages applications for PAS received after June 30, 2011. This rule is also being amended to make permanent the temporary rule amendment adopted on July 1, 2011.

OAR 461-190-0211 about case plan activities and standards for support service payments in the JOBS, Post-TANF, Pre-TANF, REF, SFPSS, TA-DVS, and TANF programs is being amended to set limits to who can participate in a case plan activity, identify available activities and support services for those activities, describe how the Department determines employability in order to place participants into appropriate activities and support services, describe the activities that qualify for support services and the amount of support services available. This rule sets up a more limited JOBS program, consistent with budget constraints, following earlier Department actions that closed most activities and support services set up under earlier eligibility criteria. This rule is also being amended to make permanent the changes adopted by temporary rule on July 1, 2011.

OAR 461-190-0212 is being adopted to indicate which Job Opportunity and Basic Skills (JOBS) program activities and services ended June 30, 2011. This rule is also being adopted to state that JOBS program support service payments received by the client to assist in participation in one or more of the identified activities or services ended June 30, 2011. This program reduction affected clients who are participating in the JOBS program while receiving Pre-TANF, TANF, Post-TANF, Refugee, SFPSS, or TA-DVS program benefits. Without this new rule, the Department would fully deplete resources available for the JOBS program, and be unable to set up a more limited program consistent with restricted funding. This rule is also being adopted to make permanent the temporary rule adopted on June 2, 2011 and subsequently amended on June 27, 2011.

OAR 461-193-1190 about refugee project noncooperation is being repealed. The Refugee Case Service Project (RCSP) has both Refugee Program (REF) and Temporary Assistance for Needy Families (TANF) participants. REF and TANF noncooperation and job

ADMINISTRATIVE RULES

discharge provisions are currently found in OAR Chapter 461 Division 130.

OAR 461-195-0501 about how the Department defines and categorizes overpayments (benefits paid to a client in error, that the Department generally attempts to recover from the client) for programs administered under chapters 410, 411, and 461 of the Oregon Administrative Rules is being amended in response to an Oregon Legislature Emergency Board directive (September 23, 2010) to expand what constitutes a child care overpayment and a client error overpayment.

OAR 461-195-0521 is being amended to correctly state in the Temporary Assistance to Needy Families (TANF) program the Department of Justice (DOJ) retains support. The current rule states this is done in the Department of Human Services (DHS). The amendment is needed to correctly state the support is retained by DOJ for TANF programs. This rule is also being amended to specify the overpayment calculation when the client was not eligible for Breast and Cervical Cancer Medical (BCCM), Continuous Eligibility for OHP-CHP (CEC), Continuous Eligibility for Medicaid (CEM), Extended Medical Assistance (EXT), Medical Assistance Assumed (MAA), Medical Assistance to Families (MAF), Oregon Health Plan (OHP-CHP, OPC, OPP, OPU, OP6), Oregon Supplemental Income Program Medical (OSIPM), Qualified Medical Beneficiaries (QMB), Refugee Assistance Medical (REFM) or Medical Assistance to Children in Substitute or Adoptive Care (SAC) programs, but during the period in question was eligible for another program. The current rule does not specify the medical programs to which the calculation applies. The amendment is needed to clarify the calculation applies to the BCCM, CEC, CEM, EXT, MAA, MAF, OHP (CHP, OPC, OPP, OPU, OP6), OSIPM, QMB, REFM and SAC programs only.

OAR 461-195-0541 is being amended to conform to federal regulations at 7 CFR 273.18 which eliminated a sponsor of a non-citizen household member from liability to repay a Supplemental Nutrition Assistance Program (SNAP) overpayment. This amendment is needed to remove a sponsor of a non-citizen household member from the list of persons liable for repayment of a SNAP overpayment. The rule is also being amended to clarify that when the Department determines there is a client overpayment in the child care program, any other adult required to be in the filing group is also liable to repay the overpayment. This amendment is needed to state any other adult required to be in the filing group is liable for repayment of a client overpayment in the child care program.

OAR 461-195-0621 is being amended to clarify when an intentional program violation (IPV) is established against a person in the Temporary Assistance for Domestic Violence Survivors (TA-DVS) program. The current rule states an IPV is established against a person through a contested case hearing or a waiver of the right to hearing. The amendment is needed to state that an IPV is also established against a person in the TA-DVS program by a state or federal court.

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461-001-0000

Definitions for Chapter 461

Defined terms are often italicized throughout this chapter of rules. If a defined term is accompanied by a cross-reference to a rule defining the term, subsequent usages of that term in the same rule refer to the same definition cross-referenced earlier in the rule. In this chapter of rules, unless the context indicates otherwise:

(1) A reference to Division, Adult and Family Services Division (or AFS), Senior and Disabled Services Division (or SDS), or any other agency formerly part of the Department of Human Services shall be taken to mean the Department of Human Services (DHS), except that the rule in which reference occurs only regulates programs covered by chapter 461 of the Oregon Administrative Rules.

(2) "Address Confidentiality Program" (ACP) means a program of the Oregon Department of Justice, which provides a substitute mailing address and mail forwarding service for ACP participants who are victims of domestic violence, sexual assault, or stalking.

(3) "Adjusted income" means the amount determined by subtracting income deductions from countable income (see OAR 461-140-0010). Specific rules on the deductions are found in division 461-160.

(4) "Adoption assistance" means financial assistance provided to families adopting children with special needs. Adoption assistance may be state or federally funded. Federal adoption assistance is authorized by the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. No. 96-272, 94 Stat. 500 (1980)). State adoption assistance is authorized by ORS 418.330 to 418.335.

(5) "Assets" mean income and resources.

(6) "Basic decision notice" means a decision notice mailed no later than the date of action given in the notice.

(7) "Branch office" means any Department or AAA (Area Agency on Aging) office serving a program covered by this chapter of rules.

(8) "Budgeting" means the process of calculating the benefit level.

(9) "Budget month" means the calendar month from which nonfinancial and financial information is used to determine eligibility and benefit level for the payment month.

(10) "Cafeteria plan" means a written benefit plan offered by an employer in which:

(a) All participants are employees; and

(b) Participants can choose, cafeteria-style, from a menu of two or more cash or qualified benefits. In this context, qualified benefits are benefits other than cash that the Internal Revenue Services does not consider part of an employee's gross income. Qualified benefits include, but are not limited to:

(A) Accident and health plans (including medical plans, vision plans, dental plans, accident and disability insurance);

(B) Group term life insurance plans (up to \$50,000);

(C) Dependent care assistance plans; and

(D) Certain stock bonus plans under section 401(k)(2) of the Internal Revenue Code (but not 401(k)(1) plans).

(11) "Capital asset" means property that contributes toward earning self-employment income, including self-employment income from a microenterprise, either directly or indirectly. A capital asset generally has a useful life of over one year and a value, alone or in combination, of \$100 or more.

(12) "Caretaker" means an individual who is responsible for the care, control, and supervision of a child. The status of caretaker ends once the individual no longer exercises care, control, and supervision of the child for 30 days.

(13) "Caretaker relative" means a caretaker who meets the requirements of one of the following subsections:

(a) Is one of the following relatives of the dependent child:

(A) Any blood relative, including those of half-blood, and including first cousins, nephews, or nieces, and individuals of preceding generations as denoted by prefixes of grand, great, or great-great.

(B) Stepfather, stepmother, stepbrother, and stepsister.

(C) An individual who legally adopts the child and any individual related to the individual adopting the child, either naturally or through adoption.

(b) Is or was a spouse of an individual listed in subsection (a) of this section.

(c) Met the definition of caretaker relative under subsection (a) or (b) of this section before the child was adopted (notwithstanding the child's subsequent adoption).

(14) "Certification period" means the period for which a client is certified eligible for a program.

(15) "Child" includes natural, step, and adoptive children. The term child does not include an unborn.

(a) In the ERDC program, a child need not have a biological or legal relationship to the caretaker but must be in the care and custody of the caretaker, must meet the citizenship or alien status requirements of OAR 461-120-0110, and must be:

(A) Under the age of 18; or

(B) Under the age of 19 and in secondary school or vocational training at least half time.

(b) In the GA, GAM, and OSIP programs, a child is an individual under the age of 18.

(c) In the OHP program, child means an individual, including a minor parent, under the age of 19.

(d) In the OSIPM and QMB programs, child means an unmarried individual living with a parent who is:

(A) Under the age of 18; or

ADMINISTRATIVE RULES

(B) Under the age of 22 and attending full time secondary, post secondary or vocational-technical training designed to prepare the individual for employment.

(16) "Community based care" is any of the following:

(a) Adult foster care — Room and board and 24 hour care and services for the elderly or for disabled people 18 years of age or older. The care is contracted to be provided in a home for five or fewer clients.

(b) Assisted living facility — A program approach, within a physical structure, which provides or coordinates a range of services, available on a 24-hour basis, for support of resident independence in a residential setting.

(c) In-home Services — People living in their home receiving services determined necessary by the Department.

(d) Residential care facility — A facility that provides residential care in one or more buildings on contiguous property for six or more individuals who have physical disabilities or are socially dependent.

(e) Specialized living facility — Identifiable services designed to meet the needs of individuals in specific target groups which exist as the result of a problem, condition or dysfunction resulting from a physical disability or a behavioral disorder and require more than basic services of other established programs.

(f) Independent choices — In-Home Services program wherein the participant is given cash benefits to purchase self-directed personal assistance services or goods and services provided pursuant to a written service plan (see OAR 411-030-0020).

(17) "Continuing benefit decision notice" means a decision notice that informs the client of the right to continued benefits and is mailed in time to be received by the date benefits are, or would be, received.

(18) "Countable" means that an available asset (either income or a resource) is not excluded and may be considered by some programs to determine eligibility.

(19) "Custodial parents" mean parents who have physical custody of a child. Custodial parents may be receiving benefits as dependent children or as caretaker relatives for their own children.

(20) "Decision notice" means a written notice of a decision by the Department regarding an individual's eligibility for benefits in a program.

(21) "Department" means the Department of Human Services (DHS).

(22) "Dependent child", in the EXT, MAA, MAF, REF, REFM, and TANF programs, means the following:

(a) An individual who is not a caretaker relative of a child in the household, is unmarried or married but separated, and is under the age of 18, or 18 years of age and a full time student in secondary school or the equivalent level of vocational or technical training; or

(b) A minor parent whose parents have chosen to apply for benefits for the minor parent. This does not apply to a minor parent who is married and living with his or her spouse.

(23) "Disability" means:

(a) In the SNAP program, see OAR 461-001-0015.

(b) In the REF, SFPSS, TA-DVS, and TANF programs, for purposes other than determining eligibility:

(A) An individual with a physical or mental impairment that substantially limits the individual's ability to meet the requirements of the program; or

(B) An individual with a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or who is regarded as having such an impairment as defined by the Americans with Disabilities Act (42 USC 12102; 28 CFR 35.104).

(24) "Domestic violence" means the occurrence of one or more of the following acts between family members, intimate partners, or household members:

(a) Attempting to cause or intentionally, knowingly or recklessly causing physical injury or emotional, mental or verbal abuse.

(b) Intentionally, knowingly or recklessly placing another in fear of imminent serious physical injury.

(c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.

(d) Using coercive or controlling behavior.

(25) "Domestic violence shelters" are public or private nonprofit residential facilities providing services to victims of domestic violence. If the facility serves other people, a portion must be used solely for victims of domestic violence.

(26) ELA means Express Lane Agency: A public agency identified in the State Medicaid Plan or State CHIP Plan as an agency capable of making determinations regarding one or more eligibility requirements in the OHP-OPC, OHP-CHP, or HKC programs.

(27) ELE means Express Lane Eligibility: In the HKC, OHP-CHP, and OHP-OPC programs, the Department's option to rely on a determination, made within a reasonable period, by an ELA finding that a child satisfies the requirements for OHP-CHP or OHP-OPC program eligibility. ELE qualifies a child for medical assistance benefits based on a finding from another public agency, even when the other agency's eligibility methodology differs from that ordinarily used by the Department to determine HKC, OHP-CHP, and OHP-OPC program eligibility.

(28) "Electronic application" is an application electronically signed and submitted through the internet.

(29) "Eligibility" means the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits.

(30) "Equity value" means fair market value minus encumbrances.

(31) "Fair market value" means the amount an item is worth on the open market.

(32) "Family stability" in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means the characteristics of a family that support healthy child development, including parental mental health, drug and alcohol free environment, stable relationships, and a supportive, flexible, and nurturing home environment.

(33) "Family stability activity" in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means an action or set of actions taken by the client, as specified in a case plan, intended to promote the ability of one or both parents to achieve or maintain family stability.

(34) "Financial institution" means a bank, credit union, savings and loan association, investment trust, or other organization held out to the public as a place receiving funds for deposit, savings, checking, or investment.

(35) "HPN" means a health plan new/noncategorical client eligible under OHP-OPU.

(36) "Income producing property" means any real or personal property that generates income for the financial group. Examples of income producing property are:

(a) Livestock, poultry, and other animals.

(b) Farmland, rental homes (including a room or other space in the home or on the property of a member of the financial group), vacation homes, condominiums.

(37) "Initial month" of eligibility means any of the following:

(a) In all programs, the first month a benefit group (see OAR 461-110-0750) is eligible for a program benefit in Oregon after a period during which the group is not eligible.

(b) In all programs except the SNAP program, the first month a benefit group is eligible for a program benefit after there has been a break in the program benefit of at least one full calendar month. If benefits are suspended for one month, that is not considered a break.

(c) In the SNAP program:

(A) The first month for which the benefit group is certified following any period during which they were not certified to participate, except for migrant and seasonal farm workers (see OAR 461-001-0015).

(B) For migrant and seasonal farmworkers, the first month for which the benefit group is certified following any period of one month or more during which they were not certified to participate.

(d) In the OHP program, the first month of a redetermination or recertification period.

(e) For a new applicant to the GA, GAM, OSIP, or OSIPM program living in a nonstandard living arrangement, for the purposes of calculating the correct divisor in OAR 461-140-0296, the month in which the client would have been eligible had it not been for the disqualifying transfer of assets.

(38) "In-kind income" means income in a form other than money (such as food, clothing, cars, furniture, and payments made to a third party).

(39) "Legally married" means a marriage uniting a man and a woman according to the provisions of either:

(a) The statutes of the state where the marriage occurred;

(b) The common law of the state in which the man and woman previously resided while meeting the requirements for common law marriage in that state; or

(c) The laws of a country in which the man and woman previously resided while meeting the requirements for legal or cultural marriage in that country.

(40) "Life estate" means the right to property limited to the lifetime of the individual holding it or the lifetime of some other individual. In general, a life estate enables the owner of the life estate to possess, use, and obtain profits from property during the lifetime of a designated individual while actual ownership of the property is held by another individual. A life

ADMINISTRATIVE RULES

estate is created when an individual owns property and then transfers ownership to another individual while retaining, for the rest of his or her life, certain rights to that property. In addition, a life estate is established when a member of the financial group (see OAR 461-110-0530) purchases a life estate interest in the home of another individual.

(41) "Lodger" means a member of the household group (see OAR 461-110-0210) who;

- (a) Is not a member of the filing group; and
- (b) Pays the filing group for room and board.

(42) "Long term care" means the system through which the Department provides a broad range of social and health services to eligible adults who are aged, blind, or have disabilities for extended periods of time. This includes nursing homes and state hospitals (Eastern Oregon and Oregon State Hospitals).

(43) "Lump-sum income" means income received too infrequently or irregularly to be reasonably anticipated, or received as a one-time payment. Lump-sum income includes:

(a) Retroactive benefits covering more than one month, whether received in a single payment or several payments.

(b) Income from inheritance, gifts, winnings, and personal injury claims.

(44) "Marriage" means the union of a man and a woman who are legally married.

(45) "Microenterprise" means a sole proprietorship, partnership, or family business with fewer than five employees and capital needs no greater than \$35,000.

(46) "Minor parent", in the ERDC, EXT, MAA, MAF, REF, REFM, and TANF programs, means a parent under the age of 18.

(47) "Nonstandard living arrangement" is defined as follows:

(a) In the GA, GAM, OSIP, OSIPM, and QMB programs, a client is considered to be in a nonstandard living arrangement when the client is applying for or receiving services in any of the following locations:

(A) A nursing facility in which the client receives long-term care services paid with Medicaid funding, except this subsection does not apply to a Medicare client in a skilled-stay nursing facility.

(B) An intermediate care facility for the mentally retarded (ICF/MR).

(C) A psychiatric institution, if the individual is not yet 21 years of age or has reached the age of 65.

(D) A community based care (see section (17) of this rule) setting, except a State Plan Personal Care (SPPC) setting is not considered a non-standard living arrangement.

(b) In all programs except GA, GAM, OSIP, OSIPM, and QMB, non-standard living arrangement means each of the following locations:

- (A) Foster care.
- (B) Residential Care facility.
- (C) Drug or alcohol residential treatment facility.
- (D) Homeless or domestic violence shelter.
- (E) Lodging house if paying for room and board.
- (F) Correctional facility.
- (G) Medical institution.

(48) "Ongoing month" means one of the following:

(a) For all programs except the OHP and SNAP programs, any month following the initial month of eligibility, if there is no break in the program benefit of one or more calendar months.

(b) For the OHP and SNAP programs, any month in the certification period following the initial month of eligibility.

(49) "Parent" means the biological or legal (step or adoptive) mother or father of an individual or unborn child.

(a) If the mother lives with a male and either she or the male claims that he is the father of the child or unborn, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.

(b) A stepparent relationship exists if:

(A) The individual is legally married to the child's biological or adoptive parent; and

(B) The marriage has not been terminated by legal separation, divorce, or death.

(c) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a parent if both of the following are true:

- (A) The child lives with the biological parent; and
- (B) The legal parent (the adoptive parent) has given up care, control, and supervision of the child.

(50) "Payment month" means, for all programs except EA, the calendar month for which benefits are issued.

(51) "Payment period" means, for EA, the 30-day period starting with the date the first payment is issued and ending on the 30th day after the date the payment is issued.

(52) "Periodic income" means income received on a regular basis less often than monthly.

(53) "Primary person" for all programs except the SNAP program, means the filing group member who is responsible for providing information necessary to determine eligibility and calculate benefits. The primary person for individual programs is as follows:

(a) For the EXT, MAA, MAF, and TANF programs, the parent or caretaker relative.

(b) For the ERDC program, the caretaker.

(c) For SNAP, see OAR 461-001-0015.

(d) For the GA, GAM, OSIP, OSIPM, and QMB programs, the client or client's spouse.

(e) For the OHP, REF, and REFM programs, the applicant, caretaker, caretaker relative, or parent.

(54) "Qualified Partnership Policy" means a long term care insurance policy meeting the requirements of OAR 836-052-0531 that was either:

(a) Issued while the client was a resident in Oregon on January 1, 2008 or later; or

(b) Issued in another state while the client was a resident of that state on or after the effective date of that state's federally approved State Plan Amendment to issue qualified partnership policies.

(55) "Real property" means land, buildings, and whatever is erected on or affixed to the land and taxed as real property.

(56) "Reimbursement" means money or in-kind compensation provided specifically for an identified expense.

(57) "Safe homes" mean private homes that provide a few nights lodging to victims of domestic violence. The homes must be recognized as such by the local domestic violence agency, such as crisis hot lines and shelters.

(58) "Shelter costs" mean, in all programs except the SNAP program, housing costs (rent or mortgage payments, property taxes) and utility costs, not including cable TV or non-basic telephone charges. In the SNAP program, see OAR 461-160-0420.

(59) "Shelter in kind" means an agency or person outside the financial group (see OAR 461-110-0530) provides the shelter of the financial group, or makes a payment to a third party for some or all of the shelter costs of the financial group. Shelter-in-kind does not include temporary shelter provided by a domestic violence shelter, homeless shelter, or residential alcohol and drug treatment facilities or situations where no shelter is being provided, such as sleeping in a doorway, park, or bus station.

(60) "Sibling" means the brother or sister of an individual. "Blood related" means they share at least one biological or adoptive parent. "Step" means they are not related by blood, but are related by the marriage of their parents.

(61) "Spousal support" means income paid (voluntarily, per court order, or per administrative order) by a separated or divorced spouse to a member of the financial group (see OAR 461-110-0530).

(62) "Spouse" means an individual who is legally married to another individual. In the ERDC and SNAP programs, spouse includes an individual who is not legally married to another, but is presenting themselves to the community as the husband or wife by:

(a) Representing themselves as husband and wife to relatives, friends, neighbors, or tradespeople; and

(b) Sharing living expenses or household duties.

(63) "Stable income" means income that is the same amount each time it is received.

(64) "Standard living arrangement" means a location that does not qualify as a nonstandard living arrangement.

(65) "Teen parent" means, for TANF and JOBS, a parent under the age of 20 who has not completed a high school diploma or GED.

(66) "Timely continuing benefit decision notice" means a decision notice that informs the client of the right to continued benefits and is mailed no later than the time requirements in OAR 461-175-0050.

(67) "Trust funds" mean money, securities, or similar property held by a person or institution for the benefit of another person.

(68) "USDA meal reimbursements" mean cash reimbursements made by the Oregon Department of Education for family day-care providers who serve snacks and meals to children in their care.

(69) "Variable income" means earned or unearned income that is not always received in the same amount each month.

Stat. Auth: ORS 411.060, 411.070, 411.404, 411.816, 412.006, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.006, 412.014, 412.049

ADMINISTRATIVE RULES

Hist.: AFS 28-1978, f. & ef. 7-13-78; AFS 54-1984, f. 12-28-84, ef. 1-1-85; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 15-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; Administrative correction 4-21-10; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-025-0310

Hearing Requests

(1) A claimant (see OAR 461-025-0305) has the right to a contested case hearing in the following situations upon the timely completion of a request for hearing:

(a) Except as provided in subsection (o) of this section, the Department has not approved or denied a request or application for public assistance within 45 days of the application.

(b) The Department has not acted timely on an application as follows:

(A) An application for SNAP program benefits — within 30 days of the filing date.

(B) An application for a JOBS support service payment — within the time frames established in OAR 461-115-0190(3).

(c) The Department acts to deny, reduce, close, or suspend SNAP program benefits, a grant of public assistance, a grant of aid, a support service payment authorized in the JOBS program by OAR 461-190-0211, medical assistance, or child care benefits authorized under Division 160 or 165 of this chapter of rules in the ERDC or TANF child care programs. When used in this subsection, grant of public assistance and grant of aid mean the grant of cash assistance calculated according to the client's need.

(d) The Department claims that an earlier public assistance payment was an overpayment, or that an earlier issuance of SNAP program benefits was an overissuance.

(e) The claimant claims that the Department previously underissued public assistance or SNAP program benefits and the Department denies the claim.

(f) The household disputes its current level of SNAP program benefits.

(g) The filing group (see OAR 461-110-0370) is aggrieved by any action of the Department that affects the participation of the filing group in the SNAP program.

(h) The claimant asks for a hearing to determine if the waiver of an Intentional Program Violation hearing was signed under duress.

(i) The Department establishes or changes the client's premium for the Oregon Health Plan.

(j) In the Pre-TANF program, the Department denies payment for a basic living expense (see OAR 461-135-0475) or other support service payment in the JOBS program (see subsection (c) of this section).

(k) In the TA-DVS program, when OAR 461-135-1235 provides a right to a hearing.

(l) A service re-assessment of a client conducted in accordance with OAR Division 411-015 has resulted in a reduction or termination of nursing facility services or Waivered Services (defined at OAR 461-001-0030).

(m) The claimant's benefits are changed to vendor, protective, or two-party payments.

(n) Department has issued a notice seeking repayment under ORS 411.892 to an employer participating in the JOBS program.

(o) In the OSIP and OSIPM programs, when the Department has not approved or denied an application within the time frames established in OAR 461-115-0190.

(p) The right to a hearing is otherwise provided by statute or rule.

(2) A client is not entitled to a hearing on the question of the contents of a case plan (defined in OAR 461-190-0151) unless the right to hearing is specifically authorized by the Department's rules. For a dispute about an activity in the JOBS program, the client is entitled to use the Department's re-engagement process (see OAR 461-190-0231). In the TA-DVS program, a dispute about the contents of a TA-DVS case plan (see OAR 461-135-1205) is resolved through re-engagement if there is no right to a hearing under OAR 461-135-1235.

(3) A request for hearing is complete:

(a) In public assistance and SNAP programs, when the Department's Administrative Hearing Request form (form DHS 443) is:

(A) Completed;

(B) Signed by the claimant, the claimant's attorney, or the claimant's authorized representative (see OAR 461-115-0090); and

(C) Received by the Department.

(b) In the SNAP program, when the Department receives an oral or written statement from the claimant, the claimant's attorney, or the claimant's authorized representative that the claimant wishes to appeal a decision affecting the claimant's SNAP program benefits to a higher authority.

(c) In the case of a provider of child care, when a written request for hearing from the provider is received by the Department.

(4) In the event a request for hearing is not timely, the Department will determine whether the failure to timely file a request for hearing was beyond the reasonable control of the party and enter an order accordingly. The Department may refer an untimely request to the Office of Administrative Hearings for a hearing on the question of timeliness.

(5) In the event the claimant has no right to a contested case hearing on an issue, the Department may enter an order accordingly. The Department may refer a hearing request to the Office of Administrative Hearings for a hearing on the question of whether the claimant has the right to a contested case hearing.

(6) To be timely, a completed hearing request must be received by the Department not later than:

(a) Except as provided in subsection (b) of this section, the 45th day following the date of the decision notice (see OAR 461-001-0000) in public assistance and medical programs.

(b) The 90th day following the effective date of the reduction or termination of benefits in a public assistance program if the reduction or termination of aid is a result of a JOBS disqualification (see OAR 461-130-0330) or a penalty for failure to seek treatment for substance abuse or mental health (see OAR 461-135-0085).

(c) The 90th day following the date of the decision notice in the SNAP program, except:

(A) A filing group may submit a hearing request at any time within a certification period (see OAR 461-001-0000) to dispute its current level of benefits.

(B) A filing group may submit a hearing request within 90 days of the denial of a request for restoration of benefits if not more than twelve months has expired since the loss of benefits.

(d) The 30th day following the date of notice from the Oregon Department of Revenue in cases covered by ORS 293.250.

(e) In a case described in subsection (1)(h) of this rule, the request must be made within 90 days of the date the waiver was signed.

(7) In determining timeliness under section (6) of this rule, delay caused by circumstances beyond the control of the claimant is not counted.

(8) In computing the time periods provided by this rule, see OAR 461-025-0300(1).

(9) In the REF and REFM programs, a client is not eligible for a contested case hearing when assistance is terminated because the eligibility time period imposed by OAR 461-135-0900 has been reached. If the issue is the date of entry into the United States the Department provides for prompt resolution of the issue by inspection of the individual's documentation issued by the US Citizenship and Immigration Services (USCIS) or by information obtained from USCIS, rather than by contested case hearing.

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

Stat. Auth.: ORS 411.060, 411.404, 411.408, 411.816, 411.892, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.095, 411.117, 411.404, 411.408, 411.816, 411.892, 412.009, 412.014, 412.049, 412.069

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 4-1995, f. & ef. 2-1-95; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-2000, f. 1-31-2000, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 23-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 21-2004, f. & cert. ef. 10-1-04; 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 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-025-0371

Proposed and Final Orders

(1) When the Department refers a contested case under this division of rules (OAR 461-025) to the Office of Administrative Hearings (OAH), the Department indicates on the referral:

(a) Whether the Department is authorizing a proposed order, a proposed and final order (OAR 137-003-0645(4)), or a final order.

(b) If the Department is establishing an earlier deadline for written exceptions and argument because the contested case is being referred for an expedited hearing.

(2) When the Department authorizes either a proposed order or a proposed and final order:

(a) The claimant (see OAR 461-025-0305) or party may file written exceptions and written argument to be considered by the Department. The

ADMINISTRATIVE RULES

exceptions and argument must be received at the location indicated in the OAH order not later than the 20th day after service of the proposed order or proposed and final order, unless subsection (1)(b) of this rule applies.

(b) Proposed Orders. After OAH issues a proposed order, the Department issues the final order, unless the Department requests that OAH issue the final order under OAR 137-003-0655.

(c) Proposed and Final Orders. If the claimant or party does not submit timely exceptions or argument following a proposed and final order, the proposed and final order becomes a final order on the 21st day after service of the proposed and final order unless the Department has issued a revised order or has notified the claimant or party and OAH that the Department will issue the final order. When the Department receives timely exceptions or argument, the Department issues the final order, unless the Department requests that OAH issue the final order under OAR 137-003-0655.

(3) If in a contested case hearing the Office of Administrative Hearings is authorized to issue a final order on behalf of the Department, the Department may issue the final order in the case of default.

(4) A petition by a claimant or party for reconsideration or rehearing must be filed with the individual who signed the final order, unless stated otherwise on the final order.

Stat. Auth.: ORS 183.341, 409.050, 411.060, 411.404, 411.408, 411.816, 412.014, 412.049
Stats. Implemented: ORS 183.341, 409.050, 411.060, 411.095, 411.404, 411.408, 411.816, 412.014, 412.049

Hist.: AFS 14-1999, f. & cert. ef. 11-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-110-0370

Filing Group; SNAP

In the SNAP program:

(1) Except as provided in this rule, the filing group consists of members of a household group (see OAR 461-110-0210) who choose to apply together or customarily purchase and prepare meals together.

(2) Except as provided in sections (3) and (8) of this rule, the following household group members must be in the same filing group, even if they do not customarily purchase and prepare meals together:

(a) Each spouse (see OAR 461-001-0000).

(b) A parent (see OAR 461-001-0000) and his or her child under age 22 living with the parent.

(c) A household group member and any child under age 18 who lives with and is under parental control of that household group member. For the purposes of this subsection, "parental control" means the adult is responsible for the care, control, and supervision of the child or the child is financially dependent on the adult.

(3) In the following specific situations, the Department forms a filing group as indicated:

(a) An individual is not included in the filing group if, during the month the group applied for SNAP program benefits, the individual received SSI benefits through the state of California. This exclusion applies only in the month the group applied and, if necessary to meet notice requirements, in the month following the month the group applied.

(b) An individual is not included in the filing group if during the month the group applied for SNAP program benefits the individual received SNAP program benefits in another household and was not the head of household in the prior household. This exclusion applies only in the month the group applied and, if necessary to meet notice requirements, in the month following the month the group applied.

(c) An elderly (see OAR 461-001-0015) individual and his or her spouse may be considered a separate filing group from others with whom the elderly individual purchases and prepares meals, if:

(A) The elderly individual is unable to purchase or prepare food because of a permanent and severe disabling condition; and

(B) The combined income of the other members of the household group does not exceed the following limit: [Table not included. See ED. NOTE]

(4) A paid live-in attendant may choose not to be in the filing group with the recipient of the services provided, unless required by section (2) of this rule to be in the same filing group.

(5) An individual in foster care, the individual's spouse, and each child under age 22 living with the individual are not eligible to participate in the SNAP program independently of the care or service provider's filing group, but may be included in the provider's filing group if the provider applies for benefits.

(6) Unless required under section (2) of this rule, the following household group members may form a separate filing group from other members of the household group:

(a) A resident of an alcohol or drug treatment and rehabilitation program certified by the Department for which an employee of the facility is the authorized representative (see OAR 461-135-0550). A resident's spouse in the same facility may be in a separate filing group, but a child of a resident must be in the same filing group as the resident.

(b) A resident in group living (see OAR 461-001-0015).

(c) A resident of a public or private non-profit homeless or domestic violence shelter (see OAR 461-135-0510).

(d) An individual who is a resident of federally subsidized housing for the elderly, an individual with a disability, or blind recipient of benefits under Title I, II, X, XIV, or XVI of the Social Security Act.

(7) A member of the household group who pays the filing group for room and board (lodger) is treated as follows:

(a) A lodger cannot participate in the SNAP program independently of the household group when the lodger pays a reasonable amount for room and board. A reasonable amount is:

(A) An amount that equals or exceeds the Thrifty Food Plan for the individual and anyone in that individual's filing group (see OAR 461-155-0190(2)), if more than two meals per day are provided; or

(B) An amount that equals or exceeds two-thirds of the Thrifty Food Plan for the individual and anyone in the individual's filing group, if two or fewer meals per day are provided.

(b) A lodger may participate in the SNAP program independently of the household group when the lodger pays less than a reasonable amount for room and board.

(8) A household group member is not included in the filing group, if the member is:

(a) A resident of a commercial boarding house; or

(b) An ineligible student, as defined in OAR 461-135-0570.

(9) A household group member may be included in two filing groups in the same month, if the member:

(a) Is a resident of a domestic violence shelter (see OAR 461-001-0000) or safe home (see OAR 461-001-0000); and

(b) Recently left the household group containing the member's abuser.

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

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816, 411.825

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 15-1998(Temp), f. 9-15-98, cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 22-2001, F. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-115-0071

Who Must Sign the Application and Complete the Application Process

(1) In the ERDC, HKC, MAA, MAF, OHP, REF, REFM, and TANF programs, the following individuals must sign the application and complete the application process:

(a) In the MAA, MAF, REF, REFM, and TANF programs, at least one caretaker relative (see OAR 461-001-0000).

(b) In the HKC and OHP programs:

(A) When there is a parent (see OAR 461-001-0000) in the household group (see OAR 461-110-0210), one parent.

(B) When there is no parent in the household group, the primary person (see OAR 461-001-0000).

(c) In the ERDC program, a caretaker (see OAR 461-001-0000).

(2) In the EA program:

(a) A caretaker relative must sign the application and complete the application process for a child (see OAR 461-001-0000). If the child is not living with a caretaker relative, another adult may act on behalf of the child.

(b) If the caretaker relative lives with a spouse (see OAR 461-001-0000), both must sign the application.

(c) A dependent child 18 years of age who applies must sign the application and complete the application process.

(3) In the GA, GAM, OSIPM, and QMB programs, at least one adult requesting assistance must complete the application process and sign the

ADMINISTRATIVE RULES

application, if able. If there is no adult who is able to sign the application and complete the application process, this can be done by the authorized representative (see OAR 461-115-0090). If the applicant dies prior to the determination of eligibility for OSIPM, the application may be processed if the Department receives the required verification.

(4) In the SNAP program, the primary person, the spouse of the primary person, or another adult member of the filing group (see OAR 461-110-0370) must sign the application and complete the application process.

(5) An individual required to sign the application but unable to sign may sign with a mark, witnessed by an employee of the field office.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.087, 411.400, 411.404, 411.816, 412.049
Hist.: 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 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 23-2010(Temp), f. & cert. ef. 7-15-10 thru 1-11-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-115-0140

Authorized Representative or Alternate Payee; SNAP

(1) In the SNAP program, none of the following may serve as authorized representative or alternate payee:

(a) A person disqualified for fraud (unless he or she is the only adult member of the case).

(b) A landlord or a vendor of goods or items who deals directly with the client, including a retailer authorized to accept SNAP benefits.

(c) Unless authorized by the Department's SNAP Program Manager or designee, an employee of the Department or an employee of a contractor involved in the certification and issuance processes for SNAP benefits.

(d) A provider of meals for the homeless.

(2) An authorized representative or alternate payee who knowingly misrepresents the circumstances of the filing group (see OAR 461-110-0370) or misuses SNAP benefits is subject to penalty as follows:

(a) In group living (see OAR 461-001-0015) situations or treatment programs for drug addiction or alcohol abuse, the facility may be prosecuted under applicable federal or state law.

(b) For other authorized representatives and alternate payees not covered by subsection (a) of this section, the Department may prohibit the person from serving as a representative or payee for one year.

(3) Except as provided by this rule or by OAR 461-115-0090, a client may select his or her authorized representative or alternate payee.

Stat. Auth.: ORS 411.816
Stats. Implemented: ORS 411.816
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-115-0232

SNAP Mid Certification Period Review

In the SNAP program, a filing group (see OAR 461-110-0370) that is certified for 24 months (see OAR 461-115-0450) must provide the Department with updated information about their income, shelter and utility costs, and medical deductions between the first and 15th day of month 12 of their certification period (see OAR 461-001-0000) in order to continue receiving benefits. The Department follows the process outlined in OAR 461-180-0006 to adjust benefits based on this information.

Stat. Auth.: ORS 411.816
Stats. Implemented: ORS 411.816, 411.825
Hist.: SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-115-0450

Periodic Redeterminations; SNAP

In the SNAP program, the Department selects the certification period (see OAR 461-001-0000) and the redetermination date based on the client's circumstances and according to the following considerations:

(1) The length of the certification period depends on how far in advance the circumstances affecting the group's eligibility can be predicted but may not exceed 12 months except as outlined in sections (2) and (4) of this rule.

(2) The certification period may be extended beyond 12 months in each of the following situations:

(a) To the end of the TBA period if the client becomes eligible for transitional benefits (see OAR 461-135-0506). If eligibility for TBA ends early, the certification period is changed to end on the last day of the month.

(b) To include the month after the client finishes working under a TANF JOBS Plus Agreement. If the agreement ends early, the certification period is changed to end on the original recertification date or on the last

day of the month following the month in which the JOBS Plus agreement ends, whichever is later.

(3) A certification period of less than 12 months may be extended before the certification period ends, not to exceed 12 months, in each of the following situations:

(a) A one- or two-month certification period for expedited services when pending information is received, and eligibility and benefit level is determined based on the new information.

(b) An application or a change report form is received and eligibility is reviewed.

(c) The report system changes to SRS.

(4) A certification period of 24 months may be used for households in which all adult members are elderly or have a disability (see OAR 461-001-0015). The household must also not include any earned income to qualify under this section.

(5) For each benefit group (see OAR 461-110-0750) in which all members are included in a cash or medical program, eligibility for SNAP and the other program benefits is determined at the same time when practicable.

(6) A client remains eligible for and continues to receive SNAP benefits on the normal issuance cycle if the application for recertification is filed with the Department and all required verification has been received by the Department:

(a) Not later than the 15th day of the month in which the certification expires; or

(b) In the case of a benefit group whose certification period is shorter than two months, not later than the 15th day after the Department provides notice that the certification period will expire.

(7) A client who files an application for recertification is eligible for a SNAP allotment without proration only if the filing date (see OAR 461-115-0040) is before the prior certification period expires and:

(a) The required interview is completed, and the Department receives the required verification, within 30 days after the client files the application for recertification; or

(b) The interview or verification required by this rule would have occurred timely but for a delay caused by the Department.

(8) The Department must deny the application for recertification in the event a client files a timely application for recertification but either fails to appear for a scheduled interview or fails to timely submit required verification.

(9) If the client fails to file an application for recertification during a certification period, SNAP benefits for the first month of the following certification period are prorated in accordance with OAR 461-180-0080.

(10) Once assigned, the certification period may not be shortened.

Stat. Auth.: ORS 411.816
Stats. Implemented: ORS 411.816, 411.825
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 9-2001, f. & cert. ef. 6-1-01; SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-120-0510

Age Requirements for Clients to Receive Benefits

(1) If the year of a person's birth is known but the month is unknown, the month of birth is presumed to be July. If the date of birth is unknown, the date of birth is presumed to be the first of the month.

(2) To be eligible for the BCCM program, a woman must be under 65 years of age.

(3) To be eligible for the CEC program, an individual must be under 20 years of age.

(4) To be eligible for the CEM program, an individual must be under 19 years of age.

(5) To be eligible for the EXT, MAA, MAF, or TANF programs:

(a) A child (see OAR 461-001-0000) must be:

(A) Under 18 years of age; or

(B) Under 19 years of age and regularly attending school (see OAR 461-120-0530) full time, as determined by the school.

(b) A caretaker relative (see OAR 461-001-0000) may be any age.

(6) To be eligible for payment of child care costs for the ERDC or TANF program, a child must be:

(a) Under 12 years of age for the ERDC program or under 13 years of age for the TANF program; or

(b) Under 18 years of age and:

(A) Physically or mentally incapable of selfcare;

(B) Under court supervision;

ADMINISTRATIVE RULES

- (C) Receiving foster care;
- (D) Eligible for the special need rate for child care in OAR 461-155-0150; or
- (E) Subject to circumstances that significantly compromise the child's safety or the caretaker's ability to work or participate in an assigned activity if child care is not available.

(7) To be eligible for the OSIP-AB, OSIPM-AB, QMB-BAS, QMB-SMB, REFM, or SNAP programs, a client may be any age.

(8) To be eligible for the GA and GAM programs, a client must be:

- (a) Eighteen years of age or older and less than 65 years of age; or
- (b) Sixty-five years of age or older and must be a non-citizen who meets the requirements of OAR 461-120-0125.

(9) To be eligible for the OHP program, a client must meet the age requirements in OAR 461-135-1100.

(10) To be eligible for the OSIP-AD (except OSIP-EPD), OSIPM-AD (except OSIPM-EPD), and QMB-DW programs, a client must be under 65 years of age.

(11) To be eligible for the OSIP-EPD and OSIPM-EPD programs, the client must be 18 years of age or older or be legally emancipated.

(12) To be eligible for the OSIP-OAA or OSIPM-OAA programs, a client must be 65 years of age or older.

(13) To be eligible for the REF program, a client must be:

- (a) 18 years of age or older;
- (b) A legally emancipated minor; or
- (c) Part of a TANF filing group that is ineligible for TANF.

(14) To be eligible for the SAC program, the child must be under 21 years of age.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 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 13-1991, f. & cert. ef. 7-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 35-1992, f. 12-31-92, cert. ef. 1-1-93; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; 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 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 18-2001(Temp), f. 8-31-01, cert. ef. 9-1-01 thru 12-31-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-125-0170

Deprivation Based on Unemployment or Underemployment of the Primary Wage Earner (PWE); MAA, TANF

(1) In the MAA and TANF programs, deprivation based on the unemployment or underemployment of the primary wage earner (PWE) exists if all the following are true:

- (a) A child lives with two parents.
- (b) The PWE is unemployed or underemployed.
- (c) The PWE is not participating in a labor dispute.
- (d) Except as provided otherwise under section (2) of this rule, the PWE is not separated from his or her most recent employment (see OAR 461-135-0070), for any of the following reasons:

(A) Discharged or fired without good cause (see OAR 461-135-0070) for:

- (i) Misconduct (see OAR 461-135-0070); or
 - (ii) Felony or theft.
- (B) Voluntary quit:
- (i) In anticipation of discharge; or
 - (ii) Without good cause.

(2) A need group (see OAR 461-110-0630) may not be denied TANF program benefits based on subsections (1)(c) and (d) of this rule if the PWE is one of the following:

- (a) A Parents as Scholars (PAS) participant who temporarily becomes ineligible for TANF program benefits for four months or less due to income from a paid work experience (see OAR 461-190-0199);
- (b) A teen parent returning to high school or equivalent;
- (c) An individual fleeing from or at risk of domestic violence (see OAR 461-001-0000);
- (d) An individual in the ninth month of pregnancy or experiencing a medical complication due to the pregnancy which is documented by a qualified and appropriate professional;
- (e) An individual unable to work due to a disability or medical condition documented by a qualified and appropriate professional, and which is

expected to last for 30 days or more from the date of request (see OAR 461-115-0030) for TANF program benefits;

(f) An individual who is separated from his or her most recent employment for a reason the Department determines is good cause.

Stat. Auth.: ORS 411.060, 412.006, 412.016, 412.049
Stats. Implemented: ORS 411.060, 411.070, 412.006, 412.016, 412.049, HB 2049 (2011)
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; SSP 18-2009(Temp), f. 7-29-09, cert. ef. 8-1-09 thru 1-28-10; SSP 32-2009(Temp), f. & cert. ef. 10-29-09 thru 1-28-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-130-0310

Participation Classifications: Exempt, Mandatory, and Volunteer

(1) In the Post-TANF, Pre-TANF, REF, SNAP, and TANF programs:

(a) The Department assigns a client to one or more employment program participation classifications--exempt, mandatory, and volunteer (see OAR 461-130-0305 for definitions of all three terms).

(b) In the Post-TANF program, a client is classified as a volunteer.

(2) In the Pre-TANF, REF, and TANF programs:

(a) A client is exempt from employment program participation and disqualification if the client meets the requirements of at least one of the following paragraphs. The client is:

(A) Pregnant and in the month before the month in which the due date of the pregnancy falls.

(B) A parent (see OAR 461-001-0000) during the first six months after the birth of the parent's dependent child (see OAR 461-001-0000) except that the Department may require the parent to participate in parenting classes or a family stability activity (see OAR 461-001-0000). An exemption allowed under this paragraph may apply only to one mandatory participant in each filing group.

(C) Under 20 years of age during the first 16 weeks after giving birth except that the client may be required to participate in suitable activities with a preference for educational activities, parenting classes, and family stability activity.

(D) A parent providing care for a family member who is an individual with a disability (see OAR 461-001-0000) and is in the household group (see OAR 461-110-0210) with the parent.

(E) An REF client 65 years of age or older.

(F) A TANF client 60 years of age or older.

(G) A noncitizen who is not authorized to work in the United States.

(H) An individual who is eligible for and receives supplemental security income (SSI) from the Social Security Administration.

(I) A caretaker relative (see OAR 461-001-0000) who is non-needy.

(J) A client whose participation is likely to cause undue hardship or is contrary to the best interests of the dependent child or needy caretaker relative.

(K) A pregnant client who participates more than 10 hours per week during the two months before the month in which the pregnancy due date falls.

(L) A VISTA volunteer.

(M) In a one-parent household with a dependent child (see OAR 461-001-0000) under two years of age, and the client is not a teen parent (see OAR 461-001-0000).

(b) A parent of a dependent child who receives REF or TANF program benefits is mandatory if the parent is in the same filing group (see OAR 461-110-0330) with the dependent child (even if the parent is not in the REF or TANF program benefit group under OAR 461-110-0750), unless the parent is otherwise exempt from participation under subsection (a) of this section.

(3) In the SNAP program:

(a) A client is exempt from employment program participation and disqualification if the client meets the requirements of one of the following paragraphs. The client is:

(A) Working a minimum of 30 hours a week or earning money equal to at least the federal minimum wage multiplied by 30 hours per week multiplied by 4.3 weeks. A self-employed client with allowable costs must meet the earnings threshold after allowing the 50 percent deduction. This includes migrant and seasonal farm workers (see OAR 461-001-0015) who are under contract or similar agreement with an employer or crew chief to begin employment within 30 days.

(B) An individual with a physical or mental condition that prevents performance of any work.

(C) Responsible for the care of a child in the household under 6 years of age or an individual in the household with a disability (see OAR 461-

ADMINISTRATIVE RULES

001-0015) that substantially reduces or eliminates the individual's ability to care for himself or herself.

(D) Providing care for at least 30 hours a week for an individual in another household with a disability (see OAR 461-001-0015) that substantially reduces or eliminates the individual's ability to care for himself or herself.

(E) Enrolled at least half-time, as defined by the school, in any high school or equivalent program recognized by a school district or enrolled at least half-time in any school, training program, or institution of higher education. Clients remain exempt during normal periods of class attendance, vacation and recess but no longer qualify for the student exemption when a break in enrollment occurs due to graduation, suspension or expulsion or when the student drops out of school or does not enroll in classes for the next regular school term (excluding summer term).

(F) Receiving REF or TANF program benefits, while a mandatory participant in the JOBS or NAES programs.

(G) In receipt of unemployment insurance benefits or has completed an application for unemployment insurance benefits and is waiting for an initial decision on the claim.

(H) Participating in a drug or alcohol treatment and rehabilitation program.

(I) Pregnant.

(J) Lacking adequate dependent care.

(K) Without adequate transportation available.

(L) Experiencing a barrier to employment, such as being homeless or having a short-term physical or mental limitation or a serious family problem.

(b) A mandatory client is an individual in the need group (see OAR 461-110-0630); who is 16 or 17 years of age and a primary person (see OAR 461-001-0015), or 18 years of age and older and 59 years of age and younger; and who is not exempt under subsection (a) of this section.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.660, 411.710, 411.816, 412.006, 412.009, 412.014, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.660, 411.710, 411.816, 412.006, 412.009, 412.014, 412.049, HB 2049 (2011)

Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 12-2000(Temp), f. 5-1-00, cert. ef. 5-1-00 thru 9-30-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-135-0070

Specific Requirements; MAA, MAF, and TANF

(1) To be eligible for MAA, MAF, or TANF program benefits, a client must be one of the following:

(a) A dependent child (see OAR 461-001-0000). However, a dependent child for whom foster care payments are made for more than 30 days is not eligible while the payments are being made for the dependent child.

(b) A caretaker relative (see OAR 461-001-0000) of an eligible dependent child. However, a caretaker relative to whom foster care payments are made for more than 30 days is not eligible while the payments are being made to the caretaker relative.

(c) A caretaker relative of a dependent child, when the dependent child is ineligible for MAA, MAF, or TANF program benefits because of one of the following reasons:

(A) The child is receiving SSI.

(B) The child is in foster care, but is expected to return home within 30 days.

(C) The child is ineligible for MAA or MAF program benefits because citizenship has not been documented (see OAR 461-115-0705).

(d) An essential person. An essential person is a member of the household group (see OAR 461-110-0210) who:

(A) Is not required to be in the filing group;

(B) Provides a service necessary to the health or protection of a member of the benefit group (see OAR 461-110-0750) who has a mental or physical disability; and

(C) Is less expensive to include in the benefit group than the cost of purchasing this service from another source.

(e) A parent of an unborn, as follows:

(A) For the TANF and MAA programs, any parent whose only child is an unborn child once the mother's pregnancy has reached the calendar month before the month in which the due date falls.

(B) For the TANF and MAA programs, the father of an unborn child, if there is another dependent child in the filing group.

(C) For the MAF program, a mother whose only child is an unborn once the mother's pregnancy has reached the calendar month immediately before the month in which the due date falls.

(2) A client is eligible for MAA or MAF program benefits if the client is:

(a) Eligible for MAA or MAF program benefits under OAR 461-135-0010; or

(b) A minor parent (see OAR 461-001-0000) ineligible for TANF program benefits only because:

(A) The minor refuses to live with a parent or legal guardian as required by OAR 461-135-0080; or

(B) The income of the minor exceeds the income standards because the Department required the minor to return to live with a parent, if the minor parent meets the conditions in OAR 461 135 0080(2).

(3) As used in this rule and OAR 461-125-0170:

(a) "Good cause" means a reasonable person of normal sensitivity, exercising ordinary common sense, would leave work. For an individual with a physical or mental impairment (as defined at 29 CFR 1630.2(h)), "good cause" for voluntarily leaving work is such that a reasonable person with the characteristics and qualities of such individual would leave work.

(b) "Misconduct" means willful or wantonly negligent violation of the standards of behavior which an employer has the right to expect of an employee, including an act or series of actions that amount to a willful or wantonly negligent disregard of an employer's interest.

(c) "Most recent employment" means the last job held within the previous 60 days from the date of request (see OAR 461-115-0030) for TANF program benefits and for which the individual was hired to work 100 or more hours per month or worked or was scheduled to work 100 or more hours in the last full calendar month of employment.

(4) Except as provided under section (5) of this rule, a need group (see OAR 461-110-0630) is not eligible for TANF program benefits if a caretaker relative in the need group was separated from his or her most recent employment for any of the following reasons:

(a) Discharged or fired, without good cause for:

(A) Misconduct; or

(B) Felony or theft.

(b) Labor dispute; or

(c) Voluntary quit:

(A) In anticipation of discharge; or

(B) Without good cause.

(5) A need group (see OAR 461-110-0630) may not be denied TANF program benefits based on section (4) of this rule if the caretaker relative is one of the following:

(a) A Parents as Scholars (PAS) participant who temporarily becomes ineligible for TANF program benefits for four months or less due to income from a paid work experience (see OAR 461-190-0199).

(b) A teen parent returning to high school or equivalent.

(c) An individual fleeing from or at risk of domestic violence.

(d) An individual in the ninth month of pregnancy or experiencing a medical complication due to the pregnancy which is documented by a qualified and appropriate professional.

(e) An individual unable to work due to a disability or medical condition documented by a qualified and appropriate professional, and which is expected to last for 30 days or more from the date of request for TANF program benefits.

(f) An individual who is separated from his or her most recent employment for a reason the Department determines is good cause.

(6) If the need group is not eligible for TANF program benefits solely under section (4) of this rule, the need group is eligible for MAA or MAF program benefits as long as the need group meets all other eligibility (see OAR 461-001-0000) requirements.

(7) A client is eligible for MAF program benefits even while ineligible for TANF program benefits if the client is ineligible for TANF program benefits only because the client is:

(a) A family who would be eligible for the TANF program benefits if allowed the following deductions from income:

(A) The earned income deductions authorized by OAR 461 160 0190.

(B) The unearned income support deduction authorized by OAR 461 160 0200.

(b) A self-employed family who would be eligible for TANF program benefits if the cost of producing the self employment income was subtracted from the gross sales or receipts under OAR 461 145 0920.

(c) A family that includes an ineligible non citizen or the father of an unborn who would be eligible for TANF program benefits if the ineligible non citizen's or father's income is counted under OAR 461-160-0120.

ADMINISTRATIVE RULES

(d) An individual who would be eligible for TANF program benefits if the assets of the following household members were not counted:

(A) An unmarried parent of a dependent child or unborn in the eligibility group.

(B) A child in common of parents in the eligibility group.

(C) The spouse and each child of a caretaker relative in the need group.

(e) The spouse of a caretaker relative, but only if the spouse is the parent of a dependent child.

(8) A family is ineligible for TANF program benefits if the family meets the requirements of all of the following subsections:

(a) The family lives in Klamath County.

(b) The family meets any of the following conditions:

(A) The family has a single custodial parent who is a member of the Klamath Tribes, or the single custodial parent is not a Klamath Tribes member and at least 50 percent of the dependent children are Klamath Tribes members;

(B) The family has two custodial parents (see OAR 461-001-0000) who are members of the Klamath Tribes, or only one of the two custodial parents is a Klamath Tribes member and at least 50 percent of the dependent children are Klamath Tribes members; or

(C) The family has a caretaker relative who is not the custodial parent and at least 50 percent of the dependent children are Klamath Tribes members.

(c) The family is eligible for the Klamath Tribes TANF program or would be eligible for the Klamath Tribes TANF program if not for the failure of the family to cooperate with program requirements.

(9) A family is ineligible for TANF program benefits if all of the following subsections apply to the family:

(a) A parent, caretaker relative, or child is a member of the Siletz Tribe (Confederated Tribes of Siletz Indians of Oregon) and lives in one of the eleven service area counties: Benton, Clackamas, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, or Yamhill counties.

(b) The family includes members who are living in the same household and at least one of the following paragraphs applies:

(A) A two-parent family with one enrolled Siletz tribal member with a shared dependent.

(B) A single-parent family with one enrolled Siletz tribal member.

(C) A non-needy caretaker relative or essential person with one enrolled Siletz tribal member who is a minor.

(D) A pregnant enrolled Siletz tribal member in her eighth month of pregnancy.

(c) The family is eligible for the Siletz Tribes TANF program or would be eligible for the Siletz Tribes TANF program if not for the failure of the family to cooperate with Siletz TANF program requirements.

(10) If a parent or caretaker relative covered by section (8) or (9) of this rule fails to follow through with a Department referral to the Klamath or Siletz Tribal TANF program, the entire filing group is ineligible for TANF program benefits.

Stat. Auth.: ORS 411.060, 411.070, 411.400, 411.404, 411.816, 412.006, 412.049, 412.064, 412.124, HB 2049 (2011)

Stats. Implemented: ORS 411.060, 411.070, 411.400, 411.404, 411.816, 412.006, 412.049, 412.064, 412.124, HB 2049 (2011)

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 25-1997(Temp), f. 12-31-97, cert. ef. 1-1-98 thru 4-30-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 26-1998(Temp), f. 12-30-98, cert. ef. 1-1-99 thru 3-31-99; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 8-2009(Temp), f. 4-20-09, cert. ef. 5-1-09 thru 10-28-09; SSP 19-2009(Temp), f. 7-29-09, cert. ef. 8-1-09 thru 10-28-09; SSP 33-2009, f. & cert. ef. 10-29-09; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-135-0570

Eligible and Ineligible Students; SNAP

In the SNAP program:

(1) For the purposes of this rule and OAR 461-001-0015, higher education includes the following:

(a) Public and private universities and colleges and community colleges that offer degree programs regardless of whether a high school diploma is required for the program. However, GED, ABE, ESL and high school equivalency programs at those institutions are not considered higher education.

(b) Vocational, technical, business, and trade schools that normally require a high school diploma or equivalency certificate for enrollment in the curriculum or in a particular program at the institution. However, pro-

grams at those institutions that do not require the diploma or certificate are not considered higher education.

(2) An individual 18 years of age or older, but under the age of 50 years, who is enrolled at least half time in higher education is ineligible to receive SNAP program benefits, unless one of the following is true:

(a) The student is:

(A) A paid employee (see OAR 461-001-0015) working an average of 20 hours or more per week except as excluded by section (5) of this rule; or

(B) Self-employed for a minimum of 20 hours per week and receives weekly earnings at least equal to the federal minimum wage multiplied by 20 hours.

(b) The student is awarded a state or federally funded work-study and:

(A) Has been assigned to a work-study position, and will perform work in a work-study job in the current term or semester. The period of eligibility for a student eligible because of this paragraph:

(i) Begins with the month in which school begins or with the month that work study is approved, whichever is later.

(ii) Continues for the duration of the term or semester, unless the student refuses a work-study job.

(iii) Continues through breaks of less than a month. For breaks of a month or longer, eligibility continues only if the student performs work in a work-study job during the break.

(B) The school has no work study positions available. The period of eligibility for a student eligible because of this paragraph:

(i) Begins with the month in which school begins; and

(ii) Continues for the duration of the term or semester, unless work study jobs become available and the student refuses a work-study job.

(c) The student is responsible for the care of a child in the filing group (see OAR 461-110-0370), and the child is:

(A) Under six years of age; or

(B) Six years of age or older, but under the age of 12 years, and adequate child care is not available to enable the student to both attend class and meet the employment requirements of sub-section (a) of this section or the work-study requirements of sub-section (b) of this section.

(d) The student is enrolled full time in higher education and is a single parent (meaning there is only one parent in the filing group) or a single adult who has parental control, with the responsibility of caring for a child under 12 years of age.

(e) The student is in a TANF benefit group (see OAR 461-110-0750).

(f) The student is physically or mentally unfit for employment.

(g) The student is in job training classes under the Workforce Investment Act of 1998 (Pub. L. 105-220).

(h) The student is enrolled as a result of participation in the higher education component of the JOBS program.

(i) The student is enrolled as a result of employer-sponsored on-the-job training.

(j) The student is receiving Unemployment Compensation (UC).

(k) The student is participating in at least one of the following Employment Department training programs:

(A) The Trade Readjustment Allowance (TRA) program serving displaced workers under the Trade Act.

(B) The Training Unemployment Insurance (TUI) program.

(C) The Self-Employment Assistance (SEA) program.

(D) The Apprenticeship Program (APT).

(3) A student's enrollment status continues during school vacation and breaks. A student's enrollment status ends when the student graduates, drops out (as verified by the student disenrolling), is suspended or expelled, or does not intend to register for the next school term (excluding summer term).

(4) A student residing in a dormitory or other living situation with meal plans is ineligible for SNAP program benefits.

(5) The following situations do not earn the student hours toward the 20 hours per week requirement in section (2) of this rule:

(a) Income that is considered educational income under OAR 461-145-0150, including income from work in the following:

(A) An externship (see OAR 461-001-0015);

(B) A graduate assistantship (see OAR 461-001-0015);

(C) A graduate fellowship (see OAR 461-001-0015); or

(D) An internship (see OAR 461-001-0015).

(b) Receiving in-kind payments in lieu of actual wages.

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

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816, 411.825

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 1-1993, f. & cert. ef. 2-1-93; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99;

ADMINISTRATIVE RULES

AFS 9-2001, f. & cert. ef. 6-1-01; AFS 3-2002(Temp), f. 2-26-02, cert. ef. 3-1-02 thru 6-30-02; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 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 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 2-2010(Temp), f. & cert. ef. 2-5-10 thru 8-4-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 6-2010(Temp), f. & cert. ef. 4-1-10 thru 8-4-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-135-1110

Eligible and Ineligible Students; OHP-OPU

(1) In the OHP-OPU program, an individual enrolled full time in higher education is ineligible to receive benefits, unless the requirements of one of the following subsections are met:

(a) The student:

(A) Meets the income requirements for a Pell grant;

(B) Is not currently covered by private major medical health insurance (see OAR 461-135-1100) or an HMO; and

(C) Has not been covered by private major medical health insurance or by an HMO for the six months immediately preceding the date of application.

(b) The student is in a program serving displaced workers under Section 236 of the Trade Act of 1974 (19 USC 2296).

(2) For the purposes of this rule:

(a) Higher education includes the following:

(A) Any public or private university, college or community college.

(B) Any post-secondary vocational or technical school that is eligible to accept Pell grants.

(b) Full time is defined by the school.

(c) Meets the income requirements for a Pell grant means:

(A) The student's Student Aid Report shows an "expected family contribution" less than \$5,274 for the 2010-2011 or 2011-2012 school year; or

(B) The student is eligible for a Pell grant and provides documentation of eligibility from the school's financial aid office.

(3) A student's enrollment status continues during school vacation and breaks. A student's higher education status ends when the student graduates, drops out (as verified by their disenrolling), reduces the student's credit or attendance hours below full-time status, is suspended or expelled, or does not intend to register for the next school term (excluding summer term).

Stat. Auth.: ORS 411.060, 411.070, 411.402, 411.404, 414.025

Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.083, 411.085, 411.087, 411.402, 411.404, 414.025

Hist.: AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 13-2000, f. & cert. ef. 5-1-00; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 14-2002(Temp), f. & cert. ef. 10-30-02 thru 4-28-03; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 20-2010(Temp), f. & cert. ef. 7-1-10 thru 12-28-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-155-0190

Income and Payment Standards; SNAP

(1) The monthly SNAP Countable and Adjusted Income Limits are as follows: [Table not included. See ED. NOTE.]

(2) The SNAP Payment Standard (Thrifty Food Plan) is: [Table not included. See ED. NOTE.]

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

Stat. Auth.: ORS 411.816

Stats. Implemented: ORS 411.816, 411.825

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 16-1990, f. 6-29-90, cert. ef. 7-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 15-1998(Temp), f. 9-15-98; cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-155-0610

Special Need; Moving Costs; GA, OSIP, OSIPM

For clients who are 18 years of age or older in the GA, OSIP, and OSIPM programs:

(1) The Department will authorize payment for the cost of moving a client's household effects as a one-time special need if the requirements of at least one of the following subsections are met:

(a) Moving is essential to provide nonhazardous housing. "Hazardous" housing means a building so deteriorated and unsafe that it is

uninhabitable or subject to condemnation. If no official certification to that effect can be obtained, the condition of the dwelling must have been seen by a Department employee and documented in the case record.

(b) The client has been evicted for reasons other than his or her own neglect or failure to make rent or house payments.

(c) The move is a result of domestic violence or protective services.

(d) For a client in a nonstandard living arrangement (see OAR 461-001-0000), the client must move because the level of needed services increases or decreases.

(e) The needs of the client would be better met out of state.

(2) Payment for moving costs authorized by this rule:

(a) May be authorized for not more than one move in any 12-month period;

(b) Is limited to the least expensive means possible; and

(c) Cannot exceed \$500 in any 12-month period.

(3) Payments necessary for a one-time move may be made over a period not to exceed 30 consecutive days.

(4) A filing group that has received a payment for moving costs under this rule is not eligible for a moving cost payment again until the first day of the 12th month following the first payment that was made for the most recent month.

Stat. Auth.: ORS 411.060, 411.070, 411.706

Stats. Implemented: ORS 411.060, 411.070, 411.704, 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 16-2002(Temp), f. & cert. ef. 11-1-02 thru 4-30-03; SSP 11-2003, f. & cert. ef. 5-1-03; SSP 18-2008(Temp), f. & cert. ef. 8-1-08 thru 1-28-09; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-155-0660

Special Need; Accommodation Allowance

(1) An OSIP or OSIPM program client living in a nursing facility is not eligible for an accommodation allowance. An OSIP or OSIPM program client living in a nonstandard living arrangement (see OAR 461-001-0000) is not eligible for an accommodation allowance unless he or she is receiving, or is eligible to receive after a temporary absence, in-home waived services. An OSIP or OSIPM program client receiving SSI or having an adjusted income less than the OSIPM program income standard (except a client in a nursing facility) or eligible to receive or receiving in-home waived services is allowed an accommodation allowance if the client is 18 years of age or older and meets the criteria in section (2) or (3) of this rule.

(2) Temporary absence of client from home.

(a) A temporary accommodation allowance may be authorized, when permitted under section (1) of this rule, if a client meets the following criteria:

(A) The client leaves his or her home or rental property and enters an adult foster care facility, assisted living facility, group care home, hospital, nursing facility, residential care facility, specialized living facility, or state psychiatric institution;

(B) The client cannot afford to keep the home without the allowance;

(C) The client will be able to return home within six months of leaving, according to a written statement from a primary practitioner, RN, or PAS (pre-admission screening) RN; and

(D) The home will accommodate the service plan of the client when the client returns.

(b) The allowance may be authorized for six months. If, after six months, the client continues to meet the criteria in subsection (a) of this section, an extension may be approved in writing by a supervisor.

(c) The accommodation allowance equals the total of the client's housing cost, including taxes and insurance, plus the limited standard utility allowance for the SNAP program provided in OAR 461-160-0420.

(3) Additional cost for accommodation. A client meeting the criteria in section (1) of this rule may receive an accommodation allowance if the client's shelter cost exceeds the shelter standard in OAR 461-155-0250(2) and the requirements of one of the following subsections are met:

(a) The client has a documented increase in rent associated with access by an individual with a disability; or

(b) The client has been assessed to need a live-in provider, has accepted the services of a live-in provider, and requires an additional bedroom for the live-in provider.

(4) The accommodation allowance is determined as follows:

(a) For a client who receives an accommodation allowance based on increased costs associated with access by an individual with a disability, only the additional increase in cost for the accommodation is allowed.

(b) For a client who receives an accommodation allowance based on the need for an additional bedroom for a live-in provider, the amount of the

ADMINISTRATIVE RULES

accommodation allowance is the limited standard utility allowance for the SNAP program under OAR 461-160-0420 plus:

(A) One-third of the monthly rental cost; or

(B) One-third of the monthly payment on the property agreement (including mortgage, trust deed, or land sale contract). The property agreement is the agreement existing at the time the client is approved for the accommodation allowance. The accommodation allowance for the housing portion ends if the debt is refinanced, unless the refinancing was done only to reduce the original property agreement's interest rate or total monthly payment amount and the owner realized no direct or indirect payment of the home's equity value from the refinancing.

(i) If the refinancing requirement under this paragraph is met, the amount of the accommodation allowance is one-third of the refinanced property agreement amount plus the limited standard utility allowance under OAR 461-160-0420.

(ii) If the refinancing requirement under this paragraph is not met and the housing portion of the accommodation allowance ends, the client remains eligible only for the limited standard utility allowance portion under OAR 461-160-0420.

(5) Special requirements.

(a) A client who rents and qualifies for an allowance under section (3) of this rule must take the steps necessary to obtain subsidized housing under any federal or state housing program. A client who fails, at any time, to take the steps necessary to obtain subsidized housing reasonably available is ineligible for the allowance. A client, who has been denied or revoked from participation in any rent subsidy program based on the client's own actions is ineligible for benefits under this rule.

(b) A client who rents housing and refuses subsidized housing will no longer be eligible for an accommodation allowance, except that if the housing that is offered is not suitable, related to accommodations, and the client continues to have increased costs related to accommodations in the client's current living situation, the accommodation allowance may continue until such time as appropriate subsidized housing is found.

Stat. Auth.: ORS 411.060, 411.070, 411.704, 411.706

Stats. Implemented: ORS 411.060, 411.070, 411.704, 411.706

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1991(Temp), f. & cert. ef. 7-1-91; AFS 16-1991, f. 8-27-91, cert. ef. 9-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; 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 9-1999, f. & cert. ef. 7-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-155-0680

Special Need — Supplemental Telephone Allowance; OSIPM

In the OSIPM program:

(1) The Department provides a telephone allowance for a client receiving SSI, a client with an adjusted income less than the OSIPM program standard under OAR 461-155-0250, and a client receiving in-home services if the client is 18 years of age or older and is unable to leave his or her residence without assistance due to a documented medical condition.

(2) The telephone allowance may cover the following costs:

(a) The least expensive appropriate telephone service or the basic rate, whichever is less.

(b) The cost of telephone adaptive equipment, if the client has a medically documented need (for instance, TDD, a special headset, dialing mechanism, or emergency response system).

(c) Necessary installation charges.

(3) An SSI-eligible client or a client with an adjusted income less than the OSIPM program standard granted a telephone allowance must apply for a payment through the Oregon Telephone Assistance Program (OTAP). In addition, an SSI-eligible client or a client with an adjusted income less than the OSIPM program standard requesting payment for telephone installation must apply for Link-Up America. If the Link-Up America credit does not cover the installation cost, the Department provides the difference up to a maximum supplement payment of \$30.

Stat. Auth.: ORS 411.060, 411.070, 411.706

Stats. Implemented: 411.060, 411.070, 411.704, 411.706

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 12-1993, f. & cert. ef. 7-1-93; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-160-0420

Shelter Cost; SNAP

(1) This rule explains how to calculate the client's shelter cost. The shelter cost is used to determine the shelter deduction (see OAR 461-160-

0430). The shelter cost is the sum of the client's cost of housing plus an allowance for utilities, if the client incurs a utility cost. The shelter deduction is based on the shelter cost but is subject to a limitation described in OAR 461-160-0430.

(2) Cost of housing.

(a) The following comprise the cost of housing if they are incurred with respect to the client's current residence or the home described in section (5) of this rule:

(A) Regular, periodic charges for the shelter of the financial group (see OAR 461-110-0530), such as rent, mortgage payments, and condominium or association fees. Late fees charged because a mortgage or rent payment was made late are not deductible.

(B) Property taxes, state and local assessments, and property insurance on the structure.

(C) Costs for repairing a home substantially damaged or destroyed by a natural disaster (such as a fire or flood), if such costs are not reimbursed.

(D) If the need group (see OAR 461-110-0630) is homeless and living in a vehicle — vehicle payments and collision and comprehensive insurance premiums for the vehicle.

(b) If housing costs are billed on a weekly or biweekly basis, the monthly cost is the weekly cost multiplied by 4.3 or the biweekly cost multiplied by 2.15.

(c) The financial group has the following choices about housing costs:

(A) The group may choose to apply the cost in the month it is billed or becomes due.

(B) The group may choose to have periodic costs averaged.

(C) For expenses that are billed less often than monthly, the group may choose to have them averaged over the period they are intended to cover.

(3) Shared housing. If the filing group (see OAR 461-110-0370) shares housing costs with an individual in the dwelling who is not in the filing group, only the housing costs incurred by the filing group are included in the calculation. If the portion paid by a person outside the filing group cannot be ascertained, the cost is apportioned among the people contributing to the cost. The pro rata share of those not in the filing group is deducted from the total, and the balance is considered a housing cost of the filing group.

(4) Cost for utilities.

(a) A filing group has a cost for utilities if it incurs a cost for heating or cooling; cooking fuel; electricity; water and sewerage; well installation and maintenance; septic tank system installation and maintenance; garbage and trash collection; service for a telephone, such as basic service fee, wire maintenance, subscriber line charges, relay center surcharges, 911 service, and taxes; or initial installation fees charged by a utility provider.

(b) If the group incurs no cost for utilities in either its current home or in the home described in section (5) of this rule, then the shelter cost is calculated without an allowance for utilities.

(c) If a homeless need group uses a vehicle for shelter, the cost of fuel for the vehicle is considered a utility cost.

(d) If a filing group incurs a cost for utilities, then the utility allowance is one of the following:

(A) Allowance with heating or cooling. A full standard utility allowance of \$395 per month is used if the household group (see OAR 461-110-0210) is billed for heating or cooling costs for its dwelling. Charges for any fuel and for electricity are considered heating costs if they are used for heating. A financial group who receives an energy assistance payment for the dwelling provided through the Low Income Energy Assistance Act of 1981 is eligible for the utility allowance established by this paragraph (A).

(B) Allowance without heating or cooling.

(i) A limited standard utility allowance of \$288 per month is used if the household group is not billed for heating or cooling costs but is billed for at least two other costs enumerated in subsection (4)(a) of this rule.

(ii) An individual standard utility allowance of \$47 per month is used if the household is not billed for heating or cooling costs but is billed for only one of the costs enumerated in subsection (4)(a) of this rule other than the service cost for a telephone, including the related taxes or fees.

(iii) A telephone standard utility allowance of \$53 per month is used if the household is not billed for heating or cooling costs but is billed for telephone service, such as basic service fee, wire maintenance, subscriber line charges, relay center surcharges, 911 service, and taxes.

(5) Housing costs for a home not occupied by the household. Housing and utility costs with respect to a home not currently occupied by the household may be considered in calculating the shelter cost if:

ADMINISTRATIVE RULES

(a) The home is temporarily unoccupied because of employment or training away from home, illness, or abandonment caused by casualty or natural disaster;

(b) The financial group intends to return to the home;

(c) No other, current occupant is claiming a deduction for shelter costs in the SNAP program; and

(d) The home is not leased during the household's absence.

Stat. Auth.: ORS 411.816, 411.825

Stat. Implemented: ORS 411.816, 411.825

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 8-1992, f. & cert. ef. 4-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 34-1996, f. 9-26-96, cert. ef. 10-1-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 21-1998(Temp), f. 10-15-98 & cert. ef. 11-1-98 thru 12-31-98; AFS 25-1998, f. 12-28-98, cert. ef. 1-1-99; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 9-2001, f. & cert. ef. 6-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-160-0430

Income Deductions; SNAP

(1) Deductions from income are subtracted from countable income (see OAR 461-140-0010) in the following order to determine adjusted income (see OAR 461-001-0000) for the SNAP program:

(a) An earned income deduction of 20 percent of countable earned income. The 20 percent deduction is not taken from the wages funded by grant diversions such as Work Supplementation wages.

(b) A standard deduction of \$147 per month for a benefit group (see OAR 461-110-0750) of one, two, or three individuals. A standard deduction of \$155 per month for a benefit group of four individuals. A standard deduction of \$181 per month for a benefit group of five individuals. A standard deduction of \$208 per month for a benefit group of six or more individuals.

(c) A dependent care deduction for dependent care costs billed to a member of the financial group (see OAR 461-110-0530) and not paid for through any other program of the Department. For the cost to be deductible under this section, the care must be necessary to enable a member of the need group (see OAR 461-110-0630) to:

(A) Accept or continue employment;

(B) Seek employment, including a job search that meets the requirements of a case plan (see OAR 461-001-0020); or

(C) Attend vocational or educational training. A student receiving educational income is entitled to a deduction only for costs not excluded from educational income by OAR 461-145-0150.

(d) The medical deduction for elderly clients and clients who have a disability (see OAR 461-001-0015) in the need group. The deduction is calculated by determining the total of their deductible medical costs (see OAR 461-160-0415) and subtracting \$35. The remainder is the medical deduction.

(e) A deduction for child support payments (including cash medical support) a member of the household makes under a legal obligation to a child not a member of the household group (see OAR 461-110-0210), including payments for the current month and for payments on arrearages. Child support is not deductible if collected by setoff through the Oregon Department of Revenue or by interception of a federal tax refund.

(f) A shelter deduction, calculated as follows:

(A) For SNAP clients required to pay room and board in a nonstandard living arrangement (see OAR 461-001-0000), the shelter deduction is:

(i) The cost of room and board, minus the payment standard for the benefit group; or

(ii) The actual room cost, if the client can prove that the room cost exceeds the cost described in subparagraph (i) of this paragraph.

(B) For all other clients, the shelter deduction is calculated as follows:

(i) The standard deduction and the deductions of earned income, dependent care, court-ordered child support, and medical expenses are subtracted from countable income. Fifty percent of the remainder is subtracted from the shelter cost calculated in accordance with OAR 461-160-0420.

(ii) The rounded balance is the deduction, except the deduction is limited if the filing group has no member who has a disability or is elderly (see OAR 461-001-0015). The limit is \$459 per month.

(2) If the client cannot verify a medical or court-ordered child-support expense or cannot verify any other expense when asked to do so, the unverified expense is not used to calculate the deduction. If the client provides verification, the deduction is applied when calculating the next month's benefits. If verification is provided within the period authorized for pro-

cessing applications (see OAR 461-115-0210), the benefits for the initial month (see OAR 461-001-0000) are recalculated using the deduction.

Stat. Auth.: ORS 411.816

Stat. Implemented: ORS 411.816 & 411.825

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; 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 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 27-1995(Temp), f. 10-30-95, cert. ef. 11-1-95; AFS 41-1995, f. 12-26-95, cert. ef. 1-1-96; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 31-1996, f. & cert. ef. 9-23-96; AFS 41-1996(Temp), f. & cert. ef. 12-31-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 15-1998(Temp), f. 9-15-98, cert. ef. 10-1-98 thru 10-31-98; AFS 22-1998, f. 10-30-98, cert. ef. 11-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 23-2000(Temp), f. 9-29-00, cert. ef. 10-1-00 thru 12-31-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 23-2000(Temp) Suspended by AFS 28-2000(Temp), f. 10-31-00, cert. ef. 11-1-00 thru 12-31-00; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; AFS 3-2001, f. 2-27-01, cert. ef. 3-1-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. & cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 39-2010(Temp), f. & cert. ef. 11-4-10 thru 5-3-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 43-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 4-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-160-0620

Income Deductions and Client Liability; Long-Term Care Services or Waivered Services; OSIPM

In the OSIPM program:

(1) Deductions from income are made for a client residing in or entering a long-term care facility or receiving Title XIX waived services as explained in subsections (3)(a) to (3)(h) of this rule.

(2) Except as provided otherwise in OAR 461-160-0610, the liability of the client is determined according to subsection (3)(i) of this rule.

(3) Deductions are made in the following order:

(a) One standard earned income deduction of \$65 is made from the earned income in the OSIPM-AD and OSIPM-OAA programs. The deduction is \$85 in the OSIPM-AB program.

(b) The deductions under the plan for self-support as allowed by OAR 461-145-0405.

(c) One of the following need standards:

(A) A \$30 personal needs allowance for a client receiving long-term care services.

(B) A \$90 personal needs allowance for a client receiving long-term care services who is eligible for VA benefits based on unreimbursed medical expenses. The \$90 allowance is allowed only when the VA benefit has been reduced to \$90.

(C) The OSIPM maintenance standard for a client who receives waived services.

(d) A community spouse monthly income allowance is deducted from the income of the institutionalized spouse to the extent that the income is made available to or for the benefit of the community spouse, using the following calculation.

(A) Step 1: Determine the maintenance needs allowance. \$1,839 is added to the amount over \$552 that is needed to pay monthly shelter expenses for the principal residence of the couple. This sum or \$2,739 whichever is less, is the maintenance needs allowance. For the purpose of this calculation, shelter expenses are the rent or home mortgage payment (principal and interest), taxes, insurance, required maintenance charges for a condominium or cooperative, and the full standard utility allowance for the SNAP program (see OAR 461-160-0420).

(B) Step 2: Compare maintenance needs allowance with community spouse's countable income. The countable income of the community spouse is subtracted from the maintenance needs allowance determined in step 1. The difference is the income allowance unless the allowance described in step 3 is greater.

(C) Step 3: If a spousal support order or exceptional circumstances resulting in significant financial distress require a greater income allowance than that calculated in step 2, the greater amount is the allowance.

(e) A dependent income allowance as follows:

(A) For a case with a community spouse, a deduction is permitted only if the monthly income of the eligible dependent is below \$1,839. To determine the income allowance of each eligible dependent:

(i) The monthly income of the eligible dependent is deducted from \$1,839.

ADMINISTRATIVE RULES

(ii) One-third of the amount remaining after the subtraction in paragraph (A) of this subsection is the income allowance of the eligible dependent.

(B) For a case with no community spouse:

(i) The allowance is the TANF adjusted income standard for the client and eligible dependents.

(ii) The TANF standard is not reduced by the income of the dependent.

(f) Costs for maintaining a home if the client meets the criteria in OAR 461-160-0630.

(g) Medical deductions allowed by OAR 461-160-0030 and 461-160-0055 are made for costs not covered under the state plan. This includes the public and private health insurance premiums of the community spouse and the client's dependent.

(h) After taking all the deductions allowed by this rule, the remaining balance is the adjusted income.

(i) The client liability is determined as follows:

(A) For a client receiving waived services (except a client identified in OAR 461-160-0610(4)), the liability is the actual cost of the waived service or the adjusted income of the client, whichever is less. This amount must be paid to the Department each month as a condition of being eligible for waived services. In OSIPM-IC, the liability is subtracted from the gross monthly benefit.

(B) For a client who resides in a nursing facility, a state psychiatric hospital, an Intermediate Care Facility for the Mentally Retarded, or a non-waivered mental health facility, there is a liability as described at OAR 461-160-0610.

(4) The deduction used to determine adjusted income for a GA and GAM client receiving long-term care services or waived services is as follows:

(a) One standard earned income deduction of \$65 is made from the earned income for a client who is not blind; or

(b) One standard earned income deduction of \$85 is made from the earned income for a client who is blind.

Stat. Auth.: ORS 411.060, 411.070, 411.706, 411.816, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.706, 411.816, 412.049

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 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 5-1993, f. & cert. ef. 4-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 6-1994, f. & cert. ef. 4-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 5-1997, f. 4-30-97, cert. ef. 5-1-97; AFS 6-1998(Temp), f. 3-30-98, cert. ef. 4-1-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 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 6-1999, f. & cert. ef. 4-22-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; 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 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; AFS 5-2002, f. & cert. ef. 4-1-02; AFS 10-2002, f. & cert. ef. 7-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 8-2005(Temp), f. & cert. ef. 7-1-05 thru 10-1-05; SSP 9-2005(Temp), f. & cert. ef. 7-6-05 thru 10-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-190-0199

Parents as Scholars

(1) Notwithstanding any other provision in Chapter 461 of the Oregon Administrative Rules, effective July 1, 2011, participation in Parents as Scholars (PAS) is limited to clients approved for PAS as of June 30, 2011. Any other PAS applicant is not eligible for enrollment in PAS, including a client on the PAS wait list after June 30, 2011. The Department does not process any application for PAS received after June 30, 2011.

(2) PAS is a JOBS program component that assists TANF parents who are or will be undergraduates to begin or continue their education at a two- or four-year educational institution.

(3) The following definitions apply to PAS:

(a) "Educational institution" means any post-secondary educational institution approved or accredited by the Northwest Commission on Colleges and Universities, by its regional equivalent, or by the appropriate official, department, or agency of the state or nation in which the institution is located and that is:

(A) A four-year college or university;

(B) A junior college or community college; or

(C) A technical, professional or career school.

(b) "Participant" refers to a participant in the PAS component of the JOBS program.

(c) "PAS" means the Parents as Scholars component of the JOBS program.

(4) The number of participants in PAS in a calendar year is limited as follows:

(a) The number of participants in PAS in a calendar year may not exceed one percent of the number of households receiving TANF on January 1 of that calendar year.

(b) If one percent of the number of households receiving TANF on January 1 of the current calendar year is less than one percent of the number of households receiving TANF on January 1 of the previous calendar year, the Department will not fill PAS slots vacated on or after January 1 of the current calendar year until the total number of slots is equal to one percent of the households receiving TANF for the current calendar year.

(5) A PAS participant receives TANF cash assistance as well as necessary support services provided through the JOBS program. JOBS support services:

(a) May not be used to pay for the cost of tuition and fees associated with enrollment by a participant at an educational institution.

(b) Subject to the limitations of OAR 461-190-0211, may be used to pay for books and supplies associated with enrollment by a participant at an educational institution subject to the following provisions:

(A) The books and supplies are required for completion of the participant's coursework at an educational institution;

(B) There is no other funding available to the PAS participant for books and supplies; and

(C) No more than \$100 per academic term or semester may be paid per PAS participant for books and supplies.

(6) Applying for PAS. A parent who is applying for or receiving TANF may apply for PAS by completing and signing the PAS application and submitting it to the Department. The application and other documentation required by this rule must be submitted to Department of Human Services JOBS Unit (PAS), 2nd Floor, 500 Summer Street NE E48, Salem, Oregon 97301.

(7) PAS Selection Process; Wait List.

(a) PAS applications received from PAS applicants will be processed in the order in which the Department receives the applications.

(b) If the maximum number of PAS slots for a calendar year has not been filled, the Department will notify an applicant when he or she has been approved.

(c) When the maximum number of PAS slots for a calendar year has been filled and there is a wait list, the Department will notify an applicant when he or she has been added to the wait list.

(d) Once each year, the Department will contact PAS applicants on the wait list to determine if the PAS applicant's name should be removed from the wait list.

(e) When the maximum number of PAS slots for a calendar year has been filled and there is a wait list and a PAS slot becomes available, the Department will notify the next applicant on the wait list that an opening has become available.

(f) The Department will inform an applicant for PAS who does not qualify or no longer qualifies for placement on the wait list because the applicant becomes ineligible for TANF or no longer meets the requirements of this rule.

(8) Selection Requirements.

(a) A PAS applicant must meet the financial and nonfinancial eligibility requirements for TANF.

(b) A PAS applicant who is not applying for or receiving TANF at the time of selection may not participate in PAS or remain on the wait list.

(c) A PAS applicant must include documentation that the PAS applicant is an undergraduate who has been accepted for full-time attendance into or is enrolled full-time at an educational institution.

(d) A PAS applicant must demonstrate as part of the PAS application that completion of the educational program is likely to result in employment that provides the wages and benefits necessary for the applicant to support the applicant's family without TANF.

(9) Requirements of Participants; Limitations.

(a) A participant must provide documentation to the Department quarterly, or following completion of each academic term at the educational institution, that the participant is making satisfactory academic progress, as defined by the educational institution, toward a degree.

(b) A participant must provide documentation to the Department, prior to the start of each new academic term or semester, that the PAS appli-

ADMINISTRATIVE RULES

cant is an undergraduate who is enrolled full-time at an educational institution.

(c) A participant must attend classes full-time as defined by the educational institution, unless there is good cause (see OAR 461-130-0327) to limit attendance to less than full-time.

(d) Unless there is good cause for not attending year round, a participant must either:

(A) Attend classes year round, including during the summer if classes are offered by the educational institution; or

(B) If not attending classes year round, participate in work experience related to the field of study of the participant when not attending classes. If a work experience related to the participant's field of study is not available, participate in another appropriate work experience.

(e) During the first twelve months of participation in PAS, a participant must record attendance and homework time weekly and must provide this information to the Department no less frequently than monthly.

(f) Except as provided in subsection (g) of this section, a participant must remain eligible for TANF.

(g) If a participant becomes temporarily ineligible for TANF during a period of four or fewer months due to income from a paid work experience, the applicant may retain their PAS slot when school resumes if:

(A) The participant regains TANF eligibility; and

(B) PAS is still an appropriate activity for the participant.

(10) Ending PAS. PAS is ended for a PAS participant when:

(a) The PAS participant completes his or her degree program;

(b) Except as provided in subsection (9)(g) of this rule, the PAS participant becomes ineligible for TANF; or

(c) All of the following are true:

(A) The PAS participant fails to meet one or more of the requirements of subsections (9)(a) through (9)(e) of this rule;

(B) Attempts to re-engage the PAS participant pursuant to OAR 461-190-0231 are unsuccessful; and

(C) There is a determination that the PAS participant does not have good cause (see OAR 461-130-0327) for failure to meet one or more requirements of subsections (9)(a) through (9)(e) of this rule.

Stat. Auth.: ORS 411.060, 411.116, 412.016, 412.049, 412.124

Stats. Implemented: ORS 411.060, 411.070, 411.116, 412.016, 412.017, 412.049, 412.124, HB 2049 (2011)

Hist.: SSP 20-2008(Temp), f. & cert. ef. 9-5-08 thru 3-4-09; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-190-0211

Case Plan Activities and Standards for Support Service Payments; JOBS, Post-TANF, REF, SFPSS, TA-DVS, TANF, TANF-EDP

Notwithstanding any other administrative rule in Chapter 461 and subject to the limitations of state funding, the following special provisions apply:

(1) As provided in all of the following subsections, participation in a case plan (see OAR 461-001-0025) activity (see OAR 461-001-0025) is limited to:

(a) An individual who is determined to be a work-eligible individual according to federal definition (45 CFR 261.2(n)(1)). No individual may volunteer to participate in an activity of a case plan if not otherwise determined to be a work-eligible individual.

(b) An individual who is an applicant in the TANF Eligibility Determination Period (TANF-EDP) or a recipient of TANF program benefits.

(c) Except in the JOBS Plus program, the minimum number of hours to meet federally required participation rates (see OAR 461-001-0025).

(2) For eligible individuals, subject to the requirements and limitations in sections (1), (5), (6), and (7) of this rule, the following activities will be available and include support services (see OAR 461-001-0025) payments:

(a) Job search (see OAR 461-001-0025).

(b) JOBS Plus (see OAR 461-001-0025 and 461-101-0010) is limited to six months per individual.

(c) Work experience (see OAR 461-001-0025), alone or in combination with any other unpaid volunteer work, is limited to 60 days per individual.

(d) Sheltered or supported work (see OAR 461-001-0025), alone or in combination with any other unpaid volunteer work, is limited to 60 days per individual.

(e) High School or GED (see OAR 461-001-0025) limited to a teen parent (see OAR 461-001-0025).

(f) Parents as Scholars (see OAR 461-001-0025).

(3) The following activities will be available but will not include support services payments:

(a) Domestic Violence Intervention.

(b) Family Stability (see OAR 461-001-0000).

(c) Family Support & Connection.

(d) Post-TANF.

(e) Program entry (see OAR 461-001-0025).

(f) Self Initiated Training (see OAR 461-001-0025).

(g) SSI Application Process.

(h) Unsubsidized employment (work).

(4) Participation in an activity is based on whether an individual is Job Ready, Near Job Ready, or Not Job Ready.

(a) Job Ready means the individual has no barrier (see OAR 461-001-0025) or current barriers do not impact participation or employment. In addition, the individual has all of the following:

(A) Prior stable work history, either paid or unpaid.

(B) Had not voluntarily quit or been dismissed from their most recent employment (see OAR 461-135-0070), without good cause (see OAR 461-135-0070).

(C) Reliable or available transportation.

(D) No outstanding legal issues that would impact or prevent employment.

(E) Access to reliable child care within support service limits, or does not need help to pay for child care, or does not need child care.

(b) Near Job Ready means the individual has minimal barriers to participation or employment and the individual is addressing the barriers. In addition, the individual has all of the following:

(A) Limited or no work history, either paid or unpaid.

(B) Reliable or available transportation.

(C) No outstanding legal issues that would impact or prevent employment, or such legal issues are identified and are being addressed.

(D) Access to reliable child care within support service limits, or does not need help to pay for child care, or does not need child care.

(c) Not Job Ready means the individual has one or more barriers to participation or employment or is in crisis, and the individual is not addressing the barriers. For example, the individual has one or more of the following:

(A) Lack of stable housing that is preventing participation in an activity or employment.

(B) Domestic violence, mental health or alcohol and drug issues, and the individual is not addressing the issue.

(C) Medical issues that prevent participation in an activity or employment.

(D) Outstanding legal issues that would impact or prevent employment.

(E) Literacy issues that impact the ability for the individual to participate in an activity or obtain employment.

(5) In approving JOBS program support service payments, the Department must consider lower cost alternatives. It is not the intent of the Department or of this rule to supplant Department funding with other funding that is available in the community. It is the Department's expectation that case managers and clients will work collaboratively to seek resources that are reasonably available to the client in order to participate in activities.

(6) Payments for support services are only provided when:

(a) Necessary to participate in activities in a signed case plan;

(b) Authorized in advance; and

(c) All other provisions of this rule are met.

(7) Payments for support services are subject to the following limitations:

(a) Job Ready individuals may be eligible for child care, transportation, or other support services.

(b) Near Job Ready individuals may be eligible for child care, transportation, or other support services.

(c) Not Job Ready individuals are not eligible for support services.

(d) A teen parent (see OAR 461-001-0000) may be eligible for child care, transportation, or other support services, for participation in a basic education (see OAR 461-001-0025) component (see OAR 461-001-0025).

(e) \$450 maximum per filing group, per month, for a filing group who resides in the District 2, 4, 5, 9, 10, 15 or 16 service area.

(f) \$375 maximum per filing group, per month, for a filing group who resides in the District 1, 3, 6, 7 or 8 service area.

(g) \$300 maximum per filing group, per month, for a filing group who resides in the District 11, 12, 13 or 14 service area.

(h) Child Care. Payments for child care may be authorized, as limited by OAR 461-160-0040, if necessary to enable a single-parent Job Ready or

ADMINISTRATIVE RULES

Near Job Ready individual or single teen parent to participate in an approved JOBS program activity specified in the individual's case plan. If authorized, payment for child care will be made for the lesser of:

(A) The maximum monthly support service amount based on District service area under this section of the rule.

(B) The lesser of the actual rate charged by the care provider and the rate established in OAR 461-155-0150. The Department rate for children in care less than 158 hours in a month is limited by OAR 461-155-0150, except that the cost of child care may be paid up to the monthly maximum when children are in care less than 158 hours per month and the individual is a teen parent using on-site care while attending education activities.

(C) The minimum hours necessary, including meal and commute time, for the individual to participate in an approved JOBS program activity.

(i) Transportation. The Department may provide payments for a Job Ready or Near Job Ready individual or teen parent for transportation costs incurred in travel to and from an approved JOBS program activity. Payment is made only for the cost of public transportation or the cost of fuel. Payments are subject to the following considerations:

(A) Payment for transportation may not exceed \$50 per month, per family.

(B) Payment for public transportation is a priority over payment for a privately owned vehicle.

(C) Payment for fuel costs for a privately-owned vehicle is provided if the Job Ready or Near Job Ready individual, teen parent, or the individual providing the transportation has a valid driver's license and vehicle insurance and either of the following is true:

(i) No public transportation is available or the Job Ready or Near Job Ready individual or teen parent is unable to use public transportation because of a verifiable medical condition or disability for which no accommodation is available.

(ii) Public transportation is available but is more costly than the cost of fuel.

(j) Housing and Utilities. Payments for housing and utilities are not allowed.

(k) Other Payments. The Department may provide payments to individuals for costs directly related to obtaining unsubsidized employment.

(8) The Department may require an individual to provide verification of a need for, or costs associated with, support services prior to approval and issuance of payment if verification is reasonably available.

(9) The Department may reduce, close, or deny in whole or in part an individual's request for a support services payment in the following circumstances:

(a) The individual is disqualified for failing to comply with a case plan, unless the payment in question is necessary for the individual to demonstrate cooperation with his or her case plan.

(b) The purpose for the payment is not related to the individual's case plan.

(c) The individual disagrees with a support services payment offered or made by the Department as outlined in the individual's case plan.

(d) The individual is not determined to be a Job Ready or Near Job Ready individual or teen parent.

Stat. Auth.: ORS 411.060, 412.006, 412.009, 412.014, 412.049, 412.124, HB 2049 (2011)
Stat. Implemented: ORS 411.060, 412.001, 412.006, 412.009, 412.014, 412.049, 412.124, HB 2049 (2011)

Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 18-1998, f. & cert. ef. 10-2-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 11-2005(Temp), f. & cert. ef. 9-1-05 thru 12-31-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; 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 32-2010, f. & cert. ef. 10-1-10; SSP 42-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 6-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 19-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-190-0212

Case Plan Activities and Support Services; JOBS, Post-TANF, Pre-TANF, REF, SFPSS, TA-DVS, TANF

Notwithstanding any other administrative rule in Chapter 461 in effect on June 30, 2011, except as provided in section (4) of this rule, effective at the end of the day on June 30, 2011, in the JOBS, Post-TANF, Pre-TANF, REF, SFPSS, TA-DVS, and TANF programs:

(1) The following activities (see OAR 461-001-0025) and services specific to case plans (see OAR 461-001-0025) will end:

- (a) Adult Basic Education (see OAR 461-001-0025).
- (b) Community Service Program (see OAR 461-001-0025).
- (c) Drug and alcohol services (see OAR 461-001-0025).

- (d) English as a second language (see OAR 461-001-0025).
- (e) Family Support and Connections.
- (f) High school or GED Completion (see OAR 461-001-0025).
- (g) Initial job search and Job Search (see OAR 461-001-0025).
- (h) Job Skills Training (see OAR 461-001-0025).
- (i) Life Skills (see OAR 461-001-0025).
- (j) Medical services.
- (k) Mental Health Services (see OAR 461-001-0025).
- (l) Microenterprise (see OAR 461-001-0025).
- (m) On-the-job training (see OAR 461-001-0025).
- (n) Program entry (see OAR 461-001-0025).
- (o) Providing child care services to a Community Service Program participant (see OAR 461-001-0025).
- (p) Rehabilitation activities (see OAR 461-001-0025).
- (q) Retention Services.
- (r) Services to families served by Child Welfare.
- (s) Sheltered or supported work (see OAR 461-001-0025).
- (t) Social Security Application process.
- (u) Stabilization, intervention and other activities (see OAR 461-001-0025). These are:

- (A) Child health and development (see OAR 461-001-0000).
- (B) Crisis intervention (see OAR 461-001-0000).
- (C) Domestic violence services (see OAR 461-001-0000).
- (D) Family stability activity (see OAR 461-001-0000).
- (v) Vocational training (see OAR 461-001-0025).
- (w) Work experience (see OAR 461-001-0025).
- (x) Work supplementation (see OAR 461-001-0025).
- (2) Payments made on behalf of an individual participating in one or more activities or services in section (1) of this rule end. These payments are:

- (a) Support Services (see OAR 461-001-0025).
- (b) Specific Requirements; Pre-TANF Program (see OAR 461-135-0475(5)(b)).

(c) Support services for Temporary Assistance for Domestic Violence Survivors Program (see OAR 461-135-1205(4)).

(3) Transition Services (see OAR 461-190-0241). Eligibility for, and payments made on behalf of, an individual who is ineligible for the Pre-TANF or TANF programs because of an increase in earned income, ends.

(4) This rule does not apply to an individual in the JOBS Plus program (JOBS Plus) (see OAR 461-001-0025 and 461-101-0010) or the Parents as Scholars (PAS) (see OAR 461-001-0025) activity.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.014, 412.049
Stats. Implemented: ORS 409.010, 411.060, 411.070, 412.014, 412.049, 2009 Oregon Laws 827, HB 2049 (2011)
Hist.: SSP 12-2011(Temp), f. & cert. ef. 6-2-11 thru 11-29-11; SSP 16-2011(Temp), f. & cert. ef. 6-29-11 thru 11-29-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-195-0501

Definitions and Categories of Overpayments

This rule applies to benefits and services delivered under chapters 410, 411, and 461 of the Oregon Administrative Rules.

(1) "Overpayment" means:

(a) A benefit or service received by or on behalf of a client, or a payment made by the Department on behalf of a client, that exceeds the amount for which the client is eligible.

(b) A payment made by the Department and designated for a specific purpose which is spent by a person on an expense not approved by the Department.

(c) A payment for child care made by the Department to, or on behalf of, a client that:

- (A) Is paid to an ineligible provider;
- (B) Exceeds the amount for which a provider is eligible;
- (C) Is paid when the client was not engaged in an activity that made the client eligible for child care, such as an activity of the JOBS program (see OAR 461-001-0025 and 461-190-0151 to 461-190-0401);
- (D) Is paid when the client was not eligible for child care benefits; or
- (E) Has given an electronic benefit transfer (EBT) card, card number, or personal identification number (PIN) to a provider for the purpose of checking a child in or out from the provider's child care.

(d) A misappropriated payment when a person cashes and retains the proceeds of a check from the Department on which that person is not the payee and the check has not been lawfully endorsed or assigned to the person.

(e) A benefit or service provided for a need when that person is compensated by another source for the same need and the person fails to reimburse the Department when required to do so by law.

ADMINISTRATIVE RULES

(f) A cash benefit received by an individual in the GA or SFPSS programs for each month for which the client receives a retroactive SSI lump sum payment.

(g) In the TA-DVS program, only when an IPV in the TA-DVS program is established.

(2) The Department may establish an overpayment for the initial month (see OAR 461-001-0000) of eligibility under circumstances including but not limited to:

(a) The filing group, ineligible student, or authorized representative (see OAR 461-115-0090) withheld information;

(b) The filing group, ineligible student, or authorized representative provided inaccurate information;

(c) The Department fails to use income reported as received or anticipated in determining the benefits of the filing group; or

(d) The error was due to an error in computation or processing by the Department.

(3) Overpayments are categorized as follows:

(a) An administrative error overpayment is an overpayment caused by any of the following circumstances:

(A) The Department fails to reduce, suspend, or end benefits after timely reporting by the filing group, ineligible student, or authorized representative of a change covered under OAR 461-170-0011 and that reported change requires the Department to reduce, suspend, or end benefits;

(B) The Department fails to use the correct benefit standard;

(C) The Department fails to compute or process a payment correctly based on accurate information timely provided by the filing group, ineligible student, or authorized representative;

(D) In the GA and SFPSS programs, the Department fails to require a client to complete an interim assistance agreement; or

(E) The Department commits a procedural error that was no fault of the filing group, ineligible student, or authorized representative.

(b) A client error overpayment is any of the following:

(A) An overpayment caused by the failure of a filing group, ineligible student, or authorized representative to declare or report information or a change in circumstances as required under OAR 461-170-0011, including information available to the Department, that affects the client's eligibility to receive benefits or the amount of benefits.

(B) A client's unreduced liability or receipt of unreduced benefits pending a contested case hearing decision or other final order favorable to the Department.

(C) A client's failure to return a benefit known by the client to exceed the correct amount.

(D) A client's use of a JOBS or SFPSS program support payment (see OAR 461-190-0211) for other than the intended purpose.

(E) A payment for child care when the client was not engaged in an activity that made the client eligible for child care, such as an activity of the JOBS program (see OAR 461-001-0025 and 461-190-0151 to 461-190-0401).

(F) A payment for child care when the client was not eligible for child care benefits.

(G) The failure of a client to pay his or her entire share of the cost of services or the participant fee (see OAR 461-160-0610 and 461-160-0800) in the month in which it is due.

(H) An overpayment caused by a client giving an electronic benefit transfer (EBT) card, card number, or personal identification number (PIN) to a provider for the purpose of checking a child in or out from the provider's child care.

(c) A fraud overpayment is an overpayment determined to be an intentional program violation (see OAR 461-195-0601 and 461-195-0611) or substantiated through a criminal prosecution.

(d) In the SNAP program, a provider error overpayment is an overpayment made to a drug or alcohol treatment center or residential care facility that acted as a client's authorized representative.

(e) In the child care program, a provider error overpayment is a payment made by the Department on behalf of a client to a child care provider when:

(A) Paid to an ineligible provider;

(B) The payment exceeds the amount for which a provider is eligible.

(4) When an overpayment is caused by both an administrative and client error in the same month, the Department determines the primary cause of the overpayment and assigns as either an administrative or client error overpayment.

(5) In the SNAP program, the trading of a controlled substance (as defined in section 102 of the Controlled Substances Act in 21 U.S.C. 802) is the buying or selling of SNAP program benefits for cash or consideration

other than eligible food; or the exchange for SNAP program benefits of firearms, ammunition, explosives, or controlled substances.

(6) In the TANF program, when an overpayment puts the client at greater risk of domestic violence (see OAR 461-001-0000), the overpayment is waived (see OAR 461-135-1200).

Stat. Auth.: ORS 411.060, 411.070, 411.081, 411.404, 411.816, 412.001, 412.049, 411.690, 411.816, 411.892, 412.001, 412.049, 414.025

Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.117, 411.404, 411.620, 411.640, 411.690, 411.816, 411.892, 412.001, 412.049, 414.025
Hist.: AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 7-2001(Temp), f. & cert. ef. 4-4-01 thru 6-30-01; AFS 12-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 15-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-195-0521

Calculation of Overpayments

This rule specifies how the Department calculates an overpayment (see OAR 461-195-0501).

(1) The Department calculates an overpayment by determining the amount the client received or the payment made by the Department on behalf of the client that exceeds the amount for which the client was eligible.

(2) When a filing group, ineligible student, or authorized representative (see OAR 461-115-0090) fails to report income, the Department calculates and determines the overpayment by assigning unreported income to the applicable budget month without averaging the unreported income, except a client's earned income reported quarterly from the Employment Department is considered received by the client in equal amounts during the months identified in the report.

(3) When using prospective budgeting (see OAR 461-150) and the actual income differs from the amount determined under OAR 461-150-0020(2), there may be a client error overpayment (see OAR 461-195-0501) only when the filing group, ineligible student, or authorized representative withheld information, failed to report a change, or provided inaccurate information. In such a case, the Department uses the actual income to determine the amount of an overpayment.

(4) When a filing group, ineligible student, or authorized representative fails to report all earned income within the reporting time frame, the earned income deduction (see OAR 461-145-0930, 461-160-0160, 461-160-0190, 461-160-0430, 461-160-0550, and 461-160-0552) is applied as follows:

(a) In the ERDC, OSIP, OSIPM, QMB, and REFM programs, the Department allows the earned income deduction.

(b) In the MAA, MAF, REF, and TANF programs, the Department allows the earned income deduction when good cause (see section (5) of this rule) exists.

(c) In the SNAP program, no deduction is applied to earned income not timely reported.

(5) For the purposes of OAR 461-195-0501 to 461-195-0561, "good cause" means circumstances beyond the client's reasonable control that caused the client to be unable to report income timely and accurately.

(6) When support is retained:

(a) In the TANF program, the amount of support (other than cash medical support) the Department of Justice retains as a current reimbursement each month is added to other income to determine eligibility. When a client is not eligible for TANF program benefits, the overpayment is offset by the support the Department of Justice retains as a current reimbursement.

(b) In the medical programs, the amount of the cash medical support the Department retains each month is excluded income and not used to determine eligibility for medical program benefits. When a client has incurred a medical program overpayment, the overpayment is offset by the amount of the cash medical support the Department retains during each month of the overpayment.

(7) In the REF and TANF programs, when a client directly receives support used to determine eligibility or calculate benefits, the overpayment is:

(a) If still eligible for REF or TANF program benefits, the amount of support the client received directly; or

(b) If no longer eligible for REF or TANF program benefits, the amount of program benefits the client received.

(8) When an overpayment occurs due to the failure of an individual to reimburse the Department, when required by law to do so, for benefits or services (including cash medical support) provided for a need for which that individual is compensated by another source, the overpayment is limited to the lesser of the following:

(a) The amount of the payment from the Department;

ADMINISTRATIVE RULES

(b) Cash medical support; or
(c) The amount by which the total of all payments exceeds the amount payable for such a need under the Department's rules.

(9) Benefits paid during a required notice period (see OAR 461-175-0050) are included in the calculation of the overpayment when:

(a) The filing group, ineligible student, or authorized representative failed to report a change within the reporting time frame under OAR 461-170-0011; and

(b) Sufficient time existed for the Department to adjust the benefits to prevent the overpayment if the filing group, ineligible student, or authorized representative had reported the change at any time within the reporting time frame.

(10) In the SNAP program:

(a) If the benefit group (see OAR 461-110-0750) was categorically eligible, there is no overpayment based on resources.

(b) For a filing group (see OAR 461-110-0370) found eligible for SNAP program benefits under OAR 461-135-0505(1)(a) to (c), and the actual income made the group ineligible for the related program, the group remains categorically eligible for SNAP program benefits as long as the eligibility requirement under OAR 413-135-0505(1)(d) is met. A benefit group of one or two individuals would be entitled to at least the minimum SNAP program benefit allotment under OAR 461-165-0060.

(c) For a filing group found eligible for SNAP program benefits only under OAR 461-135-0505(1)(d), and the actual income equals or exceeds 185 percent of the Federal Poverty Level, the filing group is no longer categorically eligible. The overpayment is the amount of SNAP program benefits incorrectly received.

(11) In the OSIP and OSIPM programs, when a client does not pay his or her share of the cost of services (see OAR 461-160-0610) or the OSIP-EPD or OSIPM-EPD program participant fee (see OAR 461-160-0800) in the month in which it is due, an overpayment is calculated as follows:

(a) All payments made by the Department on behalf of the client during the month in question are totaled, including but not limited to any payment for:

- (A) Capitation;
- (B) Long term care services;
- (C) Medical expenses for the month in question;
- (D) Medicare buy-in (when not concurrently eligible for an MSP);
- (E) Medicare Part D;
- (F) Mileage reimbursement;
- (G) Special needs under OAR 461-155-0500 to 416-155-0710; and
- (H) Waivered services, including home delivered meals and non-medical transportation.

(b) Any partial or late liability payment made by a client receiving in-home waived services (see OAR 461-001-0030) or participant fee paid by an OSIP-EPD or OSIPM-EPD program client is subtracted from the total calculated under subsection (a) of this section. The remainder, if any, is the amount of the overpayment.

(12) When a client's liability is unreduced pending the outcome of a contested case hearing about that liability the overpayment is the difference between the liability amount determined in the final order and the amount, if any, the client has repaid.

(13) In the BCCM, CEC, CEM, EXT, MAA, MAF, OHP-CHP, OHP-OPC, OHP-OPP, OHP-OPU, OHP-OP6, OSIPM, QMB, REFM, and SAC programs if the client was not eligible for one program, but during the period in question was eligible for another program:

(a) With the same benefit level, there is no overpayment.

(b) With a lesser benefit level, the overpayment is the amount of medical program benefit payments made on behalf of the client exceeding the amount for which the client was eligible.

(14) When an overpayment is caused by administrative error (see OAR 461-195-0501), any overpayment of GA, OSIP, REF, SFPSS, or TANF program benefits is not counted as income when determining eligibility for the EXT, GAM, MAA, MAF, OSIPM, REFM, and SAC programs.

(15) Credit against an overpayment is allowed as follows:

(a) In the GA, REF, and TANF programs, a credit is allowed for a client's payment for medical services made during the period covered by the overpayment, in an amount not to exceed the Department fee schedule for the service, but credit is not allowed for an elective procedure unless the Department authorized the procedure prior to its completion.

(b) In the SNAP program, if the overpayment was caused by unreported earned income, verified child care costs are allowed as a credit to the

extent the costs would have been deductible under OAR 461-160-0040 and 461-160-0430.

(c) In the SFPSS and TANF programs, if the overpayment is caused by reported earned income, a credit is allowed for the Post-TANF grant if the client meets eligibility under OAR 461-135-1250 and the client has received less than 12 months of Post-TANF program benefits.

(d) In all programs, for an underpayment of benefits.

(16) In the SNAP program, in compliance with the American Recovery and Reinvestment Act of 2009, effective April 1, 2009 through September 30, 2009, the amount between the normal Thrifty Food Plan (TFP) benefit amount under this section and the increased TFP benefit amount under OAR 461-155-0190 is not counted in the overpayment amount unless the filing group was ineligible for SNAP program benefits. [Table not included. See ED. NOTE]

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

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.660, 411.706, 411.816, 412.014, 412.049, 412.124, 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.620, 411.630, 411.635, 411.640, 411.660, 411.690, 411.706, 411.816, 412.014, 412.049, 412.124, 414.231

Hist.: AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 22-2002, f. 12-31-02, cert. ef. 1-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 17-2011, f. & cert. ef. 7-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-195-0541

Liability for Overpayments

(1) In all programs except the BCCM, CEC, CEM, EXT, GA, GAM, MAA, MAF, OHP, OSIP, OSIPM, QMB, REFM, SAC and SNAP programs or a child care program, the following persons are liable for repayment of an overpayment (see OAR 461-195-0501):

(a) Each individual in the filing group or required to be in the filing group and the payee when the overpayment was incurred, except an individual who did not reside with and did not know he or she was included in the filing group.

(b) A caretaker relative (see OAR 461-001-0000) and his or her spouse (see OAR 461-001-0000) who were not part of, but resided with, the filing group when the overpayment was incurred.

(c) A parent (see OAR 461-001-0000) or caretaker relative of a child (see OAR 461-001-0000) in the benefit group (see OAR 461-110-0750) and the spouse of the parent or caretaker relative if the parent, caretaker relative, or spouse was a member of or resided with the filing group when the overpayment was incurred.

(d) An individual determined liable for an overpayment remains liable when the individual becomes a member of a new filing group.

(e) An authorized representative (see OAR 461-115-0090) when the authorized representative gave incorrect or incomplete information or withheld information resulting in the overpayment.

(2) In the BCCM, CEC, CEM, EXT, MAA, MAF, OHP, REFM, and SAC programs, the following persons are liable for repayment of an overpayment:

(a) Each individual in the filing group or required to be in the filing group and the payee when the overpayment was incurred, except an individual who:

(A) Was a child or dependent child (see OAR 461-001-0000) at the time of the overpayment; or

(B) Did not reside with and did not know he or she was included in the filing group.

(b) A caretaker relative and his or her spouse who were not part of, but resided with, the filing group when the overpayment was incurred.

(c) A parent or caretaker relative of a child in the filing group and the spouse of the parent or caretaker relative if the parent, caretaker relative, or spouse was a member of or resided with the filing group when the overpayment was incurred.

(d) An authorized representative when the authorized representative gave incorrect or incomplete information or withheld information that resulted in the overpayment.

(3) In a child care program:

(a) An overpayment caused by administrative error is collectible as follows:

(A) The provider is liable for a provider overpayment made on behalf of a client eligible for child care payments.

(B) Each adult in the filing group or required to be in the filing group is liable for an overpayment if the client was not eligible for the payment.

ADMINISTRATIVE RULES

(b) Each adult in the filing group or required to be in the filing group is liable for a client overpayment, and a provider is liable for an overpayment caused by the provider. The client and provider are jointly and severally liable for an overpayment caused by both. In the case of an alleged provider overpayment, a provider's failure to provide contemporaneous records of care provided creates a rebuttable presumption that the care was not provided.

(c) An adult who cosigned an application with a minor provider applicant is liable for an overpayment incurred by the minor provider.

(4) In the GA, GAM, OSIP, OSIPM, and QMB programs, the following persons are liable for repayment of an overpayment:

(a) Each individual in the filing group or required to be in the filing group and the payee when the overpayment was incurred, except an individual who:

(A) Was a child or dependent child at the time of the overpayment; or

(B) Did not reside with and did not know he or she was included in the filing group.

(b) A caretaker relative and his or her spouse who were not part of, but resided with, the filing group when the overpayment was incurred.

(c) A parent or caretaker relative of a child in the filing group and the spouse of the parent or caretaker relative if the parent, caretaker relative, or spouse was a member of or resided with the filing group when the overpayment was incurred.

(d) An authorized representative when the authorized representative knowingly gave incorrect or incomplete information or intentionally withheld information that resulted in the overpayment.

(5) In the SNAP program, the following persons are liable for repayment of an overpayment or a claim that results from the trading of a controlled substance (see OAR 461-195-0501(6)):

(a) The primary person (see OAR 461-001-0015) of any age, an ineligible student in the household, and all adults who were members of or required to be in the filing group (see OAR 461-110-0370) when excess benefits were issued.

(b) A sponsor of a non-citizen household member if the sponsor is at fault, for payments prior to November 21, 2000.

(c) A drug or alcohol treatment center or residential care facility that acted as the authorized representative of the client.

(6) Except as provided otherwise in section (7) of this rule, in all programs, both a non-citizen and the sponsor of the non-citizen are liable for an overpayment incurred if the overpayment results from the failure of the sponsor to provide correct information (see OAR 461-145-0820 to 461-145-0840). If the sponsor had good cause (see OAR 461-195-0521(5)) for withholding the information, the sponsor is not liable for the overpayment.

(7) In the SNAP program, the sponsor of a non-citizen is not liable under section (6) of this rule for payments on or after November 21, 2000.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.087, 411.404, 411.630, 411.635, 411.640, 411.690, 411.816, 412.014, 412.049
Hist.: AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

461-195-0621

Intentional Program Violations; Penalties and Liability for Overpayments

(1) Disqualification penalties resulting from intentional program violations and other violations of law are listed in this rule. A person may be subject to disqualification for an IPV only if the person was advised of the disqualification penalties prior to committing the IPV. A disqualification established in another state continues in effect in Oregon.

(2) In the ERDC program, if an IPV is established against a person through a contested case hearing, a waiver of the right to hearing, or by a state or federal court, that person is liable for repayment to the Department of the full amount of overpayment the Department has established. The amount of restitution to the Department ordered by a court as part of a criminal proceeding does not lower the amount owed to the Department. Payments of restitution to the Department are credited against the amount owed. A client is not subject to an IPV disqualification but is still required to repay overpayment amounts.

(3) A child care provider found to have committed an intentional program violation (IPV) is ineligible for payment for child care as follows:

(a) A child care provider with an IPV established between April 1, 2001 and September 30, 2005 is permanently disqualified to receive payment.

(b) A child care provider who has incurred an overpayment established as an IPV claim after September 30, 2005 is ineligible for payment:

(A) For six months and until the full amount of the overpayment is paid; or

(B) Permanently, if the Child Care Program Manager finds that such ineligibility is in the public interest. The following is a non-exclusive list of reasons that support a determination of permanent ineligibility: safety concerns; or, the likelihood of future violations; or, the degree of egregiousness of any of the established IPV's; or, the degree of primary involvement in the violation by the provider.

(4) In the SNAP and TANF programs, when an IPV is established against a person through a contested case hearing, a waiver of the right to hearing, or by a state or federal court:

(a) That person is liable for repayment to the Department of the full amount of overpayment the Department has established, regardless of any restitution ordered by a court.

(b) The client is disqualified from receiving benefits in the program in which the IPV was committed for a period of 12 calendar months for the first IPV, 24 calendar months for the second IPV and permanently for the third IPV.

(c) If the TANF grant is affected by the IPV penalty imposed under this rule, eligibility for and the level of SNAP benefits are determined in accordance with OAR 461-145-0105.

(5) In the TA-DVS program, when an IPV is established against a person through a contested case hearing, a waiver of the right to hearing, or by a state or federal court:

(a) That person is liable for repayment to the Department of the full amount of overpayment the Department has established, regardless of any restitution ordered by a court. The Department will seek repayment from the client only if seeking repayment would not place the client at greater risk of domestic violence.

(b) Subsequent applications for TA-DVS that meet the eligibility criteria set forth in OAR 461-135-1215 and 461-135-1225 must be staffed with the Department's central office.

(6) A person found by a federal, state, or local court to have traded a controlled substance for SNAP benefits is disqualified from participation in the SNAP program as follows:

(a) For a period of two years upon the first occasion.

(b) Permanently upon the second occasion.

(7) A person found by a federal, state, or local court to have traded firearms, ammunition, or explosives for SNAP benefits is permanently disqualified from participation in the SNAP program.

(8) A person convicted of an act prohibited by 7 U.S.C. 2024(b) or (c) (1999) involving an item covered by those subsections and having a value of \$500 or more is permanently disqualified from participation in the SNAP program.

(9) A person is disqualified for a 10-year period from receiving benefits in the program in which the person committed fraud if the person:

(a) In the TANF program:

(A) Is convicted in state or federal court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from two or more states under programs that are funded under Title IV or XIX of the Social Security Act.

(B) Is found in an IPV hearing or admits, in a written waiver of the right to an IPV hearing, to having made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive benefits simultaneously from two or more states.

(b) In the SNAP program, is convicted in state or federal court, is found in an IPV hearing, or admits in a written waiver of the right to an IPV hearing, of having made a fraudulent statement or representation with respect to the identity or place of residence of the individual in order to receive multiple benefits simultaneously from one or more states under programs that are funded under the Food Stamp Act of 1977.

(10) The Department issues notice of disqualification in accordance with OAR 461-175-0220. The disqualification provided for in this rule begins the first of the month following the month in which the notice period ends.

(11) Once a disqualification period begins, it continues uninterrupted until completed, regardless of the eligibility of the filing group of the disqualified person.

Stat. Auth.: ORS 411.060, 411.816, 412.049
Stats. Implemented: ORS 411.060, 411.816, 412.049
Hist.: AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 6-2001, f. 3-30-01, cert. ef. 4-1-01; SSP 8-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11

ADMINISTRATIVE RULES

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients.

Adm. Order No.: SSP 26-2011(Temp)

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 10-1-11 thru 3-29-12

Notice Publication Date:

Rules Adopted: 461-135-0485, 461-135-1260

Rules Amended: 461-115-0050, 461-130-0330, 461-130-0335, 461-135-0089, 461-135-0950, 461-135-1195, 461-145-0410, 461-160-0015, 461-170-0011, 461-180-0050, 461-180-0070

Rules Suspended: 461-135-0960

Subject: OAR 461-115-0050 is being amended as part of the implementation of HB 3536 (2011) to indicate when clients who have had their medical case suspended as a result of incarceration with an anticipated stay of one year or less do not need a new application to resume medical benefits.

OAR 461-130-0330 about the disqualification penalty in the Department's Temporary Assistance for Needy Families program is being amended to change the levels of disqualifications and the penalty in the final month in the Job Opportunity and Basic Skills (JOBS) program. The amendment also adds a two month ineligibility period if a client does not begin cooperation in the final month of disqualification. As a result of legislative changes during the 2011 legislative session, the levels and penalty for non-cooperation in the JOBS program are being changed. The amendment changes the levels of disqualification from four to two. There are three months in the first level and one month in the second level. The amendment also stipulates that a client who does not begin cooperation in the second level month will have the TANF grant closed and would not be eligible for TANF program benefits for two-consecutive month.

OAR 461-130-0335 about removing a disqualification penalty and the effects on benefits is being amended to change how a disqualification is ended depending on the level of disqualification in the Temporary Assistance for Needy Families (TANF) program. In the first level of disqualification a disqualified individual must cooperate for two consecutive weeks in all activities of a new or revised case plan. In the second level of disqualification the disqualified individual must begin the two consecutive weeks of cooperation prior to the end of the month or their TANF grant will be closed for two consecutive months. After which the individual would need to re-apply for TANF program benefits. If the individual begins and cooperates for the two consecutive months, TANF benefits are restored effective the date the two consecutive weeks ended. As a result of legislative changes during the 2011 legislative session, the levels and penalty for non-cooperation in the JOBS program is being changed. This amendment was needed to comply with the legislative changes. This rule is also being amended to clarify the meaning of the term "household".

OAR 461-135-0089 about the disqualification penalty for non-cooperation with substance abuse and mental health requirements in the Pre-TANF, Refugee, and TANF programs is being amended to describe how to end a penalty imposed under OAR 461-135-0085. The amendment specifies what a client must do in order to end a disqualification imposed under OAR 461-135-0085. These changes are a result of legislative changes during the 2011 legislative session, changing the levels and penalty for non-cooperation in the JOBS program.

OAR 461-135-0485 is being adopted to implement HB 2049 (2011) by setting out the requirements to complete an employability assessment and orientation for the Job Opportunity and Basic Skills (JOBS) program. These are new requirements for individuals applying for the Temporary Assistance to Need Families (TANF) program.

OAR 461-135-0950 is being amended as part of the implementation of HB 3536 (2011) to state that clients who become incarcerated for less than 12 months may have their medical benefits suspended rather than closed. This legislation was based on a request by local jails that have been experiencing an influx of inmates with high med-

ical needs. These inmates have had their medical benefits terminated upon incarceration, and were not able to get their benefits reinstated upon release without completing a new application and/or submitting a reservation list request for OHP benefits. Reinstating medical benefits without a new application when an individual reports their release timely result in more timely medical benefits. This rule is also being amended to include the age criteria previously in OAR 461-135-0960 for individuals in state psychiatric institutions and training centers for the Oregon Supplemental Income Program Medical (OSIPM) and Medical Coverage for Children in Substitute or Adoptive Care (SAC) programs.

OAR 461-135-0960 about the age criteria for individuals in state psychiatric institutions and training centers for the Oregon Supplemental Income Program Medical (OSIPM) and Medical Coverage for Children in Substitute or Adoptive Care (SAC) programs is being suspended as part of the implementation of HB 3536 (2011) to make the rules about suspension of benefits easier to understand and follow. This topic will be included in OAR 461-135-0950.

OAR 461-135-1195 about the specific eligibility requirements for the Department's State Family Pre-SSI/SSDI (SFPSS) program is being amended to expand eligibility to one-adult families with each child in the household are on Social Security Income (SSI). As a result of budget reductions during the 2011 legislative session, the SFPSS grants are being reduced by removing enhanced grants. The grant will equal what the clients would have been receiving in a Temporary Assistance for Needed Families (TANF) grant. Because of this change, families with one adult where their child or all their children in the household are receiving SSI will have an SFPSS grant equal to a TANF grant. Prior to the grant amount changing, these families would have received less on SFPSS than TANF. Therefore they were not allowed to be on SFPSS program. They were provided all other SFPSS services.

OAR 461-135-1260 is being adopted to set out the specific requirements of the Job Participation Incentive (JPI) program, which is part of the strategy to meet federal requirements related to TANF participation and help increase the ability of single parents with small children provide better nutrition to their families.

OAR 461-145-0410 about how program benefits are treated in the eligibility process is being amended to provide specifics regarding description of the Job Participation Incentive (JPI) program benefits and how those benefits will be treated when determining eligibility for other programs.

OAR 461-160-0015 is being amended to update the resource limit for SNAP households that include at least one member who is elderly or an individual with a disability. The resource limit for these SNAP households prior to October 1, 2011 was \$3,000. Based on an increase in the Consumer Price Index (CPI) the new resource limit as of October 1, 2011 is \$3,250. There is no change in the resource limit for other SNAP households.

OAR 461-170-0011 is being amended to set out the reporting requirements for clients in the Job Participation Incentive (JPI) program, aligning these requirements with SNAP cases in SRS.

OAR 461-180-0050 about effective date for suspending or closing benefits or Job Opportunity and Basic Skills (JOBS) support services is being amended to fix a conflict between two rules and correct an error applicable to TANF program notices, changing the reference to the notice period from 30 to 45 days. This rule is also being amended as part of the implementation of HB 3536 (2011) to set out the policy on the effective date for suspending benefits for inmates.

OAR 461-180-0070 about effective dates for initial month of benefits is being amended to clarify the initial date for TANF benefits when a client has received Pre-TANF benefits in the context of other changes to the Pre-TANF program due to state legislation and budget constraints.

Rules Coordinator: Annette Tesch—(503) 945-6067

ADMINISTRATIVE RULES

461-115-0050

When an Application Must Be Filed

(1) A client must file an application, or may amend a completed application, as a prerequisite to receiving benefits as follows:

(a) A client may apply for the TA-DVS program as provided in OAR 461-135-1220.

(b) In all programs except the TA-DVS program:

(A) Except as provided otherwise in this rule, a client wishing to apply for program benefits must submit a complete application on a form approved by the Department.

(B) An application is complete if all of the following requirements are met:

(i) All information necessary to determine the individual's eligibility and benefit amount is provided on the application for each individual in the filing group.

(ii) The applicant, even if homeless, provides a mailing address.

(iii) The application is signed. An individual required but unable to sign the application may sign with a mark, witnessed by another individual.

(iv) The application is received by the Department, except an electronic application (see OAR 461-001-0000) meets the requirements of this paragraph only when submitted to and received by the Department with an electronic signature.

(2) A new application is not required in the following situations:

(a) In the SNAP program, when a single application can be used both to determine a client is ineligible in the month of application and to determine the client is eligible the next month. This can be done when:

(A) Anticipated changes make the filing group (see OAR 461-110-0370) eligible the second month; or

(B) The filing group provides verification between 30 and 60 days following the filing date (see OAR 461-115-0040), under OAR 461-180-0080.

(b) In all programs except the SNAP program, when a single application can be used both to determine a client is ineligible on the date of request (see OAR 461-115-0030) and to determine the client is eligible when anticipated changes make the filing group eligible within 45 days from the date of request.

(c) When the case is closed and reopened during the same calendar month.

(d) When benefits were suspended for one month because of the level of income, and the case is reopened the month following the month of suspension.

(e) When reinstating medical benefits for a pregnant woman covered by OAR 461-135-0950, notwithstanding subsection (g) of this section.

(f) When the Department determines a child under the age of 19 years with a date of request from July 1, 2009 through December 31, 2009 is not eligible for EXT, MAA, MAF, OHP, OSIPM, QMB, or SAC program benefits for a reason other than failure to complete the application requirements under OAR 461-115-0020, and the Department chooses to redetermine the child's eligibility for EXT, MAA, MAF, OHP, OSIPM, QMB, and SAC program benefits under the administrative rules in effect on October 1, 2009 and January 1, 2010.

(g) In the BCCM, CEC, CEM, EXT, GAM, MAA, MAF, OHP, OSIPM, QMB, and SAC programs, when a client's medical benefits are suspended because the client lives in a public institution (see OAR 461-135-0950), no new application is required if the inmate is released within 12 months of admission and the inmate provides notification to the Department within 10 days of the release.

(3) When a client establishes a new date of request (see OAR 461-115-0030) prior to the end of the month following the month of case closure, unless the Department determines a new application is required, a new application is not required in the following situations:

(a) In the OSIPM program, when the client's case closed due to failure to make a liability payment required under OAR 461-160-0610.

(b) In the OSIPM-EPD program, when the client's case closed due to failure to make a participant fee payment required under OAR 461-160-0800.

(4) A new application is required to add a newborn child to a benefit group (see OAR 461-110-0750) according to the following requirements:

(a) For the REF and TANF programs:

(A) A new application is not required if the child is listed on the application as "unborn" and there is sufficient information about the child to establish its eligibility.

(B) A new application is required if the child is not included on the application as "unborn."

(b) In the CEC, CEM, EXT, HKC, MAA, MAF, OHP, and REFM programs, no additional application is required to add a newborn to a benefit

group receiving benefits from one of the listed programs if eligibility can be determined without submission of a new application.

(c) In the CEC, CEM, EXT, GAM, HKC, MAA, MAF, OHP, OSIPM, QMB, REFM, and SAC programs, no additional application is required to add an assumed eligible newborn to a benefit group currently receiving Department medical program benefits.

(d) In the ERDC and SNAP programs, an application is not required to add the child to the benefit group.

(e) In all programs other than CEC, CEM, ERDC, EXT, GAM, HKC, MAA, MAF, OHP, QMB, REF, REFM, SAC, SNAP, and TANF, an application is required.

(5) A new application is required to add an individual, other than a newborn child, to a benefit group according to the following requirements:

(a) In the ERDC and SNAP programs, a new application is not required.

(b) In the EXT, HKC, MAA, MAF, OHP, REF, REFM, SAC, and TANF programs, an individual may be added by amending a current application if the information is sufficient to determine eligibility; otherwise a new application is required.

(c) In all programs other than the ERDC, EXT, HKC, MAA, MAF, OHP, REF, REFM, SAC, SNAP, and TANF programs, a new application is required.

(6) A client whose TANF grant is closing may request ERDC orally or in writing.

(7) Except for an applicant for the SNAP program, a client may change between programs administered by the Department using the current application if the following conditions are met:

(a) The client makes an oral or written request for the change.

(b) The Department has sufficient evidence to determine eligibility and benefit level for the new program without a new application.

(c) The program change can be effected while the client is eligible for the first program.

(8) In the CEC, CEM, EXT, HKC, MAA, MAF, OHP, OSIP, OSIPM, and QMB programs, a new application is not required to redetermine eligibility if the following conditions are met:

(a) The client currently is receiving benefits from one of these programs; and

(b) The Department has sufficient evidence to redetermine eligibility for the same program or determine eligibility for the new program without a new application or by amending the current application.

Stat. Auth: ORS 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025, 414.231, 414.826, 414.839

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.117, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025, 414.231, 414.826, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 3-1991(Temp), f. & cert. ef. 1-17-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 27-1996, f. 6-27-1996, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; AFS 21-2001(Temp), f. & cert. ef. 10-1-01 thru 12-31-01; AFS 22-2001, f. & cert. ef. 10-1-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 2-2008(Temp), f. & cert. ef. 1-28-08 thru 6-30-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 17-2009(Temp), f. 7-29-09, cert. ef. 8-1-09 thru 1-28-10; SSP 22-2009(Temp), f. & cert. ef. 8-28-09 thru 1-28-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12

461-130-0330

Disqualifications; Post-TANF, Pre-TANF, REF, SNAP, TANF

(1) In the Post-TANF, Pre-TANF, REF, SNAP, and TANF programs, the Department may not disqualify from program benefits a client who is a volunteer (see OAR 461-130-0305) participant in an employment program.

(2) In the Pre-TANF, REF, and TANF programs, a mandatory (see OAR 461-130-0305) client who fails to comply with an employment program participation requirement and does not have good cause (see OAR 461-130-0327) for the failure to comply is subject to disqualification under this rule only after the requirements of all of the following subsections are met:

(a) The client has had the opportunity to participate in the re-engagement process under OAR 461-190-0231;

(b) The Department has determined the client is willfully non-compliant and does not have good cause for failing to comply with a requirement of the program;

ADMINISTRATIVE RULES

(c) The Department has offered (and the client has refused) or conducted screenings (and assessed if appropriate) for physical or mental health needs, substance abuse, domestic violence, and learning needs;

(d) The Department has determined the client has no barriers (see OAR 461-001-0025) or refuses to take appropriate steps to address identified barriers;

(e) The Department has determined the client has not met federally required participation rates (see OAR 461-001-0025); and

(f) The Department has assessed for any risk of harm posed to the children by a reduction in cash assistance.

(3) In the REF and TANF programs, the effects of a JOBS disqualification are progressive. There are two levels of disqualification. Once a disqualification is imposed, it affects benefits according to the following schedule until the disqualification ends in accordance with OAR 461-130-0335:

(a) At the first level, the penalty is removal of the disqualified client from the need group (see OAR 461-110-0630) for three months.

(b) At the second level, the need group receives no cash benefit in the program for one month.

(c) At the end of the second level, program benefits are closed and the filing group may not receive program benefits for the following two consecutive months. This may be prevented if the disqualified client:

(A) Contacts a representative of the Department in order to re-engage in the JOBS program prior to the end of the second level; and

(B) Begins the two consecutive weeks of cooperation as outlined in section (4) of OAR 461-130-0335 prior to the end of the second level; or

(C) Is no longer a member of the household group (see OAR 461-110-0210 and 461-130-0335(2)); or

(D) Is unable to participate because there are no appropriate activities (see OAR 461-001-0025) or support services (see OAR 461-001-0025) necessary to support the activity (see OAR 461-001-0025).

(4) In the SNAP program:

(a) A mandatory client who fails to comply with the requirements of an employment program is subject to disqualification. A disqualified client is removed from the need group until he or she meets the employment program requirements and serves the applicable progressive disqualification under the following subsections:

(A) One calendar month for the first failure to comply.

(B) Three calendar months for the second failure to comply.

(C) Six calendar months for the third and subsequent failures to comply.

(b) A client who is exempt (see OAR 461-130-0305) from participation in the SNAP employment program because he or she is a mandatory participant in the JOBS program, receiving unemployment compensation benefits, or has applied for unemployment compensation benefits and is waiting on an initial decision must comply with the requirements of those programs. If the client fails to comply with the requirements of the applicable program the client is disqualified from receiving SNAP benefits, unless he or she can show good cause under OAR 461-130-0327.

Stat. Auth.: ORS 411.060, 411.816, 412.009, 412.049

Stats. Implemented: ORS 411.060, 411.816, 412.009, 412.049

Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 7-2005, f. & cert. ef. 7-1-05; 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 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12

461-130-0335

Removing Disqualifications and Effect on Benefits

(1) An applicant who would be subject to an employment program disqualification under OAR 461-130-0330 but withdraws the application before benefits are approved is not subject to disqualification.

(2) In the SNAP and TANF programs, a filing group (see OAR 461-110-0330 and 461-110-0370) is not subject to the impact of a disqualification for a disqualified member who has left the household group (see OAR 461-110-0210). Should the member join another filing group, that group is subject to the member's most recent disqualification.

(3) In the SNAP program, the disqualification ends the first day of the month following the month in which information is provided to the Department justifying the change in the client's participation classification, even if the date falls within the disqualification period provided in OAR 461-130-0330(4).

(4) In the REF and TANF programs, a client disqualified for failure to meet the requirements of an employment program under division 190 of these rules:

(a) At the first level of disqualification must cooperate for two consecutive weeks with each activity (see OAR 461-001-0025) specified in the

client's current or revised case plan (see OAR 461-001-0025) before the Department may remove the disqualification. Cash benefits are restored effective the date the client completes the two consecutive week cooperation period.

(b) When the second level of disqualification ends, TANF program benefits are closed for two consecutive months, unless the client begins two consecutive weeks of cooperation with each activity specified in the client's current or revised case plan before the end of the level two. If the client completes the two consecutive weeks of cooperation, cash benefits are restored effective the date the client completes the two consecutive week cooperation period.

(c) Cash benefits shall be restored effective the date it is determined, by the Department, there are no appropriate activities or support services (see OAR 461-001-0025) necessary to support the activity available in order for the client to demonstrate participation.

(5) In the REF and TANF programs, a disqualification ends when the Department changes the participation classification of the disqualified individual to exempt (see OAR 461-130-0305) or when the client complies with the requirements of the employment program (see section (4) of this rule).

Stat. Auth.: ORS 411.060, 411.816, 412.009, 412.049

Stats. Implemented: ORS 411.060, 411.816, 412.009, 412.049

Hist.: AFS 17-1998, f. & cert. ef. 10-1-98; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 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 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12

461-135-0089

Demonstrating Compliance with Substance Abuse and Mental Health Requirements; Restoring Cash Benefits

In the Pre-TANF, REF, and TANF programs:

(1) In order to end a penalty imposed under OAR 461-135-0085:

(a) At the first level of disqualification (see OAR 461-130-0330(3)), a client must:

(A) Cooperate for a period of two consecutive weeks with each activity (see OAR 461-001-0025) specified in the client's current or revised case plan (see 461-001-0025); and

(B) Demonstrate a willingness to participate in treatment required under OAR 461-135-0085 if treatment is still required.

(b) When the second level of disqualification (see OAR 461-130-0330(3)) ends, program benefits are closed for two consecutive months, unless the client:

(A) Begins two consecutive weeks of cooperation with each activity specified in the client's case plan before the end of the level two; and

(B) Demonstrates a willingness to participate in treatment required under OAR 461-135-0085 if treatment is still required.

(2) When the Department removes a disqualification due to a client's compliance with the requirements under OAR 461-135-0085, cash benefits are restored effective the date the client completed the two consecutive week cooperation period.

Stat. Auth.: ORS 411.060, 411.070, 411.816, 412.006, 412.009, 412.049, 412.089

Stats. Implemented: ORS 411.060, 411.070, 411.816, 412.006, 412.009, 412.049, 412.089

Hist.: AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; 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 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12

461-135-0485

Requirement to Complete an Employability Screening and Overview of the Job Opportunity and Basic Skills (JOBS) program; TANF

(1) As used in this rule:

(a) "Employability screening" means the DHS 7823A - Employability Screening Tool.

(b) "Overview of the JOBS program" means a discussion with the caretaker relative (see OAR 461-001-0000) in the need group (see OAR 461-110-0630) about the requirements and services provided under the JOBS program.

(2) To be eligible for TANF benefits, the following must be completed prior to the end of the application processing time frames in OAR 461-115-0190:

(a) Each caretaker relative in the need group must complete an employability screening (see section (1) of this rule); and

(b) At least one caretaker relative in the need group must participate in an overview of the JOBS program (see section (1) of this rule).

(3) The employability screening and overview of the JOBS program must be offered during the initial eligibility intake for TANF program benefits.

ADMINISTRATIVE RULES

Stat Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049, 412.124, 2011 Oregon Laws 604
Stats Implemented: ORS 409.010, 411.060, 411.070, 412.006, 412.049, 412.064, 412.124, 2011 Oregon Laws 604
Hist.: SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12

461-135-0950

Eligibility for Inmates and Residents of State Hospitals

(1) This rule sets out additional restrictions on the eligibility of inmates and residents of state hospitals for programs covered by Chapter 461 of the Oregon Administrative Rules.

(2) Definition of an "inmate".

(a) An inmate is an individual living in a public institution who is:

(A) Confined involuntarily in a local, state or federal prison, jail, detention facility, or other penal facility, including an individual being held involuntarily in a detention center awaiting trial or an individual serving a sentence for a criminal offense;

(B) Residing involuntarily in a facility under a contract between the facility and a public institution where, under the terms of the contract, the facility is a public institution;

(C) Residing involuntarily in a facility that is under governmental control; or

(D) Receiving care as an outpatient while residing involuntarily in a public institution.

(b) An individual is not considered an inmate when:

(A) The individual is released on parole, probation, or post-prison supervision;

(B) The individual is on home- or work-release, unless the individual is required to report to a public institution for an overnight stay;

(C) The individual is staying voluntarily in a detention center, jail, or county penal facility after his or her case has been adjudicated and while other living arrangements are being made for the individual; or

(D) The individual is in a public institution pending other arrangements as defined in 42 CFR 435.1010.

(3) Definition of a "public institution".

(a) A public institution is any of the following:

(A) A state hospital (see ORS 162.135).

(B) A local correctional facility (see ORS 169.005): a jail or prison for the reception and confinement of prisoners that is provided, maintained and operated by a county or city and holds individuals for more than 36 hours.

(C) A Department of Corrections institution (see ORS 421.005): a facility used for the incarceration of individuals sentenced to the custody of the Department of Corrections, including a satellite, camp, or branch of a facility.

(D) A youth correction facility (see ORS 162.135):

(i) A facility used for the confinement of youth offenders and other individuals placed in the legal or physical custody of the youth authority, including a secure regional youth facility, a regional accountability camp, a residential academy and satellite, and camps and branches of those facilities; or

(ii) A facility established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youth, or youth offenders pursuant to a judicial commitment or order.

(b) As used in this rule, the term public institution does not include:

(A) A medical institution as defined in 42 CFR 435.1010 including the Secure Adolescent Inpatient Program (SAIP) and the Secure Children's Inpatient Program (SCIP);

(B) An intermediate care facility as defined in 42 CFR 440.140 and 440.150;

(C) A publicly operated community residence that serves no more than 16 residents, as defined in 42 CFR 435.1009; or

(D) A child-care institution as defined in 42 CFR 435.1009 with respect to:

(i) Children for whom foster care maintenance payments are made under title IV-E of the Social Security Act; and

(ii) Children receiving TANF-related foster care under title IV-A of the Social Security Act.

(4) Definition of serious mental illness. An individual has a serious mental illness if the individual has been diagnosed by a psychiatrist, a licensed clinical psychologist or a certified non-medical examiner as having dementia, schizophrenia, bipolar disorder, major depression or other affective disorder or psychotic mental disorder other than a substance abuse disorder and other than a disorder that is both:

(a) Caused primarily by substance abuse; and

(b) Likely to no longer meet the applicable diagnosis if the substance abuse discontinues or declines.

(5) An individual who resides in a public institution, meets the definition of a serious mental illness (see section (4) of this rule), and applies for medical assistance between 90 and 120 days prior to the expected date of the person's release from the public institution may be found eligible for medical assistance. If the individual is determined to be eligible, the effective date of the individual's medical assistance is the date the individual is released from the institution.

(6) A client who becomes a resident of a state hospital has medical benefits suspended for up to twelve full calendar months if the client is at least 22 years of age and under 65 years of age. When a client with suspended medical benefits is no longer a resident of the state hospital, medical benefits are reinstated effective the first day the client is no longer a resident, if the client continues to meet eligibility for the medical program.

(7) An individual residing in a state psychiatric institution may be eligible for OSIPM or SAC benefits if the individual is:

(a) 65 years of age or older;

(b) Under 22 years of age; or

(c) 21 years of age or older, if the basis of need is disability or blindness; eligibility was determined before the individual reached 21 years of age; and the individual entered the state hospital before reaching 21 years of age.

(8) For all programs covered under chapter 461 of the Oregon Administrative Rules:

(a) Except as provided in OAR 461-135-0750, an inmate of a public institution is not eligible for benefits.

(b) If a pregnant woman receiving medical assistance through the BCCM, CEC, CEM, EXT, GAM, MAA, MAF, OHP, OSIPM, or SAC program becomes an inmate of a public institution, her medical benefits are suspended. When the Department is informed the woman is no longer an inmate, her medical benefits are reinstated--effective on the first day she is no longer an inmate--if she is still in her protected period of eligibility under OAR 461-135-0010.

(c) If an individual receiving medical assistance through the BCCM, CEC, CEM, EXT, GAM, MAA, MAF, OHP, OSIPM, QMB, or SAC program becomes an inmate of a correctional facility with an expected stay of no more than 12 months, medical benefits are suspended for up to 12 full calendar months during the incarceration period.

(A) In the BCCM, CEC, CEM, EXT, GAM, MAA, MAF, OHP, or SAC program, when the Department is notified by a client with suspended benefits that the client has been released from incarceration, and the notification takes place within 10 days of the release or there is good cause for the late reporting, medical benefits are reinstated effective the first day the client is no longer an inmate.

(B) In the OSIPM or QMB program, when the Department is notified that an individual with suspended benefits has been released, and the notification takes place within 10 days of the release, medical benefits are reinstated effective the first day the client is no longer an inmate if the client continues to meet eligibility for the medical program.

(9) In the GA and SNAP programs, in addition to the other provisions of this rule, an inmate released from a public institution on home arrest, and required to wear an electronic device to monitor his or her activity, is ineligible for benefits if the correctional agency provides room and board to the individual.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.439, 411.443, 411.445, 411.816, 412.014, 412.049, 414.426
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 5-2000, f. 2-29-00, cert. ef. 3-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 21-2001(Temp), f. & cert. ef. 10-1-01 thru 12-31-01; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 17-2005(Temp), f. 12-30-05, cert. ef. 1-1-06 thru 6-30-06; 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 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12

461-135-0960

Age Criteria for Individuals in State Psychiatric Institutions and Training Centers; OSIPM, SAC

(1) Individuals residing in state psychiatric institutions (Blue Mountain Recovery Center, Oregon State Hospital, or the Portland Oregon State Hospital) may be eligible for OSIPM or SAC benefits if they are:

(a) Sixty-five years of age or older;

(b) Under 21 years of age; or

(c) Twenty-one years of age or older, if the basis of need is disability or blindness; eligibility was determined before the client reached 21 years of age; and the individual entered the institution before reaching 21 years of age.

ADMINISTRATIVE RULES

(2) There is no age limit for individuals in the state training center (Eastern Oregon Training Center which is an intermediate care facility for the mentally retarded or ICF/MR) to be eligible for OSIPM or SAC.

Stat. Auth.: ORS 411.060

Stats. Implemented: ORS 411.060

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 4-1998, f. 2-25-98, cert. ef. 3-1-98; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; Suspended by SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12

461-135-1195

Specific Requirements; SFPSS Eligibility

In the SFPSS program:

(1) To be eligible, a client must meet the following requirements:

(a) Be an adult;

(b) Meet all TANF program eligibility requirements (except as provided otherwise in this rule);

(c) Be receiving TANF benefits;

(d) Have an impairment that meets the requirements in OAR 461-125-0260;

(e) File an application for Supplemental Security Income (SSI) disability benefits under the Social Security Act; and

(f) Sign an Interim Assistance Authorization authorizing the Department to recover interim SFPSS program benefits paid to the client (or paid to providers on the client's behalf) from the initial SSI payment or the initial payment after the decision on SSI eligibility. The following provisions are considered part of the Interim Assistance Authorization:

(A) Interim SFPSS program benefits include only those SFPSS program cash benefits paid to the adult, who is applying for SSI, during the period of time that the SSI benefit covers.

(B) For any month in which SSI is prorated, the Department may recover only a prorated amount of the interim SFPSS program cash benefit.

(C) If the Department does not stop delivery of an SFPSS program benefit issued after the SSI payment is made, the SFPSS program payment is included in the interim assistance reimbursement to the Department.

(2) Counting earned and unearned income.

(a) The TANF standards in OAR 461-155-0030 are used to determine eligibility for the SFPSS program.

(b) The SFPSS payment standard (see OAR 461-155-0320) is used to determine the benefit amount for the SFPSS program.

(3) A client whose impairment no longer meets the criteria in OAR 461-125-0260 is ineligible for SFPSS benefits.

(4) An SFPSS client found by the Social Security Administration (SSA) not to meet disability criteria may continue receiving SFPSS benefits until all SSA administrative appeals are exhausted.

(5) Once a client is approved for SFPSS, the client is no longer subject to OAR 461-120-0340. The client remains exempt from 461-120-0340 as long as the client is eligible for and receiving SFPSS.

(6) Each client is required to participate in the appropriate activities the Department determines necessary, including activities that promote family stability (see OAR 461-001-0000). The Department must consider the needs of an individual with a disability (see 461-001-0000), and a client's need for accommodation or modification.

(7) A client must provide the information necessary for the Department to administer the program.

(a) The necessary information includes that needed to determine appropriate activities for the client and to assess whether a client had good cause (see OAR 461-130-0327) for any failure to meet a requirement of the program.

(b) If a medical condition is in question, the Department will assist and may require the client to provide a medical opinion from a qualified and appropriate medical professional.

(8) The Department offers each client the opportunity to participate in any suitable JOBS program activity (see OAR 461-001-0025).

Stat. Auth.: ORS 411.060, 411.070, 412.006, 412.009, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 412.006, 412.009, 412.014, 412.049, 412.084
Hist.: SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 12-2009(Temp), f. 6-23-09, cert. ef. 7-1-09 thru 12-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 34-2009(Temp), f. & cert. ef. 11-16-09 thru 5-14-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12

461-135-1260

Specific Requirements: Job Participation Incentive

(1) This rule explains specific requirements of the Job Participation Incentive (JPI) program.

(2) Starting October 1, 2011, an individual eligible for the JPI program may receive a \$10 monthly food benefit.

(a) The individual receives the \$10 incentive payment starting the month the Department receives documentation that all enrollment criteria in section (3) of this rule have been met.

(b) There are no partial months of JPI benefits.

(c) The individual may only be issued retroactive JPI benefits as allowed under OAR 461-180-0130.

(3) To enroll in the JPI program, an individual must:

(a) Be working at an unsubsidized paid employment equivalent to 20 weekly hours at Oregon State minimum wage;

(b) Provide the Department with employer-produced documents of paid, unsubsidized work hours covering a consecutive two-week period that has occurred within the last 60 days;

(c) Have reason to anticipate the same weekly employment hours will remain the same for the reporting period;

(d) Provide employer-produced documents of paid, unsubsidized work hours each time requested by the Department or no later than the last day of the sixth month following the date the client provides the verification of work hours in accordance with subsections (a) and (b) of this section;

(e) Meet citizenship requirements to be an adult in the SNAP benefit group (see OAR 461-110-0750);

(f) Be an eligible adult in a SNAP benefit group (see OAR 461-110-0750) and the sole parent of an eligible dependent child (see OAR 461-001-0000) under age six in the same SNAP benefit group; and

(g) Not be receiving Post-TANF, SFPSS, and TANF programs in the same month.

(4) To remain eligible for the JPI program, a client must:

(a) Meet all SNAP eligibility requirements and SRS reporting requirements (see OAR 461-170-0011); and

(b) Meet all requirements in section (3) of this rule at the time of the interim change report and at the time of the recertification of SNAP benefits.

(5) Household income in the JPI program is calculated in accordance with all SNAP financial rules.

(6) A client is no longer eligible for the JPI program when it has been determined that the client does not meet JOBS federal participation requirements due to:

(a) Loss of employment;

(b) A reduction in work hours when it causes the client to no longer meet the JOBS federally required participation rate;

(c) The client's youngest child turns six; or

(d) The client is no longer the sole parent of a qualifying dependent child (see subsection (3)(f) of this rule.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070, 412.049

Hist.: SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12

461-145-0410

Program Benefits

(1) EA and TA-DVS payments are treated as follows:

(a) In the ERDC and SNAP programs, a payment made directly to the client is counted as unearned income. Dual payee and provider-direct payments are excluded.

(b) In all programs except the ERDC and SNAP programs, these payments are excluded.

(2) Payments from ERDC and TANF child care are excluded unless the client is the provider.

(3) Payments from the EXT, GAM, MAA, MAF, OHP, OSIPM, QMB, REFM, and SAC programs are excluded.

(4) Payments from the JPI (see OAR 461-135-1260) are issued as a food benefit and are excluded for all programs.

(5) SNAP payments are treated as follows:

(a) The value of an SNAP benefit is excluded in all programs except the EA program. In the EA program, the value is counted as a resource when determining the emergency food needs of the filing group (see OAR 461-110-0310).

(b) OFSET service payments are excluded.

(6) Benefits from the GA, OSIP (except OSIP-IC), Post-TANF, REF, SFPSS, TANF, and tribal-TANF programs (including the ten percent late processing fee discussed in OAR 461-165-0150) are treated as follows:

(a) In the EA program, these payments are counted as unearned income, except that these payments are excluded for a benefit group (see OAR 461-110-0750) whose emergent need is the result of domestic violence (see 461-001-0000).

(b) In the ERDC program:

(A) Post-TANF payments are excluded.

ADMINISTRATIVE RULES

(B) All other payments are counted as unearned income.
(c) In the SNAP program:
(A) These payments are treated as unearned income.
(B) An amount received as a late processing payment is treated as lump-sum income.

(C) Payments made to correct an underpayment are treated as lump-sum income.

(D) Ongoing special needs payments for laundry allowances, special diet or meal allowance, restaurant meals, accommodation allowances, and telephone allowances are treated as unearned income. All other special needs payments are excluded as reimbursements.

(d) In the OHP program:

(A) GA payments are excluded from income for purposes of determining OHP eligibility.

(B) Benefits from the Post-TANF program are excluded.

(C) Benefits from the OSIP (except OSIP-IC), REF, SFPSS, and TANF programs (including the ten percent late processing fee discussed in OAR 461 165 0150) are treated as follows:

(i) The payments are counted as unearned income if all the individuals included in the benefit group for the cash payment are also in the OHP financial group (see OAR 461-110-0530).

(ii) A prorated share is counted as unearned income if any of the individuals in the cash payment are not included in the OHP financial group. A prorated share is determined by dividing the total payment by the number of individuals in the TANF benefit group.

(iii) A payment made to correct an underpayment caused by the Department is excluded if the underpayment occurred prior to the budget period.

(e) In all programs except the EA, ERDC, OHP, and SNAP programs:

(A) These payments are excluded in the month received, and any portion remaining following the month of receipt is counted as a resource.

(B) Payments made to correct an underpayment are excluded.

(f) In all programs:

(A) JOBS, REF, and TANF JOBS Plus support service payments are excluded.

(B) For the treatment of JOBS Plus income, see OAR 461-145-0130.

(C) REF and TANF client incentive payments are treated as follows:

(i) Except in the TANF program, the cooperation incentive payment (see OAR 461-135-0310) is counted as unearned income.

(ii) Progress and outcome incentive payments other than in-kind payments are counted as lump-sum income (see OAR 461-140-0120). All other incentives are excluded.

(7) Payments from OSIP-IC are treated as follows:

(a) In the SNAP program, these payments are counted as unearned income and assets held in a contingency fund (see OAR 411-030-0020) are counted as a resource.

(b) In all other programs, these payments and funds held in a contingency fund are excluded.

(8) Pre-TANF program payments are treated as follows:

(a) In the SNAP program, a payment for basic living expenses, made directly to the client, is counted as unearned income. All other payments are excluded.

(b) In all programs except the SNAP program, these payments are excluded.

Stat. Auth.: ORS 411.060, 411.404, 411.816, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.404, 411.700, 411.816, 412.014, 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 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 5-1991, f. & cert. ef. 2-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 21-1992(Temp), f. 7-31-92, cert. ef. 8-1-92; AFS 32-1992, f. 10-30-92, cert. ef. 11-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 32-1996(Temp), f. & cert. ef. 9-23-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 11-2001, f. 6-29-01, cert. ef. 7-1-01; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; SSP 4-2005, f. & cert. ef. 4-1-05; SSP 18-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12

461-160-0015

Resource Limits

(1) In the EA program, all countable (see OAR 461-001-0000) resources must be used to meet the emergent need.

(2) In the ERDC, EXT, HKC, and REFM programs, and for an individual whose eligibility is determined under the OHP-CHP, OHP-OPC, OHP-OPP, or OHP-OP6 programs, there is no resource limit.

(3) In the GA, GAM, OSIP, and OSIPM programs, the resource limit is as follows:

(a) \$2,000 for a one-person need group (see OAR 461-110-0630) and \$3,000 for a two-person need group.

(b) \$1,000 for an OSIP need group eligible under OAR 461 135 0771. The total cash resources may not exceed \$500 for a one-person need group or \$1,000 for a two-person need group.

(c) \$5,000 is the limit for the OSIP-EPD and OSIPM-EPD programs (see OAR 461-001-0035 and 461-145-0025 for funds that may be excluded as approved accounts).

(4) In the MAA, MAF, REF, SAC, and TANF programs, the resource limit is:

(a) \$10,000 for a need group with at least one JOBS participant who is progressing in a case plan.

(b) \$10,000 for a need group with at least one member who is working under a JOBS Plus agreement.

(c) \$2,500 for all other need groups, including all TANF applicants.

(5) In the OHP program, the resource limit for an individual whose eligibility is determined under the OHP-OPU program is \$2,000.

(6) In the QMB program, the resource limit is amended in January of each year based on the low income subsidy for Medicare Part D as published by the Health Resources and Services Administration of the U.S. Department of Health and Human Services. Effective January 1, 2011 the resource limit is \$6,680 for a one-person need group and \$10,020 for a need group containing two or more individuals.

(7) In the SNAP program, the resource limit is:

(a) \$3,250 for a financial group (see OAR 461-110-0530) with at least one member who is elderly (see OAR 461-001-0015) or an individual with a disability (see OAR 461-001-0015).

(b) \$2,000 for all other financial groups.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.049, 414.231
Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025, 414.231, 414.826, 414.831, 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1991, f. & cert. ef. 10-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 10-1998, f. 6-29-98, cert. ef. 7-1-98; AFS 1-1999(Temp), f. & cert. ef. 2-1-99 thru 7-31-99; AFS 7-1999, f. 4-27-99, cert. ef. 5-1-99; AFS 16-1999, f. 12-29-99, cert. ef. 1-1-00; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 17-2003, f. & cert. ef. 7-1-03; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 22-2004, f. & cert. ef. 10-1-04; 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 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-1; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 42-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 6-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12

461-170-0011

Changes That Must Be Reported

(1) A change in employment status is considered to occur as follows:
(a) For a new job, the change occurs the first day of the new job.
(b) For a job separation, the change occurs on the last day of employment.

(2) A change in source of income is considered to occur as follows:

(a) For earned income, the change occurs upon the receipt by the client of the first paycheck from a new job or the first paycheck reflecting a new rate of pay.

(b) For unearned income, the change occurs the day the client receives the new or changed payment.

(3) A client must report, orally or in writing, the following changes:

(a) In the BCCM program, a client must report either of the following changes within 10 days of occurrence:

(A) A change in health care coverage.

(B) A change in residence.

(b) In the ERDC program:

(A) A client not participating in SRS in the SNAP program must report the following changes within 10 days of occurrence:

(i) A change in child care provider.

(ii) A change in employment status.

(iii) A change in mailing address or residence.

(iv) A change in membership of the filing group (see OAR 461-110-0350).

(v) A change in source of income expected to continue.

ADMINISTRATIVE RULES

(B) A client participating in SRS in the SNAP program must report the following changes by the tenth day of the month following the month of occurrence:

- (i) A change in child care provider.
- (ii) Loss of employment.
- (iii) Monthly income exceeding the SNAP countable income limit.
- (iv) A parent (see OAR 461-001-0000) of a child or unborn or the spouse of the caretaker moves into the residence.

(C) The ERDC case may continue to follow the reporting requirements in paragraph (3)(b)(B) of this rule without a companion SNAP case in SRS when:

(i) The ERDC case was certified in the fifth or sixth month of the SNAP certification period (see OAR 461-001-0000); and

(ii) The SNAP companion case automatically closes because the Interim Change Report (see OAR 461-170-0010) was not received.

(c) In the EXT program, a client must report any of the following changes within 10 days of occurrence:

- (A) A change in health care coverage.
- (B) A change in name.

(C) A change in pregnancy status of any member of the filing group (see OAR 461-110-0330).

(D) A change in residence.

(E) A member in filing group is no longer a dependent child (see OAR 461-001-0000).

(d) In the SNAP program:

(A) A client assigned to CRS must report any of the following changes within 10 days of occurrence:

- (i) A change in earned income of more than \$100.
- (ii) A change in unearned income of more than \$50.
- (iii) A change in source of income.
- (iv) A change in membership of the filing group (see OAR 461-110-0370) and any resulting change in income.
- (v) A change in residence and the shelter costs in the new residence.
- (vi) A change in the legal obligation to pay child support.
- (vii) When the sum of cash on hand, stocks, bond, and money in a bank or savings institution account reaches or exceeds program resource limits.
- (viii) Acquisition or change in ownership of a non-excluded vehicle.

(B) A client assigned to SRS must report when the filing group's monthly income exceeds the SNAP countable income limit by the tenth day of the month following the month of occurrence.

(C) A client assigned to TBA is not required to report any changes.

(e) In the JPI program (see OAR 461-135-1260) a client must follow reporting requirements of a SNAP client assigned to SRS (see OAR 461-170-0010).

(f) In the GA, GAM, OSIP, OSIPM, and QMB programs a client must report all changes that may affect eligibility within 10 days of occurrence, including any of the following changes:

- (A) A change in employment status.
- (B) A change in health care coverage.
- (C) A change in membership of the household group (see OAR 461-110-0210).

(D) A change in marital status.

(E) A change in residence.

(F) A change in resources.

(G) A change in source or amount of income.

(g) In the MAA, MAF, REF, SAC, SFPSS, and TANF programs, clients assigned to CRS must report any of the following changes within 10 days of occurrence:

(A) Acquisition or change in ownership of a non-excluded vehicle.

(B) A change in earned income more than \$100.

(C) A change in employment status.

(D) A change in membership of the household group (see OAR 461-110-0210).

(E) A change in mailing address or residence.

(F) A change in pregnancy status of any member of the filing group.

(G) A change in source of income.

(H) A change in unearned income more than \$50.

(I) A change in who pays the shelter costs if the costs will be paid by a non-custodial parent.

(J) Sale or receipt of a resource that causes total resources to exceed program resource limits.

(h) In the HKC and OHP programs, a client must report any of the following changes within 10 days of occurrence:

(A) A change in availability of employer-sponsored health insurance.

(B) A change in health care coverage.

(C) A change in mailing address or residence.

(D) A change in name.

(E) A change in pregnancy status of any member of the filing group (see OAR 461-110-0400).

(i) In the REFM program, clients must report the following changes within 10 days of occurrence:

(A) A change in membership of the household group (see OAR 461-110-0210).

(B) A change in residence.

Stat. Auth.: ORS 411.060, 411.070, 411.081, 411.404, 411.704, 411.816, 412.014, 412.049, 414.231, 414.826, 414.831

Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.404, 411.704, 411.816, 412.014, 412.049, 414.025, 414.231, 414.826, 414.831

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1992, f. & cert. ef. 5-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-18-98, cert. ef. 1-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 24-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; Renumbered from 461-170-0015, 461-170-0020, 461-170-0025, 461-170-0030, 461-170-0035 by SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 7-2010(Temp), f. & cert. ef. 4-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12

461-180-0050

Effective Dates; Suspending or Closing Benefits and JOBS Support Service Payments

(1) This rule explains the effective date for closing or suspending benefits for the entire benefit group (see OAR 461-110-0750) and the effective date for ending JOBS support service payments.

(2) In all programs except the ERDC program, when the only individual in a benefit group dies, the effective date of the closure is:

(a) In the REF, SNAP, and TANF programs, the last day of the month in which the death occurred.

(b) In all other programs, the date of the death.

(3) For all closures and suspensions not covered by section (2) of this rule, the effective date is determined as follows:

(a) When prospective eligibility is used, the effective date for closing or suspending benefits is the last day of the month in which the notice period ends.

(b) When retrospective eligibility or budgeting is used, the effective date for closing or suspending benefits is the last day of the budget month.

(c) When an absent parent enters an ongoing TANF program household, or another change occurs that ends eligibility based on the incapacity or unemployment of a parent, the effective date for closing benefits is the last day of the month in which the 45-day period described in OAR 461-125-0255 ends.

(d) For a pregnant female receiving benefits of the EXT, MAA, MAF, OSIPM, or SAC program, the effective date for closing benefits is no earlier than the last day of the calendar month in which the 60th day after the last day of pregnancy falls, except at the client's request.

(e) Notwithstanding subsection (f) of this section, for a client who is receiving medical assistance and becomes incarcerated with an expected stay of a year or less, the effective date for suspending medical benefits is the effective date on the decision notice (see OAR 461-001-0000).

(f) In the OHP program, the effective date for closing benefits is:

(A) The last day of the month in which the benefit group becomes ineligible;

(B) The date the program ends; or

(C) For cases not covered by paragraph (A) or (B) of this subsection, the last day of the certification period (see OAR 461-001-0000).

(g) The effective date for ending support service payments authorized under OAR 461-190-0211 is the earlier of the following:

(A) The date the related JOBS activity is scheduled to end.

(B) The date the client no longer meets the requirements of OAR 461-190-0211.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 414.231, 414.826

Stats. Implemented: ORS 409.050, 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049, 414.231, 414.826

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 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f.

ADMINISTRATIVE RULES

& cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 18-2004, f. & cert. ef. 7-12-04; SSP 23-2004(Temp), f. & cert. ef. 10-1-04 thru 12-31-04; SSP 24-2004, f. 12-30-04, cert. ef. 1-1-05; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12

461-180-0070

Effective Dates; Initial Month Benefits

(1) In the EA program, the effective date for opening the case is the day benefits are issued to the benefit group (see OAR 461-110-0750). For a benefit group whose only eligible child is an unborn, the effective date cannot be earlier than the first day of the calendar month preceding the month in which the due date falls.

(2) In the ERDC program, the effective date for starting benefits is one of the following:

(a) The first day of the month in which the request for benefits is made, as long as:

(A) All eligibility requirements are met in that month; and

(B) Verification is provided within the application processing timeframes.

(b) If all eligibility requirements are not met in the month of request, the effective date is the first day of the month in which they are met, if verification is provided within the application processing timeframes.

(c) For a benefit group that received TANF program benefits within the 30 days before applying for ERDC program benefits, the effective date is the first of the month following closure of their TANF program benefits.

(3) In the GA program, the effective date for the initial month (see OAR 461-001-0000) of benefits is whichever of the following occurs first:

(a) The day all eligibility requirements are met and verified.

(b) The 45th day from the date the client requests benefits, if all eligibility requirements were met, but the Department did not receive documentation until after the 45th day.

(4) In the OSIP program, the effective date for the initial month of benefits is whichever of the following occurs first:

(a) The date the client requests benefits, if he or she was eligible as of that date.

(b) The date all eligibility requirements are met.

(5) In the REF and TANF programs, the effective date for the initial month of benefits is as follows:

(a) For a client in the Pre-TANF program, it is the later of the following:

(A) The day the Pre-TANF program ends in accordance with OAR 461-135-0475.

(B) The 30th day following the date the client requests benefits, if the Department does not receive required verification until after the 30th day.

(b) For a client not in the Pre-TANF program (see OAR 461 135 0475), it is the day the client meets and verifies all eligibility requirements.

(c) In the TANF program, if the only eligible child is an unborn, it may not be earlier than the first day of the calendar month preceding the month in which the due date falls.

(d) For a provider-direct child care payment (see OAR 461 165 0190), it is the first of the month in which TANF program benefits begin.

(e) For a JOBS support service payment, it is the date the client meets all eligibility requirements in OAR 461-190-0211.

(6) For TANF program recipients moving to the SFPSS program, the effective date for the initial month of SFPSS program benefits is:

(a) Except as provided in subsection (b) of this section, the first of the month following the day all eligibility requirements are met and verified.

(b) If the day all eligibility requirements are met and verified falls after the compute deadline, the initial month of SFPSS program benefits will be the first of the month following the month after compute deadline. For purposes of this rule, the "compute deadline" means the Department computer system monthly deadline after which changes will not take effect until the month following the first of the next month.

Stat. Auth.: ORS 411.060, 411.070, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 412.014, 412.049

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 19-2001, f. 8-31-01, cert. ef. 9-1-01; SSP 7-2003, f. & cert. ef. 4-1-03; CWP 37-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 4-28-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients.

Adm. Order No.: SSP 27-2011(Temp)

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 10-1-11 thru 12-28-11

Notice Publication Date:

Rules Amended: 461-135-0475

Rules Suspended: 461-135-0475(T)

Subject: OAR 461-135-0475 about the specific requirements for the Pre-TANF program, which was amended by temporary rule on July 1, 2011 is being amended to implement HB 2049 (2011) and address budget constraints that reduce TANF program service levels. These amendments set out the requirements for employability screenings and participating in an overview of the JOBS program, and clarify earlier changes to basic living expenses and available support services.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-135-0475

Specific Requirements; Pre-TANF Program

(1) This rule explains specific requirements for the Pre-TANF program. The eligibility criteria of the Pre-TANF program are the same as the TANF program. It is not the intent of the Pre-TANF program to delay the start of TANF program benefits. The purposes of the Pre-TANF program are:

(a) To help individuals find employment or other alternatives;

(b) To assess the employment potential of individuals;

(c) To help individuals determine the service level needed to enhance their employability and their likelihood of becoming self sufficient;

(d) To determine if a needy *caretaker relative* (see OAR 461-001-0000) has or may have a barrier to employment or to family stability.

(e) To develop an individualized *case plan* (see OAR 461-001-0025), when appropriate, that establishes goals and identifies suitable activities (see 461-001-0025) that promote family stability and financial independence.

(f) To provide basic living expenses, as described in section (5) of this rule, immediately to families in need.

(2) Applicants for the TANF program whose unverified application indicates the client meets the TANF eligibility requirements participate in the Pre-TANF program. Their applications for the TANF program are also considered applications for the Pre-TANF program. The Pre-TANF program is open for not longer than 45 days following the *date of request* (see OAR 461-115-0030).

(3) Individuals in the Pre-TANF program are subject to the requirements of the JOBS program, described in divisions 130 and 190 of this chapter of rules, and they are subject to the requirements of OAR 461-135-0085 pertaining to substance abuse and mental health.

(4) During the Pre-TANF program, each *caretaker relative* in the *need group* (see OAR 461-110-0630) must complete an *employability screening* (see 461-135-0485). At least one *caretaker relative* in the *need group* must participate in an *overview of the JOBS program* (see 461-135-0485). If the *employability screening* indicates there is or may be a barrier, the individual may be referred for additional screenings, at no cost to the individual, by a person with relevant expertise or specialized training. When appropriate, the individual and the Department prepare a *case plan* that lists the activities of the client and *support services* payments if available.

(5) The Department may provide the client with basic living expenses necessary to stabilize the household so the client can accomplish the activities in the *case plan*. Basic living expenses covered by this section are limited to the current need of the client for personal incidentals that the client cannot meet with other, immediately available resources. Payments under this section are limited to 100 percent of the payment standard for the benefit group (see OAR 461-155-0030(2)(b)). Payment for "past expenses" is made only when the need of the client cannot be adequately met by a less expensive alternative.

(6) During the Pre-TANF program, an individual may receive *support services* payments listed in the *case plan* pursuant to OAR 461-190-0211.

(7) The Pre-TANF program is closed, at any point during the 45 days following the *date of request* (see OAR 461-115-0030) for TANF program benefits, in any of the following circumstances:

(a) The client is unlikely to become employed due to the employability of the client, the circumstances affecting the family, or other causes.

ADMINISTRATIVE RULES

(b) The client fails without *good cause* (see OAR 461-130-0327) to comply with a requirement of an employment program or the *case plan*.

(c) In any circumstance that would make a client ineligible for TANF.

(d) Upon starting a JOBS Plus assignment.

(e) Upon employment and enrollment in the Post-TANF program.

(8) If Pre-TANF benefits are closed pursuant to subsection (7)(a) or (b) of this rule, TANF benefits may be opened if all TANF eligibility requirements are met.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 412.006, 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070, 412.006, 412.049, 412.064, 2011 Oregon Laws 604

Hist.: AFS 9-1997, f. & cert. ef. 7-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 6-2009(Temp), f. & cert. ef. 4-1-09 thru 9-28-09; SSP 16 2009(Temp), f. & cert. ef. 7-1-09 thru 9-28-09; Administrative correction 10-22-09; SSP 20-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 27-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-28-11

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients.

Adm. Order No.: SSP 28-2011(Temp)

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 10-1-11 thru 12-26-11

Notice Publication Date:

Rules Amended: 461-180-0130

Rules Suspended: 461-180-0130(T)

Subject: OAR 461-180-0130 is being amended to so that its provisions about the effective date for restoring benefits that have been suspended refer to the policy in OAR 461-135-0950(8) which sets effective dates for restoring medical benefits of inmates who have had medical benefits suspended. This rule is also being amended to limit the restoration of benefits period for the Job Participation Incentive (JPI) program to four months.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-180-0130

Effective Dates; Restored Benefits

(1) The effective date for restoring benefits that were underpaid (including erroneous collections of overpayments) or denied or closed in error is one of the following:

(a) In all programs except SNAP, for underpayments resulting from administrative error, the effective date is the date the error was made, except as provided in subsection (b) of this section.

(b) In all programs except the JPI program, benefits may be restored only for the preceding 12 months.

(c) In the JPI program, benefits may be restored only for the preceding four months.

(d) In all programs except SNAP, for underpayments resulting from client error, the effective date is the earliest of the following:

(A) The month the *benefit group* (see OAR 461-110-0750) notifies the branch office (see 461-001-0000) of the possible loss.

(B) The month the *branch office* discovers the loss.

(C) The date a hearing is requested.

(2) In the SNAP program, for underpayments resulting from administrative error, benefits are restored for not more than twelve months prior to whichever of the following occurs first:

(a) The date the *benefit group* notifies the *branch office* of the possible loss.

(b) The date the *branch office* discovers the loss.

(c) The date a hearing is requested.

(3) In the SNAP program, benefits are not restored for underpayments resulting from client error.

(4) The effective date for restoring benefits that have been suspended is:

(a) For individuals whose medical assistance is suspended because they are incarcerated with an anticipated stay of a year or less, see OAR 461-135-0950(8).

(b) When subsection (a) of this section does not apply:

(A) The first of the month after the suspension, if suspension was for only one month; or

(B) The date the *benefit group* again becomes eligible, if benefits have been suspended for more than 30 days. The Department treats the month in which benefits are restored as an *initial month* (see OAR 461-001-0000).

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 414.231

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.439, 411.816, 412.014, 412.049, 414.231

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2011(Temp), f. & cert. ef. 6-29-11 thru 12-26-11; SSP 28-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-26-11

Rule Caption: Changing OARs affecting public assistance, medical assistance, or Supplemental Nutrition Assistance Program clients.

Adm. Order No.: SSP 29-2011(Temp)

Filed with Sec. of State: 10-5-2011

Certified to be Effective: 10-5-11 thru 4-2-12

Notice Publication Date:

Rules Amended: 461-120-0340, 461-145-0080

Subject: OAR 461-120-0340 about the requirement to obtain child support from a non-custodial parent is being amended to state that as of October 1, 2011 a caretaker relative is excused from the requirement to pursue support if the filing group is a two-parent family for which deprivation is based on the unemployment or underemployment of the primary wage earner.

OAR 461-145-0080 about the treatment of child support and cash medical support to determine eligibility for the Department's public assistance, medical and SNAP programs is being amended to state that, for on-going eligibility and benefit determination for TANF clients for whom deprivation is based on the unemployment or underemployment of the primary wage earner (PWE) in a two-parent household, child support is considered countable unearned income as of October 1, 2011.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-120-0340

Client Required To Help Department Obtain Support From Noncustodial Parent; TANF

In the TANF program:

(1) To be eligible for program benefits, except as permitted in section (2) of this rule, a *caretaker relative* (see OAR 461-001-0000) must make a *good faith effort* to help the Department:

(a) Establish paternity of each needy child; and

(b) Locate and obtain support payments from the noncustodial parent of each needy child.

(2) A *caretaker relative* is excused from the requirements of section (1) of this rule:

(a) For *good cause* under OAR 461-120-0350;

(b) If the *caretaker relative* is a participant in the Post-TANF or SFPSS programs; or

(c) Starting October 1, 2011, if the *filing group* (see OAR 461-110-0330) is a two-parent family for which deprivation is based on unemployment or underemployment of the primary wage earner (PWE).

(3) A *good faith effort* includes taking such actions as:

(a) Supplying *sufficient information* for the Division of Child Support (DCS) to proceed with appropriate actions to establish paternity of a dependent child, to locate noncustodial parents, or to establish a support order with respect to the child. *Sufficient information* includes, but is not limited to, the time and place of each child's conception (if paternity is not established) and the following information, if known to the *caretaker relative*, regarding any noncustodial parent of a needy child:

(A) Full legal name and nicknames.

(B) Social Security Number.

(C) Current or last known address.

(D) Current or last known employer, including name and address.

(E) If a student, current or last known school.

(F) Criminal record, including where and when incarcerated.

(G) Date of birth, or age.

(H) Race.

(I) Any known group or organizational affiliations.

(J) Names and addresses of close friends or relatives.

(K) Any other information the Department or DCS requests to help locate or identify an absent parent of any children in the benefit group.

(b) Supplying documentation or an explanation of the client's efforts to obtain information requested by the Department or DCS (if unable to provide any necessary information listed in subsection (a) of this section).

(c) Keeping appointments with the Department and DCS related to establishing paternity.

ADMINISTRATIVE RULES

(d) Returning telephone calls and responding to correspondence when requested to do so by the Department or DCS.

(4) If a client who has not been excused under section (2) of this rule has the opportunity to make a *good faith effort* to help the Department establish paternity of a needy child or locate or obtain support payments from the noncustodial parent of a needy child (and is unable to show he or she has *good cause* under OAR 461-120-0350), the Department applies penalties for failure to comply with requirements of section (1) of this rule in the following manner until the client meets the requirements of this rule:

(a) For a *benefit group* (see OAR 461-110-0750) not currently receiving TANF, if the failure to comply occurs while an application for TANF is pending the *filing group* (see 461-110-0330) is ineligible.

(b) For a *benefit group* receiving TANF benefits, if a failure to comply occurs, the net monthly TANF benefit, after reductions for the client's failure to comply with requirements of the JOBS program are made, is reduced by:

(A) 25 percent for the first month following the month in which failure to comply is determined.

(B) 50 percent for the second month following the month in which failure to comply is determined.

(C) 75 percent for the third month following the month in which failure to comply is determined.

(D) 100 percent (total ineligibility for the *benefit group*) for the fourth and subsequent months following the month in which failure to comply is determined.

(c) Once a penalized client complies with the requirements and benefits are no longer reduced under this rule, a subsequent penalty is imposed without regard to any prior penalty.

(d) If the TANF payment is affected by the penalty imposed under this rule, eligibility for and the level of SNAP benefits are determined as if the client were receiving cash benefits without reduction due to the penalty.

(5) The penalty provided by this rule ends when the client meets the requirements of section (1) of this rule.

Stat. Auth.: ORS 411.060, 411.070, 412.024, 412.049

Stats. Implemented: ORS 411.060, 411.070, 412.024, 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 8-1992, f. & cert. ef. 4-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 31-1996, f. & cert. ef. 9-23-96; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; AFS 5-1998(Temp), f. & cert. ef. 3-11-98 thru 5-31-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 1-2000, f. 1-13-00, cert. ef. 2-1-00; AFS 13-2002, f. & cert. ef. 10-1-02; CWP 37-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 4-28-04; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 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 12-2009(Temp), f. 6-23-09, cert. ef. 7-1-09 thru 12-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 29-2011(Temp), f. & cert. ef. 10-5-11 thru 4-2-12

461-145-0080

Child Support and Cash Medical Support

(1) Child support and cash medical support paid by a non-custodial parent for a dependent child or minor parent in the *financial group* (see OAR 461-110-0530) are considered income of the dependent child or minor parent, whether the support is paid voluntarily or in accordance with an order to pay child support.

(2) For the purposes of this rule:

(a) "Disregard" means child support, up to \$50 per dependent child or minor parent per *financial group* per month and not to exceed \$200 per *financial group* per month, that is not counted as income of the client. Disregard includes current child support only.

(b) "Pass-through" means child support, up to \$50 per dependent child or minor parent per *financial group* per month and not to exceed \$200 per *financial group* per month, that is sent to the client before any remaining amount of current child support is withheld by the State. Pass-through includes current child support only.

(3) In the ERDC program, child support is considered countable unearned income if it is received by the financial group or is countable under OAR 461-145-0280. Otherwise it is excluded.

(4) In the SNAP program, child support and cash medical support are treated as follows:

(a) Child support payments the group receives that must be assigned to the Department to maintain TANF eligibility are excluded, even if the group fails to turn the payments over to the Department.

(b) Child support payments received by a *filing group* (see OAR 461-110-0370) with at least one member working under a TANF JOBS Plus agreement are excluded, except:

(A) It is considered countable unearned income in the calculation of the wage supplement; and

(B) Any pass-through pursuant to section (2) of this rule is considered countable unearned income.

(c) All other child support, including any pass-through pursuant to section (2) of this rule, is considered countable unearned income.

(d) Cash medical support is considered countable unearned income except to the extent it is used to reimburse (see OAR 461-145-0440) an actual medical cost.

(e) Payments made by a non-custodial parent to a third party for the benefit of the *financial group* are treated in accordance with OAR 461-145-0280.

(5) Except as provided otherwise in section (9) of this rule for the TANF program, in the MAA, MAF, REF, REFM, SAC, and TANF programs:

(a) In determining initial eligibility, except for disregard pursuant to section (2) of this rule, child support received by the Oregon Department of Justice, Division of Child Support (DCS) is considered countable unearned income, if continued receipt of the child support is reasonably anticipated. These payments are excluded when determining the benefit amount.

(b) In determining on-going eligibility, except for clients working under a TANF JOBS Plus agreement and except for child support passed through to the client and disregarded pursuant to section (2) of this rule, child support received by the DCS is considered countable unearned income, if continued receipt of the child support is reasonably anticipated. These payments are excluded when determining the benefit amount.

(c) For clients working under a TANF JOBS Plus agreement:

(A) Child support is excluded in determining countable income.

(B) Child support is excluded when calculating the TANF portion of the benefit equivalency standards.

(C) All child support paid directly to the client is considered countable unearned income in the calculation of the wage supplement.

(d) All other child support payments:

(A) Paid directly to the *financial group* that are not turned over to the Department or to the DCS or that are paid to a third party on behalf of a member of the *financial group* are considered countable unearned income.

(B) Paid directly to the *financial group* that are turned over to the Department or to the DCS are considered countable unearned income except for any amount of pass-through and disregard pursuant to section (2) of this rule.

(e) Cash medical support is excluded in determining countable income.

(6) In the OHP program:

(a) Child support paid directly to the *financial group* or paid to a third party for the benefit of the *financial group* is considered countable unearned income.

(b) Cash medical support is excluded.

(7) In the OSIP, OSIPM, and QMB programs, all child support and cash medical support paid to the *financial group* are considered countable unearned income. Child support and cash medical support paid by the *financial group* are not deductible from income.

(8) In the SFPS program, notwithstanding section (5) of this rule, for on-going eligibility and benefit determination:

(a) Except for disregard pursuant to section (2) of this rule, child support is considered countable unearned income.

(b) Cash medical support is excluded in determining countable income.

(c) Payments made by a non-custodial parent to a third party for the benefit of the *financial group* are treated in accordance with OAR 461-145-0280.

(9) For on-going eligibility and benefit determination for TANF clients for whom deprivation is based on the unemployment or underemployment of the primary wage earner (PWE) in a two-parent household, starting October 1, 2011:

(a) Except for disregard pursuant to section (2) of this rule, child support is considered countable unearned income.

(b) Cash medical support is excluded in determining countable income.

(c) Payments made by a non-custodial parent to a third party for the benefit of the *financial group* are treated in accordance with OAR 461-145-0280.

(d) For a *filing group* (see OAR 461-110-0330) with at least one member working under a TANF JOBS Plus agreement:

(A) Child support is excluded in determining countable income.

(B) Child support is excluded when calculating the TANF portion of the benefit equivalency standards.

(C) All child support paid directly to the client is considered countable unearned income in the calculation of the wage supplement.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.816, 412.009, 412.014, 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.009, 412.014, 412.049

ADMINISTRATIVE RULES

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 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 8-1992, f. & cert. ef. 4-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 29-1994, f. 12-29-94, cert. ef. 1-1-95; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 7-2008(Temp), f. & cert. ef. 3-21-08 thru 9-17-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 12-2009(Temp), f. 6-23-09, cert. ef. 7-1-09 thru 12-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 29-2011(Temp), f. & cert. ef. 10-5-11 thru 4-2-12

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

Rule Caption: Medicaid Nursing Facilities.

Adm. Order No.: SPD 22-2011

Filed with Sec. of State: 10-7-2011

Certified to be Effective: 11-1-11

Notice Publication Date: 9-1-2011

Rules Amended: 411-070-0442, 411-070-0452

Rules Repealed: 411-070-0442(T), 411-070-0452(T)

Subject: The Department of Human Services is permanently amending OAR 411-070-0442 and 411-070-0452 to maintain Medicaid-certified long term care facility reimbursement rates at their current level as of June 30, 2011 in accordance with the legislatively adopted budget and Senate Bill 939 (2011).

Rules Coordinator: Christina Hartman—(503) 945-6398

411-070-0442

Per Diem Rate Setting For the Rate Period Beginning July 1, 2003 Calculation of the Basic Rate and Complex Medical Add-on Rate

(1) The rates are determined for the first year of each biennium, the rebasing year, and the second year of each biennium, the non-rebasing year.

(a) The Rebasing Year.

(A) The basic rate is based on the statements received by the Department by September (or postmarked by October 31, if an extension of filing has been approved by the Department) for the fiscal reporting period ending on June 30 of the previous even-numbered year. For example, for the biennium beginning July 1, 2003, statements for the period ending June 30, 2002 are used. The Department desk reviews or field audits these statements and determines the allowable costs for each nursing facility. The costs include both direct and indirect costs. The costs and days relating to pediatric beds are excluded from this calculation. The Department shall only use financial reports of facilities that have been in operation for at least 180 days and are in operation as of June 30 of even numbered years for biennial rebasing.

(B) For the 2009 rebasing period only, the Department shall limit the administrative and property cost components as follows:

(i) Administrative and general costs per facility, less provider tax and employee benefits, equals the lesser of the facility's allowable cost or the 50th percentile over all facilities; and

(ii) Allowable property expenses shall be limited by the Medicaid occupancy percentage when the facility has an occupancy rate of less than 60 percent.

(C) For each facility, its allowable costs after any limitations as set forth in subsection (1)(a)(B) of this section are applied, less the costs of its self-contained pediatric unit (if any) is inflated from the mid-point of its fiscal reporting period to the mid-point of the first year of the biennium, hereafter referred to as the base year (e.g., for the biennium beginning July 1, 2003, the base year is the fiscal period ending June 30, 2004) by the annual change in the DRI Index, or its successor index, as measured in the previous 4th quarter.

(D) For each facility, its allowable costs after any limitations as set forth in subsection (1)(a)(B) of this section are applied, per Medicaid day is determined using the allowable costs as inflated and resident days, excluding pediatric days as reported in the statement.

(E) The facilities are ranked from highest to lowest by the facility's allowable costs after any limitations as set forth in subsection (1)(a)(B) of this section are applied, per Medicaid day.

(F) The basic rate will be determined by ranking the allowable costs after any limitations as set forth in subsection (1)(a)(B) of this section are applied, per Medicaid day by facility and identifying the allowable cost per day at the applicable percentage. If there is no allowable cost per day at the applicable percentage, the basic rate is determined by interpolating the dif-

ference between the allowable costs per day that are just above and just below the applicable percentage to arrive at a basic rate at the applicable percentage.

(i) The applicable percentage for the period beginning July 1, 2003 through June 30, 2005 is at the 63rd percentile.

(ii) The applicable percentage for the period beginning July 1, 2005 through June 30, 2007 is at the 70th percentile.

(iii) The applicable percentage for the period beginning July 1, 2007 is at the 63rd percentile.

(b) The Non-Rebasing Year. On July 1 of each non-rebasing year, the basic flat rate shall be inflated by the annual change in the DRI Index, or its successor index, as measured in the previous 4th quarter.

(2) The complex medical add-on rate is 40 percent of the basic rate for the rebasing year and the non-rebasing year.

(3) The Department shall add a standard payment to fund implementation of certified nursing assistant staffing requirements contained in OAR 411-086-0100 in accordance with the Legislatively Adopted Budget.

(4) For services rendered between July 1, 2011 and June 30, 2012, the Department shall pay a daily rate equal to the following:

(a) Basic rate: \$212.12 per day;

(b) Complex medical rate: \$295.59 per day; and

(c) Pediatric rate: \$358.38 per day.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070, 2003 OL Ch. 736, 2007 OL Ch. 780, 2009 OL Ch. 827 & 2011 OL Ch. 630

Hist.: SPD 36-2004, f. 12-23-04, cert. ef. 12-28-04; SPD 15-2007(Temp), f. & cert. ef. 9-10-07 thru 3-8-08; SPD 2-2008, f. 2-29-08, cert. ef. 3-1-08; SPD 6-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; SPD 15-2009, f. 11-30-09, cert. ef. 12-1-09; SPD 17-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SPD 22-2011, f. 10-7-11, cert. ef. 11-1-11

411-070-0452

Pediatric Nursing Facilities

(1) PEDIATRIC NURSING FACILITY.

(a) A pediatric nursing facility is a licensed nursing facility at least 50 percent of whose residents entered the facility before the age of 14 and all of whose residents are under the age of 21.

(b) A nursing facility that meets the criteria of subsection (1)(a) of this section shall be reimbursed as follows:

(A) The pediatric rate is a prospective rate and is not subject to settlement. The Department shall only use financial reports of facilities that have been in operation for at least 180 days and are in operation as of June 30 of even numbered years for biennial rebasing.

(B) The facility specific pediatric cost per resident day shall be inflated by the annual change in the DRI Index as measured in the previous 4th quarter. The Oregon Medicaid pediatric days are multiplied by the inflated facility specific cost per resident day for each pediatric facility. The totals are summed and divided by total Oregon Medicaid days to establish the weighted average cost per pediatric resident day. The rebase relationship percentage (90.18%), determined in the implementation of the flat rate system in 1997, is applied to the weighted average cost to determine the pediatric rate.

(C) On July 1 of each non-rebasing year after 1999, the pediatric rate shall be increased by the annual change in the DRI Index, as measured in the previous 4th quarter. Beginning in 2001 rate rebasing shall occur in alternate years. Rebasing of pediatric nursing facility rates shall be calculated using the method described in subsection (1)(b)(B) of this section.

(D) For services rendered between July 1, 2011 and June 30, 2012, the Department shall pay the pediatric rate of \$358.38 per day.

(e) Even though pediatric facilities shall be reimbursed in accordance with subsection (1)(b) of this section, pediatric facilities must comply with all requirements relating to the timely submission of Nursing Facility Financial Statements.

(2) LICENSED NURSING FACILITY WITH A SELF-CONTAINED PEDIATRIC UNIT.

(a) A nursing facility with a self-contained pediatric unit is a licensed nursing facility that provides services for pediatric residents (individuals under the age of 21) in a separate and distinct unit within or attached to the facility with staffing costs separate and distinct from the rest of the nursing facility. All space within the pediatric unit must be used primarily for purposes related to the services of pediatric residents and alternate uses must not interfere with the primary use.

(b) A nursing facility that meets the criteria of subsection (2)(a) of this section shall be reimbursed for its pediatric residents served in the pediatric unit at the per diem rate described in section (1)(b) of this rule commencing on July 1, 1999 or at the per diem rate described in section (1)(b)(D) of this rule commencing on July 1, 2011.

ADMINISTRATIVE RULES

(c) Licensed nursing facilities with a self-contained pediatric unit must comply with all requirements relating to the timely submission of Nursing Facility Financial Statements and must file a separate attachment, on forms prescribed by the Department, related to the costs of the self-contained pediatric unit.

Stat. Auth.: ORS 410.070

Stats. Implemented: ORS 410.070 & 2011 OL Ch. 630

Hist.: SSD 4-1988, f. & cert. ef. 6-1-88; SSD 8-1991, f. & cert. ef. 4-1-91; SSD 14-1991(Temp), f. 6-28-91, cert. ef. 7-1-91; SSD 18-1991, f. 9-27-91, cert. ef. 10-1-91; SSD 6-1993, f. 6-30-93, cert. ef. 7-1-93; SSD 6-1995, f. 6-30-95, cert. ef. 7-1-95; SSD 6-1996, f. & cert. ef. 7-1-96; SDSD 10-1999, f.11-30-99, cert. ef. 12-1-99; SPD 9-2006, f. 1-26-06, cert. ef. 2-1-06; SPD 15-2007(Temp), f. & cert. ef. 9-10-07 thru 3-8-08; SPD 2-2008, f. 2-29-08, cert. ef. 3-1-08; SPD 15-2009, f. 11-30-09, cert. ef. 12-1-09; SPD 17-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SPD 22-2011, f. 10-7-11, cert. ef. 11-1-11

Department of Justice Chapter 137

Rule Caption: Filing administrative support orders and exceptions to income withholding for support.

Adm. Order No.: DOJ 7-2011

Filed with Sec. of State: 10-3-2011

Certified to be Effective: 10-3-11

Notice Publication Date: 8-1-2011

Rules Amended: 137-055-3200, 137-055-3360, 137-055-4080

Rules Repealed: 137-055-4080(T)

Subject: OAR 137-055-3200 and 137-055-3360 are being amended to clarify processes for filing administrative support orders.

OAR 137-055-4080 is being amended to clarify processes for exceptions to income withholding for child support.

Rules Coordinator: Vicki Tungate—(503) 986-6086

137-055-3200

Pending Judicial Proceedings and Existing Support Orders

(1) Whenever the administrator seeks to establish or modify a support order, the administrator will first check the Oregon Judicial Information Network (OJIN) and the Child Support case records to determine if:

(a) There is any support proceeding involving the child pending in this state or any other jurisdiction; or

(b) There is a support order involving the child in this state or any other jurisdiction, other than the support obligation the administrator seeks to modify.

(2) If a judicial proceeding involving the support of the child is pending in this state, the administrator may proceed to establish or modify the support order if:

(a) It appears likely that a final judgment will not be entered without substantial delay; or

(b) The states financial interests cannot be adequately protected without proceeding with the administrative action.

(3) If the administrator proceeds to establish or modify a support order, the administrator must file a notice in the pending judicial proceeding which includes the date of initiation of the administrative action, the action being pursued, and the amount of any current or past support sought.

(4) If the administrator does not proceed to establish or modify a support order, the administrator must send notice to the requesting party and may file an affidavit of appearance in the pending proceeding.

(5) If a support proceeding is discovered after commencing an administrative action but prior to finalizing the administrative order, the administrator may:

(a) Certify all matters under the notice to the court for consolidation in the court proceeding;

(b) Finalize any portion of the order and file it in the county where the proceeding is pending; or

(c) Withdraw the administrative proceeding.

(6) If a child support judgment is discovered after commencing an administrative action but prior to finalizing the administrative order, the administrator may:

(a) Seek to set aside the provisions of the child support judgment and ask the court to enter a new order if:

(A) It was issued without prior notice to the issuing court, administrative law judge or administrator that another support proceeding involving the child was pending or another support judgment involving the child already existed; or

(B) It was issued without service on the administrator as required in ORS 107.087, 107.135, 107.431, 108.110, 109.103 and 109.125, when sup-

port rights are assigned to the state and the states interests were not adequately protected.

(b) Proceed to establish an order for past support only for periods of time not addressed by the child support judgment; or (c) Withdraw the administrative proceeding.

Stat. Auth.: ORS 25.287 & 416.422

Stats. Implemented: ORS 25.287, 108.110, 109.100, 109.103, 416.415, 416.422, 416.425, 416.440, 416.470, 419B.400 & 419C.590

Hist.: DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 12-2004, f. & cert. ef. 10-1-04; DOJ 7-2011, f. & cert. ef. 10-3-11

137-055-3360

Entering of Administrative Orders in the Register of the Circuit Court

An administrative order under ORS 416.400 to 416.470 must be entered in accordance with the requirements of this rule:

(1) If the administrative order establishes support or paternity and the child is not residing in a state financed or supported residence, shelter or other facility or institution (see ORS 416.417), the order must be entered in the circuit court in the county in which the child, or either parent of the child, resides.

(2) If the administrative order establishes support or paternity and the child is residing in a state financed or supported residence, shelter or other facility or institution (see ORS 416.417) or resides out of state, the order must be entered in the circuit court in the county in which the obligor resides. (3) Except as provided in section (4), if the administrative order is one that modifies an underlying support order, the order must be entered in the circuit court in the same county as the underlying support order.

(4) If there is a judicial proceeding pending at the time of finalizing an administrative order establishing support or paternity, the administrative order must be entered in the circuit court in the same county as the pending judicial proceeding.

(5) Nothing in this rule precludes filing liens in other Oregon counties pursuant to ORS 18.320 or transferring judgments pursuant to ORS 25.100 or 107.449.

Stat. Auth.: ORS 180.345 & 416.455

Stats. Implemented: ORS 416.440

Hist.: AFS 21-2000, f. & cert. ef. 8-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-1091; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3360; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-3360; DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 12-2004, f. & cert. ef. 10-1-04; DOJ 7-2011, f. & cert. ef. 10-3-11

137-055-4080

Exceptions to Income Withholding

(1) An exception to income withholding may be granted in any case as set out in ORS 25.396.

(2) The administrator may allow payment by EFT as an exception to income withholding if:

(a) The obligee consents to payment by EFT; or

(b) The only payee on the case is a child attending school (CAS) under ORS 107.108 and OAR 137-055-5110, and the CAS consents to payment by EFT;

(c) The obligor submits a completed request for payment by EFT on a form provided by the Division of Child Support (DCS); and

(d) The obligor continues to pay the amount due for current support each month until DCS activates the EFT.

(3) If payment by EFT is allowed as provided in section (2) of this rule, payment by EPW may be allowed only if:

(a) The obligor's financial institution is a participant in the National Automated Clearinghouse Association;

(b) The request for EPW:

(A) Is signed by all signatories to the obligor's account at the financial institution; and

(B) Establishes a monthly withdrawal date, no later than the monthly support due date, and the amount to be paid on each withdrawal date.

(4) Payment by EPW will not be allowed if the order is a contingency order as provided in ORS 416.417, unless the child is in the care of the Oregon Youth Authority.

(5) If the EFT request is approved, DCS will notify the parties by mail, including the initial withdrawal date.

(6) An obligor may make additional payments by EFT even if the obligor does not qualify for an exception to withholding, as long as the obligor designates a withdrawal date.

(7) The administrator will not process a request to obtain consent to payment by EFT if the obligee or child attending school has failed to consent at any time within the previous six months.

(8) The administrator will terminate income withholding when:

ADMINISTRATIVE RULES

(a) There is no longer a current order for support and all arrears have been paid or satisfied; or

(b) The court or administrator allows an exception to withholding pursuant to ORS 25.396 and this rule.

(9) The administrator will reinstate income withholding and cancel payment by EFT if:

(a) At least one month of arrears accrues;

(b) The obligor cancels the request to pay by EFT; or

(c) The obligee, or if appropriate, CAS, withdraws consent to the EFT and the administrator agrees EFT should be canceled.

Stat. Auth.: ORS 25.396; 25.427, 180.345

Stats. Implemented: ORS 25.378 & 25.396

Hist.: AFS 7-1994, f. & cert. ef. 4-1-94; AFS 3-1995, f. 1-27-95, cert. ef. 2-1-95; AFS 20-1995, f. 8-30-95, cert. ef. 9-9-95; AFS 3-1995, f. 1-27-95, cert. ef. 2-1-95; AFS 34-1995, f. 11-27-95, cert. ef. 12-1-95; AFS 39-1995, f. & cert. ef. 12-15-95; AFS 23-1997, f. 12-29-97, cert. ef. 1-1-98; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0176; AFS 28-2001, f. 12-28-01, cert. ef. 1-1-02; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-4080; DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03, Renumbered from 461-200-4080; DOJ 2-2004, f. 1-2-04 cert. ef. 1-5-04; DOJ 1-2006, f. & cert. ef. 1-3-06; DOJ 6-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; DOJ 7-2011, f. & cert. ef. 10-3-11

Department of Public Safety Standards and Training Chapter 259

Rule Caption: Changes agency responsibility to ensuring administration of read/write test; Clarify physician; Reorganize for clarity.

Adm. Order No.: DPSST 14-2011

Filed with Sec. of State: 9-26-2011

Certified to be Effective: 10-1-11

Notice Publication Date: 9-1-2011

Rules Amended: 259-008-0010, 259-008-0011

Subject: Changes the hiring agency's responsibility from administering a 12th grade reading or writing test to ensuring that an appropriate test was administered allowing agencies to accept scores of DPSST-approved tests that were administered by other agencies.

The requirement for telecommunicators and emergency medical dispatchers to report criminal convictions was removed from OAR 259-008-0010 (Minimum Standards for Employment as a Law Enforcement Officer) and added to OAR 259-008-0011 (Minimum Standards for Employment as a Telecommunicator and Emergency Medical Dispatcher) for consistency.

Allows for "licensed health care providers" to sign F2-T Medical Examinations.

Rules Coordinator: Linsay Hale—(503) 378-2431

259-008-0010

Minimum Standards for Employment as a Law Enforcement Officer

(1) Citizenship.

(a) A person may not be employed as a corrections officer for more than one year unless the person is a citizen of the United States.

(b) A person may not be employed as a police or parole and probation officer for more than 18 months unless the person is a citizen of the United States.

(2) Age. No law enforcement unit in this state may employ any person under the age of 21 years as a police officer, corrections officer or parole and probation officer.

(3) Fingerprints. On or within 90 days prior to the date of employment, each police, corrections, or parole and probation officer must be fingerprinted on standard applicant fingerprint cards. The hiring agency is responsible for fingerprinting and must forward two (2) cards to the Oregon State Police Identification Services Section for processing and assignment of identification number.

(a) Applicant's fingerprints will be retained and kept on file with the Oregon State Police Identification Services Section.

(b) The Oregon State Police Identification Services Section will notify the Department and the employing agency of any criminal record disclosed through processing the applicant's fingerprint card.

(c) If any procedural change is made by either the Federal Bureau of Investigation or the Oregon State Police Identification Services Section the Department must comply with the most current requirements.

(d) If the fingerprint clearance has not been obtained prior to submission of the application for certification, a criminal history affidavit provided by the Department must be completed and returned to the Department by the applicant pending fingerprint clearance.

(4) Criminal Records. No police, corrections, or parole and probation officer may have been convicted:

(a) In this state or any other jurisdiction, of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one (1) year may be imposed;

(b) Of violating any law involving the unlawful use, possession, delivery, or manufacture of a controlled substance, narcotic, or dangerous drug;

(c) In this state of violating any law subject to denial or revocation as identified in OAR 259-008-0070 or has been convicted of violating the statutory counterpart of any of those offenses in any other jurisdiction.

(5) Notification of Conviction:

(a) A law enforcement officer or instructor who is convicted of a crime, as identified in OAR 259-008-0070, while employed by a public or private safety agency must notify the agency head within 72 hours of the conviction.

(b) When an agency receives notification of a conviction from its employee, or another source, they must notify the Department within five (5) business days. The notification to the Department must be in writing and include the specific charges of the conviction, the county and state where the conviction occurred, the investigating agency and the date of the conviction.

(6) Moral Fitness (Professional Fitness). All law enforcement officers must be of good moral fitness. For purposes of this standard, lack of good moral fitness includes, but is not limited to:

(a) Mandatory disqualifying misconduct as described in OAR 259-008-0070(3); or

(b) Discretionary disqualifying misconduct as described in OAR 259-008-0070(4).

(7) Education:

(a) Applicants for the position of a law enforcement officer will be required to furnish documentary evidence of one of the following:

(A) High School diploma;

(B) Successful completion of the General Educational Development (GED) Test; or

(C) A four-year, post-secondary degree issued by an accredited, degree-granting college or university recognized by the Oregon Office of Degree Authorization under the provisions of ORS 348.604.

(i) For the purpose of determining high school graduation level as required by these rules, the applicant must have achieved a score no less than that required by the Oregon Board of Education before issuing an Oregon GED certificate.

(ii) Applicants holding a GED from another state may be required to obtain an Oregon certificate at the discretion of the Department.

(b) Evidence of the above must consist of official transcripts, diplomas, or GED test report forms. Other documentation may be accepted, at the discretion of the Department.

(c) Reading and Writing Standard. Before beginning basic police training, challenging basic police training, or beginning the police career development course, each applicant must provide evidence to DPSST that the applicant has attained a minimum of a 12th grade reading and writing level in the English language.

(A) The hiring agency is responsible for ensuring a Department-approved reading and writing test has been administered. The hiring agency must forward the results of the test to the Department on a Form F-5 (Application for Training) prior to the applicant being admitted to basic police training.

(B) Individuals submitting transcripts verifying that they possess at least a four-year academic degree from an institution recognized by the Department under the provisions of OAR 259-008-0045 are exempt from completing the 12th grade reading/writing test prior to attending a course identified in this section.

(8) Physical Examination. All law enforcement officers and applicants must be examined by a licensed physician or surgeon.

(a) The medical examination must be completed not more than 180 days prior to initial offer of employment, nor more than 90 days after initial offer of employment, and must conform to applicable standards of the Americans with Disabilities Act (ADA). Title 42 USC 12101.

(b) Individuals who have had a successfully completed physical examination (while at the same employer) and are selected for a certifiable position in a discipline in which the individual is not yet certified must complete and pass a new physical examination.

(c) Except as provided in (e) below, the Department will not require a new physical examination when a law enforcement officer obtains employment, or re-employment, in the same discipline if the officer:

ADMINISTRATIVE RULES

(A) Has had a successfully completed a physical examination, and
(B) Is currently certified; or
(C) Is an officer currently employed full-time in another jurisdiction who has successfully completed a comparable physical examination in that jurisdiction.

(d) Notwithstanding subsection (c), a medical examination may be required by a hiring agency at its discretion.

(e) Notwithstanding subsection (c), any law enforcement officer who is separated from employment for a reason related to a physical inability to perform an essential task of a law enforcement officer must successfully complete a physical examination prior to obtaining re-employment in a certifiable position or applying for certified retired officer status.

(f) Police, Corrections, and Parole and Probation applicants must meet the following criteria:

(A) Visual Acuity. Corrected vision must be at least 20/30 (Snellen) in each eye. Due to the demonstrated likelihood of dislodgment or breakage, candidates who are able to wear only glasses with frames must meet an uncorrected standard not worse than 20/100 (Snellen) in each eye. Those candidates who use soft contact lenses (SCLs) must have vision correctable to at least 20/30 in each eye, with no uncorrected standard, provided the employing agency will monitor compliance. Replacement glasses or lenses (as appropriate) must be on the person or readily available at all times during each work shift.

(B) Color Vision. Red or green deficiencies may be acceptable, providing the applicant can read at least nine (9) of the first thirteen

(13) plates of the Ishihara Test (24 Plate Edition). Applicants who fail the Ishihara test can meet the color vision standard by demonstrating that they can correctly discriminate colors via a field test conducted by the employer and approved by DPSST.

(C) Depth Perception. Depth Perception must be sufficient to demonstrate stereopsis adequate to perform the essential tasks of the job. The recommended test is the Random Stereo Test with 60 seconds of arc.

(D) Peripheral Vision. Visual Field Performance must be 140 degrees in the horizontal meridian combined.

(E) Night Blindness. A history of night blindness should be evaluated to determine applicant's capacity to perform essential tasks at night or in dark or low light settings.

(g) Applicants for the position of police or corrections officer must have sufficient hearing in both ears to perform essential tasks without posing a direct threat to themselves or others. The applicant must have no average loss greater than 25 decibels (db) at the 500, 1,000, 2,000 and 3,000-Hertz levels in either ear with no single loss in excess of 40 db.

(h) Applicants for the position of parole and probation officer must have sufficient hearing in both ears to perform essential tasks without posing a direct threat to themselves or others. The applicant must have no average loss greater than 35 decibels (db) at the 500, 1000, 2000, and 3000 Hertz levels in either ear with no single loss in excess of 45 db.

(i) If amplification device(s) is (are) necessary to meet the criteria in (g) or (h) above, or if applicant cannot meet the above criteria and wishes to pursue application, applicant must:

(A) Obtain a hearing evaluation by a licensed audiologist or otorhinolaryngologist (ear, nose, throat) to determine current hearing aid requirement; and

(B) Achieve a Speech Reception Threshold (SRT) of no greater than 25 db for each ear;

(C) Police, corrections and parole and probation officers must achieve a Speech Discrimination test score of no less than 90% utilizing a standard 50-word presentation at 60 db Hearing Threshold Level (HTL). The Department may require an applicant to have another examination by a licensed audiologist or otorhinolaryngologist (ear, nose, and throat) designated by the Department to verify that the applicant's hearing meets the Board's minimum hearing standard. The verification examination will be at the expense of the applicant or the applicant's employing agency. The equipment utilized for all of these evaluations must be calibrated annually using current ANSI standards.

(D) Hearing amplification devices used to meet the hearing standard must be the type that protects the applicant from further hearing degradation due to amplification of loud sounds.

(j) Applicants for the position of police, corrections, or parole and probation officer must be able to use vocal chords and have significant speaking ability to perform speaking-related essential tasks. For police and corrections officers abnormalities of the nose, throat or mouth must not interfere with the applicant's breathing or proper fitting of gas mask or similar device.

(k) Applicants for the position of police, corrections, or parole and probation officer who have a history of organic cardio-vascular disease or a finding during the medical examination of organic cardio-vascular disease will necessitate further medical evaluation.

(A) Resting blood pressure must be less than or equal to 140 mmHg systolic and 90 mmHg diastolic on three successive readings.

(B) Applicants must not have a functional and therapeutic cardiac classification greater than the Heart Association's Class A.

(C) Failure to meet guidelines (k), (A) and (B) will require further medical evaluation.

(D) If the applicant has controlled hypertension not exceeding the above standards and is on medication with side effect profiles, which do not interfere with performance of duty, then the condition may not be excludable.

(E) Functional Capacity I patients with cardiac disease may not be excludable, if they have no limitations of physical activity and ordinary physical activity does not cause discomfort and they do not have symptoms of cardiac insufficiency, nor experience angina pain.

(F) Therapeutic Classification A patients with cardiac disease, whose physical activity is restricted, should be evaluated thoroughly.

(G) If further medical examination is required under (k), it will be at the expense of the applicant or hiring authority.

(I) All law enforcement applicants must submit a current-version DPSST Medical Examination Report (DPSST Form F2), or a medical report completed by a licensed physician containing at a minimum the information on Form F2 and a signed statement by the examining physician that the applicant does not have any condition, physical, mental, or emotional, which, in his/her opinion, suggests further examination. This Report will be furnished to the examining physician by the hiring agency. The physician must indicate that the applicant is or is not physically able to perform the duties of a law enforcement officer as prescribed by DPSST.

(m) A copy of the Medical Examination Report must be sent to the Department prior to acceptance into a basic course, or any course where such report is required by the Department.

(n) The Department may require an applicant offered conditional employment to take a subsequent examination by a licensed physician of the Department's choice at the expense of the applicant or the hiring authority.

(o) The Board may waive any physical requirement where, in its judgment, the waiver would not be detrimental to the performance of an officer's duties, including the protection of the public and the safety of co-workers. The applicant may be required to demonstrate the ability to perform the essential functions of the job.

(p) A person or department head requesting a waiver of any physical requirement set forth in section (8) of this rule shall submit the request to the Department in writing, accompanied by supporting documents or pertinent testimony which would justify the action requested. The supporting documents must include information pertinent to the waiver request. The Board or Department may require additional documentation or testimony by the person or department head requesting the waiver if clarification is needed. Any expense associated with providing documentation or testimony will be borne by the person requesting the waiver or the requesting agency. If the person requesting the waiver does not obtain employment within one (1) year from the date a waiver is granted, the waiver will be considered void.

(A) If the Board grants a waiver, it will be recorded on the certification and any subsequent certification unless removed by the Board upon proof that the condition prompting the waiver no longer exists.

(B) If the Board denies a request for a waiver of any physical requirement set forth in section (8) of this rule, the Department will issue Notice and proceed as provided in section (9) of this rule.

(9) Contested Case Hearing Process for denial of waiver.

(a) Initiation of Proceedings: Upon determination that the reason for denial of a waiver is supported by factual data meeting the statutory and administrative rule requirements, a contested case notice will be prepared.

(b) Contested Case Notice: The "Contested Case Notice" will be prepared in accordance with the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015. The Department will have a copy of the notice served on the public safety professional or individual.

(c) Response Time: A party who has been served with a "Contested Case Notice" has 60 days from the date of mailing or personal service of the notice in which to file with the Department a written request for a hearing.

ADMINISTRATIVE RULES

(d) Default Order: If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying the requested waiver.

(e) Hearing Request: When a request for a hearing is received in a timely manner, the Department will refer the matter to the Office of Administrative Hearings.

(f) Proposed Order: The assigned Administrative Law Judge will prepare Findings of Fact, Conclusions of Law and Proposed Final Order and serve a copy on the Department and on each party.

(g) Exceptions and Arguments: A party must file specific written exceptions and arguments with the Department no later than 14 days from date of service of the Findings of Fact, Conclusions of Law, and Proposed Final Order.

(A) The Department may extend the time within which the exceptions and arguments must be filed upon a showing of good cause.

(B) When the exceptions and arguments are filed, the party making the exceptions and arguments must serve a copy on all parties of record in the case and provide the Department with proof of service. A failure to serve copies and provide proof of service will invalidate the filing of exceptions and arguments as being untimely, and the Department may disregard the filing in making a final determination of the case.

(h) Final Order: The Department will issue a final order if a public safety professional or individual fails to file exceptions and arguments in a timely manner.

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

Stat. Auth.: ORS 181.640, 181.644, 183.341

Stats. Implemented: ORS 181.640, 181.644, 183.341

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1981, f. 9-26-81, ef. 11-2-81; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; PS 1-1987, f. & ef. 10-26-87; Renumbered from 259-010-0015, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1996, f. 5-15-96, cert. ef. 5-20-96; PS 4-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 1-1999, f. & cert. ef. 3-9-99; BPSST 9-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 3-2001, f. & cert. ef. 8-22-01; BPSST 12-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 5-2002(Temp), f. 4-3-02, cert. ef. 4-6-02 thru 8-1-02; BPSST 16-2002, f. & cert. ef. 7-5-2002; BPSST 20-2002, f. & cert. ef. 11-21-02; DPSST 3-2003, f. & cert. ef. 1-22-03; DPSST 6-2003, f. & cert. ef. 4-11-03; DPSST 8-2003, f. & cert. ef. 4-18-03; DPSST 14-2003, f. & cert. ef. 12-22-03; DPSST 3-2006, f. & cert. ef. 2-28-06; DPSST 12-2006, f. & cert. ef. 10-13-06; DPSST 10-2007, f. & cert. ef. 10-15-07; DPSST 13-2007(Temp), f. & cert. ef. 11-1-07 thru 4-18-08; DPSST 1-2008(Temp), f. & cert. ef. 1-15-08 thru 4-18-08; DPSST 4-2008, f. & cert. ef. 4-15-08; DPSST 21-2008, f. 12-15-08, cert. ef. 1-1-09; DPSST 10-2009, f. & cert. ef. 9-21-09; DPSST 9-2011, f. & cert. ef. 6-28-11; DPSST 14-2011, f. 9-26-11, cert. ef. 10-1-11

259-008-0011

Minimum Standards for Employment as a Telecommunicator and Emergency Medical Dispatcher

(1) Fingerprints. On or before the date of employment, each telecommunicator and emergency medical dispatcher must be fingerprinted on standard applicant fingerprint cards.

(a) The hiring agency, if a public agency, is responsible for fingerprinting and will forward two (2) cards to the Oregon State Police Identification Services Section for processing and assignment of identification number.

(b) If the hiring agency is a private agency it is responsible for fingerprinting and will forward two (2) cards to the Department along with the appropriate fee.

(A) Applicant's fingerprints will be retained and kept on file with the Oregon State Police Identification Services Section.

(B) The Oregon State Police Identification Services Section will notify the Department and the employing agency of any criminal record disclosed through processing the applicant's fingerprint card.

(C) If any procedural change is made by either the Federal Bureau of Investigation or the Oregon State Police Identification Services Section, the Department will comply with the most current requirements.

(D) If the fingerprint clearance has not been obtained prior to submission of the application for certification, a criminal history affidavit provided by the Department will be completed and returned to the Department by the applicant pending fingerprint clearance.

(2) Criminal Records. No telecommunicator or emergency medical dispatcher will have been convicted:

(a) In this state or any other jurisdiction, of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one (1) year may be imposed;

(b) Of violating any law involving the unlawful use, possession, delivery, or manufacture of a controlled substance, narcotic, or dangerous drug;

(c) In this state of violating any law subject to denial or revocation as identified in OAR 259-008-0070 or has been convicted of violating the statutory counterpart of any of those offenses in any other jurisdiction.

(3) Notification of Conviction:

(a) A telecommunicator or emergency medical dispatcher who is convicted of a crime as identified in OAR 259-008-0070 while employed by a public or private public safety agency must notify the agency head within 72 hours of conviction.

(b) When an agency receives notification of a conviction from its employee or another source, they must notify the Department within five (5) business days. The notification to the Department must be in writing and include the specific charges of the conviction, the county and state where the conviction occurred, the investigating agency and the date of conviction.

(4) Moral Fitness (Professional Fitness). All telecommunicators and emergency medical dispatchers must be of good moral fitness. For purposes of this standard, lack of good moral fitness includes, but is not limited to:

(a) Mandatory disqualifying misconduct as described in OAR 259-008-0070(3); or

(b) Discretionary disqualifying misconduct as described in OAR 259-008-0070(4).

(5) Education:

(a) Applicants for the position of a telecommunicator or emergency medical dispatcher will be required to furnish documentary evidence of one of the following:

(A) High School diploma;

(B) Successful completion of the General Educational Development (GED) Test; or

(C) A four-year, post-secondary degree issued by a degree-granting college or university accredited by a recognized national or regional accrediting body, or recognized by the Oregon Office of Degree Authorization under the provisions of ORS 348.604.

(i) For the purpose of determining high school graduation level as required by these rules, the applicant must have achieved a score no less than that required by the Oregon Board of Education before issuing an Oregon GED certificate.

(ii) Applicants holding a GED from another state may be required to obtain an Oregon certificate at the discretion of the Department.

(b) Evidence of the above must consist of official transcripts, diplomas, or GED test report forms. Other documentation may be accepted, at the discretion of the Department.

(6) Reading Standard. Before beginning basic telecommunicator or Emergency Medical Dispatcher (EMD) training or challenging basic telecommunicator training, each applicant must provide evidence to DPSST that the applicant has attained a minimum of a 12th grade reading level in the English language.

(a) The hiring agency is responsible for ensuring a Department-approved reading test has been administered. The hiring agency must forward the results of the test to the Department on a Form F-5 (Application for Training) prior to the applicant being admitted to basic telecommunicator or EMD training.

(b) Individuals submitting transcripts verifying that they possess at least a four-year academic degree from an institution recognized by DPSST under the provisions of OAR 259-008-0045 are exempt from completing the 12th grade reading test prior to attending a course identified in this section.

(7) Physical Examination. All Telecommunicators and Emergency Medical Dispatcher applicants must be examined by a licensed health professional.

(a) The medical examination must be completed not more than 180 days prior to initial offer of employment, and not more than 90 days after the initial offer of employment.

(b) The examination must conform to applicable standards of the Americans with Disabilities Act (ADA). Title 42 USC 12101.

(c) Individuals who have had a successfully completed a physical examination (while at the same employer) and are selected for a certifiable position in a discipline in which the individual is not yet certified must complete and pass a new physical examination.

(d) The Department will not require a new physical examination when a Telecommunicator or Emergency Medical Dispatcher obtains employment or re-employment in the same discipline if the Telecommunicator or Emergency Medical Dispatcher:

(A) Has had a successfully completed a physical examination, and

(B) Is currently certified; or

(C) Is currently employed full-time in another jurisdiction and has successfully completed a comparable physical examination in that jurisdiction.

(e) Notwithstanding subsection (d), a medical examination may be required by a hiring agency at its discretion.

ADMINISTRATIVE RULES

(f) Telecommunicator and Emergency Medical Dispatcher applicants must meet the following criteria:

(A) Visual Acuity. Corrected vision must be at least 20/30 (Snellen) when tested using both eyes together.

(B) Color Vision. Red or green deficiencies may be acceptable, providing the applicant can read at least nine (9) of the first thirteen (13) plates of the Ishihara Test (24 Plate Edition). Applicants who fail the Ishihara test can meet the color vision standard by demonstrating that they can correctly discriminate colors via a field test conducted by the employer and approved by DPSST. The results of the field test and the methods for testing must be maintained by the employing agency.

(i) Any employing agency that conducts a field test to meet the color vision standard must also complete a Department approved affidavit attesting that the applicant can either correctly discriminate colors or is able to successfully perform the required tasks of a Telecommunicator or Emergency Medical Dispatcher, notwithstanding the applicant's inability to correctly discriminate colors.

(ii) Any affidavit required by (i), that the Department receives and accepts, is non-transferable to any subsequent employer and may not be used by any other entity for certification purposes.

(iii) Notwithstanding subsection (d) of this rule, each employer must complete an agency-specific field test and a Department approved affidavit as described in subsection (i) of this section for any Telecommunicator or Emergency Medical Dispatcher who previously met the color vision standard by completing a field test.

(C) Peripheral Vision. Visual Field Performance must be 120 degrees in the horizontal meridian combined.

(g) Applicants for the position of Telecommunicator or Emergency Medical Dispatcher must have sufficient hearing in both ears to perform essential tasks without posing a direct threat to themselves or others. The applicant must meet National Emergency Number Association (NENA) hearing standard 54-002 (June 10, 2006).

(h) Applicants for the position of Telecommunicator or Emergency Medical Dispatcher must be able to use vocal cords and exhibit normal speech patterns, sufficient to perform speaking-related essential tasks.

(8) If further medical examination is required, it will be at the expense of the applicant or the hiring authority.

(9) All Telecommunicator and Emergency Medical Dispatcher applicants must submit a current-version Medical Examination Report for Telecommunicators and Emergency Medical Dispatchers (DPSST Form F-2T) or a signed medical report completed by a licensed health professional identified by the Department containing, at a minimum, the information on Form F-2T prior to the acceptance into a basic course or any course where such a report is required by the Department. The Form F-2T will be furnished to the examining health professional by the hiring agency.

(10) The Department may require an applicant offered conditional employment to take a subsequent examination by a licensed physician of the Department's choice at the expense of the applicant or the hiring authority.

(11) The Board may waive any physical requirement where, in its judgment, the waiver would not be detrimental to the performance of a Telecommunicator or Emergency Medical Dispatcher's duties. The applicant may be required to demonstrate the ability to perform the essential functions of the job.

(12) A person or department head requesting a waiver of any physical requirement set forth in section (11) of this rule must submit the request to the Department in writing, accompanied by supporting documents or pertinent testimony which would justify the action requested. The supporting documents must include information pertinent to the waiver request.

(a) The Board or Department may require additional documentation or testimony by the person or department head requesting the waiver if clarification is needed.

(b) Any expense associated with providing documentation or testimony will be borne by the person requesting the waiver or the requesting agency.

(c) If the person requesting the waiver does not obtain employment within one (1) year from the date a waiver is granted, the waiver will be considered void.

(d) If the Board grants a waiver, it will be recorded on the certification and any subsequent certification unless removed by the Board upon proof that the condition prompting the waiver no longer exists.

(e) If the Board denies a request for a waiver of any physical requirement set forth in section (7) of this rule, the Department will issue Notice and proceed as provided in section (13) of this rule.

(13) Contested Case Hearing Process for denial of waiver.

(a) Initiation of Proceedings: Upon determination that the reason for denial of a waiver is supported by factual data meeting the statutory and administrative rule requirements, a contested case notice will be prepared.

(b) Contested Case Notice: The "Contested Case Notice" will be prepared in accordance with the Attorney General's Model Rules of Procedure adopted under OAR 259-005-0015. The Department will have a copy of the notice served on the public safety professional or individual.

(c) Response Time: A party who has been served with a "Contested Case Notice" has 60 days from the date of mailing or personal service of the notice in which to file with the Department a written request for a hearing.

(d) Default Order: If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying the requested waiver.

(e) Hearing Request: When a request for a hearing is received in a timely manner, the Department will refer the matter to the Office of Administrative Hearings.

(f) Proposed Order: The assigned Administrative Law Judge will prepare Findings of Fact, Conclusions of Law and Proposed Final Order and serve a copy on the Department and on each party.

(g) Exceptions and Arguments: A party must file specific written exceptions and arguments with the Department no later than 14 days from date of service of the Findings of Fact, Conclusions of Law, and Proposed Final Order.

(A) The Department may extend the time within which the exceptions and arguments must be filed upon a showing of good cause.

(B) When the exceptions and arguments are filed, the party making the exceptions and arguments must serve a copy on all parties of record in the case and provide the Department with proof of service. A failure to serve copies and provide proof of service will invalidate the filing of exceptions and arguments as being untimely, and the Department may disregard the filing in making a final determination of the case.

(h) Final Order: The Department will issue a final order if a public safety professional or individual fails to file exceptions and arguments in a timely manner.

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

Stat. Auth.: ORS 181.640, 181.644 & 183.341

Stats. Implemented: ORS 181.640, 181.644 & 183.341

Hist.: BPSST 1-2002, f. & cert. ef. 2-6-02; DPSST 1-2004, f. 1-16-04, cert. ef. 1-20-04; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 3-2007, f. & cert. ef. 1-12-07; DPSST 10-2007, f. & cert. ef. 10-15-07; DPSST 5-2008, f. & cert. ef. 4-15-08; DPSST 21-2008, f. 12-15-08, cert. ef. 1-1-09; DPSST 6-2009, f. & cert. ef. 7-13-09; DPSST 9-2010(Temp), f. & cert. ef. 10-15-10 thru 4-12-11; DPSST 13-2010, f. & cert. ef. 12-23-10; DPSST 9-2011, f. & cert. ef. 6-28-11; DPSST 14-2011, f. 9-26-11, cert. ef. 10-1-11

Department of Revenue Chapter 150

Rule Caption: Defining the process and procedures for tax credit auctions.

Adm. Order No.: REV 2-2011(Temp)

Filed with Sec. of State: 10-12-2011

Certified to be Effective: 10-12-11 thru 3-11-12

Notice Publication Date:

Rules Adopted: 150-315.HB 3672

Subject: This temporary rule explains the rules and procedures surrounding the tax credit auctions (for fiscal year 2011) mandated by Chapter 730, Section 23, Oregon Laws 2011 (House Bill 3672).

Rules Coordinator: Ken Ross—(503) 945-8890

150-315.HB 3672

Tax Credit Auctions (Fiscal Year 2011)

(1) Definitions.

(a) "Tax Credits" means the credits authorized by Chapter 730, Section 23, Oregon Laws 2011 (HB 3672) for fiscal year 2011. These credits may also be referred to as the "Renewable Energy Development Contribution Credit(s)."

(b) "Qualified Bid" means a bid that is eligible to participate in the tax credit auction because:

(A) It is submitted in a manner and time prescribed by the department's instructions and this rule;

(B) It is submitted for no less than 95 percent of the tax credit value or \$950 per tax credit increment;

(C) An associated payment has been received by the department in the date and manner prescribed in section (4).

(c) "Non-qualified bid" means a bid that is not eligible to participate in the auction because it does not meet the requirements of subsection (b).

ADMINISTRATIVE RULES

(d) "Invalid or insufficient payments" are payments that are:

(A) Not received by the department by 5:00 p.m. (PST) on Thursday, November 10, 2011;

(B) Any payments other than a money order, certified check, or cashier's check;

(C) Fraudulent or otherwise not able to be immediately banked by the department;

(D) Less than the full amount of the corresponding bid received by the department; or

(E) Not submitted in a manner consistent with department's instructions (including attaching the required completed forms).

(d) "PDT" means Pacific Daylight Time.

(e) "PST" means Pacific Standard Time.

(2) Auction Bidding Period. The tax credits auction bidding period will begin at 9:00 a.m. on Monday, October 24, 2011 and end at 5:00 p.m. on Friday, November 4, 2011 (PDT).

(3) Tax Credit Certificates. 1,500 increments of \$1,000 tax credit certificates (\$1,500,000 total) will be available for bidding at the auction. The Oregon Department of Energy will issue tax credit certificates for the prevailing qualified bids. A taxpayer to whom a certificate is issued may claim a credit in the amount shown on the certificate against Oregon personal income or corporate income or excise tax otherwise due for that tax year. The tax credit may not exceed the liability of the taxpayer in any one year. Any credit amount unused by the taxpayer may be carried forward to offset tax liabilities in the next three succeeding tax years. No transfer of the certificate (or the credit that it represents) is allowed.

(4) Determination of qualifying bids and payments.

(a) Bids must be submitted on-line in a manner consistent with the department's instructions and within the bidding period as outlined in section (2). Bids received before or after the bidding period will be considered a non-qualified bid. The department will determine the order of bids received by the electronic date and time stamp.

(b) A bidder may submit multiple separate bids.

(c) After a bid is submitted, a bidder must send, and the department must receive, a payment of the total amount bid. Any payments that are found to be invalid or insufficient will not be accepted and the bid will be considered a non-qualified bid. Any such payments will be returned to the bidder. All bid payments must be received by the department no later than Thursday, November 10, 2011 at 5:00 p.m. (PST). The department will date stamp payments when they are received. The department will not consider postmarks when determining if the payment has been timely received. It is the bidder's responsibility to ensure that the department receives the payment by the deadline. The method of payment is limited to the following:

(A) A bank-issued certified check;

(B) A bank-issued cashier's check; or

(C) Money Orders.

(d) All payments will be held until the outcome of the auction is determined. As soon as practicable, the department will return payments received to bidders that do not prevail at the auction. No interest will be paid on payments.

(e) A bid, once submitted, is not revocable and may not be changed. A payment will only be returned if a bid does not result in the issuance of a tax credit certificate.

(5) Determination of the prevailing bid(s). After the November 10, 2011 payment deadline has passed, the department will determine the prevailing bids by placing the qualifying bids in order from highest bid amount to lowest bid amount. The department will allot up to 1,500 tax credit increments of \$1,000 each to the highest qualifying bids in order from highest bid to lowest bid. In the event that two or more qualifying bids have identical bid amounts for the last tax credit increment (or increments) available, the prevailing qualifying bid will be the one the department received first as determined under section (4).

Example: Four bidders (A, B, C and D) make qualifying bids on \$10,000 worth of tax credits (sold in ten increments of \$1,000). Bidder A bids \$950 for each of four increments on October 24, 2011. Bidder B bids \$965 for each of four increments on October 26, 2011. Bidder C bids \$985 for each of three increments and \$965 for each of two increments on November 1, 2011. Bidder D bids \$990 for each of five increments on November 4, 2011. Table not included. See Ed. Note.

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

Stat. Auth.: ORS 305.100

Stats. Implemented: Ch 730, § 23, OL 2011(HB 3672)

Hist.: REV 2-2011(Temp), f. & cert. ef. 10-12-11 thru 3-11-12

Department of Transportation Chapter 731

Rule Caption: Rule for legislative intent regarding ODOT's relationship with Aviation.

Adm. Order No.: DOT 2-2011(Temp)

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 9-30-11 thru 3-21-12

Notice Publication Date:

Rules Adopted: 731-003-0005

Subject: Section 29 of Chapter 63 OL 2011 states that ODOT will adopt rules for conducting the business processes identified in the new law. The proposed rule will provide Aviation and the public with guidance on what information Aviation must comply with and requires that the details of ODOT's relationship with Aviation be guided by an intergovernmental agreement. This information is necessary for ODOT and Aviation to have a clear understanding of their working relationship.

Because adoption of rules for policies and procedures already in place in ODOT would be extensive for each business process related to financial transactions, an intergovernmental agreement was determined to be the most effective means of documenting the processes and cementing the relationship between the agencies. ODOT uses a process where all divisions, which will include ODA, assist in development and review of the policies and procedures contained in the Financial Administration and Standards Manual (FASM).

Rules Coordinator: Lauri Kunze—(503) 986-3171

731-003-0005

Provision of Business Services to Department of Aviation

(1) Oregon Laws 2011, chapter 630, requires the Department of Transportation to provide the following services to the Department of Aviation, and requires the Department of Aviation to abide by all rules adopted by the Department of Transportation related to the following services:

(a) Budget preparation services;

(b) Daily processing for accounts payable, accounts receivable, payroll, receipts and disbursements;

(c) Records and inventory maintenance accounting services;

(d) Financial management reports and revenue and expenditure projections;

(e) Purchasing, leasing and contracting services;

(f) Internal audit services;

(g) Computer and information system services; and

(h) Human resource services.

(2) The most current Department of Transportation administrative rules related to the services identified in section (1) apply to the Department of Aviation, including but not limited to OAR chapter 731, divisions 146, 147, 148 and 149.

(3) The most current Department of Transportation policies and procedures related to the services identified in section (1) apply to the Department of Aviation.

(4) The Financial Administration and Standards Manual applies to the Department of Aviation.

(5) For purposes of providing the services identified in section (1) the Department of Aviation shall be treated the same as a division of the Department of Transportation in applying applicable rules, policies and procedures.

(6) The Department of Transportation and Department of Aviation shall enter into an interagency agreement to address additional administration and implementation issues related to providing the services identified in section (1), and to establish the fee for providing those services and payment thereof.

Stat. Auth.: ORS 184.616, 184.619 & Ch. 630, OL 2011

Stats. Implemented: Ch. 630, OL 2011

Hist.: DOT 2-2011(Temp), f. & cert. ef. 9-30-11 thru 3-21-12

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Department of Transportation, Highway Division Chapter 734

Rule Caption: Authority to authorize the movement of over-dimensional loads.

Adm. Order No.: HWD 10-2011(Temp)

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 9-30-11 thru 3-21-12

Notice Publication Date:

ADMINISTRATIVE RULES

Rules Amended: 734-070-0010, 734-082-0021

Subject: These rules authorize an ODOT official to impose restrictions on travel involving over-dimensional loads and vehicles in order to protect the traveling public and Oregon's infrastructure. Historically that ODOT official has been the Chief Engineer. The Administrator of the Motor Carrier Transportation Division (MCTD) has recently been appointed to serve as the agency's liaison responsible for freight mobility issues statewide. The MCTD Administrator in actual day to day practice is asked to make decisions for which he does not have delegated authority. The proposed amendments are needed in order to provide the Administrator of MCTD with the same authority granted the Chief Engineer in regards to oversight of the movement of oversized loads or vehicles. In addition, freight mobility issues are not always predictable, so by having a second official authorized to direct these movements, the Department gains flexibility to enable timely response to freight mobility issues.

Rules Coordinator: Lauri Kunze—(503) 986-3171

734-070-0010

Imposition of Travel Restrictions

(1) The Chief Engineer and the Administrator of the Motor Carrier Transportation Division are both authorized to impose time of travel restrictions, to halt the movement of over-dimensional vehicles and loads, or to impose other restrictions which alter, rescind, or are in addition to those established under other rules and pertain to the movement of over-dimensional vehicles, combinations of vehicles, or loads on state highways. In exercising such authority, the Chief Engineer or the Administrator of the Motor Carrier Transportation Division may impose such restrictions as may be necessary to protect the safety and convenience of the traveling public, to protect any highway or section thereof from damage, to avoid conflict with highway construction or repair projects, or to cope with other local traffic conditions.

(2) Any directive or restriction imposed by the Chief Engineer or the Administrator of the Motor Carrier Transportation Division under this authority will be in the form of a written, signed order.

(3) Signs giving notice of the restrictions or limitations contained in the order must be posted at each end of the highway or section of highway affected. Such restrictions or limitations will be effective when the signs giving notice of them are posted.

Stat. Auth.: ORS 184.616, 184.619, 823.011

Stats. Implemented: ORS 818.200, 818.220

Hist.: 1 OTC 20-1979(Temp), f. & cert. ef. 9-20-79; IOTC 8-1980, f. & cert. ef. 3-28-80; HWD 5-2011, f. & cert. ef. 5-27-11; HWD 10-2011(Temp), f. & cert. ef. 9-30-11 thru 3-21-12

734-082-0021

Days of Travel and Peak Traffic Hour Restrictions

(1) Movement of an oversize vehicle or load is subject to the time of travel restrictions described on Attachment H (rev. 11/2007), which is included with a division 82 permit.

(2) The Chief Engineer and the Administrator of the Motor Carrier Transportation Division may both impose or alter time of travel restrictions. These may be necessary to prevent conflict with highway construction or repair projects or to cope with local or seasonal traffic conditions.

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

Stat. Auth.: ORS 184.616, 184.619 & 823.011

Stats. Implemented: ORS 818.220 & 818.225

Hist.: HWY 17-1990, f. & cert. ef. 12-28-90; HWY 2-1992, f. & cert. ef. 2-18-92; HWY 11-1992, f. & cert. ef. 9-16-92; HWY 5-1997, f. & cert. ef. 5-9-97; TO 7-1998, f. & cert. ef. 8-20-98; TO 3-2000, f. & cert. ef. 2-11-00; TO 8-2002, f. & cert. ef. 10-14-02; HWD 3-2006, f. & cert. ef. 5-24-06; HWD 6-2006, f. & cert. ef. 11-15-06; HWD 10-2011(Temp), f. & cert. ef. 9-30-11 thru 3-21-12

Oregon Commission on Children and Families Chapter 423

Rule Caption: State Commission identified requirements of the Local Commissions codified in OAR that need to be waived due to reduced state and local resources and staff capacity.

Adm. Order No.: OCCF 2-2011(Temp)

Filed with Sec. of State: 10-5-2011

Certified to be Effective: 10-5-11 thru 4-2-12

Notice Publication Date:

Rules Adopted: 423-010-0050

Subject: Senate Bill 909, enacted during the 2011 Legislative Session, mandates the transition of State Commission functions to other entities and infers the sunset of the agency and the State Commission on June 30, 2012. Funding for State and Local Commission administration was reduced in the 2011-13 budget. Therefore, to maximize limited resources and focus staff work toward meeting statutory obligations and the transition process, the State Commission will waive the following administrative rules: OAR 423-010-0023(1)(b), 423-010-0026(2); and 423-010-0023(1)(a).

Rules Coordinator: Marsha Clark—(503) 373-1283

423-010-0050

Waiver of Certain Administrative Rules

(1) Senate Bill 909, enacted during the 2011 Legislative Session, mandates the transition of State Commission functions to other entities and infers the sunset of the agency and the State Commission on June 30, 2012. Funding for State and Local Commission administration was reduced in the 2011-13 budget. Therefore, to maximize limited resources and focus staff work toward meeting statutory obligations and the transition process, the State Commission will waive certain administrative rules as follows:

(a) The State Commission waives OAR 423-010-0023(1)(b) requiring 2.0 FTE Local Commission staff and 1.0 FTE "director embodied in one person" in its entirety. In order for this waiver to be effective, the county must provide the State Commission information on the Local Commission staffing structure that, at a minimum, meets the requirements of ORS 417.760(1)(b) and continues activities to meet the county's Local Commission obligations as detailed in ORS 417.760 through 417.787 and the State Commission on Oregon Administrative Rules not subject to this waiver.

(b) The State Commission waives the requirement in OAR 423-010-0026(2) that Local Commissions will formally update Local Plans every two years and be reviewed by local partners annually. Local Commissions may, however, amend Local Plans when determined necessary by the Local Commission. Plan amendments must be in conformance with ORS 417.775(14) through 417.775(15) and submitted to the State Commission for approval in accordance with the Plan Approval process required in OAR 423-010-0026.

(c) The State Commission waives the reference to "meeting the intent of the Partnership Agreement and the Components Document" included in OAR 423-010-0023(1)(a).

(2) This administrative rule, OAR 423-010-0050, will sunset on June 30, 2012.

Stat. Auth.: ORS 417.705 - 417.797

Stats. Implemented: ORS 417.705 - 417.797

Hist.: OCCF 2-2011(Temp), f. & cert. ef. 10-5-11 thru 4-2-12

Oregon Health Authority, Addictions and Mental Health Division: Mental Health Services Chapter 309

Rule Caption: Mental Health Services For Homeless Individuals.

Adm. Order No.: MHS 7-2011

Filed with Sec. of State: 9-26-2011

Certified to be Effective: 9-26-11

Notice Publication Date: 7-1-2011

Rules Adopted: 309-032-0301, 309-032-0311, 309-032-0321, 309-032-0331, 309-032-0341, 309-032-0351

Rules Repealed: 309-032-0175, 309-032-0180, 309-032-0185, 309-032-0190, 309-032-0195, 309-032-0200, 309-032-0205, 309-032-0210

Subject: The Addictions and Mental health (AMH) Division is revising these rules in order that they conform with federal requirements and accurately reflect AMH practices.

Rules Coordinator: Nola Russell—(503) 945-7652

309-032-0301

Purpose and Scope

These rules prescribe the standards for community-based programs that serve individuals with a serious mental illness experiencing homelessness under the Projects for Assistance in Transition from Homelessness (PATH) program.

Stat. Auth.: ORS 413.042 & 430.640

Stats. Implemented: ORS 430.610 - 430.695

Hist.: MHS 7-2011, f. & cert. ef. 9-26-11

ADMINISTRATIVE RULES

309-032-0311

Definitions

(1) "Co-Occurring Disorders" (COD) means the existence of at least one diagnosis of a substance use disorder and one diagnosis of a serious mental illness.

(2) "Community Mental Health Program" (CMHP) means an entity that is responsible for planning and delivery of services for individuals with substance use or mental illness diagnoses, operated in a specific geographic area of the state under an intergovernmental agreement or a direct contract with the Addictions and Mental Health Division (AMH).

(3) "Division" means the Addictions and Mental Health Division of the Oregon Health Authority (OHA).

(4) "Eligible Individual" means an individual who, as defined in these rules:

- (a) Is homeless or at imminent risk of becoming homeless and
- (b) Who has, or is reasonably assumed to have, a serious mental illness.
- (c) The individual may also have a co-occurring substance use disorder.

(5) "Enrolled" means an eligible individual who:

- (a) Receives services supported at least partially with PATH funds and
- (b) Has an individual service record that indicates enrollment in the PATH program.

(6) "Homeless Individual" means an individual who:

(a) Lacks housing without regard to whether the individual is a member of a family and whose primary residence during the night is a supervised public or private facility that provides temporary living accommodations; or

(b) Is a resident in transitional housing that carries time limits.

(7) "Individual" means an individual potentially eligible for or who has been enrolled to receive services described in these rules.

(8) "Individual Service and Support Plan" (ISSP) means a comprehensive plan for services and supports provided to or coordinated for an eligible individual that is reflective of the intended outcomes of service.

(9) "Imminent Risk of Homelessness" means that an individual is:

- (a) Living in a doubled-up living arrangement where the individual's name is not on the lease;
- (b) Living in a condemned building without a place to move;
- (c) In arrears in their rent or utility payments;
- (d) Subject to a potential eviction notice without a place to move; or
- (e) Being discharged from a health care or criminal justice institution without a place to live.

(10) "Individual Service Record" means the written or electronic documentation regarding an enrolled individual that summarizes the services and supports provided from point of entry to service conclusion.

(11) "Literally Homeless Individual" means an individual who lacks housing without regard to whether the individual is a member of a family, including an individual whose primary residence during the night is a supervised public or private facility that provides temporary living accommodations.

(12) "Local Mental Health Authority" (LMHA) means one of the following entities:

(a) The Board of County Commissioners of one or more counties that establishes or operates a CMHP;

(b) The tribal council of a federally recognized tribe of Native Americans that elects to enter into an agreement to provide mental health services or

(c) A regional LMHA comprised of two or more boards of county commissioners.

(13) "Outreach" means the process of bringing individuals into treatment who do not access traditional services.

(14) "Projects for Assistance in Transition from Homelessness" (PATH) means the Formula Grants, 42 U.S.C. 290cc-21 to 290-cc-35.

(15) "Qualified Mental Health Professional" (QMHP) means any person who meets one of the following minimum qualifications as authorized by the LMHA or designee:

- (a) A Licensed Medical Practitioner;
- (b) A graduate degree in psychology, social work, or recreational, art or music therapy;
- (c) A graduate degree in a behavioral science field;
- (d) A bachelor's degree in occupational therapy and licensed by the State or Oregon; or
- (e) A bachelor's degree in nursing and licensed by the State of Oregon.

(16) "Secretary" means the Secretary of the U.S. Department of Health and Human Services.

(17) "Serious Mental Illness" means a psychiatric condition experienced by an individual who is 18 years of age or older and who is:

(a) Diagnosed by a QMHP as suffering from a serious mental disorder as defined in Oregon Revised Statutes (ORS) 426.495 which includes, but is not limited to conditions such as schizophrenia, affective disorder, paranoid disorder, and other disorders which manifest psychotic symptoms that are not solely a result of a developmental disability, epilepsy, drug abuse or alcoholism; and which continue for more than one year, or

(b) Is impaired to an extent which substantially limits the individual's consistent ability to function in one or more of the following areas:

(A) Independent attendance to the home environment including shelter needs, personal hygiene, nutritional needs and home maintenance;

(B) Independent and appropriate negotiation within the community such as utilizing community resources for shopping, recreation, transportation and other needs;

(C) Establishment and maintenance of supportive relationships; or

(D) Maintained employment sufficient to meet personal living expenses or engagement in other age appropriate activities.

Stat. Auth.: ORS 413.042 & 430.640

Stats. Implemented: ORS 430.610 – 430.695

Hist.: MHS 7-2011, f. & cert. ef. 9-26-11

309-032-0321

Eligible Services

(1) Effective outreach to engage people in the following array of services:

- (a) Identification of individuals in need;
- (b) Screening for symptoms of serious mental illness;
- (c) Development of rapport with the individual;
- (d) Offering support while assisting with immediate and basic needs;
- (e) Referral to appropriate resources; or
- (f) Distribution of information including but not limited to:
 - (A) Flyers and other written information;
 - (B) Public service announcements; or
 - (C) Other indirect methods of contact.

(2) Methods of active outreach including but not limited to face-to-face interaction with literally homeless people in streets, shelters, under bridges and in other non-traditional settings, in order to seek out eligible individuals.

(3) Methods of in-reach, including but not limited to placing outreach staff in a service site frequented by homeless people, such as a shelter or community resource center, where direct, face to face interactions occur, in order to allow homeless individuals to seek out outreach workers.

(4) Screening and diagnosis.

(5) Habilitation and rehabilitation services.

(6) Community mental health services.

(7) Alcohol or drug treatment services.

(8) Staff training, including the training of those who work in shelters, mental health clinics, substance abuse programs, and other sites where homeless individuals require services.

(9) Case management including the following.

(a) Preparing a plan for the provision of community mental health services to the eligible individual and reviewing the plan not less than once every three months;

(b) Assistance in obtaining and coordinating social and maintenance services for the eligible individual, including services related to daily living activities, personal financial planning, transportation, and housing services;

(c) Assistance to the eligible individual in obtaining income support services including housing assistance, food stamps and supplemental security income benefits;

(d) Referring the eligible individual for such other services as may be appropriate and

(e) Providing representative payee services in accordance with section 1631(a)(2) of the Social Security Act [42 U.S.C. 1383(a)(2)] if the eligible individual is receiving aid under title XVI of such act [42 U.S.C. 1381 et seq.] and if the applicant is designated by the Secretary to provide such services;

(10) Supportive and supervisory services in residential settings;

(11) Housing services, which shall not exceed twenty percent of all total PATH expenses and which may include:

- (a) Minor renovation, expansion and repair of housing;
- (b) Planning of housing;
- (c) Technical assistance in applying for housing assistance;

ADMINISTRATIVE RULES

- (d) Improving the coordination of housing services; (e) Security deposits;
 - (f) The costs associated with matching eligible individuals with appropriate housing situations; or
 - (g) One time rental payments to prevent eviction; and
 - (12) Referrals to other appropriate services or agencies, for those determined ineligible for other PATH services.
 - (13) Other appropriate services as determined by the Secretary.
- Stat. Auth.: ORS 413.042 & 430.640
Stats. Implemented: ORS 430.610 – 430.695
Hist.: MHS 7-2011, f. & cert. ef. 9-26-11

309-032-0331

Staff Qualifications and Training Standards

- (1) Staff delivering case management and outreach services to individuals shall have demonstrated ability to:
 - (a) Identify individuals who appear to be seriously mentally ill;
 - (b) Identify service goals and objectives and incorporate them into an ISSP; and
 - (b) Refer the individuals for services offered by other agencies.
 - (2) All staff delivering PATH services shall have training, knowledge and skills suitable to provide the services described in these rules.
- Stat. Auth.: ORS 413.042 & 430.640
Stats. Implemented: ORS 430.610 – 430.695
Hist.: MHS 7-2011, f. & cert. ef. 9-26-11

309-032-0341

Rights of Eligible Individuals

- (1) In addition to all applicable statutory and constitutional rights, every eligible individual receiving services has the right to:
 - (a) Choose from available services and supports;
 - (b) Be treated with dignity and respect;
 - (c) Have all services explained, including expected outcomes and possible risks;
 - (d) Confidentiality and the right to consent to disclosure in accordance with ORS 107.154, 179.505, 192.515 and 42 CFR Part 2 and 45 CFR Part 205.50;
 - (e) Give informed consent to services in writing prior to the start of services, except in a medical emergency or as otherwise permitted by law;
 - (f) Inspect their Individual Service Record in accordance with ORS 179.505;
 - (g) Not participate in experimentation;
 - (h) Receive medications specific to the individual's diagnosed clinical needs;
 - (i) Receive prior notice of service conclusion or transfer, unless the circumstances necessitating service conclusion or transfer pose a threat to health or safety;
 - (j) Be free from abuse or neglect and to report any incident of abuse or neglect without being subject to retaliation;
 - (k) Have religious freedom;
 - (l) Be informed at the start of services and periodically thereafter of the rights guaranteed by these rules;
 - (m) Be informed of the policies and procedures, service agreements and fees applicable to the services provided, and to have a custodial parent, guardian or representative assist with understanding any information presented;
 - (n) Have family involvement in service planning and delivery;
 - (o) Make a declaration for mental health treatment, when legally an adult;
 - (p) File grievances, including appealing decisions resulting from the grievance; and
 - (q) Exercise all rights described in this rule without any form of reprisal or punishment.
 - (2) The provider will give to the individual and if applicable, to the guardian, a document that describes the preceding individual rights.
 - (a) Information given to the individual must be in written form or, upon request, in an alternative format or language appropriate to the individual's need;
 - (b) The rights and how to exercise them will be explained and
 - (c) Individual rights will be posted in writing in a common area.
- Stat. Auth.: ORS 413.042 & 430.640
Stats. Implemented: ORS 430.610 – 430.695
Hist.: MHS 7-2011, f. & cert. ef. 9-26-11

309-032-0351

Enrollment and Record Requirements

- (1) An individual's eligibility shall be determined and documented at the earliest possible date.

- (2) A record shall be maintained for each enrolled individual receiving services under this rule. The record shall contain the following:
 - (a) An enrollment form which includes:
 - (A) The individual's name and PATH enrollment date;
 - (B) A list or description of the criteria determining the individual's PATH eligibility; and
 - (C) The individual's PATH services discharge date.
 - (b) A plan defining the enrolled individual's goals and service objectives including one or more of the following:
 - (A) Accessing community mental health services for the eligible individual, which includes reviewing the plan not less than once every three months;
 - (B) Accessing and coordinating needed services for the eligible individual, as detailed in these rules.
 - (C) Accessing income and income support services, including housing assistance, food stamps, and supplemental security income; and
 - (D) Referral to other appropriate services.
 - (c) Progress notes that provide an on-going account of contacts with enrolled individual, a description of services delivered, and progress toward the enrolled individual's service plan goals; and
 - (d) A termination summary describing reasons for the enrolled individual no longer being involved in service.
 - (3) A record shall be maintained for individuals served but not yet enrolled under the provisions of these rules. The record shall contain:
 - (a) A description of the potentially eligible individual, which may include but not be limited to:
 - (A) A physical description of the individual;
 - (B) The location where the individual was served; and
 - (C) A description of the individual's personal belongings.
 - (b) A preliminary assessment of the potentially eligible individual's needs based on available information; and
 - (c) A record of where and when contacts with the potentially eligible individual were made and the outcome of those contacts.
 - (4) Records shall be confidential in accordance with ORS 179.505, 45 CFR Part 2 and OAR 032-1535 pertaining to individuals' records.
- Stat. Auth.: ORS 413.042 & 430.640
Stats. Implemented: ORS 430.610 – 430.695
Hist.: MHS 7-2011, f. & cert. ef. 9-26-11

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**Oregon Health Authority,
Division of Medical Assistance Programs
Chapter 410**

Rule Caption: Align with OAR chapter 461, division 155 medical eligibility rules.
Adm. Order No.: DMAP 25-2011(Temp)
Filed with Sec. of State: 9-28-2011
Certified to be Effective: 10-1-11 thru 1-11-12
Notice Publication Date:
Rules Amended: 410-120-0006
Rules Suspended: 410-120-0006(T)
Subject: The General Rules Program administrative rules govern the Division's payments for services provided to clients, and medical assistance eligibility determinations made by the Oregon Health Authority. In coordination with the Department of Human Services' (Department), temporary revision of medical eligibility rules in chapter 461, the Division temporarily amended OAR 410-120-0006 to assure that the Division's medical eligibility rule aligns with and reflects information found in the Department's medical eligibility rules. In OAR 410-120-0006, the Division adopts in rule by reference Department eligibility rules and must update OAR 410-120-0006 to reflect the most current effective date. The Division intends to file this rule permanently on or before January 11, 2012.
Rules Coordinator: Darlene Nelson—(503) 945-6927

410-120-0006 Medical Eligibility Standards

As the state Medicaid and CHIP agency, the Oregon Health Authority (Authority) is responsible for establishing and implementing eligibility policies and procedure consistent with applicable law. As outlined in 943-001-0020, the Authority, and the Department of Human Services (Department) work together to adopt rules to assure that medical assistance eligibility procedures and determinations are consistent across both agencies.

ADMINISTRATIVE RULES

(1) The Authority adopts and incorporates by reference the rules established in OAR chapter 461, and in effect October 1, 2011, for all medical eligibility requirements for medical assistance when the Authority conducts eligibility determinations.

(2) Any reference to chapter 461 in Oregon Administrative Rules or contracts of the Authority are deemed to be references to the requirements of this rule, and shall be construed to apply to all eligibility policies, procedures and determinations by or through the Authority.

(3) For purposes of this rule, references in OAR chapter 461 to the Department or to the Authority shall be construed to be references to both agencies.

(4) Effective on or after July 1, 2011 the Authority shall conduct medical eligibility determinations using the OAR chapter 461 rules which are in effect on the date the Authority makes the medical eligibility determination.

(5) A request for a hearing resulting from a determination under this rule, made by the Authority shall be handled pursuant to the hearing procedures set out in division 25 of OAR chapter 461. References to "the Administrator" in division 25 of chapter 461 or "the Department" are hereby incorporated as references to the Authority."

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

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042 & 414.065

Hist.: DMAP 10-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 18-2011(Temp), f. & cert. ef. 7-15-11 thru 1-11-12; DMAP 21-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 1-11-12; DMAP 25-2011(Temp), f. 9-28-11, cert. ef. 10-1-11 thru 1-11-12

Rule Caption: Hospital Provider Tax Rate Change.

Adm. Order No.: DMAP 26-2011(Temp)

Filed with Sec. of State: 9-29-2011

Certified to be Effective: 10-1-11 thru 11-1-11

Notice Publication Date:

Rules Amended: 410-050-0861

Rules Suspended: 410-050-0861(T)

Subject: The currently temporary rule, effective July 1, 2011, is being amended to implement a decrease in the hospital provider tax rate from 5.25% to 5.08%, effective October 1, 2011.

This temporary rule is 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—(503) 947-5250

410-050-0861

Tax Rate

(1) The tax rate for the period beginning January 1, 2005 and ending June 30, 2006 is .68 percent.

(2) The tax rate for the period beginning July 1, 2006 and ending December 31, 2007 is .82 percent.

(3) The tax rate for the period beginning January 1, 2008 and ending June 30, 2009 is .63 percent.

(4) The tax rate for the period of January 1, 2008 through June 30, 2009 does not apply to the period beginning July 1, 2009.

(5) The tax rate for the period beginning July 1, 2009 and ending September 30, 2009 is .15 percent.

(6) The tax rate for the period beginning October 1, 2009 and ending June 30, 2010 is 2.8 percent.

(7) The tax rate for the period beginning July 1, 2010 and ending June 30, 2011 is 2.32 percent.

(8) The tax rate for the period beginning July 1, 2011 and ending September 30, 2011 is 5.25 percent.

(9) The tax rate for the period beginning October 1, 2011 is 5.08 percent.

Stat. Auth.: ORS 413.042

Stats. Implemented: 2009 OL Ch. 867 §17, 2007 OL Ch. 780 §1 & 2003 OL Ch. 736 § 2 & 3

Hist.: OMAP 28-2005(Temp), f. & cert. ef. 5-10-05 thru 11-5-05; OMAP 34-2005, f. 7-8-05, cert. ef. 7-11-05; OMAP 14-2006, f. 6-1-06, cert. ef. 7-1-06; DMAP 29-2007, f. 12-31-07, cert. ef. 1-1-08; DMAP 3-2008, f. & cert. ef. 1-25-08; DMAP 24-2009, f. & cert. ef. 7-1-09; DMAP 25-2009(Temp), f. & cert. ef. 7-15-09 thru 1-10-10; DMAP 27-2009, f. & cert. ef. 9-1-09; DMAP 33-2009, f. & cert. ef. 10-1-09; DMAP 21-2010, f. 6-30-10, cert. ef. 7-1-10; DMAP 16-2011(Temp), f. & cert. ef. 7-1-11 thru 11-1-11; DMAP 26-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 11-1-11

Rule Caption: Legislatively mandated implementation of Pharmacy & Therapeutics Committee.

Adm. Order No.: DMAP 27-2011(Temp)

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 9-30-11 thru 3-15-12

Notice Publication Date:

Rules Adopted: 410-121-0110

Rules Amended: 410-121-0000, 410-121-0033, 410-121-0040, 410-121-0100

Subject: The Division temporarily adopted OAR 410-121-0110 and amended 410-121-0000, 410-121-0040 and 410-121-0100 in order to comply with State and Federal mandates in regards to the Pharmacy & Therapeutics (P&T) Committee. New legislation abolished the Drug Use Review (DUR) Board, which performed the Federal requirements in the past. These rule revisions are retroactively effective to September 5, 2011 until it expires or the Division suspends the rule, whichever comes first.

410-121-0000: Multiple definitions added to clarify text in other rules assisting the P&T Committee operations.

410-121-0033: Update references to the abolished DUR Board and replace with P&T Committee.

410-121-0040: Update references to the abolished DUR Board and replace with P&T Committee.

410-121-0100: Remove information relating to the abolished DUR Board and replace with information about the new P&T Committee.

410-121-0110: Rule adopted to transfer and define duties from the abolished DUR Board to the P&T Committee.

The Division intends to permanently adopt rule revisions through the standard rule process which will allow for input from stakeholders and the public.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-121-0000

Foreword and Definition of Terms

(1) The Division of Medical Assistance Program's (Division) Oregon Administrative Rules (OAR) are designed to assist providers in preparing claims for services provided to the Division's fee-for-service clients. Providers must use Pharmaceutical OARs in conjunction with the General Rules OARs (chapter 410, division 120) for Oregon Medical Assistance Programs.

(2) Pharmaceutical services delivered through managed care plans contracted with the Division, under the Oregon Health Plan (OHP), are subject to the policies and procedures established in the OHP administrative rules (chapter 410, division 141) and by the specific managed health care plans.

(3) Definition of Terms:

(a) Actively Practicing: The active practice of medicine as described in ORS chapter 689, or the active practice of pharmacy as described in ORS chapter 677.

(b) Actual Acquisition Cost (AAC): The cost or basis for reimbursement of supplies. The AAC will be established by the Division or its contractor by rolling surveys of enrolled pharmacies to verify the actual invoice amount paid by the pharmacy or corporate entity to wholesalers, manufacturers, or distribution centers for the product and as such will serve as the basis for reimbursement;

(c) Authority: The Oregon Health Authority, see Oregon Health Authority definition in General Rules (chapter 410, division 120);

(d) Average Actual Acquisition Cost (AAAC): The AAAC will be the average of AAC invoice amounts for individual drug products based on the Generic Sequence Number (GSN);

(e) Average Manufacturer's Price (AMP): The average price that manufacturers sell medication to wholesalers and retail pharmacies, as further clarified in 42 CFR 447;

(f) Average Net Price: The average of net price (definition below) of all drugs in an identified Preferred Drug List (PDL) (definition below) class or group;

(g) Bulk Dispensing: Multiple doses of medication packaged in one container labeled as required by pertinent Federal and State laws and rules;

(h) Centers for Medicare and Medicaid Services (CMS) Basic Rebate: The quarterly payment by the manufacturer of a drug pursuant to the Manufacturer's CMS Medicaid Drug Rebate Agreement made in accordance with Section 1927(c)(3) of the Social Security act 42 U.S.C. 1396r-8(c)(1) and 42 U.S.C. 1396r-8 (c)(3). See 410-121-0157;

(i) CMS Consumer Price Index (CPI) Rebate: The quarterly payment by the manufacturer pursuant to the Manufacturer's CMS Medicaid Drug Rebate Agreement made in accordance with Section 1927(c)(2) of the Social Security act (42 U.S.C. 1396r-8(c)(2));

ADMINISTRATIVE RULES

(j) Compendia: Those resources widely accepted by the medical profession in the efficacious use of drugs, including the following sources:

- (A) The American Hospital Formulary Service drug information;
- (B) The United States Pharmacopeia drug information;
- (C) The American Medical Association drug evaluations;
- (D) Peer-reviewed medical literature;
- (E) Drug therapy information provided by manufacturers of drug products consistent with the federal Food and Drug Administration requirements;

(k) Community Based Care Living Facility: For the purposes of the Division's Pharmacy Program, a home, facility, or supervised living environment licensed or certified by the state of Oregon that provides 24 hour care, supervision, and assistance with medication administration. These include, but are not limited to:

- (A) Supportive Living Facilities;
- (B) 24-Hour Residential Services;
- (C) Adult Foster Care;
- (D) Semi-Independent Living Programs;
- (E) Assisted Living and Residential Care Facilities;
- (F) Group Homes and other residential services for people with developmental disabilities or needing mental health treatment; and
- (G) Inpatient hospice;
- (I) Compounded Prescription:

(A) A prescription that is prepared at the time of dispensing and involves the weighting of at least one solid ingredient that must be a reimbursable item or a legend drug in a therapeutic amount;

(B) Compounded prescription is further defined to include the Oregon Board of Pharmacy definition of compounding (see OAR 855-006-0005);

(m) Dispensing: Issuance of a prescribed quantity of an individual drug entity by a licensed pharmacist;

- (n) Director: The Director of the Authority;
- (o) Drug Order/Prescription:

(A) A medical practitioner's written or verbal instructions for a patient's medications; or

(B) A medical practitioner's written order on a medical chart for a client in a nursing facility;

(p) Durable Medical Equipment and supplies (DME): Equipment and supplies as defined in OAR 410-122-0010, Durable Medical Equipment, Prosthetics, Orthotics, and Supplies;

(q) Estimated Acquisition Cost (EAC): The estimated cost that the pharmacy can obtain the product listed in OAR 410-121-0155;

(r) Intermediate Care Facility: A facility providing regular health-related care and services to individuals at a level above room and board, but less than hospital or skilled nursing levels as defined in ORS 442.015;

(s) Legend Drug: A drug limited by § 503(b)(1) of the Federal Food, Drug, and Cosmetic Act to being dispensed by or upon a medical practitioner's prescription because the drug is:

- (A) Habit-forming;
- (B) Toxic or having potential for harm; or
- (C) Limited in its use to use under a practitioner's supervision by the new drug application for the drug;

(i) The product label of a legend drug is required to contain the statement: "CAUTION: FEDERAL LAW PROHIBITS DISPENSING WITHOUT A PRESCRIPTION."

(ii) A legend drug includes prescription drugs subject to the requirement of § 503(b)(1) of the federal Food, Drug, and Cosmetic Act which shall be exempt from § 502(F)(1) if certain specified conditions are met;

(t) Long Term Care Facility: Includes skilled nursing facilities and intermediate care facilities with the exclusions found in ORS 443.400 to 443.455;

(u) Maintenance Medication: Drugs that have a common indication for treatment of a chronic disease and the therapeutic duration is expected to exceed one year. This is determined by a First DataBank drug code maintenance indicator of "Y" or "1";

(v) Mental Health Drug: A type of legend drug defined by the Oregon Health Authority (Authority) by rule that includes, but is not limited to those drugs classified by First DataBank in the following Standard Therapeutic Classes:

(A) Therapeutic Class 7 ataractics-tranquilizers; and Therapeutic Class 11 psychostimulants-antidepressants;

(B) Depakote, Lamictal and their generic equivalents and other drugs that the Division specifically carved out from capitation from Fully Capitated Health Plans (FCHPs) in accordance with OAR 410-141-0070;

(w) Narrow Therapeutic Index (NTI) Drug: A drug that has a narrow range in blood concentrations between efficacy and toxicity and requires therapeutic drug concentration or pharmacodynamic monitoring;

(x) Net Price: The amount a drug costs the Division and is calculated using the following formula: "Estimated Acquisition Cost minus CMS Basic Rebate minus CMS CPI Rebate minus State Supplemental Rebate";

(y) Non-Preferred Products: Any medication in a class that has been evaluated and that is not listed on the Practitioner-Managed Prescription Drug Plan Preferred Drug List in OAR 410-121-0030 and may be subject to co-pays;

(z) Nursing Facility: An establishment that is licensed and certified by the Department's Seniors and People with Disabilities Division (SPD) as a Nursing Facility;

(aa) Pharmacist: An individual who is licensed as a pharmacist under ORS chapter 689;

(bb) Physical Health Drug: All other drugs not included in section (r) of this rule;

(cc) Point-of-Sale (POS): A computerized, claims submission process for retail pharmacies that provides on-line, real-time claims adjudication;

(dd) Preferred Drug List (PDL): A PDL consists of prescription drugs in selected classes that the Authority, in consultation with the Health Resources Commission (HRC), has determined represent the most effective drug(s) available at the best possible price. (See details for the Division's PMPDP PDL in OAR 410-121-0030);

(A) Enforceable Physical Health Preferred Drug List: The list of drug products used to treat physical health diagnosis that the Division has identified which shall be exempt from client co-pays and may be subject to prior authorization (PA). Drugs prescribed that do not appear on the PDL (non-preferred products) shall be subject to both co-pays and PA as determined to be appropriate by the Division;

(B) Voluntary Mental Health Preferred Drug List: The list of drug products used to treat mental health diagnosis. These drugs are exempt from client co-pay. Any drug prescribed for the treatment of mental health diagnosis shall be exempt from PA requirements by the Division;

(ee) Preferred Products: Products in classes that have been evaluated and placed on the Practitioner Managed Prescription Drug Plan (PMPDP) PDL in OAR 410-121-0030 and are not subject to co-pays;

(ff) Prescriber: Any person authorized by law to prescribe drugs;

(gg) Prescription Splitting: Any one or a combination of the following actions:

(A) Reducing the quantity of a drug prescribed by a licensed practitioner for prescriptions not greater than 34 days (see OAR 410-121-0146);

(B) Billing the agency for more than one dispensing fee when the prescription calls for one dispensing fee for the quantity billed;

(C) Separating the ingredients of a prescribed drug and billing the agency for separate individual ingredients, with the exception of compounded medications (see OAR 410-121-0146); or

(D) Using multiple 30-day cards to dispense a prescription when a lesser number of cards will suffice;

(hh) Prior Authorization Program (PA): The Prior Authorization Program is a system of determining, through a series of therapeutic and clinical protocols, which drugs require authorizations prior to dispensing:

(A) OAR 410-121-0040 lists the drugs or categories of drugs requiring PA;

(B) The practitioner, or practitioner's licensed medical personnel listed in OAR 410-121-0060, may request a PA;

(ii) State Supplemental Rebates: The Division and CMS approved discounts paid by manufacturers per unit of drug. These rebates are authorized by the Social Security Act section 42 USC 1396r-8(a)(1) and are in addition to federal rebates mandated by the Omnibus Budget Reconciliation Act (OBRA 90) and the federal rebate program;

(jj) Unit Dose: A sealed, single unit container of medication, so designed that the contents are administered to the patient as a single dose, direct from the container, and dispensed following the rules for unit dose dispensing system established by the Oregon Board of Pharmacy;

(kk) Urgent Medical Condition: A medical condition that arises suddenly, is not life-threatening, and requires prompt treatment to avoid the development of more serious medical problems;

(ll) Usual and Customary Price: A pharmacy's charge to the general public that reflects all advertised savings, discounts, special promotions, or other programs including membership based discounts, initiated to reduce prices for product costs available to the general public, a special population, or an inclusive category of customers;

(mmm) Wholesale Acquisition Cost (WAC): The price paid by a wholesaler for drugs purchased from the wholesaler's supplier, typically the man-

ADMINISTRATIVE RULES

manufacturer of the drug. WAC is the price of a covered product by the National Drug Code (NDC) as published by First DataBank, MediSpan or Red Book;

(nn) 340B Pharmacy: A federally designated community health center or other federally qualified covered entity that is listed on the Health Resources and Services Administration (HRSA) website.

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

Stat. Auth.: ORS 409.025, 409.040, 409.110, 413.042, 414.065 & 414.325

Stats. Implemented: ORS 414.065

Hist.: HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 1-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 18-2004, f. 3-15-04 cert. ef. 4-1-04; DMAP 36-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 14-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 40-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 23-2011, f. 8-24-11, cert. ef. 9-1-11; DMAP 27-2011(Temp), f. & cert. ef. 9-30-11 thru 3-15-12

410-121-0033

Polypharmacy Profiling

(1) The Division of Medical Assistance Programs (Division) may impose prescription drug payment limitations on clients with more than 15 unique fee-for-service drug prescriptions in a six-month period.

(2) The Division will review the client's drug therapy in coordination with the client's prescribing practitioner to evaluate for appropriate drug therapy.

(3) Appropriate drug therapy criteria will include, but is not limited to, the following:

- (a) Overuse of selected drug classes;
- (b) Under-use of generic drugs;
- (c) Therapeutic drug duplication;
- (d) Drug to disease interactions;
- (e) Drug to drug interactions;
- (f) Inappropriate drug dosage;
- (g) Drug selection for age;
- (h) Duration of treatment;
- (i) Clinical abuse or misuse.

(4) The Division Medical Director in conjunction with the Pharmacy & Therapeutics Committee will make final determinations on imposed drug prescription payment limitations relating to this policy.

Stat. Auth.: ORS 409.120, 413.042 & 414.380

Stats. Implemented: ORS 414.065

Hist.: OMAP 1-2004, f. 1-23-04, cert. ef. 2-1-04; DMAP 27-2011(Temp), f. & cert. ef. 9-30-11 thru 3-15-12

410-121-0040

Prior Authorization Required for Drugs and Products

(1) Prescribing practitioners are responsible for obtaining prior authorization (PA) for the drugs and categories of drugs requiring PA in this rule, using the procedures required in OAR 410-121-0060.

(2) All drugs and categories of drugs, including but not limited to those drugs and categories of drugs that require PA as described in this rule, are subject to the following requirements for coverage:

(a) Each drug must be prescribed for conditions funded by Oregon Health Plan (OHP) in a manner consistent with the Oregon Health Services Commission's Prioritized List of Health Services (OAR 410-141-0480 through 410-141-0520). If the medication is for a non-covered diagnosis, the medication shall not be covered unless there is a co-morbid condition for which coverage would be extended. The use of the medication must meet corresponding treatment guidelines, be included within the client's benefit package of covered services, and not otherwise excluded or limited;

(b) Each drug must also meet other criteria applicable to the drug or category of drug in these pharmacy provider rules, including PA requirements imposed in this rule.

(3) The Oregon Health Authority (Authority) may require PA for individual drugs and categories of drugs to ensure that the drugs prescribed are indicated for conditions funded by OHP and consistent with the Prioritized List of Health Services and its corresponding treatment guidelines (see OAR 410-141-0480). The drugs and categories of drugs that the Authority requires PA for this purpose are found in the OHP Fee-For-Service Pharmacy PA Criteria Guide (PA Criteria Guide) dated Jan. 1, 2011, incorporated in rule by reference and found on our Web page at: www.dhs.state.or.us/policy/healthplan/guides/pharmacy/clinical.html

(4) The Authority may require PA for individual drugs and categories of drugs to ensure medically appropriate use or to address potential client safety risk associated with the particular drug or category of drug, as recommended by the Drug Use Review (DUR) Board and adopted by the Authority in this rule (see OAR 410-121-0100 for a description of the DUR program). The drugs and categories of drugs for which the Authority requires PA for this purpose are found in the Pharmacy PA Criteria Guide.

(5) New drugs shall be evaluated when added to the weekly upload of the First DataBank drug file:

(a) If the new drug is in a class where current PA criteria apply, all associated PA criteria shall be required at the time of the drug file load;

(b) If the new drug is indicated for a condition below the funding line on the Prioritized List of Health Services, PA shall be required to ensure that the drug is prescribed for a condition funded by OHP;

(c) PA criteria for all new drugs shall be reviewed at the next Pharmacy & Therapeutics (P&T) Committee meeting.

(6) PA is required for brand name drugs that have two or more generically equivalent products available and that are NOT determined Narrow Therapeutic Index drugs by the Oregon P&T Committee:

(a) Immunosuppressant drugs used in connection with an organ transplant must be evaluated for narrow therapeutic index within 180 days after United States patent expiration;

(b) Manufacturers of immunosuppressant drugs used in connection with an organ transplant must notify the department of patent expiration within 30 days of patent expiration for (5)(a) to apply;

(c) Criteria for approval are:

(A) If criteria established in subsection (3) or (4) of this rule applies, follow that criteria;

(B) If (6)(A) does not apply, the prescribing practitioner must document that the use of the generically equivalent drug is medically contraindicated, and provide evidence that either the drug has been used and has failed or that its use is contraindicated based on evidence-based peer reviewed literature that is appropriate to the client's medical condition.

(7) PA is required for non-preferred Preferred Drug List (PDL) products in a class evaluated for the PDL except in the following cases:

(a) The drug is a mental health drug as defined in OAR 410-121-0000;

(b) The original prescription is written prior to 1/1/10;

(c) The prescription is a refill for the treatment of seizures, cancer, HIV or AIDS; or

(d) The prescription is a refill of an immunosuppressant.

(8) PA may not be required:

(a) When the prescription ingredient cost plus the dispensing fee is less than the PA processing fees as determined by the Department;

(b) For over-the-counter (OTC) covered drugs when prescribed for conditions covered under OHP or;

(c) If a drug is in a class not evaluated from the Practitioner-Managed Prescription Drug Plan under ORS 414.334.

Stat. Auth.: ORS 409.110, 413.042, 414.065 & 414.334

Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 2-1990, f. & cert. ef. 1-16-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 461-016-0170; HR 10-1991, f. & cert. ef. 2-19-91; HR 14-1993, f. & cert. ef. 7-2-93; HR 25-1994, f. & cert. ef. 7-1-94; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 18-1996(Temp), f. & cert. ef. 10-1-96; HR 8-1997, f. 3-13-97, cert. ef. 3-15-97; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 44-2002, f. & cert. ef. 10-1-02; OMAP 66-2002, f. 10-31-02, cert. ef. 11-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03; OMAP 43-2003(Temp), f. 6-10-03, cert. ef. 7-1-03 thru 12-15-03; OMAP 49-2003, f. 7-31-03 cert. ef. 8-1-03; OMAP 84-2003, f. 11-25-03 cert. ef. 12-1-03; OMAP 87-2003(Temp), f. & cert. ef. 12-15-03 thru 5-15-04; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 71-2004, f. 9-15-04, cert. ef. 10-1-04; OMAP 74-2004, f. 9-23-04, cert. ef. 10-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 4-2006(Temp), f. & cert. ef. 3-15-06 thru 9-7-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06; OMAP 41-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 26-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 9-2008, f. 3-31-08, cert. ef. 4-1-08; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 14-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 40-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 27-2011(Temp), f. & cert. ef. 9-30-11 thru 3-15-12

410-121-0100

Drug Use Review

(1) Drug Use Review (DUR) in Division of Medical Assistance Programs (Division) is a program designed to measure and assess the proper utilization, quality, therapy, medical appropriateness, appropriate selection and cost of prescribed medication through evaluation of claims data. This is done on both a retrospective and prospective basis. This program shall include, but is not limited to, education in relation to over-utilization, under-utilization, therapeutic duplication, drug-to-disease and drug-to-drug interactions, incorrect drug dosage, duration of treatment and clinical abuse or misuse:

(a) Information collected in a DUR program that identifies an individual is confidential;

(b) Staff of the Pharmacy & Therapeutics (P&T) Committee and contractors may have access to identifying information to carry out intervention activities approved by the Division. The Division, P&T Committee or contractors shall adhere to all requirements of the Health Insurance

ADMINISTRATIVE RULES

Portability and Accountability Act (HIPAA) and all Division policies relating to confidential client information.

(2) Prospective DUR is the screening for potential drug therapy problems before each prescription is dispensed. It is performed at the point of sale by the dispensing pharmacist:

(a) Dispensing pharmacists must offer to counsel each Division client receiving benefits who presents a new prescription, unless the client refuses such counsel. Pharmacists must document these refusals;

(A) Dispensing pharmacists may offer to counsel the client's caregiver rather than the client presenting the new prescription if the dispensing pharmacist determines that it is appropriate in the particular instance;

(B) Counseling must be done in person whenever practicable;

(C) If it is not practicable to counsel in person, providers whose primary patient population does not have access to a local measured telephone service must provide access to toll-free services (for example, some mail order pharmacy services) and must provide access to toll-free service for long-distance client calls in relation to prescription counseling;

(b) Prospective DUR is not required for drugs dispensed by Fully Capitated Health Plans (FCHPs);

(c) Oregon Board of Pharmacy rules defining specific requirements relating to patient counseling, record keeping and screening must be followed.

(3) Retrospective DUR is the screening for potential drug therapy problems based on paid claims data. The Division provides a professional drug therapy review for Medicaid clients through this program:

(a) The criteria used in retrospective DUR are compatible with those used in prospective DUR. Retrospective DUR criteria may include Pharmacy Management (Lock-In), Polypharmacy, and Psychotropic Use in Children. Drug therapy review is carried out by pharmacists with the Oregon State University College of Pharmacy, Drug Use Research and Management Program.

(b) If therapy problems are identified, an educational letter is sent to the prescribing provider, the dispensing provider, or both. Other forms of education are carried out under this program with Division approval.

(4) The P&T Committee is designed to develop policy recommendations in the following areas in relation to Drug Use Review:

(a) Appropriateness of criteria and standards for prospective DUR and needs for modification of these areas. DUR criteria are predetermined elements of health care based upon professional expertise, prior experience, and the professional literature with which the quality, medical appropriateness, and appropriateness of health care service may be compared.

(b) The use of different types of education and interventions to be carried out or delegated by the P&T Committee and the evaluation of the results of this portion of the program; and

(c) The preparation of an annual report on Oregon Medicaid DUR Program which describes:

(A) P&T Committee Activities;

(i) A description of how pharmacies comply with prospective DUR;

(ii) Detailed information on new criteria and standards in use; and

(iii) Changes in state policy in relation to DUR requirements for residents in nursing homes;

(B) A summary of the education/intervention strategies developed; and

(C) An estimate of the cost savings in the pharmacy budget and indirect savings due to changes in levels of physician visits and hospitalizations.

Stat. Auth.: ORS 413.042, 414.355, 414.360, 414.365, 414.370 & 414.380

Stats. Implemented: ORS 414.065

Hist.: HR 29-1990, f. 8-31-90, cert. ef. 9-1-90; HR 38-1992, f. 12-31-92, cert. ef. 1-1-93; HR 20-1994, f. 4-29-94, cert. ef. 5-1-94; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 18-2004, f. 3-15-04 cert. ef. 4-1-04; OMAP 16-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 27-2011(Temp), f. & cert. ef. 9-30-11 thru 3-15-12

410-121-0110

Pharmacy and Therapeutics Committee

(1) Pursuant to Oregon Laws 2011, chapter 720 (HB 2100), the Drug Use Review Board (DUR Board) is abolished and the tenure of office for the members of the DUR Board expires. The legislature transferred the duties, functions and powers previously vested in the DUR Board to the Pharmacy and Therapeutics (P&T) Committee. This rule is retroactively effective on September 5, 2011, the date the P&T Committee was created and the DUR Board was abolished by HB 2100, and expires on March 15, 2012 or whenever the Oregon Health Authority (Authority) suspends the rule, whichever comes first.

(2) Unless otherwise inconsistent with these administrative rules or other laws, any administrative rule or agency policy with reference to the

DUR Board or a DUR Board volunteer, staff or contractor shall be considered to be a reference to the P&T Committee or a P&T Committee volunteer, staff or contractor. The current preferred drug list (PDL), prior authorization process and utilization review process developed by the DUR Board remains in effect until such time as the Authority, after recommendations and advice from the P&T Committee, modifies them through the adoption of new administrative rules or policies and procedures.

(3) The P&T Committee shall advise the Oregon Health Authority (Authority) on the:

(a) Implementation of the medical assistance program retrospective and prospective programs, including the type of software programs to be used by the pharmacist for prospective drug use review and the provisions of the contractual agreement between the state and any entity involved in the retrospective program;

(b) Implementation of the Practitioner Managed Prescription Drug Plan (PMPDP);

(c) Adoption of administrative rules pertaining to the P&T Committee;

(d) Development of and application of the criteria and standards to be used in retrospective and prospective drug use review programs in a manner that ensures that such criteria and standards are based on compendia, relevant guidelines obtained from professional groups through consensus-driven processes, the experience of practitioners with expertise in drug therapy, data and experience obtained from drug utilization review program operations. The P&T Committee must have an open professional consensus process, establish an explicit ongoing process for soliciting and considering input from interested parties, and make timely revisions to the criteria and standards based on this input and scheduled reviews;

(e) Development, selection and application of and assessment for interventions being educational and not punitive in nature for medical assistance program prescribers, dispensers and patients.

(4) The P&T Committee shall make recommendations to the Authority, subject to approval by the Director or the Director's designee, for drugs to be included on any PDL adopted by the Authority and on the PMPDP. The P&T Committee shall also recommend all utilization controls, prior authorization requirements or other conditions for the inclusion of a drug on the PDL.

(5) The P&T Committee shall, with the approval of the Director or designee, do the following:

(a) Publish an annual report;

(b) Publish and disseminate educational information to prescribers and pharmacists regarding the P&T Committee and the drug use review programs, including information on the following:

(A) Identifying and reducing the frequency of patterns of fraud, abuse or inappropriate or medically unnecessary care among prescribers, pharmacists and recipients;

(B) Potential or actual severe or adverse reactions to drugs;

(C) Therapeutic appropriateness;

(D) Overutilization or underutilization;

(E) Appropriate use of generic products;

(F) Therapeutic duplication;

(G) Drug-disease contraindications;

(H) Drug-drug interactions;

(I) Drug allergy interactions;

(J) Clinical abuse and misuse.

(6) Adopt and implement procedures designed to ensure the confidentiality of any information that identifies individual prescribers, pharmacists or recipients and that is collected, stored, retrieved, assessed or analyzed by the P&T Committee, staff of the P&T Committee, contractors to the P&T Committee or the Authority.

Stat. Auth.: ORS 413.042, 414.065, 414.355, 414.360, 414.365, 414.370, 414.380, OL 2011, ch 720 (HB 2100)

Stats. Implemented: ORS 414.065, OL 2011, ch 720 (HB 2100)

DMAP 27-2011(Temp), f. & cert. ef. 9-30-11 thru 3-15-12

Rule Caption: Patient Centered Primary Care Home (PCPCH).

Adm. Order No.: DMAP 28-2011(Temp)

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 10-1-11 thru 3-23-12

Notice Publication Date:

Rules Amended: 410-141-0860, 410-146-0020, 410-147-0362

Subject: The Oregon Health Plan (OHP or Managed Care) Program administrative rules govern the Division of Medical Assistance Programs' payments for the PCPCH Program. The Division temporarily amended 410-141-0860 to modify the Oregon Health Plan Pri-

ADMINISTRATIVE RULES

mary Care Manager provider qualification and enrollment criteria to include Patient Centered Primary Care Home providers. The Division also temporarily amended 410-146-0020 in the American Indian/Alaska Native Program and 410-147-0362 in the Federally Qualified Health Clinics/Rural Health Clinics Program, filed in conjunction with and referencing the more detailed OAR 410-141-0860 in the OHP program.

Rules Coordinator: Darlene Nelson—(503) 945-6927

410-141-0860

Oregon Health Plan Primary Care Manager and Patient Centered Primary Care Home Provider Qualification and Enrollment

(1) Primary Care Managers (PCM) must be trained and certified or licensed, as applicable under Oregon statutes and administrative rules, in one of the following disciplines:

- (a) Doctors of medicine;
- (b) Doctors of osteopathy;
- (c) Naturopathic physicians;
- (d) Nurse Practitioners;
- (e) Physician assistants.

(2) The following entities may enroll as PCMs:

- (a) Hospital primary care clinics;
- (b) Rural Health Clinics (RHC);
- (c) Community and Migrant Health Clinics;
- (d) Federally Qualified Health Clinics (FQHC);
- (e) Indian Health Service Clinics;
- (f) Tribal Health Clinics.

(3) Naturopaths must have a written agreement with a physician that is sufficient to support the provision of primary care, including prescription drugs, as well as the necessary referrals for hospital care.

(4) All applicants for enrollment as PCMs must:

(a) Be enrolled as Oregon Division of Medical Assistance Programs (Division) providers;

(b) Make arrangements to ensure provision of the full range of PCM Managed Services, including prescription drugs and hospital admissions;

(c) Complete and sign the PCM Application (DMP 3030 (7/11)).

(5) If the Division determines that the PCM or an applicant for enrollment as a PCM does not comply with the OHP administrative rules pertaining to the PCM program or the Division's General Rules; or if the Division determines that the health or welfare of Division members may be adversely affected or in jeopardy by the PCM the Division may:

(a) Deny the application for enrollment as a PCM; (b) Close enrollment with an existing PCM; or

(c) Transfer the care of those PCM members enrolled with that PCM until such time as the Division determines that the PCM is in compliance.

(6) The Division may terminate the PCM agreement without prejudice to any obligations or liabilities of either party already accrued prior to termination, except when the obligations or liabilities result from the PCM's failure to terminate care for those PCM members. The PCM shall be solely responsible for its obligations or liabilities after the termination date when the obligations or liabilities result from the PCM's failure to terminate care for those PCM members.

(7) Patient Centered Primary Care Homes (PCPCH):

(a) Definition:

(A) PCPCH is defined as a health care team, provider or clinic that is organized in accordance with these rules and as stated in the Oregon Health Authority (Authority) and the Office of Health Policy and Research (Office) Oregon Patient-Centered Primary Care Home Model Implementation Reference Guide:

(B) The (PCPCH) must be able to identify patients with high risk environmental or medical factors, including patients with special health care needs, who will benefit from additional care planning. The PCPCH must coordinate the care of all members to ensure high-risk patients or patients with special health care needs have a person-centered plan that has been developed and reviewed with the patient or caregivers. Further care management activities must include, but are not limited to defining and following self-management goals, developing goals for preventive and chronic illness care, developing action plans for exacerbations of chronic illnesses, and developing end-of-life care plans when appropriate.

(C) Providers who may apply to become a PCPCH, include but are not limited to: physicians (including pediatricians, gynecologists, obstetricians, Certified Nurse Practitioner and Physician Assistants); clinical practices or clinical group practices; FQHCs; RHC; Tribal clinics; community health centers; community mental health programs; and drug and alcohol treatment programs with integrated Primary Care Providers.

(D) The PCPCH team is interdisciplinary and inter-professional and must include non-physician health care professionals, such as a nurse care coordinator, nutritionist, social worker, behavioral health professional, or other traditional or non-traditional health care workers authorized through state plan or waiver authorities. These professionals may operate in a variety of ways, such as free standing, virtual, or based at any of the clinics and facilities outlined above.

(b) Provider Enrollment:

(A) PCPCHs that are recognized through the Authority and determined by the Office in accordance with OAR 409-055-0030 to meet PCPCH standards may apply to be enrolled with the Division as a PCPCH provider. Upon completion of enrollment and assignment of members, the Division shall enroll the PCPCH providers in the Medicare Medicaid Information System (MMIS) to pair them with members receiving primary care from the provider and the Division shall pay providers a PMPM payment, or the FCHP as applicable to provide PCPCH services.

(B) Providers seeking reimbursement from the Division, except as otherwise provided in OAR 410-120-1295 or 943-120-1295, must be enrolled as a provider in accordance with OAR 410-120-1260. Signing the provider agreement enclosed in the application package constitutes agreement by performing and billing providers to comply with all applicable Division provider rules, federal and state laws and regulations. This also includes provider enrollment forms 3972, 3973, 3974 and any other applicable forms determined by provider type.

(C) In addition to completing the PCPCH provider enrollment packet, the provider must submit to the Division a list of Medicaid fee-for-service (FFS) members in a format provided by the Division. Those PCPCH providers serving FCHP clients must submit the information as required to the managed care plan.

(D) New Authority-recognized PCPCH enrollment shall be effective October 1, 2011 or the date established by the Authority upon receipt of required information.

(E) Authority-recognized PCPCH tier enrollment changes shall be effective the first of the next month following enrollment.

(F) Termination of Authority-recognized PCPCH enrollment shall be the date established by the Authority.

(c) Member Assignment and Provider Payment:

(A) The Division shall authorize appropriate payments only after the Centers for Medicare and Medicaid Services approves implementation of the PCPCH Program. This provision only affects the initial start-up of the Medicaid portion of the PCPCH program.

(B) PCPCH PMPM payment shall be as specified in an addendum to the provider enrollment form between the Division and the PCPCH provider. The payment shall be based on the tier of PCPCH and each member's status as either ACA-qualified or non-ACA qualified.

(C) Members assigned must have full medical eligibility with either Oregon Health Plan (OHP) Plus or OHP Standard Benefits packages, this excludes CAWEM Plus and QMB only.

(D) ACA-qualified member is a member meeting criteria described in these rules as authorized by Section 1945 of the Social Security Act.

(E) ACA members are:

(i) Members with one or more of the following conditions;

(ii) Members with a mental health condition, substance abuse disorder, asthma, diabetes, heart disease and BMI over 25, HIV/AIDS, hepatitis, chronic kidney disease or cancer;

(F) All other members are considered non-ACA-qualified members.

(G) For ACA qualified members, the PMPM amount of the payment shall be based on the PCPCH tier as determined by the Authority and the Office and shall be:

(i) \$10 for tier 1

(ii) \$15 for tier 2 and

(iii) \$24 for tier 3

(H) For non-ACA qualified members, the PMPM amount of the payment shall be based on the PCPCH tier as determined by the Authority and the Office and shall be:

(i) \$2 for tier 1

(ii) \$4 for tier 2 and

(iii) \$6 for tier 3.

(I) The Division shall make PMPM payment based on PCPCH tier specified through the PCPCH recognition process and on the members ACA qualification who are receiving primary care from a provider recognized by the Authority as a PCPCH in accordance with OAR 409-055-0030. Fully Capitated Health Plans (FCHP) and Physician Care Organizations (PCO) shall make payments to PCPCH with ACA-qualified members enrolled in PCPCH receiving primary care from a provider rec-

ADMINISTRATIVE RULES

ognized by the Authority as a PCPCH in accordance with OAR 409-055-0030.

(J) Managed Care plans must use an alternative payment methodology that supports the Authority's goal of improving the efficiency and quality of health services for primary care homes by decreasing the use of fee-for-service reimbursement models.

(K) It is the Authority's intention that the PCPCH Program will not duplicate other similar programs such as PCM and Disease Management, and the Authority shall not make PCPCH payments for members who participate in these programs.

(d) Documentation Requirements:

(A) Providers must document in member's medical record the member's engagement, education and agreement to participate in PCPCH within twelve months of initial participation.

(B) For ACA-qualified members, providers must document in member's patients medical record the members engagement, education and agreement to participate in PCPCH within six months of initial participation.

(C) Provider, working with the member, shall develop a person centered plan for each ACA-qualified member within six months of initial participation and revise as needed.

(D) Providers must notify the Division program coordinator when a member moves out of the service area, terminates care, or no longer receives primary care from the provider's PCPCH as stated in OAR 410-141-0080 and 410-141-0120. Member assignment shall be terminated at the end of the month for which PCPCH services terminated, unless a move to another PCPCH provider begins primary care no later than the 15th of month.

(E) FCHPs and PCOs shall provide the Division a monthly list of PCPCH providers and members assigned to each provider. Information from the FCHP shall specify ACA-qualifying members.

(F) FCHP and PCOs shall provide quarterly reports to the Authority, no later than the 15th of January, April, and July that includes the following for the preceding quarter:

- (i) Number of clinics or sites that meet PCPCH standards;
- (ii) Number of Primary Care Providers in those service delivery sites;
- (iii) Number of members receiving primary care in those sites; and
- (iv) Number of members with one or more chronic conditions receiving primary care at those sites

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

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065 & 413.042

Hist.: HR 7-1994, f. & cert. ef. 2-1-94; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; OMAP 23-2006, f. 6-12-06, cert. ef. 7-1-06; DMAP 28-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-23-12

410-146-0020

Memorandum of Agreement Reimbursement Methodology

(1) In 1996, a Memorandum of Agreement (MOA) between the Centers for Medicare and Medicaid Services (CMS) and the Indian Health Service (IHS) established the roles and responsibilities of CMS and IHS regarding the Division of Medical Assistance Programs' (Division) American Indian/Alaska Native (AI/AN) Program individuals. The MOA addresses payment for Medicaid services provided to AI/AN individuals on and after July 11, 1996, through health care facilities owned and operated by AI/AN tribes and tribal organizations, which are funded through Title I or V of the Indian Self-Determination and Education Assistance Act (Public Law 93-638).

(2) The IHS and CMS, pursuant to an agreement with the Office of Management and Budget (OMB), developed an all-inclusive rate to be used for billing directly to and reimbursement by Medicaid. This rate is sometimes referred to as the "OMB," "IHS," "All-Inclusive" (AIR), "encounter," or "MOA" rate and is referenced throughout these rules as the "IHS rate." The IHS rate is updated and published in the Federal Register each fall:

- (a) The rate is retroactive to the first of the year;
- (b) The Division automatically processes a retroactive billing adjustment each year to ensure payment of the updated rate.

(3) IHS direct health care service facilities, established, operated, and funded by IHS; enroll as an AI/AN provider and receive the IHS rate.

(4) Under the MOA, tribal 638 health care facilities can choose to be designated a certain type of provider or facility for enrollment with Division. The designation determines how the Division pays for the Medicaid services provided by that provider or facility. Under the MOA, a tribal 638 health care facility may do one of the following:

(a) Operate as a Tribal 638 health care facility. The health center would enroll as AI/AN provider and choose reimbursement for services at either:

(A) The IHS rate; or

(B) A cost-based rate according to the Prospective Payment System (PPS). Refer to OARs 410-147-0360, Encounter Rate Determinations, 410-147-0440, Medicare Economic Index (MEI), 410-147-0480, Cost Statement (DMAP 3027) Instructions, and 410-147-0500, Total Encounters for Cost Reports; or

(b) If it so qualifies, operate as any other provider type recognized under the State Plan, and receive that respective reimbursement methodology.

(5) AI/AN and the Division's Federally Qualified Health Center (FQHC) and Rural Health Clinics (RHC) Program providers may be eligible to receive the supplemental/wraparound payment for services furnished to clients enrolled with a Prepaid Health Plan (PHP). Refer to AI/AN OAR 410-146-0420 and FQHC/ RHC administrative rules OAR chapter 410, division 147.

(6) AI/AN providers may be eligible for an administrative match contract with the Division. AI/AN providers are not eligible to participate in the Medicaid Administrative Claiming (MAC) Program if they:

- (a) Receive reimbursement for services according to the cost-based PPS rate methodology; or
- (b) Receive financial compensation for out-stationed outreach worker activities.

(7) An AIAN clinic that chooses to participate in the Patient Centered Primary Care Home Program must meet the requirements and adhere to rules outlined in OAR 409-055-0000 through 409-055-0080 Office for Oregon Health Policy and Research and OAR 410-141-0860 Oregon Health Plan Primary Care Manager and Patient Centered Primary Care Home Provider Qualification and Enrollment.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 414.065

Hist.: OMAP 2-1999, f. & cert. ef. 2-1-99; OMAP 45-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 59-2002, f. & cert. ef. 10-1-02; OMAP 62-2004, f. 9-10-04, cert. ef. 10-1-04; DMAP 19-2007, f. 12-5-07, cert. ef. 1-1-08; DMAP 28-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-23-12

410-147-0362

Change in Scope of Services

(1) As required by 42 USC § 1396a(bb)(3)(B), the Division of Medical Assistance Programs (Division) must adjust Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) Prospective Payment System (PPS) encounter rates based on any increase or decrease in the scope of FQHC or RHC services, as defined by 42 USC §§ 1396d(a)(2)(B)-C).

(2) The Centers for Medicare and Medicaid Services (CMS) defines a "change in scope of services" as one that affects the type, intensity, duration, and/or amount of services provided by a health center. CMS' broad definition of change in scope of services allows the Division the flexibility to develop a more precise definition of what qualifies as a change in scope as it relates to the elements "type," "intensity," "duration," and "amount" and procedures for implementing these adjustments. This rule defines the Division's policy for implementing FQHC and RHC PPS rate adjustments based on a change in scope of services.

(3) A change in the scope of FQHC or RHC services may occur if the FQHC or RHC has added, dropped or expanded any service that meets the definition of an FQHC or RHC service as defined by 42 USC §§ 1396d(a)(2)(B)-C).

(4) A change in the cost of a service is not considered in and of itself a change in the scope of services. An FQHC or RHC must demonstrate how a change in the scope of services impacts the overall picture of health center services rather than focus on the specific change alone. For example, while health centers may increase services to higher-need populations, this increase may be offset by growth in the number of lower intensity visits. Health centers therefore need to demonstrate an overall change to health centers' services.

(5) The following examples are offered as guidance to FQHCs and RHCs to facilitate understanding the types of changes that may be recognized as part of the definition of a change in scope of services. These examples should not be interpreted as a definitive nor comprehensive delineation of the definition of scope of service. Examples include:

(a) A change in scope of services from what was initially reported and incorporated in the baseline PPS rate. Examples of eligible changes in scope of services include, but are not limited to:

(A) Changes within medical, dental or mental health (including addiction, alcohol and chemical dependency services) service areas (e.g. vision, physical/occupation therapy, internal medicine, oral surgery, podiatry, obstetrics, acupuncture, or chiropractic);

ADMINISTRATIVE RULES

(B) Services that do not require a face-to-face visit with an FQHC or RHC provider will be recognized (e.g. laboratory, radiology, case-management, supportive rehabilitative services, and enabling services.)

(b) A change in the scope of services resulting from a change in the types of health center providers. A change in providers alone without a corresponding change in scope of services does not constitute an eligible change. Examples of eligible changes include but are not limited to:

(A) A transition from mid-level providers (e.g. nurse practitioners) to physicians with a corresponding change in scope of services provided by the health center;

(B) The addition or removal of specialty providers (e.g., pediatric, geriatric or obstetric specialists) with a corresponding change in scope of services provided by the health center (e.g. delivery services);

(i) If a health center reduces providers with a corresponding removal of services, there may be a decrease in the scope of services;

(ii) If a health center hires providers to provide services that were referred outside of the health center, there may be an increase in the scope of services;

(c) A change in service intensity or service delivery model attributable to a change in the types of patients served including, but not limited to, homeless, elderly, migrant, or other special populations. A change in the types of patients served alone is not a valid change in scope of services. A change in the type of patients served must correspond with a change in scope of services provided by the health center;

(d) Changes in operating costs attributable to capital expenditures associated with a modification of the scope of any of the health center services, including new or expanded service facilities. A change in capital expenditures must correspond with a change in scope of services. (e.g. the addition of a radiology department);

(e) A change in applicable technologies or medical practices:

(A) Maintaining electronic medical records (EMR);

(B) Updating or replacing obsolete diagnostic equipment (which may also necessitate personnel changes); or

(C) Updating practice management systems;

(f) A change in overall health center costs due to changes in state or federal regulatory or statutory requirements. Examples include but are not limited to:

(A) Changes in laws or regulations affecting health center malpractice insurance;

(B) Changes in laws or regulations affecting building safety requirements; or

(C) Changes in laws or regulations relating to patient privacy.

(6) The following changes do not qualify as a change in scope of service, unless there is a corresponding change in services as described in sections (3)–(5):

(a) A change in office hours;

(b) Adding staff for the same service-mix already provided;

(c) Adding a new site for the same service-mix provided;

(d) A change in office location or office space; or

(e) A change in the number of patients served.

(7) Threshold change in cost per visit: To qualify for a rate adjustment, changes must result in a minimum 5% change in cost per visit. This minimum threshold may be met by changes that occur over the course of several years (e.g. health centers would use the cost report for the year in which all changes were implemented and the 5% cost/visit was met, as described in sections (13) and (14) of this rule). A change in the cost per visit is not considered in and of itself a change in the scope of services. The 5% change in cost per visit must be a result of one or more of the changes in the scope of services provided by a health center, as defined in sections (3) - (5) of this rule. The intent of this threshold is to avoid administrative burden caused by minor change in scope adjustments.

(8) If a FQHC or RHC has experienced an increase or decrease in the health center's scope of services, as described in sections (3)-(5) of this rule and that meets the threshold requirement of section (7) of this rule, the FQHC or RHC must submit to the Division a written application as outlined below. The Division may also initiate a review of whether a change in scope of services has occurred at a health center:

(a) A written narrative describing the specific changes in health center services, and how these changes relate to a change in the health center's overall picture of services;

(b) An estimate of billable Medicaid encounters for the forthcoming 12-month period so the financial impact to the Division can be accounted for;

(c) A cost statement. All costs and expenses reported must be in agreement with the principles of reasonable cost reimbursement as found at

42 CFR 413, Health Care Financing Administration (HCFA) Publication 15-1 (Provider Reimbursement Manual), and any other regulations mandated by the Federal government. Any situations not covered will be based on Generally Accepted Accounting Principals (GAAP). See Change in Scope Cost Report Instructions;

(d) Certification by the Addiction and Mental Health Division (AMH) of a health center's outpatient mental health program is required if mental health services are provided by nonlicensed providers. Refer to OAR 410-147-0320(3)(i) and (5)(h) for certification requirements; and

(e) A letter of licensure or approval by AMH is required for health centers providing addiction, alcohol and chemical dependency services. Refer to OAR 410-147-0320(3)(j) and (5)(i); and

(f) The clinic is responsible for providing complete and accurate copies of the above documentation. Health centers may submit a maximum of one change in scope application per year.

(9) Upon receipt of a health center's written change in scope of services request, the FQHC/RHC Program manager will:

(a) Review all documents for completeness, accuracy and compliance with program rules. An incomplete application will result in a delay in the Division's review until the complete application is received; and

(b) Respond to the health center with a decision within 90 days of receipt of a complete application.

(10) Providers may appeal this decision in accordance with the provider appeal rules set forth in OAR 410-120-1560.

(11) Approved change in scope of service requests will result in PPS rate adjustments:

(a) A separate mental health or dental PPS encounter rate will be calculated if a FQHC or RHC adds dental or mental health (including addiction, and alcohol and chemical dependency) services, and costs associated with these service categories were not included in the original cost statements used to determine the baseline PPS encounter rate;

(b) If costs associated with dental or mental health services were included in the original cost statements, whether negligible or significant, health centers have the option of having an adjusted single encounter rate, or requesting a separate dental or mental health rate.

(12) The new rate will be effective beginning the first day of the quarter immediately following the date the Division approves the change in scope of services adjustment (e.g. January, April, July, or October 1):

(a) The Division will not implement adjusted PPS rates (for qualifying change in scope of service requests) retroactive to the date a change in scope of services was implemented by the health center;

(b) It is a health center's responsibility to request a timely change in scope of service rate adjustment.

(13) For changes occurring on or after October 1, 2008, the effective date of this policy, FQHCs and RHCs are required to:

(a) For anticipated changes, health centers should submit prospective costs for the Division to calculate a new per visit rate. These costs will be based on reasonable cost projections and reviewed by the Division. Health centers may later request a subsequent rate adjustment based on actual costs;

(b) For gradual or unanticipated changes, health centers must provide at least six months of actual costs beginning the date on which the change in the cost per visit threshold is met, or beginning in the calendar year of the FQHC/RHC's fiscal year in which the changes were implemented and the cost threshold was met. For example, a health center implements a change in scope of services in 2008, but the additional costs incurred do not meet the 5% threshold criteria. In 2009 the health center implements additional scope of service changes. Additional costs incurred in 2009 together with the costs incurred for 2008 meet the 5% threshold. The health center would report costs for 2009;

(c) Health centers may submit both actual costs (for prior changes) as well as projected costs (for anticipated changes). Prior to submitting both actual and projected costs, health centers should work with the Division's FQHC/RHC Program manager to confirm the appropriate time periods of costs to submit.

(14) For changes that occurred prior to the effective date of this policy, October 1, 2008, FQHCs and RHCs are required to:

(a) Submit cost reports for either:

(A) The first year of actual costs beginning the date on which a change in the cost per visit threshold is met; or

(B) The calendar year or the FQHC/RHC's fiscal year in which the changes were implemented and the cost threshold was met;

(b) For changes that occurred over multiple and overlapping time periods, FQHC/RHCs will submit actual costs for the time period beginning when all changes were in effect. For example, if changes occurred in

ADMINISTRATIVE RULES

2003 and 2004, health centers would submit their 2004 cost report that would include costs for changes implemented in both 2003 and 2004;

(c) Rate adjustments calculated using costs from prior fiscal years will be adjusted by the Medicare Economic Index (MEI) to present.

(15) FQHC and RHCs clinics that choose to participate in the PCPCH Program must meet the requirements and adhere to rules outlined in OAR 409-055-0000 through OAR 409-055-0080 and OAR 410-141-0860, Oregon Health Plan Primary Care Manager and Patient Centered Primary Care Home Provider Qualification and Enrollment:

(a) Since the PCPCH Program is outside of a change in scope, providers who choose to participate and meet all related requirements shall receive payment outside their PPS rate per the PMPM payment established by OAR 410-141-0860;

(b) If a provider already established and receives a PPS rate that included language such as medical homes or health homes then they must submit a change in scope in order to receive the PMPM payment for the PCPCH program.

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

Stat. Auth.: ORS 413.042, 414.065 & 413.032

Stats. Implemented: ORS 414.065 & 413.032

Hist.: DMAP 10-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 28-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-23-12

Oregon Health Authority, Office for Oregon Health Policy and Research Chapter 409

Rule Caption: Temporary Adoption of Patient-Centered Primary Care Home Program Rules.

Adm. Order No.: OHP 6-2011(Temp)

Filed with Sec. of State: 9-29-2011

Certified to be Effective: 10-1-11 thru 3-15-12

Notice Publication Date:

Rules Adopted: 409-055-0000, 409-055-0010, 409-055-0020, 409-055-0030, 409-055-0040, 409-055-0050, 409-055-0060, 409-055-0070, 409-055-0080

Subject: The Oregon Health Authority, Office for Oregon Health Policy and Research is adopting temporary administrative rules for the Patient-Centered Primary Care Home (PCPCH) Program. The rules implement PCPCH standards, reporting, and recognition process and other applicable mandates of ORS 442.210, which was enacted by the 74th Legislative Assembly and 2011 Oregon Laws, Chapter 602 (HB 3650) enacted by the 75th Legislative Assembly. These proposed rules are intended to fulfill the mandates by prescribing the standards used for practices to qualify as PCPCHs, the reporting requirements for PCPCHs, and the process used to recognize PCPCHs.

These temporary rules are available on the OHPR website: <http://www.oregon.gov/OHA/OHPR/rulemaking/index.shtml>.

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

Rules Coordinator: Zarie Haverkate—(503) 373-1574

409-055-0000

Scope

These rules (OAR 409-055-0000 to 409-055-0080) establish the Patient-Centered Primary Care Home Program and define criteria that the Authority shall use to recognize and verify status as PCPCHs. The PCPCH is a model of primary care that has received attention in Oregon and across the country for its potential to advance the “triple aim” goals of health reform: a healthy population, extraordinary patient care for everyone, and reasonable costs, shared by all. PCPCHs achieve these goals through a focus on wellness and prevention, coordination of care, active management and support of individuals with special health care needs, and a patient and family-centered approach to all aspects of care. PCPCHs emphasize whole-person care in order to address a patient and family’s physical and behavioral health care needs.

Stat. Auth.: ORS 413.042, 442.210 & 2011 OL Chapter 602 (HB 3650)

Stats. Implemented: ORS 413.042, 442.210 & 2011 OL Chapter 602 (HB 3650)

Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12

409-055-0010

Definitions

The following definitions apply to OAR 409-055-0000 to 409-055-0080:

(1) “Administrator” means the administrator or designee of The Office for Oregon Health Policy and Research as defined in ORS 442.011.

(2) “Authority” means the Oregon Health Authority.

(3) “CHIPRA Core Measure Set” means the initial core set of children’s health care quality measures released by the Centers for Medicare and Medicaid Services in 2009 for voluntary use by Medicaid and CHIP programs.

(4) “NCQA” means National Committee for Quality Assurance.

(5) “Office” means The Office for Oregon Health Policy and Research.

(6) “Patient Centered Medical Home (PCMH)” means a practice or provider who has been recognized as such by the National Committee for Quality Assurance.

(7) “Patient-Centered Primary Care Home (PCPCH)” means a health care team or clinic as defined in 2011 OL Chapter 602 (HB 3650), meets the standards pursuant to OAR 409-055-0030, and has been recognized through the process pursuant to OAR 409-055-0040.

(8) “Personal Health Information” means demographic information, medical history, test and laboratory results, insurance information and other data that is collected by a health care professional to identify an individual and determine appropriate care.

(9) “Practice” means an individual, facility, institution, corporate entity, or other organization which supplies health care services or items, also termed a performing provider, or bills, obligates and receives reimbursement on behalf of a performing provider of services, also termed a billing provider (BP). The term provider refers to both performing providers and BP(s) unless otherwise specified.

(10) “Program” means Patient-Centered Primary Care Home Program.

(11) “Program website” means <http://www.oregon.gov/OHA/OHPR/HEALTHREFORM/PCPCH/index.shtml>.

(12) “Provider” means an individual, facility, institution, corporate entity, or other organization which supplies health care services or items, also termed a performing provider, or bills, obligates and receives reimbursement on behalf of a performing provider of services, also termed a billing provider (BP). The term provider refers to both performing providers and BP(s) unless otherwise specified.

(13) “Recognition” means the process through which the Authority determines if a practice has met the Oregon Patient-Centered Primary Care Home Standards.

(14) “Recognized” means that the Authority has affirmed that a practice meets the Oregon Patient-Centered Primary Care Home Standards.

(15) “Tier” means the level of Patient-Centered Primary Care Home at which the Authority has scored a practice.

(16) “Verification” means the process that Office for Oregon Health Policy and Research shall conduct to ensure that a practice has submitted accurate information to the Authority for purposes of Patient-Centered Primary Care Home recognition.

Stat. Auth.: ORS 413.042, 442.210 & 2011 OL Chapter 602 (HB 3650)

Stats. Implemented: ORS 413.042, 442.210 & 2011 OL Chapter 602 (HB 3650)

Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12

409-055-0020

Program Administration

(1) The Program is intended to ensure that there is a uniform process for recognizing PCPCHs throughout the State of Oregon in order to support primary care transformation.

(2) The Office shall recognize practices as PCPCHs upon meeting defined criteria through the Program.

(3) The Office shall administer the Program, including data collection and analysis, recognition, and verification that a practice meets the defined PCPCH criteria. The Office may also provide technical assistance as is feasible.

(4) The Office may contract for any of the work it deems necessary for efficient and effective administration of the Program.

Stat. Auth.: ORS 413.042, 442.210 & 2011 OL Chapter 602 (HB 3650)

Stats. Implemented: ORS 413.042, 442.210 & 2011 OL Chapter 602 (HB 3650)

Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12

409-055-0030

Recognition Criteria

(1) The PCPCH measures are divided into “Must-Pass” measures and other measures that place the practice on a scale of maturity or “tier” that reflect basic to more advanced PCPCH functions.

(2) Must-Pass and Tier 1 measures focus on foundational PCPCH elements that should be achievable by most practices in Oregon with significant effort, but without significant financial outlay.

ADMINISTRATIVE RULES

(3) Tier 2 and Tier 3 measures reflect intermediate and advanced functions.

(4) Except for the 10 Must-Pass measures, each measure is assigned a point value corresponding to the Tier. For a practice to be recognized as a PCPCH, it must meet the following point allocation criteria:

- (a) Tier 1: 30–60 points and all 10 Must-Pass Measures
- (b) Tier 2: 65–125 points and all 10 Must-Pass Measures
- (c) Tier 3: 130 points or more and all 10 Must-Pass Measures

(5) A practice's point score shall be calculated through the recognition process pursuant to OAR 409-055-0040.

(6) See Table 1 for a detailed list of Measures and corresponding point assignment.

(7) See Tables 2.A and 2.B for a detailed list of the PCPCH Quality Measures referred to in Table 1, 2.A) Performance & Clinical Quality Improvement, 4.A) Personal Clinician Assigned, and 4.D) Personal Clinician Continuity.

(8) Data specifications for the measures listed in Table 2 shall be available on the Program website.

(9) Quantitative data shall be aggregated at the practice level, not the individual patient level, and there may not be any transfer of any personal health information.

(10) Measure specification, thresholds for demonstrating improvement, and benchmarks for quantitative data elements shall be developed by the Office and made available on the Program website.

(11) NCQA recognition will be acknowledged in the Authority's Patient Centered Medical Home (PCMH) recognition process.

(12) Depending on the version of NCQA recognition that was used, practices seeking Oregon PCPCH recognition must attest to being a NCQA recognized PCMH and submit additional information.

(13) Additional required elements are listed in Table 3 for PCMH practices using 2008 NCQA criteria and Table 4 for PCMH practices using 2011 NCQA criteria.

(Tables: Tables reference are available from the agency.)
Stat. Auth.: ORS 413.042, 442.210 & 2011 OL Chapter 602 (HB 3650)
Stats. Implemented: ORS 413.042, 442.210 & 2011 OL Chapter 602 (HB 3650)
Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12

409-055-0040

Recognition Process

(1) The Office shall develop a web-based reporting process where practices or other entities on behalf of the practice shall submit data per OAR 409-055-0030. Based on the data submitted by a practice and the criteria in OAR 409-055-0030, the Office shall assign a Tier level to each recognized practice.

(2) The Office shall keep instructions for submitting data posted on the Program website.

(3) Practices shall be notified of a PCPCHs Tier score within 60 days of complete data submission.

(4) Practices must file a request for review with the Program within 180 days if the practice disagrees with the calculated Tier score.

(5) PCPCHs must renew their recognition annually. If during this time, a PCPCH believes that it has made progress and should be recognized at a higher tier, it may request its tier status to be reassessed not more than once every six months.

(6) Recognition requests may be sent to: PCPCH@state.or.us or Office for Oregon Health Policy and Research, Attn: Patient-Centered Primary Care Home Program, General Services Building, 1225 Ferry Street SE, 1st Floor, Salem, OR 97301.

Stat. Auth.: ORS 413.042, 442.210 & 2011 OL Chapter 602 (HB 3650)
Stats. Implemented: ORS 413.042, 442.210 & 2011 OL Chapter 602 (HB 3650)
Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12

409-055-0050

Data Reporting Requirements for Recognized PCPCHs

(1) In order to be recognized as a PCPCH, a practice must attest to meeting certain standards as well as submit quantitative data elements as described in Tables 1 and 2.

(2) The attestation shall be submitted via the web-based process pursuant to OAR 409-055-0040.

(3) Recognized PCPCHs shall be scored and tiered pursuant to OAR 409-055-0030.

(4) Attestation data must be submitted by PCPCHs once every three years as a part of the recognition renewal process.

(5) Part of the recognition process shall also include submission of quantitative data about the practice or the practice's patient population.

(6) Quantitative data shall be submitted via the web-based reporting process.

(7) Quantitative data elements selected from Table 2 must be submitted by recognized PCPCHs annually.

(8) If approved by the practice and the Authority, other entities may submit information on behalf of a practice.

(9) Specific data elements required for PCPCH recognition shall be posted on the PCPCH Program website.

(10) The Authority shall have discretion to make exceptions to the reporting requirements above for practices collecting data elements outside of those on Table 2 for the purpose of quality improvement activities.

(Tables: Tables reference are available from the agency.)
Stat. Auth.: ORS 413.042, 442.210 & 2011 OL Chapter 602 (HB 3650)
Stats. Implemented: ORS 413.042, 442.210 & 2011 OL Chapter 602 (HB 3650)
Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12

409-055-0060

Compliance and Enforcement

(1) The Office shall conduct a random audit of a select percentage of PCPCH applicants to verify reported attestation and quantitative data elements for the purposes for confirming recognition and Tier level.

(2) Practices selected for verification shall be notified no less than 30 days prior to the scheduled audit.

(3) Verification may include an audit of practice process as well as medical chart review.

(4) If the Office finds that the practice is not in compliance with processes as attested to, the Office shall work with the practice to move into compliance.

(5) If a practice fails to move into compliance within 180 days of identification of non-compliance with attested information, the Office shall amend the practice's PCPCH recognition to reflect the appropriate Tier level

Stat. Auth.: ORS 413.042, 442.210 & 2011 OL Chapter 602 (HB 3650)
Stats. Implemented: ORS 413.042, 442.210 & 2011 OL Chapter 602 (HB 3650)
Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12

409-055-0070

Insurance Carrier and Managed Care Plan Communication

(1) The Office shall develop a system for making recognized PCPCH Tier status available to insurance carriers and managed care organizations.

(2) The Office shall maintain and update monthly the recognized PCPCH Tier status lists.

Stat. Auth.: ORS 413.042, 442.210 & 2011 OL Chapter 602 (HB 3650)
Stats. Implemented: ORS 413.042, 442.210 & 2011 OL Chapter 602 (HB 3650)
Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12

409-055-0080

Reimbursement Objectives

(1) One objective of these standards is to facilitate appropriate reimbursement for PCPCHs consistent with their recognized Tier levels. The standards and Tier recognition process established in this rule are consistent with statutory objectives to align financial incentives to support utilization of PCPCHs, in recognition of the standards that are required to be met at different Tiers.

(2) Managed care plans and insurance carriers may obtain from the Office the Tier level recognition of any practice.

(3) Within applicable programs, the Authority shall develop and implement reimbursement methodologies that reimburse practices based on recognition of Tier level, taking into consideration incurred practice costs for meeting the Tier criteria.

Stat. Auth.: ORS 413.042, 442.210 & 2011 OL Chapter 602 (HB 3650)
Stats. Implemented: ORS 413.042, 442.210 & 2011 OL Chapter 602 (HB 3650)
Hist.: OHP 6-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-15-12

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

Adm. Order No.: OHP 7-2011

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 10-1-11

Notice Publication Date: 8-1-2011

Rules Amended: 409-023-0000, 409-023-0010, 409-023-0012, 409-023-0015

Rules Repealed: 409-023-0000(T), 409-023-0010(T), 409-023-0012(T), 409-023-0015(T)

Subject: The Oregon Health Authority, Office for Oregon Health Policy and Research is implementing amendments to the health care acquired infection (HAI) reporting. The rules implement the health care acquired infection (HAI) reporting, public disclosure, and other applicable mandates of ORS 442.420 and Ch. 838 § 1-6 and 12,

ADMINISTRATIVE RULES

enacted by the 74th Legislative Assembly. These rules set forth the HAI rules that are reported, how they are reported, the health care facilities that report them, and how they are publicly disclosed.

Rules Coordinator: Zarie Haverkate—(503) 373-1574

409-023-0000

Definitions

The following definitions apply to OAR 409-023-0000 to 409-023-0035:

(1) “Administrator” means the administrator of the Office for Oregon Health Policy and Research as defined in ORS 442.011, or the administrator’s designee.

(2) “ASC” means ambulatory surgical center as defined in ORS 442.015(3) and that is licensed pursuant to ORS 441.015.

(3) “CBGB” means coronary bypass graft surgery with both chest and graft incisions, as defined in the NHSN Manual.

(4) “CDC” means the federal Centers for Disease Control and Prevention.

(5) “CDI” means *Clostridium difficile* infection as defined in the NHSN Manual.

(6) “CLABSI” means central line associated bloodstream infection as defined in the NHSN Manual.

(7) “CMS” means the federal Centers for Medicare and Medicaid Services.

(8) “COLO” means colon procedures as defined in the NHSN Manual.

(9) “Committee” means the Health Care Acquired Infections Advisory Committee as defined in notes following ORS 442.851 relating to Health Care Acquired Infections.

(10) “Dialysis facility” means outpatient renal dialysis facility as defined in ORS 442.015(20).

(11) “Follow-up” means post-discharge surveillance intended to detect CBGB, COLO, HPRO, HYST, KRPO, and LAM surgical site infection (SSI) cases occurring after a procedure.

(12) “HAI” means health care acquired infection as defined in notes following ORS 442.851 relating to Health Care Acquired Infections.

(13) “Health care facility” means a facility as defined in ORS 442.015(10).

(14) “Hospital” means a facility as defined in ORS 442.015(13) and that is licensed pursuant to ORS 441.015.

(15) “Hospital Inpatient Quality Reporting Program” means the initiative administered by CMS and formerly referred to as RHQDAPU.

(16) “HPRO” means hip prosthesis procedure as defined in the NHSN Manual.

(17) “HYST” means abdominal hysterectomy procedure as defined in the NHSN Manual.

(18) “ICU” means an intensive care unit as defined in the NHSN Manual.

(19) “KPRO” means knee prosthesis procedure as defined in the NHSN Manual.

(20) “Lab ID” means laboratory-identified event as defined in the NHSN Manual.

(21) “LAM” means laminectomy procedure as defined in the NHSN Manual.

(22) “LTC facility” means long term care facility as defined in ORS 442.015(16).

(23) “MDS” means the Centers for Medicare and Medicaid Services’ minimum data set nursing home resident assessment and screening tool, version 2.0 or its successor, including but not limited to manuals, forms, software, and databases.

(24) “Medical ICU” means a non-specialty intensive care unit that serves 80% or more adult medical patients.

(25) “Medical/Surgical ICU” means a non-specialty intensive care unit that serves less than 80% of either adult medical, adult surgical, or specialty patients.

(26) “NHSN” means the CDC’s National Healthcare Safety Network.

(27) “NHSN Inpatient” means a patient whose date of admission to the healthcare facility and the date of discharge are different days as defined in the NHSN Manual.

(28) “NHSN Manual” means the Patient Safety Component Protocol of the NHSN manual, version March 2009 or its successor, as amended, revised, and updated from time to time.

(29) “NICU” means a specialty intensive care unit that cares for neonatal patients.

(30) “Office” means the Office for Oregon Health Policy and Research.

(31) “Oregon HAI group” means the NHSN group administered by the Office.

(32) “Overall-facility wide” means data is collected for the entire facility as defined in the NHSN Manual.

(33) “Patient information” means individually identifiable health information as defined in ORS 179.505(c).

(34) “Person” has the meaning as defined in ORS 442.015(21).

(35) “Procedure” means an NHSN operative procedure as defined in the NHSN Manual.

(36) “Provider” means health care services provider as defined in ORS 179.505(b).

(37) “QIO” means the quality improvement organization designated by CMS for Oregon.

(38) “RHQDAPU” means the Reporting Hospital Quality Data for Annual Payment Update initiative administered by CMS.

(39) “SCIP” means the Surgical Care Improvement Project.

(40) “SCIP-Inf-1” means the HAI process measure published by SCIP defined as prophylactic antibiotic received within one hour prior to surgical incision.

(41) “SCIP-Inf-2” means the HAI process measure published by SCIP defined as prophylactic antibiotic selection for surgical patients.

(42) “SCIP-Inf-3” means the HAI process measure published by SCIP defined as prophylactic antibiotics discontinued within 24 hours after surgery end time (48 hours for cardiac patients).

(43) “SCIP-Inf-4” means the HAI process measure published by SCIP defined as cardiac surgery patients with controlled 6 a.m. postoperative serum glucose.

(44) “SCIP-Inf-6” means the HAI process measure published by SCIP defined as surgery patients with appropriate hair removal.

(45) “SCIP-Inf-9” means urinary catheter removed on postoperative day 1 or postoperative day 2 with day of surgery being day zero.

(46) “SCIP-Inf-10” means the HAI process measure published by SCIP defined as surgery patients with perioperative temperature management.

(47) “Specialty ICU” means an intensive care unit with at least 80% of adults are specialty patients including but not limited to oncology, trauma, and neurology.

(48) “SSI” means a surgical site infection event as defined in the Patient Safety Component Protocol of the NHSN manual, version January 2008.

(49) “Staff” means any employee of a health care facility or any person contracted to work within a health care facility.

(50) “State agency” shall have the meaning as defined in ORS 192.410(5).

(51) “Surgical ICU” means a non-specialty intensive care unit that serves 80% or more adult surgical patients.

Stat. Auth.: ORS 442.420 & OL 2007, Ch. 838 § 1-6 & 12

Stats. Implemented: ORS 179.505, 192.410, 192.496, 192.502, 441.015, 442.011, 442.400, 442.405, & OL 2007, Ch. 838 § 1-6 & 12

Hist.: OHP 1-2008, f. & cert. ef. 7-1-08; OHP 1-2009, f. & cert. ef. 7-1-09; OHP 4-2010, f. 6-30-10, cert. ef. 7-1-10; OHP 4-2011(Temp), f. 7-28-11, cert. ef. 8-1-11 thru 1-25-12; OHP 7-2011, f. 9-30-11, cert. ef. 10-1-11

409-023-0010

HAI Reporting for Hospitals

(1) Hospitals shall begin collecting data for HAI outcome and process measures for the HAI reporting program for services provided on and after January 1, 2009, except:

(a) NICU shall begin collecting data for HAI outcome and process measures for the HAI reporting program for services provided on and after January 1, 2010.

(b) Hospitals shall report the SCIP-Inf-6 process measure for the HAI reporting program for services provided on and after January 1, 2010.

(c) Hospitals shall report the SCIP-4-Inf and SCIP-10-Inf process measures for services provided on and after January 1, 2011.

(d) Hospitals shall report the NHSN Inpatient COLO, HPRO, HYST, and LAM outcome measures for services provided on and after January 1, 2011.

(e) Hospitals shall report facility-wide NHSN Inpatient CDI data using the Lab-ID method for CDI in NHSN for services provided on or after January 1, 2012.

(f) Hospitals shall report SCIP-Inf-9 performance measures for services provided on or after January 1, 2012.

(2) Reportable HAI outcome measures are:

ADMINISTRATIVE RULES

(a) SSIs for NHSN Inpatient CBGB, COLO, HPRO, HYST, KPRO, and LAM procedures.

(b) CLABSI in medical ICUs, surgical ICUs, and combined medical/surgical ICUs.

(c) NHSN Inpatient CDI facility-wide.

(3) The infection control professional (ICP), as defined by the facility, shall actively seek out infections defined in sections (2)(a) and (b) of this rule during a patient's stay by screening a variety of data that may include but is not limited to:

- (a) Laboratory;
- (b) Pharmacy;
- (c) Admission;
- (d) Discharge;
- (e) Transfer;
- (f) Radiology;
- (g) Imaging;
- (h) Pathology; and

(i) Patient charts, including history and physical notes, nurses and physicians notes, and temperature charts.

(4) The ICP shall use follow-up surveillance methods to detect SSIs for procedures defined in section (2)(a) of this rule using at least one of the following:

(a) Direct examination of patients' wounds during follow-up visits to either surgery clinics or physicians' offices;

(b) Review of medical records, subsequent hospitalization records, or surgery clinic records;

- (c) Surgeon surveys by mail or telephone;
- (d) Patient surveys by mail or telephone; or
- (e) Other facility surveys by mail or telephone.

(5) Others employed by the facility may be trained to screen data sources for these infections, but the ICP must determine that the infection meets the criteria established by these rules.

(6) The HAI reporting system for HAI outcome measures shall be NHSN. Each Oregon hospital shall comply with processes and methods prescribed by CDC for NHSN data submission. This includes but is not limited to definitions, data collection, data reporting, and administrative and training requirements. Each Oregon hospital shall:

(a) Join the Oregon HAI group in NHSN.

(b) Authorize disclosure of NHSN data to the Office as necessary for compliance of these rules including but not limited to summary data and denominator data for all SSIs, the annual hospital survey and data analysis components for all SSIs, and summary data and denominator data for all medical ICUs, surgical ICUs, and combined medical/surgical ICUs.

(c) Report its data for outcome measures to NHSN no later than 30 days after the end of the collection month. The NHSN field "Discharge Date" is mandatory for all outcome measures.

(7) Each hospital shall report on a quarterly basis according to 409-023-0010(1) the following HAI process measures:

- (a) SCIP-Inf-1;
- (b) SCIP-Inf-2;
- (c) SCIP-Inf-3;
- (d) SCIP-Inf-4;
- (e) SCIP-Inf-6;
- (f) SCIP-Inf-9; and
- (g) SCIP-Inf-10.

(8) The reporting system for HAI process measures shall be the Hospital Inpatient Quality Reporting Program, formerly referred to as the RHQDAPU program as configured on July 1, 2008. Each Oregon hospital shall:

(a) Comply with reporting processes and methods prescribed by CMS for the RHQDAPU program. This includes but is not limited to definitions, data collection, data reporting, and administrative and training requirements; and

(b) Report data quarterly for HAI process measures. Data must be submitted to and successfully accepted into the QIO clinical warehouse no later than 11:59 p.m. central time, on the 15th calendar day, four months after the end of the quarter.

(9) For NICUs, the HAI reporting system for outcome measures shall be NHSN. Each Oregon hospital with a NICU shall comply with processes and methods prescribed by NHSN for the CLABSI reporting including but not limited to definitions, data collection, data submission, and administrative and training requirements. Each Oregon hospital shall:

(a) Authorize disclosure of NHSN data to the Office as necessary for compliance with these rules, including but not limited to facility identifiers.

(b) Submit NICU data to be NHSN according to the NHSN Manual.

(10) Each hospital shall complete an annual survey, as defined by the Office, of influenza vaccination of staff and submit the completed survey to the Office. The survey shall include but not be limited to questions regarding influenza vaccine coverage of facility staff:

(a) Number of staff with a documented influenza vaccination during the previous influenza season.

(b) Number of staff with a documented medical contraindication to influenza vaccination during the previous influenza season.

(c) Number of staff with a documented refusal of influenza vaccination during the previous influenza season.

(d) Facility assessment of influenza vaccine coverage of facility staff during the previous influenza season and plans to improve vaccine coverage of facility staff during the upcoming influenza season.

Stat. Auth.: ORS 442.420 & Notes following ORS 442.851

Stats. Implemented: ORS 442.405 & Notes following ORS 442.851

Hist.: OHP 1-2008, f. & cert. ef. 7-1-08; OHP 1-2009, f. & cert. ef. 7-1-09; OHP 4-2010, f. 6-30-10, cert. ef. 7-1-10; OHP 4-2011(Temp), f. 7-28-11, cert. ef. 8-1-11 thru 1-25-12; OHP 7-2011, f. 9-30-11, cert. ef. 10-1-11

409-023-0012

HAI Reporting for Ambulatory Surgery Centers

(1) Each ASC shall complete a survey of evidenced-based elements of patient safety performance as defined by the Office.

(2) The survey shall be submitted annually by each ASC to the Office no later than 30 days after receipt of survey.

(3) Starting with the 2011-2012 influenza season, each ASC shall complete an annual survey, as defined by the Office, of influenza vaccination of staff and submit the completed survey to the Office. The survey shall include but not be limited to questions regarding influenza vaccine coverage of facility staff:

(a) Number of staff with a documented influenza vaccination during the previous influenza season.

(b) Number of staff with a documented medical contraindication to influenza vaccination during the previous influenza season.

(c) Number of staff with a documented refusal of influenza vaccination during the previous influenza season.

(d) Facility assessment of influenza vaccine coverage of facility staff during the previous influenza season and plans to improve vaccine coverage of facility staff during the upcoming influenza season.

Stat. Auth.: ORS 442.420(3)(d) & OL 2007, Ch. 838 § 1-6 and 12

Stats. Implemented: ORS 442.405 & OL 2007, Ch. 838 § 1-6 and 12

Hist.: OHP 1-2009, f. & cert. ef. 7-1-09; OHP 4-2011(Temp), f. 7-28-11, cert. ef. 8-1-11 thru 1-25-12; OHP 7-2011, f. 9-30-11, cert. ef. 10-1-11

409-023-0015

HAI Reporting for Other Health Care Facilities

Dialysis facilities shall begin collecting data for the HAI reporting program for services provided on and after January 1, 2013 pursuant to rules amended no later than July 1, 2012.

Stat. Auth.: ORS 442.420(3)(d) & OL 2007, Ch. 838 § 1-6 and 12

Stats. Implemented: ORS 442.405 & OL 2007, Ch. 838 § 1-6 and 12

Hist.: OHP 1-2008, f. & cert. ef. 7-1-08; OHP 1-2009, f. & cert. ef. 7-1-09; OHP 4-2011(Temp), f. 7-28-11, cert. ef. 8-1-11 thru 1-25-12; OHP 7-2011, f. 9-30-11, cert. ef. 10-1-11

Oregon Health Authority, Oregon Educators Benefit Board Chapter 111

Rule Caption: Revised language clarifies when grandchildren are eligible for OEGB benefit coverage.

Adm. Order No.: OEGB 16-2011(Temp)

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 10-1-11 thru 1-28-12

Notice Publication Date:

Rules Amended: 111-010-0015

Rules Suspended: 111-010-0015(T)

Subject: The revisions to OAR 111-010-0015 include clarifying language on when a grandchild is eligible for benefit coverage.

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.

ADMINISTRATIVE RULES

(2) "Adverse Benefit Determination" means a denial, reduction, or termination of, or a failure to provide or make payment (in whole or in part), for a benefit, including any such denial, reduction, termination, or failure to provide or make payment that is based on but not limited to:

- (a) A determination of a member's eligibility to participate in the plan;
- (b) A determination that the benefit is not a covered benefit; or
- (c) A rescission of coverage, whether or not, in connection with rescission, there is an adverse effect on any particular benefit.

(3) "Affidavit of Domestic Partnership" means a document that attests the eligible employee and one other eligible individual meet the criteria in section (15)(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) Employee Assistance Program Plans;
- (g) Supplemental medical, dental and vision;
- (h) Any other remedial care recognized by state law, and related services and supplies;

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

- (j) Self insurance programs managed by the Board.

(5) "Benefits" means goods and services provided under benefit plans.

(6) "Board" means the ten-member board established in the Department of Administrative Services as the Oregon Educators Benefit Board under chapter 00007, Oregon Laws 2007.

(7) "Child" means and includes the following:

(a) An eligible employee's, spouse's, or domestic partner's biological son, daughter, stepson, or stepdaughter; adopted child, child placed for adoption, or legally placed child, who is 25 or younger on the first day of the month. An eligible employee must provide the required custody or legal documents to their Educational Entity showing proof of adoption, legal guardianship or other court order if enrolling a child for whom the employee, spouse, or domestic partner is not the biological parent.

(A) Grandchildren are only eligible when the eligible employee is the legal guardian or adoptive parent of the grandchild.

(b) A person who is incapable of self-sustaining employment because of a developmental disability, mental illness, or physical disability. There is no age limit for a dependent child who is incapable of self-sustaining employment because of a developmental disability, mental illness, or physical disability. When the dependent child is 26 years of age or older all the following requirements must be met:

(A) The disability must have existed before attaining age 26.

(B) The employee must provide evidence to the Educational Entity or OEBB that (1) the person had health plan coverage, group or individual, prior to attaining age 26, and (2) health plan coverage continued without a gap until the OEBB health plan effective date.

(C) The person's attending physician must submit documentation of the disability to the eligible employee's OEBB health insurance plan for review and approval. If the person receives health plan approval, the health plan may review the person's health status at any time to determine continued OEBB coverage eligibility.

(D) The person must not have terminated from OEBB health plan coverage after attaining the age of 26.

(c) Eligibility for coverage under this rule includes people who may not be dependents under federal or state tax law and may require an Educational Entity to adjust an Eligible Employee's income based on the imputed value of the benefit.

(8) "Comparable cost (Medical, Dental and Vision)" means that the total cost to a district for enrollment in OEBB plans comparable in design to the district's plan(s) do not exceed the total cost to a district for enrollment in the district's plan(s) using the rate(s) in effect or proposed for the benefit plan year.

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

(10) "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.

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

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

(13) "Dependent" means and includes the Employee's Spouse or Domestic Partner, or child as defined by OAR 111-010-0010(7) or other person having a relation to the subscriber as defined by the Contractor.

(14) "Documented district policies" means Educational Entities' policies and practices that apply to an employee group and are submitted to the Oregon Educators Benefit Board during the plan selection process. Educational Entities' policies and practices must be identified and submitted with the applicable employee group plan selections.

(15) "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 immediately preceding the date the Affidavit of Domestic Partnership is signed and submitted to the Educational Entity; 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.

(G) The eligible employee and domestic partner must jointly complete and submit to the Educational Entity an Affidavit of Domestic Partnership form, within five business days of the electronic enrollment date or the date the Educational Entity received the enrollment/change form. If the affidavit is not received, coverage will terminate for the domestic partner retroactive to the effective date.

(c) The domestic partner must notify the Educational Entity within 31 days of meeting all criteria as defined in 111-010-0015 (15)(b) or obtaining the "Declaration of Domestic Partnership" which is recognized under Oregon law.

(d) Educational Entities' must calculate and apply applicable imputed value tax for domestic partners covered under OEBB benefit plans.

(16) "Educational Entity" means public school districts (K-12), education service districts (ESDs), community colleges and public charter schools participating in OEBB.

(17) "Eligible employee" means and includes:

(a) "Active eligible employee" means an employee of an OEBB participating organization who is:

(A) Employed or is in a job-sharing position on a half time or greater basis; or

(B) Meets the definition of an eligible employee under a separate OEBB rule or under a collective bargaining agreement or documented district policy in effect on January 31, 2008; or

(C) An employee of a community college who is covered under a collectively bargained contract and has worked a class load of between 25 percent and 49 percent for a minimum period of two years and is expected to continue to work a class load of at least 25 percent. Coverage is limited to medical to include Kaiser Medical Plan 1A (where available), ODS Medical Plan 8 (with Plan C pharmacy) and ODS Medical Plan 9. The tiered rate structure will apply to all medical plans.

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

ADMINISTRATIVE RULES

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

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

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

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

(18) "Employee Group" means employees of a similar employment type, for example administrative, represented classified, non-represented classified, confidential, represented licensed, or non-represented licensed, within an Educational Entity. If one or more collective bargaining unit exists within an employee group, each unit will be considered a separate employee group.

(19) "Flexible benefit plan" includes plans that allow contributions on a tax-favored basis including health savings accounts.

(20) "Members" means and includes the following:

(a) "Eligible employee" as defined by OAR 111-010-0015(17).

(b) "Child" as defined by OAR 111-010-0015(7).

(c) "Domestic Partner" as defined by OAR 111-010-0015(15).

(d) "Spouse" as defined by OAR 111-010-0015(26).

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

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

(23) "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).

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

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

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

(c) Can provide comparable plan designs at a comparable cost as defined by sections (8) and (10) of this Rule.

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

(26) "Spouse" means a person of the opposite sex who is a husband or wife. Except as provided in Oregon Constitution Article XV, Section 5a, a relationship recognized as a marriage in another state will be recognized in Oregon even though such a relationship would not be a marriage if the same facts had been relied upon to create a marriage in Oregon. The definition of spouse does not include a former spouse and a former spouse does not qualify as a dependent.

(27) "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 plan designs at a comparable cost as defined by sections (8) and (10) of this Rule.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.860(1)(a)

Hist.: OEBB 2-2007(Temp), f. & cert. ef. 9-21-07 thru 3-18-08; OEBB 2-2008, f. & cert. ef. 1-4-08; OEBB 10-2008(Temp), f. & cert. ef. 8-13-08 thru 2-6-09; OEBB 1-2009, f. & cert. ef. 1-30-09; OEBB 5-2009(Temp), f. & cert. ef. 3-10-09 thru 9-4-09; OEBB 8-2009, f. & cert. ef. 5-1-09; OEBB 12-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 19-2009, f. & cert. ef. 12-17-09; OEBB 7-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 11-2010(Temp), f. & cert. ef. 10-1-10 thru 1-29-11; OEBB 1-2011, f. & cert. ef. 2-11-11; OEBB 6-2011(Temp), f. & cert. ef. 2-15-11 thru 8-13-11; OEBB 14-2011, f. & cert. ef. 8-2-11; OEBB 15-2011(Temp), f. & cert. ef. 8-2-11 thru 1-28-12; OEBB 16-2011(Temp), f. & cert. ef. 10-1-11 thru 1-28-12

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Rule Caption: Amends rules relating to retroactive terminators, rescissions, and coverage effective dates for grandchildren.

Adm. Order No.: OEBB 17-2011(Temp)

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 10-1-11 thru 3-29-12

Notice Publication Date:

Rules Amended: 111-040-0001, 111-040-0005, 111-040-0015, 111-040-0025, 111-040-0040

Subject: OAR 111-040-0001 is amended to state when eligible grandchildren's coverage is effective. Amendments to OARs 111-040-0005, 111-040-0015, 111-040-0025 and 111-040-0040 result in additional clarification on retroactive terminations and rescissions provided by DOJ regarding the federal Healthcare Reform Act.

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

111-040-0001

Effective Dates

(1) Benefit plan changes or initial elections, unless otherwise specified in a collective bargaining agreement or documented district policy in effect on June 30, 2008, are effective on the later of:

(a) The first of the month following a completed online enrollment in the OEBB benefit management system or submission of a paper enrollment or change form, or

(b)(A) The first of the month following the date of hire or the date of eligibility; with the following exception:

(B) The first of the month following approval of Evidence of Insurability for Optional Life Insurance above the guarantee issue amount, Long Term Disability, or Long Term Care insurance.

(2) Covered dependent changes are effective the first of the month following the date of the event causing the dependent to be eligible under OEBB administrative rules with the following exceptions:

(a) Coverage for a newborn child is effective on the date of birth. The active eligible employee must add the newborn child to their benefit plans within 60 calendar days from the date of birth in order for the newborn child to be eligible for benefit coverage.

(b) Coverage for a newly adopted child is effective the date of the adoption decree or date of placement for adoption. The active eligible employee must add the adopted child to their benefit plans within 60 calendar days from the date of the decree or placement in order for the newly adopted child to be eligible for benefit coverage; and

(A) The active eligible employee must submit the adoption agreement with the enrollment forms to the Educational Entity.

(B) Claims payments will not be made for expenses incurred prior to the date of decree or placement.

(c) Coverage for an eligible grandchild is as follows:

(A) If the legal guardianship is finalized within the first 60 days following the birth of the grandchild, coverage will be effective retroactive to the date of the birth.

(B) If the legal guardianship is finalized 61 or more days from the date of birth of the grandchild, the coverage will be effective the first of the month following the date the guardianship documents are finalized.

(C) If the legal guardianship is finalized 61 or more days from the date of birth of the grandchild, and the effective date of legal guardianship is retroactive to the grandchild's date of birth, coverage will be effective retroactive to the date of birth.

(d) The first of the month following approval of Evidence of Insurability for Optional Spouse/Domestic Partner Life insurance above the guaranteed issue amount, if applicable, or Long Term Care Insurance.

(3) Elections made during an open enrollment period are effective on the first day of the new plan year. There will be a 12-month waiting period for services other than preventive dental exams and cleanings and/or routine vision exams for coverage added during the open enrollment period if enrolling in a dental or vision plan in which the employee and/or dependents were previously eligible.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 14-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 21-2009, f. & cert. ef. 12-17-09; OEBB 9-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 12-2010(Temp), f. & cert. ef. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 3-2011, f. & cert. ef. 2-11-11; OEBB 17-2011(Temp), f. & cert. ef. 9-30-11, cert. ef. 10-1-11 thru 3-29-12

111-040-0005

Termination Dates

(1) Effective October 1, 2011, if an active eligible employee requests a termination of coverage for themselves, a spouse, a domestic partner, or a child, coverage ends on the last day of the month that eligibility is lost. Requests for coverage termination must be made consistent with a Qualifying Event, as defined by 111-040-0040. Retroactive termination of coverage may be made in the event of a delay in the Educational Entities' administrative process.

(2) Effective October 1, 2011, benefit coverage termination that is considered by OEBB to be intentional misrepresentation may be rescinded in compliance with the law. If this occurs, OEBB shall give the affected

ADMINISTRATIVE RULES

individual 30 days notice of the rescission of benefit coverage and an opportunity to appeal before the rescission takes effect.

(3) Benefit coverage for active eligible employees ends on the last day of the month that they retire, unless otherwise determined in a collective bargaining agreement or documented district policy in effect on June 30, 2008. Benefit coverage may be continued based on the requirements and limitations in OARs 111-050-0001 through 111-050-0050.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 12-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 3-2011, f. & cert. ef. 2-11-11

111-040-0015

Removing an Ineligible Individual from Benefit Plans

(1) An active eligible employee is responsible for removing ineligible spouses, domestic partners and children from their OEBB-sponsored benefit plans by submitting completed, applicable forms to their Educational Entity benefits administrator within 31 calendar days after the date the individual becomes ineligible. Coverage ends on the date identified under OAR 111-040-0005.

(2) An active eligible employee ending a domestic partnership must complete and submit a Termination of Domestic Partnership form and enrollment update forms to the Educational Entity benefits administrator within 31 calendar days after the event for removal of the domestic partner and domestic partner's children from their benefit plan. Benefit coverage for the domestic partner and domestic partner's children ends on the date identified in OAR 111-040-0005.

(3) An Educational Entity is responsible for removing ineligible individuals from the OEBB benefits management system. The Educational Entity must complete such removal within 14 calendar days after:

(a) An event resulting in loss of the employee's eligibility, or

(b) The receipt of notification of an event resulting in loss of eligibility of the employee's spouse, domestic partner or child.

(4) If coverage of an employee's spouse, domestic partner or child is terminated retroactively, then:

(a) The active eligible employee may be responsible for claims previously paid by the benefit plans to the providers during the period of ineligibility at the carrier's discretion; and

(b) Premium adjustments will be made retroactively based on the coverage end date.

(5) OEBB shall conduct audits to monitor compliance with OEBB administrative rules governing eligibility and enrollment.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 9-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 12-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 3-2011, f. & cert. ef. 2-11-11; OEBB 17-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12

111-040-0025

Correcting Enrollment and Processing Errors

(1) Employee Enrollment Errors. Enrollment errors occur when an active eligible employee provides incorrect information or fails to make correct selections when making benefit plan elections. The active eligible employee is responsible for identifying enrollment errors or omissions.

(a) OEBB authorizes Educational Entities to correct enrollment errors reported by the active eligible employee within 60 calendar days of the original eligibility date, open enrollment period end date, or Qualified Status Change date.

(b) Enrollment errors identified after 60 calendar days of the eligibility date, open enrollment period end date or Qualified Status Change date must be submitted to OEBB for review and approval based on OAR 111-080-0030.

(2) Benefit Administrator Processing Errors. Processing errors or omissions occur when benefit plan elections are processed incorrectly in the benefit system or when a newly-eligible active eligible employee does not receive correct enrollment information or materials within 31 calendar days of the eligibility date.

(a) OEBB authorizes Educational Entities to correct processing errors identified within 60 calendar days of the eligibility date, open enrollment period end date, or Qualified Status Change date. The Educational Entity must reconcile all premium discrepancies.

(b) Processing errors identified after 60 calendar days of the eligibility date, open enrollment period end date, or Qualified Status Change date must be submitted to OEBB for review and approval based on OAR 111-080-0030. The Educational Entity must reconcile all premium discrepancies within 30 calendar days of any adjustments made in the system.

(3) The effective date for the correction of either an employee enrollment error or benefit administrator error is:

(a) Retroactive to the original effective date as identified in OAR 111-040-000(1).

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 14-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 21-2009, f. & cert. ef. 12-17-09; OEBB 9-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 3-2011, f. & cert. ef. 2-11-11; OEBB 17-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12

111-040-0040

Qualified Status Changes (QSC's)

(1) Active eligible employees experiencing a change in family or work status as noted below after annual open enrollment, or anytime during the plan year, have 31 calendar days beginning on the date of the event to make changes. If the event is gaining a child, as defined by 111-040-0040(2)(c), or results in a loss of eligibility, the eligible employee has 60 calendar days after the event to make changes.

(2) The eligible employee can only make changes that are consistent with the event for themselves and/or dependents.

(3) The employee must report the Qualified Status Change (QSC) to the employee's Educational Entity within the specified timeframe. Failure to report a QSC that will result in removal of a spouse, domestic partner, or child within the timeframe stated in 111-040-0040(1) may be considered intentional misrepresentation, and OEBB may rescind the individual's coverage back to the last day of the month in which the individual lost eligibility. Please refer to the QSC matrix for details on what changes can occur with each event.

(4) Qualified Status Changes which allow the employee to make changes to his or her coverage are:

(a) Gain spouse by marriage or domestic partner by meeting domestic partner eligibility;

(b) Loss of spouse or domestic partner by divorce, annulment, death or termination of domestic partnership,

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

(d) Active eligible employee starts new employment and gains eligibility;

(e) Change in employment status by active eligible employee which affects eligibility;

(f) Active eligible employee ends employment or other change in employment status resulting in a loss of eligibility;

(g) Spouse or domestic partner starts new employment or other change in employment status which affects eligibility;

(h) Spouse or domestic partner's employment ends or other change in employment status resulting in a loss of eligibility under their employer's plan;

(i) Event by which a child satisfies eligibility requirements under OEBB plans (for a list of requirements see 111-010-0015);

(j) Event by which a child ceases to satisfy eligibility requirements under OEBB plans (for a list of requirements see 111-010-0015),

(k) Changes in the residence of the active eligible employee, spouse, domestic partner, or child (i.e., moving out of the service area of an HMO);

(l) Reinstatement of coverage. Reinstatement can be used in the following situations:

(A) Military (USERRA);

(B) When coverage was continued under COBRA

(C) When coverage was terminated in error and there is no lapse in coverage.

(m) Significant changes in cost of the eligible employee's or early retiree's current plan and tier level that result in a negative impact of 10 percent or more to:

(A) The amount an active eligible employee or early retiree must contribute toward benefits.

(B) The amount a spouse or domestic partner must contribute toward his or her group health insurance plan cost.

(n) Different Open Enrollment/Plan Year under a spouse/domestic partner's employer plan.

(o) Related laws or court orders. For example: Qualified Medical Child Support Order (QMCSO), Medicare, HIPAA, or Family Health Insurance Assistance Program (FHIAP). Changes are determined by the applicable law or court order.

(5) Changes in coverage, or contribution amounts that result in a reduced amount that an employee or eligible dependent must contribute toward benefits, do not constitute a Qualified Status Change.

(6) The following applies to the Long Term Care benefit plans only:

ADMINISTRATIVE RULES

- (a) Cancel the plan at anytime without a QSC event.
- (b) Plan additions or changes require a QSC event as defined 111-040-0040(2). The addition of a plan or change in plans with a QSC is subject to a medical evidence review by the LTC carrier.

Stat. Auth.: ORS 243.860 - 243.886
Stats. Implemented: ORS 243.864

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 10-2009(Temp), f. 5-4-09, cert. ef. 5-5-09 thru 10-31-09; OEBB 11-2009, f. & cert. ef. 7-31-09; OEBB 17-2009(Temp), f. & cert. ef. 10-7-09 thru 4-4-10; OEBB 22-2009, f. & cert. ef. 12-17-09; OEBB 2-2010(Temp), f. & cert. ef. 3-3-10 thru 8-29-10; OEBB 6-2010, f. & cert. ef. 8-3-10; OEBB 9-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 12-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 3-2011, f. & cert. ef. 2-11-11; OEBB 7-2011(Temp), f. & cert. ef. 2-15-11 thru 8-13-11; OEBB 11-2011, f. & cert. ef. 6-22-11; OEBB 17-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12

Rule Caption: Amend rules relating to retroactive terminations, rescissions, and coverage effective dates for grandchildren.

Adm. Order No.: OEBB 18-2011(Temp)

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 10-1-11 thru 3-29-12

Notice Publication Date:

Rules Amended: 111-050-0015, 111-050-0025, 111-050-0030, 111-050-0045, 111-050-0050

Subject: OAR 111-050-0025 is amended to state when eligible grandchildren's coverage is effective. Amendments to OARs 111-050-0015, 111-050-0030, 111-050-0045 and 111-050-0050 result in additional clarification on retroactive terminations and rescissions provided by DOJ regarding the federal Healthcare Reform Act.

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

111-050-0015

Medical, Dental and Vision Termination Dates for Retirees

(1) A retiree enrolled in OEBB retiree insurance plan that becomes eligible for Medicare coverage may not continue on an OEBB medical or vision plan, unless they are eligible as a result of end-stage renal disease. OEBB benefits end the last day of the month prior to the Medicare effective date. The retiree is responsible for reporting to their Educational Entity and to OEBB when the retiree is covered by Medicare within 31 days after the Medicare coverage effective date. Failure to report within this timeframe may be considered intentional misrepresentation by OEBB and OEBB may rescind OEBB coverage back to the last day of the month prior to the Medicare effective date.

(2) If a retiree becomes eligible for Medicare coverage, but his or her currently-enrolled eligible dependents are not, these eligible individuals may continue OEBB medical, dental and vision insurance coverage until such time as they no longer meet OEBB eligibility requirements or become eligible for Medicare coverage for reasons other than end-stage renal disease, whichever occurs first. The eligible individuals must confirm intent to continue coverage with the retiree plan administrator within 31 days after the retiree's eligibility for Medicare.

(3) Eligible dependents who were covered on a plan at the time of retirement who are eligible for Medicare, or who become eligible for Medicare, may not continue coverage on an OEBB medical or vision plan unless it is stated in a collective bargaining agreement or documented district policy in effect on or before February 1, 2010, that they may continue on OEBB medical plans until the retiree becomes eligible for Medicare with the following exception: OEBB coverage must end for Medicare-eligible dependents of a retiree enrolled on a Kaiser Permanente medical plan.

(4) If the retiree is responsible for self-paying all or partial premiums and fails to remit the premium amount to their Educational Entity, all coverage will terminate on the last day of the month in which premiums are paid in full to OEBB.

(5) Dental coverage may be continued subject to the Educational Entity's documented district policy or collective bargaining agreement. Coverage is based on the OEBB dental plans that the Educational Entity offers to retired OEBB Medicare-eligible individuals.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 2-2007(Temp), f. & cert. ef. 9-21-07 thru 3-18-08; OEBB 7-2008, f. & cert. ef. 4-15-08; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 15-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 1-2010, f. & cert. ef. 2-1-10; OEBB 13-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11; OEBB 18-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12

111-050-0025

Effective Dates

(1) Benefit plan changes or initial elections, unless otherwise specified in a collective bargaining agreement or documented district policy in effect on June 30, 2008, are effective on the later of:

(a) The first of the month following a completed online enrollment in the OEBB benefit management system or submission of a paper enrollment or change form,

(b) The first of the month following the date of eligibility; or
(c) The first of the month following the approval date of additional optional life insurance requested above the guarantee issue amount.

(2) Covered dependent changes are effective the first of the month following the date of the event causing the dependent to be eligible under OEBB administrative rules with the following exceptions:

(a) Coverage for a newborn child is effective on the date of birth. Retired eligible employee must add the newborn child to their benefit plans within 60 calendar days from the date of birth for the newborn child to be eligible for benefit coverage.

(b) Coverage for a newly adopted child is effective the date of the adoption decree or date of placement for adoption. Retired eligible employee must add the adopted child to their benefit plans within 60 calendar days from the date of the decree or placement for the newly adopted child to be eligible for benefit coverage; and

(A) The retired eligible employee must submit the adoption agreement with the enrollment forms to the Educational Entity.

(B) Claims payments will not be made for expenses incurred prior to the date of decree or placement.

(c) Coverage for an eligible grandchild is as follows:

(A) If the legal guardianship is finalized within the first 60 days following the birth of the grandchild, coverage will be effective retroactive to the date of the birth.

(B) If the legal guardianship is finalized 61 or more days from the date of birth of the grandchild, the coverage will be effective the first of the month following the date the guardianship documents are finalized.

(C) If the legal guardianship is finalized 61 or more days from the date of birth of the grandchild, and the effective date of legal guardianship is retroactive to the grandchild's date of birth, coverage will be effective retroactive to the date of birth.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 15-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 1-2010, f. & cert. ef. 2-1-10; OEBB 10-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11; OEBB 18-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12

111-050-0030

Correcting Enrollment and Processing Errors

(1) Employee Enrollment Errors. Enrollment errors occur when a retired eligible employee provides incorrect information or fails to make correct selections when making benefit plan changes. The retired eligible employee is responsible for identifying enrollment errors or omissions.

(a) OEBB authorizes Educational Entities to correct enrollment errors reported by the retired eligible employee within 60 calendar days of the original eligibility date, annual plan change period end date, or Qualified Status Change date.

(b) Enrollment errors identified after 60 calendar days of the eligibility date, annual plan change period end date or Qualified Status Change date must be submitted to OEBB for review and approval based on OAR 111-080-0030.

(2) Benefit Administrator Processing Errors. Processing errors or omissions occur when benefit plan changes are processed incorrectly in the benefit system.

(a) OEBB authorizes Educational Entities to correct processing errors identified within 60 calendar days of the eligibility date, annual plan change period end date, or Qualified Status Change date. The Educational Entities must reconcile all premium discrepancies.

(b) Processing errors identified after 60 calendar days of the eligibility date, annual plan change period end date, or Qualified Status Change date must be submitted to OEBB for review and approval based on OAR 111-080-0030. If approved, corrections are retroactive to the original effective date as identified in 111-040-0001. The Educational Entity must reconcile all premium discrepancies within 30 calendar days of any adjustments made in the system.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 10-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 13-2010(Temp), f.

ADMINISTRATIVE RULES

9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11; OEBB 18-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12

111-050-0045

Termination Dates

(1) Effective October 1, 2011, if retired eligible employee requests a termination of coverage for themselves, a spouse, a domestic partner, or a child, coverage ends on the last day of the month that eligibility is lost. Requests for coverage termination must be made consistent with a Qualifying Event, as defined by 111-040-0040. Retroactive termination of coverage may be made in the event of a delay in the Educational Entities' administrative process.

(2) Effective October 1, 2011, benefit coverage termination that is considered by OEBB to be intentional misrepresentation may be rescinded in compliance with the law. If this occurs, OEBB shall give the affected individual 30 days notice of the rescission of benefit coverage and an opportunity to appeal before the rescission takes effect.

(3) Benefit coverage for a spouse, domestic partner, or child ends on the last day of the month that a retired eligible employee dies, unless otherwise determined by a collective bargaining agreement or documented district policy in effect on June 30, 2008.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 13-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11; OEBB 18-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12

111-050-0050

Removing an Ineligible Individual from Benefit Plans

(1) A retired eligible employee is responsible for removing ineligible spouses, domestic partners and children from their OEBB-sponsored benefit plans by submitting completed, applicable forms to their Educational Entity benefits administrator within 31 calendar days after the date the individual becomes ineligible. Coverage ends on the date identified under OAR 111-050-0045.

(2) A retired eligible employee ending a domestic partnership must complete and submit a Termination of Domestic Partnership form and enrollment update forms to the Educational Entity benefits administrator within 31 calendar days after the event for removal of the domestic partner and domestic partner's dependent children from their benefit plan. Benefit coverage for the domestic partner and domestic partner's dependent children ends on the date identified in OAR 111-050-0045.

(3) An Educational Entity is responsible for removing ineligible individuals from the OEBB benefits management system. The Educational Entity must complete such removal within 14 calendar days after:

- (a) An event resulting in loss of the retired employee's eligibility, or
- (b) The receipt of notification of an event resulting in loss of eligibility of the retired employee's spouse, domestic partner or child.

(4) If coverage of an employee's spouse, domestic partner or child is terminated retroactively then:

(a) The retired eligible employee may be responsible for claims previously paid by the benefit plans to the providers during the period of ineligibility at the carrier's discretion; and

(b) Premium adjustments will be made retroactively based on the coverage end date.

(5) OEBB shall conduct audits to monitor compliance with OEBB administrative rules governing eligibility and enrollment.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 10-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 13-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11; OEBB 18-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12

Rule Caption: Amendments to the overpayment and underpayment rule.

Adm. Order No.: OEBB 19-2011(Temp)

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 10-1-11 thru 3-29-12

Notice Publication Date:

Rules Amended: 111-080-0005

Subject: OAR 080-0005 is amended to update the rule due to changes in the OEBB contracts with the insurance carriers.

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

111-080-0005

Overpayments and Underpayments

(1) For the purpose of this rule:

(a) "Overpayment" means the amount of a Participating District's monthly payment to OEBB that exceeded the amount due.

(b) "Underpayment" means a payment submitted by a Participating District that is less than the invoiced amount.

(2) Participating Districts seeking a refund of overpayments must:

(a) Notify OEBB within 90 calendar days from the date overpayment occurred;

(b) OEBB will resolve member overpayments by requesting a refund from the carrier in accordance with the law. The carrier shall refund the premium to OEBB back to the date of the termination or the date allowed by law for recoupment of paid claims.

(c) OEBB will generally reimburse Participating District overpayments through adjustments to future monthly payments.

(3) The Participating District shall submit any underpayment to OEBB as soon as it is discovered.

(4) OEBB reserves the right to issue surcharges or use other appropriate means for Participating District's that submit underpayments.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(a)

Hist.: OEBB 11-2008(Temp), f. & cert. ef. 8-13-08 thru 2-6-09; OEBB 4-2009, f. & cert. ef. 1-30-09; OEBB 19-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12

Rule Caption: Revised language to include definitions for a new benefit offering.

Adm. Order No.: OEBB 20-2011

Filed with Sec. of State: 10-13-2011

Certified to be Effective: 10-14-11

Notice Publication Date: 9-1-2011

Rules Amended: 111-010-0015

Subject: The revisions to OAR 111-010-0015 include revised and new definitions for a new benefit offering, health savings accounts (HSAs) beginning October 1, 2011. The revisions include adding "Employee Assistance Program Plans" as defined under "Benefit plan" and also defining "Flexible benefit plan".

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

111-010-0015

Definitions

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

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

(2) "Adverse Benefit Determination" means a denial, reduction, or termination of, or a failure to provide or make payment (in whole or in part), for a benefit, including any such denial, reduction, termination, or failure to provide or make payment that is based on but not limited to:

(A) A determination of a member's eligibility to participate in the plan;

(B) A determination that the benefit is not a covered benefit; or

(C) A rescission of coverage, whether or not, in connection with rescission, there is an adverse effect on any particular benefit.

(3) "Affidavit of Domestic Partnership" means a document that attests the eligible employee and one other eligible individual meet the criteria in section (15)(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) Employee Assistance Program Plans;

(g) Supplemental medical, dental and vision;

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

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

(j) Self insurance programs managed by the Board.

(5) "Benefits" means goods and services provided under benefit plans.

ADMINISTRATIVE RULES

(6) "Board" means the ten-member board established in the Department of Administrative Services as the Oregon Educators Benefit Board under chapter 00007, Oregon Laws 2007.

(7) "Child" means and includes the following:

(a) An eligible employee's, spouse's, or domestic partner's biological son, daughter, stepson, or stepdaughter; adopted child, child placed for adoption, or legally placed child, who is 25 or younger on the first day of the month. An eligible employee must provide the required custody or legal documents to their Educational Entity showing proof of adoption, legal guardianship or other court order if enrolling a child for whom the employee, spouse, or domestic partner is not the biological parent

(b) A person who is incapable of self-sustaining employment because of a developmental disability, mental illness, or physical disability. There is no age limit for a dependent child who is incapable of self-sustaining employment because of a developmental disability, mental illness, or physical disability. When the dependent child is 26 years of age or older all the following requirements must be met:

(A) The disability must have existed before attaining age 26.

(B) The employee must provide evidence to the Educational Entity or OEBB that (1) the person had health plan coverage, group or individual, prior to attaining age 26, and (2) health plan coverage continued without a gap until the OEBB health plan effective date.

(C) The person's attending physician must submit documentation of the disability to the eligible employee's OEBB health insurance plan for review and approval. If the person receives health plan approval, the health plan may review the person's health status at any time to determine continued OEBB coverage eligibility.

(D) The person must not have terminated from OEBB health plan coverage after attaining the age of 26.

(c) Eligibility for coverage under this rule includes people who may not be dependents under federal or state tax law and may require an Educational Entity to adjust an Eligible Employee's income based on the imputed value of the benefit.

(8) "Comparable cost (Medical, Dental and Vision)" means that the total cost to a district for enrollment in OEBB plans comparable in design to the district's plan(s) do not exceed the total cost to a district for enrollment in the district's plan(s) using the rate(s) in effect or proposed for the benefit plan year.

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

(10) "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.

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

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

(13) "Dependent" means and includes the Employee's Spouse or Domestic Partner, or child as defined by OAR 111-010-0010(7) or other person having a relation to the subscriber as defined by the Contractor.

(14) "Documented district policies" means Educational Entities' policies and practices that apply to an employee group and are submitted to the Oregon Educators Benefit Board during the plan selection process. Educational Entities' policies and practices must be identified and submitted with the applicable employee group plan selections.

(15) "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 immediately preceding the date the Affidavit of Domestic Partnership is signed and submitted to the Educational Entity; 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.

(G) The eligible employee and domestic partner must jointly complete and submit to the Educational Entity an Affidavit of Domestic Partnership form, within five business days of the electronic enrollment date or the date the Educational Entity received the enrollment/change form. If the affidavit is not received, coverage will terminate for the domestic partner retroactive to the effective date.

(c) The domestic partner must notify the Educational Entity within 31 days of meeting all criteria as defined in 111-010-0015(15)(b) or obtaining the "Declaration of Domestic Partnership" which is recognized under Oregon law.

(d) Educational Entities' must calculate and apply applicable imputed value tax for domestic partners covered under OEBB benefit plans.

(16) "Educational Entity" means public school districts (K-12), education service districts (ESDs), community colleges and public charter schools participating in OEBB.

(17) "Eligible employee" means and includes:

(a) "Active eligible employee" means an employee of an OEBB participating organization who is:

(A) Employed or is in a job-sharing position on a half time or greater basis; or

(B) Meets the definition of an eligible employee under a separate OEBB rule or under a collective bargaining agreement or documented district policy in effect on January 31, 2008; or

(C) An employee of a community college who is covered under a collectively bargained contract and has worked a class load of between 25 percent and 49 percent for a minimum period of two years and is expected to continue to work a class load of at least 25 percent. Coverage is limited to medical to include Kaiser Medical Plan 1A (where available), ODS Medical Plan 8 (with Plan C pharmacy) and ODS Medical Plan 9. The tiered rate structure will apply to all medical plans.

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

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

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

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

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

(18) "Employee Group" means employees of a similar employment type, for example administrative, represented classified, non-represented classified, confidential, represented licensed, or non-represented licensed, within an Educational Entity. If one or more collective bargaining unit exists within an employee group, each unit will be considered a separate employee group.

(19) "Flexible benefit plan" includes plans that allow contributions on a tax-favored basis including health savings accounts.

(20) "Members" means and includes the following:

(a) "Eligible employee" as defined by OAR 111-010-0015(17)

(b) "Child" as defined by OAR 111-010-0015(7)

(c) "Domestic Partner" as defined by OAR 111-010-0015(15)

(d) "Spouse" as defined by OAR 111-010-0015(26)

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

ADMINISTRATIVE RULES

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

(23) "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).

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

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

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

(c) Can provide comparable plan designs at a comparable cost as defined by sections (8) and (10) of this Rule.

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

(26) "Spouse" means a person of the opposite sex who is a husband or wife. Except as provided in Oregon Constitution Article XV, Section 5a, a relationship recognized as a marriage in another state will be recognized in Oregon even though such a relationship would not be a marriage if the same facts had been relied upon to create a marriage in Oregon. The definition of spouse does not include a former spouse and a former spouse does not qualify as a dependent.

(27) "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 plan designs at a comparable cost as defined by sections (8) and (10) of this Rule.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.860(1)(a)

Hist.: OEBB 2-2007(Temp), f. & cert. ef. 9-21-07 thru 3-18-08; OEBB 2-2008, f. & cert. ef. 1-4-08; OEBB 10-2008(Temp), f. & cert. ef. 8-13-08 thru 2-6-09; OEBB 1-2009, f. & cert. ef. 1-30-09; OEBB 5-2009(Temp), f. & cert. ef. 3-10-09 thru 9-4-09; OEBB 8-2009, f. & cert. ef. 5-1-09; OEBB 12-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 19-2009, f. & cert. ef. 12-17-09; OEBB 7-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 11-2010(Temp), f. & cert. ef. 10-1-10 thru 1-29-11; OEBB 1-2011, f. & cert. ef. 2-11-11; OEBB 6-2011(Temp), f. & cert. ef. 2-15-11 thru 8-13-11; OEBB 14-2011, f. & cert. ef. 8-2-11; OEBB 15-2011(Temp), f. & cert. ef. 8-2-11 thru 1-28-12; OEBB 16-2011(Temp), f. & cert. ef. 10-1-11 thru 1-28-12; OEBB 20-2011, f. & cert. ef. 10-13-11, cert. ef. 10-14-11

Rule Caption: Adopts language for a new benefit offering, health savings accounts, in plan design development and selection.

Adm. Order No.: OEBB 21-2011

Filed with Sec. of State: 10-13-2011

Certified to be Effective: 10-14-11

Notice Publication Date: 9-1-2011

Rules Adopted: 111-030-0046

Rules Repealed: 111-030-0046(T)

Subject: Beginning October 1, 2011, OEBB will be offering health savings accounts (HSAs) as a new benefit offering. 111-030-0046 includes language on this new benefit offering.

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

111-030-0046

Development of Health Savings Accounts (HSA)

(1) Effective October 1, 2011, OEBB will offer the use of an employer sponsored vendor for Health Savings Accounts (HSA). For purposes of this rule, an HSA vendor will be considered employer sponsored if the Educational Entity offers:

(A) Employer contributions to the HSA; or

(B) Pre-tax or direct deposit of employee contributions to the HSA.

(2) If an Educational Entity chooses to offer an employer sponsored HSA, the Educational Entity may offer this plan through the OEBB-contracted HSA.

(3) Educational Entities may select or allow the HSA option to be available to eligible employees who enroll in OEBB's high-deductible health plan (HDHP) option (currently Medical Plan 9).

(4) Eligible employees who are eligible to enroll in an HSA, and choose the employer sponsored HSA vendor, may do so directly through the HSA vendor or their Educational Entity.

(5) Eligible employees must meet requirements established by the Internal Revenue Service (IRS) to qualify for enrollment in an HSA. Once enrolled in an HSA, members are responsible to adhere to tax requirements of the IRS.

(6) Because IRS requirements for an individual to qualify for enrollment in an HSA include concurrent enrollment in a high-deductible health

plan (HDHP), an Educational Entity that offers an employer sponsored HSA must offer its employees the choice of a HDHP option from among OEBB's medical plans (currently Medical Plan 9). If an employee is enrolled in an OEBB medical plan that is not an HDHP option, the employee may not enroll in the OEBB HSA.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.874(5)

Hist.: OEBB 13-2011(Temp), f. & cert. ef. 8-2-11 thru 1-28-12; OEBB 21-2011, f. 10-13-11, cert. ef. 10-14-11

Oregon Health Authority, Public Employees' Benefit Board Chapter 101

Rule Caption: Repeal of PEBS OAR 101-015-0025.

Adm. Order No.: PEBS 4-2011

Filed with Sec. of State: 9-29-2011

Certified to be Effective: 9-29-11

Notice Publication Date: 9-1-2011

Rules Repealed: 101-015-0025

Subject: Repeals OAR 101-015-0025/Domestic Partnerships, which was made redundant by adoption of OAR 101-015-0026, which was adopted Jan. 1, 2011.

Rules Coordinator: Cherie Taylor—(503) 378-6296

Oregon Health Authority, Public Health Division Chapter 333

Rule Caption: Updating rules for Medical Marijuana pertaining to registration fees and adding new fee charges.

Adm. Order No.: PH 8-2011

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 10-1-11

Notice Publication Date: 9-1-2011

Rules Amended: 333-008-0010, 333-008-0020, 333-008-0025, 333-008-0030, 333-008-0040, 333-008-0045, 333-008-0050, 333-008-0060, 333-008-0070, 333-008-0080, 333-008-0120

Subject: The Oregon Health Authority, Public Health Division, Oregon Medical Marijuana Program is permanently amending administrative rules in chapter 333, division 8. The 2011 Legislative Assembly adopted a Public Health budget that requires an increase in fees charged to OMMP applicants as well as an additional fee for growers to generate revenue to fund other public health programs. The new fees will be implemented beginning October 1, 2011. The current administrative rule does not require a fee for the growers in order for an applicant or grower to obtain an OMMP registry identification card. The Oregon Medical Marijuana Act (OMMA) mandates the Authority to adopt a fee structure in rules. In order to comply with the OMMA and legislative direction, the OMMP must amend its rules to increase the application fee, the replacement card fee, add a grow site fee, and also, to add definitions to clarify new terms and meanings for Authority, food stamps, grow site, and replacement registry identification card which are provisions in the rule that are not defined.

Rules Coordinator: Brittany Sande—(971) 673-1291

333-008-0010

Definitions

For the purposes of OAR 333-008-0000 through 333-008-0120, the following definitions apply:

(1) "Act" means the Oregon Medical Marijuana Act.

(2) "Applicant" means a person applying for an Oregon Medical Marijuana registry identification card on a form prescribed by the Authority.

(3) "Attending physician" means a Doctor of Medicine (MD) or Doctor of Osteopathy (DO), licensed under ORS Chapter 677, who has primary responsibility for the care and treatment of a person diagnosed with a debilitating medical condition.

(4) "Authority" means the Oregon Health Authority.

(5) "Debilitating medical condition" means:

ADMINISTRATIVE RULES

(a) Cancer, glaucoma, agitation due to Alzheimer's disease, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, or treatment for these conditions;

(b) A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:

(A) Cachexia;

(B) Severe pain;

(C) Severe nausea;

(D) Seizures, including but not limited to seizures caused by epilepsy; or

(E) Persistent muscle spasms, including but not limited to spasms caused by multiple sclerosis; or

(c) Any other medical condition or treatment for a medical condition adopted by the Authority by rule or approved by the Authority pursuant to a petition submitted under OAR 333-008-0090.

(6) "Delivery" means the actual, constructive or attempted transfer, other than by administering or dispensing, from one person to another of a controlled substance, whether or not there is an agency relationship, but does not include transfer of marijuana from one patient to another patient if no consideration is paid for the transfer.

(7) "Designated primary caregiver" means an individual 18 years of age or older who has significant responsibility for managing the well-being of a person who has been diagnosed with a debilitating medical condition and who is designated as such on that person's application for a registry identification card or in other written notification to the Authority. "Designated primary caregiver" does not include the person's attending physician.

(8) "Food stamps" means the Supplemental Nutrition Assistance Program as defined and governed by ORS 411.806 through 411.845.

(9) "Grow site" means a specific location used by the grower to produce marijuana for medical use by a specific patient.

(10) "Grow site registration card" means the card issued to the patient and displayed at the grow site.

(11) "Grower" has the same meaning as "person responsible for a marijuana grow site."

(12) "Immature plant" has the same meaning as "seedling or start."

(13) "Marijuana" means all parts of the plant Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(14) "Mature plant" means a marijuana plant that does not fall within the definition of a seedling or a start.

(15) "Medical use of marijuana" means the production, possession, delivery, or administration of marijuana, or paraphernalia used to administer marijuana, as necessary for the exclusive benefit of a person to mitigate the symptoms or effects of his or her debilitating medical condition.

(16) "Oregon Health Plan (OHP)" means the medical assistance program administered by the Authority under ORS Chapter 414.

(17) "OMMP" refers to the office within the Authority that administers the provisions of the OMMA, and all policies and procedures pertaining thereto, as set forth in these rules.

(18) "Parent or legal guardian" means the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age.

(19) "Patient" has the same meaning as "registry identification cardholder."

(20) "Person responsible for a marijuana grow site" means a person who has been selected by a patient to produce medical marijuana for the patient, and who has been registered by the Authority for this purpose.

(21) "Primary responsibility" as that term is used in relation to an attending physician means that the physician:

(a) Provides primary health care to the patient; or

(b) Provides medical specialty care and treatment to the patient as recognized by the American Board of Medical Specialties; or

(c) Is a consultant who has been asked to examine and treat the patient by the patient's primary care physician licensed under ORS Chapter 677, the patient's physician assistant licensed under ORS Chapter 677, or the patient's nurse practitioner licensed under ORS Chapter 678; and,

(d) Has reviewed a patient's medical records at the patient's request and has conducted a thorough physical examination of the patient, has pro-

vided or planned follow-up care, and has documented these activities in the patient's medical record.

(22) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(23) "Registry identification card" means a document issued by the Authority that identifies a person authorized to engage in the medical use of marijuana, and the person's designated primary caregiver, if any.

(24) "Registry identification cardholder" means a person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical marijuana may mitigate the symptoms or effects of the person's debilitating medical condition, and who has been issued a registry identification card by the Authority.

(25) "Replacement registry identification card" means a new card issued in the event that a registry identification cardholder's card, designated primary caregiver identification card, grower identification card, or grow site registration card is lost or stolen, or if a registry identification cardholder's designation of primary caregiver, grower, or grow site has changed.

(26) "Seedling or start" means a marijuana plant that has no flowers, is less than 12 inches in height, and less than 12 inches in diameter. A seedling or start that does not meet all three criteria shall be considered a mature plant.

(27) "Supplemental Security Income (SSI)" means the monthly benefit assistance program administered by the federal government for persons who are age 65 or older, or blind, or disabled and who have limited income and financial resources.

(28) "Usable marijuana" means the dried leaves and flowers of the plant Cannabis family Moraceae and any mixture or preparation thereof, that are appropriate for medical use. "Usable marijuana" does not include the seeds, stalks and roots of the plant.

(29) "Written documentation" means a statement signed and dated by the attending physician of a person diagnosed with a debilitating medical condition or copies of the person's relevant medical records, maintained in accordance with standard medical record practices.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 15-1998(Temp), f. & cert. ef. 12-24-98 thru 6-22-99; OHD 3-1999, f. & cert. ef. 4-29-99; OHD 13-2000(Temp), f. & cert. ef. 12-21-00 thru 6-15-01; OHD 18-2001, f. & cert. ef. 8-9-01; OHD 19-2001(Temp), f. & cert. ef. 8-10-01 thru 1-31-02; Administrative correction 3-14-02; OHD 6-2002, f. & cert. ef. 3-25-02; PH 9-2003, f. 6-26-03, cert. ef. 7-1-03; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 21-2010, f. & cert. ef. 9-13-10; PH 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11

333-008-0020

New Registration Application and Verification

(1) A person may apply for a registry identification card on forms prescribed by the Authority. In order for an application to be considered complete, an applicant must submit the following:

(a) An application form signed and dated by the applicant;

(b) Copies of legible and valid U.S. state or federal issued photographic identification that includes last name, first name, and date of birth from the applicant, the designated primary caregiver, and grower, as applicable. Acceptable forms of current U.S. state or federal issued photographic identification include but are not limited to:

(A) Driver's license;

(B) State identification card;

(C) Passport; or

(D) Military identification card.

(c) Written documentation, which may consist of relevant portions of the applicant's medical record, signed by the applicant's attending physician within 90 days of the date of receipt by the Authority, which describes the applicant's debilitating medical condition and states that the use of marijuana may mitigate the symptoms or effects of the applicant's debilitating medical condition;

(d) If applicable, a completed and notarized "Declaration of Person Responsible for Minor" form for any person under 18 years of age, signed and dated by the person responsible for the minor;

(e) The name of a designated primary caregiver, if any, and one designated grower (either the patient or another person) and the location of the grow site; and

(f) An application fee and grow site registration fee, if applicable, in the form of cash, bank check, money order, or personal check.

(2) The Authority shall process an application prior to issuing registry identification cards to assure that the application is complete and information provided has been verified.

(a) The Authority shall only accept applications that are mailed or are hand-delivered.

ADMINISTRATIVE RULES

(b) If an applicant does not provide all the information required and the application is considered incomplete, the Authority shall notify the applicant of the information that is missing, and shall allow the applicant 14 days to submit the missing information.

(c) If an applicant does not provide the information necessary to declare an application complete, or to complete the verification process within the timelines established in subsections (2)(b) and (3)(e) of this rule, the application shall be rejected as incomplete. An applicant whose application is rejected as incomplete may reapply at any time. If an applicant submits an application fee and the application is subsequently denied or rejected, the application fee may be applied toward a new application submitted within one year of the denial or rejection date.

(d) The Authority may reject an application if the application or supporting documents appear to be altered (e.g., writing is whited out). An application shall be denied in accordance with OAR 333-008-0030 if an application or supporting documents are determined to have been falsified.

(e) The Authority may verify information on each application and accompanying documentation, including:

(A) Contacting each applicant by telephone or by mail. If proof of identity is uncertain, the Authority may require a face-to-face meeting and may require the production of additional identification materials;

(B) Contacting a minor's parent or legal guardian;

(C) Contacting the Oregon Medical Board to verify that an attending physician is licensed to practice in the state and is in good standing;

(D) Contacting the attending physician to request further documentation to support a finding that the physician is the applicant's attending physician. The Authority shall notify the applicant of the intent to review the medical records and request the applicant's authorization to conduct the review. Failure to authorize a review of medical records may result in the application being declared incomplete, or denial of an application. If the Authority is unable to verify that the applicant's attending physician meets the definition under OAR 333-008-0010(3) the applicant will be allowed 30 days to submit written documentation or a new attending physician's declaration from a physician meeting the requirements of these rules. Failure to submit the required attending physician documentation is grounds for denial under ORS 475.309 and OAR 333-008-0030;

(E) Contacting the Division of Medical Assistance Programs, Department of Human Services-Self Sufficiency, or the Social Security Administration (SSA) to verify eligibility for benefits; and

(F) Conducting a criminal records check under ORS 181.534 of any person whose name is submitted as a grower.

(3) Application fees.

(a) A non-refundable application fee of \$200 is required at the time of application.

(b) If applicable as specified in OAR 333-008-0025, a non-refundable grow site registration fee of \$50 is required at the time of application.

(c) An applicant who can prove he or she is an Oregon resident and can demonstrate current receipt of SSI benefits, current eligibility for OHP benefits or current receipt of food stamp benefits through the Oregon SNAP program, qualifies for a reduced non-refundable application fee.

(A) Proof of residency may be shown through provision of:

(i) A current Oregon driver's license or Oregon issued identification card; and

(ii) A utility bill, mortgage statement, lease payment statement or lease agreement for the previous month with the applicant's name and an Oregon physical address.

(B) An applicant demonstrating receipt of SSI benefits by providing a copy of a current monthly SSI benefit card showing dates of coverage is entitled to a reduced application fee of \$20.

(C) An applicant demonstrating current eligibility for OHP benefits by providing a copy of the applicant's current eligibility statement is entitled to a reduced application fee of \$100.

(D) An applicant demonstrating receipt of current food stamp benefits, verified by enrollment in Oregon's Food Stamp Management Information System database system and by providing current proof of his or her food stamp benefits, is entitled to a reduced application fee of \$100.

(d) The Authority shall place a 10-day hold on the issuance of a registry identification card for an application accompanied by a personal check. Upon receipt by the Authority of a notice of non-sufficient funds (NSF) or stop payment, an applicant will be allowed 14 days to submit payment in the form of a bank check or cash. Application fees paid in the form of cash must be hand-delivered. Applicants are advised not to make payments in cash through the United States mail or private delivery services. The Authority will not accept responsibility for payments of cash that are lost in the mail or stolen in transit.

(e) The Authority shall notify an applicant who submits a reduced application fee for which the applicant is not eligible and will allow the applicant 14 days from the date of notice to pay the correct application fee and submit a current valid proof of eligibility.(4) The application forms referenced in this rule may be obtained by contacting the: Oregon Medical Marijuana Program (OMMP) at PO Box 14450, Portland, OR 97293-0450 or calling 971-673-1234.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; OHD 13-2000(Temp), f. & cert. ef. 12-21-00 thru 6-15-01; OHD 18-2001, f. & cert. ef. 8-9-01; OHD 19-2001(Temp), f. & cert. ef. 8-10-01 thru 1-31-02; Administrative correction 3-14-02; OHD 6-2002, f. & cert. ef. 3-25-02; PH 9-2003, f. 6-26-03, cert. ef. 7-1-03; PH 38-2004, f. 12-22-04, cert. ef. 1-1-05; PH 17-2005, f. 11-25-05, cert. ef. 12-1-05; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 14-2010(Temp), f. & cert. ef. 7-6-10 thru 12-31-10; PH 27-2010, f. & cert. ef. 12-28-10; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11

333-008-0025

Marijuana Grow Site Registration

(1) A patient must register a marijuana grow site with the Authority. The Authority will register only one grow site per patient, and will only register grow sites in Oregon.

(2) To register a marijuana grow site, an applicant or patient must submit to the Authority an application, prescribed by the Authority, that includes:

(a) The name of the grower;

(b) The date of birth of the grower;

(c) The physical address of the marijuana grow site where marijuana is to be produced;

(d) The mailing address of the grower;

(e) The registry identification card number of the patient, if known, for whom the marijuana is being produced; and

(f) A non-refundable grow site registration fee of \$50 in the form of cash, bank check, money order, or personal check. If the grower is the applicant, he or she is not required to pay the grow site registration fee. The Authority shall place a 10-day hold on the issuance of a registry identification card for an application accompanied by a personal check. Upon receipt by the Authority of a notice of non-sufficient funds (NSF) or stop payment, an applicant will be allowed 14 days to submit payment in the form of a bank check or cash. Application fees paid in the form of cash must be hand-delivered. Applicants are advised not to make payments in cash through the United States mail or private delivery services. The Authority will not accept responsibility for payments of cash that are lost in the mail or stolen in transit.

(3) The Authority shall conduct a criminal background check on the grower as authorized under ORS 475.304.

(a) A person convicted of a Class A or Class B felony under ORS 475.840 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, if the offense occurred on or after January 1, 2006, may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder for five years from the date of conviction.

(b) A person convicted more than once of a Class A or Class B felony under ORS 475.840 to 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, if the offenses occurred after January 1, 2006, may not be issued a marijuana grow site registration card or produce marijuana for a registry identification cardholder.

(c) The Authority shall notify a patient by certified mail that the grower is ineligible and the patient will be allowed the opportunity to identify another grower.

(4) The Authority shall issue a marijuana grow site registration card to a patient who has met the requirements of section (2) of this rule, unless the grower is disqualified under section (3) of this rule.

(5) A grower must display a marijuana grow site registration card for each patient for whom marijuana is being produced, at the marijuana grow site at all times.

(6) All usable marijuana, plants, seedlings and seeds, associated with the production of marijuana for a patient by a grower, are the property of the patient and must be provided to the patient upon request.

(7) All marijuana produced for a patient must be provided to the patient or designated primary caregiver when the grower ceases producing marijuana for the patient.

(8) A grower must return the grow site registration card to the patient to whom the card was issued when requested to do so by the patient or when the grower ceases producing marijuana for the patient.

(9) A patient or the designated primary caregiver of the patient may reimburse the grower for the costs of supplies and utilities associated with production of marijuana for patient. No other costs associated with the pro-

ADMINISTRATIVE RULES

duction of marijuana for the patient, including the cost of labor, may be reimbursed.

(10) A grower may produce marijuana for no more than four patients or designated primary caregivers concurrently.

Stat.Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11

333-008-0030

Registration Approval and Denial

(1) The Authority shall approve or deny an application within 30 days of receiving a complete application, including payment of the designated fee.

(2) If the Authority approves the application, the Authority shall issue a serially numbered registry identification card to the patient within five business days. The registry identification card shall include, but is not limited to:

(a) The patient's name, address, and date of birth;

(b) The effective date, date of issuance, and expiration date of the registry identification card;

(c) The designated primary caregiver's name, address, and date of birth, if applicable;

(d) The name, address, and date of birth of the grower, if applicable; and

(e) The location where the marijuana is produced.

(3) When a patient has specified a designated primary caregiver, or a grower, the Authority shall issue an OMMP registry identification card for the designated primary caregiver and the grower. The Authority shall also issue a grow site registration card to the patient. All cards shall contain the information specified in section (2) of this rule, as appropriate.

(4) The Authority may deny an application if:

(a) The applicant did not provide the information required as provided in ORS 475.309 to establish the applicant's debilitating medical condition and to document the applicant's consultation with an attending physician regarding the medical use of marijuana in connection with such condition;

(b) The Authority determines that the information provided was falsified;

(c) The applicant has been prohibited by a court order from obtaining a registry identification card; or

(d) An applicant has willfully violated the provisions of ORS 475.300 to 475.346 or these rules.

(5) If the Authority denies an application, the Authority shall send the applicant a denial letter within 30 days of receipt of the complete application. The time period set forth in OAR 333-008-0020 that provides an applicant an opportunity to supplement an incomplete application does not count towards the 30-day deadline for processing an application. The denial letter will be sent by certified mail to the address listed on the application form. The letter will state the reasons for denial and when the applicant may reapply.

(6) Denial of a registry identification card shall be considered a final Authority action, subject to judicial review. Only the person whose application has been denied, or, in the case of a person under the age of 18 whose application has been denied, the person's parent or legal guardian shall have standing to contest the Authority's action.

(7) Any person whose application has been denied may not reapply for at least six months from the date of the denial, unless so authorized by the Authority or a court of competent jurisdiction.

(8) If a patient registry identification card, a designated primary caregiver identification card, or a grower registry identification card or grow site registration card has been lost or stolen, the fee to receive a replacement card is \$100. If the patient qualifies for the reduced application fee of \$20, the fee to receive any of the replacement cards is \$20.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; OHD 18-2001, f. & cert. ef. 8-9-01; OHD 19-2001(Temp), f. & cert. ef. 8-10-01 thru 1-31-02; OHD 21-2001(Temp), f. & cert. ef. 10-12-01 thru 1-31-02; Administrative correction 3-14-02; OHD 6-2002, f. & cert. ef. 3-25-02; PH 12-2004(Temp), f. & cert. ef. 4-1-04 thru 8-2-04; Administrative correction 8-19-04; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 21-2010, f. & cert. ef. 9-13-10; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11

333-008-0040

Annual Renewal

(1) A patient shall register on an annual basis to maintain active registration status by submitting a renewal application prescribed by the

Authority. A renewal application shall be submitted by mail or in person at the OMMP office.

(2) Between 60 to 90 calendar days prior to expiration, the Authority shall mail to the patient's address of record, a letter notifying the patient of the upcoming expiration date, along with a renewal application.

(3) In addition to completing the renewal application, the patient must submit, prior to the expiration of the registry identification card:

(a) Written documentation, signed by the patient's attending physician within 90 days prior to the expiration date of the patient's current card, reconfirming the patient's debilitating medical condition and that the medical use of marijuana mitigates the symptoms of the patient's debilitating medical condition; and

(b) The information and fees required in OAR 333-008-0020. A patient applying for renewal may qualify for a reduced application fee if the applicant meets the criteria set forth in OAR 333-008-0020.

(4) If the renewal information is not received by the expiration date on the registry identification card, the patient's registry identification card and all other associated OMMP cards, if any, shall be deemed expired. The expiration date may be extended, due to personal hardship, at the discretion of the Authority. If a person fails to apply for renewal within the time period specified in this rule, that person must submit a new application.

(5) The Authority shall verify the renewal application information in the same manner as specified in OAR 333-008-0020.

(6) The Authority may reject a renewal application if the application or supporting documents appear to be altered (e.g., writing is whited out). An application shall be denied in accordance with OAR 333-008-0030 if an application or supporting documents are determined to have been falsified.

Stat. Auth.: ORS 475.309 & 475.312

Stats. Implemented: ORS 475.309 & 475.312

Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; PH 9-2003, f. 6-26-03, cert. ef. 7-1-03; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 21-2010, f. & cert. ef. 9-13-10; PH 27-2010, f. & cert. ef. 12-28-10; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11

333-008-0045

Interim Changes

(1) A patient shall notify the Authority within 30 calendar days of any change in the patient's name, address, telephone number, attending physician, designated primary caregiver, grower or grow site address.

(2) A patient shall notify the designated primary caregiver and the grower of any changes in status including, but not limited to:

(a) The assignment of another individual as the designated primary caregiver for the patient;

(b) The assignment of another individual as a grower for the patient; or

(c) The end of eligibility of the patient to hold a registry identification card.

(3) If the Authority is notified by the patient that a designated primary caregiver or a grower has changed, the Authority shall notify the designated primary caregiver or the grower by mail at the address of record confirming the change in status and informing the caregiver or grower that their card is no longer valid and must be returned to the Authority within seven calendar days.

(4) A patient who has been diagnosed by an attending physician as no longer having a debilitating medical condition or whose attending physician has determined that the medical use of marijuana is contraindicated for the patient's debilitating medical condition shall return the registry identification card and all associated OMMP cards to the Authority within 30 calendar days of notification of the diagnosis or notification of the contraindication. If, due to circumstances beyond control of the patient he or she is unable to obtain a second medical opinion about the patient's continuing eligibility to use medical marijuana before the 30-day period has expired, the Authority may grant the patient additional time to obtain a second opinion before requiring the patient to return the registry identification card and all associated cards.

(5) Change forms may only be submitted to the Authority via mail or in person at the OMMP office.

(6) If a patient's designated primary caregiver, grower or grow site has changed, the fee to receive a replacement card is \$100. If the patient qualifies for the reduced application fee of \$20, the fee to receive any replacement card is \$20.

(7) If a patient is registering a new grow site at any time other than when submitting a new application or a renewal application, a grow site registration fee will not be charged.

Stat. Auth.: ORS 475.309 & 475.312

Stats. Implemented: ORS 475.309 & 475.312

Hist.: PH 27-2010, f. & cert. ef. 12-28-10; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11

ADMINISTRATIVE RULES

333-008-0050

Confidentiality

(1) The Authority shall create and maintain either paper or computer data files of patients, designated primary caregivers, growers, and grow site addresses. The data files shall include all information collected on the application forms or equivalent information from other written documentation, plus a copy of OMMP registry identification cards, effective date, date of issue, and expiration date. Except as provided in section (2) of this rule, the names and identifying information of registry identification cardholders and the name and identifying information of a pending applicant for a card, a designated primary caregiver, a grower, and a marijuana grow site location, shall be confidential and not subject to public disclosure.

(2) Names and other identifying information made confidential under section (1) of this rule may be released to:

(a) Authorized employees of the Authority as necessary to perform official duties of the Authority, including the production of any reports of aggregate (i.e., non-identifying) data or statistics;

(b) Authorized employees of state or local law enforcement agencies when they provide a specific name or address. Information will be supplied only as necessary to verify:

(A) That a person is or was a lawful possessor of a registry identification card; or

(B) That the address is or was a documented grow site, and how many people are authorized to grow at that grow site; or

(C) How many people a person was or is authorized to grow for.

(c) Other persons (such as, but not limited to, employers, lawyers, family members) upon receipt of a properly executed release of information signed by the patient, the patient's parent or legal guardian, designated primary caregiver or grower. The release of information must specify what information the Authority is authorized to release and to whom.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; OHD 18-2001, f. & cert. ef. 8-9-01; OHD 19-2001(Temp), f. & cert. ef. 8-10-01 thru 1-31-02; Administrative correction 3-14-02; OHD 6-2002, f. & cert. ef. 3-25-02; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 21-2010, f. & cert. ef. 9-13-10; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11

333-008-0060

Monitoring and Investigations

(1) The Authority may, at any time, contact a patient, designated primary caregiver, grower, or a patient's attending physician by telephone, mail or in person to verify the current accuracy of information included in the registration system. This authority does not extend to allowing Authority staff to routinely search the person or property of a person who possesses a registry identification card, a grow site, or to search the property of an attending physician.

(2) Notwithstanding section (1) of this rule, the Authority may, when it has reason to believe a violation of ORS 475.300 through 475.346 has occurred, either conduct an investigation to collect evidence of a violation of the Oregon Medical Marijuana Act, or arrange for this responsibility to be assumed by the proper state or local authorities. Such violations include, but are not limited to:

(a) Failure by a patient to notify the Authority of any change in the patient's name, address, attending physician, designated primary caregiver, grower, or grow site location.

(b) Failure by a patient, designated primary caregiver, or grower to return the OMMP identity and registry identification cards to the Authority within seven calendar days of the patient's notification of the diagnosis that the patient no longer has a debilitating medical condition.

(c) Failure by a designated primary caregiver or grower to return the OMMP identity and registry identification cards to the Authority within seven calendar days of notification by the patient that the person's designation as primary caregiver or grower has been terminated.

(d) Submission of false information by a patient, designated primary caregiver, grower, or attending physician during the registration or registration renewal process.

(e) Conviction of a patient, designated primary caregiver, or grower of a marijuana-related offense that occurred after the date of issuance of a registry identification card.

(3) If the Authority has reason to believe that an individual, signing an application as the attending physician, does not meet the definition of attending physician under these rules, the Authority may examine the original patient medical record in the physician's possession or a copy provided by the physician. The sole purpose of this examination is to determine whether the physician meets the definition of attending physician in OAR 333-008-0010, including whether the physician has primary responsibility

for a patient as that is defined in OAR 333-008-0010, and will not include review of any clinical judgments such as adequacy of diagnosis or propriety of treatment.

(a) The Authority shall notify the patient of the intent to review the medical records pursuant to this section and request the patient's authorization to conduct the review. An applicant's or patient's failure to authorize a review of his or her medical records may result in denial of an application.

(b) The Authority shall send written notification allowing the physician 10-days to provide additional information requested by the Authority.

(4) In determining whether to examine a patient's medical record pursuant to section (3) of this rule, the Authority may consider, but is not limited to, factors such as complaints from patients or family members, complaints from health care providers, total number of applicants for whom the physician provided documentation, or number of applicants for whom the physician provided documentation during a specific time period.

(5) If the Authority records show that any one physician is the attending physician of record for more than 450 patients at any point in time, the Authority shall request, in writing, that the physician do one of the following:

(a) Provide information for each new patient over the 450 threshold, including:

(A) Documentation that the patient's medical records have been reviewed;

(B) Patient chart notes documenting the patient was examined by the physician and the date of the examination; and

(C) Documentation showing provided or planned follow-up care;

(b) Provide a letter from a clinic at which the physician provides care requesting that the physician be exempted from section (5) of this rule, and provide documentation from the clinic that:

(A) It has clear systems for ensuring medical records are reviewed and that each patient is examined by a physician;

(B) It provides follow-up care for patients;

(C) It maintains a record system documenting the review of medical records, physician examination, and follow-up care; and

(D) It will allow on-site inspections by the Authority to confirm compliance; or

(c) Provide a written statement explaining why the physician should be released from this requirement, for example, an explanation that the physician:

(A) Has a practice that includes a disproportionately high percentage of patients with qualifying conditions;

(B) Serves as a consultant for other health care providers who refer patients requesting medical marijuana; or

(C) Has multiple practice sites and at one of the practice sites the physician clearly meets the attending physician definition.

(6) If the Authority receives a request from a physician to be exempted from the requirement in section (5) of this rule, the Authority shall provide the physician a decision, in writing, explaining whether the physician is or is not exempted from the requirement in section (5) of this rule. The Authority's written decision shall explain the basis for the Authority's decision.

(7) The Authority shall refer criminal complaints against a patient, designated primary caregiver, or grower; or medical practice complaints against an attending physician to the appropriate state or local authorities.

Stat. Auth.: ORS 475.338

Stats. Implemented: ORS 475.300 - 475.346

Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; OHD 19-2001(Temp), f. & cert. ef. 8-10-01 thru 1-31-02; Administrative correction 3-14-02; OHD 6-2002, f. & cert. ef. 3-25-02; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 21-2010, f. & cert. ef. 9-13-10; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11

333-008-0070

Suspension and Revocation

(1) The Authority may suspend a registry identification card, and preclude a person from using a registry identification card for a period of up to six months if the Authority obtains evidence that establishes a registry identification cardholder has:

(a) Committed egregious violations of the Act, including obtaining a registry identification card by fraud;

(b) Committed multiple or continuing violations of the Act; or

(c) Been convicted of a marijuana-related offense.

(2) The Authority shall send written notice of a suspension by certified mail.

(3) The Authority shall revoke the registry identification card of a cardholder if a court has issued an order that prohibits the cardholder from participating in the medical use of marijuana or otherwise participating in the OMMP under ORS 475.300 through 475.346. The cardholder shall

ADMINISTRATIVE RULES

return the registry identification card to the Authority within seven calendar days.

(4) The cardholder shall return the registry identification card to the Authority within seven calendar days of the final order of suspension being issued. If the cardholder is a patient, the patient shall return his or her card and all other associated OMMP cards.

(5) If, during the period of suspension, a patient's annual renewal date comes due, the patient must apply for renewal at the end of the period of suspension.

Stat. Auth.: ORS 475.338
Stats. Implemented: ORS 475.300 - 475.346
Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; OHD 18-2001, f. & cert. ef. 8-9-01; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11

333-008-0080

Permissible Amounts of Medical Marijuana

(1) A patient or the patient's designated primary caregiver may possess up to six mature marijuana plants, 24 ounces of usable marijuana, and a patient and the patient's designated primary caregiver may possess a combined total of up to 18 marijuana seedlings or starts.

(2) Notwithstanding section (1) of this rule, if a patient has been convicted, on or after January 1, 2006, of a Class A or Class B felony under ORS 475.840 through 475.920 for the manufacture or delivery of a controlled substance in Schedule I or Schedule II, and the offense occurred on or after January 1, 2006, the patient or the patient's designated primary caregiver may possess only one ounce of usable marijuana at any given time for a period of five years from the date of the conviction.

(3) A grower:

(a) May produce marijuana for and provide marijuana to a patient or that person's designated primary caregiver as authorized under ORS 475.300 through 475.346 and these rules;

(b) May possess up to six mature plants and up to 24 ounces of usable marijuana for each patient or designated primary caregiver for whom marijuana is being produced;

(c) May possess up to 18 marijuana seedlings or starts for each patient for whom marijuana is being produced.

(4) A grower may produce marijuana for no more than four patients or designated primary caregivers concurrently.

(5) A patient, the designated primary caregiver for a patient and the grower must have, in his or her possession, his or her OMMP identity card when transporting marijuana. A patient must have, in his or her possession, his or her OMMP identity card when using marijuana in a location other than the residence of the cardholder.

Stat. Auth.: ORS 475.338
Stats. Implemented: ORS 475.300 - 475.346
Hist.: OHD 3-1999, f. & cert. ef. 4-29-99; OHD 18-2001, f. & cert. ef. 8-9-01; PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 21-2010, f. & cert. ef. 9-13-10; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11

333-008-0120

System to Allow Verification of Data at All Times

(1) The Authority shall establish an interactive method to allow authorized employees of state and local law enforcement agencies to use the Oregon State Police Law Enforcement Data System (LEDS) to query an OMMP data file in order to verify at any time whether a particular patient, designated primary caregiver, grower, or grow site location is registered with the Authority.

(2) LEDS access will only allow a yes or no answer to the query and the information obtained may not be used for any other purpose other than verification.

(3) The Authority may allow the release of reports related to verification if it is without identifying data.

(4) The Authority shall have staff available by phone to verify law enforcement agency employee questions during regular business hours in case the electronic verification system is down, and in the event the system is expected to be down for more than two business days, the Authority shall ensure program staff are available by phone for verification purposes.

Stat. Auth.: ORS 475.338
Stats. Implemented: ORS 475.300 - 475.346
Hist.: PH 18-2005, f. 12-30-05, cert. ef. 1-1-06; PH 15-2007, f. 12-19-07, cert. ef. 1-1-08; PH 8-2011, f. 9-30-11, cert. ef. 10-1-11

Rule Caption: WIC Vendor and Farmer Administration.

Adm. Order No.: PH 9-2011

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Notice Publication Date: 9-1-2011

Rules Amended: 333-054-0010, 333-054-0020, 333-054-0025, 333-054-0027, 333-054-0035, 333-054-0040, 333-054-0050, 333-054-0055, 333-054-0060, 333-054-0070

Subject: The Oregon Health Authority, Public Health Division is permanently amending administrative rules in chapter 333, division 54 as they pertain to vendors and farmers. These amendments are clarifications and adjustments to definitions, monitoring language, violation and sanction language, which reflect current program vendor and farmer administration practices. Additionally, the rules have been amended to replace references to "FSP" and the "Food Stamp Program" with the program's new name "Supplemental Nutrition Assistance Program" or "SNAP"

Rules Coordinator: Brittany Sande—(971) 673-1291

333-054-0010

Definitions

(1) "A50" means an authorized vendor or applicant that derives, or is expected to derive, more than 50 percent of its total annual food sales from WIC food sales. The total food sales do not include alcohol, tobacco, lottery or any other non-food item.

(2) "Abbreviated administrative review" means a hearing that is held at the request of a vendor that has been issued an application denial, civil money penalty, fine, or sanction by the Authority. Abbreviated Reviews are facilitated by the Authority staff other than the staff person that imposed the sanction. A facilitated discussion is held in order to resolve the imposition of a sanction.

(3) "Adequate participant access" means there are authorized vendors sufficient for participant need.

(4) "Annual Food Sales" means sales of all Supplemental Nutrition Assistance Program (SNAP) eligible foods intended for home preparation and consumption including meat, fish, and poultry; bread and cereal products; dairy products; fruits and vegetables. Food items such as condiments and spices, coffee, tea, cocoa, and carbonated and non-carbonated drinks may be included in food sales when offered for sale along with foods in the categories identified above. Food sales do not include sales of any items that cannot be purchased with SNAP benefits, such as hot foods or food that will be eaten in the store.

(5) "Applicant" means any person, or person with an interest in the business, making a written request for authorization to participate in the WIC Program, including vendors and farmers that reapply for authorization.

(6) "Authority" means the Oregon Health Authority.

(7) "Authorization" means the process by which the Authority assesses, selects, and enters into agreements with stores and farmers that apply or subsequently reapply to be vendors or authorized farmers allowed to transact CVVs.

(8) "Authorized food" means any supplemental foods listed on the WIC Authorized Food List, food instrument or CVV.

(9) "Authorized shopper" means the participant or any person designated by a participant who has been documented as such to act on the participant's behalf and, in the case of an infant or child, the caretaker or the caretaker's designee. This includes any representative posing as a participant or participant designee as authorized by the Authority.

(10) "CFR" means Code of Federal Regulations.

(11) "Change of Ownership" means a change in the ownership or control of ten percent or more of any class of stock in a corporation; a change in, addition of or removal of a partner of any partnership; a change in ownership or control of ten percent or more of the total investment commitment in partnership; or a change in the owner of a sole proprietorship.

(12) "CMP" means civil money penalty.

(13) "Cash Value Voucher" or "CVV" means a fixed-dollar check, voucher, electronic benefit transfer (EBT) card or other document which is used by a participant to obtain WIC authorized fruits and vegetables.

(14) "Compliance buy" means a single covert, on-site visit in which an Authority authorized representative poses as an authorized shopper and attempts to transact, or transacts, one or more food instruments or CVVs.

(15) "Disqualification" means cancelling the WIC program participation of a vendor or farmer, as a punitive action.

(16) "Farmer" means an individual who owns, leases, rents or share-crops land to grow, cultivate or harvest crops on that land.

(17) "Farmer agreement" means a standard written legal contract between the farmer and the Authority that sets forth responsibilities of the parties.

ADMINISTRATIVE RULES

(18) "FNS" means the Food and Nutrition Service of the U. S. Department of Agriculture.

(19) "Food instrument" or "FI" means a WIC Program voucher, check, coupon or other WIC approved document, which is used to obtain authorized foods.

(20) "Full administrative review" means a formal hearing that is held before an assigned administrative law judge from the state Office of Administrative Hearings. Attorneys may be present to represent both parties. Formal procedures are followed as to the presentation of evidence, examination of documentation and cross-examination of witnesses in accordance with 7 CFR § 246.18 and ORS Chapter 183.

(21) "Incentive item" means a food or non-food item offered free of charge to WIC shoppers to motivate them to shop at a particular store. Examples of incentive items include, but are not limited to, cash prizes, lottery tickets, transportation, sales/specials such as a buy-one-get one free or free additional ounces offer, and other free food or merchandise.

(22) "Inventory audit" means an examination of food invoices or other proofs of vendor purchases to determine whether a vendor has purchased sufficient quantities of authorized foods to support the vendor's claim for reimbursement for such foods from the Authority during a specific period of time.

(23) "Investigation" means a period of review, beginning with the start of an inventory audit or the first compliance buy and closing when the audit has been completed or a sufficient number of compliance buys have been completed to provide evidence of compliance or non-compliance, not to exceed 24 months, to determine a vendor or farmer's compliance with program rules and procedures.

(24) "Local agency" means:

(a) A public or private non profit health or human services agency that provides health services, either directly or through contract, in accordance with 7 CFR § 246.5;

(b) An Indian Health Service unit;

(c) An Indian tribe, band or group recognized by the Department of the Interior which operates a health clinic or is provided health services by an Indian Health Service unit; or

(d) An intertribal council or group that is an authorized representative of Indian tribes, bands or groups recognized by the Department of the Interior, which operates a health clinic or is provided health services by an Indian Health Service unit.

(25) "Overcharge" means intentionally or unintentionally charging the Authority more for authorized foods than the actual shelf price or the price charged to other shoppers.

(26) "Participant" means any pregnant woman, breastfeeding woman, post-partum woman, infant or child who receives authorized foods or food instruments or CVVs under the WIC Program, and the breastfed infant of any participating breastfeeding woman.

(27) "Pattern" means three or more findings of the same rule violation that occurs within a single investigation or routine monitoring(s).

(28) "Peer group" means a group of vendors considered to be in the same category by the Authority based on factors such as store type, store size and geography.

(29) "Person" means a human being, a public or private corporation, an unincorporated association, a partnership, a Limited Liability Corporation, a sole proprietor, a government or a governmental instrumentality.

(30) "Person with an interest in the business" means an officer, director, partner, or manager of the business or a shareholder with 10 percent interest or more in the business.

(31) "Price adjustment" means an adjustment made by the Authority, in accordance with the vendor/farmer agreement, to the purchase price on a food instrument or CVV, after it has been submitted by a vendor/farmer for redemption to ensure that the payment to the vendor/farmer for the food instrument or CVV complies with the Authority price limitations.

(32) "Prominently displayed" means immediately noticeable by persons entering the vendor or farmer location.

(33) "Routine monitoring" means an overt, on-site visit in which the Authority authorized representatives or federal officials identify themselves to vendor or farm personnel.

(34) "Shelf Price Survey" or "SPS" means a tool used by the Authority to collect a sample of a WIC authorized vendor's current shelf prices.

(35) "SNAP" means the Supplemental Nutrition Assistance Program of the Food and Nutrition Services of the U.S. Department of Agriculture. This program was formerly known as the Food Stamp Program or "FSP."

(36) "Stand Alone Pharmacy" means a pharmacy that is operated independently from or is not located in a WIC authorized grocery store. These stores are exempt from the minimum stock requirements set forth for grocery vendors.

(37) "Store Run Pharmacy" means a pharmacy that is located within a WIC authorized grocery store and is affiliated with that business entity.

(38) "Termination" means the cancellation of a vendor or farmer agreement which may or may not be linked to a disqualification.

(39) "Trafficking" means buying or selling food instruments or CVVs for cash.

(40) "U.S.C." means United States Code.

(41) "Unauthorized food item" means foods and/or brands, and/or size not allowed on the WIC Authorized Food List. It also means foods not specified on a food instrument or CVV as eligible for purchase for that participant, with WIC benefits.

(42) "Vendor" means the current owner(s) or any person with an interest in the business, of any retail store location that is currently authorized by the Authority to participate in the WIC Program. Vendor may also refer to the authorized store location.

(43) "Vendor agreement" means a standard written legal contract between the vendor and the Authority that sets forth responsibilities of the parties.

(44) "Vendor Price List" means a comprehensive list of current authorized foods and minimum stock requirements, with current shelf prices completed by the vendor.

(45) "Violation" means an activity that is prohibited by OAR 333-054-0000 through 333-054-0070 and is classified in OAR 333-054-0050 and 333-054-0055.

(46) "WIC Authorized Food List" means the supplemental foods approved by the State of Oregon.

(47) "WIC Program" means the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) authorized by Section 17 of the Federal Child Nutrition Act of 1966, as amended, 42 U.S.C. § 1786.

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

Stat. Auth.: ORS 409.600

Stats. Implemented: ORS 409.600

Hist.: HD 7-1993, f. & cert. ef. 6-11-93; HD 31-1994, f. & cert. ef. 12-22-94; OHD 17-2001, f. 8-02-01, cert. ef. 8-15-01; OHD 22-2002, f. & cert. ef. 12-24-02; PH 19-2003(Temp), f. & cert. ef. 11-14-03 thru 5-12-04; PH 22-2003, f. 12-31-03, cert. ef. 1-5-04; PH 7-2005(Temp), f. & cert. ef. 5-2-05 thru 10-28-05; PH 16-2005, f. & cert. ef. 10-28-05; PH 30-2006, f. & cert. ef. 12-27-06; PH 5-2009, f. & cert. ef. 6-1-09; PH 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; PH 9-2011, f. & cert. ef. 9-30-11

333-054-0020

How a Vendor Becomes WIC Authorized

(1) Only vendors authorized by the Authority may accept Oregon food instruments or CVVs in exchange for authorized foods.

(2) Application:

(a) An applicant shall submit a completed application to the Authority, which includes:

(A) An application form;

(B) A Vendor Price List;

(C) A current SNAP authorization number; and

(D) Any other documents or information required by the Authority.

(b) The Authority may limit the periods during which applications for vendor authorization will be accepted and processed. The Authority will process applications, outside of the limited application period, if it determines the applicant's store is necessary to ensure adequate participant access in a specific geographic location.

(3) Selection Criteria: In order for the Authority to consider authorizing an applicant, the applicant shall:

(a) Demonstrate and maintain competitive pricing as determined by the Authority based on the applicant's shelf prices and as compared to data from the peer group appropriate to the applicant's characteristics. Such data may include redemption prices and/or shelf prices. If an applicant's store is necessary to ensure adequate participant access, it may be exempt from this requirement;

(b) Possess a current bank account number;

(c) Not have, within the previous six years, a criminal conviction or civil judgment involving fraud or any other offense related to the applicant's business integrity or honesty;

(d) Possess a current SNAP authorization number. Pharmacies, military commissaries, and stores that are determined by the Authority as necessary to provide adequate participant access shall be exempt from this selection requirement due to the nature of the services they provide for the WIC Program;

(e) Not have a history of serious violations with either the WIC Program or SNAP;

ADMINISTRATIVE RULES

(f) Not be currently disqualified from participation in another state's WIC Program. The Authority shall not authorize an applicant that has been assessed a CMP in lieu of disqualification by another state WIC Program until the period of the disqualification that would otherwise have been imposed has expired;

(g) Not be currently disqualified from participation in the SNAP. The Authority shall not authorize an applicant that has been assessed a SNAP civil money penalty in lieu of disqualification until the period of the disqualification that would otherwise have been imposed has expired unless this store has been determined necessary for participant access;

(h) Have a fixed location for each store;

(i) Stock representative items from all food categories specified on the Vendor Price List. Minimum quantities specified on the Vendor Price List shall be stocked or on order before authorization of an applicant:

(A) The Authority may grant a written exception if the applicant is able to provide documentation that appropriate stock was on order at the time of the initial on-site review and will be in the store within seven days;

(B) The Authority may grant a written exception to this requirement for cases where there is no participant need in the applicant's area for a specific authorized food item, such as infant formula. The Authority shall determine participant need based on the local agency's input regarding a vendor request for exception, vendor redemption data relative to the vendor's request, and the number of infants using formula in the vendor's store's zip code. If a local agency notifies the vendor of a specific need for that authorized food item, the vendor will ensure that the authorized food item is available within seven days of the request;

(C) Pharmacies are exempt from this requirement; however, they shall obtain infant formula, including formula that requires a prescription, within 72 hours of an Authority or participant request.

(j) An applicant must purchase infant formula, which is to be sold to WIC shoppers, only from manufacturers, wholesalers, distributors, and retailers authorized by the Oregon WIC Program.

(k) Vendor must maintain and provide documentation of SNAP-eligible food sales throughout the contract period. According to USDA, 'CFR 245.2, "Food sales" means sales of all foods that are eligible items under the SNAP. These foods are intended for home preparation and consumption and include:

- (A) Meat, fish, and poultry;
- (B) Bread and cereal products;
- (C) Dairy products; and
- (D) Fruits and vegetables.

(l) Food items such as condiments and spices, coffee, tea, cocoa, and carbonated and noncarbonated beverages may be included in food sales when offered for sale along with foods in the four primary categories. Food sales do not include sales of any items that are not approved for purchase with SNAP benefits, such as alcoholic beverages, hot foods, or foods that will be eaten on the store premises.

(m) Vendor must maintain and provide documentation and receipts showing source(s) of infant formula purchases.

(4) Authorization Requirements:

(a) The Authority or the local agency shall conduct a documented on-site visit prior to, or at the time of, authorization of an applicant, including evaluating the inventory and condition of authorized foods and providing the applicant with the WIC Program information prior to or at the time of authorization;

(b) The Authority shall conduct a live interactive training prior to or at the time of authorization. The Authority shall designate the date, time, and location of the training, except that the Authority shall provide the vendor with at least one alternate date on which to attend such training; and

(c) Once authorized, the vendor shall remain in compliance with the current selection criteria set forth in OAR 333-054-0020(3) for the duration of the vendor agreement. The Authority shall disqualify the vendor at any time the vendor does not meet the current selection criteria.

(5) Application Denials: the Authority shall give the applicant written notification of denial, in conformance with ORS chapter 183, as otherwise provided in these rules, the Authority may deny an applicant authorization for reasons including, but not limited to, the following:

(a) The applicant's failure to meet the selection criteria;

(b) The applicant's failure to meet all of the WIC rules initially or for the duration of the vendor agreement;

(c) The applicant's store or business has been sold by its previous owner in an attempt to circumvent a WIC program sanction. In making this determination, the Authority may consider such factors as whether the applicant's store or business was sold to a relative by blood or marriage of

the previous owner(s) or sold to any person for less than its fair market value;

(d) The applicant's history of complaints, violations and/or sanctions;

(e) The applicant's refusal to accept training from the WIC program; or

(f) The applicant's misrepresentation of information on the application.

(6) Subsequent to authorization, an agreement may be terminated if it is found that the vendor provided false or omitted pertinent information during the authorization process.

(7) If the Authority denies an application it may require the applicant to wait some period of time before reapplying.

Stat. Auth.: ORS 409.600

Stats. Implemented: ORS 409.600

Hist.: HD 7-1993, f. & cert. ef. 6-11-93; OHD 17-2001, f. 8-02-01, cert. ef. 8-15-01; OHD 22-2002, f. & cert. ef. 12-24-02; PH 19-2003(Temp), f. & cert. ef. 11-14-03 thru 5-12-04; PH 22-2003, f. 12-31-03, cert. ef. 1-5-04; PH 7-2005(Temp), f. & cert. ef. 5-2-05 thru 10-28-05; PH 16-2005, f. & cert. ef. 10-28-05; PH 16-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-27-06; PH 30-2006, f. & cert. ef. 12-27-06; PH 5-2009, f. & cert. ef. 6-1-09; PH 9-2011, f. & cert. ef. 9-30-11

333-054-0025

Above 50% Vendors (A50)

(1) An applicant that is likely to derive more than 50 percent of the store's annual food sales from WIC transactions will not be authorized except for cases of participant access hardship as determined solely by the Authority.

(2) An existing A50 will be allowed to close a current location and open at a new location as long as there is no break in service to WIC participants.

(3) Provision of incentive items. The Authority may not authorize or continue the authorization of an A50 vendor, or make payments to an A50 vendor which provides or indicates an intention to provide prohibited incentive items to customers. Evidence of such intent includes, but is not necessarily limited to, advertising the availability of prohibited incentive items.

(a) The Authority may approve any of the following incentive items to be provided by A50 vendors to customers, at the discretion of the Authority:

(A) Food, merchandise, or services obtained at no cost to the vendor, subject to documentation;

(B) Food, merchandise, or services of nominal value, i.e., having a per item cost of less than two dollars (\$2), subject to documentation;

(C) Food sales and specials which involve no cost or less than two dollars (\$2) in cost to the vendor for the food items involved, subject to documentation, and do not result in a charge to a WIC food instrument for foods in excess of the foods listed on the food instrument; and

(D) Minimal customary courtesies of the retail food trade, such as helping the customer to obtain an item from a shelf or from behind a counter, bagging food for the customer, and assisting the customer with loading the food into a vehicle.

(b) The following incentive items are prohibited for A50 vendors to provide to customers:

(A) Services which result in a conflict of interest or the appearance of such conflict for the A50 vendor, such as assistance with applying for WIC benefits;

(B) Lottery tickets provided to customers at no charge or below face value;

(C) Cash gifts in any amount for any reason;

(D) Anything made available in a public area as a complimentary gift which may be consumed or taken without charge;

(E) An allowable incentive item provided more than once per customer per shopping visit, regardless of the number of customers or food instruments involved, unless the incentive items had been obtained by the vendor at no cost or the total value of multiple incentive items provided during on shopping visit would not exceed the less than two dollar (\$2) nominal value limit;

(F) Food, merchandise, or services of greater than nominal value provided to the customer;

(G) Food, merchandise sold to customers below cost, or services purchased by customers below fair market value;

(H) Any kind of incentive item which incurs a liability for the WIC Program; and

(I) Any kind of incentive item which violates any Federal, State, or local law or regulations.

(c) For-profit goods or services offered by the A50 vendor to WIC participants at fair market value based on comparable for-profit goods or

ADMINISTRATIVE RULES

services of other businesses are not incentive items subject to approval or prohibition, except that such goods or services must not constitute a conflict of interest or result in a liability for the WIC Program.

(4) If a currently authorized vendor is found to derive more than 50 percent of the store's annual food sales from WIC transactions the Authority will terminate the vendor agreement unless the vendor is necessary for participant access.

Stat. Auth.: ORS 409.600
Stat. Implemented: ORS 409.600
Hist.: PH 30-2006, f. & cert. ef. 12-27-06; PH 5-2009, f. & cert. ef. 6-1-09; PH 9-2011, f. & cert. ef. 9-30-11

333-054-0027

How a Farmer Becomes WIC Authorized

(1) Only authorized farmers may accept CVVs from participants in exchange for eligible foods. Authorized farmers may not accept CVVs from unauthorized farmers.

(2) In order to be eligible for participation in the WIC program, a farmer applicant must:

(a) Grow, cultivate, or harvest fresh fruits or vegetables in Oregon or a bordering county in a contiguous state to sell fresh or frozen at a farmers' market or farm stand. Farmers are exempt from the minimum WIC authorized food stocking requirements as indicated for vendor authorization under OAR 333-054-0020(3)(i);

(b) Complete the farmer application and return it to the appropriate state office to verify eligibility; and

(c) Agree to follow the terms and conditions of the farmer agreement.

(3) The Authority shall conduct an interactive training for all farmers who have never previously participated in the program prior to their commencing participation.

(4) The Authority and the WIC program are not required to authorize all applicants.

(5) Any individual who purchases all the produce they plan to sell is considered a distributor and is not allowed to participate in the WIC program as a farmer.

Stat. Auth.: ORS 409.600
Stats. Implemented: ORS 409.600
Hist.: PH 5-2009, f. & cert. ef. 6-1-09; PH 9-2011, f. & cert. ef. 9-30-11

333-054-0035

Farmer Agreements

(1) A farmer application/agreement must be signed by a representative who has legal authority to obligate the farmer.

(2) The farmer application/agreement must include a requirement that the farmer comply with OAR 333-054-0000 through 333-054-0070, as applicable to farmers.

(3) The farmer application/agreement will be valid up to, but not exceeding, three years.

(4) Neither the Authority nor the farmer is obligated to renew the agreement.

(5) An authorized farmer must comply with requirements contained in 7 CFR 246 and the terms and conditions of the farmer application/agreement.

Stat. Auth.: ORS 409.600
Stats. Implemented: ORS 409.600
Hist.: PH 5-2009, f. & cert. ef. 6-1-09; PH 9-2011, f. & cert. ef. 9-30-11

333-054-0040

Vendor and Farmer Monitoring

The Authority shall monitor vendors and farmers for compliance with applicable laws and rules, which may include on-site investigation of selected vendors.

(1) The Authority or its authorized representative must conduct compliance buys or inventory audits to collect evidence of improper vendor practices.

(2) The Authority or its authorized representative shall conduct routine monitorings and survey current WIC authorized food shelf prices of selected vendors.

(3) The Authority shall conduct covert compliance buys and/or routine monitorings of authorized farmers for compliance with the Authority rules and regulations.

Stat. Auth.: ORS 409.600
Stats. Implemented: ORS 409.600
Hist.: HD 7-1993, f. & cert. ef. 6-11-93; OHD 17-2001, f. 8-2-01, cert. ef. 8-15-01; OHD 22-2002, f. & cert. ef. 12-24-02; PH 19-2003(Temp), f. & cert. ef. 11-14-03 thru 5-12-04; PH 22-2003, f. 12-31-03, cert. ef. 1-5-04; PH 16-2005, f. & cert. ef. 10-28-05; PH 30-2006, f. & cert. ef. 12-27-06; PH 5-2009, f. & cert. ef. 6-1-09; PH 9-2011, f. & cert. ef. 9-30-11

333-054-0050

Vendor Violation Notifications and Sanctions

(1) Prior warning:

(a) The Authority must notify a vendor in writing when an investigation reveals an initial incidence of a violation for which a pattern of incidences must be established in order to impose a sanction, before another such incidence is documented, unless the Authority determines, in its discretion, on a case-by-case basis, that notifying the vendor would compromise an investigation.

(b) Prior to imposing a sanction for a pattern of violative incidences, the Authority must either provide such notice to the vendor, or document in the vendor file the reason(s) for determining that such a notice would compromise an investigation.

(c) If notification is provided, the Authority may continue its investigation after the notice of violation is received by the vendor, or presumed to be received by the vendor consistent with the Authority's procedures for providing such notice.

(d) All incidences of a violation occurring during the first compliance buy visit must constitute only one incidence of that violation for the purpose of establishing a pattern of incidences.

(e) A single violative incidence may only be used to establish the violations as written in OAR 333-054-0050(3)(c) and 333-054-0050(3)(d).

(2) Vendors shall receive a written "Notice of Non-compliance" for a single instance of:

(a) Failing to comply with Part 3 of the vendor's current vendor agreement;

(b) Failing to complete and return the Vendor Price List by the deadline set by the Authority;

(c) Failing to complete and return the Shelf Price Survey (SPS) by the deadline set by the Authority;

(d) Failing to provide the authorized shopper with a receipt for foods purchased with a food instrument or CVV;

(e) Failing to ensure that within 60 days of a name change the outside sign bears the same name as that listed on the vendor agreement;

(f) Influencing an authorized shopper's selection of authorized foods;

(g) Requesting or requiring any identification or information from the authorized shopper other than the WIC Program identification card;

(h) Selling expired authorized foods or infant formula to authorized shoppers;

(i) Failing to respond to a request issued by the Authority;

(j) Failing to accept training when required by the Authority;

(k) Using the "WIC" acronym or logos in an unauthorized manner;

(l) Failing to maintain or provide, to the Authority upon request, invoices or receipts to show source(s) of formula purchase;

(m) Retaining WIC identification or any information that identifies a shopper as a WIC participant or disclosing information regarding a client of the WIC Program to any person other than the Authority, its representatives or a federal official;

(n) Failing to comply with the terms in a final order issued by the Authority;

(o) Failing to comply with an investigation by federal or state officials;

(p) Refusing the Authority or a federal official access to food instruments or CVVs negotiated on the day of review;

(q) Failing to provide, within two business days of the Authority's request, purchasing/receiving records to substantiate the volume and prices charged to the Authority;

(r) Failing to stock appropriate quantities of authorized foods and infant formula;

(s) Violating the nondiscrimination clause listed in the vendor agreement; and

(t) A50s only: Failing to maintain or provide, to the Authority upon request, documentation for each incentive item.

(3) Sanctions:

(a) For the following violations, the Authority shall disqualify a vendor for one year:

(A) A pattern of providing unauthorized food items in exchange for food instruments or CVVs, including charging for authorized food provided in excess of those listed on the food instrument;

(B) A pattern of failing to stock appropriate quantities of authorized foods and infant formula;

(C) A pattern of providing change when redeeming a food instrument or CVV;

(D) A pattern of allowing a refund or any other item of value in exchange for authorized foods or providing exchanges for authorized food

ADMINISTRATIVE RULES

items obtained with food instruments or CVVs, except for exchanges of an identical authorized food item when the original authorized food item is defective, spoiled, or has exceeded its "sell by," "best if used by," or other date limiting the sale or use of the food item. An identical authorized food item means the exact brand and size as the original authorized food item obtained and returned by the authorized shopper;

(E) A50s only: A pattern of providing WIC shoppers with incentive items or other merchandise and/or services not approved by the Authority.

(b) For the following violations, the Authority shall disqualify the vendor for three years:

(A) One incident of the sale of alcohol, an alcoholic beverage, or a tobacco product in exchange for a food instrument or CVV;

(B) Failing an Authority inventory audit;

(C) A pattern of claiming reimbursement for the sale of an amount of a specific authorized food item, which exceeds the store's documented inventory of that authorized food item for a specific period of time;

(D) A pattern of vendor overcharges;

(E) A pattern of receiving, transacting and/or redeeming food instruments or CVVs outside of authorized channels or locations. This includes, but is not limited to use of an unauthorized vendor and/or unauthorized person, and/or redemption of food instruments or CVVs outside of an authorized store location;

(F) A pattern of charging for foods not received by the authorized shopper; and

(G) A pattern of providing credit or non-food items in exchange for food instruments or CVVs, other than those items listed in OAR 333-054-0050(3)(c) and 333-054-0050(3)(d).

(c) For the following violations, the Authority shall disqualify the vendor for six years:

(A) One incident of buying or selling a food instrument or CVV for cash (trafficking); or

(B) One incident of selling a firearm, ammunition, explosive, or controlled substance, as defined in 21 U.S.C. § 802, in exchange for a food instrument or CVV.

(d) The Authority shall permanently disqualify a vendor convicted of trafficking in food instruments or CVVs or selling firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. § 802 in exchange for a food instrument or CVV.

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

Stat. Auth.: ORS 409.600

Stats. Implemented: ORS 409.600

Hist.: HD 7-1993, f. & cert. ef. 6-11-93; OHD 17-2001, f. 8-2-01, cert. ef. 8-15-01; OHD 22-2002, f. & cert. ef. 12-24-02; PH 19-2003(Temp), f. & cert. ef. 11-14-03 thru 5-12-04; PH 22-2003, f. 12-31-03, cert. ef. 1-5-04; PH 7-2005(Temp), f. & cert. ef. 5-2-05 thru 10-28-05; PH 16-2005, f. & cert. ef. 10-28-05; PH 30-2006, f. & cert. ef. 12-27-06; PH 5-2009, f. & cert. ef. 6-1-09; PH 9-2011, f. & cert. ef. 9-30-11

333-054-0055

Farmer Violations and Sanctions

(1) A farmer is in violation if a farmer fails to comply with WIC program rules and the terms and conditions of the farmer application/agreement or fails to respond to requests, implement corrective action, or comply with the terms in final orders as directed by the Authority.

(2) Farmer Sanctions:

(a) CVVs that are not stamped with the farmer's Authority-assigned identification number will be returned to the farmer without payment;

(b) CVVs redeemed with the following violations will not be reimbursed:

(A) Accepting a CVV before the "First Day To Use" or after the "Last Day To Use;"

(B) Failing to enter the actual purchase price in the designated box;

(C) Failing to obtain the authorized shoppers signature at the time of the transaction, in the designated box, on the front of the CVV accepted for payment.

(c) The Authority may issue a written notification of non-compliance to an authorized farmer for an initial incident of:

(A) Accepting CVVs for ineligible foods;

(B) Failing to prominently display the official sign provided by the Authority, each market day when at authorized farmers' markets or authorized farm stands;

(C) Failing to provide WIC shoppers with the full amount of product for the value of each CVV;

(D) Failing to ensure that WIC shoppers receive equitable treatment, including the availability of produce that is of the same quality and no greater price than sold to other shoppers;

(E) Failing to reimburse the Authority for CVVs that are improperly transacted;

(F) Charging sales tax on CVV purchases;

(G) Seeking restitution from WIC participants for CVVs not paid by the Authority;

(H) Giving cash back for purchases less than the value of the CVV (providing change);

(I) Accepting CVVs from an unauthorized farmer;

(J) Failing to respond to requests, implement corrective action, or comply with the terms in final orders as directed by the Authority;

(K) Using CVVs for any purpose other than to deposit or cash them at the authorized farmer's financial institution; and

(L) Failing to cooperate with staff from the Authority, staff authorized to act on the Authority's behalf or the Oregon Department of Agriculture in monitoring for compliance with program requirements and failing to provide information that the Authority or the Oregon Department of Agriculture may require.

(d) The Authority may disqualify a farmer for six months for an initial incident of providing credit in exchange for CVVs.

(e) The Authority may disqualify a farmer for six months, for second or subsequent incidents of:

(A) Accepting CVVs for ineligible foods;

(B) Failing to prominently display the official sign provided by the Authority, each market day when at authorized farmers' markets or authorized farm stands;

(C) Failing to provide WIC shoppers with the full amount of product for the value of each CVV;

(D) Failing to ensure that WIC shoppers receive equitable treatment, including the availability of produce that is of the same quality and no greater price than sold to other shoppers;

(E) Charging sales tax on CVV purchases;

(F) Seeking restitution from WIC participants for CVVs not paid by the Authority;

(G) Using CVVs for any purpose other than deposit or cash at the authorized farmer's financial institution;

(H) Charging WIC participants higher prices than other customers;

(I) Giving cash back for purchases less than the value of the CVV (providing change);

(J) Accepting CVVs from an unauthorized farmer; and

(K) Failing to respond to requests, implement corrective action, or comply with the terms in final orders as directed by the Authority.

(f) The Authority may disqualify a farmer for one year following second or subsequent incidents of:

(A) Failing to reimburse the Authority for CVVs that are improperly transacted; or

(B) Failing to cooperate with staff from the Authority or the Oregon Department of Agriculture in monitoring for compliance with program requirements and failing to provide information required to be submitted by the Authority or the Oregon Department of Agriculture.

(g) The Authority may immediately disqualify a farmer for three years for an incident of:

(A) Trafficking in CVVs (exchanging checks for cash, controlled substances, tobacco products, firearms, or alcohol) in any amount; or

(B) A USDA substantiated violation of laws regarding non-discrimination, and applicable USDA instructions.

Stat. Auth.: ORS 409.600

Stat. Implemented: ORS 409.600

Hist.: PH 5-2009, f. & cert. ef. 6-1-09; PH 9-2011, f. & cert. ef. 9-30-11

333-054-0060

Vendor Disqualifications

(1) A vendor may not apply for authorization during a period of disqualification from the WIC Program.

(2) The Authority shall not accept a vendor's voluntary withdrawal from the WIC Program as an alternative to disqualification. In addition, the Authority may not use non-renewal as an alternative to disqualification.

(3) The Authority shall disqualify a vendor that does not pay, partially pays or fails to timely pay, a CMP assessed in lieu of disqualification, for the length of the disqualification corresponding to the violation for which the CMP was assessed.

(4) In order to participate in the WIC program after a vendor is disqualified, it must apply for authorization after the disqualification period has passed.

(5) The Authority shall disqualify a vendor for a period corresponding to the most serious sanction during the course of a single investigation when the Authority determines the vendor has committed multiple violations. The Authority shall include all violations in the notice of administrative action. If a sanction for a specific violation is not upheld after the hear-

ADMINISTRATIVE RULES

ing or appeal, the Authority may impose a sanction for any remaining violations.

(6) If the basis for disqualification of a vendor is for violation of OAR 333-054-0050(3)(d), the effective date of the disqualification is the date the vendor received notice, either actual or constructive, of the disqualification.

(7) The Authority may disqualify a vendor that has been disqualified or assessed a CMP in lieu of disqualification by another WIC state agency for a mandatory sanction.

(a) The length of the disqualification shall be for the same length of time as the disqualification by the other WIC state agency or, in the case of a CMP in lieu of disqualification assessed by the other WIC state agency, for the same length of time for which the vendor would otherwise have been disqualified. The disqualification may begin at a later date than the sanction imposed by the other WIC state agency.

(b) If the Authority determines that disqualification of a vendor would result in inadequate participant access, the Authority shall not impose a CMP in lieu of disqualification.

(8) The Authority shall disqualify a vendor who has been disqualified from the SNAP. The disqualification shall be for the same length of time as the SNAP disqualification, although it may begin at a later date than the SNAP disqualification. Such disqualification by the WIC program shall not be subject to administrative or judicial review under the WIC program.

(a) The Authority may disqualify a vendor who has been assessed a CMP in lieu of disqualification in the SNAP, as provided in 7 CFR § 278.6. The length of such disqualification shall correspond to the period for which the vendor would otherwise have been disqualified in the SNAP. The Authority shall determine if the disqualification of a vendor would result in inadequate participant access prior to disqualifying a vendor for SNAP disqualification pursuant to section (8) of this rule or for any of the violations listed in this rule. If the Authority determines that disqualification of the vendor would result in inadequate participant access, the Authority shall not disqualify or impose a CMP in lieu of disqualification. The Authority shall include participant access documentation in vendor files.

(b) The Authority shall provide the appropriate FNS office with a copy of the notice of adverse action and information on vendors it has disqualified. This information shall include the vendor's name, address, identification number, the type of violation(s), length of the disqualification, or the length of the disqualification corresponding to the violation for which a SNAP CMP was assessed.

(9) Disqualification from the WIC Program may result in disqualification as a retailer in the SNAP. Such disqualification may not be subject to administrative or judicial review under the SNAP.

(10) Prior to disqualifying a vendor, the Authority shall determine if disqualification of the vendor would result in inadequate participant access.

(a) If the Authority determines that disqualification of the vendor would result in inadequate participant access, the Authority shall not disqualify the vendor and shall impose a CMP in lieu of disqualification.

(b) The Authority shall include documentation of its participant access determination and any supporting documentation in the vendor's file.

(c) The Authority shall not impose a CMP in lieu of disqualification for third or subsequent sanctions, even if the disqualification results in inadequate participant access.

(d) The Authority shall not impose a CMP in lieu of disqualification for trafficking or an illegal sales conviction, even if the disqualification results in inadequate participant access.

(11) Pursuant to 7 CFR 246.12 (l)(1), the Authority shall use the following formula to calculate a CMP imposed in lieu of disqualification:

(a) Determine the vendor's average monthly redemptions for at least the 6-month period ending with the month immediately preceding the month during which the notice of administrative action is dated;

(b) Multiply the average monthly redemptions figure by 10 percent (.10); and

(c) Multiply the product from subsection (11)(b) of this rule by the number of months for which the store would have been disqualified. This is the amount of the CMP, provided that the CMP shall not exceed \$11,000 for each violation. For a violation that warrants permanent disqualification, the amount of the CMP shall be \$11,000. The Authority shall impose a CMP for each violation when during the course of a single investigation the Authority determines a vendor has committed multiple violations. The total amount of CMPs imposed for violations cited as part of a single investigation shall not exceed \$44,000.

(12) The Authority shall use the formula in subsection (11)(a) through (c) of this rule to calculate a CMP in lieu of disqualification for any violation under OAR 333-054-0050(3)(a). The Authority has the discretion to

reduce the amount of this CMP in quarterly increments, after reviewing the following criteria:

(a) Whether the vendor had other WIC violations or complaints within the 12 months immediately preceding the month the notice of administrative action is dated;

(b) The degree of severity of the violations and/or complaints in subsection (10)(a);

(c) If the vendor being sanctioned is part of a multi-store chain, whether there is a pattern within the corporation of violations and the seriousness of those violations; and

(d) The degree of cooperation shown by the vendor, demonstrated by the vendor's willingness to schedule staff training and to make changes in store operations based on the Authority recommendations.

(13) The Authority shall, where appropriate, refer vendors who abuse the WIC Program to appropriate federal, state or local authorities for prosecution under applicable statutes.

(14) A vendor who commits fraud or abuse of the Program is subject to prosecution under applicable federal, state or local laws. A vendor who has embezzled, willfully misapplied, stolen or fraudulently obtained program funds, assets, or property shall be subject to a fine of not more than \$25,000 or imprisonment for not more than five years or both, if the value of the funds is \$100 or more. If the value is less than \$100, the penalties are a fine of not more than \$1,000 or imprisonment for not more than one year or both.

(15) A vendor may be subject to actions in addition to the sanctions in this rule, such as claims by the Authority of reimbursement for improperly redeemed food instruments or CVVs and penalties outlined in 7 CFR § 246.12(1)(2)(i).

(16) The Authority shall use the following criteria to determine inadequate participant access:

(a) The availability of other authorized vendors within a 15-mile radius;

(b) Accessibility to public transportation;

(c) Physical geographic barriers;

(d) Catering to a specific minority population;

(e) Local agency recommendations based upon identified participants' needs;

(f) Unavailability of public transportation and roads; and

(g) Number of WIC participants living near the vendor.

(17) Any time the Authority uses criteria in section (16) of this rule, the Authority shall include participant access documentation in the vendor file.

(18) The Authority shall not reimburse for food instruments or CVVs submitted by a vendor for payment during a period of disqualification.

(19) A vendor is not entitled to receive any compensation for revenues lost as a result of a disqualification.

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

Stat. Auth.: ORS 409.600

Stats. Implemented: ORS 409.600

Hist.: HD 7-1993, f. & cert. ef. 6-11-93; OHD 17-2001, f. 8-2-01, cert. ef. 8-15-01; OHD 22-2002, f. & cert. ef. 12-24-02; PH 19-2003(Temp), f. & cert. ef. 11-14-03 thru 5-12-04; PH 22-2003, f. 12-31-03, cert. ef. 1-5-04; PH 7-2005(Temp), f. & cert. ef. 5-2-05 thru 10-28-05; PH 16-2005, f. & cert. ef. 10-28-05; PH 30-2006, f. & cert. ef. 12-27-06; PH 5-2009, f. & cert. ef. 6-1-09; PH 9-2011, f. & cert. ef. 9-30-11

333-054-0070

Administrative Review

(1) The Authority shall provide a full administrative review in accordance with the provisions of ORS Chapter 183 for the following, as applicable:

(a) Denial of authorization based on a determination that the vendor or farmer is attempting to circumvent a sanction;

(b) Termination of an agreement for cause;

(c) Disqualification;

(d) Imposition of a fine or a CMP in lieu of disqualification; and

(e) Denial of authorization based on the vendor selection criteria for competitive price or minimum variety and quantity of authorized WIC foods.

(2) The Authority may provide a vendor with an abbreviated or full administrative review in accordance with the provisions of ORS chapter 183 for the following, as applicable:

(a) Denial of authorization based on selection criteria for business integrity or for a current FSP disqualification or CMP penalty for hardship;

(b) Denial of authorization based on an Authority selection criteria for previous history of WIC sanctions or SNAP withdrawal of authorization or disqualification;

(c) Denial of authorization based on the Authority's limiting criteria;

ADMINISTRATIVE RULES

(d) Termination of an agreement because of a change in ownership or location or cessation of operations;

(e) Disqualification based on a trafficking conviction;

(f) Disqualification based on the imposition of a SNAP CMP for hardship;

(g) Disqualification or CMP based on a USDA mandatory sanction from another state WIC agency; and

(h) Application of criteria used to determine whether a store is an A50.

(3) The vendor or farmer shall not be entitled to an administrative review for the following actions, as applicable:

(a) The validity or appropriateness of the Authority's limiting or selection criteria;

(b) The validity or appropriateness of the Authority's participant access criteria and the Authority's participant access determinations;

(c) The Authority's determination regarding whether an effective policy and program in effect to prevent trafficking regardless of the vendor or farmer's awareness, approval, and/or involvement in the violation activity;

(d) Denial of authorization if the Authority vendor authorization is subject to the procurement procedures applicable to the Authority;

(e) The expiration of the agreement;

(f) Disputes regarding food instrument or CVV payments and claims;

(g) Disqualification of a vendor as a result of disqualification from the SNAP;

(h) The Authority's determination whether to notify a vendor in writing when an investigation reveals an initial violation for which a pattern of violations must be established in order to impose a sanction;

(i) The Authority's determination to include or exclude an infant formula manufacturer, wholesaler, distributor, or retailer from the list required;

(j) The validity or appropriateness of the Authority's criteria used to determine whether or not a vendor is an A50 store; and

(k) The validity or appropriateness of the Authority's prohibition of incentive items and the Authority's denial of an A50 vendor's request to provide an incentive item to customers.

(4) A request for a hearing must be in writing and must be received within 30 days from the date of the notice describing the proposed action.

(5) The Authority may, at its discretion, permit the vendor or farmer to continue participating in the program pending the outcome of an administrative hearing. The vendor or farmer may be required to repay funds for FIs or CVVs redeemed during the pendency of the hearing, depending on the hearing outcome.

(6) If an agreement expires during the appeal period, the Authority will accept application for renewal and delay determination until all appeals have been exhausted.

Stat. Auth.: ORS 409.600

Stats. Implemented: ORS 409.600

Hist.: HD 7-1993, f. & cert. ef. 6-11-93; OHD 17-2001, f. 8-2-01, cert. ef. 8-15-01; OHD 22-2002, f. & cert. ef. 12-24-02; PH 19-2003(Temp), f. & cert. ef. 11-14-03 thru 5-12-04; PH 22-2003, f. 12-31-03, cert. ef. 1-5-04; PH 16-2005, f. & cert. ef. 10-28-05; PH 30-2006, f. & cert. ef. 12-27-06; PH 5-2009, f. & cert. ef. 6-1-09; PH 9-2011, f. & cert. ef. 9-30-11

Rule Caption: Amendments of rules related to Radiation Protection Services.

Adm. Order No.: PH 10-2011

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 10-1-11

Notice Publication Date: 9-1-2011

Rules Amended: 333-100-0005, 333-100-0020, 333-100-0070, 333-101-0065, 333-102-0015, 333-102-0115, 333-102-0130, 333-102-0190, 333-102-0250, 333-102-0285, 333-102-0290, 333-102-0293, 333-102-0305, 333-102-0310, 333-102-0340, 333-103-0010, 333-103-0030, 333-103-0035, 333-105-0530, 333-106-0005, 333-106-0035, 333-106-0045, 333-106-0055, 333-106-0325, 333-106-0370, 333-106-0750, 333-111-0015, 333-116-0020, 333-116-0025, 333-116-0035, 333-116-0105, 333-116-0220, 333-116-0250, 333-116-0260, 333-116-0290, 333-116-0320, 333-116-0330, 333-116-0360, 333-116-0390, 333-116-0440, 333-116-0470, 333-116-0585, 333-116-0660, 333-116-0670, 333-116-0680, 333-116-0683, 333-116-0687, 333-116-0715, 333-116-1000, 333-119-0010, 333-119-0090, 333-119-0100, 333-120-0015, 333-120-0100, 333-120-0550, 333-120-0650, 333-120-0660, 333-120-0720, 333-120-0730, 333-120-0740

Subject: The Oregon Health Authority, Public Health Division is permanently amending Oregon Administrative Rules related to pro-

grams within the Radiation Protection Services. The radiation materials licensing program is amending rules to comply with 10 CFR Parts 1-50 to meet federal law pertaining to byproduct material management. The X-ray program is amending rules to permit operations of X-ray equipment performed by dental hygienists as outlined in ORS 680.205. The tanning program is amending rules to outline skin type definitions and the use of digital timers with tanning bed operations, remove OAR 333-119-0100(20), and create new rule definitions for skin typing.

Rules Coordinator: Brittany Sande—(971) 673-1291

333-100-0005

Definitions

The following definitions apply to OAR chapter 333 divisions 100, 102, 103, 106, 111, 116, 118, 119, 120, 121, 122, 123, and 124. Additional definitions used only in a certain division will be found in that division.

(1) "Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

(2) "Accelerator" means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 MeV. For purposes of this definition, "particle accelerator" is an equivalent term.

(3) "Accelerator-produced material" means any material made radioactive by a particle accelerator.

(4) "Act" means Oregon Revised Statutes 453.605 through 453.807.

(5) "Activity" means the rate of disintegration or transformation or decay of radioactive material. The units of activity are the becquerel (Bq), defined as one disintegration per second, and the curie (Ci), defined as 3.7×10^{10} disintegrations per second.

(6) "Adult" means an individual 18 or more years of age.

(7) "Agreement State" means any state with which the U.S. Nuclear Regulatory Commission or the U.S. Atomic Energy Commission has entered into an effective agreement under subsection 274b. of the Atomic Energy Act of 1954, as amended (73 Stat. 689).

(8) "Airborne radioactive material" means any radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.

(9) "Airborne radioactivity area" means a room, enclosure, or area in which airborne radioactive material, composed wholly or partly of licensed material, exist in concentrations:

(a) In excess of the derived air concentrations (DACs) specified in Appendix B, Table I, column 3, to 10 CFR Part 20.1001 to 20.2401; or

(b) To such a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake (ALI) or 12 DAC-hours.

(10) "ALARA" (acronym for "As Low As Reasonably Achievable") means making every reasonable effort to maintain exposures to radiation as far below the dose limits in this part as is practical consistent with the purpose for which the licensed activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed materials in the public interest.

(11) "Alert" means events may occur, are in progress, or have occurred that could lead to a release of radioactive material but that the release is not expected to require a response by offsite response organizations to protect persons offsite.

(12) "Annual" means occurring every year or within a consecutive twelve month cycle.

(13) "Annual Limit on Intake" (ALI) means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the Reference Man that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) or a committed dose equivalent of 0.5 Sv (50 rem) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in Appendix B, Table I, Columns 1 and 2, to 10 CFR Part 20.1001 to 20.2401.

(14) "As Low As Reasonably Achievable" see "ALARA."

(15) "Authority" means the Oregon Health Authority.

ADMINISTRATIVE RULES

(16) "Background radiation" means radiation from cosmic sources; naturally occurring radioactive materials, including radon, except as a decay product of source or special nuclear material, and including global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the control of the licensee. "Background radiation" does not include sources of radiation from radioactive or special nuclear materials regulated by the Authority.

(17) "Becquerel" (Bq) means the International System of Units (SI) unit of activity. One becquerel is equal to one disintegration or transformation per second (dps or tps).

(18) "Bioassay" means the determination of kinds, quantities or concentrations, and, in some cases, the locations, of radioactive material in the human body, whether by direct measurement (in vivo counting) or by analysis and evaluation of materials excreted or removed from the human body. For purposes of these rules, "radiobioassay" is an equivalent term.

(19) "Brachytherapy" means a method of radiation therapy in which sealed sources are utilized to deliver dose at a distance of up to a few centimeters, by surface, intracavitary, or interstitial application.

(20) "Byproduct material" means:

(a) Any radioactive material, except special nuclear material, yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or utilizing special nuclear material; and

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction process. Underground ore bodies depleted by such solution extraction operations do not constitute "byproduct material" within this definition.

(21) "Calendar quarter" means not less than 12 consecutive weeks nor more than 14 consecutive weeks. The first calendar quarter of each year must begin in January and subsequent calendar quarters must be so arranged such that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. No licensee or registrant may change the method observed for determining calendar quarters except at the beginning of a calendar year.

(22) "Calibration" means the determination of:

(a) The response or reading of an instrument relative to a series of known radiation values over the range of the instrument; or

(b) The strength of a source of radiation relative to a standard.

(23) "CFR" means Code of Federal Regulations.

(24) "Chelating agent" means amine polycarboxylic acids, hydroxycarboxylic acids, gluconic acid, and polycarboxylic acids.

(25) "Class" means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. For purposes of these rules, "lung class" or "inhalation class" are equivalent terms. Materials are classified as D, W, or Y, which applies to a range of clearance half-times:

(a) For Class D, Days, of less than 10 days;

(b) For Class W, Weeks, from 10 to 100 days; and

(c) For Class Y, Years, of greater than 100 days.

(26) "Clinical laboratory" means a laboratory licensed pursuant to ORS 438.110 through 438.140.

(27) "Collective dose" means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

(28) "Committed dose equivalent" ($H_{T,50}$) means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

(29) "Committed effective dose equivalent" ($H_{E,50}$) is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues ($H_{E,50} = \sum W_T \cdot H_{T,50}$).

(30) "Contamination" (Radioactive) means deposition or presence of radioactive material in any place where it is not desired, and particularly in any place where its presence can be harmful. The harm may be in compromising the validity of an experiment or a procedure, or in being a source of danger to persons. Contamination may be divided into two types: Fixed and removable. Removable contamination may be transferred easily from one object to another by light rubbing or by the use of weak solvents such as water or alcohol. Removable contamination is evaluated and recorded in units of microcuries or dpm. Fixed contamination is not easily transferred from one object to another and requires mechanical or strong chemicals to

remove it from its current location. Fixed contamination is evaluated and recorded in units of mR/hr.

(31) "Curie" means a unit of quantity of radioactivity. One curie (Ci) is that quantity of radioactive material that decays at the rate of 3.7×10^{10} disintegrations or transformations per second (dps or tps).

(32) "Declared pregnant woman" means a woman who has voluntarily informed the licensee, in writing, of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.

(33) "Decommission" means to remove (as a facility) safely from service and reduce residual radioactivity to a level that permits:

(a) Release of the property for unrestricted use and termination of license; or

(b) Release of the property under restricted conditions and termination of the license.

(34) "Deep dose equivalent" (H_d) which applies to external whole body exposure, means the dose equivalent at a tissue depth of 1 centimeter (1000 mg/cm^2).

(35) "Depleted uranium" means source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.

(36) "Derived air concentration" (DAC) means the concentration of a given radionuclide in air which, if breathed by Reference Man for a working year of 2,000 hours under conditions of light work, results in an intake of one ALI. For purposes of these rules, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for 2,000 hours in a year. DAC values are given in Table I, Column 3, of Appendix B to 10 CFR Part 20.1001 to 20.2401.

(37) "Derived air concentration-hour" (DAC-hour) means the product of the concentration of radioactive material in air, expressed as a fraction or multiple of the derived air concentration for each radionuclide, and the time of exposure to that radionuclide, in hours. A licensee may take 2,000 DAC-hours to represent one ALI, equivalent to a committed effective dose equivalent of 0.05 Sv (5 rem).

(38) "Dose" is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose equivalent, or total effective dose equivalent. For purposes of these rules, "radiation dose" is an equivalent term.

(39) "Dose equivalent" (H_T) means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the sievert (Sv) and rem (see "Rem"). (See OAR 333-100-0070(2) for SI equivalent sievert.)

(40) "Dose limits" means the permissible upper bounds of radiation doses established in accordance with these rules. For purposes of these rules, "limits" is an equivalent term.

(41) "Dosimetry processor" means an individual or an organization that processes and evaluates individual monitoring equipment in order to determine the radiation dose delivered to the equipment.

(42) "Effective dose equivalent" (H_E) means the sum of the products of the dose equivalent to the organ or tissue (H_T) and the weighting factor (W_T) applicable to each of the body organs or tissues that are irradiated ($H_E = \sum W_T H_T$).

(43) "Electronic product" means any manufactured product or device or component part of such a product or device that is capable of generating or emitting electromagnetic or sonic radiation such as, but not limited to, X-rays, ultrasonic waves, microwaves, laser light or ultraviolet light.

(44) "Embryo/fetus" means the developing human organism from conception until the time of birth.

(45) "Entrance or access point" means any opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed or registered radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

(46) "Exclusive use" (also referred to in other regulations as "sole use" or "full load") means the sole use of a conveyance by a single consignor and for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee.

(47) "Explosive material" means any chemical compound, mixture, or device that produces a substantial instantaneous release of gas and heat spontaneously or by contact with sparks or flame.

(48) "Exposure" means:

ADMINISTRATIVE RULES

(a) The quotient of dQ by dm where “ dQ ” is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass “ dm ” are completely stopped in air. The SI unit of exposure is the coulomb per kilogram.

(b) Being exposed to ionizing radiation or to radioactive material.

(49) “Exposure rate” means the exposure per unit of time, such as roentgen per minute (R/min) and milliroentgen per hour (mR/hr).

(50) “External dose” means that portion of the dose equivalent received from any source of radiation outside the body.

(51) “Extremity” means hand, elbow, arm below the elbow, foot, knee, or leg below the knee.

(52) “Eye dose equivalent” means the external dose equivalent to the lens of the eye at a tissue depth of 0.3 centimeter (300 mg/cm²).

(53) “Fixed gauge” means a measuring or controlling device that is intended to be mounted at a specific location, stationary, not to be moved, and is not portable.

(54) “Former U.S. Atomic Energy Commission (AEC) or U.S. Nuclear Regulatory Commission (NRC) licensed facilities” means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

(55) “General license” means a license granted by rule, in contrast to an issued license, to acquire, own, possess, use, or transfer radioactive material or a device that contains radioactive material.

(56) “Generally applicable environmental radiation standards” means standards issued by the U.S. Environmental Protection Agency (EPA) under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

(57) “Gray” (Gy) means the International System of Units (SI), unit of absorbed dose. One gray is equal to an absorbed dose of one joule per kilogram (100 rad). (See OAR 333-100-0070(2))

(58) “Hazardous waste” means those wastes designated as hazardous by U.S. Environmental Protection Agency regulations in 40 CFR Part 261.

(59) “Healing arts” means:

(a) The professional disciplines authorized by the laws of this state to use X-rays or radioactive material in the diagnosis or treatment of human or animal disease. For the purposes of this Authority they are Medical Doctors, Osteopaths, Dentists, Veterinarians, Chiropractors, and Podiatrists; or

(b) Any system, treatment, operation, diagnosis, prescription, or practice for the ascertainment, cure, relief, palliation, adjustment, or correction of any human disease, ailment, deformity, injury or unhealthy or abnormal physical or mental condition.

(60) “Human use” means the internal or external administration of radiation or radioactive material to human beings.

(61) “Individual” means any human being.

(62) “Individual monitoring” means:

(a) The assessment of dose equivalent by the use of devices designed to be worn by an individual;

(b) The assessment of committed effective dose equivalent by bioassay (see Bioassay) or by determination of the time-weighted air concentrations to which an individual has been exposed, that is, DAC-hours; or

(c) The assessment of dose equivalent by the use of survey data.

(63) “Individual monitoring devices” means devices designed to be worn by a single individual for the assessment of dose equivalent such as film badges, thermoluminescent dosimeters (TLDs), pocket ionization chambers, and personal (“lapel”) air sampling devices.

(64) “Inhalation class” (see “Class”).

(65) “Inspection” means an official examination or observation including, but not limited to, tests, surveys, and monitoring to determine compliance with rules, regulations, orders, requirements, and conditions of the Authority.

(66) “Interlock” means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

(67) “Internal dose” means that portion of the dose equivalent received from radioactive material taken into the body.

(68) “Ionizing radiation” means any electromagnetic or particulate radiation capable of producing ions, directly or indirectly, in its passage through matter. It includes any or all of the following: Alpha particles, beta particles, electrons, positrons, gamma rays, X-rays, neutrons, high-speed

electrons, high-speed protons, fission fragments and other atomic and subatomic particles; but not sound or radio waves, or visible, infrared, or ultraviolet light.

(69) “Laser” means any device which, when coupled with an appropriate laser energy source, can produce or amplify electromagnetic radiation by the process of controlled stimulated emission.

(70) “License” means a license issued by the Authority in accordance with rules adopted by the Authority.

(71) “Licensed material” means radioactive material received, possessed, used, transferred or disposed of under a general or specific license granted or issued by the Authority. For the purpose of meeting the definition of a Licensing State by the Conference of Radiation Control Program Directors, Inc. (CRCPD), Naturally Occurring and Accelerator Produced Radioactive Material (NARM) refers only to discrete sources of NARM. Diffuse sources of NARM are excluded from consideration by the CRCPD for Licensing State designation purposes.

(72) “Licensee” means any person who is licensed by the Authority in accordance with these rules and the Act.

(73) “Licensing state” means any state with rules or regulations equivalent to the Suggested State Regulations for Control of Radiation relating to, and having an effective program for, the regulatory control of NARM.

(74) “Limits” (dose limits) means the permissible upper bounds of radiation doses.

(75) “Lost or missing licensed or registered source of radiation” means licensed or registered source(s) of radiation whose location is unknown. This definition includes licensed material that has been shipped but has not reached its planned destination and whose location cannot be readily traced in the transportation system.

(76) “Lung class” (see “Class”).

(77) “Major processor” means a user processing, handling, or manufacturing radioactive material exceeding Type A quantities as unsealed sources or material, or exceeding four times Type B quantities as sealed sources, but does not include nuclear medicine programs, universities, industrial radiographers, or small industrial programs. Type A and B quantities are defined in division 118 of this chapter.

(78) “Member of the public” means an individual, except when that individual is receiving an occupational dose.

(79) “Minor” means an individual less than 18 years of age.

(80) “Monitoring” means the measurement of radiation, radioactive material concentrations, surface area activities or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses. For purposes of these rules, “radiation monitoring” and “radiation protection monitoring” are equivalent terms.

(81) “NARM” means any naturally occurring or accelerator-produced radioactive material. It does not include byproduct, source, or special nuclear material.

(82) “Natural radioactivity” means radioactivity of naturally occurring nuclides.

(83) “Naturally-occurring radioactive material” (NORM) means any nuclide that is found in nature as a radioactive material (i.e., not technologically produced).

(84) “Natural thorium” means thorium with the naturally occurring distribution of thorium isotopes (essentially 100 weight percent thorium-232).

(85) “Natural uranium” means a mixture of the uranium isotopes 234, 235 and 238 (approximately 0.7 weight percent uranium-235 and the remainder by weight essentially uranium-238), found in nature, that is neither enriched nor depleted in the isotope uranium 235.

(86) “Nonstochastic effect” means a health effect that varies with the dose and a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of these rules, “deterministic effect” is an equivalent term.

(87) “Normal form radioactive material” means radioactive material that has not been demonstrated to qualify as “special form radioactive material”. See “Special form.”

(88) “NRC” is the acronym for Nuclear Regulatory Commission.

(89) “Nuclear Regulatory Commission” (NRC) means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

(90) “Package” means the packaging together with its radioactive contents as presented for transport.

(91) “Particle accelerator” means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of one MeV.

ADMINISTRATIVE RULES

(92) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing.

(93) "Personnel monitoring equipment" means devices such as film badges, pocket dosimeters, and thermoluminescent dosimeters designed to be worn or carried by an individual for the purpose of estimating the dose received by the individual. See "Individual monitoring devices."

(94) "Pharmacist" means an individual licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice pharmacy.

(95) "Physician" means an individual licensed by the Oregon State Board of Medical Examiners to dispense drugs in the practice of medicine.

(96) "Planned special exposure" means an infrequent exposure to radiation, separate from and in addition to the annual occupational dose limits.

(97) "Portable gauge" means a measuring or controlling device that is intended to be portable and is not fixed to a specific location. All portable gauges require a specific license (there is no general license granted for portable generally licensed devices in the State of Oregon).

(98) "Program" means the Radiation Protection Services section of the Public Health Division of the Oregon Health Authority.

(99) "Pyrophoric liquid" means any liquid that ignites spontaneously in dry or moist air at or below 130^{OF} (54.4^{OC}).

(100) "Pyrophoric solid" means any solid material, other than one classed as an explosive, which under normal conditions is liable to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited readily and, when ignited, burns so vigorously and persistently as to create a serious transportation, handling, or disposal hazard. Included are spontaneously combustible and water-reactive materials.

(101) "Qualified expert" means an individual, approved by the Authority, who has demonstrated, pursuant to these rules, that he/she possesses the knowledge, skills, and training to measure ionizing radiation, to evaluate radiation parameters, to evaluate safety techniques, and to advise regarding radiation protection needs. The individual must:

(a) Be certified in the appropriate field by the American Board of Radiology, the American Board of Health Physics, the American Board of Medical Physics or the American Board of Nuclear Medicine Science; or

(b) Hold a master's or doctor's degree in physics, biophysics, radiological physics, health physics, or medical physics and have completed one year of documented, full time training in the appropriate field and also one year of documented, full time work experience under the supervision of a qualified expert in the appropriate field. To meet this requirement, the individual must have performed the tasks required of a qualified expert during the year of work experience; or

(c) Receive approval from the Authority for specific activities.

(102) "Quality factor" (Q) means the modifying factor (listed in Tables 1004(b).1 and 1004(b).2 of 10 CFR Part 20.1004 provided at the end of this division) that is used to derive dose equivalent from absorbed dose.

(103) "Quarter" means a period of time equal to one-fourth of the year observed by the licensee, approximately 13 consecutive weeks, providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.

(104) "Rad" means the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 erg per gram or 0.01 joule per kilogram (0.01 gray). See OAR 333-100-0070(2) for SI equivalent gray.

(105) "Radiation" means:

(a) Ionizing radiation including gamma rays, X-rays, alpha and beta particles, protons, neutrons, and other atomic or nuclear particles or rays;

(b) Any electromagnetic radiation which can be generated during the operations of electronic products and which the Authority has determined to present a biological hazard to the occupational or public health and safety but does not include electromagnetic radiation which can be generated during the operation of an electronic product licensed by the Federal Communications Commission;

(c) Any sonic, ultrasonic or infrasonic waves which are emitted from an electronic product as a result of the operation of an electronic circuit in such product and which the Authority has determined to present a biological hazard to the occupational or public health and safety.

(106) "Radiation area" means any area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem) in one hour at 30 centimeters from the source of radiation or from any surface that the radiation penetrates.

(107) "Radiation machine" means any device capable of producing radiation except those which produce radiation only from radioactive material.

(108) "Radiation safety officer" means:

(a) An individual who has the knowledge, responsibility, and authority to apply appropriate radiation protection rules; or

(b) The representative of licensee management, authorized by the Authority, and listed on the specific license as the radiation safety officer, who is responsible for the licensee's radiation safety program.

(109) "Radioactive material" means any solid, liquid, or gas that emits radiation spontaneously.

(a) Radioactive material, as used in these rules, includes: byproduct material, naturally occurring radioactive material, accelerator produced material, and source material, as defined in this rule.

(b) Radioactive material, as used in these rules, does not include special nuclear material.

(110) "Radioactive waste" means radioactive material that is unwanted or is unusable, as defined in division 50 of chapter 345. No radioactive material may be disposed of in Oregon except as provided in division 50 of chapter 345.

(111) "Radioactivity" means the transformation of unstable atomic nuclei by the emission of radiation.

(112) "Reference Man" means a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health workers to standardize results of experiments and to relate biological insult to a common base. A description of the Reference Man is contained in the International Commission on Radiological Protection report, ICRP Publication 23, "Report of the Task Group on Reference Man."

(113) "Registrant" means any person who is registered with the Authority and is legally obligated to register with the Authority pursuant to these rules and the Act.

(114) "Registration" means the identification of any material or device emitting radiation, and the owner of such material or device must furnish information to the Authority in accordance with the rules adopted by the Authority.

(115) "Regulations of the U.S. Department of Transportation" means the regulations in 49 CFR Parts 100-189 and Parts 390-397.

(116) "Rem" means the special unit of any of the quantities expressed as dose equivalent. The dose equivalent rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 sievert).

(117) "Research and development" means:

(a) Theoretical analysis, exploration, or experimentation; or

(b) The extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and development does not include the internal or external administration of radiation or radioactive material to human beings.

(118) "Respiratory protective equipment" means an apparatus, such as a respirator, used to reduce an individual's intake of airborne radioactive materials.

(119) "Restricted area" means an area to which access is limited by the licensee or registrant for the purpose of protecting individuals against undue risks from exposure to sources of radiation. A restricted area does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

(120) "Roentgen" means the special unit of exposure. One roentgen (R) equals 2.58×10^{-4} Coulombs/kilogram of air (see "Exposure" and division 120).

(121) "Sanitary sewerage" means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee.

(122) "Screening" means the use of a systematic approach to obtain cursory examinations of a person or group of persons without regard to specific clinical indications.

(123) "Sealed source" means radioactive material that is encased in a capsule designed to prevent leakage or escape of the radioactive material.

(124) "Sealed Source and Device Registry" means the national registry that contains all the registration certificates, generated by both the U.S. Nuclear Regulatory Commission and Agreement States, that summarize the radiation safety information for sealed sources and devices and describe the licensing and use conditions approved for the product.

(125) "Shallow dose equivalent" (H_p), which applies to the external exposure of the skin or an extremity, means the dose equivalent at a tissue

ADMINISTRATIVE RULES

depth of 0.007 centimeter (7 mg/cm²) averaged over an area of one square centimeter.

(126) "SI" means the abbreviation for the International System of Units.

(127) "Sievert" means the International System of Units (SI), unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem). (See OAR 333-100-0070(2)).

(128) "Site boundary" means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.

(129) "Source material" means:

(a) Uranium or thorium or any combination of uranium and thorium in any physical or chemical form; or

(b) Ores that contain by weight one-twentieth of one percent (0.05 percent) or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material.

(130) "Source material milling" means any activity that results in the production of byproduct material, as defined by this rule.

(131) "Source of radiation" means any radioactive material or any device or equipment emitting, or capable of producing, radiation. Source of radiation, pursuant to this rule, includes, but is not limited to, radiation facilities, radiation producing machines, radiation producing devices, radioactive material sealed and unsealed form (normal form and special form), and radioactive material uses.

(132) "Special form radioactive material" means radioactive material that satisfies the following conditions:

(a) It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(b) The piece or capsule has at least one dimension not less than five millimeters (0.2 inch); and

(c) It satisfies the test requirements specified by the U.S. Nuclear Regulatory Commission. A special form encapsulation designed in accordance with the U.S. Nuclear Regulatory Commission requirements in effect on June 30, 1983, and constructed prior to July 1, 1985, and a special form encapsulation designed in accordance with the Nuclear Regulatory Commission requirements in effect on March 31, 1996, and constructed prior to April 1, 1998, may continue to be used. Any other special form encapsulation either designed or constructed after April 1, 1998, must meet requirements of this definition applicable at the time of its design or construction.

(133) "Special nuclear material" means:

(a) Plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material that the U.S. Nuclear Regulatory Commission, pursuant to the provisions of section 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, but does not include source material; or

(b) Any material artificially enriched by any of the foregoing but does not include source material.

(134) "Special nuclear material in quantities not sufficient to form a critical mass" means uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; uranium-233 in quantities not exceeding 200 grams; plutonium in quantities not exceeding 200 grams; or any combination of them in accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all of the kinds of special nuclear material in combination must not exceed one.

For example, the following quantities in combination would not exceed the limitation and are within the formula: $175 \text{ (grams contained U-235)} / 350 + (50 \text{ (grams U-233)}) / 200 + (50 \text{ (grams Pu)}) / 200 = 1$.

(135) "Specific activity of a radionuclide" means the radioactivity of the radionuclide per unit mass of that nuclide. The specific activity of a material in which the radionuclide is essentially uniformly distributed is the radioactivity per unit mass of the material.

(136) "Stochastic effect" means health effects that occur randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without threshold. Hereditary effects and cancer incidence are examples of stochastic effects.

(137) "Supervision" as used in these rules, means the responsibility for, and control of, the application, quality, radiation safety and technical aspects of all sources of radiation possessed, used and stored through authorization granted by the Authority.

(138) "Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of sources of radiation. When appropriate, such evaluation

includes, but is not limited to, tests, physical examinations, and measurements of levels of radiation or concentrations of radioactive material present.

(139) "Termination" means:

(a) The end of employment with the licensee or registrant or, in the case of individuals not employed by the licensee or registrant, the end of work assignment in the licensee's or registrant's restricted area in a given calendar quarter, without expectation or specific scheduling of re-entry into the licensee's or registrant's restricted area during the remainder of that calendar quarter; or

(b) The closure of a registered or licensed facility and conclusion of licensed or registered activities, pursuant to a registration or specific license.

(140) "Test" means the process of verifying compliance with an applicable rule.

(141) "These rules," mean all parts of the Oregon Administrative Rules promulgated under ORS 453.605 through 453.807.

(142) "Total effective dose equivalent" (TEDE) means the sum of the deep dose equivalent for external exposures and the committed effective dose equivalent for internal exposures.

(143) "Total organ dose equivalent" (TODE) means the sum of the deep dose equivalent (DDE) and the committed dose equivalent (CDE) to the organ receiving the highest dose as described in OAR 333-120-650(1)(d).

(144) "Transport index" means the dimensionless number (rounded up to the first decimal place) placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is the number expressing the maximum radiation level in millirem per hour at one meter from the external surface of the package.

(145) "U.S. Department of Energy" means the Department of Energy established by Public Law 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 et seq., to the extent that the Department exercises functions formerly vested in the U.S. Atomic Energy Commission, its Chairman, members, officers and components and transferred to the U.S. Energy Research and Development Administration and to the Administrator thereof pursuant to sections 104(b), (c) and (d) of the Energy Reorganization Act of 1974 (Public Law 93-438, October 11, 1974, 88 Stat. 1233 at 1237 42 U.S.C. 5814, effective January 19, 1975) and retransferred to the Secretary of Energy pursuant to section 301(a) of the Department of Energy Organization Act (Public Law 95-91, August 4, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977).

(146) "Unrefined and unprocessed ore" means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining.

NOTE: "Ore" refers to fuel cycle materials pursuant to 10 CFR Part 150.

(147) "Unrestricted area" means an area, access to which is neither limited nor controlled by the licensee or registrant. For purposes of these rules, "uncontrolled area" is an equivalent term.

(148) "Uranium — depleted, enriched" means:

(a) "Depleted uranium" means uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes.

(b) "Enriched uranium" means uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.

(149) "Validation certificate" means the official document issued upon payment to the Authority of the appropriate fee listed in division 103 of this chapter. The license or registration is subject and void without the annual validation certificate.

(150) "Waste" means radioactive waste.

(151) "Week" means seven consecutive days starting on Sunday.

(152) "Weighting factor" (W_T) for an organ or tissue (T) means:

(a) The proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of W_T are:

(A) Gonads 0.25

(B) Breast 0.15

(C) Red Bone Marrow 0.12

(D) Lung 0.12

(E) Thyroid 0.03

(F) Bone Surfaces 0.03

(G) Remainder 0.30 (see note below)

(H) Whole Body 1.00

NOTE: Assignment of 0.30 for the remaining organs results from a weighting factor of 0.06 for each of five "remainder" organs, excluding the skin and the lens of the eye, that receive the highest doses.

ADMINISTRATIVE RULES

(b) For the purpose of weighting the external whole body dose, for adding it to the internal dose, a single weighting factor, $W_T = 1.0$, has been specified. The use of other weighting factors for external exposure will be approved on a case-by-case basis until such time as specific guidance is issued.

(153) "Whole body" means, for purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knee.

(154) "Worker" means an individual engaged in work under a license or registration issued by the Authority and controlled by a licensee or registrant, but does not include the licensee or registrant.

(155) "Working level" (WL) means any combination of short-lived radon progeny in one liter of air that will result in the ultimate emission of 1.3×10^5 MeV of potential alpha particle energy. The short-lived radon-222 progeny are: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220 the progeny are: polonium-216, lead-212, bismuth-212, and polonium-212.

(156) "Working level month" (WLM) means an exposure to one working level for 170 hours (2,000 working hours per year divided by 12 months per year is approximately equal to 170 hours per month.)

(157) "Year" means the period of time beginning in January used to determine compliance with the provisions of these rules. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

[ED. NOTE: Tables and Appendices referenced are available from the agency.]
[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807
Hist.: HD 4-1985, f. & ef. 3-20-85; HD 10-1987, f. & ef. 7-28-87; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; Administrative Reformatting 12-8-97; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-100-0020 Prohibited Uses

(1) Hand-held fluoroscopic screens shall not be used unless they have been listed in the Registry of Sealed Source and Devices or accepted for certification by the U.S. Food and Drug Administration, Center for Devices and Radiological Health.

(2) Shoe-fitting fluoroscopic devices shall not be used.

(3) Sources of radiation shall not be used to expose any individual solely for training or demonstration purposes.

(4) Sources of radiation shall not be used for the purpose of screening or inspecting individuals for concealed weapons, hazardous materials, stolen property, illegal goods or contraband.

(5) No person shall intentionally apply or allow to be applied, either directly or indirectly, ionizing radiation to human beings except by, or under the supervision of, persons licensed by the State of Oregon to practice the healing arts and who are authorized to use radiation on humans. Notwithstanding this restriction, the Authority recognizes practitioners of the healing arts to be as outlined in ORS 676.110, that is:

(a) Podiatrists, Chiropractors, Dentists, Naturopath, Osteopaths, Medical Doctors, and Veterinarians;

(b) Nurse Practitioners and Physician Assistants may prescribe X-ray when doing so within the bounds of their independent rules;

(c) Dental Professionals are permitted to prescribe and review intraoral radiographs, in accordance with the Oregon Board of Dentistry administrative rules, chapter 818.

(d) No person will be allowed to use X-ray producing equipment without first meeting the requirements of OAR 333-106-0045(15) or 333-106-0055.

(6) No person shall intentionally or unintentionally expose another individual to radiation other than ionizing radiation in such a way as to adversely affect the health or safety of that individual. Notwithstanding this restriction, the use of radiation other than ionizing radiation by persons licensed by the State of Oregon to practice the healing arts and who are authorized to use radiation will be allowed.

(7) Dental units with a Kilovolt peak (kVp) of 50 and below are prohibited from being sold, leased, transferred or lent.

(a) Existing diagnostic dental X-ray systems less than 55 kVp shall not be used on minors.

(b) After October 1, 2011, registrants may not use diagnostic dental X-ray systems with a fixed, nominal kVp of less than 55.

Stat. Auth.: ORS 453.635
Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-100-0070 Units of Exposure and Dose

The Metric Conversion Act of 1975 (PL 94-168) urged the increasing awareness and use of the International System of Units (SI). The generally accepted regulatory values in the narrative portions of this document are followed by the SI equivalents in parentheses. Where appropriate, schedules and appendices are provided with notes concerning conversion factors. The inclusion of the SI equivalent is for informational purposes only.

(1) The unit of exposure is the coulomb per kilogram (C/kg). One roentgen is equal to 2.58×10^{-4} coulomb per kilogram of air.

(2) The units of radiation dose are:

(a) Gray (Gy) is the SI unit of absorbed dose. One gray is equal to an absorbed dose of one joule per kilogram (100 rad);

(b) Rad is the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 erg per gram or 0.01 joule per kilogram (0.01 Gy);

(c) Rem is the special unit of any of the quantities expressed as dose equivalent. The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 Sv).

(d) Sievert is the SI unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem).

(e) As used in these regulations, the quality factors for converting absorbed dose to dose equivalent are shown in 10 CFR 20 Part 20.1004 Table 1004(b).1.

(3) If it is more convenient to measure the neutron fluence rate than to determine the neutron dose equivalent rate in rem per hour or sieverts per hour, as provided in (2)(c) of this rule, one rem (0.01 Sv) of neutron radiation of unknown energies may, for purposes of the regulations in this part, be assumed to result from a total fluence of 25 million neutrons per square centimeter incident upon the body. If sufficient information exists to estimate the approximate energy distribution of the neutrons, the licensee may use the fluence rate per unit dose equivalent or the appropriate Q value from 10 CFR 20 part 20.1004 Table 1004(b).2 (at the end of this division) to convert a measured tissue dose in gray or rad to dose equivalent in sievert rem.

[ED. NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-101-0065 Additional Requirements

(1) No person shall use a radiation machine unless that machine is registered with the Oregon Health Authority in accordance with OAR 333-101-0005 or is exempt from the registration under OAR 333-101-0010 or 333-101-0025.

(2) No registrant shall use a radiation machine unless a current certificate of validation has been issued for that machine.

(3) The registrant must comply with any additional requirements or conditions listed on the then current certificate of validation on which the Authority has deemed appropriate or necessary to minimize danger to public health and safety or property.

Stat. Auth.: ORS 453.605 - ORS 453.807

Stats. Implemented: ORS 453.605 - ORS 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; Renumbered from 333-101-0030; PH 12-2006, f. & cert. ef. 6-16-06; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-102-0015 Certain Items Containing Radioactive Material

(1) Except for persons who apply radioactive material to, or persons who incorporate radioactive material into the following products, any person is exempt from these rules to the extent that he or she receives, possesses, uses, transfers, owns or acquires the following products:

NOTE: Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing byproduct material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(a) Timepieces or hands or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified levels of radiation:

(A) 25 millicuries (925 MBq) of tritium per timepiece;

(B) Five millicuries (185 MBq) of tritium per hand;

ADMINISTRATIVE RULES

(C) 15 millicuries (555 MBq) of tritium per dial (when used, bezels must be considered as part of the dial);

(D) 100 microcuries (3.7 MBq) of promethium-147 per watch or 200 microcuries (7.4 MBq) of promethium-147 per any other timepiece;

(E) 20 microcuries (0.74 MBq) of promethium-147 per watch hand or 40 microcuries (1.48 MBq) of promethium-147 per other timepiece hand;

(F) 60 microcuries (2.22 MBq) of promethium-147 per watch dial or 120 microcuries (4.44 MBq) of promethium-147 per other timepiece dial (when used, bezels must be considered as part of the dial);

(G) 0.15 microcurie (5.55 kBq) of radium per timepiece;

(H) 0.03 microcurie (1.11 kBq) of radium per hand;

(I) 0.09 microcurie (3.33 kBq) of radium per dial (when used, bezels must be considered as part of the dial);

(J) The radiation dose rate from hands and dials containing promethium-147 will not exceed, when measured through 50 milligrams per square centimeter of absorber:

(i) For wrist watches, 0.1 millirad (one Gy) per hour at 10 centimeters from any surface;

(ii) For pocket watches, 0.1 millirad (one Gy) per hour at one centimeter from any surface; and

(iii) For any other timepiece, 0.2 millirad (two Gy) per hour at 10 centimeters from any surface.

(K) One microcurie (37 kBq) of radium-226 per timepiece in intact timepieces manufactured prior to November 30, 2007.

(b) Precision balances containing not more than one millicurie (37 MBq) of tritium per balance or not more than 0.5 millicurie (18.5 MBq) of tritium per balance part manufactured before December 17, 2007;

(c) Marine compasses containing not more than 750 millicuries (27.8 GBq) of tritium gas and other marine navigational instruments containing not more than 250 millicuries (9.25 GBq) of tritium gas manufactured before December 17, 2007;

(d) Electron tubes: Provided, that each tube does not contain more than one of the following specified quantities of radioactive material:

(A) 150 millicuries (5.55 GBq) of tritium per microwave receiver protector tube or 10 millicuries (370 MBq) of tritium per any other electron tube;

(B) One microcurie (37 kBq) of cobalt-60;

(C) Five microcuries (185 kBq) of nickel-63;

(D) 30 microcuries (1.11 MBq) of krypton-85;

(E) Five microcuries (185 kBq) of cesium-137; or

(F) 30 microcuries (1.11 MBq) of promethium-147.

(G) And provided further, that the radiation dose rate from each electron tube containing radioactive material will not exceed one millirad (10 Gy) per hour at one centimeter from any surface when measured through seven milligrams per square centimeter of absorber.

NOTE: For purposes of, subsection (1)(d) of this rule "electron tubes" include spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes and any other completely sealed tube that is designed to conduct or control electrical currents.

(e) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, one or more sources of radioactive material, provided that:

(A) Each source contains no more than one exempt quantity set forth in 10 CFR Part 30.71 Schedule B; and

(B) Each instrument contains no more than 10 exempt quantities. For purposes of this requirement, an instrument's source(s) may contain either one or different types of radionuclides and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in 10 CFR Part 30.71 Schedule B provided that the sum of such fractions must not exceed unity.

(C) For americium-241, 0.05 microcuries (1.85 kBq) is considered an exempt quantity under paragraph (1)(e)(A) of this rule.

(i) Ionization chamber smoke detectors containing not more than one microcurie (uCi) of americium-241 per detector in the form of a foil and designed to protect life and property from fires.

(2) The exemptions contained in this rule must not authorize any of the following:

(a) The manufacture of any product listed;

(b) The application or removal of radioactive luminous material to or from meters and timepieces or hands and dials therefore;

(c) The installation into automobile locks of illuminators containing tritium or promethium-147 or the application of tritium to balances of precision or parts thereof;

(d) Human use, or the use in any device or article, except timepieces, which is intended to be placed on or in the human body;

(e) As applied to radioactive material exempted under section (1) of this rule, the production, packaging, repackaging or transfer of radioactive material for purposes of commercial distribution or the incorporation of radioactive material into products intended for commercial distribution.

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 4-2010, f. & cert. ef. 2-16-10; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-102-0115

Certain Measuring, Gauging and Controlling Devices

(1) A general license is hereby issued to commercial and industrial firms and to research, educational and medical institutions, individuals in the conduct of their business, and state or local government agencies to own, receive, acquire, possess, use or transfer in accordance with the provisions of OAR 333-103-0015 and sections (2), (3) and (4) of this rule, radioactive material, excluding special nuclear material, contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere.

(2) The general license in section (1) of this rule applies only to radioactive material contained in devices that have been manufactured or initially transferred and labeled in accordance with the specifications contained in a specific license issued by the Authority pursuant to OAR 333-102-0200 or in accordance with the specifications contained in a specific license issued by the U.S. Nuclear Regulatory Commission, an Agreement State, or a Licensing State, that authorizes distribution of devices to persons generally licensed by the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State.

(3) The devices must have been received from one of the specific licensees described in section (2) of this rule or through a transfer made in accordance with subsection (4)(i) of this rule.

NOTE: Regulations under the Federal Food, Drug and Cosmetic Act authorizing the use of radioactive control devices in food production require certain additional labeling thereon which is found in 21 CFR 179.21.

(4) Any person who owns, receives, acquires, possesses, uses or transfers radioactive material in a device pursuant to the general license in section (1) of this rule:

(a) Must assure that all labels affixed to the device at the time of receipt, and bearing a statement that removal of the label is prohibited, are maintained thereon and must comply with all instructions and precautions provided by such labels;

(b) Must assure that the device is tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than six-month intervals or at such other intervals as are specified in the label; however:

(A) Devices containing only krypton need not be tested for leakage of radioactive material; and

(B) Devices containing only tritium or not more than 100 microcuries (3.7 MBq) of other beta and/or gamma emitting material or 10 microcuries (0.37 MBq) of alpha emitting material and devices held in storage in the original shipping container prior to initial installation need not be tested for any purpose.

(c) Must assure that tests required in subsection (4)(b) of this rule and other testing, installation servicing and removing from installation involving the radioactive materials, its shielding or containment, are performed:

(A) In accordance with the instructions provided by the labels; or

(B) By a person holding an applicable specific license from the Authority, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State to perform such activities.

(d) Must maintain records showing compliance with the requirements of subsections (4)(b) and (4)(c) of this rule. The records must show the results of tests. The records also must show the dates of performance of, and the names of persons performing, testing, installation servicing and removal from installation concerning the radioactive material, its shielding or containment. The licensee must retain these records as follows:

(A) Records of tests for leakage of radioactive material required by subsection (4)(b) of this rule must be maintained as required in OAR 333-100-0057.

(B) Records of tests of the on-off mechanism and indicator required by subsection (4)(c) of this rule must be maintained as required in OAR 333-100-0057.

(C) Records which are required by subsection (4)(c) of this rule must be maintained as required in OAR 333-100-0057.

ADMINISTRATIVE RULES

(e) Upon the occurrence of a failure of or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 0.005 microcurie (185 Bq) or more of removable radioactive material, the licensee must immediately suspend operation of the device until it has been repaired by the manufacturer or other person holding an applicable specific license from the Authority, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State to repair such devices. The device and any radioactive material from the device may only be disposed of by transfer to a person authorized by a specific license to receive the radioactive material in the device or as otherwise approved by the Authority. A report containing a brief description of the event and the remedial action taken; and, in the case of detection of 0.005 microcurie or more removable radioactive material or failure of or damage to a source likely to result in contamination of the premises or the environs, a plan for ensuring that the premises and environs are acceptable for unrestricted use, must be submitted to the Authority within 30 days. Under these circumstances, the criteria set out in OAR 333-120-0190, as determined by the Authority, on a case-by-case basis;

(f) Must not abandon the device containing radioactive material;

(g) Except as provided in subsection (4)(i) of this rule, must transfer or dispose of the device containing radioactive material only by export as provided by subsection (4)(l) of this rule, by transfer to another general licensee as authorized in subsection (4)(i) of this rule, or by transfer to a specific licensee of the Authority, the U.S. Nuclear Regulatory Commission, an Agreement State or a Licensing State whose specific license authorizes the individual to receive the device; and

(A) Must furnish to the Authority, within 30 days after transfer of a device to a specific licensee or export, a report containing identification of the device by manufacturer's name, model number, serial number, the date of transfer, and the name, address and license number of the person receiving the device;

(B) The general licensee must obtain written Authority approval before transferring the device to any other specific licensee not specifically identified in subsection (4)(g) of this rule.

(h) A holder of a specific license may transfer a device for possession and use under its own specific license without prior approval, if the holder:

(A) Verifies that the specific license authorized the possession and use, or applies for and obtains an amendment to the license authorizing the possession and use;

(B) Removes, alters, covers, or clearly and unambiguously augments the existing label so that the device is labeled in compliance with OAR 333-120-0430, however the manufacturer model and serial numbers must be retained;

(C) Obtains manufacturer's or initial transferor's information concerning maintenance that would be applicable under the specific license (such as leak testing procedures); and

(D) Reports the transfer under OAR 333-102-0115(4)(g)(A).

(i) Must transfer the device to another general licensee only:

(A) Where the device remains in use at a particular location. In such case the transferor must give the transferee a copy of this rule and any safety documents identified in the label on the device and within 30 days of the transfer, report to the Authority the manufacturer's (or initial transferor's) name, model number, serial number of the device transferred, the date of transfer, the name and address of the transferee and the location of use, and the name, title and phone number of the individual who is a point of contact between the Authority and the transferee. This individual must have the knowledge and authority to take actions to ensure compliance with the appropriate rules and requirements concerning the possession and use of these devices; or

(B) Where the device is held in storage in the original shipping container at its intended location of use prior to initial use by a general licensee.

(j) Must comply with the provisions of OAR 333-120-0700 and 333-120-0710 for reporting radiation incidents, theft or loss of licensed material but shall be exempt from the other requirements of divisions 111 and 120 of this chapter;

(k) Must submit the required Authority form and receive from the Authority a validated registration certificate acknowledging the general license and verifying that all provisions of these rules have been met. The form must be submitted within 30 days after the first receipt or acquisition of such device. The general licensee must develop and maintain procedures designed to establish physical control over the device as described in this rule and designed to prevent transfer of such devices in any form, including metal scrap, to persons not authorized to receive the devices.

(l) Shall not export a device containing radioactive material except in accordance with 10 CFR Part 110.

(5) The general license in section (1) of this rule does not authorize the manufacture of devices containing radioactive material.

(6) The general license provided in section (1) of this rule is subject to the provisions of OAR 333-100-0040 through 333-100-0055, 333-102-0335, 333-103-0015 and 333-118-0050.

(7) The general licensee possessing or using devices licensed under the general license established by section (1) of this rule must report in writing to the Authority any changes in information furnished by the licensee on the required Authority form. The report must be submitted within 30 days after the effective date of such change.

(8) The licensee must appoint an individual responsible for having knowledge of the appropriate regulations and requirements and the authority for taking required actions to comply with appropriate regulations and requirements. The general licensee, through this individual, must ensure the day-to-day compliance with appropriate regulations and requirements. This appointment does not relieve the general licensee of any of its responsibility in this regard.

(9)(a) A device distributed or otherwise received as a generally licensed device must be registered with the Authority. Each address for a location of use, as described under subsection (9)(b) of this rule, represents a separate general licensee and requires a separate registration and fee. Devices containing more than 37 MBq (1 mCi) of cesium-137, 3.7 MBq (0.1 mCi) of strontium-90, 37 MBq (1 mCi) of cobalt-60, any quantity of americium-241, 3.7 MBq (0.1 mCi) of radium 226 or any other transuranic (i.e., element with atomic number greater than uranium (92)), based on the activity indicated on the label are required to have a specific license.

(b) In registering devices, the general licensee must furnish the following information and any other information specifically requested by the Authority:

(A) Name and mailing address of the general licensee;

(B) Information about each device. The manufacturer (or initial transferor), model number, serial number, the radioisotope and activity (as indicated on the label);

(C) Name, title, and telephone number of the responsible person designated as a representative of the general licensee under section (8) of this rule.

(D) Address or location at which the device(s) are used and/or stored. For portable devices, the address of the primary place of storage.

(E) Certification by the responsible representative of the general licensee that the information concerning the device(s) has been verified through a physical inventory and checking of label information.

(F) Certification by the responsible representative of the general licensee that they are aware of the requirements of the general license.

(10) General licensees must report changes to their mailing address or the location of use (including a change in name of general licensee) to the Authority within 30 days of the effective date of the change.

(11) Generally licensed devices that are not in use for longer than two years must be transferred to an authorized recipient or disposed of as radioactive waste. Shutters must be locked in the closed position on devices that are not being used or are in storage. The testing required by subsection (4)(b) of this rule need not be performed during the period of storage only. However, when devices are put back into service or transferred to another person, and have not been tested within the required test interval, they must be tested for leakage before use or transfer and the shutter tested before use.

(12) Persons generally licensed by an Agreement State with respect to devices meeting the criteria in section (9) of this rule are not subject to registration requirements if the devices are used in areas subject to NRC jurisdiction for a period less than 180 days in any calendar year. The Nuclear Regulatory Commission does not require registration information from such licensees.

(13) The general license in section (1) of this rule does not authorize the manufacture or import of devices containing radioactive material.

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

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-102-0130 General License for Use of Radioactive Material for Certain In Vitro Clinical or Laboratory Testing

(1) A general license is hereby granted to any physician, veterinarian, clinical laboratory, or hospital to receive, acquire, possess, transfer or use,

ADMINISTRATIVE RULES

for any of the following stated tests, in accordance with sections (2), (3), (4), (5) and (6) of this rule, the following radioactive materials in prepackaged units for use in In Vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals:

(a) Iodine-125 in units not exceeding ten microcuries (370 kBq) each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals;

(b) Iodine-131, in units not exceeding ten microcuries (370 kBq) each for use in in vitro clinical or laboratory tests not involving internal or external administration of byproduct material, or the radiation therefrom, to human beings or animals;

(c) Carbon-14, in units not exceeding ten microcuries (370 kBq) each for use in in vitro clinical or laboratory tests not involving internal or external administration of byproduct material, or the radiation therefrom, to human beings or animals;

(d) Hydrogen-3 (tritium) in units not exceeding 50 microcuries (1.85 MBq) each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals;

(e) Iron-59 in units not exceeding 20 microcuries (740 kBq) each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals;

(f) Selenium-75, in units not exceeding ten microcuries (370 kBq) each for use in in vitro clinical or laboratory tests not involving internal or external administration of byproduct material, or the radiation therefrom, to human beings or animals;

(g) Mock iodine-125 reference or calibration sources, in units not exceeding 0.05 microcuries (1.85 kBq) of iodine-129 and 0.005 microcuries (185 Bq) of americium-241 each for use in in vitro clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation therefrom, to human beings or animals.

(2) A person may not receive, acquire, possess, use or transfer radioactive material under the general license granted by section (1) of this rule unless that person:

(a) Has filed the required Authority application for registration pursuant to OAR 333-101-0007 and submitted the registration fee pursuant to 333-103-0015 and received from the Authority a validated license with certification number assigned; or

(b) Has a license that authorizes the medical use of radioactive material that was issued under OAR chapter 333, division 116.

(3) A person who receives, acquires, possesses or uses radioactive material pursuant to the general license established by section (1) of this rule must comply with the following:

(a) The general licensee must not possess at any one time, at any one location of storage or use a total amount of iodine-125, iodine-131, selenium-75, cobalt-57 and/or iron-59 in excess of 200 microcuries (7.4 MBq);

(b) The general licensee must store the radioactive material, until used, in the original shipping container or in a container providing equivalent radiation protection;

(c) The general licensee must use the radioactive material only for the uses authorized by section (1) of this rule;

(d) The general licensee must dispose of the mock iodine-125 reference or calibration sources described in subsection (1)(g) of this rule as required by OAR 333-120-0500 and section (6);

(e) The general licensee must not transfer the radioactive material to a person who is not authorized to receive it pursuant to a license issued by the Authority, the U.S. Nuclear Regulatory Commission, any Agreement State or Licensing State, nor transfer the radioactive material in any manner other than in the unopened, labeled shipping container as received from the supplier.

(4) The general licensee must not receive, acquire, possess or use radioactive material pursuant to section (1) of this rule:

(a) Except as prepackaged units that are labeled in accordance with the provisions of an applicable specific license issued by the U.S. Nuclear Regulatory Commission, any Agreement State or any Licensing State that authorizes the manufacture and distribution of iodine-125, iodine-131, carbon-14, hydrogen-3 (tritium), selenium-75, cobalt-57, iron-59 or mock iodine-125 for distribution to persons generally licensed under section (1) of this rule or its equivalent; and

(b) Unless one of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one

of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

(A) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation there from, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the United States Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

Name of Manufacturer

(B) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation there from, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a Licensing State.

Name of Manufacturer

(5) The registrant possessing or using radioactive material granted by the general license of section (1) of this rule must report in writing to the Authority any changes in the information furnished on the required Authority form. The report must be furnished within 30 days after the date of such change.

(6) Any person using radioactive material pursuant to the general license granted by section (1) of this rule is exempt from the requirements of divisions 111 and 120 of this chapter with respect to radioactive material covered by that general license, except that such persons using mock iodine-125 described in subsection (1)(g) of this rule must comply with provisions of OAR 333-120-0500, 333-120-0700 and 333-120-0710.

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-102-0190

Application for Specific Licenses.

(1) Applications for specific licenses must be filed on a form prescribed by the Authority. Information contained in previous applications, statements or reports filed with the Authority, the US Nuclear Regulatory Commission, or an Agreement State or a Licensing State or the Atomic Energy Commission may be incorporated by reference, provided that the reference is clear and specific.

(2) The Authority may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the Authority to determine whether the application should be granted or denied or whether a license should be modified or revoked.

(3) Each application must be signed by the applicant or licensee or a person duly authorized to act for and on the applicant's or licensee's behalf.

(4) Each applicant for a specific license is required to have a permanent in-state office with a copy of all required records available for inspection by the Authority.

(5) An application for a license filed pursuant to the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter will be considered also as an application for licenses authorizing other activities for which licenses are required by the Act, provided that the application specifies the additional activities for which licenses are requested and complies with rules of the Authority and the US Nuclear Regulatory Commission as to applications for such licenses.

(6) Each new application for a radioactive material license must be accompanied by the fee prescribed by OAR 333-103-0010. No fee will be required to accompany an application for renewal or amendment of a license, except as provided in OAR 333-103-0010.

(7) An application for a license to receive and possess radioactive material for the conduct of any activity that the Authority has determined, pursuant to Subpart A of Part 51 of 10 CFR (Environmental Protection Regulations applicable to materials licensing), will significantly affect the quality of the environment, must be filed at least nine months prior to commencement of construction of the plant or facility in which the activity will be conducted and must be accompanied by any Environmental Report required pursuant to Subpart A of 10 CFR Part 51.

(8) An application for a specific license to use radioactive material in the form of a sealed source or in a device that contains the sealed source must either:

ADMINISTRATIVE RULES

(a) Identify the source or device by manufacturer and model number as registered with the US Nuclear Regulatory Commission under 10 CFR Part 32.210 or with an Agreement State; or for a source or a device containing radium-226 or accelerator-produced radioactive material with a state under provisions comparable to 10 CFR Parts 32.210; or

(b) Contain the information identified in 10 CFR Part 32.210(c); or

(c) Sources or devices containing naturally occurring or accelerator produced radioactive material manufactured prior to November 30, 2007 that are not registered with the Nuclear Regulatory Commission or an Agreement State which the applicant is unable to provide all categories of information specified in 10 CFR Part 32.210(c) the applicant must provide:

(A) All available information identified in 10 CFR Part 32.210(c) concerning the source and if applicable the device; and

(B) Sufficient additional information to demonstrate that there is reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property. Information must include a description of the source or device, description of radiation safety features, intended use and associated operating experience and the results of a recent leak test.

(9) As provided by OAR 333-102-0200, certain applications for specific licenses filed under this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter must contain a proposed decommissioning funding plan or a certification of financial assurance for decommissioning as follows:

NOTE: If a renewal application was submitted on or before July 27, 1990, the decommissioning information may follow the renewal application but must be submitted prior to the license being issued.

(10)(a) Each application to possess radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in 10 CFR 30.72, "Schedule C — Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release," must contain either:

(A) An evaluation showing that the maximum dose to a person offsite due to a release of radioactive materials would not exceed one rem effective dose equivalent or five rems to the thyroid; or

(B) An emergency plan for responding to a release of radioactive material.

(b) One or more of the following factors may be used to support an evaluation submitted under paragraph (10)(a)(A) of this rule:

(A) The radioactive material is physically separated so that only a portion could be involved in an accident;

(B) All or part of the radioactive material is not subject to release during an accident because of the way it is stored or packaged;

(C) The release fraction in the respirable size range would be lower than the release fraction shown in 10 CFR Part 30.72 (Schedule C — Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release) due to the chemical or physical form of the material;

(D) The solubility of the radioactive material would reduce the dose received;

(E) Facility design or engineered safety features in the facility would cause the release fraction to be lower than shown in 10 CFR Part 30.72;

(F) Operating restrictions or procedures would prevent a release fraction as large as that shown in 10 CFR Part 30.72; or

(G) Other factors appropriate for the specific facility.

(c) An emergency plan for responding to a release of radioactive material submitted under paragraph (10)(a)(B) of this rule must include the following information:

(A) Facility description. A brief description of the licensee's facility and area near the site.

(B) Types of accidents. An identification of each type of radio-active materials accident for which protective actions may be needed.

(C) Classification of accidents. A classification system for classifying accidents as alerts or site area emergencies.

(D) Detection of accidents. Identification of the means of detecting each type of accident in a timely manner.

(E) Mitigation of consequences. A brief description of the means and equipment for mitigating the consequences of each type of accident, including those provided to protect workers onsite, and a description of the program for maintaining the equipment.

(F) Assessment of releases. A brief description of the methods and equipment to assess releases of radioactive materials.

(G) Responsibilities. A brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying offsite response organizations

and the Authority; also responsibilities for developing, maintaining, and updating the plan.

(H) Notification and coordination. A commitment to and a brief description of the means to promptly notify offsite response organizations and request offsite assistance, including medical assistance for the treatment of contaminated injured onsite workers when appropriate. A control point must be established. The notification and coordination must be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination. The licensee also must commit to notify the Authority immediately after notification of the appropriate offsite response organizations and not later than one hour after the licensee declares an emergency.

NOTE: These reporting requirements do not supercede or release licensees of complying with the requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499 or other state or federal reporting requirements.

(I) Information to be communicated. A brief description of the types of information on facility status, radioactive releases, and recommended protective actions, if necessary, to be given to offsite response organizations and to the Authority.

(J) Training. A brief description of the frequency, performance objectives and plans for the training that the licensee will provide workers on how to respond to an emergency including any special instructions and orientation tours the licensee would offer to fire, police, medical and other emergency personnel. The training must familiarize personnel with site-specific emergency procedures. Also, the training must thoroughly prepare site personnel for their responsibilities in the event of accident scenarios postulated as most probable for the specific site, including the use of team training for such scenarios.

(K) Safe shutdown. A brief description of the means of restoring the facility to a safe condition after an accident.

(L) Exercises. Provisions for conducting quarterly communications checks with offsite response organizations and biennial onsite exercises to test response to simulated emergencies. Quarterly communications checks with offsite response organizations must include the check and update of all necessary telephone numbers. The licensee must invite offsite response organizations to participate in the biennial exercises. Participation of offsite response organizations in biennial exercises although recommended is not required. Exercises must use accident scenarios postulated as most probable for the specific site and the scenarios must not be known to most exercise participants. The licensee must critique each exercise using individuals not having direct implementation responsibility for the plan. Critiques of exercises must evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques must be corrected.

(M) Hazardous chemicals. A certification that the applicant has met its responsibilities under the Emergency Planning and Community Right-to-Know Act of 1986, title III, Pub. L. 99-499, if applicable to the applicant's activities at the proposed place of use of the byproduct material.

(N) An application from a medical facility, educational institution, or federal facility to produce Positron Emission Tomography (PET) radiopharmaceutical drugs for noncommercial transfer to licensees in its consortium authorized for medical use under 10 CFR Part 35 or division 116 of this chapter or equivalent Agreement State requirements shall include:

(i) A request for authorization for the production of PET radionuclides or evidence of an existing license issued under 10 CFR Part 30 or Agreement State requirements for a PET radionuclide production facility within its consortium from which it receives PET radionuclides.

(ii) Evidence that the applicant is qualified to produce radiopharmaceutical drugs for medical use by meeting one of the criteria in 10 CFR 32.72(a)(2).

(iii) Identification of individual(s) authorized to prepare the PET radiopharmaceutical drugs if the applicant is a pharmacy, and documentation that each individual meets the requirements of an authorized nuclear pharmacist as specified in OAR 333-116-0880 and 333-116-0910.

(iv) Information identified in 10 CFR Part 32.72(a)(3) on the PET radiopharmaceutical to be non-commercially transferred to members of its consortium.

(v) Each applicant for a license for byproduct material shall protect Safeguards Information against unauthorized disclosure in accordance with the requirements in 10 CFR Parts 73.21, 73.22 and 73.23 as applicable.

(d) The licensee must allow the offsite response organizations expected to respond in case of an accident 60 days to comment on the licensee's emergency plan before submitting it to the Authority. The licensee must provide any comments received within the 60 days to the Authority with the emergency plan.

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

ADMINISTRATIVE RULES

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-102-0250

Manufacture and Distribution of Radioactive Material for Certain In Vitro Clinical or Laboratory Testing Under a General License

An application for a specific license to manufacture or distribute radioactive material for use under the general license specified in OAR 333-102-0130 or equivalent will be approved if:

(1) The applicant satisfies the general requirements specified in OAR 333-102-0200;

(2) The radioactive material is to be prepared for distribution in prepackaged units of:

(a) Carbon-14 in units not exceeding ten microcuries (370 kBq) each;

(b) Cobalt-57 in units not exceeding ten microcuries (370 kBq) each;

(c) Hydrogen-3 (tritium) in units not exceeding 50 microcuries (1.85 MBq) each;

(d) Iodine-125 in units not exceeding ten microcuries (370 kBq) each;

(e) Mock iodine-125 in units not exceeding 0.05 microcurie (1.85 kBq) of iodine-129 and 0.005 microcurie (185 Bq) of americium-241 each;

(f) Iodine-131 in units not exceeding ten microcuries (370 kBq) each;

(g) Iron-59 in units not exceeding 20 microcuries (740 kBq) each;

(h) Selenium-75 in units not exceeding ten microcuries (370 kBq) each;

(i) Cobalt-57 in units not exceeding 0.37 megabecquerel (10 microcuries) each.

(3) Each prepackaged unit bears a durable, clearly visible label:

(a) Identifying the radioactive contents as to chemical form and radionuclide and indicating that the amount of radioactivity does not exceed ten microcuries (370 kBq) of iodine-125, iodine-131, carbon-14, cobalt-57 or selenium-75; 50 microcuries (1.85 MBq) of hydrogen-3 (tritium); 20 microcuries (740 kBq) of iron-59; or mock iodine-125 in units not exceeding 0.05 microcurie (1.85 kBq) of iodine-129 and 0.005 microcurie (185 Bq) of americium-241 each or cobalt-57 in units not exceeding 0.37 megabecquerel (10 microcuries) and;

(b) Displaying the radiation caution symbol described in OAR 333-120-0400 and the words, CAUTION, RADIOACTIVE MATERIAL and Not for Internal or External Use in Humans or Animals.

(4) One of the following statements, as appropriate, or a substantially similar statement which contains the information called for in one of the following statements, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure which accompanies the package:

(a) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation there from, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

Name of manufacturer

(b) This radioactive material may be received, acquired, possessed and used only by physicians, veterinarians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation there from, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a Licensing State.

Name of manufacturer

(5) The label affixed to the unit, or the leaflet or brochure which accompanies the package, contains adequate information as to the precautions to be observed in handling and storing such radioactive material. In the case of the mock iodine-125 reference or calibration source, the information accompanying the source must also contain directions to the licensee regarding the waste disposal requirements in OAR 333-120-0500.

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-102-0285

Manufacture, Preparation, or Transfer for Commercial Distribution of Radiopharmaceutical Drugs Containing Radioactive Material for Medical Use Under Division 116

(1) An application for a specific license to manufacture, prepare, or transfer for commercial distribution radiopharmaceutical drugs containing radioactive material for use by persons authorized pursuant to division 116 of this chapter will be approved if:

(a) The applicant satisfies the general requirements specified in OAR 333-102-0200;

(b) The applicant submits evidence that the applicant is at least one of the following:

(A) Registered or licensed with the U.S. Food and Drug Administration (FDA) as the owner or operator of a drug establishment that engages in the manufacture, preparation, propagation, compounding, or processing of a drug under 21 CFR 207.20(a);

(B) Registered or licensed with a state agency as a drug manufacturer;

(C) Licensed as a pharmacy by a state Board of Pharmacy;

(D) Operating as a nuclear pharmacy within a federal medical institution; or

(E) A Positron Emission Tomography (PET) drug production facility registered with a state agency.

(c) The applicant submits information on the radionuclide, chemical and physical form; the maximum activity per vial, syringe, generator, or other container of the radiopharmaceutical drug; and the shielding provided by the packaging to show it is appropriate for the safe handling and storage of the radiopharmaceutical drugs by medical use licensees; and

(d) The applicant satisfies the following labeling requirements:

(A) A label is affixed to each transport radiation shield, whether it is constructed of lead, glass, plastic, or other material, of a radiopharmaceutical drug to be transferred for commercial distribution. The label must include the radiation symbol and the words CAUTION, RADIOACTIVE MATERIAL or DANGER, RADIOACTIVE MATERIAL; the name of the radiopharmaceutical drug or its abbreviation; and the quantity of radioactivity at a specified date and time. For radiopharmaceutical drugs with a half life greater than 100 days, the time may be omitted.

(B) A label is affixed to each syringe, vial, or other container used to hold a radiopharmaceutical drug to be transferred for commercial distribution. The label must include the radiation symbol and the words CAUTION, RADIOACTIVE MATERIAL or DANGER, RADIOACTIVE MATERIAL' and an identifier that ensures that the syringe, vial, or other container can be correlated with the information on the transport radiation shield label.

(2) A licensee described by paragraphs (1)(b)(C) or (D) of this rule:

(a) May prepare radiopharmaceutical drugs for medical use, as defined in OAR 333-116-0020, provided that the radiopharmaceutical drug is prepared either by an authorized nuclear pharmacist, as specified in subsections (2)(c) and (2)(d) of this rule, or an individual under the supervision of an authorized nuclear pharmacist as specified in OAR 333-116-0100.

(b) May allow a pharmacist to work as an authorized nuclear pharmacist if:

(A) This individual qualifies as an authorized nuclear pharmacist as defined in OAR 333-116-0020;

(B) This individual meets the requirements specified in OAR 333-116-0910, 333-116-0760, 333-116-0915 and the licensee has received an approved license amendment identifying this individual as an authorized nuclear pharmacist; or

(C) This individual is designated as an authorized nuclear pharmacist in accordance with subsection (2)(d) of this rule.

(c) The actions authorized in subsections (2)(a) and (2)(b) of this rule are permitted in spite of more restrictive language in license conditions.

(d) May designate a pharmacist (as defined in OAR 333-116-0020) as an authorized nuclear pharmacist if:

(A) The individual was a nuclear pharmacist preparing only radiopharmaceutical drugs containing accelerator-produced radioactive material; and

(B) The individual practiced at a pharmacy at a government agency or federally recognized Indian Tribe before November 30, 2007 or at all other pharmacies before August 8, 2009, or an earlier date as noticed by the Nuclear Regulator Commission.

(e) Shall provide to the Authority a copy of:

(A) Each individual's certification by a specialty board whose certification process has been recognized by the Commission or an Agreement

ADMINISTRATIVE RULES

State as specified in OAR 333-116-0910 with the written attestation signed by a preceptor as required by OAR 333-116-0680(2)(b); or

(B) The Commission or Agreement State license; or

(C) Commission master materials licensee permit; or

(D) The permit issued by a licensee or Commission master materials permittee of broad scope or the authorization from a commercial nuclear pharmacy authorized to list its own authorized nuclear pharmacist; or

(E) Documentation that only accelerator-produced radioactive materials were used in the practice of nuclear pharmacy at a government agency or federally recognized Indian Tribe before November 30, 2007 or at all other locations of use before August 8, 2009, or an earlier date as noticed by the NRC; and

(F) A copy of the state pharmacy licensure or registration no later than 30 days after the date that the licensee allows pursuant to paragraphs (2)(b)(A) and (2)(b)(C) of this rule, which allows the individual to work as an authorized nuclear pharmacist.

(3) A licensee shall possess and use instrumentation to measure the radioactivity of radiopharmaceutical drugs. The licensee shall have procedures for use of the instrumentation. The licensee shall measure, by direct measurement or by combination of measurements and calculations, the amount of radioactivity in dosages of alpha-, beta-, or photon-emitting radiopharmaceutical drugs prior to transfer for commercial distribution. In addition, the licensee shall:

(a) Perform tests before initial use, periodically, and following repair, on each instrument for accuracy, linearity, and geometry dependence, as appropriate for the use of the instrument and make adjustments when necessary; and

(b) Check each instrument for constancy and proper operation at the beginning of each day of use.

(4) Nothing in this rule relieves the licensee from complying with applicable FDA, other federal, and state requirements governing radiopharmaceutical drugs.

NOTE: Although the Authority does not regulate the manufacture and distribution of reagent kits that do not contain radioactive material, it does regulate the use of such reagent kits for the preparation of radio pharmaceuticals containing radioactive material as a part of its licensing and regulation of the users of radioactive material. Any manufacturer of reagent kits that do not contain radioactive material, who desires to have the reagent kits approved by the Authority for use by persons licensed for medical use pursuant to OAR 333-116 or by persons authorized under a group license, or equivalent, by the U.S. Nuclear Regulatory Commission or any other Agreement State, may submit the pertinent information specified in this rule.

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

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-102-0290

Manufacture and Distribution of Sources or Devices Containing Byproduct Material for Medical Use

(1) An application for a specific license to manufacture and distribute sources and devices containing byproduct material to persons licensed pursuant to division 116 of this chapter for use as a calibration, transmission, or reference source, or for the uses listed in OAR 333-116-0400, 333-116-0420, 333-116-0480 and 333-116-0485 will be approved if:

(a) The applicant satisfies the general requirements in OAR 333-102-0200.

(b) The applicant submits sufficient information regarding each type of source or device pertinent to an evaluation of its radiation safety, including:

(A) The radioactive material contained, its chemical and physical form and amount;

(B) Details of design and construction of the source or device;

(C) Procedures for, and results of, prototype tests to demonstrate that the source or device will maintain its integrity under stresses likely to be encountered in normal use and accidents;

(D) For devices containing radioactive material, the radiation profile of a prototype device;

(E) Details of quality control procedures to assure that production sources and devices meet the standards of the design and prototype tests;

(F) Procedures and standards for calibrating sources and devices;

(G) Legend and methods for labeling sources and devices as to their radioactive content; and

(H) Instructions for handling and storing the source or device from the radiation safety standpoint; these instructions are to be included on a durable label attached to the source or device or attached to a permanent

storage container for the source or device. Provided, that instructions that are too lengthy for such a label may be summarized on the label and printed in detail on a brochure that is referenced on the label.

(c) The label affixed to the source or device, or to the permanent storage container for the source or device, contains information on the radionuclide, quantity, date of assay and a statement that the U.S. Nuclear Regulatory Commission has approved distribution of the (name of source or device) to persons licensed to use radioactive material identified in OAR 333-116-0190, 333-116-0400, or 333-116-0420, as appropriate, and to persons who hold an equivalent license issued by an Agreement State or the US Nuclear Regulatory Commission. However, labels worded in accordance with requirements that were in place on March 30, 1987 may be used until March 30, 1989.

(2) In the event the applicant desires that the source or device be required to be tested for leakage of radioactive material at intervals longer than six months:

(a) The applicant must include in the application sufficient information to demonstrate that such longer interval is justified by performance characteristics of the source or device or similar sources or devices and by design features that have a significant bearing on the probability or consequences of leakage of radioactive material from the source; and

(b) In determining the acceptable interval for test of leakage of radioactive material, the Authority will consider information that includes, but is not limited to:

(A) Primary containment or source capsule;

(B) Protection of primary containment;

(C) Method of sealing containment;

(D) Containment construction materials;

(E) Form of contained radioactive material;

(F) Maximum temperature withstood during prototype tests;

(G) Maximum pressure withstood during prototype tests;

(H) Maximum quantity of contained radioactive material;

(I) Radiotoxicity of contained radioactive material; and

(J) Operating experience with identical sources or devices similarly designed and constructed sources or devices.

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 4-2010, f. & cert. ef. 2-16-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-102-0293

Requirements for License to Manufacture and Distribute Industrial Products Containing Depleted Uranium for Mass-Volume Applications

(1) An application for a specific license to manufacture industrial products or devices containing depleted uranium for use pursuant to OAR 333-102-0103 or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State will be approved if:

(a) The applicant satisfies the general requirements specified in OAR 333-102-0200;

(b) The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses and potential hazards of the industrial product or device to provide reasonable assurance that possession, use or transfer of the depleted uranium in the product or device is not likely to cause any individual to receive in any period of one calendar quarter a radiation dose in excess of ten percent of the limits specified in OAR 333-120-0100; and

(c) The applicant submits sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass-volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device.

(2) In the case of an industrial product or device whose unique benefits are questionable, the Authority will approve an application for a specific license under this rule only if the product or device is found to combine a high degree of utility and low probability of uncontrolled disposal and dispersal of significant quantities of depleted uranium into the environment.

(3) The Authority may deny any application for a specific license under this rule if the end use(s) of the industrial product or device cannot be reasonably foreseen.

(4) Each person licensed pursuant to section (1) of this rule must:

(a) Maintain the level of quality control required by the license in the manufacture of the industrial product or device; and in the installation of the depleted uranium into the product or device;

(b) Label or mark each unit to:

ADMINISTRATIVE RULES

(A) Identify the manufacturer of the product or device and the number of the license under which the product or device was manufactured, the fact that the product or device contains depleted uranium and the quantity of depleted uranium in each product or device; and

(B) State that the receipt, possession, use and transfer of the product or device are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or an Agreement State.

(c) Assure that the depleted uranium before being installed in each product or device has been impressed with the following legend clearly legible through any plating or other covering: Depleted Uranium.

(A) Furnish a copy of the general license contained in OAR 333-102-0103 to each person to whom he transfers depleted uranium in a product or device for use pursuant to the general license contained in 333-102-0103; or

(B) Furnish a copy of the general license contained in the U.S. Nuclear Regulatory Commission's or Agreement State's regulation equivalent to OAR 333-102-0103 and a copy of the U.S. Nuclear Regulatory Commission's or Agreement State's certificate, or alternatively, furnish a copy of the general license contained in 333-102-0103 to each person to whom depleted uranium in a product or device is transferred for use pursuant to the general license of the U.S. Nuclear Regulatory Commission or an Agreement State, with a note explaining that use of the product or device is regulated by the U.S. Nuclear Regulatory Commission or Agreement State under requirements substantially the same as those in 333-102-0103.

(d) Report to the Authority all transfers of industrial products or devices to persons for use under the general license in OAR 333-102-0103. Such report must identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the Authority and the general licensee, the type and model number of device transferred and the quantity of depleted uranium contained in the product or device. The report must be submitted within 30 days after the end of each calendar quarter in which such a product or device is transferred to the generally licensed person. If no transfers have been made to persons granted a general license by OAR 333-102-0103 during the reporting period, the report must so indicate.

(e) Report to the U.S. Nuclear Regulatory Commission all transfers of industrial products or devices to persons for use under the U.S. Nuclear Regulatory Commission general license in section 40.25 of 10 CFR Part 40.

(A) Report to the responsible state agency all transfers of devices manufactured and distributed pursuant to OAR 333-102-0115 for use under a general license in that state's regulations equivalent to 333-102-0103.

(B) Such report must identify each general licensee by name and address, an individual by name and/or position who may constitute a point of contact between the Authority and the general licensee, the type and model number of the device transferred and the quantity of depleted uranium contained in the product or device. The report must be submitted within 30 days after the end of each calendar quarter in which such product or device is transferred to the generally licensed person.

(C) If no transfers have been made to U.S. Nuclear Regulatory Commission licensees during the reporting period, this information must be reported to the U.S. Nuclear Regulatory Commission.

(f) If no transfers have been made to general licensees within a particular Agreement State during the reporting period, this information must be reported to the responsible Agreement State Agency upon the request of that Agency.

(g) Keep records showing the name, address and point of contact for each general licensee to whom he transfers depleted uranium in industrial products or devices for use pursuant to the general license provided in OAR 333-102-0101(4) or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State. The records must be maintained until inspection by the Authority and must show the date of each transfer, the quantity of depleted uranium in each product or device transferred and compliance with the report requirements of section (9) of this rule.

(h) Licensees required to submit emergency plans by OAR 333-102-0190(10) must follow the emergency plan approved by the Commission. The licensee may change the plan without Commission approval if the changes do not decrease the effectiveness of the plan. The licensee must furnish the change to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to affected offsite response organizations within six months after the change is made. Proposed changes that decrease the effectiveness of the approved emergency plan may not be implemented without application to and prior approval by the Authority.

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-102-0305

Specific Terms and Conditions of Licenses

(1) Each license issued pursuant to the rules in this division and divisions 103, 105, 113, 115, 116, 117, 120, 121 and 124 of this chapter are subject to all the provisions of the Act, now or hereafter in effect, and to all rules, regulations and orders of the Authority.

(2) No license issued or granted pursuant to the rules in this division and divisions 103, 105, 113, 115, 116, 117, 120 and 121 of this chapter nor any right may be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Authority, after securing full information, shall find that the transfer is in accordance with the provisions of the Act, and shall give its consent in writing.

(3) Each person licensed by the Authority pursuant to the rules in this division and divisions 103, 105, 113, 115, 116, 117, 120 and 121 of this chapter must confine the use and possession of the radioactive material to the locations and purposes authorized in the license. Except as otherwise provided in the license, a license issued pursuant to the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter shall carry with it the right to receive, acquire, own, and possess radioactive material. Preparation for shipment and transport of radioactive material must be in accordance with the provisions of division 118 of this chapter.

(4) Each license issued pursuant to the rules in this division and divisions 105, 113, 115, 116, 117, and 121 of this chapter shall be deemed to contain the provisions set forth in section 183b-d., inclusive, of the Atomic Energy Act of 1954, as amended, whether or not these provisions are expressly set forth in the license.

(5) The Authority may incorporate, in any license issued pursuant to the rules in this division and divisions 103, 105, 113, 115, 116, 117, 120 and 121 of this chapter, at the time of issuance, or thereafter by appropriate rule, regulation or order, such additional requirements and conditions with respect to the licensee's receipt, possession, use and transfer of radioactive material as it deems appropriate or necessary in order to:

(a) Promote the common defense and security;

(b) Protect health or to minimize danger to life or property;

(c) Protect restricted data; and

(d) Require such reports and the keeping of such records, and to provide for such inspections of activities under the license as may be necessary or appropriate to effectuate the purposes of the Act and regulations thereunder.

(6) Licensees required to submit emergency plans by OAR 333-102-0190(10) must follow the emergency plan approved by the Authority. The licensee may change the approved plan without Authority approval only if the changes do not decrease the effectiveness of the plan. The licensee must furnish the change to the Authority and to affected offsite response organizations within six months after the change is made. Proposed changes that decrease, or potentially decrease, the effectiveness of the approved emergency plan may not be implemented without prior application to and prior approval by the Authority.

(7) Each licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators or rubidium-82 from strontium-82/rubidium-82 generators must test the generator eluates for molybdenum-99 breakthrough or strontium-82 and strontium-85, respectively, in accordance with OAR 333-116-0330. The licensee must record the results of each test and retain each record for three years after the record is made.

(8)(a) Each general licensee subject to the registration requirement in OAR 333-101-0007 and each specific licensee must notify the Authority in writing immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (Bankruptcy) of the United States Code by or against:

(A) The licensee;

(B) An entity (as that term is defined in 11 U.S.C. 101(14)) controlling the licensee or listing the licensee as licensee as property of the estate; or

(C) An affiliate (as that term is defined in 11 U.S.C. 101(2)) of the licensee.

(b) This notification must indicate:

(A) The bankruptcy court in which the petition for bankruptcy was filed; and

(B) The date of the filing of the petition.

ADMINISTRATIVE RULES

(9) Sealed sources or detector cells containing licensed material must not be opened or sources removed from source holders or detector cells by the licensee.

(10) No licensee may acquire licensed radioactive material in a sealed source or in a device that contains a sealed source unless the source or device has been registered with the U.S. Nuclear Regulatory Commission under 10 CFR 32.210 or with an Agreement State.

(11) Any sealed source fabricated by a licensee must be registered, inspected, and tested for construction defects, leakage, and contamination prior to any use or transfer as a sealed source in accordance with requirements in 10 CFR 32.210.

(12) Each licensee must conduct a physical inventory at intervals not to exceed six months to account for all radioactive material received and possessed by licensee. Inventories must include the types and quantities of radioactive material, location of materials, date of receipt, and the date of the inventory; and for sealed sources, the inventory must include the types and quantities of sealed sources, sealed source manufacturer, model number, serial number, date of receipt, condition of sealed sources, and the date of the inventory. Records of the inventories required by section (12) of this rule must be kept until inspection by the Authority.

(13) Each licensee must transport radioactive material or deliver radioactive material to a carrier for transport in accordance with the provisions of Parts 170 through 189 of Title 49, Code of Federal Regulations and in accordance with division 118 of this chapter, "Transportation of Radioactive Material."

(14) Each licensee possessing a device licensed pursuant to OAR 333-103-0010(2)(h) must perform an inspection of all devices at intervals not to exceed six months. Inspections must include condition of labeling and posting of each radiation device, and corrective actions taken if any; condition of shutter operation, if applicable, of each device, and corrective actions taken if any; and location of each device. Records of the inspections required by section (14) of this rule must be kept until inspection by the Authority.

(15) No licensee may open or remove radioactive material from sealed sources or detector cells containing licensed radiation sources.

(16) No person may repair, modify, dismantle, or effect any change in licensed devices or radiation sources, nor modify nor alter labels affixed to licensed devices by the manufacturer

(17) Installation, initial radiation survey, relocation, removal from service, maintenance, and repair of fixed gauging devices containing radioactive sealed sources, and installation, replacement, and disposal of sealed sources must be performed only by persons specifically authorized by the Authority, the U.S. Nuclear Regulatory Commission, or another Agreement state to perform such services. Records of all surveys must be maintained for inspection by the Radiation Protection Services section.

(18) If the licensee has previously determined that monitoring for internal exposure pursuant to OAR 333-120-0130, 333-120-0210, or 333-120-0320 is required, the data and results of this evaluation must be placed in the worker's exposure records and included the worker's Oregon Form Z report.

(19) Testing for leakage or contamination of sealed sources must be in accordance with requirements in OAR 333-120-0460. In the absence of a certificate from a transferor indicating that a test has been made within six months prior to the transfer, a sealed source or detector cell received from another person must not be put into use until tested.

(20) Detector cells must be used only in conjunction with a properly operating temperature control mechanism that prevents foil temperatures from exceeding manufacturer's specifications. Exhaust from detector cells must be vented to keep exposures to personnel and the public as low as reasonably achievable pursuant to OAR 333-120-0180.

(21) Licensees who possess sealed sources used for testing at field sites must possess at such locations transport documents, a current copy of the specific radioactive materials license, specific license validation certificates, the current leak test certificate, and the licensee's operating and emergency procedures. Licensed materials stored in an unrestricted area must be secured from unauthorized removal from the place of storage in accordance with provisions of OAR 333-120-0250 and 333-120-0260.

(22) Any specific licensee is authorized to receive, possess, use, transfer, and import up to 999 kilograms of uranium contained as shielding for specific licensed radioactive material authorized by license.

(23) A licensee may store, pursuant to OAR 333-120-0500, radioactive waste for decay in storage before disposal in accordance with OAR 333-116-0290.

(24) Licensed materials in an unrestricted area and not in storage must be tended under the constant surveillance and immediate control of the licensee.

(25) Except as otherwise specified in a radioactive materials license, the licensee must have available and follow the instructions contained in the manufacturer's instruction manual for the chromatography device.

(26) In lieu of using the conventional radiation caution colors (magenta or purple on yellow background) as provided in OAR 333-120-0400(2), the licensee is hereby authorized to label detector cells and cell baths, containing licensed radioactive material and used in gas chromatography devices, with conspicuously etched or stamped radiation caution symbols without a color requirement.

(27) If a radiography licensee plans to use, during normal industrial radiographic operations subject to division 105 of this chapter, two or more exposure devices at one jobsite, the licensee must require at least one Radiographer or Radiographer Instructor authorized user for each exposure device, and the total number of authorized personnel (radiographers and assistant radiographers) at the temporary jobsite must not be less than $n+1$ where n =the number of cameras.

(28) Security requirements for portable devices containing licensed radioactive materials. Each portable device containing licensed radioactive materials must be secured using a minimum of two independent physical controls that form two separate tangible barriers to prevent unauthorized removal or use, whenever the portable device is not under the direct control and constant surveillance of the licensee.

(29) Authorization under OAR 333-102-0190(10)(c)(N) to produce Positron Emission Tomography (PET) radiopharmaceutical drugs for non-commercial transfer to medical use licensees in its consortium does not relieve the licensee from complying with applicable FDA, other federal, and state requirements governing radiopharmaceutical drugs.

(30) Each licensee authorized under OAR 333-102-0190(10)(c)(N) to produce PET radiopharmaceutical drugs for noncommercial transfer to medical use licensees in its consortium shall:

(a) Satisfy the labeling requirements in OAR 333-102-0285(1)(d) for each PET radiopharmaceutical drug transport radiation shield and each syringe, vial, or other container used to hold a PET radiopharmaceutical drug intended for noncommercial distribution to members of its consortium.

(b) Possess and use instrumentation to measure the radioactivity of the PET radiopharmaceutical drugs intended for noncommercial distribution to members of its consortium and meet the procedural, radioactivity measurement, instrument test, instrument check, and instrument adjustment requirements in OAR 333-102-0285(3).

(31) A licensee that is a pharmacy authorized under OAR 333-102-0190(10)(c)(N) to produce PET radiopharmaceutical drugs for noncommercial transfer to medical use licensees in its consortium shall require that any individual that prepares PET radiopharmaceutical drugs shall be:

(a) An authorized nuclear pharmacist who meets the requirements in OAR 333-116-0910; or

(b) An individual under the supervision of an authorized nuclear pharmacist as specified in OAR 333-116-0100.

(32) A pharmacy, authorized under OAR 333-102-0190(10)(c)(N) to produce PET radiopharmaceutical drugs for noncommercial transfer to medical use licensees in its consortium that allows an individual to work as an authorized nuclear pharmacist, shall meet the requirements of OAR 333-116-0910.

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 4-2010, f. & cert. ef. 2-16-10; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-102-0310

Expiration and Termination of Licenses and Decommissioning of Sites and Separate Buildings or Outdoor Areas

(1)(a) Except as provided in subsection (1)(b) of this rule, each specific license must expire at the end of the day on the expiration date stated in the license unless the licensee has filed an application for renewal under OAR 333-102-0315 before the expiration date stated in the existing license (or, for those licenses subject to subsection (1)(b) of this rule, before the deemed expiration date in that section). If an application for renewal has been filed before the expiration date stated in the existing license (or, for those licenses subject to subsection (2)(a) of this rule, before the deemed expiration date in that section), the existing license expires at the end of the day on which the Authority makes a final determination to deny the renew-

ADMINISTRATIVE RULES

al application or, if the determination states an expiration date, the expiration date stated in the determination.

(b) Each specific license that has an expiration date after July 1, 1995, and is not one of the licenses described in subsection (1)(c) of this rule, shall be deemed to have an expiration date that is five years after the expiration date stated in the current license.

(c) The following specific licenses are not subject to, or otherwise affected by, the provisions of subsection (1)(b) of this rule:

(A) Specific licenses for which, on February 15, 1996, an evaluation or an emergency plan is required in accordance with OAR 333-102-0190(10);

(B) Specific licenses whose holders are subject to the financial assurance requirements specified in OAR 333-102-0200(6), and on February 15, 1996, the holders either:

(i) Have not submitted a decommissioning funding plan or certification of financial assurance for decommissioning; or

(ii) Have not received written notice that the decommissioning funding plan or certification of financial assurance for decommissioning is acceptable;

(C) Specific licenses whose holders are listed in the SDMP List published in NUREG 1444, Supplement 1 (November 1995);

(D) Specific licenses who need an environmental assessment or environmental impact statement pursuant to Subpart A of Part 51 and OAR 333-102-0200(5);

(E) Specific licenses whose holders have not had at least one Authority inspection of licensed activities before February 15, 1996;

(F) Specific licenses whose holders, as the result of the most recent Authority inspection of licensed activities conducted before February 15, 1996, have been:

(i) Cited for a serious health and safety noncompliance;

(ii) Subject to an Order issued by the Authority; or

(iii) Subject to a Confirmatory Action Letter issued by the Authority.

(G) Specific licenses with expiration dates before July 1, 1995, for which the holders have submitted applications for renewal under OAR 333-102-0315.

(2) Each specific license revoked by the Authority expires at the end of the day on the date of the Commission's final determination to revoke the license, or on the expiration date stated in the determination, or as otherwise provided by Authority Order.

(3) Each specific license continues in effect, beyond the expiration date if necessary, with respect to possession of radioactive material or source material until the Authority notifies the licensee in writing that the license is terminated. During this time, the licensee must:

(a) Limit actions involving material to those related to decommissioning; and

(b) Continue to control entry to restricted areas until they are suitable for release in accordance with Authority requirements.

(4) Within 60 days of the occurrence of any of the following, consistent with the administrative directions in OAR 333-100-0045, each licensee must provide notification to the Authority in writing of such occurrence, and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity so that the building or outdoor area is suitable for release in accordance with Authority requirements, or submit within 12 months of notification a decommissioning plan, if required by subsection (7)(a) of this rule, and begin decommissioning upon approval of that plan if:

(a) The license has expired pursuant to sections (1) or (2) of this rule; or

(b) The licensee has decided to permanently cease principal activities, as defined in OAR 333-102-0203, at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with Authority requirements; or

(c) No principal activities under the license have been conducted for a period of 24 months; or

(d) No principal activities have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with Authority requirements.

(5) Coincident with the notification required by section (4) of this rule, the licensee must maintain in effect all decommissioning financial assurances established by the licensee pursuant to OAR 333-102-0200(6) in conjunction with a license issuance or renewal or as required by this rule. The amount of the financial assurance must be increased, or may be

decreased, as appropriate, to cover the detailed cost estimate for decommissioning established pursuant to paragraph (7)(d)(E) of this rule.

(a) Any licensee who has not provided financial assurance to cover the detailed cost estimate submitted with the decommissioning plan must do so when this rule becomes effective November 24, 1995.

(b) Following approval of the decommissioning plan, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at the site with the approval of the Authority.

(6) The Authority may grant a request to extend the time periods established in section (4) of this rule if the Authority determines that this relief is not detrimental to the public health and safety and is otherwise in the public interest. The request must be submitted no later than 30 days before notification pursuant to section (4) of this rule. The schedule for decommissioning set forth in section (4) of this rule may not commence until the Authority has made a determination on the request.

(7)(a) A decommissioning plan must be submitted if required by license condition or if the procedures and activities necessary to carry out decommissioning of the site or separate building or outdoor area have not been previously approved by the Authority and these procedures could increase potential health and safety impacts to workers or to the public, such as in any of the following cases:

(A) Procedures would involve techniques not applied routinely during cleanup or maintenance operations;

(B) Workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation;

(C) Procedures could result in significantly greater airborne concentrations of radioactive material or source material than are present during operation; or

(D) Procedures could result in significantly greater releases of radioactive material or source material to the environment than those associated with operation.

(b) The Authority may approve an alternate schedule for submittal of a decommissioning plan required pursuant to section (4) of this rule if the Authority determines that the alternative schedule is necessary to the effective conduct of decommissioning operations and presents no undue risk from radiation to the public health and safety and is otherwise in the public interest.

(c) Procedures such as those listed in subsection (7)(a) of this rule with potential health and safety impacts may not be carried out prior to approval of the decommissioning plan.

(d) The proposed decommissioning plan for the site or separate building or outdoor area must include:

(A) A description of the conditions of the site or separate building or outdoor area sufficient to evaluate the acceptability of the plan;

(B) A description of planned decommissioning activities;

(C) A description of methods used to ensure protection of workers and the environment against radiation hazards during decommissioning;

(D) A description of the planned final radiation survey; and

(E) An updated detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and a plan for assuring the availability of adequate funds for completion of decommissioning.

(F) For decommissioning plans calling for completion of decommissioning later than 24 months after plan approval, the plan must include a justification for the delay based on the criteria in section (9) of this rule.

(e) The proposed decommissioning plan will be approved by the Authority if the information therein demonstrates that the decommissioning will be completed as soon as practicable and that the health and safety of workers and the public will be adequately protected.

(8)(a) Except as provided in section (9) of this rule, licensees must complete decommissioning of the site or separate building or outdoor area as soon as practicable but no later than 24 months following the initiation of decommissioning.

(b) Except as provided in section (9) of this rule, when decommissioning involves the entire site, the licensee must request license termination as soon as practicable but no later than 24 months following the initiation of decommissioning.

(9) The Authority may approve a request for an alternative schedule for completion of decommissioning of the site or separate building or outdoor area, and license termination if appropriate, if the Authority determines that the alternative is warranted by consideration of the following:

(a) Whether it is technically feasible to complete decommissioning within the allotted 24-month period;

ADMINISTRATIVE RULES

(b) Whether sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted 24-month period;

(c) Whether a significant volume reduction in wastes requiring disposal will be achieved by allowing short-lived radionuclides to decay;

(d) Whether a significant reduction in radiation exposure to workers can be achieved by allowing short-lived radionuclides to decay; and

(e) Other site-specific factors which the Authority may consider appropriate on a case-by-case basis, such as the regulatory requirements of other government agencies, lawsuits, ground-water treatment activities, monitored natural ground-water restoration, actions that could result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

(10) As the final step in decommissioning, the licensee must:

(a) Certify the disposition of all licensed material, including accumulated wastes, by submitting a completed NRC Form 314 or equivalent information; and

(b) Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey, unless the licensee demonstrates in some other manner that the premises are suitable for release in accordance with the criteria for decommissioning in 10 CFR Part 20, Subpart E. The licensee must, as appropriate:

(A) Report levels of gamma radiation in units of millisieverts (micro-roentgen) per hour at one meter from surfaces, and report levels of radioactivity, including alpha and beta, in units of megabecquerels (disintegrations per minute or microcuries) per 100 square centimeters — removable and fixed — for surfaces, megabecquerels (microcuries) per milliliter for water, and becquerels (picocuries) per gram for solids such as soils or concrete; and

(B) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(11) Specific licenses, including expired licenses, will be terminated by written notice to the licensee when the Authority determines that:

(a) Radioactive material or source material has been properly disposed;

(b) Reasonable effort has been made to eliminate residual radioactive contamination, if present; and

(c)(A) A radiation survey has been performed that demonstrates that the premises are suitable for release in accordance with the criteria for decommissioning in 10 CFR Part 20, Subpart E; or

(B) Other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning in 10 CFR Part 20, Subpart E.

(d) The licensee has kept records of receipt, transfer, and disposal of radioactive material or source material, pursuant to OAR 333-100-0055 that meet the following criteria:

(A) The licensee must retain each record of receipt of radioactive material or source material as long as the material is possessed and for three years following transfer or disposal of the material.

(B) The licensee who transferred the material must retain each record of transfer for three years after each transfer unless a specific requirement in another part of the rules in this chapter dictates otherwise.

(C) The licensee who disposed of the material must retain each record of disposal of byproduct material until the Authority terminates each license that authorizes disposal of the material.

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-102-0340

Reciprocal Recognition of Licenses

(1) Subject to these rules, any person who holds a specific license from the U.S. Nuclear Regulatory Commission, an Agreement State, or a licensing state, and issued by the Authority having jurisdiction where the licensee maintains an office for directing the licensed activity and at which radiation safety records are normally maintained, is hereby granted a general license to conduct the activities authorized in such licensing document within this state for a period not in excess of 180 days in any calendar year, provided that:

(a) The licensing document does not limit the activity authorized by such document to specified installations or locations;

(b) The out-of-state licensee has notified the Authority using the Notification of Entry to Perform Activities Under Oregon Reciprocity Application form at least three days prior to engaging in such activity and

has paid the applicable registration fee pursuant to OAR 333-103-0030. Such notification shall indicate the location, period and type of proposed possession and use within the state, and shall be accompanied by a copy of the pertinent licensing document. If, for a specific case, the three-day period would impose an undue hardship on the out-of-state licensee, the licensee may, upon application to the Authority, obtain permission to proceed sooner. The Authority may waive the requirement for filing additional written notifications during the remainder of the calendar year following the receipt of the initial notification from a person engaging in activities under the general license granted by subsection (1)(a) of this rule;

(c) The out-of-state licensee complies with all applicable rules of the Authority and with all the terms and conditions of the licensing document, except any such terms and conditions that may be inconsistent with applicable rules of the Authority or laws of the State of Oregon;

(d) The out-of-state licensee supplies such other information as the Authority may request; and

(e) The out-of-state licensee shall not transfer or dispose of radioactive material possessed or used under the general license provided in subsection (1)(a) of this rule except by transfer to a person:

(A) Specifically licensed by the Authority or by the U.S. Nuclear Regulatory Commission to receive such material; or

(B) Exempt from the requirements for a license for such material under OAR 333-102-0010(2).

(2) Notwithstanding the provisions of section (1) of this rule, any person who holds a specific license issued by the U.S. Nuclear Regulatory Commission, pursuant to 10 CFR 31.6 or equivalent regulations of an Agreement State, authorizing the holder of the license to manufacture, transfer, install or service a device described in OAR 333-102-0115(1) within the State of Oregon is hereby granted a general license to install, transfer, demonstrate or service such a device in this state provided that:

(a) Such person shall register the general license pursuant to OAR 333-101-0007;

(b) File a report with the Authority within 30 days after the end of each calendar quarter in which any device is transferred to or installed in this state. Each such report shall identify each general licensee to whom such device is transferred by name and address, the type of device transferred and the quantity and type of radioactive material contained in the device;

(c) Ensure that the device has been manufactured, labeled, installed and serviced in accordance with applicable provisions of the specific license issued to such person by the U.S. Nuclear Regulatory Commission or an Agreement State;

(d) Ensure that any labels required to be affixed to the device under rules of the licensing authority also include the statement "Removal of this label is prohibited"; and

(e) The holder of the specific license shall furnish to each general licensee to whom such device is transferred, or on whose premises such a device is installed, a copy of the general license contained in OAR 333-102-0115 or in equivalent rules of the Authority having jurisdiction over the manufacture and distribution of the device.

(3) The Authority may withdraw, limit or qualify its acceptance of any specific license or equivalent licensing document issued by the U.S. Nuclear Regulatory Commission or an Agreement State, or any product distributed pursuant to such licensing document, upon determining that such action is necessary in order to prevent undue hazard to public health and safety or property. The Authority may deny the licensee to perform activities under Oregon reciprocity.

(4) The out-of-state licensee shall at all times during work at any work location within the state have available the pertinent licensing document, the applicable sections of the State of Oregon radiation regulations, a complete source inventory, pertinent U.S. Department of Transportation documentation, leak test records, instrument calibration records, personnel training records, and necessary documentation required by applicable special requirements of these regulations.

(5) While working in Oregon, the out-of-state licensee shall notify the Authority (in writing, indicating date and court) immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 (bankruptcy) of the United States code by or against:

(a) The licensee;

(b) An entity (as that term is defined in II U.S.C 101(14)) controlling the licensee or listing the license or licensee as property of the estate; or

(c) An affiliate (as that term is defined in II U.S.C. 101(2)) of the licensee.

(6) If multiple work crews or persons work concurrently at more than one work location under a general license granted pursuant to this rule, each

ADMINISTRATIVE RULES

day worked at each location shall count toward the limit of 180 days in a calendar year.

(7) Each general licensee granted authorization to conduct activities within the State of Oregon pursuant to this rule, based upon an acceptable licensing document, will receive acknowledgment from the Authority. This acknowledgment shall be kept at the site of use.

(8) Each general licensee granted authorization to conduct activities within the State of Oregon pursuant to this rule based upon an acceptable licensing document is subject to the reciprocity fee and may be inspected by the Authority. The fee for the general license granting reciprocity shall:

- (a) Be charged as provided by division 103 of this chapter; and
- (b) Shall not be charged more often than once during each calendar year.

(9) Each general licensee operating within the state under reciprocity in areas of exclusive federal jurisdiction shall comply with the applicable provisions of 10 CFR 150.20.

Stat. Auth.: ORS 453.635, 453.665

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & cert. ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-103-0010

Annual Fee for Specific Licenses

(1)(a) Each specific license listed in section (2) of this rule, as defined in OAR 333-102-0203, shall be licensed pursuant to sections (2), (3), (4), (5), and (6) of this rule by a specific license fee.

(b) Upon written request and approval by the Authority, fees for new licenses or additional sources may be prorated on a quarterly basis for the current fiscal year.

(2) Each specific license type appearing in the following fee schedule shall be licensed separately with a specific license fee as indicated:

- (a) Analytical/Leak Test/Fixed X-ray Fluorescence, \$552(F);
- (b) Basic License, \$976(F);
- (c) Brachytherapy, \$2,204(F);
- (d) Broad Scope A, \$3,000(F);
- (e) Broad Scope B, \$2,204(F);
- (f) Broad Scope C, \$1,096(F);
- (g) Distribution, \$1,096 (F);
- (h) Fixed Gauge, \$276(S);
- (i) High, medium and low dose rate brachytherapy, \$2,756(S);
- (j) Imaging and Localization, \$1,096(F);
- (k) In Vitro Laboratory, \$364(F);
- (l) Industrial Radiography:
 - (A) Fixed Facility, \$3,000(F);
 - (B) Field Use, \$3,000(F);
 - (m) Instrument Calibration, \$828(S);
 - (n) Investigational New Drug, \$1,652(F);
 - (o) Irradiator Self-Shielded, \$1,096(S);
 - (p) Manufacturing/Compounding, \$2,936(F);
 - (q) Mobile Nuclear Medicine, \$2,936(F);
 - (r) NORM (no processing), \$736(F);
 - (s) Nuclear Pharmacy, \$3,000(F);
 - (t) Other Measuring Device, \$160(S). Six sources or more, for attenuation purposes, may apply for a basic license;

(u) Portable Gauge:

- (A) X-ray Fluorescence, \$552(S);
- (B) All other portable gauges, \$736(S);
- (v) Radiopharmaceutical Therapy, \$1,652(F);
- (w) RAM/NOS Facility, \$3,000(F);
- (x) Research & Development, \$1,652(F);
- (y) Sealed Sources for Diagnosis, \$552(S);
- (z) Source Material, \$3,000(F);
- (aa) Special Nuclear Material (sealed), \$1,096(S);
- (bb) Special Nuclear Material (unsealed), \$2,756(F);
- (cc) Teletherapy (external beam), \$3,000(S);
- (dd) Unique, \$No Fee;
- (ee) Uptake and Dilution, \$736(F);
- (ff) Use of Xenon Gas, \$736(F);
- (gg) Waste Packaging, \$3,000(F);
- (hh) Well Logging, \$1,652(S);

NOTE: (F) means facility; (S) means source.

(3) Each specific license validation fee shall be due and payable:

(a) Each specific license validation fee shall be due and payable based on the following fee schedule.

(A) Validation fees for licenses expiring July through September are due by October 1 each year.

(B) Validation fees for licenses expiring October through December are due by January 1 each year.

(C) Validation fees for licenses expiring January through March are due by April 1 each year; and,

(D) Validation fees for licenses expiring April through June are due by July 1 each year.

(b) For each specific license source of radiation listed in section (2) of this rule for which application pursuant to OAR 333-102-0190 for an Oregon Radioactive Materials License has been made;

(c) For each additional specific license source of radiation in an amendment to an existing Oregon Radioactive Materials License pursuant to OAR 333-102-0320.

(4) A license for each specific license issued pursuant to section (3) of this rule shall be provided by the Authority. The certificate of validation for the current fiscal year shall be retained by the licensee and attached to the license pursuant to requirements in OAR 333-111-0005.

(5) The specific license fee that validates specific sealed sources also validates possession of one additional sealed source during source exchange (one new source and one spent source) for a period not to exceed 30 calendar days.

(6) Sealed sources manufactured and distributed as reference sources that do not exceed 100 times the quantity in 30.71 Schedule B of 10 CFR Part 30 are exempt from specific license fees and validation if used pursuant to a specific license listed in section (2) of this rule. The license validation fee for reference sources that exceed 100 times the quantity in 30.71 Schedule B of 10 CFR Part 30 or reference sources authorized alone without additional licensed radioactive material shall be \$976, pursuant to subsection (2)(b) of this rule.

Stat. Auth.: ORS 453.757

Stats. Implemented: ORS 453.757

Hist.: HD 4-1985, f. & cert. ef. 3-20-85; HD 13-1988, f. 6-7-88, cert. ef. 7-1-88; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; HD 3-1996, f. & cert. ef. 8-9-96; PH 11-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-103-0030

Reciprocal Recognition Fee

(1) Any radiation machine or radioactive material source brought into the state for use under reciprocity must pay a fee equal to 100 percent of the appropriate license or registration validation fee, listed in OAR 333-103-0005 or 333-103-0010, not to exceed \$3,000 in a year.

(2) Reciprocal fees shall be due and payable prior to entry into the state.

(3) An acknowledgment of fee payment, such as a certificate of validation, will be provided by the Authority. The acknowledgment of fee payment must be retained by the licensee or registrant and attached to the license or registration.

(4) Reciprocal fees shall not be transferred or refunded.

(5) Reciprocal fees shall expire 12 months from the issue date.

(6) Any use of radioactive material in Oregon pursuant to OAR 333-102-0340 exceeding 30 consecutive days or 180 calendar days shall require an application for an Oregon specific radioactive materials license pursuant to OAR 333-102-0190.

Stat. Auth.: ORS 453.757

Stats. Implemented: ORS 453.757

Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; PH 11-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-103-0035

Fees For Radiological Analyses

(1) An individual, agency, or company that requests that the Authority Radiation Laboratory perform radiological analyses on samples must pay a fee to the Authority in accordance with the schedule in section (2) of this rule. The responsible individual submitting the sample(s) must first obtain a request form from the Authority. This form contains the fee schedule and the types of radiological analyses offered. That individual must then submit the completed form along with the sample and the appropriate fee to the Authority. The Authority will send the results by return mail in accordance with the estimated time as per section (3) of this rule.

(2) Fee Schedule:

(a) Gamma Isotopic:

(A) Liquid — \$248

(B) Solid — \$284

ADMINISTRATIVE RULES

(b) Low-level Iodine-131 — \$212;

(c) Tritium (H-3) — \$92.

(3) The analyses results will be available in approximately five working days for Gamma Isotopic analyses.

NOTE: If the Authority cannot complete the analyses according to the schedule in section (3) of this rule, the Authority will notify the customer as soon as possible.

(4) A \$100 surcharge shall be added to the fee for a one-day completion schedule for a Gamma Isotopic analysis.

Stat. Auth.: ORS 453.757

Stats. Implemented: ORS 453.757

Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 2-1995(Temp), f. & cert. ef. 7-11-95; HD 4-1995, f. & cert. ef. 9-8-95; PH 11-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-105-0530

Training

(1) The licensee may not permit any individual to act as a radiographer until the individual:

(a) Has received training in the subjects outlined in section (7) of this rule, in addition to on the job training consisting of hands-on experience under the supervision of a radiographer and is certified through a radiographer certification program. The on the job training must include a minimum of two months (320 hours) of active participation in the performance of industrial radiography utilizing radioactive material and/or one month (160 hours) of active participation in the performance of industrial radiography utilizing radiation machines. Individuals performing industrial radiography utilizing radioactive materials and radiation machines must complete both segments of the on the job training (3 months or 480 hours); or

(b) The licensee may, until July 1, 2003, allow an individual who has not met the requirements of subsection (1)(a) of this rule, to act as a radiographer after the individual has received at least 40 hours of training in the subjects outlined in section (7) of this rule and demonstrated an understanding of these subjects by successful completion of a written examination that was previously submitted to and approved by the Authority, the Nuclear Regulatory Commission, or another Agreement State, in addition to on the job training consisting of hands-on experience under the supervision of a radiographer. The on the job training must include a minimum of two months (320 hours) of active participation in the performance of industrial radiography utilizing radioactive material and/or one month (160 hours) of active participation in the performance of industrial radiography utilizing radiation machines. Individuals performing industrial radiography utilizing radioactive materials and radiation machines must complete both segments of the on the job training (3 months or 480 hours).

(2) In addition, the licensee may not permit any individual to act as a radiographer until the individual:

(a) Has received copies of and instruction in the requirements described in the rules contained in this division, and applicable sections of divisions 120, 111, and 118 of these rules, in the license or registration under which the radiographer will perform industrial radiography, and the licensee's operating and emergency procedures;

(b) Has demonstrated an understanding of items in subsection (2)(a) of this rule by successful completion of a written or oral examination;

(c) Has received training in the use of the licensee's radiographic exposure devices, sealed sources, in the daily inspection of devices and associated equipment, and in the use of radiation survey instruments; and

(d) Has demonstrated understanding of the use of the equipment described in subsection (2)(c) of this rule by successful completion of a practical examination.

(3) The licensee may not permit any individual to act as a radiographer's assistant until the individual:

(a) Has received copies of and instruction in the requirements described in the rules contained in this, and applicable sections of divisions 120, 111, and 118 of these regulation, in the license or registration under which the radiographer's assistant will perform industrial radiography, and the licensee's operating and emergency procedures;

(b) Has demonstrated an understanding of items in subsection (3)(a) of this rule by successful completion of a written or oral examination;

(c) Under the personal supervision of a radiographer, has received training in the use of the licensee's radiographic exposure devices and sealed sources, in the daily inspection of devices and associated equipment, and in the use of radiation survey instruments; and

(d) Has demonstrated understanding of the use of the equipment described in subsection (3)(c) of this rule by successful completion of a practical examination.

(4) The licensee must provide annual refresher safety training, as defined in OAR 333-105-0005, for each radiographer and radiographer's assistant at intervals not to exceed 12 months.

(5) Except as provided in subsection (5)(d) of this rule, the radiation safety officer or designee must conduct an inspection program of the job performance of each radiographer and radiographer's assistant to ensure that the Authority's rules, license requirements, and operating and emergency procedures are followed. The inspection program must:

(a) Include observation of the performance of each radiographer and radiographer's assistant during an actual industrial radiographic operation, at intervals not to exceed six months; and

(b) Provide that, if a radiographer or a radiographer's assistant has not participated in an industrial radiographic operation for more than six months since the last inspection, the radiographer must demonstrate knowledge of the training requirements of subsection (2)(c) of this rule and the radiographer's assistant must demonstrate knowledge of the training requirements of subsection (3)(c) of this rule by a practical examination before these individuals can next participate in a radiographic operation.

(c) The Authority may consider alternatives in those situations where the individual serves as both radiographer and radiation safety officer.

(d) In those operations where a single individual serves as both radiographer and radiation safety officer, and performs all radiography operations, an inspection program is not required.

(6) The licensee must maintain records of the above training to include certification documents, written, oral and practical examinations, refresher safety training and inspections of job performance in accordance with OAR 333-105-0680.

(7) The licensee must include the following subjects required in section (1) of this rule:

(a) Fundamentals of radiation safety including:

(A) Characteristics of gamma and x-radiation;

(B) Units of radiation dose and quantity of radioactivity;

(C) Hazards of exposure to radiation;

(D) Levels of radiation from sources of radiation; and

(E) Methods of controlling radiation dose (time, distance, and shielding);

(b) Radiation detection instruments including:

(A) Use, operation, calibration, and limitations of radiation survey instruments;

(B) Survey techniques; and

(C) Use of personnel monitoring equipment;

(c) Equipment to be used including:

(A) Operation and control of radiographic exposure equipment, remote handling equipment, and storage containers, including pictures or models of source assemblies (pigtailed);

(B) Operation and control of radiation machines;

(C) Storage, control, and disposal of sources of radiation; and

(D) Inspection and maintenance of equipment.

(d) The requirements of pertinent state and federal rules; and

(e) Case histories of accidents in radiography.

(8) Licensees will have one year from the effective date of this rule to comply with the additional training requirements specified in subsections (2)(a) and (3)(a) of this rule.

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

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-106-0005

Definitions

As used in this division, the following definitions apply:

(1) "Accessible Surface" means the external surface of the enclosure or housing provided by the manufacturer.

(2) "Added Filtration" means any filtration that is in addition to the inherent filtration.

(3) "Aluminum Equivalent" means the thickness of type 1100 aluminum alloy affording the same attenuation, under specified conditions, as the material in question.

NOTE: The nominal chemical composition of type 1100 aluminum alloy is 99.00 percent minimum aluminum, 0.12 percent copper.

(4) "Applications Training" means a vendor or manufacturer providing training for specific X-ray equipment.

(5) "A.R.R.T." means the American Registry of Radiologic Technologists.

ADMINISTRATIVE RULES

(6) "Assembler" means any person engaged in the business of assembling, replacing, or installing one or more components into an X-ray system or subsystem. The term includes the owner of an X-ray system or his or her employee or agent who assembles components into an X-ray system that is subsequently used to provide professional or commercial services.

(7) "Attenuation Block" means a block or stack, having dimensions 20 centimeters (cm) by 20 cm by 3.8 cm, of type 1100 aluminum alloy or other materials having equivalent attenuation.

(8) "Authority approved instructor" means an individual who has been evaluated and approved by the Authority to teach Radiation Safety.

(9) "Authority approved training course" means a course of training that has been evaluated and approved by the Authority.

(10) "Automatic Exposure Control (AEC)" means a device that automatically controls one or more technique factors in order to obtain at a pre-selected location(s) a required quantity of radiation. (See also "Photo timer".)

(11) "Barrier" (see "Protective Barrier").

(12) "Beam Axis" means a line from the source through the centers of the X-ray fields.

(13) "Beam-Limiting Device" means a device that provides a means to restrict the dimensions of the X-ray field.

(14) "Beam Monitoring System" means a system designed to detect and measure the radiation present in the useful beam.

(15) "C-arm X-ray system" means an X-ray system in which the image receptor and X-ray tube housing are connected by a common mechanical support system in order to maintain a desired spatial relationship. This system is designed to allow a change in the projection of the beam through the patient without a change in the position of the patient.

(16) "Cephalometric Device" means a device intended for the radiographic visualization and measurement of the dimensions of the human head.

(17) "Certified Components" means components of X-ray systems that are subject to the X-ray Equipment Performance Standards promulgated under Public Law 90-602, the Radiation Control Agency for Health and Safety Act of 1968.

(18) "Certified System" means any X-ray system that has one or more certified component(s).

(19) "Changeable Filters" means any filter, exclusive of inherent filtration, which can be removed from the useful beam through any electronic, mechanical or physical process.

(20) "Coefficient of Variation (C)" means the ratio of the standard deviation to the mean value of a set of observations.

(21) "Computed tomography (CT)" means the production of a tomogram by the acquisition and computer processing of X-ray transmission data.

(22) "Computed radiography (CR)" means creating an X-ray image using plates consisting of a photo stimulable phosphor (PSP) that when exposed to radiation and then processed by a scanner, provides the information to a computer for display and manipulation.

(23) "Contact Therapy System" means an X-ray system used for therapy with the tube port placed in contact with or within five centimeters of the surface being treated.

(24) "Control Panel" means that part of the X-ray control upon which are mounted the switches, knobs, pushbuttons and other hardware necessary for manually setting the technique factors.

(25) "Cooling Curve" means the graphical relationship between heat units stored and cooling time.

(26) "Dead-Man Switch" means a switch so constructed that a circuit closing contact can be maintained only by continuous pressure on the switch by the operator.

(27) "Detector" (see "Radiation detector").

(28) "Diagnostic X-ray imaging system" means an assemblage of components for the generation, emission, and reception of X-rays and the transformation, storage, and visual display of the resultant X-ray image.

(29) "Diagnostic Source Assembly" means the tube housing assembly with a beam-limiting device attached.

(30) "Diagnostic-Type Protective Tube Housing" means a tube housing so constructed that the leakage radiation measured at a distance of one meter from the source does not exceed 100 milliroentgens (mR) in one hour when the tube is operated at its leakage technique factors.

(31) "Diagnostic X-ray System" means an X-ray system designed for irradiation of any part of the human body or animal body for the purpose of diagnosis or visualization.

(32) "Direct Digital Radiography (DR)" means creating an X-ray image by sending signals directly from a digital image receptor to a computer for display and manipulation.

(33) "Direct Scattered Radiation" means that scattered radiation which has been deviated in direction only by materials irradiated by the useful beam (see "Scattered radiation").

(34) "Direct supervision" means that the person who directs the X-ray or fluoroscopic equipment operator(s) shall be present in the room while the individual operates the equipment.

(35) "Entrance Exposure Rate" means the exposure free in air per unit of time.

(36) "Field Emission Equipment" means equipment which uses a tube in which electron emission from the cathode is due solely to the action of an electric field.

(37) "Filter" means material placed in the useful beam to absorb preferentially selected radiations.

(38) "Fluoroscopic Benchmark" means a standard based upon the average cumulative fluoroscopic on-time normally found to be used for a specific fluoroscopic procedure at the site.

(39) "Fluoroscopic Imaging Assembly" means a subsystem in which X-ray photons produce a visible image. It includes the image receptor(s) such as the image intensifier and spot-film device, electrical interlocks, if any, and structural material providing linkage between the image receptor and diagnostic source assembly.

(40) "Fluoroscopic X-ray equipment operator" means any individual who, adjusts technique factors, activates the exposure switch or button of a fluoroscopic X-ray machine or physically positions patients or animals. Human holders, used solely for immobilization purposes (i.e. veterinarian human holders) are excluded from this rule.

(41) "Focal Spot" means the area projected on the anode of the tube by the electrons accelerated from the cathode and from which the useful beam originates.

(42) "General Purpose Radiographic X-ray System" means any radiographic X-ray system which, by design, is not limited to radiographic examination of specific anatomical regions.

(43) "General supervision" means that the person who directs the X-ray or fluoroscopic equipment operator(s), must be immediately available by telephone, pager, or other mode of communication, to provide direction if needed or requested.

(44) "Gonad Shield" means a protective barrier for the testes or ovaries.

(45) "Half-Value Layer (HVL)" means the thickness of specified material which attenuates the beam of radiation to an extent such that the exposure rate is reduced to one-half of its original value. In this definition, the contribution of all scattered radiation, other than any which might be present initially in the beam concerned, is deemed to be excluded.

(46) "Healing arts screening" means the testing of human beings using X-ray machines for the detection or evaluation of health indications when such tests are not specifically and individually ordered by an Oregon licensed practitioner of the healing arts legally authorized to prescribe such X-ray tests for the purpose of diagnosis or treatment.

(47) "Heat Unit" means a unit of energy equal to the product of the peak kilovoltage, milliamperes and seconds, i.e., kVp x mA x second.

(48) "HVL" (see "Half-value layer").

(49) "Image Intensifier" means a device, installed in its housing, which instantaneously converts an X-ray pattern into a corresponding light image of higher energy density.

(50) "Image Receptor" means any device, such as a fluorescent screen or radiographic film, which transforms incident photons either into a visible image or into another form which can be made into a visible image by further transformations.

(51) "Indirect supervision" means that the person who directs the X-ray or fluoroscopic equipment operator(s) be readily available on facility premises when the X-ray or fluoroscopic equipment is operated.

(52) "Inherent Filtration" means the filtration of the useful beam provided by the permanently installed components of the tube housing assembly.

(53) "Interlock" means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

(54) "Irradiation" means the exposure of matter to ionizing radiation.

(55) "Kilovolt-Peak" (see "Peak tube potential").

(56) "kV" means kilovolts.

(57) "kVp" (see "Peak tube potential").

(58) "kW" means kilowatt second.

ADMINISTRATIVE RULES

(59) "Lead Equivalent" means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

(60) "Leakage Radiation" means radiation emanating from the diagnostic or therapeutic source assembly except for:

(a) The useful beam; and

(b) Radiation produced when the exposure switch or timer is not activated.

(61) "Leakage Technique Factors" means the technique factors associated with the diagnostic or therapeutic source assembly which are used in measuring leakage radiation. They are defined as follows:

(a) For diagnostic source assemblies intended for capacitor energy storage equipment, the maximum rated peak tube potential and the maximum-rated number of exposures in an hour for operation at the maximum rated peak tube potential with the quantity of charge per exposure being 10 millicoulombs, i.e., 10 milliamperes seconds (mAs), or the minimum obtainable from the unit, whichever is larger.

(b) For diagnostic source assemblies intended for field emission equipment rated for pulsed operation, the maximum-rated peak tube potential and the maximum-rated number of X-ray pulses in an hour for operation at the maximum-rated peak tube potential.

(c) For all other diagnostic or therapeutic source assemblies, the maximum-rated peak tube potential and the maximum-rated continuous tube current for the maximum-rated peak tube potential.

(62) "Light Field" means that area of the intersection of the light beam from the beam-limiting device and one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the illumination is one-fourth of the maximum in the intersection.

(63) "Line-Voltage Regulation" means the difference between the no-load and the load line potentials expressed as a percent of the load line potential.

(64) "mA" means milliamperes.

(65) "mAs" means milliamperes second.

(66) "Maximum Line Current" means the root-mean-square current in the supply line of an X-ray machine operating at its maximum rating.

(67) "Mobile Equipment" (see "X-ray Equipment").

(68) "Non-radiologist practitioner" means an individual who practices medicine as a medical doctor (M.D.), doctor of osteopathic medicine (D.O.), doctor of chiropractic medicine (D.C.), doctor of podiatric medicine (D.P.M.) or doctor of veterinary medicine (D.V.M.); and

(a) Are not specifically certified in diagnostic and/or therapeutic use of X-rays; and

(b) Are currently licensed by their respective Oregon licensing board.

(69) "Operator" means an individual who, under the supervision of a practitioner of the healing arts, handles ionizing radiation equipment, physically positions patients or animals, determines exposure parameters or applies the radiation for the diagnostic or therapeutic purposes intended.

(70) "Patient" means an individual subjected to healing arts examination, diagnosis, or treatment.

(71) "Peak Tube Potential" means the maximum value of the potential difference across the X-ray tube during an exposure.

(72) "Phantom" means a volume of material behaving in a manner similar to tissue with respect to the attenuation and scattering of radiation. This requires that both the atomic number (Z) and the density of the material be similar to that of tissue.

(73) "Photo timer" means a method for controlling radiation exposures to image receptors by measuring the amount of radiation which reaches a radiation monitoring device(s). The radiation monitoring device(s) is a part of an electronic circuit which controls the duration of time the tube is activated (see also "Automatic exposure control").

(74) "PID" (see "Position indicating device").

(75) "Portable Equipment" (see "X-ray Equipment").

(76) "Position Indicating Device" means a device on dental X-ray equipment used to indicate the beam position and to establish a definite source-surface (skin) distance. It may or may not incorporate or serve as a beam-limiting device.

(77) "Primary Dose Monitoring System" means a system which will monitor useful beam during irradiation and which will terminate irradiation when a pre-selected number of dose monitor units have been acquired.

(78) "Primary Protective Barrier" (see "Protective barrier").

(79) "Protective Apron" means an apron made of radiation absorbing materials used to reduce radiation exposure.

(80) "Protected Area" means an area shielded with primary or secondary protective barriers or an area removed from the radiation source

such that the exposure rate within the area due to normal operating procedures and workload does not exceed any of the following limits:

(a) 2 milliroentgens (mR) in any one hour; or

(b) 100 mR in any one year.

(c) See OAR 333-120-0180 for additional information.

(81) "Protective Barrier" means a barrier of radiation absorbing material(s) used to reduce radiation exposure. The types of protective barriers are as follows:

(a) "Primary protective barrier" means the material, excluding filters, placed in the useful beam, for protection purposes, to reduce the radiation exposure;

(b) "Secondary protective barrier" means a barrier sufficient to attenuate the stray radiation to the required degree.

(82) "Protective Glove" means a glove made of radiation absorbing materials used to reduce radiation exposure.

(83) "Qualified Expert" means an individual, approved by the Authority, who has demonstrated, pursuant to these rules, that he/she possesses the knowledge, skills, and training to measure ionizing radiation, to evaluate radiation parameters, to evaluate safety techniques, and to advise regarding radiation protection needs. The individual shall:

(a) Be certified in the appropriate field by the American Board of Radiology, the American Board of Health Physics, the American Board of Medical Physics or the American Board of Nuclear Medicine Science; or

(b) Hold a master's or doctor's degree in physics, biophysics, radiological physics, health physics, or medical physics and have completed one year of documented, full time training in the appropriate field and also one year of documented, full time work experience under the supervision of a qualified expert in the appropriate field. To meet this requirement, the individual shall have performed the tasks required of a qualified expert during the year of work experience; or

(c) Receive approval from the Authority for specific activities.

(84) "Quality Control Program" means a program directed at film processing and radiographic image quality whereby periodic monitoring of film processing is performed. Test films are compared against control film, either visually or by use of a densitometer, to determine if density or contrast have changed. Steps can then be taken to investigate such change and correct the problem. The X-ray machine itself can also be involved in the quality control program, as can other components of the imaging chain.

(85) "Radiation Detector" means a device which in the presence of radiation provides a signal or other indication suitable for use in measuring one or more quantities of incident radiation.

(86) "Radiation Therapy Simulation System" means a radiographic or fluoroscopic system intended for localizing the volume to be exposed during radiation therapy and confirming the position and size of the therapeutic irradiation field.

(87) "Radiograph" means an image receptor on which the image is created directly or indirectly by a pattern and results in a permanent record.

(88) "Radiographic Imaging System" means any system whereby a permanent or semipermanent image is recorded on an image receptor by the action of ionizing radiation.

(89) "Radiological Physicist" means an individual who:

(a) Is certified by the American Board of Radiology in therapeutic radiological physics, radiological physics, or x- and gamma-ray physics; or

(b) Has a bachelor's degree in one of the physical sciences or engineering and three years full-time experience working in therapeutic radiological physics under the direction of a physicist certified by the American Board of Radiology. The work duties must include duties involving the calibration and spot checks of a medical accelerator or a sealed source teletherapy unit; or

(c) Has a master's or a doctor's degree in physics, biophysics, radiological physics, health physics, or engineering; has had one year's full-time training in therapeutic radiological physics; and has had one year's full-time work experience in a radiotherapy facility where the individual's duties involve calibration and spot checks of a medical accelerator or a sealed source teletherapy unit.

(90) "Radiologist" or "Oral Radiologist" means a physician or dentist trained in the diagnostic and/or therapeutic use of X-rays and who is;

(a) Currently licensed by their respective Oregon licensing board; and

(b) Board certified by the American Board of Radiology (ABR) or American Osteopathic Board of Radiology (AOBR) or American Chiropractic Board of Radiology (DACBR) or Royal College of Physicians and Surgeons of Canada (RCPSC) or the American Board of Oral and Maxillo-Facial Radiology (ABOMFR) and currently licensed to practice medicine or dentistry in Oregon.

ADMINISTRATIVE RULES

(91) "Radiology Physician's Assistant" (R.P.A.)/ "Registered Radiology Assistant" (R.R.A.).

(a) An R.P.A. means an American Registry of Radiologic Technologists (A.R.R.T.) technologist who has successfully completed an advanced training program and is certified by the Certification Board for Radiology Practitioner Assistants (CBRPA).

(b) An R.R.A. means an A.R.R.T. technologist who has successfully completed an advanced training program and is certified by A.R.R.T.

(92) "R.T." means a radiologic technologist certified in radiography and currently licensed by the Oregon Board of Medical Imaging.

(93) "Rating" means the operating limits as specified by the component manufacturer.

(94) "Recording" means producing a permanent form of an image resulting from X-ray photons.

(95) "Registrant," as used in this division, means any person who owns or possesses and administratively controls an X-ray system which is used to deliberately expose humans, animals or materials to the useful beam of the system and is required by the provisions contained in divisions 100 and 101 of this chapter to register with the Authority.

(96) "Response Time" means the time required for an instrument system to reach 90 percent of its final reading when the radiation-sensitive volume of the instrument system is exposed to a step change in radiation flux from zero, sufficient to provide a steady state midscale reading.

(97) "Scattered Radiation" means radiation that, during passage through matter, has been deviated in direction (see "Direct Scattered Radiation").

(98) "Screening" means the use of a systematic approach to obtain cursory examinations of a person or group of persons without regard to specific clinical indications.

(99) "Secondary Dose Monitoring System" means a system which will terminate irradiation in the event of failure of the primary system.

(100) "Secondary Protective Barrier" (see "Protective barrier").

(101) "Shutter" means a device attached to the tube housing assembly which can totally intercept the useful beam and which has a lead equivalency not less than that of the tube housing assembly.

(102) "SID" (see "Source-image receptor distance").

(103) "Source" means the focal spot of the X-ray tube.

(104) "Source-Image Receptor Distance" means the distance from the source to the center of the input surface of the image receptor.

(105) "Spot Check" means a procedure which is performed to assure that a previous calibration continues to be valid.

(106) "Spot Film" means a radiograph which is made during a fluoroscopic examination to permanently record conditions which exist during that fluoroscopic procedure.

(107) "Spot-Film Device" means a device intended to transport and/or position a radiographic image receptor between the X-ray source and fluoroscopic image receptor. It includes a device intended to hold a cassette over the input end of an image intensifier for the purpose of making a radiograph.

(108) "SSD" means the distance between the source and the skin of the patient.

(109) "Stationary Equipment" (see "X-ray Equipment").

(110) "Stray Radiation" means the sum of leakage and scattered radiation.

(111) "Technique Factors" means the conditions of operation. They are specified as follows:

(a) For capacitor energy storage equipment, peak tube potential in kV and quantity of charge in mAs;

(b) For field emission equipment rated for pulsed operation, peak tube potential in kV and number of X-ray pulses;

(c) For all other equipment, peak tube potential in kV and either tube current in mA and exposure time in seconds, or the product of tube current and exposure time in mAs.

(112) "Termination of Irradiation" means the stopping of irradiation in a fashion which will not permit continuance of irradiation without the resetting of operating conditions at the control panel.

(113) "Traceable to a National Standard" means that a quantity or a measurement has been compared to a national standard directly or indirectly through one or more intermediate steps and that all comparisons have been documented.

(114) "Tube" means an X-ray tube, unless otherwise specified.

(115) "Tube Housing Assembly" means the tube housing with tube installed. It includes high-voltage and/or filament transformers and other appropriate elements when such are contained within the tube housing.

(116) "Tube Rating Chart" means the set of curves which specify the rated limits of operation of the tube in terms of the technique factors.

(117) "Unprotected Area" means any area in which the exposure rate, due to the use of the radiation machine under normal operating procedures and workload, exceeds any of the following limits:

(a) Two mR in any one hour;

(b) 100 mR in any seven consecutive days; or

(c) 500 mR in any one year.

(118) "Useful Beam" means the radiation emanating from the tube housing port or the radiation head and passing through the aperture of the beam limiting device when the exposure controls are in a mode to cause the system to produce radiation.

(119) "Variable-Aperture Beam-Limiting Device" means a beam-limiting device which has capacity for stepless adjustment of the X-ray field size at a given SID.

(120) "Visible Area" means that portion of the input surface of the image receptor over which the incident X-ray photons are producing a visible image.

(121) "Wedge Filter" means an added filter effecting continuous progressive attenuation on all or part of the useful beam.

(122) "X-ray Control" means a device which controls input power to the X-ray high-voltage generator and/or the X-ray tube. It includes equipment such as exposure switches (control), timers, photo timers, automatic brightness stabilizers and similar devices, which control the technique factors of an X-ray exposure.

(123) "X-ray Equipment" means an X-ray system, subsystem, or component thereof. Types of equipment are as follows:

(a) "Mobile equipment" means X-ray equipment mounted on a permanent base with wheels and/or casters for moving while completely assembled and intended to be taken from one geographical location to another or from one room to another;

(b) "Portable equipment" means X-ray equipment designed to be hand-carried but not hand-held during operations.

(c) "Stationary equipment" means X-ray equipment which is installed in a fixed location; such as bolted to the floor or wall;

(d) "Transportable" means X-ray equipment installed in a vehicle or trailer;

(e) "Hand-held unit" means a self contained X-ray machine designed so that it can be held in one or two hands to perform intra-oral radiography or other Authority approved radiography.

(124) "X-ray equipment operator" means any individual who handles, adjusts technique factors, activates the exposure switch/ or button of an X-ray machine, or physically positions patients or animals for a radiograph (see "Operator").

(125) "X-ray Field" means that area of the intersection of the useful beam and any one of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the exposure rate is one-fourth of the maximum in the intersection.

(126) "X-ray High-Voltage Generator" means a device which transforms electrical energy from the potential supplied by the X-ray control to the tube operating potential. The device may also include means for transforming alternating current to direct current, filament transformers for the X-ray tube(s), high-voltage switches, electrical protective devices and other appropriate elements.

(127) "X-ray System" means an assemblage of components for the controlled production of X-rays. It includes minimally an X-ray high-voltage generator, an X-ray control, a tube housing assembly, a beam-limiting device and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system.

(128) "X-ray Subsystem" means any combination of two or more components of an X-ray system for which there are requirements specified in this division.

(129) "X-ray Tube" means any electron tube which is designed to be used primarily for the production of X-rays.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 20-2010, f. & cert. ef. 9-1-10; PH 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

ADMINISTRATIVE RULES

333-106-0035

Deliberate Exposures Restricted

Persons shall not be exposed to the useful beam except for healing art purposes until the patient has been evaluated, and a medical need for the X-ray/s is determined, and has been authorized by a physician or Dental Professional licensed to practice the healing arts in Oregon. Any useful diagnostic information obtained from each exposure shall be reviewed by a practitioner of the healing arts. This provision specifically prohibits deliberate exposure for the following purposes:

(1) Exposure of an individual for training, demonstration or other purposes unless there are also healing arts requirements and proper prescription has been provided.

(2) Exposure of an individual for the purpose of healing arts screening:

(a) Any person proposing to conduct a healing arts screening program shall not initiate such a program without prior approval of the Authority;

(b) When requesting such approval, that person shall submit the following information.

(A) Name and address of the applicant and, where applicable, the names and addresses of agents within this state;

(B) Diseases or conditions for which the X-ray examinations are to be used in diagnoses;

(C) A detailed description of the X-ray examinations proposed in the screening program to include the estimated total radiation dose received by the individual(s) participating in the screening program;

(D) Description of the population to be examined in the screening program, i.e., age, sex, physical conditions, and other appropriate information;

(E) An evaluation of any known alternate methods not involving ionizing radiation which could achieve the goals of the screening program and why these methods are not used instead of the X-ray examinations;

(F) An evaluation by a qualified expert of the X-ray system(s) to be used in the screening program. The evaluation by the qualified expert shall show that such system(s) do satisfy all requirements of these rules;

(G) A description of the diagnostic film quality control program;

(H) A copy of the technique chart for the X-ray examination procedures to be used;

(I) The qualifications of each individual who will be operating the X-ray system(s);

(J) The qualifications of the individual who will be supervising the operators of the X-ray system(s). The extent of supervision and the method of work performance evaluation shall be specified;

(K) The name and address of the individual who will interpret the radiograph(s);

(L) A description of the procedures to be used in advising the individuals screened and their private practitioners of the healing arts of the results of the screening procedure and any further medical needs indicated;

(M) A description of the procedures for the retention or disposition of the radiographs and other records pertaining to the X-ray examinations.

(3) If any information submitted to the Authority under subsection (2)(b) changes, the Authority shall be immediately notified.

(4) Mammography screening shall be exempt from the requirements of section (2) of this rule if the following conditions are met:

(a) The requirements set forth in OAR 333-106-0700 to 333-106-0750 of these rules are satisfied.

(b) All other applicable rules are met.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & cert. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-106-0045

Use of Best Procedures and Equipment

Procedures and auxiliary equipment designed to minimize patient and personnel exposure commensurate with the needed diagnostic information shall be utilized. This is interpreted to include, but is not limited to:

(1) The speed of film or screen and film combinations shall be the fastest speed consistent with the diagnostic objective of the examinations.

(2) The radiation exposure to the patient shall be the minimum exposure required to produce images of good diagnostic quality, see Tables 1, 2 and 3. The referenced tables are available on the Program's website: <http://oregon.gov/DHS/ph/rtps/index.shtml>.

(3) Portable or mobile X-ray equipment shall be used only for examinations where it is impractical to transfer the patient(s) to a stationary X-ray installation except as permitted under section (4) of this rule.

(4) Hand-held dental units may be used at facilities or programs as defined in ORS 680.205(1) and (2).

(5) X-ray systems subject to OAR 333-106-0301(1) shall not be utilized in procedures where the source to patient distance is less than 30 centimeters (cm).

(6) Cardboard cassettes without screens shall not be used (dental intraoral excluded).

(7) The number of radiographs taken for any radiographic examination should be the minimum number needed to adequately diagnose the clinical condition.

(8) Use of techniques designed to compensate for anatomical thickness variations after the primary beam has exited the patient is specifically prohibited. This includes "split screen" imaging techniques whereby multiple speed intensifying screens are placed in the same cassette, or any techniques which rely on attenuation of secondary (remnant) radiation for compensatory purposes. Lead lined grids, which are designed to reduce scattered radiation are excluded from this provision.

(9) Filter slot covers shall be provided for the X-ray operator's protection.

(10) Facilities shall determine or cause to be measured the typical patient exposure for their most common radiographic examinations. The exposures shall be recorded as milliroentgens measured in free air at the point of skin entrance for an average patient. These exposure amounts must then be compared to existing guidelines and rules, and if they exceed such guidelines or rules, action must be taken to reduce the exposure while at the same time maintaining or improving diagnostic image quality. In addition, typical patient exposure values shall be posted in the radiographic examination rooms so that they are readily available to administrators, X-ray operators, patients and practitioners.

(11) Protective equipment including aprons, gloves and shields shall be checked annually for defects, such as holes, cracks and tears to assure reliability and integrity. A record of this test shall be made and maintained for inspection by the Authority. If such defect is found, equipment shall be replaced or removed from service until repaired. Fluoroscopy shall only be used for this purpose if a visual and manual check indicated a potential problem.

(12) Dental X-ray machines designed and manufactured to be used for dental purposes shall be restricted to dental use only.

(13) An X-ray quality control program shall be implemented when required by the Authority.

(14) All X-ray equipment must be capable of functioning at the manufacturer's intended specifications.

(15) All patients' radiographic images or copies shall be made available for review by any practitioner of the healing arts, currently licensed by the appropriate Oregon licensing board, upon request of the patient.

(16) Requirements for the operation of fluoroscopic X-ray equipment. The operation of fluoroscopic equipment shall be restricted to the following categories of properly trained operators:

(a) Radiologists;

(b) Non-Radiologist practitioners with proper training in the operation and use of fluoroscopic X-ray equipment;

(c) R.T.s, must be ARRT registered and in good standing with the OBRT;

(d) R.P.A.s and R.R.A.s;

(e) Technologists, who have successfully completed an OBRT approved program in radiologic technology as defined in ORS 688.405, may temporarily operate fluoroscopic equipment while waiting to take the A.R.R.T. registry examination:

(A) The temporary period will expire when the individual has passed the registry examination and is considered an R.T.; or

(B) One year from the date when the technologist completed his/ her training, provided; and

(C) The technologist, while in the temporary status referred to in subsection (15)(e) of this rule, has a current temporary license issued by the OBRT.

(f) The operation of fluoroscopic equipment by R.T.s, or R.P.A.s or R.R.A.s shall be performed under the supervision of a radiologist and is restricted to the healing arts exclusively for the purpose of localization and/or to assist physicians in obtaining images for diagnostic purposes.

(g) Where direct or indirect supervision by a radiologist is impractical, a non-radiologist practitioner who has had proper training in the use and operation of fluoroscopic X-ray equipment is permitted to supervise an R.T. operating fluoroscopic equipment provided that the registrant arranges to have a radiologist or Medical or Health physicist to assist in;

ADMINISTRATIVE RULES

(A) Developing fluoroscopic and radiation safety policies and procedures;

(B) Conducting an on-site practical evaluation of the Non-Radiologist practitioner's knowledge of radiation safety practices and ability to operate the fluoroscopic equipment; and

(C) At least annually, review the registrant's fluoroscopy program. The review should include an evaluation of the fluoroscopic on-times Quality Assurance reports, condition of fluoroscopic equipment and compliance with current rules. The registrant shall correct any deficiencies noted by the review.

(h) The operation of fluoroscopic equipment by a R.T. is restricted to the healing arts exclusively for the purpose of localization and/or to assist physicians in obtaining images for diagnostic purposes.

(i) Students currently enrolled in an approved school of Radiologic Technology as defined in ORS 688.405, may only operate fluoroscopic equipment under the direct supervision of a Radiologist or a R.T. while in the clinical phase of training.

(j) Students currently enrolled in an Authority approved R.P.A. or R.A. training program, may only operate fluoroscopic equipment under the direct or in-direct supervision of a Radiologist during their clinical phase of training.

(k) Overhead fluoroscopy is not to be used as a positioning tool for radiographic examinations except for those fluoroscopic examinations specified in the registrant's written policies/procedures for fluoroscopy.

(l) Proper training in the operation of fluoroscopic X-ray equipment shall include but not be limited to the following:

(A) Principles and operation of the fluoroscopic X-ray machine;

(i) Generating X-rays;

(ii) kVp and mA;

(iii) Image intensification;

(iv) High level control versus standard operating mode;

(v) Magnification (multi-field);

(vi) Automatic Brightness Control (ABC);

(vii) Pulsed versus Continuous X-ray Dose Rates;

(viii) Image recording modes;

(ix) Imaging Systems (TV and Digital);

(x) Contrast, noise and resolution;

(B) Radiation units;

(i) Traditional units;

(ii) SI units;

(iii) Dose Area Product;

(C) Typical fluoroscopic outputs;

(i) Patient skin entrance dose;

(ii) Standard Roentgen per minute (R/min) dose rates;

(iii) High level/Boost enable Roentgen per minute (R/min) dose rates;

(D) Dose reduction techniques for fluoroscopy;

(i) The use of collimation;

(ii) X-ray tube and Image intensifier placement;

(iii) Patient size versus Technique selection;

(iv) Use of grid;

(v) Use of last image hold;

(vi) Additional beam filtration;

(vii) Alternate gantry angles;

(viii) Use of spacer cone;

(ix) Pulsed fluoroscopy;

(E) Factors affecting personnel dose;

(i) Patient dose;

(ii) Scatter radiation;

(iii) Tube and Image intensifier placement;

(iv) Time, distance and shielding;

(F) Protective devices;

(i) Lead aprons and gloves;

(ii) Thyroid collars;

(iii) Protective glasses;

(iv) Leaded drapes;

(v) Bucky slot cover;

(vi) Protective shields/barriers;

(G) Radiation exposure monitoring;

(i) Personnel monitors;

(ii) Placement of personnel monitors;

(iii) Occupational and non-occupational dose limits;

(H) Biological effects of X-ray radiation;

(i) X-rays and particulate matter;

(ii) Absorption variables (field size, dose rate, etc.);

(iii) Scatter radiation;

(iv) Cell sensitivity;

(v) Acute effects;

(vi) Latent effects;

(I) Applicable regulations;

(i) Federal; and

(ii) Oregon Rules for the Control of Radiation to include, but not limited to, divisions 101, 103, 106, 111 and 120.

(17) Radiologists, R.A.s or R.P.A.s and R.T.s currently licensed in Oregon are considered to have met the training requirements in subsection (15)(l) of this rule.

(18) Fluoroscopic equipment operators who qualified to operate fluoroscopic X-ray equipment prior to April 11, 2005, will be considered as having met the training requirements in subsection (15)(l) of this rule.

(19) All images formed by the use of fluoroscopy shall be viewed, directly or indirectly, and interpreted by a radiologist, cardiologist, non-radiologist practitioner or other qualified specialist. R.As and R.P.As may issue a preliminary report, however, the final report must be issued by their supervising radiologist.

(20) Written procedures for fluoroscopic X-ray equipment operators shall be available at the worksite and include:

(a) A list of all individuals who are permitted to operate fluoroscopic X-ray equipment at the facility;

(b) A list of the fluoroscopic X-ray equipment that each operator is qualified to operate;

(c) Written procedures regarding the set up and operation of each fluoroscopic X-ray machine registered to the facility;

(d) Written radiation safety procedures pertaining to the use and operation of fluoroscopy; and

(e) The name and title of the individual who is responsible for the direction of R.T.s who operate fluoroscopic equipment.

(21) Facilities shall determine, or cause to be determined, the typical patient entrance exposure rate for their most common fluoroscopic examinations. The determination shall be made using an attenuation block as described in OAR 333-106-0005(8) of these rules using measurement protocol in compliance with OAR 333-106-0210 of these rules and expressed in Roentgens per minute (R/min.) or milliRoentgens per minute (mR/min.). In addition, these entrance exposure rates shall be posted in the room where fluoroscopic examinations are conducted so that they are readily available to administrators, X-ray operators, patients and practitioners.

(22) Facilities that utilize fluoroscopy shall maintain a record of the cumulative fluoroscopic exposure time used for each examination. The record must indicate the patients name, the type of examination, the date of the examination, the fluoroscopists name, the fluoroscopic room in which the examination was done and the total cumulative fluoroscopic on time for each fluoroscopic examination and:

(a) No later than May 1, 2006, establish cumulative fluoroscopic on-time benchmarks for at least two (if applicable) of the most common types of fluoroscopic examinations performed at the facility's site in each of the following categories:

(A) Routine procedures performed on adults;

(B) Routine procedures performed on children;

(C) Orthopedic procedures performed in surgery;

(D) Urologic procedures performed in surgery;

(E) Angiographic procedures performed;

(F) Interventional cardiac studies.

(b) Develop and perform periodic (not to exceed 12 month intervals) quality assurance studies to determine the status of each individual fluoroscopist's cumulative on-time in relation to the fluoroscopic benchmarks established for individual fluoroscopic examinations;

(c) Take appropriate action, when the established benchmarks are consistently exceeded. The Radiation Safety Committee (RSC) must review the results of the cumulative fluoroscopic on-time Quality Assurance Study and take corrective action regarding those individuals who have exceeded the benchmarks established by the facility for a particular procedure more than ten percent of the total times the individual performed the procedure during the study period. Documentation of the RSC review, as well as any corrective actions taken, must be available for Authority review. Corrective actions should, at a minimum, include:

(A) Notification of the individual; and

(B) Recommendation that the individual undergo additional coaching, training, etc. in the safe use of fluoroscopic equipment in order to assist them in reducing their cumulative fluoroscopic on-times.

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

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003,

ADMINISTRATIVE RULES

f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-106-0055

X-ray Operator Training

(1) The registrant shall assure that individuals who will be operating the X-ray equipment shall have adequate training in radiation safety. Adequate training in radiation safety means a minimum of 40 hours of didactic instruction for diagnostic medical X-ray equipment operators, eight hours for Grenz ray X-ray equipment operators and 20 hours for veterinary X-ray equipment operators from an Authority approved training course covering the following subjects:

- (a) Nature of X-rays;
- (b) Interaction of X-rays with matter;
- (c) Radiation units;
- (d) Principles of the X-ray machine;
- (e) Biological effects of X-ray;
- (f) Principles of radiation protection;
- (g) Low dose techniques;
- (h) Applicable federal and state radiation regulations including those portions of divisions 100, 101, 103, 106, 111 and 120 of chapter 333;
- (i) Darkroom and film processing;
- (j) Film critique; and
- (k) Animal restraint training (for veterinary technologists or assistants only).

NOTE: Subsections (1)(g), (1)(i), (1)(j) and (1)(k) of this rule are not required for Grenz ray X-ray equipment operator training.

(2) Dental X-ray operators who meet the following requirements are considered to have met the requirements in section (1) of this rule:

- (a) Currently licensed by the Oregon Board of Dentistry as a Dentist or Dental Hygienist; or
- (b) Is a Dental Assistant who is certified by the Oregon Board of Dentistry in radiologic proficiency; and
- (c) Successfully completed didactic and clinical radiography training covering the subject areas outlined in section (1) of this rule; and
- (d) Passed the Radiation Health and Safety (RHS) or the Certified Dental Assistant (CDA) examination administered by the Dental Assisting National Board, Inc. (DANB) and clinical radiography examination or other comparable requirements approved by the Oregon Board of Dentistry.

(3) Medical X-ray equipment operators not regulated by the Oregon Board of Medical Imaging. In addition to the above, medical X-ray equipment operators using diagnostic radiographic equipment on human patients, and who are not regulated by the Oregon Board of Medical Imaging must have 100 hours or more of instruction in radiologic technology including, but not limited to, anatomy physiology, patient positioning, exposure and technique. The instruction must be appropriate to the types of X-ray examinations that the individual will be performing; and

(a) Have 200 hours or more of X-ray laboratory instruction and practice in the actual use of an energized X-ray unit, setting techniques and practicing positioning of the appropriate diagnostic radiographic procedures that they intend to administer; and

(b) Must have completed the required radiation use and safety hours and a minimum of 50 hours in X-ray laboratory before X-raying a human patient.

(4) Radiation Use and Safety Instructor Qualifications. The training required in sections (1), (2) and (3) of this rule must be taught by an Authority approved instructor. Approval will be based upon the following criteria:

(a) Medical use and safety instructor: An individual who is currently licensed as a Radiologic Technologist and approved as an education provider by the Oregon Board of Medical Imaging.

(b) A dental radiation use and safety instructor is an individual who has:

(A) Passed the Radiation Health and Safety (RHS) or the Certified Dental Assistant (CDA) examination administered DANB; or

(B) Has been evaluated and approved as a qualified Dental radiation use and safety instructor by the Oregon Board of Dentistry; and

(C) Is currently licensed by the Oregon Board of Dentistry as a dentist; or

(D) Is a dental hygienist; or

(E) Is a dental assistant certified in Radiologic proficiency and has a minimum of two years of experience in taking dental radiographs.

(c) A veterinarian radiation use and safety instructor is an individual who is:

(A) Currently credentialed with the Oregon Veterinary Medical Examining Board, or licensed as a Radiologic Technologist by the Oregon Board of Medical Imaging; and

(B) Has completed training specific to veterinarian radiography, including training in animal restraint; and

(C) Have a minimum of two years of experience in taking veterinary radiographs.

(d)(A) On a case by case basis, if an evaluation by the Authority reveals the individual has alternative qualifications that are substantially equivalent to the qualifications listed in subsections (4)(a), (4)(b) or (4)(c) of this rule or is an individual who is qualified under OAR 333-101-0230 as a Hospital Radiology Inspector; or

(B) The individual meets the requirements of a qualified expert as defined in OAR 333-100-0005(80).

(5) In addition to the requirements in sections (2), (9), (10) and (13), of this rule dental X-ray equipment operator must also satisfy any requirements established by the Oregon Board of Dentistry.

(6) The operator shall be able to demonstrate competency in the safe use of the X-ray equipment and associated X-ray procedures.

(7) Any diagnostic medical X-ray operator is deemed to have adequate training to meet the requirements of section (1) of this rule if they meet any of the following:

(a) Holds a current license from the Oregon Board of Medical Imaging; or

(b) Holds a current limited permit from the Oregon Board of Medical Imaging; or

(c) Is a student in a two-year approved school of Radiologic Technology as defined in ORS 688.405 while practicing Radiologic Technology under the supervision of a radiologist who is currently licensed with the Oregon Medical Board or a radiologic technologist who is currently registered with the American Registry of Radiologic Technologists and licensed with the Oregon Board of Medical Imaging; or

(d) Is a student in an Oregon Board of Medical Imaging approved limited permit program under a Radiologic Technologist who is currently registered with the American Registry of Radiologic Technologists and licensed by the Oregon Board of Medical Imaging.

(8) Dental radiology students in an approved Oregon Board of Dentistry dental radiology course are permitted to take dental radiographs on human patients during their clinical training, under the indirect supervision of a Dentist or Dental Hygienist currently licensed or a dental assistant who has been certified in radiologic proficiency, by the Oregon Board of Dentistry provided that:

(a) They are enrolled in an Oregon Board of Dentistry approved radiology course; or

(b) A student studying under an Oregon Board of Dentistry approved radiology instructor; and

(c) The student has written authorization, signed by their instructor, attesting that the student has successfully completed training in the subject areas in section (1) of this rule; and

(d) Demonstrated to the instructor that they are ready to take dental radiographs on human patients through:

(A) The use of mannequins under indirect supervision; or

(B) Taking dental radiographs of human patients while under the direct supervision of the instructor; and

(C) The written authorization is on the training program or Oregon Board of Dentistry approved instructor's letterhead, a copy of which is maintained at the site(s) of their clinical training and available for review by the Oregon Health Authority, Public Health Division inspection staff at the time of inspection.

(9) The students identified in section (8) of this rule are prohibited from taking radiographs on human patients without proper authorization from a practitioner of the healing arts who is currently licensed in Oregon, as required in OAR 333-106-0035 of these rules.

(10) The students identified in section (8) of this rule are considered to be in "student status" until they have successfully completed the clinical phase of their training. "Student status" shall not exceed a period of 12 consecutive months.

(11) Radiation use and safety training programs approved prior to the May 1, 2005 will continue to be considered as meeting the requirements of section (1) of this rule provided they cover those portions of the Oregon Rules for the Control of Radiation indicated in subsection (1)(h) of this rule.

(12) X-ray operator training approved prior to May 1, 2005 will continue to be considered as having met the requirements of sections (1), (2) or (3) of this rule as applicable.

ADMINISTRATIVE RULES

(13) Reciprocity. X-ray equipment operators who have received their radiation safety training outside of Oregon will be considered to have met the training requirements listed in sections (1) or (2) of this rule, if the Authority's or applicable Oregon Licensing Board's evaluation of their training or training and experience, reveals that they substantially meet the intent of sections (1) or (2) of this rule.

(14) When required by the Authority, applications training must be provided to the operator before use of X-ray equipment on patients.

(a) Records of this training must be maintained by the registrant for inspection.

(b) The training may be in any format such as hands-on training by a manufacturer's representative, video or DVD instruction, or a training manual.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06; PH 14-2008, f. & cert. ef. 9-15-08; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-106-0325

Intraoral Dental Radiographic Systems

In addition to the provisions of OAR 333-106-0010 through 333-106-0101 of these rules, the requirements of this rule apply to X-ray equipment and facilities where intraoral dental radiography is conducted. Requirements for extraoral dental radiographic systems are covered in OAR 333-106-0301 through 333-106-0320 of these rules. Intraoral dental radiographic systems must meet the following requirements:

(1) Source-to-Skin Distance (SSD). X-ray systems designed for use with an intraoral image receptor shall be provided with means to limit source-to-skin distance, to not less than:

(a) 18 cm if operable above 50 kVp; or

(b) 10 cm if operable at 50 kVp only.

(2) Beam Limitation. Radiographic systems designed for use with an intraoral image receptor shall be provided with means to limit the X-ray beam such that:

(a) If the minimum source-to-skin distance (SSD) is 18 centimeters or more, the X-ray field, at the minimum SSD, shall be containable in a circle having a diameter of no more than seven centimeters; or

(b) If the minimum SSD is less than 18 centimeters, the X-ray field, at the minimum SSD, shall be containable in a circle having a diameter of no more than six centimeters.

(3) Radiation Exposure Control (Timers). Means shall be provided to control the radiation exposure through the adjustment of exposure time in seconds, milliseconds (ms) or, number of pulses, or current/milliamps (mA), or the product of current and exposure time (mAs) or adjustment of kVp. In addition:

(a) Exposure Initiation. Means shall be provided to initiate the radiation exposure by a deliberate action on the part of the operator, such as the depression of a switch. Radiation exposure shall not be initiated without such an action; and

(b) It shall not be possible to make an exposure when the timer is set to a "0" or "off" position if either position is provided;

(c) Exposure Indication. Means shall be provided for visual indication, observable at or from the operator's protected position, whenever X-rays are produced. In addition, a signal audible to the operator shall indicate that the exposure has terminated.

(d) Exposure termination.

(e) Timer Reproducibility. With a timer setting of 0.5 second or less, the average exposure time (T) shall be greater than or equal to five times the minimum exposure time (Tmax) minus the minimum exposure time (Tmin) when four timer tests are performed:

$(T) > / - 5 (T_{max} - T_{min})$.

(A) Means shall be provided to terminate the exposure at a preset, time interval, mAs, number of pulses, or radiation to the image receptor.

(B) An X-ray exposure control shall be incorporated into each system such that an exposure can be terminated by the operator at any time, except for exposures of 0.5 second or less.

(C) Termination of an exposure shall cause automatic resetting of the timer to its initial setting or to "0".

(4) Radiation Exposure Control Location and Operator Protection. Each X-ray control must be located in such a way as to meet the following requirements:

(a) The exposure switch shall be able to be operated in a protected area, as defined in OAR 333-106-0005(81)(a)(b), and the operator shall remain in that protected area during the entire exposure; and

(b) The operator's protected area shall provide visual indication of the patient during the X-ray procedure.

(c) Mobile and portable X-ray systems which are:

(A) Used for greater than one week in the same location, i.e., a room or suite, shall meet the requirements of subsections (4)(a) and (4)(b) of this rule

(B) Used for less than one week at the same location, i.e., a room or suite, shall be provided with:

(i) Either a protective barrier of at least 6.5 feet (2 meters) high for operator protection; or

(ii) A means to allow the operator to be at least nine feet (2.7 meters) from the tube housing assembly while making exposures; or

(iii) A full length protective apron, of not less than 0.25 millimeter lead equivalent for operator protection, when using a hand-held dental intraoral X-ray machine.

(5) Exposure Reproducibility. The coefficient of variation shall not exceed 0.05 when all technique factors are held constant. This requirement shall be deemed to have been met if, when four exposures are made at identical technique factors, the value of the average exposure (E) is greater than or equal to five times the maximum exposure (Emax) minus the minimum exposure (Emin): $E > / - 5 (E_{max} - E_{min})$

(6) Accuracy.

(a) Deviation of technique factors from the indicated values for kVp and exposure time (if time is independently selectable) shall not exceed the limits specified for that system by its manufacturer.

(b) kVp Limitations. Dental X-ray machines with a nominal fixed kVp of less than 50 kVp shall not be used to make diagnostic dental radiographs on humans.

(7) Administrative Controls:

(a) Patient and film holding devices shall be used when the techniques permit;

(b) The tube housing and the PID shall not be hand held during an exposure;

(c) The X-ray system shall be operated in such a manner that the useful beam at the patient's skin does not exceed the requirements of subsection (2)(a) of this rule or its updated version;

(d) All patients shall be provided with a leaded apron during any dental X-ray exposure;

(e) Dental fluoroscopy without image intensification shall not be used;

(f) Pointed cones shall not be utilized unless specific authorization has been granted by the Authority.

(8) Hand-held X-ray systems.

(a) Registrants must provide for security and safe storage while not in use.

(A) A report must be filed with the Authority within 72 hours if the hand-held unit is lost or stolen.

(b) The image receptor used with hand-held dental X-ray systems must either be:

(A) A speed class of intra-oral film designated as "E/F, F" or faster; or

(B) A digitally acquired image (CR or DR).

(c) The hand-held X-ray system must be equipped with a permanently attached backscatter shield of 0.25 mm Pb equivalent.

(d) The backscatter shield must be designed to appropriately protect the operator during an exposure. The manufacturer of the hand-held unit must provide documentation to the Authority of the design specifications of the backscatter shield's protection to the operator prior to sale and distribution in the State of Oregon.

(e) The hand-held unit must be capable of a minimum of 60 kVp and 2.0 mA.

(f) Hand-held units not meeting the requirements of subsections (8)(c), (8)(d) and (8)(e) of this rule may not be sold, distributed or used in the State of Oregon.

(9) Hand-held dental X-ray administrative controls.

(a) The operator must wear a whole body protective apron and thyroid collar of 0.25 mm of lead equivalent when using the unit.

(b) Hand-held units must meet the requirement of OAR 333-106-0045(3).

(A) The hand-held unit shall not be used for patient examinations in hallways and waiting rooms.

(B) The unit will only be operated in an enclosed room when possible. All individuals except the X-ray operator and the patient will leave the room and stand behind a protective barrier or be at least six feet from the

ADMINISTRATIVE RULES

X-ray source if a protective barrier is not available during radiographic exposures.

(c) Operators must complete machine specific applications training as described in OAR 333-106-0055(14) before using a hand-held unit.

(A) Training on the safe use of the unit shall be documented and include at a minimum:

(i) Proper positioning of the unit to ensure an adequate protected position;

(ii) Limitations on the use of position indicating devices that require longer distances to the patient's face;

(iii) Diagrams (ie: drawings, illustrations, schematics, etc.) of protected position and location in relationship to the unit;

(iv) Diagrams (ie, drawings, illustrations, schematics, etc.) of the effect of improper distance or removal of shielding device; and

(v) Diagrams (ie. drawings, illustrations, schematics, etc.) of common examples of improper positioning of the unit and or location of the operator.

(d) An appropriate receptor holder must be used during the X-ray exposure.

(e) A PID must be used during the X-ray exposure.

(f) A hand-held unit shall be held without any motion during a patient examination. A tube stand may be utilized to immobilize the hand-held unit during a patient examination.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 14-2008, f. & cert. ef. 9-15-08; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-106-0370

Operator Requirements

(1) Computed Tomography (CT) X-ray systems shall be operated by individuals who:

(a) Are registered with the American Registry of Radiologic Technologists (A.R.R.T.); and

(b) Have received additional CT system training; and

(c) Meet the clinical experience requirements for C.T. established by A.R.R.T.; and

(d) Are currently licensed by the Oregon Board of Medical Imaging.

(2) Individuals who are registered with the A.R.R.T. and credentialed as an R.T.(R) and (CT) are considered to have met the CT training requirement in 333-106-0370(1) of this rule and clinical experience requirement in subsection (1)(a) of this rule.

(3) Those individuals who have met the requirements of section (1) of this rule prior to the effective date of this rule are considered to have met subsection (1)(a) of this rule.

(4) Technologists operating CT systems must do so under the direction of a radiologist.

(5) Positron Emission-Computed Tomography (PET/CT) or Single Photon Emission-Computed Tomography (SPECT/CT) systems shall be operated by:

(a) Any registered radiographer with the credential R.T. (R); or

(b) Registered radiation therapist with the credential R.T. (T); and

(c) Who are currently licensed by the Oregon Board of Medical Imaging; or

(d) Registered certified nuclear medicine technologist with the credentials R.T. (N); or

(e) Certified Nuclear Medicine Technologist (CNMT) by the Nuclear Medicine Technologist Certification Board (NMTCB).

(6) The individuals mentioned in section (5) of this rule must also have successfully completed appropriate additional education and training and demonstrated competency in the use and operation of PET/CT or SPECT/CT systems.

(7) Appropriate additional training is considered training that covers the topic areas outlined in the PET/CT curriculum developed by the Multi-Organizational Curriculum Project Group sponsored by the American Society of Radiologic Technologists and the Society of Nuclear Medicine Technologists, or equivalent training approved by the Authority and:

(a) Includes the content specified in the PET/CT curriculum for the area(s) that the individual is not already trained or certified in; or

(b) Individuals meeting the requirements of section (5) of this rule and who have successfully completed training that the Authority has evaluated and judged to be substantially equivalent to that specified in subsection (7)(a) of this rule.

(8) R.T.(N)s or CNMTs who have become certified in Computed Tomography through the American Registry of Radiologic Technologists are considered to have met the training requirements in section (5) of this rule.

(9) Technologists operating PET/CT or SPECT/CT systems must do so under the direction of an authorized user licensed to perform imaging and localization studies in accordance with OAR 333-116-0320 of these rules.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-106-0750

Personnel Qualifications

(1) Operator qualifications. In order to use any mammography X-ray machine the operator of the mammography X-ray unit must have the following qualifications:

(a) Have a current license issued by the Oregon Board of Medical Imaging; and

(b) Have prior to the effective date of these rules qualified as a radiologic technologist under the MQSA interim rules or completed 40 contact hours of documented training specific to mammography under the supervision of a qualified instructor. The hours of documented training shall include, but not be limited to:

(A) Training in breast anatomy and physiology, positioning and compression, quality assurance/quality control techniques, imaging patients with breast implants;

(B) The performance of 25 examinations under the direct supervision of an individual qualified under this section; and

(C) At least eight hours of training in each mammography modality to be used by the technologist in performing mammography exams; and

(D) Be currently registered and in good standing with the American Registry of Radiologic Technologist (ARRT); and

(E) Be certified in mammography by the ARRT or the equivalent; or

(F) Provide documented evidence that an ARRT mammography certification test is scheduled. Technologists meeting the requirements of subsection (1)(a) and paragraphs (1)(b)(A), (B), (C), and (D) of this rule may work under the supervision (supervision means that a fully qualified technologist is on-site and readily available to answer questions or assist) of a technologist, meeting all of the requirements of this rule, for up to one year while waiting to take the certification test.

(2) Interpreting Physician qualifications. All physicians interpreting mammograms shall meet MQSA qualifications and hold a current license to practice medicine in the State of Oregon.

(3) Medical Physicist qualifications. All Medical Physicists conducting surveys and equipment evaluations of mammography facilities and providing oversight of their quality assurance programs shall;

(a) Meet MQSA requirements; and

(b) Be currently licensed as a vendor by the Authority.

Stat. Auth.: ORS 453.605 - 453.807

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-111-0015

Notifications and Reports to Individuals

(1) Radiation exposure data for an individual and the results of any measurements, analyses and calculations of radioactive material deposited or retained in the body of an individual shall be reported to the individual as specified in this rule. The information reported shall include data and results obtained pursuant to these rules, orders or license conditions, as shown in records maintained by the licensee or registrant pursuant to OAR 333-120-0650. Each notification and report shall:

(a) Be in writing;

(b) Include the appropriate identifying data such as the name of the licensee or registrant, the name of the individual and the individual's social security number;

(c) Include the individual's exposure information; and

(d) Contain the following statement: "This report is furnished to you under the provisions of rules entitled Oregon Rules for the Control of Radiation, Division 111. You should preserve this report for further reference."

(2) Each licensee or registrant shall make dose information available to workers as shown in records maintained by the licensee or registrant under the provisions of OAR 333-120-0650. The licensee shall provide an

ADMINISTRATIVE RULES

annual report to each individual monitored under OAR 333-120-0210 of the dose received in that monitoring year if:

(a) The individual's occupational dose exceeds 1 mSv (100 mrem) TEDE or 1 mSv (100 mrem) to any individual organ or tissue; or

(b) The individual requests his or her annual dose report.

(3) At the request of a worker formerly engaged in work controlled by the licensee or registrant, each licensee or registrant shall furnish to the worker a report of the worker's exposure to radiation or radioactive material. Such report shall be furnished within 30 days from the time the request is made or within 30 days after the exposure of the individual has been determined by the licensee or registrant, whichever is later; shall cover, within the period of time specified in the request, each calendar quarter in which the worker's activities involved exposure to radiation from radioactive material licensed by, or radiation machines registered with the Authority; and shall include the dates and locations of work under the license or registration in which the worker participated during this period.

(4) When a licensee or registrant is required by OAR 333-120-0710, 333-120-0720 or 333-120-0730 to report to the Authority any exposure of an individual to radiation or radioactive material, the licensee or the registrant shall also provide the individual a report on the exposure data included in the report to the Authority. Such reports shall be transmitted at a time not later than the transmittal to the Authority.

(5) At the request of a worker who is terminating employment in a given calendar quarter with the licensee or registrant in work involving radiation dose, or of a worker who, while employed by another person, is terminating assignment to work involving radiation dose in the licensee's or registrant's facility in that calendar quarter, each licensee or registrant shall provide to each such worker, or to the worker's designee, at termination, a written report regarding the radiation dose received by that worker from operations of the licensee or registrant during that specifically identified calendar quarter or fraction thereof, or provide a written estimate of that dose if the finally determined personnel monitoring results are not available at that time. Estimated doses shall be clearly indicated as such.

Stat. Auth.: ORS 453.605 - 453.755

Stats. Implemented: ORS 453.605 - 453.755

Hist.: HD 4-1985, f. & ef. 3-20-85; HD 1-1991, f. & cert. ef. 1-8-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-116-0020

Definitions

As used in this division, the following definitions apply:

(1) "Address of use" means the building or buildings identified on the license as the location(s) where radioactive material may be received, used, or stored.

(2) "Area of use" means location(s) at the address of use set aside for the purpose of receiving, using or storing radioactive material.

(3) "Attestation" means required training, experience and appropriate board certification is validated using the Nuclear Regulatory Commission's form 313A.

(4) "Authorized Medical Physicist" means an individual who:

(a) Meets the requirements in OAR 333-116-0730, or 333-116-0905 and 333-116-0760; or

(b) Is identified as an authorized medical physicist or teletherapy physicist on:

(A) A specific medical use license issued by the Authority or an Agreement State or the US Nuclear Regulatory Commission;

(B) A medical use permit issued by a Commission master material licensee;

(C) A permit issued by a Commission or Agreement State broad scope medical use licensee; or

(D) A permit issued by a Commission master material license broad scope medical use permittee.

(5) "Authorized nuclear pharmacist" means a pharmacist who:

(a) Meets the requirements in OAR 333-116-0910 and 333-116-0915;

(b) Is identified as an authorized nuclear pharmacist on an Authority, Agreement State, or U.S. Nuclear Regulatory Commission license that authorizes the use of radioactive material in the practice of nuclear pharmacy;

(c) Is identified as an authorized nuclear pharmacist on a license issued by an Authority, Agreement State, or U.S. Nuclear Regulatory Commission specific licensee of broad scope that is authorized to permit the use of radioactive material in the practice of nuclear pharmacy; or

(d) Is approved as an authorized nuclear pharmacist by a nuclear pharmacy licensed (authorized) by the Authority, the U.S. Nuclear Regulatory Commission, or an Agreement State to approve authorized nuclear pharmacists.

(6) "Authorized user" means a physician, dentist or podiatrist who:

(a) Meets the requirements listed in OAR 333-116-0660, 333-116-0670, 333-116-0680, 333-116-0683, 333-116-0687, 333-116-0690, 333-116-0700, 333-116-0710, 333-116-0720, and 333-116-0740;

(b) Is identified as an authorized user on an Authority, Agreement State, Licensing State or U.S. Nuclear Regulatory Commission license that authorizes the medical use of radioactive material; or

(c) Is identified as an authorized user on a permit issued by an Authority, Agreement State, or U.S. Nuclear Regulatory Commission licensee of broad scope that is authorized to permit the medical use of radioactive material.

(7) "Black Box" means the radiopharmaceutical production purification system used in a PET facility.

(8) "Brachytherapy" means a method of radiation therapy in which sources are used to deliver a radiation dose at a distance of up to a few centimeters by surface, intracavitary, intraluminal, or interstitial application.

(9) "Brachytherapy source" means an individual sealed source or a manufacturer-assembled source train or a combination of these sources that is designed to deliver a therapeutic dose of radiation within a few centimeters, by surface, intracavitary, or interstitial application that is not designed to be disassembled by the user.

(10) "Dedicated check source" means a radioactive source that is used to assure the constant operation of a radiation detection or measurement device over several months or years. This source may also be used for other purposes.

(11) "Dental use" means the intentional external administration of the radiation from radioactive material to human beings in the practice of dentistry in accordance with a license issued by a State or Territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(12) "Dentist" means an individual licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice dentistry.

(13) "Diagnostic clinical procedures manual" means a collection of written procedures that describes each method (and other instructions and precautions) by which the licensee performs diagnostic clinical procedures; where each diagnostic clinical procedure has been approved by the authorized user and includes the radiopharmaceutical, dosage, and route of administration.

(14) "High dose-rate remote afterloader" means a device that remotely delivers a brachytherapy source, with a dose rate in excess of two gray (200 rad) per hour, to the point or surface where the dose is prescribed.

(15) "Human Research Subject" means a living person that an authorized user, conducting research, obtains data resulting from the intentional internal or external administration of radioactive material, or the radiation from radioactive material, to the individual. For the purpose of these rules, unless otherwise noted, the term patient applies to a human research subject.

(16) "Low dose-rate remote afterloader" means a device that remotely delivers a brachytherapy source, with a dose rate of less than two gray (200 rad) per hour, to the point or surface where the dose is prescribed.

(17) "Management" means the chief executive officer or that individual's designee.

(18) "Manual Brachytherapy", as used in this part, means a type of brachytherapy in which the brachytherapy sources (e.g., seeds, ribbons) are manually placed on, or in close proximity, to the treatment site or inserted directly into the tissue volume.

(19) "Medical Event or Medical Error" means an event where a patient or human research subject:

(a) Receives a dose that differs from the prescribed dose or dose that would have resulted from the prescribed dosage by more than 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin;

(b) Receives a dose to the skin or an organ or tissue other than the treatment site that exceeds by 0.5 Sv (50 rem) to an organ or tissue and 50 percent or more of the dose expected from the administration defined in the written directive (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site); or

(c) An event resulting from intervention of a patient or human research subject in which the administration of radioactive material or radiation from radioactive material results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician.

(20) "Medical institution" means an organization in which more than one medical discipline is practiced.

ADMINISTRATIVE RULES

(21) "Medical use" means the intentional internal or external administration of radioactive material, or the radiation from radioactive material to patients or human research subjects under the supervision of an authorized user.

(22) "Ministerial change" means a change that is made, after ascertaining the applicable requirements, by persons in authority in conformance with the requirements and without making a discretionary judgment about whether those requirements should apply in the case at hand.

(23) "Misadministration" means the administration of:

(a) A radiopharmaceutical dosage greater than 1.11 megabecquerels (30 uCi) of either sodium iodide I-125 or I-131:

(A) Involving the wrong individual or wrong radiopharmaceutical; or

(B) When both the administered dosage differs from the prescribed dosage by more than 20 percent of the prescribed dosage and the difference between the administered dosage and prescribed dosage exceed 1.11 megabecquerels (30 uCi).

(b) A therapeutic radiopharmaceutical dosage, other than sodium iodide I-125 or I-131:

(A) Involving the wrong individual, wrong radiopharmaceutical, or wrong route of administration; or

(B) When the administered dosage differs from the prescribed dosage by more than 20 percent of the prescribed dosage.

(c) A gamma stereotactic radiosurgery radiation dose:

(A) Involving the wrong individual or wrong treatment site; or

(B) When the calculated total administered dose differs from the total prescribed dose by more than 10 percent of the total prescribed dose.

(d) A teletherapy radiation dose:

(A) Involving the wrong individual, wrong mode of treatment, or wrong treatment site;

(B) When the treatment consists of three or fewer fractions and the calculated total administered dose differs from the total prescribed dose by more than 10 percent of the total prescribed dose;

(C) When the calculated weekly administered dose is 30 percent greater than the weekly prescribed dose; or

(D) When the calculated total administered dose differs from the total prescribed dose by more than 20 percent of the total prescribed dose.

(e) A brachytherapy radiation dose:

(A) Involving the wrong individual, wrong radioisotope, or wrong treatment site (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site);

(B) Involving a sealed source that is leaking;

(C) When, for a temporary implant, one or more sealed sources are not removed upon completion of the procedure; or

(D) When the calculated administered dose differs from the prescribed dose by more than 20 percent of the prescribed dose.

(f) A diagnostic radiopharmaceutical dosage, other than quantities greater than 1.11 megabecquerels (30 uCi) of either sodium iodide I-125 or I-131:

(A) Involving the wrong individual, wrong radiopharmaceutical, wrong route of administration, or when the administered dosage differs from the prescribed dosage; or

(B) When the dose to the individual exceeds 50 millisieverts (5 rem) effective dose equivalent or 500 millisieverts (50 rem) dose equivalent to any individual organ.

(24) "Mobile nuclear medicine service" means the transportation and medical use of radioactive material.

(25) "Nuclear Pharmacist" means an authorized nuclear pharmacist, as defined in OAR 333-116-0020, who has received additional training, pursuant to OAR 333-116-0910 and 333-116-0915 in the management and handling of radiopharmaceutical drugs and is authorized by license to receive, use, transfer, and dispose of such radiopharmaceutical drugs.

(26) "Output" means the exposure rate, dose rate or a quantity related in a known manner to these rates from a teletherapy unit for a specified set of exposure conditions.

(27) "Patient Intervention" means actions taken by a patient or human research subject, whether intentional or unintentional, interrupt or terminate the administration of radioactive materials or radiation.

(28) "PET" means Positron Emission Tomography.

(29) "PET Isotope Nuclear Pharmacy" means a licensed facility that compounds radiopharmaceuticals using positron emitting isotopes for use at licensed medical facilities.

(30) "PET cyclotron facility" means a facility that manufactures short-lived radioisotopes for use in compounding radiopharmaceuticals at a PET Isotope Nuclear Pharmacy.

(31) "PET Medical Facility" means a clinical nuclear medicine facility that utilizes positron-emitting isotopes for diagnostic imaging.

(32) "Pharmacist" means an individual licensed by a state or territory of the United States, The District of Columbia, or the Commonwealth of Puerto Rico to practice pharmacy.

(33) "Physician" means a medical doctor or doctor of osteopathy licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to prescribe drugs in the practice of medicine.

(34) "Podiatric use" means the intentional external administration of the radiation from byproduct material to human beings in the practice of podiatry in accordance with a license issued by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(35) "Podiatrist" means an individual licensed by a state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico to practice podiatry.

(36) "Positron Emission Tomography (PET) facility" means a facility comprised of an accelerator that produces positron-emitting isotopes, a radiopharmacy that specializes in preparation of PET radiopharmaceuticals, and/or a clinic that uses PET isotopes for medical diagnostic purposes.

(37) "Preceptor" means an individual who provides, directs, or verifies training and experience required for an individual to become an authorized user, an authorized medical physicist, an authorized nuclear pharmacist, or a Radiation Safety Officer. The preceptor must have previously met all of the applicable requirements and be so named on a radioactive materials license issued by the Authority, the Nuclear Regulatory Commission, an Agreement State or licensing state.

(38) "Prescribed dosage" means the specified activity or range of activity of a radiopharmaceutical or radioisotope as documented:

(a) In a written directive; or

(b) Either in the diagnostic clinical procedures manual or in any appropriate record in accordance with the directions of the authorized user for diagnostic procedures.

(39) "Prescribed dose" means:

(a) For gamma stereotactic radiosurgery, the total dose as documented in the written directive;

(b) For teletherapy, the total dose and dose per fraction as documented in the written directive;

(c) For manual brachytherapy, either the total source strength and exposure time or the total dose, as documented in the written directive; or

(d) For remote brachytherapy afterloaders, the total dose and dose per fraction as documented in the written directive.

(40) "Pulsed dose-rate remote afterloader" means a special type of remote afterloading device that uses a single source capable of delivering dose rates in the "high dose rate" range, but is used to simulate the radiobiology of a low dose rate treatment by inserting the source for a given fraction of each hour.

(41) "Radiation Safety Officer" means an individual who:

(a) Meets the requirements in OAR 333-116-0640, 333-116-0650, 333-116-0740 and 333-116-0760; or

(b) Is identified as a Radiation Safety Officer on:

(A) A specific medical use license issued by the Nuclear Regulatory Commission or Agreement State; or

(B) A medical use permit issued by a Nuclear Regulatory Commission master material licensee.

(42) "Recordable Event" (See Medical Event and Misadministration).

(43) "Sealed source" means any radioactive material that is encased in a capsule designed to prevent leakage or escape of the radioactive material.

(44) "Stereotactic Radiosurgery" means the use of external radiation in conjunction with a stereotactic guidance device to very precisely deliver a dose to a tissue volume.

(45) "Structured educational program" means an educational program designed to impart particular knowledge and practical education through interrelated studies and supervised training.

(46) "Teletherapy" means therapeutic irradiation in which the source of radiation is at a distance from the body.

(47) "Teletherapy physicist" means the individual identified as the qualified teletherapy physicist on an Authority license.

(48) "Therapeutic Dosage" means a dosage of unsealed byproduct material that is intended to deliver a radiation dose to a patient or human research subject for palliative or curative treatment.

ADMINISTRATIVE RULES

(49) "Therapeutic Dose" means a radiation dose delivered from a source containing byproduct material to a patient or human research subject for palliative or curative treatment.

(50) "Treatment site" means the anatomical description of the tissue intended to receive a radiation dose, as described in a written directive.

(51) "Unit dosage" means a dosage intended for medical use in a single patient or human research subject that has been obtained from a manufacturer or preparer licensed by the Authority as a nuclear pharmacy.

(52) "Visiting authorized user" means an authorized user who is not identified on the license of the licensee being visited.

(53) "Written directive" means an order in writing for a specific patient, dated and signed by an authorized user prior to the administration of a radiopharmaceutical or radiation, except as specified in OAR 333-116-0125(1)(e), containing the following information:

(a) For any administration of quantities greater than 1.11 megabecquerels (30 uCi) of either sodium iodide I-125 or I-131: the dosage;

(b) For a therapeutic administration of a radiopharmaceutical other than sodium iodide I-125 or I-131: the radiopharmaceutical, dosage, and route of administration;

(c) For gamma stereotactic radiosurgery: target coordinates, collimator size, plug pattern, and total dose;

(d) For teletherapy: the total dose, dose per fraction, treatment site, and overall treatment period;

(e) For high-dose-rate remote afterloading brachytherapy: the radioisotope, treatment site, and total dose; or

(f) For all other brachytherapy:

(A) Prior to implantation: the radioisotope, number of sources, and source strengths; and

(B) After implantation but prior to completion of the procedure: the radioisotope, treatment site, and total source strength and exposure time (or, equivalently, the total dose).

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-116-0025

FDA, Other Federal, and State Requirements

Nothing in this part relieves the licensee from complying with applicable FDA, other Federal, and State requirements governing radiopharmaceutical drugs or devices.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 4-2007, f. & cert. ef. 3-1-07; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-116-0035

Application for License, Amendment, or Renewal

(1) An application must be signed by the management of the facility.

(2) An application for a license for medical use of radioactive material as described in OAR 333-116-0300, 333-116-0320, 333-116-0360, 333-116-0400, 333-116-0420 and 333-116-0480 and medical use of byproduct material as described in OAR 333-116-0485 must be made by filing a "Radioactive Materials License Application: Medical." A request for a license amendment or renewal may be submitted in letter format.

(3) Licensing of remote afterloaders as described in OAR 333-116-0480 requires a separate "Radioactive Materials License Application: The Medical License application must be completed and submitted to the Authority. A request for a license amendment or renewal may be submitted in letter format.

(4) An application for a license for medical use of radioactive material as described in OAR 333-116-0800, Licensing and Registration of Positron Emission Tomography (PET) Facilities, must be made by filing a "Radioactive Materials License Application: Medical."

(a) In addition to the information required in the "Radioactive Materials License Application: Medical," the application must also include information regarding any radiation safety aspects of the medical use of the radioactive material that is not addressed in this division, as well as any specific information necessary for:

(A) Radiation safety precautions and instructions;

(B) Training and experience of proposed users;

(C) Methodology for measurement of dosages or doses to be administered to patients or human research subjects; and

(D) Calibration, maintenance, and repair of equipment necessary for radiation safety.

(b) The applicant of licensee must also provide any other information requested by the Authority in its review of the application.

NOTE: An applicant that satisfies the requirements specified in OAR 333-102-0900 may apply for a Broad Scope A specific license.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-116-0105

Written Directives

(1) A written directive must be prepared, dated and signed by an authorized user prior to administration of I-131 sodium iodide greater than 1.11 Megabecquerels (MBq) (30 microcuries (uCi)), or any therapeutic dosage of a radiopharmaceutical, or any therapeutic dose of radiation from radioactive material.

(2) The written directive must contain the patient or human research subject's name and the following:

(a) For any administration of quantities greater than 1.11 MBq (30 uCi) of sodium iodide I-131 or I-125: the dosage;

(b) For a therapeutic administration of a radiopharmaceutical other than sodium iodide I-131: the radiopharmaceutical dosage, and route of administration;

(c) For gamma stereotactic radiosurgery: target coordinates (including gamma angle), collimator size, plug pattern, total dose for the treatment, and the total treatment volume for each anatomically distinct treatment site;

(d) For teletherapy: the total dose, dose per fraction, number of fractions, treatment site, and overall treatment period;

(e) For remote afterloading brachytherapy: the radionuclide, treatment site, dose per fraction, number of fractions, and total dose; or

(f) For all other brachytherapy:

(A) Prior to implantation: treatment site, the radionuclide, number of sources and source strengths or dose; and

(B) After implantation but prior to completion of the procedure: the radionuclide, treatment site, and total source strength and exposure time (or equivalently, the total dose).

(3) A written revision to an existing written directive may be made if the revision is dated and signed by an authorized user before the administration of the dosage of unsealed byproduct material, the brachytherapy dose, the gamma stereotactic radiosurgery dose, the teletherapy dose, or the next fractional dose.

(4) If, because of the patient's condition, a delay in order to provide a written revision to an existing written directive would jeopardize the patient's health, an oral revision to an existing written directive is acceptable. The oral revision must be documented as soon as possible in the patient's record. A revised written directive must be signed by the authorized user within 48 hours of the oral revision.

(5) The licensee must retain the written directive in accordance with OAR 333-100-0057.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-116-0220

Labeling of Vials and Syringes

Each syringe and vial that contains unsealed byproduct material must be labeled to identify the radiopharmaceutical drug. Each syringe shield and vial shield must also be labeled unless the label on the syringe or vial is visible when shielded. The label must include the radiopharmaceutical name or abbreviation, the type of diagnostic study or therapy procedure to be performed and the patient's name.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-116-0250

Surveys for Contamination and Ambient Radiation Dose Rate

(1) A licensee must survey with an appropriate radiation detection survey instrument, at the end of each day of use, all areas where radiopharmaceuticals are routinely prepared for use or administered. Radiation surveys are not required in areas where patients or human research subjects are

ADMINISTRATIVE RULES

confined when they cannot be released under OAR 333-116-0260. Radiation surveys are required when patients receive a therapeutic dose or brachytherapy implant and prior to release.

(2) A licensee must survey with an appropriate radiation detection survey instrument at least once each week all areas where radiopharmaceuticals or radioactive wastes are stored.

(3) A licensee must conduct the surveys required by section (1) and (2) of this rule so as to be able to measure dose rates as low as 1 uSv (0.1 mrem) per hour.

(4) A licensee must establish dose rate action levels for the surveys required by sections (1) and (2) of this rule and must require that the individual performing the survey immediately notify the Radiation Safety Officer if a dose rate exceeds an action level.

(5) A licensee must survey for removable contamination each day of use all areas where radiopharmaceuticals are routinely prepared for use or administered and each week where radioactive materials are stored.

(6) A licensee must conduct the surveys required by section (5) of this rule so as to be able to detect contamination on each wipe sample of 33.3 Bq (2000 dpm).

(7) A licensee must establish removable contamination action levels for the surveys required by section (5) of this rule and must require that the individual performing the survey immediately notify the Radiation Safety Officer if contamination exceeds action levels.

(8) A licensee must retain a record of each survey required by this rule in accordance with OAR 333-100-0057. The record must include the date of the survey, a sketch of each area surveyed, action levels established for each area, the measured dose rate at several points in each area expressed in Sv mrem per hour or the removable contamination in each area expressed in Bq (dpm) per 100 square centimeters, the serial number and the model number of the instrument used to make the survey or analyze the samples and the initials of the individual who performed the survey.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-116-0260

Release of Patients Containing Therapeutic Quantities of Byproduct material or Permanent Implants

(1) The licensee may authorize the release from its control of any individual who has been administered unsealed byproduct material or implants containing byproduct material if the total effective dose equivalent to any other individual from exposure to the released individual is not likely to exceed five millisieverts (0.5 rem).

Note: The current revision of NUREG-1556, Vol. 9, "Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Medical Licenses" describes methods for calculating doses to other individuals and contains tables of activities not likely to cause doses exceeding 5 mSv (0.5 rem).

(2) The licensee must provide the released individual, or the individual's parent or guardian, with instructions, including written instructions, on actions recommended to maintain radiation exposures to other individuals as low as is reasonably achievable if the total effective dose equivalent to any other individual is likely to exceed one millisievert (0.1 rem). If the dose to a breast-feeding infant or child could exceed one millisievert (0.1 rem) assuming there were no interruption of breast-feeding, the instructions must also include:

(a) Guidance on the interruption or discontinuation of breast-feeding; and

(b) Information on the potential consequences, if any, of failure to follow the guidance.

(3) The licensee must maintain a record of the basis for authorizing the release of an individual, for a minimum of five years after the date of release in accordance with OAR 333-100-0057.

(4) The licensee must maintain a record, for a minimum of five years after the date of release, in accordance with OAR 333-100-0057, that instructions were provided to a breast-feeding woman if the radiation dose to the infant or child from continued breast-feeding could result in a total effective dose equivalent exceeding five millisieverts (0.5 rem).

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-116-0290

Decay-In-Storage

(1) A licensee may hold radioactive material with a physical half-life of less than 120 days for decay-in-storage before disposal in ordinary trash and is exempt from the requirements of OAR 333-120-0500 of these rules if the licensee:

(a) Holds radioactive material for decay a minimum of 10 half-lives;

(b) Monitors radioactive material at the container surface before disposal as ordinary trash and determines that its radioactivity cannot be distinguished from the background radiation level with an appropriate radiation detection survey instrument for the radiation being monitored, set on its most sensitive scale and with no interposed shielding;

(c) Removes or obliterates all radiation labels, except radiation labels on materials that are within containers and that will be managed as biomedical waste after they have been released from the licensee; and

(d) Separates and monitors each generator column individually with all radiation shielding removed to ensure that its contents have decayed to background radiation level before disposal.

(2) For radioactive material disposed in accordance with these rules the licensee must retain a record of each disposal until inspection by the Authority. The record must include the date of the disposal, the date on which the radioactive material was placed in storage, the model and serial number of the survey instrument used, the background dose rate, the radiation dose rate measured at the surface of each waste container and the name of the individual who performed the survey.

(3) Iodine-125 waste in microcurie amounts may be held for a minimum of five half-lives. Such waste must be surveyed with an appropriate instrument prior to disposal to confirm that waste is indistinguishable from background.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-116-0320

Use of Radiopharmaceuticals, Generators and Reagents Kits for Imaging and Localization Studies for Which a Written Directive Is Not Required

(1) A licensee may use any radioactive material in a diagnostic radiopharmaceutical, except aerosol or gaseous form, or any generator or reagent kit for preparation and diagnostic use of a radiopharmaceutical containing radioactive material for:

(a) Which the Food and Drug Administration has accepted a "Notice of Claimed Investigational Exemption for a New Drug" (IND) or approved a "New Drug Application" (NDA); or

(b) Which is prepared and compounded by an authorized nuclear pharmacist, a physician who is an authorized user, or an individual under the supervision of either as specified in OAR 333-116-0100, 333-116-0670 or 333-116-0680; or

(c) Obtained from a manufacturer or preparer licensed under divisions 333-102 and 333-116 or equivalent Nuclear Regulatory Commission or Agreement State requirements.

(2) A licensee using radiopharmaceuticals specified in section (1) of this rule for clinical procedures other than one specified in the product label or package insert instructions must comply with the product label or package insert regarding physical form and dosage range.

(3) A licensee must elute generators in compliance with OAR 333-116-0330 and prepare radiopharmaceuticals from kits in accordance with the manufacturer's instructions.

(4) Technetium-99m pentetate as an aerosol for lung function studies is not subject to the restrictions in section (1) of this rule. Provided the conditions of OAR 333-116-0340 are met, a licensee must use radioactive aerosols or gases only if specific application is made to and approved by the Authority.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

ADMINISTRATIVE RULES

333-116-0330

Permissible Molybdenum-99, Strontium-82, and Strontium-85 Concentration

(1) A licensee must not administer to humans a radiopharmaceutical containing more than 0.15 kBq (0.15 uCi) of molybdenum-99 per MBq (mCi) of technetium-99m; or

(2) More than 0.02 kilobecquerel of strontium-82 per megabecquerel of rubidium-82 chloride injection (0.02 microcurie of strontium-82 per millicurie of rubidium-82 chloride); or more than 0.2 kilobecquerel of strontium-85 per megabecquerel of rubidium-82 chloride injection (0.2 microcurie of strontium-85 per millicurie of rubidium-82).

(3) A licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators must measure the molybdenum-99 concentration of the first eluate after receipt of a generator to demonstrate compliance with section (1) of this rule.

(4) A licensee that uses a strontium-82/rubidium-82 generator for preparing a rubidium-82 radiopharmaceutical shall, before the first patient use of the day, measure the concentration of radionuclides strontium-82 and strontium-85 to demonstrate compliance with section (1) of this rule.

(5) A licensee who must measure molybdenum concentration or strontium-82 and strontium-85 must retain a record of each measurement in accordance with OAR 333-100-0057. The record must include, for each elution or extraction of technetium-99m, the measured activity of the technetium expressed in MBq (mCi), the measured activity of the molybdenum expressed in kBq (uCi), the ratio of the measures expressed as kBq (uCi) of molybdenum per MBq (mCi) of technetium, the date of the test and the initials of the individual who performed the test.

(6) A licensee must report immediately to the Authority each occurrence of molybdenum-99 concentration exceeding the limits specified in section (1) of this rule.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-116-0360

Use of Unsealed Radioactive Materials or Radiopharmaceuticals for Which a Written Directive is Required

A licensee may use for therapeutic administration any unsealed radioactive material or radiopharmaceutical prepared for medical use that:

(1) Has been granted acceptance or approval by the Food and Drug Administration; and

(2) Has been prepared by an authorized nuclear pharmacist, a physician who is an authorized user on a license from the Authority, other Agreement State, or the U.S. Nuclear Regulatory Commission and meets the specified requirements in OAR 333-116-0670 or 333-116-0680; or

(3) Has been manufactured and distributed under a license from the Authority, other Agreement State, or the U.S. Nuclear Regulatory Commission; or

(4) Obtained from and prepared by the Authority or Nuclear Regulatory Commission or Agreement State licensee for use in research in accordance with an Investigational New Drug (IND) protocol accepted by FDA; or

(5) Prepared by the licensee for use in research in accordance with an Investigational New Drug (IND) protocol accepted by FDA.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 4-2010, f. & cert. ef. 2-16-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-116-0390

Possession of Survey Instruments

A licensee authorized to use radioactive material for radiopharmaceutical therapy must have in its possession a portable radiation detection survey instrument capable of detecting dose rates over the range 1 uSv (0.1 mrem) per hour to 1 mSv (100 mrem) per hour and a portable radiation measurement survey instrument capable of measuring dose rates over the range 10 uSv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The instruments must be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-116-0440

Safety Precaution

(1) A licensee must, for each patient or human research subject receiving implant therapy:

(a) Not place the patient or human research subject in the same room with a patient or human research subject who is not receiving radiation therapy;

(b) Post the patient's or human research subject's door with a "Caution: Radioactive Materials" sign and note on the door or in the patient's chart where and how long visitors may stay in the patient's room;

(c) Authorize visits by individuals under age 18 only on a case-by-case basis with the approval of the authorized user after consultation with the Radiation Safety Officer;

(d) Promptly after implanting the sources, survey the dose rates in contiguous restricted and unrestricted areas with a radiation measurement survey instrument to demonstrate compliance with OAR 333-120-0180 of these rules. Retain a record of each survey in accordance with OAR 333-100-0057. Each record must include the time and date of the survey, a sketch of the area or list of points surveyed, the measured dose rate at several points expressed in microsieverts (mrem) per hour, the instrument used to make the survey and the initials of the individual who made the survey; and

(e) Instruct the patient or human research subject and, where appropriate, the patient's or human research subject's family, orally and in writing concerning radiation safety precautions that will help to keep the radiation dose to household members and the public as low as reasonably achievable before releasing the patient if the patient was administered a permanent implant.

(2) A licensee shall have applicable emergency response equipment available near each treatment room to respond to a source:

(a) Dislodged from the patient; and

(b) Lodged within the patient following removal of the source applicators.

(3) A licensee must notify the Radiation Safety Officer or authorized user immediately if the patient or human research subject dies or has a medical emergency.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-116-0470

Possession of Survey Instruments

A licensee authorized to use radioactive material for implant therapy must have in its possession a portable radiation detection survey instrument capable of detecting dose rates over the range 1 uSv (0.1 mrem) per hour to 1 mSv (100 mrem) per hour and a portable radiation measurement survey instrument capable of measuring dose rates over the range 10 uSv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The instruments must be operable and calibrated in accordance with OAR 333-116-0170.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-116-0585

Additional Technical Requirements for Mobile Remote Afterloader Units

(1) A licensee providing mobile remote afterloader service must:

(a) Check survey instruments before medical use at each address of use or on each day of use, whichever is more frequent; and

(b) Account for all sources before departure from a client's address of use.

(2) In addition to the periodic spot-checks required by OAR 333-116-0583, a licensee authorized to use mobile afterloaders for medical use must perform checks on each remote afterloader unit before use at each address of use. At a minimum, checks must be made to verify the operation of:

(a) Electrical interlocks on treatment area access points;

(b) Source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;

(c) Viewing and intercom systems;

(d) Applicators, source transfer tubes, and transfer tube-applicator interfaces;

(e) Radiation monitors used to indicate room exposures;

(f) Source positioning (accuracy); and

ADMINISTRATIVE RULES

(g) Radiation monitors used to indicate whether the source has returned to a safe shielded position.

(3) In addition to the requirements for checks in section (2) of this rule, a licensee must ensure overall proper operation of the remote afterloader unit by conducting a simulated cycle of treatment before use at each address of use.

(4) If the results of the checks required in section (2) of this rule indicate the malfunction of any system, a licensee must lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.

(5) A licensee must retain a record of each check required by section (2) of this rule in accordance with OAR 333-100-0057. The record must include:

- (a) The date of the check;
- (b) The manufacturer's name, model number, and serial number of the remote afterloader unit;
- (c) Notations accounting for all sources before the licensee departs from a facility;
- (d) Notations indicating the operability of each entrance door electrical interlock, radiation monitors, source exposure indicator lights, viewing and intercom system, applicators, source transfer tubes, and transfer tube applicator interfaces, and source positioning accuracy; and
- (e) The signature of the individual who performed the check.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-116-0660

Training for Uptake, Dilution or Excretion Studies

Except as provided in OAR 333-116-0740, the licensee must require the authorized user of a radiopharmaceutical listed in OAR 333-116-0300 to be a physician who:

(1) Is certified by a medical specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an Agreement State and who meets the requirements in section (3) of this rule (The names of board certifications recognized by the NRC or an Agreement State are posted on the NRC's website). To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a) Complete 60 hours of training and experience in basic radionuclide handling techniques applicable to the medical use of unsealed byproduct material for uptake, dilution, and excretion studies. The training and experience must include paragraphs (3)(a)(A) through (3)(b)(F) of this rule; and

(b) Pass an examination administered by diplomats of the specialty board that assesses knowledge and competence in radiation safety, radionuclide handling and quality control; or

(2) Is an authorized user under OAR 333-116-0670, 333-116-0680 and 333-116-0740 or equivalent Nuclear Regulatory Commission or Agreement State requirements; or

(3) Has completed 60 hours of training and experience, including a minimum of eight hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed byproduct material for uptake, dilution, and excretion studies. The training and experience must include:

(a) Classroom and laboratory training in the following areas:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Chemistry of byproduct material for medical use; and

(E) Radiation biology; and

(b) Work experience, under the supervision of an authorized user who meets the requirements in this rule, OAR 333-116-0670, 333-116-0680 and 333-116-0740 or Nuclear Regulatory Commission or equivalent Agreement State requirements, involving:

(A) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;

(C) Calculating, measuring and safely preparing patient or human research subject dosages;

(D) Using administrative controls to prevent a medical event involving the use of unsealed byproduct material;

(E) Using procedures to contain spilled byproduct material safely and using proper decontamination procedures; and

(F) Administering dosages of radiopharmaceutical drugs to patients or human research subjects; and

(4) Has obtained written attestation, signed by a preceptor authorized user who meets the requirements in this rule, OAR 333-116-0670 and 333-116-0680 or Nuclear Regulatory Commission or equivalent Agreement State requirements, that the individual has satisfactorily completed the requirements in subsection (1)(a) or section (3) of this rule and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under OAR 333-116-0300.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-116-0670

Training for Imaging and Localization Studies

Except as provided in OAR 333-116-0740, the licensee shall require an authorized user of unsealed byproduct material for the uses authorized under OAR 333-116-0320 to be a physician who:

(1) Is certified by a medical specialty board whose certification process has been recognized by the Commission or an Agreement State and who meets the requirements in section (3) of this rule. (The names of board certifications that have been recognized by the Commission or an Agreement State are posted on the NRC's website). To have its certification process recognized, a specialty board shall require all candidates for certification to:

(a) Complete 700 hours of training and experience in basic radionuclide handling techniques and radiation safety applicable to the medical use of unsealed byproduct material for imaging and localization studies as described in subsection (3)(a) through paragraph (2)(b)(G) of this rule; and

(b) Pass an examination administered by diplomats of the specialty board, which assesses knowledge and competence in radiation safety, radionuclide handling and quality control; or

(2) Is an authorized user under OAR 333-116-0680 and meets the requirements in OAR 333-116-0670(3)(b)(G) or equivalent Nuclear Regulatory Commission or Agreement State requirements; or

(3) Has completed 700 hours of training and experience, including a minimum of 80 hours of classroom and laboratory training in basic radionuclide handling techniques and radiation safety applicable to the medical use of unsealed byproduct material for imaging and localization studies. The training and experience must include at a minimum:

(a) Classroom and laboratory training in the following areas:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Chemistry of byproduct material for medical use; and

(E) Radiation biology; and

(b) Work experience, under the supervision of an authorized user, who meets the requirements in this rule or OAR 333-116-0670, 333-116-0680, 333-116-0740 or equivalent Nuclear Regulatory Commission or Agreement State requirements, involving:

(A) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;

(C) Calculating, measuring, and safely preparing patient or human research subject dosages;

(D) Using administrative controls to prevent a medical event involving the use of unsealed byproduct material;

(E) Using procedures to safely contain spilled radioactive material and using proper decontamination procedures;

(F) Administering dosages of radioactive drugs to patients or human research subjects; and

(G) Eluting generator systems appropriate for preparation of radiopharmaceutical drugs for imaging and localization studies, measuring and testing the eluate for radionuclidic purity, and processing the eluate with reagent kits to prepare labeled radiopharmaceutical drugs; and

(4) Has obtained written attestation, signed by a preceptor authorized user who meets the requirements in this rule or OAR 333-116-0670(3)(b)(G), 333-116-0680, 333-116-0740 or equivalent Nuclear

ADMINISTRATIVE RULES

Regulatory Commission or Agreement State requirements, that the individual has satisfactorily completed the requirements in subsection (1)(a) or section (3) of this rule and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under this rule or OAR 333-116-0680.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-116-0680

Training for Therapeutic Use of Radiopharmaceuticals

Except as provided in OAR 333-116-0740, the licensee must require an authorized user of unsealed byproduct material for the uses authorized under OAR 333-116-0360 to be a physician who:

(1) Is certified by a medical specialty board whose certification process includes all of the requirements in section (2) of this rule and whose certification has been recognized by the Commission or an Agreement State; or

(2)(a) Has completed 700 hours of training and experience in basic radionuclide handling techniques applicable to the medical use of unsealed byproduct material requiring a written directive. The training and experience must include:

(A) Classroom and laboratory training in the following areas:

(i) Radiation physics and instrumentation;

(ii) Radiation protection;

(iii) Mathematics pertaining to the use and measurement of radioactivity;

(iv) Chemistry of byproduct material for medical use; and

(v) Radiation biology; and

(B) Work experience, under the supervision of an authorized user who meets the requirements in sections (1) and (2) of this rule, or Nuclear Regulatory Commission or equivalent Agreement State requirements. A supervising authorized user, who meets the requirements in section (2) of this rule, must have experience in administering dosages in the same dosage category or categories (i.e., OAR 333-116-0680) as the individual requesting authorized user status. The work experience must involve:

(i) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(ii) Calibrating instruments used to determine the activity of dosages, and performing checks for proper operation of survey meters;

(iii) Calculating, measuring, and safely preparing patient or human research subject dosages;

(iv) Using administrative controls to prevent a medical event involving the use of unsealed byproduct material;

(v) Using procedures to contain spilled byproduct material safely and using proper decontamination procedures;

(vi) Eluting generator systems, measuring and testing the eluate for radionuclidic purity, and processing the eluate with reagent kits to prepare labeled radiopharmaceutical drugs; and

(vii) Administering dosages of radiopharmaceutical drugs to patients or human research subjects involving a minimum of three cases in each of the following categories for which the individual is requesting authorized user status:

(I) Oral administration of less than or equal to 1.22 Gigabecquerels (33 millicuries) of sodium iodide I-131;

(II) Oral administration of greater than 1.22 Gigabecquerels (33 millicuries) of sodium iodide I-131;

NOTE: Experience with at least three cases in Category (vii)(2) also satisfies the requirement in Category (vii)(A).

(III) Parenteral administration of any beta emitter or a photon-emitting radionuclide with a photon energy less than 150 keV; and/or

(IV) Parenteral administration of any other radionuclide; and

(b) Has obtained written attestation that the individual has satisfactorily completed the requirements in subsection (2)(a) and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under OAR 333-116-0360. The written certification must be signed by a preceptor authorized user who meets the requirements in sections (1), (2), of this rule or equivalent Nuclear Regulatory Commission or Agreement State requirements. The preceptor authorized user, who meets the requirements in section (2) of this rule, must have experience in administering dosages in the same dosage category or categories (i.e., OAR 333-116-0680(2)(a)(B)(vii)(I), (II), (III), or (IV) as the individual requesting authorized user status.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 1-1991, f. & cert. ef. 1-8-91; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 5-2005, f. & cert. ef. 4-11-05; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-116-0683

Training for the Oral Administration of Sodium Iodide I-131 Requiring a Written Directive in Quantities Less Than or Equal to 1.22 Gigabecquerels (33 millicuries)

Except as provided in OAR 333-116-0740, the licensee shall require an authorized user for the oral administration of sodium iodide I-131 requiring a written directive and the total treatment quantity is less than or equal to 1.22 Gigabecquerels (33 millicuries), to be a physician who:

(1) Is certified by a medical specialty board whose certification process includes all of the requirements in section (3) of this rule and whose certification has been recognized by the Nuclear Regulatory Commission or an Agreement State; or

(2) Is an authorized user under OAR 333-116-0680 section (1) or (2) for uses listed in OAR 333-116-0680 or 333-116-0687, or equivalent Agreement State requirements; or

(3)(a) Has successfully completed 80 hours of classroom and laboratory training, applicable to the medical use of sodium iodide I-131 for procedures requiring a written directive. The training must include:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Chemistry of byproduct material for medical use; and

(E) Radiation biology; and

(b) Has work experience, under the supervision of an authorized user who meets the requirements in OAR 333-116-0680, 333-116-0687 or Nuclear Regulatory Commission or equivalent Agreement State requirements. A supervising authorized user who meets the requirements in OAR 333-116-0680(2) must have experience in administering dosages as specified in OAR 333-116-0680(2)(a)(B)(vii)(I) or (II). The work experience must involve:

(A) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Calibrating instruments used to determine the activity of dosages and performing checks for proper operation for survey meters;

(C) Calculating, measuring, and safely preparing patient or human research subject dosages;

(D) Using administrative controls to prevent a medical event involving the use of byproduct material;

(E) Using procedures to contain spilled byproduct material safely and using proper decontamination procedures; and

(F) Administering dosages to patients or human research subjects, that includes at least three cases involving the oral administration of less than or equal to 1.22 Gigabecquerels (33 millicuries) of sodium iodide I-131; and

(c) Has obtained written attestation that the individual has satisfactorily completed the requirements in subsections (3)(a) and (3)(b) of this rule and has achieved a level of competency sufficient to function independently as an authorized user for medical uses authorized under OAR 333-116-0360. The written attestation must be signed by a preceptor authorized user who meets the requirements in OAR 333-116-0680(1) and (2), this rule, 333-116-0687, or equivalent Nuclear Regulatory Commission or Agreement State requirements. A preceptor authorized user, who meets the requirement in OAR 333-116-0680(2), must have experience in administering dosages as specified in OAR 333-116-0680(2)(a)(B)(vii)(I) or (II).

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-116-0687

Qualifications for Authorized User for Oral Administration When a Written Directive is Required

Except as provided in OAR 333-116-0740, the licensee must require an authorized user for the oral administration of sodium iodide I-131 requiring a written directive in quantities greater than 1.22 Gigabecquerels (33 millicuries), to be a physician who:

(1) Is certified by a medical specialty board whose certification process includes all of the requirements in subsection (3)(c) of this rule and whose certification has been recognized by the Commission or an Agreement State; or

ADMINISTRATIVE RULES

(2) Is an authorized user under OAR 333-116-0680 section for uses listed in OAR 333-116-0680, or equivalent Nuclear Regulatory Commission or Agreement State requirements; or

(3)(a) Has successfully completed 80 hours of classroom and laboratory training, applicable to the medical use of sodium iodide I-131 for procedures requiring a written directive. The training must include:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Chemistry of byproduct material for medical use; and

(E) Radiation biology; and

(b) Has work experience, under the supervision of an authorized user who meets the requirements in OAR 333-116-0680 section (1) or (2), or equivalent Nuclear Regulatory Commission or Agreement State requirements. A supervising authorized user, who meets the requirements in OAR 333-116-0680(2), must have experience in administering dosages as specified in OAR 333-116-0680. The work experience must involve:

(A) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;

(B) Calibrating instruments used to determine the activity of dosages and performing checks for proper operation for survey meters;

(C) Calculating, measuring, and safely preparing patient or human research subject dosages;

(D) Using administrative controls to prevent a medical event involving the use of byproduct material;

(E) Using procedures to contain spilled byproduct material safely and using proper decontamination procedures; and

(F) Administering dosages to patients or human research subjects, that includes at least three cases involving the oral administration of greater than 1.22 Gigabecquerels (33 millicuries) of sodium iodide I-131; and

(c) Has obtained written attestation that the individual has satisfactorily completed the requirements in subsections (3)(a) and (3)(b) of this rule, and has achieved a level of competency sufficient to function independently as an authorized user for medical uses authorized under OAR 333-116-0360. The written attestation must be signed by a preceptor authorized user who meets the requirements in OAR 333-116-0680 section (1) or (2), or equivalent Agreement State requirements. A preceptor authorized user, who meets the requirements in OAR 333-116-0680(2), must have experience in administering dosages as specified in OAR 333-116-0680(2)(a)(B)(vii)(II).

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-116-0715

Training for the Parenteral Administration of Unsealed Byproduct Material Requiring a Written Directive

Except as provided in OAR 333-116-0740, the licensee shall require an authorized user for the parenteral administration requiring a written directive, to be a physician who:

(1) Is an authorized user under OAR 333-116-0360 for uses listed in OAR 333-116-0680 or equivalent Agreement State requirements; or

(2) Is an authorized user under OAR 333-116-0690 or 333-116-0720, or equivalent Agreement State or Nuclear Regulatory Commission requirements and who meets the requirements in section (4) of this rule; or

(3) Is certified by a medical specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an Agreement State under OAR 333-116-0690 or 333-116-0720, and who meets the requirements in section (4) of this rule.

(4)(a) Has successfully completed 80 hours of classroom and laboratory training, applicable to parenteral administrations, for which a written directive is required, of any beta emitter, or any photon-emitting radionuclide with a photon energy less than 150 keV, and/or parenteral administration of any other radionuclide for which a written directive is required. The training must include:

(A) Radiation physics and instrumentation;

(B) Radiation protection;

(C) Mathematics pertaining to the use and measurement of radioactivity;

(D) Chemistry of byproduct material for medical use; and

(E) Radiation biology; and

(b) Has work experience, under the supervision of an authorized user who meets the requirements in OAR 333-116-0680 or this rule, or equivalent Nuclear Regulatory Commission or Agreement State requirements, in the parenteral administration, for which a written directive is required, of

any beta emitter, or any photon-emitting radionuclide with a photon energy less than 150 keV, and/or parenteral administration of any other radionuclide for which a written directive is required. A supervising authorized user who meets the requirements in OAR 333-116-0680 must have experience in administering dosages as specified in OAR 333-116-0680(2)(a)(B)(vii). The work experience must involve:

(A) Ordering, receiving, and unpacking radioactive materials safely, and performing the related radiation surveys;

(B) Performing quality control procedures on instruments used to determine the activity of dosages, and performing checks for proper operation of survey meters;

(C) Calculating, measuring, and safely preparing patient or human research subject dosages;

(D) Using administrative controls to prevent a medical event involving the use of unsealed byproduct material;

(E) Using procedures to contain spilled byproduct material safely, and using proper decontamination procedures; and

(F) Administering dosages to patients or human research subjects, that include at least three cases involving the parenteral administration, for which a written directive is required, of any beta emitter, or any photon-emitting radionuclide with a photon energy less than 150 keV and/or at least three cases involving the parenteral administration of any other radionuclide, for which a written directive is required; and

(c) Has obtained written attestation that the individual has satisfactorily completed the requirements in subsections (4)(b) or (4)(c) of this rule, and has achieved a level of competency sufficient to function independently as an authorized user for the parenteral administration of unsealed byproduct material requiring a written directive. The written attestation must be signed by a preceptor authorized user who meets the requirements in OAR 333-116-0680 or this rule, or equivalent Agreement State requirements. A preceptor authorized user, who meets the requirements in OAR 333-116-0680, must have experience in administering dosages as specified in OAR 333-116-0680(2)(a)(B)(vii).

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-116-1000

Report and Notification of a Medical Event

(1) A licensee must report any medical event, except for an event that results from patient intervention, in which the administration of radioactive material or radiation from radioactive material results in:

(a) A dose that differs from the prescribed dose or dose that would have resulted from the prescribed dosage by more than 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin; and

(A) The total dose delivered differs from the prescribed dose by 20 percent or more;

(B) The total dosage delivered differs from the prescribed dosage by 20 percent or more or falls outside the prescribed dosage range; or

(C) The fractionated dose delivered differs from the prescribed dose, for a single fraction, by 50 percent or more.

(b) A dose that exceeds 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin from any of the following:

(A) An administration of a wrong radiopharmaceutical drug containing radioactive material;

(B) An administration of a radiopharmaceutical drug containing radioactive material by the wrong route of administration;

(C) An administration of a dose or dosage to the wrong individual or human research subject;

(D) An administration of a dose or dosage delivered by the wrong mode of treatment; or

(E) A leaking sealed source.

(c) A dose to the skin or an organ or tissue other than the treatment site that exceeds by 0.5 Sv (50 rem) to an organ or tissue and 50 percent or more of the dose expected from the administration defined in the written directive (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site).

(2) A licensee must report any event resulting from intervention of a patient or human research subject in which the administration of radioactive material or radiation from radioactive material results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician.

ADMINISTRATIVE RULES

(3) The licensee must notify by telephone the Authority no later than the next calendar day after discovery of the medical event.

(4) The licensee must submit a written report to the Authority within 15 days after discovery of the medical event.

(a) The written report must include:

(A) The licensee's name;

(B) The name of the prescribing physician;

(C) A brief description of the event;

(D) Why the event occurred;

(E) The effect, if any, on the individual(s) who received the administration;

(F) What actions, if any, have been taken or are planned to prevent recurrence; and

(G) Certification that the licensee notified the individual (or the individual's responsible relative or guardian), and if not, why not.

(b) The report may not contain the individual's name or any other information that could lead to identification of the individual.

(5) The licensee must provide notification of the event to the referring physician and also notify the individual who is the subject of the medical event no later than 24 hours after its discovery, unless the referring physician personally informs the licensee either that he or she will inform the individual or that, based on medical judgment, telling the individual would be harmful. The licensee is not required to notify the individual without first consulting the referring physician. If the referring physician or the affected individual cannot be reached within 24 hours, the licensee must notify the individual as soon as possible thereafter. The licensee may not delay any appropriate medical care for the individual, including any necessary remedial care as a result of the medical event, because of any delay in notification. To meet the requirements of this rule, the notification of the individual who is the subject of the medical event may be made instead to that individual's responsible relative or guardian. If a verbal notification is made, the licensee must inform the individual, or appropriate responsible relative or guardian that a written description of the event can be obtained from the licensee upon request. The licensee must provide such a written description if requested.

(6) Aside from the notification requirement, nothing in this section affects any rights or duties of licensees and physicians in relation to each other, to individuals affected by the medical event, or to that individual's responsible relatives or guardians.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-119-0010

Definitions

(1) "Authority" means the Oregon Health Authority.

(2) "Customer" means any member of the public who is provided access to a tanning device in exchange for a fee or other compensation, or any individual who, in exchange for a fee or other compensation, is afforded use of a tanning device as a condition or benefit of membership or access.

(3) "Employee" means any individual, including a minor whether lawfully or unlawfully employed, who engages to furnish services for remuneration, financial or otherwise, subject to the direction and control of an employer and includes any individual who is required to have workers' compensation coverage.

(4) "EPA" means the U.S. Environmental Protection Agency.

(5) "FDA" means the U.S. Food and Drug Administration.

(6) "Formal Training" means a course of instruction reviewed and approved by the Authority and which is conducted or presented under formal classroom conditions or online by a qualified expert possessing adequate knowledge and experience to offer a curriculum, associated training, and certification testing pertaining to and associated with the correct use of tanning equipment. Operator training shall cover ultraviolet radiation and effects on the skin, photosensitivity, FDA and State of Oregon regulations, eye protection, and equipment maintenance.

(7) "Handrails" means a suitable physical aid that will help to maintain proper exposure distance.

(8) "Individual" means any human being.

(9) "Minor" means any individual under the age of 18.

(10) "Operator" means the person who is an employee (defined by the Oregon Occupational Safety and Health Division, Oregon Administrative Rule 437-003-0011(2)) or contractor of the tanning facility who has received a certificate from an approved formal training course and who is responsible for:

(a) Determining customer's skin type;

(b) Determining the suitability for use of a tanning device;

(c) Providing information regarding the dangers of ultraviolet radiation exposure including photoallergic reactions and photosensitizing agents;

(d) Assuring that all required forms are understood and properly signed by the customer;

(e) Maintaining required exposure records;

(f) Recognizing and reporting injuries or alleged injuries to the registrant;

(g) Determining the customers' exposure schedule;

(h) Setting timers which control the duration of exposure; and

(i) Instructing the customer in the proper use of protective eyewear.

(11) "Other Compensation" means the payment or exchange of goods, services or anything of value for use of the tanning device or devices.

(12) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent or agency of these entities.

(13) "Phototherapy Device" means equipment that emits Ultraviolet radiation used by a health care professional in the treatment of disease or illness.

(14) "Program" means the Radiation Protection Services section of the Public Health Division.

(15) "Protective Eyewear" means suitable eyewear that protects the eye from Ultraviolet radiation and allows adequate vision.

(16) "Public Places" means the area where members of the public may assemble and are not directly affected by tanning operations.

(17) "Registrant" means a tanning facility registered with the Authority as required by provisions of this division.

(18) "Registration" means registration with the Authority in accordance with provisions of this division.

(19) "Safe Level" means not more than 50 colonies of microorganisms per four square inches of equipment surface.

(20) "Sanitize" means the effective bactericidal treatment of surfaces of equipment and devices by an EPA or FDA registered product that provides a sufficient concentration of chemicals, and enough time to reduce the bacterial count, including pathogens, to a safe level. Chemical germicides that are registered with EPA as hospital disinfectants when used at recommended dilutions and directions may be approved for sanitizing of tanning devices.

(21) Skin Types;

(a) "Type 1" means skin burns easily and severely (painful burn); tans little or none and peels.

(b) "Type 2" means skin burns easily and severely (painful burn); tans minimally or lightly and also peels.

(c) "Type 3" means skin burns moderately and tans about average.

(d) "Type 4" means skin burns minimally, tans easily and above average with each exposure; exhibits immediate pigment darkening reaction.

(e) "Type 5" means skin rarely burns, tans easily and substantial; always exhibits immediate pigment darkening reaction

(22) "Tanning Device" means any equipment used for tanning of the skin, that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers including, but not limited to, a sunlamp, Ultraviolet Lamp, tanning booth, facial unit, UVA wand, or tanning bed. "Tanning device" also means any accompanying equipment, including, but not limited to, protective eyewear, timers, ballasts, starters, lamps, reflectors, cooling fans, acrylics, comfort pillows and handrails.

(23) "Tanning Facility" means any location, place, area, structure, or business that provides persons access to any tanning device.

(24) "Timer" means a device provided to terminate the exposure at a preset time interval.

(25) "Ultraviolet Radiation" means radiation that has a wavelength between two hundred nanometers and four hundred nanometers.

Stat. Auth.: ORS 431.925 - 431.955

Stats. Implemented: ORS 431.925 - 431.955

Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 20-2010, f. & cert. ef. 9-1-10; PH 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-119-0090

Protection of Consumers

The registrant shall establish and use a procedure manual that will aid in the protection of the customer to excessive or unnecessary exposure to

ADMINISTRATIVE RULES

Ultraviolet Light. This manual shall include, but not be limited to, the following instructions:

(1) Only one customer may occupy the tanning room.

(a) In the case of a customer using a tanning device who may need the aid or assistance from another person, that individual must also be provided with and wear protective eyewear.

(2) No customer under the age of 18, without written parental consent, shall be allowed to use a tanning device. Written consent must be provided on the premises in the presence of an owner/operator, with the parent's understanding of the potential risks involved in overexposure.

(3) A sign shall be posted in conspicuous view at or near the reception area with the following text:

"PERSONS UNDER AGE 18 ARE REQUIRED TO HAVE PARENT OR LEGAL GUARDIAN SIGN AUTHORIZATION TO TAN, IN THE PRESENCE OF A TANNING FACILITY OPERATOR. OAR 333-119-0090(2)."

(4) Each person using a tanning device shall be instructed by the operator on the maximum exposure time and proper exposure distance, as recommended by the manufacturer of the device. The operator shall also instruct the customer as to the location and proper operation of the tanning device's emergency shut off switch.

(5) Infants and minors are not permitted to be in the tanning device room during exposure by parents or guardians.

(6) Tanning operators shall limit exposure time to the exposure time recommendation provided by the device manufacturer on the tanning device or in the device operating manual. The maximum exposure time recommended by the manufacturer of the device shall not be exceeded in any 24-hour period.

(7) Tanning facilities shall post the following signs visible to the customer:

(a) "In Case Of An Emergency, Dial 911";

(b) "Oregon Radiation Protection Services at (971) 673-0490".

(8) Tanning operators shall maintain a list of the common photosensitizing agents as provided by the Public Health Division, FDA, or other appropriate authorities, available for review by customers.

(9) Tanning facilities are prohibited from controlling the use of tanning devices solely with token timer systems or a mechanical timer system.

Stat. Auth.: ORS 431.925 - 431.955

Stats. Implemented: ORS 431.930

Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-119-0100

Equipment

(1) The registrant shall use only tanning devices manufactured in accordance with the specifications set forth in 21 CFR Part 1040, Section 1040.20, "Sunlamp Products and Ultraviolet Lamps Intended for Use in Sunlamp Products."

(2) Each sunlamp product or Ultraviolet Lamp used in these facilities shall not emit measurable Ultraviolet C radiation.

(3) Each Ultraviolet Lamp contained within the sunlamp product shall be shielded so as to not come into contact with the customer. A transparent acrylic cover shall be used for this purpose.

(4) Tanning booths in which the customer is in a standing position shall be provided with a handrail for the customer to hold onto during operation of the booth.

(a) The construction of the booth shall be such that it will have the strength to withstand the stress of use and the impact of a falling person.

(b) Entry to stand-up booths shall be of rigid construction with doors which are non-latching and open outwardly.

(5) Each tanning device shall have, clearly marked, the appropriate position the customer is to assume prior to operation.

(6) Each tanning device shall prominently display the following label or equivalent warning/information label:

DANGER — ULTRAVIOLET RADIATION.

FOLLOW INSTRUCTIONS CAREFULLY

DO NOT ENTER WITHOUT PROTECTIVE EYEWEAR

(7) Adequate means shall be provided to enable a customer to summon assistance from the exposure position.

(8) All persons hired for servicing and repair of tanning devices shall be an Authority licensed service technician or State of Oregon licensed electrician.

(9) Original Equipment Manufacturer (OEM) replacement parts (or equivalent) shall be used, if available, to prevent UL/ETL delisting of tanning devices. All local, State of Oregon, and National Electrical Codes must be observed during service and repair actions.

(10) Defective or burned out tanning lamps or bulbs shall be replaced with a type intended for use in the device and shall be of the same Ultraviolet range (A or B) as the manufacturer specifies, and shall be the original lamp type as specified by the manufacturer, or certified as an equivalent lamp per 21 CFR 1040.20.

(11) If equivalent lamps are used instead of the Original Equipment Manufacturer (OEM) required lamps, a copy of the equivalency certification, provided by the lamp supplier, shall be maintained on file for review by Authority inspectors.

(12) Defective or burned out tanning lamps and tanning lamps which have been operated in a tanning device for the manufacturer's maximum rated lamp hour life, shall be disposed of in a safe and proper manner to prevent unauthorized and unsafe use as lighting devices. Used tanning lamps are prohibited from being resold for any purpose.

(13) If the Ultraviolet tanning device is not in an individual cubicle, then a suitable screen, curtain, or other shield shall be provided, maintained, and used to prevent unnecessary exposure to Ultraviolet radiation of persons not using the device.

(14) The facility operator shall ensure that customers do not exceed the exposure time indicated by the manufacturer.

(15) Each tanning device shall have a timer that complies with the requirements of 21 CFR Part 1040, Section 1040.20 (c)(2).

(a) The maximum timer interval shall not exceed the manufacturer's maximum recommended exposure time, or 20 minutes, whichever is less.

(b) A tanning facility shall use the following exposure schedule or an equivalent schedule to accommodate tanning devices with 30 minute maximum timers that are reduced to 20 minute maximum timers:

(A) Skin type 1:

(i) Week 1: 1-3 minutes;

(ii) Week 2: 4-6 minutes;

(iii) Week 3: 7-10 minutes;

(iv) Week 4: 11-15 minutes.

(B) Skin type 2 and 3:

(i) Week 1: 4 minutes;

(ii) Week 2: 8 minutes;

(iii) Week 3: 12 minutes;

(iv) Week 4: 16 minutes;

(v) Weekly maintenance: 20 minutes.

(C) Skin Type 4 and 5:

(i) Week 1: 4 minutes;

(ii) Week 2: 12 minutes;

(iii) Week 3: 16 minutes;

(iv) Week 4: 20 minutes;

(v) Weekly maintenance: 20 minutes.

(c) Tanning device timers shall be controlled by a properly trained operator. A remote timer control system shall be used for this purpose.

(d) Each tanning device shall be equipped with an emergency shut-off mechanism to allow manual termination of the UV exposure by the customer, as required by 21 CFR 1040.20(c)(3).

(16) Each timer must be functional and accurate to within ± 10 percent.

(17) The registrant shall ensure that the timer is checked annually for accuracy.

(18) All tanning devices shall be maintained to the minimum requirements of the manufacturer.

(19) Each tanning device shall be equipped with an hour meter to accurately determine lamp hour use and recording of maintenance service on each device.

Stat. Auth.: ORS 431.925 - 431.955

Stats. Implemented: ORS 431.655, 431.930 & 431.945

Hist.: HD 15-1991, f. & cert. ef. 10-1-91; HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-120-0015

Definitions

(1) "Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

(2) "Activity" is the rate of disintegration (transformation) or decay of radioactive material. The units of activity are the becquerel (Bq) and the Curie (Ci). The becquerel is equal to one disintegration per second (dps) and the Curie is equal to 3.7×10^{10} dps.

(3) "Accelerator produced radioactive material" means any material made radioactive by a particle accelerator.

(4) "Adult" means an individual 18 or more years of age.

ADMINISTRATIVE RULES

(5) "Airborne radioactive material" means radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.

(6) "Airborne radioactivity area" means a room, enclosure, or area in which the airborne radioactive materials, composed wholly or partly of licensed material, exist in concentrations:

(a) In excess of the derived air concentrations (DACs) specified in 10 CFR 20 Appendix B; or

(b) To such a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours present in a week, and intake of 0.6 percent of the annual limit of intake (ALI) or 12 DAC hours.

(7) "Air-purifying respirator" means a respirator with an air-purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air-purifying element.

(8) "ALARA" (acronym for "as low as is reasonably achievable") means making every reasonable effort to maintain exposures to radiation as far below the dose limits in this division as is practical consistent with the purpose for which the licensed activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to the use of licensed materials in the public interest.

(9) "Annual limit on intake" (ALI) means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the reference man that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) or a committed dose equivalent of 0.5 Sv (50 rem) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given on page 1 of Tables 1, 2, and 3, Appendix B to 10 CFR Part 20.

(10) "Assigned protection factor (APF)" means the expected workplace level of respiratory protection that would be provided by a properly functioning respirator or a class of respirators to properly fitted and trained users. Operationally, the inhaled concentration can be estimated by dividing the ambient airborne concentration by the APF.

(11) "Atmosphere supplying respirator" means a respirator that supplies the respirator user with breathing air from a source independent of the ambient atmosphere, and includes supplied-air respirators (SARs) and self-contained breathing apparatus (SCBA) units.

(12) "Background radiation" means radiation from cosmic sources; naturally occurring radioactive material, including radon (except as a decay product of source or special nuclear material); and global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents such as Chernobyl that contribute to background radiation and are not under the control of the licensee. "Background radiation" does not include radiation from radioactive or special nuclear materials regulated by the Authority.

(13) "Bioassay" (radiobioassay) means the determination of kinds, quantities or concentrations, and, in some cases, the locations of radioactive material in the human body, whether by direct measurement (in vivo counting) or by analysis and evaluation of materials excreted or removed from the human body.

(14) "Byproduct material" means:

(a) Any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or using special nuclear material.

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute "byproduct material" within this definition.

(c) Any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity. Any material that has been made radioactive by use of a particle accelerator and is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity.

(d) Any discrete source of naturally occurring radioactive material, other than source materials, that:

(A) The Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate federal agency determines a threat to the public health and safety or the common defense,

is similar to the threat posed by a discrete source of radium-226 material to the public health and safety or the common defense and security; and

(B) Before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical or research activity.

(15) "Class" means a classification scheme for inhaled material according to its rate of clearance from the pulmonary region of the lung. Materials are classified as D, W, or Y, which applies to a range of clearance half-times: for Class D, Days, of less than 10 days; for Class W, Weeks, from 10 to 100 days; and for Class Y, Years, of greater than 100 days. For purposes of these regulations, "lung class" and "inhalation class" are equivalent terms.

(16) "Collective dose" is the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

(17) "Committed dose equivalent" (HT,50) means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

(18) "Committed effective dose equivalent" (HE,50) is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to these organs or tissues (HE,50) = The Sum of WTHT,50.

(19) "Controlled area" means an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee for any reason.

(20) "Consortium" means an association of medical use licensees and a PET radionuclide production facility in the same geographical area that jointly own or share in the operation and maintenance cost of the PET radionuclide production facility that produces PET radionuclides for use in producing radiopharmaceutical drugs within the consortium for noncommercial distributions among its associated members for medical use. The PET radionuclide production facility within the consortium must be located at an educational institution or a federal facility or a medical facility.

(21) Constraint (dose constraint) means a value above which specified licensee actions are required.

(22) "Critical Group" means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.

(23) "Declared pregnant woman" means a woman who has voluntarily informed the licensee, in writing, of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.

(24) "Decommission" means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits:

(a) Release of the property for unrestricted use and termination of the license; or

(b) Release of the property under restricted conditions and termination of the license.

(25) "Deep-dose equivalent" (Hd), which applies to external whole-body exposure, is the dose equivalent at a tissue depth of one cm (1000 mg/cm²).

(26) "Demand respirator" means an atmosphere-supplying respirator that admits breathing air to the facepiece only when a negative pressure is created inside the facepiece by inhalation.

(27) "Derived air concentration" (DAC) means the concentration of a given radionuclide in air which, if breathed by the reference man for a working year of 2,000 hours under conditions of light work, results in an intake of one ALI. For purposes of these regulations, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for 2,000 hours in a year. DAC values are given in Table I, Column 3, of 10 CFR 20 Appendix B.

(28) "Derived air concentration-hour" (DAC-hour) means the product of the concentration of radioactive material in air, expressed as a fraction or multiple of the derived air concentration for each radionuclide, and the time of exposure to that radionuclide, in hours. A licensee or registrant may take 2,000 DAC-hours to represent one ALI, equivalent to a committed effective dose equivalent of 0.05 Sv (5 rem).

(29) "Discrete Source" means a radionuclide that has been processed so that its concentration within a material has been purposely increased for use for commercial, medical or research activities.

(30) "Disposable respirator" means a respirator for which maintenance is not intended and that is designed to be discarded after excessive breathing resistance, sorbent exhaustion, physical damage, or end-of-service-life renders it unsuitable for use. Examples of this type of respirator are

ADMINISTRATIVE RULES

a disposable half-mask respirator or a disposable escape-only self-contained breathing apparatus (SCBA).

(31) “Distinguishable from background” means that the detectable concentration of a radionuclide is statistically different from the background concentration of that radionuclide in the vicinity of the site or, in the case of structures, in similar materials using adequate measurement technology, survey, and statistical techniques.

(32) “Dose or radiation dose” is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, or total effective dose equivalent, as defined in this rule.

(33) “Dose equivalent” (HT) means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the rem and sievert (Sv).

(34) “Dosimetry processor” means an individual or an organization that processes and evaluates individual monitoring devices in order to determine the radiation dose delivered to the monitoring devices.

(35) “Effective Dose Equivalent” (HE) is the sum of the products of the dose equivalent to the organ or tissue (HT) and the weighting factor (WT) applicable to each of the body organs or tissues that are irradiated (HE = The Sum of WTHT).

(36) “Embryo/fetus” means the developing human organism from conception until the time of birth.

(37) “Entrance or access point” means any location through which an individual could gain access to radiation areas or to radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

(38) “Exposure” means being exposed to ionizing radiation or to radioactive material.

(39) “External dose” means that portion of the dose equivalent received from radiation sources outside the body.

(40) “Extremity” means hand, elbow, arm below the elbow, foot, knee, or leg below the knee.

(41) “Eye dose equivalent” applies to the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeter (300 mg/cm²). (See “lens dose equivalent”).

(42) “Filtering facepiece (dust mask)” means a negative pressure particulate respirator with a filter as an integral part of the facepiece or with the entire facepiece composed of the filtering medium, not equipped with elastomeric sealing surfaces and adjustable straps.

(43) “Fit factor” means a quantitative estimate of the fit of a particular respirator to a specific individual, and typically estimates the ratio of the concentration of a substance in ambient air to its concentration inside the respirator when worn.

(44) “Fit test” means the use of a protocol to qualitatively or quantitatively evaluate the fit of a respirator on an individual.

(45) “Generally applicable environmental radiation standards” means standards issued by the Environmental Protection Agency (EPA) under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

(46) “Helmet” means a rigid respiratory inlet covering that also provides head protection against impact and penetration.

(47) “High radiation area” means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving a dose equivalent in excess of one mSv (0.1 rem) in one hour at 30 centimeters from the radiation source or 30 centimeters from any surface that the radiation penetrates.

(48) “Hood” means a respiratory inlet covering that completely covers the head and neck and may also cover portions of the shoulders and torso.

(49) “Individual” means any human being.

(50) “Individual monitoring” means:

(a) The assessment of dose equivalent by the use of devices designed to be worn by an individual;

(b) The assessment of committed effective dose equivalent by bioassay (see Bioassay) or by determination of the time-weighted air concentrations to which an individual has been exposed, i.e. DAC-hours; or

(c) The assessment of dose equivalent by the use of survey data.

(51) “Individual monitoring devices” (individual monitoring equipment) means devices designed to be worn by a single individual for the assessment of dose equivalent such as film badges, thermoluminescence

dosimeters (TLDs), pocket ionization chambers, and personal (“lapel”) air sampling devices.

(52) “Internal dose” means that portion of the dose equivalent received from radioactive material taken into the body.

(53) “Lens dose equivalent (LDE)” applies to the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeter (300 mg/cm²).

(54) “Loose fitting facepiece” means a respiratory inlet covering that is designed to form a partial seal with the face.

(55) “Member of the public” means any individual except when that individual is receiving an occupational dose.

(56) “Minor” means an individual less than 18 years of age.

(57) “Monitoring (radiation monitoring, radiation protection monitoring)” means the measurement of radiation levels, concentrations, surface area concentrations or quantities of radioactive material and the use of the results of these measurements to evaluate potential exposures and doses.

(58) “Nationally Tracked Source” means a sealed source containing a quantity equal to or greater than Category 1 or Category 2 levels of radioactive material listed in 10 CFR Part 20, Appendix E. In this context a sealed source is defined as radioactive material that is sealed in a capsule or closely bonded in a solid form and that is not exempt from regulatory control. It does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel rod, or fuel pellet.

(a) Category 1 nationally traced sources are those containing radioactive material at a quantity equal to or greater than Category 1 threshold.

(b) Category 2 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 2 threshold but less than the Category 1 threshold.

(59) “Negative pressure respirator (tight fitting)” means a respirator in which the air pressure inside the facepiece is negative during inhalation with respect to the ambient air pressure outside the respirator.

(60) “Nonstochastic effect” means a health effect, the severity of which varies with the dose and for which a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of these regulations, “deterministic effect” is an equivalent term.

(61) “Occupational dose” means the dose received by an individual in the course of employment in which the individual’s assigned duties involve exposure to radiation or to radioactive material from licensed and unlicensed sources of radiation, whether in the possession of the licensee or other person. Occupational dose does not include dose received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material for medical purposes and released under OAR 333-116-0260, from voluntary participation in medical research programs, or as a member of the public.

(62) “Particle accelerator” means any machine capable of accelerating electrons, protons, deuterons or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 megaelectron volt. For purposes of this definition, “accelerator” is an equivalent term.

(63) “Planned special exposure” means an infrequent exposure to radiation, separate from and in addition to the annual occupational dose limits.

(64) “Positive pressure respirator” means a respirator in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator.

(65) “Powered air purifying respirator” (PAPR) means an air purifying respirator that uses a blower to force the ambient air through air purifying elements to the inlet covering.

(66) “Pressure demand respirator” means a positive pressure atmosphere-supplying respirator that admits breathing air to the facepiece when the positive pressure is reduced inside the facepiece by inhalation.

(67) “Public dose” means the dose received by a member of the public from exposure to radiation or radioactive material released by a licensee, or to any other source of radiation under the control of a licensee. Public dose does not include occupational dose or doses received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material for medical purposes and released under OAR 333-116-0260, or from voluntary participation in medical research programs.

(68) “Qualitative fit test (QLFT)” means a pass/fail fit test to assess the adequacy of respirator fit that relies on the individual’s response to the test agent.

ADMINISTRATIVE RULES

(69) "Quantitative fit test (QNFT)" means an assessment of the adequacy of respirator fit by numerically measuring the amount of leakage into the respirator.

(70) "Quarter" means a period of time equal to one-fourth of the year observed by the licensee, approximately 13 consecutive weeks, providing that the beginning of the first quarter in a year coincides with the starting date of the year and that no day is omitted or duplicated in consecutive quarters.

(71) "Radiation" (ionizing radiation) means alpha particles, beta particles, gamma rays, X-rays, neutrons, high-speed electrons, high-speed protons, and other particles capable of producing ions. Radiation, as used in this part, does not include non-ionizing radiation, such as radio- or microwaves, or visible, infrared, or ultraviolet light.

(72) "Radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem) in one hour at 30 centimeters from the radiation source or from any surface that the radiation penetrates.

(73) "Reference man" means a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health employees to standardize results of experiments and to relate biological insult to a common base. A description of the reference man is contained in the International Commission on Radiological Protection report, ICRP Publication 23, "Report of the Task Group on Reference Man."

(74) "Residual radioactivity" means radioactivity in structures, materials, soils, groundwater, and other media at a site resulting from activities under the licensee's control. This includes radioactivity from all licensed and unlicensed sources used by the licensee, but excludes background radiation. It also includes radioactive materials remaining at the site as a result of routine or accidental releases of radioactive material at the site and previous burials at the site.

(75) "Restricted area" means an area, access to which is limited by the licensee for the purpose of protecting individuals against undue risks from exposure to radiation and radioactive materials. Restricted area does not include areas used as residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

(76) "Respiratory protective equipment" means an apparatus, such as a respirator, used to reduce an individual's intake of airborne radioactive materials.

(77) "Sanitary sewerage" means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee or registrant.

(78) "Self-contained breathing apparatus" (SCBA) means an atmosphere-supplying respirator for which the breathing air source is designed to be carried by the user.

(79) "Shallow-dose equivalent" (HS), which applies to the external exposure of the skin of the whole body or the skin of an extremity, is taken as the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm²) averaged over an area of one square centimeter.

(80) "Site boundary" means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee.

(81) "Stochastic effect" means a health effect that occurs randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without threshold. Hereditary effects and cancer incidence are examples of stochastic effects. For purposes of these regulations, "probabilistic effect" is an equivalent term.

(82) "Supplied-air respirator" (SAR) or airline respirator means an atmosphere-supplying respirator for which the source of breathing air is not designed to be carried by the user.

(83) "Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal, or presence of radioactive material or other sources of radiation. When appropriate, such an evaluation includes a physical survey of the location of radioactive material and measurements or calculations of levels of radiation, or concentrations or quantities of radioactive material present.

(84) "Tight-fitting facepiece" means a respiratory inlet covering that forms a complete seal with the face.

(85) "Total Effective Dose Equivalent" (TEDE) means the sum of the effective dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures).

(86) "Unrestricted area" means an area, access to which is neither limited nor controlled by the licensee.

(87) "User seal check" means an action conducted by the respirator user to determine if the respirator is properly seated to the face. Examples

include negative pressure check, positive pressure check, irritant smoke check, or isoamyl acetate check.

(88) "Very high radiation area" means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving an absorbed dose in excess of five gray (500 rad) in one hour at one meter from a source of radiation or from any surface that the radiation penetrates. At very high doses received at high dose rates, units of absorbed dose, gray and rad, are appropriate, rather than units of dose equivalent, sievert and rem.

(89) "Waste" means those low-level radioactive wastes containing source, special nuclear or byproduct material that are acceptable for disposal in a land disposal facility. For the purposes of this definition, low-level radioactive waste means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel or byproduct material as defined in subsections (14)(b), (14)(c), and (14)(d) of this rule.

(90) "Weighting factor" (WT) for an organ or tissue means the proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of WT are:

Organ Dose Weighting Factors
Organ or Tissue — WT
Gonads — 0.25
Breast — 0.15
Red bone marrow — 0.12
Lung — 0.12
Thyroid — 0.03
Bone surfaces — 0.03
Remainder — 0.30 (see (a) below)
Whole Body — 1.00 (see (b) below)

(a) 0.30 results from 0.06 for each of five "remainder" organs, excluding the skin and the lens of the eye that receives the highest doses.

(b) For the purpose of weighting the external whole body dose, for adding it to the internal dose, a single weighting factor, WT = 1.0, has been specified. The use of other weighting factors for external exposure will be approved on a case-by-case basis until such time as specific guidance is issued.

(91) "Whole body" means, for purposes of external exposure, head, trunk (including male gonads), arms above the elbow, or legs above the knee.

(92) "Working level" (WL) is any combination of short-lived radon daughters (for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220: polonium-216, lead-212, bismuth-212, and polonium-212) in one liter of air that will result in the ultimate emission of 1.3x10⁵ MeV of potential alpha particle energy.

(93) "Working level month" (WLM) means an exposure to one working level for 170 hours (2,000 working hours per year/12 months per year equals approximately 170 hours per month).

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 4-2010, f. & cert. ef. 2-16-10; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-120-0100

Occupational Dose Limits For Adults

(1) Each licensee or registrant must control the occupational dose to individual adults, except for planned special exposures under OAR 333-120-0150, to the following dose limits:

(a) An annual limit, which is the more limiting of:

(A) The total effective dose equivalent being equal to 0.05 Sv (5 rem);

or

(B) The sum of the deep-dose equivalent and the committed dose equivalent to any individual organ or tissue other than the lens of the eye being equal to 0.5 Sv (50 rem).

(b) The annual limits to the lens of the eye, to the skin, and to the extremities that are:

(A) A lens dose equivalent of 0.15 Sv (15 rem); and

(B) A shallow-dose equivalent of 0.50 Sv (50 rem) to the skin of the whole body or to the skin of any extremity.

(2) Doses received in excess of the annual limits, including doses received during accidents, emergencies, and planned special exposures, must be subtracted from the limits for planned special exposures, as defined in OAR 333-100-0005, that the individual may receive during the current year OAR 333-120-0150(5)(a) and during the individual's lifetime OAR 333-120-0150(5)(b).

NOTE: A licensee or registrant may permit a radiation worker to receive more than 0.05 Sv (5 rem) per year TEDE or 0.5 Sv (50 rem) to the skin, extremities, or organ, or 0.15 Sv (15 rem) to the lens of the eye during a planned special exposure (PSE)

ADMINISTRATIVE RULES

only if: (a) there are no other alternatives available or practical; (b) the PSE is authorized in writing before it occurs; (c) the individuals who will be exposed are told the reason for the PSE, the dose they are expected to receive, the risks from that dose and the conditions under which they will be working (e.g. radiation or contamination levels), and how to keep their doses ALARA; (d) the licensee or registrant determines the worker's prior doses (lifetime history); (e) the total dose expected from the PSE plus any previous doses over the annual limit do not exceed the standard annual dose limits, or five times the standard limits in the worker's lifetime; (f) the licensee or registrant maintains the appropriate records and files the appropriate reports; and (g) after the PSE, the licensee or registrant records the dose received and notifies the worker in writing of the dose received within 30 days after the PSE. The dose received from the PSE does not affect the worker's ability to receive the standard annual doses but is included in the worker's lifetime history and added to any future PSEs.

(3) When the external exposure is determined by measurement with an external personal monitoring device, the deep-dose equivalent must be used in place of the effective dose equivalent, unless the effective dose equivalent is determined by a dosimetry method approved by the Authority. The assigned deep-dose equivalent must be for the part of the body receiving the highest exposure. The assigned shallow-dose equivalent must be the dose averaged over the contiguous ten square centimeters of skin receiving the highest exposure. The deep-dose equivalent, lens-dose equivalent, and shallow-dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest potential exposure, or the results of individual monitoring are unavailable:

(a) The deep-dose equivalent, lens dose equivalent and shallow-dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest potential exposure, or the results of individual monitoring are unavailable; or

(b) When a protective apron is worn while working with medical fluoroscopic equipment and monitoring is conducted as specified in OAR 333-120-0210(1)(e) the effective dose equivalent for external radiation must be determined as follows:

(A) When only one individual monitoring device is used and it is located at the neck outside the protective apron, the reported deep dose equivalent must be the effective dose equivalent for external radiation; or

(B) When only one individual monitoring device is used and it is located at the neck outside the protective apron, and the reported dose exceeds 25 percent of the limit specified in section (1) of this rule the reported deep dose equivalent value multiplied by 0.3 must be the effective dose equivalent for external radiation; or

(C) When individual monitoring devices are worn, both under the protective apron at the waist and outside the protective apron at the neck, the effective dose equivalent for external radiation must be assigned the value of the sum of the deep dose equivalent reported for the individual monitoring device located at the waist under the protective apron multiplied by 1.5 and the deep dose equivalent reported for the individual monitoring device located at the neck outside the protective apron multiplied by 0.04.

(4) Derived air concentration (DAC) and annual limit on intake (ALI) values are presented in 10 CFR Part 20 Table 1 of Appendix B to 20.1001 to 20.2401 and may be used to determine the individual's dose (OAR 333-120-0650) and to demonstrate compliance with the occupational dose limits.

(5) In addition to the annual dose limits, the licensee must limit the soluble uranium intake by an individual to 10 milligrams in a week in consideration of chemical toxicity (see 10 CFR Part 20 footnote 3 of Appendix B to 20.1001 to 20.2401).

(6) When monitoring is required by OAR 333-120-0210 each licensee or registrant must reduce the dose that an individual may be allowed to receive in the current year by the amount of occupational dose received while employed by any other person (OAR 333-120-0630(5)).

(7) The licensee must reduce the dose that an individual may be allowed to receive in the current year by the amount of occupational dose received while employed by any other person.

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

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-120-0550

Transfer for Disposal and Manifests

(1) The requirements of this rule and 10 CFR Part 20 Appendix G to 20.1001 to 20.2401 are designed to control transfers of low-level radioactive waste intended for disposal at a land disposal facility (as defined in 10

CFR Part 61), establish a manifest tracking system, and supplement existing requirements concerning transfers and recordkeeping for those wastes.

(2) Each shipment of radioactive waste intended for disposal at a licensed land disposal facility must be accompanied by a shipment manifest as specified in 10 CFR Part 20 section I of Appendix G to 20.1001 to 20.2401.

(3) Each shipment manifest must include a certification by the waste generator as specified in 10 CFR Part 20 section II of Appendix G to 20.1001 to 20.2401.

(4) Each person involved in the transfer for disposal and disposal of waste, including the waste generator, waste collector, waste processor, and disposal facility operator, must comply with the requirements specified in 10 CFR Part 20 section III of Appendix G to 20.1001 to 20.2401.

(5) Any licensee shipping byproduct material defined in subsections (c) and (d) of the definition of byproduct material outlined in OAR 333-120-0015(14) intended for ultimate disposal at a land disposal facility licensed under 10 CFR Part 61 must document the information required on the Nuclear Regulatory Commission's Uniform Low-Level Radioactive Waste Manifest and transfer this recorded manifest information to the intended consignee in accordance with 10 CFR Part 20, Appendix G

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

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 20-2010, f. & cert. ef. 9-1-10; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-120-0650

Records of Individual Monitoring Results

(1) Recordkeeping Requirement. Each licensee must maintain records of doses received by all individuals for whom monitoring was required pursuant to OAR 333-120-0210 and records of doses received during planned special exposures, accidents, and emergency conditions. These records must include, when applicable:

(a) The deep-dose equivalent to the whole body, lens dose equivalent, shallow-dose equivalent to the skin, and shallow-dose equivalent to the extremities; and

(b) The estimated intake or body burden of radionuclides (OAR 333-120-0110); and

(c) The committed effective dose equivalent assigned to the intake or body burden of radionuclides; and

(d) The specific information used to calculate the committed effective dose equivalent pursuant to OAR 333-120-0130(3); and

(e) The total effective dose equivalent when required by OAR 333-120-0110; and

(f) The total of the deep-dose equivalent and the committed dose to the organ receiving the highest total dose.

NOTE: Assessments of dose equivalent and records made using units in effect before the licensee's adoption of this division need not be changed.

(2) Recordkeeping Frequency: The licensee must make entries of the records specified in section (1) of this rule at least annually.

(3) Recordkeeping Format. The licensee must maintain the records specified in section (1) of this rule using NRC form 5 or equivalent, in accordance with the instructions for NRC's Form 5, or in clear and legible records containing all the information required by NRC's Form 5.

(4) Privacy Protection. The records required under this rule are protected from public disclosure because of their personal privacy nature. These records are protected and if transferred to the Authority, are protected under ORS chapter 192.

(5) The licensee must maintain the records of dose to an embryo/fetus with the records of dose to the declared pregnant woman, as defined in OAR 333-100-0005. The declaration of pregnancy must also be kept on file, but may be maintained separately from the dose records.

(6) The licensee must retain each required form or record until the Authority authorizes disposition.

NOTE: The following information is required on Form 5, Occupational Exposure Record for a Monitoring Period: Name; identification number and type (Social Security Number (SSN), Passport Number (PPN), Canadian Social Insurance Number (CSI), Work Permit Number (WPN), INDEX Identification Number (IND), or Other (OTH)); sex; date of birth; monitoring period; licensee name; license or registration number; is dose is official record or estimate; if dose is routine or planned special exposure; intake, list radionuclide, class, mode, total intake (Ci); external dose(s), DDE (Deep Dose Equivalent in rems), LDE (Lens Dose Equivalent in rems), SDE(WB) (Shallow Dose Equivalent Whole Body in rems), SED(ME) (Shallow Dose Equivalent Maximum Extremity in rems), CEDE (Committed Effective Dose Equivalent in rems), CDE (Committed Dose Equivalent in rems), TEDE (Total Effective Dose Equivalent in rems) and TODE Total Organ Dose Equivalent in rems).

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

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

ADMINISTRATIVE RULES

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-120-0660

Records of Dose to Individual Members of the Public

(1) Each licensee must maintain records sufficient to demonstrate compliance with the dose limit for individual members of the public (OAR 333-120-0180).

(2) The licensee must retain the records required by section (1) of this rule until the Authority terminates each pertinent licensee requiring the record.

NOTE: The following information is required on Form 5, Occupational Exposure Record for a Monitoring Period: Name; identification number and type of number, such as SSN; sex; date of birth; monitoring period; licensee name; license or registration number; if dose is official record or estimate; if dose is routine or planned special exposure; intakes, list radionuclide, class, mode, and total intake (Ci); external dose(s), DDE, LDE, SDE (WB), SDE(ME), CEDE, CDE, TEDE and TODE; signature of monitored individual and date signed; certifying organization and signature.

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

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-120-0720

Reports of Exposures, Radiation Levels, Leak Tests, and Concentrations of Radioactive Material Exceeding the Limits

(1) Reportable events: In addition to the notification required by OAR 333-120-0710, each licensee must submit a written report within 30 days after learning of any of the following occurrences:

(a) Any incident for which notification is required by OAR 333-120-0710; or

(b) Doses in excess of any of the following:

- (A) The occupational dose limits for adults in OAR 333-120-0100; or
- (B) The occupational dose limits for a minor in OAR 333-120-0160;

or

(C) The limits for an embryo/fetus of a declared pregnant woman (as defined in OAR 333-100-0005) in 333-120-0170; or

(D) The limits for an individual member of the public in OAR 333-120-0180; or

(E) Any applicable limit in the license; or

(F) The ALARA constraints for air emissions established under 333-120-0020(4); or

(c) Levels of radiation or concentrations of radioactive material in:

(A) A restricted area in excess of any applicable limit in the license;

or

(B) An unrestricted area in excess of ten times any applicable limit set forth in this division or in the license (whether or not involving exposure of any individual in excess of the limits in OAR 333-120-0180); or

(d) For licensee subject to the provisions of EPA's generally applicable environmental radiation standards in 40 CFR Part 190, levels of radiation or releases of radioactive material in excess of those standards, or of license conditions related to those standards.

(e) Leaking or contaminated sealed sources in excess of limits in OAR 333-120-0460, must be reported within five days to the Authority describing the equipment involved, the test results and the corrective action taken.

(f) Erroneous overexposure dosimetry reports that resulted from non-personnel exposures;

(2) Contents of reports: Each report required by section (1) of this rule must describe the extent of exposure of individuals to radiation and radioactive material, including, as appropriate:

(a) Estimates of each individual's dose; and

(b) The levels of radiation and concentrations of radioactive material involved; and

(c) The cause of the elevated exposures, dose rates, or concentrations; and

(d) Corrective steps taken or planned to ensure against a recurrence, including the schedule for achieving conformance with applicable limits, generally applicable environmental standards, and associated license conditions; and

(e) For each individual exposed: the name, Social Security account number, and date of birth. The report must be prepared so that this information is stated in a separate and detachable part of the report.

NOTE: With respect to the limit for the embryo/fetus (OAR 333-120-0170) the identifiers should be those of the declared pregnant woman, as defined in OAR 333-100-0005.

tifiers should be those of the declared pregnant woman, as defined in OAR 333-100-0005.

(3) All licensees who make reports under section (1) this rule must submit the report in writing to the Authority.

(4) The Authority must prohibit the removal or expungement of any permanent dosimetry report submitted to the licensee or registrant. Evaluated erroneous personnel dose record changes to licensee or registrant records must be recorded only on Form 5 and retained by the licensee or registrant.

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

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 1-1995, f. & cert. ef. 4-26-95; PH 3-2003, f. & cert. ef. 3-27-03; PH 31-2004(Temp), f. & cert. ef. 10-8-04 thru 4-5-05; PH 36-2004, f. & cert. ef. 12-1-04; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-120-0730

Reports of Planned Special Exposures and Individual Monitoring

(1) The licensee must submit a written report to the Authority within 30 days following any planned special exposure conducted in accordance with OAR 333-120-0150 informing the Authority that a planned special exposure was conducted and indicating the date the planned special exposure occurred and the information required by OAR 333-120-0640.

(2) The following licensees must submit a written report to the Authority on or before April 30 of each year, documenting results of individual monitoring carried out by the licensee for each individual for whom monitoring was required pursuant to OAR 333-120-0210 during that year.

(a) Licensees authorized to possess or use radioactive material for purposes of radiography pursuant to division 102 and 105 of these rules; or

(b) Licensees who receive radioactive waste from other persons for disposal pursuant to 10 CFR Part 61; or

(c) Licensees who possess or use at any time, for processing or manufacturing for distribution pursuant to division 102 or 116 of these rules, radioactive material in quantities exceeding any one of the following quantities:

Quantity of Radionuclide in Curies:

(A) Cesium-137 — 1;

(B) Cobalt-60 — 1;

(C) Gold-198 — 100;

(D) Iodine-131 — 1;

(E) Iridium-192 — 10;

(F) Krypton-85 — 1,000;

(G) Promethium-147 — 10;

(H) Technetium-99m — 1,000.

The Authority may require as a license condition, or by rule, regulation, or order pursuant to OAR 333-100-0030, reports from licensees who are licensed to use radionuclides not on this list, in quantities sufficient to cause comparable radiation levels.

NOTE: The licensee may include additional data for individuals for whom monitoring was provided but not required. The licensee shall use NRC's Form 5 or electronic media containing all the information required by NRC's Form 5.

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

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: HD 15-1994, f. & cert. ef. 5-6-94; HD 24-1994, f. & cert. ef. 9-6-94; HD 1-1995, f. & cert. ef. 4-26-95; Administrative Reformating 12-8-97; PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

333-120-0740

Reports to Individuals Exceeding Dose Limits

When a licensee or registrant is required, pursuant to the provisions of OAR 333-120-0720 or 333-120-0730, to report to the Authority any exposure of an identified occupationally exposed individual or an identified member of the public to radiation or radioactive material, the licensee or registrant must also provide the individual a report on his or her exposure data included in the report submitted to the Authority. This report must be transmitted at a time no later than the transmittal to the Authority.

Stat. Auth.: ORS 453.635

Stats. Implemented: ORS 453.605 - 453.807

Hist.: PH 12-2006, f. & cert. ef. 6-16-06; PH 4-2007, f. & cert. ef. 3-1-07; PH 14-2008, f. & cert. ef. 9-15-08; PH 10-2011, f. 9-30-11, cert. ef. 10-1-11

Oregon Health Licensing Agency Chapter 331

Rule Caption: Streamlines application process for temporary tattoo practitioners, requires current blood-borne pathogens training.

Adm. Order No.: HLA 9-2011

Filed with Sec. of State: 9-29-2011

Certified to be Effective: 10-1-11

Notice Publication Date: 9-1-2011

ADMINISTRATIVE RULES

Rules Amended: 331-565-0090

Subject: The administrative rule change clarifies and streamlines the application process for tattoo artist temporary practitioner permits for those persons wishing to practice the profession in Oregon on a temporary basis, including tattooing conventions. The revision clarifies language for out-of-state applicants who are not familiar with Oregon requirements. This change allows applicants to attest to their qualifying experience on a form approved by the agency, requires current training in blood-borne pathogens, and removes requirement for basic first aid training.

Rules Coordinator: Samantha Patnode—(503) 373-1917

331-565-0090

Temporary Practitioner Permit

(1) Temporary practitioner permit is an authorization pursuant to ORS 690.365 to perform permanent color and tattoo services on a limited basis, not to exceed 15 consecutive calendar days. For the purpose of this rule licensed facility means a permanent color or tattoo facility which holds a current valid facility license, mobile facility license, temporary facility permit or event facility permit.

(2) All applications must be received 15 days before permanent color and tattoo services are provided.

(3) A temporary practitioner permit can be renewed up to four times in a 12 month period from the date the agency processes the initial application. Applicants must submit a renewal application on a form prescribed by the agency and meet the qualifications of subsection 9 or 10 of this rule.

(4) All requests to renew must be received 15 days before permanent color and tattoo services are provided unless otherwise approved by the agency.

(5) A temporary practitioner must be attached to an authorized or licensed facility.

(6) A temporary practitioner must notify the agency within 24 hours before services are performed at a new licensed facility during a 15-day active period, unless otherwise approved by the agency.

(7) The applicant and the authorized facility may be held responsible for failure to comply with regulations set forth by ORS 676.612, 690.390, OAR 331, divisions 565, 575, 580 and 585.

(8) To be granted a temporary practitioner permit an applicant must submit an application to the agency, on a form approved by the agency, meet the requirements of OAR 331-030-0000, and pay the required fees. The following information must be provided at the time of application:

(a) Dates when permanent color and tattoo services will be provided;

(b) Name, address, phone number and license number of the licensed facility where permanent color and tattoo services will be provided.

(9) To be granted a temporary practitioner permit an applicant must provide satisfactory evidence of meeting requirements, which includes qualifying criteria listed in one of the following pathways:

(a) Non Credentialed: Applicant must provide satisfactory evidence of successful completion of the following training and experience:

(A) Current training in blood-borne pathogens; and

(C) Attest to six months of training or experience, within the last two years, in performing tattoo or permanent color service on a form prescribed by the agency;

(b) Out of State Licensure: Applicant meets the requirements set forth in OAR 331-555-0040.

(10) For the purpose of this rule training includes attendance or participation at an instructional program presented, recognized, or under the sponsorship of any permanently organized institution, agency, or professional organization or association recognized by the agency.

(11) All applicants must be 18 years of age or older.

Stat. Auth.: ORS 676.605, 676.606, 676.615, 676.608, 676.612, 676.615, 676.617, 676.618, 676.992, 690.355, 690.360, 690.365, 690.370, 690.380, 690.385, 690.390, 690.405, 690.407 & 690.410

Stats. Implemented: ORS 676.605, 676.606, 676.615, 676.608, 676.612, 676.615, 676.617, 676.618, 676.992, 690.355, 690.360, 690.365, 690.370, 690.380, 690.385, 690.390, 690.405, 690.407 & 690.410

Hist.: HLA 3-2010, f. 3-31-10, cert. ef. 4-1-10; HLA 3-2011(Temp), f. & cert. ef. 4-1-11 thru 9-27-11; HLA 9-2011, f. 9-29-11, cert. ef. 10-1-11

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Rule Caption: Streamlines application process for temporary tattoo practitioners, requires current blood-borne pathogens training.

Adm. Order No.: HLA 10-2011

Filed with Sec. of State: 10-14-2011

Certified to be Effective: 10-15-11

Notice Publication Date: 9-1-2011

Rules Amended: 331-565-0090

Subject: The administrative rule change clarifies and streamlines the application process for tattoo artist temporary practitioner permits for those persons wishing to practice the profession in Oregon on a temporary basis, including tattooing conventions. The revision clarifies language for out-of-state applicants who are not familiar with Oregon requirements. This change allows applicants to attest to their qualifying experience on a form approved by the agency, requires current training in blood-borne pathogens, and removes requirement for basic first aid training.

Rules Coordinator: Samantha Patnode—(503) 373-1917

331-565-0090

Temporary Practitioner Permit

(1) Temporary practitioner permit is an authorization pursuant to ORS 690.365 to perform permanent color and tattoo services on a limited basis, not to exceed 15 consecutive calendar days. For the purpose of this rule licensed facility means a permanent color or tattoo facility which holds a current valid facility license, mobile facility license, temporary facility permit or event facility permit.

(2) All applications must be received 15 days before permanent color and tattoo services are provided.

(3) A temporary practitioner permit can be renewed up to four times in a 12 month period from the date the agency processes the initial application. Applicants must submit a renewal application on a form prescribed by the agency and meet the qualifications of subsection 9 or 10 of this rule.

(4) All requests to renew must be received 15 days before permanent color and tattoo services are provided unless otherwise approved by the agency.

(5) A temporary practitioner must be attached to an authorized or licensed facility.

(6) A temporary practitioner must notify the agency within 24 hours before services are performed at a new licensed facility during a 15-day active period, unless otherwise approved by the agency.

(7) The applicant and the authorized facility may be held responsible for failure to comply with regulations set forth by ORS 676.612, 690.390, OAR 331, divisions 565, 575, 580 and 585.

(8) To be granted a temporary practitioner permit an applicant must submit an application to the agency, on a form approved by the agency, meet the requirements of OAR 331-030-0000, and pay the required fees. The following information must be provided at the time of application:

(a) Dates when permanent color and tattoo services will be provided;

(b) Name, address, phone number and license number of the licensed facility where permanent color and tattoo services will be provided.

(9) To be granted a temporary practitioner permit an applicant must provide satisfactory evidence of meeting requirements, which includes qualifying criteria listed in one of the following pathways:

(a) Non Credentialed: Applicant must provide satisfactory evidence of successful completion of the following training and experience:

(A) Current training in blood-borne pathogens; and

(C) Attest to six months of training or experience, within the last two years, in performing tattoo or permanent color service on a form prescribed by the agency;

(b) Out of State Licensure: Applicant meets the requirements set forth in OAR 331-555-0040.

(10) For the purpose of this rule training includes attendance or participation at an instructional program presented, recognized, or under the sponsorship of any permanently organized institution, agency, or professional organization or association recognized by the agency.

(11) All applicants must be 18 years of age or older.

Stat. Auth.: ORS 676.605, 676.606, 676.615, 676.608, 676.612, 676.615, 676.617, 676.618, 676.992, 690.355, 690.360, 690.365, 690.370, 690.380, 690.385, 690.390, 690.405, 690.407 & 690.410

Stats. Implemented: ORS 676.605, 676.606, 676.615, 676.608, 676.612, 676.615, 676.617, 676.618, 676.992, 690.355, 690.360, 690.365, 690.370, 690.380, 690.385, 690.390, 690.405, 690.407 & 690.410

Hist.: HLA 3-2010, f. 3-31-10, cert. ef. 4-1-10; HLA 3-2011(Temp), f. & cert. ef. 4-1-11 thru 9-27-11; HLA 9-2011, f. 9-29-11, cert. ef. 10-1-11; HLA 10-2011, f. 10-14-11, cert. ef. 10-15-11

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Rule Caption: Amend license cycle for athletic trainers from a two year registration to one year registration.

Adm. Order No.: HLA 11-2011

Filed with Sec. of State: 10-14-2011

Certified to be Effective: 10-15-11

ADMINISTRATIVE RULES

Notice Publication Date: 9-1-2011

Rules Amended: 331-105-0030

Rules Repealed: 331-105-0030(T)

Subject: The Oregon Health Licensing Agency (Agency) is amending several programs' authorization cycle from a two year cycle to an annual cycle to align with statutory authority. The purpose of the revision is to stabilize revenue streams within the Agency and reduce the economic impact of paying a two year registration fee for initial registrations and renewals. Fees will be decreased by half to help reduce barriers to registration for new registrants.

Rules Coordinator: Samantha Patnode—(503) 373-1917

331-105-0030

Fees

(1) Applicants and registrants are subject to the provisions of OAR 331-010-0010 and 331-010-0020 regarding the payment of fees, penalties and charges.

(2) Fees established by the Oregon Health Licensing Agency are as follows:

(a) Application:

(A) Registration: \$100.

(B) Registration by reciprocity: \$150.

(b) Examination — Oregon laws & rules: \$50.

(c) Original issuance of registration (including by reciprocity): \$225 for one year.

(d) Permits and waivers: \$150.

(e) Renewal of registration: \$225 for one year.

(f) Delinquent (late) renewal of registration: \$25 for the first month in expired status, and \$10 each month thereafter while in an expired status.

(g) Reinstatement: \$150.

(h) Replacement of registration, including name change: \$25.

(i) Duplicate registration document: \$25 per copy with maximum of three.

(j) Affidavit of licensure: \$50.

(k) An additional \$25 administrative processing fee will be assessed if a NSF or non-negotiable instrument is received for payment of fees, penalties and charges. Refer to OAR 331-010-0010.

Stat. Auth.: 1999 OL Ch. 736, Sec. 5(3) & (4) & Sec. 10

Stats. Implemented: 1999 OL Ch. 736, Sec. 5(3) & (4) & Sec. 10

Hist.: HDLB 2-1996, f. 12-13-96, cert. ef. 1-1-97; HDLP 1-2000(Temp), f. 2-14-00, cert. ef. 2-15-00 thru 8-11-00; Administrative correction 3-16-00; HDLP 3-2000, f. 7-26-00, cert. ef. 8-1-00; HLO 3-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 2-2006, f. 11-30-06, cert. ef. 12-1-06; HLA 3-2008, f. 9-15-08, cert. ef. 10-1-08; HLA 5-2011(Temp), f. & cert. ef. 8-1-11 thru 1-28-12; HLA 11-2011, f. 10-14-11, cert. ef. 10-15-11

Rule Caption: Amend license cycle for hearing aid specialists from a two year license to one year license.

Adm. Order No.: HLA 12-2011

Filed with Sec. of State: 10-14-2011

Certified to be Effective: 10-15-11

Notice Publication Date: 9-1-2011

Rules Amended: 331-601-0010

Rules Repealed: 331-601-0010(T)

Subject: The Oregon Health Licensing Agency (Agency) is amending several programs' authorization cycle from a two year cycle to an annual cycle to align with statutory authority. The purpose of the revision is to stabilize revenue streams within the Agency and reduce the economic impact of paying a two year license fee for initial licenses and renewals. Fees will be decreased by half to help reduce barriers to licensure for new licensees.

Rules Coordinator: Samantha Patnode—(503) 373-1917

331-601-0010

Fees

(1) Applicants and licensees are subject to the provisions of OAR 331-010-0010 and 331-010-0020 regarding the payment of fees, penalties and charges.

(2) Fees established by the Oregon Health Licensing Agency are as follows:

(a) Application:

(A) License: \$125.

(B) Temporary license: \$150.

(C) Trainee registration: \$100.

(b) Examination:

(A) Oregon laws & rules: \$50.

(B) Written: \$150.

(C) Practical: \$175.

(D) Audiologist: \$50.

(c) Original issuance of license:

(A) License: \$125 for one year.

(B) Temporary license: \$100.

(d) Renewal of license: \$125 for one year.

(e) Delinquent (late) renewal of license: \$25 for the first month in expired status, and \$10 each month thereafter while in an expired status.

(f) Replacement of license, including name change: \$25.

(g) Duplicate license document: \$25 per copy with maximum of three.

(h) Affidavit of licensure: \$50.

(i) An additional \$25 administrative processing fee will be assessed if a NSF or non-negotiable instrument is received for payment of fees, penalties and charges. Refer to OAR 331-010-0010.

Stat. Auth.: ORS 676.605, 676.615, 694.155 & 694.185

Stats. Implemented: ORS 676.605, 676.615, 694.155 & 694.185

Hist.: HD 24-1985(Temp), f. & ef. 10-17-85; HD 33-1985, f. & ef. 12-13-85; HD 8-1990, f. 4-4-90, cert. ef. 4-5-90; HD 14-1990, f. 6-1-90, cert. ef. 7-1-90; HD 17-1990(Temp), f. 6-15-90, cert. ef. 7-1-90; HD 21-1990(Temp), f. & cert. ef. 7-3-90; HD 22-1990, f. & cert. ef. 8-15-90; HD 14-1991(Temp), f. 9-30-91, cert. ef. 10-1-91; HD 21-1991, f. & cert. ef. 12-31-91; HD 18-1997, f. 12-12-97, cert. ef. 12-15-97; OHD 9-1999, f. & cert. ef. 11-15-99; OHD 10-2000, f. & cert. ef. 11-15-00; Renumbered from 333-025-0005, HLO 6-2004, f. 6-29-04, cert. ef. 7-1-04; HLA 6-2008, f. 9-15-08, cert. ef. 10-1-08; HLA 6-2011(Temp), f. & cert. ef. 8-1-11 thru 1-28-12; HLA 12-2011, f. 10-14-11, cert. ef. 10-15-11

Oregon Health Licensing Agency, Board of Direct Entry Midwifery Chapter 332

Rule Caption: Increase fees from \$630 to \$1800 annually for initial and renewed licenses.

Adm. Order No.: DEM 4-2011

Filed with Sec. of State: 9-26-2011

Certified to be Effective: 9-26-11

Notice Publication Date: 8-1-2011

Rules Adopted: 332-040-0000

Rules Repealed: 332-020-0020

Subject: Adopt OAR 332 Division 40 which reflects fees for the Board of Direct Entry Midwifery (Board). Division 40 also provides for an increase in fees for initial and renewed licenses. The increase in fees is due to high legal costs directly charged to the Board. OAR 332-040-0000 was previously 332-020-0020 but 332-020-0020 was repealed and 332-040-0000 was created in its place to better organize the administrative rule divisions for this Board, providing clarity and readability.

Rules Coordinator: Samantha Patnode—(503) 373-1917

332-040-0000

Fees

(1) An applicant and licensee are subject to the provisions of OAR 331-010-0010 and 331-010-0020 regarding payment of fees, penalties and charges.

(2) Fees established by the Oregon Health Licensing Agency pursuant to ORS 676.607 are as follows:

(a) Application:

(A) License: \$150.

(B) License by reciprocity: \$750.

(b) Examination — Oregon laws & rules: \$50.

(c) Original issuance of license (including by reciprocity): \$1800 for one year.

(d) Renewal — License: \$1800 for one year;

(e) Reactivation of license: \$150.

(f) Other administrative fees:

(A) Delinquency fee: \$50 for each year in expired status up to three years.

(B) Replacement of license, including name change: \$25.

(C) Duplicate license document: \$25 per copy, with a maximum of three.

(D) Affidavit of licensure for reciprocity: \$50.

(E) An additional \$25 administrative processing fee will be assessed if a non-sufficient funds or non-negotiable instrument is received for payment of fees, penalties and charges. Refer to OAR 331-010-0010.

Stat. Auth.: ORS 676.607, 676.615 & 687.435

ADMINISTRATIVE RULES

Stats. Implemented: ORS 676.607 & 687.435
Hist.: DEM 4-2011, f. & cert. ef. 9-26-11

Rule Caption: Amend requirements related to third-degree lacerations, peer review, breech births, and post-date protocols including specific forms.

Adm. Order No.: DEM 5-2011

Filed with Sec. of State: 9-26-2011

Certified to be Effective: 9-26-11

Notice Publication Date: 8-1-2011

Rules Amended: 332-015-0000, 332-015-0070, 332-020-0000, 332-020-0017, 332-025-0020, 332-025-0021, 332-025-0022

Rules Repealed: 332-015-0070(T), 332-025-0020(T), 332-025-0021(T), 332-025-0022(T), 332-025-0040, 332-025-0080

Rules Renumbered: 332-025-0100 to 332-025-0130

Rules Ren. & Amend: 332-025-0070 to 332-025-0110, 332-025-0080 to 332-025-0120, 332-025-0030 to 332-026-0000, 332-025-0040 to 332-026-0010, 332-025-0050 to 332-026-0020, 332-025-0060 to 332-026-0030

Subject: Rule changes are necessary to allow for general amendments to align with current industry, agency and statewide rule-making standards and principles, as well as changes to administrative rule references and renumbering for clarification of specific divisions.

Administrative rules to prohibit licensed direct entry midwives (LDMs) from repairing third-and-fourth degree lacerations but allowing referral of care to a qualified licensed health care provider within the parameters of absolute risk criteria. Currently the practice of repairing third-and-fourth degree lacerations is not universally taught during initial education and training for a LDM.

Update reporting requirements to reflect correct statutory authority. The agency and board will collect data as part of renewal requirements under ORS 687.425.

Amend general practice standards to address LDMs who do not attend any births during the renewal period from having to report peer review as part of renewal requirements.

Amend intrapartum absolute risk criteria to clarify the type of breech birth that is restricted and requires the transport and transfer of the client by the LDM. As well clarify several specific intrapartum absolute risk factors to include suspected or evident complications which would require transport and transfer of care.

Amend mother and baby practice standards to provide options and clearer fetal surveillance requirements related to post-date protocol including auscultated acceleration testing when certain criteria are met. Requires documentation in the clients record if the mother denies testing or if the LDM is denied access to fetal surveillance testing. Requires that LDM use prescribed board approved practice standards for auscultated acceleration testing and graphs which will be posted to the Web site.

Renumber and amend approved legend drugs for maternal use to add more forms of procaine HCI, including Novocaine and benzocaine.

Rules Coordinator: Samantha Patnode—(503) 373-1917

332-015-0000

Definitions

The following definitions apply as used in OAR 332-015-0000 through 332-030-0000.

(1) "Agency" means the Oregon Health Licensing Agency. The agency is responsible for the budget, personnel, performance-based outcomes, consumer protection, fee collection, mediation, complaint resolution, discipline, rulemaking and record keeping.

(2) "Antepartum" means the period of time before the onset of labor.

(3) "Board" means, pursuant to ORS 687.470, the entity that advises the agency on matters relating to the practice of direct entry midwifery, and determines practice standards, education and training, and provides consultation to the agency on all disciplinary issues in accordance with ORS 687.405 to 687.495.

(4) "Baby" means the fetus and the newborn.

(5) "Consultation" means a dialogue for the purpose of obtaining information or advice from a health care provider by phone, written notes, or in person, which may include, but is not limited to identification of and recommendation regarding management of maternal or fetal conditions.

(6) "Fetal distress" is a condition in which the fetus demonstrates progressive and irresolvable clinical signs of compromise, which may include, but are not limited to, abnormal fetal movement; loss of heart tone variability; non-reassuring fetal heart rate deceleration patterns such as late decelerations; and non-reassuring changes in fetal heart baseline rate.

(7) "Informed Consent" means the consent obtained following a thorough and easily understood explanation of the information to the mother or the mother's guardian. Refer to OAR 332-025-0120.

(8) "Intrapartum" means the period of time from the onset of labor through the birth of the placenta.

(9) "LDM" means licensed direct entry midwife.

(10) "MANA" means the Midwives Alliance of North America.

(11) "MEAC" means the Midwifery Education and Accreditation Council.

(12) "NARM" means the North American Registry of Midwives.

(13) "Peer review" means the discussion of cases with other health care providers and students for the purpose of obtaining and providing suggestions regarding care.

(14) "Postpartum" means the period of time immediately after and up to eight weeks following the birth of the baby.

(15) "Prenatal" means the period of time from conception to the onset of labor.

(16) "Primary birth attendant" means the midwife who assumes direct responsibility for mother and baby care.

(17) "Sharps" means items that includes needles, intravenous tubing with needles attached, scalpel blades, lancets, glass tubes that could be broken during handling and syringes that have been removed from their original sterile containers.

Stat. Auth.: ORS 687.485

Stats. Implemented: ORS 183.450(7) & 687.485

Hist.: DEM 1-1993(Temp), f. & cert. ef. 12-22-93; DEM 1-1994, f. & cert. ef. 6-15-94; DEM 1-1998, f. 2-27-98, cert. ef. 3-1-98; DEM 1-1999(Temp), f. 9-1-99, cert. ef. 9-9-99 thru 2-29-00; DEM 2-1999, f. 12-17-99, cert. ef. 12-20-99; DEM 1-2002, f. 2-25-02 cert. ef. 3-1-02; DEM 1-2004, f. 6-29-04, cert. ef. 7-1-04; DEM 4-2010, f. 12-30-10, cert. ef. 1-1-11; DEM 5-2011, f. & cert. ef. 9-26-11

332-015-0070

Approved Legend Drugs and Devices Prescribed Education

(1) To be granted a license, an applicant must successfully complete the Initial Legend Drugs and Devices Program consisting of 40 clock hours of instruction in the approved curriculum. Each component of the initial program must be completed within the two years or 24 months immediately preceding the date of application. The initial program must be taught by a MEAC accredited or pre-accredited school, the Oregon Midwifery Council, or by an organization authorized by the Board. The program is composed of theory, hands-on practice, and skills testing for competency.

(2) The initial program consists of:

(a) Eight clock hours in Pharmacology covering drugs listed in OAR 332-026-0010 and 332-026-0020;

(A) Mechanism of Pharmacological Action;

(B) Indications;

(C) Therapeutic Effects;

(D) Side Effects/Adverse Reactions;

(E) Contraindications;

(F) Incompatibilities/Drug Interactions; and

(G) Drug administration including:

(i) Dosage;

(ii) Dosage Form and Packaging;

(iii) Routes of Administration;

(iv) Onset of Action;

(v) Peak Effect; and

(vi) Duration of Action.

(b) Four clock hours of administration of medications through injection, which includes:

(A) Universal precautions including the use and disposal of sharps;

(B) Equipment including:

(i) Needles;

(ii) Filter Needles (for use with glass ampules);

(iii) Syringes;

(iv) Skin surface disinfectants; and

(v) Medication containers (ampules, multi- and single-use vials).

(C) Appropriate injection sites;

(D) Procedures for drawing up and administering drugs;

ADMINISTRATIVE RULES

- (E) Special case: Administration of Medications Intravenously; and
- (F) Care of equipment.
- (c) Four clock hours in advanced treatment of shock, which includes:
 - (A) Theory of shock; and
 - (B) Treatment of shock.
- (d) Ten clock hours in intravenous therapy, which includes:
 - (A) Intravenous fluid therapy;
 - (B) Purpose of IV fluid therapy;
 - (C) Equipment;
 - (D) Appropriate sites;
 - (E) Procedure;
 - (F) Rate of administration; and
 - (G) Care of equipment.
- (e) Four clock hours in neonatal resuscitation, which includes:
 - (A) Basic life support techniques;
 - (B) Cardio-Pulmonary Resuscitation (CPR);
 - (C) Use of oxygen; and
 - (D) Positive pressure ventilation (bag, valve, mask).
- (f) 10 clock hours in suturing which includes:
 - (A) Explanation of the pelvic floor and genital anatomy;
 - (B) Assessing the degree of damage for repair;
 - (C) Use of local anesthetic;
 - (D) Equipment including:
 - (i) Sutures;
 - (ii) Needles; and
 - (iii) Instruments.
 - (E) Use of needle holder and working with curved needle;
 - (F) Knot tying (instrument knot);
 - (G) Basic stitching techniques including:
 - (i) Interrupted;
 - (ii) Basting;
 - (iii) Lock Blanket; and
 - (iv) Running mattress.
 - (H) Repairing a simple first-degree tear; and
 - (I) Repairing a second-degree tear; and

(3) A copy of Board-approved curriculum objectives will be retained on file at the agency and made available upon receipt of a written request and payment of an administrative fee for acquiring public records. Refer to OAR 331-010-0030.

Stat. Auth.: ORS 676.615, ORS 687.485 & 687.493
Stats. Implemented: ORS 676.615, ORS 687.485 & 687.493
Hist.: DEM 1-2001(Temp), f. & cert. ef. 10-1-01 thru 3-29-02; DEM 1-2002, f. 2-25-02 cert. ef. 3-1-02; DEM 1-2004, f. 6-29-04, cert. ef. 7-1-04; DEM 2-2008(Temp), f. 9-15-08 cert. ef. 10-1-08 thru 3-30-09; DEM 1-2009, f. 3-31-09, cert. ef. 4-1-09; DEM 4-2010, f. 12-30-10, cert. ef. 1-1-11; DEM 1-2011(Temp), f. & cert. ef. 4-4-11 thru 9-27-11; DEM 5-2011, f. & cert. ef. 9-26-11

332-020-0000

License Issuance and Renewal

(1) LICENSING: A licensee is subject to the provisions of OAR chapter 331, division 30 regarding the issuance and renewal of a license, and provisions regarding authorization to practice, identification, and requirements for issuance of a duplicate license.

(2) LICENSE RENEWAL: To avoid delinquency penalties, license renewal must be made prior to the license entering inactive status. The licensee must submit the following:

- (a) Renewal application form;
- (b) Payment of required renewal fee;
- (c) Attestation of having obtained required continuing education under OAR 332-020-0010, on a form prescribed by the agency, whether license is current or inactive.

(d) Evidence of current certification in cardiopulmonary resuscitation for adults and infants;

- (e) Evidence of current certification in neonatal resuscitation;
- (f) Evidence of having completed peer review documented on a form prescribed by the agency pursuant to 332-025-0020; and

(g) Submit a copy of individual MANAstats practice report pursuant to OAR 332-020-0017.

(3) INACTIVE LICENSE RENEWAL: A license may be inactive for up to three years. When renewing after entering inactive status, the licensee must submit the following:

- (a) Renewal application form;
- (b) Payment of delinquency and license fees pursuant to OAR 332-020-0020;
- (c) Attestation of having obtained required continuing education under OAR 332-020-0010, on a form prescribed by the agency, whether license is current or inactive.

(d) Evidence of current certification in cardiopulmonary resuscitation for adults and infants;

(e) Evidence of current certification in neonatal resuscitation; and
(f) Evidence of having completed peer review on a form prescribed by the agency pursuant to 332-025-0020.

(g) Submit a copy of individual MANAstats practice report pursuant to OAR 332-020-0017.

(4) EXPIRED LICENSE: A license that has been inactive for more than three years is expired and the licensee must reapply and meet the requirements listed in OAR 332-015-0030.

(5) A licensee failing to meet continuing education requirements listed under OAR 332-020-0010 is considered to have an expired license and must reapply and meet requirements pursuant to OAR 332-015-0030.

Stat. Auth.: ORS 676.605, 676.615, 687.420, 687.425, 687.430, 687.485 & 687.493
Stats. Implemented: ORS 676.605, 676.615, 687.420, 687.425, 687.430, 687.485 & 687.493
Hist.: DEM 1-1993(Temp), f. & cert. ef. 12-22-93; DEM 1-1994, f. & cert. ef. 6-15-94; DEM 1-2001(Temp), f. & cert. ef. 10-1-01 thru 3-29-02; DEM 1-2002, f. 2-25-02 cert. ef. 3-1-02; DEM 1-2004, f. 6-29-04, cert. ef. 7-1-04; DEM 1-2008, f. 9-15-08 cert. ef. 10-1-08; DEM 5-2010, f. 12-30-10, cert. ef. 1-1-11; DEM 5-2011, f. & cert. ef. 9-26-11

332-020-0017

Reporting Requirements

(1) In accordance with ORS 687.425, for renewal of a license an individual licensed as an LDM must submit data on every mother and baby electronically to the MANAstats Project on any form prescribed by MANA, and in accordance with the policies and procedures established by MANA. A licensee must:

(a) Begin data collection with MANA for each mother who initiates care as of June 1, 2011; and

(b) Submit a copy of their individual MANAstats practice report annually to the agency at the time of license renewal, beginning June 2012.

(2) A licensee is required to notify the agency of the number of mothers who decline consent to participate in the MANAstats data collection system annually on a form prescribed by the agency.

(3) When a mother declines consent to participate in the MANAstats data collection, the licensee must provide de-identified mother and baby data to the agency on a form prescribed by the agency. If there are multiple licensees present at the same birth, the licensees must designate one licensee to report to the agency.

Stat. Auth.: ORS 687.485 & 676.615
Stats. Implemented: ORS 687.425, 687.435, 687.485, 687.495, 676.606 & 676.607
Hist.: DEM 5-2010, f. 12-30-10, cert. ef. 1-1-11; DEM 5-2011, f. & cert. ef. 9-26-11

332-025-0020

General Practice Standards

Pursuant to ORS 687.480, licensees must comply with the following practice standards when, advising the mother and in rendering antepartum, intrapartum and postpartum care.

(1) A licensee must include the designation LDM after the licensee's name when completing birth certificates; and

(2) As a condition of license renewal, licensees must participate in peer review meetings in their regions or in conjunction with professional organization meeting(s), which must include, but are not limited to, the discussion of cases and obtaining feedback and suggestions regarding care. Documentation must be made on forms approved by the board. Licensees must participate in peer review according to the following schedule:

(a) Once per year if the licensee served as the primary birth attendant at 40 or fewer births during the license year; or

(b) Twice per year if the licensee served as the primary birth attendant at more than 40 births during the license year.

(c) For the purpose of reporting peer review, if there is more than one birth attendant present at the same birth, the birth attendants must designate which birth attendant is primary.

(d) If a licensee has not attended any births, participation in peer review is not required. Licensee must attest to not having attended any births on a form prescribed by the agency.

(3) In accordance with ORS 687.480 and 687.493 a licensee must maintain equipment necessary to: assess maternal, fetal and newborn well being; maintain aseptic technique; respond to emergencies requiring immediate attention; and to resuscitate mother and newborn when attending an out-of-hospital birth.

(4) A licensee must dispose of pathological waste resulting from the birth process in accordance with the Department of Human Services Public Health Division under OAR 333 Division 056. Provisions include:

(a) Incineration, provided the waste is properly containerized at the point of generation and transported without compaction to the site of incineration; or

ADMINISTRATIVE RULES

(b) Burial on private property if burial of human remains on such property is not prohibited or regulated by a local government unit at the designated site.

(5) Licensees must dispose of biological waste materials that come into contact with blood and/or body fluids in a sealable plastic bag (separate from sealable trash or garbage liners) or in a manner that protects the licensee, mother, baby, and others who may come into contact with the material during disposal. Biological wastes may also be incinerated or autoclaved in equipment dedicated to treatment of infectious wastes.

(6) Licensees must dispose of sharps that come into contact with blood or bodily fluids in a sealable, (puncture proof) container that is strong enough to protect the licensee, mother, baby and others from accidental cuts or puncture wounds during the disposal process.

(7) Sharps must be placed into appropriate containers at the point of generation and may be transported without compaction to a landfill having an area designed for sharps burial or transported to an appropriate health care facility equipped to handle sharps disposal, provided the lid of the container is tightly closed or taped to prevent the loss of content and the container is appropriately labeled.

(8) Licensees must maintain a "patient disclosure form" providing current and accurate information to prospective clients. Licensees must provide the mother with this information. This statement must include, but is not limited to:

- (a) Philosophy of care;
- (b) Midwifery training and education;
- (c) Clinical experience;
- (d) Services provided to mother and baby;
- (e) Types of emergency medications and equipment used;
- (f) Responsibilities of the mother and her family;
- (g) Fees for services including financial arrangements;
- (h) Malpractice coverage;
- (i) Risk assessment criteria as listed in OAR 332-025-0021; and
- (j) Signature of mother and date of signature documenting discussion and receipt of patient disclosure form.

(9) A licensee must maintain a plan for emergency transport and must discuss the plan with the mother. The plan must include, but is not limited to:

- (a) Place of transport;
- (b) Mode of transport;
- (c) Provisions for hospital and physician support including location and telephone numbers; and
- (d) Availability of private vehicle or ambulance including emergency delivery equipment carried in the vehicle.

(10) Signature of mother and date of signature documenting discussion of emergency transport plan must be placed in the mother's record.

(11) A licensee must maintain complete and accurate written records documenting the course of midwifery care as listed under OAR 332-025-0110.

(12) A licensee must maintain current certification in cardiopulmonary resuscitation for adults and infants and current certification in neonatal resuscitation.

(13) All births must be registered with the Department of Human Services Vital Records Section, as provided in ORS Chapter 432.

Stat. Auth.: ORS 676.605, 676.615, 687.480 & 687.485
Stats. Implemented: ORS 676.605, 676.615, 687.480 & 687.485
Hist.: DEM 1-1993(Temp), f. & cert. ef. 12-22-93; DEM 1-1994, f. & cert. ef. 6-15-94; DEM 2-1998, f. 4-14-98, cert. ef. 4-15-98; DEM 1-1999(Temp), f. 9-1-99, cert. ef. 9-9-99 thru 2-29-00; DEM 2-1999, f. 12-17-99, cert. ef. 12-20-99; DEM 2-2000(Temp), f. 8-22-00, cert. ef. 8-22-00 thru 2-17-01; DEM 2-2000(Temp), f. 8-22-00, cert. ef. 8-22-00 thru 2-17-01; DEM 3-2000, f. 9-29-00, cert. ef. 10-1-00; DEM 1-2001(Temp), f. & cert. ef. 10-1-01 thru 3-29-02; Administrative correction 11-7-01; DEM 1-2002, f. 2-25-02 cert. ef. 3-1-02; DEM 1-2004, f. 6-29-04, cert. ef. 7-1-04; DEM 6-2010, f. 12-30-10, cert. ef. 1-1-11; DEM 1-2011(Temp), f. & cert. ef. 4-4-11 thru 9-27-11; DEM 5-2011, f. & cert. ef. 9-26-11

332-025-0021

Risk Assessment Practice Standards

Licensees must assess the appropriateness of an out-of-hospital birth taking into account the health and condition of the mother and baby according to the following absolute and non-absolute risk criteria:

(1) "Absolute risk" as used in this rule means conditions or clinical situations of obstetrical or neonatal risk that cannot be resolved and that preclude out-of-hospital care. If the mother or baby presents with any absolute risk factors, the LDM must:

(a) During the antepartum period, plan for transfer of care and an in-hospital birth;

(b) During the intrapartum period, arrange transportation to the hospital and transfer of care unless the birth is imminent;

(c) When the birth is imminent, take the health and condition of the mother and baby and conditions for transport into consideration in determining whether to proceed with out-of-hospital birth or to arrange for transportation to a hospital and transfer of care;

(d) During the postpartum period, arrange for transportation of mother or baby to a hospital and transfer of care;

(2) The following constitute absolute risk factors:

(a) ANTEPARTUM ABSOLUTE RISK CRITERIA:

- (A) Active cancer;
- (B) Cardiac condition with hemodynamic consequences;
- (C) Severe renal disease — active or chronic;
- (D) Severe liver disease — active or chronic;
- (E) Uncontrolled hyperthyroidism;
- (F) Chronic obstructive pulmonary disease;
- (G) Essential chronic hypertension over 140/90;
- (H) Pre-eclampsia/eclampsia;
- (I) Current venous thromboembolic disease;
- (J) Current substance abuse known to cause adverse effects for the mother or baby;
- (K) Incomplete spontaneous abortion;
- (L) Hemoglobin under nine at term;
- (M) Placental abruption;
- (N) Placenta less than 2.0 centimeters from internal os at onset of labor;

(O) Persistently or severely abnormal quantity of amniotic fluid;

(P) Signs and symptoms of chorioamnionitis;

(Q) Ectopic pregnancy;

(R) Pregnancy lasting longer than 43 weeks gestation (21 days past the due date);

(S) Any pregnancy with abnormal fetal surveillance tests;

(T) Active acquired immune deficiency syndrome (AIDS);

(U) Higher order multiples (three or more);

(V) Monochorionic, monoamniotic twins;

(W) Twin-to-twin transfusion;

(X) Presenting twin transverse;

(Y) Three cesarean sections unless previous successful vaginal birth;

(Z) Placenta accreta, percreta or increta;

(AA) Non-cephalic presentation except as noted in non-absolute risk criteria;

(BB) Previous classical uterine incision, T-incision, prior uterine rupture or extensive transfundal surgery;

(CC) Four or more cesarean sections; and

(DD) Pre-existing diabetes requiring oral medication or insulin.

(b) INTRAPARTUM ABSOLUTE RISK CRITERIA:

- (A) Documented intrauterine growth restriction at term;
- (B) Evident or suspected uterine rupture;
- (C) Prolapsed cord or cord presentation;
- (D) Evident or suspected complete or partial placental abruption;
- (E) Evident or suspected placenta previa;
- (F) Evident or suspected chorioamnionitis;
- (G) Pre-eclampsia/eclampsia;
- (H) Thick meconium-stained amniotic fluid without reassuring fetal heart tones and birth is not imminent;
- (I) Evidence of fetal distress or abnormal fetal heart rate pattern unresponsive to treatment or inability to auscultate fetal heart tones;
- (J) Excessive vomiting, dehydration, acidosis or exhaustion unresponsive to treatment;

(K) Blood pressure greater than or equal to 150/100 which persists or rises, and birth is not imminent;

(L) Labor or premature rupture of membrane less than 35 weeks according to estimated due date;

(M) Current substance abuse known to cause adverse effects for the mother or baby;

- (N) Retained placenta with suspected placenta accreta;
- (O) Active herpes lesion in an unprotectable area;
- (P) Primary herpes outbreak in labor; and
- (Q) Evident or suspected footling or kneeling breech.

(c) MATERNAL POSTPARTUM ABSOLUTE RISK CRITERIA:

- (A) Retained placenta with suspected placenta accreta;
- (B) Retained placenta with abnormal or significant bleeding;
- (C) Laceration requiring referral of care for repair including but not limited to third and fourth-degree lacerations;
- (D) Uncontrolled postpartum bleeding;
- (E) Increasingly painful or enlarging hematoma;
- (F) Development of pre-eclampsia; and

ADMINISTRATIVE RULES

(G) Signs or symptoms of shock unresponsive to treatment.
(d) INFANT ABSOLUTE RISK CRITERIA:
(A) Apgar less than 7 at 10 minutes of age;
(B) Respiration rate greater than 100 within the first two hours postpartum, and greater than 80 thereafter, lasting more than one hour without improvement;
(C) Persistent nasal flaring, grunting, or retraction after one hour of life without improvement;
(D) Seizures;
(E) Apnea;
(F) Central cyanosis;
(G) Large or distended abdomen;
(H) Any condition requiring more than 12 hours of observation post-birth;
(I) Persistent poor suck, hypotonia or a weak or high-pitched cry;
(J) Persistent inability to maintain temperature between 97-100 degrees Fahrenheit;
(K) Persistent projectile vomiting or emesis of fresh blood; and
(L) Signs and symptoms of infection in the infant.
(3) "Non-absolute" means a condition or clinical situation that places a mother or baby at increased obstetric or neonatal risk, but does not automatically exclude a mother and baby from an out-of-hospital birth.
(4) When a mother or baby presents with one or more non-absolute risk factors, the LDM must:
(a) Arrange for the transfer of care of the mother or baby; or
(b) Comply with all of the following:
(A) Consult with at least one Oregon licensed health care provider regarding the non-absolute risk factors present.
(B) Discuss the non-absolute risk(s) with the mother, including:
(i) Possible adverse outcomes;
(ii) Whether an out-of-hospital birth is a reasonably safe option based upon the risk(s) present;
(iii) The anticipated risk(s) and the likelihood of reducing or eliminating said risks;
(iv) The midwife's experience with said risk(s);
(v) The ease and time involved in accomplishing transport or transfer of care;
(vi) Recommendation(s) given by the consulting Oregon licensed health care provider(s); and
(vii) Recommendation(s) given by the LDM to the mother.
(C) Document discussion of information listed in subsection (B).
(D) To the extent the LDM acts contrary to the recommendations given by the consulting Oregon licensed health care provider, the LDM must document the justification.
(E) Informed consent must be obtained and documented in records.
(5) The following are non-absolute risk factors:
(a) MATERNAL ANTEPARTUM NON-ABSOLUTE RISK CRITERIA:
(A) Conditions that could negatively affect maternal or fetal status that require ongoing medical supervision or ongoing use of medications;
(B) Inappropriate fetal size for gestation;
(C) Significant second or third trimester bleeding;
(D) Abnormal fetal cardiac rate or rhythm;
(E) Decreased fetal movement;
(F) Uterine anomaly;
(G) Anemia (hematocrit less than 30 or hemoglobin less than 10 at term);
(H) Seizure disorder requiring prescriptive medication;
(I) Platelet count of less than 75,000;
(J) Isoimmunization to blood factors;
(K) Psychiatric disorders;
(L) History of thrombophlebitis and hemoglobinopathies;
(M) Dichorionic, diamniotic twins;
(N) Monochorionic, diamniotic twins;
(O) Known fetal anomalies that require medical attention at birth;
(P) Two cesarean sections without previous successful vaginal birth;
(Q) Three cesarean sections with a previous successful vaginal birth;
(R) Blood coagulation defect;
(S) Significant glucose intolerance unresponsive to dietary and exercise intervention;
(T) Gestational diabetes well controlled with diet or oral glycemic medications; and
(U) Primary herpes outbreak.
(b) INTRAPARTUM NON-ABSOLUTE RISK CRITERIA:
(A) No prenatal care or unavailable records;

(B) History of substance abuse during this pregnancy;
(C) Signs and symptoms of infection including but not limited to a temperature 100.4 degrees Fahrenheit or higher with adequate hydration in the mother;
(D) Labor or premature rupture of membrane from 35 to 36 weeks gestation;
(E) Frank and complete breech presentation, as determined by vaginal examination;
(F) Lack of adequate progress in second stage:
(i) Lack of adequate progress in vertex presentation is when there is no progress after a maximum of three hours in cases with full dilation, ruptured membranes, strong contractions and sufficient maternal effort; and
(ii) Lack of adequate progress in breech presentation is when there is no progress in descent after a maximum of one hour in cases with full dilation, ruptured membranes, strong contractions and sufficient maternal effort.
(c) MATERNAL POSTPARTUM NON-ABSOLUTE RISK CRITERIA:
(A) Signs and symptoms of infection;
(B) Any condition requiring more than 12 hours of postpartum observation;
(C) Retained placenta greater than two hours with no unusual bleeding;
(D) Evidence of urinary retention that cannot be resolved in an out-of-hospital setting; and
(d) INFANT NON-ABSOLUTE RISK CRITERIA:
(A) Apgar less than 7 at five minutes without improvement;
(B) Weight less than 2,270 grams (five lbs.);
(C) Failure to void within 24 hours or stool within 48 hours from birth;
(D) Excessive pallor, ruddiness, or jaundice at birth;
(E) Any generalized rash at birth;
(F) Birth injury such as facial or brachial palsy, suspected fracture or severe bruising;
(G) Baby with signs and symptoms of hypoglycemia unresolved in the out-of-hospital setting;
(H) Weight decrease in excess of 10 percent of birth weight that does not respond to treatment;
(I) Maternal-infant interaction problems;
(J) Direct Coomb's positive cord blood;
(K) Infant born to HIV positive mother;
(L) Suspected or evident major congenital anomaly;
(M) Estimated gestational age of less than 35 weeks;
(N) Maternal substance abuse identified postpartum; and
(O) Cardiac irregularities, heart rate less than 80 or greater than 160 (at rest) without improvement, or any other abnormal or questionable cardiac findings.
(6) For the purpose of this rule "transfer of care" means the process whereby any LDM who has been providing care relinquishes this responsibility to a hospital or to licensees under ORS chapter 682.
(a) The LDM must provide the following at the time of transfer, to the hospital or licensees under ORS chapter 682: medical history, prenatal flow sheet, diagnostic studies, laboratory findings, and maternal and baby care notes through time of transfer;
(b) In cases of emergency, at the time of transfer, the LDM must provide the records required in subsection (a) to the hospital or licensees under ORS chapter 682, including notes for care provided during the emergency, if available. If notes are not available, an oral summary of care during the emergency must be made available to the hospital or licensees under ORS chapter 682; and
(c) Under no circumstances shall the midwife leave the mother or baby until such a time that transport is arranged and another Oregon licensed health care provider or a licensee under ORS chapter 682 assumes care.
(7) For the purpose of this rule "consultation" means a dialogue for the purpose of obtaining information or advice from an Oregon licensed health care provider who has direct experience handling complications of the risk(s) present, as well as the ability to confirm the non-absolute risk, which may include, but is not limited to confirmation of a diagnosis and recommendation regarding management of medical, obstetric, or fetal problems or conditions. Consultation may be by phone, in person or in writing.
(8) For the purpose of this rule "Oregon licensed health care provider" means a physician or physician assistant licensed under ORS 677, a certified nurse midwife or nurse practitioner licensed under ORS 678, a natur-

ADMINISTRATIVE RULES

opath licensed under ORS 685, or a licensed direct entry midwife licensed under ORS 687.

Stat. Auth.: ORS 676.605, 676.615, 687.480 & 687.485
Stats. Implemented: ORS 676.605, 676.615, 687.480 & 687.485
Hist.: DEM 1-1993(Temp), f. & cert. ef. 12-22-93; DEM 1-1994, f. & cert. ef. 6-15-94; DEM 2-1998, f. 4-14-98, cert. ef. 4-15-98; DEM 1-1999(Temp), f. 9-1-99, cert. ef. 9-9-99 thru 2-29-00; DEM 2-1999, f. 12-17-99, cert. ef. 12-20-99; DEM 2-2000(Temp), f. 8-22-00, cert. ef. 8-22-00 thru 2-17-01; DEM 2-2000(Temp), f. 8-22-00, cert. ef. 8-22-00 thru 2-17-01; DEM 3-2000, f. 9-29-00, cert. ef. 10-1-00; DEM 1-2001(Temp), f. & cert. ef. 10-1-01 thru 3-29-02; Administrative correction 11-7-01; DEM 1-2002, f. 2-25-02 cert. ef. 3-1-02; DEM 1-2004, f. 6-29-04, cert. ef. 7-1-04; DEM 6-2010, f. 12-30-10, cert. ef. 1-1-11; DEM 1-2011(Temp), f. & cert. ef. 4-4-11 thru 9-27-11; DEM 5-2011, f. & cert. ef. 9-26-11

332-025-0022

Mother and Baby Care Practice Standards

- (1) An LDM may:
 - (a) Order and receive laboratory and ultrasound results;
 - (b) Order and receive fetal surveillance testing and results.
 - (c) Fit barrier methods of contraception, if qualified to fit barrier methods of contraception.
- (2) For mother and baby care practice standards the agency and board adopt by reference the MANA core competencies, current version as approved by MANA. Reference <http://mana.org/manacore.html> for current version.
- (3) In addition to and not in lieu of the MANA core competencies, an LDM must adhere to the following mother and baby care practice standards:
 - (a) Care During Pregnancy (Antepartum) - The LDM must:
 - (A) Provide health care, support and information to the mother throughout pregnancy;
 - (B) Determine the need for consultation or referral as appropriate;
 - (C) Provide a mechanism that ensures 24 hour coverage for the practice;
 - (D) Assess, identify, evaluate and support maternal and fetal well-being throughout the process of pregnancy;
 - (E) Thoroughly educate and counsel mother regarding the childbearing cycle;
 - (F) Identify preexisting conditions in a woman's health history that are likely to influence her well-being when she becomes pregnant;
 - (G) Educate mother regarding nutritional requirements of pregnant mother and provide methods of nutritional assessment and counseling;
 - (H) Educate mother regarding changes in emotional, psychosocial and sexual variations that may occur during pregnancy;
 - (I) Identify and educate mother regarding environmental and occupational hazards for pregnant mother.
 - (J) Educate mother regarding genetic factors that may indicate the need for counseling, testing or referral;
 - (K) Educate mother regarding the growth and development of the unborn baby;
 - (L) Identify and educate mother regarding indications for, risks and benefits of bio-technical screening methods and diagnostic tests used during pregnancy;
 - (M) Educate mother regarding anatomy, physiology and evaluation of the soft and bony structures of the pelvis;
 - (N) Exercise palpation skills for evaluation of the fetus and uterus;
 - (O) Assess and educate mother regarding causes and treatment of the common discomforts of pregnancy;
 - (P) Identify implications of and appropriate treatment for various infections, disease conditions and other problems that may affect pregnancy;
 - (Q) Identify and educate of special needs of the Rh(D)-negative woman;
 - (R) Begin fetal surveillance testing no later than 41 weeks and three days by arranging one or more of the following:
 - (i) Biophysical profile weekly and non-stress test bi-weekly;
 - (ii) Biophysical profile weekly and auscultated acceleration testing bi-weekly;
 - (iii) Amniotic fluid index and non-stress test bi-weekly; or
 - (iv) Amniotic fluid index and auscultated acceleration testing bi-weekly.
 - (S) If the mother declines fetal surveillance testing listed in subsection (R) of this rule, the LDM must document refusal, initialed by the mother, and provide auscultated acceleration testing bi weekly beginning no later than 41 weeks and three days until delivery.
 - (T) If the LDM is denied access to fetal surveillance testing listed in subsection (R) of this rule, the LDM must document the place, date, time, and name of individual who denied access in the mother's records. If access to fetal surveillance testing is denied, then the LDM must perform auscul-

tated acceleration testing bi weekly beginning no later than 41 weeks and three days until delivery.

(U) When risk factors that could impair fetal or placental circulation are present at any time during the pregnancy, an LDM must obtain fetal surveillance testing when the risk factors are identified.

(V) If the mother declines fetal surveillance testing or if the LDM is denied fetal surveillance testing, an LDM must follow board approved practice standards for auscultated acceleration testing, including: utilizing the auscultated acceleration testing graph; following the procedure provided for the graph; and complying with interpretation requirements for the graph. Graph, procedure and interpretation requirements are available on the agency Web site at <http://egov.oregon.gov/OHLA/DEM/forms.shtml>.

(b) Care During Labor, Birth and Immediately Thereafter (Intrapartum) — the LDM must:

- (A) Provide health care, support and information to the mother throughout labor, birth and the hours immediately thereafter;
 - (B) Determine the need for consultation or referral as appropriate;
 - (C) Make appropriate and ongoing risk assessment and document maternal and fetal status and response throughout labor;
 - (D) Evaluate maternal and fetal well-being during labor, birth and immediately thereafter, including relevant historical data;
 - (E) For mothers and babies without signs of risk factors, during the active phase of the first stage of labor, evaluate the fetal heart rate at least every 30 to 60 minutes, listening toward the end of a contraction and for at least 30 seconds after;
 - (F) For mothers and babies with risk factors, auscultate fetal heart tones more frequently than every 30 to 60 minutes and listen through contractions as indicated in the active stage of labor;
 - (G) Auscultate fetal heart tones approximately every 5 to 10 minutes or after every contraction, as indicated, with active pushing;
 - (H) Assess birthing environment, assuring that it is clean, safe and supportive, and that appropriate equipment and supplies are on hand;
 - (I) Assess emotional responses and their impact during labor, birth and immediately thereafter;
 - (J) Provide comfort and support measures during labor, birth and immediately thereafter;
 - (K) Evaluate fetal and maternal anatomy and their interactions as relevant to assessing fetal position and the progress of labor;
 - (L) Utilize techniques to assist and support the spontaneous vaginal birth of the baby and placenta;
 - (M) Assess and meet fluid and nutritional requirements during labor, birth and immediately thereafter;
 - (N) Assess and support maternal rest and sleep as appropriate during the process of labor, birth and immediately thereafter;
 - (O) Assess causes of, evaluate and treat variations that occur during the course of labor, birth and immediately thereafter;
 - (P) Provide appropriate support for the newborn's transition during the first minutes and hours following birth;
 - (Q) Evaluate and care for perineum and surrounding tissues; and
 - (R) Before the LDM leaves or the family is discharged, the placenta must be delivered and the mother's general condition, blood pressure, pulse, temperature, fundus, lochia, and ability to ambulate and urinate must be assessed. Mother's and baby's condition must be found to be within normal limits.
- (c) Care After Delivery (Postpartum Care) — The LDM must:
- (A) Provide health care, support and information to the mother throughout the postpartum period;
 - (B) Determine the need for consultation or referral as appropriate;
 - (C) Assess anatomy and physiology of the mother during the postpartum period;
 - (D) Educate mother regarding lactation support and appropriate breast care including evaluation of, identification of and treatments for problems with nursing;
 - (E) Evaluate and promote maternal well-being;
 - (F) Assess causes of, evaluate and treat maternal discomfort;
 - (G) Evaluate and educate emotional, psychosocial and sexual variations;
 - (H) Monitor and educate mother regarding maternal nutritional requirements during including methods of nutritional evaluation and counseling;
 - (I) Assess causes of, evaluate and treat problems arising during the postpartum period, consulting as necessary;
 - (J) Provide family with written and verbal postpartum instructions; and

ADMINISTRATIVE RULES

(K) Provide support, information and referral for family planning methods, as the individual woman desires.

(d) Newborn Care — The LDM must:

(A) Provide health care to the newborn;

(B) Provide support and information to parents regarding newborn care;

(C) Determine the need for consultation or referral as appropriate;

(D) Evaluate anatomy and physiology of newborn and support of the newborn's adjustment during the first days and weeks of life;

(E) Evaluate newborn wellness including relevant historical data and gestational age;

(F) Assess and educate the mother regarding nutritional needs of the newborn;

(G) Educate mother regarding state laws concerning indications for, administration of, and the risks and benefits of prophylactic bio-technical treatments and screening tests commonly used during the neonatal period;

(H) Educate mother regarding causes of, assessment of, appropriate treatment and emergency measures for newborn problems and abnormalities;

(I) Adhere to state guidelines for the administration of vitamin K and ophthalmic prophylaxis pursuant to ORS 433.306 and OAR 333-021-0800; and

(J) Ensure infant metabolic screening is performed and documented according to the Department of Human Services recommendations unless the mother declines, as provided ORS Chapter 432 and OAR 333-024-0205 through 0235.

(4) Declined Procedure: In the event the mother refuses any testing or procedures required by administrative rule or recommended by the LDM, the LDM must document discussion with the mother of why the test or procedure is required or recommended, and document the mother's refusal of the test or procedures, including the mother's signature in the chart. In addition, the LDM must follow the requirements of ORS Chapter 432, 433.306, OAR 333-021-0800 and 333-024-0205 through 0235 when the mother declines administration of vitamin K or infant metabolic screening.

Stat. Auth.: 676.605, 676.615, 687.480 & 687.485

Stats. Implemented: 676.605, 676.615, 687.480 & 687.485

Hist.: DEM 1-1993(Temp), f. & cert. ef. 12-22-93; DEM 1-1994, f. & cert. ef. 6-15-94; DEM 2-1998, f. 4-14-98, cert. ef. 4-15-98; DEM 1-1999(Temp), f. 9-1-99, cert. ef. 9-9-99 thru 2-29-00; DEM 2-1999, f. 12-17-99, cert. ef. 12-20-99; DEM 2-2000(Temp), f. 8-22-00, cert. ef. 8-22-00 thru 2-17-01; DEM 2-2000(Temp), f. 8-22-00, cert. ef. 8-22-00 thru 2-17-01; DEM 3-2000, f. 9-29-00, cert. ef. 10-1-00; DEM 1-2001(Temp), f. & cert. ef. 10-1-01 thru 3-29-02; Administrative correction 11-7-01; DEM 1-2002, f. 2-25-02 cert. ef. 3-1-02; DEM 1-2004, f. 6-29-04, cert. ef. 7-1-04; DEM 6-2010, f. 12-30-10, cert. ef. 1-1-11; DEM 1-2011(Temp), f. & cert. ef. 4-4-11 thru 9-27-11; DEM 5-2011, f. & cert. ef. 9-26-11

332-025-0110

Records of Care Practice Standards

(1) The LDM must maintain complete and accurate records of each mother and baby.

(2) Records mean written documentation, including but not limited to:

(a) Midwifery care provided to mother and baby;

(b) Demographic information;

(c) Medical history;

(d) Diagnostic studies and laboratory findings;

(e) Emergency transport plan defined under OAR 332-025-0020;

(f) Informed consent and risk information documentation under OAR 332-025-0120;

(g) Health Insurance Portability and Accountability Act (HIPAA) releases;

(h) Description of the reasoning for transfer of care defined under OAR 332-025-0021 of the mother and baby;

(i) Documentation of all consultations and recommendations from health care providers as defined under OAR 332-015-0000;

(j) Documentation of all consultations and recommendations regarding non-absolute risk factors from Oregon licensed health care providers as defined under OAR 332-025-0021;

(k) Documentation of any declined procedures under OAR 332-025-0022;

(l) Documentation of termination of care under OAR 332-025-0130; and

(m) Documentation that the patient disclosure form has been received by the mother under OAR 332-025-0020.

(3) Records must be maintained for no less than seven years. All records are subject to review by the agency.

(4) All records must be legibly written or typed, dated and signed.

(5) All records must include a signature or initial of the LDM.

Stat. Auth.: ORS 487.485 & 676.615

Stats. Implemented: ORS 687.425, 687.480, 687.485, 676.606 & 676.607

Hist.: DEM 6-2010, f. 12-30-10, cert. ef. 1-1-11; Renumbered from 332-025-0070 by DEM 5-2011, f. & cert. ef. 9-26-11

332-025-0120

Informed Consent and Risk Information Practice Standards

(1) Informed consent means the consent obtained following a thorough and easily understood explanation of the information to the mother or mother's guardian.

(2) The explanation must be both verbal and written.

(3) An LDM must document the verbal explanation and the written informed consent process in the client's record. Informed consent information must include the following:

(a) Definition of procedure or process;

(b) Benefits of procedure or process;

(c) Risk(s) of procedure or process;

(d) Description of adverse outcomes;

(e) Risk of adverse outcomes; and

(f) Alternative procedures or processes and any risk(s) associated with them.

(4) An LDM must obtain mother's dated signature acknowledging she has received, reviewed, and understands the information, and has made an informed choice.

(5) Beginning on January 1, 2012, each LDM must provide risk information as published on the agency's website www.Oregon.gov/OHLA, and obtain informed consent for the following circumstances:

(a) Out-of-hospital birth;

(b) Vaginal birth after cesarean (VBAC);

(c) Breech;

(d) Multiple gestations; and

(e) Pregnancy exceeding 42 weeks gestation.

Stat. Auth.: ORS 487.485 & 676.615

Stats. Implemented: ORS 687.425, 687.480, 687.485, 676.606 & 676.607

Hist.: DEM 6-2010, f. 12-30-10, cert. ef. 1-1-11; DEM 2-2011(Temp), f. & cert. ef. 5-19-11 thru 11-15-11; Renumbered from 332-025-0080 by DEM 5-2011, f. & cert. ef. 9-26-11

332-025-0130

Practice Standards for Terminating Midwifery Care

(1) The procedure for terminating midwifery care in a non-emergent situation is as follows:

(a) Provide written notice no fewer than three business days as post-marked, unless the mother is in labor or during an emergency, at which time the LDM must continue to provide midwifery care until another provider assumes care;

(b) Notice must be sent to the last known address of the mother by certified mail, return receipt requested, as well as by regular mail.

(c) Document the termination of care in the mother's records.

(2) To terminate midwifery care in an emergency, the LDM must activate the 911 emergency system and transfer care to a licensee under ORS chapter 682.

(3) An LDM in the home setting may leave after transferring care to a licensee under ORS Chapter 682.

(4) If the mother refuses assistance from licensees under ORS chapter 682 the LDM must continually urge the mother to transfer care to a licensee under ORS Chapter 682 and may:

(a) Continue care to save a life; and

(b) Only perform actions within the technical ability of the LDM.

(5) If the mother loses consciousness, the LDM must activate the 911 emergency system and transfer care to a licensee under ORS Chapter 682.

Stat. Auth.: ORS 487.485 & 676.615

Stats. Implemented: ORS 687.425, 687.480, 687.485, 676.606 & 676.607

Hist.: DEM 6-2010, f. 12-30-10, cert. ef. 1-1-11; Renumbered from 332-025-0100 by DEM 5-2011, f. & cert. ef. 9-26-11

332-026-0000

Access to and Administration of Legend Drugs and Devices

Pursuant to ORS 687.493, an LDM who satisfactorily completes the prescribed education outlined in OAR 332-015-0070 is authorized access to and administration of specific legend drugs and devices listed in OAR 332-026-0010, 332-026-0020, 332-026-0030. The following requirements must be adhered to:

(1) Licensees must comply with all local, state and federal laws and regulations regarding the administration, distribution, storage, transportation and disposal of approved legend drugs and devices listed in OAR 332-026-0010, 332-026-0020, 332-026-0030.

(2) Approved legend drugs must be inventoried and securely stored by the LDM at all times the product is not in use, including samples or any remaining portion of a drug.

ADMINISTRATIVE RULES

(3) Records regarding approved legend drugs and devices must be maintained for a period of three years. Records must be kept on the business premises and available for inspection upon request by the Oregon Health Licensing Agency Enforcement Officers. Upon request by the board or agency, an LDM must provide a copy of records. Records must include, but are not limited, to the following:

- (a) Name of drug, amount received, date of receipt, and drug expiration date;
- (b) Name of drug and to whom it was administered; date and amount of drug administered to client;
- (c) Name of drug, date and place or means of disposal.
- (4) Expired, deteriorated or unused legend drugs must be disposed of in a manner that protects the licensee, client and others who may come into contact with the material during disposal.

Stat. Auth.: ORS 676.605, 676.615, 687.485, 687.493
Stats. Implemented: ORS 676.605, 676.615, 687.485, 687.493
Hist.: DEM 1-2001(Temp), f. & cert. ef. 10-1-01 thru 3-29-02; DEM 1-2002, f. 2-25-02 cert. ef. 3-1-02; DEM 1-2004, f. 6-29-04, cert. ef. 7-1-04; DEM 6-2010, f. 12-30-10, cert. ef. 1-1-11; Renumbered from 332-025-0030 by DEM 5-2011, f. & cert. ef. 9-26-11

332-026-0010

Approved Legend Drugs For Maternal Use

Licensees may administer the following legend drugs as approved by the board for maternal use:

- (1) Anti-Hemorrhagics for use by intramuscular injection includes:
 - (a) Synthetic Oxytocin (Pitocin, Syntocin and generic);
 - (b) Methylergonovine (Methergine);
 - (c) Ergonovine (Ergotrate); or
- (2) Anti-Hemorrhagics by intravenous infusion is limited to Synthetic Oxytocin (Pitocin, Syntocin, and generic).
- (3) Anti-Hemorrhagics for oral administration is limited to:
 - (a) Methylergonovine (Methergine);
 - (b) Misoprostol (Cytotec).
- (4) Anti-Hemorrhagics for rectal administration is limited to Misoprostol (Cytotec).
- (5) Resuscitation is limited to medical oxygen and intravenous fluid replacement.

- (6) Intravenous fluid replacement includes:
 - (a) Lactated Ringers Solution;
 - (b) 0.9% Saline Solution;
 - (c) D5LR (5% Dextrose in Lactated Ringers); or
 - (d) D5W (5% Dextrose in water).
- (7) Anaphylactic treatment by subcutaneous injection is limited to Epinephrine.
 - (8) Local anesthetic includes:
 - (a) Lidocaine HCl (1% and 2%) (Xylocaine and generic);
 - (b) Topical anesthetic;
 - (c) Procaine HCl (Novocain, benzocaine, cetacane and generic); and
 - (d) Sterile water papules.
 - (9) Rhesus Sensitivity Prophylaxis is limited to Rho(d) Immune Globulin (RhoGAM, Gamulin Rh, Bay Rho-D and others).
 - (10) Tissue adhesive (Dermabond or generic).

Stat. Auth.: ORS 676.605, 676.615, 687.485 & 687.493
Stats. Implemented: ORS 676.605, 676.615, 687.485 & 687.493
Hist.: DEM 1-2001(Temp), f. & cert. ef. 10-1-01 thru 3-29-02; DEM 1-2002, f. 2-25-02 cert. ef. 3-1-02; DEM 1-2004, f. 6-29-04, cert. ef. 7-1-04; DEM 6-2010, f. 12-30-10, cert. ef. 1-1-11; DEM 1-2011(Temp), f. & cert. ef. 4-4-11 thru 9-27-11; Renumbered from 332-025-0040 by DEM 5-2011, f. & cert. ef. 9-26-11

332-026-0020

Approved Legend Drugs For Neonatal Use

Licensees may administer the following legend drugs as approved by the board for neonatal use:

- (1) Eye Prophylaxis for disease of the newborn is limited to Erythromycin Ophthalmic (0.5%) Ointment (Ilotycin, AK-Mycin and generics).
- (2) Prophylaxis for hemorrhagic disease of the newborn for oral use is limited to Mephyton.
- (3) Prophylaxis for hemorrhagic disease of the newborn for intramuscular injection includes:
 - (a) AquaMephyton; and
 - (b) Konakion.
- (4) Resuscitation is limited to medical oxygen.

Stat. Auth.: ORS 676.605, 676.615, 687.485 & 687.493
Stats. Implemented: ORS 676.605, 676.615, 687.485 & 687.493
Hist.: DEM 1-2001(Temp), f. & cert. ef. 10-1-01 thru 3-29-02; DEM 1-2002, f. 2-25-02 cert. ef. 3-1-02; DEM 1-2004, f. 6-29-04, cert. ef. 7-1-04; DEM 6-2010, f. 12-30-10, cert. ef. 1-1-11; Renumbered from 332-025-0050 by DEM 5-2011, f. & cert. ef. 9-26-11

332-026-0030

Approved Devices

Licensees may use or provide as appropriate the following devices as approved by the board:

- (1) Devices for injection of medications including:
 - (a) Needles; and
 - (b) Syringes.
- (2) Devices for administration of intravenous fluids including:
 - (a) Drip sets; and
 - (b) Catheters.
- (3) Devices for maternal and neonatal resuscitation including:
 - (a) Suction devices;
 - (b) Oxygen-delivery devices; and
 - (c) Bag-Valve-Mask-Sets.
- (4) Devices for rupturing the amniotic sac.
- (5) Devices for repairing the perineal area including:
 - (a) Sutures;
 - (b) Instruments for completing a repair; and
 - (c) Local anesthetic administration devices.
- (6) Barrier methods of contraception.

Stat. Auth.: ORS 183, 487.485 & 687.493
Stats. Implemented: ORS 183, 687.485 & 687.493
Hist.: DEM 1-2001(Temp), f. & cert. ef. 10-1-01 thru 3-29-02; DEM 1-2002, f. 2-25-02 cert. ef. 3-1-02; DEM 6-2010, f. 12-30-10, cert. ef. 1-1-11; Renumbered from 332-025-0060 by DEM 5-2011, f. & cert. ef. 9-26-11

Rule Caption: Amend to extend implementation date of risk information packets.

Adm. Order No.: DEM 6-2011(Temp)

Filed with Sec. of State: 10-14-2011

Certified to be Effective: 10-15-11 thru 4-11-12

Notice Publication Date:

Rules Amended: 332-025-0120

Subject: Amend OAR 338-025-0080(5) to extend the implementation date for risk information packets by requiring that each LDM provide risk information as published on the agency's website regarding out-of-hospital birth, malpresentation birth (breech), multiple gestations (twins), vaginal birth after cesarean (VBAC), and births exceeding 42 weeks gestation (post-dates) beginning June 1, 2012.

Rules Coordinator: Samantha Patnode—(503) 373-1917

332-025-0120

Informed Consent and Risk Information Practice Standards

(1) Informed consent means the consent obtained following a thorough and easily understood explanation of the information to the mother or mother's guardian.

(2) The explanation must be both verbal and written.

(3) An LDM must document the verbal explanation and the written informed consent process in the client's record. Informed consent information must include the following:

- (a) Definition of procedure or process;
- (b) Benefits of procedure or process;
- (c) Risk(s) of procedure or process;
- (d) Description of adverse outcomes;
- (e) Risk of adverse outcomes; and
- (f) Alternative procedures or processes and any risk(s) associated with them.

(4) An LDM must obtain mother's dated signature acknowledging she has received, reviewed, and understands the information, and has made an informed choice.

(5) Beginning on June 1, 2012, each LDM must provide risk information as published on the agency's website www.Oregon.gov/OHLA, and obtain informed consent for the following circumstances:

- (a) Out-of-hospital birth;
- (b) Vaginal birth after cesarean (VBAC);
- (c) Breech;
- (d) Multiple gestations; and
- (e) Pregnancy exceeding 42 weeks gestation.

Stat. Auth.: ORS 487.485 & 676.615
Stats. Implemented: ORS 687.425, 687.480, 687.485, 676.606 & 676.607
Hist.: DEM 6-2010, f. 12-30-10, cert. ef. 1-1-11; DEM 2-2011(Temp), f. & cert. ef. 5-19-11 thru 11-15-11; Renumbered from 332-025-0080 by DEM 5-2011, f. & cert. ef. 9-26-11; DEM 6-2011(Temp), f. 10-14-11, cert. ef. 10-15-11 thru 4-11-12

ADMINISTRATIVE RULES

Oregon Health Licensing Agency, Board of Licensed Dietitians Chapter 834

Rule Caption: Amend the fee and renewal cycle.

Adm. Order No.: BELD 1-2011(Temp)

Filed with Sec. of State: 9-29-2011

Certified to be Effective: 10-1-11 thru 3-28-12

Notice Publication Date:

Rules Amended: 834-010-0050

Subject: It is necessary to amend OAR 834-010-0050 because during the 2011 Legislative session Senate Bill 939 moved the Board of Licensed Dietitians under the administration of the Oregon Health Licensing Agency. Section 12 of the enrolled version of Senate Bill 939 gives the Agency the authority to establish fees by rule. SB 939 changes the statute to say that the license expires one year from the date of issuance. It is necessary to amend OAR 834-010-0050 to align with SB 939.

Rules Coordinator: Samantha Patnode—(503) 373-1917

834-010-0050

Fees

(1) Applicants and registrants are subject to the provisions of OAR 331-010-0010 and 331-010-0020 regarding the payment of fees, penalties and charges.

(2) Fees established by the Oregon Health Licensing Agency are as follows:

(a) Application: \$50.

(b) Original issuance of license: \$75 per year.

(c) Renewal of license: \$75 per year.

(d) Delinquent (late) renewal \$25 for each year in expired status up to three years.

Stat. Auth.: ORS 691.405 - 691.535

Stats. Implemented: ORS 691.435, 691.445, 691.465 & 676.607

Hist.: LDB 1-1990(Temp), f. 8-23-90, cert. ef. 9-4-90; LDB 2-1990, f. & cert. ef. 12-20-90; LDB 1-1992, f. & cert. ef. 3-13-92; LDB 2-1993, f. 11-30-93, cert. ef. 12-1-93; BELD 1-2010, f. & cert. ef. 6-23-10; BELD 1-2011(Temp), f. 9-29-11, cert. ef. 10-1-11 thru 3-28-12

Oregon Housing and Community Services Department Chapter 813

Rule Caption: Amends rules to reflect program requirements, industry standards and ensures consistency with statutory requirements.

Adm. Order No.: OHCS 8-2011(Temp)

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 9-30-11 thru 3-27-12

Notice Publication Date:

Rules Amended: 813-020-0005, 813-020-0020, 813-020-0025, 813-020-0035, 813-020-0045, 813-020-0060, 813-020-0070, 813-020-0045

Rules Suspended: 813-020-0010, 813-020-0015, 813-020-0016, 813-020-0033

Rules Ren. & Amend: 813-020-0017 to 813-020-0021, 813-020-0030 to 813-020-0022, 813-020-0040 to 813-020-0046, 813-020-0041 to 813-020-0047, 813-020-0042 to 813-020-0048, 813-020-0032 to 813-020-0049, 813-020-0024 to 813-020-0054, 813-020-0050 to 813-020-0056, 813-020-0051 to 813-020-0057

Subject: These rules have been reviewed for statutory compliance and are intended to reflect the operation of the program. In many cases, rules have been renumbered for ease and clarity of the rules.

813-020-0005 Clarifies the purpose and objectives of the rules.

813-020-0010 The definitions for the rules will be centralized in the department's general and procedural rules. This rule has been repealed.

813-020-0015 This rule is repealed as this information is procedural and is contained within the Program's Procedural Guide.

813-020-0020 Amendments clarify the purpose and objective of the rules. Repealed language is procedural and is contained within the Program's Procedural Guide.

813-020-0017 (Renumbered to 813-020-0021) —Amendments clarify the purpose and objective of the rules.

813-020-0030 (Renumbered to 813-020-0022) - Amendments are intended for clarification of the program requirements.

813-020-0025 Clarifies when a loan is eligible for purchase under the program.

813-020-0033 This rule will be repealed. The information is procedural and is contained within the Program's Procedural Guide.

813-020-0035 Amendments are intended to be clarification for the eligibility criteria for residences to participate in the program.

813-020-0045 Amendments are intended to be clarification on lender action on a loan application for the program.

813-020-0040 (Renumbered to 813-020-0046) Amendments include an adjustment of the loan amount for when mortgage insurance may be required.

813-020-0041 (Renumbered for 813-020-0047) Clarifies the requirement for title insurance for loans under the program.

813-020-0042 (Renumbered to 813-020-0048) This rule clarifies the requirement for hazard insurance for loans under the program.

813-020-0032 (Renumbered to 813-020-0040) This rule clarifies the permission use and requirements for property financed by the program.

813-020-0024 (Renumbered to 813-020-0054) Amendments clarify when and the requirements for a borrower to transfer ownership in a property financed by program funds.

813-020-0050 (Renumbered to 813-020-0056) Amendments to these rules clarify approved servicers that may participate under the program.

813-020-0051 (Renumbered to 813-020-0057) Amendments are generally administrative in nature and are intended for clarification.

813-020-0060 Amendments serve to provide clarification and reference to specific regulations that are applicable for qualifications as a "Special Purpose Credit Program."

813-020-0070 Amendments to this rule are intended to clarify any federal eligibility requirements pertinent to participation in the program.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-020-0005

Purpose and Objectives

The rules of OAR chapter 813, division 20 establish and implement the Single-Family Mortgage Program. Under the program, the Department purchases loans issued by lenders for acquisition of single family homes in order to encourage and assist moderate- and lower-income persons in Oregon to purchase, improve and rehabilitate owner-occupied new and existing residential housing.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-020-0010

Definitions

(1) All terms are used in OAR 813, division 20, as defined in the Act, and as provided in 813-005-0005 and herein.

(2) As used in these Rules, unless otherwise indicated by the context: "Income" means the total of the annualized gross household income, from any source and before taxes and withholding, of all non-minor persons who will reside in the Single-Family Residence.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 9-1981, f. & ef. 8-27-81; 1HD 7-1982(Temp), f. & ef. 9-20-82; 1HD 9-1982, f. & ef. 11-10-82; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 4-1995, f. & cert. ef. 9-28-95; Suspended by OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-020-0015

Allocation of Funds to Approved Lenders

Under the Single-Family Mortgage Program, the Department may rely on a commitment system or a first-come first-served reservation system to solicit and monitor participation by Approved Lenders when funds become available from proceeds of Bonds or other sources. The Department solicits commitment requests or participation in the Program by Approved Lenders when the Department determines that the Single-

ADMINISTRATIVE RULES

Family Mortgage Program will serve to carry out the purposes of the Act and funds may be available.

Stat. Auth.: ORS 90.800 - 90.840, 91.886, 183, 456.515 - 456.723 & 458.210 - 458.650
Stats. Implemented: ORS 456.620
Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 3-1979, f. & ef. 6-29-79; 1HD 8-1982, f. & ef. 10-18-82; 1HD 9-1982, f. & ef. 11-10-82; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; Suspended by OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-020-0016

Commitment System

Under the commitment system, the Department shall solicit commitment requests by mailing a commitment invitation form to each Approved Lender at the address listed in the records of the Department. The Department shall seek commitment requests before the sale of Bonds or when funds are otherwise expected to become available.

(1) The commitment invitation form shall specify the terms on which the Department will accept commitment requests from Approved Lenders, including:

(a) The minimum commitment amount, if any, which Approved Lenders may request;

(b) The maximum interest rate applicable to Program Loans under the commitment;

(c) The price the Department shall pay for such Program Loans and the origination fees, discounts, appraisal fees, inspection fees, sales fees, and other expenses which may be charged in connection with Program Loan origination;

(d) The period during which the Department will purchase Program Loans;

(e) The commitment fee the Department shall charge Approved Lenders in connection with the commitment requests;

(f) The servicing fees the Department shall pay for Program Loan servicing; and

(g) Such other similar terms as the Department may deem advisable. The Department shall consider:

(A) The cost of borrowing the funds required to carry out the Program;

(B) The costs associated with reserving funds to purchase Program Loans;

(C) The estimated cost of Single-Family Residences in Oregon;

(D) The interest rates the Department estimates Eligible Borrowers are able to pay when purchasing Single-Family Residences;

(E) The availability and cost to Eligible Borrowers of alternative borrowing sources; and

(F) Other similar factors the Department considers appropriate to increase the availability of funds for Eligible Borrowers to purchase Single-Family Residences, and to ensure the security for and the ability of the State to repay the Bonds.

(2) The Department may accept commitment requests as specified in the commitment invitation form. If the Department does not accept any request, the Approved Lender shall be notified promptly.

(3)(a) The Department shall allocate funds, taking into account the following factors:

(A) Geographic area of the Approved Lender's residential lending;

(B) Other participants in the area;

(C) Capacity of the Approved Lender to accomplish Program objectives;

(D) Availability of funds to the Department;

(E) Prior experience with the Approved Lender; and

(F) Participation by the Approved Lender in previous Programs.

(b) No allocation to an Approved Lender shall exceed the amount for which the Approved Lender applied, but may be less than the amount requested. The Department's allocation of funds shall be conclusive. However, an Approved Lender may assign funds to another Approved Lender with the Department's written consent.

(4) To assure that Approved Lenders perform their obligations under commitments entered into with the Department and to defray costs associated with processing and administering commitment requests and commitments, the Department may establish commitment fees in connection with commitment requests under the Single-Family Mortgage Program. The Department may refund a portion of the commitment fee as Program Loans are purchased. If the Department allocates an amount less than the commitment requested by an Approved Lender, the Department shall return a pro rata portion of the commitment fee to the Approved Lender.

(5) Disbursements under the commitment shall be subject to availability of Bond proceeds or other funds. Thereafter, the Department shall

disburse funds to purchase Program Loans as specified in the commitment invitation form and the Program's **Procedural Guide**.

(6) The Approved Lender shall submit the Program Loan, related documents and a submission report for the Department's review before loan purchase. The purchase of any Program Loan is subject to the legal, sufficient and proper form of the loan documents, and adequate evidence the Program Loan satisfies all the criteria provided in the Act, the Program Rules and the Program's Procedural Guide.

(7) Approved Lenders shall report periodically during the commitment term. If, in the judgment of the Department, the Approved Lender will not use the amount of the commitment within the commitment period, the Department may reallocate the remaining balance.

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

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.635 & 456.640

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 3-1979, f. & ef. 6-29-79; 1HD 8-1982, f. & ef. 10-18-82; 1HD 9-1982, f. & ef. 11-10-82; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; Suspended by OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-020-0020

Approved Lenders

(1) A bank, savings bank or other financial institution that is authorized under the laws of a state or of the United States to engage in the business of making secured loans for residential housing may apply to become a lender under the Single Family Mortgage Program. An applicant shall submit to the Department:

(a) An application in the form prescribed by the Department;

(b) An opinion by the counsel of the applicant regarding the power and authority of the applicant to enter into a loan purchase agreement with the Department;

(c) A list of the authorized officers of the applicant and the signature of each officer;

(d) The most recent audited financial statements of the applicant;

(e) Documentation evidencing the applicant's bond and insurance coverage; and

(f) An application charge in an amount established by the Department for its costs of evaluation and administration.

(2) An applicant may qualify as a lender under the program if the Department determines that the applicant:

(a) Makes loans for single family residences in the regular, usual and normal course of its business;

(b) Has the capability and resources to originate loans under the program in a sound and professional manner; and

(c) Has or will have a valid and binding contract with a loan servicer approved by the Department under OAR 813-020-0050.

(3) A determination by the Department under section (2) of this rule is subject to the Department's consideration of factors that include but are not limited to the following:

(a) The number and experience of employees available to originate program loans;

(b) The applicant's financial capability to originate program loans;

(c) The applicant's qualification as a seller or servicer for the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Federal Housing Administration, or as a "Special Lender" under the federal Servicemen's Readjustment Act;

(d) Whether the applicant's deposits are insured by the Federal Deposit Insurance Corporation; and

(e) The applicant's reputation, experience and performance in the area of residential lending and any other area of the applicant's business.

(4) Before a lender that is qualified by the Department under section (2) of this rule may make a program loan, the lender shall enter into an agreement with the Department providing for the manner and terms of sale of program loans, according to a standard form prescribed by the Department.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.625

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 3-1979, f. & ef. 6-29-79; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-020-0021

Reservation System

(1) A lender approved by the Department under OAR 813-020-0020 may apply to the Department for a reservation of Department funds with which the Department may purchase a loan made by the lender under the Single Family Mortgage Program. A lender applies for a reservation by

ADMINISTRATIVE RULES

submitting to the Department the name of the applicant for the loan, the address of the property to which the loan applies, the amount of the loan, the acquisition cost and any other information and documents requested by the Department.

(2) Program loan funds are reserved on a first-come first-served loan by loan basis, except that the Department may also move to the list of approved loan reservations a reservation from a list of standby reservations established by the Department whenever a reservation approved by the Department is cancelled by a lender.

(3) A lender may assign a reservation approved by the Department to another lender approved by the Department if both lenders consent to the assignment in writing and if the Department authorizes the assignment.

(4) A lender shall report and confirm to the Department for each reservation, on a regular basis established by the Department, all of the following information:

- (a) The name of the borrower;
- (b) The address of the property to which the loan applies;
- (c) The loan amount; and
- (d) The date on which the loan was cancelled or the dates on which the loan was approved and closed.

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

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.640

Hist.: HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; Renumbered from 813-020-0017 by OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-020-0022

Eligible Borrowers

(1) A person is eligible to receive a loan under the Single Family Mortgage Program if, on the dates of application and loan closing:

(a) The total of the annualized gross household income, from any source and before taxes and withholding, of all non-minor persons who will reside in the single family residence to which the loan applies does not exceed the applicable income limit established by the Department and by the Internal Revenue Code of 1986, as amended;

(b) The person:

(A) Is a resident or intends to be a resident of Oregon;

(B) In good faith intends to occupy the single-family residence as a permanent principal residence;

(C) Possesses the legal capacity to incur the obligations of the program loan;

(D) Has a credit standing acceptable to the Department;

(E) Agrees that any other residential property owned by the person will be sold by the time of closing; and

(F) Meets applicable requirements established by Section 143 of the Internal Revenue Code of 1986, as amended and as described in OAR 813-020-0070, if the program loan is to be made from the proceeds of bonds sold after September 15, 1982.

(2) A loan under the program is also subject to the following provisions:

(a) The application for the loan must be processed according to the rules of this division;

(b) The acquisition cost may not exceed the limit established by the Department and in effect when the loan application is made; and

(c) An applicant for a loan may not have held a present ownership interest in a principal residence at any time within the three years immediately preceding the date of the loan application unless the residence is located within a targeted area as designated under OAR 813-020-0070.

(3) Subject to OAR 813-020-0045 regarding a lender's refusal of a program loan, a lender shall determine the applicant's qualifications to be a borrower under the program.

(4) If a program loan is insured by the Federal Housing Administration or a Qualified Mortgage Insurer or guaranteed by the Veterans' Administration or USDA Rural Development, the Department authorizes the lender to accept approval by such a federal agency or a qualified mortgage insurer as satisfactory evidence of the creditworthiness of the applicant. In all other instances, a lender must determine the acceptability of the applicant's credit standing after thoroughly evaluating the applicant's credit, taking into account such factors as:

(a) The ratio between the applicant's stable monthly income and estimated housing expenses, including repayment of the program loan and any secondary housing debt financing;

(b) The ratio between the applicant's stable monthly income and the estimated monthly payments on all indebtedness of the applicant, including the program loan;

(c) The applicant's ability to accumulate wealth, including funds needed for down payment and closing costs on the program loan;

(d) The history of the applicant's previous ability to meet debt service requirements; and

(e) Any other factors commonly considered by prudent institutional mortgage investors, such as prior bankruptcy of the applicant, history of slow payments on previous obligations, job tenure, frequent changes of residence and the existence of lawsuits, judgments or foreclosures involving the applicant.

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

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 3-1979, f. & ef. 6-29-79; 1HD 15-1980, f. & ef. 12-4-80; 1HD 9-1981, f. & ef. 8-27-81; 1HD 7-1982(Temp), f. & ef. 9-20-82; 1HD 9-1982, f. & ef. 11-10-82; 1HD 9-1984, f. & ef. 9-4-84; 1HD 17-1984, f. 12-31-84, ef. 1-1-85; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; Renumbered from 813-020-0030 by OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-020-0025

Program Loans

(1) A loan under the Single-Family Mortgage Program is eligible for purchase by the Department:

(a) If the borrower holds title to the single-family residence in fee simple or in another form of ownership acceptable to the Department; and

(b) If the loan:

(A) Meets to the satisfaction of the Department the requirements in the purchase agreement between the Department and the lender;

(B) Has a final maturity at least fifteen and not more than forty years from the date of its making;

(C) Is secured by a first lien deed of trust granted by the borrower on the single-family residence financed by the loan; and

(D) Is made solely to finance the purchase, construction or purchase and rehabilitation of an existing or newly constructed single-family residence for use as the permanent, principal residence of the borrower.

(2) A loan may not be made under the program to refinance an existing loan unless the existing loan is a temporary loan with a loan term of 24 months or less for constructing or rehabilitating a single-family residence. The temporary loan also must have been made on or after the commencement date of the commitment term during which the program loan is sold to the Department. If a program loan is made to refinance such a loan, the lender shall certify to the Department that construction or rehabilitation has been satisfactorily completed before the delivery of the program loan for purchase.

(3) A lender may execute a program loan with a borrower only on forms approved by the Department and in a manner satisfactory to the Department. The forms must prescribe program loan requirements regarding insurance, escrow payments, late charges, deficiencies, defaults, priority of liens and similar matters.

(4) The Department may purchase a program loan with a graduated or other payment schedule based on criteria established by the Department.

(5) A program loan is subject to prepayment at the Department's option if at any time the borrower does not reside in the residence financed by the program loan but remains the owner of the residence, or if the lender or Department determines that the borrower was ineligible at the time the loan was made.

(6) To establish the interest rate for a program loan, the Department shall consider the rates of interest on the bonds, prevailing rates for similar loans and the ability of borrowers under the program to afford such rates.

(7) The original principal amount of a program loan and any secondary financing may not exceed 97 percent of property value unless the program loan is insured by the Federal Housing Administration or a qualified mortgage insurer, or guaranteed by the Veterans' Administration or USDA Rural Development. Property value must be calculated on the lesser of the purchase price of the property or its appraised value.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 3-1979, f. & ef. 6-29-79; 1HD 9-1981, f. & ef. 8-27-81; 1HD 7-1982(Temp), f. & ef. 9-20-82; 1HD 9-1982, f. & ef. 11-10-82; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-020-0033

Program Loans After Foreclosure

(1) The Department may finance Program Loans for Eligible Borrowers to purchase properties acquired by the Department through foreclosure or deed-in-lieu of foreclosure. Such Program Loans shall bear the

ADMINISTRATIVE RULES

interest rate of the original Program Loan on the property financed. Except as provided in section (2) of this rule, such Program Loans shall meet all requirements of the Program rules and the Program's **Procedural Guide**.

(2) The Department may waive the provisions of OAR 813-020-0030(1)(b) as necessary to allow Program Loans for the sale of property acquired by the Department through foreclosure or deed-in-lieu of foreclosure. The Department shall make such waiver only when a waiver is required to effect timely disposition of the property acquired, and to ensure the ability of the State to repay the Bonds. A Program Loan made pursuant to such waiver shall have a final maturity not less than five years and not more than 40 years from the date of its making.

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

Stat. Auth.: ORS 90.800 - 90.840, 91.886, 183, 456.515 - 456.723 & 458.210 - 458.650

Stats. Implemented: ORS 456.625

Hist.: 1HD 6-1983, f. & ef. 9-8-83; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; Suspended by OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-020-0035

Eligible Single-Family Residences

(1) A residence is eligible for a loan from the Single-Family Mortgage Program if:

- (a) The residence is located in Oregon;
- (b) The residence is structurally sound and functionally adequate;
- (c) The residence is only one single-family residential unit;
- (d) The residence conforms with all applicable zoning requirements, building codes and similar requirements; and

(e) The acquisition cost, including any deferred, indirect or nonmonetary consideration other than labor of the borrower and the borrower's family, and the appraised value of the residence do not exceed limits established by the Department under this rule.

(2) In addition to the requirements of section (1) of this rule:

(a) If the loan on a residence includes proceeds of bonds sold after September 15, 1982, a residence is eligible for a program loan only if no more than 15 percent of the total living area of the residence is of a character that is subject to being rented for or used in the operation of a trade or business conducted on any part of the land or improvements, thereby qualifying the use as a deduction for federal income tax purposes under Section 280A of the Internal Revenue Code.

(b) If a residence to which this rule applies is a part of a condominium or planned unit development, the eligibility of the residence for a program loan is subject to a determination by the Department whether granting the loan would result in an excessive percentage of units in the condominium or development that are financed by program loans.

(3) For the purpose of this rule, a determination by the Department of limits on:

(a) The acquisition cost of a residence is subject to consideration of the following factors:

- (A) The cost and condition of housing within the state;
- (B) Income levels established for the program;
- (C) Purchase price limits under applicable federal law; and
- (D) Reasonable down payment requirements.

(b) The appraised value of a residence is subject to limits established by the Department and to consideration of the following factors:

- (A) The cost and condition of housing within the state;
- (B) The market value of such housing, assuming arms'-length sales transactions;

- (C) The probability of non-arms'-length sales transactions;
- (D) The effect of the limits on the lender's ability to originate program loans; and

(E) The effect of the limits on the security of program loans.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620 & ORS 456.625, 456.635 & 456.640

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-020-0045

Lender Action on Loan Application

(1) A lender shall proceed in good faith to process a loan application under the Single Family Mortgage Program and shall make the program loan if the lender determines that:

- (a) Loan funds are available;
- (b) The application is complete;
- (c) The application appears to comply with the rules of this division and the terms of the applicable loan agreement; and

(d) The applicant appears to be a borrower who is eligible for a loan under OAR 813-020-0030.

(2) A person who is refused a program loan by a lender may demand of the lender, in writing, a written explanation of the specific reasons for the refusal. The lender shall comply with the demand not later than the 30th day after the date on which the lender receives the demand.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 3-1979, f. & ef. 6-29-79; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-020-0046

Mortgage Insurance

If the amount of a loan under the Single-Family Mortgage Program is greater than 80 percent of the original acquisition cost or, if lower, its value according to an appraisal acceptable to the Department, the borrower shall obtain and maintain in force mortgage insurance or a guarantee of the program loan by a qualified mortgage insurer. The following requirements apply to the mortgage insurance policy or guarantee:

(1) The policy must be in effect at the time of sale of the Program Loan to the Department;

(2) The Department must be named as the mortgagee insured or guaranteed; and

(3) The amount, terms and extent of coverage of the insurance or guaranty must meet the requirements of the indenture of trust and the bond indenture declaration governing the bonds used for the acquisition of the residence as determined by the Department to provide reasonable security against loss in the event of default.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; Renumbered from 813-020-0040 by OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-020-0047

Title Insurance

A loan under the Single-Family Mortgage Program must be covered by a title insurance policy issued in American Land Title Association (ALTA) form by a title insurance company authorized to transact insurance in Oregon by the Department of Consumer and Business Services. All of the following requirements apply to a title insurance policy under this rule:

(1) The amount of coverage of the policy must be at least equal to the outstanding principal balance of the program loan.

(2) The benefits of the policy must run to the Department, as either named insured or assignee.

(3) The policy may not be subject to any exceptions or conditions other than those previously approved by:

- (a) The Department;
- (b) The federal Department insuring or guaranteeing the loan, if any;

or

(c) A private mortgage insurer, if any.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; Renumbered from 813-020-0041 by OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-020-0048

Hazard Insurance

A borrower under the Single-Family Mortgage Program must carry hazard insurance on the residence financed by the program loan that meets the requirements of the loan agreement. The hazard insurance must be in effect at the time the program loan is made, and must remain in effect for the term of the program loan.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; Renumbered from 813-020-0042 by OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-020-0049

Permissible Use of Property Financed by a Program Loan

(1) A borrower under the Single-Family Mortgage Program shall continuously occupy the single-family residence financed by the program loan as the borrower's permanent and principal residence during the time the borrower has the program loan, except under the conditions specified in

ADMINISTRATIVE RULES

section (2) of this rule. Prior to repayment of the program loan or prior to assumption of the loan when the Department allows assumption, the borrower may not sell, transfer or otherwise dispose of the single-family residence and may not be a party to any formal or informal arrangement to sell, transfer or otherwise dispose of the residence.

(2) A borrower under the program may not vacate, rent or agree to rent the single-family residence during the term of the program loan unless the borrower requests and receives permission from the loan servicer and, if the servicer requires, from the Department. Permission must be based upon the determination of the servicer, and of the Department when the Department's permission is requested, that one of the following conditions applies:

(a) The borrower is making a good faith effort to sell the residence or refinance the program loan; or

(b) The circumstances causing the borrower to move out of the residence are beyond the borrower's control, including but not limited to any of the following or substantially similar circumstances:

(A) The borrower or the borrower's spouse is drafted into military service;

(B) The borrower or the borrower's spouse is involuntarily transferred by an employer on a temporary basis;

(C) The borrower or the borrower's spouse becomes disabled and needs medical rehabilitation, and consequently cannot live in the residence; or

(D) The borrower or the borrower's spouse must move to finish an educational degree requirement and has taken a temporary leave of absence from employment.

(3) For a determination whether a circumstance under section (2) of this rule applies, the loan servicer or the Department may require evidence from the borrower of continuing sales or refinancing efforts or of the specific circumstances asserted.

(4) A borrower shall submit a request under section (2) of this rule in writing to the loan servicer, and to the Department if the loan servicer requires the Department's permission, one month before the borrower vacates or rents the residence. The borrower may request permission to rent or vacate the residence for a period of time not to exceed one year, and may request additional one-year extensions. Permission to rent or vacate or to extend is subject to a determination by the loan servicer, and by the Department if the Department also granted permission, that the condition under section (2) of this rule as asserted by the borrower continues to apply. A borrower must submit a request for extension to the servicer, and to the Department when applicable, before the approved period ends.

(5) If a program loan was made from the proceeds of bonds sold after September 15, 1982, the principal residence requirements of Section 143 of the Internal Revenue Code of 1986, as amended, apply instead of the principal residence requirement under this rule. A borrower must submit evidence satisfactory to the Department that the borrower will comply with federal residence requirements.

(6) A borrower who does not comply with a provision of this rule is subject at any time and without notice to acceleration of all payments due under the program loan and to any other remedy or civil penalty allowable by law.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD 15-1980, f. & ef. 12-4-80; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; Renumbered from 813-020-0032 by OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-020-0054

Change of Ownership; Assumptions by Substitution of Liability for a Program Loan

(1) A borrower under the Single-Family Mortgage program may transfer ownership of property financed by a program loan pursuant to an assumption if the Department determines prior to the transfer that the assumption results in a substitution of liability and the purchaser is eligible to be a borrower under OAR 813-020-0030. The assumption may be made subject to the terms of the existing loan without an interest rate increase. An assumption under this section is also subject to the following provisions:

(a) The application for the assumption must be processed according to the rules of this division, and applicable terms of the agreement between the loan servicer and the Department;

(b) The acquisition cost may not exceed the limit established by the Department and in effect at the time the assumption application is made if the original program loan was made from the proceeds of bonds sold after September 15, 1982;

(c) An applicant for an assumption may not have held a present ownership interest in a principal residence at any time within the three years immediately preceding the date of the assumption unless:

(A) The original program loan was made from the proceeds of bonds sold on or before September 15, 1982; or

(B) The residence is located within a targeted area as designated under OAR 813-020-0070; and

(d) The borrower must have an annualized gross household income that does not exceed certain limits established by the Department in accordance with the Internal Revenue Code of 1986, as amended.

(2) An assumption under this rule is not subject to a minimum down payment requirement if no secondary financing is involved in the transaction. If any part of a down payment is to be provided by secondary financing, the purchaser shall make at least a five percent down payment from liquid assets or cash equity, calculated on the current purchase price of the residence to which the assumption applies. Secondary financing under this section must amortize over a specified period and may not provide for a balloon payment.

(3) A loan servicer may collect fees on an assumption under this rule as follows:

(a) The servicer may collect a nonrefundable assumption application fee. The fee, including the credit report fee, may not exceed \$150. If the assumption is denied, the loan servicer may retain the portion of the fee not applied to the costs of the credit report. If the assumption is approved, the loan servicer shall apply the portion not applied to the costs of the credit report as a credit to the processing fee allowed under subsection (b) of this section.

(b) The servicer may charge a fee for processing an assumption. The fee on a conventional loan may be one percent of the loan balance or \$400, whichever is greater, but may not exceed the customary fees charged in the geographic area for assumptions on mortgage loans owned by private lenders. The processing fee on a loan insured by the Federal Housing Administration (FHA) may not exceed the usual and customary fees allowed. A fee charged under this subsection must be commensurate with the work on the loan by the servicer.

(4) A loan servicer for an assumption under this rule shall make any necessary disclosures, ensure that all insurance policies reflect the new ownership and take any action necessary to continue the benefits of the mortgage insurance or guaranty without interruption.

(5) An assumption transaction must retain the Department's original loan number.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD3-1981, f. & ef. 1-30-81; 1HD 11-1981, f. & ef. 10-5-81; 1HD 7-1982(Temp), f. & ef. 9-20-82; 1HD 9-1982, f. & ef. 11-10-82; 1HD 1-1984, f. & ef. 1-3-84; 1HD 9-1984, f. & ef. 9-4-84; 1HD 16-1984, f. 12-31-84, ef. 1-1-85; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; Renumbered from 813-020-0024 by OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-020-0056

Approved Servicers

(1) A bank, savings bank or other financial institution that is authorized under the laws of a state or of the United States to engage in the business of servicing loans for residential housing may apply to become a loan servicer under the Single-Family Mortgage Program by submitting the following to the Department:

(a) An application in the form prescribed by the Department;

(b) An opinion by the counsel of the applicant regarding the power and authority of the applicant to enter into a loan servicing agreement with the Department;

(c) A list of the authorized officers of the applicant and the signature of each officer;

(d) The most recent audited financial statements of the applicant;

(e) Documentation evidencing bond and insurance coverage;

(f) An application charge in an amount established by the Department for its costs of evaluation and administration; and

(g) Documentation indicating the volume of residential loans produced by the applicant's mortgage lending offices in Oregon.

(2) An applicant under section (1) of this rule must demonstrate to the Department's satisfaction that:

(a) One of the applicant's principal functions is servicing loans secured by residential real estate;

(b) Such servicing is a customary and regular business activity of the applicant;

(c) The applicant is qualified to engage in servicing mortgage loans for the Federal National Mortgage Association or the Federal Home Loan

ADMINISTRATIVE RULES

Mortgage Corporation and is, if required, a mortgagee approved by the Federal Housing Administration or Veterans' Administration;

(d) The applicant deposits funds to accounts in depositories that comply with the requirements of ORS 295.002, 295.005, 295.015 to 295.018 and 295.205 and that are insured to the full extent legally possible by the Federal Deposit Insurance Corporation or other similar federal insuring Department; and

(e) The applicant will maintain servicing facilities adequately staffed with trained personnel familiar with all rules, regulations and requirements pertaining to or affecting program loans.

(3) An applicant may service program loans if the Department determines that an applicant is qualified to service program loans and if the applicant enters into an agreement with the Department to service program loans according to a standard form prescribed by the Department.

(4) A program loan servicer may assign program loan servicing to another servicer upon written approval by the Department.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 3-1979, f. & ef. 6-29-79; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 5-1990, f. & cert. ef. 5-2-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; Renumbered from 813-020-0050 by OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-020-0057

Program Loan Servicing

(1) A program loan servicer shall service a loan under the Single-Family Mortgage Program in accordance with the servicing agreement and the rules of this division.

(2) A program loan servicer shall charge for loan servicing according to uniform servicing rates established by the Department that are based on the estimated costs of servicing program loans and prevailing rates for similar services.

(3) For the term of a program loan, the borrower shall make monthly escrow payments for real estate property taxes and assessments, hazard insurance premiums and, if necessary, mortgage insurance premiums, except as otherwise provided in the terms of the loan agreement. A program loan servicer may pay interest on program loan escrow reserve accounts at its option.

(4) Upon approval by the Department, a program loan servicer may take one or more actions to protect the Department's security in a residence financed by a program loan. The actions may include but are not limited to the following:

- (a) Loan modification;
- (b) Property maintenance and repair;
- (c) Foreclosure or deed-in-lieu of foreclosure proceedings; and
- (d) Representation of the Department's interest in bankruptcy proceedings.

(5) If a program loan servicer fails to comply with the Department's servicing, reporting or remittance requirements, the Department may assess a penalty or may terminate the servicing agreement.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 3-1979, f. & ef. 6-29-79; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; Renumbered from 813-020-0051 by OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-020-0060

Qualifications as a "Special Purpose Credit Program"

The Single-Family Mortgage Program is meant to and does benefit an economically disadvantaged class of persons. As such, the Department establishes the program as a "special purpose credit program" to satisfy the requirements of Interpretation Section 202.8(a)(1) of Regulation B of the Federal Equal Credit Opportunity Act. (U.S.C. 15, Chapter 41, Subchapter 4, Paragraph 6091.)

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD 1-1980, f. & ef. 2-21-80; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-020-0070

Federal Eligibility Requirements

(1) Section 143 of the Internal Revenue Code of 1986, as amended, requires the Department to meet the following requirements for each loan made under the Single-Family Mortgage Program in order to preserve the federal tax exemption for bonds issued to finance program loans:

(a) The residence financed by a program loan must be used as a qualifying principal residence by the borrower;

(b) A person who has held a present ownership interest in a principal residence at any time within the three years preceding the date of a loan closing may not obtain a program loan except as authorized in sections (2) and (3) of this rule;

(c) The acquisition cost of a residence financed by a program loan may not exceed the limits established by the Department pursuant to the Internal Revenue Code of 1986, as amended for new and existing Single-Family Residences;

(d) Only a new mortgage may be financed, except as provided in OAR 813-020-0025(2); and

(e) A borrower must have an annualized gross household income that does not exceed limits established by the Department in accordance with the Internal Revenue Code of 1986, as amended; and

(f) The assumption of a program loan is prohibited unless each person assuming the loan meets the requirements of this section.

(2) A lender may approve a program loan to a person who has held a present ownership interest in a principal residence at any time within the preceding three years subject to a determination by the Department that takes into account the federal restrictions on the aggregate dollar volume of such loans for a specific commitment and the circumstances of the prior ownership. The Department may give preference to applicants who have lost prior ownership interests involuntarily, as through divorce settlements, eminent domain proceedings or similar circumstances.

(3) In certain Targeted Areas, a higher maximum Acquisition Cost may be applicable and the limitation with respect to prior home ownership does not apply. Certain census tract areas are designated as Targeted Areas by Section 143 of the Internal Revenue Code of 1986, as amended. The Department may apply for approval of additional or revised Targeted Areas after considering certain statutory variables. In designating such areas, the Department shall solicit requests from all cities within the state, and apply certain criteria specified by the United States Department of Housing and Urban Development for such purpose to other urban and non-urban areas. The Department shall submit its findings for approval by the Secretary of the United States Department of Housing and Urban Development and the Secretary of the United States Treasury. The Department shall retain a current list of designated Targeted Areas.

(4) The Department is required to establish procedures that ensure compliance with applicable requirements of Section 143 of the Internal Revenue Code of 1986, as amended. Any failure to meet these requirements shall be corrected within a reasonable time. The Department shall grant no exceptions or waivers unless allowed by federal law.

(5)(a) When authorized by federal law, the Department may elect to credit certain amounts that may become available to its eligible borrowers, rather than to the United States Treasury. The Department shall periodically determine the overall amounts subject to credit. The Department shall distribute any credits in compliance with federal law, taking into consideration such factors as the security of its bonds, the ability of borrowers to repay program loans, fluctuations in market interest rates and other factors that may affect the Department's ability to achieve its purpose and objectives.

(b) When required by federal law, the Department shall calculate and rebate certain amounts, if any, to the United States Treasury.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620, 456.625, 456.635 & 456.640

Hist.: 1HD 7-1982(Temp), f. & ef. 9-20-82; 1HD 9-1982, f. & ef. 11-10-82; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95; OHCS 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

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Rule Caption: Amends rules to reflect program requirements, industry standards and ensures consistency with statutory requirements.

Adm. Order No.: OHCS 9-2011(Temp)

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 9-30-11 thru 3-27-12

Notice Publication Date:

Rules Adopted: 813-044-0055

Rules Amended: 813-044-0000, 813-044-0030, 813-044-0040, 813-044-0050

Rules Suspended: 813-044-0010, 813-044-0020, 813-044-0060

Subject: These rules have been reviewed for statutory compliance and are intended to reflect the operation of the program. In many

ADMINISTRATIVE RULES

cases, rules have been renumbered for ease of understanding and for the clarity of the rules.

813-044-0000 Clarifies the purpose and objectives of the rules.

813-044-0010 The definitions for the rules will be centralized in the department's general and procedural rules. This rule has been repealed.

813-044-0020 This rule is repealed as this information is procedural and is contained within the Program's Procedural Guide.

813-044-0030 Amendments provide clarification on how funds will be distributed.

813-044-0040 The amendments provide clarification on the application procedure and requirements for an organization applying for a grant from the program. Language has been included to reflect that supplemental application charges shall be paid by an organization that requests additional resources.

813-044-0050 Provides clarification regarding the department's consideration of individual proposals and the use of competitive funds.

813-044-0055 This new rule outlines the requirements for an organization that receives a grant under the program.

813-044-0060 These rules will be repealed. Clarifies when a loan is eligible for purchase under the program.

Rules Coordinator: Sandy McDonnell—(503) 986-2012

813-044-0000

Purpose and Objectives

The rules of OAR chapter 813 division 44 establish the Home Ownership Assistance Program in order to implement the purposes of the Home Ownership Assistance Account of the Oregon Housing Fund described in ORS 458.655.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 458.620, 458.625 & 458.655

Hist.: HSG 2-1996, f. & cert. ef. 4-15-96; OHCS 4-2009, f. & cert. ef. 12-22-09; OHCS 9-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-044-0010

Definitions

All words and terms are used in OAR chapter 813, division 44, as defined in the Act, and as provided in 813-005-0005 and herein. As used in these rules, unless the context indicates otherwise:

(1) "Account" means the Home Ownership Assistance Account of the Oregon Housing Fund.

(2) "Council" means the State Housing Council established in ORS 456.567.

(3) "Department" means Housing and Community Services Department established under ORS 456.555.

(4) "In-Kind Contribution" means a supportive project contribution other than cash. In-Kind Contributions include, but are not limited to, office equipment, working space, office supplies, staff time, telephone, support staff time, auto use, donated project materials or labor, and non-Board volunteer time.

(5) "Low Income" means individuals or households that receive more than 50 percent and not more than 80 percent of the median family income for the area, subject to adjustment for areas with unusually high or low incomes or housing costs, all as determined by the council based on information from the United States Department of Housing and Urban Development.

(6) "Minority" means an individual:

(a) Who has origins in one of the black racial groups of Africa but who is not Hispanic;

(b) Who is of Hispanic culture or origin;

(c) Who has origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands; or

(d) Who is an American Indian or Alaskan Native having origins in one of the original peoples of North America.

(7) "Organization" means a:

(a) Nonprofit corporation established under ORS chapter 65;

(b) Housing authority established under ORS 456.055 to 456.235; or

(c) Local government as defined in ORS 197.015.

(8) "Persons with disabilities" means persons with handicaps described in 42 U.S.C. 3602(h).

(9) "Project" means the deliverables submitted by the Organization in response to the application form and process prescribed by the Department

(10) "Very Low Income" means Individuals or households that receive 50 percent or less of the median family income for the area, subject to adjustment for areas with unusually high or low incomes or housing costs, all as determined by the Council based on information from the United States Department of Housing and Urban Development.

Stat. Auth.: ORS 458.600 - 458.655

Stats. Implemented: ORS 458.610

Hist.: HSG 2-1996, f. & cert. ef. 4-15-96; OHCS 4-2009, f. & cert. ef. 12-22-09; Suspended by OHCS 9-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-044-0020

Purpose of Home Ownership Assistance Program

(1) The Department shall provide grants from Account revenue subject to the availability of funds and limitations otherwise prescribed by law for any or all of the following purposes:

(a) To aid low income home ownership programs, including program administration, in purchasing land, providing assistance with down payment costs which includes closing costs, or providing home ownership training and qualification services or any combination thereof. Funds may not be used by an organization to pay for its general operations or to pay for more than 25 percent of construction or rehabilitation costs per project;

(b) To match public and private moneys available from other sources for purposes of the provision of Low or Very Low Income home ownership housing.

(2) Eligible applicants are Organizations that both sponsor and manage low and/or very low income home ownership programs.

Stat. Auth.: ORS 458.600 - 458.655

Stats. Implemented: ORS 458.625

Hist.: HSG 2-1996, f. & cert. ef. 4-15-96; OHCS 4-2009, f. & cert. ef. 12-22-09; Suspended by OHCS 9-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-044-0030

Distribution of Funds

The amount of a maximum program award to an organization under the Home Ownership Assistance Account is subject to determination by the State Housing Council.

Stat. Auth.: ORS 456.555 & 458.600 - 458.655

Stats. Implemented: ORS 458.625, 458.620 & 458.655

Hist.: HSG 2-1996, f. & cert. ef. 4-15-96; OHCS 4-2009, f. & cert. ef. 12-22-09; OHCS 9-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-044-0040

Application Procedure and Requirements

(1) An organization may apply for a grant from the Home Ownership Assistance Account under ORS 458.655 if the organization:

(a) Is a nonprofit corporation established under ORS Chapter 65, a housing authority established under ORS 456.055 to 456.235 or a local government as defined in ORS 197.015; and

(b) Sponsors and manages low income homeownership programs as required by ORS 458.655.

(2) An organization applies for a grant under this rule by submitting to the Department all of the following:

(a) An application, on a form established by the Department;

(b) A nonrefundable application charge established by the Department; and

(c) All project information required by the Department, including, but not limited to:

(A) A written description of the purposes for which the grant will be used, including but not limited to the proposed services to prospective homeowners, criteria for selecting prospective homeowners and any other pertinent information ;

(B) A description of the housing type and target home owners to be housed, the manner in which the project may expand the percentage of home ownership for Oregonians and how the project will provide home ownership opportunities for low or very low income households, persons with disabilities, minorities and farm workers;

(C) A proforma of project expenses, financing and, if applicable, income;

(D) The grant amount requested and total project development costs, including a description of all additional project funding and funding sources;

(E) A description of the experience of the sponsor or manager in developing, managing and operating home ownership programs;

(F) A description of the organization's program management responsibilities; and

(G) Any other documentation required by the Department

ADMINISTRATIVE RULES

(3) An organization that requests additional resources on a project funded by the Home Ownership Assistance Account shall pay all supplemental application charges imposed by the Department for the resources.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.620 & 458.655
Hist.: HSG 2-1996, f. & cert. ef. 4-15-96; OHCS 4-2009, f. & cert. ef. 12-22-09; OHCS 9-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-044-0050

Criteria for Funding

(1) Grants by the Department under the Home Ownership Assistance Program are subject to the availability of funds in the Home Ownership Assistance Account and to limits established by law. The process by which the Department makes grants may include but is not limited to consideration of individual proposals and the use of a competitive review process.

(2) In addition to the criteria in ORS 458.655 for preference in making grants, a grant application is subject to subordinate criteria established by the Department and included in a competitive proposal solicitation.

(3) When an organization provides assistance under the Home Ownership Assistance Program for down payments, including closing costs, the organization shall do the following:

(a) Provide education and training in home ownership to recipients of the assistance from a source approved by the Department; and

(b) Require each recipient to take the education and training as a condition of eligibility to receive assistance funds.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.620, 458.625 & 458.655
Hist.: HSG 2-1996, f. & cert. ef. 4-15-96; OHCS 4-2009, f. & cert. ef. 12-22-09; OHCS 9-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-044-0055

Use of Grant Funds

An organization that receives a grant under the Home Ownership Assistance Program:

(1) Is subject to the condition that the organization continue to use the grant for the targeted ownership group for the duration and to the extent authorized by the grant application.

(2) May provide in its agreements with homeowners that when a homeowner sells the home for which the organization's assistance was furnished, the organization may recapture some or all of the assistance from proceeds of the sale;

(3) May use funds recaptured under section (2) of this rule to furnish further assistance under the program; and

(4) May be required by the Department to repay all or part of the grant if the organization withdraws from the project all or part of the commitments to home owner groups or the period of use for low or very low income housing from the project.

Stat. Auth.: ORS 456.555
Stats. Implemented: ORS 458.620 & 458.655
Hist.: OHCS 9-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

813-044-0060

Charges

(1) The Department may require a non-refundable application charge from any applicant requesting Home Ownership Assistance Program Account funds.

(2) A supplemental application charge from applicants requesting additional resources on the project funded by the Department may be required.

Stat. Auth.: ORS 458.655, 456.505 - 456.720 & HB 2436 (2009)
Stats. Implemented: ORS 458.655 & HB 2436 (2009)
Hist.: OHCS 4-2009, f. & cert. ef. 12-22-09; Suspended by OHCS 9-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

Oregon Medical Board
Chapter 847

Rule Caption: Fees added for supervising physician applications and criminal records checks.

Adm. Order No.: OMB 18-2011(Temp)

Filed with Sec. of State: 10-13-2011

Certified to be Effective: 10-13-11 thru 4-10-12

Notice Publication Date:

Rules Amended: 847-005-0005

Subject: The proposed rule amendment adds a fee of \$225 for a supervising physician application and \$52 for a criminal records check.

Rules Coordinator: Malar Ratnathicam—(971) 673-2713

847-005-0005

Fees

(1) Fees to be effective upon adoption:

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

(b) MD/DO Registration: Active, Military/Public Health, and Teleradiology, Inactive, Locum Tenens, and Telemedicine — \$232/year**.

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

(d) Limited License, SPEX/COMVEX, Visiting Professor, Fellow, Medical Faculty, Postgraduate, Special — \$185.

(e) Physician Application to Supervise a Physician Assistant — \$225.

(f) Acupuncture Initial License Application — \$245.

(g) Acupuncture Registration: Active, Inactive, and Locum Tenens — \$148/year**.

(h) Acupuncture Limited License, Special, Visiting Professor, Postgraduate — \$75.

(i) Physician Assistant Initial License Application — \$245.

(j) Physician Assistant Registration: Active, Inactive, and Locum Tenens — \$175/year**.

(k) Physician Assistant Limited License, Special, Postgraduate — \$75.

(l) Podiatrist Initial Application — \$340.

(m) Podiatrist Registration: Active, Inactive, and Locum Tenens — \$222/year**.

(n) Podiatrist Emeritus Registration — \$50/year.

(o) Podiatrist Limited License, Special, Postgraduate — \$185.

(p) Workforce Data Fee — \$5/license period.

(q) Criminal Records Check Fee — \$52

(r) Miscellaneous: All Fines and Late Fees:

(A) MD/DO Registration Renewal Late Fee — \$159.

(B) Acupuncture Registration Renewal Late Fee — \$80.

(C) Physician Assistant Registration Renewal Late Fee — \$80.

(D) Podiatrist Registration Renewal Late Fee — \$159.

(s) Electronic Prescription Monitoring Program — \$25/year per license***.

(t) Dispensing MD/DO/DPM Failure to Register — \$159.

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

(v) Affidavit Processing Fee for Reactivation — \$50.

(w) Licensee Information Requests:

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

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

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

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

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

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

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

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

(y) Record Search Fee (+ copy charges see section (v) of this rule):

(A) Clerical — \$20 per hour*.

(B) Administrative — \$40 per hour*.

(C) Executive — \$50 per hour*.

(D) Medical — \$75 per hour*.

(z) Data Order:

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

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

(C) Address Label Disk — \$100 each.

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

(E) DPM, PA, or AC list — \$10 each.

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

(2) All Board fees and fines are non-refundable, and non-transferable. *Plus photocopying charge above, if applicable.

**Collected biennially except where noted in the Administrative Rules. All active MD/DO registration fees include \$10.00 for the Oregon Health and Science University Library, and are collected biennially.

***Per SB 355 (2009), physician, podiatric physician and physician assistant licensees authorized to prescribe or dispense controlled substances in Oregon assessed \$25/year; funds transferred to the Department of Human Services, minus administrative costs, to support the Electronic Prescription Monitoring Program. Licensees with Active, Locum Tenens, Telemonitoring, Teleradiology, and Telemedicine status are included. Licensees with a limited license are not included.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.265

ADMINISTRATIVE RULES

Hist.: ME 7-1984, f. & ef. 1-26-84; ME 17-1984, f. & ef. 11-5-84; ME 6-1985, f. & ef. 7-30-85; ME 3-1986(Temp), f. & ef. 4-23-86; ME 4-1986, f. & ef. 4-23-86; ME 9-1986, f. & ef. 7-31-86; ME 2-1987, f. & ef. 1-10-87; ME 7-1987(Temp), f. & ef. 1-26-87; ME 9-1987, f. & ef. 4-28-87; ME 25-1987, f. & ef. 11-5-87; ME 9-1988, f. & cert. ef. 8-5-88; ME 14-1988, f. & cert. ef. 10-20-88; ME 1-1989, f. & cert. ef. 1-25-89; ME 5-1989(Temp), f. & cert. ef. 2-16-89; ME 6-1989, f. & cert. ef. 4-27-89; ME 9-1989(Temp), f. & cert. ef. 8-1-89; ME 17-1989, f. & cert. ef. 10-20-89; ME 4-1990, f. & cert. ef. 4-25-90; ME 9-1990, f. & cert. ef. 8-2-90; ME 5-1991, f. & cert. ef. 7-24-91; ME 11-1991(Temp), f. & cert. ef. 10-21-91; ME 6-1992, f. & cert. ef. 5-26-92; ME 1-1993, f. & cert. ef. 1-29-93; ME 13-1993, f. & cert. ef. 11-1-93; ME 14-1993(Temp), f. & cert. ef. 11-1-93; ME 1-1994, f. & cert. ef. 1-24-94; ME 6-1995, f. & cert. ef. 7-28-95; ME 7-1996, f. & cert. ef. 10-29-96; ME 3-1997, f. & cert. ef. 11-3-97; BME 7-1998, f. & cert. ef. 7-22-98; BME 7-1999, f. & cert. ef. 4-22-99; BME 10-1999, f. & cert. ef. 8-3-99; BME 14-1999, f. & cert. ef. 10-28-99; BME 4-2000, f. & cert. ef. 2-22-00; BME 6-2001(Temp), f. & cert. ef. 7-18-01 thru 11-30-01; BME 10-2001, f. & cert. ef. 10-30-01; BME 8-2003, f. & cert. ef. 4-24-03; BME 16-2003, f. & cert. ef. 10-23-03; BME 17-2004, f. & cert. ef. 9-9-04; BME 6-2005, f. & cert. ef. 7-20-05; BME 15-2006, f. & cert. ef. 7-25-06; BME 1-2007, f. & cert. ef. 1-24-07; BME 1-2008, f. & cert. ef. 1-22-08; BME 15-2008, f. & cert. ef. 7-21-08; BME 1-2009, f. & cert. ef. 1-22-09; BME 15-2009(Temp), f. & cert. ef. 9-11-09 thru 3-8-10; BME 1-2010, f. & cert. ef. 1-26-10; OMB 10-2011(Temp), f. & cert. ef. 7-13-11 thru 1-4-12; OMB 18-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

Rule Caption: Supervising physicians required to update existing practice agreements during registration.

Adm. Order No.: OMB 19-2011(Temp)

Filed with Sec. of State: 10-13-2011

Certified to be Effective: 10-13-11 thru 4-10-12

Notice Publication Date:

Rules Amended: 847-008-0040

Subject: SB 224, passed by the 2011 Legislature, requires practice agreements to be updated every 2 years. This rule amendment clarifies when a supervising physician must provide the practice agreement update to the board.

Rules Coordinator: Malar Ratnathicam—(971) 673-2713

847-008-0040

Process of Registration

(1) The application for registration shall be made on a form provided by the Board.

(2) Except as provided in OAR 847-008-0015 and 847-008-0025, the application shall be accompanied by the appropriate fee as listed in 847-005-0005.

(3) If the licensee is the supervising physician of a physician assistant or the primary supervising physician of a supervising physician organization for a physician assistant, the application must include any updates to existing practice agreements for every physician assistant the licensee supervises.

(4) The satisfactorily complete application for registration shall be filed with the Board by the first day of the month in which the license or certification is due to expire.

(5) At its discretion, the Board may waive the fee for good and sufficient reason.

(6) If the licensee has been out-of-practice for more than 12 consecutive months and/or there are other concerns regarding the licensee's medical competency or fitness to practice, the Board may renew licensee at Inactive status once the license renewal form has been completed satisfactorily.

(7) The Board shall mail to all licensees who have complied with this section a certificate of registration which shall remain in effect until the end of the last business day of the registration period.

(8) Such certificate shall be displayed in a prominent place in the holder's primary place of practice.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.175, 677.265 & 677.510

Hist.: ME 5-1990, f. & cert. ef. 4-25-90; BME 14-2004, f. & cert. ef. 7-13-04; BME 14-2004, f. & cert. ef. 7-13-04; BME 16-2008, f. & cert. ef. 7-21-08; BME 2-2009, f. & cert. ef. 1-22-09; OMB 19-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

Rule Caption: Requires applicants and licensees to pay a criminal records check fee.

Adm. Order No.: OMB 20-2011(Temp)

Filed with Sec. of State: 10-13-2011

Certified to be Effective: 10-13-11 thru 4-10-12

Notice Publication Date:

Rules Amended: 847-020-0155

Subject: Rule adds the requirement that an applicant or licensee must pay a criminal records check fee.

Rules Coordinator: Malar Ratnathicam—(971) 673-2713

847-020-0155

State and Nationwide Criminal Records Checks, Fitness Determinations

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

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

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

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

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

(a) The nature of the crime;

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

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

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

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

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

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

(D) The subsequent commission of another relevant crime;

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

(F) A recommendation of an employer.

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

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

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

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

(10) The Board may consider any conviction of any violation of the law for which the court could impose a punishment and in compliance with ORS 670.280. The Board may also consider any arrests and court records

ADMINISTRATIVE RULES

that may be indicative of an individual's inability to perform as a licensee with care and safety to the public.

(11) If an applicant or licensee is determined not to be fit for a license, the applicant or licensee is entitled to a contested case process pursuant to ORS 183.414-183.470. Challenges to the accuracy or completeness of information provided by the Oregon Department of State Police, Federal Bureau of Investigation and agencies reporting information must be made through the Oregon Department of State Police, Federal Bureau of Investigation, or reporting agency and not through the contested case process pursuant to ORS 183.

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

(13) The applicant or licensee must pay a criminal records check fee.
Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.265(9) & 181.534
Hist. BME 20-2006(Temp), f. & cert. ef. 9-14-06 thru 3-12-07; BME 4-2007, f. & cert. ef. 1-24-07; BME 4-2008, f. & cert. ef. 1-22-08; OMB 20-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

Rule Caption: Changes to physician assistant practice and licensing rules per SB 224.

Adm. Order No.: OMB 21-2011(Temp)

Filed with Sec. of State: 10-13-2011

Certified to be Effective: 10-13-11 thru 4-10-12

Notice Publication Date:

Rules Amended: 847-050-0005, 847-050-0010, 847-050-0015, 847-050-0020, 847-050-0023, 847-050-0025, 847-050-0026, 847-050-0027, 847-050-0029, 847-050-0035, 847-050-0037, 847-050-0038, 847-050-0040, 847-050-0041, 847-050-0042, 847-050-0043, 847-050-0046, 847-050-0050, 847-050-0055, 847-050-0060, 847-050-0063, 847-050-0065

Subject: The proposed rule amendment clarifies the requirements of physician assistants and supervising physicians based on the statutory changes made by SB 224. SB 224, passed by the 2011 Legislature, changed the practice standards and licensing procedures for physician assistants. These changes required changes to Division 050 of the Oregon Medical Board rules governing physician assistants.

The new law separates physician assistant licenses from employment and the Oregon Medical Board no longer approves the physician assistant/supervising physician relationship or "practice agreement" contents. The proposed rule changes explain the requirements established by the new law and establishes the process for licensure, practice, and supervision of physician assistants, including: approval by the Board of supervising physicians; supervision requirements; physician assistant methods and requirements of practice; physician assistant prescription privileges and requirements; practice agreement contents and requirements; procedures for changes to practice and termination of practice agreements; and the roll of the Oregon Medical Board's Physician Assistant Advisory Committee.

Rules Coordinator: Malar Ratnathicam — (971) 673-2713

847-050-0005

Preamble

(1) A physician assistant is a person qualified by education, training, experience, and personal character to provide medical services under the direction and supervision of a physician licensed under ORS Chapter 677, in active practice and in good standing with the Board. The purpose of the physician assistant program is to enable physicians licensed under ORS 677 to extend high quality medical care to more people throughout the state.

(2) The licensed physician is in all cases regarded as the supervisor of the physician assistant.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.495 - 677.535
Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 2-1990, f. & cert. ef. 1-29-90; BME 13-2003, f. & cert. ef. 7-15-03; OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

847-050-0010

Definitions

As used in OAR 847-050-0005 to 847-050-0065:

(1) "Agent" means a physician designated in writing by the supervising physician who provides direction and regular review of the medical

services of the physician's assistant when the supervising physician is unavailable for short periods of time, such as but not limited to when the supervising physician is on vacation.

(2) "Board" means the Oregon Medical Board for the State of Oregon.

(3) "Committee" means Physician Assistant Committee.

(4) "Grandfathered physician assistant" means the physician assistant registered prior to July 12, 1984 who does not possess the qualifications of OAR 847-050-0020. Grandfathered physician assistants may retain all practice privileges which have been granted prior to July 12, 1984.

(5) "Physician assistant" means a person who is licensed as such in accordance with ORS 677.265, 677.495, 677.505, 677.510, 677.515, 677.520, and 677.525.

(6) "Practice agreement" means a written agreement between a physician assistant and a supervising physician or supervising physician organization that describes the manner in which the services of the physician assistant will be used.

(7) "Practice description" means a written description of the duties and functions of the physician assistant in relation to the physician's practice, submitted by the supervising physician and the physician assistant to the Board and approved prior to January 1, 2012.

(8) "Supervising physician organization" means a group of supervising physicians who collectively supervises a physician assistant. One physician within the supervising physician organization must be designated as the primary supervising physician of the physician assistant.

(9) "Supervising physician" means a physician licensed under ORS Chapter 677, actively registered and in good standing with the Board as a Medical Doctor or Doctor of Osteopathic Medicine, and approved by the Board as a supervising physician, who provides direction and regular review of the medical services provided by the physician assistant.

(10) "Supervision" means the routine review by the supervising physician or designated agent, as described in the practice agreement or Board-approved practice description of the medical services provided by the physician assistant. The supervising physician or designated agent and the physician assistant must maintain direct communication, either in person, by telephone, or other electronic means. There are three categories of supervision:

(a) "General Supervision" means the supervising physician or designated agent is not on-site with the physician assistant, but must be available for direct communication, either in person, by telephone, or other electronic means.

(b) "Direct Supervision" means the supervising physician or designated agent must be in the facility when the physician assistant is practicing.

(c) "Personal Supervision" means the supervising physician or designated agent must be at the side of the physician assistant at all times, personally directing the action of the physician assistant.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.495
Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; BME 4-2002, f. & cert. ef. 4-23-02; BME 13-2003, f. & cert. ef. 7-15-03; BME 12-2006, f. & cert. ef. 5-8-06; BME 19-2010, f. & cert. ef. 10-25-10; OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

847-050-0015

Application

(1) Each application for the licensure of a physician assistant must meet the licensing requirements as set forth in ORS 677.512.

(2) No applicant is entitled to licensure who:

(a) Has failed an examination for licensure in the State of Oregon;

(b) Has had a license or certificate revoked or suspended in this or any other state unless the said license or certificate has been restored or reinstated and the applicant's license or certificate is in good standing in the state which had revoked the same;

(c) Has been refused a license or certificate in any other state on any grounds other than failure in a medical licensure examination; or

(d) Has been guilty of conduct similar to that which would be prohibited by or to which ORS 677.190 would apply.

(3) A person applying for licensure under these rules who has not completed the licensure process within a 12 month consecutive period from date of receipt of the application must file a new application, documents, letters and pay a full filing fee as if filing for the first time.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.265
Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; BME 4-2002, f. & cert. ef.

ADMINISTRATIVE RULES

4-23-02; BME 13-2010(Temp), f. & cert. ef. 7-26-10 thru 1-10-11; BME 19-2010, f. & cert. ef. 10-25-10; OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

847-050-0020

Qualifications

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

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

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

(a) The applicant may take the PANCE once in a 90-day period or three times per calendar year, whichever is fewer.

(A) The applicant has no more than four attempts in six years to pass the PANCE. If the applicant does not pass the PANCE within four attempts, the applicant is not eligible for licensure.

(B) An applicant who has passed the NCCPA certification exam, but not within the four attempts required by this rule, may request a waiver of this requirement if he/she has current certification by the NCCPA.

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

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

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 10-1984, f. & ef. 7-20-84; ME 5-1986, f. & ef. 4-23-86; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; ME 5-1993, f. & cert. ef. 4-22-93; ME 17-1994, f. & cert. ef. 10-25-94; BME 1-1998, f. & cert. ef. 1-30-98; BME 2-2000, f. & cert. ef. 2-7-00; BME 1-2001, f. & cert. ef. 1-25-01; BME 6-2003, f. & cert. ef. 1-27-03; BME 6-2008, f. & cert. ef. 1-22-08; BME 10-2010(Temp), f. & cert. ef. 4-26-10 thru 10-15-10; BME 14-2010, f. & cert. ef. 7-26-10; OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

847-050-0023

Limited License, Postgraduate

(1) An applicant for a Physician Assistant license who has successfully completed a physician assistant education program approved by the American Medical Association Council on Allied Health Education and Accreditation (C.A.H.E.A.), or the Commission on Accreditation for Allied Health Education Programs (C.A.A.H.E.P.), or the Accreditation Review Commission on Education for the Physician Assistant (A.R.C.P.A.) but has not yet passed the Physician Assistant National Certifying Examination (PANCE) given by the National Commission for the Certification of Physician Assistants (N.C.C.P.A.) may be issued a Limited License, Postgraduate, if the following are met:

(a) The application file is complete with the exception of certification by the N.C.C.P.A.; and

(b) The applicant has submitted the appropriate form and fee prior to being issued a Limited License, Postgraduate.

(2) A Limited License, Postgraduate may include prescriptive privileges for Schedules III through V if the supervising physician specifies these prescription privileges for the physician assistant in the practice agreement;

(3) A Limited License, Postgraduate may be granted for one year, and may not be renewed.

(4) Upon receipt of verification that the applicant has passed the N.C.C.P.A. examination, and if their application file is otherwise satisfactorily complete, the applicant will be considered for a permanent license.

(5) The Limited License, Postgraduate will automatically expire if the applicant fails the N.C.C.P.A. examination.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.132 & 677.535

Hist.: ME 5-1993, f. & cert. ef. 4-22-93; ME 9-1995, f. & cert. ef. 7-28-95; BME 14-2002, f. & cert. ef. 10-25-02; BME 13-2003, f. & cert. ef. 7-15-03; OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

847-050-0025

Interview and Examination

(1) In addition to all other requirements, the Board may require prior to original licensure the applicant to appear for a personal interview if there are questions concerning the application.

(2) The applicant is required to pass an open-book examination on the Medical Practice Act (ORS Chapter 677) and Oregon Administrative Rules (OAR) chapter 847, division 050. If an applicant fails the open-book examination three times, the applicant's application will be reviewed by the Physician Assistant Committee of the Oregon Medical Board. An applicant who has failed the open-book examination three times must also attend an informal meeting with a Board member, a Board investigator and/or the Medical Director of the Board to discuss the applicant's failure of the examination, before being given a fourth and final attempt to pass the examination. If the applicant does not pass the examination on the fourth attempt, the applicant may be denied licensure.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: ME 23(Temp), f. & ef. 1-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 8-1985, f. & ef. 8-5-85; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; ME 9-1995, f. & cert. ef. 7-28-95; BME 11-1998, f. & cert. ef. 7-22-98; BME 13-2003, f. & cert. ef. 7-15-03; BME 13-2006, f. & cert. ef. 5-8-06; OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

847-050-0026

Limited License, Special

(1) Under the authority of the Oregon Medical Board, the Physician Assistant Committee may grant a Limited License, Special to physician assistants not previously licensed in the state, subject to final Board approval.

(2) A Limited License, Special is valid until the approval of permanent licensure and may be granted only if the following criteria are met:

(a) The applicant meets the qualifications of OAR 857-050-0020(1) and (2);

(b) The application file is complete; and

(c) The applicant has submitted the appropriate form and fee for a Limited License, Special.

(3) Prescribing, administering and dispensing medications, and remote supervision in a medically disadvantaged, underserved, or health professional shortage area may be included with a Limited License, Special if specified in the practice agreement.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.535

Hist.: ME 21-1989, f. & cert. ef. 10-20-89; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; ME 5-1993, f. & cert. ef. 4-22-93; ME 5-1994, f. & cert. ef. 1-24-94; ME 9-1995, f. & cert. ef. 7-28-95; BME 1-1998, f. & cert. ef. 1-30-98; BME 2-2000, f. & cert. ef. 2-7-00; BME 6-2006, f. & cert. ef. 2-8-06; OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

847-050-0027

Approval of Supervising Physician

(1) Prior to using the services of a physician assistant, a supervising physician or primary supervising physician of a supervising physician organization must be approved as a supervising physician by the Board.

(2) The primary supervising physician of a supervising physician organization must apply as a supervising physician with the Board and must attest that each supervising physician in the supervising physician organization has reviewed statutes and rules relating to the practice of physician assistants and the role of a supervising physician.

(3) Physicians applying to be a supervising physician or the primary supervising physician of a supervising physician organization must:

(a) Submit a supervising physician application and application fee to the Board; and

(b) Take a course and pass an exam on the supervising physician requirements and responsibilities given by the Board. A passing score on the exam is 75%. If the supervising physician applicant fails the exam three times, the physician's application will be reviewed by the Board. A supervising physician applicant who has failed the exam three times must also attend an informal meeting with a Board member, a Board investigator and/or the Medical Director of the Board to discuss the applicant's failure of the exam, before being given a fourth and final attempt to pass the examination. If the applicant does not pass the exam on the fourth attempt, the physician's application may be denied.

(4) The physician may be subject to Board investigation prior to approval or may be limited or denied approval as a supervising physician for the following:

ADMINISTRATIVE RULES

(a) There are restrictions upon or actions against the physician's license;

(b) Fraud or misrepresentation in applying to use the services of a physician assistant.

(5) The Board may defer taking action upon a request for approval as a supervising physician pending the outcome of the investigation of the physician for violations of ORS 677.010-677.990.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.510

Hist.: ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 5-1984, f. & ef. 1-20-84; ME 8-1985, f. & ef. 8-5-85; ME 5-1986, f. & ef. 4-23-86; ME 21-1989, f. & cert. ef. 10-20-89; ME 2-1990, f. & cert. ef. 1-29-90; ME 5-1994, f. & cert. ef. 1-24-94; ME 9-1995, f. & cert. ef. 7-28-95; BME 13-2003, f. & cert. ef. 7-15-03; OMB 2-2011, f. & cert. ef. 2-11-11; OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

847-050-0029

Locum Tenens Assignments

Locum tenens means a temporary absence by the physician assistant or supervising physician which is filled by a substitute physician assistant or supervising physician. The following is required for a locum tenens assignment:

(1) Within ten days of the start of the locum tenens assignment, the supervising physician of the practice which desires the substitute must submit a notification of locum tenens assignment to the Board.

(2) The notification of locum tenens assignment must include the name of the substitute physician assistant or supervising physician who is filling the locum tenens assignment, duration of the locum tenens assignment, a description of how supervision of the physician assistant will be maintained, and any changes in the practice agreement or Board-approved practice description for the practice during the locum tenens assignment.

(3) The substitute physician assistant or supervising physician who is filling the locum tenens assignment must be currently licensed in Oregon, with active, locums tenens, or emeritus registration status, and be in good standing with the Board.

(4) The physician assistant must be qualified to provide the same type of service as described in the current practice agreement or Board-approved practice description for the locum tenens.

(5) The supervising physician who is filling the locum tenens assignment must be approved as a supervising physician by the Board in accordance with OAR 847-050-0027 (Approval of Supervising Physician).

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265 & 677.510

Hist.: ME 1-1986, f. & ef. 1-21-86; ME 2-1990, f. & cert. ef. 1-29-90; ME 7-1990, f. & cert. ef. 4-25-90; BME 6-2003, f. & cert. ef. 1-27-03; BME 11-2005, f. & cert. ef. 10-12-05; BME 14-2010, f. & cert. ef. 7-26-10; OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

847-050-0035

Grounds for Discipline

(1) The performance of unauthorized medical services by the physician assistant constitutes a violation of the Medical Practice Act. The supervising physician and/or agent is responsible for the acts of the physician assistant and may be subject to disciplinary action for such violations by the physician assistant. The physician assistant is also subject to disciplinary action for violations. Proceedings under these rules are conducted in the manner specified in ORS 677.200 or 677.510(2).

(2) In addition to any of the reasons cited in ORS 677.190, the Board may refuse to grant, or may suspend or revoke a license to practice as a physician assistant for any of the following reasons:

(a) The physician assistant has held himself/herself out, or permitted another to represent the physician assistant to be a licensed physician.

(b) The physician assistant has in fact performed medical services without the direction or under the supervision of a Board-approved supervising physician or agent.

(c) The physician assistant has performed a task or tasks beyond the physician assistant's competence that is outside the scope of practice of the supervising physician or outside the practice agreement as stated in OAR 847-050-0040.

Stat. Auth.: ORS 677.190, 677.205, 677.265, 677.505

Stats. Implemented: ORS 677.190, 677.205, 677.265, 677.505

Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 2-1990, f. & cert. ef. 1-29-90; BME 23-2007, f. & cert. ef. 10-24-07; OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

847-050-0037

Supervision

(1) A physician may not use the services of a physician assistant without first obtaining Board approval as a supervising physician.

(2) The supervising physician, agent, or in the case of a supervising physician organization, the primary supervising physician and acting supervising physician, are personally responsible for the direction, supervision and regular review of the medical services provided by the physician assistant, in keeping with the practice agreement.

(3) The type of supervision and maintenance of supervision provided for each physician assistant must be described in the practice agreement or Board-approved practice description. The supervising physician must provide for maintenance of verbal communication with the physician assistant at all times, whether the supervising physician and physician assistant practice in the same practice location or a practice location separate from each other, as described in the following:

(a) The practice setting is listed in the practice agreement or Board-approved practice description of the physician assistant.

(b) Practice locations, other than primary or secondary practice locations, such as schools, sporting events, health fairs and long term care facilities, are not required to be listed in the practice agreement or Board-approved practice description if the duties are the same as those listed in the practice agreement or Board-approved practice description. The medical records for the patients seen at these additional practice locations must be held either at the supervising physician's primary practice location or the additional practice locations. The supervision of the physician assistant at locations other than the primary or secondary practice location must be the same as for the primary or secondary practice location.

(c) The supervising physician or designated agent must provide a minimum of eight (8) hours of on-site supervision every month, or as approved by the Board.

(d) The supervising physician or designated agent must provide chart review of a number or a percentage of the patients the physician assistant has seen as stated in the practice agreement or Board-approved practice description.

(4) The supervising physician may limit the degree of independent judgment that the physician assistant uses but may not extend it beyond the limits of the practice agreement or Board-approved practice description.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.515

Hist.: ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 8-1985, f. & ef. 8-5-85; ME 2-1990, f. & cert. ef. 1-29-90; BME 1-1998, f. & cert. ef. 1-30-98; BME 9-1999, f. & cert. ef. 4-22-99; BME 2-2000, f. & cert. ef. 2-7-00; BME 4-2002, f. & cert. ef. 4-23-02; BME 4-2005, f. & cert. ef. 4-21-05; BME 20-2008, f. & cert. ef. 7-21-08; BME 12-2009(Temp), f. & cert. ef. 7-14-09 thru 12-14-09; BME 19-2009, f. & cert. ef. 10-23-09; OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

847-050-0038

Agents

(1) The supervising physician who is not a member of a supervising physician organization may designate an agent or agents to direct and supervise the physician assistant when the supervising physician is unavailable for short periods of time. The agents must meet the following requirements:

(a) Be licensed as a medical or osteopathic physician under ORS 677, actively registered and in good standing with the Board;

(b) Practice in the same city or practice area as the supervising physician or physician assistant.

(c) Be qualified to supervise as designated in the practice agreement, and be competent to perform the duties delegated to the physician assistant.

(2) The supervising physician is responsible for informing the agent of the duties of an agent. Prior to such time as the physician assistant is acting under the direction of an agent, the supervising physician must determine that the agent understands and accepts supervisory responsibility. The agent must sign all practice agreements between the supervising physician and the physician assistant(s) the agent will supervise, and a copy must be kept at the primary practice location. Supervision by the agent will continue for a certain, predetermined, limited period of time, after which supervisory duties revert to the supervising physician.

(3) In the absence of the supervising physician, the agent assumes the same responsibilities as the supervising physician.

Stat. Auth.: ORS 183 & 677

Stats. Implemented: ORS 677.495 & 677.510

Hist.: ME 8-1985, f. & ef. 8-5-85; ME 5-1986, f. & ef. 4-23-86; ME 2-1990, f. & cert. ef. 1-29-90; BME 4-2002, f. & cert. ef. 4-23-02; OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

847-050-0040

Method of Performance

(1) The physician assistant may perform at the direction of the supervising physician and/or agent only those medical services as included in the practice agreement or Board-approved practice description.

ADMINISTRATIVE RULES

(2) The physician assistant must be clearly identified as such when performing duties. The physician assistant must at all times when on duty wear a name tag with the designation of "physician assistant" thereon.

(3) The supervising physician must furnish reports, as required by the Board, on the performance of the physician assistant or student.

(4) The practice agreement must be submitted to the Board within ten days after the physician assistant begins practice with the supervising physician or supervising physician organization.

(5) The supervising physician must notify the Board of any changes to the practice agreement within ten days of the effective date of the change.

(6) Supervising physicians must update the practice agreement biennially during the supervising physician's license renewal process.

(7) A supervising physician and physician assistant who have a Board-approved practice description that was approved prior to January 1, 2012 and who wish to make changes to the practice description must enter into a practice agreement in accordance with ORS 677.510(6)(a).

Stat. Auth.: ORS 183 & 677.265

Stats. Implemented: ORS 677.510

Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 8-1985, f. & ef. 8-5-85; ME 5-1986, f. & ef. 4-23-86; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

847-050-0041

Prescription Privileges

(1) An Oregon grandfathered physician assistant may issue written, electronic or oral prescriptions for medications, Schedule III-V, which the supervising physician has determined the physician assistant is qualified to prescribe commensurate with the practice agreement or Board-approved practice description if the physician assistant has passed a specialty examination approved by the Board prior to July 12, 1984, and the following conditions are met:

(a) The Oregon grandfathered physician assistant has passed the Physician Assistant National Certifying Examination (PANCE); and

(b) The Oregon grandfathered physician assistant has documented adequate education or experience in pharmacology commensurate with the practice agreement or Board-approved practice description.

(2) A physician assistant may issue written, electronic or oral prescriptions for medications, Schedule III-V, which the supervising physician has determined the physician assistant is qualified to prescribe commensurate with the practice agreement or Board-approved practice description, if the physician assistant has met the requirements of OAR 847-050-0020(1).

(3) A physician assistant may issue written or oral prescriptions for medications, Schedule II-V if the requirements in (1) or (2) are fulfilled and if the following conditions are met:

(a) A statement regarding Schedule II controlled substances prescription privileges is included in the practice agreement or Board-approved practice description. The Schedule II controlled substances prescription privileges of a physician assistant are limited by the practice agreement or Board-approved practice description and may be restricted further by the supervising physician at any time.

(b) The physician assistant is currently certified by the National Commission for the Certification of Physician Assistants and must complete all required continuing medical education coursework.

(4) All prescriptions given whether written, electronic, or oral must include the name, office address, and telephone number of the supervising physician and the name of the physician assistant. The prescription must also bear the name of the patient and the date on which the prescription was written. The physician assistant must sign the prescription and the signature must be followed by the letters "P.A." Also the physician assistant's Federal Drug Enforcement Administration number must be shown on prescriptions for controlled substances.

(5) A licensed physician assistant may make application to the Board to dispense emergency medications.

(a) The application must be submitted to the Board by the supervising physician and must explain the need for the request, as follows:

- (A) Location of the practice site;
- (B) Accessibility to the nearest pharmacy; and
- (C) Medical necessity for emergency dispensing.

(b) The dispensed medication must be pre-packaged by a licensed pharmacist, manufacturing drug outlet or wholesale drug outlet authorized to do so under ORS 689 and the physician assistant must maintain records of receipt and distribution.

(c) A supervising physician or primary supervising physician of a supervising physician organization for a physician assistant who is apply-

ing for emergency dispensing privileges must be registered with the Oregon Medical Board as a dispensing physician.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 409.560, 677.470

Hist.: ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 6-1982, f. & ef. 10-27-82; ME 10-1984, f. & ef. 7-20-84; ME 5-1986, f. & ef. 4-23-86; ME 16-1987, f. & ef. 8-3-87; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; ME 5-1994, f. & cert. ef. 1-24-94; BME 2-2000, f. & cert. ef. 2-7-00; BME 4-2002, f. & cert. ef. 4-23-02; BME 4-2002, f. & cert. ef. 4-23-02; BME 13-2003, f. & cert. ef. 7-15-03; BME 8-2004, f. & cert. ef. 4-22-04; BME 3-2005, f. & cert. ef. 1-27-05; BME 6-2006, f. & cert. ef. 2-8-06; OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

847-050-0042

Registration

(1) The registration renewal form and fee must be received in the Board office during regular business hours and must be satisfactorily complete on or before December 31 of each odd-numbered year in order for the physician assistant's registration to be renewed for the next 24 months. This application must also include submission of an updated practice agreement or validation of an existing practice agreement or Board-approved practice description.

(2) Upon failure to comply with section (1) of this rule, the license will automatically lapse as per ORS 677.228.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.512

Hist.: ME 1-1979, f. & ef. 1-2-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 7-1984, f. & ef. 1-26-84; ME 2-1990, f. & cert. ef. 1-29-90; ME 7-1990, f. & cert. ef. 4-25-90; ME 7-1991, f. & cert. ef. 7-24-91; ME 5-1994, f. & cert. ef. 1-24-94; BME 6-2003, f. & cert. ef. 1-27-03; BME 25-2008, f. & cert. ef. 10-31-08; OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

847-050-0043

Inactive Registration, Initial Licensure, and Re-Entry to Practice

(1) Any physician assistant licensed in this state who changes location to some other state or country, or who is not in a current supervisory relationship with a licensed physician for six months or more, will be listed by the Board as inactive.

(2) If the physician assistant wishes to resume active status to practice in Oregon, the physician assistant must submit the Affidavit of Reactivation and processing fee, satisfactorily complete the reactivation process and be approved by the Board before beginning active practice in Oregon.

(3) The Board may deny active registration if it judges the conduct of the physician assistant during the period of inactive registration to be such that the physician assistant would have been denied a license if applying for an initial license.

(4) If a physician assistant applicant has ceased practice for a period of 12 or more consecutive months immediately preceding the application for licensure or reactivation, the applicant may be required to do one or more of the following:

- (a) Obtain certification or re-certification by the National Commission on the Certification of Physician Assistants (N.C.C.P.A.);
- (b) Provide documentation of current N.C.C.P.A. certification;
- (c) Complete 30 hours of Category I continuing medical education acceptable to the Board for every year the applicant has ceased practice;
- (d) Agree to increased chart reviews upon re-entry to practice.

(5) The physician assistant applicant who has ceased practice for a period of 24 or more consecutive months may be required to complete a re-entry plan to the satisfaction of the Board. The Board must review and approve a re-entry plan prior to the applicant beginning the re-entry plan. Depending on the amount of time out of practice, the re-entry plan may contain one or more of the requirements listed in section (4) of this rule and such additional requirements as determined by the Board.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.512

Hist.: ME 12-1986, f. & ef. 7-31-86; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; ME 5-1996, f. & cert. ef. 7-26-96; BME 11-1998, f. & cert. ef. 7-22-98; BME 2-2000, f. & cert. ef. 2-7-00; BME 25-2008, f. & cert. ef. 10-31-08; OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

847-050-0046

Active Status for Temporary, Rotating Assignments

(1) A physician assistant, upon notification to the Board, may retire from active, permanent practice and change to Emeritus status which allows the physician assistant to practice temporary, volunteer assignments. A physician assistant with Emeritus status who wishes to volunteer at a medical facility must have a practice agreement or Board-approved practice description prior to starting practice at each assignment.

ADMINISTRATIVE RULES

(2) A physician assistant, upon notification to the Board, may retire from active, permanent practice and maintain Active status by practicing at medical facilities for assignments on a rotating basis. A physician assistant who wishes to maintain active status and practice in rotating assignments at permanent locations must have a practice agreement or Board-approved practice description and must provide the Board with timely notification of the dates of each assignment prior to beginning each rotating assignment.

Stat. Auth.: ORS 677.265 & 677.545
Stats. Implemented: ORS 677.265, 677.510 & 677.515
Hist.: BME 9-2010, f. & cert. ef. 4-26-10; OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

847-050-0050

Termination of Supervision

Upon termination of a supervisory relationship both the supervising physician and the physician assistant must submit to the Board a detailed written report concerning the reason(s) for termination of the relationship. Such report must be submitted to the Board within 15 days following termination of supervision.

Stat. Auth.: ORS 677
Stats. Implemented: ORS 677.510
Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 2-1990, f. & cert. ef. 1-29-90; OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

847-050-0055

Professional Corporation or Partnership

Whenever the supervising physician is a member of a professional corporation or employee of a professional corporation or partnership, the primary supervising physician and any acting supervising physician are in all cases personally responsible for the direction and supervision of the physician assistant's work. Such responsibility for supervision cannot be transferred to the corporation or partnership even though such corporation or partnership may pay the supervising physician and the physician assistant's salaries or enter into an employment agreement with such physician assistant or supervising physician.

Stat. Auth.: ORS 677
Stats. Implemented: ORS 58.185
Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 2-1990, f. & cert. ef. 1-29-90; OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

847-050-0060

Physician Assistant Student

(1) Where applicable, any person who is enrolled as a student in any school offering an accredited physician assistant education program must comply with OAR 847-050-0005 to 847-050-0065.

(2) Notwithstanding any other provisions of these rules, a physician assistant student may perform medical services when such services are rendered within the scope of an accredited physician assistant education program.

Stat. Auth.: ORS 677
Stats. Implemented: ORS 677.515
Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 2-1990, f. & cert. ef. 1-29-90; OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

847-050-0063

Physician Assistant Committee

(1) There is created a Physician Assistant Committee consisting of five members. Members of the committee are appointed as follows:

(a) The Oregon Medical Board for the State of Oregon must appoint one of its members and one physician. The physician who is not a member of the Board must supervise a physician assistant.

(b) The Oregon Medical Board must appoint three physician assistants after considering persons nominated by the Oregon Society of Physician Assistants.

(2) The term of each member of the committee is three years. A member must serve until a successor is appointed. If a vacancy occurs, it must be filled for the unexpired term by a person with the same qualifications as the retiring member.

(3) If any vacancy under subsection (1) of this section is not filled within 45 days, the Governor must make the necessary appointment from the category which is vacant.

(4) The committee elects its own chairperson with such powers and duties as fixed by the committee.

(5) A quorum of the committee is three members. The committee must hold a meeting at least once quarterly and at such other times the com-

mittee considers advisable to review requests to use the services of physician assistants and for dispensing privileges and to review applications for licensure or renewal.

(6) The chairperson may call a special meeting of the Physician Assistant Committee upon at least 10 days' notice in writing to each member, to be held at any place designated by the chairperson.

(7) The committee members are entitled to compensation and expenses as provided in ORS 677.292.495.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.540
Hist.: BME 15-1999, f. & cert. ef. 10-28-99; BME 1-2001, f. & cert. ef. 1-25-01; BME 25-2008, f. & cert. ef. 10-31-08; OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

847-050-0065

Duties of the Committee

(1) The Physician Assistant Committee must:

(a) Review applications for physician assistants' licensure and for renewal thereof.

(b) Review applications of physician assistants for dispensing privileges.

(c) Recommend approval or disapproval of applications submitted under subsection (1) or (2) of this section to the Oregon Medical Board for the State of Oregon.

(d) Recommend criteria to be used in granting dispensing privileges under ORS 677.515.

(e) Review requests to use the services of physician assistants.

(2) All actions of the physician assistant committee are subject to review and approval by the Board.

(3) Any other matters related to the physician assistant practice in Oregon.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.540 & 677.545
Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 2-1990, f. & cert. ef. 1-29-90; BME 15-1999, f. & cert. ef. 10-28-99; BME 6-2006, f. & cert. ef. 2-8-06; OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12

Oregon Public Employees Retirement System Chapter 459

Rule Caption: Rule is unnecessary given specific loss of membership standard for school employees in ORS 238.095.

Adm. Order No.: PERS 7-2011

Filed with Sec. of State: 10-5-2011

Certified to be Effective: 10-5-11

Notice Publication Date: 7-1-2011

Rules Repealed: 459-010-0205

Subject: Under ORS 238.095, school district employees who are not vested and inactive for a period of five consecutive years may continue membership in the system if they meet two criteria. First, after completing a school year, the member must be inactive for the next following five school years. Secondly, the member must either be reemployed by a school district in a qualifying position at the beginning of the sixth school year, or reach earliest service retirement age before the beginning of the sixth school year. These criteria are specified in nearly identical language in ORS and OAR, therefore the OAR is unnecessary and proposed for repeal.

Rules Coordinator: Daniel Rivas—(503) 603-7713

Rule Caption: Clarify disability retirement standards at the recommendation of Internal Audit findings and make other improvements.

Adm. Order No.: PERS 8-2011

Filed with Sec. of State: 10-5-2011

Certified to be Effective: 10-5-11

Notice Publication Date: 7-1-2011

Rules Amended: 459-015-0001, 459-015-0020, 459-015-0045, 459-015-0050, 459-076-0001, 459-076-0020, 459-076-0025, 459-076-0050, 459-076-0055

Rules Repealed: 459-076-0000

Subject: In 2005, PERS adopted changes to its administrative rules governing the disability retirement program for Tier One and Tier Two members, and adopted new rules for the administration of OPSRP Disability Benefits. PERS' Internal Auditor, in Report

ADMINISTRATIVE RULES

#2011-03 dated October 12, 2010, reviewed the agency's periodic review and contested case process for the Tier One/Tire Two disability program and recommended further clarifications to the administrative rules. These modifications are in response to that audit finding. Staff is also proposing rule modifications to the OPSRP Disability rules to align the rules where applicable, and make other improvements.

Rules Coordinator: Daniel Rivas—(503) 603-7713

459-015-0001

Definitions

The words and phrases used in this division have the same meaning given them in ORS Chapter 238 and OAR 459-005-0001. Additional terms are defined as follows unless the context requires otherwise.

(1) "Any work for which qualified" means a job, not necessarily the last or usual job, which the applicant for a disability retirement allowance:

- (a) Is physically and psychologically capable of performing; and
- (b) Has, or may obtain with reasonable training the knowledge, skills and abilities, to perform the job.

(2) "Certified vocational consultant" means a person who satisfies the criteria set forth under either of the following:

(a) A Master's Degree in vocational rehabilitation, and one year of experience in performing vocation evaluations or developing individualized return-to-work plans; or a Bachelor's Degree and two years of such experience. All degrees must have been earned at an accredited institution; or

(b) Accredited as a Certified Rehabilitation Counselor (CRC) by the Commission on Rehabilitation Counselor Certification; as a Certified Disability Management Specialist (CDMS) by the Certification of Disability Management Specialists Commission; or a Certified Vocational Evaluation Specialist (CVE) or a Certified Work Adjustment Specialist (CWA) by the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists.

(3) "Confidential information" means information of a personal nature such that disclosure would constitute an unreasonable invasion of privacy as defined by state law.

(4) "Date an application for disability retirement is filed" means the receipt date as determined pursuant to OAR 459-005-0220.

(5) "Date of disability" means the later of:

- (a) The date an active member ceased to work because of inability to perform any work for which qualified due to injury or disease; or
- (b) The date an inactive member became unable to perform any work for which qualified provided such inability occurred within six months after the date of separation from service.

(6) "Date of separation from service" means the later of: the last day worked or the last day of paid leave with a PERS participating employer.

(7) "Date of termination" means the date a member terminates from employment such that an employee/employer relationship no longer exists.

(8) "Earned income" means income that includes, but is not limited to:

- (a) Salary or wages received as an employee;
- (b) Self-employment income from:
 - (A) Services industry;
 - (B) Sales;
 - (C) Assembly or manufacturing;
 - (D) Consulting;
 - (E) Property management;
 - (F) Hobby income; or
 - (G) Book advances.
- (c) "Earned income" does not include:
 - (A) Investment income;
 - (B) Rent; and
 - (C) Royalties.

(d) Earned income is deemed to be received by the member on the date it is issued by the payer.

(9) "Effective date of disability retirement" means the first day of the month following the date of disability in which all of the following has been met:

- (a) The member is paid no salary from a participating employer, and
- (b) The member does not receive paid leave from a participating employer except for any lump sum payment for accrued vacation leave or compensatory time.

(10) "Extended duration" means a period of not less than 90 consecutive calendar days, unless the disability is expected to result in the death of the disabled member in less than 90 days.

(11) "Granted service" means that portion of creditable service used solely to calculate a disability retirement allowance under ORS 238.320 that is not performed or earned.

(12) "Independent medical exam" means an exam or exams conducted by a physician chosen by PERS for purposes other than treatment which results in the issuance of a report or reports based on those exams, giving an opinion regarding the claimed injury or disease.

(13) "Material contributing cause" means the efficient, dominant, and proximate cause of the disability, without which the member would not be disabled.

(14) "Monthly salary" means "salary" as defined in ORS 238.005 that is earned in the last full calendar month of employment, and includes employer payments under ORS 238A.335 and differential wage payments as defined in OAR 459-005-0001.

(a) Retroactive payments or payments made due to clerical errors, paid in accordance with ORS 238.005, are allocated to the period the salary was earned or should have been earned.

(b) Payments of salary paid within 31 days of separation are allocated to the period the salary was earned and should be considered as paid on the last date of employment.

(15) "Monthly salary received" means the greater of the monthly salary paid for the last full calendar month of:

(a) Employment before the date of disability; or

(b) Differential wage payments made before the date of disability.

This subsection is effective January 1, 2009.

(16) "Normal retirement age" means the age at which a member can retire without a reduced benefit as set forth under ORS 238.005 and 238.280.

(17) "Performance of duty" means whatever an employee may be directed, required or reasonably expected to do in connection with his or her employment, and not solely the duties particular to his or her position.

(18) "Periodic review" means a review of a member receiving a disability retirement allowance to determine whether or not a continued allowance is warranted.

(19) "Physician" means a medical doctor, a doctor of osteopathy, a doctor of oral surgery, a chiropractic doctor, a naturopathic doctor, or a doctor of psychology practicing only within the purview of their license issued by the designated authority of a state.

(20) "Pre-existing condition" means a condition that was not sustained in actual performance of duty in a qualifying position with a participating employer.

(21) "Protected health information" means health information created or received by a health care provider, health plan, or health care clearinghouse, where an individual has a reasonable belief that the information can identify the individual, which relates to:

(a) The past, present, or future physical or mental health of an individual;

(b) The provision of health care to an individual; or

(c) The past, present, or future payment for the provision of health care to an individual.

(22) "Similar in compensation" means salary or other earned income, excluding overtime, equaling at least 80% of the monthly salary.

(23) "Total disability" means the inability to perform any work for which qualified for an extended duration due to physical or mental incapacitation.

(24) "Training or vocational rehabilitation program" means a comprehensive, coordinated program, usually state or federally funded, to train and assist individuals with disabilities in securing gainful employment commensurate with their abilities and capabilities.

(25) "Vocational evaluation" means an evaluation conducted by a certified vocational consultant, to determine the ability of an applicant to perform any work for which they are qualified.

(26) "Work related stress" means conditions or disabilities resulting from, but not limited to:

(a) Change of employment duties;

(b) Conflicts with supervisors;

(c) Actual or perceived threat of loss of a job, demotion, or disciplinary action;

(d) Relationships with supervisors, coworkers, or the public;

(e) Specific or general job dissatisfaction;

(f) Work load pressures;

(g) Subjective perceptions of employment conditions or environment;

(h) Loss of job or demotion for whatever reason;

(i) Fear of exposure to chemicals, radiation biohazards, or other perceived hazards;

ADMINISTRATIVE RULES

- (j) Objective or subjective stresses of employment; or
- (k) Personnel decisions.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.320 - 238.345

Hist.: PERS 15-2005, f. & cert. ef. 10-3-05; PERS 1-2009, f. & cert. ef. 2-12-09; PERS 3-2010, f. & cert. ef. 5-28-10; PERS 8-2011, f. & cert. ef. 10-5-11

459-015-0020

Application Required

(1) Applications must be made on forms provided by PERS. PERS may require the member to provide any information that PERS considers necessary to determine the applicant's eligibility for a disability retirement allowance.

(2) No disability retirement allowance will be paid unless the member files a timely and complete application.

(3) Application must be made by a member or the member's authorized representative. A representative must submit to PERS written proof of the representative's authority; such as, a power of attorney, guardianship or conservatorship appointment.

(4) Upon the filing of an application for a disability retirement allowance, PERS will notify the applicant's current or most recent employer of the filing. Additionally, PERS may request of an employer information pertaining to current or previous employment.

(5) When an employee member is disabled due to injury or disease, the member may make application immediately after the last day worked even though the member may be on a paid leave or on an official leave of absence without pay. No application will be accepted that predates the last day the member was actually on the job.

(6) An application will be considered filed in a timely manner when received by PERS as follows:

(a) For a member who is totally disabled due to injury or disease before terminating employment from all PERS qualifying positions and has not withdrawn the amount credited to the account of the member in the system, the member must file an application for a disability retirement allowance within five calendar years of the date of termination. The disabling condition must be continuous from the date of termination to the date the application is filed.

(b) For a member who is totally disabled due to injury or disease after terminating employment from all PERS qualifying positions and has not withdrawn the amount credited to the account of the member in the system, the member must file an application for a disability retirement allowance within six months (180 days) after the date of separation from service. The disabling condition must be continuous from the date of disability to the date the application is filed.

(c) A member cannot apply for disability retirement before their date of disability.

(7) In determining the effective date of a disability retirement allowance, PERS may allow up to 60 months of benefits retroactive from the date the application is filed with PERS, but in no case earlier than the first day of the month following the date of termination.

(8) When making application for a PERS disability retirement allowance, PERS will request the applicant authorize any physician, health practitioner, hospital, clinic, pharmacy, employer, employment agency, or government agency to release and disclose to PERS, or independent physicians and vocational consultants retained by PERS, any information within their records or knowledge, including that information otherwise protected under federal or state law, regarding the applicant's health and employment which PERS determines relates to the applicant's claim of disability and inability to perform any work for which qualified.

(9) When filing an application for disability retirement allowance, if the applicant wishes to authorize release and disclosure of protected health information, as defined in OAR 459-015-0001(17), the applicant must complete and sign a consent form which specifically authorizes the release and disclosure of such information.

(a) This authorization is voluntary. Because PERS is not a covered entity as defined in 45 C.F.R., Parts 160 and 164, the protected health information is not subject to federal and state health information privacy laws, but may be protected under Oregon State Public Record disclosure laws.

(b) This authorization may be revoked in writing at any time, except to the extent the entities named on the authorization form(s) have taken action in reliance of the authorization.

(c) If the applicant refuses to give or revokes authorization to disclose to PERS medical information that PERS determines it needs to evaluate the application, eligibility for a disability retirement allowance may be affected.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.320 - 238.345

Hist.: PERS 2-1992, f. & cert. ef. 1-14-92; PERS 15-2005, f. & cert. ef. 10-3-05; PERS 8-2011, f. & cert. ef. 10-5-11

459-015-0045

Return to Work

(1) The Public Employees Retirement Board allows a member who is receiving a disability allowance to return to work as follows:

(a) Returning to work in a PERS qualifying position. A member who has not been medically released for any work for which qualified, may return to work in a PERS qualifying position, as defined by OAR 459-010-0003, for a 90-day trial period without losing disability retirement status. While the member is working during this trial period:

(A) The disability retirement allowance and supplemental benefits will be suspended.

(B) Any wages earned during the trial period are excluded from the definition of salary for purposes of computing PERS contributions or determining PERS retirement benefits unless the member continues the employment beyond 90 days. If the member continues beyond the 90 days, the period will be considered qualifying as of the first day the member returned to work and retroactive contributions, without interest, are required.

(b) Returning to work in a PERS non-qualifying position. A member who has not been medically released for any work for which qualified, may return to work with a PERS participating employer in a position not qualifying for PERS active membership, as defined by OAR 459-010-0003. Unless the member has reached normal retirement age, the monthly disability retirement will be adjusted by any earned income issued during that month which, when added to the disability retirement allowance, exceeds the gross monthly salary earned at the date of disability.

(c) Returning to work in a non-PERS position. A member who has not been medically released for any work for which qualified, may be employed by other than a PERS participating employer in a position that is not similar in compensation. Unless the member has reached normal retirement age, the monthly disability retirement allowance shall be adjusted by any earned income issued during that month which, when added to the disability retirement allowance, exceeds the gross monthly salary earned at the date of disability.

(d) If a member is able to generate income that is similar in compensation for a period of three calendar months in six consecutive calendar months, PERS shall initiate a review under the periodic review standard in OAR 459-015-0050.

(2) A member's disability retirement allowance will be terminated if the member has been medically released for any work for which qualified, whether the member returns to work or not, and PERS will invoice the member for, or recover under ORS 238.715, any overpayment of benefits.

(3) If a member returns to work as provided in sections (1) or (2) of this rule, the member must:

(a) Notify PERS in writing of the reemployment within 30 days of such reemployment; and

(b) Report monthly to PERS the amount of any earned income issued.

(4) PERS may contact other public or private agencies, such as the Oregon Employment Department, the Oregon Department of Revenue, or the U.S. Internal Revenue Service to obtain employment information.

(5) Upon request by PERS, a member must provide PERS with a copy of the member's federal income tax returns, together with copies of IRS forms W-2.

(6) The Board may require medical examination reports or vocational evaluations for any member receiving a disability retirement allowance who is reemployed.

(7) If the member is reemployed under section (1) of this rule and is unable to continue employment due to the disabling injury or disease as confirmed by medical documentation, the member or employer must notify PERS. If medical documentation substantiates that the disability prevents the completion of the trial period, the disability retirement allowance will be reinstated at the end of the 90 day period, or as of the date the member leaves the trial employment, whichever is sooner.

(8) A disability retirement allowance shall not be discontinued solely by reason of the retired member entering a training or vocational rehabilitation program as defined in OAR 459-015-0001(22).

(9) Restoration of member account after return to work. If a member returns to PERS covered employment after the 90-day trial period, or is medically released at any time for any work for which they are qualified, the disability claim will be closed.

(a) The member's regular and variable PERS account(s) will be restored to the dollar amount of the account as of the effective date of disability retirement. If a variable account transfer was elected at the time of

ADMINISTRATIVE RULES

disability retirement, the amounts transferred from the variable account to the regular account will remain in the regular account.

(b) Earnings crediting will resume as of the first of the month following the last month for which a disability retirement allowance was paid.

(10) Creditable service. A member does not receive creditable service while drawing a disability retirement allowance. If, however, the member returns to PERS covered employment, their disability claim is closed, and they subsequently retire under a service retirement, service time for the period of disability will be restored as follows:

(a) For duty disabilities, creditable service will be granted to the member at no cost to the member.

(b) For non-duty disabilities, creditable service may be purchased by the member under the provisions of ORS 238.175.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.175, 238.320 – 238.345 & 238.715

Hist.: PERS 2-1992, f. & cert. ef. 1-14-92; PERS 15-2005, f. & cert. ef. 10-3-05; PERS 8-2011, f. & cert. ef. 10-5-11

459-015-0050

Periodic Reviews

(1) Members receiving a disability retirement allowance are subject to periodic reviews of their disabled status until the member reaches normal retirement age or staff determines that periodic reviews are no longer warranted.

(2) Periodic reviews will be used to determine that continued disability retirement allowances are warranted. In recommending the continuance or discontinuance of a disability retirement allowance, PERS will follow the criteria established under OAR 459-015-0005 for the original approved disabling condition or a new medical condition. PERS will also consider the Return to Work provisions of ORS 238.330(3), 238.340, and OAR 459-015-0045.

(3) For duty disability, the periodic review will not revisit the original determination that the injury or disease was duty caused, unless there is evidence of misrepresentation or fraud.

(4) PERS will establish review dates for each member subject to a periodic review depending on type of disability, extent of disability, and medical reports unique to each individual case.

(a) The reviews may be medical or vocational in nature, or both.

(b) Upon review, PERS may accept or require:

(A) New treating or consulting physician or specialist reports;

(B) Updated physician or specialist reports;

(C) Independent medical or vocational examinations; or

(D) Employment and wage information, including but not limited to, tax returns or information from the State Employment Department.

(c) PERS may immediately discontinue the disability retirement allowance of any person who refuses to provide current medical evidence or refuses to submit to an examination.

(A) If the disability claim is discontinued, the staff shall issue an Intent to Discontinue letter by regular and certified mail, return receipt requested. The discontinuation letter shall advise the applicant that additional information to substantiate the claim, or a request for an extension of 30 days to present additional information, may be submitted to the staff in writing within 30 days of the date of the Intent to Discontinue letter.

(B) Following the issuance of an Intent to Discontinue letter, staff will review any additional information which is submitted within 30 days.

(i) If the additional information results in a recommendation to approve the application, staff shall resubmit the application to the Director, or the Director's designee, with the recommendation.

(ii) If the additional information does not result in a recommendation to approve the application, PERS will issue a final discontinuation letter by regular and certified mail, return receipt requested.

(C) If no additional information is received within 30 days, PERS will issue a final discontinuation letter by regular and certified mail, return receipt requested.

(D) The final discontinuation letter will provide the applicant with notification of the right to request a contested case hearing as provided for in OAR 459-015-0030 and 459-001-0035.

(5) The member has the burden to prove continuing eligibility for a disability retirement allowance.

(6) The Director, or the Director's designee, may approve or deny the continuance of a disability retirement allowance.

Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.320 & 238.335

Hist.: PERS 2-1992, f. & cert. ef. 1-14-92; PERS 5-1992, f. & cert. ef. 5-4-92; PERS 15-2005, f. & cert. ef. 10-3-05; PERS 8-2011, f. & cert. ef. 10-5-11

459-076-0001

Definitions

The words and phrases used in this division have the same meaning given them in ORS Chapter 238A and OAR 459-070-0001. Additional terms are defined as follows unless the context requires otherwise.

(1) "Any work for which qualified" means a job, not necessarily the last or usual job, which the applicant for disability benefits:

(a) Is physically and psychologically capable of performing; and

(b) Has, or may obtain with reasonable training, the knowledge, skills and abilities, to perform the job.

(2) "Certified vocational consultant" means a person who satisfies the criteria set forth under either of the following:

(a) A Master's Degree in vocational rehabilitation, and one year of experience in performing vocation evaluations or developing individualized return-to-work plans; or a Bachelor's Degree and two years of such experience. All degrees must have been earned at an accredited institution; or

(b) Accredited as a Certified Rehabilitation Counselor (CRC) by the Commission on Rehabilitation Counselor Certification; as a Certified Disability Management Specialist (CDMS) by the Certification of Disability Management Specialists Commission; or a Certified Vocational Evaluation Specialist (CVE) or a Certified Work Adjustment Specialist (CWA) by the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists.

(3) "Confidential information" means information of a personal nature such that disclosure would constitute an unreasonable invasion of privacy as defined by state law.

(4) "Date an application for a disability benefit is filed" means the receipt date as determined pursuant to OAR 459-005-0220.

(5) "Date of disability" means the date an active member ceased to work because of inability to perform any work for which qualified due to injury or disease.

(6) "Date of separation from service" means the later of: the last day worked or the last day of paid leave with a PERS participating employer.

(7) "Date of termination" means the date a member terminates from employment such that an employee/employer relationship no longer exists.

(8) "Earned income" includes, but is not limited to:

(a) Salary or wages received as an employee;

(b) Self-employment income from:

(A) Services industry;

(B) Sales;

(C) Assembly or manufacturing;

(D) Consulting;

(E) Property management;

(F) Hobby income; or

(G) Book advances.

(c) "Earned income" does not include:

(A) Investment income;

(B) Rent; and

(C) Royalties.

(d) Earned income is deemed to be received by the member on the date it is issued by the payer.

(9) "Effective date of disability benefit" means the first day of the month following the date of disability, in which:

(a) The member is paid no salary from a participating employer; and

(b) The member does not receive paid leave from a participating employer, except for any lump sum payment for accrued vacation leave or compensatory time.

(10) "Extended duration" means a period of not less than 90 consecutive calendar days unless the disability is expected to result in the death of the disabled member in less than 90 days.

(11) "Independent medical exam" means an exam or exams conducted by a physician chosen by PERS for purposes other than for treatment which results in the issuance of a report or reports based on those exams, giving an opinion regarding the claimed injury or disease.

(12) "Material contributing cause" means the efficient, dominant, and proximate cause of the disability, without which the member would not be disabled.

(13) "Monthly salary" means salary as defined in ORS 238A.005 that is earned in the last full calendar month of employment and includes a differential wage payment, as defined in OAR 459-005-0001.

(a) Retroactive payments or payments made due to clerical errors, paid in accordance with ORS 238A.005, are allocated to the period the salary was earned or should have been earned.

ADMINISTRATIVE RULES

(b) Payments of salary paid within 31 days of separation are allocated to the period the salary was earned and should be considered as paid on the last date of employment.

(14) "Monthly salary received" means the greater of the salary paid for the last full calendar month of:

(a) Employment before the date of disability; or

(b) Differential wage payments made before the date of disability.

This subsection is effective January 1, 2009.

(15) "Performance of duty" means whatever an employee may be directed, required or reasonably expected to do in connection with his or her employment, and not solely the duties particular to his or her position.

(16) "Periodic review" means a review of a member receiving a disability benefit to determine whether or not a continued benefit is warranted.

(17) "Physician" means a medical doctor, a doctor of osteopathy, a doctor of oral surgery, a chiropractic doctor, a naturopathic doctor, or a doctor of psychology practicing only within the purview of their license issued by the designated authority of a state.

(18) "Pre-existing condition" means a condition that was not sustained in actual performance of duty in a qualifying position with a participating employer.

(19) "Protected health information" means health information created or received by a health care provider, health plan, or health care clearinghouse, where an individual has a reasonable belief that the information can identify the individual, which relates to:

(a) The past, present, or future physical or mental health of an individual;

(b) The provision of health care to an individual; or

(c) The past, present, or future payment for the provision of health care to an individual.

(20) "Total disability" means the inability to perform any work for which qualified for an extended duration due to physical or mental incapacitation.

(21) "Vocational evaluation" means an evaluation conducted by a certified vocational consultant, to determine the ability of an applicant to perform any work for which they are qualified.

(22) "Work related stress" means conditions or disabilities resulting from, but not limited to:

(a) Change of employment duties;

(b) Conflicts with supervisors;

(c) Actual or perceived threat of loss of a job, demotion, or disciplinary action;

(d) Relationships with supervisors, coworkers, or the public;

(e) Specific or general job dissatisfaction;

(f) Work load pressures;

(g) Subjective perceptions of employment conditions or environment;

(h) Loss of job or demotion for whatever reason;

(i) Fear of exposure to chemicals, radiation biohazards, or other perceived hazards;

(j) Objective or subjective stresses of employment; or

(k) Personnel decisions.

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.235

Hist.: PERS 16-2005, f. & cert. ef. 10-3-05; PERS 7-2007, f. & cert. ef. 4-4-07; PERS 1-2009, f. & cert. ef. 2-12-09; PERS 8-2011, f. & cert. ef. 10-5-11

459-076-0020

Application Required

(1) Application must be made on forms provided by PERS. PERS may require the member to provide any information that PERS considers necessary to determine the member's eligibility for a disability benefit.

(2) No disability benefit will be paid unless the member files a timely and complete application with PERS.

(3) Application must be made by a member or the member's authorized representative. A representative must submit to PERS written proof of the representative's authority; such as, a power of attorney, guardianship or conservatorship appointment.

(4) A member must file a timely application for disability benefits:

(a) An active member may file the application immediately after the last day worked even though the member may be on a paid leave or on an official leave of absence without pay. No application will be accepted that predates the last day the member was actually on the job.

(b) An inactive member who was totally disabled due to injury or disease while the applicant was an active member and has not terminated membership, must file an application for a disability benefit within five calendar years of the date of separation from service. The disabling condition

must have arisen while the applicant was an active member and be continuous from the date the member last worked to the date the application is filed.

(c) A member cannot apply for disability benefits before their date of disability.

(5) In determining the effective date of a disability benefit PERS may allow up to 60 months of benefits retroactive from the date the application is filed with PERS, but in no case earlier than the first day of the month following the date of termination.

(6) Upon the filing of an application for a disability benefit, PERS will notify the applicant's current or most recent employer of the filing. Additionally, PERS may request of an employer information pertaining to current or previous employment.

(7) When making application for a PERS disability benefit, PERS will request the applicant authorize any physician, health practitioner, hospital, clinic, pharmacy, employer, employment agency, or government agency to release and disclose to PERS, or independent physicians and vocational consultants retained by PERS, any information within their records or knowledge, including that information otherwise protected under federal or state law, regarding the applicant's health and employment which PERS determines relates to the applicant's claim of disability and inability to perform any work for which qualified.

(8) When filing an application for disability benefit, if the applicant wishes to authorize release and disclosure of protected health information the applicant must complete and sign a consent form which specifically authorizes the release and disclosure of such information.

(a) This authorization is voluntary. Because PERS is not a covered entity as defined in 45 CFR Parts 160 and 164, the protected health information is not subject to federal and state health information privacy laws, but may be protected under Oregon State Public Record disclosure laws.

(b) This authorization may be revoked in writing at any time, except to the extent the entities named on the authorization form(s) have taken action in reliance of the authorization.

(c) If the applicant refuses to give or revokes authorization to disclose to PERS medical information that PERS determines it needs to evaluate the application, eligibility for a disability benefit may be affected.

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.235

Hist.: PERS 16-2005, f. & cert. ef. 10-3-05; PERS 7-2007, f. & cert. ef. 4-4-07; PERS 8-2011, f. & cert. ef. 10-5-11

459-076-0025

Application Processing — Independent Examinations and Appeals

(1) Following the timely filing of a completed application, PERS may, at its discretion, request an independent medical exam or a vocational evaluation. If PERS requests one or more of these exams or evaluations, PERS will pay the reasonable associated expenses.

(a) For independent medical exams, PERS will inform the applicant in writing and postmarked not less than 10 days before a scheduled examination, of the identity of the physician(s) selected to examine applicant, together with location, date and time.

(b) For vocational evaluations, the vocational consultant or locator service shall inform the applicant of the location, date and time of the scheduled examination.

(c) If the applicant fails to meet the scheduled appointment or fails to reschedule the examination within five days of notification, PERS will not reschedule an examination at PERS' expense unless the applicant can demonstrate good cause for having failed to meet the scheduled appointment or reschedule the appointment as required.

(d) Good cause includes, but is not limited to:

(A) Physical or mental incapacitation preventing the member from meeting or rescheduling the examination;

(B) Failure of PERS or the vocational consultant or locator service to send the member notice as described above; or

(C) A death in the member's immediate family.

(e) Good cause does not include:

(A) A member's refusal to attend the scheduled appointment;

(B) A member's failure to meet the appointment with no reason provided; or

(C) A member's failure to make appropriate transportation arrangements.

(2) When PERS requires an applicant to travel to be examined by a physician, vocational consultant, or other professional, PERS will reimburse the applicant's reasonable transportation costs based on the least costly alternative and on availability. Travel by private vehicle will be compensated at the rate applicable to travel by unrepresented state employees on

ADMINISTRATIVE RULES

state business. Transportation by taxi, bus, rail, or other public carrier will be paid only upon presentation of receipts from the providers. Lodging and subsistence will be allowed only when a stop-over is necessary and will be paid at the rate applicable to unrepresented state employees traveling on state business. Reimbursements will be reduced by the amount of any penalty assessed PERS because of a member's failure to meet a scheduled appointment.

(3) In the event a member fails to meet a scheduled examination in accordance with section (1) of this rule, and PERS is assessed a penalty by the service provider for the failure to meet the scheduled appointment, the disability applicant will bear the cost of the penalty as follows:

(a) If the disability application is not approved, by making direct payment to the service provider who assessed the penalty; or

(b) If the disability application is approved:

(A) By making direct payment to the service provider who assessed the penalty; or

(B) By having the amount of the penalty deducted from the monthly disability benefit, as provided for under ORS 238.715, payable to the member until the invoice is satisfied.

(4) The Director, or the Director's designee, is hereby authorized to approve or deny a disability benefit application. Upon receipt and review of all necessary documentation, staff will present applicant's claim to the Director, or the Director's designee, with a recommendation to approve or to deny a disability benefit. The Director, or the Director's designee, may accept or reject the staff's recommendation, or refer the application back to staff for further documentation and review.

(a) If the disability claim is approved, the staff will notify the applicant and the applicant's employer of such approval.

(b) If the disability claim is denied, the staff will issue an Intent to Deny letter by regular and certified mail, return receipt requested. The Intent to Deny letter will advise the applicant that additional information to substantiate the claim, or a request for an extension of 30 days to present additional information, may be submitted to the staff in writing within 30 days of the date of the Intent to Deny letter.

(5) Following the issuance of an Intent to Deny letter, staff will review any additional information submitted within 30 days from the issuance of the Intent to Deny letter.

(a) If the additional information results in a recommendation to approve the application, staff will resubmit the application to the Director with the recommendation.

(b) If the additional information does not result in a recommendation to approve the application, PERS will issue a final denial letter by regular and certified mail, return receipt requested.

(c) If no additional information is received, PERS will issue a final denial letter by regular and certified mail, return receipt requested.

(6) The final denial letter will provide the applicant with notification of the right to request a contested case hearing as provided for in OAR 459-015-0030 and 459-001-0035.

(7) A contested case hearing on the denial of disability benefits shall be conducted according to OAR 459-015-0030, 459-015-0035, and 459-015-0040.

(8) PERS will notify the most recent employer of the approval or the denial of an application for a disability benefit, a request for review of the Director's determination, and the Director's final action. Such notification will not contain any confidential information as defined in OAR 459-076-0001(3).

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.235

Hist.: PERS 16-2005, f. & cert. ef. 10-3-05; PERS 8-2011, f. & cert. ef. 10-5-11

459-076-0050

Periodic Reviews

(1) Members receiving a disability benefit are subject to periodic reviews of their disabled status until the member reaches normal retirement age or staff determines that periodic reviews are no longer warranted.

(2) Periodic reviews will be used to determine that continued disability benefits are warranted. In recommending the continuance or discontinuance of a disability benefit, PERS will follow the criteria established under OAR 459-076-0005 for the original approved disabling condition or a new medical condition. If a member receiving a disability benefit becomes employed, the member's disability benefit will be terminated as provided in OAR 459-076-0005.

(3) For a duty disability, the periodic review will not revisit the original determination that the injury or disease was duty caused, unless there is evidence of misrepresentation or fraud.

(4) PERS will establish review dates for each member subject to a periodic review depending on type of disability, extent of disability, and medical reports unique to each individual case:

(a) The reviews may be medical or vocational in nature, or both;

(b) Upon review, PERS may accept or require:

(A) New treating or consulting physician or specialist reports;

(B) Updated physician or specialist reports;

(C) Independent medical or vocational examinations; or

(D) Employment and wage information, including but not limited to, tax returns or information from the State Employment Department.

(c) PERS may immediately discontinue the disability benefit of any person who refuses to provide current medical evidence or refuses to submit to an examination:

(A) If the disability claim is discontinued, the staff shall issue an Intent to Discontinue letter by regular and certified mail, return receipt requested. The discontinuation letter shall advise the applicant that additional information to substantiate the claim, or a request for an extension of 30 days to present additional information, may be submitted to the staff in writing within 30 days of the date of the Intent to Discontinue letter;

(B) Following the issuance of an Intent to Discontinue letter, staff will review any additional information which is submitted within 30 days:

(i) If the additional information results in a recommendation to approve the application, staff shall resubmit the application to the Director, or the Director's designee, with the recommendation;

(ii) If the additional information does not result in a recommendation to approve the application, PERS will issue a final discontinuation letter by regular and certified mail, return receipt requested.

(C) If no additional information is received within 30 days, PERS will issue a final discontinuation letter by regular and certified mail, return receipt requested;

(D) The final discontinuation letter will provide the applicant with notification of the right to request a contested case hearing as provided for in OAR 459-015-0030 and 459-001-0035.

(5) The member has the burden to prove continuing eligibility for a disability benefit.

(6) The Director, or Director's designee, may approve or deny the continuance of a disability benefit.

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.235

Hist.: PERS 16-2005, f. & cert. ef. 10-3-05; PERS 7-2007, f. & cert. ef. 4-4-07; PERS 8-2011, f. & cert. ef. 10-5-11

459-076-0055

Payment of Disability Benefit

(1) A disability benefit accrues from the effective date of disability benefit.

(2) Notwithstanding section (1) of this rule, disability payments may not begin until a period of extended duration following the date of disability has been completed.

(3) If PERS cannot calculate the actual disability benefit payment, an estimated payment will be made until PERS receives all the necessary information needed to calculate the actual benefit payment.

(a) If the estimated payment results in an underpayment of \$10 or more a month, the member will receive interest under the provisions of OAR 459-007-0015.

(b) If the estimated payment results in an overpayment of any amount, the overpayments may be recovered by decreasing the monthly benefit amount until the difference between the amount the member received and the amount the member should have received is recovered.

(4) If a member applying for a disability benefit dies before the Director's approval of the application the application will be considered cancelled effective on the date of the member's death.

(5) If a member receiving disability payments dies before retiring, the disability benefit will cease the first of the month following the member's date of death.

Stat. Auth.: ORS 238A.450

Stats. Implemented: ORS 238A.235

Hist.: PERS 16-2005, f. & cert. ef. 10-3-05; PERS 8-2011, f. & cert. ef. 10-5-11

**Oregon University System,
Oregon State University
Chapter 576**

Rule Caption: Confidentiality and Inadmissibility of Workplace Interpersonal Dispute Mediation Communications.

Adm. Order No.: OSU 7-2011(Temp)

Filed with Sec. of State: 9-22-2011

ADMINISTRATIVE RULES

Certified to be Effective: 9-22-11 thru 3-20-12

Notice Publication Date:

Rules Adopted: 576-001-0060

Subject: Providing for confidentiality and inadmissibility of workplace interpersonal mediation communications.

Rules Coordinator: Barbara Melton—(541) 737-6262

576-001-0060

Confidentiality and Inadmissibility of Workplace Interpersonal Dispute Mediation Communications

(1) This rule applies to workplace interpersonal disputes, which are disputes involving the interpersonal relationships between the University's employees, officials or employees and officials. This rule does not apply to disputes involving the negotiation of labor contracts or matters about which a tort claim notice or a lawsuit has been filed.

(2) The words and phrases used in this rule have the same meaning as given to them in ORS 36.110 and 36.234.

(3) Nothing in this rule affects any confidentiality created by other law.

(4) To the extent mediation communications would otherwise be compromise negotiations under ORS 40.190 (OEC Rule 408), those mediation communications are not admissible as provided in ORS 40.190 (OEC Rule 408), notwithstanding any provisions to the contrary in section (9) of this rule.

(5) Disclosures by Mediator. A mediator may not disclose or be compelled to disclose mediation communications in a mediation and, if disclosed, such communications may not be introduced into evidence in any subsequent administrative, judicial or arbitration proceeding unless

(a) All the parties to the mediation and the mediator agree in writing to the disclosure; or

(b) The mediation communication may be disclosed or introduced into evidence in a subsequent proceeding as provided in subsections (c) or (h)–(j) of section (7) of this rule.

(6) Confidentiality and Inadmissibility of Mediation Communications. Except as provided in section (7) of this rule, mediation communications in mediations involving workplace interpersonal disputes are confidential and may not be disclosed to any other person, are not admissible in any subsequent administrative, judicial or arbitration proceeding and may not be disclosed during testimony in, or during any discovery conducted as part of a subsequent proceeding, or introduced into evidence by the parties or the mediator in any subsequent proceeding so long as:

(a) The parties to the mediation and the University have agreed in writing to the confidentiality of the mediation, and;

(b) The person agreeing to the confidentiality of the mediation on behalf of the University:

(A) Is neither a party to the dispute nor the mediator, and

(B) Is designated by the University to authorize confidentiality for the mediation, and

(C) Is at the same or higher level in the University than any of the parties to the mediation or who is a person with responsibility for human resources or personnel matters in the University, unless the University head or member of the governing board is one of the persons involved in the interpersonal dispute, in which case the Governor or the Governor's designee.

(7) Exceptions to confidentiality and inadmissibility.

(a) Any statements, memoranda, work products, documents and other materials, otherwise subject to discovery that were not prepared specifically for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding.

(b) Any mediation communications that are public records, as defined in ORS 192.410(4), and were not specifically prepared for use in the mediation are not confidential and may be disclosed or introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential or privileged under state or federal law.

(c) A mediation communication is not confidential and may be disclosed by any person receiving the communication to the extent that person reasonably believes that disclosing the communication is necessary to prevent the commission of a crime that is likely to result in death or bodily injury to any person. A mediation communication is not confidential and may be disclosed in a subsequent proceeding to the extent its disclosure may further the investigation or prosecution of a felony crime involving physical violence to a person.

(d) The parties to the mediation may agree in writing that all or part of the mediation communications are not confidential or that all or part of

the mediation communications may be disclosed and may be introduced into evidence in a subsequent proceeding unless the substance of the communication is confidential, privileged or otherwise prohibited from disclosure under state or federal law.

(e) A party to the mediation may disclose confidential mediation communications to a person if the party's communication with that person is privileged under ORS Chapter 40 or other provision of law. A party to the mediation may disclose confidential mediation communications to a person for the purpose of obtaining advice concerning the subject matter of the mediation, if all the parties agree.

(f) A written mediation communication may be disclosed or introduced as evidence in a subsequent proceeding at the discretion of the party who prepared the communication so long as the communication is not otherwise confidential under state or federal law and does not contain confidential information from the mediator or another party who does not agree to the disclosure.

(g) In any proceeding to enforce, modify or set aside a mediation agreement, a party to the mediation may disclose mediation communications and such communications may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of mediation communications or agreements to persons other than the parties to the agreement.

(h) In an action for damages or other relief between a party to the mediation and a mediator or mediation program, mediation communications are not confidential and may be disclosed and may be introduced as evidence to the extent necessary to prosecute or defend the matter. At the request of a party, the court may seal any part of the record of the proceeding to prevent further disclosure of the mediation communications or agreements

(i) To the extent a mediation communication contains information the substance of which is required to be disclosed by Oregon statute, other than ORS 192.410 to 192.505, that portion of the communication may be disclosed as required by statute.

(j) The mediator may report the disposition of a mediation to the University at the conclusion of the mediation so long as the report does not disclose specific confidential mediation communications. The University or the mediator may use or disclose confidential mediation communications for research, training or educational purposes, subject to the provisions of ORS 36.232(4).

(8) The terms of any agreement arising out of the mediation of a workplace interpersonal dispute are confidential so long as the parties and the University so agree in writing. Any term of an agreement that requires an expenditure of public funds, other than expenditures of \$1,000 or less for employee training, employee counseling or purchases of equipment that remain the property of the University, may not be made confidential.

(9) When a mediation is subject to section (6) of this rule, the University will provide to all parties to the mediation and to the mediator a copy of this rule or an explanation of where a copy of the rule may be obtained. Violation of this provision does not waive confidentiality or inadmissibility.

Stat. Auth.: ORS 36.224

Stats. Implemented: ORS 36.230(4)

Hist.: OSU 7-2011(Temp), f. & cert. ef. 9-22-11 thru 3-20-12

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**Oregon University System,
Portland State University
Chapter 577**

Rule Caption: Schedule of Fines and Fees for General Services and Other Charges.

Adm. Order No.: PSU 2-2011

Filed with Sec. of State: 9-21-2011

Certified to be Effective: 9-21-11

Notice Publication Date: 8-1-2011

Rules Amended: 577-060-0020

Rules Repealed: 577-060-0020(T)

Subject: Portland State University hereby adopts by reference a list of fees and other charges for fiscal year 2011-2012. The list of fees and other charges is available at Portland State University's Office of Finance and Administration, Market Center Building, 1600 SW Fourth Avenue, Suite. 515, Portland, Oregon 97207 or online at www.pdx.edu/fadm/rulemaking-portland-state and is hereby incorporated by reference in the rule.

Rules Coordinator: Diane Kirk—(503) 725-2656

ADMINISTRATIVE RULES

577-060-0020

Schedule of Fines and Fees for General Services and Other Charges

The Schedule of Fines and Fees for General Services and Other Charges for the 2011–2012 Fiscal Year are hereby adopted by reference by Portland State University.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 352.360
Hist.: PSU 16(Temp), f. 8-24-77, ef. 9-1-77; PSU 18, f. & ef. 10-4-77; PSU 19(Temp), f. & ef. 10-11-77; PSU 20, f. & ef. 11-18-77; PSU 3-1978(Temp), f. 6-19-78, ef. 7-1-78; PSU 7-1978, f. & ef. 9-5-78; PSU 1-1979, f. & ef. 9-17-79; PSU 3-1980, f. & ef. 9-4-80; PSU 2-1981, f. & ef. 9-10-81; PSU 3-1982, f. & ef. 9-3-82; PSU 1-1983, f. & ef. 2-8-83; PSU 2-1983, f. 6-22-83, ef. 7-1-83; PSU 1-1984, f. 6-8-84, ef. 7-1-84; PSU 1-1985, f. 6-26-85, f. 7-1-85; PSU 1-1986, f. 6-25-86, ef. 7-1-86; PSU 1-1987, f. 6-19-87, ef. 7-1-87; PSU 3-1987(Temp), f. & ef. 8-11-87; PSU 5-1987, f. & ef. 10-27-87; PSU 5-1988, f. & ef. 7-18-88; PSU 7-1988(Temp), f. & cert. ef. 11-29-88; PSU 3-1989, f. & cert. ef. 7-26-89; PSU 5-1990, f. & cert. ef. 7-5-90; PSU 2-1991(Temp), f. & cert. ef. 6-28-91; PSU 3-1991, f. & cert. ef. 8-7-91; PSU 4-1991(Temp), f. & cert. ef. 12-4-91; PSU 1-1992, f. & cert. ef. 1-17-92; PSU 2-1992, f. & cert. ef. 6-16-92 (and corrected 6-19-92); PSU 1-1993, f. & cert. ef. 6-11-93; PSU 2-1993(Temp), f. & cert. ef. 7-13-93; PSU 3-1993(Temp), f. & cert. ef. 7-30-93; PSU 4-1994, f. & cert. ef. 11-3-94; PSU 1-1995, f. & cert. ef. 8-9-95; PSU 1-1996(Temp), f. 1-18-96, cert. ef. 3-1-96; PSU 3-1996, f. & cert. ef. 6-27-96; PSU 1-1997, f. & cert. ef. 8-1-97; PSU 4-1998, f. & cert. ef. 9-17-98; PSU 4-1999, f. & cert. ef. 8-11-99; PSU 2-2000, f. & cert. ef. 8-1-00; PSU 1-2001, f. & cert. ef. 8-14-01; PSU 2-2003, f. 6-27-03, cert. ef. 7-1-03; PSU 4-2003(Temp), f. & cert. ef. 11-18-03 thru 5-14-04; PSU 1-2004, f. & cert. ef. 8-20-04; PSU 1-2005(Temp), f. & cert. ef. 7-15-05 thru 12-28-05; PSU 3-2005, f. & cert. ef. 12-13-05; PSU 2-2006, f. & cert. ef. 6-30-06; PSU 5-2006(Temp), f. & cert. ef. 8-30-06 thru 1-31-07; Administrative correction, 2-16-07; PSU 3-2007, f. & cert. ef. 7-5-07; PSU 5-2008(Temp), f. 6-13-08, cert. ef. 7-1-08 thru 12-26-08; Administrative correction 1-23-09; PSU 1-2009(Temp), f. & cert. ef. 5-14-09 thru 11-10-09; PSU 2-2009, f. 7-15-09, cert. ef. 8-1-09; PSU 6-2009(Temp), f. & cert. ef. 8-24-09 thru 11-1-09; Administrative correction 11-19-09; PSU 1-2010(Temp), f. 4-5-10, cert. ef. 7-1-10 thru 11-1-10; PSU 2-2010, f. 6-16-10, cert. ef. 8-1-10; PSU 1-2011(Temp), f. 6-10-11, cert. ef. 7-1-11 thru 12-28-11; PSU 2-2011, f. & cert. ef. 9-21-11

Rule Caption: Amends Portland State University's Health Insurance Requirements for Non-immigrant International Students and Dependents.

Adm. Order No.: PSU 3-2011

Filed with Sec. of State: 9-29-2011

Certified to be Effective: 9-29-11

Notice Publication Date: 9-1-2011

Rules Amended: 577-034-0001

Subject: Portland State University hereby adopts health insurance requirements for non-immigrant international students and their dependents living in the United States. A copy of the text can be found online at www.pdx.edu/fadm/rulemaking-portland-state and is hereby incorporated by reference in the rule.

Rules Coordinator: Diane Kirk—(503) 725-2656

577-034-0001

Health Insurance Requirements for Non-Immigrant International Students and Their Dependents Living in the United States

(1) In order to assist the University in complying with federal regulations, and to ensure the quality of the educational and cultural experience of non-immigrant international students, such students must demonstrate their ability to meet their financial responsibilities in full. These responsibilities include the provision by non-immigrant international students of medical care for themselves and dependent family members in the United States. As used in this rule, "non-immigrant international student" means a student holding F-1 or J-1 immigration status whose Certificate of Eligibility (Form I-20/DS-2019) has been issued by the University.

(2) As used in this rule, "PSU Plan" means the PSU Student Insurance Plan, including the mandatory International Student Insurance Plans, available through the University for non-immigrant international students.

(3) All non-immigrant international students enrolled part- or full-time at the University shall provide health insurance coverage for themselves and their dependent family members in the United States. Non-immigrant international students may fulfill this requirement by enrolling themselves and their dependent family members in the PSU Plan, or by securing a comparable insurance waiver under section (5) of this rule, by the Add/Drop date posted by the University for the first term of enrollment.

(4) Charges for enrollment of non-immigrant international students in the PSU Plan will automatically be billed to such students' University accounts unless they have secured a comparable insurance waiver under section (5) of this rule. Non-immigrant international students who are enrolled for spring term will automatically be billed and enrolled for both spring and summer term, unless proof can be provided that following spring graduation the individual will depart the United States.

(5) Non-immigrant international students who meet certain eligibility criteria as defined by the University and who do not wish to participate in the PSU Plan shall fill out the on-line waiver form with the broker for the PSU Plan by the Add/Drop date posted by the University for the first term of enrollment or by the Add/Drop date for Fall term posted by the University for continuing students. A Comparable Coverage insurance waiver may be granted only when the student is covered by an alternative policy, plan or contract that provides Comparable Coverage:

(a) "Comparable Coverage" means that the alternative policy, plan or contract meets or exceeds all levels of coverage provided by the PSU Plan, including any exclusions, the maximum amount of coverage per accident and illness, and the maximum amount of cumulative benefit; and that the alternative policy, plan or contract is either backed by the full faith and credit of the government of the non-immigrant international student's home country; is part of a health benefits program offered on a group basis to employees or enrolled students by a designated sponsor; or is an alternative plan lawfully sold in Oregon;

(b) The broker for the PSU Plan may check the documentation of Comparable Coverage. Documentation of such coverage must indicate in English the insurance company's name and address for billing purposes, policy number, the coverage terms of the policy, the effective dates of the policy, and any exclusions, the names of the individuals covered by the policy, and the maximum amount of coverage per accident and illness and/or in terms of cumulative benefits;

(c) In all cases proof of continuous coverage is required during the non-immigrant international student's program of study, including vacation periods, temporary leaves and summer term; and

(d) Notwithstanding section (5)(a) of this rule, the Vice Provost for International Affairs may designate as comparable coverage any plan for which non-immigrant international students are eligible that is offered through a University-recognized collective bargaining agreement.

(6) A non-immigrant international student whose request for a comparable insurance waiver is denied shall be enrolled in the PSU Plan and premiums will be billed to the student's University account.

(7) New non-immigrant international students shall be notified in writing of these requirements by the Admissions Office by the inclusion of an information sheet with the admissions letter and adding the insurance fee for the PSU Plan to the school expense list on the Certificate of Eligibility (Form I-20/DS-2019). Returning non-immigrant international students shall be notified in writing of these requirements by the Office of International Affairs.

Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070
Hist.: PSU 4-1992, f. & cert. ef. 7-21-92; Renumbered from 577-030-0080, PSU 3-2008(Temp), f. 4-15-08, cert. ef. 5-1-08 thru 10-24-08; PSU 7-2008, f. & cert. ef. 9-15-08; PSU 3-2011, f. & cert. ef. 9-29-11

Public Utility Commission Chapter 860

Rule Caption: In the Matter of Revisions to the Solar Photovoltaic Pilot Program.

Adm. Order No.: PUC 7-2011

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 9-30-11

Notice Publication Date: 8-1-2011

Rules Amended: 860-084-0010, 860-084-0020, 860-084-0030, 860-084-0040, 860-084-0050, 860-084-0070, 860-084-0100, 860-084-0120, 860-084-0130, 860-084-0140, 860-084-0150, 860-084-0180, 860-084-0190, 860-084-0195, 860-084-0200, 860-084-0210, 860-084-0220, 860-084-0230, 860-084-0260, 860-084-0270, 860-084-0340, 860-084-0360, 860-084-0365, 860-084-0400, 860-084-0420, 860-084-0430, 860-084-0440

Subject: In docket UM 1505, Order No. 11-089, the Commission changed the solar photovoltaic pilot program originally adopted in docket UM 1452, Order No. 10-198 by: (1) implementing a lottery-based method to reserve capacity for small- and medium-scale systems using net metering; and (2) equally dividing medium-scale capacity between net metering and competitive bidding options. These rule changes implement those decisions and clarify certain issues, such as the method for estimating the capacity of solar photovoltaic systems for new construction.

Rules Coordinator: Diane Davis—(503) 378-4372

ADMINISTRATIVE RULES

860-084-0010

Definitions for Solar Photovoltaic Capacity Standard and Pilot Programs

(1) "Contracted system" means an eligible system under contract in the solar photovoltaic pilot program associated with a single meter.

(2) "Electric company" has the meaning given that term in ORS 757.600.

(3) "Eligible consumer" means a retail electricity consumer receiving service at the property where the solar photovoltaic system will be installed.

(4) "Eligible energy" or "eligible generation" means the kilowatt-hours that may be paid at the volumetric incentive rate. For the net metering option of the pilot program, eligible energy is equal to the usage of the retail electricity consumer in the year that the energy is generated by the eligible system. In a given month, this eligible energy is equal to the actual usage of the retail electricity consumer for that month. For the bidding option of the pilot program, eligible energy equals actual generation, net of system requirements.

(5) "Eligible participant" or "participant" means an eligible consumer who has signed a contract with the electric company and is participating in the pilot program. A regulated utility is not an eligible participant in pilot programs.

(6) "Eligible system" means a qualifying system that meets the requirements of OAR 860-084-0120.

(7) "Equipment package" means a group of components connecting an electric generator with an electric distribution system and includes all interface equipment including switchgear, inverters, or other interface devices. An equipment package may include an integrated generator or electric production source.

(8) "Excess energy" or "excess generation" means the kilowatt-hours generated in excess of actual annual usage under the net metering option of the volumetric incentive rate pilot program. In a given month, excess energy means kilowatt-hours generated in excess of monthly usage.

(9) "IEEE standards" means the standards published in the 2003 edition of the Institute of Electrical and Electronics Engineers (IEEE) Standard 1547, titled "Interconnecting Distributed Resources with Electric Power Systems," approved by the IEEE SA Standards Board on June 12, 2003, and in the 2005 edition of the IEEE Standard 1547.1, titled "IEEE Standard Conformance Test Procedures for Equipment Interconnecting Distributed Resources with Electric Power Systems," approved by the IEEE SA Standards Board on June 9, 2005.

(10) "Installed System" means an eligible system that is completely built, has passed final electrical inspection by the local authority with jurisdiction, and is pending completion of utility work to connect it to the utility grid.

(11) "Nameplate capacity" means the maximum rated output of a solar photovoltaic system, measured at an irradiance level of 1000 W/ m², with reference air mass 1.5 solar spectral irradiance distribution and cell or module junction temperature of 25°C.

(12) "On-line" means that the solar photovoltaic system is installed and providing power to the electric company's electrical system or to serve the load of the retail electricity consumer.

(13) "Payable generation" is the eligible generation for each month plus accrued excess generation, up to the actual monthly usage. Excess generation accrues monthly.

(14) "Pilot capacity limit" means the maximum installed capacity that each electric company may contract during the pilot program.

(15) "Pilot year" means each twelve-month period of the solar photovoltaic pilot program beginning on April 1 and ending on March 31.

(16) "Qualifying assignee" or "assignee" means a person to whom a retail electricity consumer may assign volumetric incentive rate payments under the standard contract. An electric company or its affiliate or any other regulated utility is not a qualifying assignee. Qualifying assignees include, but are not limited to:

(a) A lender providing up-front financing to a retail electricity consumer;

(b) A company or individual who enters into a financial agreement with a retail electricity consumer to own and operate a solar photovoltaic system on behalf of the retail electricity consumer in return for compensation;

(c) A company or individual who contracts with the retail electricity consumer to locate a solar photovoltaic system on property owned by the retail electricity consumer; or

(d) Any party identified by the retail electricity consumer to receive payments that the electric company is obligated to pay to the retail electricity consumer.

(17) "Qualifying third party" or "third party" means a party who is the owner or operator of a solar photovoltaic system installed under the pilot program but who is not the retail electricity consumer at that location. An electric company is not a qualifying third party under the pilot programs.

(18) "Reservation start date" means the date the retail electricity consumer is notified of securing capacity through a capacity reservation process and of the start and expiration dates for that capacity reservation. The reservation start date initiates the time to interconnection agreement.

(19) "Retail electricity consumer" means a consumer who is a direct customer of the electric company and is the end user of electricity for specific purposes, such as heating, lighting, or operating equipment. Retail electricity consumers include direct access consumers.

(20) "System requirements" means the input electricity required to operate the solar photovoltaic system, sometimes referred to as the parasitic load.

(21) "Time to interconnection agreement" means the time between the reservation start date and the date an eligible participant signs an interconnection agreement.

(22) "Volumetric incentive payments" or "payments" mean the monthly amount that an electric company pays to an eligible participant or assignee in the solar photovoltaic pilot program for payable energy generated by a contracted system.

(23) "Volumetric incentive rate" means the rate per kilowatt-hour paid by an electric company to a retail electricity consumer or assignee for payable generation.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

860-084-0020

Solar Photovoltaic Capacity Standard

By January 1, 2020, each electric company must own or contract to purchase the capacity and output of qualifying solar photovoltaic systems to meet and maintain the following minimum solar photovoltaic capacity standards:

(1) Portland General Electric: 10.9 megawatts

(2) Pacific Power: 8.7 megawatts

(3) Idaho Power Company: 0.5 megawatts.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

860-084-0030

Qualifying Systems under the Solar Photovoltaic Capacity Standard

Individual solar photovoltaic systems used to comply with the solar photovoltaic capacity standards in OAR 860-084-0020 must have a nameplate generating capacity greater than or equal to 500 kilowatts and less than or equal to 5 megawatts.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

860-084-0040

Measurement of Capacity under the Solar Photovoltaic Capacity Standard

(1) The capacity of solar photovoltaic systems used to satisfy the requirements of OAR 860-084-0020 must be measured on the alternating current side of the system's inverter.

(2) Each electric company must convert nameplate capacity ratings reported by manufacturers in terms of direct current watts under standard test conditions to an alternating current rating in watts to account for inverter and other system component losses and to account for the effect of normal operating temperature on solar module output. This conversion will be calculated as 85 percent of the manufacturer's nameplate rating.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

860-084-0050

Compliance Report

(1) By February 1, 2020, each electric company must file a report with the Commission demonstrating compliance, or explaining in detail any failure to comply, with the solar photovoltaic capacity standards in OAR 860-084-0020.

(2) The report required in section (1) of this rule must include the following information associated with each solar photovoltaic system:

(a) The name of the facility;

(b) The location of the facility;

(c) The in-service date of the facility;

ADMINISTRATIVE RULES

- (d) The manufacturer's nameplate capacity rating;
- (e) The electric company's capacity rating on the alternating current side of the system's inverter;
- (f) The execution date of any associated power purchase agreement; and
- (g) The contracted capacity and output delivery period of any associated power purchase agreement.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

860-084-0070

Renewable Energy Certificates and Compliance with the Renewable Portfolio Standards

(1) Each renewable energy certificate associated with the electricity produced by solar photovoltaic systems used to meet the minimum solar photovoltaic capacity standards in OAR 860-084-0020 may be used to comply with the renewable portfolio standards established under ORS 469A.005 through 469A.120.

(2) Each renewable energy certificate associated with the electricity produced by solar photovoltaic systems may be counted twice to comply with the renewable portfolio standards established under ORS 469A.005 through 469A.120, if the solar photovoltaic systems:

- (a) First become operational before January 1, 2016;
- (b) Are installed in Oregon; and
- (c) Meet the solar photovoltaic capacity standards in OAR 860-084-0020.

(3) Renewable energy certificates used under sections (1) and (2) of this rule must comply with the standards in OAR 860-083-0050.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

860-084-0100

Solar Photovoltaic Pilot Programs

(1) Each electric company must establish pilot programs to demonstrate the use and effectiveness of volumetric incentive rates and payments for electricity delivered from qualifying solar photovoltaic systems.

(2) Each electric company must offer a net metering option under the pilot program. This option has the following characteristics:

- (a) Eligible systems installed on the customer side of the service meter;
- (b) Volumetric incentive rates established by Commission order;
- (c) Volumetric incentive rate payments for payable generation;
- (d) Excess generation donated to the electric company's low income bill assistance program;

(e) Capacity of eligible systems sized to generate energy up to 90 percent of the actual usage in the 12 most recent billing periods at the premises where the eligible system will be installed;

(f) Capacity of eligible systems with less than 12 billing periods of actual usage for existing premises or new construction sized to generate energy up to 90 percent of the annual usage by a similarly-situated customer or by a utility-provided load estimation document as determined by the utility;

(g) Capacity of eligible systems for irrigation or agriculture customers sized up to 90 percent of average usage during a normal 12-month billing period as determined by the utility; and

(h) The methodologies used to estimate the usage if there is no sufficient actual usage to size the system must be consistent with the methodologies used by the Energy Trust of Oregon, the Oregon Department of Energy, or other methodologies acceptable to the Commission.

(3) Each electric company must offer a volumetric incentive rate bid option under the pilot program. This option has the following characteristics:

(a) Volumetric incentive rate paid to each retail electricity consumer is established by a successful bid for capacity in the volumetric incentive rate pilot program; and

(b) Volumetric incentive rate payments for 100 percent of payable generation net of system requirements.

(4) Retail electricity consumers eligible for each pilot program option will be defined by Commission order.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

860-084-0120

Systems Eligible for Enrollment in Pilot Programs

(1) Individual solar photovoltaic systems eligible for the Solar Photovoltaic Pilot Programs must have a nameplate generating capacity less than or equal to 500 kilowatts and must be:

(a) In compliance with the siting, design, interconnection, installation, and electric output standards and codes required by the laws of Oregon;

(b) Installed with meters or other devices to monitor and measure the quantity of energy generated;

(c) Permanently installed in the State of Oregon by a retail electricity consumer of the electric company;

(d) Installed in the service territory of the electric company;

(e) First operational and on-line after the launch of the pilot programs;

(f) Financed without expenditures under ORS 757.612 (3)(b)(B) or tax credits under ORS 469.160 or 469.185 through 469.225;

(g) Certified by the residential electric consumer as constructed from new components (modules, inverter, batteries, mounting hardware, etc.); and

(h) Compliant with Commission quality and reliability requirements for solar photovoltaic systems and system installation.

(2) Systems uninstalled before the end of the contract term are not eligible for subsequent volumetric incentive rates, other feed-in tariffs, or pilot programs during the remainder of the original contract term. These systems cannot be reinstalled for the purposes of entering a new contract under any solar photovoltaic pilot program, volumetric incentive or other feed-in tariff program in the service territory of any electric company in the State of Oregon during the original contract term of the system, except that a system may be uninstalled and reinstalled at another location under the same contract under the conditions in OAR 860-084-0280.

(3) Retail electricity consumers submitting applications for a 500 kilowatt project are not eligible to reserve capacity in the solar photovoltaic pilot program if the same project is also competing for a purchased power agreement under the solar capacity standard in OAR 860-084-0020.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

860-084-0130

Ownership and Installation

(1) An electric company must contract to provide an incentive for solar photovoltaic energy generated from an eligible system owned by a retail electricity consumer who has been granted a capacity reservation in the solar photovoltaic pilot program and has executed all agreements with the electric company.

(2) Eligible systems must be installed on the same property where the retail electricity consumer buys electricity from the electric company.

(a) Eligible systems with capacity reserved under the net metering option must be connected to the customer side of the meter.

(b) Eligible systems with capacity reserved under the competitive bidding option must connect to the distribution feeder that services the customer's property. The point of common coupling may be located on the load side of the retail customer's existing electric service subject to utility approval and to the extent authorized by law.

(c) If cost effective, eligible systems may be connected at other distribution feeders on the utility grid subject to utility approval and to the extent authorized by law.

(3) A retail electricity consumer may transfer its existing contract to another retail electricity consumer eligible to contract with the electric company and residing at the same address where the system is installed.

(4) Eligible systems may be owned, operated, or owned and operated by qualifying third parties if the eligible system is:

(a) Owned by a qualifying third party as part of a loan agreement; or

(b) Owned and operated by a qualifying third party on behalf of the retail electricity consumer; or

(c) Operated by a third party on behalf of the retail electricity consumer.

(5) The electric company will own the rights to 100 percent of the renewable energy certificates associated with the energy provided by the contracted systems. The electric company may perfect the renewable energy certificates.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

ADMINISTRATIVE RULES

860-084-0140

Assignment of Payments

(1) An electric company must allow a retail electricity consumer to assign payments to a single qualifying assignee under standard contracts approved by the Commission and must allow changes to assignment over the contract term.

(2) An electric company may charge a reasonable fee for the assignment of payments for account setup at the time that the standard contract is assigned. An electric company may charge a reasonable fee for changes to assignment of payments over the contract term.

(3) An electric company must make volumetric incentive payments to the qualifying assignee within 45 days of the retail electricity consumer's prior billing period.

(4) Upon request by the retail electricity consumer, the electric company may make the volumetric incentive payments in one of the following methods:

(a) Full payment for payable generation directly to the retail electricity consumer; the retail electricity consumer is billed the standard monthly bill for electricity purchased under the tariff; or

(b) Full payment for payable generation net of the retail electricity consumer's standard monthly bill; the retail electricity consumer receives or pays the net amount; or

(c) Full payment for payable generation to the qualified assignee identified on the standard contract; the retail electricity consumer is billed separately for electricity purchased under the tariff.

(5) The retail electricity consumer is responsible for the minimum monthly charge and other non-volumetric charges on the standard monthly bill.

(6) Payments for payable generation will be held by the electric company until the amount accrued per customer generator exceeds \$25.00.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

860-084-0150

Solar Photovoltaic Pilot Capacity Limit

New capacity reservations will not be accepted after March 31, 2015, or after the cumulative capacity of contracted systems in pilot programs reaches 25 megawatts of nameplate capacity, whichever is earlier.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

860-084-0180

Distributing Electric Company Capacity Limit by Allocation Period

(1) Each electric company must distribute its allocated capacity among the enrollment periods as established by Commission order.

(2) The Commission may consider requests to adjust the allocation percentage for any electric company.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

860-084-0190

Distributing Capacity by System Size

(1) Three size classes of qualifying systems are established and defined by a range of nameplate capacity. The Commission may modify these capacity ranges.

(a) A small-scale system has a nameplate capacity of less than or equal to 10 kilowatts;

(b) A medium-scale system has a nameplate capacity greater than 10 kilowatts and less than or equal to 100 kilowatts; and

(c) A large-scale system has a nameplate capacity greater than 100 kilowatts and less than or equal to 500 kilowatts.

(2) Small-scale and medium-scale systems must be targeted to attain a goal of 75 percent of the capacity deployed under the solar photovoltaic pilot program.

(3) An electric company must distribute certain percentages of its pilot capacity allocation to small-scale, medium-scale, and large-scale capacity systems as directed by Commission order.

(4) An electric company with less than one megawatt of total allocation must allocate 100 percent of its solar photovoltaic capacity limit to small-scale systems.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 6-2010, f. & cert. ef. 11-19-10; PUC 7-2011, f. & cert. ef. 9-30-11

860-084-0195

Mechanisms for Reserving Capacity

(1) Annual capacity reservations must be made as follows:

(a) For small-scale systems: 100 percent of the allocated capacity will be awarded to the net metering option by lottery or as otherwise directed by Commission order.

(b) For medium-scale systems: The allocated capacity will be divided between the net metering and the competitive bidding options as directed by Commission order.

(c) For large-scale systems: 100 percent of the allocated capacity will be awarded by competitive bidding.

(2) Reservations made by either competitive bidding or lottery must be awarded within each system size independent of the other classes.

(3) The following governs capacity distributed through a lottery:

(a) Electric companies must conduct a lottery-based capacity reservation process on April 1 and October 1 during each of the remaining pilot years unless otherwise directed by Commission order.

(b) Electric companies must collect reservation applications for 24 hours before selecting winning participants unless otherwise directed by Commission order.

(c) Electric companies must notify winning lottery participants no later than three business days after the close of the reservation application window. Deposits are due within three days of this notification. Electric companies then have 15 days to confirm that reservation applications conform to all program rules.

(d) In any enrollment period, if the eligible capacity is not reserved through the lottery, the remaining capacity will be made available on a first-come, first-served basis. Any remaining capacity thereafter will roll over to the next capacity reservation period unless otherwise directed by Commission order.

(4) The following governs capacity distributed through a competitive bidding option:

(a) Electric companies must issue a Request for Proposal for:

(A) Large-scale bid option systems no later than 30 business days prior to April 1 of each pilot year or as otherwise directed by Commission order; and

(B) Medium-scale bid option systems no later than 30 business days prior to October 1 of each pilot year or as otherwise directed by Commission order.

(b) Electric companies must set the bidder response deadline for

(A) large-scale bid option systems no later than April 1 of each pilot year and

(B) for medium-scale bid option systems no later than October 1 of each pilot year or as otherwise directed by Commission order.

(c) Electric companies must award capacity to winning bidders no later than fifteen business days after the bidder response deadline. Selection of winning bids must be based solely on the bidder's volumetric incentive rate bid.

(d) If capacity remains available after all bids are awarded, then the remaining capacity will roll over to the next appropriate bid-option enrollment window as defined by subsection (4)(a) of this rule.

(e) A medium- and large-scale bid-option reservation begins when the bidder receives notification of a winning bid.

(5) Electric companies must require a capacity reservation deposit of \$500 or \$20 per kilowatt of the proposed system capacity, whichever is larger.

(6) Capacity reservations are non-transferable from one customer generator to another.

(7) A capacity reservation starts upon notification by the electric company to the successful program participant that capacity has been awarded.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

860-084-0200

Capacity Reservation, Timing, and Volumetric Incentive Rates

A retail electricity consumer who has made a capacity reservation and who has executed all required agreements with the electric company must be paid the effective volumetric incentive rate at the time of enrollment for 100 percent of payable generation. Capacity reservation applications and standard contracts must provide the volumetric incentive rate in effect on the capacity reservation date.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

ADMINISTRATIVE RULES

860-084-0210

Capacity Reservation, Timing, and Duration

(1) A capacity reservation expires if a completed interconnection application is not filed within two months of the reservation start date or if the system has not been installed within twelve months of the reservation start date, unless a waiver is granted under OAR 860-084-0000. Any delay resulting from the utility not completing required work to connect the eligible system to the grid will be excluded from this 12-month installation requirement.

(2) Once the capacity reservation expires, the retail electricity consumer must newly apply for a capacity reservation and will not be given preferential treatment.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

860-084-0220

Capacity Availability

(1) Each electric company must announce the total capacity available for reservation before each enrollment period.

(2) Each electric company must announce when the capacity allocation is fully reserved.

(3) Unreserved capacity in any enrollment period must be added to the available capacity for the respective size systems in the next capacity reservation period.

(3) In January 2013, the remaining pilot capacity may be reallocated. This reallocation may redistribute the remaining pilot program capacity so that 75 percent of the energy generated is from small-scale systems at the time the pilot program reaches 25 megawatts of alternating current.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

860-084-0230

Application for Capacity Reservation

(1) The electric company must establish, in compliance with Commission order, a capacity application process for both the net metering and competitive bidding options. The electric company must provide the necessary instructions to complete a satisfactory capacity application. Fees collected during the capacity application process must be refunded to the retail electricity consumer if a capacity reservation is not secured.

(2) For the purposes of these rules, an application package must include a capacity reservation application, payment of fees required under OAR 860-084-0280, and an interconnection application that complies with OAR 860-084-0270(4)(a), (c), (d), (f), and (g). Electric companies may not require a retail electricity consumer to provide the information required by OAR 860-084-0270(4)(b) and (4)(e) as part of this initial application package.

(3) The capacity reservation application must certify that the retail electricity consumer has read and understands the standard contract established under the pilot program. Standard contract forms must be provided to retail electricity consumers as part of the application process.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

860-084-0260

Interconnection Requirements for Solar Photovoltaic Pilot Program

(1) To be qualified for interconnected operation, a qualifying system must be certified as complying with the following standards as applicable:

(a) IEEE standards; and

(b) UL 1741 Inverters, Converters, and Controllers for Use in Independent Power Systems (January 2001).

(2) A system is considered as certified to the standards of section (1) of this rule, and the electric company may not require further design review, testing, or additional equipment, if:

(a) The system is a complete equipment package that has been submitted by a manufacturer to a nationally recognized testing and certification laboratory, and has been tested and listed by the laboratory for continuous interactive operation with an electric distribution system in compliance with the applicable codes and standards listed in section (1) of this rule; or

(b) The system is an equipment package that includes a generator or other electric source and the equipment package has been tested and listed as an integrated package in compliance with the applicable codes and standards listed in section (1) of this rule; or

(c) The certified equipment package comprises only the interface components (switchgear, inverters, or other interface devices), and the interconnection applicant has shown that

(A) The solar photovoltaic system being used is compatible with the equipment package;

(B) Testing and listing of the solar photovoltaic generator being used, as performed by the nationally recognized testing and certification laboratory, is consistent with the testing and listing of the interface component equipment package; and

(C) The testing and listing specified for the package is consistent with the applicable codes and standards listed in section (1) of this rule.

(3) A qualifying system may not interconnect to a transmission line.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

860-084-0270

Authorization to Interconnect

(1) An eligible system may not be interconnected to an electric company's distribution system before obtaining authorization from the electric company.

(2) Changes affecting the nameplate capacity or the output capacity of the system authorized in the agreement governing the contract require prior authorization from the electric company.

(4) Interconnection applications must be provided by the electric company and posted on the electric company's website. The submission of a completed interconnection application initiates interconnection review. The application must include the following:

(a) The name of the applicant and the electric company;

(b) The type and specifications of each component of the qualified solar photovoltaic system;

(c) The level of interconnection review (Level 1, Level 2, or Level 3);

(d) The name of the installer of the qualified solar photovoltaic system;

(e) Equipment certifications;

(f) The anticipated operation date of the solar photovoltaic system; and

(g) Other information the utility deems necessary to comply with the solar photovoltaic pilot program interconnection rules.

(5) Within three business days of receiving the interconnection application, the electric company must provide the applicant a written notice of receipt stating whether the application meets the established criteria.

(a) If the application does not meet established criteria, the written notice must include a list of all of the information needed to complete the application.

(b) If the number of applications in a regular business week exceeds 20, the electric company must inform the customers that the written-notice period is ten business days.

(6) Each electric company must designate an employee or office from which an applicant can obtain application forms and other information necessary to complete the application process; the electric company must post the application form and the necessary information on its website. Upon request, the electric company must provide all relevant forms, documents, and technical requirements for submittal of an application that meets established criteria for an interconnection application under these solar photovoltaic pilot program rules, as well as specific information necessary to contact the electric company representative assigned to review the application.

(7) A person may also request information about the feasibility of interconnecting a qualifying system before filing an application for capacity reservation or interconnection. The information provided by the electric company in response to this request must include relevant existing studies and other materials that may be used to understand the feasibility of interconnecting a solar photovoltaic facility at a particular point on the electric company's distribution system. The electric company must comply with reasonable requests for access to or copies of this information, except to the extent that providing these materials would violate security requirements, confidentiality obligations to third parties, or federal or state regulations. The electric company may require a person to sign a confidentiality agreement if required to protect confidential or proprietary information. A person requesting information under this section must reimburse the electric company for the reasonable costs of gathering and copying the requested information.

(8) The electric company is not responsible for the cost of determining the rating of equipment on the customer side of the meter.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

ADMINISTRATIVE RULES

860-084-0340

Installation, Operation, Maintenance, and Testing of Contracted Systems

A contracted system must include and maintain a manual disconnect switch that will disconnect the solar photovoltaic system from the electric company's system.

(1) The disconnect switch must be a lockable, load-break switch that plainly indicates whether it is in the open or closed position.

(2) The disconnect switch must be readily accessible to the electric company at all times and be located within 10 feet of the electric company meter. The disconnect switch may be located more than 10 feet from the electric company meter if permanent instructions are posted at the meter indicating the precise location of the disconnect switch. The electric company must approve the location of the disconnect switch prior to the installation of the facility.

(3) The retail electricity consumer must install and maintain the required disconnect switch at the retail electricity consumer's expense.

(4) For customer services of 600 volts or less, an electric company may not require a disconnect switch for an eligible system that is inverter-based with a maximum rating as shown below.

(a) Service type: 240 Volts, Single-phase, 3 Wire — Maximum size 7.2 kilowatts.

(b) Service type: 120/208 Volts, 3-Phase, 4 Wire — Maximum size 10.5 kilowatts.

(c) Service type: 120/240 Volts, 3-Phase 4 Wire — Maximum size 12.5 kilowatts.

(d) Service type: 277/480, 3-Phase, 4 Wire — Maximum size 25.0 kilowatts.

(e) For other service types, the eligible system must not affect the retail electric consumers' service conductors by more than 30 amperes.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

860-084-0360

Volumetric Incentive Rates and Payments – Net Metering Option

(1) Each electric company must pay the retail electricity consumer on a monthly basis for payable generation up to the consumer's actual usage in the month. Any excess generation in the month transfers to the next month's eligible generation. At the end of a generation year, any remaining excess generation is donated to the low income bill assistance.

(2) The default generation year is April 1 to March 31. For irrigation and agriculture customers, the default generation year is November 1 to October 31.

(3) The monthly incentive payment equals the product of the volumetric incentive rate specified in the standard contract minus the retail rate in effect at the time of payment for eligible generation for the month.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

860-084-0365

Volumetric Incentive Rate Bidding Option

(1) A retail electricity consumer participating under the volumetric incentive rate bidding option of the pilot program receives a payment that equals the product of the payable generation delivered to the electric company and the volumetric incentive rate per kilowatt-hour established through the consumer's successful bid in the pilot program.

(2) Each company will conduct a volumetric incentive rate bidding process with capacity awarded in the second month of each pilot year, or as otherwise directed by the Commission, through a request for proposal process approved by the Commission.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

860-084-0400

Data Collection

Except as provided in OAR 860-084-0440, each electric company must collect from the retail electricity consumer participating in the pilot program data on the installed solar photovoltaic system. The collected data elements must include, but are not limited to:

(1) Nameplate Capacity;

(2) Total Installed Cost;

(3) Photovoltaic module cost;

(4) Non-photovoltaic module cost (including inverters, other hardware, labor, overhead, and regulatory compliance costs);

(5) Total financing cost;

(6) Financing terms (including fees paid, loan term, and interest rate secured);

(7) System location, including street address and GPS location;

(8) Technology type (building-integrated versus rack-mounted, crystalline silicon versus thin-film, solar tracking versus rack-mounted, etc.);

(9) Federal tax credit;

(10) In-service date;

(11) Expected annual energy output;

(12) Date of certification of compliance; and

(13) Class of service of retail electricity consumer.

(14) Electric companies must collect data on the time to interconnection agreement and conduct pilot program satisfaction surveys in order to improve capacity reservation and interconnection processes over the pilot program. Data collection and surveys must include:

(a) Interconnection agreements that have not been negotiated between the electricity company and the retail electricity consumer within six months after an application for interconnection has been filed; or

(b) Retail electricity consumers that have reserved capacity under the pilot programs and whose capacity reservations expire before solar photovoltaic energy systems are installed.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

860-084-0420

Compliance with Pilot Program Requirements

(1) The participant agrees to the confidential release of information from participant surveys and pilot program applications to the organizations listed in section (2) of this rule.

(2) Each electric company must send a list of all reserved and contracted systems that have completed the release of confidential information to the Energy Trust of Oregon, the Oregon Department of Revenue, or the Oregon Department of Energy, upon request by each organization. Data in this list must include the following minimum information:

(a) Installation location of system;

(b) Nameplate capacity of installed system;

(c) Name, business name, and business address of contractor installing system;

(d) Financer of system;

(e) In-service date;

(f) Date of certification of compliance; and

(g) Customer account number.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

860-084-0430

Data Availability

(1) Each electric company must verify that the data collected pursuant to OAR 860-084-0400 and 860-084-0420 has been recorded in an appropriate electronic database prior to making volumetric incentive rate payments to participating retail electricity consumers.

(2) Upon request, each electric company must provide the data collected under OAR 860-084-0400 and 860-084-0420, in a format established by the Commission. Reports that include this raw data and a summary of this data for the pilot program to date, must be provided to the Oregon Department of Energy, the Energy Trust of Oregon, the Oregon Department of Revenue, and the Commission, bi-annually, on the 15th day in February and August.

(3) Each electric company must provide the Commission or the Oregon Department of Energy location information that will enable one of these state agencies to make graphically visible, on a publically accessible website, the general locations and sizes of reserved and contracted systems of all electric companies within the state of Oregon. This information must not include consumer names or installation addresses or total capacity deployed to date.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

860-084-0440

Pilot Program Overhead

(1) Electric companies must submit for Commission approval evaluations of solar photovoltaic pilot programs including:

(a) Proposals for the design and execution of surveys to measure participant satisfaction with and recommendations for improving the pilot program processes;

ADMINISTRATIVE RULES

(b) Proposals for the design and execution of surveys to understand participant decision processes in choosing between the volumetric incentive rate program and the existing net metering program;

(c) Comments on Commission recommendations for regulatory policy changes that may increase the use of solar photovoltaic systems, make solar photovoltaic systems more affordable, reduce the cost of incentives to utility customers, or promote the development of the solar industry in Oregon; and

(d) Additions to the list of required data to be collected under OAR 860-084-0400.

(2) Each electric company may enter into a contract with the Energy Trust of Oregon to provide the data collection and summary services required by OAR 860-084-0400 through 860-084-0440. An electric company may also contract with the Energy Trust of Oregon to administer pilot programs, including capacity reservation services, survey execution, or program evaluation. The Commission may direct the electric companies to contract with the Energy Trust of Oregon if the Commission finds that the costs to administer individual pilot programs are unreasonable.

Stat Auth: ORS 757.360 - 757.380

Stats. Implemented: ORS 757.360 - 757.380

Hist.: PUC 2-2010, f. & cert. ef. 6-1-10; PUC 7-2011, f. & cert. ef. 9-30-11

Rule Caption: In the Matter of Adopting Temporary Amendments to OAR 860-038-0480.

Adm. Order No.: PUC 8-2011(Temp)

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 9-30-11 thru 3-28-12

Notice Publication Date:

Rules Amended: 860-038-0480

Subject: These amendments change the recipient of public purpose charge monies for conservation in schools from Education Service Districts to school districts as required in amended ORS 757.612 based on 2011 House Bill 2960, also known as the Governor's "Cool Schools Bill." The amendments also establish that the Oregon Department of Energy (ODOE) may request reimbursement from the electric companies for costs associated with administering public purpose fund expenditures in schools as described in subsection (3)(e) of ORS 757.612 based on the PUC's authority to require such reimbursement as described in ORS 757.612(3)(c).

Rules Coordinator: Diane Davis—(503) 378-4372

860-038-0480

Public Purposes

(1) Each electric company that offers direct access to its retail electricity consumers and each electricity service supplier that provides electricity services to direct access consumers in the electric company's service territory will collect a public purpose charge from its retail electricity consumers until January 1, 2026.

(2) Except as provided in section (6) of this rule, electric companies and electricity service suppliers will bill and collect from each of their retail electricity consumers a public purpose charge equal to 3 percent of the total revenues billed to those consumers for electricity services, distribution, ancillary services, metering and billing, transition charges, and other types of costs that were included in electric rates on July 23, 1999.

(3) The electricity service suppliers will remit monthly to each electric company the public purpose charges they collect from the customers of each electric company.

(4) The electricity service suppliers will remit monthly the public purpose charges collected from direct service industrial consumers they serve to the electric company in whose service territory the direct service industrial site is located.

(5) The electric company whose territory abuts the greatest percentage of the site of an aluminum plant that averages more than 100 average megawatts of electricity use per year will collect monthly from the aluminum company a public purpose charge. The aluminum company will remit to the appropriate electric company a public purpose charge equal to 1 percent of the total revenue from the sale of electricity services to the aluminum plant from any source. Annually, the aluminum company will submit to the electric company an affidavit from a certified public accountant verifying that the costs for electricity services at the site of the aluminum plant and the remittance of the public purpose charges are accurate for the previous calendar year.

(6) A retail electricity consumer, including an aluminum plant as described in section (5) of this rule, may receive credits against its public

purpose charges for qualifying expenditures incurred for new energy conservation and the above-market costs of new renewable energy resources at any site if the following qualifications for becoming a self-directing consumer are met:

(a) The consumer has used more than one average megawatt of electricity at any such site in the prior calendar year; and

(b) The consumer has received final certification from the Oregon Department of Energy for expenditures for new energy conservation and/or new renewable energy resources.

(7) Self-directing consumers may not claim a public purpose credit for energy conservation measures that were started prior to July 23, 1999. For energy conservation measures that were started on or after July 23, 1999, but prior to the implementation of direct access, a self-directing consumer may claim a public purpose credit if either of the following conditions is met:

(a) The energy conservation measure did not receive funding from an electric company conservation program and was certified by the Oregon Department of Energy after July 23, 1999; or

(b) The energy conservation measure did receive funding from an electric company conservation program and was certified by the Oregon Department of Energy after July 23, 1999, but the self-directing consumer repaid the amount of such funding (cost of audit and incentives plus interest) no later than 90 days following the implementation of direct access; provided that, a self-directing consumer shall not be required to repay the amount of any energy conservation audit related to a conservation measure if the audit was completed prior to January 1, 2000. The cost of an audit that identifies multiple energy conservation measures shall be prorated among such measures.

(c) For purposes of this subsection, "started" means that a contract has been executed to install or implement an energy conservation measure.

(8) The Oregon Department of Energy will establish specific rules and procedures that are consistent with these rules for qualifying a self-directing consumer's expenditures.

(9) The electric company will apply the self-direction credit, determined by the Oregon Department of Energy, toward the consumer's public purpose obligation.

(10) Each electric company will establish five separate accounts for the public purpose charges to be funded from its collections of public purpose charges as follows:

(a) Energy conservation in schools;

(b) New cost-effective local energy conservation and new market transformation;

(c) Above-market costs of new renewable energy resources;

(d) New low-income weatherization; and

(e) Construction and rehabilitation of low-income housing.

(11) Each electric company will allocate the public purpose funds it collects (billed less uncollectible amounts) from electricity service suppliers and consumers to the five public purpose accounts as follows:

(a) Energy conservation in schools — 10.0 percent;

(b) Local and market transformation conservation — 56.7 percent;

(c) Above market costs of new renewable energy resources — 17.1 percent;

(d) Low-income weatherization — 11.7 percent; and

(e) Low-income housing — 4.5 percent.

(12) Each electric company will adjust the local and market transformation conservation and above market costs of new renewable energy resources accounts specified in subsections 11(b) and (c) of this rule for the credits returned to self-directing customers for conservation or renewable resource expenditures certified by the Oregon Department of Energy.

(13) Each electric company will distribute funds from the public purpose accounts at least monthly as follows:

(a) The funds for conservation in schools to the school districts located in its service territory;

(b) The funds for local and market transformation conservation as directed by the Commission;

(c) The funds for renewable energy resources as directed by the Commission;

(d) The funds for low-income weatherization to the Housing and Community Services Department; and

(e) The funds for low-income housing to the Housing and Community Services Department Revolving Account.

(14) The Oregon Department of Energy may request reimbursement from electric companies for its costs of administering public purpose funds as described in subsection (3)(e) of ORS 757.612. The Oregon Department of Energy's reimbursement request must be consistent with its legislatively

ADMINISTRATIVE RULES

approved budget limitation allotted to administer the schools program. The electric companies must provide the requested reimbursement within 30 days of the Oregon Department of Energy's request.

(15) Each electric company will coordinate with the Oregon Department of Energy to determine, by January 1 of each year, the allocation of public purpose funds for schools to the school districts according to the following methodology:

(a) From the Department of Education, collect current total weighted average daily membership (ADMw) as defined in ORS 327.013 and average daily membership (ADM) for each school district that contains schools served by the electric company;

(b) For each of the school districts, compute the ratio of ADM in schools served by the electric company to total ADM;

(c) For each school district, multiply its total ADMw by the ratio of ADM in schools served by the electric company to total ADM. The result is an estimate of ADMw in schools served by the electric company;

(d) Add the estimates of ADMw for each school district; and

(e) Compute the percentage of the total ADMw represented by each school district. These are the percentages that will be used to allocate the public purpose funds for schools to school districts for the 12-month period beginning on January 1 of each year.

(16) The electric company may be reimbursed for the reasonable administrative costs it incurs to collect and distribute the public purpose funds. Those administrative costs will be deducted from the total amount of public purpose funds collected by the electric company before the funds are allocated to the five public purpose accounts. The electric company will also pay from the total public purpose funds collected or from a specific fund any other administrative costs the Commission directs to be paid for implementation of the public purpose requirements. The entities responsible for administering the public purpose funds will pay for their costs of implementing the public purpose requirements from the public purpose funds they receive from the electric company.

(17) The electric companies and the administrators of the public purpose funds will collect sufficient information so that biennial reports can be made to the Legislature on what has been accomplished with the public purpose funds and how those funds have benefited the consumers of each electric company. Specifically, information must be collected so that the reporting requirements of ORS 757.617 can be fulfilled.

(a) Each electric company must report the total funds collected by source (that is, electric company customers, electricity service suppliers and self-directing consumers) for public purposes, the amounts distributed to the administrators of each public purpose fund, and its administrative costs;

(b) Each administrator of public purpose funds must report, at a minimum:

(A) The amount of funds received;

(B) The amount of funds spent;

(C) Its administrative costs; and

(D) Its results, for example, measures installed, projects funded, energy saved, homes weatherized, and low-income homes built/rehabilitated.

Stat. Authority: ORS 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.600 - 757.667

Hist.: PUC 1-2001, f. & cert. ef. 1-5-01; PUC 2-2001, f. & cert. ef. 1-5-01; PUC 11-2002, f. & cert. ef. 3-8-02; PUC 13-2004, f. & cert. ef. 8-31-04; PUC 7-2007, f. & cert. ef. 5-15-07; PUC 13-2007, f. & cert. ef. 12-31-07; PUC 3-2011, f. & cert. ef. 6-17-11; PUC 8-2011(Temp), f. & cert. ef. 9-30-11 thru 3-27-12

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Rule Caption: In the Matter of Revisions to the Residential Service Protection Fund Program.

Adm. Order No.: PUC 9-2011

Filed with Sec. of State: 10-4-2011

Certified to be Effective: 10-4-11

Notice Publication Date: 8-1-2011

Rules Amended: 860-033-0005, 860-033-0006, 860-033-0007, 860-033-0008, 860-033-0009, 860-033-0030, 860-033-0045, 860-033-0505, 860-033-0506, 860-033-0530, 860-033-0537, 860-033-0545

Rules Repealed: 860-033-0510

Subject: These rule changes result from legislation enacted by the 2011 Legislative Assembly (Senate Bills 143 and 144) and from business process changes within the Residential Service Protection Fund (RSPF) program. The proposed rule changes incorporate provisions to allow for online remittance of surcharges and surcharge filing forms by telecommunications providers; allow for online filing of OTAP reimbursement forms by eligible telecommunications providers; address potential problems of RSPF overcompensation or

refunds that have a material impact on the RSPF; comport with changes to laws as modified by SB 143 and SB 144; align with other Commission rules regarding collection procedures; and make house-keeping, organizational, and clarifying improvements.

Rules Coordinator: Diane Davis—(503) 378-4372

860-033-0005

Definitions

For the purpose of this division:

(1) "Basic Service" means "basic telephone service" as defined in OAR 860-032-0190. For qualifying low-income recipients, basic service also includes access to toll-limitation services.

(2) "Competitive Provider" means a competitive telecommunications provider as defined in ORS 759.005(2)(a) that provides services authorized under ORS 759.020.

(3) "Cooperative" means a cooperative corporation or association that provides local exchange telecommunications service within its own exchanges, is organized under ORS Chapter 62, and is certified under ORS 759.025(2).

(4) "Eligible Telecommunications Carrier" means a provider of telecommunications service, including a cellular, wireless, or other common carrier, that is certified by order of the Commission as eligible to receive federal universal service support throughout a designated service area by having met the eligibility criteria set forth in 47 C.F.R. § 54.201 (2008) and in Commission Order 06-292.

(5) "Eligible Telecommunications Provider" means a provider of telecommunications service, including a cellular, wireless, or other common carrier, that is certified by order of the Commission as eligible to provide OTAP to its qualifying customers throughout a designated service area by having met the following eligibility criteria:

(a) Offers services under 47 C.F.R. § 54.101 (2008) using either its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another Eligible Telecommunications Carrier throughout the service area). Under 47 C.F.R. § 54.201(f) (2008), the requirement of using its "own facilities" includes, but is not limited to, purchasing unbundled network elements from another carrier;

(b) Advertises the availability of and the charges for such services using media of general distribution; and

(c) Demonstrates that it will comply with OAR 860-033-0005 through 860-033-0100.

(6) "Local Exchange Service" means a "local exchange telecommunications service" as defined in ORS 759.005(3).

(7) "Oregon Telephone Assistance Program" or "OTAP" means a program established by the Commission that offers reduced local exchange rates to eligible low-income residential customers.

(8) "Oregon Telecommunications Relay Service" or "OTRS" means a facility authorized by the Commission to provide telecommunications relay service.

(9) "Outstanding Accounts" means amounts owing to the Commission including current accounts receivable and accounts that the Commission has written off through appropriate legal procedures. The term does not include amounts owing to the Commission that have been lawfully discharged through bankruptcy proceedings or amounts that are the subject of a proceeding pending before the Commission.

(10) "Remittance Report" means the reporting form identified by that title that is available on the Commission's website at <http://www.puc.state.or.us/PUC/telecom/rsfp/index.shtml>.

(11) "Residential Service Protection Fund" or "RSPF" means a legislatively approved fund in the Oregon State Treasury that supports the Oregon Telephone Assistance Program, the Telecommunication Devices Access Program and the Oregon Telecommunications Relay Service.

(12) "RSPF Surcharge" means a specified amount up to 35 cents per month collected from each paying retail subscriber who has telecommunications service with access to the telecommunications relay service, except as provided in OAR 850-033-0006(2).

(13) "RSPF Surcharge Exception Form" means the reporting form identified by that title that is available on the Commissions website at <http://www.puc.state.or.us/PUC/telecom/rsfp/index.shtml>.

(14) "Telecommunication Devices Access Program" or "TDAP" means a program established by the Commission that provides Assistive Telecommunication Devices or Adaptive Equipment at no additional cost beyond telephone service for customers who are deaf, hard of hearing, speech-impaired, deaf-blind or have a disability.

ADMINISTRATIVE RULES

(15) "Telecommunications provider" includes competitive providers, cooperatives and telecommunications utilities.

(16) "Telecommunications service" means the offering of telecommunications as defined in 47 C.F.R. 54.5 (10-1-08 Edition) for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

(17) "Telecommunications utility" means a person who is not a competitive provider and is designated as a telecommunications utility under OAR 860-032-0010.

(18) "Toll Limitation Service" means a service provided by an Eligible Telecommunications Provider that allows an OTAP recipient to choose to block the completion of outgoing toll calls (toll blocking) or to specify a certain toll usage that may be incurred per month or per billing cycle (toll control).

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 7-1995(Temp), f. & cert. ef. 8-17-95 (Order No. 95-860); PUC 14-1995, f. & cert. ef. 12-20-95 (Order No. 95-1328); PUC 18-1997, f. & cert. ef. 12-17-97; PUC 18-2000, f. & cert. ef. 10-24-00; PUC 4-2001, f. & cert. ef. 1-24-01; PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 9-2011, f. & cert. ef. 10-4-11

860-033-0006

Monthly RSPF Surcharge: General Provisions, Remittance Reports and Payment

(1) The surcharge rate and the balance in the RSPF are reviewed annually by the Commission each October. The Commission may adjust the amount of the surcharge to ensure the fund has adequate resources but does not exceed six months of projected expenses. A rate adjustment ordered by the Commission following the annual review becomes effective January 1 of the year following the review.

(2) The surcharge imposed by 1987 Oregon Laws Chapter 290, Section (7)(1) does not apply to entities upon which the state is prohibited from imposing the surcharge by the Constitution or laws of the United States or the Constitution or laws of the State of Oregon including, but not limited to:

(a) Counties and political subdivisions.

(b) Federal, state and municipal government bodies or public corporations. For purposes of this rule, "public corporation" means a corporation formed by a state or local government authority for the public's benefit or for a public purpose.

(c) Federally chartered corporations specifically exempt from state excise taxes by federal law.

(d) Federally recognized Native-American Tribes, and tribal members who live within federally recognized Indian country and are enrolled members of the tribe with sovereignty over that Indian country.

(e) Foreign government offices and representatives that are exempt from state taxation by treaty provisions.

(f) Regional housing authorities exempt from all state taxes and assessments by ORS 307.092.

(g) Interconnection between telecommunications utilities, telecommunications cooperatives, competitive telecommunications services providers certified under ORS 759.020, radio common carriers and interexchange carriers.

(h) Any other agency, organization or person claiming an exemption is required to identify the authority for its claim to a provider. If a telecommunications provider is unable to determine the status of a subscriber the Commission will determine whether the subscriber is exempt.

(3) Collection of RSPF Surcharge.

(a) Each telecommunications provider must collect the RSPF surcharge by charging the specified amount to each retail subscriber with access to the telecommunications relay service, including OTAP eligible subscribers. The RSPF surcharge is applied on a telecommunications circuit designated for a particular subscriber.

(A) One subscriber line is counted for each circuit that is capable of generating usage on the line side of the switched network regardless of the quantity of customer premises equipment connected to each circuit.

(B) For providers of central office based services, the surcharge is applied to each line that has unrestricted connection to the telecommunications relay service. For central office based service lines that have restricted access to the Oregon Telecommunications Relay Service (OTRS), the surcharge is charged based on software design.

(b) Each cellular, wireless, or other radio common carrier must collect the RSPF surcharge by charging the specified amount to each retail subscriber with access to the telecommunications relay service, including

OTAP eligible subscribers. The surcharge is applied on a per-instrument basis.

(c) Each telecommunications provider and each cellular, wireless, or other radio common carrier must identify the surcharge on each retail customer's bill as a separate line item named "RSPF Surcharge."

(4) A telecommunications provider or a cellular, wireless, or other radio common carrier may remit surcharges due to the Commission by electronic transfer, mail or in person.

(5) The Remittance Report and surcharges are due to the Commission on or before the 21st calendar day after the close of each month and must be received in the Commission's offices no later than 5 p.m. Pacific Standard Time on the due date. A surcharge remittance or Remittance Report postmarked on the due date does not meet the requirements of this section and will not be considered as timely submitted.

(6) Each telecommunications provider and each cellular, wireless, or other radio common carrier must submit the Remittance Report and surcharge with no exceptions. If no surcharge is collected, the telecommunications provider or the cellular, wireless, or other radio common carrier must still submit its monthly Remittance Report specified in section (5) of this rule.

(7) For each billing period that a telecommunications provider or a cellular, wireless, or other radio common carrier fails to submit the surcharge fees in full on or before the due date required by these rules, the telecommunications provider or the cellular, wireless, or other radio common carrier must pay a late payment fee in accordance with OAR 860-001-0050.

(8) If the telecommunications provider or the cellular, wireless, or other radio common carrier fails to remit the surcharge in full on or before the due date, the telecommunications provider or the cellular, wireless, or other radio common carrier must pay interest in accordance with OAR 860-001-0050.

(9) If a telecommunications provider or a cellular, wireless, or other radio common carrier fails to file a Remittance Report as required by these rules, the telecommunications provider or the cellular, wireless, or other radio common carrier must pay a late report fee in accordance with OAR 860-001-0050.

(10) If the amount shown due on a Remittance Report is not paid by the due date, the Commission may issue a proposed assessment to set the sum due. The Commission may waive the late report fee, the late payment fees and the interest on the unpaid surcharge fees, or any combination thereof, if the telecommunications provider or the cellular, wireless, or other radio common carrier files a written waiver request and provides evidence showing that the telecommunications provider or the cellular, wireless, or other radio common carrier submitted the Remittance Report and surcharge fees late due to circumstances beyond its control.

(11) The telecommunications provider or the cellular, wireless, or other radio common carrier must pay a fee in accordance with OAR 860 001-0050 for each payment returned for non-sufficient funds.

(12) The telecommunications provider or the cellular, wireless, or other radio common carrier is responsible for and must pay all costs incurred by the Commission to collect a past-due RSPF surcharge from the telecommunications provider or the cellular, wireless, or other radio common carrier.

(13) Remittance Report Records: A telecommunications provider and a cellular, wireless, or other radio common carrier must keep all records supporting each Remittance Report for three years, or if a Commission review or audit is pending, until the review or audit is complete, whichever is later.

(14) In addition to any other penalty, obligation, or remedy provided by law, the Commission may suspend or cancel the telecommunications provider's certificate of authority to provide telecommunications service in Oregon for its failure to file its Remittance Report or its failure to remit the surcharge in full.

(15) Except as otherwise provided by law, if after an audit or review the Commission determines that the telecommunications provider or the cellular, wireless, or other radio common carrier has remitted an excessive amount, the Commission will provide the telecommunications provider or the cellular, wireless, or other radio common carrier a credit in that amount against sums subsequently due from that telecommunications provider or that cellular, wireless, or other radio common carrier.

(16) A telecommunications provider or a cellular, wireless, or other radio common carrier must submit any revisions to a previously-filed Remittance Report no later than three years from its due date. If the Commission concludes that a telecommunications provider or cellular, wireless, or other common carrier remitted an excessive amount and that

ADMINISTRATIVE RULES

refunding the excess would have a material and adverse financial impact on the RSPF, the Commission may enter into an agreement with the telecommunications provider or the cellular, wireless, or other radio common carrier to spread payments of the refunds over a period not to exceed three years.

(17) The RSPF Surcharge Exception Form is due annually by March 15. A telecommunications provider or a cellular, wireless, or other radio common carrier must submit the completed form (in person, electronically, or by mail) so that it is received in the Commission's offices no later than 5 p.m. Pacific Standard Time on March 15.

(18) In computing any period of time prescribed or allowed by these rules, the first day of the act or event is not included. The last day of the period is included, unless the last day is a Saturday or legal holiday; then the period runs until the end of the next day that is not a Saturday or a legal holiday. Legal holidays are those identified in ORS 187.010 and 187.020.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987
Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987
Hist.: PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 18-2004, f. & cert. ef. 12-30-04; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 1-2010, f. & cert. ef. 5-18-10; PUC 9-2011, f. & cert. ef. 10-4-11

860-033-0007

Estimated Report

(1) For any period for which a telecommunications provider, or a cellular, wireless, or other radio common carrier fails to file a Remittance Report as required by these rules, the Commission may determine a proposed surcharge assessment based upon any information available to the Commission.

(2) The proposed assessment must:

(a) Include a late payment fee equal to 9 percent of the proposed assessment amount, up to a maximum of \$500 for that reporting period;

(b) Include interest on the proposed assessment amount at the rate of 9 percent per annum from the day the surcharge fee was originally due;

(c) Include a late report fee per 860-001-0050(3)(e); and

(d) Be made no later than 3 years after the Remittance Report's due date.

(3) Notwithstanding subsection (2)(c) of this rule, if the telecommunications provider did not hold a certificate of authority, if one was required by law, the Commission has an unlimited time to propose an assessment for the period represented by the non-filed Remittance Report. The proposed assessment must include all late payment fees as specified in this rule.

(4) During the 30-day period allowed for filing a petition for a hearing, the telecommunications provider, or the cellular, wireless, or other radio common carrier may file its Remittance Report and pay the surcharge, late report fee, late payment fee, and interest. The Commission will accept the Remittance Report, surcharge payment, late report fee, late payment fee and interest if correctly calculated in accordance with the original due date for the subject period's Remittance Report and payment.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987
Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987
Hist.: PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 1-2010, f. & cert. ef. 5-18-10; PUC 9-2011, f. & cert. ef. 10-4-11

860-033-0008

Commission Audit and Proposed Assessment

(1) For any period for which a telecommunications provider's or a cellular, wireless, or other radio common carrier's Remittance Report was due, the Commission may audit the telecommunications provider or the cellular, wireless, or other radio common carrier as the Commission deems necessary and appropriate.

(2) The Commission's audit must begin no later than three years after the Remittance Report's due date. After completion of the audit, the Commission may propose to assess an additional surcharge amount due from the telecommunications provider or the cellular, wireless, or other radio common carrier.

(3) If a telecommunications provider or a cellular, wireless, or other radio common carrier failed to file a Remittance Report within the time specified in these rules, the Commission will add to the proposed assessment a late report fee per 860-001-0050(3)(e) and a late payment fee equal to 9 percent per annum of the amount of the proposed assessment, up to a maximum of \$500.

(4) Each proposed assessment bears interest on the additional surcharge amount proposed at the rate of 9 percent per annum from the day the original surcharge amount was due.

(5) Notwithstanding section (2) of this rule, if the telecommunications provider did not hold a certificate of authority, if one was required by law,

the Commission has an unlimited time to audit the telecommunications provider for the surcharge fees.

(6) A telecommunications provider or a cellular, wireless, or other radio common carrier must produce for inspection or audit upon request of the Commission or its authorized representative all records supporting its Remittance Reports. The Commission, or its representative, will allow the telecommunications provider or the cellular, wireless, or other radio common carrier a reasonable time to produce the records for inspection or audit.

(7) In addition to any other penalty allowed by law, the Commission may suspend or cancel a telecommunications provider's certificate of authority to provide telecommunications service for its failure to produce for inspection or audit the records required by this rule.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987
Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987
Hist.: PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 1-2010, f. & cert. ef. 5-18-10; PUC 9-2011, f. & cert. ef. 10-4-11

860-033-0009

Notice of Proposed Assessment and Hearing

(1) The Commission will provide a notice of proposed assessment upon the telecommunications provider or cellular, wireless, or other radio common carrier, as well as a proposal to revoke or suspend the telecommunications provider's certificate of authority, if applicable.

(2) Within 30 days after the service of the notice of proposed assessment, the telecommunications provider or the cellular, wireless, or other radio common carrier may petition the Commission in writing for a hearing. The telecommunications provider or the cellular, wireless, or other radio common carrier must specify in its petition all of the reasons it disputes the notice of proposed assessment.

(a) If a petition is not filed within the 30-day period, the Commission may enter an order assessing charges based upon information in the Commission's files.

(b) If a petition is filed within the 30-day period, the Commission will grant the telecommunications provider or the cellular, wireless, or other radio common carrier a hearing and give the telecommunications provider or the cellular, wireless, or other radio common carrier at least 10 days' notice of the time and place of a hearing.

(3) The hearing on the telecommunications provider's or the cellular, wireless, or other radio common carrier's petition is conducted under the Commission's rules governing hearings and proceedings.

(4) An assessment made by the Commission under these rules is due and payable on the 10th day after the service date of the Commission's order assessing the charges.

(5) If the Commission has not received payment of the surcharge and penalties assessment within the specified time, the Commission may suspend or cancel a telecommunications provider's certificate of authority to provide telecommunications service for its failure to pay the assessment required by this rule.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987
Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987
Hist.: PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 9-2011, f. & cert. ef. 10-4-11

860-033-0030

OTAP Eligibility

(1) Eligibility for OTAP is demonstrated by application to the Commission by an individual currently meeting the criteria for a "low income customer" set forth in 1987 Oregon Laws Chapter 290, Section (6) paragraph (5)(b).

(2) An applicant or recipient may be required to furnish his or her social security number before OTAP eligibility can be determined or verified. Failure to do so may result in denial of benefits.

(3) An applicant must sign a written authorization (OTAP application) permitting the Commission to release necessary information to an Eligible Telecommunications Provider and, as necessary, to the following: Department of Human Services, and the applicant's personal representative or legal guardian.

(4) The Commission must be able to verify an individual's continuing participation in a qualifying program. Continuing OTAP eligibility is based on monthly or quarterly recertification by the Commission.

(5) The OTAP benefit is limited to one single line, or single line equivalent, at the applicant's or recipient's principal residence. Generally, only one OTAP benefit is allowed per residential address, but the Commission may make exceptions for certain facilities including but not limited to rooming houses and other independent living facilities.

(6) The name of the applicant or recipient must appear on the billing statement for the telecommunications service in order for that recipient to

ADMINISTRATIVE RULES

qualify for OTAP benefits. The Commission may waive this requirement if it determines that good cause exists.

(7) A qualifying applicant who did not receive benefits from an Eligible Telecommunications Provider after submitting an application to the Commission may receive up to a maximum of three months of OTAP benefits credited to the applicant's account. The qualifying applicant may be required to submit written proof of application date to the Commission in order to receive the OTAP benefits credited to the applicant's account.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 11-1995, f. & cert. ef. 11-27-95 (Order No. 95-1217); PUC 6-1997, f. & cert. ef. 1-10-97 (Order No. 97-005); PUC 6-1997, f. & cert. ef. 1-10-97; PUC 18-1997, f. & cert. ef. 12-17-97; PUC 12-1999, f. & cert. ef. 11-18-99; PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 9-2011, f. & cert. ef. 10-4-11

860-033-0045

OTAP Compensable Expenses

(1) Each Eligible Telecommunications Provider may be compensated from the RSPF for enrolling new OTAP customers and for benefit costs incurred as a consequence of participating in OTAP.

(a) The Eligible Telecommunications Provider may be compensated for each customer enrolled for the OTAP benefit at the Commission's request.

(b) Benefit costs include the revenue the Eligible Telecommunications Provider foregoes by providing local service to qualified low-income customers at the OTAP reduced rate or discount.

(2) To receive compensation, an Eligible Telecommunications Provider must submit a monthly reimbursement form no later than 21 calendar days after the end of the billing period. The Eligible Telecommunications Provider's reimbursement form must indicate the number of qualified customers who were enrolled during the billing period, the number of customers who received the OTAP benefit during the billing period, and the amount of revenue foregone during that same period.

(3) If the Commission overcompensates an Eligible Telecommunications Provider, the Eligible Telecommunications Provider must immediately return the excess RSPF funds once it notifies the Commission or is notified by the Commission of the overcompensation.

(a) If the Commission overcompensates the Eligible Telecommunications Provider as a result of Commission error and the Eligible Telecommunications Provider upon notification of the overcompensation immediately returns the excess RSPF funds, the Eligible Telecommunications Provider is not required to pay interest on the excess RSPF funds.

(b) If the Commission overcompensates the Eligible Telecommunications Provider as a result of Commission error and upon notification the Eligible Telecommunications Provider does not immediately return the excess RSPF funds, the Eligible Telecommunications Provider must pay interest on the excess RSPF funds at the rate set forth in OAR 860-001-0050.

(c) If the Commission overcompensates the Eligible Telecommunications Provider as a result of actions by the Eligible Telecommunications Provider, including, but not limited to, the filing of an incorrect reimbursement form, then upon notification the Eligible Telecommunications Provider must immediately return the excess RSPF funds and pay interest on the excess RSPF funds at the rate set forth in OAR 860-001-0050.

(4) Notice of Proposed Assessment:

(a) If the Eligible Telecommunications Provider is overcompensated and does not timely return the excess RSPF funds as described in section (3) of this rule, the Commission may issue a written proposed assessment for the amount due.

(b) Within 30 days of the service date of the notice of proposed assessment, the Eligible Telecommunications Provider may pay the proposed assessment in full or may file a written petition for a hearing. The written petition for a hearing must clearly specify all the reasons the Eligible Telecommunications Provider disputes the assessment.

(A) If the Eligible Telecommunications Provider pays the proposed assessment in full within 30 days of the service date of the notice of proposed assessment, the Commission will accept the payment and discontinue any further collection activities for that assessment.

(B) If the Eligible Telecommunications Provider timely files a written petition for a hearing under section (b) of this rule, the Commission will grant the Eligible Telecommunications Provider a hearing and provide at least 10 days notice of the time and place of the hearing. The Commission

will conduct the hearing under its rules governing hearings and proceedings.

(5) Commission Order: The Commission will enter an order if the Eligible Telecommunications Provider does not respond to the notice of proposed assessment within 30 days of the service date of the notice of proposed assessment or after considering the testimony presented at hearing. Any charges assessed by the Commission in its order become due and payable on the tenth day after the service date of the Commission's order.

(6) If the Eligible Telecommunications Provider does not respond to the Commission order, then the account may be referred to the Department of Revenue or to a collection agency for collection. The Eligible Telecommunications Provider is responsible for and must pay all costs incurred by the Commission to collect a past-due assessed amount from the Eligible Telecommunications Provider.

(7) An Eligible Telecommunications Provider must submit any revisions to a previously filed reimbursement form no later than three years from its due date. If the Commission concludes that refund is due to an Eligible Telecommunications Provider and that the refund would have a material adverse financial impact on the RSPF, the Commission may enter into an agreement with the Eligible Telecommunications Provider to spread payment of the refund over a period of time not to exceed three years.

(8) The Commission may determine the compensation amount based on the costs an Eligible Telecommunications Provider would reasonably incur to accomplish each task referred to in section (1) of this rule. The Commission disburses funds from the RSPF to the Eligible Telecommunications Provider within 45 calendar days after the Commission receives a properly completed reimbursement form.

(9) Each Eligible Telecommunications Provider providing low-income telephone assistance under an approved alternative plan may be compensated for benefit and enrollment costs. However, compensation from the RSPF may not be greater than the compensation the provider would have received had it participated in OTAP.

(10) Governmental agencies contracting with the Commission to certify the eligibility requirements of individuals or to perform other administrative functions authorized by these rules are compensated based on the terms of the contract.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

Hist.: PUC 9-1988, f. & cert. ef. 4-28-88 (Order No. 88-415); PUC 18-1997, f. & cert. ef. 12-17-97; PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 9-2011, f. & cert. ef. 10-4-11

860-033-0505

TDAP Definitions

(1) "Adaptive Equipment" means equipment that permits a person with a disability, other than a hearing or speech impairment, to communicate effectively on the telephone.

(2) "Assistive Telecommunication Device" means a device that uses a keyboard, acoustic coupler, display screen, Braille display, speakerphone, or amplifier to enable a person who is deaf, deaf-blind, hard of hearing, speech or vision impaired or who has a disability to communicate effectively on the telephone.

(3) "Authorized Distributor" means a facility authorized by the Commission to distribute Assistive Telecommunication Devices and Adaptive Equipment.

(4) "Authorized Maintenance Center" means a facility authorized by the Commission to repair any reasonably damaged Assistive Telecommunication Device or Adaptive Equipment.

(5) "Disability" means a physical condition other than hearing or speech impairment that requires the use of adaptive equipment to communicate effectively on the telephone.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987

Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987

Hist.: PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 18-1997, f. & cert. ef. 12-17-97; PUC 12-1999, f. & cert. ef. 11-18-99; PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 9-2011, f. & cert. ef. 10-4-11

860-033-0506

Telecommunication Devices Access Program Advisory Committee (TDAPAC)

The TDAPAC consists of 12 Oregon residents appointed by the Commission as prescribed by Oregon Laws 1987, Chapter 290, Section 12. The TDAPAC must meet regularly with the Commission Staff to give advice concerning matters of general development, implementation, and administration of TDAP. TDAPAC meetings are public, and minutes must be provided to the public upon request. A copy of the TDAPAC bylaws is available upon request.

ADMINISTRATIVE RULES

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987
Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987
Hist.: PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 2-1996, f. & cert. ef. 4-18-96 (Order No. 96-102); PUC 18-1997, f. & cert. ef. 12-17-97; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 9-2011, f. & cert. ef. 10-4-11

860-033-0530

TDAP Eligibility

(1) A person may apply to receive an Assistive Telecommunication Device or Adaptive Equipment from the TDAP. The application must be submitted using the form provided by TDAP. The TDAP application form is available online at <http://www.puc.state.or.us/PUC/rsfp/tdapp.pdf>, from the Commission and from certain community resources.

(2) A TDAP applicant must provide the TDAP with:

(a) Evidence of regular access to a specific telephone number in Oregon;

(b) Evidence of current residency in Oregon; and

(c) A properly completed application including a statement that the applicant is deaf, deaf-blind, hard of hearing, speech or vision impaired, or has a disability that requires adaptive equipment or an assistive telecommunication device to communicate effectively on the telephone. This statement must be signed by:

(A) A licensed physician who may certify that the applicant is deaf, deaf-blind, hard of hearing, speech or vision impaired or has a disability;

(B) An audiologist or a hearing aid specialist who may certify only that the applicant is deaf or hard of hearing;

(C) A speech pathologist who may certify only that the applicant is speech impaired;

(D) A vocational rehabilitation counselor from the Oregon Office of Vocational Rehabilitation Services who may certify that the applicant is deaf, deaf-blind, hard of hearing, speech or vision impaired or has a disability;

(E) A nurse practitioner who may certify that the applicant is deaf, deaf-blind, hard of hearing, speech or vision impaired, or has a disability;

(F) A rehabilitation instructor from the Oregon Commission for the Blind who may certify only that the applicant has a vision impairment; or

(G) A person certified by the Commission as qualified to determine whether a person meets the eligibility requirements of TDAP.

(d) For a person under 18 years of age, or an adult who is determined to require a legal guardian, a parent or a guardian must apply on that person's behalf and assume full responsibility for the Assistive Telecommunication Device or Adaptive Equipment and services. An emancipated minor is considered an adult. If the application is signed by a person asserting power of attorney for the applicant or by a legal guardian, the person signing the application may be required to provide the Commission with evidence of the power of attorney or legal guardianship.

(3) The TDAP may only approve applications for persons certified as deaf, deaf-blind, hard of hearing, speech or vision impaired or who have a disability and cannot use a telephone for expressive or receptive communication.

(4) The TDAP may provide one Assistive Telecommunication Device or one Adaptive Equipment unit per eligible person. The one device or unit provided may also include an accessory device such as a loud ringer or signal device, as applicable. More than one Assistive Telecommunication Device or Adaptive Equipment unit may be provided to a household if more than one eligible person permanently resides in the household.

(5) If the Commission purchases new devices that may benefit a TDAP recipient more than the equipment currently provided by TDAP to the recipient, the TDAP may allow the recipient to use both the current and new device for a 60-day trial period. The recipient must return the less beneficial equipment to the TDAP within five business days after the end of the trial period. If the recipient fails to return the equipment, the recipient is responsible for paying the TDAP for the cost of the more expensive equipment.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987
Stats. Implemented: ORS 756.040, 759.036, & Ch. 290, OL 1987
Hist.: PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 18-1989, f. & cert. ef. 12-14-89 (Order No. 89-1602); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 18-1997, f. & cert. ef. 12-17-97; PUC 12-1999, f. & cert. ef. 11-18-99; PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 9-2011, f. & cert. ef. 10-4-11

860-033-0537

Holding Recipients Financially Responsible for Damaged, Lost, or Otherwise Not Returned Assistive Telecommunication Devices or Adaptive Equipment

(1) Invoices:

(a) The Commission will mail an invoice indicating the amount of and the reason for such invoice to the responsible recipient at the last known address. The recipient has 30 calendar days from the service date of the invoice to respond.

(b) The invoiced recipient may submit a written response to the Commission in an attempt to resolve the invoice. At the Commission's discretion, further investigation may be initiated. If the investigation finds that the invoice was issued in error (for example, there is no verifiable reason for the invoice having been sent), the invoice may be canceled.

(c) If the Commission does not receive payment, the Commission may begin the collection activities.

(d) Incorrect address: When an invoice or notice of proposed assessment is returned with an incorrect address and the invoiced recipient has not notified the Commission of an address change as required by the Conditions of Acceptance and Agreement for TDAP Equipment, the amount billed to the recipient becomes a liquidated debt.

(2) Notice of Proposed Assessment:

(a) If the recipient does not respond to the invoice within 30 days from the service date of the invoice, the Commission may issue a written proposed assessment for the amount due.

(b) The recipient may pay the assessment in full within 30 days of the service date of the notice of proposed assessment or may file a written petition for a hearing within 30 days of the service date of the notice of proposed assessment. A written petition for a hearing must clearly specify all the reasons the recipient disputes the proposed assessments.

(A) If the recipient pays the proposed assessment in full within the 30 days of the service date of the notice of proposed assessment, the Commission will accept the payment and discontinue any further collection activities for that assessment.

(B) If the recipient timely files a written petition for a hearing as set forth in subsection (b) of this section of this rule, the Commission will grant the recipient a hearing and give at least 10 days notice of the time and place of the hearing. The Commission will conduct the hearing under its rules governing hearings and proceedings.

(3) Commission Order:

(a) The Commission will enter an order if the recipient does not respond to the notice of proposed assessment within 30 days of the service date of the notice of proposed assessment or after considering the testimony presented at hearing. Any charges assessed by the Commission in its order become due and payable on the tenth day after the service date of the Commission's order.

(b) If the recipient does not respond to the order assessing charges, the account may be referred to the Department of Revenue or a collection agency for collection. The recipient is responsible for and must pay all costs incurred by the Commission to collect a past-due invoice amount from the recipient.

(4) Collection procedures for a recipient with two or more Assistive Telecommunication Devices or Adaptive Equipment units:

(a) The Commission will mail a letter to the recipient asking the recipient to return the equipment within 30 calendar days, and

(b) If the Commission does not receive a response, the Commission will send an invoice to the recipient. If the recipient does not pay the amount billed, the Commission may take the necessary action against the recipient to either regain possession of the State of Oregon's equipment or receive the full replacement value of such equipment.

(5) When the Commission receives notice that a recipient is deceased, the Commission will request that the estate return the equipment. The Commission may bill the estate for the cost of replacing the equipment if it has not been returned, or if it is returned in damaged condition.

(6) If the lost, damaged, or otherwise not returned equipment is obsolete or is no longer offered by the TDAP, the Commission may waive the recipient's financial responsibility.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987
Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987
Hist.: PUC 18-1997, f. & cert. ef. 12-17-97; PUC 12-1999, f. & cert. ef. 11-18-99; PUC 19-2003, f. & cert. ef. 11-14-03; PUC 16-2004, f. & cert. ef. 12-1-04; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 9-2011, f. & cert. ef. 10-4-11

860-033-0545

TDAP Compensable Expense

(1) The Authorized Distributors and the Authorized Maintenance Centers may be compensated from the RSPF for specific costs incurred as a result of participating in the TDAP. These contracted programs and services must request compensation by submitting an invoice to the Commission at least quarterly. Funds must be disbursed to these contracted programs or services no more than 30 calendar days after a properly filed invoice is received by the Commission:

ADMINISTRATIVE RULES

(a) The Authorized Distributors may be compensated for coordinating and storing the Assistive Telecommunication Devices or Adaptive Equipment. Invoices must indicate all services performed by distributors and the number of the Assistive Telecommunication Devices or Adaptive Equipment units provided to recipients. Compensable services must include the cost of Assistive Telecommunication Devices or Adaptive Equipment with an identification number, shipping costs, storage costs, delivery costs, and other related costs.

(b) The Authorized Distributors may be compensated for the cost of preparing and distributing the Assistive Telecommunication Devices or Adaptive Equipment and maintenance services requested by the customers. Invoices must indicate the number of the Assistive Telecommunication Devices or Adaptive Equipment unit including the engraved identification on either distributing Assistive Telecommunication Devices or Adaptive Equipment to the recipient or receiving Assistive Telecommunication Devices or Adaptive Equipment repair orders from the recipient. The specific tasks of preparation and services in distributing the Assistive Telecommunication Devices or Adaptive Equipment are subject to written agreement between the Commission and the contracted Assistive Telecommunication Devices or Adaptive Equipment personnel.

(c) The Authorized Maintenance Centers may be compensated for repairing the damaged Assistive Telecommunication Devices or Adaptive Equipment, the storage of extra Assistive Telecommunication Devices or Adaptive Equipment replacements, and the required insurance for storage. Invoices must indicate the labor and parts of the damaged Assistive Telecommunication Devices or Adaptive Equipment, the storage cost, and the insurance premium cost, including Assistive Telecommunication Devices or Adaptive Equipment identification inventory.

(d) The Commission will determine the rate of compensation based on the cost the Authorized Distributor should reasonably incur to accomplish each task.

(2) Based upon accounting procedures established by the Commission, the Authorized Distributors and Authorized Maintenance Centers must maintain accounting records in such a manner that costs associated with TDAP can be separately identified. The Commission may audit the records of an Authorized Distributor or an Authorized Maintenance Center.

Stat. Auth.: ORS 183, 756, 759 & Ch. 290, OL 1987
Stats. Implemented: ORS 756.040, 759.036 & Ch. 290, OL 1987
Hist.: PUC 7-1988, f. & cert. ef. 4-6-88 (Order No. 88-339); PUC 5-1992, f. & cert. ef. 2-14-92 (Order No. 92-238); PUC 18-1997, f. & cert. ef. 12-17-97; PUC 12-1999, f. & cert. ef. 11-18-99; PUC 19-2003, f. & cert. ef. 11-14-03; PUC 12-2009, f. & cert. ef. 11-13-09; PUC 9-2011, f. & cert. ef. 10-4-11

Rule Caption: In the Matter of Revising Electric Service Reliability Rules to Reflect Current National Standards.

Adm. Order No.: PUC 10-2011

Filed with Sec. of State: 10-14-2011

Certified to be Effective: 1-1-12

Notice Publication Date: 9-1-2011

Rules Adopted: 860-023-0081, 860-023-0084, 860-023-0091, 860-023-0101, 860-023-0111, 860-023-0131, 860-023-0151, 860-023-0161

Subject: These new electric service reliability rules to be effective January 1, 2012 comport with the most recent version of the national standard. These changes are significant to multistate electric companies and to trade organizations which rely on information being reported consistent with the national standard. The current electric service reliability rules are being left in place until the new rules are effective.

Rules Coordinator: Diane Davis—(503) 378-4372

860-023-0081

Definitions and Terms for Electric Service Reliability

(1) Effective beginning January 1, 2012, the definitions in IEEE 1366, as defined in subsection (2)(b) of this rule, are adopted unless otherwise expressly modified by this rule. If there is a conflict between the definitions in IEEE 1366 and this rule, the definitions in this rule govern.

(2) The following definitions apply to the Electric Service Reliability Rules, OAR 860-023-0081 through 860-023-0161:

(a) “Electric company” means a public utility, as defined in ORS 757.005, that supplies electricity.

(b) “IEEE 1366” means the Institute of Electrical Electronic Engineers (IEEE) Standard 1366 entitled “IEEE Guide for Electric Power Distribution Reliability Indices” (the 2003 edition), approved on December

10, 2003 by IEEE-SA Standards Board and on April 26, 2004 by the American National Standards Institute.

(c) “Loss of Supply — Substation” or “Power Supply — Substation” means an interruption cause category related to an outage of a distribution substation component.

(d) “Loss of Supply — Transmission” or “Power Supply — Transmission” means an interruption cause category related to the interruption of the electrical supply by the electric company’s transmission system or by another electrical utility or operator.

(e) “Reliability reporting area” means a grouping of one or more operating areas, for which the electric company calculates major event thresholds.

(f) “Reporting Period” means the 12-month period, based on a calendar year, for which the electric company is reporting reliability performance.

(g) “System-wide” means pertaining to and limited to the electric company’s customers in Oregon.

(3) For reference only, some IEEE 1366 acronyms or terms commonly used in OAR 860-023-0081 through 860-023-0161 are repeated herein. (Note — refer to exact definitions and calculation methodologies in IEEE 1366.)

(a) “CAIDI” means customer average interruption duration index.

(b) “Customer” means a metered electrical service point for which an active bill account is established at a specific location (e.g., premise).

(c) “Interruption” means the loss of service to one or more customers connected to the distribution portion of the system. It is the result of one or more component outages, depending on system configuration.

(d) “MAIFIE” means momentary average interruption event frequency index.

(Note — This index does not include events immediately preceding a lockout.)

(e) “SAIDI” means system average interruption duration index.

(f) “SAIFI” means system average interruption frequency index.

(g) “Major Event” designates an event that exceeds the reasonable design and/or operational limits of the electric power system. A major event includes at least one Major Event Day (MED).

(h) “Major Event Day” or “MED” means a day in which the daily system SAIDI exceeds a threshold value, T_{MED} . For the purposes of calculating daily system SAIDI, any interruption that spans multiple calendar days is accrued to the day on which the interruption began. Statistically, days having a daily system SAIDI greater than T_{MED} are days on which the energy delivery system experienced stresses beyond that normally expected (such as severe weather). Activities that occur on major event days should be separately analyzed and reported. (See section 4.5 of IEEE 1366.)

(i) “ T_{MED} ” means a major event day identification threshold value.

[Publications: Publications referenced in this rule are available for review at the agency.]

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 757.020

Hist.: PUC 10-2011, f. 10-14-11, cert. ef. 1-1-12

860-023-0084

General Provisions and Applicability of Electric Service Reliability Rules

1. Unless otherwise noted, OAR 860-023-0081 through 860-023-0161 apply to every electric company, effective beginning January 1, 2012.

2. A person may apply for waiver of any provision of the Electric Service Reliability Rules. The Commission may grant a waiver upon showing of good cause.

3. An electric company must comply with IEEE 1366 in the collecting and analyzing of interruption data and in the calculation and reporting of reliability indices as required by Electric Service Reliability Rules. If there is a conflict between any provision in IEEE 1366 and the Electric Service Reliability Rules, OAR 860-023-0081 through 860-023-0161 govern.

4. An electric company must include both “distribution system” interruptions and “interruptions caused by events outside of the distribution system” as defined in IEEE 1366 in the electric company’s record keeping, calculations, reporting, and filing as required by OAR 860-023-0081 through 860-023-0161, effective beginning January 1, 2012.

[Publications: Publications referenced in this rule are available for review at the agency.]

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 757.020

Hist.: PUC 10-2011, f. 10-14-11, cert. ef. 1-1-12

860-023-0091

Electric Service Continuity

(1) An electric company must use reasonable means in design, operation, and maintenance to ensure reliable service to each customer. Such means include, but are not limited to, programs to minimize service interruptions.

ADMINISTRATIVE RULES

(2) An electric company must have documented programs to maintain appropriate reliability levels.

(3) When an interruption occurs, each electric company must reestablish service with the shortest possible delay consistent with the safety of its employees, customers, and the public.

(4) An electric company must have recordkeeping systems in place to determine, and track interruptions, facilitate interruption restoration, and collect and analyze interruption data.

(5) This rule is effective beginning January 1, 2012.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 757.020

Hist.: PUC 10-2011, f. 10-14-11, cert. ef. 1-1-12

860-023-0101

Electric Interruption Records

(1) Except as provided in sections (3) and (4) of this rule, an electric company must keep an accurate record of each interruption of service that affects one or more customers. Each record must contain at least the following information:

(a) The operating area where the interruption occurred;

(b) The name of the substation involved;

(c) The name of the distribution circuit or distribution sub-circuit involved;

(d) The date and time the interruption occurred (if the exact time is unknown, the beginning of an interruption is recorded as the earlier of an automatic alarm or the reported initiation time);

(e) The date and time service was restored;

(f) The number of customers affected by the interruption;

(g) The cause of the interruption;

(h) The protective device that made the interruption; and

(i) The element involved (e.g., transmission, distribution substation, overhead primary main, underground primary main, transformer, etc.).

(2) For an interruption after which customers are not simultaneously restored, an electric company must keep records that document the step-restoration operations.

(3) For major events after which an electric company cannot obtain accurate data, the electric company must make reasonable estimates.

(4) For momentary interruptions and momentary interruption events, the company must collect as much information as is reasonable, given the equipment and systems available to identify and record such events.

(5) An electric company must retain for at least seven full calendar years the records associated with sections (1) through (2) of this rule.

(6) This rule is effective beginning January 1, 2012.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 757.020

Hist.: PUC 10-2011, f. 10-14-11, cert. ef. 1-1-12

860-023-0111

Electric Reliability Calculations

(1) Using records collected per OAR 860-023-0101, each electric company must perform annual reliability index calculations required by this rule in compliance with IEEE 1366. Each electric company must report the results of the calculations in the company's annual report as set forth in OAR 860-023-0151 and in the company's major event filings as set forth in OAR 860-023-0161.

(2) After December 31 of each year an electric company must calculate the SAIDI, SAIFI, and MAIFI_E indices for the previous reporting period. These indices are to be calculated both with all interruptions included and separately with major event interruptions excluded:

(a) On a system-wide basis;

(b) For each reliability reporting area; and

(c) For each circuit.

(3) If an electric company estimates or uses factors in calculating actual CAIDI, SAIDI, SAIFI, or MAIFI_E indices in sections (1) or (2) of this rule, the company must summarize the estimation methodologies in the company's annual report, as set forth in OAR 860-023-0151.

(4) This rule is effective beginning January 1, 2012.

[Publications: Publications referenced in this rule are available for review at the agency.]

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 757.020

Hist.: PUC 10-2011, f. 10-14-11, cert. ef. 1-1-12

860-023-0131

Customer Inquiries about Electric Reliability

(1) A customer may request a report from an electric company about the service reliability provided to the customer's own meter. Within 20 business days, the electric company must supply the report to the customer at no cost. However, if a customer requests an additional reliability report for

the same meter within one year of the date of the first request, the electric company may charge the customer the actual cost for the report.

(2) The report must include:

(a) The name of the customer;

(b) The date of the request;

(c) The address where the meter is installed;

(d) The meter number involved;

(e) The circuit involved; and

(f) A chronological listing, covering at least the 36 months preceding the date of the request, of all interruption data as required by OAR 860-023-0101 affecting the customer's meter.

(3) This rule is effective beginning January 1, 2012.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 757.020

Hist.: PUC 10-2011, f. 10-14-11, cert. ef. 1-1-12

860-023-0151

Annual Report on Electric Reliability

(1) On or before May 1 of each year, an electric company must file with the Commission a report that includes the information set forth in section (2) of this rule for the reporting period. The electric company must file the report in both paper and electronic form. The electric company must make electronic copies of the report available to the public upon request. For paper copies requested by the public, the electric company may charge a reasonable cost for production of the copy.

(2) The annual Electric Service Reliability Report must contain:

(a) The results of the calculated SAIDI, SAIFI, and MAIFI_E indices required by OAR 860-023-0111. The electric company must also report this information on a system-wide basis compared with the previous four years' performance, and on a reliability reporting area basis compared with the previous four years' performance.

(b) A summary of system-wide and reliability reporting area sustained interruption causes compared to the previous four-year performance. Cause categories to be evaluated include:

(A) Loss of Supply — Transmission;

(B) Loss of Supply — Substation;

(C) Distribution — Equipment;

(D) Distribution — Lightning;

(E) Distribution — Planned;

(F) Distribution — Public;

(G) Distribution — Vegetation;

(H) Distribution — Weather (other than lightning);

(I) Distribution — Wildlife;

(J) Distribution — Unknown; and

(K) Distribution — Other.

(c) A listing of the Major Events experienced during the reporting period, including reliability reporting area involved; operating areas involved; dates involved; T_{MED} applied; interruption causes; and SAIDI, SAIFI, and CAIDI impacts to customers for the Event on both a reliability reporting area basis and a system-wide basis.

(d) A listing of the T_{MED} values that will be used for each reliability reporting area for the forthcoming annual reporting period compared with the previous four years of T_{MED} values.

(e) A summary of the characteristics of the systems covered under OAR 860-023-0091(4) and estimation methodologies covered by OAR 860-023-0101(3) and 860-023-0111(3) for the collection of interruption data, calculation of reliability information, and facilitation of interruption restoration and mitigation.

(f) A summary addressing the changes that the electric company has made or will make in the collection of data and the calculation, estimation, and reporting of reliability information. The electric company must explain why the changes occurred and explain how the change affects the comparison of newer and older information.

(g) A map showing the reliability reporting areas and operating areas.

(h) A listing of circuits by reliability reporting area and substation, indicating circuit voltage and number of customers connected.

(3) This rule is effective beginning January 1, 2012.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 757.020

Hist.: PUC 10-2011, f. 10-14-11, cert. ef. 1-1-12

860-023-0161

Major Event Filing by Electric Companies

For any major event for which the CAIDI for the reliability reporting area exceeds five hours, the electric company must submit a report to the Commission within 30 business days after the conclusion of the event that includes:

ADMINISTRATIVE RULES

- (1) A description of the major event, the interruption causes, and factors that impacted restoration of service;
- (2) The reliability reporting area and geographic area impacted;
- (3) The total number of customers affected and the number of customers without service at periodic intervals; and
- (4) The calculated SAIDI, SAIFI and CAIDI impacts (i.e., "Event SAIDI, SAIFI, and CAIDI") associated with the Major Event to customers on a reliability reporting area and a system-wide basis.

(5) This rule is effective beginning January 1, 2012.

Stat. Auth.: ORS 183, 756 & 757

Stats. Implemented: ORS 757.020

Hist.: PUC 10-2011, f. 10-14-11, cert. ef. 1-1-12

Racing Commission
Chapter 462

Rule Caption: Proposed rulemaking will edit OARs with detailed direction to licensees and includes current industry practice.

Adm. Order No.: RC 2-2011

Filed with Sec. of State: 9-23-2011

Certified to be Effective: 10-1-11

Notice Publication Date: 8-1-2011

Rules Amended: 462-110-0010, 462-120-0040, 462-130-0010, 462-130-0030, 462-130-0050, 462-140-0040, 462-150-0040, 462-150-0080, 462-200-0370

Subject: Amendment #1: 462-110-0010(7) (Racing Definitions): Amends the text of the definition for "bleeder."

Amendment #2: 462-120-0043(3) (Types of Licenses): Amends (a) and adds(b) speaking to entry of a horse(s) of a decedent who was owner in part.

Amendment #3: 462-120-0040(4)(b) (Types of Licenses): Removes "regardless of whether" and replaces with "if."

Amendment #4: 462-120-0040(4)(i) (Types of Licenses): Adds (a) Provisional Exercise Rider and Exercise Rider.

Amendment #5: 462-130-0010(1)(m) (Prohibited Conduct; Investigations; Discipline): Changes language to industry standard.

Amendment #6: 462-130-0010(3)(a)(D) (Prohibited Conduct; Investigations; Discipline): Changes language regarding the requirement of an evaluation to be submitted to the Commission.

Amendment #7: 462-130-0010(3)(b)(C) (Prohibited Conduct; Investigations; Discipline): Provides more detailed explanation to (i), (ii) and (iii).

Amendment #8: 462-130-0010(9) (Prohibited Conduct; Investigations; Discipline): Adds language to the rule requiring licensees to notify the Commission if they are convicted of a crime.

Amendment #9: 462-130-0030 (Informal Stewards' Hearing): Adds language regarding riding infractions.

Amendment #10: 462-130-0050(1) (Appeal to the Commission; Stay Pending Appeal): Removes language stating, "Any appeal concerning the board of stewards' decision regarding a claim of foul or inquiry must be filed with the commission offices at the Portland State Office Building, 800 NE Oregon Street, Suite 310, Portland, Oregon 97232, within 72 hours of the action or inaction which provides the basis of the appeal."

Amendment #11: 462-140-0040(3) (Veterinarian): Updates language to industry standard.

Amendment #12: 462-150-0040(7)(g) (Entering for Official Racing; Subscriptions): Adds language regarding a potential waiver by the Commission Stewards.

Amendment #13: 462-150-0080(5) (Order of Finish; Weighing In; Objections and Disqualification): Removes "commenced before midnight" from the rule.

Amendment #14: 462-150-0080(7)(f) (Order of Finish; Weighing In; Objections and Disqualification): Adds language to more clearly define the rule.

Amendment #15: 462-200-0370(2) (General Operations of Off-Track Facility): Updates language to current practice.

Rules Coordinator: Nancy A. Artmann—(971) 673-0211

462-110-0010

Racing Definitions

The following definitions and interpretations shall apply in these rules unless otherwise indicated or text otherwise requires (Words of the masculine gender include the feminine and neuter. Words in the singular include the plural and vice versa.):

(1) "Added Money": Cash, exclusive of trophy or other award, added by the race meet licensee to stake fees paid by subscribers to form the total purse for a stakes race.

(2) "Age": The age of a horse is calculated as beginning on the first of January in the year in which the horse is foaled.

(3) "Allowance": Weights and other conditions of a race.

(4) "Allowance Race": A race where there are both allowances and penalties, according to the conditions of the race, on monies or races won.

(5) "Appropriate Horse Registry": For Thoroughbreds, the registry office of the Jockey Club (Lexington, Kentucky); for Quarter Horses, the American Quarter Horse Association (Amarillo, Texas); for Appaloosa horses, the Appaloosa Horse Club, Inc. (Moscow, Idaho); for Paint horses, the American Paint Horse Association (Fort Worth, Texas); for Arabians, the Arabian Horse Registry of America (Denver, Colorado); and for mules, the American Donkey and Mule Society (Lewisville, TX).

(6) "Authorized User": A person authorized by the Oregon Racing Commission to receive, to decode and to use for legal purposes the encrypted signal of racing events in Oregon.

(7) "Bleeder": Any horse known to have externally bled from its respiratory tract during a workout or race, and so designated by the commission veterinarian or any horse that has internal bleeding that is observed or verified by the commission veterinarian through endoscopic examination.

(8) "Bleeder List": A tabulation of bleeders to be maintained by the commission.

(9) "Blocked": Where there is no feeling in an injured area.

(10) "Breakage": The odd cents by which the amount payable on each dollar wagered in a pari-mutuel pool exceeds a multiple to ten cents or to five cents in accordance with ORS 462.140.

(11) "Breeder": The owner of the dam of a horse at the time the horse was foaled. A horse is "bred" at the place of its foaling.

(12) "Carded": Scheduled and placed on the daily racing program.

(13) "Claim Certificate" (Open Claim Certificate): A written document issued by the commission which permits a person to enter a claim for a horse without having a foal certificate in the race office. (14) "Claiming Race": A race in which all horses may be claimed and purchased for the amount specified in the conditions for that race by any person meeting the requirements of OAR 462-150-0030(2).

(15) "Combined Pari-Mutuel Pools", "Combined Pools": The pari-mutuel wagers at one or more off-track wagering facilities being contributed into the pari-mutuel pools of an Oregon host race meet licensee.

(16) "Commission": Oregon Racing Commission. Commissioner is a member of the commission.

(17) "Complaint": A written allegation of a violation of these rules or ORS Chapter 462.

(18) "Day" "Race Day" and "Simulcast Day": Any 24 hour period beginning at 12:01 a.m. and ending at midnight. "Racing Day" is a day on which live races are conducted at a race track in Oregon. "Calendar Days" are those consecutive days counted irrespective of number of racing days. "Simulcast Day" is a day that races from an out-of-state track are being simulcast into a track in Oregon on a day that there are no live races being run at the Oregon track. Simulcast days may only occur on days that fall within the period of time for which a race meet license has been granted by the commission. Unless otherwise specified, use of the word "day" shall mean a calendar day. In calculating the average daily handle for race meets, any race day in which some of the day's races are canceled due to natural occurrences, as determined by the commission, will be counted as a partial race day in the same proportion as the number of races actually run by the number of races carded to be run in the day's racing program.

(19) "Decoder": A device and/or means to convert encrypted audiovisual signals and/or data into a form recognizable as the original content of the signals.

(20) "Derby": A race exclusively for 3-year-olds, except for Arabians which is for 4-year-olds.

(21) "Designated Races": Stake and handicap races so designated by the stewards prior to the first day of the race meet.

(22) "Disqualification": An order of the stewards or commission revising the order of finish of a race.

ADMINISTRATIVE RULES

(23) "Divided Race": A race in which there are so many entries that it is made into two separate races. A race becomes a divided race when it is announced by the racing secretary that he/she is dividing the race.

(24) "Drug": As defined in ORS 462.010(5).

(25) "Eligible": A horse which meets the conditions of the race.

(26) "Encryption", "Encrypted", "Encoded": The scrambling or other manipulation of the audiovisual signals to mask the original video content of the signal and so cause such signals to be indecipherable and unrecognizable to any person receiving such signal without using a decoder.

(27) "Engagement": The obligation of a jockey or horse to participate in a race.

(28) "Equipment": As applied to a horse, it includes the whip, blinkers, tongue restraint, muzzle, hood, nose band, bit, shadow role, martingale, breast plate, bandages in excess of six inches in length, boots, tail tie, plates and other items as approved by the Oregon Racing Commission.

(29) "Exotic Wager": Any single wager where three or more separate wagering interests are required to be selected.

(30) "Foal Certificate" or "Registration Papers": A document issued by the appropriate horse registry used for the identification and proof of ownership of the horse.

(31) "Forfeit Money": Money due by a licensee because of error, fault, neglect of duty, or penalty imposed by order of the stewards.

(32) "Free Handicap": A race in which no liability for entrance money is incurred.

(33) "Futurity": A race for 2-year-olds, except Arabians which is for 3-year-olds, in which nominations are made a considerable time before the running of the race, often before the entered horse is born.

(34) "Handicap": A race in which the weights to be carried by the horses are assigned by the racing secretary or handicapper for the purpose of equalizing the chances of winning for all horses entered.

(35) "Horse": Any horse (including and designated as a mare, filly, stallion, colt, ridgling, or gelding) registered for racing under the jurisdiction of the commission and which requires a jockey to race.

(36) "Host", "Host Association", "Host Track": The race track licensee conducting a licensed race meet when it is authorized by the Oregon Racing Commission to simulcast racing programs.

(37) "Hub": A multi-jurisdictional simulcasting and interactive wagering totalizer hub is a business that, through a qualified subscriber based service, conducts pari-mutuel wagering on the races that it simulcasts and other races that it carries in its wagering menu.

(38) "Ineligible": A horse or person not qualified under these rules or the conditions of a race to participate in a specified racing activity.

(39) "In Today Horse": Any horse which has an opportunity to run in a race and enters again on the next day that entries are taken.

(40) "Inquiry":

(a) Action initiated by the board of stewards involving determination as to whether or not a foul has occurred during the running of a race.

(b) Investigation by the board of stewards of a violation or as a result of objection, to determine if a violation occurred.

(41) "Intrastate Wagering": Pari-mutuel wagering at an off-track wagering facility on Oregon racing events being run at an Oregon host race meet licensee.

(42) "Invitational Handicap": A handicap race for which the racing secretary has selected the contestants and assigned the weights.

(43) "Licensee": Any person or entity holding a currently valid Oregon Racing Commission license to engage in racing or related regulated activities.

(44) "Lessee": A person who holds a contract for the racing of a horse in the person's (lessee's) name.

(45) "Lessor": A person who owns a horse and who leases part or all of it to another person.

(46) "Maiden": A horse which at the time of starting has never won a race on the flat in any country on a recognized track. A maiden which has been disqualified after finishing first is still a maiden.

(47) "Match Race": A private sweepstakes between two or more horses which are the property of different owners. If prior to the running of the race any of the horses entered in the match dies or if any owner dies, the match is void. It remains a match even if money or another award is added to the stakes.

(48) "Maturity": A stakes race for four-year-olds, or four years old or older, except Arabians which is for five-year-olds, or five years old or older.

(49) "Month": A calendar month.

(50) "Mule": The offspring of a male donkey and a female horse. Mules shall race under the same rules as horses, unless otherwise directed by the Board of Stewards.

(51) "Nerve": To cut or remove a portion of a nerve, usually in a horse's leg, to decrease sensation.

(a) "Digital Neurectomy (Heel Nerve)": An operation performed on the digital nerve between the fetlock and the foot.

(b) "Volar Neurectomy (High Nerved)": An operation performed on the volar nerve that lies between the bottom of the knee and the fetlock joint.

(52) "Nomination": The naming of a horse for a stakes race in advance of the race.

(53) "Nominator": The person or persons who nominate a horse.

(54) "Non-starter": A horse that was not in the starting gate when the stall doors open when the starter dispatches the horses, or in the opinion of the stewards, was prevented from receiving a fair start. The stewards may determine any horse to be a non-starter if in their opinion to do so would protect the best interest of racing.

(55) "Objection":

(a) Action initiated by the owner, trainer, or jockey of a horse, claiming foul against another horse or jockey in a race.

(b) Action, initiated by licensee, to the stewards challenging the eligibility of an entered horse, or interpretation of a rule or policy.

(56) "Off-Track Enclosure", "Enclosure-Public": All areas of the off-track wagering facility.

(57) "Off-Track Wagering": Pari-mutuel wagering conducted on a race at a location other than the racecourse where the race is actually held.

(58) "Off-Track Wagering Facility", "Intrastate Wagering Facility", "Extended Wagering Facility": The physical premises, including parking areas, structures and equipment utilized by a race meet licensee for the conduct of pari-mutuel wagering on racing events being run elsewhere. (59) "Oregon Bred": A horse which was foaled in Oregon.

(60) "Original Post Time": For the purposes of medication administration, the "original" post time shall be the advertised post time provided to a commission veterinarian by the association and posted by a commission veterinarian or designee in the race office.

(61) "Out-of-State Wagering": Acceptance of wagers by a race meet licensee authorized by ORS 462.062 or 462.067 on a race or races run outside of the State of Oregon.

(62) "Overnight Race": A race for which entries close 96 hours or less before the time set for the first race of the day on which the race is to be run, and to which no fees are contributed by horsemen.

(63) "Paddock": The paddock is the confined area where horses are assembled for saddling prior to a race.

(64) "Penalty": Depending upon the context:

(a) The excess of weight a horse must carry in a race because of the race's conditions; or

(b) The fining or suspension of a licensee by the stewards or the governing body having jurisdiction over the race meet.

(65) "Person": Unless the context clearly shows otherwise, person as used in these rules includes individuals, partnerships, corporations, political subdivisions and municipal corporations.

(66) "Post": The starting point of a race.

(67) "Post Position": The starting position assigned to a horse at the time the race is drawn.

(68) "Prize": The combined total of any cash, premium, trophy, and object of value awarded to the owners of horses according to the order of finish in a race.

(69) "Produce Race": A race made of the progeny of certain nominated stallions.

(70) "Purse": The gross cash portion of the prize for which a race is run.

(71) "Purse Race": A race for money or any other prize to which the owners of the horses entered do not contribute.

(72) "Race": An official contest among racing animals for purse or other prize at any recognized race meet and in the presence of the officials of the track as defined by ORS 462.010(10).

(73) "Race Meet Licensee": A person, partnership, corporation, or any other body conducting a licensed race meeting in Oregon.

(74) "Racecourse": The entire area licensed to the race meet licensee, as defined in ORS 462.010(11).

(75) "Racing Officials":

(a) Commission officials include the presiding state steward, deputy state steward, commission veterinarians, photofinish operator, commission chief investigator, commission investigators, supervisor of licensing and pari-mutuels, commission auditors and any other commission employee designated by the commission or the executive director.

ADMINISTRATIVE RULES

(b) Race meet licensee officials include the race meet general manager, assistant general manager, association steward, director of racing, racing secretary, paddock judge, patrol judge, jockey room supervisor, placing judges, identifier, starter, clocker, clerk of scales, stall superintendent, track superintendent, paymaster of purses, mutuel manager, assistant mutuel manager, odds maker, outriders, plate inspector, chief of security, TRPB agent and any other person designated by the commission or the executive director.

(76) "Recognized Race Meet": Any race meet which is under the jurisdiction of an official racing commission or other official racing body.

(77) "Recognized Track": A track on which official results are published in the Daily Racing Form, Equibase or other racing publication approved by the commission.

(78) "Restricted Area": Includes, but is not limited to, the office of the racing secretary, stable area enclosure, paddock area, the room occupied by the stewards, photofinish operator, video camera and control system, announcer, the pari-mutuel work areas, totalizer computer room, jockey room and weighing area, test barn area, and any other area designated as "RESTRICTED" by the commission.

(79) "Revocation": The withdrawal of license privileges for all licenses held unless stated otherwise within the order. Revocations also include denial of access to all areas of the racecourse and all off-track wagering sites in Oregon and all other areas under the jurisdiction of the commission unless otherwise stated in the order. An individual who has had his/her license privileges revoked will remain revoked until such time the commission takes official action to reinstate the license.

(80) "Ruled Off": The act of barring a person or horse from the grounds of a race meet licensee and denying all racing and other privileges.

(81) "Rundown": A bandage on a horse's leg not exceeding six inches in height.

(82) "Runner": As used in many places; designates a horse.

(83) "Scratch": The act of withdrawing an entered horse from a race.

(84) "Scratch Time": The time established and posted by the racing secretary after which no horses may be scratched, except by the stewards, or, when authorized, by the commission veterinarian or the starter.

(85) "Sending Track": The race track from which a simulcast emanates for interstate wagering.

(86) "Simulcast", "Simulcasting":

(a) Live audiovisual electronic signals emanating from a licensed race meeting and transmitted simultaneously with the running of the racing events at that meeting, and includes the transmission of pari-mutuel wagering odds, amounts wagered and payoff on such events, and other racing programming relating to the race animals or participants, or

(b) Such other form of electronic signals of animal racing as is approved by the commission.

(87) "Simulcast Operator": A person with a contract with the host race meet licensee, and authorized by the Oregon Racing Commission to operate a simulcast wagering system.

(88) "Simulcast Service Supplier": A person engaged in providing service, supplies or equipment necessary to the operation of intrastate or out-of-state simulcast wagering for use by the host race meet licensee, authorized user, including pari-mutuel wagering terminals, television receivers and related equipment.

(89) "Stable": A place to house horses.

(a) "Trainer Stable": One or more stalls assigned to a trainer.

(b) "Stable Name": An assumed name licensed to one or more owners.

(c) "Trainers Stable Name": Used for trainers advertising.

(90) "Stakes Race": A race to which nominators of the entries contribute to a purse, to which money or any other award may be added. No overnight race shall be deemed a stakes race.

(91) "Starter": A horse which is in the starting gate when the stall doors open in front of it at the time the starter dispatches the horses. The stewards may, in their discretion, determine a horse to be a nonstarter.

(92) "Starter Allowance Race": An allowance race that includes the condition that a horse must have previously started for a specified claiming price. If a horse has been claimed, it is not eligible to enter a starter allowance race for the price at which it was claimed until it has started in a claiming race in which the claiming price does not exceed the price at which it was claimed.

(93) "Starter Race": A race based upon a horse having previously started for a specified claiming price.

(94) "Stewards": The persons employed or approved by the commission who are responsible for the proper conduct of a race meet. The terms stewards and board of stewards are used interchangeably.

(95) "Subscription": The act of nominating a horse to a stakes race.

(96) "Substitute Race": A race which replaces a race already carded, but abandoned because of insufficient entries or too many scratches.

(97) "Suspension": The withdrawal of license privileges for a period of time. Suspensions also include denial of access to all areas of the racecourse and all off-track wagering sites in Oregon and all other areas under the jurisdiction of the commission unless otherwise stated in the order. (98) "Sweepstakes": Same as "stakes race".

(99) "Unauthorized Area": Includes the stewards' stand, test barn, jockeys' room, scale room, and mutuel work areas.

(100) "Wagering Interest": A single horse, or more than one horse joined as a "mutuel entry" or joined in the "mutuel field", on which a single pari-mutuel wager may be placed.

(101) "Weigh In": The presentation of a jockey to the clerk of scales for weighing after a race.

(102) "Weigh Out": The presentation of a jockey to the clerk of scales for weighing prior to a race.

(103) "Workout": A training exercise of a horse where the horse is asked for speed over a specific distance.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 5-2002, f. 12-6-02, cert. ef. 1-1-03; RC 2-2003, f. & cert. ef. 4-23-03; RC 2-2008, f. & cert. ef. 9-30-08; RC 2-2009, f. 8-24-09, cert. ef. 10-1-09; RC 1-2010, f. 9-23-10, cert. ef. 10-1-10; RC 2-2011, f. 9-23-11, cert. ef. 10-1-11

462-120-0040

Types of Licenses

(1) Every person, in order to obtain and maintain his/her qualifications for any license held by him/her, shall attest to the knowledge of the rules and statutes, including all amendments.

(2) Licenses are personal in nature and expire upon the death of the licensee, and therefore are void and without effect as a pre-requisite for the entry of a horse.

(3)(a) When the decedent was the sole owner the only mechanism by which the horse(s) may be entered or run before the property rights in those horses have been fully and completely transferred through legacy, intestate succession or authorized sale, is as follows: upon presentation of letter of administration or letters testamentary issued by a court of competent jurisdiction, or small estate affidavit, the person named in the letter or affidavit shall be licensed as an authorized agent of the estate of the decedent and allowed to enter the horse(s) formerly owned by the decedent, subject to any limitations imposed by the court.

(b) When the decedent was the owner in part, the Board of Stewards may allow the horse(s) to be entered and raced by the survivors provided any decedent's share of monies earned are held pending legal transfer through legacy, intestate succession or authorized sale. In order for this to be considered, the Board of Stewards must be presented with a letter of administration or letters testamentary issued by a court of competent jurisdiction, or small estate affidavit, the person named in the letter or affidavit shall be licensed as an authorized agent of the estate of the decedent and allowed to enter the horse(s) formerly owned by the decedent, subject to any limitations imposed by the court.

(4) Each person described below must have a valid license issued by the commission before participating in or beginning employment at a licensed race meet:

(a) A race meet license is required of any person or corporation who conducts pari-mutuel racing.

(b) A horse owner's license is required of every person who is shown as an owner or lessee on the horse's registration papers or foal certificate, of every person who has a right to receive any share of a purse of a horse racing in Oregon, of any lessor of any horse racing in Oregon if that person receives any share of the purses won by the leased horse(s), and of every person who owns or operates a stable which races horses in a licensed race meet in Oregon, and any person who has a right to receive any part of a stable owner's share of a purse of a horse racing in Oregon. However, a licensed employee of a stable may receive, as part of the employee's compensation, a percentage of the stable's earnings without having a horse owner's license and without being shown on the registration papers.

(A) The trainer representing an owner may file a temporary license application on behalf of the owner by signing the application and paying the applicable license fees. The temporary license shall be terminated if the applicant's fingerprints, completed application(s), and such other documentation as may be required for license are not submitted to the Commission within 30 days following the date of issuance of the license. In the event of termination of a temporary license, the occupational license fee shall be forfeited. Termination of a temporary license is without prejudice to the applicant unless the Commission finds that the applicant has

ADMINISTRATIVE RULES

made a material misrepresentation or false statement to the Commission to obtain a license privilege. No more than one temporary license shall be issued to an applicant without that applicant first submitting to the Commission such fingerprints and completed applications as required under this article.

(B) The stable owner must disclose the employees' percentage to the commission in writing prior to any payment to the employees. A spouse of an owner does not need to be licensed unless the spouse's name appears on the horse's registration papers or foal certificate. No person is eligible for a horse owner's license unless the person has an officially documented ownership interest in a racehorse unless otherwise approved by the stewards.

(c) An owner's license/prospective owner's license with valid claim certificate is required of any person wishing to claim a horse if they do not have an eligible race horse with its registration papers on file in the race office.

(d) A stable/assumed name owner's license is required if the name appears as an owner on the registration papers of any animal racing in Oregon.

(e) A trainer's license is required of persons employed by a racing animal owner or stable to condition and care for racing animals racing in Oregon.

(f) An assistant trainer's license is required of persons who assist trainers.

(g) Applicants for a horse trainer's license or assistant horse trainer's license may be required to pass a written examination given by the board of stewards and a commission veterinarian to demonstrate they have the knowledge and ability to handle the duties of their position. Any person who has not been licensed as trainer or assistant trainer in Oregon may be required to submit to a practical exam given by a commission representative and/or a representative of the recognized horsemen's association for the breed with which the applicant wishes to work. The stewards shall consider any recommendation received from the commission representative or the horsemen's association representative. Applicants for a trainer's license must have held a license in a backside license category for a period of at least two years and must have the recommendation of at least 3 trainers currently licensed by the commission prior to being granted a trainer's license. Applicants for an assistant trainer's license must have been licensed in a backside license category for a period of at least one year prior to being granted an assistant trainer's license.

(h) A jockey license or apprentice jockey license is required of any person who rides a horse in a race. However, when there is doubt as to a jockey's experience or ability, the stewards may require an applicant for a jockey license or apprentice jockey license to demonstrate the ability to control a horse and to ride in two or more races before a license is issued. Also, the starter may require applicants to satisfactorily demonstrate their ability to control horses out of the gate. Notwithstanding OAR 462-120-0060 the temporary license may be for a period longer than 10 days in order for the stewards to evaluate the applicant's skill. All jockeys must pass physical examinations once a year. A physical examination must include but is not limited to a vision test and urine and/or blood tests. The stewards may require that any jockey be reexamined and may refuse to allow any jockey to ride until he/she successfully completes such examination. A physical card or physician's release will be seen as initial proof of such examination; however, the stewards may require additional information on the examination.

(i) An exercise rider license is required of any persons, other than licensed jockeys or apprentice jockeys, who exercise or work out horses. The stewards may require evidence of competency.

(A) Except as otherwise provided under this rule, an applicant for a provisional exercise rider license shall provide evidence that an Oregon licensed trainer employs him or her by submitting a notarized Provisional Exercise Rider Agreement. The notary acknowledgement is not necessary if the Agreement is signed before a Commission employee. The form shall be available at Commission licensing offices at live race meetings, and at Commission headquarters offices.

(B) A licensed provisional exercise rider shall:

(i) Not enter the track without the permission of the outrider and, unless the outrider states otherwise, shall be accompanied by the mounted trainer/ employer or the trainer's assistant trainer while on the track.

(ii) While on the track wear a helmet cover and vest cover of a distinctive color as determined by the outrider.

(C) A provisional exercise rider may apply for license as exercise rider 60 calendar days after the date of issue of his or her provisional exercise rider license.

(i) At the time of application for license as exercise rider, the provisional exercise rider shall submit a recommendation card that has been signed by the outrider, the starter and a steward. The recommendation card is available at Commission licensing offices at live race meetings, and Commission headquarter offices. By signing the recommendation card the outrider, the starter and the steward certify that the applicant has:

(a) Been observed riding one or more horses on the racetrack to the extent necessary for the outrider and starter to determine if the applicant has demonstrated an ability to safely navigate and respond to track conditions and knowledge of starting gate procedures.

(b) Complete and pass a written examination prescribed by the Commission and administered by its agents. A score of 80 percent shall constitute a passing grade on the written examination.

(D) An applicant who fails to adequately demonstrate horsemanship or who fails the written examination may reapply for a license as exercise rider after a period of at least 90 days.

(j) A pony rider license is required of any person who, while on horseback, leads horses to and from the stable area and paddock, or from the paddock to the starting gate. The stewards may require evidence of competency.

(k) A horseshoer license is required of any person who performs the usual services of a horseshoer on a racecourse. Farriers who have not been previously licensed by the commission must submit an application accompanied by the written recommendation of three trainers who are licensed by the commission, recommendation of the track plater or have a certificate of completion from an approved Farrier school. The recommendations must include a statement that the trainer knows the farrier to be qualified to be licensed as a farrier. All farriers not previously licensed by any racing jurisdiction may be subject to examination as directed by the stewards, prior to licensing.

(l) A groom's license is required of any person not licensed as an assistant trainer who works for a trainer. A groom, upon discontinued employment by a trainer, must surrender their license to security or commission licensing personnel within 10 days, to be returned when employed during the license period. A groom's license is not a freelance license.

(m) A public training track owner's license is required of every person who owns or manages a public training track.

(n) A veterinarian license is required of any veterinarian licensed by the Oregon Veterinary Medical Examining Board who performs veterinary services on a racecourse. A current copy of that license must be on file with the commission licensing office.

(o) A valet/assistant starter license is required of any person who assists or attends jockeys in the jockey room or saddling paddock, or assists the starter at the starting gate.

(p) Each owner, officer, director, all employees of the race meet licensee employed at a racecourse and its contractees must be licensed by the Oregon Racing Commission except:

(A) Contractees who perform most of their principal functions away from the racecourse such as certified accountants, attorneys, insurance brokers, advertising agents and other similar contractors.

(B) Other contractors or individuals designated by the commission.

(q) A vendor's license is required of any person, other than a veterinarian licensed by the Oregon Racing Commission, who solicits the sale of goods or services (used to feed, care for, or equip racing animals) to racing animal owners, stable owners or trainers on a racecourse.

(r) An authorized agent's license is required of authorized agents.

(A) A licensed owner may register an authorized agent by filing an application to register an authorized agent with the commission and by paying the fee set by the commission. No person shall be registered as an authorized agent who is ineligible for a license. An authorized agent may act for the registering owner as set forth in the application form. No authorized agent may sign on behalf of any owner the certificate of registration for any racing animal in the absence of a valid power of attorney authorizing such signature.

(B) No authorized agent may perform any duties until such person is licensed and has filed with the commission a current written instrument signed by the principal before a notary public or before an employee of the commission. The instrument must clearly set forth the powers given to the authorized agent. Any power to collect money from the race meet licensee must be expressly stated in the written instrument. Upon licensing, each authorized agent must file a copy of the written instrument with the paymaster of purses.

(C) Any changes in the powers delegated by the principal to the authorized agent must be made in writing, witnessed, and filed with the commission and the paymaster of purses.

ADMINISTRATIVE RULES

(D) Unless due to expiration of the license or term agreement set forth in the written instrument, any revocation by the principal of the authorized agent's authority must be made in writing, witnessed, and filed with the commission and the paymaster of purses.

(s) A jockey agent's license is required of any person who makes engagements for or manages a jockey.

(t) A racing official license is required of anyone performing the duties of any racing official position.

(A) Racing officials shall be listed by name and racing official position on the race meet licensee application and approved by the commission. After the initial approval of race officials, any change in the position held by a racing official from one category to another must be approved by the stewards or commission.

(B) A racing official may work as an assistant starter or valet without obtaining additional licenses, provided it doesn't interfere with the official duties of the racing official. However, assistant starters and valets must be licensed as a racing official to perform the functions of a racing official.

(5) Working members of the media who are not employed by a race meet licensee do not need to be licensed in order to enter restricted areas. However, they must display a current valid "press" badge at all times when in a restricted area. Prior approval must be obtained from the stewards or office of the race meet licensee during non-race time, and they must be escorted by a race meet licensee representative while in the restricted area.

Stat. Auth.: ORS 462.250

Stats. Implemented: ORS 462.020

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 5-2002, f. 12-6-02, cert. ef. 1-1-03; RC 2-2004, f. & cert. ef. 4-8-04; RC 2-2008, f. & cert. ef. 9-30-08; RC 2-2009, f. 8-24-09, cert. ef. 10-1-09; RC 1-2010, f. 9-23-10, cert. ef. 10-1-10; RC 2-2011, f. 9-23-11, cert. ef. 10-1-11

462-130-0010

Prohibited Conduct; Investigations; Discipline

(1) No person (including licensees) shall:

(a) Incite, encourage, instruct, assist, or cause or attempt to cause another person to engage in any violation of ORS chapter 462 or any rule of the commission, or to commit any prohibited act in relation to racing in another racing jurisdiction.

(b) Offer or accept any form of compensation for cashing a pari-mutuel ticket for another.

(c) Direct any personally offensive language, inappropriate gesture or sign, profanity, obscenity, or abusive epithets toward any racing official or employee of the commission at any place under the jurisdiction of the racing commission.

(d) Take any action upon a racecourse that creates or causes a clear and present danger of violence.

(e) Initiate any physical altercation with another person on a racecourse.

(f) Threaten another person with physical harm or probable physical harm.

(g) Refuse to obey reasonable orders or directions of a racing official, security personnel of the race meet licensee or Oregon Racing Commission employees.

(h) Sell or offer to sell tip sheets or any other written, electronic or oral predictions as to the outcome of races at any place under the jurisdiction of the commission unless licensed to do so by the commission.

(i) Gamble, bet, or wager on a racecourse except as authorized by the State of Oregon.

(j) Except for the race meet licensee, solicit any wagers from the public.

(k) Give or offer to give any bribe directly or indirectly, to any licensee, racing official, commission member or employee, or any other person having official duties in relation to any race, racecourse, or racing animal.

(l) Tamper or attempt to tamper with an animal, or apply or aid in applying to an animal or possess on a racecourse any electrical or mechanical device or prohibited medication intended to affect the performance of an animal.

(m) Possess a hypodermic needle or usable injectable syringe on which a needle may be attached on a racecourse, except veterinarians or veterinarian assistants licensed by the Oregon Racing Commission. On a racecourse, veterinarians may use only one-time disposable needles, and shall dispose of them appropriately, according to Oregon Veterinary Medical Examining Board standards. If a person has a medical condition which makes it necessary to have a syringe on the racecourse, that person must request permission of the stewards in writing, furnish a letter from a licensed physician explaining why it is necessary for the person to have a syringe on the racecourse, and must comply with any conditions and restrictions set by the stewards.

(n) Administer, offer to administer, or allow to be administered to any racing animal any prohibited drug or medication, or an unauthorized quantity of an approved drug or medication.

(o) Alter or forge a prescription for medication for a racing animal, or any legal document including but not limited to: a bill of sale, a claim blank, a license application, a treatment form, a registration certificate, ownership registration certificate, lease certificate, a check, or a license application.

(p) Impersonate any racing official, commission member or employee, or any other person having official duties in relation to any race, racecourse, or animal in any manner including forging any of these individuals' names or initials on any document.

(q) Submit or knowingly allow to be submitted to the commission, commission personnel, racing secretary or any racing animal registry, any report or document or application which contains false or misleading information.

(r) Mar or alter any identification mark on a racing animal.

(s) With the exception of commission staff and racing officials in the conduct of official business, use cell phones in the paddock, jockeys' room, test barn enclosure/area and on the racing surface when the area is actively in use.

(t) Smoke inside the test barn/storage area, under the covered portion of the stables, including stalls, tack rooms, shedrow, or in designated "No Smoking" areas.

(u) Use any tobacco products or have food or beverages in the designated testing areas.

(v) Test barn commission staff is permitted to have food or beverages in specified areas only under the following conditions:

(A) Test barn staff is to be free of food residues on their person and to wash their hands prior to testing horses or handling samples.

(B) Food or beverage items that contain prohibited substances are not permitted in the test barn enclosure.

(w) Possess on a racecourse any deadly weapon or firearm, a BB gun, blow gun, pellet gun or similar device, except law enforcement officers, commission officials and security personnel.

(x) While employed by the race meet licensee, racing commission or acting as a racing official, wager at the racecourse where employed or working, while on duty, or ask any other person to place a bet on their behalf. This includes individuals working under contract with the race meet licensee during the racing program and the employees of contractors of the race meet licensee who are working during the racing program.

(y) Allow any person under the age of eighteen (18) years to place or collect a wager. Race meet licensee shall turn over to the proper civil authorities any person who violates this rule, to be punished upon conviction of any such violation, according to law. This rule shall be posted conspicuously at entrance gates and throughout wagering areas. The license of any employee participating in any transaction relative to wagering with persons under the age of eighteen (18) years may be summarily, suspended or revoked.

(z) Move, nominate or enter to race a racing animal on a racecourse except with express permission of the trainer, racing secretary, owner, stall superintendent or the stewards.

(aa) Submit any animal in their charge to cruel or inhumane treatment. Cruel or inhumane treatment includes, but is not limited to:

(A) Inadequate food, shelter and water as defined by typical industry standards for those animals kept in similar climates and conditions;

(B) Neglect in any manner, including adequate veterinary care and attention when necessary;

(C) Conditions which cause the animal unnecessary physical pain or suffering;

(D) Prohibited conduct described in ORS 167.310 to 167.388 in the form the statute provided on the effective date of this rule.

(bb) Commit theft or buy, sell or possess any stolen property, or buy, sell or possess any illegal contraband.

(cc) Illegally influence or conspire, or attempt to influence or conspire, to affect the result of any race or manipulate the odds in which an animal participates.

(dd) Violate any written agreement entered into with the Oregon Racing Commission, the board of stewards or any other commission employee as a result of an order of the commission or stewards.

(ee) Engage in any lewd, obscene, indecent, or inappropriate conduct.

(2) No licensee shall:

(a) Enter for official racing, official schooling, start, cause or allow to be entered or start, a racing animal that the licensee knows or should know does not meet all entry requirements.

ADMINISTRATIVE RULES

(b) Come onto a racecourse or participate in a race meet while suspended, excluded or ruled off by the official body of any racing jurisdiction unless otherwise ordered by the board of stewards or the Oregon Racing Commission.

(c) Knowingly harbor or otherwise enable the unlawful presence of any individual who is suspended or revoked by the official body of any racing jurisdiction or excluded by the race meet licensee.

(d) Fail to immediately notify the racing secretary when the licensee discovers that any entry or starting requirement for a racing animal under the licensee's control is not met or is no longer being met.

(e) Allow or cause a scratch to become necessary, which could have been avoided by the exercise of reasonable care.

(f) Fail to request a scratch immediately upon learning that a scratch is necessary.

(g) Solicit, offer or accept any bribe in any form, directly or indirectly, to or from any person, in connection with any race meet in any racing jurisdiction which is a member of Association of Racing Commissioners International (ARCI). A conviction is not required in order to prove a violation of this rule.

(h) Commit any corrupt, fraudulent, or unlawful act on any racecourse or in connection with any race meet in any racing jurisdiction which is a member of ARCI.

(i) Fail to cooperate with commission personnel, officials or security personnel when requested to comply with these statutes and rules relating to racing.

(j) Fail to report to the stewards' office promptly upon request.

(k) Be intoxicated or under the influence of controlled substances in a restricted area or on duty. (l) Lodge a frivolous complaint.

(m) Knowingly allow an unlicensed person to participate in a race meet if the licensee knows or should know that the person is required to be licensed.

(n) Fail to properly escort unlicensed individuals after registering them with security personnel as guests.

(o) Fail to immediately report to the commission the unlicensed participation in a race meet of any person who the licensee knows or should know is required to be licensed.

(p) Fail to report promptly to a commission representative any possession or use of a prohibited drug, prohibited medication or prohibited paraphernalia.

(q) Fail to notify the commission in writing of a change of officer, director, stockholder (except for publicly traded corporations), or partner, within 30 days, if the change occurred during a race meet, or prior to the next race meet, if the change occurred after a race meet.

(r) Ride a horse on the racecourse without properly wearing an approved helmet and vest.

(s) Retain any prize or purse money which the person has reason to know was paid in error or lost because of disqualification or commission action as a result of an appeal.

(t) If an owner, assistant trainer, groom or other person having charge, custody or care of a racing animal, fail to protect the racing animal and guard it against the administration of unauthorized drugs or any other illegal conduct.

(u) Direct, by use of language, gesture or sign, any profanity, obscenity or abusive epithets toward the public at a racecourse.

(v) Direct any personally offensive language, inappropriate gesture or sign, profanity, obscenity, or abusive epithets toward any person while in view of the public.

(w) Allow anyone other than participating jockey, authorized racing officials, representatives of the commission, licensed valets and authorized licensed vendors in the jockey room between two hours before post time for the first race of the day and one hour after the last race without consent of the stewards for each time of entry.

(x) Other than a licensed jockey agent, make engagements for a jockey. A jockey may make his/her own engagements if not represented by a jockey agent.

(y) Engage in any dishonest conduct on a racecourse.

(z) Engage in any unprofessional conduct on a racecourse.

(aa) Willfully and deliberately fail or refuse to pay any monies when due for any service, supplies or fees connected with their operations as a licensee; nor shall a licensee falsely deny any such amount due or the validity of the complaint thereof with the purpose of hindering or delaying the payment of the debt or defrauding the person to whom the indebtedness is due.

(bb) Write, issue, make or present any check in payment for any license fee, fine, nomination or entry fee or other fees, or for any service or

supplies when such licensee knows or should reasonably know that the said check will be refused for payment by the bank upon which it is written, or that the account upon which the check is written does not contain sufficient funds for payment of the said check, or that the check is a stop payment check or is written on a closed account or a non-existent account. The fact that such a check is returned to the payee by the bank as refused, constitutes a rebuttable presumption for a finding of financial irresponsibility.

(3) Substance Abuse:

(a) Alcohol Consumption: No licensee may have present within his/her system an amount of alcohol which would constitute being intoxicated, defined as .08% blood alcohol content or greater, while in a restricted area. No jockey, apprentice jockey, valet, assistant starter, pony person, exercise person, or racing official may have present within his/her system an amount of alcohol which would constitute being impaired, defined as .02% or greater blood alcohol content, while responsible for performing their official duties.

(A) Any licensee may be required to take a breath alcohol test prior to their participation in racing events.

(B) Acting with reasonable suspicion, the stewards, or a designated Racing Commission representative, may direct any licensee to submit to a breathalyzer test to determine blood alcohol content.

(C) Refusal to take a breath test will be considered as positive evidence of a violation of subsection (3)(a).

(D) Sanctions for alcohol violations

(i) Penalties for a first offense may result in a fine and/or a suspension up to 15 days. The licensee may be required to present an evaluation by a certified rehabilitation program approved in advance by the commission. If the evaluation determines treatment is needed, the licensee shall provide documented proof of completion or current enrollment in an appropriate certified rehabilitation program prior to reinstatement.

(ii) Penalties for a second offense may result in a fine and suspension up to 30 days. The licensee may be required to present an evaluation by a certified rehabilitation program approved in advance by the commission. If the evaluation determines treatment is needed, the licensee shall provide documented proof of completion or current enrollment in an appropriate certified rehabilitation program prior to reinstatement.

(iii) Penalties for third and subsequent offenses shall result in a fine and suspension for no less than 90 days. The licensee shall be required to present an evaluation by a certified rehabilitation program approved in advance by the commission. If the evaluation determines treatment is needed, the licensee shall provide documented proof of completion or current enrollment in an appropriate certified rehabilitation program prior to reinstatement.

(iv) A history of substance abuse violations other than alcohol may be considered as aggravating circumstances when considering penalties for alcohol abuse, and may result in penalties greater than those listed in these rules.

(b) Drugs/Controlled Substances: No licensee within any place under the jurisdiction of the racing commission shall have in the licensee's body any controlled substance or drug listed in Schedules I through V of 21 USC Section 812 except for a drug which was obtained or taken pursuant to a valid legal written prescription or order from a licensed physician acting in the course of the physician's professional conduct and which is produced by the licensee upon request.

(A) Acting with reasonable suspicion, the stewards, or a designated racing commission representative, may direct any licensee observed in a restricted area or any racing official acting in their capacity to submit to drug testing for analysis. When so directed, said licensee shall submit to such examination. If the result of the test indicates the presence of a controlled substance as delineated above, or if the person refuses to be tested, either for reasonable suspicion or under random testing criteria, or if the specimen was adulterated as reported by the official testing laboratory, the person may be fined and/or suspended as described in this rule. If the laboratory determines that the sample is dilute, the licensee being tested shall be required to submit another urine sample. To ensure the sample will not be dilute, the licensee will be required to report for testing at a specified time and remain until the sample is acquired.

(B) Controlled Substance Testing Expense: Except for split samples, laboratory analysis will be performed at the racing commission's expense, unless pursuant to a prior order of the stewards or commission reinstating the licensee, or the person produced an adulterated specimen, in which case retesting may be performed only after the person pays the cost of the first test to the commission.

(C) Sanctions for Controlled Substance Violations:

ADMINISTRATIVE RULES

(i) A licensee's first violation may result in a fine and or suspension. If suspended, reinstatement shall not occur until the licensee has been evaluated by, and a current written report is received from a drug counselor certified by the State of Oregon and who is approved in advance by the commission or stewards. If the report states that treatment is required, reinstatement shall not occur until the licensee presents documented proof of current enrollment in or completion of an appropriate certified rehabilitation program approved in advance by the commission. Reinstatement is also subject to licensee producing at licensee's expense, a negative test from a laboratory approved in advance by the commission, and the licensee agreeing in writing to submit urine specimens at the request of the stewards, or designated racing commission representative, for not less than five years, or until no longer licensed. Any failure to comply with the certified counselor's and/or stewards' instructions may result in immediate suspension.

(ii) A licensee's second violation within five years of the first violation shall result in an indefinite suspension and reinstatement shall not occur until the licensee completes all of the contingencies listed above in subsection (i).

(iii) A licensee's third violation within seven years of the second violation shall result in a suspension of up to 365 days and may include referral to the commission for consideration of exclusion and/or revocation of the license.

(iv) A history of alcohol abuse violations may be considered as aggravating circumstances when considering penalties for drug abuse violations and may result in penalties greater than those listed in these rules.

(D) Prescription Medication:

(i) Any licensee who has obtained a medical prescription for any drug listed in Schedules I through V of 21 USC Section 812 may be required to furnish the Commission or the stewards written documentation from the issuing physician that the use of the prescribed drug will not impede the licensee from performing the duties for which they are licensed or threaten the safety or welfare of others or a racing animal.

(ii) If, in the opinion of the board of stewards, the use of any lawfully prescribed drug listed in Schedules I through V of 21 USC Section 812 would or could pose a threat to the health, safety or welfare of the licensee, others or a racing animal, the board of stewards, after having an appropriate hearing, can bar the licensee from entering a restricted area of any racecourse or their handling of any race animal subject to appeal.

(E) Knowledge of a person's voluntary and active participation in an approved rehabilitation program will not constitute grounds for "reasonable suspicion" under this rule.

(4) Any licensee who violates any provision of ORS chapter 462 or any rule adopted there under is subject to further discipline by the board of stewards, up to the limits imposed by law, and also is subject to further discipline by the racing commission, including suspension, revocation, civil penalties, exclusion, probation, and such other discipline as may be appropriate in the case. Whenever a licensee is suspended, the stewards have the commission's authority to also exclude him or her. Any non-licensee who, in the opinion of the stewards, acts in a manner detrimental to racing may be subject to exclusion.

(5) When grounds exist for suspension of a license, the stewards or commission may also impose other appropriate sanctions including, but not limited to, forfeiture of purse, return of prizes, ruling off, or forbidding entry of racing animals.

(6) When a license is suspended, it may be suspended for all categories licensed, including reciprocity suspensions.

(7) Ejection. The race meet licensee may eject any person from the race course for any reasons and in any manner that is not contrary to law. The race meet licensee shall notify the commission within 24 hours of any ejection or arrest occurring on the racecourse, including the details thereof.

(8) All licensees shall report any known irregularities or wrong doings by any person immediately to a commission employee and cooperate in subsequent investigations.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2001, f. 3-19-01, cert. ef. 4-1-01; RC 5-2002, f. 12-6-02, cert. ef. 1-1-03; RC 2-2008, f. & cert. ef. 9-30-08; RC 2-2009, f. 8-24-09, cert. ef. 10-1-09; RC 1-2010, f. 9-23-10, cert. ef. 10-1-10; RC 2-2011, f. 9-23-11, cert. ef. 10-1-11

462-130-0030

Informal Stewards' Hearing

The board of stewards, at their discretion, may hold an informal hearing with a licensee and any other appropriate persons in order to discuss an alleged or apparent violation of the statutes or rules of racing by the licensee. Oral notice to the licensee is sufficient to commence an informal hearing. After the hearing, no sanction or penalty may be imposed by the stewards,

except those involving riding infractions, unless all affected parties agree to it.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.405

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 1-2010, f. 9-23-10, cert. ef. 10-1-10; RC 2-2011, f. 9-23-11, cert. ef. 10-1-11

462-130-0050

Appeal to the Commission; Stay Pending Appeal

(1) Any person who is the subject of any stewards' order or ruling, other than those involving a decision concerning a disqualification in a race due to a foul or riding infraction, may request a hearing under ORS 183 (the Oregon Administrative Procedures Act) before an administrative law judge and subsequent commission consideration of the proposed order regarding the matter, other than as to the extent of disqualification for a foul in a race. The appeal must be in writing and filed with the commission offices at the Portland State Office Building, 800 NE Oregon Street, Suite 310, Portland, Oregon 97232, within ten days from the date the order or ruling is served, unless a different time is expressly specified. The filing date will be the postmark date on the envelope or other credible documentation of the date the appeal was sent to the commission. The appeal must be signed by the appealing party and shall set forth clearly and concisely the following information:

(a) The order, ruling, or decision to be reviewed and the date thereof.

(b) The specific acts or failure to act which gave cause to the appeal and the dates thereof.

(c) The reasons for the appeal.

(d) The address to which any notices from the commission may be mailed to the appealing party.

(2) An appeal from an order or ruling of the stewards to the commission shall not affect such decision until the appeal has been acted upon by the commission, unless otherwise ordered by the commission or by a court of competent jurisdiction.

(3) At the time a licensee submits a written appeal to the commission, the licensee may request in writing that the commission stay the effective date of any penalty or sanction imposed by the stewards. The request should state any good cause that supports the request. The executive director or commissioner in the absence of the executive director may, in his/her discretion, grant the stay for good cause shown.

(4) An appeal may not be withdrawn except with the approval of the executive director.

(5) Appeals to the commission shall be heard within 90 days from the date the appeal request is received in the commission's main office, unless a continuance is requested by the licensee or the assistant attorney general and approved by the executive director or the hearings officer.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.405

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2001, f. 3-19-01, cert. ef. 4-1-01; RC 5-2002, f. 12-6-02, cert. ef. 1-1-03; RC 2-2008, f. & cert. ef. 9-30-08; RC 1-2010, f. 9-23-10, cert. ef. 10-1-10; RC 2-2011, f. 9-23-11, cert. ef. 10-1-11

462-140-0040

Veterinarian

(1) No one shall practice veterinary medicine on a racecourse unless licensed by the Oregon Board of Veterinary Medical Examiners (OBVME), with a current copy annually of said license on file with the Oregon Racing Commission. Veterinarians with an active-status license issued by the OBVME shall also obtain a license with the Oregon Racing Commission. Veterinary assistants shall only perform their duties under the direct supervision of a licensed veterinarian.

(2) Veterinarians performing services on a racecourse shall report all animals nerved, all treatments and all medicines given and prescribed each day on forms provided by the commission. These reports shall be mailed or hand-delivered to a commission veterinarian or designee or placed in the locked receptacle provided by the commission veterinarian within 2 days of the report date. In the case of lasix, treatments shall be recorded on a program, overnight, or other form approved by the commission veterinarian.

(3) Veterinarians on a racecourse shall use one-time disposable needles and shall dispose of all medical waste, i.e., needles, syringes, used bottles and/or other medication containers, etc., appropriately, according to Oregon Veterinary Medical Examining Board standards.

(4) No person, other than a veterinarian licensed by the Oregon Racing Commission, shall dispense, sell or furnish any feed supplement, veterinary preparation, medication or any other substance containing a prohibited drug or prescription medication to any person within the licensed enclosure. Any such products must be properly labeled as required by state law specifying the name, address and phone number of the dispensing veterinarian, the name of the trainer or owner of the animal, the name of the

ADMINISTRATIVE RULES

animal for which the product is prescribed, the name and strength of drug/medication and complete directions for use of the medication.

(5) Every racing animal which suffers a breakdown on the race track in training or in competition and is destroyed, and every other racing animal which expires while on a racecourse under the jurisdiction of the commission, shall undergo an examination to the extent that satisfies a commission veterinarian and that is reasonably necessary to determine the injury or sickness which resulted in euthanasia or natural death:

(a) The examination required under this rule will be conducted by a licensed veterinarian employed by the owner or trainer in consultation with the commission veterinarian, who may be present at such examination.

(b) A commission veterinarian has the ultimate decision, with or without the consent of the owner or trainer, to require further examination and testing on any expired horse for reasons including but not limited to those that would impact or be a threat to humans or animals. Should the commission veterinarian require such an examination or testing, the Oregon Racing Commission shall be responsible for the cost incurred.

(c) Test samples must be obtained from the carcass as directed by the commission veterinarian during the postmortem examination and sent to a laboratory approved by the commission for testing for foreign substances or their metabolites and natural substances at abnormal levels. When practical, samples shall be taken from the racing animal prior to euthanasia.

(d) The cost of laboratory testing of postmortem samples shall be borne by the commission.

(6) All veterinarians must conform their practice, at the least, to the minimum standards of the Oregon Veterinary Practice Act.

(7) Veterinarians must maintain security of controlled substances as required by law.

(8) All veterinarians shall provide the commission veterinarian and track security with current office and emergency telephone numbers five (5) days before the opening of each race meet at which they intend to practice.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2001, f. 3-19-01, cert. ef. 4-1-01; RC 5-2002, f. 12-6-02, cert. ef. 1-1-03; RC 2-2008, f. & cert. ef. 9-30-08; RC 2-2009, f. 8-24-09, cert. ef. 10-1-09; RC 1-2010, f. 9-23-10, cert. ef. 10-1-10; RC 2-2011, f. 9-23-11, cert. ef. 10-1-11

462-150-0040

Entering for Official Racing; Subscriptions

(1) Before a horse is eligible to race, it must be properly entered into that race by the horse's licensed owner (unless the horse is leased), lessee, trainer or authorized agent, unless authorized by the stewards for good cause. Telephone entries will be accepted if the person entering the horse is properly identified.

(2) No alteration shall be made in any entry after close of entries, but an error may be corrected. Any correction of an entry must be approved by a steward.

(3) No horse may be entered for more than one race on a single day.

(4) No trainer may enter or start more than two horses in a purse race or overnight race, but may enter more than two horses in a stakes race or high weighted race. Provided, however, in a divided overnight race, a trainer may enter 2 horses in each division. When making a double entry under the same ownership or if the trainer has an ownership interest in either horse, the owner or trainer must express a preference. When a preference system is used, two horses under the same ownership may not start to the exclusion of a single entry except in the case of an "In Today Horse" or a maiden in a winner's race.

(5) Entries shall be closed at an advertised time, and no entry will be accepted after that time. The racing secretary may postpone the closing of entries for overnight races. If there is an error in carding a race before entries are drawn, the race may be canceled or opened for more entries.

(6) A jockey must be named by the owner or trainer at the time of the entry. At the draw, if a jockey has been named on more than one horse, a preference call must be declared at that time. If the jockey originally named to ride a horse is not available due to the preference call at the draw, the owner or trainer must name another rider, at the draw or prior to scratch time, if such scratch time is provided; otherwise, the stewards may name a rider and that person shall ride the horse.

(7) No horse may be entered to start unless:

(a) It has been properly registered with the appropriate horse registry. If a horse's name is changed, its new name must be registered with the appropriate horse registry and both its old and new names must be given in every entry list until it has run three races. Both names must be printed on the official program for those three races.

(b) The foal certificate is on file in the office of the racing secretary. The stewards may waive this requirement for horses shipped in from a race

track recognized by the Daily Racing Form if the horse is properly identified. However if waived, the foal certificate must be on file with the racing secretary one hour prior to first post of the day, if a photocopy or a facsimile copy of the foal certificate and any epistaxis certificate is on file with the racing secretary by scratch time. In stakes races only, a horse shall be allowed to start without the foal certificate on file, provided that a photocopy or facsimile copy of the foal certificate is on file with the racing secretary, which copy has been forwarded from the race office of a recognized race track which has the original foal certificate on file. The copy of the foal certificate must show the true ownership of the horse.

(c) All ownerships in the horse, except a trainer's percentage of its winnings, are on file with the racing secretary. All changes in ownership after initial entry must be filed with the racing secretary before a horse may start.

(d) It is clearly identified on the entry form by its age, name, color, sex, and names of its sire and dam. If its dam was covered by more than one stallion, the names of all of them must be given in order of service.

(e) It has been clearly tattooed on the upper lip. The stewards may waive this requirement if the horse has been identified by the tattoo technician, and arrangements have been made to tattoo the horse prior to the race. Tattooing must be done by a person authorized to identify the horse by the appropriate horse registry. Arabians using freeze brands in lieu of tattoos may be entered to race with no freeze brand provided they are branded prior to the race.

(f) It has been fully identified from its papers, and is entered in the name of its true owner(s).

(g) It is in the care of a trainer licensed in Oregon. The stewards may waive this requirement for trainers who were previously licensed in Oregon or are currently licensed in another jurisdiction. However, if waived, the trainer must obtain a trainer's license before the horse(s) may start.

(h) It has had the required number of official races and/or workouts, including working from the gate and first time starters being gate approved. The stewards may require additional official workouts if they believe they are necessary to enable the public to make a reasonable assessment of the horse's capabilities, or to ensure that the horse will perform satisfactorily.

(i) It meets the conditions of the race.

(j) It is in sound racing condition.

(k) If leased, a copy of the lease shall be filed, on a prescribed form, with the commission, lessee, lessor, horseman's bookkeeper, Stewards and a copy attached to the foal certificate.

(8) A horse is ineligible to be entered or to start if:

(a) Any of its recent workouts have not been recorded by the clocker, including the correct time.

(b) It is on the stewards' list, veterinarian's list, bleeder's list, starter's list, or paddock judge's list.

(c) Any owner or trainer of the horse has been ruled off the racecourse or is under suspension by the commission, unless the horse is transferred, sold, or its lease agreements abandoned, with approval of the stewards. If a trainer is suspended, any horse owned or trained by the suspended person will be ineligible during the period of the suspension if the horse is transferred to that person's spouse or a person living at the same residence.

(d) The horse has been placed on the veterinarian's list, or bleeder's list, and has not been removed from the list by a commission veterinarian. The commission veterinarian may require saliva, urine, or blood samples, and may require a satisfactory workout, before giving approval.

(e) It has been blocked, nerved or otherwise drugged to desensitize any nerves except in the case of heel nerved, (posterior digital neurectomy) below the fetlock, in only one leg and on approval of a commission veterinarian.

(9) Entrance Fees and Subscriptions:

(a) The entrance to a race shall be free, unless otherwise stipulated in the conditions of the race. If the conditions required an entrance fee, the fee must accompany the entry, unless waived by the race meet licensee. Payment of entry fees shall be in cash, certified check, or money order.

(b) Entrance and nomination fees may not be refunded, even if the horse dies, is scratched, or fails to start. Entrance fees shall be refunded if the horse is prevented from starting the race through failure of the starting gate to open or if the gate in front of the horse opened late, and the stewards declare the horse to be a non-starter.

(c) Nomination to or entry of a horse in a stakes race cannot be withdrawn after the close of entries. Any subscriber to a stakes race may transfer or withdraw the subscription prior to closing. Joint subscriptions and entries may be made by any one of the joint owners of a horse, and each owner shall be jointly and severally liable for all payments due. Death of a horse, or a mistake in its entry when the horse is eligible, does not release

ADMINISTRATIVE RULES

the subscriber or transferee from liability for all stakes due. Death of the original subscriber or nominator to a stakes race shall not render void any subscription, entry or right of entry. All rights, privileges, and obligations shall attach to the successor owner, including the legal representatives of the decedent. When a horse is sold or claimed, stake engagements for the horse shall be transferred automatically with the horse to its new owner, except that if the horse is transferred to a person whose license is suspended or who is otherwise ineligible to race or enter the horse, then the subscription shall be void as of the date of the transfer notwithstanding OAR 462-150-0030(25).

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, f. & cert. ef. 9-30-08; RC 2-2009, f. 8-24-09, cert. ef. 10-1-09; RC 2-2011, f. 9-23-11, cert. ef. 10-1-11

462-150-0080

Order of Finish; Weighing In; Objections and Disqualification

(1) The winner of a race shall be the horse whose nose first reaches the finish line with the jockey aboard, unless the horse is disqualified by the stewards for ineligibility or other good cause. The decision of the board of stewards as to the order of finish shall be final.

(2) When two or more horses reach the finish line at the same time, or the photofinish photographs do not clearly establish which of the horses reached the finish line first, the stewards may declare a dead heat. When horses run a dead heat, all money and prizes to which the horses would have been entitled if it were not a dead heat shall be divided equally among them. When a dead heat is for first place, each horse finishing first in the dead heat shall be deemed a winner, and shall be liable as a winner for any penalty which attaches to the winning of the race, but only in the amount of winnings actually received.

(3) If the dividing owners cannot agree as to which of them is to have a cup or other prize which cannot be divided, the question shall be determined by lot in the presence of one or more of the stewards.

(4) The time recorded for the first horse to cross the finish line with the jockey aboard shall be the official time of the race.

(5) If there is a mechanical failure of the gate, and horses are allowed leave at irregular intervals instead of all horses leaving at one time, the stewards shall decide whether the race is official or whether to declare "no race", and which horses, if any, will be deemed non-starters. In the event of a mechanical failure, interference during the running of the race which affects the majority of the horses in such race, or any other unusual circumstance or situation that the stewards determine resulted in an unfair race for the majority of the horses in the race, the stewards may declare the race as "no race." When, in the opinion of the stewards, a race cannot be conducted in accordance with the rules and regulations of the commission, they shall cancel and call off such race. Any wagers on such races called off, canceled or declared as "no race" shall be refunded, and no purse, prize or stakes shall be awarded. A race shall be canceled if no horse finishes the race.

(6) Weighing In, Unsaddling:

(a) Weigh In. Upon completion of a race each jockey shall ride promptly to the winners circle and dismount. He/she shall then present himself/herself to the clerk of scales to be weighed in. If a jockey is prevented from riding his/her mount to the winner's circle because of accident or illness either to himself/herself or his/her horse he/she may walk or be carried to the scales unless excused by the stewards.

(b) Unsaddling. Each jockey upon completion of a race must return to the winners circle and must unsaddle his/her own horse, unless excused by the stewards.

(c) Removing Horse's Equipment. No person except the valet-attendant for each mount is permitted to assist the jockey in removing the horse's equipment that is included in the jockey's weight, unless the stewards permit otherwise. To weigh in each jockey shall carry to the scales all pieces of equipment with which he/she weighed out. Thereafter he/she may hand the equipment to the valet-attendant.

(d) Under Weight. When any horse places first, second, third or fourth in a race, and thereafter the horse's jockey is weighed in short by more than two pounds of the weight of which he/she was weighed out, his/her mount may be disqualified and all purse monies forfeited.

(e) Over Weight. No jockey may be weighed in more than two pounds over his/her declared weight but consideration shall be given for excess weight caused by rain or mud.

(f) If a jockey does not present himself or herself to be weighed in, is guilty of any fraudulent practice with respect to weight or weighing, or if unless the jockey or horse is ill, injured, or disabled, the jockey dismounts before reaching the scales or dismounts without permission, or if the jock-

ey touches (except accidentally) any person or thing other than the jockey's own equipment before weighing, the clerk of scales shall report it to the stewards, and the stewards may disqualify the horse and place it last, and the jockey and any other licensee involved may be fined or suspended.

(7) Objections, Inquiries and Disqualifications:

(a) Objections which can be made prior to a race must be made to the stewards in writing, must be signed by the objector, and must be filed with the stewards prior to post time. No objection based upon the distance of a race shall be made after the start of the race.

(b) Objections based upon an occurrence during the running of a race must be made before the order of finish has been declared "official". Objections as to what occurs in a race with respect to the performance of a horse or jockey must be made by the owner, trainer, or jockey of the horse which is aggrieved. However, the stewards may take any appropriate action even if no formal objection is made.

(c) Permission of the stewards is necessary before an objection may be withdrawn.

(d) The stewards may disqualify any horse which is the subject of fraudulent or corrupt practices, or any horse whose jockey has committed a violation of the rules of horse racing. A horse which interferes with, impedes or intimidates another horse may be disqualified by the stewards unless the impeded horse or jockey was partly at fault or the interference was wholly caused by some other horse or jockey.

(e) If a horse which has won or been placed in a race is disqualified after a valid objection or otherwise, the stewards shall declare a new order of finish as, in their sole discretion, they deem just.

(f) The stewards must decide every objection properly filed which pertains to a race. In cases of fraud or willful deception, the time limitations for filing objections shall not apply.

(g) If a horse is disqualified, any other horse in the race owned wholly or in part by the same interest or trained by the same trainer may also be disqualified.

(h) Pending a decision on an objection/inquiry, any prize which the horse subject to the objection/inquiry may have won, and any money held by the race meet licensee as the price of a horse claimed in the race (if involved in the determination of the objection/inquiry) shall be withheld until the objection/inquiry is determined.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 5-2002, f. 12-6-02, cert. ef. 1-1-03; RC 2-2008, f. & cert. ef. 9-30-08; RC 2-2009, f. 8-24-09, cert. ef. 10-1-09; RC 2-2011, f. 9-23-11, cert. ef. 10-1-11

462-200-0370

General Operations of Off-Track Facility

(1) The video/audio signal receiving controls, the fax machine and ring-down phone or business system phone with speed dial must all be in an area accessible to the mutuel line supervisor.

(2) The mutuel windows and self service machines at the off-track facilities will be open upon the broadcast of the video display to the off-track facility of the first performance to be carried at the off-track site that day. Once the site is open for wagering on a given day, wagers may be taken on races from performances scheduled to be available at the site later that day.

(a) Notwithstanding any other provision of this rule, the track operator managing the off-track site may submit a plan to the Oregon Racing Commission for approval in the event an employee of the track operator will not be physically present at the off-track site. The plan will include provisions for displaying the signal, facility wagering, customer problem resolution and cashing tickets/vouchers.

(3) Signal Priority and Continuity of Program. The advent of off-track wagering was to enhance live racing in Oregon. For that reason, the priority of the signals going to the off-track sites should be set in a way which supports that public policy. The priority of signals shall be as follows:

(a) Any signal of a live race originating from a racetrack in the State of Oregon.

(b) Simulcast signals which the track and the off-track site may agree upon which best meets the desires of the patrons at the site, in priority order, limited by the number of satellite dishes the site may have. All contracts between tracks and off track sites shall contain a provision which states they are subject to the authority of the commission to consider the mix and balance of simulcast signals offered to off-track sites during the review of individual race meet applications.

(4) Track Responsibilities. The Oregon race meet licensee is responsible to the commission for the proper conduct and performance in all aspects of the operation of the off-track sites approved to carry the signal(s) of the race meet license. The race meet operator shall report to the com-

ADMINISTRATIVE RULES

mission's designee all problems encountered at off-track sites in a timely fashion, along with solutions or proposed solutions. At a minimum the race meet licensee shall ensure the following prior to allowing the initial start up and the continued operation of an off-track site:

(a) There are qualified and properly trained mutuel employees of a sufficient number to reasonably be expected to handle the number of patrons at the site;

(b) That data line is in place and operating. That a separate voice phone line and a fax line are in good working order. All lines must be separate from the other lines required by this rule and other lines in the facility and shall not be used by unauthorized persons;

(c) That audio visual signals are secure from receipt by unauthorized sites and are of a quality to allow viewers an exemplary depiction of the racing program;

(d) That the totalizator system is configured in a manner to allow accurate and timely transmission of wagers, wagering information and odds to and from the off track site, as well as reports which provide wagering information of the site individually;

(e) Timely distribution of all program; past performance information; weight changes; over weights; tip sheets where available; and any other information made available to the patrons at the race meet licensee's track, to the off track site(s) so that such information can be made available, in a legible format, to the patrons at the off track site;

(f) Dissemination of surcharge information to the off-track sites;

(g) Provide the necessary management of off-track site mutuel employees.

(5) Site Responsibilities. Off-track site operators shall provide a site which is suitable for the conduct of off-track wagering activity. Off-track sites are an extension of the race track's public area and should be of a standard which enhances the image of racing in the State of Oregon. Off-track sites must provide the following prior to start-up of the site and for the continued operation of the site:

(a) A clean well lighted area for patrons during the wagering performances.

(b) Clean rest room facilities for the public.

(c) An area suitable for the placement of wagering terminals and which provides adequate safety and security for the mutuel employees working at the site.

(d) An area in which the necessary decoders, modems, fax machine, and voice line phone can be securely housed within easy reach of the mutuel employees.

(e) A safe, approved by the racing commission, for safe keeping of the money used for the pari-mutuel wagering activity between the performances.

(f) Posting of the surcharge information in a conspicuous place for inspection by the wagering public.

(g) A written security plan and provisions approved by the racing commission.

(6) Equipment Related. The issue as to who is responsible for providing which pieces of equipment necessary for the conduct of the wagering activity can be set forth in the contract between the race meet licensee and the off-track site; however, the commission will hold the race meet licensee responsible for ensuring all of the necessary equipment is available and in good working order. At a minimum the following equipment must be on site:

(a) Enough wagering terminals to adequately serve the number of patrons reasonably expected to be in attendance at the site. In addition, one extra wagering terminal as a backup for those sites over 30 minutes driving time from the race meet licensee track.

(b) The necessary number of satellite dishes and audio/visual monitors. The satellite dishes will be installed in a manner which will withstand the weather conditions normally expected at the off-track site.

(c) A fax machine, a voice telephone for communication with the tote room and mutuel office at the race track. Both the fax machine and the voice phone must be on separate lines and must be immediately available to the mutuel employees at the site. The lines may not be used for other purposes at the site.

(7) The track will ensure its staff at the off-track site are instructed in and be knowledgeable of the operation of the satellite signal receiving and tote equipment in use on site.

(8) When there is a loss of data transmission, the wagering at the facility will be cancelled until the data transmission can be re-established. Tickets purchased prior to the loss of data transmission will be considered valid wagers. Winning tickets will only be cashed after the data transmission to the mutuel machines has been re-established.

Stat. Auth.: ORS 462.700

Stats. Implemented: ORS 462.700

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2009, f. 8-24-09, cert. ef. 10-1-09; RC 2-2011, f. 9-23-11, cert. ef. 10-1-11

Rule Caption: Proposed rulemaking will edit OARs with detailed direction to licensees and includes current industry practice.

Adm. Order No.: RC 3-2011

Filed with Sec. of State: 10-3-2011

Certified to be Effective: 10-3-11

Notice Publication Date: 8-1-2011

Rules Amended: 462-120-0120

Subject: 462-120-0120 (Additional grounds for Refusing a License): Adds sub-section (5) to the rule.

Rules Coordinator: Nancy A. Artmann—(971) 673-0211

462-120-0120

Additional Grounds for Refusing a License

In addition to the specific licensing criteria listed in ORS 462.075:

(1) An application by a corporation may be denied if any officer, director, or stockholder could be denied a license.

(2) An application by a partnership may be denied if any general or limited partner could be denied a license.

(3) The commission may refuse to license or may suspend the license of anyone who accumulates unpaid obligations, or defaults in obligations, or otherwise displays financial irresponsibility in connection with the feeding, care, maintenance, training, equipment, and racing of racing animals. Financial irresponsibility as used in this rule means the debtor obligation has been reduced to judgment and remains unsatisfied, or the licensee does not dispute the obligations and the obligations remain unpaid.

(4) A license application may be denied for any reason which could constitute grounds for suspension or revocation. A license may be suspended and/or revoked if it is determined, through means of a due process, that the applicant could have been refused a license if the true facts were known at the time the license was issued or commits an act subsequent to being licensed that would disqualify the licensee from holding that license.

(5) A licensee of the Oregon Racing Commission must report any criminal charges (either misdemeanor or felony) against the licensee to any staff member of the Oregon Racing Commission as soon as possible after the event occurs; but no later than 72-hours after the charges are filed. Failure to comply may result in an immediate license suspension and further disciplinary action as determined appropriate by the Commission Stewards.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.020

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2008, f. & cert. ef. 9-30-08; RC 1-2010, f. 9-23-10, cert. ef. 10-1-10; RC 3-2011, f. & cert. ef. 10-3-11

Secretary of State, Archives Division Chapter 166

Rule Caption: Clarifies procedure for agencies adopting or amending rules that incorporate published standards by reference.

Adm. Order No.: OSA 4-2011

Filed with Sec. of State: 10-14-2011

Certified to be Effective: 10-14-11

Notice Publication Date: 9-1-2011

Rules Amended: 166-500-0040

Subject: This rule amendment eliminates a discrepancy found between rule and ORS 183.335 by eliminating conflicting language between statute and rule.

Rules Coordinator: Julie Yamaka—(503) 378-5199

166-500-0040

Components of a Permanent Administrative Rule Filing

(1) Permanent Administrative Rule filings have these three components:

(a) Two Certificate and Order for Filing Permanent Administrative Rules forms, including:

(A) One original filing form bearing the original signature of the agency's authorized signer; and

(B) One photocopy of the original filing form.

(b) One 8 1/2 by 11 inch paper copy of the complete and final rule text for each rule listed on the Certificate:

ADMINISTRATIVE RULES

(A) Agencies shall number paper copy pages consecutively and note any special instructions where needed.

(B) Agencies shall include tables, appendices and other specially formatted material in the original paper copy filed with the Administrative Rules Unit. These items may be omitted from print Oregon Administrative Rule publications per ORS 183.360(2)(a).

(C) Agencies adopting or amending rules incorporating published standards by reference may omit copies of the publications per ORS 183.355(1)(b).

(c) A diskette or CD that contains:

(A) The final rule text as described in 166-500-0055;

(B) A Word copy of the Certificate and Order for Filing Administrative Rules; and

(C) PDFs of any tables, appendices or other specially formatted material appearing in the rule text, submitted as described in 166-500-0055(2). These items may be omitted from print publications, but when possible the Administrative Rules Unit will include these items in the on-line Administrative Rules Compilation.

(2) Each Certificate and Order for Filing Permanent Administrative Rules shall be comprised only of administrative rules for which prior notice was published in the Oregon Bulletin. This provision does not apply in the case of rules being renumbered only.

(3) Forms are available from the Administrative Rules Unit or downloadable from the Administrative Rules Unit website at <<http://arcweb.sos.state.or.us/pages/rules/resources/index.html>>.

Stat. Auth.: ORS 183.360

Stats. Implemented: ORS 183.325, 183.330, 183.335, 183.355 & 183.360

Hist.: OSA 9-1997(Temp), f. & cert. ef. 10-6-97; [OSA 4-1995, f. 8-15-95, cert. ef. 9-1-95; Suspended by OSA 9-1997(Temp), f. & cert. ef. 10-6-97]; OSA 13-1997, f. & cert. ef. 11-3-97, Renumbered from 166-510-0011; OSA 3-2003, f. & cert. ef. 11-20-03; OSA 2-2007, f. & cert. ef. 7-31-07; OSA 5-2009, f. & cert. ef. 7-1-09; OSA 1-2011(Temp), f. & cert. ef. 6-10-11 thru 12-7-11; OSA 2-2011(Temp), f. & cert. ef. 7-1-11 thru 12-7-11; OSA 4-2011, f. & cert. ef. 10-14-11

**Secretary of State,
Corporation Division
Chapter 160**

Rule Caption: EFS Master List Subscription and Registration.

Adm. Order No.: CORP 1-2011

Filed with Sec. of State: 9-22-2011

Certified to be Effective: 9-22-11

Notice Publication Date: 8-1-2011

Rules Amended: 160-050-0230, 160-050-0240

Subject: These rules update the manner in which the EFS Master List is produced, accessed, and what information the Master List will contain. These rules also update the fees to register as a subscriber to the Master List, and update the fees to amend the registration.

Rules Coordinator: Karen Hutchinson—(503) 986-2364

160-050-0230

Master List and Portions of Master List

(1) The master list shall contain all the information submitted on EFSs filed in the Secretary of State's Office. It contains the name and address of the debtor, name and address of secured party, farm product code, farm product name, description of farm product, description of location, amount of farm product, crop year, county, date of filing, time of filing, and EFS file number. This information shall be compiled and entered into a computerized record for farm products in the system.

(2) The Secretary of State shall produce a monthly master list. The master list may be organized alphabetically by debtor name and farm product, and shall be made available for all counties and crop years.

(3) Portions of the master list may be provided by an online search engine. Registrants may enter the debtor name and receive all the data from EFSs filed on that individual.

(4) After data entry is complete at the end of the month, the master list will be available online. It will include all filings as of the last business day of the month.

Stat. Auth.: ORS 79.6070

Stats. Implemented: ORS 79.6070

Hist.: SD 33-1986(Temp), f. 12-5-86, ef. 12-24-86; SOS 1-1987, f. & ef. 1-2-87; SOS 11-1987, f. 7-9-87, ef. 8-1-87; SOS 24-1987, f. 11-5-87, ef. 11-15-87; PRD 1-1989, f. 12-12-89, cert. ef. 1-1-90, Renumbered from 164-050-0060; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 1-2008, f. & cert. ef. 1-15-08; CORP 1-2011, f. & cert. ef. 9-22-11

160-050-0240

Registration of Buyers, Commission Merchants and Selling Agents; Subscription to Master Lists or Portions of Master Lists

(1) The proper place to register as a buyer, commission merchant or selling agent of farm products is in the Secretary of State's Office. The registration or renewal of registration must be submitted on a form prescribed and approved by the Secretary of State. The form shall be designated "EFS FPR-1". The registration fee is part of the subscription fee.

(2) Registration is part of the process to subscribe for master lists. Each registrant will be assigned a permanent registration number by the Secretary of State. A copy of the administrative rules on registration is available upon request at no charge. The master list will be accessible to registrants online.

(3) Registration is effective for a period of 12 calendar months. Renewal of registration may be filed at any time after 90 days prior to expiration of a current registration period. The registrant must indicate the registration number on the renewal registration form.

(4) The registration may be amended by filing an amended registration.

(5) The Secretary of State shall maintain a list of all buyers of farm products, commission merchants and selling agents who register with the Secretary of State.

(6) Subscriptions for master lists are made at the time of registration.

(7) A subscription for any master list will be for the period of the registration.

(8) The person registering with the Secretary of State must provide the following information on the Form EFS FPR-1:

(a) Name and mailing address of the registrant. The registrant must identify the registration as being for a buyer, commission merchant or selling agent;

(b) Telephone number;

(c) Number of farm product(s) included in the registration;

(d) Farm product code(s);

(e) Crop year or years for which master list or portion of master list is to be sent;

(f) Indication of the type of master list or portion of master list requested;

(g) Signature of the registrant;

(h) Registration/Subscription fee;

(i) Original registration number, if renewal or amended registration.

(9) Lists will be made available for download in spreadsheet format online to the registrant within seven working days from the end of the month.

(10) Fees.

(a) The registration/subscription fee for the online master list is \$20 per year;

(b) The registration/subscription fee for the alternative paper master list is \$500 per year per product;

(c) Amendment to change a registration name or address is \$10.

Stat. Auth.: ORS 79.6070 & 79.7010

Stats. Implemented: ORS 79.6070 & 79.7010

Hist.: SD 33-1986(Temp), f. 12-5-86, ef. 12-24-86; SOS 1-1987, f. & ef. 1-2-87; SOS 11-1987, f. 7-9-87, ef. 8-1-87; PRD 1-1989, f. 12-12-89, cert. ef. 1-1-90, Renumbered from 164-050-0070; CORP 2-2001, f. 7-9-01, cert. ef. 8-1-01; CORP 1-2008, f. & cert. ef. 1-15-08; CORP 1-2011, f. & cert. ef. 9-22-11

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

Rule Caption: Timelines and Procedures to Fill a Vacancy in the Office of Representative in Congress, 1st District.

Adm. Order No.: ELECT 18-2011(Temp)

Filed with Sec. of State: 9-26-2011

Certified to be Effective: 9-26-11 thru 2-19-12

Notice Publication Date:

Rules Adopted: 165-007-2012

Rules Suspended: 165-007-2012(T)

Subject: This rule adopts timelines and procedures necessary to conduct a special primary election and special election to fill a vacancy in the office of Representative in Congress, First District. This rule also adopts the process for distributing a state voters' pamphlet prepared for the special primary election and special election.

Rules Coordinator: Brenda Bayes—(503) 986-1518

ADMINISTRATIVE RULES

165-007-2012

Timelines for the Special Primary and Special Election to Fill a Vacancy in the Office of Representative in Congress, 1st District

(1) This rule adopts necessary timelines and procedures for the Secretary of State and county elections officials to conduct a special primary election and special election to fill the vacancy in the office of Representative in Congress, First District. This rule also adopts necessary timelines to produce a state voters' pamphlet for the special primary election and special election.

(2) When a document is to be filed with the Secretary of State, Elections Division under this rule, the document must be delivered to and actually received, in its entirety, in the office of the Secretary of State, Elections Division not later than 5:00 p.m. on the designated filing deadline date.

(3) The following timeline is adopted for a special primary election on November 8, 2011, as called by the Governor under ORS 188.120:

(a) August 15, 2011: Last day for major party political party to certify names of nominees to Secretary of State as required by ORS 188.120. Nominees must file a completed SEL 101, Filing of Candidacy for Major Political Party, no later than 5pm certifying that they have been a member of the indicated major political party for at least 180 days prior to the filing deadline.

(b) August 30, 2011: Last day for filing or withdrawing candidate statements for the state voters' pamphlet for the special primary election. Those candidates who choose to submit signatures by petition in lieu of paying the fee for printing a voters' pamphlet statement must have the signatures verified by the appropriate county election official before submitting them to the Secretary of State.

(c) September 1, 2011: Last day for Secretary of State to complete random ordering of alphabet to determine placement of candidate names on special primary election ballot and to notify County Clerks of the random alphabet.

(d) September 8, 2011: Last day for Secretary of State to file with county clerks a statement of candidates for placement on special primary election ballot.

(e) September 24, 2011: Last day for county election officials to mail ballots to long term absent electors (overseas and military).

(f) October 18, 2011: Last day to register to vote or to change party affiliation for special primary election. Registration cards that are post-marked by this date or submitted online no later than 11:59 pm are valid registrations for the special primary election.

(g) October 21, 2011 thru October 25, 2011: County election officials mail ballots to electors other than long-term and out-of-state absent electors.

(h) October 25, 2011: Last day to distribute state voters' pamphlet.

(i) November 28, 2011: Last day for county clerk to prepare and deliver abstracts to the Secretary of State.

(j) November 30, 2011: Last day for Secretary of State to canvass votes, prepare register of nominations and deliver certificates of nomination.

(3) The following timeline is adopted for a special election on January 31, 2012, as called by the Governor under ORS 188.120:

(a) December 1, 2011:

(A) Last day for nonaffiliated or minor political party candidates to file certificates of nomination for the special election.

(B) Last day for candidates nominated by more than one political party to notify the Secretary of State of which nominations they choose to have printed on the ballot.

(C) Last day for Secretary of State to complete random ordering of alphabet to determine placement of candidate names on special election ballot.

(D) Last day for Secretary of State to file with county clerks a statement of candidates for placement on special election ballot.

(b) December 5, 2011 Last day for filing or withdrawing candidate statements for the state voters' pamphlet for the special election. Those candidates who choose to submit signatures by petition in lieu of paying the fee for printing a voters' pamphlet statement must have the signatures verified by the appropriate county election official before submitting them to the Secretary of State.

(c) December 17, 2011: Last day for county election officials to mail ballots to long term absent electors (overseas and military).

(d) January 10, 2012: Last day to register to vote for special election. Registration cards that are postmarked by this date or submitted online no later than 11:59 pm are valid registrations for the special election.

(e) January 13, 2012 to January 17, 2012: County election officials mail ballots to electors other than long-term and out-of-state absent electors.

(f) January 17, 2012: Last day to distribute state voters' pamphlet to each post office mailing address in Oregon.

(g) February 17, 2012: Last day for county clerk to prepare and deliver abstracts to the Secretary of State.

(h) February 21, 2012: Last day for Secretary of State to canvass votes, prepare register of nominations and deliver certificates of nomination.

(4) The following process is adopted for administering the cross nomination process set forth in ORS 254.135 and OAR 165-007-0320 for the January 31, 2012 special election only. OAR 165-007-0320 does not apply to this unique situation because it only applies to general elections, and not to special elections.

(a) The unique circumstances of this special election in the 1st Congressional District will allow each county to print the abbreviated name of each party who nominates a candidate beneath the name of the candidate. The abbreviated party names that will be printed on the ballot and in the voters' pamphlet for this January 31, 2012 special election are:

Constitution Party
Democratic Party
Independent Party
Libertarian Party
Nonaffiliated
Pacific Green Party
Progressive Party
Republican Party
Working Families Party

(b) Because there will only be one contest on the ballot, no county will be at risk of running over to a second ballot card due to their printing of abbreviated party names beneath the candidate name. Since abbreviated party names will be printed on the ballot and in the voters' pamphlet the key required by OAR 165-007-0320 will not be required.

(5) The following process in adopted for distributing the state voters' pamphlet prepared for the special primary election and special election to fill the vacancy in the office of Representative in Congress, First District.

(a) The voters' pamphlet that is prepared for the special primary election will be inserted with the ballots and mailed no later than October 25, 2011.

(b) The voters' pamphlet that is prepared for the special election will either be inserted with the ballots or mailed to each post-office mailing address in the First Congressional District, no later than January 17, 2012.

Stat. Auth.: ORS 246.150

Stats. Implemented: ORS

Hist.: ELECT 17-2011(Temp), f. & cert. ef. 8-23-11 thru 2-19-12; ELECT 18-2011(Temp), f. & cert. ef. 9-26-11 thru 2-19-12

Rule Caption: Updating the Statistical Sampling Procedures for State and Local Initiative, Referendum and Recall Petitions.

Adm. Order No.: ELECT 19-2011

Filed with Sec. of State: 9-26-2011

Certified to be Effective: 9-26-11

Notice Publication Date: 5-1-2011

Rules Amended: 165-014-0030, 165-014-0110

Rules Repealed: 165-014-0032

Subject: OAR 165-014-0030 and 165-014-0110 are proposed for amendment to modify the criteria for which the Secretary of State's staff or local elections officials will remove cover and signature sheets prior to signature verification. Technical updates are proposed to the rule to incorporate the procedures from OAR 165-014-0032 into 165-014-0030 as well as clarification to the appendices which contain the sampling formulas for state and local petitions.

OAR 165-014-0032 is proposed for repeal because the procedures contained within the rules are proposed for incorporation into OAR 165-014-0030 to streamline the state initiative signature verification process.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-014-0030

Statistical Sampling Procedures for State Petition

This rule is adopted to implement ORS 250.045(1) and 250.105(5). The sampling formula referred to in this rule is contained in three appendices which are incorporated into this rule by reference. Appendix 1 contains the sample size determination and the description of the margin of errors used in determining if the prospective petition contains the signatures

ADMINISTRATIVE RULES

of at least 1,000 electors. Appendix 2 contains the sampling formula for determining whether the prospective initiative petition or the circulated initiative petition contains the required number of signatures. Appendix 3 contains the sampling formula for determining whether a referendum petition contains the required number of signatures.

(1) After receiving the signature sheets from the chief petitioners, the Elections Division utilizes the following process to determine if the prospective initiative petition contains the signatures of at least 1,000 electors. No more than 2,000 signatures will be accepted for verification at any one time.

(2) Two signature samples may be taken in order to determine if the petition contains the required number of signatures. The sampling formula referred to in this rule is contained in Appendix 1, which is incorporated into this rule by reference.

(3) The Secretary of State's staff will first review, and remove prior to verification, each cover and signature sheet that does not meet the following criteria:

(a) The text of the prospective initiative petition must either be copied onto the back or stapled to the State Prospective Initiative Petition Signature Sheet. If the text is stapled to the State Prospective Initiative Petition Signature Sheet, it must remain stapled at all times.

(b) The circulator certification is sufficient as required by OAR 165-014-0270.

(c) All information included in the optional information fields about the petition signers, such as their printed name, address and date signed, complies with OAR 165-014-0275.

(d) The cover and signature sheet submitted is produced on pastel colored paper stock when the petition is not using paid circulators.

(4) The necessary information from the petition signature sheets will be entered into a computer program for the signature selection process.

(a) Any individual signature line that is not certified by the circulator's certification date will not be included in the sample.

(b) Any individual signature line on which the printed name, residence address or date appears not to comply with OAR 165-014-0275 will not be included in the sample.

(5) The size of the first sample of signatures will be determined by the number of signatures submitted for verification. The sample size is contained in Appendix 1. If upon completion of the first sample, it cannot be determined with confidence that the petition contains signatures of at least 1,000 electors, signature verification will continue on all remaining signatures.

(6) The Oregon Centralized Voter Registration System (OCVR) will be used to conduct signature verification.

(7) Using the "first" random sampling selection lists, the appropriate petition signature lines are verified against the voter's registration record.

(8) The Secretary of State will immediately consolidate and tabulate the verification data, generated from OCVR, for the "first" sample.

(9) The sampling formula to determine acceptance or rejection will be applied to the data from the "first" sample. If the petition is accepted as a result of the "first" sample the Secretary of State will immediately notify the chief petitioners. If the petition is not accepted as a result of the "first" sample, the remaining signatures will be verified.

(10) If the results of the "first" sample do not qualify the petition the remaining signature data will be added to the "first" sample data and the combined results will show that:

(a) The petition has a sufficient number of valid signatures to qualify for submission of the prospective petition; or

(b) The petition does not have a sufficient number of valid signatures to qualify for submission of the prospective petition.

(11) In the event additional signatures are filed no more than 2,000 additional signatures will be accepted for verification. A single sample will be taken. The verification procedures applied to the combined "first" and "second" sample will be applied to the second submission of signatures. If the results of the sample taken from the second submission of signatures do not qualify the prospective petition for submission, the chief petitioners must begin the prospective petition process again.

(12) The Elections Division will notify the chief petitioners of the result of the signature verification:

(a) Not later than 10 business days after receipt of the prospective petition signatures;

(b) Not later than 20 business days after receipt of prospective petition signatures for three or more initiatives received in single day; or

(c) Not later than 20 business days after receipt of prospective petition signatures for which all signatures are required to be verified.

(13) After receiving the signature sheets from the chief petitioners, the Elections Division utilizes the following process to determine if the petition contains enough valid signatures to qualify for the ballot. Additional signatures may be submitted after verification has occurred, as long as the deadline to submit signatures has not passed. The additional sample will be verified pursuant to (29).

(14) Once the chief petitioners have certified that the petition contains enough unverified signatures to meet the statutory or constitutional requirements signature verification may begin.

(15) The chief petitioners must separate all signature sheets by circulator. The chief petitioners must then sequentially number the sheets prior to submission to the Secretary of State. If additional signatures are submitted sequential numbering begins again with page number one.

(16) The Secretary of State's staff will first review, and remove prior to verification, each cover and signature sheet that does not meet the following criteria:

(a) The cover and signature sheet submitted is the same as the version or one of the versions approved for circulation including the "back to back" printing requirement.

(b) The circulator certification is sufficient.

(c) All information included in the optional information fields about the petition signers, such as their printed name, address and date signed, complies with OAR 165-014-0275.

(d) The cover and signature sheet submitted is produced on pastel colored paper stock when the petition is not using paid circulators.

(e) Any electronic template that is produced on pastel colored paper stock.

(17) The necessary information from the petition signature sheets will be entered into a computer program for the signature selection process.

(a) Any individual signature line that is not certified by the circulator's certification date will not be included in the sample.

(b) Any individual signature line on which the printed name, residence address or date appears not to comply with OAR 165-014-0275 will not be included in the sample.

(18) The size of the first sample of signatures will be fixed at 1,000. The size of the second sample of signatures will be specified such that the total number of signatures for the combined first and second sample will be at least five percent of the total number of signatures submitted for verification.

(a) A random number generator program will be used to supply a list of random numbers equal in amount to the number of signatures needed for two samples. A "first" sample list will be produced by using a count of random numbers equal to the first sample requirement. However, in all cases the first sample will be 1,000 signatures. A "second" sample list will be produced by using the remainder of the random numbers. The combined number of signatures to be used in the first and second samples will be at least five percent of the total number of signatures submitted for verification.

(b) The "first" and "second" sample list will show the petition identification number, petition signature sheet number and petition sheet line number of each signature selected for verification.

(19) Using the "first" and "second" random sampling selection lists as the control element, the appropriate petition signature sheets are pulled from the stacks.

(20) The random sampling selection list and the selected petition signature sheets are sent to:

(a) County elections officials for verification; or

(b) The Secretary of State may also verify sampled signatures.

(21) The Oregon Centralized Voter Registration System (OCVR) will be used to conduct signature verification.

(22) Upon receipt of the selected petition signature sheet(s) the county elections official will immediately begin verifying the signatures of the "first" sample against the voter's registration record. If the selected signature line is a blank or crossed out line, the next available line below will be verified. If there are no lines below, the line above will be verified. These changes must be noted on the signature sheet. As soon as all the signatures of the "first" sample are verified, the county elections official will immediately notify the Secretary of State.

(23) The Secretary of State will immediately consolidate and tabulate the verification data, generated from the OCVR, for the "first" sample.

(24) The sampling formula to determine acceptance or rejection will be applied to the consolidated data from the "first" sample. If the petition is accepted as a result of the "first" sample the Secretary of State will immediately notify the county elections officials that no further verification is required. If the results of the "first" sample do not qualify the petition to the ballot, a "second" larger sample will be verified.

ADMINISTRATIVE RULES

(25) Upon notification by the Secretary of State, the county elections official will immediately begin verifying the signatures of the "second" sample against the voter's registration record, if the petition is not accepted as a result of the "first" sample. If the selected signature line is a blank or crossed out line, the next available line below will be verified. If there are no lines below, the line above will be verified. These changes must be noted on the signature sheet. As soon as all the signatures of the "second" sample are verified the county elections official will immediately notify the Secretary of State.

(26) The Secretary of State will immediately consolidate and tabulate the verification data, generated from OCVR, for the "second" sample. The statistical formula will be applied to combined data from the "first" and "second" sample to determine its acceptance or rejection.

(27) As soon as notified by the Secretary of State the clerk will return the original sampled petition signature sheets to the Secretary of State within ten business days. If notified by the Secretary of State, the county elections official may terminate signature verification before all signatures included in a sample have been verified.

(28) If the results of the "first" sample do not qualify the petition the "second" sample data will be added to the "first" sample data and the combined results will be applied to the sampling formula. The formula will show that:

(a) The petition has a sufficient number of valid signatures to qualify for the ballot; or

(b) The petition does not have a sufficient number of valid signatures to qualify for the ballot.

(29) In the event additional signatures are filed pursuant to ORS 250.105(3), an additional sample will be selected solely from the second submittal of signatures.

(a) The sample size of the second submittal will be taken as the larger of 250 and that value which is directly proportional to the size of the combined "first" and "second" samples from the first submittal.

(b) The verification procedures applied to the combined "first" and "second" sample will be applied to the second submission of signatures.

(c) To determine acceptance or rejection of the initiative or referendum petition, the verification results of the second submission will be added to the verification results of the combined "first" and "second" sample of the first submission of signatures.

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

Stat. Auth.: ORS 246.150 & 250.105

Stats. Implemented: ORS 250.105

Hist.: SD 4-1978(Temp), f. & ef. 7-6-78; SD 2-1979, f. & ef. 4-23-79; SD 20-1986, f. & ef. 5-23-86; ELECT 12-1994, f. & cert. ef. 6-23-94; ELECT 8-1999, f. & cert. ef. 9-3-99; ELECT 9-2000, f. & cert. ef. 6-6-00; ELECT 3-2004, f. & cert. ef. 4-15-04; ELECT 3-2005, f. & cert. ef. 3-22-05; ELECT 18-2007, f. & cert. ef. 12-31-07; ELECT 19-2011, f. & cert. ef. 9-26-11

165-014-0110

Statistical Sampling Procedures for Other than State Initiative or Referendum Petitions

This rule is adopted to implement ORS 248.008, 249.008, 249.875, 250.215, 250.315, and 255.175. For a recall petition filed against a State Public Officer and any minor political party formation petitions the Secretary of State may choose to verify sampled signatures.

(1) After receiving the signature sheets from the chief petitioners, the following process must be used to determine if a petition subject to statistical sampling contains enough valid signatures to qualify for the ballot.

(2) Two signature samples may be taken in order to determine if the petition contains the required number of valid signatures of electors to qualify the petition to the ballot. The sampling formula referred to in this rule is contained in Appendix 4, which is incorporated into this rule by reference.

(3) If the petition fails to qualify for the ballot additional signatures may be submitted after verification has occurred, as long as the deadline to submit signatures has not passed. The additional sample will be verified pursuant to (17).

(4) The chief petitioners must certify upon submission of signatures that the petition contains enough unverified signatures to meet the statutory requirements. The petition is then accepted for signature verification. If the chief petitioners cannot certify that the petition contains enough unverified signatures to meet the statutory requirements, the petition is not accepted.

(5) The chief petitioners must sequentially number the sheets prior to submission.

(6) Prior to verification, each petition cover and signature sheet is first reviewed, and subsequently removed, if it does not meet the following criteria:

(a) The cover and signature sheet submitted is the same as the version or one of the versions approved for circulation including the "back to back" printing requirement.

(b) The circulator certification is sufficient as required by OAR 165-014-0270.

(c) All information included in the optional information fields about the petition signers, such as their printed name, address and date signed, complies with OAR 165-014-0275.

(7) The necessary information from the petition signature sheets will be entered into a computer program for the signature selection process.

(a) Any individual signature line that is not certified by the circulator's certification date will not be included in the sample.

(b) Any individual signature line on which the printed name, residence address or date appears not to comply with OAR 165-014-0275 will not be included in the sample.

(8) The sample size of the first sample of signatures will be 10% of the total signatures accepted for verification. The size of the second sample of signatures will be the same number used in the first sample, plus at least one additional signature.

(a) A random number generator program will be used to supply a list of random numbers equal in amount to the number of signatures needed for two samples. A "first" sample list will be produced by using a count of random numbers equal to the first sample requirement. A "second" sample list will be produced by using the remainder of the random numbers.

(b) The "first" and "second" sample list will show the petition identification number, petition signature sheet number and petition sheet line number of each signature selected for verification.

(9) Using the "first" and "second" random sampling selection lists as the control element, the appropriate petition signature sheets are pulled from the stacks.

(10) The Oregon Centralized Voter Registration System (OCVR) will be used to conduct signature verification.

(11) Upon completion of the procedures required in sections (1) through (8) of this rule, the county elections official will immediately begin verifying the signatures of the "first" sample against the voter's current registration card. If the selected signature line is a blank or crossed out line, the next available line below will be verified. If there are no lines below, the line above will be verified. These changes must be noted on the signature sheet.

(12) The county elections official will immediately consolidate and tabulate all "first" sample data generated from OCVR.

(13) The sampling formula to determine acceptance or rejection will be applied to the consolidated data from the "first" sample. If the petition is accepted as a result of the "first" sample, no further verification is required. If the results of the "first" sample do not qualify the petition to the ballot, the "second" larger sample will be verified.

(14) The county elections official will immediately begin verifying the signatures of the "second" sample against the voter's current registration card, if the petition is not accepted as a result of the "first" sample. If the selected signature line is a blank or crossed out line, the next available line below will be verified. If there are no lines below, the line above will be verified. These changes must be noted on the signature sheet.

(15) The county elections official will immediately consolidate and tabulate all "second" sample data generated from OCVR.

(16) If the results of the "first" sample do not qualify the petition, the "second" sample data will be added to the "first" sample data and the combined results will be applied to the sampling formula. The formula will show that:

(a) The petition has a sufficient number of valid signatures to qualify for the ballot; or

(b) The petition does not have a sufficient number of valid signatures to qualify for the ballot.

(17) In the event additional signatures are filed the county elections official has the option to either verify all additional signatures or to continue to use the sampling process described in this rule. If the county elections official chooses to verify additional signatures using the sampling process, samples will be selected solely from each additional submittal(s) of signatures.

(a) The sample size of any additional submittal(s) will be directly proportional to the combined "first" and "second" samples from the first submittal or 100 whichever is greater.

(b) The verification procedures applied to the combined "first" and "second" sample will be applied to any additional submittal of signatures.

(c) To determine acceptance or rejection of the initiative or referendum petition, the verification results of any additional submittal will be

ADMINISTRATIVE RULES

added to the verification results of the combined "first" and "second" sample of the first submission of signatures.

[ED. NOTE: Appendix referenced is available from the agency.]
Stat. Auth.: ORS 246.150, 250.105, 250.215, 250.315 & 255.175
Stats. Implemented: ORS 249.875, 250.105, 250.215, 250.315 & 255.175
Hist.: ELECT 19-1991(Temp), f. & cert. ef. 12-20-91; ELECT 13-1993, f. & cert. ef. 4-16-93; ELECT 7-2000, f. & cert. ef. 4-5-00; ELECT 3-2004, f. & cert. ef. 4-15-04; ELECT 3-2005, f. & cert. ef. 3-22-05; ELECT 10-2005, f. & cert. ef. 12-14-05; ELECT 18-2007, f. & cert. ef. 12-31-07; ELECT 19-2011, f. & cert. ef. 9-26-11

Rule Caption: Repeal of Voting System Certification.

Adm. Order No.: ELECT 20-2011

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 9-30-11

Notice Publication Date: 9-1-2011

Rules Repealed: 165-007-0250

Subject: This rule is no longer necessary as the standards necessary for approval of voting systems are contained in ORS 246.560 and the federal rules adopted by this rule were revised in April 2002 and are now obsolete.

Rules Coordinator: Brenda Bayes—(503) 986-1518

Rule Caption: Adoption of Amendments to the 2010 Campaign Finance Manual.

Adm. Order No.: ELECT 21-2011(Temp)

Filed with Sec. of State: 9-30-2011

Certified to be Effective: 9-30-11 thru 12-30-11

Notice Publication Date:

Rules Amended: 165-012-0005

Subject: This temporary amendment supplements the 2010 Campaign Finance Manual by clarifying the language for a maximum penalty assessed for a late change in transaction amount.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-012-0005

Designating the Campaign Finance Manual and Forms; Late Penalty Matrix

(1) Pursuant to ORS 260.156, the Secretary of State designates the 2010 Campaign Finance Manual and associated forms as the procedures and guidelines to be used for compliance with Oregon campaign finance regulations.

(2) The following amendments to the 2010 Campaign Finance Manual will apply to all ORESTAR late and insufficient penalty cases under ORS 260.232. The amendments to this rule with the exception of sections (7) and (9) go into effect upon the adoption of this rule. Sections (7), (9) and (12) apply to late or insufficient cases occurring May 2011 forward.

(3) Pg 64 right column, replace all paragraphs under the heading Late and Insufficient Penalty Cases (ORS 260.232) with the following:

(a) If the Secretary of State determines that a committee is in violation of Oregon election law for a late or insufficient filing, the treasurer, and candidate, if applicable, of the committee is sent a notice of proposed civil penalty (the charging document) that informs them of the potential civil penalty and provides them with an opportunity to request a hearing. This notice is sent by both certified and regular mail to the committee treasurer or, in the case of a candidate committee, by both certified and regular mail to the candidate with a copy by regular mail to the treasurer, and correspondence recipient, if applicable.

(b) Late and insufficient violations will be processed by calendar month. Each case for a given month will include late violations (transactions that are filed late in that particular month) and insufficient violations (transactions that are not sufficiently corrected by the exam response due date in that particular month.)

(c) For example, a transaction is due on April 15, 2009. The transaction isn't filed until May 1, 2009. This violation will be part of the May case.

(d) A transaction is identified as insufficient on an exam letter, with a response due date of May 10, 2009. The transactions isn't corrected until May 15, 2009, this violation will also be part of the May case.

(e) If the total calculated penalty for a case is less than \$50, a proposed penalty will not be issued and there will be no violation found.

(f) If a person is not going to contest the proposed penalty, payment may be made payable to the Secretary of State and mailed to the Elections Division prior to the issuance of a default final order or not later than 60 days after the default final order is issued.

(4) Pg 65 left column, replace all language beginning with heading Request for Hearing through the language under the heading Hearing by Telephone located in the right column with the following:

(A) STEP ONE: RESPONDING TO PROPOSED PENALTY NOTICE

(A) When a person receives a proposed penalty notice, they can either pay the penalty, or contest the charges by submitting notarized testimony in lieu of a hearing or requesting an in person or telephone hearing.

(B) To pay the penalty the following must occur:

(i) Payment is made payable to the Secretary of State.

(ii) Payment may be mailed to the Elections Division prior to the issuance of the default final order, at any time after the proposed penalty notice is issued.

(iii) Payment must be received not later than 60 days after the default final order is issued.

(iv) If necessary, the person may contact the Elections Division at 503-986-1518 to discuss payment plan options.

(C) To submit notarized testimony in lieu of an in person or telephone hearing to contest the case the following must occur:

(i) The person must submit a signed Hearing Request Form and an answer to the violations within 20 days of the receipt of the certified mail notice of proposed civil penalty. If the certified letter is refused or left unclaimed at the post office, the 20 day period begins on the day the post office indicates it has given first notice of the certified letter.

(ii) The answer must include an admission or denial of each factual matter alleged in the proposed penalty notice.

(iii) The answer must identify any mitigating circumstance that applies and indicate specifically what facts or transactions the mitigating circumstance applies to.

(iv) If the person has evidence of a mitigating circumstance, or other relevant evidence, this can be submitted with the answer as exhibits.

(v) Except for good cause shown to the administrative law judge, factual matters alleged in the penalty notice and not denied in the answer will be deemed admitted by the party.

(vi) The testimony must be notarized by a licensed Notary Public.

(vii) A worksheet is available on the back of the Hearing Request Form and may be used to complete the answer. Additional copies may be obtained by emailing your request to elec-hearings@sos.state.or.us or by contacting the Elections Division at 503-986-1518.

(viii) The testimony may be mailed to the Elections Division at 255 Capitol St NE, Ste 501, Salem OR 97310 or may be faxed to 503-373-7414.

(D) To request an in person or telephone hearing to contest the case the following must occur:

(i) The person must submit a signed Hearing Request Form and an answer to the violations within 20 days of the receipt of the certified mail notice of proposed civil penalty. If the certified letter is refused or left unclaimed at the post office, the 20 day period begins on the day the post office indicates it has given first notice of a certified letter.

(ii) The person must elect whether or not they want the hearing by telephone or in person on the Hearing Request Form, and sign where indicated.

(iii) The answer must include an admission or denial of each factual matter alleged in the proposed penalty notice.

(iv) The answer must identify any mitigating circumstance that applies and indicate specifically what facts or transactions the mitigating circumstance applies to.

(v) If the person has evidence of a mitigating circumstance, or other relevant evidence, this can be submitted with the answer as exhibits.

(vi) Except for good cause shown to the administrative law judge, factual matters alleged in the penalty notice and not denied in the answer will be deemed admitted by the party.

(b) STEP TWO: CONTESTED CASE PROCESS If a person submits the Hearing Request Form, the hearing will be conducted by an administrative law judge with the Office of Administrative Hearings through one of the following processes:

(A) NOTARIZED TESTIMONY PROCESS If the person has timely submitted the signed Hearing Form designating the submission of notarized testimony, the Elections Division will refer the case and forward the person's notarized testimony to the Office of Administrative Hearings. The following process then applies:

(i) When the Elections Division Submits Testimony The Elections Division may submit notarized testimony (and any exhibits) to the Office of Administrative Hearings and to the person that filed the notarized testimony. The Elections Division's notarized testimony will be sent via email to the email address provided on the request form. The Secretary of State,

ADMINISTRATIVE RULES

Elections Division may mail its notarized testimony to the party's last known address if the party's email address is unknown or does not accept the Secretary of State's email.

(ii) Opportunity for Rebuttal Testimony The person may, but is not required to, respond to the Elections Division testimony by submitting rebuttal notarized testimony. The rebuttal testimony is limited to issues raised in the person's original testimony and the Elections Division's testimony. The rebuttal testimony must be received not later than five business days from the date of service of the Division's testimony (the date the testimony was emailed or mailed). The notarized testimony "hearing" is deemed closed the day after the deadline for the person to submit rebuttal testimony.

(B) IN PERSON OR TELEPHONE HEARING PROCESS If the person has timely submitted the signed Hearing Form designating an in person or telephone hearing, the following process applies:

(i) Scheduling a Hearing The Elections Division will refer the hearing request, including the party's answer and hearing request form, to the Office of Administrative Hearings. The Office of Administrative Hearings will schedule a hearing not later than 45 days after the deadline for requesting a hearing. A 15 day extension may be granted if requested in writing by the person subject to the civil penalty.

(ii) Submitting Exhibits Not less than five business days prior to the commencement of the hearing, each party, including the Elections Division, must deliver copies of the exhibits it intends to offer into evidence at the hearing. Exhibits must be delivered to the Administrative Law Judge, all parties, and the Elections Division. Delivery of the exhibits may be accomplished by any of the following means, or by other means of similar nature: Hand delivery; First class or certified mail; Facsimile; Professional delivery service; or Emailed in a pdf format to elec-hearings@sos.state.or.us. Nothing precludes any party or the Elections Division from seeking to introduce documentary evidence in addition to evidence described above during a telephone or in person hearing. The Administrative Law Judge shall receive such evidence, subject to the applicable rules of evidence, only if inclusion of the evidence in the record is necessary to conduct a full and fair hearing.

(iii) Conduct of In Person or Telephone Hearing If the hearing is in person, it will be conducted at the time scheduled and held in a hearing room at the Office of Administrative Hearings in Salem. If the hearing is by telephone, the parties will call the phone number provided in the Notice of Hearing sent by the Office of Administrative Hearings. The hearing will be presided over by an Administrative Law Judge. The Administrative Law Judge will describe the hearing process at the beginning of each hearing. The parties will then be given the opportunity to give opening statements, present and examine witnesses, and give closing statements.

(iv) Opportunity to Opt Out of In Person or Telephone Hearing If a person requests an in person or telephone hearing and the hearing is scheduled by the Office of Administrative Hearings, then subsequently decides they do not want to appear at the hearing, but still wants to contest the penalty, the person may submit notarized testimony and other evidence for entry into the hearing record before the Administrative Law Judge. The Elections Division must receive the testimony no later than three business days before the day of the scheduled hearing. The Elections Division may submit notarized testimony. The testimony must be received by the Office of Administrative Hearings not later than 5:00 pm on the hearing scheduled date. If the Elections Division does not submit notarized testimony, the Agency file will become a part of the case file and establish the basis for liability. This process is separate and distinct from the Notarized Testimony process discussed above and applies only when a party requests an in person or telephone hearing and later decides not to appear at the hearing and instead provide notarized testimony and evidence.

(c) STEP THREE: PROPOSED AND FINAL ORDERS

(A) Proposed Order After the hearing is closed, the Office of Administrative Hearings sends the treasurer, candidate, and the Elections Division the administrative law judge's proposed order. The administrative law judge's proposed order will provide a deadline to file written exceptions to the proposed order. If the Elections Division chooses to amend the proposed order issued by the administrative law judge, the Elections Division will send an amended proposed order which will provide a deadline to file written exceptions to the amended proposed order.

(B) Final Order After reviewing and considering the written exceptions, the Elections Division will issue a final order no later than 90 days after the hearing is closed. If the order imposes a civil penalty, the party has 60 days to pay the penalty or file an appeal. If necessary, the person may contact the Elections Division at 503-986-1518 to discuss payment plan options.

(d) Judicial Review of a Final or Default Order After the issuance of a final order or default final order, a candidate or treasurer is entitled to judicial review of the order. Judicial review may be obtained by filing a petition for review with the Oregon Court of Appeals within 60 days of the service date of the order.

(5) Page 65 right column, under heading Mitigating Circumstances, replace the first paragraph with the following: If an in person, telephone or notarized testimony hearing is requested and testimony is provided regarding the mitigating circumstance that directly caused the late or insufficient filing, the Administrative Law Judge and the Secretary of State may consider reducing in whole or in part, the civil penalty, based on the facts presented by the testimony.

(6) Page 66 right column, delete all language under headings Final Order and Default Final Order.

(7) Page 67 left column under the heading Penalties for Late Transactions, replace the paragraph with: The treasurer responsible for a late filed transaction is the treasurer of record at the time the transaction is due. The liability for the civil penalty remains with the treasurer, and the candidate, if applicable, even if the late transaction is filed by the designated alternate transaction filer.(8) Page 68 left column under the heading Penalty Matrix Late Filings should be replaced with the following: Penalties may be assessed for any contribution or expenditure transaction that is filed late or any cash balance adjustment transaction. A transaction is considered late in any of the following circumstances:

(a) A transaction is not filed by the due date for the transaction;

(b) A change is made to the name of the contributor or payee after the transaction due date, resulting in an entirely different contributor or payee being associated with the transaction (the transaction is considered late from the transaction due date to the date the amended transaction changing the contributor or payee is filed);

(c) A change is made to the date of the transaction resulting in a due date that is prior to the date the transaction was originally filed (the transaction is considered late from the date the transaction should have been filed to the date the transaction was originally filed);

(d) A change (increase or decrease) is made to the amount of a previously reported transaction after the transaction due date (the amount of the change is late from the transaction due date to the date the amended transaction changing the amount is filed) no penalty will be imposed for a change in the amount of an expenditure made by an agent transaction;

(e) A previously reported transaction is deleted after the transaction due date (the transaction is considered late from the transaction due date to the date the transaction deletion is filed);

(f) A cash balance adjustment transaction is filed because the committee is unable to reconcile the calculated cash balance based on transactions filed with the Secretary of State with the committee's bank balance; or

(g) The transaction type is amended from any transaction type other than a contribution or expenditure to a contribution or expenditure, and the original transaction was filed after the deadline (the transaction is considered late from the transaction due date to the date the original transaction is filed).

(9) Page 71 under the heading Maximum Penalties should be replaced with the following:

(a) The maximum penalty for each late transaction, except for a change in a transaction amount, is 10% of the amount of the transaction. The maximum penalty for a change in a transaction amount is 10% of the net change or 10% of the current transaction amount, whichever is less.

(b) The maximum penalty for a late Certificate of Limited Contributions and Expenditures is \$100.

(c) The maximum penalty for each cash balance adjustment is 10% of the amount of the transaction.

(d) The maximum penalty for a late Statement of Independent Expenditures (form PC 10) is 10% of the total amount reported on form PC 10.

(10) Page 71 right column under the heading Penalties should be replaced with the following:

(a) For all missing or insufficient items, other than those listed below: **\$10 per item;**

(b) Failure to provide the terms of a loan: **1% of the loan;**

(c) Omitted or insufficient information submitted after the amendment deadline but prior to the deadline for a candidate or treasurer to request a hearing will result in a 50% per item reduction of the penalty, if the information is deemed sufficient. If a public hearing is requested, the omitted or insufficient information may be submitted up to the date of the

ADMINISTRATIVE RULES

hearing and if deemed sufficient will result in a 50% per item reduction of the penalty.

(11) Amend all references in the 2010 Campaign Finance Manual regarding the requirement for a candidate to file a candidate committee from \$350 to \$750, including Pages 13, 41, 59 and form SEL 220, Statement of Organization for Candidate Committee.

(12) Page 70 under the heading Maximum Penalties should be replaced with the following:

(a) The maximum penalty for each late transaction, except for a change in a transaction amount, is 10% of the amount of the transaction. The maximum penalty for a change in a transaction amount is 10% of the change in amount.

[Publications: Publications and Forms referenced are available from the agency.]
Stat. Auth.: ORS 246.120, 246.150, 260.156 & 260.200
Stats. Implemented: ORS 246.120, 246.150, 260.156 & 260.200
Hist.: SD 101, f. & ef. 12-3-75; SD 120, f. & ef. 12-21-77; SD 34-1980, f. & ef. 3-6-80; SD 28-1983, f. & ef. 12-20-83; SD 3-1986, f. & ef. 2-26-86; ELECT 32-1988(Temp), f. & cert. ef. 8-26-88; ELECT 22-1989(Temp), f. & cert. ef. 11-9-89; ELECT 19-1990, f. & cert. ef. 6-4-90; ELECT 14-1992 (Temp), f. & cert. ef. 6-10-92; ELECT 37-1992, f. & cert. ef. 12-15-92; ELECT 34-1993, f. & cert. ef. 11-1-93; ELECT 1-1995(Temp), f. & cert. ef. 2-23-95; ELECT 15-1995, f. & cert. ef. 12-18-95; ELECT 9-1996, f. & cert. ef. 7-26-96; ELECT 5-1997, f. & cert. ef. 3-24-97; ELECT 6-1997(Temp), f. & cert. ef. 4-18-97; ELECT 15-1997, f. & cert. ef. 12-31-97; ELECT 5-1998, f. & cert. ef. 2-26-98; ELECT 8-1998, f. & cert. ef. 6-2-98; ELECT 9-1998, f. & cert. ef. 9-11-98; ELECT 13-1998(Temp), f. & cert. ef. 12-15-98 thru 6-13-99; ELECT 2-1999(Temp), f. & cert. ef. 1-15-99 thru 7-14-99; ELECT 3-1999, f. & cert. ef. 3-1-99; ELECT 1-2000, f. & cert. ef. 1-3-00; ELECT 3-2002, f. & cert. ef. 3-13-02; ELECT 23-2003, f. & cert. ef. 12-12-03; ELECT 13-2005, f. & cert. ef. 12-30-05; ELECT 1-2007, f. & cert. ef. 1-5-07; ELECT 2-2007(Temp), f. & cert. ef. 5-2-07 thru 10-29-07; ELECT 4-2007(Temp), f. & cert. ef. 7-16-07 thru 12-31-07; ELECT 13-2007, f. & cert. ef. 12-31-07; ELECT 8-2009, f. & cert. ef. 5-4-09; ELECT 16-2009, f. & cert. ef. 7-30-09; ELECT 27-2009, f. & cert. ef. 12-31-09; ELECT 3-2010, f. & cert. ef. 4-22-10; ELECT 8-2011, f. & cert. ef. 4-8-11; ELECT 12-2011, f. & cert. ef. 7-12-11; ELECT 21-2011(Temp), f. & cert. ef. 9-30-11 thru 12-30-11

Travel Information Council Chapter 733

Rule Caption: Amend rules to add to the approved Supplemental Messages and clarify Interstate Oasis verbiage.

Adm. Order No.: TIC 1-2011

Filed with Sec. of State: 9-22-2011

Certified to be Effective: 9-22-11

Notice Publication Date: 7-1-2011

Rules Amended: 733-030-0080, 733-030-0450

Subject: The Travel Information Council held a quarterly meeting on September 16, 2011. The Council approved to amend rules to add to the list of approved Supplemental Messages and clarify the Interstate Oasis verbiage.

Rules Coordinator: Diane Cheyne—(503) 378-4508

733-030-0080

Requirements for Supplemental Messages on Logo Plaques

(1) All supplemental messages must be displayed within the logo plaque in one horizontal line along the bottom of the plaque. The supple-

mental message should be displayed in a color to contrast effectively with the background of the logo plaque or be separated by a divider bar.

(2) On Interstate Highways and Expressways the supplemental message must have a minimum letter height of six inches and be proportional in size on all follow up Supplemental Signs. On Conventional Highways the supplemental message must have a minimum letter height of four inches.

(3) GAS facilities that are exclusively card-lock stations shall be required to display the supplemental message “CARD LOCK ONLY” on Interstate and Expressway logo plaques and “CARD LOCK” on Conventional Highway logo plaques.

(4) Seasonal facilities or facilities that only qualify with an approved waiver shall be required to display a concise description of the waived issue. Examples of acceptable messages include, but are not limited to, “OPEN MAY-SEPT”, “WEEKENDS ONLY”, “OPEN THURS-SUN”.

(5) Supplemental messages with the words “DIESEL”, “PROPANE”, “24 HOUR”, “RV DUMP”, “RV PARKING”, “RV ACCESS”, “ALT FUELS”, “BIODIESEL”, or “WiFi”, and/or the abbreviations CNG, EV, or E85, or a combination of two messages may be used by any business that offers those products or services. If a business elects to display the circular RV symbol, it will be the only supplemental message allowed. If a business designated as an INTERSTATE OASIS is displayed on a Logo Sign, the word “OASIS” may be used as a supplemental message on its logo plaque.

(6) All supplemental messages and their design on logo plaques must be approved by the Council.

(7) A seven-year review will be conducted for those existing logo plaques using separate logo riders following the adoption of this rule. Logo plaques using separate logo riders must comply with supplemental message rules when those plaques are replaced with new ones. All logo plaques must comply with supplemental message rules in ten years following adoption of this rule.

Stat. Auth.: ORS 377.700 - 377.840
Stats. Implemented: ORS 183.310 - 183.550
Hist.: TIC 3-1982, f. & ef. 6-1-82; TIC 4-1985, f. & ef. 6-4-85; TIC 5-1985, f. & ef. 12-13-85; TIC 1-1987(Temp), f. & ef. 3-6-87; TIC 5-1988, f. & cert. ef. 12-23-88; TIC 3-1989, f. & cert. ef. 10-27-89; TIC 1-1991, f. & cert. ef. 12-23-91; TIC 1-1996, f. & cert. ef. 1-8-96; TIC 1-1997, f. & cert. ef. 2-13-97; TIC 2-1998, f. & cert. ef. 11-13-98; TIC 1-2000, f. 4-14-00, cert. ef. 5-1-00; TIC 1-2002, f. & cert. ef. 4-19-02; TIC 2-2006, f. & cert. ef. 6-21-06; TIC 1-2009, f. & cert. ef. 4-3-09; TIC 2-2010, f. & cert. ef. 6-11-10; TIC 1-2011, f. & cert. ef. 9-22-11

733-030-0450

Special Requirements — Interstate Highways and Expressways

If Supplemental Logo plaques containing the supplemental message “OASIS” are not used on the exit ramp, a Trailblazer sign with a white legend (minimum 6 inch letters) and border on a blue background must be provided on the exit ramp to indicate the direction and distance to the Interstate Oasis, unless the Interstate Oasis is clearly visible and identifiable from the exit ramp. Additional Trailblazer signs may be used, if determined to be necessary, along the cross road to guide motorists to the Oasis.

Stat. Auth.: ORS 377.700 - 377.840
Stats. Implemented: ORS 183.310 - 183.550
Hist.: TIC 2-2009, f. & cert. ef. 6-1-09; TIC 1-2011, f. & cert. ef. 9-22-11

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
101-010-0005	1-1-2011	Amend	1-1-2011	111-005-0055	5-3-2011	Adopt	6-1-2011
101-015-0005	1-1-2011	Amend	1-1-2011	111-005-0060	12-13-2010	Suspend	1-1-2011
101-015-0005	3-9-2011	Suspend	4-1-2011	111-005-0060	5-3-2011	Repeal	6-1-2011
101-015-0005	8-5-2011	Amend(T)	9-1-2011	111-005-0070	5-3-2011	Repeal	6-1-2011
101-015-0006	3-9-2011	Adopt(T)	4-1-2011	111-005-0080	12-13-2010	Adopt(T)	1-1-2011
101-015-0011	1-1-2011	Amend	1-1-2011	111-005-0080	5-3-2011	Adopt	6-1-2011
101-015-0012(T)	11-29-2010	Suspend	1-1-2011	111-010-0015	2-11-2011	Amend	3-1-2011
101-015-0013(T)	11-29-2010	Suspend	1-1-2011	111-010-0015	2-15-2011	Amend(T)	3-1-2011
101-015-0014	11-29-2010	Adopt(T)	1-1-2011	111-010-0015	8-2-2011	Amend	9-1-2011
101-015-0014(T)	1-1-2011	Repeal	1-1-2011	111-010-0015	8-2-2011	Amend(T)	9-1-2011
101-015-0025	8-11-2011	Suspend	9-1-2011	111-010-0015	10-1-2011	Amend(T)	11-1-2011
101-015-0025	9-29-2011	Repeal	11-1-2011	111-010-0015	10-14-2011	Amend	11-1-2011
101-015-0026	1-1-2011	Adopt	1-1-2011	111-010-0015(T)	2-11-2011	Repeal	3-1-2011
101-015-0026(T)	1-1-2011	Repeal	1-1-2011	111-010-0015(T)	8-2-2011	Repeal	9-1-2011
101-020-0002	1-1-2011	Amend	1-1-2011	111-010-0015(T)	10-1-2011	Suspend	11-1-2011
101-020-0005	1-1-2011	Amend	1-1-2011	111-030-0005	2-11-2011	Amend	3-1-2011
101-020-0015	1-1-2011	Amend	1-1-2011	111-030-0005(T)	2-11-2011	Repeal	3-1-2011
101-020-0018	1-1-2011	Amend	1-1-2011	111-030-0010	2-11-2011	Adopt	3-1-2011
101-020-0025	1-1-2011	Amend	1-1-2011	111-030-0010(T)	2-11-2011	Repeal	3-1-2011
101-020-0025	3-9-2011	Suspend	4-1-2011	111-030-0030	2-11-2011	Repeal	3-1-2011
101-020-0025	8-5-2011	Amend(T)	9-1-2011	111-030-0035	2-11-2011	Adopt	3-1-2011
101-020-0026	3-9-2011	Adopt(T)	4-1-2011	111-030-0035(T)	2-11-2011	Repeal	3-1-2011
101-020-0032	1-1-2011	Amend	1-1-2011	111-030-0040	2-11-2011	Adopt	3-1-2011
101-020-0037	1-1-2011	Amend	1-1-2011	111-030-0040(T)	2-11-2011	Repeal	3-1-2011
101-020-0045	1-1-2011	Amend	1-1-2011	111-030-0045	2-11-2011	Adopt	3-1-2011
101-020-0050	1-1-2011	Amend	1-1-2011	111-030-0045(T)	2-11-2011	Repeal	3-1-2011
101-020-0070	1-1-2011	Am. & Ren.	1-1-2011	111-030-0046	8-2-2011	Adopt(T)	9-1-2011
101-030-0010	1-1-2011	Amend	1-1-2011	111-030-0046	10-14-2011	Adopt	11-1-2011
101-030-0015	1-1-2011	Amend	1-1-2011	111-030-0046(T)	10-14-2011	Repeal	11-1-2011
101-030-0022	1-1-2011	Amend	1-1-2011	111-030-0050	2-11-2011	Adopt	3-1-2011
105-040-0010	11-28-2010	Amend	1-1-2011	111-030-0050(T)	2-11-2011	Repeal	3-1-2011
105-040-0020	11-28-2010	Amend	1-1-2011	111-040-0001	2-11-2011	Amend	3-1-2011
105-040-0030	11-28-2010	Amend	1-1-2011	111-040-0001	10-1-2011	Amend(T)	11-1-2011
105-040-0060	11-28-2010	Amend	1-1-2011	111-040-0001(T)	2-11-2011	Repeal	3-1-2011
111-002-0005	12-13-2010	Amend(T)	1-1-2011	111-040-0005	2-11-2011	Amend	3-1-2011
111-002-0005	5-3-2011	Amend	6-1-2011	111-040-0005	10-1-2011	Amend(T)	11-1-2011
111-005-00070	12-13-2010	Amend(T)	1-1-2011	111-040-0005(T)	2-11-2011	Repeal	3-1-2011
111-005-0010	12-13-2010	Amend(T)	1-1-2011	111-040-0015	2-11-2011	Amend	3-1-2011
111-005-0010	5-3-2011	Amend	6-1-2011	111-040-0015	10-1-2011	Amend(T)	11-1-2011
111-005-0015	12-13-2010	Amend(T)	1-1-2011	111-040-0015(T)	2-11-2011	Repeal	3-1-2011
111-005-0015	5-3-2011	Amend	6-1-2011	111-040-0020	2-11-2011	Amend	3-1-2011
111-005-0020	12-13-2010	Amend(T)	1-1-2011	111-040-0020(T)	2-11-2011	Repeal	3-1-2011
111-005-0020	5-3-2011	Amend	6-1-2011	111-040-0025	2-11-2011	Amend	3-1-2011
111-005-0040	12-13-2010	Amend(T)	1-1-2011	111-040-0025	10-1-2011	Amend(T)	11-1-2011
111-005-0040	5-3-2011	Amend	6-1-2011	111-040-0025(T)	2-11-2011	Repeal	3-1-2011
111-005-0042	12-13-2010	Amend(T)	1-1-2011	111-040-0030	2-11-2011	Amend	3-1-2011
111-005-0042	5-3-2011	Amend	6-1-2011	111-040-0030(T)	2-11-2011	Repeal	3-1-2011
111-005-0044	12-13-2010	Amend(T)	1-1-2011	111-040-0040	2-11-2011	Amend	3-1-2011
111-005-0044	5-3-2011	Amend	6-1-2011	111-040-0040	2-15-2011	Amend(T)	3-1-2011
111-005-0046	12-13-2010	Amend(T)	1-1-2011	111-040-0040	6-22-2011	Amend	8-1-2011
111-005-0046	5-3-2011	Amend	6-1-2011	111-040-0040	10-1-2011	Amend(T)	11-1-2011
111-005-0047	12-13-2010	Adopt(T)	1-1-2011	111-040-0040(T)	2-11-2011	Repeal	3-1-2011
111-005-0047	5-3-2011	Adopt	6-1-2011	111-040-0040(T)	6-22-2011	Repeal	8-1-2011
111-005-0050	12-13-2010	Amend(T)	1-1-2011	111-040-0050	2-11-2011	Amend	3-1-2011
111-005-0050	5-3-2011	Amend	6-1-2011	111-040-0050(T)	2-11-2011	Repeal	3-1-2011
111-005-0055	12-13-2010	Adopt(T)	1-1-2011	111-050-0001	2-11-2011	Amend	3-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
111-050-0001(T)	2-11-2011	Repeal	3-1-2011	115-070-0000	7-1-2011	Amend(T)	8-1-2011
111-050-0010	2-11-2011	Amend	3-1-2011	115-070-0035	7-1-2011	Amend(T)	8-1-2011
111-050-0010(T)	2-11-2011	Repeal	3-1-2011	115-070-0050	7-1-2011	Amend(T)	8-1-2011
111-050-0015	2-11-2011	Amend	3-1-2011	115-080-0010	7-1-2011	Amend(T)	8-1-2011
111-050-0015	10-1-2011	Amend(T)	11-1-2011	123-001-0700	12-1-2010	Amend	1-1-2011
111-050-0015(T)	2-11-2011	Repeal	3-1-2011	123-001-0725	12-1-2010	Amend	1-1-2011
111-050-0016	2-11-2011	Amend	3-1-2011	123-001-0750	12-1-2010	Amend	1-1-2011
111-050-0016(T)	2-11-2011	Repeal	3-1-2011	123-042-0010	12-1-2010	Amend	1-1-2011
111-050-0020	2-11-2011	Amend	3-1-2011	123-042-0020	12-1-2010	Amend	1-1-2011
111-050-0020(T)	2-11-2011	Repeal	3-1-2011	123-042-0026	12-1-2010	Amend	1-1-2011
111-050-0025	2-11-2011	Amend	3-1-2011	123-042-0036	12-1-2010	Amend	1-1-2011
111-050-0025	10-1-2011	Amend(T)	11-1-2011	123-042-0038	12-1-2010	Amend	1-1-2011
111-050-0025(T)	2-11-2011	Repeal	3-1-2011	123-042-0045	12-1-2010	Amend	1-1-2011
111-050-0030	2-11-2011	Amend	3-1-2011	123-042-0055	12-1-2010	Amend	1-1-2011
111-050-0030	10-1-2011	Amend(T)	11-1-2011	123-042-0065	12-1-2010	Amend	1-1-2011
111-050-0030(T)	2-11-2011	Repeal	3-1-2011	123-042-0076	12-1-2010	Amend	1-1-2011
111-050-0035	2-11-2011	Amend	3-1-2011	123-042-0122	12-1-2010	Amend	1-1-2011
111-050-0035(T)	2-11-2011	Repeal	3-1-2011	123-042-0132	12-1-2010	Amend	1-1-2011
111-050-0045	2-11-2011	Amend	3-1-2011	123-042-0155	12-1-2010	Amend	1-1-2011
111-050-0045	10-1-2011	Amend(T)	11-1-2011	123-042-0165	12-1-2010	Amend	1-1-2011
111-050-0045(T)	2-11-2011	Repeal	3-1-2011	123-042-0175	12-1-2010	Amend	1-1-2011
111-050-0050	2-11-2011	Amend	3-1-2011	123-042-0180	12-1-2010	Amend	1-1-2011
111-050-0050	10-1-2011	Amend(T)	11-1-2011	123-042-0190	12-1-2010	Amend	1-1-2011
111-050-0050(T)	2-11-2011	Repeal	3-1-2011	123-043-0025	12-1-2010	Amend	1-1-2011
111-050-0060	2-11-2011	Amend	3-1-2011	123-090-0050	7-1-2011	Amend	8-1-2011
111-050-0060(T)	2-11-2011	Repeal	3-1-2011	123-155-0000	1-3-2011	Am. & Ren.	2-1-2011
111-050-0065	2-11-2011	Amend	3-1-2011	123-155-0100	1-3-2011	Am. & Ren.	2-1-2011
111-050-0065(T)	2-11-2011	Repeal	3-1-2011	123-155-0150	1-3-2011	Am. & Ren.	2-1-2011
111-050-0070	2-11-2011	Amend	3-1-2011	123-155-0175	1-3-2011	Am. & Ren.	2-1-2011
111-050-0070(T)	2-11-2011	Repeal	3-1-2011	123-155-0200	1-3-2011	Am. & Ren.	2-1-2011
111-050-0075	2-11-2011	Amend	3-1-2011	123-155-0250	1-3-2011	Am. & Ren.	2-1-2011
111-050-0075(T)	2-11-2011	Repeal	3-1-2011	123-155-0270	1-3-2011	Am. & Ren.	2-1-2011
111-050-0080	2-11-2011	Amend	3-1-2011	123-155-0300	1-3-2011	Am. & Ren.	2-1-2011
111-050-0080(T)	2-11-2011	Repeal	3-1-2011	123-155-0350	1-3-2011	Am. & Ren.	2-1-2011
111-070-0030	2-11-2011	Amend	3-1-2011	123-155-0400	1-3-2011	Am. & Ren.	2-1-2011
111-070-0030(T)	2-11-2011	Repeal	3-1-2011	123-450-0000	1-3-2011	Adopt	2-1-2011
111-070-0040	2-11-2011	Amend	3-1-2011	123-635-0000	9-1-2011	Amend	10-1-2011
111-070-0040(T)	2-11-2011	Repeal	3-1-2011	123-635-0050	1-3-2011	Repeal	2-1-2011
111-080-0005	10-1-2011	Amend(T)	11-1-2011	123-635-0100	9-1-2011	Amend	10-1-2011
111-080-0040	12-10-2010	Adopt	1-1-2011	123-635-0175	9-1-2011	Amend	10-1-2011
111-080-0040	2-15-2011	Amend(T)	3-1-2011	123-635-0200	9-1-2011	Amend	10-1-2011
111-080-0040	6-22-2011	Amend	8-1-2011	123-635-0400	9-1-2011	Amend	10-1-2011
111-080-0040(T)	6-22-2011	Repeal	8-1-2011	125-300-0200	8-1-2011	Adopt	9-1-2011
111-080-0045	12-10-2010	Adopt	1-1-2011	125-700-0012	6-30-2011	Repeal	8-1-2011
111-080-0045	2-15-2011	Amend(T)	3-1-2011	125-700-0015	6-30-2011	Amend	8-1-2011
111-080-0045	6-22-2011	Amend	8-1-2011	125-700-0020	6-30-2011	Repeal	8-1-2011
111-080-0045(T)	6-22-2011	Repeal	8-1-2011	125-700-0025	6-30-2011	Repeal	8-1-2011
111-080-0050	12-10-2010	Adopt	1-1-2011	125-700-0030	6-30-2011	Repeal	8-1-2011
111-080-0050	2-15-2011	Amend(T)	3-1-2011	125-700-0035	6-30-2011	Repeal	8-1-2011
111-080-0050	6-22-2011	Amend	8-1-2011	125-700-0040	6-30-2011	Repeal	8-1-2011
111-080-0050(T)	6-22-2011	Repeal	8-1-2011	125-700-0045	6-30-2011	Repeal	8-1-2011
115-010-0012	9-1-2011	Amend(T)	10-1-2011	125-700-0050	6-30-2011	Repeal	8-1-2011
115-035-0000	7-1-2011	Amend(T)	8-1-2011	125-700-0055	6-30-2011	Repeal	8-1-2011
115-035-0035	7-1-2011	Amend(T)	8-1-2011	125-700-0060	6-30-2011	Repeal	8-1-2011
115-035-0045	7-1-2011	Amend(T)	8-1-2011	125-700-0120	6-30-2011	Adopt	8-1-2011
115-040-0005	7-1-2011	Amend(T)	8-1-2011	125-700-0125	6-30-2011	Adopt	8-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
125-700-0130	6-30-2011	Adopt	8-1-2011	137-055-4540	7-1-2011	Amend	8-1-2011
125-700-0135	6-30-2011	Adopt	8-1-2011	137-055-4540(T)	7-1-2011	Repeal	8-1-2011
125-700-0140	6-30-2011	Adopt	8-1-2011	137-055-5020	7-1-2011	Repeal	8-1-2011
125-700-0145	6-30-2011	Adopt	8-1-2011	137-055-5060	7-1-2011	Amend	8-1-2011
125-700-0150	6-30-2011	Adopt	8-1-2011	137-055-5080	3-31-2011	Amend(T)	5-1-2011
125-700-0155	6-30-2011	Adopt	8-1-2011	137-055-5080	7-1-2011	Amend	8-1-2011
137-020-0150	1-1-2011	Amend	2-1-2011	137-055-5080(T)	7-1-2011	Repeal	8-1-2011
137-020-0160	1-1-2011	Amend	2-1-2011	137-055-5220	3-31-2011	Amend(T)	5-1-2011
137-050-0700	1-4-2011	Amend	2-1-2011	137-055-5220	7-1-2011	Amend	8-1-2011
137-050-0700(T)	1-4-2011	Repeal	2-1-2011	137-055-5220(T)	7-1-2011	Repeal	8-1-2011
137-050-0745	1-26-2011	Amend(T)	3-1-2011	137-055-5240	3-31-2011	Amend(T)	5-1-2011
137-050-0745	7-1-2011	Amend	8-1-2011	137-055-5240	7-1-2011	Amend	8-1-2011
137-050-0745(T)	7-1-2011	Repeal	8-1-2011	137-055-5240(T)	7-1-2011	Repeal	8-1-2011
137-055-1020	3-31-2011	Amend(T)	5-1-2011	137-055-6023	7-1-2011	Amend	8-1-2011
137-055-1020	7-1-2011	Amend	8-1-2011	137-055-6120	3-31-2011	Amend(T)	5-1-2011
137-055-1020(T)	7-1-2011	Repeal	8-1-2011	137-055-6120	7-1-2011	Amend	8-1-2011
137-055-1090	3-31-2011	Amend(T)	5-1-2011	137-055-6120(T)	7-1-2011	Repeal	8-1-2011
137-055-1090	7-1-2011	Amend	8-1-2011	137-055-7020	3-31-2011	Amend(T)	5-1-2011
137-055-1090(T)	7-1-2011	Repeal	8-1-2011	137-055-7020	7-1-2011	Amend	8-1-2011
137-055-1120	3-31-2011	Amend(T)	5-1-2011	137-055-7020(T)	7-1-2011	Repeal	8-1-2011
137-055-1120	7-1-2011	Amend	8-1-2011	137-055-7040	3-31-2011	Amend(T)	5-1-2011
137-055-1120(T)	7-1-2011	Repeal	8-1-2011	137-055-7040	7-1-2011	Amend	8-1-2011
137-055-1145	3-31-2011	Amend(T)	5-1-2011	137-055-7040(T)	7-1-2011	Repeal	8-1-2011
137-055-1145	7-1-2011	Amend	8-1-2011	137-055-7060	3-31-2011	Amend(T)	5-1-2011
137-055-1145(T)	7-1-2011	Repeal	8-1-2011	137-055-7060	7-1-2011	Amend	8-1-2011
137-055-3200	10-3-2011	Amend	11-1-2011	137-055-7060(T)	7-1-2011	Repeal	8-1-2011
137-055-3220	3-31-2011	Amend(T)	5-1-2011	137-055-7080	3-31-2011	Suspend	5-1-2011
137-055-3220	7-1-2011	Amend	8-1-2011	137-055-7080	7-1-2011	Repeal	8-1-2011
137-055-3220(T)	7-1-2011	Repeal	8-1-2011	137-055-7100	3-31-2011	Amend(T)	5-1-2011
137-055-3240	3-31-2011	Amend(T)	5-1-2011	137-055-7100	7-1-2011	Amend	8-1-2011
137-055-3240	7-1-2011	Amend	8-1-2011	137-055-7100(T)	7-1-2011	Repeal	8-1-2011
137-055-3240(T)	7-1-2011	Repeal	8-1-2011	137-055-7120	3-31-2011	Amend(T)	5-1-2011
137-055-3360	10-3-2011	Amend	11-1-2011	137-055-7120	7-1-2011	Amend	8-1-2011
137-055-3400	3-31-2011	Amend(T)	5-1-2011	137-055-7120(T)	7-1-2011	Repeal	8-1-2011
137-055-3400	7-1-2011	Amend	8-1-2011	137-055-7140	3-31-2011	Amend(T)	5-1-2011
137-055-3400(T)	7-1-2011	Repeal	8-1-2011	137-055-7140	7-1-2011	Amend	8-1-2011
137-055-3420	3-31-2011	Amend(T)	5-1-2011	137-055-7140(T)	7-1-2011	Repeal	8-1-2011
137-055-3420	7-1-2011	Amend	8-1-2011	137-055-7160	3-31-2011	Amend(T)	5-1-2011
137-055-3420(T)	7-1-2011	Repeal	8-1-2011	137-055-7160	7-1-2011	Amend	8-1-2011
137-055-3430	12-27-2010	Amend	2-1-2011	137-055-7160(T)	7-1-2011	Repeal	8-1-2011
137-055-3430(T)	12-27-2010	Repeal	2-1-2011	137-055-7180	3-31-2011	Amend(T)	5-1-2011
137-055-4040	3-31-2011	Amend(T)	5-1-2011	137-055-7180	7-1-2011	Amend	8-1-2011
137-055-4040	7-1-2011	Amend	8-1-2011	137-055-7180(T)	7-1-2011	Repeal	8-1-2011
137-055-4040(T)	7-1-2011	Repeal	8-1-2011	137-055-7190	3-31-2011	Amend(T)	5-1-2011
137-055-4060	7-1-2011	Amend	8-1-2011	137-055-7190	7-1-2011	Amend	8-1-2011
137-055-4080	7-1-2011	Amend(T)	8-1-2011	137-055-7190(T)	7-1-2011	Repeal	8-1-2011
137-055-4080	10-3-2011	Amend	11-1-2011	137-078-0000	12-1-2010	Amend	1-1-2011
137-055-4080(T)	10-3-2011	Repeal	11-1-2011	137-078-0000(T)	12-1-2010	Repeal	1-1-2011
137-055-4100	7-1-2011	Repeal	8-1-2011	137-078-0005	12-1-2010	Amend	1-1-2011
137-055-4110	7-1-2011	Repeal	8-1-2011	137-078-0005(T)	12-1-2010	Repeal	1-1-2011
137-055-4120	7-1-2011	Repeal	8-1-2011	137-078-0010	12-1-2010	Amend	1-1-2011
137-055-4180	7-1-2011	Repeal	8-1-2011	137-078-0010(T)	12-1-2010	Repeal	1-1-2011
137-055-4455	3-31-2011	Amend(T)	5-1-2011	137-078-0015	12-1-2010	Amend	1-1-2011
137-055-4455	7-1-2011	Amend	8-1-2011	137-078-0015(T)	12-1-2010	Repeal	1-1-2011
137-055-4455(T)	7-1-2011	Repeal	8-1-2011	137-078-0020	12-1-2010	Amend	1-1-2011
137-055-4540	3-31-2011	Amend(T)	5-1-2011	137-078-0020(T)	12-1-2010	Repeal	1-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
137-078-0025	12-1-2010	Amend	1-1-2011	141-085-0685	3-1-2011	Amend	4-1-2011
137-078-0025(T)	12-1-2010	Repeal	1-1-2011	141-085-0690	3-1-2011	Amend	4-1-2011
137-078-0030	12-1-2010	Amend	1-1-2011	141-085-0695	3-1-2011	Amend	4-1-2011
137-078-0030(T)	12-1-2010	Repeal	1-1-2011	141-085-0700	3-1-2011	Amend	4-1-2011
137-078-0035	12-1-2010	Amend	1-1-2011	141-085-0705	3-1-2011	Amend	4-1-2011
137-078-0035(T)	12-1-2010	Repeal	1-1-2011	141-085-0710	3-1-2011	Amend	4-1-2011
137-078-0040	12-1-2010	Amend	1-1-2011	141-085-0715	3-1-2011	Amend	4-1-2011
137-078-0040(T)	12-1-2010	Repeal	1-1-2011	141-085-0720	3-1-2011	Amend	4-1-2011
137-078-0041	12-1-2010	Adopt	1-1-2011	141-085-0725	3-1-2011	Amend	4-1-2011
137-078-0041(T)	12-1-2010	Repeal	1-1-2011	141-085-0730	3-1-2011	Amend	4-1-2011
137-078-0045	12-1-2010	Amend	1-1-2011	141-085-0735	3-1-2011	Amend	4-1-2011
137-078-0045(T)	12-1-2010	Repeal	1-1-2011	141-085-0740	3-1-2011	Amend	4-1-2011
137-078-0050	12-1-2010	Amend	1-1-2011	141-085-0745	3-1-2011	Amend	4-1-2011
137-078-0050(T)	12-1-2010	Repeal	1-1-2011	141-085-0755	3-1-2011	Amend	4-1-2011
137-078-0051	12-1-2010	Adopt	1-1-2011	141-085-0760	3-1-2011	Amend	4-1-2011
137-078-0051(T)	12-1-2010	Repeal	1-1-2011	141-085-0765	3-1-2011	Amend	4-1-2011
137-082-0210	4-1-2011	Amend	5-1-2011	141-085-0770	3-1-2011	Amend	4-1-2011
137-082-0220	4-1-2011	Amend	5-1-2011	141-085-0775	3-1-2011	Amend	4-1-2011
137-082-0230	4-1-2011	Amend	5-1-2011	141-085-0780	3-1-2011	Amend	4-1-2011
137-082-0240	4-1-2011	Amend	5-1-2011	141-085-0785	3-1-2011	Amend	4-1-2011
137-082-0250	4-1-2011	Amend	5-1-2011	141-089-0095	3-1-2011	Repeal	4-1-2011
137-082-0260	4-1-2011	Amend	5-1-2011	141-089-0100	3-1-2011	Repeal	4-1-2011
137-082-0270	4-1-2011	Amend	5-1-2011	141-089-0105	3-1-2011	Repeal	4-1-2011
137-082-0280	4-1-2011	Amend	5-1-2011	141-089-0110	3-1-2011	Repeal	4-1-2011
137-083-0000	4-1-2011	Amend	5-1-2011	141-089-0115	3-1-2011	Repeal	4-1-2011
137-083-0010	4-1-2011	Amend	5-1-2011	141-089-0120	3-1-2011	Repeal	4-1-2011
137-083-0020	4-1-2011	Amend	5-1-2011	141-089-0125	3-1-2011	Repeal	4-1-2011
137-083-0040	4-1-2011	Amend	5-1-2011	141-089-0130	3-1-2011	Repeal	4-1-2011
137-083-0050	4-1-2011	Amend	5-1-2011	141-089-0135	3-1-2011	Repeal	4-1-2011
141-040-0211	1-1-2011	Amend	1-1-2011	141-089-0140	3-1-2011	Repeal	4-1-2011
141-040-0212	1-1-2011	Amend	1-1-2011	141-089-0145	3-1-2011	Repeal	4-1-2011
141-040-0213	1-1-2011	Amend	1-1-2011	141-089-0150	3-1-2011	Repeal	4-1-2011
141-040-0214	1-1-2011	Amend	1-1-2011	141-089-0155	3-1-2011	Repeal	4-1-2011
141-040-0220	1-1-2011	Amend	1-1-2011	141-089-0160	3-1-2011	Repeal	4-1-2011
141-085-0506	3-1-2011	Amend	4-1-2011	141-089-0165	3-1-2011	Repeal	4-1-2011
141-085-0510	3-1-2011	Amend	4-1-2011	141-089-0170	3-1-2011	Repeal	4-1-2011
141-085-0515	3-1-2011	Amend	4-1-2011	141-089-0175	3-1-2011	Repeal	4-1-2011
141-085-0520	3-1-2011	Amend	4-1-2011	141-089-0180	3-1-2011	Repeal	4-1-2011
141-085-0525	3-1-2011	Amend	4-1-2011	141-089-0185	3-1-2011	Repeal	4-1-2011
141-085-0530	3-1-2011	Amend	4-1-2011	141-089-0190	3-1-2011	Repeal	4-1-2011
141-085-0534	3-1-2011	Amend	4-1-2011	141-089-0192	3-1-2011	Repeal	4-1-2011
141-085-0535	3-1-2011	Amend	4-1-2011	141-089-0195	3-1-2011	Repeal	4-1-2011
141-085-0540	3-1-2011	Amend	4-1-2011	141-089-0200	3-1-2011	Repeal	4-1-2011
141-085-0545	3-1-2011	Amend	4-1-2011	141-089-0205	3-1-2011	Repeal	4-1-2011
141-085-0550	3-1-2011	Amend	4-1-2011	141-089-0210	3-1-2011	Repeal	4-1-2011
141-085-0555	3-1-2011	Amend	4-1-2011	141-089-0215	3-1-2011	Repeal	4-1-2011
141-085-0560	3-1-2011	Amend	4-1-2011	141-089-0220	3-1-2011	Repeal	4-1-2011
141-085-0565	3-1-2011	Amend	4-1-2011	141-089-0225	3-1-2011	Repeal	4-1-2011
141-085-0575	3-1-2011	Amend	4-1-2011	141-089-0230	3-1-2011	Repeal	4-1-2011
141-085-0585	3-1-2011	Amend	4-1-2011	141-089-0235	3-1-2011	Repeal	4-1-2011
141-085-0590	3-1-2011	Amend	4-1-2011	141-089-0240	3-1-2011	Repeal	4-1-2011
141-085-0595	3-1-2011	Amend	4-1-2011	141-089-0245	3-1-2011	Repeal	4-1-2011
141-085-0665	3-1-2011	Amend	4-1-2011	141-089-0250	3-1-2011	Repeal	4-1-2011
141-085-0675	3-1-2011	Repeal	4-1-2011	141-089-0255	3-1-2011	Repeal	4-1-2011
141-085-0676	3-1-2011	Amend	4-1-2011	141-089-0260	3-1-2011	Repeal	4-1-2011
141-085-0680	3-1-2011	Amend	4-1-2011	141-089-0265	3-1-2011	Repeal	4-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
150-280.075	1-1-2011	Amend	2-1-2011	162-014-0120	1-27-2011	Repeal	3-1-2011
150-293.525(1)(b)	1-1-2011	Amend	2-1-2011	162-014-0130	1-27-2011	Repeal	3-1-2011
150-294.175(2)-(B)	1-1-2011	Amend	2-1-2011	162-014-0140	1-27-2011	Repeal	3-1-2011
150-307.126	1-1-2011	Adopt	2-1-2011	162-014-0150	1-27-2011	Repeal	3-1-2011
150-311.160	1-1-2011	Repeal	2-1-2011	162-014-0160	1-27-2011	Repeal	3-1-2011
150-314.402(1)	1-1-2011	Amend	2-1-2011	162-014-0170	1-27-2011	Repeal	3-1-2011
150-314.665(2)-(A)	12-1-2010	Amend(T)	1-1-2011	162-014-0180	1-27-2011	Repeal	3-1-2011
150-314.665(2)-(A)	3-21-2011	Amend	5-1-2011	162-014-0190	1-27-2011	Repeal	3-1-2011
150-314.665(2)-(A) (Temp)	3-21-2011	Repeal	5-1-2011	162-014-0200	1-27-2011	Repeal	3-1-2011
150-314.665(2)-(C)	12-1-2010	Suspend	1-1-2011	162-014-0210	1-27-2011	Repeal	3-1-2011
150-314.665(2)-(C)	3-21-2011	Adopt	5-1-2011	162-014-0220	1-27-2011	Repeal	3-1-2011
150-314.665(2)-(C) (Temp)	3-21-2011	Repeal	5-1-2011	162-014-0230	1-27-2011	Repeal	3-1-2011
150-314.760	1-1-2011	Repeal	2-1-2011	162-014-0240	1-27-2011	Repeal	3-1-2011
150-315.354	12-17-2010	Amend(T)	2-1-2011	162-015-0000	1-27-2011	Repeal	3-1-2011
150-315.HB3672	10-12-2011	Adopt(T)	11-1-2011	162-015-0010	1-27-2011	Repeal	3-1-2011
150-316.587(8)-(A)	1-1-2011	Amend	2-1-2011	162-015-0020	1-27-2011	Repeal	3-1-2011
150-316.OL2010.CH66	1-1-2011	Adopt	2-1-2011	162-015-0030	1-27-2011	Repeal	3-1-2011
150-323.500(9)	1-1-2011	Amend	2-1-2011	162-015-0040	1-27-2011	Repeal	3-1-2011
150-323.500(9) (T)	1-1-2011	Repeal	2-1-2011	162-015-0050	1-27-2011	Repeal	3-1-2011
150-465.101(5)-(B)	1-1-2011	Adopt	2-1-2011	162-015-0060	1-27-2011	Repeal	3-1-2011
150-465.101(5)-(B) (T)	1-1-2011	Repeal	2-1-2011	162-015-0070	1-27-2011	Repeal	3-1-2011
160-050-0230	9-22-2011	Amend	11-1-2011	162-015-0080	1-27-2011	Repeal	3-1-2011
160-050-0240	9-22-2011	Amend	11-1-2011	162-015-0090	1-27-2011	Repeal	3-1-2011
161-006-0025	7-1-2011	Amend(T)	6-1-2011	162-015-0100	1-27-2011	Repeal	3-1-2011
162-001-0010	1-27-2011	Repeal	3-1-2011	162-015-0110	1-27-2011	Repeal	3-1-2011
162-010-0030	1-27-2011	Amend	3-1-2011	162-015-0120	1-27-2011	Repeal	3-1-2011
162-011-0000	1-27-2011	Repeal	3-1-2011	162-015-0130	1-27-2011	Repeal	3-1-2011
162-011-0010	1-27-2011	Repeal	3-1-2011	162-016-0000	1-27-2011	Repeal	3-1-2011
162-011-0020	1-27-2011	Repeal	3-1-2011	165-001-0009	4-8-2011	Adopt	5-1-2011
162-011-0030	1-27-2011	Repeal	3-1-2011	165-001-0015	4-8-2011	Amend	5-1-2011
162-011-0040	1-27-2011	Repeal	3-1-2011	165-001-0015	7-12-2011	Amend	8-1-2011
162-012-0000	1-27-2011	Repeal	3-1-2011	165-001-0016	4-8-2011	Adopt	5-1-2011
162-012-0010	1-27-2011	Repeal	3-1-2011	165-001-0034	4-8-2011	Adopt	5-1-2011
162-012-0020	1-27-2011	Repeal	3-1-2011	165-001-0036	4-8-2011	Adopt	5-1-2011
162-012-0030	1-27-2011	Repeal	3-1-2011	165-001-0040	4-8-2011	Amend	5-1-2011
162-012-0040	1-27-2011	Repeal	3-1-2011	165-001-0050	7-12-2011	Amend	8-1-2011
162-012-0050	1-27-2011	Repeal	3-1-2011	165-005-0055	7-12-2011	Amend	8-1-2011
162-013-0000	1-27-2011	Repeal	3-1-2011	165-005-0065	7-12-2011	Amend	8-1-2011
162-013-0010	1-27-2011	Repeal	3-1-2011	165-007-0250	9-30-2011	Repeal	11-1-2011
162-013-0020	1-27-2011	Repeal	3-1-2011	165-007-2012	8-23-2011	Adopt(T)	10-1-2011
162-013-0030	1-27-2011	Repeal	3-1-2011	165-007-2012	9-26-2011	Adopt(T)	11-1-2011
162-013-0040	1-27-2011	Repeal	3-1-2011	165-007-2012(T)	9-26-2011	Suspend	11-1-2011
162-013-0050	1-27-2011	Repeal	3-1-2011	165-010-0005	2-4-2011	Amend	3-1-2011
162-013-0060	1-27-2011	Repeal	3-1-2011	165-010-0005	8-16-2011	Amend(T)	10-1-2011
162-014-0000	1-27-2011	Repeal	3-1-2011	165-012-0005	4-8-2011	Amend	5-1-2011
162-014-0010	1-27-2011	Repeal	3-1-2011	165-012-0005	7-12-2011	Amend	8-1-2011
162-014-0020	1-27-2011	Repeal	3-1-2011	165-012-0005	9-30-2011	Amend(T)	11-1-2011
162-014-0030	1-27-2011	Repeal	3-1-2011	165-013-0010	4-8-2011	Amend	5-1-2011
162-014-0040	1-27-2011	Repeal	3-1-2011	165-014-0030	9-26-2011	Amend	11-1-2011
162-014-0050	1-27-2011	Repeal	3-1-2011	165-014-0032	9-26-2011	Repeal	11-1-2011
162-014-0060	1-27-2011	Repeal	3-1-2011	165-014-0100	8-1-2011	Amend	9-1-2011
162-014-0070	1-27-2011	Repeal	3-1-2011	165-014-0110	9-26-2011	Amend	11-1-2011
162-014-0080	1-27-2011	Repeal	3-1-2011	165-014-0260	8-11-2011	Amend	9-1-2011
162-014-0090	1-27-2011	Repeal	3-1-2011	165-014-0275	8-4-2011	Amend	9-1-2011
162-014-0100	1-27-2011	Repeal	3-1-2011	165-020-0005	2-4-2011	Amend	3-1-2011
162-014-0110	1-27-2011	Repeal	3-1-2011	165-020-2027	2-11-2011	Adopt(T)	3-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
165-020-2028	2-18-2011	Adopt(T)	4-1-2011	177-094-0080	12-1-2010	Amend	1-1-2011
165-020-2029	2-18-2011	Adopt(T)	4-1-2011	177-098-0010	12-12-2010	Amend	1-1-2011
165-020-2030	2-22-2011	Adopt(T)	4-1-2011	177-098-0040	12-12-2010	Amend	1-1-2011
165-020-2031	3-8-2011	Adopt(T)	4-1-2011	177-098-0060	12-12-2010	Amend	1-1-2011
166-030-0060	7-15-2011	Amend(T)	8-1-2011	177-098-0110	12-12-2010	Amend	1-1-2011
166-500-0040	6-10-2011	Amend(T)	7-1-2011	177-099-0000	9-1-2011	Amend	10-1-2011
166-500-0040	7-1-2011	Amend(T)	8-1-2011	177-099-0015	9-1-2011	Adopt	10-1-2011
166-500-0040	10-14-2011	Amend	11-1-2011	177-099-0020	9-1-2011	Amend	10-1-2011
166-500-0040(T)	7-1-2011	Suspend	8-1-2011	177-099-0030	9-1-2011	Amend	10-1-2011
170-061-0015	2-28-2011	Amend	4-1-2011	177-099-0100	3-1-2011	Adopt	4-1-2011
170-062-0000	12-1-2010	Amend(T)	1-1-2011	177-200-0020	9-18-2011	Amend(T)	10-1-2011
170-062-0000	4-1-2011	Amend	5-1-2011	177-200-0032	9-18-2011	Amend(T)	10-1-2011
170-062-0000(T)	4-1-2011	Repeal	5-1-2011	190-001-0000	12-1-2010	Repeal	1-1-2011
172-001-0005	1-10-2011	Amend	2-1-2011	190-001-0005	12-1-2010	Repeal	1-1-2011
172-005-0000	1-10-2011	Amend	2-1-2011	190-010-0000	1-3-2011	Repeal	2-1-2011
172-005-0010	1-10-2011	Amend	2-1-2011	190-010-0005	1-3-2011	Repeal	2-1-2011
172-005-0020	1-10-2011	Amend	2-1-2011	190-010-0010	1-3-2011	Repeal	2-1-2011
172-005-0030	1-10-2011	Amend	2-1-2011	190-010-0015	1-3-2011	Repeal	2-1-2011
172-005-0040	1-10-2011	Amend	2-1-2011	190-010-0020	1-3-2011	Repeal	2-1-2011
172-005-0050	1-10-2011	Amend	2-1-2011	190-010-0025	1-3-2011	Repeal	2-1-2011
172-005-0060	1-10-2011	Amend	2-1-2011	190-010-0030	1-3-2011	Repeal	2-1-2011
172-005-0065	1-10-2011	Adopt	2-1-2011	190-010-0035	1-3-2011	Am. & Ren.	2-1-2011
172-005-0070	1-10-2011	Amend	2-1-2011	190-010-0040	1-3-2011	Repeal	2-1-2011
177-040-0000	1-1-2011	Amend	2-1-2011	213-013-0010	1-1-2012	Amend	1-1-2011
177-040-0001	1-1-2011	Amend	2-1-2011	213-017-0006	12-26-2010	Amend	1-1-2011
177-040-0003	1-1-2011	Amend	2-1-2011	213-017-0006(T)	12-26-2010	Repeal	1-1-2011
177-040-0005	5-1-2011	Amend	6-1-2011	213-070-0000	1-1-2011	Adopt	1-1-2011
177-040-0024	1-1-2011	Adopt	2-1-2011	213-070-0005	1-1-2011	Adopt	1-1-2011
177-040-0070	1-1-2011	Amend	2-1-2011	213-070-0010	1-1-2011	Adopt	1-1-2011
177-045-0000	5-1-2011	Amend	6-1-2011	213-070-0020	1-1-2011	Adopt	1-1-2011
177-045-0010	5-1-2011	Amend	6-1-2011	213-070-0030	1-1-2011	Adopt	1-1-2011
177-051-0000	8-1-2011	Amend	9-1-2011	213-070-0040	1-1-2011	Adopt	1-1-2011
177-051-0010	8-1-2011	Amend	9-1-2011	213-070-0050	1-1-2011	Adopt	1-1-2011
177-051-0020	8-1-2011	Repeal	9-1-2011	250-010-0430	2-1-2011	Amend	2-1-2011
177-051-0030	8-1-2011	Amend	9-1-2011	250-010-0450	2-1-2011	Amend	2-1-2011
177-051-0035	8-1-2011	Adopt	9-1-2011	250-010-0650	2-1-2011	Amend	2-1-2011
177-051-0040	8-1-2011	Amend	9-1-2011	250-010-0650	8-18-2011	Amend(T)	10-1-2011
177-051-0050	8-1-2011	Repeal	9-1-2011	250-010-0660	8-23-2011	Adopt(T)	10-1-2011
177-051-0060	8-1-2011	Repeal	9-1-2011	250-020-0151	1-3-2011	Amend(T)	2-1-2011
177-051-0070	8-1-2011	Repeal	9-1-2011	250-020-0151	5-2-2011	Amend	6-1-2011
177-051-0080	8-1-2011	Repeal	9-1-2011	250-020-0151(T)	5-2-2011	Repeal	6-1-2011
177-051-0090	8-1-2011	Repeal	9-1-2011	250-020-0221	4-8-2011	Amend(T)	5-1-2011
177-051-0100	8-1-2011	Repeal	9-1-2011	250-020-0221	7-1-2011	Amend(T)	8-1-2011
177-051-0110	8-1-2011	Repeal	9-1-2011	250-020-0221(T)	8-5-2011	Suspend	9-1-2011
177-051-0120	8-1-2011	Amend	9-1-2011	250-020-0241	5-2-2011	Amend	6-1-2011
177-051-0130	8-1-2011	Amend	9-1-2011	250-020-0280	5-25-2011	Amend	4-1-2011
177-052-0000	9-2-2011	Adopt(T)	10-1-2011	250-020-0280	6-1-2011	Amend	6-1-2011
177-052-0010	9-2-2011	Adopt(T)	10-1-2011	250-020-0280	6-15-2011	Amend(T)	6-1-2011
177-052-0020	9-2-2011	Adopt(T)	10-1-2011	250-021-0040	1-3-2011	Amend(T)	2-1-2011
177-052-0030	9-2-2011	Adopt(T)	10-1-2011	250-021-0040	5-2-2011	Amend	6-1-2011
177-052-0040	9-2-2011	Adopt(T)	10-1-2011	250-021-0040(T)	5-2-2011	Repeal	6-1-2011
177-052-0050	9-2-2011	Adopt(T)	10-1-2011	255-001-0005	1-11-2011	Amend	2-1-2011
177-052-0060	9-2-2011	Adopt(T)	10-1-2011	255-001-0010	1-11-2011	Amend	2-1-2011
177-052-0070	9-2-2011	Adopt(T)	10-1-2011	255-001-0016	1-11-2011	Amend	2-1-2011
177-070-0016	9-1-2011	Adopt	10-1-2011	255-005-0005	12-1-2010	Amend	1-1-2011
177-085-0065	12-12-2010	Amend	1-1-2011	255-005-0005(T)	12-1-2010	Repeal	1-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
255-015-0015	12-1-2010	Amend	1-1-2011	259-025-0000	6-1-2011	Amend	6-1-2011
255-020-0005	3-4-2011	Amend	4-1-2011	259-060-0305	6-30-2011	Repeal	8-1-2011
255-020-0015	3-4-2011	Amend	4-1-2011	259-060-0500	7-1-2011	Amend(T)	7-1-2011
255-030-0027	12-1-2010	Amend	1-1-2011	259-060-0500	8-1-2011	Amend	9-1-2011
255-030-0027(T)	12-1-2010	Repeal	1-1-2011	259-060-0500	8-1-2011	Repeal	9-1-2011
255-032-0036	5-26-2011	Adopt(T)	7-1-2011	274-031-0001	3-24-2011	Adopt	5-1-2011
255-036-0005	6-23-2011	Amend	8-1-2011	274-031-0002	3-24-2011	Adopt	5-1-2011
255-036-0010	6-23-2011	Amend	8-1-2011	274-031-0003	3-24-2011	Adopt	5-1-2011
255-036-0020	6-23-2011	Amend	8-1-2011	274-031-0004	3-24-2011	Adopt	5-1-2011
255-036-0025	6-23-2011	Amend	8-1-2011	274-031-0005	3-24-2011	Adopt	5-1-2011
255-036-0030	6-23-2011	Amend	8-1-2011	274-031-0006	3-24-2011	Adopt	5-1-2011
255-060-0018	1-11-2011	Adopt	2-1-2011	274-031-0007	3-24-2011	Adopt	5-1-2011
255-080-0001	12-1-2010	Amend	1-1-2011	274-031-0008	3-24-2011	Adopt	5-1-2011
255-080-0005	12-1-2010	Amend	1-1-2011	274-031-0009	3-24-2011	Adopt	5-1-2011
255-080-0008	12-1-2010	Adopt	1-1-2011	291-006-0005	3-1-2011	Amend	4-1-2011
255-080-0008	12-1-2010	Amend	1-1-2011	291-006-0011	3-1-2011	Adopt	4-1-2011
255-080-0011	12-1-2010	Amend	1-1-2011	291-006-0012	3-1-2011	Adopt	4-1-2011
257-010-0015	2-28-2011	Amend	3-1-2011	291-006-0015	3-1-2011	Amend	4-1-2011
257-010-0015(T)	2-28-2011	Repeal	3-1-2011	291-006-0020	3-1-2011	Repeal	4-1-2011
257-010-0020	2-28-2011	Amend	3-1-2011	291-006-0025	3-1-2011	Repeal	4-1-2011
257-010-0020(T)	2-28-2011	Repeal	3-1-2011	291-006-0031	3-1-2011	Adopt	4-1-2011
257-010-0025	2-28-2011	Amend	3-1-2011	291-006-0035	3-1-2011	Adopt	4-1-2011
257-010-0025(T)	2-28-2011	Repeal	3-1-2011	291-006-0040	3-1-2011	Adopt	4-1-2011
257-010-0045	2-28-2011	Amend	3-1-2011	291-006-0045	3-1-2011	Adopt	4-1-2011
257-010-0045(T)	2-28-2011	Repeal	3-1-2011	291-015-0100	11-19-2010	Amend	1-1-2011
257-010-0050	2-28-2011	Amend	3-1-2011	291-015-0100(T)	11-19-2010	Repeal	1-1-2011
257-010-0050(T)	2-28-2011	Repeal	3-1-2011	291-015-0105	11-19-2010	Amend	1-1-2011
257-010-0055	2-28-2011	Amend	3-1-2011	291-015-0105(T)	11-19-2010	Repeal	1-1-2011
257-010-0055(T)	2-28-2011	Repeal	3-1-2011	291-015-0110	11-19-2010	Amend	1-1-2011
257-050-0050	9-7-2011	Amend	10-1-2011	291-015-0110(T)	11-19-2010	Repeal	1-1-2011
257-050-0155	9-7-2011	Amend	10-1-2011	291-015-0115	11-19-2010	Amend	1-1-2011
257-050-0157	9-7-2011	Amend	10-1-2011	291-015-0115(T)	11-19-2010	Repeal	1-1-2011
257-050-0200	3-8-2011	Amend	4-1-2011	291-015-0120	11-19-2010	Amend	1-1-2011
259-001-0015	8-29-2011	Amend	10-1-2011	291-015-0120(T)	11-19-2010	Repeal	1-1-2011
259-003-0015	8-29-2011	Amend	10-1-2011	291-015-0125	11-19-2010	Amend	1-1-2011
259-005-0015	8-29-2011	Amend	10-1-2011	291-015-0125(T)	11-19-2010	Repeal	1-1-2011
259-008-0010	6-28-2011	Amend	8-1-2011	291-015-0130	11-19-2010	Repeal	1-1-2011
259-008-0010	10-1-2011	Amend	11-1-2011	291-015-0135	11-19-2010	Amend	1-1-2011
259-008-0011	12-23-2010	Amend	2-1-2011	291-015-0135(T)	11-19-2010	Repeal	1-1-2011
259-008-0011	6-28-2011	Amend	8-1-2011	291-015-0140	11-19-2010	Repeal	1-1-2011
259-008-0011	10-1-2011	Amend	11-1-2011	291-015-0145	11-19-2010	Repeal	1-1-2011
259-008-0011(T)	12-23-2010	Repeal	2-1-2011	291-015-0150	11-19-2010	Repeal	1-1-2011
259-008-0025	5-1-2011	Amend	5-1-2011	291-019-0047	7-15-2011	Repeal	8-1-2011
259-008-0060	6-24-2011	Amend	8-1-2011	291-019-0110	7-15-2011	Amend	8-1-2011
259-008-0070	7-1-2011	Amend	8-1-2011	291-019-0130	7-15-2011	Amend	8-1-2011
259-008-0072	6-30-2011	Repeal	8-1-2011	291-019-0150	7-15-2011	Amend	8-1-2011
259-009-0005	5-1-2011	Amend	5-1-2011	291-024-0005	5-31-2011	Amend(T)	7-1-2011
259-009-0005	8-1-2011	Amend	9-1-2011	291-024-0010	5-31-2011	Amend(T)	7-1-2011
259-009-0062	5-1-2011	Amend	5-1-2011	291-024-0015	5-31-2011	Amend(T)	7-1-2011
259-009-0070	4-1-2011	Amend	4-1-2011	291-024-0016	5-31-2011	Amend(T)	7-1-2011
259-009-0070	7-1-2011	Amend	8-1-2011	291-024-0020	5-31-2011	Amend(T)	7-1-2011
259-009-0072	6-30-2011	Repeal	8-1-2011	291-024-0025	5-31-2011	Amend(T)	7-1-2011
259-020-0030	6-23-2011	Amend	8-1-2011	291-024-0055	5-31-2011	Amend(T)	7-1-2011
259-020-0031	6-13-2011	Amend(T)	7-1-2011	291-024-0060	5-31-2011	Amend(T)	7-1-2011
259-020-0031	8-1-2011	Amend	9-1-2011	291-024-0066	5-31-2011	Amend(T)	7-1-2011
259-020-0031	8-1-2011	Repeal	9-1-2011	291-024-0071	5-31-2011	Amend(T)	7-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
291-024-0080	5-31-2011	Amend(T)	7-1-2011	291-048-0280(T)	4-1-2011	Repeal	5-1-2011
291-027-0020	5-2-2011	Amend	6-1-2011	291-048-0320	12-13-2010	Adopt(T)	1-1-2011
291-027-0030	5-2-2011	Amend	6-1-2011	291-048-0320	4-1-2011	Adopt	5-1-2011
291-027-0040	5-2-2011	Amend	6-1-2011	291-048-0320(T)	4-1-2011	Repeal	5-1-2011
291-027-0050	5-2-2011	Amend	6-1-2011	291-063-0010	12-1-2010	Amend(T)	1-1-2011
291-027-0055	5-2-2011	Adopt	6-1-2011	291-063-0010	6-2-2011	Amend	7-1-2011
291-027-0060	5-2-2011	Repeal	6-1-2011	291-063-0010(T)	6-2-2011	Repeal	7-1-2011
291-027-0065	5-2-2011	Adopt	6-1-2011	291-063-0016	12-1-2010	Amend(T)	1-1-2011
291-027-0070	5-2-2011	Amend	6-1-2011	291-063-0016	6-2-2011	Amend	7-1-2011
291-027-0080	5-2-2011	Amend	6-1-2011	291-063-0016(T)	6-2-2011	Repeal	7-1-2011
291-035-0005	7-15-2011	Amend	8-1-2011	291-063-0030	12-1-2010	Amend(T)	1-1-2011
291-035-0010	7-15-2011	Amend	8-1-2011	291-063-0030	6-2-2011	Amend	7-1-2011
291-035-0011	7-15-2011	Adopt	8-1-2011	291-063-0030(T)	6-2-2011	Repeal	7-1-2011
291-035-0015	7-15-2011	Amend	8-1-2011	291-083-0010	10-6-2011	Amend	11-1-2011
291-048-0100	12-13-2010	Am. & Ren.(T)	1-1-2011	291-083-0015	10-6-2011	Amend	11-1-2011
291-048-0100	4-1-2011	Am. & Ren.	5-1-2011	291-097-0010	4-8-2011	Amend	5-1-2011
291-048-0100(T)	4-1-2011	Repeal	5-1-2011	291-097-0010(T)	4-8-2011	Repeal	5-1-2011
291-048-0110	12-13-2010	Am. & Ren.(T)	1-1-2011	291-097-0020	4-8-2011	Amend	5-1-2011
291-048-0110	4-1-2011	Am. & Ren.	5-1-2011	291-097-0020(T)	4-8-2011	Repeal	5-1-2011
291-048-0110(T)	4-1-2011	Repeal	5-1-2011	291-097-0025	4-8-2011	Amend	5-1-2011
291-048-0115	12-13-2010	Am. & Ren.(T)	1-1-2011	291-097-0025(T)	4-8-2011	Repeal	5-1-2011
291-048-0115	4-1-2011	Am. & Ren.	5-1-2011	291-097-0031	4-8-2011	Adopt	5-1-2011
291-048-0115(T)	4-1-2011	Repeal	5-1-2011	291-097-0040	4-8-2011	Amend	5-1-2011
291-048-0120	12-13-2010	Suspend	1-1-2011	291-097-0040(T)	4-8-2011	Repeal	5-1-2011
291-048-0120	4-1-2011	Repeal	5-1-2011	291-097-0050	4-8-2011	Amend	5-1-2011
291-048-0130	12-13-2010	Am. & Ren.(T)	1-1-2011	291-097-0050(T)	4-8-2011	Repeal	5-1-2011
291-048-0130	4-1-2011	Am. & Ren.	5-1-2011	291-105-0005	6-10-2011	Amend(T)	7-1-2011
291-048-0130(T)	4-1-2011	Repeal	5-1-2011	291-105-0100	6-10-2011	Amend(T)	7-1-2011
291-048-0140	12-13-2010	Am. & Ren.(T)	1-1-2011	291-109-0100	3-1-2011	Amend	4-1-2011
291-048-0140	4-1-2011	Am. & Ren.	5-1-2011	291-109-0110	3-1-2011	Amend	4-1-2011
291-048-0140(T)	4-1-2011	Repeal	5-1-2011	291-109-0120	3-1-2011	Amend	4-1-2011
291-048-0150	12-13-2010	Am. & Ren.(T)	1-1-2011	291-109-0125	3-1-2011	Adopt	4-1-2011
291-048-0150	4-1-2011	Am. & Ren.	5-1-2011	291-109-0140	3-1-2011	Amend	4-1-2011
291-048-0150(T)	4-1-2011	Repeal	5-1-2011	291-109-0150	3-1-2011	Amend	4-1-2011
291-048-0160	12-13-2010	Am. & Ren.(T)	1-1-2011	291-109-0160	3-1-2011	Amend	4-1-2011
291-048-0160	4-1-2011	Am. & Ren.	5-1-2011	291-109-0170	3-1-2011	Amend	4-1-2011
291-048-0160(T)	4-1-2011	Repeal	5-1-2011	291-109-0180	3-1-2011	Amend	4-1-2011
291-048-0170	12-13-2010	Am. & Ren.(T)	1-1-2011	291-109-0190	3-1-2011	Amend	4-1-2011
291-048-0170	4-1-2011	Am. & Ren.	5-1-2011	291-124-0005	11-19-2010	Amend	1-1-2011
291-048-0170(T)	4-1-2011	Repeal	5-1-2011	291-124-0010	11-19-2010	Amend	1-1-2011
291-048-0180	12-13-2010	Suspend	1-1-2011	291-124-0015	11-19-2010	Repeal	1-1-2011
291-048-0180	4-1-2011	Repeal	5-1-2011	291-124-0016	11-19-2010	Adopt	1-1-2011
291-048-0190	12-13-2010	Am. & Ren.(T)	1-1-2011	291-124-0017	11-19-2010	Adopt	1-1-2011
291-048-0190	4-1-2011	Am. & Ren.	5-1-2011	291-124-0020	11-19-2010	Amend	1-1-2011
291-048-0190(T)	4-1-2011	Repeal	5-1-2011	291-124-0025	11-19-2010	Repeal	1-1-2011
291-048-0230	12-13-2010	Adopt(T)	1-1-2011	291-124-0030	11-19-2010	Amend	1-1-2011
291-048-0230	4-1-2011	Adopt	5-1-2011	291-124-0035	11-19-2010	Amend	1-1-2011
291-048-0230(T)	4-1-2011	Repeal	5-1-2011	291-124-0041	11-19-2010	Amend	1-1-2011
291-048-0240	12-13-2010	Adopt(T)	1-1-2011	291-124-0055	11-19-2010	Amend	1-1-2011
291-048-0240	4-1-2011	Adopt	5-1-2011	291-124-0060	11-19-2010	Amend	1-1-2011
291-048-0240(T)	4-1-2011	Repeal	5-1-2011	291-124-0065	11-19-2010	Amend	1-1-2011
291-048-0270	12-13-2010	Adopt(T)	1-1-2011	291-124-0070	11-19-2010	Amend	1-1-2011
291-048-0270	4-1-2011	Adopt	5-1-2011	291-124-0075	11-19-2010	Amend	1-1-2011
291-048-0270(T)	4-1-2011	Repeal	5-1-2011	291-124-0080	11-19-2010	Amend	1-1-2011
291-048-0280	12-13-2010	Adopt(T)	1-1-2011	291-124-0085	11-19-2010	Amend	1-1-2011
291-048-0280	4-1-2011	Adopt	5-1-2011	291-124-0090	11-19-2010	Adopt	1-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
291-124-0095	11-19-2010	Repeal	1-1-2011	291-180-0465	3-4-2011	Suspend	4-1-2011
291-124-1000	6-16-2011	Adopt(T)	8-1-2011	291-180-0475	3-4-2011	Suspend	4-1-2011
291-124-1000	10-11-2011	Adopt	11-1-2011	291-180-0485	3-4-2011	Suspend	4-1-2011
291-124-1010	6-16-2011	Adopt(T)	8-1-2011	291-180-0495	3-4-2011	Suspend	4-1-2011
291-124-1010	10-11-2011	Adopt	11-1-2011	291-180-0505	3-4-2011	Suspend	4-1-2011
291-124-1020	6-16-2011	Adopt(T)	8-1-2011	291-180-0515	3-4-2011	Suspend	4-1-2011
291-124-1020	10-11-2011	Adopt	11-1-2011	291-180-0525	3-4-2011	Suspend	4-1-2011
291-124-1030	6-16-2011	Adopt(T)	8-1-2011	291-180-0535	3-4-2011	Suspend	4-1-2011
291-124-1030	10-11-2011	Adopt	11-1-2011	291-180-0545	3-4-2011	Suspend	4-1-2011
291-124-1040	6-16-2011	Adopt(T)	8-1-2011	291-180-0555	3-4-2011	Suspend	4-1-2011
291-124-1040	10-11-2011	Adopt	11-1-2011	291-180-0565	3-4-2011	Suspend	4-1-2011
291-124-1050	6-16-2011	Adopt(T)	8-1-2011	291-180-0575	3-4-2011	Suspend	4-1-2011
291-124-1050	10-11-2011	Adopt	11-1-2011	291-180-0585	3-4-2011	Suspend	4-1-2011
291-131-0020	4-1-2011	Amend(T)	4-1-2011	291-180-0595	3-4-2011	Suspend	4-1-2011
291-131-0020	8-15-2011	Amend	9-1-2011	291-180-0605	3-4-2011	Suspend	4-1-2011
291-131-0025	4-1-2011	Amend(T)	4-1-2011	291-180-0615	3-4-2011	Suspend	4-1-2011
291-131-0025	8-15-2011	Amend	9-1-2011	291-180-0625	3-4-2011	Suspend	4-1-2011
291-131-0035	4-1-2011	Amend(T)	4-1-2011	291-180-0635	3-4-2011	Suspend	4-1-2011
291-131-0035	8-15-2011	Amend	9-1-2011	291-180-0645	3-4-2011	Suspend	4-1-2011
291-131-0037	4-1-2011	Amend(T)	4-1-2011	291-180-0655	3-4-2011	Suspend	4-1-2011
291-131-0037	8-15-2011	Amend	9-1-2011	291-180-0665	3-4-2011	Suspend	4-1-2011
291-180-0115	3-4-2011	Suspend	4-1-2011	291-202-0020	1-28-2011	Amend	3-1-2011
291-180-0125	3-4-2011	Suspend	4-1-2011	291-202-0100	1-28-2011	Adopt	3-1-2011
291-180-0135	3-4-2011	Suspend	4-1-2011	291-202-0110	1-28-2011	Adopt	3-1-2011
291-180-0145	3-4-2011	Suspend	4-1-2011	291-202-0120	1-28-2011	Adopt	3-1-2011
291-180-0155	3-4-2011	Suspend	4-1-2011	291-202-0130	1-28-2011	Adopt	3-1-2011
291-180-0165	3-4-2011	Suspend	4-1-2011	291-207-0005	8-15-2011	Adopt	9-1-2011
291-180-0175	3-4-2011	Suspend	4-1-2011	291-207-0010	8-15-2011	Adopt	9-1-2011
291-180-0185	3-4-2011	Suspend	4-1-2011	291-207-0015	8-15-2011	Adopt	9-1-2011
291-180-0195	3-4-2011	Suspend	4-1-2011	291-207-0020	8-15-2011	Adopt	9-1-2011
291-180-0205	3-4-2011	Suspend	4-1-2011	291-207-0025	8-15-2011	Adopt	9-1-2011
291-180-0215	3-4-2011	Suspend	4-1-2011	291-207-0030	8-15-2011	Adopt	9-1-2011
291-180-0225	3-4-2011	Suspend	4-1-2011	291-208-0010	9-9-2011	Adopt(T)	10-1-2011
291-180-0235	3-4-2011	Suspend	4-1-2011	291-208-0020	9-9-2011	Adopt(T)	10-1-2011
291-180-0245	3-4-2011	Suspend	4-1-2011	291-208-0030	9-9-2011	Adopt(T)	10-1-2011
291-180-0251	3-4-2011	Adopt(T)	4-1-2011	291-208-0040	9-9-2011	Adopt(T)	10-1-2011
291-180-0255	3-4-2011	Suspend	4-1-2011	291-208-0050	9-9-2011	Adopt(T)	10-1-2011
291-180-0261	3-4-2011	Adopt(T)	4-1-2011	309-014-0300	9-1-2011	Adopt(T)	10-1-2011
291-180-0285	3-4-2011	Suspend	4-1-2011	309-014-0310	9-1-2011	Adopt(T)	10-1-2011
291-180-0295	3-4-2011	Suspend	4-1-2011	309-014-0320	9-1-2011	Adopt(T)	10-1-2011
291-180-0305	3-4-2011	Suspend	4-1-2011	309-014-0330	9-1-2011	Adopt(T)	10-1-2011
291-180-0315	3-4-2011	Suspend	4-1-2011	309-014-0340	9-1-2011	Adopt(T)	10-1-2011
291-180-0325	3-4-2011	Suspend	4-1-2011	309-032-0175	9-26-2011	Repeal	11-1-2011
291-180-0335	3-4-2011	Suspend	4-1-2011	309-032-0180	9-26-2011	Repeal	11-1-2011
291-180-0345	3-4-2011	Suspend	4-1-2011	309-032-0185	9-26-2011	Repeal	11-1-2011
291-180-0355	3-4-2011	Suspend	4-1-2011	309-032-0190	9-26-2011	Repeal	11-1-2011
291-180-0365	3-4-2011	Suspend	4-1-2011	309-032-0195	9-26-2011	Repeal	11-1-2011
291-180-0375	3-4-2011	Suspend	4-1-2011	309-032-0200	9-26-2011	Repeal	11-1-2011
291-180-0385	3-4-2011	Suspend	4-1-2011	309-032-0205	9-26-2011	Repeal	11-1-2011
291-180-0395	3-4-2011	Suspend	4-1-2011	309-032-0210	9-26-2011	Repeal	11-1-2011
291-180-0405	3-4-2011	Suspend	4-1-2011	309-032-0301	9-26-2011	Adopt	11-1-2011
291-180-0415	3-4-2011	Suspend	4-1-2011	309-032-0311	9-26-2011	Adopt	11-1-2011
291-180-0425	3-4-2011	Suspend	4-1-2011	309-032-0321	9-26-2011	Adopt	11-1-2011
291-180-0435	3-4-2011	Suspend	4-1-2011	309-032-0331	9-26-2011	Adopt	11-1-2011
291-180-0445	3-4-2011	Suspend	4-1-2011	309-032-0341	9-26-2011	Adopt	11-1-2011
291-180-0455	3-4-2011	Suspend	4-1-2011	309-032-0351	9-26-2011	Adopt	11-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
309-034-0150	2-4-2011	Repeal	3-1-2011	309-043-0055	2-1-2011	Repeal	3-1-2011
309-034-0160	2-4-2011	Repeal	3-1-2011	309-043-0060	2-1-2011	Repeal	3-1-2011
309-034-0170	2-4-2011	Repeal	3-1-2011	309-043-0065	2-1-2011	Repeal	3-1-2011
309-034-0180	2-4-2011	Repeal	3-1-2011	309-043-0070	2-1-2011	Repeal	3-1-2011
309-034-0190	2-4-2011	Repeal	3-1-2011	309-043-0075	2-1-2011	Repeal	3-1-2011
309-034-0205	2-4-2011	Repeal	3-1-2011	309-043-0080	2-1-2011	Repeal	3-1-2011
309-034-0210	2-4-2011	Repeal	3-1-2011	309-043-0085	2-1-2011	Repeal	3-1-2011
309-034-0240	2-4-2011	Repeal	3-1-2011	309-043-0090	2-1-2011	Repeal	3-1-2011
309-034-0250	2-4-2011	Repeal	3-1-2011	309-043-0095	2-1-2011	Repeal	3-1-2011
309-034-0260	2-4-2011	Repeal	3-1-2011	309-043-0100	2-1-2011	Repeal	3-1-2011
309-034-0270	2-4-2011	Repeal	3-1-2011	309-043-0105	2-1-2011	Repeal	3-1-2011
309-034-0290	2-4-2011	Repeal	3-1-2011	309-043-0110	2-1-2011	Repeal	3-1-2011
309-034-0310	2-4-2011	Repeal	3-1-2011	309-043-0115	2-1-2011	Repeal	3-1-2011
309-034-0320	2-4-2011	Repeal	3-1-2011	309-043-0120	2-1-2011	Repeal	3-1-2011
309-034-0400	2-4-2011	Amend	3-1-2011	309-043-0125	2-1-2011	Repeal	3-1-2011
309-034-0410	2-4-2011	Amend	3-1-2011	309-043-0130	2-1-2011	Repeal	3-1-2011
309-034-0420	2-4-2011	Amend	3-1-2011	309-043-0135	2-1-2011	Repeal	3-1-2011
309-034-0430	2-4-2011	Amend	3-1-2011	309-043-0140	2-1-2011	Repeal	3-1-2011
309-034-0440	2-4-2011	Amend	3-1-2011	309-043-0145	2-1-2011	Repeal	3-1-2011
309-034-0450	2-4-2011	Amend	3-1-2011	309-043-0150	2-1-2011	Repeal	3-1-2011
309-034-0460	2-4-2011	Amend	3-1-2011	309-043-0155	2-1-2011	Repeal	3-1-2011
309-034-0470	2-4-2011	Amend	3-1-2011	309-043-0160	2-1-2011	Repeal	3-1-2011
309-034-0480	2-4-2011	Amend	3-1-2011	309-043-0165	2-1-2011	Repeal	3-1-2011
309-034-0490	2-4-2011	Amend	3-1-2011	309-043-0170	2-1-2011	Repeal	3-1-2011
309-034-0500	2-4-2011	Adopt	3-1-2011	309-043-0175	2-1-2011	Repeal	3-1-2011
309-041-0200	2-1-2011	Repeal	3-1-2011	309-043-0180	2-1-2011	Repeal	3-1-2011
309-041-0205	2-1-2011	Repeal	3-1-2011	309-043-0185	2-1-2011	Repeal	3-1-2011
309-041-0210	2-1-2011	Repeal	3-1-2011	309-043-0190	2-1-2011	Repeal	3-1-2011
309-041-0215	2-1-2011	Repeal	3-1-2011	309-043-0195	2-1-2011	Repeal	3-1-2011
309-041-0220	2-1-2011	Repeal	3-1-2011	309-043-0200	2-1-2011	Repeal	3-1-2011
309-041-0225	2-1-2011	Repeal	3-1-2011	309-049-0000	2-1-2011	Renumber	3-1-2011
309-041-0230	2-1-2011	Repeal	3-1-2011	309-049-0005	2-1-2011	Renumber	3-1-2011
309-041-0235	2-1-2011	Repeal	3-1-2011	309-049-0010	2-1-2011	Renumber	3-1-2011
309-041-0240	2-1-2011	Repeal	3-1-2011	309-049-0015	2-1-2011	Renumber	3-1-2011
309-041-0245	2-1-2011	Repeal	3-1-2011	309-049-0020	2-1-2011	Renumber	3-1-2011
309-041-0250	2-1-2011	Repeal	3-1-2011	309-100-0100	1-7-2011	Adopt(T)	2-1-2011
309-041-0255	2-1-2011	Repeal	3-1-2011	309-100-0110	1-7-2011	Adopt(T)	2-1-2011
309-041-1300	2-1-2011	Renumber	3-1-2011	309-100-0120	1-7-2011	Adopt(T)	2-1-2011
309-041-1310	2-1-2011	Renumber	3-1-2011	309-100-0130	1-7-2011	Adopt(T)	2-1-2011
309-041-1320	2-1-2011	Renumber	3-1-2011	309-100-0140	1-7-2011	Adopt(T)	2-1-2011
309-041-1330	2-1-2011	Renumber	3-1-2011	309-100-0150	1-7-2011	Adopt(T)	2-1-2011
309-041-1340	2-1-2011	Renumber	3-1-2011	309-102-0000	1-7-2011	Suspend	2-1-2011
309-041-1350	2-1-2011	Renumber	3-1-2011	309-102-0000	8-3-2011	Repeal	9-1-2011
309-041-1360	2-1-2011	Renumber	3-1-2011	309-102-0005	1-7-2011	Suspend	2-1-2011
309-041-1370	2-1-2011	Renumber	3-1-2011	309-102-0005	8-3-2011	Repeal	9-1-2011
309-043-0000	2-1-2011	Repeal	3-1-2011	309-102-0010	1-7-2011	Suspend	2-1-2011
309-043-0005	2-1-2011	Repeal	3-1-2011	309-102-0010	8-3-2011	Repeal	9-1-2011
309-043-0010	2-1-2011	Repeal	3-1-2011	309-102-0015	1-7-2011	Suspend	2-1-2011
309-043-0015	2-1-2011	Repeal	3-1-2011	309-102-0015	8-3-2011	Repeal	9-1-2011
309-043-0020	2-1-2011	Repeal	3-1-2011	309-102-0020	1-7-2011	Suspend	2-1-2011
309-043-0025	2-1-2011	Repeal	3-1-2011	309-102-0020	8-3-2011	Repeal	9-1-2011
309-043-0030	2-1-2011	Repeal	3-1-2011	309-102-0025	1-7-2011	Suspend	2-1-2011
309-043-0035	2-1-2011	Repeal	3-1-2011	309-102-0025	8-3-2011	Repeal	9-1-2011
309-043-0040	2-1-2011	Repeal	3-1-2011	309-102-0100	8-3-2011	Adopt	9-1-2011
309-043-0045	2-1-2011	Repeal	3-1-2011	309-102-0110	8-3-2011	Adopt	9-1-2011
309-043-0050	2-1-2011	Repeal	3-1-2011	309-102-0120	8-3-2011	Adopt	9-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
309-102-0130	8-3-2011	Adopt	9-1-2011	330-090-0133	4-18-2011	Amend(T)	5-1-2011
309-102-0140	8-3-2011	Adopt	9-1-2011	330-090-0133	9-29-2011	Amend	11-1-2011
309-102-0150	8-3-2011	Adopt	9-1-2011	330-090-0133(T)	11-23-2010	Repeal	1-1-2011
309-114-0005	11-19-2010	Amend(T)	1-1-2011	330-090-0133(T)	9-29-2011	Repeal	11-1-2011
309-114-0005	5-19-2011	Amend	7-1-2011	330-090-0140	11-23-2010	Amend	1-1-2011
309-114-0020	11-19-2010	Amend(T)	1-1-2011	330-090-0140	9-29-2011	Amend	11-1-2011
309-114-0020	5-19-2011	Amend	7-1-2011	330-090-0140(T)	11-23-2010	Repeal	1-1-2011
309-114-0030	11-19-2010	Amend(T)	1-1-2011	330-090-0140(T)	9-29-2011	Repeal	11-1-2011
309-114-0040	11-19-2010	Adopt(T)	1-1-2011	330-090-0150	11-23-2010	Amend	1-1-2011
309-114-0050	11-19-2010	Adopt(T)	1-1-2011	330-090-0150(T)	11-23-2010	Repeal	1-1-2011
309-114-0060	11-19-2010	Adopt(T)	1-1-2011	330-090-0350	11-23-2010	Adopt	1-1-2011
309-114-0070	11-19-2010	Adopt(T)	1-1-2011	330-090-0350(T)	11-23-2010	Repeal	1-1-2011
325-005-0015	7-1-2011	Amend	8-1-2011	330-090-0450	11-23-2010	Adopt	1-1-2011
330-070-0010	12-22-2010	Amend	2-1-2011	330-090-0450(T)	11-23-2010	Repeal	1-1-2011
330-070-0010(T)	12-22-2010	Repeal	2-1-2011	330-105-0017	6-20-2011	Adopt(T)	8-1-2011
330-070-0013	12-22-2010	Amend	2-1-2011	330-112-0000	12-15-2010	Adopt	1-1-2011
330-070-0013(T)	12-22-2010	Repeal	2-1-2011	330-112-0000(T)	12-15-2010	Repeal	1-1-2011
330-070-0014	12-22-2010	Amend	2-1-2011	330-112-0010	12-15-2010	Adopt	1-1-2011
330-070-0019	12-22-2010	Adopt	2-1-2011	330-112-0010(T)	12-15-2010	Repeal	1-1-2011
330-070-0019(T)	12-22-2010	Repeal	2-1-2011	330-112-0020	12-15-2010	Adopt	1-1-2011
330-070-0020	12-22-2010	Amend	2-1-2011	330-112-0020(T)	12-15-2010	Repeal	1-1-2011
330-070-0021	12-22-2010	Amend	2-1-2011	330-112-0030	12-15-2010	Adopt	1-1-2011
330-070-0022	12-22-2010	Amend	2-1-2011	330-112-0030(T)	12-15-2010	Repeal	1-1-2011
330-070-0022(T)	12-22-2010	Repeal	2-1-2011	330-112-0040	12-15-2010	Adopt	1-1-2011
330-070-0024	12-22-2010	Amend	2-1-2011	330-112-0040(T)	12-15-2010	Repeal	1-1-2011
330-070-0025	12-22-2010	Amend	2-1-2011	330-112-0050	12-15-2010	Adopt	1-1-2011
330-070-0026	12-22-2010	Amend	2-1-2011	330-112-0050(T)	12-15-2010	Repeal	1-1-2011
330-070-0027	12-22-2010	Amend	2-1-2011	330-112-0060	12-15-2010	Adopt	1-1-2011
330-070-0045	12-22-2010	Amend	2-1-2011	330-112-0060(T)	12-15-2010	Repeal	1-1-2011
330-070-0055	12-22-2010	Amend	2-1-2011	330-112-0070	12-15-2010	Adopt	1-1-2011
330-070-0059	12-22-2010	Amend	2-1-2011	330-112-0070(T)	12-15-2010	Repeal	1-1-2011
330-070-0060	12-22-2010	Amend	2-1-2011	330-112-0080	12-15-2010	Adopt	1-1-2011
330-070-0062	12-22-2010	Amend	2-1-2011	330-112-0080(T)	12-15-2010	Repeal	1-1-2011
330-070-0063	12-22-2010	Amend	2-1-2011	330-112-0090	12-15-2010	Adopt	1-1-2011
330-070-0064	12-22-2010	Amend	2-1-2011	330-112-0090(T)	12-15-2010	Repeal	1-1-2011
330-070-0070	12-22-2010	Amend	2-1-2011	330-112-0100	12-15-2010	Adopt	1-1-2011
330-070-0073	12-22-2010	Amend	2-1-2011	330-112-0100(T)	12-15-2010	Repeal	1-1-2011
330-070-0089	12-22-2010	Amend	2-1-2011	330-130-0010	6-27-2011	Amend	8-1-2011
330-070-0091	12-22-2010	Amend	2-1-2011	330-130-0020	6-27-2011	Amend	8-1-2011
330-070-0097	12-22-2010	Amend	2-1-2011	330-130-0025	6-27-2011	Adopt	8-1-2011
330-09-0140	4-18-2011	Amend(T)	5-1-2011	330-130-0030	6-27-2011	Amend	8-1-2011
330-090-0105	11-23-2010	Amend	1-1-2011	330-130-0040	6-27-2011	Amend	8-1-2011
330-090-0105(T)	11-23-2010	Repeal	1-1-2011	330-130-0050	6-27-2011	Amend	8-1-2011
330-090-0110	11-23-2010	Amend	1-1-2011	330-130-0055	6-27-2011	Amend	8-1-2011
330-090-0110	4-18-2011	Amend(T)	5-1-2011	330-130-0060	6-27-2011	Amend	8-1-2011
330-090-0110	9-29-2011	Amend	11-1-2011	330-130-0070	6-27-2011	Amend	8-1-2011
330-090-0110(T)	11-23-2010	Repeal	1-1-2011	330-130-0080	6-27-2011	Amend	8-1-2011
330-090-0110(T)	9-29-2011	Repeal	11-1-2011	330-130-0090	6-27-2011	Amend	8-1-2011
330-090-0120	11-23-2010	Amend	1-1-2011	330-130-0100	6-27-2011	Amend	8-1-2011
330-090-0120(T)	11-23-2010	Repeal	1-1-2011	330-160-0015	2-22-2011	Amend	4-1-2011
330-090-0130	11-23-2010	Amend	1-1-2011	330-160-0015	3-4-2011	Amend	4-1-2011
330-090-0130	4-18-2011	Amend(T)	5-1-2011	330-160-0015(T)	2-22-2011	Repeal	4-1-2011
330-090-0130	9-29-2011	Amend	11-1-2011	330-160-0020	3-4-2011	Amend	4-1-2011
330-090-0130(T)	11-23-2010	Repeal	1-1-2011	330-160-0025	3-4-2011	Amend	4-1-2011
330-090-0130(T)	9-29-2011	Repeal	11-1-2011	330-160-0030	3-4-2011	Amend	4-1-2011
330-090-0133	11-23-2010	Amend	1-1-2011	330-160-0040	2-22-2011	Adopt	4-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
330-160-0040(T)	2-22-2011	Repeal	4-1-2011	332-025-0022(T)	9-26-2011	Repeal	11-1-2011
330-160-0050	3-4-2011	Adopt	4-1-2011	332-025-0030	1-1-2011	Amend	2-1-2011
331-010-0050	3-1-2011	Adopt(T)	4-1-2011	332-025-0030	9-26-2011	Am. & Ren.	11-1-2011
331-010-0050	3-17-2011	Adopt(T)	5-1-2011	332-025-0040	1-1-2011	Amend	2-1-2011
331-010-0050	8-15-2011	Adopt	9-1-2011	332-025-0040	4-4-2011	Amend(T)	5-1-2011
331-010-0050(T)	3-17-2011	Suspend	5-1-2011	332-025-0040	9-26-2011	Am. & Ren.	11-1-2011
331-020-0040	3-1-2011	Amend(T)	4-1-2011	332-025-0040	9-26-2011	Repeal	11-1-2011
331-020-0040	3-17-2011	Amend(T)	5-1-2011	332-025-0050	1-1-2011	Amend	2-1-2011
331-020-0040	8-15-2011	Amend	9-1-2011	332-025-0050	9-26-2011	Am. & Ren.	11-1-2011
331-020-0040(T)	3-17-2011	Suspend	5-1-2011	332-025-0060	1-1-2011	Amend	2-1-2011
331-020-0070	8-15-2011	Amend	9-1-2011	332-025-0060	9-26-2011	Am. & Ren.	11-1-2011
331-105-0030	8-1-2011	Amend(T)	9-1-2011	332-025-0070	1-1-2011	Adopt	2-1-2011
331-105-0030	10-15-2011	Amend	11-1-2011	332-025-0070	9-26-2011	Am. & Ren.	11-1-2011
331-105-0030(T)	10-15-2011	Repeal	11-1-2011	332-025-0080	1-1-2011	Adopt	2-1-2011
331-565-0090	4-1-2011	Amend(T)	5-1-2011	332-025-0080	5-19-2011	Amend(T)	7-1-2011
331-565-0090	10-1-2011	Amend	11-1-2011	332-025-0080	9-26-2011	Am. & Ren.	11-1-2011
331-565-0090	10-15-2011	Amend	11-1-2011	332-025-0080	9-26-2011	Repeal	11-1-2011
331-601-0010	8-1-2011	Amend(T)	9-1-2011	332-025-0100	1-1-2011	Adopt	2-1-2011
331-601-0010	10-15-2011	Amend	11-1-2011	332-025-0100	9-26-2011	Repeal	11-1-2011
331-601-0010(T)	10-15-2011	Repeal	11-1-2011	332-025-0120	10-15-2011	Amend(T)	11-1-2011
331-705-0060	8-1-2011	Amend(T)	9-1-2011	332-030-0000	1-1-2011	Amend	2-1-2011
331-705-0071	5-10-2011	Adopt(T)	6-1-2011	332-040-0000	9-26-2011	Adopt	11-1-2011
332-015-0000	1-1-2011	Amend	2-1-2011	333-002-0000	3-1-2011	Amend	4-1-2011
332-015-0000	9-26-2011	Amend	11-1-2011	333-002-0010	3-1-2011	Amend	4-1-2011
332-015-0010	1-1-2011	Repeal	2-1-2011	333-002-0020	3-1-2011	Amend	4-1-2011
332-015-0030	1-1-2011	Amend	2-1-2011	333-002-0030	3-1-2011	Amend	4-1-2011
332-015-0040	1-1-2011	Amend	2-1-2011	333-002-0035	3-1-2011	Amend	4-1-2011
332-015-0050	1-1-2011	Amend	2-1-2011	333-002-0040	3-1-2011	Amend	4-1-2011
332-015-0060	1-1-2011	Repeal	2-1-2011	333-002-0050	3-1-2011	Amend	4-1-2011
332-015-0065	1-1-2011	Repeal	2-1-2011	333-002-0060	3-1-2011	Amend	4-1-2011
332-015-0070	1-1-2011	Amend	2-1-2011	333-002-0070	3-1-2011	Amend	4-1-2011
332-015-0070	4-4-2011	Amend(T)	5-1-2011	333-002-0080	3-1-2011	Amend	4-1-2011
332-015-0070	9-26-2011	Amend	11-1-2011	333-002-0090	3-1-2011	Repeal	4-1-2011
332-015-0070(T)	9-26-2011	Repeal	11-1-2011	333-002-0100	3-1-2011	Amend	4-1-2011
332-015-0080	1-1-2011	Adopt	2-1-2011	333-002-0110	3-1-2011	Repeal	4-1-2011
332-020-0000	1-1-2011	Amend	2-1-2011	333-002-0120	3-1-2011	Amend	4-1-2011
332-020-0000	9-26-2011	Amend	11-1-2011	333-002-0130	3-1-2011	Amend	4-1-2011
332-020-0010	1-1-2011	Amend	2-1-2011	333-002-0140	3-1-2011	Amend	4-1-2011
332-020-0015	1-1-2011	Amend	2-1-2011	333-002-0150	3-1-2011	Amend	4-1-2011
332-020-0017	1-1-2011	Adopt	2-1-2011	333-002-0160	3-1-2011	Amend	4-1-2011
332-020-0017	9-26-2011	Amend	11-1-2011	333-002-0170	3-1-2011	Amend	4-1-2011
332-020-0020	1-1-2011	Amend	2-1-2011	333-002-0180	3-1-2011	Amend	4-1-2011
332-020-0020	9-1-2011	Amend(T)	10-1-2011	333-002-0190	3-1-2011	Amend	4-1-2011
332-020-0020	9-26-2011	Repeal	11-1-2011	333-002-0200	3-1-2011	Amend	4-1-2011
332-020-0020(T)	1-1-2011	Repeal	2-1-2011	333-002-0210	3-1-2011	Amend	4-1-2011
332-025-0020	1-1-2011	Amend	2-1-2011	333-002-0220	3-1-2011	Amend	4-1-2011
332-025-0020	4-4-2011	Amend(T)	5-1-2011	333-002-0230	3-1-2011	Amend	4-1-2011
332-025-0020	9-26-2011	Amend	11-1-2011	333-003-0010	7-1-2011	Amend(T)	8-1-2011
332-025-0020(T)	9-26-2011	Repeal	11-1-2011	333-003-0065	7-1-2011	Amend(T)	8-1-2011
332-025-0021	1-1-2011	Amend	2-1-2011	333-004-0010	7-1-2011	Amend(T)	8-1-2011
332-025-0021	4-4-2011	Amend(T)	5-1-2011	333-005-0000	1-1-2011	Am. & Ren.	2-1-2011
332-025-0021	9-26-2011	Amend	11-1-2011	333-005-0010	1-1-2011	Am. & Ren.	2-1-2011
332-025-0021(T)	9-26-2011	Repeal	11-1-2011	333-005-0020	1-1-2011	Am. & Ren.	2-1-2011
332-025-0022	1-1-2011	Amend	2-1-2011	333-005-0030	1-1-2011	Am. & Ren.	2-1-2011
332-025-0022	4-4-2011	Amend(T)	5-1-2011	333-005-0040	1-1-2011	Am. & Ren.	2-1-2011
332-025-0022	9-26-2011	Amend	11-1-2011	333-005-0050	1-1-2011	Am. & Ren.	2-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
333-005-0060	1-1-2011	Am. & Ren.	2-1-2011	333-054-0020	9-30-2011	Amend	11-1-2011
333-008-0010	7-1-2011	Amend(T)	8-1-2011	333-054-0025	9-30-2011	Amend	11-1-2011
333-008-0010	10-1-2011	Amend	11-1-2011	333-054-0027	9-30-2011	Amend	11-1-2011
333-008-0020	12-28-2010	Amend	2-1-2011	333-054-0035	9-30-2011	Amend	11-1-2011
333-008-0020	10-1-2011	Amend	11-1-2011	333-054-0040	9-30-2011	Amend	11-1-2011
333-008-0020(T)	12-28-2010	Repeal	2-1-2011	333-054-0050	9-30-2011	Amend	11-1-2011
333-008-0025	10-1-2011	Amend	11-1-2011	333-054-0055	9-30-2011	Amend	11-1-2011
333-008-0030	10-1-2011	Amend	11-1-2011	333-054-0060	9-30-2011	Amend	11-1-2011
333-008-0040	12-28-2010	Amend	2-1-2011	333-054-0070	9-30-2011	Amend	11-1-2011
333-008-0040	10-1-2011	Amend	11-1-2011	333-061-0020	7-1-2011	Amend(T)	8-1-2011
333-008-0045	12-28-2010	Adopt	2-1-2011	333-064-0005	8-9-2011	Amend	9-1-2011
333-008-0045	10-1-2011	Amend	11-1-2011	333-064-0010	8-9-2011	Amend	9-1-2011
333-008-0050	10-1-2011	Amend	11-1-2011	333-064-0015	8-9-2011	Amend	9-1-2011
333-008-0060	10-1-2011	Amend	11-1-2011	333-064-0025	8-9-2011	Amend	9-1-2011
333-008-0070	7-1-2011	Amend(T)	8-1-2011	333-064-0030	8-9-2011	Amend	9-1-2011
333-008-0070	10-1-2011	Amend	11-1-2011	333-064-0035	8-9-2011	Amend	9-1-2011
333-008-0080	10-1-2011	Amend	11-1-2011	333-064-0040	4-21-2011	Amend	6-1-2011
333-008-0120	10-1-2011	Amend	11-1-2011	333-064-0050	8-9-2011	Amend	9-1-2011
333-009-0000	7-1-2011	Amend(T)	8-1-2011	333-064-0060	8-9-2011	Amend	9-1-2011
333-010-0105	7-1-2011	Amend(T)	8-1-2011	333-064-0065	8-9-2011	Amend	9-1-2011
333-010-0205	7-1-2011	Amend(T)	8-1-2011	333-064-0070	4-21-2011	Repeal	6-1-2011
333-012-0050	7-1-2011	Amend(T)	8-1-2011	333-068-0005	6-16-2011	Amend	8-1-2011
333-012-0250	3-29-2011	Am. & Ren.	5-1-2011	333-068-0015	6-16-2011	Amend	8-1-2011
333-015-0030	7-1-2011	Amend(T)	8-1-2011	333-068-0020	6-16-2011	Amend	8-1-2011
333-015-0100	7-1-2011	Amend(T)	8-1-2011	333-068-0025	6-16-2011	Amend	8-1-2011
333-017-0000	8-19-2011	Amend	10-1-2011	333-068-0030	6-16-2011	Amend	8-1-2011
333-017-0005	8-19-2011	Amend	10-1-2011	333-068-0035	6-16-2011	Amend	8-1-2011
333-018-0000	8-19-2011	Amend	10-1-2011	333-068-0040	6-16-2011	Amend	8-1-2011
333-018-0005	8-19-2011	Amend	10-1-2011	333-068-0045	6-16-2011	Amend	8-1-2011
333-018-0010	8-19-2011	Amend	10-1-2011	333-068-0050	6-16-2011	Amend	8-1-2011
333-018-0013	8-19-2011	Amend	10-1-2011	333-068-0055	6-16-2011	Amend	8-1-2011
333-018-0015	8-19-2011	Amend	10-1-2011	333-068-0060	6-16-2011	Amend	8-1-2011
333-018-0018	8-19-2011	Amend	10-1-2011	333-068-0065	6-16-2011	Amend	8-1-2011
333-018-0020	8-19-2011	Amend	10-1-2011	333-069-0005	6-16-2011	Amend	8-1-2011
333-018-0030	8-19-2011	Repeal	10-1-2011	333-069-0015	6-16-2011	Amend	8-1-2011
333-018-0035	8-19-2011	Amend	10-1-2011	333-069-0020	6-16-2011	Amend	8-1-2011
333-019-0000	8-19-2011	Amend	10-1-2011	333-069-0030	6-16-2011	Amend	8-1-2011
333-019-0002	8-19-2011	Amend	10-1-2011	333-069-0040	6-16-2011	Amend	8-1-2011
333-019-0003	8-19-2011	Adopt	10-1-2011	333-069-0050	6-16-2011	Amend	8-1-2011
333-019-0005	8-19-2011	Amend	10-1-2011	333-069-0060	6-16-2011	Amend	8-1-2011
333-019-0010	8-19-2011	Amend	10-1-2011	333-069-0070	6-16-2011	Amend	8-1-2011
333-019-0014	8-19-2011	Amend	10-1-2011	333-069-0075	6-16-2011	Repeal	8-1-2011
333-019-0024	8-19-2011	Amend	10-1-2011	333-069-0080	6-16-2011	Amend	8-1-2011
333-019-0031	8-19-2011	Amend	10-1-2011	333-069-0085	6-16-2011	Amend	8-1-2011
333-019-0039	8-19-2011	Amend	10-1-2011	333-069-0090	6-16-2011	Amend	8-1-2011
333-019-0041	8-19-2011	Amend	10-1-2011	333-070-0075	6-16-2011	Amend	8-1-2011
333-019-0046	8-19-2011	Amend	10-1-2011	333-070-0085	6-16-2011	Amend	8-1-2011
333-020-0125	7-1-2011	Amend(T)	8-1-2011	333-070-0090	6-16-2011	Amend	8-1-2011
333-025-0100	7-1-2011	Amend(T)	8-1-2011	333-070-0095	6-16-2011	Amend	8-1-2011
333-027-0005	7-1-2011	Amend(T)	8-1-2011	333-070-0100	6-16-2011	Amend	8-1-2011
333-030-0015	7-1-2011	Amend(T)	8-1-2011	333-070-0105	6-16-2011	Amend	8-1-2011
333-048-0010	7-1-2011	Amend(T)	8-1-2011	333-070-0110	6-16-2011	Amend	8-1-2011
333-052-0040	7-1-2011	Amend(T)	8-1-2011	333-070-0115	6-16-2011	Amend	8-1-2011
333-053-0040	7-1-2011	Amend(T)	8-1-2011	333-070-0120	6-16-2011	Amend	8-1-2011
333-054-0010	7-1-2011	Amend(T)	8-1-2011	333-070-0125	6-16-2011	Amend	8-1-2011
333-054-0010	9-30-2011	Amend	11-1-2011	333-070-0130	6-16-2011	Amend	8-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
333-070-0135	6-16-2011	Amend	8-1-2011	333-106-0325	10-1-2011	Amend	11-1-2011
333-070-0140	6-16-2011	Amend	8-1-2011	333-106-0370	10-1-2011	Amend	11-1-2011
333-070-0145	6-16-2011	Amend	8-1-2011	333-106-0750	10-1-2011	Amend	11-1-2011
333-070-0155	6-16-2011	Repeal	8-1-2011	333-111-0015	10-1-2011	Amend	11-1-2011
333-070-0160	6-16-2011	Amend	8-1-2011	333-116-0020	10-1-2011	Amend	11-1-2011
333-076-0101	12-15-2010	Amend	1-1-2011	333-116-0025	10-1-2011	Amend	11-1-2011
333-076-0106	12-15-2010	Amend	1-1-2011	333-116-0035	10-1-2011	Amend	11-1-2011
333-076-0108	12-15-2010	Amend	1-1-2011	333-116-0105	10-1-2011	Amend	11-1-2011
333-076-0109	12-15-2010	Amend	1-1-2011	333-116-0220	10-1-2011	Amend	11-1-2011
333-076-0111	12-15-2010	Amend	1-1-2011	333-116-0250	10-1-2011	Amend	11-1-2011
333-076-0114	12-15-2010	Amend	1-1-2011	333-116-0260	10-1-2011	Amend	11-1-2011
333-076-0115	12-15-2010	Amend	1-1-2011	333-116-0290	10-1-2011	Amend	11-1-2011
333-076-0125	12-15-2010	Amend	1-1-2011	333-116-0320	10-1-2011	Amend	11-1-2011
333-076-0130	12-15-2010	Amend	1-1-2011	333-116-0330	10-1-2011	Amend	11-1-2011
333-076-0135	12-15-2010	Amend	1-1-2011	333-116-0360	10-1-2011	Amend	11-1-2011
333-076-0140	12-15-2010	Amend	1-1-2011	333-116-0390	10-1-2011	Amend	11-1-2011
333-076-0145	12-15-2010	Amend	1-1-2011	333-116-0440	10-1-2011	Amend	11-1-2011
333-076-0155	12-15-2010	Amend	1-1-2011	333-116-0470	10-1-2011	Amend	11-1-2011
333-076-0160	12-15-2010	Amend	1-1-2011	333-116-0585	10-1-2011	Amend	11-1-2011
333-076-0165	12-15-2010	Amend	1-1-2011	333-116-0660	10-1-2011	Amend	11-1-2011
333-076-0170	12-15-2010	Amend	1-1-2011	333-116-0670	10-1-2011	Amend	11-1-2011
333-076-0175	12-15-2010	Amend	1-1-2011	333-116-0680	10-1-2011	Amend	11-1-2011
333-076-0180	12-15-2010	Amend	1-1-2011	333-116-0683	10-1-2011	Amend	11-1-2011
333-076-0190	12-15-2010	Amend	1-1-2011	333-116-0687	10-1-2011	Amend	11-1-2011
333-076-0250	12-15-2010	Adopt	1-1-2011	333-116-0715	10-1-2011	Amend	11-1-2011
333-076-0255	12-15-2010	Adopt	1-1-2011	333-116-1000	10-1-2011	Amend	11-1-2011
333-076-0260	12-15-2010	Adopt	1-1-2011	333-119-0010	7-1-2011	Amend(T)	8-1-2011
333-076-0265	12-15-2010	Adopt	1-1-2011	333-119-0010	10-1-2011	Amend	11-1-2011
333-076-0270	12-15-2010	Adopt	1-1-2011	333-119-0090	10-1-2011	Amend	11-1-2011
333-100-0005	7-1-2011	Amend(T)	8-1-2011	333-119-0100	10-1-2011	Amend	11-1-2011
333-100-0005	10-1-2011	Amend	11-1-2011	333-120-0015	10-1-2011	Amend	11-1-2011
333-100-0020	10-1-2011	Amend	11-1-2011	333-120-0100	10-1-2011	Amend	11-1-2011
333-100-0070	10-1-2011	Amend	11-1-2011	333-120-0550	10-1-2011	Amend	11-1-2011
333-101-0065	10-1-2011	Amend	11-1-2011	333-120-0650	10-1-2011	Amend	11-1-2011
333-102-0015	10-1-2011	Amend	11-1-2011	333-120-0660	10-1-2011	Amend	11-1-2011
333-102-0115	10-1-2011	Amend	11-1-2011	333-120-0720	10-1-2011	Amend	11-1-2011
333-102-0130	10-1-2011	Amend	11-1-2011	333-120-0730	10-1-2011	Amend	11-1-2011
333-102-0190	10-1-2011	Amend	11-1-2011	333-120-0740	10-1-2011	Amend	11-1-2011
333-102-0203	7-1-2011	Amend(T)	8-1-2011	333-175-0021	7-1-2011	Amend(T)	8-1-2011
333-102-0250	10-1-2011	Amend	11-1-2011	333-255-0070	1-6-2011	Amend	2-1-2011
333-102-0285	10-1-2011	Amend	11-1-2011	333-255-0070(T)	1-6-2011	Repeal	2-1-2011
333-102-0290	10-1-2011	Amend	11-1-2011	333-255-0071	1-6-2011	Amend	2-1-2011
333-102-0293	10-1-2011	Amend	11-1-2011	333-255-0072	1-6-2011	Amend	2-1-2011
333-102-0305	10-1-2011	Amend	11-1-2011	333-255-0073	1-6-2011	Amend	2-1-2011
333-102-0310	10-1-2011	Amend	11-1-2011	333-265-0050	1-6-2011	Amend	2-1-2011
333-102-0340	10-1-2011	Amend	11-1-2011	333-265-0090	1-6-2011	Amend	2-1-2011
333-103-0010	10-1-2011	Amend	11-1-2011	333-265-0090(T)	1-6-2011	Repeal	2-1-2011
333-103-0030	10-1-2011	Amend	11-1-2011	333-265-0105	1-6-2011	Amend	2-1-2011
333-103-0035	10-1-2011	Amend	11-1-2011	333-265-0105(T)	1-6-2011	Repeal	2-1-2011
333-105-0530	10-1-2011	Amend	11-1-2011	333-265-0110	1-6-2011	Amend	2-1-2011
333-106-0005	7-1-2011	Amend(T)	8-1-2011	333-500-0005	12-15-2010	Amend	1-1-2011
333-106-0005	10-1-2011	Amend	11-1-2011	333-500-0010	12-15-2010	Amend	1-1-2011
333-106-0035	10-1-2011	Amend	11-1-2011	333-500-0020	12-15-2010	Amend	1-1-2011
333-106-0045	10-1-2011	Amend	11-1-2011	333-500-0025	12-15-2010	Amend	1-1-2011
333-106-0055	10-1-2011	Amend	11-1-2011	333-500-0030	12-15-2010	Amend	1-1-2011
333-106-0101	7-1-2011	Amend(T)	8-1-2011	333-500-0031	12-15-2010	Adopt	1-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
333-500-0034	12-15-2010	Amend	1-1-2011	338-010-0025	8-1-2011	Amend	9-1-2011
333-500-0040	12-15-2010	Amend	1-1-2011	338-010-0030	8-1-2011	Amend	9-1-2011
333-500-0065	12-15-2010	Amend	1-1-2011	338-010-0033	8-1-2011	Amend	9-1-2011
333-501-0010	12-15-2010	Amend	1-1-2011	338-010-0035	8-1-2011	Repeal	9-1-2011
333-501-0015	12-15-2010	Amend	1-1-2011	338-010-0038	8-1-2011	Amend	9-1-2011
333-501-0035	12-15-2010	Amend	1-1-2011	338-010-0050	8-1-2011	Amend	9-1-2011
333-501-0040	12-15-2010	Amend	1-1-2011	338-010-0065	8-1-2011	Adopt	9-1-2011
333-501-0045	12-15-2010	Amend	1-1-2011	338-010-0070	8-1-2011	Adopt	9-1-2011
333-501-0055	12-15-2010	Amend	1-1-2011	338-020-0000	8-1-2011	Repeal	9-1-2011
333-501-0060	12-15-2010	Adopt	1-1-2011	338-020-0030	8-1-2011	Amend	9-1-2011
333-505-0005	12-15-2010	Amend	1-1-2011	338-020-0050	8-1-2011	Amend	9-1-2011
333-505-0020	12-15-2010	Amend	1-1-2011	338-020-0060	8-1-2011	Repeal	9-1-2011
333-505-0030	12-15-2010	Amend	1-1-2011	338-030-0020	8-1-2011	Repeal	9-1-2011
333-505-0033	12-15-2010	Amend	1-1-2011	339-001-0005	7-1-2011	Amend	7-1-2011
333-505-0050	12-15-2010	Amend	1-1-2011	339-001-0006	7-1-2011	Amend	7-1-2011
333-536-0005	7-1-2011	Amend(T)	8-1-2011	339-005-0000	7-1-2011	Amend	7-1-2011
333-700-0005	7-1-2011	Amend(T)	8-1-2011	339-010-0012	7-1-2011	Adopt	7-1-2011
334-001-0012	1-1-2011	Amend	2-1-2011	339-010-0018	7-1-2011	Adopt	7-1-2011
334-001-0012	4-21-2011	Amend	6-1-2011	339-010-0020	7-1-2011	Amend	7-1-2011
334-001-0012	7-1-2011	Amend	8-1-2011	339-010-0050	7-1-2011	Amend	7-1-2011
334-001-0055	1-1-2011	Amend	2-1-2011	340-012-0054	3-15-2011	Amend	4-1-2011
334-001-0055	4-21-2011	Amend	6-1-2011	340-012-0140	3-15-2011	Amend	4-1-2011
334-001-0060	7-1-2011	Amend	8-1-2011	340-016-0080	12-20-2010	Amend	2-1-2011
334-010-0005	8-10-2011	Amend(T)	9-1-2011	340-016-0088	12-20-2010	Adopt	2-1-2011
334-010-0033	1-1-2011	Amend	2-1-2011	340-016-0100	12-20-2010	Repeal	2-1-2011
334-010-0033	4-21-2011	Amend	6-1-2011	340-016-0110	12-20-2010	Repeal	2-1-2011
335-001-0009	2-1-2011	Amend	3-1-2011	340-016-0120	12-20-2010	Repeal	2-1-2011
335-005-0010	10-10-2011	Amend	11-1-2011	340-016-0130	12-20-2010	Repeal	2-1-2011
335-060-0005	2-1-2011	Amend	3-1-2011	340-016-0140	12-20-2010	Repeal	2-1-2011
335-060-0005	10-10-2011	Amend	11-1-2011	340-016-0150	12-20-2010	Repeal	2-1-2011
335-060-0006	10-10-2011	Adopt	11-1-2011	340-016-0210	12-20-2010	Amend	2-1-2011
335-060-0007	10-10-2011	Adopt	11-1-2011	340-041-0007	7-13-2011	Amend	8-1-2011
335-060-0010	2-1-2011	Amend	3-1-2011	340-041-0009	7-13-2011	Amend	8-1-2011
335-060-0010	10-11-2011	Amend(T)	11-1-2011	340-041-0033	12-21-2010	Amend	2-1-2011
335-060-0030	2-1-2011	Amend	3-1-2011	340-041-0033	6-30-2011	Amend	8-1-2011
335-070-0020	2-1-2011	Amend	3-1-2011	340-041-0033	7-13-2011	Amend	8-1-2011
335-070-0055	2-1-2011	Amend	3-1-2011	340-041-0059	7-13-2011	Adopt	8-1-2011
335-070-0085	2-1-2011	Amend	3-1-2011	340-041-0061	7-13-2011	Amend	8-1-2011
335-080-0005	10-10-2011	Amend	11-1-2011	340-042-0040	7-13-2011	Amend	8-1-2011
335-080-0010	10-10-2011	Amend	11-1-2011	340-042-0080	7-13-2011	Amend	8-1-2011
335-080-0015	10-10-2011	Amend	11-1-2011	340-045-0070	9-12-2011	Amend	10-1-2011
335-080-0025	10-10-2011	Amend	11-1-2011	340-045-0075	7-1-2011	Amend	8-1-2011
335-095-0030	2-1-2011	Amend	3-1-2011	340-045-0075	9-12-2011	Amend	10-1-2011
335-095-0030	10-10-2011	Amend	11-1-2011	340-045-0100	3-15-2011	Amend(T)	4-1-2011
335-095-0040	2-1-2011	Amend	3-1-2011	340-045-0105	7-13-2011	Adopt	8-1-2011
335-095-0040	10-10-2011	Amend	11-1-2011	340-053-0050	9-12-2011	Adopt	10-1-2011
335-095-0050	10-10-2011	Amend	11-1-2011	340-053-0060	9-12-2011	Adopt	10-1-2011
335-095-0055	2-1-2011	Repeal	3-1-2011	340-053-0070	9-12-2011	Adopt	10-1-2011
338-005-0020	8-1-2011	Amend	9-1-2011	340-053-0080	9-12-2011	Adopt	10-1-2011
338-005-0030	3-1-2011	Amend(T)	4-1-2011	340-053-0090	9-12-2011	Adopt	10-1-2011
338-005-0030	3-4-2011	Amend(T)	4-1-2011	340-053-0100	9-12-2011	Adopt	10-1-2011
338-005-0030	8-1-2011	Amend	9-1-2011	340-053-0110	9-12-2011	Adopt	10-1-2011
338-005-0030(T)	8-1-2011	Repeal	9-1-2011	340-071-0140	7-1-2011	Amend	8-1-2011
338-010-0015	8-1-2011	Amend	9-1-2011	340-141-0010	12-23-2010	Amend	2-1-2011
338-010-0016	8-1-2011	Adopt	9-1-2011	340-143-0001	3-17-2011	Amend	5-1-2011
338-010-0017	8-1-2011	Amend	9-1-2011	340-143-0005	3-17-2011	Amend	5-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
340-143-0010	3-17-2011	Amend	5-1-2011	340-220-0050	7-21-2011	Amend	9-1-2011
340-143-0020	3-17-2011	Amend	5-1-2011	340-222-0042	5-1-2011	Amend	6-1-2011
340-143-0030	3-17-2011	Adopt	5-1-2011	340-222-0045	5-1-2011	Amend	6-1-2011
340-143-0040	3-17-2011	Adopt	5-1-2011	340-223-0010	12-10-2010	Amend	1-1-2011
340-143-0050	3-17-2011	Adopt	5-1-2011	340-223-0020	12-10-2010	Amend	1-1-2011
340-143-0060	3-17-2011	Adopt	5-1-2011	340-223-0030	12-10-2010	Amend	1-1-2011
340-162-0005	9-12-2011	Repeal	10-1-2011	340-223-0040	12-10-2010	Amend	1-1-2011
340-162-0010	9-12-2011	Repeal	10-1-2011	340-223-0050	12-10-2010	Amend	1-1-2011
340-162-0020	9-12-2011	Repeal	10-1-2011	340-223-0060	12-10-2010	Adopt	1-1-2011
340-162-0025	9-12-2011	Repeal	10-1-2011	340-223-0070	12-10-2010	Adopt	1-1-2011
340-162-0030	9-12-2011	Repeal	10-1-2011	340-223-0080	12-10-2010	Adopt	1-1-2011
340-162-0035	9-12-2011	Repeal	10-1-2011	340-224-0010	5-1-2011	Amend	6-1-2011
340-162-0040	9-12-2011	Repeal	10-1-2011	340-224-0050	5-1-2011	Amend	6-1-2011
340-162-0150	9-12-2011	Repeal	10-1-2011	340-224-0060	5-1-2011	Amend	6-1-2011
340-200-0020	5-1-2011	Amend	6-1-2011	340-224-0070	5-1-2011	Amend	6-1-2011
340-200-0020	6-24-2011	Amend(T)	8-1-2011	340-225-0020	5-1-2011	Amend	6-1-2011
340-200-0025	5-1-2011	Amend	6-1-2011	340-225-0030	5-1-2011	Amend	6-1-2011
340-200-0040	12-10-2010	Amend	1-1-2011	340-225-0045	5-1-2011	Amend	6-1-2011
340-200-0040	2-24-2011	Amend	4-1-2011	340-225-0050	5-1-2011	Amend	6-1-2011
340-200-0040	3-15-2011	Amend	4-1-2011	340-225-0060	5-1-2011	Amend	6-1-2011
340-200-0040	5-1-2011	Amend	6-1-2011	340-225-0090	5-1-2011	Amend	6-1-2011
340-202-0010	5-1-2011	Amend	6-1-2011	340-228-0020	6-24-2011	Amend(T)	8-1-2011
340-202-0060	5-1-2011	Amend	6-1-2011	340-228-0200	6-24-2011	Amend(T)	8-1-2011
340-202-0210	5-1-2011	Amend	6-1-2011	340-228-0210	6-24-2011	Amend(T)	8-1-2011
340-210-0100	6-24-2011	Amend(T)	8-1-2011	340-228-0300	5-1-2011	Amend	6-1-2011
340-210-0110	6-24-2011	Amend(T)	8-1-2011	340-230-0030	2-24-2011	Amend	4-1-2011
340-210-0120	6-24-2011	Amend(T)	8-1-2011	340-230-0300	2-24-2011	Amend	4-1-2011
340-212-0140	6-24-2011	Amend(T)	8-1-2011	340-230-0400	2-24-2011	Repeal	4-1-2011
340-215-0010	7-21-2011	Amend	9-1-2011	340-230-0410	2-24-2011	Repeal	4-1-2011
340-215-0020	7-21-2011	Amend	9-1-2011	340-238-0040	2-24-2011	Amend	4-1-2011
340-215-0030	7-21-2011	Amend	9-1-2011	340-238-0060	2-24-2011	Amend	4-1-2011
340-215-0040	7-21-2011	Amend	9-1-2011	340-242-0500	2-24-2011	Amend	4-1-2011
340-215-0060	5-1-2011	Amend	6-1-2011	340-244-0030	2-24-2011	Amend	4-1-2011
340-215-0060	7-21-2011	Adopt	9-1-2011	340-244-0220	2-24-2011	Amend	4-1-2011
340-215-0060	7-21-2011	Amend	9-1-2011	340-244-0234	2-24-2011	Amend	4-1-2011
340-216-0020	2-24-2011	Amend	4-1-2011	340-244-0236	2-24-2011	Amend	4-1-2011
340-216-0020	5-1-2011	Amend	6-1-2011	340-244-0238	2-24-2011	Amend	4-1-2011
340-216-0020	7-21-2011	Amend	9-1-2011	340-244-0242	2-24-2011	Amend	4-1-2011
340-216-0020	7-21-2011	Amend	9-1-2011	340-244-0244	2-24-2011	Amend	4-1-2011
340-216-0020	7-21-2011	Amend	9-1-2011	340-244-0248	2-24-2011	Amend	4-1-2011
340-216-0025	5-1-2011	Amend	6-1-2011	340-246-0230	5-1-2011	Amend	6-1-2011
340-216-0040	5-1-2011	Amend	6-1-2011	340-257-0030	4-29-2011	Amend	6-1-2011
340-216-0052	5-1-2011	Amend	6-1-2011	340-257-0050	4-29-2011	Amend	6-1-2011
340-216-0054	5-1-2011	Amend	6-1-2011	340-257-0060	4-29-2011	Amend	6-1-2011
340-216-0056	5-1-2011	Amend	6-1-2011	340-257-0070	4-29-2011	Amend	6-1-2011
340-216-0060	2-24-2011	Amend	4-1-2011	340-257-0090	4-29-2011	Amend	6-1-2011
340-216-0060	5-1-2011	Amend	6-1-2011	340-257-0110	4-29-2011	Amend	6-1-2011
340-216-0064	2-24-2011	Amend	4-1-2011	340-257-0120	4-29-2011	Amend	6-1-2011
340-216-0064	5-1-2011	Amend	6-1-2011	340-257-0140	4-29-2011	Amend	6-1-2011
340-216-0066	5-1-2011	Amend	6-1-2011	340-262-0010	3-15-2011	Repeal	4-1-2011
340-216-0070	5-1-2011	Amend	6-1-2011	340-262-0020	3-15-2011	Repeal	4-1-2011
340-216-0090	5-1-2011	Amend	6-1-2011	340-262-0030	3-15-2011	Repeal	4-1-2011
340-220-0030	12-20-2010	Amend	2-1-2011	340-262-0040	3-15-2011	Repeal	4-1-2011
340-220-0040	12-20-2010	Amend	2-1-2011	340-262-0050	3-15-2011	Repeal	4-1-2011
340-220-0050	12-20-2010	Amend	2-1-2011	340-262-0100	3-15-2011	Repeal	4-1-2011
340-220-0050	7-21-2011	Amend	9-1-2011	340-262-0110	3-15-2011	Repeal	4-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
340-262-0120	3-15-2011	Repeal	4-1-2011	350-060-0120	5-1-2011	Amend	5-1-2011
340-262-0130	3-15-2011	Repeal	4-1-2011	350-060-0130	5-1-2011	Amend	5-1-2011
340-262-0200	3-15-2011	Repeal	4-1-2011	350-060-0160	5-1-2011	Amend	5-1-2011
340-262-0210	3-15-2011	Repeal	4-1-2011	350-060-0170	5-1-2011	Amend	5-1-2011
340-262-0220	3-15-2011	Repeal	4-1-2011	350-060-0190	5-1-2011	Amend	5-1-2011
340-262-0230	3-15-2011	Repeal	4-1-2011	350-060-0200	5-1-2011	Amend	5-1-2011
340-262-0240	3-15-2011	Repeal	4-1-2011	350-060-0205	5-1-2011	Amend	5-1-2011
340-262-0250	3-15-2011	Repeal	4-1-2011	350-060-0210	5-1-2011	Amend	5-1-2011
340-262-0300	3-15-2011	Repeal	4-1-2011	350-070-0040	5-1-2011	Amend	5-1-2011
340-262-0310	3-15-2011	Repeal	4-1-2011	350-070-0042	5-1-2011	Amend	5-1-2011
340-262-0320	3-15-2011	Repeal	4-1-2011	350-070-0045	5-1-2011	Amend	5-1-2011
340-262-0330	3-15-2011	Repeal	4-1-2011	350-070-0046	5-1-2011	Adopt	5-1-2011
340-262-0400	3-15-2011	Adopt	4-1-2011	350-070-0050	5-1-2011	Amend	5-1-2011
340-262-0450	3-15-2011	Adopt	4-1-2011	350-070-0070	5-1-2011	Amend	5-1-2011
340-262-0450	6-24-2011	Amend(T)	8-1-2011	350-070-0080	5-1-2011	Amend	5-1-2011
340-262-0500	3-15-2011	Adopt	4-1-2011	350-070-0090	5-1-2011	Amend	5-1-2011
340-262-0600	3-15-2011	Adopt	4-1-2011	350-070-0120	5-1-2011	Amend	5-1-2011
340-262-0600	6-24-2011	Amend(T)	8-1-2011	350-070-0170	5-1-2011	Amend	5-1-2011
340-262-0700	3-15-2011	Adopt	4-1-2011	350-070-0200	5-1-2011	Amend	5-1-2011
340-262-0800	3-15-2011	Adopt	4-1-2011	350-070-0210	5-1-2011	Amend	5-1-2011
340-262-0900	3-15-2011	Adopt	4-1-2011	350-070-0220	5-1-2011	Amend	5-1-2011
350-030-0015	5-1-2011	Amend	5-1-2011	350-070-0225	5-1-2011	Amend	5-1-2011
350-030-0020	5-1-2011	Amend	5-1-2011	350-081-0017	5-1-2011	Adopt	5-1-2011
350-030-0025	5-1-2011	Amend	5-1-2011	350-081-0020	5-1-2011	Amend	5-1-2011
350-030-0030	5-1-2011	Amend	5-1-2011	350-081-0036	6-16-2011	Amend(T)	8-1-2011
350-030-0060	5-1-2011	Amend	5-1-2011	350-081-0036	10-13-2011	Amend(T)	11-1-2011
350-030-0080	5-1-2011	Amend	5-1-2011	350-081-0042	6-16-2011	Amend(T)	8-1-2011
350-040-0010	5-1-2011	Amend	5-1-2011	350-081-0042	10-13-2011	Amend(T)	11-1-2011
350-040-0020	5-1-2011	Amend	5-1-2011	350-081-0054	6-16-2011	Amend(T)	8-1-2011
350-040-0050	5-1-2011	Amend	5-1-2011	350-081-0054	10-13-2011	Amend(T)	11-1-2011
350-040-0055	5-1-2011	Adopt	5-1-2011	350-081-0082	5-1-2011	Amend	5-1-2011
350-040-0060	5-1-2011	Amend	5-1-2011	350-081-0540	5-1-2011	Amend	5-1-2011
350-040-0065	5-1-2011	Amend	5-1-2011	350-081-0560	5-1-2011	Amend	5-1-2011
350-040-0070	5-1-2011	Amend	5-1-2011	350-081-0570	5-1-2011	Amend	5-1-2011
350-040-0080	5-1-2011	Amend	5-1-2011	350-081-0580	5-1-2011	Amend	5-1-2011
350-050-0020	5-1-2011	Amend	5-1-2011	350-081-0590	5-1-2011	Amend	5-1-2011
350-050-0035	5-1-2011	Amend	5-1-2011	350-120-0025	5-1-2011	Repeal	5-1-2011
350-050-0040	5-1-2011	Amend	5-1-2011	350-120-0030	5-1-2011	Repeal	5-1-2011
350-050-0045	5-1-2011	Amend	5-1-2011	350-120-0040	5-1-2011	Repeal	5-1-2011
350-050-0060	5-1-2011	Amend	5-1-2011	350-120-0050	5-1-2011	Amend	5-1-2011
350-050-0070	5-1-2011	Amend	5-1-2011	407-007-0200	4-15-2011	Amend(T)	5-1-2011
350-050-0080	5-1-2011	Amend	5-1-2011	407-007-0200	10-12-2011	Amend(T)	11-1-2011
350-050-0085	5-1-2011	Amend	5-1-2011	407-007-0210	4-15-2011	Amend(T)	5-1-2011
350-050-0090	5-1-2011	Amend	5-1-2011	407-007-0210	10-12-2011	Amend(T)	11-1-2011
350-050-0100	5-1-2011	Amend	5-1-2011	407-007-0220	4-15-2011	Amend(T)	5-1-2011
350-060-0040	5-1-2011	Amend	5-1-2011	407-007-0220	10-12-2011	Amend(T)	11-1-2011
350-060-0042	5-1-2011	Amend	5-1-2011	407-007-0230	4-15-2011	Amend(T)	5-1-2011
350-060-0045	5-1-2011	Amend	5-1-2011	407-007-0230	10-12-2011	Amend(T)	11-1-2011
350-060-0047	5-1-2011	Adopt	5-1-2011	407-007-0240	4-15-2011	Amend(T)	5-1-2011
350-060-0050	5-1-2011	Amend	5-1-2011	407-007-0240	10-12-2011	Amend(T)	11-1-2011
350-060-0055	5-1-2011	Amend	5-1-2011	407-007-0250	4-15-2011	Amend(T)	5-1-2011
350-060-0060	5-1-2011	Amend	5-1-2011	407-007-0250	10-12-2011	Amend(T)	11-1-2011
350-060-0070	5-1-2011	Amend	5-1-2011	407-007-0290	4-15-2011	Amend(T)	5-1-2011
350-060-0080	5-1-2011	Amend	5-1-2011	407-007-0290	10-12-2011	Amend(T)	11-1-2011
350-060-0100	5-1-2011	Amend	5-1-2011	407-007-0300	4-15-2011	Amend(T)	5-1-2011
350-060-0110	5-1-2011	Amend	5-1-2011	407-007-0300	10-12-2011	Amend(T)	11-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
407-007-0315	4-15-2011	Amend(T)	5-1-2011	409-023-0010	8-1-2011	Amend(T)	9-1-2011
407-007-0315	10-12-2011	Amend(T)	11-1-2011	409-023-0010	10-1-2011	Amend	11-1-2011
407-007-0320	4-15-2011	Amend(T)	5-1-2011	409-023-0010(T)	10-1-2011	Repeal	11-1-2011
407-007-0320	10-12-2011	Amend(T)	11-1-2011	409-023-0012	8-1-2011	Amend(T)	9-1-2011
407-007-0325	4-15-2011	Amend(T)	5-1-2011	409-023-0012	10-1-2011	Amend	11-1-2011
407-007-0325	10-12-2011	Amend(T)	11-1-2011	409-023-0012(T)	10-1-2011	Repeal	11-1-2011
407-007-0330	4-15-2011	Amend(T)	5-1-2011	409-023-0015	8-1-2011	Amend(T)	9-1-2011
407-007-0330	10-12-2011	Amend(T)	11-1-2011	409-023-0015	10-1-2011	Amend	11-1-2011
407-007-0340	4-15-2011	Amend(T)	5-1-2011	409-023-0015(T)	10-1-2011	Repeal	11-1-2011
407-007-0340	10-12-2011	Amend(T)	11-1-2011	409-030-0000	3-1-2011	Renumber	3-1-2011
407-007-0350	4-15-2011	Amend(T)	5-1-2011	409-030-0005	3-1-2011	Renumber	3-1-2011
407-007-0350	10-12-2011	Amend(T)	11-1-2011	409-030-0010	3-1-2011	Renumber	3-1-2011
407-014-0000	7-1-2011	Amend(T)	8-1-2011	409-030-0020	3-1-2011	Renumber	3-1-2011
407-014-0015	7-1-2011	Adopt(T)	8-1-2011	409-030-0030	3-1-2011	Renumber	3-1-2011
407-014-0020	7-1-2011	Amend(T)	8-1-2011	409-030-0050	3-1-2011	Renumber	3-1-2011
407-014-0030	7-1-2011	Amend(T)	8-1-2011	409-030-0065	3-1-2011	Renumber	3-1-2011
407-014-0040	7-1-2011	Amend(T)	8-1-2011	409-050-0110	9-1-2011	Amend(T)	10-1-2011
407-014-0050	7-1-2011	Amend(T)	8-1-2011	409-050-0120	9-1-2011	Amend(T)	10-1-2011
407-014-0060	7-1-2011	Amend(T)	8-1-2011	409-055-0000	10-1-2011	Adopt(T)	11-1-2011
407-014-0070	7-1-2011	Amend(T)	8-1-2011	409-055-0010	10-1-2011	Adopt(T)	11-1-2011
407-014-0300	8-9-2011	Amend(T)	9-1-2011	409-055-0020	10-1-2011	Adopt(T)	11-1-2011
407-014-0305	8-9-2011	Amend(T)	9-1-2011	409-055-0030	10-1-2011	Adopt(T)	11-1-2011
407-014-0310	8-9-2011	Amend(T)	9-1-2011	409-055-0040	10-1-2011	Adopt(T)	11-1-2011
407-014-0315	8-9-2011	Amend(T)	9-1-2011	409-055-0050	10-1-2011	Adopt(T)	11-1-2011
407-014-0320	8-9-2011	Amend(T)	9-1-2011	409-055-0060	10-1-2011	Adopt(T)	11-1-2011
407-020-0000	2-1-2011	Am. & Ren.	3-1-2011	409-055-0070	10-1-2011	Adopt(T)	11-1-2011
407-020-0005	2-1-2011	Am. & Ren.	3-1-2011	409-055-0080	10-1-2011	Adopt(T)	11-1-2011
407-020-0010	2-1-2011	Am. & Ren.	3-1-2011	409-110-0000	2-1-2011	Amend	3-1-2011
407-020-0015	2-1-2011	Am. & Ren.	3-1-2011	409-110-0005	2-1-2011	Amend	3-1-2011
407-043-0020	7-1-2011	Adopt(T)	8-1-2011	409-110-0010	2-1-2011	Amend	3-1-2011
407-045-0260	1-1-2011	Amend	2-1-2011	409-110-0015	2-1-2011	Amend	3-1-2011
407-045-0260(T)	1-1-2011	Repeal	2-1-2011	409-110-0020	2-1-2011	Amend	3-1-2011
407-045-0400	7-1-2011	Amend(T)	8-1-2011	410-050-0401	2-1-2011	Renumber	3-1-2011
407-045-0410	7-1-2011	Suspend	8-1-2011	410-050-0411	2-1-2011	Renumber	3-1-2011
407-045-0420	7-1-2011	Suspend	8-1-2011	410-050-0421	2-1-2011	Renumber	3-1-2011
407-045-0430	7-1-2011	Suspend	8-1-2011	410-050-0431	2-1-2011	Renumber	3-1-2011
407-045-0440	7-1-2011	Suspend	8-1-2011	410-050-0451	2-1-2011	Renumber	3-1-2011
407-045-0450	7-1-2011	Suspend	8-1-2011	410-050-0461	2-1-2011	Renumber	3-1-2011
407-045-0460	7-1-2011	Suspend	8-1-2011	410-050-0471	2-1-2011	Renumber	3-1-2011
407-045-0470	7-1-2011	Suspend	8-1-2011	410-050-0481	2-1-2011	Renumber	3-1-2011
407-045-0480	7-1-2011	Suspend	8-1-2011	410-050-0491	2-1-2011	Renumber	3-1-2011
407-045-0490	7-1-2011	Suspend	8-1-2011	410-050-0501	2-1-2011	Renumber	3-1-2011
407-045-0500	7-1-2011	Suspend	8-1-2011	410-050-0511	2-1-2011	Renumber	3-1-2011
407-045-0510	7-1-2011	Suspend	8-1-2011	410-050-0521	2-1-2011	Renumber	3-1-2011
407-045-0520	7-1-2011	Suspend	8-1-2011	410-050-0531	2-1-2011	Renumber	3-1-2011
407-045-0820	1-1-2011	Amend	2-1-2011	410-050-0541	2-1-2011	Renumber	3-1-2011
407-045-0820(T)	1-1-2011	Repeal	2-1-2011	410-050-0551	2-1-2011	Renumber	3-1-2011
407-120-0100	7-1-2011	Amend(T)	8-1-2011	410-050-0561	2-1-2011	Renumber	3-1-2011
407-120-0112	7-1-2011	Amend(T)	8-1-2011	410-050-0591	2-1-2011	Renumber	3-1-2011
407-120-0114	7-1-2011	Amend(T)	8-1-2011	410-050-0601	2-1-2011	Renumber	3-1-2011
407-120-0150	7-1-2011	Amend(T)	8-1-2011	410-050-0861	7-1-2011	Amend(T)	8-1-2011
407-120-0200	7-1-2011	Amend(T)	8-1-2011	410-050-0861	10-1-2011	Amend(T)	11-1-2011
409-015-0010	3-1-2011	Amend	3-1-2011	410-050-0861(T)	10-1-2011	Suspend	11-1-2011
409-023-0000	8-1-2011	Amend(T)	9-1-2011	410-120-0000	7-1-2011	Amend	8-1-2011
409-023-0000	10-1-2011	Amend	11-1-2011	410-120-0006	7-1-2011	Adopt	8-1-2011
409-023-0000(T)	10-1-2011	Repeal	11-1-2011	410-120-0006	7-15-2011	Amend(T)	8-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-120-0006	8-1-2011	Amend(T)	9-1-2011	410-123-1540	1-1-2011	Amend	1-1-2011
410-120-0006	10-1-2011	Amend(T)	11-1-2011	410-125-0047	1-1-2011	Amend	1-1-2011
410-120-0006(T)	8-1-2011	Suspend	9-1-2011	410-125-0080	1-1-2011	Amend	1-1-2011
410-120-0006(T)	10-1-2011	Suspend	11-1-2011	410-125-0085	1-1-2011	Amend	1-1-2011
410-120-0030	1-1-2011	Amend	2-1-2011	410-125-0100	1-1-2011	Repeal	1-1-2011
410-120-0030	7-1-2011	Amend	8-1-2011	410-125-0140	1-1-2011	Amend	1-1-2011
410-120-1195	1-1-2011	Amend	2-1-2011	410-125-0360	1-1-2011	Amend	1-1-2011
410-120-1200	1-1-2011	Amend	2-1-2011	410-125-0410	1-1-2011	Amend	1-1-2011
410-120-1230	1-1-2011	Amend	2-1-2011	410-125-0450	1-1-2011	Adopt	1-1-2011
410-120-1280	1-1-2011	Amend	2-1-2011	410-125-1020	1-1-2011	Amend	1-1-2011
410-120-1295	1-1-2011	Amend	2-1-2011	410-125-2000	1-1-2011	Amend	1-1-2011
410-120-1340	1-1-2011	Amend	2-1-2011	410-125-2020	1-1-2011	Amend	1-1-2011
410-120-1340	8-1-2011	Amend(T)	9-1-2011	410-125-2030	1-1-2011	Amend	1-1-2011
410-120-1560	7-1-2011	Amend	8-1-2011	410-127-0020	1-1-2011	Amend	1-1-2011
410-121-0000	1-1-2011	Amend	2-1-2011	410-127-0060	1-1-2011	Amend	1-1-2011
410-121-0000	9-1-2011	Amend	10-1-2011	410-127-0060	8-1-2011	Amend(T)	9-1-2011
410-121-0000	9-30-2011	Amend(T)	11-1-2011	410-127-0065	1-1-2011	Amend	1-1-2011
410-121-0030	1-1-2011	Amend	2-1-2011	410-127-0080	1-1-2011	Amend	1-1-2011
410-121-0030	3-1-2011	Amend(T)	4-1-2011	410-129-0220	3-25-2011	Amend	5-1-2011
410-121-0030	7-17-2011	Amend	8-1-2011	410-129-0220(T)	3-25-2011	Repeal	5-1-2011
410-121-0030(T)	7-17-2011	Repeal	8-1-2011	410-130-0200	1-1-2011	Amend	1-1-2011
410-121-0033	9-30-2011	Amend(T)	11-1-2011	410-130-0255	1-1-2011	Amend	1-1-2011
410-121-0040	1-1-2011	Amend	2-1-2011	410-130-0580	1-1-2011	Amend	1-1-2011
410-121-0040	9-30-2011	Amend(T)	11-1-2011	410-130-0585	1-1-2011	Amend	1-1-2011
410-121-0100	9-30-2011	Amend(T)	11-1-2011	410-130-0587	1-1-2011	Amend	1-1-2011
410-121-0110	9-30-2011	Adopt(T)	11-1-2011	410-130-0595	8-1-2011	Amend(T)	9-1-2011
410-121-0147	7-1-2011	Amend	8-1-2011	410-133-0040	7-1-2011	Amend	8-1-2011
410-121-0149	1-1-2011	Amend	2-1-2011	410-133-0080	7-1-2011	Amend	8-1-2011
410-121-0150	9-1-2011	Amend	10-1-2011	410-133-0120	7-1-2011	Amend	8-1-2011
410-121-0155	1-1-2011	Amend	2-1-2011	410-136-0030	1-1-2011	Amend	1-1-2011
410-121-0155	7-1-2011	Amend	8-1-2011	410-136-0040	1-1-2011	Amend	1-1-2011
410-121-0157	7-1-2011	Amend	8-1-2011	410-136-0045	1-1-2011	Amend	1-1-2011
410-121-0160	1-1-2011	Amend	2-1-2011	410-136-0050	1-1-2011	Amend	1-1-2011
410-121-0160	7-1-2011	Amend	8-1-2011	410-136-0060	1-1-2011	Amend	1-1-2011
410-121-0160	8-1-2011	Amend(T)	9-1-2011	410-136-0070	1-1-2011	Amend	1-1-2011
410-121-0185	7-1-2011	Amend	8-1-2011	410-136-0080	1-1-2011	Amend	1-1-2011
410-121-0200	7-1-2011	Amend	8-1-2011	410-136-0140	1-1-2011	Amend	1-1-2011
410-121-0320	1-1-2011	Repeal	2-1-2011	410-136-0160	1-1-2011	Amend	1-1-2011
410-121-4000	5-5-2011	Adopt	6-1-2011	410-136-0180	1-1-2011	Amend	1-1-2011
410-121-4005	5-5-2011	Adopt	6-1-2011	410-136-0200	1-1-2011	Amend	1-1-2011
410-121-4010	5-5-2011	Adopt	6-1-2011	410-136-0220	1-1-2011	Amend	1-1-2011
410-121-4015	5-5-2011	Adopt	6-1-2011	410-136-0240	1-1-2011	Amend	1-1-2011
410-121-4020	5-5-2011	Adopt	6-1-2011	410-136-0300	1-1-2011	Amend	1-1-2011
410-122-0080	3-25-2011	Amend	5-1-2011	410-136-0320	1-1-2011	Amend	1-1-2011
410-122-0080(T)	3-25-2011	Repeal	5-1-2011	410-136-0340	1-1-2011	Amend	1-1-2011
410-122-0180	3-25-2011	Amend	5-1-2011	410-136-0350	1-1-2011	Amend	1-1-2011
410-122-0180(T)	3-25-2011	Repeal	5-1-2011	410-136-0440	1-1-2011	Amend	1-1-2011
410-122-0186	8-1-2011	Amend(T)	9-1-2011	410-136-0800	1-1-2011	Amend	1-1-2011
410-122-0520	7-1-2011	Amend	8-1-2011	410-136-0820	1-1-2011	Amend	1-1-2011
410-122-0630	8-1-2011	Amend(T)	9-1-2011	410-136-0840	1-1-2011	Amend	1-1-2011
410-123-1000	1-1-2011	Amend	1-1-2011	410-136-0860	1-1-2011	Amend	1-1-2011
410-123-1085	1-1-2011	Repeal	1-1-2011	410-138-0000	1-1-2011	Amend	2-1-2011
410-123-1220	1-1-2011	Amend	1-1-2011	410-138-0005	1-1-2011	Amend	2-1-2011
410-123-1220	7-12-2011	Amend	8-1-2011	410-138-0007	1-1-2011	Amend	2-1-2011
410-123-1260	1-1-2011	Amend	1-1-2011	410-138-0009	1-1-2011	Amend	2-1-2011
410-123-1260	7-12-2011	Amend	8-1-2011	410-138-0020	1-1-2011	Amend	2-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-138-0040	1-1-2011	Amend	2-1-2011	410-147-0200	1-1-2011	Amend	1-1-2011
410-138-0060	1-1-2011	Amend	2-1-2011	410-147-0220	1-1-2011	Repeal	1-1-2011
410-138-0080	1-1-2011	Amend	2-1-2011	410-147-0320	1-1-2011	Amend	1-1-2011
410-138-0300	1-1-2011	Repeal	2-1-2011	410-147-0340	7-1-2011	Amend	7-1-2011
410-138-0360	1-1-2011	Repeal	2-1-2011	410-147-0362	10-1-2011	Amend(T)	11-1-2011
410-138-0380	1-1-2011	Repeal	2-1-2011	410-147-0400	7-1-2011	Amend	7-1-2011
410-138-0390	1-1-2011	Amend	2-1-2011	410-147-0480	1-1-2011	Amend	1-1-2011
410-138-0400	1-1-2011	Repeal	2-1-2011	410-147-0610	1-1-2011	Repeal	1-1-2011
410-138-0420	1-1-2011	Amend	2-1-2011	410-165-0000	7-1-2011	Adopt	8-1-2011
410-138-0440	1-1-2011	Repeal	2-1-2011	410-165-0020	7-1-2011	Adopt	8-1-2011
410-138-0460	1-1-2011	Repeal	2-1-2011	410-165-0040	7-1-2011	Adopt	8-1-2011
410-138-0500	1-1-2011	Repeal	2-1-2011	410-165-0060	7-22-2011	Adopt	9-1-2011
410-138-0540	1-1-2011	Repeal	2-1-2011	410-165-0080	7-1-2011	Adopt	8-1-2011
410-138-0560	1-1-2011	Repeal	2-1-2011	410-165-0100	7-1-2011	Adopt	8-1-2011
410-138-0600	1-1-2011	Repeal	2-1-2011	410-165-0120	7-1-2011	Adopt	8-1-2011
410-138-0640	1-1-2011	Repeal	2-1-2011	410-165-0140	7-1-2011	Adopt	8-1-2011
410-138-0660	1-1-2011	Repeal	2-1-2011	411-031-0020	12-1-2010	Amend	1-1-2011
410-138-0680	1-1-2011	Repeal	2-1-2011	411-031-0020(T)	12-1-2010	Repeal	1-1-2011
410-138-0700	1-1-2011	Repeal	2-1-2011	411-031-0040	12-1-2010	Amend	1-1-2011
410-138-0710	1-1-2011	Repeal	2-1-2011	411-031-0040(T)	12-1-2010	Repeal	1-1-2011
410-138-0740	1-1-2011	Repeal	2-1-2011	411-034-0010	1-1-2011	Amend	2-1-2011
410-138-0760	1-1-2011	Repeal	2-1-2011	411-034-0020	1-1-2011	Amend	2-1-2011
410-138-0780	1-1-2011	Repeal	2-1-2011	411-050-0412	1-1-2011	Amend	2-1-2011
410-141-0000	1-1-2011	Amend	2-1-2011	411-050-0499	1-1-2011	Repeal	2-1-2011
410-141-0070	1-1-2011	Amend	2-1-2011	411-054-0005	4-1-2011	Amend	5-1-2011
410-141-0080	1-1-2011	Amend	2-1-2011	411-054-0005(T)	4-1-2011	Repeal	5-1-2011
410-141-0120	1-1-2011	Amend	2-1-2011	411-054-0012	4-1-2011	Amend	5-1-2011
410-141-0220	1-1-2011	Amend	2-1-2011	411-054-0012(T)	4-1-2011	Repeal	5-1-2011
410-141-0260	1-1-2011	Amend	2-1-2011	411-067-0000	4-1-2011	Amend	5-1-2011
410-141-0263	1-1-2011	Amend	2-1-2011	411-067-0010	4-1-2011	Amend	5-1-2011
410-141-0280	1-1-2011	Amend	2-1-2011	411-067-0020	4-1-2011	Amend	5-1-2011
410-141-0300	1-1-2011	Amend	2-1-2011	411-067-0030	4-1-2011	Repeal	5-1-2011
410-141-0420	1-1-2011	Amend	2-1-2011	411-067-0050	4-1-2011	Amend	5-1-2011
410-141-0520	1-1-2011	Amend	2-1-2011	411-067-0055	4-1-2011	Amend	5-1-2011
410-141-0520	4-1-2011	Amend	5-1-2011	411-067-0060	4-1-2011	Amend	5-1-2011
410-141-0520	10-1-2011	Amend(T)	10-1-2011	411-067-0065	4-1-2011	Adopt	5-1-2011
410-141-0520(T)	1-1-2011	Repeal	2-1-2011	411-067-0070	4-1-2011	Amend	5-1-2011
410-141-0860	10-1-2011	Amend(T)	11-1-2011	411-067-0080	4-1-2011	Amend	5-1-2011
410-142-0020	1-1-2011	Amend	1-1-2011	411-067-0083	4-1-2011	Amend	5-1-2011
410-142-0100	1-1-2011	Amend	1-1-2011	411-067-0086	4-1-2011	Adopt	5-1-2011
410-142-0110	1-1-2011	Adopt	1-1-2011	411-067-0087	4-1-2011	Repeal	5-1-2011
410-142-0200	1-1-2011	Amend	1-1-2011	411-067-0090	4-1-2011	Amend	5-1-2011
410-142-0225	1-1-2011	Amend	1-1-2011	411-067-0100	4-1-2011	Amend	5-1-2011
410-142-0240	1-1-2011	Amend	1-1-2011	411-070-0442	7-1-2011	Amend(T)	8-1-2011
410-142-0280	1-1-2011	Amend	1-1-2011	411-070-0442	11-1-2011	Amend	11-1-2011
410-142-0300	1-1-2011	Amend	1-1-2011	411-070-0442(T)	11-1-2011	Repeal	11-1-2011
410-146-0020	10-1-2011	Amend(T)	11-1-2011	411-070-0452	7-1-2011	Amend(T)	8-1-2011
410-146-0021	1-1-2011	Amend	1-1-2011	411-070-0452	11-1-2011	Amend	11-1-2011
410-146-0085	1-1-2011	Amend	1-1-2011	411-070-0452(T)	11-1-2011	Repeal	11-1-2011
410-146-0086	1-1-2011	Amend	1-1-2011	411-200-0010	5-1-2011	Amend	6-1-2011
410-146-0120	1-1-2011	Amend	1-1-2011	411-200-0020	5-1-2011	Amend	6-1-2011
410-146-0140	1-1-2011	Repeal	1-1-2011	411-200-0030	5-1-2011	Amend	6-1-2011
410-146-0440	7-1-2011	Amend	7-1-2011	411-200-0035	5-1-2011	Adopt	6-1-2011
410-146-0460	7-1-2011	Amend	7-1-2011	411-200-0040	5-1-2011	Amend	6-1-2011
410-147-0120	1-1-2011	Amend	1-1-2011	411-304-0035	1-1-2011	Amend	2-1-2011
410-147-0140	1-1-2011	Amend	1-1-2011	411-308-0020	2-1-2011	Amend(T)	3-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
411-308-0020	8-1-2011	Amend	9-1-2011	411-325-0210	7-1-2011	Suspend	8-1-2011
411-308-0020(T)	8-1-2011	Repeal	9-1-2011	411-325-0310	7-1-2011	Suspend	8-1-2011
411-308-0050	2-1-2011	Amend(T)	3-1-2011	411-325-0320	7-1-2011	Amend(T)	8-1-2011
411-308-0050	8-1-2011	Amend	9-1-2011	411-325-0450	7-1-2011	Suspend	8-1-2011
411-308-0050(T)	8-1-2011	Repeal	9-1-2011	411-325-0460	7-1-2011	Amend(T)	8-1-2011
411-308-0060	2-1-2011	Amend(T)	3-1-2011	411-328-0560	7-1-2011	Amend(T)	8-1-2011
411-308-0060	8-1-2011	Amend	9-1-2011	411-328-0570	2-7-2011	Amend(T)	3-1-2011
411-308-0060(T)	8-1-2011	Repeal	9-1-2011	411-328-0570	7-1-2011	Amend	8-1-2011
411-308-0070	2-1-2011	Amend(T)	3-1-2011	411-328-0570	7-1-2011	Amend(T)	8-1-2011
411-308-0070	8-1-2011	Amend	9-1-2011	411-328-0570(T)	7-1-2011	Repeal	8-1-2011
411-308-0070(T)	8-1-2011	Repeal	9-1-2011	411-328-0580	7-1-2011	Suspend	8-1-2011
411-308-0080	2-1-2011	Amend(T)	3-1-2011	411-328-0590	7-1-2011	Suspend	8-1-2011
411-308-0080	8-1-2011	Amend	9-1-2011	411-328-0600	7-1-2011	Suspend	8-1-2011
411-308-0080(T)	8-1-2011	Repeal	9-1-2011	411-328-0610	7-1-2011	Suspend	8-1-2011
411-308-0090	2-1-2011	Amend(T)	3-1-2011	411-328-0630	7-1-2011	Amend(T)	8-1-2011
411-308-0090	8-1-2011	Amend	9-1-2011	411-328-0670	7-1-2011	Suspend	8-1-2011
411-308-0090(T)	8-1-2011	Repeal	9-1-2011	411-328-0730	7-1-2011	Suspend	8-1-2011
411-308-0120	2-1-2011	Amend(T)	3-1-2011	411-328-0740	7-1-2011	Amend(T)	8-1-2011
411-308-0120	8-1-2011	Amend	9-1-2011	411-328-0805	7-1-2011	Suspend	8-1-2011
411-308-0120(T)	8-1-2011	Repeal	9-1-2011	411-328-0810	2-7-2011	Amend(T)	3-1-2011
411-320-0020	1-1-2011	Amend	2-1-2011	411-328-0810	7-1-2011	Amend	8-1-2011
411-320-0020(T)	1-1-2011	Repeal	2-1-2011	411-328-0810	7-1-2011	Suspend	8-1-2011
411-320-0030	12-1-2010	Amend(T)	1-1-2011	411-328-0810(T)	7-1-2011	Repeal	8-1-2011
411-320-0030	6-2-2011	Amend	7-1-2011	411-328-0820	7-1-2011	Suspend	8-1-2011
411-320-0045	12-1-2010	Amend(T)	1-1-2011	411-328-0830	7-1-2011	Suspend	8-1-2011
411-320-0045	6-2-2011	Amend	7-1-2011	411-335-0010	7-1-2011	Amend(T)	8-1-2011
411-320-0080	1-1-2011	Amend	2-1-2011	411-335-0020	7-1-2011	Amend(T)	8-1-2011
411-320-0080(T)	1-1-2011	Repeal	2-1-2011	411-335-0030	2-7-2011	Amend(T)	3-1-2011
411-320-0090	7-1-2011	Amend(T)	8-1-2011	411-335-0030	7-1-2011	Amend	8-1-2011
411-320-0110	7-1-2011	Amend(T)	8-1-2011	411-335-0030	7-1-2011	Amend(T)	8-1-2011
411-320-0130	12-1-2010	Amend(T)	1-1-2011	411-335-0030(T)	7-1-2011	Repeal	8-1-2011
411-320-0130	6-2-2011	Amend	7-1-2011	411-335-0050	2-7-2011	Amend(T)	3-1-2011
411-320-0170	12-1-2010	Amend(T)	1-1-2011	411-335-0050	7-1-2011	Amend	8-1-2011
411-320-0175	1-1-2011	Amend	2-1-2011	411-335-0050	7-1-2011	Suspend	8-1-2011
411-320-0175(T)	1-1-2011	Repeal	2-1-2011	411-335-0050(T)	7-1-2011	Repeal	8-1-2011
411-323-0010	7-1-2011	Adopt	8-1-2011	411-335-0060	7-1-2011	Amend(T)	8-1-2011
411-323-0010	7-1-2011	Amend(T)	8-1-2011	411-335-0070	7-1-2011	Suspend	8-1-2011
411-323-0020	7-1-2011	Adopt	8-1-2011	411-335-0080	7-1-2011	Suspend	8-1-2011
411-323-0020	7-1-2011	Amend(T)	8-1-2011	411-335-0090	7-1-2011	Suspend	8-1-2011
411-323-0030	7-1-2011	Adopt	8-1-2011	411-335-0100	7-1-2011	Suspend	8-1-2011
411-323-0030	7-1-2011	Amend(T)	8-1-2011	411-335-0110	7-1-2011	Suspend	8-1-2011
411-323-0035	7-1-2011	Adopt(T)	8-1-2011	411-335-0140	7-1-2011	Suspend	8-1-2011
411-323-0040	7-1-2011	Adopt	8-1-2011	411-335-0300	7-1-2011	Suspend	8-1-2011
411-323-0040	7-1-2011	Amend(T)	8-1-2011	411-335-0310	7-1-2011	Amend(T)	8-1-2011
411-323-0050	7-1-2011	Adopt	8-1-2011	411-335-0370	7-1-2011	Suspend	8-1-2011
411-323-0050	7-1-2011	Amend(T)	8-1-2011	411-335-0380	2-7-2011	Amend(T)	3-1-2011
411-323-0060	7-1-2011	Adopt	8-1-2011	411-335-0380	7-1-2011	Amend	8-1-2011
411-323-0060	7-1-2011	Amend(T)	8-1-2011	411-335-0380	7-1-2011	Suspend	8-1-2011
411-323-0070	7-1-2011	Adopt	8-1-2011	411-335-0380(T)	7-1-2011	Repeal	8-1-2011
411-323-0070	7-1-2011	Amend(T)	8-1-2011	411-335-0390	7-1-2011	Suspend	8-1-2011
411-325-0020	7-1-2011	Amend(T)	8-1-2011	411-340-0030	11-17-2010	Amend(T)	1-1-2011
411-325-0025	7-1-2011	Adopt(T)	8-1-2011	411-340-0030	5-5-2011	Amend	6-1-2011
411-325-0060	7-1-2011	Amend(T)	8-1-2011	411-340-0030(T)	5-5-2011	Repeal	6-1-2011
411-325-0080	7-1-2011	Suspend	8-1-2011	411-340-0040	11-17-2010	Amend(T)	1-1-2011
411-325-0100	7-1-2011	Suspend	8-1-2011	411-340-0040	5-5-2011	Amend	6-1-2011
411-325-0160	7-1-2011	Suspend	8-1-2011	411-340-0040(T)	5-5-2011	Repeal	6-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
411-340-0060	11-17-2010	Amend(T)	1-1-2011	411-346-0110	2-10-2011	Amend(T)	3-1-2011
411-340-0060(T)	5-5-2011	Repeal	6-1-2011	411-346-0110	7-1-2011	Adopt	8-1-2011
411-340-0100	7-1-2011	Amend(T)	8-1-2011	411-346-0110(T)	7-1-2011	Repeal	8-1-2011
411-340-0100	8-31-2011	Amend(T)	10-1-2011	411-346-0150	2-10-2011	Amend(T)	3-1-2011
411-340-0100(T)	8-31-2011	Suspend	10-1-2011	411-346-0150	7-1-2011	Adopt	8-1-2011
411-340-0110	8-31-2011	Amend(T)	10-1-2011	411-346-0150(T)	7-1-2011	Repeal	8-1-2011
411-340-0120	11-17-2010	Amend(T)	1-1-2011	411-346-0160	2-10-2011	Amend(T)	3-1-2011
411-340-0120	5-5-2011	Amend	6-1-2011	411-346-0160	7-1-2011	Adopt	8-1-2011
411-340-0120(T)	5-5-2011	Repeal	6-1-2011	411-346-0160(T)	7-1-2011	Repeal	8-1-2011
411-345-0010	7-1-2011	Amend	8-1-2011	411-346-0165	2-10-2011	Amend(T)	3-1-2011
411-345-0010	7-1-2011	Amend(T)	8-1-2011	411-346-0165	7-1-2011	Adopt	8-1-2011
411-345-0020	7-1-2011	Amend	8-1-2011	411-346-0165(T)	7-1-2011	Repeal	8-1-2011
411-345-0020	7-1-2011	Amend(T)	8-1-2011	411-346-0190	2-10-2011	Amend(T)	3-1-2011
411-345-0025	7-1-2011	Adopt	8-1-2011	411-346-0190	7-1-2011	Adopt	8-1-2011
411-345-0030	2-7-2011	Amend(T)	3-1-2011	411-346-0190(T)	7-1-2011	Repeal	8-1-2011
411-345-0030	7-1-2011	Amend	8-1-2011	411-346-0200	2-10-2011	Amend(T)	3-1-2011
411-345-0030	7-1-2011	Amend(T)	8-1-2011	411-346-0200	7-1-2011	Adopt	8-1-2011
411-345-0030(T)	7-1-2011	Repeal	8-1-2011	411-346-0200(T)	7-1-2011	Repeal	8-1-2011
411-345-0040	7-1-2011	Repeal	8-1-2011	411-346-0220	2-10-2011	Amend(T)	3-1-2011
411-345-0050	7-1-2011	Amend	8-1-2011	411-346-0220	7-1-2011	Adopt	8-1-2011
411-345-0050	7-1-2011	Amend(T)	8-1-2011	411-346-0220(T)	7-1-2011	Repeal	8-1-2011
411-345-0060	7-1-2011	Repeal	8-1-2011	411-360-0070	1-1-2011	Amend	2-1-2011
411-345-0070	7-1-2011	Repeal	8-1-2011	411-360-0070(T)	1-1-2011	Repeal	2-1-2011
411-345-0080	7-1-2011	Amend	8-1-2011	411-370-0010	7-1-2011	Adopt	8-1-2011
411-345-0080	7-1-2011	Suspend	8-1-2011	411-370-0020	7-1-2011	Adopt	8-1-2011
411-345-0090	7-1-2011	Amend	8-1-2011	411-370-0030	7-1-2011	Adopt	8-1-2011
411-345-0095	7-1-2011	Adopt	8-1-2011	411-370-0040	7-1-2011	Adopt	8-1-2011
411-345-0100	2-7-2011	Amend(T)	3-1-2011	413-010-0000	9-2-2011	Amend	10-1-2011
411-345-0100	7-1-2011	Amend	8-1-2011	413-010-0010	9-2-2011	Amend	10-1-2011
411-345-0100	7-1-2011	Amend(T)	8-1-2011	413-010-0030	9-2-2011	Amend	10-1-2011
411-345-0100(T)	7-1-2011	Repeal	8-1-2011	413-010-0035	9-2-2011	Amend	10-1-2011
411-345-0110	7-1-2011	Amend	8-1-2011	413-010-0045	9-2-2011	Amend	10-1-2011
411-345-0110	7-1-2011	Amend(T)	8-1-2011	413-010-0055	12-29-2010	Amend	2-1-2011
411-345-0120	7-1-2011	Repeal	8-1-2011	413-010-0055	9-2-2011	Amend	10-1-2011
411-345-0130	7-1-2011	Amend	8-1-2011	413-010-0055(T)	12-29-2010	Repeal	2-1-2011
411-345-0130	7-1-2011	Amend(T)	8-1-2011	413-010-0065	9-2-2011	Amend	10-1-2011
411-345-0140	7-1-2011	Amend	8-1-2011	413-010-0068	9-2-2011	Amend	10-1-2011
411-345-0150	7-1-2011	Repeal	8-1-2011	413-010-0075	9-2-2011	Amend	10-1-2011
411-345-0160	7-1-2011	Amend	8-1-2011	413-010-0081	12-29-2010	Amend	2-1-2011
411-345-0170	7-1-2011	Amend	8-1-2011	413-010-0082	12-29-2010	Amend	2-1-2011
411-345-0180	7-1-2011	Amend	8-1-2011	413-010-0083	12-29-2010	Amend	2-1-2011
411-345-0190	7-1-2011	Amend	8-1-2011	413-010-0084	12-29-2010	Repeal	2-1-2011
411-345-0190	7-1-2011	Amend(T)	8-1-2011	413-010-0085	12-29-2010	Amend	2-1-2011
411-345-0200	7-1-2011	Amend	8-1-2011	413-010-0086	12-29-2010	Repeal	2-1-2011
411-345-0210	7-1-2011	Repeal	8-1-2011	413-010-0360	12-29-2010	Repeal	2-1-2011
411-345-0220	7-1-2011	Repeal	8-1-2011	413-010-0370	12-29-2010	Repeal	2-1-2011
411-345-0230	7-1-2011	Amend	8-1-2011	413-010-0380	12-29-2010	Repeal	2-1-2011
411-345-0240	7-1-2011	Amend	8-1-2011	413-010-0500	6-30-2011	Amend(T)	8-1-2011
411-345-0250	7-1-2011	Amend	8-1-2011	413-010-0501	6-30-2011	Adopt(T)	8-1-2011
411-345-0260	2-7-2011	Amend(T)	3-1-2011	413-010-0502	6-30-2011	Adopt(T)	8-1-2011
411-345-0260	7-1-2011	Amend	8-1-2011	413-010-0505	6-30-2011	Amend(T)	8-1-2011
411-345-0260(T)	7-1-2011	Repeal	8-1-2011	413-010-0510	6-30-2011	Amend(T)	8-1-2011
411-345-0270	7-1-2011	Amend	8-1-2011	413-010-0515	6-30-2011	Amend(T)	8-1-2011
411-345-0280	7-1-2011	Repeal	8-1-2011	413-010-0520	6-30-2011	Amend(T)	8-1-2011
411-345-0290	7-1-2011	Repeal	8-1-2011	413-010-0525	6-30-2011	Amend(T)	8-1-2011
411-345-0300	7-1-2011	Repeal	8-1-2011	413-010-0530	6-30-2011	Amend(T)	8-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
413-010-0535	6-30-2011	Amend(T)	8-1-2011	413-070-0570	12-28-2010	Adopt	2-1-2011
413-010-0705	10-6-2011	Amend(T)	11-1-2011	413-070-0572	12-28-2010	Adopt	2-1-2011
413-010-0710	10-6-2011	Amend(T)	11-1-2011	413-070-0574	12-28-2010	Adopt	2-1-2011
413-010-0712	10-6-2011	Amend(T)	11-1-2011	413-070-0600	12-29-2010	Amend	2-1-2011
413-010-0720	10-6-2011	Amend(T)	11-1-2011	413-070-0620	12-29-2010	Amend	2-1-2011
413-010-0722	10-6-2011	Amend(T)	11-1-2011	413-070-0625	12-29-2010	Amend	2-1-2011
413-010-0723	10-6-2011	Amend(T)	11-1-2011	413-070-0630	12-29-2010	Amend	2-1-2011
413-010-0732	10-6-2011	Amend(T)	11-1-2011	413-070-0640	12-29-2010	Amend	2-1-2011
413-010-0735	10-6-2011	Amend(T)	11-1-2011	413-070-0645	12-29-2010	Amend	2-1-2011
413-010-0738	10-6-2011	Amend(T)	11-1-2011	413-070-0651	12-29-2010	Adopt(T)	2-1-2011
413-010-0740	10-6-2011	Amend(T)	11-1-2011	413-070-0651	6-28-2011	Amend	8-1-2011
413-010-0743	10-6-2011	Amend(T)	11-1-2011	413-070-0655	12-29-2010	Adopt(T)	2-1-2011
413-010-0745	10-6-2011	Amend(T)	11-1-2011	413-070-0655	6-28-2011	Amend	8-1-2011
413-010-0746	10-6-2011	Amend(T)	11-1-2011	413-070-0660	12-29-2010	Adopt(T)	2-1-2011
413-010-0748	10-6-2011	Amend(T)	11-1-2011	413-070-0660	6-28-2011	Amend	8-1-2011
413-010-0750	10-6-2011	Amend(T)	11-1-2011	413-070-0665	12-29-2010	Adopt(T)	2-1-2011
413-020-0200	6-30-2011	Amend(T)	8-1-2011	413-070-0665	6-28-2011	Amend	8-1-2011
413-020-0210	6-30-2011	Amend(T)	8-1-2011	413-070-0670	12-29-2010	Adopt(T)	2-1-2011
413-020-0230	6-30-2011	Amend(T)	8-1-2011	413-070-0670	6-28-2011	Amend	8-1-2011
413-020-0233	6-30-2011	Amend(T)	8-1-2011	413-070-0900	6-30-2011	Amend(T)	8-1-2011
413-020-0236	6-30-2011	Amend(T)	8-1-2011	413-070-0900	10-1-2011	Amend(T)	11-1-2011
413-020-0240	6-30-2011	Amend(T)	8-1-2011	413-070-0900(T)	10-1-2011	Suspend	11-1-2011
413-020-0245	6-30-2011	Amend(T)	8-1-2011	413-070-0905	6-30-2011	Amend(T)	8-1-2011
413-020-0255	6-30-2011	Amend(T)	8-1-2011	413-070-0905	10-1-2011	Amend(T)	11-1-2011
413-040-0240	1-4-2011	Amend	2-1-2011	413-070-0905(T)	10-1-2011	Suspend	11-1-2011
413-040-0240(T)	1-4-2011	Repeal	2-1-2011	413-070-0909	6-30-2011	Amend(T)	8-1-2011
413-070-0063	6-30-2011	Amend(T)	8-1-2011	413-070-0917	6-30-2011	Amend(T)	8-1-2011
413-070-0500	12-29-2010	Amend	2-1-2011	413-070-0917	10-1-2011	Amend(T)	11-1-2011
413-070-0505	12-29-2010	Amend	2-1-2011	413-070-0917(T)	10-1-2011	Suspend	11-1-2011
413-070-0510	12-29-2010	Amend	2-1-2011	413-070-0919	6-30-2011	Amend(T)	8-1-2011
413-070-0514	12-29-2010	Adopt	2-1-2011	413-070-0925	6-30-2011	Amend(T)	8-1-2011
413-070-0514	3-22-2011	Amend(T)	5-1-2011	413-070-0925	10-1-2011	Amend(T)	11-1-2011
413-070-0514	9-19-2011	Amend	11-1-2011	413-070-0925(T)	10-1-2011	Suspend	11-1-2011
413-070-0515	12-29-2010	Am. & Ren.	2-1-2011	413-070-0929	6-30-2011	Suspend	8-1-2011
413-070-0516	12-29-2010	Adopt	2-1-2011	413-070-0934	6-30-2011	Amend(T)	8-1-2011
413-070-0516	3-22-2011	Amend(T)	5-1-2011	413-070-0934	10-1-2011	Amend(T)	11-1-2011
413-070-0516	9-19-2011	Amend	11-1-2011	413-070-0934(T)	10-1-2011	Suspend	11-1-2011
413-070-0517	12-29-2010	Repeal	2-1-2011	413-070-0939	6-30-2011	Amend(T)	8-1-2011
413-070-0518	12-29-2010	Adopt	2-1-2011	413-070-0939	10-1-2011	Amend(T)	11-1-2011
413-070-0518	3-22-2011	Amend(T)	5-1-2011	413-070-0939(T)	10-1-2011	Suspend	11-1-2011
413-070-0518	9-19-2011	Amend	11-1-2011	413-070-0944	6-30-2011	Amend(T)	8-1-2011
413-070-0519	12-29-2010	Adopt	2-1-2011	413-070-0949	6-30-2011	Amend(T)	8-1-2011
413-070-0519	3-22-2011	Amend(T)	5-1-2011	413-070-0949	10-1-2011	Amend(T)	11-1-2011
413-070-0519	9-19-2011	Amend	11-1-2011	413-070-0949(T)	10-1-2011	Suspend	11-1-2011
413-070-0520	12-29-2010	Amend	2-1-2011	413-070-0959	6-30-2011	Amend(T)	8-1-2011
413-070-0524	12-29-2010	Amend	2-1-2011	413-070-0964	6-30-2011	Amend(T)	8-1-2011
413-070-0532	12-29-2010	Amend	2-1-2011	413-070-0964	10-1-2011	Amend(T)	11-1-2011
413-070-0536	12-29-2010	Amend	2-1-2011	413-070-0964(T)	10-1-2011	Suspend	11-1-2011
413-070-0540	12-29-2010	Amend	2-1-2011	413-070-0969	6-30-2011	Amend(T)	8-1-2011
413-070-0548	12-29-2010	Am. & Ren.	2-1-2011	413-070-0970	6-30-2011	Amend(T)	8-1-2011
413-070-0550	12-29-2010	Amend	2-1-2011	413-070-0974	6-30-2011	Amend(T)	8-1-2011
413-070-0550	3-22-2011	Amend(T)	5-1-2011	413-070-0974	10-1-2011	Amend(T)	11-1-2011
413-070-0550	9-19-2011	Amend	11-1-2011	413-070-0974(T)	10-1-2011	Suspend	11-1-2011
413-070-0552	12-29-2010	Amend	2-1-2011	413-070-0979	6-30-2011	Suspend	8-1-2011
413-070-0556	12-29-2010	Amend	2-1-2011	413-090-0000	6-30-2011	Amend(T)	8-1-2011
413-070-0565	12-29-2010	Amend	2-1-2011	413-090-0005	6-30-2011	Amend(T)	8-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
413-090-0010	6-30-2011	Amend(T)	8-1-2011	413-120-0025	12-29-2010	Adopt	2-1-2011
413-090-0021	6-30-2011	Amend(T)	8-1-2011	413-120-0030	12-29-2010	Repeal	2-1-2011
413-090-0030	6-30-2011	Amend(T)	8-1-2011	413-120-0033	12-29-2010	Am. & Ren.	2-1-2011
413-090-0040	6-30-2011	Amend(T)	8-1-2011	413-120-0035	12-29-2010	Amend	2-1-2011
413-090-0050	6-30-2011	Amend(T)	8-1-2011	413-120-0035	3-22-2011	Amend(T)	5-1-2011
413-100-0000	6-30-2011	Amend	8-1-2011	413-120-0035	9-19-2011	Amend	11-1-2011
413-100-0010	6-30-2011	Amend	8-1-2011	413-120-0040	12-29-2010	Repeal	2-1-2011
413-100-0020	6-30-2011	Amend	8-1-2011	413-120-0045	12-29-2010	Am. & Ren.	2-1-2011
413-100-0030	6-30-2011	Amend	8-1-2011	413-120-0053	12-29-2010	Adopt	2-1-2011
413-100-0060	6-30-2011	Amend	8-1-2011	413-120-0057	12-29-2010	Adopt	2-1-2011
413-100-0070	6-30-2011	Amend	8-1-2011	413-120-0060	12-29-2010	Amend	2-1-2011
413-100-0080	6-30-2011	Amend	8-1-2011	413-120-0060	3-22-2011	Amend(T)	5-1-2011
413-100-0110	6-30-2011	Amend	8-1-2011	413-120-0060	9-19-2011	Amend	11-1-2011
413-100-0120	6-30-2011	Amend	8-1-2011	413-120-0075	12-29-2010	Am. & Ren.	2-1-2011
413-100-0130	6-30-2011	Amend	8-1-2011	413-120-0080	12-29-2010	Repeal	2-1-2011
413-100-0135	6-30-2011	Amend(T)	8-1-2011	413-120-0190	12-29-2010	Amend	2-1-2011
413-100-0150	6-30-2011	Amend(T)	8-1-2011	413-120-0195	12-29-2010	Amend	2-1-2011
413-100-0160	6-30-2011	Amend	8-1-2011	413-120-0200	12-29-2010	Repeal	2-1-2011
413-100-0180	6-30-2011	Amend	8-1-2011	413-120-0210	12-29-2010	Repeal	2-1-2011
413-100-0190	6-30-2011	Amend	8-1-2011	413-120-0220	12-29-2010	Amend	2-1-2011
413-100-0200	6-30-2011	Amend	8-1-2011	413-120-0222	12-29-2010	Adopt	2-1-2011
413-100-0210	6-30-2011	Amend	8-1-2011	413-120-0225	12-29-2010	Adopt	2-1-2011
413-100-0220	6-30-2011	Amend	8-1-2011	413-120-0230	12-29-2010	Repeal	2-1-2011
413-100-0230	6-30-2011	Amend	8-1-2011	413-120-0240	12-29-2010	Amend	2-1-2011
413-100-0240	6-30-2011	Amend	8-1-2011	413-120-0243	12-29-2010	Adopt	2-1-2011
413-100-0250	6-30-2011	Amend	8-1-2011	413-120-0246	12-29-2010	Adopt	2-1-2011
413-100-0260	6-30-2011	Amend	8-1-2011	413-120-0250	12-29-2010	Repeal	2-1-2011
413-100-0270	6-30-2011	Amend	8-1-2011	413-120-0255	12-29-2010	Repeal	2-1-2011
413-100-0280	6-30-2011	Amend	8-1-2011	413-120-0260	12-29-2010	Repeal	2-1-2011
413-100-0300	6-30-2011	Amend	8-1-2011	413-120-0265	12-29-2010	Repeal	2-1-2011
413-100-0310	6-30-2011	Amend	8-1-2011	413-120-0270	12-29-2010	Repeal	2-1-2011
413-100-0320	6-30-2011	Amend	8-1-2011	413-120-0275	12-29-2010	Repeal	2-1-2011
413-100-0335	6-30-2011	Amend	8-1-2011	413-120-0280	12-29-2010	Repeal	2-1-2011
413-100-0345	6-30-2011	Amend	8-1-2011	413-120-0285	12-29-2010	Repeal	2-1-2011
413-100-0905	6-30-2011	Amend(T)	8-1-2011	413-120-0290	12-29-2010	Repeal	2-1-2011
413-100-0915	6-30-2011	Amend(T)	8-1-2011	413-120-0300	12-29-2010	Repeal	2-1-2011
413-100-0925	6-30-2011	Amend(T)	8-1-2011	413-120-0310	12-29-2010	Repeal	2-1-2011
413-100-0930	6-30-2011	Amend(T)	8-1-2011	413-120-0500	12-29-2010	Amend	2-1-2011
413-110-0100	12-29-2010	Amend	2-1-2011	413-120-0510	12-29-2010	Amend	2-1-2011
413-110-0110	12-29-2010	Amend	2-1-2011	413-120-0520	12-29-2010	Repeal	2-1-2011
413-110-0120	12-29-2010	Repeal	2-1-2011	413-120-0521	12-29-2010	Adopt	2-1-2011
413-110-0130	12-29-2010	Amend	2-1-2011	413-120-0530	12-29-2010	Repeal	2-1-2011
413-110-0132	12-29-2010	Adopt	2-1-2011	413-120-0540	12-29-2010	Repeal	2-1-2011
413-110-0132	4-4-2011	Amend(T)	5-1-2011	413-120-0541	12-29-2010	Adopt	2-1-2011
413-110-0132	9-19-2011	Amend	11-1-2011	413-120-0550	12-29-2010	Am. & Ren.	2-1-2011
413-110-0140	12-29-2010	Repeal	2-1-2011	413-120-0570	12-29-2010	Adopt	2-1-2011
413-110-0150	12-29-2010	Adopt	2-1-2011	413-120-0590	12-29-2010	Adopt	2-1-2011
413-120-0000	12-29-2010	Amend	2-1-2011	413-120-0595	12-29-2010	Adopt	2-1-2011
413-120-0010	12-29-2010	Amend	2-1-2011	413-120-0700	12-29-2010	Adopt	2-1-2011
413-120-0015	12-29-2010	Repeal	2-1-2011	413-120-0710	12-29-2010	Adopt	2-1-2011
413-120-0020	12-29-2010	Amend	2-1-2011	413-120-0720	12-29-2010	Adopt	2-1-2011
413-120-0020	3-22-2011	Amend(T)	5-1-2011	413-120-0730	12-29-2010	Adopt	2-1-2011
413-120-0020	9-19-2011	Amend	11-1-2011	413-120-0730	3-22-2011	Amend(T)	5-1-2011
413-120-0021	12-29-2010	Adopt	2-1-2011	413-120-0730	9-19-2011	Amend	11-1-2011
413-120-0021	3-22-2011	Amend(T)	5-1-2011	413-120-0750	12-29-2010	Adopt	2-1-2011
413-120-0021	9-19-2011	Amend	11-1-2011	413-120-0750	3-22-2011	Amend(T)	5-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
413-120-0750	9-19-2011	Amend	11-1-2011	413-130-0090(T)	10-1-2011	Suspend	11-1-2011
413-120-0760	12-29-2010	Adopt	2-1-2011	413-130-0100	6-30-2011	Amend(T)	8-1-2011
413-120-0760	3-22-2011	Amend(T)	5-1-2011	413-130-0100	10-1-2011	Amend(T)	11-1-2011
413-120-0760	9-19-2011	Amend	11-1-2011	413-130-0100(T)	10-1-2011	Suspend	11-1-2011
413-120-0800	12-29-2010	Amend	2-1-2011	413-130-0110	6-30-2011	Amend(T)	8-1-2011
413-120-0810	12-29-2010	Amend	2-1-2011	413-130-0110	10-1-2011	Amend(T)	11-1-2011
413-120-0820	12-29-2010	Repeal	2-1-2011	413-130-0110(T)	10-1-2011	Suspend	11-1-2011
413-120-0830	12-29-2010	Amend	2-1-2011	413-130-0115	6-30-2011	Suspend	8-1-2011
413-120-0840	12-29-2010	Adopt	2-1-2011	413-130-0125	6-30-2011	Amend(T)	8-1-2011
413-120-0850	12-29-2010	Adopt	2-1-2011	413-130-0125	10-1-2011	Amend(T)	11-1-2011
413-120-0860	12-29-2010	Adopt	2-1-2011	413-130-0125(T)	10-1-2011	Suspend	11-1-2011
413-120-0870	12-29-2010	Adopt	2-1-2011	413-130-0130	6-30-2011	Amend(T)	8-1-2011
413-120-0900	12-28-2010	Adopt	2-1-2011	413-130-0130	10-1-2011	Amend(T)	11-1-2011
413-120-0905	12-28-2010	Adopt	2-1-2011	413-130-0130(T)	10-1-2011	Suspend	11-1-2011
413-120-0910	12-28-2010	Adopt	2-1-2011	413-130-0150	12-29-2010	Repeal	2-1-2011
413-120-0920	12-28-2010	Adopt	2-1-2011	413-130-0160	12-29-2010	Repeal	2-1-2011
413-120-0925	12-28-2010	Adopt	2-1-2011	413-130-0170	12-29-2010	Repeal	2-1-2011
413-120-0930	12-28-2010	Adopt	2-1-2011	413-130-0180	12-29-2010	Repeal	2-1-2011
413-120-0940	12-28-2010	Adopt	2-1-2011	413-200-0404	9-1-2011	Amend(T)	10-1-2011
413-120-0945	12-28-2010	Adopt	2-1-2011	413-200-0409	9-1-2011	Amend(T)	10-1-2011
413-120-0950	12-28-2010	Adopt	2-1-2011	413-200-0414	9-1-2011	Amend(T)	10-1-2011
413-120-0960	12-28-2010	Adopt	2-1-2011	413-200-0419	9-1-2011	Amend(T)	10-1-2011
413-120-0970	12-28-2010	Adopt	2-1-2011	413-200-0424	9-1-2011	Amend(T)	10-1-2011
413-130-0000	6-30-2011	Amend(T)	8-1-2011	414-205-0055	1-1-2011	Amend	2-1-2011
413-130-0010	6-30-2011	Amend(T)	8-1-2011	414-205-0100	1-1-2011	Amend	2-1-2011
413-130-0010	10-1-2011	Amend(T)	11-1-2011	414-205-0110	1-1-2011	Amend	2-1-2011
413-130-0010(T)	10-1-2011	Suspend	11-1-2011	414-205-0170	1-1-2011	Amend	2-1-2011
413-130-0015	6-30-2011	Adopt(T)	8-1-2011	414-300-0005	1-1-2011	Amend	2-1-2011
413-130-0020	6-30-2011	Amend(T)	8-1-2011	414-300-0010	1-1-2011	Amend	2-1-2011
413-130-0020	10-1-2011	Amend(T)	11-1-2011	414-300-0015	1-1-2011	Amend	2-1-2011
413-130-0020(T)	10-1-2011	Suspend	11-1-2011	414-300-0030	1-1-2011	Amend	2-1-2011
413-130-0030	6-30-2011	Am. & Ren.(T)	8-1-2011	414-300-0040	1-1-2011	Amend	2-1-2011
413-130-0040	6-30-2011	Amend(T)	8-1-2011	414-300-0110	1-1-2011	Amend(T)	2-1-2011
413-130-0040	10-1-2011	Amend(T)	11-1-2011	414-300-0110	6-1-2011	Amend	7-1-2011
413-130-0040(T)	10-1-2011	Suspend	11-1-2011	414-300-0110(T)	6-1-2011	Repeal	7-1-2011
413-130-0045	6-30-2011	Suspend	8-1-2011	414-300-0120	1-1-2011	Amend	2-1-2011
413-130-0050	6-30-2011	Amend(T)	8-1-2011	414-300-0250	1-1-2011	Amend	2-1-2011
413-130-0050	10-1-2011	Amend(T)	11-1-2011	414-300-0415	1-1-2011	Amend	2-1-2011
413-130-0050(T)	10-1-2011	Suspend	11-1-2011	414-350-0010	1-1-2011	Amend	2-1-2011
413-130-0055	6-30-2011	Adopt(T)	8-1-2011	414-350-0020	1-1-2011	Amend	2-1-2011
413-130-0055	10-1-2011	Adopt(T)	11-1-2011	414-350-0030	1-1-2011	Amend	2-1-2011
413-130-0055(T)	10-1-2011	Suspend	11-1-2011	414-350-0050	1-1-2011	Amend	2-1-2011
413-130-0060	6-30-2011	Suspend	8-1-2011	414-350-0060	1-1-2011	Amend	2-1-2011
413-130-0070	6-30-2011	Amend(T)	8-1-2011	414-350-0090	1-1-2011	Amend	2-1-2011
413-130-0070	10-1-2011	Amend(T)	11-1-2011	414-350-0100	1-1-2011	Amend	2-1-2011
413-130-0070(T)	10-1-2011	Suspend	11-1-2011	414-350-0110	1-1-2011	Amend(T)	2-1-2011
413-130-0075	6-30-2011	Amend(T)	8-1-2011	414-350-0110	6-1-2011	Amend	7-1-2011
413-130-0075	10-1-2011	Amend(T)	11-1-2011	414-350-0110(T)	6-1-2011	Repeal	7-1-2011
413-130-0075(T)	10-1-2011	Suspend	11-1-2011	414-350-0115	1-1-2011	Amend	2-1-2011
413-130-0077	10-1-2011	Amend(T)	11-1-2011	414-350-0200	1-1-2011	Amend	2-1-2011
413-130-0077(T)	10-1-2011	Suspend	11-1-2011	414-350-0210	1-1-2011	Amend	2-1-2011
413-130-0080	6-30-2011	Amend(T)	8-1-2011	414-350-0375	1-1-2011	Amend	2-1-2011
413-130-0080	10-1-2011	Amend(T)	11-1-2011	414-350-0380	1-1-2011	Amend	2-1-2011
413-130-0080(T)	10-1-2011	Suspend	11-1-2011	414-425-0010	5-1-2011	Amend(T)	6-1-2011
413-130-0090	6-30-2011	Amend(T)	8-1-2011	414-425-0010	6-30-2011	Amend(T)	8-1-2011
413-130-0090	10-1-2011	Amend(T)	11-1-2011	414-425-0010(T)	6-30-2011	Suspend	8-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
414-425-0030	5-1-2011	Amend(T)	6-1-2011	415-054-0490(T)	3-9-2011	Repeal	4-1-2011
414-425-0030	6-30-2011	Amend(T)	8-1-2011	415-054-0500	3-9-2011	Adopt	4-1-2011
414-425-0030(T)	6-30-2011	Suspend	8-1-2011	415-054-0500(T)	3-9-2011	Repeal	4-1-2011
414-450-0010	5-1-2011	Amend(T)	6-1-2011	415-054-0510	3-9-2011	Adopt	4-1-2011
414-450-0010	6-30-2011	Amend(T)	8-1-2011	415-054-0510(T)	3-9-2011	Repeal	4-1-2011
414-450-0010(T)	6-30-2011	Suspend	8-1-2011	415-054-0520	3-9-2011	Adopt	4-1-2011
414-450-0030	5-1-2011	Amend(T)	6-1-2011	415-054-0520(T)	3-9-2011	Repeal	4-1-2011
414-450-0030	6-30-2011	Amend(T)	8-1-2011	415-054-0530	3-9-2011	Adopt	4-1-2011
414-450-0030(T)	6-30-2011	Suspend	8-1-2011	415-054-0540	3-9-2011	Adopt	4-1-2011
415-054-0005	3-9-2011	Repeal	4-1-2011	415-054-0550	3-9-2011	Adopt	4-1-2011
415-054-0010	3-9-2011	Repeal	4-1-2011	415-054-0560	3-9-2011	Adopt	4-1-2011
415-054-0015	3-9-2011	Repeal	4-1-2011	415-054-0570	3-9-2011	Adopt	4-1-2011
415-054-0017	3-9-2011	Repeal	4-1-2011	415-054-0580	3-9-2011	Adopt	4-1-2011
415-054-0018	3-9-2011	Repeal	4-1-2011	415-065-0010	8-16-2011	Amend	10-1-2011
415-054-0045	3-9-2011	Repeal	4-1-2011	415-065-0015	8-16-2011	Amend	10-1-2011
415-054-0050	3-9-2011	Repeal	4-1-2011	415-065-0055	2-11-2011	Amend(T)	3-1-2011
415-054-0055	3-9-2011	Repeal	4-1-2011	415-065-0055	8-16-2011	Amend	10-1-2011
415-054-0060	3-9-2011	Repeal	4-1-2011	416-070-0010	6-14-2011	Adopt(T)	7-1-2011
415-054-0070	3-9-2011	Repeal	4-1-2011	416-070-0010	9-9-2011	Adopt	10-1-2011
415-054-0075	3-9-2011	Repeal	4-1-2011	416-070-0020	6-14-2011	Adopt(T)	7-1-2011
415-054-0076	3-9-2011	Repeal	4-1-2011	416-070-0020	9-9-2011	Adopt	10-1-2011
415-054-0080	3-9-2011	Repeal	4-1-2011	416-070-0030	6-14-2011	Adopt(T)	7-1-2011
415-054-0090	3-9-2011	Repeal	4-1-2011	416-070-0030	9-9-2011	Adopt	10-1-2011
415-054-0100	3-9-2011	Repeal	4-1-2011	416-070-0040	6-14-2011	Adopt(T)	7-1-2011
415-054-0200	3-9-2011	Repeal	4-1-2011	416-070-0040	9-9-2011	Adopt	10-1-2011
415-054-0210	3-9-2011	Repeal	4-1-2011	416-070-0050	6-14-2011	Adopt(T)	7-1-2011
415-054-0220	3-9-2011	Repeal	4-1-2011	416-070-0050	9-9-2011	Adopt	10-1-2011
415-054-0230	3-9-2011	Repeal	4-1-2011	416-070-0060	6-14-2011	Adopt(T)	7-1-2011
415-054-0240	3-9-2011	Repeal	4-1-2011	416-070-0060	9-9-2011	Adopt	10-1-2011
415-054-0300	3-9-2011	Repeal	4-1-2011	416-260-0010	9-15-2011	Amend	10-1-2011
415-054-0310	3-9-2011	Repeal	4-1-2011	416-260-0015	9-15-2011	Adopt	10-1-2011
415-054-0320	3-9-2011	Repeal	4-1-2011	416-420-0010	9-15-2011	Amend	10-1-2011
415-054-0330	3-9-2011	Repeal	4-1-2011	416-420-0030	9-15-2011	Amend	10-1-2011
415-054-0340	3-9-2011	Repeal	4-1-2011	416-460-0000	9-7-2011	Repeal	10-1-2011
415-054-0350	3-9-2011	Repeal	4-1-2011	416-460-0010	9-7-2011	Repeal	10-1-2011
415-054-0360	3-9-2011	Repeal	4-1-2011	416-460-0020	9-7-2011	Repeal	10-1-2011
415-054-0370	3-9-2011	Repeal	4-1-2011	416-460-0030	9-7-2011	Repeal	10-1-2011
415-054-0400	3-9-2011	Adopt	4-1-2011	416-460-0040	9-7-2011	Repeal	10-1-2011
415-054-0400(T)	3-9-2011	Repeal	4-1-2011	416-600-0000	9-7-2011	Repeal	10-1-2011
415-054-0410	3-9-2011	Adopt	4-1-2011	416-600-0010	9-7-2011	Repeal	10-1-2011
415-054-0410(T)	3-9-2011	Repeal	4-1-2011	416-600-0020	9-7-2011	Repeal	10-1-2011
415-054-0420	3-9-2011	Adopt	4-1-2011	416-600-0030	9-7-2011	Repeal	10-1-2011
415-054-0420(T)	3-9-2011	Repeal	4-1-2011	416-600-0040	9-7-2011	Repeal	10-1-2011
415-054-0430	3-9-2011	Adopt	4-1-2011	416-600-0050	9-7-2011	Repeal	10-1-2011
415-054-0430(T)	3-9-2011	Repeal	4-1-2011	423-010-0024	9-12-2011	Amend	10-1-2011
415-054-0440	3-9-2011	Adopt	4-1-2011	423-010-0050	10-5-2011	Adopt(T)	11-1-2011
415-054-0440(T)	3-9-2011	Repeal	4-1-2011	436-009-0003	4-1-2011	Amend	4-1-2011
415-054-0450	3-9-2011	Adopt	4-1-2011	436-009-0004	4-1-2011	Amend	4-1-2011
415-054-0450(T)	3-9-2011	Repeal	4-1-2011	436-009-0005	4-1-2011	Amend	4-1-2011
415-054-0460	3-9-2011	Adopt	4-1-2011	436-009-0010	4-1-2011	Amend	4-1-2011
415-054-0460(T)	3-9-2011	Repeal	4-1-2011	436-009-0020	4-1-2011	Amend	4-1-2011
415-054-0470	3-9-2011	Adopt	4-1-2011	436-009-0030	4-1-2011	Amend	4-1-2011
415-054-0470(T)	3-9-2011	Repeal	4-1-2011	436-009-0040	4-1-2011	Amend	4-1-2011
415-054-0480	3-9-2011	Adopt	4-1-2011	436-009-0050	4-1-2011	Amend	4-1-2011
415-054-0480(T)	3-9-2011	Repeal	4-1-2011	436-009-0070	4-1-2011	Amend	4-1-2011
415-054-0490	3-9-2011	Adopt	4-1-2011	436-009-0080	4-1-2011	Amend	4-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
436-009-0080	7-5-2011	Amend(T)	8-1-2011	441-674-0130	1-1-2011	Adopt	2-1-2011
436-009-0090	4-1-2011	Amend	4-1-2011	441-674-0130(T)	1-1-2011	Repeal	2-1-2011
436-009-0114	4-1-2011	Adopt	4-1-2011	441-674-0140	1-1-2011	Adopt	2-1-2011
436-009-0120	4-1-2011	Amend	4-1-2011	441-674-0140(T)	1-1-2011	Repeal	2-1-2011
436-009-0125	4-1-2011	Amend	4-1-2011	441-674-0210	1-1-2011	Adopt	2-1-2011
436-009-0155	4-1-2011	Amend	4-1-2011	441-674-0210(T)	1-1-2011	Repeal	2-1-2011
436-009-0160	4-1-2011	Amend	4-1-2011	441-674-0220	1-1-2011	Adopt	2-1-2011
436-009-0180	4-1-2011	Amend	4-1-2011	441-674-0220(T)	1-1-2011	Repeal	2-1-2011
436-009-0199	4-1-2011	Am. & Ren.	4-1-2011	441-674-0230	1-1-2011	Adopt	2-1-2011
436-009-0200	4-1-2012	Adopt	4-1-2011	441-674-0230(T)	1-1-2011	Repeal	2-1-2011
436-009-0205	4-1-2012	Adopt	4-1-2011	441-674-0240	1-1-2011	Adopt	2-1-2011
436-009-0206	4-1-2012	Adopt	4-1-2011	441-674-0240(T)	1-1-2011	Repeal	2-1-2011
436-009-0207	4-1-2012	Adopt	4-1-2011	441-674-0250	1-1-2011	Adopt	2-1-2011
436-009-0210	4-1-2012	Adopt	4-1-2011	441-674-0250(T)	1-1-2011	Repeal	2-1-2011
436-009-0215	4-1-2012	Adopt	4-1-2011	441-674-0310	1-1-2011	Adopt	2-1-2011
436-009-0220	4-1-2012	Adopt	4-1-2011	441-674-0310(T)	1-1-2011	Repeal	2-1-2011
436-009-0225	4-1-2012	Adopt	4-1-2011	441-674-0510	1-20-2011	Adopt	3-1-2011
436-009-0230	4-1-2012	Adopt	4-1-2011	441-674-0520	1-20-2011	Adopt	3-1-2011
436-009-0235	4-1-2012	Adopt	4-1-2011	441-674-0910	1-1-2011	Adopt	2-1-2011
436-009-0240	4-1-2012	Adopt	4-1-2011	441-674-0910(T)	1-1-2011	Repeal	2-1-2011
436-009-0245	4-1-2012	Adopt	4-1-2011	441-674-0915	1-1-2011	Adopt	2-1-2011
436-009-0250	4-1-2012	Adopt	4-1-2011	441-674-0915(T)	1-1-2011	Repeal	2-1-2011
436-009-0255	4-1-2012	Adopt	4-1-2011	441-674-0920	1-1-2011	Adopt	2-1-2011
436-009-0260	4-1-2012	Adopt	4-1-2011	441-674-0920(T)	1-1-2011	Repeal	2-1-2011
436-009-0265	4-1-2012	Adopt	4-1-2011	441-710-0035	12-1-2010	Amend	1-1-2011
436-009-0270	4-1-2012	Adopt	4-1-2011	441-710-0071	12-1-2010	Adopt	1-1-2011
436-009-0275	4-1-2012	Adopt	4-1-2011	441-710-0500	3-8-2011	Amend	4-1-2011
436-009-0280	4-1-2012	Adopt	4-1-2011	441-860-0101	7-1-2011	Amend(T)	8-1-2011
436-009-0285	4-1-2012	Adopt	4-1-2011	441-860-0101	10-3-2011	Amend	11-1-2011
436-009-0290	4-1-2012	Adopt	4-1-2011	441-860-0101(T)	10-3-2011	Repeal	11-1-2011
436-010-0230	4-1-2011	Amend	4-1-2011	441-880-0400	7-1-2011	Amend(T)	8-1-2011
436-010-0265	4-1-2011	Amend	4-1-2011	441-880-0400	10-3-2011	Amend	11-1-2011
436-010-0290	4-1-2011	Amend	4-1-2011	441-880-0400(T)	10-3-2011	Repeal	11-1-2011
436-060-0095	4-1-2011	Amend	4-1-2011	441-930-0010	1-1-2011	Amend	2-1-2011
436-085-0003	7-1-2011	Amend	7-1-2011	441-930-0030	1-1-2011	Amend	2-1-2011
436-085-0005	7-1-2011	Amend	7-1-2011	441-930-0035	1-1-2011	Adopt	2-1-2011
436-085-0025	7-1-2011	Amend	7-1-2011	441-930-0045	1-1-2011	Adopt	2-1-2011
436-085-0030	7-1-2011	Amend	7-1-2011	441-930-0065	1-1-2011	Adopt	2-1-2011
437-001-0057	10-1-2011	Amend	11-1-2011	441-930-0068	1-1-2011	Adopt	2-1-2011
437-001-0706	10-1-2011	Amend	11-1-2011	441-930-0070	1-1-2011	Amend	2-1-2011
437-003-0001	2-9-2011	Amend	3-1-2011	441-930-0080	1-1-2011	Amend	2-1-2011
437-003-1423	2-9-2011	Adopt	3-1-2011	441-930-0210	1-1-2011	Amend	2-1-2011
437-003-3600	2-9-2011	Adopt	3-1-2011	441-930-0220	1-1-2011	Amend	2-1-2011
440-045-0020	1-1-2012	Amend	11-1-2011	441-930-0230	1-1-2011	Amend	2-1-2011
440-045-0025	1-1-2012	Amend	11-1-2011	441-930-0240	1-1-2011	Amend	2-1-2011
441-035-0010	2-15-2011	Amend	3-1-2011	441-930-0250	1-1-2011	Amend	2-1-2011
441-505-1135	12-1-2010	Adopt	1-1-2011	441-930-0255	1-1-2011	Adopt	2-1-2011
441-505-1135	7-1-2011	Suspend	8-1-2011	441-930-0260	1-1-2011	Amend	2-1-2011
441-505-1135	10-3-2011	Repeal	11-1-2011	441-930-0267	1-1-2011	Adopt	2-1-2011
441-674-0005	1-1-2011	Adopt	2-1-2011	441-930-0270	1-1-2011	Amend	2-1-2011
441-674-0005	1-20-2011	Amend	3-1-2011	441-930-0270	7-1-2011	Amend(T)	8-1-2011
441-674-0005(T)	1-1-2011	Repeal	2-1-2011	441-930-0270	10-3-2011	Amend	11-1-2011
441-674-0100	1-1-2011	Adopt	2-1-2011	441-930-0270(T)	10-3-2011	Repeal	11-1-2011
441-674-0100(T)	1-1-2011	Repeal	2-1-2011	441-930-0280	1-1-2011	Repeal	2-1-2011
441-674-0120	1-1-2011	Adopt	2-1-2011	441-930-0290	1-1-2011	Amend	2-1-2011
441-674-0120(T)	1-1-2011	Repeal	2-1-2011	441-930-0300	1-1-2011	Amend	2-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
441-930-0310	1-1-2011	Amend	2-1-2011	442-010-0160	1-18-2011	Amend	3-1-2011
441-930-0320	1-1-2011	Amend	2-1-2011	442-010-0160	3-8-2011	Amend	4-1-2011
441-930-0330	1-1-2011	Amend	2-1-2011	442-010-0170	1-18-2011	Amend	3-1-2011
441-930-0340	1-1-2011	Repeal	2-1-2011	442-010-0170	3-8-2011	Amend	4-1-2011
441-930-0350	1-1-2011	Amend	2-1-2011	442-010-0180	1-18-2011	Amend	3-1-2011
441-930-0360	1-1-2011	Amend	2-1-2011	442-010-0180	3-8-2011	Amend	4-1-2011
442-005-0000	5-19-2011	Amend	7-1-2011	442-010-0190	1-18-2011	Amend	3-1-2011
442-005-0010	2-25-2011	Amend	4-1-2011	442-010-0190	3-8-2011	Amend	4-1-2011
442-005-0020	7-15-2011	Amend(T)	8-1-2011	442-010-0200	1-18-2011	Adopt	3-1-2011
442-005-0030	1-5-2011	Amend(T)	2-1-2011	442-010-0200	3-8-2011	Amend	4-1-2011
442-005-0030	4-22-2011	Amend	6-1-2011	442-010-0210	1-18-2011	Adopt	3-1-2011
442-005-0030	7-15-2011	Amend(T)	8-1-2011	442-010-0210	3-8-2011	Amend	4-1-2011
442-005-0030(T)	1-5-2011	Suspend	2-1-2011	442-010-0220	1-18-2011	Adopt	3-1-2011
442-005-0050	2-25-2011	Amend	4-1-2011	442-010-0220	3-8-2011	Amend	4-1-2011
442-005-0050	7-15-2011	Amend(T)	8-1-2011	442-010-0230	1-18-2011	Adopt	3-1-2011
442-005-0060	2-25-2011	Amend	4-1-2011	442-010-0230	3-8-2011	Amend	4-1-2011
442-005-0070	4-22-2011	Amend	6-1-2011	442-010-0240	1-18-2011	Adopt	3-1-2011
442-005-0070	7-15-2011	Amend(T)	8-1-2011	442-010-0240	3-8-2011	Amend	4-1-2011
442-005-0100	2-25-2011	Amend	4-1-2011	442-010-0250	1-18-2011	Adopt	3-1-2011
442-005-0240	4-22-2011	Amend	6-1-2011	442-010-0250	3-8-2011	Amend	4-1-2011
442-010-0010	1-18-2011	Amend	3-1-2011	442-010-0260	1-18-2011	Adopt	3-1-2011
442-010-0010	3-8-2011	Amend	4-1-2011	442-010-0260	3-8-2011	Amend	4-1-2011
442-010-0020	1-18-2011	Amend	3-1-2011	442-010-0270	1-18-2011	Adopt	3-1-2011
442-010-0020	3-8-2011	Amend	4-1-2011	442-010-0270	3-8-2011	Amend	4-1-2011
442-010-0020	8-1-2011	Amend(T)	9-1-2011	442-010-0280	1-18-2011	Adopt	3-1-2011
442-010-0030	1-18-2011	Amend	3-1-2011	442-010-0280	3-8-2011	Amend	4-1-2011
442-010-0030	3-8-2011	Amend	4-1-2011	443-002-0070	1-26-2011	Amend	3-1-2011
442-010-0040	1-18-2011	Amend	3-1-2011	443-002-0190	1-26-2011	Amend	3-1-2011
442-010-0040	3-8-2011	Amend	4-1-2011	459-005-0040	11-24-2010	Adopt	1-1-2011
442-010-0050	3-8-2011	Amend	4-1-2011	459-005-0250	6-1-2011	Amend	7-1-2011
442-010-0055	1-18-2011	Amend	3-1-2011	459-005-0580	6-1-2011	Adopt	7-1-2011
442-010-0055	3-8-2011	Amend	4-1-2011	459-010-0019	8-4-2011	Adopt	9-1-2011
442-010-0060	1-18-2011	Amend	3-1-2011	459-010-01065	8-4-2011	Repeal	9-1-2011
442-010-0060	3-8-2011	Amend	4-1-2011	459-010-0170	8-4-2011	Repeal	9-1-2011
442-010-0060	8-1-2011	Amend(T)	9-1-2011	459-010-0205	10-5-2011	Repeal	11-1-2011
442-010-0065	3-8-2011	Adopt	4-1-2011	459-011-0150	6-1-2011	Adopt	7-1-2011
442-010-0070	1-18-2011	Amend	3-1-2011	459-013-0050	8-4-2011	Adopt	9-1-2011
442-010-0070	3-8-2011	Amend	4-1-2011	459-015-0001	10-5-2011	Amend	11-1-2011
442-010-0075	3-8-2011	Adopt	4-1-2011	459-015-0020	10-5-2011	Amend	11-1-2011
442-010-0075	8-1-2011	Amend(T)	9-1-2011	459-015-0045	10-5-2011	Amend	11-1-2011
442-010-0080	1-18-2011	Amend	3-1-2011	459-015-0050	10-5-2011	Amend	11-1-2011
442-010-0080	3-8-2011	Amend	4-1-2011	459-015-0055	6-1-2011	Amend	7-1-2011
442-010-0085	3-8-2011	Adopt	4-1-2011	459-020-0005	8-4-2011	Repeal	9-1-2011
442-010-0090	3-8-2011	Amend	4-1-2011	459-020-0010	8-4-2011	Repeal	9-1-2011
442-010-0100	1-18-2011	Amend	3-1-2011	459-020-0012	8-4-2011	Repeal	9-1-2011
442-010-0100	3-8-2011	Amend	4-1-2011	459-020-0015	8-4-2011	Amend	9-1-2011
442-010-0110	1-18-2011	Amend	3-1-2011	459-020-0020	8-4-2011	Repeal	9-1-2011
442-010-0110	3-8-2011	Amend	4-1-2011	459-020-0025	8-4-2011	Repeal	9-1-2011
442-010-0120	1-18-2011	Amend	3-1-2011	459-020-0030	8-4-2011	Amend	9-1-2011
442-010-0120	3-8-2011	Amend	4-1-2011	459-020-0035	8-4-2011	Repeal	9-1-2011
442-010-0130	1-18-2011	Amend	3-1-2011	459-020-0040	8-4-2011	Repeal	9-1-2011
442-010-0130	3-8-2011	Amend	4-1-2011	459-020-0045	8-4-2011	Repeal	9-1-2011
442-010-0140	1-18-2011	Amend	3-1-2011	459-020-0050	8-4-2011	Amend	9-1-2011
442-010-0140	3-8-2011	Amend	4-1-2011	459-020-0055	8-4-2011	Repeal	9-1-2011
442-010-0150	1-18-2011	Amend	3-1-2011	459-050-0037	8-4-2011	Amend	9-1-2011
442-010-0150	3-8-2011	Amend	4-1-2011	459-050-0075	6-1-2011	Amend	7-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
459-050-0077	8-4-2011	Amend	9-1-2011	461-115-0705(T)	4-1-2011	Repeal	5-1-2011
459-050-0090	6-1-2011	Amend	7-1-2011	461-120-0210	1-1-2011	Amend	2-1-2011
459-050-0120	8-4-2011	Adopt	9-1-2011	461-120-0210	4-1-2011	Amend	5-1-2011
459-050-0150	8-4-2011	Amend	9-1-2011	461-120-0315	7-1-2011	Amend	8-1-2011
459-050-0300	8-4-2011	Amend	9-1-2011	461-120-0340	10-5-2011	Amend(T)	11-1-2011
459-060-0020	11-24-2010	Amend	1-1-2011	461-120-0510	10-1-2011	Amend	11-1-2011
459-070-0100	2-2-2011	Amend	3-1-2011	461-125-0170	7-1-2011	Amend(T)	8-1-2011
459-070-0110	2-2-2011	Amend	3-1-2011	461-125-0170	10-1-2011	Amend	11-1-2011
459-076-0000	10-5-2011	Repeal	11-1-2011	461-125-0170(T)	10-1-2011	Repeal	11-1-2011
459-076-0001	10-5-2011	Amend	11-1-2011	461-130-0305	1-1-2011	Amend	2-1-2011
459-076-0020	10-5-2011	Amend	11-1-2011	461-130-0310	1-1-2011	Amend	2-1-2011
459-076-0025	10-5-2011	Amend	11-1-2011	461-130-0310	7-1-2011	Amend(T)	8-1-2011
459-076-0050	10-5-2011	Amend	11-1-2011	461-130-0310	10-1-2011	Amend	11-1-2011
459-076-0055	10-5-2011	Amend	11-1-2011	461-130-0310(T)	10-1-2011	Repeal	11-1-2011
461-001-0000	1-1-2011	Amend	2-1-2011	461-130-0315	1-1-2011	Amend	2-1-2011
461-001-0000	10-1-2011	Amend	11-1-2011	461-130-0320	1-1-2011	Repeal	2-1-2011
461-001-0025	7-1-2011	Amend(T)	8-1-2011	461-130-0323	1-1-2011	Repeal	2-1-2011
461-012-0100	7-1-2011	Am. & Ren.	7-1-2011	461-130-0325	1-1-2011	Repeal	2-1-2011
461-012-0150	7-1-2011	Am. & Ren.	7-1-2011	461-130-0327	1-1-2011	Amend	2-1-2011
461-025-0310	10-1-2011	Amend	11-1-2011	461-130-0327	7-1-2011	Amend(T)	8-1-2011
461-025-0311	1-1-2011	Amend	2-1-2011	461-130-0328	1-1-2011	Amend	2-1-2011
461-025-0311(T)	1-1-2011	Repeal	2-1-2011	461-130-0330	1-1-2011	Amend	2-1-2011
461-025-0371	10-1-2011	Amend	11-1-2011	461-130-0330	10-1-2011	Amend(T)	11-1-2011
461-101-0010	1-1-2011	Amend	2-1-2011	461-130-0335	1-1-2011	Amend	2-1-2011
461-101-0010(T)	1-1-2011	Repeal	2-1-2011	461-130-0335	10-1-2011	Amend(T)	11-1-2011
461-110-0210	4-1-2011	Amend	5-1-2011	461-135-0010	1-1-2011	Amend	2-1-2011
461-110-0310	4-1-2011	Amend	5-1-2011	461-135-0070	7-1-2011	Amend(T)	8-1-2011
461-110-0330	4-1-2011	Amend	5-1-2011	461-135-0070	10-1-2011	Amend	11-1-2011
461-110-0340	4-1-2011	Amend	5-1-2011	461-135-0070(T)	10-1-2011	Repeal	11-1-2011
461-110-0350	4-1-2011	Amend	5-1-2011	461-135-0089	10-1-2011	Amend(T)	11-1-2011
461-110-0370	4-1-2011	Amend	5-1-2011	461-135-0095	4-1-2011	Amend	5-1-2011
461-110-0370	10-1-2011	Amend	11-1-2011	461-135-0095(T)	4-1-2011	Repeal	5-1-2011
461-110-0390	4-1-2011	Amend	5-1-2011	461-135-0210	1-1-2011	Amend	2-1-2011
461-110-0400	4-1-2011	Amend	5-1-2011	461-135-0210(T)	1-1-2011	Repeal	2-1-2011
461-110-0410	4-1-2011	Amend	5-1-2011	461-135-0400	1-1-2011	Amend	2-1-2011
461-110-0430	4-1-2011	Amend	5-1-2011	461-135-0400	2-16-2011	Amend(T)	4-1-2011
461-110-0530	4-1-2011	Amend	5-1-2011	461-135-0400	3-22-2011	Amend(T)	5-1-2011
461-110-0630	1-1-2011	Amend	2-1-2011	461-135-0400	7-1-2011	Amend	8-1-2011
461-110-0630	4-1-2011	Amend	5-1-2011	461-135-0400(T)	1-1-2011	Repeal	2-1-2011
461-110-0630(T)	1-1-2011	Repeal	2-1-2011	461-135-0400(T)	3-22-2011	Suspend	5-1-2011
461-110-0750	4-1-2011	Amend	5-1-2011	461-135-0400(T)	7-1-2011	Repeal	8-1-2011
461-115-0016	8-1-2011	Adopt(T)	9-1-2011	461-135-0475	7-1-2011	Amend(T)	8-1-2011
461-115-0030	8-1-2011	Amend(T)	9-1-2011	461-135-0475	10-1-2011	Amend(T)	11-1-2011
461-115-0050	10-1-2011	Amend(T)	11-1-2011	461-135-0475(T)	10-1-2011	Suspend	11-1-2011
461-115-0071	1-1-2011	Amend	2-1-2011	461-135-0485	10-1-2011	Adopt(T)	11-1-2011
461-115-0071	10-1-2011	Amend	11-1-2011	461-135-0570	10-1-2011	Amend	11-1-2011
461-115-0071(T)	1-1-2011	Repeal	2-1-2011	461-135-0780	1-1-2011	Amend	2-1-2011
461-115-0140	10-1-2011	Amend	11-1-2011	461-135-0950	4-1-2011	Amend	5-1-2011
461-115-0230	7-22-2011	Amend(T)	9-1-2011	461-135-0950	10-1-2011	Amend(T)	11-1-2011
461-115-0232	10-1-2011	Adopt	11-1-2011	461-135-0960	10-1-2011	Suspend	11-1-2011
461-115-0450	10-1-2011	Amend	11-1-2011	461-135-1100	1-1-2011	Amend	2-1-2011
461-115-0530	3-1-2011	Amend(T)	4-1-2011	461-135-1100(T)	1-1-2011	Repeal	2-1-2011
461-115-0530	7-1-2011	Amend	8-1-2011	461-135-1110	7-1-2011	Amend(T)	8-1-2011
461-115-0530(T)	7-1-2011	Repeal	8-1-2011	461-135-1110	10-1-2011	Amend	11-1-2011
461-115-0690	7-22-2011	Amend(T)	9-1-2011	461-135-1110(T)	10-1-2011	Repeal	11-1-2011
461-115-0705	4-1-2011	Amend	5-1-2011	461-135-1120	3-1-2011	Amend(T)	4-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
461-135-1120	7-1-2011	Amend	8-1-2011	461-155-0295(T)	7-1-2011	Repeal	8-1-2011
461-135-1120(T)	7-1-2011	Repeal	8-1-2011	461-155-0320	1-1-2011	Amend	2-1-2011
461-135-1125	1-1-2011	Amend	2-1-2011	461-155-0320	8-19-2011	Amend(T)	10-1-2011
461-135-1125(T)	1-1-2011	Repeal	2-1-2011	461-155-0320(T)	1-1-2011	Repeal	2-1-2011
461-135-1195	1-1-2011	Amend	2-1-2011	461-155-0528	1-1-2011	Adopt	2-1-2011
461-135-1195	10-1-2011	Amend(T)	11-1-2011	461-155-0528	2-1-2011	Amend(T)	3-1-2011
461-135-1197	1-1-2011	Adopt	2-1-2011	461-155-0528	7-1-2011	Amend	8-1-2011
461-135-1250	1-1-2011	Amend	2-1-2011	461-155-0528	8-1-2011	Amend(T)	9-1-2011
461-135-1250	6-15-2011	Amend(T)	7-1-2011	461-155-0528(T)	1-1-2011	Repeal	2-1-2011
461-135-1250(T)	1-1-2011	Repeal	2-1-2011	461-155-0528(T)	7-1-2011	Repeal	8-1-2011
461-135-1250(T)	6-29-2011	Suspend	8-1-2011	461-155-0575	4-1-2011	Adopt(T)	5-1-2011
461-135-1260	10-1-2011	Adopt(T)	11-1-2011	461-155-0575	7-1-2011	Adopt	8-1-2011
461-140-0110	4-1-2011	Amend	5-1-2011	461-155-0575	7-15-2011	Amend(T)	8-1-2011
461-145-0080	10-5-2011	Amend(T)	11-1-2011	461-155-0610	10-1-2011	Amend	11-1-2011
461-145-0140	1-1-2011	Amend(T)	2-1-2011	461-155-0660	10-1-2011	Amend	11-1-2011
461-145-0140	7-1-2011	Amend	8-1-2011	461-155-0680	10-1-2011	Amend	11-1-2011
461-145-0143	1-1-2011	Suspend	2-1-2011	461-155-0688	1-1-2011	Amend	2-1-2011
461-145-0143(T)	7-1-2011	Repeal	8-1-2011	461-155-0688(T)	1-1-2011	Repeal	2-1-2011
461-145-0220	1-1-2011	Amend(T)	2-1-2011	461-155-0693	1-1-2011	Amend	2-1-2011
461-145-0220	7-1-2011	Amend	8-1-2011	461-155-0693	2-1-2011	Amend(T)	3-1-2011
461-145-0410	10-1-2011	Amend(T)	11-1-2011	461-155-0693	7-1-2011	Amend	8-1-2011
461-145-0530	2-4-2011	Amend(T)	3-1-2011	461-155-0693	7-15-2011	Amend(T)	8-1-2011
461-145-0530	7-1-2011	Amend	8-1-2011	461-155-0693(T)	1-1-2011	Repeal	2-1-2011
461-145-0530(T)	7-1-2011	Repeal	8-1-2011	461-160-0015	1-1-2011	Amend(T)	2-1-2011
461-150-0055	1-1-2011	Amend	2-1-2011	461-160-0015	4-1-2011	Amend	5-1-2011
461-150-0055	1-1-2011	Amend(T)	2-1-2011	461-160-0015	10-1-2011	Amend(T)	11-1-2011
461-150-0055	2-4-2011	Amend(T)	3-1-2011	461-160-0015(T)	4-1-2011	Repeal	5-1-2011
461-150-0055	4-1-2011	Amend	5-1-2011	461-160-0400	4-1-2011	Amend	5-1-2011
461-150-0055(T)	1-1-2011	Repeal	2-1-2011	461-160-0400(T)	4-1-2011	Repeal	5-1-2011
461-150-0055(T)	2-4-2011	Suspend	3-1-2011	461-160-0410	1-1-2011	Amend	2-1-2011
461-150-0055(T)	4-1-2011	Repeal	5-1-2011	461-160-0420	10-1-2011	Amend	11-1-2011
461-155-0030	1-1-2011	Amend	2-1-2011	461-160-0430	1-1-2011	Amend	2-1-2011
461-155-0030	1-1-2011	Amend(T)	2-1-2011	461-160-0430	1-1-2011	Amend(T)	2-1-2011
461-155-0030	4-1-2011	Amend	5-1-2011	461-160-0430	4-1-2011	Amend	5-1-2011
461-155-0030(T)	1-1-2011	Repeal	2-1-2011	461-160-0430	10-1-2011	Amend	11-1-2011
461-155-0030(T)	4-1-2011	Repeal	5-1-2011	461-160-0430(T)	1-1-2011	Repeal	2-1-2011
461-155-0035	1-1-2011	Amend	2-1-2011	461-160-0430(T)	4-1-2011	Repeal	5-1-2011
461-155-0035(T)	1-1-2011	Repeal	2-1-2011	461-160-0530	1-1-2011	Repeal	2-1-2011
461-155-0150	7-1-2011	Amend	8-1-2011	461-160-0620	7-1-2011	Amend(T)	8-1-2011
461-155-0180	1-1-2011	Amend	2-1-2011	461-160-0620	10-1-2011	Amend	11-1-2011
461-155-0180	1-20-2011	Amend(T)	3-1-2011	461-160-0620(T)	10-1-2011	Repeal	11-1-2011
461-155-0180	7-1-2011	Amend	8-1-2011	461-160-0700	1-1-2011	Amend	2-1-2011
461-155-0180(T)	1-1-2011	Repeal	2-1-2011	461-160-0700	1-1-2011	Amend(T)	2-1-2011
461-155-0180(T)	7-1-2011	Repeal	8-1-2011	461-160-0700	4-1-2011	Amend	5-1-2011
461-155-0190	10-1-2011	Amend	11-1-2011	461-160-0700(T)	1-1-2011	Repeal	2-1-2011
461-155-0225	1-1-2011	Amend	2-1-2011	461-160-0700(T)	4-1-2011	Repeal	5-1-2011
461-155-0225(T)	1-1-2011	Repeal	2-1-2011	461-160-0800	7-1-2011	Amend	8-1-2011
461-155-0235	1-20-2011	Amend	3-1-2011	461-165-0160	7-1-2011	Amend	8-1-2011
461-155-0290	3-1-2011	Amend(T)	4-1-2011	461-165-0171	7-1-2011	Amend	8-1-2011
461-155-0290	7-1-2011	Amend	8-1-2011	461-170-0010	4-1-2011	Amend	5-1-2011
461-155-0290(T)	7-1-2011	Repeal	8-1-2011	461-170-0010(T)	4-1-2011	Repeal	5-1-2011
461-155-0291	3-1-2011	Amend(T)	4-1-2011	461-170-0011	1-1-2011	Amend	2-1-2011
461-155-0291	7-1-2011	Amend	8-1-2011	461-170-0011	10-1-2011	Amend(T)	11-1-2011
461-155-0291(T)	7-1-2011	Repeal	8-1-2011	461-175-0010	1-1-2011	Amend	2-1-2011
461-155-0295	3-1-2011	Amend(T)	4-1-2011	461-175-0010(T)	1-1-2011	Repeal	2-1-2011
461-155-0295	7-1-2011	Amend	8-1-2011	461-175-0200	1-1-2011	Amend	2-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
461-175-0200	7-1-2011	Amend	8-1-2011	471-030-0048(T)	8-3-2011	Repeal	9-1-2011
461-175-0200(T)	1-1-2011	Repeal	2-1-2011	471-030-0053	6-29-2011	Amend(T)	8-1-2011
461-175-0250	1-1-2011	Amend	2-1-2011	471-030-0080	9-13-2011	Amend(T)	10-1-2011
461-175-0250(T)	1-1-2011	Repeal	2-1-2011	471-031-0140	12-13-2010	Amend	1-1-2011
461-180-0050	10-1-2011	Amend(T)	11-1-2011	471-031-0141	12-13-2010	Amend	1-1-2011
461-180-0070	10-1-2011	Amend(T)	11-1-2011	471-031-0200	12-13-2010	Amend	1-1-2011
461-180-0130	6-29-2011	Amend(T)	8-1-2011	471-031-0225	12-13-2010	Repeal	1-1-2011
461-180-0130	10-1-2011	Amend(T)	11-1-2011	471-031-0230	12-13-2010	Repeal	1-1-2011
461-180-0130(T)	10-1-2011	Suspend	11-1-2011	471-031-0235	12-13-2010	Adopt	1-1-2011
461-190-0199	7-1-2011	Amend(T)	8-1-2011	471-040-0005	2-9-2011	Amend(T)	3-1-2011
461-190-0199	10-1-2011	Amend	11-1-2011	471-040-0005	7-14-2011	Amend	8-1-2011
461-190-0199(T)	10-1-2011	Repeal	11-1-2011	471-040-0005(T)	7-14-2011	Repeal	8-1-2011
461-190-0211	1-1-2011	Amend(T)	2-1-2011	471-040-0010	8-26-2011	Amend(T)	10-1-2011
461-190-0211	4-1-2011	Amend	5-1-2011	471-040-0040	8-26-2011	Amend(T)	10-1-2011
461-190-0211	7-1-2011	Amend(T)	8-1-2011	471-040-0041	8-26-2011	Amend(T)	10-1-2011
461-190-0211	10-1-2011	Amend	11-1-2011	471-041-0070	8-26-2011	Amend(T)	10-1-2011
461-190-0211(T)	4-1-2011	Repeal	5-1-2011	471-041-0070	8-30-2011	Amend(T)	10-1-2011
461-190-0211(T)	10-1-2011	Repeal	11-1-2011	471-041-0070(T)	8-30-2011	Suspend	10-1-2011
461-190-0212	6-2-2011	Adopt(T)	7-1-2011	571-004-0020	2-7-2011	Amend	3-1-2011
461-190-0212	6-29-2011	Adopt(T)	8-1-2011	571-004-0025	2-7-2011	Amend	3-1-2011
461-190-0212	10-1-2011	Adopt	11-1-2011	571-004-0030	2-7-2011	Amend	3-1-2011
461-190-0212(T)	6-29-2011	Suspend	8-1-2011	571-004-0035	2-7-2011	Repeal	3-1-2011
461-190-0212(T)	10-1-2011	Repeal	11-1-2011	571-004-0040	2-7-2011	Repeal	3-1-2011
461-190-0416	2-14-2011	Amend(T)	3-1-2011	571-004-0045	2-7-2011	Amend	3-1-2011
461-190-0416	7-1-2011	Amend	8-1-2011	571-004-0050	2-7-2011	Amend	3-1-2011
461-190-0416(T)	7-1-2011	Repeal	8-1-2011	571-004-0055	2-7-2011	Amend	3-1-2011
461-193-0560	1-1-2011	Amend	2-1-2011	571-060-0005	7-1-2011	Amend	8-1-2011
461-193-0560(T)	1-1-2011	Repeal	2-1-2011	573-001-0075	12-8-2010	Amend	1-1-2011
461-193-1190	10-1-2011	Repeal	11-1-2011	573-040-0005	6-13-2011	Amend	7-1-2011
461-195-0501	10-1-2011	Amend	11-1-2011	573-050-0005	6-13-2011	Amend	7-1-2011
461-195-0521	7-1-2011	Amend	8-1-2011	573-050-0015	6-13-2011	Amend	7-1-2011
461-195-0521	10-1-2011	Amend	11-1-2011	573-050-0016	6-13-2011	Adopt	7-1-2011
461-195-0541	10-1-2011	Amend	11-1-2011	573-050-0020	6-13-2011	Amend	7-1-2011
461-195-0621	10-1-2011	Amend	11-1-2011	573-050-0025	6-13-2011	Amend	7-1-2011
462-110-0010	10-1-2011	Amend	11-1-2011	573-050-0040	6-13-2011	Amend	7-1-2011
462-120-0040	10-1-2011	Amend	11-1-2011	573-076-0000	6-13-2011	Amend	7-1-2011
462-120-0120	10-3-2011	Amend	11-1-2011	573-076-0020	6-13-2011	Amend	7-1-2011
462-130-0010	10-1-2011	Amend	11-1-2011	573-076-0050	6-13-2011	Amend	7-1-2011
462-130-0030	10-1-2011	Amend	11-1-2011	573-076-0060	6-13-2011	Amend	7-1-2011
462-130-0050	10-1-2011	Amend	11-1-2011	573-076-0070	6-13-2011	Amend	7-1-2011
462-140-0040	10-1-2011	Amend	11-1-2011	573-076-0080	6-13-2011	Amend	7-1-2011
462-150-0040	10-1-2011	Amend	11-1-2011	573-076-0130	6-13-2011	Amend	7-1-2011
462-150-0080	10-1-2011	Amend	11-1-2011	574-050-0005	2-2-2011	Amend	3-1-2011
462-200-0370	10-1-2011	Amend	11-1-2011	574-050-0005	5-2-2011	Amend	6-1-2011
462-210-0030	6-9-2011	Amend	7-1-2011	574-050-0005	8-5-2011	Amend	9-1-2011
462-210-0040	6-9-2011	Amend	7-1-2011	575-080-0100	11-16-2010	Adopt	1-1-2011
462-220-0030	6-9-2011	Amend	7-1-2011	575-080-0110	11-16-2010	Adopt	1-1-2011
471-010-0111	12-13-2010	Adopt	1-1-2011	575-080-0120	11-16-2010	Adopt	1-1-2011
471-030-0037	3-1-2011	Amend(T)	4-1-2011	575-080-0130	11-16-2010	Adopt	1-1-2011
471-030-0037	8-3-2011	Amend	9-1-2011	575-080-0135	11-16-2010	Adopt	1-1-2011
471-030-0037(T)	8-3-2011	Repeal	9-1-2011	575-080-0140	11-16-2010	Adopt	1-1-2011
471-030-0038	3-1-2011	Amend(T)	4-1-2011	575-080-0145	11-16-2010	Adopt	1-1-2011
471-030-0038	8-3-2011	Amend	9-1-2011	576-001-0060	9-22-2011	Adopt(T)	11-1-2011
471-030-0038(T)	8-3-2011	Repeal	9-1-2011	576-010-0000	7-1-2011	Amend	7-1-2011
471-030-0048	7-1-2011	Amend(T)	6-1-2011	576-010-0006	6-13-2011	Adopt	7-1-2011
471-030-0048	8-3-2011	Amend	9-1-2011	576-010-0031	6-13-2011	Amend	7-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
576-010-0036	6-13-2011	Amend	7-1-2011	582-030-0008	9-1-2011	Amend	9-1-2011
576-010-0041	6-13-2011	Amend	7-1-2011	582-030-0010	9-1-2011	Amend	9-1-2011
576-015-0020	6-13-2011	Amend	7-1-2011	582-030-0020	9-1-2011	Amend	9-1-2011
576-015-0050	6-13-2011	Amend	7-1-2011	582-030-0025	9-1-2011	Amend	9-1-2011
576-017-0005	6-13-2011	Amend	7-1-2011	582-030-0030	9-1-2011	Amend	9-1-2011
576-017-0010	6-13-2011	Repeal	7-1-2011	582-030-0040	3-1-2011	Amend(T)	3-1-2011
576-017-0015	6-13-2011	Repeal	7-1-2011	582-030-0040	9-1-2011	Amend	9-1-2011
576-017-0020	6-13-2011	Repeal	7-1-2011	582-030-0050	9-1-2011	Adopt	9-1-2011
576-060-0010	6-13-2011	Amend	7-1-2011	582-050-0000	3-1-2011	Amend(T)	3-1-2011
576-060-0015	6-13-2011	Amend	7-1-2011	582-050-0000	9-1-2011	Amend	9-1-2011
576-060-0020	6-13-2011	Amend	7-1-2011	582-050-0005	3-1-2011	Amend(T)	3-1-2011
576-060-0025	6-13-2011	Amend	7-1-2011	582-050-0005	9-1-2011	Amend	9-1-2011
576-060-0031	6-13-2011	Amend	7-1-2011	582-050-0010	3-1-2011	Amend(T)	3-1-2011
576-060-0038	6-13-2011	Amend	7-1-2011	582-050-0010	9-1-2011	Amend	9-1-2011
577-034-0001	9-29-2011	Amend	11-1-2011	582-050-0020	3-1-2011	Amend(T)	3-1-2011
577-060-0020	7-1-2011	Amend(T)	7-1-2011	582-050-0020	9-1-2011	Amend	9-1-2011
577-060-0020	9-21-2011	Amend	11-1-2011	582-050-0060	3-1-2011	Amend(T)	3-1-2011
577-060-0020(T)	9-21-2011	Repeal	11-1-2011	582-050-0060	9-1-2011	Amend	9-1-2011
578-041-0030	6-20-2011	Amend	8-1-2011	582-060-0010	3-1-2011	Amend(T)	3-1-2011
578-041-0030	8-16-2011	Amend	10-1-2011	582-060-0010	9-1-2011	Amend	9-1-2011
578-072-0030	7-25-2011	Amend	9-1-2011	582-060-0020	3-1-2011	Amend(T)	3-1-2011
578-072-0030	7-29-2011	Amend	9-1-2011	582-060-0020	9-1-2011	Amend	9-1-2011
578-072-0030	8-16-2011	Amend	10-1-2011	582-070-0010	3-1-2011	Amend(T)	3-1-2011
579-020-0006	6-6-2011	Amend	7-1-2011	582-070-0010	9-1-2011	Amend	9-1-2011
579-020-0006	8-5-2011	Amend	9-1-2011	582-070-0020	3-1-2011	Amend(T)	3-1-2011
579-050-0005	6-6-2011	Repeal	7-1-2011	582-070-0020	9-1-2011	Amend	9-1-2011
579-050-0005	8-5-2011	Repeal	9-1-2011	582-070-0025	3-1-2011	Amend(T)	3-1-2011
580-040-0035	1-20-2011	Amend	3-1-2011	582-070-0025	9-1-2011	Amend	9-1-2011
580-040-0040	6-23-2011	Amend	8-1-2011	582-070-0030	3-1-2011	Amend(T)	3-1-2011
581-001-0005	4-22-2011	Amend	6-1-2011	582-070-0030	9-1-2011	Amend	9-1-2011
581-015-2005	8-23-2011	Amend(T)	10-1-2011	582-070-0040	3-1-2011	Amend(T)	3-1-2011
581-015-2010	8-23-2011	Amend(T)	10-1-2011	582-070-0040	9-1-2011	Amend	9-1-2011
581-015-2030	4-22-2011	Amend	6-1-2011	582-070-0041	9-1-2011	Amend	9-1-2011
581-015-2040	8-23-2011	Amend(T)	10-1-2011	582-070-0042	3-1-2011	Amend(T)	3-1-2011
581-015-2075	8-23-2011	Amend(T)	10-1-2011	582-070-0042	9-1-2011	Amend	9-1-2011
581-015-2080	8-23-2011	Amend(T)	10-1-2011	582-070-0043	3-1-2011	Amend(T)	3-1-2011
581-020-0342	8-23-2011	Adopt(T)	10-1-2011	582-070-0043	9-1-2011	Amend	9-1-2011
581-020-0343	8-23-2011	Adopt(T)	10-1-2011	582-070-0044	3-1-2011	Amend(T)	3-1-2011
581-020-0345	2-1-2011	Amend	3-1-2011	582-070-0044	9-1-2011	Amend	9-1-2011
581-020-0350	12-17-2010	Repeal	2-1-2011	583-030-0010	11-16-2010	Amend	1-1-2011
581-022-0421	2-1-2011	Amend	3-1-2011	583-030-0035	11-16-2010	Amend	1-1-2011
581-022-0610	7-1-2011	Amend	8-1-2011	583-050-0011	11-16-2010	Amend	1-1-2011
581-022-0615	7-1-2011	Amend	8-1-2011	583-050-0016	11-16-2010	Amend	1-1-2011
581-022-0617	12-17-2010	Adopt	2-1-2011	584-005-0005	9-1-2011	Amend	9-1-2011
581-045-0009	1-1-2011	Amend	2-1-2011	584-010-0090	1-1-2011	Amend	2-1-2011
581-051-0305	2-1-2011	Amend	3-1-2011	584-017-0200	1-1-2011	Amend	2-1-2011
581-051-0306	2-1-2011	Amend	3-1-2011	584-017-0201	1-1-2011	Amend	2-1-2011
581-053-0002	3-17-2011	Amend	5-1-2011	584-017-0300	1-1-2011	Amend	2-1-2011
581-053-0006	3-17-2011	Amend	5-1-2011	584-017-0390	1-1-2011	Amend	2-1-2011
581-053-0512	7-1-2011	Amend	8-1-2011	584-017-0480	1-1-2011	Amend	2-1-2011
581-053-0516	7-1-2011	Adopt	8-1-2011	584-017-0500	1-26-2011	Adopt	3-1-2011
581-056-0517	7-1-2011	Repeal	8-1-2011	584-017-0510	1-26-2011	Adopt	3-1-2011
582-001-0010	3-1-2011	Amend(T)	3-1-2011	584-017-0520	1-26-2011	Adopt	3-1-2011
582-001-0010	9-1-2011	Amend	9-1-2011	584-017-0530	1-26-2011	Adopt	3-1-2011
582-030-0000	9-1-2011	Amend	9-1-2011	584-017-0541	1-26-2011	Adopt	3-1-2011
582-030-0005	9-1-2011	Amend	9-1-2011	584-017-0551	1-26-2011	Adopt	3-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
584-017-0555	1-26-2011	Adopt	3-1-2011	584-080-0152	3-15-2011	Amend	4-1-2011
584-017-0560	1-26-2011	Adopt	3-1-2011	584-080-0153	1-1-2011	Amend	1-1-2011
584-017-0570	1-26-2011	Adopt	3-1-2011	584-080-0161	1-1-2011	Amend	1-1-2011
584-017-0580	1-26-2011	Adopt	3-1-2011	584-080-0171	1-1-2011	Amend	1-1-2011
584-020-0040	6-15-2011	Amend	7-1-2011	589-002-0100	4-20-2011	Amend	6-1-2011
584-021-0120	3-15-2011	Amend	4-1-2011	589-007-0800	7-29-2011	Adopt(T)	9-1-2011
584-021-0165	1-1-2011	Amend	1-1-2011	603-011-0250	1-7-2011	Amend	2-1-2011
584-023-0005	1-1-2011	Amend	1-1-2011	603-011-0255	1-6-2011	Amend	2-1-2011
584-036-0055	1-1-2011	Amend	1-1-2011	603-011-0256	1-7-2011	Amend	2-1-2011
584-036-0055	6-15-2011	Amend	7-1-2011	603-011-0263	1-6-2011	Amend	2-1-2011
584-036-0105	3-15-2011	Amend	4-1-2011	603-011-0264	1-6-2011	Amend	2-1-2011
584-042-0002	1-1-2011	Repeal	2-1-2011	603-011-0270	10-14-2011	Amend	11-1-2011
584-042-0006	1-1-2011	Repeal	2-1-2011	603-011-0281	1-7-2011	Amend	2-1-2011
584-042-0009	1-1-2011	Repeal	2-1-2011	603-011-0340	1-6-2011	Amend	2-1-2011
584-042-0044	1-1-2011	Amend	1-1-2011	603-011-0365	1-6-2011	Repeal	2-1-2011
584-048-0065	1-1-2011	Am. & Ren.	2-1-2011	603-027-0420	1-26-2011	Amend	3-1-2011
584-050-0015	9-1-2011	Amend	9-1-2011	603-027-0420	9-9-2011	Amend	10-1-2011
584-050-0016	9-1-2011	Amend	9-1-2011	603-027-0430	9-9-2011	Amend	10-1-2011
584-050-0018	9-1-2011	Amend	9-1-2011	603-042-0020	5-10-2011	Amend	6-1-2011
584-060-0014	3-15-2011	Amend	4-1-2011	603-052-0030	7-20-2011	Amend	9-1-2011
584-060-0062	1-28-2011	Amend	3-1-2011	603-052-0150	7-20-2011	Amend	9-1-2011
584-060-0062	9-1-2011	Amend	9-1-2011	603-052-0153	7-20-2011	Amend	9-1-2011
584-060-0162	1-1-2011	Amend	1-1-2011	603-052-0160	7-20-2011	Amend	9-1-2011
584-060-0171	1-1-2011	Amend	1-1-2011	603-052-0187	7-20-2011	Amend	9-1-2011
584-060-0181	1-1-2011	Amend	1-1-2011	603-052-0265	7-20-2011	Amend	9-1-2011
584-060-0181	3-15-2011	Amend	4-1-2011	603-052-0347	11-23-2010	Amend	1-1-2011
584-060-0182	1-1-2011	Amend	1-1-2011	603-052-1200	9-29-2011	Amend	11-1-2011
584-060-0190	1-1-2011	Amend	1-1-2011	603-052-1207	3-17-2011	Adopt(T)	5-1-2011
584-060-0200	1-1-2011	Amend	1-1-2011	603-052-1212	3-17-2011	Adopt(T)	5-1-2011
584-060-0210	1-1-2011	Amend	2-1-2011	603-052-1215	3-17-2011	Adopt(T)	5-1-2011
584-060-0220	1-1-2011	Amend	2-1-2011	603-052-1230	12-17-2010	Amend	2-1-2011
584-060-0220	3-15-2011	Amend	4-1-2011	603-052-1230	9-9-2011	Amend	10-1-2011
584-065-0125	3-15-2011	Adopt	4-1-2011	603-052-1250	12-17-2010	Amend	2-1-2011
584-070-0001	1-1-2011	Amend	1-1-2011	603-052-1300	10-13-2011	Adopt	11-1-2011
584-070-0111	1-1-2011	Amend	1-1-2011	603-052-1310	10-13-2011	Adopt	11-1-2011
584-070-0111	3-15-2011	Amend	4-1-2011	603-052-1320	10-13-2011	Adopt	11-1-2011
584-070-0112	1-1-2011	Amend	1-1-2011	603-052-1330	10-13-2011	Adopt	11-1-2011
584-070-0132	1-1-2011	Amend	1-1-2011	603-052-1340	10-13-2011	Adopt	11-1-2011
584-070-0205	1-1-2011	Adopt	2-1-2011	603-052-1350	10-13-2011	Adopt	11-1-2011
584-070-0211	1-1-2011	Amend	2-1-2011	603-052-1360	10-13-2011	Adopt	11-1-2011
584-070-0221	1-1-2011	Amend	2-1-2011	603-052-1370	10-13-2011	Adopt	11-1-2011
584-070-0271	1-1-2011	Amend	2-1-2011	603-056-0145	7-1-2011	Amend(T)	8-1-2011
584-070-0310	1-1-2011	Amend	1-1-2011	603-056-0145	10-4-2011	Amend	11-1-2011
584-070-0401	1-1-2011	Adopt	2-1-2011	603-058-0001	8-12-2011	Repeal	9-1-2011
584-070-0411	1-1-2011	Adopt	2-1-2011	603-058-0002	8-12-2011	Repeal	9-1-2011
584-070-0411	4-14-2011	Amend	5-1-2011	603-058-0005	8-12-2011	Repeal	9-1-2011
584-070-0411	9-1-2011	Amend	9-1-2011	603-058-0010	8-12-2011	Repeal	9-1-2011
584-070-0421	1-1-2011	Adopt	2-1-2011	603-058-0011	8-12-2011	Repeal	9-1-2011
584-070-0421	4-14-2011	Amend	5-1-2011	603-058-0020	8-12-2011	Repeal	9-1-2011
584-070-0421	9-1-2011	Amend	9-1-2011	603-058-0021	8-12-2011	Repeal	9-1-2011
584-070-0431	1-1-2011	Adopt	2-1-2011	603-058-0026	8-12-2011	Repeal	9-1-2011
584-070-0431	4-14-2011	Amend	5-1-2011	603-058-0028	8-12-2011	Repeal	9-1-2011
584-070-0431	6-15-2011	Amend	7-1-2011	603-058-0029	8-12-2011	Repeal	9-1-2011
584-080-0008	9-1-2011	Adopt	9-1-2011	603-058-0031	8-12-2011	Repeal	9-1-2011
584-080-0031	1-1-2011	Amend	1-1-2011	603-058-0032	8-12-2011	Repeal	9-1-2011
584-080-0151	3-15-2011	Amend	4-1-2011	603-058-0036	8-12-2011	Repeal	9-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
603-058-0040	8-12-2011	Repeal	9-1-2011	635-003-0003	5-1-2011	Amend	6-1-2011
603-058-0051	8-12-2011	Repeal	9-1-2011	635-003-0004	7-29-2011	Amend(T)	9-1-2011
603-058-0052	8-12-2011	Repeal	9-1-2011	635-003-0085	7-1-2011	Amend	8-1-2011
603-058-0065	8-12-2011	Repeal	9-1-2011	635-004-0005	3-22-2011	Amend	5-1-2011
603-058-0070	8-12-2011	Repeal	9-1-2011	635-004-0009	3-22-2011	Amend	5-1-2011
603-058-0110	8-12-2011	Adopt	9-1-2011	635-004-0016	5-26-2011	Amend	7-1-2011
603-058-0120	8-12-2011	Adopt	9-1-2011	635-004-0017	3-4-2011	Amend(T)	4-1-2011
603-058-0125	8-12-2011	Adopt	9-1-2011	635-004-0017	5-26-2011	Amend	7-1-2011
603-058-0125	9-19-2011	Amend	11-1-2011	635-004-0017	7-12-2011	Amend(T)	8-1-2011
603-058-0130	8-12-2011	Adopt	9-1-2011	635-004-0017	9-21-2011	Amend(T)	11-1-2011
603-058-0140	8-12-2011	Adopt	9-1-2011	635-004-0017(T)	9-21-2011	Suspend	11-1-2011
603-058-0150	8-12-2011	Adopt	9-1-2011	635-004-0018	1-1-2011	Amend	1-1-2011
603-058-0160	8-12-2011	Adopt	9-1-2011	635-004-0019	12-7-2010	Amend(T)	1-1-2011
603-058-0170	8-12-2011	Adopt	9-1-2011	635-004-0019	1-1-2011	Amend	1-1-2011
603-058-0180	8-12-2011	Adopt	9-1-2011	635-004-0019	1-1-2011	Amend(T)	2-1-2011
603-058-0190	8-12-2011	Adopt	9-1-2011	635-004-0019	1-11-2011	Amend(T)	2-1-2011
603-058-0200	8-12-2011	Adopt	9-1-2011	635-004-0019	3-3-2011	Amend(T)	4-1-2011
603-058-0210	8-12-2011	Adopt	9-1-2011	635-004-0019	5-13-2011	Amend(T)	6-1-2011
603-058-0220	8-12-2011	Adopt	9-1-2011	635-004-0019	6-20-2011	Amend(T)	8-1-2011
603-058-0230	8-12-2011	Adopt	9-1-2011	635-004-0019	7-7-2011	Amend(T)	8-1-2011
603-058-0240	8-12-2011	Adopt	9-1-2011	635-004-0019(T)	12-7-2010	Suspend	1-1-2011
603-058-0250	8-12-2011	Adopt	9-1-2011	635-004-0019(T)	1-1-2011	Suspend	2-1-2011
603-058-0260	8-12-2011	Adopt	9-1-2011	635-004-0019(T)	1-11-2011	Suspend	2-1-2011
603-058-0270	8-12-2011	Adopt	9-1-2011	635-004-0019(T)	3-3-2011	Suspend	4-1-2011
603-058-0280	8-12-2011	Adopt	9-1-2011	635-004-0019(T)	5-13-2011	Suspend	6-1-2011
603-058-0290	8-12-2011	Adopt	9-1-2011	635-004-0019(T)	6-20-2011	Suspend	8-1-2011
603-073-0070	10-13-2011	Amend	11-1-2011	635-004-0019(T)	7-7-2011	Suspend	8-1-2011
603-074-0020	7-22-2011	Amend(T)	9-1-2011	635-004-0025	1-1-2011	Amend	1-1-2011
604-010-0005	6-30-2011	Amend(T)	8-1-2011	635-004-0033	7-5-2011	Amend(T)	8-1-2011
604-010-0005	10-7-2011	Amend	11-1-2011	635-004-0033	9-15-2011	Amend(T)	10-1-2011
604-010-0005(T)	10-7-2011	Repeal	11-1-2011	635-004-0033(T)	9-15-2011	Suspend	10-1-2011
604-010-0011	6-30-2011	Amend(T)	8-1-2011	635-004-0035	1-1-2011	Amend	1-1-2011
604-010-0011	10-7-2011	Amend	11-1-2011	635-004-0070	1-1-2011	Amend	1-1-2011
604-010-0011(T)	10-7-2011	Repeal	11-1-2011	635-004-0075	1-1-2011	Amend	1-1-2011
604-010-0015	6-30-2011	Amend(T)	8-1-2011	635-005-0020	7-3-2011	Amend(T)	8-1-2011
604-010-0015	10-7-2011	Amend	11-1-2011	635-005-0045	12-10-2010	Amend(T)	1-1-2011
604-010-0015(T)	10-7-2011	Repeal	11-1-2011	635-005-0055	3-15-2011	Amend(T)	4-1-2011
604-030-0010	6-30-2011	Amend(T)	8-1-2011	635-005-0190	1-1-2011	Amend	1-1-2011
604-030-0010	10-7-2011	Amend	11-1-2011	635-006-0212	8-1-2011	Amend(T)	9-1-2011
604-030-0010(T)	10-7-2011	Repeal	11-1-2011	635-006-0215	1-1-2011	Amend	1-1-2011
604-030-0020	6-30-2011	Amend(T)	8-1-2011	635-006-0215	8-1-2011	Amend(T)	9-1-2011
604-030-0020	10-7-2011	Amend	11-1-2011	635-006-0225	8-1-2011	Amend(T)	9-1-2011
604-030-0020(T)	10-7-2011	Repeal	11-1-2011	635-006-0232	1-10-2011	Amend	2-1-2011
611-010-0005	9-29-2011	Amend	11-1-2011	635-006-1025	10-14-2011	Amend	11-1-2011
617-030-0010	4-5-2011	Amend	5-1-2011	635-006-1075	11-23-2010	Amend(T)	1-1-2011
629-001-0015	1-7-2011	Amend(T)	2-1-2011	635-006-1075	10-14-2011	Amend	11-1-2011
629-001-0015	3-15-2011	Amend	4-1-2011	635-006-1085	10-14-2011	Amend	11-1-2011
629-001-0015(T)	3-15-2011	Repeal	4-1-2011	635-006-1095	12-15-2010	Amend(T)	1-1-2011
629-001-0020	1-7-2011	Amend(T)	2-1-2011	635-007-0545	12-6-2010	Amend	1-1-2011
629-001-0020	3-15-2011	Amend	4-1-2011	635-007-0825	12-6-2010	Repeal	1-1-2011
629-001-0020(T)	3-15-2011	Repeal	4-1-2011	635-007-0830	12-6-2010	Repeal	1-1-2011
629-041-0035	1-7-2011	Amend(T)	2-1-2011	635-008-0055	1-1-2011	Amend	2-1-2011
629-041-0035	3-15-2011	Amend	4-1-2011	635-008-0070	8-5-2011	Amend	9-1-2011
629-041-0035(T)	3-15-2011	Repeal	4-1-2011	635-008-0080	8-5-2011	Amend	9-1-2011
635-001-0050	9-8-2011	Amend	10-1-2011	635-008-0095	8-5-2011	Amend	9-1-2011
635-001-0055	9-8-2011	Adopt	10-1-2011	635-008-0105	8-5-2011	Amend	9-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
635-008-0115	8-5-2011	Amend	9-1-2011	635-018-0090	1-1-2011	Amend(T)	2-1-2011
635-008-0120	8-5-2011	Amend	9-1-2011	635-018-0090	4-15-2011	Amend(T)	4-1-2011
635-008-0130	8-5-2011	Amend	9-1-2011	635-018-0090	4-15-2011	Amend(T)	4-1-2011
635-008-0145	8-5-2011	Amend	9-1-2011	635-018-0090	5-10-2011	Amend(T)	6-1-2011
635-008-0148	1-14-2011	Amend	2-1-2011	635-018-0090	8-1-2011	Amend(T)	8-1-2011
635-008-0149	1-14-2011	Amend	2-1-2011	635-018-0090	9-3-2011	Amend(T)	10-1-2011
635-008-0151	1-14-2011	Amend	2-1-2011	635-018-0090(T)	4-15-2011	Suspend	4-1-2011
635-008-0151	5-24-2011	Amend	7-1-2011	635-018-0090(T)	4-15-2011	Suspend	4-1-2011
635-008-0153	1-1-2011	Amend	2-1-2011	635-018-0090(T)	5-10-2011	Suspend	6-1-2011
635-008-0155	8-5-2011	Amend	9-1-2011	635-018-0090(T)	8-1-2011	Suspend	8-1-2011
635-008-0163	7-1-2011	Adopt	7-1-2011	635-018-0090(T)	9-3-2011	Suspend	10-1-2011
635-008-0163	8-5-2011	Amend	9-1-2011	635-019-0080	1-1-2011	Amend	2-1-2011
635-008-0185	8-5-2011	Amend	9-1-2011	635-019-0090	1-1-2011	Amend	2-1-2011
635-008-0190	8-5-2011	Amend	9-1-2011	635-019-0090	5-28-2011	Amend(T)	7-1-2011
635-010-0157	1-1-2011	Amend	2-1-2011	635-019-0090	6-13-2011	Amend(T)	7-1-2011
635-011-0050	8-31-2011	Amend	9-1-2011	635-019-0090	7-11-2011	Amend(T)	8-1-2011
635-011-0100	1-1-2011	Amend	2-1-2011	635-019-0090	7-16-2011	Amend(T)	8-1-2011
635-012-0020	6-29-2011	Amend(T)	8-1-2011	635-019-0090	7-23-2011	Amend(T)	9-1-2011
635-012-0030	6-29-2011	Suspend	8-1-2011	635-019-0090	8-7-2011	Amend(T)	9-1-2011
635-012-0040	6-29-2011	Suspend	8-1-2011	635-019-0090(T)	6-13-2011	Suspend	7-1-2011
635-012-0050	6-29-2011	Suspend	8-1-2011	635-019-0090(T)	7-11-2011	Suspend	8-1-2011
635-012-0060	6-29-2011	Suspend	8-1-2011	635-019-0090(T)	7-16-2011	Suspend	8-1-2011
635-013-0003	1-1-2011	Amend	2-1-2011	635-019-0090(T)	7-23-2011	Suspend	9-1-2011
635-013-0003	5-1-2011	Amend	6-1-2011	635-019-0090(T)	8-7-2011	Suspend	9-1-2011
635-013-0004	1-1-2011	Amend	2-1-2011	635-021-0080	1-1-2011	Amend	2-1-2011
635-013-0007	7-1-2011	Amend	8-1-2011	635-021-0090	1-1-2011	Amend	2-1-2011
635-013-0009	7-1-2011	Amend	8-1-2011	635-021-0090	5-28-2011	Amend(T)	7-1-2011
635-013-0009	10-1-2011	Amend(T)	11-1-2011	635-023-0080	1-1-2011	Amend	2-1-2011
635-014-0080	1-1-2011	Amend	2-1-2011	635-023-0090	1-1-2011	Amend	2-1-2011
635-014-0090	1-1-2011	Amend	2-1-2011	635-023-0095	1-1-2011	Amend	2-1-2011
635-014-0090	6-1-2011	Amend(T)	7-1-2011	635-023-0095	1-1-2011	Amend(T)	2-1-2011
635-014-0090	7-1-2011	Amend	8-1-2011	635-023-0095	2-11-2011	Amend(T)	3-1-2011
635-014-0090	10-6-2011	Amend(T)	11-1-2011	635-023-0095	3-21-2011	Amend	5-1-2011
635-014-0090	10-10-2011	Amend(T)	11-1-2011	635-023-0095	4-10-2011	Amend(T)	5-1-2011
635-014-0090	10-11-2011	Amend(T)	11-1-2011	635-023-0095	6-27-2011	Amend(T)	8-1-2011
635-014-0090(T)	10-10-2011	Suspend	11-1-2011	635-023-0095	7-9-2011	Amend(T)	8-1-2011
635-014-0090(T)	10-11-2011	Suspend	11-1-2011	635-023-0095	7-30-2011	Amend(T)	9-1-2011
635-016-0080	1-1-2011	Amend	2-1-2011	635-023-0095	9-30-2011	Amend(T)	10-1-2011
635-016-0090	1-1-2011	Amend	2-1-2011	635-023-0095(T)	2-11-2011	Suspend	3-1-2011
635-016-0090	5-1-2011	Amend(T)	6-1-2011	635-023-0095(T)	4-10-2011	Suspend	5-1-2011
635-016-0090	7-1-2011	Amend	8-1-2011	635-023-0095(T)	6-27-2011	Suspend	8-1-2011
635-016-0090	10-1-2011	Amend(T)	11-1-2011	635-023-0095(T)	7-9-2011	Suspend	8-1-2011
635-016-0090	10-12-2011	Amend(T)	11-1-2011	635-023-0095(T)	7-30-2011	Suspend	9-1-2011
635-016-0090(T)	10-1-2011	Suspend	11-1-2011	635-023-0095(T)	9-30-2011	Suspend	10-1-2011
635-016-0090(T)	10-12-2011	Suspend	11-1-2011	635-023-0125	1-1-2011	Amend	2-1-2011
635-017-0080	1-1-2011	Amend	2-1-2011	635-023-0125	2-14-2011	Amend(T)	3-1-2011
635-017-0090	1-1-2011	Amend	2-1-2011	635-023-0125	4-8-2011	Amend(T)	5-1-2011
635-017-0095	1-1-2011	Amend	2-1-2011	635-023-0125	4-16-2011	Amend(T)	5-1-2011
635-017-0095	1-1-2011	Amend(T)	2-1-2011	635-023-0125	4-21-2011	Amend(T)	6-1-2011
635-017-0095	2-17-2011	Amend(T)	3-1-2011	635-023-0125	5-7-2011	Amend(T)	6-1-2011
635-017-0095	3-17-2011	Amend(T)	5-1-2011	635-023-0125	5-15-2011	Amend(T)	6-1-2011
635-017-0095	3-21-2011	Amend	5-1-2011	635-023-0125	5-27-2011	Amend(T)	7-1-2011
635-017-0095(T)	2-17-2011	Suspend	3-1-2011	635-023-0125	6-2-2011	Amend(T)	7-1-2011
635-017-0095(T)	3-17-2011	Suspend	5-1-2011	635-023-0125(T)	4-8-2011	Suspend	5-1-2011
635-018-0080	1-1-2011	Amend	2-1-2011	635-023-0125(T)	4-16-2011	Suspend	5-1-2011
635-018-0090	1-1-2011	Amend	2-1-2011	635-023-0125(T)	4-21-2011	Suspend	6-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
635-023-0125(T)	5-7-2011	Suspend	6-1-2011	635-041-0065(T)	2-10-2011	Suspend	3-1-2011
635-023-0125(T)	5-15-2011	Suspend	6-1-2011	635-041-0075	8-1-2011	Amend(T)	9-1-2011
635-023-0125(T)	5-27-2011	Suspend	7-1-2011	635-041-0075	8-29-2011	Amend(T)	10-1-2011
635-023-0125(T)	6-2-2011	Suspend	7-1-2011	635-041-0075	9-12-2011	Amend(T)	10-1-2011
635-023-0128	1-1-2011	Amend	2-1-2011	635-041-0075	9-19-2011	Amend(T)	10-1-2011
635-023-0128	6-16-2011	Amend(T)	7-1-2011	635-041-0075	9-22-2011	Amend(T)	11-1-2011
635-023-0128	7-18-2011	Amend(T)	8-1-2011	635-041-0075	10-3-2011	Amend(T)	11-1-2011
635-023-0128(T)	7-18-2011	Suspend	8-1-2011	635-041-0075	10-8-2011	Amend(T)	11-1-2011
635-023-0130	1-1-2011	Amend	2-1-2011	635-041-0075(T)	8-29-2011	Suspend	10-1-2011
635-023-0130	8-1-2011	Amend(T)	9-1-2011	635-041-0075(T)	9-12-2011	Suspend	10-1-2011
635-023-0130	9-16-2011	Amend(T)	10-1-2011	635-041-0075(T)	9-19-2011	Suspend	10-1-2011
635-023-0130(T)	9-16-2011	Suspend	10-1-2011	635-041-0075(T)	9-22-2011	Suspend	11-1-2011
635-023-0134	1-1-2011	Amend	2-1-2011	635-041-0075(T)	10-3-2011	Suspend	11-1-2011
635-023-0134	4-23-2011	Amend(T)	5-1-2011	635-041-0075(T)	10-8-2011	Suspend	11-1-2011
635-023-0134	9-1-2011	Amend(T)	10-1-2011	635-041-0076	5-10-2011	Amend(T)	6-1-2011
635-039-0080	1-1-2011	Amend	1-1-2011	635-041-0076	6-16-2011	Amend(T)	7-1-2011
635-039-0080	3-22-2011	Amend	5-1-2011	635-041-0076	6-27-2011	Amend(T)	8-1-2011
635-039-0085	3-22-2011	Amend	5-1-2011	635-041-0076	7-5-2011	Amend(T)	8-1-2011
635-039-0085	6-4-2011	Amend(T)	7-1-2011	635-041-0076	7-10-2011	Amend(T)	8-1-2011
635-039-0085	7-1-2011	Amend(T)	8-1-2011	635-041-0076	7-18-2011	Amend(T)	8-1-2011
635-039-0085	7-6-2011	Amend(T)	8-1-2011	635-041-0076	7-25-2011	Amend(T)	9-1-2011
635-039-0085	8-12-2011	Amend(T)	9-1-2011	635-041-0076(T)	6-16-2011	Suspend	7-1-2011
635-039-0085	10-1-2011	Amend(T)	11-1-2011	635-041-0076(T)	6-27-2011	Suspend	8-1-2011
635-039-0085(T)	7-1-2011	Suspend	8-1-2011	635-041-0076(T)	7-5-2011	Suspend	8-1-2011
635-039-0085(T)	7-6-2011	Suspend	8-1-2011	635-041-0076(T)	7-10-2011	Suspend	8-1-2011
635-039-0085(T)	8-12-2011	Suspend	9-1-2011	635-041-0076(T)	7-18-2011	Suspend	8-1-2011
635-039-0085(T)	10-1-2011	Suspend	11-1-2011	635-041-0076(T)	7-25-2011	Suspend	9-1-2011
635-039-0090	1-1-2011	Amend	1-1-2011	635-041-0076(T)	8-1-2011	Suspend	9-1-2011
635-039-0090	3-22-2011	Amend	5-1-2011	635-042-0010	3-21-2011	Amend	5-1-2011
635-039-0090	7-20-2011	Amend(T)	9-1-2011	635-042-0022	3-29-2011	Amend(T)	5-1-2011
635-039-0090	10-1-2011	Amend(T)	11-1-2011	635-042-0022	4-6-2011	Amend(T)	5-1-2011
635-039-0090(T)	10-1-2011	Suspend	11-1-2011	635-042-0022	5-12-2011	Amend(T)	6-1-2011
635-041-0005	5-5-2011	Amend(T)	6-1-2011	635-042-0022	5-18-2011	Amend(T)	7-1-2011
635-041-0015	5-5-2011	Amend(T)	6-1-2011	635-042-0022(T)	5-18-2011	Suspend	7-1-2011
635-041-0020	5-5-2011	Amend(T)	6-1-2011	635-042-0027	6-16-2011	Amend(T)	7-1-2011
635-041-0025	5-5-2011	Amend(T)	6-1-2011	635-042-0027(T)	6-16-2011	Suspend	7-1-2011
635-041-0045	3-21-2011	Amend	5-1-2011	635-042-0031	8-4-2011	Amend(T)	9-1-2011
635-041-0045	5-5-2011	Amend(T)	6-1-2011	635-042-0031	8-28-2011	Amend(T)	10-1-2011
635-041-0045	5-10-2011	Amend(T)	6-1-2011	635-042-0031	9-18-2011	Amend(T)	10-1-2011
635-041-0045	6-6-2011	Amend(T)	7-1-2011	635-042-0031	9-22-2011	Amend(T)	11-1-2011
635-041-0045	6-9-2011	Amend(T)	7-1-2011	635-042-0031	9-28-2011	Amend(T)	11-1-2011
635-041-0045	6-16-2011	Amend(T)	7-1-2011	635-042-0031	10-5-2011	Amend(T)	11-1-2011
635-041-0045	7-10-2011	Amend(T)	8-1-2011	635-042-0031	10-13-2011	Amend(T)	11-1-2011
635-041-0045	8-29-2011	Amend(T)	10-1-2011	635-042-0031(T)	8-28-2011	Suspend	10-1-2011
635-041-0045(T)	5-10-2011	Suspend	6-1-2011	635-042-0031(T)	9-18-2011	Suspend	10-1-2011
635-041-0045(T)	6-6-2011	Suspend	7-1-2011	635-042-0031(T)	9-22-2011	Suspend	11-1-2011
635-041-0045(T)	6-9-2011	Suspend	7-1-2011	635-042-0031(T)	9-28-2011	Suspend	11-1-2011
635-041-0045(T)	6-16-2011	Suspend	7-1-2011	635-042-0031(T)	10-5-2011	Suspend	11-1-2011
635-041-0045(T)	7-10-2011	Suspend	8-1-2011	635-042-0031(T)	10-13-2011	Suspend	11-1-2011
635-041-0045(T)	8-29-2011	Suspend	10-1-2011	635-042-0032	3-21-2011	Amend	5-1-2011
635-041-0063	8-1-2011	Amend(T)	9-1-2011	635-042-0060	3-21-2011	Amend	5-1-2011
635-041-0063	10-8-2011	Amend(T)	11-1-2011	635-042-0110	5-10-2011	Amend(T)	6-1-2011
635-041-0063(T)	10-8-2011	Suspend	11-1-2011	635-042-0110	6-21-2011	Amend(T)	8-1-2011
635-041-0065	2-1-2011	Amend(T)	3-1-2011	635-042-0110(T)	6-21-2011	Suspend	8-1-2011
635-041-0065	2-10-2011	Amend(T)	3-1-2011	635-042-0115	5-10-2011	Amend(T)	6-1-2011
635-041-0065	3-21-2011	Amend	5-1-2011	635-042-0115	6-21-2011	Amend(T)	8-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
635-042-0115(T)	6-21-2011	Suspend	8-1-2011	635-044-0235	7-1-2011	Repeal	7-1-2011
635-042-0130	12-1-2010	Amend(T)	1-1-2011	635-044-0240	7-1-2011	Adopt	7-1-2011
635-042-0130	3-21-2011	Amend	5-1-2011	635-044-0245	7-1-2011	Adopt	7-1-2011
635-042-0135	1-15-2011	Amend(T)	2-1-2011	635-044-0250	7-1-2011	Adopt	7-1-2011
635-042-0145	2-13-2011	Amend(T)	3-1-2011	635-044-0255	7-1-2011	Adopt	7-1-2011
635-042-0145	3-21-2011	Amend	5-1-2011	635-044-0280	7-1-2011	Adopt	7-1-2011
635-042-0145	4-21-2011	Amend(T)	6-1-2011	635-044-0300	7-1-2011	Adopt	7-1-2011
635-042-0145	4-28-2011	Amend(T)	6-1-2011	635-044-0305	7-1-2011	Adopt	7-1-2011
635-042-0145	5-12-2011	Amend(T)	6-1-2011	635-044-0310	7-1-2011	Adopt	7-1-2011
635-042-0145	5-18-2011	Amend(T)	7-1-2011	635-045-0000	8-5-2011	Amend	9-1-2011
635-042-0145	6-27-2011	Amend(T)	8-1-2011	635-045-0002	1-1-2011	Amend	2-1-2011
635-042-0145	8-3-2011	Amend(T)	9-1-2011	635-046-0000	7-1-2011	Adopt	7-1-2011
635-042-0145	9-5-2011	Amend(T)	10-1-2011	635-046-0005	7-1-2011	Repeal	7-1-2011
635-042-0145(T)	4-21-2011	Suspend	6-1-2011	635-046-0010	7-1-2011	Repeal	7-1-2011
635-042-0145(T)	4-28-2011	Suspend	6-1-2011	635-046-0015	7-1-2011	Repeal	7-1-2011
635-042-0145(T)	5-12-2011	Suspend	6-1-2011	635-046-0020	7-1-2011	Repeal	7-1-2011
635-042-0145(T)	5-18-2011	Suspend	7-1-2011	635-046-0025	7-1-2011	Repeal	7-1-2011
635-042-0145(T)	6-27-2011	Suspend	8-1-2011	635-046-0030	7-1-2011	Repeal	7-1-2011
635-042-0145(T)	9-5-2011	Suspend	10-1-2011	635-046-0035	7-1-2011	Repeal	7-1-2011
635-042-0160	2-13-2011	Amend(T)	3-1-2011	635-046-0040	7-1-2011	Adopt	7-1-2011
635-042-0160	3-21-2011	Amend	5-1-2011	635-046-0045	7-1-2011	Adopt	7-1-2011
635-042-0160	4-21-2011	Amend(T)	6-1-2011	635-046-0050	7-1-2011	Adopt	7-1-2011
635-042-0160	5-11-2011	Amend(T)	6-1-2011	635-046-0055	7-1-2011	Adopt	7-1-2011
635-042-0160	8-15-2011	Amend(T)	9-1-2011	635-049-0025	1-1-2011	Amend(T)	2-1-2011
635-042-0160(T)	4-21-2011	Suspend	6-1-2011	635-049-0025	6-3-2011	Amend	7-1-2011
635-042-0160(T)	5-11-2011	Suspend	6-1-2011	635-049-0025	8-4-2011	Amend	9-1-2011
635-042-0170	2-13-2011	Amend(T)	3-1-2011	635-049-0025(T)	6-3-2011	Repeal	7-1-2011
635-042-0170	3-21-2011	Amend	5-1-2011	635-049-0265	1-1-2011	Amend(T)	2-1-2011
635-042-0170	4-21-2011	Amend(T)	6-1-2011	635-049-0265	6-3-2011	Amend	7-1-2011
635-042-0170	5-11-2011	Amend(T)	6-1-2011	635-049-0265(T)	6-3-2011	Repeal	7-1-2011
635-042-0170	8-15-2011	Amend(T)	9-1-2011	635-050-0045	7-1-2011	Amend	7-1-2011
635-042-0170	9-19-2011	Amend(T)	10-1-2011	635-051-0000	8-5-2011	Amend	9-1-2011
635-042-0170(T)	4-21-2011	Suspend	6-1-2011	635-051-0048	1-19-2011	Amend(T)	3-1-2011
635-042-0170(T)	5-11-2011	Suspend	6-1-2011	635-051-0048	8-5-2011	Amend	9-1-2011
635-042-0170(T)	9-19-2011	Suspend	10-1-2011	635-051-0065	8-19-2011	Amend(T)	10-1-2011
635-042-0180	2-13-2011	Amend(T)	3-1-2011	635-051-0076	1-28-2011	Adopt(T)	3-1-2011
635-042-0180	3-21-2011	Amend	5-1-2011	635-051-0076	7-1-2011	Suspend	7-1-2011
635-042-0180	4-21-2011	Amend(T)	6-1-2011	635-051-0078	1-28-2011	Adopt(T)	3-1-2011
635-042-0180	5-18-2011	Amend(T)	7-1-2011	635-051-0078	7-1-2011	Suspend	7-1-2011
635-042-0180	8-15-2011	Amend(T)	9-1-2011	635-052-0000	8-5-2011	Amend	9-1-2011
635-042-0180(T)	4-21-2011	Suspend	6-1-2011	635-053-0000	8-5-2011	Amend	9-1-2011
635-042-0180(T)	5-18-2011	Suspend	7-1-2011	635-054-0000	8-5-2011	Amend	9-1-2011
635-043-0051	5-4-2011	Amend	6-1-2011	635-054-0020	8-5-2011	Amend	9-1-2011
635-043-0051	6-3-2011	Amend	7-1-2011	635-055-0000	1-14-2011	Amend	2-1-2011
635-043-0100	1-28-2011	Amend(T)	3-1-2011	635-055-0000	8-9-2011	Am. & Ren.	9-1-2011
635-043-0100	7-1-2011	Repeal	7-1-2011	635-055-0001	8-9-2011	Adopt	9-1-2011
635-043-0105	8-5-2011	Amend	9-1-2011	635-055-0010	8-9-2011	Amend	9-1-2011
635-044-0000	2-15-2011	Amend	3-1-2011	635-055-0015	8-9-2011	Amend	9-1-2011
635-044-0060	2-15-2011	Amend	3-1-2011	635-055-0020	8-9-2011	Amend	9-1-2011
635-044-0200	7-1-2011	Amend	7-1-2011	635-055-0025	8-9-2011	Amend	9-1-2011
635-044-0205	7-1-2011	Amend	7-1-2011	635-055-0030	1-14-2011	Amend	2-1-2011
635-044-0210	7-1-2011	Amend	7-1-2011	635-055-0030	8-9-2011	Amend	9-1-2011
635-044-0215	7-1-2011	Amend	7-1-2011	635-055-0035	1-14-2011	Amend	2-1-2011
635-044-0220	7-1-2011	Repeal	7-1-2011	635-055-0035	8-9-2011	Amend	9-1-2011
635-044-0225	7-1-2011	Repeal	7-1-2011	635-055-0037	1-14-2011	Amend	2-1-2011
635-044-0230	7-1-2011	Repeal	7-1-2011	635-055-0037	8-9-2011	Amend	9-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
635-055-0040	8-9-2011	Amend	9-1-2011	635-075-0010	1-1-2011	Amend	2-1-2011
635-055-0050	8-9-2011	Amend	9-1-2011	635-080-0016	1-1-2011	Amend	2-1-2011
635-055-0055	8-9-2011	Amend	9-1-2011	635-080-0021	1-1-2011	Amend	2-1-2011
635-055-0060	8-9-2011	Amend	9-1-2011	635-080-0023	1-1-2011	Amend	2-1-2011
635-055-0065	8-9-2011	Repeal	9-1-2011	635-080-0026	1-1-2011	Amend	2-1-2011
635-055-0075	8-9-2011	Amend	9-1-2011	635-120-0020	5-4-2011	Repeal	6-1-2011
635-056-0000	2-15-2011	Amend	3-1-2011	635-135-0020	5-4-2011	Repeal	6-1-2011
635-056-0010	2-15-2011	Amend	3-1-2011	635-140-0000	5-4-2011	Amend	6-1-2011
635-056-0020	2-15-2011	Amend	3-1-2011	635-140-0005	5-4-2011	Amend	6-1-2011
635-056-0050	2-15-2011	Amend	3-1-2011	635-140-0010	5-4-2011	Amend	6-1-2011
635-056-0050	7-1-2011	Amend	7-1-2011	635-140-0015	5-4-2011	Adopt	6-1-2011
635-056-0060	2-15-2011	Amend	3-1-2011	635-140-0025	5-4-2011	Repeal	6-1-2011
635-056-0060	7-1-2011	Amend	7-1-2011	635-160-0000	5-4-2011	Amend	6-1-2011
635-056-0070	2-15-2011	Amend	3-1-2011	635-160-0030	5-4-2011	Repeal	6-1-2011
635-056-0070	7-1-2011	Amend	7-1-2011	635-170-0015	12-29-2010	Amend(T)	2-1-2011
635-056-0075	2-15-2011	Amend	3-1-2011	635-170-0015	5-4-2011	Repeal	6-1-2011
635-056-0080	2-15-2011	Amend	3-1-2011	635-180-0015	5-4-2011	Repeal	6-1-2011
635-056-0130	2-15-2011	Amend	3-1-2011	635-190-0030	5-4-2011	Repeal	6-1-2011
635-057-0000	2-15-2011	Amend	3-1-2011	635-195-0010	5-4-2011	Repeal	6-1-2011
635-060-0000	8-5-2011	Amend	9-1-2011	635-200-0030	3-2-2011	Renumber	4-1-2011
635-060-0023	1-1-2011	Amend	2-1-2011	635-435-0035	7-1-2011	Amend(T)	8-1-2011
635-060-0030	1-1-2011	Amend	2-1-2011	635-500-0205	8-9-2011	Amend	9-1-2011
635-060-0055	1-1-2011	Amend	2-1-2011	635-500-0267	8-9-2011	Amend	9-1-2011
635-065-0001	1-1-2011	Amend	2-1-2011	635-500-0271	8-9-2011	Amend	9-1-2011
635-065-0012	8-1-2011	Adopt	8-1-2011	635-500-0810	8-9-2011	Amend	9-1-2011
635-065-0015	1-1-2011	Amend	2-1-2011	635-500-0840	8-9-2011	Amend	9-1-2011
635-065-0090	1-1-2011	Amend	2-1-2011	635-500-0960	8-9-2011	Amend	9-1-2011
635-065-0401	1-1-2011	Amend	2-1-2011	635-500-1000	8-9-2011	Amend	9-1-2011
635-065-0625	1-1-2011	Amend	2-1-2011	635-500-1010	8-9-2011	Amend	9-1-2011
635-065-0700	1-1-2011	Amend	2-1-2011	635-500-1020	8-9-2011	Amend	9-1-2011
635-065-0705	1-1-2011	Amend	2-1-2011	635-500-1150	8-9-2011	Amend	9-1-2011
635-065-0740	1-1-2011	Amend	2-1-2011	635-500-1160	8-9-2011	Amend	9-1-2011
635-065-0760	1-1-2011	Amend	2-1-2011	635-500-1280	8-9-2011	Amend	9-1-2011
635-065-0765	6-3-2011	Amend	7-1-2011	635-500-1290	8-9-2011	Amend	9-1-2011
635-066-0000	1-1-2011	Amend	2-1-2011	635-500-1300	8-9-2011	Amend	9-1-2011
635-067-0000	1-1-2011	Amend	2-1-2011	635-500-1370	8-9-2011	Amend	9-1-2011
635-067-0000	6-3-2011	Amend	7-1-2011	635-500-1380	8-9-2011	Amend	9-1-2011
635-067-0030	8-16-2011	Amend(T)	10-1-2011	635-500-1400	8-9-2011	Amend	9-1-2011
635-067-0030	8-19-2011	Amend(T)	10-1-2011	635-500-1410	8-9-2011	Amend	9-1-2011
635-067-0030	8-20-2011	Amend	8-1-2011	635-500-1420	8-9-2011	Amend	9-1-2011
635-067-0030(T)	8-19-2011	Suspend	10-1-2011	635-500-1440	8-9-2011	Amend	9-1-2011
635-067-0040	8-20-2011	Amend	8-1-2011	635-500-1470	8-9-2011	Amend	9-1-2011
635-068-0000	3-1-2011	Amend	3-1-2011	635-500-1480	8-9-2011	Amend	9-1-2011
635-068-0000	6-3-2011	Amend	7-1-2011	635-500-1490	8-9-2011	Amend	9-1-2011
635-069-0000	2-1-2011	Amend	3-1-2011	635-500-1500	8-9-2011	Amend	9-1-2011
635-069-0000	6-3-2011	Amend	7-1-2011	635-500-1520	8-9-2011	Amend	9-1-2011
635-070-0000	6-3-2011	Amend	7-1-2011	635-500-1620	8-9-2011	Amend	9-1-2011
635-071-0000	6-3-2011	Amend	7-1-2011	635-500-1630	8-9-2011	Amend	9-1-2011
635-072-0000	1-1-2011	Amend	2-1-2011	635-500-1661	8-9-2011	Amend	9-1-2011
635-073-0000	2-1-2011	Amend	3-1-2011	635-500-1662	8-9-2011	Amend	9-1-2011
635-073-0000	6-3-2011	Amend	7-1-2011	635-500-1663	8-9-2011	Amend	9-1-2011
635-073-0065	2-1-2011	Amend	3-1-2011	635-500-1664	8-9-2011	Amend	9-1-2011
635-073-0070	2-1-2011	Amend	3-1-2011	635-500-1665	8-9-2011	Amend	9-1-2011
635-073-0076	1-1-2011	Amend	2-1-2011	635-500-1666	8-9-2011	Amend	9-1-2011
635-075-0001	1-1-2011	Amend	2-1-2011	635-500-6600	8-9-2011	Adopt	9-1-2011
635-075-0003	6-3-2011	Amend	7-1-2011	635-500-6625	8-10-2011	Adopt	9-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
644-010-0010	1-1-2011	Amend(T)	1-1-2011	660-006-0035	2-2-2011	Amend	3-1-2011
644-010-0010	2-14-2011	Amend	3-1-2011	660-006-0040	2-2-2011	Amend	3-1-2011
644-010-0010(T)	2-14-2011	Repeal	3-1-2011	660-006-0050	2-2-2011	Amend	3-1-2011
646-040-0000	5-31-2011	Amend	7-1-2011	660-006-0055	2-2-2011	Amend	3-1-2011
647-010-0010	7-1-2011	Amend	6-1-2011	660-006-0057	2-2-2011	Amend	3-1-2011
660-001-0000	12-8-2010	Amend	1-1-2011	660-006-0060	2-2-2011	Amend	3-1-2011
660-001-0005	12-8-2010	Amend	1-1-2011	660-033-0010	3-16-2011	Amend	5-1-2011
660-001-0007	12-8-2010	Amend	1-1-2011	660-033-0020	3-16-2011	Amend	5-1-2011
660-001-0201	12-8-2010	Amend	1-1-2011	660-033-0030	3-16-2011	Amend	5-1-2011
660-001-0210	12-8-2010	Amend	1-1-2011	660-033-0120	3-16-2011	Amend	5-1-2011
660-001-0220	12-8-2010	Amend	1-1-2011	660-033-0130	11-23-2010	Amend	1-1-2011
660-001-0230	12-8-2010	Amend	1-1-2011	660-033-0130	3-16-2011	Amend	5-1-2011
660-003-0005	12-8-2010	Amend	1-1-2011	660-033-0130(T)	11-23-2010	Repeal	1-1-2011
660-003-0010	12-8-2010	Amend	1-1-2011	660-033-0135	3-16-2011	Amend	5-1-2011
660-003-0015	12-8-2010	Amend	1-1-2011	660-033-0140	3-16-2011	Amend	5-1-2011
660-003-0020	12-8-2010	Amend	1-1-2011	660-033-0145	3-16-2011	Amend	5-1-2011
660-003-0025	12-8-2010	Amend	1-1-2011	660-044-0000	6-1-2011	Adopt	7-1-2011
660-003-0032	12-8-2010	Amend	1-1-2011	660-044-0005	6-1-2011	Adopt	7-1-2011
660-003-0033	12-8-2010	Amend	1-1-2011	660-044-0010	6-1-2011	Adopt	7-1-2011
660-003-0050	12-8-2010	Amend	1-1-2011	660-044-0020	6-1-2011	Adopt	7-1-2011
660-004-0000	2-2-2011	Amend	3-1-2011	660-044-0025	6-1-2011	Adopt	7-1-2011
660-004-0000	3-16-2011	Amend	5-1-2011	660-044-0030	6-1-2011	Adopt	7-1-2011
660-004-0005	2-2-2011	Amend	3-1-2011	660-044-0035	6-1-2011	Adopt	7-1-2011
660-004-0005	3-16-2011	Amend	5-1-2011	678-010-0010	7-1-2011	Amend(T)	8-1-2011
660-004-0010	2-2-2011	Amend	3-1-2011	678-010-0020	7-1-2011	Amend(T)	8-1-2011
660-004-0010	3-16-2011	Amend	5-1-2011	678-010-0030	7-1-2011	Amend(T)	8-1-2011
660-004-0015	2-2-2011	Amend	3-1-2011	678-010-0040	7-1-2011	Amend(T)	8-1-2011
660-004-0015	3-16-2011	Amend	5-1-2011	678-030-0027	11-19-2010	Amend	1-1-2011
660-004-0018	2-2-2011	Amend	3-1-2011	690-095-0005	12-14-2010	Adopt	1-1-2011
660-004-0018	3-16-2011	Amend	5-1-2011	690-095-0010	12-14-2010	Adopt	1-1-2011
660-004-0020	2-2-2011	Amend	3-1-2011	690-095-0015	12-14-2010	Adopt	1-1-2011
660-004-0020	3-16-2011	Amend	5-1-2011	690-095-0020	12-14-2010	Adopt	1-1-2011
660-004-0022	2-2-2011	Amend	3-1-2011	690-095-0025	12-14-2010	Adopt	1-1-2011
660-004-0022	3-16-2011	Amend	5-1-2011	690-095-0030	12-14-2010	Adopt	1-1-2011
660-004-0025	2-2-2011	Amend	3-1-2011	690-095-0035	12-14-2010	Adopt	1-1-2011
660-004-0025	3-16-2011	Amend	5-1-2011	690-095-0040	12-14-2010	Adopt	1-1-2011
660-004-0028	2-2-2011	Amend	3-1-2011	690-095-0045	12-14-2010	Adopt	1-1-2011
660-004-0028	3-16-2011	Amend	5-1-2011	690-095-0050	12-14-2010	Adopt	1-1-2011
660-004-0030	2-2-2011	Amend	3-1-2011	690-095-0055	12-14-2010	Adopt	1-1-2011
660-004-0030	3-16-2011	Amend	5-1-2011	690-095-0060	12-14-2010	Adopt	1-1-2011
660-004-0035	2-2-2011	Amend	3-1-2011	690-095-0065	12-14-2010	Adopt	1-1-2011
660-004-0035	3-16-2011	Amend	5-1-2011	690-095-0070	12-14-2010	Adopt	1-1-2011
660-004-0040	2-2-2011	Amend	3-1-2011	690-095-0075	12-14-2010	Adopt	1-1-2011
660-004-0040	3-16-2011	Amend	5-1-2011	690-095-0080	12-14-2010	Adopt	1-1-2011
660-006-0000	2-2-2011	Amend	3-1-2011	690-095-0085	12-14-2010	Adopt	1-1-2011
660-006-0003	2-2-2011	Amend	3-1-2011	690-095-0090	12-14-2010	Adopt	1-1-2011
660-006-0004	2-2-2011	Amend	3-1-2011	690-095-0095	12-14-2010	Adopt	1-1-2011
660-006-0005	2-2-2011	Amend	3-1-2011	690-095-0100	12-14-2010	Adopt	1-1-2011
660-006-0010	2-2-2011	Amend	3-1-2011	731-001-0005	5-27-2011	Amend	7-1-2011
660-006-0015	2-2-2011	Amend	3-1-2011	731-003-0005	9-30-2011	Adopt(T)	11-1-2011
660-006-0020	2-2-2011	Amend	3-1-2011	731-017-0005	12-22-2010	Adopt	2-1-2011
660-006-0025	2-2-2011	Amend	3-1-2011	731-017-0010	12-22-2010	Adopt	2-1-2011
660-006-0026	2-2-2011	Amend	3-1-2011	731-017-0015	12-22-2010	Adopt	2-1-2011
660-006-0027	2-2-2011	Amend	3-1-2011	731-017-0020	12-22-2010	Adopt	2-1-2011
660-006-0029	2-2-2011	Amend	3-1-2011	731-017-0025	12-22-2010	Adopt	2-1-2011
660-006-0031	2-2-2011	Amend	3-1-2011	731-017-0030	12-22-2010	Adopt	2-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
731-017-0035	12-22-2010	Adopt	2-1-2011	734-072-0023	5-27-2011	Amend	7-1-2011
731-017-0040	12-22-2010	Adopt	2-1-2011	734-072-0030	5-27-2011	Amend	7-1-2011
731-017-0045	12-22-2010	Adopt	2-1-2011	734-073-0050	5-27-2011	Amend	7-1-2011
731-017-0050	12-22-2010	Adopt	2-1-2011	734-073-0056	5-27-2011	Amend	7-1-2011
731-017-0055	12-22-2010	Adopt	2-1-2011	734-073-0065	5-27-2011	Amend	7-1-2011
731-035-0070	12-22-2010	Amend	2-1-2011	734-074-0020	5-27-2011	Amend	7-1-2011
733-030-0080	9-22-2011	Amend	11-1-2011	734-074-0023	5-27-2011	Amend	7-1-2011
733-030-0450	9-22-2011	Amend	11-1-2011	734-074-0051	5-27-2011	Amend	7-1-2011
734-020-0010	5-27-2011	Amend	7-1-2011	734-075-0010	6-21-2011	Amend	8-1-2011
734-020-0014	5-27-2011	Amend	7-1-2011	734-075-0025	6-21-2011	Amend	8-1-2011
734-020-0015	5-27-2011	Amend	7-1-2011	734-075-0035	5-27-2011	Amend	7-1-2011
734-020-0016	5-27-2011	Amend	7-1-2011	734-075-0065	5-27-2011	Repeal	7-1-2011
734-020-0017	5-27-2011	Amend	7-1-2011	734-075-0075	5-27-2011	Repeal	7-1-2011
734-024-0005	5-27-2011	Adopt	7-1-2011	734-075-0080	5-27-2011	Repeal	7-1-2011
734-024-0015	5-27-2011	Adopt	7-1-2011	734-075-0085	5-27-2011	Adopt	7-1-2011
734-024-0020	5-27-2011	Adopt	7-1-2011	734-076-0005	5-27-2011	Amend	7-1-2011
734-024-0030	5-27-2011	Adopt	7-1-2011	734-076-0015	5-27-2011	Amend	7-1-2011
734-024-0040	5-27-2011	Adopt	7-1-2011	734-076-0075	5-27-2011	Amend	7-1-2011
734-051-0020	1-19-2011	Amend	3-1-2011	734-076-0115	5-27-2011	Amend	7-1-2011
734-051-0020(T)	1-19-2011	Repeal	3-1-2011	734-076-0165	5-27-2011	Amend	7-1-2011
734-051-0040	1-19-2011	Amend	3-1-2011	734-076-0175	5-27-2011	Amend	7-1-2011
734-051-0040(T)	1-19-2011	Repeal	3-1-2011	734-077-0010	5-27-2011	Amend	7-1-2011
734-051-0045	1-19-2011	Amend	3-1-2011	734-078-0020	5-27-2011	Amend	7-1-2011
734-051-0045(T)	1-19-2011	Repeal	3-1-2011	734-079-0005	5-27-2011	Amend	7-1-2011
734-051-0070	1-19-2011	Amend	3-1-2011	734-079-0015	5-27-2011	Amend	7-1-2011
734-051-0070(T)	1-19-2011	Repeal	3-1-2011	734-082-0021	9-30-2011	Amend(T)	11-1-2011
734-051-0080	1-19-2011	Amend	3-1-2011	734-082-0025	6-21-2011	Amend	8-1-2011
734-051-0080(T)	1-19-2011	Repeal	3-1-2011	734-082-0035	5-27-2011	Amend	7-1-2011
734-051-0135	1-19-2011	Amend	3-1-2011	734-082-0040	5-27-2011	Amend	7-1-2011
734-051-0135(T)	1-19-2011	Repeal	3-1-2011	734-082-0070	5-27-2011	Amend	7-1-2011
734-051-0245	1-19-2011	Amend	3-1-2011	734-082-0080	5-27-2011	Amend	7-1-2011
734-051-0245(T)	1-19-2011	Repeal	3-1-2011	735-032-0065	12-22-2010	Adopt	2-1-2011
734-051-0255	1-19-2011	Amend	3-1-2011	735-034-0000	3-16-2011	Amend	5-1-2011
734-051-0255(T)	1-19-2011	Repeal	3-1-2011	735-034-0005	3-16-2011	Amend	5-1-2011
734-051-0295	1-19-2011	Amend	3-1-2011	735-034-0010	3-16-2011	Amend	5-1-2011
734-051-0295(T)	1-19-2011	Repeal	3-1-2011	735-040-0098	1-28-2011	Amend	3-1-2011
734-051-0315	1-19-2011	Amend	3-1-2011	735-040-0098(T)	1-28-2011	Repeal	3-1-2011
734-051-0315(T)	1-19-2011	Repeal	3-1-2011	735-046-0050	1-1-2011	Amend	2-1-2011
734-051-0345	1-19-2011	Amend	3-1-2011	735-060-0000	1-1-2011	Amend	1-1-2011
734-051-0345(T)	1-19-2011	Repeal	3-1-2011	735-060-0120	1-1-2011	Amend	1-1-2011
734-051-0500	1-19-2011	Amend	3-1-2011	735-062-0002	1-1-2011	Amend	1-1-2011
734-051-0500(T)	1-19-2011	Repeal	3-1-2011	735-062-0016	6-21-2011	Amend	8-1-2011
734-051-0530	1-19-2011	Amend	3-1-2011	735-062-0070	1-1-2011	Amend	1-1-2011
734-051-0530(T)	1-19-2011	Repeal	3-1-2011	735-062-0200	1-1-2011	Amend	1-1-2011
734-060-0000	9-29-2011	Amend(T)	10-1-2011	735-063-0000	6-21-2011	Amend	8-1-2011
734-060-0007	9-29-2011	Adopt(T)	10-1-2011	735-063-0050	6-21-2011	Amend	8-1-2011
734-070-0005	5-27-2011	Amend	7-1-2011	735-063-0060	6-21-2011	Amend	8-1-2011
734-070-0010	5-27-2011	Amend	7-1-2011	735-063-0065	6-21-2011	Amend	8-1-2011
734-070-0010	9-30-2011	Amend(T)	11-1-2011	735-063-0070	6-21-2011	Amend	8-1-2011
734-070-0017	1-28-2011	Adopt	3-1-2011	735-064-0020	7-22-2011	Amend	9-1-2011
734-070-0025	5-27-2011	Amend	7-1-2011	735-072-0020	3-2-2011	Amend	4-1-2011
734-071-0010	5-27-2011	Amend	7-1-2011	735-072-0050	3-2-2011	Amend	4-1-2011
734-072-0010	5-27-2011	Amend	7-1-2011	735-074-0210	6-21-2011	Amend	8-1-2011
734-072-0015	5-27-2011	Amend	7-1-2011	735-074-0212	6-21-2011	Amend	8-1-2011
734-072-0020	5-27-2011	Amend	7-1-2011	735-076-0050	6-21-2011	Amend	8-1-2011
734-072-0022	5-27-2011	Amend	7-1-2011	735-076-0052	6-21-2011	Amend	8-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
735-080-0020	3-16-2011	Amend	5-1-2011	736-201-0060	8-15-2011	Amend	9-1-2011
735-080-0040	3-16-2011	Amend	5-1-2011	736-201-0065	8-15-2011	Amend	9-1-2011
735-080-0046	3-16-2011	Adopt	5-1-2011	736-201-0070	8-15-2011	Amend	9-1-2011
735-090-0000	1-1-2011	Amend	2-1-2011	736-201-0075	8-15-2011	Amend	9-1-2011
735-090-0020	1-1-2011	Amend	2-1-2011	736-201-0080	8-15-2011	Amend	9-1-2011
735-090-0042	1-1-2011	Adopt	2-1-2011	736-201-0095	8-15-2011	Amend	9-1-2011
735-090-0101	1-1-2011	Amend	2-1-2011	736-201-0115	8-15-2011	Amend	9-1-2011
735-100-0030	2-18-2011	Am. & Ren.	4-1-2011	736-201-0120	8-15-2011	Amend	9-1-2011
735-150-0015	4-22-2011	Amend	6-1-2011	736-201-0125	8-15-2011	Amend	9-1-2011
735-150-0055	1-1-2011	Amend	2-1-2011	736-201-0130	8-15-2011	Amend	9-1-2011
735-154-0005	3-16-2011	Amend	5-1-2011	736-201-0135	8-15-2011	Amend	9-1-2011
735-176-0000	1-1-2011	Amend	1-1-2011	736-201-0145	8-15-2011	Amend	9-1-2011
735-176-0010	1-1-2011	Amend	1-1-2011	736-201-0150	8-15-2011	Amend	9-1-2011
735-176-0017	1-1-2011	Amend	1-1-2011	736-201-0155	8-15-2011	Amend	9-1-2011
735-176-0019	1-1-2011	Amend	1-1-2011	736-201-0160	8-15-2011	Amend	9-1-2011
735-176-0020	1-1-2011	Amend	1-1-2011	736-201-0165	8-15-2011	Amend	9-1-2011
735-176-0021	1-1-2011	Amend	1-1-2011	736-201-0170	8-15-2011	Amend	9-1-2011
735-176-0022	1-1-2011	Amend	1-1-2011	736-201-0175	8-15-2011	Amend	9-1-2011
735-176-0023	1-1-2011	Adopt	1-1-2011	736-201-0180	8-15-2011	Amend	9-1-2011
735-176-0030	1-1-2011	Amend	1-1-2011	737-010-0020	1-28-2011	Amend	3-1-2011
735-176-0040	1-1-2011	Amend	1-1-2011	737-100-0010	2-18-2011	Adopt	4-1-2011
735-176-0045	1-1-2011	Amend	1-1-2011	737-100-0040	2-18-2011	Adopt	4-1-2011
736-010-0015	3-24-2011	Amend(T)	5-1-2011	740-100-0010	5-27-2011	Amend	7-1-2011
736-010-0015	8-1-2011	Amend	9-1-2011	740-100-0020	5-27-2011	Amend	7-1-2011
736-010-0015(T)	8-1-2011	Repeal	9-1-2011	740-100-0065	5-27-2011	Amend	7-1-2011
736-010-0025	3-24-2011	Amend(T)	5-1-2011	740-100-0070	5-27-2011	Amend	7-1-2011
736-010-0025	8-1-2011	Amend	9-1-2011	740-100-0080	5-27-2011	Amend	7-1-2011
736-010-0025(T)	8-1-2011	Repeal	9-1-2011	740-100-0085	5-27-2011	Amend	7-1-2011
736-010-0026	3-24-2011	Amend(T)	5-1-2011	740-100-0090	5-27-2011	Amend	7-1-2011
736-010-0026	8-1-2011	Amend	9-1-2011	740-100-0100	5-27-2011	Amend	7-1-2011
736-010-0026(T)	8-1-2011	Repeal	9-1-2011	740-110-0010	5-27-2011	Amend	7-1-2011
736-010-0030	3-24-2011	Amend(T)	5-1-2011	740-200-0010	2-18-2011	Amend	4-1-2011
736-010-0030	8-1-2011	Amend	9-1-2011	740-200-0020	2-18-2011	Amend	4-1-2011
736-010-0030(T)	8-1-2011	Repeal	9-1-2011	740-200-0040	2-18-2011	Amend	4-1-2011
736-010-0050	8-1-2011	Amend	9-1-2011	741-125-0010	12-22-2010	Repeal	2-1-2011
736-010-0066	2-15-2011	Adopt	3-1-2011	800-010-0015	2-1-2011	Amend	3-1-2011
736-015-0006	8-1-2011	Amend	9-1-2011	800-010-0030	2-1-2011	Amend	3-1-2011
736-015-0015	8-1-2011	Amend	9-1-2011	800-010-0040	2-1-2011	Amend	3-1-2011
736-015-0035	8-1-2011	Amend	9-1-2011	800-010-0041	2-1-2011	Amend	3-1-2011
736-019-0000	3-30-2011	Amend	5-1-2011	800-010-0050	2-1-2011	Amend	3-1-2011
736-019-0020	3-30-2011	Amend	5-1-2011	800-010-0050	7-1-2012	Amend	7-1-2011
736-019-0040	3-30-2011	Amend	5-1-2011	800-015-0010	2-1-2011	Amend	3-1-2011
736-019-0060	3-30-2011	Amend	5-1-2011	800-015-0015	2-1-2011	Amend	3-1-2011
736-019-0070	3-30-2011	Adopt	5-1-2011	800-015-0030	2-1-2011	Amend	3-1-2011
736-019-0080	3-30-2011	Amend	5-1-2011	800-020-0015	2-1-2011	Amend	3-1-2011
736-019-0100	3-30-2011	Amend	5-1-2011	800-020-0015	7-1-2012	Amend	7-1-2011
736-019-0120	3-30-2011	Amend	5-1-2011	800-020-0020	7-1-2011	Amend	3-1-2011
736-201-0000	8-15-2011	Amend	9-1-2011	800-020-0025	2-1-2011	Amend	3-1-2011
736-201-0005	8-15-2011	Amend	9-1-2011	800-020-0025	7-1-2011	Amend	3-1-2011
736-201-0015	8-15-2011	Amend	9-1-2011	800-020-0026	2-1-2011	Amend	3-1-2011
736-201-0020	8-15-2011	Amend	9-1-2011	800-025-0020	2-1-2011	Amend	3-1-2011
736-201-0030	8-15-2011	Amend	9-1-2011	800-025-0023	2-1-2011	Amend	3-1-2011
736-201-0035	8-15-2011	Amend	9-1-2011	800-025-0025	2-1-2011	Amend	3-1-2011
736-201-0040	8-15-2011	Amend	9-1-2011	800-025-0025	2-1-2011	Amend	3-1-2011
736-201-0042	8-15-2011	Adopt	9-1-2011	800-025-0027	2-1-2011	Amend	3-1-2011
736-201-0050	8-15-2011	Amend	9-1-2011	800-025-0030	2-1-2011	Amend	3-1-2011
				800-025-0050	2-1-2011	Amend	3-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
800-025-0060	2-1-2011	Amend	3-1-2011	812-001-0200	12-1-2010	Amend(T)	1-1-2011
800-030-0025	2-1-2011	Amend	3-1-2011	812-001-0200	3-1-2011	Amend	4-1-2011
800-030-0030	2-1-2011	Adopt	3-1-2011	812-001-0200	5-1-2011	Amend	6-1-2011
800-030-0050	2-1-2011	Amend	3-1-2011	812-001-0200(T)	3-1-2011	Repeal	4-1-2011
801-001-0035	1-1-2011	Amend	1-1-2011	812-001-0290	3-1-2011	Amend	4-1-2011
801-005-0010	1-1-2011	Amend	1-1-2011	812-002-0060	10-1-2011	Amend	11-1-2011
801-010-0010	1-1-2011	Amend	1-1-2011	812-002-0160	10-1-2011	Amend	11-1-2011
801-010-0050	1-1-2011	Amend	1-1-2011	812-002-0280	10-1-2011	Amend	11-1-2011
801-010-0060	1-1-2011	Amend	1-1-2011	812-002-0320	1-1-2011	Amend	2-1-2011
801-010-0065	1-1-2011	Amend	1-1-2011	812-002-0640	5-1-2011	Amend	6-1-2011
801-010-0073	1-1-2011	Amend	1-1-2011	812-002-0677	1-1-2011	Adopt	2-1-2011
801-010-0075	1-1-2011	Amend	1-1-2011	812-002-0700	5-1-2011	Amend	6-1-2011
801-010-0078	1-1-2011	Amend	1-1-2011	812-002-0760	10-1-2011	Amend	11-1-2011
801-010-0079	1-1-2011	Amend	1-1-2011	812-002-0780	10-1-2011	Amend	11-1-2011
801-010-0080	1-1-2011	Amend	1-1-2011	812-003-0310	5-1-2011	Amend	6-1-2011
801-010-0100	1-1-2011	Amend	1-1-2011	812-003-0320	5-1-2011	Amend	6-1-2011
801-010-0110	1-1-2011	Amend	1-1-2011	812-003-0321	5-1-2011	Adopt	6-1-2011
801-010-0115	1-1-2011	Amend	1-1-2011	812-004-0001	7-8-2011	Amend(T)	8-1-2011
801-010-0120	1-1-2011	Amend	1-1-2011	812-004-0001	10-1-2011	Amend	11-1-2011
801-010-0125	1-1-2011	Amend	1-1-2011	812-004-0001(T)	10-1-2011	Repeal	11-1-2011
801-010-0130	1-1-2011	Amend	1-1-2011	812-004-0110	10-1-2011	Amend	11-1-2011
801-010-0170	1-1-2011	Amend	1-1-2011	812-004-0120	10-1-2011	Amend	11-1-2011
801-010-0190	1-1-2011	Amend	1-1-2011	812-004-0140	10-1-2011	Amend	11-1-2011
801-010-0340	1-1-2011	Amend	1-1-2011	812-004-0300	10-1-2011	Amend	11-1-2011
801-010-0345	1-1-2011	Amend	1-1-2011	812-004-0320	10-1-2011	Amend	11-1-2011
801-040-0010	1-1-2011	Amend	1-1-2011	812-004-0340	10-1-2011	Amend	11-1-2011
801-040-0050	1-1-2011	Amend	1-1-2011	812-004-0600	10-1-2011	Amend	11-1-2011
804-001-0002	7-1-2011	Amend	7-1-2011	812-004-1001	7-8-2011	Adopt(T)	8-1-2011
806-001-0003	7-1-2011	Amend	7-1-2011	812-004-1001	10-1-2011	Adopt	11-1-2011
806-001-0004	7-22-2011	Amend	9-1-2011	812-004-1001(T)	10-1-2011	Repeal	11-1-2011
806-001-0005	7-22-2011	Amend	9-1-2011	812-004-1110	7-8-2011	Adopt(T)	8-1-2011
806-010-0105	12-14-2010	Amend	1-1-2011	812-004-1110	10-1-2011	Adopt	11-1-2011
806-010-0105	7-22-2011	Amend	9-1-2011	812-004-1110(T)	10-1-2011	Repeal	11-1-2011
808-001-0008	6-17-2011	Amend	8-1-2011	812-004-1120	7-8-2011	Adopt(T)	8-1-2011
808-001-0020	5-25-2011	Amend	7-1-2011	812-004-1120	10-1-2011	Adopt	11-1-2011
808-002-0020	1-28-2011	Amend(T)	3-1-2011	812-004-1120(T)	10-1-2011	Repeal	11-1-2011
808-002-0020	6-17-2011	Amend	8-1-2011	812-004-1140	7-8-2011	Adopt(T)	8-1-2011
808-002-0020(T)	6-17-2011	Repeal	8-1-2011	812-004-1140	10-1-2011	Adopt	11-1-2011
808-002-0200	8-1-2011	Amend	9-1-2011	812-004-1140(T)	10-1-2011	Repeal	11-1-2011
808-002-0455	8-1-2011	Amend	9-1-2011	812-004-1160	7-8-2011	Adopt(T)	8-1-2011
808-002-0500	8-1-2011	Amend	9-1-2011	812-004-1160	10-1-2011	Adopt	11-1-2011
808-002-0620	8-1-2011	Amend	9-1-2011	812-004-1160(T)	10-1-2011	Repeal	11-1-2011
808-003-0015	8-1-2011	Amend	9-1-2011	812-004-1180	7-8-2011	Adopt(T)	8-1-2011
808-003-0018	5-25-2011	Amend	7-1-2011	812-004-1180	10-1-2011	Adopt	11-1-2011
808-003-0130	1-27-2011	Amend	3-1-2011	812-004-1180(T)	10-1-2011	Repeal	11-1-2011
808-005-0020	8-1-2011	Amend	9-1-2011	812-004-1195	7-8-2011	Adopt(T)	8-1-2011
808-030-0010	8-1-2011	Amend	9-1-2011	812-004-1195	10-1-2011	Adopt	11-1-2011
808-030-0015	8-1-2011	Adopt	9-1-2011	812-004-1195(T)	10-1-2011	Repeal	11-1-2011
808-030-0018	8-1-2011	Adopt	9-1-2011	812-004-1210	7-8-2011	Adopt(T)	8-1-2011
808-040-0025	6-17-2011	Amend	8-1-2011	812-004-1210	10-1-2011	Adopt	11-1-2011
808-040-0040	6-17-2011	Amend	8-1-2011	812-004-1210(T)	10-1-2011	Repeal	11-1-2011
809-010-0001	7-1-2011	Amend	8-1-2011	812-004-1240	7-8-2011	Adopt(T)	8-1-2011
809-010-0025	7-1-2011	Amend	8-1-2011	812-004-1240	10-1-2011	Adopt	11-1-2011
809-030-0025	7-1-2011	Amend	8-1-2011	812-004-1240(T)	10-1-2011	Repeal	11-1-2011
809-050-0005	7-1-2011	Adopt	8-1-2011	812-004-1250	7-8-2011	Adopt(T)	8-1-2011
811-015-0036	6-13-2011	Adopt	7-1-2011	812-004-1250	10-1-2011	Adopt	11-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
812-004-1250(T)	10-1-2011	Repeal	11-1-2011	812-004-1530(T)	10-1-2011	Repeal	11-1-2011
812-004-1260	7-8-2011	Adopt(T)	8-1-2011	812-004-1537	7-8-2011	Adopt(T)	8-1-2011
812-004-1260	10-1-2011	Adopt	11-1-2011	812-004-1537	10-1-2011	Adopt	11-1-2011
812-004-1260(T)	10-1-2011	Repeal	11-1-2011	812-004-1537(T)	10-1-2011	Repeal	11-1-2011
812-004-1300	7-8-2011	Adopt(T)	8-1-2011	812-004-1600	7-8-2011	Adopt(T)	8-1-2011
812-004-1300	10-1-2011	Adopt	11-1-2011	812-004-1600	10-1-2011	Adopt	11-1-2011
812-004-1300(T)	10-1-2011	Repeal	11-1-2011	812-004-1600(T)	10-1-2011	Repeal	11-1-2011
812-004-1320	7-8-2011	Adopt(T)	8-1-2011	812-005-0800	3-1-2011	Amend	4-1-2011
812-004-1320	10-1-2011	Adopt	11-1-2011	812-005-0800	7-1-2011	Amend	8-1-2011
812-004-1320(T)	10-1-2011	Repeal	11-1-2011	812-005-0800	10-1-2011	Amend	11-1-2011
812-004-1340	7-8-2011	Adopt(T)	8-1-2011	812-006-0150	3-1-2011	Amend	4-1-2011
812-004-1340	10-1-2011	Adopt	11-1-2011	812-006-0250	3-1-2011	Amend	4-1-2011
812-004-1340(T)	10-1-2011	Repeal	11-1-2011	812-007-0000	10-1-2011	Amend	11-1-2011
812-004-1350	7-8-2011	Adopt(T)	8-1-2011	812-007-0020	10-1-2011	Amend	11-1-2011
812-004-1350	10-1-2011	Adopt	11-1-2011	812-007-0031	5-1-2011	Adopt	6-1-2011
812-004-1350(T)	10-1-2011	Repeal	11-1-2011	812-007-0032	5-1-2011	Adopt	6-1-2011
812-004-1360	7-8-2011	Adopt(T)	8-1-2011	812-007-0100	10-1-2011	Amend	11-1-2011
812-004-1360	10-1-2011	Adopt	11-1-2011	812-007-0110	10-1-2011	Amend	11-1-2011
812-004-1360(T)	10-1-2011	Repeal	11-1-2011	812-007-0130	10-1-2011	Amend	11-1-2011
812-004-1400	7-8-2011	Adopt(T)	8-1-2011	812-007-0150	10-1-2011	Amend	11-1-2011
812-004-1400	10-1-2011	Adopt	11-1-2011	812-007-0200	10-1-2011	Amend	11-1-2011
812-004-1400(T)	10-1-2011	Repeal	11-1-2011	812-007-0210	10-1-2011	Amend	11-1-2011
812-004-1420	7-8-2011	Adopt(T)	8-1-2011	812-007-0230	10-1-2011	Amend	11-1-2011
812-004-1420	10-1-2011	Adopt	11-1-2011	812-007-0250	10-1-2011	Amend	11-1-2011
812-004-1420(T)	10-1-2011	Repeal	11-1-2011	812-007-0300	10-1-2011	Amend	11-1-2011
812-004-1440	7-8-2011	Adopt(T)	8-1-2011	812-007-0323	12-22-2010	Adopt(T)	2-1-2011
812-004-1440	9-9-2011	Adopt(T)	10-1-2011	812-007-0323	3-1-2011	Adopt	4-1-2011
812-004-1440	10-1-2011	Adopt	11-1-2011	812-007-0323(T)	3-1-2011	Repeal	4-1-2011
812-004-1440(T)	9-9-2011	Suspend	10-1-2011	812-007-0350	10-1-2011	Amend	11-1-2011
812-004-1440(T)	10-1-2011	Repeal	11-1-2011	812-007-0370	10-1-2011	Amend	11-1-2011
812-004-1450	7-8-2011	Adopt(T)	8-1-2011	812-007-0372	10-1-2011	Amend	11-1-2011
812-004-1450	10-1-2011	Adopt	11-1-2011	812-007-0374	10-1-2011	Amend	11-1-2011
812-004-1450(T)	10-1-2011	Repeal	11-1-2011	812-008-0065	5-1-2011	Adopt	6-1-2011
812-004-1460	7-8-2011	Adopt(T)	8-1-2011	812-008-0070	3-1-2011	Amend	4-1-2011
812-004-1460	10-1-2011	Adopt	11-1-2011	812-008-0072	3-1-2011	Amend	4-1-2011
812-004-1460(T)	10-1-2011	Repeal	11-1-2011	812-008-0074	1-1-2011	Amend	2-1-2011
812-004-1480	7-8-2011	Adopt(T)	8-1-2011	812-008-0074	3-1-2011	Amend	4-1-2011
812-004-1480	10-1-2011	Adopt	11-1-2011	812-008-0077	5-1-2011	Adopt	6-1-2011
812-004-1480(T)	10-1-2011	Repeal	11-1-2011	812-008-0209	5-1-2011	Amend	6-1-2011
812-004-1490	7-8-2011	Adopt(T)	8-1-2011	812-009-0010	7-8-2011	Amend(T)	8-1-2011
812-004-1490	10-1-2011	Adopt	11-1-2011	812-009-0010	10-1-2011	Amend	11-1-2011
812-004-1490(T)	10-1-2011	Repeal	11-1-2011	812-009-0010(T)	10-1-2011	Repeal	11-1-2011
812-004-1500	7-8-2011	Adopt(T)	8-1-2011	812-010-0020	7-8-2011	Amend(T)	8-1-2011
812-004-1500	10-1-2011	Adopt	11-1-2011	812-010-0020	10-1-2011	Amend	11-1-2011
812-004-1500(T)	10-1-2011	Repeal	11-1-2011	812-010-0020(T)	10-1-2011	Repeal	11-1-2011
812-004-1505	7-8-2011	Adopt(T)	8-1-2011	812-020-0090	1-1-2011	Amend	2-1-2011
812-004-1505	10-1-2011	Adopt	11-1-2011	812-021-0015	7-1-2011	Amend(T)	8-1-2011
812-004-1505(T)	10-1-2011	Repeal	11-1-2011	812-021-0015	10-1-2011	Amend	11-1-2011
812-004-1510	7-8-2011	Adopt(T)	8-1-2011	812-021-0015(T)	10-1-2011	Repeal	11-1-2011
812-004-1510	10-1-2011	Adopt	11-1-2011	812-021-0016	4-28-2011	Amend(T)	6-1-2011
812-004-1510(T)	10-1-2011	Repeal	11-1-2011	812-021-0016	7-1-2011	Amend	8-1-2011
812-004-1520	7-8-2011	Adopt(T)	8-1-2011	812-021-0016(T)	7-1-2011	Repeal	8-1-2011
812-004-1520	10-1-2011	Adopt	11-1-2011	812-021-0019	7-1-2011	Amend	8-1-2011
812-004-1520(T)	10-1-2011	Repeal	11-1-2011	812-021-0021	7-1-2011	Adopt(T)	8-1-2011
812-004-1530	7-8-2011	Adopt(T)	8-1-2011	812-021-0021	9-2-2011	Adopt(T)	10-1-2011
812-004-1530	10-1-2011	Adopt	11-1-2011	812-021-0021	10-1-2011	Adopt	11-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
812-021-0021(T)	9-2-2011	Suspend	10-1-2011	813-020-0045	9-30-2011	Amend(T)	11-1-2011
812-021-0021(T)	10-1-2011	Repeal	11-1-2011	813-020-0050	9-30-2011	Am. & Ren.(T)	11-1-2011
812-021-0025	10-1-2011	Amend	11-1-2011	813-020-0051	9-30-2011	Am. & Ren.(T)	11-1-2011
812-021-0028	7-1-2011	Amend(T)	8-1-2011	813-020-0060	9-30-2011	Amend(T)	11-1-2011
812-021-0028	10-1-2011	Amend	11-1-2011	813-020-0070	9-30-2011	Amend(T)	11-1-2011
812-021-0028(T)	10-1-2011	Repeal	11-1-2011	813-041-0020	12-15-2010	Amend	1-1-2011
812-021-0031	10-1-2011	Amend	11-1-2011	813-042-0030	2-17-2011	Amend	4-1-2011
812-021-0035	10-1-2011	Amend	11-1-2011	813-043-0030	2-17-2011	Amend	4-1-2011
812-025-0000	1-1-2011	Adopt	2-1-2011	813-044-0000	9-30-2011	Amend(T)	11-1-2011
812-025-0005	1-1-2011	Adopt	2-1-2011	813-044-0010	9-30-2011	Suspend	11-1-2011
812-025-0010	1-1-2011	Adopt	2-1-2011	813-044-0020	9-30-2011	Suspend	11-1-2011
812-025-0015	1-1-2011	Adopt	2-1-2011	813-044-0030	9-30-2011	Amend(T)	11-1-2011
812-025-0020	1-1-2011	Adopt	2-1-2011	813-044-0040	9-30-2011	Amend(T)	11-1-2011
812-025-0025	1-1-2011	Adopt	2-1-2011	813-044-0050	9-30-2011	Amend(T)	11-1-2011
812-025-0030	1-1-2011	Adopt	2-1-2011	813-044-0055	9-30-2011	Adopt(T)	11-1-2011
812-025-0032	5-1-2011	Adopt	6-1-2011	813-044-0060	9-30-2011	Suspend	11-1-2011
812-025-0035	1-1-2011	Adopt	2-1-2011	813-065-0120	3-1-2011	Adopt(T)	4-1-2011
812-025-0040	1-1-2011	Adopt	2-1-2011	813-065-0120	8-26-2011	Adopt	10-1-2011
812-025-0045	1-1-2011	Adopt	2-1-2011	813-065-0120(T)	8-26-2011	Repeal	10-1-2011
812-030-0223	5-1-2011	Adopt	6-1-2011	813-065-0130	3-1-2011	Adopt(T)	4-1-2011
812-030-0235	5-1-2011	Adopt	6-1-2011	813-065-0130	8-26-2011	Adopt	10-1-2011
813-001-0060	12-1-2010	Adopt(T)	1-1-2011	813-065-0130(T)	8-26-2011	Repeal	10-1-2011
813-001-0060	8-25-2011	Adopt	7-1-2011	813-065-0140	3-1-2011	Adopt(T)	4-1-2011
813-001-0060(T)	8-25-2011	Repeal	7-1-2011	813-065-0140	8-26-2011	Adopt	10-1-2011
813-007-0055	3-21-2011	Repeal	5-1-2011	813-065-0140(T)	8-26-2011	Repeal	10-1-2011
813-007-0057	3-21-2011	Adopt	5-1-2011	813-065-0150	3-1-2011	Adopt(T)	4-1-2011
813-007-0060	3-21-2011	Repeal	5-1-2011	813-065-0150	8-26-2011	Adopt	10-1-2011
813-008-0005	3-1-2011	Am. & Ren.(T)	4-1-2011	813-065-0150(T)	8-26-2011	Repeal	10-1-2011
813-008-0005	8-26-2011	Am. & Ren.	10-1-2011	813-065-0200	3-1-2011	Adopt(T)	4-1-2011
813-008-0010	3-1-2011	Suspend	4-1-2011	813-065-0200	8-26-2011	Adopt	10-1-2011
813-008-0010	8-26-2011	Repeal	10-1-2011	813-065-0210	3-1-2011	Adopt(T)	4-1-2011
813-008-0015	3-1-2011	Am. & Ren.(T)	4-1-2011	813-065-0210	8-26-2011	Adopt	10-1-2011
813-008-0015	8-26-2011	Am. & Ren.	10-1-2011	813-065-0210(T)	8-26-2011	Repeal	10-1-2011
813-008-0020	3-1-2011	Suspend	4-1-2011	813-065-0220	3-1-2011	Adopt(T)	4-1-2011
813-008-0020	8-26-2011	Repeal	10-1-2011	813-065-0220	8-26-2011	Adopt	10-1-2011
813-008-0025	3-1-2011	Suspend	4-1-2011	813-065-0220(T)	8-26-2011	Repeal	10-1-2011
813-008-0025	8-26-2011	Repeal	10-1-2011	813-065-0230	3-1-2011	Adopt(T)	4-1-2011
813-008-0030	3-1-2011	Suspend	4-1-2011	813-065-0230	8-26-2011	Adopt	10-1-2011
813-008-0030	8-26-2011	Repeal	10-1-2011	813-065-0230(T)	8-26-2011	Repeal	10-1-2011
813-008-0040	3-1-2011	Suspend	4-1-2011	813-065-0240	3-1-2011	Adopt(T)	4-1-2011
813-008-0040	8-26-2011	Repeal	10-1-2011	813-065-0240	8-26-2011	Adopt	10-1-2011
813-020-0005	9-30-2011	Amend(T)	11-1-2011	813-065-0240(T)	8-26-2011	Repeal	10-1-2011
813-020-0010	9-30-2011	Suspend	11-1-2011	813-230-0000	2-7-2011	Amend	3-1-2011
813-020-0015	9-30-2011	Suspend	11-1-2011	813-230-0000(T)	2-7-2011	Repeal	3-1-2011
813-020-0016	9-30-2011	Suspend	11-1-2011	813-230-0005	2-7-2011	Amend	3-1-2011
813-020-0017	9-30-2011	Am. & Ren.(T)	11-1-2011	813-230-0005(T)	2-7-2011	Repeal	3-1-2011
813-020-0020	9-30-2011	Amend(T)	11-1-2011	813-230-0007	2-7-2011	Adopt	3-1-2011
813-020-0024	9-30-2011	Am. & Ren.(T)	11-1-2011	813-230-0007(T)	2-7-2011	Repeal	3-1-2011
813-020-0025	9-30-2011	Amend(T)	11-1-2011	813-230-0015	2-7-2011	Amend	3-1-2011
813-020-0030	9-30-2011	Am. & Ren.(T)	11-1-2011	813-230-0015(T)	2-7-2011	Repeal	3-1-2011
813-020-0032	9-30-2011	Am. & Ren.(T)	11-1-2011	817-005-0005	5-5-2011	Amend	6-1-2011
813-020-0033	9-30-2011	Suspend	11-1-2011	817-010-0065	5-5-2011	Amend	6-1-2011
813-020-0035	9-30-2011	Amend(T)	11-1-2011	817-010-0090	5-5-2011	Repeal	6-1-2011
813-020-0040	9-30-2011	Am. & Ren.(T)	11-1-2011	817-020-0006	5-5-2011	Amend	6-1-2011
813-020-0041	9-30-2011	Am. & Ren.(T)	11-1-2011	817-030-0005	3-1-2011	Amend(T)	4-1-2011
813-020-0042	9-30-2011	Am. & Ren.(T)	11-1-2011	817-030-0005	5-5-2011	Amend	6-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
817-030-0005(T)	5-5-2011	Repeal	6-1-2011	818-013-0020(T)	2-1-2011	Repeal	2-1-2011
817-030-0015	3-1-2011	Amend(T)	4-1-2011	818-013-0025	2-1-2011	Amend	2-1-2011
817-030-0015	5-5-2011	Repeal	6-1-2011	818-013-0025(T)	2-1-2011	Repeal	2-1-2011
817-030-0018	3-1-2011	Amend(T)	4-1-2011	818-013-0030	2-1-2011	Amend	2-1-2011
817-030-0018	5-5-2011	Repeal	6-1-2011	818-013-0030(T)	2-1-2011	Repeal	2-1-2011
817-030-0020	5-5-2011	Repeal	6-1-2011	818-013-0035	2-1-2011	Amend	2-1-2011
817-030-0030	5-5-2011	Amend	6-1-2011	818-013-0035(T)	2-1-2011	Repeal	2-1-2011
817-030-0040	5-5-2011	Repeal	6-1-2011	818-021-0017	6-1-2011	Amend(T)	6-1-2011
817-030-0045	5-5-2011	Repeal	6-1-2011	818-021-0060	7-1-2011	Amend(T)	8-1-2011
817-030-0055	5-5-2011	Repeal	6-1-2011	818-021-0070	7-1-2011	Amend(T)	8-1-2011
817-030-0065	5-5-2011	Amend	6-1-2011	818-026-0060	6-1-2011	Amend(T)	6-1-2011
817-030-0071	5-5-2011	Adopt	6-1-2011	818-026-0065	6-1-2011	Amend(T)	6-1-2011
817-035-0010	5-5-2011	Amend	6-1-2011	818-026-0070	6-1-2011	Amend(T)	6-1-2011
817-035-0030	5-5-2011	Repeal	6-1-2011	820-010-0209	1-14-2011	Amend	2-1-2011
817-035-0050	3-1-2011	Amend(T)	4-1-2011	820-010-0210	1-14-2011	Amend	2-1-2011
817-035-0050	5-5-2011	Amend	6-1-2011	820-010-0212	1-14-2011	Amend	2-1-2011
817-035-0050(T)	5-5-2011	Repeal	6-1-2011	820-010-0213	1-14-2011	Amend	2-1-2011
817-035-0070	5-5-2011	Amend	6-1-2011	820-010-0214	1-14-2011	Amend	2-1-2011
817-035-0110	5-5-2011	Amend	6-1-2011	820-010-0215	12-28-2010	Amend(T)	2-1-2011
817-040-0003	3-1-2011	Amend(T)	4-1-2011	820-010-0215	1-14-2011	Amend	2-1-2011
817-040-0003	5-5-2011	Amend	6-1-2011	820-010-0215(T)	1-14-2011	Repeal	2-1-2011
817-040-0003	6-1-2011	Amend	7-1-2011	820-010-0305	1-14-2011	Amend	2-1-2011
817-040-0003(T)	5-5-2011	Repeal	6-1-2011	820-010-0325	5-12-2011	Amend	6-1-2011
817-060-0050	5-5-2011	Adopt	6-1-2011	820-010-0400	1-14-2011	Amend	2-1-2011
817-060-0050(T)	5-5-2011	Repeal	6-1-2011	820-010-0417	1-14-2011	Amend	2-1-2011
817-090-0025	5-5-2011	Amend	6-1-2011	820-010-0427	1-14-2011	Amend	2-1-2011
817-090-0025	9-13-2011	Amend(T)	10-1-2011	820-010-0435	1-14-2011	Repeal	2-1-2011
817-090-0035	5-5-2011	Amend	6-1-2011	820-010-0463	1-14-2011	Amend	2-1-2011
817-090-0035	9-13-2011	Amend(T)	10-1-2011	820-010-0505	1-14-2011	Amend	2-1-2011
817-090-0045	5-5-2011	Amend	6-1-2011	820-010-0520	1-14-2011	Amend	2-1-2011
817-090-0045	9-13-2011	Amend(T)	10-1-2011	820-010-0635	5-12-2011	Amend	6-1-2011
817-090-0050	5-5-2011	Amend	6-1-2011	830-011-0000	8-1-2011	Amend	9-1-2011
817-090-0055	5-5-2011	Amend	6-1-2011	830-011-0010	8-1-2011	Amend	9-1-2011
817-090-0065	5-5-2011	Amend	6-1-2011	830-011-0020	8-1-2011	Amend	9-1-2011
817-090-0070	5-5-2011	Amend	6-1-2011	830-011-0030	8-1-2011	Repeal	9-1-2011
817-090-0075	5-5-2011	Amend	6-1-2011	830-011-0050	8-1-2011	Amend	9-1-2011
817-090-0080	5-5-2011	Amend	6-1-2011	830-011-0070	8-1-2011	Amend	9-1-2011
817-090-0085	5-5-2011	Amend	6-1-2011	830-011-0080	8-1-2011	Amend	9-1-2011
817-090-0090	5-5-2011	Amend	6-1-2011	830-020-0000	8-1-2011	Amend	9-1-2011
817-090-0095	5-5-2011	Amend	6-1-2011	830-020-0010	8-1-2011	Amend	9-1-2011
817-090-0100	5-5-2011	Amend	6-1-2011	830-020-0020	8-1-2011	Amend	9-1-2011
817-090-0105	5-5-2011	Amend	6-1-2011	830-020-0030	8-1-2011	Amend	9-1-2011
817-090-0105	9-13-2011	Amend(T)	10-1-2011	830-020-0040	8-1-2011	Amend	9-1-2011
817-090-0110	5-5-2011	Amend	6-1-2011	830-030-0000	8-1-2011	Amend	9-1-2011
817-090-0115	5-5-2011	Amend	6-1-2011	830-030-0004	8-1-2011	Amend	9-1-2011
817-120-0005	9-13-2011	Amend(T)	10-1-2011	830-030-0030	8-1-2011	Amend	9-1-2011
818-001-0087	7-1-2011	Amend(T)	8-1-2011	830-030-0070	8-1-2011	Amend	9-1-2011
818-013-0001	2-1-2011	Amend	2-1-2011	830-030-0090	8-1-2011	Amend	9-1-2011
818-013-0001(T)	2-1-2011	Repeal	2-1-2011	830-030-0100	8-1-2011	Amend	9-1-2011
818-013-0005	2-1-2011	Amend	2-1-2011	830-040-0000	8-1-2011	Amend	9-1-2011
818-013-0005(T)	2-1-2011	Repeal	2-1-2011	830-040-0005	8-1-2011	Amend	9-1-2011
818-013-0010	2-1-2011	Amend	2-1-2011	830-040-0010	8-1-2011	Amend	9-1-2011
818-013-0010(T)	2-1-2011	Repeal	2-1-2011	830-040-0020	8-1-2011	Amend	9-1-2011
818-013-0015	2-1-2011	Amend	2-1-2011	830-040-0030	8-1-2011	Amend	9-1-2011
818-013-0015(T)	2-1-2011	Repeal	2-1-2011	830-040-0050	8-1-2011	Amend	9-1-2011
818-013-0020	2-1-2011	Amend	2-1-2011	830-040-0060	8-1-2011	Amend	9-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
830-040-0070	8-1-2011	Amend	9-1-2011	836-053-1100	7-7-2011	Amend(T)	8-1-2011
830-050-0000	8-1-2011	Repeal	9-1-2011	836-053-1310	7-7-2011	Amend(T)	8-1-2011
830-050-0050	8-1-2011	Amend	9-1-2011	836-053-1340	7-7-2011	Amend(T)	8-1-2011
833-020-0011	2-1-2011	Amend	2-1-2011	836-053-1342	7-7-2011	Amend(T)	8-1-2011
833-020-0051	2-1-2011	Amend	2-1-2011	836-053-1350	7-7-2011	Amend(T)	8-1-2011
833-020-0081	1-1-2011	Amend	1-1-2011	836-071-0110	1-1-2011	Amend	2-1-2011
833-040-0021	1-1-2011	Amend	1-1-2011	836-071-0118	1-1-2011	Adopt	2-1-2011
833-050-0081	1-1-2011	Amend	1-1-2011	836-071-0120	1-1-2011	Amend	2-1-2011
833-055-0001	1-1-2011	Repeal	1-1-2011	836-080-0090	2-4-2011	Amend	3-1-2011
833-055-0010	1-1-2011	Repeal	1-1-2011	836-080-0095	2-4-2011	Am. & Ren.	3-1-2011
833-055-0020	1-1-2011	Repeal	1-1-2011	836-080-0170	2-4-2011	Adopt	3-1-2011
833-060-0012	1-1-2011	Amend	1-1-2011	836-080-0172	2-4-2011	Adopt	3-1-2011
833-060-0062	1-1-2011	Adopt	1-1-2011	836-080-0175	2-4-2011	Adopt	3-1-2011
833-100-0021	1-1-2011	Amend	1-1-2011	836-080-0178	2-4-2011	Adopt	3-1-2011
833-110-0021	1-1-2011	Amend	1-1-2011	836-080-0180	2-4-2011	Adopt	3-1-2011
833-120-0011	5-15-2011	Amend(T)	6-1-2011	836-080-0183	2-4-2011	Adopt	3-1-2011
833-120-0021	5-15-2011	Amend(T)	6-1-2011	836-080-0185	2-4-2011	Adopt	3-1-2011
833-120-0031	5-15-2011	Amend(T)	6-1-2011	836-080-0188	2-4-2011	Adopt	3-1-2011
833-120-0041	5-15-2011	Amend(T)	6-1-2011	836-080-0193	2-4-2011	Adopt	3-1-2011
833-130-0080	1-1-2011	Adopt	1-1-2011	836-080-0800	3-1-2011	Adopt	2-1-2011
834-010-0050	10-1-2011	Amend(T)	11-1-2011	836-080-0805	3-1-2011	Adopt	2-1-2011
836-009-0007	1-1-2011	Amend	2-1-2011	836-080-0810	3-1-2011	Adopt	2-1-2011
836-011-0000	1-1-2011	Amend	2-1-2011	836-100-0010	2-10-2011	Adopt	3-1-2011
836-011-0250	2-4-2011	Adopt	3-1-2011	836-100-0010	7-5-2011	Am. & Ren.	8-1-2011
836-011-0253	2-4-2011	Adopt	3-1-2011	836-100-0010(T)	2-10-2011	Repeal	3-1-2011
836-011-0255	2-4-2011	Adopt	3-1-2011	836-100-0011	7-5-2011	Adopt	8-1-2011
836-011-0255	9-21-2011	Amend	11-1-2011	836-100-0015	2-10-2011	Adopt	3-1-2011
836-011-0258	2-4-2011	Adopt	3-1-2011	836-100-0015	7-5-2011	Repeal	8-1-2011
836-011-0260	2-4-2011	Adopt	3-1-2011	836-100-0015(T)	2-10-2011	Repeal	3-1-2011
836-011-0515	12-15-2010	Amend	1-1-2011	836-100-0016	7-5-2011	Adopt	8-1-2011
836-031-0600	2-23-2011	Amend	4-1-2011	836-100-0025	7-5-2011	Adopt	8-1-2011
836-031-0620	2-23-2011	Amend	4-1-2011	836-100-0030	7-5-2011	Adopt	8-1-2011
836-031-0630	2-23-2011	Amend	4-1-2011	836-100-0035	7-5-2011	Adopt	8-1-2011
836-031-0640	2-23-2011	Amend	4-1-2011	836-100-0040	7-5-2011	Adopt	8-1-2011
836-031-0650	2-23-2011	Repeal	4-1-2011	836-100-0045	7-5-2011	Adopt	8-1-2011
836-031-0660	2-23-2011	Repeal	4-1-2011	836-100-0100	7-15-2011	Adopt	8-1-2011
836-031-0670	2-23-2011	Amend	4-1-2011	836-100-0105	7-15-2011	Adopt	8-1-2011
836-031-0680	2-23-2011	Amend	4-1-2011	836-100-0110	7-15-2011	Adopt	8-1-2011
836-031-0690	2-23-2011	Amend	4-1-2011	836-100-0115	7-15-2011	Adopt	8-1-2011
836-051-0030	2-23-2011	Adopt	4-1-2011	836-100-0120	7-15-2011	Adopt	8-1-2011
836-051-0032	2-23-2011	Adopt	4-1-2011	837-012-0315	1-1-2011	Amend(T)	2-1-2011
836-051-0034	2-23-2011	Adopt	4-1-2011	837-012-0315	6-29-2011	Amend	6-1-2011
836-051-0036	2-23-2011	Adopt	4-1-2011	837-012-0330	1-1-2011	Amend(T)	2-1-2011
836-051-0038	2-23-2011	Adopt	4-1-2011	837-012-0330	6-29-2011	Amend	6-1-2011
836-051-0040	2-23-2011	Adopt	4-1-2011	837-012-0510	5-2-2011	Amend	4-1-2011
836-052-0114	2-23-2011	Amend	4-1-2011	837-012-0515	5-2-2011	Amend	4-1-2011
836-052-0145	2-23-2011	Amend	4-1-2011	837-012-0520	5-2-2011	Amend	4-1-2011
836-052-0151	2-23-2011	Amend	4-1-2011	837-012-0525	5-2-2011	Amend	4-1-2011
836-052-0160	2-23-2011	Amend	4-1-2011	837-012-0535	5-2-2011	Amend	4-1-2011
836-052-0636	2-10-2011	Amend	3-1-2011	837-012-0540	5-2-2011	Amend	4-1-2011
836-052-0756	2-10-2011	Amend	3-1-2011	837-012-0550	5-2-2011	Amend	4-1-2011
836-052-0776	2-10-2011	Amend	3-1-2011	837-012-0555	5-2-2011	Amend	4-1-2011
836-052-0790	2-10-2011	Adopt	3-1-2011	837-012-0560	5-2-2011	Amend	4-1-2011
836-052-1000	2-23-2011	Amend	4-1-2011	837-012-0565	5-2-2011	Amend	4-1-2011
836-053-0510	2-23-2011	Amend	4-1-2011	837-040-0020	4-1-2011	Amend	4-1-2011
836-053-1030	7-7-2011	Amend(T)	8-1-2011	837-041-0050	12-1-2010	Amend	1-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
837-047-0100	12-28-2010	Adopt	1-1-2011	839-025-0700	1-1-2011	Amend	2-1-2011
837-047-0110	12-28-2010	Adopt	1-1-2011	839-025-0700	4-1-2011	Amend	5-1-2011
837-047-0120	12-28-2010	Adopt	1-1-2011	839-025-0700	7-1-2011	Amend	8-1-2011
837-047-0130	12-28-2010	Adopt	1-1-2011	839-025-0700	10-12-2011	Amend	11-1-2011
837-047-0135	12-28-2010	Adopt	1-1-2011	839-050-0440	2-1-2011	Amend	3-1-2011
837-047-0140	12-28-2010	Adopt	1-1-2011	839-050-0445	2-1-2011	Amend	3-1-2011
837-047-0150	12-28-2010	Adopt	1-1-2011	845-003-0670	1-1-2011	Amend	2-1-2011
837-047-0160	12-28-2010	Adopt	1-1-2011	845-005-0311	3-1-2011	Amend	4-1-2011
837-047-0170	12-28-2010	Adopt	1-1-2011	845-005-0331	3-1-2011	Amend	4-1-2011
839-001-0200	1-1-2011	Amend	2-1-2011	845-005-0355	3-1-2011	Amend	4-1-2011
839-003-0005	10-14-2011	Amend	11-1-2011	845-005-0428	9-1-2011	Amend	9-1-2011
839-003-0025	10-14-2011	Amend	11-1-2011	845-005-0440	1-1-2011	Amend	2-1-2011
839-003-0100	10-14-2011	Amend	11-1-2011	845-006-0345	1-1-2011	Amend	2-1-2011
839-005-0010	10-14-2011	Amend	11-1-2011	845-006-0425	5-1-2011	Amend	6-1-2011
839-005-0026	10-14-2011	Amend	11-1-2011	845-006-0480	3-1-2011	Amend	4-1-2011
839-005-0031	10-14-2011	Amend	11-1-2011	845-006-0497	9-1-2011	Adopt	9-1-2011
839-005-0070	10-14-2011	Amend	11-1-2011	845-008-0050	1-1-2011	Adopt	2-1-2011
839-005-0080	10-14-2011	Amend	11-1-2011	845-008-0070	1-1-2011	Adopt	2-1-2011
839-005-0200	10-14-2011	Amend	11-1-2011	845-008-0080	1-1-2011	Adopt	2-1-2011
839-005-0206	10-14-2011	Amend	11-1-2011	845-008-0090	1-1-2011	Adopt	2-1-2011
839-005-0220	10-14-2011	Amend	11-1-2011	845-009-0010	1-1-2011	Amend	2-1-2011
839-006-0240	10-14-2011	Amend	11-1-2011	845-010-0146	11-20-2010	Adopt(T)	1-1-2011
839-006-0275	10-14-2011	Amend	11-1-2011	845-010-0154	1-1-2011	Am. & Ren.	2-1-2011
839-006-0307	10-14-2011	Amend	11-1-2011	845-013-0030	5-1-2011	Amend	6-1-2011
839-006-0455	10-14-2011	Amend	11-1-2011	845-013-0050	5-1-2011	Amend	6-1-2011
839-009-0210	10-14-2011	Amend	11-1-2011	845-013-0070	12-3-2010	Amend(T)	1-1-2011
839-009-0250	10-14-2011	Amend	11-1-2011	845-013-0080	9-1-2011	Adopt	9-1-2011
839-009-0280	10-14-2011	Amend	11-1-2011	845-015-0138	1-1-2011	Adopt	2-1-2011
839-009-0330	10-14-2011	Amend	11-1-2011	845-015-0155	9-1-2011	Amend	9-1-2011
839-009-0340	10-14-2011	Amend	11-1-2011	847-001-0005	4-25-2011	Amend	6-1-2011
839-009-0365	10-14-2011	Amend	11-1-2011	847-001-0015	4-25-2011	Amend	6-1-2011
839-009-0400	10-14-2011	Amend	11-1-2011	847-001-0022	4-25-2011	Adopt	6-1-2011
839-009-0450	10-14-2011	Amend	11-1-2011	847-002-0000	7-13-2011	Adopt	8-1-2011
839-011-0051	7-13-2011	Amend(T)	8-1-2011	847-002-0005	7-13-2011	Adopt	8-1-2011
839-011-0070	7-13-2011	Amend(T)	8-1-2011	847-002-0010	7-13-2011	Adopt	8-1-2011
839-011-0084	7-13-2011	Amend(T)	8-1-2011	847-002-0015	7-13-2011	Adopt	8-1-2011
839-011-0088	7-13-2011	Amend(T)	8-1-2011	847-002-0020	7-13-2011	Adopt	8-1-2011
839-011-0140	7-13-2011	Amend(T)	8-1-2011	847-002-0025	7-13-2011	Adopt	8-1-2011
839-011-0141	7-13-2011	Amend(T)	8-1-2011	847-002-0030	7-13-2011	Adopt	8-1-2011
839-011-0142	7-13-2011	Amend(T)	8-1-2011	847-002-0035	7-13-2011	Adopt	8-1-2011
839-011-0143	7-13-2011	Amend(T)	8-1-2011	847-002-0040	7-13-2011	Adopt	8-1-2011
839-011-0145	7-13-2011	Amend(T)	8-1-2011	847-002-0045	7-13-2011	Adopt	8-1-2011
839-011-0290	7-13-2011	Amend(T)	8-1-2011	847-005-0005	7-13-2011	Amend(T)	8-1-2011
839-020-0027	1-1-2011	Amend	2-1-2011	847-005-0005	10-13-2011	Amend(T)	11-1-2011
839-025-0004	1-1-2011	Amend	2-1-2011	847-008-0018	7-13-2011	Amend	8-1-2011
839-025-0013	1-1-2011	Amend	2-1-2011	847-008-0040	10-13-2011	Amend(T)	11-1-2011
839-025-0020	1-1-2011	Amend	2-1-2011	847-008-0050	7-13-2011	Amend	8-1-2011
839-025-0020	6-8-2011	Amend(T)	7-1-2011	847-008-0055	7-13-2011	Amend	8-1-2011
839-025-0020	7-22-2011	Amend(T)	9-1-2011	847-008-0070	4-25-2011	Amend	6-1-2011
839-025-0020(T)	7-22-2011	Suspend	9-1-2011	847-008-0075	7-13-2011	Amend	8-1-2011
839-025-0035	1-1-2011	Amend	2-1-2011	847-010-0100	2-11-2011	Renumber	3-1-2011
839-025-0060	1-1-2011	Amend	2-1-2011	847-020-0155	10-13-2011	Amend(T)	11-1-2011
839-025-0080	6-8-2011	Amend(T)	7-1-2011	847-035-0001	2-11-2011	Amend	3-1-2011
839-025-0100	1-1-2011	Amend	2-1-2011	847-035-0001	7-13-2011	Amend	8-1-2011
839-025-0230	1-1-2011	Amend	2-1-2011	847-035-0025	7-13-2011	Amend	8-1-2011
839-025-0530	6-8-2011	Amend(T)	7-1-2011	847-035-0030	2-11-2011	Amend	3-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
847-035-0030	4-8-2011	Amend	5-1-2011	851-002-0040	11-29-2010	Amend	1-1-2011
847-035-0030	4-25-2011	Amend	6-1-2011	851-021-0005	11-29-2010	Amend	1-1-2011
847-050-0005	10-13-2011	Amend(T)	11-1-2011	851-021-0010	11-29-2010	Amend	1-1-2011
847-050-0010	10-13-2011	Amend(T)	11-1-2011	851-021-0045	11-29-2010	Amend	1-1-2011
847-050-0015	10-13-2011	Amend(T)	11-1-2011	851-021-0055	11-29-2010	Amend	1-1-2011
847-050-0020	10-13-2011	Amend(T)	11-1-2011	851-021-0065	11-29-2010	Amend	1-1-2011
847-050-0023	10-13-2011	Amend(T)	11-1-2011	851-021-0090	11-29-2010	Amend	1-1-2011
847-050-0025	10-13-2011	Amend(T)	11-1-2011	851-031-0045	11-29-2010	Amend	1-1-2011
847-050-0026	10-13-2011	Amend(T)	11-1-2011	851-031-0070	11-29-2010	Amend	1-1-2011
847-050-0027	2-11-2011	Amend	3-1-2011	851-046-0000	12-2-2010	Repeal	1-1-2011
847-050-0027	10-13-2011	Amend(T)	11-1-2011	851-046-0005	12-2-2010	Repeal	1-1-2011
847-050-0029	10-13-2011	Amend(T)	11-1-2011	851-046-0010	12-2-2010	Repeal	1-1-2011
847-050-0031	7-13-2011	Repeal	8-1-2011	851-046-0020	12-2-2010	Repeal	1-1-2011
847-050-0032	7-13-2011	Repeal	8-1-2011	851-046-0030	12-2-2010	Repeal	1-1-2011
847-050-0035	10-13-2011	Amend(T)	11-1-2011	851-046-0040	12-2-2010	Repeal	1-1-2011
847-050-0037	10-13-2011	Amend(T)	11-1-2011	851-056-0000	10-6-2011	Amend	11-1-2011
847-050-0038	10-13-2011	Amend(T)	11-1-2011	851-056-0010	10-6-2011	Amend	11-1-2011
847-050-0040	10-13-2011	Amend(T)	11-1-2011	851-056-0012	10-6-2011	Amend	11-1-2011
847-050-0041	10-13-2011	Amend(T)	11-1-2011	851-056-0016	10-6-2011	Amend	11-1-2011
847-050-0042	10-13-2011	Amend(T)	11-1-2011	851-061-0020	7-11-2011	Amend	8-1-2011
847-050-0043	10-13-2011	Amend(T)	11-1-2011	851-061-0030	7-11-2011	Amend	8-1-2011
847-050-0046	10-13-2011	Amend(T)	11-1-2011	851-061-0040	7-11-2011	Amend	8-1-2011
847-050-0050	10-13-2011	Amend(T)	11-1-2011	851-061-0050	7-11-2011	Amend	8-1-2011
847-050-0055	10-13-2011	Amend(T)	11-1-2011	851-061-0075	7-11-2011	Adopt	8-1-2011
847-050-0060	10-13-2011	Amend(T)	11-1-2011	851-061-0080	7-11-2011	Amend	8-1-2011
847-050-0063	10-13-2011	Amend(T)	11-1-2011	851-061-0090	7-11-2011	Amend	8-1-2011
847-050-0065	10-13-2011	Amend(T)	11-1-2011	851-061-0110	7-11-2011	Amend	8-1-2011
847-065-0005	2-11-2011	Amend	3-1-2011	851-061-0130	7-11-2011	Amend	8-1-2011
847-065-0010	4-25-2011	Amend	6-1-2011	851-063-0030	6-23-2011	Amend(T)	7-1-2011
847-065-0015	4-25-2011	Amend	6-1-2011	851-063-0030	10-6-2011	Amend	11-1-2011
847-065-0020	4-25-2011	Amend	6-1-2011	851-070-0000	12-2-2010	Adopt	1-1-2011
847-065-0025	4-25-2011	Amend	6-1-2011	851-070-0000(T)	12-2-2010	Repeal	1-1-2011
847-065-0030	4-25-2011	Amend	6-1-2011	851-070-0005	12-2-2010	Adopt	1-1-2011
847-065-0035	4-25-2011	Amend	6-1-2011	851-070-0005(T)	12-2-2010	Repeal	1-1-2011
847-065-0040	4-25-2011	Amend	6-1-2011	851-070-0010	12-2-2010	Adopt	1-1-2011
847-065-0045	4-25-2011	Amend	6-1-2011	851-070-0010(T)	12-2-2010	Repeal	1-1-2011
847-065-0050	4-25-2011	Amend	6-1-2011	851-070-0020	12-2-2010	Adopt	1-1-2011
847-065-0055	4-25-2011	Amend	6-1-2011	851-070-0020(T)	12-2-2010	Repeal	1-1-2011
847-065-0060	4-25-2011	Amend	6-1-2011	851-070-0030	12-2-2010	Adopt	1-1-2011
847-065-0065	4-25-2011	Amend	6-1-2011	851-070-0030(T)	12-2-2010	Repeal	1-1-2011
847-065-0070	4-25-2011	Adopt	6-1-2011	851-070-0040	12-2-2010	Adopt	1-1-2011
847-070-0018	7-13-2011	Repeal	8-1-2011	851-070-0040(T)	12-2-2010	Repeal	1-1-2011
847-070-0042	7-13-2011	Repeal	8-1-2011	851-070-0050	12-2-2010	Adopt	1-1-2011
847-070-0050	7-13-2011	Amend	8-1-2011	851-070-0050(T)	12-2-2010	Repeal	1-1-2011
847-080-0019	7-13-2011	Repeal	8-1-2011	851-070-0060	12-2-2010	Adopt	1-1-2011
847-080-0020	7-13-2011	Repeal	8-1-2011	851-070-0060(T)	12-2-2010	Repeal	1-1-2011
847-080-0025	7-13-2011	Repeal	8-1-2011	851-070-0070	12-2-2010	Adopt	1-1-2011
848-005-0010	7-1-2011	Amend	8-1-2011	851-070-0070(T)	12-2-2010	Repeal	1-1-2011
850-035-0230	6-15-2011	Amend	7-1-2011	851-070-0080	12-2-2010	Adopt	1-1-2011
850-050-0200	4-12-2011	Adopt	5-1-2011	851-070-0080(T)	12-2-2010	Repeal	1-1-2011
850-060-0212	12-13-2010	Amend	1-1-2011	851-070-0090	12-2-2010	Adopt	1-1-2011
850-060-0225	4-12-2011	Amend	5-1-2011	851-070-0090(T)	12-2-2010	Repeal	1-1-2011
850-060-0226	12-13-2010	Amend	1-1-2011	851-070-0100	12-2-2010	Adopt	1-1-2011
850-060-0226	4-12-2011	Amend	5-1-2011	851-070-0100(T)	12-2-2010	Repeal	1-1-2011
850-060-0226	6-15-2011	Amend	7-1-2011	852-005-0005	7-1-2011	Amend	8-1-2011
851-002-0010	11-29-2010	Amend	1-1-2011	852-010-0080	7-1-2011	Amend	8-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
852-020-0045	7-1-2011	Amend	8-1-2011	856-010-0015	6-29-2011	Amend	8-1-2011
852-050-0005	7-1-2011	Amend	8-1-2011	856-010-0021	6-29-2011	Adopt	8-1-2011
852-050-0006	7-1-2011	Amend	8-1-2011	856-010-0022	6-29-2011	Amend	8-1-2011
852-050-0012	7-1-2011	Amend	8-1-2011	856-010-0031	6-29-2011	Adopt	8-1-2011
852-050-0025	7-1-2011	Adopt	8-1-2011	856-010-0035	6-29-2011	Amend	8-1-2011
855-010-0050	2-8-2011	Adopt(T)	3-1-2011	856-010-0045	6-29-2011	Amend	8-1-2011
855-010-0050	7-1-2011	Adopt	8-1-2011	856-010-0048	6-29-2011	Renumber	8-1-2011
855-010-0055	2-8-2011	Adopt(T)	3-1-2011	856-030-0040	6-29-2011	Adopt	8-1-2011
855-010-0055	7-1-2011	Adopt	8-1-2011	858-010-0001	9-27-2011	Amend	11-1-2011
855-010-0057	2-8-2011	Adopt(T)	3-1-2011	858-010-0002	9-27-2011	Amend	11-1-2011
855-010-0057	7-1-2011	Adopt	8-1-2011	858-010-0007	1-25-2011	Amend	3-1-2011
855-010-0060	2-8-2011	Adopt(T)	3-1-2011	858-010-0010	1-25-2011	Amend	3-1-2011
855-010-0060	7-1-2011	Adopt	8-1-2011	858-010-0010	5-31-2011	Amend	7-1-2011
855-010-0065	2-8-2011	Adopt(T)	3-1-2011	858-010-0010	9-27-2011	Amend	11-1-2011
855-010-0065	7-1-2011	Adopt	8-1-2011	858-010-0011	9-27-2011	Adopt	11-1-2011
855-010-0067	2-8-2011	Adopt(T)	3-1-2011	858-010-0012	9-27-2011	Adopt	11-1-2011
855-010-0067	7-1-2011	Adopt	8-1-2011	858-010-0013	9-27-2011	Adopt	11-1-2011
855-010-0070	2-8-2011	Adopt(T)	3-1-2011	858-010-0015	1-25-2011	Amend	3-1-2011
855-010-0070	7-1-2011	Adopt	8-1-2011	858-010-0015	9-27-2011	Amend	11-1-2011
855-010-0075	2-8-2011	Adopt(T)	3-1-2011	858-010-0016	5-31-2011	Amend	7-1-2011
855-010-0075	7-1-2011	Adopt	8-1-2011	858-010-0016	9-27-2011	Amend	11-1-2011
855-010-0080	2-8-2011	Adopt(T)	3-1-2011	858-010-0017	5-31-2011	Amend	7-1-2011
855-010-0080	7-1-2011	Adopt	8-1-2011	858-010-0017	9-27-2011	Amend	11-1-2011
855-010-0085	2-8-2011	Adopt(T)	3-1-2011	858-010-0020	9-27-2011	Amend	11-1-2011
855-010-0085	7-1-2011	Adopt	8-1-2011	858-010-0025	9-27-2011	Amend	11-1-2011
855-010-0087	2-8-2011	Adopt(T)	3-1-2011	858-010-0036	1-25-2011	Amend	3-1-2011
855-010-0087	7-1-2011	Adopt	8-1-2011	858-010-0036	5-31-2011	Amend	7-1-2011
855-011-0005	12-23-2010	Adopt	2-1-2011	858-010-0036	9-27-2011	Amend	11-1-2011
855-011-0005(T)	12-23-2010	Repeal	2-1-2011	858-010-0037	9-27-2011	Amend	11-1-2011
855-011-0020	12-23-2010	Adopt	2-1-2011	858-010-0038	9-27-2011	Amend	11-1-2011
855-011-0020(T)	12-23-2010	Repeal	2-1-2011	858-010-0039	1-25-2011	Amend	3-1-2011
855-011-0030	12-23-2010	Adopt	2-1-2011	858-010-0039	9-27-2011	Amend	11-1-2011
855-011-0030(T)	12-23-2010	Repeal	2-1-2011	858-010-0061	5-31-2011	Adopt	7-1-2011
855-011-0040	12-23-2010	Adopt	2-1-2011	858-010-0065	5-31-2011	Amend	7-1-2011
855-011-0040(T)	12-23-2010	Repeal	2-1-2011	858-020-0085	5-31-2011	Amend	7-1-2011
855-011-0050	12-23-2010	Adopt	2-1-2011	858-040-0015	1-25-2011	Amend	3-1-2011
855-011-0050(T)	12-23-2010	Repeal	2-1-2011	858-040-0035	5-31-2011	Amend	7-1-2011
855-019-0120	7-1-2011	Amend	8-1-2011	859-300-0001	2-15-2011	Adopt	3-1-2011
855-019-0265	4-18-2011	Adopt	6-1-2011	859-300-0001(T)	2-15-2011	Repeal	3-1-2011
855-021-0010	12-23-2010	Amend	2-1-2011	859-300-0010	2-15-2011	Adopt	3-1-2011
855-041-0065	12-23-2010	Amend	2-1-2011	859-300-0010(T)	2-15-2011	Repeal	3-1-2011
855-041-0600	4-18-2011	Amend	6-1-2011	859-300-0020	2-15-2011	Adopt	3-1-2011
855-041-0645	4-18-2011	Adopt	6-1-2011	859-300-0020(T)	2-15-2011	Repeal	3-1-2011
855-045-0220	4-18-2011	Amend	6-1-2011	859-300-0030	2-15-2011	Adopt	3-1-2011
855-045-0240	4-18-2011	Amend	6-1-2011	859-300-0030(T)	2-15-2011	Repeal	3-1-2011
855-080-0021	4-11-2011	Amend	5-1-2011	859-300-0040	2-15-2011	Adopt	3-1-2011
855-080-0021(T)	4-11-2011	Repeal	5-1-2011	859-300-0040(T)	2-15-2011	Repeal	3-1-2011
855-110-0005	7-1-2011	Amend(T)	8-1-2011	859-300-0050	2-15-2011	Adopt	3-1-2011
855-110-0007	7-1-2011	Amend(T)	8-1-2011	859-300-0050	7-5-2011	Amend(T)	8-1-2011
855-110-0010	7-1-2011	Amend(T)	8-1-2011	859-300-0050(T)	2-15-2011	Repeal	3-1-2011
856-010-0010	6-29-2011	Amend	8-1-2011	859-300-0060	2-15-2011	Adopt	3-1-2011
856-010-0010	6-29-2011	Amend	8-1-2011	859-300-0060(T)	2-15-2011	Repeal	3-1-2011
856-010-0011	6-29-2011	Amend	8-1-2011	859-300-0070	2-15-2011	Adopt	3-1-2011
856-010-0012	6-29-2011	Amend	8-1-2011	859-300-0070(T)	2-15-2011	Repeal	3-1-2011
856-010-0013	6-29-2011	Amend	8-1-2011	859-300-0080	2-15-2011	Adopt	3-1-2011
856-010-0014	12-14-2010	Amend	1-1-2011	859-300-0080(T)	2-15-2011	Repeal	3-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
859-300-0090	2-15-2011	Adopt	3-1-2011	860-027-0043	9-14-2011	Amend	10-1-2011
859-300-0090(T)	2-15-2011	Repeal	3-1-2011	860-027-0044	9-14-2011	Amend	10-1-2011
859-300-0100	2-15-2011	Adopt	3-1-2011	860-027-0050	12-20-2010	Amend	2-1-2011
859-300-0100(T)	2-15-2011	Repeal	3-1-2011	860-027-0175	12-2-2010	Adopt	1-1-2011
859-300-0110	2-15-2011	Adopt	3-1-2011	860-028-0000	9-14-2011	Amend	10-1-2011
859-300-0110(T)	2-15-2011	Repeal	3-1-2011	860-029-0005	9-14-2011	Amend	10-1-2011
859-300-0120	2-15-2011	Adopt	3-1-2011	860-029-0050	9-14-2011	Amend	10-1-2011
859-300-0120(T)	2-15-2011	Repeal	3-1-2011	860-030-0000	9-14-2011	Amend	10-1-2011
859-300-0130	2-15-2011	Adopt	3-1-2011	860-031-0040	9-14-2011	Amend	10-1-2011
859-300-0130(T)	2-15-2011	Repeal	3-1-2011	860-032-0000	9-14-2011	Adopt	10-1-2011
859-300-0140	2-15-2011	Adopt	3-1-2011	860-032-0007	9-14-2011	Amend	10-1-2011
859-300-0140(T)	2-15-2011	Repeal	3-1-2011	860-032-0012	9-14-2011	Amend	10-1-2011
859-300-0150	2-15-2011	Adopt	3-1-2011	860-033-0001	9-14-2011	Amend	10-1-2011
859-300-0150(T)	2-15-2011	Repeal	3-1-2011	860-033-0005	10-4-2011	Amend	11-1-2011
859-300-0160	2-15-2011	Adopt	3-1-2011	860-033-0006	10-4-2011	Amend	11-1-2011
859-300-0160(T)	2-15-2011	Repeal	3-1-2011	860-033-0007	10-4-2011	Amend	11-1-2011
859-300-0170	2-15-2011	Adopt	3-1-2011	860-033-0008	10-4-2011	Amend	11-1-2011
859-300-0170(T)	2-15-2011	Repeal	3-1-2011	860-033-0009	10-4-2011	Amend	11-1-2011
859-300-0180	2-15-2011	Adopt	3-1-2011	860-033-0030	10-4-2011	Amend	11-1-2011
859-300-0180(T)	2-15-2011	Repeal	3-1-2011	860-033-0045	10-4-2011	Amend	11-1-2011
859-300-0190	2-15-2011	Adopt	3-1-2011	860-033-0505	10-4-2011	Amend	11-1-2011
859-300-0190(T)	2-15-2011	Repeal	3-1-2011	860-033-0506	10-4-2011	Amend	11-1-2011
859-300-0200	2-15-2011	Adopt	3-1-2011	860-033-0510	10-4-2011	Repeal	11-1-2011
859-300-0200(T)	2-15-2011	Repeal	3-1-2011	860-033-0530	10-4-2011	Amend	11-1-2011
859-300-0210	2-15-2011	Adopt	3-1-2011	860-033-0537	10-4-2011	Amend	11-1-2011
859-300-0210(T)	2-15-2011	Repeal	3-1-2011	860-033-0545	10-4-2011	Amend	11-1-2011
859-300-0220	2-15-2011	Adopt	3-1-2011	860-034-0010	9-14-2011	Amend	10-1-2011
859-300-0220(T)	2-15-2011	Repeal	3-1-2011	860-034-0050	9-14-2011	Amend	10-1-2011
859-300-0230	2-15-2011	Adopt	3-1-2011	860-034-0260	9-14-2011	Amend	10-1-2011
859-300-0230(T)	2-15-2011	Repeal	3-1-2011	860-034-0340	9-14-2011	Amend	10-1-2011
860-016-0005	9-14-2011	Adopt	10-1-2011	860-034-0390	9-14-2011	Amend	10-1-2011
860-021-0005	9-14-2011	Amend	10-1-2011	860-034-0393	12-20-2010	Amend	2-1-2011
860-022-0000	9-14-2011	Amend	10-1-2011	860-034-0730	12-20-2010	Amend	2-1-2011
860-022-0041	2-23-2011	Amend(T)	4-1-2011	860-036-0001	9-14-2011	Amend	10-1-2011
860-022-0045	9-14-2011	Amend	10-1-2011	860-036-0110	9-14-2011	Amend	10-1-2011
860-023-0000	9-14-2011	Amend	10-1-2011	860-036-0235	9-14-2011	Amend	10-1-2011
860-023-0054	9-14-2011	Amend	10-1-2011	860-036-0738	9-14-2011	Amend	10-1-2011
860-023-0055	9-14-2011	Amend	10-1-2011	860-036-0750	9-14-2011	Amend	10-1-2011
860-023-0081	1-1-2012	Adopt	11-1-2011	860-037-0001	9-14-2011	Amend	10-1-2011
860-023-0084	1-1-2012	Adopt	11-1-2011	860-037-0235	9-14-2011	Amend	10-1-2011
860-023-0091	1-1-2012	Adopt	11-1-2011	860-037-0545	9-14-2011	Amend	10-1-2011
860-023-0101	1-1-2012	Adopt	11-1-2011	860-037-0560	9-14-2011	Amend	10-1-2011
860-023-0111	1-1-2012	Adopt	11-1-2011	860-038-0001	9-14-2011	Amend	10-1-2011
860-023-0131	1-1-2012	Adopt	11-1-2011	860-038-0080	6-17-2011	Amend	8-1-2011
860-023-0151	1-1-2012	Adopt	11-1-2011	860-038-0480	6-17-2011	Amend	8-1-2011
860-023-0161	1-1-2012	Adopt	11-1-2011	860-038-0480	9-30-2011	Amend(T)	11-1-2011
860-024-0000	9-14-2011	Amend	10-1-2011	860-039-0005	9-7-2011	Amend	10-1-2011
860-024-0012	9-14-2011	Amend	10-1-2011	860-039-0005	9-14-2011	Amend	10-1-2011
860-024-0020	5-4-2011	Amend	6-1-2011	860-039-0010	9-7-2011	Amend	10-1-2011
860-024-0021	5-4-2011	Amend	6-1-2011	860-039-0065	9-7-2011	Amend	10-1-2011
860-025-0000	9-14-2011	Amend	10-1-2011	860-082-0010	9-14-2011	Amend	10-1-2011
860-025-0055	8-26-2011	Adopt	10-1-2011	860-083-0005	9-14-2011	Amend	10-1-2011
860-025-0060	8-26-2011	Adopt	10-1-2011	860-084-0000	9-14-2011	Amend	10-1-2011
860-025-0065	8-26-2011	Adopt	10-1-2011	860-084-0010	9-30-2011	Amend	11-1-2011
860-026-0000	9-14-2011	Amend	10-1-2011	860-084-0020	9-30-2011	Amend	11-1-2011
860-027-0000	9-14-2011	Amend	10-1-2011	860-084-0030	9-30-2011	Amend	11-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
860-084-0040	9-30-2011	Amend	11-1-2011	863-014-0063(T)	9-1-2011	Repeal	9-1-2011
860-084-0050	9-30-2011	Amend	11-1-2011	863-014-0065	6-22-2011	Amend(T)	8-1-2011
860-084-0070	9-30-2011	Amend	11-1-2011	863-014-0065	9-1-2011	Amend	9-1-2011
860-084-0100	9-30-2011	Amend	11-1-2011	863-014-0065(T)	9-1-2011	Repeal	9-1-2011
860-084-0120	9-30-2011	Amend	11-1-2011	863-014-0066	6-22-2011	Adopt(T)	8-1-2011
860-084-0130	9-30-2011	Amend	11-1-2011	863-014-0066	9-1-2011	Adopt	9-1-2011
860-084-0140	9-30-2011	Amend	11-1-2011	863-014-0066(T)	9-1-2011	Repeal	9-1-2011
860-084-0150	9-30-2011	Amend	11-1-2011	863-014-0076	6-22-2011	Amend(T)	8-1-2011
860-084-0180	9-30-2011	Amend	11-1-2011	863-014-0076	9-1-2011	Amend	9-1-2011
860-084-0190	11-19-2010	Amend	1-1-2011	863-014-0076(T)	9-1-2011	Repeal	9-1-2011
860-084-0190	9-30-2011	Amend	11-1-2011	863-014-0095	6-22-2011	Amend(T)	8-1-2011
860-084-0195	9-30-2011	Amend	11-1-2011	863-014-0095	9-1-2011	Amend	9-1-2011
860-084-0200	9-30-2011	Amend	11-1-2011	863-014-0095(T)	9-1-2011	Repeal	9-1-2011
860-084-0210	9-30-2011	Amend	11-1-2011	863-020-0025	2-4-2011	Amend(T)	3-1-2011
860-084-0220	9-30-2011	Amend	11-1-2011	863-020-0025	6-22-2011	Amend(T)	8-1-2011
860-084-0230	9-30-2011	Amend	11-1-2011	863-020-0025	9-1-2011	Amend	9-1-2011
860-084-0260	9-30-2011	Amend	11-1-2011	863-020-0025(T)	6-22-2011	Suspend	8-1-2011
860-084-0270	9-30-2011	Amend	11-1-2011	863-020-0025(T)	9-1-2011	Repeal	9-1-2011
860-084-0340	9-30-2011	Amend	11-1-2011	863-022-0010	6-22-2011	Amend(T)	8-1-2011
860-084-0360	9-30-2011	Amend	11-1-2011	863-022-0010	9-1-2011	Amend	9-1-2011
860-084-0365	9-30-2011	Amend	11-1-2011	863-022-0010(T)	9-1-2011	Repeal	9-1-2011
860-084-0400	9-30-2011	Amend	11-1-2011	863-022-0015	6-22-2011	Amend(T)	8-1-2011
860-084-0420	9-30-2011	Amend	11-1-2011	863-022-0015	9-1-2011	Amend	9-1-2011
860-084-0430	9-30-2011	Amend	11-1-2011	863-022-0015(T)	9-1-2011	Repeal	9-1-2011
860-084-0440	9-30-2011	Amend	11-1-2011	863-022-0025	6-22-2011	Amend(T)	8-1-2011
863-001-0020	9-1-2011	Adopt	9-1-2011	863-022-0025	9-1-2011	Amend	9-1-2011
863-014-0003	6-22-2011	Amend(T)	8-1-2011	863-022-0025(T)	9-1-2011	Repeal	9-1-2011
863-014-0003	9-1-2011	Amend	9-1-2011	863-022-0060	6-22-2011	Adopt(T)	8-1-2011
863-014-0003(T)	9-1-2011	Repeal	9-1-2011	863-022-0060	9-1-2011	Adopt	9-1-2011
863-014-0010	6-22-2011	Amend(T)	8-1-2011	863-022-0060(T)	9-1-2011	Repeal	9-1-2011
863-014-0010	9-1-2011	Amend	9-1-2011	863-024-0003	6-22-2011	Amend(T)	8-1-2011
863-014-0010(T)	9-1-2011	Repeal	9-1-2011	863-024-0003	9-1-2011	Amend	9-1-2011
863-014-0015	6-22-2011	Amend(T)	8-1-2011	863-024-0003(T)	9-1-2011	Repeal	9-1-2011
863-014-0015	9-1-2011	Amend	9-1-2011	863-024-0010	6-22-2011	Amend(T)	8-1-2011
863-014-0015(T)	9-1-2011	Repeal	9-1-2011	863-024-0010	9-1-2011	Amend	9-1-2011
863-014-0020	1-1-2011	Amend	1-1-2011	863-024-0010(T)	9-1-2011	Repeal	9-1-2011
863-014-0020	6-22-2011	Amend(T)	8-1-2011	863-024-0015	6-22-2011	Amend(T)	8-1-2011
863-014-0020	9-1-2011	Amend	9-1-2011	863-024-0015	9-1-2011	Amend	9-1-2011
863-014-0020(T)	9-1-2011	Repeal	9-1-2011	863-024-0015(T)	9-1-2011	Repeal	9-1-2011
863-014-0030	6-22-2011	Amend(T)	8-1-2011	863-024-0020	6-22-2011	Amend(T)	8-1-2011
863-014-0030	9-1-2011	Amend	9-1-2011	863-024-0020	9-1-2011	Amend	9-1-2011
863-014-0030(T)	9-1-2011	Repeal	9-1-2011	863-024-0020(T)	9-1-2011	Repeal	9-1-2011
863-014-0035	6-22-2011	Amend(T)	8-1-2011	863-024-0030	6-22-2011	Amend(T)	8-1-2011
863-014-0035	9-1-2011	Amend	9-1-2011	863-024-0030	9-1-2011	Amend	9-1-2011
863-014-0035(T)	9-1-2011	Repeal	9-1-2011	863-024-0030(T)	9-1-2011	Repeal	9-1-2011
863-014-0040	6-22-2011	Amend(T)	8-1-2011	863-024-0045	6-22-2011	Amend(T)	8-1-2011
863-014-0040	9-1-2011	Amend	9-1-2011	863-024-0045	9-1-2011	Amend	9-1-2011
863-014-0040(T)	9-1-2011	Repeal	9-1-2011	863-024-0045(T)	9-1-2011	Repeal	9-1-2011
863-014-0050	6-22-2011	Amend(T)	8-1-2011	863-024-0050	6-22-2011	Amend(T)	8-1-2011
863-014-0050	9-1-2011	Amend	9-1-2011	863-024-0050	9-1-2011	Amend	9-1-2011
863-014-0050(T)	9-1-2011	Repeal	9-1-2011	863-024-0050(T)	9-1-2011	Repeal	9-1-2011
863-014-0062	6-22-2011	Amend(T)	8-1-2011	863-024-0062	6-22-2011	Amend(T)	8-1-2011
863-014-0062	9-1-2011	Amend	9-1-2011	863-024-0062	9-1-2011	Amend	9-1-2011
863-014-0062(T)	9-1-2011	Repeal	9-1-2011	863-024-0062(T)	9-1-2011	Repeal	9-1-2011
863-014-0063	6-22-2011	Amend(T)	8-1-2011	863-024-0063	6-22-2011	Amend(T)	8-1-2011
863-014-0063	9-1-2011	Amend	9-1-2011	863-024-0063	9-1-2011	Amend	9-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
863-024-0063(T)	9-1-2011	Repeal	9-1-2011	877-015-0146	1-1-2011	Adopt	1-1-2011
863-024-0065	6-22-2011	Amend(T)	8-1-2011	877-015-0155	1-1-2011	Adopt	1-1-2011
863-024-0065	9-1-2011	Amend	9-1-2011	877-020-0000	1-1-2011	Amend	1-1-2011
863-024-0065(T)	9-1-2011	Repeal	9-1-2011	877-020-0005	1-1-2011	Amend	1-1-2011
863-024-0066	6-22-2011	Adopt(T)	8-1-2011	877-020-0005	7-5-2011	Amend(T)	8-1-2011
863-024-0066	9-1-2011	Adopt	9-1-2011	877-020-0008	1-1-2011	Amend	1-1-2011
863-024-0066(T)	9-1-2011	Repeal	9-1-2011	877-020-0008	7-5-2011	Amend(T)	8-1-2011
863-024-0076	6-22-2011	Amend(T)	8-1-2011	877-020-0009	1-1-2011	Amend	1-1-2011
863-024-0076	9-1-2011	Amend	9-1-2011	877-020-0010	1-1-2011	Amend	1-1-2011
863-024-0076(T)	9-1-2011	Repeal	9-1-2011	877-020-0010	7-5-2011	Amend(T)	8-1-2011
863-024-0095	6-22-2011	Amend(T)	8-1-2011	877-020-0015	1-1-2011	Repeal	1-1-2011
863-024-0095	9-1-2011	Amend	9-1-2011	877-020-0016	1-1-2011	Amend	1-1-2011
863-024-0095(T)	9-1-2011	Repeal	9-1-2011	877-020-0016	7-5-2011	Amend(T)	8-1-2011
863-025-0065	1-1-2011	Amend	1-1-2011	877-020-0020	1-1-2011	Repeal	1-1-2011
863-025-0068	1-1-2011	Adopt	1-1-2011	877-020-0030	1-1-2011	Repeal	1-1-2011
875-010-0006	3-2-2011	Amend	4-1-2011	877-020-0036	7-5-2011	Amend(T)	8-1-2011
875-010-0016	3-2-2011	Amend	4-1-2011	877-020-0046	1-1-2011	Amend	1-1-2011
875-010-0021	3-2-2011	Amend	4-1-2011	877-020-0055	1-1-2011	Amend	1-1-2011
875-015-0030	8-5-2011	Amend	9-1-2011	877-020-0057	1-1-2011	Amend	1-1-2011
875-020-0005	3-2-2011	Repeal	4-1-2011	877-020-0060	1-1-2011	Amend	1-1-2011
875-020-0010	3-2-2011	Repeal	4-1-2011	877-022-0005	1-1-2011	Amend	1-1-2011
875-020-0015	3-2-2011	Repeal	4-1-2011	877-025-0001	1-1-2011	Amend	1-1-2011
875-020-0020	3-2-2011	Repeal	4-1-2011	877-025-0006	1-1-2011	Amend	1-1-2011
875-020-0025	3-2-2011	Repeal	4-1-2011	877-025-0006	7-5-2011	Amend(T)	8-1-2011
875-020-0030	3-2-2011	Repeal	4-1-2011	877-025-0011	1-1-2011	Amend	1-1-2011
875-020-0035	3-2-2011	Repeal	4-1-2011	877-025-0011	7-5-2011	Amend(T)	8-1-2011
875-020-0040	3-2-2011	Repeal	4-1-2011	877-025-0016	1-1-2011	Amend	1-1-2011
875-020-0045	3-2-2011	Repeal	4-1-2011	877-025-0021	1-1-2011	Amend	1-1-2011
875-020-0050	3-2-2011	Repeal	4-1-2011	877-030-0025	1-1-2011	Amend	1-1-2011
875-020-0055	3-2-2011	Repeal	4-1-2011	877-030-0030	1-1-2011	Amend	1-1-2011
875-030-0010	3-2-2011	Amend	4-1-2011	877-030-0040	1-1-2011	Amend	1-1-2011
875-030-0020	3-2-2011	Amend	4-1-2011	877-030-0050	1-1-2011	Repeal	1-1-2011
875-030-0025	3-2-2011	Amend	4-1-2011	877-030-0070	1-1-2011	Amend	1-1-2011
877-001-0006	1-1-2011	Adopt	1-1-2011	877-030-0080	1-1-2011	Amend	1-1-2011
877-001-0015	1-1-2011	Adopt	1-1-2011	877-030-0090	1-1-2011	Amend	1-1-2011
877-001-0020	1-1-2011	Adopt	1-1-2011	877-030-0100	1-1-2011	Amend	1-1-2011
877-001-0020	7-5-2011	Amend(T)	8-1-2011	877-035-0000	1-1-2011	Repeal	1-1-2011
877-001-0025	1-1-2011	Adopt	1-1-2011	877-035-0010	1-1-2011	Repeal	1-1-2011
877-005-0101	1-1-2011	Adopt	1-1-2011	877-035-0012	1-1-2011	Repeal	1-1-2011
877-010-0005	1-1-2011	Amend	1-1-2011	877-035-0013	1-1-2011	Repeal	1-1-2011
877-010-0010	1-1-2011	Amend	1-1-2011	877-035-0015	1-1-2011	Repeal	1-1-2011
877-010-0015	1-1-2011	Amend	1-1-2011	877-040-0000	1-1-2011	Amend	1-1-2011
877-010-0015	7-5-2011	Amend(T)	8-1-2011	877-040-0003	1-1-2011	Amend	1-1-2011
877-010-0020	1-1-2011	Amend	1-1-2011	877-040-0010	1-1-2011	Amend	1-1-2011
877-010-0020	7-5-2011	Amend(T)	8-1-2011	877-040-0019	1-1-2011	Adopt	1-1-2011
877-010-0025	1-1-2011	Amend	1-1-2011	877-040-0050	1-1-2011	Amend	1-1-2011
877-010-0030	1-1-2011	Amend	1-1-2011	877-040-0050	7-5-2011	Amend(T)	8-1-2011
877-010-0040	1-1-2011	Amend	1-1-2011	918-001-0006	7-1-2011	Repeal	6-1-2011
877-010-0045	1-1-2011	Amend	1-1-2011	918-098-1000	3-11-2011	Amend	4-1-2011
877-015-0105	1-1-2011	Adopt	1-1-2011	918-098-1000	7-12-2011	Amend(T)	8-1-2011
877-015-0105	7-5-2011	Amend(T)	8-1-2011	918-098-1000	10-1-2011	Amend	9-1-2011
877-015-0108	1-1-2011	Adopt	1-1-2011	918-098-1010	3-11-2011	Amend	4-1-2011
877-015-0108	7-5-2011	Amend(T)	8-1-2011	918-098-1010	10-1-2011	Amend	9-1-2011
877-015-0131	1-1-2011	Adopt	1-1-2011	918-098-1015	3-11-2011	Amend	4-1-2011
877-015-0136	1-1-2011	Adopt	1-1-2011	918-098-1015	10-1-2011	Amend	9-1-2011
877-015-0136	7-5-2011	Amend(T)	8-1-2011	918-098-1020	3-11-2011	Amend	4-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
918-098-1020	10-1-2011	Amend	9-1-2011	918-282-0270	4-1-2011	Amend(T)	5-1-2011
918-098-1025	3-11-2011	Amend	4-1-2011	918-282-0270	7-1-2011	Amend	8-1-2011
918-098-1025	10-1-2011	Amend	9-1-2011	918-282-0280	4-1-2011	Suspend	5-1-2011
918-098-1028	3-11-2011	Adopt	4-1-2011	918-282-0280	7-1-2011	Repeal	8-1-2011
918-098-1028	10-1-2011	Adopt	9-1-2011	918-305-0005	4-1-2011	Amend	4-1-2011
918-098-1210	3-11-2011	Amend	4-1-2011	918-305-0030	3-11-2011	Amend	4-1-2011
918-098-1210	10-1-2011	Amend	9-1-2011	918-305-0030	10-1-2011	Amend	9-1-2011
918-098-1215	3-11-2011	Amend	4-1-2011	918-305-0100	4-1-2011	Amend	4-1-2011
918-098-1215	10-1-2011	Amend	9-1-2011	918-305-0105	4-1-2011	Amend	4-1-2011
918-098-1300	3-11-2011	Amend	4-1-2011	918-305-0110	4-1-2011	Repeal	4-1-2011
918-098-1300	10-1-2011	Amend	9-1-2011	918-305-0120	4-1-2011	Repeal	4-1-2011
918-098-1305	3-11-2011	Amend	4-1-2011	918-305-0130	4-1-2011	Repeal	4-1-2011
918-098-1305	10-1-2011	Amend	9-1-2011	918-305-0150	4-1-2011	Repeal	4-1-2011
918-098-1310	3-11-2011	Amend	4-1-2011	918-305-0160	4-1-2011	Repeal	4-1-2011
918-098-1310	10-1-2011	Amend	9-1-2011	918-305-0165	4-1-2011	Repeal	4-1-2011
918-098-1315	3-11-2011	Amend	4-1-2011	918-305-0180	4-1-2011	Repeal	4-1-2011
918-098-1315	10-1-2011	Amend	9-1-2011	918-305-0190	4-1-2011	Repeal	4-1-2011
918-098-1320	3-11-2011	Amend	4-1-2011	918-305-0205	4-1-2011	Repeal	4-1-2011
918-098-1320	10-1-2011	Amend	9-1-2011	918-305-0210	4-1-2011	Repeal	4-1-2011
918-098-1325	3-11-2011	Amend	4-1-2011	918-305-0250	4-1-2011	Repeal	4-1-2011
918-098-1325	10-1-2011	Amend	9-1-2011	918-305-0265	4-1-2011	Repeal	4-1-2011
918-098-1330	3-11-2011	Amend	4-1-2011	918-305-0270	4-1-2011	Repeal	4-1-2011
918-098-1330	10-1-2011	Amend	9-1-2011	918-305-0280	4-1-2011	Repeal	4-1-2011
918-098-1450	3-11-2011	Amend	4-1-2011	918-305-0290	4-1-2011	Repeal	4-1-2011
918-098-1450	10-1-2011	Amend	9-1-2011	918-305-0300	4-1-2011	Repeal	4-1-2011
918-098-1510	5-1-2011	Adopt(T)	5-1-2011	918-305-0310	4-1-2011	Repeal	4-1-2011
918-098-1510	7-1-2011	Adopt	8-1-2011	918-305-0320	4-1-2011	Repeal	4-1-2011
918-098-1510	8-18-2011	Amend(T)	10-1-2011	918-400-0645	12-1-2010	Adopt	1-1-2011
918-098-1510	10-1-2011	Amend	11-1-2011	918-400-0660	12-1-2010	Amend	1-1-2011
918-098-1520	5-1-2011	Adopt(T)	5-1-2011	918-400-0755	1-1-2011	Adopt	2-1-2011
918-098-1520	7-1-2011	Adopt	8-1-2011	918-400-0800	12-1-2010	Amend	1-1-2011
918-098-1530	5-1-2011	Adopt(T)	5-1-2011	918-440-0000	3-11-2011	Amend	4-1-2011
918-098-1530	7-1-2011	Adopt	8-1-2011	918-440-0000	10-1-2011	Amend	9-1-2011
918-098-1530	8-18-2011	Amend(T)	10-1-2011	918-440-0010	3-11-2011	Amend	4-1-2011
918-098-1530	10-1-2011	Amend	11-1-2011	918-440-0010	10-1-2011	Amend	9-1-2011
918-098-1540	5-1-2011	Adopt(T)	5-1-2011	918-440-0015	3-11-2011	Amend	4-1-2011
918-098-1540	7-1-2011	Adopt	8-1-2011	918-440-0015	10-1-2011	Amend	9-1-2011
918-098-1550	5-1-2011	Adopt(T)	5-1-2011	918-440-0030	3-11-2011	Amend	4-1-2011
918-098-1550	7-1-2011	Adopt	8-1-2011	918-440-0030	10-1-2011	Amend	9-1-2011
918-098-1560	5-1-2011	Adopt(T)	5-1-2011	918-440-0040	3-11-2011	Am. & Ren.	4-1-2011
918-098-1560	7-1-2011	Adopt	8-1-2011	918-440-0040	10-1-2011	Am. & Ren.	9-1-2011
918-098-1570	5-1-2011	Adopt(T)	5-1-2011	918-440-0050	3-11-2011	Amend	4-1-2011
918-098-1570	7-1-2011	Adopt	8-1-2011	918-440-0050	10-1-2011	Amend	9-1-2011
918-098-1580	8-18-2011	Adopt(T)	10-1-2011	918-440-0500	3-11-2011	Amend	4-1-2011
918-098-1580	10-1-2011	Adopt	11-1-2011	918-440-0500	10-1-2011	Amend	9-1-2011
918-100-0020	7-1-2011	Amend	8-1-2011	918-440-0510	3-11-2011	Amend	4-1-2011
918-100-0040	7-1-2011	Amend	8-1-2011	918-440-0510	10-1-2011	Amend	9-1-2011
918-251-0000	4-1-2011	Amend	4-1-2011	918-460-0000	3-11-2011	Amend	4-1-2011
918-251-0010	4-1-2011	Repeal	4-1-2011	918-460-0000	10-1-2011	Amend	9-1-2011
918-251-0020	4-1-2011	Repeal	4-1-2011	918-460-0010	3-11-2011	Amend	4-1-2011
918-251-0050	4-1-2011	Repeal	4-1-2011	918-460-0010	10-1-2011	Amend	9-1-2011
918-251-0060	4-1-2011	Repeal	4-1-2011	918-460-0015	1-1-2011	Amend	2-1-2011
918-251-0080	4-1-2011	Repeal	4-1-2011	918-460-0015	2-15-2011	Amend	3-1-2011
918-251-0090	3-11-2011	Amend	4-1-2011	918-460-0015	5-13-2011	Amend(T)	6-1-2011
918-251-0090	10-1-2011	Amend	9-1-2011	918-460-0015	10-1-2011	Amend	11-1-2011
918-282-0270	4-1-2011	Amend	5-1-2011	918-460-0016	3-11-2011	Repeal	4-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
918-460-0016	10-1-2011	Repeal	9-1-2011	918-690-0300	2-15-2011	Amend	3-1-2011
918-460-0050	3-11-2011	Amend	4-1-2011	918-690-0310	2-15-2011	Repeal	3-1-2011
918-460-0050	10-1-2011	Amend	9-1-2011	918-690-0325	2-15-2011	Repeal	3-1-2011
918-460-0100	7-1-2011	Adopt	8-1-2011	918-690-0330	2-15-2011	Repeal	3-1-2011
918-460-0500	3-11-2011	Adopt	4-1-2011	918-690-0360	2-15-2011	Repeal	3-1-2011
918-460-0500	10-1-2011	Adopt	9-1-2011	918-690-0410	2-15-2011	Amend	3-1-2011
918-460-0510	3-11-2011	Adopt	4-1-2011	918-690-0420	2-15-2011	Amend	3-1-2011
918-460-0510	10-1-2011	Adopt	9-1-2011	918-690-0430	2-15-2011	Repeal	3-1-2011
918-465-0010	7-1-2011	Adopt	8-1-2011	918-750-0100	2-15-2011	Amend	3-1-2011
918-465-0020	7-1-2011	Adopt	8-1-2011	918-750-0110	2-15-2011	Amend	3-1-2011
918-465-0030	7-1-2011	Adopt	8-1-2011	918-750-0120	2-15-2011	Repeal	3-1-2011
918-465-0040	7-1-2011	Adopt	8-1-2011	918-750-0130	2-15-2011	Repeal	3-1-2011
918-465-0040	10-1-2011	Amend	11-1-2011	918-750-0140	2-15-2011	Repeal	3-1-2011
918-465-0070	7-1-2011	Adopt	8-1-2011	918-750-0150	2-15-2011	Repeal	3-1-2011
918-465-0070	10-1-2011	Amend	11-1-2011	918-750-0160	2-15-2011	Repeal	3-1-2011
918-480-0001	7-1-2011	Amend	6-1-2011	918-750-0170	2-15-2011	Repeal	3-1-2011
918-480-0002	7-1-2011	Amend	6-1-2011	918-750-0180	2-15-2011	Repeal	3-1-2011
918-480-0005	7-1-2011	Amend	6-1-2011	918-750-0190	2-15-2011	Repeal	3-1-2011
918-480-0010	1-1-2011	Amend	2-1-2011	943-001-0005	7-1-2011	Adopt	8-1-2011
918-480-0010	2-15-2011	Amend	3-1-2011	943-001-0007	7-1-2011	Adopt	8-1-2011
918-480-0010	4-15-2011	Amend(T)	5-1-2011	943-001-0009	7-1-2011	Adopt(T)	8-1-2011
918-480-0010	7-1-2011	Amend	6-1-2011	943-001-0020	7-1-2011	Adopt(T)	8-1-2011
918-480-0020	7-1-2011	Amend	6-1-2011	943-003-0000	7-1-2011	Adopt	8-1-2011
918-480-0030	7-1-2011	Amend	6-1-2011	943-003-0010	7-1-2011	Adopt	8-1-2011
918-480-0100	7-1-2011	Amend	6-1-2011	943-005-0000	7-1-2011	Adopt(T)	8-1-2011
918-480-0110	7-1-2011	Amend	6-1-2011	943-005-0000	9-1-2011	Adopt	10-1-2011
918-480-0120	7-1-2011	Amend	6-1-2011	943-005-0000(T)	9-1-2011	Repeal	10-1-2011
918-480-0130	7-1-2011	Amend	6-1-2011	943-005-0005	7-1-2011	Adopt(T)	8-1-2011
918-480-0140	7-1-2011	Amend	6-1-2011	943-005-0005	9-1-2011	Adopt	10-1-2011
918-480-0150	7-1-2011	Amend	6-1-2011	943-005-0005(T)	9-1-2011	Repeal	10-1-2011
918-525-0005	5-2-2011	Amend(T)	6-1-2011	943-005-0010	7-1-2011	Adopt(T)	8-1-2011
918-525-0005	10-1-2011	Amend	11-1-2011	943-005-0010	9-1-2011	Adopt	10-1-2011
918-525-0035	5-2-2011	Amend(T)	6-1-2011	943-005-0010(T)	9-1-2011	Repeal	10-1-2011
918-525-0035	10-1-2011	Amend	11-1-2011	943-005-0015	7-1-2011	Adopt(T)	8-1-2011
918-525-0040	10-1-2011	Amend	11-1-2011	943-005-0015	9-1-2011	Adopt	10-1-2011
918-525-0042	10-1-2011	Amend	11-1-2011	943-005-0015(T)	9-1-2011	Repeal	10-1-2011
918-530-0070	10-1-2011	Amend	11-1-2011	943-005-0020	7-1-2011	Adopt(T)	8-1-2011
918-650-0000	10-1-2011	Amend	11-1-2011	943-005-0020	9-1-2011	Adopt	10-1-2011
918-650-0005	10-1-2011	Amend	11-1-2011	943-005-0020(T)	9-1-2011	Repeal	10-1-2011
918-650-0010	10-1-2011	Amend	11-1-2011	943-005-0025	7-1-2011	Adopt(T)	8-1-2011
918-650-0015	10-1-2011	Repeal	11-1-2011	943-005-0025	9-1-2011	Adopt	10-1-2011
918-650-0020	10-1-2011	Amend	11-1-2011	943-005-0025(T)	9-1-2011	Repeal	10-1-2011
918-650-0025	10-1-2011	Amend	11-1-2011	943-005-0030	7-1-2011	Adopt(T)	8-1-2011
918-650-0030	10-1-2011	Amend	11-1-2011	943-005-0030	9-1-2011	Adopt	10-1-2011
918-650-0035	10-1-2011	Amend	11-1-2011	943-005-0030(T)	9-1-2011	Repeal	10-1-2011
918-650-0040	10-1-2011	Amend	11-1-2011	943-007-0000	7-1-2011	Adopt(T)	8-1-2011
918-650-0045	10-1-2011	Amend	11-1-2011	943-007-0000	9-1-2011	Amend(T)	10-1-2011
918-650-0050	10-1-2011	Amend	11-1-2011	943-007-0000(T)	9-1-2011	Suspend	10-1-2011
918-650-0055	10-1-2011	Amend	11-1-2011	943-007-0500	7-1-2011	Adopt(T)	8-1-2011
918-650-0060	10-1-2011	Amend	11-1-2011	943-012-0005	7-1-2011	Adopt(T)	8-1-2011
918-650-0065	10-1-2011	Amend	11-1-2011	943-012-0005	9-1-2011	Adopt	10-1-2011
918-650-0070	10-1-2011	Amend	11-1-2011	943-012-0010	7-1-2011	Adopt(T)	8-1-2011
918-650-0075	10-1-2011	Amend	11-1-2011	943-012-0010	9-1-2011	Adopt	10-1-2011
918-650-0080	10-1-2011	Amend	11-1-2011	943-012-0015	7-1-2011	Adopt(T)	8-1-2011
918-674-0033	3-11-2011	Amend	4-1-2011	943-012-0015	9-1-2011	Adopt	10-1-2011
918-674-0033	10-1-2011	Amend	9-1-2011	943-012-0020	7-1-2011	Adopt(T)	8-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
943-012-0020	9-1-2011	Adopt	10-1-2011	943-045-0460	7-1-2011	Adopt(T)	8-1-2011
943-012-0025	7-1-2011	Adopt(T)	8-1-2011	943-045-0470	7-1-2011	Adopt(T)	8-1-2011
943-012-0025	9-1-2011	Adopt	10-1-2011	943-045-0480	7-1-2011	Adopt(T)	8-1-2011
943-014-0000	7-1-2011	Adopt(T)	8-1-2011	943-045-0490	7-1-2011	Adopt(T)	8-1-2011
943-014-0000	9-2-2011	Adopt	10-1-2011	943-045-0500	7-1-2011	Adopt(T)	8-1-2011
943-014-0000(T)	9-2-2011	Repeal	10-1-2011	943-045-0510	7-1-2011	Adopt(T)	8-1-2011
943-014-0010	7-1-2011	Adopt(T)	8-1-2011	943-045-0520	7-1-2011	Adopt(T)	8-1-2011
943-014-0010	9-2-2011	Adopt	10-1-2011	943-120-0100	7-1-2011	Adopt(T)	8-1-2011
943-014-0010(T)	9-2-2011	Repeal	10-1-2011	943-120-0110	7-1-2011	Adopt(T)	8-1-2011
943-014-0015	7-1-2011	Adopt(T)	8-1-2011	943-120-0112	7-1-2011	Adopt(T)	8-1-2011
943-014-0015	9-2-2011	Adopt	10-1-2011	943-120-0114	7-1-2011	Adopt(T)	8-1-2011
943-014-0015(T)	9-2-2011	Repeal	10-1-2011	943-120-0116	7-1-2011	Adopt(T)	8-1-2011
943-014-0020	7-1-2011	Adopt(T)	8-1-2011	943-120-0118	7-1-2011	Adopt(T)	8-1-2011
943-014-0020	9-2-2011	Adopt	10-1-2011	943-120-0120	7-1-2011	Adopt(T)	8-1-2011
943-014-0020(T)	9-2-2011	Repeal	10-1-2011	943-120-0130	7-1-2011	Adopt(T)	8-1-2011
943-014-0030	7-1-2011	Adopt(T)	8-1-2011	943-120-0140	7-1-2011	Adopt(T)	8-1-2011
943-014-0030	9-2-2011	Adopt	10-1-2011	943-120-0150	7-1-2011	Adopt(T)	8-1-2011
943-014-0030(T)	9-2-2011	Repeal	10-1-2011	943-120-0160	7-1-2011	Adopt(T)	8-1-2011
943-014-0040	7-1-2011	Adopt(T)	8-1-2011	943-120-0165	7-1-2011	Adopt(T)	8-1-2011
943-014-0040	9-2-2011	Adopt	10-1-2011	943-120-0170	7-1-2011	Adopt(T)	8-1-2011
943-014-0040(T)	9-2-2011	Repeal	10-1-2011	943-120-0180	7-1-2011	Adopt(T)	8-1-2011
943-014-0050	7-1-2011	Adopt(T)	8-1-2011	943-120-0190	7-1-2011	Adopt(T)	8-1-2011
943-014-0050	9-2-2011	Adopt	10-1-2011	943-120-0200	7-1-2011	Adopt(T)	8-1-2011
943-014-0050(T)	9-2-2011	Repeal	10-1-2011	943-120-0300	7-1-2011	Adopt(T)	8-1-2011
943-014-0060	7-1-2011	Adopt(T)	8-1-2011	943-120-0300	9-1-2011	Adopt	10-1-2011
943-014-0060	9-2-2011	Adopt	10-1-2011	943-120-0300(T)	9-1-2011	Repeal	10-1-2011
943-014-0060(T)	9-2-2011	Repeal	10-1-2011	943-120-0310	7-1-2011	Adopt(T)	8-1-2011
943-014-0070	7-1-2011	Adopt(T)	8-1-2011	943-120-0310	9-1-2011	Adopt	10-1-2011
943-014-0070	9-2-2011	Adopt	10-1-2011	943-120-0310(T)	9-1-2011	Repeal	10-1-2011
943-014-0070(T)	9-2-2011	Repeal	10-1-2011	943-120-0320	7-1-2011	Adopt(T)	8-1-2011
943-014-0200	7-1-2011	Adopt(T)	8-1-2011	943-120-0320	9-1-2011	Adopt	10-1-2011
943-014-0205	7-1-2011	Adopt(T)	8-1-2011	943-120-0320(T)	9-1-2011	Repeal	10-1-2011
943-014-0300	8-9-2011	Adopt(T)	9-1-2011	943-120-0325	7-1-2011	Adopt(T)	8-1-2011
943-014-0305	8-9-2011	Adopt(T)	9-1-2011	943-120-0325	9-1-2011	Adopt	10-1-2011
943-014-0310	8-9-2011	Adopt(T)	9-1-2011	943-120-0325(T)	9-1-2011	Repeal	10-1-2011
943-014-0315	8-9-2011	Adopt(T)	9-1-2011	943-120-0330	7-1-2011	Adopt(T)	8-1-2011
943-014-0320	8-9-2011	Adopt(T)	9-1-2011	943-120-0330	9-1-2011	Adopt	10-1-2011
943-045-0000	7-1-2011	Adopt(T)	8-1-2011	943-120-0330(T)	9-1-2011	Repeal	10-1-2011
943-045-0250	7-1-2011	Adopt(T)	8-1-2011	943-120-0340	7-1-2011	Adopt(T)	8-1-2011
943-045-0260	7-1-2011	Adopt(T)	8-1-2011	943-120-0340	9-1-2011	Adopt	10-1-2011
943-045-0280	7-1-2011	Adopt(T)	8-1-2011	943-120-0340(T)	9-1-2011	Repeal	10-1-2011
943-045-0290	7-1-2011	Adopt(T)	8-1-2011	943-120-0350	7-1-2011	Adopt(T)	8-1-2011
943-045-0300	7-1-2011	Adopt(T)	8-1-2011	943-120-0350	9-1-2011	Adopt	10-1-2011
943-045-0310	7-1-2011	Adopt(T)	8-1-2011	943-120-0350(T)	9-1-2011	Repeal	10-1-2011
943-045-0320	7-1-2011	Adopt(T)	8-1-2011	943-120-0360	7-1-2011	Adopt(T)	8-1-2011
943-045-0330	7-1-2011	Adopt(T)	8-1-2011	943-120-0360	9-1-2011	Adopt	10-1-2011
943-045-0340	7-1-2011	Adopt(T)	8-1-2011	943-120-0360(T)	9-1-2011	Repeal	10-1-2011
943-045-0350	7-1-2011	Adopt(T)	8-1-2011	943-120-0370	7-1-2011	Adopt(T)	8-1-2011
943-045-0360	7-1-2011	Adopt(T)	8-1-2011	943-120-0370	9-1-2011	Adopt	10-1-2011
943-045-0370	7-1-2011	Adopt(T)	8-1-2011	943-120-0370(T)	9-1-2011	Repeal	10-1-2011
943-045-0400	7-1-2011	Adopt(T)	8-1-2011	943-120-0380	7-1-2011	Adopt(T)	8-1-2011
943-045-0410	7-1-2011	Adopt(T)	8-1-2011	943-120-0380	9-1-2011	Adopt	10-1-2011
943-045-0420	7-1-2011	Adopt(T)	8-1-2011	943-120-0380(T)	9-1-2011	Repeal	10-1-2011
943-045-0430	7-1-2011	Adopt(T)	8-1-2011	943-120-0400	7-1-2011	Adopt(T)	8-1-2011
943-045-0440	7-1-2011	Adopt(T)	8-1-2011	943-120-0400	9-1-2011	Adopt	10-1-2011
943-045-0450	7-1-2011	Adopt(T)	8-1-2011	943-120-0400(T)	9-1-2011	Repeal	10-1-2011

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
943-120-1505	7-1-2011	Adopt(T)	8-1-2011				
943-120-1505	9-1-2011	Adopt	10-1-2011				
943-120-1505(T)	9-1-2011	Repeal	10-1-2011				
945-001-0000	8-24-2011	Adopt(T)	10-1-2011				
945-001-0005	8-24-2011	Adopt(T)	10-1-2011				
945-001-0010	8-24-2011	Adopt(T)	10-1-2011				
945-010-0000	8-24-2011	Adopt(T)	10-1-2011				
945-010-0005	8-24-2011	Adopt(T)	10-1-2011				
945-010-0010	8-24-2011	Adopt(T)	10-1-2011				
945-010-0020	8-24-2011	Adopt(T)	10-1-2011				
945-010-0030	8-24-2011	Adopt(T)	10-1-2011				
945-010-0040	8-24-2011	Adopt(T)	10-1-2011				
945-010-0050	8-24-2011	Adopt(T)	10-1-2011				
945-010-0060	8-24-2011	Adopt(T)	10-1-2011				
945-010-0070	8-24-2011	Adopt(T)	10-1-2011				
945-010-0080	8-24-2011	Adopt(T)	10-1-2011				
945-010-0090	8-24-2011	Adopt(T)	10-1-2011				
945-010-0100	8-24-2011	Adopt(T)	10-1-2011				
972-040-0000	3-7-2011	Amend	4-1-2011				