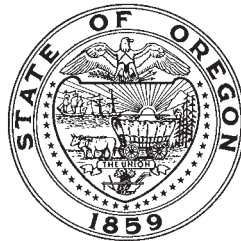


OREGON BULLETIN

Supplements the 2012 *Oregon Administrative Rules Compilation*

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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

2011–2012 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, 2011	January 1, 2012
January 13, 2012	February 1, 2012
February 15, 2012	March 1, 2012
March 15, 2012	April 1, 2012
April 13, 2012	May 1, 2012
May 15, 2012	June 1, 2012
June 15, 2012	July 1, 2012
July 13, 2012	August 1, 2012
August 15, 2012	September 1, 2012
September 14, 2012	October 1, 2012
October 15, 2012	November 1, 2012
November 15, 2012	December 1, 2012

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 910-2011, 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/pages/rules/index.html>>

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.

Note: The official copy of an Oregon Administrative Rule is contained in the Administrative Order filed at the Archives Division. Any discrepancies with the published version are satisfied in favor of the Administrative Order.

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EXECUTIVE ORDERS

EXECUTIVE ORDER 12 - 13

TOBACCO FREE PROPERTIES

Creating tobacco-free state properties will improve the health, wellness and productivity of employees, clients, volunteers and visitors. Tobacco use remains the No. 1 preventable cause of death in Oregon.

Death and disability resulting from tobacco use costs Oregon lives, and dollars. In 2009, tobacco cost Oregonians nearly \$2.4 billion, with \$1.25 billion in direct medical costs and almost \$1.15 billion in lost productivity due to early death.

Conservative estimates find that the state employees who smoke cost the state more than \$13 million each year. Because taxpayers pay the bill for state employees' medical benefits, state agencies bear some responsibility for assisting those employees in being as healthy as possible.

Tobacco-free campuses and property not only encourage tobacco users to quit, they also protect employees, clients and visitors from exposure to the toxins in secondhand smoke. The U.S. Surgeon General has concluded that there is no safe level of exposure to secondhand smoke. Secondhand smoke contains more than 50 known carcinogens as well as other chemicals that damage DNA such as cyanide and carbon monoxide.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The Department of Administrative Services with assistance from the Oregon Health Authority shall implement the following tobacco free properties and campuses policy:

a. State agency employees are prohibited from using tobacco products made for human consumption (including, but not limited to, cigarettes, cigars, pipes, chew, snuff, electronic cigarettes and smokeless tobacco) inside state agency buildings and on state agency grounds that are adjacent to state agency buildings;

b. All individuals are prohibited from the smoking of tobacco products (including, but not limited to, cigars, loose tobacco, pipe tobacco, cigarettes as defined in ORS 323.010 and cigarillos as defined by the Oregon Health Authority by rule) on state agency grounds that are adjacent to state agency buildings;

c. This Order shall not apply to the Oregon University System or Oregon community colleges. The Board of Higher Education and the boards of Oregon community colleges are encouraged to develop policies by December 31, 2014, that prohibit the use of tobacco products on campus in order to reduce tobacco use and exposure to secondhand smoke by students, employees and visitors;

d. This Order shall not apply to the use of tobacco products inside state employee residences that are located on state agency grounds. In lieu of the direction outlined in this Order, state agencies shall implement appropriate smoking policies for state employee residences on state agency grounds that are designed to limit the health impacts of second-hand smoke and promote wellness;

e. This Order shall not apply to the use of tobacco products on state agency grounds that are maintained primarily for the use and enjoyment of the public, including but not limited to Oregon Department of Transportation Rest Areas, public roads and sidewalks, and public beaches. The Oregon Parks and Recreation Commission is encouraged to adopt policies by December 31, 2014, that limits or restrict the use of tobacco products at state parks and recreation areas to address wellness issues, and to reduce

the risk of forest fires. Other state agencies with grounds that are maintained primarily for the use and enjoyment of the public shall implement appropriate tobacco use policies that are designed to limit the health impacts of second-hand smoke and promote wellness; and

f. This Order shall not apply to the smoking of noncommercial tobacco products for ceremonial purposes in spaces designated, on a permanent or temporary use basis, for traditional ceremonies in accordance with the American Indian Religious Freedom Act, 42 U.S.C. 1996.

2. The Department of Administrative Services with assistance from the Oregon Health Authority shall work with appropriate agencies to implement the policy outlined in this order by the timelines below:

a. Properties and campuses wholly owned or leased by the state shall be tobacco free by January 2013;

b. Shared properties and campuses shall be tobacco free by July 2013; and

c. The Department of Corrections and Oregon Youth Authority properties and campuses shall be tobacco free no later than December 31, 2014.

3. This Order in no way limits the authority of state agencies to further limit or restrict the use of tobacco products in state agency buildings or on state agency grounds, to the extent allowed by law.

4. The Oregon Health Authority shall evaluate the implementation of the policy and shall generate a report to the Governor's office with evaluation results and recommendations for improving compliance with the Order.

5. In the event of a conflict between any provision of Oregon law and this Executive Order, Oregon law will prevail and the remaining terms of this Executive Order shall remain in force and effect.

6. This order shall expire December 31, 2022.

Done at Portland, Oregon, this 2nd day of August, 2012.

/s/ John A. Kitzhaber
John A. Kitzhaber, M.D.
GOVERNOR

ATTEST

/s/ Kate Brown
Kate Brown
SECRETARY OF STATE

EXECUTIVE ORDER NO. 12 - 14

PROCLAMATION OF STATE OF EMERGENCY DUE TO IMMINENT THREAT OF WILDFIRE

Pursuant to ORS 401.165, I find that the State of Oregon is in a critical fire danger situation. Much of the state is now in extreme fire danger and red flag warnings are predicted to be issued for hot, dry, windy conditions and thunderstorms. Other parts of the country continue to experience large-complex fires and similar fire weather. The extended forecast in Oregon calls for continued warm and dry conditions with predictions of widespread lightning over many parts of the State. The imminent threat of wildfire exists over a broad area of the State including forests in the Cascades and eastern and southern Oregon. In fact, six significant fires are actively burning over 130,000 acres at this time. These fires are in remote and difficult terrain and are threatening structures, public and private timberland and rangeland, pipeline infrastructure, reservoirs, and electrical

EXECUTIVE ORDERS

power infrastructure. Currently, over 2,900 firefighters are engaged on wildfires state-wide. To date, fire season 2012 has accounted for over 1 million acres of state and private lands burned in Oregon.

With the firefighting resources of the nation fully committed, unfilled orders for large helicopters and other firefighting resources on Oregon fires, and the threat of more new ignitions in the immediate future, there is a need for immediate access to Oregon National Guard resources, specifically firefighting helicopters. In the near future, Oregon National Guard resources including air ambulance services and firefighting crews may also be requested. This threat is not likely to recede in the near future. It is critically important that National Guard resources can be positioned to respond adequately and effectively to this dangerous and dynamic situation.

Therefore, subject to the limitations described below, I hereby declare a statewide State of Emergency due to the imminent threat of wildfire.

NOW, THEREFORE, IT IS DIRECTED AND ORDERED:

1. The Oregon Military Department through its Office of Emergency Management and the Oregon Department of Forestry is authorized to coordinate the use of personnel and equipment of the State for wildland firefighting in Oregon with National Guard resources.
2. This determination of a fire emergency is statewide. It is not to be construed as a comprehensive declaration or proclamation of emergency for other purposes. It is limited to the use of state resources and personnel for wildland firefighting. Any local government requests for state resources must be submitted through county governing bodies to the Office of Emergency Management pursuant to ORS Chapter 4.
3. This order shall remain in effect until the threat is significantly relieved or the fire season ends.
4. This order was made by verbal proclamation by the Governor at 5:50 p.m. on the 16th day of August, 2012.

Done at Salem, Oregon, this 20th day of August, 2012.

/s/ John A. Kitzhaber
John A. Kitzhaber, M.D.
GOVERNOR

ATTEST

/s/ Kate Brown
Kate Brown
SECRETARY OF STATE

EXECUTIVE ORDER NO. 12 - 15

DETERMINATION OF A STATE OF DROUGHT EMERGENCY IN THE LOST RIVER BASIN DUE TO DROUGHT AND LOW WATER CONDITIONS.

Pursuant to ORS 401.165 and 536.740, I find that ongoing drought and low water conditions and weather patterns exist and threaten to

cause local adverse natural and economic disaster conditions in the portion of the Lost River Basin within the State of Oregon. The Lost River Basin is a portion of the Klamath River Basin, and is located in Klamath and Lake counties in Oregon. I find that a need exists for statewide coordination of water resource conservation measures by municipal and other political subdivisions of this state in order to minimize problems caused by this severe shortage of water. Projected weather patterns are not expected to alleviate these conditions significantly, and drought conditions are continuing. These conditions are expected to have significant economic impact on the affected basin's agricultural, livestock, and natural resources.

Current conditions are being addressed by state agencies including the Department of Agriculture, the Department of Water Resources, and Oregon Emergency Management.

A timely response to this situation being vital to the well being and economic security of the citizens and businesses of Klamath County and Lake County, I am therefore declaring a "state of drought emergency" in the Lost River Basin within the State of Oregon and directing the following activities:

IT IS HEREBY ORDERED AND DIRECTED:

- I. The Oregon Department of Agriculture is directed to coordinate and provide assistance in seeking federal resources available to mitigate agricultural conditions resulting from drought and affecting agricultural recovery in the affected basin.
- II. The Department of Water Resources is directed to coordinate and provide assistance and regulation for the affected basin as it determines is necessary in accordance with ORS 536.700 to 536.780.
- III. The Office of Emergency Management is directed to coordinate and assist as needed with assessment and mitigation activities to address current and projected conditions in the affected basin.
- IV. All other departments are directed to coordinate with the above agencies and to provide appropriate state resources as determined essential to assist affected political subdivisions in the affected basin.
- V. This Executive Order expires on December 31, 2012.

Done at Salem, Oregon, this 27th day of August, 2012.

/s/ John A. Kitzhaber
John A. Kitzhaber, M.D.
GOVERNOR

ATTEST

/s/ Kate Brown
Kate Brown
SECRETARY OF STATE

OTHER NOTICES

REQUEST FOR COMMENTS PROPOSAL TO UPDATE REIMBURSEMENT TO COUNTIES FOR BABIES FIRST!/CACOON TARGETED CASE MANAGEMENT SERVICES

COMMENTS DUE: September 30, 2012

PROPOSAL: The Oregon Health Authority (OHA) is proposing to calculate an updated fee-for-service reimbursement rate for Babies First!/CaCoon targeted case management (TCM) services provided to Oregon Medicaid and Children's Health Insurance Program (CHIP) clients. The rate is estimated to increase but the analysis is incomplete and the exact percentage increase is unknown at this time.

BACKGROUND: Babies First!/CaCoon TCM services improve access to needed medical and non-medical services for at-risk infants and children. The State Plan requires review of this program's reimbursement rate every two years.

The rate will be re-calculated using existing methodology, using costs from recent cost allocation reports submitted by county health departments for the 2010–2011 fiscal year.

HOW TO COMMENT: Send written comments by fax, mail or email to:

Jesse Anderson, State Plan Manager
Division of Medical Assistance Programs
500 Summer Street NE
Salem, Oregon 97301
Fax: 503-947-1119
Email: jesse.anderson@state.or.us

NEXT STEPS: OHA will consider all comments received. A State Plan Amendment will be submitted to the Centers for Medicare and Medicaid to update the effective date of the rate.

A CHANCE TO COMMENT ON PROPOSED CONSENT JUDGMENT FOR A PROSPECTIVE PURCHASER AGREEMENT AT THE ELLIS DRY CLEANER (FORMER) PROPERTY, PORTLAND, OREGON

COMMENTS DUE: October 1, 2012

PROJECT LOCATION: 3300 N Williams Avenue, Portland, Oregon.

PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to enter into a Consent Judgment for a Prospective Purchaser Agreement (PPA) with the 3300 N Williams LLC for the Ellis Dry Cleaner (former) property located at 3300 N Williams Avenue, Portland, Oregon (the "Property").

HIGHLIGHTS: 3300 N Williams LLC (N Williams) is acquiring the Property to allow N Williams to provide beneficial redevelopment of the Property and increase the Property's productive use. Contaminants related to the improper disposal of solvents related to historic dry cleaning operations are present in soil and soil vapor above DEQ's screening values and therefore a cleanup is necessary.

Ellis Dry Cleaner operated on the Property from the early 1950's to 1986. The operator of Ellis Dry Cleaner admitted to dumping approximately 0.5 gallons of the dry cleaning solvent tetrachloroethene (PCE) once a week during the operating history of the facility. The dry cleaning building was demolished in 2010 with only the building slab remaining. Since 2010, the site has been vacant and underutilized.

Soil and soil vapor samples collected at the Property show high levels of PCE in soil and soil vapor that exceed DEQ screening levels considered protective of human health. N Williams has conducted an evaluation of the property and has proposed actions to address the contamination.

The Consent Judgment will require N Williams to complete a remedial action at the property to reduce levels of PCE and its daughter products (including trichloroethene [TCE], 1,1-dichloroethene [1,1-DCE], trans-1,2-dichloroethene[trans1,2-DCE], cis-1,2-dichloroethene[cis-1,2-DCE], and vinyl chloride) in soil and soil vapor to below hot spot levels, remediate soil and soil vapor to below applicable screening levels on and below the Property, and reduce soil vapor concentrations at the Property boundary to below

residential screening levels and/or control the migration of soil vapors off of the Property. N Williams has proposed injection of oxygen releasing compounds and the installation of a soil vapor vacuum to address contamination at the Property. DEQ reserves the right to require an institutional and/or engineering control on the Property to achieve protective conditions for current and future use. The decision to require a site restriction will be based on DEQ's determination of the level of protection provided by the remedial actions performed on the property.

N Williams will agree to provide access to the Property for any additional investigation and removal or remedial actions that may be required.

DEQ's Prospective Purchaser Program was created in 1995 through amendments to the state's Environmental Cleanup Law. The Prospective Purchaser Agreement is a tool that facilitates the cleanup of contaminated property and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing a property with existing contamination. DEQ has approved more than 100 Prospective Purchaser Agreements throughout the State since the program began.

The proposed Consent Judgment will provide 3300 N Williams LLC with a release from liability for claims by the State of Oregon under ORS §465.255 relating to any historical releases of hazardous substances at or from the Property. The proposed Consent Judgment will also provide 3300 N Williams LLC with protection from potential contribution actions by third parties for recovery of remedial action costs associated with any historical releases at or from the Property. DEQ retains all existing rights it may have as to all other parties potentially liable for any releases.

HOW TO COMMENT: Written comments concerning the proposed Consent Judgment should be sent to Rebecca Wells-Albers, wells-albers.rebecca@deq.state.or.us, at DEQ's Northwest Region Office, 2020 SW 4th Avenue, Suite 400, Portland, Oregon 97201-4987. Comments must be received by DEQ by 5:00 pm October 1, 2012. Questions may be directed to Ms. Wells-Albers at that address or by calling (503) 229-5585. The proposed Consent Judgment and DEQ file on the Property may be reviewed at DEQ's Northwest Region office in Portland by contacting Dawn Weinberger at (503) 229-6729.

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

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

PUBLIC NOTICE AND REQUEST FOR COMMENTS PROPOSED PROSPECTIVE PURCHASER AGREEMENT WITH NORTHWEST ZEN SANGHA DOING BUSINESS AS DHARMA RAIN ZEN CENTER FOR FORMER LAVELLE LANDFILL PROJECT IN PORTLAND, OREGON

COMMENTS DUE: October 1, 2012

PROJECT LOCATION: The eastern half of the former H.G. LaVelle Landfill property located south of NE Siskiyou Street and east of NE 82 Avenue, Portland, Oregon (Property).

PROPOSAL: The Department of Environmental Quality (DEQ) proposes to enter into a prospective purchaser agreement (PPA) with Northwest Zen Sangha doing business as Dharma Rain Zen Center (DRZC).

HISTORY: The Property was part of a larger gravel quarry owned and operated by Rose City Sand & Gravel Co. from at least 1936 until 1972, during which time it was excavated to a reported depth of 80 feet. From 1972 and 1982, the former gravel quarry received construction debris, land clearing debris, and other solid waste materials as the H. G. LaVelle Solid Waste Landfill. Wood and other organic materials buried at the landfill began generating methane gas, and in 1979 a methane gas extraction system was installed along the landfill's north and west boundaries. Its main purpose was to mitigate subsurface methane migration into the neighborhood north of the landfill and to protect properties located west of the landfill along

OTHER NOTICES

82nd Avenue. In 1982, waste disposal activities ceased and the landfill closed. Landfill closure included the addition of a vegetated soil cover and storm water drainage improvements. In 2009, the methane gas extraction system was expanded along the south boundary of the landfill to protect residential neighbors in that area. The Property has remained essentially unchanged since that time. The subsurface migration and surface venting of methane and other landfill gases is the primary environmental concern at the site. Limited groundwater monitoring indicates that groundwater contamination is not a significant concern.

PROPOSED USE: DRZC proposes to develop the Property into a religious institutional campus. The central core of the Property will be developed into a formal temple site, surrounded by ample landscaped and native open space, and a co-housing community for members of the temple to the north. The temple proper will contain facilities for religious assembly, temple administration, classes, group housing for monastic residents, and children's programs. This is an attractive, compatible, low-impact use that serves the local and regional community by restoring derelict land to productive use, drawing visitors to the area, and bringing a strong presence and value of stewardship to the land.

BENEFITS: DRZC proposes to develop this prominent, vacant brownfield in accordance with the regional government's values and priorities, and with the enthusiastic support of the local neighborhoods. Creating a thriving campus on the Property would provide significant economic, aesthetic, recreational and environmental benefits to the surrounding community. DRZC also plans to preserve open space and improve natural areas on the Property, which is a pivotal connective piece in the overall scheme of Portland's green infrastructure. This proposed use also protects the public and the environment from any residual conditions at the former landfill by maintaining the integrity of the soil cover and significantly reducing infiltration of precipitation through the landfill.

LIABILITY: The PPA will enable DRZC to purchase and develop the Property without having to assume the liability for release of methane and other hazardous substances, mostly associated with the former landfill. However, under the terms of the PPA the Property will remain under DEQ oversight until there are no unacceptable environmental risks associated with the former landfill on the Property. In addition, as part of the larger former landfill property, the Property will remain subject to the requirements of the Solid Waste Landfill Closure Permit (Permit) for the entire approximate 26-acre Property. The Permit will remain the responsibility of the seller or its successor.

PPA PROGRAM: DEQ created the PPA Program in 1995 through amendments to the state's Environmental Cleanup Law. The prospective purchaser agreement is a tool that facilitates the beneficial reuse of contaminated property and its cleanup, and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing contaminated property. DEQ has approved many prospective purchaser agreements throughout the state since the program began.

HOW TO COMMENT: Send written comments by 5 p.m. October 1, 2012, to DEQ Project Manager Tim Spencer, spencer.tim@deq.state.or.us, at DEQ's Northwest Region Office, 2020 SW 4th Avenue, Suite 400, Portland, Oregon 97204-4987, or 503-229-5826. To review the project file, call Dawn Weinberger at (503) 229-6729 for a file review appointment. To access the proposed PPA along with site summary information and other documents in DEQ's Environmental Cleanup Site Information database, go to: <http://www.deq.state.or.us/Webdocs/Forms/Output/FPCController.ashx?SourceId=5694&SourceIdType=11>

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

THE NEXT STEP: DEQ will consider all public comments received by the end of the comment period before making a final decision regarding the PPA.

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

mation 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.

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

COMMENTS DUE: Monday, Oct. 1, 2012.

PROJECT LOCATION: 4707 SE 17th Avenue, Portland, Oregon.

PROPOSAL: The Department of Environmental Quality is proposing to enter into a Consent Judgment for a Prospective Purchaser Agreement with the Tri County Metropolitan Service District, known as Tri Met, for the Milwaukee Light Rail construction including public transit facilities, infrastructure and related improvements located at and the PECO property adjacent to 4707 SE 17th Avenue, Portland, Oregon.

HIGHLIGHTS: PECO, Inc. began operations at the site in 1938 and has used the Property continuously for the manufacture of aircraft parts and other materials. Plant operations have resulted in contamination of soil and groundwater with solvents. A series of remedial investigations, removal and cleanup actions have been conducted at the site under DEQ, however cleanup has not been fully completed. DEQ's August 2012 Record of Decision authorizes a final site remedy consisting of removal of contaminated soil in the West Plant source area, treatment of remaining groundwater contamination, and extraction and treatment of soil vapor.

The Prospective Purchaser Agreement will allow Tri Met to acquire a portion of the PECO Property, including the West Plant building where soil and groundwater contamination are present, and construct and operate a portion of the Milwaukee Light Rail Project on that Property.

DEQ's Prospective Purchaser Program was created in 1995 through amendments to the state's Environmental Cleanup Law. The Prospective Purchaser Agreement is a tool that facilitates the beneficial reuse of contaminated property and its cleanup and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing contaminated property. DEQ has approved many Prospective Purchaser Agreements throughout the State since the program began.

The proposed Consent Judgment will provide Tri Met with a release from liability for claims by the State of Oregon under ORS Chapter 465 relating to historical releases of hazardous substances at or from the PECO Property. The proposed Consent Judgment will also provide Tri Met with a covenant not to sue and release of potential natural resource damage liability and protection from potential contribution actions by third parties relating to the releases at or from the property. In addition, DEQ and Tri Met intend for the Consent Judgment to be construed as a judicially approved settlement, by which Tri Met has resolved its liability to the State of Oregon regarding matters addressed in this Consent Judgment, within the meaning of Section 113(0)(2) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §9613(0)(2), and for Tri Met to not be liable for claims for contribution regarding matters addressed in this Consent Judgment to the extent provided by Section 113(0)(2) of CERCLA, 42 U.S.C. §9613(0)(2).

HOW TO COMMENT: Send written comments concerning the proposed Consent Judgment by 5 p.m. Oct. 1, 2012 to Dan Hafley, hafley.dan@deq.state.or.us or DEQ's Northwest Region Office, 2020 SW 4th Avenue, Suite 400, Portland, Oregon 97201-4987. For more information contact Mr. Hafley at 503-229-5417. The proposed Consent Judgment and DEQ file on the PECO Property may be reviewed at DEQ's Northwest Region office in Portland by contacting Dawn Weinberger at 503-229-6729.

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

OTHER NOTICES

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

A CHANCE TO COMMENT ON A PROPOSED CONSENT ORDER FOR A PROSPECTIVE PURCHASER AGREEMENT AT THE FORMER GREGORY MILLSITE AND ADJACENT FORMER GUN CLUB WEST OF EUGENE OREGON

COMMENTS DUE: September 30, 2012

PROJECT LOCATION: 88233 Greenhill Road, Eugene, Oregon
PROPOSAL: The Department of Environmental Quality (DEQ) is proposing to enter into a Consent Order for a Prospective Purchaser Agreement (PPA) Lost Creek Rock Products, LLC (Lost Creek) for the former Gregory Mill site and adjacent former gun range.

HIGHLIGHTS: Lost Creek is acquiring the Property and will install a large soil cap over contaminated soils at the former mill site and will restrict access to the former gun club to limit human and exposure to site related contaminants.

During historical use of the property as a mill site, from the 1940s to the 1970s, a wood preservative called pentachlorophenol (penta) was used at the site. Historical practices at the site led to widespread penta contamination. Dioxin commonly co-occurs with penta and there is widespread dioxin contamination as well. Over the years, the penta broke down in the environment due to exposure to the elements, but the dioxin was much more persistent and is still present across the former mill site at concentrations that could cause an unacceptable risk to future site users.

Lost Creek has agreed to construct a gravel cap over the dioxin contaminated soils, isolating them from human contact. The cap will be memorialized in an Easement and Equitable Servitude (deed restriction) requiring Lost Creek and future property owners to maintain the cap forever.

A gun range was operated on the adjacent property from the 1930s to the 1960s, depositing large amounts of lead and other metals onto the ground. Very high concentrations of lead are present in shallow soils across the gun range site. Nearly the entire gun range site is a designated wetland, and provides very high quality ecological habitat. There are many sensitive, threatened and endangered plant species on the site. Based on DEQ's review of available technologies, there are no cleanup alternatives that would not pose a risk to the sensitive, threatened and endangered species on the site. Therefore, DEQ recommends leaving the site as-is and limiting human access as a means to control risk to site users.

Lost Creek has agreed to maintain the site in its current undeveloped state forever and has agreed to post signs warning potential trespassers of the risk of lead exposure at the site.

Lost Creek's plans provide a substantial benefit to the State of Oregon by isolating dioxin contaminated soils from human contact and by maintaining the former gun club in a perpetual state of conservation. In addition, Lost Creek will develop the site into a railroad load out facility, providing additional local tax revenue and jobs.

DEQ's Prospective Purchaser Program was created in 1995 through amendments to the state's Environmental Cleanup Law. The Prospective Purchaser Agreement is a tool that facilitates the cleanup of contaminated property and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing a property with existing contamination. DEQ has approved more than 90 Prospective Purchaser Agreements throughout the State since the program began.

The proposed Consent Order will provide Lost Creek with a release from liability for claims by the State of Oregon under ORS §465.255 relating to any historical releases of hazardous substances at or from the Property. The proposed Consent Order will also provide Lost Creek with protection from potential contribution actions by third parties for recovery of remedial action costs associated with any historical releases at or from the Property. DEQ retains all existing rights it may have as to all other parties potentially liable for any releases.

HOW TO COMMENT: Written comments concerning the proposed Consent Order should be sent to Geoff Brown at 167 E 7th

Avenue, Eugene, OR 97401. Comments must be received by DEQ by 5:00 pm September 30, 2012. Questions may be directed to Mr. Brown that address or by calling (541)686-7819. The proposed Consent Order and DEQ file on the Property may be reviewed at DEQ's Western Region office in Eugene by contacting Geoff Brown at (541) 686-7819. Upon written request by ten or more persons, or by a group having ten or more members, a public meeting will be held to receive verbal comments on the proposed Consent Order.

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

PUBLIC NOTICE AND REQUEST FOR COMMENTS DEQ PROPOSES PROSPECTIVE PURCHASER AGREEMENT CONSENT ORDER WITH MC CHUCKWAGON LLC

COMMENTS DUE: 5 p.m., Oct. 1, 2012

PROJECT LOCATION: Mile Hi Service, 350 N F St., Lakeview
PROPOSAL: The Department of Environmental Quality proposes to enter into a prospective purchaser agreement consent order with MC Chuckwagon LLC to facilitate the sale and redevelopment of the property. MC Chuckwagon LLC will remove the existing site building and construct a building to display a historic chuck wagon from the old MC Ranch in Adel for educational and historical benefit. This development will result in a substantial public benefit.

The consent order is a tool that facilitates the beneficial reuse of contaminated property and its cleanup and encourages property transactions that would otherwise not likely occur because of the liabilities associated with purchasing contaminated property. The prospective purchaser program was created in 1995 through amendments to the state's environmental cleanup law. DEQ has approved over 100 prospective purchaser agreements throughout the State.

HIGHLIGHTS: A gas station operated on the property from the 1920s to 1992. Petroleum releases from the former station contaminated soil and groundwater. DEQ was initially notified of the contamination in April 1991. Efforts have been made to investigate and cleanup the contamination by the current owners. Additional investigations at locations west of the Property will likely be performed to determine the full extent of the contamination and to determine if additional cleanup actions are needed.

The consent order will require MC Chuckwagon LLC to place institutional controls on the property precluding usage of the property for residential purposes or the use of the groundwater and requiring the installation of a vapor barrier beneath any future structure built on the property. MC Chuckwagon LLC will also agree to provide access to the property for any additional investigation and removal or remedial actions that may be required; prepare a contaminated media management plan; and cap the property through use of building foundations, asphalt, or concrete.

The proposed consent order will provide MC Chuckwagon LLC with a release from liability for claims by the State of Oregon under Oregon Revised Statute §465.255 relating to any historical releases of hazardous substances at or from the property. The proposed consent order will also provide MC Chuckwagon LLC with protection from potential contribution actions by third parties for recovery of remedial action costs associated with any historical releases at or from the property. DEQ retains all existing rights it may have as to all other parties potentially liable for any releases.

HOW TO COMMENT: Send comments by 5 p.m., Oct. 1, 2012, to DEQ Project Manager Marcy Kirk by phone at 541-633-2009, by mail at 475 NE Bellevue, Suite 110, Bend, OR 97701, by e-mail at Kirk.Marcy@deq.state.or.us or by fax at 541-388-8283.

To access site summary information, the draft consent order, and other documents in DEQ's Leaking Underground Storage Tank database, go to www.deq.state.or.us/lq/tanks/lust/LustPublicLookup.asp, enter 19-91-0030 in the LUST Number box and click "Lookup" at the bottom of the form. Next, click the link labeled 19-91-0030 in the Log Number column. To review the project file, contact the project manager above for a file review appointment.

OTHER NOTICES

THE NEXT STEP: DEQ will consider all public comments received before making a final decision on the proposed consent order. 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.

NOTICE OF RECORD OF DECISION REMEDY SELECTION FOR HISTORICAL CONTAMINATION AT THE FORMER FRED WAHL MARINE SITE

PROJECT LOCATION: 621 and 1000 Altree Lane, Toledo

PROPOSAL: DEQ has selected excavation of contaminated sediments and restriction of upland area land use as the final cleanup action for the Fred Wahl Marine site, currently owned and operated by the Port of Toledo. The selection was made in accordance with Oregon Revised Statutes (ORS) 465.200 et. Seq. and Oregon Administrative Rules (OAR) Chapter 340, Division 122, Sections 010 through 115. The property is located at 621 and 1000 Altree Lane, Toledo, Oregon, which includes tax lots 400, 500, 601, and 1500.

HIGHLIGHTS: Historic boatyard operations resulted in soil and sediment contamination at the site requiring cleanup. DEQ recommended that the upland area of the site be restricted to industrial use only and that sediments containing levels of copper and tributyltin above ecological standards should be excavated and placed either upland at the site or in a permitted landfill. A 30-day comment period on this proposed remedy was held in September 2010. After addressing public comments, DEQ selected the proposed remedy as the final remedy. The remedy for the upland area is a deed restriction for future residential use of the property and the remedy for the sediment/tidal area is to remove approximately 2,991 cubic yards of contaminated sediments and place them in a disposal cell on the upland property or in a permitted landfill.

Based on available data, once these actions have been taken, the site will be considered safe for commercial or industrial uses and will return the sediment to a condition that will prevent potential adverse impacts to marine life from direct contact with and ingestion of contaminated sediments. In addition, the Port of Toledo is obligated to follow DEQ's 2000 "Best Management Practices for Shipyards" guidance during future use of the property as marine industrial property.

To review the project file, call Susan Turnblom at 541-687-7464 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 site number 3536 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI #3536 in the Site ID/Info column.

THE NEXT STEP: The next step for this project will be for the Port of Toledo to prepare a remedial action plan describing how they plan to excavate and dispose of the contaminated sediment. The implementation of the remedial action plan will require state and federal permits.

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.

PUBLIC NOTICE AND REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION FOR THE MILL CITY FAIRVIEW AND FIRST SITE

COMMENTS DUE: 5 p.m., October 1, 2012

PROJECT LOCATION: 444 S First Ave., Mill City

PROPOSAL: The Oregon Department of Environmental Quality's Voluntary Cleanup Program proposes to issue a no further action determination for the Mill City Fairview and First site located at 444 S First Ave., Mill City. DEQ issues a no further action determination when a cleanup has met regulatory standards.

HIGHLIGHTS: Localized areas of petroleum contaminated soil were encountered during the construction of the new city hall in December 2011. Approximately 430 tons of petroleum contaminated soil was excavated and transported to Riverbend Landfill for disposal. Up to 15 cubic yards of shallow soil with field evidence of contamination was left in place due to the material's proximity to the building or other site structures. This material has been or will be capped further as a result of the site's development limiting the potential for exposure. The Voluntary Cleanup Program has reviewed remedial actions performed at the site and has determined no further action is required.

HOW TO COMMENT: Send comments by 5 p.m., October 1, 2012, 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 5682 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 5682 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 THE FORMER BATES LUMBER MILL

COMMENTS DUE: 5 p.m., October 1, 2012

PROJECT LOCATION: Township 11S, Range 35E, Section 21 and 28, Bates, Oregon, Grant County

PROPOSAL: The Oregon Department of Environmental Quality proposes to issue a no further action determination for the Environmental Cleanup Program site #2950: Bates Lumber Mill (former), located in Bates, Oregon. DEQ issues a no further action determination when an environmental cleanup has met regulatory requirements with a restrictive condition.

HIGHLIGHTS: The site is located on approximately 131 acres in Bates, Oregon, Grant County. The main lumber mill operations occurred on approximately 25 acres of the parcel, on a relatively flat portion of the property bordering the Middle Fork of the John Day River and Bridge Creek. The Bates lumber mill and town were reportedly in existence from the early 1900's to 1970. Release of hazardous substances occurred to soil, sediment, and groundwater as a result of the historic mill operations. The site was recently developed into an Oregon State park. A notice will be filed with the deed prohibiting use of shallow groundwater for domestic purposes. DEQ has determined that the cleanup meets the requirements of Oregon Revised Statute 465.315. Pollutant levels remaining in soil and potentially in groundwater after the cleanup actions are protective of human health and the environment.

HOW TO COMMENT: Send comments by 5 p.m., October 1, 2012 to DEQ Project Manager Marcy Kirk by mail at 475 NE Bellevue Drive, Suite 110, Bend, OR 97701, by email at kirk.marcy@deq.state.or.us or, or by fax at 541-388-8283.

To review the project file, call Marcy Kirk at 541-633-2009 for a file review appointment. To access site summary information and the

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staff report in DEQ's Environmental Cleanup Site Information (ECSI) database on the Internet, go to <http://www.deq.state.or.us/lq/ECSI/ecsiquery.asp>, then enter 2590 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 2590 in the Site ID/Info column.

THE NEXT STEP: DEQ will consider all public comments received before making a final decision on the proposed conditional 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/ INFORMATION MEETING/HEARING PROPOSED CLEANUP ACTION SETTLEMENT AND COMPOST REGISTRATION PERMIT FOR LAKESIDE RECLAMATION LANDFILL

COMMENTS DUE: 5 p.m., Monday, Oct. 15, 2012

PROJECT LOCATION: 14930 SW Vandermost Road, Beaverton, Oregon

INFORMATION MEETING: DEQ will hold an information meeting 7 p.m. Sept. 18, 2012, at the Beaverton City Hall, City Council Chambers, 4755 Griffith Dr. Beaverton, OR 97076. At this meeting, DEQ staff will share information and answer questions about the proposed cleanup action settlement, solid waste landfill permit termination and proposed compost registration permit for Lakeside Reclamation Landfill.

HEARING: DEQ will hold a public hearing 7 p.m. Tuesday, Oct. 2, 2012 at the Beaverton Community Center 12350 SW 5th Street, Suite 100, Beaverton, OR 97076. At the hearing, DEQ will receive formal comments on the proposed consent order and draft compost registration permit.

PROPOSAL: DEQ is opening a 45-day public comment period beginning Sept. 1, 2012 on a proposed settlement between DEQ, Grabhorn Inc. and Howard Grabhorn to fund the cleanup action to address groundwater contamination at the former Lakeside Reclamation Landfill.

The settlement would be in the form of a consent judgment, and would require the parties to pay DEQ specified amounts to be used by DEQ complete the cleanup, landfill cover improvements and landfill post-closure maintenance and monitoring. The current post-closure permit issued by DEQ to Grabhorn Inc. would be terminated. In return, the settling parties would receive a covenant not to sue from the State of Oregon and contribution protection as to third parties regarding the matters addressed by the settlement.

The cleanup remedy selected by DEQ in December 2011 includes groundwater extraction and treatment to protect the Tualatin River and improvements to the existing landfill cover to minimize or eliminate further groundwater contamination.

DEQ is also taking comments on the proposed compost registration permit for the Lakeside Reclamation Landfill compost operations. DEQ reviewed the application received on March 15, 2010, conducted an environmental screening and determined that the compost operations pose a low risk for surface water, groundwater, odor and vector concerns. Lakeside submitted a permit application under compost rules adopted in September 2009. As Lakeside was timely in submitting permit applications, the current compost operations are allowed to continue operating under the expired compost permit until DEQ completes the compost permitting process. DEQ proposes to issue a compost registration permit that will be good for 10 years.

HIGHLIGHTS: Lakeside Reclamation Landfill is a 37-acre former construction debris landfill that operated since the early 1950s until closure in 2009. Beginning in the late 1990s, levels of various landfill related contaminants began rising in groundwater sampled from monitoring wells located between the landfill and the Tualatin River. Grabhorn Inc. entered the DEQ Cleanup Program in 2005 to evaluate the need for corrective action for contaminants in groundwater

in excess of their DEQ landfill permit concentration limits. DEQ determined that contaminated groundwater seepage to the river posed a potentially significant adverse affect on beneficial uses of the river but posed no significant human health risks.

Grabhorn completed a feasibility study to identify potential options to remedy the potential adverse affects. DEQ selected the cleanup action following consideration of public comments on the proposed remedy issued for public comment. The selected remedy uses groundwater wells to pump contaminated groundwater to the surface for treatment prior to land application or direct discharge to the Tualatin River, and improvements to the landfill cover to minimize further leachate generation caused by percolation of rainfall through landfill wastes.

Most of the landfill post-closure maintenance and monitoring requirements were included as elements of the cleanup remedy selected by DEQ making the permit unnecessary to maintain during cleanup. Grabhorn Inc. will continue with its composting and other business activities subject to a permit to be issued by DEQ.

Lakeside accepts "Type 1" compost feedstock consisting of yard debris and woody waste. Feedstock is composted using static piles that are turned periodically. DEQ has determined that the compost operations pose a low risk to surface water and ground water and a low risk for odors.

HOW TO COMMENT: The draft settlement agreement and project file may be reviewed by appointment at DEQ's Northwest Region Office at 2020 SW 4th Avenue, Portland, OR 97212. To make an appointment please contact Dawn Weinberger at 503-229-6729.

To review the proposed compost registration permit files, please contact Holly Pence at 503-229-5353. You may also view the proposed permit and evaluation report at this link: <http://www.deq.state.or.us/nwr/LakesideReclamation.htm>

To access site summary information and the proposed consent judgement in DEQ's Environmental Cleanup Site Information (ECSI) database on the Internet, go to www.deq.state.or.us/lq/ECSI/ecsiquery.asp, then enter ECSI#4413 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled ECSI #4413 in the Site ID/Info column.

Send comments on the proposed settlement by 5 p.m., Monday, Oct. 15, 2012 to Bruce Gilles at 2020 SW 4th Avenue, Portland, OR 97212, or gilles.bruce@deq.state.or.us. Send comments on the proposed compost permit to Holly Pence at the same address, or pence.holly@deq.state.or.us.

THE NEXT STEP: DEQ will review and consider all comments received at the hearing or during the comment period. If DEQ then determines to enter into the settlement with Grabhorn Inc. and Howard Grabhorn, a consent judgment will be filed with the Washington County Circuit Court. The court must approve the consent judgment for it to take effect.

DEQ will also review comments received at the hearing or during the comment period on the proposed compost registration permit and decide whether to issue the registration permit and what additional conditions might be needed to address 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 SELECTED CLEANUP APPROACH AND PROPOSED CONSENT JUDGMENT FOR CANOE BAY IN PORTLAND

COMMENTS DUE: 5 p.m., Monday, Oct. 1, 2012

PROJECT LOCATION: Canoe Bay, North side of Hayden Island, Portland

PROPOSAL: The Department of Environmental Quality has selected the cleanup approach for certain contaminated shoreline and bank areas of Canoe Bay, an inlet off the Columbia River on the north side of Hayden Island, in Portland. As part of a larger shoreline stabilization project in this area, DEQ has determined that capping

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contamination present along the western shoreline of the bay adjacent to the property is the preferred cleanup action.

DEQ invites public comment on a proposed consent judgment with Inland Sea Maritime Group LLC and Schooner Creek Boatworks Inc. The consent judgment outlines DEQ oversight of implementation of the cleanup and includes settlement of the parties' potential liability for contribution to sediment contamination in Canoe Bay. The consent judgment also documents satisfaction of liability associated with State of Oregon natural resource damages to Canoe Bay. **HIGHLIGHTS:** Canoe Bay is a 7.6-acre rectangular inlet off the Columbia River on the central north side of Hayden Island. Inland Sea Maritime Group owns approximately 6 acres of land on the southwestern edge of the bay. Schooner Creek Boat Works leases a portion of the property on which it operates a boat maintenance facility.

Before these parties' respective ownership and tenancy, dumping occurred into and around Canoe Bay between 1966 and 1989, and created a debris pile on the eastern shoreline of Canoe Bay. Sampling of Canoe Bay sediments and shoreline soils indicates the presence of contaminants including polychlorinated biphenyls (commonly known as PCBs), metals, polycyclic aromatic hydrocarbons, and tributyl tin. The highest levels of contamination were found in the vicinity of the debris pile. Elevated levels of metals and tri-butyl tin were also found in the vicinity of the Schooner Creek Boat Works stormwater outfall; stormwater is now pretreated.

DEQ held a public comment period on the proposed capping of shoreline contamination associated with the debris pile and stormwater outfall in July 2012. No comments were received.

The cleanup action will include capping and stabilizing the shoreline contamination areas in conjunction with a broader shoreline stabilization project. The clean-up will include placing a capping system on the steeper portions of the shoreline and a clean sand cap from the foot of the slope out approximately 12 feet into the bay. The capping system consists of non-biodegradable polypropylene bags filled with soil and tied together to create a stable cap that will support vegetation. Containerized plants will be placed in conjunction with the capping system and will act to lock the bags to each other and the surrounding soil. The sand cap will cover a zone of contaminated sediment adjacent to the shoreline. The shoreline cap will cut off exposure to contaminants and prevent further erosion of contaminated material into Canoe Bay. Once this source is controlled, DEQ expects that over time, clean sediments will cover existing contamination in the bay, reducing concentrations to protective levels.

To address natural resource damage concerns associated with the contamination, the parties are incorporating habitat enhancement measures into the shoreline work including: placement of root wads for shade and habitat for fish and organisms that live in the sediment, removal of asphalt and concrete present on the shoreline, and planting native vegetation. To address contribution to contamination in the bay sediments, the parties are providing \$50,000 to DEQ to cover costs associated with long term monitoring of Canoe Bay sediment conditions once this source area is contained.

HOW TO COMMENT: View the draft consent judgment and Record of Decision at DEQ's Northwest Region Office in Portland and on line at <http://www.deq.state.or.us/Webdocs/Forms/Output/FPController.aspx?SourceId=3333&SourceIdType=11>. To schedule an appointment to review files in DEQ's Northwest Region office, call 503-229-6729.

Send comments on the draft consent judgment by Monday, October 1, 2012 to DEQ Project Manager, Jennifer Sutter, DEQ Northwest Region, 2020 SW 4th Ave., Portland, OR 97201 or sutter.jennifer@deq.state.or.us. For more information contact Sutter at 503 229-6148.

THE NEXT STEP: DEQ will review and consider all comments received during the comment period. If DEQ determines to enter the consent judgment, it will be executed by the parties and then filed

with the Multnomah County Circuit Court. The court must approve the consent judgment for it to take effect.

The site owner is preparing remedial design documents and completing permitting procedures to implement the action in September/October 2012.

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

People with hearing impairments may call DEQ's 711.

REQUEST FOR COMMENTS PROPOSED CLEANUP APPROVAL FOR STATION PLACE-LOT 2

COMMENTS DUE: Sept. 30, 2012

PROJECT LOCATION: 810 NW Marshall, Portland, OR 97209

PROPOSAL: The Department of Environmental Quality invites public comment on a proposed no further action decision for Lot 2 of the Station Place Redevelopment site. The site is part of a larger 7.1-acre property historically referred to as Union Station-Horse Barn. Lot 2 has been redeveloped and is currently occupied by the Ziba design firm headquarters building.

HIGHLIGHTS: Station Place is located at the northeast corner of NW Lovejoy Street and NW 9th Avenue in downtown Portland, and consists of six individual blocks. In the late 1800s to 1970s the property was used as a rail yard. The Portland Development Commission purchased the property in 1987, and initiated environmental investigation through DEQ's Voluntary Cleanup Program in 1999. Soil and groundwater were determined to contain elevated metals and volatile and semi-volatile organic compounds, mostly from an off-site manufactured gas plant, and pose a risk to site occupants. Contaminated soil removal actions were completed in 2001 and 2003, and a Record of Decision approved by DEQ in 2003 which identified capping of all six lots -1, 2, 3, 4, 5, and 7 - and vapor mitigation on Lots 1 and 2 as the remedy to address remaining site contamination. Capping on Lots 1, 3, and 7 was performed starting in 2003 concurrent with site development. After completion, DEQ issued no further action decisions for each lot. Temporary caps are in place on Lots 4 and 5 pending redevelopment. On Lot 2, installation of the required soil vapor collection system and vapor barrier, and capping of the entire 0.7-acre Lot 2 property, was completed in 2009 during redevelopment. Redevelopment involved the construction of a 2-story commercial building, and paving of the remainder of the site other than a few small vegetated areas. Two rounds of vapor monitoring were performed to confirm that contaminated vapor is not entering the building. A closure report outlining cleanup activity on Lot 2 was approved by DEQ in 2009, and a deed notice recorded with the property in 2011 identifying ongoing monitoring requirements for the site cap and groundwater use restrictions. Based on this information, DEQ has proposed a no further action determination for Lot 2.

HOW TO COMMENT: Site files are available for public review at the DEQ Northwest Region Office in Portland. To schedule an appointment to review files please call 503-229-6729. The DEQ Project Manager is Daniel Hafley, 503-229-5417. Send written comments to the Project Manager, DEQ, Northwest Region, 2020 SW 4th Ave., Portland, OR 97201 or hafley.dan@deq.state.or.us by September 30, 2012.

THE NEXT STEP: DEQ will consider all public comments and the Northwest Cleanup Section Manager will make and publish the final decision after consideration of these comments.

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 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. Oral comments may be submitted at the appropriate time during a rulemaking hearing as outlined in OAR 137-001-0030.

Agencies providing notice request public comment on whether other options should be considered for achieving a proposed administrative rule's substantive goals while reducing negative economic impact of the rule on business.

In Notices of Proposed Rulemaking where no hearing has been set, a hearing may be requested by 10 or more people or by an association with 10 or more members. Agencies must receive requests for a public rulemaking hearing in writing within 21 days following notice publication in the *Oregon Bulletin* or 28 days from the date notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received by an agency, notice of the date and time of the rulemaking hearing must be published in the *Oregon Bulletin* at least 14 days before the hearing.

**Auxiliary aids for persons with disabilities are available upon advance request. Contact the agency Rules Coordinator listed in the notice information.*

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Board of Licensed Social Workers
Chapter 877

Rule Caption: Converts LCSWs to 2-year license; updates CE rules, licensee record requirements, adopts AG Model Rules.

Date:	Time:	Location:
10-26-12	8 a.m.	Board Offices 3218 Pringle Rd. SE 2nd Floor Conference Rm. Salem, OR

Hearing Officer: Mark Oldham, Board Chair

Stat. Auth.: ORS 675.510-675.600

Other Auth.: OAR 137-001-0005 – 137-001-0100

Stats. Implemented: ORS 675.510-675.600

Proposed Adoptions: 877-001-0009, 877-001-0028

Proposed Amendments: 877-001-0005, 877-001-0006, 877-001-0020, 877-001-0025, 877-020-0008, 877-020-0010, 877-020-0055, 877-020-0057, 877-025-0006, 877-025-0011, 877-030-0025, 877-030-0040

Proposed Repeals: 877-025-0016, 877-040-0055

Last Date for Comment: 10-26-12, 9 a.m.

Summary: Converts LCSWs to 2-year license with a transition period beginning January 1, 2012 and ending December 31, 2013, without raising fees, prorating current yearly amount due for licensure renewal to the equivalent two-year amount.

The proposed rules adopt the Attorney General Model Rules in OAR Chapter 137 in effect as of January 31, 2012. The Board is required to use the AG Model rules. The proposed rules eliminate conflicts between Board rules and the 2012 AG Model Rules through explicit adoption, and deletion of OAR 877-040-0055 which contains provisions in with the 2012 AG Model Rules.

The proposed rules establish specific requirements for regulated social workers to identify a name of record, address of record, and employer of record, and further require the regulated social worker to report any changes in these three record types to the Board within 30 days.

The proposed rules further update and clarify CE requirements for renewal, and propose that, effective in 2015, on-line CE be limited to 50% of the overall CE due. The proposed rules expand the types of mental health professionals that meet Board requirements for a CE study group. The proposed rules permit limited CE credit for language courses taken to improve the ability of the regulated social worker to serve clients with increased competency.

The proposed rules correct citation errors in Division 20 of OAR Chapter 877.

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 Parole and Post-Prison Supervision
Chapter 255

Rule Caption: Update rules to conform to changes in practice and statutory requirements.

Stat. Auth.: ORS 144.050, 144.101, 144.140 & 144.637

Stats. Implemented: ORS 144.096, 144.098, 144.102, 144.125, 144.135, 144.185, 144.270, 144.280, 144.635, 144.642, 144.644, 144.096, 144.185, 144.223, 144.335 & 144.635

Proposed Amendments: 255-060-0006, 255-060-0008, 255-060-0009, 255-060-0012, 255-060-0013, 255-060-0018, 255-060-0020, 255-060-0030

Last Date for Comment: 9-21-12, 5 p.m.

Summary: Division 60 establishes the procedural rules for the Board's consideration of parole or post-prison supervision release of inmates. The rules are updated to include new statutory requirements (ORS 144.280), and to make changes that bring the rules into conformity with best practices for the conduct of hearings and issuance of orders.

Rules Coordinator: Shawna Harnden

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

Telephone: (503) 945-0913

.....
Rule Caption: Increase payment for Board-appointed attorney in supervision violation proceedings.

Stat. Auth.: ORS 144.050, 144.140 & 144.346

Stats. Implemented: ORS 144.343

Proposed Amendments: 255-075-0035

Last Date for Comment: 9-21-12, 5 p.m.

Summary: The amendment increases the maximum payment to be made to attorneys appointed by the Board, pursuant to rule, to represent offenders in proceedings relating to violations of post-prison supervision or parole.

Rules Coordinator: Shawna Harnden

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

Telephone: (503) 945-0913

.....
Bureau of Labor and Industries
Chapter 839

Rule Caption: Temporary rules clarifying substantial evidence and signature requirements for complaints of housing discrimination.

Stat. Auth.: ORS 659A.805

Other Auth.: ORS 659A.820

Stats. Implemented: ORS 659A.145, 659A.421 & 659A.820

Proposed Amendments: 839-003-0005, 839-003-0200

Last Date for Comment: 9-26-12, 5 p.m.

Summary: The temporary rules will clarify that the standard of substantial evidence required for a housing complaint is reasonable cause for the Commissioner to believe the facts concerning the alleged discriminatory housing practice are sufficient to warrant the initiation of a civil action in circuit court.

NOTICES OF PROPOSED RULEMAKING

The temporary rules will clarify that complaints of discrimination in housing need not be signed by an unemancipated minor complainant, but must be signed by the minor's parent or legal guardian.
Rules Coordinator: Marcia Ohlemiller
Address: Bureau of Labor and Industries, 800 NE Oregon St., Ste. 1045, Portland, OR 97232
Telephone: (971) 673-0784

.....
Commission for the Blind
Chapter 585

Rule Caption: Modify Public Records Rule.
Stat. Auth.: ORS 346.150
Other Auth.: ORS 183.341
Stats. Implemented: ORS 346.150
Proposed Adoptions: 585-001-0007, 585-001-0009
Last Date for Comment: 9-28-12, 5 p.m.

Summary: 585-001-0007: Requests for Release of Public Record — Adoption of this Rule will provide additional detail in regards to its public records requests. This Rule includes how the request should be received.

585-001-0009: Release of Public Records — Adoption of this Rule will provide additional detail in regards to its public records requests. This Rule includes timeframe for providing the request and how to handle exempt material.

Rules Coordinator: Linda Mock
Address: Commission for the Blind, 535 SE 12th Ave., Portland, OR 97214
Telephone: (971) 673-1588

.....
Department of Agriculture
Chapter 603

Rule Caption: Establishes treatment and labeling requirements for firewood imported from outside the Pacific Northwest.

Date:	Time:	Location:
9-26-12	1 p.m.	Oregon Dept. of Agriculture Hearings Rm. 635 Capitol St. NE Salem, OR

Hearing Officer: Eric Edmunds
Stat. Auth.: ORS 561.305, 561.510 & 570.720
Other Auth.: ORS 561.190
Stats. Implemented: ORS 570.720
Proposed Adoptions: 603-052-1080, 603-052-1090
Last Date for Comment: 10-12-12, 5 p.m.

Summary: The purpose of this proposed rule is to prevent the introduction of wood boring pests and plant diseases in imported firewood. Invasive species including emerald ash borer, Asian long-horned beetle, and sudden oak death can be vectored by firewood. The rule would require that firewood imported from outside the Pacific Northwest (OR, WA, ID) be heat-treated and labeled. The required treatment would be 60 degrees C (140-degrees F) for 60 minutes. Firewood treated in this manner could be labeled as "Approved Pest Free." Violators would be subject to civil penalties, ranging from a Notice of Violation to a \$10,000 fine, depending on the severity of the infraction.

Rules Coordinator: Sue Gooch
Address: Department of Agriculture, 635 Capitol St. NE, Salem, OR 97301
Telephone: (503) 986-4583

.....
Rule Caption: Amends control area and regulations for growing Brassica spp. and Raphanus spp. in Willamette Valley.

Date:	Time:	Location:
9-28-12	9 a.m.	Oregon State Fairgrounds 2330 17th St. NE Cascade Hall Salem, OR 97301

Hearing Officer: Vance Bybee

Stat. Auth.: ORS 561.190, 561.510–561.600, 570.305, 570.405, 540.410–540.415 & 570.450

Stats. Implemented: ORS 570.405–570.415 & 570.425–570.450

Proposed Adoptions: 603-052-0852

Proposed Amendments: 603-052-0850, 603-052-0860, 603-052-0870, 603-052-0880

Last Date for Comment: 10-5-12, 5 p.m.

Summary: The proposed rule adopts OAR 603-052-0852 and amends OAR 603-052-0850, 603-052-0860, 603-052-0870, and 603-052-0880 to maintain current accurate control areas for the production of rapeseed in the Willamette Valley. The rule protects plants cultivated within the control area from certain plants that may be a menace to Brassica spp. and Raphanus spp. and to prevent disease and weed infestations associated with growing these crops.

The Department finds that it is necessary to provide the location and conditions for the control area as specified in this rule and indicated in the associated map to the public and growers to facilitate the orderly production of crops affected by the control area. The information provided in this rule provides growers in the control area with protection from certain plants that may be a menace to Brassica spp. and Raphanus spp. and in a manner that prevents disease, pests, and weeds.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

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Rule Caption: Makes consistent and streamlines record keeping requirements for pesticide applicators, pesticide apprentices and trainees.

Date:	Time:	Location:
9-21-12	9 a.m.	635 Capitol St. NE Salem, OR

Hearing Officer: Eric Edmunds

Stat. Auth.: ORS 634

Stats. Implemented: ORS 634

Proposed Amendments: 603-057-0130

Last Date for Comment: 9-28-12, 5 p.m.

Summary: The proposed amendments will add clarity and consistency with other administrative rules on requirements for records required to be maintained by pesticide applicators and public applicators to now include their pesticide license number. Adds the requirement of the name of applicator to be "legible" to assist in identifying the person responsible for making a pesticide application.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

.....
Rule Caption: Establishes certificate fees and annual fees for persons engaged in the shellfish industry.

Date:	Time:	Location:
10-12-12	10 a.m.	Hatfield Marine Science Center 2030 SE Marine Science Dr. Newport, OR

Hearing Officer: Eric Edmunds

Stat. Auth.: ORS 561.190 & 622.080

Stats. Implemented: ORS 622.080

Proposed Adoptions: 603-100-0100, 603-100-0110

Last Date for Comment: 10-15-12, 5 p.m.

Summary: The rules establish new certificate fees for persons engaged in the growing, production, harvesting, or distribution of shellfish in Oregon. Certificate fees will be assessed in a manner that correlates with the annual gross income of the person engaged in the shellfish industry. The rule also establishes new annual fees that will be assessed to persons that use state lands to cultivate oysters, clams, or mussels. The annual fees will be assessed for each acre claimed by a person, and may vary depending on the classification of the land.

NOTICES OF PROPOSED RULEMAKING

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 Community Colleges
and Workforce Development
Chapter 589**

Rule Caption: Amend Funding Formula for Community College Support Fund Distribution.

Date:	Time:	Location:
9-24-12	9 a.m.	Public Service Bldg., Rm. 251A 255 Capitol St. NE Salem, OR 97310

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

Stats. Implemented:
Proposed Amendments: 589-002-0100
Last Date for Comment: 9-24-12, 5 p.m.

Summary: After implementing the Growth Management Component of the Community College Support Fund, the Rule Advisory Committee has found the current rule does not always produce results that are consistent with the intentions of the committee or the policy adopted by the State Board. The purpose of the rule revision is to more closely align the rule with the intent and values of the policy.

The policy values are to maintain a floor value of FTE (Total Public Resources per FTE) and to increase predictability and stability. This is to be accomplished through the Growth Management Component that establishes the amount of FTE growth that will be included in the CCSF Distribution Formula.

Based on the current rule, the application of the Growth Management Component allows a higher number of Funded FTE and lower Total Public Resources per FTE than is targeted by the Growth Management Component policy. This occurs when the Growth Management Component is a negative percentage. The proposed methodology accounts for negative growth by consistently applying the Growth Management Component to FTE from prior years.

Rules Coordinator: Linda Hutchins
Address: Department of Community Colleges and Workforce Development, Public Service Bldg., 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-2456

.....
Rule Caption: Amends NCRC Program requirements for participant residency, assessment scoring and eligibility criteria.

Stat. Auth.: ORS 183, 660.318, 660.330-660.339 & 660.343
Stats. Implemented:
Proposed Amendments: 589-007-0700

Last Date for Comment: 9-24-12, 5 p.m.
Summary: Under the current rule, services provided to program participants are too broad in scope, and the agency determined that stricter limitations must be implemented to better align with HB 2353 (passed in 2011 legislative session). This rule amendment revises program requirements regarding participant residency, assessment scoring and eligibility criteria. It also includes rule language clarifications and adds the ORS citing of 660.343.

Rules Coordinator: Linda Hutchins
Address: Department of Community Colleges and Workforce Development, Public Service Bldg., 255 Capitol St. NE, Salem, OR 97310
Telephone: (503) 947-2456

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

Rule Caption: Electrical vehicle service equipment permit and inspection criteria.

Stat. Auth.: ORS 455.065
Stats. Implemented: ORS 455.065
Proposed Amendments: 918-311-0065
Last Date for Comment: 9-21-12, 5 p.m.

Summary: This proposed rule updates the permitting and inspection criteria for electric vehicle service equipment (EVSE). Manufacturers have developed level 2 service equipment that require a 30 or 40 amp branch circuit rather than a feeder. Previous technology used only feeders. This proposed rule provides uniform and consistent permit and inspection requirements for EVSE. Currently local jurisdictions attempting to follow the rule are requiring feeder permits for EVSE that require branch circuits.

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,
Director's Office
Chapter 440**

Rule Caption: 2013 Workers' Compensation Premium Assessment Rates.

Date:	Time:	Location:
9-20-12	1:30 p.m.	Labor & Industries Bldg. 350 Winter St. NE, Conference Rm. F Salem, OR

Hearing Officer: Fred Bruyns
Stat. Auth.: ORS 705.135, 656.726 & 656.612
Stats. Implemented: ORS 656.612 & 656.614
Proposed Amendments: 440-045-0020, 440-045-0025
Last Date for Comment: 9-24-12, 5 p.m.

Summary: The director adopts by rule the workers' compensation premium assessment rate that is paid by all employers based on their workers' compensation premium and is collected by the insurer at the time the employer pays the premium. This assessment is used to fund workers' compensation related programs and workplace safety and health programs that serve Oregon employers and workers. In addition, the rule adopts the rate for an 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. This rulemaking will adopt the assessment percentage that will be in effect from January 1, 2013 to December 31, 2013. Before recommending the 2013 premium assessment rate, the department must analyze financial data, review the data, and authorize or disapprove a proposed workers' compensation pure premium insurance rate filing filed by the National Council on Compensation Insurance. We expect the pure premium insurance rate for workers' compensation and the proposed rate for the 2013 premium assessment to be announced between September 6 and September 13, 2012.

Text of the proposed rule as well as the other rulemaking documents can be found at: <http://www.oregon.gov/DCBS/DIR/rules.shtml>

Address questions to: Victor Garcia, Rules Coordinator; phone 503-947-7866; fax 503-378-6444; or e-mail victor.a.garcia@state.or.us

Rules Coordinator: Victor Garcia

NOTICES OF PROPOSED RULEMAKING

Address: Department of Consumer and Business Services, Director's Office, PO Box 14480, Salem, OR 97309-0405
Telephone: (503) 947-7866

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Department of Energy
Chapter 330

Rule Caption: Defines "Oregon's share" of eligible generation under the Renewable Portfolio Standards in ORS 469A.020(3).

Date:	Time:	Location:
9-25-12	1 p.m.	Oregon Dept. of Energy 625 Marion St. NE Salem, OR 97301

Hearing Officer: Elizabeth Ross

Stat. Auth.: ORS 469.040, 469A.020 & 469A.130

Stats. Implemented: ORS 469A.005-469A.300

Proposed Amendments: 330-160-0015, 330-160-0050

Last Date for Comment: 9-28-12, 5 p.m.

Summary: The rule amendments define "Oregon's share" of eligible generation attributed to upgrades at Bonneville Power Administration's hydropower facilities as used in ORS 469A.020(3), for the purpose of compliance with the Renewable Portfolio Standard. These rule amendments enable Bonneville Power Administration to distribute RECs attributed to hydropower facility upgrades. The Agency requests public comment on these draft rules.

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: This rulemaking increases operator certification and program support fee to address increasing program costs.

Date:	Time:	Location:
9-19-12	6 p.m.	29353 SW Town Center Loop E Room 211 Wilsonville, OR

Hearing Officer: DEQ Staff

Stat. Auth.: ORS 448.410, 448.425, 468.020 & 468B.030

Stats. Implemented: ORS 448.405-448.430 & 448.992

Proposed Amendments: 340-049-0010, 340-049-0015, 340-049-0020, 340-049-0030, 340-049-0035, 340-049-0040, 340-049-0055, 340-049-0060, 340-049-0065, 340-049-0085

Last Date for Comment: 9-25-12, 5 p.m.

Summary: The Oregon Department of Environmental Quality (DEQ) is proposing to increase wastewater system operator certification and program support fees. DEQ certifies wastewater system operators in Oregon as Grade I through Grade IV, depending upon the size and complexity of the wastewater system they operate. Oregon law requires owners of wastewater systems to have their systems under responsible control and supervision of certified operators.

This rulemaking would increase operator certification and wastewater system owner program support fee to cover the costs of administering the program.

The proposed changes in DEQ's operator certification fee will impact individual operators and system owners. Individual operators are responsible for obtaining and maintaining their certification and license renewal. Local, state, federal government and private entities that own and operate domestic wastewater systems under the NPDES or WPCF permits issued by DEQ are affected by the fee increase.

Rules Coordinator: Maggie Vandehey

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

Telephone: (503) 229-6878

Rule Caption: Onsite septic system program (Clean Streams).

Date:	Time:	Location:
9-17-12	3:30 p.m.	ODF 5005 Third St. Tillamook, OR
9-17-12	10:30 a.m.	Lincoln County Board of Commissioner's Conf. Rm. 225 West Olive St.. Newport, OR
9-18-12	4 p.m.	Coos Bay Library Meeting Rm. 525 Anderson Ave. Coos Bay, OR
9-20-12	10:30 a.m.	ODFW 4192 N. Umpqua Hwy. Roseburg, OR
9-20-12	3:30 p.m.	Dept. of Environmental Quality 221 Stewart, Suite 201 Medford, OR

Hearing Officer: DEQ Staff

Stat. Auth.: ORS 454.615, 454.625, 468.020 & 468.065(2)

Stats. Implemented: ORS 197.180, 454.605-454.745, 468.065 & 468B.050

Proposed Amendments: 340-071-0100, 340-071-0131, 340-071-0140, 340-071-0160, 340-071-0162, 340-071-0205, 340-071-0220, 340-071-0275, 340-071-0290, 340-071-0345, 340-071-0400, 340-071-0650, 340-018-0030

Last Date for Comment: 9-25-12, 5 p.m.

Summary: The proposed rules would amend Onsite program rules to:

- Require the submittal of septic system inspection reports at the time of property transfer. Upon receipt of a complete report, DEQ will issue a Certificate of Acceptance.
- Implement 2011 legislatively-approved fees, such as land use sign-off fees.
- Implement changes to alternative treatment technologies (ATT) product approval, based on recommendations by the 2009 onsite advisory committee. This includes establishing that the products meet performance standards in the field and better track system installations.
- Newly permitted sand filters and pressurized distribution must have a service maintenance contract and ongoing maintenance similar to ATT systems.

Rules Coordinator: Maggie Vandehey

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

Telephone: (503) 229-6878

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Rule Caption: Updating Oregon's air quality rules to address federal regulations.

Date:	Time:	Location:
9-25-12	5 p.m.	DEQ Headquarters 811 SW 6th Ave, Rm. 3A Portland, OR
9-25-12	5 p.m.	DEQ Bend Office 475 NE Bellevue Dr., Suite 110 Bend, OR (Teleconference location)
9-25-12	5 p.m.	DEQ Medford Office 221 Stewart Ave., Suite 201 Medford, OR (Teleconference location)

Hearing Officer: Gregg Dahmen

Stat. Auth.: ORS 468.020, 468A.025, 468A.035, 468A.040, 468A.050 & 468A.310

Stats. Implemented: ORS 468.020, 468A.025, 468A.035, 468A.040, 468A.050 & 468A.310

Proposed Adoptions: 340-216-0068, 340-244-0239

Proposed Amendments: 340-200-0020, 340-200-0040, 340-210-0100, 340-216-0020, 340-216-0060, 340-216-0062, 340-216-0064, 340-216-0066, 340-228-0602, 340-228-0606, 340-228-0609, 340-228-0635, 340-228-0637, 340-232-0085, 340-238-0040, 340-238-

NOTICES OF PROPOSED RULEMAKING

0060, 340-244-0030, 340-244-0210, 340-244-0220, 340-244-0234, 340-244-0238, 340-244-0240, 340-244-0242, 340-244-0244, 340-244-0246, 340-244-0248, 340-244-0250

Proposed Repeals: 340-228-0611, 340-228-0613, 340-228-0615, 340-228-0617, 340-228-0619, 340-228-0621, 340-228-0623, 340-228-0625, 340-228-0627, 340-228-0629, 340-228-0631, 340-228-0633, 340-244-0230

Last Date for Comment: 9-28-12, 5 p.m.

Summary: The proposed rules would adopt new and amended federal air quality regulations and related permit rules. This includes adopting new national standards for electric utility steam generating units, gold mine ore processing and production, polyvinyl chloride and copolymers production, and sewage sludge incinerators, as well as changes to the federal gasoline dispensing facility rules. The rule-making proposal would also clarify when and if Air Contaminant Discharge Permits are required for sources subject to NSPS and NESHAP.

Rules Coordinator: Maggie Vandehey

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

Telephone: (503) 229-6878

Rule Caption: Oakridge PM2.5 Attainment Plan.

Date:	Time:	Location:
9-20-12	12:30 p.m.	LRAPA, 1010 Main St. Springfiled, OR

Hearing Officer: Merlyn Hough

Stat. Auth.: ORS 468, 468A, 468.020, 468A.025, 468A.460 & 477
Stats. Implemented: ORS 468.020, 468A.025, 468A.035 & 468A.515

Proposed Amendments: 340-200-0040

Last Date for Comment: 9-20-12, 2:30 p.m.

Summary: This rulemaking proposes adoption of an attainment plan that will bring the Oakridge non-attainment area into compliance with the PM2.5 National Ambient Air Quality Standard. The attainment plan identifies a number of emission control strategies that will be implemented through city ordinances, state rules and non-regulatory efforts including education and incentives. A mandatory residential wood combustion curtailment program, implemented by LRAPA and the City of Oakridge, is a primary strategy to reduce PM2.5 emissions. If Oakridge does not reach attainment by the federal Clean Air Act deadline of December 2014, an additional set of contingency strategies will become effective. These contingency measures include: a stricter opacity limit, revising the current 40% opacity limit to a more restrictive 20% limit, as has been done in some other northwest communities; a stricter green-yellow-red advisory program, with more yellow and red advisory days each winter; and further restrictions on the city woodstove curtailment exemptions (for sole source, economic hardship).

LRAPA requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business. These amendments, if adopted by LRAPA, will be presented to the Environmental Quality Commission for approval and submitted by DEQ to the U.S. Environmental Protection Agency as a revision to the State Implementation Plan under OAR 340-200-0040 as a requirement of the Clean Air Act.

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: Establish 2013 Seasons and Regulations for Game Mammals.

Date:	Time:	Location:
10-5-12	8 a.m.	2406 Cherry Ave NE Salem, OR 97303

Hearing Officer: Fish & Wildlife Commission

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

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162 & 2011 OL Ch. 728 (HB 3636)

Proposed Amendments: Rules in 635-008, 635-010, 635-043, 635-045, 635-060, 635-065, 635-066, 635-067, 635-068, 635-069, 635-070, 635-071, 635-072, 635-073, 635-075, 635-078, 635-080

Proposed Repeals: 635-065-0765

Last Date for Comment: 10-5-12, 8 a.m.

Summary: Establish 2013 hunting regulations for game mammals, including season dates, open areas, location of cooperative travel management areas, wildlife areas, and other rules including, but not limited to, general hunting, controlled hunt regulations and issuing tags to Oregon resident active duty military personnel currently stationed outside of Oregon

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

Rule Caption: Amend Wildlife Integrity rules relating to Tilapia.

Date:	Time:	Location:
10-5-12	8 a.m.	3406 Cherry Ave NE Salem, OR

Hearing Officer: Fish & Wildlife Commission

Stat. Auth.: ORS 496.138, 496.146, 496.162, 509.119, 506.129 & 183.390

Stats. Implemented: ORS 496.138, 496.146, 496.162, 509.119, 506.129 & 183.390

Proposed Amendments: Rules in 635-056

Last Date for Comment: 10-5-12, 8 a.m.

Summary: Amend Wildlife Integrity Rules regarding selling and exchanging of Tilapia, including, but not limited to, expanding approved Tilapia species and rearing requirements.

Rules Coordinator: Therese Kucera

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

Telephone: (503) 947-6033

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

Rule Caption: Update code editions, penalty matrix, and other minor changes.

Stat. Auth.: ORS 480.380

Stats. Implemented: ORS 480.380 & 480.385

Proposed Amendments: 837-020-0040, 837-020-0125

Last Date for Comment: 9-28-12, 5 p.m.

Summary: This rule change is needed to update the editions for codes used for cardlock facility inspections and the penalty matrix and other minor changes needed to be updated.

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

Rule Caption: Update code editions and add clarifying language.

Stat. Auth.: ORS 476 & 480

Stats. Implemented: ORS 480.410, 480.420, 480.432, 480.434, 480.435, 480.436, 480.440, 480.450 & 480.460

Proposed Amendments: Rules in 837-030

Last Date for Comment: 9-28-12, 5 p.m.

Summary: This rule change is needed to update the editions for codes used for the Liquefied Petroleum Gas (LPG) program and examinations and to add clarifying language.

NOTICES OF PROPOSED RULEMAKING

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

.....
Department of Public Safety Standards and Training
Chapter 259

Rule Caption: Update requirements for intermediate and advanced levels of public safety officer certification.

Stat. Auth.: ORS 181.640, 181.644, 181.651, 181.652, 181.653, 181.654 & 181.665

Stats. Implemented: ORS 181.640, 181.644, 181.651, 181.652, 181.653, 181.654 & 181.665

Proposed Amendments: 259-008-0060

Last Date for Comment: 9-21-12, Close of Business

Summary: This rule updates the requirements for achieving intermediate and advanced levels of certification in the criminal justice profession. Updates are made to the minimum years of experience, education and training requirements for members of the police, corrections and parole and probation discipline. The years of experience, training and education requirements are updated for upper levels of telecommunicator certification as well and a minimum competency requirement added.

The rule update phases in the new requirements in by allowing officers to apply for intermediate or advanced certification under either the current or updated requirements for a period of two years.

Rules Coordinator: Linsay Hale

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2431

.....

Rule Caption: Separate Wildland Interface Fire Fighter into two levels of certification (FFT1 and FFT2).

Stat. Auth.: ORS 181.640

Stats. Implemented: ORS 181.640

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

Last Date for Comment: 9-21-12, Close of Business

Summary: Since its adoption into administrative rule, the National Wildfire Coordinating Group (NWCG) has made changes to the Wildland Interface Fire Fighter Standards which has presented difficulties for the Oregon fire service in relation to the supervision component in the FFT1 task book. To remedy this, this rule update separates Wildland Interface Fire Fighter into two levels of certification: Wildland Interface Fire Fighter (FFT2) and Advanced Wildland Interface Fire Fighter (FFT1).

Rules Coordinator: Linsay Hale

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2431

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Rule Caption: Clarifies meaning of alternate coverage; Develops a process to allow Board discretion in considering applications.

Stat. Auth.: ORS 243.950

Stats. Implemented: ORS 243.962 & 243.968

Proposed Amendments: 259-070-0020

Last Date for Comment: 9-21-12, Close of Business

Summary: ORS 243.956(5) allows for the Public Safety Memorial Fund Board to award a benefit of comparable health and dental insurance "if alternate coverage is not provided." The statute does not clarify the meaning of "alternate coverage." Legal research indicates that this clause was added to the statute in 2001 and was intended to avoid "double-dipping" situations in which health and dental benefits were being paid to everyone, regardless of need.

Rule language was developed to clarify the meaning of "alternate coverage" and develop a process which allows for PSMF Board discretion in situations where an eligible family member has alternate

health and dental coverage available, but loses it or chooses to decline it.

Rules Coordinator: Linsay Hale

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2431

.....

Rule Caption: Clarifies objectives of the Private Security rule set; Implements plain language standards.

Stat. Auth.: ORS 181.878

Stats. Implemented: ORS 181.878

Proposed Amendments: 259-060-0005

Last Date for Comment: 9-21-12, Close of Business

Summary: The objectives of the Private Security rule set is clarified for readability and consistency. Plain language standards are also implemented.

Rules Coordinator: Linsay Hale

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2431

.....

Rule Caption: Define alarm monitor and alarm monitor facility; Update all definitions to ensure consistency with statute.

Stat. Auth.: ORS 181.870 & 181.878

Stats. Implemented: ORS 181.870 & 181.878

Proposed Amendments: 259-060-0010

Last Date for Comment: 9-21-12, Close of Business

Summary: SB 878 passed during the 2011 legislative session and adds persons who monitor alarm systems that are not designated to detect threats to public safety or personal well-being to the list of persons exempt from regulation as private security providers. This rule update clarifies the definition of "Alarm Monitor" and adds a definition of "Alarm Monitoring Facility" to rule.

Also, all definitions were reviewed and updated to ensure consistency between ORS 181.870 and administrative rule. Specific hour references were removed from the definition of "Assessment Module." The definitions for "Certified Private Security Instructor" and "Certified Private Security Firearms Instructor" were removed as both are included in the updated definition of "Instructor." The definition of "Conviction" or "Convicted" was removed on DOJ advice. Clarifying definitions were added for the acronym "DPSST," "Fundamental," "Private Security Services Providers Act," and "Unarmed Security Professional" due to use throughout the rule set. Finally, the definition of "Policy Committee" was updated to reflect the current Committee title and remove an incorrect statutory reference.

Rules Coordinator: Linsay Hale

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2431

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Rule Caption: Clarify Private Security responsibilities and minimum standards for certification and licensure; Update education requirement.

Stat. Auth.: ORS 181.871, 181.873, 181.875 & 181.878

Stats. Implemented: ORS 181.871, 181.873, 181.875, 181.878 & 181.885

Proposed Amendments: 259-060-0015, 259-060-0020, 259-060-0120

Last Date for Comment: 9-21-12, Close of Business

Summary: These proposed rule changes reorganize and clarify the responsibilities and minimum standards for the certification and licensure of private security providers.

First, the statutory list of prohibited acts is no longer repeated in administrative rule, rather ORS 181.873 is referenced.

The general certification and licensure requirements and department notification requirements upon changes of information, arrests, or the ineligibility to purchase, own, or possess a firearm has

NOTICES OF PROPOSED RULEMAKING

been moved to OAR 259-060-0015 from various other sections of the rule set. As a result the title of OAR 259-060-0015 is changed from "Prohibited Acts" to "Private Security Provider Responsibilities."

The title of OAR 259-060-0020 has been changed from "Minimum Standards for Certification or Licensure" to "Minimum Standards for Certification or Licensure as a Private Security Provider."

Finally, an education requirement has been added to OAR 259-060-0020. New applicants for private security certification or licensure submitted after November 1, 2012 will be required to provide documentation of having earned a high school diploma or GED.

Rules Coordinator: Linsay Hale

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2431

.....

Rule Caption: Clarify application process for private security certification or licensure; Clarify temporary assignment and reciprocity provisions.

Stat. Auth.: ORS 181.870 & 181.878

Stats. Implemented: ORS 181.873, 181.876, 181.878 & 181.880

Proposed Adoptions: 259-060-0025, 259-060-0030

Proposed Amendments: 259-060-0010, 259-060-0120, 259-060-0130, 259-060-0500

Proposed Repeals: 259-060-0150

Last Date for Comment: 9-21-12, Close of Business

Summary: These proposed rule changes reorganize and clarify the application process for certification and licensure of private security providers and the temporary assignment provisions.

First, the definition of "Temporary Work Permit" was clarified to mean a temporary form of certification, subjecting it to denial and revocation proceedings.

Currently, the requirements to apply for private security certification or licensure are found scattered throughout the rule, making it difficult to understand the application process. This proposed change removes all application references from the current rules and adopts a new rule entitled "Application for Certification or Licensure" which details the requirements to apply for the various levels of private security certification or licensure. The current rule dealing with adding certifications or licenses (OAR 259-060-0150) is repealed as it is completely absorbed into the new application-specific rule.

Similarly, the requirements for temporary work permits and reciprocity agreements are found throughout the current rule set. The proposed change removes these references and adopts a new rule entitled "Temporary Assignments" which details the requirements to apply for and maintain temporary work permits and reciprocity agreements.

Finally, the late submission penalty fee language was clarified to state that a fee will be assessed when the renewal applications are not submitted to the Department in a timely manner. The language allowing a waiver was removed as the new language under OAR 259-060-0025(6) allows the Department to waive the fee at its discretion.

Rules Coordinator: Linsay Hale

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2431

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Rule Caption: Clarify training requirements for the certification and licensure of private security providers.

Stat. Auth.: ORS 181.878

Stats. Implemented: ORS 181.878

Proposed Amendments: 259-060-0060, 259-060-0120, 259-060-0130, 259-060-0135

Proposed Repeals: 259-060-0065, 259-060-0070, 259-060-0075, 259-060-0080, 259-060-0085, 259-060-0095

Last Date for Comment: 9-21-12, Close of Business

Summary: These proposed rule updates reorganize and clarify the training requirements for certification and licensure and a private security provider.

The title of OAR 259-060-0060 is changed to "Minimum Standards for Training" and includes the minimum training requirements and all private security course descriptions. As a result, OAR 259-060-0065 (Written Examinations), 259-060-0070 (Basic Firearms Course and Marksmanship Qualifications), 259-060-0075 (Four-Hour Assessment Module), 259-060-0080 (Annual and Biennial Refresher Courses of Instruction), 259-060-0085 (Annual Firearms Marksmanship Requalification), and 259-060-0095 (Training Records) are repealed.

The training requirements specific to alarm monitor private security professionals, unarmed private security professionals and armed private security professionals are added to OAR 259-060-0120 (Private Security Professional Certification and Responsibilities). The training requirements for supervisory and executive managers are added to OAR 259-060-0130 (Private Security Executive Manager and Supervisory Manager Licensure and Responsibilities), and the training requirements for private security instructors are added to OAR 259-060-0135 (Private Security Instructor Certification and Responsibilities).

Rules Coordinator: Linsay Hale

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2431

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Rule Caption: Clarify process for challenging classroom instruction; Adds process for waiver of alarm monitor instructor assessment.

Stat. Auth.: ORS 181.878

Stats. Implemented: ORS 181.878

Proposed Amendments: 259-060-0090

Last Date for Comment: 9-21-12, Close of Business

Summary: This proposed rule change reorganizes and clarifies the process for challenging classroom instruction and adds a process for which the Department can waive the assessment requirement for alarm monitor instructors with three or more years of experience instructing in the field.

Rules Coordinator: Linsay Hale

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2431

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Rule Caption: Clarifies accreditation process for private security training programs.

Stat. Auth.: ORS 181.878

Stats. Implemented: ORS 181.878

Proposed Amendments: 259-060-0092

Last Date for Comment: 9-21-12, Close of Business

Summary: This rule update reorganizes and clarifies the accreditation process for private security training programs.

Rules Coordinator: Linsay Hale

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2431

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Rule Caption: Repeal unnecessary rule dealing with restrictions on private security vehicles and impersonation of peace officer.

Stat. Auth.: ORS 181.878

Stats. Implemented: ORS 181.878

Proposed Repeals: 259-060-0115

Last Date for Comment: 9-21-12, Close of Business

Summary: This proposed rule change repeals the rule dealing with restrictions on private security vehicles and the impersonation of a peace officer. Penalties for these acts are found under OAR 259-060-0300 (Denial/Suspension/Revocation).

Rules Coordinator: Linsay Hale

NOTICES OF PROPOSED RULEMAKING

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317
Telephone: (503) 378-2431

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Rule Caption: Adopts a rule that specifies certification requirements for crowd management, event or guest services.

Stat. Auth.: ORS 181.871 & 181.878

Stats. Implemented: ORS 181.871 & 181.878

Proposed Adoptions: 259-060-0145

Last Date for Comment: 9-21-12, Close of Business

Summary: ORS 181.871(k) allows for an exemption from private security certification or licensure requirements for a person who is performing crowd management or guest services as long as that person is not armed, permitted to initiate confrontational activities, or taking enforcement action. This proposed change adopts a rule specifying the certification requirements for individuals who are providing crowd management, event or guest services and individuals who supervise individuals who are providing crowd management, event or guest services.

Rules Coordinator: Linsay Hale

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2431

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Rule Caption: Implement moral fitness standards for private security providers.

Stat. Auth.: ORS 181.875 & 181.878

Stats. Implemented: ORS 181.875, 181.878 & 181.882

Proposed Amendments: 259-060-0010, 259-060-0015, 259-060-0020, 259-060-0120, 259-060-0130, 259-060-0300

Last Date for Comment: 9-21-12, Close of Business

Summary: ORS 181.875 and ORS 181.878 authorize the Board on Public Safety Standards and Training, in consultation with the Private Security and Investigator Policy Committee (PSIPC), to develop rules outlining minimum standards of moral fitness to be upheld by certified and licensed private security providers in the state of Oregon. The PSIPC, through the Board, must also develop rules establishing procedures which detail when and how private security certification or licensure may be denied, suspended or revoked.

The current rules were reviewed and new language was developed which clearly identifies moral fitness and develops a legally defensible denial/suspension/revocation procedure. Core values were developed to include honesty, character, the fair treatment of others, public trust and respect for the laws of this state and nation. Certain behavior, including that which results in specific criminal convictions, was identified as being automatic grounds for the denial/suspension/revocation of certification or licensure. Additional behavior/convictions are identified as potentially resulting in denial/suspension/revocation of certification or licensure based on a discretionary review process exercised by the Board, in consultation with the PSIPC. Upon final determination that a provider or applicant fails to meet the minimum moral fitness standards, an individual becomes ineligible to hold private security certification or licensure for a period of 10 years, with potential reconsideration by the PSIPC and Board after four years.

Rules Coordinator: Linsay Hale

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2431

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Rule Caption: Reorganize and clarify the rule dealing with private security compliance and civil penalties.

Stat. Auth.: ORS 181.878

Stats. Implemented: ORS 181.878 & 181.991

Proposed Amendments: 259-060-0010, 259-060-0450

Last Date for Comment: 9-21-12, Close of Business

Summary: This proposed rule change reorganizes the administrative rule dealing with private security compliance to enhance read-

ability and understanding and provide clarity. The definitions of "flagrant violation" and "violation" have been moved to OAR 259-060-0010 (Definitions) for consistency.

Rules Coordinator: Linsay Hale

Address: Department of Public Safety Standards and Training, 4190 Aumsville Hwy SE, Salem, OR 97317

Telephone: (503) 378-2431

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Department of Revenue Chapter 150

Rule Caption: Updating interest rate charged on delinquent tax payments; paid on refunds.

Date:

11-26-12

Time:

9 a.m.

Location:

Revenue Bldg.
955 Center Street NE
Salem, OR

Hearing Officer: Staff

Stat. Auth.: ORS 305.100 & 305.220

Stats. Implemented: ORS 305.220

Proposed Amendments: 150-305.220(1), 150-305.220(2)

Last Date for Comment: 11-26-12, 5 p.m.

Summary: 150-305.220(1) specifies the interest rate charged on deficiencies and delinquencies of tax debt.

150-305.220(2) specifies the interest rate paid on tax refunds.

These rules apply to all taxes the Department of Revenue administers. The rate is the same for both and, by statute, is tied to the prevailing rate established by the Internal Revenue Service. This rate is adjusted when it becomes one percentage point different than the IRS rate, reviewed annually. This change is to reduce the rate charged or paid from 5% to 4%.

Rules Coordinator: Ken Ross

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

Telephone: (503) 945-8890

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Department of Transportation, Highway Division Chapter 734

Rule Caption: Prequalification for Bidding Highway and Bridge Construction/Contractor Performance Evaluations.

Stat. Auth.: ORS 184.616, 184.619, 279A.050, 279A.065 & 279C.430

Stats. Implemented: ORS 279C.430

Proposed Amendments: 734-010-0220, 734-010-0290, 734-010-0300, 734-010-0320, 734-010-0330, 734-010-0340, 734-010-0350, 734-010-0380

Proposed Repeals: 734-010-0310, 734-010-0370

Last Date for Comment: 9-21-12, Close of Business

Summary: ODOT's current evaluation and scoring procedure does not sufficiently identify the small number of contractors with records of poor performance or provide sufficient incentives to improve contractor performance. The revised rules will achieve the following objectives:

- Use the Washington State Department of Transportation's evaluation process as a model to build ODOT's scoring methodology where every contractor starts with a score of zero and then increases or decreases based on performance. ODOT's current method starts each contractor with a perfect score that is only reduced when the evaluation contains certain specific deficiencies.

- Broaden the rating categories as well as weigh the categories based on importance or risk and increase the frequency of evaluations.

- Eliminate the rolling average scoring method so that poor performance is promptly identified rather than minimized by the average (OAR 731-010-0310).

- Allow more types of information and interactions with ODOT Project Managers, such as email, diary entries, phone calls, oral conversations, to be used in the performance rating.

NOTICES OF PROPOSED RULEMAKING

• Develop remedial actions and progressively tiered consequences for poor performance scores ranging from short term probation to revocation of prequalification status.

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: Trusted Carrier Partner program for passenger-carrying motor carrier.

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232 & 825.250

Stats. Implemented: ORS 825.212, 825.232 & 825.250

Proposed Adoptions: 740-045-0065, 740-045-0075

Proposed Amendments: 740-045-0060, 740-045-0070

Last Date for Comment: 9-21-12, Close of Business

Summary: These rules describe the qualifications necessary to participate in the Trusted Carrier Partner (TCP) program for property-carrying motor carriers and the issuance of Trusted Carrier license plates. To qualify for the program, a carrier must enroll in the Green Light program, equip participating vehicles with transponders, and pass a review of their compliance with registration, tax, and safety requirements. Carriers qualifying for the TCP program display the Trusted Carrier license plate and are not subject to random safety inspection or safety compliance reviews, unless warranted. In addition, the motor carrier qualifies for a waiver of surety bond requirements. The program is intended to help the Oregon Department of Transportation (ODOT) direct its motor carrier enforcement efforts to where they're needed and provide an incentive for the motor carriers to be in compliance with state and federal requirements.

Oregon's passenger-carrying vehicle inspection program has been strongly emphasized over the last two years and includes inspections done at terminal locations, destination locations, and along the interstate at Ports of Entry. The proposed rulemaking would create a TCP program for passenger-carrying motor carriers. The program would have same requirement as property-carrying motor carriers with regard to passing a review of their compliance with registration, tax, and safety requirements. Enrollment into the Green Light program and equipping the vehicles with transponders would not be required. In addition, a passenger-carrying motor carrier would agree to have periodic inspection performed by ODOT. The proposed rulemaking is necessary to create a TCP program for passenger-carrying motor carriers. The program would be beneficial to ODOT's safety program and to the motor carrier by allowing regular inspections of passenger-carrying vehicles to be completed at the terminal location, avoiding over the road inspection delays. The program will also provide an incentive for passenger-carrying motor carriers to be in compliance with federal and state requirements.

Rules Coordinator: Lauri Kunze

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

Telephone: (503) 986-3171

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**Employment Department,
Child Care Division
Chapter 414**

Rule Caption: Sunscreen.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657

Proposed Amendments: 414-205-0100, 414-300-0230, 414-0350-0180

Last Date for Comment: 9-23-12, 5 p.m.

Summary: Clarified and made more specific, requirements for the safe and appropriate use of sunscreen in child care settings, includ-

ing: requiring written parental authorization, permitting use of bulk sunscreen, prohibiting use of aerosol spray bottles.

Rules Coordinator: Courtney Brooks

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

Telephone: (503) 947-1724

.....
**Land Conservation and Development Department
Chapter 660**

Rule Caption: Regional large lot employment land in Central Oregon.

Date:	Time:	Location:
9-27-12	6:30 p.m.	Redmond City Hall 777 SW Deschutes Ave. Redmond, OR
11-15-12	8:30 a.m.	McMinnville Civic Hall 200 NE 2nd St. McMinnville, OR

Hearing Officer: Catherine Morrow; LCDC

Stat. Auth.: ORS 197.040

Other Auth.: Statewide Planning Goals (OAR 660, div 15)

Stats. Implemented: ORS 195, 197

Proposed Adoptions: 660-024-0045

Proposed Amendments: 660-024-0040

Last Date for Comment: 11-15-12, 8:30 a.m.

Summary: The proposed new and amended rules will provide procedures and requirements for determining large lot employment land need in the three-county Central Oregon region (Crook, Deschutes and Jefferson Counties, and participating cities in those counties). The rules will include planning and zoning requirements for sites added to UGBs in response to the determined need, and will provide for urban growth boundary amendments to accommodate the need.

Rules Coordinator: Casaria Taylor

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

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

.....
**Landscape Contractors Board
Chapter 808**

Rule Caption: Amends written contract standards for contracts and subcontracts with other contractors.

Date:	Time:	Location:
9-25-12	9 a.m.	LCB 2111 Front St. NE, Suite 2-101 Salem, OR 97301

Hearing Officer: Shelley Sneed

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.625

Proposed Amendments: 808-002-0020

Last Date for Comment: 9-25-12, Close of Hearing

Summary: OAR 808-002-0020 is being amended to separate the written contract requirements when a contract is with a homeowner (or agent of the homeowner) or another contractor. The standards for a contract with another contractor will no longer require all ten elements. The items being removed are: the landscape contracting business address and telephone number, the other contractors address, and the statement the business is licensed by the LCB and the current address and phone number of the LCB. These elements are still required in a contract or subcontract with a homeowner or an agent of the homeowner. This rule will be retroactive to all contracts signed on or after August 1, 2011.

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 rules for continuing education credit for teaching and presenting.

NOTICES OF PROPOSED RULEMAKING

Date: 9-25-12
Time: 9 a.m.
Location: LCB
2111 Front St. NE, Suite 2-101
Salem, OR 97301

Hearing Officer: Shelley Sneed
Stat. Auth.: ORS 670.310 & 671.670
Stats. Implemented: ORS 671.676
Proposed Amendments: 808-040-0025, 808-040-0050, 808-040-0060
Last Date for Comment: 9-25-12, Close of Hearing
Summary: Clarifies rules for continuing education credit for teaching and presenting. Clarifies that credit for presenting a class is not given only for the first presentation, but for each presentation. Also clarifies the preparation and research CEH may be available one time only and what documentation is required if selected for audit.
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

Rule Caption: Allows civil penalty amounts to be settled.
Date: 9-25-12
Time: 9 a.m.
Location: LCB
2111 Front St. NE, Suite 2-101
Salem, OR 97301

Hearing Officer: Shelley Sneed
Stat. Auth.: ORS 670.310 & 671.670
Stats. Implemented: ORS 671.997
Proposed Amendments: 808-005-0020
Last Date for Comment: 9-25-12, Close of Hearing
Summary: Amends rule to allow civil penalty amounts to be settled.
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

Oregon Criminal Justice Commission Chapter 213

Rule Caption: Aggravated Harrassment Citations in Sentencing Guidelines, and SB 77 Rules.
Stat. Auth.: ORS 137.667, 183.341(2) & (4) & 203.095
Stats. Implemented: ORS 137.667, 166.070(2), 183.341(2) & (4) & 203.095
Proposed Amendments: 213-001-0000, 213-005-0001, 213-008-0003, 213-008-0005, 213-012-0020, 213-012-0030
Proposed Repeals: 213-001-0000(T), 213-070-0000, 213-070-0005, 213-070-0010, 213-070-0020, 213-070-0030, 213-070-0040, 213-070-0050
Last Date for Comment: 10-12-12, 5 p.m.
Summary: The Criminal Justice Commission (CJC) is required under ORS 137.667(1) to review all legislation creating new crimes or modifying existing crimes, and to adopt by rule necessary changes to the sentencing guidelines. CJC may also classify offenses as person felonies or person misdemeanors. ORS 137.667(1). Under the Oregon Administrative Procedures Act (APA), agencies are required to adopt rules pertaining to rulemaking procedures. ORS 183.341. The APA also requires that agencies give the public a minimum of 21 days' notice of a proposed rulemaking before the rule becomes effective. ORS 183.335(1)(b). CJC has adopted such rules. However, the public notice period required under the CJC rules is greater than the public notice period required under the APA, i.e., 28 days' notice versus 21 days' notice.

Occasionally, in order to have CJC's proposed changes to the sentencing guidelines administrative rules take effect in a timely manner, it is necessary for CJC to provide notice that meets the statutory APA minimum notice requirement of 21 days, but which is later than CJC's existing notice requirement of 28 days. This rule change makes permanent a temporary rule that modifies CJC's existing

administrative rules regarding notice to the public of proposed rule-making so that CJC's notice requirements are consistent with the advance public notice time period required by the APA. CJC's advance notice requirements pertaining to legislators, interested parties, and other specific entities listed in CJC's notice rules remain unchanged.

In 2009, the Oregon Legislature created the crime of Aggravated Harassment. HB 3271 (2009). A person commits that offense, in relevant part, when the person propels a dangerous substance at a staff member (a defined term), knowing the staff member to be a staff member, while the staff member is acting in his or her official capacity. This same crime was previously a form of Assault III, and was codified at ORS 163.165(1). The Legislature requires that persons convicted of propelling a dangerous substance at a staff member (currently Aggravated Harassment, previously Assault III) be sentenced to a term of imprisonment in a state correctional facility. The references to this requirement in CJC's rules currently use the old Assault III citation. The rule change updates those citations to the location where the requirement is currently found, in ORS 166.070, the Aggravated Harassment statute.

Finally, CJC was required under former ORS 203.095 (2009) (SB 77 (2009)) to adopt rules pertaining to public safety services guidelines to aid CJC in determining whether a county provided a minimally adequate level of public safety services in certain defined areas. In 2012, the Oregon Legislature amended ORS 203.095 to remove CJC's authority in this regard, and to give the Governor authority, in certain circumstances, to determine whether a county is providing a minimally adequate level of state required services. HB 4176 (2012). As a result, CJC is repealing its rules pertaining to determination of a minimally adequate level of public safety services.

Rules Coordinator: Craig Prins
Address: Oregon Criminal Justice Commission, 885 Summer St. NE, Salem, OR 97301
Telephone: (503) 378-4830

Oregon Department of Education Chapter 581

Rule Caption: Repeals duplicative rules and corrects cross reference in special education rules.
Date: 9-26-12
Time: 1 p.m.
Location: Rm. 251A, Public Service Bldg.
255 Capitol St. NE
Salem, OR

Hearing Officer: Cindy Hunt
Stat. Auth.: ORS 343.055
Stats. Implemented: ORS 343.155 & 343.177
Proposed Amendments: 581-015-2425
Proposed Repeals: 581-015-0133, 581-015-0710
Last Date for Comment: 9-26-12, 5 p.m.

Summary: The 2004 Amendments to the IDEA and corresponding regulations, effective October 2006, required changes to existing state regulations. In addition, the state regulations had been reorganized in 2007 and renumbered in a more logical sequence so that information is easier to find. Regulations had also been updated to reflect more current language, and some regulations had been amended for clarity or to align more closely with the federal statutes and regulations. Obsolete rules were repealed, and reorganization prompted repeal of some rules that have been combined with new or amended rules.

Two rules intended for repeal at this time, 581-015-0133 and 581-015-0710, were missed through this extensive Division 15 rewrite. These rules are: 581-015-0133 which was renumbered to 581-015-2295 and 581-015-0710 which was renumbered to 581-015-2260. These two renumbered rules need to be removed and repealed.

Finally, 581-015-2425(5)(b), on disciplinary removals, was also modified at this time. It currently reads "provide services to the student in an interim alternative educational setting, determined by the

NOTICES OF PROPOSED RULEMAKING

IEP team, in accordance with OAR 581-015-2345". The reference to 581-015-2345 incorrectly refers back to due process hearing request and response. This is a typo. Subsection (5)(b) of 581-015-2425 should refer to OAR 581-015-2435 which appropriately references the requirements of an interim alternative educational setting as needed in this rule.

Rules Coordinator: Cindy Hunt

Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-5651

Rule Caption: Makes rules relating to dispute resolution and payment compliant with federal IDEA.

Date:	Time:	Location:
9-26-12	1 p.m.	Public Services Bldg., Rm. 251A 255 Capitol St. NE Salem, OR

Hearing Officer: Cindy Hunt

Stat. Auth.: ORS 343.475 & 343.511

Stats. Implemented: ORS 343.475, 343.495, 343.511, 34 CFR 303.120, 303.511, 303.520 & 303.521

Proposed Adoptions: 581-015-2786

Proposed Amendments: 581-015-2865, 581-015-2870, 581-015-2885, 581-015-2890

Last Date for Comment: 10-11-12, 5 p.m.

Summary: As required by the U.S. Department of Education, the proposed new OAR and OAR amendments add specific IDEA content related to the system of payments and dispute resolution options, primarily for early intervention services. A summary statement for each OAR is listed below:

New: OAR 581-015-2785 Dispute Resolution Within and Between Public Agencies – Early Intervention (EI) Services: Specifies that each public agency responsible for providing early intervention services may use its internal procedures to timely resolve intra-agency disputes about providing or paying for these services and that early intervention services may not be denied or delayed during the pendency of disputes between agencies regarding payment for services.

Amend: 581-015-2865 Mediation; 581-015-2870 Due Process Hearings: Adds to each OAR a provision that a parent of a child in early intervention may use the specified dispute resolution procedures (due process or mediation) to challenge the imposition of insurance fees and costs related to a public agency's use of public or private insurance to provide early intervention.

581-015-2885 Preschool Children with Disabilities Covered by Public Insurance; 581-015-2890 Preschool Children with Disabilities Covered by Private Insurance: Adds to each rule provisions that a public agency using a parent's public or private insurance in conjunction with early intervention services must pay parents' out-of-pocket costs (e.g., co-payments, deductibles) resulting from this use; may use Part C funds to pay for these costs; and must notify parents that parents may use IDEA's dispute resolution procedures to contest any imposition of these insurance fees by the public agency.

Rules Coordinator: Cindy Hunt

Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-5651

Rule Caption: Clarifies that references to Superintendent in rules, policies and motions also refer to Deputy.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 326.300 & 326.310

Proposed Adoptions: 581-001-0016

Last Date for Comment: 10-1-12, 5 p.m.

Summary: Senate Bill 552 (2011) amended state law to make the Governor the Superintendent of Public Instruction at the end of Superintendent Castillo's term of office or when there is a vacancy in the office. Superintendent Castillo resigned from office effective

June 30, 2012. Therefore, the Governor became Superintendent on July 1, 2012. SB 552 also directed the Governor, acting as superintendent, to appoint a Deputy Superintendent of Public Instruction. The deputy "shall perform any act or duty of the office of Superintendent of Public Instruction that is designated by the Governor, and the Governor is responsible for any acts of the deputy superintendent."

The Governor appointed Rob Saxton as Acting Deputy Superintendent of Public Instruction effective July 31, 2012 pending confirmation by the Senate in September. The Governor has designated Mr. Saxton, as Deputy, to perform the duties of the Superintendent of Public Instruction including acting as administrative officer of the state board and executive head of the Department of Education.

The state board, by rule, policy and motion, has directed the superintendent to perform acts and duties as the executive head of the department. The rule clarifies that the state board's intent is that these directions by rule also include the deputy.

Rules Coordinator: Cindy Hunt

Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-5651

Rule Caption: Changes fees charged by Department of Education for fingerprinting of public school employees.

Stat. Auth.: ORS 326.603

Stats. Implemented: ORS 326.603

Proposed Amendments: 581-021-0500

Last Date for Comment: 10-1-12, 5 p.m.

Summary: Changes the fees charged by ODE for processing fingerprinting applications for public school employees based on FBI reduction of fees. We would like to reduce the rate we charge school districts to reflect this change from \$62.00 to \$59.00.

Rules Coordinator: Cindy Hunt

Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-5651

Rule Caption: Changes fees charged by Department of Education for fingerprinting of private school employees.

Stat. Auth.: ORS 326.603

Stats. Implemented: ORS 326.603

Proposed Amendments: 581-045-0586

Last Date for Comment: 10-1-12, 5 p.m.

Summary: Changes the fees charged by ODE for processing fingerprinting applications for private school employees based on FBI reduction of fees. We would like reduce the rate we charge private schools to reflect this change from \$62.00 to \$59.00

Rules Coordinator: Cindy Hunt

Address: Oregon Department of Education, 255 Capitol St. NE, Salem, OR 97310

Telephone: (503) 947-5651

Oregon Health Authority Chapter 943

Rule Caption: Amend Electronic Data Transmission rules to include Coordinated Care Organizations.

Stat. Auth.: ORS 413.042 & 414.065

Stats. Implemented: ORS 413.042 & 414.065

Proposed Amendments: 943-120-0100, 943-120-0110, 943-120-0112, 943-120-0114, 943-120-0116, 943-120-0118, 943-120-0120, 943-120-0170, 943-120-0180, 943-120-0200

Last Date for Comment: 9-24-12, 5 p.m.

Summary: The Authority is amending these rules to ensure the Authority's EDT rules include Coordinated Care Organization related to the functionality of the Oregon Replacement Medicaid Management Information System (MMIS) in conjunction with the

NOTICES OF PROPOSED RULEMAKING

Health Insurance Portability and Accountability Act (HIPAA) transactions and codes set standards for the exchange of electronic data. These rules allow CCO's to submit MMIS transactions.

Rules Coordinator: Evonne Alderete

Address: Oregon Health Authority, 500 Summer St. NE, Salem, OR 97301

Telephone: (503) 932-9663

Oregon Health Authority, Division of Medical Assistance Programs Chapter 410

Rule Caption: Clarify Technical References and Guides for Billing Services for Administrative Medical Examinations and Reports.

Date:	Time:	Location:
9-18-12	10:30 a.m.	500 Summer St NE, Rm, 137C Salem, OR 97301

Hearing Officer: Cheryl Peters

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-150-0040

Proposed Repeals: 410-150-0000, 410-150-0020, 410-150-0060, 410-150-0080, 410-150 0200, 410-150-0300

Last Date for Comment: 9-20-12, 5 p.m.

Summary: The Division is amending OAR 410-150-0040 to ensure clarity in rule text. As a continued effort to make administrative rules more efficient, the Division will delete OARs 410-150-0000, 410-150-0020, 410-150-0060, 410-150-0080, 410-150-0200 and 410-150-0300, removing unnecessary text and placing other text in more appropriate rules.

Rules Coordinator: Cheryl Peters

Address: Oregon Health Authority, Division of Medical Assistance Programs, 500 Summer St. NE, Salem, OR 97301

Telephone: (503) 945-6527

Oregon Medical Board Chapter 847

Rule Caption: Eliminates references to "monitoring entity" per HB 4009 and changes "vendor" to "contractor".

Stat. Auth.: ORS 676.185-200 & 677.265

Stats. Implemented: ORS 676.185-200, 677.225, 677.265 & 677.645

Proposed Amendments: 847-065-0010, 847-065-0015, 847-065-0020, 847-065-0025, 847-065-0030, 847-065-0035, 847-065-0040, 847-065-0045, 847-065-0050, 847-065-0055, 847-065-0060, 847-065-0065, 847-065-0070

Last Date for Comment: 9-21-12, Close of Business

Summary: Proposed permanent rule amendment eliminates references to the "monitoring entity," which was removed from the statute in 2012 HB 4009, changes "vendor" to "contractor" in keeping with the Oregon Health Authority's OARs (Chapter 415) on the HPSP, and corrects the statutes implemented.

Rules Coordinator: Nicole Krishnaswami

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

Telephone: (971) 673-2667

Rule Caption: Removes prohibition on motions for summary judgment in contested cases.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 183.335, 183.341 & 677.275

Proposed Repeals: 847-001-0025

Last Date for Comment: 9-21-12, Close of Business

Summary: Proposed rule repeal removes the prohibition on motions for summary judgment in contested cases.

Rules Coordinator: Nicole Krishnaswami

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

Telephone: (971) 673-2667

Rule Caption: Rule titles updated to reflect the language in the implemented statute.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 127.800-127.995

Proposed Amendments: 847-010-0081, 847-015-0035

Last Date for Comment: 9-21-12, Close of Business

Summary: Proposed rule amendments reflect hybrid language derived from the current rule titles and the language used in the implemented statute.

Rules Coordinator: Nicole Krishnaswami

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

Telephone: (971) 673-2667

Rule Caption: Clarifies that a physician supervising a dispensing physician assistant must register as a dispensing physician.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.010, 677.089, 677.510 & 677.515

Proposed Amendments: 847-015-0025

Last Date for Comment: 9-21-12, Close of Business

Summary: Proposed rule amendment clarifies that distribution of samples is not dispensing and that a physician supervising a physician assistant with drug dispensing authority must be registered as a dispensing physician.

Rules Coordinator: Nicole Krishnaswami

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

Telephone: (971) 673-2667

Rule Caption: Defines office-based procedures and clarifies facility and provider qualifications and requirements.

Stat. Auth.: ORS 677.265 & 679.255

Stats. Implemented: ORS 677.060, 677.085, 677.097 & 677.265

Proposed Adoptions: 847-017-0003, 847-017-0008, 847-017-0037

Proposed Amendments: 847-017-0000, 847-017-0005, 847-017-0010, 847-017-0015, 847-017-0020, 847-017-0025, 847-017-0030, 847-017-0035, 847-017-0040

Last Date for Comment: 9-21-12, Close of Business

Summary: Proposed rule amendments classify levels of office-based surgeries and set forth the corresponding requirements, reorganize and add new definitions, establish a standard of practice for physicians performing office-based surgery, set forth requirements for office-based surgery facilities, classify the assessment and informed consent procedures prior to the performance of an office-based surgery, clarify the requirements for patient medical records, expand the emergency care and transfer protocol requirements, require reporting of specified office-based surgical complications, and contain general grammar and language housekeeping changes.

Rules Coordinator: Nicole Krishnaswami

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

Telephone: (971) 673-2667

Rule Caption: Aligns language with revised statute and adds Albuterol treatment and aspirin administration to scope.

Stat. Auth.: ORS 677.265 & 682.245

Stats. Implemented: ORS 677.235, 677.265 & 682.245

Proposed Amendments: 847-035-0001, 847-035-0011, 847-035-0012, 847-035-0020, 847-035-0025, 847-035-0030

Last Date for Comment: 9-21-12, Close of Business

Summary: Proposed rule amendments alphabetize definitions and align titles and language with the revised EMS statute, including

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changing “certified” to “licensed,” “EMTs” to EMS providers,” “First Responder” to “Emergency Medical Responder,” “EMT-Basic” to “EMT,” “EMT-Paramedic” to “Paramedic,” and “EMT Advisory Committee” to “EMS Advisory Committee.”

Proposed rule amendment also makes several changes to the scope of practice: (1) adds administration of nebulized Albuterol sulfate treatments to the EMT-Basic scope of practice, (2) adds administration of aspirin to the First Responder scope of practice, and (3) changes “needle thoracentesis” to “needle thoracostomy” in the Paramedic scope of practice.

Rules Coordinator: Nicole Krishnaswami
Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
Telephone: (971) 673-2667

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Rule Caption: Physician assistant must be identified in oral communications and adds fine for all rule violations.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.510
Proposed Amendments: 847-050-0040

Last Date for Comment: 9-21-12, Close of Business
Summary: Proposed rule amendment clarifies that a physician assistant must be properly identified in oral communications and adds a fine for violations of any part of the rule, including failure to submit a practice agreement within ten days after beginning practice or changing the duties delegated.

Rules Coordinator: Nicole Krishnaswami
Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
Telephone: (971) 673-2667

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Rule Caption: Corrects a statutory reference in the rule for compensation of PA Committee members.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.235, 677.540
Proposed Amendments: 847-050-0063

Last Date for Comment: 9-21-12, Close of Business
Summary: Proposed rule amendment corrects a statutory reference in the rule for compensation of PA Committee members.

Rules Coordinator: Nicole Krishnaswami
Address: Oregon Medical Board, 1500 SW 1st Ave., Suite 620, Portland, OR 97201
Telephone: (971) 673-2667

Oregon Public Employees Retirement System Chapter 459

Rule Caption: Edits clarify administration of judge member retirement program under ORS 238.500 to 238.585.

Date: 9-18-12 **Time:** 3 p.m. **Location:** PERS Boardroom
11410 SW 68th Pkwy.
Tigard, OR

Hearing Officer: Ricki Vang
Stat. Auth.: ORS 238.650

Stats. Implemented: ORS 238.555 & 238.565
Proposed Amendments: 459-040-0020, 459-040-0080
Last Date for Comment: 9-21-12, 5 p.m.

Summary: Legislation in 2005 (House Bill 3238) requires agencies to review new rules adopted since January 1, 2006, within five years of the date the new rules are adopted. The rules contained in Chapter 459, Division 40 – Judge Member Program, were adopted on July 26, 2007, and the five-year review of these rules was completed on July 26, 2012. The proposed modifications to OAR 459-040-0020 and 459-040-0080 include housekeeping edits to delete and update rule citations; and deletion of the separate date of disability retirement standard for judge members.

Rules Coordinator: Daniel Rivas

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

Telephone: (503) 603-7713

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Rule Caption: Establish uniform rules applicable when PERS has independent contracting authority.

Date: 10-23-12 **Time:** 3 p.m. **Location:** PERS Boardroom
11410 SW 68th Pkwy.
Tigard, OR

Hearing Officer: Daniel Rivas
Stat. Auth.: ORS 238 & 238A, 238.410, 238.650, 238A.450 & 279A.065

Stats. Implemented: ORS 238, 238A, 279A, 279B, 243.470 & 243.478

Proposed Adoptions: 459-005-0400, 459-005-0420

Proposed Amendments: 459-035-0001

Proposed Repeals: 459-035-0200, 459-035-0220

Last Date for Comment: 11-2-12, 5 p.m.

Summary: PERS is generally subject to the Department of Administrative Services (DAS) public contracting and procurement provisions in ORS Chapters 279A, 279B, and 279C (Public Contracting Code), with some statutory exceptions. The purpose of this rulemaking is to establish uniform rules applicable when PERS has independent contracting authority and the Public Contracting Code does not apply. PERS proposes to adopt the Department of Justice (DOJ) Model Public Contracting Rules, as effective on August 1, 2012 and as thereafter amended, as generally applicable to PERS, with exceptions being specifically identified. These will apply to the range of subjects for which PERS has independent contracting authority and the Public Contracting Code does not apply, such as the PERS Health Insurance Program (PHIP) or the Oregon Savings Growth Plan. Locating the rules in one place rather than having separate sets of rules for each subject makes the rules easier to use and to update, as well as provides consistency of rules for all subjects.

Rules Coordinator: Daniel Rivas
Address: Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281

Telephone: (503) 603-7713

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Oregon University System, Eastern Oregon University Chapter 579

Rule Caption: Modify Parking and Vehicular Traffic Regulations at Eastern Oregon University.

Date: 9-18-12 **Time:** 2 p.m. **Location:** Eastern Oregon University
Inlow Hall 201
La Grande, OR 97850

Hearing Officer: Staff
Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Proposed Amendments: 579-070-0005

Last Date for Comment: 9-18-12, 5 p.m.

Summary: Parking and Vehicular Traffic Regulations.

Rules Coordinator: Teresa Carson-Mastrude

Address: Oregon University System, Eastern Oregon University, One University Blvd., Inlow Hall 202A, La Grande, OR 97850

Telephone: (541) 962-3773

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Rule Caption: OAR 579-020-0006 — To Amend Special Student Fees.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Proposed Amendments: 579-020-0006

Last Date for Comment: 9-26-12, Close of Business

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

NOTICES OF PROPOSED RULEMAKING

Rules Coordinator: Teresa Carson-Mastrude
Address: Oregon University System, Eastern Oregon University,
One University Blvd., Inlow Hall 202A, La Grande, OR 97850
Telephone: (541) 962-3773

Rule Caption: To modify rules for Rates for Residence Halls and Board Dining.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Proposed Amendments: 579-060-0190

Last Date for Comment: 9-26-12, Close of Business

Summary: POLICIES AND RATES FOR RESIDENCE HALLS AND BOARD DINING: Policies that govern the operation of the residence halls shall be in accordance with the Residence Life Room and Dining Contract, Student Handbook and the Residence Hall Room and Board Dining Rates. These documents are by reference included in the Oregon Administrative Rules herein.

Rules Coordinator: Teresa Carson-Mastrude

Address: Oregon University System, Eastern Oregon University,
One University Blvd., Inlow Hall 202A, La Grande, OR 97850

Telephone: (541) 962-3773

Oregon University System, Portland State University Chapter 577

Rule Caption: Amends Portland State University's Code of Student Conduct and Responsibility.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351

Proposed Amendments: 577-031-0125, 577-031-0130, 577-031-0131, 577-031-0132, 577-031-0133, 577-031-0135, 577-031-0136, 577-031-0137, 577-031-0139, 577-031-0140, 577-031-0141, 577-031-0142, 577-031-0143, 577-031-0145, 577-031-0146, 577-031-0147, 577-031-0148

Last Date for Comment: 9-24-12, 5 p.m.

Summary: The proposed amendments to Portland State University's procedural rules governing the University's Code of Student Conduct and Responsibility are a result of the required review and revision of the Student Code of Conduct that takes place every three years. These revisions clarify definitions, standardize use of defined terms, revise potential violations and sanctions, clarify appeal procedures, clarify procedures regarding allegations of certain sexual offenses, and update the rules to reflect updates in other University terms and policies. A copy of the Notice of Proposed Rulemaking, Statement of Need and Fiscal Impact and the text of the proposed rules can be found at <http://www.pdx.edu/fadm/rulemaking-portland-state>

Rules Coordinator: Lorraine D. Baker

Address: Oregon University System, Portland State University, PO Box 751, Portland, OR 97207-0751

Telephone: (503) 725-8050

Oregon University System, University of Oregon Chapter 571

Rule Caption: Institute random student-athlete drug testing and provide for safe-reporting program.

Date:	Time:	Location:
10-3-12	1 p.m.	Walnut Rm., EMU University of Oregon Eugene, OR

Hearing Officer: Lisa Peterson

Stat. Auth.: ORS 351 & 352

Stats. Implemented: ORS 352.008

Proposed Adoptions: 571-004-0038

Proposed Amendments: 571-004-0020, 571-004-0025, 571-004-0030, 571-004-0050, 571-004-0055

Last Date for Comment: 10-4-12, 12 p.m.

Summary: The proposed amendments and new rule to the University of Oregon's drug testing rules emphasize that illicit and performance enhancing drugs are not allowed, provide for random drug testing, outline sanctions for positive drug tests, outline drug testing methods, and encourage self-reporting and treatment for drug use. These amendments and new rule are necessary for the following reasons. First, the University seeks to educate its student-athletes about the detrimental effects of drug use on their health, safety, academic work, and future careers. Second, the University must abide by NCAA rules and uphold the integrity of its Athletic Department. Third, because student-athletes represent the University in various settings, the University has an interest in promoting drug-free and healthful lifestyles to all of the community through its Athletics programs. Fourth, the University must minimize the risk of injury caused by student-athlete drug use in intercollegiate athletics. Fifth, the University must be able identify present or potential substance use and provide treatment and rehabilitation for its student-athletes. Sixth, the University seeks to maintain a fair and drug-free sport, in which no student-athlete uses or feels pressured to use performance enhancing drugs or any other illegal substance.

Rules Coordinator: Amanda Hatch

Address: Oregon University System, University of Oregon, 1226 University of Oregon, Eugene, OR 97403-1226

Telephone: (541) 346-3082

Parks and Recreation Department Chapter 736

Rule Caption: Tribal and Oregon Youth Authority Foster Fee Waiver and No Show rules for Preregistration.

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.111 & 390.124

Proposed Amendments: 736-015-0006, 736-015-0015

Last Date for Comment: 9-28-12, Close of Business

Summary: Amends the definitions section of division 15 rules (736-015-0006) to add families in homes directly certified by tribal governments and the Oregon Youth Authority to the list of those eligible for the foster family fee waiver.

Amends the reservations section of division 15 rules (736-015-0015) and applies the standard no-show rules to campers who preregister but do not arrive by 1:00 PM on the second day of their reservation.

Rules Coordinator: Vanessa DeMoe

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

Telephone: (503) 986-0719

Public Utility Commission Chapter 860

Rule Caption: In the Matter of a Rulemaking Regarding Energy Utility Billing Error Reporting.

Date:	Time:	Location:
10-4-12	10 a.m.	550 Capitol St. NE, 1st Floor Salem, OR 97301

Hearing Officer: Patrick Power

Stat. Auth.: ORS. Ch. 183, 756 & 757

Stats. Implemented: ORS 756.040 & 757.020

Proposed Adoptions: 860-021-0170

Last Date for Comment: 10-18-12, 5 p.m.

Summary: Billing error service quality measures applicable to Portland General Electric Company and NW Natural sunset this year. These service quality measures include billing error reporting requirements for the two utilities. Information from the billing error reporting is used by PUC Staff to help identify systemic problems and trends with utility billing. Because of the usefulness of this information, Staff's proposed rule expands the reporting requirements to all regulated energy utilities to allow Staff to continue to identify systemic problems and trends with utility billings and to work with the

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companies to reduce the number of incorrect bills sent to utility customers.

The Commission encourages participants to file written comments as early as practicable in the proceedings so that other participants have the opportunity to consider and respond to the comments before the deadline. Please reference Docket No. AR 567 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 paper copy to the Filing Center at PO Box 2148, Salem, Oregon 97308-2418.

For more information about the Commission's Filing Center, please see <http://apps.puc.state.or.us/edockets/center.htm>. Interested persons may review all filings online at <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=17809>. For guidelines on filing and participation, please see OAR 860-001-0140 through 860-001-0160 and 860-001-0200 through 860-001-0250 found online at http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_860/860_tofc.html

Participants wishing to monitor the hearing by telephone must contact Diane Davis at diane.davis@state.or.us or (503) 378-4372 by close of business September 27, 2012, to request a dial-in number. The Commission strongly encourages those planning to present oral comment at the hearing to attend in person.

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,
Archives Division
Chapter 166**

Rule Caption: Amends records retention rules for state agencies; political subdivisions; primary, secondary and higher education institutions.

Date:	Time:	Location:
9-20-12	9 a.m.	OR State Archives 800 Summer St. NE Salem, OR 97310

Hearing Officer: Archives Staff

Stat. Auth.: ORS 192 & 357

Stats. Implemented: ORS 192.005–192.170 & 357.805–357.895

Proposed Amendments: 166-150-0005, 166-150-0035, 166-150-0050, 166-150-0085, 166-150-0110, 166-150-0115, 166-150-0120, 166-150-0135, 166-150-0165, 166-150-0175, 166-150-0185, 166-150-0200, 166-200-0010, 166-200-0050, 166-200-0055, 166-200-0075, 166-200-0095, 166-0200-0100, 166-200-0110, 166-200-0130, 166-200-0140, 166-300-0015, 166-300-0025, 166-300-0035, 166-300-0040, 166-400-0010, 166-400-0025, 166-400-0040, 166-450-0005, 166-450-0020, 166-450-0050, 166-475-0010, 166-475-0050

Last Date for Comment: 9-20-12, Close of Business

Summary: Amendment updates the public records retention requirements for state agencies, political subdivisions, and educational administration (schools, school districts, educational service districts, community colleges, higher education), addressing the production of new types of public records being produced by government agencies; changes in state statutes lengthening the business need for certain public records; changes in industry standards abbreviating the business need for certain public records; changes in terminology regarding technology used to produce and maintain certain public records; and clarification of existing rule language to more accurately address the retention and disposition of certain public records, pursuant to the legal, fiscal, administrative, and historical need for the records identified by public agency staff, hearing officer, and advisory committee.

Rules Coordinator: Julie Yamaka

Address: Secretary of State, Archives Division, 800 Summer St. NE, Salem, OR 97310

Telephone: (503) 378-5199

Teacher Standards and Practices Commission Chapter 584

Rule Caption: Adopt, Amend, and repeal administrative; highly qualified; alternative assessment; professional development, and basic skills.

Date:	Time:	Location:
9-25-12	1:30 p.m.	250 Division St. NE Salem, OR 97301

Hearing Officer: Victoria Chamberlain

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120–342.430, 342.455–342.495, 342.533, 342.125, 342.120–342.430 & 342.985

Proposed Adoptions: 584-018-0220, 584-090-0115

Proposed Amendments: 584-080-0031, 584-100-0038, 584-100-0091, 584-100-0096

Proposed Repeals: 584-036-0082, 584-052-0030, 584-052-0031, 584-052-0032, 84-052-0033, 584-090-0001, 584-090-0005, 584-090-0010, 584-090-0020, 584-090-0030, 584-090-0040, 584-090-0060

Last Date for Comment: 11-01-12, 2 p.m.

Summary: Amend:

584-080-0031 — “Distinguished Administrator License” Increases experience required for Distinguished Administrator License.

584-080-0031 — “Distinguished Administrator License” Increases experience required for Distinguished Administrator License.

584-090-0115 — “Professional Development Requirements” Allows some excess professional development units to be carried forward to next reporting period.

584-100-0038 — “HOUSSE for [Middle-Level and High School] Secondary Teachers Not New to the Profession” Aligns language with federal No Child Left Behind Act.

584-100-0091 — “Licensed and Registered Elementary Charter School Teacher” Clarifies that charter school teachers must also be highly qualified to teach core academic subjects.

584-100-0096 — “Licensed and Registered [Middle-Level or] Secondary Charter School Teacher” Aligns language with federal No Child Left Behind Act.

Repeal:

584-052-0030 — “Eligibility for Alternative Assessment” Eliminates alternative assessment for test waiver — Repeal.

584-052-0031 — “Evidence Needed for Subject-Matter Alternative Assessment” Eliminates alternative assessment for test waiver — Repeal.

584-052-0032 — “Determination of Subject-Matter Competency through Alternative Assessment” Eliminates alternative assessment for test waiver — Repeal.

584-052-0033 — “Resubmissions of Alternative Assessments” Eliminates alternative assessment for test waiver — Repeal.

584-090-0001 — Purpose and Standards for Professional Development Plan — Repeal.

584-090-0005 — Continuing Professional Development Requirements — Repeal.

584-090-0010 — Domains of Professional Competency — Repeal.

584-090-0020 — Requirements for District and Individual Continuing Professional Development Plans — Repeal.

584-090-0030 — Additional Requirements for District Continuing Professional Development Plans — Repeal.

584-090-0040 — Additional Requirements for Individual Continuing Professional Development Plans — Repeal.

584-090-0060 — Appeals to the Commission — Repeal.

Rules Coordinator: Victoria Chamberlain

Address: Teacher Standards and Practices Commission, 250 Division St. NE, Salem, OR 97301

Telephone: (503) 378-6813

NOTICES OF PROPOSED RULEMAKING

**Travel Information Council
Chapter 733**

Rule Caption: Free Coffee program to be offered in additional rest areas managed by the Council.

Stat. Auth.: ORS 377.700–377.840

Stats. Implemented: ORS 183.310–183.550

Proposed Amendments: 733-030-0500

Last Date for Comment: 9-25-12, 4 p.m.

Summary: The Travel Information Council held a quarterly meeting on July 24, 2012. The Council proposed rule changes to allow the offering of the “free coffee” program in additional rest areas to be managed by the Council.

Rules Coordinator: Diane Cheyne

Address: Travel Information Council, 1500 Liberty St. SE, Suite 150, Salem, OR 97302

Telephone: (503) 378-4508

**Water Resources Department
Chapter 690**

Rule Caption: Revision of the following coastal basin programs: Rogue, Umpqua, South Coast, North Coast and Mid-Coast.

Date:	Time:	Location:
9-25-12	1 p.m.	Douglas County Courthouse 1036 SE Douglas St. Roseburg, OR
9-26-12	10:30 a.m.	Josephine County Courthouse 500 NW 6th St., Grants Pass, OR
9-27-12	10 a.m.	Coos Bay-North Bend Water Board 2305 Ocean Blvd. SE Coos Bay, OR
10-3-12	10:30 a.m.	Tillamook County Library 1716 3rd St. Tillamook, OR

10-3-12

2 p.m.

Driftwood Public Library
801 SW Highway 101
Lincoln City, OR

Hearing Officer: Carol Whipple, John Roberts, Jeanne LeJeune

Stat. Auth.: ORS 536.025, 536.300 & 536.340

Stats. Implemented: ORS 536.300

Proposed Amendments: 690-501-0005, 690-501-0010, 690-501-0030, 690-515-0000, 690-515-0010, 690-515-0020, 690-515-0030, 690-515-0040, 690-515-0050, 690-515-0060, 690-516-0005, 690-516-0030, 690-517-0000, 690-517-0020, 690-517-0030, 690-517-0040, 690-518-0010, 690-518-0030, 690-518-0050

Proposed Repeals: 690-501-0020, 690-516-0020, 690-517-0050, 690-518-0040

Last Date for Comment: 10-10-12, 5 p.m.

Summary: The Oregon Water Resources Commission develops, adopts and periodically modifies programs for the state’s major administrative basins as part of its statutory responsibility to progressively formulate an integrated, coordinated program for the use and control of the water resources of the state (ORS 536.300). Basin programs are administrative rules which establish water management policies and objectives and which govern new appropriations of the surface and groundwater within each of the respective basins. There is a need to revise the basin program rules to reflect changes in statute and other related administrative rules. The Department is proposing changes to the basin programs for the Rogue (Division 515), Umpqua (Division 516), South Coast (Division 517), Mid-Coast (Division 518) and North Coast (Division 501), which together comprise the coastal basin programs for the state.

Rules Coordinator: Ruben Ochoa

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

Telephone: (503) 986-0874

ADMINISTRATIVE RULES

Appraiser Certification and Licensure Board Chapter 161

Rule Caption: Adopts temporary rules allowing applications for state licensed appraisers and establishing fee for AMC renewals.

Adm. Order No.: ACLB 2-2012(Temp)

Filed with Sec. of State: 8-3-2012

Certified to be Effective: 8-3-12 thru 1-30-13

Notice Publication Date:

Rules Adopted: 161-010-0065, 161-520-0035

Rules Amended: 161-002-0000, 161-006-0025, 161-010-0010, 161-010-0020, 161-010-0080, 161-015-0010, 161-015-0025, 161-015-0030, 161-020-0005, 161-020-0110, 161-020-0025, 161-025-0030, 161-050-0000, 161-050-0050, 161-510-0010, 161-520-0030, 161-530-0010

Rules Suspended: 161-510-0030

Subject: Temporarily adopts Oregon Administrative Rule 161, Division 010, Rule 0065 regarding prerequisite experience and education requirements for state licensed appraiser; and Division 520, Rule 0035 regarding form of application: Temporarily Amends Oregon Administrative Rules 161, Division 002, Rule 0000 regarding definitions; Division 006, Rule 0025 regarding licensee notification; Division 010, Rule 10 regarding renewal procedures, Rule 0020 regarding qualifying appraiser experience, and Rule 0080 regarding appraiser assistant registration; Division 015, Rule 0010 regarding form of application, Rule 0025 regarding application from out-of-state credential holder, and Rule 0030 regarding submission of application; Division 020, Rule 0005 regarding scope, and Rule 0110 regarding qualifying education course content guidelines; Division 025, Rule 0025 regarding supervising appraiser, and Rule 0030 regarding appraiser assistant; Division 050, Rule 0000 regarding temporary non-resident registration, and Rule 0050 regarding reciprocity; Division 510, Rule 0010 regarding fees; Division 520, Rule 0030 regarding renewal or reactivation of registration; and Division 530, Rule 0010 regarding criminal records check; and Temporarily Suspends Oregon Administrative Rule 161, Division 510, Rule 0030 regarding miscellaneous fees.

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

161-002-0000

Definitions

As used in OAR 161-01-005 to 161-50-050, the following terms (whether capitalized or not) shall have the following meanings:

(1) “**Accredited College or University**” means a college or university that is accredited by the Commission on Colleges, or by an accrediting agency that is recognized by the U.S. Department of Education.

(2) “**Administrator**” means the administrator of the Board appointed by the Board.

(3) “**Affiliate**” means a business organization sharing with a financial institution or insurance company some aspect of common ownership and control.

(4) “**Appraisal**” or “**Real Estate Appraisal**” means “appraisal” as defined in USPAP.

(5) “**Appraisal Foundation**” means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois.

(6) “**Appraisal Report**” means “report” as defined in USPAP.

(7) “**Appraiser Assistant**” or “**AA**” means a person who is not licensed or certified as an appraiser, but is registered as an appraiser assistant under ORS 674.310, and who assists with real estate appraisal activity under the direct supervision of a certified appraiser.

(8) “**Appraisal Subcommittee**” or “**ASC**” means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (FFIEC) established pursuant to the Federal Act.

(9) “**Board**” or “**ACLB**” means the Appraiser Certification and Licensure Board established under ORS Chapter 674.

(10) “**Certificate**” means the document issued by the Board indicating that the person named thereon has satisfied the requirements for certification as a state certified residential or state certified general appraiser.

(11) “**Classroom hour**” as used in reference to qualifying and continuing education means 50 minutes out of each 60 minute segment.

(12) “**Completion**” means interpreting, analyzing and reconciling data or compiled data, including reviewing and adopting another person’s interpretations and reconciliations as one’s own.

(13) “**Complex one-to-four family residential property appraisal**” means an appraisal in which the property to be appraised, market conditions, or form of ownership is atypical. For example, atypical factors may include, but are not limited to:

- (a) Architectural style;
- (b) Age of improvements;
- (c) Size of improvements;
- (d) Size of lot;
- (e) Neighborhood land use;
- (f) Potential environmental hazard liability;
- (g) Property interests;
- (h) Limited readily available comparable sales data; or
- (i) Other unusual factors.

(14) “**Continuing Education**” means education that is creditable toward the education requirements that must be satisfied to renew a license, certificate or appraiser assistant registration.

(15) “**Direct Supervision**” of an appraiser assistant means:

(a) Disclosing in the appraisal report that the supervising appraiser has inspected the subject property both inside and out, and has made an exterior inspection of all comparables relied upon in the appraisal or disclose that the supervising appraiser did not inspect the subject property both inside and out, and did not inspect the exterior of comparables relied upon in the appraisal; and

(b) Reviewing the appraiser assistant’s appraisal report(s) to ensure research of general and specific data has been adequately conducted and properly reported, application of appraisal principles and methodologies has been properly applied, that any analysis is sound and adequately reported, and that any analysis, opinions, or conclusions are adequately developed and reported so that the appraisal report is not misleading; and

(c) Reviewing the appraiser assistant’s work product and discussing with the appraiser assistant any edits, corrections or modifications that need to be made to that work product to satisfy OAR 161-002-0000(14)(b); and

(d) Accepting sole and total responsibility for the appraisal report by signing the appraisal report and certifying that the appraisal report has been prepared in compliance with the current edition of the Uniform Standards of Professional Appraisal Practice.

(16) “**Federal Act**” means Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C 3310 et seq.).

(17) “**Federal Financial Institution Regulatory Agency**” means:

- (a) The Board of Governors of the Federal Reserve System;
- (b) The Federal Deposit Insurance Corporation;
- (c) The Office of the Comptroller of the Currency;
- (d) The Office of Thrift Supervision; or
- (e) The National Credit Union Administration.

(18) “**Financial Institution**” means an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act or an insured credit union as defined in section 101 of the Federal Credit Union Act.

(19) “**Good Standing**” means the status of a person whose license, certificate or registration is not currently suspended or been revoked.

(20) “**Issuance**” means the act of communicating the opinion of value either in writing or orally.

(21) “**License**” means the document issued by the Board indicating that the person named thereon has satisfied all requirements for licensure as a state licensed appraiser.

(22) “**Licensee**” means any person who holds an active or inactive Oregon appraiser license, certified residential appraiser certificate, or certified general appraiser certificate.

(23) “**Mortgage banker**” has the meaning defined in ORS 59.840.

(24) “**Non-residential**” appraising means to render a value on real property other than one-to-four family residential properties.

(25) “**One-to-four family residential property**” means a property that includes one to four residential units and is residential in character, i.e., zoning, land use.

(26) “**Preparation**” means compiling data, including reviewing and adopting such compiled data as one’s own.

(27) “**Prerequisite education**” means the initial qualifying educational requirements to become licensed or certified with the Board.

(28) “**Professional real estate activity**” has the meaning defined in ORS 696.010.

ADMINISTRATIVE RULES

(29) “**Qualifying Education**” means education that is creditable toward the education requirements for initial licensure or certification under one or more of the three real estate appraiser classifications.

(30) “**Real estate appraisal activity**” has the meaning defined in ORS 674.100.

(31) “**Real Estate**” or “**Real Property**” means an identified parcel or tract of land, together with any improvements, that includes easements, rights-of-way, undivided or future interests or similar rights in a tract of land, but does not include mineral rights, timber rights, growing crops, water rights or similar interests severable from the land when the transaction does not involve the associated parcel or tract of land.

(32) “**State Certified General Appraiser**” or “**SCGA**” means an individual who has been certified as a state certified general appraiser by the Board.

(33) “**State Certified Residential Appraiser**” or “**SCRA**” means an individual who has been certified as a state certified residential appraiser by the Board.

(34) “**State Licensed Appraiser**” or “**SLA**” means an individual who has been licensed as a state licensed appraiser by the Board.

(35) “**Subdivision**” means either an act of subdividing land or an area or a tract of land subdivided to create four or more lots within a calendar year.

(36) “**Supervising Appraiser**” means a licensee who is directly supervising appraiser assistants pursuant to OAR 161-025-0025.

(37) “**Supervising Appraiser Endorsement**” means the document issued by the Board indicating that the licensee named thereon has satisfied all requirements of OAR 161-010-0085 to be a Supervising Appraiser.

(38) “**Transaction Value**” means:

(a) For loans or other extensions of credit, the amount of the loan or extension of credit; and

(b) For sales, leases, purchases and investments in or exchange of real property, the market value of the real property interest involved; and

(c) For the pooling of loans or interest in real property for resale or purchase, the amount of the loan or market value of the real property calculated with respect to each such loan or interest in real property.

(d) For determinations of the transaction value of real property or interests in real property in circumstances other than described in the proceeding (a) to (c) of this section, the market value of the real property interest involved.

(e) In condemnation or partial taking actions, the transaction value is deemed to be the value of the larger parcel before the taking.

(39) “**Uniform Standards of Professional Appraisal Practice**” or “**USPAP**” means the standards adopted and published by the Appraisal Standards Board of the Appraisal Foundation dated April 27, 1987, as amended January 1, 2012.

(40) “**Workfile**” means “workfile” as defined in USPAP.

Stat. Auth.: ORS 674.305 & 674.310

Stats. Implemented: ORS 674

Stat. Auth.: ORS 674.305 & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 2-1991(Temp), f. & cert. ef. 7-1-91; ACLB 7-1991, f. & cert. ef. 12-23-91; ACLB 1-1993(Temp), f. & cert. ef. 3-3-93; ACLB 1-1994, f. & cert. ef. 2-1-94, Renumbered from 161-010-0000; ACLB 4-1994, f. & cert. ef. 7-27-94; ACLB 4-1994, f. & cert. ef. 7-27-94; ACLB 2-1996, f. & cert. ef. 2-13-96; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-1999, f. 1-28-99, cert. ef. 3-31-99; ACLB 1-2000, f. & cert. ef. 2-29-00; ACLB 1-2001(Temp), f. & cert. ef. 1-26-01 thru 7-25-01; ACLB 2-2001, f. 4-11-01, cert. ef. 4-12-01; ACLB 3-2001(Temp), f. & cert. ef. 7-12-01 thru 1-8-02; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 2-2002, f. & cert. ef. 5-30-02; ACLB 2-2003, f. & cert. ef. 1-27-03; ACLB 1-2004, f. & cert. ef. 2-3-04; ACLB 2-2004, f. 5-25-04, cert. ef. 6-1-04; ACLB 1-2005, f. & cert. ef. 1-12-04; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 1-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 12-28-06; ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 5-2007(Temp), f. 11-1-07, cert. ef. 1-1-08 thru 6-27-08; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 2-2009(Temp), f. 1-28-09, cert. ef. 1-30-09 thru 7-28-09; Administrative correction 8-21-09; ACLB 4-2009, f. & cert. ef. 10-27-09; ACLB 5-2009(Temp), f. 12-15-09, cert. ef. 1-1-10 thru 6-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 3-2011, f. & cert. ef. 11-17-11; ACLB 4-2011(Temp), f. 12-22-11, cert. ef. 1-1-12 thru 6-27-12; ACLB 1-2012, f. 7-2-12, cert. ef. 7-3-12; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13

161-006-0025

Budget

The Board hereby adopts by reference the Board’s 2011–2013 Biennium Budget of \$1,725,041 covering the real estate appraiser program for the period July 1, 2011 through June 30, 2013, and the appraisal management program for the period January 1, 2012 through June 30, 2013. The Board will amend budgeted accounts as necessary within the approved budget of \$1,725,041 for the effective operation of the Board. The Board will not exceed the approved 2011–2013 Biennium Budget without amending this rule, notifying licensees, and holding a public hearing thereon as

required by ORS Chapter 182.462(1)(2). Copies of the budget are available from the Board’s office.

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

Stats. Implemented: ORS 674

Hist.: ACLB 4-2001(Temp), f. & cert. ef. 9-12-01 thru 3-1-02; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 1-2003(Temp), f. & cert. ef. 1-14-03 thru 7-11-03; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 4-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03; ACLB 5-2003, f. & cert. ef. 11-10-03; ACLB 2-2005(Temp), f. 6-16-05, cert. ef. 7-1-05 thru 12-28-05; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 2-2007(Temp), f. 6-6-07, cert. ef. 7-1-07 thru 11-30-07; BOC 1-2007, f. 10-31-07, cert. ef. 11-1-07; ACLB 3-2009(Temp), f. 5-15-09, cert. ef. 7-1-09 thru 11-30-09; ACLB 4-2009, f. & cert. ef. 10-27-09; ACLB 1-2011(Temp), f. 5-2-11, cert. ef. 7-1-11 thru 11-30-11; ACLB 3-2011, f. & cert. ef. 11-17-11; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13

161-010-0010

Appraisers in Oregon and Renewal Procedures

(1) There are three categories of appraisers in Oregon; state licensed appraiser, state certified residential appraiser, and state certified general appraiser.

(2) Unlicensed/Un-certified individuals may assist in the preparation of an appraisal, but are not allowed to sign the appraisal report.

(3) Appraisers in Oregon must demonstrate competency by meeting prerequisite and continuing education, testing, and experience requirements established by the Board.

(4) All licenses and certificates are subject to renewal every two years on or before the last day of the license or certificate holder’s birth month.

(5) Each license or certificate may be renewed upon receipt of the renewal fee specified in OAR 161-003-0020, a complete renewal application that includes a current, recognizable, passport style color photograph of the applicant, evidence of the completion of continuing education requirements as provided in 161-020-0150, and the fee. The completed application, fee, and evidence of continuing education requirements must be received in the Board office on or before the expiration date of the license to be considered timely. If the expiration date falls on a weekend or legal holiday, the renewal application must be received no later than 5:00 p.m. on the next business day following the date of expiration.

(6) Renewal applications received after the expiration date and within one (1) year of the date of expiration shall be assessed a late fee in addition to the renewal fee. It is unlawful for any appraiser to engage in, carry on, advertise or purport to engage in or carry on real estate appraisal activity within this state after a license or certificate has expired and prior to properly renewing the expired license or certificate.

(7) If an appraiser fails to renew their license or certificate within one year from the date of expiration, the status of the license or certificate becomes terminated and they must reapply pursuant to OAR 161-010-0020 through 161-010-0065.

(8) Licensees on active duty with the United States Armed Forces at the time of renewal may, upon written request to the Board, be provided a military deferral allowing for their otherwise complete application, including fee and evidence of continuing education, to be considered timely if received by the Board within 180 days of release from active duty.

(9) Each licensee shall notify the Administrator within thirty (30) days of any disciplinary action imposed in any other state in which the person holds a license or certificate.

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

Stats. Implemented: ORS 674

Hist.: ACLB 4-1991(Temp), f. & cert. ef. 8-29-91; ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2005, f. & cert. ef. 7-22-05; ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13

161-010-0020

Qualifying Appraiser Experience for Certification and Licensure

(1) Areas of acceptable appraisal experience, as described in OAR 161-010-0025, may include but are not limited to the following:

(a) Fee Appraisal prepared by a state licensed or certified appraiser in conformance with USPAP;

(b) Staff Appraisal prepared in conformance with USPAP;

(c) Review Appraisal prepared in conformance with USPAP;

(d) Real Property Appraisal Consulting prepared in conformance with USPAP;

(e) Highest and Best Use Analysis prepared in conformance with USPAP;

(f) Assistance in preparation of appraisals as a registered appraiser assistant performing tasks as provided in OAR 161-025-0030.

ADMINISTRATIVE RULES

(2) All experience must have been obtained after January 30, 1989.

(3) Experience being claimed as set forth in paragraphs (1)(c), (d) and (e) above, individually or combined, may not exceed more than 25 percent of the total required experience hours.

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

Stats. Implemented: ORS 674

Hist.: ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 3-1996, f. & cert. ef. 2-13-96; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 2-2003, f. & cert. ef. 1-27-03; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 3-2011, f. & cert. ef. 11-17-11; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13

161-010-0065

Prerequisite Experience and Education Requirements for State Licensed Appraisers

As a prerequisite to taking the examination for licensure as a State Licensed Appraiser, an applicant shall present evidence satisfactory to the Administrator that the applicant has:

(1) At least 2,000 cumulative hours of acceptable appraisal experience. Cumulative hours must be acquired over at least twelve (12) months.

(2) Successfully completed not less than 150 classroom hours of acceptable appraisal courses as set forth in OAR 161-020-0110(2)(b), with the following exceptions as noted in paragraphs (2)(a) below. Each applicant shall have successfully completed the 15-hour Appraisal Foundation's National USPAP Course, or its equivalent, within four (4) years preceding the date of application and have successfully passed an examination thereon. Applicants holding a valid Oregon Appraiser Assistant Registration may satisfy the educational requirements for the State Licensed Appraiser credential by completing the following additional education hours:

(a) Course(s) on Residential Market Analysis and Highest and Best Use (15 hours);

(b) Course(s) on Residential Appraiser Site Valuation and Cost Approach (15 hours);

(c) Course(s) on Residential Sales Comparison and Income Approaches (30 hours in no less than 15 hour increments);

(d) Course(s) on Residential Report Writing and Case Studies (15 hours).

Stat. Auth.: ORS 674.305 & ORS 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13

161-010-0080

Appraiser Assistant Registration — Application and Renewal Requirements

(1) A person desiring to participate in an appraiser training program must register with the Board and work under the direct supervision of one or more licensees who are in good standing with the Board, and have been certified with the Board for a minimum of 24 months. Experience gained prior to registration will be not accepted.

(2) Prior to registering with the Board, an Appraiser Assistant applicant must:

(a) Complete 75 hours of qualifying education in the following categories and successfully pass the applicable final examinations:

(A) 15-hour Appraisal Foundation's National USPAP course, or its equivalent, within two (2) years preceding the date of application;

(B) 30-hour Basic Appraisal Principles course within five (5) years preceding the date of application. The five-year requirement does not apply to licensees that register as an Appraiser Assistant to upgrade their license or certificate;

(C) 30-hour Basic Appraisal Procedures course within five (5) years preceding the date of application. The five-year requirement does not apply to licensees that register as an Appraiser Assistant to upgrade their license or certificate; and

(b) Make arrangements with one or more licensees who agree to directly supervise their real estate appraisal activities.

(c) Attend a four hour Board approved Supervising Appraiser/Appraiser Assistant Training Course and successfully pass the final exam.

(3) The applicant must submit an Appraiser Assistant Registration Application that meets the requirements of OAR 161-015-0010(1) through (5) and includes a non-refundable application fee and a copy of their supervising appraiser's endorsement as described on the application form.

(4) An applicant must be at least 18 years of age.

(5) An applicant must be a citizen of the United States or have the legal authority to work in the United States.

(6) The Appraiser Assistant Registration must be renewed on an annual basis. The renewal application must be submitted on the prescribed form and include the following:

(a) Verification of successful completion of the Appraisal Foundation's National USPAP Update course or its equivalent, if applicable (required during their second year and every two years thereafter);

(b) For applicants who have been registered two years or more, verification of successful completion of no less than fourteen hours of qualifying or continuing education. The fourteen education hours may include the USPAP Update course and must be obtained after the date their last registration was issued.

(7) During the period beginning on the day following the expiration date of the registration, and ending on the date of the renewal of the registration, an Appraiser Assistant will not receive experience credit for any experience accrued during the lapse in registration. If the Appraiser Assistant fails to renew the registration within one year from the expiration date, the registration is terminated and a new application must be submitted pursuant to ORS 161-010-0080.

(8) Appraiser Assistants on active duty with the United States Armed Forces at the time of renewal may, upon written request to the Board, be provided a military deferral allowing for their otherwise complete application, including fee and evidence of continuing education, to be considered timely if received by the Board within 180 days of release from active duty.

(9) An applicant may submit a written request to withdraw their application at any time prior to an official action being taken by the Board.

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

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

Stats. Implemented: ORS 674

Hist.: ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 4-1993(Temp), f. & cert. ef. 6-25-93; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 3-1996, f. & cert. ef. 2-13-96; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 2-2004, f. 5-25-04, cert., ef. 6-1-04; ACLB 3-2005, f. & cert. ef. 7-22-05; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 2-2008(Temp), f. & cert. ef. 8-6-08 thru 2-1-09; ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13

161-015-0010

Form of Application

All appraiser and appraiser assistant applications must be submitted as prescribed in OAR 161-010-0080 or 161-015-0000.

(1) Where space does not permit an applicant to present her or his complete record of experience or education on the application forms, the applicant may duplicate the forms or attach appropriate addendum. All questions must be answered. All forms must be signed and dated.

(2) An application shall be accompanied by a current, recognizable passport style photograph of the applicant.

(3) Withholding information, misrepresentation, or submission of untrue or false statements as part of the application are deemed to demonstrate untrustworthiness and are cause for a civil penalty under ORS 674.850 and either denial of an application or subsequent disciplinary action.

(4) The application must include the applicant's Social Security number for identification purposes as authorized by ORS 25.785 and will remain on file with the Board. Failure to provide a Social Security Number is grounds to deny an application.

(5) An application and the application fee shall be valid for six (6) months from receipt by the Board. After six (6) months, the applicant must submit a new application with the appropriate fee.

(6) An applicant for license or certificate shall have 6 months from the date of written notification of application approval to successfully pass the examination or the application shall be denied.

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

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

Stats. Implemented: ORS 674

Hist.: ACLB 4-1991(Temp), f. & cert. ef. 8-29-91; ACLB 1-1992(Temp), f. & cert. ef. 1-23-92; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 4-1993(temp), f. & cert. ef. 6-25-93; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 2-2000, f. & cert. ef. 10-23-00; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 1-2009, f. 1-28-09, cert. ef. 1-30-09; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13

161-015-0025

Application from Out-of-State Credential Holder

(1) The Board may recognize and accept the education and experience of applicants who hold an active certificate obtained from another state. The out-of-state certificate must be active and the applicant must be in good standing in all states in which they are certified.

(2) All applicants shall be subject to a criminal background check.

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(3) The application must be submitted on a form prescribed by the Board.

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

Stats. Implemented: ORS 674

Hist.: ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13

161-015-0030

Submission of License or Certificate Application

(1) Each application must be accompanied by a non-refundable application fee.

(2) An application that is not properly completed, does not contain all the required information, or is not accompanied by the required fee will be deferred. An application will also be considered incomplete if the check for payment of the required fees is dishonored;

(3) The application will be reviewed to determine whether the applicant has sufficient education and experience and is otherwise qualified to sit for the examination;

(4) An applicant who is not a resident of the State of Oregon must submit with the application, an irrevocable consent to service form appointing the Administrator of the Board as agent for service of process as provided in these rules, if, in an action against the applicant in a court of this state arising out of the applicant's activities as a licensed or certified appraiser, the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant.

(5) An applicant must be a citizen of the United States or have the legal authority to work in the United States.

(6) An applicant who is actively licensed or certified in another state(s) must have successfully passed an AQB approved examination subsequent to January 1, 2008 or they will be required to take and pass the examination. The examination must be at a level consistent with the appraiser category applied for in the State of Oregon. The examination results must be sent directly from an AQB approved examination provider to the Board office.

(7) Applicants for licensure or certification must have a license history submitted directly to the Board office from each state in which he or she has ever been licensed or certified, or the Board may obtain a National Registry Appraiser License History report. Applicants must be in good standing in all states in which they are licensed or certified or the application will be denied.

(8) Upon application approval, if applicable, the applicant is notified that they are approved to sit for the examination. Upon successful completion of the examination, the Board will notify the appraiser and within one year of the notification, the applicant must submit the ACLB License/Certificate Request form with the appropriate certification and national registry fees, requesting that their license/certificate be issued. The Administrator issues the license/certificate to the applicant. The appraiser's name is submitted to the FFIEC Appraisal Subcommittee for inclusion on the Federal Registry.

(9) Upon issuance of a license or certificate, consistent with the scope of practice as provided in OAR 161-025-0000 and 161-025-0005, the appraiser is authorized to conduct real estate appraisal activity between the date of the issuance of the license or certificate, and the expiration date of the license or certificate, unless sooner revoked or suspended. No more than one license or certificate shall be issued and outstanding to, or in favor of, any appraiser at one time.

(10) An applicant may submit a written request to withdraw their application at any time prior to an official action being taken by the board. An official action may include, but is not limited to, a notice of proposed denial of application.

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

Stats. Implemented: ORS 674

Hist.: ACLB 4-1991(Temp), f. & cert. ef. 8-29-91; ACLB 8-1991(Temp), f. & cert. ef. 12-31-91; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 2-1999, f. & cert. ef. 4-20-99; ACLB 1-2000, f. & cert. ef. 2-29-00; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 6-2003, f. & cert. ef. 11-24-03; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 4-2007, f. 11-1-07, cert. ef. 1-1-08; ACLB 3-2008, f. & cert. ef. 8-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13

161-020-0005

Scope

This division outlines the requirements for qualifying education for state licensed, state certified residential and state certified general appraisers, continuing education for state licensed, state certified residential and state certified general appraisers, and the education course and course provider requirements. Course providers that have obtained approval of

their course(s) under the Appraisal Qualifications Board of the Appraisal Foundation (AQB) Course Approval Program may be recognized by the Administrator as having satisfied the requirements of this rule. The Administrator retains the right to review, modify, or reject a course which has received AQB approval.

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

Stats. Implemented: ORS 674.310

Hist.: ACLB 1-1992(Temp), f. & cert. ef. 1-23-92; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94, Renumbered from 161-020-0000; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13

161-020-0110

Qualifying Education Course Content Guidelines

(1) General Guidelines:

(a) The course must be a real estate appraisal course that involves a minimum of fifteen classroom hours of instruction (including examination time) on acceptable topics;

(b) The course must generally be broad in scope and must cover various principles, concepts, standards, practices and/or methods that are applicable generally to the performance of a wide range of appraisal assignments that will commonly be encountered by licensed or certified appraisers. The course must be intended to provide the student with a broad-based foundation of knowledge and skills in real estate appraising;

(c) Coverage in a course of additional specific topics not listed as typical specific topics under the categories of acceptable courses will not exclude that course from consideration provided that:

(A) The principal focus of the course is not on such additional topics;

(B) The additional topics covered are appropriate (consistent with course learning objectives); and

(C) The course contains not less than fifteen classroom hours of instruction on acceptable topics. However, the course must still be consistent with the parameters described in these rules.

(d) The section titled "Unacceptable Courses" in these rules describes specifically the categories of courses that are not acceptable as qualifying education under these rules;

(e) Courses will be evaluated based on their content without regard to the course title;

(f) The following factors shall be used to convert university, college, junior college and community college course credits into classroom hours:

(A) One (1) semester credit equals fifteen (15) classroom hours

(B) One (1) quarter credit equals ten (10) classroom hours.

(2) Qualifying Education Requirements for Licensure and/or Certification:

(a) Only courses approved by the Administrator will be credited toward the education requirements. Approved courses have been assigned to curricula as follows:

(A) Basic Appraisal Principles;

(B) Basic Appraisal Procedures;

(C) Residential Market Analysis and Highest and Best Use;

(D) Residential Appraiser Site Valuation and Cost Approach;

(E) Residential Sales Comparison and Income Approaches;

(F) Residential Report Writing and Case Studies;

(G) Statistics, Modeling and Finance;

(H) Advanced Residential Applications and Case Studies;

(I) General Appraiser Market Analysis and Highest and Best Use;

(J) General Appraiser Sales Comparison Approach;

(K) General Appraiser Site Valuation and Cost Approach;

(L) General Appraiser Income Approach;

(M) General Appraiser Report Writing and Case Studies;

(N) The Appraisal Foundation's National USPAP Course or its equivalent;

(O) Elective courses.

(b) For state licensed appraisers, courses in the following categories and credit hours must be completed with the successful passage of an examination, as specified in these rules:

(A) Course(s) on Basic Appraisal Principles (30 hours in not less than 15 hour increments);

(B) Course(s) on Basic Appraisal Procedures (30 hours in not less than 15 hour increments);

(C) Course(s) on Residential Market Analysis and Highest and Best Use (15 hours);

(D) Course(s) on Residential Appraiser Site Valuation and Cost Approach (15 hours);

(E) Course(s) on Residential Sales Comparison and Income Approaches (30 hours in no less than 15 hour increments);

ADMINISTRATIVE RULES

(F) Course(s) on Residential Report Writing and Case Studies (15 hours)

(G) The Appraisal Foundation's National USPAP Course or its equivalent (15 hours).

(c) For state certified residential appraisers, courses in the following categories and credit hours must be completed with the successful passage of an examination, as specified in these rules:

(A) Course(s) on Basic Appraisal Principles (30 hours in not less than 15 hour increments);

(B) Course(s) on Basic Appraisal Procedures (30 hours in not less than 15 hour increments);

(C) Course(s) on Residential Market Analysis and Highest and Best Use (15 hours);

(D) Course(s) on Residential Appraiser Site Valuation and Cost Approach (15 hours);

(E) Course(s) on Residential Sales Comparison and Income Approaches (30 hours in no less than 15 hour increments);

(F) Course(s) on Residential Report Writing and Case Studies (15 hours);

(G) Course(s) on Statistics, Modeling and Finance (15 hours);

(H) Course(s) on Advanced Residential Applications and Case Studies (15 hours);

(I) Electives (20 hours);

(J) The Appraisal Foundation's National USPAP Course or its equivalent (15 hours).

(d) For state certified general appraisers, courses in the following categories and credit hours must be completed with the successful passage of an examination, as specified in these rules:

(A) Course(s) on Basic Appraisal Principles (30 hours in not less than 15 hour increments);

(B) Course(s) on Basic Appraisal Procedures (30 hours in not less than 15 hour increments);

(C) Course(s) on General Appraiser Market Analysis and Highest and Best Use (30 hours in not less than 15 hour increments);

(D) Course(s) on Statistics, Modeling and Finance (15 hours);

(E) Course(s) on General Appraiser Sales Comparison Approach (30 hours in not less than 15 hour increments);

(F) Course(s) on General Appraiser Site Valuation and Cost Approach (30 hours in not less than 15 hour increments);

(G) Course(s) on General Appraiser Income Approach (60 hours in not less than 15 hour increments);

(H) Course(s) on General Appraiser Report Writing and Case Studies (30 hours in not less than 15 hour increments);

(I) Electives (30 hours in not less than 15 hour increments);

(J) The Appraisal Foundation's National USPAP Course or its equivalent (15 hours).

(3) Acceptable Courses. Listed below are the categories of courses that are acceptable under these rules:

(a) Courses on Basic Appraisal Principles (30 hours). A course(s) in this category must be broad in scope and focus on basic real estate appraisal concepts, principles, and methods that are applicable generally to the appraisal of most types of real estate. Basic Appraisal Principles courses would substantially include the following specific topics:

(A) Real Property Concepts and Characteristics:

(i) Basic Real Property Concepts;

(ii) Real Property Characteristics;

(iii) Legal Description.

(B) Legal Consideration:

(i) Forms of Ownership;

(ii) Public and Private Controls;

(iii) Real Estate Contracts;

(iv) Leases.

(C) Influences on Real Estate Values:

(i) Governmental;

(ii) Economic;

(iii) Social;

(iv) Environmental, Geographic and Physical.

(D) Types of Value:

(i) Market Value;

(ii) Other Value Types.

(E) Economic Principles:

(i) Classical Economic Principles;

(ii) Application and Illustrations of the Economic Principles.

(F) Overview of Real Estate Markets and Analysis:

(i) Market Fundamentals, Characteristics, and Definitions;

(ii) Supply Side Analysis;

(iii) Demand Analysis;

(iv) Use of Market Analysis;

(G) Ethics and How They Apply in Appraisal Theory and Practice.

(b) Courses on Basic Appraisal Procedures (30 hours). A course(s) in this category must be broad in scope and focus on basic real estate appraisal procedures that are applicable generally to the appraisal of most types of real estate. Basic Appraisal Procedures courses would substantially include the following specific topics:

(A) Overview of Approaches to Value;

(B) Valuation Procedures:

(i) Defining the Problem;

(ii) Collecting and Selecting Data;

(iii) Analyzing;

(iv) Reconciling and Final Value Opinion;

(v) Communicating the Appraisal.

(C) Property Description:

(i) Geographic Characteristics of the Land/Site;

(ii) Geologic Characteristics of the Land/Site;

(iii) Location and Neighborhood Characteristics;

(iv) Land/Site Considerations for Highest and Best Use;

(v) Improvements — Architectural Styles and Types of Construction.

(D) Residential Applications.

(c) Courses on Residential Market Analysis and Highest and Best Use (15 hours) that would substantially include the following specific topics:

(A) Residential Markets and Analysis:

(i) Market Fundamentals, Characteristics and Definitions;

(ii) Supply Side Analysis;

(iii) Demand Analysis;

(iv) Use of Market Analysis.

(B) Highest and Best Use:

(i) Test Constraints;

(ii) Application of Highest and Best Use;

(iii) Special Considerations;

(iv) Market Analysis;

(v) Case Studies.

(d) Courses on Residential Appraiser Site Valuation and Cost Approach (15 hours) that would substantially include the following specific topics:

(A) Site Valuation:

(i) Methods;

(ii) Case Studies.

(B) Cost Approach:

(i) Concepts and Definitions;

(ii) Replacement/Reproduction Cost New;

(iii) Accrued Depreciation;

(iv) Methods of Estimating Accrued Depreciation;

(v) Case Studies.

(e) Courses on Residential Sales Comparison and Income Approaches (30 hours) that would substantially include the following specific topics:

(A) Valuation Principles & Procedures — Sales Comparison Approach;

(B) Valuation Principles & Procedures — Income Approach;

(C) Finance and Cash Equivalency;

(D) Financial Calculator Introduction;

(E) Identification, Derivation and Measurement of Adjustments;

(F) Gross Rent Multipliers;

(G) Partial Interests;

(H) Reconciliation;

(I) Case Studies and Applications.

(f) Courses on Residential Report Writing and Case Studies (15 hours) that would substantially include the following specific topics:

(A) Writing and Reasoning Skills;

(B) Common Writing Problems;

(C) Form Reports;

(D) Report Options and USPAP Compliance;

(E) Case Studies.

(g) Courses on Statistics, Modeling and Finance (15 hours) that would include the following specific topics:

(A) Statistics;

(B) Valuation Models (AVM's and Mass Appraisal);

(C) Real Estate Finance.

(h) Courses on Advanced Residential Applications and Case Studies (15 hours) that would substantially include the following specific topics:

(A) Complex Property, Ownership and Market Conditions;

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(B) Deriving and Supporting Adjustments;
(C) Residential Market Analysis;
(D) Advanced Case Studies.
(i) Courses on General Appraiser Market Analysis and Highest and Best Use (30 hours) that would substantially include the following specific topics:

- (A) Real Estate Markets and Analysis:
 - (i) Market Fundamentals, Characteristics and Definitions;
 - (ii) Supply Side Analysis;
 - (iii) Demand Analysis;
 - (iv) Use of Market Analysis.
- (B) Highest and Best Use
 - (i) Test Constraints;
 - (ii) Application of Highest and Best Use;
 - (iii) Special Considerations;
 - (iv) Market Analysis;
 - (v) Case Studies.

(j) Courses on General Appraiser Sales Comparison Approach (30 hours) that would substantially include the following specific topics:

- (A) Value Principles;
- (B) Procedures;
- (C) Identification and Measurement of Adjustments;
- (D) Reconciliation;
- (E) Case Studies.

(k) Courses on General Appraiser Site Valuation and Cost Approach (30 hours) that would substantially include the following specific topics:

- (A) Site Valuation:
 - (i) Methods;
 - (ii) Case Studies.
- (B) Cost Approach:
 - (i) Concepts and Definitions;
 - (ii) Replacement/Reproduction Cost New;
 - (iii) Accrued Depreciation;
 - (iv) Methods of Estimating Accrued Depreciation;
 - (v) Case Studies.

(l) Courses on General Appraiser Income Approach (60 hours) that would substantially include the following specific topics:

- (A) Overview;
- (B) Compound Interest;
- (C) Lease Analysis;
- (D) Income Analysis;
- (E) Vacancy and Collection Loss;
- (F) Estimating Operating Expenses and Reserves;
- (G) Reconstructed Income and Expense Statement;
- (H) Stabilized Net Operating Income Estimate;
- (I) Direct Capitalization;
- (J) Discounted Cash Flow;
- (K) Yield Capitalization;
- (L) Partial Interests;
- (M) Case Studies.

(m) Courses on General Appraiser Report Writing and Case Studies (30 hours) that would substantially include the following specific topics:

- (A) Writing and Reasoning Skills;
- (B) Common Writing Problems;
- (C) Report Options and USPAP Compliance;
- (D) Case Studies.

(n) Courses eligible for approval as elective courses for Qualifying Education. These courses are considered more appropriate for Continuing Education than for Qualifying Education under these rules, but can qualify as elective if they are at least 15 hours in duration and an exam is required. Courses must focus primarily on advanced concepts/methods, a specialized aspect of real estate appraising, or appraising one specific type of property. Examples of course topics may include, but are not limited to the following:

- (A) Real Estate Investment Analysis;
- (B) Feasibility Analysis;
- (C) Condemnation Appraising/Right of Way Appraising;
- (D) Review Appraising;
- (E) Mass Appraisal;
- (F) Subdivision Analysis;
- (G) Litigation/Testifying as Expert Witness;
- (H) Appraising Condominiums;
- (I) Appraising Manufactured Housing;
- (J) Appraising Multi-Family Housing;
- (K) Appraising Office Buildings;

- (L) Appraising Farms;
- (M) Appraising Land;
- (N) Appraising Machinery and Equipment.

(o) Courses on the Uniform Standards of Professional Appraisal Practice (USPAP): The Appraisal Foundation's National USPAP Course or its equivalent are the only acceptable courses for this category.

(4) Courses not eligible for approval as Qualifying Education. These types of courses are considered more appropriate for Continuing Education than for Qualifying Education under these rules. Courses which focus all or a vast majority of their instruction on only one comparatively narrow aspect of real estate appraising and which examine that one aspect in depth. These types of courses focus on the following topics:

- (a) Estimating Building Costs;
- (b) Estimating Accrued Depreciation;
- (c) Cash Equivalency;
- (d) Ellwood Mortgage-Equity Analysis;
- (e) Use of Financial Calculators in Appraising;
- (f) Valuation of Partial Interests.

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

Stat. Auth.: ORS 674.305 & 674.310

Stats. Implemented: ORS 674

Hist.: ALCB 2-1994(Temp), f. & cert. ef. 5-2-94; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 4-1994, f. & cert. ef. 7-27-94; ACLB 3-1996, f. & cert. ef. 2-13-96; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 3-1999, f. 9-23-99, cert. ef. 1-1-00; ALCB 2-2002, f. & cert. ef. 5-30-02; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 3-2005, f. & cert. ef. 7-22-05; ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13

161-025-0025

Supervising Appraiser (SA)

(1) Only qualified State Certified Residential Appraisers and State Certified General Appraisers may supervise Registered Appraiser Assistants.

(2) The supervising appraiser must directly supervise the registered appraiser assistant in each assignment to ensure that the results of each assignment comply with USPAP and all applicable appraisal laws and rules. To do so, the supervising appraiser must:

(a) Ensure that the appraiser assistant gains sufficient knowledge, skills and abilities that will enable them to do all of the following:

- (A) Define the appraisal problem.
 - (i) Identify and locate the real estate;
 - (ii) Identify the property rights to be valued;
 - (iii) Identify the use of the appraisal
 - (iv) Define value(s) to be estimated;
 - (v) Establish date(s) of value estimate(s);
 - (vi) Identify and describe the scope of the appraisal; and
 - (vii) Identify and describe limiting conditions or limitations.

(B) Conduct preliminary analysis, select and collect applicable data.

- (i) Identify general data (regional, city and neighborhood) — social, economic, governmental and environmental factors;
- (ii) Identify specific data (subject and comparables) — site and improvement, cost and depreciation, income/expense and capitalization rate, history of ownership and use of property; and
- (iii) Identify competitive supply and demand (the subject market) — inventory of competitive properties, sales and listings, vacancies and offerings, absorption rates, demand studies.

(C) Conduct an analysis of the subject property which includes:

- (i) Site/improvements;
- (ii) Size;
- (iii) Costs;
- (iv) Elements of comparison; and
- (v) Units of comparison.

(D) Conduct highest and best use analysis (specified in terms of use, time and market participants).

- (i) Land as if vacant and available; and
- (ii) Property as improved (existing or proposed).

(E) Estimate land value, including on-site improvements.

(F) Estimate value of the property using each of the three approaches to value — cost, sales comparison and income capitalization.

(G) Reconcile each value indication and reconcile the final value estimate.

(H) Report estimate(s) of value(s) as defined.

(b) Review each appraisal report the appraiser assistant prepares to ensure accuracy and reliability;

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(c) Ensure that the appraisal report includes proper disclosure regarding the inspection of the subject and the comparable sales as required by OAR 161-025-0060(3).

(d) Make a clear and prominent disclosure of real estate appraisal assistance in each appraisal report by identifying each individual category of experience that the appraiser assistant provided as outlined in OAR 161-025-0025(2)(a)(A through H); and

(e) Accept responsibility for the appraisal report by signing and certifying that the report has been prepared in compliance with USPAP.

(f) Ensure that the appraiser assistant will be granted experience credit by doing the following:

(A) Verifying that the appraiser assistant is currently registered with the Board. Experience gained prior to registration or after a registration has lapsed will not be credited toward the experience hours required to become licensed or certified.

(B) Verifying that all appraisal experience is properly documented on the Appraiser Assistant Experience Log on an ongoing basis by ensuring that the Appraiser Assistant:

(i) Make entries when each assignment is completed to ensure that the log is complete and accurate.

(ii) Maintain a separate experience log for each supervising appraiser.

(C) Reviewing documentation on a monthly basis - reviewing the log, approve or disapprove log entries and edit as required, sign the log, have the appraiser assistant sign the log, and have the appraiser assistant maintain the ongoing log for any future application.

(D) Allowing the appraiser assistant to obtain copies of any appraisal reports on which they provided assistance.

(3) Any licensee who has been disciplined by the Board for violation(s) of ORS Chapter 674 and/or OAR Chapter 161 pursuant to a final order of the Board issued after June 1, 2004, may not supervise appraiser assistants as provided by the following presumptive guidelines unless substantial and compelling reasons exist to depart from these guidelines as determined by the Administrator or the Board:

(a) First Board Action: No restriction unless the first board action results in suspension or revocation or the final order in the action otherwise restricts the licensee's eligibility to act as a supervising appraiser.

(b) Second Board Action: Restricted from acting as a supervising appraiser for 24 months immediately following the date of the final order except as otherwise provided in the order.

(c) Third Board Action or any Board action resulting in suspension or revocation: Permanently restricted from acting as a supervising appraiser immediately following the date of the final order except as otherwise provided in the order.

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

Stats. Implemented: ORS 674

Hist.: ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 2-2006, f. & cert. ef. 7-26-06; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 4-2007, f. 11-1-07, cert. ef. 1-1-08; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13

161-025-0030

Appraiser Assistant

The appraiser assistant must register with the Board in order to receive experience credit towards obtaining a real estate appraiser license or certificate.

(1) An appraiser assistant must work under the direct supervision of an Oregon certified appraiser.

(2) The appraiser assistant, before performing an assignment for a supervising appraiser, must have the knowledge and experience to complete the assignment competently.

(3) All appraisal work completed by an appraiser assistant shall be prepared in compliance with USPAP and these administrative rules.

(4) An appraiser assistant may assist in the preparation of any and all components of the appraisal.

(5) An appraiser assistant must not sign, co-sign or issue an appraisal report.

(6) Any appraiser assistant who has provided professional assistance to a supervising appraiser who is signing and issuing the appraisal report must be identified in the report and the extent of the assistance provided must be disclosed in the report as described in OAR 161-025-0025(2)(d).

(7) When inspecting a property, the appraiser assistant must not misrepresent their status and at all times clearly identify themselves as a registered appraiser assistant.

(8) The scope of practice for the appraiser assistant is the appraisal of those properties which the supervising appraiser is permitted to appraise.

(9) An appraiser assistant will only be granted experience credit if they have demonstrated that they have provided substantial professional real estate appraisal assistance in all categories of experience as outlined in OAR 161-025-0025(2)(a)(A) through (H).

(10) The appraiser assistant is entitled to obtain copies of any appraisal reports on which they provided professional real estate appraisal assistance.

(11) The appraiser assistant may have more than one supervising appraiser, each of whom must sign the Appraiser Assistant Registration Application. If the appraiser assistant subsequently adds or changes a supervising appraiser, the appraiser assistant must submit a Change or Add Supervising Appraiser form, signed by the new supervising appraiser(s) along with a copy of the Supervising Appraiser's Endorsement. Any experience gained with a new supervising appraiser prior to confirmation from the Board that the registration has been amended to include the new supervising appraiser(s) will not count as experience credit towards obtaining a real estate appraiser license or certificate.

(12) Appraiser Assistance Logs must be prepared and maintained as described in OAR 161-025-0025(2)(f)(B) and (C). Separate appraisal logs must be maintained for each supervising appraiser.

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

Stats. Implemented: ORS 674

Hist.: ACLB 1-1992(Temp), f. & cert. ef. 1-23-92; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 3-1996, f. & cert. ef. 2-13-96; ACLB 1-1997(Temp), f. 10-13-97, cert. ef. 1-1-98; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 2-2004, f. 5-25-04, cert. ef. 6-1-04; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13

161-050-0000

Temporary Non-Resident Registration of Out-of-State Appraisers

(1) The Board will recognize temporarily the certificate of an appraiser issued by another state if:

- The appraiser is a non-resident of Oregon;
- The appraiser's business is of a temporary nature; and
- The appraiser registers with the Board.

(2) Any out-of-state appraiser desiring to conduct real estate appraisal activity within the State of Oregon, must submit an application for temporary registration on a form prescribed by the Board. The application must include:

- The required registration fee, and
- An irrevocable consent to service form appointing the Board Administrator as agent for service of process as provided in these rules, if, in an action against the applicant in a court of this state arising out of the applicant's activities as a licensed or certified appraiser, the plaintiff cannot, in the exercise of due diligence, effect personal service upon the applicant.

(3) The applicant must also request a license history from the applicant's resident state indicating applicant is currently in good standing. This verification must be submitted directly to the Board office by the applicant's resident state licensing authority. Alternatively, the Board may obtain a National Registry Appraiser License History Report.

(4) The non-resident registration is only valid for a single appraisal assignment within the state.

(5) A single appraisal assignment may include one or more properties under one contract for a single client.

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

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

Stats. Implemented: ORS 674

Hist.: ACLB 1-1992(Temp), f. & cert. ef. 1-23-92; ACLB 2-1992, f. & cert. ef. 4-30-92; ACLB 3-1993(Temp), f. & cert. ef. 4-28-93; ACLB 1-1994, f. & cert. ef. 2-1-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2000, f. & cert. ef. 2-29-00; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 4-2005, f. & cert. ef. 11-2-05; ACLB 1-2007, f. & cert. ef. 2-9-07; ACLB 1-2008, f. & cert. ef. 5-13-08; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13

161-050-0050

Reciprocity

(1) The Administrator of the Board shall enter into reciprocal agreements with other states in accordance with the following procedures:

- The Administrator shall determine that the standards, qualifications and examinations for the licensing and certifying of real estate appraisers in the other states are substantially similar to those in Oregon;
- The Administrator shall obtain the approval of the Board before entering into the agreement.

(2) Reciprocal agreements shall provide that the two states may issue licenses or certificates without examination, to license or certificate holders of the other state, upon payment of a mutually agreed upon fee, proof of

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current certificate and a certified letter of good standing from the other state.

(3) A reciprocal licensee shall comply with all statutes and rules governing licensed and certified appraisers in Oregon. Each reciprocal licensee shall immediately notify the Administrator of any disciplinary action taken in any other state in which the person holds a license or certificate.

(4) The Administrator may terminate a reciprocal agreement, with approval of the Board, if the Administrator finds that the other state:

(a) Is not assisting the Administrator in enforcement activity for the protection of Oregon consumers;

(b) Is not maintaining and enforcing standards, qualifications, and examinations substantially similar to those of this state.

(5) Upon termination of a reciprocal agreement with another state, the Administrator may deny the issuance of a reciprocal license or certificate, or revoke a current reciprocal license or certificate from that state. Applicants, license and certificate holders from that state must then apply for a license or certificate in the same manner as other Oregon applicants.

(6) Reciprocal certificates are issued at the same level of certification as in the applicant's state.

(7) For purposes of this rule, "substantially similar" means that the other state's minimum standards qualifications for appraisal experience and education, and examinations meet the standards established by the Board as set forth in OAR 161, Division 10.

(8) Applications for a reciprocal license or certificate shall be processed in accordance with the written reciprocal agreement between the Board and the applicant's resident state.

Stat. Auth.: ORS 183.341, 674.305 & 674.310

Stats. Implemented: ORS 674

Hist.: ACLB 3-1994, f. & cert. ef. 5-2-94; ACLB 1-1998, f. 6-24-98, cert. ef. 7-1-98; ACLB 1-2002, f. & cert. ef. 2-26-02; ACLB 3-2003, f. & cert. ef. 5-1-03; ACLB 6-2003, f. & cert. ef. 11-24-03; ACLB 1-2010(Temp), f. 1-29-10, cert. ef. 2-1-10 thru 7-27-10; ACLB 2-2010, f. & cert. ef. 4-23-10; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13

161-510-0010

Fees

The Board shall charge and collect the following non-refundable fees:

- (1) Application fee — \$1,000;
- (2) Registration fee (two years) — \$1,500;
- (3) Fee for Registration Renewed (two years) — \$3,000;
- (4) Fee for Late Renewal — \$100;
- (5) Fee for Duplicate Registration — \$10;
- (6) Annual Appraisal Subcommittee (ASC) Fee — Actual Fee;
- (7) Fingerprint and Background Checks — Actual Fee;
- (8) Fee for Change or Addition of Subject Individual — \$100;
- (9) Fee for Change of Business Name — \$100;
- (10) Fee for Registration History — \$40;
- (11) Fee for Late Annual Report — \$100.

Stat. Auth.: ORS 183.355, ORS 674.305(7), ORS 674.310 & 2011 OL Ch. 447

Stats. Implemented: ORS 674.310 & 2011 OL Ch. 447

Hist.: ACLB 5-2011(Temp), f. 12-22-11, cert. ef. 1-1-12 thru 6-27-12; ACLB 1-2012, f. 7-2-12, cert. ef. 7-3-12; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13

161-510-0030

Miscellaneous Fees

- (1) Duplicate Registration — \$10.
- (2) Late Renewal — \$100.
- (3) Annual Appraisal Subcommittee (ASC) Fee — Actual Fee.
- (4) Fingerprint and Background Checks — Actual Fee.
- (5) Change or Addition of Subject Individual — \$100.
- (6) Change of Business Name — \$100.
- (7) Registration History — \$40.
- (8) Late Annual Report — \$100.

Stat. Auth.: ORS 183.355, ORS 674.305(7), ORS 674.310 & 2011 OL Ch. 447

Stats. Implemented: ORS 674.310 & 2011 OL Ch. 447

Hist.: ACLB 5-2011(Temp), f. 12-22-11, cert. ef. 1-1-12 thru 6-27-12; ACLB 1-2012, f. 7-2-12, cert. ef. 7-3-12; Suspended by ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13

161-520-0030

Renewal Or Reactivation Of Registration

(1) An appraisal management company renewing a registration as an appraisal management company shall submit to the Board all of the following information:

(a) A completed renewal application form listing the information required by ORS 674.205(2) as follows:

(A) The name, address, website address, phone and fax numbers of the appraisal management company;

(B) The name, address, email and phone contact information of an individual that will be the initial point of contact for all communications with the Board;

(C) The name, address, email and phone contact information of the controlling person(s) of the appraisal management company;

(D) The name, address, email and phone contact information of any subject individual that owns 10 percent or more of the appraisal management company;

(E) For all subject individuals, the license, certificate or registration numbers issued by any state to do business as an appraiser or an appraisal management company;

(F) If the appraisal management company is not domiciled in Oregon, the name, address and phone contact information for the entity's agent for service of process in this state;

(b) For subject individuals, a disclosure and documentation of any administrative action taken by any state to refuse, deny, cancel or revoke a license, certificate or registration to act as an appraiser;

(c) For appraisal management companies, a disclosure and documentation of any administrative action taken by any state to refuse, deny, cancel or revoke a license, certificate or registration to act as an appraisal management company;

(d) A signed certification on a form prescribed by the Board that the appraisal management company continues to:

(A) Maintain a system to verify the competency of appraisers on the appraisal management company's appraiser panel that meets the minimum requirements in OAR 161-520-0020;

(B) Maintain and have custody of the following records for a minimum of five years:

(i) Each appraisal management services request the appraisal management company receives and the appraiser who performs the real estate appraisal activity contained in the request;

(ii) A copy of each written complaint, along with documentation showing the complaint was forwarded to the client of the appraisal;

(iii) Documentation of the training provided to each employee who selects appraisers for an appraiser panel, selects appraisers to perform real estate appraisal activity, or performs quality control examinations, and that said training complies with the requirements set forth in OAR 161-540-0010;

(C) Require that each appraiser provide the appraiser's certificate or license number issued by the Board;

(D) Maintain written policies and procedures demonstrating compliance with ORS 674.220;

(E) Have a system in place to require that appraisals be conducted independently and without inappropriate influence or coercion as required by the appraisal independence standards established under section 129E of the Truth in Lending Act, including any implementing regulations; and

(F) That the appraisal management company requires appraisers completing appraisals at the appraisal management company's request to comply with the Uniform Standards of Professional Appraisal Practice.

(G) That any employee of the appraisal management company that performs the act or process of developing and communicating a reviewer's own opinion of value as part of the appraisal review for a property located in this state, is an Oregon licensed/certified real estate appraiser.

(e) The certificate or registration numbers issued by any state to do business as an appraisal management company;

(f) Renewal fees established in OAR 161-510-0010; and

(g) A copy of the surety bond required by ORS 674.210.

(2) Renewal applications received after the expiration date and within one year of the date of expiration of the registration shall be assessed a late fee in addition to the renewal fee.

(3) An appraisal management company whose registration has expired shall cease operating as an appraisal management company in Oregon.

(4) If an appraisal management company does not submit a complete renewal application within one year from the date of expiration of the registration, the status of the registration becomes terminated and the appraisal management company must reapply pursuant to OAR 161-520-0010 and pay all applicable fees.

Stat. Auth.: ORS 183.355, ORS 674.305(7), ORS 674.310 & 2011 OL Ch. 447

Stats. Implemented: ORS 674.310 & 2011 OL Ch. 447

Hist.: ACLB 5-2011(Temp), f. 12-22-11, cert. ef. 1-1-12 thru 6-27-12; ACLB 1-2012, f. 7-2-12, cert. ef. 7-3-12; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13

161-520-0035

Form of Application

(1) All applications must be submitted as prescribed in OAR 161-520-0010 and OAR 161-520-0030 on forms prescribed by the Board.

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(2) Where space does not permit, the applicant may attach appropriate addendum. All questions must be answered. All forms must be signed and dated by the controlling person.

(3) Withholding information, misrepresentation, or submission of untrue or false statements as part of the application are deemed to demonstrate untrustworthiness and are cause for a civil penalty under ORS 674.995 and either denial of an application or subsequent disciplinary action, including revocation of registration.

(4) An application and the application fee shall be valid for six (6) months from receipt by the Board. After six (6) months, the applicant must submit a new application with the appropriate fee.

Stat. Auth.: ORS 183.355, 674.305(7) & 674.310
Stats. Implemented: ORS 674
Hist.: ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13

161-530-0010

Criminal Records Check

(1) The Board shall conduct a criminal records check on a subject individual as a condition of issuing a registration as an appraisal management company, or when there is a change or addition of a subject individual of an appraisal management company.

(2) The subject individual shall submit a completed criminal background authorization on a form prescribed by the Board, along with a fingerprint card.

(3) The subject individual shall provide additional information, as requested by the Board, to resolve any issue hindering the completion of a criminal background check and/or fitness determination.

(4) The Board shall request that the Oregon State Police conduct Oregon and nationwide criminal records checks through fingerprint identification. The Board may request or conduct a Law Enforcement Data System (LEDS) criminal records check, as part of any criminal background check and/or fitness determination, to meet the requirements of this rule.

(5) If a subject individual refuses to consent to a criminal records check, including fingerprint identification, the Board shall not issue a registration as an appraisal management company. A subject individual may not contest any determination made based on a refusal to consent.

(6) Withholding information, misrepresentation, or submission of untrue or false statements as part of the criminal background authorization are deemed to demonstrate untrustworthiness and are cause for a civil penalty under ORS 674.995 and either denial or subsequent disciplinary action, including revocation of registration.

Stat. Auth.: ORS 183.355, ORS 674.305(7), ORS 674.310 & 2011 OL Ch. 447
Stats. Implemented: ORS 674.310 & 2011 OL Ch. 447
Hist.: ACLB 5-2011(Temp), f. 12-22-11, cert. ef. 1-1-12 thru 6-27-12; ACLB 1-2012, f. 7-2-12, cert. ef. 7-3-12; ACLB 2-2012(Temp), f. & cert. ef. 8-3-12 thru 1-30-13

Board of Architect Examiners Chapter 806

Rule Caption: Reinstatement of inactive architect registration.

Adm. Order No.: BAE 2-2012

Filed with Sec. of State: 8-13-2012

Certified to be Effective: 8-13-12

Notice Publication Date: 7-1-2012

Rules Amended: 806-010-0060

Subject: Updates rules governing the reinstatement of inactive architect registrations.

Rules Coordinator: Jim Denno—(503) 763-0662

806-010-0060

Abandonment and Reinstatement of Practice

(1) Inactive Status. Unless otherwise provided by the Board, a registration becomes inactive at the end of the grace periods, or on the 61st day following the renewal deadline if a registrant fails to meet renewal requirements in statute or rule (including, but not limited to, failure to comply with continuing education requirements or failure to pay renewal fees or penalties). A registrant may request inactive status registration prior to the 61st day following the renewal deadline. The Board may reinstate an inactive or Architect Emeritus registration to active status as provided in this rule. An inactive Oregon registration prohibits an individual from:

(a) practicing architecture in Oregon, as defined by statute and rule; and

(b) using the architect title in Oregon, as defined by statute and rule.

(2) Inactive for Five Years or less. An individual whose registration has been inactive in Oregon five years or less may be reinstated to active status by:

(a) Filing a current application for reinstatement;

(b) Demonstrating current professional proficiency, as outlined under subsection (6) of this rule; and

(c) Paying the reinstatement fee.

(3) Inactive Over Five Years: An individual who has not held an active registration in any Board approved jurisdiction for a period of longer than five years must comply with the requirements in subsection (2) of this rule and:

(a) Must pass the Jurisprudence Examination (JE). The JE will be administered in a manner approved by the Board. A score of 84% is the minimum passing score. Individuals will be notified of their test results. Test results may not be challenged. Individuals who do not pass the JE may not retake for at least 30 days.

(b) May be required to attend an oral interview with the Board. Individuals will be notified of the time and location of the oral interview after they have successfully passed the JE.

(4) Board Discretion: Regardless of the length of inactive registration, in addition to the requirements listed in subsection (2) above, the Board may require the additional items in subsection (3) and (5) if the individual has:

(a) Any legal history since their last Oregon renewal;

(b) Failed the JE more than three times.

(5) The following may be required as stated in subsection (4):

(a) Providing verification of meeting National Council of Architect Registration Board (NCARB) seismic requirements, or the equivalent, as determined by this Board; and

(b) Providing the Board with a current NCARB Council Record.

(c) Meeting current professional proficiency, as defined under subsection (6)(a) and (6)(b) of this rule.

(6) Current Professional Proficiency. For purposes of this rule, current professional proficiency may be established by:

(a) Submitting to the Board verifiable evidence of compliance with the aggregate continuing education hours (CEH) requirements for the reporting periods that the certificate was inactive in Oregon, or

(b) Satisfying the requirements of OAR 806-010-0020 or 806-010-0035.

Stat. Auth.: ORS 671.125
Stats. Implemented: ORS 671.080
Hist.: AE 5, f. 12-22-64; AE 2-1978, f. & ef. 3-6-78; AE 1-1979, f. 5-31-79, ef. 6-1-79; AE 2-1980, f. & ef. 10-3-80; AE 1-1987, f. & ef. 3-30-87; AE 1-1996, f. 1-23-96, cert. ef. 2-1-96; AE 2-1997, f. & cert. ef. 9-24-97; BAE 1-1999, f. & cert. ef. 3-25-99; BAE 3-2000, f. & cert. ef. 7-24-00; BAE 4-2002, f. & cert. ef. 8-7-02; BAE 2-2004, f. & cert. ef. 3-2-04; BAE 7-2006, f. & cert. ef. 12-13-06; BAE 1-2010, f. & cert. ef. 4-6-10; BAE 2-2010, f. 6-11-10, cert. ef. 10-3-10; BAE 2-2012, f. & cert. ef. 8-13-12

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Rule Caption: Architect Continuing Education Rules.

Adm. Order No.: BAE 3-2012

Filed with Sec. of State: 8-13-2012

Certified to be Effective: 8-13-12

Notice Publication Date: 7-1-2012

Rules Amended: 806-010-0090, 806-010-0105, 806-010-0145

Subject: Updates rules governing the requirements for continuing education for architects. Aligns Oregon requirements with national standards and practices and helps facilitate reciprocal licensing.

Rules Coordinator: Jim Denno—(503) 763-0662

806-010-0090

Renewal of Architect Registration

(1) The renewal deadline for architect registration certificates is July 1st. Architect registration certificates issued by this Board ending in even numbers expire at the end of the established grace periods in ORS 671.080, on August 30th of even-numbered years. Certificates ending in odd-numbers expire on August 30th of odd-numbered years. To renew, registrants must:

(a) Submit a current Board renewal form, fully completed and received in the Board office on or before July 1st of the year in which the license expires;

(b) Pay all required renewal fees, including any applicable late fees, specified in OAR 806-010-0105; and

(c) Provide any required evidence that the requirements for continuing education in OAR 806-010-0145 have been met.

(2) Registrants who fail to renew their registrations on or before July 1st of the year in which the registration expires will be considered to be delinquent. A delinquent registration may be renewed during the established grace periods by the Board's receipt of a complete renewal, as follows:

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(a) Not later than July 31st of the year in which the registration expires, including payment of the renewal fee and any applicable late CEH reporting fee; or

(b) After July 31st, but before August 30th of the year in which the registration expires, including payment of the renewal fee, the late renewal fee, and any applicable late CEH reporting fee.

(3) On August 30th following the renewal deadline, the certificate of the architect who fails to pay the renewal fee, any applicable late renewal or late CEH reporting fees, or fails to provide a complete renewal application form to the Board office shall become inactive in Oregon. Reinstatement to active status must be in accordance with the provisions of OAR 806-010-0060.

Stat. Auth.: ORS 670 & 671.125

Stats. Implemented: ORS 671.080

Hist.: AE 18(Temp), f. 10-4-77; AE 21, f. & ef. 12-20-77; AE 1-1979, f. 5-31-79, ef. 6-1-79; AE 3-1992, f. & cert. ef. 6-30-92; BAE 4-2002, f. & cert. ef. 8-7-02; BAE 1-2003, f. & cert. ef. 1-15-03; BAE 2-2008, f. 3-7-08, cert. ef. 7-1-08; BAE 3-2012, f. & cert. ef. 8-13-12

806-010-0105

Schedule of Actual Fees

(1) Initial Registration:

(a) One year or less — \$75;

(b) More than one year to two years — \$150;

(2) Renewal — \$200;

(a) Late Renewal — \$100;

(b) Late CEH — \$100;

(3) Examination Application Fee — \$75;

(4) Reciprocal Application Fee — \$100;

(5) Duplicate Wallet Card or Certificate — \$25;

(6) Firm Registration — \$100;

(7) Firm Renewal — \$100;

(8) Reinstatement — \$400;

(9) Miscellaneous:

(a) Labels, lists, or computer disk of licensees — \$50;

(b) Copying charges:

(A) The first 5 pages — free;

(B) Additional pages — \$0.25 per page.

Stat. Auth.: ORS 671.125

Stats. Implemented: ORS 671.085

Hist.: AE 3-1983, f. 1-12-83, ef. 3-1-83; AE 2-1984, f. & ef. 10-23-84; AE 1-1986, f. 11-12-86, ef. 11-13-86; AE 1-1988, f. & cert. ef. 3-14-88; AE 2-1988, f. & cert. ef. 9-9-88; AE 4-1992, f. & cert. ef. 9-2-92; AE 1-1996, f. 1-23-96, cert. ef. 2-1-96; AE 2-1997, f. & cert. ef. 9-24-97; BAE 2-1998, f. & cert. ef. 6-22-98; BAE 5-2001, f. & cert. ef. 10-24-01; BAE 2-2002, f. & cert. ef. 4-30-02; BAE 4-2002, f. & cert. ef. 8-7-02; BAE 1-2003, f. & cert. ef. 1-15-03; BAE 2-2008, f. 3-7-08, cert. ef. 7-1-08; BAE 3-2010, f. & cert. ef. 12-14-10; BAE 3-2011, f. & cert. ef. 7-22-11; BAE 3-2012, f. & cert. ef. 8-13-12

806-010-0145

Continuing Education

(1) **Required to Practice:**

(a) In order to continue to practice architecture in Oregon, every person holding an active certificate of registration with this Board must meet continuing education requirements as part of the renewal process outlined in OAR 806-010-0090.

(b) Failure to comply with all continuing education requirements will result in additional fees, non-renewal of the architect's registration, or other disciplinary action.

(c) A Continuing Education Hour (CEH) is one continuous instructional hour (50 to 60 minutes of contact) spent in structured educational activities intended to increase or update the architect's knowledge and competence in Health, Safety and Welfare subjects. If the provider of the structured educational activities prescribes a customary time for completion of such an activity, then such prescribed time shall, unless the Board finds the prescribed time to be unreasonable, be accepted as the architect's time for CEH purposes irrespective of actual time spent on the activity.

(2) **Purpose and Scope:** These rules establish CEH requirements to ensure that all architects remain informed of those technical subjects necessary to safeguard the health, safety, and welfare of the public. These rules apply to all architects in Oregon.

(3) **Requirements:**

(a) To renew or reinstate registration, in addition to other requirements, an architect must have acquired the minimum CEH during each two-year renewal cycle since the architect's last renewal, or be exempt from these CEH requirements.

(b) Within a two-year renewal cycle, a minimum of 24 CEH must be acquired in subjects that relate to safeguarding the health, safety, and welfare of the public.

(c) Health, Safety and Welfare subjects are those technical and professional subjects deemed appropriate to safeguard the public and that are

necessary for the proper evaluation, design, construction, and utilization of buildings and the built environment, including but not limited to the following enumerated areas:

(A) Building Systems: structural, mechanical, electrical, plumbing, communications, security, fire protection;

(B) Construction Contract Administration: contracts, bidding, contract negotiations.

(C) Construction Documents: drawings, specifications, delivery methods;

(D) Design: urban planning, master planning, building design, site design, interiors, safety and security measures;

(E) Environmental: energy efficiency, sustainability, natural resources, natural hazards, hazardous materials, weatherproofing, insulation;

(F) Legal: laws, codes, zoning, regulations, standards, life safety, accessibility, ethics, insurance to protect owners and public;

(G) Materials and Methods: construction systems, products, finishes, furnishings, equipment;

(H) Pre-Design: land use analysis; programming, site selection, site and soils analysis, surveying;

(I) Preservation: historic, reuse, adaptation;

(4) **Initial Registration and Reissued Certificates:** An individual who receives an initial or reissued certificate to practice architecture in Oregon will comply with the CEH requirements on a pro-rated basis, calculated at one CEH per month, beginning with the first full month following the month of issuance or reissuance, through the end of the renewal cycle.

(5) **Reporting and Record Keeping:**

(a) An architect must complete and submit forms approved by the board certifying to the architect's having acquired the required CEH;

(b) An architect's submission may be selected for review by the board for verification of compliance with these requirements. Evidence of compliance must be maintained by the architect for four years from the date of completion of the CEH. If selected for CEH review by the Board, the architect must provide such evidence to verify attendance at reported CEH activities;

(c) If the board provides written notice that an architect has not met the CEH requirements, the architect shall have 60 days from such notice to complete the required number of CEH and pay the late CEH fee. Such CEH may not be used to meet the requirements of any subsequent renewal. Failure to pay the fee or complete required CEH shall subject the architect to disciplinary action.

(d) Acceptable CEH activities must be reported in a minimum of one-hour segments.

(e) Time spent on the same continuing education course, even if obtained on different dates, may be used only once during any renewal period to meet CEH requirements.

(f) CEH must be acquired during the two year renewal cycle.

(g) Any false statements or misrepresentations with respect to course attendance or any other aspect of continuing educational activity shall subject the architect to license revocation or other disciplinary action.

(h) CEH may be reported on a current Board renewal form or by submitting a transcript from the American Institute of Architects, Continuing Education Program, that document CEH earned by the architect during the two year renewal cycle.

(6) **Activities:** All CEH are required to be in structured activities in which at least 75% of an activity's content and instructional time must be devoted to health, safety, and welfare subjects related to the practice of architecture, including courses of study or other activities under the areas identified as health, safety, and welfare, as defined under OAR 806-010-0145(3), and provided by qualified individuals or organizations whether delivered by direct contact or distance learning methods.

(7) **Activities Not Allowed:** All architects are required to obtain continuing education in subjects that relate to the health, safety, and welfare of the public. The following continuing education activities do not qualify for meeting CEH requirements:

(a) Time spent in unstructured programs or self-directed study.

(b) Time spent on architectural educational tours of cities, buildings, or public places, unless there is a significant HSW component to the tour curriculum.

(c) Time spent in any teaching program sharing professional skills, such as the Architects in Schools (AIS) program.

(d) Time spent as a mentor for a person enrolled in the IDP program.

(8) **Exemptions:** An architect may be exempt from Oregon's CEH requirements if the architect submits acceptable documentation that for not

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less than 18 months of the current renewal cycle the architect has met one of the following exemption criteria:

- (a) Has served honorably on active duty in the military service;
- (b) Individual hardship, which shall include health (certified by a medical doctor) or other good cause. The architect must provide any information requested by the Board to assist in substantiating hardship cases. Individual hardship exemption is granted at the sole discretion of the Board.

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

Stat. Auth.: ORS 671.125

Stats. Implemented: ORS 671.125 & 671.080

Hist.: BAE 1-2000, f. & cert. ef. 2-23-00; BAE 2-2000, f. & cert. ef. 7-24-00; BAE 3-2001, f. & cert. ef. 10-4-01; BAE 3-2002, f. 7-10-02 cert. ef. 7-15-02; BAE 4-2002, f. & cert. ef. 8-7-02; BAE 1-2003, f. & cert. ef. 1-15-03; BAE 5-2004, f. & cert. ef. 5-5-04; BAE 7-2006, f. & cert. ef. 12-13-06; BAE 2-2008, f. 3-7-08, cert. ef. 7-1-08; BAE 1-2010, f. & cert. ef. 4-6-10; BAE 3-2012, f. & cert. ef. 8-13-12

Bureau of Labor and Industries Chapter 839

Rule Caption: Permanent rules clarifying that complaints under ORS 654.062 need not be notarized written complaints.

Adm. Order No.: BLI 7-2012

Filed with Sec. of State: 8-8-2012

Certified to be Effective: 8-8-12

Notice Publication Date: 7-1-2012

Rules Adopted: 839-003-0031

Rules Amended: 839-003-0005, 839-003-0025, 839-003-0200

Subject: Previous rules required that complaints filed under the Oregon Safe Employment Act (OSEA) contain a notarized signature of the complainant. BOLI investigates retaliation complaints filed under OSEA statutes pursuant to a contract with Oregon OSHA. The federal Occupational Safety and Health Administration (OSHA) and Oregon OSHA have expressed concern that requirement of a notarized complaint is a barrier to timely investigations of matters involving threats to workplace safety, and have asked that BOLI clarify that complaints filed under ORS 654.062 do not require notarization. The proposed rules are required in order for the complaint requirements to be consistent with OSEA statutes.

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 complaints under OSEA, 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.

(16) "Substantial evidence" means:

(a) Proof that a reasonable person would accept as sufficient to support the allegations of the complaint, except complaints under ORS 659A.145 or 659A.421 or federal housing law.

(b) Under ORS 659A.145 or 659A.421, reasonable cause for the Commissioner to believe the facts concerning the alleged discriminatory housing practice are sufficient to warrant the initiation of a civil action in circuit court.

(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 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; BLI 5-2012(Temp), f. & cert. ef. 6-13-12 thru 12-10-12; BLI 7-2012, f. & cert. ef. 8-8-12

839-003-0025

Filing a Complaint

This section does not apply to complaints under OSEA, ORS 659A.145 or 659A.421 or federal housing law. Complaints under OSEA must be filed in accordance with OAR 839-003-0031. Complaints of housing discrimination must be filed in accordance with 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 OAR 839-003-0031, 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) 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 & 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.

ADMINISTRATIVE RULES

2-24-10; BLI 8-2011, f. 10-13-11, cert. ef. 10-14-11; BLI 5-2012(Temp), f. & cert. ef. 6-13-12 thru 12-10-12; BLI 7-2012, f. & cert. ef. 8-8-12

839-003-0031

Filing a Complaint Under the Oregon Safe Employment Act

(1) A person or the person's attorney may file a complaint under OSEA, in person or by mail, with the division at any bureau office in the state of Oregon. Complaint means a written statement signed by the complainant 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.

(2) 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(3).

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 654.062 & Ch 659A

Hist.: BLI 5-2012(Temp), f. & cert. ef. 6-13-12 thru 12-10-12; BLI 7-2012, f. & cert. ef. 8-8-12

839-003-0200

Filing a Complaint Under State and Federal Housing Discrimination Laws

(1) A person claiming to be aggrieved by an alleged unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law includes a person who believes that the person has been injured by an unlawful practice or discriminatory housing practice or will be injured by an unlawful practice or discriminatory housing practice that is about to occur.

(2) A person claiming to be aggrieved by an alleged unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law or the person's attorney, or the commissioner may file a complaint, in person or by mail, with the division at any bureau office in the state of Oregon. Complaint means a written statement signed by the complainant that:

- (a) Gives the name and address of the complainant and the respondent;
- (b) Describes the acts or omissions alleged to be an unlawful practice, including those acts or omissions the person believes are about to occur and;
- (c) Describes how the person was harmed or will be harmed by such actions.

(3) The filing date is the date the division receives a complaint that meets the standards contained in OAR 839-003-0200(2).

(4) 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 per-

son files the complaint within one year of the most recent date the unlawful practice occurred.

(5) 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;

(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 on behalf of the minor by the parent or legal guardian of the minor.

(6) The Division will serve notice upon the complainant acknowledging the filing of the complaint and advising the complainant of the time limits and choice of forums provided under ORS chapter 659A and federal housing law.

(7) Within 10 days after the filing of a complaint, the division will serve the respondent with a copy of the original complaint that identifies the alleged discriminatory housing practice and a notice that advises the respondent of the procedural rights and obligations of the Respondent, including the respondent's right to file an answer to the complaint.

(8) Each respondent may file, not later than 10 days after receipt of notice from the division, an answer to such complaint.

Stat. Auth.: ORS 659A.805

Stats. Implemented: 659A.145, 659A.421, 659A.820, 42 U.S.C. 3601 et seq.

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 6-2010, f. & cert. ef. 2-24-10; BLI 5-2012(Temp), f. & cert. ef. 6-13-12 thru 12-10-12; BLI 7-2012, f. & cert. ef. 8-8-12

Rule Caption: Temporary rules clarifying substantial evidence and signature requirements for complaints of housing discrimination.

Adm. Order No.: BLI 8-2012(Temp)

Filed with Sec. of State: 8-8-2012

Certified to be Effective: 8-8-12 thru 1-31-13

Notice Publication Date:

Rules Amended: 839-003-0005, 839-003-0200

Subject: The temporary rules will clarify that the standard of substantial evidence required for a housing complaint is reasonable cause for the Commissioner to believe the facts concerning the alleged discriminatory housing practice are sufficient to warrant the initiation of a civil action in circuit court.

The temporary rules will clarify that complaints of discrimination in housing need not be signed by an unemancipated minor complainant, but must be signed by the minor's parent or legal guardian.
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 complaints under OSEA, 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.

ADMINISTRATIVE RULES

(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.

(16) "Substantial evidence" means:

(a) Proof that a reasonable person would accept as sufficient to support the allegations of the complaint, except complaints under ORS 659A.145 or 659A.421 or federal housing law.

(b) Under ORS 659A.145 or 659A.421, reasonable cause for the Commissioner to believe the facts concerning the alleged discriminatory housing practice are sufficient to warrant the initiation of a civil action in circuit court.

(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 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; BLI 5-2012(Temp), f. & cert. ef. 6-13-12 thru 12-10-12; BLI 7-2012, f. & cert. ef. 8-8-12; BLI 8-2012(Temp), f. & cert. ef. 8-8-12 thru 1-31-13

839-003-0200

Filing a Complaint Under State and Federal Housing Discrimination Laws

(1) A person claiming to be aggrieved by an alleged unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law includes a person who believes that the person has been injured by an unlawful practice or discriminatory housing practice or will be injured by an unlawful practice or discriminatory housing practice that is about to occur.

(2) A person claiming to be aggrieved by an alleged unlawful practice under ORS 659A.145 or 659A.421 or discrimination under federal housing law or the person's attorney, or the commissioner may file a complaint, in person or by mail, with the division at any bureau office in the state of Oregon. Complaint means a written statement signed by the complainant that:

(a) Gives the name and address of the complainant and the respondent;

(b) Describes the acts or omissions alleged to be an unlawful practice, including those acts or omissions the person believes are about to occur and;

(c) Describes how the person was harmed or will be harmed by such actions.

(3) The filing date is the date the division receives a complaint that meets the standards contained in OAR 839-003-0200(2).

(4) 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.

(5) 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;

(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 on behalf of the minor by the parent or legal guardian of the minor.

(6) The Division will serve notice upon the complainant acknowledging the filing of the complaint and advising the complainant of the time limits and choice of forums provided under ORS chapter 659A and federal housing law.

(7) Within 10 days after the filing of a complaint, the division will serve the respondent with a copy of the original complaint that identifies the alleged discriminatory housing practice and a notice that advises the respondent of the procedural rights and obligations of the Respondent, including the respondent's right to file an answer to the complaint.

(8) Each respondent may file, not later than 10 days after receipt of notice from the division, an answer to such complaint.

Stat. Auth.: ORS 659A.805

Stats. Implemented: 659A.145, 659A.421, 659A.820, 42 U.S.C. 3601 et seq.

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 6-2010, f. & cert. ef. 2-24-10; BLI 5-2012(Temp), f. & cert. ef. 6-13-12 thru 12-10-12; BLI 7-2012, f. & cert. ef. 8-8-12; BLI 8-2012(Temp), f. & cert. ef. 8-8-12 thru 1-31-13

Rule Caption: Extends time for agency to process committee meeting minutes from 10 to 14 days.

Adm. Order No.: BLI 9-2012(Temp)

Filed with Sec. of State: 8-15-2012

Certified to be Effective: 8-15-12 thru 1-29-13

Notice Publication Date:

Rules Amended: 839-011-0170

Subject: Pursuant to ORS 660.010–660.210, the Oregon Bureau of Labor and Industries (BOLI) administers registered apprenticeship programs in Oregon through its Apprenticeship and training Division (ATD). ORS 660.135 requires apprenticeship programs to submit a record in the forms of committee meeting minutes to ATD reporting all actions taken pertaining to apprentices. Current OAR 839-011-0170(2) requires ATD to enter this information into ATD's database within 10 days of receipt. recent staff reductions have made it difficult to meet this 10 day requirement. In order to provide staff with additional time to process local committee minutes in a timely fashion in light of recent personnel reductions, the Division is requesting approval of a temporary amendment to OAR 839-011-0170(2) to increase the 10 day processing requirement to 14 days.

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

839-011-0170

Committee Minutes Submission and Processing

(1) Meeting requirements:

(a) Local committees shall hold at least two (2) physical meetings each year with a quorum of committee members in attendance to evaluate apprentices and conduct other committee business.

(A) All disciplinary actions require a physical meeting. Electronic polling is prohibited for issues requiring the personal appearance of applicants, apprentices, trainees, training agents or employers.

(B) Committees may vote to take all other actions by facsimile, e-mail or other electronic media if by-laws permitting such voting have been adopted.

(b) State committees should hold at least one (1) physical meeting every three (3) years to review guideline standards. Additional meetings may be called by the state committee chair, at the request of a majority of state committee members or at Council direction. A quorum of members must be physically present at meetings to vote on proposed revisions to guideline standards.

(2) As required in ORS 660.135(3), each committee secretary shall be responsible for the preparation, maintenance and submission to the

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Division of committee meeting minutes, including actions pertaining to apprentices and all supporting documentation.

(a) All committee meeting minutes shall be submitted in a format approved by the Division within ten (10) working days of the meeting.

(b) All committee actions noted in meeting minutes shall be recorded and processed by the Division within fourteen (14) working days of receipt of the minutes.

Stat. Auth.: ORS 660.120(1)

Stats. Implemented: ORS 660.120(1) & 660.135(4)

Hist.: BL 6-1994, f. & cert. ef. 10-10-94; BLI 2-1999, f. & cert. ef. 4-2-99; BLI 18-2010, f. 7-29-10, cert. ef. 8-1-10; BLI 9-2012(Temp), f. & cert. ef. 8-15-12 thru 1-29-13

Commission for the Blind
Chapter 585

Rule Caption: Financial Support for Funding Business Ventures.

Adm. Order No.: CFTB 1-2012

Filed with Sec. of State: 8-9-2012

Certified to be Effective: 8-9-12

Notice Publication Date: 6-1-2012

Rules Amended: 585-010-0310

Subject: Division 10: Business Policy — Updates language to reflect current practice.

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

585-010-0310

Business Policy

(1) What This Rule Does. This rule establishes the conditions under which financial support for funding business ventures will be provided by the Commission for the Blind. Clients who are entering into the Business Enterprise Program do not meet the federal definition of self-employment under the Rehabilitation Act and are not subject to the requirements of this rule.

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

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

- (a) "Agency" means the Commission for the Blind;
- (b) "IPE" means Individualized Plan for Employment;
- (c) "SBA" means the U. S. Small Business Administration;
- (d) "SSA" means the U. S. Social Security Administration;
- (e) "Counselor" means the client's assigned Vocational Rehabilitation Counselor who is a staff member of the Agency.

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

(5) Basic Criteria:

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

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

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

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

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

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

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

(6) Comprehensive Assessment:

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

(b) The comprehensive assessment will cover the following:

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

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

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

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

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

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

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

(7) Comprehensive Business Plan:

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

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

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

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

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

(9) Availability of Funds:

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

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

(10) Financial Support:

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

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

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

(11) Equipment:

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

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

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

Stat. Auth.: ORS 183 & 346

Stats. Implemented: ORS 346.150

Hist: 2BC 1-1985, f. & ef. 1-31-85; CFTB 3-1999, f. & cert. ef. 7-8-99; CFTB 1-2004, f. & cert. ef. 10-8-04; CFTB 1-2005, f. & cert. ef. 2-11-05; CFTB 1-2009, f. & cert. ef. 4-13-09; CFTB 1-2012, f. & cert. ef. 8-9-12

Department of Administrative Services Chapter 125

Rule Caption: Adopt Sale of Compressed Natural Gas to Private Entities.

Adm. Order No.: DAS 1-2012

Filed with Sec. of State: 7-27-2012

Certified to be Effective: 8-1-12

Notice Publication Date: 7-1-2012

Rules Adopted: 125-156-0000

Subject: OAR 125-156-0000 authorizes the Department of Administrative Services fueling site(s) to sell compressed natural gas to non-state entities. The rate charged for this fuel is to include the cost of the fuel and associated administrative costs to provide this service. The service may continue until an alternative source of CNG is established within fifty miles of the DAS fueling site(s).

Rules Coordinator: Janet Chambers—(503) 378-5522

125-156-0000

Sale of Compressed Natural Gas to Private Entities

(1) The Department of Administrative Services (DAS) may sell Compressed Natural Gas (CNG) for vehicle fueling purposes to members of the public or private entities until a CNG fueling vendor is established within fifty miles of the DAS owned fueling site(s).

(2) DAS will charge a rate sufficient to recover the cost of the fuel and any incidental administrative costs to provide the service.

Stat. Auth.: ORS 283.310, 2010 OL Ch. 30, Sections 13 & 14

Stats. Implemented: ORS 283.327

Hist.: DAS 1-2012, f. 7-27-12, cert. ef. 8-1-12

Department of Agriculture Chapter 603

Rule Caption: Amend field burning rules to increase field burning fees and general housekeeping.

Adm. Order No.: DOA 22-2012

Filed with Sec. of State: 8-1-2012

Certified to be Effective: 8-1-12

Notice Publication Date: 6-1-2012

Rules Amended: 603-077-0105, 603-077-0110, 603-077-0112, 603-077-0113, 603-077-0119

Subject: The rules govern the operation and enforcement of field burning in the Willamette Valley. The rules are necessary for the Department of Agriculture to increase the fees for field burning as outlined in ORS 468A.615(2)(b), and general housekeeping corrections.

The Oregon Department of Agriculture (ODA), operates the Smoke Management Program under a Memorandum of Understanding with the Oregon Department of Environmental Quality.

The Smoke Management Program regulates the field burning of grass seed in the Willamette Valley.

Field burning typically commences following harvest in July.

The 2009 Oregon Legislative Assembly reduced field burning in the Willamette Valley from a maximum of 65,000 acres to 15,000 acres annually. This legislation increased field burning fees from \$8.00 to \$16.00 per acre. However, the current fees generated following the legislatively mandated field burning acreage reduction does not cover the costs of operating the Smoke Management

Program. The recommended fee increase is \$4.00 per acres (\$16.00 to \$20.00 per acre).

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

603-077-0105

Definitions

As used in this Division:

(1) "Actively Extinguish" means the direct application of water or other fire retardant to an open field fire.

(2) "Permit or "Burn Permit" or "Burning Permit" means a permit issued by the Department pursuant to ORS 468A.575.

(3) "Candidate Fields" means all grass seed or cereal grain fields being considered for open field burning or propane flaming.

(4) "Commission" means the Environmental Quality Commission.

(5) "Critical Nonburn Area" means the area of a grass seed or cereal grain field where burning is prohibited, such as underneath power transmission lines, or near a school, airport, or hospital pursuant to OAR 603-077-0119. This prohibition may be permanent or for a limited period of time, as provided in these rules.

(6) "Crop" means cultivated agricultural plants such as grain.

(7) "Cumulative Hours of Smoke Intrusion in the Willamette Valley" means the average of the totals of cumulative hours of smoke intrusion recorded, and has been determined by the Department that open field burning, propane flaming, or stack burning was a significant contributor to the smoke intrusion:

(a) The Department shall record one hour of intrusion for each hour the nephelometer hourly reading exceeds a background level by 1.8 x 10⁻⁴ b-scat units or more but less than the applicable value in subsection (b) of this section;

(b) The Department shall record two hours of intrusion for each hour the nephelometer hourly reading exceeds a background level by 5.0 x 10⁻⁴ b-scat units;

(c) The background level shall be the average of the three hourly readings immediately prior to the start of burning on the day in which the intrusion occurred.

(8) "Department" means the Oregon Department of Agriculture.

(9) "Director" means the Director of the Department or delegated employee representative.

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

(11) "Drying Day" means a 24-hour period during which the relative humidity reached a minimum less than 50 percent and no rainfall was recorded at the nearest reliable measuring site.

(12) "Effective Mixing Height" means either the actual height of plume rise as determined by ODA field staff or the calculated or estimated mixing height as determined by the Department.

(13) "Emergency Open Burning" is defined in Oregon Administrative Rule by the Oregon Department of Environmental Quality; OAR 340-266-0030.

(14) "Field-by-Field Burning" means burning on a limited or restricted basis in which the amount, rate, and area authorized for burning is closely controlled and monitored. Included under this definition are experimental open field burning emergency burning, and burning within priority areas.

(15) "Field Reference Code" means a unique four-part code which identifies a particular registered field for mapping purposes. The first part of the code shall indicate the grower registration (form) number, the second part the line number of the field as listed on the registration form, the third part the crop type, and the fourth part the size (acreage) of the field (e.g., a 35 acre perennial (Chewings Fescue) field registered on Line 2 of registration form number 1953 would be 1953-2-P-CF-35).

(16) "Field Specific Burn Plan" means an individual burn plan designed for a field or acreage that has been approved under OAR 340-266-0065 for emergency burning, which identifies specific criteria, conditions, precautions, and requirements that need to be followed when burning in order to ensure the smoke does not endanger public health and safety.

(17) "Fire District" or "District" or "Fire Protection District" means a fire permit issuing agency.

(18) "Fire Permit" means a permit issued by a local fire permit issuing agency pursuant to ORS 477.515, 476.380, or 478.960.

(19) "Fires-Out Time" means the time announced by the Department when all flames and major smoke sources associated with open field burning should be out and prohibition conditions are scheduled to be imposed.

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(20) "Fluffing" means an approved mechanical method of stirring or tending crop residues for enhanced aeration and drying of the full fuel load, thereby improving the field's combustion characteristics.

(21) "Grower" means a person that cultivates perennial or annual grass seed or cereal grain.

(22) "Grower Allocation" means the amount of acreage sub-allocated annually to the grower registrant, based on the grower registrant's pro rata share of the maximum annual acreage limitation, representing the maximum amount for which burning permits may be issued, subject to daily authorization. Grower allocation is defined by the following identity: $\text{Grower Allocation} = (\text{Maximum annual acreage limit}) \times ((\text{Total acreage registered by the grower registrant}) / (\text{Total acreage registered in the valley}))$

(23) "Grower Registrant" means any person who registers acreage with the Department for the purposes of open field burning, propane flaming, or receives a permit to stack burn.

(24) "Identified Species" means a grass seed field consisting of Creeping Red Fescue, Chewings Fescue, or Highland Bentgrass, or as identified by the Director of Agriculture.

(25) "Marginal Conditions" means atmospheric conditions such that smoke and particulate matter escape into the upper atmosphere with some difficulty but not such that limited additional smoke and particulate matter would constitute a danger to the public health and safety.

(26) "Marginal Day" means a day on which marginal conditions exist.

(27) "Nephelometer" means an instrument for measuring ambient smoke concentrations.

(28) "Northerly Winds" means winds coming from directions between 270° to 90° in the north part of the compass, averaged through the effective mixing height.

(29) "Open Field Burning" means burning of any grass seed or cereal grain crops, or associated residue, including steep terrain and species identified by the Director of Agriculture, or any "emergency" or "experimental" burning, as identified in these rules.

(30) "Open Field Burning Permit" means a permit issued by the Department pursuant to ORS 468A.575.

(31) "Permit Agent" means the person under contract or otherwise authorized by the Department to administer registration of acreage, issue burn permits, collect fees, and keep records for open field burning, propane flaming, or stack burning within their permit jurisdictions pursuant to ORS 468A.550 et seq.

(32) "Permit Issuing Agency" means the county court or board of county commissioners, or fire chief or a rural fire protection district or other person authorized to issue fire permits pursuant to ORS 477.515, 476.380, or 478.960.

(33) "Person" means, but is not limited to, individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, states and their agencies, and the Federal Government and its agencies.

(34) "Preparatory Burning" means controlled burning of portions of selected fields for the specific purpose of reducing the fire hazard potential or other conditions which would otherwise inhibit rapid ignition burning when the field is subsequently open burned.

(35) "Priority Acreage" means acreage located within a priority area.

(36) "Priority Areas" means certain areas in the Willamette Valley where burning is restricted, such as near population centers, airports, Interstate I-5, and other highways, as specified in 603-077-0119(1).

(37) "Problem Field" means a field where special precautions need to be taken by the grower because of potential fire hazard or proximity to a sensitive area, as specified in OAR 603-077-0119(4).

(38) "Prohibition Conditions" means conditions under which open field burning is not allowed except for individual burns specifically authorized by the Department pursuant to OAR 603-077-0115(2).

(39) "Propane Flaming" means the flame sanitization of a grass seed or cereal grain field using a mobile flamer device which meets the following design specifications and utilizes an auxiliary fuel such that combustion is nearly complete and emissions are significantly reduced:

(a) Flamer nozzles shall not be more than 15 inches apart;

(b) A heat deflecting hood is required and shall extend a minimum of three feet beyond the last row of nozzles.

(40) "Propane Flaming Permit" means a permit issued by the Department pursuant to ORS 468A.575 and consisting of a validation number and specifying the conditions and acreage specifically registered and allocated for propane flaming.

(41) "Quota" means an amount of acreage established by the Department for each fire district for use in authorizing daily burning limits

in a manner to provide, as reasonably as practicable, an equitable opportunity for burning in each area.

(42) "Rapid Ignition Techniques" means a method of burning in which all sides of the field are ignited as rapidly as practicable to maximize plume rise. When using this method, little or no preparatory backfire burning shall be done.

(43) "Released Allocation" means that part of a grower's allocation, by registration form, that is unused and voluntarily released to the Department for first come-first serve dispersal to other grower registrants.

(44) "Residue" means straw, stubble, screenings and associated crop material generated in the production of grass seed and cereal grain crops.

(45) "Responsible Person" means each person who is in ownership, control, or custody of the real property on which open field burning occurs, including any tenant thereof, or who is in ownership, control or custody of the material which is burned, or the grower registrant. Each person who causes or allows open field burning, propane flaming, or stack burning to be maintained shall also be considered a responsible person.

(46) "Screenings" means organic waste materials resulting from the seed cleaning process of grass seed and cereal grain.

(47) "Small-Seeded Seed Crops Requiring Flame Sanitation" means small-seeded grass, legume, and vegetable crops, or other types approved by the Department, which are planted in early autumn, are grown specifically for seed production, and which require flame sanitation for proper cultivation. For purposes of this Division, clover and sugar beets are specifically included. Cereal grains, hairy vetch, or field peas are specifically not included.

(48) "Smoke Management" means a system for the daily or hourly control of open field burning, propane flaming, or stack burning through authorization of the times, locations, amounts and other restrictions on burning, so as to provide for suitable atmospheric dispersion of smoke particulate and to minimize impact on the public.

(49) "Southerly Winds" means winds coming from directions between 90° to 270° in the south part of the compass, averaged through the effective mixing height.

(50) "Stack Burning" means the open burning of bound, baled, collected, gathered, accumulated, piled or stacked straw residue from perennial or annual grass seed or cereal grain crops.

(51) "Stack Burning Permit" means a permit issued by the Department pursuant to ORS 468A.575 that identifies the responsible person, date of permit issuance, and specifies the acreage and location authorized for stack burning.

(52) "State Fire Marshal Fire Safety Buffer Zone" means an area within 1/4 mile of Interstate I-5, and 1/8 mile of major highways, that is required to have a noncombustible ground surface, as defined in the State Fire Marshal rules in OAR 837 Division 110.

(53) "Steep Terrain" means a grass seed or cereal grain field defined by Revised Universal Soil Loss Equation (RUSLE) and percent slope, as identified by the Director of Agriculture.

(54) "Test Fires" means individual field burns specifically authorized by the Department for the purpose of determining or monitoring atmospheric dispersion conditions.

(55) "Training Fires" means individual field burns set by or for a public agency for the official purpose of training personnel in fire-fighting techniques.

(56) "Unusually High Evaporative Weather Conditions" means a combination of meteorological conditions following periods of rain that result in sufficiently high rates of evaporation, as determined by the Department, where fuel (residue) moisture content would be expected to approach about 12 percent or less.

(57) "Validation Number" is used interchangeably with "Burn Permit" and means:

(a) For open field burning a unique five-part number issued by the Department or its delegate identifying a specific field and acreage allowed to be open field burned and the date and time the permit was issued (e.g., a validation number issued August 26 at 2:30 p.m. for a 70-acre burn for a field registered on Line 2 of registration form number 1953 would be 1953-2-0826-1430-070);

(b) For propane flaming and stack burning a unique five part alphanumeric, issued by the Department or its delegate, identifying a specific field and acreage allowed to be propane flamed or stack burned, the date and time the permit was issued, and the burn type (e.g., a validation number issued on July 15 for a 100 acre field to be propane flamed registered on Line 4 of registration form 9999 would be 9999-4-0715-P-100).

(58) "Ventilation Index (VI)" means a calculated value used as a criterion of atmospheric ventilation capabilities. The Ventilation Index as used

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in this Division is defined by the following identity: $VI = (\text{Effective mixing height (feet)}) / 1,000 \times (\text{Average wind speed through the effective mixing height (knots)})$

(59) "Wildfire" means an uncontrollable fire started due to a breakdown of equipment, an accident, caused by human error or negligence or any other cause, including an intentional act.

(60) "Willamette Valley" means, for the purposes of these rules, Benton, Clackamas, Lane, Linn, Marion, Multnomah, Polk, Washington, and Yamhill counties.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03; DOA 22-2004, f. & cert. ef. 8-10-04; DOA 10-2009(Temp), f. & cert. ef. 7-15-09 thru 12-1-09; Administrative correction 12-23-09; DOA 12-2010, f. & cert. ef. 7-12-10; DOA 22-2012, f. & cert. ef. 8-1-12

603-077-0110

General Requirements

(1) No person shall cause or allow open field burning or propane flaming on any acreage unless said acreage has first been registered and mapped pursuant to OAR 603-077-0112(1), the registration fee has been paid, and the registration (permit application) has been approved by the Department.

(2) No person shall cause or allow open field burning, propane flaming, or stack burning without first obtaining and being able to readily demonstrate a valid burning permit and fire permit from the appropriate permit issuing agent pursuant to OAR 603-077-0112(2). On the specific day of and prior to open field burning, propane flaming, or stack burning of any grass seed or cereal grain crop or associated residue the grower registrant shall obtain, in person or by telephone, a valid burning permit and fire permit from the appropriate permit issuing agent pursuant to OAR 603-077-0112.

(3) The Department may prohibit any person from registering acreage for open field burning, stack burning, or propane flaming and may deny burn permits for open field burning, propane flaming, and stack burning until all delinquent registration fees, late fees, burn permit fees, and adjudicated penalties from previous seasons are paid. The Department may also institute appropriate legal action to collect the delinquent fees.

(4) No person shall open field burn cereal grain acreage unless that person first issues to the Department a signed statement, and then acts to ensure, that said acreage will be planted in the following growing season to a small-seeded seed crop requiring flame sanitation for proper cultivation, as defined in OAR 603-077-0105(2).

(5) No person shall cause or allow open field burning, propane flaming, or stack burning which is contrary to the Department's announced burning schedule specifying the times, locations and amounts of burning permitted, or to any other provision announced or set forth by the Department or this Division.

(6) Each responsible person open field burning or propane flaming shall have an operating radio receiver, or other monitoring device approved by the Department, and shall directly monitor the Department's burn schedule announcements at all times while open field burning or propane flaming.

(7) Each responsible person open field burning or propane flaming shall actively extinguish all flames and major smoke sources when prohibition conditions are imposed by the Department or when instructed to do so by an agent or employee of the Department.

(8) Each responsible person open field burning shall make every reasonable effort to expedite and promote efficient burning and prevent excessive emissions of smoke by:

(a) Meeting all of the State Fire Marshal requirements specified in OAR 837-110-0040 through 837-110-0080;

(b) Ensuring field residues are evenly distributed, dry, and in good burning condition;

(c) Employing rapid ignition techniques on all acreage where there are no imminent fire hazards or public safety concerns.

(9) In the event of a "wildfire" and a grower is unable to comply with all of the requirements of this Division, the grower shall:

(a) Immediately take action to stop, contain, and correct the problem.

(b) As soon as practicable notify the designated permit agent. If the permit agent is unavailable, the grower must contact the Department.

(A) Notification must be by phone, fax, email, in person, or other method as technology allows, and as approved by the Department.

(B) If a grower is unable to contact his/her designated permit agent or the Department, then a detailed message must be left with the Department and the permit agent explaining the problem, the solution, the field information, and grower information.

(10) Open field burning, propane flaming, or stack burning in compliance with this Division does not exempt any person from any civil or criminal liability for consequences or damages resulting from such burning, nor does it exempt any person from complying with any other applicable law, ordinance, regulation, rule, permit, order or decree of the Department, Commission or any other government entity having jurisdiction.

(11) Open field burning shall be regulated in a manner consistent with the requirements of the Oregon Visibility Protection Plan for Class I Areas (Section 5.2 of the State of Oregon Clean Air Act Implementation Plan adopted under OAR 340-200-0040).

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03; DOA 22-2004, f. & cert. ef. 8-10-04; DOA 10-2009(Temp), f. & cert. ef. 7-15-09 thru 12-1-09; Administrative correction 12-23-09; DOA 12-2010, f. & cert. ef. 7-12-10; DOA 22-2012, f. & cert. ef. 8-1-12

603-077-0112

Registration, Permits, Fees, Records

In administering a field burning smoke management program, the Department may contract with counties or fire districts or any other responsible individual to administer registration of acreage, issuance of permits, collection of fees, and keeping of records for open field burning, propane flaming, or stack burning within their permit jurisdictions. The Department shall pay said authority for these services in accordance with the payment schedule provided for in ORS 468A.615. Three-quarters of said payment shall be made prior to July 1 of each year and the remainder shall be paid within ten days after completion of the end of season reconciliation:

(1) Registration of acreage:

(a) On or before April 1 of each year, each grower intending to open burn or propane flame under this Division shall register the total acreage to be open burned or propane flamed. Said acreage shall be registered with the Department or its authorized permit agent on the registration forms provided. Candidate fields for open field burning or propane flaming shall be listed on the registration form and shall also be delineated on specially provided registration map materials and identified using a unique field reference code. Each candidate field listed state if the field is located in a priority area, contains a critical non-burn area, is a problem field or is being requested for emergency burning. Registration, listing of fields, and mapping shall be completed according to the established procedures of the Department. Fields to be registered for burning must be planted in crops that can be open burned or propane flamed in the same year that they are registered, and must be owned or under the control of the registrant. At the time of registration, a non-refundable registration fee of \$4 shall be paid for each acre registered for open field burning and \$2 shall be paid for each acre registered for propane flaming. A complete registration (permit application) shall consist of a fully executed registration form, map and fee. Acreage registered by April 1 may be issued a burn permit if:

(A) Allocation is available; and

(B) The initial registration fee account has a sufficient balance.

(b) Registration for stack burning will occur twice annually. Each grower intending to stack burn under this Division during the first stack burn period, February 5 through May 31, must register between January 2 and January 31.

(c) Each grower intending to stack burn under this Division during the second stack burn period, October 5 through December 31, must register between September 1 and September 30.

(d) Registration of open field burning and propane flaming acreage after April 1 of each year shall require the prior approval of the Department and an additional \$2 per acre late registration fee. The late registration fee shall not be charged if the late registration is not due to the fault of the registrant or one under the registrant's control;

(e) Copies of all registration forms and fees shall be forwarded to the Department promptly by the permit agent. Registration map materials shall be made available to the Department at all times for inspection and reproduction;

(f) The Department shall act on any registration application within 60 days of receipt of a completed application. The Department may deny or revoke any registration application which is incomplete, false or contrary to state law or this Division;

(g) The grower registrant shall insure the information presented on the registration form and map is complete and accurate.

(2) Permits:

(a) Permits for open field burning, propane flaming, or stack burning shall be issued by the Department, or its authorized permit agent, to the grower registrant in accordance with the established procedures of the

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Department, and the times, locations, amounts and other restrictions set forth by the Department or this Division;

(b) A fire permit from the designated fire permit issuing agency is also required for all open field burning pursuant to ORS 477.515, 476.380, 478.960;

(c) A valid open field burning permit shall consist of:

(A) An open field burning permit issued by the Department which specifies the permit conditions in effect at all times while burning and which identifies the acreage specifically registered and annually allocated for burning;

(B) A validation number issued by the designated permit agent on the day of the burn identifying the specific acreage allowed for burning and the date and time the permit was issued.

(d) A valid propane flaming permit shall consist of:

(A) A propane flaming registration form issued by the Department which specifies the permit conditions in effect at all times while flaming and which identifies the acreage specifically registered and annually allocated for propane flaming;

(B) A validation number issued by the designated permit agent identifying the specific acreage allowed for propane flaming and the date and time the permit was issued.

(e) A valid stack burning permit shall consist of the name of the responsible person and date the permit was issued, and shall specify the acreage and location authorized;

(f) Each responsible person open field burning, propane flaming, or stack burning shall pay a per acre burn fee within ten days of the date the invoice was issued. The fee shall be:

(A) \$20 per acre sanitized by open field burning;

(B) \$4 per acre sanitized by propane flaming;

(C) \$10 per acre burned in stacks.

(D) For grass seed and cereal grain residue from previous seasons, broken bales, or fields where a portion of straw was removed using usual or standard baling methods, the acreage actually burned shall be estimated and the same per acre fee as imposed in paragraph (C) of this subsection shall be charged. The estimated acreage shall be rounded to the nearest whole acre.

(g) Burning permits shall at all times be limited by and subject to the burn schedule and other requirements or conditions announced or set forth by the Department;

(h) No person shall issue burning permits for open field burning, propane flaming, or stack burning of:

(A) More acreage than the amount sub-allocated annually to the grower by the Department pursuant to OAR 603-077-0113(2);

(B)(i) Priority or fire safety buffer zone acreage located on the upwind side of any city, airport, Interstate freeway or highway within the same priority area or buffer zone.

(ii) It is the responsibility of each designated permit agent to establish and implement a system for distributing open field burning, propane flaming, or stack burning permits to individual grower registrants when burning is authorized, provided that such system is fair, orderly and consistent with state law, this Division and any other provisions set forth by the Department.

(3) Fees:

(a) Permit agents shall collect, properly document, and promptly forward all required registration fees, late registration fees, and burn fees to the Department;

(b) All fees shall be deposited in the State Treasury to the credit of the Department of Agriculture Service Fund.

(4) Records:

(a) Permit agents shall at all times keep proper and accurate records of all transactions pertaining to registrations, permits, fees, allocations, and other matters specified by the Department. Such records shall be kept by the permit agent for a period of at least five years and made available for inspection by the appropriate authorities;

(b) Permit agents shall submit to the Department on specially provided forms weekly reports of all acreage burned in their permit jurisdictions. These reports shall cover the weekly period of Monday through Sunday, and shall be returned to the Department no later than the first working day of the following week.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 18-2003, f. & cert. ef. 5-15-03; DOA 22-2004, f. & cert. ef. 8-10-04; DOA 10-2009(Temp), f. & cert. ef. 7-15-09 thru 12-1-09; Administrative correction 12-23-09; DOA 12-2010, f. & cert. ef. 7-12-10; DOA 22-2012, f. & cert. ef. 8-1-12

603-077-0113

Acreage Limitations, Allocations

(1) Limitation of Acreage:

(a) Except for acreage and residue open field burned pursuant to OAR 603-077-0135, 603-077-0139, 603-077-0140, 603-077-0145, and 603-077-0155, the maximum acreage to be open field burned annually in the Willamette Valley under this Division shall not exceed 15,000 acres of steep terrain and "identified species" as defined in OAR 603-077-0105.

(b) Steep terrain and identified species burning is prohibited in Benton and Lane Counties, and in Linn County, except for portions of northeast Linn County that are east of the North Santiam River and North of Jefferson-Scio Drive and Robinson Drive to the west boundary of the city of Scio and north of Highway 226, and portions of northeast Linn County that are east of Richardson Gap Road and north of Fish Hatchery Drive.

(c) The Commission may by order permit emergency open field burning, propane flaming, or stack burning of up to 2,000 acres annually, in addition to the limitations on acreage specified in this section. Requirements for emergency burning are specified in OAR 603-077-0139.

(d) The maximum acreage to be propane flamed annually in the Willamette Valley under this Division shall not exceed 500 acres for the years 2009, 2010, 2011, and 2012. For the year 2013 and thereafter all propane flaming is prohibited.

(e) The maximum acreage to be stack burned annually in the Willamette Valley under this Division shall not exceed 1000 acres for the years 2009, 2010, 2011, and 2012. For the year 2013 and thereafter all stack burning is prohibited.

(f) Other limitations on acreage allowed to be open field burned are specified in OAR 603-077-0115(7), 603-077-0119, 603-077-0133(1), and 603-077-0135(1), 603-007-0139.

(2) Allocation of Acreage:

(a) In the event that total open field burning and propane flaming registration as of April 1 is less than or equal to the maximum acreage allowed to be open field burned or propane flamed annually, pursuant to subsection (1)(a), and (c) of this rule, the Department shall sub-allocate to each grower registrant and each district (subject to daily burn authorization) 100 percent of their respective registered acreage;

(b) In the event that total open field burning and propane flaming registration as of April 1 exceeds the maximum acreage allowed to be open field burned or propane flamed annually, pursuant to subsection (1)(a), and (c), of this rule, the Department may sub-allocate to growers on a pro rata share basis not more than 100 percent of the maximum acreage limit, referred to as "grower allocation."

(c) Transfer of allocations for farm management purposes may be made within and between fire districts and between grower registrants on a one-in/one-out basis under the supervision of the Department. The Department may assist grower registrants by administering a reserve of released allocation.

(d) In the event that total stack burning registration at the close of the first registration period of January 2 through January 31 is less than or equal to the maximum of 250 acres out of the 1000 acre annual allocation pursuant to subsection (1)(e) of this rule, for the first stack burn period of February 5 through May 31, the Department shall sub-allocate to each grower registrant (subject to daily burn authorization) 100 percent of their respective registered acreage.

(e) In the event that total stack burning registration at the close of the first registration period of January 2 through January 31 exceeds the maximum of 250 acres out of the 1000 acre annual allocation pursuant to subsection (1)(e) of this rule, for the first stack burn period of February 5 through May 31, the Department may sub-allocate to each grower registrant on a pro rata basis not more than 100 percent of the maximum acreage limit, referred to as "grower allocation." If any acreage remains unburned at the end of this first stack burn period, this acreage will be added to the maximum acreage allowed to be burned during the second burn period pursuant to subsections (2)(f)(g)

(f) In the event that total stack burning registration at the close of the second registration period of September 1 through September 30 is less than or equal to the maximum of 750 acres allowed to be burned for the second stack burn period of October 5 through December 31 pursuant to subsection (1)(e) of this rule, the Department shall sub-allocate to each grower registrant (subject to daily burn authorization) 100 percent of their respective registered acreage;

(g) In the event that total stack burning registration at the close of the second registration period of September 1 through September 30 exceeds the maximum of 750 acres out of the 1000 acre annual allocation pursuant

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to subsection (1)(e) of this rule, for the second stack burn period of October 5 through December 31, the Department may sub-allocate to each grower registrant on a pro rata basis not more than 100 percent of the maximum acreage limit, referred to as "grower allocation."

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 2-1998, f. & cert. ef. 3-3-98; DOA 10-2009(Temp), f. & cert. ef. 7-15-09 thru 12-1-09; Administrative correction 12-23-09; DOA 12-2010, f. & cert. ef. 7-12-10; DOA 22-2012, f. & cert. ef. 8-1-12

603-077-0119

Burning Restrictions and Prohibitions

The following identifies smoke management requirements for Priority Areas, Critical Non-Burn Areas, Fire Marshal Buffer Zones, and Problem Fields, where burning is either restricted or prohibited, in order to further protect public health and safety from smoke impacts and potential fire hazards:

(1) Priority Areas:

(a) The following are priority areas where open field burning, propane flaming, and stack burning are restricted by the Department. No priority area acreage shall be burned upwind of any city, airport, Interstate freeway within the same priority area. Any burning within a priority area is subject to field by field authorization of the Department.

(A) Within three miles of the city limits of incorporated cities having populations of 10,000 or greater;

(B) Within three miles of the city limits of the City of Lebanon;

(C) Within one mile of airports servicing regularly scheduled airline flights;

(D) Areas on the west and east side of and within 1/2 mile of Interstate I-5, from Portland to the Douglas/Lane County lines;

(E) Areas on the west and east side of and within 1/4 mile of these highways: 99, 99E, and 99W. Areas on the south and north side of and within 1/4 mile of U.S. Highway 20 between Albany and Lebanon, Oregon Highway 34 between Lebanon and Corvallis, Oregon Highway 228 from its junction south of Brownsville to its rail crossing at the community of Tulsa.

(b) Parts of the Interstate I-5 and highway priority areas identified above are subject to the State Fire Marshal rules for fire safety buffer zones, which require a noncombustible area be established. See subsection (3) of these rules.

(c) Each responsible person open field burning, propane flaming, or stack or pile burning within a priority area shall refrain from burning and promptly extinguish any burning if it is likely that the resulting smoke would noticeably affect the priority area.

(2) Critical Non-Burn Areas:

(a) Burning is prohibited in critical non-burn areas. No person shall cause or allow any open field burning, propane flaming, or stack burning in the following critical non-burn areas, except as provided in these rules:

(A) Any part of a field that is underneath a power transmission line of 230kV rating or greater, extending 75 feet on either side of the center line of the power transmission line.

(B) Any part of a field within 500 feet of a hospital

(C) Any part of a field within 500 feet of a school, when the school is in session. A school shall be considered not in session during the following time periods:

(i) During the regular summer closure period, ending 7 days prior to the first day of regular fall classes. The Department will determine the end of the regular summer closure period by reviewing each effected schools regularly published school-year calendar;

(ii) 2 hours after the time the school day is officially over. The official end of the school day will be determined by the Department as published in each effected schools regular school-day calendar;

(D) Any part of a field within 500 feet of any airport servicing regularly scheduled airline flights. In cases where an airport does not have regularly scheduled flights, field by field burning may be authorized by the Department, in accordance with the requirements in subsection (4) that apply to problem fields.

(b) It shall be the responsibility of the grower to ensure the critical non-burn area does not burn. It is recommended that the field stubble either be flail-chopped, mowed, or otherwise cut close to the ground, and the loose straw removed so that the field will not sustain an open fire. Application of water to the critical non-burn area to ensure there is no combustion is also recommended. Should any open fire occur, all flame and smoke sources shall be immediately and actively extinguished.

(c) Any person conducting open field burning, propane flaming, or stack burning adjacent to a critical non-burn area shall take appropriate steps to ensure that the critical non-burn area remains unburned.

(d) Field by field burning may be authorized by the Department within 500 feet of a school that is not in session, subject to the following restrictions:

(A) No burning is allowed upwind of the school;

(B) The responsible person burning the field makes a visual observation to first confirm that there are no children or other persons present on the school grounds .

(e) When burning near a school or hospital critical non-burn area, or beyond 500 feet of a school that is not in session, the Department shall take special precautions to ensure that the prevailing winds do not cause smoke to impact the school or hospital.

(f) Any field that is intersected by a power transmission line of 230kV rating or greater shall be registered and burned as two separate fields to minimize the potential of smoke coming into direct contact with the power transmission line.

(3) State Fire Marshal Safety Buffer Zones:

(a) State Fire Marshal Rules for fire safety buffer zones, as specified in OAR 837, Division 110, establish a 1/2 mile buffer zone for Interstate I-5 and the highways listed below in this subsection. No person shall cause or allow any open field burning, propane flaming, or stack burning in the following portions of the State Fire Marshal fire safety buffer zones:

(A) Within 1/4 mile of either side of Interstate I-5, from Portland to the Douglas/Lane County lines.

(B) Within 1/8 mile of either side of the designated roadways listed below, as specified in the State Fire Marshal Rules in OAR 837, Division 110:

(i) ORE 99 — The section from Junction City to Eugene;

(ii) ORE 99E — The sections from Oregon City to Salem and from Albany to Junction City;

(iii) ORE 99W — The entire section from Portland to Junction City;

(iv) US 20 — The section from Philomath to Lebanon;

(v) ORE 22 — The section from ORE 18 to Mehama;

(vi) US 26 — The section from ORE 47 interchange to Portland;

(vii) ORE 34 — The section from Corvallis to Lebanon.

(b) The 1/4 and 1/8 mile safety buffer zone distances identified above must be a noncombustible area, as defined in the State Fire Marshal Rules. For all requirements related to the State Fire Marshal Fire Safety Buffer Zones, see OAR 837, Division 110. Nothing in the Departments' rules regarding fire safety buffer zones replaces or substitutes for meeting all the requirements in the State Fire Marshal Rules.

(c) The area beyond the 1/4 and 1/8 mile noncombustible area in the fire safety buffer zone represents the area that is considered a priority area as described above in subsection (1)(a)(D) and (E), Burning in this part of the fire safety buffer zone is subject to the restrictions for priority areas in subsection (1) of these rules.

(4) Problem Fields:

(a) No problem fields shall be burned without first contacting the Department to determine what specific weather conditions and smoke management criteria need to be followed when burning the field, in order protect any school, hospital, airport, or other sensitive area, in proximity to the field.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Hist.: DOA 12-2010, f. & cert. ef. 7-12-10; DOA 22-2012, f. & cert. ef. 8-1-12

Rule Caption: Changes fee reimbursing the Department for statutorily required commission oversight function; changes maximum cap.

Adm. Order No.: DOA 23-2012

Filed with Sec. of State: 8-6-2012

Certified to be Effective: 8-6-12

Notice Publication Date: 6-1-2012

Rules Amended: 603-042-0020

Subject: Rule is revised to ensure the Oregon Department of Agriculture is reimbursed for all costs of supervisory and administrative functions that the Department is required by law to perform with regard to commodity commissions. The rule change provides for a maximum fee of \$300,000 to cover all program costs. (The Department estimates that the operating costs for 2011-12 will be less than \$264,000. The Commodity Commission Oversight Program Advisory Committee will continue to review program costs annually but does not want to revise the rule each year. All 23 commissions are billed a pro rata share with a maximum cap and a minimum fee.) The maximum fee per commission will be capped at \$40,000. For 2011-

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12 fee billing the Department estimates the maximum fee will be \$36,003.48.

Note: A typographical error was made on the Notice of Proposed Rulemaking Hearing. The number was listed as 603-042-0010. The correct number, 603-042-0020, appeared on the Statement of Need and Fiscal Impact and on the text of the proposed rule change.)

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

603-042-0020

Commodity Commission Fees for Commodity Commission Program

(1) Pursuant to ORS 576.320, ORS 577.345, and ORS 578.135, the Department of Agriculture may collect annual fees from the commodity commissions to reimburse the Department for the supervisory and administrative functions that the Department performs according to ORS Chapters 576, 577, and 578.

(a) The Department shall consult with the Commodity Commission Oversight Program Advisory Committee related to the annual fees.

(2) The total fee assessed to the commissions shall not exceed \$300,000 per fiscal year, beginning with the fee invoiced in fiscal year 2011–2012. The fee shall be used to reimburse the Department for expenses incurred in the previous fiscal year.

(3) The fees for each commission shall be determined using the assessment income as shown on the annual financial reports submitted to the Department.

(4) The total fee for each commodity commission shall be calculated as follows:

(a) First, calculate the base fee for each commission. The base fee for each commission equals 2.3% of the actual assessment income that the commission received in the fiscal year two years prior to the calculation, except that for those commissions with assessment income of \$30,000 or less the base fee shall be a flat fee of \$750, and except that for those commissions with assessment income exceeding \$1,521,738 the base fee shall be a flat fee not to exceed \$40,000.

(b) Second, calculate the first shortfall by totaling all the base fees and subtracting the result from the program's annual operating costs, which are not to exceed \$300,000.

(c) Third, calculate the assessment factor for each commission. The assessment factor shall be determined by dividing each commission's fiscal year assessment collection by the total assessment income collected from all commodity commissions. The Department shall use the assessment collection shown on each commission's year-end financial statements from the fiscal year two years before the calculation. (For example, when calculating the fee invoiced in fiscal year 2011–12, the Department shall use the assessment shown on the 2009–10 year-end financial statement.)

(d) Fourth, calculate the shortfall portion for each commission. For commissions paying a base fee based on a percentage of its actual assessment income, the shortfall portion equals the first shortfall multiplied by the assessment factor for that commission. For commissions paying a base fee based on a flat fee, the shortfall portion is not calculated.

(e) Fifth, calculate the combined fee for each commission. The combined fee for each commission equals the base fee for that commission plus the shortfall portion for that commission.

(f) Sixth, add all the combined fees for all commissions. If the total does not equal the actual cost of the program, which is not to exceed \$300,000, a second shortfall exists.

(g) Seventh, if subsequent shortfalls exist, the Department shall assess those shortfalls to each commission that is paying a base fee based on a percentage of its actual assessment income.

(5) The Department shall invoice each commission no later than November 15 each year; and the total fees shall be paid to the Department no later than December 31 of each year.

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 561, 576, 577, & 578

Hist.: DOA 11-2000, f. & cert. ef. 4-18-00; DOA 14-2007, f. & cert. ef. 8-23-07; DOA 9-2011, f. & cert. ef. 5-10-11; DOA 23-2012, f. & cert. ef. 8-6-12

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Rule Caption: Amends control area and regulations for growing Brassica spp. and Raphanus spp. in Willamette Valley.

Adm. Order No.: DOA 24-2012(Temp)

Filed with Sec. of State: 8-10-2012

Certified to be Effective: 8-10-12 thru 1-31-13

Notice Publication Date:

Rules Adopted: 603-052-0852

Rules Amended: 603-052-0850, 603-052-0860, 603-052-0870, 603-052-0880

Subject: The rule amendment divides the Willamette Valley control area into two subdistricts, which will have specific rules regarding the production of Brassica and Raphanus. No Rapeseed, Canola, or Brassica or Raphanus production for oil will be allowed in subdistrict 1(a), while any Brassica or Raphanus production will be allowed in subdistrict 1(b) if it is pinned on the Willamette Valley Specialty Seed Association's electronic pinning system. All transport and handling of Brassica and Raphanus in Oregon must also be conducted in a manner that will minimize any inadvertent spread of plants, and transport of Brassica and Raphanus through subdistrict 1(a) will be restricted to specified routes.

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

603-052-0850

Brassica spp. and Raphanus spp. Control Areas

As provided in ORS 570.405 and 570.450, the Department may establish control areas for the general protection of the horticultural, agricultural or forest industries of Oregon from diseases, insects, animals or noxious weeds or for the eradication or exclusion from such areas of certain plants or their produce, trees, diseases, animals, insects or noxious weeds that may be a menace to such areas and generally to horticultural, agricultural or forest industries.

Stat. Auth.: ORS 561.190 & 570.450

Stats. Implemented: ORS 561.190, 561.510 - 561.600, 570.305, 570.405, 570.410 - 570.415 & 570.450

Hist.: AD 19-1990, f. & cert. ef. 10-15-90; AD 7-1991(Temp), f. & cert. ef. 7-22-91; DOA 18-2005, f. & cert. ef. 10-28-05; DOA 14-2009, f. & cert. ef. 9-16-09; DOA 24-2012(Temp), f. & cert. ef. 8-10-12 thru 1-31-13

603-052-0852

Definitions

For purposes of this rule, the following terms are defined as indicated:

(1) "Brassica oil crop" means any Brassica spp. that is grown for seed that will be processed into oil.

(2) "Brassica seed crop" means any Brassica spp. that is grown for seed.

(3) "Brassica spp." means any plants in the genus Brassica.

(4) "Cover crop" means any Brassica spp. or Raphanus spp. that is grown as a cover crop and is not allowed to bloom.

(5) "Department" means the Oregon Department of Agriculture.

(6) "Director" means the Director of the Department or a duly authorized representative.

(7) "Forage crop" means any species of Brassica spp. or Raphanus spp. that is grown for livestock feed and is not allowed to bloom.

(8) "Person" means an individual, firm, partnership, corporation, company, society, association, cooperative, two or more persons having a joint or common interest, or any unit or agency of local, state, or federal government.

(9) "Producer" means any person who is the owner, tenant, or operator of land who has an interest in, and is entitled to receive all or any part of the proceeds from the sale of any commodity produced on that land.

(10) "Raphanus oil crop" means any Raphanus spp. that is grown for seed that will be processed into oil.

(11) "Raphanus seed crop" means any Raphanus spp. that is grown for seed.

(12) "Raphanus spp." means any species in the genus Raphanus besides Raphanus raphanistrum (wild radish).

(13) "Rapeseed" means plants of the species Brassica napus, Brassica rapa and Brassica juncea, where seeds of high oil content are the economically valuable product. Included are the industrial types, with high erucic acid levels and canola with low erucic acid content used for edible oils.

(14) "Vegetable crop" means any species of Brassica spp. or Raphanus spp. that is grown for edible vegetables.

Stat. Auth.: ORS 561.190, 561.510 - 600, 570.305, 570.405 - 415 & 570.450

Stats. Implemented: ORS 570.405 - 415 & 570.425 - 450

Hist.: DOA 24-2012(Temp), f. & cert. ef. 8-10-12 thru 1-31-13

603-052-0860

General Production Area; Rules

Growing Brassica spp. or Raphanus spp. for oil, seed, vegetable, forage or cover crop production requires particular attention to maintain crop quality and purity. Proper isolation and management of varieties of Brassica spp., Raphanus spp. prone to causing cross pollination and processing prob-

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lems, and proper management of diseases, insects, and pests are required to protect the public interest in well-developed and protected food, industrial, seed, and commodity markets. Therefore, the seeding and growing of Brassica spp. or Raphanus spp. by any person for any purpose in the state of Oregon shall be subject to the regulations of either the general production area or a protected district.

(1) All lands in Oregon outside of protected districts are for the purposes of this rule, in the general production area. Brassica spp. and Raphanus spp. production in the general production area is subject to the following regulations:

(a) Growing Brassica spp. and Raphanus spp. for any purpose, including as an oil crop is allowed;

(b) All Brassica spp. seed stock which trades in commerce in Oregon must be accompanied by an official test, stating that the untreated seed was free from blackleg and *Leptosphaeria maculans*; the seed must also be treated (after the official test) prior to planting with a fungicide or treatment method approved for blackleg control;

(c) To prevent buildup of blackleg, blackrot, and other diseases and pests, Brassica spp. and Raphanus spp. may not be grown on the same plot of land more often than two years in every five;

(d) All transport and handling of Brassica spp. and Raphanus spp. shall be accomplished in suitably packaged, covered or sealed containers or vehicles to prevent the inadvertent spread of seed or production of volunteer plants;

(A) Producers shall be responsible for the removal of any inadvertent spread of seed or volunteer plants within a quarter mile of any plot of land utilized for Brassica spp. or Raphanus spp. production;

(B) A person shall clean any equipment used to transport seed before leaving the field and after unloading. For example, compressed air may be used to clean transportation equipment of any loose seed; and

(C) Any transportation of Brassica spp. or Raphanus spp. in or through Protected District 1 Subdistrict (a) shall be limited to the following routes:

(i) Interstate 5; and

(ii) Highways 20, 22, 26, 27, 34, 84, or 99; and

(e) Any volunteer or uncontrolled Brassica spp. or Raphanus spp. within a quarter mile of production fields must be controlled by the producer as soon as feasible, but always prior to pollen production or blossoming;

Stat. Auth.: ORS 561.190 & 570.450

Stats. Implemented: ORS 561.190, 561.510 - 561.600, 570.305, 570.405, 570.410 - 570.415 & 570.450

Hist.: AD 19-1990, f. & cert. ef. 10-15-90; AD 7-1991(Temp), f. & cert. ef. 7-22-91; AD 19-1991, f. & cert. ef. 12-5-91; DOA 18-2005, f. & cert. ef. 10-28-05; DOA 14-2009, f. & cert. ef. 9-16-09; DOA 3-2010, f. & cert. ef. 1-21-10; DOA 24-2012(Temp), f. & cert. ef. 8-10-12 thru 1-31-13

603-052-0870

Protected Districts

Production of Brassica spp. or Raphanus spp. for oil, seed, forage or cover crop must be managed with production of crops of the same or related species grown for vegetable crop. Therefore, protected districts are established where Brassica spp. and Raphanus spp. production for oil, seed, vegetable, forage, and cover crops is managed to minimize undesirable cross-pollination, disease, pests, and volunteer plants.

(1) Protected District 1, in the Willamette Valley shall consist of the portion of Columbia County designated on map A, and the entire counties of Lane, Linn, Benton, Marion, Polk, Clackamas, Yamhill, Washington, and Multnomah.

(a) Protected District 1, Subdistrict 1(a) shall consist of all land designated as Subdistrict 1(a) on map A.

(b) Production of Brassica spp. or Raphanus spp. in Protected District 1, Subdistrict 1(a) does not require a special permit, but shall be managed according to the following rules:

(A) Production of rapeseed, Brassica oil crops, or Raphanus oil crops is prohibited;

(B) The location of all Brassica spp. and Raphanus spp. fields, and experimental plots shall be recorded using the Willamette Valley Specialty Seed Association electronic pinning system;

(C) To prevent cross-pollination problems, Brassica spp. and Raphanus spp. must be isolated from other crops with which it will cross-pollinate by the distances found in Table 1; [Table not included. See ED. NOTE.]

(D) All Brassica spp. seed stock which trades in commerce in Oregon must be accompanied by an official test stating that the untreated seed was free from blackleg and *Leptosphaeria maculans*; the seed must also be treated

(after the official test) prior to planting with a fungicide or treatment method approved for blackleg control;

(E) To prevent buildup of blackleg, blackrot, and other diseases and pests, Brassica spp. and Raphanus spp. may not be grown on the same plot of land more often than two years in every five;

(F) All transport and handling of Brassica spp. and Raphanus spp. shall be accomplished in suitably packaged, covered or sealed containers or vehicles to prevent the inadvertent spread of seed or production of volunteer plants;

(i) Producers shall be responsible for the removal of any inadvertent spread of seed or volunteer plants within a quarter mile of any plot of land utilized for Brassica spp. or Raphanus spp. production;

(ii) A person shall clean any equipment used to transport seed before leaving the field and after unloading. For example, compressed air may be used to clean transportation equipment of any loose seed; and

(iii) Any transportation of Brassica spp. or Raphanus spp. in or through Protected District 1 Subdistrict (a) shall be limited to the following routes:

(I) Interstate 5; and

(II) Highways 20, 22, 26, 27, 34, 84, or 99; and

(G) Any volunteer or uncontrolled Brassica spp. or Raphanus spp. within a quarter mile of production fields must be controlled by the producer as soon as feasible, but always prior to pollen production or blossoming.

(c) Protected District 1 Subdistrict 1(b) shall consist of all areas of Protected District 1 that are not designated as Subdistrict 1(a).

(d) Production of Brassica spp. or Raphanus spp. in Protected District 1, Subdistrict 1(b) does not require a special permit, but shall be managed according to the following rules:

(A) Production of Brassica spp. and Raphanus spp. is allowed for any purpose;

(B) The location of all Brassica spp. and Raphanus spp. fields, and experimental plots shall be recorded using Willamette Valley Specialty Seed Association electronic pinning system;

(i) Any plot of land used to grow Fall Brassica spp. or Fall Raphanus spp. shall be pinned by September 1st of each year on the Willamette Valley Specialty Seed Association electronic pinning system;

(ii) Any plot of land used to grow Spring Brassica spp. or Spring Raphanus spp. shall be pinned by March 1st of each year on the Willamette Valley Specialty Seed Association electronic pinning system;

(iii) The Director shall have authority to require destruction prior to bloom of any Brassica spp. or Raphanus spp. production that is not pinned pursuant to subparagraphs (i) and (ii) of this section. In the event that the person or producer of said production does not comply with the destruction order, the Director is authorized to have the production destroyed by a third party. Destruction shall be done before blooming occurs. The cost of such destruction is to be charged to the violating producer.

(iv) Isolation distances to prevent cross-pollination shall not be required for production of Brassica spp. or Raphanus spp.; and

(v) At the time a plot of land is pinned, a producer shall be prepared to provide a good faith assurance that crop production will occur;

(C) All Brassica spp. seed stock which trades in commerce in Oregon must be accompanied by an official test stating that the untreated seed was free from blackleg and *Leptosphaeria maculans*; the seed must also be treated (after the official test) prior to planting with a fungicide or treatment method approved for blackleg control;

(D) To prevent buildup of blackleg, blackrot, and other diseases and pests, Brassica spp. and Raphanus spp. may not be grown on the same plot of land more often than two years in every five;

(E) All transport and handling of Brassica spp. and Raphanus spp. shall be accomplished in suitably packaged, covered or sealed containers or vehicles to prevent the inadvertent spread of seed or production of volunteer plants;

(i) Producers shall be responsible for the removal of any inadvertent spread of seed or volunteer plants within a quarter mile of any plot of land utilized for Brassica spp. or Raphanus spp. production;

(ii) A person shall clean any equipment used to transport seed before leaving the field and after unloading. For example, compressed air may be used to clean transportation equipment of any loose seed; and

(iii) Any transportation of Brassica spp. or Raphanus spp. in or through Protected District 1 Subdistrict (a) shall be limited to the following routes:

(I) Interstate 5; and

(II) Highways 20, 22, 26, 27, 34, 84, or 99; and

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(F) Any volunteer or uncontrolled Brassica spp. or Raphanus spp. within a quarter mile of production fields must be controlled by the producer as soon as feasible, but always prior to pollen production or blossoming.

(2) Protected District 2, in Central Oregon, shall consist of the entire counties of Crook, Deschutes, and Jefferson. Production of rapeseed for seed or oil in Protected District 2 requires a special permit issued pursuant to OAR 603-052-0880(1), and shall be managed according to the following rules:

(a) Production of cover, forage, vegetable crop, vegetable crop for seed, or Raphanus spp. is allowed and does not require a special permit;

(b) All Brassica spp. seed stock which trades in commerce in Oregon must be accompanied by an official test stating that the untreated seed was free from blackleg and *Leptosphaeria maculans*; the seed must also be treated (after the official test) prior to planting with a fungicide or treatment method approved for blackleg control;

(c) To prevent buildup of blackleg, blackrot, and other diseases and pests, Brassica spp. may not be grown on the same plot of land more often than one year in every four;

(d) To prevent cross-pollination problems, Brassica spp. must be isolated from other crops with which it will cross-pollinate by a distance of at least three miles;

(e) The location of all Brassica spp. fields, and experimental plots shall be recorded at the appropriate Oregon State University County Extension Office at least ten days prior to planting;

(f) All transport and handling of Brassica spp. and Raphanus spp. shall be accomplished in suitably packaged, covered or sealed containers or vehicles to prevent the inadvertent spread of seed or production of volunteer plants;

(A) Producers shall be responsible for the removal of any inadvertent spread of seed or volunteer plants within a quarter mile of any plot of land utilized for Brassica spp. production;

(B) A person shall clean any equipment used to transport seed before leaving the field and after unloading. For example, compressed air may be used to clean transportation equipment of any loose seed; and

(C) Any transportation of Brassica spp. or Raphanus spp. in or through Protected District 1 Subdistrict (a) shall be limited to the following routes:

(i) Interstate 5; and

(ii) Highways 20, 22, 26, 27, 34, 84, or 99; and

(g) Any volunteer or uncontrolled Brassica spp. within a quarter mile of production fields must be controlled by the producer as soon as feasible, but always prior to pollen production or blossoming.

(3) Protected District 3, in Northeastern Oregon, shall consist of the entire counties of Baker, Union, and Wallowa, except the following part of Wallowa County which is designated as a general production area: Township 4N, Range 43E; Township 4N, Range 44E; Township 4N, Range 45E; Township 5N, Range 43E; Township 5N, Range 44E; and Township 5N, Range 45E; and those portions of Township 6N, Range 43E; Township 6N, Range 44E; and Township 6N, Range 45E falling within the State of Oregon. Production of rapeseed, Brassica spp., or Raphanus spp. in Protected District 3 does not require a special permit, but shall be managed according to the following rules:

(a) Production of Brassica spp. or Raphanus spp. is allowed and does not require a special permit;

(b) All Brassica spp. seed stock which trades in commerce in Oregon must be accompanied by an official test stating that the untreated seed was free from blackleg and *Leptosphaeria maculans*; the seed must also be treated (after the official test) prior to planting with a fungicide or treatment method approved for blackleg control;

(c) To prevent buildup of blackleg, blackrot, and other diseases and pests, Brassica spp. may not be grown on the same plot of land more often than one year in every four;

(d) To prevent cross-pollination problems, Brassica spp. and must be isolated from other crops with which it will cross-pollinate by a distance of at least 2 miles;

(e) The location of all Brassica spp. and fields, and experimental plots shall be recorded at the appropriate Oregon State University County Extension Office at least ten days prior to planting;

(f) All transport and handling of Brassica spp. and Raphanus spp. shall be accomplished in suitably packaged, covered or sealed containers or vehicles to prevent the inadvertent spread of seed or production of volunteer plants;

(A) Producers shall be responsible for the removal of any inadvertent spread of seed or volunteer plants within a quarter mile of any plot of land utilized for Brassica spp. production;

(B) A person shall clean any equipment used to transport seed before leaving the field and after unloading. For example, compressed air may be used to clean transportation equipment of any loose seed; and

(C) Any transportation of Brassica spp. or Raphanus spp. in or through Protected District 1 Subdistrict (a) shall be limited to the following routes:

(i) Interstate 5; and

(ii) Highways 20, 22, 26, 34, 84, or 99; and

(g) Any volunteer or uncontrolled Brassica spp. within a quarter mile of production fields must be controlled by the producer as soon as feasible, but always prior to pollen production or blossoming.

(4) Protected District 4, in Malheur County, shall consist of a 3-mile wide strip of land along the Idaho border from the point where Payette County, Idaho's northern border intersects Malheur County's eastern border, south to the point where Highway 95 crosses the Oregon border. This strip of land borders Idaho's rapeseed production district IV (IDAPA 02.06.13) where rapeseed production is prohibited. The rest of Malheur Co. is a general production area. Production of rapeseed for seed or oil in Protected District 4 requires a special permit issued pursuant to OAR 603-052-0880(1), and shall be managed according to the following rules:

(a) Production of cover, forage, vegetable crop, vegetable crop for seed, or Raphanus spp. is allowed and does not require a special permit;

(b) All Brassica spp. seed stock which trades in commerce in Oregon must be accompanied by an official test stating that the untreated seed was free from blackleg and *Leptosphaeria maculans*; the seed must also be treated (after the official test) prior to planting with a fungicide or treatment method approved for blackleg control;

(c) To prevent buildup of blackleg, blackrot, and other diseases and pests, Brassica spp. may not be grown on the same plot of land more often than one year in every four;

(d) To prevent cross-pollination problems, Brassica spp. must be isolated from other crops with which it will cross-pollinate by a distance of at least three miles;

(e) The location of all Brassica spp. and fields, and experimental plots shall be recorded at the appropriate Oregon State University County Extension Office at least ten days prior to planting;

(f) All transport and handling of Brassica spp. and Raphanus spp. shall be accomplished in suitably packaged, covered or sealed containers or vehicles to prevent the inadvertent spread of seed or production of volunteer plants;

(A) Producers shall be responsible for the removal of any inadvertent spread of seed or volunteer plants within a quarter mile of any plot of land utilized for Brassica spp. production;

(B) A person shall clean any equipment used to transport seed before leaving the field and after unloading. For example, compressed air may be used to clean transportation equipment of any loose seed; and

(C) Any transportation of Brassica spp. or Raphanus spp. in or through Protected District 1 Subdistrict (a) shall be limited to the following routes:

(i) Interstate 5; and

(ii) Highways 20, 22, 26, 34, 84, or 99; and

(g) Any volunteer or uncontrolled Brassica spp. within a quarter mile of production fields must be controlled by the producer as soon as feasible, but always prior to pollen production or blossoming.

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

Stat. Auth.: ORS 561.190 & 570.450

Stats. Implemented: ORS 561.190, 561.510 - 561.600, 570.305, 570.405, 570.410 - 570.415 & 570.450

Hist.: AD 19-1990, f. & cert. ef. 10-15-90; AD 7-1991(Temp), f. & cert. ef. 7-22-91; DOA 18-2005, f. & cert. ef. 10-28-05; DOA 14-2009, f. & cert. ef. 9-16-09; DOA 24-2012(Temp), f. & cert. ef. 8-10-12 thru 1-31-13

603-052-0880

Permits; Enforcement; Procedure

(1) **Special Permits for Exemptions:** The Department may issue special permits providing exemptions to the Brassica spp. and Raphanus spp. control area rules for the purpose of research. Persons requesting a special permit shall petition the Department in writing and include the following conditions:

(a) Research must include the involvement of an accredited university;

(b) All applicable conditions of OAR 603-052-0870 must be met including pinning of fields;

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(c) The Director retains the final authority to approve or deny special permit requests. Any action under a special permit shall be subject to any conditions or restrictions set forth in the permit, and these conditions and restrictions may vary depending on the proposed action and its potential risk.

(2) **Violations:** The Director shall have the authority to order destruction prior to bloom of any Brassica spp. or Raphanus spp. production that violates these rules. In the event that the person or producer of said production does not comply with the destruction order, the Director is authorized to have the production destroyed by a third party. Destruction shall be done before blooming occurs. The cost of such destruction is to be charged to the violating producer.

(3) **Changes to Brassica spp. and Raphanus spp. Control Area Rules:** Interested persons may petition the Department to amend or repeal these rules, including designation changes creating or removing protected district status, by following the procedures in the Administrative Procedures Act, ORS 183.390.

Stat. Auth.: ORS 561.190 & 570.450

Stats. Implemented: ORS 561.190, 561.510 - 561.600, 570.305, 570.405, 570.410 - 570.415 & 570.450

Hist.: AD 19-1990, f. & cert. ef. 10-15-90; AD 7-1991(Temp), f. & cert. ef. 7-22-91; AD 19-1991, f. & cert. ef. 12-5-91; DOA 18-2005, f. & cert. ef. 10-28-05; DOA 1-2008, f. & cert. ef. 1-7-08; DOA 14-2009, f. & cert. ef. 9-16-09; DOA 3-2010, f. & cert. ef. 1-21-10; DOA 24-2012(Temp), f. & cert. ef. 8-10-12 thru 1-31-13

Department of Community Colleges and Workforce Development Chapter 589

Rule Caption: Amend Distribution of Community College Support Fund (CCSF) and Revise Growth Management Component.

Adm. Order No.: DCCWD 1-2012(Temp)

Filed with Sec. of State: 7-17-2012

Certified to be Effective: 7-17-12 thru 1-10-13

Notice Publication Date:

Rules Adopted: 589-002-0110, 589-002-0120, 589-002-0130

Rules Amended: 589-002-0100

Subject: Authority for distribution of the Community College Support Fund is granted by OAR 589-002-0100. Along with housekeeping to provide plain language, this rule amendment adds subsections in order to: break-out rule definitions (589-002-0110); outline the CCSF Distribution Methodology (589-002-0120); and, break-out rule language specific to the State Board Strategic Fund (589-002-0130). This rule amendment also eliminates sections regarding achieving equity, since equity has been achieved, and provides clarification regarding how the Growth Management Component will be implemented.

Rules Coordinator: Linda Hutchins—(503) 947-2456

589-002-0100

Community College Support Fund Distribution

Purpose Statement:

(1) It is in the state's interest to support a strong local community college system that meets local, regional and state economic and workforce development needs. Short and long-term interests include the consideration of such things as comparable District funding capability, maintaining small districts as a means of educational access and stable, predictable funding. Oregon's community college distribution formula is designed to provide a financial foundation to support undergraduate and lower-division education, career technical education, remedial education, local response to workforce training, and other educational services necessary at the local and state level.

(2) The State Board through the authority vested in it by ORS 341.626, uses this rule to state clearly and concisely what the statewide interests are for Oregon community colleges and students through the adoption of a policy-driven distribution formula. The overarching policy, chosen by the State Board, has been structured to support access, stability and quality, and to do so with equity for Oregon students. Principles which support these policies include:

(a) Access is supported by having the funding follow the student to the college which they are attending.

(b) Quality is supported when adequate funding per student is available.

(c) Growth management is a tool to prevent erosion of the level of funding per student.

(d) Equity is supported by the equalization of public resources distributed per student.

(e) Stability is supported by buffering fluctuations in student enrollment through growth management and by using a three-year weighted average of students by college to distribute state funds.

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

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

Stats. Implemented: ORS 341.015, 341.022, 341.317, 341.440, 341.525, 341.528, 341.626 & 341.665

Hist.: IEB 9-1979, f. & ef. 6-11-79; EB 12-1991, f. & cert. ef. 7-19-91; Renumbered from 581-043-0260; ODE 27-2000, f. & cert. ef. 10-30-00; DCCWD 1-2001, f. & cert. ef. 3-21-01, Renumbered from 581-041-0200; DCCWD 2-2001, f. & cert. ef. 5-7-01; DCCWD 3-2002, f. & cert. ef. 6-5-02; DCCWD 7-2002(Temp), f. & cert. ef. 12-16-02 thru 6-5-03; DCCWD 3-2003, f. & cert. ef. 5-14-03; DCCWD 1-2004, f. & cert. ef. 7-1-04; DCCWD 1-2005, f. & cert. ef. 7-13-05; DCCWD 2-2006(Temp), f. & cert. ef. 6-15-06 thru 11-30-06; DCCWD 6-2006, f. & cert. ef. 10-3-06, cert. ef. 10-4-06; DCCWD 8-2006, f. & cert. ef. 12-13-06, cert. ef. 12-15-06; DCCWD 2-2007, f. & cert. ef. 7-6-07; DCCWD 4-2007, f. & cert. ef. 10-1-07; DCCWD 3-2009(Temp), f. & cert. ef. 8-5-09 thru 1-31-10; DCCWD 5-2009, f. & cert. ef. 10-28-09; DCCWD 1-2011, f. & cert. ef. 4-20-11; DCCWD 1-2012(Temp), f. & cert. ef. 7-17-12 thru 1-10-13

589-002-0110

Definitions

The following definitions apply to OAR 589-002-0100 through 589-002-0130.

(1) "Total Public Resources (TPR)" is what the Community College Support Fund formula considers 100% of the next year's imposed property tax revenue and the General Fund appropriation from the legislature. TPR does not include tuition and fees paid by students.

(2) "Base Payment" is an allocation made from the Community College Support Fund which provides funding for basic community college district operations that are essential and do not vary in direct proportion to the districts' Full-Time Equivalent (FTE) student enrollment. The base allocation increases stability and predictability of funding for individual colleges.

(3) "Equalization" means equal public resource support per funded FTE, regardless of community college district, and exclusive of the base. Equalization is measured by dividing Total Public Resources, exclusive of the base, by funded FTE.

(4) "Property tax revenues" means the amount determined by the Department of Revenue to be imposed on local property following the application of limits imposed by sections 11(b)(1) through 11(b)(3), Article XI, of the Oregon Constitution, and those limits imposed by legislation implementing Ballot Measure 50. This amount becomes the basis for operation of the funding formula without regard to uncollectible taxes, or taxes collected from previous years. Taxes levied or imposed by a community college district to provide a public library system shall be excluded from the definition of property taxes in this rule. Property tax revenues raised through voter approval of any local option or capital construction levy are not to be included as a resource to be distributed through the funding formula.

(5) "Community College Support Fund (CCSF)" is funding received through the state's General Fund appropriation and distributed to the community college districts for funding educational programs.

(6) "Full-Time Equivalent (FTE) student" for the purpose of receiving state reimbursement, means a student who carries 510 clock hours over three terms of instruction for all terms including a fall 12-week term. All colleges with an 11-week fall term will have their fall term clock hours increased to the equivalent 12-week hours for the purpose of calculating reimbursable FTE.

(7) "Total Reimbursable FTE" means full-time equivalent students that are eligible for state reimbursement. These students must receive instruction from community college districts through either a contracted out-of-district (COD) agreement described in OAR 589-002-0600, an agreement to provide services to state penitentiary or correctional institution inmates described in OAR 589-002-0700, or are CCSF reimbursable FTE, described in Section 8 of this rule and in OAR 589-002-0110 Sections (2) through (5).

(8) "CCSF Reimbursable FTE" means full-time equivalent students that are eligible, as described in OAR 589-002-0110 Sections (2) through (5) of this rule, for state funding through the CCSF Funding Distribution Formula, before the application of the Annual Growth Factor (AGF).

(9) "Contracted Out-of-District (COD) Reimbursable FTE" means full-time equivalent students that are not residents in the community college district that they are attending and for which the community college district has a contract to provide educational services with an entity in the geographic area from which the student resides. COD reimbursable FTE must meet all other requirements of a CCSF reimbursable FTE. The com-

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munity college district must have a contract in place with the Department of Community Colleges and Workforce Development in order to receive reimbursement.

(10) "Fundable FTE" is the number of full-time equivalent students that are at or below each community college district's FTE Cap. Fundable FTE is the lesser of either the CCSF reimbursable FTE or the FTE cap. This number is used in the three-year weighted average calculation that determines a community college district's funded FTE as described in Section 11 of this rule.

(11) "Funded FTE" is the community college district's number of full-time equivalent students used in the formula to distribute the CCSF funding for each community college district. This number is buffered to prevent significant changes in a community college district's funding due to variability in student enrollment. It is calculated using a three-year weighted average of fundable FTE with the first year prior to current fundable FTE weighted at 40%, second year prior to current fundable FTE weighted at 30%, and third year prior to current fundable FTE weighted at 30%.

(12) "Total Funded FTE" is the sum of all community college districts' funded FTE for a fiscal year.

(13) "FTE Cap" is the maximum number of CCSF reimbursable FTE per community college district, which may be included in the funding formula calculation. The FTE cap is determined by applying the annual growth factor and may be adjusted by the preliminary FTE cap as described in Section 14.

(14) "Preliminary FTE Cap" is a tool that allows a community college district to recover fundable FTE within one year, if the district's CCSF reimbursable FTE is less than the FTE cap. There are two preliminary FTE caps. The first is based on the FTE cap from one year prior and the second is based on the prior year's fundable FTE. The annual growth factor (as defined in Section 19 below) is applied to each. The current year's FTE cap is the greater of these two numbers.

(15) "Growth Management" means the application of the Growth Management Component in combination with each community college district's FTE cap.

(16) "Biennial Growth Management Component" is the percent change, from one biennium to the next, of the total number of FTE for all community college districts that could be included in the funding formula without reducing resources available per FTE. The biennial growth management component is determined by the amount of total public resources available for the current biennium compared to the prior biennium and the estimated increased cost of FTE.

(17) "State Board of Education's Biennial Quality Growth Factor" is a policy lever that allows the number of FTE that will be counted for funding purposes to be above or below the Biennial Growth Management Component.

(18) "Total Biennial Growth Management Component" is the sum of the Biennial Growth Management Component and the State Board of Education's Biennial Quality Growth Factor.

(19) "Annual Growth Factor (AGF)" is one-half of the Biennial Growth Management Component.

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

Stats. Implemented: ORS 341.626

Hist.: DCCWD 1-2012(Temp), f. & cert. ef. 7-17-12 thru 1-10-13

589-002-0120

Community College Support Fund Distribution Methodology

(1) The Community College Support Fund shall be distributed in equal payments as follows:

(a) For the first year of the biennium, August 15, October 15, January 15, and April 15;

(b) For the second year of the biennium, August 15, October 15, and January 15;

(c) The final payment of each biennium is deferred until July 15 of the following biennium as directed by the 71st Oregon Legislative Assembly.

(d) Should any of the dates set forth above occur on a weekend, payment shall be made on the next business day.

(e) All payments, made before actual property taxes imposed by each district are certified by the Oregon Department of Revenue, shall be based on the department's best estimate of quarterly entitlement using property tax revenue projections. Payments shall be recalculated each year as actual property tax revenues become available from the Oregon Department of Revenue and any adjustments will be made in the final payment(s) of the fiscal year.

(2) Community college districts shall be required to submit enrollment reports in the format specified by the Commissioner, including numbers of clock hours realized for all coursework, in a term-end enrollment report by the Friday of the sixth week following the close of each term. If reports are outstanding at the time of the quarterly payments, payment to the district(s) not reporting may be delayed at the discretion of the Commissioner.

(a) All payments, made before actual Full-Time Equivalent student enrollment data are available shall be based on the department's best estimate of quarterly entitlement using student enrollment data from previous years.

(b) Payments shall be recalculated each year as Full-Time Equivalent student enrollment data become available and any adjustments will be made in the fiscal year.

(3) Reimbursement from the Community College Support Fund shall be made for career technical, lower-division collegiate, developmental education and other courses approved by the State Board in accordance with OAR 589-006-0100 through 589-006-0400. State reimbursement is not available for hobby and recreation courses as defined in 589-006-0400.

(4) Residents of the State of Oregon and the states of Idaho, Washington, Nevada, and California shall be counted as part of each community college district's CCSF reimbursable FTE, but only for those students who take part in coursework offered within Oregon's boundaries.

(5) State funding for community college district operations is appropriated by the legislature on a biennial basis to the Community College Support Fund. The amount of state funds available for each biennium and for distribution through the funding formula shall be calculated based on the following:

(a) Funds to support services provided to inmates of state penitentiary and correctional institutions by community college districts shall be subtracted from the amount allocated to the Community College Support Fund before the formula is calculated. The amount available for services provided to inmates shall be equal to the funding amount in the preceding biennium, except as adjusted to reflect the same percentage increase or decrease realized in the overall Community College Support Fund appropriation. The distribution method of CCSF funding for individual state penitentiary and correction institution programs provided by community college districts will be determined in consultation between the agency and the Department of Corrections.

(b) Funds to support contracted out-of-district (COD) programs described in OAR 589-002-0600 shall be subtracted from the amount allocated to the Community College Support Fund before the formula is calculated.

(A) Community college districts providing contracted out-of-district services will receive an allocation equal to the college's number of reimbursable COD FTE from the prior year multiplied by the prior year's statewide average of non-base Community College Support Funds per total funded FTE.

(B) To receive COD reimbursement for the current fiscal year, a community college district must have a contract with the Department of Community Colleges and Workforce Development in place by October 31st of the current fiscal year and must follow all requirements found in OAR 589-002-0600.

(c) Funds to support targeted investments such as distributed learning shall be subtracted from the amount allocated to the Community College Support Fund before the formula is calculated. The amount available for these investments shall be equal to the funding amount in the preceding biennium, except as adjusted to reflect the same percentage change to the current biennium's total Community College Support Fund appropriation.

(d) Funds remaining in the Community College Support Fund shall be distributed through the formula as described in Section 6.

(e) State general fund and local property taxes for territories annexed or formed effective June 1, 1996 or later shall not be included in the funding formula for the first three years of service. Additionally, the FTE generated in newly annexed territories shall not impact the funding formula during the first three years of service. Beginning in the fourth year, funding will be distributed through the formula as outlined in this rule.

(6) Distribution of funds to community college districts from the Community College Support Fund shall be accomplished through a formula, based on the following factors:

(a) Base Payment: Each community college district shall receive a base payment of \$720 for each Weighted Reimbursable FTE up to 1,100 and \$360 per FTE for unrealized enrollments between actual Weighted Reimbursable FTE and 1,100 FTE. The base payment for each community college district will be adjusted according to the size of the district.

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Community college district size for purposes of this adjustment will be determined each year by the FTE set forth in section (8)(b) of this rule. The base payment adjustments shall be:

- (A) 0 — 750 FTE 1.3513;
- (B) 751 — 1,250 FTE 1.2784;
- (C) 1,251 — 1,750 FTE 1.2062;
- (D) 1,751 — 2,250 FTE 1.1347;
- (E) 2,251 — 2,750 FTE 1.0641;
- (F) 2,751 — 3,250 FTE 1.0108;
- (G) 3,251 — 3,750 FTE 1.0081;
- (H) 3,751 — 4,250 FTE 1.0054;
- (I) 4,251 — 4,999 FTE 1.0027;
- (J) 5,000 or more FTE 1.000.

(b) Student-Centered Funding: The formula is designed to distribute the Community College Support Fund based on each community college district's FTE.

(A) The equalized amount per FTE is determined by dividing Total Public Resources — excluding base payments, contracted out-of-district payments, and any other payments directed by the State Board or the legislature — by funded FTE. The department shall make the calculation based on submission of FTE reports by community college districts and in accordance with established FTE principles.

(B) To determine the number of funded FTE for each community college district, a three-year weighted average of fundable FTE for each community college district will be used with the first year prior to current fundable FTE weighted at 40%, second year prior to current fundable FTE weighted at 30%, and third year prior to current fundable FTE weighted at 30%.

(c) Beginning with the 2011-13 biennium, a Biennial Growth Management Component is added to the calculation of each community college district's funded FTE. The purpose of the Biennial Growth Management Component is to manage the level of total public resource available per FTE within the total public resources available.

(A) The methodology for calculating the base year and subsequent biennial growth management component is displayed in Table 1 "Community College Support Fund Growth Management Calculation Tables" and is available through the following hyperlink. [Table not included. See ED. NOTE.]

(B) The calculations that will implement the Growth Management Component in the CCSF Distribution Formula Model are available in Table 2. Formula Calculation of Fundable FTE by Community College District." [Table not included. See ED. NOTE.]

(C) The State Board of Education (SBE) has authority, on a biennial basis to, set the "quality growth factor" that may increase or decrease the number of FTE that will be counted for funding purposes above or below the Biennial Growth Management Component. The SBE will consider the following principles as guidelines for setting the "quality growth factor":

(i) Balance the desire to support growth beyond that which is funded through the funding formula distribution model with the desire to enhance quality by increasing the level of funding provided on a per-student FTE basis.

(ii) The Total Public Resources (TPR) per FTE should not erode by more than 5% on an annual basis.

(iii) Where current TPR per FTE is determined to be insufficient to support the "quality of education" desired, a growth factor could be established that would increase the TPR per FTE.

(iv) If revenue is significantly reduced during a biennium, the Board may reduce the "quality growth factor."

[ED.NOTE: Tables referenced are available from the agency.]
Stat. Auth.: ORS 326.051, 341.015, 341.022, 341.317, 341.440, 341.525, 341.528, 341.626 & 341.665
Stats. Implemented: ORS 341.626
Hist.: DCCWD 1-2012(Temp), f. & cert. ef. 7-17-12 thru 1-10-13

589-002-0130

State Board Strategic Fund

The State Board may establish a strategic fund.

(1) There are two basic categories for these funds: incentivized statewide initiatives and activities, and requests from individual districts for assistance in meeting new requirements and expectations stemming from legislative change.

(2) The commissioner will use a committee of stakeholders and department staff to determine overall priorities for funding that considers the State Board work plan and initiatives.

(3) Strategic funds provided to incentivize statewide activities or assist community colleges in meeting legislative expectations are provided only for the biennium in which funding is approved. Strategic Funds allo-

cated for either purpose will not be considered in the distribution of funds through the formula described in Section 6 of 589-002-0110 for the current biennium or future biennia.

(4) Any unused monies remaining in the current biennium's strategic fund will be allocated through the formula described in Section 6 of 589-002-0110 at the end of the biennium.

(5) The commissioner will review, rank and approve proposals to incentivize statewide activities. After each proposal is approved, the commissioner will provide the State Board with a report detailing the purpose of the activity, the amount of strategic fund monies approved, and the proposal's merit as assessed under the following parameters:

(a) Purpose of the proposal.

(b) How the activity supports the initiatives and work plans of the department and the State Board.

(c) How the activity relates to the department's Key Performance Measures or other program-specific measures.

(d) If the funding one time (for this biennium) or will additional funding be needed in the future.

(e) If future funding is needed, how resources will be obtained and how the activity will be sustainable?

(f) The activity's impact on the state three years from now and five years from now.

(g) Anticipated changes.

(h) How progress will be measured.

(6) The department will bring all requests for assistance in meeting new requirements or expectations stemming from legislative change to the State Board for discussion and consideration.

(7) The department will assess the requests for assistance in meeting new requirements or expectations of the legislature based on the following parameters:

(a) Purpose of the proposal.

(b) How funds will be used to sustain or increase enrollment (not supplanting existing funds).

(c) If the funding is one time (for this biennium) or if additional funding will be needed in the future.

(d) If future funding is needed, how those resources will be obtained and how the activity is sustainable.

(e) The impact on the community college three years from now and five years from now.

(f) How progress will be measured.

(8) The department will provide a recommendation and reasoning to the State Board on whether the request merits funding.

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

Stats. Implemented: ORS 341.626

Hist.: DCCWD 1-2012(Temp), f. & cert. ef. 7-17-12 thru 1-10-13

Rule Caption: Amends NCRC program requirements for participant residency, assessment scoring and eligibility criteria.

Adm. Order No.: DCCWD 2-2012(Temp)

Filed with Sec. of State: 8-6-2012

Certified to be Effective: 8-6-12 thru 1-31-13

Notice Publication Date:

Rules Amended: 589-007-0700

Subject: This rule amendment revises program participant residency, assessment scoring and eligibility criteria. It also includes rule language clarifications and adds the ORS citing 660.343.

Rules Coordinator: Linda Hutchins—(503) 947-2456

589-007-0700

National Career Readiness Certificate (NCRC) Program

(1) The purpose of the National Career Readiness Certification (NCRC) program is to prepare Oregonians for the workplace and for college as a part of implementing an integrated workforce delivery system that focuses on developing the skills and talents of Oregonians. The NCRC in Oregon provides individuals with documented, transportable, skills-based certificates.

(2) The Department of Community Colleges and Workforce Development (CCWD) shall administer the statewide program for the National Career Readiness Certificate called for in HB 2353, passed in the 2011 legislative session, and establish a policy and procedures for:

(a) Initial skills review assessments to identify participant's skill levels;

(b) Targeted instruction and remedial skill-building for participants;

(c) Foundational skills assessments for participants;

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(d) Training of staff to administer assessments based on established guidelines;

(e) Delivery site criteria and validation of these criteria;

(f) Quality assurance processes;

(g) Development of systems to collect, track and maintain data;

(h) Participant's eligibility criteria. Eligible program participants:

(A) Must be a citizen or national of the United States, lawfully admitted permanent resident alien, refugee, asylee, or parolee, or other immigrant authorized by the Attorney General to work in the United States;

(B) Must be a resident of Oregon or an employee of businesses located in Oregon;

(C) Must comply with NCRC assessment-taking procedures and requirements as outlined in American College Testing (ACT) test coordinator manual and directions for administration.

(D) Must meet any additional eligibility requirements as dictated by the funding source(s) used to administer, implement, or support the NCRC program.

(3) Services provided by the NCRC program shall include, but are not limited to:

(a) An assessment process that includes an initial skills review and a foundational skills assessment of examinees in reading for information, applied mathematics, and locating information at a minimum;

(b) Targeted and accelerated instruction and remedial skills training to increase foundational skills for participants as determined by the assessment process;

(c) Issuance of a National Career Readiness Certificate to any eligible individual who earns a minimum score of a 3 on each of the NCRC assessments for reading for information, applied mathematics, and locating information:

(A) Certificates issued to examinees on successful completion of the assessments must describe the skills demonstrated by the examinee as evidence of the individual's readiness for employment;

(B) Each of the NCRC assessments shall be scored on a scale of three and above. The level of credential examinees receive is based on the following:

(i) A bronze-level certificate requires a minimum score of three or above on each of the assessments.

(ii) A silver-level certificate requires a minimum score of four or above on each of the assessments.

(iii) A gold-level certificate requires a minimum score of five or above on each of the assessments.

(iv) A platinum-level certificate requires a minimum score of six or above on each of the assessments.

(4) The results of NCRC assessments must be used, at a minimum, to determine a participant's career readiness as determined by general skills requirements and job profiles, and to determine additional instructional needs for the participant in reading, locating information, and applied mathematics, or other assessments needed or required.

(5) Participants may opt out of the NCRC database by informing the Agency in writing, by mail, and with examinee's signature that he or she wants to opt out of the database.

(6) CCWD shall conduct periodic studies of the assessments used in Oregon to document Essential Skill for high school graduation to compare their effectiveness in preparing graduates for successful transition to post-secondary education and the workplace.

Stat. Auth.: ORS 183, 660.318, 660.330 - 660.339 and 660.343

Stats. Implemented:

Hist.: DCCWD 2-2009(Temp), f. & cert. ef. 7-15-09 thru 1-8-10; DCCWD 6-2009, f. & cert. ef. 12-14-09; DCCWD 3-2011, f. & cert. ef. 12-9-11; DCCWD 2-2012(Temp), f. & cert. ef. 8-6-12 thru 1-31-13

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

Rule Caption: Updates citations and corrects statutory references for payday and title lending rules.

Adm. Order No.: FCS 2-2012

Filed with Sec. of State: 7-23-2012

Certified to be Effective: 7-23-12

Notice Publication Date: 6-1-2012

Rules Amended: 441-735-0000, 441-735-0010, 441-735-0015, 441-735-0025, 441-735-0030, 441-735-0050, 441-735-0060, 441-735-0070, 441-735-0080, 441-735-0100, 441-735-0110, 441-735-0120, 441-735-0130, 441-735-0140, 441-735-0160, 441-735-0165, 441-735-0205, 441-735-0240, 441-735-0250, 441-735-0255, 441-735-

0271, 441-735-0272, 441-735-0275, 441-735-0280, 441-735-0310, 441-735-0320

Subject: SB 993 (2010) had not been codified in statute when the department adopted OAR 441-735-0000 through 441-735-0320 for payday and title lending. This law has now been codified in Oregon Revised Statutes in ORS chapter 725A and the department is updating the statutory references in the payday and title rules. In addition, these rules correct some citations related to statutes that were incorrectly cited and update some references to federal regulations.

Rules Coordinator: Shelley Greiner—(503) 947-7484

441-735-0000

Statutory Authority; Purpose

OAR 441-735-0000 to 441-735-0320 are adopted pursuant to the rulemaking authority granted the director by ORS 725A.092. These rules are considered necessary to assure the proper conduct of the business regulated and to protect the public.

Stat. Auth.: ORS 725A.092

Stat. Implemented. ORS 725A.092

Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

441-735-0010

Definitions

(1) "Annual percentage rate" or "APR" means the annual percentage rate that every licensee is required to disclose to any credit customer in accordance with the Truth In Lending Act, 15 U.S.C. 1601 et seq., and Regulation Z, 12 C.F.R. Part 1026. (2) "Borrower" means a natural person.

(3) "Charges" means any one or more of the fees, premiums or other charges described by ORS 725A.062, 725A.082, and 725A.092, and other items charged to a borrower's account; but the term does not include interest or deferral charges.

(4) "Director" means the Director of the Department of Consumer and Business Services.

(5) "Extension" has the same meaning as "renewal" as defined in section (11) of this rule.

(6) "Finance charge" means the cost of consumer credit as a dollar amount. It includes any charge payable directly or indirectly by the consumer and imposed directly or indirectly by the creditor as an incident to or a condition of the extension of credit. It does not include any charge of a type payable in a comparable cash transaction.

(7) "License" means a payday loan license or title loan license issued under ORS 725A.024.

(8) "Legally qualified in this state" means a business is qualified to conduct business in this state, having made the appropriate filings with the Secretary of State.

(9) "Person" means a natural person or an organization, including a corporation, partnership, proprietorship, association, limited liability company or cooperative.

(10) "Renewal" of a loan means granting a borrower the right to postpone repayment of a payday loan or a title loan.

(11) "Roll-over" has the same meaning as "renewal" as defined in section (10) of this rule.

(12) "Same day transaction" means a payday loan or title loan made on the same day that a previous payday loan or title loan is paid-off and will be treated as a "renewal" defined in section (10) of this rule.

Stat. Auth.: 2010 Or Laws ch. 23, §27

Stats. Implemented: 2010 Or Laws ch. 23 §§1, 5.27, and 32

Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

441-735-0015

Title Loan Licensee Lending Practices

A title loan licensee may not:

(1) Retain the title to the vehicle used as security on a loan for more than thirty business days before submitting the application to be recorded as a lien-holder on the title or taking other commercially reasonable steps to be added as a security interest holder of the vehicle;

(2) Unreasonably withhold documents on a loan secured by a borrower's vehicle for more than three business days if the loan is paid by certified or guaranteed funds.

Stat. Auth.: 2010 Or Laws ch. 23, §27

Stats. Implemented: 2010 Or Laws ch. 23, §§5 & 15

Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

ADMINISTRATIVE RULES

441-735-0025

License Applications

(1) For purposes of the investigation described in ORS 725A.024 an applicant for a license must submit the application form prescribed by the director, signed by an authorized owner or officer of the applicant.

(2) An applicant, including a person that currently has a payday loan license or title loan license, must provide the employment history for the proposed manager of the licensed office for the five years immediately preceding the date of the application. A licensee employing a new manager may be required to submit a resume to meet the requirements of this section.

(3) A person that is not currently licensed to make payday loans or title loans must submit:

(a) The employment history for all executive officers, owners, directors, or managing partners. A resume may be required to meet this requirement. At least one-half of the executive officers, owners, directors, or managing partners must have verifiable recent lending experience;

(b) A business plan, including but not limited to:

(A) Financial and operational history of the applicant, if any;

(B) Copies of any loan documents proposed to be used;

(C) A description of the types of loans and the percentage of the different types of loans the applicant proposes to make, the length of the loans the applicant proposes to make, the interest rates or range of rates the applicant proposes to charge, and any other business activities the licensee will engage in at the location; and

(D) Funding sources for the loans, including third-party financial institutions.

(4) For purposes of ORS 725A.024 and this rule, the filing date of an application is the date the application is complete. An application will be deemed complete on the date that:

(a) All required fees have been paid; and

(b) All fully completed documents that are part of an application or required to be submitted by this rule have been received.

(5) An application for licensing is deemed abandoned if:

(a) The director has had one or more incomplete documents as part of an application for a minimum of 60 days; and

(b) The applicant has not responded within 30 days following a written notice from the director requesting submission of all fees, documents, or information necessary to make the application complete.

(6) An applicant whose application has been abandoned may reapply by submitting a new application including new fees.

Stat. Auth.: ORS 725A.012, 725A.022, 725A.024, & 725A.092

Stats. Implemented: ORS 725A.022 & 725A.024

Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

441-735-0030

Fees, Charges Licensees Pay the Director

(1) The license fees under ORS 725A.028 are:

(a) \$750 for an initial application for each location to be licensed; and

(b) \$750 for renewal of each licensed location, due and payable on January 1 of each calendar year.

(2) The rate of charge payable by a licensee is \$75 an hour per person payable by the licensee for the director and each examiner and other division employee conducting an examination and for extra services provided to a licensee under ORS 725A.050.

(3) Notwithstanding the rate of charge fixed by section (2) of this rule:

(a) If an examiner from the division or the director is required to travel out of state to conduct the examination or provide extra services, the rate of charge payable by the licensee is \$75 an hour per person, plus actual cost of travel. Actual travel costs include air fare, lodging, food, car usage out of state, mileage to the Oregon airport and return, and travel time beginning from the departure time and ending at the departure time at the destination city;

(b) If the extra services or examination are performed by a consultant hired for the particular service or examination, the licensee will be charged the actual costs to the division of the contract consultant.

(4) As used in this rule, "extra services" means any attention other than an examination.

(5) The director will collect any additional costs directly attributable to extra services to the licensee in addition to the charges in sections (2) and (3) of this rule.

(6) The director may by order reduce the fees assessed for any specific year.

Stat. Auth.: ORS 725A.022, 725A.028 & 725A.092

Stats. Implemented: ORS 725A.028

Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

441-735-0050

Notes and Agreements

(1) All forms of notes and agreements pertaining to loans and security for loans used by a licensee must be so worded that they comply with all provisions of ORS 725A.010 through 725A.990 and these rules.

(2) Any forms or agreements required or authorized by federal statute or regulation, and in compliance with those statutes or regulations are considered in compliance with and authorized by ORS 725A.010 through 725A.990.

Stat. Auth.: ORS 725A.092

Stats. Implemented: ORS 725A.092

Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

441-735-0060

Loans Not to Be Payable on Demand; Exception

(1) Except as provided by section (2) of this rule, a loan must not be made payable on demand.

(2) A loan may provide that, if there is a default under the note or collateral security agreement, the loan may become due and payable immediately or on demand.

Stat. Auth.: ORS 725A.092

Stats. Implemented: ORS 725A.060

Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

441-735-0070

Advertising Regulations

(1) A licensee or other person must not, in any advertisement printed, displayed, published, distributed, or broadcasted, including on the Internet, by the licensee or on the licensee's behalf include any reference to the supervision of the business of the licensee by this state or any department or official of this state, except the phrase "subject to state regulation."

(2) A licensee or other person must not, in any advertisement printed, displayed, published, distributed, broadcast, including on the Internet, by the licensee or on the licensee's behalf, use any name other than the name under which the license is issued.

(3) A licensee must retain a copy of all advertising for the period beginning with the date of the last examination in a designated licensed office, or with the prior approval of the director, at another location until an examiner has reviewed the material.

(4) Notwithstanding the provisions of sections (1) and (2) of this rule:

(a) A licensee that makes and closes the majority of loans in a licensed location must prominently post their license in a manner conspicuous to the public; or

(b) If a licensee makes and closes the majority of loans electronically, they must prominently post their license on their website and at their licensed location in a manner conspicuous to the public.

(5) The posted license must state that the business is licensed and regulated by the Department of Consumer and Business Services, and will include the Department's toll-free telephone number for public inquiries or complaints.

Stat. Auth.: ORS 725A.092

Stats. Implemented: ORS 725A.058

Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

441-735-0080

Qualifications of Person in Charge of Licensed Office

A licensee must not place any person in charge of a licensed office unless the person has a thorough understanding of ORS 725A.010 – 725A.990 and these rules.

Stat. Auth.: ORS 725A.092

Stats. Implemented: ORS 725A.024

Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

441-735-0100

Licensee Officers and Directors

(1)(a) A licensee may add a new executive officer, owner, director, or managing partner at any time after the licensee has been granted a license if after the addition at least one-half of the executive officers, owners, directors, or managing partners can demonstrate verifiable recent lending as required by ORS 725A.092.

(b) If a licensee adds a new executive officer, director, partial owner, or managing partner under this section, the licensee must provide a current resume for such new persons demonstrating verifiable recent lending experience to the director within 30 days of their appointment or selection.

(2) If an existing or new executive officer, director, partial owner, or managing partner of the licensee gains a controlling interest in the company after the license has been granted, the licensee must notify the director within 30 days.

ADMINISTRATIVE RULES

(3) An officer or director of a licensee addressed in an order issued by the director under ORS 725A.084 may request a hearing on the order as provided for contested cases by ORS chapter 183 and the rules of the director adopted pursuant thereto, within 30 days after the date the order is issued and served.

(4) A person who is suspended or removed under ORS 725A.084 may not conduct any of the business of the licensee or have access to the books, records, or assets of the licensee either as an officer, director, partner, stockholder, or employee without receiving permission from the director:

- (a) During the period of the suspension; or
- (b) After the effective date of the removal.

(5) A licensee subject to an order of suspension under the provisions of ORS 725A.034 may, within 90 days after the date the order is issued or served, request a hearing on the order as provided for contested cases by ORS chapter 183 and the rules of the director adopted pursuant thereto.

Stat. Auth.: ORS 725A.092
Stats. Implemented: ORS 725A.026 & 725A.084
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

441-735-0110

Accounting Records of Licensee

(1) The accounting records of a licensee must reflect a complete segregation of the loan transactions from any other business in which the licensee may be engaged.

(2) The licensee must maintain separate control accounts or other acceptable records to reflect such segregation for:

- (a) Loans receivable;
- (b) Charges; and
- (c) Repossessed property and sales of repossessed property.

(3) The licensee must fully account for receipt and disbursement of all charges charged or collected.

(4) Each licensee must maintain a log of:

(a) Loans made, listing each loan in sequence by number or date of loan and showing:

- (A) The amount of the loan;
- (B) The type of security taken;
- (C) The rate of interest charged; and
- (D) The types of insurance for which premium charges have been made in connection with the loan and which are payable by the borrower.

(c) Any litigation initiated by the licensee showing for each proceeding:

- (A) The borrower's name and account number;
- (B) The court where the proceeding is filed;
- (C) The date of filing; and
- (D) When applicable, the date, and terms of any disposition of the matter.

(d) Information on files sent to a collection agency showing, for each file:

- (A) The borrower's name, the account number;
- (B) The original date of the loan, the due date of the loan, or last renewal or extension;
- (C) The date the loan was sent to the collection agency;
- (D) The name of the collection agency; and
- (E) The date and amount of monies received from the collection agency.

(F) A separate log of files sent to a collection agency need not be maintained provided the information is available in existing records at the time of examination.

(6) When a judgment is entered in a court proceeding initiated by a licensee on a loan, the licensee forthwith must place in the related loan file either:

- (a) A copy of the judgment entered in the proceeding; or
- (b) A statement verified by a representative of the licensee, detailing the essential provisions of the judgment.

(7) Licensees who make both title and payday loans must maintain separate logs for each type of loan.

Stat. Auth.: ORS 725A.092
Stats. Implemented: ORS 725A.052
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

441-735-0120

Account Record to Be Maintained for Each Loan

(1) The licensee must maintain a separate individual account record for each loan made to any borrower showing:

- (a) The loan number;
- (b) The date of the loan;
- (c) The name and address of the borrower;

(d) A brief description of the security, if any;

(e) The agreed interest rate or rates and the amount of each charge, if any;

(f) The terms of repayment, including the expiration date of the loan, and any modifications of the terms.

(g) The amount of each payment made on the loan and in accordance with sections (2) and (3) of this rule, how the payment is allotted to principal, interest and charges;

(h) The date of the final entry when the loan is paid in full or otherwise finally settled or closed; and

(i) A clear, brief explanation of any other entries that result in the reduction or addition to the principal balance or interest.

(2) The account record for a daily interest loan must show, for each loan payment received:

- (a) The amount, if any, applied to interest;
- (b) The date to which the interest is paid;
- (c) If payment is insufficient to pay interest to date, the dollar amount short;

- (d) The amount applied to principal, if any; and
- (e) The unpaid principal balance of the loan, if any.

(3) The account record for a payday loan or title loan must show the date each loan is renewed, the amount of the charge the borrower paid and the new due date of the loan.

(4) All entries to the account record made by the licensee must be accurate and posted by close of business on the day the transaction occurred. If the licensee is unable to post a transaction as required by this section, the posting when made must reflect the actual date of the transaction.

Stat. Auth.: ORS 725A.092
Stats. Implemented: ORS 725A.052
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

441-735-0130

Index of Obligors to Be Maintained

A licensee must maintain an alphabetical index, or other system approved by the director, of every person obligated, directly or contingently, on a loan that is serviced at that office in each of its licensed offices.

Stat. Auth.: ORS 725A.092
Stats. Implemented: ORS 725A.052
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

441-735-0140

Records and Files Required to Be Kept at Servicing Office; Copies of Loans Transferred; Centralized Accounting Office Exception

(1) A licensee must maintain the accounting records and loan files for active loans at the licensed office where the loans are serviced.

(2) Whenever an active loan is for any reason transferred to another licensed office in this state, the licensee must retain in the transferring office an exact copy of the individual account record and supporting legal documents.

(3) Whenever an active loan is for any reason transferred to another licensed office, the licensee must retain in the transferring office an exact copy of the account record to which has been added the date of transfer and the name and address of the new location of the account. However, if a bulk sale or similar transfer of loans not in the ordinary course of business is made to another licensed office, the licensee may, with the prior approval of the director, make other provisions for the retention of copies of records and files and for the examination of accounts in the receiving office.

(4) Whenever the licensee sends an active loan to a collection agency, the licensee must retain in the originating office the original record or an exact copy of the account record.

(5) Notwithstanding sections (1) through (4) of this rule, a licensee may, with the prior approval of the director, maintain the accounting records and loan files for active loans at a location other than the servicing office if:

- (a) The other location is established by the licensee to provide centralized accounting for one or more licensed offices;
- (b) Off-site maintenance of the records and files will not hinder prompt servicing of the loans by the servicing offices;

(c) The director, and any duly appointed examiners or agents of the director, have the right of free access to the records and files of the licensee at the other location; and

(d) The other location provides adequate security for the licensee's records and files.

Stat. Auth.: ORS 725A.092
Stats. Implemented: ORS 725A.052
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

ADMINISTRATIVE RULES

441-735-0160

Daily-Interest Computation

Interest on a loan may be computed on a daily basis using a 365-day factor. In determining the elapsed time to compute interest or a refund of interest, on such a loan, the maximum charge for each day must be 1/365th of the annual rate.

Stat. Auth.: ORS 725A.092
Stats. Implemented: ORS 725A.062 & 725A.064
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

441-735-0165

Unfair or Deceptive Practices

A licensee must not disguise the terms or provisions of any loan as a device or subterfuge to evade the requirements and fees and interest authorized by ORS 725A.010 through 725A.990. Such conduct will be deemed a violation of ORS 725A.010, 725A.062, and 725A.064, and dishonest, fraudulent, or illegal practices under ORS 725A.082.

Stat. Auth.: ORS 725A.092
Stats. Implemented: ORS 725A.010, 725A.026, & 725A.062
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

441-735-0205

Limitation on Charging a Prepayment Penalty

A licensee may not charge a penalty for prepayment of all or part of the unpaid balance of a loan where:

- (1) The licensee has repossessed any collateral offered for the loan, sold the collateral and applied the proceeds of the sale towards the unpaid balance of the loan;
- (2) The licensee exercises an option contained in the loan agreement to require immediate repayment of all or part of the unpaid balance of the loan; or
- (3) The licensee demands repayment of all or part of the unpaid balance of the loan.

Stat. Auth.: ORS 725A.092
Stats. Implemented: ORS 725A.056
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

441-735-0240

Statement of Loan

(1) In addition to the statement required by ORS 725A.056, the licensee must deliver the following to the borrower at the time a loan is made:

- (a) A written statement that payment in any amount may be made in advance at any time and, if the loan contains a prepayment penalty, the statement must comply with the notice required by ORS 82.160(1).
- (b) A detailed schedule showing the manner in which the proceeds of the loan have been disbursed or are to be disbursed on behalf of the borrower, including:
 - (A) Amounts applied to payment of the balance of an existing loan with the licensee;
 - (B) Amounts paid to others as authorized and designated by the borrower;
 - (C) Amounts paid for other identifiable charges the borrower has approved in writing;
 - (D) Amounts retained for filing, releasing, recording, satisfaction, reconveyance, license, title transfer, and similar fees, itemizing the purpose of each fee; and
 - (E) Amounts remaining that will be paid to the borrower.

(c) When requested by the borrower, a copy of the security agreement signed by the borrower, together with any attached schedule of property pledged by the borrower.

(2) When copies are requested by any other person obligated directly or contingently on the loan, the licensee must also deliver a copy of the statements and other documents required by ORS 725A.056 and section (1) of this rule to such other person. This is required whether the person is obligated as a maker, co-maker guarantor, accommodation maker, endorser, or otherwise.

(3) The statement required by section (1) of this rule may include disclosures under applicable federal law that a licensee is required to make to the borrower at the time the loan is made.

(4) The licensee must retain a copy of the statement of loan delivered to the borrower for at least two years after making a final entry on the loan records.

Stat. Auth.: ORS 725A.092
Stats. Implemented: ORS 725A.052 & 725A.056
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

441-735-0250

Receipt to Be Furnished to Borrower Upon Request

(1) When the borrower requests a receipt for a payment on a loan for which interest is to be computed on a daily basis, the receipt must specify:

- (a) The amount applied to interest, if any;
- (b) The date to which the interest is paid, or the dollar amount short, if payment is insufficient to pay interest to date;
- (c) The amount applied to principal, if any; and
- (d) The unpaid principal of such loan, if any.

(2) When a borrower requests a receipt for a payment on a loan that is contracted for interest to be precomputed, the receipt must specify:

- (a) The amount of the payment applied to the loan and any default charges; and
- (b) The amount of the unpaid balance of the loan and charges, if any.

Stat. Auth.: ORS 725A.092
Stats. Implemented: ORS 725A.056
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

441-735-0255

Payoff Information to be Furnished to Borrower Upon Request

(1) When a borrower requests the payoff information on a loan and specifies a payoff date, the licensee must promptly, but in no case later than three business days, provide the requested information.

(2) When a borrower does not specify a payoff date, the licensee must calculate the payoff amount for a date no later than 10 days after the date of the request, and must provide the amount within three business days of the borrower's request. When a licensee provides a payoff amount, it must also advise the borrower, verbally or in writing, that interest will continue to accrue past the payoff date if the loan is not paid in full.

Stat. Auth.: ORS 725A.092
Stats. Implemented: ORS 725A.056
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

441-735-0271

Requirements for Payday Loans and Title Loans

A licensee must comply with the following when making payday loans or title loans:

- (1) Interest may not be compounded.
- (2) The loan agreement must have the following information displayed prominently in bold print on the first page of the agreement:
 - (a) The APR;
 - (b) The amount of the loan;
 - (c) The amount of interest or finance charge if paid when the loan is due;
 - (d) The total amount due on the due date; and
 - (e) The due date must comply with the disclosure requirements of Truth In Lending Act, 15 U.S.C. 1601 et seq., and Regulation Z, 12 C.F.R. Part 1026, to satisfy the requirements of this section.

(3) If a licensee permits a borrower to renew a loan after the due date, the renewal must be effective on the due date of the loan.

(4) If the licensee does not cash the borrower's check, the licensee must return the note marked "Paid" and the requirements of subsection (4) of this rule would not apply. The licensee must also mark the check "Void" and return it to the borrower with the note marked "Paid."

Stat. Auth.: ORS 725A.080 & 725A.092
Stats. Implemented: ORS 725A.056, 725A.062, 725A.064, 725A.064, 725A.080, & 725A.092
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

441-735-0272

Requirements for Licensees

- (1) A licensee:
 - (a) Must calculate daily interest based upon a 365/day year.
 - (b) Must comply with the Equal Credit Opportunity Act, 15 USC § 1691 et seq., and must provide the applicant with a written notice of the reason for declining a loan. The licensee may provide the notice to the applicant at the time the loan is declined or the notice may be mailed to the applicant. The licensee must retain a copy of the notice in the borrower's files unless an exception under the Equal Credit Opportunity Act applies.

(c) Must prominently post the APR inside their office where customers can easily see it and the APR must be prominently posted on the licensee's website so that it will be viewed by any Oregon consumer prior to applying for a loan.

(2) After any payment made, in full or in part, on any loan, a licensee must:

- (a) Give the person making payment a signed, dated receipt showing the amount paid to principal, the amount paid to interest, and the balance due on the loan; or

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(b) An electronic receipt, a canceled check, or other written instrument approved by the director as a substitute for the receipt requirements of subsection (a).

(3) If a licensee does not give a borrower the note marked "Paid or Renewed" in compliance with ORS 725A.056, the loan agreement must state that the borrower's canceled check will be evidence of payment of the loan. The licensee must mark the note "Paid" or "Renewed" and retain the note in the file. If the loan is made using an electronic medium and the consumer has consented to use of electronic transmission, an electronic transmission may fulfill the requirements of this section.

(4) A licensee may not make a loan to an applicant without forming a good faith belief that the applicant has the ability to repay the loan. A licensee will be presumed to have complied if the licensee:

(a) Requires the applicant to provide evidence of a source of funds to repay the loan such as pay stubs, bank statements or similar record or evidence of employment or income;

(b) Establishes the amount of salary or earnings of the applicant and the date of the month on which the applicant receives compensation or funds;

(c) Solicits the applicant for information on the number, amounts and dates of maturity on outstanding loans on which the applicant is the payor or guarantor;

(d) Does not lend more than 25 percent of the consumer's monthly net income to an applicant that earns \$60,000 a year or less. This limitation does not apply to loans made to applicants who have a net income in excess of \$60,000 a year. If a loan is based upon anticipated receipt of funds from other sources, the licensee must so note in the file and may lend no more than 25 percent of the total anticipated funds received by the applicant during the loan period.

(e) Solicits information on the number, amount and dates of maturity of existing outstanding loans.

(5) When an application is made, a licensee must provide the borrower with a written statement, in a form approved by the director, clearly describing the results of any default or late payment.

(6) In compliance with ORS 725A.062 and 725A.064, a licensee may not renew a loan more than two times and may not make a new loan to a borrower within seven days of the day that a previous payday loan expires.

Example: A borrower borrows \$300 for 31 days on July 3 at 36 percent interest and a \$30 origination fee. Unable to pay off the loan on August 3, the borrower pays the \$30 origination fee and \$9.17 interest (\$300 x 0.36 divided by 365 x 31) and renews the loan with a new due date of September 3. Unable to repay the loan on September 3, the borrower again pays \$9.17 interest and renews the loan with a new due date of October 4. If the borrower is unable to repay the loan on October 4, the lender may not any more renewals and may not make a new loan to the borrower until October 11.

(7) If the licensee has a preexisting business relationship with the borrower in which the licensee has entered into a loan or loans within the previous 12 months that have been satisfactorily repaid in full, the lender may rely on that preexisting relationship to form the good faith belief required under ORS 725A.062.

(8) For purposes of the investigation described in ORS 725A.024, an applicant for a payday loan license or title loan license must authorize an investigative consumer report as defined in the Fair Credit Reporting Act, 15 USC § 1681 et. seq.

(9) No license will be issued or renewed unless the applicant or licensee is legally qualified to conduct business in this state by making appropriate filings with the Secretary of State.

Stat. Auth.: ORS 725A.080 & 725A.092
Stats. Implemented: ORS 725A.056, 725A.060, 725A.062, 725A.064, 725A.080, & 725A.092
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

441-735-0275

Conditions Applicable to Loans Made by Title Loan Licensees

(1) Title loan contracts may not provide for the continuation of interest or other charges after repossession.

(2) For title loans in default, licensees must send a written notice by first class mail, in a form approved by the director, to the borrower's last known address 10 days prior to repossession.

(a) The notice must be dated the day it is mailed;

(b) A dated copy of the notice must be placed in the borrower's file; and

(c) Repossession may not occur until the 11th day from the date of the notice.

(3) Unless an auctioneer conducts the sale at a public or dealer auction, the licensee must obtain at least three bids on the vehicle prior to the sale of a vehicle. The bids must be in writing and contain the identity of the vehicle, the amount of the bid, and the name and address of the bidder.

(4) Licensees may not sell a vehicle to an agent, affiliate, subsidiary, or employee of the licensee.

(5) If a vehicle is sold, the borrower must receive all proceeds, exceeding the debt and reasonable costs associated with the repossession and sale. The licensee must deliver the proceeds no later than three business days after they receive the proceeds of the sale. If the vehicle was paid for by a check, the licensee may deliver the proceeds within three days after the check has cleared.

(6) The licensee may not charge the borrower any storage charge, regardless of how long the vehicle is held prior to sale, if the vehicle is stored on property owned, leased, or otherwise controlled by the licensee.

(7) If more than one person holds title to a vehicle, the vehicle may not be repossessed unless all such persons have signed the necessary loan documents.

Stat. Auth.: ORS 725A.092
Stats. Implemented: ORS 725A.056, 725A.062, & 725A.092
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

441-735-0280

Prohibited Provisions in Loan Contract Provisions

A licensee may not use a contract evidencing a loan that contains any of the following provisions:

(1) A hold harmless clause;

(2) A confession of judgment or other waiver of the right to notice and the opportunity to be heard in the event of suit or process;

(3) A provision in which the consumer agrees not to assert any claim or defense arising out of the contract against the licensee or any holder in due course; or

(4) An executory waiver or a limitation of exemption from attachment, execution, or other process on real or personal property held, owned by, or due to the consumer, unless the waiver applies solely to property subject to a security interest executed in connection with the loan.

Stat. Auth.: ORS 725A.060, 725A.062, & 725A.092
Stats. Implemented: ORS 725A.056
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

441-735-0310

Refund of Unearned Interest and Charges

(1) If a borrower pays off a loan prior to the due date, the licensee must refund all unearned interest and charges.

(2) For purposes of this rule, a licensee must calculate earned interest and charges by multiplying the loan amount by the interest rate and dividing by 365 to find daily interest then multiply that quotient by the number of days from the date the loan was made to the date of pay-off counting the day after the loan was made as the first day.

Example: A borrower gets a loan of \$200 on the 5th day of the month at 36 percent interest and comes on the 25th of the month to pay off the loan. The interest is calculated as follows: \$200 x 0.36 = \$72 divided by 365 = \$0.20 per day x 20 days = \$4.00 interest. If the borrower gave a lender a check on the 5th for the full 31-day term (\$206.12), the lender must refund the unearned interest of \$2.12. There is no minimum interest amount.

Stat. Auth.: ORS 725A.092
Stats. Implemented: ORS 725A.056 & 725A.092
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

441-735-0320

Licensee Reporting

Licensees are required to file an annual report by March 31 for operations during the previous calendar year. Licensees must also provide known information on any felony conviction, or any conviction involving theft or fraud, of any executive officer, director, managing partner, or the manager of any office location that occurred during the reporting period that had not already been reported to the director. This applies to:

(1) A new qualified person or office manager;

(2) A new experienced person;

(3) Material changes in business plan; or

(4) Any criminal conviction entered against any person named in the application.

Stat. Auth.: ORS 725A.092
Stats. Implemented: ORS 725A.030
Hist.: FCS 7-2010, f. & cert. ef. 6-4-10; FCS 2-2012, f. & cert. ef. 7-23-12

Rule Caption: Revises requirements for books, records, and reporting and corrects statutory references for check cashing businesses.

Adm. Order No.: FCS 3-2012

Filed with Sec. of State: 7-23-2012

Certified to be Effective: 7-23-12

Notice Publication Date: 6-1-2012

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Rules Amended: 441-755-0000, 441-755-0100, 441-755-0110, 441-755-0120, 441-755-0140, 441-755-0150, 441-755-0160, 441-755-0170, 441-755-0210, 441-755-0300, 441-755-0310

Subject: These rules streamline and simplify reporting requirements for check cashing licensees and reduce the data that licensees must provide in the annual report. Licensees will still be required to comply with statutory requirements that provide consumer protections. The department expects these changes to improve the accuracy of data submitted by licensees while lessening the regulatory burdens on licensees. These rules also make technical revisions to correct statutory citations and update statutory references.

Rules Coordinator: Shelley Greiner—(503) 947-7484

441-755-0000

Definitions

For purposes of ORS 697.500 through 697.555 and the rules in Division 755:

(1) “Automated check-cashing machine” means an unstaffed communications terminal that cashes payment instruments and charges a fee.

(2) “Conspicuously post” means to place in plain and unobstructed public view in a location and in a way, including form and size and type-face, that any person seeking the services of a licensee could clearly and easily see and read the contents of the posted notice.

(3) “Control” means:

(a) In the case of a corporation, direct or indirect ownership or the right to control 25 percent or more of the voting shares of the corporation, or the ability to elect a majority of the directors;

(b) In the case of an entity other than a corporation, the ability to change the principles, policies or practices of the organization, whether through active or passive means.

(4) “Control persons” means the president, vice-president, secretary, treasurer, and directors of a corporation, partners, members, or persons with equivalent titles or duties.

(5) “Director” means the Director of the Department of Consumer and Business Services.

(6) “Licensed location” means a staffed or unstaffed place other than the principal place of business where the activity of cashing checks is conducted.

(7) “Mobile unit” means any vehicle or other movable means from which the business of cashing payment instruments is to be conducted.

(8) “Person” means an individual, partnership, company, corporation, association or any other form of legal entity, other than the state or any political subdivision of the state.

Stat. Auth.: ORS 697.550

Stats. Implemented: ORS 697.504, 697.510, & 697.526

Hist.: FCS 8-2007, f. & cert. ef. 11-30-07; FCS 3-2012, f. & cert. ef. 7-23-12

441-755-0100

Initial Application

In addition to the items specified in ORS 697.510, an applicant must submit:

(1) The applicant’s business telephone number and fax number, if any;

(2) The mailing address for the applicant’s principal place of business, if different than the street address;

(3) The applicant’s taxpayer identification number;

(4) A statement of current financial condition, including a compiled balance sheet and profit-and-loss statement, or if the applicant is a newly formed entity, the source of funds to be used for check cashing activity;

(5) A resume or other document listing the past five (5) years work experience for control persons, or persons with equivalent duties for the applicant;

(6) Identifying information for control persons sufficient to conduct an investigation to determine the person’s financial responsibility;

(7) Disclosures for the applicant and each person identified in section (5) of this rule, including dates and specific details, for any of the following events that occurred in the 10 years before the date the application is submitted:

(a) A felony conviction;

(b) A misdemeanor conviction involving fraud, misuse of money, or theft;

(c) An entry of a money judgment that currently remains entirely or partially unpaid;

(d) An administrative action in any state resulting in civil penalties or action taken against a license held by the person; or

(e) A voluntary or involuntary filing for bankruptcy protection;

(8) A listing of any other business regulated by the Division of Finance and Corporate Securities being conducted or to be conducted at the licensed location; and

(9) A copy of the check-cashing fees to be charged, and if the fee schedule will be different at some licensed locations, what fee schedule applies to which locations.

Stat. Auth.: ORS 697.550

Stats. Implemented: ORS 697.510

Hist.: FCS 8-2007, f. & cert. ef. 11-30-07; FCS 3-2012, f. & cert. ef. 7-23-12

441-755-0110

Licensing Exemptions

(1) A person engaging in the bona fide retail sale of goods or services, cashing checks only from time to time, and not purporting to be a check-cashing business, is exempt from licensing, regulatory fees and record keeping requirements.

(a) A person purports to be a check-cashing business if the person:

(A) Advertises its check-cashing service through radio, television, print media, or the Internet; or

(B) Places signs on the outside or facing outside of its retail location offering its check-cashing service to the public.

(b) A person cashes checks only from time to time when the number of checks cashed in a calendar year does not exceed three percent of the number of retail transactions at that retail location during the previous calendar year.

(2) A money transmitter licensed in Oregon that is conducting check-cashing activity is exempt from licensing and regulatory fees, but must keep records and provide annual reports. The exemption from licensing and regulatory fees extends to any location of the licensed money transmitter where:

(a) The location is listed in filings with the director;

(b) Revenue and expenses of that location are incorporated into the license money transmitter’s annual financial statements; and

(c) The licensed money transmitter owns and operates, through its employees, that location.

Stat. Auth.: ORS 697.550

Stats. Implemented: ORS 697.502

Hist.: FCS 8-2007, f. & cert. ef. 11-30-07; FCS 3-2012, f. & cert. ef. 7-23-12

441-755-0120

When Initial Application Deemed Abandoned

(1) An initial application is deemed deficient when:

(a) Responses to questions on the application form created by the director are missing or incomplete;

(b) Additional documents or information specified in OAR 441-755-0100 are not submitted;

(c) Questions raised by the director to clarify information submitted are not answered; or

(d) Fees required by OAR 441-755-0020 are not submitted, or are submitted but not honored by the applicant’s financial institution or credit card company.

(2) An initial application for a check-casher license is deemed abandoned if:

(a) The application has been on file for at least three months;

(b) The application is deficient; and

(c) The applicant has failed to respond to the director’s written notice of warning of abandonment within 30 calendar days of the date of warning.

(3) Fees paid in connection with an abandoned registration will not be refunded.

(4) An applicant whose application has been abandoned may reapply by submitting a new application including new fees.

Stat. Auth.: ORS 697.550

Stats. Implemented: ORS 697.512 & 697.514

Hist.: FCS 8-2007, f. & cert. ef. 11-30-07; FCS 3-2012, f. & cert. ef. 7-23-12

441-755-0140

Change of Licensed Location

(1) When a licensee wishes to change the place of business of a licensed location, the licensee must submit to the director the original license for that location, together with a written notice identifying the new location and the proposed effective date of the change. The proposed effective date may not be prior to the date of notice to the director. The licensee must make a photocopy of the current license and post it at the licensed location. The photocopied license is valid only until the effective date reflected on the amended license and is then void.

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(2) The director will amend the license to reflect the new location and the effective date of the change and return an amended original license to the licensee.

(3) No fee is required for issuing an amended license.

Stat. Auth.: ORS 697.550

Stats. Implemented: ORS 697.510, 697.514, & 697.530

Hist.: FCS 8-2007, f. & cert. ef. 11-30-07; FCS 3-2012, f. & cert. ef. 7-23-12

441-755-0150

Material Changes

(1) A licensee must make written notification to the director if there is a material change to any information the licensee previously filed with the director.

(2) A material change includes the following:

(a) Change to or a new item required to be disclosed under OAR 441-755-0100(6);

(b) Change in form of ownership not resulting in a change of control;

(c) Change of address of the principal place of business;

(d) Discontinuing check-cashing activity at a licensed location;

(e) Change in fees charged;

(f) Identifying a significant error in the data provided in an annual report;

(g) Moving required records to a new location.

(3) Written notification must include the updated or corrected information, may be made by in-person delivery, mail or fax, and must be made within 30 calendar days of the occurrence of the material change.

Stat. Auth.: ORS 697.550

Stats. Implemented: ORS 697.510, 697.526 & 697.530

Hist.: FCS 8-2007, f. & cert. ef. 11-30-07; FCS 3-2012, f. & cert. ef. 7-23-12

441-755-0160

Assignment or Transfer of License Prohibited

(1) The following events will be considered an assignment or transfer of the license, which is prohibited by ORS 697.514:

(a) A change in control of the licensee;

(b) The sale or assignment of all or substantially all assets of the licensee's business to another person;

(c) The merger of a licensee with another business that is not a licensed check-casher; or

(d) A reorganization of the licensee's form of business entity into another form of business entity, if the reorganization results in a change of control.

(2) On the effective date of any event described in section (1) of this rule, the licensee's license or licenses become void, and the licensee must surrender the license or licenses to the director within 10 business days of the event.

(3) If the entity that survives the event described in section (1) of this rule desires and intends to engage in a check-cashing business, it may not engage in a check-cashing business under the former entity's license but must apply and qualify for the license as a new applicant. The application may be submitted prior to the effective date of the event described in section (1) of this rule.

Stat. Auth.: ORS 697.550

Stats. Implemented: ORS 697.514

Hist.: FCS 8-2007, f. & cert. ef. 11-30-07; FCS 3-2012, f. & cert. ef. 7-23-12

441-755-0170

Termination of License

(1) A licensee must notify the director in writing of its decision to cease operations as a check-cashing business within seven days of its decision, and return all licenses to the director within 30 days after it has voluntarily ceased operations in this state.

(2) A licensee that fails to timely renew or chooses not to renew the license of a licensed location must return that license to the director within 15 days of the expiration date of the license.

(3) A licensee that has had its license or licenses suspended or revoked by the director, following opportunity for hearing as provided in ORS 697.540(2), must return the suspended or revoked license or licenses within 15 days of being notified of the entry of the Final Order.

Stat. Auth.: ORS 697.550

Stats. Implemented: ORS 697.504, 697.514 & 697.540

Hist.: FCS 8-2007, f. & cert. ef. 11-30-07; FCS 3-2012, f. & cert. ef. 7-23-12

441-755-0210

Unfair or Deceptive Practices

It is an unfair or deceptive practice for a licensee to:

(1) Impose fees contrary to posted information at the location where the payment instrument is cashed.

(2) Refuse to accept valid and current government-issued photo identification presented by the customer, resulting in greater fees being charged to the customer.

(3) Charge fees other than the rate most favorable to the consumer when a payment instrument could fit into more than one category described in ORS 697.520.

(4) Limit the amount of cash provided to a customer or require a customer to receive a payment, in whole or in part, by a method that causes the customer to pay additional or further fees to the licensee or other persons. This section does not apply to a transaction initiated by a customer request for a money order or other alternative forms of payment.

(5) Require a customer to cash separate payment instruments in a manner to avoid the limitations on the fees that may be charged.

(6) Alter or delete any information on a cashed payment instrument.

(7) Charge check-cashing fees on a postdated payment instrument accepted from a customer in a payday loan transaction with a licensee that also holds a short-term lending license.

Stat. Auth.: ORS 697.550

Stats. Implemented: ORS 697.520 & 697.530

Hist.: FCS 8-2007, f. & cert. ef. 11-30-07; FCS 3-2012, f. & cert. ef. 7-23-12

441-755-0300

Required Books and Records

(1) For each payment instrument cashed, the licensee must record the following information:

(a) The face value amount of the payment instrument; and

(b) The fee charged.

(2) The information required in section (1) of this rule may be maintained manually or in electronic format.

(3) Records for all licensed locations may be maintained at the licensee's principal place of business.

Stat. Auth.: ORS 697.528 & 697.550

Stats. Implemented: ORS 697.526 & 697.528

Hist.: FCS 8-2007, f. & cert. ef. 11-30-07; FCS 7-2009, f. & cert. ef. 9-9-09; FCS 3-2012, f. & cert. ef. 7-23-12

441-755-0310

Annual Report

(1) To assist the director to determine whether examination of a licensee is necessary, each licensee must submit a report by April 1 for the previous calendar year's check-cashing activities for each licensed location, including:

(a) The total number of payment instruments cashed;

(b) The total amount of the face values of all payment instruments cashed; and

(c) The total amount of fees charged for all payment instruments cashed.

Stat. Auth.: ORS 697.528 & 697.550

Stats. Implemented: ORS 697.528

Hist.: FCS 8-2007, f. & cert. ef. 11-30-07; FCS 7-2009, f. & cert. ef. 9-9-09; FCS 3-2012, f. & cert. ef. 7-23-12

Rule Caption: Makes technical, streamlining and other housekeeping changes to the mortgage lending licensing rules.

Adm. Order No.: FCS 4-2012

Filed with Sec. of State: 8-1-2012

Certified to be Effective: 8-1-12

Notice Publication Date: 6-1-2012

Rules Adopted: 441-860-0021, 441-860-0024, 441-880-0315, 441-880-0320

Rules Amended: 441-730-0026, 441-730-0320, 441-850-0005, 441-860-0020, 441-860-0025, 441-860-0030, 441-860-0040, 441-860-0050, 441-860-0060, 441-860-0080, 441-860-0085, 441-860-0090, 441-860-0110, 441-865-0025, 441-865-0060, 441-880-0005, 441-880-0006, 441-880-0007, 441-880-0008, 441-880-0200, 441-880-0205, 441-880-0210, 441-880-0215, 441-880-0300, 441-880-0310

Rules Repealed: 441-880-0010, 441-880-0021, 441-880-0022, 441-880-0030, 441-880-0040

Subject: This proposed rulemaking activity is a set of housekeeping rules meant to address issues that have arisen under Oregon's implementation of the federal S.A.F.E. Act, which requires states to license mortgage loan originators in coordination with the Nationwide Mortgage Licensing System and Registry. Most of the changes proposed by this rulemaking activity correct reference to state and federal law, move portions of rules into new rules for readability, and

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make other purely technical alterations. In addition, this proposed rulemaking activity:

(1) Makes reference to the application forms required by the Nationwide Mortgage Licensing System and Registry, and provides information on where the forms may be located;

(2) Removes transitional rules adopted to implement 2009 HB 2189;

(3) Clarifies how mortgage bankers, brokers and loan originators address problems with license applications;

(4) Makes changes to the delivery and effective date of the surety bond required of a person employing mortgage loan originators;

(5) Clarifies who should retain the "rate lock/float" form required under Oregon statute;

(6) Changes the date of the mortgage call report required by Oregon law from to August 15, consistent with NMLSR requirements; and

(7) Addresses lying and cheating on a mortgage loan originator examination.

Rules Coordinator: Shelley Greiner—(503) 947-7484

441-730-0026

Corporate Surety Bond for Consumer Finance Licensees Employing a Mortgage Loan Originator

(1) This rule applies to a consumer finance company licensed under ORS 725.010 to 725.270 and OAR chapter 441, division 730 that employs one or more mortgage loan originators. The corporate surety bond must be in a form and on terms approved by the director.

(2) A corporate surety bond under this rule must be renewed or replaced each calendar year, concurrently with the license renewal of any mortgage loan originators employed by the consumer finance company. The corporate surety bond shall be delivered to the director by December 1 of each calendar year but may be made effective as of December 31 of each calendar year. In no case shall any applicant, mortgage banker or mortgage broker subject to this rule reduce the amount of a corporate surety bond before October 1 of each calendar year.

(3) A consumer finance company must maintain a corporate surety bond during the period the company employs a mortgage loan originator. The corporate surety bond must remain in effect for at least five years after the person ceases to employ one or more mortgage loan originators. A person must file a claim against the corporate surety bond before the bond expires as described in this section.

(4) At least five years after a consumer finance company ceases to originate residential mortgage loans, the person or the writer of the corporate surety bond may apply to the director for release of the corporate surety bond. Unless the director determines that claims are pending against the person for violation of ORS 86A.095 through 86A.198, the director will release the corporate surety bond.

(5) The sum of the corporate surety bond for a consumer finance company that employs one or more mortgage loan originators must be calculated based on the last required annual report submitted under OAR 441-730-0320. The sum of each consumer finance company's corporate surety bond must be determined as follows:

(a) For a consumer finance company that has not previously conducted business involving the origination of residential mortgage loans, the corporate surety bond must be in the amount of \$50,000.

(b) For a consumer finance company making or negotiating less than \$10,000,000 in residential mortgage loans in the previous calendar year, the corporate surety bond must be in the amount of \$50,000.

(c) For a consumer finance company making or negotiating \$10,000,000 or more but less than \$25,000,000 in residential mortgage loans in the previous calendar year, the corporate surety bond must be in the amount of \$75,000.

(d) For a consumer finance company making or negotiating \$25,000,000 or more but less than \$50,000,000 in residential mortgage loans in the previous calendar year, the corporate surety bond must be in the amount of \$100,000.

(e) For a consumer finance company making or negotiating \$50,000,000 or more but less than \$100,000,000 in residential mortgage loans in the previous calendar year, the corporate surety bond must be in the amount of \$150,000.

(f) For a consumer finance company making or negotiating more than \$100,000,000 in residential mortgage loans in the previous calendar year, the corporate surety bond must be in the amount of \$200,000.

(8) Notwithstanding section (7) of this rule, a person that obtains and maintains one or more consumer finance licenses in this state may provide a corporate surety bond in an amount to cover the entire surety amounts required for one or more of the person's consumer finance companies in an amount meeting the minimum bond amounts of sections (7)(a) through (f) of this rule.

Stat. Auth.: ORS 86A.242

Stats. Implemented: ORS 86A.227

Hist.: FCS 3-2010, f. 3-18-10, cert. ef. 3-22-10; FCS 4-2012, f. & cert. ef. 8-1-12

441-730-0320

Licensee Reporting

(1) Licensees are required to file their annual report by March 31 of each year. Licensees must also provide known information on any felony conviction, or any conviction involving theft or fraud, of any executive officer, director, managing partner, or the manager of any office location that occurred during the reporting period that had not already been reported to the director. This applies to:

(a) A new qualified person or office manager;

(b) A new experienced person;

(c) Material changes in business plan; or

(d) Any criminal conviction entered against any person named in the application.

(2)(4) In addition, a consumer finance licensee employing one or more mortgage loan originators shall file a report of condition with the National Mortgage Licensing System and Registry of the consumer finance licensee's business and operations in Oregon related to residential mortgage transactions. The report shall be filed within 45 days following the end of each calendar quarter.

Stat. Auth.: ORS 725.505, 86A.242

Stats. Implemented: ORS 725.190, 86A.239

Hist.: FCS 2-2001, f. 1-22-01, cert. ef. 3-22-01; FCS 5-2006, f. & cert. ef. 12-21-06; FCS 3-2009, f. & cert. ef. 6-2-09; FCS 3-2010, f. 3-18-10, cert. ef. 3-22-10; FCS 6-2010, f. & cert. ef. 6-4-10; FCS 4-2012, f. & cert. ef. 8-1-12

441-850-0005

Definitions

As used in OAR chapter 441, divisions 850 to 885, unless the context otherwise requires:

(1) "Advertising" means any distribution of information regarding loan products by or in the name of a mortgage banker or mortgage broker to members of the public, which may appear:

(a) In newspapers, magazines, leaflets, flyers, catalogs, direct mail literature, or other printed material;

(b) On radio or television;

(c) On an inside or outside sign or display, or a window display;

(d) In a facsimile;

(e) In point-of-sale literature, price tags, signs, and billboards; or

(f) Online, such as on the Internet, or via email.

(2) "At least as prominently disclosing" means displaying in the same or most similar type, size, font, color, and general location in the advertisement as the featured term.

(3) "Branch office" means a location, separate from the principal place of business of a mortgage banker or mortgage broker, where a mortgage banker, mortgage broker or mortgage loan originator performs the activities described in ORS 86A.100(3)(a) and 86A.100(5)(a).

(4) "Clients' Trust Account" means an account held in a federally-insured financial institution into which trust funds are deposited.

(5) "Compensation or gain" means anything of economic value that is paid, loaned, granted, given, donated, or transferred to a person or entity for or in consideration of services, personal or real property, or another thing of value.

(6) "Control person" means a managing partner, director, principal, executive officer or other person occupying a similar position or performing similar functions for a person licensed as a mortgage banker or a mortgage broker.

(7) "Director" means the Director of the Department of Consumer and Business Services.

(8) "Deficiency" means information contained in the application for a mortgage banker, mortgage broker, or mortgage loan originator license that is inaccurate, incomplete or otherwise not in conformance with applicable law, policy or provisions of the NMLS Policy Guidebook.

(9) "Department" means the Department of Consumer and Business Services.

(10) "Employee" means any employment relationship, acknowledged by both the employed individual and the mortgage banker or mortgage broker, which meets the following conditions:

ADMINISTRATIVE RULES

(a) The employee receives payment through the mortgage banker or mortgage broker in a manner wherein deductions for federal unemployment taxes, Federal Insurance Contributions Act taxes, and other such federal and state taxes have been withheld by the mortgage banker or mortgage broker;

(b) The mortgage banker or mortgage broker has the right to hire and terminate the employee, and hire and terminate the employee's assistants;

(c) The mortgage banker or mortgage broker provides the methods and procedures for performing the employee's services;

(d) The mortgage banker or mortgage broker supervises the employee in the conduct of the employed individual's business and supervises the employee's compliance with applicable statute and rules; and

(e) The employee does not act in any capacity as an employee or independent contractor for another mortgage banker or mortgage broker.

(11) "Experienced person" means the control person that possesses the required experience under ORS 86A.106 in the mortgage business, negotiating loans, or in lending.

(12) "Financial institution" has the same meaning given to that term in ORS 706.008.

(13) "Form MU1" means the Uniform Mortgage Lender/Mortgage Broker Form, published by the Conference of State Bank Supervisors on April x, 2012, and available at <http://mortgage.nationwidelicencingsystem.org/slr/common/policy/Pages/default.aspx>.

(14) "Form MU2" means the Uniform Mortgage Biographical Statement & Consent Form, published by the Conference of State Bank Supervisors on April x, 2012, and available at <http://mortgage.nationwidelicencingsystem.org/slr/common/policy/Pages/default.aspx>.

(15) "Form MU3" means the Uniform Mortgage Branch Office Form, published by the Conference of State Bank Supervisors on April x, 2012, and available at <http://mortgage.nationwidelicencingsystem.org/slr/common/policy/Pages/default.aspx>.

(16) "Form MU4" means the Uniform Individual Mortgage License/Registration & Consent Form, published by the Conference of State Bank Supervisors on April x, 2012, and available at <http://mortgage.nationwidelicencingsystem.org/slr/common/policy/Pages/default.aspx>.

(17) "Independent accountant" means a certified public accountant or a public accountant who holds an Oregon permit under ORS 673.150 or similar permit or license from another state or province.

(18) "Mortgage loan originator employed by the mortgage banker or mortgage broker" means every mortgage loan originator operating under the authority of a mortgage banker or mortgage broker's license, regardless of whether the mortgage loan originator is an employee of the mortgage banker or mortgage broker or purports to act as an agent or independent contractor for the mortgage banker or mortgage broker;

(19) "Loan terms" include, but are not limited to:

(a) The provisions related to the payment amounts, expressed either as a percentage or dollar amount;

(b) The length of the loan;

(c) The market or fully indexed rate;

(d) The start rate;

(e) The life cap rate; and

(f) Whether the loan permits negative amortization.

(20) "Loan-to-value ratio" means the ratio between the amount of a mortgage loan and the value of the property pledged as security, expressed as a percentage.

(21) "Lock agreement" means an agreement with a borrower made by a mortgage banker, mortgage broker or mortgage loan originator, in which the mortgage banker, mortgage broker or mortgage loan originator agrees that, for a specified period of time, a specific interest rate or other financing term will be the rate or term at which it will make a loan available to that borrower.

(22) "Material litigation" means any past or pending litigation, which would be relevant to the director's action on an application for a mortgage broker or mortgage banker license, including but not limited to the following types of litigation:

(a) Any civil action within the previous ten years from the date of the application, including suits filed in civil court, administrative actions, arbitration proceedings, or alternative dispute resolutions, resulting in damages or penalties of \$10,000 or more assessed against the applicant;

(b) Any pending civil action including suits filed in civil court, administrative actions, arbitration, or alternative dispute resolution, seeking damages or penalties of \$10,000 or more against the applicant; and

(c) Any bankruptcy filing or declaration of bankruptcy within the previous ten years from the date of the application regardless of final disposition.

(23) "Neutral escrow depository" means the deposit of money with an escrow agent licensed under ORS 696.511.

(24) "NMLS Policy Guidebook" means the Conference of State Bank Supervisors/American Association of Residential Mortgage Regulators NMLS Policy Guidebook for Licensees, published by the State Regulatory Registry, updated on August 1, 2011, and available at <http://mortgage.nationwidelicencingsystem.org/slr/common/policy/Pages/default.aspx>.

(25) "Principal place of business" means that location, designated by the mortgage banker or mortgage broker, where the owners, officers, directors or other control persons conduct business and maintain books and records.

(26) "Savings statement" means written material given to the consumer which outline how much a consumer may save in interest costs if they make additional payments above the required minimum monthly payment on their proposed or current mortgage.

(27) "Supervisor" means a partner, officer, branch manager, or other experienced person with management or supervisory responsibilities who is an employee of the mortgage banker or mortgage broker.

(28) "Trust Funds" mean those funds deposited into a trust account or with a neutral escrow depository. Trust funds shall include, but are not limited to:

(a) All funds received by a licensee or persons authorized to act on behalf of the licensee from or on behalf of a client for payment of services to be provided by persons other than the licensee in connection with processing, arranging, or making a mortgage banking loan or mortgage loan;

(b) All funds received by a licensee or persons authorized to act on behalf of a licensee from or on behalf of a borrower for payment of principal, interest or taxes on a mortgage banking loan or mortgage loan, but shall not include such funds where the licensee and the lender have an agreement providing for the disposition of such funds, and the financial statements of licensee are audited on an annual basis in accordance with generally accepted auditing standards; and

(c) All funds received by a licensee or persons authorized to act on behalf of a licensee from or on behalf of a client for payment of services to be provided by a licensee in connection with processing, arranging, or making a mortgage banking loan or mortgage loan by the licensee, except for those funds received by a licensee on a nonrefundable basis under the provisions of OAR 441-875-0030.

(d) For purposes of this section, "licensee" means a mortgage banker, a mortgage broker or a mortgage loan originator.

Stat. Auth.: ORS 86A.136, 86A.242

Stats. Implemented: ORS 86A.100, 86A.200

Hist.: FCS 3-1993, f. & cert. ef. 11-15-93; FCS 11-1994, f. 11-4-94, cert. ef. 11-15-94; FCS 14-2009, f. 12-30-09, cert. ef. 1-4-10; FCS 4-2012, f. & cert. ef. 8-1-12

441-860-0020

Application Requirements

Each person applying for a mortgage banker or mortgage broker license shall submit to the director all the following required application materials and information:

(1) A completed Form MU1 submitted through the Nationwide Mortgage Licensing System and Registry and approved by the director.

(2) A completed Form MU2 submitted through the Nationwide Mortgage Licensing System and Registry and approved by the director for any individual that acts as a control person for the mortgage banker or mortgage broker.

(3)(a) A corporate surety bond meeting specified terms and calculated using the appropriate loan volume amounts under OAR 441-860-0085 if the applicant acts as the applicant's sole mortgage loan originator or employs a mortgage loan originator; or

(b) A corporate surety bond or irrevocable letter of credit meeting specified terms and calculated using the appropriate loan volume amounts under OAR 441-860-0090 if the applicant is a mortgage banker and the applicant is either not a mortgage loan originator or the applicant is not required to employ a mortgage loan originator.

(4) Financial statements prepared in accordance with generally accepted accounting principles, including a balance sheet and a statement of income or operations, dated not more than six months prior to submission of the application through the Nationwide Mortgage Licensing System and Registry.

(a) The financial statements may be prepared by the mortgage banker or mortgage broker, except that if the director finds it in the public interest,

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the director may require that a mortgage banker or mortgage broker submit financial statements prepared by an independent accountant.

(b) If the financial statements are more than six months old, interim period financial statements prepared by the mortgage banker or mortgage broker for the period ending the last full month prior to the date of application shall also be submitted.

(5) A written authorization to examine the applicant's Clients' Trust Account under ORS 86A.157 or, in the case of a neutral escrow depository, a copy of the escrow agreement under OAR 441-875-0040 to the director.

(6) A copy of the written notice to financial institution of establishment of Clients' Trust Accounts under ORS 86A.160. In the event the applicant does not receive client funds except at the time of closing, an affidavit and undertaking in the form and on terms approved by the director.

(7) The name of the registered agent of the mortgage banker or mortgage broker appointed under ORS 60.111 to accept process, notices or demands served upon the mortgage banker or mortgage broker listed on the application submitted through the Nationwide Mortgage Licensing System and Registry.

(8) Biographical information required by OAR 441-860-0021 submitted through the Nationwide Mortgage Licensing System and Registry.

(9) The information required under OAR 441-860-0030 for each branch office submitted through the Nationwide Mortgage Licensing System and Registry.

(10) Payment of fees for application or renewal, as applicable, under OAR 441-860-0101, paid through the Nationwide Mortgage Licensing System and Registry

Stat. Auth.: ORS 86A.106, 86A.109, 86A.212

Stats. Implemented: ORS 86A.103, 86A.106, 86A.212

Hist.: FCS 3-1993, f. & cert. ef. 11-15-93; FCS 11-1994, f. 11-4-94, cert. ef. 11-15-94; FCS 1-1996, f. 11-20-96, cert. ef. 12-1-96; Administrative correction 8-4-97; FCS 4-1999, f. & cert. ef. 12-23-99; FCS 10-2000, f. & cert. ef. 9-13-00; FCS 10-2001, f. 12-24-01, cert. ef. 1-1-02; FCS 7-2003, f. 12-30-03 cert. ef. 1-1-04; FCS 6-2004, f. 12-14-04, cert. ef. 1-1-05; FCS 3-2005, f. & cert. ef. 9-6-05; FCS 1-2007, f. & cert. ef. 1-17-07; FCS 12-2009, f. 12-2-09, cert. ef. 1-1-10; FCS 14-2009, f. 12-30-09, cert. ef. 1-4-10; FCS 4-2012, f. & cert. ef. 8-1-12

441-860-0021

Biographical Information Required for Mortgage Banker or Mortgage Broker License Application

(1) Each of the following persons listed in section (2) of this rule shall submit a Form MU2 to the director through the Nationwide Mortgage Licensing System and Registry.

(2) This rule applies to:

(A) Any director, officer, and a shareholder with a direct or indirect ownership of greater than or equal to ten percent of outstanding shares of a corporate applicant;

(B) The owner, if the applicant is an unincorporated sole proprietorship;

(C) Each managing partner of a limited partnership or a partner in a general partnership with a partnership interest greater than or equal to ten percent of the total partnership interests in the general or limited partnership;

(D) A member or managing member in a limited liability company with an ownership interest greater than or equal to ten percent of the total membership interests in the limited liability company; and

(E) The person identified in ORS 86A.106(2) as having the requisite experience in the mortgage business, negotiating loans in a related business satisfactory to the director, or lending experience in a related business satisfactory to the director.

Stat. Auth.: ORS 86A.106, 86A.109, 86A.212

Stats. Implemented: ORS 86A.103, 86A.106, 86A.212

Hist.: FCS 4-2012, f. & cert. ef. 8-1-12

441-860-0024

Deficiencies in Mortgage Banker or Mortgage Broker License Application

(1) If an applicant, a mortgage banker or a mortgage broker submits an application, filing or amendment which is incomplete in any respect, the director shall notify the applicant of the deficiencies through the National Mortgage Licensing System. The applicant, the mortgage banker or the mortgage broker shall correct a deficiency associated with an application, filing or amendment within 30 days of being notified through the Nationwide Mortgage Licensing System and Registry that the director placed a deficiency on the person's application, filing or amendment. A challenge submitted to the Nationwide Mortgage Licensing System and Registry as set out in OAR 441-850-0050 shall halt the 30-day period of time for correcting deficiencies for the duration of the challenge process.

(2) If the applicant fails to complete the application or respond to deficiencies within 30 days, the application will be considered abandoned. Any fees paid by the applicant under OAR 441-860-0101 will not be refunded due to abandonment. An applicant whose application is abandoned under this rule may reapply to obtain a mortgage banker or mortgage broker license.

Stat. Auth.: ORS 86A.106, 86A.109, 86A.212

Stats. Implemented: ORS 86A.103, 86A.106, 86A.212

Hist.: FCS 4-2012, f. & cert. ef. 8-1-12

441-860-0025

Rules for Use of Assumed Business Names

(1) In addition to any requirements for registering an assumed business name with the Secretary of State, a mortgage banker or mortgage broker who intends to use an assumed business name to identify the person's mortgage banker or mortgage broker business shall also comply with the following before doing business under the assumed business name:

(a) If the assumed business name contains words or phrases described in ORS 56.023, the mortgage banker or mortgage broker must obtain specific written approval from the director under ORS 705.635 and OAR 441-005-0010.

(b) The assumed business name must be added to the corporate surety bond of the mortgage banker or mortgage broker under either OAR 441-860-0085 or 441-860-0090.

(c) The mortgage banker or mortgage broker may purchase a separate corporate surety bond for the assumed business name if:

(A) The separate corporate surety bond contains the name of the principal mortgage banker or mortgage;

(B) The separate corporate surety bond complies with either OAR 441-860-0085 or 441-860-0090, as applicable.

(d) Any corporate surety bond must be in force as of the date of the addition of the assumed business name, and must be forwarded to the director within two weeks from the addition of the assumed business name; and

(e) The assumed business name must be placed upon any client trust account maintained by the mortgage banker or mortgage broker.

(2) Regardless of the lack of any ownership interest in the assumed business name, the mortgage banker or mortgage broker is responsible for all actions of those acting under the assumed business name which relate to mortgage banking loans or mortgage loans.

Stat. Auth.: ORS 86A.106, 86A.136

Stats. Implemented: ORS 86A.106

Hist.: FCS 4-1999, f. & cert. ef. 12-23-99; FCS 14-2009, f. 12-30-09, cert. ef. 1-4-10; FCS 4-2012, f. & cert. ef. 8-1-12

441-860-0030

Branch Office Licensing

(1) If a mortgage banker or mortgage broker intends to operate a branch office, the mortgage banker or mortgage broker shall obtain a license for the branch office prior to originating loans from the branch office by submitting the licensing fee specified in OAR 441-860-0101 and submitting a Form MU3 to the Nationwide Mortgage Licensing System and Registry:

(2) Upon satisfaction of the requirements listed in section (1), the director shall issue a separate branch office license.

Stat. Auth.: ORS 86A.106, 86A.136

Stats. Implemented: ORS 86A.103

Hist.: FCS 3-1993, f. & cert. ef. 11-15-93; FCS 11-1994, f. 11-4-94, cert. ef. 11-15-94; FCS 4-1999, f. & cert. ef. 12-23-99; FCS 1-2007, f. & cert. ef. 1-17-07; FCS 12-2009, f. 12-2-09, cert. ef. 1-1-10; FCS 14-2009, f. 12-30-09, cert. ef. 1-4-10; FCS 4-2012, f. & cert. ef. 8-1-12

441-860-0040

Supervision of Branch Offices and Mortgage Loan Originators

(1) A mortgage banker or a mortgage broker must diligently supervise and control every mortgage loan originator employed by the mortgage banker or the mortgage broker in the mortgage banker or mortgage broker's principal place of business and at each branch office.

(2) A mortgage banker or mortgage broker must personally supervise or designate a control person to supervise each branch office to ensure compliance with ORS 86A.095 through 86A.198 and OAR chapter 441, divisions 850 through 885, as applicable.

(3) In order to diligently supervise and control a mortgage loan originator employed by the mortgage banker or the mortgage broker, the mortgage banker or mortgage broker shall:

(a) Ensure that mortgage loan originators, and persons required to be licensed as mortgage loan originators, employed by the mortgage banker or mortgage broker obtain and maintain a license under ORS 86A.200 through 86A.242 and OAR chapter 441, division 880.

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(b) Establish, maintain and enforce written procedures to supervise the activities of mortgage loan originators employed by the mortgage banker or mortgage broker and other associated persons that are subject to its supervision and to supervise the operations of each office of the mortgage banker or mortgage broker transacting loans with Oregon consumers. The procedures shall be reasonably designed to achieve compliance with applicable Oregon and federal lending laws and rules, including ORS 86A.095 through 86A.198.

(c) Review the activities of each office transacting loans with Oregon consumers, which shall include the examination of customer loan files, including closed and opened files. The reviews shall be reasonably designed to assist in detecting violations of, preventing violations of and achieving compliance with applicable mortgage lending laws, regulations and rules, as well as detecting and preventing irregularities or abuses. Each mortgage broker shall retain a record of the dates and findings of each review. The duties of this rule may be delegated to a qualified supervisor.

(d) Provide a copy of the procedures required by this rule to every mortgage loan originator employed by the mortgage banker or mortgage broker in written or electronic format.

(e) Ensure that mortgage loan originators obtain training to address deficiencies identified by the mortgage banker or mortgage broker in loan file and operations reviews or make up deficiencies in continuing education as necessary.

(f) Establish procedures for handling consumer complaints and develop procedures to identify the types of consumer complaints that must be forwarded to a supervisor for review. Complaints that must be forwarded to a supervisor include complaints about material changes in loan terms, fees or expenses, or material omissions about loan terms, fees or expenses. The mortgage banker or mortgage broker shall also develop procedures for investigating, responding to and keeping a record of complaints forwarded to a supervisor.

(g) Visit at least annually each branch the mortgage banker or mortgage broker licenses in Oregon to review compliance with the procedures listed in this section.

(4) In establishing the procedures in section (2) of this rule and in determining the frequency of office reviews, the mortgage banker or mortgage broker shall consider the following:

(a) The number of loan transactions made by the mortgage banker or mortgage broker;

(b) The number of office locations transacting loans with Oregon consumers;

(c) The number of affiliated persons assigned to each location;

(d) The nature and complexity of the loan transactions that the mortgage banker or mortgage broker predominantly makes;

(e) The number of mortgage loan originators assigned to a location;

(f) The number of mortgage loan originators assigned to the supervision of an individual supervisor; and

(g) The results of previous office reviews.

(5) In establishing the procedures in section (2) of this rule and in determining the number of files from each mortgage loan originator to be reviewed, the mortgage banker or mortgage broker shall consider the following:

(a) The knowledge and years of lending experience of a mortgage loan originator;

(b) The disciplinary history of and the number of complaints received about a mortgage loan originator;

(c) The experience and level of sophistication of the borrowers of a mortgage loan originator, if the mortgage banker, mortgage broker or mortgage loan originator predominantly serves specific segments of society;

(d) The nature and complexity of the loan transactions that the mortgage banker or mortgage broker predominantly makes; and

(e) The results of previous file reviews for a particular mortgage loan originator.

(6) The mortgage banker or mortgage broker is subject to disciplinary action of the director for any violation of ORS 86A.095 through 86A.198 or corresponding rules committed by a mortgage loan originator authorized to make or negotiate residential mortgage loans for the mortgage banker or mortgage broker, whether or not that accountability is documented in any written agreement.

Stat. Auth.: ORS 86A.136

Stats. Implemented: ORS 86A.115

Hist.: FCS 3-1993, f. & cert. ef. 11-15-93; FCS 11-1994, f. 11-4-94, cert. ef. 11-15-94; FCS 1-2007, f. & cert. ef. 1-17-07; FCS 14-2009, f. 12-30-09, cert. ef. 1-4-10; FCS 4-2012, f. & cert. ef. 8-1-12

441-860-0050

Renewal of Mortgage Banker and Mortgage Broker License

(1) A mortgage banker or a mortgage broker license shall expire on December 31 of each calendar year. At least 30 days prior to the expiration of a mortgage banker or mortgage broker license, an application for renewal of the license shall be submitted to the director through the Nationwide Mortgage Licensing System and Registry and shall include the following:

(a) A completed Form MU1 approved by the director.

(b) Financial statements prepared in accordance with generally accepted accounting principles, including a balance sheet and a statement of income or operations, dated not more than six months prior to submission of the application. If the financial statements are more than six months old, interim period financial statements prepared by the mortgage banker or mortgage broker for the period ending the last full month prior to the date of the application must also be submitted. Notwithstanding section (1) of this rule, a mortgage banker or a mortgage broker shall provide financial statements within 45 days following the end of the company's fiscal year to the Nationwide Mortgage Licensing System and Registry.

(c) Any applicable renewal fees prescribed under OAR 441-860-0101.

(2) A mortgage banker or mortgage broker shall file with the director each calendar year a corporate surety bond meeting specified terms and calculated using the appropriate loan volume amounts under OAR 441-860-0085 or a corporate surety bond or irrevocable letter of credit meeting specified terms and calculated using the appropriate loan volume amounts under OAR 441-860-0090.

(3) The director may refuse to renew a license if a reason exists under ORS 86A.095 through 86A.198 or 86A.200 through 86A.239.

(4) If a mortgage banker or mortgage broker submits an application for renewal which is incomplete in any respect, the director shall notify the mortgage banker or broker of the deficiencies on the application. The mortgage banker or mortgage broker shall have 30 days from the date of the notice or the end of the renewal period, whichever occurs first, to complete the application for renewal. If the mortgage banker or mortgage broker fails to complete the application for renewal, and the license shall be terminated on the expiration date by reason of failure to renew.

Stat. Auth.: ORS 86A.106, 86A.109, 86A.136

Stats. Implemented: ORS 86A.109, 86A.179

Hist.: FCS 3-1993, f. & cert. ef. 11-15-93; FCS 11-1995, f. 11-4-94, cert. ef. 11-15-94; FCS 4-1999, f. & cert. ef. 12-23-99; FCS 10-2000, f. & cert. ef. 9-13-00; FCS 10-2001, f. 12-24-01, cert. ef. 1-1-02; FCS 7-2003, f. 12-30-04, 1-1-04; FCS 6-2004, f. 12-14-04, cert. ef. 1-1-05; FCS 12-2009, f. 12-2-09, cert. ef. 1-1-10; FCS 14-2009, f. 12-30-09, cert. ef. 1-4-10; FCS 4-2012, f. & cert. ef. 8-1-12

441-860-0060

Equivalent and Related Experience

(1) An applicant or an applicant's control person who has experience in the following categories shall be given full credit for such experience toward meeting the experience requirement under ORS 86A.106:

(a) Origination of loans secured by lien interests in real estate;

(b) Negotiation of loans secured by lien interests in real estate;

(c) Underwriting of loans secured by lien interests in real estate; or

(d) Persons who supervise the activities of those persons enumerated in subsections (a) through (c) of this section.

(2) An applicant who has experience in the following categories, within the five year period preceding the application date, may receive partial credit for such experience toward the experience requirement contained in ORS 86A.095 through 86A.198. Credit may be given in only one category listed and for not more than three years actual experience. Credit given shall be in the ratios of actual years of experience to equivalent years credited toward qualification for a mortgage banker and mortgage broker license as set forth below. The remaining years of experience required to qualify for a mortgage banker or mortgage broker license shall be obtained from experience in categories listed in section (1) of this rule. The categories of possible alternative experience for which partial credit is available, and the ratios of actual years of experience to equivalent years credited toward qualification for a mortgage banker or mortgage broker license are:

(a) Escrow officer, 3:2;

(b) Loan processor with responsibility primarily for loans secured by lien interests on real estate, 3:2;

(c) Branch manager of lender with responsibilities primarily for loans not secured by lien interests on real estate, 3:1.5;

(d) Loan officer with responsibility primarily for loans not secured by lien interests on real estate, 3:1.5;

(e) Paralegal with demonstrated experience in real estate financing matters, 3:1;

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- (f) Real estate broker with an Oregon license or a license from a state with substantially equivalent real estate licensing requirements, 3:1;
- (g) Title officer with a title company, 3:1;
- (h) Real estate broker, not within subsection (f) of this section, 3:1;
- (i) Real estate salesperson with an Oregon license or a license from a state with substantially equivalent licensing requirements, 3:1;
- (j) Licensed real estate appraiser, 3:1; and
- (k) Real estate salespersons not included in subsection (i) of this section, 3:0.5.

(3) An applicant who does not originate loan applications or negotiate loan terms but who is in the business of selling real estate paper whether as issuer, agent or principal, to persons other than persons enumerated in ORS 59.035, or who engages all or part of the time, for the account of others or for the person's own account, in the business of accepting funds from one or more persons other than persons enumerated in ORS 59.035 for investment in real estate paper, shall be given full credit for experience toward meeting the three of the past five year experience requirement contained for:

(a) Experience as a licensed securities salesperson under the provisions of ORS 59.165; or,

(b) Experience as a securities salesperson effecting transactions in securities which are exempt from registration under the provisions of ORS 59.025 and 59.035.

(4) The individual listed as the experienced person, as described in ORS 86A.106, on the applicant's licensing application may not work, as an employee or independent contractor as the experienced person, for another mortgage banker or mortgage broker.

Stat. Auth.: ORS 86A.106(2) & 86A.136
Stats. Implemented: ORS 86A.100

Hist.: FCS 3-1993, f. & cert. ef. 11-15-93; FCS 11-1994, f. 11-4-94, cert. ef. 11-15-94; FCS 4-1999, f. & cert. ef. 12-23-99; FCS 7-2001, f. & cert. ef. 8-1-01; FCS 2-2004, f. & cert. ef. 8-5-04; FCS 1-2007, f. & cert. ef. 1-17-07; FCS 14-2009, f. 12-30-09, cert. ef. 1-4-10; FCS 4-2012, f. & cert. ef. 8-1-12

441-860-0080

Failure to Continually Satisfy Experience Requirement

(1) If a mortgage banker or mortgage broker fails to satisfy the experience requirements under ORS 86A.106 during any licensing period regardless of the reason for that failure, the mortgage banker or mortgage broker shall:

(a) Notify the director within three working days that the mortgage banker or mortgage broker no longer satisfies the experience requirement;

(b) Submit to the director within seven calendar days of the occurrence, an inventory and status of pending loan application files including an accounting of all Clients' Trust Accounts;

(c) Account for all investor funds;

(d) Submit to the director within one week of the occurrence a proposed plan to rectify the deficiency or a plan for the orderly transfer of business to a duly licensed mortgage banker or mortgage broker;

(e) Immediately cease accepting new applications from borrowers and, in the case of mortgage brokers who fund mortgages from investors other than institutions described in ORS 59.035, solicitation of funds and accepting such investor funds shall immediately cease.

(2) If the mortgage banker or mortgage broker fails to comply with the provisions of section (1) of this rule, the director shall take appropriate action, consistent with the authority granted pursuant to ORS 86A.095 through 86A.198 to ensure that the interests of borrowers and investors are protected.

(3) If the mortgage banker or mortgage broker is unable to satisfy the director that the experience requirement will be satisfied within 30 days, the director may institute action to suspend or revoke the mortgage banker's or mortgage broker's license.

(4) The director may require reports on the status of the mortgage banker or mortgage broker's business. A mortgage banker or mortgage broker shall provide a report containing the content specified by the director as often as the director may specify. The reports may be written or oral, or both as the director may specify.

(5) If a mortgage banker or mortgage broker renews a license but does not conduct business, the time period that the person does not conduct business does not apply to the experience requirement in ORS 86A.106.

Stat. Auth.: ORS 86A.106, 86A.115 & 86A.136

Stats. Implemented: ORS 86A.100

Hist.: FCS 3-1993, f. & cert. ef. 11-15-93; FCS 11-1994, f. 11-4-94, cert. ef. 11-15-94; FCS 4-1999, f. & cert. ef. 12-23-99; FCS 10-2001, f. 12-24-01, cert. ef. 1-1-02; FCS 14-2009, f. 12-30-09, cert. ef. 1-4-10; FCS 4-2012, f. & cert. ef. 8-1-12

441-860-0085

Corporate Surety Bond for Mortgage Bankers or Mortgage Brokers Acting as or Employing a Mortgage Loan Originator

(1) This rule applies to a mortgage banker or mortgage broker licensed under ORS 86A.095 through 86A.198 and OAR chapter 441, division 860 that either acts as the applicant's sole mortgage loan originator or employs one or more mortgage loan originators. A mortgage banker or mortgage broker must maintain a corporate surety bond during the time the person acts as a mortgage loan originator or during the time the person employs a mortgage loan originator.

(2) The corporate surety bond must be in a form and on terms approved by the director and shall be renewed or replaced each calendar year. The corporate surety bond shall be delivered to the director by December 1 of each calendar year but may be made effective as of December 31 of each calendar year. In no case shall any applicant, mortgage banker or mortgage broker subject to this rule reduce the amount of a corporate surety bond before October 1 of each calendar year.

(2) The corporate surety bond must remain in effect for at least five years after the person ceases to be licensed as a mortgage banker or mortgage broker. A consumer must file a claim against the corporate surety bond before the bond expires as described in this section.

(3) At least five years after a person ceases to be licensed as a mortgage banker or mortgage broker, the person or the writer of the corporate surety bond may apply to the director for release of the corporate surety bond. Unless the director determines that claims are pending against the person for violation of ORS 86A.095 through 86A.198, the director will release the corporate surety bond.

(4) The sum of the corporate surety bond must be calculated based on the last required residential mortgage lending report submitted under OAR 441-865-0025. The sum of the corporate surety bond must be determined as follows:

(a) For a person that has not previously conducted business involving the origination of residential mortgage loans in Oregon, the corporate surety bond must be in the amount of \$50,000.

(b) For a person making or negotiating less than \$10,000,000 in residential mortgage loans in Oregon in the previous calendar year, the corporate surety bond must be in the amount of \$50,000.

(c) For a person making or negotiating \$10,000,000 or more but less than \$25,000,000 in residential mortgage loans in Oregon in the previous calendar year, the corporate surety bond must be in the amount of \$75,000.

(d) For a person making or negotiating \$25,000,000 or more but less than \$50,000,000 in mortgage loans in Oregon in the previous calendar year, the corporate surety bond must be in the amount of \$100,000.

(e) For a person making or negotiating \$50,000,000 or more but less than \$100,000,000 in residential mortgage loans in Oregon in the previous calendar year, the corporate surety bond must be in the amount of \$150,000.

(f) For a person making or negotiating \$100,000,000 or more in residential mortgage loans in Oregon in the previous calendar year, the corporate surety bond must be in the amount of \$200,000.

Stat. Auth.: ORS 86A.242

Stats. Implemented: ORS 86A.227

Hist.: FCS 3-2010, f. 3-18-10, cert. ef. 3-22-10; FCS 4-2012, f. & cert. ef. 8-1-12

441-860-0090

Corporate Surety Bond or Irrevocable Letter of Credit for Mortgage Bankers Not Employing Mortgage Loan Originators

(1) Every applicant for a license as a mortgage banker who will not act as or employ a mortgage loan originator and does not take an application for a residential mortgage loan, or offer or negotiate terms for a residential mortgage loan must file a corporate surety bond or irrevocable letter of credit with the director as specified in this rule in a form and on terms approved by the director. The corporate surety bond shall be renewed or replaced each calendar year. The corporate surety bond or irrevocable letter of credit shall be delivered to the director by December 1 of each calendar year but may be made effective as of December 31 of each calendar year. In no case shall any applicant, mortgage banker or mortgage broker subject to this rule reduce the amount of a corporate surety bond or irrevocable letter of credit before October 1 of each calendar year.

(2) Every person licensed as a mortgage banker must maintain a corporate surety bond or irrevocable letter of credit as specified in this rule during the time the mortgage banker or mortgage broker is licensed but does not act as or employ a mortgage loan originator. The corporate surety bond or irrevocable letter of credit must remain in effect for at least five years after the person ceases to be licensed as a mortgage banker. A consumer must file a claim against the corporate surety bond or irrevocable let-

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ter of credit before the corporate surety bond or irrevocable letter of credit expires as described in this section.

(3) At least five years after a person ceases to be licensed as a mortgage banker, the person or the writer of the corporate surety bond or irrevocable letter of credit may apply to the director for release of the corporate surety bond or irrevocable letter of credit. Unless the director determines that claims are pending against the person for violation of ORS 86A.095 through 86A.198, the director will release the corporate surety bond or irrevocable letter of credit.

(4) The corporate surety bond or irrevocable letter of credit must be calculated based on the last required residential mortgage lending report submitted under OAR 441-865-0025. The sum of the corporate surety bond or irrevocable letter of credit must be determined as follows:

(a) For a person that has not previously conducted business involving the origination of residential mortgage loans in Oregon, the corporate surety bond or irrevocable letter of credit must be in the amount of \$50,000.

(b) For a person making or negotiating less than \$10,000,000 in residential mortgage loans in Oregon in the previous calendar year, the corporate surety bond or irrevocable letter of credit must be in the amount of \$50,000.

(c) For a person making or negotiating \$10,000,000 or more but less than \$25,000,000 in residential mortgage loans in Oregon in the previous calendar year, the corporate surety bond or irrevocable letter of credit must be in the amount of \$75,000.

(d) For a person making or negotiating \$25,000,000 or more but less than \$50,000,000 in mortgage loans in Oregon in the previous calendar year, the corporate surety bond or irrevocable letter of credit must be in the amount of \$100,000.

(e) For a person making or negotiating \$50,000,000 or more but less than \$100,000,000 in residential mortgage loans in Oregon in the previous calendar year, the corporate surety bond or irrevocable letter of credit must be in the amount of \$150,000.

(f) For a person making or negotiating \$100,000,000 or more in residential mortgage loans in Oregon in the previous calendar year, the corporate surety bond or irrevocable letter of credit must be in the amount of \$200,000.

Stat. Auth.: ORS 86A.136

Stats. Implemented: ORS 86A.106

Hist.: FCS 3-1993, f. & cert. ef. 11-15-93; FCS 11-1994, f. 11-4-94, cert. ef. 11-15-94; FCS 4-1999, f. & cert. ef. 12-23-99; FCS 10-2001, f. 12-24-01, cert. ef. 1-1-02; FCS 2-2004, f. & cert. ef. 8-5-04; FCS 3-2010, f. 3-18-10, cert. ef. 3-22-10; FCS 4-2012, f. & cert. ef. 8-1-12

441-860-0110

Examination Charges Mortgage Bankers or Mortgage Brokers Pay to the Director

(1) Examination charges shall be paid upon receipt of the invoice of examination fees.

(2) In addition to the initial application and renewal fees assessed under ORS 86A.124 and these rules, licensees shall pay an examination charge in the amount of \$75 an hour for each person used in performance of the examination.

(3) Notwithstanding section (2) of this rule:

(a) If an employee of the Department is required to travel out of state to perform the work described by section (2) of this rule, the rate of charge is \$75 per hour plus costs for travel and subsistence for each such person;

(b) If the work described in section (2) of this rule is performed by a consultant hired by contract for the particular work, the charge payable by the licensee is the actual cost to the director of the contract consultant.

Stat. Auth.: ORS 86A.124

Stats. Implemented: ORS 86A.124

Hist.: FCS 3-1993, f. & cert. ef. 11-15-93; FCS 11-1994, f. 11-4-94, cert. ef. 11-15-94; FCS 10-2001, f. 12-24-01, cert. ef. 1-1-02; FCS 8-2008, f. & cert. ef. 8-28-08; FCS 4-2012, f. & cert. ef. 8-1-12

441-865-0025

Residential Mortgage Lending Reports

No later than March 31 of each calendar year, a mortgage banker or a mortgage broker licensed at any time during the preceding calendar year must file a report with the director concerning the banker's or broker's business and operations conducted during the preceding calendar year related to residential mortgage transactions.

(1) A mortgage banker or mortgage broker must report the total number and dollar amount of all loans made or funded by the mortgage banker or mortgage broker in any state and those loans that are Oregon residential mortgage transactions.

(2) For loans made or funded for a property located in Oregon, a mortgage banker or mortgage broker must report the total number and dollar amount of:

(a) First-lien mortgage loans.

(b) Subordinate-lien mortgage loans including, but not limited to, home equity lines of credit.

(c) Mortgage loans having a fixed periodic payment of principal and interest throughout the mortgage term.

(d) Interest-only first-lien mortgage loans having a fixed interest rate.

(e) Interest-only first-lien mortgage loans having an adjustable interest rate.

(f) Negative amortization mortgage loans.

(g) Home equity conversion mortgages, commonly known as reverse mortgages.

(h) Adjustable rate first-lien mortgage loans.

(i) Adjustable rate subordinate-lien mortgage loans.

(j) Loans with a prepayment penalty in the contract at the time of closing.

(k) Mortgage loans closed for the purchase of a primary owner-occupied residential dwelling.

(L) Mortgage loans closed for the purchase of a secondary residence.

(m) Mortgage loans closed for the purchase of a non-owner occupied property that is a one-to-four family residential dwelling.

(n) Mortgage loans closed for the purpose of refinancing an existing mortgage loan secured by a primary owner-occupied residential dwelling.

(o) Mortgage loans closed for the purpose of refinancing an existing mortgage loan secured by a secondary residence.

(p) Mortgage loans closed for the purpose of refinance an existing mortgage loan secured by a non-owner occupied property that is a one-to-four family residential dwelling.

(q) Mortgage loans insured or guaranteed by a federal agency.

(3) For loans made or funded for a property located in Oregon, a mortgage banker or mortgage broker may report the total number and dollar amount of:

(a) Loans that were originated based on all of the following factors:

(A) Income documentation;

(B) Employment documentation; and

(C) Asset documentation.

(b) Loans that were originated based on one or two of the following factors:

(A) Income documentation;

(B) Employment documentation; or

(C) Asset documentation.

(c) Loans that were not originated based on any of the following factors:

(A) Income documentation;

(B) Employment documentation; or

(C) Asset documentation.

(d) Loans with a combined loan-to-value ratio of 80% or lower made to an individual having a middle credit bureau risk score of 620 or above.

(e) Loans with a combined loan-to-value ratio of 80% or lower made to an individual having a middle credit bureau risk score below 620.

(f) Loans with a loan-to-value ratio of greater than 80% made to an individual having a middle credit bureau risk score of 620 or above.

(g) Loans with a loan-to-value ratio of greater than 80% made to an individual having a middle credit bureau risk score below 620.

(4) In addition, a mortgage banker or a mortgage broker shall file a report of condition with the National Mortgage Licensing System and Registry of the mortgage banker's or mortgage broker's business and operations in Oregon related to residential mortgage transactions. The report shall be filed within 45 days following the end of each calendar quarter.

Stat. Auth.: ORS 86A.112

Stats. Implemented: ORS 86A.112, 86A.239

Hist.: FCS 12-2008, f. 12-8-08, cert. ef. 12-10-08; FCS 14-2009, f. 12-30-09, cert. ef. 1-4-10; FCS 3-2010, f. 3-18-10, cert. ef. 3-22-10; FCS 4-2012, f. & cert. ef. 8-1-12

441-865-0060

Residential Borrower Files

(1) In addition to the books and records required under the provisions of OAR 441-865-0010 to 441-865-0090, a mortgage banker or mortgage broker that takes an application for a residential mortgage transaction must prepare and maintain the following:

(a) A copy of each executed loan application form, including the unique identifier of the mortgage loan originator that took the residential mortgage loan application and offered to negotiate or negotiated the terms of the loan;

(b) A copy of each executed fee agreement, if prepared;

(c) In the case of residential or single family loans, a borrower acknowledged statement that a loan interest rate will float or a copy of the

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executed lock agreement. The lock agreement shall specify at a minimum the: date of the agreement; file identification, and property address; lock-in rate; lock expiration date; disclosure that the lock may be subject to change if any of the loan factors change; and disclosure that if the lock expires, the rate and points are subject to change; and the term of the loan.

(d) A copy of all correspondence with the borrower in writing or in a format easily converted to writing;

(e) A copy of any documents noting approval or denial of a borrower's mortgage loan application;

(f) A copy of all documents submitted by a borrower to the mortgage banker or mortgage broker in connection with the loan application;

(g) If required to be prepared for the residential mortgage transaction, a copy of the good faith estimate required by Regulation X, 12 C.F.R. Part 1024, and translated as applicable to comply with 86A.198;

(h) A copy of the executed Authorization to Release Credit Information Form;

(i) Copies of every credit report accessed by the mortgage banker or mortgage broker in connection with the transaction;

(j) If required to be prepared for the residential mortgage transaction, copies of the Truth in Lending Disclosure Statement required by Regulation Z, 12 C.F.R. Part 1026 and translated as applicable to comply with ORS 86A.198;

(k) If required to be prepared for the residential mortgage transaction, a copy of the final HUD-1 settlement statement required by 12 C.F.R. Part 1024; and

(2) In addition to the books and records required under the provisions of section (1) of this rule and OAR 441-865-0010 to 441-865-0090, a mortgage banker that funds a residential mortgage transaction must also prepare and maintain the following in the loan file:

(a) A summary of information on the loan funding program parameters required for the loan's key terms;

(b) A copy of each executed loan application form, including on the form the unique identifier of the mortgage loan originator that took the residential mortgage loan application and offered to negotiate or negotiated the terms of the loan;

(c) A copy of all documentation relied upon in making the loan decision;

(d) A copy of the borrower executed note and executed trust deed;

(e) A copy of the good faith estimate prepared under Regulation X, 12 C.F.R. Part 1024 and translated as applicable to comply with ORS 86A.198;

(f) If required to be prepared for the residential mortgage transaction, a copy of the every credit report accessed by the mortgage banker or mortgage broker in connection with the transaction;

(g) If required to be prepared for the residential mortgage transaction, a copy of any disclosure required by Regulation Z, 12 C.F.R. Part 1026 and translated as applicable to comply with ORS 86A.198, including, but not limited to, the Truth in Lending disclosure statement;

(h) A copy of the final HUD-1 settlement statement required by 12 C.F.R. Part 1024; and

(i) A copy of the statement that notifies the borrower that loan documents associated with the transaction will be in English and that advises the borrower to obtain appropriate assistance, with any necessary translations as required by ORS 86A.195.

(3) A mortgage broker that closes a residential mortgage loan in the name of the broker shall retain the records required in Sections (1) and (2) of this rule.

(4) If the loan is funded by an investor other than persons enumerated in ORS 59.035(4) or (5), the mortgage banker or mortgage broker must comply with the records requirements under OAR 441-865-0080.

Stat. Auth.: ORS 86A.112 & 86A.136

Stats. Implemented: ORS 86A.112

Hist.: FCS 3-1993, f. & cert. ef. 11-15-93; FCS 11-1994, f. 11-4-94, cert. ef. 11-15-94; FCS 4-1999, f. & cert. ef. 12-23-99; FCS 7-2001, f. & cert. ef. 8-1-01; FCS 3-2010, f. 3-18-10, cert. ef. 3-22-10; FCS 4-2012, f. & cert. ef. 8-1-12

441-880-0005

Application of ORS 86A.200 to 86A.239 to Employees of Agencies of the United States, State Agencies, Local Governments and Housing Authorities

As permitted by 12 C.F.R. § 1008.103(e)(6), the licensing provisions of ORS 86A.200 to 86A.239 do not apply to an employee of an agency of the United States, the executive department, a local government, a special government body, or a housing authority. The application of this rule is self-executing. For purposes of this rule:

(1) "Executive department" has the same meaning as the term is defined in ORS 174.112.

(2) "Local government" has the same meaning as the term is defined in ORS 174.116.

(3) "Special government body" has the same meaning as the term is defined in ORS 174.117.

(4) "Housing authority" has the same meaning as that term is used in ORS chapter 456.

Stat. Auth.: ORS 86A.242

Stat. Implemented: ORS 86A.203

Hist.: FCS 11-2011, f. & cert. ef. 11-23-11; FCS 4-2012, f. & cert. ef. 8-1-12

441-880-0006

Application of ORS 86A.200 to 86A.239 to Employees of Bona Fide Nonprofit Organizations

(1) As permitted by 12 C.F.R. § 1008.103(e)(7), the licensing provisions of ORS 86A.200 to 86A.239 do not apply to an employee of a bona fide nonprofit organization as that term is described by criteria established in OAR 441-880-0008, including a limited liability company of which the nonprofit corporation is the sole member, and subject to the following conditions:

(a) The employee may not originate residential mortgage loans outside the scope of the employee's duties and employment at the bona fide nonprofit organization without obtaining a mortgage loan originator license.

(b) The employee shall act as a mortgage loan originator only with respect to residential mortgage loans with terms that are in the best interest of the borrower, as that term is described by criteria established in OAR 441-880-0008.

(2) For purposes of OAR 441-880-0006 through 441-880-0008, "employee" has the same meaning as the criteria listed in OAR 441-850-0005, as applied to the nonprofit organization.

Stat. Auth.: ORS 86A.242

Stat. Implemented: ORS 86A.203

Hist.: FCS 11-2011, f. & cert. ef. 11-23-11; FCS 4-2012, f. & cert. ef. 8-1-12

441-880-0007

Process for Determining if Nonprofit Organization is Bona Fide

As required by 12 C.F.R. § 1008.103(e)(7)(ii), the process for determining whether a nonprofit organization is a bona fide nonprofit organization is as follows:

(1) A nonprofit organization may request in writing that the director determine whether the nonprofit organization is a bona fide nonprofit organization with respect to the licensing of employees as mortgage loan originators under ORS 86A.200 to 86A.239. The nonprofit organization shall supply all information and documentation necessary for the director to make a determination that the nonprofit organization meets the criteria established in 441-880-0008 in a timely manner. If the nonprofit organization registers a member-managed limited liability company for the purpose of loan origination activities, the determination request and supporting documentation must be provided by and address the limited liability company. The request will be denied if the nonprofit organization fails to provide documents requested by the director within 30 days following the request.

(2) A nonprofit organization shall submit, at a minimum, all the following information:

(a) The determination letter or other indicia from the Internal Revenue Service recognizing the nonprofit organization as exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3).

(b) The nonprofit organization's organizing documents, including articles of incorporation filed under ORS 65.047 and bylaws filed under ORS 65.061.

(c) The nonprofit organization's evidence of registration as a charitable organization with the Attorney General under ORS 128.650.

(d) The most recent report filed with the Attorney General under ORS 128.670 detailing the nature of the assets held by the nonprofit organization and the administration of those assets by the organization.

(e) The nonprofit organization's most recent Form 990, Return of Organization Exempt from Income Tax, filed by the nonprofit organization.

(f) If not included within the nonprofit organization's Form 990 tax return, a description of the compensation and incentive structure for employees subject to any determination under these rules.

(g) A description of each loan program provided by the nonprofit organization, including a description of eligibility, purpose, loan terms, key features and servicing or securitization plans, if any.

(h) A copy of the nonprofit organization's complaint process, as required by 441-880-0008.

(i) Other information as requested by the director.

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(3)(a) An employee of a nonprofit organization that has requested that the director make a determination that the organization is a bona fide nonprofit organization, and where the statements in such application are true and correct at the time made, is not subject to the licensing requirements of ORS 86A.200 to 86A.239 during the time that the director is making the determination.

(b) An employee of a nonprofit organization entity that has not requested that the director determine if the organization is a bona fide nonprofit organization is subject to the licensing requirements of ORS 86A.200 to 86A.239.

(4) A determination by the director on the application of ORS 86A.200 to 86A.239 to employees of bona fide nonprofit organizations, or during the period of time when the director is making a determination under (2)(a) of this rule, does not relieve the nonprofit organization from meeting any applicable requirements of laws other than ORS 86A.200 to 86A.239, including but not limited to federal and state laws related to lending, charitable activities or consumer protection.

(5)(a) A nonprofit organization determined by the director to be a bona fide nonprofit organization with respect to the licensing of employees as mortgage loan originators under ORS 86A.200 to 86A.239 shall submit to the director at least annually a certification that the nonprofit organization continues to meet the criteria under which the nonprofit organization requested a determination under this rule.

(b) The nonprofit organization shall attach with the certification the most recent financial audit performed by an independent third-party auditor including, but not limited to, audits performed on nonprofit organizations receiving federal funds according to OMB Circular A-133, published by the Office of Management and Budget and in effect as of the adoption of this rule.

(c) A nonprofit organization determined by the director to be a bona fide nonprofit organization with respect to the licensing of employees as mortgage loan originators under ORS 86A.200 to 86A.239 shall disclose to the director any significant changes to the materials submitted under this rule or to the nonprofit organization's operations affecting a determination under ORS 441-880-0008 as soon as is practicable.

(6)(a) In addition to the certifications required under this section, the director shall be authorized to periodically examine the books and activities of an organization determined to be a bona fide nonprofit organization by the director for compliance with OAR 441-880-0008.

(b) If the director determines that a nonprofit organization no longer satisfies the criteria established in OAR 441-880-0008, the director shall, subject to ORS chapter 183, rescind the director's determination that the organization's is a bona fide nonprofit organization with respect to the licensing of employees as mortgage loan originators under ORS 86A.200 to 86A.239.

(c) An examination under this section is an audit or examination for purposes of OAR 441-860-0110.

Stat. Auth.: ORS 86A.242

Stat. Implemented: ORS 86A.203

Hist.: FCS 11-2011, f. & cert. ef. 11-23-11; FCS 4-2012, f. & cert. ef. 8-1-12

441-880-0008

Criteria for Determining if Nonprofit Organization is Bona Fide

As required by 12 C.F.R. § 1008.103(e)(7)(ii), a bona fide nonprofit organization is an organization that meets all of the following criteria:

(1) The nonprofit organization has been granted a tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3).

(2) The nonprofit organization promotes affordable housing, provides homeownership education, or provides similar services.

(3) The nonprofit organization conducts its activities in a manner that serves public or charitable purposes.

(a) The director may consider the following activities conclusive when making a determination under this section: (A) Making loans for the purpose of providing assistance for downpayments, closing costs, or other home purchase subsidies;

(B) Making loans for the purpose of funding housing rehabilitation projects;

(C) Making loans for the purpose of providing energy efficiency assistance; or

(D) Making loans for the purpose of avoiding or preventing foreclosure.

(b) For purposes of this section, organizations that engage in the brokering of mortgage loans in a manner that would require a license under ORS 86A.100(5) will not be considered to have conclusively met the presumption in subsection (a).

(4) The nonprofit organization charges no more in fees than is necessary to support the organization's loan origination program activities. The director may consider recordation fees, application fees and housing counseling fees that together do not exceed one percent of the principal of loan as conclusive when making a determination under this section.

(5) The nonprofit organization compensates its employees in a manner that does not incentivize employees to act other than in the best interests of the borrower. For purposes of this section, compensation based on loan volume, loan terms, or other measures of performance will not be considered to have conclusively met the presumption that the nonprofit organization compensates employees in a manner that does not incentivize employees to act other than in the best interests of the borrower. (6) The nonprofit organization provides for the borrower residential mortgage loans that are consistent with loan origination in a public or charitable context, that contain terms in the best interest of the borrower, and that are comparable to mortgage loans and housing assistance provided under government housing assistance programs. The director may consider any one of the following loan terms conclusive when making a determination that a loan is made in the best interest of the borrower:

(a) Loan terms that do not charge a recipient for the accrual of interest;

(b) Loan terms that charge interest at below market rates;

(c) Loan terms that require a borrower to qualify for the loan by the contribution of sweat equity;

(d) Loan terms that forgive repayment in whole or in part, whether over a period of time, on a specified date, or subject to ownership or occupancy conditions; or

(e) Loan terms that defer repayment for a minimum amount of time, until the residential dwelling is sold, or until the recipient no longer occupies the residential dwelling. This subsection does not apply to home equity conversion mortgages, commonly known as reverse mortgages.

(f) A loan whose terms restrict the use of the property by the borrower to the borrower's principal residence shall not be deemed to be a term that is unfavorable to the borrower so long as the loan otherwise qualifies under subsections (a) through (e) of this rule.

(7) The nonprofit organization requires or provides to employees subject to 441-880-0006 training on state and federal fair lending laws and consumer protection laws that are relevant to the loan origination services that the nonprofit organization provides to its borrowers. The director may consider training in one or more of the following laws directly related to the nonprofit organization's loan origination activities conclusive when making a determination under this section:

(a) The Equal Credit Opportunity Act, 15 U.S.C. § 1601 et seq. and Regulation B, 12 C.F.R. Part 1002.

(b) The Truth in Lending Act, 15 U.S.C. § 1601 et seq. and Regulation Z, 12 C.F.R. Part 1026.

(c) The Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq. and Regulation V, 12 C.F.R. Part 1022.

(d) The Home Ownership and Equity Protection Act, 15 U.S.C. § 1639 et seq.

(e) The Home Mortgage Disclosure Act, 12 U.S.C. § 2801 et seq. and Regulation C, 12 C.F.R. Part 1003.

(f) The Real Estate Settlement Procedures Act, 12 U.S.C. § 2601 et seq. and regulations implementing the Act, 12 C.F.R. Part 1024.

(g) The Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. and Regulation F, 12 C.F.R. Part 1006.

(h) Portions of the Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6801-6809 and §§ 6821-6827, and regulations implementing the Act, 12 C.F.R. Part 1016, that relate to the privacy of consumers' personal financial information.

(i) The S.A.F.E. Mortgage Licensing Act of 2008, 12 U.S.C. § 5101 et seq., and regulations implementing the Act, 12 C.F.R. Part 1008.

(8) The nonprofit organization requires a state criminal records check of each individual employed by the nonprofit organization to engage, in whole or in part, in loan origination activities.

(9) The nonprofit organization requires or provides continuing education on state and federal fair lending laws and consumer protection laws referenced under section (8) of this rule that are relevant to the loan origination services that the nonprofit organization provides to its borrowers.

(10) The nonprofit organization implements and administers a complaint process that, at a minimum, provides a process for receiving complaints from borrowers and creates a record of the resolution of the complaint, if any.

Stat. Auth.: ORS 86A.242

Stat. Implemented: ORS 86A.203

Hist.: FCS 11-2011, f. & cert. ef. 11-23-11; FCS 4-2012, f. & cert. ef. 8-1-12

ADMINISTRATIVE RULES

441-880-0200

Application Process; Correcting Deficiencies in Application; Abandonment

(1) An applicant for a license as a mortgage loan originator shall submit a completed Form MU4 together with all required application materials and information to the Nationwide Mortgage Licensing System and Registry.

(2) If an applicant or a mortgage loan originator submits an application, filing or amendment which is incomplete in any respect, the director shall notify the applicant of a deficiency through the National Mortgage Licensing System and Registry. The applicant or mortgage loan originator shall correct any deficiencies associated with the application, filing or amendment within 30 days of being notified that the director placed a deficiency on the person's application. A challenge submitted to the Nationwide Mortgage Licensing System and Registry as set out in OAR 441-850-0050 shall extend the time allowed for correcting deficiencies for the duration of the challenge.

(3) If an applicant fails to correct deficiencies as described in section (2) of this rule, the application shall be deemed to be abandoned. Any fees paid by the applicant under OAR 441-880-0400 will not be refunded due to abandonment. An applicant whose application is abandoned under this rule may reapply to obtain a mortgage loan originator license.

Stat. Auth.: ORS 86A.242

Stats. Implemented: ORS 86A.209

Hist.: FCS 14-2009, f. 12-30-09, cert. ef. 1-4-10; FCS 4-2012, f. & cert. ef. 8-1-12

441-880-0205

Interim Licenses

Reserved.

Stat. Auth.: ORS 86A.242

Stats. Implemented: ORS 86A.209

Hist.: FCS 14-2009, f. 12-30-09, cert. ef. 1-4-10; FCS 4-2012, f. & cert. ef. 8-1-12

441-880-0210

Financial Responsibility Criteria

(1) For purposes of this rule, an applicant is not financially responsible if the applicant has shown a disregard of his or her own financial circumstances, taking into consideration the totality of the applicant's financial circumstances.

(2) Factors that the director may consider in determining whether an applicant has not demonstrated financial responsibility include, but are not limited to, the following:

(a) Current outstanding judgments or material litigation, excluding judgments solely as a result of medical expenses;

(b) Current outstanding tax liens or other government liens and filings;

(c) A foreclosure within the past three years and the type of property subject to foreclosure, whether residential or commercial;

(d) Pending or completed bankruptcy proceedings, and the nature of the proceedings, occurring within the past five years; or

(e) A pattern of seriously delinquent accounts within the past three years.

(3) In assessing the financial responsibility of the applicant, the director may consider extenuating or mitigating factors, including but not limited to the following:

(a) Involuntary loss of job or income;

(b) Involuntary medical expenses;

(c) Divorce;

(d) Attempting workout arrangements with creditors; or

(e) Any other factor the director believes reflects circumstances beyond the control of the applicant.

Stat. Auth.: ORS 86A.242

Stats. Implemented: ORS 86A.215

Hist.: FCS 14-2009, f. 12-30-09, cert. ef. 1-4-10; FCS 4-2012, f. & cert. ef. 8-1-12

441-880-0215

Oregon Examination For Mortgage Loan Originators

(1) Each applicant for a mortgage loan originator license must pass an entry-level examination approved by the National Mortgage Licensing System and Registry and an examination on Oregon statutes and rules approved by the director and the National Mortgage Licensing System and Registry prior to engaging in activities as an Oregon mortgage loan originator.

(a) A passing score on either examination described in section (1) of this rule is 75 percent or greater.

(b) A passing score on either examination described in section (1) of this rule is valid for 2 years from the date of passing the examination.

(2) An applicant that fails to pass an examination may retake the examination consistent with ORS 86A.215.

(3) Notwithstanding section (2), an applicant that knowingly acts in a dishonest or deceitful manner in connection with an examination required under this rule is considered to have engaged in an act, practice or course of business that operates or would operate as a fraud or deceit as used in ORS 86A.236(2). In addition to other remedies available, the director may refuse to issue the person a license as a mortgage loan originator.

Stat. Auth.: ORS 86A.242

Stats. Implemented: ORS 86A.215

Hist.: FCS 10-2001, f. 12-24-01, cert. ef. 1-1-02; FCS 2-2004, f. & cert. ef. 8-5-04; FCS 1-2007, f. & cert. ef. 1-17-07; Renumbered from 441-880-0020 by FCS 14-2009, f. 12-30-09, cert. ef. 1-4-10; FCS 4-2012, f. & cert. ef. 8-1-12

441-880-0300

License Renewal; Reinstatement Process

(1) A mortgage loan originator license shall expire on December 31 of each calendar year. At least 30 days prior to the expiration of a mortgage loan originator license, a mortgage loan originator shall submit all information required to the National Mortgage Licensing System and Registry. The renewal application shall include evidence that:

(a) The mortgage loan originator submitted a complete Form MU4 and all required application materials and information to the Nationwide Mortgage Licensing System and Registry;

(b) The applicant continues to meet the minimum requirements for a mortgage loan originator license in ORS 86A.212;

(c) The applicant paid any required fee, as applicable, under OAR 441-880-0400; and

(d) The applicant completed ten hours of continuing education approved by the Nationwide Mortgage Licensing System and Registry as reported for the current calendar year.

(2) A person applying to reinstate a mortgage loan originator license that has lapsed for a period of five or more years, whether or not the applicant was employed or continued to engage in business as a mortgage loan originator during the period of the lapse, shall:

(a) Complete the continuing education requirements under this section (1) of this rule; and

(b) Pass a qualified written test under ORS 86A.215 and OAR 441-880-0215.

Stat. Auth.: ORS 86A.242

Stats. Implemented: ORS 86A.215 & 86A.218

Hist.: FCS 14-2009, f. 12-30-09, cert. ef. 1-4-10; FCS 4-2012, f. & cert. ef. 8-1-12

441-880-0310

Mortgage Loan Originator Continuing Education Requirements; Curing Deficiencies; License Sanctions for Failure to Maintain Continuing Education

A mortgage loan originator shall take and maintain continuing education courses in order to take an application for a residential mortgage loan or negotiate the terms of a residential mortgage loan, consistent with the requirements of this rule.

(1) A mortgage loan originator shall take a continuing education course or courses approved by the Nationwide Mortgage Licensing System and Registry. A mortgage loan originator shall complete at least ten hours of continuing education per calendar year.

(2) A mortgage loan originator who fails to meet the continuing education requirement shall not take an application for a residential mortgage loan or negotiate the terms of a residential mortgage loan until the mortgage loan originator makes up any continuing education required by this rule.

(3)(a) A mortgage loan originator may submit a written request to make up missing hours in continuing education due to hardship or illness. A written request shall:

(A) Describe the hardship or illness; and

(B) Describe why the mortgage loan originator was unable to meet requirements for continuing education.

(b) In all requests under this rule, the mortgage loan originator has the burden of proving the hardship or illness responsible for the missing hours in continuing education.

(c) The director shall consider and may grant a request, but the director shall not grant a request for the following:

(A) Failure or inability to pay applicable fees to obtain or maintain a mortgage loan originator license;

(B) A suspension of business activities as a mortgage loan originator; or

(C) Incapacity due to imprisonment.

(4) Nothing in this rule affects the director's authority to require by order a mortgage loan originator to make up missing hours in continuing

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education under ORS 86A.218 or to decline to renew the person's mortgage loan originator license.

(5) The director may deny, suspend, make inactive, or refuse to renew the mortgage loan originator's license until the mortgage loan originator makes up any missing hours of continuing education required this section.

Stat. Auth.: ORS 86A.242
Stats. Implemented: ORS 86A.218
Hist.: FCS 14-2009, f. 12-30-09, cert. ef. 1-4-10; FCS 4-2012, f. & cert. ef. 8-1-12

441-880-0315

Notice of Employment Status by Employer of Mortgage Loan Originator; Prohibition on Origination Activities Before Sponsorship

(1) All mortgage brokers or mortgage bankers employing mortgage loan originators shall provide notice to the Nationwide Mortgage Licensing System and Registry when it authorizes a mortgage loan originator to originate Oregon residential mortgage loans. Notice must be made by submitting a request to sponsor the mortgage loan originator's license.

(2) No mortgage banker or broker shall allow a mortgage loan originator to originate residential mortgage loans for the mortgage banker or mortgage broker until the Director has accepted the mortgage banker or mortgage broker's sponsorship request.

(3) All mortgage bankers or mortgage brokers shall provide notice within 30 days to the Nationwide Mortgage Licensing System and Registry when a mortgage loan originator ceases to originate loans for the mortgage banker or mortgage broker. Notice must be made by terminating the sponsorship of the mortgage loan originator.

Stat. Auth.: ORS 86A.136
Stats. Implemented: ORS 86A.179
Hist.: FCS 4-2012, f. & cert. ef. 8-1-12

441-880-0320

Notice of Significant Events by Mortgage Loan Originator

A mortgage loan originator shall be required to notify the director within 30 days of the occurrence of any of the following significant developments:

- (1) Filing for bankruptcy;
- (2) Notice that a state began license revocation proceedings against the mortgage loan originator;
- (3) Filing of a felony indictment against the mortgage loan originator;
- (4) Convictions for any felony or conviction for a misdemeanor involving fraud;
- (5) Instances of material litigation occurring against the mortgage loan originator;
- (6) Changes in the information required on the mortgage loan originator's application form, including, but not limited to address changes, phone number changes, and other information; and
- (7) Changes in the employment status of a mortgage loan originator.

Stat. Auth.: ORS 86A.188
Stats. Implemented: ORS 86A.188
Hist.: FCS 4-2012, f. & cert. ef. 8-1-12

Rule Caption: Wildcard Authority to Engage in Counterparty Interest Rate Swap Transactions.

Adm. Order No.: FCS 5-2012(Temp)

Filed with Sec. of State: 8-7-2012

Certified to be Effective: 8-8-12 thru 2-4-13

Notice Publication Date:

Rules Adopted: 441-505-3090

Subject: The proposed rule gives Oregon chartered banks authority to engage in interest rate swap transactions on behalf of the banks' loan customers and to pledge the banks' assets in connection with such transactions. While national banks and other financial institutions currently possess this authority, Oregon chartered banks may not engage in these types of transactions unless the Director of the Department of Consumer and Business Services permits them to do so under ORS 706.795. Without this rule, Oregon chartered commercial banks will be unable to compete on equal terms with national banks and other institutions.

Rules Coordinator: Shelley Greiner—(503) 947-7484

441-505-3090

Interest Rate Swap Transactions

(1) An Oregon commercial bank may engage in interest rate swap transactions as intermediary with and on behalf of the bank's customers and pledge bank assets to secure the transactions if the bank receives prior written approval from the Director of the Department of Consumer and

Business Services and the following conditions are met to the director's satisfaction:

(a) The bank demonstrates to the director that it has the requisite knowledge and expertise to effectively analyze and engage in such transactions;

(b) The bank's board of directors has considered and adopted specific written policies and procedures governing such transactions, including but not limited to risk limits; and

(2) The aggregate risk exposure, at any time, to each counterparty shall not exceed the bank's legal lending limit.

Stat. Auth.: ORS 706.790
Stats. Implemented: ORS 706.795
Hist.: FCS 5-2012(Temp), f. 8-7-12, cert. ef. 8-8-12 thru 2-4-13

Department of Consumer and Business Services, Insurance Division Chapter 836

Rule Caption: Amendment of the workers' compensation premium audit and classification notice rules

Adm. Order No.: ID 13-2012

Filed with Sec. of State: 7-16-2012

Certified to be Effective: 1-1-13

Notice Publication Date: 6-1-2012

Rules Amended: 836-043-0101, 836-043-0105, 836-043-0110, 836-043-0115, 836-043-0120, 836-043-0125, 836-043-0130, 836-043-0135, 836-043-0145, 836-043-0150, 836-043-0155, 836-043-0165, 836-043-0170, 836-043-0175, 836-043-0180, 836-043-0185

Rules Repealed: 836-043-0140, 836-043-0190

Subject: These rules: Define terms: "audit," "desk audit," "field audit," "committee" (Oregon Workers' Compensation Rating System Review and Advisory Committee), "insured," "payroll report," and "standard premium."

Update audit procedures involving records used to conduct audits, final audit billing disputes, and classification of exposure.

Eliminate the requirement that the "bureau" (National Council on Compensation Insurance) conduct seminars on audit fundamentals for employers.

Revise requirements of the test audit program to

Clarify the time allowed for insurers to report audit findings to the bureau.

Require insurers to report all compensable indemnity claims to the bureau.

Require insurers to report compensable medical-only claims to the bureau if the reported loss amounts are \$5,000 or more.

Clarify policy selection process and constraints.

Exclude "wrap-up" projects from the test audit selection.

Eliminate the requirement for weekly production reporting of all test audits.

Eliminate the requirement that summarized quarterly and six quarterly audit results be furnished to the Workers' Compensation Rating System Review and Advisory Committee.

Amend the minimum standard for test audit performance; the number of premium differences in excess of \$500 or 2% of standard premium must not exceed the critical number shown in the Table of Minimum Standards.

Update and clarify premium audit hearing procedures, including:

Time frames for an insured to petition for hearing;

Elements that must be included in a final premium audit billing (to render the bill collectible);

Referrals of hearing requests and requests for stays of collection to the Office of Administrative

Hearings (OAH);

and Reasons the director will dismiss an insured's request for a hearing.

Clarify classification notice requirements.

Rules Coordinator: Sue Munson—(503) 947-7272

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836-043-0101

Statutory Authority; Purpose; Applicability

(1) OAR 836-043-0101 to 836-043-0170 are adopted by the Director of the Department of Consumer and Business Services pursuant to the requirements of ORS 737.318.

(2) OAR 836-043-0101 to 836-043-0170 establish a premium audit program system for workers' compensation insurance for the following purposes:

(a) Achieving equitable premium charges to insureds and collecting credible ratemaking data;

(b) Prescribing minimum standards for an efficient premium audit program that ensures an adequate proportion of an insurer's earned premium is audited and focuses on operations where accurate reporting may be difficult or where misreportings are more likely;

(c) Educating insureds about the audit reporting function of the rating system;

(d) Establishing a continuing test audit program of all insurers;

(e) Providing an appeal process pursuant to ORS 737.318(3)(d) and 737.505(4) to (5) for insureds to request a hearing to dispute the results of an audit, as described in a final premium audit billing issued by an insurer to an insured.

(3) OAR 836-043-0101 to 836-043-0170 apply to all authorized workers' compensation insurers, the State Accident Insurance Fund Corporation, Oregon insureds, and the National Council on Compensation Insurance.

Stat. Auth.: ORS 731.244, 737.310 & 737.318

Stats. Implemented: ORS 737.235, 737.318 & 737.505

Hist.: ID 1-1988, f. & cert. ef. 1-20-88; ID 13-2012, f. 7-16-12, cert. ef. 1-1-13

836-043-0105

Definitions

As used in OAR 836-043-0101 to 836-043-0170, unless the context requires otherwise:

(1) "Audit" means a process of verification of information used to determine the premium for a workers' compensation insurance policy that is performed in one of the following formats:

(a) "Desk audit" means an audit performed by an insurer at a site, other than the insured's principal place of business, mutually agreed to by the insurer and the insured. A desk audit does not consist of an examination of a payroll report submitted by the insured to the insurer in lieu of an audit.

(b) "Field audit" means an audit performed by an insurer at the insured's principal place of business, work site, or other site mutually agreed to by the insurer and the insured.

(2) "Bureau" means the licensed rating organization of this state for workers' compensation insurance.

(3) "Classification" means a grouping of insurance risks according to a classification system used by an insurer.

(4) "Classification System" means a schedule of classifications and a rule or set of rules used by an insurer for determining the classifications applicable to an insured.

(5) "Committee" means the Oregon Workers' Compensation Rating System Review and Advisory Committee established by OAR 836-043-0200 to 836-043-0240.

(6) "Insured" means an employer who has been issued a workers' compensation insurance policy by an insurer.

(7) "Insurer" means any insurer authorized to write workers' compensation insurance in this state or the State Accident Insurance Fund Corporation.

(8) "Payroll" or "remuneration" means money or substitutes for money payable to workers for their services, which are specified or defined by the rating system used by the insurer subject to the limitations imposed in the definition of "payroll" in ORS 656.005.

(9) "Payroll report" means a report of an insured's payroll by class code used by an insurer to determine the premium for an insurance policy.

(10) "Premium" means the contractual consideration charged to an insured for an insurance policy for a specified period of time, regardless of the timing of actual charges.

(11) "Rate" means a monetary amount applied to the exposure units for a classification to determine the premium for an insurance policy.

(12) "Rating Plan" means a rule or set of rules used by an insurer to calculate premium for an insurance policy, including all rating plan factors applied, after application of classification premium rates to exposure units.

(13) "Rating System" means a collection of rating plans to be used by an insurer, rules for determining which rating plans are applicable to an insured, a classification system and other rules used by an insurer for determining contractual consideration for an insurance policy.

(14) "Standard Premium" means the premium determined by application of approved rates, including experience rating modifications and other charges in accordance with the statistical plan as defined in OAR 836-042-0045.

(15) "Workers' Compensation Insurance" means insurance providing coverage for the obligations of an employer arising from illness or insurance to workers whether such obligation is imposed by ORS Chapter 656, similar laws of the United States or agreement between states.

Stat. Auth.: ORS 731.244, 737.310 & 737.318

Stats. Implemented: ORS 737.235, 737.318 & 737.505

Hist.: ID 1-1988, f. & cert. ef. 1-20-88; ; ID 13-2012, f. 7-16-12, cert. ef. 1-1-13

836-043-0110

Insurer Premium Audit Program

(1) The rates, rating plans and rating systems filed with and approved by the Director of the Department of Consumer and Business Services shall govern the audited payroll and the adjustment of premiums, subject to the provisions of this rule.

(2) For the purpose of determining the premium for an insurance policy producing an annual standard premium of \$10,000 or more, the insurer must perform a field audit of the insured at least once annually, except as provided in this section. For as long as the insurer continues to provide coverage to an insured, when the insurer finds that the audit premium difference is less than five percent for each of two consecutive policy years for which the insurer provided coverage, the insurer need audit only every third renewal policy subsequent to the policy most recently audited. If the insurer finds at any audit that the audit premium difference is five percent or greater, the insurer must again audit the insured's policy at least annually until the insurer finds an audit premium difference of less than five percent for each of two consecutive policy years. For each policy year for which a policy is not audited, the insurer shall obtain a payroll report from the insured. For purposes of this section, the basis for the audit premium difference for an insured will be the audited standard premium as defined in each insurer's approved rating system.

(3) An insurer shall perform a field audit of at least five percent of all policies that are issued by the insurer and produce an annual standard premium of less than \$10,000 but more than \$1,000. In each year when a field audit of such a policy is not performed, the insurer shall perform a desk audit or obtain a payroll report from the insured. If neither a field or desk audit is performed nor a payroll report is obtained, the insurer shall give satisfactory reason to the director.

(4) When an insurer performs an initial or revised audit, the insurer shall send to the insured a written final premium audit billing, as described in this rule and in OAR 836-043-0170.

(5) A final premium audit billing must include the following wording, or substantially equivalent wording approved by the director, that is prominently displayed and in not less than 12-point type:

Notice: You, the insured, may request a hearing to dispute the results of the audit described in this final premium audit billing. If you want to request a hearing, you must send a written request for a hearing to the Insurance Division of the Department of Consumer and Business Services, State of Oregon. The Insurance Division must receive the request not later than the 60th day after you received this billing.

Who may request a hearing?

1. If the insured is a sole proprietor, then the insured or an attorney for the insured may request a hearing.

2. If the insured is a partnership, then an attorney for the partnership or any member of the partnership may request a hearing.

3. If the insured is a corporation, association or organized group, then an attorney for the corporation, association or organized group or an authorized officer or authorized employee of the corporation, association or organized group may request a hearing.

4. If the insured is a governmental authority other than a state agency, then an attorney for the governmental authority or an authorized officer or authorized employee of the governmental authority may request a hearing. Please state in your request the date you received this final premium audit billing. You must send the request for a hearing using at least one of the following methods:

By delivery:

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

By mail:

Insurance Division
Department of Consumer and Business Services
PO Box 14480
Salem, OR 97309-0405

By e-mail:

DCBS.INSMAIL@state.or.us

By fax: 503-378-4351 Assistance is available on the Insurance Division's web page, at <http://www.cbs.state.or.us/external/ims/> and by e-mail, at DCBS.INSMAIL@state.or.us If the Insurance Division timely receives your request for a hearing, the Insurance Division will send or make available to you a petition form. In the petition, you must explain why you believe the billing is incorrect and describe the actions you want the director to take to correct the matter. The completed petition, along with a complete copy of the final premium audit billing, must be received by the Insurance Division not later than the 60th day after the date the Insurance Division received

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your request for a hearing. You are entitled to a hearing only if the Insurance Division timely receives your request for a hearing and completed petition and determines that the director has jurisdiction over the matter. You may send a copy of your request for hearing to your insurer so that you may attempt to resolve the dispute with your insurer prior to a hearing. However, please remember:

1. The 60-day period for initiating your request continues to run even though you may be negotiating with your insurer.
2. Your request must be received by the Insurance Division not later than the 60th day after you received this billing. You may wish to consult with an attorney about your case.

Stat. Auth.: ORS 731.244, 737.310 & 737.318

Stats. Implemented: ORS 737.318 & 737.505

Hist.: ID 1-1988, f. & cert. ef. 1-20-88; ID 13-1988(Temp), f. & cert. ef. 7-27-88; ID 15-1988(Temp), f. & cert. ef. 9-2-88; ID 4-1989, f. & cert. ef. 2-28-89; ID 9-1990, f. 5-10-90, cert. ef. 6-1-90; ID 6-1997(Temp), f. & cert. ef. 5-30-97; ID 17-1997, f. 11-25-97, cert. ef. 11-26-97; ID 1-2000, f. & cert. ef. 2-10-00; ID 1-2007, f. & cert. ef. 1-17-07; ID 13-2012, f. 7-16-12, cert. ef. 1-1-13

836-043-0115

Insurer Audit Procedure Guide

Each insurer shall develop audit procedures that include all of the features described in this rule or, in place thereof, more comprehensive alternative procedures that will consistently achieve minimum standards as measured by the Oregon Test Audit Program under OAR 836-043-0125. The features are as follows:

(1) The auditor shall perform a pre-audit review to ensure that the insurer provided or made available to the auditor all relevant information and materials, as listed in this section.

(a) The bureau Basic Manual;

(b) Bureau bulletins, "Scopes Manual" on classifications or similar classifications and committee minutes pertinent to classifications and auditing procedures;

(c) Policy information that provides a description of operations and a summary of payrolls by classification;

(d) Bureau Inspection & Classification Reports that provide a description of operations and summary of employees by classification;

(e) Bureau Experience Rating Modification Worksheets that provide payroll classifications and claims allocation history;

(f) Claims data in sufficient detail to verify classification assignments;

(g) Pertinent correspondence;

(h) Prior year's audit file if renewed, or copies of interim payroll reports, if on an interim reporting basis.

(2) The auditor must contact a principal or designated representative of the insured who is familiar with the insured's operation, in order to ensure that the insured is properly classified under Basic Manual rules.

(3) Audit practices require the following:

(a) Examining payrolls from the most complete and accurate records;

(b) Determining proper payroll classifications, substantiated by a written description of the insured's operations;

(c) Making sufficient test checks to establish the audit's accuracy and compliance with Basic Manual rules when using summary type records as the payroll source;

(d) Reconciling the total payroll with records not used in the original tabulation; and

(e) Providing guidance on recordkeeping practices to aid in future audits, including, but not limited to, maintenance of verifiable payroll records.

(4) An insurer shall give particular attention to the following factors and circumstances:

(a) Type of entity. With respect to the type of entity being insured, the insurer shall include factors and circumstances as follows:

(A) If the entity is a corporation, limited liability company, limited liability partnership, partnership, or other entity described in ORS 656.027, the name, title, classification assignment and total remuneration for each executive officer, member, or partner must be shown separately. All other officers of the corporation, members of the limited liability company, or partners must also be listed. The insurer shall designate whether each officer, member, or partner is a subject employee under ORS Chapter 656;

(B) Listings of covered corporate officers, limited liability company members, partners, and proprietors must include a brief description of each person's duties. The auditor must verify the stipulated maximum and minimum remuneration with respect to non-subject corporate officers who have elected coverage or are covered as provided under ORS 656.027, and assumed wage for non-subject sole proprietors, partners, and limited liability company members who have elected coverage or are covered as provided under ORS 656.027.

(b) Sources and reconciliation. The insurer shall indicate the source record used to conduct the audit and the record used for reconciliation purposes. The most commonly used records include, but are not limited to,

time records, payroll journal, individual earnings records, prepared summary, check book, cash book, petty cash book, general ledger, confidential ledger, bank statements, job cost records and tax returns (Federal, Social Security/State Unemployment). The auditor must be able to reconcile the audit product with the source record and be certain that appropriate records have been examined to verify the inclusion of all payroll. When summary type records are used as the audit source, sufficient sampling of the original payroll records must be made to ensure the inclusion of all payroll. The insurer must be sure that the auditor is able to check and list the dates (and amounts if readily available) of the opening and closing payroll period or periods (e.g., weekly and semi-monthly) in order to establish proper continuity from prior audits and for subsequent audits. This is also necessary for the purpose of proper audit review.

(c) Remuneration. The insurer shall investigate all possible sources of earnings, including those for uninsured contract employment.

(d) Overtime. The insurer shall indicate whether overtime was paid and, if so, whether the records are maintained in such manner as to permit the exclusion of overtime remuneration from total payroll, as allowed by Basic Manual rules. If overtime was paid but not properly recorded in the insured's records, the auditor shall provide the insured with guidance for maintaining overtime remuneration records to allow for credit on subsequent audits. This action shall be documented on the auditor's worksheet.

(e) Out of state operation. The insurer shall determine if the insured uses Oregon subject workers to perform work outside Oregon. Payroll for Oregon subject workers performing work outside Oregon must be included in the premium, based on protection provided through the extra-territorial provisions of Oregon law.

(f) Clerical employees, salesmen and drivers. The insurer shall:

(A) Verify the proper use of Classifications 8810 — Clerical Office Employees NOC, 8742 — Salespersons or Collectors — Outside, and 7380 — Drivers, Chauffeurs, Messengers, and Their Helpers NOC — Commercial;

(B) Show clerical, outside sales and drivers payroll analysis on work sheets, either for the entire audit period or for a sample period.

(g) Classifications. The insurer shall determine the proper classifications. The insurer shall explain if the classifications assigned to the insured at audit differ from those shown on the insured's policy information page or bureau Inspection Report. Final premium charges are subject to ORS 737.310. The insurer shall obtain a detailed description of the insured's operations from the person or persons in the insured's organization best able to answer inquiries regarding the following:

(A) The service or product;

(B) The raw materials used;

(C) The process involved; and

(D) How the product is marketed.

(h) Additional classification information. The insurer shall examine the insured's first reports of occupational injury or illness as an additional source of classification information when classification issues require additional inquiry. The insurer's review may include electronic or paper documentation.

(i) Location. The insurer shall document any changes in the insured's locations. The insurer shall review payroll to assure that all locations have been included in the audit.

(j) Rate splits. The insurer shall determine if rate changes or normal anniversary rating dates require payrolls to be split;

(k) New construction or alteration. The insurer shall determine if structural alterations or new construction work on the insured's premises has been conducted by employees of the insured during the audit period. Payroll for these activities must be separately rated.

(l) New operations. The insurer shall identify any new operations, acquisitions or changes in operations.

(m) Longshore and Harbor Workers' Compensation Act operations. The insurer shall determine if the insured is engaged in operations subject to the Longshore and Harbor Workers' Compensation Act and if such operations are covered under the policy as evidenced by endorsement.

(n) Division of payroll. The insurer shall determine if the insured's records support a division of payroll between different classifications due to an interchange of labor, as provided for by OAR 836-042-0050 to 836-042-0060.

(5) If the director meets with the insurer under OAR 836-043-0115 to obtain a detailed explanation of remedial measures undertaken by the insurer, the director may request a copy of the insurer's audit review program. If the director determines that the insurer's program is inadequate, the director may prescribe an audit review program for use by the insurer during the period in which the insurer must take remedial measures.

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

ADMINISTRATIVE RULES

Stat. Auth.: ORS 731.244, 737.310 & 737.318
Stats. Implemented: ORS 737.318 & 656.027
Hist.: ID 1-1988, f. & cert. ef. 1-20-88; ID 12-1998, f. & cert. ef. 9-14-98; ID 13-2012, f. 7-16-12, cert. ef. 1-1-13

836-043-0120

Minimum Standards of Insured Education Program

(1) At or before policy issuance, an insurer shall make available to the insured information covering the matters identified in this section. This information may be delivered via electronic means, as provided for under ORS Chapter 84.

(a) Which workers are subject to the Workers' Compensation Law for whom premiums must be paid;

(b) What remuneration is subject to premium charges;

(c) How to divide payroll between assigned classifications, as established in OAR 836-042-0060;

(d) The requirements for verifiable records, as established in OAR 836-042-0060;

(e) The existence and nature of premium audits and the appeal process afforded insureds by ORS 737.505;

(f) The insured's responsibility to notify the insurer of changes in the business structure and operations; and

(g) The classification notice requirements prescribed by OAR 836-043-0175 to 836-043-0185.

(2) When the insurer becomes aware of changes in the insured's business that affect the reporting of payroll or other exposure basis, the insurer shall provide additional appropriate instruction to the insured.

(3) When changes in statute, rules or rating system occur that affect reporting of payroll or other exposure basis, the insurer shall provide notification of such changes to insureds as soon as reasonably possible.

Stat. Auth.: ORS 731.244, 737.310 & 737.318
Stats. Implemented: ORS 737.318
Hist.: ID 1-1988, f. & cert. ef. 1-20-88; ID 1-1999, f. & cert. ef. 2-19-99; ID 13-2012, f. 7-16-12, cert. ef. 1-1-13

836-043-0125

Purpose

A Test Audit Program shall be conducted by the bureau to carry out ORS 737.318. To perform this function, the bureau shall maintain the test audit staff for examining pertinent records of a number of Oregon insureds and insurers established according to the schedule in Exhibit 1 of OAR 836-043-0130, or other appropriately credible audit levels as determined by the director. The purposes of the test audit program are as follows:

(1) To check the accuracy and reliability of each insurer's audits, verify the classifications assigned, and assure that the premiums charged are based upon filed rates, rating plans and rating systems on file with and approved by the director;

(2) To establish minimum auditing standards and to develop a program for monitoring insurer performance toward the achievement of established standards; and

(3) To improve audit proficiency through the evaluation of insurer auditing practices.

[ED. NOTE: Exhibits referenced are available from the agency.]
Stat. Auth.: ORS 731.244 & 737.318
Stats. Implemented: ORS 737.318
Hist.: ID 1-1988, f. & cert. ef. 1-20-88; ID 7-1997(Temp), f. & cert. ef. 5-30-97; ID 18-1997, f. 11-25-97, cert. ef. 11-26-97; ID 13-2012, f. 7-16-12, cert. ef. 1-1-13

836-043-0130

Selection of Risks for Test Audit

(1) All insurers or insurer groups shall be test audited on a continuous basis. Each quarter, the bureau shall send a list of policies selected for test audit to each insurer's Oregon policy issuing office or other office designated by the insurer.

(2) The number of policies to be selected for each insurer shall be determined based on Exhibit 1, using the insurer's current policy premium distribution and the error ratio from the insurer's previous test audits. The policy premium distribution shall be based on estimated annual standard premium reported by the insurer for policies subject to selection. For each insurer, the error ratio shall be the number of policies found to have audit errors divided by the total number of policies test audited during the latest six quarters. The error ratio shall be assigned a credibility weight, as described in Exhibit 1, and the complement weight shall be assigned to the statewide error ratio of all insurers for the latest six quarters. The credibility weighted error ratio for the insurer shall be used to determine the policy sample rates in Exhibit 1.

(3) The quarterly list of policies selected for test audit shall be randomly drawn from an insurer's entire book of workers' compensation business, subject to the requirements of section (2) of this rule. Additional poli-

cies may be added at the request of the director. The list shall indicate, for each insurer or insurer group, the insured, the policy number, the issuing office (if available) and the policy dates. This list shall only include policies with expiration dates not less than 90 days prior to the date of selection. Unless otherwise requested by the director, this list shall exclude:

(a) Wrap-up policies approved under ORS 737.602 or Sections 1 and 2, Chapter 336, Oregon Laws 1995;

(b) Policies for risks that have been test audited within the four-year period prior to the date of selection; and

(c) Policies canceled by either the insured or the insurer prior to the expiration date of the policy.

(4) Within 45 days after receipt of the selection list, each issuing office shall provide the bureau the following audit material on those risks for which it is responsible:

(a) If an audit is performed, a non-returnable copy of the auditor's work sheets and the premium invoice;

(b) Correspondence pertinent to proper completion of the audit;

(c) If the insured's payroll report has been utilized, a copy of the insured's payroll report and the premium invoice; and

(d) A list of all compensable indemnity claims. The claim listing should also reflect each compensable medical-only claim with reported loss amounts of \$5,000 or more. The bureau must receive at least the name of the injured employee and the date of accident, although the following information must also be submitted if available; job title, nature of injury, Basic Manual classification to which claim is assigned, claim file number and a brief description of what the employee was doing when the accident occurred. (See Exhibit 1.)

(5) At least 10 days before the test auditor's planned date of call, the auditor must inform the insured in writing of the planned date of call.

(6) The written notice required by section (5) of this rule must include certain information. An example of acceptable written notice is located on the Department of Consumer and Business Services, Insurance Division website at www.insurance.oregon.gov. The notice must include the following information:

(a) Identification of the insurer, the insured, the policy number, and the policy period being audited;

(b) The scheduled date and time of the test audit;

(c) Explanation of the test audit program and the statutory authority to conduct test audits;

(d) Identification of the bureau responsible for conducting the test audit;

(e) Explanation of the bureau's authority under the policy to examine the insured's records;

(f) Explanation of the types or specific records the insured must make available to the auditor; and

(g) Contact information for the auditor.

(7) The bureau shall complete the test audits within six months of the date of selection. Test audits not completed within the six-month period may not be included in the insurer's result. Nevertheless, the insurer shall submit a revised unit statistical report for any late test audits that would have otherwise constituted an error. The director may request the bureau to provide a quarterly report of test audits that are not completed in a timely manner.

(8) The following must be obtained from bureau files:

(a) A policy data sheet providing all necessary information shown on the insurer's policy; and

(b) A copy of the latest bureau inspection.

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

Stat. Auth.: ORS 731.244 & 737.318
Stats. Implemented: ORS 737.318
Hist.: ID 1-1988, f. & cert. ef. 1-20-88; ID 11-1994, f. 12-19-94, cert. ef. 1-1-95; ID 7-1997(Temp), f. & cert. ef. 5-30-97; ID 18-1997, f. 11-25-97, cert. ef. 11-26-97; ID 12-1998, f. & cert. ef. 9-14-98; ID 13-2012, f. 7-16-12, cert. ef. 1-1-13

836-043-0135

Test Audits

(1) A Analysis of Test Audit Results shall be completed on each test audit.

(2) The test auditor shall interview the insured or an authorized representative of the insured in order to solicit the insured's cooperation and also to obtain all factual data necessary for proper completion of the test audit.

(3) If a current inspection is in the file, the test auditor shall verify data contained in that report.

(4) Each test audit, using the audit detail form, shall contain the following:

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(a) A reconciliation of payroll subject to premium charge, which must be made with the independent control records of the State Unemployment Insurance quarterly reports and FICA quarterly report;

(b) A review of the cash disbursements journal to develop the remuneration paid to contract labor and casual labor;

(c) A detailed review of at least one pay period to verify proper classification;

(d) A review of time cards to verify proper treatment of overtime remuneration;

(e) A review of original entry records to verify proper application of the "division of single employee's payroll" rules (OAR 836-042-0050 to 836-042-0060);

(f) A listing by name, duties and earnings of all persons assigned to the "standard exceptions" classifications. When size of the risk makes the listing impractical, spot checks must be made;

(g) A listing by name, title, duties and earnings of all covered executive officers, partners or individuals;

(h) A summary, by classification, of all chargeable payrolls;

(i) A summary of differences between the test audit and the insurer audit.

(5) Examples of the templates and forms described in this rule are located on the Department of Consumer and Business Services, Insurance Division website at www.insurance.oregon.gov.

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

Stat. Auth.: ORS 731.244 & 737.318

Stats. Implemented: ORS 737.318

Hist.: ID 1-1988, f. & cert. ef. 1-20-88; ID 13-2012, f. 7-16-12, cert. ef. 1-1-13

836-043-0145

Disposition of Test Audits

(1) The bureau shall submit individual results of each test audit to the office or offices designated by the insurer as soon as the bureau audit is completed.

(2) For those audits that do not result in a significant difference, defined as in excess of \$500 in premium or in excess of two percent of the total standard premium, whichever is greater, the bureau must notify the insurer by letter of the name of the insured, the policy number and the fact that the test audit was closed without change from the original audit.

(3) For those audits that do develop a significant premium difference, the bureau must provide the insurer with a report explaining the difference and the effect of such difference upon the total premium. An example of this report template is located on the Department of Consumer and Business Services, Insurance Division website at www.insurance.oregon.gov.

(4) Results of test audits of individual insurers shall be confidential data under ORS 731.264.

(5) Immediately upon receipt of the bureau's report, the insurer shall determine whether it agrees with the bureau's findings, auditing the insured if necessary. If the insurer agrees with the bureau's findings, the insurer shall file the corrected information on the original or, if necessary, on a revised unit statistical report. When the net premium difference is not sufficient to qualify as an "error" but a single difference is sufficiently large to qualify as an error prior to any offsetting premium amounts, the insurer shall be advised of such differences by an "advisory" notice. Also, when individual claims have been assigned to an incorrect classification an "advisory" notice shall also be submitted to the insurer. Upon receipt of the "advisory" notice, the insurer shall report such payrolls or losses on the initial or, if necessary, a "C" (corrected) Unit Statistical Report. All test audit differences must be closed within sixty days of notification unless the insurer requests an extension and the request is approved by the bureau.

(6) When classifications utilized by the insurer are found to be in error, the bureau shall take the normal appropriate action to secure compliance.

(7) Findings resulting from test audits shall not be utilized in any action by an insurer to enforce premium collections.

(8) If there is disagreement with the bureau's findings, the insurer shall communicate with the designated contact at the National Council on Compensation Insurance office to resolve areas of contention.

(9) When an insurer is unable to resolve test audit differences with the bureau staff, the insurer may present an appeal to the committee.

(10) When an insurer is unable to resolve test audit differences with the committee, the insurer may present an appeal to the director for final determination.

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

Stat. Auth.: ORS 731.244 & 737.318

Stats. Implemented: ORS 737.318

Hist.: ID 1-1988, f. & cert. ef. 1-20-88; ID 11-1994, f. 12-19-94, cert. ef. 1-1-95; ID 13-2012, f. 7-16-12, cert. ef. 1-1-13

836-043-0150

Summary of Test Audit Results

(1) Test audit results shall be summarized quarterly for the individual insurer or insurer group, as well as for the industry as a whole. The summary must include all prior quarters up to but not exceeding a total of six quarters. The summary must reflect separately the results of field audits, desk audits, and reviews of payroll reports. An example of this report template is located on the Department of Consumer and Business Services, Insurance Division website at www.insurance.oregon.gov.

(2) The summary of test audit results must be reported quarterly to the insurer's home office to the attention of the designated contact. If the insurer's home office is located outside Oregon, a copy of the summary results must also be forwarded to the Oregon branch or division office that reports directly to the home office. It shall be the insurer's responsibility to keep the bureau advised of the responsible contact to whom the summary results should be directed.

(3) The bureau shall meet with each insurer to review its results and when requested, may offer remedial suggestions when such action is indicated.

(4) The bureau shall maintain sufficient records to permit accurate reporting to the insurer and the director.

(5) Copies of all individual insurer and summary reports shall be submitted to the director upon completion.

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

Stat. Auth.: ORS 731.244 & 737.318

Stats. Implemented: ORS 737.318

Hist.: ID 1-1988, f. & cert. ef. 1-20-88; ID 11-1994, f. 12-19-94, cert. ef. 1-1-95; ID 13-2012, f. 7-16-12, cert. ef. 1-1-13

836-043-0155

Test Audit Standards

(1) An insurer that fails to achieve the Minimum Standard of the Test Audit Performance for six consecutive quarters shall meet with the director, or the director's designated representative, to provide a detailed explanation of the remedial measures the insurer is taking to restore overall audit proficiency to an acceptable level. An insurer meets the Minimum Standard when the insurer satisfies the requirement that the number of premium differences in excess of \$500 or two percent of the insured's standard premium, whichever is greater, must not exceed the critical number shown in the Table of Minimum Standards Exhibit 2.

(2) If an insurer still fails to achieve the Minimum Standard following presentation of remedial measures to the director, as required in section (1) of this rule, the director may impose a penalty, including possible suspension of the insurer's certificate of authority.

(3) For the purposes of this rule, only policies that exceed \$5,000 in annual standard premium after test audit will be used to determine whether an insurer achieves the *Minimum Standard*.

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

Stat. Auth.: ORS 731.244 & 737.318

Stats. Implemented: ORS 737.318

Hist.: ID 1-1988, f. & cert. ef. 1-20-88; ID 11-1994, f. 12-19-94, cert. ef. 1-1-95; ID 7-1997(Temp), f. & cert. ef. 5-30-97; ID 18-1997, f. 11-25-97, cert. ef. 11-26-97; ID 13-2012, f. 7-16-12, cert. ef. 1-1-13

836-043-0165

Monitoring Audit Program System

(1) The director shall examine every insurer at least once each three years for the purpose of determining its compliance with:

(a) The statistical reporting requirements of OAR 836-042-0045;

(b) The premium audit program requirements of OAR 836-043-0110 and 836-043-0115; and

(c) The minimum standards of insured education programs of OAR 836-043-0120.

(2) The director shall continuously monitor the bureau for the purpose of assuring its compliance with the test audit program requirements of OAR 836-043-0125 to 836-043-0155.

Stat. Auth.: ORS 731.244 & 737.318

Stats. Implemented: ORS 737.235 & 737.318(3)(b)

Hist.: ID 1-1988, f. & cert. ef. 1-20-88; ID 13-2012, f. 7-16-12, cert. ef. 1-1-13

836-043-0170

Premium Audit Hearings

(1) This rule establishes the procedure for an insured to request a hearing to dispute the results of an audit, as described in a final premium audit billing issued by an insurer to the insured, pursuant to ORS 737.318(3)(d) and 737.505(4) to (5). If an insured wants to request a hearing, then the insured must send a written request for a hearing to the Insurance Division. The Insurance Division must receive the request not later than the 60th day after the insured received the final premium audit

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billing. For the purpose of determining the date of receipt of a final premium audit billing sent to the insured by mail when the receipt date is unknown to the insured, the date of receipt shall be presumed to be three days after the postmark date, or three days after the date of mailing, if the postmark is illegible or unavailable.

(2) If the Insurance Division timely receives the insured's request for a hearing, the Insurance Division will send or make available to the insured a petition form. In the petition, the insured must explain why it believes the billing is incorrect and describe the actions the insured wants the director to take to correct the matter. The petition, along with a complete copy of the final premium audit billing, must be received by the Insurance Division not later than the 60th day after the date the Insurance Division received the insured's request for a hearing.

(3) For the purposes of computing time periods specified in sections (1) and (2) of this rule, ORS 174.120 and 174.125 shall govern.

(4) If the Insurance Division determines that the insured is entitled to a hearing, the Insurance Division shall notify the insured and the insurer, and also the bureau if the statements in the petition of the insured address the use of the bureau rating system, that the insured is entitled to a hearing and the Insurance Division has requested the Office of Administrative Hearings to schedule and, if necessary, conduct a hearing. The Insurance Division shall forward the insured's request for a hearing and petition to the insurer, and, if helpful to decide the matter, the bureau.

(5) An insured may request the director to stay the collection effort of an insurer on a final premium audit billing during the pendency of an insured's request for a hearing, pursuant to ORS 737.505(5). The application must allege and show good cause as required in ORS 737.505 by providing an explanation of the alleged errors for which the insured is requesting relief. The stay must apply only to the disputed amount. The director shall not decide whether to grant or deny the insured's request for a stay until after the Insurance Division has timely received the insured's request for a hearing and completed petition and determined that the insured is entitled to a hearing. The director may delegate to the Office of Administrative Hearings the authority to grant or deny the insured's request for a stay.

(6) Subject to the exception provided in section (7) of this rule, for purposes of ORS 737.318(3)(d) and 737.505(4) to (5), OAR 836-043-0110 and this rule, the final premium audit billing of an insured is the first document issued by the insurer to the insured after the insurer's initial or revised audit of the insured that contains all of the elements specified in this section. Failure by the insurer to include any of the elements renders the billing incomplete as a final premium audit billing for purposes of ORS 737.318 and 737.505 and renders the debt uncollectible until all elements are included. An invoice issued by an insurer based on a payroll report without having performed an audit is not considered a final premium audit billing. The elements are as follows:

(a) The results of the audit;

(b) If the final premium audit billing is based on an initial audit, the amount of the difference between the estimated standard premium reported by the insured for the entire policy period and the final standard premium calculated after the policy period is over, pursuant to the audit;

(c) If the final premium audit billing is based on a revised audit, the amount of the difference between the final standard premium calculated after the policy period is over, pursuant to the initial audit, and the final standard premium, calculated pursuant to the revised audit;

(d) If the final premium audit billing is based in whole or in part on a determination by the insurer that one or more persons are employees rather than independent contractors, then the name of each person, a description of the positions or tasks of each named person, and the basis for the determination;

(e) The notice required by ORS 737.318(3)(d) and OAR 836-043-0110; and

(f) The front page of the billing bears the title "Final Premium Audit Billing."

(7) If, after performing an audit of an insured, the insurer issues both a statement of the insured's account and a letter to the insured that explains the audit and states the amount of the difference, the statement of account and the letter together are considered to be the final premium audit billing and:

(a) The insurer may provide the notification required in ORS 737.318 and OAR 836-043-0110 either in the statement of account or in the letter; and

(b) If the statement of account and the letter are received separately, the 60-day period within which the director must receive the request for a hearing begins upon receipt by the insured of the later-received document.

(8) Unless otherwise provided by statute or rule, the director shall dismiss an insured's request for a hearing if:

(a) The director does not receive the insured's written request for a hearing within the required timeframe.

(b) The director does not receive the insured's completed petition within the required timeframe.

(c) The audit results in changes that affect a future policy period, but does not result in changes to the policy period audited.

(d) The director does not have jurisdiction in the matter, including, but not limited to, the following circumstances:

(A) The billing only addresses changes to the workers' compensation insurance coverage for an insured's employees who are not Oregon subject workers.

(B) The billing is based on an estimate of compensation paid by the insured to its employees who are Oregon subject workers and not on actual audit results.

(C) The billing is based on the assignment of an experience rating modification by the bureau, in accordance with the experience rating plan adopted under OAR 836-042-0015.

Stat. Auth.: ORS 731.244 & 737.318

Stats. Implemented: ORS 737.318 & 737.505

Hist.: ID 1-1988, f. & cert. ef. 1-20-88; ID 13-1988(Temp), f. & cert. ef. 7-27-88; ID 15-1988(Temp), f. & cert. ef. 9-2-88; ID 4-1989, f. & cert. ef. 2-28-89; ID 9-1990, f. 5-10-90, cert. ef. 6-1-90; ID 13-1998, f. & cert. ef. 9-23-98; ID 1-2000, f. & cert. ef. 2-10-00; ID 13-2012, f. 7-16-12, cert. ef. 1-1-13

836-043-0175

Statutory Authority; Purpose; Applicability

(1) OAR 836-043-0175 to 836-043-0185 are adopted by the Director of the Department of Consumer and Business Services pursuant to the provisions of ORS 737.310.

(2) The purpose of these rules is to prescribe minimum standards for notice by insurers to insureds regarding approved rate classifications.

(3) These rules apply to all authorized workers' compensation insurers and the State Accident Insurance Fund Corporation.

Stat. Auth.: ORS 731.244 & 737.310

Stats. Implemented: ORS 737.310

Hist.: ID 2-1988, f. & cert. ef. 1-20-88; ID 2-1992, f. 2-6-92, cert. ef. 2-15-92; ID 13-2012, f. 7-16-12, cert. ef. 1-1-13

836-043-0180

Definitions

As used in OAR 836-043-0175 to 836-043-0185 unless the context requires otherwise:

(1) "Bureau" means the licensed rating organization of this state for workers' compensation insurance.

(2) "Classification" means a grouping of insurance risks according to a classification system used by an insurer.

(3) "Classification System" means a schedule of classifications and a rule or set of rules used by an insurer for determining the classifications applicable to an insured.

(4) "Insurer" means any insurer authorized to transact workers' compensation insurance or the State Accident Insurance Fund Corporation.

(5) "Reclassification" means an addition or removal of a classification by an insurer to a policy for an insured when the previous classification is improper or inadequate.

(6) "Workers' Compensation Insurance" means insurance providing coverage for the obligations of an employer arising from illness or injury to workers whether such obligation is imposed by ORS Chapter 656, similar laws of the United States or agreement between states.

Stat. Auth.: ORS 731.244 & 737.310

Stats. Implemented: ORS 737.310

Hist.: ID 2-1988, f. & cert. ef. 1-20-88; ID 2-1992, f. 2-6-92, cert. ef. 2-15-92; ID 13-2012, f. 7-16-12, cert. ef. 1-1-13

836-043-0185

Insurer Classification Notice

(1) When an insurer issues a workers' compensation insurance policy to an insured for the first time, an insurer shall provide each insured a written rate classification notice describing the work activities of each classification assigned. This information may be delivered via electronic means, as provided for under ORS Chapter 84.

(2) The rate classification notice shall include the following information:

(a) The complete description for each classification assigned as contained in the insurers' classification system filed with and approved by the director;

(b) An adequate description of work activities for such classification as reviewed by the director;

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(c) One or more publications that include basic ratemaking and classification information and necessary records and reporting procedures for the division of payroll of an individual employee among classifications assigned as provided for under OAR 836-042-0060;

(d) An amendatory endorsement to the policy for reclassification assignments during the policy year as provided for under ORS 737.310(13).

(3) When an insurer provides the written rate classification notice required under ORS 737.310 (12) and (13), the notice must be given in the manner prescribed by section (2) of this rule.

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

Stat. Auth.: ORS 731.244, 737.310(12) & 737.310(13)

Stats. Implemented: ORS 737.310(12)

Hist.: ID 2-1988, f. & cert. ef. 1-20-88; ID 2-1992, f. 2-6-92, cert. ef. 2-15-92; ID 13-2012, f. 7-16-12, cert. ef. 1-1-13

Rule Caption: Adopting consumer disclosure requirement for individual and small employer health benefit plan rate filings.

Adm. Order No.: ID 14-2012

Filed with Sec. of State: 8-1-2012

Certified to be Effective: 8-1-12

Notice Publication Date: 7-1-2012

Rules Amended: 836-053-0471

Subject: This rule requires health insurers to include, as a component of a small employer or individual health benefit plan rate filing, a document containing, among other important disclosures, summary information breaking down the expenditure of premium contributions, and further breaking down expenditures on medical claims. The form is similar to a federal form that contains these and other disclosures and that are required for any requested rate increase above 10 percent. This rule requires insurers to submit the state form as part of all rate filings for increases under 10 percent. If the increase is over 10 percent, the insurer may submit a copy of the federal form to meet the requirement.

Rules Coordinator: Sue Munson—(503) 947-7272

836-053-0471

Required Materials for Rate Filing for Individual or Small Employer Health Benefit Plans

(1) Every insurer that offers a health benefit plan for small employers or an individual health benefit plan covering an Oregon resident shall file the information specified in subsections (2) and (3) of this rule when the insurer files with the director a schedule or table of premium rates for approval.

(2) A schedule or table of base premium rates filed under subsection (1) of this section shall include sufficient information and data to allow the director to consider the factors set forth in ORS 743.018(4) and (5). The filing shall include all of the following separately set forth and labeled as indicated:

(a) A filing description.

(A) Label: FILING DESCRIPTION.

(B) The filing description shall be submitted in the form of a cover letter. The filing description must provide a summary of the reasons an insurer is requesting a rate change and the minimum and maximum rate impact to all groups or members affected by the rate change, including the anticipated change in number of enrollees if the proposed premium rate is approved. The description also must include the name and contact information of the filer and a description of any significant changes the insurer is making to the following:

(i) Rating factor changes;

(ii) Plan modification or discontinuance; and

(iii) Benefit or administration changes.

(b) A rate filing summary.

(A) Label: RATE FILING SUMMARY.

(B) This summary must explain the filing in a manner that allows consumers to understand the rate change. The summary shall be in accordance with the form established in Exhibit 1 or Exhibit 2 to this rule. The information contained in this summary must match the information provided elsewhere in the filing.

(c) A consumer disclosure summarizing the rate filing.

(A) Label: CONSUMER DISCLOSURE ABOUT RATE FILING.

(B) This information shall be provided in a document corresponding in form and content to the form labeled "Consumer Disclosure about Health Insurance Rate Filing" provided by the director and set forth on the website

for the Insurance Division of the Department of Consumer and Business Services at www.insurance.oregon.gov.

(d) An actuarial memorandum.

(A) Label: ACTUARIAL MEMORANDUM.

(B) This memorandum must include all of the following:

(i) A description of the benefit plan and a quantification of any changes to the benefit plan as set forth in paragraph (2)(j) of this rule.

(ii) A discussion of assumptions, factors, calculations, rate tables and any other information pertinent to the proposed rate.

(iii) A description of any changes in rating methodology supported by sufficient detail to permit the department to evaluate the effect on rates and the rationale for the change.

(iv) The range of rate impact to groups or members including the distribution of the impact on members.

(v) Signature of and date that a qualified actuary reviewed the rate filing.

(e) Rate tables and factors.

(A) Label: RATE TABLES AND FACTORS.

(B) The insurer must include base and geographic average rate tables, identify factors used by the insurer in developing the rates and explain how the information is used in the development of rates. The rate tables and factors must include a table of rating factors reflecting ages of employees and dependents and geographic area. If base rates are not provided by rating tier, the rate tier tables also must be provided.

(C) The document must indicate whether the rate increases are the same for all policies. The document must clearly explain how the rate increases apply to different policies including the entire distribution of rate changes and the average of the highest and lowest rates resulting from the application of other rating factors.

(D) The geographic average rate table must include family type, geographic area and the average of the highest and lowest rates resulting from the application of other rating factors.

(E) The rate tables must contain at a minimum the base rates for each available plan. This document must include information that would permit the determination of rates for each benefit plan, each age bracket, each geographic area, each rate tier and any other variable used to determine rates. If the rates vary more frequently than annually, separate rates must either be provided for each effective date of change or information provided to permit their determination and the justification for such variation in rates.

(F) If the filing is for a health benefit plan issued to a small employer, the insurer also shall include the following factors if applied by the insurer as allowed under ORS 743.737:

(i) Contribution;

(ii) Level of participation;

(iii) Tobacco usage;

(iv) Participation in wellness programs;

(v) Duration of coverage in force; and

(vi) Any adjustment to reflect expected claims experience, which may not exceed the limits established in ORS 743.737.

(f) Plan relativities.

(A) Label: PLAN RELATIVITIES.

(B) This document must explain the presentation of rates for each benefit plan, explain the methodology of how the benefit plan relativities were developed and demonstrate the comparison and reasonableness of benefits and costs between plans.

(g) A description of the development of the proposed rate change or base rate.

(A) Label: DEVELOPMENT OF RATE CHANGE OR BASE RATE.

(B) This document is the core of the rate filing and must explain how the proposed rate or rate change was calculated. The calculation must be based on generally accepted actuarial rating principles for rating blocks of business and should provide sufficient detail to allow reasonable review. The development of rate change or base rate also should include actual or expected membership information and identify a proposed loss ratio for the rating period. A rate renewal calculation must begin with an assumed experience period of at least one year ending within the immediately preceding year, or, if more recent data is available for one-year period that concludes with the most recent period for which data is available. The total premium earned during the experience period should be adjusted to yield premium adjusted to current rates. A projection is made of premiums and claims for the period during which the proposed rates are to be effective. Claims for a renewal projection should reflect an assumed medical trend rate as well as other expected changes in claims cost, including but not limited to the impact of benefit changes or provider reimbursement.

(h) Trend information and projection.

ADMINISTRATIVE RULES

(A) Label: TREND INFORMATION AND PROJECTION.

(B) This document must describe how the assumed future growth of medical claims (the medical trends rate) was developed based on generally accepted actuarial principles. The trend document also must include historical monthly average claim costs for at least the immediately preceding two years when applicable. If the carrier's structure does not include claims cost, the carrier shall submit this information based on allocated costs.

(i) Premium retention.

(A) Label: PREMIUM RETENTION.

(B) This document must include a description of retention. As used in this paragraph, "retention" means the amount to be retained by the insurer to cover all of the insurer's non-claim costs including expected profit or contribution to surplus for a nonprofit entity. Retention must be reported on a percentage of premium basis.

(j) Worksheet for Individual Health Benefit Plan Rates (if applicable).

(A) Label: WORKSHEET FOR INDIVIDUAL HEALTH BENEFIT PLAN RATES.

(B) This standardized schedule for individual health benefit plan rates must include earned premiums, incurred claims and membership totals for the past five years on an annual basis as well as accumulated to the current date. The same elements must be projected and reported for each of the next three years. If an active life reserve has been established, that reserve also should be included.

(k) Changes to covered benefits or health benefit plan design.

(A) Label: COVERED BENEFIT OR PLAN DESIGN CHANGES.

(B) This document must explain benefit and administrative changes with rating impact, including covered benefit level changes, member cost-sharing changes, elimination of plans, implementation of new plan designs, provider network changes, new utilization or prior authorization programs, changes to eligibility requirements, changes to exclusions, or any other change in the plan offerings that impacts costs or coverage provided.

(l) Changes in the insurer's health care cost containment and quality improvement efforts.

(A) Label: COST CONTAINMENT AND QUALITY IMPROVEMENT EFFORTS.

(B) This document must explain any changes the insurer has made in its health care cost containment efforts and quality improvement efforts since the insurer's last rate filing for the same category of health benefit plan. Significant new health care cost containment initiatives and quality improvement efforts should be described and an estimate made of potential savings together with an estimated cost or savings for the projection period. The insurer shall provide information about whether the cost containment initiatives reduce costs by eliminating waste, improving efficiency, by improving health outcomes through incentives, or by elimination or reduction of covered services or reduction in the fees paid to providers for services.

(m) Information about the insurer's financial position.

(A) Label: INSURER'S FINANCIAL POSITION.

(B) This document must include information about the insurer's financial position, including but not limited to profitability, surplus, reserves and investment earnings. This document also must include a discussion of whether the proposed change in the premium rate is necessary to maintain the insurer's solvency or to maintain rate stability and prevent excessive rate increases for the line of business in the future. In providing this information, the insurer may reference documents filed with the department as part of the annual statement or other requisite filings. The referenced material must be available to the public.

(n) Certification of compliance.

(A) Label: CERTIFICATION OF COMPLIANCE.

(B) The certificate must comply with OAR 836-010-0011 and must certify that the filing complies with Oregon statutes, rules, product standards and filing requirements.

(o) Third party filer's letter of authorization (if applicable).

(A) Label: THIRD PARTY AUTHORIZATION.

(B) If the filing is submitted by a person other than the insurer, the filing must include a letter from the insurer that authorizes the third party to submit and correspond with the department on matters pertaining to the rate filing.

(3)(a) For each schedule or table of premium rates filed, the insurer shall separately include a statement of administrative expenses for the line of business and complete the chart displaying the five-year trend of administrative costs included as Exhibit 3 to this rule. The chart must break down the insurer's administrative expenses relating to:

(A) Salaries, wages, employment taxes and other benefits;

(B) Commissions;

(C) Cost depreciations including but not limited to depreciation for equipment, software or furniture;

(D) Rent or occupancy expenses;

(E) Marketing and advertising;

(F) General offices expenses, including but not limited to sundries, supplies, telephone, printing and postage;

(G) Third party administration expenses or fees or other group service expense or fees;

(H) Legal fees and expenses and other professional or consulting fees;

(I) Other taxes, licenses and fees; and

(J) Travel expenses.

(b) The statement of administrative expenses required under this subsection must include:

(A) As set forth in Exhibit 3, a statement of administrative expenses on a per member per month basis set forth separately for claim-related and non-claim expenses;

(B) As set forth in Exhibit 3, an explanation of the basis for any proposed premium rate increase or decrease related to changes in the administrative expenses of the insurer; and

(C) An explanation of how the insurer allocates administrative expenses for the filed line of business.

(4)(a) Within 10 days after receiving a proposed table or schedule of premium rate filing, the director shall:

(A) Determine whether the proposed table or schedule of premium rate filing is complete. If the director determines that a filing is complete, the director shall review the proposed schedule or table of premium rate in accordance with ORS 742.003, 742.005, 742.007 and 743.018. If the director determines that the filing is not complete, the director shall notify the insurer in writing that the filing is deficient and give the insurer an opportunity to provide the missing information.

(B) If the filing is complete, the director shall open the 30-day public comment period. For purposes of determining the beginning of the public comment period, the date the carrier files a proposed schedule or table of premium rates shall be the date the director determines that the filing is complete.

(b) The director shall issue a decision approving, disapproving or modifying the proposed table or schedule of premium rate filing within 10 days after the close of the public comment period.

(5) The director shall post on the Insurance Division website all materials submitted under subsections (2) and (3) of this rule at the beginning of the public comment period.

Stat. Auth.: ORS 731.244, 743.018, 743.019 & 743.020

Stats. Implemented: ORS 742.003, 742.005, 742.007, 743.018, 743.019, 743.020, 743.730 & 743.767

Hist.: ID 5-2010, f. & cert. ef. 2-16-10; ID 14-2012, f. & cert. ef. 8-1-12

Rule Caption: Adoption of Revisions to Workers' Compensation Statistical Plan.

Adm. Order No.: ID 15-2012

Filed with Sec. of State: 8-9-2012

Certified to be Effective: 1-1-13

Notice Publication Date: 7-1-2012

Rules Amended: 836-042-0040, 836-042-0043, 836-042-0045

Subject: The agency proposes to amend these rules to adopt the revised 2008 edition of the Statistical Plan for Workers' Compensation and Employers Liability Insurance (Statistical Plan), as filed by the National Council on Compensation Insurance (NCCI). ORS 737.225(4) requires the director to prescribe the statistical plan to be used by workers' compensation insurers to report statistics. The revised Statistical Plan:

Changes the methods for reporting non-compensable and fraudulent claims;

Changes the definition of permanent partial injuries to exclude references to temporary injury for accidents occurring on or after January 1, 2013;

Eliminates the hard copy reporting option for reports received on or after January 1, 2013;

Eliminates the option to group medical-only claims for reporting purposes for policies effective on or after January 1, 2013;

Adds a new Cause of Injury Code (Gunshot – Code 93); and

Clarifies existing rules.

Rules Coordinator: Sue Munson—(503) 947-7272

ADMINISTRATIVE RULES

836-042-0040

Statutory Authority; Purpose and Effective Date

Statutory Authority; Purpose and Effective Date

(1) OAR 836-042-0040 through 836-042-0045 are adopted by the director pursuant to the requirements of ORS 737.225(4).

(2) The purpose and applicability of these rules is to prescribe a uniform statistical plan for workers' compensation insurance statistics as required by ORS 737.225(4).

(3) OAR 836-042-0040 through 836-042-0045 apply to all reporting of workers' compensation insurance statistics, as therein defined and prescribed provided that nothing contained herein shall restrict the reporting of statistical, financial, or accounting data necessary to fulfill the requirements of ORS Chapter 737.

Stat. Auth.: ORS 731.244 & 737.225

Stats. Implemented: ORS 737.225

Hist.: IC 3-1982, f. 1-27-82, ef. 7-1-82; ID 15-2012, f. 8-9-12, cert. ef. 1-1-13

836-042-0043

Definition

As used in OAR 836-042-0040 through 836-042-0045, unless the context requires otherwise: "Workers' compensation insurance" means insurance providing coverage for the obligations of an employer arising from illness or injury to workers whether such obligation is imposed by ORS Chapter 656, similar laws of the United States, or agreements between states.

Stat. Auth.: ORS 731.244 & 737.225

Stats. Implemented: ORS 737.225

Hist.: IC 3-1982, f. 1-27-82, ef. 7-1-82; ID 15-2012, f. 8-9-12, cert. ef. 1-1-13

836-042-0045

Workers' Compensation Statistical Plan

(1) The Statistical Plan for Workers Compensation and Employers Liability Insurance, 2008 Edition, filed by the National Council on Compensation Insurance and approved by the director to become effective January 1, 2009, and revisions approved by the director to become effective January 1, 2013, is prescribed as the statistical plan for workers' compensation and employers liability insurance.

(2) Manuals or guides referenced within the statistical plan designated in section (1) of this rule are not prescribed by this rule.

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

Stat. Auth.: ORS 731.244 & 737.225

Stats. Implemented: ORS 737.225

Hist.: IC 3-1982, f. 1-27-82, ef. 7-1-82; IC 10-1982, f. 6-23-82, ef. 7-1-82; IC 2-1983, f. 3-16-83, ef. 4-1-83; IC 5-1983, f. 6-30-83, ef. 7-1-83; IC 4-1984, f. 9-28-84, ef. 10-1-84; ID 2-1998, f. & cert. ef. 2-6-98; ID 15-2001, f. 12-19-01, cert. ef. 1-1-02; ID 7-2003, f. 12-3-03 cert. ef. 1-1-04; ID 5-2005, f. & cert. ef. 4-7-05; ID 10-2006, f. & cert. ef. 6-9-06; ID 3-2008, f. & cert. ef. 4-7-08; ID 13-2008(Temp), f. 8-14-08, cert. ef. 9-1-08 thru 1-1-09; ID 20-2008, f. 12-30-08, cert. ef. 1-1-09; ID 15-2012, f. 8-9-12, cert. ef. 1-1-13

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Department of Energy Chapter 330

Rule Caption: Permanent rules to administer the alternative fuel vehicle infrastructure tax credit within the Energy Incentives Program.

Adm. Order No.: DOE 9-2012

Filed with Sec. of State: 7-31-2012

Certified to be Effective: 8-1-12

Notice Publication Date: 6-1-2012

Rules Adopted: 330-220-0000, 330-220-0010, 330-220-0020, 330-220-0030, 330-220-0040, 330-220-0050, 330-220-0070, 330-220-0080, 330-220-0090, 330-220-0100, 330-220-0150

Rules Repealed: 330-220-0000(T), 330-220-0010(T), 330-220-0020(T), 330-220-0030(T), 330-220-0040(T), 330-220-0050(T), 330-220-0070(T), 330-220-0080(T), 330-220-0090(T), 330-220-0100(T), 330-220-0150(T)

Subject: These rules provide the operating framework for the alternative fuel vehicle infrastructure tax credit within Energy incentives Program created by HB 3672 (2011) and amended by HB 4079 (2012). The rules include the application process, allocation of tax credit within funding limits and issuance of tax credits.

The department engaged an advisory committee to provide comments and feedback on the proposed rules. The committee met on April 17, 2012 and May 10, 2012. A public hearing was held on June 26, 2012.

Rules Coordinator: Kathy Stuttaford—(503) 373-2127

330-220-0000

Applicability of Rules in OAR 330, division 220

These rules implement the incentives program for alternative fuel vehicle infrastructure projects established in ORS 315.336 and ORS 469B.320 to 469B.347. The rules also provide procedures for submission, agency review and selection of alternative fuel vehicle infrastructure projects for preliminary and final certification of tax credits.

Stat. Auth.: ORS 315.336 & 469B.320 - 469B.347

Stats. Implemented: ORS 315.336 & 469B.320 - 469B.347

Hist.: DOE 2-2012(Temp), f. & cert. ef. 2-7-12 thru 8-3-12; DOE 9-2012, f. 7-31-12, cert. ef. 8-1-12

330-220-0010

Definitions

For the purposes of this division, the following definitions apply:

(1) "Acquisition" means installation or construction of an alternative fuel vehicle infrastructure project.

(2) "Alternative Fuel" means 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, compressed natural gas, liquefied natural gas, liquefied petroleum gas (propane), renewable diesel, butanol 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 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.

(3) "Alternative fuel vehicle infrastructure project" has the meaning given in ORS 469B.320.

(4) "Applicant" means a person who has applied for or who has received a preliminary certificate for a transportation energy incentives program tax credit.

(5) "Certified cost" means the cost certified in the final certification.

(6) "Cost" means the capital expenditures to acquire, erect, design, build, convert, or install an alternative fuel vehicle infrastructure project.

(7) "Department" means the Oregon Department of Energy.

(8) "Director" means the director of the department.

(9) "Opportunity period" means the timeframe specified in an Opportunity Announcement for the department to accept applications for alternative fuel vehicle infrastructure projects.

(10) "Qualifying project cost" means the amount of the alternative fuel vehicle infrastructure project's cost that may be eligible for tax credits.

(11) "Total project cost" means all costs directly associated with an alternative fuel vehicle infrastructure project, including ineligible costs.

Stat. Auth.: ORS 315.336 & 469B.320 - 469B.347

Stats. Implemented: ORS 315.336 & 469B.320 - 469B.347

Hist.: DOE 2-2012(Temp), f. & cert. ef. 2-7-12 thru 8-3-12; DOE 9-2012, f. 7-31-12, cert. ef. 8-1-12

330-220-0020

Opportunity Announcement

(1) The department will announce the availability of tax credits for alternative fuel vehicle infrastructure projects by issuing an Opportunity Announcement.

(2) The department will continually monitor the allocation of tax credits to ensure that the total amount of potential tax credits does not exceed the tax credit cap specified in ORS 469B.344.

(3) If the cumulative total of all tax credits awarded under the Opportunity Announcement is less than the total amount of tax credits available, the department may reallocate the balance to a future Opportunity Announcement.

(4) The Opportunity Announcement will include the following information:

(a) Objectives for the opportunity period;

(b) The amount of tax credits available;

(c) Application requirements, as defined in OAR 330-220-0050;

(d) Dates of the application opportunity period;

(e) Instructions and directions to the required application forms and materials;

(f) Minimum technical standards;

(g) The process the department will use to allocate tax credits; and

(h) Other information the department considers necessary.

Stat. Auth.: ORS 315.336 & 469B.320 - 469B.347

Stats. Implemented: ORS 315.336 & 469B.320 - 469B.347

ADMINISTRATIVE RULES

Hist.: DOE 2-2012(Temp), f. & cert. ef. 2-7-12 thru 8-3-12; DOE 9-2012, f. 7-31-12, cert. ef. 8-1-12

330-220-0030

Preliminary Certification Application

(1) Any person may apply for a preliminary certification by submitting a complete preliminary certification application. The application must meet requirements provided by applicable statutes, these rules and the current Opportunity Announcement.

(a) The application must be in the form specified in the Opportunity Announcement and these rules.

(b) An applicant must submit a complete application during the opportunity period. For the purposes of this rule, the department considers an application "submitted" when the department receives the application. The department will not process applications received outside of an opportunity period.

(2) The application must be accompanied by the application fee specified in these rules. The department will not process applications received without fee payment.

(3) The application must include the following information, unless the department specifies otherwise in the Opportunity Announcement.

(a) The name of the applicant.

(A) If the applicant is a partnership, joint venture or association, the application must include the names of each person participating in the partnership, joint venture or association. The department may use this information to ensure compliance with ORS 469B.329.

(B) If the applicant is a corporation or limited liability company, the application must include the name of the corporation or LLC and its parent corporations, members and any close affiliates or subsidiaries. The department may use this information to ensure compliance with ORS 469B.329.

(C) If the applicant is a public or governmental entity, the application must include written authorization from the entity's governing body allowing submission of the application.

(b) The name, address, email address and telephone number of the responsible party for the applicant.

(c) The applicant's federal tax identification number or social security number, which may be shared with the Oregon Department of Revenue to facilitate the administration of state tax law.

(d) A statement verifying that the applicant will be the owner, contract purchaser or lessee of the alternative fuel vehicle infrastructure project at the time of acquisition of the project.

(e) A description of the personnel and teams that will be working on project development, implementation and operation.

(f) If the applicant has received final certification of tax credits or payment of grants issued by the department within the last 5 years, the application must contain a statement affirming the operational status of the projects awarded such grants or tax credits.

(g) The location of the alternative fuel vehicle infrastructure project.

(h) A statement explaining the amount by which use of the alternative fuel vehicle infrastructure project will displace petroleum fuel.

(i) A detailed description of the alternative fuel vehicle infrastructure project including:

(A) Information that demonstrates how the project will be technically feasible and how the project will operate for at least five years as represented in the application. This may require documentation in addition to the application form.

(B) A description of proposed fueling systems, the estimated number of alternative fuel vehicles that will use the proposed station, the type of alternative fuel that will be dispensed and the expected annual amount that will be dispensed.

(C) The expected operational life of the alternative fuel vehicle infrastructure project.

(j) A statement of compliance with applicable state and local regulations and that the applicant will obtain required licenses and permits.

(k) The number and type of new jobs that will be created by the alternative fuel vehicle infrastructure project and the number of existing jobs that will be sustained throughout construction, installation and operation of the project. Job estimates should be submitted in hours. These hours must directly relate to the alternative fuel vehicle infrastructure project.

(l) The anticipated total project cost of the alternative fuel vehicle infrastructure project.

(m) The amount of anticipated or received incentives directly related to the alternative fuel vehicle infrastructure project.

(n) A project schedule and project management plan.

(o) A description of the applicant's financing plan for the alternative fuel vehicle infrastructure project including:

(A) Construction financing;

(B) Startup costs; and

(C) Pro forma financial statement showing the anticipated operating revenues and expenses of the alternative fuel vehicle infrastructure project during the first three years of operation.

(p) The dollar amount of tax credit requested by the applicant.

(q) If the applicant has already started acquisition of the alternative fuel vehicle infrastructure project, a written description of the special circumstances that rendered filing of an application prior to the start of acquisition unreasonable.

(r) Other information the department considers necessary.

Stat. Auth.: ORS 315.336 & 469B.320 - 469B.347

Stats. Implemented: ORS 315.336 & 469B.320 - 469B.347

Hist.: DOE 2-2012(Temp), f. & cert. ef. 2-7-12 thru 8-3-12; DOE 9-2012, f. 7-31-12, cert. ef. 8-1-12

330-220-0040

Application Fees

The department adopts the following schedule of fees as provided by ORS 469B.326. All fee payments are non-refundable, despite the results of the department's review.

(1) Applicants must submit a fee of \$200 with their preliminary certification application.

(2) Applicants selected for technical review will be required to pay an additional technical review fee prior to that review. The fee amount is equal to the qualifying project cost multiplied by 0.55 percent.

(3) Applicants requesting amendments to preliminary certifications must submit a fee of \$300 with their amendment request.

(4) Applicants for final certification must submit with their application a final review fee. This fee amount is equal to the qualifying project cost multiplied by 0.5 percent. All applicants seeking final certification for a project are required to apply for final review and pay the final review fee.

(5) If the department is unable to complete a scheduled inspection due to actions by the applicant, the department will require the applicant to pay a re-inspection fee of \$400 before rescheduling the inspection.

(6) Applicants that choose to transfer their tax credit to a pass-through partner, pursuant to OAR 330-230-0110 to 330-230-0140, must pay a pass-through fee. The fee is due after a pass-through partner has been identified and before the department will issue a tax credit certificate.

(a) If the department assists the applicant in obtaining a pass-through partner, or partners, the fee for that assistance is 1.25 percent of the tax credit amount, up to \$25,000, plus \$100 per tax credit certificate issued.

(b) If the department does not assist the applicant in obtaining a pass-through partner, the fee is \$100 per tax credit certificate issued.

(7) Applicants issued a tax credit certificate that choose to have their tax credit certificate re-issued to a transferee must pay a transfer fee of \$200 plus \$100 per tax credit certificate issued.

(8) If an applicant fails to pay fees timely as required by this rule, the department may reject the pending application and discontinue the review.

Stat. Auth.: ORS 315.336 & 469B.320 - 469B.347

Stats. Implemented: ORS 315.336 & 469B.320 - 469B.347

Hist.: DOE 2-2012(Temp), f. & cert. ef. 2-7-12 thru 8-3-12; DOE 9-2012, f. 7-31-12, cert. ef. 8-1-12

330-220-0050

Completeness Review

(1) The department will determine that sufficient potential tax credits are available prior to beginning review of an application. The department may return applications, or offer a lower tax credit amount, if there are not sufficient potential tax credits available to award the amount of tax credit requested.

(2) The department will review all preliminary certification applications to determine whether:

(a) All sections of the application are complete.

(b) The applicant has submitted the required fee.

(c) The project meets the definition of an alternative fuel vehicle infrastructure project.

(d) The applicant is applying prior to the acquisition of the project.

(A) If the applicant applies after acquisition of the project has started, the department will deny the application unless a written explanation of the special circumstances is received and approved by the director.

(B) Failing to submit a timely application or not being selected for a grant or tax credit under this or prior department programs does not constitute special circumstances.

(e) The alternative fuel vehicle infrastructure project is located in Oregon.

ADMINISTRATIVE RULES

(3) If the department finds that the application is complete, the application will move into the technical review process and the department will notify the applicant in writing.

(4) The department will deny all incomplete applications and notify applicants in writing of the reason for denial of the application.

(5) The department considers the completeness review as a test; the decision to deny an incomplete application is not an action subject to review under ORS 183.

(6) If an applicant has not started acquisition of the alternative fuel vehicle infrastructure project, an applicant may apply again for the same project in the same or a future Opportunity Announcement by submitting a new application and fee. The department will not apply fees submitted with a previous application to future applications.

Stat. Auth.: ORS 315.336 & 469B.320 - 469B.347
Stats. Implemented: ORS 315.336 & 469B.320 - 469B.347
Hist.: DOE 2-2012(Temp), f. & cert. ef. 2-7-12 thru 8-3-12; DOE 9-2012, f. 7-31-12, cert. ef. 8-1-12

330-220-0070

Technical Review

Once the applicant has paid the technical review fee, the department will conduct a technical review of alternative fuel vehicle infrastructure projects advanced from the completeness review. If the applicant does not submit the required payment to the department within 21 calendar days of notification for technical review, the department may deny the application.

(1) Once the applicant has paid the technical review fee, the department will conduct a technical review of alternative fuel vehicle infrastructure projects advanced from the completeness review. If the applicant does not submit the required payment to the department within 21 calendar days of notification for technical review, the department may deny the application.

(2) The department will review the information provided in the application against industry standards to determine whether the project is financially and technically feasible and should operate in accordance with the representations made by the applicant.

(3) To be eligible, the alternative fuel vehicle infrastructure project must meet the following requirements:

(a) The project must meet the requirements of the statutes, these rules and the Opportunity Announcement.

(b) The applicant must be the owner, contract purchaser or project lessee at the time of the project's acquisition.

(c) The applicant must be a trade, business or rental property owner with a business site in Oregon or be an Oregon non-profit organization, tribe or public entity that partners with an Oregon business or resident. The applicant may not restrict membership, sales or service on the basis of race, color, creed, religion, national origin, sexual preference or gender.

(d) A project located at a residential property must be rental property. A rental property must meet laws related to rental accommodations and contain 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.

(e) If the project is a Level 1, 120 volt AC or similar, charging station for electric vehicles, the charger must provide an average of at least 12 hours of connection time per use. Applicants must provide anticipated connection and charging patterns as part of the project description section of the application.

(4) The department will review the alternative fuel vehicle infrastructure project cost for eligibility. The application must document total project cost by providing a list of itemized costs.

(a) Qualifying project costs include:

(A) The cost of components of the alternative fuel vehicle infrastructure project, including all materials and supplies needed for the erection, construction, installation or acquisition of the proposed alternative fuel vehicle infrastructure project;

(B) The costs to extend or increase the capacity of utility connections are only eligible if located within the property lines of the project location. Qualifying costs for utility connections for electric vehicle charging stations are also limited by location to:

(i) \$5,000 for a Level 1, 120 volt AC or similar, electric vehicle charging station.

(ii) \$15,000 for a Level 2, 240 volt AC or similar, electric vehicle charging station.

(iii) \$30,000 for a DC Fast Charger, or similar, electric vehicle charging station.

(C) Fees to design or engineer the alternative fuel vehicle infrastructure project;

(D) The cost of title searches, escrow fees, permit and license fees, excluding fees required by this rule, and shipping;

(E) Cost of work performed by the applicant's employees or independent contractors if the following conditions are met:

(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 alternative fuel vehicle infrastructure project;

(iii) Project management and other similar costs may only account for up to 15 percent of the qualifying project costs; and

(iv) Costs for employees' or contractors' work on the alternative fuel vehicle infrastructure project must be detailed and documented as to specific tasks, hours worked and compensation costs.

(F) Costs for legal counsel that are directly related to the development of an alternative fuel vehicle infrastructure project;

(G) Costs of training associated with the alternative fuel vehicle infrastructure project that is approved by the department; and

(H) Other costs the department determines should be included.

(b) Qualifying project cost does not include:

(A) Interest and warranty charges;

(B) Litigation or other operational-related legal fees and court costs;

(C) Intellectual property search, application and filing payments;

(D) Donated, in-kind or volunteer labor and materials;

(E) Administrative costs to apply for grants, loans, tax credits or other similar funding for an alternative fuel vehicle infrastructure project including, but not limited to the tax credit review charge, costs associated with the creation and development of the certified public accountant attestation letter and costs associated with securing a pass-through partner for the project;

(F) Routine operational, routine maintenance and repair costs associated with the alternative fuel vehicle infrastructure project;

(G) The purchase of alternative fuel vehicles or the conversion of vehicles to use alternative fuels;

(H) Expenses that are deemed not to have a benefit to the alternative fuel vehicle infrastructure project, including but not limited to, fines, penalties, entertainment, food, alcohol, gifts and lobbying; and

(I) Other costs the department determines should be excluded.

(c) The department may do inspections to verify qualified project costs.

(d) An applicant may incur qualifying project costs prior to the submission of an application, but may not begin acquisition.

(5) If an application does not include all information needed to complete the technical review, the department may notify the applicant in writing, requesting additional information. If the department does not receive the requested information within 30 calendar days of the date of the notice, the department may deny the application.

(6) The department will notify the applicant in writing if the department denies the application during the technical review.

Stat. Auth.: ORS 315.336 & 469B.320 - 469B.347

Stats. Implemented: ORS 315.336 & 469B.320 - 469B.347

Hist.: DOE 2-2012(Temp), f. & cert. ef. 2-7-12 thru 8-3-12; DOE 9-2012, f. 7-31-12, cert. ef. 8-1-12

330-220-0080

Preliminary Certification

(1) The department may issue a preliminary certificate if it determines that the alternative fuel vehicle infrastructure project is technically feasible and capable of operating in accordance with the representations made by the applicant.

(2) The department may issue a tax credit that is less than the amount requested in the alternative fuel vehicle infrastructure project application, pursuant to statute and applicable rules.

(3) The sum of any incentives, grants, credits, other public funds and the alternative fuel vehicle infrastructure incentive may not exceed total project costs.

(4) The preliminary certificate will state the qualifying project cost, the potential amount of allowable tax credit and any conditions for claiming the credit.

(5) The applicant must report on the project's status beginning one year from the issuing date of the preliminary certificate, unless the department has already received the project's application for final certification. The applicant must continue to submit project progress reports to the department every six months after the initial report until the department

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receives the project's application for final certificate. Failure to submit reports may result in revocation of the preliminary certification or denial of the final certification.

(6) A preliminary certification remains valid for a period of three calendar years after the date the department issues the preliminary certification or until the sunset of the program, whichever comes first.

Stat. Auth.: ORS 315.336 & 469B.320 - 469B.347
Stats. Implemented: ORS 315.336 & 469B.320 - 469B.347
Hist.: DOE 2-2012(Temp), f. & cert. ef. 2-7-12 thru 8-3-12; DOE 9-2012, f. 7-31-12, cert. ef. 8-1-12

330-220-0090

Amendments to Preliminary Certifications

(1) The applicant must notify the department of any changes to the project proposal as described in the application for preliminary certification.

(2) An applicant must declare all changes to the alternative fuel vehicle infrastructure project by the time the department receives the final certification application. Undeclared changes found in the application for final certification or through later inspection may result in denial of final tax credit certification.

(3) Applicants must submit an amendment request to the director to amend an alternative fuel vehicle infrastructure preliminary certification.

(4) Applicants must submit amendments on the form specified in the Opportunity Announcement.

(5) The applicant must demonstrate that the alternative fuel vehicle infrastructure project, with the proposed change, would continue to be technically feasible, would operate as represented and would remain in operation for at least five years. The applicant has the responsibility to provide an amendment request with complete technical documentation that will support a case for the proposed amendment. The department may deny amendments submitted without such justification.

(6) An amendment may result in a reduction in tax credit, but may not increase the tax credit amount certified in the preliminary certificate.

(7) If an amendment request does not include all information needed to complete the review, the department may provide the applicant a written request for additional information. If the applicant does not provide the requested information to the department within 30 calendar days of the date of the notice, the department may deny the request.

(8) Requests for amendments must include payment of the appropriate fee. The department may accept non-substantive changes, such as change of contact information, without payment of the fee.

(9) The department will decide whether to approve the request.

(a) If approved, the department will draft an amended preliminary certification, which may contain new or amended conditions and requirements.

(b) If denied, the department will notify the applicant in writing. The notice will include the reasons for the denial of the amendment request.

Stat. Auth.: ORS 315.336 & 469B.320 - 469B.347
Stats. Implemented: ORS 315.336 & 469B.320 - 469B.347
Hist.: DOE 2-2012(Temp), f. & cert. ef. 2-7-12 thru 8-3-12; DOE 9-2012, f. 7-31-12, cert. ef. 8-1-12

330-220-0100

Final Certification

(1) An alternative fuel vehicle infrastructure project must be completed and operational prior to applying for a final certification. An applicant must submit amendments to preliminary certifications before or with the final certification application.

(2) The department will not review applications for final certification received after the expiration of the preliminary certification or without the final review fee.

(3) The applicant must submit the application on the current department-issued form and all sections must be completed.

(4) The department will review the application, and may conduct an inspection, to verify:

(a) That the alternative fuel vehicle infrastructure project is complete and operating.

(b) Compliance with statute, rules and the preliminary certification.

(c) Compliance with state and local regulations, including required licenses and permits.

(d) The lease or rental agreement if the infrastructure is leased or rented.

(e) That applicable fuel taxes and property taxes for the project location are current.

(f) That the alternative fuel vehicle infrastructure will be maintained and operated for at least five years.

(g) The total project costs for acquisition of the project were paid in full.

(A) A certified public accountant must attest to the total project cost, or if the total project cost is less than \$50,000, the applicant must submit copies of receipts for the project.

(i) The certified public accountant cannot be the project owner, nor permanently employed by the project owner or pass-through partner.

(ii) Receipts for proof of payment may include canceled checks, credit card statements, binding contracts and agreements.

(B) The application must demonstrate that contract and loan agreements directly related to the project are not in default.

(C) The application must include information regarding all incentives, regardless of source, applied for or received in connection with the project.

(h) Other information the director considers necessary.

(5) If an application for final certification does not include all information needed to complete the final certification review, the department may ask the applicant, in writing, to submit additional information. If the department does not receive the requested information within 30 calendar days of the date of the notice requesting additional information, the department may deny the application for final certification.

(6) The department will notify the applicant, in writing, if the department denies the application during final review. An applicant may submit a written request for reconsideration within 60 days after the department issues a decision on a final certification.

(7) The department will issue a final certification upon verification that the alternative fuel vehicle infrastructure project is complete and that the project complies with statute, rules, the preliminary certification and any other applicable requirements.

(a) The department may issue a credit up to 35 percent of the certified project cost. The department may certify a lesser tax credit amount than approved in the preliminary certificate, but may not certify a greater amount.

(b) The sum of any incentives, grants, credits or other public funds and the tax credit may not exceed total project costs.

(8) The department will send a written notification to applicants of its decision whether to issue a final certification within 60 days from the date the department receives a complete application for final certification. If more than 60 days pass from the date the department receives a complete application and the applicant has not received a written decision from the department, then the application is rejected and no further action will be taken. Any time required to provide additional information as provided in OAR 330-220-0100(5) is not included in this 60 day period.

Stat. Auth.: ORS 315.336 & 469B.320 - 469B.347
Stats. Implemented: ORS 315.336 & 469B.320 - 469B.347
Hist.: DOE 2-2012(Temp), f. & cert. ef. 2-7-12 thru 8-3-12; DOE 9-2012, f. 7-31-12, cert. ef. 8-1-12

330-220-0150

Compliance and Pass-through

All participants in this program are subject to OAR 330-230-0000 through OAR 330-230-0150.

Stat. Auth.: ORS 315.336 & 469B.320 - 469B.347
Stats. Implemented: ORS 315.336 & 469B.320 - 469B.347
Hist.: DOE 2-2012(Temp), f. & cert. ef. 2-7-12 thru 8-3-12; DOE 9-2012, f. 7-31-12, cert. ef. 8-1-12

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Rule Caption: Permanent rules to administer the renewable energy development grant within the Energy Incentives Program.

Adm. Order No.: DOE 10-2012

Filed with Sec. of State: 8-15-2012

Certified to be Effective: 8-15-12

Notice Publication Date: 6-1-2012

Rules Adopted: 330-200-0000, 330-200-0010, 330-200-0020, 330-200-0030, 330-200-0040, 330-200-0050, 330-200-0060, 330-200-0070, 330-200-0080, 330-200-0090, 330-200-0150

Rules Repealed: 330-200-0000(T), 330-200-0010(T), 330-200-0020(T), 330-200-0030(T), 330-200-0040(T), 330-200-0050(T), 330-200-0060(T), 330-200-0070(T), 330-200-0080(T), 330-200-0090(T), 330-200-0150(T)

Subject: These rules provide the operating framework for the renewable energy development grant within the Energy Incentives Program. The rules include the application process, prioritization of applications within funding limits and performance agreement conditions. In February 2012, the Department of Energy adopted temporary rules for the renewable energy development program

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created by HB 3672 (2011) and amended by HB 4079 (2012), this rulemaking repeals the temporary rules and implements permanent rules. Since filing the temporary rules, the department has issued a funding opportunity announcement, engaged an advisory committee to provide comments and feedback on the rules and held a public hearing.

Rules Coordinator: Kathy Stuttaford—(503) 373-2127

330-200-0000

Applicability of Rules in OAR 330, Division 200

(1) These rules implement the grant program for renewable energy development established by House Bill 3672 (2011) and amended by House Bill 4079 (2012). The rules provide procedures for submission, agency review and selection of systems for potential grant award, the development of performance agreements and the disbursement of grant funds.

(2) These rules apply to all applicants for renewable energy development grants, as governed by ORS 469B.250 to 469B.265.

Stat. Auth.: ORS 469B.250 - 469B.265

Stats. Implemented: ORS 469B.250 - 469B.265

Hist.: DOE 3-2012(Temp), f. & cert. ef. 2-22-12 thru 8-17-12; DOE 10-2012, f. & cert. ef. 8-15-12

330-200-0010

Definitions

For the purposes of this division, the following definitions apply:

(1) "Applicant" means a person who has applied for a renewable energy development grant.

(2) "Business site" means a site operated for business purposes that is owned by the applicant or the applicant has a formal agreement with the property owner to use the site.

(3) "Cost" has the meaning given in ORS 469B.250, the actual cost of the acquisition, construction and installation of the renewable energy production system paid by the applicant for the system, before considering utility incentives.

(4) "Department" means the Oregon Department of Energy.

(5) "Director" means the director of the department.

(6) "Energy" means electrical energy.

(7) "Grantee" means a person that has received an award of a renewable energy development grant.

(8) "Installation or construction" means the process of physical assembly of a system or supporting infrastructure at its operating location.

(9) "Opportunity period" means the timeframe specified in an Opportunity Announcement for the department to accept applications for renewable energy development grants.

(10) "Person" has the meaning given in ORS 469.020.

(11) "Renewable Energy Development Grant" means a grant awarded as described in these rules.

(12) "Renewable Energy Production System" has the meaning given in ORS 469B.250, a system that uses biomass, solar, geothermal, hydroelectric, wind, landfill gas, biogas or wave, tidal or ocean thermal energy technology to produce energy.

Stat. Auth.: ORS 469B.250 - 469B.265

Stats. Implemented: ORS 469B.250 - 469B.265

Hist.: DOE 3-2012(Temp), f. & cert. ef. 2-22-12 thru 8-17-12; DOE 10-2012, f. & cert. ef. 8-15-12

330-200-0020

Opportunity Announcement

(1) The department will announce the availability of renewable energy development grants by issuing an Opportunity Announcement.

(2) The department will continually monitor the allocation of grants to ensure that the total amount of grants awarded does not exceed the amounts available in the Renewable Energy Development subaccount within the Clean Energy Deployment Fund.

(3) If the cumulative total of all grants awarded under the Opportunity Announcement is less than the total amount of funding available, the department may reallocate the balance to future Opportunity Announcements.

(4) The Opportunity Announcement will include the following information:

(a) Objectives for the opportunity period;

(b) The amount of grant funds available;

(c) Application requirements as defined in OAR 330-200-0050;

(d) Dates of the application opportunity period;

(e) Instructions and directions to the required application forms and materials;

(f) Minimum technical standards based on relevant industry standards for renewable energy production systems;

(g) The criteria to be applied in prioritizing applications for grant awards, as described in OAR 330-200-0060;

(h) Guidance on submitting an acceptable resource assessment; and

(i) Other information the department considers necessary.

Stat. Auth.: ORS 469B.250 - 469B.265

Stats. Implemented: ORS 469B.250 - 469B.265

Hist.: DOE 3-2012(Temp), f. & cert. ef. 2-22-12 thru 8-17-12; DOE 10-2012, f. & cert. ef. 8-15-12

330-200-0030

Grant Application

(1) Any person may apply for a grant by submitting a complete grant application. The application must meet requirements provided by applicable statutes, these rules and the current Opportunity Announcement.

(a) The application must be in the form specified in the Opportunity Announcement and these rules.

(b) An applicant must submit a complete application during the opportunity period. For the purposes of this rule, the department considers an application "submitted" when the department receives the application. The department will not process applications received outside of an opportunity period.

(2) The application must be accompanied by the application fee specified in these rules. The department will not process applications received without fee payment.

(3) The department will not accept amendments to applications during the opportunity period. An applicant may withdraw an application and submit a replacement application during the opportunity period. The department will not process fees for applications withdrawn before the end of the opportunity period.

(4) The application must include the following information, unless the department specifies otherwise in the Opportunity Announcement.

(a) The name of the applicant.

(A) If the applicant is a partnership, joint venture or association, the application must include the names of each person participating in the partnership, joint venture or association. The department may use this information to ensure compliance with ORS 469B.256(3).

(B) If the applicant is a corporation or limited liability company, the application must include the name of the corporation or LLC and its parent corporations, members and any close affiliates or subsidiaries. The department may use this information to ensure compliance with ORS 469B.256(3).

(C) If the applicant is a public or government entity, the application must include written authorization from the entity's governing body allowing submission of the application.

(b) The name, address, email address and telephone number of the responsible party for the applicant.

(c) A statement verifying that the applicant will be the owner, contract purchaser or lessee of the renewable energy production system at the time of installation or construction of the system.

(d) If the applicant has received final certification of tax credits or payment of grants issued by the department within the last five years, the application must contain a statement about the operational status of the systems awarded such grants or tax credits.

(e) A detailed description of the renewable energy production system that includes the following:

(A) The nameplate capacity of the system;

(B) The projected amount of net energy the system will generate, in kWh per year;

(C) The proposed location of the system and an assessment of the suitability of the site;

(D) The expected operational life of the system;

(E) Technical specifications including manufacturer's information for the selected technology and all major system equipment; and

(F) A description of the operation of the system, including information that demonstrates the system will operate for at least five years.

(f) A resource assessment demonstrating adequate resource supply for the proposed system operations. The resource assessment must describe the type of resource available, explain how the applicant evaluated the resource and describe how the system will access the resource.

(g) A statement of compliance with applicable state and local regulations and that the applicant will notify the appropriate agencies and obtain required licenses and permits.

(h) The number and type of new jobs that will be created by the system and the number of existing jobs sustained throughout the construction,

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installation and operation of the system. Job estimates should be submitted in hours. These hours must directly relate to the system.

(i) The anticipated system cost.

(j) The amount of anticipated or received incentives directly related to the system.

(k) A description of the applicant's installation or construction financing plan.

(l) Pro-forma financial statements for the proposed system, including the balance sheet at system commissioning and balance sheet, cash flow statement and income statement for three years. The application must include a clear and explicit statement of the assumptions used in preparing the pro-forma.

(m) A project management plan that contains the following required elements:

(A) A detailed project schedule with major milestones during development, construction and operation, including the target operational date of the system.

(B) A description of how the following will be managed:

(i) Installation and construction.

(ii) Verification of system construction and start-up. If the applicant has developed a commissioning plan, the application must describe the plan.

(iii) Operations and maintenance requirements.

(n) The amount of grant requested by the applicant.

(o) If the applicant has already started installation or construction of the system, a written description of the special circumstances that rendered the filing of an application prior to the start of installation or construction unreasonable.

(p) Other information the department considers necessary.

Stat. Auth.: ORS 469B.250 - 469B.265

Stats. Implemented: ORS 469B.250 - 469B.265

Hist.: DOE 3-2012(Temp), f. & cert. ef. 2-22-12 thru 8-17-12; DOE 10-2012, f. & cert. ef. 8-15-12

330-200-0040

Fees

The department adopts the following schedule of fees as provided by ORS 469B.259 for applicants. All fee payments are non-refundable, despite the results of the department's review.

(1) Applicants must submit a fee of \$200 with their initial application.

(2) Applicants selected for technical review will be required to pay an additional technical review fee prior to that review. The fee amount is equal to the qualifying system cost multiplied by 1.05 percent.

(3) Applicants requesting amendments must submit a fee of \$300 with their amendment request.

(4) If the department is unable to complete a scheduled inspection due to actions by the applicant, the department will require the applicant to pay a re-inspection fee of \$400 before rescheduling the inspection.

(5) If an applicant fails to pay fees timely as required by this rule, the department may reject the pending application and discontinue the review.

Stat. Auth.: ORS 469B.250 - 469B.265

Stats. Implemented: ORS 469B.250 - 469B.265

Hist.: DOE 3-2012(Temp), f. & cert. ef. 2-22-12 thru 8-17-12; DOE 10-2012, f. & cert. ef. 8-15-12

330-200-0050

Completeness Review

(1) Following the opportunity period, the department will review all applications to determine whether:

(a) All sections of the application are complete as outlined in the Opportunity Announcement.

(b) The applicant has submitted the required fee.

(c) The system meets the definition of a renewable energy production system.

(d) The applicant intends to begin construction within 12 months of award.

(e) The applicant is applying prior to the installation or construction of the system.

(A) If the applicant applies after installation or construction of the system has started, the department will deny the application unless a written explanation of the special circumstances is received and approved by the director.

(B) Failing to submit a timely application or the fact that the project was not selected for a grant or tax credit under this or prior department programs does not constitute special circumstances.

(f) The system is located in Oregon.

(2) If the department finds that the application is complete, the application will move into the competitive review process and the department will notify the applicant in writing.

(3) The department will deny all incomplete applications and notify applicants in writing of the reason for denial of the application.

(4) The department considers the completeness review a test; the decision to deny an incomplete application is not an action subject to review under ORS 183.

Stat. Auth.: ORS 469B.250 - 469B.265

Stats. Implemented: ORS 469B.250 - 469B.265

Hist.: DOE 3-2012(Temp), f. & cert. ef. 2-22-12 thru 8-17-12; DOE 10-2012, f. & cert. ef. 8-15-12

330-200-0060

Competitive Review

(1) The department will conduct a competitive review of all applications that pass completeness review.

(2) Through competitive review, the department's internal review team will prioritize applications for grants according to the criteria described in the rules. Depending on the Opportunity Announcement objectives, the department may give greater or lesser weight to each of the criteria listed in rules.

(3) In the Opportunity Announcement the department will list the evaluation criteria for the competitive review. The criteria the department may consider includes:

(a) The internal rate of return of the system, calculated using the formula provided by the department.

(b) The number of new jobs created by the system and the number of existing jobs sustained throughout the construction, installation and operation of the system.

(c) The strength of the financial plan of the system.

(d) The amount of net energy generated.

(e) The use of the energy generated.

(f) Integration into broader energy and environmental goals.

(g) The geographic diversity of the renewable energy production systems compared with the other systems for which grants have been requested in the current opportunity announcement.

(h) The technology or resource diversity of the renewable energy production systems compared with the other systems for which grants have been requested in the current opportunity announcement.

(i) If the applicant has previously received any Renewable Energy Development Grants or Business Energy Tax Credits, the operational status of the system for which such grants or tax credits was awarded.

(j) The feasibility of the system.

(4) The department's internal review team will recommend to the director which systems to advance to technical review based on the competitive review results. The director will review and then amend or approve the recommendations.

(5) The department will notify applicants of the competitive review outcome. The department may place systems not advanced to the technical review phase on a supplemental list, pending the technical reviews of the selected systems. The department will retain the supplemental list until performance agreements are signed for the selected systems. The supplemental list will include only those projects submitted in response to the particular Opportunity Announcement.

(6) If an applicant has not started installation or construction of the system, an applicant may apply again for the same system in a future opportunity period by submitting a new application and fee. The department will not credit fees or applications submitted in response to a previous Opportunity Announcement to future Opportunity Announcements.

Stat. Auth.: ORS 469B.250 - 469B.265

Stats. Implemented: ORS 469B.250 - 469B.265

Hist.: DOE 3-2012(Temp), f. & cert. ef. 2-22-12 thru 8-17-12; DOE 10-2012, f. & cert. ef. 8-15-12

330-200-0070

Technical Review

(1) Once the applicant has paid the technical review fee, the department will conduct a technical review of systems advanced from the competitive review process. If the applicant does not submit the required payment to the department within 21 calendar days of notification of the advancement to technical review, the department may deny the application.

(2) The department will review the information provided in the application against industry standards to determine whether the system is technically feasible and should operate in accordance with the representations made by the applicant.

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(3) To be eligible, the renewable energy production system must meet the following requirements:

(a) The system must meet the requirements of the statutes, these rules and the Opportunity Announcement.

(b) The applicant must be the owner, contract purchaser or system lessee at the time of the system's installation or construction.

(c) The applicant must be a trade, business or rental property owner with a business site in Oregon or be an Oregon non-profit organization, tribe or public entity. The applicant may not restrict membership, sales or service on the basis of race, color, creed, religion, national origin, sexual preference or gender.

(d) A system located at a residential property must be rental property. A rental property must comply with laws related to rental accommodation and contain 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.

(e) A system located on a site that includes a residence, that is not a rental dwelling, must be separately metered from the residence.

(f) Within the project schedule and detailed project description provided in the grant application, the applicant must demonstrate the ability to begin construction within 12 months from the date the department awards the grant.

(g) The applicant may not receive funding for the system from the Feed-In Tariff program under ORS 757.365.

(4) The department will review renewable energy production system costs for eligibility. The application must document cost by providing a list of itemized costs.

(a) Eligible system costs include:

(A) The cost of components of the proposed system.

(B) Materials and supplies required for the construction and installation of the proposed system.

(C) The cost of title searches, escrow fees, permits and license fees and shipping.

(D) Design or engineering expenses related to system components.

(E) Cost of 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 complete the work;

(ii) The work must be associated with the acquisition, installation or construction of the proposed system;

(iii) Project management and similar costs may only account for up to 15 percent of eligible system costs; and

(iv) Costs for employees' or contractors' work on the renewable energy system must be detailed and documented as to specific tasks, hours worked and compensation costs. This cost may include employee benefits and employment taxes.

(F) Environmental studies, including source testing.

(G) Other costs the department determines should be included.

(b) Eligible system costs do not include:

(A) Costs paid by a person other than the applicant.

(B) Interest and warranty charges.

(C) Litigation or other legal fees and court costs.

(D) Patent searches, application and filing payments.

(E) Costs to maintain, operate or repair the system.

(F) Administrative costs to apply for grants, loans, tax credits or other funding for a system including, but not limited to, the renewable energy development grant fees.

(G) Training or education expenses.

(H) Costs that are incurred to bring a host building up to building code standards or otherwise repair the building in order to install the system, including design or engineering expenses.

(I) Costs for a system or portion thereof, that has previously received a tax credit under ORS 469 or 469B.

(J) Donated, in-kind or volunteer labor and materials.

(K) Costs for a system, or portion thereof, if the project or system previously received a Business Energy Tax Credit or a Renewable Energy Development Grant.

(L) Other costs the department determines should be excluded.

(c) If a system is built under a lease or contract purchase, the applicant must provide system cost information. System cost may be demonstrated by providing a declaration of representative market value for the system that includes the anticipated cost of supply and installation. Such a

declaration must include a list of primary system components and their costs.

(d) An applicant may incur qualifying costs prior to the submission of an application, but may not begin installation or construction.

(5) The department will determine whether the system is a single renewable energy production system or is part of a larger system in combination with other applications.

(a) The department considers a single renewable production system as one or more electrical energy production devices that are applied for in response to the same Opportunity Announcement, use the same renewable resource, are located at the same site and are owned or controlled by the same person.

(b) For the purposes of this subsection, "same person" includes affiliated or subsidiary corporations, other subsidiary business organizations or other affiliated entities owned or controlled by the same parent corporation but excludes equity-only financing partners.

(c) The department may reduce the potential grant award or deny the application if the department finds that the proposed system is part of another renewable energy production system that has applied for or received a renewable energy production grant.

(d) The department will not divide renewable energy production systems applied for in the same application.

(6) If an application does not include all information needed to complete the technical review, the department may notify the applicant in writing, requesting additional information. If the department does not receive the requested information within 30 calendar days of the date of the notice, the department may deny the application.

(7) During the review the department may inspect the proposed location of a system. The department will schedule inspections during normal working hours, following reasonable notice to the applicant.

(8) The department will notify the applicant in writing if the department denies the application during the technical review.

(9) If the technical review determines that information reviewed during the competitive review process was inaccurate, the department may deny the application.

Stat. Auth.: ORS 469B.250 - 469B.265

Stats. Implemented: ORS 469B.250 - 469B.265

Hist.: DOE 3-2012(Temp), f. & cert. ef. 2-22-12 thru 8-17-12; DOE 10-2012, f. & cert. ef. 8-15-12

330-200-0080

Performance Agreement

(1) The department may offer a performance agreement to the applicant if it determines that the renewable energy production system is technically feasible and capable of operating in accordance with the representations made by the applicant. The offer will include a copy of the performance agreement and a deadline for acceptance.

(2) The performance agreement will be based on information provided by the applicant.

(3) The grant provided for in the performance agreement may not exceed 35 percent of the cost of the project and may not exceed \$250,000 per system.

(4) The department will reduce the amount of grant awarded to an applicant if, when combined with other government incentives or grants available to the applicant, the total amount of incentives and grants exceeds 75 percent of the total system cost. The department will not include loans or loan guarantees in this calculation.

(5) The department may offer a grant that is less than the amount requested in the application, pursuant to statute and applicable rules.

(6) Applicants will have 30 calendar days from the date of the notice to accept the performance agreement. An applicant's failure to accept the offer of a performance agreement by the deadline may cause rejection of the renewable energy development grant application.

(7) In place of applicants who do not enter into a performance agreement within 30 calendar days of the department's offer, the department may select alternative applicants from the supplemental list, in order of their ranking. Selected applicants will have to complete a technical review.

(8) The performance agreement must include the following terms and may include additional terms.

(a) The maximum amount of the renewable energy development grant and the entity to which funds will be disbursed.

(b) A listing of the documentation that the grantee must provide to the department prior to the disbursement of grant funds including, but not limited to:

(A) An account of system costs.

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(B) Proof that the owner or owners of the system location are current on their property taxes for that location, if appropriate.

(c) The amount by which the department may reduce the grant amount in response to changes in actual system cost.

(d) The maximum duration of the performance agreement.

(e) The requirement that the grantee install or construct the renewable energy production system substantially as described in the renewable energy development grant application.

(f) The requirement that installation or construction of the system begin within 12 months after the date that the performance agreement is signed by all parties. If construction does not begin within 12 months, the performance agreement and grant are void. The performance agreement must include details of the work that must be completed within 12 months to meet this standard.

(g) The requirement that the grantee be the owner, contract purchaser or lessee of the system at the time of installation or construction of the system.

(h) The requirement that the system be located in Oregon.

(i) The requirement that the grantee make periodic reports to the department on the status of the system during system development and during installation or construction of the system.

(j) The requirement that the applicant obtain all applicable licenses, permits or other authorizations that are required within the jurisdiction of the system and must comply with applicable federal, state and local laws and regulations.

(k) The requirement that the grantee allow the department to inspect the system or its proposed location at any time during construction to verify compliance with the performance agreement. The department will schedule inspections during normal working hours, following reasonable notice to the applicant.

(l) The terms under which the performance agreement may be transferred, upon notification and agreement of the department.

(m) Reporting requirements during the first five-years of system operation, including information on jobs, quantity of energy produced annually and other information outlined in the performance agreement.

(n) A provision allowing the performance agreement to be terminated for reasons stated in the agreement and subject to terms described in the agreement.

(o) A provision that if the director determines that the applicant has violated the provisions of the performance agreement or ORS 469B.250 to 469B.265, the applicant will be liable to the department for up to 100 percent of grant moneys disbursed to the applicant.

(9) The department may require a legal sufficiency review of a performance agreement by the Oregon Department of Justice prior to completion.

(10) The renewable energy development grant will be awarded upon signature of the performance agreement by all parties. The grant funds will be disbursed upon verification that the applicant has complied with the applicable terms of the performance agreement including completion and commissioning, if required, of the system.

Stat. Auth.: ORS 469B.250 - 469B.265

Stats. Implemented: ORS 469B.250 - 469B.265

Hist.: DOE 3-2012(Temp), f. & cert. ef. 2-22-12 thru 8-17-12; DOE 10-2012, f. & cert. ef. 8-15-12

330-200-0090

Amendments

(1) The grantee must submit a written amendment request to the director to amend a performance agreement or change any aspect of the renewable energy production system.

(2) The grantee must describe the proposed change to the performance agreement or renewable energy production system and the reasons for the change.

(3) The grantee must demonstrate that the system, with the proposed change, will continue to meet the requirements of statute, rule and the Opportunity Announcement; be technically feasible, will operate as represented and will remain in operation for at least five years. The grantee has the responsibility to provide an amendment request with complete technical documentation supporting the proposed amendment. The department may deny amendments submitted without such justification.

(4) If an amendment request does not include all information needed to complete the review, the department may provide the grantee a written request for additional information. If the grantee does not provide the requested information to the department within 30 calendar days, the department may deny the request.

(5) Requests for amendments must include payment of the appropriate fee. The department may accept non-substantive changes, such as change of contact information, without payment of the fee.

(6) The department will evaluate amendments to determine if the change would have affected the outcome of competitive review, which may result in pro-rating the award amount, based on energy generated or project cost, or denial of the amendment request.

(7) Amendment requests will not be approved if the amendment would result in an increased award amount.

(8) The department will decide whether to approve the request.

(a) If approved, the department will draft an amended performance agreement, which may contain new or amended conditions and requirements. The amended performance agreement will become effective upon signature by all parties.

(b) If denied, the department will notify the grantee in writing. The notice will include the reasons for the denial of the amendment request. The amendment fee will not be applied to future amendments.

(c) The grantee may accept the denial of the amendment request and comply with the terms of the performance agreement or the grantee may terminate the performance agreement according to its terms and return any grant funds previously disbursed.

Stat. Auth.: ORS 469B.250 - 469B.265

Stats. Implemented: ORS 469B.250 - 469B.265

Hist.: DOE 3-2012(Temp), f. & cert. ef. 2-22-12 thru 8-17-12; DOE 10-2012, f. & cert. ef. 8-15-12

330-200-0150

Compliance

All participants in this program are subject to OAR 330-230-0000 through 330-230-0060.

Stat. Auth.: ORS 469B.250 - 469B.265

Stats. Implemented: ORS 469B.250 - 469B.265

Hist.: DOE 3-2012(Temp), f. & cert. ef. 2-22-12 thru 8-17-12; DOE 10-2012, f. & cert. ef. 8-15-12

Department of Fish and Wildlife Chapter 635

Rule Caption: Lower Deschutes River Sport Fall Chinook Fishery Opens August 1st.

Adm. Order No.: DFW 88-2012(Temp)

Filed with Sec. of State: 7-16-2012

Certified to be Effective: 8-1-12 thru 10-31-12

Notice Publication Date:

Rules Amended: 635-018-0090

Subject: Amended rule allows the sport harvest of fall Chinook salmon in the Lower Deschutes River from August 1 through October 31, 2012 from the mouth at the I-84 Bridge upstream to Sherars Falls. Catch limits for this fishery is any two adults and five jacks per day.

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

635-018-0090

Inclusions and Modifications

(1) The **2012 Oregon Sport Fishing Regulations** provide requirements for the Central Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2012 Oregon Sport Fishing Regulations**.

(2) Hood River Basin (Hood River Co.) mainstem and tributaries not listed:

(a) **Note:** Chinook salmon angling closed entire river. Emergency regulations opening Chinook angling may be adopted after the printing of the 2012 Oregon Sport Fishing Regulations. Up-to-date changes can be obtained by calling 1-503-947-6000 or at our internet site: www.dfw.state.or.us/resources/fishing/reg_changes/central.asp

(b) Open for adipose fin-clipped coho salmon and adipose fin-clipped steelhead entire year, from mouth to mainstem confluence with the East Fork and the West Fork from the confluence with the mainstem upstream to the angling deadline 200 feet downstream of Punchbowl Falls.

(c) Catch and release only for trout, May 26-Oct. 31.

(d) Restricted to artificial flies and lures when angling for trout in all tributaries and in mainstem Hood River upstream from the confluence with the West Fork.

(e) Use of bait allowed for salmon and steelhead.

(f) All other catch limits and restrictions remain unchanged from those listed for Hood River in the 2012 Oregon Sport Fishing Regulations.

ADMINISTRATIVE RULES

(3) The Deschutes River from the mouth at the I-84 Bridge upstream to Sherars Falls is open to angling for Chinook salmon from August 1 through October 31, 2012.

(a) The catch limit for Chinook, during the period described in section (2) above, is any two adults and five jacks per day.

(b) Catch limits and restrictions applying to trout, steelhead, and coho remain unchanged from those listed in the **2012 Oregon Sport Fishing Regulations** for Area 1 of the Deschutes River.

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119
Stats. Implemented: ORS 496.004, 496.009, 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 20-1994(Temp), f. & cert. ef. 4-11-94; FWC 24-1994(Temp), f. 4-29-94, cert. ef. 4-30-94; FWC 34-1994(Temp), f. 6-14-94, cert. ef. 6-16-94; FWC 54-1994, f. 8-25-94, cert. ef. 9-1-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 67-1994(Temp), f. & cert. ef. 9-26-94; FWC 70-1994, f. 10-4-95, cert. ef. 11-1-94; FWC 18-1995, f. 3-2-95, cert. ef. 4-1-95; FWC 60-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 11-1996(Temp), f. 3-8-96, cert. ef. 4-1-96; FWC 32-1996(Temp), f. 6-7-96, cert. ef. 6-16-96; FWC 38-1996(Temp), f. 6-14-96, cert. ef. 7-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 20-1997, f. & cert. ef. 3-24-97; FWC 21-1997, f. & cert. ef. 4-1-97; FWC 27-1997(Temp), f. 5-2-97, cert. ef. 5-9-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 25-1998(Temp), f. & cert. ef. 3-25-98 thru 8-31-98; DFW 56-1998(Temp), f. 7-24-98, cert. ef. 8-1-98 thru 10-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 12-2000(Temp), f. 3-20-00, cert. ef. 4-15-00 thru 7-31-00; DFW 27-2000(Temp), f. 5-15-00, cert. ef. 8-1-00 thru 10-31-00; DFW 28-2000, f. 5-23-00, cert. ef. 5-24-00 thru 7-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 13-2001(Temp), f. 3-12-01, cert. ef. 4-7-01 thru 7-31-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 44-2001(Temp), f. 5-25-01, cert. ef. 6-1-01 thru 7-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 23-2002(Temp), f. 3-21-02, cert. ef. 4-6-02 thru 7-31-02; DFW 25-2002(Temp), f. 3-22-02, cert. ef. 4-6-02 thru 7-31-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 62-2002, f. 6-14-02, cert. ef. 7-11-02; DFW 74-2002(Temp), f. 7-18-02, cert. ef. 8-1-02 thru 10-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 97-2002(Temp), f. & cert. ef. 8-29-02 thru 10-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 26-2003(Temp), f. 3-28-03, cert. ef. 4-15-03 thru 7-31-03; DFW 66-2003(Temp), f. 7-17-03, cert. ef. 8-1-03 thru 10-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 23-2004(Temp), f. 3-22-04, cert. ef. 4-1-04 thru 7-31-04; DFW 77-2004(Temp), f. 7-28-04, cert. ef. 8-1-04 thru 10-31-04, Administrative correction 11-22-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 19-2005(Temp), f. 3-16-05, cert. ef. 4-15-05 thru 7-31-05; DFW 41-2005(Temp), f. 5-13-05, cert. ef. 5-15-05 thru 7-31-05; DFW 83-2005(Temp), f. 7-29-05, cert. ef. 8-1-05 thru 10-31-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 59-2006(Temp), f. 7-10-06, cert. ef. 8-1-06 thru 10-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 18-2007(Temp), f. 3-22-07, cert. ef. 4-15-07 thru 7-31-07; DFW 55-2007(Temp), f. 7-6-07, cert. ef. 8-1-07 thru 10-31-07; Administrative correction 11-17-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 26-2008(Temp), f. 3-17-08, cert. ef. 4-15-08 thru 7-31-08; DFW 27-2008(Temp), f. 3-24-08, cert. ef. 4-15-08 thru 10-27-08; Administrative correction 11-18-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 16-2009(Temp), f. 2-25-09, cert. ef. 4-15-09 thru 6-30-09; DFW 61-2009(Temp), f. 6-1-09, cert. ef. 8-1-09 thru 10-31-09; DFW 104-2009(Temp), f. 8-28-09, cert. ef. 9-1-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 7-2010(Temp), f. 1-25-10, cert. ef. 4-1-10 thru 7-31-10; DFW 27-2010(Temp), f. 3-8-10, cert. ef. 4-15-10 thru 7-31-10; DFW 66-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 10-31-10; DFW 86-2010(Temp), f. 6-23-10, cert. ef. 7-1-10 thru 10-31-10; DFW 106-2010(Temp), f. 7-26-10, cert. ef. 8-1-10 thru 12-31-10; DFW 164-2010(Temp), f. 12-28-10, cert. ef. 1-1-11 thru 6-29-11; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 16-2011(Temp), f. 2-16-11, cert. ef. 4-15-11 thru 7-31-11; DFW 17-2011(Temp), f. 2-17-11, cert. ef. 4-15-11 thru 7-31-11; DFW 42-2011(Temp), f. & cert. ef. 5-10-11 thru 10-31-11; DFW 93-2011(Temp), f. 7-13-11, cert. ef. 8-1-11 thru 10-31-11; DFW 123-2011(Temp), f. 9-2-11, cert. ef. 9-3-11 thru 12-31-11; DFW 160-2011(Temp), f. 12-20-11, cert. ef. 1-1-12 thru 4-30-12; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 21-2012, f. & cert. ef. 3-12-12; DFW 34-2012(Temp), f. 4-13-12, cert. ef. 4-15-12 thru 7-31-12; DFW 55-2012(Temp), f. & cert. ef. 6-4-12 thru 6-30-12; Administrative correction, 8-1-12; DFW 88-2012(Temp), f. 7-16-12, cert. ef. 8-1-12 thru 10-31-12

Rule Caption: Additional Opportunity for Personal Use Harvest of Pacific Lamprey at Willamette Falls Allowed.

Adm. Order No.: DFW 89-2012(Temp)

Filed with Sec. of State: 7-17-2012

Certified to be Effective: 7-26-12 thru 8-31-12

Notice Publication Date:

Rules Amended: 635-017-0090

Subject: This amended rule allows for one additional day for personal use harvest of Pacific lamprey, on Thursday, July 26, 2012, by individuals with the required permit. The season modification provides opportunity for harvest of lamprey that may become stranded due to the scheduled installation of water flow devices at Willamette Falls.

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

635-017-0090

Inclusions and Modifications

(1) The **2012 Oregon Sport Fishing Regulations** provide requirements for the Willamette Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the 2012 Oregon Sport Fishing Regulations.

(2) Pacific Lamprey Harvest:

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

(b) Open fishing period is June 1 through July 31 from 7:00 A.M. to 6:00 P.M.; personal use harvest is permitted Friday through Monday each week. All harvest is prohibited Tuesday through Thursday, except personal use harvest is permitted on Thursday, July 26, 2012 from 7:00 a.m. to 6:00 p.m.;

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

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

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

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

(3) Sandy River (Multnomah/Clackamas Co.) Mainstem and tributaries upstream from ODFW markers at the mouth of the Salmon River, including the Salmon River:

(a) Open for adipose fin-clipped steelhead and non-adipose fin-clipped steelhead harvest July 1-August 31.

(b) Angling restricted to artificial flies and lures with a single point hook no larger than 1/2 inch gap (size 1) and multiple point hook no larger than 3/8 inch gap (size 4).

(c) No limit on size or number of brook trout taken. Catch limits on other trout species do not apply to brook trout.

[Publications are referenced as available from the agency.]

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

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 3-1994, f. 1-25-94, cert. ef. 1-26-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 86-1994(Temp), f. 10-31-94, cert. ef. 11-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 32-1995, f. & cert. ef. 4-24-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 22-1996(Temp), f. 5-9-96 & cert. ef. 5-10-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 13-1997, f. 3-5-97, cert. ef. 3-11-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 24-1997(Temp), f. & cert. ef. 4-10-97; FWC 31-1997(Temp), f. 5-14-97, cert. ef. 5-15-97; FWC 39-1997(Temp), f. 6-17-97, cert. ef. 6-18-97; FWC 69-1997, f. & cert. ef. 11-6-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 19-1998, f. & cert. ef. 3-12-98; DFW 28-1998(Temp), f. & cert. ef. 4-9-98 thru 4-24-98; DFW 31-1998(Temp), f. & cert. ef. 4-24-98 thru 7-31-98; DFW 33-1998(Temp), f. & cert. ef. 4-30-98 thru 5-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 35-1998(Temp), f. & cert. ef. 5-10-98 thru 5-15-98; DFW 37-1998(Temp), f. & cert. ef. 5-15-98 thru 7-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 15-1999, f. & cert. ef. 3-9-99; DFW 16-1999(Temp), f. & cert. ef. 3-10-99 thru 3-19-99; DFW 19-1999(Temp), f. & cert. ef. 3-19-99 thru 4-15-99; DFW 27-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 30-1999(Temp), f. & cert. ef. 4-27-99 thru 5-12-99; DFW 35-1999(Temp), f. & cert. ef. 5-13-99 thru 7-31-99; DFW 39-1999(Temp), f. 5-26-99, cert. ef. 5-27-99 thru 7-31-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 88-1999(Temp), f. 11-5-99, cert. ef. 11-6-99 thru 11-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 22-2000, f. 4-14-00, cert. ef. 4-16-00 thru 7-31-00; DFW 23-2000(Temp), f. 4-19-00, cert. ef. 4-22-00 thru 7-31-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 6-2001, f. & cert. ef. 3-1-01; DFW 23-2001(Temp), f. & cert. ef. 4-23-01 thru 10-19-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 46-2001(Temp), f. 6-8-01, cert. ef. 6-16-01 thru 12-13-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 95-2001(Temp), f. 9-27-01, cert. ef. 10-20-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 42-2002, f. & cert. ef. 5-3-02; DFW 44-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 11-3-02; DFW 70-2002(Temp), f. 7-10-02, cert. ef. 7-12-02 thru 12-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 42-2003, f. & cert. ef. 5-16-03; DFW 53-2003(Temp), f. 6-17-03, cert. ef. 6-18-03 thru 12-14-03; DFW 57-2003(Temp), f. & cert. ef. 7-8-03 thru 12-31-03; DFW 59-2003(Temp), f. & cert. ef. 7-11-03 thru 12-31-03; DFW 70-2003(Temp), f. & cert. ef. 7-23-03 thru 12-31-03; DFW 71-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 12-31-03; DFW 90-2003(Temp), f. 9-12-03, cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 33-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 48-2004(Temp), f. 5-26-04, cert. ef. 5-28-04 thru 11-23-04; DFW 69-2004(Temp), f. & cert. ef. 7-12-04 thru 11-23-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 24-2005, f. 4-15-05, cert. ef. 5-1-05; DFW 78-2005(Temp), f. 7-19-05, cert. ef. 7-21-05 thru 7-22-05; Administrative correction 8-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 36-2006(Temp), f. & cert. ef. 6-1-06 thru 9-30-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 121-2006(Temp), f. & cert. ef. 10-20-06 thru 12-31-06; DFW 32-2007, f. 5-14-07, cert. ef. 6-1-07; DFW 65-2007(Temp), f. & cert. ef. 8-6-07 thru 10-31-07; DFW 105-2007(Temp), f. 10-4-07, cert. ef. 10-6-07 thru 11-30-07; Administrative correction 12-20-07; DFW 134-2007, f. 12-26-07, cert. ef. 1-1-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 1-2008(Temp), f. & cert. ef. 1-9-08 thru 7-6-08; DFW 5-2008(Temp), f. 1-25-08, cert. ef. 2-1-08 thru 7-6-08; DFW 15-2008(Temp), f. 2-26-08, cert. ef. 3-1-08 thru 7-29-08; DFW 46-2008(Temp), f. 5-9-08, cert. ef. 5-12-08 thru 7-29-08; DFW 55-

ADMINISTRATIVE RULES

2008(Temp), f. 5-30-08, cert. ef. 6-2-08 thru 10-31-08; DFW 82-2008(Temp), f. 7-21-08, cert. ef. 7-29-08 thru 12-31-08; DFW 110-2008(Temp), f. 9-15-08, cert. ef. 9-17-08 thru 12-31-08; DFW 124-2008(Temp), f. 10-1-08, cert. ef. 10-2-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 9-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 8-15-09; DFW 15-2009, f. & cert. ef. 2-25-09; DFW 74-2009(Temp), f. 6-25-09, cert. ef. 6-30-09 thru 7-2-09; Administrative correction 7-21-09; DFW 103-2009(Temp), f. 8-27-09, cert. ef. 9-1-09 thru 12-31-09; DFW 118-2009(Temp), f. & cert. ef. 9-28-09 thru 12-31-09; DFW 123-2009(Temp), f. & cert. ef. 10-5-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 61-2010, f. & cert. ef. 5-14-10; DFW 62-2010(Temp), f. 5-14-10, cert. ef. 5-22-10 thru 11-17-10; DFW 84-2010(Temp), f. 6-17-10, cert. ef. 6-18-10 thru 10-31-10; DFW 94-2010(Temp), f. & cert. ef. 7-1-10 thru 10-31-10; DFW 96-2010(Temp), f. 7-7-10, cert. ef. 7-8-10 thru 10-31-10; DFW 123-2010(Temp), f. 8-26-10, cert. ef. 9-1-10 thru 12-31-10; DFW 134-2010(Temp), f. 9-22-10, cert. ef. 9-23-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 158-2011(Temp), f. 12-14-11, cert. ef. 1-1-12 thru 4-30-12; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 21-2012, f. & cert. ef. 3-12-12; DFW 89-2012(Temp), f. 7-17-12, cert. ef. 7-26-12 thru 8-31-12

Rule Caption: Retention of Cabezon In the Oregon Ocean Boat and Estuary Boat Sport Fisheries Prohibited.

Adm. Order No.: DFW 90-2012(Temp)

Filed with Sec. of State: 7-17-2012

Certified to be Effective: 7-20-12 thru 12-31-12

Notice Publication Date:

Rules Amended: 635-039-0090

Subject: Amended rule closes the sport ocean boat and estuary boat fisheries to retention of cabezon at 11:59 p.m. on Friday, July 20, 2012, These rule modifications prevent exceeding the 2012 Oregon recreational ocean boat and estuary boat fisheries pre-season cabezon harvest cap of 15.8 metric tons.

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

635-039-0090

Inclusions and Modifications

(1) The 2012 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 2012 Oregon Sport Fishing Regulations.

(2) 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. For 2012 the sport harvest caps are:

- (a) Black rockfish, 440.8 metric tons.
- (b) Cabezon, 17.2 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. serripes*).

(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 2012 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) Greenling, 5.2 metric tons.

(5) In addition to the regulations for Marine Fish in the 2012 Oregon Sport Fishing Regulations, the following apply for the sport fishery in the Marine Zone in 2012:

- (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 2012 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 July 20, 2012. Retention of the following species is prohibited:

- (A) Yelloweye rockfish;
- (B) Canary rockfish; and
- (C) Cabezon from January 1, 2012 through March 31, 2012 and from July 21, 2012 through December 31, 2012.

(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 Humburg 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 (5)(a), (5)(b) and (5)(c) including the following:

(A) Minimum length for lingcod, 26 inches.

(B) Minimum length for cabezon, 12 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 (5)(a), (5)(b) and (5)(c) and including leopard shark and soupfin shark are open January 1 through December 31, twenty-four hours per day, except as provided in subsections (5)(a) and (5)(d), and ocean waters are closed for these species during April 1 through September 30, outside of the 30-fathom curve (defined by latitude and longitude) as shown on Title 50 Code of Federal Regulations Part 660 Section 71. A 20-fathom, 25-fathom, or 30-fathom curve, as shown on Title 50 Code of Federal Regulations Part 660 Section 71 may be implemented as the management line as in-season modifications necessitate. In addition, the following management lines may be used to set area specific regulations for inseason action only:

(A) Cape Lookout (45°20'30" N latitude); and

(B) Cape Blanco (42°50'20" N latitude).

(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, 2011 ed.). Within the YRCA, it is unlawful to fish for, take, or retain species listed in subsections (5)(a), (5)(b) and (5)(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 (5)(a), (5)(b) and (5)(c) of this rule, leopard shark, soupfin shark, and Pacific halibut. Recreational fishing vessels in possession of species listed in subsections (5)(a), (5)(b) and (5)(c) and including leopard shark, soupfin shark, and Pacific halibut may transit the YRCA without fishing gear in the water.

(6) 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 dimensions of 4 inches long and 3 inches wide.

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

Stat. Auth.: ORS 496.138, 496.146, 497.121 & 506.119
Stats. Implemoted: ORS 496.004, 496.009, 496.162 & 506.129
Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 22-1994, f. 4-29-94, cert. ef. 5-2-94; FWC 29-1994(Temp), f. 5-20-94, cert. ef. 5-21-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 43-1994(Temp), f. & cert. ef. 7-19-94; FWC 83-1994(Temp), f. 10-28-94, cert. ef. 11-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 25-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 26-1995, 3-29-95, cert. ef. 4-2-95; FWC 36-1995, f. 5-3-95, cert. ef. 5-5-95; FWC 43-1995(Temp), f. 5-26-95, cert. ef. 5-28-95; FWC 46-1995(Temp), f. & cert. ef. 6-2-95; FWC 58-1995(Temp), f. 7-3-95, cert. ef. 7-5-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 28-1996(Temp), f. 5-24-96, cert. ef. 5-26-96; FWC 30-1996(Temp), f. 5-31-96, cert. ef. 6-2-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 68-1999(Temp), f. & cert. ef. 9-17-99 thru 9-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 114-2003(Temp), f. 11-18-03, cert. ef. 11-21-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 83-2004(Temp), f. 8-17-04, cert. ef. 8-18-04 thru 12-31-04; DFW 91-2004(Temp), f. 8-31-04, cert. ef. 9-2-04 thru 12-31-04; DFW 97-2004(Temp), f. 9-22-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 34-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 75-2005(Temp), f. 7-13-05, cert. ef. 7-16-05 thru 12-31-05; DFW 87-2005(Temp), f. 8-8-05, cert. ef. 8-11-05 thru 12-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. ef. 10-18-05 thru 12-31-05; DFW 129-2005(Temp), f. & cert. ef. 11-29-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 138-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 141-2005(Temp), f. 12-12-05, cert. ef. 12-30-05 thru 12-31-05; Administrative correction 1-19-06; DFW 61-2006, f. 7-13-06, cert. ef. 10-1-06; DFW 65-2006(Temp), f. 7-21-06, cert. ef. 7-24-06 thru 12-31-06; DFW 105-2006(Temp), f. 9-21-06, cert. ef. 9-22-06 thru 12-31-06; DFW 134-2006(Temp), f. 12-21-06, cert. ef. 1-1-07 thru 6-29-07; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 10-2007, f. & cert. ef. 2-14-07; DFW 66-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 73-2008(Temp), f. 6-30-08, cert. ef. 7-7-08 thru 12-31-08; DFW 97-2008(Temp), f. 8-18-08, cert. ef. 8-21-08 thru 12-31-08; DFW 105-2008(Temp), f. 9-4-08, cert. ef. 9-7-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 7-2009(Temp), f. & cert. ef. 2-2-09 thru 7-31-09; DFW 39-2009, f. & cert. ef. 4-27-09; 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-

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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; DFW 155-2011(Temp), f. 11-18-11, cert. ef. 12-1-11 thru 12-31-11; DFW 156-2011(Temp), f. 12-9-11, cert. ef. 12-15-11 thru 1-31-12; DFW 164-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 90-2012(Temp), f. 7-17-12, cert. ef. 9-20-12 thru 12-31-12

Rule Caption: Pacific Halibut Nearshore Sport Season Closes from Cape Falcon to Humbug Mountain.

Adm. Order No.: DFW 91-2012(Temp)

Filed with Sec. of State: 7-19-2012

Certified to be Effective: 7-22-12 thru 10-31-12

Notice Publication Date:

Rules Amended: 635-039-0085

Rules Suspended: 635-039-0085(T)

Subject: Amended rule closes the nearshore (inside 40 fathom) sport fishery for Pacific halibut in the area between Cape Falcon and Humbug Mountain, Oregon at 11:59 p.m. on Sunday, July 22, 2012 due to the attainment of the in season adjusted quota of 28,014 pounds. This rule is consistent with regulations previously implemented by the federal government and the International Pacific Halibut Commission for the 2012 Oregon sport fishery for Pacific halibut.

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

635-039-0085

Halibut Seasons

(1) The Pacific halibut sport fishery in Oregon is regulated by the federal government and the International Pacific Halibut Commission (IPHC). OAR chapter 635, division 039 incorporates into Oregon Administrative Rules, by reference:

(a) **Title 50 of the Code of Federal Regulations, Part 300, Subpart E** (October 1, 2012 ed.), as amended; and

(b) **Federal Register Vol. 77, No. 56**, dated March 22, 2012 (77 FR 16740).

(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., Thursday, July 5, 2012 the Central Oregon Coast Subarea (Cape Falcon to Humbug Mountain) spring all-depth season is closed to the retention of Pacific halibut.

(4) Effective 11:59 p.m., Sunday, July 22, 2012 the Central Oregon Coast Subarea (Cape Falcon to Humbug Mountain) nearshore season is closed to the retention of Pacific halibut.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.122
Stats. Implemented: ORS 496.162 & 506.129
Hist.: DFW 56-2005, f. 6-21-05, cert. ef. 7-1-05; DFW 89-2005(Temp), f. & cert. ef. 8-12-05 thru 12-12-05; DFW 107-2005(Temp), f. 9-14-05, cert. ef. 9-15-05 thru 10-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-19-06; DFW 34-2006(Temp), f. 5-25-06, cert. ef. 5-27-06 thru 8-3-06; Administrative correction 8-22-06; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 35-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 8-2-07; DFW 67-2007(Temp), f. 8-9-07, cert. ef. 8-12-07 thru 9-30-07; DFW 76-2007(Temp), f. 8-17-07, cert. ef. 8-24-07 thru 9-30-07; DFW 84-2007(Temp), f. 9-5-07, cert. ef. 9-15-07 thru 9-30-07; DFW 87-2007(Temp), f. 9-10-07, cert. ef. 9-14-07 thru 10-28-07; DFW 90-2007(Temp), f. 9-19-07, cert. ef. 9-20-07 thru 10-31-07; Administrative correction 11-17-07; DFW 57-2008(Temp), f. 5-30-08, cert. ef. 6-1-08 thru 7-31-08; DFW 81-2008(Temp), f. 7-11-08, cert. ef. 8-2-08 thru 9-30-08; DFW 92-2008(Temp), f. & cert. ef. 8-11-08 thru 9-30-08; DFW 101-2008(Temp), f. 8-25-08, cert. ef. 8-29-08 thru 9-30-08; DFW 107-2008(Temp), f. 9-5-08, cert. ef. 9-7-08 thru 12-31-08; DFW 111-2008(Temp), f. & cert. ef. 9-16-08 thru 12-31-08; DFW 120-2008(Temp), f. 9-25-08, cert. ef. 9-27-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 39-2009, f. & cert. ef. 4-27-09; DFW 55-2009(Temp), f. & cert. ef. 5-22-09 thru 8-6-09; DFW 94-2009(Temp), f. 8-14-09, cert. ef. 8-16-09 thru 12-31-09; Administrative correction 1-25-10; DFW 32-2010, f. & cert. ef. 3-15-10; DFW 37-2010, f. 3-30-10, cert. ef. 4-1-10; DFW 100-2010(Temp), f. 7-15-10, cert. ef. 7-17-10 thru 10-31-10; DFW 118-2010(Temp), f. & cert. ef. 8-13-10 thru 10-31-10; Administrative correction 11-23-10; DFW 24-2011, f. & cert. ef. 3-22-11; DFW 58-2011(Temp), f. 5-27-11, cert. ef. 6-4-11 thru 8-4-11; DFW 82-2011(Temp), f. 6-30-11, cert. ef. 7-1-11 thru 8-4-11; DFW 85-2011(Temp), f. 7-5-11, cert. ef. 7-6-11 thru 10-31-11; DFW 114-2011(Temp), f. & cert. ef. 8-12-11 thru 10-31-11; DFW 135-2011(Temp), f. 9-21-11, cert. ef. 10-1-11 thru 12-31-11; DFW 39-2012, f. & cert. ef. 4-24-12; DFW 84-2012(Temp), f. & cert. ef. 7-5-12 thru 8-2-12; DFW 91-2012(Temp), f. 7-19-12, cert. ef. 7-22-12 thru 10-31-12

Rule Caption: Amend rules to add Texas to cervid part importation ban.

Adm. Order No.: DFW 92-2012(Temp)

Filed with Sec. of State: 7-23-2012

Certified to be Effective: 7-23-12 thru 1-19-13

Notice Publication Date:

Rules Amended: 635-065-0765

Subject: This temporary rule amends rules to add Texas to the list of states from which the importation of certain cervid parts is banned.

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

635-065-0765

Tagging, Possession, Transportation and Evidence of Sex

(1) When the owner of any game mammal tag kills a game mammal for which a tag is issued, the owner shall immediately remove in its entirety only the month and day of kill and attach the tag in plain sight securely to the game mammal. The tag shall be kept attached to such carcass or remain with any parts thereof so long as the same are preserved.

(2) It is unlawful to have in possession any game mammal tag from which all or part of any date has been removed or mutilated except when the tag is legally validated and attached to a game mammal.

(3) It is unlawful to possess the meat or carcass of any pronghorn antelope, bighorn sheep, or Rocky Mountain goat without the animal's scalp while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat. The scalp shall include the attached eyes and ears, if the animal is female; or ears, horns, and eyes if the animal is male.

(4) It is unlawful to possess the meat or carcass of any deer or elk without evidence of sex while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat. Evidence of sex for deer and elk is:

(a) Evidence of sex for deer and elk which will be taken out of Oregon is:

(A) For Bucks and Bulls: Either the head with antlers naturally attached to at least one quarter of the carcass or testicles, scrotum, or penis naturally attached to one quarter of the carcass or to another major portion of meat. For hunts with antler restrictions, if the head is not attached to the carcass, in addition to leaving the testicles, scrotum, or penis naturally attached to one quarter of the carcass or to another major portion of meat, the head or skull plate with both antlers naturally attached shall accompany the carcass or major portions of meat while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat.

(B) For Does and Cows: Either the head naturally attached to at least one quarter of the carcass or vulva or udder (mammary) naturally attached to one quarter of the carcass or to another major portion of meat.

(C) For Either Sex Hunts: Either the head naturally attached to at least one quarter of the carcass or reproductive organs (testicles, scrotum, penis, vulva, udder, mammary) naturally attached to one quarter of the carcass or to another major portion of meat. For bucks or bulls killed in either sex hunts with antler restrictions, if the head is not attached to the carcass, in addition to leaving the testicles, scrotum, or penis naturally attached to one quarter of the carcass or to another major portion of meat, the head or skull plate with both antlers naturally attached shall accompany the carcass or major portions of meat while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat.

(D) For hunts where only white-tailed deer and for hunts where only mule deer are legal: in addition to evidence of sex, either the head or tail shall remain naturally attached to one quarter of the carcass or to another major portion of meat as evidence of the species taken while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat.

(b) Evidence of sex for deer and elk which will not be taken out of Oregon is either:

(A) The animal's scalp while in the field, forest, or in transit on any of the highways or premises open to the public in Oregon, except processed or cut and wrapped meat. The scalp shall include the attached eyes and ears, if the animal is female; or ears, antlers, and eyes if the animal is male, or;

(B) the head naturally attached to at least one quarter of the carcass or reproductive organs naturally attached to one quarter of the carcass or to another major portion of meat as described in (4)(a)(i)-(iv) above.

(5) When any game mammal or part thereof is transferred to the possession of another person, a written record describing the game mammal or part being transferred indicating the name and address of the person whose tag was originally attached to the carcass and the number of that tag shall accompany such transfer and shall remain with such game mammal or part so long as the same is preserved or until replaced by a tag or seal of the Department.

(6) All game mammals in possession in the field or forest or in transit more than 48 hours after the close of the open season for such mammal

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must be tagged with a tag or metal seal by the Department or by the Oregon State Police.

(7) All game mammals or portions thereof shipped by commercial carrier shall be tagged with a tag or metal seal provided by the Department or by the Oregon State Police.

(8) It is unlawful to receive or have in possession any game mammal or part thereof which:

- (a) Is not properly tagged;
- (b) Was taken in violation of any wildlife laws or regulations; or
- (c) Was taken by any person who is or may be exempt from the jurisdiction of such laws or regulations.

(9) No person shall possess any game mammal or part thereof which has been illegally killed, found or killed for humane reasons, except shed antlers, unless he has notified and received permission from the Department or personnel of the Oregon State Police prior to transporting.

(10) No person shall possess the horns of bighorn sheep or Rocky Mountain goat that were not taken legally during an authorized season. Any horns of bighorn sheep or Rocky Mountain goat obtained by the Department may be made available to scientific and educational institutions and for ceremonial purposes.

(11) Except for the following parts, importation of a cervid carcass or parts of a cervid carcass is prohibited if the cervid was killed in a state or province with a documented case of Chronic Wasting Disease:

- (a) meat that is cut and wrapped commercially or privately;
- (b) meat that has been boned out;
- (c) quarters or other portions of meat with no part of the spinal column or head attached;
- (d) hides and/or capes with no head attached;
- (e) skull plates with antlers attached that have been cleaned of all meat and brain tissue;
- (f) antlers with no tissue attached;
- (g) upper canine teeth (buglers, whistlers, ivories);
- (h) finished taxidermy heads.

(12) For the purposes of the parts and carcass import ban in subsection (11), the states or provinces with a documented case of Chronic Wasting Disease (CWD) are Alberta, Colorado, Illinois, Maryland, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, New York, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin, Wyoming, Utah, Virginia, West Virginia, and Saskatchewan. The Department shall add by temporary rule any additional states or provinces when any new cases of CWD arise.

(13) The parts and carcass import ban in subsection (11) does not apply to parts or carcasses shipped to the National Fish and Wildlife Forensics Laboratory (Ashland, Oregon) for the purpose of law enforcement investigations and also does not apply to parts or carcasses of reindeer/caribou.

(14) Cervid carcasses or parts of cervid carcasses found in Oregon in violation of the parts and carcass ban in subsection (11) shall be disposed of in a manner as follows:

(a) Brain tissue, spinal columns, and whole heads or heads minus the cleaned skull plate and attached antlers, shall be disposed of either by incineration at temperatures exceeding 800° F or at lined landfills registered by Oregon Department of Environmental Quality capable of accepting animal carcasses without environmental contamination; rendering is not an allowed means of disposal.

(b) The person(s) who imported parts in violation of the parts and carcass ban in subsection (11) shall pay for appropriate disposal of cervid carcasses or parts of cervid carcasses.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 123, f. & ef. 6-9-77; FWC 33-1978, f. & ef. 6-30-78; FWC 28-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 6-1981, f. & ef. 1-23-81; FWC 11-1981, f. & ef. 3-31-81; FWC 20-1981, f. & ef. 6-19-81; FWC 37-1982, f. & ef. 6-25-82; FWC 34-1984, f. & ef. 7-24-84; FWC 43-1988, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 11-1987, f. & ef. 3-6-87; FWC 41-1987, f. & ef. 7-6-87; FWC 13-1988, f. & cert. ef. 3-10-88; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 24-1990, f. & cert. ef. 3-21-90; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 49-1998, f. & cert. ef. 6-22-98; FWC 1-1999, f. & cert. ef. 1-14-99; FWC 92-1999, f. 12-8-99, cert. ef. 1-1-00; FWC 82-2000, f. 12-21-00, cert. ef. 1-1-01; FWC 90-2002(Temp), f. & cert. ef. 8-16-02 thru 2-11-03; FWC 114-2002(Temp), f. & cert. ef. 10-18-02 thru 2-11-03; FWC 126-2002, f. & cert. ef. 11-12-02; FWC 127-2002(Temp), f. & cert. ef. 11-14-02 thru 2-11-03; FWC 2-2003, f. & cert. ef. 1-17-03; FWC 50-2003, f. & cert. ef. 6-13-03; FWC 61-2003, f. & cert. ef. 7-16-03; FWC 118-2003, f. 12-4-03, cert. ef. 1-1-04; FWC 53-2005, f. & cert. ef. 6-14-05; FWC 111-2005(Temp), f. & cert. ef. 9-23-05 thru 10-31-05; Administrative correction 11-18-05; FWC 128-2005, f. 12-1-05, cert. ef. 1-1-06; FWC 135-2008, f. & cert. ef. 10-17-08; FWC 2-2009, f. & cert. ef. 1-9-09; FWC 8-2010(Temp), f. & cert. ef. 1-25-10 thru 7-24-10; FWC 21-2010(Temp), f. & cert. ef. 2-26-10 thru 8-24-10; FWC 36-2010(Temp), f. & cert. ef. 3-30-10 thru 9-25-10; FWC 83-2010, f. & cert. ef. 6-15-10; FWC 62-2011, f. & cert. ef. 6-3-11; FWC 92-2012(Temp), f. & cert. ef. 7-23-12 thru 1-19-13

Rule Caption: Recreational Spring Chinook Fishery Closes In the Snake River Below Hells Canyon Dam.

Adm. Order No.: DFW 93-2012(Temp)

Filed with Sec. of State: 7-24-2012

Certified to be Effective: 8-5-12 thru 9-30-12

Notice Publication Date:

Rules Amended: 635-023-0134

Rules Suspended: 635-023-0134(T)

Subject: Amended rule closes the recreational spring Chinook salmon fishery on the Snake River in the area from the Dug Bar Boat Ramp upstream to the deadline below Hells Canyon Dam effective at 11:59 p.m. on August 5, 2012. This closure coincides with the State of Idaho's closure of this fishery.

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

635-023-0134

Snake River Fishery

(1) The **2012 Oregon Sport Fishing Regulations** provide requirements for the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the 2012 Oregon Sport Fishing Regulations.

(2) Notwithstanding, all other specifications and restrictions as outlined in the **2012 Oregon Sport Fishing Regulations**, the following conditions apply:

(a) The Snake River from Dug Bar boat ramp upstream to the deadline below Hell's Canyon Dam is open seven (7) days per week, effective Sunday, April 22, 2012 until 11:59 p.m. on August 5, 2012.

(b) Daily bag limit is four (4) adipose fin-clipped spring Chinook salmon per day, of which no more than two (2) can be adults in excess of 24 inches in length. Anglers must cease fishing for salmon for the day when either four (4) salmon or two (2) adult salmon have been retained, whichever comes first.

(c) Barbless hooks are required.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 47-2005(Temp), f. 5-19-05, cert. ef. 5-21-05 thru 6-20-05; Administrative correction 7-20-05; DFW 31-2006(Temp), f. 5-18-06, cert. ef. 5-20-06 thru 6-19-06; Administrative correction 7-21-06; DFW 31-2007(Temp), f. 5-9-07, cert. ef. 5-11-07 thru 6-18-07; DFW 43-2007(Temp), f. 6-14-07, cert. ef. 6-19-07 thru 7-2-07; Administrative correction 2-8-08; DFW 43-2008(Temp), f. 4-25-08, cert. ef. 4-26-08 thru 7-20-08; DFW 64-2008(Temp), f. 6-18-08, cert. ef. 6-21-08 thru 7-31-08; Administrative correction 8-21-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 58-2009(Temp), f. 5-27-09, cert. ef. 5-30-09 thru 7-12-09; DFW 80-2009(Temp), f. 6-30-09, cert. ef. 7-1-09 thru 7-17-09; Administrative correction 7-21-09; DFW 128-2009(Temp), f. 10-12-09, cert. ef. 10-18-09 thru 4-15-10; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 42-2010(Temp), f. 4-13-10, cert. ef. 4-24-10 thru 7-31-10; DFW 107-2010(Temp), f. 7-26-10, cert. ef. 7-31-10 thru 8-4-10; Administrative correction, 8-18-10; DFW 119-2010(Temp), f. 8-18-10, cert. ef. 9-1-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 29-2011(Temp), f. 4-12-11, cert. ef. 4-23-11 thru 10-19-11; DFW 118-2011(Temp), f. 8-23-11, cert. ef. 9-1-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 35-2012(Temp), f. 4-16-12, cert. ef. 4-22-12 thru 9-30-12; DFW 93-2012(Temp), f. 7-24-12, cert. ef. 8-5-12 thru 9-30-12

Rule Caption: Treaty Indian Fall Commercial Fisheries In Columbia River Implemented.

Adm. Order No.: DFW 94-2012(Temp)

Filed with Sec. of State: 7-27-2012

Certified to be Effective: 7-27-12 thru 10-31-12

Notice Publication Date:

Rules Amended: 635-041-0045, 635-041-0075

Rules Suspended: 635-041-0045(T), 635-041-0076(T)

Subject: Amended rules allow commercial sales of fish caught during the Treaty Indian Fall salmon platform and hook-and-line fisheries in the Columbia River and its Washington tributaries. The fall platform and hook-and-line fisheries begin at 6:00 a.m. Friday, July 27, 2012. Implementation is consistent with action taken July 26, 2012 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

635-041-0045

Closed Commercial Fishing Areas

Unless otherwise specified in this rule and OAR 635-041-0063, the following waters are closed to commercial fishing:

- (1) All Oregon tributaries of the Columbia River.
- (2) The Columbia River westerly and downstream of the Bridge of the Gods except:

ADMINISTRATIVE RULES

(a) Fisheries conducted by the Yakama, Warm Springs, Nez Perce and Umatilla tribes downstream of Bonneville Dam (bank fishing only) under provisions of the agreements with the states of Oregon and Washington are open until further notice.

(A) Effective 6:00 a.m. July 27, 2012 until further notice, commercial sales of Chinook, steelhead, coho, walleye, shad, yellow perch, catfish, bass and carp are allowed. Sockeye salmon and sturgeon caught in the tribal fisheries below Bonneville Dam may not be retained or sold. Fish may not be sold on USACE property below Bonneville Dam, but may be caught and transported off USACE property for sale.

(B) Gear is restricted to subsistence fishing gear which includes hoop-nets, dipnets, spears, gaffs, clubs, fouling hooks and rod and reel with hook-and-line. Nets with a 5-inch minimum mesh size are required.

(C) Chinook and coho salmon, steelhead, walleye, shad, carp, bass, catfish and yellow perch landed during an open treaty commercial fishing period may be sold at any time.

(b) Platform and hook-and-line fisheries from the Bridge of the Gods downstream to the subsistence fishing deadline as described in OAR 635-041-0020(1) are open to commercial sales whenever sales are authorized for platform and hook-and-line fisheries in the remainder of Bonneville Pool.

(3) The Columbia River easterly and upstream of a line extending at a right angle across the thread of the river from a deadline marker one mile downstream of McNary Dam.

(4) The Columbia River between a line extending at a right angle across the thread of the river from a deadline marker at the west end of 3-Mile Rapids located approximately 1.8 miles below The Dalles Dam, upstream to a line from a deadline marker on the Oregon shore located approximately 3/4 mile above The Dalles Dam east fishway exit, thence at a right angle to the thread of the river to a point in midriver, thence downstream to Light "1" on the Washington shore; except that dip nets, bag nets, and hoop nets are permitted during commercial salmon and shad fishing seasons at the Lone Pine Indian fishing site located immediately above The Dalles Interstate Bridge.

(5) The Columbia River between a line extending at a right angle across the thread of the river from a deadline marker at Preachers Eddy light below the John Day Dam and a line approximately 4.3 miles upstream extending from a marker on the Oregon shore approximately one-half mile above the upper easterly bank of the mouth of the John Day River, Oregon, extending at a right angle across the thread of the river to a point in midriver, thence turning downstream to a marker located on the Washington shore approximately opposite the mouth of the John Day River.

(6) The Columbia River within areas at and adjacent to the mouths of the Deschutes River and the Umatilla River. The closed areas are along the Oregon side of the Columbia River and extend out to the midstream from a point one-half mile above the intersection of the upper bank of the tributary with the Columbia River to a point one mile downstream from the intersection of the lower bank of the tributary with the Columbia River. All such points are posted with deadline markers.

(7) The Columbia River within an area and adjacent to the mouth of the Big White Salmon River. The closed area is along the Washington side of the Columbia River and extends out to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

(8) The Columbia River within an area at and adjacent to the mouth of Drano Lake (Little White Salmon River). The closed area is along the Washington side of the Columbia River and extends out to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upriver of the outlet of Drano Lake.

(9) The Columbia River within an area and adjacent to the mouth of the Wind River. The closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

(10) The Columbia River within areas at and adjacent to the mouth of Hood River. The closed area is along the Oregon side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between markers located approximately 0.85 miles downriver from the west bank at end of the breakwall at the west end of the Port of Hood River and 1/2 mile upriver from the east bank.

(11) The Columbia River within a radius of 150 feet of the Spring Creek Hatchery fishway, except that during the period of August 25-September 20 inclusive the closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of

the Columbia River between a marker located 1 1/2 miles downriver of the Spring Creek Hatchery fishway up to the downstream marker of the Big White Salmon sanctuary located approximately 1/2 mile upriver of the Spring Creek Hatchery fishway.

(12) Herman Creek upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

(13) The Columbia River within an area and adjacent to the mouth of the Klickitat River. The closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1 1/8 miles downstream from the west bank.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 133, f. & ef. 8-4-77; FWC 149(Temp), f. & ef. 9-21-77 thru 1-18-78; 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 635-035-0045; FWC 6-1980, f. & ef. 1-28-80; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 4-1984, f. & ef. 1-31-84; FWC 55-1985(Temp), f. & ef. 9-6-85; FWC 4-1986 (Temp), f. & ef. 1-28-86; FWC 25-1986(Temp), f. & ef. 6-25-86; FWC 42-1986, f. & ef. 8-15-86; FWC 2-1987, f. & ef. 1-23-87; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 54-1989 (Temp), f. & cert. ef. 8-7-89; FWC 90-1989, f. & cert. ef. 9-6-89; FWC 80-1990(Temp), f. & cert. ef. 8-8-90; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 40-2011(Temp), f. & cert. ef. 5-5-11 thru 10-31-11; DFW 43-2011(Temp), f. & cert. ef. 5-10-11 thru 10-31-11; DFW 60-2011(Temp), f. & cert. ef. 6-6-11 thru 10-31-11; DFW 63-2011(Temp), f. & cert. ef. 6-8-11, cert. ef. 6-9-11 thru 10-31-11; DFW 66-2011(Temp), f. & cert. ef. 6-14-11, cert. ef. 6-16-11 thru 10-31-11; DFW 80-2011(Temp), f. & cert. ef. 7-8-11, cert. ef. 7-10-11 thru 10-31-11; DFW 119-2011(Temp), f. & cert. ef. 8-29-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 5-2012(Temp), f. & cert. ef. 1-30-12, cert. ef. 2-1-12 thru 3-31-12; DFW 18-2012(Temp), f. & cert. ef. 2-29-12 thru 6-15-12; DFW 46-2012(Temp), f. & cert. ef. 5-14-12, cert. ef. 5-15-12 thru 6-30-12; DFW 74-2012(Temp), f. & cert. ef. 6-29-12, cert. ef. 7-1-12 thru 10-31-12; DFW 87-2012(Temp), f. & cert. ef. 7-11-12, cert. ef. 7-12-12 thru 8-31-12; DFW 94-2012(Temp), f. & cert. ef. 7-27-12 thru 10-31-12

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 for fish caught from 6:00 a.m. Friday, July 27, 2012 until further notice.

(a) Chinook, steelhead, coho, walleye, shad, carp, bass, catfish and yellow perch landed during an open commercial fishing period may be sold at any time or retained for subsistence purposes. Sturgeon may not be sold except for white sturgeon caught in The Dalles pool during open periods authorized for the sturgeon setline fishery in OAR 635-041-0063. However, 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 kept for subsistence use. Sockeye salmon may not be retained or sold.

(b) Gear is restricted to subsistence fishing gear: hoopnets, dipnets and rod and reel with hook-and-line are allowed. Nets with a 5-inch minimum mesh size are required.

(c) Closed areas in Zone 6, except the Spring Creek sanctuary, are as set forth in OAR 635-041-0045 and remain in effect.

(2) Sales of fish caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; Drano Lake; Icicle Creek, 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 except, effective 6:00 p.m. Thursday, July 12, 2012, sales of sockeye salmon are prohibited in all tributaries except Icicle Creek.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982 (Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984 (Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f. & ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987 (Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988 (Temp), f. & cert. ef. 9-27-88, cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 87-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989 (Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. & cert. ef. 8-8-90; FWC 90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. & cert. ef. 9-7-90, cert. ef. 9-10-90; FWC 98-1990(Temp), f. & cert. ef. 9-14-90, cert. ef. 9-17-90; FWC 85-1991, f. & cert. ef. 8-12-91; FWC

ADMINISTRATIVE RULES

96-1991, f. & cert. ef. 9-9-91; FWC 101-1991(Temp), f. & cert. ef. 9-10-91; FWC 103-1991(Temp), f. 9-17-91, cert. ef. 9-18-91; FWC 110-1991(Temp), f. & cert. ef. 9-27-91; FWC 73-1992(Temp), f. & cert. ef. 8-10-92; FWC 86-1992(Temp), f. 9-1-92, cert. ef. 9-2-92; FWC 87-1992(Temp), f. 9-4-92, cert. ef. 9-7-92; FWC 91-1992(Temp), f. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. 9-22-92, cert. ef. 9-23-92; FWC 105-1992(Temp), f. 10-2-92, cert. ef. 10-5-92; FWC 107-1992 (Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 52-1993, f. & cert. ef. 8-30-93; FWC 57-1993(Temp), f. & cert. ef. 9-13-93; FWC 59-1993(Temp), f. 9-17-93, cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. 8-26-94, cert. ef. 8-29-94; FWC 61-1994(Temp), f. 9-7-94, cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. 8-25-95, cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. 9-12-95, cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. 8-29-96, cert. ef. 9-2-96; FWC 51-1996(Temp), f. 9-6-96, cert. ef. 9-9-96; FWC 53-1996(Temp), f. & cert. ef. 9-26-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 52-1997(Temp), f. 8-29-97, cert. ef. 9-2-97; FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. 9-16-97, cert. ef. 9-17-97; DFW 68-1998(Temp), f. & cert. ef. 8-25-98 thru 9-25-98; DFW 76-1998(Temp), f. & cert. ef. 9-8-98 thru 9-25-98; DFW 77-1998(Temp), f. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. 9-23-98, cert. ef. 9-24-98 thru 9-25-98; DFW 59-1999(Temp), f. & cert. ef. 8-23-99 thru 9-11-99; DFW 62-1999(Temp), f. 9-2-99, cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. 9-14-99, cert. ef. 9-15-99 thru 9-17-99; DFW 69-1999(Temp), f. & cert. ef. 9-17-99 thru 9-18-99; DFW 72-1999(Temp), f. 9-21-99, cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. 9-28-99, cert. ef. 9-29-99 thru 10-22-99; Administrative correction 11-17-99; DFW 50-2000(Temp), f. 8-18-00, cert. ef. 8-21-00 thru 9-9-00; DFW 60-2000(Temp), f. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. 9-15-00, cert. ef. 9-19-00 thru 12-31-00; Administrative correction 6-19-01; DFW 75-2001(Temp), f. & cert. ef. 8-20-01 thru 9-8-01; DFW 87-2001(Temp), f. 9-10-01, cert. ef. 9-11-01 thru 9-15-01; DFW 91-2001(Temp), f. & cert. ef. 9-19-01 thru 12-31-01; DFW 94-2001(Temp), f. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. 8-16-02, cert. ef. 8-18-02 thru 12-31-02; DFW 98-2002(Temp), f. & cert. ef. 8-30-02 thru 12-31-02; DFW 102-2002(Temp), f. & cert. ef. 9-13-02 thru 12-31-02; DFW 104-2002(Temp), f. & cert. ef. 9-19-02 thru 12-31-02; DFW 113-2002(Temp), f. 10-14-02, cert. ef. 10-15-02 thru 12-31-02; DFW 77-2003(Temp), f. & cert. ef. 8-13-03 thru 12-31-03; DFW 81-2003(Temp), f. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. 9-12-03 cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. 9-22-03, cert. ef. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. 9-26-03, cert. ef. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. 10-3-03, cert. ef. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. 10-10-03, cert. ef. 10-11-03 thru 12-31-03; DFW 88-2004(Temp), f. & cert. ef. 8-23-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 99-2004(Temp), f. & cert. ef. 9-24-04 thru 12-31-04; DFW 104-2004(Temp), f. 10-12-04 cert. ef. 10-13-04 thru 12-31-04; DFW 110-2004(Temp), f. & cert. ef. 10-29-04 thru 12-31-04; Administrative correction, 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; Administrative correction, 11-18-11; DFW 94-2012(Temp), f. & cert. ef. 7-27-12 thru 10-31-12

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Rule Caption: Treaty Indian Sturgeon Setline Fishery In The Dalles Pool of the Columbia River Implemented.

Adm. Order No.: DFW 95-2012(Temp)

Filed with Sec. of State: 7-27-2012

Certified to be Effective: 7-30-12 thru 8-11-12

Notice Publication Date:

Rules Amended: 635-041-0063

Subject: Amended rule allows commercial sales of fish caught during the Treaty Indian Fall sturgeon setline fishery in The Dalles pool of the Columbia River. The fishery begins at 6:00 a.m. Monday, July 30 and runs through 6:00 p.m. Saturday, August 11, 2012. Implementation is consistent with action taken July 26, 2012 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, July 30 through 6:00 p.m. Saturday, August 11, 2012 (12.5 days), or until harvest guidelines are met, in The Dalles pool only. White sturgeon taken must be 43-54 inches in fork length. White sturgeon taken as described in this section 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; DFW 150-2011(Temp), f. 10-25-11, cert. ef. 10-26-11 thru 11-30-11; DFW 152-2011(Temp), f. 11-1-11, cert. ef. 11-2-11 thru 12-31-11; DFW 95-2012(Temp), f. 7-27-12, cert. ef. 7-30-12 thru 8-11-12

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Rule Caption: Fall Commercial Gillnet Fisheries Set for Youngs Bay Select Area of the Columbia River.

Adm. Order No.: DFW 96-2012(Temp)

Filed with Sec. of State: 7-30-2012

Certified to be Effective: 8-1-12 thru 10-31-12

Notice Publication Date:

Rules Amended: 635-042-0145

Subject: Rule amendments set the Fall commercial gillnet fishery in the Youngs Bay Select Area of the Columbia River. The first authorized fishing period is from 7:00 a.m. Wednesday, August 1 to 7:00 p.m. Thursday, August 2, 2012. Further amendments authorize various fishing periods through noon Wednesday, October 31, 2012.

ADMINISTRATIVE RULES

Modifications are consistent with the action taken July 26, 2012 by the State of Oregon.

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

635-042-0145

Youngs Bay Salmon Season

Salmon and shad may be taken for commercial purposes in those waters of Youngs Bay.

(1) Fall seasons are as follows: 7:00 a.m. Wednesday, August 1 to 7:00 p.m. Thursday, August 2, 2012(36 hours); 7:00 a.m. Wednesday, August 8 to 7:00 p.m. Thursday, August 9, 2012 (36 hours); 7:00 a.m. Wednesday, August 15 to 7:00 p.m. Thursday, August 16, 2012 (36 hours); 7:00 a.m. Wednesday, August 22 to 7:00 p.m. Thursday, August 23, 2012 (36 hours); 7:00 p.m. Monday, August 27 to 7:00 a.m. Friday, August 31, 2012 (3.5 days); 7:00 p.m. Monday, September 3 to Noon Wednesday, October 31, 2012 (59 days).

(2) Area: Youngs Bay fishing area includes all waters from the new Highway 101 Bridge upstream to the upper boundary markers at Battle Creek Slough; except for those waters which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River). All waters are under State of Oregon jurisdiction and are open to Oregon and Washington fishers who possess the appropriate licenses.

(3) Gear: Legal gear is restricted to 9.75-inch maximum mesh size through August 23 and 6-inch maximum mesh size thereafter; 250 fathoms maximum net length and weight on the headline not to exceed two pounds on any one fathom. Use of additional weights or anchors attached directly to the headline is allowed between markers located approximately 200 yards upstream of the mouth of the Walluski River and the upper deadline at Battle Creek Slough. Red corks are required at 25-fathom intervals and red corks must be in contrast to corks used in the remainder of the net. 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 away from the boat is required.

(4) Allowable sales include: Salmon and shad. Sales of white sturgeon from fall Select Area fisheries are prohibited.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81; FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. 5-22-92, cert. ef. 5-25-92; FWC 74-1992(Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 81-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; FWC 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; FWC 14-1998, f. & cert. ef. 3-3-98; FWC 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; FWC 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; FWC 67-1998, f. & cert. ef. 8-24-98; FWC 10-1999, f. & cert. ef. 2-26-99; FWC 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; FWC 55-1999, f. & cert. ef. 8-12-99; FWC 9-2000, f. & cert. ef. 2-25-00; FWC 42-2000, f. & cert. ef. 8-3-00; FWC 3-2001, f. & cert. ef. 2-6-01; FWC 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; FWC 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; FWC 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; FWC 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; FWC 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; FWC 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; FWC 12-2003, f. & cert. ef. 2-14-03; FWC 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; FWC 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; FWC 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; FWC 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; FWC 37-2003(Temp), f. & cert. ef. 5-7-03 thru 10-1-03; FWC 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; FWC 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; FWC 11-2004, f. & cert. ef. 2-13-04; FWC 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; FWC 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; FWC 28-2004(Temp), f. 4-8-04, cert. ef. 4-12-04 thru 4-15-04; FWC 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; FWC 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; FWC 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; FWC 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; FWC 6-2005, f. & cert. ef. 2-14-05; FWC 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; FWC 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; FWC 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; FWC 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; FWC 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; FWC 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; FWC 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; FWC 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; FWC 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; FWC 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru

12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; DFW 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; DFW 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 30-2008(Temp), f. 3-27-08, cert. ef. 3-30-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 24-2009(Temp), f. 3-10-09, cert. ef. 3-11-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 17-2010(Temp), f. & cert. ef. 2-22-10 thru 7-31-10; DFW 20-2010(Temp), f. & cert. ef. 2-26-10 thru 7-31-10; DFW 30-2010(Temp), f. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; DFW 35-2010(Temp), f. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 35-2011(Temp), f. & cert. ef. 4-28-11 thru 7-29-11; DFW 46-2011(Temp), f. & cert. ef. 5-12-11 thru 7-29-11; DFW 52-2011(Temp), f. & cert. ef. 5-18-11 thru 7-29-11; DFW 76-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 7-29-11; DFW 106-2011(Temp), f. 8-2-11, cert. ef. 8-3-11 thru 10-31-11; DFW 121-2011(Temp), f. 8-29-11, cert. ef. 9-5-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; DFW 24-2012(Temp), f. 3-15-12, cert. ef. 3-18-12 thru 7-31-12; DFW 26-2012(Temp), f. 3-20-12, cert. ef. 3-21-12 thru 7-31-12; DFW 27-2012(Temp), f. 3-27-12, cert. ef. 3-29-12 thru 7-31-12; DFW 28-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-31-12; DFW 30-2012(Temp), f. 4-4-12, cert. ef. 4-5-12 thru 7-31-12; DFW 36-2012(Temp), f. 4-16-12, cert. ef. 4-19-12 thru 7-31-12; DFW 82-2012(Temp), f. 6-29-12, cert. ef. 7-2-12 thru 7-31-12; DFW 96-2012(Temp), f. 7-30-12, cert. ef. 8-1-12 thru 10-31-12

Rule Caption: Columbia River Recreational Sturgeon Fisheries In The Dalles Pool Modified.

Adm. Order No.: DFW 97-2012(Temp)

Filed with Sec. of State: 7-30-2012

Certified to be Effective: 8-1-12 thru 12-31-12

Notice Publication Date:

Rules Amended: 635-023-0095

Rules Suspended: 635-023-0095(T)

Subject: This amended rule modifies the ongoing recreational white sturgeon fishery in The Dalles Pool of the Columbia River. Modifications reduce the allowed fishing periods from seven to three days per week, beginning 12:01 a.m. Sunday, August 5, 2012, until attainment of the pre-season harvest guideline. Modifications are consistent with action taken July 26, 2012 by the Columbia River Compact agencies of Oregon and Washington.

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

635-023-0095

Sturgeon Season

(1) The **2012 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2012 Oregon Sport Fishing Regulations**.

(2) The mainstem Columbia River from Wauna powerlines (River Mile 40) upstream to Bonneville Dam, excluding the lower Willamette River upstream to Willamette Falls, Multnomah Channel, and the Gilbert River, is open to the retention of white sturgeon with a fork length of 38-54 inches, three days per week, Thursdays through Saturdays, during the following periods:

(a) January 1 through July 31; and

(b) October 20 through December 31.

(3) The retention of white sturgeon in the area identified in section (2) of this rule is prohibited August 1 through October 19.

ADMINISTRATIVE RULES

(4) The mainstem Columbia River from Wauna powerlines (River Mile 40) downstream to the mouth at Buoy 10, including Youngs Bay is open to the retention of white sturgeon seven days per week during the following periods:

- (a) January 1 through April 30;
- (b) May 12 through July 4.

(5) The retention of white sturgeon in the area identified in section (4) of this rule is prohibited May 1 through May 11 and July 5 through December 31.

(6) During the fishing period as identified in subsection (4)(a) of this rule, only white sturgeon with a fork length of 38-54 inches may be retained.

(7) During the fishing periods as identified in subsection (4)(b) of this rule, only white sturgeon with a fork length of 41-54 inches may be retained.

(8) Angling for sturgeon is prohibited from:

(a) Bonneville Dam downstream 9 miles to a line crossing the Columbia River from Navigation Marker 82 on the Oregon shore westerly to a boundary marker on the Washington shore upstream of Fir Point from May 1 through August 31;

(b) Highway 395 Bridge upstream to McNary Dam; and

(c) From the west end of the grain silo at Rufus upstream to John Day Dam during May 1 through July 31.

(d) The upper and lower ends of Sand Island and corresponding markers on the Oregon shoreline (slough at Rooster Rock State Park) from January 1 through April 30.

(9) Effective 12:01 a.m. Sunday, June 24, 2012 the retention of white sturgeon in Bonneville Reservoir and adjacent tributaries is prohibited.

(10) Effective 12:01 a.m. Monday May 21, 2012 the retention of white sturgeon in the John Day Pool and adjacent tributaries is prohibited.

(11) Effective 12:01 a.m. Sunday, August 5, 2012 until further notice, retention of white sturgeon in The Dalles Pool and adjacent tributaries is only allowed Thursdays, Fridays, and Saturdays. Only white sturgeon with a fork length of 43 to 54 inches may be retained. The daily limit is one white sturgeon.

(12) The mainstem Columbia River from McNary Dam upstream to the Oregon-Washington border at river mile 309.5 is open to retention of white sturgeon with a fork length of 43-54 inches, seven days per week from February 1 through July 31.

(13) The retention of white sturgeon in the area identified in section (12) of this rule is prohibited August 1 through January 31.

(14) Retention of green sturgeon is prohibited all year in all areas.

Stat. Auth.: ORS 183.325, 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 507.030

Hist.: DFW 129-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 2-28-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 22-2005(Temp), f. 4-1-05, cert. ef. 4-30-05 thru 7-31-05; DFW 50-2005(Temp), f. 6-3-05, cert. ef. 6-11-05 thru 11-30-05; DFW 60-2005(Temp), f. 6-21-05, cert. ef. 6-24-05 thru 12-21-05; DFW 65-2005(Temp), f. 6-30-05, cert. ef. 7-10-05 thru 12-31-05; DFW 76-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 19-2006(Temp), f. 4-6-06, cert. ef. 4-8-06 thru 7-31-06; DFW 54-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 12-27-06; DFW 62-2006(Temp), f. 7-13-06, cert. ef. 7-24-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 20-2007(Temp), f. 3-26-07, cert. ef. 3-28-07 thru 7-30-07; DFW 38-2007(Temp), f. & cert. ef. 5-31-07 thru 11-26-07; DFW 59-2007(Temp), f. 7-18-07, cert. ef. 7-29-07 thru 12-31-07; DFW 75-2007(Temp), f. 8-17-07, cert. ef. 8-18-07 thru 12-31-07; DFW 102-2007(Temp), f. 9-28-07, cert. ef. 10-1-07 thru 12-31-07; DFW 135-2007(Temp), f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 8-2008, f. & cert. ef. 2-11-08; DFW 23-2008(Temp), f. 3-12-08, cert. ef. 3-15-08 thru 9-10-08; DFW 28-2008(Temp), f. 3-24-08, cert. ef. 3-26-08 thru 9-10-08; DFW 72-2008(Temp), f. 6-30-08, cert. ef. 7-10-08 thru 12-31-08; DFW 78-2008(Temp), f. 7-9-08, cert. ef. 7-12-08 thru 12-31-08; DFW 86-2008(Temp), f. & cert. ef. 7-25-08 thru 12-31-08; DFW 148-2008(Temp), f. 12-19-08, cert. ef. 1-1-09 thru 6-29-09; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 33-2009(Temp), f. 4-2-09, cert. ef. 4-13-09 thru 10-9-09; DFW 63-2009(Temp), f. 6-3-09, cert. ef. 6-6-09 thru 10-9-09; DFW 83-2009(Temp), f. 7-8-09, cert. ef. 7-9-09 thru 12-31-09; DFW 86-2009(Temp), f. 7-22-09, cert. ef. 7-24-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 13-2010(Temp), f. 2-16-10, cert. ef. 2-21-10 thru 7-31-10; DFW 19-2010(Temp), f. 2-26-10, cert. ef. 3-1-10 thru 8-27-10; DFW 34-2010, f. 3-16-10, cert. ef. 4-1-10; DFW 49-2010(Temp), f. 4-27-10, cert. ef. 4-29-10 thru 7-31-10; DFW 50-2010(Temp), f. 4-29-10, cert. ef. 5-6-10 thru 11-1-10; DFW 88-2010(Temp), f. 6-25-10, cert. ef. 6-26-10 thru 7-31-10; DFW 91-2010(Temp), f. 6-29-10, cert. ef. 8-1-10 thru 12-31-10; DFW 99-2010(Temp), f. 7-13-10, cert. ef. 7-15-10 thru 12-31-10; DFW 165-2010(Temp), f. 12-28-10, cert. ef. 1-1-11 thru 6-29-11; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 11-2011(Temp), f. 2-10-11, cert. ef. 2-11-11 thru 7-31-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 26-2011(Temp), f. 4-5-11, cert. ef. 4-10-11 thru 9-30-11; DFW 74-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 7-31-11; DFW 87-2011(Temp), f. 7-8-11, cert. ef. 7-9-11 thru 7-31-11; DFW 96-2011(Temp), f. 7-20-11, cert. ef. 7-30-11 thru 12-31-11; DFW 129-2011(Temp), f. 9-15-11, cert. ef. 9-30-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 1-2012(Temp), f. & cert. ef. 1-5-12 thru 7-2-12; DFW 10-2012, f. & cert. ef. 2-7-12; DFW 16-2012(Temp), f. 2-14-12, cert. ef. 2-18-12 thru 7-31-12; DFW 44-2012(Temp), f. 5-1-12, cert. ef. 5-20-12 thru 7-31-12; DFW 73-2012(Temp), f. 6-29-12, cert. ef. 7-1-12 thru 8-31-12; DFW 97-2012(Temp), f. 7-30-12, cert. ef. 8-1-12 thru 12-31-12

Rule Caption: Early Fall Commercial Drift Gill Net Seasons Set for the Mainstem Columbia River.

Adm. Order No.: DFW 98-2012(Temp)

Filed with Sec. of State: 7-31-2012

Certified to be Effective: 8-5-12 thru 10-31-12

Notice Publication Date:

Rules Amended: 635-042-0031

Subject: Amended rule sets the 2012 fall commercial salmon drift gill net seasons for the Columbia River mainstem in Zones 1 through 5. The first authorized fishing period begins at 9:00 p.m. Sunday, August 5, 2012.

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

635-042-0031

Early Fall Salmon Season

(1) Salmon and sturgeon may be taken for commercial purposes in the waters of the Columbia River: Zones 1 5 from 9:00 p.m. Sunday, August 5 to 6:00 a.m. Monday, August 6, 2012; and in Zones 4 5 from 9:00 p.m. Sunday, August 12 to 6:00 a.m. Friday, August 24, 2012, as identified in OAR 635-042-0001. 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.

(a) Authorized fishing periods are as follows: 9:00 p.m. Sunday, August 5 to 6:00 a.m. Monday, August 6 (9 hours); 9:00 p.m. Sunday, August 12 to 6:00 a.m. Monday, August 13 (9 hours); 9:00 p.m. Tuesday, August 14 to 6:00 a.m. Wednesday, August 15 (9 hours); 9:00 p.m. Thursday, August 16 to 6:00 a.m. Friday, August 17 (9 hours); 9:00 p.m. Sunday, August 19 to 6:00 a.m. Monday, August 20 (9 hours); 9:00 p.m. Tuesday, August 21 to 6:00 a.m. Wednesday, August 22 (9 hours); and 9:00 p.m. Thursday, August 23 to 6:00 a.m. Friday, August 24 (9 hours).

(b) Sanctuaries include: Elokomin-A, Cowlitz River, Kalama-A, Washougal, and Sandy rivers as applicable.

(2) Gear is restricted to drift gill nets only with 9 inch minimum and 9.75-inch maximum mesh sizes.

(a) During the period from August 5-6, 2012 the multiple net rule is in effect. 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.

(b) During the period from August 12-24, 2012 the multiple net rule is NOT in effect and nets not authorized for this fishery are prohibited to be onboard the vessel.

(3) Allowable sales include: Salmon and white sturgeon from 43-54 inches in fork length.

(a) A maximum of seven (7) white sturgeon may be possessed or sold by each participating vessel during the August 5-6 open period; and

(b) A maximum of three (3) white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) in the open periods from August 12-24.

(c) The white sturgeon possession and sales limit includes mainstem fisheries only. Sales of white sturgeon from fall Select Area fisheries are prohibited.

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 74-1989(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, 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. & 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.

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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. 9-22-11, 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; DFW 147-2011(Temp), f. 10-17-11, cert. ef. 10-18-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 98-2012(Temp), f. 7-31-12, cert. ef. 8-5-12 thru 10-31-12

Rule Caption: Temporary Angling Closure In the Upper Sandy River for Protection of Adult Spring Chinook.

Adm. Order No.: DFW 99-2012(Temp)

Filed with Sec. of State: 7-31-2012

Certified to be Effective: 8-1-12 thru 12-31-12

Notice Publication Date:

Rules Amended: 635-017-0090

Rules Suspended: 635-017-0090(T)

Subject: This amended rule restricts angling and harvest of summer steelhead in the mainstem Sandy River upstream of the ODFW markers at Salmon River, including the Salmon River. This angling restriction is also necessary to protect adult Spring Chinook that are congregating in pools due to low water conditions.

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

635-017-0090

Inclusions and Modifications

(1) The **2012 Oregon Sport Fishing Regulations** provide requirements for the Willamette Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2012 Oregon Sport Fishing Regulations**.

(2) Pacific Lamprey Harvest:

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

(b) Open fishing period is June 1 through July 31 from 7:00 A.M. to 6:00 P.M.; personal use harvest is permitted Friday through Monday each week. All harvest is prohibited Tuesday through Thursday, except personal use harvest is permitted on Thursday, July 26, 2012 from 7:00 a.m. to 6:00 p.m.;

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

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

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

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

(3) Sandy River (Multnomah/Clackamas Co.) Mainstem and tributaries upstream from ODFW markers at the mouth of the Salmon River, including the Salmon River:

(a) Open for adipose fin-clipped steelhead and non-adipose fin-clipped steelhead harvest July 1–July 31.

(b) Angling restricted to artificial flies and lures with a single point hook no larger than 1/2 inch gap (size 1) and multiple point hook no larger than 3/8 inch gap (size 4).

(c) No limit on size or number of brook trout taken. Catch limits on other trout species do not apply to brook trout.

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

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 3-1994, f. 1-25-94, cert. ef. 1-26-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 86-1994(Temp), f. 10-31-94, cert. ef. 11-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 32-1995, f. & cert. ef. 4-24-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 14-1996, f. 3-29-96, cert. ef. 4-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 22-1996(Temp), f. 5-9-96 & cert. ef. 5-10-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 13-1997, f. 3-5-97, cert. ef. 3-11-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 24-1997(Temp), f. & cert. ef. 4-10-97; FWC 31-1997(Temp), f. 5-14-97, cert. ef. 5-15-97; FWC 39-1997(Temp), f. 6-17-97, cert. ef. 6-18-97; FWC 69-1997, f. & cert. ef. 11-6-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 19-1998, f. & cert. ef. 3-12-98; DFW 28-1998(Temp), f. & cert. ef. 4-9-98 thru 4-24-98; DFW 31-1998(Temp), f. & cert. ef. 4-24-98 thru 7-31-98; DFW 33-1998(Temp), f. & cert. ef. 4-30-98 thru 5-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 35-1998(Temp), f. & cert. ef. 5-10-98 thru 5-15-98; DFW 37-1998(Temp), f. & cert. ef. 5-15-98 thru 7-31-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 15-1999, f. & cert. ef. 3-9-99; DFW 16-1999(Temp), f. & cert. ef. 3-10-99 thru 3-19-99; DFW 19-1999(Temp), f. & cert. ef. 3-19-99 thru 4-15-99; DFW 27-1999(Temp), f. & cert. ef. 4-23-99 thru 10-20-99; DFW 30-1999(Temp), f. & cert. ef. 4-27-99 thru 5-12-99; DFW 35-1999(Temp), f. & cert. ef. 5-13-99 thru 7-31-99; DFW 39-1999(Temp), f. 5-26-99, cert. ef. 5-27-99 thru 7-31-99; DFW 78-1999, f. & cert. ef. 10-4-99; DFW 88-1999(Temp), f. 11-5-99, cert. ef. 11-6-99 thru 11-30-99; administrative correction 11-17-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 13-2000, f. & cert. ef. 3-20-00; DFW 22-2000, f. 4-14-00, cert. ef. 4-16-00 thru 7-31-00; DFW 23-2000(Temp), f. 4-19-00, cert. ef. 4-22-00 thru 7-31-00; DFW 58-2000(Temp), f. & cert. ef. 9-1-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 6-2001, f. & cert. ef. 3-1-01; DFW 23-2001(Temp), f. & cert. ef. 4-23-01 thru 10-19-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 46-2001(Temp), f. 6-8-01, cert. ef. 6-16-01 thru 12-13-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 95-2001(Temp), f. 9-27-01, cert. ef. 10-20-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 42-2002, f. & cert. ef. 5-3-02; DFW 44-2002(Temp), f. 5-7-02, cert. ef. 5-8-02 thru 11-3-02; DFW 70-2002(Temp), f. 7-10-02, cert. ef. 7-12-02 thru 12-31-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 16-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 7-1-03; DFW 42-2003, f. & cert. ef. 5-16-03; DFW 53-2003(Temp), f. 6-17-03, cert. ef. 6-18-03 thru 12-14-03; DFW 57-2003(Temp), f. & cert. ef. 7-8-03 thru 12-31-03; DFW 59-2003(Temp), f. & cert. ef. 7-11-03 thru 12-31-03; DFW 70-2003(Temp), f. & cert. ef. 7-23-03 thru 12-31-03; DFW 71-2003(Temp), f. 7-24-03, cert. ef. 7-25-03 thru 12-31-03; DFW 90-2003(Temp), f. 9-12-03, cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 33-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 48-2004(Temp), f. 5-26-04, cert. ef. 5-28-04 thru 11-23-04; DFW 69-2004(Temp), f. & cert. ef. 7-12-04 thru 11-23-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 24-2005, f. 4-15-05, cert. ef. 5-1-05; DFW 78-2005(Temp), f. 7-19-05, cert. ef. 7-21-05 thru 7-22-05; Administrative correction 8-17-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 36-2006(Temp), f. & cert. ef. 6-1-06 thru 9-30-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 121-2006(Temp), f. & cert. ef. 10-20-06 thru 12-31-06; DFW 32-2007, f. 5-14-07, cert. ef. 6-1-07; DFW 65-2007(Temp), f. & cert. ef. 8-6-07 thru 10-31-07; DFW 105-2007(Temp), f. 10-4-07, cert. ef. 10-6-07 thru 11-30-07; Administrative correction 12-20-07; DFW 134-2007, f. 12-26-07, cert. ef. 1-1-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 1-2008(Temp), f. & cert. ef. 1-9-08 thru 7-6-08; DFW 5-2008(Temp), f. 1-25-08, cert. ef. 2-1-08 thru 7-6-08; DFW 15-2008(Temp), f. 2-26-08, cert. ef. 3-1-08 thru 7-29-08; DFW 46-2008(Temp), f. 5-9-08, cert. ef. 5-12-08 thru 7-29-08; DFW 55-2008(Temp), f. 5-30-08, cert. ef. 6-2-08 thru 10-31-08; DFW 82-2008(Temp), f. 7-21-08, cert. ef. 7-29-08 thru 12-31-08; DFW 110-2008(Temp), f. 9-15-08, cert. ef. 9-17-08 thru 12-31-08; DFW 124-2008(Temp), f. 10-1-08, cert. ef. 10-2-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 9-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 8-15-09; DFW 15-2009, f. & cert. ef. 2-25-09; DFW 74-2009(Temp), f. 6-25-09, cert. ef. 6-30-09 thru 7-2-09; Administrative correction 7-21-09; DFW 103-2009(Temp), f. 8-27-09, cert. ef. 9-1-09 thru 12-31-09; DFW 118-2009(Temp), f. & cert. ef. 9-28-09 thru 12-31-09; DFW 123-2009(Temp), f. & cert. ef. 10-5-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 61-2010, f. & cert. ef. 5-14-10; DFW 62-2010(Temp), f. 5-14-10, cert. ef. 5-22-10 thru 11-17-10; DFW 84-2010(Temp), f. 6-17-10, cert. ef. 6-18-10 thru 10-31-10; DFW 94-2010(Temp), f. & cert. ef. 7-1-10 thru 10-31-10; DFW 96-2010(Temp), f. 7-7-10, cert. ef. 7-8-10 thru 10-31-10; DFW 123-2010(Temp), f. 8-26-10, cert. ef. 9-1-10 thru 12-31-10; DFW 134-2010(Temp), f. 9-22-10, cert. ef. 9-23-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 158-2011(Temp), f. 12-14-11, cert. ef. 1-1-12 thru 4-30-12; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 21-2012, f. & cert. ef. 3-12-12; DFW 89-2012(Temp), f. 7-17-12, cert. ef. 7-26-12 thru 8-31-12; DFW 99-2012(Temp), f. 7-31-12, cert. ef. 8-1-12 thru 12-31-12

Rule Caption: 2012 Columbia River Fall Recreational Chinook Seasons Implemented.

Adm. Order No.: DFW 100-2012(Temp)

Filed with Sec. of State: 7-31-2012

Certified to be Effective: 8-1-12 thru 12-31-12

Notice Publication Date:

Rules Amended: 635-023-0130

Rules Suspended: 635-023-0128(T)

Subject: This amended rule sets the 2012 Fall recreational Chinook salmon season regulations for the mainstem Columbia River, effective on August 1, 2012. Modifications were based on 2012 Non-Indian Columbia River Fall Fishery Chinook Allocation Agreement that was developed during the Pacific Fisheries Management Council (PFMC) and North of Falcon (NOF) meetings in March and April 2012 and are consistent with action taken July 26, 2012 by the

ADMINISTRATIVE RULES

Columbia River Compact agencies of Oregon and Washington. Fall fisheries in 2012 are structured to optimize the harvest of Chinook and coho within Endangered Species Act (ESA) limits and to provide a balanced opportunity for the fishers.

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

635-023-0130

Fall Sport Fishery

(1) The **2012 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2012 Oregon Sport Fishing Regulations**.

(2) Notwithstanding all other specifications and restrictions in the **2012 Oregon Sport Fishing Regulations**:

(a) Buoy 10 (Buoy 10 upstream to Tongue Point). Effective August 1 through September 3 and October 1 through December 31, the mainstem Columbia River from a north-south line through Red Buoy #10 near the mouth of the Columbia River, upstream to a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank is open to retention of Chinook. Retention of Chinook salmon is prohibited during September 4 through September 30. Retention of adipose fin-clipped coho and adipose fin-clipped steelhead allowed August 1 through December 31. Jacks (Chinook less than or equal to 24 inches in length and coho less than or equal to 16 inches in length) may not be retained in the Buoy 10 fishery between August 1 and September 30 under permanent rules.

(A) From August 1 through September 3 the combined daily bag limit for adult Chinook salmon, adipose fin-clipped coho salmon, and adipose fin-clipped steelhead is two fish per day of which only one may be a Chinook salmon.

(B) From September 4 through September 30 the combined daily bag limit for adult adipose fin-clipped coho salmon and adipose fin-clipped steelhead is two fish per day.

(C) From October 1 through December 31 the combined daily bag limit for adult Chinook salmon, adipose fin-clipped coho salmon, and adipose fin-clipped steelhead is two fish per day of which both may be a Chinook salmon.

(b) Lower Columbia (Tongue Point upstream to Warrior Rock). Effective August 1 through September 9 and October 1 through December 31, in the mainstem Columbia River from a line projected from Rocky Point on the Washington bank through Red Buoy 44 to the navigation light at Tongue Point on the Oregon bank upstream to a line projected from the Warrior Rock Lighthouse on the Oregon shore to Red Buoy #4 to the orange marker atop the dolphin on the Washington shore is open to retention of Chinook. Effective September 10 through September 16 retention of adipose fin-clipped Chinook (adults and jacks) only is allowed. Effective August 1 through December 31, retention of adipose fin-clipped coho and adipose fin-clipped steelhead is allowed.

(A) From August 1 through September 9 the combined daily bag limit for adult Chinook salmon, adipose fin-clipped coho salmon, and adipose fin-clipped steelhead is two fish per day of which only one may be a Chinook salmon.

(B) From September 10 through September 16 the combined daily bag limit for adult adipose fin-clipped Chinook salmon, adipose fin-clipped coho salmon, and adipose fin-clipped steelhead is two fish per day of which only one may be a Chinook salmon. All Chinook (including jacks), coho, and steelhead must be adipose fin-clipped.

(C) Retention of Chinook salmon is prohibited during September 17 through September 30. The combined daily bag limit for adult adipose fin-clipped coho salmon and adipose fin-clipped steelhead is two fish per day.

(D) From October 1 through December 31 the combined daily bag limit for adult Chinook salmon, adipose fin-clipped coho salmon, and adipose fin-clipped steelhead is two fish per day of which both may be a Chinook salmon.

(c) Lower Columbia (Warrior Rock upstream to Bonneville Dam). Effective August 1 through December 31 the mainstem Columbia River from a line projected from the Warrior Rock Lighthouse on the Oregon shore to Red Buoy #4 to the orange marker atop the dolphin on the Washington shore upstream to Bonneville Dam is open to retention of Chinook, adipose fin-clipped coho and adipose fin-clipped steelhead.

(A) From August 1 through September 9 the combined daily bag limit for adult Chinook salmon, adipose fin-clipped coho salmon, and adipose fin-clipped steelhead is two fish per day of which only one may be a Chinook salmon.

(B) From September 10 through December 31 the combined daily bag limit for adult Chinook salmon, adipose fin-clipped coho salmon, and adipose fin-clipped steelhead is two fish per day of which both adults may be a Chinook salmon.

(d) Effective August 1 through December 31 in the mainstem Columbia River from Bonneville Dam upstream to the Oregon-Washington border, the combined bag limit for adult Chinook, coho and adipose fin-clipped steelhead is two fish per day of which both may be a Chinook salmon. All coho retained downstream of the Hood River Bridge must be adipose fin-clipped.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162

Hist.: DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 92-2004(Temp), f. 9-2-04 cert. ef. 9-6-04 thru 12-31-04; DFW 96-2004(Temp), f. 9-20-04, cert. ef. 9-30-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 84-2005(Temp), f. & cert. ef. 8-1-05 thru 12-31-05; DFW 108-2005(Temp), f. 9-15-05, cert. ef. 9-17-05 thru 12-31-05; DFW 112-2005(Temp), f. 9-28-05, cert. ef. 9-30-05 thru 12-31-05; DFW 123-2005(Temp), f. 10-18-05, cert. ef. 10-20-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 100-2006(Temp), f. & cert. ef. 9-14-06 thru 12-31-06; DFW 109-2006(Temp), f. 9-29-06, cert. ef. 9-30-06 thru 12-31-06; DFW 113-2006(Temp), f. 10-12-06, cert. ef. 10-13-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 92-2007(Temp), f. 9-18-07, cert. ef. 9-19-07 thru 12-31-07; DFW 96-2007(Temp), f. 9-21-07, cert. ef. 9-22-07 thru 12-31-07; DFW 101-2007(Temp), f. 9-28-07, cert. ef. 9-29-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 36-2008, f. 4-21-08, cert. ef. 5-1-08; DFW 99-2008(Temp), f. 8-22-08, cert. ef. 8-25-08 thru 12-31-08; DFW 104-2008(Temp), f. 8-29-08, cert. ef. 8-31-08 thru 12-31-08; DFW 115-2008(Temp), f. & cert. ef. 9-18-08 thru 12-31-08; DFW 118-2008(Temp), f. 9-24-08, cert. ef. 9-25-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 133-2009(Temp), f. 10-20-09, cert. ef. 10-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 77-2010, f. 6-8-10, cert. ef. 6-16-10; DFW 131-2010(Temp), f. 9-21-10, cert. ef. 9-22-10 thru 10-31-10; DFW 145-2010(Temp), f. 10-13-10, cert. ef. 10-15-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 100-2011(Temp), f. 7-27-11, cert. ef. 8-1-11 thru 12-31-11; DFW 127-2011(Temp), f. 9-14-11, cert. ef. 9-16-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 100-2012(Temp), f. 7-31-12, cert. ef. 8-1-12 thru 12-31-12

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Rule Caption: Allowable Sales of and Walleye by Columbia River Treaty Tribes.

Adm. Order No.: DFW 101-2012

Filed with Sec. of State: 8-6-2012

Certified to be Effective: 8-6-12

Notice Publication Date: 7-1-2012

Rules Amended: 635-006-0225

Subject: The adopted rule modifications allow licensed wholesale fish dealers, cannery or buyers to purchase steelhead trout and walleye from Columbia River Treaty Tribal fishers and then sell or distribute the steelhead trout and walleye, assuming the fish were lawfully taken during open commercial fishing seasons. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

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

635-006-0225

Purchase, Record, Report, and Sale of Steelhead Trout and Walleye from Treaty Indian Fisheries

(1) Steelhead trout and walleye lawfully taken by treaty Indians during commercial fishing seasons may be purchased by licensed wholesale fish dealers, cannery, or buyers pursuant to restrictions set forth in sections (2) through (4) of this rule. In addition, steelhead trout and walleye taken lawfully by treaty Indians during commercial fishing seasons may be purchased and/or possessed by any individual pursuant to restrictions set forth in section (5) of this rule.

(2) The wholesale fish dealer, cannery, or buyer, shall at the time of purchase, enter the purchase of steelhead trout and walleye on a Department Columbia River Fish Receiving Ticket. Information required to be entered on the Fish Receiving Ticket shall be the same as required by OAR 635-006-0210 and 635-006-0212 for each purchase of food fish.

(3) The record keeping and reporting requirements for food fish as set forth in OAR 635-006-0200 through 635-006-0215 shall apply to all steelhead trout and walleye purchases.

(4) In addition to the records required in connection with the purchase of steelhead trout, and walleye, a record of all sales of steelhead trout and walleye shall be maintained by licensed wholesale fish dealers, cannery, or buyers for a period of three years and shall be subject to inspection by the Department, the Director's authorized agent or the Oregon State Police. Such record of sales shall include as a minimum:

(a) Name and address of each person to whom either steelhead or walleye are sold;

ADMINISTRATIVE RULES

(b) Quantity in pounds of each sale identified as whole or round weight or dressed weight; and

(c) Date of each delivery.

(5) Steelhead trout and walleye taken lawfully by treaty Indians during commercial fishing seasons may be purchased from a treaty Indian and/or possessed by any individual so long as said fish are accompanied by a written document listing treaty Indian taker's name, tribal enrollment number, number of fish, approximate weight of each fish, date and location where taken, date of sale, and purchaser's name. It is *unlawful* for any individual other than a treaty Indian to sell steelhead trout or walleye. The provisions in this section (5) apply to individuals other than licensed wholesale fish dealers, cannery and buyers.

Stat. Auth.: ORS 506.119, 508.530 & 509.031

Stats. Implemented: ORS 498.022, 506.129, 508.535 & 508.550

Hist.: FWC 39, f. & ef. 1-23-76, Renumbered from 625-040-0150, Renumbered from 635-036-0595; FWC 142-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 41-1995, f. 5-23-95, cert. ef. 5-24-95; FWC 51-1997(Temp), f. & cert. ef. 8-27-97; DFW 73-1998, f. & cert. ef. 8-28-98; DFW 32-2008(Temp), f. & cert. ef. 4-1-08 thru 9-27-08; DFW 79-2008(Temp), f. & cert. ef. 7-10-08 thru 12-31-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 70-2009(Temp), f. 6-15-09, cert. ef. 6-16-09 thru 12-12-09; Administrative correction 12-23-09; DFW 47-2010(Temp), f. 4-26-10, cert. ef. 4-27-10 thru 10-23-10; Administrative correction 11-23-10; DFW 102-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 77-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 83-2012(Temp), f. & cert. ef. 7-5-12 thru 12-31-12; DFW 101-2012, f. & cert. ef. 8-6-12

Rule Caption: Regulations Governing Marine Reserves and Protected Areas in Oregon's Territorial Sea.

Adm. Order No.: DFW 102-2012

Filed with Sec. of State: 8-6-2012

Certified to be Effective: 8-6-12

Notice Publication Date: 7-1-2012

Rules Adopted: 635-012-0070, 635-012-0080, 635-012-0090, 635-012-0100, 635-012-0110, 635-012-0120, 635-012-0130, 635-012-0140, 635-012-0150, 635-012-0160

Rules Amended: 635-012-0020, 635-012-0030, 635-012-0040, 635-012-0050, 635-012-0060

Subject: Adoptions of and amendments to Oregon Administrative Rules relative to Oregon's Marine Reserves extensively expand and modify regulations for the marine reserves and marine protected areas to comply with mandates of Senate Bill 1510 (2012). These rules allow establishment, study, monitoring, evaluation, and enforcement of: 1) A marine reserve and two marine protected areas at Cape Falcon; 2) A marine reserve and three marine protected areas at Cascade Head; and 3) A marine reserve, two marine protected areas and a seabird protection area at Cape Perpetua.

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

635-012-0020

Purpose

The purpose of the regulations in this section are to implement ORS 196.540 through 196.555 and Oregon Senate Bill 1510 (2012) by regulating activities in areas of Oregon's Territorial Sea designated as marine reserves or protected areas.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 157-2009, f. 12-30-09, cert. ef. 6-30-11; DFW 6-2010, f. 1-22-10, cert. ef. 6-30-11; DFW 78-2011(Temp), f. 6-28-11, cert. ef. 6-29-11 thru 12-25-11; DFW 157-2011(Temp), f. 12-13-11, cert. ef. 12-25-11 thru 12-31-11; DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0030

Definitions

For the purposes of OAR 635, division 012 the following definitions apply:

(1) "Bank" means from the mainland or island shore or from docks physically attached to the shore.

(2) "Commission" means the Oregon Fish and Wildlife Commission.

(3) "Department" means the Oregon Department of Fish and Wildlife.

(4) "Fish species" means any animal over which the Commission has jurisdiction, pursuant to ORS 506.036.

(5) "Fishing gear" means any appliance or device intended for or capable of being used to take fish species.

(6) "Groundfish" has the meaning given in OAR 635-004-0215.

(7) "Hook-and-line" has the meaning given in OAR 635-004-0215.

(8) "Net gear" means any type of fishing gear defined in OAR 635-004-0215 that employs a net.

(9) "Take" means to fish for, hunt, pursue, catch, capture or kill or attempt to fish for, hunt, pursue, catch, capture or kill.

(10) "Trawl gear" has the meaning given in OAR 635-004-0215.

(11) "Troll" has the meaning given in OAR 635-004-0215.

(12) "Wildlife species" means all wild birds, amphibians, reptiles, and wild mammals.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 157-2009, f. 12-30-09, cert. ef. 6-30-11; DFW 6-2010, f. 1-22-10, cert. ef. 6-30-11; Suspended by DFW 78-2011(Temp), f. 6-28-11, cert. ef. 6-29-11 thru 12-25-11; Suspended by DFW 157-2011(Temp), f. 12-13-11, cert. ef. 12-25-11 thru 12-31-11; DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0040

Marine Reserve and Marine Protected Area Boundaries

(1) Otter Rock Site:

(a) The Otter Rock Marine Reserve encompasses the area bounded by the points described in OAR 141-142-0030.

(b) The rules provided in OAR 635-012 for this site are effective January 1, 2012.

(2) Redfish Rocks Site:

(a) The Redfish Rocks Marine Reserve encompasses the area bounded by the points described in OAR 141-142-0035.

(b) The Redfish Rocks Marine Protected Area encompasses the area bounded by the points described in OAR 141-142-0040.

(c) The rules provided in OAR 635-012 for this site are effective January 1, 2012.

(3) Cape Perpetua Site:

(a) The Cape Perpetua Marine Reserve encompasses the area bounded by the points described in OAR 141-142-0045.

(b) The Cape Perpetua North Marine Protected Area encompasses the area bounded by the points described in OAR 141-142-0050.

(c) The Cape Perpetua South-East Marine Protected Area encompasses the area bounded by the points described in OAR 141-142-0055.

(d) The Cape Perpetua Seabird Protection Area encompasses the area bounded by the points described in OAR 141-142-0060.

(e) The rules provided in OAR 635-012 for this site are effective January 1, 2014.

(4) Cascade Head Site:

(a) The Cascade Head Marine Reserve encompasses the area bounded by the points described in OAR 141-142-0065.

(b) The Cascade Head North Marine Protected Area encompasses the area bounded by the points described in OAR 141-142-0070.

(c) The Cascade Head South Marine Protected Area encompasses the area bounded by the points described in OAR 141-142-0075.

(d) The Cascade Head West Marine Protected Area encompasses the area bounded by the points described in OAR 141-142-0080.

(e) The rules provided in OAR 635-012 for this site are effective January 1, 2014.

(5) Cape Falcon Site:

(a) The Cape Falcon Marine Reserve encompasses the area bounded by the points described in OAR 141-142-0085.

(b) The Cape Falcon West Marine Protected Area encompasses the area bounded by the points described in OAR 141-142-0090.

(c) The Cape Falcon Shoreside Marine Protected Area encompasses the area bounded by the points described in OAR 141-142-0095.

(d) The rules provided in OAR 635-012 for this site are effective January 1, 2016.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 157-2009, f. 12-30-09, cert. ef. 6-30-11; Suspended by DFW 78-2011(Temp), f. 6-28-11, cert. ef. 6-29-11 thru 12-25-11; Suspended by DFW 157-2011(Temp), f. 12-13-11, cert. ef. 12-25-11 thru 12-31-11; DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0050

Marine Reserve Prohibitions and Allowances

(1) Except as specified in section 3 below, the following activities are prohibited within the Otter Rock, Redfish Rocks, Cape Perpetua, Cascade Head and Cape Falcon marine reserve areas: Take, including fishing or hunting, of any fish or wildlife species.

(2) Take of fish species from the ocean, using hook-and-line from the bank shoreward of a marine reserve, unless specifically authorized, is prohibited.

(3) Notwithstanding the prohibitions in sections (1) and (2) above, person(s) may:

(a) Remove fishing gear from within the marine reserve boundary, provided that the retrieving vessel operator must notify the Oregon State Police at 1-800-452-7888 and receive permission before retrieving the gear and no fish or wildlife species from the retrieved gear shall be retained. Specific to commercial crab pots:

ADMINISTRATIVE RULES

(A) If the pot(s) do not belong to the retrieving vessel, the vessel operator must follow the retrieval requirements set forth in OAR 635-005-0490.

(B) If the pot(s) do belong to the retrieving vessel, the vessel operator may re-set the pot(s) outside of the reserve area pursuant to the requirements set forth in OAR 635-005-0490.

(b) Take fish and wildlife species if authorized by a valid scientific taking permit as required by OAR divisions 635-007 and 635-043.

(c) Have catch onboard while transiting or anchoring in the marine reserve area. Except as allowed by subsection (3)(b) above, fishing gear shall not be deployed in the water at any time within the marine reserve.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 157-2009, f. 12-30-09, cert. ef. 6-30-11; DFW 6-2010, f. 1-22-10, cert. ef. 6-30-11; Suspended by DFW 78-2011(Temp), f. 6-28-11, cert. ef. 6-29-11 thru 12-25-11; Suspended by DFW 157-2011(Temp), f. 12-13-11, cert. ef. 12-25-11 thru 12-31-11; DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0060

Redfish Rocks Marine Protected Area Prohibitions and Allowances

(1) Except as specified in section (2) below, the following activities are prohibited within the Redfish Rocks marine protected areas:

Take of any fish species.

(2) Notwithstanding the prohibitions in section (1) above, person(s) may:

(a) Commercially or recreationally troll for and take salmon in fisheries otherwise authorized by Commission rule.

(b) Commercially or recreationally take crab in fisheries otherwise authorized by Commission rule.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 157-2009, f. 12-30-09, cert. ef. 6-30-11; DFW 6-2010, f. 1-22-10, cert. ef. 6-30-11; Suspended by DFW 78-2011(Temp), f. 6-28-11, cert. ef. 6-29-11 thru 12-25-11; Suspended by DFW 157-2011(Temp), f. 12-13-11, cert. ef. 12-25-11 thru 12-31-11; DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0070

General Protected Area Prohibitions and Allowances

(1) The prohibitions and allowances specified in this section apply to all areas of Oregon's Territorial Sea designated as marine protected and seabird protection areas. Notwithstanding the area-specific prohibitions and allowances, person(s) may:

(a) Take fish species if authorized by a valid scientific taking permit as required by OAR divisions 635-007 and 635-043.

(b) Have catch onboard while transiting or anchoring in the marine protected or seabird protection area. Except as allowed by OAR 635-012-0060, 635-012-0080 through 635-012-0150 or by subsection (1)(a) above, fishing gear shall not be deployed in the water at any time within a marine protected or seabird protection area.

(2) It is *unlawful* to take any legal fish species in a marine protected or seabird protection area while possessing onboard any species not allowed to be taken in the marine protected or seabird protection area.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0080

Cape Perpetua North Marine Protected Area Prohibitions and Allowances

(1) Except as specified in section (2) below, the following activities are prohibited within the Cape Perpetua North Marine Protected Area: Take of any fish species.

(2) Notwithstanding the prohibitions in section (1) above, person(s) may:

(a) Commercially or recreationally troll for and take salmon in fisheries authorized specifically for this area by Commission rule.

(b) Commercially or recreationally take crab in fisheries authorized specifically for this area by Commission rule.

(c) Recreationally take fish species using hook-and-line from the bank in fisheries otherwise authorized by Commission rule.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0090

Cape Perpetua South-East Marine Protected Area Prohibitions and Allowances

(1) Except as specified in (2) below, take of all species authorized by general Commission rule for this area is allowed.

(2) The following activities are prohibited within the Cape Perpetua South-East Marine Protected Area:

(a) Use of trawl gear to take any fish species.

(b) Take of the following species, used as seabird forage:

(A) Pacific herring;

(B) Pacific sardine (pilchard);

(C) Anchovies;

(D) Smelt as defined by OAR 635-004-0215;

(E) Pacific sand lance;

(F) Market squid.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0100

Cape Perpetua Seabird Protection Area Prohibitions and Allowances

(1) Except as specified in (2) below, take of all species authorized by general Commission rule for this area is allowed.

(2) Take of the following species, used as seabird forage, are prohibited within the Cape Perpetua Seabird Protection Area:

(a) Pacific herring;

(b) Pacific sardine (pilchard);

(c) Anchovies;

(d) Smelt as defined by OAR 635-004-0215;

(e) Pacific sand lance.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0110

Cascade Head North Marine Protected Area Prohibitions and Allowances

(1) Except as specified in section (2) below, the following activities are prohibited within the Cascade Head North Marine Protected Area: Take of any fish species.

(2) Notwithstanding the prohibitions in section (1) above, person(s) may:

(a) Commercially or recreationally troll for and take salmon in fisheries authorized specifically for this area by Commission rule.

(b) Commercially or recreationally take crab in fisheries authorized specifically for this area by Commission rule.

(c) Recreationally take groundfish using hook-and-line from private, non-chartered, boats in fisheries authorized specifically for this area by Commission rule.)

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0120

Cascade Head South Marine Protected Area Prohibitions and Allowances

(1) Except as specified in (2) below, take of all species authorized by general Commission rule for this area is allowed.

(2) The use of net gear to take any fish species is prohibited within the Cascade Head South Marine Protected Area.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0130

Cascade Head West Marine Protected Area Prohibitions and Allowances

(1) Except as specified in section (2) below, the following activities are prohibited within the Cascade Head West Marine Protected Area: Take of any fish species.

(2) Notwithstanding the prohibitions in section (1) above, person(s) may:

(a) Commercially or recreationally troll for and take salmon in fisheries authorized specifically for this area by Commission rule.

(b) Commercially or recreationally take crab in fisheries authorized specifically for this area by Commission rule.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0140

Cape Falcon West Marine Protected Area Prohibitions and Allowances

(1) Except as specified in section (2) below, the following activities are prohibited within the Cape Falcon West Marine Protected Area: Take of any fish species.

ADMINISTRATIVE RULES

(2) Notwithstanding the prohibitions in section (1) above, person(s) may:

(a) Commercially or recreationally troll for and take salmon in fisheries authorized specifically for this area by Commission rule.

(b) Commercially or recreationally take crab in fisheries authorized specifically for this area by Commission rule.

(A) Gravel bed areas shall be delineated by the Department and participants in the commercial ocean Dungeness crab fishery shall voluntarily avoid setting crab pots in the gravel beds.

(B) The Department and Oregon State Police shall periodically monitor the voluntary compliance within the delineated gravel beds and consider proposing regulatory requirements if voluntary compliance is low.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0150

Cape Falcon Shoreside Marine Protected Area Prohibitions and Allowances

(1) Except as specified in section (2) below, the following activities are prohibited within the Cape Falcon Shoreside Marine Protected Area: Take of any fish species.

(2) Notwithstanding the prohibitions in section (1) above, person(s) may: Recreationally take fish species using hook-and-line from the bank in fisheries authorized specifically for this area by Commission rule.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

635-012-0160

Untitled

(1) Nothing in OAR 635-012 rules alters or supersedes the Agreement between the Confederated Tribes of Siletz Indians of Oregon, the United States and the State of Oregon, recorded at OAR 635-041-0500, defining specified tribal hunting, fishing, trapping and gathering rights by the Siletz Tribe and its members.

(2) Nothing in OAR 635-012 rules alters or supersedes the Agreement between the Confederated Tribes of the Grand Ronde Community of Oregon, the United States and the State of Oregon, recorded at OAR 635-041-0600, defining specified tribal hunting, fishing, trapping and gathering rights by the Grand Ronde Tribe and its members.

(3) Nothing in OAR 635-012 rules alters or supersedes the rights of any federally recognized Indian Tribe.

Stat. Auth.: ORS 506.119 & 506.129

Stats. Implemented: ORS 196.540 - 196.555 & SB 1510 (2012)

Hist.: DFW 102-2012, f. & cert. ef. 8-6-12

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Rule Caption: Amendments regarding harvest of game birds, season dates, open areas and bag limits.

Adm. Order No.: DFW 103-2012

Filed with Sec. of State: 8-6-2012

Certified to be Effective: 8-6-12

Notice Publication Date: 7-1-2012

Rules Amended: 635-008-0120, 635-044-0000, 635-044-0002, 635-044-0130, 635-045-0000, 635-045-0002, 635-051-0000, 635-051-0048, 635-052-0000, 635-053-0000, 635-053-0100, 635-053-0105, 635-053-0111, 635-053-0125, 635-054-0000, 635-060-0000

Subject: Amend rules regarding the harvest of game birds including 2012–2013 season dates, open areas, regulations and bag limits. Amend rules regarding unprotected wildlife.

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

635-008-0120

Ladd Marsh Wildlife Area

The Ladd Marsh Wildlife Area is open to wildlife-oriented public use compatible with the goals and objectives contained in the 2008 Ladd Marsh Wildlife Area Management Plan unless otherwise excluded or restricted by the following rules:

(1) An entry permit is required except during the authorized upland game bird and waterfowl seasons and on that portion of Ladd Marsh Wildlife Area west of Foothill Road, the nature trail and Long Pine Viewpoint.

(2) All land north and east of Foot Hill Road is closed to big game hunting except for youth deer hunts 652T1 and 652T2.

(3) Discharging firearms is prohibited except as authorized during game bird and big game hunting seasons, or by permit.

(4) Camping is prohibited.

(5) Running or training of dogs is prohibited April 1 through July 31.

(6) No person shall possess or use any shot other than federally-approved nontoxic shot at any time, except for big game hunters using buckshot.

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

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

Hist.: GC 64, f. 4-3-57; GC 232, f. 8-13-70, ef. 9-11-70; GC 252, f. 5-11-72, ef. 6-1-72, Renumbered from 630-010-0500, Renumbered from 635-015-0005; FWC 63-1980, f. & ef. 11-4-80; FWC 2-1981(Temp), f. & ef. 1-20-81; FWC 30-1982, f. & ef. 5-18-82, Renumbered from 635-008-0005(11); FWC 53-1994, f. & cert. ef. 8-25-94; DFW 38-2008, f. & cert. ef. 4-24-08; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 103-2012, f. & cert. ef. 8-6-12

635-044-0000

Purpose

The purpose of these rules is to regulate the holding and propagation of game birds and native wildlife, except those cervids regulated pursuant to OAR chapter 635, division 49, to regulate the rehabilitation of wildlife and to list species determined to be protected nongame wildlife.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Hist.: FWC 9-1993, f. & cert. ef. 2-8-93; FWC 69-1996, f. & cert. ef. 12-20-96; DFW 15-2011, f. & cert. ef. 2-15-11; DFW 103-2012, f. & cert. ef. 8-6-12

635-044-0002

Taxonomy

(1) Scientific taxonomic nomenclature reflects the following:

(a) Fish:

(A) Nelson, J. S., E. J. Crossman, H. Espinosa-Perez, L. T. Findley, C. R. Gilbert, R. N. Lea, and J. D. Williams. 2004. Common and scientific names of fishes from the United States, Canada, and Mexico. American Fisheries Society, Special Publication 29, Bethesda, Maryland.

(B) Moyle, P. B. 2002. Inland fishes of California. Revised and expanded. University of California Press. Berkeley, California.

(C) Jelks, H.L., S.J. Walsh, N.M. Burkhead, S. Contreras-Balders, E. Diaz-Pardo, D.A. Hendrickson, J. Lyons, N.E. Mandrak, F. McCormick J. S. Nelson, S. P. Platania, B. A. Porter, C.B. Renaud, J.J. Schmitter-Soto, E. B. Taylor, and M. L. Warren, Jr. 2008. Conservation status of imperiled North American freshwater and diadromous fishes. Fisheries. 33(8): 372-407.

(b) Amphibians and reptiles — Crother, B. I., editor. 2008. Scientific and standard English names of amphibians and reptiles of North America north of Mexico, with comments regarding confidence in our understanding. 6th Edition. Society for the Study of Amphibians and Reptiles, Herpetological Circular No. 37.

(c) Birds — Chesser, R.T., R.C. Banks, F.K. Barker, C. Cicero, J.L. Dunn, A.W. Kratter, I.J. Lovette, P.C. Rasmussen, J.V. Remsen, Jr., J.D. Rising, D.F. Stotz, and K. Winker. 2009. Fiftieth supplement to the American Ornithologists' Union Check-List of North American Birds. The Auk. 126:705–714.

(d) Mammals — Wilson, D. E. and D. M. Reeder, editors. 2005. Mammal species of the world. a taxonomic and geographic reference. 3rd Edition. Johns Hopkins University Press.

(2) If the taxonomic status of individual species is changed through subsequent publications scientific taxonomy shall remain as cited in 635-044-0002(1) and 635-044-0130 for the purposes of implementing and enforcing 635-044-0000 through 635-044-0235.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Stats. Implemented: ORS 496.012, 496.138, 496.146, 497.298, 497.308, 497.312, 497.318, 498.022, 498.029, 498.052, 498.222 & 498.242

Hist.: FWC 69-1996, f. & cert. ef. 12-20-96; DFW 108-2009, f. & cert. ef. 9-8-09; DFW 103-2012, f. & cert. ef. 8-6-12

635-044-0130

Nongame Wildlife Protected

(1) Except as provided by 635-043-0030, 635-200-0040, 635-044-0015, 635-056-0080 and 635-044-0200, it is unlawful for any person to hunt, trap, pursue, kill, take, catch, angle for, or have in possession, either dead or alive, whole or in part, any:

(a) Threatened or Endangered animals as provided for in 635-100-0125; or

(b) Protected wildlife listed herein except as otherwise provided by the commission by permit, or with respect to Pacific Lamprey, as authorized by a federally-recognized Indian tribe to which the Commission has issued a permit authorizing that tribe to allow its members to take Pacific Lamprey at Willamette Falls for personal use, with a tribal enrollment card in possession, within seasons and subject to conditions established by the

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Commission, or with respect to non-threatened or non-endangered migratory nongame birds, as authorized by a Migratory Bird Depredation Order, or in compliance with all terms and conditions of a Migratory Bird Depredation Permit issued by the United States Fish and Wildlife Service under Title 50 Code of Federal Regulations Part 21, Subpart D. Nothing in this rule is intended to affect the provisions of ORS 610.002 to 610.990.

(A) Fish: (Protected fish are listed by common name and scientific name if consistently applied across taxonomic references):

- (i) Goose Lake lamprey (*Entosphenus* sp.);
- (ii) Alvord chub;
- (iii) Oregon lakes tui chub;
- (iv) Sheldon tui chub;
- (v) Pit roach (*Lavinia symmetricus mitrulus*);
- (vi) Oregon chub (*Oregonichthys crameri*);
- (vii) Millicoma longnose dace (*Rhinichthys cataractae* ssp.);
- (viii) Lahonton redbelt (*Richardsonius egregius*);
- (ix) Goose Lake sucker (*Catostomus occidentalis lucasanserinus*);
- (x) Tahoe sucker (*Catostomus tahoensis*);
- (xi) Malheur sculpin (*Cottus bendirei*);
- (xii) Margined sculpin (*Cottus marginatus*);
- (xiii) Pit sculpin (*Cottus pitensis*);
- (xiv) Pacific lamprey (*Entosphenus tridentatus*);
- (xv) Goose Lake tui chub;
- (xvi) Klamath smallscale sucker, Jenny Creek population (*Catostomus rimiculus*);
- (xvii) River lamprey (*Lampetra ayresii*);
- (xviii) Western brook lamprey (*Lampetra richardsoni*);
- (xix) Miller Lake lamprey (*Entosphenus minimus*);
- (xx) Klamath River lamprey (*Entosphenus similis*);
- (xxi) Pit-Klamath brook lamprey (*Entosphenus lethophagus*);

(B) Amphibians:

- (i) Cope's giant salamander (*Dicamptodon copei*);
- (ii) Clouded salamander (*Aneides ferreus*);
- (iii) Black salamander (*Aneides flavipunctatus*);
- (iv) California slender salamander (*Batrachoseps attenuatus*);
- (v) Oregon slender salamander (*Batrachoseps wrightorum*);
- (vi) Del Norte salamander (*Plethodon elongatus*);
- (vii) Larch Mountain salamander (*Plethodon larselli*);
- (viii) Siskiyou Mountains salamander (*Plethodon stormi*);
- (ix) Rocky Mountain tailed frog (*Ascaphus montanus*);
- (x) Coastal tailed frog (*Ascaphus truei*);
- (xi) Northern red-legged frog (*Rana aurora*);
- (xii) Foothill yellow-legged frog (*Rana boylei*);
- (xiii) Cascades frog (*Rana cascadae*);
- (xiv) Northern leopard frog (*Lithobates pipiens*);
- (xv) Columbia spotted frog (*Rana luteiventris*);
- (xvi) Oregon spotted frog (*Rana pretiosa*);
- (xvii) Southern torrent salamander (*Rhyacotriton variegatus*);
- (xviii) Columbia torrent salamander (*Rhyacotriton kezeri*);
- (xix) Cascade torrent salamander (*Rhyacotriton cascadae*);
- (xx) Western toad (*Anaxyrus boreas*);
- (xxi) Woodhouse toad (*Anaxyrus woodhousei*);
- (xxii) Blotched tiger salamander (*Ambystoma mavortium melanostictum*).

(C) Reptiles:

- (i) Western painted turtle (*Chrysemys picta bellii*);
- (ii) Western pond turtle (*Actinemys marmorata*);
- (iii) Great Basin collared lizard (*Crotaphytus bicinctores*);
- (iv) Long-nosed leopard lizard (*Gambelia wislizenii*);
- (v) Pygmy short-horned lizard (*Phrynosoma douglassi*);
- (vi) Desert horned lizard (*Phrynosoma platyrhinos*);
- (vii) Sharp-tailed snake (*Contia tenuis*);
- (viii) Common kingsnake (*Lampropeltis getula*);
- (ix) California mountain kingsnake (*Lampropeltis zonata*);
- (x) Western ground snake (*Sonora semiannulata*);

(D) Birds: All nongame birds except European starling, house sparrow, and Eurasian collared-dove.

(E) Mammals:

- (i) Fringed myotis (*Myotis thysanodes*);
- (ii) Townsend's big-eared bat (*Corynorhinus townsendii*);
- (iii) Pallid bat (*Antrozous pallidus*);
- (iv) American pika (*cony*) (*Ochotona princeps*);
- (v) Pygmy rabbit (*Brachylagus idahoensis*);
- (vi) White-tailed jack rabbit (*Lepus townsendii*);

- (vii) Chipmunk (*Tamias amoenus*, *T. minimus*, *T. senex*, *T. siskiyou* and *T. townsendii*);
- (viii) Golden-mantled ground squirrel (*Spermophilus lateralis*);
- (ix) Chickaree (Douglas's squirrel and red squirrel) (*Tamiasciurus douglasii* and *T. hudsonicus*);
- (x) White-tailed antelope squirrel (*Ammospermophilus leucurus*);
- (xi) Northern flying squirrel (*Glaucomys sabrinus*);
- (xii) White-footed vole (*Arborimus alpinus*);
- (xiii) Ringtail (*Bassariscus astutus*);
- (xiv) Fisher (*Martes pennanti*);
- (xv) All marine mammals.
- (xvi) Silver-haired bat (*Lasionycteris noctivagans*);
- (xvii) Western small-footed myotis (*Myotis ciliolabrum*);
- (xviii) Long-eared myotis (*Myotis evotis*);
- (xix) Long-legged myotis (*Myotis volans*);
- (xx) Yuma myotis (*Myotis yumanensis*);
- (xxi) Columbian white-tailed deer (*Odocoileus virginianus leucurus*)

in the following Wildlife Management Units: Saddle Mountain (10), Scappoose (11), Willamette (15), and Santiam (16).

(2) Notwithstanding section (1) of this rule, it shall be lawful to purchase, sell, or exchange, or have in possession any pelt of wildlife listed therein which was lawfully taken in another state and transported into Oregon. A bill of lading or freight bill from a common carrier or other documentary proof indicating the state of origin of the pelt and the name and address of the person from whom the pelt was received shall be sufficient.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 39-1991, f. & cert. ef. 4-24-91; Renumbered from 635-007-0355, FWC 69-1996, f. & cert. ef. 12-20-96; DFW 42-2002, f. & cert. ef. 5-3-02; DFW 78-2002, f. & cert. ef. 7-30-02; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 108-2009, f. & cert. ef. 9-8-09; DFW 103-2012, f. & cert. ef. 8-6-12

635-045-0000

Purpose

(1) The purpose of these rules is to list definitions pursuant to hunting seasons for big game and game birds.

(2) The documents entitled 2012–2013 Oregon Game Bird Regulations”, and 2012 Oregon Big Game Regulations”, are incorporated by reference into these rules. These documents are available at hunting license vendors and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

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

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

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

Hist.: FWC 36-1988, f. & cert. ef. 6-13-88; FWC 47-1989, f. & cert. ef. 7-25-89; FWC 14-1990, f. & cert. ef. 2-2-90; FWC 91-1990, f. & cert. ef. 9-4-90; FWC 42-1996, f. & cert. ef. 8-12-96; FWC 53-1997, f. & cert. ef. 9-3-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 118-2007, f. 10-31-07, cert. ef. 1-1-08; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 150-2008, f. 12-18-08, cert. ef. 1-1-09; DFW 93-2009, f. & cert. ef. 8-12-09; DFW 140-2009, f. 11-3-09, cert. ef. 1-1-10; DFW 117-2010, f. & cert. ef. 8-13-10; DFW 140-2010(Temp), f. & cert. ef. 10-6-10 thru 12-31-10; Administrative correction 1-25-11; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 103-2012, f. & cert. ef. 8-6-12

635-045-0002

Definitions

(1) “Adult hunting license” is a resident or nonresident hunting license, resident combination angling and hunting license, disabled veteran’s angling and hunting license, pioneer’s angling and hunting license or senior citizen’s angling and hunting license.

(2) “Agricultural lands” are lands that are not less than ten acres in extent that have been cultivated and planted or irrigated to domestic crops that are currently in use. Isolated home gardens, abandoned farmsteads, logged lands, rangelands, and tree farms, are not included in this definition.

(3) “Antler Point” is a point at least one inch in length measured from tip of point to nearest edge of beam. This definition applies only to the three-point elk and spike only elk bag limits.

(4) “Antlerless deer” means doe or fawn deer.

(5) “Antlerless elk” means cow or calf elk.

(6) “Application” means the electronic form completed and purchased to apply for a hunt where the number or distribution of hunters is limited through a public drawing or other means. Mail order applications sent to the Department along with the proper remittance are used to generate the electronic form.

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(7) "Bait" for hunting game mammals means any substance placed to attract an animal by its sense of smell or taste, including but not limited to food items or minerals (such as salt). Applying a scent or attractant to one's body or clothing while worn, is not baiting.

(8) "Baited Area" means an area where baiting has taken place.

(9) "Baiting" means the placing, exposing, depositing, distributing, or scattering of corn, wheat, salt or other feed to constitute a lure or enticement to, on, or over an area where hunters are attempting to take game birds.

(10) "Brace" is defined as an orthosis that is prescribed by a physician and fabricated by an orthotist certified by the American Board for Certification in Orthotics and Prosthetics, Inc.

(11) "Brace Height" is the distance from the back of the bow's riser at the handgrip to the string when the bow is at rest.

(12) "Buck Deer" means a male deer with at least one visible antler.

(13) "Buck Pronghorn" means a male pronghorn antelope with visible horns and a dark cheek patch below the ear.

(14) "Bull elk" for the purposes of a bag limit definition, means a male elk with at least one visible antler.

(15) "Calendar year" means from January 1 through December 31.

(16) "Carcass" is the skinned or unskinned body, with or without entrails, of a game bird or game mammal.

(17) "Cascade elk" means any live elk occurring in the Dixon, Evans Creek, Indigo, Keno, McKenzie, Metolius, Rogue, Santiam and Upper Deschutes units and those parts of Fort Rock and Sprague units west of Highway 97, and that part of Grizzly Unit west of Hwy 97 and south of Hwy 26.

(18) "Closed season" is any time and place when it is not authorized to take a specific species, sex or size of wildlife.

(19) "Coast elk" means any live elk occurring in the Alsea, Applegate, Chetco, Melrose, Powers, Saddle Mountain, Scappoose, Siuslaw, Sixes, Stott Mountain, Tioga, Trask, Willamette, and Wilson units.

(20) "Commission" means the Oregon Fish and Wildlife Commission.

(21) "Controlled hunt" is a season where the number or distribution of hunters is limited through a public drawing or other means.

(22) "Department" means the Oregon Department of Fish and Wildlife.

(23) "Director" means the Oregon Fish and Wildlife Director.

(24) "Doe or fawn pronghorn" means a female pronghorn antelope without a dark cheek patch below the ear or a pronghorn fawn (young of the year) of either sex.

(25) "Domestic partner" means, as provided in section 3 of the Oregon Family Fairness Act of 2007 (ORS Chapter 106), "an individual who has, in person, joined into a civil contract with another individual of the same sex, provided that each individual is at least 18 years of age and is otherwise capable, and that at least one of the individuals is a resident of Oregon."

(26) "Eastern Oregon" means all counties east of the summit of the Cascade Range including all of Klamath and Hood River counties.

(27) "Eastern Oregon deer" means any live deer occurring east of the east boundaries of the Santiam, McKenzie, Dixon, Indigo and Rogue units.

(28) "Eligible Hunter" means someone who will be 12 years of age by the time they hunt.

(29) "Entry permit" means a permit issued by the Department to be in an area where entry is restricted by regulation.

(30) "Established airport" is one that the Oregon Department of Aviation has licensed as a public-use airport, registered as a personal-use airport, or specifically exempted from either licensing or registration.

(31) "Feral Swine" means animals of the genus *Sus* as defined by the Oregon Department of Agriculture in OAR 603-010-0055.

(32) "Fiscal year" means from July 1 through June 30.

(33) "Furbearers" are beaver, bobcat, fisher, marten, mink, muskrat, otter, raccoon, red fox, and gray fox.

(34) "Game Birds" are any waterfowl, snipe, band-tailed pigeon, mourning dove, pheasant, quail, partridge, grouse, or wild turkey.

(35) "Game mammals" are pronghorn antelope, black bear, cougar, deer, elk, moose, Rocky Mountain goat, bighorn sheep, and western gray squirrel.

(36) "General season" is any season open to the holder of a valid hunting license and appropriate game mammal tag without restriction as to the number of participants.

(37) "Hunter certification" means to have met educational, safety or other requirements designated by administrative rule for participation in a hunt.

(38) "Hunt" means to take or attempt to take any wildlife by means involving the use of a weapon or with the assistance of any mammal or bird.

(39) "Husbandry" means the care given animals directly by their owners and managers, including but not limited to:

(a) Nutrition;

(b) Breeding program;

(c) Veterinary medical care;

(d) Environmental cleanliness; and

(e) Humane handling.

(40) "Immediate family" for the purpose of Landowner Preference, means a landowner's spouse, children, father, mother, brother, sister, stepchildren, and grandchildren.; for all other purposes, it means spouse, domestic partner, children, father, mother, brother, sister, stepchildren, and grandchildren.

(41) "Inedible" means unfit for human consumption.

(42) "Juvenile hunting license" is a resident, nonresident hunting license or resident combination angling and hunting license for persons 9 to 17 years of age to hunt wildlife.

(43) "Landowner", as used in OAR chapter 635, division 075, means:

(a) A person who holds title in trust or in fee simple to 40 or more contiguous acres of land; provided however that a recorded deed or contract of ownership shall be on file in the county in which the land is located; and/or

(b) A corporation or Limited Liability Company (LLC) holding title in fee simple to 40 or more contiguous acres of land; provided however that the corporation or LLC shall be registered with the State of Oregon; and/or

(c) A partnership holding title in fee simple to 40 or more contiguous acres of land; and/or

(d) Persons who hold title as part of a time share are not eligible for landowner preference.

(44) "Low Income" means a person who is "economically disadvantaged" as defined in Section 4(8) of the Federal Job Training Partnership Act of 1982.

(45) "Mounted Wildlife" means any hide, head or whole body of wildlife prepared by a licensed taxidermist for display.

(46) "Muzzleloader" is any single-barreled (shotguns may be double barreled) long gun meant to be fired from the shoulder and loaded from the muzzle with an open ignition system and open or peep sights.

(47) "On or within" means a straight line distance measured on a map.

(48) "One deer" means a buck, doe, or fawn deer.

(49) "One elk" means a bull, cow, or calf elk.

(50) "Open Ignition" is an ignition system where the percussion cap, or frizzen, or flint is visible and exposed to the weather at all times and is not capable of being closed or covered by any permanent piece of the weapon.

(51) "Partner" means a person in an association of two or more persons formed to carry on as co-owners for profit.

(52) "Point-of-Sale" (POS) is a computerized licensing system available at locations that sell Oregon's hunting and angling licenses. Licenses and tags are generated and issued directly to customers from a POS machine at the time of sale.

(53) "Possession" means to have physical possession or to otherwise exercise dominion or control over any wildlife or parts thereof, and any person who counsels, aids or assists another person holding such wildlife is deemed equally in possession.

(54) "Postmark" means the date of mailing as stated in a mark applied by the U.S. Postal Service to a piece of mail. Office postal machine meter marks are not valid application deadline postmarks.

(55) "Predatory animals" means coyotes, rabbits, rodents, and feral swine which are or may be destructive to agricultural crops, products and activities.

(56) "Protected wildlife" means "game mammals" as defined in OAR 635-045-0002(34) "game birds" as defined in 635-045-0002(33), "furbearers" as defined in 635-045-0002(32), "threatened and endangered species" as defined in 635-100-0125, and "nongame wildlife protected" as defined in 635-044-0130.

(57) "Pursue" means the act of trailing, tracking, or chasing wildlife in an attempt to locate, capture, catch, tree, or kill any game mammal or furbearer.

(58) "Raw pelt" means any pelt that has not been processed or converted to any usable form beyond initial cleaning, stretching, and drying.

(59) "Resident" is any person who has resided in Oregon for a period of at least six months immediately prior to the date of making application for a license or tag. Members of the armed forces assigned to permanent duty status in Oregon including spouses and dependent children, and for-

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eign exchange students attending school in Oregon under a foreign student exchange program may purchase a resident license and tags. All other persons are nonresidents.

(60) "Resident juvenile" is any "Resident" of Oregon 14 through 17 years of age.

(61) "River" is that portion of a natural water body lying below the level of bankfull stage. Bankfull stage is the stage or elevation at which overflow of the natural banks of a stream or body of water begins to inundate the upland.

(62) "Rocky Mountain elk" is any live elk occurring east of the following described line: Beginning at the California line on Highway 97; north on Highway 97 to State Highway 26 at Madras; northwest on Highway 26 to east boundary of Santiam Unit; north along east boundary of Santiam Unit to the Columbia River.

(63) "Sabot" A carrier, bushing or device in which a projectile of a smaller caliber is centered so as to permit firing the projectile within a larger caliber weapon. Cloth, paper or felt patches used with round balls are not considered a sabot.

(64) "Shotgun" is a smoothbore firearm, designed for firing birdshot, and intended to be fired from the shoulder, with a barrel length of 18 inches or more, and with an overall length of 26 inches or more. Exception: Shotguns equipped with rifled slug barrels are considered shotguns when used for hunting pronghorn antelope, black bear, cougar, deer, or elk when centerfire rifles or shotguns are legal weapons.

(65) "Sight bait" is exposed flesh bait within 15 feet of any foothold trap set for carnivores.

(66) "Spike deer" is a deer with spike (unbranched) antlers.

(67) "Spike-only bull elk" means a bull elk with at least one visible unbranched antler (brow tines are not considered an antler branch under spike-only regulations).

(68) "Stockholder" is a person who owns stock within a corporation as defined in OAR 635-045-0002(42)(b).

(69) "Tag" is a document authorizing the taking of a designated kind of mammal at a specified time and place.

(70) "Take" means to kill or obtain possession or control of any wildlife.

(71) "Three point plus elk" for the purposes of a bag limit definition, means a bull elk having 3 points or more on one antler including the brow tine.

(72) "Unbarbed broadhead" is a fixed position arrowhead where the rear edge of the blade(s) forms an angle with the arrow shaft to which it is attached of 90° or greater.

(73) "Unprotected Mammals and Birds" are European starling, house sparrow, Eurasian collared-dove and any mammal species for which there are no closed seasons or bag limits.

(74) "Valid certification permit" is a permit for the current season that has not become invalid after taking a season limit or illegal game bird.

(75) "Visible Antler" means a velvet or hardened antler that is visible above the hairline on the skullcap and is capable of being shed.

(76) "Wait period" means the length of time a successful controlled hunt applicant must wait before reapplying for the species for which he was successful in drawing.

(77) "Waste" means to allow any edible portion of any game mammal (except cougar) or game bird to be rendered unfit for human consumption, or, to fail to retrieve edible portions, except internal organs, of such game mammals or game birds from the field. Entrails, including the heart and liver, are not considered edible.

(78) "Waterfowl" means ducks, geese, mergansers and coots.

(79) "Weapon" is any device used to take or attempt to take wildlife.

(80) "Western Oregon" means all counties west of the summit of the Cascade Range except Klamath and Hood River counties.

(81) "Western Oregon deer" is any live deer except the Columbian white-tailed deer occurring west of the east boundaries of the Santiam, McKenzie, Dixon, Indigo, and Rogue units.

(82) "Wildlife" means fish, wild birds, amphibians, reptiles, wild mammals, and feral swine.

(83) "Wildlife" means for the purposes of harassment to relieve damage described in OAR 635-043-0096 through 635-043-0115, game mammals, game birds except migratory birds protected by Federal law, furbearing mammals and wildlife declared protected by the commission.

(84) "Wildlife" means for the purposes of scientific taking described in OAR 635-043-0023 through 635-043-0045, wild birds, wild mammals, amphibians and reptiles, including nests, eggs, or young of same.

(85) "Wildlife" means, for the purposes of the Wildlife Diversity Plan described in OAR 635-100-0001 through 635-100-0194, fish, shellfish,

amphibians, reptiles, feral swine, wild mammals, wild birds, and animals living intertidally on the bottom as defined by ORS 506.011.

(86) "Wildlife unit" is a geographic area described in OAR 635-080-0000 through 635-080-0077.

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

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

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

Hist.: FWC 47-1989, f. & cert. ef. 7-25-89; FWC 104-1989, f. & cert. ef. 9-29-89; FWC 14-1990, f. & cert. ef. 2-2-90; FWC 22-1990, f. & cert. ef. 3-21-90; FWC 17-1991, f. & cert. ef. 3-12-91; FWC 33-1991, f. & cert. ef. 3-25-91; FWC 50-1991, f. & cert. ef. 5-13-91; FWC 57-1991, f. & cert. ef. 6-24-91; FWC 9-1993, f. & cert. ef. 2-8-93; FWC 6-1994, f. & cert. ef. 1-26-94; FWC 20-1995, f. & cert. ef. 3-6-95; FWC 63-1995, f. & cert. ef. 8-3-95; FWC 21-1996, f. & cert. ef. 5-1-96; FWC 50-1996, f. & cert. ef. 8-30-96; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 53-1997, f. & cert. ef. 9-3-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 142-2005, f. & cert. ef. 12-16-05; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 118-2007, f. 10-31-07, cert. ef. 1-1-08; DFW 52-2008, f. & cert. ef. 5-28-08; DFW 150-2008, f. 12-18-08, cert. ef. 1-1-09; DFW 108-2009, f. & cert. ef. 9-8-09; DFW 140-2009, f. 11-3-09, cert. ef. 1-1-10; DFW 168-2010, f. 12-29-10, cert. ef. 1-1-11; DFW 103-2012, f. & cert. ef. 8-6-12

635-051-0000

Purpose

(1) The purpose of these rules is to establish dates, areas and other restrictions for hunting game birds pursuant to ORS Chapter 496.

(2) The document entitled "2012-2013 Oregon Game Bird Regulations," is incorporated by reference into these rules.

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

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

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

Hist.: FWC 8-1988, f. & cert. ef. 9-2-88; FWC 45-1997, f. & cert. ef. 8-13-97; FWC 53-1997, f. & cert. ef. 9-3-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 84-2003(Temp), f. & cert. ef. 8-26-03 thru 2-20-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 93-2009, f. & cert. ef. 8-12-09; DFW 117 2010, f. & cert. ef. 8-13-10; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 103-2012, f. & cert. ef. 8-6-12

635-051-0048

Other Restrictions

Except as provided in section (1)(a), (b), (c), (2) -(6) of this rule, it is *unlawful*: To hunt within the corporate limits of any city or town, public park or cemetery, or on any campus or grounds of a public school, college, or university or from a public road, road right-of-way, or railroad right-of-way.

(1) Migratory game bird hunting is permitted within the city limits of Warrenton in the following described areas:

(a) Beginning at a point located at the west end of the Lewis and Clark Bridge (Alternate Highway 101) at the southern boundary of the Warrenton city limits and west bank of the Lewis and Clark River, then westerly along the common southern boundary of the Port of Astoria airport and the Warrenton City limits to the west bank of Adams Slough (formerly Adair's Slough), then northerly along the west tracks, then westerly along said railroad tracks to its intersection with Northeast King Avenue, then northerly along Northeast King Avenue to the mouth of the Skipanon River, then generally northwesterly following a contour line 100 yards inland from the shoreline at mean high water of the Columbia River, and on the Columbia River side of the Burlington Northern Railroad tracks to its intersection with the Warrenton/Hammond city limits at Tansy Point, then in a generally southeasterly direction upstream along the Columbia River, Youngs Bay and Lewis and Clark River to the point of beginning.

(b) Beginning at a point of intersection with the low tide of the Pacific Ocean and the westerly extension of Delaura Beach Road (County Road #34), then easterly along Delaura Beach Road and Oceanview Cemetery Road (County Road #321) to the junction with Wild Ace Lake Drive to the Warrenton School Dump Road (County Road #286), then easterly along the Warrenton School Dump Road to the junction of Southwest Juniper Avenue, then northerly along Southwest Juniper Avenue to the road's end, then continuing northerly along the common boundary of Section 16 and 17 to the Warrenton/Hammond city limits, then westerly along the Warrenton/Hammond city limits to the low tide of the Pacific Ocean, then southerly to the point of beginning.

(c) Beginning at a point of intersection with the most southerly boundary of the Warrenton city limits and Oregon Coast Highway 101 and the west bank of the Skipanon River, then northerly along the west bank of the Skipanon River to the bridge on (Crab Pot Way) Alternate Highway 101 (Fort Stevens Highway #104), then in a generally easterly direction along

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Alternate Highway 101 to Southeast 14th Place, then in a generally southeasterly direction along Southeast 14th Place and its easterly extension, crossing the Oregon Coast Highway 101 to its intersection with the Warrenton city limits, then southerly and westerly along the line of the Warrenton city limits to the point of beginning.

(2) Game bird hunting is permitted within the city limits of Dunes City.

(3) Game bird hunting is permitted within the boundary limits of the Klamath Falls Airport.

(4) Waterfowl hunting is permitted in the following portion of Miami Cove lying within the city limits of Garibaldi: That land in the east one-half of the northwest quarter of Section 22, Township 1 North, Range 10 West, Willamette Meridian, lying south of Coast Highway 101, and in the east one-half of the southwest quarter of Section 22, Township 1 North, Range 10 West, lying north and west of Coast Highway 101, provided that no hunting be permitted within 100 yards of any residence or commercial structure.

(5) Waterfowl hunting is allowed within a portion of Coos Bay City limits as described in Coos Bay City Ordinance number 100, section 3(2)(a) as of August 3, 2007.

(6) Waterfowl hunting is allowed within Boardman City limits as described in City of Boardman Resolution 4-2011 as of January 19, 2011.

(7) No person shall take any game bird or destroy the eggs or nests of any game bird without a permit issued by the department.

(8) Notwithstanding the prohibition in paragraph (7):

(a) If registered through the Resident Canada Goose Nest and Egg Registration Site of the U.S. Fish and Wildlife Service (<https://epermits.fws.gov/eRCGR/geSI.aspx>), any person may destroy the eggs or nests of resident Canada geese:

(A) Inside incorporated cities or urban growth boundaries; or

(B) On golf courses, parks or other highly developed recreational areas outside incorporated cities or urban growth boundaries.

(b) The U.S. Fish and Wildlife Service, or anyone issued a depredation permit by the USFWS, may take any migratory game bird, its eggs or nest for the purpose of protecting public health or safety, to address public nuisance or to deal with crop depredation. Any migratory game bird captured for the purpose of translocation must be reported to the department and the translocation site approved by the department prior to release.

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

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

Hist.: FWC 46-1983, f. & ef. 9-19-83; FWC 65-1983(Temp), f. & ef. 11-22-83; FWC 9-1984, f. & ef. 3-12-84; FWC 51-1984, f. & ef. 9-5-84; FWC 64-1985, f. & ef. 10-2-85; FWC 58-1986, f. & ef. 9-17-86; FWC 80-1988, f. & cert. ef. 9-2-88; FWC 105-1989, f. & cert. ef. 9-29-89; FWC 92-1990, f. & cert. ef. 9-4-90; FWC 80-1992, f. & cert. ef. 8-26-92; FWC 51-1993, f. & cert. ef. 8-25-93; FWC 45-1997, f. & cert. ef. 8-13-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 116-2006(Temp), f. & cert. ef. 10-12-06 thru 4-10-07; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 37-2008(Temp), f. & cert. ef. 4-21-08 thru 10-17-08; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 5-2011(Temp), f. & cert. ef. 1-19-11 thru 7-15-11; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 103-2012, f. & cert. ef. 8-6-12

635-052-0000

Purpose

(1) The purpose of these rules is to establish season dates, areas and bag limits for migratory upland game birds pursuant to ORS Chapter 496.

(2) The document entitled "2012–2013 Oregon Game Bird Regulations," is incorporated by reference into these rules.

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

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

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

Hist.: FWC 61-1988, f. & cert. ef. 7-28-88; FWC 45-1997, f. & cert. ef. 8-13-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 82-1999(Temp), f. & cert. ef. 10-25-99 thru 2-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 93-2009, f. & cert. ef. 8-12-09; DFW 117 2010, f. & cert. ef. 8-13-10; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 103-2012, f. & cert. ef. 8-6-12

635-053-0000

Purpose

(1) The purpose of these rules is to establish season dates, bag limits, areas and other restrictions for hunting upland game birds pursuant to ORS Chapter 496.

(2) The document entitled "2012–2013 Oregon Game Bird Regulations," is incorporated by reference into these rules.

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

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

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

Hist.: FWC 81-1988, f. & cert. ef. 9-2-88; FWC 33-1996, f. & cert. ef. 6-7-96; FWC 45-1997, f. & cert. ef. 8-13-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 82-1999(Temp), f. & cert. ef. 10-25-99 thru

2-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 2-2004(Temp), f. & cert. ef. 1-13-04, cert. ef. 1-16-04 thru 1-31-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 93-2009, f. & cert. ef. 8-12-09; DFW 117 2010, f. & cert. ef. 8-13-10; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 103-2012, f. & cert. ef. 8-6-12

635-053-0100

Purpose

The purpose of these rules is to describe the procedures and necessary accompanying information for submitting artwork for the 2013–2018 upland bird stamps, the criteria for selection of the winning designs, and the obligation of winning artists pursuant to ORS Chapter 496.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162, 496.558, 496.562, 496.566 & 496.570
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162, 496.558, 496.562, 496.566 & 496.570

Hist.: FWC 9-1990, f. & cert. ef. 2-1-90; FWC 6-1991, f. & cert. ef. 1-29-91; FWC 138-1991, f. & cert. ef. 12-23-91; FWC 123-1992, f. & cert. ef. 11-23-92; FWC 73-1993, f. & cert. ef. 11-24-93; FWC 37-1994, f. & cert. ef. 6-20-94; FWC 55-1995, f. & cert. ef. 6-23-95; FWC 34-1996, f. & cert. ef. 6-7-96; DFW 43-1998, f. & cert. ef. 5-29-98; DFW 40-2003, f. & cert. ef. 5-13-03; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 103-2012, f. & cert. ef. 8-6-12

635-053-0105

Submission of Artwork: Requirements

(1) Applicants shall submit artwork for the upland bird stamp to the Department headquarters office by:

(a) 2013 upland game bird stamp deadline is 5:00 pm December 31, 2012;

(b) For the 2014–2018 upland game bird stamps the deadline is 5:00 pm on the last Friday of the month of August in the calendar year preceding the year of the competition

(2) The 2013–2018 upland game bird stamp artwork shall feature the following species in their natural setting:

(a) 2013 — Chukar (*Alectoris chukar*);

(b) 2014 — Mountain Quail (*Oreortyx pictus*);

(c) 2015 — Hungarian Partridge (*Perdix perdix*);

(d) 2016 — California Quail (*Callipepla californica*);

(e) 2017 — Ring-necked Pheasant (*Phasianus colchicus*); and

(f) 2018 — Blue Grouse (*Dendragapus obscurus* or *D. fuliginosus*).

(3) Each entry shall measure 13 inches by 18 inches (horizontal or vertical) and shall be in any full color medium provided:

(a) No photographs, sculptures, fabric art or carvings will be accepted.

(b) The artwork shall be original and not computer-generated or computer-enhanced.

(4) The artwork shall be unsigned by the artist, and shall not have been used in production or entered into any other state upland bird stamp competition. Any artwork signed by the artist will not be accepted and will be returned to the artist without being judged.

(5) The entry may be mounted and/or matted, but it shall not be framed or under glass.

(6) Artists may submit more than one entry meeting the requirements herein.

(7) Each artist shall submit with his or her entry or entries a brief biographical description that includes the artist's background, experience, and previous artistic accomplishments. The Department reserves the right to use this information for publicity should the work be selected.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162, 496.558, 496.562, 496.566 & 496.570
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162, 496.558, 496.562, 496.566 & 496.570

Hist.: FWC 9-1990, f. & cert. ef. 2-1-90; FWC 10-1990(Temp), f. & cert. ef. 2-1-90; FWC 6-1991, f. & cert. ef. 1-29-91; FWC 138-1991, f. & cert. ef. 12-23-91; FWC 123-1992, f. & cert. ef. 11-23-92; FWC 73-1993, f. & cert. ef. 11-24-93; FWC 37-1994, f. & cert. ef. 6-20-94; FWC 55-1995, f. & cert. ef. 6-23-95; FWC 34-1996, f. & cert. ef. 6-7-96; DFW 43-1998, f. & cert. ef. 5-29-98; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 40-2003, f. & cert. ef. 5-13-03; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 103-2012, f. & cert. ef. 8-6-12

635-053-0111

Selection Process and Criteria

(1) A five panel including one Fish and Wildlife Commission member and four citizens chosen by the Director shall select the winning entry. Panel members may include representatives from the art community, wildlife profession, news media and conservation organizations.

(2) The selection panel shall make their selection based on:

(a) Artistic composition;

(b) Anatomical accuracy;

(c) General rendering;

(d) Background; and

(e) General appeal.

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(3) All artwork submissions shall be made available for public viewing following selection of the winning entry.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162, 496.550 & 496.555
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162, 496.550 & 496.555
Hist.: FWC 73-1993, f. & cert. ef. 11-24-93; FWC 37-1994, f. & cert. ef. 6-20-94, Renumbered from 635-053-0011; DFW 103-2012, f. & cert. ef. 8-6-12

635-053-0125 Other Provisions

(1) Sale of 2013–2018 upland bird stamps by the department shall end at the close of business on June 30, of the following year. Excess stamps at that time shall be shredded after auditing of sales takes place.

(2) The Department shall award three thousand dollars (\$3,000) to the artist whose entry is selected for the upland game bird stamp.

(3) The winning entry shall become the exclusive property of the Department.

(4) The Department shall retain all reproduction rights and may review proposals for limited edition prints, posters, or other related art products.

(5) The artist shall sign, at no charge, up to two hundred (200) upland game bird stamps for sale by the Department.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162, 496.558, 496.562, 496.566 & 496.570
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162, 496.558, 496.562, 496.566 & 496.570
Hist.: FWC 9-1990, f. & cert. ef. 2-1-90; FWC 6-1991, f. & cert. ef. 1-29-91; FWC 138-1991, f. & cert. ef. 12-23-91; FWC 123-1992, f. & cert. ef. 11-23-92; FWC 73-1993, f. & cert. ef. 11-24-93; FWC 37-1994, f. & cert. ef. 6-20-94; FWC 55-1995, f. & cert. ef. 6-23-95; FWC 34-1996, f. & cert. ef. 6-7-96; DFW 43-1998, f. & cert. ef. 5-29-98; DFW 40-2003, f. & cert. ef. 5-13-03; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 103-2012, f. & cert. ef. 8-6-12

635-054-0000 Purpose

(1) The purpose of these rules is to establish season dates, bag limits, areas and other restrictions for hunting ducks, geese, coots, Wilson's snipe and crow pursuant to ORS Chapter 496.

(2) The document entitled "2012–2013 Oregon Game Bird Regulations," is incorporated by reference into these rules.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 82-1988, f. & cert. ef. 9-2-88; FWC 45-1997, f. & cert. ef. 8-13-97; FWC 53-1997, f. & cert. ef. 9-3-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 75-1998, f. & cert. ef. 9-4-98; DFW 95-1998(Temp), f. & cert. ef. 12-1-98 thru 12-18-98; DFW 98-1998(Temp) f. & cert. ef. 12-18-98 thru 2-28-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 82-1999(Temp), f. & cert. ef. 10-25-99 thru 2-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 99-2001(Temp), f. & cert. ef. 10-12-01 thru 4-10-02; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 87-2004(Temp), f. & cert. ef. 8-18-04 thru 9-16-04; Administrative correction 10-25-04; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 93-2009, f. & cert. ef. 8-12-09; DFW 117-2010, f. & cert. ef. 8-13-10; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 103-2012, f. & cert. ef. 8-6-12

635-060-0000 Purpose and General Information

(1) The purpose of these rules is to describe the requirements and procedures for controlled hunts pursuant to ORS 496.162.

(2) The documents entitled "2012–2013 Oregon Game Bird Regulations", and "2012 Oregon Big Game Regulations," are incorporated by reference into these rules. These documents are available at hunting license agents and regional, district, and headquarters offices of the Oregon Department of Fish and Wildlife.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162
Hist.: FWC 118, f. & cert. ef. 6-3-77; FWC 25-1978, f. & cert. ef. 5-26-78; FWC 32-1978, f. & cert. ef. 6-30-78; FWC 29-1979, f. & cert. ef. 8-2-79; FWC 33-1980, f. & cert. ef. 6-30-80; FWC 7-1981, f. & cert. ef. 6-1-81; FWC 10-1981, f. & cert. ef. 3-31-81; FWC 22-1981, f. & cert. ef. 6-29-81; FWC 21-1982, f. & cert. ef. 3-31-82; FWC 38-1982, f. & cert. ef. 6-25-82; FWC 34-1984, f. & cert. ef. 7-24-84; FWC 16-1985, f. & cert. ef. 4-11-85; FWC 43-1985, f. & cert. ef. 8-22-85; FWC 35-1986, f. & cert. ef. 8-7-86; FWC 11-1987, f. & cert. ef. 3-6-87; FWC 40-1987, f. & cert. ef. 7-6-87; FWC 12-1988, f. & cert. ef. 3-10-88; FWC 37-1988, f. & cert. ef. 6-13-88; FWC 14-1989, f. & cert. ef. 3-28-89; FWC 48-1989, f. & cert. ef. 7-25-89; FWC 23-1990, f. & cert. ef. 3-21-90; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 56-1999, f. & cert. ef. 8-13-99; DFW 92-1999, f. & cert. ef. 12-8-99, cert. ef. 1-1-00; DFW 51-2000, f. & cert. ef. 8-22-00; DFW 82-2000, f. & cert. ef. 12-21-00, cert. ef. 1-1-01; DFW 73-2001, f. & cert. ef. 8-15-01; DFW 121-2001, f. & cert. ef. 12-24-01, cert. ef. 1-1-02; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 28-2002(Temp), f. & cert. ef. 4-1-02, cert. ef. 4-2-02 thru 9-28-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 88-2002, f. & cert. ef. 8-14-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 76-2003, f. & cert. ef. 8-13-03; DFW 118-2003, f. & cert. ef. 12-4-03, cert. ef. 1-1-04; DFW 84-2004, f. & cert. ef. 8-18-04; DFW 122-2004, f. & cert. ef. 1-1-05; DFW 91-2005, f. & cert. ef. 8-19-05; DFW 128-2005, f. & cert. ef. 12-1-05, cert. ef. 1-1-06; DFW 81-2006, f. & cert. ef. 8-11-06; DFW 127-2006, f. & cert. ef. 12-7-06, cert. ef. 1-1-07; DFW 68-2007, f. & cert. ef. 8-14-07; DFW 118-2007, f. & cert. ef. 10-31-07, cert. ef. 1-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 90-2008, f. & cert. ef. 8-13-08; DFW 150-2008, f. & cert. ef. 12-18-08, cert. ef. 1-1-09; DFW 93-2009, f. & cert. ef. 8-12-09; DFW 140-2009, f. & cert. ef. 11-3-09, cert. ef. 1-1-10; DFW 117-2010, f. & cert. ef. 8-6-12

ef. 8-13-10; DFW 140-2010(Temp), f. & cert. ef. 10-6-10 thru 12-31-10; Administrative correction 1-25-11; DFW 108-2011, f. & cert. ef. 8-5-11; DFW 103-2012, f. & cert. ef. 8-6-12

Rule Caption: 2012 Fall Commercial Seasons Set for Columbia River Select Area Fisheries.

Adm. Order No.: DFW 104-2012(Temp)

Filed with Sec. of State: 8-6-2012

Certified to be Effective: 8-13-12 thru 10-31-12

Notice Publication Date:

Rules Amended: 635-042-0160, 635-042-0170, 635-042-0180

Subject: Amended rules to set 2012 Fall commercial gill net salmon seasons for the Columbia River Select Areas including: Blind and Knappa sloughs, Tongue Point/South Channel and Deep River.

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

635-042-0160 Blind Slough and Knappa Slough Select Area Salmon Season

(1) Salmon may be taken for commercial purposes during open fishing periods described in subsections (1)(b) and (1)(c) of this rule in those waters of Blind Slough and Knappa Slough.

(a) The open fishing periods are:

(A) 7:00 p.m. to 7:00 a.m. (12 hours) nightly during the following weeks:

(i) Monday, August 27 to Friday, August 31 (4 nights).

(ii) Monday, September 3 to Friday, September 7 (4 nights).

(iii) Monday, September 10 to Friday, September 14 (4 nights).

(B) 6:00 p.m. to 8:00 a.m. (14 hours) nightly during the following weeks:

(i) Monday, September 17 to Friday, September 21 (4 nights).

(ii) Monday, September 24 to Friday, September 28 (4 nights).

(iii) Monday, October 1 to Friday, October 5 (4 nights).

(iv) Monday, October 8 to Friday, October 12 (4 nights).

(v) Monday, October 15 to Friday, October 19 (4 nights).

(vi) Monday, October 22 to Friday, October 26 (4 nights).

(b) The fishing areas are defined as:

(A) Blind Slough are those waters adjoining the Columbia River which extend from markers at the mouth of Blind Slough upstream to markers at the mouth of Gnat Creek which is located approximately 1/2 mile upstream of the county road bridge.

(B) Knappa Slough are all waters bounded by a line from the northerly most marker at the mouth of Blind Slough westerly to a marker on Karlson Island downstream to boundary lines defined by markers on the west end of Minaker Island to markers on Karlson Island and the Oregon shore. The area within a 100 foot radius at the mouth of Big Creek is closed.

(c) Gear restrictions are as follows:

(A) During the fishery, outlined above in subsection (1)(b) and subsection (1)(c), gill nets may not exceed 100 fathoms in length with no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is *unlawful* to use a gill net having a mesh size that is greater than 9.75-inches.

(B) Nets 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.

(C) Nets (or parts of nets) not specifically authorized for use in these areas may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

(2) White sturgeon may not be possessed or sold during the fishing periods identified in subsections (1)(a) above.

(3) Oregon licenses are required in the open waters upstream from the railroad bridge.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998(Temp), f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 48-1999(Temp), f. & cert. ef. 6-24-99 thru 7-2-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 65-2000(Temp) f. & cert. ef. 9-22-00, cert. ef. 9-25-00 thru 12-31-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 86-2001, f. & cert. ef. 9-4-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 14-2002(Temp), f. & cert. ef. 2-13-02, cert. ef. 2-18-02 thru 8-17-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. & cert. ef. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. & cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-

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04; DFW 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; DFW 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; DFW 28-2004(Temp), f. 4-8-04 cert. ef. 4-12-04 thru 4-15-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 16-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; DFW 16-2006(Temp), f. 3-23-06 & cert. ef. 3-26-06 thru 7-27-06; DFW 18-2006(Temp), f. 3-29-06, cert. ef. 4-2-06 thru 7-27-06; DFW 20-2006(Temp), f. 4-7-06, cert. ef. 4-9-06 thru 7-27-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 75-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 92-2006(Temp), f. 9-1-06, cert. ef. 9-5-06 thru 12-31-06; DFW 98-2006(Temp), f. & cert. ef. 9-12-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 103(Temp), f. 8-26-08, cert. ef. 9-2-08 thru 10-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 15-2010(Temp), f. 2-19-10, cert. ef. 2-21-10 thru 6-11-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 44-2011(Temp), f. & cert. ef. 5-11-11 thru 6-10-11; Administrative correction 6-28-11; DFW 113-2011(Temp), f. 8-10-11, cert. ef. 8-15-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; DFW 104-2012(Temp), f. 8-6-12, cert. ef. 8-13-12 thru 10-31-12

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Tongue Point Basin and South Channel

(1) Tongue Point fishing area includes all waters bounded by a line from a marker midway between the red USCG navigation light #2 at the tip of Tongue Point and the downstream (northern most) pier (#8) at the Tongue Point Job Corps facility, to the flashing green USCG navigation light #3 on the rock jetty at the west end of Mott Island, a line from a marker at the southeast end of Mott Island northeasterly to a marker on the northwest tip of Lois Island, and a line from a marker on the southwest end of Lois Island westerly to a marker on the Oregon shore.

(2) South Channel fishing area includes all waters bounded by a line from a marker on John Day Point through the green USCG buoy "7" thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to the flashing red USCG marker "10" northwesterly to a marker on Burnside Island defining the terminus of South Channel.

(3) Salmon may be taken for commercial purposes in those waters of Tongue Point and South Channel as described in section (1) and section (2) of this rule. Open fishing seasons are:

(a) 7:00 p.m. to 7:00 a.m. (12 hours) nightly during the following weeks:

- (A) Monday, August 27 to Friday, August 31 (4 nights).
- (B) Monday, September 3 to Friday, September 7 (4 nights).
- (C) Monday, September 10 to Friday, September 14 (4 nights).

(d) 4:00 p.m. to 10:00 a.m. (18 hours) nightly during the following weeks:

- (A) Monday, September 17 to Friday, September 21 (4 nights).
- (B) Monday, September 24 to Friday, September 28 (4 nights).
- (C) Monday, October 1 to Friday, October 5 (4 nights).
- (D) Monday, October 8 to Friday, October 12 (4 nights).
- (E) Monday, October 15 to Friday, October 19 (4 nights).
- (F) Monday, October 22 to Friday, October 26 (4 nights).

(4) Gear restrictions are as follows:

(a) In waters described in section (1) as Tongue Point basin, gill nets may not exceed 250 fathoms in length and weight limit on the lead line is not to exceed two pounds on any one fathom. It is unlawful to use a gill net having a mesh size that is more than 6-inches. While fishing during the sea-

sons described in this rule, gillnets legal for the south channel fishing area may be onboard.

(b) In waters described in section (2) as South Channel, nets are restricted to 100 fathoms in length with no weight restrictions on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is *unlawful* to use a gill net having a mesh size that is more than 6-inches.

(c) 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.

(d) Nets (or parts of nets) not specifically authorized for use in these areas may be onboard a 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.

(5) White sturgeon may not be possessed or sold during the fishing periods identified in section (3)(a) above.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 41-1998(Temp), f. 5-28-98, cert. ef. 5-29-98; DFW 42-1998(Temp), f. 5-29-98, cert. ef. 5-31-98 thru 6-6-98; DFW 45-1998(Temp), f. 6-5-98, cert. ef. 6-6-98 thru 6-10-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998, f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; Administrative correction 7-30-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 76-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 44-2008(Temp), f. 4-25-08, cert. ef. 4-28-08 thru 10-24-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 29-2010(Temp), f. 3-9-10, cert. ef. 4-19-10 thru 6-12-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 44-2011(Temp), f. & cert. ef. 5-11-11 thru 6-10-11; Administrative correction 6-28-11; DFW 113-2011(Temp), f. 8-10-11, cert. ef. 8-15-11 thru 10-31-11; DFW 122-2011(Temp), f. 8-29-11, cert. ef. 9-19-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 41-2012(Temp), f. 4-24-12, cert. ef. 4-26-12 thru 6-30-12; Administrative correction, 8-1-12; DFW 104-2012(Temp), f. 8-6-12, cert. ef. 8-13-12 thru 10-31-12

635-042-0180

Deep River Select Area Salmon Season

(1) Salmon may be taken for commercial purposes from all waters downstream of the town of Deep River to the mouth defined by a line from the US Coast Guard navigation marker #16 southwest to a marker on the Washington shore.

(2) Open fishing seasons are:

(a) 7:00 p.m. to 9:00 a.m. (14 hours) nightly during the following periods:

- (A) Monday, August 13 to Tuesday, August 14 (1 night).
- (B) Wednesday, August 15 to Thursday, August 16 (1 night).
- (C) Monday, August 20 to Tuesday, August 21 (1 night).
- (D) Wednesday, August 22 to Thursday, August 23 (1 night).

(d) 7:00 p.m. to 9:00 a.m. (14 hours) nightly during the following weeks:

- (A) Monday, August 27 to Friday, August 31 (4 nights).
- (B) Monday, September 3 to Friday, September 7 (4 nights).
- (C) Monday, September 10 to Friday, September 14 (4 nights).

(4) 4:00 p.m. to 9:00 a.m. (17 hours) nightly during the following weeks:

- (A) Monday, September 17 to Friday, September 21 (4 nights).
- (B) Monday, September 24 to Friday, September 28 (4 nights).

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- (C) Monday, October 1 to Friday, October 5 (4 nights).
- (D) Monday, October 8 to Friday, October 12 (4 nights).
- (E) Monday, October 15 to Friday, October 19 (4 nights).

(3) Gear restrictions are as follows:

(a) Gill nets restricted to 9.75-inch maximum mesh size from August 13 through September 14 and 6-inch maximum mesh size thereafter. Maximum net length may not exceed 100 fathoms in length and there is no weight limit on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. Nets may not be tied off to stationary structures and may not fully cross navigation channel.

(b) It is *unlawful* to operate in any river, stream or channel any gill net longer than three-fourths the width of the stream. It is *unlawful* in any area to use, operate, or carry aboard a commercial fishing vessel a licensed net or combination of such nets, whether fished singly or separately, in excess of the maximum lawful size or length prescribed for a single net in that area.

(c) Nets (or parts of nets) not specifically authorized for use in these areas may be onboard a 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.

(d) 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.

(4) White sturgeon may not be possessed or sold during the fishing periods identified in subsections (2)(a), (2)(b), and (2)(c) above.

Stat. Auth.: ORS 183.325, 506.109 & 506.119
Stats. Implemented: ORS 506.129 & 507.030
Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 19-2003(Temp), f. 3-12-03, cert. ef. 4-17-03 thru 6-13-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; DFW 11-2004, f. & cert. ef. 2-13-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; DFW 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; DFW 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; DFW 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; DFW 77-2006(Temp), f. 8-8-06, cert. ef. 9-4-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06; Administrative correction 1-16-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; DFW 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; DFW 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 23-2009(Temp), f. 3-5-09, cert. ef. 3-6-09 thru 4-30-09; DFW 35-2009(Temp), f. 4-7-09, cert. ef. 4-8-09 thru 4-30-09; DFW 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; DFW 112-2009(Temp), f. 9-11-09, cert. ef. 9-13-09 thru 10-30-09; DFW 121-2009(Temp), f. & cert. ef. 9-30-09 thru 10-31-09; Administrative correction 11-19-09; DFW 16-2010(Temp), f. 2-19-10, cert. ef. 2-22-10 thru 6-10-10; DFW 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 53-2011(Temp), f. & cert. ef. 5-18-11 thru 6-10-11; Administrative correction 6-28-11; DFW 113-2011(Temp), f. 8-10-11, cert. ef. 8-15-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; DFW 104-2012(Temp), f. 8-6-12, cert. ef. 8-13-12 thru 10-31-12

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Rule Caption: Amend rules to reduce tag numbers to zero (0) for Whitehorse Unit 68, Sage-grouse hunt J68.

Adm. Order No.: DFW 105-2012(Temp)

Filed with Sec. of State: 8-10-2012

Certified to be Effective: 8-10-12 thru 2-6-13

Notice Publication Date:

Rules Amended: 635-051-0001, 635-053-0005

Subject: This temporary rule amends rules to reduce tag numbers to zero (0) for Whitehorse Unit 68 to sage grouse hunting due to wildfires that have burned a substantial portion of the sage grouse habitat within the Whitehorse Unit.

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

635-051-0001

Times, Places, Bag Limits, Species, Sex, Manner of Taking

Hunt J-68: Controlled Sage Grouse.

(1) Bag Limit: 0.

(2) Open Season: No open season.

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

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

Hist.: FWC 21-1981, f. & ef. 6-29-81; FWC 46-1983, f. & ef. 9-19-83; FWC 44-1993, f. & cert. ef. 8-4-93; DFW 61-1998, f. & cert. ef. 8-10-98; DFW 57-1999(Temp), f. 8-13-99, cert. ef. 8-16-99 thru 2-11-00; Administrative correction 6-20-01; DFW 117 2010, f. & cert. ef. 8-13-10; DFW 105-2012(Temp), f. & cert. ef. 8-10-12 thru 2-6-13

635-053-0005

Sage Grouse

Due to wildfires, no Controlled Sage-grouse tags will be offered for Hunt J-68 for the 2012 season.

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

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

Hist.: FWC 21-1981, f. & ef. 6-29-81; FWC 59-1982, f. & ef. 8-30-82; FWC 27-1983, f. & ef. 7-8-83; FWC 46-1983, f. & ef. 9-19-83; FWC 47-1984, f. & ef. 8-31-84; FWC 51-1984, f. & ef. 9-5-84; FWC 64-1985, f. & ef. 10-2-85; FWC 106-1989, f. & cert. ef. 9-29-89; FWC 77-1990, f. & cert. ef. 8-1-90; FWC 80-1991, f. & cert. ef. 7-29-91; FWC 71-1992, f. & cert. ef. 8-7-92; FWC 44-1993, f. & cert. ef. 8-4-93; FWC 47-1994, f. & cert. ef. 8-3-94; FWC 58-1994, f. & cert. ef. 9-1-94; FWC 63-1995, f. & cert. ef. 8-3-95; FWC 33-1996, f. & cert. ef. 6-7-96; FWC 45-1997, f. & cert. ef. 8-13-97; DFW 105-2012(Temp), f. & cert. ef. 8-10-12 thru 2-6-13

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Rule Caption: Federal Actions and Management Measures Implemented for Commercial Fixed-gear Sablefish DTL Fisheries.

Adm. Order No.: DFW 106-2012(Temp)

Filed with Sec. of State: 8-15-2012

Certified to be Effective: 9-1-12 thru 12-31-12

Notice Publication Date:

Rules Amended: 635-004-0275

Rules Suspended: 635-004-0275(T)

Subject: This amended rule implements in-season actions previously adopted by the federal government for 2012 Pacific ocean commercial groundfish fisheries, including but not limited to changes in limited entry sablefish DTL fishery trip limits.

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

635-004-0275

Scope, Inclusion, and Modification of Rules

(1) The commercial groundfish fishery in the Pacific Ocean off Oregon is jointly managed by the state of Oregon and the federal government through the Pacific Fishery Management Council process. The Code of Federal Regulations provides federal requirements for this fishery, including but not limited to the time, place, and manner of taking groundfish. However, additional regulations may be promulgated subsequently by publication in the Federal Register, and these supersede, to the extent of any inconsistency, the Code of Federal Regulations. Therefore, the following publications are incorporated into Oregon Administrative Rule by reference:

(a) Code of Federal Regulations, Part 660, Subparts C, D, E and F (October 1, 2011 ed.);

(b) Federal Register Vol. 76, No. 43, dated May 11, 2011 (76 FR 27508);

(c) Federal Register Vol. 76, No. 231, dated December 1, 2011 (76 FR 74725);

(d) Federal Register Vol. 76, No. 239, dated December 13, 2011 (76 FR 77415);

(e) Federal Register Vol. 76, No. 245, dated December 21, 2011 (76 FR 79122);

(f) Federal Register Vol. 77, No. 74, dated April 17, 2012 (77 FR 22679); and

(g) Federal Register Vol. 77, No. 80, dated April 25, 2012 (77 FR 24635).

(2) Persons must consult the federal regulations in addition to Division 004 to determine all applicable groundfish fishing requirements. Where federal regulations refer to the fishery management area, that area is

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extended from shore to three nautical miles from shore coterminous with the Exclusive Economic Zone.

(3) The Commission may adopt additional or modified regulations that are more conservative than federal regulations, in which case Oregon Administrative Rule takes precedence. See OAR 635-004-0205 through 635-004-0235 and 635-004-0280 through 635-004-0365 for additions or modifications to federal groundfish regulations.

(4) Notwithstanding the regulations defined in section (1) of this rule, the National Marine Fisheries Service, by means of Federal Register/Vol. 76, No. 245/Wednesday, December 21, 2011, announced inseason actions and management measures effective January 1, 2012, including but not limited to: (a) changes in the trawl rockfish conservation area (RCA); and (b) changes to limited entry and open access sablefish DTL fishery trip limits.

(5) Notwithstanding the regulations defined in section (1) of this rule, the National Marine Fisheries Service, by means of Federal Register/Vol. 77, No. 74/Tuesday, April 17, 2012, announced inseason actions and management measures effective May 1, 2012, including but not limited to changes in the trawl rockfish conservation area (RCA).

(6) Notwithstanding the regulations defined in section (1) of this rule, the National Marine Fisheries Service, by means of Federal Register/Vol. 77, No. 80/Wednesday, April 25, 2012, announces inseason actions and management measures effective May 1, 2012, including but not limited to reduced trip limits for limited entry fixed gear North of 36° N. latitude.

(7) Notwithstanding the regulations defined in section (1) of this rule, the National Marine Fisheries Service, by means of Federal Register/Vol. 77, No. 153/Wednesday, August 8, 2012, announces inseason actions and management measures effective September 1, 2012, including but not limited to: (a) reduced trip limits for the limited entry fixed gear sablefish DTL fishery North of 36° N. latitude.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 496.162, 506.109 & 506.129
Hist.: DFW 75-2012, f. 6-28-12, cert. ef. 7-1-12; DFW 78-2012(Temp), f. 6-28-12, cert. ef. 7-1-12 thru 10-27-12; DFW 106-2012(Temp), f. 8-15-12, cert. ef. 9-1-12 thru 12-31-12

Rule Caption: Columbia River Treaty Indian Commercial Gill Net Salmon Season Set.

Adm. Order No.: DFW 107-2012(Temp)

Filed with Sec. of State: 8-15-2012

Certified to be Effective: 8-21-12 thru 10-31-12

Notice Publication Date:

Rules Amended: 635-041-0075

Rules Suspended: 635-041-0075(T)

Subject: Amended rule allows commercial sales of fish caught during the Treaty Indian commercial fall salmon gill net fishery in the Columbia River and its Washington tributaries. The first period (2.5 days) of the Fall gill net fishery is scheduled to begin at 6:00 a.m. Monday, August 21, 2012. Modifications are consistent with action taken August 14, 2012 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 for fish caught from 6:00 a.m. Friday, July 27, 2012 until further notice.

(a) Chinook, steelhead, coho, walleye, shad, carp, bass, catfish and yellow perch landed during an open commercial fishing period may be sold at any time or retained for subsistence purposes. Sturgeon may not be sold except for white sturgeon caught in The Dalles pool during open periods authorized for the sturgeon setline fishery in OAR 635-041-0063. However, 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 kept for subsistence use. Sockeye salmon may not be retained or sold.

(b) Gear is restricted to subsistence fishing gear: hoopnets, dipnets and rod and reel with hook-and-line are allowed. Nets with a 5-inch minimum mesh size are required.

(c) 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: 1) 6:00 a.m. Tuesday, August 21 through 6:00 p.m. Thursday, August 23, 2012 (2.5 days); 2) 6:00 a.m. Monday,

August 27 through 6:00 p.m. Thursday, August 30, 2012 (3.5 days); and 3) 6:00 a.m. Tuesday, September 4 through 6:00 p.m. Saturday, September 8, 2012 (4.5 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. Sockeye may not be retained for any purpose. Sturgeon may not be sold. However, 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 kept for subsistence purposes. Sturgeon retention is not allowed on the Oregon shore between Covington Point and The Dalles Dam.

(b) Gear is restricted to gill nets with an 8-inch minimum mesh size.

(c) Closed areas in Zone 6, including the standard Spring Creek sanctuary, are in effect as set forth in OAR 635-041-0045.

(3) Sales of fish caught in Yakama Nation tributary fisheries in the Klickitat River; Wind River; Drano Lake; Icicle Creek, 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 except, effective 6:00 p.m. Thursday, July 12, 2012, sales of sockeye salmon are prohibited in all tributaries except Icicle Creek.

Stat. Auth.: ORS 496.118 & 506.119
Stats. Implemented: ORS 506.109, 506.129 & 507.030
Hist.: FWC 25-1979, f. & ef. 8-2-79; FWC 36-1979(Temp), f. & ef. 8-22-79; FWC 47-1979(Temp), f. & ef. 9-21-79; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 46-1980(Temp), f. & ef. 9-13-80; FWC 33-1981(Temp), f. & ef. 9-15-81; FWC 58-1982(Temp), f. & ef. 8-27-82; FWC 62-1982(Temp), f. & ef. 9-7-82; FWC 63-1982(Temp), f. & ef. 9-14-82; FWC 75-1982(Temp), f. & ef. 10-29-82; FWC 36-1983, f. & ef. 8-18-83; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 51-1983(Temp), f. & ef. 9-30-83; FWC 55-1983(Temp), f. & ef. 10-4-83; FWC 46-1984, f. & ef. 8-30-84; FWC 55-1984(Temp), f. & ef. 9-10-84; FWC 58-1984(Temp), f. & ef. 9-17-84; FWC 61-1984(Temp), f. & ef. 9-21-84; FWC 70-1984(Temp), f. & ef. 10-9-84; FWC 47-1985, f. & ef. 8-23-85; FWC 60-1985(Temp), f. & ef. 9-13-85; FWC 63-1985(Temp), f. & ef. 9-24-85; FWC 42-1986, f. & ef. 8-15-86; FWC 53-1986(Temp), f. & ef. 9-4-86; FWC 54-1986(Temp), f. & ef. 9-5-86; FWC 57-1986(Temp), f. & ef. 9-11-86; FWC 60-1986(Temp), f. & ef. 9-26-86; FWC 62-1986(Temp), f. & ef. 10-2-86; FWC 63-1987, f. & ef. 8-7-87; FWC 74-1987(Temp), f. & ef. 9-4-87; FWC 75-1987(Temp), f. & ef. 9-1-87; FWC 78-1987(Temp), f. & ef. 9-15-87; FWC 80-1987(Temp), f. & ef. 9-18-87; FWC 87-1987(Temp), f. & ef. 10-9-87; FWC 89-1987(Temp), f. & ef. 10-12-87; FWC 67-1988, f. & cert. ef. 8-15-88; FWC 72-1988(Temp), f. & cert. ef. 8-19-88; FWC 77-1988(Temp), f. & cert. ef. 9-2-88; FWC 91-1988(Temp), f. & cert. ef. 9-16-88; FWC 95-1988(Temp), f. & cert. ef. 9-27-88, cert. ef. 9-28-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 87-1989(Temp), f. & cert. ef. 9-1-89; FWC 95-1989(Temp), f. & cert. ef. 9-19-89; FWC 96-1989(Temp), f. & cert. ef. 9-21-89; FWC 99-1989(Temp), f. & cert. ef. 9-27-89; FWC 100-1989(Temp), f. & cert. ef. 9-28-89; FWC 80-1990(Temp), f. & cert. ef. 8-8-90; FWC 90-1990, f. & cert. ef. 8-31-90; FWC 96-1990(Temp), f. & cert. ef. 9-10-90; FWC 98-1990(Temp), f. & cert. ef. 9-14-90, cert. ef. 9-17-90; FWC 85-1991, f. & 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. & cert. ef. 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. & cert. ef. 9-2-92; FWC 87-1992(Temp), f. & cert. ef. 9-4-92, cert. ef. 9-7-92; FWC 91-1992(Temp), f. & cert. ef. 9-16-92, cert. ef. 9-17-92; FWC 96-1992(Temp), f. & cert. ef. 9-23-92; FWC 105-1992(Temp), f. & cert. ef. 10-2-92, cert. ef. 10-5-92; FWC 107-1992(Temp), f. & cert. ef. 10-9-92; FWC 47-1993, f. & 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. & cert. ef. 9-20-93; FWC 61-1993(Temp), f. & cert. ef. 9-24-93; FWC 55-1994(Temp), f. & cert. ef. 8-26-94, cert. ef. 8-29-94; FWC 61-1994(Temp), f. & cert. ef. 9-7-94, cert. ef. 9-8-94; FWC 74-1994(Temp), f. & cert. ef. 10-12-94; FWC 68-1995(Temp), f. & cert. ef. 8-25-95, cert. ef. 8-29-95; FWC 72-1995(Temp), f. & cert. ef. 9-1-95; FWC 75-1995(Temp), f. & cert. ef. 9-12-95, cert. ef. 9-13-95; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1996(Temp), f. & cert. ef. 9-2-96; FWC 51-1996(Temp), f. & 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. & cert. ef. 9-29-97, cert. ef. 9-2-97; FWC 57(Temp), f. & cert. ef. 9-9-97; FWC 60-1997(Temp), f. & cert. ef. 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. & cert. ef. 9-14-98, cert. ef. 9-15-98 thru 9-25-98; DFW 79-1998(Temp), f. & cert. ef. 9-21-98, cert. ef. 9-22-98 thru 9-25-98; DFW 80-1998(Temp), f. & cert. ef. 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. & cert. ef. 9-2-99, cert. ef. 9-3-99 thru 9-11-99; DFW 65-1999(Temp), f. & cert. ef. 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. & cert. ef. 9-21-99, cert. ef. 9-22-99 thru 10-22-99; DFW 74-1999(Temp), f. & cert. ef. 9-28-99, cert. ef. 9-29-99 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 60-2000(Temp), f. & cert. ef. 9-11-00, cert. ef. 9-12-00 thru 12-31-00; DFW 61-2000(Temp), f. & cert. ef. 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. & cert. ef. 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. & cert. ef. 9-26-01, cert. ef. 9-27-01 thru 12-31-01; DFW 100-2001(Temp), f. & cert. ef. 10-16-01, cert. ef. 10-17-01 thru 12-31-01; DFW 89-2002(Temp), f. & cert. ef. 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. & cert. ef. 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. & cert. ef. 8-25-03, cert. ef. 8-26-03 thru 12-31-03; DFW 91-2003(Temp), f. & cert. ef. 9-12-03, cert. ef. 9-16-03 thru 12-31-03; DFW 97-2003(Temp), f. & cert. ef. 9-24-03 thru 12-31-03; DFW 101-2003(Temp), f. & cert. ef. 9-26-03, cert. ef. 10-1-03 thru 12-31-03; DFW 103-2003(Temp), f. & cert. ef. 10-3-03, cert. ef. 10-8-03 thru 12-31-03; DFW 104-2003(Temp), f. & cert. ef. 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. & cert. ef. 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. & 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-

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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; Administrative correction, 11-18-11; DFW 94-2012(Temp), f. & cert. ef. 7-27-12 thru 10-31-12; DFW 107-2012(Temp), f. 8-15-12, cert. ef. 8-21-12 thru 10-31-12

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

Rule Caption: Update of Criminal Records Check Rules for Department of Human Services Providers.

Adm. Order No.: DHSD 4-2012

Filed with Sec. of State: 8-1-2012

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Rules Adopted: 407-007-0277

Rules Amended: 407-007-0200, 407-007-0210, 407-007-0220, 407-007-0230, 407-007-0240, 407-007-0250, 407-007-0275, 407-007-0280, 407-007-0290, 407-007-0300, 407-007-0315, 407-007-0320, 407-007-0325, 407-007-0330, 407-007-0335, 407-007-0340, 407-007-0350, 407-007-0370

Rules Repealed: 407-007-0200(T), 407-007-0210(T), 407-007-0215(T), 407-007-0220(T), 407-007-0230(T), 407-007-0240(T), 407-007-0250(T), 407-007-0275(T), 407-007-0277(T), 407-007-0280(T), 407-007-0290(T), 407-007-0300(T), 407-007-0315(T), 407-007-0320(T), 407-007-0325(T), 407-007-0330(T), 407-007-0335(T), 407-007-0340(T), 407-007-0350(T), 407-007-0370(T)

Subject: The Background Check Unit (BCU) implemented the use of the Criminal Records Information Management System (CRIMS); these rule changes align with CRIMS processing. To protect the security of the background check process, qualified entity designees (QEDs) and qualified entity initiators (QEIs) are now required for qualified entities for background check submission and processing. BCU makes all preliminary fitness determinations requiring a weighing test and all final fitness determinations. The definitions for the Department of Human Services' (Department) criminal records check rules for providers are being amended to correctly align with ORS 443.004 and changes made in other Department program administrative rules. On March 27, 2012, HB 4084 from the 2012 Legislative session was signed into law. The amendment of OAR 407-007-0275 and the creation of OAR 407-007-0277 address changes to ORS 443.004 from HB 4084.

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 (SIs) 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 an SI when conducting fitness determinations based upon such information. The fact that an SI is approved does not guarantee employment or placement. These rules do not apply to individuals subject to OAR 407-007-0000 to 407-007-0100 or 407-007-0400 to 407-007-0460.

(3) Providers for the Department of Human Services (Department) and the Oregon Health Authority (Authority) are subject to criminal and abuse checks. The Authority authorizes the Department to act on its behalf in carrying out criminal and abuse checks associated with the administration of programs or activities administered by the Authority. References in these rules to the Department or 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.: OMAR 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 2-2009, 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; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12

407-007-0210

Definitions

As used in OAR 407-007-0200 to 407-007-0370 the following definitions apply:

(1) "Abuse" has the meaning given in the administrative rules promulgated by the Department or 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 an SI 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 an individual designated by the qualified entity (QE) who is responsible for appointing QE designees (QEDs). Examples include but are not limited to human resources staff with the authority to offer and terminate employment, a business owner, a member of the board of directors, a director, or a program administrator.

(5) "Approved" means that an SI, following a final fitness determination, is fit to work, volunteer, be employed, or otherwise perform in the position listed in the background check request.

(6) "Approved with restrictions" means an approval in which some restriction is made including but not limited to an SI, an SI's environment, the type or number of clients for whom an SI may provide care, or the information to which an SI has access.

(7) "Authority" means the Oregon Health Authority.

(8) "Background check" means a criminal records check and an abuse check under these rules.

(9) "Background Check Unit (BCU)" means the Background Check Unit conducting background checks for the Department and the Authority.

(10) "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).

(11) "Client" means any individual who receives services, care, or funding for care through the Department or Authority.

(12) "Closed case" means a background check request that has been closed without a final fitness determination.

(13) "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

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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 information resources located in, or regarding, a state or jurisdiction outside Oregon.

(14) "Criminal Information Management System (CRIMS)" means the electronic records system used to process and maintain background check records under these rules.

(15) "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).

(16) "Denied" means that an SI, 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.

(17) "Department" means the Department of Human Services.

(18) "Fitness determination" means the decision in a case that is not closed and includes:

(a) The decision regarding a background check request and preliminary review (a preliminary fitness determination); or

(b) The decision regarding a background check request, completed background check, including gathering other information as necessary, and a final review by BCU (a final fitness determination).

(19) "Founded or substantiated" has the meaning given in the Department or Authority's administrative rules corresponding to the setting in which the abuse was alleged or investigated.

(20) "Good cause" means a valid and sufficient reason for not complying with established time frames 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.

(21) "Hearing representative" means a Department employee representing the Department in a contested case hearing.

(22) "Hired on a preliminary basis" means a condition in which a QE allows an SI to work, volunteer, be trained, or reside in an environment following the submission of a background check request. Hired on a preliminary basis may also be called probationary status.

(23) "Ineligible Due to ORS 443.004" means BCU has determined that an SI, subject to ORS 443.004 and either OAR 407-007-0275 or 407-007-0277, has one or more convictions that prohibits the SI from holding the position listed in the background check request.

(24) "Office of Investigation and Training (OIT)" means the Office of Investigation and Training, a shared service of the Department and Authority.

(25) "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 requests, 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.

(26) "Position" means the position listed in the background check request which determines whether the individual is a subject individual under these rules, Department program rules or Authority program rules.

(27) "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).

(28) "QE designee (QED)" means an individual appointed by the QE's appointing authority to handle background checks on behalf of the QE.

(29) "QE Initiator (QEI)" means an approved subject individual (SI) who BCU has granted access to CRIMS for one QE for the purpose of entering background check request data.

(30) "Subject individual (SI)" means an individual on whom BCU may conduct a criminal records check and an abuse check, and from whom BCU 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 or Authority 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 within or on behalf of any entity or agency licensed, certified, registered, or otherwise regulated by the Department or Authority.

(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); or

(ii) Services within a residential facility (defined in ORS 443.400).

(D) Any direct care staff secured by any residential care facility or assisted living facility through the services of a personnel services or staffing agency who works in the facility.

(E) Any direct care staff secured by any nursing facility through the services of a personnel services or staffing agency who works in the facility

(F) Except as excluded in section (30)(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.

(G) 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.

(H) A homecare worker as defined in ORS 410.600, a personal support worker as defined in ORS 410.600, a personal care services provider, or an independent provider employed by a Department or Authority client who provides care to the client if the Department or Authority helps pay for the services.

(I) 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).

(J) An appointing authority, QED, or QEI associated with any entity or agency licensed, certified, registered, otherwise regulated by the Department, or subject to these rules.

(K) An individual providing on the job certified nursing assistant classes to staff within a long term care facility.

(L) A student enrolled in a long term care facility nursing assistant training program for employment at the facility.

(M) Any individual serving as an owner, operator, or manager of a room and board facility pursuant to OAR chapter 411, division 68.

(N) An employee providing care to clients of the Department Aging & People with Disabilities programs who works for an in-home care agency as defined by ORS 443.305 which has a contract with the Department's Aging & People with Disabilities programs.

(O) Any individual who is required to complete a background check pursuant to Department or Authority program rules or a contract with the Department or Authority, if the requirement is within the Department or Authority'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. The exceptions in section (30)(b) do not apply to these SIs.

(b) An SI does not include:

(A) Any individual under 16 years of age.

(B) An individual receiving training through a Department-licensed or Department-certified QE as part of the required curriculum through any college, university, or other training program and who is not an employee for the QE in which training is provided. The individual may not be considered a volunteer under these rules. QEs 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.

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(C) Department, Authority, or QE clients. The only circumstance in which BCU 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 (30)(a)(A)-(E) and (30)(a)(G)-(O) of this rule, or if the facility is dually licensed for different populations of vulnerable individuals.

(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 or Authority.

(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 a licensed or certified QE. 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 or Authority for care provided by an employee of the business.

(G) Individuals employed by a private business in which a client of the Department or Authority is working as part of a Department- or Authority-sponsored employment service program. This exclusion does not apply to an employee of a business that receives funds from the Department or Authority 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 a licensed, certified, registered, or otherwise regulated QE.

(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 Authority's Addictions and Mental Health Division to provide prevention, evaluation, or treatment services. This exclusion does not apply to programs specifically required by other Authority program 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 Authority'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 67.

(31) "Weighing test" means a process in which BCU considers 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; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12

407-007-0220

Background Check Required

(1) BCU shall conduct criminal records checks on all SIs through LEADS 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 is necessary, OSP shall provide BCU results of national criminal records checks conducted pursuant to ORS 181.534, including fingerprint identification, through the FBI.

(3) BCU shall conduct abuse checks 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 (6) 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 or Authority-issued licenses, certifications, or registrations, and the license, certification, or registration requires a background check under these rules.

(e) For a student enrolled in a long term care facility nursing assistant training program for employment at the facility, a new background check is required when the student becomes an employee at the facility. A new background check is not required by the Department or the Authority at graduation from the training program or at the granting of certification by the Board of Nursing unless the Department, the Authority, or the QE have reason to believe that a background check is justified.

(f) A background check is required by federal or state laws or regulations, other Department or Authority administrative rules, or by contract with the Department or Authority.

(g) When BCU or the QE has reason to believe that a background check is justified. Examples include but are not limited to:

(A) Any indication of possible criminal or abusive behavior by an SI.

(B) A lapse in working or volunteering in a position under the direction and control of the QE but the SI is still considered in the position. An example is an extended period of leave by an SI. The QE determines the need for a background check.

(C) Quality assurance monitoring by the Department or Authority of a previously conducted criminal records check or abuse check.

(5) If the SI is subject to a background check due to involvement with the foster or adoptive placement of a child and:

(a) Is subject to the Interstate Compact on Placement of Children (ORS 417.200; OAR 413-040-0200 to 413-040-0330), the background check must comply with Interstate Compact requirements.

(b) Is subject to the Intercounty Adoption Act of 2000 (42 USC 14901 et seq.), the background check must comply with federal requirement and ORS 417.262.

(6) If QEs, Department program rules, or Authority program rules require an SI to report any new arrests, charges, or convictions, the QE may determine if personnel action is required if the SI does not report. Personnel action may include a new background check.

(7) A background check is not required under the following circumstances:

(a) A homecare worker, as defined in ORS 410.600, has a Department background check notice of final fitness determination dated within the recheck period according to Department program rules showing that the homecare worker has been approved or approved with restrictions, and listing a worksite of "various," "various clients," "statewide," or similar wording.

(b) A personal support worker, personal care services provider, Lifespan Respite or other respite care provider, or an independent provider paid with Department or Authority funds who changes or adds clients within the same QE, Department, or Authority district, and the prior, documented criminal records check or abuse check conducted within the previous 24 months through the Department or Authority has been approved without restrictions.

(c) The SI is a child care provider as described in OAR 461-165-0180 who changes or adds clients and who has been approved without restrictions within the required recheck period according to Department program rules.

(d) The SI remains with a QE in the same position listed on the background check request 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.

(8) Background checks are completed on SIs who otherwise meet the qualifications of the position listed on the background check request. 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;

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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; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 3-2012(Temp), f. & cert. ef. 4-13-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12

407-007-0230

Qualified Entity

(1) A QE and its appointing authority must be approved in writing by the Department or Authority pursuant to these rules in order to appoint a QED. Documentation of a current and valid license, certification, or letter of approval from the Department or Authority are considered proof of approval. Unless specifically indicated otherwise in these rules, all QEs and appointing authorities discussed in these rules are considered approved.

(2) A QE shall ensure the completion of background checks for all SIs who are the QE's employees, volunteers, or other SIs under the direction or control of the QE.

(3) BCU may allow a QE's appointing authority or QED to appoint one or more QEDs based on the needs of the QE and the volume of SIs under the QE.

(4) A QE's appointing authority shall appoint QEDs as needed to remain in compliance with these rules and shall communicate any changes regarding QEDs or QEDs to BCU.

(5) If for any reason a QE no longer has any QEDs, the QE or appointing authority shall ensure that the confidentiality and security of background check records by immediately providing all background check related documents to BCU or to another QE as determined by BCU.

(6) BCU shall provide QEs with periodic training and on-going technical assistance.

(7) Any decisions made by BCU in regard to these rules are final and may not be overturned by any QE.

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; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12

407-007-0240

QE Designees and QE Initiators

(1) All requirements in this section must be completed within 90 calendar days. To receive BCU approval, a QED must meet the following requirements:

(a) A QED must be one of the following:

(A) Employed by the agency for which the QED will handle criminal records check information.

(B) Contracted with the QE to perform as a QED.

(C) Employed by another similar QE or a parent QE. For example, an assisted living facility QED may act as QED for another assisted living facility.

(b) A QED must have work-related access to the internet and e-mail for the processing of background checks and entering background check requests into CRIMS.

(c) A QED must complete a certification program and successfully pass any BCU required testing.

(d) An appointing authority must appoint a QED on a form provided by BCU. The applicant QED must complete and submit required documents and information to BCU for processing and registration.

(e) BCU shall conduct an abuse check, an Oregon criminal records check, a national criminal records check, and if necessary, a state-specific criminal records check. A QED 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) With consideration of the QE and potentially disqualifying abuse under OAR 407-007-0290(11), no determination that the QED was found responsible for potentially disqualifying abuse of a vulnerable person.

(2) BCU shall deny the individual's status as a QED if the individual does not meet QED requirements. Once denied, the individual may no longer perform the duties of a QED. There are no exceptions for individuals who fail to meet QED requirements.

(3) An approved QED shall have the following responsibilities:

(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. A QED may not advocate for an SI during any part of the background check process, including contesting a fitness determination.

(c) Ensure that adequate measures are taken to protect the confidentiality of the records and documents required by these rules. A QED may not view criminal offender information. A QED may not view abuse investigation reports and associated abuse investigation exhibits or documents as part of the background check process.

(d) A QED shall verify the SI's identity or ensure that the same verification requirements are understood by each individual responsible for verifying identity. The QE may verify identity at any time during the hiring or placement process up to the submission of the background check request.

(A) If conducting a background check on the SI for the first time or at rehire of the SI, a QED shall verify identity or ensure identity is verified by using methods which include but are not limited to reviewing the SI's current and valid government-issued photo identification and confirming the information on the photo identification with the SI, the information included in the background check request, and the information written on the fingerprint card if a national criminal records check is conducted. (B) If an SI is being rechecked for the same QE without any break in placement, service, or employment, review of government-issued photo identification may not be necessary. The QED shall verify the SI's name, current address, and any aliases or previous names, or ensure this information is verified.

(e) Ensure that an SI is not permitted to work, volunteer, reside, or otherwise hold any position covered by these rules before the submission of the background check request to BCU

(f) Ensure that the result of the preliminary fitness determination, granting the QE to hire the SI on a preliminary basis or prohibiting the QE from hiring the SI on a preliminary basis, is followed.

(g) 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.

(h) 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 BCU reinstates hired on a preliminary basis or the completion of a final fitness determination allowing the SI to resume the position.

(i) Ensure that the SI has a fingerprint card and understands what is needed to get a fingerprint card completed if a national background check is required.

(j) Notify BCU of any changes regarding an SI who still has a background check in process, including but not limited to address or employment status changes.

(k) Monitor the status of background check applications and investigate any delays in processing.

(L) Ensure that documentation required by these rules is processed and maintained in accordance with these rules.

(m) Notify BCU immediately if arrested, charged, or convicted of any crime, or if found responsible for abuse by the Department or Authority.

(4) A QED may make preliminary fitness determinations:

(a) A QED shall review the SI's completed background check request to ensure completeness of the information, verify identity, and to determine if the SI has any disclosed criminal history.

(b) A QED shall adhere to OAR 407-007-0315(4) when making a preliminary fitness determination.

(c) If the SI has adverse criminal history within the five year period from the date the SI manually or electronically signed the background check request, the QED may request in writing that BCU make a preliminary fitness determination requiring a weighing test.

(5) BCU may change QED status in the following circumstances which include but are not limited to:

(a) BCU shall inactivate QED status when the position with the QE ends or when the QE terminates the appointment. The QE shall notify BCU immediately upon the end of the position or termination of the appointment.

(b) BCU shall suspend or revoke the appointment if a QED fails to comply with responsibilities or fails to continue to meet the requirements for QED status, as applicable. After suspending or revoking the appointment, the QE must immediately notify the BCU in writing. If BCU takes the action, it must immediately notify the QE in writing.

(c) BCU shall revoke QED status if a QED fails to recertify.

(6) Any changes to QED status are not subject to appeal rights unless the denial or termination results in immediate loss of employment or posi-

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tion. A QED losing employment or position have the same hearing rights as other SIs under these rules.

(7) If a QED leaves employment or position with the QE for any reason, BCU shall inactivate QED status. If the individual finds employment with another QE, BCU shall determine the requirement for reactivation of QED status.

(8) BCU shall review and recertify appointments of QEDs, up to and including a new application, background check, and additional training, under the following circumstances:

(a) Every three years; or

(b) Any time BCU has reason to believe the individual no longer meets QED requirements including but not limited to indication of criminal or abusive behavior or indication of noncompliance with these rules.

(9) With BCU approval, QEs may appoint QEIs to enter background check request into CRIMS. QEIs must:

(a) Be currently approved SIs for the QE;

(b) Have internet access and working e-mail accounts to access CRIMS; and

(c) Meet other criteria as determined by BCU and the QE.

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, 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; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12

407-007-0250

Background Check Process

(1) A QE and SI shall use CRIMS to request a background check which shall include the following information regarding an SI:

(a) Name and aliases;

(b) Date of birth;

(c) Address and recent residency information;

(d) Driver license or identification card information;

(e) Position for which the SI is completing the background check request;

(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 BCU.

(g) Disclosure of other information to be considered in the event of a weighing test.

(2) The background check request shall include the following notices to the SI:

(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 BCU shall conduct an abuse check on the SI. Unless required by program rule, an SI is not required to disclose any history of potentially disqualifying abuse, but may provide BCU with mitigating or other information.

(3) Using identifying information submitted in a background check request, BCU shall conduct an abuse check to determine if the subject individual has potentially disqualifying abuse.

(4) BCU shall conduct an Oregon criminal records check. Using information submitted on the background check request, BCU may obtain criminal offender information from LEDS and may request other criminal records information as needed.

(5) BCU 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).

(6) BCU may conduct a fingerprint-based national criminal records check.

(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 BCU 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) BCU or the QE has reason to question the identity of the SI or the information of the criminal record found in LEDS.

(E) A fingerprint-based criminal records check is required by federal or state laws or regulations, other Department or Authority rules, or by contract with the Department or Authority.

(F) The SI is a QED.

(G) BCU has reason to believe that fingerprints are needed to make a final fitness determination.

(b) BCU 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 BCU. BCU shall send the request to the QE and the QED shall notify the SI.

(A) The SI shall use a fingerprint card provided by BCU or an official fingerprint card for employment from the FBI or fingerprinting vendor. BCU shall give the SI notice regarding the Social Security number as set forth in section (2)(a) of this rule.

(B) The SI shall submit the fingerprint card to BCU within 21 calendar days of the request.

(i) BCU may 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) BCU may extend the time allowed due to processing requirements or for good cause provided by the SI or QE.

(C) BCU may require new fingerprint cards if previous cards are rejected by OSP or the FBI.

(7) BCU 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 BCU has reason to believe that out-of-state criminal records may exist and a national criminal records check cannot be accomplished.

(b) When BCU 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, BCU has reason to believe that a state-specific criminal records check is necessary.

(8) In order to complete a background check and fitness determination, BCU may require additional information from the SI including but not limited to additional criminal, judicial, other background information, or proof of identity.

(9) BCU may conduct a background check in situations of imminent danger.

(a) If the Department or Authority determines there is indication of criminal or abusive behavior that could more likely than not pose an immediate risk to vulnerable individuals, BCU shall conduct a new criminal records check on an SI without the completion of a new background check request.

(b) If BCU determines that a fitness determination based on the new background check would be adverse to the SI, BCU 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 completion of the fitness determination.

(10) All criminal records checks conducted under this rule shall be documented.

Stat. Auth.: ORS 181.537, 409.027 & 409.050

Stats. Implemented: ORS 181.534, 181.537, 409.010

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0250, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; 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; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11

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11; DHS 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHS 4-2012, f. & cert. ef. 8-1-12

407-007-0275

Disqualifying Convictions Under ORS 443.004 for Aging and People with Disabilities Programs

(1) Section (2) of this rule applies to an SI who works exclusively with clients who are 65 years old or older and is one of the following:

(a) An individual who is paid directly or indirectly with public funds who has or will have contact with recipients of services within:

- (A) An adult foster home (defined in ORS 443.705); or
- (B) A residential facility (defined in ORS 443.400).

(b) Any direct care staff secured by any residential care facility or assisted living facility through the services of a personnel services or staffing agency and the direct care staff works in the facility.;

(c) A homecare worker as defined in ORS 410.600, a personal support worker as defined in ORS 410.600, a 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.

(d) An employee providing care to Department Aging and People with Disabilities clients who works for an in-home care agency as defined by ORS 443.305 which has a contract with the Department Aging and People with Disabilities programs.

(e) An individual in a position specified as being subject in relevant Oregon statutes or Oregon Administrative Rules.

(2) Public funds may not be used to support, in whole or in part, the employment of an SI identified in section (1) in any capacity who has been convicted:

(a) Within five years of the date of hire noted in the background check request, of any of the following crimes:

- (A) ORS 163.465, Public indecency
- (B) ORS 163.467, Private indecency
- (C) ORS 163.700, Invasion of personal privacy
- (D) ORS 164.055, Theft I
- (E) ORS 164.125, Theft of services, if charged as a felony
- (F) ORS 164.377, Computer crime, if charged as a felony

(b) Within ten years of the date the background check request was manually or electronically signed by the SI or the date BCU conducted a criminal records check due to imminent risk, a crime involving the delivery or manufacture of a controlled substance; or

- (c) Of any of the following crimes:
 - (A) ORS 163.095, Aggravated murder
 - (B) ORS 163.115, Murder
 - (C) ORS 163.118, Manslaughter I
 - (D) ORS 163.125, Manslaughter II
 - (E) ORS 163.145, Criminally negligent homicide
 - (F) ORS 163.149, Aggravated vehicular homicide
 - (G) ORS 163.165, Assault III
 - (H) ORS 163.175, Assault II
 - (I) ORS 163.185, Assault I
 - (J) ORS 163.187, Strangulation
 - (K) ORS 163.200, Criminal mistreatment II
 - (L) ORS 163.205, Criminal mistreatment I
 - (M) ORS 163.225, Kidnapping II
 - (N) ORS 163.235, Kidnapping I
 - (O) ORS 163.263, Subjecting another person to involuntary servitude

II

(P) ORS 163.264, Subjecting another person to involuntary servitude

I

- (Q) ORS 163.266, Trafficking in persons
- (R) ORS 163.275, Coercion
- (S) ORS 163.355, Rape III
- (T) ORS 163.365, Rape II
- (U) ORS 163.375, Rape I
- (V) ORS 163.385, Sodomy III
- (W) ORS 163.395, Sodomy II
- (X) ORS 163.405, Sodomy I
- (Y) ORS 163.408, Unlawful sexual penetration II
- (Z) ORS 163.411, Unlawful sexual penetration I
- (AA) ORS 163.415, Sexual abuse III
- (BB) ORS 163.425, Sexual abuse II
- (CC) ORS 163.427, Sexual abuse I
- (DD) ORS 163.432, Online sexual corruption of a child II, if the

offender reasonably believed the child to be more than five years younger than the offender

(EE) ORS 163.433, Online sexual corruption of a child I, if the offender reasonably believed the child to be more than five years younger than the offender

(FF) ORS 163.435, Contributing to the sexual delinquency of a minor
(GG) ORS 163.445, Sexual misconduct, if the offender is at least 18 years of age

(HH) ORS 163.525, Incest with a child victim

(II) ORS 163.535, Abandonment of a child

(JJ) ORS 163.537, Buying or selling a person under 18 years of age

(KK) ORS 163.547, Child neglect I

(LL) ORS 163.670, Using a child in display of sexually explicit conduct

(MM) ORS 163.680, Paying for viewing a child's sexually explicit conduct

(NN) ORS 163.684, Encouraging child sexual abuse I

(OO) ORS 163.686, Encouraging child sexual abuse II

(PP) ORS 163.687, Encouraging child sexual abuse III

(QQ) ORS 163.688, Possession of materials depicting sexually explicit conduct of a child I

(RR) ORS 163.689, Possession of materials depicting sexually explicit conduct of a child II

(SS) ORS 164.057, Aggravated theft I

(TT) ORS 164.098, Organized retail theft

(UU) ORS 164.215, Burglary II

(VV) ORS 164.225, Burglary I

(WW) ORS 164.325, Arson I

(XX) ORS 164.405, Robbery II

(YY) ORS 164.415, Robbery I

(ZZ) ORS 165.013, Forgery I

(AAA) ORS 165.022, Criminal possession of a forged instrument I

(BBB) ORS 165.032, Criminal possession of a forgery device

(CCC) ORS 165.800, Identity theft

(DDD) ORS 165.803, Aggravated identity theft

(EEE) ORS 167.012, Promoting prostitution

(FFF) ORS 167.017, Compelling prostitution

(GGG) ORS 167.057, Luring a minor

(HHH) ORS 167.320, Animal abuse I

(III) ORS 167.322, Aggravated animal abuse I

(JJJ) ORS 181.594, Sex crimes, including transporting child pornography into the state

(d) Of an attempt, conspiracy, or solicitation to commit a crime described in section (2)(a) to (2)(c) of this rule; or

(e) Of a crime in another jurisdiction that is substantially equivalent to a crime described in section (2)(a) to (2)(d) of this rule.

(3) Individuals identified in section (1) of this rule who are employees and hired prior to July 28, 2009 are exempt from section (2) of this rule provided that the individual remains in the same position working for the same employer after July 28, 2009. This exemption is not applicable to licensees.

(4) Section (6) of this rule applies to a subject individual who works with clients who are receiving services through the Department's Developmental Disabilities Programs who are under 65 years old.

(5) Section (6) of this rule applies to a subject individual who works with clients with physical disabilities under the age of 65 years old and who is:

(a) Any individual who is paid directly or indirectly with public funds who has or will have contact with recipients of:

(A) Services within an adult foster home (defined in ORS 443.705); or

(B) Services within a residential facility (defined in ORS 443.400).

(b) Any direct care staff secured by any residential care facility or assisted living facility through the services of a personnel services or staffing agency and the direct care staff works in the facility.

(c) A homecare worker as defined in ORS 410.600, a personal support worker as defined in ORS 410.600, a 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.

(d) An employee providing care to Department Aging and People with Disabilities clients who works for an in-home care agency as defined by ORS 443.305 which has a contract with the Department Aging and People with Disabilities programs.

(e) An individual in a position specified as being subject in relevant Oregon statutes or Oregon Administrative Rules.

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(6) Public funds may not be used to support, in whole or in part, the employment of a subject individual identified in section (4) or section (5) of this rule in any capacity who has been convicted:

(a) In the last 10 years of a crime involving the delivery or manufacture of a controlled substance; or

(b) Of any of the following crimes:

(A) ORS 163.095, Aggravated murder

(B) ORS 163.115, Murder

(C) ORS 163.118, Manslaughter I

(D) ORS 163.125, Manslaughter II

(E) ORS 163.145, Criminally negligent homicide

(F) ORS 163.149, Aggravated vehicular homicide

(G) ORS 163.165, Assault III

(H) ORS 163.175, Assault II

(I) ORS 163.185, Assault I

(J) ORS 163.187, Strangulation

(K) ORS 163.200, Criminal mistreatment II

(L) ORS 163.205, Criminal mistreatment I

(M) ORS 163.225, Kidnapping II

(N) ORS 163.235, Kidnapping I

(O) ORS 163.263, Subjecting another person to involuntary servitude

II

(P) ORS 163.264, Subjecting another person to involuntary servitude

I

(Q) ORS 163.266, Trafficking in persons

(R) ORS 163.275, Coercion

(S) ORS 163.355, Rape III

(T) ORS 163.365, Rape II

(U) ORS 163.375, Rape I

(V) ORS 163.385, Sodomy III

(W) ORS 163.395, Sodomy II

(X) ORS 163.405, Sodomy I

(Y) ORS 163.408, Unlawful sexual penetration II

(Z) ORS 163.411, Unlawful sexual penetration I

(AA) ORS 163.415, Sexual abuse III

(BB) ORS 163.425, Sexual abuse II

(CC) ORS 163.427, Sexual abuse I

(DD) ORS 163.432, Online sexual corruption of a child II, if the offender reasonably believed the child to be more than five years younger than the offender

(EE) ORS 163.433, Online sexual corruption of a child I, if the offender reasonably believed the child to be more than five years younger than the offender

(FF) ORS 163.435, Contributing to the sexual delinquency of a minor

(GG) ORS 163.445, Sexual misconduct, if the offender is at least 18 years of age

(HH) ORS 163.465, Public indecency

(II) ORS 163.467, Private indecency

(JJ) ORS 163.525, Incest with a child victim

(KK) ORS 163.535, Abandonment of a child

(LL) ORS 163.537, Buying or selling a person under 18 years of age

(MM) ORS 163.547, Child neglect I

(NN) ORS 163.670, Using a child in display of sexually explicit conduct

(OO) ORS 163.680, Paying for viewing a child's sexually explicit conduct

(PP) ORS 163.684, Encouraging child sexual abuse I

(QQ) ORS 163.686, Encouraging child sexual abuse II

(RR) ORS 163.687, Encouraging child sexual abuse III

(SS) ORS 163.688, Possession of materials depicting sexually explicit conduct of a child I

(TT) ORS 163.689, Possession of materials depicting sexually explicit conduct of a child II

(UU) ORS 163.700, Invasion of personal privacy

(VV) ORS 164.055, Theft I

(WW) ORS 164.057, Aggravated theft I

(XX) ORS 164.098, Organized retail theft

(YY) ORS 164.125, Theft of services, if charged as a felony

(ZZ) ORS 164.215, Burglary II

(AAA) ORS 164.225, Burglary I

(BBB) ORS 164.325, Arson I

(CCC) ORS 164.377, Computer crime, if charged with a felony

(DDD) ORS 164.405, Robbery II

(EEE) ORS 164.415, Robbery I

(FFF) ORS 165.013, Forgery I

(GGG) ORS 165.022, Criminal possession of a forged instrument I

(HHH) ORS 165.032, Criminal possession of a forgery device

(III) ORS 165.800, Identity theft

(JJJ) ORS 165.803, Aggravated identity theft

(KKK) ORS 167.012, Promoting prostitution

(LLL) ORS 167.017, Compelling prostitution

(MMM) ORS 167.057, Luring a minor

(NNN) ORS 167.320, Animal abuse I

(OOO) ORS 167.322, Aggravated animal abuse I

(PPP) ORS 181.594, Sex crimes, including transporting child pornography into the state

(c) Of an attempt, conspiracy, or solicitation to commit a crime described in section (6)(b) to (6)(b) of this rule; or

(d) Of a crime in another jurisdiction that is substantially equivalent to a crime described in section (6)(a) to (6)(b) of this rule.

(7) Subject individuals identified in section (4) and section (5) of this rule who are employees and hired prior to July 28, 2009 are exempt from section (6) of this rule provided that the employee remains in the same position working for the same employer after July 28, 2009. This exemption is not applicable to licensees.

(8) If BCU determines that an individual is subject to this rule and has a conviction listed in this rule, BCU shall make the determination of Ineligible Due to ORS 443.004. A fitness determination with a weighing test is not required regardless of any other potentially disqualifying convictions and conditions the SI has.

(9) A determination of Ineligible Due to ORS 443.004 is not subject to appeal rights under OAR 407-007-0330, 407-007-0335, 943-007-0335, or 943-007-0501.

Stat. Auth.: ORS 181.534 & 409.050

Stats. Implemented: ORS 181.534 & 443.004

Hist.: DHSD 3-2010(Temp), f. & cert. ef. 5-5-10 thru 10-31-10; DHSD 10-2010, f. 10-29-10, cert. ef. 10-31-10; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 3-2012(Temp), f. & cert. ef. 4-13-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12

407-007-0277

Disqualifying Convictions Under ORS 443.004 for Mental Health or Alcohol and Drug Programs

(1) This rule applies to subject individuals who are mental health or substance abuse treatment providers defined under ORS 443.004(8).

(2) Public funds may not be used to support, in whole or in part, the employment of an individual in any capacity who has been convicted:

(a) Of any of the following crimes:

(A) ORS 163.095, Aggravated murder

(B) ORS 163.115, Murder

(C) ORS 163.375, Rape I

(D) ORS 163.405, Sodomy I

(E) ORS 163.411, Unlawful sexual penetration I

(F) ORS 163.427, Sexual abuse I

(b) Of an attempt, conspiracy, or solicitation to commit a crime described in section (2)(a) of this rule.

(3) If BCU determines that an individual is subject to this rule and has a conviction listed in this rule, BCU shall make the determination of Ineligible Due to ORS 443.004. A fitness determination with a weighing test is not required regardless of any other potentially disqualifying convictions and conditions the SI has.

(4) A determination of Ineligible Due to ORS 443.004 is not subject to appeal rights under OAR 943-007-0335 or 943-007-0501.

Stat. Auth.: ORS 181.534 & 409.050

Stats. Implemented: ORS 181.534 & 443.004

Hist.: DHSD 3-2012(Temp), f. & cert. ef. 4-13-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12

407-007-0280

Potentially Disqualifying Convictions

A conviction of any of the following crimes is potentially disqualifying. Offenses or convictions that are classified as less than a misdemeanor, such as violations or infractions, are not potentially disqualifying (see ORS 161.505 to 161.565).

(1) The crimes listed in this section are permanent review crimes which require that a fitness determination with a weighing test be completed regardless of date of conviction.

(a) ORS 162.155, Escape II

(b) ORS 162.165, Escape I

(c) ORS 162.285, Tampering with a witness

(d) ORS 162.325, Hindering prosecution

(e) ORS 163.005, Criminal homicide

(f) ORS 163.095, Aggravated murder

(g) ORS 163.115, Murder

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- (h) ORS 163.118, Manslaughter I
(i) ORS 163.125, Manslaughter II
(j) ORS 163.145, Criminally negligent homicide
(k) ORS 163.149, Aggravated vehicular homicide
(L) ORS 163.160, Assault IV
(m) ORS 163.165, Assault III
(n) ORS 163.175, Assault II
(o) ORS 163.185, Assault I
(p) ORS 163.187, Strangulation
(q) ORS 163.190, Menacing
(r) ORS 163.200, Criminal mistreatment II
(s) ORS 163.205, Criminal mistreatment I
(t) ORS 163.207, Female genital mutilation
(u) ORS 163.208, Assault of public safety officer
(v) ORS 163.213, Unlawful use of an electrical stun gun, tear gas, or mace I
(w) ORS 163.225, Kidnapping II
(x) ORS 163.235, Kidnapping I
(y) ORS 163.245, Custodial interference II
(z) ORS 163.257, Custodial interference I
(aa) ORS 163.263, Subjecting another person to involuntary servitude in the second degree
(bb) ORS 163.264, Subjecting another person to involuntary servitude in the first degree
(cc) ORS 163.266, Trafficking in persons
(dd) ORS 163.275, Coercion
(ee) ORS 163.355, Rape III
(ff) ORS 163.365, Rape II
(gg) ORS 163.375, Rape I
(hh) ORS 163.385, Sodomy III
(ii) ORS 163.395, Sodomy II
(jj) ORS 163.405, Sodomy I
(kk) ORS 163.408, Unlawful sexual penetration II
(LL) ORS 163.411, Unlawful sexual penetration I
(mm) ORS 163.415, Sexual abuse III
(nn) ORS 163.425, Sexual abuse II
(oo) ORS 163.427, Sexual abuse I
(pp) ORS 163.432, Online sexual corruption of a child in the second degree
(qq) ORS 163.433, Online sexual corruption of a child in the first degree
(rr) ORS 163.435, Contributing to the sexual delinquency of a minor
(ss) ORS 163.445, Sexual misconduct
(tt) ORS 163.452, Custodial sexual misconduct I
(uu) ORS 163.454, Custodial sexual misconduct II
(vv) ORS 163.465, Public indecency
(ww) ORS 163.467, Private indecency
(xx) ORS 163.476, Unlawfully being in a location where children regularly congregate
(yy) ORS 163.479, Unlawful contact with a child
(zz) ORS 163.515, Bigamy
(aaa) ORS 163.525, Incest
(bbb) ORS 163.535, Abandonment of a child
(ccc) ORS 163.537, Buying or selling a person under 18 years of age
(ddd) ORS 163.545, Child neglect II
(eee) ORS 163.547, Child neglect I
(fff) ORS 163.555, Criminal nonsupport
(ggg) ORS 163.575, Endangering the welfare of a minor
(hhh) ORS 163.670, Using child in display of sexually explicit conduct
(iii) ORS 163.680, Paying for viewing a child's sexually explicit conduct
(jjj) ORS 163.684, Encouraging child sexual abuse I
(kkk) ORS 163.686, Encouraging child sexual abuse II
(LLL) ORS 163.687, Encouraging child sexual abuse III
(mmm) ORS 163.688, Possession of materials depicting sexually explicit conduct of a child I
(nnn) ORS 163.689, Possession of materials depicting sexually explicit conduct of a child II
(ooo) ORS 163.693, Failure to report child pornography
(ppp) ORS 163.700, Invasion of personal privacy
(qqq) ORS 163.732, Stalking
(rrr) ORS 163.750, Violating court's stalking protective order
(sss) ORS 164.055, Theft I
(ttt) ORS 164.057, Aggravated theft I
(uuu) ORS 164.075, Theft by extortion
(vvv) ORS 164.085, Theft by deception
(www) ORS 164.098, Organized retail theft
(xxx) ORS 164.125, Theft of services
(yyy) ORS 164.135, Unauthorized use of a vehicle
(zzz) ORS 164.170, Laundering a monetary instrument
(aaaa) ORS 164.215, Burglary II
(bbbb) ORS 164.225, Burglary I
(cccc) ORS 164.315, Arson II
(dddd) ORS 164.325, Arson I
(eeee) ORS 164.365, Criminal mischief I
(ffff) ORS 164.377, Computer crime
(gggg) ORS 164.395, Robbery III
(hhhh) ORS 164.405, Robbery II
(iiii) ORS 164.415, Robbery I
(jjjj) ORS 165.013, Forgery I
(kkkk) ORS 165.022, Criminal possession of a forged instrument I
(LLLL) ORS 165.032, Criminal possession of a forgery device
(mmmm) ORS 165.055, Fraudulent use of a credit card
(nnnn) ORS 165.065, Negotiating a bad check
(oooo) ORS 165.581, Cellular counterfeiting I
(pppp) ORS 165.800, Identity theft
(qqqq) ORS 165.803, Aggravated identity theft
(rrrr) ORS 165.810, Unlawful possession of a personal identification device
(ssss) ORS 166.005, Treason
(tttt) ORS 166.070, Aggravated harassment
(uuuu) ORS 166.085, Abuse of corpse II
(vvvv) ORS 166.087, Abuse of corpse I
(wwww) ORS 166.155, Intimidation II
(xxxx) ORS 166.165, Intimidation I
(yyyy) ORS 166.220, Unlawful use of weapon
(zzzz) ORS 166.270, Possession of weapons by certain felons
(aaaaa) ORS 166.272, Unlawful possession of machine guns, certain short-barreled firearms and firearm silencers
(bbbbb) ORS 166.275, Possession of weapons by inmates of institutions
(ccccc) ORS 166.370, Possession of firearm or dangerous weapon in public building or court facility; exceptions; discharging firearm at school
(ddddd) ORS 166.382, Possession of destructive device prohibited
(eeeee) ORS 166.384, Unlawful manufacture of destructive device
(ffffff) ORS 166.429, Firearms used in felony
(ggggg) ORS 166.450, Obliteration or change of identification number on firearms
(hhhhh) ORS 166.720, Racketeering activity unlawful
(iiiiii) ORS 167.012, Promoting prostitution
(jjjjj) ORS 167.017, Compelling prostitution
(kkkkk) ORS 167.054, Furnishing sexually explicit material to a child
(LLLLL) ORS 167.057, Luring a minor
(mmmmm) ORS 167.062, Sadomasochistic abuse or sexual conduct in live show
(nnnnn) ORS 167.075, Exhibiting an obscene performance to a minor
(ooooo) ORS 167.080, Displaying obscene materials to minors
(ppppp) ORS 167.212, Tampering with drug records
(qqqqq) ORS 167.262, Adult using minor in commission of controlled substance offense
(rrrrr) ORS 167.315, Animal abuse II
(sssss) ORS 167.320, Animal abuse I
(ttttt) ORS 167.322, Aggravated animal abuse I
(uuuuu) ORS 167.333, Sexual assault of animal
(vvvvv) ORS 167.339, Assaulting law enforcement animal
(wwwww) ORS 181.594, Sex crimes including transporting child pornography into the state
(xxxxx) ORS 181.599, Failure to report as sex offender
(yyyyy) ORS 433.010, Spreading disease (willfully) prohibited
(zzzzz) ORS 475.525, Sale of drug paraphernalia prohibited
(aaaaa) ORS 475.805, Providing hypodermic device to minor prohibited
(bbbbb) ORS 475.840, Prohibited acts generally (regarding drug crimes formerly ORS 475.992)
(ccccc) ORS 475.846, Unlawful manufacture of heroin
(dddddd) ORS 475.848, Unlawful manufacture of heroin within 1,000 feet of school
(eeeee) ORS 475.850, Unlawful delivery of heroin

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(fffff) ORS 475.852, Unlawful delivery of heroin within 1,000 feet of school
(ggggg) ORS 475.854, Unlawful possession of heroin
(hhhhh) ORS 475.856, Unlawful manufacture of marijuana
(iiiiii) ORS 475.858, Unlawful manufacture of marijuana within 1,000 feet of school
(jjjjj) ORS 475.860, Unlawful delivery of marijuana
(kkkkk) ORS 475.862, Unlawful delivery of marijuana within 1,000 feet of school
(LLLLL) ORS 475.864, Unlawful possession of marijuana
(mmmmm) ORS 475.866, Unlawful manufacture of 3,4-methylenedioxymethamphetamine
(nnnnn) ORS 475.868, Unlawful manufacture of 3,4-methylenedioxymethamphetamine within 1,000 feet of school
(ooooo) ORS 475.870, Unlawful delivery of 3,4-methylenedioxymethamphetamine
(ppppp) ORS 475.872, Unlawful delivery of 3,4-methylenedioxymethamphetamine within 1,000 feet of school
(qqqqq) ORS 475.874, Unlawful possession of 3,4-methylenedioxymethamphetamine
(rrrrr) ORS 475.876, Unlawful manufacture of cocaine
(sssss) ORS 475.878, Unlawful manufacture of cocaine within 1,000 feet of school
(ttttt) ORS 475.880, Unlawful delivery of cocaine
(uuuuu) ORS 475.882, Unlawful delivery of cocaine within 1,000 feet of school
(vvvvv) ORS 475.884, Unlawful possession of cocaine
(wwwww) ORS 475.886, Unlawful manufacture of methamphetamine
(xxxxx) ORS 475.888, Unlawful manufacture of methamphetamine within 1,000 feet of school
(yyyyy) ORS 475.890, Unlawful delivery of methamphetamine
(zzzzz) ORS 475.892, Unlawful delivery of methamphetamine within 1,000 feet of school
(aaaaa) ORS 475.894, Unlawful possession of methamphetamine
(bbbbbb) ORS 475.904, Unlawful delivery of controlled substance within 1,000 feet of school
(ccccc) ORS 475.906, Penalties for distribution to minors
(ddddd) ORS 475.908, Causing another person to ingest a controlled substance
(eeeeee) ORS 475.910, Application of controlled substance to the body of another person
(ffffff) ORS 475.914, Prohibited acts for registrants (with the Oregon State Board of Pharmacy)
(gggggg) ORS 475.967, Possession of precursor substance with intent to manufacture controlled substance
(hhhhhh) ORS 475.990, Commercial drug offense
(iiiiii) ORS 475.992 Prohibited acts generally (regarding drug crimes; renumbered to ORS 475.840 in 2005)
(jjjjjj) ORS 677.080, Prohibited acts (regarding the practice of medicine)
(kkkkkk) ORS 685.990, Penalties (pertaining to naturopathic medicine)
(LLLLLL) ORS 689.527 Prohibited practices; rules (pertaining to pharmacy technicians and practitioners)
(mmmmmm) Any federal crime
(nnnnnn) Any U.S. military crime
(oooooo) Any unclassified felony defined in Oregon Revised Statutes not listed in this rule
(pppppp) Any other felony in Oregon Revised Statutes not listed in this rule that is serious and indicates behavior that poses a threat or jeopardizes the safety of vulnerable persons, as determined by BCU
(qqqqqq) Any felony in a jurisdiction outside Oregon that is not the substantial equivalent of any of the Oregon crimes listed in this section but that is serious and indicates behavior that poses a threat or jeopardizes the safety of vulnerable persons, as determined by BCU
(rrrrrr) Any crime of attempt, solicitation, or conspiracy to commit a crime listed in this section pursuant to ORS 161.405, 161.435, or 161.450, including any crime based on criminal liability for conduct of another pursuant to ORS 161.155
(ssssss) Any crime in any other jurisdiction that is the substantial equivalent of any of the Oregon crimes listed in section (1) of this rule, as determined by BCU

(tttttt) Any crime that is no longer codified in Oregon or other jurisdiction but that is the substantial equivalent of any of the crimes listed in section (1) of this rule, as determined by BCU
(2) The crimes listed in this section are ten-year review crimes which require that a fitness determination with a weighing test be completed if the date of conviction is within ten years of the date the background check request was manually or electronically signed by the SI or the date BCU conducted a criminal records check due to imminent risk.
(a) ORS 033.045, Contempt of court
(b) ORS 109.311, Prohibited fees-adoption
(c) ORS 133.076, Failure to appear on criminal citation
(d) ORS 133.310(3), Violation of restraining order
(e) ORS 135.290, Punishment by contempt of court (violation of release agreement)
(f) ORS 162.015, Bribe giving
(g) ORS 162.025, Bribe receiving
(h) ORS 162.065, Perjury
(i) ORS 162.075, False swearing
(j) ORS 162.117, Public investment fraud
(k) ORS 162.145, Escape III
(L) ORS 162.175, Unauthorized departure
(m) ORS 162.185, Supplying contraband
(n) ORS 162.195, Failure to appear II
(o) ORS 162.205, Failure to appear I
(p) ORS 162.247, Interfering with a peace officer
(q) ORS 162.257, Interfering with a firefighter or emergency medical technician
(r) ORS 162.265, Bribing a witness
(s) ORS 162.275, Bribe receiving by a witness
(t) ORS 162.295, Tampering with physical evidence
(u) ORS 162.305, Tampering with public records
(v) ORS 162.315, Resisting arrest
(w) ORS 162.335, Compounding
(x) ORS 162.355, Simulating legal process
(y) ORS 162.365, Criminal impersonation
(z) ORS 162.367, Criminal impersonation of peace officer
(aa) ORS 162.369, Possession of false law enforcement identification card
(bb) ORS 162.375, Initiating a false report
(cc) ORS 162.385, Giving false information to police officer for a citation
(dd) ORS 162.405, Official misconduct II
(ee) ORS 162.415, Official misconduct I
(ff) ORS 162.425, Misuse of confidential information
(gg) ORS 163.195, Recklessly endangering another person
(hh) ORS 163.196, Aggravated driving while suspended or revoked
(ii) ORS 163.212, Unlawful use of an electrical stun gun, tear gas, or mace II
(jj) ORS 164.043, Theft III
(kk) ORS 164.045, Theft II
(LL) ORS 164.095, Theft by receiving
(mm) ORS 164.138, Criminal possession of a rented or leased motor vehicle
(nn) ORS 164.140, Criminal possession of rented or leased personal property
(oo) ORS 164.162, Mail theft or receipt of stolen mail
(pp) ORS 164.235, Possession of a burglary tool or theft device
(qq) ORS 164.255, Criminal trespass I
(rr) ORS 164.265, Criminal trespass while in possession of firearm
(ss) ORS 164.272, Unlawful entry into motor vehicle
(tt) ORS 164.354, Criminal mischief II
(uu) ORS 165.007, Forgery II
(vv) ORS 165.017, Criminal possession of a forged instrument II
(ww) ORS 165.037, Criminal simulation
(xx) ORS 165.042, Fraudulently obtaining a signature
(yy) ORS 165.070, Possessing fraudulent communications device
(zz) ORS 165.074, Unlawful factoring of credit card transaction
(aaa) ORS 165.080, Falsifying business records
(bbb) ORS 165.085, Sports bribery
(ccc) ORS 165.090, Sports bribe receiving
(ddd) ORS 165.095, Misapplication of entrusted property
(eee) ORS 165.100, Issuing a false financial statement
(fff) ORS 165.102, Obtaining execution of documents by deception
(ggg) ORS 165.540, Obtaining contents of communication
(hhh) ORS 165.543, Interception of communications

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- (iii) ORS 165.570, Improper use of 9-1-1 emergency reporting system
(jjj) ORS 165.572, Interference with making a report
(kkk) ORS 165.577, Cellular counterfeiting III
(LLL) ORS 165.579, Cellular counterfeiting II
(mmm) ORS 165.692, Making false claim for health care payment
(nnn) ORS 166.015, Riot
(ooo) ORS 166.023, Disorderly conduct I
(ppp) ORS 166.025, Disorderly conduct II
(qqq) ORS 166.065, Harassment
(rrr) ORS 166.076, Abuse of a memorial to the dead
(sss) ORS 166.090, Telephonic harassment
(ttt) ORS 166.116, Interfering with public transportation
(uuu) ORS 166.180, Negligently wounding another
(vvv) ORS 166.190, Pointing firearm at another
(www) ORS 166.240, Carrying of concealed weapon
(xxx) ORS 166.250, Unlawful possession of firearms
(yyy) ORS 166.470, Limitations and conditions for sales of firearms
(zzz) ORS 166.480, Sale or gift of explosives to children
(aaaa) ORS 166.649, Throwing an object off an overpass II
(bbbb) ORS 166.651, Throwing an object off an overpass I
(cccc) ORS 166.660, Unlawful paramilitary activity
(dddd) ORS 167.007, Prostitution
(eeee) ORS 167.090, Publicly displaying nudity or sex for advertising purposes
(ffff) ORS 167.122, Unlawful gambling in the second degree
(gggg) ORS 167.127, Unlawful gambling in the first degree
(hhhh) ORS 167.167, Cheating
(iiii) ORS 167.222, Frequenting a place where controlled substances are used
(jjjj) ORS 167.325, Animal neglect II
(kkkk) ORS 167.330, Animal neglect I
(LLLL) ORS 167.337, Interfering with law enforcement animal
(mmmm) ORS 167.340, Animal abandonment
(nnnn) ORS 167.352, Interfering with assistance, search and rescue or therapy animal
(oooo) ORS 167.355, Involvement in animal fighting
(pppp) ORS 167.365, Dogfighting
(qqqq) ORS 167.370, Participation in dogfighting
(rrrr) ORS 167.428, Cockfighting
(ssss) ORS 167.431, Participation in cockfighting
(tttt) ORS 167.820, Concealing the birth of an infant
(uuuu) ORS 192.865, Criminal penalty (pertaining to Address Confidentiality Program)
(vvvv) ORS 314.075, Evading requirements of law prohibited (tax evasion)
(wwww) ORS 411.630, Unlawfully obtaining public assistance
(xxxx) ORS 411.640, Unlawfully receiving public assistance
(yyyy) ORS 411.675, Submitting wrongful claim or payment (e.g., public assistance)
(zzzz) ORS 411.840, Unlawfully obtaining or disposing of food stamp benefits
(aaaaa) ORS 412.074, Unauthorized use and custody of records of temporary assistance for needy families program
(bbbbb) ORS 412.099, Sharing assistance prohibited
(ccccc) ORS 417.990, Penalty for placement of children in violation of compact
(dddd) ORS 471.410, Providing liquor to persons under 21 or to intoxicated persons; allowing consumption by minor on property
(eeee) ORS 475.912, Unlawful delivery of imitation controlled substance
(ffff) ORS 475.916, Prohibited acts involving records and fraud
(ggggg) ORS 475.918, Falsifying drug test results
(hhhhh) ORS 475.950, Failure to report precursor substances transaction
(iiii) ORS 475.955, Failure to report missing precursor substances
(jjjj) ORS 475.960, Illegally selling drug equipment
(kkkkk) ORS 475.965, Providing false information on precursor substances report
(LLLLL) ORS 803.230, Forging, altering or unlawfully producing or using title or registration
(mmmmm) ORS 807.620, Giving false information to police officer
(nnnnn) ORS 811.060, Vehicular assault of bicyclist or pedestrian
(ooooo) ORS 811.140, Reckless driving
(ppppp) ORS 811.540, Fleeing or attempting to elude police officer
(qqqqq) ORS 811.700, Failure to perform duties of driver when property is damaged
(rrrrr) ORS 811.705, Failure to perform duties of driver to injured persons
(sssss) ORS 819.300, Possession of a stolen vehicle
(ttttt) ORS 830.475, Failure to perform the duties of an operator (boat)
(uuuuu) Any unclassified misdemeanor defined in Oregon Revised Statutes not listed elsewhere in this rule
(vvvvv) Any other misdemeanor in Oregon Revised Statutes or a local Oregon jurisdiction not listed in this rule that is serious and indicates behavior that poses a threat or jeopardizes the safety of vulnerable persons, as determined by BCU
(wwwww) Any misdemeanor in a jurisdiction outside Oregon that is not the substantial equivalent of any of the Oregon crimes listed in section (2) of this rule but that is serious and indicates behavior that poses a threat or jeopardizes the safety of vulnerable persons, as determined by BCU. If a misdemeanor in a jurisdiction outside Oregon is similar to a violation in Oregon, then it may not be considered potentially disqualifying under this section.
(xxxxx) Any crime of attempt, solicitation or conspiracy to commit a crime listed in this section pursuant to ORS 161.405 or 161.435, including any conviction based on criminal liability for conduct of another pursuant to ORS 161.155
(yyyyy) Any crime in any other jurisdiction which is the substantial equivalent of any of the Oregon crimes listed in section (2) of this rule, as determined by BCU
(zzzzz) Any crime which is no longer codified in Oregon, but which is the substantial equivalent of any of the crimes listed in section (2) of this rule, as determined by BCU
(3) The crimes listed in this section are five-year review crimes which require that a fitness determination with a weighing test be completed if the date of conviction is within five years of the date the background check request was manually or electronically signed by the SI or the date BCU conducted a criminal records check due to imminent risk.
(a) ORS 162.085, Unsworn falsification
(b) ORS 162.235, Obstructing governmental or judicial administration
(c) ORS 164.245, Criminal trespass II
(d) ORS 164.335, Reckless burning
(e) ORS 164.345, Criminal mischief III
(f) ORS 165.555, Unlawful telephone solicitation of contributions for charitable purposes
(g) ORS 165.813, Unlawful possession of fictitious identification
(h) ORS 166.075, Abuse of venerated objects
(i) ORS 166.095, Misconduct with emergency telephone calls
(j) ORS 811.182, Criminal driving while suspended or revoked
(k) ORS 813.010, Driving under the influence of intoxicants (DUII)
(L) ORS 830.315, Reckless operation of a boat
(m) ORS 830.325, Operating boat while under influence of intoxicating liquor or controlled substance
(n) ORS 830.730, False information to peace officer or Oregon State Marine Board
(o) Any conviction for attempt, solicitation or conspiracy to commit a crime listed in this section pursuant to ORS 161.405 or 161.435, including any conviction based on criminal liability for conduct of another pursuant to ORS 161.155
(p) Any crime in any other jurisdiction which is the substantial equivalent of any of the Oregon crimes listed in section (3) of this rule, as determined by BCU
(q) Any crime which is no longer codified in Oregon, but which is the substantial equivalent of any of the crimes listed in section (3) of this rule, as determined by BCU
(4) Evaluations of crimes may be based on Oregon laws and laws in other jurisdictions in effect at the time of the fitness determination, regardless of the jurisdiction in which the conviction occurred.
(5) An SI may not be denied under these rules due to the existence or contents of a juvenile record that has been expunged pursuant to ORS 419A.260 to 419A.262.
(6) An SI may not be denied under these rules due to the existence or contents of an adult record that has been set aside pursuant to ORS 137.225.
Stat. Auth.: ORS 181.537 & 409.050
Stats. Implemented: ORS 181.534, 181.537 & 409.010
Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0280, DHSD 8-2007, f. 8-31-07, cert. ef. 9-1-07; DHSD 10-2008, f. 12-26-08, cert. ef. 1-1-09; DHSD 2-2009, f. & cert. ef. 4-1-09; 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.

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cert. ef. 10-31-10; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12

407-007-0290

Other Potentially Disqualifying Conditions

The following are potentially disqualifying conditions:

(1) The SI makes a false statement to the QE, Department, or Authority, 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 for any crime in any jurisdiction.

(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 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.

(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 was signed or the date BCU 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 for children with developmental disabilities, child foster homes licensed through a private licensed child caring agency, or adoptive families through a 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(30)(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; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12

407-007-0300

Weighing Test

When making a fitness determination, BCU 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 or Authority'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).

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(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) BCU 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; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12

407-007-0315

Hired on a Preliminary Basis

(1) 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 prior to a final fitness determination. An SI may not be hired on a preliminary basis prior to the completion of a preliminary fitness determination.

(2) An SI may be hired on a preliminary basis only during the period of time prior to a final fitness determination and into the position listed on the background check request.

(3) The SI must provide information required for a background check request and the QED must review the information.

(4) The QED shall make one of the following determinations:

(a) If the SI makes no disclosures of criminal history, the QED may hire the SI on a preliminary basis in accordance with relevant program rules or QE policies.

(b) If the SI discloses any criminal history and all of the history occurred outside the five year period from the date the SI manually or electronically signed the background check request, the QED may hire the SI on a preliminary basis in accordance with relevant program rules or QE policies.

(c) If the SI indicates any criminal history occurring within the five year period from the date the SI manually or electronically signed the background check request:

(A) The QED may allow the SI to be hired on a preliminary basis if the disclosed criminal history has the outcome of "dismissed," "no complaint filed," "expunged," or other outcome that BCU determines is not adverse.

(B) The QED may not allow the SI to be hired on a preliminary basis if the disclosed criminal history has an outcome of "pending outcome," "diversion or conditional discharge," "convicted," "on probation," "juvenile adjudication," "unknown," or other outcome that BCU determines is adverse.

(5) The QED shall submit the background check request to BCU immediately upon verification of the SI's identity, the SI's completion of the background check request, and the QED's completion of the preliminary fitness determination.

(6) If requested by the QED, BCU may conduct a preliminary fitness determination with a weighing test. The SI may be hired on a preliminary basis only if, based on information available at the time, BCU determines that more likely than not, the SI poses no potential threat to vulnerable individuals.

(7) 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 under program rules.

(b) The SI has disclosed criminal history occurring within the past five years that has an outcome of "pending outcome," "diversion or conditional discharge," "convicted," "on probation," "juvenile adjudication," "unknown" or other outcome BCU determines to be adverse and BCU has not completed a preliminary fitness determination resulting in the QE being allowed to hire the SI on a preliminary basis.

(c) The QE or BCU determines that:

(A) More likely than not, the SI poses a potential threat to vulnerable individuals, based on a preliminary fitness determination and weighing test;

(B) The SI's most recent background check under these rules or other Department or Authority criminal records check rules or abuse check rules resulted in a denial; or

(C) The SI is currently involved in contesting a background check under these or other Department or Authority criminal records check rules or abuse check rules.

(d) An outcome of no hiring on a preliminary basis may only be overturned by the BCU.

(8) 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 (8)(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 or Authority 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 Authority, the QED, 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.

(9) 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 or Authority 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 QE or BCU, 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.

(10) Revocation of hired on a preliminary basis is not subject to hearing or appeal. The QE or BCU 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 SI fails to disclose convictions for any potentially disqualifying crimes, any arrests that did not result in convictions or any out of state arrests or convictions.

(c) The QE or BCU 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.

(11) 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 prior to a final fitness determination.

(12) 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; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12

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407-007-0320

Final Fitness Determinations

BCU shall make a final fitness determination after all necessary background checks have been received and a weighing test, if necessary, has been completed. BCU 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) BCU 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, BCU determines that more likely than not, the SI poses no risk to the physical, emotional, or financial well-being of vulnerable individuals.

(b) BCU may approve an SI with restrictions if BCU determines that more likely than not, 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) BCU shall deny an SI whom the BCU determines, after a weighing test, more likely than not poses a risk to the physical, emotional, or financial well-being of vulnerable individuals.

(2) Upon completion of a final fitness determination, BCU or the QE shall provide written notice to the SI.

(a) The notice shall be in a Department-approved format.

(b) If approved, BCU shall provide written notice to the QE. The QE shall provide the SI a copy of the notice.

(c) If the final fitness determination is a denial based on potentially disqualifying abuse under OAR 407-007-0290(11)(d) and there are no other potentially disqualifying convictions or conditions, BCU shall issue a Notice of Intent to Deny and provide the SI hearing rights under OAR 407-007-0335.

(d) Except as required by section (4)(c) of this rule, if denied or approved with restrictions, BCU shall issue a notice of fitness determination to the SI which includes 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.

(e) The notice of fitness determination 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.

(3) BCU shall provide the QE notification of the final fitness determination when the SI is being denied or approved with restrictions.

(4) 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. A denial applies only to the position and application in question. A denial shall result in immediate termination, dismissal, or removal of the SI.

(5) 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 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.

(6) BCU shall maintain any documents obtained or created during the background check process.

(7) BCU shall make new fitness determinations for each background check request. 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; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12

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.

(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 by the QE 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. 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) BCU or the QED shall document the reasons for a closed case.

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; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12

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 unless already granted contested case hearing rights under OAR 407-007-0335.

(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 BCU, by appealing to the entity providing the information. These challenges are not subject to BCU's appeal process.

(5) An SI has the right to represent himself 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 or personal support 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.

(c) BCU shall accept a properly addressed hearing request that was not timely filed if it was postmarked within the time specified for timely filing.

(d) In the event an appeal is not timely by the date of receipt or by the date of postmark, BCU shall determine, based on a written statement from the SI and available information, if there is good cause to proceed with the appeal.

(e) BCU may refer an untimely request to the OAH for a hearing on the issue of timeliness.

ADMINISTRATIVE RULES

(7) BCU 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.

(8) BCU 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, BCU 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 the Office of the Attorney General.

(a) BCU 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 prehearing summary and other documents may be mailed by regular first class mail or provided electronically.

(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) BCU 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 a contested case hearing.

(12) BCU 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 BCU or the OAH. The SI may cancel the withdrawal in writing within 14 calendar days after the date of withdrawal.

(b) BCU 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. BCU shall review a good cause request to reinstate hearing rights if received in writing by BCU within 14 calendar days.

(c) BCU 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. BCU shall review a good cause request to reinstate hearing rights if received in writing by BCU 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 BCU 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 BCU, 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) BCU may provide the QED 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; DHSD 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12

407-007-0335

Decision and Hearing Rights for Potentially Disqualifying Abuse

(1) This rule applies only to:

(a) Background checks in which an SI has potentially disqualifying abuse under OAR 407-007-0290(11)(d) with no other potentially disqualifying convictions or conditions; and

(b) After a weighing test under OAR 407-007-0300, BCU determines that more likely than not, the SI poses a risk to the physical, emotional, or financial well-being of vulnerable individuals.

(2) BCU shall provide the SI a Notice of Intent to Deny in writing.

(a) BCU shall indicate on the Notice of Intent to Deny the date the final fitness determination was made and the date of the intended action if the SI fails to request an expedited hearing.

(b) BCU shall mail the Notice of Intent to Deny to the SI using the mailing address provided by the SI by the next business day after the date of the final fitness determination.

(c) BCU shall include an Expedited Hearing Request form with the Notice of Intent to Deny.

(3) An SI may contest a Notice of Intent to Deny by requesting an expedited hearing. The expedited 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.

(4) To request an expedited hearing, the SI must submit a completed and signed Expedited Hearing Request form. The request for an expedited hearing must be received by the Department within 10 calendar days after the date of the final fitness determination.

(a) BCU shall accept a properly addressed hearing request that was not timely filed if it was postmarked within the time specified for timely filing.

(b) In the event an appeal is not timely by the date of receipt or by the date of postmark, BCU shall determine, based on a written statement from the SI and available information, if there is good cause to proceed with the appeal.

(5) An SI has the right to represent him or herself or have legal representation during the expedited hearing process. For the purpose of this rule, the term "SI" shall be considered to include the SI's legal representative if the SI has provided BCU with such information.

(a) An SI who is appealing a Notice of Intent to Deny regarding the position of homecare worker as defined in ORS 410.600 or personal support 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) If the SI fails to request an expedited hearing under this rule within the allowed time, BCU shall issue a Notice of Denial to the SI and to the QE. The SI shall have no further hearing rights under OAR 407-007-0330.

(7) If the SI requests an expedited hearing in a timely manner, the SI shall remain in the same status made in a preliminary fitness determination under OAR 407-007-0315 until the date of a final order or the Notice of Denial.

(8) BCU 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 BCU within a specified amount of time.

(b) The administrative review is not open to the public.

ADMINISTRATIVE RULES

(c) BCU may make an informal disposition based on the administrative review. BCU shall issue a final order and a notice of fitness determination.

(9) The Department shall be represented by a hearing representative in expedited hearings. The Department may also be represented by the Office of the Attorney General.

(a) BCU shall provide the administrative law judge and the SI a complete copy of available information used during the background checks and fitness determinations. The claimant is entitled to reasonable notice of all hearing documents either through personal service, electronically, regular mail, or certified 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.

(10) The expedited hearing shall be conducted by the OAH by telephone within 10 business days from the receipt of the completed and signed Expedited Hearing Request form.

(a) The expedited hearing is not open to the public.

(b) The administrative law judge shall make a new fitness determination based on evidence and the record.

(c) 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.

(11) BCU shall issue a dismissal order in the following situations:

(a) The SI may withdraw an expedited 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 BCU or the OAH. The SI may cancel the withdrawal in writing within four calendar days after the date of withdrawal.

(b) BCU 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.

(c) BCU shall dismiss a hearing request when the SI fails to appear at the time specified for the expedited hearing. The order is effective on the date scheduled for the hearing.

(12) After an expedited hearing, the administrative law judge shall issue a final order within three business days.

(a) If the final order maintains BCU's intent to deny, BCU shall issue a Notice of Denial by the next business day after the date of the final order. The SI shall have no further hearing rights under OAR 407-007-0330.

(b) If the final order reverses BCU's intent to deny to an approval or a restricted approval, BCU shall issue a Notice of Fitness Determination by the next business day after the date of the final order unless BCU formally stays the final order. The SI shall have no further hearing rights under OAR 407-007-0330.

(13) 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.

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.: DHS 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHS 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHS 4-2012, f. & cert. ef. 8-1-12

407-007-0340

Record Keeping, Confidentiality

(1) All LEDS reports are confidential and the Department and Authority 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 within BCU 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 BCU unless:

(a) If an SI requests the results of a fingerprint-based criminal records check received by BCU, the SI shall be provided a copy of the results.

(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 or the Authority except in compliance with confidentiality statutes and guidelines of the Department or the Authority. 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 requests, 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 and Authority shall retain and destroy all criminal records check documents pursuant to federal law and records retention schedules published by Oregon State Archives.

(6) Documents retained by a QE may be requested and reviewed by the Department and the OSP for the purposes of determining and ensuring compliance with these rules.

(7) If an error is discovered on a notice of fitness determination, BCU 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, 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; DHS 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHS 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHS 4-2012, f. & cert. ef. 8-1-12

407-007-0350

Immunity from Liability

(1) The Department, the Authority and the QE, 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, and Authority, and the QE, 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 a fitness determination or closed case if they in good faith comply with:

(a) ORS 181.537 and 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, invasion of privacy, negligence, or any other civil claim in connection with the lawful dissemination of information lawfully obtained under ORS 181.537.

Stat. Auth.: ORS 181.537, 409.027 & 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, 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 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; DHS 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHS 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHS 4-2012, f. & cert. ef. 8-1-12

407-007-0370

Variations

(1) The Department and Authority may consider variance requests regarding these rules.

(a) The outcomes of a fitness determination made pursuant to these rules is not subject to variance. Challenges to fitness determinations may only be made by SIs through contested case hearing rights set forth in these rules.

(b) Neither the Department nor the Authority may grant variances to ORS 181.534 and 181.537.

(2) The Department or Authority may grant a variance to any section of these rules based upon a demonstration by the QE that the variance would not pose a significant risk to physical, emotional, or financial well-being of vulnerable individuals.

ADMINISTRATIVE RULES

(3) The QE requesting a variance must submit, in writing, an application to the BCU that contains:

- (a) The section of the rule from which the variance is sought;
- (b) The reason for the proposed variance;
- (c) The alternative practice, service, method, concept, or procedure proposed;

(d) A plan and timetable for compliance with the section of the rule from which the variance is sought; and

(e) An explanation on how the welfare, health, or safety of individuals receiving care will be ensured during the time the variance is in effect.

(4) The Assistant Director or designee for the Department and Authority's Shared Services, Office of Human Resources shall approve or deny the request for a variance.

(5) BCU shall notify the QE of the decision within 60 calendar days of the receipt of the request and shall provide a copy to other relevant Department or Authority program offices.

(6) Appeal of the denial of a variance request must be made in writing to the Department or Authority's Director, whose decision is final.

(7) The Department or Authority shall determine the duration of the variance.

(8) The QE may implement a variance only after receipt of written approval from BCU.

(9) Granting a variance does not set a precedent that must be followed by the Department or Authority when evaluating subsequent variance requests.

Stat. Auth.: ORS 181.537 & 409.050

Stats. Implemented: ORS 181.534, 181.537 & 409.010

Hist.: OMAP 8-2004, f. 2-26-04, cert. ef. 3-1-04; OMAP 22-2005, f. & cert. ef. 3-29-05; Renumbered from 410-007-0370, 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 8-2011, f. 10-28-11, cert. ef. 11-1-11; DHSD 2-2012(Temp), f. & cert. ef. 2-27-12 thru 8-24-12; DHSD 4-2012, f. & cert. ef. 8-1-12

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

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

Adm. Order No.: SSP 28-2012(Temp)

Filed with Sec. of State: 8-7-2012

Certified to be Effective: 8-7-12 thru 2-3-13

Notice Publication Date:

Rules Amended: 461-145-0260

Subject: OAR 461-145-0260 about the treatment of Indian (Native American) benefits in the determination of benefits for various self-sufficiency programs is being amended to change its statement of policy for the SNAP program in the treatment payments made under Public Law 93-134, Public Law 97-458, and Public Law 103-66. The rule had been incorrect under 25 USC 1408 by including an exclusion for income received in excess of \$2000 per year per individual from interested in trust or restricted lands. This amendment states that such income is counted in the SNAP program.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-145-0260

Indian (Native American) Benefits

(1) The following Indian (Native American) benefits are excluded:

(a) Indian lands held jointly with the tribe, or land that cannot be sold without the approval of the Bureau of Indian Affairs (BIA).

(b) Payments to Puyallup Tribe members from the trust funds established under Public Law 101-41.

(c) Payments from the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act (Public Law 103-436).

(2) Payments from the BIA are treated as follows:

(a) In the SNAP program, payments from the General Assistance program are counted as unearned income.

(b) In all programs except the SNAP program, payments from the General Assistance program are excluded.

(c) The treatment of educational income is covered by OAR 461-145-0150.

(3) In the GA and GAM programs, Indian benefits described in sections (4) to (12) of this rule are counted as periodic or lump-sum income

(see OAR 461-140-0110 and 461-140-0120), unless the client verifies that such benefits are excluded by the public law for state-funded programs.

(4) In all programs except the GA and GAM programs, payments under Public Law 92-203 (Alaska Native Claim Settlement Act) are treated as follows:

(a) In the SNAP program, the entire payment is excluded.

(b) In all programs except the GA, GAM, and SNAP programs:

(A) Only the tax-exempt portion of the payment is excluded.

(B) The remainder of the payment is counted as unearned income.

(5) In all programs except the GA and GAM programs, the following types of distributions provided under Public Law 100-241 (Alaska Native Claim Settlement Act) are excluded:

(a) Stock.

(b) A partnership interest.

(c) Land or interest in land.

(d) An interest in a settlement trust.

(e) The first \$2,000 of each per-capita payment per year for each member of the financial group (see OAR 461-110-0530) who receives the payment. The amount over \$2,000 paid to each member of the financial group who receives the per-capita payment is counted as lump-sum income (see OAR 461-140-0120).

(6) In all programs except the GA and GAM programs, the Department excludes Indian benefit payments when federal law requires an exclusion. These include payments under each of the following federal laws:

(a) The Aroostook Band of Micmacs under Public Law 102-171.

(b) Blackfeet, Cherokee, Cheyenne, Chippewa, and Sioux tribes under Public Law 94-114, when the payment is from submarginal land held in trust by the United States.

(c) Blackfeet Indians under Public Law 92-254.

(d) Grand River Ottawa Indians under Public Law 94-540.

(e) Hopi or Navajo Indians under Public Law 93-531.

(f) Passamaquoddy Tribe and Penobscott Nation, including the Holton Band of Maliseet Indians, under the Indian Claims Settlement Act (Public Law 96-420).

(g) Umpqua Tribe Cow Creek Band under Public Law 100-139.

(h) Yakima Nation Confederated Tribes and Bands of the Mescalero Reservation Apache Tribe under Public Law 95-433.

(7) In all programs except the GA, GAM, and SNAP programs, payments received from trust or restricted lands under Public Law 93-134, Public Law 97-458, and Public Law 103-66 are excluded. In the SNAP program, payments received from trust or restricted lands under 25 USC 1408 (Public Law 93-134, Public Law 97-458, and Public Law 103-66) are:

(a) Excluded a resource.

(b) The first \$2,000 of each per-capita payment per year for each member of the financial group (see OAR 461-110-0530) who receives the payment is excluded as income.

(c) The amount over \$2,000 per year paid to any member of the financial group is counted as periodic income (see OAR 461-140-0110).

(8) In all programs except the GA and GAM programs, payments to Seminole Tribe members under Public Law 101-277 are treated as follows:

(a) The first \$2,000 of each per-capita payment per year is excluded for each member of the financial group who receives the payment.

(b) The amount over \$2,000 paid to each member of the financial group who receives the per-capita payment is counted as lump-sum income (see OAR 461-140-0120).

(9) In all programs except the GA and GAM programs, payments from the distribution of judgment funds to members of the Confederated Tribes of the Umatilla under Public Law 91-259 are treated as follows:

(a) The first \$2,000 of each per-capita payment per year is excluded for each member of the financial group who receives the payment.

(b) The amount over \$2,000 paid to each member of the financial group who receives the per-capita payment is counted as lump-sum income (see OAR 461-140-0120).

(10) In all programs except the GA and GAM programs, payments for assets held in trust to the Sac and Fox Tribe of Oklahoma and Sac and Fox Tribe of the Mississippi in Iowa by the Indian Claims Commission under Public Law 94-189, Section 6 (The Sac and Fox Indian Claims Agreement) are treated as follows:

(a) The first \$2,000 of each per-capita payment per year is excluded for each member of the financial group who receives the payment.

(b) The amount over \$2,000 paid to each member of the financial group who receives the per-capita payment is counted as lump-sum income (see OAR 461-140-0120).

ADMINISTRATIVE RULES

(11) In all programs except the GA and GAM programs, payments from judgment funds held in trust by the U.S. Secretary of the Interior under Public Law 98-64 are excluded.

(12) In all programs except the GA and GAM programs, Indian Child Welfare payments under Public Law 95-608 are excluded.

(13) Tribal payments for child care are treated as follows:

(a) Provider-direct payments are counted as the provider's earned income.

(b) All client-direct payments are excluded.

(14) In each program, any Indian benefit payments distributed by the tribe and not excluded for that program by public law are counted as unearned income.

(15) Payments in the tribal-TANF program are counted in the same manner as TANF program payments under OAR 461-145-0410.

(16) In the GA, GAM, OSIP, OSIPM, and QMB programs, Individual Indian Money (IIM) accounts are treated as follows:

(a) For a restricted account:

(A) A deposit required by the BIA is excluded as income and as a resource.

(B) A deposit not required by the BIA is counted or excluded as income in accordance with this chapter of rules based on the source of the deposit. The deposit is excluded as a resource.

(C) A withdrawal is treated in accordance with this chapter of rules based on the source of the funds withdrawn. When funds in the account include both excluded and non-excluded funds, the Department presumes that the non-excluded funds are withdrawn first.

(b) For an unrestricted account: Deposits and withdrawals are treated in accordance with this chapter of rules based on the source of the deposit or withdrawal. When funds in the account include both excluded and non-excluded funds, the Department presumes that the non-excluded funds are withdrawn first.

Stat. Auth.: ORS 411.060, 411.070, 411.083, 411.404, 411.816, 412.014, 412.049
Stats. Implemented: ORS 411.060, 411.083, 411.404, 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 2-1992, f. 1-30-92, cert. ef. 2-1-92; 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 16-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 28-2012(Temp), f. & cert. ef. 8-7-12 thru 2-3-13

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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 10-2012

Filed with Sec. of State: 7-31-2012

Certified to be Effective: 8-1-12

Notice Publication Date: 7-1-2012

Rules Amended: 411-070-0442, 411-070-0452

Subject: The Department of Human Services is permanently amending OAR 411-070-0442 and 411-070-0452 to extend Medicaid-certified long term care facility reimbursement rates at their current level as of June 30, 2011 to the end of the 2011-2013 biennium 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 difference 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, 2013, 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; SPD 10-2012, f. 7-31-12, cert. ef. 8-1-12

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

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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, 2013, the Department shall pay the pediatric rate of \$358.38 per day.

(c) 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.

(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; SPD 10-2012, f. 7-31-12, cert. ef. 8-1-12

Department of Justice Chapter 137

Rule Caption: Mortgage Loan Servicing.

Adm. Order No.: DOJ 12-2012

Filed with Sec. of State: 7-23-2012

Certified to be Effective: 7-24-12

Notice Publication Date: 6-1-2012

Rules Adopted: 137-020-0800, 137-020-0805

Rules Repealed: 137-020-0800(T), 137-020-0805(T)

Subject: OAR 137-020-0800 establishes definitions applicable to OAR 137-020-0805.

OAR 137-020-0805 declares certain practices relating to mortgage loan servicing to be unlawful trade practices, including, assessing a late fee for a payment made on-time or within the payment's grace period; assessing or collecting unauthorized default fees; misrepresenting any material information regarding a loan modification; misrepresenting information in an affidavit that describes the servicer's authority to foreclose; failing to comply with certain provisions of the Real Estate Settlement Procedures Act; and, failing to deal with a borrower in good faith.

Rules Coordinator: Carol Riches—(503) 947-4700

137-020-0800

Definitions

As used in this rule and OAR 137-020-0805:

(1) "Borrower" means an individual who is obligated to repay a loan under a residential mortgage loan agreement, and includes the individual's spouse, domestic partner, and heirs;

(2) "Good faith" means honesty in fact and the observance of reasonable standards of fair dealing;

(3) "Mortgage loan servicer" means a person engaging in the servicing of residential mortgage loans in this state and includes a person who makes or holds a mortgage loan if the person is the holder of the mortgage servicing rights or has been delegated servicing functions for the mortgage loan;

(4) "Residential mortgage loan" means a loan to a natural person made primarily for personal, family or household use, other than a loan for open-end credit, as that term is defined in 12 CFR 1026.2(a)(20), as in effect on December 30, 2011, secured by a mortgage or other consensual security interest on residential real property located in this state;

(5) "Servicing of residential mortgage loans" includes, but is not limited to:

(a) Collecting or remitting, or having the right or obligation to collect or remit, for a lender, note owner, note holder or other holder of an interest in a note, payments, interest, principal and trust items, including but not limited to hazard insurance and taxes, on a residential mortgage loan in accordance with the terms of the loan, and includes loan payment follow-up, delinquency loan follow-up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing;

(b) Bringing and maintaining a suit or action to collect amounts owed on a residential mortgage loan, including but not limited to exercising contractual, statutory or common law remedies such as injunction, specific performance, judicial or nonjudicial foreclosure or receivership; and,

(c) Taking action for the purpose of protecting the lender's, note owner's, note holder's or other owner of an interest in the note's interest in the property and rights under the security instrument.

"Servicing of residential mortgage loans" does not include the activities of any person licensed or authorized to act as an attorney, escrow agent, title company, or title insurer under Oregon law, or any person qualified to serve as a trustee under ORS 86.790.

(6) "Person" has the meaning provided in ORS 646.605(4); and,

(7) "Residential real property" means real property located in this state improved by a one-to-four family residence or residential unit in a building used or occupied, or intended to be used or occupied, wholly or partly, as the primary residence of the borrower, but shall not refer to unimproved real property upon which such dwellings are to be constructed.

Stat. Auth.: ORS 646.608(4)

Stats. Implemented: ORS 646.608(1)(u) & (4)

Hist.: DOJ 2-2012(Temp), f. & cert. ef. 1-27-12 thru 7-24-12; Suspended by DOJ 4-2012(Temp), f. & cert. ef. 2-15-12 thru 7-24-12; DOJ 12-2012, f. 7-23-12, cert. ef. 7-24-12

137-020-0805

Unfair and Deceptive Acts in Mortgage Loan Servicing

A mortgage loan servicer engages in unfair or deceptive conduct in trade or commerce if the mortgage loan servicer:

(1) Assesses a late fee or delinquency charge for a full payment made on or before the payment's due date or within the grace period applicable for the payment;

(2) Assesses or collects any default-related fee or charge that the servicer is not legally authorized to assess or collect under the terms of the residential mortgage loan, deed of trust, or mortgage;

(3) Misrepresents to a borrower any material information regarding a loan modification;

(4) Misrepresents any information set forth in an affidavit, declaration, or other sworn statement detailing a borrower's default and the servicer's right to foreclose;

(5) Fails to comply with the requirements of the following provisions of the Real Estate Settlement Procedures Act of 1974, as in effect on January 1, 2012: 12 USC 2605(b), 12 USC 2605(c), 12 USC 2605(d), or 12 USC 2605(e); or,

(6) Fails to deal with a borrower in good faith.

Stat. Auth.: ORS 646.608(4)

Stats. Implemented: ORS 646.608(1)(u) and (4)

Hist.: DOJ 4-2012(Temp), f. & cert. ef. 2-15-12 thru 7-24-12; DOJ 12-2012, f. 7-23-12, cert. ef. 7-24-12

Rule Caption: Batterer Intervention Program rule revisions to better serve programs, program participants, and victims.

Adm. Order No.: DOJ 13-2012

Filed with Sec. of State: 7-31-2012

Certified to be Effective: 8-1-12

Notice Publication Date: 1-1-2012

Rules Amended: 137-087-0000, 137-087-0005, 137-087-0015, 137-087-0020, 137-087-0025, 137-087-0030, 137-087-0050, 137-087-

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0060, 137-087-0065, 137-087-0070, 137-087-0080, 137-087-0085, 137-087-0090, 137-087-0095

Subject: The proposed rulemaking revises current statewide standards for batterer intervention programs for services provided to batterers as defined in the proposed rules.

Rules Coordinator: Rebecca Shaw—(503) 378-5348

137-087-0000

Purpose and Implementation

(1) ORS 180.700 gives the Attorney General authority, in consultation with an advisory committee, to adopt rules that establish standards for batterers' intervention programs (BIP). OAR 137-087-0000 through 137-087-0100 establish those BIP standards (standards) for intervention services provided to male batterers who engage in battering against women. Additional rules shall be developed later to address standards for intervention services for women batterers and battering in same sex relationships. Nothing in these rules should be construed to prevent a BIP from providing appropriate batterer intervention services to batterers who are not within the scope of these rules at this time.

(2) The purposes of the standards are:

(a) To help ensure the safety of women, their children and other victims of battering;

(b) To help ensure that BIPs use appropriate intervention strategies to foster a batterer's stopping his violence, accepting personal accountability for battering and personal responsibility for the decision to stop, or not to stop, battering; and to promote changes in the batterer's existing attitudes and beliefs that support the batterer's coercive behavior;

(c) To help ensure that BIPs address all forms of battering;

(d) To help ensure that BIPs are culturally informed and provide culturally appropriate services to all participants;

(e) To help ensure egalitarian and respectful behavior by BIP staff toward women and men of all races and cultures;

(f) To help ensure that BIPs provide services that are affordable and accessible for participants, including participants with disabilities;

(g) To provide a uniform standard for evaluating a BIP's performance;

(h) To encourage practices, based on consensus of research and proven field experience, that enhance victim safety;

(i) To foster local and statewide communication and interaction between BIPs and victim advocacy programs, and among BIPs; and

(j) To help ensure that BIPs operate as an integrated part of the wider community response to battering.

(3) Implementation and transition provisions:

(a) A BIP may apply these standards only to BIP applicants who request or are referred for admission to the BIP after the effective date of these rules;

(b) BIPs in operation on the effective date of these rules shall make reasonable efforts to conform their policies and practices with these standards as soon as practicable but no later than six months after the effective date of these rules;

(c) BIPs commencing operations after the effective date of these rules shall comply with these standards as soon as practicable but no later than six months after commencing operations.

Stat. Auth.: ORS 180.070 - 180.710

Stats. Implemented: ORS 180.070 - 180.710

Hist.: DOJ 16-2005, f. 11-23-05, cert. ef. 1-1-06; DOJ 13-2012, f. 7-31-12, cert. ef. 8-1-12

137-087-0005

Definitions

For purposes of OAR 137-087-0000 through 137-087-0100, the following terms have the meanings set forth below.

(1) "Batterer" means:

(a) An adult male 18 years of age or older who engages in "battering" against women; or

(b) A male minor criminally convicted as an adult of conduct against women that constitutes "battering" in whole or in part.

(2) "Battering" includes but is not limited to physical violence, sexual violence, threats, isolation, emotional and psychological intimidation, verbal abuse, stalking, economic abuse, or other controlling behaviors against women in, but not limited to, the following relationships:

(a) A current or former spouse of the batterer;

(b) An unmarried parent of a child fathered by the batterer;

(c) A woman who is cohabiting with or has cohabited with the batterer;

(d) A woman who has been involved in a sexually intimate relationship with the batterer within the past two years;

(e) A woman who has a dating relationship with the batterer;

(f) An adult woman related by blood, marriage or adoption to the batterer; or

(g) A woman who relies on the batterer for ongoing personal care assistance.

(3) "Battering" may or may not violate criminal law and in most instances is patterned behavior.

(4) "Batterer intervention program" (BIP) means a program, whether public or private, profit or non-profit, that is conducted to provide intervention and education services to batterers related to ending their battering.

(5) "Demonstration Project" means a BIP, or subprogram within a BIP, that significantly departs from these rules in order to explore an alternative means of addressing battering.

(6) "Facilitator" means anyone who provides BIP intervention services, whether in a group or class setting, or individually.

(7) "Session" means a BIP facilitated group or class with more than one participant, lasting one and one half to two hours.

(8) "Leave of Absence" means a participant missing two or more sessions with advance knowledge and approval of the BIP. See 137-087-0070(7).

(9) "Local Domestic Violence Coordinating Council" (Council) means a council set up by local entities that works to intervene with or prevent domestic violence, and to foster a coordinated community response to reduce domestic violence. A Council shall include representatives of the criminal justice system (such as law enforcement, prosecution, and judiciary) and victims' advocacy programs. A Council may also include medical professionals, mental health professionals, health agencies, substance abuse programs, culturally specific providers, child protective services, child support enforcement, school personnel, senior services, disability services, self-sufficiency services (public assistance) and other applicable programs of the Oregon Department of Human Services (DHS), representatives from faith communities, other community groups, and BIPs.

(10) "Local Supervisory Authority" (LSA) means the state or local corrections agency or official designated in each county by that county's board of county commissioners or county court to operate corrections supervision services, or custodial facilities, or both.

(11) "Mandating Authority" (MA) means the court, DHS Child Welfare, or corrections system authority that has ordered or required the batterer to participate in a BIP.

(12) "Participant" means a batterer who participates in a BIP.

(13) "Partner" means a person in a past or present intimate relationship with a batterer, including persons described in subsection (2) of this section. A partner may be under the age of 18 and may or may not be an identified victim of the participant's battering.

(14) "Protection Order" includes but is not limited to a Family Abuse Prevention Act (FAPA) order, Elderly Persons and Persons with Disabilities Abuse Prevention Act (EPPDAPA) order, a no-contact order, a release order or release agreement, a stalking order or any other type of restraining order.

(15) "Victim" means a female, including a past or present partner, subjected to battering. A victim may be under the age of 18. In no event shall the batterer be considered a victim for purposes of these rules.

(16) "Victim advocacy program" (VP) means a nonprofit organization, agency or program that assists domestic violence or sexual assault victims. VPs include, but are not limited to, battered women's shelters, rape crisis centers, and other sexual assault and domestic violence programs assisting victims of battering.

Stat. Auth.: ORS 180.070 - 180.710

Stats. Implemented: ORS 180.070 - 180.710

Hist.: DOJ 16-2005, f. 11-23-05, cert. ef. 1-1-06; DOJ 13-2012, f. 7-31-12, cert. ef. 8-1-12

137-087-0015

Interface Standards — Victims and Current Partners

(1) Victim/Current Partner Notification Policies:

(a) A BIP shall have written policies and procedures that govern BIP contact with identified victims and current partners, and that adequately address the safety of victims, including present and past partners. BIP policies relating to victim or partner contacts shall include a policy as to how to document victim or partner contact information that is consistent with OAR 137-087-0060(4)(b), and shall require the segregation and protection of victim or partner contact records. A BIP shall provide a VP with the opportunity to review and comment on the BIP's proposed victim or partner contact policies, procedures, informational materials as described in subsection (2) of this section, and any amendments to those policies, procedures, and informational materials before a BIP adopts them.

(b) In all BIP contacts with victims or partners, the primary goal is the safety of the victim or partner. Any BIP victim or partner contact procedure

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shall consider victim or partner safety, including the risk of identifying victim location, and the risk of any other unauthorized BIP disclosure of information from the victim or partner. A BIP must make clear to victims any limitations on the ability of the program to protect victims' information and must include information about those limitations (if any) in written informational materials provided to victims.

(c) A BIP shall not pressure, coerce or require victims or partners to disclose any information, have any future contact with the BIP or participant, or attend any BIP or other program sessions, meetings or education groups as a condition of the participant's involvement with the BIP.

(d) Victim or partner contact initiated by a BIP normally shall be limited to the following circumstances:

(A) Notifying the victim or partner that the participant has been accepted or denied admission to the BIP or if BIP participation is not mandatory, that the batterer has elected not to participate in the BIP;

(B) Notifying the victim or partner of any conditions imposed on the participant's admission to the BIP;

(C) Notifying the victim or partner of the participant's attendance record;

(D) Notifying the victim or partner that the participant has been suspended, discharged or terminated from the BIP; and

(E) Giving the victim or partner general information about the BIP, community resources, and safety planning, consistent with section (2) of this rule.

(e) A BIP may adopt a victim or partner contact policy that provides for victim or partner contact using a VP in any of the circumstances described in section (1)(d) of this rule, or other contacts requested by the BIP. This policy may be established by a formal agreement with the VP.

(2) Informational Materials:

(a) A BIP shall prepare for distribution to victims and partners informational materials written in plain language, tailored to the community and responsive to relevant cultural components. The information shall be made available by the BIP upon request to any victim or partner, provided to the VP and LSA, and made available in a form that may be distributed through community resources.

(b) The materials shall include information about the following:

(A) A brief description of the BIP, including program expectations, content and philosophy;

(B) A clear statement that the victim or partner is not expected in any way to help the participant complete any BIP requirements, and that the participant's eligibility for the BIP's services is not contingent in any way on victim or partner participation or on other victim or partner contact with the BIP;

(C) The limitations of BIPs, including a statement that the batterer's participation in a BIP does not ensure the participant will stop any or all battering behaviors;

(D) The risk that participants may misuse and distort information they hear in their BIP groups or classes against the victim or partner;

(E) The risk of participants re-offending, or changing their control tactics, or both, while in the BIP or after completion of BIP requirements;

(F) The victim's or partner's right, at her discretion, to contact the BIP, or the facilitators of the group or class the participant is attending, signed up for, or sanctioned into, with any questions or concerns, and the right to have communications kept confidential unless confidentiality is waived by the victim or partner, or unless the release of information provided by the victim is required, either pursuant to a court order or pursuant to state or federal law or regulation;

(G) A statement that the victim or partner may report to the BIP, LSA, a VP, or the Council if she has a concern about how the BIP is contacting her;

(H) Contact information related to victim services, such as services offered by VPs in the victim's community, the statewide automated victim notification system (VINE), Oregon crime victims' compensation program, and constitutional and statutory victims' rights;

(I) Information for victims regarding how to make safety plans to protect themselves and their children, including community resources to contact if they believe they are at risk; and

(J) Notification that a VP may be available as a means by which the information set forth in section (1)(d) of this rule may be communicated, thereby allowing the victim to choose to avoid direct contact with the BIP.

(c) Upon request, a BIP shall make a reasonable effort to provide its informational materials in a form suitable for victims or partners with vision impairments or with limited English proficiency.

(3) Imminent Threat to Health or Safety. The BIP shall disclose participant information when, and to the extent, the BIP in good faith believes

such disclosure is necessary to prevent or lessen an imminent threat to the health or safety of a person or the public. No authorization to release information is required in such circumstances. The BIP may provide information to a person or persons reasonably able to prevent or lessen the risk of harm, including but not limited to the victim and past or present partners, law enforcement, VP, DHS, the court, and community corrections officials.

(4) Victim-Initiated or Partner-Initiated Contacts. If a victim or partner contacts the BIP, the BIP may provide information and referral as allowed by state and federal confidentiality laws. The BIP shall not inform the batterer about the victim or partner contact. In response to victim-initiated or partner-initiated contacts, any information the BIP wants to request from the victim or partner (e.g., level of concern for her own safety, recent behaviors of her partner) shall only be sought after she has given full consent. The BIP shall make clear that the victim or partner is under no obligation to provide any information, that refusal to do so shall not affect the status of the participant, and that information shared with the BIP may be subject to release if required by federal or state law or regulation or court order. Any information provided to the BIP by the victim or partner shall be kept completely confidential unless the victim or partner expressly authorizes its disclosure, or unless release of information is required by federal or state law or regulation or court order. In considering whether to request such information from the victim or partner, the BIP shall prioritize victim or partner safety over any other concerns.

Stat. Auth.: ORS 180.070 - 180.710

Stats. Implemented: ORS 180.070 - 180.710

Hist.: DOJ 16-2005, f. 11-23-05, cert. ef. 1-1-06; DOJ 13-2012, f. 7-31-12, cert. ef. 8-1-12

137-087-0020

Confidentiality of Victim and Partner Information

(1) Confidentiality. All information about or from a victim or partner shall be confidential to the extent permitted by law.

(2) Treatment of Information. Any information about a victim or partner, including victim or partner contact information, the BIP receives from any source other than the participant shall be kept in a secure location separate from information about any participant.

(3) Restriction of Access to Information. A BIP shall restrict access to and use of victim or partner information to only BIP staff who have a specific need to know the information and who are accountable for their access to and use of that information.

(4) Disclosure of Information. Any disclosure of information about the victim or partner shall be made only with the victim's or partner's authorization, or as otherwise required by federal or state law or regulation, or court order.

(5) Notification of Possible Disclosure of Information. If a BIP is put on notice that federal or state law or regulation or court order may require the disclosure of information provided by a victim or partner, the BIP shall immediately notify the victim or partner and/or the appropriate VP unless such notification would endanger the safety of the victim or partner.

Stat. Auth.: ORS 180.070 - 180.710

Stats. Implemented: ORS 180.070 - 180.710

Hist.: DOJ 16-2005, f. 11-23-05, cert. ef. 1-1-06; DOJ 13-2012, f. 7-31-12, cert. ef. 8-1-12

137-087-0025

Interface Standards — Victim Advocacy Programs

(1) Liaison. A BIP shall designate a program staff member to serve as a liaison to at least one VP and to the Council in the BIP's service area. Through the liaison, the BIP shall:

(a) Work collaboratively with VPs to help ensure that victims are provided informational materials about, or are referred to, a VP or other advocacy, safety planning, or assistance agencies;

(b) Provide BIP policies, procedures and informational materials, and any amendment to such policies, procedures and informational materials, to the VPs and Council for review and comment as to whether the policies, procedures and materials help ensure the safety of victims and follow best practices related to victim notification;

(c) Work cooperatively with VPs to post, in appropriate locations, information about how victims can contact the BIP, LSA or MA for more information about the BIP;

(d) Work cooperatively with VPs to discuss and respond to VP concerns or problems related to BIP interventions with batterers, or the BIP's relationship with the LSA or MA, or both; and

(e) Develop a procedure to notify VPs when the BIP believes in good faith that such notification is necessary to prevent or lessen an imminent threat to the health or safety of the victim or the public.

(2) Imminent Threat to Health or Safety. A BIP shall disclose participant information to a VP when, and to the extent, the BIP in good faith believes such disclosure is necessary to prevent or lessen an imminent

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threat to the health or safety of a person or the public. No authorization to release information is required in such circumstances.

Stat. Auth.: ORS 180.070 - 180.710

Stats. Implemented: ORS 180.070 - 180.710

Hist.: DOJ 16-2005, f. 11-23-05, cert. ef. 1-1-06; DOJ 13-2012, f. 7-31-12, cert. ef. 8-1-12

137-087-0030

Interface Standards — Criminal Justice System

(1) Participation in Judicial or Corrections Response. A BIP's intervention services may be part of a judicial or corrections response to battering, either as a condition of probation, post-prison supervision or parole, through a domestic violence deferred sentencing agreement, or as otherwise authorized by law. A BIP is encouraged to use the power of the criminal justice system to hold batterers accountable for their battering.

(2) Liaison. A BIP shall designate a program staff person to serve as a liaison to the LSA and the MA. The liaison shall:

(a) Request information such as court orders, protection orders, post-prison supervision or parole orders and police reports;

(b) Work collaboratively with the LSA and MA to facilitate coordination of BIP services with supervision requirements so the BIP is not working at cross-purposes with criminal justice system requirements applicable to the batterer;

(c) Report to the appropriate LSA or MA, or both, any known violations of the requirements of a court order, any criminal assaults, or threats of harm to the victim. The BIP must make such a report in such a way that does not knowingly jeopardize the safety of the victim;

(d) Report any substantial violations of the programs' rules including but not limited to violations that create a risk of termination to the appropriate LSA or MA, or both;

(e) Submit monthly status reports to the LSA or MA about participant attendance, content of participation, any known violations of court orders, protection orders, post-prison supervision or parole orders, any known changes in risk factors since intake (see section 137-087-0060(2)(c)), and program exit summary;

(f) Report any other information requested by the LSA or MA to the extent permitted by federal or state law, required by court order, or authorized by the participant.

(3) Communications about Participant Release. In communications about participant release for completion of BIP intervention services, a BIP shall note that such release shall not be interpreted as evidence that the participant is presently non-abusive, as descriptive of his present behavior outside the group, or as predictive of his future behavior.

(4) Consistency with Court Orders or DHS Child Welfare Requirements. A BIP shall ensure BIP actions are consistent with all court orders, protection orders, post-prison supervision or parole orders or DHS Child Welfare requirements, including orders affecting batterer contact with the victim(s) or partner(s).

(5) Training. A BIP shall participate in training and cross-training in conjunction with VPs and criminal justice agencies, and shall offer technical assistance to the criminal justice system and VPs relating to batterers and appropriate intervention strategies to eliminate battering of women and abuse of children.

(6) Imminent Threat to Health or Safety. The BIP shall disclose participant information when, and to the extent, the BIP in good faith believes such disclosure is necessary to prevent or lessen an imminent threat to the health or safety of a person or the public. No authorization to release information is required in such circumstances. The BIP may provide information to a person or persons reasonably able to prevent or lessen the risk of harm, including but not limited to the LSA, the MA, and other law enforcement or corrections personnel.

(7) A BIP shall request periodic program review with a LSA or MA, on a biannual basis.

Stat. Auth.: ORS 180.070 - 180.710

Stats. Implemented: ORS 180.070 - 180.710

Hist.: DOJ 16-2005, f. 11-23-05, cert. ef. 1-1-06; DOJ 13-2012, f. 7-31-12, cert. ef. 8-1-12

137-087-0050

Intervention Curriculum

(1) Basic Intervention Curriculum Requirements. Challenging and confronting participant beliefs and behaviors shall be balanced by creating a safe and respectful environment for change. To accord with these standards, a curriculum for batterers shall include, but is not limited to, the following basic requirements:

(a) Addressing belief systems that legitimize and sustain battering of women and abuse of children;

(b) Informing participants about the types of battering as defined in OAR 137-087-0005(2);

(c) Challenging participants to identify the patterns of their battering behaviors and all tactics used to justify battering such as denial, victim blaming, and minimizing; increasing participant recognition of the criminal aspect of his thoughts and behavior; reinforcing participant identification and acceptance of personal responsibility and accountability for all such tactics; and reinforcing alternatives to non-battering behavior;

(d) Encouraging participants to identify the cultural factors that are used by a batterer to legitimize both individual acts of abuse and control and battering as a whole;

(e) Modeling respectful and egalitarian behaviors and attitudes;

(f) Increasing participants' understanding and acceptance of the adverse legal, interpersonal and social consequences of battering;

(g) Increasing the participants' overall understanding of the effects of battering upon their victims, themselves, and their community, and encouraging participants to go beyond the minimum requirements of the law in providing victims and their children with financial support and restitution for the losses caused by their battering;

(h) Identifying the effects on children of battering directed at their mothers, including but not limited to the incompatibility of the participant's battering with the child's well-being, the damage done to children witnessing battering, and educating participants about the child's need for a close mother-child bond, nurturance, age-appropriate interactions, and safety;

(i) Encouraging participants to recognize the responsibility of being a father including the emotional, physical and financial support necessary to provide an environment to children that encourages growth and stability;

(j) Facilitating participants' examination of values and beliefs that are used to justify and excuse battering;

(k) Requiring participants to speak with respect about their partners and other women, and challenging participants to respect their partner and other women and to recognize their partner and other women as equals who have the right to make their own choices;

(l) Encouraging empathy and awareness of the effect of participants' behavior on others;

(m) Challenging participants to accept personal responsibility and accountability for their actions;

(n) Encouraging participants to challenge and change their own battering beliefs and behaviors; and

(o) Identifying how the participant uses alcohol and other drugs to support battering behaviors.

(2) Accountability Plan. A BIP shall require every participant to develop an Accountability Plan (Plan), and a BIP's curriculum which shall provide information that a participant can use to develop his Plan. Accountability planning is an ongoing process intended to increase the batterer's self-awareness, honesty and acceptance of responsibility for battering and its consequences. A participant's Plan shall include specific and concrete steps to be identified and implemented by the participant. A BIP shall always prioritize the safety and best interests of the victim when teaching and reporting on accountability planning. Under no circumstances may the terms of a Plan require, or imply authorization of or permission for, conduct that violates the terms of a court order or other legally binding requirements.

(3) Elements of the Plan. The Plan shall include, but need not be limited to, the following elements:

(a) Description of the conduct to stop and to be accountable for, including:

(A) Description of the specific actions that caused harm, including the entire range of attempts used to control and dominate the victim(s) or partner(s), specific actions that led to the participant being in the BIP, and the participant's intentions or purposes in choosing those actions.

(B) Identification of the beliefs, values, and thinking patterns the participant used:

(i) To prepare himself and plan to batter;

(ii) To justify his battering to himself and to others;

(iii) To blame other persons and circumstances outside his control for his battering; and

(iv) To minimize and deny his battering, its harmful effects, and his personal accountability and responsibility for the battering and its effects.

(C) Identification of the full range of effects and consequences of the battering on the victim(s), partner(s), children, the community and the participant.

(b) Participant's plan for choosing to treat his former, current or future partner(s) and children in a continually respectful and egalitarian manner, including:

(A) Description of the excuses and underlying beliefs used to justify his battering;

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(B) Description of the participant's plan for intervening in his battering to prevent himself from continuing his pattern of battering;

(C) Description of battering the participant is currently addressing and how he is utilizing his Plan;

(D) Description of how the participant is intervening in his battering including the excuses, beliefs and behaviors he is addressing;

(E) Description of how the participant will choose to act in ways that no longer cause harm to the victim(s), partner(s), children and the community;

(F) Description of how the participant will take responsibility for choosing to act in ways that no longer cause harm to the victim(s), partner(s), children and the community;

(G) Description of the thoughts, beliefs and actions the participant shall need to change to become non-abusive and non-controlling, and a description of alternative thoughts, beliefs and actions he can use to make non-abusive and non-controlling choices; and

(H) Description of the thoughts, beliefs and actions that the participant uses in other areas of his life that demonstrate that he is already aware and capable of making responsible non-abusive and non-controlling choices.

(c) Acceptance of full responsibility for the participant's choices and their consequences, including:

(A) Acknowledgement that the participant's actions causing harm to the victim(s), partner(s), children and the community were his choice, that he had other options, and that he is fully accountable for his choices and the consequences of those choices for himself and others;

(B) Acceptance of full responsibility for having brought the criminal justice system into his life, if applicable, and for other consequences of his behaviors; and

(C) Participant's plan for beginning and continuing to make reparation and restitution for the harms caused, either directly to the victim(s) if appropriate, approved by the victim(s), and not manipulative, or indirectly by anonymous donation or community service when the victim wants no contact with the participant.

Stat. Auth.: ORS 180.070 - 180.710

Stats. Implemented: ORS 180.070 - 180.710

Hist.: DOJ 16-2005, f. 11-23-05, cert. ef. 1-1-06; DOJ 13-2012, f. 7-31-12, cert. ef. 8-1-12

137-087-0060

Admission Policies and Procedures

(1) Admission Criteria. A BIP shall have written criteria for accepting or refusing admission requests or referrals. An applicant or referral shall be referred to as a potential participant until the BIP admits the person to the BIP program. The admission criteria shall be available to potential participants, staff, victims, partners and the community, and shall include the following provisions:

(a) A BIP may reject any potential participant the BIP deems to be inappropriate. Inappropriate potential participants may include but are not limited to:

(A) Persons whose conduct causing the referral or application is not battering as defined in OAR 137-087-0005(2); and

(B) Persons whose behavior would be disruptive to meaningful participation in the BIP.

(b) Except for reasons identified in section (1) (a) of this rule, a BIP may not reject a potential participant referred for anger management that is intended to address battering.

(c) After admitting a participant, a BIP may terminate participation on the ground the admission was inappropriate based on the criteria in section (1) (a) of this rule.

(d) If a BIP rejects a referral as inappropriate, or terminates participation of a referral because admission was inappropriate, the BIP shall notify the referral source of the reason for rejection or termination of participation and, when appropriate, may make recommendations for other intervention, treatment services or criminal justice action. The BIP shall notify the referral source within seven working days of the rejection or termination of participation.

(e) A BIP's admission criteria and practices shall not discriminate against any potential participant based on national origin, race, culture, age, disability, religion, educational attainment or sexual orientation. Where there is a substantial barrier to a potential participant's participation in a BIP because of cultural background, language, literacy level, or disability, a BIP shall make reasonable modifications in policies, practices, and procedures to provide BIP services within available resources and in consultation with the referring LSA or MA.

(2) Intake procedures: Any BIP contact to obtain information from a victim or partner shall comply with the victim and partner interface standards in these rules, OAR 137-087-0015.

(a) A BIP shall use an intake procedure that includes an interview with the potential participant and written documentation of the information collected.

(b) The BIP shall request information from the potential participant and other relevant sources that the BIP shall use initially to determine whether the potential participant is appropriate and otherwise meets the BIP's admission criteria. That information includes, but is not limited to, the history of battering or violent criminal conduct; history of BIP participation; existence of protection orders; police reports; court orders; post-prison supervision or parole orders; involvement with DHS Child Welfare services; and terms and conditions of probation.

(c) In addition to the information requested pursuant to (b) above, the BIP shall request the following information from the potential participant and other relevant sources:

(A) Factors that may indicate a risk of future violence against the victim or other intimate partner, including but not limited to: safety concerns expressed by the victim; prior assaults against intimate partner(s), children and pets; criminal history; prior violation of conditional release or restraining order(s), other court orders or post-prison supervision or parole orders; history of stalking; extreme isolation or dependence on the victim or partner; attitudes that condone or support domestic violence; history of weapon possession or use; access to firearms; credible threats of injury, death or suicide; lack of personal accountability; minimization or denial of domestic violence history; and association with peers who condone domestic violence.

(B) Factors that may make participation in the BIP difficult or impossible, including but not limited to: lifestyle instability (e.g., unemployment or lack of housing); substance use, abuse or addiction; information about any mental health diagnosis that would affect ability to appropriately participate in the program; negative response to prior services (dropping out, lack of motivation and resistance to change); and persistent disruptive behavior.

(C) Factors that may indicate risk of future violence toward the BIP provider or other participants, including but not limited to a history of weapon use and violent criminal behavior.

(D) Demographic factors that may be used for statistical reasons or programmatic planning, including but not limited to age at time of offense and length of relationship with current or former victim(s).

(d) In addition to the information requested under subsections (b) and (c) of this rule, a BIP may request any additional information from the potential participant and other relevant sources.

(3) Participant Orientation to the BIP:

(a) A BIP shall use an orientation procedure to inform the participant about BIP requirements and expectations. A BIP may combine orientation with intake.

(b) The orientation shall provide the participant with the following BIP materials verbally and in writing:

(A) Statement of the BIP's philosophy consistent with these standards;

(B) Length of program, program attendance policies, and consequences of failure to comply with attendance policies;

(C) Specified fees, methods of payment, and consequences of failure to comply with payment agreements;

(D) Statement of active participation requirement, including personal disclosure and completion of group or class activities and assignments;

(E) Rules for group or class participation and statement of requirement to cooperate with those rules;

(F) Statement of requirement to develop and present an Accountability Plan;

(G) Statement of the BIP's drug and alcohol policy, including but not limited to a prohibition against attending any sessions while under the influence of drugs or alcohol;

(H) Statement of procedure for asserting grievances with the BIP;

(I) Prohibition of weapons possession while on BIP premises or when participating in a BIP function;

(J) Statement of any other BIP rules and conditions for participation in the BIP;

(K) Statement of the BIP's obligation to follow all federal or state laws and regulations, including these standards, relating to required disclosures in the case of: imminent danger to self, victim, current partner or others; or child abuse, elder abuse, abuse of vulnerable adults, or any other circumstances requiring reporting;

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(L) Statement of the BIP's confidentiality policy as to participant records, identity of other BIP participants, and information disclosed by other participants in the BIP groups or classes;

(M) Notification that the BIP shall not provide the participant with any information about the victim or partner, either directly or in any judicial or administrative proceeding;

(N) Statement of a requirement that the participant execute all necessary documents to obtain information from, or release of information to, law enforcement, the courts, prior intervention or treatment services, social services, victim(s), partner(s), and others as appropriate; and

(O) Statement of criteria for program completion or release.

(4) Participant Record:

(a) A BIP shall keep the following information in each participant's record:

(A) Participant's name, address and phone number;

(B) Name and telephone number of contact in case of emergency;

(C) Fee agreement;

(D) Intake information obtained under section (2) of this rule, name of staff member completing intake, and participant's signed acknowledgment of receiving orientation materials;

(E) Copy of any signed releases of information;

(F) Records of participant's attendance and other participation;

(G) Information received by the BIP after intake, including court orders, police reports, protection orders and post-prison supervision or parole orders; and information as to any violations, offenses, new arrests or criminal charges during participation;

(H) Except for victim or partner contact information addressed in subsection (b) of this section, documentation of BIP disclosures, including name(s) of person(s) notified due to imminent danger or mandatory reporting consistent with these rules;

(I) Documentation of the participant's status as to completion of the requirements of the program, and any current obstacles to completion;

(J) Exit summary pursuant to OAR 137-087-0070; and

(K) Documentation of any refusal to provide requested information or to sign authorization forms.

(b) The following information is not a participant record and shall not be documented:

(A) Contact or other information about the whereabouts of a victim or partner, other information about a victim or partner not provided by the participant, and any information received by the BIP from a victim or partner;

(B) Any disclosures to a victim or partner, including any indication that the victim or partner was contacted by the BIP.

(c) Any record of information described in section (4) (b) of this rule shall comply with OAR 137-087-0015.

(5) Participant Access to Records. Subject to denial of access pursuant to subsection (a) of this section, a BIP shall provide the participant an opportunity to review information in the BIP's participant record under section 4(a) of this rule within a reasonable time of receiving a review request, and shall provide a copy of the records upon payment of the cost of duplication.

(a) A BIP may deny or limit a participant's access to the BIP's participant record:

(A) When the BIP determines that disclosure of the records is reasonably likely to endanger the life or safety of the participant or another person;

(B) When the BIP determines that the information was provided to the BIP on the condition that the information not be re-disclosed; or

(C) When the BIP determines that the information was compiled by the BIP in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding involving the BIP.

(b) If a document in the BIP's records contains any information, obtained from a source other than the participant, about a person other than the participant, the BIP shall redact that information.

(c) Except as expressly provided in these rules, nothing in these rules is intended to create any expectation or right of privacy or confidentiality for any records, files or communications relating to potential participants or participants in BIP services. The BIP may use and disclose information unless and to the extent prohibited or restricted by federal or state law or regulation, including these rules. Use or disclosure of otherwise confidential medical, mental health and treatment records shall comply with applicable federal and state law and regulations.

(d) The BIP shall adopt policies that provide for the confidentiality of a participant record, to the greatest extent practicable consistent with these rules, of a participant who is a defendant participating in a domestic violence deferred sentencing agreement.

Stat. Auth.: ORS 180.070 - 180.710

Stats. Implemented: ORS 180.070 - 180.710

Hist.: DOJ 16-2005, f. 11-23-05, cert. ef. 1-1-06; DOJ 13-2012, f. 7-31-12, cert. ef. 8-1-12

137-087-0065

BIP Program Format

(1) Use of Session Format. A BIP shall ordinarily provide intervention sessions in a group or class format. Exceptions to this session or class format shall be rare and the reasons clearly documented and provided to the Council.

(2) Gender-specific. BIP sessions or classes shall be gender-specific.

(3) Session Size. To maximize the impact of the program curriculum, sessions or classes shall ideally be composed of 7-12 participants, but shall have no more than 15 participants in addition to the co-facilitators unless approved by the Council and the LSA or MA. Sessions or class sizes of more than 12 shall be reported to the Council for review and comment.

(4) Co-facilitation. Whenever possible, BIP sessions shall be conducted by at least one male and one female to establish an egalitarian model of intervention, increase accountability, and to model healthy egalitarian relationships. The BIP shall notify the Council and LSA when co-facilitation is not occurring, stating the reasons and justifications. At least one of the co-facilitators shall have already met all training requirements as specified in these rules.

(5) Number of sessions:

(a) No sooner than a participant's completing 32 sessions and before completing 36 sessions, the BIP shall submit a Summary Report, in accord with subsections (b) or (c) of this section, on the participant's program participation to date and a recommendation as to length of continued program participation, if any, after 36 sessions. At a minimum the Summary Report should address, and the recommendation be based upon: compliance with all program requirements, reporting of any known violations of court orders and conditions, protection orders, post-prison supervision or parole orders, identification of risk factors (as detailed in 137-087-0060 Admission Policies and Procedures (2)(c)(A)(B)(C)), and level of engagement and participation in program activities. The Summary Report is in addition to the monthly reports required in 137-087-0030 Interface Standards (2)(e).

(b) If the participant is on supervised probation, the BIP shall submit the Summary Report and recommendation to the LSA, with a copy to the participant, and request that the LSA promptly provide the BIP with any questions or concerns the LSA has about the Summary Report and recommendation. If no questions or concerns are raised, the BIP shall end program participation after 36 sessions, or continue program participation after 36 sessions, in accord with the BIP's recommendation. If questions or concerns are raised about the Summary Report and recommendation, the BIP shall promptly discuss them with the LSA and shall determine the ending of program participation at 36 sessions, or extending program participation beyond 36 sessions, as approved by the LSA.

(c) If the participant is on bench probation, the BIP shall submit the Summary Report and recommendation to the court, with a copy to the participant, and request that the court notify the BIP if the court will conduct further proceedings, on the court's own motion or the participant's motion, as to the Summary Report and recommendation. If the court does not advise the BIP that further proceedings will be held, the BIP shall end program participation after 36 sessions, or continue program participation after 36 sessions, in accord with the BIP's recommendation.

(d) If the participant, as determined above, continues in the program after completion of 36 sessions, the BIP is encouraged to provide an updated Summary Report to the appropriate authority after completion of each additional 18 sessions. Monthly status reports should continue to be submitted as required in 137-087-0030 Interface Standards (2) (e).

(6) Completion of MA-Mandated Program Participation Shorter than BIP Program: Completion of the BIP program may differ from the length of participation mandated by a MA. If a BIP reports to an MA that a participant has complied with the MA-mandated length of participation, the BIP shall also inform the MA if the participant has not completed the BIP program.

(7) Written Attendance and Tardiness Policies. A BIP shall adopt written group or class attendance and tardiness policies. At a minimum, such policies shall address punctuality of attendance, criteria for excused and unexcused absences, criteria for a maximum number of absences allowed, and criteria for obtaining exceptions to the attendance policies.

(8) Written Completion Requirements. A BIP shall adopt written program completion requirements, including consequences for excessive absences and other non-compliance, and provide a copy of the completion requirements to the LSA and Council.

Stat. Auth.: ORS 180.070 - 180.710

Stats. Implemented: ORS 180.070 - 180.710

Hist.: DOJ 16-2005, f. 11-23-05, cert. ef. 1-1-06; DOJ 13-2012, f. 7-31-12, cert. ef. 8-1-12

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137-087-0070

Policies and Procedures as to Termination or Release

(1) Policies and Procedures. A BIP may release a participant based upon program compliance, or terminate participation based on program non-compliance or for other reasons, as provided in sections (3)-(6) of this rule.

(2) Program Exit Summary. No later than 30 days after the last service contact, a BIP shall prepare for the participant's record an exit summary describing the reason for release or termination and the participant's status. A BIP shall provide a copy of the exit summary to the LSA or MA, or both, or their designees within seven business days after its preparation.

(a) In communications about release based on program compliance, a BIP shall note that release is not evidence that the participant is presently non-abusive or non-violent, does not describe current behavior outside the BIP, and does not predict future behavior.

(b) A BIP shall inform the MA if the participant has complied with the MA-mandated length of participation, but not completed the BIP program.

(3) Release for Program Compliance. A BIP may release a participant based on program compliance only if a participant has achieved:

(a) Compliance with the BIP's attendance policy for the entire time period established in accordance with the BIP's rules;

(b) Compliance with group or class rules throughout intervention services;

(c) Completion of the Accountability Plan; and

(d) Compliance with other BIP rules and conditions for participation in the BIP.

(4) Terminating Participation for Program Non-Compliance. A BIP may terminate participation based on program non-compliance for any of the following reasons:

(a) Failing to maintain regular attendance, consistent with OAR 137-087-065(5) and (6);

(b) Failing to participate during BIP services, or failing to complete assignments, as required by BIP policies provided during orientation pursuant to OAR 137-087-0060(3)(b)(D);

(c) Creating an unsafe environment or exhibiting disruptive behavior that undermines the achievement of group or class objectives;

(d) Threatening the safety of the facilitator, staff, or other BIP participants;

(e) Failing to comply with other requirements of a BIP, including violation of the group or class rules or other conditions that are a part of the BIP's participation requirements;

(f) Failing to comply with the BIP payment agreement; or

(g) Ongoing battering behavior.

(5) LSA Request for Re-Admission. Unless the participant was terminated based on section (4)(d) or section (6) of this rule, the BIP may readmit the participant upon request of the LSA with an increased number of sessions necessary to achieve BIP program completion requirements and other conditions appropriate to the basis for termination.

(6) Terminating Participation for Other Reasons. A BIP may terminate participation because the admission was inappropriate based on the criteria in OAR 137-087-0060(1)(a).

(7) Leaves of Absence. A BIP may permit, only with approval by the MA or LSA, a participant to remain in the BIP while temporarily not attending groups or classes for reasons the BIP and MA or LSA determines are justified. Leaves of absence shall be rare, specifically time limited and granted only upon proper supporting documentation and when there are no other viable options.

Stat. Auth.: ORS 180.070 - 180.710

Stats. Implemented: ORS 180.070 - 180.710

Hist.: DOJ 16-2005, f. 11-23-05, cert. ef. 1-1-06; DOJ 13-2012, f. 7-31-12, cert. ef. 8-1-12

137-087-0080

Personnel Standards

(1) Personnel Policies. A BIP shall adopt the following written personnel policies and procedures applicable to program facilitators, managers or supervisors, administrative staff, volunteers and interns, board members and owners (collectively referred to as "staff" for purposes of this rule except as otherwise specifically identified):

(a) Rules of conduct and standards for ethical practices of staff involved in BIP services with participants or contact with victims or partners;

(b) Standards for use and abuse of alcohol and other drugs, and procedures for managing incidents of use and abuse that, at a minimum, would be sufficient to comply with Drug Free Workplace Standards, 41 U.S.C. § 701 et seq. as described in 45 CFR Part 76 Appendix C;

(c) Compliance with laws relating to domestic violence, sexual assault, stalking and these rules, and applicable federal and state personnel regulations including the Civil Rights Act of 1964 as amended, Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, Title 1 of the Americans With Disabilities Act, and Oregon civil rights laws related to employment practices;

(d) Policies and procedures relating to the commission of domestic violence, sexual assault, stalking or abuse by any staff, and providing that the BIP shall terminate employment or volunteer service for such conduct unless the BIP documents reasons for not doing so in the personnel file; and

(e) Policies and procedures relating to discipline of staff for misuse or unauthorized disclosure of information obtained from or about participants, partners or victims.

(2) Background Checks for Facilitators. A BIP shall use an appropriate method to obtain and review a fingerprint-based state and federal criminal record check for facilitators.

(a) A BIP may ask an applicant, as a condition of employment or volunteer service, to certify whether he or she is, or has been, a respondent in any civil enforcement proceeding, including but not limited to a protection order, delinquent child support order or if the applicant has been held responsible for battering or child abuse/neglect behavior in a juvenile or family court or held responsible for elder abuse. Failure to disclose the existence of any of the above shall constitute grounds for dismissal or grounds not to rehire.

(b) An applicant shall be disqualified from employment or volunteer service if the individual has ever been convicted of any crime or has been subjected to a protection order or if the applicant has been held responsible for battering or child abuse/neglect behavior in a juvenile or family court or held responsible for elder abuse. The BIP may make an exception to this disqualification if the BIP can document reasons for hiring or retaining the individual consistent with factors in section (5)(d) of this rule. If the facts underlying the conviction were related to domestic violence, the applicant must have completed a BIP with standards similar to these rules, including length of intervention and implementation of an Accountability Plan, and the applicant must have maintained child support and alimony payments, if any. In addition, a period of more than five years shall have passed since the conviction of the crime or expiration of a court order including a protection order, the individual shall have complied with all the terms of his or her sentence or court order, and the individual shall be in compliance with all other qualifications as a facilitator. The BIP shall provide this documentation to the Council for review and comment before hire or continuation of employment, document the response of the Council, and place documentation of the reasons for hiring or retention, and of the Council's response, in the applicant's or employee's personnel file for permanent retention.

(c) A facilitator has an ongoing responsibility to inform the BIP within three working days of any changes in his or her history, including new arrests, convictions, protection orders or rehabilitation services.

(3) Qualifications of Facilitators. A BIP shall adopt the following minimum qualification standards for facilitators, and as a condition of employment or volunteer services at a BIP, a facilitator shall provide the BIP documentation of compliance with the BIP standards.

(a) Facilitator Experience. A facilitator shall document completion of a minimum of 200 hours of face-to-face contact co-facilitating BIP groups or classes with a facilitator who has met all the facilitator qualification requirements in these rules using a model consistent with these rules. A facilitator shall document that this experience was obtained over a period of at least one year. A maximum total amount of 100 hours of this requirement can also be satisfied in one or more of the following ways:

(A) By up to 50 hours of supervised face-to-face contact facilitating victim or survivor support or education classes, or up to 50 hours of working with a caseload primarily of domestic violence offenders on probation or parole;

(B) By up to 50 hours of facilitating offender-related non-domestic violence groups or classes;

(C) By earning a bachelor's degree (50 hours credit for required experience) or master's degree (100 hours credit for required experience) in women's studies, social work, criminal justice, psychology, sociology or other related field from an accredited institution of higher education. The facilitator shall document receipt of the required degree.

(b) Facilitator Training. A facilitator shall document completion of eighty (80) hours of training regarding domestic violence specific issues. Forty (40) hours of the training must be provided by a nongovernmental victim advocacy program approved by the local Council or in the absence of a Council, the LSA or MSA. For purposes of this section, "local" refers to a program that is located in or serves victims in the county in which the

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facilitator is applying to work. When the required training has been or will be provided by a nongovernmental victim advocacy program that is not local, at least eight (8) of the forty (40) hours shall be provided by a local nongovernmental victim advocacy program, if one exists. The remaining forty (40) hours of required training can be provided by the hiring BIP or another BIP that adheres to these standards.

(A) Training to be included in the forty (40) hours that shall be provided by a local nongovernmental victim advocacy program is as follows:

(i) Dynamics of domestic violence, including sexual assault and stalking, and power and control models;

(ii) Effects on children of exposure to a battering parent and to battering directed at their mothers, including but not limited to, the incompatibility of the battering with the child's well-being, the damage done to children witnessing battering, the child's need for a close mother-child bond, and how abusers use children to gain and maintain control;

(iii) Historical views and social attitudes about male dominance, domestic violence including sexual assault and stalking, and the status of women;

(iv) Risk factors for future or additional battering, aggressive or controlling behavior;

(v) Cultural competence as it relates to domestic violence, sexual assault, stalking and abuse.

(B) Training to be included in the (forty) 40 hours coordinated by the hiring BIP or a BIP adhering to the standards is as follows, but the BIP need not deliver all of the training below if a partner agency has developed appropriate curriculum or has presentation expertise and can deliver the training:

(i) An overview of current state and federal domestic violence laws, including sexual abuse, sexual assault, stalking, child custody and visitation;

(ii) An overview of battering behavior and tactics, including sexual abuse and stalking;

(iii) Risk of facilitator and system collusion with the BIP participant;

(iv) Appropriate safety guidelines for BIP contact with victims;

(v) An overview of the criminal justice system;

(vi) State and local requirements for BIPs, including intervention curriculum requirements in OAR 137-087-0050; and

(vii) Importance and elements of a coordinated community response to domestic violence and methods of collaborating with community programs and services.

(c) Culturally Informed Intervention. To satisfy the training requirements in section 3(A)v of this rule, a facilitator shall document completion of seven hours of training in oppression theory, cultural factors and anti-racism as it relates to domestic violence.

(d) Interviewing skills requirement. In addition to the experience and training requirements in sections 3(a) and (b) of this rule, a facilitator shall document completion of at least 18 hours of training in basic interviewing and group facilitation skills.

(e) Additional training requirement. In addition to the training requirements in section 3(b) of this rule, a facilitator shall document completion of at least 18 hours of training in substance abuse identification and screening, and at least 12 hours of training in mental health identification and screening.

(f) Documentation requirements. A facilitator shall provide the BIP with documentation of his or her training for each of the topics required by sections 3(b)-(e) of this rule, and shall include the number of hours and dates of training for each specific topic. If the training in any specific topic was received more than five years before the employment application date and the applicant has not been continuously engaged in the domestic violence field either as a BIP provider, victim advocate or probation officer supervising domestic violence offenders for a five year period, the facilitator must also document completion of additional training in the specific topic(s) during the five years prior to the application date, equal to a minimum of 25 percent of the required hours in that topic. Additional training may be needed to ensure sufficient knowledge.

(4) Continuing Education for Facilitators. After a facilitator has met the basic qualification standards in section (3) of this rule, the facilitator shall document a minimum of 32 hours over a two calendar-year period of continuing education or training in topics related to the training requirements under sections 3(b)-(e) of this rule. Not more than eight hours of in-program training, or eight hours of internet or correspondence training, may be used annually to satisfy this biennial requirement.

(5) Background Checks for Staff other than Facilitators. Before employment or volunteer service, a BIP shall use an appropriate method to

obtain and review background information for staff and applicants other than facilitators, as follows:

(a) By having the applicant, as a condition of employment or volunteer service, apply for and receive a criminal history check from a local Oregon State Police office and furnish a copy of it to the BIP; or

(b) By having the applicant, as a condition of employment or volunteer service, sign an authorization for the BIP to contact the local Oregon State Police office for an "Oregon only" criminal history check on the individual.

(c) The BIP may ask the applicant to certify whether he or she is, or has been, a respondent in any civil enforcement proceeding, including but not limited to:

(A) A protection order as defined in these rules;

(B) A delinquent child support order; and

(C) Failure to disclose the existence of a protection order or delinquent child support order constitutes grounds for dismissal or grounds not to hire or to allow volunteer service.

(d) The BIP shall establish policies to evaluate criminal history, if any, in determining whether an applicant shall be hired. The policies shall consider:

(A) The severity and nature of the crime(s);

(B) The number of criminal offenses;

(C) The time elapsed since commission of the crime(s);

(D) The facts of the crime(s);

(E) The applicant's participation in intervention or rehabilitation programs, counseling, therapy, or education evidencing a sustained change in behavior; and

(F) A review of the police or arrest report confirming the applicant's explanation of the crime(s).

(e) If the applicant has been convicted of a crime, the BIP shall determine whether the person poses a risk to the BIP's staff, participants, victims or partners, and whether the criminal history indicates a propensity to engage in collusion with batterers. If the BIP intends to hire the applicant, the BIP shall confirm in writing the reasons for doing so. These reasons shall address the applicant's suitability to work with the BIP's staff or participants or to have contact with victims or partners in a safe and trustworthy manner. The BIP shall place this information in the staff's personnel file for permanent retention.

(f) BIP staff have an ongoing responsibility to inform the BIP within three working days of any changes in their history, including new arrests, convictions, protection orders, or delinquent child support orders, rehabilitation services or if the applicant has been held responsible for battering or child abuse/neglect behavior in a juvenile or family court or held responsible for elder abuse.

(6) Professional Standards for Staff. A BIP shall include the following professional standards in personnel policies to ensure that staff maintain their professional objectivity and to minimize collusion or any appearance of favoritism or impropriety by the BIP or its staff:

(a) Staff shall not be delinquent in paying any required child support or spousal support;

(b) Staff shall not be involved in any criminal activity;

(c) Staff shall not be under the influence of alcohol or controlled substances while providing BIP services;

(d) Staff shall not use their position to secure special privilege or advantage with participants;

(e) Staff shall not in any way collude with participants by implicitly or explicitly acting in a manner that minimizes or excuses the battering or joins into the batterer's system of denial or rationalization for the abuse. Collusion includes but is not limited to: legitimizing participants' use of abuse against partners; defending their abusive actions for any reason; laughing at jokes about women, wives, girlfriends, partners or violence; and supporting participants' distortions, disparagement or contempt of their partners by omission (not interrupting) or by commission (actively engaging in supporting or affirming). Staff shall not imply that any victim deserves abuse nor show disrespect of any victim or any woman;

(f) Staff shall not allow personal interest to impair performance of professional duties;

(g) Staff shall not act as a facilitator for a group or class that includes a family member, personal friend, or past or current business associate of the staff member;

(h) Staff shall not accept any gift or favor from current or former participants, or enter into any business contract or association with participants currently enrolled with the BIP. Cultural or traditional values and customs shall at all times be balanced against this principle;

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(i) Staff shall report any potential conflict of interest to BIP supervisors; and

(j) Staff shall immediately report to an appropriate licensing authority, or to the MA or LSA, any unethical or illegal behavior by other staff. A BIP shall not take retaliatory action against a staff person making such report.

(7) Prohibition of Sexual Harassment or Sexual Exploitation. A BIP shall adopt a written policy prohibiting sexual harassment and sexual exploitation, and shall document in each staff member's file that he or she has reviewed the policy and agreed to comply with it. The policy shall include disciplinary steps available to the BIP if a staff person violates the policy.

(8) Maintenance of Qualification Records. A BIP shall maintain a record documenting each staff member's compliance with applicable qualification standards. The BIP shall maintain the record for three years after the departure of a staff member.

(9) Mentoring and Internships. A BIP is encouraged to provide mentoring or internship opportunities between its staff and staff of other BIPs or VPs to promote professionalism, to provide experienced role models for less experienced staff, interns or volunteers, and to provide cross-training for the BIP's staff. Interns or those being mentored shall be required to comply with all of the supervising BIP's policies and procedures and instruction of the supervising BIP staff.

(10) Facilitators in Training. Individuals in training who have not met all the training and experience requirements applicable to facilitators under these rules may co-facilitate under the active supervision of a facilitator who meets these standards. Facilitator-trainees can co-facilitate under this status for up to two years from the start of the co-facilitating. The facilitator-trainee is immediately responsible for compliance with all other requirements of these rules applicable to a facilitator.

(11) The BIP program may request an exemption to the co-facilitation requirement if in consultation with the MA and the LSA it is determined that the program is unable to meet this requirement and unlikely to be able to meet the requirement in the future.

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

Stat. Auth.: ORS 180.070 - 180.710

Stats. Implemented: ORS 180.070 - 180.710

Hist.: DOJ 16-2005, f. 11-23-05, cert. ef. 1-1-06; DOJ 13-2012, f. 7-31-12, cert. ef. 8-1-12

137-087-0085

Research Programs

(1) Nothing in this section applies to a BIP's disclosure of its own aggregate or non-personally identifying data, or the conduct of its own quality assurance activities.

(2) Research. A BIP may use and disclose participant information for research purposes consistent with this rule. Before making use or disclosure of participant information for research purposes, a BIP shall obtain the following in writing from an independent researcher:

(a) Description of specific actions the researcher shall take to ensure the safety, confidentiality, and autonomy of victims;

(b) An adequate plan to protect participant information from improper use or disclosure;

(c) Description of steps to ensure that any victim or partner participation, or access to information about a victim or partner by the researcher, shall be based solely on the victim's or partner's informed consent obtained in a manner consistent with section (1)(d) of this rule;

(d) Description of steps to ensure that any procedure involving any victim, partner, or family member, and other collateral contacts including but not limited to past or present employers of the research participant, victim or partner, and a request for participation in the research, shall be developed in consultation with a VP to address victim or partner safety;

(e) Description of steps taken to ensure the input and involvement of community-based domestic violence VPs in the design and implementation of the project;

(f) Description of steps to ensure that the research product shall:

(A) Report both positive and negative data about BIP outcomes and the research participants if applicable and acknowledge alternative hypotheses, modalities and explanations;

(B) Include a statement about the limitations of self-reporting in accurately measuring a participant's progress, behavior, or attitudes/beliefs when the research includes information based on self-reporting by participants, including self-reports of program effectiveness; and

(C) Clarify that release for program compliance does not provide any evidence that the participant is presently non-abusive, describe present behavior outside the BIP, or predict future behavior.

(g) Description of a plan to destroy identifiable information at the earliest opportunity or at the conclusion of the research, and to keep confidential any information about, gathered from, or traceable to the victim or partner;

(h) An agreement by the researcher, and his or her agents, not to use or further disclose the research information other than for purposes directly related to the research, and to use appropriate safeguards to prevent misuse of that information;

(i) An agreement by the researcher, and his or her agents, not to publicly identify the research participant or past or current victims or partners; and

(j) An agreement by the researcher to follow federal guidelines relating to Human Subject Research, 45 CFR Part 46, if applicable.

(2) Complaints about Research Conduct. The BIP or other researcher shall make available a person independent of the BIP or other researcher with whom ethical complaints about the conduct of the research can be filed, and establish a procedure for such filing. The BIP or other researcher shall inform both the participant and the victim or partner, and any other person or entity upon request, about the complaint procedure.

(3) Reporting Research. The BIP shall require a researcher conducting research on a BIP or BIPs to advise the LSA and the Council about the nature, scope and intent of the research.

Stat. Auth.: ORS 180.070 - 180.710

Stats. Implemented: ORS 180.070 - 180.710

Hist.: DOJ 16-2005, f. 11-23-05, cert. ef. 1-1-06; DOJ 13-2012, f. 7-31-12, cert. ef. 8-1-12

137-087-0090

Demonstration Projects (see definition in Section 1)

(1) Demonstration Projects. BIPs shall continue to evolve and change as best practices are developed. These standards are not intended to discourage innovative demonstration projects as long as victim safety and participant accountability are maintained. A BIP must propose to operate a demonstration project by a written request for project approval by the Attorney General's BIP Advisory Committee (Advisory Committee), established under OAR 137-087-0100, that addresses the following:

(a) Identification of the sections and subsections in these rules that project approval would waive;

(b) Relevant research, professional experience, or other credible data showing that the batterer intervention method proposed for the project is an effective and appropriate means of intervention, and that under no circumstances shall the project require actions that shall jeopardize the safety of women, children or the community, collude with the participant, or require victim participation;

(c) Expertise of the BIP to conduct the proposed project and the BIP's ability to maintain such expertise for the project's duration;

(d) A means, independent of the BIP, for evaluating the effectiveness of the project;

(e) The BIP's record, if any, of conducting and completing other programs or projects for private or public entities, including the BIP's record of cooperation in resolving problems identified by such entities;

(f) The geographic location to be served, the participating persons, agencies and organizations, and their respective roles in the project; the length of time for the proposed project, subject to section (3) of this rule; and expected outcomes;

(g) The involvement, if any, of community-based VPs in the design and implementation of the project;

(h) Position of the LSA, MA and Council in the area to be included in the project as to approval of the project; and

(i) Any additional information the BIP believes is relevant to deciding whether the proposal shall be approved.

(2) Informing Community Partners of the Demonstration Project. After approval of the project by the Advisory Committee and before implementing the project, the BIP shall inform community partners (VPs, LSA, courts, Council, community justice, district attorney's office, alcohol and drug treatment providers and other agencies that come in contact with batterers or with victims or partners) of the demonstration project and changes in the BIP's program design. BIP informational materials shall be revised to state clearly the project's changes so as to avoid any misleading or inaccurate information about the BIP. On a quarterly basis, the BIP shall report to the community partners on the progress of the demonstration project, including concerns about its efficacy. A copy of each report shall also be mailed to the Advisory Committee.

(3) Demonstration Project Time Period. In general, a proposal for a demonstration project shall not exceed a 24 month period. While a demonstration project is being conducted, a BIP may petition to extend the

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demonstration project. The petition shall provide updated information on all the criteria identified in section (1) of this rule.

(4) Discontinuation of Demonstration Project. After a proposed project is approved, evidence of an increase in batterer abuse, or a decrease in batterer accountability, shall lead to immediate discontinuation of the project. The BIP shall immediately inform the community partners specified in section (2) of this rule, and the Advisory Committee, of the discontinuation of the demonstration project.

Stat. Auth.: ORS 180.070 - 180.710

Stats. Implemented: ORS 180.070 - 180.710

Hist.: DOJ 16-2005, f. 11-23-05, cert. ef. 1-1-06; DOJ 13-2012, f. 7-31-12, cert. ef. 8-1-12

137-087-0095

Program Review

(1) Review of BIP Performance. An LSA and/or MA, in consultation with the Council, shall periodically review the performance of BIPs located within the jurisdiction of the LSA for compliance with these rules. LSAs are strongly encouraged to conduct regular reviews of programs and to only refer batterers to programs that are in compliance with these rules or that are working to achieve compliance.

(2) Availability of Records. Except for victim or partner records a BIP shall not disclose, a BIP shall make records available for, and require its staff to cooperate with, program review described in section (1) of this rule.

(3) Distribution of Review. If a review is completed under section (1) of this rule, a copy of the review shall be provided to the BIP executive director, board of directors and owners, and sent by the LSA to the presiding judge and the district attorney for the county in which the LSA operates.

(4) Action on Recommendations. Within 90 days after receipt of the written copy of the review by the BIP, the BIP shall take any corrective actions recommended by the review or advise the LSA and MA in writing why the BIP does not intend to take a particular corrective action. The BIP shall provide a copy of its written response to the Council.

(5) Grievance Policies and Procedures. Each BIP shall develop, implement, and fully inform participants of grievance policies and procedures that provide for receipt of written grievances from participants. The BIP shall document the receipt, investigation, and any action taken as to the written grievance.

(6) Complaint Procedure. Any person, other than a participant, with a concern about a BIP's service delivery may file a written complaint with the BIP. The BIP shall respond to the complaint in writing within a reasonable period of time. In its written response, the BIP shall inform the person that if he or she is not satisfied with the BIP's response, the person may direct his or her complaint to the LSA or the Council.

(7) The BIP Advisory Committee, established in these rules, shall periodically survey BIP compliance with these rules.

Stat. Auth.: ORS 180.070 - 180.710

Stats. Implemented: ORS 180.070 - 180.710

Hist.: DOJ 16-2005, f. 11-23-05, cert. ef. 1-1-06; DOJ 13-2012, f. 7-31-12, cert. ef. 8-1-12

Department of Revenue

Chapter 150

Rule Caption: Verifying returns, alternative filing methods, separate refunds, credit auctions, eFile mandate, Oregon NOL.

Adm. Order No.: REV 4-2012

Filed with Sec. of State: 7-20-2012

Certified to be Effective: 8-1-12

Notice Publication Date: 6-1-2012

Rules Amended: 150-305.810, 150-314.385(4), 150-314.415(7), 150-315.514

Rules Repealed: 150-305.265(12), 150-315.134, 150-315.311(1), 150-315.311(2), 150-315.311(6), 150-315.324(7)

Rules Renumbered: 150-314.HB2071(B) to 150-314.364(B)

Rules Ren. & Amend: 150-316.014 to 150-316.028

Subject: 150-305.810 explains the different methods the department will accept for a taxpayer to verify their return is true and accurate. The update specifies that submitting a direct efile income tax return is the act of verifying as well as clarifying for other tax programs. This change informs taxpayers how efiled returns may be verified.

150-314.385(4) specifies that the department may allow alternative methods for filing a tax return. This gives the department the

ability to specify and allow alternative methods as new processes or methods are developed, including direct filing with DOR.

150-314.415(7) clarifies when a separate refund will be issued when a joint return has been filed. The update is to correct a code cite and include examples.

150-315.514 allows the Office of Film and Television to sell their tax credits through an auction. The rule spells out the parameters of the auction.

150-314.HB2071(B) implemented mandatory efile in 2012. This change is to renumber to match codification of House Bill.

150-316.014 discusses an Oregon Net Operating Loss. This change is to renumber to match statute number.

Rules Coordinator: Ken Ross—(503) 945-8890

150-305.810

Verification of Returns, Statements, or Documents Filed Under Tax Law

(1) The declaration under ORS 314.385(2) that a return, statement, or document is made under penalties for false swearing and is true, complete, and correct must be verified by the taxpayer or by an authorized agent, and in the case of a joint personal income tax return, by each taxpayer or authorized agent for such taxpayer.

(2) Personal income tax returns for individuals are verified by:

(a) Signing the return.

(b) A signed statement, such as Oregon Form EF, submitted to the department if requested.

(c) Any verification method allowed by the IRS when electronically filing the federal return with the Oregon return, such as a federal personal identification number.

(d) Submission of an electronically filed return submitted without the use of a federal signature method (unlinked) by the taxpayer, tax preparer, or an authorized representative of the taxpayer.

(3) Corporate income and excise tax returns are verified by:

(a) Signing the return.

(b) For tax year 2011 and earlier forms:

(A) Any verification method allowed by the IRS when electronically filing the federal return with the Oregon return, such as a federal personal identification number.

(B) A signed and scanned Corporation E-file Signature Form included with the electronic return when electronically filing without the use of a federal signature method or when the Oregon filer is different than the federal filer.

(c) For tax year 2012 and later forms, submission of an electronically filed return by the taxpayer, tax preparer, or an authorized representative of the taxpayer.

(4) For Oregon Quarterly Payroll Tax reports, the declaration under ORS 314.385(2), must be verified by the taxpayer or an authorized agent by:

(a) Signing the return or similar statement.

(b) Transmitting a payroll tax return using the state's online payroll reporting method. The return is considered signed when the return is transmitted to the state by an authorized person. An "authorized person" is any person certified by the employer and the Oregon Employment Department as allowed to file the return using the state's reporting system.

(5) All other returns are verified by:

(a) Signing the return.

(b) Any verification method allowed by the IRS when electronically filing the federal return with the Oregon return, if applicable; otherwise only a signed return is accepted.

Stat. Auth.: ORS 305.100 & 305.810

Stats. Implemented: ORS 305.810

Hist.: REV 1-2005, f. 6-27-05, cert. ef. 6-30-05; REV 1-2012(Temp), f. 1-31-12, cert. ef. 2-1-12 thru 7-29-12; REV 4-2012, f. 7-20-12, cert. ef. 8-1-12

150-314.385(4)

Alternative Filing Methods

(1) As used in this rule:

(a) "Alternatively filed return" means an Oregon return submitted using a department-approved alternative filing method under section (2) of this rule.

(b) "IRS date of receipt" means the electronic time stamp indicating the date and time of receipt of the Oregon return by the Internal Revenue Service (IRS).

(2) The department may provide for filing of returns using electronic or other methods as an alternative to paper returns.

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(3) Alternatively filed returns are deemed filed and received on:

(a) The date the return is received by the department as indicated by the department's date stamp; or

(b) In the case of an electronically filed return, the earlier of:

(A) The IRS date of receipt, or

(B) The date of successful transmission.

(4) Alternatively filed returns must be verified pursuant to the rules of the department adopted under ORS 305.810.

(5) If an alternatively filed return cannot be processed, a paper return must be filed with the department. If the paper return is filed within 30 days of the date of the successful transmission of the alternatively filed return, the date of the successful transmission of the alternatively filed return is considered the filing date of the paper return. [Publications: The publication(s) referred to or incorporated by reference in this rule is available from the Department of Revenue pursuant to ORS 183.360(2) and 183.355(1)(b).]

Stat. Auth.: ORS 305.100, 314.385

Stats. Implemented: ORS 314.385

Hist.: REV 12-2000, f. 12-29-00, cert. ef. 12-31-00; REV 4-2012, f. 7-20-12, cert. ef. 8-1-12

150-314.415(7)

Separate Refunds When a Joint Return Has Been Filed

(1) The department may, as a convenience to taxpayers, issue separate refunds when either spouse submits a signed request. To issue separate refunds when a joint refund check has already been issued, the check must be returned uncashed. If either spouse has an amount owing to the state of Oregon, any refund due that person will be applied to the liability and the balance, if any, issued in a separate refund check.

(2) For purposes of this rule, the separate adjusted gross income (AGI) of each spouse is equal to each spouse's share of Oregon adjusted gross income.

Example 1: Ann and her husband Ian, both Idaho residents, filed a joint Oregon return claiming a \$600. He owes a \$500 debt to an Oregon city for unpaid parking tickets so the department withheld part of the joint \$600 refund to pay the \$500 debt and issued a \$100 refund for the difference. Before they cashed the \$100 refund, Ann sent it back requesting her share of the amount paid to the city in Oregon because she did not owe the debt. Ian reported \$25,000 of wages of which he earned \$10,000 in Oregon. Ann reported \$15,000 of wages of which \$5,000 she earned in Oregon. They had no other income to report. The department will apportion her refund based on her share of Oregon AGI as follows:

	Federal column	Oregon Column
Ian's wages	\$25,000	\$10,000
Ann's wages	<u>\$15,000</u>	<u>\$5,000</u>
Federal AGI	\$40,000	\$15,000 (Oregon AGI)
$\$5,000 \div \$15,000 = 1/3$		
$\$600 \times 1/3 = \200		

The department will apportion the \$600 refund and issue a \$200 refund to Ann. Ian's portion of the refund was \$400 thus he still owes the City of Portland \$100.

(3) For purposes of this rule, items of income and deduction, separate adjusted gross income, and any refund claimed are determined without regard to community property law.

Example 2: Ethan and his wife Ava, both Washington residents, filed a joint Oregon return claiming a \$1,500 refund. She owes a \$1,200 debt to an Oregon university so the department withheld part of the joint refund and sent a \$300 check for the difference. Before they cashed the \$300 refund, Ethan sent it back requesting his share of the joint refund because he did not owe the debt and he claimed he owned half of the refund because he lives in a community property state. Ethan reported \$50,000 of wages all of which he earned in Washington. Ava reported \$25,000 of wages all of which she earned in Oregon. They had no other income to report. The department will apportion his refund based on his share of Oregon AGI without regard to community property law as follows:

	Federal column	Oregon Column
Ethan's wages	\$50,000	\$0
Ava's wages	<u>\$25,000</u>	<u>\$25,000</u>
Federal AGI	\$75,000	\$25,000 (Oregon AGI)

Because Ethan does not have any share of the Oregon AGI and community property law is disregarded for this purpose, the entire refund belongs to Ava and the department will not apportion any of it to Ethan.

(4) If the refund is being held for application against an amount owed to an agency of the state of Oregon, the request for separate refunds must be mailed to the Department of Revenue within 30 days of the date of the Notice of Proposed Adjustment and/or Distribution. Separate refunds will not be made if the request is not received timely.

(5) Pursuant to ORS 18.665(2), the department cannot issue separate refunds when a garnishment or levy has been served on the department for one or both spouses.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 314.415

Hist.: 1-69; 11-71; 12-19-75; 1-1-77, Renumbered from 150-316.192(2)-(A); 12-31-85; RD 13-1987, f. 12-18-87, cert. ef. 12-31-87; RD 7-1991, f. 12-30-91, cert. ef. 12-31-91; RD 9-1992, f. 12-29-92, cert. ef. 12-31-92; REV 3-2002, f. 6-26-02, cert. ef. 6-30-02; REV 11-2004, f. 12-29-04, cert. ef. 12-31-04; Renumbered from 150-314.415(6), REV 3-2005, f. 12-30-05, cert. ef. 1-1-06; REV 11-2007, f. 12-28-07, cert. ef. 1-1-08; REV 4-2012, f. 7-20-12, cert. ef. 8-1-12

150-315.514

Oregon Production Investment Fund Tax Credit Auctions

(1) Definitions.

(a) "Tax Credit" means the credit authorized by ORS 315.514.

(b) "Qualified Bid" means a bid that is eligible for consideration 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;

(C) An associated payment is received by the department in the time 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).

(d) "Invalid or Insufficient Payments" are payments that are:

(A) Not received by the department by 5:00 p.m. (PT) on the date for payment set by the department;

(B) In a form other than one listed in section (4) of this rule;

(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).

(e) "PT" means Pacific Time (Daylight or Standard as dictated by the time of year).

(2) Auction Bidding Period. The tax credits auction bidding period is no less than seven days, not to exceed 14 days; with specific dates as announced by the department.

(3) Tax Credit Certificates. The Oregon Film and Video Office 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 for the total amount bid. Invalid or insufficient payments will be returned to the bidder and the associated bid considered non-qualified. All bid payments must be received by the department no later than 5:00 p.m. (PT) on the payment date. 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) Bank-issued certified check;

(B) Bank-issued cashier's check; or

(C) Money Order.

(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 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 tax credit certificates to the highest qualifying bids. 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 twenty increments of \$500). Bidder A bids \$475 for each of eight increments on October 24. Bidder B bids \$480 for each of eight increments on October 26. Bidder C bids \$485 for each of six increments and \$480 for each of four increments on November 1. Bidder D bids \$495 for each of ten increments on November 4.

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The results of the auction are as follows:

10 of the 20 increments go to D.

6 of the 20 increments go to C (for the \$490 bid).

4 of the 20 increments go to B (for the \$480 bid).

NOTE 1: B only received four of the eight increments he bid on because no more increments were available. The department will return the payment to B for the amount of the four non-prevailing bids.

NOTE 2: The bid C placed at \$480 did not prevail because it tied with the bid B submitted. B's bid will prevail over C's bid in the event of a tie because it was received before C's bid. C's payment for the \$480 bid will be returned.

NOTE 3: A's bid was not high enough to prevail. A's bid payment will be returned.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 315.514

Hist.: REV 3-2006, f. & cert. ef. 7-31-06; REV 3-2012(Temp), f. 5-17-12, cert. ef. 6-1-12 thru 7-31-12; REV 4-2012, f. 7-20-12, cert. ef. 8-1-12

150-314.364(B)

Requirement to File Returns Electronically

(1) All paid tax preparers filing Oregon personal income tax returns in this state are required to file them by electronic means if the paid tax preparer is required to do so by federal law. See 26 USC § 6011 and Treasury Regulation §301.6011-7 for the federal mandate and relevant definitions.

(2) Waivers.

(a) A waiver granted by the Internal Revenue Service (IRS) pursuant to Treasury Regulation §301.6011-7(c)(1) or (2) will be accepted by the department as a waiver to the mandate under section (1). The paid preparer must notify the department in writing when such a waiver is granted in accordance with the department's instructions.

(b) In addition to a waiver allowed under subsection (a), the department may grant a waiver of the mandate in section (1) if the following conditions are met:

(A) The paid preparer requests a waiver in advance of the preparation of personal income tax returns subject to the mandate in accordance with the department's instructions; and

(B) The paid preparer's facts and circumstances are such that complying with the mandate would cause the paid preparer an undue financial hardship. The paid preparer's refusal to purchase or use the requisite software or computer equipment does not, in and of itself, satisfy the conditions for a waiver under this subsection.

(c) When circumstances warrant, the department may issue an administrative waiver of the mandate in section (1) to a paid preparer or group of paid preparers when the department determines it is necessary to promote the effective and efficient administration of the tax system.

(3) This rule is effective January 1, 2012 and applies to tax returns filed on or after that date.

NOTE: The publication(s) referred to or incorporated by reference in this rule is available from the Department of Revenue pursuant to ORS 183.360(2) and 183.355(1)(b).

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 314.364

Hist.: REV 4-2011, f. 12-30-11, cert. ef. 1-1-12; Renumbered from 150-314.HB2071(B) by REV 4-2012, f. 7-20-12, cert. ef. 8-1-12

150-316.028

Oregon Net Operating Losses — Treatment After 1984

(1) Applicability of this Rule.

(a) This rule applies to the computation of net operating losses occurring in loss years beginning after December 31, 1984; and net operating loss deductions allowed or allowable in tax years beginning after December 31, 1984.

(b) For the computation and application of Oregon net operating losses for loss years beginning before January 1, 1985; net operating loss deductions with regard to loss years beginning before January 1, 1985; and net operating loss carrybacks and net operating loss carryovers applied in tax years beginning before January 1, 1985 that also originated in tax years beginning before January 1, 1985, see OAR 150-316.007.

(2) Definitions for Purposes of this rule.

(a) Prohibited amounts. "Prohibited amounts" means those amounts that the state of Oregon is prohibited from taxing, such as all stocks, bonds, Treasury notes, and other obligations of the United States as provided in 31 United States Code Section 3124. Prohibited amounts do not include such items as federally taxable social security benefits since Oregon is not prohibited from indirectly taxing such types of income.

(b) Oregon Adjusted Gross Income (Oregon AGI). For a full-year resident, Oregon AGI is generally the same as federal AGI. For a nonresident, "Oregon AGI" means the items included in federal adjusted gross income as defined in IRC Section 62 that relate to Oregon sources without modifications.

(c) Modified Oregon Taxable Income. "Modified Oregon taxable income" means Oregon AGI reduced by the sum of the following:

(A) Oregon itemized deductions. For a resident, Oregon itemized deductions are generally the same amount as federal. For part-year and non-resident taxpayers, Oregon itemized deductions are the Oregon percentage of federal itemized deductions; or

(B) Oregon standard deduction. For part-year and nonresident taxpayers, only the Oregon percentage of the standard deductions can be used;

(C) Federal personal exemption(s); and

(D) Prohibited amounts included in Oregon AGI.

(3) Computation of an NOL for a Resident.

(a) For Oregon purposes, a resident's net operating loss is computed in the same manner as for federal purposes without Oregon modifications. Generally, the Oregon NOL is the same as the federal NOL. The only modification necessary is to subtract prohibited amounts.

(b) The computation of the Oregon NOL begins with the Oregon adjusted gross income (AGI) to arrive at modified Oregon taxable income. Then the modified Oregon taxable income is adjusted as required by IRC Section 172(d).

Example 1: Susan and Joe filed joint 2009 federal and Oregon tax returns. On their federal return, they reported wages of \$26,000, a business loss of \$50,000, a gain on the sale of stock of \$400, and interest income of \$800 from a bank. They also reported total itemized deductions of \$12,800 which were all nonbusiness and claimed personal exemptions of \$7,300. On their Oregon return, Susan and Joe also reported \$500 municipal bond interest from California that was exempt from federal income tax. Their allowable Oregon NOL is computed as follows: [Formula not included. See ED. NOTE.]

NOTE: Except for prohibited amounts, the Oregon NOL is computed based on the federal NOL method and definitions without Oregon modifications.

Example 2: The facts are the same as in Example 1, except that the interest of \$800 is from U.S. government securities (prohibited amounts). The Oregon NOL for Susan and Joe is (\$24,800) computed as follows: [Formula not included. See ED. NOTE.]

NOTE: The U.S. government interest (prohibited amounts) is not used in computing Oregon NOL.

(4) Computation of an NOL for a Part-year Resident and a Nonresident

(a) A nonresident is allowed an Oregon NOL for any loss year when the NOL is attributable to Oregon sources. A taxpayer is not allowed an NOL or carryover on the Oregon return if the loss was incurred while the taxpayer was a nonresident and the loss was not attributable to Oregon. The computation of the allowable net operating loss for Oregon purposes begins with Oregon adjusted gross income as defined in this rule. Any modifications provided in IRC Section 172(d) apply to all items of income and deduction as they apply to modified Oregon taxable income with the exception of prohibited amounts.

(b) The IRC Section 172(d) modifications attributable to Oregon sources are the following:

(A) Oregon NOL deduction from prior years included in Oregon income after adjustments.

(B) Net Oregon capital loss deduction.

(C) Federal personal exemption amount.

(D) Excess of nonbusiness deductions over nonbusiness income included in modified Oregon taxable income.

Example 3: Herb and Sallie are married nonresidents and file a joint 2009 return. On their federal return, they have itemized deductions of \$14,000 (all nonbusiness) and claimed exemptions of \$10,950. They also had a business loss of \$25,000 from Oregon sources and \$1,000 non-Oregon source corporate bond interest. On their Oregon nonresident return, the Oregon percentage is zero (0). They compute their Oregon NOL as follows: [Formula not included. See ED. NOTE.]

NOTE: The Schedule A itemized deductions are -0- for Oregon purposes because their Oregon percentage is zero.

(5) Application of an NOL.

(a) General rule. An Oregon net operating loss for any loss years is applied in the same manner as the federal net operating loss as provided in IRC Section 172(b). If the loss was not attributable to Oregon sources and was incurred while the taxpayer was a nonresident, there is no Oregon NOL to carry over even if the taxpayer later becomes an Oregon resident. In such cases, the amount of the NOL carryover that is not attributable to Oregon sources is added back on the Oregon resident tax return. If a taxpayer carries back a federal NOL, the taxpayer is treated as carrying the loss back for Oregon purposes as well. If a taxpayer makes an election to carry over the federal NOL, the taxpayer is treated as making the same irrevocable election for Oregon purposes as well.

(b) Exceptions.

(A) If a taxpayer has an Oregon NOL but does not have a federal NOL, the taxpayer may elect to carry the Oregon NOL over to the next succeeding year, if the taxpayer makes an irrevocable election on the timely filed Oregon loss year return (including extensions). If no such election is made, then the taxpayer may only carry the Oregon loss back in the same manner as provided in IRC Section 172(b).

(B) If a taxpayer is not required to file an Oregon return for all years to which the federal NOL deduction (NOLD) is applied, the Oregon NOL is carried back to the year in which the loss may be first applied.

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(C) The total number of years to which an NOL may be carried back or forward is the same for Oregon and federal, and is generally determined as follows:

(i) For net operating losses incurred in tax years beginning on or after January 1, 2003, the carry back period is two years with a twenty year carryover period. Oregon follows any exceptions allowed under federal law for these tax years.

(ii) For net operating losses incurred in tax years beginning on or after January 1, 2001 and before January 1, 2003, the carryback period is five years with a twenty year carryover period.

(iii) For net operating losses incurred in tax years beginning on or after August 5, 1997 and before January 1, 2001, the carryback period is two years with a twenty year carry over period.

(iv) For net operating losses incurred in tax years beginning prior to August 6, 1997, the carryback period is three years with a fifteen year carryover period. See IRC 172 and the related regulations for exceptions to the general carryback periods for net operating losses attributable to certain casualty losses, disaster areas and farming losses.

Example 4: Joe has a net operating loss for federal and Oregon for tax year 2009. For federal purposes, Joe carried his federal NOL back to 2007. Since he carried back his loss for federal purposes, he must carry back the loss for Oregon purposes to his 2007 Oregon tax return. If he is not required to file an Oregon tax return for 2007, he may carry his Oregon NOL to his 2008 Oregon tax return.

Example 5: Assume the same facts as in Example 4. However, Joe was not required to file an Oregon tax return prior to tax year 2009. Joe may carry his Oregon NOL over to his 2010 Oregon tax return even if the loss was carried back for federal purposes.

Example 6: As the result of a stimulus bill passed by Congress in 2009, Kerry, an Oregon resident and small business owner, is eligible to carry back her loss up to five years (instead of the normal two years). Kerry chose to carry her loss back five years on her federal return, so she must use the same five year carry back for purposes of her Oregon return.

Example 7: Devin, a Washington resident, incurs a \$25,000 NOL in 2009 from his Washington area business and elects to carry the loss forward. Devin moves to Oregon on January 1, 2010. Since the loss was incurred while Devin was a nonresident of Oregon and the loss is not from an Oregon source, there is no Oregon NOL and Devin must make an addition on his 2010 Oregon return to add back the \$25,000 NOL included in federal adjusted gross income.

(6) A Net Operating Loss Deduction, Carryback and Carryover Amount.

(a) A taxpayer's net operating loss deduction (NOLD), carryback and carryover amount is computed in the same manner as for federal purposes. The method to compute the carryback and carryover amount is not modified for Oregon purposes.

(b) For a full-year resident, generally an NOLD, carryback and carryover amount is the same as for federal purposes except that prohibited amounts as defined in section (2)(a) of this rule are not taken into consideration.

Example 8: John and Joyce incurred losses in 2009 from partnerships and S corporations. They compute an NOL of \$12,000 and elect to carry the loss back. The 2007 return shows negative taxable income, so the 2009 NOL is first applied to 2008 where the loss is completely absorbed. John and Joyce have a federal AGI in 2008 of \$50,000. The fully absorbed 2009 NOL is applied as follows: [Formula not included. See ED. NOTE.]

Example 9: Assume the same facts in Example 8, except that John and Joyce elect to carry forward the 2009 NOL for federal and Oregon purposes. In 2010, John and Joyce have federal AGI of \$15,000 and have reported additions of \$8,000 and subtractions of \$3,000. John and Joyce will apply the NOL to 2010 and compute the amount carried over to 2011 as follows: [Formula not included. See ED. NOTE.]

(c) A part-year resident and a nonresident use the federal method without modifications, except that prohibited amounts are not taken into consideration, and the NOLD, carryback and carryover are based only upon amounts attributable to Oregon sources.

Example 10: In 2008, while residents of California, Ron and Valerie incurred losses from an Oregon partnership creating an Oregon only NOL in the amount of \$85,000. Prior to 2008, neither Ron nor Valerie needed to file Oregon returns. In 2009, Ron and Valerie moved to Oregon and filed a part-year Oregon return. They reported federal income after adjustments of \$385,000, Oregon income after adjustments of \$235,000, and itemized deductions of \$10,000. Ron and Valerie calculate their 2009 Oregon taxable income as follows: [Formula not included. See ED. NOTE.]

Example 11: Scott and Jill live in Vancouver, Washington and Scott operates a business in Oregon. In 2008, Scott and Jill filed a nonresident Oregon return reporting an Oregon only NOL of \$6,000. Scott and Jill elected to carry the NOL forward. In 2009, Scott and Jill reported Oregon income after adjustments of \$1,600, federal income after adjustments of \$32,000, and federal itemized deductions of \$9,200. Their Oregon itemized deductions are \$460 $(\$1,600/(\$32,000) \times \$9,200)$. Scott and Jill calculate their net operating loss deduction for 2009 and the carryover to 2010 as follows: [Formula not included. See ED. NOTE.]

(7) Net Operating Loss Carrybacks to Amnesty Years A net operating loss deduction (NOLD) carried back to an amnesty return (as that term is defined in OAR 150-305.100-(C)) may not result in a refund of any tax reported and paid pursuant to the amnesty program. However, if a NOLD is carried back to a year in which a taxpayer participated in amnesty, a refund that is otherwise allowed may be granted to the extent that the taxpayer has adequate income reported outside the amnesty program to absorb the loss (or portion thereof). A NOLD resulting in a denied refund due to

participation in the amnesty program does not change the net operating loss deduction calculation or the amount that can be carried to another tax year.

Example 12: Ed, an Oregon resident, qualified for amnesty in November 2009 and received penalty and interest relief for tax year 2005 under the program. Ed's original 2005 return (which was filed timely on April 17, 2006) showed a tax liability of \$20,000, which Ed paid when he filed his original 2005 return. The amended return for 2005 filed under amnesty increased his tax by an additional \$15,000 for a total of \$35,000 in Oregon tax liability. In tax year 2009 his business experienced a loss that created a net operating loss for tax year 2009. Ed elects to carry the loss back to tax year 2005 and amends his 2005 federal return. On June 1, 2010, he amends his 2005 Oregon return to claim the net operating loss deduction (NOLD). After applying the NOLD, Ed claims an Oregon refund of \$30,000 for 2005. (Ed's 2005 net tax liability has been decreased to \$5,000.) The department agrees with Ed's calculations but only allows a refund of \$20,000 because that is the amount of tax Ed paid for 2005 before the amnesty program. The refund is limited because the law prohibits refunds of tax paid under amnesty. Ed's carryover of the NOLD is not changed because of the amnesty refund denial. Even though the refund was partially denied, the NOLD has been absorbed and there is no carryforward to tax year 2006.

[ED. NOTE: Formulas referenced are not included in rule text.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 316.014

Hist.: RD 4-1986(Temp), f. & cert. ef. 7-29-86; RD 7-1986, f. & cert. ef. 12-31-86; RD 7-1991, f. 12-30-91, cert. ef. 12-31-91; RD 9-1992, f. 12-29-92, cert. ef. 12-31-92; RD 5-1994, f. 12-15-94, cert. ef. 12-31-94; REV 9-1999, f. 12-30-99, cert. ef. 12-31-99; REV 11-2004, f. 12-29-04, cert. ef. 12-31-04; REV 10-2010, f. 7-23-10, cert. ef. 7-31-10; Renumbered from 150-316.014 by REV 4-2012, f. 7-20-12, cert. ef. 8-1-12

Rule Caption: Clarification of distributions from the Criminal Fine Account.

Adm. Order No.: REV 5-2012

Filed with Sec. of State: 7-20-2012

Certified to be Effective: 8-1-12

Notice Publication Date: 6-1-2012

Rules Repealed: 150-137.302(7)

Rules Ren. & Amend: 150-137.300(3) to 150-137.300

Subject: The changes to this rule clarify the distributions from the Criminal Fine Account are done monthly.

Rules Coordinator: Ken Ross—(503) 945-8890

150-137.300

Criminal Fine Account Distribution

(1) Monthly, the department will distribute moneys available in the Criminal Fine Account after final deposits into the account for the calendar month have been made by the Oregon Department of Revenue and Oregon Judicial Department.

(2) The department will distribute to the General Fund all moneys remaining in the Criminal Fine Account after distributing the monthly allocations to funds and programs referenced in Oregon Laws 2011, Chapter 597, Section 53.

Stat. Auth.: ORS 305.100; 137.300

Stats. Implemented: ORS 137.300

Hist: REV 6-2004, f. 7-30-04, cert. ef. 7-31-04; REV 3-2005, f. 12-30-05, cert. ef. 1-1-06; Renumbered from 150-137.300(3), REV 5-2012, f. 7-20-12, cert. ef. 8-1-12

Rule Caption: Amending and Renumbering Estate Tax rules due to change in law.

Adm. Order No.: REV 6-2012

Filed with Sec. of State: 7-20-2012

Certified to be Effective: 8-1-12

Notice Publication Date: 6-1-2012

Rules Adopted: 150-118.005, 150-118.010, 150-118.010(8), 150-118.100(6), 150-118.160, 150-118.260, 150-118.265

Rules Amended: 150-118.010(1), 150-118.010(2), 150-118.010(3), 150-118.010(4)(b), 150-118.010(7), 150-118.100(1), 150-118.140, 150-118.160-(B), 150-118.171, 150-118.225, 150-118.260(6), 150-118.300

Rules Repealed: 150-118.260(1)-(A), 150-118.260(1)-(B), 150-118.260(4), 150-401.000 Note

Rules Renumbered: 150-314.HB2071(A) to 150-314.364(A)

Rules Ren. & Amend: 150-118.250(1) to 150-118.250

Subject: HB 2541 (2011) replaced the inheritance tax with an estate tax as of 1/1/2012 and revised ORS Chapter 118 to disconnect from

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the outdated 2000 Internal Revenue Code. These policy areas need clarification by rule:

- The taxability of qualified terminal interest property (QTIP) and Oregon special marital property (OSMP) for the estates of surviving spouse that are nonresident decedents.
- Extensions of time to file estate tax returns.
- The department's position on whether appraisals are required when determining the date of death fair market value of an estate's property.
- Definitions related to the estate tax credit for natural resource property.
- The general tie provided by ORS 118.171 to the administrative provisions of chapter 305, including penalty waivers.
- Extensions of time to pay estate tax and timeline for submitting collateral.
- Estate tax penalty waivers (clarify only one 5 percent penalty will be imposed and that the one-time waiver does not apply to the estate tax).

Rules Coordinator: Ken Ross—(503) 945-8890

150-118.005

Definitions

The term “intangible personal property” includes but is not limited to stocks, bonds, notes, currency, bank deposits, accounts receivable, patents, trademarks, copyrights, royalties, goodwill, partnership interests, limited liability interests, life insurance policies, annuity contracts, brokerage accounts, and other choices in action.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 118.010–118.300 & 314.364

Hist.: REV 6-2012, f. 7-20-12, cert. ef. 8-1-12

150-118.010

Deductions Allowed in Determining Estate Tax or Fiduciary Income Tax

This rule applies to estates of decedents who die on or after January 1, 2012.

(1) An estate may claim deductions allowable under sections 2053 or 2054 of the Internal Revenue Code (IRC) for either estate tax purposes or fiduciary income tax purposes, but not both. The executor of an estate may make different elections for federal and Oregon purposes.

(2) If deductions are claimed against fiduciary income, the executor must include with the return a statement that the deductions are not being claimed for estate tax purposes.

Example 1: The executor of Estate A elects to deduct \$19,500 of expenses in determining the estate's federal income tax. For Oregon, the executor elects to claim the deduction in determining estate tax. The amount deducted for federal purposes is not allowed for Oregon fiduciary income tax purposes.

Example 2: The executor of Estate B elects to deduct \$10,000 of expenses in determining the estate's federal income tax. The executor elects to claim these deductions in determining Oregon's fiduciary income tax. No modification to income is required for Oregon. A deduction may not be made on the Oregon estate tax return.

Example 3: The executor of Estate C elects to claim a deduction of \$15,000 for federal estate tax purposes. For Oregon, the executor elects to claim the deduction for fiduciary income tax purposes. The deduction may not also be made on the Oregon estate tax return if the election is made by deducting the \$15,000 on the Oregon fiduciary income tax return.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 118.010 – 118.300 & 314.364

Hist.: REV 6-2012, f. 7-20-12, cert. ef. 8-1-12

150-118.010(1)

Imposition of Tax

This rule applies to estates of decedents who die before January 1, 2012. A tax equal to the state death tax credit allowable for federal estate tax purposes is imposed. The tax is due in every case even though the credit may not be claimed on the federal estate tax return, Form 706.

(1) Property within the jurisdiction of the state includes the following:

- (A) Resident Decedent.
- (A) Real property situated in Oregon.
- (B) Tangible personal property situated in Oregon.
- (C) Intangible personal property wheresoever situated.
- (B) Nonresident Decedent.
- (A) Real property situated in Oregon.
- (B) Tangible personal property situated in Oregon.
- (C) Intangible personal property situated in Oregon.

Note: See ORS 118.010(4)(b) which provides an exemption as to intangible personal property of nonresident decedents.

(2) The phrase “within the jurisdiction of the state” connotes extent of power and has a broader meaning than the phrase “within the state” which denotes locality. Property may be within the jurisdiction of the state but not physically situated in the state, for example:

(a) Stock of an Oregon corporation is within the jurisdiction of this state although the certificate may not be within this state.

(b) A savings account, checking account, and certificate of deposit in an Oregon bank are within the jurisdiction of this state although the pass-book or certificate may not be within this state.

(c) A promissory note given by a resident of Oregon is within the jurisdiction of this state although the note may not be within this state.

(3) The term “intangible personal property” includes stocks, bonds, notes, currency, bank deposits, accounts receivable, patents, trademarks, copyrights, royalties, goodwill, partnership interests, life insurance policies, and other choices in action.

(4) The doctrine of equitable conversion is recognized in the administration of the Oregon inheritance tax law.

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 118.010

Hist.: 9-71; 11-73; 9-74; 12-31-77; RD 4-1997, f. 9-12-97 cert. ef. 12-31-97, REV 6-2012, f. 7-20-12, cert. ef. 8-1-12

150-118.010(2)

Deductions Allowed on Either the Inheritance Tax Return or the Fiduciary Income Tax Return

This rule applies to estates of decedents who die before January 1, 2012.

Deductions allowed under sections 2053 or 2054 of the Internal Revenue Code (IRC) may be claimed on either the Oregon inheritance tax return (Form IT-1) or the Oregon fiduciary income tax return (Form 41), but not both. The personal representative of an estate may make different elections for federal and Oregon returns. If the deductions are claimed on the Oregon Form 41, attach a statement that the deductions are not being claimed on the Oregon Form IT-1. For federal purposes, those deductions may be taken on either the federal estate tax return (Form 706) or the federal estate income tax return (Form 1041) under IRC 642(g).

Example 1: Peter dies in 2004 with a gross estate of \$900,000. The personal representative of the estate elects to deduct \$19,500 of expenses on the federal Form 1041. For Oregon, the personal representative elects to take the deduction on the Oregon Form IT-1. The amount deducted on the federal Form 1041 must be added back to income on the Oregon Form 41.

Example 2: Sally dies in 2004 with a gross estate of \$950,000. The personal representative of the estate elects to deduct \$10,000 of expenses on the federal Form 1041. The personal representative does not claim these deductions on the Oregon Form IT-1. The deductions claimed on the federal Form 1041 flow through to the Oregon Form 41. No modification to income is required.

Example 3: Mildred dies in 2004 with a gross estate of \$2,000,000. The personal representative of the estate elects to claim a deduction of \$15,000 on the federal Form 706. For Oregon, the personal representative elects to claim the deduction on the Oregon Form 41. The election is made by subtracting the deduction from the Oregon return. The deduction is not allowed on the Oregon Form IT-1 if it was claimed on the Oregon Form 41. The personal representative must reduce the deductions by \$15,000 on the Oregon Form IT-1.

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

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 118.010

Hist.: REV 2-2004(Temp), f. 4-30-04 cert. ef. 5-1-04 thru 9-30-04; REV 6-2004, f. 7-30-04, cert. ef. 7-31-04; REV 6-2012, f. 7-20-12, cert. ef. 8-1-12

150-118.010(3)

Apportionment of Tax

This rule applies to estates of decedents who die before January 1, 2012.

(1) Where property is left in two or more states by a decedent, the maximum state tax credit allowed against the federal estate tax is apportioned. The numerator of the apportionment formula is the value for federal estate tax purposes of the property within the jurisdiction of this state notwithstanding that some of such property for Oregon inheritance tax purposes may be exempt, deductible, appraised at different values or considered in computing a credit. The denominator of the apportionment formula is the value of the gross estate for federal estate tax purposes.

(2) The executor shall, upon demand, file a copy of the federal estate tax return and such other information deemed necessary by the Department in the computation of the additional tax. In case of failure to file such returns as these rules provide, the Department shall compute the tax upon the basis of the best information available.

(3) If the amount of federal estate tax is increased or decreased subsequently, the pick-up tax imposed upon such estate shall be changed accordingly. In such case it is the duty of the executor to notify the Department of the changes.

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(4) Example of apportionment of federal credit where decedent leaves property in three states that impose death taxes: [Example not included. See ED. NOTE.]

[ED. NOTE: Examples referenced are available from the agency.]
Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 118.010
Hist.: 9-71; 12-19-75, Renumbered; 1-1-77, 12-31-77, Renumbered; TC 19-1979, f. 12-20-79, cert. ef. 12-31-79; TC 8-1980, f. 11-28-80, cert. ef. 12-31-80; Repealed by RD 4-1997, f. 9-12-97 cert. ef. 12-31-97, Renumbered from 150-118.100(2); REV 6-2012, f. 7-20-12, cert. ef. 8-1-12

150-118.010(4)(b) Reciprocal Exemption of Intangible Personal Property of Nonresident Decedent

This rule applies to estates of decedents who die before January 1, 2012.

Intangible personal property within the jurisdiction of the state of Oregon and owned by a nonresident of this state is exempt from inheritance tax if a like exemption is made by the laws of the state or country of decedent's residence in favor of residents of this state. There is no such exemption allowed as to property owned by a deceased resident of a state which does not impose a death tax. However, if a state has a death tax law which does not impose a tax on intangible personal property owned by a nonresident of that state, the "like exemption" requirement of ORS 118.010(4)(b) is satisfied, and Oregon would exempt intangible personal property owned by a deceased resident of that state. A nonresident is one who at the time of death had a permanent dwelling place and an official or legal residence outside the State of Oregon. To have a change of domicile there must be:

- (1) Residence in a new place;
- (2) Intent to abandon the old domicile; and
- (3) Intent to acquire a new domicile (196 Or 256).

NOTE: For definition of the term "intangible personal property," see OAR 150-118.010(1).

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 118.010
Hist.: 9-74; 12-19-75; RD 4-1997, f. 9-12-97, cert. ef. 12-31-97, Renumbered from 150-118.060; REV 6-2012, f. 7-20-12, cert. ef. 8-1-12

150-118.010(7) Separate Oregon Elections

This rule applies to estates of decedents who die before January 1, 2012.

(1) For deaths after December 31, 2001, and before January 1, 2012, the Oregon inheritance tax is computed using the Internal Revenue Code (IRC) in effect on December 31, 2000. Federal changes enacted after this date, including the "Economic Growth and Tax Relief Reconciliation Act of 2001", do not affect the computation of Oregon tax. Oregon allows separate elections, including but not limited to elections provided by IRC Sections 2031(c), 2032, 2032A, 2033A, 2056 and 2056A that would have been allowed under federal law in effect as of December 31, 2000, whether or not a federal estate tax return is filed. The Oregon elections are irrevocable. If a federal estate tax return is not required with respect to the decedent's death, the Oregon elections must be made in the same manner as required under the IRC on a return filed with the Oregon Department of Revenue.

Example 1: The personal representative may not make a qualified terminal interest property (QTIP) election on the 2004 Oregon Inheritance Tax Return under the following circumstances. Harold dies in 2004 with an estate valued at \$950,000. He is survived by his wife, Wanda. They had provided for a credit shelter trust funded by an amount equal to the unused federal exclusion amount. The trust is set up to distribute or accumulate income to someone other than the spouse and allows for discretionary distribution of income to the surviving spouse. The trust does not qualify for a QTIP election under IRC 2056(b)(7), as in effect as of December 31, 2000.

Example 2: The personal representative may make a QTIP election on the 2004 Oregon Inheritance Tax Return under the following circumstances. Winifred dies in 2004 with an estate valued at \$1,500,000. She is survived by her husband, Harvey. They had provided for a credit shelter trust funded by an amount equal to the unused federal exclusion amount. The trust provides for all income to be distributed to the surviving spouse and otherwise qualifies for the federal QTIP election. The personal representative files a 2004 federal estate tax return without claiming a QTIP election. The personal representative may file the 2004 Oregon return claiming a QTIP election because that election would have been allowed under federal law effective on December 31, 2000.

(2) If a QTIP election is taken when the first spouse dies, the estate of the surviving spouse must include the value of any property included in the QTIP election provided in IRC 2044. The Oregon and federal gross estate amount will be different for the surviving spouse's estate when a separate election is taken for Oregon only.

Example 3: Same situation as example 2. The personal representative claimed an Oregon only QTIP election on Winifred's Oregon IT-1 return. Harvey dies in 2005. Harvey's estate for Oregon will include the value of the Oregon only QTIP taken for Winifred per IRC 2044 "Certain property for which a marital deduction was previously allowed". Harvey's gross estate for Oregon and for federal will be different

because of the Oregon only QTIP election taken on Winifred's Oregon IT-1 return.

(3) For purposes of the Oregon tax, the obligations of electing parties, agreements required of persons benefiting from elections, and the inclusion of property in the gross estate of a surviving beneficiary are the same as under the IRC.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 118.010
Hist.: REV 2-2004(Temp), f. 4-30-04 cert. ef. 5-1-04 thru 9-30-04; REV 6-2004, f. 7-30-04, cert. ef. 7-31-04; REV 6-2012, f. 7-20-12, cert. ef. 8-1-12

150-118.010(8) Elections

This rule applies to estates of decedents who die on or after January 1, 2012.

(1) An estate may elect a larger or smaller amount, percentage or fraction of the qualified terminal interest property (QTIP) for Oregon tax purposes than was elected for federal estate tax purposes in order to reduce the Oregon estate tax liability while making full use of the federal unified credit. In addition to or in lieu of a QTIP the estate may elect to claim Oregon Special Marital Property (OSMP) to reduce the estate tax liability.

(2) The Oregon and federal taxable estate amount will be different for the surviving spouse's estate when a separate QTIP or OSMP election was taken for Oregon. In addition to the value of property for which a federal QTIP election was made, the value of property for which an Oregon QTIP or OSMP election was made is includable as part of the Oregon taxable estate to the extent that the property is subject to Oregon estate tax.

(3) The executor must identify the assets by schedule, item number, and the fixed amount, percentage or fractional interest that are included as part of the Oregon QTIP or OSMP election, either on the return or, if those assets have not been determined when the estate tax return is filed, on a statement to that effect, prepared when the assets are definitively identified.

Example 1: W dies in 2012 with a gross estate of \$7,000,000. The decedent established a federal QTIP trust for the benefit of W's surviving spouse H, an Oregon resident, in an amount to result in no federal estate tax. For Oregon, the executor may elect a larger fixed amount, percentage or fractional interest QTIP or an OSMP. To achieve zero Oregon estate tax, the Oregon QTIP or OSMP election will be the difference between the federal exemption amount and the Oregon exemption amount. H was an Oregon resident at the time of H's death. Upon H's death, the assets remaining in the Oregon QTIP or OSMP trust must be included in H's gross estate.

(4) The amount to be included in the estate on the death of a surviving spouse is limited to trust property that is subject to Oregon estate tax. If a QTIP or OSMP election was taken when the first spouse dies, the property that is required to be included in the estate of the surviving spouse is dependent upon the residency status of the surviving spouse. If a resident decedent, the gross estate of a surviving spouse must include the value of any property included in the QTIP or OSMP election. If a nonresident decedent, the gross estate of a surviving spouse must include the value of any property included in the QTIP or OSMP election to the extent that the property consists of real property located in Oregon or tangible personal property located in Oregon.

Example 2: Same facts as Example 1, except H was not an Oregon resident at the time of H's death. The Oregon estate must include the value of any real property located in Oregon and any tangible personal property located in Oregon remaining in the trust; intangible property is excluded from the estate.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 118.010-118.300 & 314.364
Hist.: REV 6-2012, f. 7-20-12, cert. ef. 8-1-12

150-118.100(1) Due Dates and Extensions of Time to File

This rule applies to estates of decedents who die on or after January 1, 2012.

(1) An estate return shall be filed and the tax shall be paid to the Department of Revenue on the date the federal estate tax is payable or, if no federal estate tax return is required, no later than nine months following the date of death of the decedent. An estate tax return is due the day of the ninth calendar month after the decedent's death numerically corresponding to the day of the calendar month on which death occurred, except that, if there is no numerically corresponding day in such ninth month, the last day of the ninth month is the due date. For example, if the decedent dies on July 31, the estate tax return and tax payment must be made on or before April 30 of the next year.

(2) When the due date falls on a Saturday, Sunday, or a legal holiday, the due date for filing the return is the next succeeding day that is not Saturday, Sunday or a legal holiday. For this purpose, "legal holiday" means a holiday recognized statewide in Oregon or a holiday recognized in the District of Columbia.

(3) The department may grant an extension of time to file an estate tax return, generally not to exceed six months. If an estate has been granted an

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extension of time to file a federal estate tax return, the department will accept that as an approved extension to file the Oregon estate tax return. The executor must submit a copy of the federal extension request with the Oregon return when filed. If the estate does not need a federal extension, the executor may request an extension for Oregon only by submitting a federal extension form to the department on or before the due date of the Oregon estate tax return and writing "Oregon Only" on the top of the federal form.

(4) If the Internal Revenue Service denies the extension request, but grants a period of time from the date of denial in which to file the federal return without imposition of delinquency charges, the department will not impose penalties for late filing if the Oregon return is received by the department within one month from the Internal Revenue Service's date by which the federal return must be filed with no imposition of delinquency charges. The executor must submit a copy of the federal extension request denial with the Oregon return when filed.

(5) An extension of time to file, without an approved extension of time to pay, does not relieve the estate from the five percent penalty for failure to pay the tax on or before the original due date and interest accrues during the extension period. See OAR 150-118.260 for information regarding interest and penalty. [Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 118.100

Hist.: 12-19-75; 12-31-77, Renumbered; TC 9-1978, f. 12-5-78, cert. ef. 12-31-78; RD 4-1997, f. 9-12-97 cert. ef. 12-31-97, Renumbered from 150-118.110(3); REV 6-2012, f. 7-20-12, cert. ef. 8-1-12

150-118.100(6)

Property Values and Appraisals

This rule applies to estates of decedents who die on or after January 1, 2012.

(1) The fair market value of an estate's property must be determined as of the date of death or six months following the date of death if the alternate valuation method is elected. The property value reported on the estate tax return must be substantiated. The executor is required to explain how the value was determined and must attach copies of any appraisals used to value property included on the return. If there was no appraisal, the executor must attach a statement to the return explaining how the value was determined. If the determination of value is based on a county property tax statement, the determination of value must be supported by other evidence of value.

(2) A fee appraisal represents both common and best practice for determination of the value for most real and personal property but may not always be necessary. For example, where an Oregon Special Marital Property election has been made, the value of the asset(s) included within the election may not have an impact upon the estate tax.

Stat. Auth.: ORS 305.100 & 118.140

Stats. Implemented: ORS 118.140

Hist.: REV 6-2012, f. 7-20-12, cert. ef. 8-1-12

150-118.140

Estate Tax Credit for Natural Resource Property

Part I of this rule applies to estates of decedents who die on or after January 1, 2012. For the user's convenience, Part II of the rule contains provisions applicable to estates of decedents who die before January 1, 2012.

Part I (applies to estates of decedents who die on or after January 1, 2012)

(1) Definitions. The following definitions apply for purposes of ORS 118.140 and Part I of this rule:

(a) "Active Management" is defined by Internal Revenue Code (IRC) Section 2032A(e)(12) to mean the making of the management decisions of a business (other than the daily operating decisions).

(b) "Ancestor" means a person from whom the decedent is directly descended, such as a parent, grandparent, or great-grandparent. The term does not include aunts, uncles, or cousins.

(c) "Cash equivalents" means accounts receivable, inventory, marketable securities, capital or sinking funds, prepaid expenses and other assets that are spent, maintained, used or available for use, in the operation of a farm business, forestry business, or fishing business.

(d) "Disposition" means to sell, exchange, transfer, convey, or otherwise dispose of natural resource property that was used to compute the natural resource property credit, if such disposition results in the property no longer qualifying for the credit.

(e) "Domestic partner" means an individual who has entered into a domestic partnership as defined in ORS 106.310. Per the general applica-

bility provision of ORS 106.340 "spouse" as used in these rules includes domestic partner.

(f) "Family member" means a member of the family as defined in IRC section 2032A, and for purposes of ORS 118.140 includes:

(A) An ancestor of the decedent;

(B) The spouse of the decedent;

(C) A lineal descendant of the decedent or of the decedent's spouse;

(D) A lineal descendant of a parent of the decedent; or

(E) The spouse of any lineal descendant described in paragraph (C) or (D). For purposes of the preceding sentence, a legally adopted child of an individual is a lineal descendant of the adoptive parent(s).

(g) "Lineal descendant" means a person in a direct line of descent from the decedent, such as a child, grandchild or great-grandchild.

(h) "Lineal descendant of a parent of the decedent" means a decedent's siblings, children and grandchildren of those siblings, and any other person in a direct line of descent from the decedent's siblings.

(2) Material participation by a Family Member. In order to qualify under ORS 118.140(8), at least one family member must materially participate in the business after the transfer.

(a) Material participation is a factual determination, and the types of activities which will support such a finding will vary. No single factor is determinative.

(b) Actual employment of the family member on a substantially full-time basis (35 hours a week or more) or to any lesser extent necessary personally to manage fully the farm or business in which the real property to be valued under section 2032A is used constitutes material participation.

(c) Payment of self-employment tax for employment with respect to the farm business, forestry business or fishing business is not conclusive as to the presence of material participation, and the requirement can be met even though no self-employment tax is payable by the family member with respect to income derived from the business.

(d) As provided by section 2032A of the Internal Revenue Code, active management shall be treated as material participation.

(e) The rules for determining material participation are illustrated by the examples found in CFR 20.2032A-3(g).

(f) Examples of active management decisions that can be used to demonstrate material participation include the following: inspecting growing crops, animals, forests, or equipment; reviewing and approving annual crop plans in advance of planting; making a substantial number of the management decisions of the business operation; approving expenditures for other than nominal operating expenses in advance of the time the amounts are expended; deciding what crops to plant or how many cattle to raise; determining what fields to leave fallow; determining where and when to market crops and other business products; determining how to finance business operations; and determining what capital expenditures the trade or business should make.

(3) If a transferee disposes of property resulting in additional tax as described in ORS 118.140(9)(a), the transferee must file a report with the department and pay the additional tax. The report may be made by filing a copy of the form described in ORS 118.140(10), identifying the asset or assets that no longer qualify for the credit, and including a calculation of the additional tax as described in ORS 118.140(9)(e). The report and payment of the tax are due within six months of the disposition. Interest and penalties under ORS 118.260 apply if the report is not filed and tax is not paid on or before the due date prescribed in ORS 118.140(9)(e).

Part II (applies to estates of decedents who die before January 1, 2012)

Inheritance Tax Credit for Natural Resource or Commercial Fishing Property

(4) Definitions. The following definitions apply for purposes of ORS 118.140 and this rule:

(a) "Active Management" is defined by Internal Revenue Code (IRC) Section 2032A(e)(12) and means the making of the management decisions of a business (other than the daily operating decisions). Treasury Regulations 20.2032A-3(e) through (g) provide additional examples of active management.

(b) "Adjusted gross estate" means the value of the gross estate reduced by the sum of the amounts allowable as a deduction under either IRC sections 2053 or 2054, or both. The amount is determined on the basis of the facts and circumstances in existence on the date (including extensions) for filing the return of tax imposed by chapter 118 (or, if earlier, the date on which the return is filed).

(c) "Cessation of qualified use" means the natural resource property or fishing business property use has changed and the property no longer qualifies as natural resource property or fishing business property.

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(d) "Current assets" means the sum of cash and cash equivalents, accounts receivable, inventory, marketable securities, prepaid expenses and other assets of the qualified natural resource business that can be converted to cash within one year. Current assets do not include assets not used in the qualified natural resource business, long-term assets such as capital or sinking funds, or personal assets.

(e) "Current liabilities" means the sum of all money owed to the qualified natural resource business that is required to be paid within one year.

(f) "Disposition of property" means to sell, exchange, or otherwise dispose of natural resource property or fishing business property that was used to compute the natural resource credit, if such disposition results in the property no longer qualifying for the credit.

(g) "Domestic partner" means an individual who has entered into a domestic partnership as defined in the Oregon Family Fairness Act, ORS 106.300 to 106.340.

(h) "Member of family" means, with respect to a decedent:

(A) An ancestor of the decedent;

(B) The spouse or domestic partner of the decedent;

(C) A lineal descendant of the decedent, of the decedent's spouse or domestic partner, or of a parent of the decedent, or

(D) The spouse or domestic partner of any lineal descendant described in paragraph (C). For purposes of the preceding sentence, a legally adopted child of an individual is treated as the child of such individual by blood.

(i) "Working capital" means current assets less current liabilities.

(j) "Working capital of a farm, natural resource-based business or fishing business" means working capital in an amount that represents the funds needed to operate the business annually.

(5) Federal Elections Binding for Oregon. Because ORS 118.007 ties Oregon inheritance tax law to the Internal Revenue Code (IRC) as it existed on December 31, 2000, elections that were available on December 31, 2000, and that are made for federal estate tax purposes are binding for Oregon inheritance tax purposes unless specifically provided otherwise by statute or rule. Property that is excluded from the estate due to claiming a marital deduction under IRC §2056 cannot be included in the Oregon estate in order to claim a tax credit under this section.

Example 1: Edwina passed away on July 1, 2007; her husband survives her. The value of her gross estate is \$8,000,000, made up entirely of natural resource property. For federal estate tax purposes, the estate elects a marital deduction of \$6,000,000. The unified credit offsets tax otherwise due on the balance of the estate, \$2,000,000, and there is no federal tax due. For Oregon purposes, the \$6,000,000 marital deduction election applies. In addition, the estate may elect to establish a Special Oregon Marital property trust as provided in ORS 118.016 to shelter \$1,000,000 of the value of the estate (the difference between the \$1,000,000 Oregon taxable estate and the \$2,000,000 federal taxable estate). Alternatively, the estate may use any portion of the \$2,000,000 in value to claim a natural resource credit against tax imposed on the estate.

(6) Active Management by a Member of Family. If natural resource property or a commercial fishing business is owned indirectly by the decedent or a member of the family, the following requirements must be met to qualify for a credit under ORS 118.140:

(a) At least one member of the family must engage in active management of the natural resource property or commercial fishing business after the transfer.

(A) The determination of whether active management occurs is factual, and the requirement can be met even though no self-employment tax is payable by the member of the family with respect to income derived from the farm or other trade or business operation.

(B) Among the farming activities, various combinations of which constitute active management, are inspecting growing crops, reviewing and approving annual crop plans in advance of planting, making a substantial number of the management decisions of the business operation, and approving expenditures for other than nominal operating expenses in advance of the time the amounts are expended.

(C) Examples of active management decisions are what crops to plant or how many cattle to raise, what fields to leave fallow, where and when to market crops and other business products, how to finance business operations, and what capital expenditures the trade or business should make.

(b) An otherwise qualifying natural resource property or commercial fishing business qualifies for the credit without active management if it is the subject of a net cash lease or percentage lease from the decedent or a member of the decedent's family.

(c) The property also qualifies for the credit if it is held in trust for a member of the family or if the property is transferred directly to a member of the family.

(d) If an indirect interest is held in trust for a member of the family, it qualifies as long as a member of the family is engaged in the active management of the business.

(e) The trustee does not have to be engaged in active management if these requirements are met.

(7) Prior Use Requirement.

(a) An estate that otherwise qualifies for the commercial fishing business property credit is not required to meet the aggregate use period of five out of eight years ending on the date of the decedent's death.

(b) Active management of the natural resource property is not a requirement prior to death.

Example 2: Kelly died on April 3, 2007. Kelly owned and operated Kelly's Fishing Boat business starting in February 2005. The estate files the tax return with the department on June 17, 2008, claiming the commercial fishing business credit, and pays the inheritance tax due. The estate may claim the commercial fishing business credit providing all other requirements to qualify for the credit are met.

(8) Future Use Requirement. In order for the estate to meet the requirements of ORS 118.140(7)(a) the following apply.

(a) Cash and like cash assets that are included in the credit calculation as working capital must be spent on the operation of the business either during the year of death or any of the eight calendar years following the decedent's death. Current assets remaining unspent on January 1 of the ninth calendar year following the decedent's death are subject to recapture of tax under ORS 118.140(7)(a).

(b) Payment of federal estate taxes or state inheritance taxes is not considered to be an expense incurred in operation of the natural resource business. Thus, use of cash or other assets to pay those taxes results in recapture of the credit to the extent the cash or asset was used as the basis for the credit.

Example 3: The Smith estate claimed a credit in 2007 based on farming assets worth \$1,000,000. In 2009, the estate sold a combine for \$100,000 to pay additional federal estate tax resulting from an audit. Sale of the combine results in recapture of the tax credit because the combine was not used in the farming business for 5 of the 8 years following the decedent's death.

(9) Claiming a Partial Credit. In determining whether the value of the credit property is at least 50 percent of the total estate, all of the eligible property must be considered, regardless of an election to claim only a partial credit under ORS 118.140(2)(b)(C).

(10) Working Capital. The determination of whether an amount qualifies as "working capital of a farm, natural resource-based business or fishing business" is based on the facts and circumstances existing at the decedent's death. However, the department will presume that working capital that does not exceed the highest amount of working capital present at any time during the five years prior to the year of the date of death qualifies as "working capital of a farm, natural resource-based business or fishing business." This presumption may be overcome by the facts in a particular case, including, but not limited to, the growth rate of the business, the length of the business cycle or the proximity of the date of death to the harvest date.

(11) Interest and Penalty. The department will not charge penalty or interest if an estate claims a natural resource property or commercial fishing business property credit or if the estate is directly affected by the changes made to ORS 118.140 by chapter 28, Oregon Laws 2008 and the return is filed and tax is paid before September 1, 2008. This provision applies to estates of decedents dying on or after January 1, 2007, and before December 1, 2007.

Example 4: John died on June 23, 2007. The regular due date of the inheritance tax return is March 23, 2008. The estate files the return with the department on August 29, 2008, claiming the natural resource credit, and pays the inheritance tax due. Because the return is filed and the tax is paid before September 1, 2008, the interest and penalty which would otherwise result from late filing and late payment is cancelled.

(12) Disposition or Disqualified Property. Upon the disposition or cessation of use of natural resource property or fishing business property for which the estate claimed a natural resource credit, additional inheritance tax becomes due. The additional inheritance tax is due and payable within six months after the date of the disposition or cessation of use occurs and must be reported on a form prescribed by the department.

(13) Interest and penalties under ORS 118.260 apply for a failure to file the return or failure to pay the tax on or before the due date prescribed in section (9).

Stat. Auth.: ORS 305.100 & 118.140

Stats. Implemented: ORS 118.140

Hist.: REV 4-2008(Temp), f. & cert. ef. 5-23-08 thru 11-17-08; REV 13-2008, f. & cert. ef. 11-3-08; REV 8-2010, f. 7-23-10, cert. ef. 7-31-10; REV 6-2012, f. 7-20-12, cert. ef. 8-1-12

150-118.160

Filing Requirements for Estate Tax Returns

(1) If the estate is required to file a federal estate tax return, the executor must include a complete copy of the federal return, schedules, and supporting documents with the Oregon estate tax return.

(2) If the estate is not required to file a federal estate tax return, the executor must prepare and include with the Oregon estate tax return the

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federal schedules and supporting documents that would have been required to be filed if the estate had been required to file a federal estate tax return.

Stat. Auth.: ORS 305.100 & 118.140
Stats. Implemented: ORS 118.140
Hist.: REV 6-2012, f. 7-20-12, cert. ef. 8-1-12

150-118.160-(B)

Inheritance Tax Return; Extension of Time to File

(1) This rule applies to estates of decedents who die on or after January 1, 2003 and before January 1, 2012.

(2) The executor shall, not more than nine months after the date of the decedent's death, file with the Department an inheritance tax return, Form IT-1. A complete copy of the federal estate tax return and schedules must be filed with the Oregon Form IT-1. If the estate is not required to file a federal estate tax return, the executor must prepare a federal estate tax return and schedules reflecting federal estate tax law in effect December 31, 2000 and file that return and schedules with the Oregon inheritance tax return.

(3) If the executor cannot file a return within nine months, the Department may allow additional time, usually not to exceed six months, to file the return. A copy of the federal extension request must be attached to the front of the Oregon return when filed and will serve as evidence of a granted extension by the Department.

(4) If the Internal Revenue Service denies the extension request, but grants a period of time from the date of denial in which to file the federal return without imposition of delinquency charges, the Department will not impose delinquency charges if the Oregon return is received by the Department within one month from the last date on which the Internal Revenue Service would accept the federal return without imposition of delinquency charges. A copy of the denied extension request must be attached to the front of the Oregon return at the time of filing.

(5) An extension of time to file does not relieve the estate from the five percent penalty for failure to pay the tax on or before the original due date. Interest accrues during the extension period.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 118.160
Hist.: TC 9-1978, f. 12-5-78, cert. ef. 12-31-78, Renumbered from 150-188.160(2); RD 15-1987, f. 12-10-87 cert. ef. 12-31-87; RD 4-1997, f. 9-12-97, cert. ef. 12-31-97; REV 1-2010(Temp), f. & cert. ef. 2-19-10 thru 7-31-10; REV 8-2010, f. 7-23-10, cert. ef. 7-31-10; REV 6-2012, f. 7-20-12, cert. ef. 8-1-12

150-118.171

Applicability of ORS Chapter 305 to Estate Tax

(1) The following sections of ORS Chapter 305 relate to determination of estate taxes and appeals:

- (a) Penalty waivers, 305.145
- (b) Audit of returns, 305.265;
- (c) Determination of deficiencies, 305.265;
- (d) Assessments, 305.265;
- (e) Claims for refund, 305.270;
- (f) Conferences, 305.265 and 305.270;
- (g) Appeals to Director, 305.275 and 305.280;
- (h) Appeals to Tax Court, 305.515 and 305.560.

(2) A claim for refund of estate tax shall be by letter or an amended return; however, the Department may require an amended return. A tax paid before the due date is considered as having been paid on the due date for purposes of determining whether the claim for refund was filed within three years from the payment of the tax.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 118.171
Hist.: 12-31-77; REV 6-2012, f. 7-20-12, cert. ef. 8-1-12

150-118.225

Extension of Time to Pay Tax

(1) An executor may request an extension of time to pay the estate tax. The extension request must be in writing and submitted to the department by the date the estate return is due, including extensions of time to file, or 30 days from the date shown on a notice of deficiency. Collateral determined acceptable by the department must be secured for payment of the estate tax. An extension to pay tax does not eliminate penalties for late filing of a return, and interest continues to accrue on unpaid tax at the rate provided in OAR 150-305.220(1). See 150-118.260.

(a) If a federal extension of time to pay has been obtained and acceptable collateral is secured for payment of the Oregon estate tax, the department will grant an extension to pay the Oregon estate tax for the same period of time as an approved federal extension. The executor must submit the Oregon extension request in writing and the estate must secure acceptable collateral for payment of the Oregon estate tax. A copy of the accepted federal extension must be submitted with the Oregon return.

(b) If reasonable cause exists and acceptable collateral is provided to the department, the department may grant an extension of time for payment of estate tax for up to 14 years, or, in the case of an estate tax deficiency, for a period of up to four years. If a federal extension of time to pay federal estate tax has been granted, the department may extend additional time for the payment of Oregon estate tax for up to 14 years if reasonable cause exists and acceptable collateral is provided.

(2) In general, reasonable cause exists if:

(a) The estate can pay the tax only by disposing of property for less than market value or by borrowing money at a rate in excess of the mortgage money market (on terms that would inflict loss on the estate), or

(b) The gross taxable estate includes a beneficial interest in one or more closely held businesses whose value exceeds either 35 percent of the gross taxable estate or 50 percent of the net taxable estate. For purposes of this rule:

(A) "Interest in a closely held business" means, as determined immediately before the decedent's death, an interest that was:

(i) An interest as a proprietor in a trade or business carried on as a proprietorship;

(ii) An interest as a partner in a partnership carrying on a trade or business, if the gross taxable estate includes 20 percent or more of the total capital interest in that partnership, or the partnership had 15 or fewer partners;

(iii) Stock in a corporation carrying on a trade or business, if 20 percent or more of the voting stock of such corporation is included in the gross taxable estate, or such corporation had 15 or fewer shareholders. Stock, or a partnership interest, that is held by a husband and wife as community property or as joint tenants, tenants by the entirety, or tenants in common, is treated as owned by one shareholder or one partner, whichever is applicable.

(B) "Trade or business" does not include an investment or holding company;

(C) An extension only applies to the portion of tax attributable to the closely held business. To determine the portion of tax attributable to the closely held business, divide the value of the interest in the closely held business by the taxable estate amount, and multiply that ratio by the computed net tax.

Example 1: A's estate assets included a retail store valued at \$900,000 that had been operated by the decedent. Listed securities, cash, a family residence and miscellaneous personal effects made up the balance. The taxable estate was \$1,300,000. The department may grant an extension for the payment of tax on the portion attributable to the value of the store; i.e. \$900,000 divided by \$1,300,000 multiplied by tax owed.

Example 2: B's taxable estate of \$1,400,000 included \$950,000 of stock in a closely held corporation. The balance of the property was listed securities and personal effects. The corporation was a holding company with the majority of corporate assets invested in real estate. The estate could not show that money could only be borrowed on terms that would inflict loss upon the estate. The department will not grant an extension of time to pay the tax.

Example 3: C's taxable estate of \$2,100,000 included farm land valued at \$1,050,000. The balance of the estate was real property, listed securities, cash and personal effects. The estate leased the farm land for cash rent, which is considered an investment in real property and not a trade or business; the department will not grant an extension for payment of tax.

Example 4: D's taxable estate of \$1,200,000 included a tree farm valued at \$800,000. The farm consisted of all pre-merchantable timber. The estate demonstrated that the farm could only be sold at a sacrifice price in a depressed market and that money could only be borrowed on terms that would inflict loss upon the estate. The department may grant an extension for payment of the tax that is attributable to the tree farm's value of \$800,000.

(3) The department generally will accept the following as collateral for purposes of extending the date for payment of tax:

(a) A first mortgage or trust deed on real property with a value at least double the amount of the tax paid on extension;

(b) A surety bond executed by a corporation licensed to do business in the State of Oregon. The bond must be at least double the amount of the tax paid on extension and must be renewed every five years.

(4) Collateral must be received within 60 days from the date the estate return is due, including extensions of time to file, or within 60 days from the date the estate return is filed, whichever is earlier.

(5) The executor must make payments in at least equal annual installments for the tax paid on extension, plus accrued interest. The department may cancel an extension of time to pay and collect the tax plus interest if any installment is not paid on or before its due date.

(6) The department may cancel an extension of time to pay and collect the tax plus interest if the value of the interest in a closely held business is reduced by one-third or more through sale, exchange or other disposition, or through aggregate withdrawals of money or other property.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 118.225
Hist.: 12-31-77; TC 9-1978, f. 12-5-78, cert. ef. 12-31-78; TC 19-1979, f. 12-20-79, cert. ef. 12-31-79; RD 4-1997, f. 9-12-97, cert. ef. 12-31-97; REV 10-2009, f. 12-21-09, cert. ef. 1-10-10; REV 6-2012, f. 7-20-12, cert. ef. 8-1-12

ADMINISTRATIVE RULES

150-118.250

Estate Tax Receipt

A receipt issued by the department as required by ORS 118.250 to an executor, trustee or other payor is not a final determination of the estate tax liability; the department may determine that an estate owes additional tax under ORS 118.010.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 118.250
Hist.: 9-74; 12-31-77; RD 15-1987, f. 12-10-87, cert. ef. 12-31-87; RD 4-1997, f. 9-12-97, cert. ef. 12-31-97; Renumbered from 150-118.250(1) by REV 6-2012, f. 7-20-12, cert. ef. 8-1-12

150-118.260

Penalties and Interest

(1) Penalties

(a) For purposes of determining the five percent penalty under ORS 118.260(1) or the 20 percent penalty under ORS 118.260(2), the tax required to be shown on the return is reduced by the amount of any tax that is paid on or before the due date of the return, excluding extensions.

(b) If an estate fails to file a return by the due date, including extensions, and also fails to pay the tax by the due date, only one five percent delinquency penalty will be added.

(c) ORS 305.145 and the rules implementing that statute apply to penalties imposed under ORS 118.260 and requests for waiver of penalty. The one-time penalty waiver provision provided by OAR 150-305.145(4) does not apply to penalties imposed under chapter 118.

(2) Interest on Refunds and Deficiencies

(a) A refund of an overpayment of estate tax accrues interest at the rates provided in OAR 150-305.220(2).

(b) A deficiency in tax accrues interest at the rates provided in OAR 150-305.220(1).

(c) For the estates of decedents who die on or after January 1, 2012, if an estate has been granted an extension to pay tax under ORS 118.225, or if a beneficiary has elected to defer payment of tax under ORS 118.300, interest accrues at the rates provided in OAR 150-305.220(1).

(d) For the estates of decedents who die on or after January 1, 2012, except as provided in (2)(c), if the estate tax is not paid within 60 days of assessment, the annual interest rates provided in OAR 150-305.220(1) are increased by four percentage points pursuant to ORS 305.222.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 118.250
Hist.: REV 6-2012, f. 7-20-12, cert. ef. 8-1-12

150-118.260(6)

Refund of Excess Payment

This rule applies to estates of decedents who die before January 1, 2012. Where payment exceeds the amount of tax shown by the return or as determined by audit of the return, the excess shall be refunded without application from the taxpayer. The Department does not have authority to pay interest on the refund for interest periods beginning prior to May 31, 1982.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 118.260(6)
Hist.: TC 10-1978, f. 12-5-78, cert. ef. 12-31-78; REV 6-2012, f. 7-20-12, cert. ef. 8-1-12

150-118.265

Application for Determination of Estate Tax and Discharge from Personal Liability

(1) The executor may apply to the Department of Revenue for a determination of tax due and discharge from personal liability of estate tax.

(2) The written application must include the following information:

(a) The name and date of death of the decedent;

(b) The decedent's Social Security Number;

(c) If the executor applies before filing the estate tax return, a copy of the decedent's will, the decedent's trust, or other document indicating the person is authorized to act on behalf of the estate.

(3) The discharge does not apply to tax liability resulting from assets of the decedent's estate that are still in the possession or control of the executor.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 118.260(6)
Hist.: REV 6-2012, f. 7-20-12, cert. ef. 8-1-12

150-118.300

Bond for Deferment of Tax

(1) A beneficiary electing to defer payment of the tax under ORS 118.300 must, within nine months of the decedent's death, file with the Director a signed statement indicating that the person has not come into actual possession or enjoyment of the property.

(a) A beneficiary of real property, as defined in ORS 111.005(28), is not required to provide a bond.

(b) A beneficiary of personal property, as defined in ORS 111.005(25), must give a bond to the State of Oregon in double the amount of the tax, with such sureties as the Director may approve, conditioned for the payment of the tax and accrued interest at such time and period as the beneficiary comes into actual possession or enjoyment of the property.

(2) The department will accept a bond:

(a) In a form approved by the Director and executed by a company licensed to issue surety insurance by the Oregon Department of Consumer and Business Services, Insurance Division;

(b) Executed by a corporate surety, other than a surety company, provided such corporate surety establishes that it is within its corporate powers to act as surety for another individual, partnership, association, or corporation; or

(c) Executed by two or more individual sureties meeting the requirements of subsection (2)(d) that is secured by a:

(A) A mortgage on real or personal property;

(B) A certified, cashier's or treasurer's check drawn on any bank authorized by the State Division of Finance and Corporate Securities to do business in the State of Oregon;

(C) A United States postal, bank, or express money order;

(D) Corporate bonds or stocks, or by bonds issued by the State of Oregon, or by a political subdivision of this state; or

(E) Any other collateral acceptable to the Director.

(d) Each surety that executes a bond under subsection (2)(c) must:

(A) Have property, including Oregon real property that is subject to execution and with a current market value net of all encumbrances that is at least equal to the penalty of the bond;

(B) Agree to not encumber the secured property while the bond continues in effect;

(C) Annually file an affidavit with the department as to the adequacy of the security.

(3) A beneficiary must file a return with the Director within six months of the date the person comes into actual possession or enjoyment of the property in question.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 118.300
Hist.: Eff. 9/71, Amended 12/19/75, 12/31/77; REV 6-2012, f. 7-20-12, cert. ef. 8-1-12

150-314.364(A)

Requirement to File Returns Electronically (Corporation E-file Mandate)

(1) All corporations required to electronically file their federal corporation tax return are required to electronically file their Oregon corporation tax return.

(2) Waivers.

(a) A waiver of the electronic filing requirement granted by the Internal Revenue Service (IRS) will be accepted by the department as a waiver to the mandate under section (1). The corporation must notify the department in writing when such a waiver is granted in accordance with the department's instructions.

(b) In addition to a waiver allowed under subsection (a), the department may grant a waiver of the mandate in section (1) if the following conditions are met:

(A) The corporation requests a waiver in accordance with the department's instructions; and

(B) The corporation's facts and circumstances are such that complying with the mandate would cause the corporation an undue financial hardship. The corporation's refusal to purchase or use the requisite software or computer equipment does not, in and of itself, satisfy the conditions for a waiver under this subsection.

(c) When circumstances warrant, the department may issue an administrative waiver of the mandate in section (1) when the department determines it is necessary to promote the effective and efficient administration of the tax system.

(3) If an electronic tax return cannot be accepted for processing electronically, the corporation must contact the department for assistance in correcting the rejected return errors. If the rejected return errors cannot be corrected, the corporation must receive authorization from the department prior to filing a paper return.

(4) This rule is applicable to corporation tax returns filed for tax years beginning on or after January 1, 2011.

Stat. Auth.: ORS 305.100 & 314.364
Stats. Implemented: 314.364
Hist.: REV 4-2011, f. 12-30-11, cert. ef. 1-1-12; Renumbered from 150-314.HB2071(A) by REV 6-2012, f. 7-20-12, cert. ef. 8-1-12

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Rule Caption: Verifying returns, alternative filing methods, separate refunds, credit auctions, eFile mandate, Oregon NOL.

Adm. Order No.: REV 7-2012

Filed with Sec. of State: 7-26-2012

Certified to be Effective: 8-1-12

Notice Publication Date: 6-1-2012

Rules Renumbered: 150-294.336 to 150-294.414, 150-294.376 to 150-294.358, 150-294.401(7) to 150-294.426(8), 150-294.430(1) to 150-294.453(1), 150-294.450(3) to 150-294.463(3), 150-294.555(2)-(B) to 150-294.458(3)-(B)

Rules Ren. & Amend: 150-294.326(3) to 150-294.338(2), 150-294.352(1)-(A) to 150-294.388(1)-(A), 150-294.352(8) to 150-294.388(7), 150-294.352 to 150-294.388, 150-294.371 to 150-294.398, 150-294.381(2) to 150-294.368(2), 150-294.416 to 150-294.438, 150-294.435(1)-(A) to 150-294.456(1)-(A), 150-294.435(1)-(C) to 150-294.456(1)-(C), 150-294.435(3) to 150-294.456(3), 150-294.480 to 150-294.471, 150-294.525-(A) to 150-294.346-(A), 150-294.525 to 150-294.346, 150-294.555(2)-(A) to 150-294.458(3)-(A), 150-310.060(7) to 150-294.311(6)

Subject: All the changes to the Chapter 294 rules are to renumber to match statute numbers and correct cites within the rule.

Rules Coordinator: Ken Ross—(503) 945-8890

150-294.338(2)

Budgeting Grants, Gifts, Bequests, and Devises

(1) All grants, gifts, bequests, and devises that have been partially received in a prior year must be included with the budget document. Similarly when the receipt and the amount of such items are known for the ensuing year, they also must be included although the grant, gift, bequest, or devise is for a specific purpose.

(2) Those grants, gifts, bequests, and devises for a specific purpose that have been received on a regular basis, that are expected to be received in the ensuing year, but the actual amount is uncertain, should be budgeted at an amount reasonably expected to be received. Monies received in amounts above those estimated in the budget document may be expended through the special provisions of ORS 294.338(2), after a resolution or ordinance providing the appropriation of such amounts is made. Those grants, gifts, bequests, and devises for a specific purpose that have not been received on a regular basis should also be included within the budget document where there exists a degree of certainty as to the receipt and amount for the ensuing year.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 294.338

Hist.: f. & cert. ef. 12/31/77; REV 4-1998, f. & cert. ef. 6-30-98, Renumbered from OAR 150-294.326(2); Renumbered from OAR 150-294.336-(B); Renumbered from 150-294.326(3), REV 7-2012, f. 7-26-12, cert. ef. 8-1-12

150-294.358

Detail Sheets for Biennial Budgets

(1) The detail sheets containing the estimates of resources and expenditures for a biennial budget must show the total estimated expenditures for both years of the ensuing budget period.

(2) The detail sheets containing the estimates of resources and expenditures for a biennial budget must show actual expenditures for the two budget periods preceding the current period, the estimated expenditures for the current budget period, and the estimated expenditures for the ensuing budget period. For the first three budget periods after changing from a fiscal year budget period to a biennial budget period, the sheet should contain a mix of single year data and biennial data. The fiscal year data will appear in the columns that represent budget periods that occurred before changing to biennial budgeting. This fiscal year data must not be “doubled” or “interpolated” to make it comparable to the data reported in the columns that represent biennial budget periods.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 294.358

Hist.: REV 2-2002, f. 6-26-02, cert. ef. 6-30-02; Renumbered from 150-294.376, REV 7-2012, f. 7-26-12, cert. ef. 8-1-12

150-294.368(2)

Estimating Tax Revenue for Biennial Budgets

(1) When estimating the amount of tax revenue in a biennial budget, follow the procedure in ORS 294.368 for both years of the ensuing budget period and then add the two single-year amounts to get the biennial total.

(2) Each year during the biennial budget period, when certifying the tax levy for the ensuing year, use the single-year estimate for the corresponding year for the purposes of complying with ORS 310.060.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 294.368

Hist.: REV 2-2002, f. 6-26-02, cert. ef. 6-30-02; Renumbered from 150-294.381(2), REV 7-2012, f. 7-26-12, cert. ef. 8-1-12

150-294.388

Proposed Expenditures-Required Presentation

Proposed expenditures presented within a traditional budget or a program budget must be detailed fully by object of expenditure and as a minimum, be classified by organization unit or program, and categorized into the object classifications listed in ORS 294.388(3) and (4) or according to the classification of accounts approved by the Department of Revenue under ORS 294.393. Organizational unit has the same meaning as found in OAR 150-294.311(31).

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 294.388

Hist.: 12-31-77, Renumbered from 150.294.351; TC 18-1979, f. 12-20-79, cert. ef. 12-31-79; Renumbered from 150-294.352, REV 7-2012, f. 7-26-12, cert. ef. 8-1-12

150-294.388(1)-(A)

Governmental Fund Definitions

(1) For the purpose of this rule “fund” means a fiscal and accounting entity with self-balancing accounts to record cash and other financial resources, related liabilities, balances and changes, all segregated for specific, regulated activities and objectives.

(2) Municipal corporations organized and operated on a fund accounting system shall prepare estimates of expenditures for the ensuing year using the following types of funds:

(a) The General Fund — To account for all financial resources except those required to be accounted for in another fund.

(b) Special Revenue Funds — To account for the proceeds of specific revenue sources (other than special assessments, expendable trusts, or for major capital projects) that are legally restricted to expenditure for specific purposes. Funds as defined in ORS 294.311(39) and 280.040(2) are examples of special revenue funds.

(c) Capital Projects Funds — To account for financial resources to be used for the acquisition or construction of major capital facilities (other than those financed by Proprietary Funds, Special Assessment Funds and Trust Funds).

(d) Debt Service Funds — To account for the accumulation of resources for, and the payment of, general long-term debt principal and interest.

(e) Special Assessment Funds -- To account for the financing of public improvements or services deemed to benefit the properties against which special assessments are levied.

(f) Enterprise Funds — To account for operations:

(A) That are financed and operated in a manner similar to private business enterprises — where the intent of the governing body is that the costs (expenses, including depreciation) of providing goods or services to the general public on a continuing basis be financed or recovered primarily through user charges; or

(B) Where the governing body has decided that periodic determination of revenues earned, expenses incurred, and/or net income is appropriate for capital maintenance, public policy, management control, accountability, or other purposes.

(g) Internal Service Funds — To account for the financing of goods or services provided by one department or agency to other departments or agencies of the governmental unit, or to other governmental units, on a cost-reimbursement basis.

(h) Trust and Agency Funds — To account for assets held by a governmental unit in a trustee capacity or as an agent for individuals, private organizations, other governmental units, and/or other funds. These include:

(A) Expendable Trust Funds;

(B) Nonexpendable Trust Funds;

(C) Pension Trust Funds; and

(D) Agency Funds.

(3) Estimates of expenditures and resources are not required to be budgeted if the following three criteria are met:

(a) The municipal corporation holds the resources merely for safe-keeping;

(b) Expenditure of the resources is not under the control of the municipal corporation or a third party chosen by the municipal corporation; and

(c) The resources are expended for a purpose other than that for which the municipal corporation levies a tax or expends funds.

(4) Estimates of expenditures and resources are not budgeted if the criteria of ORS 294.361(3) and 294.338(2) are met.

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(5) It is the intention of this administrative rule to adopt governmental fund definitions that are recognized as generally accepted governmental accounting principles.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 294.388
Hist.: RD 9-1986, f. & cert. ef. 12-31-86; REV 4-1998, f. & cert. ef. 6-30-98, Renumbered from 150-294.352(1); Renumbered from 150-294.352(1)-(A), REV 7-2012, f. 7-26-12, cert. ef. 8-1-12

150-294.388(7)

General Operating Contingencies

(1) An estimate for general operating contingency may be included in any operating fund. The general operating contingency is not a fund, but an appropriation within a fund. This type of appropriation is allowed on the assumption that in the operation of any municipal corporation certain expenditures will become necessary which cannot be foreseen and planned in the budget.

(a) The estimate for a general operating contingency, like other budget estimates, must be a good faith estimate. The estimate must be reasonable and based on past experience, comparable information, or through the use of risk analysis.

(b) The estimate for general operating contingencies must not be used to compensate for improper estimating practices in the preparation of the budget.

(2) A fund that finances an activity, the cost of which can be accurately estimated, must not include an appropriation for a general operating contingency.

Example 1: A debt service fund for general obligation bonds cannot include a general operating contingency. The requirements for a debt service fund are known at the time the budget is prepared. Therefore, there is no unknown or unascertainable aspect to the expenditures from the fund.

(3) A non-operating fund must not have an estimate for general operating contingencies.

Example 2: A reserve fund is used to save money for future expenditure. Since this is a type of nonoperating fund, it must not have an estimate for a general operating contingency. An expenditure must not be made directly from the general operating contingency appropriation. The amount must be transferred from the general operating contingency appropriation to another existing appropriation. The general operating contingency is then reduced, and the appropriation in question is increased correspondingly.

(a) The amount, in aggregate, that may be transferred by resolution of the governing body during any fiscal year or budget period is limited to 15 percent of the total appropriations budgeted in the fund, per ORS 294.463(2).

(b) Total transfers may exceed 15 percent of the total appropriation budgeted in a fund following the adoption of a supplemental budget prepared for that purpose. See ORS 294.471 for the supplemental budget process.

Example 3: The General Fund has total appropriations in the amount of \$100,000, including a \$20,000 appropriation for the general operating contingency. Only \$15,000 of the general operating contingency may be transferred (by one or more transfers) by a resolution of the governing body. Any portion of the remaining \$5,000 can be transferred only through a supplemental budget.

Stat. Auth.: ORS 305.100 & 294.495
Stats. Implemented: ORS 294.388
Hist.: 2-66; 12-67; RD 11-1984, f. 12-5-84, cert. ef. 12-31-84; REV 4-2004, f. 7-30-04 cert. ef. 7-31-04; Renumbered from 150-294.352(8), REV 7-2012, f. 7-26-12, cert. ef. 8-1-12

150-294.398

Unappropriated Ending Fund Balance

(1) A municipal corporation may include an estimate for unappropriated ending fund balance in its budget. This estimate is intended to provide the municipal corporation with the working capital or cash balance to finance activities for the period between July 1 of the ensuing fiscal year and the time when sufficient new revenues become available to meet cash flow needs of the fund. When calculating the amount of the unappropriated ending fund balance, the municipal corporation will determine the cash requirements of the ensuing fiscal year that must be met prior to the receipt of sufficient revenues. If all other resources estimated to be received during the same period are not sufficient to meet these needs an unappropriated fund balance may be budgeted. The maximum amount of cash or net working capital that may be budgeted as an unappropriated ending fund balance is the difference between the budget requirements except the unappropriated ending fund balance and the total resources of the fund.

(2) Unless unexpected expenditures result from civil disturbance, other calamity, or natural disaster defined in ORS 294.481, expenditure cannot be made from the unappropriated ending fund balance in the year or budget period in which it is budgeted. Except for the specific conditions cited in ORS 294.481, no action may be taken through resolution, ordinance or supplemental budget to spend these monies. It is not necessary to include the unappropriated ending fund balance in the schedule of appro-

priations. Any amount carried over by reason of an unappropriated ending fund balance becomes a budget resource in the fiscal year or budget period following the one for which the unappropriated ending fund balance is being budgeted.

(3) For those municipal corporations that adopt a biennial budget, an unappropriated ending fund balance may be included to cover the cash requirements that must be met prior to the receipt of sufficient revenues only in the first year of the ensuing budget period. Cash requirements in the second year of a biennial budget must be estimated, budgeted, and appropriated.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 294.398
Hist.: 2-66; 12-67; TC 18-1979, f. 12-20-79, cert. ef. 12-31-79; RD 15-1982, f. 12-6-82, cert. ef. 12-31-82; RD 11-1984, f. 12-5-84, cert. ef. 12-31-84; REV 4-1998, f. & cert. ef. 6-30-98; REV 2-2002, f. 6-26-02, cert. ef. 6-30-02; Renumbered from 150-294.371, REV 7-2012, f. 7-26-12, cert. ef. 8-1-12

150-294.414

Quorum Necessary to Hold Meeting

A budget committee must have a quorum, or majority of the total membership of the committee, present in order to hold a meeting. To take any action requires the affirmative vote of a majority of the total budget committee membership. Majority is defined as one more than half unless otherwise specified by law.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 294.414
Hist.: RD 5-1989, f. 12-18-89, cert. ef. 12-31-89; REV 4-1998, f. & cert. ef. 6-30-98, Renumbered from OAR 150-294.336-(B); Renumbered from 150-294.336, REV 7-2012, f. 7-26-12, cert. ef. 8-1-12

150-294.426(8)

Charging for Budget Document Copies

(1) The budget document of a municipal corporation becomes a public record as defined under ORS 192.410(4) at the time the proposed budget is filed with the office of the governing body. It remains a public record throughout the budget process and after adoption. Municipal corporation budget documents are not exempt from disclosure under Oregon law so they may be inspected by interested individuals. ORS 192.440 authorizes the custodian of any public record to give a copy of the record to a person when requested.

(2) A municipal corporation may charge a fee for a copy of any version of the budget under ORS 192.440.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 294.426
Hist.: RD 5-1989, f. 12-18-89, cert. ef. 12-31-89; REV 4-1998, f. & cert. ef. 6-30-98; Renumbered from 150-294.401(7), REV 7-2012, f. 7-26-12, cert. ef. 8-1-12

150-294.438

Reporting Historical Data for Published Budget Summaries

(1) For purposes of complying with ORS 294.438, the published budget summary for a biennial budget must show the total amount of estimated budget resources and expenditures for both years of the ensuing biennial budget period as approved by the budget committee.

(2) The summary of the ensuing biennial budget must be compared to the actual expenditures and budget resources of the most recent preceding budget period and to the estimates for the current budget period.

(3) When changing from a fiscal year budget to a biennial budget, there will be several budget periods in which the published budget summary contains a mix of single year data and two-year biennial data. This fiscal year data must not be "doubled" or "interpolated" to make it comparable to the data reported in the columns that represent biennial budget periods.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 294.438
Hist.: REV 2-2002, f. 6-26-02, cert. ef. 6-30-02; Renumbered from 150-294.416, REV 7-2012, f. 7-26-12, cert. ef. 8-1-12

150-294.453(1)

Quorum Necessary to Hold Meeting

To hold a budget hearing there must be a quorum, or majority of the total governing board membership present. To take any action requires the affirmative vote of a majority of the total governing board. Majority is defined as one more than half unless otherwise specified by law.

Stat. Auth.: ORS 305.100
Stats. Implemented: ORS 294.453
Hist.: RD 5-1989, f. 12-18-89, cert. ef. 12-31-89; Renumbered from 150-294.430(1), REV 7-2012, f. 7-26-12, cert. ef. 8-1-12

150-294.456(1)-(A)

Property Taxes Certified

(1) The amount or rate of any property tax proposed to be certified by a municipal corporation which is subject to Local Budget Law cannot

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exceed the amount or rate approved by the budget committee. The budget committee must approve the amount or the rate of each tax to be lawfully certified to the assessor. Any portion of the certified tax exceeding the amount or the rate approved by the budget committee that was not included in a budget summary republished as required by ORS 294.456(1)(c) will not be extended by the assessor on the assessment roll except as provided in 294.476.

(2) The budget committee of a municipal corporation which is subject to Local Budget Law that adopts a biennial budget must approve the total amount or the rate of each tax to be certified each year. Taxes must be certified in each year of the budget period. Any portion of the certified tax exceeding the amount or the rate approved by the budget committee for either year of the budget period that was not included in a republished budget summary will not be extended by the assessor on the assessment roll except as provided in ORS 294.476.

(3) The budget document must include a complete detail of proposed expenditures requiring levy of property taxes.

Stat. Auth.: ORS 305.100 & 294.495

Stats. Implemented: ORS 294.456

Hist.: 2-69; TC 10-1978, f. 12-5-78, cert. ef. 12-31-78, Renumbered from 150-294.435; REV 4-1998, f. & cert. ef. 6-30-98; REV 2-2002, f. 6-26-02, cert. ef. 6-30-02; REV 17-2008, f. 12-26-08, cert. ef. 1-1-09; REV 4-2011, f. 12-30-11, cert. ef. 1-1-12; Renumbered from 150-294.435(1)-(A), REV 7-2012, f. 7-26-12, cert. ef. 8-1-12

150-294.456(1)-(C)

Publishing of Amended Budget Document

When publishing an amended budget document, the governing body must include the following information using the same publishing procedures as the original summary described under ORS 294.448:

(1) The date, time, and place of the hearing on the amended budget.

(2) The place and times the amended budget document is available for inspection.

(3) A financial summary of the total budget described in ORS 294.438, as amended by the governing body.

(4) A reference to the date and publication that the budget as approved by the budget committee was originally published. For example: "To review the budget as approved by the budget committee prior to this amendment, see page 5 in the May 1, 2003, edition of the Beach Bugle."

Stat. Auth.: ORS 305.100 & 294.456

Stats. Implemented: ORS 294.456

Hist.: REV 6-2003, f. & cert. ef. 12-31-03; REV 4-2011, f. 12-30-11, cert. ef. 1-1-12; Renumbered from 150-294.435(1)-(C), REV 7-2012, f. 7-26-12, cert. ef. 8-1-12

150-294.456(3)

Manner of Appropriations

(1) Funds must be appropriated by organizational unit or program. For funds that are not broken down by organizational units or programs, appropriations must be made by personnel services, materials and services, capital outlay, debt service, special payments, interfund revenue transfers, and operating contingencies for the fund.

(2) When adopting a biennial budget the appropriated amount is the total for the fund for both years of the ensuing budget period.

(3) When adopting an annual budget the appropriated amount is the total for the ensuing fiscal year.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 294.456

Hist.: 12-31-77; TC 10-1978, f. 12-5-78, cert. ef. 12-31-78, Renumbered from 150-294.435; TC 18-1979, f. 12-20-79, cert. ef. 12-31-79; REV 2-2002, f. 6-26-02, cert. ef. 6-30-02; Renumbered from 150-294.435(3), REV 7-2012, f. 7-26-12, cert. ef. 8-1-12

150-294.463(3)

Transfers of Appropriations

(1) A transfer of appropriation is a decrease of one existing appropriation and a corresponding increase of another existing appropriation category.

(2) During the fiscal year or budget period the governing body of a municipal corporation may transfer from one existing appropriation category within a fund to another existing appropriation category in the same fund when a resolution or ordinance is adopted that authorizes this transfer. The resolution or ordinance must state the purpose of the transfer, and the amount of the transfer. The appropriation reductions must equal the appropriation increases. The net effect of this change on the total appropriation in the fund must be zero.

(3) Transfer of appropriations and a like amount of budget resources may be made between funds by governing body resolution or ordinance. Transfer of appropriation and a like amount of resources to another fund is accomplished by increasing or creating, a "transfer to other funds" appropriation category in the fund from which the transfer is made. The amount of this increased or created appropriation must be offset by reductions in

one or more other appropriation categories in the fund from which the transfer is made. The net effect of this change on the total appropriation in the fund from which the transfer is made must be zero. Appropriation categories in the receiving fund are increased by the amount of the transfer, and the budget resources available to that fund are increased by the amount of resources transferred from the fund from which the transfer is made.

(4) Transfers referred to in this rule apply to transfers that occur after the budget has been approved and that are made during the fiscal year or budget period for which the appropriations are made. Nothing in this rule prohibits or regulates lawful transfers that have been budgeted in accordance with local budget law.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 294.463

Hist.: RD 5-1985, f. 12-26-85, cert. ef. 12-31-85; REV 2-2002, f. 6-26-02, cert. ef. 6-30-02; REV 11-2010, f. 7-23-10, cert. ef. 7-31-10; Renumbered from 150-294.450(3), REV 7-2012, f. 7-26-12, cert. ef. 8-1-12

150-294.471

Supplemental Budget Procedures

(1) During the fiscal year or budget period, the governing body may find that an unanticipated condition requires adjustments to the budget. If the condition meets the requirements of ORS 294.471, the governing body may prepare a supplemental budget.

(2) A supplemental budget may only authorize additional expenditures during the current fiscal year or budget period. It must not authorize expenditures for a past or future fiscal year or budget period.

(3) A supplemental budget that is being prepared to create or increase an appropriation must be adopted before any expenditures are made in excess of the current annual budget appropriations.

(4) Only one supplemental budget may be prepared as a result of a single situation or condition that meets the requirements of ORS 294.471.

(5) When the estimated expenditures in the supplemental budget differ by 10 percent or less from the expenditures of the adopted annual or biennial budget for each fund being adjusted, the governing body may adopt the supplemental budget at one of its regular meetings. Fund expenditures do not include unappropriated ending fund balance, amounts reserved for future expenditure, interfund transfers, or contingency amounts.

(a) Notice of the regular meeting at which the supplemental budget will be adopted must be published by one of the methods in ORS 294.311(35) not less than 5 days before the meeting. The notice must include a statement that a supplemental budget will be considered at the meeting.

(b) The resolution adopting and appropriating the supplemental budget may take place at the same regular meeting.

(6) When a new fund is being established or when the estimated expenditures in the supplemental budget differ by more than 10 percent from the expenditures in the budget as most recently amended prior to the supplemental budget, the governing body must publish notice and hold a public hearing before adopting the supplemental budget. The notice of the hearing must include for each fund being adjusted by more than 10 percent: the name of the fund; and the new total for each resource line item or appropriation category being changed, added or deleted.

Example: (This example is of the published summary of a supplemental budget. in which the new total expenditure in the Utility Fund differs by more than 10 percent from the amount currently budgeted.) The supplemental budget transfers \$20,000 in resources and appropriation authority from the General Fund to the Utility Fund Materials and Services, increasing that appropriation and the total expenditure in the Utility Fund to a new total of \$40,000.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 294.471

Hist.: TC 10-1978, f. 12-5-78, cert. ef. 12-31-78; RD 1-1992, f. 5-28-92, cert. ef. 6-1-92; REV 4-1998, f. & cert. ef. 6-30-98; REV 8-2000, f. & cert. ef. 8-2-00; REV 2-2002, f. 6-26-02, cert. ef. 6-30-02; REV 5-2009, f. & cert. ef. 7-31-09; REV 4-2011, f. 12-30-11, cert. ef. 1-1-12; Renumbered from 150-294.480, REV 7-2012, f. 7-26-12, cert. ef. 8-1-12

150-294.346

Establishing a Financial Reserve Fund

Reserves funds under ORS 294.346 may be established only for those purposes set out in ORS 280.050; i.e., for the financing of a service, project, property or equipment which the municipal corporation is authorized to perform, construct or acquire and for repairs and improvements thereto and maintenance and replacement thereof. Reserves for undefined purposes or projects are not permitted.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 294.346

Hist.: REV 4-1999, f. 12-1-99, cert. ef. 12-31-99, Renumbered from 150-280.100; Renumbered from 150-294.525, REV 7-2012, f. 7-26-12, cert. ef. 8-1-12

ADMINISTRATIVE RULES

150-294.346-(A)

“Reserved for Future Expenditure” Requirement

(1) “Reserved for future expenditure” means a budget requirement which is not intended to be expended during the fiscal year or budget period in which it is budgeted. This requirement shows the amount a municipal corporation plans to “save” for future financing of a service, project, property or equipment which the municipal corporation is authorized to perform, construct or acquire.

(2) An amount reserved for future expenditure may be appropriated during the fiscal year or budget period if the situation meets the conditions for a supplemental budget outlined in ORS 294.471(1) or as otherwise authorized by law.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 294.346

Hist.: REV 4-1999, f. 12-1-99, cert. ef. 12-31-99, Renumbered from 150-280.100(A); REV 2-2002, f. 6-26-02, cert. ef. 6-30-02; REV 4-2011, f. 12-30-11, cert. ef. 1-1-12; Renumbered from 150-294.525-(A), REV 7-2012, f. 7-26-12, cert. ef. 8-1-12

150-294.458(3)-(A)

Documents to File When Certification Cannot Be Certified By July 15

(1) In those instances where the municipal corporation cannot certify to the assessor by July 15, the municipal corporation shall submit, to the county assessor, a written request for an extension stating the reason for request.

(2) Not later than the extension date granted by the assessor, the municipal corporation shall file two copies of the following documents with the county assessor, and where required, one copy with the Tax Supervising and Conservation Commission:

(a) Notice of categorization and certification, (LB-50, UR-50 or ED-50);

(b) The final resolution or ordinance adopting the budget, making the appropriations, and declaring and categorizing the tax for each fund;

(c) Sample ballots of all local option tax levies recently approved by the voters to be imposed for the first time; and

(d) Sample ballots of all newly established permanent rates approved by the voters and to be imposed for the first time.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 294.458

Hist.: TC 10-1978, f. 12-5-78, cert. ef. 12-31-78, Renumbered from 150-294.555; TC 18-1979, f. 12-20-79, cert. ef. 12-31-79; RD 11-1984, f. 12-5-84, cert. ef. 12-31-84; RD 5-1985, f. 12-26-85, cert. ef. 12-31-85; RD 12-1987, f. 12-18-87, cert. ef. 12-31-87; RD 9-1990, f. 12-20-90, cert. ef. 12-31-90; REV 4-1998, f. & cert. ef. 6-30-98; Renumbered from 150-294.555(2)-(A), REV 7-2012, f. 7-26-12, cert. ef. 8-1-12

150-294.458(3)-(B)

Budget Certification Document to Be Submitted

(1) Local governments imposing a tax on property shall submit two copies of the following documents to the assessor’s office:

(a) The resolution statements that adopt the budget, make appropriations, categorize the tax and levy the taxes.

(b) The notice of property tax certification form (LB-50, UR-50 or ED-50).

(c) Voter approved ballot measures for new local option taxes.

(d) Voter approved ballot measure for the establishment of a permanent rate.

(2) Local governments that do not levy an ad valorem tax but are subject to Local Budget Law (ORS 294.305 to 294.565) shall file directly with the Oregon Department of Revenue a copy of the resolution adopting the budget and making appropriations.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 294.458

Hist.: RD 5-1989, f. 12-18-89, cert. ef. 12-31-89; RD 9-1990, f. 12-20-90, cert. ef. 12-31-90; RD 8-1992, f. 12-29-92, cert. ef. 12-31-92; RD 2-1994, f. 12-15-94, cert. ef. 12-31-94; REV 4-1998, f. & cert. ef. 6-30-98; Renumbered from 150-294.555(2)-(B), REV 7-2012, f. 7-26-12, cert. ef. 8-1-12

150-294.311(6)

Definition of Budget Document

(1) The complete copy of the budget document filed with the county clerk under ORS 294.458 must include the following:

(a) A copy of the two notices of the budget committee meeting showing the dates published, or an affidavit of publication, accompanying a copy of the actual publications;

(b) A copy of the notice of budget hearing showing the date published, or an affidavit of publication, accompanying a copy of the actual publications;

(c) A copy of all of the budget detail sheets;

(d) A copy of the resolution statements or ordinance that adopt the budget, and make appropriations;

(e) If the district is imposing taxes on property subject to ad valorem property taxation, a copy of the resolution statement or ordinance that imposes the tax;

(f) If the district is imposing taxes on property subject to ad valorem property taxation, a copy of the resolution statement or ordinance that categorizes the tax for purposes of Article XI, section 11(b), of the Oregon Constitution;

(g) If the district is imposing taxes on property subject to ad valorem property taxation, a copy of the Notice of Property Tax Levy form;

(h) Sample ballots of any new ad valorem tax authority approved by the voters and being used for the first time by the district.

(2) The budget document may include any other document the district chooses to include.

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 294.311

Hist.: REV 3-2001, f. 7-31-01, cert. ef. 8-1-01; Renumbered from 150-310.060(7), REV 7-2012, f. 7-26-12, cert. ef. 8-1-12

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Department of Transportation

Chapter 731

Rule Caption: Interrogatories not allowed in certain contested cases.

Adm. Order No.: DOT 4-2012

Filed with Sec. of State: 7-19-2012

Certified to be Effective: 7-19-12

Notice Publication Date: 6-1-2012

Rules Amended: 731-001-0005

Subject: On January 31, 2012, the Oregon Attorney General’s office adopted OAR 137-003-0566 that requires discovery methods for agency contested case hearings. Section (2) of the rule authorizes agencies to opt out of some or all discovery methods under certain conditions. ODOT has determined the use of interrogatories for contested case hearings will unduly complicate or interfere with the hearing process given the volume of cases and the need for informality in cases involving the following Divisions or programs: Motor Carrier Transportation Division; Driver and Motor Vehicles Services Division; and in the Highway Division, Access Management and Right-of-Way Relocation Benefits cases. ODOT believes alternative discovery and alternative procedure for sharing relevant information are sufficient to ensure fundamental fairness in these types of proceedings.

This permanent amendment of OAR 731-001-0005 replaces a temporary amendment ODOT filed on February 21, 2012.

Rules Coordinator: Lauri Kunze—(503) 986-3171

731-001-0005

Model Rules of Procedure

(1) Pursuant to ORS 183.341, the Oregon Transportation Commission adopts the following portions of Oregon Administrative Rules chapter 137, effective January 31, 2012 as the general administrative procedural rules for the Oregon Transportation Commission and the Oregon Department of Transportation: division 1, division 2, division 3, division 4 and division 5, excluding OAR 137-003-0001 through 137-003-0092, and 137-003-0566(1)(e) as described in section (2) of this rule.

(2) Written interrogatories described under OAR 737-003-0566(1)(e) do not apply to contested cases for: Motor Carrier Transportation Division; Driver and Motor Vehicle Services Division; and Highway Division for Access Management and Right-of-Way Relocation Benefits.

[ED. NOTE: The full text of the Attorney General’s Model Rules of Procedure is available from the office of the Attorney General or the Department of Transportation.]

Stat. Auth.: ORS 183.341, 184.616 & 184.619

Stats. Implemented: ORS 183.341

Hist.: HC 1207, f. & ef. 10-9-69; HC 1245, f. & ef. 2-12-71; HC 1276, f. & 3-3-72, ef. 3-15-72; 1 OTC 1(Temp), f. & ef. 7-18-73; 1 OTC 2, f. & ef. 9-26-73; 1 OTC 3, f. 10-15-73, ef. 11-25-73; 1 OTC 68, f. & ef. 1-23-76; 1 OTC 3-1978, f. & ef. 3-29-78; 1 OTC 3-1980(Temp), f. & ef. 1-16-80; 1 OTC 7-1980, f. & ef. 3-28-80; 1 OTC 4-1981, f. & ef. 11-24-81; 1 OTC 1-1984, f. & ef. 1-6-84; 1 OTC 3-1986, f. & ef. 4-28-86; DOT 1-1988, f. & ef. 8-22-88; DOT 4-1990, f. & cert. ef. 8-14-90; DOT 1-1992, f. & cert. ef. 5-12-92; DOT 2-1994, f. & cert. ef. 3-17-94; DOT 2-1995, f. 11-21-95, cert. ef. 1-1-96; DOT 2-1997, f. & cert. ef. 12-23-97; DOT 2-2000, f. & cert. ef. 6-8-00; DOT 1-2002, f. & cert. ef. 1-17-02; DOT 2-2004, f. & cert. ef. 2-23-04; DOT 1-2006, f. & cert. ef. 1-24-06; DOT 1-2011, f. & cert. ef. 5-27-11; DOT 1-2012(Temp), f. & cert. ef. 2-21-12 thru 8-15-12; DOT 4-2012, f. & cert. ef. 7-19-12

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Rule Caption: Tollway Rules.

Adm. Order No.: DOT 5-2012

Filed with Sec. of State: 7-19-2012

ADMINISTRATIVE RULES

Certified to be Effective: 7-19-12

Notice Publication Date: 6-1-2012

Rules Adopted: 731-040-0052, 731-040-0053, 731-040-0054, 731-040-0055, 731-040-0056, 731-040-0057, 731-040-0058, 731-040-0059, 731-040-0062, 731-040-0064

Rules Amended: 731-040-0010, 731-040-0020, 731-040-0030, 731-040-0050

Rules Repealed: 731-040-0040, 731-040-0060, 731-040-0070, 731-040-0080

Subject: ORS Chapter 383 was completely rewritten in 2007. Revised ORS Chapter 383 requires ODOT to adopt rules. This rule-making is designed to implement the rewritten statutes.

Rules Coordinator: Lauri Kunze—(503) 986-3171

731-040-0010

Purpose

(1) OAR 731-040-0010 through 731-040-0064 describe the process for initiating, evaluating, authorizing and administering tollway projects on state right of way proposed by private entities, local or regional governments and the Oregon Department of Transportation, and the establishment of tolling and toll rates. They include requirements for submitting project proposals; guidelines for considering financial and other issues; and requirements for consistency with other local, state and federal policies and processes. OAR 731-040-0010 through 731-040-0064 shall be cited as the Tollway Rules.

(2) Public-Private Partnerships as defined in OAR 731-070-0005 and proposed under the Oregon Innovative Partnerships Program (ORS 367.800 through 367.826) are subject to rules established in chapter 731, division 70, in addition to these rules as applicable.

Stat. Auth.: ORS 184.616, 184.619, 383.004 & 383.015

Stats. Implemented: ORS 383

Hist.: DOT 3-1997, f. & cert. ef. 12-29-97; DOT 5-2012, f. & cert. ef. 7-19-12

731-040-0020

Definitions

As used in OAR 731-040-0020 through 731-040-0064:

(1) "Commission" means the Oregon Transportation Commission.

(2) "Department" means the Department of Transportation.

(3) "Director" means the Director of the Oregon Department of Transportation or the designee thereof.

(4) "Interstate bridge" means a bridge over both a waterway that contains a boundary line with another state and the boundary line.

(5) "Private entity" has the meaning given in ORS 383.003.

(6) "Related facility" has the meaning given in ORS 383.003.

(7) "State Tollway Account" has the meaning given in ORS 383.009.

(8) "Toll" has the meaning given in ORS 383.003.

(9) "Tollway" has the meaning given in ORS 383.003.

(10) "Tollway project" has the meaning given in ORS 383.003.

(11) "Toll rate" means either a specific amount charged for the use of a tollway by a specific category of vehicle, or the specific formula for calculating an amount charged for the use of a tollway by a specific category of vehicle.

(12) "Unit of government" has the meaning given in ORS 383.003.

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

Stat. Auth.: ORS 184.616, 184.619, 383.003, 383.004, 383.014 & 383.015

Stats. Implemented: ORS 383

Hist.: DOT 3-1997, f. & cert. ef. 12-29-97; DOT 5-2012, f. & cert. ef. 7-19-12

731-040-0030

Initiation by Public and Private Entities and Administrative Fee

(1) A unit of government may propose a tollway project at any time. The department shall not assess an administrative fee to evaluate proposals from a unit of government.

(2) Private entities may propose tollway projects at any time. The department shall charge an administrative fee of \$40,000 to review tollway projects proposed by private entities.

(3) The department shall consider and authorize tollway project proposals according to the criteria in OAR 731-040-0050.

(4) Fees charged for review of proposals will be deposited in the State Tollway Account.

(5) The department may utilize a competitive process in soliciting or evaluating proposals from private entities.

Stat. Auth.: ORS 184.616, 184.619 & 383.015

Stats. Implemented: ORS 383

Hist.: DOT 3-1997, f. & cert. ef. 12-29-97; DOT 5-2012, f. & cert. ef. 7-19-12

731-040-0050

Evaluation and Authorization

(1) Tollway project proposals submitted for consideration under the Oregon Innovative Partnerships Program (ORS 367.800- 367.826) are not subject to OAR 731-040-0050.

(2) When reviewing a proposal from private entities, local or regional governments, the department, or other units of government having an interest in the installation of a tollway to authorize a tollway project, the commission will consider:

(a) The opinions and interests of units of government encompassing or adjacent to the path of the proposed tollway project in having the tollway installed;

(b) The probable impact of the proposed tollway project on local environmental, aesthetic and economic conditions and on the economy of the state in general, considered in a manner similar to the way these factors are considered for other highway projects;

(c) The extent to which funding other than state funding is available for the proposed tollway project, considered in a manner similar to the way other funds are considered for other highway projects;

(d) The likelihood that the estimated use of the tollway project will provide sufficient revenues to independently finance the costs related to the construction and future maintenance, repair and reconstruction of the tollway project, including the repayment of any loans to be made from moneys in the State Tollway Account;

(e) With respect to tollway projects, any portion of which will be financed with state funds or department loans or grants:

(A) The relative importance of the proposed tollway project compared to other proposed tollways; and

(B) Traffic congestion and economic conditions in the communities that will be affected by competing tollway projects, and the extent to which these conditions are diminished or improved;

(f) The effects of tollway implementation on community and local street traffic, their magnitude, and expected impacts on community livability as estimated by the department;

(g) The purpose and goals of the proposal and their consistency with the other factors considered here;

(h) The use of toll revenue in addition to toll revenue used to pay tollway costs, including but not limited to debt service and costs connected with the issuance or administration of bonds or other financial obligations, acquisition, design, construction, reconstruction, improvement, installation, maintenance, operation and repair; consistent with Oregon statutes and the Oregon Constitution;

(i) The extent of business and public support;

(j) Whether the tollway facility can be operated as proposed;

(k) Whether the proposal is well enough developed to be included in the current or a future Statewide Transportation Improvement Program;

(L) The effect on funding for other projects in the current or a future Statewide Transportation Improvement Program; and

(m) Whether implementation of the proposal would violate Federal rules or statutes.

(3) Proposers shall address all of the above criteria in each proposal. Proposals shall be submitted to the department, and the department will review each proposal to determine if the proposal is complete. Within 45 days from when the department determines that the proposal is complete, the director will submit the proposal and department comments, if any, to the commission for review.

(4) No tollway project shall be authorized unless the commission finds that either:

(a) Based on the department's estimate of present and future traffic patterns, the revenues generated by the tollway project will be sufficient, after payment of all obligations incurred in connection with the acquisition, construction and operation of such tollway project, to ensure the continued maintenance, repair and reconstruction of the tollway project without the contribution of additional public funds; or

(b) The revenues generated by the tollway project will be at least sufficient to pay its operational expenses and a portion of the costs of its construction, maintenance, repair and reconstruction, and the importance of the tollway project to the welfare or economy of the state is great enough, as determined by the commission, to justify the use of public funding for a portion of its construction, maintenance, repair and reconstruction.

(5) After consideration of all of the above factors, the commission, in a duly noticed meeting, may authorize a proposed tollway project for further study, may authorize a proposal for further study subject to conditions that must be met by the proposer, or may refuse to authorize the proposal.

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The commission's authorization for further study shall not include an application of the state land use goals and shall not be a land use decision.

(6) For a tollway project proposal authorized for further study by the commission under this section, the commission may conduct or cause to be conducted any geological, environmental, land use, engineering or other studies required by law as a condition of construction.

(7) The commission shall not consider authorizing a proposed tollway project for construction until the tollway project has been included as a tollway in the local or regional transportation system plan of jurisdictions in which the project would be located. In addition, the commission must find the proposed project to be consistent with the policies and actions adopted in the Oregon Transportation Plan and the Oregon Highway Plan as of July 19, 2012.

(8) After consideration of the results of any studies undertaken under OAR 731-040-0050(5) and (6) as well as the other factors listed in this rule, the commission, in a duly noticed meeting, may authorize the proposed tollway project for construction, may conditionally authorize the proposed tollway project for construction, or may refuse to authorize the proposed tollway project for construction. After a tollway project is authorized or conditionally authorized for construction, it will be added to the Statewide Transportation Improvement Program.

(9) The commission may refer the proposal or specific components of the proposal to the department for analysis and recommendations at any time before it issues findings;

(10) The commission will issue findings to support its decision to authorize, conditionally authorize or not authorize a tollway project for either further study or construction.

Stat. Auth.: ORS 184.616, 184.619 & 383.015
Stats. Implemented: ORS 383

Hist.: DOT 3-1997, f. & cert. ef. 12-29-97; DOT 5-2012, f. & cert. ef. 7-19-12

731-040-0052

Process for Reviewing and Approving the Establishment of Tolling and Toll Rates; Generally

(1) When reviewing a proposal from private entities, local or regional governments, or the department to establish tolls and set toll rates on either a project authorized under OAR 731-40-0050, including tolls on an existing non-tolled state transportation facility; or a project that has a detailed proposal approved by the commission under OAR 731-070-0170; the commission will consider:

(a) The amount and classification of the traffic using, or anticipated to use, the tollway;

(b) The amount of the toll proposed to be established for each class or category of tollway user and, if applicable, the different amounts of the toll depending on time and day of use;

(c) The extent of the tollway, including improvements necessary for tollway operation and improvements necessary to support the flow of traffic onto or off of the tollway;

(d) The location of toll plazas or toll collection devices to collect the toll for the tollway;

(e) The cost of constructing, reconstructing, improving, installing, maintaining, repairing and operating the tollway;

(f) The amount of indebtedness incurred for the construction of the tollway and debt service requirements, if any;

(g) The value of assets, equipment and services required for the operation of the tollway;

(h) The period of time during which the toll will be in effect;

(i) The process for altering the amount of the toll during the period of operation of the tollway;

(j) The methods of collecting the toll;

(k) The rate of return that would be fair and reasonable for a private equity holder, if any, in the tollway;

(L) Whether the department concurs that the tollway can be operated as proposed;

(m) The purpose and goals of the proposal, and their consistency with the other factors considered here;

(n) The use of tollway revenue;

(o) Consistency with Oregon statutes and the Oregon Constitution; and

(p) Whether implementation of the proposal would violate Federal rules or statutes.

(2) The commission may approve, conditionally approve, or disapprove proposals, and the proposals may be revised and re-submitted for consideration. Commission decisions and findings will be issued in writing.

(3) This rule applies to all proposals to establish tolls on a state highway or highways, including those submitted by the department and those submitted jointly with the department under ORS 367.800 – 367.826.

Stat. Auth.: ORS 184.616, 184.619 & 383.004

Stats. Implemented: ORS 383

Hist.: DOT 5-2012, f. & cert. ef. 7-19-12

731-040-0053

Proposals for Establishment of Tolling under OAR 731-040-0052

(1) Proposers shall address all of the criteria in OAR 731-040-0052 in each proposal. Proposals shall be submitted to the director, and the department will review the proposal to determine if the proposal is complete.

(2) Within 45 days from when the department determines that the proposal is complete, the director will submit the proposal, any accompanying documents, and department comments, if any, to the commission for review.

Stat. Auth.: ORS 184.616, 184.619 & 383.004

Stats. Implemented: ORS 383

Hist.: DOT 5-2012, f. & cert. ef. 7-19-12

731-040-0054

Additional Process for Reviewing and Approving the Establishment of Tolling and Toll Rates on Interstate Bridges

(1) When reviewing a proposal to establish tolling and set toll rates on an interstate bridge that is or will be a state highway, the commission will consider:

(a) Each of the considerations established in OAR 731-40-0052;

(b) Whether another state has any authority over the bridge;

(c) Whether the proposal has been authorized or is expected to be authorized, by the governing body with jurisdiction over the proposal in the other state linked to Oregon by the bridge;

(d) Whether the proposal is consistent with conditions imposed by the governing body with jurisdiction over the proposal in the other state, if any;

(e) Whether the proposer has legal authority to implement the project in the other state, and if not, the level of coordination between the proposer and the entity having such authority; and

(f) Existing bi-state agreements on tolls and tollway projects.

(2) The commission may approve, conditionally approve, or disapprove proposals, and the proposals may be revised and re-submitted for consideration. Commission decisions and findings will be issued in writing.

(3) This rule applies to all proposals to establish tolls on an interstate bridge that is or will be a state highway, including those submitted by the department, those submitted jointly with the department under the authority of ORS 381.010 or ORS 381.098, and those submitted jointly with the department under ORS 367.800 - 367.826.

Stat. Auth.: ORS 184.616, 184.619, 381.010, 381.098 & 383.004

Stats. Implemented: ORS 383

Hist.: DOT 5-2012, f. & cert. ef. 7-19-12

731-040-0055

Proposals for OAR 731-040-0054, Interstate Bridges

(1) Proposers shall address all of the criteria in OAR 731-040-0052 and 731-040-0054. Proposals shall be submitted to the director and the department will review the proposal to determine if the proposal is complete.

(2) Within 45 days from when the department determines that the proposal is complete, the director will submit the proposal, any accompanying documents, and department comments, if any, to the commission for review.

(3) If a proposal is submitted under this section, no proposal needs to be submitted under OAR 731-040-0053.

Stat. Auth.: ORS 184.616, 184.619, 381.010, 381.098 & 383.004

Stats. Implemented: ORS 383

Hist.: DOT 5-2012, f. & cert. ef. 7-19-12

731-040-0056

Process for Reviewing and Approving Revised Toll Rates, Generally

(1) Toll rates previously approved through the process in OAR 731-040-0052 or OAR 731-0040-0054, including anticipated formulaic changes in rates, are not subject to this rule.

(2) When reviewing a proposal from private entities, local or regional governments, public-private partnership created pursuant to ORS 367.806, or the department to revise toll rates on existing tollways, the commission will consider:

(a) The amount and classification of the traffic using, or anticipated to use, the tollway;

(b) The amount of the toll proposed to be established for each class or category of tollway user and, if applicable, the different amounts of the toll depending on time and day of use;

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(c) The location of toll plazas or toll collection devices to collect the toll for the tollway;

(d) The cost of reconstructing, improving, maintaining, repairing and operating the tollway;

(e) The amount of indebtedness incurred for the construction of the tollway and debt service requirements, if any;

(f) The value of assets, equipment and services required for the operation of the tollway;

(g) The period of time during which the toll will be in effect;

(h) The process for altering the amount of the toll during the period of operation of the tollway;

(i) The methods of collecting the toll;

(j) The rate of return that would be fair and reasonable for a private equity holder, if any, in the tollway;

(k) The purpose and goals of the proposal, and their consistency with the other factors considered here;

(L) The use of tollway revenue;

(m) The characteristics and status of the financial plan for the project, and the consistency of the proposed, new toll schedule with the financial plan;

(n) The financial condition of the project;

(o) Department estimates of the effects traffic diverted as a result of the new toll schedule, if any, will have on other highways and communities;

(p) Consistency with Oregon statutes and the Oregon Constitution; and

(q) Whether implementation of the proposal would violate Federal rules or statutes.

(3) The commission may approve, conditionally approve, or disapprove proposals, and the proposals may be revised and re-submitted for consideration. Commission decisions and findings will be issued in writing.

(4) This rule applies to all proposals to revise toll rates on a state highway or highways, including those submitted by the department and those submitted by a public-private partnership created pursuant to ORS 367.806 jointly with the department.

Stat. Auth.: ORS 184.616, 184.619 & 383.004

Stats. Implemented: ORS 383

Hist.: DOT 5-2012, f. & cert. ef. 7-19-12

731-040-0057

Proposals for OAR 731-040-0056, Revised Toll Rates

(1) Proposers shall address all of the criteria in OAR 731-040-0056. Proposals shall be submitted to the director, and the department will review the proposal to determine if the proposal is complete.

(2) Within 45 days from when the department determines that the proposal is complete, the director will submit the proposal, any accompanying documents, and department comments, if any, to the commission for review.

Stat. Auth.: ORS 184.616, 184.619 & 383.004

Stats. Implemented: ORS 383

Hist.: DOT 5-2012, f. & cert. ef. 7-19-12

731-040-0058

Additional Process for Reviewing and Approving Revised Toll Rates on Interstate Bridges

(1) Toll rates previously approved through the process in OAR 731-040-0052 or OAR 731-040-0054, including anticipated formulaic changes in rates, are not subject to this rule.

(2) When reviewing a proposal to revise toll rates on an interstate bridge that is or will be a state highway, the commission will consider:

(a) All of the considerations established in OAR 731-040-0056;

(b) Whether another state has any authority over the bridge;

(c) Whether the proposed toll schedule has been authorized or is expected to be authorized by the governing body with jurisdiction over the project in the other state linked to Oregon by the bridge;

(d) Whether the proposal is consistent with conditions imposed by the governing body with jurisdiction over the proposed toll schedule in the other state, if any;

(e) Whether the proposer has legal authority to approve the toll schedule in the other state, and if not, the level of coordination between the proposer and the entity having such authority; and

(f) Existing bi-state agreements on tollway projects.

(3) The commission may approve, conditionally approve, or disapprove proposals, and the proposals may be revised and re-submitted for consideration. Commission decisions and findings will be issued in writing.

(4) This rule applies to all proposals to revise toll rates on an interstate bridge that is or will be a state highway, including those submitted by the

department, those submitted jointly with the department under the authority of ORS 381.010 or ORS 381.098, and those submitted jointly with the department under ORS 367.800 through 367.824.

Stat. Auth.: ORS 184.616, 184.619, 381.010, 381.098 & 383.004

Stats. Implemented: ORS 383

Hist.: DOT 5-2012, f. & cert. ef. 7-19-12

731-040-0059

Proposals for OAR 731-040-0058, Revised Toll Rates for Interstate Bridges

(1) Proposers shall address all of the criteria in OAR 731-040-0056 and 731-040-0058. Proposals shall be submitted to the director, and the department will review the proposal to determine if the proposal is complete.

(2) Within 45 days from when the department determines that the proposal is complete, the director will submit the proposal, any accompanying documents, and department comments, if any, to the commission for review.

(3) If a proposal is submitted under this section, no proposal needs to be submitted under OAR 731-040-0057.

Stat. Auth.: ORS 184.616, 184.619, 381.010, 381.098 & 383.004

Stats. Implemented: ORS 383

Hist.: DOT 5-2012, f. & cert. ef. 7-19-12

731-040-0062

Tolling System Compatibility with the State of Washington

Toll collection and enforcement systems used on tollways in Oregon shall be inter-operable with toll collection and enforcement systems used in the State of Washington to the extent technology permits.

Stat. Auth.: ORS 184.616, 184.619, 383.014

Stats. Implemented: ORS 383.014

Hist.: DOT 5-2012, f. & cert. ef. 7-19-12

731-040-0064

Civil Penalties for Failure to Pay a Toll

(1) In addition to any other penalty or sanction provided by law, a person who is required to pay a toll as described in ORS 383.035 and fails to pay a toll established pursuant to ORS 383.004, shall pay to the department, for each unpaid toll:

(a) The amount of the toll;

(b) For the first unpaid toll, a civil penalty of \$15; and,

(c) For each subsequent unpaid toll: The limit provided in ORS 383.035;

(2) Each time a bill is sent to a person for an unpaid toll, an administrative fee of \$2 shall be assessed as reimbursement for labor, materials, printing and postage expenses.

(3) An unpaid toll will be considered a subsequent unpaid toll if the person was assessed a civil penalty for an unpaid toll within three years of the unpaid toll under consideration.

(4) Civil penalties and administrative fees assessed under this rule shall be collected as provided in ORS 183.745 and according to the procedures in OAR 137-003-0501 to 137-003-0700.

(5) The department shall refuse to renew the motor vehicle registration of the motor vehicle owned by a person who at the time of application for registration has unpaid tolls, civil penalties or any administrative fees charged under this section.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 383.035 & 383.055

Stats. Implemented: ORS 383.035 & 383.055

Hist.: DOT 5-2012, f. & cert. ef. 7-19-12

Rule Caption: Road Usage Fee Pilot Program.

Adm. Order No.: DOT 6-2012

Filed with Sec. of State: 7-19-2012

Certified to be Effective: 7-19-12

Notice Publication Date: 6-1-2012

Rules Adopted: 731-080-0080

Rules Amended: 731-080-0010, 731-080-0020, 731-080-0030, 731-080-0040, 731-080-0070

Rules Repealed: 731-080-0050, 731-080-0060

Subject: ODOT is amending these rules to specify the procedures and requirements for Road Usage Fee Pilot Program as authorized by ORS 184.846.

Rules Coordinator: Lauri Kunze—(503) 986-3171

ADMINISTRATIVE RULES

731-080-0010

Authority and Purpose

Chapter 862, Oregon Laws 2001 authorizes the Department of Transportation to develop one or more alternatives to the current system of taxing highway use through motor vehicle fuel taxes. The purpose of OAR 731-080-0010 through 731-080-0060 is to establish the Road Usage Charge Pilot Program.

Stat. Auth.: ORS 184.616, 184.619, Ch. 862, OL 2001 & Ch. 618, OL 2003
Stats. Implemented: Ch. 862, OL 2001 & Ch. 618, OL 2003
Hist.: DOT 4-2005, f. & cert. ef. 3-18-05; DOT 6-2012, f. & cert. ef. 7-19-12

731-080-0020

Definitions

(1) "Authorized agent" means an entity or person under contract with ODOT to provide services related to collection of the Road Usage Charge.

(2) "Fuels Tax" means the Oregon Motor Vehicle Fuels Tax as administered under ORS 319.010 through 319.430.

(3) "Pilot Area" means the geographic area where the Program Volunteers reside.

(4) "Pilot Demonstration" means a field demonstration involving Program Volunteers of on-board metering and mileage data reporting technologies and data collection, tax processing, account management and tax accounting systems to collect the Road Usage Charge.

(5) "Road Usage Charge Pilot Program" means Pilot Demonstrations designed to test road usage charge concepts, according to policies adopted and recommended by the RUFTF, and related research demonstrations of technologies and systems.

(6) "Program Volunteer" means an individual selected to participate in the Road Usage Charge Pilot Program.

(7) "Road User Fee Task Force" or "RUFTF" means the task force described in sections 1 through 6, chapter 862, Oregon Laws 2001.

(8) "Vehicle Miles Traveled" or "VMT" means miles driven.

(9) "Road Usage Charge" means a fee charged per mile driven in Oregon.

Stat. Auth.: ORS 184.616, 184.619, Ch. 862, OL 2001 & Ch. 618, OL 2003
Stats. Implemented: Ch. 862, OL 2001 & Ch. 618, OL 2003
Hist.: DOT 4-2005, f. & cert. ef. 3-18-05; DOT 6-2005, f. 10-20-05, cert. ef. 11-1-05; DOT 6-2012, f. & cert. ef. 7-19-12

731-080-0030

Road User Fee Task Force Pilot Program Generally

(1) ODOT will conduct Pilot Demonstrations in which Program Volunteers must pay a designated Road Usage Charge in lieu of paying an amount equal to the Fuels Tax associated with the fuel purchased.

(2) The Road Usage Charge for the Program Volunteers in Pilot Demonstrations is 1.56 cents per mile.

Stat. Auth.: ORS 184.616, 184.619, Ch. 862, OL 2001 & Ch. 618, OL 2003
Stats. Implemented: Ch. 862, OL 2001 & Ch. 618, OL 2003
Hist.: DOT 4-2005, f. & cert. ef. 3-18-05; DOT 6-2005, f. 10-20-05, cert. ef. 11-1-05; DOT 6-2012, f. & cert. ef. 7-19-12

731-080-0040

Program Volunteers in Pilot Demonstrations

(1) ODOT may recruit up to 500 persons to participate in a Pilot Demonstration as Program Volunteers.

(2) To be eligible for participation in a Pilot Demonstration as a Program Volunteer, a person must provide information about a participating vehicle to ODOT, select a method of reporting of mileage driven during the term of the Pilot Demonstration from options provided by ODOT and select a provider of mileage tax collection services from providers offered by ODOT. The information about a participating vehicle provided to ODOT by the Program Volunteer shall include the vehicle's identification number, license plate number and make, model and year.

(3) For gasoline fueled vehicles participating in the Pilot Demonstration, Program Volunteers will have the Fuels Tax associated with fuel purchased refunded or offset as a credit against the Road Usage Charge. ODOT will assess Program Volunteers the Road Usage Charge and refund or offset the Fuels Tax associated with the fuel purchased.

(4) For diesel fueled vehicles participating in a Pilot Demonstration, ODOT shall issue Program Volunteers an emblem for their vehicle. A seller of diesel fuel for use in a motor vehicle may not collect the tax that would otherwise be due under ORS 319.530 from a person operating a vehicle for which an emblem has been issued.

(5) Program Volunteers are required to enter into a Pilot Demonstration agreement, outlining the duties and obligations of each party in the Pilot Demonstration.

(6) If a person participating in a Pilot Demonstration ends the person's participation in the Pilot Demonstration, the person shall pay to the depart-

ment any amount of the Road Usage Charge the person has not yet paid or offset by fuel taxes paid. The person shall return to ODOT any emblem issued to the person.

Stat. Auth.: ORS 184.616, 184.619, Ch. 862, OL 2001 & Ch. 618, OL 2003

Stats. Implemented: Ch. 862, OL 2001 & Ch. 618, OL 2003

Hist.: DOT 4-2005, f. & cert. ef. 3-18-05; DOT 6-2005, f. 10-20-05, cert. ef. 11-1-05; DOT 6-2012, f. & cert. ef. 7-19-12

731-080-0070

VMT Fee or Fuels Tax Collection

(1) A Program Volunteer in a Pilot Demonstration will pay the Road Usage Charge upon receipt of an invoice from ODOT or an authorized agent of ODOT.

(2) For gasoline fueled vehicles, the amount of Fuels Tax associated with the amount of fuel purchased by the Program Volunteer will be automatically deducted from the invoice, or refunded at the request of the Program Volunteer, through presentation of evidence to ODOT that the Program Volunteer has paid the Fuels Tax during the Pilot Demonstration period.

(3) When a Program Volunteer reports mileage, the Program Volunteer will be charged the Road Usage Charge by ODOT on a monthly basis.

(4) When a Program Volunteer reports the amount of fuel purchased that is associated with miles reported, ODOT will offset or refund the Fuels Tax associated with the amount of fuel purchased, on a monthly basis.

(5) For diesel-fueled vehicles, the amount of the Fuels Tax associated with the amount of diesel fuel purchased by the Program Volunteer will be automatically deducted from the purchase price by service stations selling diesel fuel provided the Program Volunteer's diesel vehicle displays an emblem.

Stat. Auth.: ORS 184.616, 184.619, Ch. 862, OL 2001 & Ch. 618, OL 2003

Stats. Implemented: Ch. 862, OL 2001 & Ch. 618, OL 2003

Hist.: DOT 4-2005, f. & cert. ef. 3-18-05; DOT 6-2005, f. 10-20-05, cert. ef. 11-1-05; DOT 6-2012, f. & cert. ef. 7-19-12

731-080-0080

Related Research Demonstrations of Technologies and Systems

(1) ODOT may conduct research demonstrations of technologies and systems designed to complete or further testing of road usage charge concepts related to policies adopted and recommended by the RUFTF to ODOT.

(2) Program Volunteers selected to participate in related research demonstration of Technologies and Systems are required to enter into a research demonstration agreement, outlining the duties and obligations of each party in the research demonstration.

Stat. Auth.: ORS 184.616, 184.619, Ch. 862, OL 2001 and Ch. 618, OL 2003

Stats. Implemented: Ch. 862, OL 2001 and Ch. 618, OL 2003

Hist.: DOT 6-2012, f. & cert. ef. 7-19-12

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

Rule Caption: Increases the fee collected for the Vehicle Code Book to recoup DMV's costs.

Adm. Order No.: DMV 7-2012(Temp)

Filed with Sec. of State: 7-19-2012

Certified to be Effective: 7-19-12 thru 1-15-13

Notice Publication Date:

Rules Amended: 735-012-0000

Subject: Pursuant to ORS 802.050, DMV publishes a biennial compilation of Oregon motor vehicle laws (Vehicle Code Book) for distribution to the public. The fee collected for the Vehicle Code Book is calculated to cover DMV's cost to compile, publish and distribute the publication, Due to an increase in costs, DMV is increasing from \$5 to \$7, the fee collected for each book sold to cover DMV's costs and to avoid a loss of revenues to the State Highway Fund. DMV must recoup its cost to avoid a violation of Article IX, section 3a of the Oregon Constitution. The fee for the Vehicle Code Book has not changed since 1991.

Rules Coordinator: Lauri Kunze—(503) 986-3171

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735-012-0000

Fees Charged for the DMV Administrative Rules Handbook and the Oregon Vehicle Code

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) publishes the DMV Administrative Rules Handbook containing a compilation of chapter 735 administrative rules and the **Oregon Vehicle Code**, a biennial publication containing a compilation of Oregon motor vehicle laws. These publications are available to any person or organization for a fee that covers DMV's actual costs.

(2) The fee for a DMV Administrative Rules Handbook is \$16.

(3) The DMV Administrative Rules Handbook is updated periodically when chapter 735 rules are adopted, amended or repealed:

(a) In order to receive the updates, a person who purchases a DMV Administrative Rules Handbook shall pay a fee of \$12 per year. This fee covers the cost to reproduce and mail the updates;

(b) The purchaser's name shall be added to the mailing list to receive updates for one calendar year beginning January 1 and ending December 31, when the fee is received;

(c) The \$12 fee shall be received by DMV before any updates for a calendar year are mailed;

(d) Updates for the calendar year in which the DMV Administrative Rules Handbook is originally purchased shall be included in the purchase price of the book.

(4) The actual cost to provide the DMV Administrative Rules Handbook is calculated from:

(a) The cost to print the handbook; and

(b) The cost to mail the handbook.

(5) The fee for an Oregon Vehicle Code is \$7.

(6) The cost to provide the Oregon Vehicle Code is calculated from:

(a) The cost to compile and publish the code book; and

(b) The mailing costs.

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

Stat. Auth.: ORS 183.370, 192.440, 802.010 & 802.050

Stats. Implemented: ORS 183.370 & 802.050

Hist.: MV 16-1985, f. 12-19-85, ef. 1-1-86; Administrative Renumbering 3-1988, Renumbered from 735-032-0045; MV 9-1988, f. & cert. ef. 3-2-88; MV 15-1988, f. & cert. ef. 5-18-88; MV 50-1989, f. & cert. ef. 12-1-89; MV 28-1991, f. & cert. ef. 12-16-91; DMV 17-2001, f. & cert. ef. 9-21-01; DMV 7-2012(Temp), f. & cert. ef. 7-19-12 thru 1-15-13

Rule Caption: Implements section 1 of chapter 698, Oregon Laws 2011, regarding group registration plates.

Adm. Order No.: DMV 8-2012

Filed with Sec. of State: 7-19-2012

Certified to be Effective: 7-19-12

Notice Publication Date: 6-1-2012

Rules Amended: 735-040-0098

Subject: ORS 805.205(2)(a) requires DMV to collect a surcharge amount, as determined by DMV, for non-profit group plates. The surcharge amount may not be less than \$2.50 per plate or more than \$16 for each non-profit group plate issued or renewed. When setting the surcharge, DMV is required to consult with the non-profit group for which plates are issued. In August of 2009, after consulting with existing non-profit groups, DMV adopted OAR 735-040-0098 to set the surcharge amount for non-profit group plates at \$2.50 per plate. Under OAR 735-040-0097, a non-profit group may request that DMV collect a surcharge amount more than \$2.50 per plate.

In consultation with the Children's Trust Fund of Oregon Foundation, a non-profit group, DMV is setting the surcharge for Keep Kids Safe registration plates at \$7.50 per plate for each year of the registration period. DMV has amended OAR 735-040-0098 to establish the \$7.50 surcharge for Keep Kids Safe registration plates.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-040-0098

Non-profit Group Plate Surcharge

In addition to any other fee authorized by law:

(1) DMV will collect a surcharge of \$2.50 per plate for each year of the registration period upon issuance and renewal of a non-profit group plate.

(2) Notwithstanding section (1) of this rule, DMV will collect a surcharge of:

(a) \$8 per plate for each year of the registration period upon issuance and renewal of a non-profit group plate that recognizes fallen public safety officers.

(b) \$7.50 per plate for each year of the registration period upon issuance and renewal of the Keep Kids Safe registration plate as described under ORS 805.205.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 805.205

Stats. Implemented: ORS 805.205

Hist.: DMV 15-2009(Temp), f. & cert. ef. 8-24-09 thru 2-17-10; DMV 1-2010, f. & cert. ef. 1-28-10; DMV 14-2010(Temp), f. 8-27-10, cert. ef. 9-1-10 thru 2-28-11; DMV 1-2011, f. & cert. ef. 1-28-11; DMV 8-2012, f. & cert. ef. 7-19-12

Rule Caption: Exemption from Collection of Biometric Data if Exposure to Camera Flash May Cause Seizure.

Adm. Order No.: DMV 9-2012

Filed with Sec. of State: 7-19-2012

Certified to be Effective: 7-19-12

Notice Publication Date: 6-1-2012

Rules Amended: 735-062-0016

Subject: In July 2008, DMV began collecting biometric data for the purpose of establishing an applicant's identity. The photograph taken for a driver license, driver permit or identification card is the biometric data. DMV's process for taking a photograph has changed due to the nature of the facial recognition software used for the collection of biometric data. No longer is a person allowed to be photographed wearing eyeglasses or with closed eyes. Photographs for collecting biometric data must be taken in DMV field offices using special cameras that include a flash. On rare occasions an applicant will object to being photographed because the flash on the camera triggers a photosensitivity that may result in a seizure or other serious medical condition. ORS 807.024 (2) authorizes DMV, by rule, to provide for the issuance, renewal and replacement of a driver license, driver permit or identification card without the collection of biometric data. DMV has determined that having a recent photograph on the driver license or ID card, even if the person's eyes are closed, is better than no photograph as authorized under OAR 735-062-0120 for a person who objects either on religious grounds or because of the applicant's facial disfigurement, or with a previous photograph as authorized under OAR 735-062-0125 for a person who is out-of-state or medically unable to appear in a field office to obtain a recent photograph. Therefore, DMV has amended OAR 735-062-0016 to authorize DMV to photograph a person with his or her eyes closed when the applicant provides documentation from a physician that the applicant may suffer a seizure or other serious medical condition due to the flash on the camera.

DMV has also changed the citation of a statute listed in Section (8) and Section (9) as Chapter 61, Oregon Laws (SB 1000) amended ORS 807.400 in such a way as to renumber subsections.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-062-0016

Requirements for Establishing Identity Under ORS 807.024 and Consequences of Applicant's Failure to Establish Identity

(1) An applicant for an original, renewal or replacement driver license, driver permit or identification card must submit to the collection of biometric data, as provided in ORS 807.024, for the purpose of establishing identity, unless the applicant meets the requirements of OAR 735-062-0120, 735-062-0125, or section (3) of this rule.

(2) To collect biometric data DMV will take a digital photograph of the applicant which must:

(a) Be full-faced;

(b) Clearly show the iris and pupil of each eye; and

(c) Capture the applicant's natural appearance in accordance with the requirements set forth in section (4) of this rule.

(3) Notwithstanding subsection (2)(b) of this rule, an applicant for an original, renewal or replacement driver license, driver permit or identification card may be photographed with his or her eyes closed if the applicant provides documentation from a licensed physician, satisfactory to DMV, that indicates that the camera flash may cause a seizure or other serious medical condition. Except for subsection (4)(b) of this rule, the person must comply with all other requirements for the digital photograph and must establish identity as set forth in section (5) of this rule.

(4) To comply with Section (2) of this rule, DMV will require the applicant to:

(a) Remove any eyeglasses;

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(b) Remove any contact lens that significantly changes the appearance of the applicant's eye;

(c) Remove any clothing or similar material that partially or completely covers the applicant's face;

(d) Remove any head covering, including a hat or cap, unless the head covering is for medical or religious reasons. A head covering worn for medical or religious reasons must not cover or distort the applicant's face; and

(e) Remove makeup, face paint, jewelry, sticker or other temporary substance that covers or distorts all or part of the face so as to significantly alter the applicant's natural appearance and which DMV determines is likely to affect the biometric measurements of the digital photograph.

(5) Except as provided in OAR 735-062-0120, 735-062-0125, if an applicant's identity is not established by the biometric data submitted pursuant to subsection (1) of this rule, the applicant must provide documentation or other evidence sufficient to establish the applicant's identity to the satisfaction of DMV. The documents or other evidence may include, but are not limited to, one or more of the following:

(a) Documents listed in OAR 735-062-0020 that provide proof of the applicant's identity and date of birth to the satisfaction of DMV.

(b) The applicant's SSN and proof and verification of the SSN as provided in OAR 735-062-0005.

(c) A letter from a treating physician that identifies the person and states a medical reason for the person's change in appearance, if applicable.

(d) A document or letter from a law enforcement agency verifying identity; or

(e) A court document verifying identity.

(6) Except as provided in OAR 735-062-0120 and 735-062-0125, DMV will not issue a driver license, driver permit or identification card, if the applicant's identity is not established under this rule.

(7) Pursuant to ORS 809.310(3) and OAR 735-070-0004, DMV will suspend an applicant's driving privileges and the person's right to apply for driving privileges if the person fails to establish his or her identity as required by this rule and the failure to establish identity is the result of the applicant's committing any of the acts identified in ORS 809.310(3)(a) through (h).

(8) Pursuant to ORS 809.310(1), 807.400(17), and OAR 735-070-0004, DMV will cancel a driver license, driver permit or identification card issued to an applicant who fails to establish his or her identity as required by this rule when applying for the license, permit or identification card.

(9) Pursuant to ORS 809.310(2), 807.400(17), and OAR 735-070-0004, DMV will cancel a driver license, driver permit or identification card issued to an applicant who fails to establish his or her identity as required by this rule when applying for the license, permit or identification card, and the failure to establish identity is the result of the applicant's providing false information to DMV.

(10) If, based on the identification procedures required under section (1) or section (2) of this rule, DMV determines that an applicant has used different names to identify himself or herself in different applications submitted to DMV and the different names are not the result of the applicant's having legally changed his or her name, DMV may take the actions authorized by ORS 809.135.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.021 & 807.024

Stats. Implemented: ORS 807.021, 807.024, 807.400, 809.135, 809.310, 807.400 & 809.411
Hist.: DMV 16-2008, f. 6-23-08, cert. ef. 7-1-08; DMV 13-2010, f. & cert. ef. 7-30-10; DMV 6-2011, f. & cert. ef. 6-21-11; DMV 11-2011, f. & cert. ef. 11-23-11; DMV 9-2012, f. & cert. ef. 7-19-12

Rule Caption: Proof of Treatment Completion Required for Reinstatement of DUI Suspension.

Adm. Order No.: DMV 10-2012

Filed with Sec. of State: 7-19-2012

Certified to be Effective: 7-19-12

Notice Publication Date: 6-1-2012

Rules Amended: 735-070-0085

Subject: Oregon Laws 2012, Chapter 9 (Enrolled HB 4011), requires a person convicted of Driving Under the Influence of Intoxicants (DUI) to provide proof to the Department of Transportation that the person completed a treatment program unless DMV waives the requirement for good cause. DMV is required to establish the criteria for what constitutes good cause by administrative rule. Therefore, DMV has amended OAR 735-070-0085 to specify such criteria and the basis for DMV's finding of just cause. The rule was amended fur-

ther to specify what constitutes proof of completion of a DUI treatment program.

As Oregon Laws 2012, Chapter 9, Section 7 established an emergency for immediate implementation of the law, DMV adopted a rule amendment as a temporary rule effective March 26, 2012. This rule amendment differs slightly from the version adopted temporarily, because DMV learned more about the types of documents and requests that are submitted.

Rules Coordinator: Lauri Kunze—(503) 986-3171

735-070-0085

Proof of Treatment Completion Required for Reinstatement of DUI Suspension

(1) Except as provided in section (3) of this rule, a person whose driving privileges are suspended due to a conviction in an Oregon court of driving under the influence of intoxicants (DUI) must provide proof that the person completed a treatment program to which the person was referred under ORS 813.021. DMV will accept the following as proof that the person completed the required treatment:

(a) A DUI Treatment Completion Certificate, DMV Form 735-6821, completed by an authorized representative of an Oregon DUI treatment program approved by the Director of the Oregon Health Authority (OHA) or by an authorized representative of OHA on behalf of an Oregon DUI treatment provider or an out-of-state DUI treatment provider.

(b) A copy of the report to the referring court, or to an agency authorized to receive the report, from an authorized representative of the agency or organization that conducted the person's screening interview stating that the person has successfully completed a DUI treatment program.

(c) A letter from a referring court stating that the court has determined that the person has completed the DUI treatment program to which the person was referred under ORS 813.021.

(2) If the person has more than one suspension of driving privileges resulting from DUI convictions, the proof required under section (1) of this rule is sufficient for reinstatement of all DUI suspensions with arrest dates that were before the date treatment was completed. For purposes of this section, the proof must show the date treatment was completed.

(3) DMV may waive the requirement to provide proof upon showing of good cause. A person requesting a waiver must submit the request in writing and provide an explanation satisfactory to DMV as to why there is good cause to waive the requirement. Upon such request, DMV may find good cause when all of the following occur:

(a) Seven years have elapsed since the person's last DUI conviction;

(b) The person's Oregon driving record and a search of the National Driver Register/Problem Driver Pointer System (NDR/PDPS) show no alcohol or drug-related convictions, suspensions or diversion agreements in the past seven years; and

(c) The person provides documentation, acceptable to DMV, showing the person does not have a problem condition involving alcohol, inhalants or controlled substances as described in ORS 813.040. Documentation may be, but is not limited to, the following:

(A) A certificate or letter showing completion of an alcohol or drug dependency treatment program after the person's last DUI; or

(B) An assessment finding the person does not have a problem condition involving alcohol, inhalants or controlled substances, from a person qualified to perform assessments for the treatment of alcoholism, drug dependency or dependency on inhalants.

Stat. Auth.: ORS 184.616, 184.619, 802.010, ORS 809.380 OL 2012, Ch. 9

Stats. Implemented: OL 2012, Ch. 9

Hist.: DMV 5-1994, f. & cert. ef. 7-21-94; DMV 4-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMV 10-2012, f. & cert. ef. 7-19-12

Department of Transportation, Highway Division Chapter 734

Rule Caption: Conditions of Prequalification.

Adm. Order No.: HWD 9-2012

Filed with Sec. of State: 7-19-2012

Certified to be Effective: 7-19-12

Notice Publication Date: 6-1-2012

Rules Amended: 734-010-0240

Subject: The Oregon Department of Transportation annually processes over 500 prequalification applications for prime contractors who want to bid on public improvement contracts, including any

ADMINISTRATIVE RULES

local government projects. OAR 734-010-0240(9) previously stated that prequalifications were valid from September 1 of each year until August 31 of the following year.

ODOT has amended its rule to establish staggered prequalification renewal dates to monthly. Staggering the application renewals will level out the number of applications to review and spread the review over 12 months.

Rules Coordinator: Lauri Kunze—(503) 986-3171

734-010-0240

Conditions of Prequalification

(1) Applicants must be prequalified in the class(es) of work designated in the special provisions for the specific project in which the applicant desires to bid on ODOT contracts.

(2) Prequalification applications must be received at ODOT's address shown in the prequalification application at least 10 calendar days before the bid opening in which the applicant wishes to participate.

(3) If an applicant fails to complete the application as required or fails to submit the filing fee, ODOT will return the material submitted. Any changes or additional information required by ODOT must be submitted and signed by the same person that signed the original application. The changes and additional information must be attested to by a sworn affidavit. The applicant may send a new application that includes the changes or additional information required by ODOT.

(4) The date on which all required information has been received by ODOT's Procurement Office -- Construction Contracts Unit will be considered the receipt date of the prequalification application.

(5) Each member of a Joint Venture must be prequalified, with at least one of the Joint Venture members prequalified in each of the project's designated class(es) of work as defined in section (1) of this rule. A Joint Venture may be required to submit a joint venture agreement prior to award of the contract.

(6) Subcontractors are not required to be prequalified.

(7) All applicants desiring to prequalify shall:

(a) Complete and submit the Contractor's Prequalification Application, in accordance with the directions contained therein, setting forth their qualifications to satisfactorily carry out the work to be performed. The prequalification application is available on the ODOT Procurement Office, Construction Contracts Unit website at <http://www.oregon.gov/ODOT/CS/CONSTRUCTION/Prequalifications> or from the ODOT Procurement Office -- Construction Contracts Unit, 455 Airport Road SE, Building K, Salem, Oregon 97301-5348; and

(b) Submit a filing fee of \$100. In accordance with ORS 200.055(7), ODOT may collect a filing fee from applicants to cover the costs of the Department of Consumer and Business Services in administering ORS 200.005 to 200.075 and 279A.105. The \$100 fee must be submitted with the completed prequalification application to ODOT's address shown in the prequalification application.

(8) ODOT shall notify an applicant of acceptance or denial of prequalification within 30 days after receiving applicant's complete prequalification application and filing fee.

(9) Prequalification is valid until the first of the month following the one year anniversary of the date of the prequalification approval. Applicants must renew their prequalifications with the \$100 filing fee annually.

(10) Current prequalified applicants whose prequalifications expire September 1, 2012 will be re-assigned an expiration date that is based on the first day of the month following the applicant's Secretary of State business registration expiration date. The prequalification period for these applicants will be extended to the first day of the month following the re-assigned date matching the Secretary of State business registration expiration date.

(11) New prequalification applicants that apply for prequalification after October 1, 2012 will be assigned an expiration date that is one year from the first day of the month following approval of the prequalification application.

(12) Applicants shall update their prequalification application with ODOT when information changes. Any change to an applicant's prequalification application must be received at ODOT's address shown in the prequalification application at least 10 days prior to bid opening if that information affects the bid submitted. Any changes requested by the applicant must be submitted and signed by the same person that signed the original application or by a person holding the same position as the person that signed the original application. The changes must be attested to by sworn affidavit. There is no charge to update an existing prequalification for minor

changes such as changing an address, company name, or adding or deleting class(es) of work. Major changes must be submitted by a new prequalification application.

(13) Sections (2) through (12) of this rule also apply to applicants who use ODOT's prequalification system to prequalify for local agency projects.

Stat. Auth.: ORS 184.616, 184.619, 279A.050, 279A.065 & 279C.430

Stats. Implemented: ORS 279C.430

Hist.: HWD 1-2005, f. 2-16-05, cert. ef. 3-1-05; HWD 1-2007, f. & cert. ef. 1-24-07; HWD 9-2012, f. & cert. ef. 7-19-12

Department of Transportation, Motor Carrier Transportation Division Chapter 740

Rule Caption: Adoption of IRP regulations.

Adm. Order No.: MCTD 6-2012

Filed with Sec. of State: 7-19-2012

Certified to be Effective: 7-19-12

Notice Publication Date: 6-1-2012

Rules Amended: 740-200-0010

Subject: This rule amendment constitutes an adoption of the rules of the International Registration Plan (IRP) to the date of January 1, 2012. In addition, the amendment would modify the method penalties, late payment and interest is calculated in an IRP audit. Previously, the penalties, late payment, and interest for an IRP audit were assessed using the calculations from ORS 825.490 as advised by Oregon Department of Justice (DOJ) counsel in a 2002 interpretation. A recent IRP ballot measure imposes progressive penalties for carriers who repeatedly provide inadequate records for an IRP audit. When researching the implementation of the ballot measure, DOJ counsel set aside the prior advice given in 2002 and instructed the Department to follow the interest, late payment, and penalties as specified in IRP.

Rules Coordinator: Lauri Kunze—(503) 986-3171

740-200-0010

Prorate Registration

(1) The provisions contained in the "International Registration Plan" (IRP), the IRP Audit Procedures Manual and all amendments thereto in effect January 1, 2012, are hereby adopted and prescribed by the Oregon Department of Transportation and apply to the apportioned registration of vehicles. Unless otherwise revised by written delegation, the designated person to cast a vote on an IRP ballot for Oregon is the Administrator of the Motor Carrier Transportation Division.

(2) In addition to the requirements described in section (1) of this rule, the following requirements apply to Oregon-based motor carriers who participate in IRP:

(a) Records required to be maintained for distance data must denote intermediate trip stops;

(b) Audit assessments are subject to penalty, late payment charges and interest described in IRP and the IRP Audit Procedures Manual;

(c) Any person against whom a proposed assessment is made by the Department may petition the Department for reassessment within 30 days after service upon the person of the assessment notice. If a petition for reassessment is not filed within the 30-day period, the assessment becomes final. If a petition for reassessment is timely filed, the Department will reconsider the assessment. The decision of the Department upon a petition for reassessment will become final 30 days after notice of the decision is served upon the petitioner. A petitioner may submit a request for hearing in the petition for reassessment; and

(d) If a request for hearing is timely received, a hearing will be scheduled and conducted in accordance with the provisions of ORS Chapter 183. The petitioner will be provided a minimum of 10 days notice of the time and place of the hearing. The Department may assess a penalty of \$150 for failure to appear at a scheduled hearing.

(3) The mileage reporting period for application and renewal purposes will be the previous July through June twelve-month period.

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

Stat. Auth.: ORS 184.616, 184.619, 823.011 & 826.003

Stats. Implemented: ORS 826.005 & 826.007

Hist.: PUC 8-1990, f. & cert. ef. 5-25-90 (Order No. 90-834); PUC 7-1993, f. & cert. ef. 3-14-96; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-081-0005; MCTB 6-2002, fr. & cert. ef. 11-18-02; MCTD 8-2003, f. & cert. ef. 11-18-03, cert. ef. 1-1-04; MCTD 4-2004, f. 12-28-04, cert. ef. 1-1-05; MCTD 2-2008, f. 6-23-08, cert. ef. 7-1-08; MCTD 1-2011, f. & cert. ef. 2-18-11; MCTD 6-2012, f. & cert. ef. 7-19-12

ADMINISTRATIVE RULES

Landscape Contractors Board Chapter 808

Rule Caption: Amends 2011–2013 adopted budget.

Adm. Order No.: LCB 5-2012

Filed with Sec. of State: 8-2-2012

Certified to be Effective: 8-2-12

Notice Publication Date: 7-1-2012

Rules Amended: 808-001-0008

Subject: OAR 808-001-0008 is being amended to amend the 2011–2013 adopted budget.

Rules Coordinator: Kim Gladwill-Rowley—(503) 967-6291, ext. 223

808-001-0008

Operating Budget

Pursuant to ORS 182.462, the Board adopts the budget, for the biennium beginning July 1, 2011 and ending June 30, 2013, as approved at a Board Meeting held June 16, 2011 and amended on July 24, 2012. The amended budget is effective July 1, 2012. The Board Administrator will add or amend accounts as necessary, within the approved budget amount for the effective operation of the Board. Copies of the budget are available at the Board's office.

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

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 182.462

Hist.: LCB 3-2003, f. 5-27-03, cert. ef. 6-1-03; LCB 3-2005, f. & cert. ef. 6-1-05; LCB 1-2006, f. 3-27-06, cert. ef. 4-1-06; LCB 2-2007, f. & cert. ef. 5-16-07; LCB 4-2009, f. 6-1-09 cert. ef. 7-1-09; LCB 5-2011, f. & cert. ef. 6-17-11; LCB 5-2012, f. & cert. ef. 8-2-12

Rule Caption: Clarifies some materials used for the installation of landscaping work.

Adm. Order No.: LCB 6-2012

Filed with Sec. of State: 8-2-2012

Certified to be Effective: 8-2-12

Notice Publication Date: 5-1-2012

Rules Amended: 808-002-0500

Subject: Clarifies some materials used for the installation of landscaping work. The listing of examples is not limiting, but includes synthetic turf.

Rules Coordinator: Kim Gladwill-Rowley—(503) 967-6291, ext. 223

808-002-0500

Landscaping Work

"Landscaping Work," as used in ORS 671.540, 671.570 671.660(5) and 671.690, means:

(1) The planning or installing of lawns, shrubs, vines, trees, and nursery stock outdoors including the preparation of property on which the vegetation is to be installed. For the purposes of this rule, "preparation of property" includes, but is not limited to the installation of root penetration prevention materials, the placement of containers and pots that require the use of power equipment to move, the adding and incorporating of soil amendments, importation of topsoil and other planting media, removal of soil, and final grading to the specified aesthetic and drainage needs of a site on which landscaping work is to be performed;

(2) The construction or repair of ornamental water feature or drainage systems;

(3) The construction or repair of irrigation systems for lawns, shrubs, vines, trees and nursery stock;

(4) The maintenance of irrigation systems with the use of compressed air;

(5) The planning and installing of fences, decks, arbors, patios, landscape edging, driveways, walkway and retaining walls, which can be constructed of, but not limit to, the following materials: sand, gravel, rocks, bricks, concrete, asphalt, wood, wire, plastic, composite decking, fabrics and synthetic turf.

(6) Landscaping work does not include structural work, waterproofing or work with waterproof membranes, flashing, or other work involving the building envelope that is outside the scope of license of a landscape contracting business.

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

Stats. Implemented: ORS 671.520, 671.530, 671.540 & 671.660

Hist.: LC 3, f. & ef. 2-7-77; LC 1-1981, f. & ef. 10-8-81; LC 1-1984, f. & ef. 7-17-84; LC 2-1984, f. & ef. 10-2-84; LC 1-1985, f. & ef. 7-1-85; LC 1-1986, f. & ef. 1-3-86; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; Renumbered from 808-010-0010; LCB 1-1991, f. & cert. ef. 7-

22-91; LCB 3-1991(Temp), f. & cert. ef. 12-3-91; LCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; LCB 2-1992, f. 7-14-92, cert. ef. 7-15-92; LCB 3-1992(Temp), f. & cert. ef. 7-16-92; LCB 1-1993, f. & cert. ef. 1-19-93; LCB 4-1993, f. & cert. ef. 11-1-93; LSCB 2-1997, f. & cert. ef. 11-3-97; LCB 1-1998, f. & cert. ef. 2-6-98; LCB 3-1998(Temp), f. & cert. ef. 11-16-98 thru 5-15-99; LCB 1-1999, f. & cert. ef. 2-11-99; LCB 3-1999, f. & cert. ef. 11-17-99, Renumbered from 808-002-0010; LCB 1-2001, f. 12-4-01, cert. ef. 1-1-02; LCB 3-2004, f. 1-27-04, cert. ef. 2-1-04; LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCB 3-2006, f. & cert. ef. 8-2-06; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 12-2009, f. 12-23-09, cert. ef. 1-1-10; LCB 9-2011, f. 7-26-11, cert. ef. 8-1-11; LCB 6-2012, f. & cert. ef. 8-2-12

Rule Caption: Extends deadline from 30 days to 180 days for post approval of CEH courses.

Adm. Order No.: LCB 7-2012

Filed with Sec. of State: 8-2-2012

Certified to be Effective: 8-2-12

Notice Publication Date: 5-1-2012

Rules Amended: 808-040-0050

Rules Repealed: 808-040-0050(T)

Subject: Extends deadline from 30 days to 180 days for post approval of CEH courses. This filing will replace a temporary rule that is already in place.

Rules Coordinator: Kim Gladwill-Rowley—(503) 967-6291, ext. 223

808-040-0050

Program Approval Process

(1) Pre-approval Process. Programs offered by any institution, agency, professional organization or association, which conducts educational meetings, workshops, symposiums, seminars and other such activities where a CEH credit is desired must be approved by the Board prior to the presentation of the program and prior to the attendance by a licensee. The written request for the issuance of CEH credit must:

(a) Be received on a form provided by the Board at least 30 calendar days prior to the presentation date (unless otherwise approved by the agency Administrator) and include:

(A) Name of sponsoring institution, association or organization;

(B) Title of the presentation;

(C) Date of presentation;

(D) Topic covered from list in 808-040-0040;

(E) A written outline of the program;

(F) The length of the program in hours;

(G) Name of instructor or presenter;

(H) Type of CEH requested;

(I) Copy of the certificate to be given to each attendee with the signature of the instructor or presenter or the official stamp of the sponsor on the certificate. If more than one presenter is authorized to sign, then the signatures of each presenter must be on the certificate or on copies of the certificate; and

(J) Contact information for the provider which must include the address, phone number, fax number and email (if available) for the provider.

(b) Upon receipt of all documentation required in subsection (1) of this rule the board will review the request and notify the provider by either email or regular mail the determination of the CEH allowed by the board.

(2) Other Approval Process. In the event a landscape construction professional attends a program that is not pre-approved as outlined in section (1) above,

(a) The landscape construction professional may request approval of the attended program by submitting written documentation no later than 180 days after the date the program was attended that includes:

(A) Name of sponsoring institution, association or organization;

(B) Topic of the presentation;

(C) Title of the presentation;

(D) Name of instructor or presenter;

(E) Date of presentation;

(F) Length of presentation in hours;

(G) Type of CEH; and

(H) Number of CEH claimed.

(I) Signature of the instructor or presenter or official stamp of the sponsor signifying attendance and completion of the course.

(b) The board, after reviewing the submitted documentation, will determine:

(A) If the program meets the conditions for the CEH requirement; and

(B) The number of CEH allowed for the program, if any.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.676

ADMINISTRATIVE RULES

Hist.: LCB 8-2007, f. 12-24-07, cert. ef. 1-1-08; LCB 2-2009(Temp), f. & cert. ef. 5-13-09 thru 11-9-09; LCB 10-2009, f. & cert. ef. 10-28-09; LCB 1-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 9-28-12; LCB 7-2012, f. & cert. ef. 8-2-12

Oregon Business Development Department
Chapter 123

Rule Caption: Modify rules relating to the Strategic Investment Program.

Adm. Order No.: OBDD 11-2012

Filed with Sec. of State: 8-15-2012

Certified to be Effective: 8-15-12

Notice Publication Date: 6-1-2012

Rules Amended: 123-623-1950

Rules Repealed: 123-623-1200

Subject: Rule modifications for the Strategic Investment Program are being modified to reflect minor improvements, corrections or clarifications.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-623-1950

Local Distribution of Community Service Fee

(1) The County shall see to the entire annual distribution of funds comprising the community service fee including but not limited to some or all of the following:

(a) The County;

(b) City government(s) if any part of Approved Project is located within incorporated territory;

(c) Any (other) local taxing district that levies taxes on property located in a tax code area containing any part of the Approved Project; or

(d) Local organizations or programs that provide a relevant and significant community service, even without taxing authority.

(2) A distribution formula shall determine the exact percentage of the community service fee received or retained by an entity listed in section (1) of this rule. A schedule of distribution formulae that varies from year to year is allowable.

(3) Establishment of the annual formula may occur in one of only the following two ways:

(a) By official action of the Commission, if subsection (b) of this section is not satisfied; or

(b) By formal agreement that the following local parties have at least accepted in principle, and that is effective, on or before the same date of the third month after the Commission's determination of the Approved Project:

(A) County government;

(B) City government described in subsection (1)(b) of this rule; and

(C) Local taxing districts listed in ORS 198.010 or 198.180 and described in subsection (1)(c) of this rule, to the extent that the sum of property tax authority for such participating districts equals or exceeds 75 percent of the total for all such districts (prorated by the proportion of the Approved Project among tax code areas). Property tax authority consists of the sum of a district's permanent and local option (levy) rate authority, both used and unused, but it excludes the levy/tax rates for bonded indebtedness.

(4) If local parties timely reach and effect such an agreement:

(a) They may mutually amend or revise the agreement at a later time; and

(b) The County shall formally report the annual distribution formula to the Department, in order to verify that the Commission need not establish such formula, and to facilitate its availability for use in distributing appropriated amounts from the Shared Service Fund under ORS 285C.639(3)(b).

(5) In the event that the parties in subsection (3)(b) of this rule have not concluded an agreement (aside from outstanding signatures) before the requisite three-month period, the Commission:

(a) Shall take necessary steps as soon as reasonably possible for purposes of subsection (3)(a), as described in section (6), of this rule; or

(b) May delay official action, at its sole discretion, if informed that a sufficient set of the parties described in subsection (3)(b) of this rule are having productive negotiations, with which they wish to continue. Under such circumstances:

(A) The Commission may officially sanction an agreement reached when negotiations successfully conclude;

(B) The parties may not subsequently amend or revise the agreement in any way that would effectively modify the established distribution formula)

(6) In determining a distribution formula the Commission:

(a) May rely primarily on the relative proportions of prevailing property tax rates among affected local taxing districts;

(b) May consider adjusting such proportions according to the Approved Project's demand or direct impact on the public service(s) provided by each entity, taking account of expected new property tax revenues even with the Abatement, as well as consideration of the goals and purposes of applicable state policies;

(c) Shall set an annual distribution percentage for each entity described in section (1) of this rule that the Commission determines will receive a portion of the distribution; and

(d) Shall in the process of issuing the distribution formula to the County government, notify all entities of this official, final action.

(7) In an SIZ, each Approved Project will entail a separate agreement or Commission action for the distribution of the community service fee arising from it, consistent with this rule. Nevertheless, the County and affected local parties may agree to a generalized distribution formula and standard agreement for future Approved Projects.

Stat. Auth.: ORS 285A.075 & 285C.615(7)

Stats. Implemented: ORS 285C.609, 285C.623 & 285C.639

Hist.: EDD 25-2008, f. 7-31-08, cert. ef. 8-1-08; Renumbered from 123-023-1950 by OBDD 18-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 11-2012, f. & cert. ef. 8-15-12

Rule Caption: Modify rules relating to the Oregon Investment Advantage program.

Adm. Order No.: OBDD 12-2012

Filed with Sec. of State: 8-15-2012

Certified to be Effective: 8-15-12

Notice Publication Date: 6-1-2012

Rules Amended: 123-635-0100, 123-635-0150, 123-635-0300, 123-635-0350

Subject: Rule modifications for the Oregon Investment Advantage are being modified to reflect minor improvements, corrections or clarifications.

Modifications are made in the Oregon Investment Advantage due to HB 3672 passed in the 2011 Legislative Session.

Housekeeping and technical corrections to these rules may occur to ensure consistency and comply with statute.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-635-0100

Definitions

As used in this division of administrative rules, in addition to definitions in OAR 123-001 (Procedural Rules), unless the context dictates otherwise:

(1) "Business firm" means a person operating or conducting one or more trades or businesses for profit, and does not include any governmental agency, municipal corporation or nonprofit corporation, other than a people's utility district or a joint operating agency under ORS 262.005.

(2) "Facility" has the meaning given under ORS 285C.500(4).

(3) "Municipal Corporation" means the following with respect to the location of a Facility proposed by an application for preliminary certification:

(a) The county government of the county, the territory of which contains the Facility, regardless of whether the location is incorporated or not;

(b) A city government, if the Facility will be located within the corporate limits or urban growth boundary of the city; and

(c) A Port for which the Facility will be located within the territorial limits of the port district.

(4) "Qualified Location" means a site for a Facility as described in OAR 123-635-0150.

(5) "Unique Operations" has the meaning described in OAR 123-635-0175.

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

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285C.500 & 285C.503

Hist.: EDD 17-2002, f. 11-27-02, cert. ef. 12-2-02; EDD 9-2005, f. & cert. ef. 11-4-05; OBDD 5-2010, f. 1-29-10, cert. ef. 2-1-10; Renumbered from 123-155-0100, OBDD 1-2011, f. & cert. ef. 1-3-11; OBDD 4-2011, f. 8-31-11, cert. ef. 9-1-11; OBDD 12-2012, f. & cert. ef. 8-15-12

123-635-0150

Qualified Locations

A proposed Facility must be inside a county as determined according to section (1) of this rule, and located at a site satisfying the requirements of section (2) of this rule, at the time when the Department receives the application for preliminary certification:

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(1) With respect to county eligibility:

(a) Effective July 1 of each year, the Department shall determine the counties fulfilling the criteria under ORS 285C.500 (or section 3, chapter 595, Oregon Laws 2005, when applicable) based on county annual unemployment rates and per capita personal income levels for the three most recent years for which data are then available.

(b) This determination remains in effect for any proposed Facility, for which the Department receives application for preliminary certification on or after that July 1, until and including June 30 of the next year, except when the determination is modified to reflect official revisions in the data occurring during that annual period at least one full month before receipt.

(c) Subsequent revisions to data described in this section do not affect the county eligibility for a preliminary certification application received when the county was eligible.

(2) The specific site of a proposed Facility must meet at least one of the following two requirements:

(a) The site is completely inside the urban growth boundary (UGB) of a city with a population of 15,000 or less (based on the most recent population estimates available from the Portland State University Population Research Center); or

(b) Regardless of being inside or outside of any city's UGB, the site consists entirely of land zoned for industrial use:

(A) Pursuant to effective municipal zoning ordinances that expressly and generally permit permanent facilities and private operations for heavy or light manufacturing, energy production, fabrication, warehousing, distribution, mineral/agricultural processing or similarly intensive, economic uses;

(B) In accordance with applicable state land-use laws, including but not limited to those for unincorporated communities, exceptions from state planning goals, or ORS 197.713, 197.714 or 197.719; and

(C) Such that the Facility's business operations must directly benefit a traded sector industry under ORS 285B.280, regardless of other uses permitted under the particular zoning code ordinance.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285C.500 & 285C.503, ORS 197.713, 197.714 & 197.719; OL 2005, ch. 595, §3

Hist.: EDD 17-2002, f. 11-27-02, cert. ef. 12-2-02; EDD 9-2005, f. & cert. ef. 11-4-05; OBDD 5-2010, f. 1-29-10, cert. ef. 2-1-10; Renumbered from 123-155-0150, OBDD 1-2011, f. & cert. ef. 1-3-11; OBDD 12-2012, f. & cert. ef. 8-15-12

123-635-0300

Annual Certification

For purposes of annual certification of a Facility for each tax year of the business firm, as allowed under ORS 285C.506:

(1) A preliminarily certified business firm that owns or leases and operates the Facility must file the application for annual certification with the Department:

(a) On or before the 30th day after the end of the income or corporate excise tax year, for which it is seeking to claim or exercise the exemption under ORS 316.778 or 317.391; and

(b) Using the form prescribed by and available from the Department.

(2) Each application must include a fee of \$100 in the form of a check or money order payable to the Department.

(3) Within 30 days after the date of filing, Department staff shall review the application, consider potential fact-finding about the Facility under ORS 285C.506(5) to (8), and determine whether it satisfies the applicable requirements for annual certification then:

(a) If the Department denies annual certification, it shall send notice consistent with OAR 123-001-0725.

(b) If the Department approves the annual certification, it shall send a letter conferring certification for the just concluded tax year.

(4) The Department shall also copy relevant staff at the Department of Revenue with items as described in section (3) of this rule.

(5) Requirements for annual compensation apply only to a Facility that received preliminary certification on or after January 1, 2011.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 285A.075 & 285C.506(4)

Stats. Implemented: ORS 285C.506

Hist.: EDD 17-2002, f. 11-27-02, cert. ef. 12-2-02; EDD 9-2005, f. & cert. ef. 11-4-05; OBDD 5-2010, f. 1-29-10, cert. ef. 2-1-10; Renumbered from 123-155-0300, OBDD 1-2011, f. & cert. ef. 1-3-11; OBDD 12-2012, f. & cert. ef. 8-15-12

123-635-0350

Issues of Initial and Subsequent Annual Certifications

For purposes of annual certification as described in OAR 123-635-0300:

(1) The preliminarily certified business firm may not file the first such application for annual certification with the Department until after:

(a) Business operations have commenced at the Facility;

(b) Relevant employees have been hired; and

(c) The business firm has fully:

(A) Acquired Facility property; and

(B) Completed it in terms of the construction, reconstruction, modification and installation of proposed improvements for purposes of subsection (a) of this section.

(2) Relative to the commencement of operations and so forth, as described in section (1) of this rule, during a given income tax year of the business firm, this first filing may occur:

(a) For and immediately following the tax year of such commencement, if the firm effectively applied for preliminary certification on or before June 30, 2011.

(b) Not less than 24 months after such commencement, if the firm effectively applied for preliminary certification on or after July 1, 2011, such that the exemption on taxable income may not begin until at least:

(A) One tax year later, if such commencement occurs within the first 30 days of the tax year; or

(B) Otherwise, two tax years later.

(3) For purposes of this first filing, the application shall show that after the date, on which the Department approved the preliminary certification:

(a) Business operations commenced at the Facility within:

(A) Six months, if only acquiring existing buildings or structures; or

(B) Eighteen months, if involving major construction or reconstruction; and

(b) Facility property did not remain in an unfinished state of construction, reconstruction, modification or installation for more than six months without significant progress toward completion of such activities.

(4) In order for the Department to certify the Facility with the first filing:

(a) The location and nature of the Facility's business operation need to conform to that indicated in the application for preliminary certification, for which the Department may issue an amended preliminary certification as appropriate, pursuant to formal receipt of revised information from the business before the end of the tax year, in which operations commence. In determining the appropriateness of issuing an amended preliminary certification, the Department shall consider:

(A) Such criteria as described in section (6) of this rule; and

(B) Material implication for issues described under ORS 285C.503(4)(b), consulting with the Municipal Corporations beforehand as warranted.

(b) Subsection (3)(a) or (b) of this rule must be satisfied, except as allowed by Department staff through a written finding that the delay or interruption is reasonable and not excessive, given the nature and extent of the business firm's investment in the Facility or of inadvertent circumstances.

(5) For purposes of an application for annual certification:

(a) Its approval shall not depend on any current issue of actual competition with other local businesses, Qualified Location or Unique Operations.

(b) The Department may deny the application if discovering that at the time of application for preliminary certification, the Facility was not at a Qualified Location or did not represent Unique Operations, including but not limited to the case where the preliminary certification application contained false or incomplete information.

(c) The Department may approve the application, even if the nature of the Facility or the business firm/ownership changes after the first filing, including but not limited to changes in:

(A) The composition of Facility property or its exact location; or

(B) The corporate or ownership structure or organization of the business.

(6) To allow a change as described in sections (4)(a) or (5)(c) of this rule depends on:

(a) Direct, ongoing continuity with the original facility;

(b) Business operations remaining materially the same; and

(c) Relative to the location identified in the application for preliminary certification, the Facility is located at what was likewise a Qualified Location inside the same urban growth boundary or at a similarly proximate location.

(7) The business firm need not make its first such filing as soon as is permissible according to in sections (1) and (2) of this rule, and the business firm may miss or skip any subsequent opportunity, for which it is allowed to apply for annual certification; however:

ADMINISTRATIVE RULES

(a) Neither postponement of the first filing nor failure to apply in any subsequent tax year shall affect the period for which certification is otherwise allowed.

(b) The business firm may not claim or exercise the exemption under ORS 316.778 or 317.391 for any such tax year, pursuant to which it did not directly make application for annual certification as described in OAR 123-635-0300. The firm may still use the exemption for any remaining, eligible tax year that is not more than nine consecutive tax years after the year, in which operations commenced and so forth as described in section (1) of this rule, subject to annual certification.

(c) If an application for annual certification is timely filed but denied by the Department, then the exemption is disallowed for not only that year, but also for all other remaining, eligible tax years (but without retroactive effect on any prior exemption).

Stat. Auth.: ORS 285A.075 & 285C.506(6) & (7)
Stats. Implemented: ORS 285C.506, 316.778 & 317.391
Hist.: EDD 17-2002, f. 11-27-02, cert. ef. 12-2-02; EDD 9-2005, f. & cert. ef. 11-4-05; OBDD 5-2010, f. 1-29-10, cert. ef. 2-1-10; Renumbered from 123-155-0350, OBDD 1-2011, f. & cert. ef. 1-3-11; OBDD 12-2012, f. & cert. ef. 8-15-12

Rule Caption: Modify rules relating to Enterprise Zone creation.

Adm. Order No.: OBDD 13-2012

Filed with Sec. of State: 8-15-2012

Certified to be Effective: 8-15-12

Notice Publication Date: 6-1-2012

Rules Adopted: 123-650-0075

Rules Amended: 123-650-0100, 123-650-0700, 123-650-1000, 123-650-1100, 123-650-2100, 123-650-2200, 123-650-7300, 123-650-9100

Rules Repealed: 123-650-0059

Subject: Rule modifications for the Enterprise Zone Program are being modified to reflect minor improvements, corrections or clarifications.

Changes are made in the Enterprise Zone Program due to HB 3017 which was passed in the 2011 Legislative Session. These changes reflect the overall extension of the Enterprise Zone Program sunset date to 2025. HB 3672 was passed in the 2012 Legislative Session.

Modifications are made to the rules to reflect additional enterprise zone numbers and size limitations.

Housekeeping and technical corrections to these rules may occur to ensure consistency and comply with statute.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-650-0075

Maximum Number of Enterprise Zones

(1) The total number of enterprise zones allowed for designation is 65 under ORS 285C.080/285C.250, plus, as addressed in OAR 123-656;

(a) Any designation based on federal enterprise zone under ORS 285C.085 (which after it terminates becomes simply another regular enterprise zone through re-designation under ORS 285C.250); and

(b) Any designation of a reservation enterprise zone under ORS 285C.306(2), for which one is allowed for each federally recognized Indian Tribe in Oregon.

(2) Subject to change, the 62 enterprise zones presently in existence arose from the following provisions;

(a) Thirteen under ORS 285C.065 and 285C.080 (which permit five more designations, of which two must originally be rural);

(b) Forty-eight under ORS 285C.065 and 285C.250 (one of which was formerly designated under ORS 285C.085);

(c) None directly under ORS 285C.085; and

(d) One under ORS 285C.306(2).

(3) This rule does not pertain to:

(a) Designation of any federal enterprise zone in Oregon; or

(b) The existence of reservation partnership zones under ORS 285C.306(3), which are in addition to any maximum for the enterprise zones identified in this rule (see OAR 123-656).

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.050, 285C.065, 285C.080, 285C.115, 285C.250, 285C.306 & 285C.320
Hist.: OBDD 13-2012, f. & cert. ef. 8-15-12

123-650-0100

Definitions

ORS 285C.050 and OAR 123-001 (Procedural Rules) contain definitions used in this division of administrative rules. In addition, unless the context requires otherwise:

(1) “*Applicant*” means the Sponsoring Government or Governments submitting the application for an enterprise zone designation.

(2) “*Census Statistical Unit*” includes any standard geographic area, jurisdictional entity or administrative designation, for which the U.S. Bureau of Census or other federal, state or institutional/academic sources issue recurring economic data, including but not limited to the following: County, county subdivision, city, census tract, or census block group.

(3) “*Original enterprise zone*” as used in ORS 285C.115(2) means the area within the boundary of the zone at the time when it was most recently designated, irrespective of intervening boundary amendments.

(4) “*Enterprise Zone Population*” means:

(a) For rural enterprise zones, the total population of incorporated cities, in which any part of the zone is located, plus the currently estimated population of Census Statistical Units that include unincorporated territory within the boundary of the zone; or

(b) For urban enterprise zones, the currently estimated population of Census Statistical Units that include area within the boundary of the zone and in any associated Target Community for the zone.

(5) “*Preexisting Enterprise Zone*” means an enterprise zone:

(a) Designated within three years of an enterprise zone’s being Terminated-by-Statute;

(b) For which at least one-half of its cosponsors comprised a majority of the cosponsors of the enterprise zone Terminated-by-Statute; and

(c) Recognized as the continuation of the previous enterprise zone, even though it is technically a new zone designation.

(6) “*Round of Designation*” means the period, not less than 90 days, beginning with the public notice and ending no sooner than with the effective date for the last of any resulting designations under ORS 285C.065, 285C.080 or 285C.250 (see OAR 123-650-2000).

(7) “*Sponsoring Government*” means a county, port or city participating as an Applicant in proposing an enterprise zone (or a district that has effectively the same governing body as the county, port or city, and that contains all the city, port or county territory inside the proposed zone).

(8) “*Target Community*” means an extensive residential area or group of such areas proximate to a proposed urban enterprise zone boundary, and encompassing a populace that the Applicant intends to explicitly help through employment opportunities and relevant public or private efforts or programs in relation to the proposed zone.

(9) “*Terminated-by-Statute*” means the automatic termination of an enterprise zone, previously designated under ORS 285C.065, 285C.080, 285C.085 or 285C.250, by operation of law after more than 10 years under ORS 285C.245(2).

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.050 - 285.250
Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10; OBDD 13-2012, f. & cert. ef. 8-15-12

123-650-0700

Rural and Urban Designations

(1) As defined in ORS 285C.050(8), an “enterprise zone” is a designated area (or a reservation partnership zone under a co-sponsorship agreement), categorized as either “rural” or “urban” under ORS 285C.050(17) or (21).

(2) As used in ORS 285C.050(21), “regional or metropolitan urban growth boundary” means:

(a) The Metro/Portland-area regional urban growth boundary (UGB); or

(b) The UGB encompassing the largest city inside a federally established metropolitan statistical area (MSA) and any other city that jointly undertakes comprehensive planning with that city to determine their mutual UGB(s). Subject to change in federal MSAs or joint arrangements for inter-city planning, this currently includes the UGBs for:

- (A) Bend;
- (B) Corvallis;
- (C) Eugene;
- (D) Medford; and
- (E) Salem and Keizer.

(3) For the purposes of ORS 285C.050(21), “inside” means that an enterprise zone may be neither designated nor amended to include areas both inside and outside a regional or metropolitan urban growth boundary, except for a (rural) reservation enterprise zone or reservation partnership zone.

ADMINISTRATIVE RULES

(4) The rural/urban category of any existing (non-reservation) enterprise zone may switch according to a change in the circumstances with section (2) of this rule, for future purposes, as determined by the Department.

(5) If a new or newly modified regional or metropolitan urban growth boundary intersects an existing enterprise zone, the zone's categorization as either urban or rural shall remain unchanged. If a subsequent modification to the regional or metropolitan urban growth boundary (or to the definition thereof) situates the zone entirely outside or inside of that boundary, then the zone's categorization as rural or urban shall switch accordingly.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.050 - 285C.250

Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10; OBDD 13-2012, f. & cert. ef. 8-15-12

123-650-1000

Size and Distances

For purposes of an enterprise zone designation or boundary change:

(1) Except as allowed in OAR 123-650-1100:

(a) The straight-line distance between any two points within the zone may not exceed 12 miles if it is urban, or 15 miles if it is rural.

(b) A separate area of the zone must be five or fewer miles of straight-line distance away from another area of the zone as measured between the two closest points of each area.

(2) No part of the zone may be inside the boundary of another enterprise zone.

(3) The total area of the zone may not exceed 12 square miles if it is urban, or 15 square miles if it is rural, for which the following are ignored:

(a) Any road, track, transmission line or right of way that nominally connects separate areas of the zone; or

(b) Any area below the ordinary high water mark of navigable bodies of water, including but not limited to the borders/territory of this state corresponding to the jurisdiction of the zone sponsor, such as areas of the ocean up to three nautical miles directly from shore. (Nevertheless, property located in such are is inside the zone boundary).

(4) No part of this rule applies to federal enterprise zones, nor does it affect a rural renewable energy development zone under ORS 285C.353, consistent with OAR 123-680.

(5) Consistent with OAR 123-656:

(a) Other than section (2) no part of this rule restricts the designation or amendment of an enterprise zone based on a federal enterprise zone under ORS 285C.085.

(b) Other than sections (2) and (3) no part of this rule affects the designation or existence of a reservation enterprise zone under ORS 285C.306(2), except pursuant to a boundary change under 285C.115(3).

(c) No part of this rule pertains to a reservation partnership zone under ORS 285C.306(3), except pursuant to a boundary change under 285C.115(3).

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.065 & 285C.090

Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10; OBDD 13-2012, f. & cert. ef. 8-15-12

123-650-1100

Extended Rural Distances

For purposes of ORS 285C.050(18), 285C.090(4) and 285C.120:

(1) This rule applies only to rural enterprise zones that are or will be at least partially outside a county, for which the latest estimate of the county's total population divided by the current area exceeds 100 persons per square mile, known for purposes of this rule as a "densely populated county."

(2) The maximum distance allowed in OAR 123-650-1000(1)(a) increases from 15 to:

(a) Twenty-five lineal miles, if no area of the zone is in a densely populated county; or

(b) Twenty lineal miles, if some but not all of the zone area lies in a densely populated county.

(3) The maximum distance allowed in OAR 123-650-1000(1)(b) increases from 5 to 15 lineal miles if none of the separate area is in a densely populated county.

(4) In accordance with ORS 285C.120(2), the Director may waive a limitation in section (2) or (3) of this rule to allow even greater distance pursuant to an enterprise zone designation or boundary change:

(a) As specifically requested by the Applicant for designation or the current zone sponsor and any proposed cosponsor;

(b) Such that the waiver is part of the Director's order designating or changing the boundary of the enterprise zone boundary; and

(c) If evidence or indications as evaluated by the Department satisfy points described in section (5) of this rule.

(5) For a waiver as described in section (4) of this rule, the Director must find that each of the following three points is satisfied:

(a) The impracticality of separate enterprise zones as an alternative, such that relative to outstanding demand for available designations, an area proposed for inclusion in the zone will serve an isolated site or small community that might be infeasible on its own as a zone.

(b) Effective administration within the overall requested boundary appears likely, in that for example, it is located entirely in one county, traversable over relatively direct and efficient road distances, and the appointed zone management can take care of the entire zone, or the zone sponsor will devote sufficient resources for management of the extended zone.

(c) Furtherance of the goals and purpose of applicable state policies, such as state land use goals, or the opportunity to efficiently and expeditiously site a significant business investment, to serve an area exhibiting particular hardship, or to accommodate the expressed preference of the relevant local jurisdictions.

(6) Nothing in this rule affects the restriction on total enterprise zone area in OAR 123-650-1000(3).

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.120(2)

Stats. Implemented: ORS 285C.050, 285C.065, 285C.090, 285C.120 & 285C.350

Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10; OBDD 13-2012, f. & cert. ef. 8-15-12

123-650-2100

Mandatory Economic Need and Land

For purposes of designation, a proposed enterprise zone must demonstrate that the local economy is lagging, and that it contains land ready for development:

(1) Except as allowed in section (2) of this rule, a proposed enterprise zone must meet one of the following relative measures of economic hardship in order to qualify for designation:

(a) The proposed enterprise zone's median income per household or mean income per capita is 80 percent or less of the equivalent statewide income;

(b) The proposed enterprise zone's unemployment rate is at least 2.0 percentage points higher than the statewide unemployment rate;

(c) The proposed enterprise zone's percentage of persons or families below the poverty level is at least five percentage points higher than the equivalent statewide percentage; or

(d) The change in Enterprise Zone Population during the most recent ten-year period is at least 15 percentage points less than the baseline growth for the statewide population. (For example, if the Enterprise Zone Population increased 10 percent, but the state's population over the same ten-year period grew by 25 percent, the proposed enterprise zone would meet this qualification.)

(2) A proposed enterprise zone may nevertheless qualify for designation under ORS 285C.090(1)(c), if the Director finds based on evidence documented by the Applicant that the proposed zone will effectively serve communities with economic needs at least as severe as that represented in section (1) of this rule. This may include a combination of recently available facts and data for social and economic conditions, or for example, permanent closures or curtailments within 30 miles of the proposed zone that are associated with heavy job losses by specified employers during the three years preceding the application deadline.

(3) The proposed enterprise zone boundary must encompass significant land that is vacant, improvable and suitable for use and rapid development by eligible business firms.

(4) No part of this rule shall exclude enterprise zones so designated or amended under federal law or under ORS 285C.085, 285C.115 or 285C.306.

(5) The application form and instructions prepared by the Department for the Round of Designation are hereby incorporated into and made part of these administrative rules by reference, for purposes of an Applicant's satisfying this rule with respect to how an Applicant shall:

(a) Assemble, aggregate and compare economic statistics;

(b) Properly relate those statistics to the proposed zone area and to this state or an equivalent basis;

(c) Document the adequacy and quantity of project-ready land;

(d) Undertake or integrate relevant strategic planning efforts; and

(e) Address other matters.

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

Stat. Auth.: ORS 285A.075, 285C.060(1), 285C.065(3) & 285C.250(4)

Stats. Implemented: ORS 285B.283, 285C.075, 285C.090 & 285C.250

Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10; OBDD 13-2012, f. & cert. ef. 8-15-12

123-650-2200

Acceptance and Effect of Application

With a given Round of Designation:

ADMINISTRATIVE RULES

(1) The application for designation of an enterprise zone as submitted by an Applicant:

(a) Shall include all items and information specified in OAR 123-650-2300, for which failure to perform an associated task may result in termination of the zone after designation under ORS 285C.245(5).

(b) May come from any city, port or county or combination of cities, ports or counties in accordance with OAR 123-650-0500, except as described in section (2) of this rule.

(c) Shall specify a name for the proposed zone corresponding to place names or common geographic or jurisdictional terms. (A Preexisting Enterprise Zone with the same name shall, as necessary, use suffix "II," "III," etc. for purposes of reapplication)

(d) May contain binding proposals by each Sponsoring Government (as indicated in its resolution) to provide local incentives under ORS 285C.065(4) to (6) (consistent with OAR 123-668-1300) to authorized or qualified business firms locating or expanding in parts of the proposed zone exclusive to that government's political or service territory.

(e) Serves as an opportunity for a Preexisting Enterprise Zone to revise any existing policy.

(2) The Department shall reject an application if:

(a) The proposed zone includes area in any existing enterprise zone (including but not limited to a reservation partnership zone) unless the other zone will be Terminated-by-Statute at the round's conclusion.

(b) Any Sponsoring Government is:

(A) A city, port or county that sponsored an enterprise zone terminated by order of the Director under ORS 285C.245(4) or (5), within 10 years by the time of expected designation, other than a county or port if a port/city also sponsored the terminated zone and none of the proposed enterprise zone area for designation was inside the terminated zone.

(B) A city (or a port without one or more different city cosponsors) that is also sponsoring a previously received application in the same round.

(C) A city with a population of less than 100,000 that sponsors an existing enterprise zone, unless it is a reservation partnership zone or will be Terminated-by-Statute at the round's conclusion, or as specially allowed by the Director respective to other near-term terminations and anticipated re-applications.

(3) Only with application for an enterprise zone may a city or county establish under ORS 285C.070 that a business operating a hotel, motel or destination resort is eligible under ORS 285C.135(5)(c) in the enterprise zone or in part of the zone exclusive to the city's or county's entire jurisdiction. Moreover:

(a) Any such election or restriction depends on resolution(s) (jointly) adopted by all city and county Sponsoring Government(s).

(b) A Sponsoring Government may revise an election, restriction or lack thereof, regardless of what is in the application, by resolution(s) adopted not more than six months after the date of designation.

(c) For a Preexisting Enterprise Zone with an existing election, hotel/resort eligibility does not automatically carry over (such that future hotel/resorts are ineligible throughout the new zone without a positive election as described in this section).

Stat. Auth.: ORS 285A.075, 285C.060(1), 285C.065(3), 285C.066 & 285C.250(4)
Stats. Implemented: ORS 285C.065, 285C.070, 285C.075 & 285C.250
Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10; OBDD 13-2012, f. & cert. ef. 8-15-12

123-650-7300

Economic Conditions

Under ORS 285C.115(2)(c), an area may be added to an enterprise zone only if it and adjoining residential areas are economically comparable to the original enterprise zone in a measurable way:

(1) Economic statistics or data for the original enterprise zone shall be:

(a) From the time of the application for designation of the zone; or
(b) As are most recently available.

(2) For purposes of the boundary change request and OAR 123-650-7000(4), general commentary shall suffice for this issue if it is readily apparent that any area for addition to the zone:

(a) Is virtually devoid of and geographically removed from residential areas; or

(b) Has/borders only residential areas with similar or worse economic hardship conditions.

(3) If the case is less plain than indicated in section (2) of this rule, then the request shall contain a suitable comparison of the original enterprise zone's economics as described in OAR 123-674-2100 to Census Statistical Units that contain, overlap or are appropriately adjacent to areas to be added to the zone.

(4) The comparison in section (3) of this rule must show that such Census Statistical Units, based on the most recently available data, have:

(a) Less than 20 percent of their land zoned for residential use; or

(b) Generally the same or a lower household or personal income, or a higher unemployment rate, or otherwise equivalent or more severe economic conditions, compared to the original enterprise zone.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.115

Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10; OBDD 13-2012, f. & cert. ef. 8-15-12

123-650-9100

Events and Timing

(1) Determinations by the Director on the designation, termination or rejection of an application for designation of an enterprise zone are final.

(2) Enterprise zones that are Terminated-by-Statute or are designated as replacements under ORS 285C.250(1) shall be terminated or designated effective at 12 midnight of July 1.

(3) Any zone that is designated under ORS 285C.250(1) to replace an enterprise zone that was concurrently Terminated-by-Statute shall not itself terminate under ORS 285C.245(2) until, in effect 11 years after its designation.

(4) Following the termination of an enterprise zone:

(a) The local policies adopted by the zone sponsor under ORS 285C.105 or other statutory provisions shall remain in force as they were at the time of termination.

(b) The only change that the sponsor of the terminated zone may make to the zone's local policies is to appoint a replacement as needed for the local zone manager, if the position previously held by the local zone manager lacks qualified personnel.

(5) Termination under ORS 285C.255(1)(c) — that is, statutory sunset of enterprise zone program — occurs at 12:01 AM on June 30, 2025.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.050 - 285C.250 & 285C.255

Hist.: OBDD 23-2010, f. & cert. ef. 6-14-10; OBDD 13-2012, f. & cert. ef. 8-15-12

Rule Caption: Modify rules relating to Electronic Commerce Enterprise Zones.

Adm. Order No.: OBDD 14-2012

Filed with Sec. of State: 8-15-2012

Certified to be Effective: 8-15-12

Notice Publication Date: 6-1-2012

Rules Amended: 123-662-1200

Subject: Rule modifications for the Electronic Commerce Enterprise Zone Program are being modified to reflect minor improvements, corrections or clarifications.

Housekeeping and technical corrections to these rules may occur to ensure consistency and comply with statute.

Rules Coordinator: Mindee Sublette — (503) 986-0036

123-662-1200

Designated Areas

(1) If the Legislature allows additional electronic commerce designations under ORS 285C.095, which are currently limited to 10 enterprise zones, the Department will seek applications in accordance with OAR 123-662-1000 through the local zone managers of all existing enterprise zones that are not already E-commerce zones.

(2) The Department shall maintain and publicize information identifying which enterprise zones are currently E-commerce zones.

(3) The termination for any reason under ORS 285C.245 of an enterprise zone that is an E-commerce zone shall immediately allow another enterprise zone to receive their electronic commerce designation in accordance with OAR 123-662-1000.

(4) The City of North Plains in Washington County is a city designated for electronic commerce under ORS 285C.100 effective on March 4, 2002, such that

(a) All areas then or later inside the city limits or urban growth boundary of the City of North Plains are equivalent to an "E-commerce zone," as used in this division of administrative rules, but only for purposes of Electronic Commerce and business firms that are eligible on that basis under ORS 285C.050 to 285C.250 and 315.507.

(b) The city shall act as the effective zone sponsor and take responsibility for all duties of a zone sponsor as they apply to an Electronic Commerce business firm seeking to utilize areas of the city for special benefits.

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

Stat. Auth.: ORS 285A.075, 285C.050(5), 285C.060(1) & 285C.095(2)

ADMINISTRATIVE RULES

Stats. Implemented: ORS 285C.095, 285C.100 & 285C.135
Hist.: OBDD 25-2010, f. & cert. ef. 6-14-10; OBDD 14-2012, f. & cert. ef. 8-15-12

Rule Caption: Modify rules relating to Standard Exemptions on Taxable Enterprise Zone Property.

Adm. Order No.: OBDD 15-2012

Filed with Sec. of State: 8-15-2012

Certified to be Effective: 8-15-12

Notice Publication Date: 6-1-2012

Rules Amended: 123-674-0200, 123-674-1500, 123-674-1700, 123-674-2100, 123-674-4100, 123-674-4200, 123-674-5300, 123-674-7200, 123-674-7210, 123-674-7220, 123-674-7230, 123-674-7240, 123-674-7250, 123-674-8100

Subject: Rule modifications for Standard Exemptions on Taxable Enterprise Zone Property are being modified to reflect minor improvements, corrections or clarifications.

Housekeeping and technical corrections to these rules may occur to ensure consistency and comply with statute.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-674-0200

“Employment” Terminology

As used in OAR 123-674-0100, with respect to counting the “number of employees” for purposes of this division of administrative rules, especially 123-674-4000 to 123-674-4800:

(1) It does not involve averaging based on hours worked, such as full-time equivalency, but rather relies on counting full-time, year-round jobs associated with relevant business operations throughout the enterprise zone, either at a particular time or on average over a year or 12-month period.

(2) It relates primarily to “employees of the firm” or “employment of the firm,” as used in ORS 285C.200 and 285C.210, which:

(a) Includes positions or persons who are:

(A) Employed directly by the business firm, or retained by lease or contract with the person or a third party, but the firm selected and directly manages them;

(B) Engaged a majority of their time in eligible operations under ORS 285C.135, including but not limited to persons who perform eligible activities as described in OAR 123-674-1100 or 123-674-1200(3) or (4); and

(C) Located anywhere inside the enterprise zone in terms of where they spend at least 75 percent of their time on the job, as well as official work site.

(b) Excludes positions or persons who are employed or performing work:

(A) At temporary or seasonal jobs;

(B) For 32 or fewer hours per week;

(C) Solely in the construction, modification or installation of qualified property;

(D) Regularly outside the zone boundary;

(E) The majority of their time in ineligible operations; or

(F) With any other business firm, including but not limited to affiliates or commonly owned companies.

(3) Consistent with subsection (2) of this rule, only full-time jobs with the firm that are filled indefinitely and exist year-round at the firm’s eligible operations inside the zone are normally counted. The following are exceptions:

(a) Only employees who work at the particular headquarter-type facility (see OAR 123-674-1700) matter, irrespective of other eligible employees inside the zone and paragraph (2)(a)(C) of this rule;

(b) For the transfer of eligible operations within 30 miles of zone boundary, further requirements described in OAR 123-674-4100(4) and 123-674-4600(2) also cover employees at affected sites outside the zone.

(c) The prohibition on jobs losses more than 30 miles outside the zone also encompasses persons employed:

(A) At any type of business operation in Oregon, not only the eligible kind, as are transferred into the zone; and

(B) By any commonly control company (see 123-674-4200).

(d) Jointly owned firms may combine their employment throughout the zone subject to section (4) of this rule.

(e) Temporary workers filling permanent positions are acceptable if the county assessor and the local zone manager conclude that:

(A) The qualified business firm is making every reasonable effort to fill such positions with permanent, regular hires; and

(B) The temporary workers and other potentially available job applicants do not meet reasonable, minimum standards of the firm for permanent hire, such as a high school diploma or equivalency.

(4) Under ORS 285C.135(4), two or more business firms with 100-percent common ownership may elect to be treated as a single firm for combining zone employment, irrespective of paragraph (2)(b)(F) of this rule, if authorized representative(s) of the firms or a parent company formally notify the local zone manager and county assessor to that effect before or with the initial exemption claim under 285C.220. Such an election affects all applicable provisions under 285C.050 to 285C.250 and this division of administrative rules, including but not limited to rendering moot any inter-firm lease of qualified property (which would then all be simply owned by the Firm/applicant), but it does not carry over to any subsequent authorization except in a terminated zone.

(5) Only newly created jobs may satisfy required increases in employment levels, as opposed to any employee associated with the merger or acquisition of another business firm or its existing operations or property, except positions inside the zone that were vacant for 60 or more days at the time of Application, and for which reemployment was otherwise unlikely.

(6) As used in this rule and under ORS 285C.050:

(a) “Person” may mean two or more part-time employees who together perform a single job involving more than 32 hours of work per week by virtue of an established (job-sharing) arrangement.

(b) “32 hours per week” is computed by taking the total number of hours over the course of a year, for which the person is reimbursed in the form of wage or salary, including but not limited to paid holidays, vacation and so forth, and dividing by 52.

(c) “Temporary or seasonal jobs” are nonpermanent positions, including but not limited to persons acquired and receiving compensation through the firm or an outside agency on a short-term, ad hoc or as-needed basis, or where the firm hires, leases or contractually employs a persons for any anticipated period of less than 12 consecutive months.

(7) There is no necessary relationship between minimum employment requirements and the requisite First Source Hiring Agreement, as addressed in OAR 123-070 and 123-674-7700 to 123-674-7730.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.050, 285C.135, 285C.200 & 285C.210

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10; OBDD 31-2010, f. 6-30-10, cert. ef. 7-1-10; OBDD 15-2012, f. & cert. ef. 8-15-12

123-674-1500

Local Option for Hotels, Motels and Destination Resorts

(1) For purposes of exemption under ORS 285C.175 (but not ORS 285C.170) on qualified property owned or leased and operated by a Firm/applicant as a hotel, motel or destination resort inside an enterprise zone, with respect to eligibility under ORS 285C.135(5)(c), the business firm and the property must:

(a) Satisfy all applicable requirements; and

(b) Locate in a zone or portion of a zone as permitted under ORS 285C.070 and described in section (2) of this rule.

(2) For hotel/resort businesses, allowable enterprise zones include:

(a) Any future enterprise zone that is acknowledged by the Director in the order of designation as having opted to exempt such qualified property under ORS 285C.070 (see OAR 123-650-2200); and

(b) Subject to change, the following 41 current enterprise zones:

(A) The entire area of the Baker/County, Bay Area, Cascade Locks/Hood River, Columbia Cascade, Columbia River, Coquille Valley, Estacada, Florence, Forest Grove/Cornelius, Fossil, Grande Ronde, Grant County, Greater Umatilla, Harney County/Burns/Hines, Harrisburg, Jackson County, Klamath Falls/Klamath County, Lake County/Lakeview, Lower Umpqua, Malheur County, Medford Urban, Molalla, Port Orford, Roberts Creek, Rogue, Sandy, Sherman County, South Columbia County, South Douglas County, Sutherlin/Oakland, Sweet Home, The Dalles/Wasco County, Tillamook, Veneta and Woodburn Enterprise Zones and the Cottage Grove, Creswell & Southern Lane County Enterprise Zone;

(B) The Dallas/Independence/Monmouth Enterprise Zone, except for any area of Polk County outside city limits;

(C) The Deschutes Rural Enterprise Zone, except for any area of Deschutes County outside city limits;

(D) The Jefferson County Enterprise Zone, except for the incorporated territory of the City of Madras;

(E) The Lower Columbia Maritime Enterprise Zone, except for the incorporated territory of the City of Rainier; and

(F) The South Santiam Enterprise Zone, except for the incorporated territory of the cities of Albany, Millersburg and Tangent.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.070, 285C.135 & 285C.185

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10; OBDD 15-2012, f. & cert. ef. 8-15-12

ADMINISTRATIVE RULES

123-674-1700

Headquarter Facilities

For purposes of ORS 285C.135(5)(b):

(1) A Firm/applicant and its operations are eligible, regardless of retail, financial, professional or other such ineligible activities, if:

(a) The business is operating at two or more sites in significant ways outside of the enterprise zone;

(b) The operations in the zone support and serve the firm's other operations throughout this state or throughout a multiple-state or larger region; and

(c) In approving the Application, the local zone manager includes a formal finding by the sponsor pursuant to the Preauthorization Conference under ORS 285C.140(7).

(2) The formal finding for subsection (1)(c) of this rule shall:

(a) Describe how the proposed investment and the business firm will satisfy subsections (1)(a) and (b) of this rule, including indications of applicable services, relevant region and the relationship among intra-firm operations; and

(b) State that the proposed investment is significant for the enterprise zone and the local economy succinctly explaining the reasons for this significance, such as size of anticipated operations relative to local measures of commerce, special job opportunities, diversification, strategic, marketing or visibility objectives of the zone, or other impacts.

(3) As required under ORS 285C.180(2)(g), the business firm may not qualify for the exemption under ORS 285C.175, if the actual investment in qualified property does not essentially conform to the proposed investment as described in the Application and section (2) of this.

(4) The local zone manager may modify the formal finding prior to an authorized business firm qualifying for the exemption, consistent with Application amendment in OAR 123-674-3200.

(5) For purposes of OAR 123-674-4000 to 123-674-4800, as provided under ORS 285C.200(7)(b)(B), only the employees working at a facility described in this rule are counted consistent with OAR 123-674-0200(3)(a).

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.135, 285C.140, 285C.180 & 285C.200

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10; OBDD 15-2012, f. & cert. ef. 8-15-12

123-674-2100

Allowably Late Applications

Notwithstanding OAR 123-674-2000(2), the zone manager may accept an Application after:

(1) Certain physical work that consists only of:

(a) Demolition, cleanup, environmental remediation, removal of hazardous materials, and so forth;

(b) On-site delivery, storage or upkeep of materials or elements of qualified property prior to construction/installation activity; or

(c) Construction or the like that occurred and completely ceased six months or longer before Application, consistent with paragraph (3)(b) of OAR 150-258C.180, insofar as the property is never placed in service and the Application precedes the resumption of work.

(2) The commencement of hiring or physical work, if the Application wholly replaces a previously submitted Application by December 31 immediately before the initial year of exemption consistent with OAR 123-674-3200, such that in this case, the originally submission date is used.

(3) The commencement of hiring or physical work pursuant to a waiver issued by the Department of Revenue, or as otherwise allowed under ORS 285C.140(11) and (12).

(4) The commencement of physical work on a qualified building or structure (aside from associated machinery & equipment) under 285C.145(2), if the following are true:

(a) Firm/applicant did not own or lease any such building or structure, or have a binding obligation to do so, at any time before the commencement of construction, reconstruction or modifications;

(b) Firm/applicant includes a copy of an executed lease or purchase agreement for the qualified building or structure with the Application;

(c) Firm/applicant does not have any familial, employment, corporate or other such entity relationship with the owner or previous owner of the building or structure; and

(d) Approval of the Application occurs before the Firm/applicant begins to use or occupy the building or structure for commercial operations.

(5) The commencement of physical work on one type of property that will not qualify, but before work begins on other property that may qualify, as differentiated consistent with ORS 285C.180(1) and described in OAR 123-674-3100(3).

(6) Even the completion of construction, modifications or installations as otherwise allowed in sections (2) to (5) of this rule.

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.140(12)

Stats. Implemented: ORS 285C.140 & 285C.145

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10; OBDD 15-2012, f. & cert. ef. 8-15-12

123-674-4100

Employment Requirement to Qualify Initially

To receive and begin an enterprise zone exemption under ORS 285C.175, an authorized business firm must qualify by filing under ORS 285C.220 and 285C.225 (as described in OAR 123-674-6100):

(1) The first Claim Employment must equal or exceed the greater of one plus, or 1.1 times, Existing Employment. (If the actual Claim Employment is insufficient, the requirement under ORS 285C.200(1)(c) is still met if a sufficiently high level of employment was achieved at any time prior to April 1 but after Application, as explained by the business firm in an attachment to the claim form)

(2) For a subsequent exemption on additional qualified property pursuant to the same Application, as described in OAR 123-674-3100(4), the requirement of section (1) of this rule has effectively already been satisfied.

(3) If section (1) of this rule is not satisfied, then the county assessor shall deny the exemption claim and not grant any exemption under ORS 285C.175 on qualified property, except with a waiver by the zone sponsor and qualification as described in OAR 123-674-4300. Such denial does not directly affect the firm's authorization status and its ability to qualify other (later) property under ORS 285C.170 or 285C.175.

(4) Under ORS 285C.200(6), the transfer of eligible employees, jobs or positions into the zone from a site within 30 miles outside the zone boundary triggers an additional requirement in terms of section (1) of this rule, insofar as any part of the transfer occurred between the time of Application and the end of the initial year of exemption. For purposes of this section's additional requirement, the definitions of Claim Employment and Existing Employment are expanded to include the number of employees located at any such site, as well as those inside the zone.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.050, 285C.175, 285C.200, 285C.220 & 285C.225

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10; OBDD 15-2012, f. & cert. ef. 8-15-12

123-674-4200

Diminishing Employment Well beyond the Zone

Under ORS 285C.200(1)(d) and (5), an authorized business firm seeking an exemption in any enterprise zone may not qualify or remain qualified, if the firm transfers operations into the zone involving the closure or curtailment of operations and any drop in employment or job losses elsewhere in this state:

(1) Unless the originating location is 30 miles or less from the boundary of the zone, and the firm meets the requirements under ORS 285C.200(6) and 285C.210(2)(c) described in OAR 123-674-4100(4) and 123-674-4600(2).

(2) Except if the firm demonstrates, with or without the assistance of the zone sponsor, to the satisfaction of the county assessor or the Department that the curtailment/job losses:

(a) Occurred entirely before Application;

(b) Occur entirely after the initial year of exemption on qualified property;

(c) Will not be permanent, such that restoration of the jobs is reasonably likely and does in fact happen on or before December 31 of the initial year of exemption;

(d) Pertain to business operations that the firm does not control in any way through common ownership, corporate affiliation, contracts governing relevant operations, or the like;

(e) Are completely unrelated to investments in the zone, such that there is effectively no transfer of curtailed operations or jobs into the zone; or

(f) Have only de minimis impact, which the Department may deem true if job losses will amount to less than one hundredth of 1 percent (0.01%) of the most recently available figure from the State Employment Department for annual average total nonfarm, private employment in the county experiencing curtailed operations.

(3) For purposes of this rule, transferred operations and curtailed employment relate to any type of business activity, including but not limited to what would be ineligible in an enterprise zone.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.200, 285C.210 & 285C.240

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10; OBDD 15-2012, f. & cert. ef. 8-15-12

ADMINISTRATIVE RULES

123-674-5300

Buildings, Structures and Other Real Property

For purposes of enterprise zone property to be exempt under ORS 285C.170 or 285C.175:

(1) A building, structure or newly installed real property machinery & equipment does not qualify, unless the cost of all such property in a single property schedule under ORS 285C.225 equals or exceeds \$50,000 in total.

(2) Qualified property, including but not limited to a building or structure, is severable under ORS 285C.180(5) (which does not pertain to the matter of timely Application), such that:

(a) A part of the building or structure may be exempt, even if another part of the same building or structure is owned or leased by a different business firm, used for ineligible activities, or otherwise not subject to the same exemption; and

(b) The amount of property value that is exempt shall be determined through pro rata calculation based on floor area or other reasonable method, as preferably considered with the Preauthorization Conference, and verified by the zone sponsor, as necessary.

(3) If so classified by the county assessor as structural improvements rather than enhancements to the land, landscaping or comparable elements may qualify, for example, a golf course in the case of a hotel, motel or destination resort under ORS 285C.185(4).

(4) The exemption on qualified additions, modifications, reconditioning, refurbishment, retrofits or upgrades under ORS 285C.175(3)(b) is measured in each year by:

(a) Computing the assessed value of such taxable property (lesser of real market value or maximum assessed value in each case):

(A) With such qualified improvements or changes; and

(B) Without such qualified improvements or changes (that is, the assessed value that would have been subject to taxation) accounting for other concurrent changes to property.

(b) Taking the difference between the values described in paragraphs (a)(A) and (a)(B) of this section, such that any negative difference equates to zero.

Stat. Auth.: ORS 285A.075 & 285C.060(1)

Stats. Implemented: ORS 285C.175, 285C.180, 285C.185 & 285C.190

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10; OBDD 15-2012, f. & cert. ef. 8-15-12

123-674-7200

Special Terminology

For purposes of OAR 123-674-7200 to 123-674-7250, with respect to an eligible business firm compliance with other laws under ORS 285C.200(1)(f):

(1) "Determination" means either of the following:

(a) A rightfully available written admission by the firm of a Noncompliance; or

(b) The issuance of an order, ruling or similar action by a duly empowered court, regulatory authority or similar entity that is:

(A) An official finding of Noncompliance that has the force of law under the jurisdiction of the court, regulatory authority or similar entity; and

(B) The final action by the particular regulatory or judicial process, even if prior to potential appeals.

(2) "Event of Noncompliance" means a Determination corresponding to an Illegal Act, for which the underlying Noncompliance is both:

(a) Material, as described in OAR 123-674-7230; and

(b) Not cured in accordance with OAR 123-674-7240.

(3) "Illegal Act" means an action, omission, chain of occurrences or similar failings by the firm or by an officer or agent in the conduct of the firm's operations and activities, effectively occurring after the Application but before January 1 of the last year of exemption, that cause the Noncompliance corresponding to the relevant Determination. (An Illegal Act may also result from Noncompliance with a Determination related to an earlier act)

(4) "Noncompliance" means a violation of a law, as enacted by one of the following, or the violation of any of the rules or regulations duly promulgated under such law:

(a) The United States Congress;

(b) The Oregon Legislative Assembly; or

(c) The governing body of a city or county that sponsors the enterprise zone.

(5) "Substantial Falsification" means that information in an enterprise zone form, filing or associated documentation by the firm, subject to declaration under penalties of false swearing, does one or both of the following:

(a) Misreports or omits required information, such that the enterprise zone exemption would have been denied or disqualified had the information been correctly or completely reported, which by itself shall be considered an Illegal Act in addition to any penalties resulting from false swearing under ORS 305.990; or

(b) Contradicts OAR 123-674-7210(1), in that at the time of the relevant declaration, the firm failed to disclose an Illegal Act, of which it should reasonably have been aware, including but not limited to one that is pending a Determination at the time of authorization.

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.200(7)

Stats. Implemented: ORS 285C.200

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10; OBDD 15-2012, f. & cert. ef. 8-15-12

123-674-7210

Declarations and Responsibilities

(1) Any Department of Revenue form for an enterprise zone tax abatement shall also have the firm declare that it is in compliance with applicable laws described in OAR 123-674-7200(4), as part of the declaration made under penalties of false swearing (as to the truth and correctness of the form or document under ORS 305.810 and 305.815).

(2) Without clear evidence of a Determination:

(a) The county assessor is under no obligation to undertake any effort for purposes of ORS 285C.200(1)(f); and

(b) The exemption on qualified property of an otherwise qualified business firm is unaffected.

(3) Regardless of expertise or jurisdiction, any entity or person may present evidence of a Determination to the county assessor.

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.200(7)

Stats. Implemented: ORS 285C.125 & 285C.200

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10; OBDD 15-2012, f. & cert. ef. 8-15-12

123-674-7220

Effect of Event of Noncompliance

Upon an Event of Noncompliance:

(1) In the case where an authorized business firm is not yet qualified, the county assessor shall deny exemption under ORS 285C.170 or 285C.175.

(2) In the case where the firm is receiving or has received the exemption, the Event of Noncompliance shall cause retroactive disqualification (see OAR 123-674-6400).

(3) In response to or in anticipation of such denial or disqualification, the assessor shall give notice that:

(a) Is sent to the firm and is copied to the zone sponsor, the Department of Revenue and the Department;

(b) Provides the firm with an explanation of the action and includes copies or descriptions of the evidence for the Determination; and

(c) Explains how the firm may appeal the action or anticipated action to the Tax Court under ORS 305.404 to 305.560.

(4) The county assessor may reverse a decision or action in section (1) or (2) of this rule, for reconsideration of an issue listed in OAR 123-674-7250(1) or a successful appeal that negates the Determination. As necessary to effect a reversal for this section, the assessor may reinstate the exemption and refund taxes paid on qualified property to the firm consistent with provisions of ORS Chapter 311.

(5) If the Determination is appealed by the business firm through administrative or judicial channels under the law in question, then the assessor may indefinitely suspend the action as described in section (2) of this rule, such that:

(a) If the business firm prevails in the appeal, then the exemption is unaffected; or

(b) If the business exhausts, withdraws or effectively fails in its pursuit of such appeal, then the action takes effect. In such a case, the assessor may add interest to any back taxes during the intervening period for the appeals process, until the next general property tax roll, as provided under ORS 311.206.

(6) The business firm's right to appeal actions or tax collections directly to the Oregon Tax Court is in no way infringed by this or any administrative rule, nor is it prevented by ORS 285C.200(7).

(7) Section (5) and (6) of this rule operate only in lieu of using ORS 285C.240(6), as described in OAR 123-674-6600 to 123-674-6630.

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.200(7)

Stats. Implemented: ORS 285C.125 & 285C.200

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10; OBDD 15-2012, f. & cert. ef. 8-15-12

123-674-7230

Materiality

An eligible business firm's Noncompliance is material for purposes of ORS 285C.200(1)(f), only if all of the following are true:

ADMINISTRATIVE RULES

(1) Zone-Applicable. It is related to or part of actual operations of and by the business firm within the enterprise zone boundary, including firm-wide activities that actually influence affairs in the zone, as well as elsewhere that the firm operates, such that:

(a) The Illegal Act(s) might still occur outside the zone and be material if derivable from or directly beneficial to operations of the firm in the zone; but

(b) Even if the Determination circumstantially indicates illicit intent by firm personnel or decisions, it is still be immaterial, if lacking evident effect on tangible activities or behavior at zone locations.

(2) Significant. It has or could conceivably harm, threaten, disrupt or undermine any of the following: An individual person, fair and honest commerce, government revenue collection, others' property rights, environmental protection, public health and safety, the general welfare and so forth, in contrast to a Noncompliance that results only in inconveniences (e.g., parking violations), aesthetical problems (e.g., poor landscape maintenance), etc.

(3) Substantive. It relates to the actual behavior or effects that the law in question is intended to control or prevent, as opposed to failings or missteps in terms of procedural matters, data reporting or similar technicalities, unless such failings or missteps exhibit willfulness, perniciousness or a history of repetition.

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.200(7)

Stats. Implemented: ORS 285C.200

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10; OBDD 15-2012, f. & cert. ef. 8-15-12

123-674-7240

Cure

As a consequence of actions taken by an eligible business firm in response to a Determination, it may still comply with the law and, in effect, cure the Noncompliance for purposes of ORS 285C.200(1)(f), such that:

(1) A Noncompliance is not curable if, in the presence of clear and convincing evidence, the Illegal Act in question is:

(a) Heinous, reckless or knowingly perpetrated or allowed to happen as a matter of firm policy; or

(b) Committed within five years of a previous determination relating to the same or similar violation of the law, regardless if the prior violation occurred:

(A) Before authorization;

(B) At a location outside the enterprise zone; or

(C) Under another U.S. state's or locality's laws or regulations.

(2) A Noncompliance is also incurable if the total monetary penalty as described in subsection (3)(a) of this rule exceeds a level publicly declared for purposes of this rule and established by the zone sponsor before the Determination became final. According to stipulations in the sponsor's declaration, this level or levels shall be equal to or greater than:

(a) For a fine or fines levied by a regulatory agency under a single citation or for closely related violations, \$100,000; and

(b) Overall, including but not limited to court-imposed damages, \$500,000.

(3) A Noncompliance, except as precluded by section (1) or (2) of this rule, may be cured insofar as the firm fully and clearly documents or demonstrates for the county assessor that:

(a) All fines, damages and so forth arising from the Determination have been paid in full, according to the final regulatory or judicial assessment imposed;

(b) The firm promptly submitted to and fulfilled all other applicable penalties and has taken or has demonstrable plans to take all other actions, as required by the court, regulatory authority or similar entity;

(c) The circumstances that led to the Noncompliance have been eliminated and resolved, such that further Noncompliance by the firm of a comparable or more serious nature is not expected to occur; and

(d) It or associated entities have undertaken reasonable efforts to compensate other substantially harmed parties uninvolved with any court action.

(4) The decision to consider a Noncompliance cured happens on a one-time basis and shall not necessarily be subject to neither ongoing action by the firm nor continual verification.

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.200(7)

Stats. Implemented: ORS 285C.200

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10; OBDD 15-2012, f. & cert. ef. 8-15-12

123-674-7250

Interpretation

With respect to the interpretation of OAR 123-674-7200 to 123-674-7250 for purposes of ORS 285C.200(1)(f):

(1) There are five primary issues related to the conclusion that there is an Event of Noncompliance:

(a) Is there a Determination as defined?

(b) Did the Illegal Act occur as defined? ..., after Application?

(c) Is the Noncompliance of a material nature?

(d) Is the Noncompliance curable ..., and if so, has it been cured?; or

(e) Has there been Substantial Falsification, and what are the implications of it?

(2) In deciding whether there is an Event of Noncompliance, the county assessor may do as follows at the assessor's initiative or in response to issues raised by a business firm's response to notice in OAR 123-674-7220(3):

(a) The assessor may submit the question at issue to the sponsor of the enterprise zone whether through the local zone manager or otherwise, such that:

(A) The submission is made in writing with a summary of the matter and copies sent to the affected business firm, the Department of Revenue and the Department; and

(B) The assessor may consider a written decision from the zone sponsor only within a prescribed period not exceeding 60 days after the submission.

(b) Either in lieu of or subsequent to the request of the zone sponsor, the assessor may submit the question or questions to the Director, such that:

(A) The submission is in writing with a summary of the matter, and the affected business firm, the Department of Revenue and the zone sponsor receive copies;

(B) The assessor certifies whether a conclusive response by the Director shall bind the assessor's action in OAR 123-674-7220;

(C) The Director may request additional information from the assessor, the firm, the sponsor, the Department of Revenue or the Department of Justice; and

(D) The Director shall respond in writing to the question or questions submitted by the assessor, who shall treat it as official state interpretation of this division of administrative rules.

Stat. Auth.: ORS 285A.075, 285C.060(1) & 285C.200(7)

Stats. Implemented: ORS 285C.200

Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10; OBDD 15-2012, f. & cert. ef. 8-15-12

123-674-8100

Authorization and Zone Termination

Consistent with OAR 123-650-9100:

(1) For purposes of exemption under ORS 285C.175 in a terminated enterprise zone, an eligible business firm is 'authorized' and may claim the exemption, subject to OAR 123-674-8300 and section (2) of this rule, if:

(a) Its outstanding authorization was still active under ORS 285C.165 at the time of termination, in which case it may avail itself of OAR 123-674-8200 and grandfathering in the zone; or

(b) The local zone manager received the Application before the effective termination of the zone, and the zone sponsor and the county assessor subsequently approved the Application under ORS 285C.140 after termination.

(2) For any authorized business firm described in section (1) of this rule, its authorization expires on January 1 directly after the 30th month of the zone's termination, such that only if qualified property proposed pursuant to the Application is in service before that date does the firm remain authorized under ORS 285C.245(1)(a)(B)(ii) and may it receive the exemption. As such, ORS 285C.165 (active status of authorization) is irrelevant for qualified property remaining outside of a current enterprise zone.

(3) In order to successfully apply for authorization on any investment in qualified property at a location in a terminated zone remaining outside any current designation, the Firm/applicant must satisfy the grand-fathering provisions in accordance with OAR 123.674-8200. In addition:

(a) Only if also qualified in the zone at the time of its termination may a firm described in subsection (1)(a) of this rule re/apply respective to the same location; and

(b) Unless otherwise qualified or authorized (as described by section (1)(a) of this rule) in the zone at the time of its termination, an authorized business firm described in subsection (1)(b) of this rule

(A) May not utilize the grandfathering provisions; and.

(B) As such, may not ever apply for authorization anywhere in the terminated zone.

(4) For purposes of this rule and OAR 123-674-8200, an eligible business that has its site in the zone (inadvertently) removed by a boundary change, notwithstanding ORS 285C.115(2)(b), has the same rights and privileges as if the zone had terminated.

ADMINISTRATIVE RULES

(5) For purposes of termination under ORS 285C.255 — that is, statutory sunset of enterprise zone program — the Application must be made before June 30, 2025 and (notwithstanding subsection (1)(b) of this rule) approved not later than that day.

Stat. Auth.: ORS 285A.075 & 285C.060(1)
Stats. Implemented: ORS 285C.140, 285C.175, 285C.245 & 285C.255
Hist.: OBDD 27-2010, f. & cert. ef. 6-14-10; OBDD 15-2012, f. & cert. ef. 8-15-12

Rule Caption: Modify rules relating to Rural Renewable Energy Development Zones.

Adm. Order No.: OBDD 16-2012

Filed with Sec. of State: 8-15-2012

Certified to be Effective: 8-15-12

Notice Publication Date: 6-1-2012

Rules Amended: 123-680-1600

Subject: Rule modifications for the Rural Renewable Energy Development Zones are being modified to reflect minor improvements, corrections or clarifications.

Housekeeping and technical corrections to these rules may occur to ensure consistency and comply with statute.

Rules Coordinator: Mindee Sublette—(503) 986-0036

123-680-1600

Further Distinctions from an Enterprise Zone Exemption

For an RREDZ exemption relative to OAR 123-674 and the provisions under ORS 285C.050 to 285C.250:

(1) The application for authorization needs to give special attention to characterizing the proposed investment in qualified property, clarifying how it relates to renewable energy, and estimating its real market value by January 1 of the first full calendar year of operations.

(2) To be exempt, the qualified property must essentially correspond to the description in the application.

(3) For purposes of a business firm's receiving authorization and then qualifying:

(a) An "eligible business firm" under ORS 285C.135 relates only to such operations or business activities that are engaged in renewable energy.

(b) The "employment of the firm" under ORS 285C.200 and 285C.210:

(A) Relates only to employees engaged a majority of their time in eligible renewable energy operations within the RREDZ.

(B) Satisfies requirements for the addition of one or more employees based on the number of employees, who work throughout the entire city, county or counties, as applicable.

(4) The exemption is essentially the same as that under ORS 285C.175, once property has been placed in service. There is, however, no special exemption provided during construction like that under ORS 285C.170, although the exemption under ORS 307.330 may be used as otherwise allowed.

(5) For purposes of an additional one or two years of exemption on qualified property (following the standard three-year period) inside a county that is a contiguous part of the RREDZ, but that is not the sponsor of the RREDZ:

(a) At least 21 calendar days before execution of the requisite written agreement between the sponsor and the eligible business firm (prior to authorization), the sponsor shall give the county's governing body formal notice of the potential extension to the tax abatement period; and

(b) If on or before the date, on which the firm and sponsor would execute the written agreement, the county's governing body adopts a resolution electing not to participate, then there is no extended abatement for the proposed investment in qualified property in that county.

(6) For purposes of the first clause under ORS 285C.350(2), qualified property must generate electricity to a significant degree from the combustion, harnessing or utilization of the renewable energy resource, but it may also produce (even for the most part) other energy forms, including but not limited to steam, heat or mechanical power.

Stat. Auth.: ORS 285A.075 & 285C.370
Stats. Implemented: OR 285C.350 - 285C.370
Hist.: OBDD 28-2010, f. & cert. ef. 6-14-10; OBDD 16-2012, f. & cert. ef. 8-15-12

Oregon Department of Education Chapter 581

Rule Caption: Rule Amendments and Adoptions relating to the Implementation of Federal IDEA, parts B & C.

Adm. Order No.: ODE 20-2012

Filed with Sec. of State: 8-1-2012

Certified to be Effective: 8-1-12

Notice Publication Date: 12-1-2011

Rules Amended: 581-015-2700, 581-015-2780

Subject: Federal regulations relating to the Individual with Disabilities Act (IDEA), Part B and C were revised. These rule changes are needed to ensure the Oregon remains in compliance with federal law and continues to receive federal funding relating to the IDEA. Previously amendments to these rules were filed on March 30, 2012. This filing did not accurately reflect the amendments adopted by the State Board of Education. This new corrected filing reflects the amendments adopted by the board to these two rules. Specifically language in 581-015-2700(12) and 581-015-2780(3)(b) has been corrected.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-015-2700

Definitions — EI/ECSE Program

For the purposes of OAR 581-015-2700 to 581-015-2910, the definitions in this rule and 581-015-2000 apply.

(1) "Assessment" means the ongoing procedures used by appropriate qualified personnel to identify the child's unique strengths and needs throughout the period of the child's eligibility. For EI this includes, the initial assessment of the child and family prior to the first IFSP meeting.

(2) "Communication" means receptive or expressive language development.

(3) "Contractor" means the agency designated by the Department to administer the provision of EI and ECSE within selected service areas.

(4) "Department" means the Oregon Department of Education.

(5) "Designated referral and evaluation agency" means the agency in each county designated to be the referral point for parents and others who suspect that a child may need early intervention or early childhood special education, and to be responsible for assuring that all referred children suspected of having a disability receive evaluation for potential eligibility for early intervention and early childhood special education.

(6) "Early childhood special education (ECSE)" means free, specially designed instruction to meet the unique needs of a preschool child with a disability, three years of age until the age of eligibility for public school, including instruction in physical education, speech-language services, travel training, and orientation and mobility services. Instruction is provided in any of the following settings: home, hospitals, institutions, special schools, classrooms and community childcare or preschool settings, or both.

(7) "Early intervention and early childhood special education assistants" means individuals who implement program activities under the direct supervision of the professional personnel.

(8) "Early intervention and early childhood special education specialists" means professionals who implement or coordinate the implementation of individualized family service plans.

(9) "Early intervention (EI)" means services for preschool children with disabilities from birth until three years of age, including Indian children and children who are homeless and their families, these services are:

(a) Based on scientifically-based research, as defined in OAR 581-015-2000, to the extent practicable;

(b) Designed to meet the child's developmental needs and the needs of the family related to enhancing the child's development as identified by the IFSP team, in any one or more of the following areas: physical development; cognitive development; communication development; social or emotional development; or adaptive development;

(c) Selected in collaboration with the parents;

(d) Provided:

(A) Under public supervision;

(B) By personnel qualified in accordance with criteria established by rules of the State Board of Education; and

(C) In conformity with an individualized family service plan;

(e) At no cost to parents;

(f) Meet all applicable state requirements; and

(g) Include the following types of intervention services (defined in 303.13(1): family training, counseling, in-home visits; special instruction; speech-language pathology and audiology services, and sign language and cued language services; occupational therapy; physical therapy; psychological services; service coordination; medical services only for diagnostic or evaluation purposes; early identification, screening, and assessment services; health services necessary to enable the child to benefit from other early

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intervention services; nursing services, nutrition services, social work services; vision services; assistive technology devices and services; and transportation and related costs that are necessary to enable a child and the child's family to receive another early intervention service.

(10) "Educational records" means those records that are:

- (a) Directly related to a student; and
- (b) Maintained by a primary contractor or subcontractor.

(11) "Evaluation" means the procedures used by qualified personnel to determine;

- (a) A child's initial eligibility for EI or ECSE services;
- (b) A child's continuing eligibility for EI or ECSE services; and
- (12) "Health Services" means services necessary to enable an otherwise eligible child to benefit from the other early intervention services under this part during the time that the child is eligible to receive early intervention services.

(b) The term includes:

(A) Such services as clean intermittent catheterization, tracheotomy care, tube feeding, the changing of Dressings or colostomy collection bags, and other health services; and

(B) Consultation by physicians with other service providers concerning the special health care needs of infants and toddlers with disabilities that will need to be addressed in the course of providing other early intervention services.

(c) The term does not include:

- (A) Services that are:
 - (i) Surgical in nature ;
 - (ii) Purely medical in nature; or
 - (iii) Related to the implementation, optimization, maintenance, or placement of a medical device that is surgically implanted.

(I) Nothing in this part limits the right of an infant or toddler with a disability with a surgically implanted device to receive the early intervention services that are identified in the child's IFSP as being needed to meet the child's IFSP and developmental outcomes.

(II) Nothing in this part prevents the EI provider from routinely checking that either the hearing aid or the external components of a surgically implanted device of an infant or toddler with a disability are functioning properly;

- (B) Devices necessary to control or treat a medical condition; and
- (C) Medical-Health services (such as immunizations and regular "well baby" care) that are routinely recommended for all children.

(13) "IFSP Content" means the definition as stated in OAR 581-015-2815 which includes:

(a) "Frequency" which means the number of days or sessions that a service is provided;

(b) "Duration" which means projecting when a given service will no longer be provided (such as when the child is expected to achieve the outcomes in his or her IFSP);

(c) "Intensity" which means whether a service will be provided on an individual basis;

(d) "Method" which means how a service is provided; and

(e) "Location" which means the actual place or places where a service will be provided.

(14) "Independent educational evaluation (IEE)" means an evaluation conducted by a qualified examiner who is not employed by the Department, the contractor, or subcontractor responsible for the child in question.

(15) "Indian" means an individual who is a member of an Indian tribe. "Indian Tribe" means any federal or state Indian tribe, band, rancheria, pueblo, colony, or community, including any native village or regional village corporation

(16) "Individualized family service plan (IFSP)" means a written plan of early childhood special education, related services, early intervention services, and other services developed in accordance with criteria established by the State Board of Education for each child eligible for services under this chapter.

(17) "Informed clinical opinion" means the acquisition and interpretation of multiple sources of information as part of the evaluation and assessment process. This includes evaluation and assessment results, observation reports, previous testing results, medical data, parent reports, and other evaluative information. A review of this information is used in forming a determination regarding current developmental status and the need for EI.

(a) Informed clinical opinion may be used as an independent basis to establish a child's eligibility under this Section even when other instruments do not establish eligibility.

(b) In no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility.

(18) "Initial Assessment" means the assessment of a child and the family assessment that is conducted prior to the child's first IFSP meeting.

(19) "Instruction" means providing families with information and skills that support the achievement of the goals and outcomes in the child's IFSP and working with preschool children with disabilities in one or more of the following developmental areas: communication development, social or emotional development, physical development, including vision and hearing, adaptive development, and cognitive development.

(20) "Lead Agency" means the agency designated by the Governor under Section 635(a)(10) of IDEA and § 303.120 that receives funds under Section 643 of the Act to administer the responsibilities under Part C of the Act.

(21) "Local Education Agency" or LEA

(a) LEA means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, or other political subdivision of the State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools

(b) Educational service agencies and other public institutions or agencies. This includes the following:

(A) A regional public multiservice agency-

(i) Authorized by State law to develop, manage, and provide services or programs to LEAs; and

(ii) Recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the State.

(B) Any public institution or agency having administrative control and direction of a public elementary school or secondary school, including public charter school, that is established as an LEA under State law.

(C) Entities that meet the definition of intermediate educational unit or IEU in section 602(23) of IDEA, as in effect prior to June 4, 1997.

(c) BIE funded schools which are funded by the Bureau of Indian Education and not subject to the jurisdiction of the SEA other than the Bureau of Indian Education, but only to the extent that the inclusion makes the school eligible for programs which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under the Act with the smallest student population,

(22) "Monitoring" means activities carried out by the Department and its contractors which measure the subcontractor's compliance with state and federal mandates for the provision of EI and ECSE.

(23) "Multidisciplinary" means the involvement of two or more separate disciplines or professions and with respect to-

(a) evaluation of the child and assessments of the child and family, this may include one individual who is qualified in more than one discipline or profession; and

(b) for the IFSP Team this means the involvement of the parent and two or more individuals from separate disciplines or professions and one of these individuals must be the service coordinator.

(24) "Natural environment" means settings that are natural or normal for the child's age peers who have no disability.

(25) "Other services" means those services that may be provided to preschool children with disabilities and to their families that are not EI or ECSE services and are not paid for with EI or ECSE funds.

(26) "Parent" means:

(a) One or more of the following persons:

(A) A biological or adoptive parent of the child;

(B) A foster parent of the child,

(C) A legal guardian, generally authorized to act as the child's parent, or authorized to make EI, educational health or developmental decisions for the child (but not the State if the child is a ward of the State).

(D) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or

(E) A surrogate parent who has been appointed in accordance with OAR 581-015-2320, for school-age children, or 581-015-2760 for preschool children.

(b) Except as provided in subsection (c), if more than one party is qualified under subsection (a) to act as a parent and the biological or adoptive parent is attempting to act as the parent, the biological or adoptive par-

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ent is presumed to be the parent unless the biological or adoptive parent does not have legal authority to make EI or educational decisions for the child.

(c) If a judicial decree or order identifies a specific person under subsection (a) to act as the parent of a child or to make educational or EI decisions on behalf of a child, then that person will be the parent for special education purposes, except that if an EIS provider or a public agency provides any services to a child or any family member of that child, that EIS provider or public agency may not act as the parent for that child.

(27) "Parent Training and Information Center" means a center assisted under section 671 or 672 of IDEA

(28) "Periodic review" means a review of the IFSP for a child and the child's family. An EI or ECSE program or parent may request a review of the IFSP.

(29) "Personally Identifiable Information" means information as identified in the Family Educational Rights and Privacy Act (FERPA) found at 34 CFR 99.3 and OAR 581-015-2000(23), except any reference to a "student" means a "child" in this part and any reference to a "school" means an EIS provider as used in this part.

(30) "Physical development" means gross or fine motor development.

(31) "Preschool child with disabilities" means all children from:

(a) Birth until three years of age, including infants and toddlers who are eligible for EI services under OAR 581-015-2780(3); or

(b) Three years of age to eligibility for public school who are eligible for ECSE services under OAR 581-015-2795.

(32) "Professional Development Plan" means a written document specifying the name of the employee, the position, current qualifications, current deficits, an accounting of steps to be taken to rectify deficits including timelines, persons responsible, and the final date by which the plan will be complete.

(33) "Public agency" or "public agencies" means the lead agency and any other agency or political subdivision of the state.

(34) "Qualified Personnel" means personnel who have met State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the areas in which the individuals are conducting evaluations or assessments or providing early intervention services.

(35) "Related services" includes transportation and such developmental, corrective, and other supportive services, including orientation and mobility services, speech language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation including therapeutic recreation, school health services and school nurse services, counseling, social work services, parent counseling and training, and medical services, as may be required to assist a child with disabilities, three years of age until the age of eligibility for public school, to benefit from special education or early childhood special education and includes early identification and assessment of disabling conditions. Medical services shall be for diagnostic and evaluation purposes only. This definition incorporates the exception for services for children with surgically implanted devices, including cochlear implants, in 34 CFR 300.34(b) and the definitions for individual related services in 34 CFR 300.34(c).

(36) "Related services personnel" means professionals who consult, supervise, train staff, design curriculum, or implement related services.

(37) "Service coordination" means the activities carried out by a service coordinator to assist and enable an eligible child and the child's family to receive the rights, procedural safeguards and services that are authorized under the state's EI program and to coordinate access to other services designated on the IFSP.

(38) "Sign Language and cued language services" include teaching sign language, cued language, and auditory/oral language, providing oral translation services (such as amplification), and providing sign and cued language interpretation.

(39) "State Education Agency" or SEA means the State Board of Education or other agency or officer primarily responsible for State supervision of public elementary schools and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law and the term includes the agency that receives funds under IDEA to administer the State's responsibilities under part B of the Act.

(40) "State Interagency Coordinating Council" (SICC) means a council appointed by the Governor for IDEA Part C purposes in compliance with 34 CFR 303.600-303.605

(41) "Subcontractor" means the agency or agencies selected by the contractor to provide services for EI and ECSE.

(42) "Supervision" means the activities carried out by the Department and its primary contractors to oversee the provision of EI and ECSE services.

(43) "Supervisor" means a professional who supervise and train staff, design curriculum, and administer EI or ECSE programs.

(44) The following words are defined in OAR 581-015-2000:

(a) "Assistive technology device";

(b) "Assistive technology service";

(c) "Children with disabilities";

(d) "Autism";

(e) "Communication disorder";

(f) "Deafblindness";

(g) "Emotional disturbance";

(h) "Hearing impairment";

(i) "Intellectual disability";

(j) "Orthopedic impairment";

(k) "Other health impairment";

(l) "Specific learning disability";

(m) "Traumatic brain injury";

(n) "Visual impairment";

(o) "Consent";

(p) "Day";

(q) "Department";

(r) "General curriculum";

(s) "Health assessment statement";

(t) "Identification";

(u) "Individualized education program (IEP)";

(v) "Mediation";

(w) "Medical statement";

(x) "Native language";

(y) "Participating agency";

(z) "Personally identifiable information";

(aa) "Placement";

(bb) "Private school";

(cc) "School district";

(dd) "Short term objectives";

(ee) "Special education";

(ff) "Specially designed instruction";

(gg) "Supplementary aids and services";

(hh) "Superintendent";

(ii) "Surrogate parent";

(jj) "Ward of the state"; and

(kk) "Scientifically Based Research"

Stat. Auth.: ORS 343.475

Stats. Implemented: ORS 343.475, 34 CFR 300.5 - 300.45, 34 CFR 99.3, 34 CFR 303.4-303.37, 34 CFR 303.600-303.605

Hist: EB 23-1992, f. & cert. ef. 6-23-92; EB 4-1995, f. & ef. 1-24-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 2-2003, f. & cert. ef. 3-10-03; ODE 1-2004, f. & cert. ef. 1-15-04; Renumbered from 581-015-0900, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12; ODE 20-2012, f. & cert. ef. 8-1-12

581-015-2780

EI Eligibility

(1) Upon completing the administration of tests and other evaluation materials, the designated referral and evaluation agency must determine, through a multidisciplinary team, whether a child is eligible for EI services by following the procedures in this rule.

(2) The multidisciplinary team must include the parents, in accordance with OAR 581-015-2750, and individuals from two or more separate disciplines or professions, including persons who are knowledgeable about the child.

(3) To be eligible for EI services, the child must meet the minimum criteria for subsection (a), (b) or (c), below:

(a) Categorical:

(A) The child meets the minimum criteria for one of the following disability categories in OAR 581-015-2130 through 581-015-2180: autism spectrum disorder, deafblindness, hearing impairment, orthopedic impairment, traumatic brain injury or visual impairment.

(B) If the child meets the disability criteria for a categorical eligibility in subsection (A), the child's disability does not need to be presently adversely affecting the child's development for the child to be eligible for EI services.

(b) Medical: The child has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay, as documented by one of the following with the appropriate State Board licensure: a physician, a physician assistant, or a nurse practitioner.

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(c) Developmental delay: The child experiences a developmental delay and as a result needs EI services. Developmental delay means two standard deviations or more below the mean in one or more of the following developmental areas, or 1.5 standard deviations below the mean in two or more of the developmental areas:

- (A) Cognitive development;
- (B) Physical development;
- (C) Communication development;
- (D) Social or emotional development;
- (E) Adaptive development.

(4) The multidisciplinary team must prepare an evaluation report and a written statement of eligibility.

(a) The evaluation report(s) must describe and explain the results of the evaluation conducted.

(b) The written statement of eligibility must include:

(A) A list of the evaluation data considered in determining the child's eligibility;

(B) A determination of whether the child meets the minimum criteria for EI as described in (3) of this part; and

(C) The signature of each member of the team signifying his or her concurrence or dissent.

(5) For a child who may have disabilities in more than one category, the team need only qualify the child for EI services under one disability category, however:

(a) The child must be evaluated in all areas of development and areas of suspected disability; and

(b) The child's IFSP must address all of the child's early intervention needs.

(6) The multidisciplinary team must give the parents a copy of the eligibility statement and evaluation report.

(7) The contractor or subcontractor must notify the child's resident district upon determination of eligibility for EI services.

(8) A child found eligible under this rule is eligible for regional services if the child meets the criteria under OAR 581-015-2550 for vision impairment, hearing impairment, autism spectrum disorder, severe orthopedic impairment or traumatic brain injury.

Stat. Auth.: ORS 343.513

Stats. Implemented: ORS 343.513, 34 CFR 303.24

Hist.: EB 4-1995, f. & cert. ef. 1-24-95; EB 27-1995, f. & cert. ef. 12-11-95; ODE 24-2000, f. & cert. ef. 10-16-00; ODE 8-2001, f. & cert. ef. 1-29-01; ODE 2-2003, f. & cert. ef. 3-10-03; Renumbered from 581-015-0946, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12; ODE 20-2012, f. & cert. ef. 8-1-12

Rule Caption: Modifies State Board of Education charter school applicant appeal process.

Adm. Order No.: ODE 21-2012

Filed with Sec. of State: 8-1-2012

Certified to be Effective: 8-1-12

Notice Publication Date: 5-1-2012

Rules Amended: 581-020-0331

Subject: Oregon law requires an applicant for a charter school to first submit the application to a school district. If the school district does not accept an application, the applicant may request sponsorship from the State Board of Education. Prior to changes by 2012 legislature, the State Board was required to mediate between the district and applicant. HB 4014 (2012) eliminated this mediation requirement. The rule amendment conforms the rule to the changes in HB 4014.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-020-0331

Appeal Process

(1) An applicant whose proposal to start a public charter school is not approved may request the State Board of Education review the decision of the school district board.

(2) The State Board of Education delegates to the Superintendent of Public Instruction or designee all administrative functions necessary or reasonable in order to conduct review. This delegation to the Superintendent includes, but is not limited to:

(a) Determining the form, contents and timelines of the petition for review;

(b) Determining the records required for review and ordering the production of those records from either the applicant or school district board and establishing timelines for the production of those records;

(c) Requiring the applicant or school district board to respond to written or oral inquiries related to board review;

(d) Determining the manner, means and content of recommendations if any, to the applicant and school district board regarding revisions to the application;

(e) Determining at any time during the review process to reject a review request if in the judgment of the Superintendent, the applicant fails to reasonably comply with the administrative review processes of the Superintendent; and

(f) Negotiate, if determined by the Superintendent to be appropriate, the terms of a proposed written charter that contains terms consistent with tentative agreements reached with the applicant during the review process.

(3) At the conclusion of the administrative review process the Superintendent shall recommend in writing to the State Board to:

(a) Reject a proposal to start a public charter school if the proposed charter school fails to meet the requirements of ORS 338; or

(b) Sponsor the public charter school upon the terms in the proposal or upon such other terms specified.

(4) The State Board will consider the recommendation of the Superintendent and any other information it deems relevant and determine based on the requirements of ORS 338 to reject the proposal to have the State Board sponsor the public charter school or agree to sponsor the public charter school.

(5) The decision of the State Board rejecting a proposal to sponsor the public charter school will be based on substantial evidence in the record and will be made within 75 days of receipt by the State Board of the Superintendent's recommendation, unless extended for good cause.

Stat. Auth.: ORS 326.051 & 338.025

Stats. Implemented: ORS 338.075

Hist.: ODE 13-2000, f. & cert. ef. 5-3-00; ODE 10-2002, f. & cert. ef. 4-12-02; ODE 5-2004(Temp), f. & cert. ef. 3-15-04 thru 9-1-04; Administrative Correction 9-28-04; ODE 21-2012, f. & cert. ef. 8-1-12

Rule Caption: Modifies requirements for independent adoption by school districts of instructional materials.

Adm. Order No.: ODE 22-2012

Filed with Sec. of State: 8-1-2012

Certified to be Effective: 8-1-12

Notice Publication Date: 6-1-2012

Rules Amended: 581-022-1622

Subject: HB 4014 (2012) amended the law relating to independent adoptions of instructional materials by school districts. Previously, a district was required to file notice of adoption with the State Board of Education. HB 4014 eliminated this requirement as long as the district adopts the materials pursuant to guidelines established by the State Board.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-022-1622

Independent Adoptions of Instructional Materials

Without prior notice to the State Board of Education, the district school board of any school district, with the assistance of teachers and administrators of the district, may adopt independently instructional materials for use in place of or in addition to those adopted by the Board, provided they meet the guidelines and criteria established by the Board. The district school board shall involve parents and citizens in the process. Such district adoptions shall be known as independent adoptions. (2) In order to give proper notification that an independent adoption is being made, the administrative head of the district must provide the district school board, prior to placing the instructional materials into use in the local schools, the following information:

(1) The subject, category, and grade level(s) in which the instructional materials will be used;

(2) The title of the instructional materials;

(3) The publisher of the instructional materials;

(4) The copyright date of the instructional materials;

(5) The date on which the district intends to install the instructional materials for use in the school system; and

(6) A statement that a completed criteria checklist showing the degree to which the instructional materials meet the criteria established by the State Board of Education is on file in the district office. (Criteria checklists for the specific subject/category are available from the Department of Education.)

(7) A statement of assurance that the independently adopted instructional materials will comply with the most current National Instructional

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Materials Accessibility Standard (NIMAS) specifications regarding accessible instructional materials.

Stat. Auth.: ORS 337.050(2) & 337.141
Stats. Implemented: ORS 337.120 & 337.141
Hist.: 1EB 215, f. 1-29-76, ef. 2-25-76; 1EB 245, f. & ef. 9-23-76; 1EB 19-1982, f. & ef. 11-23-82; EB 2-1991, f. & cert. ef. 2-28-91; EB 21-1991(Temp), f. 10-30-91, cert. ef. 11-1-91; EB 30-1991, f. & cert. ef. 12-18-91; ODE 10-2001, f. & cert. ef. 5-15-01; Renumbered from 581-011-0085, ODE 25-2008, f. & cert. ef. 9-26-08; ODE 3-2009, f. & cert. ef. 6-29-09; ODE 22-2012, f. & cert. ef. 8-1-12

Rule Caption: Modifies provisions relating to educator evaluation and support.

Adm. Order No.: ODE 23-2012

Filed with Sec. of State: 8-1-2012

Certified to be Effective: 8-1-12

Notice Publication Date: 6-1-2012

Rules Amended: 581-022-1723, 581-022-1725

Subject: SB 290 (2011) directed the State Board to adopt teacher and administrator standards for school districts to use. The rules also specify that the standards must be used by districts in evaluation. The rules modify requirements for local evaluation systems. The rules also further define multiple measures for measuring teacher and administrator effectiveness.

Rules Coordinator: Cindy Hunt—(503) 947-5651

581-022-1723

Teacher and Administrator Evaluation and Support

(1) A school district board shall include the core teaching standards and administrator standards adopted by the State Board for all evaluations of teachers and administrators of the school district occurring on or after July 1, 2013. The standards shall be customized based on the collaborative efforts of the teachers and administrators of the school district and the exclusive bargaining representative of the employees of the school district.

(2) The core teaching standards and administrator standards must:

(a) Take into consideration multiple measures of teacher and administrator effectiveness that encompass a range of appropriate teaching and administrative behaviors that use multiple evaluation methods that use multiple measures to evaluate teacher and administrator performance which may include, but are not limited to:

- (A) Student performance;
- (B) Student assessments;
- (C) Classroom-based assessments including observations, lesson plans and assignments;
- (D) Portfolios of evidence;
- (E) Supervisor reports; and
- (F) Self-reflections and assessments.

(b) Take into consideration evidence of student academic growth and learning based on multiple measures of student progress, including performance data of students, schools, and school districts;

- (c) Be research-based;
- (d) Be separately developed for teachers and administrators; and
- (e) Be customized for each school district, which may include individualized weighting and application of standards.

(3) Evaluations using the core teaching and administrator standards must attempt to:

(a) Strengthen the knowledge, skills, disposition and classroom and administrative practices of teachers and administrators in public schools;

(b) Refine the support, assistance and professional growth opportunities offered to a teacher or an administrator, based on the individual needs of the teacher and administrator and the needs of the students, the school and the school district;

(c) Allow each teacher or administrator to establish a set of classroom or administrative practices and student learning objectives that are based on the individual circumstances of the teacher or administrator, including the classroom or other assignments of the teacher or administrator;

(d) Establish a formative growth process for each teacher and administrator that supports professional learning and collaboration with other teachers and administrators; and

(e) Use evaluation methods and professional development, support and other activities that are based on curricular standards and that are targeted to the needs of each teacher and administrator.

(4) Local evaluation and support systems established by school districts for teachers and administrators must be:

(a) Designed with four performance level ratings of effectiveness as defined in the Oregon Framework for Teacher and Administrator Evaluation and Support Systems;

(b) Based on significant consideration of student learning which may include but is not limited to:

(A) School-wide academic growth, as determined by the statewide assessment system implemented by the Department of Education under ORS 329.485;

(B) Formative and summative assessments; and

(C) For teachers, classroom-level student learning goals set collaboratively between teachers and evaluators.

(5) Local evaluation and support systems established by school districts must evaluate teachers and administrators on a regular cycle.

(6) District superintendents shall regularly report to their governing boards on implementation of their local evaluation and support systems and educator effectiveness.

Stat. Auth.: ORS 342.805 - 342.937

Stats. Implemented: 2011 OL Ch. 729 Sec. 2 (Enrolled SB 290)

Hist.: ODE 21-2011, f. & cert. ef. 12-15-11; ODE 23-2012, f. & cert. ef. 8-1-12

581-022-1725

Educational Leadership — Administrator Standards

School districts shall use the educational leadership-administrator standards to evaluate administrator effectiveness outlined in OAR 581-022-1723. These standards align with the Educational Leadership Constituents Council (ELCC) standards for Educational Leadership published at: <http://www.ncate.org/Standards/ProgramStandardsandReportForms/tabid/676/Default.aspx#ELCC> The knowledge and skill abilities required for each program standard are found within the full document of the standards. These standards are aligned with the Interstate School Leaders Licensure Consortium (ISLLC) published at: http://www.ccsso.org/Documents/2008/Educational_Leadership_Policy_Standards_2008.pdf. The educational leadership-administrator standards are the same standards adopted by the Teacher Standards and Practices Commission (TSPC) for administrator licensure. The standards include:

(1) Visionary Leadership: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by stakeholders. [ISLLC Standard 1]

(2) Instructional Improvement: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by sustaining a positive school culture and instructional program conducive to student learning and staff professional growth. [ISLLC Standard 2]

(3) Effective Management: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by ensuring management of the organization, operation, and resources for a safe, efficient, and effective learning environment. [ISLLC Standard 3]

(4) Inclusive Practice: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by collaborating with faculty and community members, responding to diverse community interests and needs, and mobilizing community resources in order to demonstrate and promote ethical standards of democracy, equity, diversity, and excellence, and to promote communication among diverse groups. [ISLLC Standard 4]

(5) Ethical Leadership: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by acting with integrity, fairness, and in an ethical manner. [ISLLC Standard 5]

(6) Socio-Political Context: An educational leader integrates principles of cultural competency and equitable practice and promotes the success of every student by understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context. [ISLLC Standard 6]

Stat. Auth.: ORS 342.805 - 342.937

Stats. Implemented: 2011 OL Ch. 729 Sec. 2 (Enrolled SB 290)

Hist.: ODE 21-2011, f. & cert. ef. 12-15-11; ODE 23-2012, f. & cert. ef. 8-1-12

Oregon Film and Video Office Chapter 951

Rule Caption: Directing all OPIF Rules for the Production Tax Credit sales to the Department of Revenue.

Adm. Order No.: FVO 1-2012

Filed with Sec. of State: 7-17-2012

ADMINISTRATIVE RULES

Certified to be Effective: 7-20-12
Notice Publication Date: 6-1-2012

Rules Repealed: 951-003-0005

Subject: The Department of Revenue, in cooperation with Oregon Film & Video Office, conducts auctions of tax credits authorized by ORS 315.514 for contributions to the Oregon Production Investment Fund. OAR 150-315.541 governs auctions described in Section (1) of this rule, including without limitations relating to the tax credit discount, dates of the auction, and determination of eligibility. Within 45 days after the closure of a tax credit auction, the Oregon Film & Video Office will issue tax credit certificates to the recipients, as determined by the Department of Revenue.

Rules Coordinator: Jane Ridley—(503) 229-5832

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Oregon Health Authority
Chapter 943

Rule Caption: Public Contracting and Procurement Rules for the Oregon Health Authority.

Adm. Order No.: OHA 5-2012

Filed with Sec. of State: 8-1-2012

Certified to be Effective: 8-1-12

Notice Publication Date: 7-1-2012

Rules Adopted: 943-060-0000, 943-060-0010, 943-060-0020, 943-060-0030, 943-060-0040, 943-060-0050, 943-060-0060, 943-060-0070, 943-060-0080, 943-060-0090, 943-060-0100, 943-060-0110, 943-060-0120

Rules Repealed: 943-060-0050(T)

Subject: The Oregon Health Authority (Authority) developed these rules to implement the authority granted to the Authority under ORS 179.040 to enter into contracts for the planning, erection, completion, and furnishing of new buildings and additions to its institutions, as well as to establish contracts for goods and services necessary for the successful management and maintenance of the institutions within the Authority's jurisdiction. ORS 279A.050 gives the Authority independent power to procure goods, services, personal services, construction materials, equipment, and supplies for the Authority's institutions. In addition, ORS 279A.050 authorizes the Authority to make procurements in connection with the construction, demolition, exchange, maintenance, operation, and equipping of housing for persons with chronic mental illness. ORS 413.033 grants the Authority's Director the ability to exercise all powers necessary to effectively and expeditiously carry out the procurement functions vested in OHA by ORS 179.040 and 279A.050.

Rules Coordinator: Evonne Alderete—(503) 932-9663

943-060-0000

Application

These rules (OAR 943-060-0000 to 943-060-0120) govern public contracting of the Oregon Health Authority and are subject to ORS chapters 279A, 279B, and 279C.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 179.040, 279A.065, 413.033 & 413.042

Hist.: OHA 5-2012, f. & cert. cf. 8-1-12

943-060-0010

Definitions

Unless the context requires otherwise, the following definitions apply:

(1) "Authority" means the Oregon Health Authority.

(2) "Client" means any individual, family, or provider:

(a) For whom the Authority provides services and incidental or specialized goods, in any combination thereof, according to state, federal law, rule, and policy. Services and incidental goods include but are not limited to treatment, care, protection, and support without regard to the proximity of the services being provided;

(b) Who receives and utilizes services provided by the Authority primarily for that individual's or family's benefit;

(c) Who is under the custody, care, or both of the Authority; or

(d) Who provides direct care or services and is a proxy or representative of a non-provider client.

(3) "Client services" means any service that primarily supports a client, whether the client is the recipient of voluntary or mandatory services. Client services also means any goods that are incidental or specialized in relation to any service defined in this section. Client services does not include benefits or services provided as a condition of employment with the Authority. Client services may include but are not limited to:

(a) Housing, including assistance to pay rent, mortgage, or utilities;

(b) Nutrition;

(c) Clothing;

(d) Employment training or skills training to improve employability;

(e) Services for individuals with disabilities;

(f) Foster care or foster care facilities;

(g) Residential care or residential care facilities;

(h) Community housing;

(i) In-home care, including home delivered meals;

(j) Medical care, services and treatment, including but not limited to:

(A) Medical, dental, hospital, psychological, psychiatric, therapy, and vision;

(B) Alcohol and drug treatment;

(C) Smoking cessation;

(D) Drugs, prescriptions and non-prescription; or

(E) Nursing services and facilities.

(k) Transportation or relocation;

(L) Quality of life, living skills training;

(m) Personal care;

(n) Legal services and expert witness services;

(o) Religious practices, traditions and services, separately or in any combination thereof; and

(p) Educational services.

(4) "Designated Procurement Officer (DPO)" means the individual designated and authorized by the Authority's Director to perform certain procurement functions described in these rules. If the Director does not authorize an individual as a DPO, then the Director acts in place of the DPO.

(5) "Director" means the Director of the Oregon Health Authority.

(6) "Electronic procurement system" means the Oregon Procurement Information Network (ORPIN) or other system approved by the Authority that individuals may access through the Internet that enables individuals to send electronic offers and enables the Authority to post electronic advertisements, receive electronic offers, and conduct other activities related to a procurement.

(7) "Emergency" means circumstances that:

(a) Could not have been reasonably foreseen;

(b) Create a substantial risk of loss, damage, or interruption of services or a substantial threat to property, public health, welfare, or safety; and

(c) Require prompt execution of a contract to remedy the condition.

(8) "Goods" means supplies, equipment, or materials, and any personal property, including any tangible, intangible, and intellectual property and rights and licenses in relation thereto, that the Authority is authorized by law to procure.

(9) "Oregon Procurement Information Network (ORPIN)" means the official publication forum for procurement notices and advertisements.

(10) "Personal services" means specialized skills, knowledge, and resources in the application of technical or scientific expertise, or the exercise of professional, artistic, or management discretion or judgment, including without limitation a contract for the services of an accountant, physician or dentist, educator, information technology professional, consultant, broadcaster, or artist (including a photographer, filmmaker, painter, weaver, or sculptor). Personal services also includes client services and services of an architect, engineer, land surveyor, or provider of related services as defined in ORS 279C.100.

(11) "Procurement" means the act of purchasing, leasing, renting, or otherwise acquiring or selling goods and services; architectural, engineering and land surveying services, and related services; and public improvements. Procurement includes each function and procedure undertaken or required to be undertaken by the Authority to enter into a public contract, administer a public contract and obtain the performance of a public contract under the public contracting code and these rules. Procurement includes contract administration.

(12) "Procurement file" means any solicitation, contract, amendment, work order, or contract administration files, separately or collectively.

(13) "Public contract" is defined in ORS 279A.010 and means a sale or other disposal, or a purchase, lease, rental, or other acquisition of goods and services, public improvements, public works, minor alterations, or ordinary repair or maintenance necessary to preserve a public improve-

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ment. Public contract does not include grants. For the purposes of these rules, public contract means a contract.

(14) "Services" mean services other than personal services designated under ORS 279A.055, except for state contracting agencies with procurement authority under ORS 279A.050 or 279A.140, services includes personal services as designated by the state contracting agencies.

(15) "Solicitation document" means the solicitation document and all documents either attached or incorporated by reference and any changes thereto, used for any of the methods according to ORS 279A.200 through 279A.220, 279B.055 through 279B.085, 279C.100 through 279C.125, or 279C.300 through 2729C.450.

(16) "Special procurement" means a sourcing method and may be a class special procurement, a contract-specific special procurement, or both.

(a) "Class special procurement" is defined in ORS 279B.085 and means a contracting procedure that differs from the procedures described in ORS 279B.055, 279B.060, 279B.065, and 279B.070 and is for the purpose of entering into a series of contracts over time for the acquisition of a specified class of goods and services.

(b) "Contract-specific special procurement" means a contracting procedure that differs from the procedures described in ORS 279B.055, 279B.060, 279B.065, and 279B.070 and is for the purpose of entering into a single contract or a number of related contracts for the acquisition of specified goods and services on a one-time basis or for a single project.

(17) "Statewide price agreement" means a price agreement issued by the Department of Administrative Services on behalf of all state agencies. Such agreements may be mandatory or voluntary for use. Such agreements may result from a cooperative procurement. The Authority may not purchase goods and services through federal programs if a statewide price agreement exists for the goods and services.

Stat. Auth.: ORS 179.040, 279A.065, 279A.070, 413.033 & 413.042
Stats. Implemented: ORS 413.033
Hist.: OHA 5-2012, f. & cert. ef. 8-1-12

943-060-0020

Procurement Authority

(1) The Authority may enter into contracts for the planning, erection, completion, and furnishing of new buildings and additions to its institutions, and may establish contracts for goods and services of all kinds necessary for the successful management and maintenance of the institutions within the Authority's jurisdiction. The Authority may procure goods, services, personal services, construction materials, equipment, and supplies for the Authority's institutions. The Authority may also make procurements in connection with the construction, demolition, exchange, maintenance, operation, and equipping of housing for persons with chronic mental illness.

(2) The Director of the Authority may exercise all powers necessary to effectively and expeditiously carry out procurement functions.

Stat. Auth.: ORS 179.040, 279A.065, 279A.070, 413.033 & 413.042
Stats. Implemented: ORS 413.033
Hist.: OHA 5-2012, f. & cert. ef. 8-1-12

943-060-0030

Contractor Requirements

(1) No contract or other agreement for more than \$1,000 may be entered into, renewed, or extended with any individual unless the individual certifies in writing, under penalty of perjury, that the individual is not in violation of any tax laws described in ORS 305.385.

(2) A contractor who is a corporation, partnership, or who has an assumed business name shall be registered with the Oregon Secretary of State in accordance with ORS chapters 58, 60, 62, 63, 65, 67, 70, and 648. This registration is the obligation of the contractor, not the Authority.

(a) Architects, engineers, and land surveyors shall be registered with the appropriate licensing boards under the provisions of ORS 671.020, 672.020, and 672.025.

(b) The statutory requirements for contractors to register with the Oregon Secretary of State may be subject to a limited number of exceptions under federal law. For example, sole proprietors or national banks, when they contract with the Authority, are not subject to the registration requirement.

(c) The contractor shall be registered at the time of the execution of the contract and thereafter.

Stat. Auth.: ORS 179.040, 279A.065, 279A.070, 413.033 & 413.042
Stats. Implemented: ORS 413.033
Hist.: OHA 5-2012, f. & cert. ef. 8-1-12

943-060-0040

Independent Contractors

(1) The Authority may, within the limits of its delegation and its legislatively approved budget, contract for personal services with providers who are independent contractors.

(2) "Independent contractor" means an individual who provides services to the Authority in which the Authority neither controls nor has the right to control the means or manner by which work is performed. The Authority may control the results of the services, but not control the means or manner of how a contractor performs the work.

(3) Within the parameters of employment, workers' compensation, and other relevant state and federal laws, and after determining that the contract will not violate any collective bargaining agreements, the Authority may contract for personal services when:

(a) The work cannot be done in a reasonable time with Authority's own workforce;

(b) An independent and impartial evaluation is required; or

(c) It will be less expensive to contract for the work.

(4) The Authority may not use personal services contracts to obtain and pay for the services of an employee. If a contractor is not an independent contractor, the Authority may not enter into a personal services contract with the contractor; instead, the Authority shall follow personnel policies for employment options.

(5) The Authority shall develop a statement of work for trade or personal services, including architectural, engineering and land surveying services, and related services, that will not result in an employee relationship with the potential contractor. Contractors shall complete an independent contractor certification either as a contract provision or on a form approved by the Office of Contracts and Procurement. If the contractor cannot certify independent contractor status, the Authority shall not contract with the contractor using a trade or personal services contract, including architectural, engineering and land surveying services, and related services, except as otherwise allowed in section (5)(f) of this rule.

(a) An independent contractor certification shall be part of each contract.

(b) If the contractor is a corporation, the independent contractor certification is still required.

(c) If the nature of the services or project is such that an employee/employer relationship will exist, the Authority shall hire the individual through normal personnel procedures.

(d) The contract shall include the contractor's legal name and address. Either the contract or a separate cover sheet for the contract shall include the contractor's social security or federal tax identification number.

(e) The contract shall provide that the contractor is responsible for federal social security, except those categories excluded by law, and for any federal or state taxes applicable to the contract payment.

(f) When a contractor cannot certify that the contractor meets the definition of independent contractor, is customarily engaged in an independently established business, and meets at least three of the requirements for such a business in accordance with ORS 670.600, the Authority may contract with the contractor only if the DPO approves the contract upon a determination that the contractor is an independent contractor and the contract will not result in undue risk to the state.

Stat. Auth.: ORS 179.040, 279A.065, 279A.070, 413.033 & 413.042
Stats. Implemented: ORS 279A.070, 413.033 & 670.600
Hist.: OHA 5-2012, f. & cert. ef. 8-1-12

943-060-0050

ORS 190 Agreements

(1) The Authority, when it enters into an agreement under ORS 190.110, 190.420, or 190.485, or an agreement under ORS 190.112 or 660.342, shall post a summary of the agreement on an applicable electronic procurement system within the 30-day period immediately following the effective date of the agreement.

(2) The summary shall include:

(a) Names of the parties to the agreement;

(b) Date of the agreement;

(c) Subject matter of the agreement; and

(d) The agency through which a person may obtain a copy of the agreement.

Stat. Auth.: ORS 179.040, 279A.065, 279A.070, 413.014, 413.033 & 413.042
Stats. Implemented: ORS 279A.140(2)(h)

Hist.: OHA 1-2012(Temp), f. & cert. ef. 2-17-12 thru 8-14-12; OHA 5-2012, f. & cert. ef. 8-1-12

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943-060-0060

Contract Amendments

The Authority may amend a contract without additional competition in any of the following circumstances:

(1) The amendment is within the scope of the procurement as described in the solicitation documents, or if no solicitation documents, as described in the sole source notice or the approved special procurement or the contract, if any. The amendment is not within the scope of the procurement if the Authority determines that requested changes were not covered in the solicitation and would have likely increased competition or affected award of the contract.

(2) These rules would otherwise permit the Authority to award a contract without competition for the goods or services to be procured under the amendment.

(3) The amendment is necessary to comply with a change in law that affects performance of the contract.

(4) The amendment results from renegotiation of the terms and conditions, including the contract price, are advantageous to the Authority, subject to all of the following conditions:

(a) The goods or services to be provided under the amended contract are the same as the goods or services to be provided under the current contract;

(b) The Authority determines that, with all things considered, the amended contract is at least as favorable to Authority as the unamended contract; and

(c) The amended contract does not have a total term greater than allowed in the solicitation documents, if any, or if no solicitation documents, as described in the sole source notice or the approved special procurement, if any, after combining the initial and extended terms.

(5) The Authority may amend a contract, awarded from a solicitation, beyond its authorized term subject to the following conditions:

(a) The goods and services provided under the additional term must be reasonably related to the original contract's solicitation;

(b) Circumstances, basis, and term requested for extension amendment are outlined by program staff; and

(c) The DPO approves the term extension.

Stat. Auth.: ORS 179.040, 279A.065, 279A.070, 413.033 & 413.042

Stats. Implemented: ORS 279A.050, 279A.065(5), 279A.070, 279A.140 & 413.033

Hist.: OHA 5-2012, f. & cert. ef. 8-1-12

943-060-0070

Payment Authorization for Cost Overruns for Services Contracts

(1) Payments on contracts for trade or personal services that exceed the maximum contract consideration (cost overruns) require approval of the DPO in accordance with section (2) of this rule. If the aggregated value of the contract, including cost overruns, exceeds \$150,000, the cost overrun may also require approval from the Department of Justice under OAR 137-045-0010 to 137-045-0090.

(2) The Authority may grant approval of the payment of a cost overrun if:

(a) The original contract was duly executed and, if required, approved by the Attorney General;

(b) Payments relate to services that were provided during the term of the contract;

(c) The cost overrun is not associated with any change in the statement of work of the original contract;

(d) The cost overrun arose from extraordinary circumstances or conditions encountered in the course of contract performance that were not reasonably anticipated at the time of the original contract or the most recent amendment, if any. Such circumstances include but are not limited to emergencies arising in the course of the contract that require prompt action to protect the work already completed, compliance with official or judicial commands or directives issued during contract performance, or a need to ensure that the purpose of the contract will be realized;

(e) The cost overrun was incurred in good faith, results from the good faith performance by the contractor, and is not greater than the prescribed hourly rate or the reasonable value of the additional work or performance rendered; and

(f) The aggregated value of the contract, including the cost overrun, and the contract's objective are within the Authority's procurement authority and the Authority has funds available for payment under the contract.

(3) The Authority shall prepare a written report that describes the Authority's discovery of the cost overrun, the reasons for the cost overrun, and the Authority's satisfaction of the conditions set forth in section (2) of this rule. The Authority shall maintain the report in its procurement file and make the report available upon request.

(4) The DPO approves, in writing, the payment of the overrun or such portion of the overrun amount as the DPO determines may be paid consistent with the conditions of this rule. If the DPO has signed the contract, or has immediate supervisory responsibility over performance of the contract, the DPO shall designate an alternate delegate to grant or deny written approval of payment.

Stat. Auth.: ORS 179.040, 279A.065, 279A.070, 413.033 & 413.042

Stats. Implemented: ORS 279A.050 & 279A.065

Hist.: OHA 5-2012, f. & cert. ef. 8-1-12

943-060-0080

Purchases Through Federal Programs

(1) The Authority may purchase goods and services under the federal programs identified in ORS 279A.180 without competitive sealed bidding, competitive sealed proposals, or other competition required under ORS 279B.050 to 279B.085, provided that the Authority has federal authorization to purchase through the program.

(2) To purchase through a federal program, the DPO shall document in the contract file that:

(a) The acquisition meets the Authority's requirements;

(b) The price and other terms of the acquisition are advantageous to Authority; and

(c) Required preference programs, outlined in OAR 943-060-0090(2)(a)-(d), were considered.

(3) The Authority may add to its contract such contract terms and conditions as required by state statutes or rules if such additions do not conflict with the federal program's contract terms and conditions, including but not limited to prompt payment requirements, additional commercial terms, and conflict resolution.

Stat. Auth.: ORS 179.040, 279A.065, 279A.070, 413.033 & 413.042

Stats. Implemented: ORS 279A.180

Hist.: OHA 5-2012, f. & cert. ef. 8-1-12

943-060-0090

Buy Decision

(1) "Buy decision" means the decision to buy goods and services through socio-economic programs, agreements, or the open market.

(2) The Authority shall make its buy decision in the priority order set forth in sections (a) through (d). If a higher priority source satisfies a procurement, the Authority shall procure through that higher priority source and shall not elect to procure through a lower priority source.

(a) Surplus property. Promotes the efficient use of existing resources (OAR 125-050-0100 to 125-050-0400).

(b) Qualified rehabilitation facilities (QRFs). Assists individuals with disabilities through gainful employment (ORS 279.835 to 279.855 and OAR 125-055-0005 to 125-055-0045).

(c) Inmate labor (Oregon Constitution, Article I, section 41).

(d) Statewide price agreements. Promotes economy and efficiency through volume and strategic purchases.

(3) Section (2) of this rule does not apply to ORS 190 agreements that promote the use of existing state resources, including an interagency agreement, intergovernmental agreement, interstate agreement, international agreement, or tribal agreement. The Authority may elect to use an ORS 190 agreement at any time.

(4) If sections (2) and (3) of this rule do not apply, the Authority may procure goods and services through the open market, using the methods provided under the public contracting code, related rules, and policies.

(5) The Authority shall award a contract for goods and services by one of the following seven sourcing methods in accordance with the public procurement code and related rules:

(a) Competitive sealed bidding under ORS 279B.055;

(b) Competitive sealed proposals under ORS 279B.060;

(c) Small procurement under ORS 279B.065;

(d) Intermediate procurement under ORS 279B.070;

(e) Sole-source procurement under ORS 279B.075;

(f) Emergency procurement under ORS 279B.080; or

(g) Special procurement under ORS 279B.085.

Stat. Auth.: ORS 179.040, 279A.065, 279A.070, 413.033 & 413.042

Stats. Implemented: ORS 279B.050

Hist.: OHA 5-2012, f. & cert. ef. 8-1-12

943-060-0100

Special Procurements

(1) The Authority may award a contract as a special procurement as authorized by ORS 413.033.

(2) The DPO may approve or deny special procurement requests submitted on the designated form. The special procurement request shall identify

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tify whether it is for one or more particular contracts or class of contracts. A request for a special procurement concerns the procurement process only.

(3) Special procurement requests shall contain the following:

(a) Reasons why the Authority has elected to use a special procurement and how it will benefit the Authority or the public.

(b) Findings, market research, or other documentation that the special procurement:

(A) Is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts, and

(B) Either:

(i) Is reasonably expected to result in substantial cost savings to the Authority or to the public; or

(ii) Otherwise substantially promotes the public interest in a manner that could not practically be realized by complying with requirements that are applicable under ORS 279B.055, 279B.060, 279B.065, or 279B.070 or under any related rules.

(c) The alternative process designed by the Authority shall include a description of the goods and services that are the subject of the special procurement and a procurement process, including provisions for amendment and criteria for selection.

(d) The DPO may require any additional information the DPO determines reasonably necessary to evaluate the Authority's request for approval of a special procurement.

(4) The special procurement approval is effective only after the DPO's approval of the findings and completion of the public notice required under section (5) of this rule.

(5) The public notice process and requirements are as follows:

(a) The Authority shall give public notice of the approval of its special procurement as required under ORS 279B.085(5), unless otherwise directed by the DPO, in one or more, or in any combination of, the following manners:

(A) Publish notice on the Department of Administrative Services's electronic procurement system (ORPIN);

(B) Place notice on any Authority electronic procurement system which it may establish and maintain;

(C) Place notice in a newspaper or trade journal of general circulation in the area where the work is to be performed; or

(D) Give direct written or electronic notice to potential providers known to the Authority.

(b) The public notice shall describe the goods and services or class of goods and services to be acquired through the special procurement.

(c) Public notice of the approval of the proposed special procurement shall be given at least seven days before the award, unless fewer days are specified in the notice.

(d) The Authority may request certain information be withheld from the public notice requirement of this rule in cases where confidentiality or security may be jeopardized only according to exception under the public records law (ORS 192.410 to 192.505).

(6) An affected individual may protest the approval of a special procurement in accordance with ORS 279B.400.

(7) Any solicitation or contract resulting from a special procurement approval shall contain a reference to the approved special procurement number.

(8) If the DPO provides written approval of the proposed special procurement, the Authority shall award any contract under the special procurement in accordance with the conditions of the approval and any subsequent amendments to the approval. The approval may include conditions, including but not limited to expiration, public notice, and dollar limitations, and may be revoked at any time by the DPO.

(9) If the Authority competitively solicits, it shall comply with the process described in the special procurement or the rules for that method of solicitation under ORS 279B.055 to 279B.075 and 279A.200 et seq.

(10) Nothing in this rule exempts the Authority from obtaining legal sufficiency approval from the Attorney General according to ORS 291.047.

(11) The Authority shall comply with ORS 200.035 and related policy, despite this rule.

(12) If the Authority intends to award a contract through a special procurement that calls for competition among prospective contractors, the Authority shall award the contract to the offeror the Authority determines to be the most advantageous to the Authority.

(13) The Authority shall comply with Oregon Laws 2012, chapter 53, section 4, including but not limited to:

(a) OAR 943-060-0100(12) that applies to all special procurements advertised or otherwise solicited on or after January 1, 2012.

(b) The Authority shall maintain records about its special procurements that enable the DPO to determine and provide the following information:

(A) The name of the program that conducted each special procurement;

(B) The number of special procurements conducted;

(C) The number of contracts awarded through each special procurement;

(D) A summary of the reasons the Authority decided to conduct each special procurement;

(E) A descriptive summary of the procurement procedure used to conduct the special procurement, noting whether the procedure was competitive or not;

(F) A listing of the number of offers the Authority received if the special procurement procedure was competitive;

(G) The contract price or estimated contract price for each contract awarded through a special procurement;

(H) A summary of the protests or other responses to the approval of each special procurement the Authority received; and

(I) A summary of the disposition of the protests or other responses described in section (12)(b)(H) of this rule.

Stat. Auth.: ORS 179.040, 279A.065, 279A.070, 413.033 & 413.042

Stats. Implemented: ORS 179.040, 279A, (OL 2012, ch. 53, §4), 279A.050 & 279B.085

Hist.: OHA 5-2012, f. & cert. ef. 8-1-12

943-060-0110

Special Procurements by Rule

(1) Client placement and client health care services.

(a) The Authority may use this special procurement to initiate client placement and client health care services as described in this rule prior to execution of a contract, per applicable policy. When the Authority determines a need exists to secure or maintain client placement services or to secure client health care services, the Authority may contract subject to the following definitions and conditions:

(A) "Client placement services" means securing, enhancing, or continuing the placement of a client in a structured family-like setting or residential setting operated by a qualified provider.

(B) "Client health care services" means health care services or provision of incidental or specialized supplies related to the health of a client. Client health care services include but are not limited to preventive, diagnostic, therapeutic, behavioral, rehabilitative, maintenance, palliative care, counseling, assessment, or procedure with respect to the physical or mental condition, or functional status of a client, or that affect a structure or function of the body, and the sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.

(C) Services that may prevent a placement or placement disruption but that cannot definitively be classified as client placement services by the Authority constitute client placement services and are subject to this special procurement.

(b) The Authority may not make any payments for client placement or client health care services before obtaining all requisite approvals of the contract or amendment to an existing contract.

(c) The Authority may:

(A) Use one of the defined source selection methods as found in ORS 279B. If the Authority elects to use one of the defined source selection methods, it shall conduct it in accordance with the public contracting code, rules, and Authority policies; or

(B) The Authority may elect to create its own source selection method. If the Authority elects to create its own source selection method, it shall document the file describing why the alternate method was selected.

(d) The Authority shall ensure all procurement personnel responsible for procuring client placement or client health care services are provided training on the conditions and limitations of this special procurement.

(2) Client services source selection.

(a) Under this class special procurement, the Authority is not required to use the source selection procedures in ORS 279B to procure client services.

(b) The Authority may competitively solicit for client services when there is known competition. Under these circumstances, the Authority may:

(A) Use one of the source selection methods in ORS 279B. If the Authority uses one of the source selection methods, it shall conduct the solicitation in accordance with the public contracting code, rules, and Authority policies; or

(B) The Authority may elect to create its own source selection method. If the Authority creates its own source selection method, it shall document the file describing why the alternate method was selected.

ADMINISTRATIVE RULES

(3) Advertising contracts.

(a) The Authority may use this special procurement to purchase advertising, regardless of dollar value, without competitive bidding.

(b) The Authority shall use competitive methods where practicable to achieve best value and shall document in the procurement file the reasons why a competitive process was deemed to be impractical.

(4) Equipment repair and overhaul.

(a) The Authority may use this special procurement for equipment repair and overhaul, as described below.

(b) The Authority, having procurement authority according to ORS 413.033, may enter into a public contract for equipment repair or overhaul without competitive bidding, subject to the following conditions:

(A) Service or parts required are unknown and the cost cannot be determined without extensive preliminary dismantling or testing; and

(B) Service or parts required are for sophisticated equipment for which specially trained personnel are required and such personnel are available from only one source.

(c) The Authority shall use competitive methods where practicable to achieve best value and shall document in the procurement file the reasons why a competitive process was deemed to be impractical.

(5) Purchase of used personal property.

(a) Subject to the provisions of this special procurement, the Authority may purchase used property or equipment without competitive bidding and without obtaining competitive quotes.

(b) "Used personal property or equipment" means the property or equipment which has been placed in its intended use by a previous owner or user for a period of time recognized in the relevant trade or industry as qualifying the personal property or equipment as "used" at the time of the Authority purchase. Used personal property or equipment generally does not include property or equipment if the Authority was the previous user, whether under a lease, as part of a demonstration, trial or pilot project, or similar arrangement.

(c) For purchases of used personal property or equipment, the Authority shall, where feasible, obtain three quotes, unless the Authority has determined and documented that a purchase without obtaining quotes will result in cost savings to the Authority. The Authority shall obtain and keep a written record of the source and quotes received. If three quotes are not available, a written record shall be made of the attempt to obtain quotes.

(6) Speakers.

(a) The Authority may use this special procurement to enter into written agreements for speaker services, as described in this rule. When the Authority determines that a need exists to secure speaker services, the Authority may contract subject to the following definitions and conditions:

(A) "Speaker" means a provider in the role of a lecturer, presenter, keynote, or speechmaker on a topic in which he or she has expertise. A speaker addresses groups of people in a structured, deliberate manner intended to inform or influence the participants. A speaker's role is different from the role of a trainer or facilitator.

(B) The Authority may contract with a speaker to provide lectures, presentations, or speeches one or multiple times and at a single or multiple locations.

(b) Under this class special procurement, the Authority is not required to use the source selection procedures in ORS 279B to procure speaker services when the value does not exceed \$150,000.

(7) Seminar, training registration, and conference fees.

(a) The Authority may use this special procurement to enter into written agreements for seminars, training registrations, and conference fees when the Authority determines that a need exists. The Authority may contract subject to the following definitions and conditions:

(A) "Trainer" means a provider in a role that delivers professional training or seminar services that direct the growth of learners by making them qualified, informed, or proficient in a skill, task, attitude, system, or process. The trainer works from a structured design based on learning objectives. The provider may utilize coaching, instructing, and facilitating techniques to accomplish the learning objective. A trainer's role is different from the role of a speaker or facilitator.

(B) The Authority may contract with a trainer with proprietary material essential to the business need.

(b) The Authority shall select trainers it considers most advantageous based on one or more of the following criteria:

(A) The knowledge, skills, and ability of each trainer that will provide the services;

(B) The trainer's ability to provide services;

(C) Each trainer's experience, level of expertise, and suitability to perform the training services required;

(D) Whether each trainer's available personnel possess any required licenses or certifications required to perform the services for, or on behalf of, the Authority;

(E) The proprietary nature of the particular training program or materials needed by the Authority;

(F) Each trainer's availability, capability, resources, and commitment to perform the training services at times and locations set by the Authority; or

(G) Other factors the Authority considers relevant to obtain the maximum training benefit.

(c) Under this class special procurement, the Authority is not required to use the source selection procedures in ORS 279B to procure trainer services when:

(A) The value does not exceed \$150,000; and

(B) The trainer of the services owns an exclusive copyright in the training materials; or

(C) The training services are designed to be repeatedly delivered regardless of the audience and are not customized or developed specifically for each audience or event.

(8) Memberships.

(a) The Authority may use this special procurement to purchase dues or memberships in professional or community organizations, institutions, or associations, in accordance with OAR 137-045-0050(12), when the membership is for the benefit of the Authority.

(b) Under this class special procurement, the Authority is not required to use the source selection procedures in ORS 279B to procure memberships.

(9) Copyrighted materials.

(a) The Authority may use this special procurement to purchase copyrighted materials where there is only one known supplier available for such goods. This includes but is not limited to new books, workbooks, periodicals, subscriptions, curriculum materials, reference materials, and audio and visual media from a particular publisher or its designated distributor.

(b) Under this class special procurement, the Authority is not required to use the source selection procedures in ORS 279B to procure copyrighted materials.

(10) Software and hardware maintenance, licenses, and upgrades.

(a) The Authority may use this special procurement to directly enter into a contract or renew existing contracts for information technology hardware or software maintenance, licenses, and upgrades without competitive solicitation where the maintenance, upgrades, or licenses are either available from only one source or, if available from more than one provider, are obtained from the Authority's current provider to utilize the pre-existing knowledge of the vendor regarding the specifics of the Authority's hardware or software system.

(b) The Authority shall document in the procurement file the facts that justify either that maintenance, licenses, or upgrades were available from only one source or, if from more than one source, from the current vendor.

(11) Manufacturer direct supplies.

(a) The Authority may use this special procurement to purchase goods directly from a manufacturer if the cost from the manufacturer is the same or less than the cost the manufacturer charges to its distributors.

(b) The Authority may not use this special procurement when a statewide price agreement exists for the goods.

(12) Health care reform.

(a) The Authority may use this special procurement to enter into written agreements for consultant services to carry out the Governor's and the Authority's efforts to reform health care delivery via community based programs and other health care reform initiatives. When the Authority determines that a need exists to secure health care reform services, the Authority may contract subject to the following definitions and conditions:

(A) "Health care reform" means looking at ways of delivering health care services for Oregon families that improve the quality of care and develop ways to reduce the cost of health care.

(B) The Authority may contract with a consultant who has the specialized knowledge, skills, and abilities in the area of health care reform when:

(i) Federal guidelines or timelines require an expedited procurement process;

(ii) Assessments, development of policies, information systems, and other tools and documents are required to be conducted through independent analysis by third party consultants; or

(iii) The Authority risks losing federal funding or may fail to meet required deadlines to continue funding for the next phase of health care reform.

ADMINISTRATIVE RULES

(b) The Authority is not required to use the source selection procedures in ORS 279B to procure health care reform consultant services when:

(A) The services do not exceed 12 months in duration; and

(B) The consultant is considered an expert in health care reform as determined by the Authority.

(c) The Authority will use the source selection requirements as found in ORS 279B when the consultant services do not meet the requirements under this special procurement.

(13) Accreditation services.

(a) The Authority may use this special procurement to obtain accreditation services when a program is required to have accreditation for certification of competency, authority, or credibility by an organization that is certified to grant the accreditation.

(b) The Authority is not required to use the source selection procedures in ORS 279B to procure accreditation services.

Stat. Auth.: ORS 179.040, 279A.065, 279A.070, 413.033 & 413.042

Stats. Implemented: ORS 279B.085

Hist.: OHA 5-2012, f. & cert. ef. 8-1-12

943-060-0120

Grant Authority

If the Authority is a grant recipient or grantor in an agreement, the definition of grant in ORS 279A.010 determines if the agreement is subject to the public procurement code and these rules. If the grantor or the Authority has substantial involvement in the program or activity of the Authority, the agreement is not a grant.

Stat. Auth.: ORS 179.040, 279A.065, 279A.070, 413.033 & 413.042

Stats. Implemented: ORS 279A.025

Hist.: OHA 5-2012, f. & cert. ef. 8-1-12

Rule Caption: Criminal and Abuse Checks and Appeal Rights for Authority Employees, Volunteers, Contractors and Providers.

Adm. Order No.: OHA 6-2012

Filed with Sec. of State: 8-9-2012

Certified to be Effective: 8-10-12

Notice Publication Date: 7-1-2012

Rules Adopted: 943-007-0001, 943-007-0335, 943-007-0501

Rules Repealed: 943-007-0001(T), 943-007-0335(T), 943-007-0501(T)

Subject: HB 2009 (2009) created the Oregon Health Authority and transferred to the Authority the Department of Human Services' (Department) Divisions with respect to health and health care. HB 2100 allows the Authority to use abuse investigation reports when conducting background checks on individuals who are employed, seek employment, volunteer, or seek to be a volunteer, provide care, or seek to be a care provider on behalf of the Authority for clients of the Authority. The Authority needs to adopt and incorporate by reference the Department's rules which provide the Authority with the legal authority to conduct background checks and screenings on behalf of the Authority.

The Authority needs to adopt and incorporate by reference the Department's rules in chapter 407-007-0000 to 0075; 407-007-0090 to 0100; 407-0200 to 0275; 407-007-0340 to 0370; and 407-007-0400 to 0460 for matters that involve Authority employees, volunteers, contractors or providers subject to criminal and abuse checks before the individual may work, volunteer be employed, hold the position, or provide services.

The Authority is adopting OAR 943-007-0001 which allows the Authority to use reports of abuse and neglect when conducting background checks on subject individuals.

The Authority is also adopting OAR 943-007-0501 which explains how an individual may contest a fitness determination and OAR 943-007-0335, which explains how providers may contest a Notice of Intent to Deny.

Rules Coordinator: Evonne Alderete—(503) 932-9663

943-007-0001

Criminal History Checks

Employees, volunteers, providers and contractors for the Oregon Health Authority (Authority) are subject to background checks and screening to determine if they have a history of criminal or abusive behavior such that they should not be allowed to work, volunteer, be employed, or otherwise perform in positions covered by these rules.

(1) The Authority adopts and incorporates by reference the rules established in: OAR 407-007-0000 to 0075 and 407-007-0090 to 0100 (Employees, Volunteers and Contractors); for those matters that involve employees, volunteers, or contractors of the Authority, except as otherwise provided in this rule.

(2) The Authority adopts and incorporates by reference the rules established in: OAR 407-007-0200 to 407-007-0325; and 407-007-0340 to 407-007-0370 (Providers) for those matters that involve any entity or agency licensed, certified, registered, or otherwise regulated by the Authority, except as otherwise provided in this rule.

(3) The Authority adopts and incorporates by reference the rules established in OAR 407-007-0400 to 0460 for those matters that involve abuse checks for Authority employees, volunteers, and applicants for employment or volunteer positions, except as otherwise provided in this rule.

(4) Any reference to any rule from OAR 407-007-0000 to 407-007-0100 or from OAR 407-007-0400 to 407-007-0460 in rules or contracts of the Authority are deemed to be references to the requirements of this rule, and shall be construed to apply to employees, volunteers, or contractors of the Authority.

(5) References in OAR 407-007-0000 to 407-007-0460 to the Department of Human Services (Department) or to the Oregon Health Authority shall be construed to be references to either or both agencies.

(6) The Authority authorizes the Department to act on its behalf in carrying out background checks and screening associated with the administration of programs or activities administered by the Authority.

(7) The Authority shall conduct appeals of a Notice of Intent to Deny for potentially disqualifying abuse pursuant to OAR 943-007-0335. All other appeals shall be conducted by the Authority pursuant to OAR 943-007-0501.

Stat. Auth.: ORS 181.534, 181.537 & 413.042

Stats. Implemented: ORS 181.534, 181.537 & 183.341

Hist.: OHA 2-2012(Temp), f. & cert. ef. 5-7-12 thru 11-2-12; OHA 6-2012, f. 8-9-12, cert. ef. 8-10-12

943-007-0335

Decision and Appeal Rights for Providers with Potentially Disqualifying Abuse

(1) This rule applies only to:

(a) Background checks in which an SI has potentially disqualifying abuse under OAR 407-007-0290(11)(d) with no other potentially disqualifying convictions or conditions; and

(b) After a weighing test under OAR 407-007-0300, the Authority determines that more likely than not, SI poses a risk to the physical, emotional, or financial well-being of vulnerable individuals.

(2) The Authority shall provide the SI a written Notice of Intent to Deny.

(a) The Authority shall indicate on the Notice of Intent to Deny the date the final fitness determination was made and the date of the intended action if the SI fails to request an expedited hearing.

(b) The Authority shall mail the Notice of Intent to Deny to the SI using the mailing address provided by the SI by the next business day after the date of the final fitness determination.

(c) The Authority shall include a copy of the background check request and an Expedited Hearing Request form with the Notice of Intent to Deny.

(3) An SI may contest a Notice of Intent to Deny by requesting an expedited hearing. The expedited 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.

(4) To request an expedited hearing, the SI must submit a completed and signed Expedited Hearing Request form. The request for an expedited hearing must be received by the Authority within 10 calendar days after the date of the final fitness determination.

(5) An SI has the right to represent him or herself or have legal representation during the expedited hearing process. For the purpose of this rule, the term "SI" shall be considered to include the SI's legal representative if the SI has provided the Authority with the information.

(a) An SI appealing a Notice of Intent to Deny regarding the position of homecare worker as defined in ORS 410.600 or personal support 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 representative.

ADMINISTRATIVE RULES

Hist.: OHA 2-2012(Temp), f. & cert. ef. 5-7-12 thru 11-2-12; OHA 6-2012, f. 8-9-12, cert. ef. 8-10-12

(6) If the SI fails to request an expedited hearing within the allowed time, the Authority shall issue a Notice of Denial to the SI and to the QE. The SI shall have no further hearing rights under OAR 943-007-0501.

(7) If the SI requests an expedited hearing in a timely manner, the SI shall remain in the same status made in a preliminary fitness determination under OAR 407-007-0315 until the date of a final order or the Notice of Denial.

(8) The Authority 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 documents requested by the BCU within a specified amount of time.

(b) The administrative review is not open to the public.

(c) The Authority may make an informal disposition based on the administrative review and shall issue a final order and a notice of fitness determination.

(9) The Authority may be represented by a hearing representative in expedited hearings or by the Office of the Attorney General.

(a) The Authority shall provide the administrative law judge and the SI a complete copy of available information used during the background checks and fitness determinations. The claimant is entitled to reasonable notice of all hearing documents either through personal service, electronically, regular mail, or certified 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 individuals 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.

(10) The expedited hearing shall be conducted by the OAH by telephone within 10 business days from the receipt of the completed and signed Expedited Hearing Request form.

(a) The expedited hearing is not open to the public.

(b) The administrative law judge shall make a new fitness determination based on evidence and the record.

(c) 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 Authority or the QE be required to place an SI in any position, nor shall the Authority or the QE be required to accept services or enter into a contractual agreement with an SI.

(12) The Authority shall issue a dismissal order in the following situations:

(a) The SI may withdraw an expedited 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 Authority or the OAH. The SI may cancel the withdrawal in writing within four calendar days after the date of withdrawal.

(b) The Authority 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.

(c) The Authority shall dismiss a hearing request when the SI fails to appear at the time specified for the expedited hearing. The order is effective on the date scheduled for the hearing.

(13) After an expedited hearing, the administrative law judge shall issue a final order within three business days.

(a) If the final order maintains the Authority's intent to deny, the Authority shall issue a Notice of Denial by the next business day after the date of the final order. The SI shall have no further hearing rights under OAR 943-007-0501.

(b) If the final order reverses the Authority's intent to deny to an approval or a restricted approval, the Authority shall issue a Notice of Fitness Determination by the next business day after the date of the final order unless the Authority formally stays the final order.

(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.

Stat. Auth.: ORS 181.534, 181.537 & 413.042

Stats. Implemented: ORS 181.534, 181.537 & 183.341

943-007-0501

Contesting a Final Fitness Determination

(1) A final fitness determination of denied or approved with restrictions is considered an adverse outcome. An SI with an adverse outcome may contest that outcome.

(2) If an SI is denied, the SI may not work, volunteer, be employed, 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 Authority, by appealing to the entity providing the information. These challenges are not subject to the Authority's appeal process.

(5) The SI has the right to represent him or herself or have legal representation during the appeal process. The SI may not be represented by a lay person. In this rule, the term "SI" shall be considered to include the SI's legal representative.

(a) An SI appealing an adverse outcome regarding the position of personal support 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 representative.

(6) An SI who is already employed by the Authority at the time of the final fitness determination may appeal through applicable personnel rules, policies, and collective bargaining provisions. The SI's decision to do so is an election of remedies as to the rights of the SI with respect to the fitness determination and constitutes a waiver of the contested case process described in this rule.

(7) An SI may contest an adverse fitness determination by requesting a contested case hearing. The contested case hearing process is conducted pursuant to 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 must complete and sign the Hearing Request form.

(b) The completed and signed form must be received by the Authority within the following time lines:

(A) For Authority employees and SIs offered employment by the Authority, no later than 15 calendar days after the effective date of action listed on the notice of the fitness determination.

(B) For all other SIs, no later than 45 calendar days after the effective date of action listed on the notice of the fitness determination.

(c) If a request for hearing is not timely, the Authority 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 Authority may refer an untimely request to OAH for a hearing on the issue of timeliness.

(8) The Authority 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 Authority within a specified amount of time.

(b) The administrative review is not open to the public.

(9) The Authority may conduct additional criminal records 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 Authority may amend the notice of fitness determination during the appeal process while still maintaining the original hearing rights and deadlines.

(10) The Authority shall be represented by a hearing representative in contested case hearings. The Authority may also be represented by the Department of Justice's Office of the Attorney General.

(a) The Authority shall provide the administrative law judge and the SI a complete copy of available information used during the criminal records checks and fitness determinations. The notice of contested case and prehearing summary and all other documents shall be mailed by regular first class mail.

ADMINISTRATIVE RULES

(b) SIs may not have access to confidential information contained in records collected or developed during the criminal records 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 criminal records 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 the evidence and the contested case hearing record.

(e) The only remedy that an administrative law judge may grant is a fitness determination that the SI is approved, approved with restrictions (if allowed by rule), or denied. Under no circumstances shall the Authority or Qualified Entity (QE) be required to place an SI in any position, nor shall the Authority or QE be required to accept services or enter into a contractual agreement with an SI.

(f) For providers, a hearing pursuant to these rules may be conducted in conjunction with a licensure or certification hearing for the SI.

(11) The result of an appeal is a final order.

(a) The notice of fitness determination becomes the final order 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 shall be issued after the notice of fitness determination.

(B) The SI withdraws the request for hearing at any time during the appeal process.

(b) The Authority may make an informal disposition based on the administrative review. The Authority 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 a contested case hearing.

(c) The Authority 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 Authority or OAH. The SI may cancel the withdrawal in writing within 14 calendar days after the date of withdrawal.

(B) The Authority 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 Authority shall review a good cause request to reinstate hearing rights if received in writing by the Authority within 14 calendar days.

(C) The Authority 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 Authority shall review a good cause request to reinstate hearing rights if received in writing by the Authority within 14 calendar days of the order.

(d) After a hearing, the administrative law judge shall issue a proposed and final order.

(A) If no written exceptions are received by the Authority within 14 calendar days after the service of the proposed and final order, the proposed and final order shall become the final order.

(B) If timely written exceptions to the proposed and final order are received by the Authority, the Authority'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.

(12) Final orders, including dismissal and default orders, are subject to reconsideration or rehearing petitions within 60 calendar days after the final order is served, pursuant to OAR 137-003-0675.

(13) The Authority may provide the QE's QED with the results of the appeal.

Stat. Auth.: ORS 181.534, 181.537 & 413.042
Stats. Implemented: ORS 181.534, 181.537 & 183.341
Hist.: OHA 22-2012(Temp), f. & cert. ef. 5-7-12 thru 11-2-12; OHA 6-2012, f. 8-9-12, cert. ef. 8-10-12

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Oregon Health Authority,
Division of Medical Assistance Programs
Chapter 410

Rule Caption: Amending Preferred Drug List and Prior Authorization Guide — April 26, 2012 DUR/P&T Action.

Adm. Order No.: DMAP 33-2012(Temp)

Filed with Sec. of State: 7-18-2012

Certified to be Effective: 7-23-12 thru 1-18-13

Notice Publication Date:

Rules Amended: 410-121-0030, 410-121-0040

Subject: 410-121-0030:

Add Gastrointestinal Clostridium Difficile class to the PDL. Add metronidazole and vancomycin as preferred products.

Add Pulmonary Smoking Cessation class to the PDL. Add bupropion sustained release, nicotine patch, nicotine polacrilex gum, nicotine polacrilex lozenge and varenicline tartrate as preferred products.

Remove Baraclude® (entecavir) from the Antiviral Hepatitis B class.

410-121-0040:

Kalydeco® (ivacaftor) — new criteria.

Egrifta® (tesamorelin) — new criteria.

Amylin Analogs — update criteria.

Incretin Enhancers — update criteria.

Incretin Mimetics — update criteria.

Dificid® (fidaxomicin) — new criteria.

Smoking Cessation — new criteria.

Hepatitis B — new criteria.

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-121-0030

Practitioner-Managed Prescription Drug Plan

(1) The Practitioner-Managed Prescription Drug Plan (PMPDP) is a plan that ensures that fee-for-service clients of the Oregon Health Plan shall have access to the most effective prescription drugs appropriate for their clinical conditions at the best possible price:

(a) Licensed health care practitioners (informed by the latest peer reviewed research), make decisions concerning the clinical effectiveness of the prescription drugs;

(b) The licensed health care practitioners also consider the health condition of a client or characteristics of a client, including the client's gender, race or ethnicity.

(2) PMPDP Preferred Drug List (PDL):

(a) The PDL is the primary tool that the Division developed to inform licensed health care practitioners about the results of the latest peer-reviewed research and cost effectiveness of prescription drugs;

(b) The PDL (as defined in 410-121-0000(cc) consists of prescription drugs that the Division, in consultation with the Drug Use Review (DUR)/Pharmacy & Therapeutics Committee (P&T), has determined represent the most effective drug(s) available at the best possible price;

(c) The PDL shall include drugs that are Medicaid reimbursable and the Food and Drug Administration (FDA) has determined to be safe and effective.

(3) PMPDP PDL Selection Process:

(a) The Division shall utilize the recommendations made by the P&T, that result from an evidence-based evaluation process, as the basis for selecting the most effective drug(s);

(b) The Division shall determine the drugs selected in (3)(a) that are available for the best possible price and shall consider any input from the P&T about other FDA-approved drug(s) in the same class that are available for a lesser relative price. The Division shall determine relative price using the methodology described in subsection (4);

(c) The Division shall evaluate selected drug(s) for the drug classes periodically:

(A) Evaluation shall occur more frequently at the discretion of the Division if new safety information or the release of new drugs in a class or other information which makes an evaluation advisable;

(B) New drugs in classes already evaluated for the PDL shall be non-preferred until the new drug has been reviewed by the P&T;

(C) The Division shall make all changes or revisions to the PDL, using the rulemaking process and shall publish the changes on the Division's Pharmaceutical Services provider rules Web page.

(4) Relative cost and best possible price determination:

(a) The Division shall determine the relative cost of all drugs in each selected class that are Medicaid reimbursable and that the FDA has determined to be safe and effective;

(b) The Division may also consider dosing issues, patterns of use and compliance issues. The Division shall weigh these factors with any advice provided by the P&T in reaching a final decision;

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(5) Pharmacy providers shall dispense prescriptions in the generic form, unless:

(a) The practitioner requests otherwise, subject to the regulations outlined in OAR 410-121-0155;

(b) The brand name medication is listed as preferred on the PDL.

(6) The exception process for obtaining non-preferred physical health drugs that are not on the PDL drugs shall be as follows:

(a) If the prescribing practitioner, in their professional judgment, wishes to prescribe a physical health drug not on the PDL, they may request an exception, subject to the requirements of OAR 410-121-0040;

(b) The prescribing practitioner must request an exception for physical health drugs not listed in the PDL subject to the requirements of OAR 410-121-0060;

(c) Exceptions shall be granted in instances:

(A) Where the prescriber in their professional judgment determines the non-preferred drug is medically appropriate after consulting with the Division or the Oregon Pharmacy Help Desk; or

(B) Where the prescriber requests an exception subject to the requirement of (6)(b) and fails to receive a report of PA status within 24 hours, subject to OAR 410-121-0060.

(7) Table 121-0030-1, PMPDP PDL

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

Stat. Auth.: ORS 409.025, 409.040, 409.110, 414.065, 413.042 & 414.325

Stats. Implemented: ORS 414.065

Hist.: OMAP 25-2002, f. 6-14-02 cert. ef. 7-1-02; OMAP 31-2002, f. & cert. ef. 8-1-02; OMAP 36-2002, f. 8-30-02, cert. ef. 9-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 35-2003, f. & cert. ef. 5-1-03; OMAP 47-2003, f. & cert. ef. 7-1-03; OMAP 57-2003, f. 9-5-03, cert. ef. 10-1-03; OMAP 70-2003(Temp), f. 9-15-03, cert. ef. 10-1-03 thru 3-15-04; OMAP 82-2003, f. 10-31-03, cert. ef. 11-1-03; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 29-2004, f. 4-23-04 cert. ef. 5-1-04; OMAP 34-2004, f. 5-26-04 cert. ef. 6-1-04; OMAP 45-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 81-2004, f. 10-29-04 cert. ef. 11-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 19-2005, f. 3-21-05, cert. ef. 4-1-05; OMAP 32-2005, f. 6-21-05, cert. ef. 7-1-05; OMAP 58-2005, f. 10-27-05, cert. ef. 11-1-05; OMAP 16-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06; OMAP 48-2006, f. 12-28-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 36-2008, f. 12-11-08, cert. ef. 1-1-09; 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 2-2011(Temp), f. & cert. ef. 3-1-11 thru 8-20-11; DMAP 19-2011, f. 7-15-11, cert. ef. 7-17-11; DMAP 44-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 18-2012, f. 3-30-12, cert. ef. 4-9-12; DMAP 26-2012, f. & cert. ef. 5-14-12; DMAP 29-2012, f. & cert. ef. 6-21-12; DMAP 33-2012(Temp), f. 7-18-12, cert. ef. 7-23-12 thru 1-18-13

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 July 23, 2012, incorporated in rule by reference and found on our Web page at: <http://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 Pharmacy & Therapeutics Committee (P&T) 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 by the DUR/P&T Committee.

(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 DUR/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 Authority;

(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; DMAP 44-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 18-2012, f. 3-30-12, cert. ef. 4-9-12; DMAP 23-2012(Temp), f. & cert. ef. 4-20-12 thru 10-15-12; DMAP 27-2012(Temp), f. & cert. ef. 5-14-12 thru 10-15-12; DMAP 29-2012, f. & cert. ef. 6-21-12; DMAP 33-2012(Temp), f. 7-18-12, cert. ef. 7-23-12 thru 1-18-13

Rule Caption: Federal and state requirements for Hospice services in a nursing facility and rule language clarification.

Adm. Order No.: DMAP 34-2012

Filed with Sec. of State: 7-20-2012

Certified to be Effective: 7-20-12

Notice Publication Date: 11-1-2011

Rules Adopted: 410-142-0290

Subject: The Hospice Service Rules program governs payment for the Division's Hospice Services program. The Division is adopting 410-142-0290, "Hospice Services in a Nursing Facility," to incorporate Federal compliance requirements for payment when a client resides in a nursing facility and elects hospice care; clarify language

ADMINISTRATIVE RULES

and update definitions based on provider, stakeholder and state hospice association participation and input in the Rules Advisory Committee.

During the week of July 9, 2012, the MMIS contractor, Hewlett Packard notified the Division that the billing system development for the Hospice-Nursing Facility project will be completed and in production by October, 2012. As stated in the original Statement of Need and Fiscal Impact, the proposed effective date for OAR 410-142-0290 "will be after 1/1/12 in conjunction with billing system and project implementation." The Division is adopting this rule at this time for project implementation.

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-142-0290

Hospice Services in a Nursing Facility

(1) Pursuant to Title XIX, Section 1902 and 1905, federal statute prohibits the state from paying nursing facility (NF) providers directly for NF services when their Medicaid residents elect hospice care. In these instances, the Centers for Medicare and Medicaid Services (CMS) require the state to pay the hospice provider an additional amount not to exceed 95% of what the state would pay the NF for NF services for that client.

(2) When a client resides in a NF and elects hospice care, the hospice provider and the NF must have a written contract which addresses the provision of hospice care and the method upon which the hospice will pay the NF. The hospice and the NF must maintain a copy of the completed and signed contract on file and it must be available upon request.

(3) Reimbursement when a client resides in a NF and elects hospice care:

(a) The hospice shall bill the Division of Medical Assistance Programs (Division) directly for the hospice care provided and for the cost of NF services at their usual and customary rate for NF services delivered in that NF for that client;

(b) The Division shall pay the hospice provider for the hospice care provided and not to exceed 95% of the NF basic rate according to the rate schedule for NF services delivered in that NF for that client;

(c) The hospice provider must reimburse the nursing facility according to their contract and after the hospice receives payment from the Division for that NF for that client; and

(d) Reimbursement for services provided under this rule is available only if the recipient of the services is Medicaid-eligible, hospice-eligible, and been found to need NF care through the Pre-Admission Screening process under OAR 411-070-0040.

(4) NF Services Overpayment: Any payment received from the Division by a NF for services delivered after a client has elected hospice care shall adjust their claims from the day the client first elected hospice care. Failure to submit an adjustment subjects the NF to potential sanctions and all means of overpayment recovery authorized under OAR chapter 410, division 120.

(5) Coordination of Care (COC) must be provided according to CMS Conditions of Participation (CoPs), 42CFR418.112 for hospice and nursing facilities.

(6) Managed Care clients who reside in a NF and elect hospice care shall remain in managed care for all care other than hospice services. Hospice services for a resident in a NF shall be excluded from managed care capitation and the hospice must bill the Division directly for payment of hospice and NF services.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 414.065
Hist.: DMAP 34-2012, f. & cert. ef. 7-20-12

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Rule Caption: Align with OAR chapter 461, division 155 medical eligibility rules.

Adm. Order No.: DMAP 35-2012(Temp)

Filed with Sec. of State: 7-20-2012

Certified to be Effective: 7-20-12 thru 1-15-13

Notice Publication Date:

Rules Amended: 410-120-0006

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 is temporarily amending 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 in conjunction. The Division intends to file this rule permanently on or before January 15, 2013.

Rules Coordinator: Cheryl Peters—(503) 945-6527

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.

(1) The Authority adopts and incorporates by reference the rules established in OAR Chapter 461, and in effect July 1, 2012, for all medical eligibility requirements for medical assistance when the Authority conducts eligibility determinations.

(2) Any reference to OAR 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; DMAP 36-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 1-2012(Temp), f. & cert. ef. 1-13-12 thru 7-10-12; DMAP 2-2012(Temp), f. & cert. ef. 1-26-12 thru 7-10-12; DMAP 3-2012(Temp), f. & cert. ef. 1-31-12 thru 2-1-12; DMAP 4-2012(Temp), f. 1-31-12, cert. ef. 2-1-12 thru 7-10-12; DMAP 9-2012(Temp), f. & cert. ef. 3-1-12 thru 7-10-12; DMAP 21-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-10-12; DMAP 25-2012(Temp), f. & cert. ef. 5-1-12 thru 7-10-12; Administrative correction 8-1-12; DMAP 35-2012(Temp), f. & cert. ef. 7-20-12 thru 1-15-13

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Rule Caption: Rural Medical Practitioners Insurance Subsidy Program Practitioner Participation Criteria and Carrier Requirements for Subsidy Payments.

Adm. Order No.: DMAP 36-2012

Filed with Sec. of State: 7-27-2012

Certified to be Effective: 7-28-12

Notice Publication Date: 7-1-2012

Rules Adopted: 410-500-0000, 410-500-0010, 410-500-0020, 410-500-0030, 410-500-0040, 410-500-0050, 410-500-0060

Subject: The Rural Medical Practitioners Insurance Subsidy Program administrative rules govern Division payments to medical professional liability insurance carriers from the Rural Medical Liability Subsidy fund. Payments from the fund will subsidize the cost of premiums charged by certain carriers to qualified practitioners for policies issued, in force, or renewed on or after January 1, 2012. The Authority needs to adopt these rules to identify medical practitioner criteria for participation in the program, as well as insurance carrier requirements for submitting requests for subsidy payments.

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-500-0000

Purpose

(1) Effective retroactive to January 1, 2012, the Rural Medical Practitioners Insurance Subsidy Program (Program) has been established in the Oregon Health Authority (Authority).

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(2) The purpose of the Program is to provide payments from the Rural Medical Liability Subsidy Fund to authorized medical professional liability insurance carriers to subsidize the cost of premiums charged by carriers to qualified practitioners for policies issued, in force, or renewed on or after January 1, 2012, in the manner provided in these rules.

(3) These rules govern the Authority's payment of premium subsidies under this Program. The Authority may not accept or pay for any claims involving a carrier or a practitioner, or disputes between them.

Stat. Auth.: ORS 413.042 & 676.550 -556

Stats. Implemented: ORS 413.042

Hist.: DMAP 5-2012(Temp), f. & cert. ef. 1-31-12 thru 7-28-12; DMAP 36-2012, f. 7-27-12, cert. ef. 7-28-12

410-500-0010

Definitions

For the purposes of OAR 410-500-0000 through 410-500-0060, the following definitions shall apply:

(1) "Carrier" means a medical professional liability insurer holding a valid certificate of authority from the Director of the Department of Consumer and Business Services (DCBS) that authorizes the transaction of insurance as defined in ORS 731.066(1) and 731.072(1), and does not include DCBS listed insurers pursuant to 735.300 to 735.365 and 735.400 to 735.495.

(2) "Medical assistance" has the same meaning given that term in ORS 414.025.

(3) "Medicare" means medical coverage provided under Title XVIII of the Social Security Act.

(4) "Office of Rural Health" (Office) has the same meaning given that term in ORS 442.475.

(5) "Practitioner" means a physician licensed under ORS chapter 677 or a nurse practitioner certified under ORS 678.375 who has a rural practice that meets criteria established by the Office that applied as of January 1, 2004, for the purposes of ORS 315.613. Practitioner does not include a physician or nurse practitioner located in an urbanized area of Jackson County, as defined by the United States Census Bureau according to the most recent federal decennial census taken pursuant to the authority of the United States Department of Commerce under 13 U.S.C. 141(a), unless the practitioner is:

(a) A physician who specializes in obstetrics or who specializes in family or general practice and provides obstetrical services; or

(b) A nurse practitioner certified for obstetric care.

(6) "Rural Medical Liability Subsidy Fund" means a fund established in ORS 676.550 -556 to provide payments to medical professional liability insurance carriers to subsidize the cost of premiums charged by the carriers to qualifying practitioners.

(7) "Rural Medical Practitioner Insurance Fund Program" (Program) means the program established by the Authority to provide payments to authorized medical professional liability insurance carriers to subsidize the cost of premiums charged by the carriers to qualified practitioners from the Rural Medical Liability Subsidy Fund established in ORS 676.550 -556

Stat. Auth.: ORS 413.042 & 676.550 -556

Stats. Implemented: ORS 413.042

Hist.: DMAP 5-2012(Temp), f. & cert. ef. 1-31-12 thru 7-28-12; DMAP 36-2012, f. 7-27-12, cert. ef. 7-28-12

410-500-0020

Eligibility Criteria for Rural Practitioners

(1) A practitioner who has a rural practice that meets the criteria established by the Office for the purposes of ORS 315.613 is eligible for a subsidy under the Program, if the practitioner:

(a) Holds an active, unrestricted license or certification;

(b) Is covered by a medical professional liability insurance policy issued by an authorized carrier with minimum coverage limits coverage of \$1 million per occurrence and \$1 million annual aggregate; and

(c) Is willing to serve patients with Medicare coverage and patients receiving medical assistance in at least the same proportion to the practitioner's total number of patients as the Medicare and medical assistance populations represent of the total number of individuals determined by the Office to be in need of care in the areas served by the practice.

(2) A nurse practitioner employed by a licensed physician is eligible for a subsidy if they are covered by a medical professional liability insurance policy that names and separately calculates the premium for the nurse practitioner.

(3) A practitioner whose medical professional liability insurance coverage is provided through a health care facility, as defined in ORS 442.400, and also meets the requirements of section (4) of this rule is eligible for a premium subsidy if the Office determines that practitioner:

(a) Is not an employee of the health care facility;

(b) Is covered by a medical professional liability insurance policy that names the practitioner and separately calculates the premium for the practitioner; and

(c) Fully reimburses the health care facility for the premium calculated for the practitioner.

(4) Eligibility by individual practitioners to participate in the Program must be requested each year using an annual attestation administered by the Office. Consistent with the requirements of this rule, the Office shall establish criteria and procedures for making the eligibility determinations and for an annual attestation procedure that practitioners must use.

(5) The Office shall determine whether practitioners are eligible to participate in the Program and shall provide its eligibility determination to the Authority and the practitioner.

(a) If a practitioner disagrees with the office's eligibility determination for the Program, the Office shall conduct an informal review and issue its recommendation to the Authority.

(b) The Authority shall make the final determination of eligibility to participate in the Program. Appeals shall be handled in accordance with the procedure for administrative review described in OAR 410-500-0060.

(6) The Authority shall forward to each of the authorized carriers participating in this Program, the list of eligible practitioners that it receives from the Office. The list shall include the practitioner's name, mailing address, specialty and applicable professional license or certification number issued by either the Board of Medical Examiners or the Board of Nursing.

Stat. Auth.: ORS 413.042 & 676.550 -556

Stats. Implemented: ORS 413.042

Hist.: DMAP 5-2012(Temp), f. & cert. ef. 1-31-12 thru 7-28-12; DMAP 36-2012, f. 7-27-12, cert. ef. 7-28-12

410-500-0030

Determination of Subsidy Amount

(1) Beginning with the first calendar quarter in 2012, premium subsidy payments may be made to carriers to subsidize the cost of premiums charged by the carrier to eligible practitioners.

(a) Premium subsidies paid as a percentage of the actual premium charged for medical professional liability insurance with coverage limits of \$1 million per occurrence and up to \$3 million annual aggregate.

(b) Notwithstanding section (1)(a) of this rule, the premium subsidy for a practitioner referred to in OAR 410-500-0030(3)(c) or (d) shall be the lesser of the percentage of the premium due or paid for the current calendar year and the premium paid in the previous calendar year. When determining the lesser amount, any step increases in the premium owing to the claims-made nature of the policy may not be considered.

(2) Within 30 days after the end of each billing period, monthly or quarterly, each carrier must electronically, (using Microsoft Excel or similar spreadsheet application) submit a report to the Authority showing the following information for each eligible practitioner who has been determined eligible for a premium subsidy by the Office in accordance with OAR 410-500-0020, as of the end of the billing quarter under this Program.

(a) The information must include the following:

(A) Carrier's name;

(B) Practitioner's name and, for each practitioner:

(i) Oregon Board of Medical Examiners license number or Oregon State Board of Nursing certification number;

(ii) Practitioner's specialty and specialty class;

(iii) Insurance Services Office (ISO) code;

(iv) Policy number and effective date;

(v) Billing period coverage start and end dates;

(vi) Billing frequency (annually, quarterly, monthly);

(vii) Current in-force annual premium for coverage limits of \$1 million per occurrence and up to \$3 million annual aggregate;

(viii) Premium subsidy percentage, calculated in accordance with section (3) of this rule;

(ix) Dollar amount of premium subsidy, calculated in accordance with these rules;

(x) Explanation of any adjustments under this Program from previous reports;

(xi) Policy coverage limits;

(xii) Claims-made step of practitioner, if applicable.

(xiii) Identification of practitioners who were not on the eligible list at the beginning of the quarter, including all of the information in subparagraphs through this rule for eligible practitioners;

(b) Each January all carriers must provide the Authority with a copy of its base rates and increased limits factors table. The carrier must also

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inform the Authority of the base rates and increased limits factors table from their current rate filing for Oregon within 30 days of any change to those rates and table.

(c) A carrier must submit true, accurate, and complete report or rates.

(d) Failure to make a timely submission may result in delay in processing the payment request. The Authority shall calculate the payment of premium subsidies from the Rural Medical Liability Subsidy Fund based on the funds available for the applicable billing period. In the event of insufficient funds, the risk of carrier delay in submission of a request for subsidy payment is on the carrier, because payments shall be based on the subsidy requests received timely for each applicable billing period.

(3) Subject to section (4) of this rule, the amount of the premium subsidy paid shall be calculated for eligible practitioners, as follows:

(a) Eighty percent of the actual premium charged for physicians specializing in obstetrics and nurse practitioners certified for obstetric care;

(b) Sixty percent of the actual premium charged for physicians specializing in family or general practice who provide obstetrical services;

(c) Forty percent of the actual premium charged for physicians and nurse practitioners engaging in one or more of the following practices:

(A) Family practice without obstetrical services;

(B) General practice without obstetrical services;

(C) Internal medicine;

(D) Geriatrics;

(E) Pulmonary medicine;

(F) Pediatrics;

(G) General surgery; or

(H) Anesthesiology;

(d) Fifteen percent of the actual premium charged for physicians and nurse practitioners other than those included in sections (3) (a) through (c).

(e) Using the information timely provided by carriers provided pursuant to section (2) of this rule, the information provided by the Office about eligible practitioners, and the provisions of this rule describing the calculation of the premium subsidy amounts, the Authority shall review the report for accuracy, and make the appropriate premium subsidy payments to the authorized carriers for undisputed items to the authorized carrier within 30 days of receipt.

(4) All payments authorized to be made by the Authority must be made from the Rural Medical Liability Subsidy Fund. No other funds have been established by the Legislative Assembly to make any premium subsidy payments.

(a) If the funds available for the Program in the Rural Medical Liability Subsidy Fund are insufficient to provide the maximum premium subsidy for all qualifying practitioners, the Authority shall reduce or eliminate subsidies for practitioners described in section (3)(d).

(b) If, after eliminating subsidies for practitioners described in section (3)(d), the funds are insufficient to provide the maximum premium subsidies for the remaining practitioners, the Authority shall also reduce or eliminate the subsidies for practitioners described in section (3)(c).

(c) If the funds are insufficient to provide the subsidies for the remaining practitioners, the Program may not make payments that exceed the amounts remaining in the Fund.

(d) If the Authority must take any of the actions described in this rule due to insufficient funds to pay a premium subsidy, the Authority shall inform the affected participants and carriers about the action.

(5) A carrier shall reduce the premium charged to a practitioner by the amount of any premium subsidy paid or to be paid under this Program. Each carrier must provide its participating practitioners with the following information each quarter this Program is in effect:

(a) The quarterly premium due before the premium subsidy is applied;

(b) The amount of the premium subsidy; and

(c) The premium after the premium subsidy is applied.

(6) The carrier shall display these three figures on each participating practitioner's billing statement.

Stat. Auth.: ORS 413.042 & 676.550 -556

Stats. Implemented: ORS 413.042

Hist.: DMAP 5-2012(Temp), f. & cert. ef. 1-31-12 thru 7-28-12; DMAP 36-2012, f. 7-27-12, cert. ef. 7-28-12

410-500-0040

Authorized Carriers

(1) To participate in the Program carriers must provide written notice and certification to the Authority not less than 30 days prior to the beginning date of a calendar quarter. The initial carrier written notification and certification must be signed by an individual authorized to represent the carrier and delivered to the Authority at the following address: Oregon

Health Authority, 500 Summer St NE, E-44, Salem, OR 97301, and Attention: Rural Medical Practitioners Insurance Subsidy Program.

(a) The written notification must certify that the carrier:

(A) Is a medical professional liability insurer holding a valid certificate of authority from the Director of DCBS that authorizes the transaction of insurance as defined in ORS 731.066(1) and 731.072(1), and does not include DCBS listed insurers pursuant to 735.300 to 735.365 and 735.400 to 735.495;

(B) Understands that the Authority may confirm the representations in paragraph (A) with DCBS, and that DCBS' determination about whether the carrier holds a valid certificate of authority to engage in professional liability insurance in the state of Oregon and the other criteria in paragraph (A) shall be relied upon by the Authority in determining whether an insurer is an authorized carrier and

(C) That the carrier agrees to comply with the terms and conditions of the rules applicable to this Program in effect at the time of initial certification and those rules in effect when any request for subsidy payment is submitted to the Authority for payment.

(D) The Authority shall confirm in writing that the carrier meets the criteria as an authorized carrier. If the Authority determines that an entity is not eligible to participate as a carrier, the Authority shall provide notice to the entity of its determination and shall deny participation in the Program. The Authority shall handle a request to appeal that determination in accordance with the procedure for administrative review described in OAR 410-500-0060.

(b) If an insurer fails to provide the notice and certification to the Authority within the time established, the insurer may not submit a request for premium subsidy payment for the next calendar quarter and insurers otherwise eligible practitioners may not receive a premium subsidy for that quarter.

(c) An authorized carrier must provide, and continue to provide, to the Authority accurate, complete and truthful information concerning their qualification for participation in the Program. A carrier must notify the Authority in writing of a material change in any status or condition that relates to their eligibility to participate in the Program.

(2) If a carrier decides to discontinue participation in the Program, the carrier shall notify the Authority at least 90 days prior to the beginning date of the next calendar quarter. The carrier shall notify its insured participating practitioners of its intent to not participate at least 60 days prior to the date of the next calendar quarter.

(3) The Authority may determine that funds available for the Program are insufficient to provide maximum premium subsidy for all qualified practitioners, and the Authority may reduce or eliminate subsidies. There is no guarantee of any amount of premium subsidy that may be provided to any carrier.

Stat. Auth.: ORS 413.042 & 676.550 -556

Stats. Implemented: ORS 413.042

Hist.: DMAP 5-2012(Temp), f. & cert. ef. 1-31-12 thru 7-28-12; DMAP 36-2012, f. 7-27-12, cert. ef. 7-28-12

410-500-0050

Program Integrity

(1) The Authority shall analyze and monitor the operation of the Program and audit and verify the accuracy and appropriateness of subsidy payments, or other program integrity actions. To promote the integrity of the administration of the program, the carrier shall:

(a) Develop and maintain adequate financial and other documentation, which supports the actual premium payments and coverage records for which payment has been requested. The Program shall make payments only for adequately documented services. Documentation must be completed before the service is billed to the Authority. The records must be accurate and in sufficient detail to substantiate the data reported in relation to a request for premium subsidy payment;

(b) Have policies and procedures to ensure the maintenance of the applicable records;

(c) Upon written request from the Authority, the Oregon Secretary of State (Secretary), other federal or state oversight agency or their authorized representatives, furnish requested documentation immediately or within the time frame specified in the written request. Copies of the documents may be furnished unless the originals are requested. At their discretion, official representatives of the Authority, Secretary, or other oversight agency, may review and copy the original documentation in the carrier's place of business. Upon the written request of the carrier, the Program, Secretary, or other oversight agency may, at their sole discretion, modify or extend the time for provision of such records if, in the opinion of the Program or the

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Secretary or other oversight agency good cause for such extension is shown;

(d) If a carrier fails to comply with requests for documents within the specified time frames, the Authority may consider that the requested records do not exist for purposes of verifying appropriateness of payment. The Authority may also deny or recover payments from the carrier, which may subject the carrier to possible denial or recovery of payments made by the Authority or to other actions;

(e) The Authority may communicate with and coordinate any program integrity actions with the federal and state oversight authorities, including but not limited to DCBS if documentation is missing or is inconsistent with claims made for payment of subsidies.

(2) When the Authority determines that an overpayment has been made to a carrier, the amount of overpayment is subject to recovery. The Authority may take appropriate action to redress payment errors or false claims for payment under the Program.

(a) If an authorized carrier determines that a subsidy payment request is incorrect, the carrier shall submit a correction within 30 calendar days of the discovery of the error and refund the amount of any overpayment at that time.

(b) If the Authority determines that a carrier received a premium subsidy for an insured eligible practitioner that exceeded the amount that should have been paid, the Authority shall notify the carrier and require the carrier to remit the overpayment to the Authority within 30 days of the date of the notification. Overpayment collection repayment from a carrier does not prevent the carrier from collecting the appropriate premium from the insured; however, the Authority's ability to recover an overpayment from a carrier is not limited by whether the carrier recovers any amount from its insured.

(c) The Authority may recover overpayments made to a carrier by direct reimbursement, offset, civil action, or other actions authorized by law:

(A) The carrier must make a direct reimbursement to the Authority within 30 calendar days from the date of the notice of the overpayment;

(B) The Authority may grant the carrier an additional period of time to reimburse the Authority upon written request made within 30 calendar days from the date of the notice of overpayment if the carrier provides a statement of facts and reasons sufficient to show that repayment should be delayed pending appeal because there is a reason to believe that the overpayment is not correct or is less than the amount in the notice, and the carrier has timely filed a request for administrative review of the overpayment determination, or that carrier accepts the amount of the overpayment but is authorized in writing by the Authority to make repayment over a period of time;

(3) The Authority shall conduct appeals of overpayment determinations in accordance with the procedure for administrative review described in OAR 410-500-0060.

(4) If the carrier does not timely request an administrative review, the overpayment is final and the amount of the overpayment shall be due and payable to the Authority.

(5) The Authority may withhold payment on pending premium subsidy payment requests and on subsequently received premium subsidy payment requests for the overpayment when overpayments are not paid in accordance with the requirements of this rule;

(6) The Authority may file a civil action in the appropriate court and exercise all other civil remedies available to the Authority in order to recover the amount of an overpayment.

(7) A noncompliant carrier may be terminated from participation in the Program.

(8) If a carrier fails to reduce the premium charged to a qualified practitioner by the amount of the premium subsidy, or other noncompliance with Program requirements the Authority may terminate the carrier from the Program and recover any premium payments made to the carrier that were not expended in accordance with the requirements of this Program, if the carrier fails to cure the deficiency within the time and in the manner prescribed by the Authority.

Stat. Auth.: ORS 413.042 & 676.550 -556
Stats. Implemented: ORS 413.042
Hist.: DMAP 5-2012(Temp), f. & cert. ef. 1-31-12 thru 7-28-12; DMAP 36-2012, f. 7-27-12, cert. ef. 7-28-12

410-500-0060

Appeals: Administrative Review

(1) Administrative review, for purposes of these rules, shall be the process for any appeals made to the Authority. An administrative review is an appeal process that allows an opportunity for the Administrator of the

Program or designee to review a decision. Administrative review is not a contested case.

(2) A carrier or practitioner may request administrative review. The request must be received by the Authority not later than 30 calendar days after the date of the Authority's notice.

(3) If the request for administrative review is timely, the practitioner or the carrier must provide the Authority with a copy of all relevant records and other materials relevant to the appeal, not later than 10 days before the review is scheduled.

(4) If the Administrator or designee decides that a preliminary meeting between the practitioner or carrier and Authority staff may assist the review, the Administrator or designee shall notify the individual requesting the review of the date, time, and place the meeting is scheduled.

(5) The administrative review meeting shall be conducted as follows:

(a) Conducted by the Administrator, or designee;

(b) No minutes or transcript of the review shall be made;

(c) The carrier or practitioner requesting review does not have to be represented by counsel during an administrative review meeting and shall be given ample opportunity to present relevant information;

(d) Authority staff shall not be available for cross-examination, but may attend and participate in the review meeting;

(e) Failure to appear without good cause constitutes acceptance of the Authority's determination;

(f) The Administrator may combine similar administrative review proceedings and meetings involving the same parties or similar facts, if the Administrator determines that joint proceedings may facilitate the review;

(g) The Administrator or designee may request the practitioner or carrier making the appeal to submit, in writing, new information that has been presented orally. The Authority shall establish the deadline for submission of the information.

(6) The results of the administrative review shall be sent to the participant involved in the review, within 30 calendar days of the conclusion of the administrative review meeting, or such time as may be agreed to by the participant or designated by the Authority.

(7) The Authority's final decision on administrative review is the final decision on appeal and binding on the parties. Under ORS 183.484, this decision is an order in other than a contested case. ORS 183.484 and the procedures in OAR 137-004-0080 to 137-004-0092 apply to the Authority's final decision on administrative review.

(8) These rules shall be construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. The courts of the State of Oregon are empowered to resolve any disputes, with venue in Marion County.

Stat. Auth.: ORS 413.042 & 676.550 -556

Stats. Implemented: ORS 413.042

Hist.: DMAP 5-2012(Temp), f. & cert. ef. 1-31-12 thru 7-28-12; DMAP 36-2012, f. 7-27-12, cert. ef. 7-28-12

Rule Caption: Implementation of Coordinated Care Organizations to Provide Care for Medical Assistance Recipients.

Adm. Order No.: DMAP 37-2012

Filed with Sec. of State: 8-1-2012

Certified to be Effective: 8-1-12

Notice Publication Date: 7-1-2012

Rules Adopted: 410-141-3000, 410-141-3010, 410-141-3015, 410-141-3020, 410-141-3030, 410-141-3050, 410-141-3060, 410-141-3070, 410-141-3080, 410-141-3120, 410-141-3140, 410-141-3145, 410-141-3160, 410-141-3170, 410-141-3180, 410-141-3200, 410-141-3220, 410-141-3260, 410-141-3261, 410-141-3262, 410-141-3263, 410-141-3264, 410-141-3268, 410-141-3270, 410-141-3280, 410-141-3300, 410-141-3320, 410-141-3340, 410-141-3345, 410-141-3350, 410-141-3355, 410-141-3360, 410-141-3365, 410-141-3370, 410-141-3375, 410-141-3380, 410-141-3385, 410-141-3390, 410-141-3395, 410-141-3420

Rules Amended: 410-141-0000

Rules Repealed: 410-141-3265, 410-141-3266

Subject: These rules establish the requirements for Coordinated Care Organizations (CCO) under Oregon's Integrated and Coordinated Health Care Delivery System. CCOs will improve health, increase the quality, reliability, availability and continuity of care, as well as to reduce costs. CCOs will provide medical assistance recipients with health care services that are supported by alternative payment methodologies that focus on prevention and that use patient-centered

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primary care homes, evidence-based practices and health information technology to improve health and reduce health disparities. The Authority needs to adopt these rules to establish transitional processes, the application process, application criteria, financial solvency requirements and the client grievance system.

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-141-0000

Definitions

In addition to the definitions in OAR 410-120-0000, the following definitions apply.

(1) “Action” means in the case of a Prepaid Health Plan (PHP) or Coordinated Care Organization (CCO):

(a) The denial or limited authorization of a requested service, including the type or level of service;

(b) The reduction, suspension or termination of a previously authorized service;

(c) The denial in whole or in part, of payment for a service;

(d) The failure to provide services in a timely manner, as defined by the Division of Medical Assistance Programs (Division);

(e) The failure of a PHP to act within the timeframes provided in 42 CFR 438.408(b); or

(f) For a member who resides in a rural Service Area where the PHP or CCO is the only PHP or CCO, the denial of a request to obtain services outside of the participating provider panel:

(i) From any other provider (in terms of training, experience and specialization) not available within the network;

(ii) From a provider not part of the network who is the main source of a service to the member - provided that the provider is given the same opportunity to become a participating provider as other similar providers. If the provider does not choose to join the network or does not meet the qualifications, the member is given a choice of participating providers and is transitioned to a participating provider within 60 days.

(iii) Because the only plan or provider available does not provide the service because of moral or religious objections;

(iv) Because the member’s provider determines that the member needs related services that would subject the member to unnecessary risk if received separately and not all related services are available within the network; or

(v) The Authority determines that other circumstances warrant out-of-network treatment moral or religious objections.

(2) “Appeal” means a request for review of an action.

(3) “Behavioral Health” means mental health conditions as well as substance abuse disorders.

(4) “Behavioral health evaluation” means a psychiatric or psychological assessment used to determine the need for mental health or substance abuse disorder services.

(5) “Capitated Services” mean those covered services that a PHP or Primary Care Manager (PCM) agrees to provide for a capitation payment under contract with the Authority.

(6) “Capitation Payment” means:

(a) Monthly prepayment to a PHP for health services the PHP provides to members;

(b) Monthly prepayment to a PCM to provide primary care management services for a member enrolled with the PCM.

(7) “CCO Payment” means the monthly payment to a CCO for services the CCO provides to members in accordance with the global budget.

(8) “Certificate of Authority” means the certificate, issued by DCBS to a licensed health entity, granting authority to transact insurance as a health insurance company or health care service contractor.

(9) “Certified or Qualified Health Care Interpreter” means a trained person who is readily able to communicate with a person with limited English proficiency and to accurately translate the written or oral statements of the person with limited English proficiency into spoken English and readily able to translate the written or oral statement of other persons into the spoken language of the person with limited English proficiency.

(10) “Chemical Dependency Organization (CDO)” means a PHP that provides and coordinates chemical dependency outpatient, intensive outpatient and opiate substitution treatment services as capitated services under OHP.

(11) “Chemical Dependency Services” mean assessment, treatment and rehabilitation on a regularly scheduled basis, or in response to crisis for alcohol or other drug abusing or dependent members and their family members or significant others., consistent with Level I and/or Level II of the

“Chemical Dependency Placement, Continued Stay, and Discharge Criteria.”

(12) “Cold Call Marketing” means a PCP’s or CCO’s unsolicited personal contact with a potential member for marketing purposes.

(13) “Co-morbid Condition” means a medical condition or diagnosis coexisting with one or more other current and existing conditions or diagnoses in the same patient.

(14) “Community Advisory Council” means the CCO-convened council that meets regularly to ensure the CCO is addressing the health care needs of CCO members and the community, consistent with ORS 414.625.

(15) “Community Health Worker” means an individual who:

(a) Has expertise or experience in public health;

(b) Works in an urban or rural community either for pay or as a volunteer in association with a local health care system;

(c) To the extent practicable, shares ethnicity, language, socioeconomic status and life experiences with the residents of the community where the worker serves;

(d) Assists members of the community to improve their health and increases the capacity of the community to meet the health care needs of its residents and achieve wellness;

(e) Advocates for the individual patient and community health needs, building individual and community capacity to advocate for their health;

(f) Provides health education and information that is culturally appropriate to the individuals being served;

(g) Assists community residents in receiving the care they need;

(h) May give peer counseling and guidance on health behaviors; and

(i) May provide direct services such as first aid or blood pressure screening.

(16) “Community Mental Health Program (CMHP)” means the organization of all services for individuals with mental or emotional disorders operated by, or contractually affiliated with, a local Mental Health Authority, operated in a specific geographic area of the state under an inter-governmental agreement or direct contract with the Authority’s Addictions and Mental Health Division (AMH).

(17) “Community Standard” means typical expectations for access to the health care delivery system in the member’s community of residence. Except where the community standard is less than sufficient to ensure quality of care, the Division requires that the health care delivery system available to Division members in PHPs and to PCM members take into consideration the community standard and be adequate to meet the needs of the Division and PCM members.

(18) “Condition/Treatment Pair” means diagnoses described in the International Classification of Diseases Clinical Modifications, 9th edition (ICD-9-CM), the Diagnostic and Statistical Manual of Mental Disorders, 4th edition (DSM-IV), and treatments described in the Current Procedural Terminology, 4th edition (CPT-4) or American Dental Association Codes (CDT-2), or the Authority AMH Medicaid Procedure Codes and Reimbursement Rates, which, when paired by the Health Evidence Review Commission, constitute the line items in the Prioritized List of Health Services. Condition/treatment pairs may contain many diagnoses and treatments.

(19) “Contract” means an agreement between the State of Oregon, acting by and through the Authority and a PHP or CCO to provide health services to eligible members.

(20) “Converting MCO” means a CCO that:

(a) Is the legal entity that contracted as an MCO with the Authority as of July 1, 2011, or;

(b) Was formed by one or more MCOs that contracted with the Authority as of July 1, 2011.

(21) “Coordinated Care Organization (CCO)” means a corporation, governmental agency, public corporation or other legal entity that is certified as meeting the criteria adopted by the Oregon Health Authority under ORS 414.625 to be accountable for care management and to provide integrated and coordinated health care for each of the organization’s members.

(22) “Coordinated Care Services” mean a CCO’s fully integrated physical health, behavioral health services pursuant to ORS 414.725 and dental health services pursuant to ORS 414.625(3) that a CCO agrees to provide under contract with the Authority.

(23) “Corrective Action or Corrective Action Plan” means a Division-initiated request for a contractor or a contractor-initiated request for a sub-contractor to develop and implement a time specific plan for the correction of identified areas of noncompliance.

(24) “Covered Services” mean medically appropriate health services described in ORS Chapter 414 and applicable administrative rules that the Legislature funds, based on the Prioritized List of Health Services.

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(25) "Declaration for Mental Health Treatment" means a written statement of an individual's decisions concerning his or her mental health treatment. The individual makes the declaration when they are able to understand and make decisions related to treatment, which is honored when the individual is unable to make such decisions.

(26) "Dental Care Organization (DCO)" means a PHP that provides and coordinates dental services as capitated services under OHP.

(27) "Dental Case Management Services" mean services provided to ensure member receives dental services, including a comprehensive, ongoing assessment of the member's dental and medical needs related to dental care and the development and implementation of a plan to ensure the member receives those services.

(28) "DCBS Reporting CCO" means, for the purpose of OAR 410-141-3340 through 410-141-3395, a CCO that reports its solvency plan and financial status to DCBS, not a CCO holding a certificate of authority.

(29) "Department of Consumer and Business Services (DCBS)" means Oregon's business regulatory and consumer protection agency.

(30) "Diagnostic Services" mean those services required to diagnose a condition, including but not limited to radiology, ultrasound, other diagnostic imaging, electrocardiograms, laboratory and pathology examinations, and physician or other professional diagnostic or evaluative services.

(31) "Disenrollment" means the act of removing a member from enrollment with a PHP, PCM, or CCO.

(32) "Enrollment" means the assignment of a member to a PHP, PCM or CCO for management and receipt of health services.

(33) "Exceptional Needs Care Coordination (ENCC)" means a specialized case management service provided by fully capitated health plans to members identified as aged, blind or disabled who have complex medical needs, including:

(a) Early identification of members eligible for ENCC services;

(b) Assistance to ensure timely access to providers and capitated services;

(c) Coordination with providers to ensure consideration is given to unique needs in treatment planning;

(d) Assistance to providers with coordination of capitated services and discharge planning; and

(e) Aid with coordinating necessary and appropriate linkage of community support and social service systems with medical care systems.

(34) "Free-Standing Mental Health Organization (MHO)" means the single MHO in each county that provides only behavioral services and is not affiliated with a fully capitated health plan for that service area.

(35) "Fully-Capitated Health Plan (FCHP)" means PHPs that contract with the Authority to provide capitated health services, including inpatient hospitalization.

(36) Global Budget means the total amount of payment as established by the Authority to a CCO to deliver and manage health services for its members, including providing access to and ensuring the quality of those services.

(37) "Grievance" means a member's complaint to a PHP, CCO or to a participating provider about any matter other than an action.

(38) "Grievance System" means the overall system that includes:

(a) Grievances to a PHP or CCO on matters other than actions;

(b) Appeals to a PHP or CCO on actions; and

(c) Contested case hearings through the state on actions and other matters for which the member is given the right to a hearing by rule or state statute.

(39) "Health Services" means:

(a) For purposes of CCOs, the integrated services authorized to be provided within the medical assistance program as defined in ORS 414.025, for the physical medical, behavioral health, which includes mental health and substance abuse disorders, and dental services funded by the Legislative Assembly based upon the Prioritized List of Health Services;

(b) For all other purposes, the services authorized to be provided within the medical assistance program as defined in ORS 414.025, for the physical medical, behavioral health and dental services funded by the Legislative Assembly based upon the Prioritized List of Health Services.

(40) "Health System Transformation (HST)" means the transformation of health care delivery in medical assistance programs as prescribed by 2011 House Bill 3650, Chapter 602, Oregon Laws 2011 and 2012 Enrolled Senate Bill 1580, Chapter 8, Oregon Laws 2012; and including the CCO Implementation Proposal from the Oregon Health Policy Board (January 24, 2012) approved by Section 2 of 2012 Enrolled Senate Bill 1580.

(41) "Licensed Health Entity" means a CCO that has a Certificate of Authority issued by DCBS as a health insurance company or health care service contractor.

(42) "Line Items" mean condition/treatment pairs or categories of services included at specific lines in the Prioritized List of Health Services.

(43) "Marketing" means any communication from a PHP or a CCO to a client who is not enrolled in the PHP or CCO, and the communication can reasonably be interpreted to be an attempt to influence the OHP client:

(a) To enroll in that particular PHP or CCO;

(b) To either disenroll or not to enroll with another PHP or CCO.

(44) "Medical Case Management Services" mean services provided to ensure members obtain health services necessary to maintain physical and emotional development and health.

(45) "Mental Health Assessment" means a qualified mental health professional's determination of a member's need for mental health services.

(46) "Mental Health Case Management" means services provided to members who need assistance to ensure access to mental health benefits and services from local, regional or state allied agencies or other service providers.

(47) "Mental Health Organization (MHO)" means a PHP that provides capitated behavioral services for clients.

(48) "National Association of Insurance Commissioners (NAIC)" means the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and five U.S. territories.

(49) "Net Premium" means the premium, net of reinsurance premiums paid, HRA and GME payments and MCO tax expenses.

(50) "Non-Participating Provider" means a provider that does not have a contractual relationship with a PHP or CCO and is not on their panel of providers.

(51) "OHA or Authority Reporting CCO" means a CCO that reports its solvency plan and financial status to the Authority under these rules.

(52) "Participating Provider" means a provider that has a contractual relationship with a PHP or CCO and is on their panel of providers.

(53) "PCM Member" means a client enrolled with a primary case manager.

(54) "Peer Wellness Specialist" means an individual who assists behavioral health services consumers to reduce stigmas and discrimination and to provide direct services to assist individuals to create and maintain recovery, health and wellness by:

(a) Assessing the individual's behavioral health service and support needs through community outreach;

(b) Assisting individuals with access to available services and resources; and

(c) Addressing barriers to services and providing education and information about available resources and behavioral health issues.

(55) "Person Centered Care" means care that reflects the individual patient's strengths and preferences; reflects the clinical needs of the patient as identified through an individualized assessment; is based upon the patient's goals; and will assist the patient in achieving the goals.

(56) "Personal Health Navigator" means an individual who provides information, assistance, tools and support to enable a patient to make the best health care decisions in the patient's particular circumstances and in light of the patient's needs, lifestyle, combination of conditions and desired outcomes.

(57) "Physician Care Organization (PCO)" means a PHP that contracts with the Authority to provide partially-capitated health services under OHP, exclusive of inpatient hospital services.

(58) "Potential Member" means an OHP client who meets the requirements set forth in ORS 414.631 to be in a coordinated care organization.

(59) "Premium" means:

(a) CCO payment when the payment is made by the Authority to the CCO, for purposes of OAR 410-141-3340 to 410-141-3395;

(b) Also includes any other revenue received by the CCO for the provision of healthcare services over a defined period of time.

(60) "Primary Care Management Services" mean services that ensure PCM members obtain health services that are necessary to maintain physical and emotional development and health.

(61) "Primary Care Manager (PCM)" means a primary care provider who agrees to provide primary care management services to their members.

(62) "Prioritized List of Health Services" mean the listing of condition and treatment pairs developed by the Health Evidence Review Commission for the purpose of administering OHP health services.

(63) "Service Area" means the geographic area within which the PHP or CCO agreed under contract with the Authority to provide health services.

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(64) “Treatment Plan” for behavioral health consists of the following three components:

(a) “Emergency Response System” means the coordinated method of triaging the mental health service needs of members and providing covered services when needed. The system operates 24-hours a day, 7-days a week and includes, but is not limited to, after hours on call staff, telephone and in person screening, outreach, and networking with hospital emergency rooms and police.

(b) “Emergency Services” means covered services furnished by a provider that is qualified to furnish these services and that are needed to evaluate or stabilize an emergency situation.

(c) “Services Coordination” means services provided to members who require access to and/or receive services from one or more Allied Agencies or program components according to the treatment plan. Services provided may include establishing pre-commitment service linkages; advocating for treatment needs; and providing assistance in obtaining entitlements based on mental or emotional disability.

(65) “Treatment Plan” for physical and dental health” consists of the following two components:

(a) “Emergency Services related to physical health” means services from a qualified provider necessary to evaluate or stabilize an emergency medical condition, including inpatient and outpatient treatment that may be necessary to assure within reasonable medical probability that the patient’s condition is not likely to materially deteriorate from or during a client’s discharge from a facility or transfer to another facility.

(b) “Services Coordination” means services provided to members who require access to and receive covered services, or long term care services, or from one or more Allied Agencies or program components according to the treatment plan. Services provided may include establishing pre-commitment service linkages; advocating for treatment needs; and providing assistance in obtaining entitlements based on mental or emotional disability;

(66) “Service Authorization Request” means a member’s initial or continuing request for the provision of a service, including member requests made by their provider or the member’s authorized representative.

(67) “Valid Pre-Authorization” means a document the Authority, a PHP or CCO receives requesting a health service for a client who would be eligible for the service at the time of the service, and the document contains:

- (a) A beginning and ending date not exceeding twelve months; and
- (b) All data fields required for processing of the request or payment of the service, including the appropriate billing codes.

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

Stat. Auth.: ORS 409.110 & 413.042

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; 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 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 13-2002, f. & cert. ef. 4-1-02; OMAP 57-2002, f. & cert. ef. 10-1-02; OMAP 4-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 14-2003, f. 2-28-03, cert. ef. 3-1-03; OMAP 50-2003, f. 7-31-03 cert. ef. 8-1-03; OMAP 37-2004(Temp), f. 5-27-04 cert. ef. 6-1-04 thru 11-15-04; OMAP 47-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 46-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 65-2005, f. 11-30-05, cert. ef. 1-1-06; OMAP 23-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 46-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 45-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 16-2010, f. 6-11-10, cert. ef. 7-1-10; DMAP 42-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 11-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3000

Definitions

The Oregon Health Authority adopts and incorporates by reference the definitions in the following administrative rules and applies them to Health System Transformation and the use of Coordinated Care Organizations:

(1) OAR 309-012-0140, 309-016-0605, 309-032-0860, 309-032-1505, 309-033-0210, applicable to mental health services;

(2) OAR 410-120-0000, definitions of the Oregon Health Plan’s General Rules; and

(3) OAR 410-141-0000, definitions of the Oregon Health Plan’s rules generally applicable to prepaid managed health care organizations and coordinated care organizations.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685

Hist.: DMAP 11-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3010

CCO Application, Certification, and Contracting Procedures

(1) The following definitions apply to this rule:

(a) “Applicant” means the entity submitting an application to be certified as a CCO or to enter into or amend a contract for coordinated care services;

(b) “Application” means an entity’s written response to a Request for Application (RFA);

(c) “Award date” means the date on which the Authority acts on the applications by issuing or denying certification and by awarding or not awarding contracts;

(d) “Certification” means the Authority’s determination that an entity meets the standards, set forth in the RFA, for being a CCO, through initial certification or recertification;

(e) “Coordinated Care Services” means fully integrated physical health services, chemical dependency and mental health services, and shall include dental health services as provided in ORS 414.625(3), by July 1, 2014;

(f) “CMS Medicare/Medicaid Alignment Demonstration” means a demonstration proposal by the Authority to CMS that will align and integrate Medicare and Medicaid benefits and financing to the greatest extent feasible for individuals who are eligible for both programs. The Authority and CMS shall jointly establish its timelines and requirements for participation in the Demonstration;

(g) “Entity” means a single legal entity capable of entering into a risk contract that covers coordinated care services with the State and conducting the business of a coordinated care organization;

(h) “Request for Applications (RFA)” means the document used for soliciting applications for certification as a CCO, award of or amendment of a contract coordinated care services, or other objectives as the Authority may determine appropriate for procuring coordinated care services.

(2) The Authority shall establish an application process for entities seeking certification and contracts as CCOs.

(3) The Authority shall use the following RFA processes for CCO certification and contracting:

(a) The Authority shall provide public notice of every RFA on its Web site. The RFA shall indicate how prospective applicants shall be made aware of addenda by posting notice of the RFA on the electronic system for notification to the public of Authority procurement opportunities, or upon request, by mailing notice of the availability of the RFA to persons that have expressed interest in the RFA;

(b) The RFA process begins with a public notice of the RFA, which shall be communicated using the Authority’s website. A public notice of an RFA shall identify the certification requirements for the contract, the designated service areas where coordinated care services are requested and a sample contract;

(c) The RFA may specify that applicants must submit a letter of intent to the Authority within the specified time period. The letter of intent does not commit any applicant to apply. If a letter of intent is required, the Authority may not consider applications from applicants who fail to submit a timely letter of intent except as provided in the RFA;

(d) The RFA may request applicants to appear at a public meeting to provide information about the application;

(e) The RFA will request information from applicants in order to allow the Authority to engage in appropriate state supervision necessary to promote state action immunity under state and federal antitrust laws;

(f) The Authority shall consider only applications that are responsive, completed as described in the RFA, and submitted in the time and manner described in the RFA. The RFA may require submission of the application on its web portal in accordance with OAR 137-047-0330 (Electronic Procurements). If electronic procurement is used, applications shall be accepted only from applicants who accept the terms and conditions for use of the Authority’s web portal.

(4) At recertification the Authority may permit a current CCO contractor to submit an abbreviated application that focuses only on additional or different requirements specific to the recertification and new contract or the new addenda or capacity, or other purposes within the scope of the RFA;

(5) The Authority shall evaluate applications for certification on the basis of information contained in the RFA, the application and any additional information that the Authority obtains. Application evaluations shall be based on RFA criteria;

(a) The Authority may enter into negotiation with Applicants concerning potential capacity and enrollment in relation to other available, or potentially available, capacity, the number of potential enrollees within the service area, and other factors identified in the RFA;

(b) The Authority shall notify each applicant that applies for certification of its certification status;

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(c) Applicants that meet the RFA criteria shall be certified to contract as a CCO.

(6) Review for certification:

(a) The Authority shall issue certification to only applicants that meet the requirements and provide the assurances specified in the RFA. The Authority determines whether the applicant qualifies for certification based on the application and any additional information and investigation that the Authority may require;

(b) The Authority determines an applicant is eligible for certification when the applicant meets the requirements of the RFA, including written assurances, satisfactory to the Authority, that the applicant:

(A) Provides or will provide the coordinated care services in the manner described in the RFA and the Authority's rules;

(B) Is responsible and meets or will meet standards established by the Authority and DCBS for financial reporting and solvency;

(C) Is organized and operated, and shall continue to be organized and operated, in the manner required by the contract and described in the application; and

(D) Shall comply with any assurances it has given the Authority.

(7) The Authority shall certify CCOs for a period of six years from the date the certification application is approved, unless the Authority certifies a CCO for a shorter period.

(8) The Authority may determine that an applicant is potentially eligible for certification in accordance with section (9). The Authority is not obligated to determine whether an applicant is potentially eligible for certification if, in its discretion, the Authority determines that sufficient applicants eligible for certification are available to attain the Authority's objectives under the RFA.

(9) The Authority may determine that an applicant is potentially eligible for certification if:

(a) The Authority finds that the applicant is reasonably capable of meeting the operational and solvency requirements of the RFA within a specified period of time; and

(b) The applicant enters into discussions with the Authority about areas of qualification that must be met before the applicant is operationally and financially eligible for certification. The Authority shall determine the date and required documentation and written assurances required from the applicant;

(c) If the Authority determines that an applicant potentially eligible for certification cannot become certified within the time announced in the RFA for contract award, the Authority may:

(A) Offer certification at a future date when the applicant demonstrates, to the Authority's satisfaction, that the applicant is eligible for certification within the scope of the RFA; or

(B) Inform the applicant that it is not eligible for certification.

(10) The Authority may award contracts to certified CCOs for administering the Oregon Integrated and Coordinated Health Care Delivery System.

(11) The Authority shall enter into or renew a contract with a CCO only if the CCO has been certified and the Authority determines that the contract would be within the scope of the RFA and consistent with the purposes and effective administration of the Oregon Integrated and Coordinated Health Care Delivery System, which includes but is not limited to:

(a) The capacity of any existing CCO in the region compared to the capacity of an additional CCO for the number of potential enrollees in the addenda;

(b) The number of CCOs in the region.

(12) The application is the applicant's offer to enter into a contract and is a firm offer for the period specified in the RFA. The Authority's award of the contract constitutes acceptance of the offer and binds the applicant to the contract:

(a) Except to the extent the applicant is authorized to propose certain terms and conditions pursuant to the RFA, an applicant may not make its offer contingent on the Authority's acceptance of any terms or conditions other than those contained in the RFA;

(b) Only an entity that the Authority has certified to contract as a CCO may enter into a contract as a CCO. Certification to contract as a CCO does not assure the CCO that it will be offered a CCO contract;

(c) The Authority may award multiple contracts or make a single award or limited number of awards to all certified or potentially certified applicants, in order to meet Authority's needs including but not limited to adequate capacity for the potential enrollees in the service area, maximizing the availability of coordinated care services, and achieving the objectives in the RFA;

(d) Subject to any limitations in the RFA, the Authority may renew a contract for CCO services by amending an existing contract or issuing a replacement contract, without issuing a new RFA;

(e) The suspension or termination of a CCO contract issued under an RFA due to noncompliance with contract requirements or by a CCO's voluntary suspension or termination shall also be a suspension or termination of certification.

(13) Disclosure of application contents and release of information:

(a) Except for the letter of intent to apply, and the technical application (with the exception of information that has been clearly identified and labeled confidential in the manner specified in the RFA), application information may not be disclosed to any applicant or the public until the award date. No information may be given to any applicant or the public relative to its standing with other applicants before the award date, except under the following circumstances:

(A) The information in the application may be shared with the Authority, DCBS, CMS, and those individuals involved in the application review and evaluation process; and

(B) Information may be provided by the applicant to the public as part of a public review process.

(b) Application information may be disclosed on the award date, with the exception of information that has been clearly identified and labeled confidential in the manner specified in the RFA, and if the Authority determines it meets the disclosure exemption requirements.

(14) CCOs may apply to participate in the CMS Medicare/Medicaid Alignment Demonstration, but participation is not required. This rule does not replace the CMS requirements related to the Medicare/Medicaid Alignment Demonstration, such as the CMS notice of intent to apply and required components for Part D coverage. The RFA provides information about the Demonstration requirements. Upon approval of the Demonstration by CMS, the Authority shall conduct, jointly with CMS, the evaluation for certification for the Medicare/Medicaid Alignment Demonstration and award of three-way contracts between CMS, the state, and applicants who have been certified to contract as a CCO and participate in the Demonstration.

(15) The Authority shall interpret and apply this rule to satisfy federal procurement and contracting requirements in addition to state requirements applicable to contracts with CCOs. The Authority must seek and receive federal approval of CCO contracts.

(16) Except where inconsistent with the preceding sections of this rule, the Authority adopts the following DOJ Model Public Contract Rules (as in effect on January 1, 2012) to govern RFAs and certification and contracting with CCOs:

(a) OAR 137-046 — General Provisions Related to Public Contracting: 137-046-0100, 137-046-0110 and 137-046-0400 through 137-046-0480;

(b) OAR 137-047 — Public Procurements for Goods or Services: OAR 137-047-0100, 137-047-0260 through 137-047-0670, 137-047-700 through 137-047-0760 (excluding provisions governing judicial review) and OAR 137-047-0800;

(c) In applying the DOJ Model Rules to RFAs under this rule:

(A) An application is a proposal under the DOJ Model Rules;

(B) An RFA is an RFP under the DOJ Model Rules;

(C) Certification as a CCO is pre-qualification under the DOJ Model Rules;

(D) Provisions of the Public Contracting Code referenced in the DOJ Model Rules are considered to be incorporated therein;

(E) Definitions in the DOJ Model Rules govern this rule except where a term is defined in section (1) of this rule.

(17) Judicial review of the Authority's decisions relating to a solicitation protest, certification, or contract award is governed by the Oregon Administrative Procedures Act (APA). The RFA may establish when an Authority decision may be considered a final order for purposes of APA review.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2) and 65, HB 3650

Hist.: DMAP 11-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3015

Certification Criteria for Coordinated Care Organizations

(1) Applicants shall submit applications to the Authority describing their capacity and plans for meeting the goals and requirements established for the Oregon Integrated and Coordinated Health Care Delivery System, including being prepared to enroll all eligible individuals within the CCO's

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proposed service area. The Authority shall use the RFA procurement process described in OAR 410-141-3010.

(2) In addition to the requirements for CCOs expressed in the laws establishing Health System Transformation, the Authority interprets the qualifications and expectations for CCO certification within the context of the Oregon Health Policy Board's report, Coordinated Care Organizations Implementation Proposal: HB 3650 Health System Transformation (Jan. 24, 2012).

(3) Applicants must describe their demonstrated experience and capacity for:

(a) Managing financial risk and establishing financial reserves;

(b) Meeting the following minimum financial requirements:

(A) Maintaining restricted reserves of \$250,000 plus an amount equal to 50 percent of the entity's total actual or projected liabilities above \$250,000;

(B) Maintaining a net worth in an amount equal to at least 5 percent of the average combined revenue in the prior two quarters of the participating health care entities.

(c) Operating within a fixed global budget;

(d) Developing and implementing alternative payment methodologies that are based on health care quality and improved health outcomes;

(e) Coordinating the delivery of physical health care, mental health and chemical dependency services, oral health care, and covered long-term care services;

(f) Engaging community members and health care providers in improving the health of the community and addressing regional, cultural, socioeconomic and racial disparities in health care that exist among the entity's enrollees and in the entity's community.

(4) In selecting one or more CCOs to serve a geographic area, the Authority shall:

(a) For members and potential members, optimize access to care and choice of providers;

(b) For providers, optimize choice in contracting with CCOs; and

(c) Allow more than one CCO to serve the geographic area if necessary to optimize access and choice under this subsection.

(5) Evaluation of CCO applications shall account for the developmental nature of the CCO system. The Authority recognizes that CCOs and partner organizations will need time to develop capacity, relationships, systems and experience to fully realize the goals envisioned by the Oregon Integrated and Coordinated Health Care Delivery System. The Authority shall thoroughly review how the application describes community involvement in the governance of the CCO and to the CCO's strategic plan for developing its community health assessment and community health improvement plan:

(a) In all cases, CCOs must have plans in place to meet the criteria laid out in these rules and the application process and to make sufficient progress in implementing plans and realizing the goals established in contract;

(b) Each criterion will be listed, followed by the elements that must be addressed during the initial certification described in this rule, without limiting the information that is requested in the RFA concerning these criteria.

(6) Each CCO shall have a governance structure that meets the requirements of ORS 414.625. The applicant must:

(a) Clearly describe how it meets governance structure criteria from ORS 414.625, how the governance structure makeup reflects community needs and supports the goals of health care transformation, the criteria used to select governance structure members; and how it will assure transparency in governance;

(b) Identify key leaders who are responsible for successful implementation and sustainable operation of the CCO;

(c) Describe how its governance structure will reflect the needs of members with severe and persistent mental illnesses and members receiving DHS Medicaid-funded long-term care services and supports.

(7) Each CCO must convene a community advisory council (CAC) that meets the requirements of ORS 414.625. The applicant must clearly describe how it meets the requirements for selection and implementation of a CAC consistent with ORS 414.625, how the CAC will be administered to achieve the goals of community involvement and the development, adoption and updating of the community health assessment and community health improvement plan.

(8) CCOs shall partner with their local public health authority, hospital system, type B AAA, APD field office and local mental health authority to develop a shared community health assessment that includes a focus on health disparities in the community:

(a) Since community health assessments will evolve over time as relationships develop and CCOs learn what information is most useful, initial CCO applicants may not have time to conduct a comprehensive community assessment before becoming certified;

(b) The applicant shall describe how it will develop its health assessment, meaningfully, and systematically engaging representatives of critical populations and community stakeholders and its community advisory council to create a health improvement plan for addressing community need that builds on community resources and skills and emphasizes innovation.

(9) The CCO must describe its strategy to adopt and implement a community health improvement plan consistent with OAR 410-141-3145.

(10) Dental care organizations: On or before July 1, 2014, each CCO shall have a contractual relationship with any DCO in its service area.

(11) CCOs shall have agreements in place with publicly funded providers to allow payment for point-of-contact services including immunizations, sexually transmitted diseases and other communicable diseases, family planning and HIV/AIDS prevention services. Applicants shall confirm that these agreements have been developed, unless good cause can be shown:

(a) CCOs shall also have agreements in place with the local mental health authority consistent with ORS 414.153. Applicants shall confirm that these agreements have been developed unless good cause can be shown;

(b) The Authority shall review CCO applications to ensure that statutory requirements regarding county agreements are met, unless good cause is shown why an agreement is not feasible.

(12) CCOs must provide integrated person-centered care and services designed to provide choice, independence and dignity:

(a) The applicant must describe its strategy to assure that each member receives integrated person-centered care and services designed to provide choice, independence and dignity;

(b) The applicant must describe its strategy for providing members the right care at the right place and the right time and to integrate and coordinate care across the delivery system.

(13) CCOs must develop mechanisms to monitor and protect against underutilization of services and inappropriate denials; provide access to qualified advocates; and promote education and engagement to help members be active partners in their own care. Applicants must:

(a) Describe their planned or established policies and procedures that protect member rights, including access to qualified peer wellness specialists, personal health navigators, and qualified community health workers where appropriate;

(b) Describe planned or established mechanisms for a complaint, grievance, and appeals resolution process, including how that process shall be communicated to members and providers.

(14) CCOs must operate in a manner that encourages patient engagement, activation and accountability for the member's own health. Applicants shall describe how they plan to:

(a) Actively engage members in the design and, where applicable, implementation of their treatment and care plans;

(b) Ensure that member choices are reflected in the development of treatment plans and member dignity is respected.

(15) CCOs must assure that members have a choice of providers within the CCO's network, including providers of culturally and linguistically appropriate services. CCOs and their network providers must work together to develop best practices for care and service delivery to reduce waste and improve health and well-being of all members:

(a) Applicants must describe how they will work with their providers to develop the partnerships necessary to allow for access to and coordination with medical, mental health and chemical dependency services providers, and dental care when the CCO includes a dental care organization, and to facilitate access to community social and support services, including DHS Medicaid-funded long-term care services, mental health crisis services and culturally and linguistically appropriate services;

(b) Applicants must describe their planned or established tools for provider use to assist in the education of members about care coordination and the responsibilities of both parties in the process of communication.

(16) CCOs must assure that each member has a consistent and stable relationship with a care team that is responsible for providing preventive and primary care and for comprehensive care management in all settings. The applicant shall demonstrate how it will support the flow of information, identify a lead provider or care team to confer with all providers responsible for a member's care, and use a standardized patient follow-up approach.

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(17) CCOs must address the supportive and therapeutic needs of each member in a holistic fashion, using patient-centered primary care homes and individualized care:

(a) Applicants shall describe their model of care or other models that support patient-centered primary care, adhere to ORS 414.625 requirements regarding individualized care plans, particularly for members with intensive care coordination needs, and screen for all other issues including mental health;

(b) Applicants shall describe how its implementation of individualized care plans reflects member or family/caregiver preferences and goals to ensure engagement and satisfaction.

(18) CCOs shall assure that members receive comprehensive transitional health care, including appropriate follow-up care, when entering or leaving an acute care facility or long-term care setting. Applicants shall:

(a) Describe their strategy for improved transitions in care so that members receive comprehensive transitional care and members' experience of care and outcomes are improved;

(b) Demonstrate how hospitals and specialty services will be accountable to achieve successful transitions of care and establish service agreements that include the role of patient-centered primary care homes;

(c) Describe their arrangements, including memorandum of understanding, with Type B Area Agencies on Aging or the Department's offices of Aging and Persons with Disabilities concerning care coordination and transition strategies for members.

(19) CCOs shall provide members with assistance in navigating the health care delivery system and accessing community and social support services and statewide resources, including the use of certified or qualified health care interpreters, community health workers and personal health navigators. The applicant must describe its planned policies for informing members about access to personal health navigators, peer wellness specialists where appropriate and community health workers.

(20) Services and supports shall be geographically located as close to where members reside as possible and are, when available, offered in non-traditional settings that are accessible to families, diverse communities and underserved populations. Applicants must describe:

(a) Delivery system elements that respond to member needs for access to coordinated care services and supports;

(b) Planned or established policies for the delivery of coordinated health care services for members in long-term care settings;

(c) Planned or established policies for the delivery of coordinated health care services for members in residential treatment settings or long term psychiatric care settings.

(21) Each CCO shall prioritize working with members who have high health care needs, multiple chronic conditions, mental illness or chemical dependency, including members with severe and persistent mental illness covered under the State's 1915(i) State Plan Amendment. The CCO shall involve those members in accessing and managing appropriate preventive, health, remedial and supportive care and services to reduce the use of avoidable emergency department visits and hospital admissions. The applicant must describe how it will:

(a) Use individualized care plans to address the supportive and therapeutic needs of each member, particularly those with intensive care coordination needs;

(b) Reflect member or family/caregiver preferences and goals to ensure engagement and satisfaction.

(22) Each CCO shall participate in the learning collaborative described in ORS 442.210. Applicants shall confirm their intent to participate.

(23) Each CCO shall implement, to the maximum extent feasible, patient-centered primary care homes, including developing capacity for services in settings that are accessible to families, diverse communities and underserved populations:

(a) The applicant must describe its plan to develop and expand capacity to use patient-centered primary care homes to ensure that members receive integrated, person-centered care and services, and that members are fully informed partners in transitioning to this model of care;

(b) The applicant shall require its other health and services providers to communicate and coordinate care with patient-centered primary care homes in a timely manner using health information technology.

(24) CCOs' health care services must focus on achieving health equity and eliminating health disparities. Applicants must:

(a) Describe their strategy for ensuring health equity (including interpretation/cultural competence) and elimination of avoidable gaps in health care quality and outcomes, as measured by gender, race, ethnicity, lan-

guage, disability, sexual orientation, age, mental health and addictions status, geography, and other cultural and socioeconomic factors;

(b) Engage in a process that identifies health disparities associated with race, ethnicity, language, health literacy, age, disability (including mental illness and substance use disorders), gender, sexual orientation, geography, or other factors through community health assessment;

(c) Collect and maintain race, ethnicity and primary language data for all members on an ongoing basis in accordance with standards jointly established by the Authority and the Department.

(25) CCOs are encouraged to use alternative payment methodologies, consistent with ORS 414.653. The applicant must describe its plan to move toward and begin to implement alternative payment methods alone or in combination with delivery system changes to achieve better care, controlled costs and better health for members.

(26) Each CCO shall use health information technology (HIT) to link services and care providers across the continuum of care to the greatest extent practicable. The applicant must describe:

(a) Its initial and anticipated levels of electronic health record adoption and health information exchange infrastructure and capacity for collecting and sharing patient information electronically, and its HIT improvement plan for meeting transformation expectations;

(b) Its plan to ensure that each network provider participates in a health information organization (HIO) or is registered with a statewide or local direct enabled health information service provider.

(27) Each CCO must report on outcome and quality measures identified by the Authority under ORS 414.638 and participate in the All Payer All Claims (APAC) data reporting system. The applicant must provide assurances that:

(a) It has the capacity to report and demonstrate an acceptable level of performance with respect to Authority-identified metrics;

(b) It will submit APAC data in a timely manner according to program specifications.

(28) Each CCO shall be transparent in reporting progress and outcomes. Applicants must:

(a) Describe how it will assure transparency in governance;

(b) Agree to timely provide access to certain financial, outcomes, quality and efficiency metrics that will be transparent and publicly reported and available on the internet.

(29) Each CCO shall use best practices in the management of finances, contracts, claims processing, payment functions and provider networks. The applicant must describe:

(a) Its planned or established policies for ensuring best practices in areas identified by ORS 414.625;

(b) Whether the CCO will use a clinical advisory panel (CAP) or other means to ensure clinical best practices;

(c) Plans for an internal quality improvement committee that develops and operates under an annual quality strategy and work plan that incorporates implementation of system improvements, and an internal utilization review oversight committee that monitors utilization against practice guidelines and treatment planning protocols and policies.

(30) Each CCO must demonstrate sound fiscal practices and financial solvency, and must possess and maintain resources needed to meet their obligations:

(a) Initially, the financial applicant must submit required financial information that allows the DCBS, Insurance Division, on behalf of the Authority, to confirm financial solvency and assess fiscal soundness;

(b) The applicant shall provide information relating to assets and financial and risk management capabilities.

(31) Each CCO may provide coordinated care services within a global budget. Applicants must submit budget cost information consistent with its proposal for providing coordinated care services within the global budget.

(32) CCO shall operate, administer and provide for integrated and coordinated care services within the requirements of the medical assistance program in accordance with the terms of the contract and rule. The applicant must provide assurances about compliance with requirements applicable to the administration of the medical assistance program.

(33) Each CCO shall provide covered Medicaid services, other than DHS Medicaid-funded long-term care services, to members who are dually eligible for Medicare and Medicaid. The applicant may participate in the CMS Medicare/Medicaid Alignment Demonstration, if the Authority obtains necessary federal approvals.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

ADMINISTRATIVE RULES

410-141-3020

Administration of Oregon Integrated and Coordinated Health Care Delivery System Regulation and Rule Precedence

(1) The Authority and its Division of Medical Assistance Programs (Division) and Addictions and Mental Health Division (AMH) may adopt reasonable and lawful policies, procedures, rules and interpretations to promote the orderly and efficient administration of the Oregon Integrated and Coordinated Health Care Delivery System and medical assistance programs. This includes the Oregon Health Plan (OHP) pursuant to ORS Chapter 414, subject to the rulemaking requirements of Oregon Revised Statutes and Oregon Administrative Rule (OAR) procedures.

(2) In applying its policies, procedures, rules and interpretations, the Authority shall construe them as much as possible to be consistent. In the event that Authority policies, procedures, rules, and interpretations are inconsistent, the Authority shall apply the following order of precedence:

(a) For purposes of the provision of covered coordinated care services to Authority clients, including but not limited to authorizing and delivering service, or denials of authorization or services, the Authority, clients, enrolled providers, and the CCOs shall apply the following order of precedence:

(A) Consistent with ORS 413.071 and notwithstanding any other provision of state law, those federal laws and regulations governing the operation of the medical assistance program and any waivers granted the Authority by the Centers for Medicare and Medicaid Services (CMS) shall govern the administration of the medical assistance programs;

(B) Oregon Revised Statutes governing medical assistance programs;

(C) Generally for CCOs, requirements applicable to providing coordinated care services to members are provided in this rule, the Division's General Rules, OAR 410-120-0000 through 410-120-1980 and the provider rules applicable to the category of health service;

(D) Generally for enrolled fee-for-service providers, requirements applicable to the provision of covered medical assistance to clients are provided in the Division's General Rules, OAR 410-120-0000 through 410-120-1980, the Prioritized List and program coverage set forth in OAR chapter 410 division 141 and the provider rules applicable to the category of health service;

(E) Any other applicable properly promulgated rules adopted by the Division, AMH and other offices or units within the Authority necessary to administer medical assistance programs, such as Electronic Data Transaction rules in OAR 943-120-0100 through 943-120-0200; and

(F) The basic framework for provider enrollment in OAR chapter 943 division 120 and chapter 410 division 120 generally applies to providers enrolled with the Authority, subject to more specific requirements applicable to the administration of medical assistance programs. For purposes of this rule, "more specific" means the requirements, laws, and rules applicable to the provider type and covered health services.

(b) For purposes of contract administration solely between the Authority and its CCOs, the contract terms and the requirements in section (2)(a) of this rule governing the provision of covered coordinated health services to clients.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3030

Implementation and Transition

Implementation of the Oregon Integrated and Coordinated Health Care Delivery System through CCOs is essential to achieve the objectives of health transformation and cost savings. The ability of CCOs to meet transformation expectations will be phased in over time to allow CCOs to develop the necessary organizational infrastructure. During this initial implementation period, the Authority holds the following expectations:

(1) Contract provisions, including an approved CCO strategy or plan for implementing health services transformation, shall describe how the CCO must comply with transformation requirements under these rules.

(2) Local and community involvement is required, and the Authority will work with CCOs to achieve flexibilities that may be appropriate to achieve community-directed objectives, including addressing health care for diverse populations.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3050

CCO Enrollment for Children Receiving Health Services

Pursuant to OAR 410-141-3060, the Department or Oregon Youth Authority (OYA) shall select CCOs for a child receiving Department or OYA services in an area where a CCO is available. If a CCO is not available in an area, the Authority or the Department shall enroll the child in accordance with OAR 410-141-0050.

(1) The Authority shall, to the maximum extent possible, ensure that all children are enrolled in CCOs at the next available enrollment date following eligibility determination, redetermination, or upon review by the Authority, unless the Authority authorizes disenrollment from a CCO:

(a) Except as provided in OAR 410-141-3060 (Coordinated Care Enrollment Requirements), OAR 410-141-3080 (Disenrollment from Coordinated Care Health Plans) or ORS 414.631(2) children are not exempt from mandatory enrollment in a CCO on the basis of third party resources (TPR) coverage;

(b) The Authority shall review decisions to use fee-for-service (FFS) open card for a child if the child's circumstances change and at the time of redetermination consider whether the Authority or the Department shall enroll the child in a CCO.

(2) When a child is transferred from one CCO to another CCO or from FFS or a PHP to a CCO, the CCO must facilitate coordination of care consistent with OAR 410-141-3160:

(a) CCOs must work closely with the Authority to ensure continuous CCO enrollment for children;

(b) If the Authority determines that it should disenroll a child from a CCO, the CCO shall continue to provide health services until the Authority's established disenrollment date to provide for an adequate transition to the next CCO.

(3) When a child experiences a change of placement that may be permanent or temporary, the Authority shall verify the address change information to determine whether the child no longer resides in the CCO's service area:

(a) A temporary absence as a result of a temporary placement out of the CCO's service area does not represent a change of residence if the Authority determines that the child is reasonably likely to return to the CCO's service area at the end of the temporary placement;

(b) A CAF child receiving behavioral rehabilitation services (BRS) is considered a temporary placement;

(c) Children in OYA custody enroll with the CCO serving the geographic area of placement. OYA representatives may request an SAE to maintain CCO coverage on a placement they consider temporary.

(4) If the Authority or the Department enrolls the child in a CCO on the same day the child is admitted to psychiatric residential treatment services (PRTS), the CCO shall pay for covered health services during that placement, even if the location of the facility is outside the CCO's service area:

(a) The child is presumed to continue to be enrolled in the CCO with which the child was most recently enrolled. The Authority considers an admission to a PRTS facility a temporary placement for purposes of CCO enrollment;

(b) Any address change associated with the placement in the PRTS facility is not a change of residence for purposes of CCO enrollment and may not be a basis for disenrollment from the CCO, unless the provisions in OAR chapter 410 division 141 apply;

(c) If the Authority determines that a child was disenrolled for reasons not consistent with these rules, the Authority or Department shall re-enroll the child with the appropriate CCO and assign an enrollment date that provides for continuous coverage with the appropriate CCO. If the child was enrolled in a different CCO in error, the Authority shall disenroll the child from that CCO and recoup the CCO payments.

(5) Except for OAR 410-141-3060 and 410-141-3080, if a child is enrolled in a CCO after the first day of an admission to PRTS, the enrollment effective date shall be immediately upon discharge.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3060

Enrollment Requirements in a CCO

(1) A client who is eligible for or receiving health services must enroll in a CCO as required by ORS 414.631, except as provided in ORS 414.631 (2), (3), (4), and (5) and 414.632 (2) or exempted by this rule.

ADMINISTRATIVE RULES

(2) If, upon application or redetermination, a client does not select a CCO, the Authority shall enroll the client and the client's household in a CCO that has adequate health care access and capacity.

(3) For existing members of a PHP that has transitioned to a CCO, the Authority shall enroll those members in the CCO when the Authority certifies and contracts with the CCO. The Authority shall provide notice to the enrollees 30 days before the effective date.

(4) Existing members of a PHP that is on the path to becoming a CCO shall retain those members. The Authority shall enroll those members in the CCO when certification and contracting are complete. The Authority shall provide notice to the clients 30 days before the effective date.

(5) Unless otherwise exempted by sections (17) and (18) of this rule, existing clients receiving their physical health care services on a fee-for-service basis shall enroll in a CCO serving their area that has adequate health care access and capacity. They must enroll by November 1, 2012. The Authority shall send a notice to the clients 30 days before the effective date.

(6) The following apply to clients receiving health care services on a fee-for-service basis but behavioral health services in a MHO:

(a) The Authority shall enroll the client in a CCO that is serving the client's area before November 1, 2012;

(b) The client shall receive their behavioral health care services from that CCO;

(c) The client shall continue to receive their physical health care services on a fee-for-service basis; and

(d) On or after November 1, 2012, the Authority shall enroll the client in a CCO for both physical health and behavioral health care services, unless otherwise exempted by sections (17) and (18) of this rule.

(7) The following apply to clients enrolled in Medicare:

(a) A client may enroll in a CCO regardless of whether they are enrolled in Medicare Advantage;

(b) A client enrolled in Medicare Advantage, whether or not they pay their own premium, may enroll in a CCO, even if the CCO does not have a corresponding Medicare Advantage plan.

(c) A client may enroll with a CCO, even if the client withdrew from that CCO's Medicare Advantage plan. The CCO shall accept the client's enrollment if the CCO has adequate health access and capacity;

(d) A client may enroll with a CCO, even if the client is enrolled in Medicare Advantage with another entity.

(8) From August 1, 2012, until November 1, 2012, enrollment is required in service areas with adequate health care access and capacity to provide health care services through a CCO or PHP. The following outlines the priority of enrollment during this period in service areas where enrollment is required:

(a) Priority 1: The client must enroll in a CCO that serves that area and has adequate health care access and capacity;

(b) Priority 2: The client must enroll in a PHP if:

(A) A PHP serves an area that a CCO does not serve; or

(B) A PHP serves an area that a CCO serves, but the CCO has inadequate health care access and capacity to accept new members;

(c) Priority 3: The client shall receive services on a fee-for-service basis.

(9) From August 1, 2012, until November 1, 2012, enrollment is voluntary in service areas without adequate access and capacity to provide health care services through a CCO or PHP. If a client decides to enroll in a CCO or PHP, the priority of enrollment in section (8) applies.

(10) On or after November 1, 2012, CCO enrollment is required in all areas. The following outlines the priority of options to enroll in all service areas:

(a) Priority 1: The client must enroll in a CCO that serves that area and has adequate health care access and capacity;

(b) Priority 2: The client must enroll in a PHP on the path to becoming a CCO if:

(A) The PHP serves an area that a CCO does not serve; or

(B) The PHP serves an area that a CCO serves, but the CCO has inadequate health care services capacity to accept new members;

(c) Priority 3: The client must enroll in a PHP that is not on the path to becoming a CCO if:

(A) The PHP serves an area that a CCO does not serve; or

(B) The PHP serves an area that a CCO serves, but the CCO has inadequate health care access or capacity to accept new members;

(d) Priority 4: The client shall receive services on a fee-for-service basis.

(11) A client must enroll in a dental care organization (DCO) in a service area where a DCO has adequate dental care access and capacity, and a DCO is open to enrollment.

(12) A client may enroll in a DCO in a service area where a DCO has inadequate dental care access and capacity. In these service areas, a client may:

(a) Select any DCO open for enrollment; or

(b) Obtain dental services on a FFS basis.

(13) If a client receives physical health care through a PHP, PCM or on a fee-for-service basis, under circumstances allowed by this rule, the client must enroll in a mental (behavioral) health organization (MHO) in a service area where MHO enrollment is required. The following determines if a service area requires MHO enrollment:

(a) The service area has adequate behavioral health care access and capacity;

(b) A CCO does not serve in the area; or

(c) A CCO serves the area, but the CCO has inadequate health care access and capacity to accept new members:

(14) From August 1, 2012, until November 1, 2012, if a service area changes from required enrollment to voluntary enrollment, the member shall remain with the PHP for the remainder of their eligibility period or until the Authority or Department redetermines eligibility, whichever comes sooner, unless otherwise eligible to disenroll pursuant to OAR 410-41-3080.

(15) At the time of application or recertification, the primary person in the household shall select the CCO on behalf of all household members on the same household case. If the client is not able to choose a CCO, the client's representative shall make the selection.

(16) The Department or OYA shall select the CCO for a child in the legal custody of the Department or OYA, except for children in subsidized adoptions.

(17) The following populations are exempt from CCO enrollment:

(a) Populations expressly exempted by ORS 414.631(2) (a), (b) and (c), which includes:

(A) Persons who are non-citizens who are eligible for labor and delivery services and emergency treatment services;

(B) Persons who are American Indian and Alaskan Native beneficiaries; and

(C) Persons who are dually eligible for Medicare and Medicaid and enrolled in a program of all-inclusive care for the elderly.

(b) Newly eligible clients are exempt from enrollment with a CCO if the client became eligible when admitted as an inpatient in a hospital. The client shall receive health care services on a fee-for-service basis only until the hospital discharges the client. The client is not exempt from enrollment in a DCO.

(c) Children in the legal custody of the Department or OYA where the child is expected to be in a substitute care placement for less than 30 calendar days, unless:

(A) Access to health care on a fee-for-service basis is not available; or

(B) Enrollment would preserve continuity of care.

(d) Clients with major medical health insurance coverage, also known as third party liability, except as provided in OAR 410-141-3050;

(e) Clients receiving prenatal services through the Citizen/Alien Waivered-Emergency Medical program; and

(f) Clients receiving premium assistance through the Specified Low-Income Medicare Beneficiary, Qualified Individuals, Qualified Disabled Working Individuals and Qualified Medicare Beneficiary programs.

(18) The following populations are exempt from CCO enrollment until specified below:

(a) From August 1, 2012, until November 1, 2012, children under 19 years of age who are medically fragile and who have special health care needs. Beginning November 1, 2012, the Authority may enroll these children in CCOs on a case-by-case basis;

(b) From August 1, 2012, until January 1, 2013, newly eligible women who are in their third trimester of pregnancy are exempt for up to 60 days after their children's birth. Beginning January 1, 2013, enrollment is required;

(c) From August 1, 2012 until November 1, 2012, clients receiving health care services through the Breast and Cervical Cancer Program are exempt. Beginning November 1, 2012, enrollment is required;

(d) Existing clients who had organ transplants are exempt until the Authority enrolls them in a CCO on a case-by-case basis; and

(e) From August 1, 2012, until November 1, 2012, clients with end-stage renal disease. Beginning November 1, 2012, enrollment is required.

ADMINISTRATIVE RULES

(19) The following clients who are exempt from CCO enrollment and who receive services on a fee-for-service basis may enroll in a CCO:

- (a) Clients who are eligible for both Medicare and Medicaid;
- (b) Clients who are American Indian and Alaskan Native beneficiaries;

(20) The Authority may exempt clients or temporarily exempt clients for other just causes as determined by the Authority through medical review. The Authority may set an exemption period on a case-by-case basis. Other just causes include the considerations:

- (a) Enrollment would pose a serious health risk; and
- (b) The Authority finds no reasonable alternatives.

(21) The following pertains to the effective date of the enrollment. If the enrollment occurs:

- (a) On or before Wednesday, the date of enrollment shall be the following Monday; or
- (b) After Wednesday, the date of enrollment shall be one week from the following Monday.

(22) Coordinated care services shall begin on the first day of enrollment with the CCO except for:

- (a) A newborn's date of birth when the mother was a member of a CCO at the time of birth;
- (b) For members who are re-enrolled within 30 calendar days of disenrollment, the date of enrollment shall be the date specified by the Authority that may be retroactive to the date of disenrollment;
- (c) For adopted children or children placed in an adoptive placement, the date of enrollment shall be the date specified by the Authority.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651
Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650
Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3070

Pharmaceutical Drug List Requirements

(1) Prescription drugs are a covered service based on the funded Condition/Treatment Pairs. CCOs shall pay for prescription drugs, except:

- (a) As otherwise provided, mental health drugs that are in Class 7 & 11 (based on the National Drug Code (NDC)) as submitted by the manufacturer to First Data Bank);
- (b) Depakote, Lamictal, and those drugs that the Authority specifically carved out from capitation according to sections (8) and (9) of this rule;
- (c) Any applicable co-payments;
- (d) For drugs covered under Medicare Part D when the client is fully dual eligible.

(2) CCOs may use the statewide Practitioner-Managed Prescription Drug Plan under ORS 414.330 to 414.337. CCOs may use a restrictive drug list as long as it allows access to other drug products not on the drug list through some process such as prior authorization (PA). The drug list must:

(a) Include Federal Drug Administration (FDA) approved drug products for each therapeutic class sufficient to ensure the availability of covered drugs with minimal prior approval intervention by the provider of pharmaceutical services;

(b) Include at least one item in each therapeutic class of over-the-counter medications; and

(c) Be revised periodically to assure compliance with this requirement.

(3) CCOs shall provide their participating providers and their pharmacy subcontractor with:

(a) Their drug list and information about how to make non-drug listed requests;

(b) Updates made to their drug list within 30 days of a change that may include but are not limited to:

- (A) Addition of a new drug;
- (B) Removal of a previously listed drug; and
- (C) Generic substitution.

(4) If a drug cannot be approved within the 72-hour time requirement for prior authorization and the medical need for the drug is immediate, CCOs must provide, within 24 hours of receipt of the drug prior authorization request, for the dispensing of at least a 72-hour supply of a drug that requires prior authorization.

(5) CCOs shall authorize the provision of a drug requested by the Primary Care Provider or referring provider, if the approved prescriber certifies medical necessity for the drug such as:

(a) The equivalent of the drug listed has been ineffective in treatment; or

(b) The drug listed causes or is reasonably expected to cause adverse or harmful reactions to the member.

(6) Prescriptions for Physician Assisted Suicide under the Oregon Death with Dignity Act are excluded. Payment is governed by OAR 410-121-0150.

(7) CCOs may not authorize payment for any Drug Efficacy Study Implementation (DESI) Less Than Effective (LTE) drugs which have reached the FDA Notice of Opportunity for Hearing (NOOH) stage, as specified in OAR 410-121-0420 (DESI)(LTE) Drug List. The DESI LTE drug list is available at: <http://www.cms.hhs.gov/MedicaidDrugRebateProgram/12LTEIRSDrugs.asp>.

(8) A CCO may seek to add drugs to the list contained in section (1) of this rule by submitting a request to the Authority no later than March 1 of any contract year. The request must contain all of the following information:

- (a) The drug name;
- (b) The FDA approved indications that identifies the drug may be used to treat a severe mental health condition; and
- (c) The reason that the Authority should consider this drug for carve out.

(9) If a CCO request s that a drug not be paid within the global budget the Authority shall exclude the drug from global budget for the following January contract cycle if the Authority determines that the drug has an approved FDA indication for the treatment of a severe mental health condition such as major depressive, bi-polar, or schizophrenic disorders.

(10) The Authority shall pay for a drug that is not included in the global budget pursuant to the Pharmaceutical Services Program rules (chapter 410, division 121). A CCO may not reimburse providers for carved out drugs.

(11) CCOs shall submit quarterly utilization data, within 60 days of the date of service, as part of the CMS Medicaid Drug Rebate Program requirements pursuant to Section 2501 of the Affordable Care Act.

(12) CCOs may not provide payment for drugs made by manufacturers that do not have valid rebate agreements in place with the CMS as part of the Medicaid Drug Rebate Program.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651
Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650
Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3080

Disenrollment from Coordinated Care Organizations

(1) At the time of recertification, a client may disenroll from one CCO in a service area and enroll in another CCO in that service area. The primary person in the household shall make this decision on behalf of all household members on the same household case. If the client is not able to make this decision, the client's representative shall do so. The client may request this either orally or in writing.

(2) A member who moves from one service area to another service area shall disenroll from the CCO in the previous service area and enroll with a CCO in the new service area. The member must change their address with the Authority or Department within ten days of moving.

(3) A member who voluntarily enrolls in a CCO per OAR 410-141-3060 (19) may disenroll from their CCOs at any time and receive health care services on a fee-for-service basis or enroll in another CCO in their service area. This only applies to:

- (a) Members who are eligible for both Medicare and Medicaid and
- (b) Members who are American Indian and Alaskan Native beneficiaries;

(4) Notwithstanding other sections of this rule, members may request disenrollment for just cause at any time pursuant to state law or CFR 438.56. This includes:

(a) The CCO does not cover the service the member seeks, because of moral or religious objections;

(b) The member needs related services (for example a cesarean section and a tubal ligation) to be performed at the same time, not all related services are available within the network, and the member's primary care provider or another provider determines that receiving the services separately would subject the member to unnecessary risk; or

(c) The member is experiencing poor quality of care, lack of access to services covered under the contract, or lack of access to providers experienced in dealing with the member's health care needs.

(5) The Authority may approve the disenrollment after medical review using the following just cause considerations:

- (a) Required enrollment would pose a serious health risk; and
- (b) The Authority finds no reasonable alternatives.

(6) The following applies to time lines for clients to change their CCO assignment:

ADMINISTRATIVE RULES

(a) Newly eligible clients may change their CCO assignment within 90 days of their application for health services;

(b) Existing clients may change their CCO assignment within 30 days of the Authority's automatic assignment in a CCO; or

(c) Clients may change their CCO assignment upon eligibility re-determination.

(7) Pursuant to CFR 438.56, the CCO shall not request and the Authority shall not approve disenrollment of a member due to:

(a) A physical or behavioral disability or condition;

(b) An adverse change in the member's health;

(c) The member's utilization of services, either excessive or lacking;

(d) The member's decisions regarding medical care with which the CCO disagrees;

(e) The member's behavior is uncooperative or disruptive, including but not limited to threats or acts of physical violence, resulting from the member's special needs, except when continued enrollment in the CCO seriously impairs the CCO's ability to furnish services to this particular member or other members.

(8) A CCO may request the Authority to disenroll a member if the CCO determines:

(a) Except as provided in OAR 410-141-3050, the member has major medical coverage, including employer sponsored insurance (ESI) but excluding enrollment in a DCO;

(b) The CCO determines:

(A) The member has moved to a service area the CCO does not serve;

(B) The member is out of the CCO's area for three months without making arrangements with the CCO;

(C) The member did not initiate enrollment in the CCO serving the member's area; and

(D) The member is not in temporary placement or receiving out-of-area services.

(c) The member is in a state psychiatric institution;

(d) The CCO has verifiable information that the member has moved to another Medicaid jurisdiction; or

(e) The member is deceased.

(9) Before requesting disenrollment under the exception in section (7)(e) of this rule, a CCO must take meaningful steps to address the member's behavior, including but not limited to:

(a) Contacting the member either orally or in writing to explain and attempt to resolve the issue. The CCO must document all oral conversations in writing and send a written summary to the member. This contact may include communication from advocates, including peer wellness specialists, where appropriate, personal health navigators and qualified community health workers who are part of the member's care team to provide assistance that is culturally and linguistically appropriate to the member's need to access appropriate services and participate in processes affecting the member's care and services;

(b) Developing and implementing a care plan in coordination with the member and the member's care team that details the problem and how the CCO shall address it;

(c) Reasonably modifying practices and procedures as appropriate to accommodate the member's circumstances;

(d) Assessing the member's behavior to determine if it results from the member's special needs or a disability;

(e) Providing education, counseling and other interventions to resolve the issue; and

(f) Submitting a complete summary to the Authority if the CCO requests disenrollment.

(10) The Authority may disenroll members of CCOs for the reasons specified in section (8) without receiving a disenrollment request from a CCO.

(11) The CCO shall request the Authority to suspend a member's enrollment when the inmate is incarcerated in a State or Federal prison, a jail, detention facility or other penal institution for no longer than 12 months. The CCO shall request that the Authority disenroll a member when the inmate is incarcerated in a State or Federal prison, jail, detention facility or other institution for longer than 12 months. This does not include members on probation, house arrest, living voluntarily in a facility after adjudication of their case, infants living with inmates or inmates admitted for inpatient hospitalization. The CCO is responsible for identifying the members and providing sufficient proof of incarceration to the Authority for review of the request for suspension of enrollment or disenrollment. CCOs shall pay for inpatient services only during the time a member is an inmate and enrollment is otherwise suspended.

(12) Unless otherwise specified in these rules or in the Authority notification of disenrollment to the CCO, all disenrollments are effective at the end of the month the Authority approves the disenrollment, with the following exceptions;

(a) The Authority may specify a retroactive disenrollment effective date if the member has:

(A) Third party coverage including employee-sponsored insurance. The effective date shall be the date the coverage begins;

(B) Enrolls in a program for all-inclusive care for the elderly (PACE). The effective date shall be the day before PACE enrollment;

(C) Is admitted to the State Hospital. The effective date shall be the day before hospital admission; or

(D) Becomes deceased. The effective date shall be the date of death.

(b) The Authority may retroactively disenroll or suspend enrollment if the member is incarcerated pursuant to section (11) of this rule. The effective date shall be the date of the notice of incarceration or the day before incarceration, whichever is earlier.

(c) The Authority shall specify a disenrollment effective date if the member moves out of the CCO's service area. The Authority shall recoup the balance of that month's capitation payment from the CCO;

(d) The Authority may specify the disenrollment effective date if the member is no longer eligible for OHP;

(13) The Authority shall inform the members of a disenrollment decision in writing, including the right to request a contested case hearing to dispute the Authority's disenrollment if the Authority disenrolled the member for cause that the member did not request. If the member requests a hearing, the disenrollment shall remain in effect pending outcome of the contested case hearing.

(14) For purposes of a client's right to a contested case hearing, "disenrollment" does not include the Authority's:

(a) Transfer of a member from a PHP to a CCO;

(b) Transfer of a member from a CCO to another CCO; or

(c) Automatic enrollment of a member in a CCO.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3120

Operations and Provision of Health Services

(1) CCOs shall establish, maintain and operate with a governance structure and community advisory council that is consistent with the requirements of ORS 414.625 and applicable health system transformation laws.

(2) At a minimum, CCOs must provide medically appropriate health services, including flexible services, within the scope of the member's benefit package of health services in accordance with the Prioritized List of Health Services and the terms of the contract.

(3) CCOs must select providers using universal application and credentialing procedures and objective quality information. CCOs must take steps to remove providers from their provider network that fail to meet objective quality standards:

(a) CCOs shall ensure that all participating providers providing coordinated care services to members are credentialed upon initial contract with the CCO and recertified no less frequently than every three years. The credentialing and recertification process shall include review of any information in the National Practitioners Databank. CCOs shall accept both the Oregon Practitioner Credentialing Application and the Oregon Practitioner Recertification Application;

(b) CCOs must screen their providers to be in compliance with 42 CFR 455 Subpart E (42 CFR 455.410 through 42 CFR 455.470) and retain all resulting documentation for audit purposes;

(c) CCOs may elect to contract for or to delegate responsibility for the credentialing and screening processes; however, CCOs shall be responsible for the following activities, including oversight of the following processes, regardless of whether the activities are provided directly, contracted or delegated:

(A) Ensuring that coordinated care services are provided within the scope of license or certification of the participating provider or facility and within the scope of the participating provider's contracted services. They must ensure participating providers are appropriately supervised according to their scope of practice;

(B) Providing training for CCO staff and participating providers and their staff regarding the delivery of coordinated care services, applicable administrative rules, and the CCOs administrative policies.

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(d) The CCO must provide accurate and timely information to the Authority about:

(A) License or certification expiration and renewal dates;

(B) Whether a provider's license or certification is expired or not renewed or is subject to licensing termination, suspension or certification sanction;

(C) If a CCO knows or has reason to know that a provider has been convicted of a felony or misdemeanor related to a crime, or violation of federal or state laws under Medicare, Medicaid, or Title XIX (including a plea of "nolo contendere").

(e) CCOs may not refer members to or use providers that:

(A) Have been terminated from the Division;

(B) Have been excluded as a Medicaid provider by another state;

(C) Have been excluded as Medicare/Medicaid providers by CMS; or

(D) Are subject to exclusion for any lawful conviction by a court for which the provider could be excluded under 42 CFR 1001.101.

(f) CCOs may not accept billings for services to members provided after the date of the provider's exclusion, conviction, or termination. CCOs must recoup any monies paid for services to members provided after the date of the provider's exclusion, conviction or termination;

(g) CCOs must require each atypical provider to be enrolled with the Authority and must obtain and use registered National Provider Identifiers (NPIs) and taxonomy codes reported to the Authority in the Provider Capacity Report for purposes of encounter data submission, prior to submitting encounter data in connection with services by the provider. CCOs must require each qualified provider to have and use an NPI as enumerated by the National Plan and Provider Enumeration System (NPPES);

(h) The provider enrollment request (for encounter purposes) and credentialing documents require the disclosure of taxpayer identification numbers. The Authority shall use taxpayer identification numbers for the administration of this program including provider enrollment, internal verification and administrative purposes for the medical assistance program, for administration of tax laws. The Authority may use taxpayer identification numbers to confirm whether the individual or entity is subject to exclusion from participation in the medical assistance program. Taxpayer identification number includes Employer Identification Number (EIN), Social Security Number (SSN), Individual Tax Identification Number (ITIN) used to identify the individual or entity on the enrollment request form or disclosure statement. Disclosure of all tax identification numbers for these purposes is mandatory. Failure to submit the requested taxpayer identification numbers may result in denial of enrollment as a provider and denial of a provider number for encounter purposes, or denial of continued enrollment as a provider and deactivation of all provider numbers used by the provider for encounters.

(4) A CCO may not discriminate with respect to participation in the CCO against any health care provider who is acting within the scope of the provider's license or certification under applicable state law, on the basis of that license or certification. If a CCO declines to include individual or groups of providers in its network, it must give the affected providers written notice of the reason for its decision. This rule may not be construed to:

(a) Require that a CCO contract with any health care provider willing to abide by the terms and conditions for participation established by the CCO; or

(b) Preclude the CCO from establishing varying reimbursement rates based on quality or performance measures. For purposes of this section, quality and performance measures include all factors that advance the goals of health system transformation, including price.

(5) A CCO shall establish an internal review process for a provider aggrieved by a decision under subsection (4) of this rule, including an alternative dispute resolution or peer review process. An aggrieved provider may appeal the determination of the internal review to the Authority.

(6) To resolve appeals made to the Authority under sections (4) and (5) of this rule, the Authority shall provide administrative review of the provider's appeal, using the administrative review process established in OAR 410-120-1580. The Authority shall invite the aggrieved provider and the CCO to participate in the administrative review. In making a determination of whether there has been discrimination, the Authority must consider the CCO's:

(a) Network adequacy;

(b) Provider types and qualifications;

(c) Provider disciplines; and

(d) Provider reimbursement rates.

(7) A prevailing party in an appeal under sections (4) through (6) of this rule shall be awarded the costs of the appeal.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 20-2012(Temp), f. & cert. ef. 3-30-12 thru 9-25-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3140

Emergency and Urgent Care Services

(1) CCOs shall have written policies, procedures, and monitoring systems that ensure the provision of appropriate urgent, emergency, and triage services 24-hours a day, 7-days-a-week for all members. CCOs shall:

(a) Communicate these policies and procedures to participating providers;

(b) Regularly monitor participating providers' compliance with these policies and procedures; and

(c) Take any corrective action necessary to ensure compliance. CCOs shall document all monitoring and corrective action activities.

(2) CCOs shall have written policies, procedures, and monitoring processes to ensure that a provider provides a medically or dentally appropriate response as indicated to urgent or emergency calls including but limited to the following:

(a) Telephone or face-to-face evaluation of the member;

(b) Capacity to conduct the elements of an assessment to determine the necessary interventions to begin stabilization;

(c) Development of a course of action;

(d) Provision of services and referral needed to begin post-stabilization care or provide outreach services in the case of a member requiring behavioral health services, or a member who cannot be transported or is homebound;

(e) Provision for notifying a referral emergency room, when applicable, concerning the arriving member's presenting problem, and whether or not the provider will meet the member at the emergency room; and

(f) Provision for notifying other providers, when necessary, to request approval to treat members.

(3) CCOs shall ensure the availability of an after-hours call-in system adequate to triage urgent care and emergency calls from members or a member's long-term care provider or facility. The CCO representative shall return urgent calls appropriate to the member's condition but in no event more than 30 minutes after receipt. If information is not adequate to determine if the call is urgent, the CCO representative shall return the call within 60 minutes to fully assess the nature of the call. If information is adequate to determine that the call may be emergent in nature, the CCO shall return the call.

(4) If emergency room screening examination leads to a clinical determination by the examining provider that an actual emergency medical condition exists under the prudent layperson standard, the CCO must pay for all services required to stabilize the patient, except as otherwise provided in section (6) of this rule. The CCO may not require prior authorization for emergency services:

(a) The CCO may not retroactively deny a claim for an emergency screening examination because the condition, which appeared to be an emergency medical condition under the prudent layperson standard, turned out to be non-emergent;

(b) The CCO may not limit what constitutes an emergency medical condition based on lists of diagnoses or symptoms;

(c) The CCO may not deny a claim for emergency services merely because the PCP was not notified, or because the CCO was not billed within ten calendar days of the service.

(5) When a member's PCP, designated provider, or other CCO representative instructs the member to seek emergency care, in or out of the network, the CCO shall pay for the screening examination and other medically appropriate services. Except as otherwise provided in section (6) of this rule, the CCO shall pay for post-stabilization care that was:

(a) Pre-authorized by the CCO;

(b) Not pre-authorized by the CCO if the CCO, or the on-call provider, failed to respond to a request for pre-authorization within one hour of the request, or the member could not contact the CCO or provider on call; or

(c) If the CCO and the treating provider cannot reach an agreement concerning the member's care and a CCO representative is not available for consultation, the CCO must give the treating provider the opportunity to consult with a CCO provider. The treating provider may continue with care of the member until a CCO provider is reached or one of the criteria is met.

(6) The CCO's responsibility for post-stabilization care it has not authorized ends when:

(a) The participating provider with privileges at the treating hospital assumes responsibilities for the member's care;

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(b) The participating provider assumes responsibility for the member's care through transfer;

(c) A CCO representative and the treating provider reach an agreement concerning the member's care; or

(d) The member is discharged.

(7) CCOs shall have methods for tracking inappropriate use of urgent and emergency care and shall take action, including individual member counseling, to improve appropriate use of urgent and emergency care services. In partnership with CCOs, DCOs shall take action to improve appropriate use of urgent and emergency care settings for dental health care.

(a) CCOs shall educate members about how to appropriately access care from emergency rooms, urgent care and walk-in clinics, non-traditional health care workers, and less intensive interventions other than their primary care home;

(b) CCOs shall apply and employ innovative strategies to decrease unnecessary hospital utilization.

(8) CCOs must limit charges to members for post-stabilization care services to an amount no greater than what the CCO would charge the member if he or she had obtained the services through the CCO. For purposes of cost sharing, post stabilization care services begin upon inpatient admission.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3145

Community Health Assessment and Community Health Improvement Plans

(1) CCOs must partner with their local public health authority, local mental health authority and hospital systems to develop a shared community health assessment process, including conducting the assessment and development of the resulting community health improvement plan (plan).

(2) CCOs must work with the Authority, to identify the components of the community health assessment. CCOs are encouraged to partner with their local public health authority, hospital system, type B Area Agency on Aging, APD field office and local mental health authority, using existing resources when available and avoiding duplication where practicable.

(3) In developing and maintaining a health assessment, CCOs must meaningfully and systematically engage representatives of critical populations and community stakeholders to create a plan for addressing community health needs that build on community resources and skills and emphasizes innovation including but not limited to the following:

(a) Emphasis on disproportionate, unmet, health-related need;

(b) Emphasis on primary prevention;

(c) Building a seamless continuum of care;

(d) Building community capacity;

(e) Emphasis on collaborative governance of community benefit.

(4) The CCO requirements for conducting a community health assessment and community health improvement plan will be met for purposes of this law if they substantially meet the community health needs assessment requirement of the federal Patient Protection and Affordable Care Act, 2010 Section 9007 and the community health assessment and community health improvement plan requirements for local health departments of the Public Health Accreditation Board, and worked with AAA and local mental health authority.

(5) The CCO's Community Advisory Council shall oversee the community health assessment and adopt a plan to serve as a strategic population health and health care system service plan for the community served by the CCO. The Council shall annually publish a report on the progress of the Plan.

(6) The plan adopted by the Council must describe the scope of the activities, services and responsibilities that the CCO shall consider upon implementation. The activities, services and responsibilities defined in the plan may include, but are not limited to:

(a) Analysis and development of public and private resources, capacities and metrics based on ongoing community health assessment activities and population health priorities;

(b) Health policy;

(c) System design;

(d) Outcome and quality improvement;

(e) Integration of service delivery; and

(f) Workforce development.

(7) CCOs and their participating providers must work together to develop best practices of culturally and linguistically appropriate care and

service delivery to eliminate health disparities and improve member health and well-being.

(8) Through their community health assessment and plan, CCOs shall identify health disparities associated with race, ethnicity, language, health literacy, age, disability, gender, sexual orientation, behavioral health status, geography, or other factors in their service areas such as type of living setting, including but not limited to home, independent support living, adult foster home or homeless. CCOs shall collect and maintain data on race, ethnicity and primary language for all members on an ongoing basis in accordance with standards established jointly by the Authority and the Department. CCOs shall track and report on any quality measure by these demographic factors and shall develop, implement, and evaluate strategies to improve health equity among members. CCOs shall make this information available by posting on the web.

(9) CCOs shall develop and review and update its community health assessment and plan every three years to ensure the provision of all medically appropriate covered coordinated care services, including urgent care and emergency services, preventive, community support and ancillary services, in those categories of services included in CCO contracts or agreements with the Authority.

(10) CCOs shall communicate these policies and procedures to providers, regularly monitor providers' compliance, and take any corrective action necessary to ensure provider compliance. CCOs shall document all monitoring and corrective action activities.

(11) Should there be more than one CCO in a community, the CCOs and their community partners may work together to develop one shared community health assessment and one shared Plan.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3160

Integration and Care Coordination

(1) In order to achieve the objectives of providing CCO members' integrated person centered care and services, CCOs must assure that physical, behavioral and oral health services are consistently provided to members in all age groups and all covered populations when medically appropriate and consistent with the needs identified in the community health assessment and community health improvement plan (Plan). CCOs must develop, implement and participate in activities supporting a continuum of care that integrates physical, behavioral, and oral health interventions in ways that are whole to the member and serve members in the most integrated setting appropriate to their needs:

(a) CCOs shall ensure the provision of care coordination, treatment engagement, preventive services, community based services, behavioral health services and follow up services for all members with behavioral health conditions;

(b) CCOs must enter into contracts with providers of residential chemical dependency treatment services not later than July 1, 2013 and must notify the Authority within 30 calendar days of executing the contract;

(c) By July 1, 2014, each CCO must have a contractual relationship with any dental care organization that serves members in the area where they reside;

(d) CCOs must have adequate, timely and appropriate access to hospital and specialty services. CCOs must establish hospital and specialty service agreements that include the role of patient-centered primary care homes and that specify processes for requesting hospital admission or specialty services, performance expectations for communication and medical records sharing for specialty treatments, at the time of hospital admission or discharge, for after-hospital follow up appointments;

(e) CCOs must demonstrate how hospitals and specialty services will be accountable to achieve successful transitions of care. CCOs shall ensure members are transitioned out of hospital settings into the most appropriate independent and integrated community settings. This includes transitional services and supports for children, adolescents, and adults with serious behavioral health conditions facing admission to or discharge from acute psychiatric care, residential treatment settings and the state hospital.

(2) CCOs shall develop evidence-based or innovative strategies for use within their delivery system networks to ensure access to integrated and coordinated care, especially for members with intensive care coordination needs. CCOs must:

(a) Demonstrate that each member has a primary care provider or primary care team that is responsible for coordination of care and transitions and that each member has the option to choose a primary care provider of any eligible CCO participating provider type.

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(b) Ensure that members with high health needs, multiple chronic conditions, or behavioral health issues are involved in accessing and managing appropriate preventive, health, behavioral health, remedial and supportive care and services;

(c) Use and require its provider network to use individualized care plans to the extent feasible to address the supportive and therapeutic needs of each member, particularly those with intensive care coordination needs, including members with severe and persistent mental illness receiving home and community based services covered under the state's 1915(1) State Plan Amendment, and those receiving DHS Medicaid-funded long-term care services. Plans should reflect member family, or caregiver preferences and goals to ensure engagement and satisfaction;

(d) Implement systems to assure and monitor improved transitions in care so that members receive comprehensive transitional care, and improve members' experience of care and outcomes, particularly for transitions between hospitals and long-term care;

(e) Demonstrate that participating providers have the tools and skills necessary to communicate in a linguistically and culturally appropriate fashion with members and their families or caregivers and to facilitate information exchange between other providers and facilities (e.g., addressing issues of health literacy, language interpretation, having electronic health record capabilities);

(f) Work across provider networks to develop partnerships necessary to allow for access to and coordination with social and support services, including crisis management and community prevention and self-managed programs;

(g) Communicate its integration and coordination policies and procedures to participating providers, regularly monitor providers' compliance and take any corrective action necessary to ensure compliance. CCOs shall document all monitoring and corrective action activities.

(3) CCOs must develop and use Patient Centered Primary Care Home (PCPCH) capacity by implementing a network of PCPCHs to the maximum extent feasible:

(a) PCPCHs should become the focal point of coordinated and integrated care, so that members have a consistent and stable relationship with a care team responsible for comprehensive care management;

(b) CCOs must develop mechanisms that encourage providers to communicate and coordinate care with the PCPCH in a timely manner, using electronic health information technology, where available;

(c) CCOs must engage other primary care provider (PCP) models to be the primary point of care and care management for members, where there is insufficient PCPCH capacity;

(d) CCOs must develop services and supports for primary care that are geographically located as close as possible to the member's residence and are, if available, offered in nontraditional settings that are accessible to families, diverse communities, and underserved populations. CCOs shall ensure that all other services and supports are provided as close to the member's residence as possible.

(4) If a CCO implements other models of patient-centered primary health care in addition to the use of PCPCH, the CCO must demonstrate that the other model of patient-centered primary health care shall assure member access to coordinated care services that provide effective wellness and prevention, coordination of care, active management and support of individuals with special health care needs, a patient and family-centered approach to all aspects of care, and an emphasis on whole-person care in order to address a patient's physical and behavioral health care needs.

(5) If the member is living in a DHS Medicaid funded long-term care (LTC) nursing facility or community based care facility, or other residential facility, the CCO must communicate with the member and the DHS Medicaid funded long-term care provider or facility about integrated and coordinated care services:

(a) The CCO shall establish procedures for coordinating member health services, and how it will work with long-term care providers or facilities to develop partnerships necessary to allow for access to and coordination of CCO services with long-term care services and crisis management services;

(b) CCOs shall coordinate transitions to DHS Medicaid-funded long-term care by communicating with local AAA/APD offices when members are being discharged from an inpatient hospital stay, or transferred between different LTC settings;

(c) CCOs shall develop a Memorandum of Understanding (MOU) or contract with the local type B Area Agency on Aging or the local office of the Department's APD, detailing their system coordination agreements regarding members' receiving Medicaid-funded LTC services.

(6) For members who are discharged to post hospital extended care, at the time of admission to a skilled nursing facility (SNF) the CCO shall notify the appropriate AAA/APD office and begin appropriate discharge planning. The CCO shall pay for the post hospital extended care benefit if the member was a member of the CCO during the hospitalization preceding the nursing facility placement. The CCO shall notify the SNF and the member no later than two working days before discharge from post hospital extended care. For members who are discharged to Medicare Skilled Care, the CCO shall notify the appropriate AAA/APD office when the CCO learns of the admission.

(7) When a member's care is being transferred from one CCO to another or for OHP clients transferring from fee-for-service or PHP to a CCO, the CCO shall make every reasonable effort within the laws governing confidentiality to coordinate, including but not limited to ORS 414.679 transfer of the OHP client into the care of a CCO participating provider.

(8) CCOs shall establish agreements with the Local Mental Health Authorities (LMHAs) and Community Mental Health Programs (CMHPs) operating in the service area, consistent with ORS 414.153, to maintain a comprehensive and coordinated behavioral health delivery system and to ensure member access to mental health services, some of which are not provided under the global budget.

(9) CCOs shall coordinate a member's care even when services or placements are outside the CCO service area. CCO assignment is based on the case member's residence, and referred to as county of origin or jurisdiction. Temporary placements by the Authority, Department or health services placements for services including residential placements may be located out of the service area, however, the CCO shall coordinate care while in placement and discharge planning for return to county of origin or jurisdiction. For out of area placements, an out of area exception must be made for the member to retain the CCO enrollment in the county of origin or jurisdiction, while the member's placement is a temporary residential placement elsewhere. For program placements in Child Welfare, BRS, OYA, and PTRS, refer to OAR 410-141-3050 for program specific rules.

(10) CCOs shall ensure that members receiving services from extended or long-term psychiatric care programs such as secure residential facilities, PASSAGES projects, or state hospital, shall receive follow-up services as medically appropriate to ensure discharge within five working days of receipt of notice of discharge readiness.

(11) CCOs shall coordinate with Community Emergency Service Agencies, including but not limited to police, courts, juvenile justice, corrections, LMHAs and CMHPs, to promote an appropriate response to members experiencing a behavioral health crisis and to prevent inappropriate use of the emergency department or jails.

(12) CCOs shall accept FFS authorized services, medical, and pharmacy prior authorizations, ongoing services where a FFS prior authorization is not required, and services authorized by the Division's Medical Management Review Committee for 90 days, or until the CCO can establish a relationship with the member and develop an evidence based, medically appropriate coordinated care plan, whichever is later, except where customized equipment, services, procedures, or treatment protocol require service continuation for no less than six months.

(13) Except as provided in OAR 410-141-3050, CCOs shall coordinate patient care, including care required by temporary residential placement outside the CCO service area, or out-of-state care in instances where medically necessary specialty care is not available in Oregon:

(a) CCO enrollment shall be maintained in the county of origin with the expectation of the CCO to coordinate care with the out of area placement and local providers;

(b) The CCO shall coordinate the discharge planning when the member returns to the county of origin.

(14) CCOs shall coordinate and authorize care, including instances where the member's medically appropriate care requires services and providers outside the CCO's contracted network, in another area, out-of-state, or a unique provider specialty not otherwise contracted. The CCO shall pay the services and treatment plan as a non-participating provider pursuant to OAR 410-120-1295.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3170

Intensive Care Coordination Services (Exceptional Needs Care Coordination (ENCC))

(1) CCOs are responsible for intensive care coordination services, otherwise known as Exceptional Needs Care Coordination (ENCC). Even

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if the CCO uses another term, these rules set forth the elements and requirements for intensive care coordination services. Where the term ENCC appears in rule or contract, it shall be given the meaning in this rule.

(2) CCOs shall make intensive care coordination services available to members identified as aged, blind, or disabled, who have complex medical needs, high health care needs, multiple chronic conditions, behavioral health issues, and for members with severe and persistent behavioral health issues receiving home and community-based services under the state's 1915(1) State Plan Amendment. The member, member's representative, provider, other medical personnel serving the member, or the member's Authority case manager may request intensive care coordination services.

(3) CCOs shall respond to requests for intensive care coordination services with an initial response made by the next working day following the request.

(4) CCOs shall periodically inform all participating providers of the availability of intensive care coordination services, provide training for patient centered primary care homes and other primary care providers' staff on intensive care coordination services and other support services available for members.

(5) CCOs shall ensure that the case manager's name and telephone number are available to Authority staff and members or member representatives when intensive care coordination services are provided to the member.

(6) CCOs shall make intensive care coordination services available to coordinate the provision of these services to members who exhibit inappropriate, disruptive, or threatening behaviors in a provider's office or clinic or other health care setting.

(7) CCOs shall implement procedures to share the results of its identification and assessment of any member appropriate for intensive care coordination services, with participating providers serving the member so that those activities are not duplicated. Information sharing shall be consistent with ORS 414.679 and applicable privacy requirements.

(8) CCOs must have policies and procedures, including a standing referral process for direct access to specialists, for identifying, assessing and producing a treatment plan for each member identified as having a special health care need. Each treatment plan shall be:

(a) Developed by the member's designated provider with the member's participation;

(b) Include consultation with any specialist caring for the member;

(c) Approved by the CCO in a timely manner if CCO approval is required; and

(d) In accordance with any applicable quality assurance and utilization review standards.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3180

Record Keeping and Use of Health Information Technology

(1) CCOs shall have written policies and procedures that ensure maintenance of a record keeping system that includes maintaining the security of records as required by the Health Insurance Portability and Accountability Act (HIPAA), 42 USC §1320-d et seq., and the federal regulations implementing the Act, and complete clinical records that document the coordinated care services received by the members. CCOs shall communicate these policies and procedures to participating providers, regularly monitor participating providers' compliance and take any corrective action necessary to ensure compliance. CCOs shall document all monitoring and corrective action activities. These policies and procedures shall ensure that records are secured, safeguarded and stored in accordance with applicable Oregon Revised Statutes and Oregon Administrative Rules.

(2) A member must have access to the member's personal health information in the manner provided in 45 C.F.R. 164.524 and ORS 179.505(9) so the member may share the information with others involved in the member's care and make better health care and lifestyle choices. CCO's participating providers may charge the member for reasonable duplication costs, as set forth in OAR 943-014-0030, when the member seeks copies of their records.

(3) Notwithstanding ORS 179.505, a CCO, its provider network and programs administered by the Department's Aging and People with Disabilities shall use and disclose member information for purposes of service and care delivery, coordination, service planning, transitional services and reimbursement, in order to improve the safety and quality of care, lower the cost of care and improve the health and well-being of the members.

(4) A CCO and its provider network shall use and disclose sensitive diagnosis information including HIV and other health and behavioral health diagnoses, within the CCO for the purpose of providing whole-person care. Individually identifiable health information must be treated as confidential and privileged information subject to ORS 192.553 to 192.581 and applicable federal privacy requirements. Redisclosure of individually identifiable information outside of the CCO and the CCO's providers for purposes unrelated to this section or the requirements of ORS 414.625, 414.632, 414.635, 414.638, 414.653 or 414.655 remains subject to any applicable federal or state privacy requirements including the Authority's rules established in OAR 943-014-0000 through 0070 for matters that involve privacy and confidentiality and privacy of members protected information.

(5) The CCO must document its methods and findings to ensure across the organization and the network of providers there is documentation of the following coordinated care services and supports:

(a) Each member has a consistent and stable relationship with a care team that is responsible for comprehensive care management and service delivery;

(b) The supportive and therapeutic needs of the member are addressed in a holistic fashion, using patient centered primary care homes and individualized care plans to the extent feasible;

(c) Members receive comprehensive transitional care, including appropriate follow-up, when entering and leaving an acute care facility, including acute psychiatric facility, state hospital or residential care settings for members with mental illness or a DHS Medicaid funded long-term care setting, including engagement of the member and family in care management and treatment planning;

(d) Members receive assistance in navigating the health care delivery system and in accessing community and social support services and statewide resources, for example, the use of certified or qualified health care interpreters, as defined in ORS 413.550, community health workers and personal health navigators who meet competency standards established in ORS 414.665 or who are certified by the Home Care Commission under ORS 410.604;

(e) Members have access to advocates, for example, qualified peer wellness specialists where appropriate, personal health navigators, and qualified community health workers who are part of the member's care team to provide assistance that is culturally and linguistically appropriate to the member's need to access appropriate services and participate in processes affecting the member's care and services;

(f) Members are encouraged within all aspects of the integrated and coordinated health care delivery system to use wellness and prevention resources and to make healthy lifestyle choices.

(6) CCOs shall facilitate the adoption and use of electronic health records (EHRs) by its provider network. To achieve advanced EHR adoption, CCOs shall:

(a) Identify EHR adoption rates; rates may be divided by provider type and geographic region;

(b) Develop and implement strategies to increase adoption rates of certified EHRs;

(c) Encourage EHR adoption.

(7) CCOs shall facilitate the adoption and use of electronic health information exchange (HIE) in a way that allows all participating providers to exchange a member's health, behavioral health, and dental health information with any other provider in that CCO.

(8) CCOs shall establish minimum requirements for HIE, including rates of e-prescribing and electronic lab orders, over time.

(9) CCOs shall initially identify their current HIT capacity and develop and implement a plan for improvement in the following areas:

(a) Analytics that are regularly and timely used in reporting to its provider network (e.g. to assess provider performance, effectiveness and cost-efficiency of treatment);

(b) Quality and utilization reporting (to facilitate quality improvement within the CCO as well as to report the data on quality of care that will allow the Authority to monitor the CCOs performance);

(c) Patient engagement through HIT (using existing tools such as e-mail); and

(d) Other appropriate uses for HIT (e.g. telehealth, mobile devices).

(10) CCOs shall maintain health information systems that collect, analyze, integrate, and report data and can provide information on areas including but not limited to the following:

(a) Names and phone numbers of the member's primary care provider or clinic, primary dentist and behavioral health provider;

(b) Copies of Client Process Monitoring System (CPMS) enrollment forms;

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- (c) Copies of long-term psychiatric care determination request forms;
- (d) Evidence that the member has been informed of rights and responsibilities;
- (e) Complaint and appeal records;
- (f) Disenrollment requests for cause and the supporting documentation;
- (g) Coordinated care services provided to enrollees, through an encounter data system; and
- (h) Based on written policies and procedures, the record keeping system developed and maintained by CCOs and their participating providers shall include sufficient detail and clarity to permit internal and external review to validate encounter submissions and to assure medically appropriate services are provided consistent with the documented needs of the member. The system shall conform to accepted professional practice and facilitate an adequate system to allow the CCO to ensure that data received from providers is accurate and complete by:

- (A) Verifying the accuracy and timeliness of reported data;
- (B) Screening the data for completeness, logic, and consistency; and
- (C) Collecting service information in standardized formats to the extent feasible and appropriate.

(11) CCOs and their provider network shall cooperate with the Division, AMH, the Department of Justice Medicaid Fraud Unit, and CMS, or other authorized state or federal reviewers, for purposes of audits, inspection and examination of members' clinical records, whether those records are maintained electronically or in physical files. Documentation must be sufficiently complete and accurate to permit evaluation and confirmation that coordinated care services were authorized and provided, referrals made, and outcomes of coordinated care and referrals sufficient to meet professional standards applicable to the health care professional and meet the requirements for health oversight and outcome reporting in these rules.

(12) Across the CCO's provider network, all clinical records shall be retained for seven years after the date of services for which claims are made. If an audit, litigation, research and evaluation, or other action involving the records is started before the end of the seven-year period, the clinical records must be retained until all issues arising out of the action are resolved.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651
Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650
Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3200

Outcome and Quality Measures

(1) CCOs shall report to the Authority its health promotion and disease prevention activities, national accreditation organization results and HEDIS measures as required by DCBS in OAR 836-053-1000. A copy of the reports may be provided to the Authority's Performance Improvement Coordinator concurrent with any submission to DCBS

(2) As required by Health System Transformation, CCOs shall be accountable for performance on outcomes, quality, and efficiency measures incorporated into the CCO's contract with the Authority.

(3) CCOs shall address objective outcomes, quality measures, and benchmarks, for ambulatory care, inpatient care, behavioral health treatment, oral health care (to the extent that dental services are the responsibility of a CCO under an agreement with a DCO) and all other health services provided by or under the responsibility of the CCO, as specified in the CCO's contract with the Authority.

(4) CCOs shall maintain an effective process for monitoring, evaluating, and improving the access, quality and appropriateness of services provided to members consistent with the needs and priorities identified in the CCO's community health assessment, community health improvement plan, and the standards in the CCO's contract. CCOs must have in effect mechanisms to:

- (a) Detect both underutilization and overutilization of services;
- (b) Evaluate performance and customer satisfaction;
- (c) Evaluate grievance, appeals and contested case hearings, consistent with OAR 410-141-3266; and
- (d) Assess the quality and appropriateness of coordinated care services provided to members who are aged, blind or disabled, who have high health care needs, multiple chronic conditions, mental illness or chemical dependency; who received Medicaid funded long term care benefits; or who are children receiving CAF (Child Welfare) or OYA services.

(5) CCOs must implement policies and procedures that assure it will timely collect data including health disparities and other data required by rule or contract that will allow the CCO to conduct and report on its outcome and quality measures and report its performance. CCOs shall submit

to the Authority the CCO's annual written evaluation of outcome and quality measures established for the CCO, or other reports as the Authority may require in response to the measures adopted by the Metrics and Scoring Committee.

(6) CCOs must adopt practice guidelines consistent with 42 CFR 438.236 that address physical health care, behavioral health treatment or dental care concerns identified by members or their representatives and to implement changes which have a favorable impact on health outcomes and member satisfaction in consultation with its community advisory council or clinical review panel.

(7) CCOs shall be accountable for both core and transformational measures of quality and outcomes:

(a) Core measures will be triple-aim oriented measures that gauge CCO performance against key expectations for care coordination, consumer satisfaction, quality and outcomes. The measures will be uniform across CCOs and shall encompass the range of services included in CCO global budgets (e.g. behavioral health, hospital care, women's health);

(b) Transformational metrics shall assess CCO progress toward the broad goals of health systems transformation and require systems transitions and experimentation in effective use. This subset may include newer kinds of indicators (for which CCOs have less measurement experience) or indicators that entail collaboration with other care partners.

(8) CCOs must provide the required data to the All Payer All Claims data system established in ORS 442.464 and 442.466.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651
Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650
Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3220

Accessibility

(1) Consistent with the community health assessment and health improvement plan, CCOs must assure that members have access to high quality care. The CCO shall accomplish this developing a provider network that demonstrates communication, collaboration, and shared decision making with the various providers and care settings. The CCO shall develop and implement the assessment and plan over time that meets access-to-care standards, and allows for appropriate choice for members. The goal shall be that services and supports should be geographically as close as possible to where members reside and, to the extent necessary, offered in nontraditional settings that are accessible to families, diverse communities, and underserved populations.

(2) CCOs shall ensure access to integrated and coordinated care as outlined in OAR 410-141-3160, which includes access to a primary care provider or primary care team that is responsible for coordination of care and transitions.

(3) In developing its access standards, the CCO should anticipate access needs, so that the members receive the right care at the right time and place, using a patient-centered approach. The CCO provider network shall support members, especially those with behavioral health issues, in the most appropriate and independent setting, including in their own home or independent supported living.

(4) CCOs shall have policies and procedures which ensure that for 90% of their members in each service area, routine travel time or distance to the location of the PCPCH or PCP does not exceed the community standard for accessing health care participating providers. The travel time or distance to PCPCHs or PCPs shall not exceed the following, unless otherwise approved by the Authority:

- (a) In urban areas — 30 miles, 30 minutes or the community standard, whichever is greater;
- (b) In rural areas — 60 miles, 60 minutes or the community standard, whichever is greater.

(5) CCOs shall have an access plan that establishes standards for access, outlines how capacity is determined and establishes procedures for monthly monitoring of capacity and access, and for improving access and managing risk in times of reduced participating provider capacity. The access plan shall also identify populations in need of interpreter services and populations in need of accommodation under the Americans with Disabilities Act.

(6) CCOs shall make the services it provides including: primary care, specialists, pharmacy, hospital, vision, ancillary, and behavioral health services, as accessible to members for timeliness, amount, duration, and scope as those services are to other members within the same service area. If the CCO is unable to provide those services locally, it must so demonstrate to the Authority and provide reasonable alternatives for members to access care that must be approved by the Authority. CCOs shall have a

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monitoring system that shall demonstrate to the Authority that the CCO has surveyed and monitored for equal access of members to referral providers of pharmacy, hospital, vision, ancillary, and behavioral health services:

(a) CCOs shall ensure that PCPs screen all eligible members for behavioral health issues to promote prevention, early detection, intervention and referral to treatment, especially at initial contact or physical exam or at initial prenatal examination, when a member shows evidence of behavioral health issues or when a member over utilizes services;

(b) CCOs must use a universal screening process that assesses members for critical risk factors that trigger intensive care coordination for high-needs members.

(7) CCOs shall have policies and procedures and a monitoring system to ensure that members who are aged, blind, or disabled, or who have complex or high health care needs, multiple chronic conditions, behavioral health issues or who are children receiving Department or OYA services have access to primary care, dental care, mental health providers and referral, and involves those members in accessing and managing appropriate preventive, health, remedial and supportive care and services.

(8) CCOs shall have policies and procedures that ensure scheduling and rescheduling of member appointments are appropriate to the reasons for, and urgency of, the visit. The member shall be seen, treated, or referred as within the following timeframes:

(a) Emergency care — Immediately or referred to an emergency department depending on the member's condition;

(b) Urgent care — Within 72 hours or as indicated in initial screening, in accordance with OAR 410-141-0140;

(c) Well care — Within 4 weeks or within the community standard;

(d) Emergency dental care (when dental care is provided by the CCO) — Seen or treated within 24-hours;

(e) Urgent dental care (when dental care is provided by the CCO) — Within one to two weeks or as indicated in the initial screening in accordance with OAR 410-123-1060; and

(f) Routine dental care (when dental care is provided by the CCO) — Seen for routine care within an average of eight weeks and within 12 weeks or the community standard, whichever is less, unless there is a documented special clinical reason which would make access longer than 12 weeks appropriate;

(g) Non-Urgent behavioral health treatment — Seen for an intake assessment within 2 weeks from date of request.

(9) CCOs shall develop policies and procedures for communicating with, and providing care to members who have difficulty communicating due to a medical condition or who are living in a household where there is no adult available to communicate in English or where there is no telephone:

(a) The policies and procedures shall provide certified or qualified interpreter services by phone, in person, in CCO administrative offices, especially those of member services and complaint and grievance representatives and in emergency rooms of contracted hospitals;

(b) CCOs shall ensure the provision of certified or qualified interpreter services for covered coordinated care services including medical, behavioral health or dental care (when the CCO is responsible for dental care) visits, and home health visits, to interpret for members with hearing impairment or in the primary language of non-English speaking members. All interpreters shall be linguistically appropriate and be capable of communicating in English and the members' primary language and able to translate clinical information effectively. Interpreter services shall be sufficient for the provider to understand the member's complaint; to make a diagnosis; respond to member's questions and concerns; and to communicate instructions to the member;

(c) CCOs shall ensure the provision of coordinated care services which are culturally appropriate, i.e., demonstrating both awareness for and sensitivity to cultural differences and similarities and the effect on the members' care;

(d) CCOs shall have written policies and procedures that ensure compliance with requirements of the Americans with Disabilities Act of 1990 in providing access to covered coordinated care services for all members and shall arrange for services to be provided by non-participating referral providers when necessary;

(e) CCOs shall have a plan for ensuring compliance with these requirements and shall monitor for compliance.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3260

Grievance System: Grievances, Appeals and Contested Case Hearings

(1) This rule applies to requirements related to the grievance system, which includes appeals, contested case hearings, and grievances. For purposes of this rule and OAR 410-141-3261 through 410-141-3264, references to member means a member, member's representative and the representative of a deceased member's estate.

(2) The CCO must establish and have an Authority approved process and written procedures, for the following:

(a) Member rights to appeal and request a CCO's review of an action;

(b) Member rights to request a contested case hearing on a CCO action under the Administrative Procedures Act; and

(c) Member rights to file a grievance for any matter other than an appeal or contested case hearing;

(d) An explanation of how CCOs shall accept, process, and respond to appeals, hearing requests, and grievances;

(e) Compliance with grievance system requirements as part of the state quality strategy and to monitor and enforce consumer rights and protections within the Oregon Integrated and Coordinated Health Care Delivery System and ensure consistent response to complaints of violations of consumer right and protections.

(3) Upon receipt of a grievance or appeal, the CCO must:

(a) Acknowledge receipt to the member;

(b) Give the grievance or appeal to staff with the authority to act upon the matter;

(c) Obtain documentation of all relevant facts concerning the issues;

(d) Ensure that staff making decisions on the grievance or appeal are:

(A) Not involved in any previous level of review or decision-making;

and

(B) Health care professionals, as defined in OAR 410-120-0000, with appropriate clinical expertise in treating the member's condition or disease if the grievance or appeal involves clinical issues or if the member requests an expedited review.

(4) The CCO must analyze all grievances, appeals, and hearings in the context of quality improvement activity pursuant to OAR 410-141-3200 and 410-141-3260.

(5) CCOs must keep all information concerning a member's request confidential, consistent with appropriate use or disclosure as the terms treatment, payment, or CCO health care operations, are defined in 45 CFR 164.501.

(6) The following pertains to release of a member's information:

(a) The CCO and any provider whose authorizations, treatments, services, items, quality of care, or requests for payment are involved in the grievance, appeal or hearing may use this information without the member's signed release for purposes of:

(A) Resolving the matter; or

(B) Maintaining the grievance or appeals log.

(b) If the CCO needs to communicate with other individuals or entities, not listed in subsection (a), to respond to the matter, the CCO must obtain the member's signed release and retain the release in the member's record.

(7) The CCO must provide members with any reasonable assistance in completing forms and taking other procedural steps related to filing grievances, appeals, or hearing requests. Reasonable assistance includes, but is not limited to:

(a) Assistance from qualified community health workers, qualified peer wellness specialists or personal health navigators to participate in processes affecting the member's care and services;

(b) Free interpreter services;

(c) Toll-free phone numbers that have adequate TTY/TTD and interpreter capabilities; and

(d) Reasonable accommodation or policy and procedure modifications as required by any disability of the member.

(8) The CCO and its participating providers may not:

(a) Discourage a member from using any aspect of the grievance, appeal, or hearing process;

(b) Encourage the withdrawal of a grievance, appeal, or hearing request already filed; or

(c) Use the filing or resolution of a grievance, appeal, or hearing request as a reason to retaliate against a member or to request member disenrollment.

(9) In all CCO administrative offices and in those physical, behavioral, and oral health offices where the CCO has delegated response to the appeal, hearing request or grievance, the CCO must make the following forms available:

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- (a) Grievance forms;
- (b) Appeal forms;
- (c) Hearing request forms (DHS 443); and
- (d) Notice of hearing rights (DMAP 3030).

(10) A member's provider:

(a) Acting on behalf of and with written consent of the member, may file an appeal;

(b) May not act as the member's authorized representative for requesting a hearing or filing a grievance.

(11) The CCO and its participating providers must cooperate with the Department of Human Services Governor's Advocacy Office, the Authority's Ombudsman and hearing representatives in all activities related to member appeals, hearing requests, and grievances including providing all requested written materials.

(12) If the CCO delegates the grievance and appeal process to a subcontractor, the CCO must:

(a) Ensure the subcontractor meets the requirements consistent with this rule and OAR 410-141-3261 through 410-141-3264;

(b) Monitor the subcontractor's performance on an ongoing basis;

(c) Perform a formal compliance review at least once a year to assess performance, deficiencies, or areas for improvement; and

(d) Ensure the subcontractor takes corrective action for any identified areas of deficiencies that need improvement.

(13) CCO's must maintain yearly logs of all appeals and grievances for seven calendar years with the following requirements:

(a) The logs must contain the following information pertaining to each member's appeal or grievance:

(A) The member's name, ID number, and date the member filed the grievance or appeal;

(B) Documentation of the CCO's review, resolution, or disposition of the matter, including the reason for the decision and the date of the resolution or disposition;

(C) Notations of oral and written communications with the member; and

(D) Notations about appeals and grievances the member decides to resolve in another way if the CCO is aware of this.

(b) For each calendar year, the logs must contain the following aggregate information:

(A) The number of actions; and

(B) A categorization of the reasons for and resolutions or dispositions of appeals and grievances.

(14) The CCO must review the log monthly for completeness and accuracy, which includes but is not limited to timeliness of documentation and compliance with procedures.

(15) A member or a member's provider may request an expedited resolution of an appeal or a contested case hearing if the member or provider believes taking the standard time of resolution could seriously jeopardize the member's:

(a) Life, health, mental health or dental health; or

(b) Ability to attain, maintain or regain maximum function.

(16) A member who may be entitled to continuing benefits may request and receive continuing benefits in the same manner and same amount while an appeal or contested case hearing is pending.

(a) To be entitled to continuing benefits, the member must complete a hearing request or request for appeal, requesting continuing benefits, no later than:

(A) The tenth day following the date of the notice or the notice of appeal resolution; and

(B) The effective date of the action proposed in the notice, if applicable.

(b) In determining timeliness under section (3)(a) of this rule, delay caused by circumstances beyond the control of the member is not counted.

(c) The benefits must be continued until:

(A) A final appeal resolution resolves the appeal, unless the member requests a hearing with continuing benefits, no later than ten days following the date of the notice of appeal resolution;

(B) A final order resolves the contested case;

(C) The time period or service limits of a previously authorized service have been met; or

(D) The member withdraws the request for hearing.

(17) The CCO shall review and report to the Authority complaints that raise issues related to racial or ethnic background, gender, religion, sexual orientation, socioeconomic status, culturally or linguistically appropriate service requests, disability status and other identity factors for consideration in improving services for health equity.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650
Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3261

CCO Grievance Process Requirements

(1) A member may file a grievance:

(a) Orally or in writing; and

(b) With the Authority or the CCO. The Authority shall promptly send the grievance to the CCO.

(2) The CCO must resolve each grievance and provide notice of the disposition as expeditiously as the member's health condition requires but no later than the following timeframes:

(a) Within 5 working days from the date of receipt of the grievance; or

(b) If the CCO needs additional time to resolve the grievance, the CCO shall respond within 30 calendar days from the date of receipt of the grievance. If additional time is needed the CCO shall notify the member, within 5 working days, of the reasons additional time is necessary.

(3) When informing members of the CCO's decision the CCO:

(a) May provide its decision about oral grievances either orally or writing;

(b) Must address each aspect of the grievance and explain the reason for the decision; and

(c) Must respond in writing to written grievances. In addition to written responses, the CCO may also respond orally.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3262

Requirements for an Appeal to a CCO

(1) Members may appeal a CCO's notice of action. The following pertains to requests for appeal:

(a) The member must request the appeal within 45 days from the date on the notice of action;

(b) The member may make the request:

(A) Orally; or

(i) If a member makes an oral appeal request the CCO shall send the member an appeal request form and provide assistance in completing and filing the forms, if necessary.

(ii) Oral requests must be followed up with a written, signed and dated request unless the request is for an expedited appeal.

(iii) If the member makes an oral request for an expedited appeal the CCO must record the date of the oral appeal to establish the earliest possible date of request.

(B) In writing.

(2) The CCO must:

(a) Inform the member of the right to present evidence and review the documents;

(b) Provide the member a reasonable opportunity to present evidence of fact or law in person and in writing; and

(c) Provide the member with an opportunity before and during the appeal process to examine the member's file, including medical records and any other documents or records to be considered during the appeals process.

(3) Parties to the appeal include the CCO, the member's provider, and the member.

(4) The CCO must resolve each appeal and provide the member a notice of appeal resolution as expeditiously as the member's health condition requires but within the following timeframes:

(a) For standard resolution, no later than 16 calendar days from the date the CCO receives the appeal; and

(b) For expedited resolution, no later than three working days from the date the CCO receives the request for expedited appeal.

(5) For expedited resolutions, the CCO must:

(a) Inform the member of the limited time available;

(b) Make reasonable efforts to call and inform the member of the three working day timeframe for an expedited resolution; and

(c) Mail written confirmation of the resolution to the member within three working days.

(6) The Authority may extend the standard resolution timeframe and additional 14 calendar days if:

(a) The member requests the extension; or

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(b) The CCO shows, to the Authority's satisfaction, that necessary information is unattainable for a 16 day resolution, and the delay is in the member's interest.

(7) The CCO may request an extension. If the Authority approves the request, the CCO must give the member written notice of and the reason for the extension.

(8) The CCO must provide written notice of appeal resolution to the member and the member's representative when the CCO knows there is a representative for the member. The notice must contain the same elements set forth in OAR 410-141-3263(Notice of Action).

(9) If the member has not requested a hearing prior to the appeal resolution, the member may request a hearing no later than 45 calendar days from the date on the notice of appeal resolution.

(10) If the Authority receives a request for hearing following a CCO appeal resolution, the CCO must provide the following to the Authority within two working days from the date of the appeal resolution:

- (a) A copy of the notice of appeal resolution; and
- (b) A copy of all documents related to the action and to the appeal resolution.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651
Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650
Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3263 Notice of Action

(1) A CCO must provide a member with a notice of action when the CCO's decision about a health service constitutes an action. The notice of action must:

(a) Be written in language sufficiently clear that a layperson could understand the notice and make an informed decision about appealing the action and requesting a hearing;

- (b) Comply with the Authority's formatting and readability standards;
- (c) The notice must include but is not limited to the following:

- (A) Date of the notice;
- (B) CCO's name and telephone number;
- (C) Name of the member's PCP, PCD, or behavioral health professional, as applicable;

(D) Member's name and member ID number;

(E) Service requested and whether the CCO is denying, terminating, suspending or reducing a service or payment;

- (F) Date of the service or date the member requested the service;
- (G) Name of the provider who performed or requested the service;
- (H) Effective date of the action if different from the date of the notice;
- (I) Whether the CCO considered other conditions as co-morbidity factors if the service was below the funding line on the OHP Prioritized List of Health Services;

(J) Clearly and thoroughly explain reasons for the action and a reference to the specific sections of the statutes and rules pertaining to each reason;

(K) Member's right to file an appeal with the CCO or request a contested case hearing;

(L) An explanation of circumstances under which the member may request expedited resolution of an appeal; and

(M) A statement that the member has the right to request to receive the services that are being denied pending resolution of the appeal and that the member may be responsible for the cost of those services if the outcome of the appeal upholds the CCO's action.

(2) The CCO must attach the following forms to a notice:

- (a) Hearing request form (DHS 443); and
- (b) Notice of hearing rights form (DMAP 3030).

(3) For actions affecting previously authorized services, the CCO must mail the notice at least 10 calendar days before the date of action with the exception of circumstances described in section (4) of this rule.

(4) The CCO may mail the notice no later than the date of action if:

- (a) The CCO or provider has information confirming the death of the member;
- (b) The member sends the CCO a signed statement stating the member no longer wants the service;
- (c) The CCO can verify that the member is in an institution where the member is no longer eligible for OHP services;
- (d) The CCO is unaware of the member's whereabouts; the post office returns the mail indicating no forwarding address; and the Authority or Department of Human Services has no other address;
- (e) The CCO verifies another state, territory, or commonwealth has accepted the member for Medicaid services;

(f) The member's PCP, PCD, or behavioral health professional has prescribed a change in the level of health services; or

(g) The date of action shall occur in less than 10 calendar days when the CCO:

- (A) Has facts indicating probably fraud by the member, and the CCO has certified those facts, if possible, through a secondary resource; or
- (B) Denies payment for a claim.

(5) For actions affecting services not previously authorized, the CCO must send the notice as expeditiously as the member's health condition requires but no later than 14 calendar days following the date of receipt of the request for service.

(6) For actions affecting services not previously authorized and for which the CCO grants expedited review, the CCO must send the notice as expeditiously as the member's health condition requires but no later than three business days after receipt of the request for service.

(7) The following applies to an extension of the timeframes outlined in sections (5) and (6) of this rule:

- (a) The Authority may grant an additional 14 calendar days if:
 - (A) The member or the member's provider requests an extension; or
 - (B) The CCO requests an extension, because the CCO needs additional information and the extension is in the best interest of the member.

(b) If the Authority grants the extension, the CCO must:

- (A) Give the member written notice of the reason for the decision to extend the timeframe;
- (B) Inform the member of the right to file a grievance if they disagree with that decision.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651
Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650
Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3264 Contested Case Hearings

(1) A CCO must have a system in place to ensure its members and providers have access to appeal a CCO's action by requesting a contested case hearing. Contested case hearings are conducted pursuant to ORS 183.411 to 183.497 and the Attorney General's Uniform and Model Rules of Procedure for the Office of Administrative Hearings, OAR 137-003-0501 to 137-003-0700.

(2) The member may request a hearing without first filing an appeal with their CCO. The member must file a hearing request with the Authority no later than 45 days from the date of the CCO's notice of action or notice of appeal resolution. If the member files the hearing request with the Department of Human Services or the CCO no later than 45 days from the date of the notice, the Authority shall consider the request timely.

(3) In the event a request for hearing is not timely, the Authority shall determine whether the failure to timely file the hearing request was caused by circumstances beyond the member's control and enter an order accordingly. The member must submit a written statement explaining why the hearing request was late. The Authority may conduct further inquiry as the Authority deems appropriate. The Authority may refer an untimely request to the Office of Administrative Hearings (OAH) for a hearing on the question of timeliness;

(4) The CCO must conduct an appeal if the member requests an appeal without filing a request for hearing. If the member requests a hearing, without first requesting an appeal, the Authority may require the CCO to conduct an appeal prior to referring the matter to OAH.

(5) Effective February 1, 2012, the method described in OAR 137-003-0520(8)-(10) is used in computing any period of time prescribed in the division of rules in OAR 410 division 120 and 141 applicable to timely filing of requests for hearing. Due to operational conflicts, the procedures needing revision and the expense of doing so, OAR 137-003-0520(9) and 137-003-0528(1)(a), which allows hearing requests to be treated as timely based on the date of postmark, does not apply to CCO hearing requests.

(6) If the member files a request for hearing with the Authority, the Authority shall provide a copy of the hearing request to the member's CCO. The CCO shall:

- (a) Review the request immediately as an appeal of the CCO's action;
- (b) Approve or deny the appeal within 16 calendar days, and provide the member with a notice of appeal resolution.

(7) If a member sends the hearing request to their CCO, the CCO must:

- (a) Date-stamp the hearing request with the date of receipt; and
- (b) Submit the following to the Authority within two business days:
 - (A) A copy of the hearing request, notice of action, and notice of appeal resolution, if applicable;

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(B) All documents and records the CCO relied upon to take its action, including those used as the basis for the initial action or the notice of appeal resolution, if applicable, and all other relevant documents and records the Authority requests.

(8) A member's provider may request a hearing about an action affecting the provider. However, the provider must resolve an appeal with the CCO before requesting a hearing.

(a) The CCO must approve or deny the appeal within 16 calendar days, and provide the provider with a notice of appeal resolution.

(b) The provider must file a hearing request with the Authority no later than 45 days from the date of the CCO's notice of appeal resolution.

(9) The parties to a contested case hearing include the:

(a) CCO and the member requesting a hearing; or

(b) CCO and the member's provider if the provider requests a hearing.

(10) The Authority shall refer the hearing request along with the notice of action or notice of appeal resolution to OAH for hearing.

(11) The Authority must issue a final order or the Authority must resolve the case ordinarily within 90 calendar days from the earlier of the date:

(a) The CCO receives the member's request for appeal. This does not include the number of days the member took to subsequently file a hearing request; or

(b) The Authority receives the request for hearing.

(12) If a member requests an expedited hearing, the Authority shall request documentation from the CCO, and the CCO shall submit relevant documentation, including clinical documentation, to the Authority within two working days.

(13) The Authority must determine whether the member is entitled to an expedited hearing within two working days from the date of receipt of the medical documentation. If the Authority denies a request for an expedited hearing, the Authority must make reasonable efforts to:

(a) Call the member; and

(b) Send written notice within two calendar days.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3268

Process for Resolving Disputes on Formation of CCO

(1) The dispute resolution process described in this rule applies only when, under ORS 414.635:

(a) An entity is applying to the Authority for certification as a CCO (applicant);

(b) A health care entity (HCE) and the applicant (together, the "parties" for purposes of this rule) have failed to agree upon terms for a contract; and

(c) One or more of the following occurs:

(A) The applicant states that the HCE is necessary for the applicant to qualify as a CCO;

(B) An HCE states that its inclusion is necessary for the applicant to be certified as CCO; or

(C) In reviewing the applicant's information, the Authority identifies the HCE as necessary for the applicant to qualify as a CCO.

(2) If an applicant and HCE disagree about whether the HCE is necessary for the applicant's certification as a CCO, the applicant or HCE may request the Authority to review the issue.

(3) If the Authority determines the HCE is not necessary for the applicant's certification, the process described in this rule does not apply.

(4) If the Authority determines or the parties agree the HCE is necessary for the applicant's certification, the following applies:

(a) The HCE and the applicant shall participate in good faith contract negotiations. The parties must take the following actions in an attempt to reach a good faith resolution:

(A) The applicant must provide a written offer of terms and conditions to the HCE. The HCE must explain the area of disagreement to the applicant;

(B) The applicant's or HCE's chief financial officer, chief executive officer, or an individual authorized to make decisions on behalf of the HCE or applicant must have at least one face-to-face meeting in a good faith effort to resolve the disagreement.

(b) The applicant or HCE may request the Authority to provide technical assistance. The Authority also may offer technical assistance, with or without a request. The Authority's technical assistance is limited to clarifying the CCO certification process, criteria, and other program requirements.

(5) If the applicant and HCE cannot reach agreement on contract terms within 10 calendar days of the face-to-face meeting, either party may request arbitration. The requesting party must notify the other party in writing to initiate referral to an independent third party arbitrator. The party initiating the referral must provide a copy of the notification to the Authority.

(6) After notification that one party initiated arbitration, the parties shall attempt to agree upon the selection of the arbitrator and complete the paperwork required to secure the arbitrator's services. If the parties are unable to agree, each party shall appoint an arbitrator, and these arbitrators shall select the final arbitrator.

(7) The parties shall pay for all arbitration costs. In consideration of potentially varied financial resources between the parties, which may pose a barrier to the use of this process, the parties may ask the arbitrator to allocate costs between the parties based on ability to pay.

(8) Within 10 calendar days of a referral to an arbitrator, the applicant and HCE must submit to each other and to the arbitrator:

(a) Their most reasonable contract offer; or

(b) The HCE's statement that a contract is not desirable and an explanation of why this is reasonable.

(9) Within ten calendar days of receiving the other party's offer or the HCE's statement that a contract is not desirable, each party must submit to the arbitrator and the other party their advocacy briefs regarding whether the HCE is reasonably or unreasonably refusing to contract with the applicant.

(10) The arbitrator shall apply the following standards when making a determination about whether a HCE reasonably or unreasonably refused to contract with the applicant:

(a) An HCE may reasonably refuse to contract when an applicant's reimbursement to an HCE for a health service is below the reasonable cost to provide the service. The arbitrator shall apply federal or state statutes or regulations that establish specific reimbursements, such as payments to federally qualified health centers, rural health centers and tribal health centers; and

(b) An HCE may reasonably refuse to contract if that refusal is justified in fact or by circumstances, taking into consideration the HST legislative policies. Facts or circumstances outlining what is a reasonable or unreasonable refusal to contract include, but are not limited to:

(A) Whether contracting with the applicant would impose demands that the HCE, taking into consideration the legislative policies described in the HST laws, cannot reasonably meet without significant negative impact on HCE costs, obligations or structure, in the context of the proposed reimbursement arrangement or other CCO requirements, including, but not limited to, the use of electronic health records, service delivery requirements or quality or performance requirements;

(B) Whether the HCE's refusal affects access to covered services in the applicant's community. This factor alone cannot result in a finding that the refusal to contract is unreasonable; however, the HCE and applicant should make a good faith effort to work out differences in order to achieve beneficial community objectives and HST policy objectives;

(C) Whether the HCE has entered into a binding obligation to participate in the network of a different CCO or applicant, and that participation significantly reduces the HCE's capacity to contract with the applicant.

(11) The following outlines the arbitrator determination and the parties' final opportunity to settle:

(a) The arbitrator must evaluate the final offers or statement of refusal to contract and the advocacy briefs from each party and issue a determination within 15 calendar days of the receipt of the parties' information;

(b) The arbitrator shall provide the determination to the parties. The arbitrator and the parties may not disclose the determination to the Authority for 10 calendar days to allow the parties an opportunity to resolve the issue themselves. If the parties resolve the issue no later than the end of the 10th day, the arbitrator may not release the determination to the Authority;

(c) If the parties have not reached an agreement after 10 calendar days, the arbitrator must provide its decision to the Authority. After submission to the Authority, the arbitrator's determination becomes a public record, subject to protection of trade secret information if identified by one of the parties prior to the arbitrator's submission of the determination.

(12) If the parties cannot agree, the Authority shall evaluate the arbitrator's determination and may take the following actions:

(a) The Authority may certify an applicant if the arbitrator determined the applicant made a reasonable attempt to contract with the HCE or the HCE's refusal to contract was unreasonable;

(b) The Authority may refuse to certify, recertify or continue to certify an applicant when the arbitrator determined the applicant did not rea-

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sonably attempt to contract with the HCE or the HCE's refusal to contract was reasonable, and the Authority determines that participation from that the HCE remains necessary for certification of applicant as a CCO;

(c) The Authority may not pay fee-for-service reimbursements to an HCE if the arbitrator determined the HCE unreasonably refused to contract with the applicant; this applies to health services available through a CCO;

(d) In any circumstance within the scope of this rule when the parties have failed to agree, the current statutes regarding reimbursement to non-participating providers shall apply to certified CCOs and the HCE, consistent with ORS 414.743 for hospitals, and consistent with Authority rules for other providers.

(13) To be qualified to resolve disputes under this rule, the arbitrator must:

- (a) Be a knowledgeable and experienced arbitrator;
- (b) Be familiar with health care provider contracting matters;
- (c) Be familiar with HST; and
- (d) Follow the terms and conditions specified in this rule for the arbitration process.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651
Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650
Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3270

Marketing Requirements

(1) CCOs may not conduct, directly or indirectly, door-to-door, telephonic, electronic, mail or other cold call marketing practices to seek or influence the Medicaid client to enroll in that CCO.

(2) CCOs may engage in activities to existing members for outreach, health promotion and health education.

(3) The Authority must approve, prior to distribution, any written communication by the CCO or its subcontractors and providers that:

- (a) Is intended solely for members; and
- (b) Pertains to provider requirements for obtaining coordinated care services, care at service sites or benefits.

(4) CCOs may communicate with providers, caseworkers, community agencies and other interested parties for informational purposes. The intent of these communications should be informational only and not to entice or solicit membership. Communication methodologies may include, but are not limited to brochures, pamphlets, newsletters, posters, fliers, Web sites, health fairs or sponsorship of health-related events.

(5) The creation of name recognition, because of the CCO's health promotion or education activities, shall not constitute an attempt by the CCO to influence a client's enrollment.

(6) CCOs shall cooperate with the Authority in developing a comprehensive explanation of the services available from the CCO for the Division communications.

(7) Subcontractors may post a sign listing all OHP CCOs to which the provider belongs and display CCO-sponsored health promotional materials.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651
Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650
Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3280

Potential Member Information Requirements

(1) CCOs shall develop informational materials for potential members:

(a) CCOs shall provide the Authority with informational materials sufficient for the potential member to make an informed decision about provider selection. Upon request, the CCO must make available to potential members information on participating providers. The information must include participating providers' name, location, languages spoken other than English, qualification and the availability of the PCPs, clinic and specialists, prescription drug formularies used and whether they are currently accepting members. A CCO or the Authority may include informational materials in the application packet for potential members;

(b) CCOs shall ensure that all CCO staff who have contact with potential members are fully informed of the CCO's and the Authority's rules applicable to enrollment, disenrollment, complaint and grievance policies and interpreter services, including which participating providers' offices have bilingual capacity;

(c) Information for potential members must comply with marketing prohibitions in 42 CFR 438.104 and OAR 410-141-3270.

(2) Informational materials that CCOs develop for potential members in its service area shall meet the language requirements of, and be cultural-

ly sensitive to, people with disabilities or reading limitations, including substantial populations whose primary language is not English:

(a) CCOs shall follow the Authority's household criteria required by ORS 411.970, which determines and identifies those populations considered to be non-English speaking households. The CCO shall provide informational materials, which at a minimum, shall include the member handbook in the primary language of each substantial population. Alternate formats shall be provided and may include but are not limited to audio tapes, close-captioned videos, large type, and Braille;

(b) CCOs shall write all written informational materials for potential members at the sixth grade reading level, using plain language standards, and printed in 12 point font or larger.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651
Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650
Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3300

Member Education Requirements

(1) CCOs shall have a mechanism to help members and potential members understand the requirements and benefits of the CCO's integrated and coordinated care plan.

(2) CCOs shall have written procedures, criteria and an ongoing process of member education and information sharing that includes member orientation, member handbook and health education. As a CCO transitions to fully coordinating a member's care, the CCO is responsible only for including information about the care they are coordinating. CCOs shall update their educational material as they add coordinated services. Member education must:

(a) Include information about the coordinated care approach, and how to navigate the coordinated health care system;

(b) Clearly explain how members may receive assistance from advocates, including certified health care interpreters, community health workers, peer wellness specialists, and personal health navigators.

(3) Within 14 calendar days of a CCO's receiving notice of a member's enrollment, CCOs shall mail an educational packet to new members and to members returning to the CCO nine months or more after previous enrollment. The packet shall include, at a minimum, a member handbook, provider directory and welcome letter.

(4) For members who are ongoing enrollees, a CCO shall offer the member handbook and provider directory annually and send on request. The CCO shall offer these in print and online if available.

(5) A CCO shall electronically provide to the Authority for approval each version of the printed member handbook and provider directory. At a minimum, the member handbook shall contain the following:

- (a) Revision date;
- (b) Tag lines in English and other languages spoken by substantial populations of members. Substantial means 35 or more households that speak the same language and in which no adult speaks English. The tag lines must describe how members may access interpreter services, including sign interpreters, translations, and materials in other formats;

(c) CCO's office location, mailing address, Web address, if applicable, office hours and telephone numbers including TTY;

(d) Availability and access to coordinated care services through a patient centered primary care home or other primary care team, with the member as a partner in care management, how to choose a PCP, how to make an appointment and the CCO's policy on changing PCPs;

(e) How to access information on contracted providers currently accepting new members, and any restrictions on the member's freedom of choice among participating providers;

(f) What services the member may self-refer to either participating or non-participating providers;

(g) Policies on referrals for specialty care, including pre-authorization requirements and how to request a referral;

(h) Explanation of intensive care coordination services (formerly known as Exceptional Needs Care Coordination (ENCC)) and how members with special health care needs, who are aged, blind or disabled, or who have complex medical needs, high health needs, multiple chronic conditions, mental illness or chemical dependency can access intensive care coordination services;

(i) How and where members are to access urgent care services and advice, including how to access these services and advice when away from home;

(j) How and when members are to use emergency services, both locally and when away from home, including examples of emergencies;

(k) Information on contracted hospitals in the member's service area;

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(l) Information on post-stabilization care after a member is stabilized in order to maintain, improve or resolve the member's condition;

(m) Information on the CCO's grievance and appeals processes, and the Authority's contested case hearing procedures, including:

(A) Information about assistance in filling out forms and completing the grievance process available from the CCO to the member, as outlined in 410-141-3260;

(B) Information about the member's right to continued benefits during the grievance process as provided in OAR 410-141-3263.

(n) Information on the member's rights and responsibilities, including the availability of the OHP Ombudsman;

(o) Information on copayments, charges for non-covered services, and the member's possible responsibility for charges if they go outside of the CCO for non-emergent care;

(p) Information about when providers may bill clients for services, and what to do if they receive a bill;

(q) The transitional procedures for new members to obtain prescriptions, supplies and other necessary items and services in the first month of enrollment if they are unable to meet with a PCP or PCD, other prescribing provider, or obtain new orders during that period;

(r) Information on advance directive policies including:

(A) Member rights under federal and Oregon law to make decisions concerning their medical care, including the right to accept or refuse medical or surgical treatment, and the right to formulate advance directives;

(B) The CCO's policies for implementation of those rights, including a statement of any limitation regarding the implementation of advanced directives as a matter of conscience.

(s) Whether or not the CCO uses provider incentives to reduce cost by limiting services;

(t) The member's right to request and obtain copies of their clinical records (and whether they may be charged a reasonable copying fee) and to request that the record be amended or corrected;

(u) How and when members are to obtain ambulance services;

(v) Resources for help with transportation to appointments with providers;

(w) Explanation of the covered and non-covered coordinated care services in sufficient detail to ensure that members understand the benefits to which they are entitled;

(x) How members are to obtain prescriptions including information on the process for obtaining non-formulary and over-the-counter drugs;

(y) The CCO's confidentiality policy;

(z) How and where members are to access any benefits that are available under OHP but are not covered under the CCO's contract, including any cost sharing;

(aa) When and how members can voluntarily and involuntarily disenroll from CCOs and change CCOs;

(bb) The CCO shall compile a printed provider directory and may offer the directory online, if available, for distribution to members, which may be part of their member handbook or separate, and shall include currently contracted provider names and specialty, non-English languages spoken, office location, telephone numbers including TTY, office hours, and accessibility for members with disabilities;

(cc) CCOs shall, at a minimum, annually review their member handbook for accuracy and update it with new and corrected information to reflect OHP program changes and the CCO's internal changes. If changes affect the member's ability to use services or benefits, the CCO shall offer the updated member handbook to all members;

(dd) The "Oregon Health Plan Client Handbook" is in addition to the CCO's member handbook and a CCO may not use it to substitute for any component of the CCO's member handbook.

(6) Member health education shall include:

(a) Information on specific health care procedures, instruction in self-management of health care, promotion and maintenance of optimal health care status, patient self-care, and disease and accident prevention. A CCO's providers or other individuals or programs approved by the CCO may provide health education. CCOs shall endeavor to provide health education in a culturally sensitive manner in order to communicate most effectively with individuals from non-dominant cultures;

(b) CCOs shall ensure development and maintenance of an individualized health educational plan for members whom their provider has identified as requiring specific educational intervention. The Authority may assist in developing materials that address specifically identified health education problems to the population in need;

(c) Explanation of intensive care coordination services, formerly known as ENCC and how to access intensive care coordination, through

outreach to members with special health care needs, who are aged, blind or disabled, or who have complex medical needs or high health care needs, multiple chronic conditions, mental illness or chemical dependency;

(d) The appropriate use of the delivery system, including proactive and effective education of members on how to access emergency services and urgent care services appropriately;

(e) CCOs shall provide written notice to affected members of any significant changes in program or service sites that affect the members' ability to access care or services from CCO's participating providers. The CCO shall provide the notice at least 30 calendar days before the effective date of that change, or as soon as possible if the participating provider has not given the CCO sufficient notification to meet the 30 day notice requirement. The Authority shall review and approve the materials within two working days.

(7) Informational materials that CCOs develop for members shall meet the language requirements of, and be culturally sensitive to, members with disabilities or reading limitations, including substantial populations whose primary language is not English:

(a) CCOs shall translate materials for substantial populations of non-English speaking members in the CCO's caseload. The CCO shall provide informational materials which shall include but not be limited to the member handbook in the primary language of each substantial population. Alternative forms may include, but are not limited to audio recordings, close-captioned videos, large type and Braille;

(b) Form correspondence sent to members, including but not limited to, enrollment information, choice and member counseling letters and notices of action to deny, reduce or stop a benefit shall include instructions in the language of each substantial population of non-English speaking members on how to receive an oral or written translation of the material.

(8) CCOs shall provide an identification card to members, unless waived by the Authority, which contains simple, readable and usable information on how to access care in an urgent or emergency situation. The cards are solely for the convenience of the CCO, members, and providers.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3320

Coordinated Care Organization Member Rights and Responsibilities

(1) CCO members shall have the following rights and are entitled to:

(a) Be treated with dignity and respect;

(b) Be treated by participating providers the same as other people seeking health care benefits to which they are entitled, and to be encouraged to work with the member's care team, including providers and community resources appropriate to the member's needs;

(c) Choose a Primary Care Provider (PCP) or service site, and to change those choices as permitted in the CCO's administrative policies;

(d) Refer oneself directly to behavioral health or family planning services without getting a referral from a PCP or other participating provider;

(e) Have a friend, family member, or advocate present during appointments and other times as needed within clinical guidelines;

(f) Be actively involved in the development of their treatment plan;

(g) Be given information about their condition and covered and non-covered services to allow an informed decision about proposed treatments;

(h) Consent to treatment or refuse services, and be told the consequences of that decision, except for court ordered services;

(i) Receive written materials describing rights, responsibilities, benefits available, how to access services, and what to do in an emergency;

(j) Have written materials explained in a manner that is understandable to the member and be educated about the coordinated care approach being used in the community and how to navigate the coordinated health care system;

(k) Receive culturally and linguistically appropriate services and supports, in locations as geographically close to where members reside or seek services as possible, and choice of providers within the delivery system network that are, if available, offered in non-traditional settings that are accessible to families, diverse communities, and underserved populations.

(l) Receive oversight, care coordination and transition and planning management from their CCO within the targeted population of AMH to ensure culturally and linguistically appropriate community-based care is provided in a way that serves them in as natural and integrated an environment as possible and that minimizes the use of institutional care.

(m) Receive necessary and reasonable services to diagnose the presenting condition;

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(n) Receive integrated person centered care and services designed to provide choice, independence and dignity and that meet generally accepted standards of practice and are medically appropriate;

(o) Have a consistent and stable relationship with a care team that is responsible for comprehensive care management;

(p) Receive assistance in navigating the health care delivery system and in accessing community and social support services and statewide resources including but not limited to the use of certified or qualified health care interpreters, and advocates, community health workers, peer wellness specialists and personal health navigators who are part of the member's care team to provide cultural and linguistic assistance appropriate to the member's need to access appropriate services and participate in processes affecting the member's care and services;

(q) Obtain covered preventive services;

(r) Have access to urgent and emergency services 24 hours a day, 7 days a week without prior authorization;

(s) Receive a referral to specialty providers for medically appropriate covered coordinated care services, in the manner provided in the CCO's referral policy;

(t) Have a clinical record maintained which documents conditions, services received, and referrals made;

(u) Have access to one's own clinical record, unless restricted by statute;

(v) Transfer of a copy of the clinical record to another provider;

(w) Execute a statement of wishes for treatment, including the right to accept or refuse medical, surgical, or behavioral health treatment and the right to execute directives and powers of attorney for health care established under ORS 127;

(x) Receive written notices before a denial of, or change in, a benefit or service level is made, unless a notice is not required by federal or state regulations;

(y) Be able to make a complaint or appeal with the CCO and receive a response;

(z) Request a contested case hearing;

(aa) Receive certified or qualified health care interpreter services; and

(bb) Receive a notice of an appointment cancellation in a timely manner.

(2) CCO members shall have the following responsibilities:

(a) Choose, or help with assignment to, a PCP or service site;

(b) Treat the CCO, provider, and clinic staff members with respect;

(c) Be on time for appointments made with providers and to call in advance to cancel if unable to keep the appointment or if he/she expects to be late;

(d) Seek periodic health exams and preventive services from his/her PCP or clinic;

(e) Use his/her PCP or clinic for diagnostic and other care except in an emergency;

(f) Obtain a referral to a specialist from the PCP or clinic before seeking care from a specialist unless self-referral to the specialist is allowed;

(g) Use urgent and emergency services appropriately, and notify the member's PCP or clinic within 72 hours of using emergency services, in the manner provided in the CCO's referral policy;

(h) Give accurate information for inclusion in the clinical record;

(i) Help the provider or clinic obtain clinical records from other providers which may include signing an authorization for release of information;

(j) Ask questions about conditions, treatments, and other issues related to his/her care that is not understood;

(k) Use information provided by CCO providers or care teams to make informed decisions about treatment before it is given;

(l) Help in the creation of a treatment plan with the provider;

(m) Follow prescribed agreed upon treatment plans and actively engage in their health care;

(n) Tell the provider that his/her health care is covered under the OHP before services are received and, if requested, to show the provider the Division Medical Care Identification form;

(o) Tell the Department or Authority worker of a change of address or phone number;

(p) Tell the Department or Authority worker if the member becomes pregnant and to notify the worker of the birth of the member's child;

(q) Tell the Department or Authority worker if any family members move in or out of the household;

(r) Tell the Department or Authority worker if there is any other insurance available;

(s) Pay for non-covered services under the provisions described in OAR 410-120-1200 and 410-120-1280;

(t) Pay the monthly OHP premium on time if so required;

(u) Assist the CCO in pursuing any third party resources available and reimburse the CCO the amount of benefits it paid for an injury from any recovery received from that injury; and

(v) Bring issues, or complaints or grievances to the attention of the CCO.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3340

Procedure for General Financial Reporting and for Determining Financial Solvency Matters

(1) The Authority shall determine financial solvency of a CCO in accordance with OAR 410-141-3345 through 410-141-3395, the request for applications and the CCO contract. In implementing OAR 410-141-3345 to 410-141-3395, the Authority may enter into a cooperative agreement with another state agency to carry out these provisions. For purposes of obtaining necessary information to determine financial solvency, any reference to OHA in these rules shall include DCBS when DCBS is working cooperatively with OHA to implement these provisions. However, only OHA may take enforcement action or other regulatory sanctions related to the implementation of OAR 410-141-3345 to 410-141-3395 and the CCO contract.

(2) OAR 410-141-3345 to 410-141-3395 are developed in consultation with DCBS in accordance with Section 13, chapter 602, Oregon Laws 2011 (Enrolled House Bill 3650) and Section 1, chapter 8, Oregon Laws 2012 (Enrolled Senate Bill 1580).

(3) Where these rules specify that the OHA may request or receive information or provide a response or take any action, DCBS may act on behalf of OHA. A response to DCBS under these rules shall be considered a response to the OHA on the matter, consistent with the objective of providing a single point of reporting by CCOs.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3345

General Financial Reporting and Financial Solvency Matters; CCO Reporting Method

(1) Each CCO must demonstrate that it is able to provide coordinated care services efficiently, effectively and economically. CCOs shall maintain sound financial management procedures, maintain protections against insolvency and generate periodic financial reports as provided in these rules.

(2) The Authority shall collaborate with DCBS to review CCO financial reports and evaluate financial solvency. Except as provided in this section, CCOs are not required to file financial reports with both OHA and DCBS:

(a) Initial applicants for certification as a CCO will submit all required information to OHA as part of the application process, and OHA will transmit that information to DCBS for its review. In making its determination about the qualifications of the applicant OHA will consult with DCBS about the financial materials and reports submitted with the application;

(b) For purposes of these financial reporting and solvency rules, DCBS is authorized to make recommendations to OHA and to act in conjunction with OHA in accordance with these rules. If quarterly reports or other evidence suggest that a CCO's financial solvency is in jeopardy, OHA will act as necessary to protect the public interest.

(3) OHA may address any proper inquiries to any CCO or its officers in relation to the activities or condition of the CCO or any other matter connected with its transactions. The person shall promptly and truthfully reply to the inquiries using the form of communication requested by OHA. The reply shall be timely, accurate and complete and, if OHA requires, verified by an officer of the CCO. A reply is subject to the provisions of ORS 731.260.

(4) OAR 410-141-3345 through 410-141-3395 provide for three alternative methods for a CCO's solvency plan and financial reporting requirements, depending on the status of the CCO as described in this rule:

(a) OHA reporting CCO: The CCO complies with restricted reserve and net worth requirements OHA used to regulate financial solvency of

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MCOs on July 1, 2012, submitting financial information and reports to OHA as detailed in the CCO contract. Under this approach, OHA will monitor the CCO's financial solvency utilizing the same reporting format and financial standards that OHA used for MCOs on July 1, 2012;

(b) DCBS reporting CCO: The CCO complies with financial requirements as detailed in the CCO contract and in OAR 410-141-3345 through 410-141-3395, including risk based capital and NAIC reporting requirements. These requirements will be monitored by DCBS;

(c) Certificate of Authority: The CCO has a certificate of authority and complies with financial reporting and solvency requirements applicable to licensed health entities pursuant to applicable DCBS requirements under the Oregon insurance code and DCBS rules. In addition, the CCO shall report to OHA the schedules outlined in the CCO contract.

(5) CCO Status. The method described in this rule that applies to a CCO is determined as follows:

(a) If the CCO is a licensed health entity, CCO shall use the method described in this rule for certificate of authority. The CCO shall submit a copy of its certificate of authority to OHA, not later than the readiness review document submission date under the initial CCO contract, and annually thereafter not later than August 31st. CCO shall report to OHA immediately at any time that this certificate of authority is suspended or terminated;

(b) If the CCO is neither a converting MCO nor a licensed health entity, the CCO shall use the method described in this rule for DCBS reporting CCO;

(c) If the CCO is a converting MCO and is not a licensed health entity, the CCO shall elect either the method described in this rule for OHA reporting CCO or the method described in this rule for DCBS reporting CCO. The CCO shall notify OHA of its election no later than the readiness review document submission date under the initial CCO contract. The CCO shall comply with the requirements applicable to its elected method until it notifies OHA of its intent to change its election. If the CCO expects to change its election, any elements of the solvency plan or solvency protection arrangements, the CCO shall provide written advance notice to OHA, at least 90 calendar days before the proposed effective date of change. Such changes are subject to written approval from OHA.

(6) CCOs may be required to use specific required reporting forms or items in order to supply information related to financial responsibility, financial solvency and financial management. The OHA or DCBS, as applicable, will provide supplemental instructions about the use of these forms.

(7) The standards established in OAR 410-141-3350 through 410-141-3395 are intended to be consistent with, and may utilize procedures and standards common to insurers and to DCBS in its administration of financial reporting and solvency requirements. Any reference in these rules to the insurance code or to rules adopted by DCBS under the insurance code shall not be deemed to require a CCO to be an insurer, but is adopted and incorporated by reference as an OHA standard.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3350

Assets, Liabilities, Reserves – DCBS REPORTING CCOs ONLY

(1) The provisions of this rule apply only to DCBS reporting CCOs, and do not apply to Authority reporting CCOs.

(2) In any determination of the financial condition of a CCO, there shall be allowed as assets only such assets as are owned by the CCO and which consist of:

(a) Cash in the possession or control of the CCO, including the true balance of any deposit in a solvent bank or trust company;

(b) Investments held in accordance with these rules, and due or accrued income items in connection therewith to the extent considered by the Authority to be collectible;

(c) Due premiums, deferred premiums, installment premiums, and written obligations taken for premiums, to the extent allowed by the Authority;

(d) The amount recoverable from a reinsurer if credit for reinsurance may be allowed to the CCO pursuant to OAR 410-141-3380;

(e) Deposits or equities recoverable from any suspended banking institution, to the extent deemed by the Authority to be available for the payment of losses and claims;

(f) Other assets considered by the Authority to be available for the payment of losses and claims, at values determined by the Authority.

(3) In addition to assets impliedly excluded by this rule, the following expressly shall not be allowed as assets in any determination of the financial condition of a CCO:

(a) Advances to officers, employees, agents and other persons on personal security only;

(b) Stock of such CCO owned by it, or any material equity therein or loans secured thereby, or any material proportionate interest in such stock acquired or held through the ownership by such CCO of an interest in another firm, corporation or business unit;

(c) Tangible personal property, except such property as the CCO is otherwise permitted to acquire and retain as an investment under these rules and which is deemed by the Authority to be available for the payment of losses and claims or which is otherwise expressly allowable, in whole or in part, as an asset;

(d) The amount, if any, by which the book value of any investment as carried in the ledger assets of the CCO exceeds the value thereof as determined under these rules.

(4) In any determination of the financial condition of a CCO, liabilities to be charged against its assets shall be calculated in accordance with these rules and shall include:

(a) The amount necessary to pay all of its unpaid losses and claims incurred on or prior to the date of the statement, whether reported or unreported to the CCO, together with the expenses of adjustment or settlement thereof;

(b) For insurance other than specified in Subsection (c) of this section, the amount of reserves equal to the unearned portions of the gross premiums charged on policies in force, calculated in accordance with these rules;

(c) Reserves which place a sound value on its liabilities and which are not less than the reserves according to accepted actuarial standards consistently applied and based on actuarial assumptions relevant to contract provisions;

(d) Taxes, expenses and other obligations due or accrued at the date of the statement;

(e) Any additional reserves for asset valuation contingencies or loss contingencies required by these rules or considered to be necessary by the Authority for the protection of the Authority and the members of the CCO.

(5) If the Authority determines that a CCO's reserves, however calculated or estimated, are inadequate, the Authority shall require the CCO to maintain reserves in such additional amount as is needed to make them adequate.

(6) Funds of a CCO may be invested in a bond, debenture, note, warrant, certificate or other evidence of indebtedness that are not investment grade as established by these rules, but the funds that a CCO may invest under this section shall not exceed 20 percent of the CCO's assets. For purposes of this rule CCOs shall be subject to the requirements of OAR 836-033-0105 through 836-033-0130.

(7) A CCO shall not have any combination of investments in or secured by the stocks, obligations, and property of one person, corporation or political subdivision in excess of 10 percent of the CCO's assets, nor shall it invest more than 10 percent of its assets in a single parcel of real property or in any other single investment. This subsection does not apply to:

(a) Investments in, or loans upon, the security of the general obligations of a sovereign; or

(b) Investments by a CCO in all real or personal property used exclusively by such CCO to provide health services or in real property used primarily for its home office.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3355

Restricted Reserves, Capital and Surplus– DCBS Reporting CCOs Only

(1) The provisions of OAR 410-141-3355 apply only to DCBS reporting CCOs, and do not apply to Authority reporting CCOs.

(2) A CCO shall:

(a) Establish a restricted reserve account; and

(b) Maintain adequate funds in this account to meet the Authority's primary and secondary restricted reserve requirements. Reserve funds are held for the purpose of making payments to providers in the event of the CCO's insolvency.

(3) A CCO shall establish a restricted reserve account with a third party financial institution for the purpose of holding the CCO's primary and

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secondary restricted reserve funds. CCOs shall use the model depository agreement to establish a restricted reserve account;

(a) A model depository agreement shall be used by the CCO to establish a restricted reserve account. CCOs shall request the model depository agreement form from the Authority. CCOs shall submit the model depository agreement to the Authority at the time of application and the model depository agreement shall remain in effect throughout the period of time that the CCO contract is in effect. The model depository agreement cannot be changed without the Authority's written authorization;

(b) The CCO shall not withdraw funds, change third party financial institutions, or change account numbers within the restricted reserve account without the written consent of the Authority;

(c) A CCO shall submit a copy of the model depository agreement at the time of application for certification. If a CCO requests and receives written authorization from the Authority to make a change to their existing restricted reserve account, the CCO shall submit a model depository agreement reflecting the changes to the Authority within 15 days of the date of the change;

(d) The following instruments are considered eligible deposits for the purposes of the Authority's primary and secondary restricted reserves:

(A) Cash;

(B) Certificates of Deposit; or

(C) Amply secured obligations of the United States, a state or a political subdivision thereof as determined by the Authority.

(e) In addition to the instruments allowed in this rule, a CCO may satisfy the primary restricted reserve amount by a surety bond that meets the requirements listed below:

(A) The bond is prepaid at the beginning of the contract year for 18 months;

(B) Evidence of prepayment is provided to the Authority;

(C) The surety bond is purchased by a surety bond company approved by the Oregon Insurance Division;

(D) The surety bond agreement contains a clause stating the payment of the bond will be made to the third party entity holding the restricted reserve account on behalf of the contracting company for deposit into the restricted reserve account;

(E) The surety bond agreement contains a clause that no changes to the surety bond agreement will occur until approved by the Authority; and

(F) The Authority approves the terms of the surety bond agreement.

(4) A CCO's primary and secondary reserve balances are determined by calculating the average monthly medical expense incurred. A CCO that has submitted quarterly financial statements for the current quarter and the prior three quarters, the average monthly medical expense incurred is derived by adding together the "total hospital and medical" expense (NAIC statement of revenue and expenses) for the prior four quarters and dividing by 12. A newly formed CCO will use an average of hospital and medical expense projected for the first four quarters of operation. Each quarter the average expense liability will be recalculated using historical quarter data available. The amount a CCO must deposit into the restricted reserve account shall be:

(a) If a CCO's average monthly medical expense incurred is less than or equal to \$250,000, an amount equal to the average monthly medical expense incurred. This amount will be referred to as the CCO's primary reserve and the CCO shall have no secondary reserve, until such time as the average monthly medical expense exceeds \$250,000;

(b) If a CCO's average monthly medical expense is greater than \$250,000, funds equaling 50 percent of the difference between the average monthly medical expense and the primary reserve balance of \$250,000. This amount will be referred to as the CCO's secondary reserve;

(c) Adjusted each quarter after the CCO calculates its average monthly medical expense each quarter.

(5) Working capital or surplus requirements:

(a) As used in this section, "net healthcare revenue" means direct healthcare premium less the following: amounts paid for reinsurance ceded, HRA and GME payments (if any received by a CCO), and MCO taxes. "Net healthcare revenue" includes all healthcare related revenue and fee-for-service revenue adjusted for the change in unearned premium reserves;

(b) Except as provided in Section (8) CCOs shall possess and thereafter maintain capital or surplus, or any combination thereof, equal to the greater of \$2.5 million or the amount required from the application of the risk-based capital standards in OAR 410-141-3360;

(c) A CCO that possesses the amount required in this rule as of the effective date of this rule must thereafter maintain that capital and surplus;

(d) Except as provided in Section (8), if a CCO does not possess the minimum capital and surplus as of the effective date of these rules, the

CCO shall possess and thereafter maintain capital or surplus, or any combination thereof as follows:

(A) Five percent of annualized total net healthcare revenue as of August 1, 2012. The CCO shall calculate its authorized control level and file the RBC report in accordance with these rules;

(B) The greater of five percent annualized total net healthcare revenue or its authorized control level risk-based capital as of January 1, 2014;

(C) The greater of six percent of annualized total net healthcare revenue or 125 percent of its authorized control level risk-based capital as of January 1, 2015;

(D) The greater of seven percent of annualized total net healthcare revenue or 150 percent of its authorized control level risk-based capital as of January 1, 2016;

(E) The greater of eight percent of annualized total net healthcare revenue or 175 percent of its authorized control level risk-based capital as of January 1, 2017;

(F) The greater of nine percent of annualized total net healthcare revenue or 200 percent of its authorized control level risk-based capital as of January 1, 2018;

(G) The greater of 10 percent of annualized total net healthcare revenue or 200 percent of its authorized control level risk-based capital as of January 1, 2019.

(e) A CCO may use a subordinated surplus note to meet its minimum capital and surplus requirement provided it meets the standards in Statements of Statutory Accounting Principles #41 and the Authority has given prior approval of the form and content of the surplus note;

(f) A converting CCO will initially be subject to financial responsibility and solvency standards applicable to an the Authority reporting CCO. Effective January 1, 2014, the converting CCO shall comply with the minimum capital and surplus set forth in this rule;

(g) The converting CCO shall calculate its authorized control level and file the RBC report in accordance with this rule.

(6) Funds of a CCO at least equal to its required capital and surplus shall be invested and kept invested as follows:

(a) In amply secured obligations of the United States, a state or a political subdivision of this state;

(b) In loans secured by first liens upon improved, unencumbered real property (other than leaseholds) in this state where:

(A) The lien does not exceed 50 percent of the appraised value of the property and the loan is for a term of five years or less;

(B) The lien does not exceed 66-2/3 percent of the appraised value of the property provided there is an amortization plan mortgage, deed of trust or other instrument under the terms of which the installment payments are sufficient to repay the loan within a period of not more than 25 years; or

(C) The investment is insured or guaranteed by the Federal Housing Administration, the United States Department of Veterans Affairs, or under Title I of the Housing Act of 1949 (providing for slum clearance and redevelopment projects) enacted by Congress on July 15, 1949.

(c) In deposits, certificates of deposit, accounts or savings or certificate shares or accounts of or in banks, trust companies, savings and loan associations or building and loan associations to the extent such investments are insured by the Federal Deposit Insurance Corporation.

(7) Investments made pursuant to Section (6) of this rule shall be kept free of any lien or pledge.

(8) A CCO that is not a converting CCO shall possess \$500,000 working capital above the minimum capital and surplus requirement upon the CCO contract date sufficient to pay initial expenses without causing the CCO to fall below the minimum capital and surplus required by these rules.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3360

Risk-based capital – DCBS Reporting CCOs Only

(1) The provisions of OAR 410-141-3360 shall apply only to DCBS reporting CCOs, and do not apply to OHA reporting CCOs.

(2) As used in this rule:

(a) "Authorized Control Level RBC" means the number determined under the risk-based capital formula in accordance with the RBC Instructions;

(b) "Company Action Level RBC" means, with respect to any CCO, the product of 2.0 and the CCO's Authorized Control Level RBC;

(c) "Mandatory Control Level RBC" means the product of .70 and the CCO's authorized control level RBC;

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(d) "RBC Instructions" means the RBC report including risk-based capital instructions adopted by the NAIC, as the RBC instructions may be amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC;

(e) "RBC Level" means a CCO's company action level RBC, regulatory action level RBC, authorized control level RBC or mandatory control level RBC;

(f) "RBC Plan" means a comprehensive financial plan containing the elements specified in this rule. If OHA rejects the RBC plan and it is revised by the CCO with or without OHA's recommendation, the plan shall be called the "revised RBC plan;"

(g) "RBC Report" means the report required in OAR 410-141-3360;

(h) "Regulatory Action Level RBC" means the product of 1.5 and the CCO's authorized control level RBC;

(i) "Total Adjusted Capital" means the sum of:

(A) A CCO's capital and surplus (i.e. net worth) as determined in accordance with the statutory accounting applicable to the annual financial statements required to be filed under these rules; and

(B) Such other items, if any, as the RBC instructions may provide.

(3) For the purpose of determining the reasonableness and adequacy of a CCO's capital and surplus, the Oregon Health Authority must consider at least the following factors, as applicable:

(a) The size of the CCO, as measured by its assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria;

(b) The number of lives insured;

(c) The extent of the geographical dispersion of the lives insured by the CCO;

(d) The nature and extent of the reinsurance program of the CCO;

(e) The quality, diversification and liquidity of the investment portfolio of the CCO;

(f) The recent past and projected future trend in the size of the investment portfolio of the CCO;

(g) The combined capital and surplus maintained by comparable CCOs;

(h) The adequacy of the reserves of the CCO;

(i) The quality and liquidity of investments in affiliates. OHA may treat any such investment as a disallowed asset for purposes of determining the adequacy of combined capital and surplus whenever in the judgment of OHA the investment so warrants; and

(j) The quality of the earnings of the CCO and the extent to which the reported earnings include extraordinary items.

(4) The following pertain to a CCO's RBC levels:

(a) On or before March 1 of each year, a CCO shall prepare and submit to OHA a report of its RBC levels as of the end of the calendar year just ended, in a form and containing such information as is required by the RBC instructions. In addition, a CCO shall file its RBC report with the NAIC in accordance with the RBC instructions. The CCO shall report in its annual financial statement the authorized control level calculated using its RBC report. A CCO's RBC report will be considered confidential under OAR 410-141-3390;

(b) A CCO's RBC shall be determined in accordance with the formula set forth in the RBC instructions. The formula shall take the following into account (and may adjust for the covariance between) determined in each case by applying the factors in the manner set forth in the RBC instructions:

(A) Asset risk;

(B) Credit risk;

(C) Underwriting risk; and

(D) All other business risks and such other relevant risks as are set forth in the RBC instructions.

(c) An excess of capital (i.e. net worth) over the amount produced by the risk-based capital requirements contained in this rule and the formulas, schedules and instructions referenced in this rule is desirable in the business of a CCO. Accordingly, CCOs should seek to maintain capital above the RBC levels required by this rule. Additional capital is used and useful in the business of a risk-bearing entity and helps to secure a CCO against various risks inherent in, or affecting, the business of a CCO and not accounted for or only partially measured by the risk-based capital requirements contained in this rule;

(d) If a CCO files an RBC report that in the judgment of OHA is inaccurate, then OHA shall adjust the RBC report to correct the inaccuracy and shall notify the CCO of the adjustment. The notice shall contain a statement of the reason for the adjustment. An RBC report as so adjusted is referred to as an "adjusted RBC report."

(5) "Company Action Level Event" means any of the following events:

(a) The filing of an RBC report by a CCO that indicates that the CCO's total adjusted capital is greater than or equal to its regulatory action level RBC but less than its company action level RBC;

(b) If a CCO has total adjusted capital that is greater than or equal to its company action level RBC but less than the product of its authorized control level RBC and 3.0 and triggers the trend test determined in accordance with the trend test calculation included in the health RBC instructions;

(c) Notification by OHA to the CCO of an adjusted RBC report that indicates an event in Section 15 of this section, if the CCO does not challenge the adjusted RBC report in this rule; or

(d) If a CCO challenges an adjusted RBC report that indicates the event in Section (5)(a), the notification by OHA to the CCO that OHA has, after a hearing, rejected the CCO's challenge.

(6) In the event of a company action level event, the CCO shall prepare and submit to OHA an RBC plan that shall:

(a) Identify the conditions that contribute to the company action level event;

(b) Contain proposals of corrective actions that the CCO intends to take and that would be expected to result in the elimination of the company action level event;

(c) Provide projections of the CCO's financial results in the current year and at least the two succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory balance sheets, operating income, net income, capital and surplus, and RBC levels. The projections for both new and renewal business might include separate projections for each major line of business and separately identify each significant income, expense and benefit component;

(d) Identify the key assumptions impacting the CCO's projections and the sensitivity of the projections to the assumptions; and

(e) Identify the quality of, and problems associated with, the CCO's business, including but not limited to its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business and use of reinsurance, if any, in each case.

(7) The RBC plan shall be submitted:

(a) Within 45 days of the Company Action Level Event; or

(b) Within 45 days after notification to the CCO that OHA has, after a hearing, rejected the CCO's challenge, if the CCO challenges an adjusted RBC report;

(c) Within 60 days after the submission by a CCO of an RBC plan to OHA, OHA shall notify the CCO whether the RBC plan shall be implemented or is, in the judgment of OHA, unsatisfactory. If OHA determines the RBC plan is unsatisfactory, the notification to the CCO shall set forth the reasons for the determination and may set forth proposed revisions that will render the RBC plan satisfactory, in the judgment of OHA. Upon notification from OHA, the CCO shall prepare a revised RBC plan, which may incorporate by reference any revisions proposed by OHA, and shall submit the revised RBC plan to OHA:

(A) Within 45 days after the notification from OHA; or

(B) Within 45 days after a notification to the CCO that OHA has, after a hearing, rejected the CCO's challenge, if the CCO challenges the notification from OHA under this rule.

(8) In the event of a notification by OHA to a CCO that the CCO's RBC plan or revised RBC plan is unsatisfactory, OHA may at OHA's discretion, subject to the CCO's right to a hearing under this rule, specify in the notification that the notification constitutes a regulatory action level event.

(9) "Regulatory Action Level Event" means, with respect to a CCO, any of the following events:

(a) The filing of an RBC report by the CCO that indicates that the CCO's total adjusted capital is greater than or equal to its authorized control level RBC but less than its regulatory action level RBC;

(b) Notification by OHA to a CCO of an adjusted RBC report that indicates the event in Section (9)(a), if the CCO does not challenge the adjusted RBC report in this rule;

(c) If the CCO challenges an adjusted RBC report that indicates the event in this rule, the notification by OHA to the CCO that OHA has, after a hearing, rejected the CCO's challenge;

(d) The failure of the CCO to file an RBC report by the filing date, unless the CCO has provided an explanation for the failure that is satisfactory to OHA and has cured the failure within ten days after the filing date;

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(e) The failure of the CCO to submit an RBC plan to OHA within the time period set forth in this rule;

(f) Notification by OHA to the CCO that:

(A) The RBC plan or revised RBC plan submitted by the CCO is, in the judgment of OHA, unsatisfactory; and

(B) Notification constitutes a regulatory action level event with respect to the CCO, if the CCO has not challenged the determination in this rule.

(g) If the CCO challenges a determination by OHA, the notification by OHA to the CCO that OHA has, after a hearing, rejected the challenge;

(h) Notification by OHA to the CCO that the CCO has failed to adhere to its RBC plan or revised RBC plan, but only if the failure has a substantial adverse effect on the ability of the CCO to eliminate the company action level event in accordance with its RBC plan or revised RBC plan and OHA has so stated in the notification, if the CCO has not challenged the determination; or

(i) If the CCO challenges a determination by OHA, the notification by OHA to the CCO that OHA has, after a hearing, rejected the challenge.

(10) In the event of a regulatory action level event OHA shall:

(a) Require the CCO to prepare and submit an RBC plan or, if applicable, a revised RBC plan;

(b) Perform such examination or analysis as OHA deems necessary of the assets, liabilities and operations of the CCO including a review of its RBC plan or revised RBC plan; and

(c) Subsequent to the examination or analysis, issue an order specifying such corrective actions as OHA shall determine are required (a "corrective order").

(11) In determining corrective actions, OHA may take into account factors OHA deems relevant with respect to the CCO based upon OHA's examination or analysis of the assets, liabilities and operations of the CCO, including, but not limited to, the results of any sensitivity tests undertaken pursuant to the RBC instructions. The RBC plan or revised RBC plan shall be submitted:

(a) Within 45 days after the occurrence of the regulatory action level event;

(b) Within 45 days after the notification to the CCO that OHA has, after a hearing, rejected the CCO's challenge; if the CCO challenges an adjusted RBC report, and the challenge is not frivolous in the judgment of OHA; or

(c) Within 45 days after the notification to the CCO that the care service CCO has, after a hearing, rejected the CCO's challenge, if the CCO challenges a revised RBC plan, and the challenge is not frivolous in the judgment of OHA.

(12) OHA may retain actuaries and investment experts and other consultants as may be necessary in the judgment of OHA to review the CCO's RBC plan or revised RBC plan, examine or analyze the assets, liabilities and operations (including contractual relationships) of the CCO and formulate the corrective order with respect to the CCO. The fees, costs and expenses relating to consultants shall be borne by the affected CCO or such other party as directed by OHA.

(13) "Authorized Control Level Event" means any of the following events:

(a) The filing of an RBC report by the CCO that indicates that the CCO's total adjusted capital is greater than or equal to its mandatory control level RBC but less than its authorized control level RBC;

(b) The notification by OHA to the CCO of an adjusted RBC report that indicates the event in this section, if the CCO does not challenge the adjusted RBC report;

(c) If the CCO challenges an adjusted RBC report that indicates the event in this section, notification by OHA to the CCO that OHA has, after a hearing, rejected the CCO's challenge;

(d) The failure of the CCO to respond, in a manner satisfactory to OHA, to a corrective order if the CCO has not challenged the corrective order; or

(e) If the CCO has challenged a corrective order in this rule and OHA has, after a hearing, rejected the challenge or modified the corrective order, the failure of the CCO to respond, in a manner satisfactory to OHA, to the corrective order subsequent to rejection or modification by OHA.

(14) In the event of an authorized control level event with respect to a CCO, OHA shall:

(a) Take such actions as are required by this rule regarding a CCO with respect to which an regulatory action level event has occurred; or

(b) If OHA deems it to be in the best interests of the members and creditors of the CCO and of the public, take such actions as are necessary

to work with the Authority, which may terminate the CCO contract and revoke or suspend its certification as a CCO.

(15) "Mandatory Control Level Event" means any of the following events:

(a) The filing of an RBC report that indicates that the CCO's total adjusted capital is less than its mandatory control level RBC;

(b) Notification by OHA to the CCO of an adjusted RBC report that indicates the event in this section, if the CCO does not challenge the adjusted RBC report; or

(c) If the CCO challenges an adjusted RBC report that indicates the event in this section, notification by OHA to the CCO that OHA has, after a hearing, rejected the CCO's challenge.

(16) In the event of a mandatory control level event, OHA shall take such actions as are necessary to work with the Authority, which may terminate the CCO contract and revoke or suspend its certification as a CCO. Notwithstanding the provisions of this rule, OHA may forego action for up to 90 days after the mandatory control level event if OHA finds there is a reasonable expectation that the mandatory control level event may be eliminated within the 90 day period.

(17) Upon the occurrence of any of the following events, a CCO may request a hearing for the purpose of challenging any determination or action by OHA in connection with any event described in this rule. The CCO shall notify OHA of its request for a hearing not later than the fifth day after notification by OHA under any of the events described in this rule. Upon receipt of the CCO's request for a hearing, OHA shall set a date for the hearing. The date shall be not less than 10 or more than 30 days after the date of the CCO's request. The events to which the opportunity for a hearing under this rule relates are as follows:

(a) Notification to a CCO by OHA of an adjusted RBC report;

(b) Notification to a CCO by OHA that:

(A) The CCO's RBC plan or revised RBC plan is unsatisfactory; and

(B) Notification constitutes a Regulatory Action Level Event with respect to the CCO.

(c) Notification to a CCO by OHA that the CCO has failed to adhere to its RBC plan or revised RBC plan and that the failure has a substantial adverse effect on the ability of the CCO to eliminate the company action level event with respect to the CCO in accordance with its RBC plan or revised RBC plan; or

(d) Notification to a CCO by OHA of a corrective order with respect to the CCO.

(18) OHA may keep confidential a CCO's RBC plan or the results or report of any examination or analysis conducted in this rule if OHA determines that disclosure of such information would jeopardize the CCO's corrective action plan.

(19) This rule shall not preclude or limit any other powers or duties of OHA or OHA under other laws and rules.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3365

Solvency Monitoring and Corrective Actions

(1) For purposes of this rule, the CCO shall be monitored in the context of the financial standards applicable to the reporting method described in OAR 410-141-3345. An OHA reporting CCO is accountable under the standards in the CCO contract and this rule. A DCBS reporting CCO or a CCO with a certificate of authority is accountable under DCBS standards.

(2) OHA shall examine every CCO, including an audit of the financial affairs of such CCO, as often as OHA determines an examination to be necessary but generally at least once during the CCO's certification period. An examination shall be conducted for the purpose of determining the financial condition of the CCO, its ability to fulfill its obligations and its manner of fulfillment, the nature of its operations and its compliance with these rules and applicable CCO contract requirements.

(3) The following apply to CCO examinations:

(a) When OHA determines that an examination should be conducted, OHA shall appoint one or more examiners to perform the examination and instruct them as to the scope of the examination. In conducting the examination, each examiner shall consider the guidelines and procedures in the examiner handbook, or its successor publication, adopted by the NAIC. OHA may prescribe the examiner handbook or its successor publication and employ other guidelines and procedures that OHA determines to be appropriate, taking into account whether the CCO is an OHA reporting CCO, is a DCBS reporting CCO, or has a certificate of authority;

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(b) When making an examination, OHA may retain appraisers, independent actuaries, independent certified public accountants or other professionals and specialists as needed. The cost of retaining such professionals and specialists shall be borne by the CCO that is the subject of the examination;

(c) At any time during the course of an examination, OHA may take other action pursuant to these rules;

(d) Facts determined and conclusions made pursuant to an examination shall be presumptive evidence of the relevant facts and conclusions in any judicial or administrative action;

(e) Upon an examination or investigation OHA may examine under oath all persons who may have material information regarding the property or business of the person being examined or investigated;

(f) Every person being examined or investigated shall produce all books, records, accounts, papers, documents and computer and other recordings in its possession or control relating to the matter under examination or investigation, including, in the case of an examination, the property, assets, business and affairs of the person; and

(g) The officers, directors and agents of the person being examined shall provide timely, convenient and free access at all reasonable hours at the offices of the person being examined to all books, records, accounts, papers, documents and computer and other recordings. The officers, directors, employees and agents of the person must facilitate the examination.

(4) The following apply to the Authority's report following the examination:

(a) Not later than the 60th day after completion of an examination, the examiner in charge of the examination shall submit to OHA a full and true report of the examination, verified by the oath of the examiner. The report shall comprise only facts appearing upon the books, papers, records, accounts, documents or computer and other recordings of the person, its agents or other persons being examined or facts ascertained from testimony of individuals concerning the affairs of such person, together with such conclusions and recommendations as reasonably may be warranted from such facts;

(b) OHA shall make a copy of the report submitted under this section available to the person who is the subject of the examination and shall give the person an opportunity to review and comment on the report. OHA may request additional information or meet with the person for the purpose of resolving questions or obtaining additional information, and may direct the examiner to consider the additional information for inclusion in the report;

(c) Before OHA files the examination report as a final examination report or makes the report or any matters relating thereto public, the person being examined shall have an opportunity for a hearing. A copy of the report must be mailed by certified mail to the person being examined. The person may request a hearing not later than the 30th day after the date on which the report was mailed. This subsection does not limit the authority of OHA to disclose a preliminary or final examination report as otherwise provided in this section, or to CMS or other federal or state authorities authorized to obtain access to CCO financial records in accordance with the CCO contract;

(d) OHA shall consider comments presented at a hearing requested under paragraph (c) of this section and may direct the examiner to consider the comments or direct that the comments be included in documentation relating to the report, although not as part of the report itself. OHA may file the report as a final examination report at any time after consideration of the comments or at any time after the period for requesting a hearing has passed if a hearing is not requested;

(e) A report filed as a final examination report is subject to public inspection. OHA, after filing any report, if OHA considers it for the interest of the public to do so, may publish any report or the result of any examination as contained therein in one or more newspapers of the state without expense to the person examined; and

(f) OHA may disclose the content of an examination report that has not yet otherwise been disclosed or may disclose any of the materials described in this section as provided in OAR 410-141-3390.

(5) No cause of action may arise and no liability may be imposed against OHA or DCBS, an authorized representative of OHA or DCBS or any examiner appointed by OHA or DCBS for any statements made or conduct performed in good faith pursuant to an examination or investigation. No cause of action may arise and no liability may be imposed against any person for communicating or delivering information or data to OHA or an authorized representative of OHA or examiner pursuant to an examination or investigation if the communication or delivery was performed in good faith and without fraudulent intent or intent to deceive.

(6) Section (5) does not abrogate or modify in any way any common law or statutory privilege or immunity otherwise enjoyed by any person to which this subsection applies.

(7) Any CCO or applicant for CCO certification examined under this rule shall pay to OHA the just and legitimate costs of the examination as determined by OHA, including actual necessary transportation and traveling expenses.

(8) In addition to other powers of OHA under these rules relating to the examination and investigation of CCOs, OHA may also order any CCO to produce such books, records, accounts, papers, documents and computer and other recordings in the possession of the CCO or its affiliates as are necessary to ascertain the financial condition of the CCO or to determine compliance with these rules. If the CCO fails to comply with such an order, OHA may examine the affiliates to obtain such information, in addition to imposing sanctions or other remedies under these OHA rules or the CCO contract. A CCO shall pay the costs of an examination of the CCO.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3370

Solvency Monitoring and Corrective Actions

(1) For purposes of this rule, the CCO shall be monitored in the context of the financial standards applicable to the reporting method described in OAR 410-141-3345. An OHA reporting CCO is accountable under the standards in the CCO contract and this rule. A DCBS reporting CCO or a CCO with a certificate of authority is accountable under DCBS standards.

(2) OHA shall examine every CCO, including an audit of the financial affairs of such CCO, as often as OHA determines an examination to be necessary but generally at least once during the CCO's certification period. An examination shall be conducted for the purpose of determining the financial condition of the CCO, its ability to fulfill its obligations and its manner of fulfillment, the nature of its operations and its compliance with these rules and applicable CCO contract requirements.

(3) The following apply to CCO examinations:

(a) When OHA determines that an examination should be conducted, OHA shall appoint one or more examiners to perform the examination and instruct them as to the scope of the examination. In conducting the examination, each examiner shall consider the guidelines and procedures in the examiner handbook, or its successor publication, adopted by the NAIC. OHA may prescribe the examiner handbook or its successor publication and employ other guidelines and procedures that OHA determines to be appropriate, taking into account whether the CCO is an OHA reporting CCO, is a DCBS reporting CCO, or has a certificate of authority;

(b) When making an examination, OHA may retain appraisers, independent actuaries, independent certified public accountants or other professionals and specialists as needed. The cost of retaining such professionals and specialists shall be borne by the CCO that is the subject of the examination;

(c) At any time during the course of an examination, OHA may take other action pursuant to these rules;

(d) Facts determined and conclusions made pursuant to an examination shall be presumptive evidence of the relevant facts and conclusions in any judicial or administrative action;

(e) Upon an examination or investigation OHA may examine under oath all persons who may have material information regarding the property or business of the person being examined or investigated;

(f) Every person being examined or investigated shall produce all books, records, accounts, papers, documents and computer and other recordings in its possession or control relating to the matter under examination or investigation, including, in the case of an examination, the property, assets, business and affairs of the person; and

(g) The officers, directors and agents of the person being examined shall provide timely, convenient and free access at all reasonable hours at the offices of the person being examined to all books, records, accounts, papers, documents and computer and other recordings. The officers, directors, employees and agents of the person must facilitate the examination.

(4) The following apply to the Authority's report following the examination:

(a) Not later than the 60th day after completion of an examination, the examiner in charge of the examination shall submit to OHA a full and true report of the examination, verified by the oath of the examiner. The report shall comprise only facts appearing upon the books, papers, records, accounts, documents or computer and other recordings of the person, its

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agents or other persons being examined or facts ascertained from testimony of individuals concerning the affairs of such person, together with such conclusions and recommendations as reasonably may be warranted from such facts;

(b) OHA shall make a copy of the report submitted under this section available to the person who is the subject of the examination and shall give the person an opportunity to review and comment on the report. OHA may request additional information or meet with the person for the purpose of resolving questions or obtaining additional information, and may direct the examiner to consider the additional information for inclusion in the report;

(c) Before OHA files the examination report as a final examination report or makes the report or any matters relating thereto public, the person being examined shall have an opportunity for a hearing. A copy of the report must be mailed by certified mail to the person being examined. The person may request a hearing not later than the 30th day after the date on which the report was mailed. This subsection does not limit the authority of OHA to disclose a preliminary or final examination report as otherwise provided in this section, or to CMS or other federal or state authorities authorized to obtain access to CCO financial records in accordance with the CCO contract;

(d) OHA shall consider comments presented at a hearing requested under paragraph (c) of this section and may direct the examiner to consider the comments or direct that the comments be included in documentation relating to the report, although not as part of the report itself. OHA may file the report as a final examination report at any time after consideration of the comments or at any time after the period for requesting a hearing has passed if a hearing is not requested;

(e) A report filed as a final examination report is subject to public inspection. OHA, after filing any report, if OHA considers it for the interest of the public to do so, may publish any report or the result of any examination as contained therein in one or more newspapers of the state without expense to the person examined; and

(f) OHA may disclose the content of an examination report that has not yet otherwise been disclosed or may disclose any of the materials described in this section as provided in OAR 410-141-3390.

(5) No cause of action may arise and no liability may be imposed against OHA or DCBS, an authorized representative of OHA or DCBS or any examiner appointed by OHA or DCBS for any statements made or conduct performed in good faith pursuant to an examination or investigation. No cause of action may arise and no liability may be imposed against any person for communicating or delivering information or data to OHA or an authorized representative of OHA or examiner pursuant to an examination or investigation if the communication or delivery was performed in good faith and without fraudulent intent or intent to deceive.

(6) Section (5) does not abrogate or modify in any way any common law or statutory privilege or immunity otherwise enjoyed by any person to which this subsection applies.

(7) Any CCO or applicant for CCO certification examined under this rule shall pay to OHA the just and legitimate costs of the examination as determined by OHA, including actual necessary transportation and traveling expenses.

(8) In addition to other powers of OHA under these rules relating to the examination and investigation of CCOs, OHA may also order any CCO to produce such books, records, accounts, papers, documents and computer and other recordings in the possession of the CCO or its affiliates as are necessary to ascertain the financial condition of the CCO or to determine compliance with these rules. If the CCO fails to comply with such an order, OHA may examine the affiliates to obtain such information, in addition to imposing sanctions or other remedies under these OHA rules or the CCO contract. A CCO shall pay the costs of an examination of the CCO.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651
Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650
Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3375

Hazardous Operations

(1) For purposes of this rule, the CCO will be held financially responsible in the context of the financial standards applicable to the reporting method described in OAR 410-141-3345. An OHA reporting CCO is accountable under the standards in the CCO contract and this rule. A DCBS reporting CCO or a CCO with a certificate of authority is accountable under the DCBS standards:

(a) Based upon standards established by these rules, if OHA determines that the continued operation of a CCO is hazardous to its members

or to the public in general, OHA may order the CCO to take one or more of the following actions:

(A) Reduce the total amount of present and potential liability for policy benefits by reinsurance;

(B) Reduce, suspend or limit the volume of business being accepted or renewed;

(C) Reduce general insurance and commission expenses by methods specified by OHA;

(D) Increase the capital and surplus of the CCO;

(E) Suspend or limit the declaration and payment of dividends by the CCO to its stockholders or members;

(F) Limit or withdraw from certain investments or discontinue certain investment practices to the extent OHA determines such action to be necessary.

(b) OHA may exercise authority under Subsection (a) of this section in addition to or instead of any other authority that OHA may exercise under these rules;

(c) OHA may issue an order with or without a hearing. A CCO subject to an order issued without a hearing may file a written request for a hearing to review the order. Such a request shall not stay the effect of the order. The hearing shall be held within 30 days after the filing of the request. OHA shall complete the review within 30 days after the record for the hearing is closed, and shall discontinue the action taken if OHA determines that none of the conditions giving rise to the action exists.

(2) OHA may consider the following standards, either singly or in combination of two or more, to determine whether the continued operation of any CCO might be determined to be hazardous to the CCO's members, its creditors or the general public:

(a) Adverse findings reported in financial condition examination reports, audit reports, and actuarial opinions, reports or summaries;

(b) Whether the CCO has made adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the CCO, when considered in light of the assets held by the CCO with respect to such reserves and related actuarial items including but not limited to the investment earnings on such assets, and the considerations anticipated to be received and retained under such contracts;

(c) The ability of an assuming reinsurer to perform and whether the CCO's reinsurance program provides sufficient protection for the CCO's remaining capital and surplus after taking into account the CCO's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer;

(d) Whether the CCO's operating loss in the last 12-month period or any shorter period of time is greater than 50 percent of the CCO's remaining capital and surplus in excess of the minimum required;

(e) Whether the CCO's operating loss in the last 12-month period or any shorter period of time, excluding net capital gains, is greater than 20 percent of the CCO's remaining surplus in excess of the minimum required;

(f) Whether a reinsurer or obligor, or any entity within the CCO's system is insolvent, threatened with insolvency or delinquent in payment of its monetary or other obligations and which, in the opinion of OHA may affect the solvency of the CCO;

(g) Contingent liabilities, pledges or guaranties that either individually or collectively involves a total amount that in the opinion of OHA may affect the solvency of the CCO;

(h) Whether any "controlling person" of a CCO is delinquent in the transmitting to, or payment of, net premiums to the CCO;

(i) The age and collectability of receivables;

(j) Whether the management of a CCO, including officers, directors or any other person who directly or indirectly controls the operation of the CCO, fails to possess and demonstrate the competence, fitness and reputation determined by OHA to be necessary to serve the CCO in such position;

(k) Whether management of a CCO has failed to respond to inquiries relating to the condition of the CCO or has furnished false and misleading information concerning an inquiry;

(l) Whether the CCO has failed to meet financial responsibility, accountability or filing requirements in the absence of a reason satisfactory to OHA;

(m) Whether management of a CCO either has filed a false or misleading sworn financial statement or has released a false or misleading financial statement to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of material amount in the books of the CCO;

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(n) Whether the CCO has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner;

(o) Whether the CCO has experienced or will experience in the foreseeable future cash flow or liquidity problems, or both;

(p) Whether management has established reserves that do not comply with minimum standards established by the CCO contract or regulations, accounting standards, sound actuarial principles and standards of practice;

(q) Whether management persistently engages in material under reserving that results in adverse development;

(r) Whether transactions among affiliates, subsidiaries or controlling persons for which the CCO receives assets or capital gains, or both, do not provide sufficient value, liquidity or diversity to assure the CCO's ability to meet its outstanding obligations as they mature; and

(s) Any other finding determined by OHA to be hazardous to the CCO's members, creditors or general public.

(3) For the purposes of making a determination of the financial condition of a CCO under these rules or the CCO contract, OHA may do one or more of the following:

(a) Disregard any credit or amount receivable resulting from transactions with a reinsurer that is insolvent, impaired or otherwise subject to a delinquency proceeding;

(b) Make appropriate adjustments to asset values attributable to investments in or transactions with parents, subsidiaries or affiliates;

(c) Refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor; or

(d) Increase the CCO's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the CCO will be called upon to meet the obligation undertaken within the next 12-month period.

(4) In addition to the requirements OHA may impose, if OHA determines that the continued operation of the CCO may be hazardous to OHA, the members or the general public, OHA may require the CCO to:

(a) File reports in a form acceptable to OHA concerning the market value of the CCO's assets;

(b) In addition to regular annual statements, file interim financial reports on the form specified by OHA;

(c) Correct corporate governance practice deficiencies, and adopt and utilize the governance practices acceptable to OHA; or

(d) Provide a business plan to OHA demonstrating corrective action the CCO will take to improve its financial condition.

(5) No CCO shall reduce its combined capital and surplus by partial distribution of its assets, by payment in the form of a dividend to stockholders or otherwise, below:

(a) Its required capitalization; or

(b) A greater amount which OHA, by rule or by order after hearing upon the motion of OHA or the petition of any interested person, finds necessary to avoid injury or prejudice to the interest of OHA, members or creditors.

(6) Whenever OHA determines from any showing or statement made to OHA or from any examination made by OHA that the assets of a CCO are less than its liabilities plus required capitalization, OHA may proceed immediately to terminate the CCO contract and revoke or suspend its certification as a CCO, or OHA may allow the CCO a period of time, not to exceed 90 days, in which to make correct the amount of the impairment with cash or authorized investments. If the amount of any such impairment is not corrected within the time prescribed by OHA, OHA shall proceed immediately to terminate the CCO contract and revoke or suspend its certification as a CCO.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3380

Disallowance of Transactions – DCBS Reporting CCOs Only

(1) The provisions of OAR 410-141-3380 apply only to DCBS reporting CCOs, and do not apply to OHA reporting CCOs.

(2) OHA shall disallow as an asset or as a credit against liabilities any reinsurance found by OHA after a hearing thereon to have been arranged for the purpose principally of deception as to the ceding CCO's financial condition as of the date of any financial statement of the CCO. Without limiting the general purport of the foregoing provision, reinsurance of any substantial part of the CCO's outstanding risks contracted for in fact within

four months prior to the date of any such financial statement and canceled in fact within four months after the date of such statement, or reinsurance under which the reinsurer bears no substantial insurance risk or substantial risk of net loss to itself, shall prima facie be deemed to have been arranged for the purpose principally of deception.

(3) OHA shall disallow as an asset any deposit, funds or other assets of the CCO found by OHA after a hearing thereon:

(a) Not to be in good faith the property of the CCO;

(b) Not freely subject to withdrawal or liquidation by the CCO at any time for the payment or discharge of claims or other obligations arising under its policies; and

(c) To be resulting from arrangements made principally for the purpose of deception as to the CCO's financial condition as of the date of any financial statement of the CCO.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3385

Holding Company

(1) As used in this rule, "Holding Company System" as it applies to a CCO means two or more affiliated persons, one or more of which is a CCO, and includes a financial holding company as referred to in section 103 of the federal Gramm-Leach-Bliley Act (P.L. 106-102). Such CCO shall also be subject to OAR 836-027-0001 through 836-027-0050 to the extent those rules relate to the filing of a registration statement (Form B filing).

(2) Every CCO that is a member of a holding company system shall be subject to ORS 732.551 to 732.572, except ORS 732.554.

(3) A transaction within a holding company system to which a CCO subject to registration is a party is subject to the following standards:

(a) The terms must be fair and reasonable;

(b) Charges or fees for services performed must be reasonable;

(c) Expenses incurred and payment received must be allocated to the CCO in conformity with customary insurance accounting practices consistently applied;

(d) The books, accounts and records of each party to the transaction must be so maintained as to disclose clearly and accurately the nature and details of the transaction, including accounting information necessary to support the reasonableness of the charges or fees to the respective parties; and

(e) The combined capital and surplus of the CCO following any transaction with an affiliate or any shareholder dividend must be reasonable in relation to the CCO's outstanding liabilities and adequate to its financial needs.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3390

Transparency

(1) Pursuant to ORS 414.018, interactions between OHA or DCBS and CCOs shall be done in a transparent and public manner. Without limitation of the preceding sentence, OHA or DCBS shall publicly disclose all information pertaining to CCOs of a character that DCBS publicly discloses pertaining to CCOs that are licensed health entities.

(2) Certain documents pertaining to a CCO's financial condition may be considered confidential, when so described in these rules. Financial analysis solvency tools and analytical reports developed by the NAIC, and comparable reports developed or used by DCBS or OHA, are confidential. In addition, any work papers, recorded information, documents and copies thereof that are produced or obtained by or disclosed to OHA or DCBS, or any other person in the course of an examination or in the course of analysis by OHA or DCBS of the financial condition or market conduct of a CCO may be considered confidential, if the CCO specifically designates the confidential portions and cites an exemption from public disclosure under the Oregon Public Records Law, ORS 192.410 to 192.505. If OHA, in its sole discretion, determines that the cited exemption does not apply or disclosure is necessary to protect the public interest, OHA may make available work papers, recorded information, documents and copies thereof produced by, obtained by or disclosed to OHA or any other person in the course of the examination.

(3) The OHA or DCBS may use a confidential document, material or other information in administering these rules and in furthering a regulato-

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ry or legal action brought as a part of the OHA's duties. In order to assist in the performance of OHA's duties, OHA may:

(a) Authorize sharing a confidential document, material or other information as appropriate among the administrative divisions and staff offices of the OHA or DCBS for the purpose of administering and enforcing the statutes within the authority of OHA, in order to enable the administrative divisions and staff offices to carry out their functions and responsibilities;

(b) Share a document, material or other information, including a confidential document, material or other information that is subject to this rule or that is otherwise exempt from disclosure under ORS 192.501 or ORS 192.502, with other state, federal, foreign and international regulatory and law enforcement agencies and with the NAIC and affiliates or subsidiaries of the NAIC, if the recipient agrees to maintain the confidentiality of the document, material or other information; and

(c) Receive a document, material or other information, including an otherwise confidential document, material or other information, from state, federal, foreign and international regulatory and law enforcement agencies and from the NAIC and affiliates or subsidiaries of the NAIC. As provided in this section, the OHA shall maintain the confidentiality of documents, materials or other information received upon notice or with an understanding that the document, material or other information is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or other information.

(4) Disclosing a document, material or other information to the OHA, sharing a document, material or other information does not waive an applicable privilege or claim of confidentiality in the document, material or other information.

(5) OHA may release a final, adjudicated action, including a suspension or revocation of a CCO's certification, if the action is otherwise open to public inspection, to a database or other clearinghouse service maintained by the NAIC or affiliates or subsidiaries of the NAIC.

(6) All information, documents and copies thereof obtained by or disclosed to OHA, DCBS or any other person in the course of an examination or investigation made pursuant to OAR 410-141-3365 are subject to the provisions of ORS 731.312.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651
Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650
Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3395

Member Protection Provisions

(1) In the event of a finding of impairment by OHA or of a termination of certification as a CCO or of the CCO contract, members of the CCO shall be offered disenrollment from the CCO and enrollment in accordance with OHA rule.

(2) For the purpose of this section only, and only in the event of a finding of impairment by OHA or of a termination of certification or of the CCO contract, any covered health care service furnished within the state by a provider to a member of a CCO shall be considered to have been furnished pursuant to a contract between the provider and the CCO with whom the member was enrolled when the services were furnished.

(3) Each contract between a CCO and a provider of health services shall provide that if the CCO fails to pay for covered health services as set forth in the contract, the member is not liable to the provider for any amounts owed by the CCO.

(4) If the contract between the contracting provider and the CCO has not been reduced to writing or fails to contain the provisions required by this rule, the member is not liable to the contracting provider for any amounts owed by the CCO.

(5) No contracting provider or agent, trustee or assignee of the contracting provider may maintain a civil action against a member to collect any amounts owed by the CCO for which the member is not liable to the contracting provider in this rule.

(6) Nothing in this section impairs the right of a provider to charge, collect from, and attempt to collect from or maintain a civil action against a member for any of the following:

(a) Deductible, copayment or coinsurance amounts;

(b) Health services not covered by the CCO; or

(c) Health services rendered after the termination of the contract between the CCO and the provider, unless the health services were rendered during the confinement in an inpatient facility and the confinement began prior to the date of termination or unless the provider has assumed post-termination treatment obligations under the contract.

(7) Nothing in this rule prohibits a member from seeking noncovered health services from a provider and accepting financial responsibility for these services, subject to requirements of the Authority about how those arrangements may be made under appropriate waiver.

(8) No CCO shall limit the right of a provider of health services to contract with the patient for payment of services not within the scope of the coverage offered by the CCO, subject to requirements of the Authority about how those arrangements may be made under appropriate waiver.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

410-141-3420

Billing and Payment

(1) Subject to other applicable Division billing rules, providers must submit all billings for CCO members following the timeframes in (a) and (b) below:

(a) Submit billings within 12 months of the date of service in the following cases:

(A) Member pregnancy;

(B) Eligibility issues such as retroactive deletions or retroactive enrollments;

(C) Medicare is the primary payer, except where the CCO is responsible for the Medicare reimbursement;

(D) Other cases that could have delayed the initial billing to the CCO (which does not include failure of provider to certify the member's eligibility); or

(E) Third Party Liability (TPL). Pursuant to 42 CFR 36.61, subpart G: Indian Health Services and the amended Public Law 93-638 under the Memorandum of Agreement that Indian Health Service and 638 Tribal Facilities are the payer of last resort and is not considered an alternative liability or TPL.

(b) Submit bills within four months of the date of service for all other cases.

(2) Providers must be enrolled with the Authority's Division of Medical Assistance Programs to be eligible for fee-for-service (FFS) payments. Mental health providers, except Federally Qualified Health Centers (FQHC), must be approved by the Local Mental Health Authority (LMHA) and the Authority's Addictions and Mental Health (AMH) Division before enrollment with the Authority or to be eligible for CCO payment for services. Providers may be retroactively enrolled, in accordance with OAR 410-120-1260 (Provider Enrollment).

(3) Providers, including mental health providers, must be enrolled with the Authority as a Medicaid provider or an encounter-only provider prior to submission of encounter data to ensure the encounter is accepted.

(4) Providers shall verify, before providing services, that the member is eligible for coordinated care services on the date of service. Providers shall use the Authority tools and the CCO's tools, as applicable, to determine if the service to be provided is covered under the member's Oregon Health Plan Benefit Package of covered services. Providers shall also identify the party responsible for covering the intended service and seek pre-authorizations from the appropriate payer before providing services. For non-covered services, providers shall follow requirements in OAR 141-120-1280.

(5) CCOs shall pay for all covered coordinated care services. These services must be billed directly to the CCO, unless the CCO or the Authority specifies otherwise. CCOs may require providers to obtain preauthorization to deliver certain coordinated care services.

(6) Payment by the CCO to participating providers for coordinated care services is a matter between the CCO and the participating provider, except as follows:

(a) CCOs shall have procedures for processing pre-authorization requests received from any provider. The procedures shall specify time frames for:

(A) Date stamping pre-authorization requests when received;

(B) Determining within a specific number of days from receipt whether a pre-authorization request is valid or non-valid;

(C) The specific number of days allowed for follow up on pended preauthorization requests to obtain additional information;

(D) The specific number of days following receipt of the additional information that a redetermination must be made;

(E) Providing services after office hours and on weekends that require preauthorization;

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(F) Sending notice of the decision with appeal rights to the member when the determination is a denial of the requested service as specified in OAR 410-141-3263.

(b) CCOs shall make a determination on at least 95% of valid preauthorization requests, within two working days of receipt of a preauthorization or reauthorization request related to urgent services; alcohol and drug services; or care required while in a skilled nursing facility. Preauthorization for prescription drugs must be completed and the pharmacy notified within 24 hours. If a preauthorization for a prescription cannot be completed within the 24 hours, the CCO must provide for the dispensing of at least a 72-hour supply if there is an immediate medical need for the drug. CCOs shall notify providers of the determination within 2 working days of receipt of the request;

(c) For expedited prior authorization requests in which the provider indicates, or the CCO determines, that following the standard timeframe could seriously jeopardize the member's life or health or ability to attain, maintain, or regain maximum function:

(A) The CCO must make an expedited authorization decision and provide notice as expeditiously as the member's health or mental health condition requires and no later than three working days after receipt of the request for service;

(B) The CCO may extend the three working day time period no more than 14 calendar days if the member requests an extension, or if the CCO justifies to the Authority a need for additional information and how the extension is in the member's best interest.

(d) For all other preauthorization requests, CCOs shall notify providers of an approval, a denial or the need for further information within 14 calendar days of receipt of the request. CCOs must make reasonable efforts to obtain the necessary information during the 14-day period. However, the CCO may use an additional 14 days to obtain follow-up information, if the CCO justifies (to the Authority upon request) the need for additional information and how the delay is in the interest of the member. The CCO shall make a determination as the member's health or mental health condition requires, but no later than the expiration of the extension.

(7) CCOs shall have written procedures for processing payment claims submitted from any source. The procedures shall specify time frames for:

(a) Date stamping claims when received;

(b) Determining within a specific number of days from receipt whether a claim is valid or non-valid;

(c) The specific number of days allowed for follow up of pended claims to obtain additional information;

(d) The specific number of days following receipt of additional information that a determination must be made; and

(e) Sending notice of the decision with appeal rights to the member when the determination is made to deny the claim;

(f) CCOs shall pay or deny at least 90% of valid claims within 45 calendar days of receipt and at least 99% of valid claims within 60 calendar days of receipt. CCOs shall make an initial determination on 99% of all claims submitted within 60 calendar days of receipt;

(g) CCOs shall provide written notification of CCO determinations when the determinations result in a denial of payment for services, for which the member may be financially responsible. The CCO shall provide the notice to the member and the treating provider within 14 calendar days of the final determination. The notice to the member shall be a Division or AMH approved notice format and shall include information on the CCOs internal appeals process, and Hearing Rights (DMAP 3030) shall be attached. The notice to the provider shall include the reason for the denial;

(h) CCOs may not require providers to delay billing to the CCO;

(i) CCOs may not require Medicare be billed as the primary insurer for services or items not covered by Medicare, or require non-Medicare approved providers to bill Medicare;

(j) CCOs may not deny payment of valid claims when the potential TPR is based only on a diagnosis, and no potential TPR has been documented in the member's clinical record;

(k) CCOs may not delay or deny payments because a co-payment was not collected at the time of service.

(8) CCOs shall pay for Medicare coinsurances and deductibles up to the Medicare or CCOs allowable for covered services the member receives within the CCO, for authorized referral care, and urgent care services or emergency services the member receives from non-participating providers. CCOs may not pay for Medicare coinsurances and deductibles for non-urgent or non-emergent care members receive from non-participating providers.

(9) CCOs shall pay transportation, meals and lodging costs for the member and any required attendant for out-of-state services that the CCO has arranged and authorized when those services are not available within the state, unless otherwise approved by the Authority.

(10) CCOs shall pay for covered services provided by a non-participating provider which was not pre-authorized if the following conditions exist:

(a) It can be verified that the participating provider ordered or directed the covered services to be delivered by a non-participating provider; and

(b) The covered service was delivered in good faith without the pre-authorization; and

(c) It was a covered service that would have been pre-authorized with a participating provider if the CCO's referral procedures had been followed;

(d) The CCO shall pay non-participating providers (providers enrolled with the Authority that do not have a contract with the CCO) for covered services that are subject to reimbursement from the CCO, in the amount specified in OAR 410-120-1295. This rule does not apply to providers that are Type A or Type B hospitals;

(e) CCOs shall reimburse hospitals for services provided on or after January 1, 2012 using Medicare Severity DRG for inpatient services and Ambulatory Payment Classification (APC) for outpatient services or other alternative payment methods which incorporate the most recent Medicare payment methodologies for both inpatient and outpatient services established by CMS for hospital services; and alternative payment methodologies, including but not limited to pay-for-performance, bundled payments and capitation. An alternative payment methodology does not include reimbursement payment based on percentage of billed charges. This requirement does not apply to Type A or Type B hospitals as referenced in ORS 442.470. CCO shall attest annually to the Authority, in a manner to be prescribed, to CCO's compliance with these requirements.

(11) Members may receive certain services on a Fee for Service (FFS) basis:

(a) Certain services must be authorized by the CCO or the Community Mental Health Program (CMHP) for some mental health services, even though the services are then paid by the Authority on a FFS basis. Before providing services, providers must verify a member's eligibility using the web portal or AVR;

(b) Services authorized by the CCO or CMHP are subject to the rules and limitations of the appropriate Authority administrative rules and supplemental information, including rates and billing instructions;

(c) Providers shall bill the Authority directly for FFS services in accordance with billing instructions contained in the Authority administrative rules and supplemental information;

(d) The Authority shall pay at the Medicaid FFS rate in effect on the date the service is provided subject to the rules and limitations described in the relevant rules, contracts, billing instructions;

(e) The Authority may not pay a provider for provision of services for which a CCO has received a CCO payment unless otherwise provided for in rule;

(f) When an item or service is included in the rate paid to a medical institution, a residential facility or foster home, provision of that item or service is not the responsibility of the Authority or a CCO except as provided in Authority administrative rules and supplemental information (e.g., coordinated care services that are not included in the nursing facility all-inclusive rate);

(g) CCOs that contract with FQHCs and RHCs shall negotiate a rate of reimbursement that is not less than the level and amount of payment which the CCO would pay for the same service furnished by a provider, who is not an FQHC nor RHC, consistent with the requirements of BBA 4712(b)(2).

(12) Coverage of services through the Oregon Health Plan Benefit Package of covered services is limited by OAR 410-141-0500, excluded services and limitations for OHP clients.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 – 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2), 65, HB 3650

Hist.: DMAP 16-2012(Temp), f. & cert. ef. 3-26-12 thru 9-21-12; DMAP 37-2012, f. & cert. ef. 8-1-12

Rule Caption: Adopts Attorney General's model rules with the exception to the postmark date.

Adm. Order No.: DMAP 38-2012

Filed with Sec. of State: 8-3-2012

Certified to be Effective: 8-4-12

ADMINISTRATIVE RULES

Notice Publication Date: 7-1-2012

Rules Amended: 410-141-0264

Subject: The Division needs to amend this rule effective to February 1, 2012, This rule needs to be amended because basing timeliness of a hearing request on the date of a postmark, as set forth in the Department of Justice model rules OAR 137 division 003 would create operational conflicts due to the number of client documents received, the number of staff opening mail, and the expense of changing procedures about saving envelopes. This amendment avoids these conflicts by continuing current contested case procedures under which the timeliness of a hearing request is based on the date the Division receives it, not the date of the postmark.

The Division is also amending these rules to reflect new terminology, and to correct formatting, grammar and punctuation.

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-141-0264

Administrative Hearings

(1) An individual who is or was a Division member at the time of the notice of action is entitled to a contested case hearing if a Prepaid Health Plan (PHP) has denied requested services, payment of a claim, or terminates, discontinues or reduces a course of treatment, or any other action.

(a) If a member receives an adverse notice of action, the member may file a request for a contested case hearing. :

(b) If a member receives an adverse notice of appeal resolution from the PHP, the member may request a contested case hearing based on the notice of appeal resolution.:

(c) Contested case hearings are governed by OAR 410-120-1860, 410-120-1865, and this rule.

(2) A written hearing request must be received by the Division not later than the 45th day following the date of the Notice of Action, or if the hearing request was initiated after an appeal, not later than the 45th day following the Notice of Appeal Resolution.

(3) Effective, February 1, 2012, the method described in OAR 137-003-0520(8)–(10) is used in computing any period of time prescribed in the division of rules in OAR 410 division 120 and 141 applicable to timely filing of requests for hearing. Due to operational conflicts, the procedures needing revision and the expense of doing so, OAR 137-003-0520(9) and 137-003-0528(1)(a), which allows hearing requests to be treated as timely based on the date of postmark, does not apply to Division hearing requests.

(4) A member who may be entitled to continuing benefits may request and receive continuing benefits in the same manner and same amount while an appeal or contested case hearing is pending.

(a) To be entitled to continuing benefits, the member must complete a hearing request or request for appeal, requesting continuing benefits, no later than:

(A) The tenth day following the date of the notice or the notice of appeal resolution; and

(B) The effective date of the action proposed in the notice, if applicable.

(b) In determining timeliness under section (4)(a) of this rule, delay caused by circumstances beyond the control of the member is not counted.

(c) The benefits must be continued until:

(A) A final appeal resolution resolves the appeal, unless the member requests a hearing with continuing benefits, no later than ten days following the date of the notice of appeal resolution;

(B) A final order resolves the contested case;

(C) The time period or service limits of a previously authorized service have been met; or

(D) The member withdraws the request for hearing.

(5) The Division representative shall review the hearing request, documentation related to the hearing issue, and computer records to determine whether the claimant or the individual for whom the request is being made is or was a Division member at the time the action was taken, and whether the hearing request was timely.

(6) PHPs shall immediately transmit to the Division any hearing request submitted on behalf of a member, including a copy of the notice of action and, if applicable, notice of appeal resolution.

(7) If the member files a request for hearing with the Division, the Division shall send a copy of the hearing request to the PHP.

(8) PHPs shall review a hearing request, which has not been previously received or reviewed as an appeal, using the PHP's appeal process as follows:

(a) The appeal shall be reviewed immediately and shall be resolved, if possible, within 16 calendar days, pursuant to OAR 410-141-0262;

(b) The PHP shall provide the member with a written notice of appeal resolution.

(9) When a member requests a hearing, the PHP shall cooperate with providing relevant information required for the hearing process to the Division, as well as the results of the review by the PHP of the appeal and the administrative hearing request, and any attempts at resolution by the PHP.

(10) Information about members used for administrative hearings is handled in confidence consistent with ORS 411.320, 42 CFR 431.300 et seq, the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rules, and other applicable federal and state confidentiality laws and regulations. The Division shall safeguard the member's right to confidentiality of information used in the hearing as follows:

(a) The Division, the member and their representative, the PHP and any practitioner whose authorization, treatment, services, items, or request for payment is involved in the hearing may use this information for purposes of resolving the hearing without a signed release from the member. The Division may also use this information, pursuant to OAR 410-120-1360(4), for health oversight purposes, and for other purposes authorized or required by law. The information may also be disclosed to the Office of Administrative Hearings and the Administrative Law Judge assigned to the hearing and to the Court of Appeals if the member seeks judicial review of the final order;

(b) Except as provided in subsection (a), the Division shall ask the member to authorize a release of information regarding the hearing to other individuals. Before any information related to the hearing is disclosed under this subsection, the Division must have an authorization for release of information documented in the hearing file.

(11) The hearings request and the notice of appeal resolution shall be referred to the Office of Administrative Hearings and the hearing will be scheduled.

(a) The parties to the hearing shall include the PHP, the member and his or her representative, or the representative of a deceased member's estate;

(b) The procedures applicable to the hearing shall be conducted consistent with OAR 410-120-1860 and 410-120-1865;

(c) A final order should be issued or the case otherwise resolved by the Division ordinarily within 90 calendar days from the earlier of the following:

(A) The date the member requested a PHP appeal, not including the number of days the member took to subsequently file a request for hearing or

(B) The date the member filed a request for contested case hearing.

(d) The final order is the final decision of the Division.

(12) If the hearing decision is adverse to the member, the PHP may recover the cost of the services furnished to the member while the hearing is pending, to the extent that they were furnished solely because of the requirements of this rule and in accordance with forth in 42 CFR 438.420.

(13) The PHP must promptly correct the action taken up to the limit of the original request or authorization, retroactive to the date the action was taken, if the hearing decision is favorable to the member, or Division or the PHP decides in the member's favor before the hearing even if the member has lost eligibility after the date the action was taken:

(a) If the PHP, or a hearing decision reverses a decision to deny, limit, or delay services that were not furnished while the hearing was pending, the PHP must authorize or provide the disputed services promptly and as expeditiously as the member's health condition requires;

(b) If the PHP, or the hearing decision reverses a decision to deny authorization of services and the member received the disputed services while the hearing was pending, the PHP must pay for the services in accordance with Division policy and regulations in effect when the member requested the services.

Stat. Auth.: ORS 409.110 & 413.042

Stats. Implemented: ORS 414.065

Hist.: HR 19-1996, f. & cert. ef. 10-1-96; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 24-2003, f. 3-26-03 cert. ef. 4-1-03; OMAP 50-2003, f. 7-31-03 cert. ef. 8-1-03; OMAP 35-2004, f. 5-26-04 cert. ef. 6-1-04; DMAP 22-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 45-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 7-2012(Temp), f. & cert. ef. 2-7-12 thru 8-4-12; DMAP 38-2012, f. 8-3-12, cert. ef. 8-4-12

Rule Caption: Encounter Data Submission Requirements of Coordinated Care Organizations to Provide Care for Medical Assistance Recipients.

ADMINISTRATIVE RULES

Adm. Order No.: DMAP 39-2012(Temp)

Filed with Sec. of State: 8-9-2012

Certified to be Effective: 8-9-12 thru 2-5-13

Notice Publication Date:

Rules Adopted: 410-141-3430

Subject: This rule establishes encounter submission requirements and standards for Coordinated Care Organizations (CCO) to implement Oregon's Integrated and Coordinated Health Care Delivery System. CCO's will improve health, increase the quality, reliability, availability and continuity of care, as well as to reduce costs. CCO's will provide medical assistance recipients with health care services that are supported by alternative payment methodologies that focus on prevention and that use patient-centered primary care homes, evidence-based practices and health information technology to improve health and reduce health disparities. The Authority needs to adopt this rule to comply with federal standards and to align with the CCO contract language around performance standards. CCO's will begin operating on August 1, 2012, and this rule needs to be in effect before that operation date.

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-141-3430

Coordinated Care Organization Encounter Claims Data Reporting

(1) CCOs must meet the data content and submission standards as required by HIPAA 45 CFR Part 162, the Authority's electronic data transaction rules (OAR 943-120-0100 through 943-120-0200), the Division's 837 technical specifications for encounter data and the Division's encounter data submission guidelines which are subject to periodic revisions and available on the Authority's web site.

(2) CCOs must collect service information in standardized formats to the extent feasible and appropriate, if HIPAA standard, the CCO must utilize the HIPAA standards.

(a) CCOs shall submit encounter claims for all services, whether they are flexible services or covered services, provided to members as defined in OAR 410-120-0000 and 410-141-0000.

(b) CCOs shall submit encounter claims data including encounters for services where the CCO determined that:

(A) Liability exists;

(B) No liability exists even if the CCO did not make any payment for a claim;

(C) Including claims for services to members provided by a provider under a subcontract, capitation or special arrangement with another facility or program; and

(D) Including paid amounts regardless of whether the servicing provider is paid on a fee for service basis, on a capitated basis by the CCO, or the CCO's subcontractor.

(c) CCOs shall submit encounter claims data for all services to members who also have Medicare coverage, if a claim has been submitted to the CCO.

(d) CCOs shall report encounter claims data whether the provider is in network participating or out of network, non-participating, provider;

(3) CCOs must follow the DCBS standards for electronic data exchange as described in the Oregon Companion Guides available on the DCBS website.

(4) CCOs must submit encounter claims in the time frames as described below for the following claim types:

(a) Non-pharmacy encounter claims; professional, dental, and institutional;

(A) CCOs must submit encounter claims at least once per month for no less than 50% of all claim types received and adjudicated that month;

(B) CCOs must submit all remaining unreported encounter claims for services received and adjudicated within 180 days of the date of service except as may be applicable in paragraph (C) below;

(C) CCOs may only delay submission of encounter claims within 180 days from the date of service with prior notification to the Authority and only for any of the following reasons:

(i) Member's failure to give the provider necessary claim information;

(ii) Resolving local or out-of-area provider claims;

(iii) Third-Party Resource liability or Medicare coordination;

(iv) Member's pregnancy;

(v) Hardware or software modifications to CCO's health information system, or;

(vi) Authority recognized system issues preventing timely submission or correction of encounter claims data.

(b) Pharmacy claims:

(A) CCOs must ensure all pharmacy encounter claims data meet the data content standards as required by the National Council for Prescription Drug Programs (NCPDP), as available on their web site <http://www.ncdp.org/> or by contacting the National Council for Prescription Drug Programs organization;

(B) All pharmacy encounter claims data must be submitted by the CCO, whether by the CCO's pharmacy benefit manager or the CCO's subcontractor at least once a month for all services received and adjudicated that month and must submit all remaining unreported CCO pharmacy encounter claims within 60 days from the date of service.

(c) Submission Standards and Data Availability:

(A) CCOs must only use the two types of provider identifiers, as allowed by HIPAA NPI standards 45 CFR 160.103 and as provided to the CCO by the Authority in encounter claims;

(i) The National Provider Identifiers (NPI) for a provider covered entity enrolled with the Authority; or

(ii) The Oregon Medicaid proprietary provider numbers for the Authority enrolled non-covered atypical provider entities.

(B) CCOs must make an adjustment to any encounter claim when the CCO discovers the data is incorrect, no longer valid or some element of the claim not identified as part of the original claim needs to be changed;

(C) If the Authority discovers errors or a conflict with a previously adjudicated encounter claim except as specified in paragraph (E) below, the CCO must adjust or void the encounter claim within 14 calendar days of notification by the Authority of the required action or as identified in paragraph (E) below;

(D) If the Authority discovers errors with a previously adjudicated encounter claim resulting from a federal or State mandate or request that requires the completeness and accuracy of the encounter data, the CCO must correct the errors within a time frame specified by the Authority ;

(E) If circumstances prevent the CCO from meeting requested time frames for correction the CCO may contact the Authority to determine an agreed upon specified date except as required in subsection (d) below;

(F) CCOs must ensure claims data received from providers, either directly or through a third party submitter, is accurate, truthful and complete by:

(i) Verifying accuracy and timeliness of reported data;

(ii) Screening data for completeness, logic, and consistency;

(iii) Submitting a complete and accurate Encounter Data Certification and Validation Report available on the Authority's website; and

(H) CCOs must make all collected and reported data available upon request to the Authority and CMS as described in 42 CFR 438.242.

(d) Encounter Claims Data Corrections for "must correct" Encounter Claims:

(A) The Authority shall notify the CCO of the status of all encounter claims processed;

(B) Notification of all encounter claims processed that are in a "must correct" status shall be provided by the Authority to the CCO each week and for each subsequent week the encounter claim remains in a "must correct" status;

(C) The Authority may not necessarily notify the CCO of other errors however this information is available in the CCO's electronic remittance advice supplied by the Authority;

(D) CCOs shall submit corrections to all encounter claims within 63 days from the date the Authority sends the CCO notice that the encounter claim remains in a "must correct" status.

(E) CCOs may not delete encounter claims with a "must correct" status as specified in section (3)(d) except when the Authority has determined the encounter claim cannot be corrected or for other reasons;

(5) Enrollment of providers included on an encounter claim.

(a) CCOs shall ensure that all providers are enrolled with the Authority prior to submission of the encounter claim as either;

(A) An Oregon Medicaid fee for service provider or

(B) A provider that is not a fee for service provider but does provide services to the CCO's enrolled members, and

(C) CCOs must ensure the provider is not excluded per federal and state standards as set forth in OAR 943-120-0100 through 943-120-0200 and as specified in 42 CFR 455.400 through 455.400.

(6) Electronic Health Records (EHR) Systems OAR 410-165-0000 to 410-165-0140. In support of an eligible provider's ability to demonstrate meaningful use as an EHR user, as described by 42 CFR 495.4 and 42 CFR 495.8, the CCO must:

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(a) Submit encounter data in support of a qualified EHR user's meaningful use data report to the Authority for validation as set forth in OAR 410-165-0080;

(b) CCOs must respond within the time frame determined by the Authority to any request for:

(A) Any suspected missing CCO encounter claims, or;

(B) CCO submitted encounter claims found to be unmatched to an EHR user's meaningful use report.

(7) CCOs must comply with the following hysterectomy and sterilization standards as described in 42 CFR 441.250 to 441.259 and the requirements of OAR 410-130-0580:

(a) CCOs shall submit a signed informed consent form to the Authority for each member that received either a hysterectomy or sterilization service within 30 days of the date of service or

(b) Immediately upon notification by the Authority that a qualifying encounter claim has been identified;

(c) The Authority, in collaboration and cooperation, with the CCO shall reconcile all hysterectomy or sterilization services with informed consents with the associated encounter claims by either:

(A) Confirming the validity of the consent and notifying the CCO that no further action is needed;

(B) Requesting a corrected informed consent form, or;

(C) Informing the CCO the informed consent is missing or invalid and the payment must be recouped and the associated encounter claim must be changed to reflect no payment made for services within the time frame set by the Authority.

(8) Upon request by the Authority, CCOs must furnish information regarding rebates for any covered outpatient drug provided by the CCO, as follows:

(a) The Authority is eligible for the rebates authorized under Section 1927 of the Social Security Act (42 USC 1396r-8), as amended by section 2501 of the Patient Protection and Affordable Care Act (P.L. 111-148) and section 1206 of the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), for any covered outpatient drug provided by the CCO, unless the drug is subject to discounts under Section 340B of the Public Health Service Act;

(b) CCOs shall report prescription drug data as specified in section (3)(b).

(9) Encounter Pharmacy Data Rebate Dispute Resolution as governed by SSA Section 1927 42 U.S.C. 1396r-8 and as required by OAR 410-121-0000 through 410-121-0625. When the Authority receives an Invoiced Rebate Dispute from a drug manufacturer, the Authority shall send the Invoiced Rebate Dispute to the CCO for review and resolution within 15 calendar days of receipt.

(a) The CCO shall assist in the dispute process as follows:

(A) By notifying the Authority that the CCO agrees an error has been made, and

(B) By correcting and re-submitting the pharmacy encounter data to the Authority within 45 calendar days of receipt of the Invoiced Rebate Dispute; or

(b) If the CCO disagrees with the Invoiced Rebate Dispute that an error has been made, the CCO shall send the details of the disagreement to the Authority's encounter data liaison within 45 calendar days of receipt of the Invoiced Rebate Dispute.

Stat. Auth.: ORS 414.032, 414.615, 414.625, 414.635, 414.651

Stats. Implemented: ORS 414.610 - 685 OL 2011, Ch 602 Sec. 13, 14, 16, 17, 62, 64 (2) and 65, HB 3650

Hist.: DMAP 39-2012(Temp), f. & cert. ef. 8-9-12 thru 2-5-13

Oregon Health Licensing Agency Chapter 331

Rule Caption: Waive specific fee types to reduce BAP's ending balance by June 30, 2013.

Adm. Order No.: HLA 11-2012

Filed with Sec. of State: 7-25-2012

Certified to be Effective: 7-25-12

Notice Publication Date: 5-1-2012

Rules Amended: 331-940-0000

Subject: The agency needs to significantly reduce the Board's ending balance as discussed with the Board, the Department of Administrative Services, and the Legislative Fiscal Office. The agency and the Board of Body Art Practitioner's agreed to waive facility application, licensing and practitioner renewal fees for licenses issued prior to January 1, 2012, which began on March 5, 2012. In addition,

the permanent rule extends the waiving of examination fees for individuals taking the body piercing written and practical exams through the end of the biennium.

Rules Coordinator: Samantha Patnode—(503) 373-1917

331-940-0000

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) Standard Body Piercing — \$50.

(B) Specialty Body Piercing Level 1 — \$50.

(C) Specialty Body Piercing Level 2 — \$50.

(D) Electrology — \$50.

(E) Tattoo — \$50.

(F) Reciprocity Per Field of Practice — \$150.

(G) Facility — \$100.

(H) Mobile Facility — \$100.

(I) Event Facility — \$100.

(J) Temporary Facility License — \$100.

(K) Temporary Practitioner Per Field of Practice — \$50.

(L) Standard Body Piercing Trainee — \$50.

(M) Ear Lobe Piercing Temporary — \$25.

(b) Examination:

(A) Written — \$50.

(B) Practical — \$100.

(c) Original Issuance of License:

(A) Standard Body Piercing Trainee — \$50.

(B) Standard Body Piercing — \$50.

(C) Specialty Body Piercing Level 1 — \$50.

(D) Specialty Body Piercing Level 2 — \$50.

(E) Electrology — \$25.

(F) Tattoo — \$50.

(G) License for a Field of Practice by Reciprocity — \$50.

(H) Facility — \$150.

(I) Mobile Facility — \$150.

(J) Event Facility:

(i) Up to 100 booths: \$725.

(ii) 101 to 200 booths: \$1,450.

(iii) 201 to 300 booths: \$2,175.

(iv) 301 to 400 booths: \$2,900.

(v) 401 to 500 booths: \$3,625.

(K) Temporary Practitioner Per Field of Practice — \$20.

(L) Temporary Facility — \$50.

(M) Earlobe Piercing Temporary — \$25.

(d) Renewal of License Online:

(A) Standard Body Piercing — \$45.

(B) Electrology — \$20.

(C) Tattoo — \$45.

(D) Temporary Earlobe — \$20.

(E) Body Art Facility — \$125.

(F) Mobile Facility License — \$125.

(e) Renewal of License Over-the-Counter or Through the Mail:

(A) Standard Body Piercing Trainee — \$50.

(B) Standard Body Piercing — \$50.

(C) Specialty Body Piercing Level 1 — \$50.

(D) Specialty Body Piercing Level 2 — \$50.

(E) Electrology — \$25.

(F) Tattoo — \$50.

(G) Temporary Earlobe — \$25.

(H) Temporary Practitioner Per Field of Practice — \$20.

(I) Body Art Facility — \$150.

(J) Mobile Facility License — \$150.

(f) Other administrative fees:

(A) Delinquency — \$50 per year, up to three years.

(B) Replacement License — \$25.

(C) Duplicate License — \$25 per copy with maximum of three.

(D) Affidavit of Licensure — \$50.

(E) Information Packets — \$10.

(F) Administrative Processing Fee — \$25.

ADMINISTRATIVE RULES

(3) Individuals taking the body piercing written and practical examination from January 1, 2012 through June 30, 2013, will have their examination fees waived as long as funding remains available.

(4) Facility application and licensing fees for facilities licensed prior to January 1, 2012, will have their application and licensing fees waived between January 1, 2012 and June 30, 2013 or as long as funding remains available.

(5) Practitioners who were permanently licensed prior to January 1, 2012, will have their renewal fee waived between January 1, 2012 and June 30, 2013 or as long as funding remains available.

Stat. Auth.: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415
Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35
Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 4-2012(Temp), f. & cert. ef. 3-5-12 thru 9-1-12; HLA 11-2012, f. & cert. ef. 7-25-12

**Oregon Health Licensing Agency,
Board of Direct Entry Midwifery
Chapter 332**

Rule Caption: Lower license fees to \$1,200 and provide a \$1,200 discount for first time qualified Midwifery applicants seeking licensure.

Adm. Order No.: DEM 4-2012

Filed with Sec. of State: 7-25-2012

Certified to be Effective: 7-25-12

Notice Publication Date: 5-1-2012

Rules Amended: 332-040-0000

Subject: The Oregon Health Licensing Agency (OHLA), Board of Direct Entry Midwifery is lowering original license and license renewal fees from \$1,800 per year to \$1,200 per year per Legislative direction and ratification through Senate Bill 1579 of the 2012 Legislative Session. The OHLA will give a \$1,200 licensure fee discount for first time fully qualified Direct Entry Midwife licensure applicants residing in Oregon. Applicants must meet all qualifications in accordance with OAR 332-015-0030.

Application Fee: \$150

License Fee: \$1,200

Discount: \$1,200

Cost to first time applicants: \$1,350 - \$1,200 = \$150

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): \$1,200 for one year.

(d) Renewal — License: \$1,200 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.

(3) Applicants for original issuance of direct entry midwifery license may be granted a \$1,200 original license fee discount, upon application for licensure. The license fee discount is available to individuals who meet all application requirements for direct entry midwifery licensure under OAR 332-015-0030 and reside in Oregon. Only applicants who have not held a direct entry midwifery license in Oregon qualify for the discount.

Stat. Auth.: ORS 676.607, 676.615 & 687.435

Stats. Implemented: ORS 676.607 & 687.435

Hist.: DEM 4-2011, f. & cert. ef. 9-26-11; DEM 7-2011(Temp), f. 12-20-11, cert. ef. 1-1-12 thru 6-29-12; DEM 2-2012(Temp), f. & cert. ef. 3-9-12 thru 9-5-12; DEM 4-2012, f. & cert. ef. 7-25-12

**Oregon Liquor Control Commission
Chapter 845**

Rule Caption: Amend contested case rules to comply with Attorney General's amended Office of Administrative Hearings rules.

Adm. Order No.: OLCC 6-2012

Filed with Sec. of State: 8-14-2012

Certified to be Effective: 9-1-12

Notice Publication Date: 5-1-2012

Rules Amended: 845-003-0200, 845-003-0210, 845-003-0220, 845-003-0270, 845-003-0331, 845-003-0340, 845-003-0460, 845-003-0590, 845-003-0670

Subject: All contested case hearings must be conducted pursuant to the Attorney General's (AG) Model Rules of Procedure for the Office of Administrative Hearings, set forth in Chapter 137 Division 3 of the Department of Justice's administrative rules. However, those rules authorize the Commission to promulgate its own procedural rules in selected areas, if not in conflict with the AG Model Rules. This package of Division 3 rules contains the Commission specific administrative rules governing contested case procedures. In an effort to improve the actual and perceived fairness of the contested case process, as well as to simplify the rule language, the AG Model Rules have been amended effective January 31, 2012. We amended the Commission's contested case rules so that our procedures do not conflict with the AG Model Rules. The amendments reflect the Model Rule changes in the main areas of discovery requirements, a uniform "good cause" standard, and the sufficiency of a hearing request to serve as a general denial of the facts alleged in the notice. This rule-making also includes further amendments to update terminology and other similar housekeeping amendments.

Rules Coordinator: Jennifer Huntsman—(503) 872-5004

845-003-0200

Statement of Purpose

(1) The purpose of these rules is to carry out the statutory policies contained in ORS 183.411 to 183.470, to give all persons involved in a contested case clear guidelines to follow and an understanding of what is expected of participants, and to provide for thorough and timely hearings.

(2) In an effort to provide timely hearings, these rules establish time limits which will be strictly followed.

(3) These rules apply to all contested case proceedings pending with or received by the Commission on or after the effective date.

Stat. Auth.: ORS 183.341(2) & 471.730(5) & (6)

Stats. Implemented: ORS 183.341(2)

Hist.: OLCC 9-1998, f. 10-21-98, cert. ef. 1-1-99; OLCC 1-2000(Temp), f. & cert. ef. 1-14-00 thru 7-11-00; OLCC 8-2000, f. 6-23-00, cert. ef. 7-1-00; OLCC 6-2012, f. 8-14-12, cert. ef. 9-1-12

845-003-0210

Model Rules of Procedure

The Attorney General's Rules for the Office of Administrative Hearings, effective January 31, 2012, are hereby adopted by reference as permanent rules of procedure for contested case hearings conducted on behalf of the Liquor Control Commission, except to the extent supplemented in this division or any other division of chapter 845 of the Oregon Administrative Rules. The Attorney General's Rules for the Office of Administrative Hearings are set forth at OAR 137-003-0501 to 137-003-0700.

Stat. Auth.: ORS 183.341 (1) & (2) & 471.730(5) & (6)

Stats. Implemented: ORS 183.341(1) & (2)

Hist.: OLCC 9-1998, f. 10-21-98, cert. ef. 1-1-99; OLCC 1-2000(Temp), f. & cert. ef. 1-14-00 thru 7-11-00; OLCC 8-2000, f. 6-23-00, cert. ef. 7-1-00; OLCC 6-2012, f. 8-14-12, cert. ef. 9-1-12

845-003-0220

Definitions

The following definitions apply to these rules, unless the context requires otherwise:

ADMINISTRATIVE RULES

(1) "Administrator" means the Executive Director of the Oregon Liquor Control Commission or his or her designee.

(2) "Charging Document" means any document issued by the Commission stating that any person or entity has violated the laws over which the Commission has jurisdiction; any document proposing to act upon an application for a permit, license, or certification, or upon an existing permit, license, or certification; or any document alleging a violation of a term or condition of a retail sales agent agreement.

(3) "Commission" means the Oregon Liquor Control Commission and any employee thereof, but for purposes of these rules does not refer to the Commissioners.

(4) "Commissioners" means a quorum of duly appointed Commissioners at a meeting called for the transaction of any business, the performance of any duty, or the exercise of any power of the Oregon Liquor Control Commission.

(5) "Good cause" means the factors set forth under OAR 137-003-0501(7). The failure to perform a required act due to the press of business does not constitute good cause. Good cause does not include a lack of knowledge of the law, including these rules.

(6) "Participant" means any party involved in a particular contested case proceeding or the Commission.

(7) "Party" means:

(a) Any person, entity, government agency or body upon whom a charging document has been served;

(b) Any person, entity, government agency or body that has been granted party or limited party status.

Stat. Auth.: ORS 183.341(2) & 471.730(5) & (6)

Stats. Implemented: ORS 183.310 & 183.341(2)

Hist.: OLCC 9-1998, f. 10-21-98, cert. ef. 1-1-99; OLCC 1-2000(Temp), f. & cert. ef. 1-14-00 thru 7-11-00; OLCC 8-2000, f. 6-23-00, cert. ef. 7-1-00; OLCC 6-2012, f. 8-14-12, cert. ef. 9-1-12

845-003-0270

Request for a Contested Case Hearing and Response to Charging Document

(1) Any party who wants to contest a charging document must request a contested case hearing. The request for hearing must be in writing and filed with the Administrative Policy & Process Division within the time limit established in the charging document. The time limit for response to a charging document is:

(a) 30 days after mailing of the charging document for violation matters, except that for violations of ORS 471.315(1)(c), the time limit shall be 20 days;

(b) 15 days after mailing of the charging document for service permit refusals based on failure to complete the alcohol server education course and examination and 30 days after mailing of the charging document for all other service permit refusals;

(c) 60 days after mailing of the charging document for license or certification refusal or non-renewal, except that for non-renewal of a license under ORS 471.313(5), the time limit shall be 20 days;

(d) Within the time period provided in the retail sales agent agreement between the Commission and the agent for agency cases, if the agreement provides for a hearing;

(e) Within the time period provided in the charging document for all other matters not listed above.

(2) In cases involving Category I or II violations, licensing actions, or retail sales agent agreements, a party must file an answer. The answer must specify what statements in the charging document the party denies and what defense or defenses the party will rely upon. The answer must include an admission or denial of each factual matter alleged in the charging document and a statement of each relevant defense to the allegations. In these types of cases, a general denial is not sufficient to constitute an answer.

Stat. Auth.: ORS 183.341(2), 183.745 & 471.730(5) & (6)

Stats. Implemented: ORS 183.341(2), 183.430(2), 183.435, 183.745, 471.331(1) & 471.380(2)

Hist.: OLCC 9-1998, f. 10-21-98, cert. ef. 1-1-99; OLCC 8-1999, f. 6-9-99, cert. ef. 7-1-99; OLCC 1-2000(Temp), f. & cert. ef. 1-14-00 thru 7-11-00; OLCC 8-2000, f. 6-23-00, cert. ef. 7-1-00; OLCC 9-2003, f. 6-27-03, cert. ef. 7-1-03; OLCC 18-2007, f. 9-27-07, cert. ef. 10-1-07; OLCC 6-2012, f. 8-14-12, cert. ef. 9-1-12

845-003-0331

Employee Representation at Contested Case Hearings

(1) The Commission's goal in contested case hearings is to have a full and accurate record upon which the Commissioners can make the best decision. To help ensure a full record, the Commission allows employees to represent the Commission in certain contested case hearings. The employee representative's role is to represent the Commission in a way that supports objective fact finding and encourages an open, fair, and efficient process.

(2) A Commission employee may represent the Commission in contested case hearings involving violations, license or service permit applications, alcohol server education provider and instructor certification applications, and retail sales agent agreement violations or disputes.

(3) The representative's responsibilities include, but are not limited to:

(a) Presenting evidence;

(b) Asking questions of all witnesses;

(c) Presenting information about the facts, and advocating for staff's position surrounding the facts;

(d) Presenting information on how the facts apply to the statutes or rules directly related to the issues in the contested case;

(e) Presenting information comparing Commission actions in similar situations;

(f) Presenting information about the literal meaning of the statutes or rules that apply to the issues in the contested case; and

(g) Presenting information about the admissibility of evidence or the correctness of procedures being followed.

(4) The employee representative may not make legal arguments. "Legal arguments" include arguments on:

(a) The jurisdiction of the Liquor Control Commission to hear the contested case;

(b) The constitutionality of a statute or rule or the application of a constitutional requirement to the Liquor Control Commission; and

(c) The application of court precedent to the facts of the particular contested case proceeding.

(5) When an employee represents the Commission in a contested case hearing, the administrative law judge will advise the employee representative of the way in which objections may be made. This advice is of a procedural nature and does not change applicable law on waiver or the duty to make timely objections. If the objections involve legal argument, the administrative law judge will provide reasonable opportunity for the employee representative to consult legal counsel and permit legal counsel to file written legal argument within a reasonable time after the conclusion of the hearing.

Stat. Auth.: ORS 183.341(2), 183.452 & 471.730(5) & (6)

Stats. Implemented: ORS 183.341(2) & 183.452

Hist.: OLCC 6-2002(Temp), f. 5-6-02, cert. ef. 5-7-02 thru 11-2-02; OLCC 13-2002, f. 10-25-02 cert. ef. 11-3-02; OLCC 6-2012, f. 8-14-12, cert. ef. 9-1-12

845-003-0340

Interpreters

(1) Notwithstanding OAR 137-003-0590(3)(c)(A) and (B), when a party or a witness in a contested case proceeding, who is an individual with a disability, or who by reason of place of birth or culture, speaks a language other than English and does not speak English with adequate ability to communicate effectively in the proceedings, timely requests an assistive communication device or an interpreter, the Office of Administrative Hearings shall appoint a qualified interpreter or assistive communication device whenever it is necessary to interpret the proceedings.

(2) The administrative law judge shall explain to the person with a disability or to the non-English speaking party that a written decision or order will be issued in English, and that the party may contact the interpreter for an oral translation of the decision, or contact the Office of Administrative Hearings to arrange for use of an assistive communication device, and that the translation or use of the assistive communication device itself is at no cost to the party. The interpreter shall provide to the administrative law judge and the party the interpreter's business telephone number and address. The telephone number and address shall be attached to the order mailed to the party. A copy of the order shall also be mailed to the interpreter for use in translation.

(3) For purposes of this rule:

(a) An "assistive communication device" means any equipment designed to facilitate communication by an individual with a disability;

(b) An "individual with a disability" means a person who cannot readily understand the proceedings because of deafness or a physical hearing impairment, or cannot communicate in the proceedings because of a physical speaking impairment;

(c) A "non-English speaking" person means a person who, by reason of place of birth or culture, speaks a language other than English and does not speak English with adequate ability to communicate effectively in the proceedings;

(d) A "qualified interpreter" means:

(A) For an individual with a disability, a person readily able to communicate with the individual with a disability, interpret the proceedings and

ADMINISTRATIVE RULES

accurately repeat and interpret the statements of the individual with a disability;

(B) For a non-English speaking person, a person readily able to communicate with the non-English speaking person and who can orally transfer the meaning of statements to and from English and the language spoken by the non-English speaking person. A qualified interpreter must be able to interpret in a manner that conserves the meaning, tone, level, style and register of the original statement, without additions or omissions. "Qualified interpreter" does not include a person who is unable to interpret the dialect, slang or specialized vocabulary used by the party or witness.

Stat. Auth.: ORS 183.341(2) & 471.730(5) & (6)

Stats. Implemented: ORS 183.341(2)

Hist.: OLCC 9-1998, f. 10-21-98, cert. ef. 1-1-99; OLCC 1-2000(Temp), f. & cert. ef. 1-14-00 thru 7-11-00; OLCC 8-2000, f. 6-23-00, cert. ef. 7-1-00; OLCC 5-2006, f. 4-18-06, cert. ef. 5-1-06; OLCC 6-2012, f. 8-14-12, cert. ef. 9-1-12

845-003-0460

Exchange of Exhibits and Witness Lists

(1) Prior to any contested case hearing, the administrative law judge may order the participants to exchange exhibits and witness lists.

(2) Each participant must file exhibits and a list of witnesses with the administrative law judge and provide a copy to the other participant(s) by the date established by the administrative law judge. If there is no order by the administrative law judge, the exhibits and witness lists must be filed and exchanged no later than 14 days before the hearing date. If a participant fails to timely file and exchange the documents, a prehearing conference will be convened upon request.

(3) Following the filing and exchange of the witness lists and exhibits and before the start of the hearing, participants shall immediately provide to the other participants and the administrative law judge any newly discovered matter, such as a document or name of a witness.

(4) The requirements in sections (1)–(3) of this rule do not apply to service permit refusal and revocation cases. In these matters, prior to any contested case hearing, the administrative law judge may issue a discovery order directing the participants to file and exchange exhibits and witness lists by a date established by the administrative law judge.

Stat. Auth.: ORS 183.341(2), 183.425(2) & 471.730(5) & (6)

Stats. Implemented: ORS 183.341(2) & 183.425(2)

Hist.: OLCC 9-1998, f. 10-21-98, cert. ef. 1-1-99; OLCC 1-2000(Temp), f. & cert. ef. 1-14-00 thru 7-11-00; OLCC 8-2000, f. 6-23-00, cert. ef. 7-1-00; OLCC 6-2012, f. 8-14-12, cert. ef. 9-1-12

845-003-0590

Exceptions

(1) Only parties and limited parties may file exceptions to a proposed order. Commission staff may file written comments on the proposed order.

(2) Exceptions and comments must be in writing and received by the Administrator of the Commission within 15 days of the mailing date of the proposed order to be considered by the Commissioners. If an interpreter is required to translate a proposed order for one participant, all participants shall have an additional 10 days to file exceptions or comments to the proposed order.

(3) The Administrator may grant a participant's written request to extend the period to file exceptions or comments if there is a circumstance beyond the control of the participant which in the discretion of the Administrator constitutes a compelling justification for postponement. The request must be received within 15 days of the mailing date of the proposed order.

(4) Oral argument to the Commissioners on written exceptions or comments will be taken at a regularly scheduled meeting of the Commissioners. The participants shall be notified by the Commission of the date, time, and place of the meeting where such argument will be heard.

Stat. Auth.: ORS 183.341(2) & 471.730(5) & (6)

Stats. Implemented: ORS 183.341(2) & 183.460

Hist.: OLCC 9-1998, f. 10-21-98, cert. ef. 1-1-99; OLCC 1-2000(Temp), f. & cert. ef. 1-14-00 thru 7-11-00; OLCC 8-2000, f. 6-23-00, cert. ef. 7-1-00; OLCC 11-2003(Temp), f. & cert. ef. 8-15-03 thru 2-10-04; OLCC 21-2003, f. 11-24-03, cert. ef. 2-10-04; OLCC 6-2012, f. 8-14-12, cert. ef. 9-1-12

845-003-0670

Retained Authority of Commissioners

(1) The Commissioners retain all authority not specifically delegated.

(2) The Commissioners delegate to the Administrator the authority to prepare and issue an order granting or denying late hearing requests (frequently called requests for relief from default) as provided in OAR 137-003-0528.

(3) The Commissioners delegate to the Administrator the authority to prepare and issue an order granting or denying requests to participate as a party, limited party or interested agency in a contested case under OAR

137-003-0535 or 137-003-0540 and to make all decisions incidental to the request, including, but not limited to, specifying the areas of participation and procedural limitations of participation, granting or denying late petitions, shortening the time within which responses to the petition shall be filed and/or postponing the hearing until disposition is made of the petition.

(4) The Commissioners delegate to the Administrator the authority to prepare and issue an order granting or denying a petition for an order to take a deposition of a party pursuant to OAR 137-003-0572. This authority includes, but is not limited to, the ability to designate the terms of the deposition such as the location, manner of recording, time of day and persons permitted to be present during the deposition.

(5) The Commissioners delegate to the Administrator the authority to prepare and issue an order granting or denying discovery motions pursuant to OAR 137-003-0568 submitted prior to referral of the contested case to the Office of Administrative Hearings and, if applicable, after the assigned administrative law judge issues a proposed order.

(6) The Commissioners delegate to the Administrator the authority to respond to questions transmitted to the agency as set forth at OAR 137-003-0635. The scope of the issues that may be transmitted to the agency includes the agency's interpretation of its rules and applicable statutes and which rules or statutes apply to a proceeding.

(7) The Commissioners delegate to the Administrator the authority to prepare and issue a Final Order based upon an informal disposition by settlement.

(8) The Commissioners delegate to the Administrator the authority to prepare and issue a Final Order by Default when the default is the result of a party's failure to request a hearing or withdrawal of a hearing request; or when a party, after requesting a hearing, fails to appear at the hearing and the agency file does not constitute the sole record.

(9) The Commissioners delegate to the ALJ the authority to prepare and issue a Final Order by Default when the default is the result of a party's failure to appear at the time scheduled for hearing and the agency file constitutes the sole record.

(10) The Commissioners delegate to the Administrator the authority to prepare and issue a Final Order based upon a proposed order where exceptions are not filed timely and the order is not otherwise subject to review by the Commissioners.

(11) The Commissioners delegate to the Administrator the authority to grant or deny requests for extension of time within which to file exceptions or comments to a proposed order, in conformity with the requirements of OAR 845-003-0590(3).

(12) The Commissioners delegate to the Administrator the authority to prepare and issue an order granting or denying a motion to postpone oral argument to the Commissioners on any comments or exceptions to a proposed order.

(13) The Commissioners delegate to the Administrator the authority to summarily deny requests for reconsideration or rehearing and any stay request based on these requests for reconsideration or rehearing when exceptions or a request to reopen the record has been made by the same participant in the same case.

(14) The Commissioners delegate to the Administrator the authority to prepare and issue an order granting or denying a request to stay the enforcement of a Final Order pending judicial review and in cases where judicial review has not been requested.

Stat. Auth.: ORS 183.341(2) & 471.730(5) & (6)

Stats. Implemented: ORS 183.341(2)

Hist.: OLCC 9-1998, f. 10-21-98, cert. ef. 1-1-99; OLCC 1-2000(Temp), f. & cert. ef. 1-14-00 thru 7-11-00; OLCC 8-2000, f. 6-23-00, cert. ef. 7-1-00; OLCC 9-2003, f. 6-27-03, cert. ef. 7-1-03; OLCC 18-2003, f. 11-24-03, cert. ef. 12-1-03; OLCC 2-2005, f. 4-21-05, cert. ef. 5-1-05; OLCC 1-2008, f. 1-16-08, cert. ef. 2-1-08; OLCC 16-2010, f. 12-22-10, cert. ef. 1-1-11; OLCC 6-2012, f. 8-14-12, cert. ef. 9-1-12

Oregon Medical Board Chapter 847

Rule Caption: Eliminates references to "monitoring entity" per HB 4009 and changes "vendor" to "contractor".

Adm. Order No.: OMB 17-2012(Temp)

Filed with Sec. of State: 7-31-2012

Certified to be Effective: 7-31-12 thru 1-15-13

Notice Publication Date:

Rules Amended: 847-065-0010, 847-065-0015, 847-065-0020, 847-065-0025, 847-065-0030, 847-065-0035, 847-065-0040, 847-065-0045, 847-065-0050, 847-065-0055, 847-065-0060, 847-065-0065, 847-065-0070

ADMINISTRATIVE RULES

Subject: Temporary rule adoption eliminates references to the “monitoring entity,” which was removed from the statute in 2012 HB 4009, changes “vendor” to “contractor” in keeping with the Oregon Health Authority’s OARs (Chapter 415) on the HPSP, and corrects the statutes implemented.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-065-0010

Purpose, Intent and Scope

The Oregon Medical Board recognizes that substance use disorders and/or mental disorders are potentially progressive, chronic diseases. The Board believes that physicians, podiatric physicians, physician assistants and acupuncturists who develop these diseases can, with appropriate treatment, be assisted with recovery and return to the practice of medicine and acupuncture. It is the intent of the Board that a licensee with a substance use disorder and/or mental disorder may have the opportunity to enter the Health Professionals’ Services Program (HPSP). Participation in the HPSP does not shield a licensee from possible disciplinary action.

Stat. Auth.: ORS 676.185-200 & 677.265

Stats. Implemented: ORS 677.185 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13

847-065-0015

Definitions

The following definitions apply to OAR chapter 847, division 065, except as otherwise stated in the definition:

(1) “Assessment or evaluation” means the process an independent third-party evaluator uses to diagnose the licensee and to recommend treatment options for the licensee.

(2) “Board” means the Oregon Medical Board.

(3) “Business day” means Monday through Friday, except legal holidays as defined in ORS 187.010 (or ORS 187.020).

(4) “Contractor” means the entity that has contracted with the Division to conduct the HPSP.

(5) “Diagnosis” means the principal mental health or substance use diagnosis listed in the current Diagnostic Statistical Manual (DSM). The diagnosis is determined through the assessment and any examinations, tests or consultations suggested by the assessment.

(6) “Division” means the Department of Human Services, Addictions and Mental Health Division.

(7) “DSM” means the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.

(8) “Federal regulations” means:

(a) As used in ORS 676.190(1)(f)(D), a “positive toxicology test result as determined by federal regulations pertaining to drug testing” means a test result[s] that meets or exceeds the cutoff concentrations shown in 49 CFR § 40.87 (2009)

(b) As used in ORS 676.190(4)(i), requiring a “licensee to submit to random drug or alcohol testing in accordance with federal regulations” means licensees are selected for random testing by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with licensees’ unique identification numbers or other comparable identifying numbers. Under the selection process used, each covered licensee must have an equal chance of being tested each time selections are made, as described in 40 CFR § 199.105(c)(5) (2009). Random drug tests must be unannounced and the dates for administering random tests must be spread reasonably throughout the calendar year, as described in 40 CFR § 199.105(c)(7) (2009).

(9) “Fitness to practice evaluation” means the process a qualified, independent third-party evaluator uses to determine if the licensee can safely perform the essential functions of the licensee’s health practice.

(10) “Final enrollment” means a self-referred licensee has provided all documentation required by OAR 847-065-0035 and has met all eligibility requirements to participate in the HPSP.

(11) “Independent third-party evaluator” means an individual or center who is approved by the Board to evaluate, diagnose, and offer treatment options for substance use disorders and/or mental disorders.

(12) “Licensee” means a licensed physician, podiatric physician, physician assistant or acupuncturist who is licensed or certified by the Board.

(13) “Mental disorder” means a clinically significant syndrome identified in the current DSM that is associated with disability or with significantly increased risk of disability.

(14) “Monitoring agreement” means an individualized agreement between a licensee and the contractor that meets the requirements for a diversion agreement set by ORS 676.190.

(15) “Positive toxicology test result” means a test result that meets or exceeds the cutoff concentrations shown in 49 CFR 40.87 (2009), a test result that shows other drugs or alcohol, or a test result that fails to show the appropriate presence of a currently prescribed drug that is part of a treatment program related to a condition being monitored by HPSP.

(16) “Provisional enrollment” means temporary enrollment, pending verification that a licensee meets all program eligibility criteria.

(17) “Self-referred licensee” means a licensee who seeks to participate in the program without a referral from the Board.

(18) “Substance abuse” means a disorder related to the taking of a drug of abuse (including alcohol); to the side effects of a medication; and to a toxin exposure, including: substance use disorders (substance dependence and substance abuse) and substance-induced disorders (including but not limited to substance intoxication, withdrawal, delirium, and dementia, as well as substance induced psychotic disorders and mood disorders), as defined in DSM criteria.

(19) “Substantial non-compliance” means that a licensee is in violation of the terms of his or her monitoring agreement in a way that gives rise to concerns about the licensee’s ability or willingness to participate in the HPSP. Substantial non-compliance and non-compliance include, but are not limited to, the factors listed in ORS 676.190(1)(f). Conduct that occurred before a licensee entered into a monitoring agreement does not violate the terms of that monitoring agreement.

(20) “Successful completion” means that for the period of time deemed necessary by the contractor or the Board, the licensee has complied with the licensee’s monitoring agreement to the satisfaction of the contractor and/or the Board as appropriate.

(21) “Toxicology testing” means urine testing or alternative chemical monitoring including blood, saliva, breath or hair as conducted by a laboratory certified, accredited or licensed and approved for toxicology testing.

(22) “Treatment” means the planned, specific, individualized health and behavioral-health procedures, activities, services and supports that a treatment provider uses to remediate symptoms of a substance use disorder and/or mental disorder.

Stat. Auth.: ORS 676.185-200 & 677.265

Stats. Implemented: ORS 677.185 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13

847-065-0020

Participation in Health Professionals Services Program

Effective July 1, 2010, the Board must participate in the Health Professionals’ Services Program and may refer eligible licensees to the contractor in lieu of or in addition to discipline. Only licensees who meet the eligibility criteria may be referred by the Board to the contractor.

Stat. Auth.: ORS 676.185-200 & 677.265

Stats. Implemented: ORS 677.185 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13

847-065-0025

Eligibility for Participation in Health Professionals Services Program

(1) Licensee must be evaluated by an independent third-party evaluator

(2) The evaluation must include a diagnosis of a substance use disorder and/or mental disorder with the appropriate diagnostic code from the DSM, and treatment options.

(3) Licensee must provide a written statement agreeing to enter the HPSP and agreeing to abide by all rules established by the Board.

(4) Licensee must enter into the “HPSP Monitoring Agreement.”

(5) The Board will perform a safe practice investigation for Board-referred licensees. The contractor will perform a safe practice investigation for self-referred licensees.

Stat. Auth.: ORS 676.185-200 & 677.265

Stats. Implemented: ORS 677.185 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13

847-065-0030

Procedure for Board Referrals

(1) When the Board receives information involving a licensee who may have substance abuse and/or a mental disorder, the Board staff will investigate and complete a report to be presented at a Board meeting.

ADMINISTRATIVE RULES

(2) If licensee meets eligibility criteria and the Board approves entry into the HPSP, the Board will provide a written referral. The referral must include:

(a) A copy of the report from the independent third-party evaluator who diagnosed the licensee;

(b) The treatment options developed by the independent third-party evaluator;

(c) A statement that the Board has investigated the licensee's professional practice and conduct;

(d) A description of any restrictions or requirements imposed by the Board or recommended by the Board on the licensee's professional practice;

(e) A written statement from the licensee agreeing to enter the HPSP and agreeing to abide by all terms and conditions established by the contractor; and

(f) A statement that the licensee has agreed to report any arrest for or conviction of a misdemeanor or felony crime to the Board within three business days after the licensee is arrested or convicted.

Stat. Auth.: ORS 676.185-200 & 677.265

Stats. Implemented: ORS 677.185 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13

847-065-0035

Procedure for Self- Referred Licensees

Self-referred licensees may participate in the HPSP as permitted by ORS 676.190(5).

(1) Provisional Enrollment: To be provisionally enrolled in the program, a self-referred licensee must:

(a) Sign a written consent allowing disclosure and exchange of information among the contractor, the licensee's employer, independent third-party evaluators and treatment providers;

(b) Sign a written consent allowing disclosure and exchange of information among the contractor, the Board, the licensee's employer, independent third-party evaluators and treatment providers in the event the contractor determines the licensee to be in substantial non-compliance with his or her monitoring agreement as defined in OAR 847-065-0065;

(c) Attest that the licensee is not, to the best of the licensee's knowledge, under investigation by his or her Board; and

(d) Agree to and sign a monitoring agreement.

(2) Final Enrollment: To move from provisional enrollment to final enrollment in the program, a self-referred licensee must:

(a) Obtain at the licensee's own expense and provide to the contractor, an independent third-party evaluator's written evaluation containing a DSM diagnosis and diagnostic code and treatment recommendations;

(b) Agree to cooperate with the contractor's investigation to determine whether the licensee's practice while impaired presents or has presented a danger to the public; and

(c) Enter into an amended monitoring agreement, if required by the contractor.

(3) Once a self-referred licensee seeks enrollment in the HPSP, failure to complete final enrollment may constitute substantial non-compliance and may be reported to the Board.

Stat. Auth.: ORS 676.185-200 & 677.265

Stat. Auth.: ORS 676.185-200 & 677.265

Stats. Implemented: ORS 677.185 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13

847-065-0040

Disqualification Criteria

Licensees, either Board-referred or self-referred, may be disqualified from entering the HPSP for factors including, but not limited to:

(1) Licensee's disciplinary history;

(2) Severity and duration of the licensee's impairment;

(3) Extent to which licensee's practice can be limited or managed to eliminate danger to the public;

(4) If licensee's impairment cannot be managed with treatment and monitoring;

(5) Evidence of criminal history that involves injury or endangerment to others;

(6) Evidence of sexual misconduct;

(7) Evidence of non-compliance with a monitoring program from another state;

(8) Pending investigations with the Board or boards from other states;

(9) Previous Board investigations with findings of substantiated abuse or dependence; and

(10) Prior enrollment in, but failure to successfully complete, the Oregon Medical Board Health Professionals Program or HPSP.

Stat. Auth.: ORS 676.185-200 & 677.265

Stats. Implemented: ORS 677.185 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13

847-065-0045

Approval of Independent Third-Party Evaluators

(1) To be approved by the Board as an independent third-party evaluator, an evaluator must be:

(a) Licensed as required by the jurisdiction in which the evaluator works;

(b) Able to provide a comprehensive assessment of and written report describing a licensee's diagnosis, degree of impairment, and treatment options; and

(c) Able to facilitate a urinalysis of the licensee at intake.

(2) The Board reserves the right to not approve an independent third-party evaluator for any reason.

(3) The Board or contractor will not accept an evaluator as independent in a particular case if, in the Board's or contractor's judgment, the evaluator's judgment is likely to be influenced by a personal or professional relationship with a licensee.

Stat. Auth.: ORS 676.185-200 & 677.265

Stats. Implemented: ORS 677.185 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13

847-065-0050

Approval of Treatment Providers

(1) To be approved by the Board as a treatment provider, a provider must be:

(a) Licensed as required by the jurisdiction in which the provider works;

(b) Able to provide appropriate treatment considering licensee's diagnosis, degree of impairment, and treatment options proposed by the independent third-party evaluator; and

(c) Able to facilitate a urinalysis of the licensee at intake.

(2) A treatment provider may not have a personal or professional relationship with a licensee.

(3) The Board will maintain a list of treatment providers available to licensees upon request.

Stat. Auth.: ORS 676.185-200 & 677.265

Stats. Implemented: ORS 677.185 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13

847-065-0055

Licensee Responsibilities

All licensees must:

(1) Agree to report any arrest for or conviction of a misdemeanor or felony crime to the contractor within three business days after the licensee is arrested or convicted of the crime; and

(2) Comply continuously with his or her monitoring agreement, including any restrictions on his or her practice, for at least two years or longer, as specified in the monitoring agreement.

(3) Abstain from mind-altering or intoxicating substances or potentially addictive drugs, unless the drug is approved by the contractor and prescribed for a documented medical condition by a person authorized by law to prescribe the drug to the licensee;

(4) Report use of mind-altering or intoxicating substances or potentially addictive drugs within 24 hours to contractor;

(5) Participate in a treatment plan approved by a third-party evaluator or treatment provider;

(6) Limit practice as required by the contractor or the Board;

(7) Cooperate with supervised monitoring of practice;

(8) Participate in a follow-up evaluation, when necessary, of licensee's fitness to practice;

(9) Submit to random drug or alcohol testing;

(10) Report at least weekly to the contractor regarding the licensee's compliance with the monitoring agreement;

(11) Report applications for licensure in other states, changes in employment and changes in practice setting to the contractor;

ADMINISTRATIVE RULES

(12) Agree to be responsible for the cost of evaluations, toxicology testing, treatment and monitoring;

(13) Report to the contractor any investigations or disciplinary action by any state, or state or federal agency, including Oregon;

(14) Participate in required meetings according to the treatment plan; and

(15) Maintain current license status and/or report any changes in license status.

Stat. Auth.: ORS 676.185-200 & 677.265

Stats. Implemented: ORS 677.185 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13

847-065-0060

Completion Requirements

(1) The time spent participating in a monitored program before transferring from the Health Professionals Program to the Health Professionals' Services Program effective July 1, 2010, will be counted toward the required term of monitored practice.

(2) The licensee will remain enrolled in the program for a minimum of two consecutive years.

Stat. Auth.: ORS 676.185-200 & 677.265

Stats. Implemented: ORS 677.185 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13

847-065-0065

Substantial Non-Compliance Criteria

(1) The contractor will report substantial non-compliance with a diversion agreement to the Board within one business day after the contractor learns of the substantial non-compliance, including but not limited to information that a licensee:

(a) Engaged in criminal behavior;

(b) Engaged in conduct that caused injury, death or harm to the public, including engaging in sexual impropriety with a patient;

(c) Was impaired in a health care setting in the course of the licensee's employment;

(d) Received a positive toxicology test result;

(e) Violated a restriction on the licensee's practice imposed by the contractor or the Board;

(f) Was admitted to the hospital for mental illness or adjudged to be mentally incompetent;

(g) Entered into a diversion agreement, but failed to participate in the HPSP;

(h) Was referred to the HPSP, but failed to enroll in the HPSP;

(i) Forged, tampered, or modified a prescription;

(j) Violated any rules of prescriptive authority;

(k) Violated any provisions of OAR 847-065-0055;

(l) Violated any terms of the diversion agreement; or

(m) Failed to complete the monitored practice requirements as stated in OAR 847-065-0060.

(2) The Board, upon being notified of a licensee's substantial non-compliance, will investigate and determine the appropriate sanction.

(3) In order to investigate a report of substantial non-compliance, the Board may request the contractor to provide the licensee's complete record, and the contractor must send these records to the Board as long as a valid release of information is in place.

Stat. Auth.: ORS 676.185-200 & 677.265

Stats. Implemented: ORS 677.185 & 677.265

Hist.: BME 15-2010(Temp), f. & cert. ef. 8-3-10 thru 1-18-11; BME 20-2010, f. & cert. ef. 10-25-10; OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13

847-065-0070

Licensees with Primary Residence or Work Site Outside of Oregon

If a licensee's primary residence or work site is located outside the State of Oregon, the licensee must enroll in the HPSP, in accordance with OAR 847-065-0025 and 847-065-0030 for Board-referred or OAR 847-065-0035 for self-referred licensees, and may choose to be monitored by the out-of-state's health professional program if the following conditions are met:

(1) The other state's health professional program is substantially similar with the relevant Oregon statutes. It is the duty of the contractor to verify this information and notify the Board of any discrepancies;

(2) The other state's health professional program sends quarterly reports on the licensee to the contractor; and

(3) The other state's health professional program will promptly report any substantial non-compliance with the licensee's diversion agreement to the contractor.

Stat. Auth.: ORS 676.185-200 & 677.265

Stats. Implemented: ORS 677.185 & 677.265

Hist.: OMB 9-2011, f. & cert. ef. 4-25-11; OMB 17-2012(Temp), f. & cert. ef. 7-31-12 thru 1-15-13

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Rule Caption: Limits the type of contested case hearings for which an employee may represent the Board.

Adm. Order No.: OMB 18-2012

Filed with Sec. of State: 8-3-2012

Certified to be Effective: 8-3-12

Notice Publication Date: 5-1-2012

Rules Amended: 847-001-0007

Subject: The rule amendment limits the type of contested case hearings for which an employee may represent the Board and omits the list of specific violations.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-001-0007

Agency Representation at Hearings

(1) Subject to the approval of the Attorney General, an employee of the Oregon Medical Board is authorized to appear on behalf of the Board in contested case hearings conducted on civil penalties issued by the Board with no other formal disciplinary action proposed against the licensee.

(2) The agency representative may not make legal argument on behalf of the Board.

(a) "Legal argument" includes arguments on:

(A) The jurisdiction of the Board to hear the contested case;

(B) The constitutionality of a statute or rule or the application of a constitutional requirement to an agency; and

(C) The application of court precedent to the facts of the particular contested case proceeding.

(b) "Legal argument" does not include presentation of motions, evidence, examination and cross-examination of witnesses or presentation of factual arguments or arguments on:

(A) The application of the statutes or rules to the facts in the contested case;

(B) Comparison of prior actions of the Board in handling similar situations;

(C) The literal meaning of the statutes or rules directly applicable to the issues in the contested case;

(D) The admissibility of evidence;

(E) The correctness of procedures being followed in the contested case hearing.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 183.452

Hist.: OMB 2-2012, f. & cert. ef. 2-10-12; OMB 18-2012, f. & cert. ef. 8-3-12

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Rule Caption: Delegates authority to the Executive Director in a state of emergency.

Adm. Order No.: OMB 19-2012

Filed with Sec. of State: 8-3-2012

Certified to be Effective: 8-3-12

Notice Publication Date: 5-1-2012

Rules Adopted: 847-003-0100

Subject: New rule delegates authority to the Executive Director of the Board when a state of emergency is in effect.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-003-0100

Declared Emergency — Delegation of Authority

(1) An emergency under this rule exists when:

(a) A State of Emergency or a Public Health Emergency has been declared by the Governor of Oregon under ORS 401.165 or 433.441 through 433.452; or

(b) The provisions of any relevant rules in Chapter 847 Oregon Administrative Rules have been suspended by the Governor under the authority of ORS 401.168(2); or

(c) A signatory to the Pacific Northwest Emergency Management Arrangement (the states of Alaska, Idaho, Oregon, and Washington, and the Province of British Columbia and the Yukon Territory) has requested assistance during a civil emergency as authorized in ORS 402.250; or

ADMINISTRATIVE RULES

(d) The President of the United States or another federal official has declared a public health emergency; or

(e) The Governor has authorized the Public Health Director to take the actions described in ORS 431.264.

(2) When an emergency exists as defined above, any authority vested in the Board may be exercised by the Executive Director, any person acting as Executive Director in the Executive Director's absence or incapacity, or any person the Executive Director designates to make such decisions on the Executive Director's behalf.

Stat. Auth.: ORS 401.168, 402.105, 433.441 & 677.265

Stats. Implemented: ORS 401.165 & 677.265

Hist.: OMB 19-2012, f. & cert. ef. 8-3-12

Rule Caption: Eliminates the \$225 supervising physician application fee and \$52 criminal records check fee.

Adm. Order No.: OMB 20-2012

Filed with Sec. of State: 8-3-2012

Certified to be Effective: 8-3-12

Notice Publication Date: 4-1-2012

Rules Amended: 847-005-0005

Rules Repealed: 847-005-0005(T)

Subject: The rule amendment eliminates the \$225 fee for the supervising physician application and eliminates the \$52 fee for criminal records checks for an applicant or licensee of the Oregon Medical Board.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

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) Acupuncture Initial License Application — \$245.

(f) Acupuncture Registration: Active, Inactive, and Locum Tenens — \$148/year**.

(g) Acupuncture Limited License, Special, Visiting Professor, Postgraduate — \$75.

(h) Physician Assistant Initial License Application — \$245.

(i) Physician Assistant Registration: Active, Inactive, and Locum Tenens — \$175/year**.

(j) Physician Assistant Limited License, Special, Postgraduate — \$75.

(k) Podiatrist Initial Application — \$340.

(l) Podiatrist Registration: Active, Inactive, and Locum Tenens — \$222/year**.

(m) Podiatrist Emeritus Registration — \$50/year.

(n) Podiatrist Limited License, Special, Postgraduate — \$185.

(o) Workforce Data Fee — \$5/license period.

(p) 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.

(q) Electronic Prescription Monitoring Program — \$25/year per license***.

(r) Dispensing MD/DO/DPM Failure to Register — \$159.

(s) Oral Specialty or Competency Examination (\$1,000 deposit required) — Actual costs.

(t) Affidavit Processing Fee for Reactivation — \$50.

(u) 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.

(v) Base Service Charge for Copying — \$5 + .20/page.

(w) 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*.

(x) 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

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. 7-8-99; BME 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; OMB 22-2011, f. & cert. ef. 10-18-11; OMB 33-2011(Temp), f. & cert. ef. 1-1-12 thru 6-29-12; OMB 3-2012, f. & cert. ef. 2-10-12; OMB 9-2012(Temp), f. & cert. ef. 3-2-12 thru 8-29-12; OMB 20-2012, f. & cert. ef. 8-3-12

Rule Caption: Adds employment with the Indian Health Service to the Military/Public Health registration status.

Adm. Order No.: OMB 21-2012

Filed with Sec. of State: 8-3-2012

Certified to be Effective: 8-3-12

Notice Publication Date: 5-1-2012

Rules Amended: 847-008-0015, 847-008-0018

Subject: Rule amendments add employment with the Indian Health Service to the Military/Public Health registration status.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-008-0015

Active Registration

(1) Each licensee of the Board who practices within the State of Oregon shall register and pay a biennial active registration fee prior to the last day of the registration period, except where:

(a) The licensee is in a qualified training program and elects to register on an annual basis.

(b) The licensee practices on an intermittent, locum-tenens basis, as defined in OAR 847-008-0020.

(c) The licensee is in the Military or Public Health Service or employed with the US Department of Veteran Affairs, the US Department of State, Foreign Service or the Indian Health Service where the licensee's official state of residence is Oregon as defined in OAR 847-008-0018.

(d) The licensee practices teleradiology as defined in OAR 847-008-0022, telemonitoring as defined in OAR 847-008-0023, or telemedicine as defined in OAR 847-025.

(2) Each licensee of the Board whose practice address of record with the Board is within 100 miles of the border of the State of Oregon and who

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intends to practice within Oregon shall qualify for active registration status. Such licensee shall submit a statement to the Board attesting to practice in Oregon.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.228
Hist.: ME 5-1990, f. & cert. ef. 4-25-90; ME 5-1991, f. & cert. ef. 7-24-91; BME 2-2004, f. & cert. ef. 1-27-04; BME 14-2004, f. & cert. ef. 7-13-04; BME 7-2006, f. & cert. ef. 5-8-06; BME 2-2007, f. & cert. ef. 1-24-07; BME 8-2008, f. & cert. ef. 4-24-08; BME 16-2010, f. & cert. ef. 10-25-10; OMB 21-2012, f. & cert. ef. 8-3-12

847-008-0018 Military/Public Health Active Registration

(1) Any licensee who is deployed with the US Military or employed with the US Public Health Service, US Department of Veteran Affairs, the US Department of State Foreign Service or the Indian Health Service for more than 12 months and whose official state of residence is Oregon must obtain a Military/Public Health Active status by providing the Board with written notification of current assignment or employment, a copy of their Oregon Driver's License or other proof of residence, and payment of the biennial registration fee.

(2) The Military/Public Health Active status remains valid as long as the licensee maintains active duty in the military or public health, and the licensee's official state of residence is Oregon. At the conclusion of the military assignment or employment, the licensee must reactivate according to 847-008-0055 before beginning active practice in Oregon.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.172, 677.265
Hist.: BME 8-2008, f. & cert. ef. 4-24-08; BME 16-2010, f. & cert. ef. 10-25-10; OMB 12-2011, f. & cert. ef. 7-13-11; OMB 21-2012, f. & cert. ef. 8-3-12

Rule Caption: Adds a fine for providing false, misleading or deceptive information on a renewal application.

Adm. Order No.: OMB 22-2012

Filed with Sec. of State: 8-3-2012

Certified to be Effective: 8-3-12

Notice Publication Date: 5-1-2012

Rules Amended: 847-008-0040

Subject: Rule amendment adds a fine for violating ORS 677.190(8), providing false, misleading or deceptive information on an application for registration. Proposed rule amendment also contains general grammar housekeeping.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-008-0040 Process of Registration

(1) The application for registration must be made on a form provided by the Board.

(2) Except as provided in OAR 847-008-0015 and 847-008-0025, the application must 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 must 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 must mail to all licensees who have complied with this section a certificate of registration which must remain in effect until the end of the last business day of the registration period.

(8) Such certificate must be displayed in a prominent place in the holder's primary place of practice.

(9) Omissions or false, misleading or deceptive statements or information on an application for registration is a violation of ORS 677.190(8) and is grounds for a \$195 fine. The licensee may be subject to further disciplinary action by the Board.

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; Suspend temporary by OMB 27-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12; OMB 31-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 4-2012, f. & cert. ef. 2-10-12; OMB 22-2012, f. & cert. ef. 8-3-12

Rule Caption: Clarifies continuing education requirements and the audit timelines.

Adm. Order No.: OMB 23-2012

Filed with Sec. of State: 8-3-2012

Certified to be Effective: 8-3-12

Notice Publication Date: 5-1-2012

Rules Amended: 847-008-0070

Subject: Rule revision clarifies the amount of CME required for each licensee, clarifies that audits may occur at the Board's discretion and at a time other than the biennial renewal, and revises the audit timelines.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-008-0070 Continuing Medical Competency (Education)

The Oregon Medical Board is committed to ensuring the continuing competence of its licensees for the protection, safety and well being of the public. All licensees must engage in a culture of continuous quality improvement and lifelong learning.

(1) Licensees renewing registration who had been registered with Active, Administrative Medicine Active, Locum Tenens, Telemedicine Active, Telemonitoring Active, or Teleradiology Active status for the previous registration period must demonstrate ongoing competency to practice medicine by:

(a) Ongoing participation in re-certification by an American Board of Medical Specialties (ABMS) board, the American Osteopathic Association's Bureau of Osteopathic Specialists (AOA-BOS), the American Board of Podiatric Orthopedics and Primary Podiatric Medicine (ABPOPPM), the National Commission on Certification of Physician Assistants (NCCPA), or the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM); or

(b) 60 hours of continuing medical education (CME) per two years relevant to the licensee's current medical practice, or 30 hours of CME if licensed during the second year of the biennium, as follows:

- (A) American Medical Association (AMA) Category 1;
- (B) American Osteopathic Association (AOA) Category 1-A or 2-A;
- (C) American Podiatric Medical Association's (APMA) Council on Podiatric Medical Education approved sponsors of continuing education; or
- (D) American Academy of Physician Assistants (AAPA) Category 1 (pre-approved); or

(c) 30 hours of NCCAOM-approved courses per two years relevant to the licensee's current practice, or 15 hours if licensed during the second year of the biennium.

(2) Licensees renewing registration who had been registered with Emeritus status for the previous registration period must demonstrate ongoing competency by:

(a) Ongoing participation in re-certification by an ABMS board, the AOA-BOS, the ABPOPPM, the NCCPA, or the NCCAOM; or

- (b) 15 hours of CME per year as follows:
 - (A) AMA Category 1 or 2;
 - (B) AOA Category 1-A, 1-B, 2-A or 2-B;
 - (C) APMA-approved continuing education; or
 - (D) AAPA Category 1 or 2; or
- (c) 8 hours of NCCAOM-approved courses.

(3) Licensees who have lifetime certification with the ABMS, AOA-BOS, ABPOPPM, or NCCPA must submit the required CME in section (1) (b) of this rule or section (2) (b) of this rule if renewing with Emeritus status.

(4) Licensees who have lifetime certification with the NCCAOM must submit the required CME in section (1) (c) of this rule or section (2) (c) of this rule if renewing with Emeritus status.

(5) The Board may audit licensees for compliance with CME. Audited licensees have 60 days from the date of the audit to provide course certificates. Failure to comply or misrepresentation of compliance is grounds for disciplinary action.

(6) As the result of an audit, if licensee's CME is deficient or licensee does not provide adequate documentation, the licensee will be fined

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\$250 and must comply with CME requirements within 120 days from the date of the audit.

(a) If the licensee does not comply within 120 days of the date of the audit, the fine will increase to \$1000; and

(b) If the licensee does not comply within 180 days of the date of the audit, the licensee's license will be suspended for a minimum of 90 days.

(7) The following licensees are exempt from this rule:

(a) Licensees in residency training;

(b) Licensees serving in the military who are deployed outside Oregon for 90 days or more during the reporting period; and

(c) Volunteer Camp licensees.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist.: BME 2-2009, f. & cert. ef. 1-22-09; BME 16-2009, f. & cert. ef. 10-23-09; OMB 7-

2011, f. & cert. ef. 4-25-11; OMB 23-2012, f. & cert. ef. 8-3-12

Rule Caption: Eliminates the \$52 fee for criminal records checks on an applicant or licensee.

Adm. Order No.: OMB 24-2012

Filed with Sec. of State: 8-3-2012

Certified to be Effective: 8-3-12

Notice Publication Date: 4-1-2012

Rules Amended: 847-020-0155

Rules Repealed: 847-020-0155(T)

Subject: The rule amendment eliminates the \$52 fee for criminal records checks on an applicant or licensee of the Oregon Medical Board.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

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 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.

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; OMB 5-2012, f. & cert. ef. 2-10-12; OMB 10-2012(Temp), f. & cert. ef. 3-2-12 thru

8-29-12; OMB 24-2012, f. & cert. ef. 8-3-12

Rule Caption: Requires competency assessment for applicants who have not had training or certification within 10 years.

Adm. Order No.: OMB 25-2012

Filed with Sec. of State: 8-3-2012

Certified to be Effective: 8-3-12

Notice Publication Date: 5-1-2012

Rules Adopted: 847-020-0182

Rules Amended: 847-020-0170, 847-020-0180

Subject: The new rule clarifies the Board's requirement for a clinical competency assessment for applicants for initial license or reactivation who have not had sufficient postgraduate training or specialty board certification or recertification within the past 10 years. The rule amendments remove the subsections requiring an applicant to show clinical competency after ceasing the practice of medicine for a period of 12 or more consecutive months because this requirement is included in another rule within Division 020 (847-020-0183).

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-020-0170

Written Examination

(1) After complying with OAR 847-020-0110 through 847-020-0200 the applicant applying for licensure must have passed one of the following examinations or combinations of examinations:

(a) Federation Licensing Examination (FLEX) Component I and FLEX Component 2.

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(b) National Board of Medical Examiners (NBME) Part I and Part II and Part III.

(c) National Board of Medical Examiners (NBME) Part I or United States Medical Licensing Examination (USMLE) Step 1, and NBME Part II or USMLE Step 2 and NBME Part III or USMLE Step 3.

(d) NBME Part I or USMLE Step 1, and NBME Part II or USMLE Step 2, and FLEX Component 2.

(e) FLEX Component 1 and USMLE Step 3. A score of 75 or above must be achieved on FLEX Component 1 and the score achieved on USMLE Step 3 must be equal to or exceed the figure established by the Federation as a recommended passing score.

(f) The score achieved on each Step, Part or Component must equal or exceed the figure established by the USMLE Program, the National Board of Medical Examiners or the Federation of State Medical Boards as a passing score. All Steps, Parts or Components listed in OAR 847-020-0170(1)(a)-(f) must be administered prior to January 2000, except for applicants who participated in and completed a combined MD/DO/PhD program; or

(g) The National Board of Osteopathic Medical Examiners (NBOME) examination or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX) or any combination of their parts; or

(h) USMLE Steps 1, 2, and 3. All three Steps of USMLE, or all three Levels of the NBOME examination or COMLEX or any combination of the two, must be passed within a seven-year period which begins when the first Step or Level, either Step 1 or Step 2 or Level 1 or Level 2, is passed. The score achieved on each Step must equal or exceed the figure established by the Federation as a recommended passing score, and the score achieved on each Level must equal or exceed the figure established by the National Board of Osteopathic Medical Examiners.

(A) An applicant who has not passed all three Steps or Levels within the seven-year period may request an exception to the seven-year requirement if he/she:

(i) Has current certification by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists; or

(ii) Suffered from a documented significant health condition which by its severity would necessarily cause a delay to the applicant's medical or osteopathic study; or

(iii) Participated in a combined MD/DO/PhD program; or

(iv) Completed continuous approved post-graduate training with the equivalent number of years to an MD/DO/PhD program.

(B) Except as noted in section (1)(h)(C) of this rule, effective April 23, 2004, to be eligible for licensure, an applicant must have passed USMLE Step 3 or NBOME's COMLEX Level 3 within four attempts whether for Oregon or any other state. After the third failed attempt, the applicant must have completed one additional year of postgraduate training in the United States or Canada prior to readmission to the examination. The Board must approve the additional year of training to determine whether the applicant is eligible for licensure. The applicant, after completion of the required year of training, must have passed USMLE Step 3 or COMLEX Level 3 on their fourth and final attempt. If the fourth attempt of USMLE Step 3 is failed, the applicant is not eligible for Oregon licensure. If the applicant did not complete a year of training approved by the Board between the third and fourth attempt to pass USMLE Step 3 or COMLEX Level 3, the applicant is not eligible for licensure.

(C) An applicant who has passed USMLE Step 3 or COMLEX Level 3, but not within the four attempts required by OAR 847-020-0170(1)(h)(B), may request a waiver of this requirement if he/she has current certification by a specialty board recognized by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists.

(2) USMLE Step 3 may be taken during the first year of postgraduate training, or after the first year of postgraduate training has been completed. A Limited License, Postgraduate will be required for training beyond the postgraduate 1 level if the USMLE is not yet passed.

(3) The applicant will not be allowed to take the USMLE for this state nor apply for licensure in this state if the FLEX has been previously failed four or more times.

(4) The applicant must have passed the written examination (FLEX) under the following conditions:

(a) The applicant who has taken the FLEX examination (Day I, II, and III) administered between June 1968 and December 1984 must have taken the entire examination at one sitting. The applicant who has taken the FLEX examination (Component 1 and Component 2), first administered in June 1985, was not required to take both Components 1 and 2 of the FLEX

examination at one sitting. Both must have been passed within seven years of the first attempt.

(b) The applicant may not have taken the FLEX examination more than a total of four times, whether in Oregon or other states, whether the components were taken together or separately. After the third failed attempt, the applicant must have satisfactorily completed one year of approved training in the United State or Canada prior to having taken the entire FLEX examination at one sitting on the fourth and final attempt.

(c) Only the applicant's scores on the most recently taken FLEX examination will be considered to determine eligibility.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.265

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 5-2003, f. & cert. ef. 1-27-03; BME 10-2003, f. & cert. ef. 5-2-03; BME 14-2003(Temp), f. & cert. ef. 9-9-03 thru 3-1-04; BME 3-2004, f. & cert. ef. 1-27-04; BME 7-2004, f. & cert. ef. 4-22-04; BME 15-2004, f. & cert. ef. 7-13-04; BME 8-2005, f. & cert. ef. 7-20-05; BME 3-2006, f. & cert. ef. 2-8-06; BME 4-2006(Temp), f. & cert. ef. 2-8-06 thru 7-7-06; BME 10-2006, f. & cert. ef. 5-8-06; BME 20-2007, f. & cert. ef. 10-24-07; BME 18-2008, f. & cert. ef. 7-21-08; BME 6-2009(Temp), f. & cert. ef. 4-9-09 thru 10-2-09; Administrative correction 10-22-09; OMB 25-2012, f. & cert. ef. 8-3-12

847-020-0180

Endorsement or Reciprocity

(1) After complying with OAR 847-020-0110 through 847-020-0200, the applicant may base an application upon certification by the National Board of Medical Examiners of the United States of America, the National Board of Osteopathic Medical Examiners, the Medical Council of Canada, or upon reciprocity with a license obtained by FLEX examination, USMLE examination, or written examination from a sister state. The FLEX and USMLE examination must have been taken in accordance with OAR 847-020-0170. The examination grades must meet Oregon standards pursuant to ORS 677.110(1).

(2) In order to reciprocate with a lapsed license, such license must have been in good standing while registered in that state and that board must furnish a current, original certification of grades to the Oregon Board.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.100, 677.265

Hist. BME 9-2001, f. & cert. ef. 7-24-01; BME 10-2003, f. & cert. ef. 5-2-03; BME 3-2004, f. & cert. ef. 1-27-04; BME 3-2006, f. & cert. ef. 2-8-06; BME 12-2007, f. & cert. ef. 4-26-07; BME 20-2007, f. & cert. ef. 10-24-07; OMB 25-2012, f. & cert. ef. 8-3-12

847-020-0182

SPEX or COMVEX Requirements

(1) If an applicant for licensure or reactivation has not had sufficient postgraduate training or specialty board certification or recertification within the past 10 years, the applicant may be required to demonstrate clinical competency by passing the Special Purpose Examination (SPEX) or Comprehensive Osteopathic Medical Variable-Purpose Examination (COMVEX).

(2) The SPEX/COMVEX requirement may be waived if the applicant has done one or more of the following:

(a) Received a current appointment as Professor or Associate Professor at the Oregon Health and Science University or the Western University of Health Sciences College of Osteopathic Medicine of the Pacific; or

(b) Completed at least 50 hours of Board-approved continuing medical education each year for the past three years.

(3) The applicant who fails the SPEX or COMVEX three times, whether in Oregon or other states, must successfully complete one year of an accredited residency or an accredited or Board-approved clinical fellowship before retaking the SPEX or COMVEX.

(4) The Limited License, SPEX/COMVEX may be granted for a period of up to 6 months. It permits the licensee to practice medicine only until the grade results of the SPEX or COMVEX are available and the applicant completes the initial registration process. If the applicant fails the SPEX or COMVEX, the Limited License SPEX/COMVEX becomes invalid, and the applicant must cease practice in this state as expeditiously as possible, but not to exceed two weeks after the applicant receives notice of failure of the examination.

(5) The applicant may be required to appear before the Board for a personal interview regarding information received during the processing of the application. The interview must be conducted during a regular meeting of the Board.

(6) All of the rules, regulations and statutory requirements pertaining to the medical school graduate remain in full effect.

Stat. Auth.: ORS 677.175 & 677.265

Stats. Implemented: ORS 677.010, 677.175 & 677.265

Hist.: OMB 25-2012, f. & cert. ef. 8-3-12

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Rule Caption: Eliminates the fee for supervising physician applications.

Adm. Order No.: OMB 26-2012

Filed with Sec. of State: 8-3-2012

Certified to be Effective: 8-3-12

Notice Publication Date: 4-1-2012

Rules Amended: 847-050-0027

Rules Repealed: 847-050-0027(T)

Subject: Rule amendment eliminates the fee for supervising physician applications.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-050-0027

Approval of Supervising Physician

(1) Prior to using the services of a physician assistant under a practice agreement, 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

(b) Take an online course and pass an open-book 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:

(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 677.010-990.

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; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12; OMB 11-2012(Temp), f. & cert. ef. 3-2-12 thru 8-29-12; OMB 26-2012, f. & cert. ef. 8-3-12

Oregon State Marine Board Chapter 250

Rule Caption: Repeal of Division 25

Adm. Order No.: OSMB 9-2012

Filed with Sec. of State: 7-17-2012

Certified to be Effective: 8-1-12

Notice Publication Date: 6-1-2012

Rules Repealed: 250-025-0010, 250-025-0020

Subject: Division is not needed as a place holder for temporary rules.

Rules Coordinator: June LeTarte—(503) 378-2617

Oregon University System, Eastern Oregon University Chapter 579

Rule Caption: To increase monthly rent for EOCENE Courts due to increased costs.

Adm. Order No.: EOU 5-2012

Filed with Sec. of State: 8-1-2012

Certified to be Effective: 8-1-12

Notice Publication Date: 7-1-2012

Rules Amended: 579-030-0010

Subject: Effective July 1, 2012 monthly rate: Family Housing two bedroom units \$350, includes water, sewer and garbage service. \$30 application deposit required.

Rules Coordinator: Teresa Carson-Mastrude—(541) 962-3773

579-030-0010

Special Rental Rates for EOCENE Courts at Eastern Oregon State College

(1) Effective July 1, 2012 monthly rent.

(2) Family Housing two bedroom units: \$350, includes water, sewer and garbage service. \$30.00 application deposit required.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: EOSC 9, f. & ef. 8-15-77; EOSC 3-1978, f. & ef. 6-29-78; EOSC 6-1979, f. & ef. 6-27-79; EOSC 4-1991, f. & cert. ef. 9-20-91; EOU 2-2008, f. & cert. ef. 3-14-08; EOU 2-2012(Temp), f. 4-23-12, cert. ef. 7-1-12 thru 12-27-12; EOU 5-2012, f. & cert. ef. 8-1-12

Oregon University System, Oregon State University Chapter 576

Rule Caption: Providing random and individualized drug testing of athletes.

Adm. Order No.: OSU 5-2012

Filed with Sec. of State: 7-31-2012

Certified to be Effective: 7-31-12

Notice Publication Date: 7-1-2012

Rules Amended: 576-023-0005, 576-023-0010, 576-023-0015, 576-023-0020, 576-023-0025, 576-023-0030, 576-023-0035, 576-023-0040

Rules Repealed: 576-023-0012

Subject: The University will not tolerate or condone the use of illegal drugs and substances, and there is no place in the University's athletics program for substance abuse or the use of performance enhancing drugs. This policy furthers the University's interests in ensuring the safety of its student athletes and those who compete against them, maintaining a fair competing field and educating students about the development of a healthy and responsible lifestyle in college and throughout life. The University's drug-free athletics program includes not only random and individualized drug testing, but also educational programs, substance abuse evaluation, treatment and disciplinary measures.

Rules Coordinator: Beth Giddens—(541) 737-2449

576-023-0005

Introduction and Purpose

(1) The University will not tolerate or condone the use of illegal drugs and substances, and there is no place in the University's athletics program for substance abuse or the use of NCAA-banned performance enhancing drugs. The University's drug-free athletics policy described herein furthers the University's interests in ensuring the safety of its student athletes and those who compete against them, maintaining a fair competing field and educating students about the development of a healthy and responsible lifestyle in college and throughout life.

(2) The University's drug-free athletics program includes not only random and individualized drug testing, but also educational programs, substance abuse evaluation, treatment and disciplinary measures.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: OSU 5-1989, f. 12-13-89, cert. ef. 1-1-90; OSU 10-1991, f. & cert. ef. 11-13-91; OSU 5-2012, f. & cert. ef. 7-31-12

576-023-0010

Prohibited Substances

The University prohibits student-athletes from using any of the following substances, which may be detected in the University's drug testing:

(1) Alcohol

(a) Alcohol is a mood altering substance and poses specific threats to student-athletes in training and competing. The University thus prohibits its student-athletes from having alcohol in their bloodstream during trainings,

ADMINISTRATIVE RULES

practices, competitions, and events sponsored by OSU, even if they are over the age of twenty-one (21) and can drink legally in this state. Alcohol use is illegal in the state of Oregon for anyone under the age of twenty-one (21), and student athletes under the age of 21 are prohibited from consuming alcohol at any time.

(b) Additionally, criminal convictions of alcohol related offenses involving the abuse of alcohol, such as DUI, public intoxication and assaults while under the influence of alcohol will be treated as a positive test under these rules.

(2) Illicit Substances. Illicit Substances are those that are illegal for the individual student-athlete to ingest, including but not limited to narcotic pain medications that have not been prescribed and street drugs like heroin, methamphetamines, cocaine, marijuana, and T.H.C. or "ecstasy."

(3) Performance Enhancing Drugs

(a) Performance Enhancing Drugs give student-athletes unfair advantages and are a form of cheating. The use of such drugs also poses significant health and safety risks for the student athlete using them and those in competition with them. For purposes of these rules, the term "Performance Enhancing Drugs," shall mean all substances banned by the NCAA (see list at www.ncaa.org/sports_sciences/drugtesting), but shall not include Alcohol and Illicit Substances, which are dealt with separately herein.

(b) The NCAA list of banned drug classes is subject to change by the NCAA Executive Committee. Contact NCAA education services or www.ncaa.org/sports_sciences/drugtesting for the current list. The term "related compounds" comprises substances that are included in the class by their pharmacological action and/or chemical structure. No substance belonging to the prohibited class may be used, regardless of whether it is specifically listed as an example on the NCAA's list.

(c) Many nutritional/dietary supplements contain NCAA-banned substances. In addition, the U.S. Food and Drug Administration (FDA) does not strictly regulate the supplement industry, and the purity and safety of nutritional/dietary supplements cannot be guaranteed. Impure supplements may lead to a positive drug test. The use of these types of supplements is at the student-athlete's own risk. Student-athletes should contact their team physician, athletic trainer or sports nutritionist for further information.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: OSU 5-1989, f. 12-13-89, cert. ef. 1-1-90; OSU 4-2001, f. & cert. ef. 4-25-01; OSU 5-2012, f. & cert. ef. 7-31-12

576-023-0015

Safe Harbor for Self-Reporting

(1) Any student-athlete may refer himself/herself for evaluation or counseling by contacting a coach, athletic trainer, team physician and/or psychologist for athletics. The University will not share this self-report with anyone who does not have a need to know, and no OSU team or administrative sanctions will be imposed upon the student-athlete who has made a personal decision to seek professional assistance (prior to notification of a scheduled drug test or prior to testing positive).

(2) The benefits available under this section cannot be utilized by a student-athlete as a means of simply avoiding sanctions of a positive drug test, so this safe harbor cannot be claimed after an athlete is notified of an impending drug test.

(3) The athlete claiming this safe harbor may still be temporarily medically ineligible during the time period that he/she is deemed by the team physician unfit to continue participation safely.

(4) This safe harbor provision does not prevent the NCAA from testing student-athletes and student-athletes will remain subject to those sanctions imposed by the NCAA in the event of a positive NCAA drug test.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: OSU 5-1989, f. 12-13-89, cert. ef. 1-1-90; OSU 4-2001, f. & cert. ef. 4-25-01; OSU 5-2012, f. & cert. ef. 7-31-12

576-023-0020

Types of Drug Testing

(1) The University engages in two kinds of drug-testing of student-athletes: tests initiated on the basis of individualized reasonable suspicion of prohibited substance use and random tests.

(2) Reasonable suspicion testing.

(a) "Reasonable suspicion" shall not mean a mere "hunch" or "intuition." It shall instead be based upon a specific event or occurrence which has led to the belief that a student-athlete has used any prohibited drugs specified in OAR 576-023-0010.

(b) Such belief may be engendered by, among other things, direct observation by coaches, trainers, team physician, or other appropriate personnel of physical or mental deficiency or of medically indicated sympto-

mology of tested-for drug use, or of aberrant or otherwise patently suspicious conduct or of unexplained absenteeism. This includes but is not limited to observed possession of drugs, drug paraphernalia or substances appearing to be prohibited, arrest or conviction related to the possession or transfer of prohibited substances, or observed abnormal appearance or behavior that is known to indicate potential drug or alcohol use. Examples of such appearance or behavior may include, but are not limited to: decline in academic or athletic performance, missing classes or appointments, falling asleep in class, significant weight change, lethargy, agitation or nervousness, short temper, acts of violence or loss of friendships.

(c) Such belief may also be engendered by, among other things, information supplied by reliable third parties, including but not limited to law enforcement officials, if said information is corroborated by objective facts, including but not limited to, equivocal, contradictory, or unlikely and unsubstantiated explanation by the individual about whom the report is made. Should information that leads to reasonable suspicion be provided by law enforcement, prosecutorial or probation department officials, the University will only utilize and act upon such information if it succeeds in getting a written agreement from the law enforcement source that results of a potential test will not be used by law enforcement to prosecute or revoke parole.

(d) Such belief may also be engendered by common-sense conclusions about observed or reliably described human behavior upon which practical people ordinarily rely.

(e) Such belief may also be engendered by a previous positive test under these procedures within the preceding twelve months or by a previous positive test over twelve months old if in combination with factors described in 2(a)-(c).

(3) Random drug testing. All student-athletes are subject to unannounced random drug testing throughout the entire year, including summer sessions. Student-athletes will be selected for testing using a random number system run by a computer program. Little or no notice may be given for a forthcoming test. Every student-athlete shall be subject to every random test administered under these rules.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: OSU 5-1989, f. 12-13-89, cert. ef. 1-1-90; OSU 4-2001, f. & cert. ef. 4-25-01; OSU 5-2012, f. & cert. ef. 7-31-12

576-023-0025

Testing Method

(1) The method adopted by the Athletic Department for testing for drug use shall be through an independent Substance Abuse and Mental Health Services Administration (SAMSHA) approved laboratory analysis of urine or oral fluid samples provided by student-athletes. Urine specimens shall be collected in the proximity of a trained monitor of the same sex who is assigned for that purpose by the Athletic Department administration in accordance with generally accepted standards in the industry. All samples will be collected as split specimens, such that each tested student will have a Sample A bottle and a Sample B bottle of specimens for testing. These procedures for specimen collection and monitoring will be provided to the student athlete prior to collection. Coaches shall not be involved in the specimen collection process.

(2) A copy of the rules describing the Athletic Department Substance Use and Drug Testing Policy shall be included in the Student Athlete Handbook which shall be given to each student athlete before the start of the playing season or when the name of the student-athlete is first entered upon the team roster, whichever is later.

(3) A student-athlete need not be given prior notice that a urine sample will be collected. A student-athlete who refuses to provide a urine sample during the test process or within four hours of the designated time shall be deemed to have tested positive for the drugs in question unless a legitimate medical cause exists which prevents them from producing urine. If unable to provide a sample, an oral fluid specimen may be offered with a follow up urine test performed the following day.

(4) Sample B Testing

(a) Any student-athlete who tests positive under sample A testing will be given the option to request the Sample B bottle to be tested. In connection with Sample B testing, the student-athlete will be responsible for the cost of: (1) testing, (2) transfer of the specimen from the initial laboratory to a second SAMSHA approved laboratory and (3) any costs associated with the handling of Sample B.

(b) The student-athlete must request the Sample B testing within 3 days (72 hours) of being notified that the Sample A bottle tested positive. The request must be submitted in writing by the student-athlete to the Director of Sports Medicine. If requested, the Director of Sports Medicine

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will authorize Sample B bottle to be sent from the storage at the initial SAMSHA approved laboratory to another SAMSHA approved laboratory and Sample B testing. OSU may initiate temporary sanctions and corrective measures while awaiting results of the Sample B test.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: OSU 5-1989, f. 12-13-89, cert. ef. 1-1-90; OSU 4-2001, f. & cert. ef. 4-25-01; OSU 5-2012, f. & cert. ef. 7-31-12

576-023-0030

Drug Education and Counseling Services

The Athletic Department administration shall provide a program of drug information and counseling referral for student-athletes in concert with campus and community resources.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: OSU 5-1989, f. 12-13-89, cert. ef. 1-1-90; OSU 5-2012, f. & cert. ef. 7-31-12

576-023-0035

Positive Test Results Sanctions

(1) All positive test results are considered cumulative for the entire University career of the student-athlete.

(2) Any follow-up drug test will be considered a "positive" test if it indicates a spike in the amount of the illicit or banned substance or additional use of any substance prohibited by these rules.

(3) Any student who refuses to sign the consent form, refuses to provide a test specimen, refuses to show up for the drug test, or tampers with the validity of the specimen or test will be considered to have a positive test result for the suspected substance under these rules.

(4) Alcohol and Illicit Substances. If the student-athlete tests positive for the use of prohibited Alcohol or Illicit Substances, the sanctions will be as follows:

(a) First Positive Test Result — Prohibited Alcohol and Illicit Substances

(A) The Director of Athletics, the Team Physician and Head Coach will be informed by the Director of Sports Medicine in writing of a positive test. The student-athlete will be notified in writing of the positive test by the Director of Sports Medicine.

(B) The team physician will coordinate an additional evaluation by a substance abuse counselor approved by the Department of Athletics.

(C) The substance abuse counselor will recommend to the Director of Sports Medicine a plan for treatment and education. The team physician, head coach and athletic trainer may also submit reports regarding recommended education or remediation plans to the Director of Sports Medicine.

(D) The Director of Sports Medicine will determine a management plan for the student-athlete after evaluating any reports that may be submitted by the counselor, physician, head coach and athletic trainer. The student-athlete may also be temporarily medically ineligible if he/she is deemed unfit by the team physician to continue participation safely.

(E) The student athlete will have a reduction of playing time equivalent to 10% of the competitive season for the student athlete's sport.

(F) The student-athlete must participate in and complete the Substance Abuse educational program provided by the University's Student Health Services. Failure to initiate the process within 2 weeks of notification indicates failure to comply and will be grounds for suspension from participation in University intercollegiate sports.

(G) The student-athlete will still be subject to reasonable suspicion and random testing throughout his or her career at the University.

(H) Re-instatement of full playing time privileges will occur following a negative follow-up drug test at the end of the suspension period and upon approval by the Director of Sports Medicine.

(b) Second Positive Test Result – Prohibited Alcohol and Illicit Substances

(A) The Director of Athletics, the team physician, and head coach will be informed by the Director of Sports Medicine in writing of a second positive test. The student-athlete will be notified in writing of the second positive test by the Director of Sports Medicine.

(B) The team physician will coordinate an additional evaluation by a substance abuse counselor approved by the Department of Athletics.

(C) The substance abuse counselor will recommend to the Director of Sports Medicine a plan for treatment and education. The team physician, head coach and athletic trainer may also submit reports regarding recommended education or remediation plans to the Director of Sports Medicine.

(D) The Director of Sports Medicine will determine a management plan for the student-athlete after evaluating the reports of the counselor, physician, head coach and athletic trainer.

(E) The student-athlete must participate in and complete the Substance Abuse educational program provided by the University's Student Health Services. Failure to initiate the process within 2 weeks of notification indicates failure to comply and will be grounds for suspension from participation in University intercollegiate sports.

(F) The student-athlete will still be subject to reasonable suspicion and random testing throughout his or her career at the University.

(G) The student-athlete will have his or her playing time reduced by 50% of the competitive season.

(H) The athlete may also be temporarily medically ineligible if he/she is deemed unfit by the team physician to continue participation safely.

(I) Re-instatement of full playing time privileges will occur following a negative follow-up drug test at the end of the suspension period and upon approval by the Director of Sports Medicine.

(c) Third Positive Test Result — Prohibited Alcohol and Illicit Substances. A third positive test result shall automatically cause the student-athlete to have immediate and permanent dismissal from any team on which the student-athlete participates. All athletically-related financial aid shall be terminated beginning with the next academic term to the extent permitted under NCAA rules.

(d) Selling or Providing Illegal Drugs. Any student-athlete convicted of selling or providing an illegal drug to another person is subject to immediate and permanent dismissal from any team on which the student-athlete participates, as well as the termination of any athletic financial aid to the extent permitted under NCAA rules.

(e) Failure to Follow Treatment Plan. Failure of the student-athlete to comply with a treatment or management plan mandated under these rules will result in immediate suspension from all practices, games and athletic department functions until the Director of Sports Medicine determines sustained compliance with the plan. If the Director of Sports Medicine determines that the student-athlete is still not complying with the plan after one competitive season for the sport, the student-athlete will be immediately dismissed from the team and all athletically-related financial aid shall be terminated beginning with the next academic term to the extent permitted under NCAA rules.

(f) Performance Enhancing Drugs — If the student-athlete tests positive for the use of Performance Enhancing Drugs, the sanctions will be as follows:

(A) First Positive Test Result — Performance Enhancing Drugs. A student-athlete who tests positive for the use of Performance Enhancing Drugs is ineligible to represent the University in intercollegiate competition during the time period starting with the date of the positive drug test and ending one calendar year later. In addition, the Director of Sports Medicine will determine a management plan for the student-athlete which will include education or counseling.

(B) Second Positive Test Result — Performance Enhancing Drugs. A student-athlete who tests positive for the use of Performance Enhancing Drugs a second time shall be declared permanently ineligible to represent the University in intercollegiate competition. The student shall be immediately and permanently dismissed from the team and all athletically-related financial aid shall be terminated beginning with the next academic term to the extent permitted under NCAA rules.

(5) A student-athlete who loses a grant-in-aid under these rules may appeal that decision under University procedures regarding non-renewal of financial aid.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: OSU 5-1989, f. 12-13-89, cert. ef. 1-1-90; OSU 10-1991, f. & cert. ef. 11-13-91; OSU 5-1995, f. & cert. ef. 12-13-95; OSU 4-2001, f. & cert. ef. 4-25-01; OSU 5-2012, f. & cert. ef. 7-31-12

576-023-0040

Records Security

(1) The University has no purpose of invoking or facilitating criminal justice procedures or Student Conduct Code disciplinary proceedings arising out of the use or ingestion of the tested-for substances.

(2) The University in conducting the testing program is not acting in aid of, or as an agent for, state or federal law enforcement officials. Nor are those administering the tests acting as, for, or on behalf of the Office of Student Conduct.

(3) Test results shall be deemed by the University as part of a student's educational/ medical records protected from disclosure under state and federal law. However, these laws do not immunize student educational records from disclosure pursuant to a subpoena or court order. In such an instance, the University will take reasonable steps to notify the record-subject in advance of compliance with any such subpoena or order. The University or the record-subject may move the court or agency to quash any

ADMINISTRATIVE RULES

portion of the subpoena which pertains to drug testing records or to withdraw or narrow any such court order.

(4) The University will treat test results as confidential student records to be disclosed only to those OSU employees with a need to know.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: OSU 5-1989, f. 12-13-89, cert. ef. 1-1-90; OSU 4-2001, f. & cert. ef. 4-25-01; OSU 5-2012, f. & cert. ef. 7-31-12

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Rule Caption: Allowing beer and wine consumption at the OSU-Cascades campus.

Adm. Order No.: OSU 6-2012

Filed with Sec. of State: 7-31-2012

Certified to be Effective: 7-31-12

Notice Publication Date: 7-1-2012

Rules Amended: 576-060-0025, 576-060-0035

Subject: The proposed rule change would allow serving of beer and wine, along with food and non-alcohol beverages, at the OSU-Cascades campus under guidelines established by the Vice-President for Finance and Administration.

Rules Coordinator: Beth Giddens—(541) 737-2449

576-060-0025

Use of Alcoholic Beverages at LaSells Stewart Center, CH2M Hill Alumni Center, the Memorial Union, Agricultural Experiment Stations, and Memorial Union East

Alcoholic beverages, limited to beer and wine, may be served at events at LaSells Stewart Center, CH2M Hill Alumni Center, Memorial Union, the Agricultural Experiment Stations, the Gallery and Forum in Memorial Union East, and the OSU-Cascades campus when prior approval is secured following the process and requirements described in OAR 576-060-0035.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: OSU 4-1988, f. 8-19-88, cert. ef. 9-1-88; OSU 3-1989, f. & cert. ef. 5-30-89; OSU 4-1990, f. & cert. ef. 8-22-90; OSU 9-1991, f. & cert. ef. 7-25-91; OSU 6-1992, f. & cert. ef. 7-24-92; OSU 4-1997, f. & cert. ef. 4-21-97; OSU 7-2008, f. 6-27-08, cert. ef. 7-1-08; OSU 6-2011, f. & cert. ef. 6-13-11; OSU 6-2012, f. & cert. ef. 7-31-12

576-060-0035

Procedures and Requirements for Approval

(1) A request for approval to serve alcoholic beverages as required by these rules must be submitted to Business Services through the Office of Risk Management. A Licensed, Insured Vendor, approved by the University, must be named as the server. Food and non-alcoholic beverages must be provided in addition to the alcoholic beverages, which must be limited to beer and wine. Approval request forms are available through Business Services via the Office of Risk Management website. Approval request forms must be submitted at least three weeks prior to the event in order to assure adequate time for review by the designated date. The server or event co-sponsor must provide evidence of insurance meeting the minimum standards and guidelines of Business Services before the event will be approved. There must be an OLCC license for the event, if one is required under applicable law.

(2) Beer and wine may be served on the OSU-Cascades campus with guidelines established by the Vice-President for Finance and Administration.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: OSU 4-1988, f. 8-19-88, cert. ef. 9-1-88; OSU 3-1989, f. & cert. ef. 5-30-89; OSU 4-1990, f. & cert. ef. 8-22-90; OSU 9-1991, f. & cert. ef. 7-25-91; OSU 6-1992, f. & cert. ef. 7-24-92; OSU 12-1996, f. & cert. ef. 8-23-96; OSU 4-1997, f. & cert. ef. 4-21-97; OSU 2-1998, f. & cert. ef. 6-12-98; OSU 7-2008, f. 6-27-08, cert. ef. 7-1-08; OSU 6-2012, f. & cert. ef. 7-31-12

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Oregon University System, Portland State University Chapter 577

Rule Caption: Amends rule to eliminate the prohibition against possession or use of firearms on University property.

Adm. Order No.: PSU 3-2012

Filed with Sec. of State: 8-13-2012

Certified to be Effective: 8-13-12

Notice Publication Date: 4-1-2012

Rules Amended: 577-031-0135

Subject: The amendment to Portland State University's Student Code is needed in response to the Oregon Court of Appeals decision in Oregon Firearm Education Foundation v. Oregon State Board of Higher Education and to align the University's rules and policies with the State Board of Higher Education's rules and policies regarding firearms on campus.

Rules Coordinator: Lorraine D. Baker—(503) 725-8050

577-031-0135

Proscribed Conduct by the State Board of Higher Education

The following constitutes conduct as proscribed by the State Board of Higher Education for which a student or Recognized Student Organization or group is subject to disciplinary action:

(1) Obstruction or disruption of teaching, research, administration, disciplinary procedures or other University activities, including the University's public service functions or other authorized activities on University-owned or -controlled property.

(2) Obstruction or disruption interfering with freedom of movement, either pedestrian or vehicular, on University-owned or -controlled property.

(3) Possession or use of explosives, dangerous chemicals, or other dangerous weapons or instrumentalities on University-owned or -controlled property, unless authorized by law, Board or PSU rules or policies.

(4) Detention or physical abuse of any person or conduct which is intended to threaten imminent bodily harm or endanger the health of any person on University-owned or -controlled property.

(5) Malicious damage, misuse or theft of University property, or the property of any other person where such property is located on University-owned or controlled property, or, regardless of location, is in the care, custody or control of the University.

(6) Refusal by any person while on University property to comply with an order of the President of the University, or appropriate authorized official or officials, to leave such premises because of conduct proscribed by the Code, when such conduct constitutes a danger to personal safety, property, or other appropriate University activities on such premises.

(7) Unauthorized entry to or use of University facilities, including buildings and grounds.

(8) Illegal use, possession or distribution of drugs on University-owned or -controlled property.

(9) Inciting others to engage in any of the conduct or to perform any of the acts prohibited in this Code. Inciting means that advocacy of proscribed conduct that calls upon the person or persons addressed for imminent action, and is coupled with a reasonable apprehension of imminent danger to the functions and purposes of the University, including the safety of persons, and the protection of its property.

(10) Violating the State Board of Higher Education's Policy for Intercollegiate Athletics as described in Section 8 of its Internal Management Directives, specifically including the subsection entitled Code of Ethics.

Stat. Auth.: ORS 351.060

Stats. Implemented:

Hist.: PSU 1-1982, f. & ef. 4-22-82; PSU 1-1994, f. & cert. ef. 1-10-94; PSU 3-1994, f. & cert. ef. 10-26-94; PSU 2-2002, f. & cert. ef. 10-22-02; PSU 4-2006, f. & cert. ef. 8-22-06; PSU 3-2009, f. 8-13-09, cert. ef. 9-28-09; PSU 1-2012(Temp), f. & cert. ef. 3-12-12 thru 9-7-12; PSU 3-2012, f. & cert. ef. 8-13-12

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Oregon University System, University of Oregon Chapter 571

Rule Caption: Amend OAR 571-060-0005 to include residence hall room and board rates.

Adm. Order No.: UO 5-2012

Filed with Sec. of State: 8-13-2012

Certified to be Effective: 8-13-12

Notice Publication Date: 7-1-2012

Rules Amended: 571-060-0005

Rules Repealed: 571-060-0005(T)

Subject: The University administration has determined that the adoption of the amendments to the residence hall room and board rates will be necessary in order to provide the basis for funding to cover the expenses for providing UO on-campus housing and din-

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ing. This permanent rule will replace the temporary rule to be effective July 1, 2012.

This permanent rule filing repeals the temporary administrative rule currently in place.

Rules Coordinator: Amanda Hatch—(541) 346-3082

571-060-0005

Special Fees, Fines, Penalties, Service Charges

The University of Oregon has adopted by reference a list of Special Fees, Fines, Penalties, Service Charges, etc., for the current fiscal year:

(1) The fees, fines, penalties and service charges listed by reference in this rule are updated annually and copies are on file in the listed departments by July 1.

(2) The amounts and conditions of these fees may change from time to time throughout the year due to administrative considerations, changing costs, changes in institutional budgets, etc. If the size and the amount of these fees are or could be of importance to users, they should verify the details prior to making a commitment, before entering into any planning activities or before actually incurring any charges.

(3) The master copy of the current list of fees is maintained in the Office of the Director of Business Affairs and is available upon request to any person during regular business hours. The Director of Business Affairs also maintains a bulletin board where fee changes made during each 30-day period are posted. Following that posted period, the changes are filed with in the master copy.

(4) University departments charging fees shall maintain a copy of at least that department's section of the list of special fees, fines, penalties and service charges including any updates made during the course of the fiscal year. The list and all current changes shall be available upon request to any person during regular departmental business hours.

(5) No department may change fees between annual amendments to this rule without first obtaining an approved statement of justification signed by the appropriate Vice-President. Prior to granting approval of any fee charged to students, the Vice-President shall consult with the Office of Student Advocacy. Changes in fees approved by the Vice-President and the justification statement shall be posted for 15 days in a public area of the departmental office. The new fee, fine, penalty or charge becomes effective at the end of the 15-day posting period after it is filed with the Director of Business Affairs along with the justification statement.

(6) However, student loan service charges, charges levied as penalties for prohibited conduct, general tuition, building fees, incidental fees, health service fees, and residence hall and housing charges, shall be adopted in accordance with the provision of ORS 183.310 to 183.500.

(7) Certain charges, fees or fee schedules may, according to ORS 351.072(b), be adopted without compliance with rulemaking provisions of ORS 183.310 to 183.500. They are: charges relating to symposiums, conferences, short courses, food, books or other retail goods, prices of admission to athletic, entertainment or cultural events or advertising rates in student or institutional publications.

Stat. Auth.: ORS 351.070, 351 & 352

Stats. Implemented: ORS 351.070

Hist.: UOO 20, f. & cert. ef. 4-27-76; UOO 34(Temp), f. & cert. ef. 8-8-77; UOO 37, f. & cert. ef. 9-30-77; UOO 3-1978, f. & cert. ef. 7-1-78; UOO 1-1979(Temp), f. 6-26-79, ef. 7-1-79; UOO 4-1979, f. & cert. ef. 10-3-79; UOO 7-1980, f. 6-30-80, ef. 7-1-80; UOO 7-1981(Temp), f. 6-16-81, ef. 7-1-81; UOO 9-1981(Temp), f. & cert. ef. 6-29-81; UOO 2-1982, f. & cert. ef. 4-14-82; UOO 4-1982, f. & cert. ef. 6-10-82; UOO 4-1983, f. & cert. ef. 6-10-83; UOO 5-1983(Temp), f. & cert. ef. 6-15-83; UOO 2-1984, f. 6-11-84, ef. 7-1-84; UOO 3-1985, f. 6-19-85, ef. 7-1-85; UOO 1-1986, f. 6-4-86, ef. 7-1-86; UOO 4-1986(Temp), f. & cert. ef. 11-10-86; UOO 7-1986(Temp), f. 12-30-86, ef. 1-1-87; UOO 8-1986(Temp), f. 12-30-86, ef. 1-1-87; UOO 1-1987, f. & cert. ef. 1-29-87; UOO 3-1987, f. 6-17-87, ef. 7-1-87; UOO 6-1988, f. 6-29-88, cert. ef. 7-1-88; UOO 8-1988, f. & cert. ef. 8-17-88; UOO 5-1989, f. 6-20-89, cert. ef. 7-1-89; UOO 7-1990, f. 6-14-90, cert. ef. 7-1-90; UOO 9-1991, f. 6-12-91, cert. ef. 7-1-91; UOO 1-1992, f. 4-9-92, cert. ef. 7-1-92; UOO 2-1993, f. 4-19-93, cert. ef. 7-1-93; UOO 9-1993, f. & cert. ef. 6-15-93; UOO 11-1993, f. 8-29-93, cert. ef. 9-1-93; UOO 2-1994, f. 6-13-94, cert. ef. 7-1-94; UOO 3-1994, f. 6-14-94, cert. ef. 7-1-94; UOO 4-1995, f. 6-13-95, cert. ef. 7-1-95; UOO 5-1995, f. 7-31-95, cert. ef. 8-1-95; UOO 3-1996, f. 6-6-96, cert. ef. 7-1-96; UOO 6-1997, f. 6-18-97, cert. ef. 7-1-97; UOO 7-1997, f. 6-18-97, cert. ef. 7-1-97; UOO 1-1998, f. 6-17-98, cert. ef. 7-1-98; UOO 2-1998, f. 6-17-98, cert. ef. 7-1-98; UOO 2-1999, f. 6-1-99, cert. ef. 7-1-99; UOO 3-1999, f. 6-1-99, cert. ef. 7-1-99; UOO 2-2000, f. 6-15-00, cert. ef. 7-1-00; UOO 1-2001, f. 6-18-01, cert. ef. 7-1-01; UOO 2-2001, f. 6-18-01, cert. ef. 7-1-01; UOO 2-2002, f. 6-19-02, cert. ef. 7-1-02; UOO 3-2002, f. 6-19-02, cert. ef. 7-1-02; UOO 1-2003, f. 6-23-03, cert. ef. 7-1-03; UOO 2-2003, f. 6-23-03, cert. ef. 7-1-03; UOO 2-2004, f. 5-11-04, cert. ef. 7-1-04; UOO 3-2004, f. 6-30-04, cert. ef. 7-1-04; UOO 6-2007, f. & cert. ef. 2-22-07; UOO 8-2007, f. & cert. ef. 3-12-07; UOO 9-2007, f. 5-10-07, cert. ef. 6-29-07; UOO 11-2007, f. 6-19-07, cert. ef. 6-29-07; UOO 2-2008, f. 5-6-08, cert. ef. 7-1-08; UOO 4-2008, f. 6-27-08, cert. ef. 7-1-08; UOO 1-2009, f. 4-24-09, cert. ef. 7-1-09; UOO 2-2009, f. 6-30-09, cert. ef. 7-1-09; UOO 1-2010, f. 4-22-10, cert. ef. 7-1-10; UOO 2-2010, f. 7-29-10, cert. ef. 7-30-10; UOO 2-2011, f. 6-22-11, cert. ef. 7-1-11; UOO 1-2012, f. 6-4-12, cert. ef. 7-1-12; UOO 3-2012(Temp), f. 6-13-12, cert. ef. 7-1-12 thru 12-21-12; UOO 5-2012, f. & cert. ef. 8-13-12

Oregon University System, Western Oregon University Chapter 574

Rule Caption: Revisions to special course fees and general services fees; code of student conduct and judicial structure; and parking regulations.

Adm. Order No.: WOU 2-2012

Filed with Sec. of State: 7-31-2012

Certified to be Effective: 7-31-12

Notice Publication Date: 7-1-2012

Rules Adopted: 574-085-0140

Rules Amended: 574-031-0000, 574-031-0010, 574-031-0020, 574-031-0030, 574-031-0040, 574-032-0000, 574-032-0010, 574-032-0020, 574-032-0030, 574-032-0050, 574-032-0060, 574-032-0070, 574-032-0080, 574-032-0090, 574-032-0100, 574-032-0110, 574-032-0120, 574-032-0130, 574-032-0150, 574-032-0160, 574-050-0005, 574-085-0000, 574-085-0020, 574-085-0040, 574-085-0060, 574-085-0070, 574-085-0110, 574-085-0120

Rules Repealed: 574-032-0040

Subject: Amendments will allow for increases, additions, and revisions of special course fees and general services fees; code of student conduct and judicial structure; and parking regulations.

Rules Coordinator: Debra L. Charlton—(503) 838-8597

574-031-0000

Introduction

(1) Western Oregon University has a fundamental interest in the education and conduct of its Students. The academic, social, and personal development of a Student through the Student's University experience involves a fusion of the learning process with the development of a coherent and consistent system of ethics, as well as adherence to standards of behavior created and accepted by the University community.

(2) All Members of the University community have a responsibility to maintain a level of behavior that reflects favorably upon the person and the University. The University requires that all Students be responsible for their own conduct. The University expects Students who live on and off Campus to abide by local, state, and federal laws as well as University policies, procedures, and regulations, including this Code.

(3) The Code will be applied impartially and without regard to age, disability, ethnic background, gender, race, religious or political affiliation, sexual or gender orientation.

(4) The application of the standards within this Code applies to individuals, clubs, educational activity groups, other student groups, and any individual student who is registered for one or more credit hours, including on-line courses, is enrolled in a special non-credit program approved by the University, or who has been accepted for admission, housing, financial aid, or any other service or benefit provided by the University which requires student status.

(5) This Code was adopted on September 1, 2012, became effective September 1, 2012 and supersedes all other previous conduct codes.

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: WOSC 3-1982, f. & ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0046; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2009, f. & cert. ef. 7-29-09; WOU 2-2012, f. & cert. ef. 7-31-12

574-031-0010

Definitions

As used in OAR Chapter 574, Divisions 31 and 32, the following terms have the following definitions.

(1) The term "Adjudication" or "Adjudicated" or "Adjudicative" means a method of resolving allegations of Student misconduct which employs a fact-finding, impartial adjudicator to render a binding decision in the matter.

(2) The terms "Administration or Staff Person" mean any person who holds a current non-academic appointment or classified position at the University.

(3) The term "Advisor" means any person who has elected to advise a Charged Student, Witness, or a Complainant within a student conduct hearing.

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(4) The term "Appeals Body" means any person or group charged with hearing appeals through this Code (e.g., the Vice President for Student Affairs).

(5) The term "Business Visitor" means any person on the University's property who has a legitimate interest or focus of business with the University, and who is not a Member of the University Community.

(6) The term "Campus" means any property owned, used or controlled by the University.

(7) The term "Charged Student" means any Student charged with a violation of this Code.

(8) The term "Code" means this Code of Student Responsibility.

(9) The term "Committee" means the University Student Conduct Committee.

(10) The term "Complainant" means any person whether a Member of the University Community or not, who has filed a complaint of alleged misconduct with Public Safety or with the Campus Student Conduct Program concerning a Student.

(11) The term "Dean of Students" means the person designated by the Vice President for Student Affairs as the administrator of the University's Campus Student Conduct Program.

(12) The term "Disputant" means any person who uses Mediation within the Campus Student Conduct Program to resolve a conflict with another party or parties.

(13) The term "Faculty" means any person who holds a current academic appointment at the University.

(14) The term "Mediation" means a method of dispute resolution in which Disputants utilize an impartial third party to assist the Disputants to mutually resolve their conflict. Mediation is not available for allegations involving sexual harassment or misconduct.

(15) The term "Member of the University Community" means any Student, Faculty, Administration or Staff Person at the University.

(16) The term "Office of Student Conduct" means the office that administers the University Student Conduct System and includes the Dean of Students, Student Conduct Coordinator, Student Conduct Assistant and other designees.

(17) The term "Preponderance of the Evidence" means that based on the information that is presented, the Charged Student has more likely than not, engaged in the charged misconduct.

(18) The term "Recognized Student Organization" means a club, educational activity group or other Student group that has complied with the requirements for University recognition.

(19) The term "Staff" means any person who holds a classified or unclassified appointment at the University.

(20) The term "Student" means a person who is enrolled at Western Oregon University or any person meeting the description in 574-031-0000(4).

(21) The term "Student in Violation" means any Student found to be in violation of the Code through the Campus Student Conduct Program.

(22) The term "Survivor" means any person not charged with a violation of the Code who reports being sexually violated or harassed by a Student.

(23) The term "University" means Western Oregon University, WOU, or any part or division within Western Oregon University.

(24) The term "University Sponsored On- or Off-Campus Event" means any event in which at least one of the following applies:

- (a) The University plans the event;
- (b) The University pays all, or a part of, the cost of the event;
- (c) The University sponsors the event;
- (d) The University contributes any type of University owned or leased resources or equipment to the event;

(e) A University Student, Faculty, or Administrative or Staff person represents the University at the event;

(f) The event occurs within a University owned or leased property, or upon or within University owned or leased property, including any type of state vehicle; or

(g) The event occurs during the time frame specified on an approved sponsorship form (i.e. registration of event form, travel form, etc).

(25) The term "Victim" means any person not charged with a violation of the Code who has been harmed by the behavior of a Student in Violation. When referring to situations in which a Charged Student has not been found in violation of the Code, this person is referred to as an alleged Victim.

(26) The term "Visitor/Guest" means a non-student or person not affiliated in any official way with Western Oregon University.

(27) The term "Witness" means any person who has information which pertains to a case of alleged Student misconduct.

(28) The term "Working Day" means a day that the University is in session.

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: WOSC 2-1996, f. & cert. ef. 11-12-96; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2012, f. & cert. ef. 7-31-12

574-031-0020

Jurisdiction

(1) The regulations contained in the Code will apply to all matters affecting the University, including, but not limited to, events occurring during the time the University is in session, events occurring between academic terms, at University Sponsored On- and Off-Campus Events, and any illegal behavior on or off the Campus by WOU Students. Misconduct by non-students (Business Visitors, Visitors/Guests) whether on-Campus or at a University Sponsored On- or Off Campus Event may result in a trespass from Campus or any future WOU event.

(2) Allegations of Student misconduct may be Adjudicated within the University's administrative Campus Student Conduct Program as well as within any off-campus criminal justice system regardless of whether the alleged behavior occurred on- or off-Campus. Adjudication of allegations of Student misconduct will occur expeditiously and sometimes before or concurrently with adjudication within an off-campus system of justice. Determinations made or sanctions imposed under this Code shall not be subject to change because criminal charges arising out of the same facts giving rise to violation of University rules were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: WOSC 3-1982, f. & ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0047; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2012, f. & cert. ef. 7-31-12

574-031-0030

Specific Standards and Policies

The following list of prohibited forms of conduct is not all inclusive since it is not possible to list all potential violations. The University requires that all Students behave in a manner congruent with established community standards and in a manner conducive to the development of the individual. Actions detrimental to the mission of the University and the legitimate activities of the academic community which constitute the University are in violation of this Code and may be subject to Adjudication. Adjudication may be initiated by the University and educational or punitive sanctions may be assigned to any Student or Recognized Student Organization found participating in, attempting to participate in, or assisting others in participating in any of the following prohibited forms of conduct:

(1) Academic Misconduct. Acts of academic misconduct which includes but is not limited to:

(a) Cheating — intentional use, or attempted use of artifice, deception, fraud, or misrepresentation in completing, submitting, or recording one's academic work;

(b) Fabrication — unauthorized falsification or invention of any information or citation in any academic exercise;

(c) Facilitating dishonesty — helping or attempting to help another person commit an act of academic misconduct. This includes Students who substitute for other persons in examinations, fake other person's attendance, or allow another person to copy work or represent as the Student's own papers, reports, or any other academic work the work of others;

(d) Plagiarism — representing without giving credit the words, data, or ideas of another person as one's own work in any academic exercise. This includes submitting, in whole or in part, prewritten term papers of another or the research of another, including but not limited to the product of commercial vendors who sell or distribute such materials, and the appropriation or use of electronic data of another person or persons as one's own, or using such data without giving proper credit for it;

(e) Any use or attempted use of electronic devices in gaining an illegal advantage in academic work in which the use of these devices is prohibited. Such devices include but are not limited to cell phones, smart phones, Personal Digital Assistants, electronic tablets, laptops, programmable calculators, USB flash drives or other removable memory devices, etc.; or

(f) Engaging in any behavior specifically prohibited by a Faculty or Staff member in the course syllabus or class discussion.

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- (2) Alcohol.
- (a) Possession, consumption, distribution, or sale of alcoholic beverages on University owned or controlled property with the exception of approved events that follow the President's policy on use of alcohol at WOU functions.
- (b) Possession, consumption, sale, or distribution of alcoholic beverages during the official portion of a University Sponsored On- or Off-Campus Event as defined by the Faculty or Staff advisor.
- (3) Computer/Network Resources Misuse.
- Use of Campus computers or network resources that includes, but is not limited to:
- (a) Unauthorized access to programs;
- (b) Alteration of computer records or data;
- (c) Theft or other abuse of computer time or overloading computing resources;
- (d) Violation of copyright laws;
- (e) Using a computer account not issued directly to the Student;
- (f) Sending or posting threatening or harassing statements as described in 574-031-003-08;
- (g) Any violation of the Acceptable Use of Computing Resources Policy; or
- (h) Unauthorized transfer of a file.
- (4) Controlled Substances.
- (a) Possession, consumption, manufacture, distribution, or sale of illegal drugs or any other controlled substance on- or off- University owned or controlled property.
- (b) Possession, consumption, sale, or distribution of illegal drugs during the official portion of a University Sponsored On- or Off-Campus Event as defined by the Faculty or Staff advisor.
- (5) Disorderly Conduct.
- (a) Disorderly, lewd, indecent, or any other form of conduct which interferes with but is not limited to:
- (A) The academic program of the University;
- (B) The health and safety of self or others;
- (C) The security of University owned or controlled property;
- (D) The conduct of non-classroom activities (e.g. lectures, concerts, athletic events, and social functions);
- (E) The functions of the University; or
- (F) Any other University activity or University sponsored activity or event.
- (b) Unreasonable noise or conduct that results in unreasonable annoyance (i.e. yelling while walking through Campus or a community neighborhood at 2am).
- (c) Any unauthorized use of electronics or other devices to make an audio or video record of any person while on the Campus without the person's prior knowledge or without the person's effective consent when the recording is likely to cause injury or distress.
- (6) Failure to Comply.
- (a) Refusal to comply with a reasonable request of law enforcement or other authorities.
- (b) Refusal while on University owned or controlled property, or at University Sponsored On- or Off-Campus Events, to comply with reasonable requests or directions from authorized University officials, including public safety officers, residence hall staff, Faculty, Administration or Staff person.
- (7) Fire and Life Safety.
- (a) Tampering with fire safety equipment, generating a false alarm, or engaging in behavior that constitutes a fire or safety hazard.
- (b) Failure to evacuate a University building after a fire alarm has sounded or other notice to evacuate has been given by a person authorized to give such notice.
- (8) Harassment, Discrimination, Bullying or Stalking Behavior.
- Harassment, which includes but is not limited to:
- (a) Physical contact with or physical interference with a person which:
- (A) Is objectively offensive;
- (B) Causes pain;
- (C) Prevents or disrupts the person from any lawful chosen activity;
- (D) Puts the person in fear for safety; or
- (E) Causes damage to person or property.
- (b) Conduct without physical contact or physical interference with a person, including but not limited to harassing, bullying or threatening behavior, including verbal communication, which is intended to and has the effect of:
- (A) Substantially disrupting another person's lawful activity;
- (B) Causing another person to be subject to unwelcome or offensive physical contact;
- (C) Causing personal injury or property damage or risk of personal injury or property damage;
- (D) Causing another person to be subject to unwelcome and objectively unreasonable interference with mental and emotional health;
- (E) Putting the person in fear for safety; or
- (F) Harassing or bullying another person based on their actual or perceived race, color, national origin, sex, disability, sexual orientation, gender identity, or religion.
- (c) Repeatedly contacting another person when:
- (A) The contacting person knows or should know that the contact is unwanted by the contacted person; and
- (B) The contact causes the contacted person reasonable apprehension of imminent physical harm or the contacting person knows or should know that the contact causes the contacted person mental anguish or distress or substantial impairment of the contacted person's ability to perform the activities of daily life. As used in this context, "contacting" includes but is not limited to communicating with or remaining in the physical presence of the contacted person.
- (d) Stalking another person which includes but is not limited to:
- (A) Following or lying in wait for the Victim, the Victim's relatives, friends or pets;
- (B) Repeated unwanted, intrusive and frightening contact from the perpetrator by phone, mail, electronically or otherwise;
- (C) Damaging the Victim's property;
- (D) Making indirect or direct threats to harm the Victim, the Victim's relatives, friends or pets;
- (E) Repeatedly sending the Victim unwanted gifts;
- (F) Harassment through the internet, known as "cyberstalking," "online stalking," or "internet stalking"; or
- (G) Securing and accumulating personal information about the Victim by accessing public records, using internet search devices, hiring private investigators, contacting friends, family, work, or neighbors, going through the Victim's garbage, etc. It is a defense to any charge of harassment if the alleged harassing conduct is not objectively unreasonable.
- (9) Hazing. Hazing is defined as any initiation rite for the purpose of admission into, affiliation with, or as a condition for continued membership in a group or organization. The act of hazing, whether on- or off- Campus, involves any intentional action or situation that a reasonable person would foresee as causing mental or physical discomfort, embarrassment, or ridicule; or which destroys or removes public or private property. Activities and situations that may occur as part of hazing include, but are not limited to:
- (a) Physical abuse, pain, harm, or risk;
- (b) Mental anguish, fear or anxiety;
- (c) Required performance of activities (e.g., pranks, servitude, physical contests);
- (d) Compelled ingestion of any substance;
- (e) Any form of confinement or restraint; or
- (f) Other activities which violate federal, state or local laws. It is not a defense to a charge of hazing if the Victim(s) of the hazing acknowledges or implies consent, or acquiesces to the hazing.
- (10) Inciting or Provoking Others.
- (a) Inciting others to engage in any University prohibited forms of conduct. Inciting means the advocacy of proscribed conduct which calls upon the person or persons addressed for imminent actions, and is coupled with a reasonable apprehension of imminent danger to the functions and purposes of the University, including the safety of its Students, Faculty, Administration or Staff Person, and the protection of its property.
- (b) Specifically insulting another person in that person's immediate presence with abusive words or gestures in a manner intended and likely to provoke a disorderly or violent response, whether or not it actually does.
- (11) Interference or Contempt of Adjudicative Proceedings. Includes but is not limited to:
- (a) Conduct that interrupts the due course of proceedings in the presence of any hearing body created under this Code;
- (b) Violating the confidentiality of Adjudication proceedings administered under this Code;
- (c) Knowingly giving false information at a hearing or knowingly giving false information in a statement to be used as evidence at a hearing, or knowingly giving false information to a Campus hearing officer;
- (d) Failure by a Witness to appear at a conduct hearing when requested to do so by a representative of the Campus Student Conduct Program;

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(e) Knowingly and falsely initiating the Adjudication process, for instance, by filing a false complaint or report;

(f) Influencing or attempting to influence the impartiality of a member of a Campus Student Conduct hearing committee or a hearing officer or a Witness;

(g) Harassment of a member of a Campus Student Conduct hearing committee or hearing officer prior to, during, or after an Adjudication; or

(h) Failure to comply with the terms of any sanction imposed in accordance with the Code or mandated by the University Housing Student Conduct Board.

(12) Misrepresentation of Matters of Fact.

(a) Knowingly furnishing false information to an authorized University official who is making an inquiry to carry out official University business;

(b) Representing oneself as another person, including a University official, with or without that person's permission to gain a benefit improperly;

(c) Altering, forging, improperly possessing, creating, distributing, or lending to another person a University identification card or instrument of identification unless authorized by the University or an authorized University official;

(d) Intentionally furnishing false academic information or concealing previous academic information in University application materials, assisting someone else in furnishing false information to the University, or using University documents for fraudulent purposes;

(e) Providing forged, false or improper documents to the University; or

(f) Recognized Student Organizations representing themselves or an individual in the group representing themselves as acting for or on behalf of the University in any commercial enterprise or in the solicitation or collection of funds for any purpose whatsoever without approval in advance by the appropriate University official or agency. This applies to all means of communication (e.g., verbal, written, electronic).

(13) Obstruction, Disruption or Interference.

(a) Obstruction or disruption of teaching, research, administration, Adjudication procedures, or other University activities, including the University's public service functions, other authorized activities, or University Sponsored On- or Off-Campus Events.

(b) Disruption of Campus activities or the functions of the University.

(c) Obstruction or disruption which interferes with the freedom of movement, either pedestrian or vehicular, on University owned or controlled property.

(14) Publications and Media. Publication, posting, or distribution on University property, or at authorized University activities, of material that violates copyright laws, postal regulations, University policies or rules, or any other law or statute.

(15) Sexual Misconduct.

(a) Sexual Misconduct is non-consensual sexual contact of any kind, the attempt to have non-consensual sexual contact or the threat of such contact. Sexual contact shall be considered non-consensual if no clear consent is freely given.

(A) Sexual contact includes but is not limited to touching of the genitalia, anus, buttocks, breast or mouth, as well as, any contact for the purpose of sexual gratification.

(B) Sexual behavior includes but is not limited to any action, short of sexual contact, done for the purposes of sexual gratification, and may include but is not limited to voyeurism, exposing, masturbation, frottage, and audio/video recording.

(C) Force includes but is not limited to physical force, violence, abuse, threat of force (direct or implied), intimidation, extortion, harassment, coercion, fraud, duress or pressure.

(D) Sexual exploitation occurs when a person takes non-consensual, unjust or abusive advantage of another in a sexual or intimate context, for their own advantage or benefit, or to the benefit or advantage of anyone other than the one being exploited, and that behavior does not otherwise constitute non-consensual sexual misconduct. Sexual exploitation includes permitting or facilitating non-consensual viewing, taking of photographs, videotaping, or audio taping of sexual or intimate activity, knowingly infecting another person with HIV or any sexually transmitted infection, inducing incapacitation of another person with the intent to facilitate sexual misconduct against that person, or compelling prostitution.

(b) Sexual Harassment, whether or not it be by direct physical attack as defined below. Sexual harassment includes, but is not limited to, sexual

advances, requests or suggestions to engage in sexual conduct, and other physical and expressive behavior of a sexual nature when:

(A) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education;

(B) Submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting the individual; or

(C) Such conduct has the purpose or effect of substantially interfering with an individual's academic or professional performance or creates an intimidating or hostile employment, educational, or living environment.

(c) The following definitions will apply to sexual misconduct:

(A) Non-consensual is the absence of shared sexual permission. Shared sexual permission is clear, voluntary, non-coerced and clearly indicates a willingness to participate in sexual contact/behavior, whether through affirmative verbal response or non-verbal communication unmistakable in meaning and given by an adult (age 18 or older). Shared sexual permission to one form of sexual contact/behavior does not operate as permission to any other form of sexual contact/behavior or reoccurrence of the same form of sexual contact/behavior.

(B) Incapacitation is a mental or physical condition that renders a person unable to grant consent. Incapacitation may be a state or condition resulting from the use of alcohol or other drugs, lack of sleep, sleep, and unconsciousness. Incapacitation may also be the result of a cognitive impairment, such as a developmental disability, brain injury, or mental illness.

(16) Threatening or Abusive Behavior.

(a) Detention of any person.

(b) Conduct which threatens imminent bodily harm or endangers the physical or emotional health of any person or oneself.

(c) Physical or emotional abuse of any person.

(17) Vandalism/Theft/Unauthorized Use of Property.

(a) Malicious damage, misuse, or theft of University property, or the property of any person where such property is located on University owned or controlled property, or, regardless of location, is in the care, custody or control of the University.

(b) Theft of property or services, or knowingly possessing or using stolen property or services including, but not limited to, furniture, equipment, University publications or any other form of media, and any other University owned property or services.

(c) Unauthorized entry to or use of University facilities, including buildings and grounds (including, but not limited to, non-residential Students gaining access to overnight accommodations in University Housing without permission; Students accessing the Health and Wellness Center without proper identification or payment, etc.).

(d) Failure by a person causing accidental damage to or removal of property to report to appropriate University Staff or the individual owner within a reasonable period of time following the accidental damage to or removal of University or personal property.

(18) Violation of Policies, Standards and Laws.

(a) Violation of published University policies, rules, or regulations.

(b) Violation of residence hall rules and procedures as listed in official residence hall publications.

(c) Violation of Oregon University System Higher Education policies.

(d) Violation of federal, state, or local law.

(e) Violation of motor vehicle rules and regulations, or other policies adopted by the University or the State Board of Higher Education pertaining to the use of motor vehicles.

(19) Dangerous Weapons and Destructive Chemical or Incendiary Devices. Possession or use of fireworks, explosives, dangerous chemicals, or other weapons or dangerous instruments on University owned or controlled property.

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: WOSC 3-1982, f. & ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0048; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2009, f. & cert. ef. 7-29-09; WOU 2-2012, f. & cert. ef. 7-31-12

574-031-0040

Sanctions

The following order of sanctions implies neither degree of severity nor appropriateness of the sanction to the number of violations. Multiple sanctions may be assigned. Students will be responsible for any applicable costs for carrying out sanctions. The sanctions that may be assigned include, but are not limited to:

ADMINISTRATIVE RULES

(1) Alcohol/Drug Assessments: A Student may be assigned to complete an alcohol or drug evaluation and to follow the recommendations of the alcohol/drug counselor for treatment or education.

(2) Community Service: The Student or Recognized Student Organization must perform a designated number of hours in service.

(3) Counseling: A Student may be assigned to participate in a counseling intake session and to follow the recommendations of the intake counselor for further counseling sessions.

(4) Deferred Sanction: The execution of any sanction authorized under this Code may be deferred. When deferring a sanction the following will apply:

(a) Assignment of a time limit for the deferred period;

(b) Notice given that subsequent violations of the Code or failure to comply with an existing sanction will terminate the deferment and result in automatic imposition of the original sanction. In the absence of such violation(s), the original sanction will be deemed completed at the end of the deferred period;

(c) The Dean of Students, Student Conduct Coordinator or other hearing officer will hear allegations of a Student's misconduct during the period of the Student's deferred sanction within five Working Days after receipt of the allegations of the Student's misconduct. The original sanction will take effect at the time the Dean of Students, Student Conduct Coordinator or other hearing officer receives notice of the allegations pending this hearing. The Dean of Students, Student Conduct Coordinator or other hearing officer may render a decision in the absence of the Charged Student. The original sanction will remain in effect unless the allegations are not upheld; and

(d) A Student found in violation of the Code during the Student's period of a deferred sanction may appeal the finding through this Code's normal appeal process. The sanction will remain in effect until resolution of the appeal.

(5) Degree Revocation: The University may revoke a degree if a former Student is found to have engaged in academic dishonesty in courses taken leading to the degree, or if the Student is found to have engaged in actions that if known at the time the degree was awarded would have made the Student unqualified for the degree.

(6) Disciplinary Probation: The Student or Recognized Student Organization is placed on a probationary status, with or without loss of designated privileges, which may include the following: restriction on an individual's participation in co-curricular activities, receiving recognition through awards, and eligibility for scholarships. Probation is a serious warning. Probation occurs for a specific period of time or prior to completion of certain specific activities. Violation of probation can result in more severe sanctions for future violations of the Code.

(7) Expulsion: The Student or Student Organization is permanently excluded from the University and may not enjoy academic privileges, participate in any University recognized function, or be allowed to reside in any University residence hall or building.

(8) Interim Sanction for Emergency Reasons: The Vice President for Student Affairs, the Dean of Students, Student Conduct Coordinator, or their designee can invoke an interim, pre-hearing sanction when it is deemed necessary for the health or safety of the Student, other Students, or University Administration or Staff or Faculty. In such instances where a Student is assigned an interim sanction, the Student will receive a hearing within ten Working Days. Only when it is not possible to schedule necessary Witnesses or obtain information significant to the case will the hearing be held more than ten Working Days after assignment of the interim sanction. Interim sanctions include but are not limited to the following:

(a) Expulsion;

(b) Suspension;

(c) No Contact Order;

(d) Removal from Residence Halls; or

(e) Holding Records.

(9) Loss of Privileges: The Student or Recognized Student Organization is denied specific privileges normally associated with Student or group status, such as participation in recognized activities, recognition by the University, use of University facilities or services, or living in University owned student residences.

(10) Mediation: When charges of theft, vandalism, harassment, assault, or other harmful treatment are upheld through the Adjudication process, the Student may be assigned to participate in Mediation with the Victim. Mediation is not provided as an option for allegations involving sexual misconduct or sexual harassment.

(11) Negative Notation on Transcript: There may be an entry of information onto the Student's permanent academic record regarding the

Student's violation of the Code. The entry may be permanent or for a specific period and must be noted as such on the transcript. After the expiration of the period of time specified, the notation will be removed upon written request by the Student to the Office of Student Conduct.

(12) No Contact Order: The Student may not knowingly interact with another Student or Member of the University Community specified by the sanctioning person or body. The restriction prohibits the restrained Student from purposefully interacting with the protected person, over the phone, over any electronic source (including email, text messaging, social networks or any other electronic source), in person, and through the mail. Unless specifically stated otherwise in the sanction, the restriction does not prohibit the restrained Student from unintentionally, or out of necessity, being in the same building or vicinity as the protected Student (e.g., eating in the Dining Hall, attending the same class). The sanctioning person or body will determine the time limit for this sanction.

(13) Placement of Judicial Hold on Student account: A Judicial Hold prohibits the Student from registering for classes, sending and receiving transcripts and conducting most forms of business with the University. Holds are intended to be used with a time limit determined by the Dean of Students, Student Conduct Coordinator, or other designee except in the case of expulsion when the Judicial Hold will be placed with no date of termination.

(14) Restitution: The Student or Recognized Student Organization must replace, restore, or pay for damaged, stolen, or misappropriated property.

(15) Revocation of Admission to the University: The University may revoke admission to the University if a Student is found to have provided false or deceptive information on an admission application or other materials for admission (e.g. transcript from another university).

(16) Suspension: The Student or Student Organization is excluded from the University for a specific period and during that period may not enjoy academic privileges, participate in any University recognized function or group, or be allowed to reside in any University residence hall or building. If it is a Student Organization, the group may not function as a recognized group for a specific period of time that can include conditions that must be met prior to reinstatement.

(17) Suspension of Student Status for Medical or Mental Health Reasons Pending Hearing Procedures: When evidence is received from an appropriate health professional which indicates that a Student has a medical or mental health condition which creates a serious and imminent threat to a Member of the University Community, to the Student, or to the educational processes of the University, the Vice President for Student Affairs will review that evidence and may suspend the Student immediately pending a hearing. The hearing must occur within two-three Working Days. The Student may be required to submit to psychological or physical assessment and to authorize release of such records to the Vice President for Student Affairs or other appropriate University officials in order to be re-enrolled in the University.

(18) Warning: The Student or Recognized Student Organization is given written or verbal warning that the behavior violated specified University regulations or policies and is advised that further violations may result in the assigning of more severe sanctions.

(19) Other Sanctions as assigned that are deemed appropriate to the educational/developmental nature of this Code and the Student(s) involved. Failure by a Student to complete the sanctions imposed can result in further Adjudication and sanctions being assigned to the Student. Appeals of sanctions can be made through the appeal process (see OAR 574-032-0120).

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: WOSC 3-1982, f. & ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0049; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2009, f. & cert. ef. 7-29-09; WOU 2-2012, f. & cert. ef. 7-31-12

574-032-0000

Introduction

(1) Western Oregon University's Campus Student Conduct Program holds the education of the Student at its philosophical heart. This educational philosophy defines a structure for the Student Conduct Program which gives the Charged Student choices for resolving allegations of misconduct.

(2) The current hearing structure includes three options which vary in their degree of formality and philosophy. In order from least to most formal, they are: Hearing with Mediators, Hearing with the Dean of Students, Student Conduct Coordinator or designee, and Hearing with the Committee.

ADMINISTRATIVE RULES

(3) The Charged Student first meets with the Dean of Students, Student Conduct Coordinator or designee, who in turn helps direct the Student to the proper arena for resolution of the allegation(s). The Charged Student always has the right to request that the hearing be held with a different party within the system. The party (individual or group) which hears the allegation(s) will dictate the formality of the proceedings, and all types of hearings, except for Mediation, will have equal jurisdiction and ability to assign sanctions.

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: WOSC 2-1996, f. & cert. ef. 11-12-96; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2012, f. & cert. ef. 7-31-12

574-032-0010

Student Conduct Personnel

(1) Upon the recommendation of the Dean of Students, the Vice President for Student Affairs approves the members of the Committee which consist of no fewer than three Faculty members, three professional unclassified Staff members, and no fewer than six Student members. The Faculty and Staff members will serve for three years on a rotational basis so two experienced members of each classification serve each year. Term of membership may be extended for Faculty and Staff members at the discretion of the Office of Student Conduct. Student members serve for one year with the option to renew membership at the discretion of the Office of Student Conduct until the Student graduates from the University.

(2) The Office of Student Conduct solicits nominations for Faculty appointments from the Department or Division Chairs and the Faculty Senate President. The selection process, which includes interviews, will be completed by the end of each Spring term to fill whatever Faculty vacancies exist.

(3) The Office of Student Conduct solicits nominations for Staff members from the Administrative Support Council and non-academic departments. The selection process, which includes interviews, will be completed by the end of each Spring term to fill whatever Staff vacancies exist.

(4) The Dean of Students may nominate a Faculty or Staff member to emeritus status when they leave their rotation. This status recognizes outstanding service to the Committee by a member. Members of this standing could still participate in Committee hearings, business meetings and social events, but would not be required to participate. Members of this status also could serve the University and the Committee, including its advisor, in a counsel and historian role. Final appointment to this status is made by the Vice President of Student Affairs of the University.

(5) The Office of Student Conduct solicits nominations for Student appointments by the end of Spring term from the Residence Hall Association (RHA), the Associated Students of Western Oregon University (ASWOU), and the Vice President for Student Affairs. Each organization and the Vice President submit to the Office of Student Conduct a list of Student nominees. The Office of Student Conduct interviews all nominees and then selects Students for the Committee. Ideally, a balanced number of Students from on- and off- Campus should represent membership on the Committee. If the Office of Student Conduct does not receive nominations by the end of Spring term, they may, with the approval of the Vice President for Student Affairs, follow a different procedure for selecting Student Committee members. Mid-year vacancies on the Committee will be filled through a brief nomination and interview process conducted by the Office of Student Conduct.

(6) The Office of Student Conduct convenes the Committee early in Fall term of each year for orientation and training. Faculty, Staff and Student members of the Committee must attend training as a condition of their membership. Faculty, Staff and Students who do not attend training during the Fall and at other times during the year will be removed from the Committee.

(7) The Committee reviews and recommends to the Vice President for Student Affairs appropriate changes to the Code. However, the Vice President for Student Affairs, the Office of Student Conduct or any other Campus individual or group may also recommend changes at any time. The Office of Student Conduct coordinates proposed changes with appropriate campus groups and notifies interested parties to review the revision. Upon completion of the review process the Vice President for Student Affairs will recommend the changes to the President for final approval. The revisions become effective when filed with the Oregon Secretary of State's Office.

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: WOSC 3-1982, f. & ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from

574-030-0050; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2012, f. & cert. ef. 7-31-12

574-032-0020

Student Conduct Committee

(1) Upon the recommendation of the Dean of Students, the Vice President for Student Affairs approves the members of the Committee which consist of no fewer than three Faculty members, three professional unclassified Staff members, and no fewer than six Student members. The Faculty and Staff members will serve for three years on a rotational basis so two experienced members of each classification serve each year. Term of membership may be extended for Faculty and Staff members at the discretion of the Office of Student Conduct. Student members serve for one year with the option to renew membership at the discretion of the Office of Student Conduct until the Student graduates from the University.

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Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: WOSC 3-1982, f. & ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0051; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2009, f. & cert. ef. 7-29-09; WOU 2-2012, f. & cert. ef. 7-31-12

574-032-0030

Hearing Sub-Committee

The Hearing Sub-Committee is a sub-committee of the Student Conduct Committee. This sub-committee will consist of a maximum of two Faculty or Staff members and four Student members. Selection of sub-committee members for each Hearing Sub-committee is made by the Office of Student Conduct. A minimum of one Faculty or Staff member and two Students is required for a quorum, and a quorum must always consist of at

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least one more Student than Faculty or Staff member. If a quorum cannot be obtained, a hearing will be postponed until a quorum is present, unless the Charged Student waives the requirement for a quorum in writing.

Stat. Auth.: ORS 351.070 & 351.072
Stats. Implemented: ORS 351.070 & 351.072
Hist.: WOSC 3-1982, f. & cert. ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0052; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2009, f. & cert. ef. 7-29-09; WOU 2-2012, f. & cert. ef. 7-31-12

574-032-0050

Delegation of Authority

(1) Subject to the approval of the Vice President for Student Affairs, the Committee recognizes the University Housing Student Conduct System and grants University Housing authority to:

- (a) Formulate regulations governing the conduct of residential Students in and around University operated residences;
- (b) Formulate procedures and administrative practices to be followed by the University Housing Student Conduct Board;
- (c) Assign sanctions exclusive of expulsion, suspension, or negative notation on transcript, appropriate to the enforcement of Campus residence hall regulations.

(2) Students or Recognized Student Organizations may appeal decisions of the University Housing Student Conduct Board to the Dean of Students or Student Conduct Coordinator. The Student or Recognized Student Organization must file the appeal with Student Conduct within five Working Days after receiving the sanction notice from the University Housing Student Conduct Board. The University Housing Student Conduct Board Chairperson will submit to the Office of Student Conduct a copy of the appealing Student's or Recognized Student Organization's conduct file for each case heard by the University Housing Student Conduct Board. The file will minimally include the charges, the findings, the sanction(s) assigned, the Student's previous academic and disciplinary history, and information concerning the appeal process.

Stat. Auth.: ORS 351.070 & 351.072
Stats. Implemented: ORS 351.070 & 351.072
Hist.: WOSC 3-1982, f. & cert. ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0053; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2012, f. & cert. ef. 7-31-12

574-032-0060

Complaint

(1) The Adjudication process at Western Oregon University begins with the receipt of one of the following by the Office of Student Conduct:

- (a) A Campus Public Safety or University Housing incident report;
- (b) Any other type of University reporting document or complaint;
- (c) A police report; or
- (d) A signed and written complaint by any individual or group, whether Members of the University Community or not. The complaint may be in the form of an incident report or letter.

(2) Upon receipt of the complaint or report, the Office of Student Conduct will evaluate the information presented and determine whether enough information exists to make allegations that the Student(s) named in the complaint or report engaged in activities prohibited by the Code. The Dean of Students, Student Conduct Coordinator or designee will evaluate this information in addition to determine if the alleged violations may result in suspension, expulsion, or negative notation on the transcript.

(3) Within seven Working Days from when the Office of Student Conduct determines that there is sufficient basis to charge the Student named in the complaint or report, the Office of Student Conduct will send the Charged Student a letter that includes the following:

- (a) A notice for the Student to meet with the Dean of Students, Student Conduct Coordinator or designee for a pre-hearing meeting;
- (b) The alleged violations of the Code;
- (c) The Student's basic rights granted by the Code, including the right to have the case heard by the Committee if sanctions of suspension, expulsion, or negative notation on the transcript could result;

(d) Notice that a copy of the Code can be found in the Vice President for Student Affairs' Office, on reserve at the Library, online at www.wou.edu/student/judicial or at the Offices of the Associated Students of Western Oregon University; and

(e) Notice that a decision affecting the Student may be made even if the Student fails to appear for a pre-hearing meeting.

Stat. Auth.: ORS 351.070 & 351.072
Stats. Implemented: ORS 351.070 & 351.072
Hist.: WOSC 2-1996, f. & cert. ef. 11-12-96; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2012, f. & cert. ef. 7-31-12

574-032-0070

Pre-hearing Meeting with Student Conduct

The purpose of a pre-hearing meeting with the Office of Student Conduct is to explain the conduct procedures to the Charged Student and to select the proper hearing body to resolve the allegations. The Charged Student may at this meeting request that the pre-hearing meeting serve as an actual hearing, thereby waiving the Charged Student's right to five Working Days' written notice prior to a hearing, and, in cases where suspension, expulsion, or negative notation may result, waiving the Charged Student's right to a Committee hearing. If the Charged Student does not wish the pre-hearing meeting to be treated as the actual hearing, a hearing will be scheduled with the hearing body the Charged Student has chosen at a time that gives the Charged Student at least five Working Days' notice prior to the hearing. If the Student does not appear for a pre-hearing meeting, the Office of Student Conduct will set a time and place for a hearing. If the case has been determined by the Office of Student Conduct to possibly result in suspension, expulsion, or negative notation on the transcript, a Committee hearing will be scheduled. In all other cases, the Office of Student Conduct will set an informal hearing. The time between the Student's receipt of the notice and the hearing date must be at least five Working Days. The Office of Student Conduct will notify the Charged Student that there is an option to waive the hearing before the Committee and elect to have the case heard by the Office of Student Conduct if such a hearing has been set.

Stat. Auth.: ORS 351.070 & 351.072
Stats. Implemented: ORS 351.070 & 351.072
Hist.: WOSC 2-1996, f. & cert. ef. 11-12-96; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2012, f. & cert. ef. 7-31-12

574-032-0080

Types of Hearings

All Adjudications at Western Oregon University will base their decisions on a Preponderance of the Evidence.

Stat. Auth.: ORS 351.070 & 351.072
Stats. Implemented: ORS 351.070 & 351.072
Hist.: WOSC 2-1996, f. & cert. ef. 11-12-96; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2012, f. & cert. ef. 7-31-12

574-032-0090

Hearing with the Dean of Students, Student Conduct Coordinator, or designee

(1) The purpose of a hearing with the Dean of Students, Student Conduct Coordinator or designee is to:

- (a) Consider information presented by the Charged Student, information from the complaint or report(s), and other supporting information;
- (b) Make findings based on that information;
- (c) Uphold or drop each allegation based upon the findings; and
- (d) If allegations are upheld, assign sanctions commensurate with the violation(s) and the Student's previous disciplinary and academic history. The Dean of Students, Student Conduct Coordinator or designee has authority to levy sanctions deemed appropriate under this Code (see 574-032-0010 1(c)) or can refer the Student and case to the Hearing Subcommittee without action.

(2) For all hearings with the Dean of Students, Student Conduct Coordinator or designee, the Charged Student has the following rights:

- (a) To have access to the complaint file to the extent permitted by law after giving the Office of Student Conduct sufficient notice to purge the file of information within the file considered to be the education record of another Student(s);
- (b) To have knowledge of the charges and the names of those providing information supporting the charges, including all Witnesses;
- (c) To offer evidence challenging the statements of those providing information regarding the charges and all Witnesses;
- (d) To be notified in writing of the outcome of the hearing within five Working Days;
- (e) To request a hearing with the Committee; and
- (f) To appeal to the appropriate University official/body as defined in the appeal process (see OAR 574-032-0120).

Stat. Auth.: ORS 351.070 & 351.072
Stats. Implemented: ORS 351.070 & 351.072
Hist.: WOSC 2-1996, f. & cert. ef. 11-12-96; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2012, f. & cert. ef. 7-31-12

574-032-0100

Hearing with the Hearing Sub-Committee

The Hearing Sub-Committee will be convened when requested by the Office of Student Conduct or the Charged Student. The Dean of Students,

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Student Conduct Coordinator or designee will present information pertinent to the case, which may include past conduct history of the Charged Student that is relevant to the case. The Dean of Students, Student Conduct Coordinator or designee, when appropriate, may present Witnesses for both the Charged Student and the Complainant, as requested by the Hearing Sub-Committee.

(1) For all hearings with the Hearing Sub-Committee, the Charged Student has the following rights:

(a) Five Working Days' notice prior to the hearing, unless the Student waives this right in writing;

(b) To have knowledge of the charges and of Witnesses;

(c) To have an Advisor attend the hearing with the Charged Student. The Advisor cannot speak for or represent the Charged Student. Failure of the Advisor to comply with this stipulation will result in the removal of the Advisor from the proceeding by the Hearing Sub-Committee chairperson. The hearing will not be postponed due to the inability of the Advisor to attend;

(d) To challenge the statements of the Complainant(s) or Victim(s) and Witnesses;

(e) To have advance notification of the hearing process and procedures through the mail or in a meeting with the Dean of Students, Student Conduct Coordinator or designee. This meeting with the Dean of Students, Student Conduct Coordinator or designee is to be scheduled prior to the hearing. It is the Student's responsibility to schedule this meeting;

(f) To not appear for a hearing, and not have that absence used against oneself;

(g) To remain silent during a hearing, and not have that silence used against oneself;

(h) To be notified in writing of the outcome of the hearing within five Working Days; and

(i) To appeal to a University official.

(2) The Charged Student may present information and challenge the statements of Complainants, Witnesses, and statements read during the hearing.

(3) The members of the Hearing Sub-Committee may question the Charged Student, Witnesses, and Complainants to determine facts relevant to the case. The Hearing Sub-Committee, during deliberations, will resolve all issues of fact based on the evidence presented at the hearing. Based upon these findings the Hearing Sub-Committee renders a decision concerning whether to uphold or drop each separate allegation. While the Hearing Sub-Committee resolves the allegations only the Hearing Sub-Committee members are present.

(4) The findings will be announced to the Charged Student following deliberations and, at that time, the Dean of Students, Student Conduct Coordinator or designee will present information concerning the Charged Student's academic record and any previous judicial record. The Charged Student may also present information relevant to previous academic and Student Conduct history, as well as circumstances which may have a bearing on possible sanctions.

(5) For the determination of sanctions, only the Hearing Sub-Committee members are present. Following that determination, the Chair of the Committee will announce, with the Charged Student present, the sanctions the Hearing Sub-Committee assigned.

(6) The Office of Student Conduct will confirm in writing to the Charged Student the results of the hearing within five Working Days.

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: WOSC 3-1982, f. & ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0056; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2012, f. & cert. ef. 7-31-12

574-032-0110

Procedures when Charged Student Fails to Appear at Hearing

When the Charged Student fails to appear at the time specified for a hearing, provided no prior arrangements for delay have been confirmed, the hearing will be held with the Charged Student not present. The results of the hearing will indicate that the hearing was held with the Charged Student in absentia. The Charged Student's absence cannot be assumed to be an admission of responsibility; nor can it be used in any way in the hearing body's or officer's determination of facts or judgment.

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: WOSC 3-1982, f. & ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0057; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2012, f. & cert. ef. 7-31-12

574-032-0120

Appeal of Hearing

(1) A Student in Violation may appeal decisions reached at a hearing. The appeal must be filed within five Working Days following the date the Student receives notice of the hearing results. Appeals must be delivered, in writing, to the Office of the Vice President for Student Affairs or the Office of Student Conduct. An appeal form must include specific justification for the appeal as listed in (3) below.

(2) In hearings involving a Survivor of alleged sexual harassment or sexual misconduct, the Survivor may appeal decisions reached at a hearing to the Vice President for Student Affairs if the Survivor believes the decision is not in compliance with University standards.

(3) Except as required to explain the basis of new information, an appeal will be limited to review of the accurate record of the initial hearing and supporting documents for one or more of the following purposes:

(a) To determine whether the original hearing was conducted in conformity with the procedures described in the Code. Deviations from designated procedures will not be a basis for sustaining an appeal unless significant prejudice results;

(b) To determine whether the decision reached regarding the Charged Student was based on a Preponderance of the Evidence;

(c) To determine whether the sanction(s) imposed were appropriate to the Charged Student's previous judicial history and to the present violation(s) of the Code; or

(d) To consider new evidence, sufficient to alter a decision, or other relevant facts not brought out in the original hearing, because such evidence or facts were not known to the person appealing at the time of the original hearing.

(4) The following decisions may be made by the Appeals Body described in (5) below:

(a) That evidence exists not available at the time of the hearing sufficient to alter the original decision. In this case the Appeals Body remands the case to the original hearing body for a supplemental hearing;

(b) The appeal is denied. In this case, the entire decision of the original hearing body, including sanctions, remains effective. New violations can never be found through the appeal process; or

(c) The appeal is upheld. In this case, the Appeals Body renders a new decision, including reducing or removing sanctions, or replacing the findings and sanctions of the original hearing body or officer.

(5) Procedure

(a) The Vice President for Student Affairs will hear appeals of hearings with the Hearing Sub-Committee and appeals of hearings with the Dean of Students, Student Conduct Coordinator or designee;

(b) The Dean of Students or Student Conduct Coordinator will hear appeals of hearings with the University Housing Student Conduct Board and Area Coordinators;

(c) Upon receipt of the appeal, the Appeals Body may suspend any or all sanctions pending its decision;

(d) The Appeals Body must consider the appeal based on the record, with no new evidence considered, except new evidence that meets the requirements of subsection (4)(d) above. If new evidence becomes available, the Appeals Body must remand the case to a new hearing with the original hearing body. The Office of Student Conduct must provide a complete and accurate record of the original hearing to the Appeals Body. The Appeals Body may, but is not required to, meet with the person appealing the decision; and

(e) Within ten Working Days following receipt of the appeal, the Appeals Body will notify the Student in Violation in writing of the results of the appeal.

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: WOSC 3-1982, f. & ef. 10-20-82; WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0058; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2009, f. & cert. ef. 7-29-09; WOU 2-2012, f. & cert. ef. 7-31-12

574-032-0130

Hearing with Mediators

The Campus Student Conduct Program at Western Oregon University places confidence in the process of Mediation as a preventative and educational method of intervention for Student misconduct. When the Campus Student Conduct Program makes use of Mediation it does so with the primary goal of diverting Students from the Adjudicative and, in some cases, adversarial hearing process. The anticipated outcome of this action is for Disputants to voluntarily create a resolution to their conflict that is confidential and non-binding. The Campus Student Conduct Program is prima-

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rily an Adjudicative process which often must address allegations that a Charged Student's behavior harmed another person. In some of these cases, Mediation may be used as a diversion or as a sanction in the form of victim/offender reconciliation (with the exception of sexual harassment or sexual misconduct cases). The nature of a case involving a Victim and an offender necessitates a modification of the way Mediation traditionally is structured. In Victim/offender Mediations, participation by the Charged Student may not be voluntary, the mediated agreement may not be confidential, and the mediated agreement may become binding for the Charged Student.

(1) Uses:

(a) Use of Mediation in the Absence of Charges. Disputants not charged with a violation of the Code may use Mediation at any time by making a request for Mediation services at the Office of the Vice President for Student Affairs or the Office of Student Conduct. This includes Victim/offender Mediation in which the Victim declines to file a complaint and the Office of Student Conduct does not pursue the allegations;

(b) Use of Mediation after a Complaint is made. When a Victim files a complaint with the Office of Student Conduct alleging that the behavior of a Charged Student harmed a person, or when action is initiated by a report of harmful treatment to the person, Mediation may be used in place of the Adjudicative process, provided both Victim and Charged Student agree to such Mediation. In cases involving sexual misconduct or sexual harassment, Mediation is not an option. All charges are suspended pending the outcome of the Mediation. The Victim has the right to return the complaint to the Office of Student Conduct for a formal judicial review if the Victim is not satisfied with the outcome of Mediation;

(c) Student in Violation and Victim Chooses Mediation. When a Charged Student has been found in violation of any section of the Code where that Charged Student's behavior victimized or harmed another Member(s) of the University Community, Victim/offender Mediation may be assigned as a sanction, except in cases involving sexual misconduct or sexual harassment.

(2) Mediation Procedures. A Charged Student(s) may request to use Mediation at any time during the Adjudication process (with the exception of sexual misconduct or sexual harassment cases). A Victim may request Mediation without filing a complaint. Mediations of this type are non-binding except in cases noted below, and confidential to the extent permitted by law.

(a) Victim/Charged Student, Voluntary Mediation:

(A) Mediation between a Victim and a Charged Student may occur at the request of either party and with the consent of and voluntary participation of both parties;

(B) Before or during a student conduct hearing, the Office of Student Conduct may offer Mediation to a Charged Student in place of that hearing;

(C) When all parties agree to Mediation, Mediation will be used in place of the Adjudicative process;

(D) Agreements reached when Mediation is used in place of Adjudication will be binding with the permission of the Victim. Permission for a binding agreement will be given to the Office of Student Conduct by the Victim prior to the Mediation. In such a case, the binding agreement becomes a de facto sanction and will become part of the Charged Student's judicial file. The Charged Student must adhere to the agreement or face possible future Adjudicative action;

(E) The Victim may, at any time, withdraw permission for a binding agreement or withdraw the complaint. In this case, the Mediation becomes confidential and non-binding;

(F) The Victim may, at any time, withdraw the complaint and withdraw from the Mediation process;

(G) The Charged Student may, at any time, withdraw from the Mediation process. Such action by the Charged Student, however, may return the original charges to the Adjudicative process;

(H) If the Victim reports dissatisfaction with the outcome of the Mediation the Victim may return the complaint to the Adjudicative process for a student conduct hearing; and

(I) The Office of Student Conduct will, in most cases, honor the Victim's request to withdraw the complaint from the Adjudicative process. The Office of Student Conduct may, however, Adjudicate charges whenever it is determined that it is in the best interest of the University community to do so.

(b) Mandated participation in Mediation when charges of theft, vandalism, harassment, assault, or other harmful treatment are upheld through the Adjudicative process (except for sexual harassment and sexual misconduct cases). Participation in Victim/offender Mediation may be assigned to

the Student in Violation as a sanction. When Mediation is used as a sanction, the following will apply:

(A) The Victim must agree to such a sanction in advance;

(B) The Student in Violation must verify that Mediation was attempted in order to fulfill the sanction of Mediation; and

(C) Unless otherwise requested by the Victim, agreements reached during sanctioned Mediations will be submitted to the Office of Student Conduct. This agreement will serve as a part of the sanction which the Student in Violation must complete. Failure to abide by the agreement may result in the Student in Violation facing further judicial charges for failure to complete a sanction.

(c) Automatic Diversion from the Adjudicative Procedures:

(A) When two or more Students have been charged with violating the Code for the same event, the Office of Student Conduct may offer, or the Students may request, to use Mediation as a diversion from the Adjudicative process. The Dean of Students, Student Conduct Coordinator or designee may assign interim sanctions pending the Mediation. The following conditions must apply:

(i) Two or more Students have been involved in the same incident,

(ii) The Students have each been charged with violations of the Code based on the same incident,

(iii) The Students are each victims of the other's behavior (e.g., by assault, vandalism, theft, etc.),

(iv) The Students agree to fully participate in Mediation,

(v) The Students agree to share the results of the Mediation with the Office of Student Conduct, and

(vi) The mediated agreement becomes binding and must be adhered to by both parties as a sanction unless otherwise indicated by the Office of Student Conduct.

(B) The Office of Student Conduct may return the case to the Adjudicative process for the following reasons:

(i) One or more of the Students does not participate in the Mediation,

(ii) Substantial evidence exists that one or more of the Students poses a clear and present threat to themselves or others; or

(iii) One or more of the Students fails to adhere to the agreement.

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: WOSC 2-1996, f. & cert. ef. 11-12-96; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2012, f. & cert. ef. 7-31-12

574-032-0150

Rights of Victims and Survivors

A fundamental aspect of the Code is to provide procedures that ensure the rights of the Charged Student. However, the University also recognizes that the Victims and Survivors of misconduct should also have rights. Therefore, the following rights of Victims and Survivors must be guaranteed during Adjudication proceedings conducted by the University.

(1) A Victim or Survivor has the right to be identified as a Witness and provide a Witness statement.

(2) A Victim or Survivor has the right to have a person accompany the Victim or Survivor while in attendance at the hearing.

(3) Unless it bears directly on the charges, a Victim or Survivor has the right not to have the Victim or Survivor's past history or behavior discussed during a hearing. This includes reference to past violations of the Code, past sexual history, and past indiscretions of any type.

(4) A Victim or Survivor has the right to make an impact statement only when the Charged Student's alleged behavior against the Victim or Survivor is upheld. The impact statement may only be used or considered for sanctioning purposes.

(5) A Victim or Survivor has the right to be shielded from face to face contact with the Charged Student.

(6) A Victim or Survivor has the right to be kept informed during the Adjudicative process within legal guidelines; and

(7) A Victim or Survivor has the right to be informed immediately of the outcome of a hearing within legal guidelines.

(8) In hearings involving a Survivor, the Survivor may appeal decisions reached at a hearing to the Vice President for Student Affairs if the Survivor believes the decision is not in compliance with University standards.

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: WOSC 3-1989, f. 9-5-89, cert. ef. 9-17-89; WOSC 4-1993, f. & cert. ef. 10-21-93; WOSC 2-1996, f. & cert. ef. 11-12-96; Renumbered from 574-030-0060; WOU 3-2001, f. 8-28-01, cert. ef. 8-31-01; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2009, f. & cert. ef. 7-29-09; WOU 2-2012, f. & cert. ef. 7-31-12

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574-032-0160

Revising and Interpreting the Code of Student Responsibility

(1) Refer all questions concerning the Code to the Office of Student Conduct. The Dean of Students is the final interpreter of the Code.

(2) The Code will be reviewed no less than once every five years under the direction of the Dean of Students.

(3) A formal, written request to review the Code may be submitted to the Office of Student Conduct.

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: WOSC 2-1996, f. & cert. ef. 11-12-96; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 2-2012, f. & cert. ef. 7-31-12

574-050-0005

Special Fees for Selected Courses and Some General Services

The Schedule of Fees for Selected Courses and General Services for Western Oregon University are hereby adopted by reference.

NOTE: The publication(s) referred to or incorporated by reference in this rule are available from the Office of the Vice President for Finance and Administration at Western Oregon University.

[Publications: Publications referenced are available from the Office of the Vice President for Finance and Administration at Western Oregon University.]

Stat. Auth.: ORS 351.070 & 351.072

Stats. Implemented: ORS 351.070 & 351.072

Hist.: OCE 1, f. & ef. 7-12-76; OCE 1-1978, f. & ef. 10-27-78; OCE 2-1980, f. & ef. 11-5-80; OCE 1-1981, f. & ef. 1-7-81; OCE 3-1981, f. & ef. 8-7-81; OCE 4-1981, f. & ef. 11-2-81; WOSC 2-1982, f. & ef. 9-17-82; WOSC 1-1983, f. & ef. 10-11-83; WOSC 1-1985, f. & ef. 10-4-85; WOSC 1-1986, f. & ef. 10-15-86; WOSC 1-1987, f. & ef. 4-1-87, ef. 9-23-87; WOSC 2-1988, f. & cert. ef. 9-19-88; WOSC 1-1989, f. & cert. ef. 4-18-89; WOSC 2-1989, f. & cert. ef. 9-17-89; WOSC 5-1989, f. & cert. ef. 9-7-89; WOSC 1-1990, f. & cert. ef. 4-18-90; WOSC 2-1990, f. & cert. ef. 9-24-90; WOSC 1-1991, f. & cert. ef. 1-30-91; WOSC 2-1991, f. & cert. ef. 3-22-91; WOSC 4-1991, f. & cert. ef. 5-21-91; WOSC 7-1991, f. & cert. ef. 7-22-91; WOSC 2-1992, f. & cert. ef. 6-16-92; WOSC 3-1992, f. & cert. ef. 8-14-92; WOSC 1-1993, f. & cert. ef. 1-15-93; WOSC 2-1993, f. & cert. ef. 6-18-93; WOSC 3-1993, f. & cert. ef. 7-16-93; WOSC 5-1993, f. & cert. ef. 10-21-93; WOSC 1-1994, f. & cert. ef. 8-12-94; WOSC 1-1995, f. & cert. ef. 8-11-95; WOSC 1-1996, f. & cert. ef. 10-16-96; WOSC 1-1997, f. & cert. ef. 2-27-97; WOU 3-1997, f. & cert. ef. 10-7-97; WOU 1-1998, f. & cert. ef. 1-26-98; WOU 2-1998, f. & cert. ef. 7-24-98; WOU 1-1999, f. & cert. ef. 2-25-99; WOU 2-1999, f. & cert. ef. 7-27-99; WOU 1-2000, f. & cert. ef. 3-16-00; WOU 2-2000, f. & cert. ef. 6-28-00; WOU 1-2001, f. & cert. ef. 3-5-01; WOU 2-2001, f. & cert. ef. 7-30-01; WOU 1-2002, f. & cert. ef. 3-12-02, cert. ef. 3-15-02; WOU 2-2002, f. & cert. ef. 8-15-02; WOU 3-2002, f. & cert. ef. 10-15-02; WOU 1-2003, f. & cert. ef. 4-2-03; WOU 2-2003, f. & cert. ef. 8-1-03; WOU 1-2004, f. & cert. ef. 3-24-04; WOU 2-2004, f. & cert. ef. 8-4-04; WOU 1-2005, f. & cert. ef. 3-8-05; WOU 2-2005, f. & cert. ef. 8-4-05; WOU 3-2005, f. & cert. ef. 8-12-05; WOU 1-2006, f. & cert. ef. 3-2-06; WOU 2-2006, f. & cert. ef. 8-7-06; WOU 1-2007, f. & cert. ef. 3-5-07; WOU 2-2007, f. & cert. ef. 7-31-07; WOU 4-2007, f. & cert. ef. 11-1-07; WOU 1-2008, f. & cert. ef. 2-1-08; WOU 2-2008, f. & cert. ef. 9-3-08; WOU 1-2009, f. & cert. ef. 2-13-09; WOU 2-2009, f. & cert. ef. 7-29-09; WOU 1-2010, f. & cert. ef. 1-27-10; WOU 2-2010, f. & cert. ef. 8-4-10; WOU 1-2011, f. & cert. ef. 2-2-11; WOU 2-2011, f. & cert. ef. 5-2-11; WOU 3-2011, f. & cert. ef. 8-5-11; WOU 1-2012, f. & cert. ef. 1-27-12; WOU 2-2012, f. & cert. ef. 7-31-12

574-085-0000

Authority to Establish Motor Vehicle Regulations

Authority to establish regulations governing the use of all motor vehicles on the Western Oregon University (Western) campus for visitors, faculty, staff and students, is derived from Oregon Revised Statute 352.360 and action of The Oregon State Board of Higher Education pursuant to such statute. The rules and regulations as published herein were approved by the Office of the Chancellor and are filed with the Secretary of State in accordance with the provisions of ORS 183.310 to 183.500. Strict enforcement of these regulations is necessary to maintain safety on campus parking facilities and streets, reduce congestion, enhance security, and effectively maximize utilization of parking facilities.

Stat. Auth.: ORS 351 & 352

Stats. Implemented: ORS 352.360

Hist.: WOSC 1-1992, f. & cert. ef. 4-16-92; WOU 2-1998, f. & cert. ef. 7-24-98; WOU 2-2012, f. & cert. ef. 7-31-12

574-085-0020

Definitions

(1) For the purpose of these regulations, the word "parked" means any vehicle which is stopped and/or waiting, regardless of the period of time the vehicle is stopped or whether a driver is present, except for vehicles immobilized by traffic control, congestion, or accident.

(2) The word "vehicle" or "motor vehicle" means any type of motor powered conveyance including, but not limited to, automobiles, trucks, motorcycles, mopeds and all methods of transportation on wheels where license registration is required by motor vehicle laws of Oregon.

(3) A "permit" is a valid decal, hangtag or paper permit as recognized by Parking Services.

(4) A "decal" is the permanent sticker affixed to a vehicle as recognized by Parking Services.

(5) A "hangtag" is the type of permit that hangs from the rearview mirror of a vehicle as recognized by Parking Services.

Stat. Auth.: ORS 351.070 & 352.072

Stats. Implemented: ORS 351.070, 351.072 & 352.360

Hist.: WOSC 1-1992, f. & cert. ef. 4-16-92; WOSC 1-1994, f. & cert. ef. 8-12-94; WOU 3-2002, f. & cert. ef. 10-15-02; WOU 3-2003, f. & cert. ef. 10-28-03; WOU 2-2012, f. & cert. ef. 7-31-12

574-085-0040

Vehicle Permits and Parking Areas

(1) All vehicles parked on the Western campus are required to display a recognized parking permit. Permits are not required at parking meters. Valid parking permits are required 24 hours per day, 6:00 a.m. Monday through 6:00 p.m. Friday. Permits are not required on Saturdays, Sundays and State recognized holidays except when classes are in session. Full year permits are valid from October 1 through September 30.

(2) All permits may be purchased at the Cashiers Office in the Administration Building.

(3) All permit fees are established in accordance with the Administrative Rule of the State Board of Higher Education, 580-040-0025. The cost of the permits is established to provide adequate funds to cover all operating and maintenance costs and meet bond debt service and reserve requirements. Parking Services is an auxiliary self-supporting entity and receives no financial support except through established parking fees. Permit fees may increase yearly based on the actual costs of operation, maintenance and debt service.

(4) Faculty and staff may pay for their primary and secondary permits by payroll deduction if arrangements are made between September 1 and October 1.

(5) Western recognizes a variety of parking permits, including but not limited to:

(a) "Day Permits" may be purchased for as many days as needed;

(b) "Weekly Permits" are valid for five (5) working days (Monday through Friday);

(c) "Monthly Permits" are valid through the same day of the following month;

(d) "Term Permits" are valid through the last day of the term for which purchased;

(e) "Full Year Faculty/Staff permits" are valid in all parking lots except East section of Lot J, J loop, and Lot N;

(f) "Full Year Student Commuter permits" are valid in all parking lots except East section of Lot J, J loop, and Lot N;

(g) "Full Year Student Resident permits" are valid only in lots G, J, J loop, and P. Family housing residents (Knox St. and Alderview) are required to display a "special permit" indicating a reserved space that corresponds to a housing unit.

(h) "Motorcycle/Moped decals" are valid in marked motorcycle stalls only. If a motorcycle owner wishes to park in a regular stall they may obtain a staff, commuter or residence hall permit decal at the automobile rate;

(i) A "Hangtag" may be purchased for an additional fee and is registered to the individual to whom it is issued. Hangtags are not to be used or transferred to any other person for parking on campus unless such use or transfer is to members of a carpool with which that person is affiliated and the use or transfer facilitated the carpool activities. It is the permit holder's responsibility to ensure the hangtag is properly displayed on the rear view mirror when parking on Western's campus.

(j) "Contractor permit" may be issued to contractors and/or businesses involved with construction, equipment repair, etc., on campus;

(k) "Emeritus/Volunteer Decals" are issued to emeritus faculty/staff and/or volunteers working on campus when approved and on file in Parking Services located within the Cashiers Office. The permit is a staff/faculty permit that is valid October 1 through September 30 annually. Volunteer permits are valid only when doing volunteer work for the University. Staff, faculty and students are not allowed to use volunteer permits to park on campus;

(l) "Conference, Workshop and Special Event" permits and parking rentals are available upon request from departments or sponsors for distribution to conference, workshop and special event guests. Such events include: workshops, theater events, sporting events, conferences, etc., where adjacent parking lot enforcement is temporarily terminated or permits issued to support the event. (The lot is rented for a predetermined rate.) Permit rates are calculated according to the number of participants and duration of the conference/event, dates, times and the type of user;

(m) "Temporary Disabled" permits for persons with mobility type injuries/illnesses will be issued for up to a week of time without a doctor's note. A doctor's note will be required for extended periods of time over one week. A valid permit is required on their vehicle. "Temporary Disabled" permit holders may use disabled parking stalls and parking meters without paying them on Western property;

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(n) "Secondary" decals may be purchased for an additional vehicle if a primary decal has been purchased by the same registered owner. Permits that are issued with the hangtag option are not eligible for secondary permits. Only one vehicle at a time is valid on Western lots. Loaner vehicle permits may not be used in place of secondary permits. All vehicles must be registered through DMV to the permit holder or their parents;

(o) "Loaner Vehicle" permits may be obtained if a vehicle other than the primary decal vehicle is on campus. They are valid up to 15 days per year and may be obtained at the Cashiers Office. If 15 days are used on a loaner vehicle the decal permit holder may purchase a secondary decal. Loaner vehicle permits are only available after a primary decal permit has been purchased. Permits that are issued with the hangtag option are not eligible for loaner vehicle permits. If additional days past the original 15 are used, the day permit charge will be placed on the requester's accounts receivable for each additional day that is requested;

(p) "Department Permits" may be purchased by departments in blocks of 20 permits, to be given away or sold at cost, and are valid for one day only;

(q) "OUS Permit" — Persons issued permits from the Oregon University System Board's Office may park in all parking lots except meters and reserved parking stalls;

(6) Western reserves the right to develop or change permits to meet parking needs.

(7) "Government Vehicles" — Vehicles belonging to cities, municipalities, counties, states or federal government are not required to purchase a permit and may park in any recognized parking space, excluding reserved, meter, service vehicle or a parking stall for persons with disabilities.

(8) The Oregon Military Academy (OMA) parking lot designated as "Lot O" may be used by Western as campus parking under the same rules and regulations governing campus, with the following additions: No Western permitted vehicle may park in Lot O from 5:00 p.m. Friday through 8:00 a.m. Monday; no overnight parking. Citations issued to OMA guests will be handled administratively by the Oregon Military Academy.

(9) "Permit Refunds" are issued on a prorated basis for full year permits only (secondary, replacement and paper permits are not refundable) and under the following conditions:

(a) If unused, unopened (in the original packaging) and returned within 10 days of the beginning of the term;

(b) Prorated for whole terms to include fall and winter terms;

(c) If returned prior to the first 10 days of spring term;

(d) All current permits must be returned in order to receive a refund;

(e) No refund if permit purchased through payroll deduction, pre-tax.

(10) "Parking Meters" are located in all major parking lots. Holders of valid permits may park at meters if the meter has valid time.

(11) The following are instructions for properly displaying a permit:

(a) "Decal Permits" are to be located on the left rear bumper or outside on the left rear window where visible, using the adhesive on the back of the decal;

(b) "Paper Permits" are to be located on the driver's side dash and fully visible to the outside of front windshield;

(c) "Hangtags" are to be displayed on the rear view mirror and visible to the outside of front windshield.

Stat. Auth.: ORS 351.070 & 352.072

Stats. Implemented: ORS 351.070, 351.072 & 352.360

Hist.: WOSC 1-1992, f. & cert. ef. 4-16-92; WOSC 1-1994, f. & cert. ef. 8-12-94; WOSC 3-1996, f. & cert. ef. 12-11-96; WOU 2-1998, f. & cert. ef. 7-24-98; WOU 2-1999, f. & cert. ef. 7-27-99; WOU 2-2001, f. & cert. ef. 7-30-01; WOU 3-2002, f. 10-7-02, cert. ef. 10-15-02; WOU 3-2003, f. & cert. ef. 10-28-03; WOU 3-2007, f. & cert. ef. 9-5-07; WOU 2-2012, f. & cert. ef. 7-31-12

574-085-0060

Replacement Decals and Hangtags

Replacement decals and hangtags: A replacement decal or hangtag may be purchased when the original vehicle is sold, damaged beyond repair, or when the decal or hangtag is lost or damaged. In the event a decal or hangtag is stolen, a report must be filed with the Public Safety Office before a replacement may be issued. A replacement fee will be charged for all stolen decals or hangtags and refunded upon apprehension of the offender.

Stat. Auth.: ORS 351.070 & 352.072

Stats. Implemented: ORS 351.070, 351.072 & 352.360

Hist.: WOSC 1-1992, f. & cert. ef. 4-16-92; WOSC 1-1994, f. & cert. ef. 8-12-94; WOU 2-1998, f. & cert. ef. 7-24-98; WOU 2-2001, f. & cert. ef. 7-30-01; WOU 3-2002, f. 10-7-02, cert. ef. 10-15-02; WOU 2-2012, f. & cert. ef. 7-31-12

574-085-0070

Driving and Parking Regulations on Campus

(1) Persons driving or parking on campus are responsible to read, know, and adhere to Western driving and parking regulations.

(2) "Valid Permits" — All persons parked on campus lots must display a current recognized parking permit. Permits are required 24 hours per day Monday through Friday, excluding State holidays except when classes are in session. Vehicles with permits obscured or not clearly visible or displayed may be cited for "no permit."

(3) "Parking Availability" - Lack of or overabundance of parking spaces are not valid reasons for violating parking regulations.

(4) "Parking Stalls" — Vehicles must park within indicated parking spaces only. Parking in any area not designated as a parking stall is prohibited.

(5) "Secondary Permits" — Persons who have primary and secondary permitted vehicles may only have one vehicle on campus at a time.

(6) "Parking Enforcement" — All parking regulations are enforced 24 hours per day, seven days a week. No Permit, Expired Meter, and Wrong Lot are not enforced on Saturdays and Sundays.

(7) "Speed Limit" — Parking lot speed limit in all lots is 10 MPH unless otherwise posted.

(8) "Signage" — Persons driving or parking a vehicle are required to comply with all signs and pavement markings on campus parking lots and access roads and must drive in a safe and prudent manner. This includes fire lanes, crosswalks, lawns, loading zones, bike lanes, stop signs, and all other traffic control devices. (Enforcement officers will issue citations for these violations on University property.)

(9) "Fire Lanes and Driveways" — Vehicles parked in fire zones indicated by either a yellow curb or signage are in violation and may be subject to a citation or impoundment at the owner's expense.

(10) "Loading Zones/15/30 Minute Zones" are available throughout campus for the convenience of persons loading or unloading their vehicle. Maximum time allowed is 15 minutes. Thirty (30) minute zones are available in front of Heritage Hall. Maximum time allowed is 30 minutes. Permits are not required in 15/30 minute zones.

(11) Parking spaces for persons with disabilities - All parking lots meet or exceed the State requirements of ORS 447.233 for disabled parking availability. Violation of these statutes will result in a fine as specified in ORS 811.625. Persons with disabled placards, permits or license plates are required to purchase or have on their vehicles a valid Western parking permit.

(12) "Vehicle Impoundment" — Western reserves the right to boot and/or impound vehicles that: have three (3) or more unpaid citations or \$100 or more owed in unpaid parking citations; are parked in fire lanes, loading zones, entry ways or driveways that prevent the safe continual flow of pedestrian or vehicle traffic; cause imminent danger; have been abandoned in excess of 72 hours; have stolen or misused permits; and are being driven or are owned by persons in violation of criminal trespass and other Oregon Revised Statutes and authorized by a Western Administration level official who deems it in the best interest of the University. Release of a booted, towed or impounded vehicle will be made upon cash payment of all outstanding fines with Parking Services located within the Cashiers Office.

(13) "Recreational Vehicle" — R.V.'s and trailers are not authorized to park on campus overnight with the intent to reside in the vehicle, based on Monmouth City Ordinance 62.330.

(14) "Compact" vehicle parking — Vehicles parking in spaces marked "COMPACT" must not exceed 5 feet 6 inches in height and 15 feet 6 inches in length.

Stat. Auth.: ORS 351.070 & 352.072

Stats. Implemented: ORS 351.070, 351.072 & 352.360

Hist.: WOSC 1-1992, f. & cert. ef. 4-16-92; WOSC 1-1994, f. & cert. ef. 8-12-94; WOU 2-1998, f. & cert. ef. 7-24-98; WOU 2-1999, f. & cert. ef. 7-27-99; WOU 2-2001, f. & cert. ef. 7-30-01; WOU 3-2002, f. 10-7-02, cert. ef. 10-15-02; WOU 3-2003, f. & cert. ef. 10-28-03; WOU 2-2012, f. & cert. ef. 7-31-12

574-085-0110

Enforcement and Appeals

(1) All penalties prescribed in 574-085-0050, other than violations referred to appropriate courts of law as provided in paragraph (4) will be administratively enforced by Western. A traffic citation of notice of offense, together with the scheduled fine, will be given to the violator or placed on the violator's vehicle.

(2) All appeals must be submitted within 10 working days from the date of the citation. Appeals submitted after 10 working days will not be considered for review/appeal unless the person can prove they are indigent, at which time the appeal date may be extended.

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(3) The following types of reasons are not acceptable grounds for appeal:

- (a) Lack of knowledge of the regulations, for example, "new to campus" or "did not read regulations;"
- (b) Other vehicles were also parked improperly;
- (c) Late to class or appointment;
- (d) Disagreement with or inability to pay the amount of the fine(s);
- (e) Lack of space;
- (f) Unread or misunderstood signs.

(4) Fines for cited violations shall be paid to the Western Business Office, unless otherwise indicated on the citation, in the amount of the fine posted, and a "Petition for Parking Citation Appeal" filed within 10 working days after the citation is issued.

(5) Any person wishing to appeal a citation must prepare a "Petition for Parking Citation Appeal" for a hearing, indicating why the citation should not be enforced. Petition forms are available at Parking Services located within the Cashiers Office in the Administration Building. The citation must be paid and the form filed within 10 working days of citation issuance. Staff, faculty, and students may have the citation charge placed on their account in lieu of paying by cash or check. Payment of the citation(s) must accompany the appeal before it will be reviewed for persons other than staff, faculty, and students. Those appeals received in writing that do not indicate a desire to appear before the Parking Review Committee (PRC) will be handled administratively by Parking Services or designee.

(6) A person appealing the citation must appear before the PRC to present his/her case. In the event a person is unable to appear before the PRC, the appeal will be reviewed in his/her absence.

(7) In considering appeals, the PRC will have full authority to:

- (a) Dismiss the violation (excluding handicap violations);
- (b) Find the individual not guilty of the violation on the citation;
- (c) Find the individual guilty of the violation and either impose the fine stipulated in these regulations or impose a lesser fine;
- (d) Enter a finding of guilty and, without imposing a fine, issue a reprimand or warning, or impose a fine but suspend its payment during a fixed probationary period;
- (e) Find the individual guilty of the violation and reduce the fine to an administrative fee for dismissing the citation.

(8) A student who fails to pay for a violation on or before 10 working days after citation issuance will have a service charge added to their accounts receivable and forfeit the right of appeal unless extenuating circumstances arise where a person can prove they had no knowledge of the issued citation.

(9) The student's registration packet and enrollment may also be withheld if any penalties under these regulations remain unpaid at the time of registration.

(10) Any person who fails to pay for any citation within 10 working days will have a service charge placed on accounts receivable and will forfeit their right to appeal.

(11) If a guest receives a citation for "no permit," it may be waived if Parking Services is notified immediately and there are extenuating circumstances where the guest was not aware of the permit requirements. The person must demonstrate proof of being a guest and had no knowledge of parking regulations.

(12) A person receiving a citation for "no permit" may have it dismissed if a full year primary permit is purchased within 10 working days of citation issuance. Only one citation may be dismissed per person per year.

(13) Departments which have guests, visitors, speakers, etc., are required to have parking permits for their guests upon arrival. In the event a citation is issued to a department guest, the Cashiers Office will defer the citation to the department.

(14) Certificate of Dismissal — Every vehicle receiving a citation for "no permit" or "expired meter" will receive a certificate of dismissal that entitles the vehicle driver to purchase a full year primary permit in lieu of paying the fine. The certificate also allows guests receiving a citation for "no permit" to have the citation dismissed if information can be provided indicating they were not aware of the parking regulations. Certificates of dismissal are not valid for secondary or replacement permits. Only one dismissal per person per year will be issued.

Stat. Auth.: ORS 351.070 & 352.072

Stats. Implemented: ORS 351.070, 351.072 & 352.360

Hist.: WOSC 1-1992, f. & cert. ef. 4-16-92; WOSC 1-1994, f. & cert. ef. 8-12-94; WOSC 3-1996, f. & cert. ef. 12-11-96; WOU 2-1998, f. & cert. ef. 7-24-98; WOU 2-1999, f. & cert. ef. 7-27-99; WOU 2-2001, f. & cert. ef. 7-30-01; WOU 3-2002, f. 10-7-02, cert. ef. 10-15-02; WOU 3-2003, f. & cert. ef. 10-28-03; WOU 3-2007, f. & cert. ef. 9-5-07; WOU 2-2012, f. & cert. ef. 7-31-12

574-085-0120

Permit Types

(1) Permit prices may be adjusted annually to meet bond indebtedness, staffing needs, maintenance, capital improvements and forecasted revenue adjustments. All permits have associated permit costs. Refer to OAR 574-050-0005 for amounts.

- (a) Decals
- (b) Hangtags
- (c) Paper

(2) Conference parking arrangements can be made by the conference planner through Parking Services.

Stat. Auth.: ORS 351.070 & 352.072

Stats. Implemented: ORS 351.070, 351.072 & 352.360

Hist.: WOSC 1-1992, f. & cert. ef. 4-16-92; WOSC 1-1994, f. & cert. ef. 8-12-94; WOU 2-1998, f. & cert. ef. 7-24-98; WOU 2-1999, f. & cert. ef. 7-27-99; WOU 2-2001, f. & cert. ef. 7-30-01; WOU 3-2002, f. 10-7-02, cert. ef. 10-15-02; WOU 3-2003, f. & cert. ef. 10-28-03; WOU 2-2012, f. & cert. ef. 7-31-12

574-085-0140

Bicycle Regulations

(1) Bicycles must be operated in a safe manner and be equipped in accordance with applicable state laws and city ordinances. Bicyclists shall maintain a safe speed and shall obey all applicable Signage and state, city, and campus laws and regulations regarding bicycle use.

(2) Bicycles must be equipped with a brake that enables the operator to make the braked wheels skid on dry, level, clean pavement.

(3) A bicycle or its rider must be equipped with lighting equipment that must be used during hours of darkness and during limited visibility conditions. The lighting equipment required includes:

- (a) A white light attached to the front of the bicycle, visible from a distance of at least 500 feet; and
- (b) A red reflector or lighting device or material attached to the rear of the bicycle, visible from a distance of at least 600 feet.

(4) Bicycles must not be operated on sidewalks or other walkways unless Signage indicates otherwise.

(5) Bicycles may be parked, stored, or left on campus only in areas so designated by bicycle racks, Signage or storage. All bicycles, regardless of owner, must be maintained in working order while parked on campus. Bicycles parked at bicycle racks at or near academic or research buildings longer than five days will be considered abandoned and will be impounded.

(6) Bicycles users may be cited for:

(a) Improper or unsafe operation of a bicycle including failing to obey a traffic control device, having more persons on a bicycle than it is designed to hold, riding encumbered, and riding faster than the posted speed limit;

(b) Use of improper or inadequate equipment including no bicycle headlight, no rear reflector or lighting device, and no bicycle helmet for riders under 16 years of age;

(c) Being parked in a way that creates a hazard including blocking the bicycle or traffic lane, blocking access to any stairway, ramp or doorway, and blocking access to any handrail or other device used to aid entry to a building or structure;

(d) Being parked in a way that hinders the use of a bicycle parking device by other bicyclists;

(e) Being parked in buildings except in designated bike rooms;

(f) Any other violations of these regulations or applicable state law and city ordinances.

(7) Bicycles may be impounded by the Campus Public Safety office if left in a place that creates a safety hazard or if they appear to be non functional or abandoned. A notice of impoundment will be sent to the registered bike owner, if known, within 24 hours. Campus Public Safety at Western will not be liable for the cost of repair or replacement of a securing device damaged when removing and impounding a bicycle.

(8) All bicycles that are operated, parked, or stored on campus by students, staff, or faculty may be registered with the Campus Public Safety office at Western.

(9) Registrants and owners are responsible for parking violations involving their bicycles on campus.

(10) Bike lockers may be available for rent on an annual or term basis; fees may be adjusted annually to meet maintenance, staffing needs, and forecasted revenue adjustments. Please refer to OAR 574-050-0005 for amounts.

Stat. Auth.: ORS 351.070 & 352.072

Stats. Implemented: ORS 351.070, 351.072 & 352.360

Hist.: WOU 2-2012, f. & cert. ef. 7-31-12

ADMINISTRATIVE RULES

Real Estate Agency Chapter 863

Rule Caption: Amend pre-license and continuing education rules to comply with statutory changes.

Adm. Order No.: REA 1-2012(Temp)

Filed with Sec. of State: 8-14-2012

Certified to be Effective: 8-15-12 thru 2-1-13

Notice Publication Date:

Rules Adopted: 863-022-0022

Rules Amended: 863-020-0000, 863-020-0005, 863-020-0007, 863-020-0010, 863-020-0015, 863-020-0020, 863-020-0025, 863-020-0030, 863-020-0035, 863-020-0040, 863-020-0045, 863-020-0050, 863-020-0055, 863-020-0060, 863-020-0065, 863-022-0000, 863-022-0005, 863-022-0010, 863-022-0015, 863-022-0020, 863-022-0025, 863-022-0030, 863-022-0035, 863-022-0045, 863-022-0050, 863-022-0055, 863-022-0060

Rules Suspended: 863-020-0008, 863-022-0040

Subject: These amendments to division 20, the continuing education rules, and division 22, the license applicant course requirements and course approval rules are needed to update the rules based on the extensive job analysis for all licensees and the subsequent updates to the examination for license applicants. In addition, a new property manager advanced practices course will be required of all property manager who are renewing their license for the first time.

Rules Coordinator: Laurie Skillman—(503) 378-4630

863-020-0000

Applicability and Purpose

(1) This division applies to licensed real estate brokers, principal real estate brokers, real estate property managers, continuing education providers, and instructors who teach courses for continuing education providers.

(2) For all real estate licensees, the purposes of this division are to set forth continuing education requirements for licensee renewals, including:

(a) Courses eligible for continuing education credit completed before January 1, 2011, and

(b) Courses eligible for continuing education credit completed on or after January 1, 2011 taken from continuing education course providers, including:

(A) Courses that meet the requirements for course topics and learning objectives in this division 20,

(B) A Board-approved three-hour law and rule required course on recent changes in rule and law, described in OAR 863-022-0055, required for all licensees,

(C) A 27-hour advanced course in real estate practices described in OAR 863-022-0020 required for real estate brokers before the first active renewal of the broker's license or before the first license reactivation following an inactive first renewal,

(D) A 27-hour property manager advanced practices course described in OAR 863-022-0022 required for licensed real estate property managers before the first active renewal of the property manager's license or before the first license reactivation following an inactive first renewal,

(E) The 40-hour brokerage administration and sales supervision course described in OAR 863-022-0025 for an initial principal real estate broker license application, and

(F) Continuing education record-keeping requirements for all licensees.

(3) For continuing education providers, the purposes of this division are to set forth:

(a) The application requirements for certification as a real estate continuing education course provider, and

(b) The responsibilities of continuing education course providers, including:

(A) Ensuring that courses offered by the provider meet the eligible course topics, learning objectives, and length of course requirements,

(B) Maintaining required records,

(C) Providing real estate licensees with certificates of completion for each course that meet the requirements for certificates of completion, and

(D) Ensuring that each instructor who will teach a course offered by a provider meets instructor qualifications and completes a continuing education instructor form.

(4) For instructors who teach courses for continuing education providers, the purposes of this division are to set forth the instructor qualifications set out on the instructor form that is completed by the instructor and given to the continuing education provider.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.010, 696.174, 696.182, 696.184 & 696.186

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-020-0005

Definitions

As used in this division, unless the context requires otherwise:

(1) "Agency" means the Oregon Real Estate Agency.

(2) "Applicant" means either an individual as defined in section (7) of this rule, or a person as defined in section (9) of this rule.

(3) "Board" means the Oregon Real Estate Board.

(4) "Commissioner" means the Real Estate Commissioner.

(5) "Continuing education provider" means a person certified by the Agency under OAR 863-020-0030 to offer real estate continuing education courses that are eligible for credit. The continuing education courses are taught by an instructor.

(6) "Course identification number" means a unique four-digit identifying course number assigned by a continuing education provider.

(7) "Individual" means a human being, not a legal entity.

(8) "Instructor" means an individual who teaches, for a continuing education provider, a real estate continuing education course that is eligible for credit. An instructor must meet the qualifications in ORS 696.186 and OAR 863-020-0060. The Agency does not certify instructors.

(9) "Licensed real estate property manager" is defined in ORS 696.010.

(10) "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than a government agency.

(11) "Principal real estate broker" is defined in ORS 696.010.

(12) "Provider number" means a unique identifying number assigned by the Agency to a certified continuing education provider under OAR 863-020-0030.

(13) "Real estate broker" is defined in ORS 696.010.

(14) "Real estate licensee" is defined in ORS 696.010 and includes a real estate broker, principal real estate broker, and a real estate property manager.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174, 696.182, & 696.186

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-020-0007

Length of Continuing Education Courses

(1) This rule applies to courses offered by certified continuing education providers.

(2) The minimum length of each continuing education course offered by a continuing education provider is one hour.

(3) A continuing education provider or course instructor may allow a break of no more than 10 minutes as part of each hour of instruction.

(4) A provider may offer a course that is longer than one hour, in additional half hour increments.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.182

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-020-0008

License Renewal Continuing Education Requirements Until December 31, 2010

(1) This rule applies to all real estate licensees and is effective only until December 31, 2010. Beginning January 1, 2011, the requirements under OAR 863-020-0010 apply.

(2) To renew an active license, a real estate licensee must have completed at least 30 clock-hours of certified real estate oriented continuing education during the preceding two license years. Except as provided in section (3) of this rule:

(a) A licensee must complete 15 clock-hours of continuing education in one or more of the following required topics:

(A) Trust Accounts;

(B) Misrepresentation;

(C) Anti-Trust;

(D) Rule and Law Update;

(E) Property Management;

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- (F) Commercial Brokerage and Leasing;
- (G) Real Estate Taxation: Federal, State, and Local;
- (H) Agency;
- (I) Fair Housing;
- (J) Contracts;
- (K) Property Evaluation;
- (L) Brokerage Management;
- (M) Land;
- (N) Business Ethics; or
- (O) Compliance Review.

(b) A licensee must complete the remaining 15 hours in any combination of the above course topics or in other elective real estate oriented continuing education courses.

(c) Courses related to personal skills, such as time management, and routine meetings and luncheons are not considered real estate oriented continuing education courses and do not qualify as such.

(d) Courses must be a minimum of one clock-hour in length. A clock-hour is measured in 60-minute increments, excluding meal or rest breaks.

(e) Credit will not be given for repeating a continuing education course with the same content during a two-year renewal period.

(3) Continuing education courses taken from a certified continuing education provider on or after July 1, 2010 through December 31, 2010 that meet the requirements of ORS 696.174 and OAR 863-020-0035 are eligible for continuing education credit.

(4) As provided in sections (5), (6), and (10) of this rule, a licensee or certifying licensee must complete a standard Certificate of Attendance developed by the Agency for each course completed.

(5) "Certifying licensee" for real estate brokers means a principal real estate broker who certifies on an Agency-approved form that a real estate broker completed the continuing education requirements.

(6) "Certifying licensee" for property managers associated with a principal real estate broker means the principal real estate broker who certifies on an Agency-approved form that the property manager completed the continuing education requirements.

(7) In completing the standard Certificate of Attendance, the certifying licensee must decide:

(a) Whether a continuing education course meets the continuing education requirements; and

(b) Whether to classify the course as a required topic or an elective topic.

(8) A certifying licensee may approve continuing education courses completed outside of Oregon. However, for courses completed outside of Oregon, the number of approved credit hours must reflect the clock-hours of course content related to the practice of real estate in Oregon. Credit hours will not be approved for courses with content specific to another state or jurisdiction.

(9) The certifying licensee must retain the Certificate of Attendance in its records as prescribed in OAR 863-015-0260. The certifying licensee must produce a copy of the Certificate of Attendance if the associated licensee or the Agency so requests.

(10) Principal real estate brokers and property managers not associated with a principal broker must:

(a) Self-certify that they have completed their continuing education requirements;

(b) Retain their Certificate of Attendance as prescribed in OAR 863-015-0260; and

(c) Produce a copy of the Certificate of Attendance if the Agency so requests.

(11) Providing false information on an Agency license renewal form or Certificate of Attendance or falsely certifying such information is prima facie evidence of a violation of ORS 696.301.

(12) In certifying a continuing education course, the certifying licensee must consider the totality of the information provided and the class content and may consider additional criteria including, but not limited to:

(a) Evidence of the instructor's qualifications to teach the course;

(b) Whether the course content is current and accurate, the learning objectives for the course, and whether the course content fulfills the learning objectives;

(c) Whether the course includes ways of measuring learning outcome, such as a final examination; and

(d) Whether students get to evaluate the course and instructor.

(13) A real estate broker first licensed on or after July 1, 2002 must complete the 30-hour advanced course in real estate practices that meets the requirements in OAR 863-022-0020 before the first active renewal of the real estate broker's license or before the first license reactivation following

an inactive first renewal. This requirement does not apply to principal real estate brokers. An approved advanced course in real estate practices satisfies the continuing education requirements for a real estate broker licensee's renewal.

(14) Certifying licensees may approve continuing education courses completed through alternative delivery methods. "Alternative delivery" means presentation of continuing education material in a method other than classroom lecture. This includes, but is not limited to, correspondence and electronic means such as satellite broadcast, videotape, computer disc, and Internet.

(a) In addition to the certification criteria in section (12) of this rule, in determining whether to certify an alternative delivery method course, the certifying licensee may consider:

(A) Whether the course offers operational or electronic security measures;

(B) The students' ability to interact with an instructor or access other resources to support their learning;

(C) Whether the learning environment and technical requirements are explained to students in advance of the course; and

(D) Whether the course includes a proctored final examination.

(b) In determining the number of credit hours to approve for an alternative delivery course, the certifying licensee may consider:

(A) The number of questions in the examination, with a minimum standard of 10 questions per hour of credit;

(B) The number of pages for Internet, Computer-Based Training, CD-ROM, and book courses, with a minimum standard of 10 pages per hour of credit; and

(C) The clock hours elapsed for videocassette, audiotape, or teleconference courses.

(15) Continuing education course sponsors may:

(a) State in their advertising that the licensee's principal broker must approve the continuing education requirements, e.g., course content, topics, and hours; and

(b) Complete the following information on a Certificate of Attendance:

(A) Real estate licensee's name;

(B) Continuing education course title and date of completion;

(C) Instructor's name and location of course; and

(D) Method of course delivery and whether a final examination was administered.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174 & 696.301

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; Suspended by REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-020-0010 License Renewal Continuing Education Requirements Effective January 1, 2011

(1) This rule applies to all real estate licensees.

(2) To renew an active license, a real estate licensee must truthfully certify on an Agency-approved form under OAR 863-014-0050 (for real estate brokers and principal brokers) or 863-024-0050 (for licensed real estate property managers) that the licensee:

(a) Has completed at least 27 hours of real estate continuing education that are eligible for credit under OAR 863-020-0035 and 863-020-0040 during the two years preceding renewal and,

(b) Has completed the Board-approved three-hour law and rule required course on recent changes in real estate rule and law as provided in OAR 863-022-0055.

(3) To renew an active license for the first time or before the first license reactivation following an inactive first renewal, a real estate broker and a licensed real estate property manager must comply with the following:

(a) A real estate broker must complete the 27-hour advanced course in real estate practices described in OAR 863-022-0020. A real estate broker must also take the three-hour law and rule required course on recent changes in real estate rule and law.

(b) Effective January 1, 2013, a licensed real estate property manager must complete the 27-hour property manager advanced practices course described in OAR 863-022-0022. A licensed real estate property manager must also take the three-hour law and rule required course on recent changes in real estate rule and law.

(4) A real estate licensee will not be given credit for repeating a continuing education course with the same content during a two-year renewal period.

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(5) Falsely certifying that the licensee has completed the required continuing education is a violation of section (2) of this rule and is grounds for discipline under ORS 696.301.

Stat. Auth.: ORS 696.385
Stats. Implemented: ORS 696.022, 696.174, 696.301
Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-020-0015

Licensee Records

(1) Effective January 1, 2011, a real estate licensee must maintain the licensee's own continuing education records described in sections (3) and (4) of this rule for three years after the renewal date for which the continuing education credit applies.

(2) Beginning January 1, 2011, a principal broker is not required to maintain the continuing education records of a real estate broker or a property manager associated with the principal broker. However, the principal broker must maintain the continuing education records that pre-date January 1, 2011 as required by OAR 863-015-0260 and produce a copy of such records if the associated licensee or the Agency so requests.

(3) A real estate licensee must complete and maintain an Agency-approved form that contains the following information, taken from the certificate of completion provided by the continuing education provider:

- (a) The licensee's name and license number;
- (b) The name of the course;
- (c) The name of the certified course provider and the provider number;
- (d) The course identification number assigned by the course provider;
- (e) The course eligibility for continuing education credit as one of the following:

(A) The specific course topic(s) that is eligible under OAR 863-020-0035,

(B) The course is the three-hour law and rule required course under 863-022-0055,

(C) The course is the advanced course in real estate practices under 863-022-0020,

(D) The course is the property manager advanced practices course under OAR 863-022-0022, or

(E) The course is the brokerage administration and sales supervision course under 863-022-0025; (f) The date and location of the course;

- (g) The length of time of the course; and
- (h) The name of the instructor who taught the course.

(4) A licensee must maintain all certificates of completion of the licensee received from continuing education providers.

(5) Upon request by the Agency, a licensee must produce a copy of the records required under this rule.

Stat. Auth.: ORS 696.385
Stats. Implemented: ORS 696.174
Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-020-0020

Continuing Education Provider Qualifications

(1) An applicant for certification as a continuing education provider must be one of the following:

(a) A main or branch office with a registered business name registered with the Agency under ORS 696.026 and OAR 863-014-0095 or 863-024-0095;

(b) A licensed title or escrow company conducting business in this state;

(c) A real estate trade association as defined in section (2) of this rule or a trade association in a related field as defined in section (3) of this rule, but not the individual members of those associations;

- (d) A real estate multiple listing service;
- (e) An attorney admitted to practice in this state

(f) A private career school approved by the Agency to teach continuing education courses as defined in section (4) of this rule;

(g) An accredited community college, an accredited public university listed in ORS 352.002 or a private and independent institution of higher education as defined in ORS 352.720

(h) A distance learning provider approved by the Agency as defined in section (5) of this rule; or

(i) A person who does not meet the requirements of section (1)(a) through (h) of this rule but whose qualifications have been approved by the Real Estate Board under OAR 863-020-0025.

(2) "Real estate trade association," as used in section (1) of this rule, means a local, state, regional, or national organization with members that

include real estate licensees, licensed escrow agents, or licensed title companies.

(3) "Trade association in a related field," as used in section (1) of this rule, means a local, state, regional, or national organization with members that include licensed, certified, or registered:

- (a) Appraisers,
- (b) Architects,
- (c) Attorneys,
- (d) Contractors,
- (e) Home inspectors,
- (f) Mortgage bankers,
- (g) Mortgage brokers,
- (h) Professional engineers,
- (i) Securities broker-dealers or salespersons,
- (j) Surveyors, or
- (k) Tax professionals.

(4) "Private career school approved by the Agency to teach continuing education courses," as used in section (1) of this rule, means a private career school licensed by the Department of Education and approved by the Agency to provide the basic real estate broker's or property manager's educational courses required under ORS 696.022.

(5) "Distance learning provider approved by the Agency," as used in section (1) of this rule, means a person whose course has been certified by the Association of Real Estate License Law Officials.

Stat. Auth.: ORS 696.385
Stats. Implemented: ORS 696.182
Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-020-0025

Board Approval of Continuing Education Provider Qualification

(1) A person not otherwise qualified under OAR 863-020-0020(1)(a) through (h) seeking the Board's approval as an applicant for certification must petition the Board under this rule.

(2) The person must submit a petition for approval to the Agency on an Agency-approved form at least 21 days before the scheduled Board meeting at which the applicant wishes the Board to act. The petition must include the following:

- (a) The petitioner's name, address, and phone number.
- (b) Sufficient information about the petitioner named in the application to allow the Board to determine whether the petitioner qualifies for certification, including specifics about one or both of the following:

(A) Petitioner's demonstrated expertise and experience in providing educational courses to real estate licensees;

(B) Petitioner's demonstrated experience and expertise in at least two course topics eligible for continuing education credit under OAR 863-020-0035(4)(a)-(gg).

(c) Attestation by the petitioner that the petitioner knows and understands:

(A) The responsibilities of a continuing education provider under OAR 863-020-0050;

(B) The requirements of an instructor under ORS 696.186 and the information required on a continuing education instructor form under OAR 863-020-0060.

(3) The Agency will mail a letter to the petitioner stating the Board's determination. If the Board approves the petition, the petitioner may apply for certification as a course provider under OAR 863-020-0030.

Stat. Auth.: ORS 696.385
Stats. Implemented: ORS 696.182
Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2011(Temp), f. 2-3-11, cert. ef. 2-4-11 thru 8-3-11; REA 2-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 5-2011, f. 8-15-11, cert. ef. 9-1-11; REA 9-2011, f. & cert. ef. 11-15-11; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-020-0030

Application for Continuing Education Provider Certification and Renewal

(1) An applicant for certification as a continuing education provider must submit to the Agency an application on an Agency-approved form containing the following information. No application fee is required.

(a) The applicant's name, mailing address, physical address, and phone number;

(b) The date of the application;

(c) The applicable qualification listed in OAR 863-020-0020(1) and, if the Real Estate Board approved the applicant's qualifications under OAR 863-020-0025, the applicant must also submit the Agency's confirmation letter;

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(d) The name and signature of the individual authorized by the applicant to submit the application;

(e) The applicant's authorized contact person, title, phone number, and e-mail address;

(f) The applicant's website address;

(g) Information concerning the course presentation formats, such as classroom instruction, online, etc.; and

(h) An affirmation that the applicant:

(A) Will comply with the statutory and administrative rule provisions applicable to continuing education providers, and

(B) Understands that the continuing education provider certification does not authorize the provider to offer an advanced course in real estate practices, the property manager advanced practices course or the brokerage administration sales and supervision course. If the provider wishes to offer those courses, the provider may seek separate approval of the course under OAR chapter 863, division 22.

(2) The Agency will assign a provider number and mail a confirmation of certification to the applicant after review and approval of an application.

(3) The Agency will publish on its website and have available at the Agency a list of certified course providers and include the following information:

(a) The provider's name, mailing address, physical address, and phone number;

(b) The provider's authorized contact person, title, phone number, and e-mail address;

(c) The provider's website address;

(d) The course presentation formats offered by the provider, such as classroom instruction, online, etc.; and

(e) The date of certification and provider number.

(4) Once certified, the continuing education provider must submit on an Agency-approved form any changes in the information provided on the application.

(5) If a provider no longer wishes to be certified or no longer meets the qualifications contained in OAR 863-020-0020, it must inform the Agency in writing within five business days.

(6) A continuing education provider certification expires on December 31, 2013 and is subject to renewal by submitting an application for renewal on an Agency-approved form at least 60 days before the certification expires.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.182

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-020-0035

Courses Offered by Continuing Education Providers

(1) This rule applies to continuing education courses offered by continuing education providers except for the advanced course in real estate practices, the property manager advanced practices course and the brokerage administration sales and supervision course. If the provider wishes to offer those courses, the provider may seek separate course approval under OAR chapter 863, division 22.

(2) A continuing education provider must ensure that a specific class or course offered is within the scope of one or more course topics listed in section (4) or (5) of this rule. The provider must also identify to real estate licensees which course topic(s) is covered by the course. The Agency will not determine whether individual courses or classes are within the scope of an eligible course topic.

(3) Each course offered for continuing education credit:

(a) Must meet all course requirements under this rule,

(b) Must meet the requirements for the length of the course under OAR 863-020-0007,

(c) Must meet the requirements for learning objectives in OAR 863-020-0045, and

(d) May be presented in a classroom setting, online, or in another format of the provider's choosing.

(4) The following course topics are eligible for real estate continuing education credit required by ORS 696.174 and OAR 863-020-0010:

(a) Principal broker or property manager record-keeping.

(b) Principal real estate broker supervision responsibilities.

(c) Principal broker or property manager clients' trust accounts.

(d) Agency relationships and responsibilities for brokers, principal brokers, or property managers.

(e) Misrepresentation in real estate transactions.

(f) Property management.

(g) Advertising regulations.

(h) Real estate disclosure requirements.

(i) Real estate consumer protection.

(j) Anti-trust issues in real estate transactions.

(k) Commercial real estate.

(l) Real estate contracts.

(m) Real estate taxation.

(n) Real estate property evaluation, appraisal, or valuation.

(o) Fair Housing laws or policy.

(p) Managing a real estate brokerage.

(q) Business ethics.

(r) Risk management.

(s) Dispute resolution.

(t) Real estate finance.

(u) Real estate title.

(v) Real estate escrows.

(w) Real estate development.

(x) Condominiums.

(y) Subdivisions.

(z) Unit owner or home owner associations.

(aa) Timeshares.

(bb) Water rights.

(cc) Environmental protection issues in real estate.

(dd) Land use planning, zoning, or other public limitations on use.

(ee) Real estate economics.

(ff) Real estate law or regulation.

(gg) Negotiation.

(5) A three-hour law and rule required course on recent changes in real estate rule and law under OAR 863-022-0055 is eligible for three hours of continuing education credit.

(6) The following do not fall within the scope of an eligible continuing education course topic listed under section (4) of this rule:

(a) Real estate broker or property manager pre-licensing courses.

(b) Examination preparation classes.

(c) Sales meetings.

(d) Motivational classes or seminars.

(e) Time management classes or seminars.

(f) Sales and marketing classes or seminars.

(g) Psychology classes or seminars.

(h) Trade association orientation courses.

(i) Courses in standardized computer software programs not specifically related to the topics listed in section (4) of this rule.

(j) Courses with content that is specific to another state or jurisdiction.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174 & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-020-0040

Certain Courses Required for License Renewal that are Also Eligible for Continuing Education Credit

(1) Effective January 1, 2011, in addition to the eligible courses under OAR 863-020-0035 completed on or after July 1, 2010, the following courses are eligible for continuing education credit:

(2) For a real estate broker who is renewing an active license for the first time or who is reactivating a license following an inactive first renewal, an Agency-approved 27-hour advanced course in real estate practices that meets the requirements of OAR 863-022-0020.;

(3) Effective January 1, 2013, for a licensed real estate property manager who is renewing an active license for the first time or who is reactivating a license following an inactive first renewal, an Agency-approved 27-hour property manager advanced practices course that meets the requirements of OAR 863-022-0022.

(4) For an initial principal real estate broker license, an Agency-approved 40-hour brokerage administration and sales supervision course that meets the requirements of OAR 863-022-0015; and

(5) A continuing education course completed between January 1, 2009 and December 31, 2010 that is in one of the following topics or combination of course topics:

(a) Trust Accounts.

(b) Misrepresentation.

(c) Anti-Trust.

(d) Rule and Law Update.

(e) Property Management.

(f) Commercial Brokerage and Leasing.

(g) Real Estate Taxation: Federal, State, and Local.

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- (h) Agency.
- (i) Fair Housing.
- (j) Contracts.
- (k) Property Evaluation.
- (l) Brokerage Management.
- (m) Land.
- (n) Business Ethics.
- (o) Compliance Review.
- (p) Real estate oriented continuing education.

(6) Courses taken under section (5) of this rule:

(a) May not be related to personal skills, such as time management or routine meetings and luncheons;

(b) Must be a minimum of 60 minutes, excluding meal or rest breaks; and

(c) May not be a course with the same content as another course taken during the renewal period.

(7) Certification as a continuing education provider does not authorize the provider to offer an advanced course in real estate practices, the property manager advanced practices course or the brokerage administration sales and supervision course. If the provider wishes to offer those courses, the provider may seek separate course approval under OAR chapter 863, division 22.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.022, 696.174, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-020-0045

Course Learning Objectives

(1) The Agency does not review or approve a continuing education provider's learning objectives.

(2) As used in ORS Chapter 696 and this division 20, the term "learning objective" means a statement of a continuing education provider's goal for what a licensee will know or be able to do when the course is completed.

(3) In addition to any other learning objectives a continuing education provider may develop for a course, the provider must ensure that each course within a course topic offered under OAR 863-020-0035(4) and (5) meets at least one of the learning objectives contained in section (6) of this rule.

(4) For course learning objectives relating to laws, statutes, and rules, only existing laws, statutes, and rules or those that have been adopted or enacted but are not yet in effect meet the requirements of this rule. Learning objectives related to proposed legislation or proposed regulations do not meet the requirements of this rule.

(5) At the end of the course, the licensee will be able to describe and, where appropriate, identify:

(a) Provisions in laws, statutes or administrative rules relevant to the course topic;

(b) The licensee's responsibilities under laws, statutes or administrative rules relevant to the course topic;

(c) Consumer protections relevant to the course topic;

(d) Governmental agencies with primary responsibility for regulating the course topic and the agencies' role in relation to consumers and licensees; or

(e) The principles, practices, or procedures relevant to the course topic and their impact on at least one of the following:

(A) Licensees;

(B) Consumers;

(C) Parties to the real estate transaction or property management agreement;

(D) The real estate marketplace;

(E) Real estate brokerage or property management practices;

(F) The licensees' real estate business; or

(G) A licensee's professional competence.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.182

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-020-0050

Continuing Education Provider Responsibilities

(1) For each course offered, a continuing education provider must:

(a) Ensure that a course offered for continuing education credit is within the scope of one or more course topics listed in OAR 863-020-0035(3) or is a three-hour law and rule required course on recent changes in real estate rule and law under OAR 863-022-0055;

(b) Identify to real estate licensees the course eligibility for continuing education credit as one of the following:

(A) A continuing education course under OAR 863-020-0035 and which course topic(s) the offered course covers,

(B) The course is a three-hour rule and law required course under OAR 862-022-0055,

(C) The course is the advanced course in real estate practices course under OAR 863-022-0020,

(D) The course is the property manager advanced practices course under OAR 863-022-0022, or

(E) The course is the brokerage administration and sales supervision course under OAR 863-022-0025;

(c) Ensure that the course meets the requirements for the length of a course under OAR 863-20-0007;

(d) Assign to each course a four-digit identifying course number;

(e) Ensure that courses offered under OAR 863-020-0035 meet the learning objective requirements contained in OAR 863-020-0045; and

(f) Ensure that the instructor who teaches a continuing education course offered for credit:

(A) Meets the requirements set forth in ORS 696.186, and

(B) Completes and signs the form required by OAR 863-020-0060.

(2) A continuing education provider may provide the advanced course in real estate practices, the property manager advanced practices course or the brokerage administration and sales supervision course only if the provider and the course have been approved under OAR 863, division 22.

(3) A continuing education provider must keep records as required by OAR 863-020-0055; and

(4) A continuing education provider must give each licensee who completes a course a completed certificate of completion that includes:

(a) The licensee's name and license number;

(b) The name of the course;

(c) The name of the certified course provider and provider number;

(d) The course identification number assigned by the course provider;

(e) Identification of the course eligibility for continuing education credit as one of the following:

(A) A continuing education course under OAR 863-020-0035 and which course topic(s) the offered course covers,

(B) The course is a three-hour rule and law required course under OAR 862-022-0055,

(C) The course is the advanced course in real estate practices course under OAR 863-022-0020,

(D) The course is the property manager advanced practices course under OAR 863-022-0022, or

(E) The course is the brokerage administration and sales supervision course under OAR 863-022-0025;

(f) The date and location of the course;

(g) The length of time of each course; and

(h) The name of the instructor who taught the course.

(f) The date and location of the course;

(g) The length of time of each course; and

(h) The name of the instructor who taught the course.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174, 696.182, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-020-0055

Continuing Education Provider Record-keeping Requirements

(1) A real estate continuing education provider must keep records of each course provided for three years from the date the course was provided. These records must include:

(a) The name of the course,

(b) The course identification number assigned by the course provider,

(c) Identification of the course eligibility for continuing education credit as one of the following:

(A) A continuing education course under OAR 863-020-0035 and which course topic(s) the offered course covers,

(B) The course is a three-hour rule and law required course under OAR 862-022-0055,

(C) The course is the advanced course in real estate practices course under OAR 863-022-0020,

(D) The course is the property manager advanced practices course under OAR 863-022-0022, or

(E) The course is the brokerage administration and sales supervision course under OAR 863-022-0025;

(d) The date and location of the course,

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- (e) The length of time of each course,
- (f) The name of the instructor who taught the course,
- (g) The signed form required by OAR 863-020-0060 containing the statement of instructor qualifications, and
- (h) The licensee's name and license number for each licensee attending the course on that date.

(2) All continuing education providers, whether located within or outside of this state, must keep the required records at the address provided on the application form.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13
cert. ef. 8-15-12

863-020-0060

Continuing Education Instructor Form

(1) As provided in OAR 863-020-0050, a continuing education provider must ensure that the instructor who teaches a continuing education course offered for credit meets the requirements contained in ORS 696.186. The Agency does not certify instructors.

(2) A continuing education provider must ensure that the instructor completes and signs a form containing the following information:

- (a) The instructor's name, address, and phone number;
- (b) The continuing education provider name and provider number;
- (c) A description of the instructor's qualifications in sufficient detail that would enable the reader to know how the instructor has met those qualifications; and

(d) An attestation signed and dated by the instructor, identifying the instructor's qualifications under section (4) of this rule and affirming that the instructor:

(A) Has not had a professional or occupational license related to the topic of the course revoked for disciplinary reasons;

(B) Has not had a professional or occupational license related to the topic of the course that is currently suspended for disciplinary reasons; and

(C) Has not been determined by a state court, an administrative law judge, or a final agency order to have violated any statute, rule, regulation, or order pertaining to real estate activity in this or any other state in the preceding five years.

(3) The instructor must indicate on the form which of the following qualifications applies to the instructor:

(a) A bachelor's degree and two years of experience working in a field related to the course topic;

(b) Six years of experience working in a field related to the topic of the course;

(c) A total of six years of any combination of college-level coursework and experience working in a field related to the topic of the course;

(d) A designation by a professional real estate organization, as defined in section (5) of this rule, and two years of college-level coursework;

(e) A designation as a Distinguished Real Estate Instructor by the Real Estate Educators' Association;

(f) Successful completion of an instructor training course approved by the Board and two years of experience working in a field related to the topic of the course; or

(g) Certification or approval in good standing as a real estate instructor for the same or a similar course topic in any other state or jurisdiction.

(4) "Professional real estate organization," as used in section (4) of this rule, means a group of individuals with a formal membership whose membership includes real estate licensees or licensed escrow agents.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.184 & 696.186

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-020-0065

Certification Revocation

The Agency may revoke the continuing education provider's certification if the provider disregards or violates any applicable provision of ORS chapter 696 or this rule division. Such revocation is an agency order subject to the contested case provisions contained in ORS chapter 183.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.182

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-022-0000

Applicability and Purpose

(1) This division applies to:

- (a) Real estate license applicants,

(b) Real estate licensees,

(c) Persons seeking Agency approval of the following courses:

- (A) The education courses for real estate broker license applicants and
- (B) The education course for property manager license applicants.

(d) Certified continuing education providers seeking approval of the following courses:

(A) The brokerage administration and sales supervision course for principal broker license applicants,

(B) The advanced practices course required for real estate brokers seeking their first active license renewal, or

(C) The property manager advanced practices course for licensed real estate property managers seeking their first active renewal.

(e) Certified continuing education providers who offer the Board-approved three-hour course on recent changes in real estate law and rule.

(2) This division sets forth the following course requirements for license applicants and licensees:

(a) The course of study required by OAR 863-014-0035 for real estate broker license applicants;

(b) The course required by OAR 863-024-0045 for property manager license applicants;

(c) The brokerage administration and sales supervision course required by OAR 863-014-0040 for principal broker license applicants;

(d) The advanced practices course required by OAR 863-020-0010 for real estate brokers seeking their first active license renewal; and

(e) The property manager advanced practices course required by OAR 863-020-0010 for licensed real estate property managers seeking their first active renewal.

(3) This division sets forth the application processes for Agency approval of the following:

(a) The course of study required by OAR 863-014-0035 for real estate broker license applicants or the course required by OAR 863-024-0045 for property manager license applicants;

(b) The brokerage administration and sales supervision course required by OAR 863-014-0040 for principal broker license applicants;

(c) The advanced practices course required by OAR 863-020-0010 for real estate brokers seeking their first active license renewal;

(d) The property manager advanced practices course required by OAR 863-020-0010 for licensed real estate property managers seeking their first active renewal; and

(e) The three-hour course on recent changes in law and rule required for all renewing licensees under OAR 863-020-0010.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174, 696.182, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-022-0005

Definitions

As used in this division, unless the context requires otherwise:

(1) "Agency" means the Oregon Real Estate Agency.

(2) "Associated broker" means a broker that is "associated with," as that term is defined in ORS 696.010, a principal real estate broker.

(3) "Board" means the Oregon Real Estate Board.

(4) "Certified continuing education provider" means a person certified by the Agency under OAR 863-020-0030 to offer real estate continuing education courses that are eligible for credit under OAR 863-020-0035 and 863-020-0040. The continuing education courses are taught by an instructor.

(5) "Clock-hour" is a 60-minute hour, excluding meal or rest breaks.

(6) "Commissioner" means the Real Estate Commissioner.

(7) "Individual" means a human being, not a legal entity.

(8) "In-state community colleges, colleges, and universities" means:

(a) Campuses and centers that are part of an accredited public university listed in ORS 352.002;

(b) Oregon community colleges established and operated under ORS Chapter 341; and

(c) Accredited private and independent institutions of higher education, as that term is defined in ORS 352.720, that are located in Oregon.

(9) "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than a government agency.

(10) "Private career schools" means private career schools licensed by the Oregon Department of Education and approved by the Agency to provide the 150-hour real estate license applicant course of study under OAR 863-022-0010, the 60-hour property manager license applicant course under OAR 863-022-0015, or both.

ADMINISTRATIVE RULES

(11) "Principal broker" means "principal real estate broker," as defined in ORS 696.010.

(12) "Property manager" means "licensed real estate property manager," as defined in ORS 696.010.

(13) "Real estate broker" is defined in ORS 696.010.

(14) "Real estate licensee" is defined in ORS 696.010.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174, 696.182, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-022-0010

Course Requirements for Real Estate Broker License Applicants

(1) The real estate broker license applicant course of study required by OAR 863-014-0035 must include 150 clock-hours in the seven courses listed in section (2) of this rule.

(a) Courses offered by private career schools must be approved by the Agency under OAR 863-022-0030.

(b) Courses offered by in-state community colleges, colleges, and universities must be approved by the Agency under OAR 863-022-0035.

(c) To be eligible for credit, a course provider must:

(A) Present each course for the designated number of clock-hours stated in section (2) of this rule,

(B) Include specific course topics required by the Agency as provided in section (3) of this rule, and

(C) Give each student a final examination for each course consisting of the number of questions stated in section (2) of this rule.

(2) The courses required for real estate broker license applicants are:

(a) Real Estate Law: 30 clock-hours and 60 questions on a final examination.

(b) Oregon Real Estate Practice: 30 clock-hours and 60 questions on a final examination.

(c) Real Estate Finance: 30 clock-hours and 60 questions on a final examination.

(d) Contracts: 15 clock-hours and 30 questions on a final examination.

(e) Agency Law: 15 clock-hours and 30 questions on a final examination.

(f) Property Management: 10 clock-hours and 20 questions on a final examination.

(g) Real Estate Brokerage: 20 clock-hours and 40 questions on a final examination.

(3) An applicant must complete the required courses through Agency-approved private career schools or in-state community colleges, colleges, or universities, as those terms are defined in OAR 863-022-0005.

(4) To receive credit for courses provided by private career schools, license applicants must complete the course of study and receive a passing score of at least 75% on a final examination for each course.

(5) To receive credit for courses provided by in-state community colleges, colleges, and universities, license applicants must complete the course of study, including a final examination for each course and achieve a minimum grade of "C."

(6) The real estate broker license applicant course of study is not eligible for continuing education credit under OAR 863-020-0010.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174, 696.182, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-022-0015

Course Requirements for Property Manager License Applicants

(1) The course required by OAR 863-024-0045 for real estate property manager license applicants consists of a 60 clock-hour Agency-approved real estate property manager course. The property manager course covers the specialized area of the management of rental real estate, including Oregon's legal requirements.

(a) A course offered by private career schools must be approved by the Agency under OAR 863-022-0030.

(b) A course offered by in-state community colleges, colleges, and universities must be approved by the Agency under OAR 863-022-0035.

(2) Effective August 15, 2012, a property manager license applicant may take the 60-hour property manager course described in section (3) or (4) of this rule. The course described in section (3) prepares the applicant for the property manager license examination that will be in effect beginning January 1, 2013. The course described in section (4) prepares the applicant for the property manager license examination that will be in effect only until December 31, 2012.

(3) This section (3) is effective August 15, 2012 and prepares the applicant for the property manager license examination that will be in effect beginning January 1, 2013. To be eligible for credit, the 60-hour course must include 60 clock-hours allocated among topics in the number of hours as follows:

(a) (12 hours) Oregon real estate license statutes and administrative rules relating to the management of rental real estate, including requirements of licensees, agency law and affirmative duties of a property manager.

(b) (12 hours) Clients' trust accounts and three-way reconciliation of bank statements, ledgers and record of receipts and disbursements for clients' trust accounts and security deposits accounts.

(c) (12 hours) Tenant relations and fair housing laws, including the Oregon Residential Landlord and Tenant Act and the Fair Credit Reporting Act.

(d) (7 hours) Contracts and leases.

(e) (6 hours) Risk management and maintenance.

(f) (6 hours) Economics and accounting.

(g) (5 hours) Real property law.

(4) This section (4) is effective until December 31, 2012 and prepares the applicant for the property manager license examination that will be in effect until December 31, 2012. To be eligible for credit, the 60-hour course must include 60 clock-hours allocated among topics in the number of hours and percentages as follows:

(a) (30% or 18 hours) Oregon real estate license statutes and administrative rules applicable to the management of rental real estate.

(b) (15% or 9 hours) Clients' trust accounts and account reconciliation.

(c) (10% or 6 hours) Oregon Residential Landlord and Tenant Act, including tenants' and landlords' rights and obligations; evictions, forcible entry and detainer procedures.

(d) (5% or 3 hours) Economics of property management, including analysis of markets, properties, and evaluating the owner's objectives.

(e) (5% or 3 hours) Leases, including leaseholds, types of leases and common lease clauses.

(f) (5% or 3 hours) Agency relationship between property owner and property manager and tenant relations, including maintenance.

(g) (15% or 9 hours) Management recordkeeping, including operating reports, budgets, income tax records, insurance types.

(h) (5% or 3 hours) Federal and state anti-discrimination laws and their applicability to tenant selection and advertising; the Fair Credit Reporting Act and its applicability to tenant selection.

(i) (10% or 6 hours) General real estate law applicable to property management activity, including types of estates and forms of ownership; transfer of title; taxes and assessments, including the levy and collection process, foreclosure and redemption rights, exemptions, and special assessments; land use controls, including private controls such as covenants, conditions, and restrictions, and public controls such as planning and zoning.

(5) An applicant must complete the Agency-approved course described in section (3) or (4) through a private career school or an in-state community college, college, or university, as those terms are defined in OAR 863-022-0005.

(6) To receive credit for a course provided by a private career school, an applicant must complete the course and receive a passing score of at least 75% on a final exam.

(7) To receive credit for a course provided by a community college, college or university an applicant must complete the course, including a final examination and achieve a minimum grade of "C."

(8) The property manager license applicant course is not eligible for continuing education credit under OAR 863-020-0010

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174, 696.182, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-022-0020

Advanced Practices Course Requirement for the First Active Renewal of Broker License

(1) The course required by OAR 863-020-0010 before the first active renewal of the real estate broker's license or before the first license reactivation following an inactive first renewal is an Agency-approved advanced course in real estate practices.

(2) Effective August 15, 2012, a real estate broker who is required to take the advanced practices course may get credit for a course:

(a) Described in section (4) of this rule;

ADMINISTRATIVE RULES

(b) Described in section (5) of this rule if the course was completed on or before December 31, 2010; or

(c) Described in section (6) of this rule if the course was completed between January 1, 2011 and before December 31, 2012.

(3) In order to renew a license, a real estate broker who completes the 27-hour course described in section (4) of this rule must also complete the three-hour course on recent changes in law and rule required under OAR 863-020-0010.

(4) Effective August 15, 2012, an Agency-approved advanced practices course must include 27 clock-hours allocated among topics in the number of hours as follows:

- (a) (10 hours) Business ethics
- (b) (3 hours) Review of recent administrative actions issued by the Agency
- (c) (4.5 hours) Property management
- (d) (3 hours) Business economics
- (e) (3 hours) Advanced agency relationships, including dual representation

(f) (4.5 hours) Misrepresentation and negligence.

(5) To be eligible for credit, an advanced practices course completed on or before December 31, 2010 must:

(a) Meet the requirements under section (7) of this rule and be provided by a person whose advanced practices course has been approved by the Agency on or before June 30, 2010, or

(b) Meet the requirements under section (8) of this rule and be provided by a certified continuing education provider whose advanced practices course has been approved by the Board on or after July 1, 2010.

(6) To be eligible for credit, an advanced practices course completed on or after January 1, 2011 must meet the requirements under section (8) of this rule and be provided by a certified continuing education provider whose advanced practices course has been approved by the Board on or after July 1, 2010.

(7) A 30-hour advanced practices course approved by the Agency on or before June 30, 2010 must include 30 clock-hours allocated among topics in the number of hours and percentages as follows:

(a) (30% or 10 hours) Business ethics,

(b) (10% or 3 hours) Recent changes in real estate law and rule, including Oregon Real Estate License Law and administrative rule changes from the most recent legislative session and other legislative changes affecting real estate,

(c) (10% or 3 hours) Review of recent administrative actions issued by the Agency,

(d) (15% or 4.5 hours) Property management,

(e) (10% or 3 hours) Business economics (3 hours),

(f) (10% or 3 hours) Advanced agency relationship, including dual representation, and

(g) (15% or 4.5 hours) Misrepresentation and negligence.

(8) A 30-hour advanced practices course approved by the Board on or after July 1, 2010 must include 30 clock-hours allocated among topics in the number of hours and percentages as follows:

(a) (30% or 10 hours) Business ethics,

(b) (10% or 3 hours) A three-hour course on recent changes in real estate law and rule approved by the Board under OAR 863-022-0055,

(c) (10% or 3 hours) Review of recent administrative actions issued by the Agency,

(d) (15% or 4.5 hours) Property management,

(e) (10% or 3 hours) Business economics (3 hours),

(f) (10% or 3 hours) Advanced agency relationship, including dual representation, and

(g) (15% or 4.5 hours) Misrepresentation and negligence.

(9) To receive credit for an advanced practices course, a real estate broker must complete the course, including a final examination, and receive a passing score of at least 75% on a final examination.

(10) The licensee must obtain a certificate of course completion and maintain it as required by OAR 863-020-0015.

(11) If the advanced practices course was completed on or before December 31, 2010 and complies with section (5)(a) of this rule, the course is also eligible for continuing education credit under OAR 863-020-0010. However, licensees renewing on or after January 1, 2011 must also complete a Board-approved three-hour course on recent changes in real estate law and rule.

(12) If the advanced practices course was completed on or after July 1, 2010 and complies with section (5)(b) or section (6) of this rule, the course is also eligible for continuing education credit under OAR 863-020-0010. Because the course under section (5)(b) or section (6) of this rule

includes the Board-approved three-hour course on recent changes in real estate law and rule, the licensee does not need to complete an additional course on recent changes in real estate law and rule.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174, 696.182, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-022-0022

Property Manager Advanced Practices Course Requirement for the First Active Renewal of License

(1) The course required by OAR 863-020-0010 before the first active renewal of the property manager license or before the first license reactivation following an inactive first renewal is an Agency-approved 27-hour property manager advanced practices course.

(2) Effective August 15, 2012, a property manager who is required to take the advanced practices course in order to renew a license on or after January 1, 2012, must also complete the three-hour course on recent changes in law and rule required under OAR 863-020-0010.

(3) Effective August 15, 2012, an Agency-approved advanced practices course must include 27 clock-hours allocated among topics in the number of hours as follows:

(a) (2 hours) Agency law and affirmative duties in ORS 696.890

(b) (2 hours) Property management agreements

(c) (3 hours) Managing the operation of a property management company

(d) (3 hours) Clients' trust accounts and security deposits accounts

(e) (6 hours) Property management accounting

(f) (2 hours) Oregon Residential Landlord and Tenant Act under ORS chapter 90

(g) (2 hours) Fair Housing Laws

(h) (2 hours) Property management records

(i) (2 hours) Real Estate License Law under ORS chapter 696

(j) (1.5 hours) Commercial property management

(k) (1.5 hours) Emergency plans, energy management plans, maintenance and repair

(4) To receive credit for an advanced practices course, a property manager must complete the course and receive a passing score of at least 75% on a final examination containing 60 questions.

(5) The licensee must obtain a certificate of course completion and maintain it as required by OAR 863-020-0015.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174

Hist.: REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-022-0025

Education Course Requirements for Principal Broker License Applicants

(1) The course required by OAR 863-014-0040 for principal real estate broker license applicants is a 40-hour Agency-approved brokerage administration and sales supervision course.

(2) The brokerage administration and sales supervision course covers legal requirements unique to principal brokers and reviews the material introduced in the 150-hour real estate broker applicant course of study described in OAR 863-022-0010.

(3) Effective August 15, 2012, a principal real estate broker license applicant may take the 40-hour brokerage administration and sales supervision course described in section (4) or (5) of this rule. The course described in section (4) prepares the applicant for the property manager license examination that will be in effect beginning January 1, 2013. The course described in section (5) prepares the applicant for the principal real estate broker license examination that will be in effect only until December 31, 2012.

(4) This section (4) is effective August 15, 2012. The 40-hour brokerage administration and sales supervision course prepares the applicant for the principal real estate broker license examination that will be in effect beginning January 1, 2013. To be eligible for credit, the 40-hour course must include 40 clock-hours allocated among topics in the number of hours as follows:

(a) (15 hours) Brokerage business, supervision and legal requirements, which includes:

(A) Introduction to real estate brokerage business practices.

(B) Supervising and managing other real estate licensees, independent contractors and employees

(C) Financial records of the brokerage business.

(D) Clients' trust accounts.

(E) Required records and maintenance.

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- (F) Property management.
- (b) (25 hours) Review of real estate principles and practices
- (A) Real Estate Law
- (B) Oregon Real Estate Practice
- (C) Real Estate Finance
- (D) Contracts
- (E) Agency Law
- (F) Property Management
- (G) Real Estate Brokerage

(5) This section (5) is effective until December 31, 2012 and prepares the applicant for the principal real estate broker license examination that will be in effect until December 31, 2012. To be eligible for credit, the 40-hour course must include 40 clock-hours, allocated among topics in the number of hours and percentages as follows:

(a) (10% or 4 hours) Introduction to management theory, characteristics of successful management, the functions of management, organizational formats such as corporate, partnerships, and proprietorship, various problems associated with management, and types of licenses and their legal requirements.

(b) (10% or 4 hours) Planning, including management objectives, planning under the employer-employee relationship versus independent contractor relationship, individual and office planning, budget planning, market research, growth, and anticipation of expansion, and bottom line planning.

(c) (15% or 6 hours) Selecting, training, and supervising real estate personnel, including job descriptions, recruiting, interviewing, and characteristics of a successful real estate broker; training in Oregon real estate law, real estate documents; supervising transactions, performance evaluations, commission arrangements; major theories of human motivation, for example, those of Maslow, Herzberg, and McClelland; selecting, training, and evaluating office support personnel.

(d) (5% or 2 hours) Leadership, authority, discipline; office regulations, relationships between office personnel; office policy on private transactions of licensees; effect of disciplinary action on licensees.

(e) (5% or 2 hours) Communication methods; formal versus informal; verbal versus non-verbal; reading, writing, listening, speaking; office sales meetings.

(f) (5% or 2 hours) Advertising, including supervising content, format, and layout; public relations, image development, and relations between competitors.

(g) (5% or 2 hours) Office facilities, including legal requirements for real estate offices, such as site selection, space and office layout, furniture and equipment, signs; broker license requirements; legal requirements concerning branch offices; limitations on licenses, effect of actions on licenses, and reporting of adverse litigation.

(h) (20% or 8 hours) Financial records, such as general checking account and its use for paying commissions, receipt of competitive market analysis fees; the clients' trust account, legal requirements concerning its use, including required documentation, use of interest-bearing accounts, commingling of funds, the trust account's use in cooperative transactions, earnest money, advance fees, and rental fees.

(i) (5% or 2 hours) Financial reports, such as income statements, balance sheets, tax returns, and payroll records.

(j) (5% or 2 hours) Non-financial records, such as listing files, transaction records, cooperative transaction records, advertising folders, showing reports, competitive market analysis records and reports; legal requirements, such as broker review of salesperson transactions.

(k) (5% or 2 hours) Office manuals that specify office policy and procedures, use of the manual in training and to set out grievance procedures.

(l) (5% or 2 hours) Office activity other than real estate sales; competitive market analyses, investment counseling, construction, and development, including supervisory requirements, and the nature of the activities relative to real estate legal requirements.

(m) (5% or 2 hours) Property management: legal requirements for accounting and record keeping, Oregon Landlord Tenant Law.

(6) License applicants must complete the course described in section (4) or (5) of this rule and receive a passing score of at least 75% on a final exam.

(7) An Agency-approved brokerage administration and sales supervision course is eligible for continuing education credit for licensees renewing under OAR 863-020-0010.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174, 696.182, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-022-0030

Education Courses Provided by Private Career Schools

(1) Private career schools that wish to provide the real estate broker license applicant or property manager license applicant courses under OAR 863-022-0010 and 863-022-0015 must apply to the Agency for approval of these courses. No application fees are required.

(2) All license applicant courses under OAR 863-022-0010 and 863-022-0015 submitted by private career schools and approved by the Agency before August 15, 2012 are approved by this rule; however, the course approval expires December 31, 2012.

(3) Effective August 15, 2012, a private career school applying for Agency approval of a 150-hour course of study for real estate broker license applicants or a 60-hour course for property manager license applicants must submit an Agency-approved application form and the following documents:

(a) Proof of current licensing as a private career school with the Oregon Department of Education and an expiration date.

(b) Certificates of course completion.

(c) If the private career school wishes to provide a course through distance education, documentation that the course has been certified by the Association of Real Estate License Law Officials.

(d) If the private career school is applying for approval to use course materials owned and developed by a third-party vendor, written authorization from the vendor, on an Agency-approved form, that the course provider is authorized to use the course materials and the dates the provider is authorized to use the course.

(e) Course materials, including:

(A) Course curriculum or syllabus for the course of study.

(B) Student materials, including all course materials, textbooks and handouts.

(C) A completed Agency-approved topic checklist that lists the detailed course topics and indicates the location of the topic in the course materials. This requirement applies to all course materials, including materials developed by the course provider or materials developed by a third-party vendor.

(D) Instructor materials, if any.

(E) Final examinations.

(F) Examination answer keys, as a document that is separate from the examination.

(G) Agency-approved instructor forms for each instructor who will teach the course.

(4) The Agency will approve or deny the completed application and notify the applicant. Upon approval, the Agency will send a letter of approval. If the Agency denies the application, the applicant may seek a contested case hearing pursuant to ORS Chapter 183.

(5) If a private career school wants to provide courses other than the real estate broker or property manager license applicant courses, the school must comply with the following:

(a) To provide the advanced course in real estate practices or the property manager advanced practices course, the school must be a certified continuing education provider and apply for course approval under OAR 863-022-0045.

(b) To provide the brokerage administration and sales supervision course, the school must be a certified continuing education provider and apply for course approval under 863-022-0050.

(c) To provide the Board-approved three-hour law and rule update course under OAR 863-022-0055 required for license renewals, the school must be a certified continuing education provider.

(d) To provide any other continuing education course under OAR 863-020-0035 or 863-020-0040, the school must be a certified continuing education provider and comply with the requirements of OAR 863, division 20.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174, 696.182, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-022-0035

Approval of Courses Provided by Community Colleges, Colleges, and Universities

(1) In-state community colleges, colleges, and universities wish to provide the real estate broker license applicant or property manager license applicant courses under OAR 863-022-0010 and 863-022-0015 must apply to the Agency for approval of these courses. No application fees are required.

ADMINISTRATIVE RULES

(2) All license applicant courses under OAR 863-022-0010 and 863-022-0015 submitted by in-state community colleges, colleges, and universities and approved by the Agency before August 15, 2012 are approved by this rule; however, the course approval expires December 31, 2012.

(3) Effective August 15, 2012, an in-state community college, college or university applying for Agency approval of a 150-hour course of study for real estate broker license applicants or a 60-hour course for property manager license applicants must submit an Agency-approved application form and the following documents:

(a) Certificates of course completion.

(b) If the private career school is applying for approval to use course materials owned and developed by a third-party vendor, written authorization from the vendor, on an Agency-approved form, that the course provider is authorized to use the course materials and the dates the provider is authorized to use the course.

(c) Course materials, including:

(A) Course curriculum or syllabus for the course of study.

(B) Student materials, including all course materials, textbooks and handouts.

(C) A completed Agency-approved topic checklist that lists the detailed course topics and indicates the location of the topic in the course materials. This requirement applies to all course materials, including materials developed by the course provider or materials developed by a third-party vendor.

(D) Instructor materials, if any.

(E) Final examinations.

(F) Examination answer keys, as a document that is separate from the examination.

(4) The Agency will approve or deny the completed application and notify the applicant. Upon approval, the Agency will send a letter of approval. If the Agency denies the application, the applicant may seek a contested case hearing pursuant to ORS Chapter 183.

(5) If an in-state community college, college or university wants to provide courses other than the real estate broker or property manager license applicant courses, the school must comply with the following:

(a) To provide the advanced course in real estate practices or the property manager advanced practices course, the school must be a certified continuing education provider and apply for course approval under OAR 863-022-0045.

(b) To provide the brokerage administration and sales supervision course, the school must be a certified continuing education provider and apply for course approval under 863-022-0050.

(c) To provide the Board-approved three-hour law and rule update course under OAR 863-022-0055 required for licensee renewals, the school must be a certified continuing education provider.

(d) To provide any other continuing education course under OAR 863-020-0035 or 863-020-0040, the school must be a certified continuing education provider and comply with the requirements of OAR 863, division 20.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174, 696.182, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-022-0040

Agency-Approved Advanced Course in Real Estate Practices

(1) This rule applies to the 30-hour Agency-approved advanced course in real estate practices described in OAR 863-022-0020.

(2) All advanced practices courses, course providers, and instructors for those courses approved by the Agency on or before June 30, 2010 may continue to teach or provide the course through December 31, 2010 without Board approval.

(3) Except as provided in section (2) of this rule, beginning July 1, 2010, a person who seeks approval to provide the advanced practices course must be a certified continuing education provider and apply to the Board for approval under OAR 863-022-0045.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174, 696.182, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; Suspended by REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-022-0045

Agency Approval of Advanced Practices Course

(1) A person seeking Agency approval of the 40-hour brokerage administration and sales supervision course described in OAR 863-022-0015 must be a certified continuing education provider.

(2) The person must submit an Agency-approved form and the following documents:

(a) Certificates of course completion.

(b) For all providers except in-state community colleges, colleges and universities, that are applying for approval to use course materials owned and developed by a third party vendor, written authorization from the vendor, on an Agency-approved form, that the course provider is authorized to use the course materials and the dates the provider is authorized to use the course.

(c) For in-state community colleges, colleges and universities, that are applying for approval to use course materials owned and developed by a third party vendor, attestation that the provider must submit all revisions or updates to the Real Estate Agency for approval prior to using such materials

(d) Course materials, including:

(A) Course curriculum or syllabus for the course of study.

(B) Student materials, including all course materials, textbooks and handouts.

(C) A completed Agency-approved topic checklist that lists the detailed course topics and indicates the location of the topic in the course materials. This requirement applies to all course materials, including materials developed by the course provider or materials developed by a third-party vendor.

(D) Instructor materials, if any.

(E) Final examinations.

(F) Examination answer keys, as a document that is separate from the examination.

(G) For all providers except in-state community colleges, colleges and universities, a continuing education instructor form for each instructor who will teach the course.

(3) The Agency will approve or deny the completed application and notify the applicant. Upon approval, the Agency will send a letter of approval. The private career school must use. If the Agency denies the application, the applicant may seek a contested case hearing pursuant to ORS Chapter 183.

Stat. Auth.: ORS 696.385

Stats. Implemented: ORS 696.174, 696.182, & 696.184

Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-022-0050

Agency Approval of Brokerage Administration and Sales Supervision Course and Instructors

(1) A person seeking Agency approval of the 40-hour brokerage administration and sales supervision course described in OAR 863-022-0015 must be a certified continuing education provider.

(2) The person must submit an Agency-approved form and the following documents:

(a) Certificates of course completion.

(b) For all providers except in-state community colleges, colleges and universities, that are applying for approval to use course materials owned and developed by a third party vendor, written authorization from the vendor, on an Agency-approved form, that the course provider is authorized to use the course materials and the dates the provider is authorized to use the course.

(c) For in-state community colleges, colleges and universities, that are applying for approval to use course materials owned and developed by a third party vendor, attestation that the provider must submit all revisions or updates to the Real Estate Agency for approval prior to using such materials

(d) Course materials, including:

(A) Course curriculum or syllabus for the course of study.

(B) Student materials, including all course materials, textbooks and handouts.

(C) A completed Agency-approved topic checklist that lists the detailed course topics and indicates the location of the topic in the course materials. This requirement applies to all course materials, including materials developed by the course provider or materials developed by a third-party vendor.

(D) Instructor materials, if any.

(E) Final examinations.

(F) Examination answer keys, as a document that is separate from the examination.

(G) For all providers except in-state community colleges, colleges and universities, a continuing education instructor form for each instructor who will teach the course.

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(3) The Agency will approve or deny the completed application and notify the applicant. Upon approval, the Agency will send a letter of approval. The private career school must use. If the Agency denies the application, the applicant may seek a contested case hearing pursuant to ORS Chapter 183.

Stat. Auth.: ORS 696.385
Stat. Implemented: ORS 696.174, 696.182, & 696.184
Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-022-0055

Board Approval of Three-Hour Rule and Law Change Course

(1) The Board will develop the course content required for a course on recent changes in real estate rule and law required by ORS 696.174, and the Agency will make the course content available to the public.

(2) The Board will update the course at least biannually.

(3) To be eligible for continuing education credit required under OAR 863-020-0010, the Board-approved course must be provided by a certified continuing education provider.

Stat. Auth.: ORS 696.385
Stats. Implemented: ORS 696.174, 696.182, & 696.184
Hist.: REA 1-2010, f. 6-14-10, cert. ef. 7-1-10; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

863-022-0060

Responsibilities of Providers of Real Estate Broker, Principal Broker and Property Manager License Application Courses

(1) For purposes of this rule, a "course provider" is:

(a) A private career school, in-state community college, college, or university that provides the 150-hour real estate broker license applicant course of study under OAR 863-022-0010, the 60-hour property manager license applicant course under OAR 863-022-0015; or the 40-hour brokerage administration and sales supervision course under OAR 863-022-0025; and

(b) A continuing education provider who provides the 40-hour brokerage administration and sales supervision course under OAR 863-022-0025.

(3) For purposes of this rule, "examination provider" means the vendor, under a contract with the Agency, which provides licensing examination services and collects the fee for such services directly from a license applicant.

(4) A course provider must certify to the examination provider that an applicant for a real estate license has successfully completed the course or courses according to the requirements and instructions of the examination provider.

(5) Before certifying that a license applicant completed a course as provided in section (4) of this rule, a course provider must obtain proof from a license applicant that the applicant has submitted a license application to the Agency.

(6) A course provider must inform each student taking a course that:

(a) The course provider will certify to the examination provider that an applicant for a real estate license has successfully completed the course or courses; and

(b) Before a course provider may certify that the applicant completed the course, a student must provide proof to the provider that the student has made application to the Agency for a real estate broker, principal broker or property manager license.

(7) In addition to the requirements under this rule, a course provider must provide a certificate of completion to each student.

Stat. Auth.: ORS 696.385
Stats. Implemented: ORS 696.020 & 696.022
Hist.: REA 3-2011(Temp), f. & cert. ef. 6-22-11 thru 12-1-11; REA 6-2011, f. 8-15-11, cert. ef. 9-1-11; REA 7-2011, f. & cert. ef. 11-15-11; REA 1-2012(Temp), f. 8-14-12, cert. ef. 8-15-12 thru 2-1-13

Teacher Standards and Practices Commission

Chapter 584

Rule Caption: Amends Teaching Authorization Levels: Expands high school authorization on Initial and Continuing Teaching Licenses.

Adm. Order No.: TSPC 7-2012

Filed with Sec. of State: 8-7-2012

Certified to be Effective: 8-7-12

Notice Publication Date: 2-1-2012

Rules Amended: 584-060-0051

Subject: 584-060-0051: Amends Teaching Authorization Levels: Expands high school authorization on Initial and Continuing teach-

ing Licenses to grades 7 and 8 in a school designated by a high school.

Rules Coordinator: Victoria Chamberlain—(503) 378-6813

584-060-0051

Teaching Authorization Levels

(1) Teachers must qualify for one or more grade authorizations at the early childhood, elementary, middle or high school developmental levels.

(2) Teaching authorization levels will apply to all teaching licenses within division 60.

(3) Early Childhood Education (ECE) Authorization: The early childhood education (ECE) authorization level requires completion of an approved program including passing the commission-approved multiple subjects examination (MSE) together with completion of a practicum experience with students in grades prekindergarten (pre-k) through four (4).

(a) The ECE authorization level is valid for any multiple subjects teaching assignment, except assignments in subsection (b) below, in prekindergarten (pre-k) through grade four (4).

(b) The ECE authorization level with a multiple subjects endorsement is not valid for assignments requiring a specialization endorsement such as art, music, ESOL, ESOL/bilingual, physical education, adaptive physical education, library media, reading or special education under OAR 584-060-0071 without the accompanying specialty endorsement on the license.

(4) Elementary ELE Authorization: The elementary ELE authorization level requires completion of an approved program including passing the commission-approved multiple subjects examination (MSE) together with completion of a practicum experience with students in one or more grades between grades three (3) through eight (8). (See, OAR 584-017-0120 for ELEM authorization competencies and OAR 584-017-0175 for adding an authorization level to a license.)

(a) The ELE authorization level is valid for any multiple subjects teaching assignment, except assignments in subsection (b) below, in grades three (3) through eight (8).

(b) The ELE authorization level with a multiple subjects endorsement is not valid for assignments requiring specialization endorsement such as art, music, ESOL, ESOL/bilingual, physical education, adaptive physical education, library media, reading or special education under OAR 584-060-0071 without the accompanying specialty endorsement on the license.

(5) The Middle-Level (ML) Authorization: The middle-level (ML) authorization level requires completion of an approved program including passing the commission-approved multiple subjects examination (MSE) together with completion of a practicum experience with students in one or more grades between grades five (5) through nine (9). The placement may only be in grade nine (9) if it is located in a middle school or junior high school. Additionally, the ML authorization requires in-depth knowledge of one subject-matter or specialty endorsement appropriate to middle-level teaching assignments.

(a) The ML authorization is valid for any multiple subjects teaching assignment, except assignments in subsection (b) below, in grades five (5) through nine (9) of a school designated as an elementary, middle, or junior high school.

(b) The ML authorization level with a multiple subjects endorsement is not valid for assignments requiring specialization endorsement such as art, music, ESOL, ESOL/bilingual, physical education, adaptive physical education, library media, reading or special education under OAR 584-060-0071 without the accompanying specialty endorsement on the license.

(6) The high school (HS) authorization level requires completion of an approved program and qualification for at least one subject-matter endorsement appropriate to secondary schools by passing the required Commission-approved test or tests of subject mastery in the endorsement area, together with completion of a practicum experience with students in one or more grades between grades nine (9) through twelve (12). The high school (HS) authorization is valid for teaching one or more integrated or departmentalized subjects, with which the license must be endorsed, in grades seven (7) through twelve (12) in a school designated as a high school.

(7) The Early Childhood Education/Elementary (ECE/ELE) authorization represents the merger of two grade authorization levels and requires completion of an approved program including passing the commission-approved multiple subjects examination (MSE) together with completion of a practicum experience with students in one or more grades between grades prekindergarten (pre-k) through eight (8).

(a) The ECE/ELE authorization level is valid for any multiple subjects teaching assignment, except assignments in subsection (b) below, in grades prekindergarten (pre-k) through eight (8).

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(b) The ECE/ELE authorization level with a multiple subjects endorsement is not valid for assignments requiring a specialization endorsement such as art, music, ESOL, ESOL/bilingual, physical education, adaptive physical education, library media, reading or special education under OAR 584-060-0071 without the accompanying specialty endorsement on the license.

(8) The Elementary/Middle Level (ELE/ML) authorization represents the merger of two grade authorization levels and requires completion of an approved program including passing the commission-approved multiple subjects examination (MSE) together with completion of a practicum experience with students in one or more grades between grades three (3) through nine (9). The placement may only be grade nine (9) if it is located in a middle school or junior high school.

(a) The ELE/ML authorization level is valid for any multiple subjects teaching assignment, except assignments in subsection (b) below, in grades (3) through grade eight (8).

(b) The ELE/ML authorization level with a multiple subjects endorsement is not valid for assignments requiring a specialization endorsement such as art, music, ESOL, ESOL/bilingual, physical education, adaptive physical education, library media, reading or special education under OAR 584-060-0071 without the accompanying specialty endorsement on the license.

(9) The Middle Level/High School (ML/HS) authorization represents the merger of two grade authorization levels and requires completion of an approved program including passing the commission-approved multiple subjects examination (MSE) and qualification for at least one subject-matter endorsement appropriate to secondary schools by passing the required Commission-approved test or tests of subject mastery in the endorsement area, together with completion of a practicum experience with students in one or more grades between grades five (5) through twelve (12).

(a) The ML/HS authorization is valid for any multiple subjects teaching assignment, except assignments in subsection (c) below, in grades five (5) through nine (9) of a school designated as an elementary, middle, or junior high school.

(b) The ML/HS authorization is valid for teaching one or more integrated or departmentalized subjects, with which the license must be endorsed, in grades seven (7) through twelve (12) in a school designated as a high school.

(c) The ML/HS authorization level with a multiple subjects endorsement is not valid for assignments requiring specialization endorsement such as art, music, ESOL, ESOL/bilingual, physical education, adaptive physical education, library media, reading or special education under OAR 584-060-0071 without the accompanying specialty endorsement on the license.

(10) The Prekindergarten-12 (pre-k through 12) authorization level represents qualification to teach in all four grade levels. The pre-k through grade 12 authorization level requires completion of an approved program including passing the commission-approved test or tests for specialty area endorsements (see OAR 584-060-0071) together with completion of two practica experiences with students in grades between pre-kindergarten through twelve (12).

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120-143, 342.153, 342.165 & 342.223 - 342.232

Hist.: TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 4-2002, f. & cert. ef. 5-21-02; TSPC 6-2002, f. & cert. ef. 10-23-02; TSPC 2-2005, f. & cert. ef. 4-15-05; TSPC 4-2005(Temp), f. & cert. ef. 5-6-05 thru 9-30-05; TSPC 7-2005, f. & cert. ef. 8-24-05; TSPC 13-2006, f. & cert. ef. 11-22-06; TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 1-2008(Temp), f. & cert. ef. 2-15-08 thru 8-13-08; TSPC 6-2008, f. & cert. ef. 8-12-08; TSPC 1-2012(Temp), f. 2-7-12, cert. ef. 2-15-12 thru 8-13-12; TSPC 7-2012, f. & cert. ef. 8-7-12

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Rule Caption: Professional development requirements and outlines verification requirements for PDU's.

Adm. Order No.: TSPC 8-2012

Filed with Sec. of State: 8-15-2012

Certified to be Effective: 8-15-12

Notice Publication Date: 1-1-2012

Rules Adopted: 584-090-0115, 584-090-0120

Subject: 584-090-0115 — Professional Development Requirements — Allows some excess professional development units to be carried forward to next reporting period.

584-090-0120 Verification of Continuing Professional Development — requires educators to report PDU activity regardless of employment status.

Rules Coordinator: Victoria Chamberlain—(503) 378-6813

584-090-0115

Professional Development Requirements

(1) Applicants for licensure renewal must complete professional development units as described in this rule. These professional development requirements apply to all educators listed in OAR 584-090-0100(4), including those who are retired or work less than half-time in a contracted position and those who hold provisional licenses.

(2) All educators renewing a Basic, Standard, Limited Teaching, Initial II or, Continuing License who are contracted half-time or more must meet the PDU requirements set forth in subsection (7) below.

(3) For all other licensed educators subject to PDU reporting, except Substitute or Restricted Substitute license holders, and reporting PDU's pursuant to this rule, the professional development requirements will be phased in as follows:

(a) Educators renewing in 2013 must complete 25 PDUs total;

(b) Educators renewing in 2014 must complete 50 PDUs total; and

(c) Educators renewing in 2015 or later must complete 25 PDUs per year of the license.

(4) Applicants holding a Substitute Teaching License or a Restricted Substitute Teaching License must obtain the equivalent of 10 PDUs for every year of the renewable license, once the PDU requirement for these two substitute teaching license types is fully implemented. The professional development requirements for the Substitute Teaching License and the Restricted Substitute Teaching License will be phased in as follows:

(a) Substitute licensees renewing in 2013 must complete 10 PDUs total;

(b) Substitute licensees renewing in 2014 must complete 20 PDUs total; and

(c) Substitute licensees renewing in 2015 must complete 10 PDUs per year of the license.

(5) PDUs counted toward licensure renewal may be earned at any time during the life of the license. Educators may carry-over excess PDUs consistent with subsection (9) below.

(6) Educators holding Career and Technical Education teaching endorsements may be subject to other requirements. See, OAR 584-042-0051 *Career and Technical Education (CTE) Professional Development Plan* to determine whether additional CPD requirements apply licensure renewal.

(7) Continuing professional development requirements are:

(a) For educators holding a three year license: 75 professional development units (PDUs);

(b) For educators holding a five-year license: 125 PDUs;

(c) For educators holding a three-year Substitute or Restricted Substitute license: 30 PDUs;

(d) Completing national board certification (NBPTS), National Association of School Psychologists certification (NASP), National School Counselor certification (NCSC), National Association of Social Workers certification (C-SSWS) will waive CPD for the renewal period during which the certification is completed and the next licensure renewal cycle only.

(8) Professional Development Units (PDUs) are defined as follows:

(a) One (1) hour of approved professional development equals one (1) PDU;

(b) One (1) semester hour of college credit equals thirty (30) PDUs; or

(c) One (1) quarter hour of college credit equals twenty (20) PDUs.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430; 342.455 - 342.495 & 342.553

Hist.: TSPC 8-2012, f. & cert. ef. 8-15-12

584-090-0120

Verification of Continuing Professional Development

(1) Educators employed in a public school, ESD or public charter school must supply evidence to their employer that they have completed PDUs in accordance with these rules. Districts may indicate compliance through acknowledgement on the Professional Educator Experience Report (PEER) form.

(2) Educators who are not employed at the time of renewal must supply evidence to TSPC upon renewal of licensure that the PDUs were completed in accordance with these rules.

(3) Educators who are employed, but are unable to obtain district or employer "sign off" of PDUs obtained during the life of the license, may appeal this decision of the employer and submit evidence of that professional development to TSPC for review in accordance with these rules.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430; 342.455 - 342.495 & 342.553

Hist.: TSPC 8-2012, f. & cert. ef. 8-15-12

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123-021-0040(T)	6-1-2012	Repeal	7-1-2012	123-635-0350	8-15-2012	Amend	9-1-2012
123-021-0080	12-8-2011	Amend(T)	1-1-2012	123-650-0059	8-15-2012	Repeal	9-1-2012
123-021-0080	6-1-2012	Amend	7-1-2012	123-650-0075	8-15-2012	Adopt	9-1-2012
123-021-0080(T)	6-1-2012	Repeal	7-1-2012	123-650-0100	8-15-2012	Amend	9-1-2012
123-021-0090	12-8-2011	Amend(T)	1-1-2012	123-650-0700	8-15-2012	Amend	9-1-2012
123-021-0090	6-1-2012	Amend	7-1-2012	123-650-1000	8-15-2012	Amend	9-1-2012
123-021-0090(T)	6-1-2012	Repeal	7-1-2012	123-650-1100	8-15-2012	Amend	9-1-2012
123-021-0110	12-8-2011	Amend(T)	1-1-2012	123-650-2100	8-15-2012	Amend	9-1-2012
123-021-0110	6-1-2012	Amend	7-1-2012	123-650-2200	8-15-2012	Amend	9-1-2012
123-021-0110(T)	6-1-2012	Repeal	7-1-2012	123-650-7300	8-15-2012	Amend	9-1-2012
123-021-0130	12-8-2011	Amend(T)	1-1-2012	123-650-9100	8-15-2012	Amend	9-1-2012
123-021-0130	6-1-2012	Amend	7-1-2012	123-662-1200	8-15-2012	Amend	9-1-2012
123-021-0130(T)	6-1-2012	Repeal	7-1-2012	123-674-0200	8-15-2012	Amend	9-1-2012
123-042-0026	1-1-2012	Amend	2-1-2012	123-674-1500	8-15-2012	Amend	9-1-2012
123-042-0045	1-1-2012	Amend	2-1-2012	123-674-1700	8-15-2012	Amend	9-1-2012
123-043-0010	4-2-2012	Amend	5-1-2012	123-674-2100	8-15-2012	Amend	9-1-2012
123-043-0010(T)	4-2-2012	Repeal	5-1-2012	123-674-4100	8-15-2012	Amend	9-1-2012
123-043-0025	4-2-2012	Amend	5-1-2012	123-674-4200	8-15-2012	Amend	9-1-2012
123-043-0025(T)	4-2-2012	Repeal	5-1-2012	123-674-5300	8-15-2012	Amend	9-1-2012
123-043-0115	4-2-2012	Amend	5-1-2012	123-674-7200	8-15-2012	Amend	9-1-2012
123-043-0115(T)	4-2-2012	Repeal	5-1-2012	123-674-7210	8-15-2012	Amend	9-1-2012
123-091-0001	4-2-2012	Adopt	5-1-2012	123-674-7220	8-15-2012	Amend	9-1-2012
123-091-0010	4-2-2012	Adopt	5-1-2012	123-674-7230	8-15-2012	Amend	9-1-2012
123-091-0015	4-2-2012	Adopt	5-1-2012	123-674-7240	8-15-2012	Amend	9-1-2012
123-091-0020	4-2-2012	Adopt	5-1-2012	123-674-7250	8-15-2012	Amend	9-1-2012
123-091-0025	4-2-2012	Adopt	5-1-2012	123-674-8100	8-15-2012	Amend	9-1-2012
123-091-0030	4-2-2012	Adopt	5-1-2012	123-680-1600	8-15-2012	Amend	9-1-2012
123-475-0012	1-1-2012	Amend	2-1-2012	125-156-0000	8-1-2012	Adopt	9-1-2012
123-475-0015	7-1-2012	Amend	8-1-2012	125-246-0100	1-1-2012	Amend	2-1-2012
123-475-0025	1-1-2012	Amend	2-1-2012	125-246-0300	1-1-2012	Amend	2-1-2012
123-475-0030	1-1-2012	Amend	2-1-2012	125-246-0570	1-1-2012	Amend	2-1-2012
123-600-0100	6-1-2012	Adopt	7-1-2012	125-247-0100	1-1-2012	Amend	2-1-2012
123-600-0105	6-1-2012	Adopt	7-1-2012	125-247-0310	1-1-2012	Amend	2-1-2012
123-600-0110	6-1-2012	Adopt	7-1-2012	125-247-0320	1-1-2012	Amend	2-1-2012
123-600-0120	6-1-2012	Adopt	7-1-2012	125-247-0400	1-1-2012	Amend	2-1-2012
123-600-0130	6-1-2012	Adopt	7-1-2012	125-247-0410	1-1-2012	Amend	2-1-2012
123-600-0135	6-1-2012	Adopt	7-1-2012	125-247-0420	1-1-2012	Amend	2-1-2012
123-600-0140	6-1-2012	Adopt	7-1-2012	125-247-0440	1-1-2012	Amend	2-1-2012

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137-003-0645	1-31-2012	Amend	2-1-2012	137-049-0860	1-1-2012	Amend	1-1-2012
137-003-0655	1-31-2012	Amend	2-1-2012	137-050-0745	7-2-2012	Amend	8-1-2012
137-003-0665	1-31-2012	Amend	2-1-2012	137-050-0750	1-3-2012	Amend	2-1-2012
137-003-0670	1-31-2012	Amend	2-1-2012	137-055-1100	1-3-2012	Amend	2-1-2012
137-003-0672	1-31-2012	Amend	2-1-2012	137-055-1140	12-5-2011	Amend(T)	1-1-2012
137-003-0690	1-31-2012	Amend	2-1-2012	137-055-1140	1-3-2012	Amend	2-1-2012
137-008-0010	7-1-2012	Amend	8-1-2012	137-055-1145	12-5-2011	Suspend	1-1-2012
137-020-0800	1-27-2012	Adopt(T)	3-1-2012	137-055-1145	1-3-2012	Repeal	2-1-2012
137-020-0800	7-24-2012	Adopt	9-1-2012	137-055-1160	1-3-2012	Amend	2-1-2012
137-020-0800(T)	2-15-2012	Suspend	3-1-2012	137-055-1800	1-3-2012	Amend	2-1-2012
137-020-0800(T)	7-24-2012	Repeal	9-1-2012	137-055-2100	1-3-2012	Adopt	2-1-2012
137-020-0805	2-15-2012	Adopt(T)	3-1-2012	137-055-2160	1-3-2012	Amend	2-1-2012
137-020-0805	7-24-2012	Adopt	9-1-2012	137-055-3220	1-3-2012	Amend	2-1-2012
137-020-0805(T)	7-24-2012	Repeal	9-1-2012	137-055-3300	5-24-2012	Amend(T)	7-1-2012
137-045-0030	1-1-2012	Amend	1-1-2012	137-055-3430	1-3-2012	Amend	2-1-2012
137-045-0090	1-1-2012	Amend	1-1-2012	137-055-3430	5-24-2012	Amend(T)	7-1-2012
137-046-0110	1-1-2012	Amend	1-1-2012	137-055-3640	1-3-2012	Amend	2-1-2012
137-046-0252	8-1-2012	Adopt	8-1-2012	137-055-4130	1-3-2012	Amend	2-1-2012
137-046-0300	1-1-2012	Amend	1-1-2012	137-055-4440	1-3-2012	Amend	2-1-2012
137-046-0300	8-1-2012	Amend	8-1-2012	137-055-4520	1-3-2012	Amend	2-1-2012
137-046-0330	8-1-2012	Adopt	8-1-2012	137-055-5400	1-3-2012	Amend	2-1-2012
137-047-0257	1-1-2012	Amend	1-1-2012	137-055-5420	1-3-2012	Amend	2-1-2012
137-047-0260	1-1-2012	Amend	1-1-2012	137-055-6021	1-3-2012	Amend	2-1-2012
137-047-0261	1-1-2012	Amend	1-1-2012	137-055-6100	1-3-2012	Repeal	2-1-2012
137-047-0262	1-1-2012	Repeal	1-1-2012	137-055-6200	1-3-2012	Amend	2-1-2012
137-047-0263	1-1-2012	Repeal	1-1-2012	137-055-6220	1-3-2012	Amend	2-1-2012
137-047-0270	2-27-2012	Amend	4-1-2012	137-055-6240	1-3-2012	Amend	2-1-2012
137-047-0310	1-1-2012	Amend	1-1-2012	137-055-6260	1-3-2012	Amend	2-1-2012
137-047-0430	1-1-2012	Amend	1-1-2012	137-060-0130	2-2-2012	Amend	3-1-2012
137-047-0460	1-1-2012	Amend	1-1-2012	137-060-0150	2-2-2012	Amend	3-1-2012
137-047-0560	8-1-2012	Adopt	8-1-2012	137-060-0160	2-2-2012	Amend	3-1-2012
137-047-0600	1-1-2012	Amend	1-1-2012	137-060-0230	2-2-2012	Amend	3-1-2012
137-047-0620	1-1-2012	Amend	1-1-2012	137-060-0250	2-2-2012	Amend	3-1-2012
137-047-0640	8-1-2012	Amend	8-1-2012	137-060-0330	2-2-2012	Amend	3-1-2012
137-047-0670	8-1-2012	Amend	8-1-2012	137-060-0350	2-2-2012	Amend	3-1-2012
137-047-0800	1-1-2012	Amend	1-1-2012	137-060-0360	2-2-2012	Amend	3-1-2012
137-047-0800	8-1-2012	Amend	8-1-2012	137-060-0430	2-2-2012	Amend	3-1-2012
137-048-0100	1-1-2012	Amend	1-1-2012	137-060-0450	2-2-2012	Amend	3-1-2012
137-048-0110	1-1-2012	Amend	1-1-2012	137-087-0000	8-1-2012	Amend	9-1-2012
137-048-0120	1-1-2012	Amend	1-1-2012	137-087-0005	8-1-2012	Amend	9-1-2012
137-048-0130	1-1-2012	Amend	1-1-2012	137-087-0015	8-1-2012	Amend	9-1-2012
137-048-0130	8-1-2012	Amend	8-1-2012	137-087-0020	8-1-2012	Amend	9-1-2012
137-048-0200	1-1-2012	Amend	1-1-2012	137-087-0025	8-1-2012	Amend	9-1-2012
137-048-0210	1-1-2012	Amend	1-1-2012	137-087-0030	8-1-2012	Amend	9-1-2012
137-048-0220	1-1-2012	Amend	1-1-2012	137-087-0050	8-1-2012	Amend	9-1-2012
137-048-0220	8-1-2012	Amend	8-1-2012	137-087-0060	8-1-2012	Amend	9-1-2012
137-048-0230	1-1-2012	Amend	1-1-2012	137-087-0065	8-1-2012	Amend	9-1-2012
137-048-0240	1-1-2012	Amend	1-1-2012	137-087-0070	8-1-2012	Amend	9-1-2012
137-048-0250	1-1-2012	Amend	1-1-2012	137-087-0080	8-1-2012	Amend	9-1-2012
137-048-0260	1-1-2012	Amend	1-1-2012	137-087-0085	8-1-2012	Amend	9-1-2012
137-048-0270	1-1-2012	Adopt	1-1-2012	137-087-0090	8-1-2012	Amend	9-1-2012
137-048-0300	1-1-2012	Amend	1-1-2012	137-087-0095	8-1-2012	Amend	9-1-2012
137-048-0310	1-1-2012	Amend	1-1-2012	137-110-0001	7-11-2012	Adopt(T)	8-1-2012
137-048-0320	1-1-2012	Amend	1-1-2012	137-110-0005	7-11-2012	Adopt(T)	8-1-2012
137-049-0380	1-1-2012	Amend	1-1-2012	137-110-0010	7-11-2012	Adopt(T)	8-1-2012

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137-110-0110	7-11-2012	Adopt(T)	8-1-2012	150-118.260(6)	8-1-2012	Amend	9-1-2012
137-110-0200	7-11-2012	Adopt(T)	8-1-2012	150-118.265	8-1-2012	Adopt	9-1-2012
137-110-0210	7-11-2012	Adopt(T)	8-1-2012	150-118.300	8-1-2012	Amend	9-1-2012
137-110-0410	7-11-2012	Adopt(T)	8-1-2012	150-137.300(3)	8-1-2012	Am. & Ren.	9-1-2012
137-110-0420	7-11-2012	Adopt(T)	8-1-2012	150-137.302(7)	8-1-2012	Repeal	9-1-2012
137-110-0430	7-11-2012	Adopt(T)	8-1-2012	150-18.385	1-1-2012	Amend	2-1-2012
137-110-0500	7-11-2012	Adopt(T)	8-1-2012	150-18.385(A)	1-1-2012	Amend	2-1-2012
137-110-0510	7-11-2012	Adopt(T)	8-1-2012	150-267.380(2)	1-1-2012	Amend	2-1-2012
137-110-0520	7-11-2012	Adopt(T)	8-1-2012	150-294.060(7)	8-1-2012	Am. & Ren.	9-1-2012
137-110-0600	7-11-2012	Adopt(T)	8-1-2012	150-294.326(3)	8-1-2012	Am. & Ren.	9-1-2012
137-110-0610	7-11-2012	Adopt(T)	8-1-2012	150-294.336	8-1-2012	Renumber	9-1-2012
137-110-0620	7-11-2012	Adopt(T)	8-1-2012	150-294.352	8-1-2012	Am. & Ren.	9-1-2012
137-110-0630	7-11-2012	Adopt(T)	8-1-2012	150-294.352(1)-(A)	8-1-2012	Am. & Ren.	9-1-2012
137-110-0640	7-11-2012	Adopt(T)	8-1-2012	150-294.352(8)	8-1-2012	Am. & Ren.	9-1-2012
137-110-0650	7-11-2012	Adopt(T)	8-1-2012	150-294.371	8-1-2012	Am. & Ren.	9-1-2012
137-110-0660	7-11-2012	Adopt(T)	8-1-2012	150-294.376	8-1-2012	Renumber	9-1-2012
137-110-0670	7-11-2012	Adopt(T)	8-1-2012	150-294.381(2)	8-1-2012	Am. & Ren.	9-1-2012
137-120-0010	7-11-2012	Adopt(T)	8-1-2012	150-294.401(7)	8-1-2012	Renumber	9-1-2012
137-120-0020	7-11-2012	Adopt(T)	8-1-2012	150-294.416	8-1-2012	Am. & Ren.	9-1-2012
141-093-0107	4-1-2012	Amend	4-1-2012	150-294.430(1)	8-1-2012	Renumber	9-1-2012
141-093-0115	4-1-2012	Amend	4-1-2012	150-294.435(1)-(A)	1-1-2012	Amend	2-1-2012
141-093-0135	4-1-2012	Amend	4-1-2012	150-294.435(1)-(A)	8-1-2012	Am. & Ren.	9-1-2012
141-093-0180	4-1-2012	Adopt	4-1-2012	150-294.435(1)-(C)	1-1-2012	Amend	2-1-2012
141-093-0185	4-1-2012	Adopt	4-1-2012	150-294.435(1)-(C)	8-1-2012	Am. & Ren.	9-1-2012
141-093-0187	4-1-2012	Adopt	4-1-2012	150-294.435(3)	8-1-2012	Am. & Ren.	9-1-2012
141-093-0190	4-1-2012	Adopt	4-1-2012	150-294.450(3)	8-1-2012	Renumber	9-1-2012
141-093-0195	4-1-2012	Adopt	4-1-2012	150-294.480	1-1-2012	Amend	2-1-2012
141-093-0200	4-1-2012	Adopt	4-1-2012	150-294.480	8-1-2012	Am. & Ren.	9-1-2012
141-093-0205	4-1-2012	Adopt	4-1-2012	150-294.525	8-1-2012	Am. & Ren.	9-1-2012
141-093-0215	4-1-2012	Adopt	4-1-2012	150-294.525-(A)	1-1-2012	Amend	2-1-2012
141-093-0220	4-2-2012	Adopt(T)	5-1-2012	150-294.525-(A)	8-1-2012	Am. & Ren.	9-1-2012
141-093-0225	4-2-2012	Adopt(T)	5-1-2012	150-294.555(2)-(A)	8-1-2012	Am. & Ren.	9-1-2012
141-093-0230	4-2-2012	Adopt(T)	5-1-2012	150-294.555(2)-(B)	8-1-2012	Renumber	9-1-2012
141-093-0235	4-2-2012	Adopt(T)	5-1-2012	150-305.265(12)	8-1-2012	Repeal	9-1-2012
141-093-0240	4-2-2012	Adopt(T)	5-1-2012	150-305.810	2-1-2012	Amend(T)	3-1-2012
141-110-0080	12-13-2011	Amend	1-1-2012	150-305.810	8-1-2012	Amend	9-1-2012
150-118.005	8-1-2012	Adopt	9-1-2012	150-307.250(1)(c)	1-1-2012	Am. & Ren.	2-1-2012
150-118.010	8-1-2012	Adopt	9-1-2012	150-308.290(4)(b)	1-1-2012	Am. & Ren.	2-1-2012
150-118.010(1)	8-1-2012	Amend	9-1-2012	150-308.505(3)	2-1-2012	Adopt(T)	3-1-2012
150-118.010(2)	8-1-2012	Amend	9-1-2012	150-311.216	1-1-2012	Amend	2-1-2012
150-118.010(3)	8-1-2012	Amend	9-1-2012	150-314.280-(F)	1-1-2012	Amend	2-1-2012
150-118.010(4)(b)	8-1-2012	Amend	9-1-2012	150-314.360	1-1-2012	Amend	2-1-2012
150-118.010(7)	8-1-2012	Amend	9-1-2012	150-314.385(4)	8-1-2012	Amend	9-1-2012
150-118.010(8)	8-1-2012	Adopt	9-1-2012	150-314.415(7)	8-1-2012	Amend	9-1-2012
150-118.100(1)	8-1-2012	Amend	9-1-2012	150-314.HB2071(A)	1-1-2012	Adopt	2-1-2012
150-118.100(6)	8-1-2012	Adopt	9-1-2012	150-314.HB2071(A)	8-1-2012	Renumber	9-1-2012
150-118.140	8-1-2012	Amend	9-1-2012	150-314.HB2071(B)	1-1-2012	Adopt	2-1-2012
150-118.160	8-1-2012	Adopt	9-1-2012	150-314.HB2071(B)	8-1-2012	Renumber	9-1-2012
150-118.160-(B)	8-1-2012	Amend	9-1-2012	150-315.134	8-1-2012	Repeal	9-1-2012
150-118.171	8-1-2012	Amend	9-1-2012	150-315.311(1)	8-1-2012	Repeal	9-1-2012
150-118.225	8-1-2012	Amend	9-1-2012	150-315.311(2)	8-1-2012	Repeal	9-1-2012
150-118.250(1)	8-1-2012	Am. & Ren.	9-1-2012	150-315.311(6)	8-1-2012	Repeal	9-1-2012
150-118.260	8-1-2012	Adopt	9-1-2012	150-315.324(7)	8-1-2012	Repeal	9-1-2012
150-118.260(1)-(A)	8-1-2012	Repeal	9-1-2012	150-315.326	1-1-2012	Adopt	2-1-2012
150-118.260(1)-(B)	8-1-2012	Repeal	9-1-2012	150-315.354	1-1-2012	Repeal	2-1-2012

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150-315.514	8-1-2012	Amend	9-1-2012	161-500-0000	7-3-2012	Adopt	8-1-2012
150-315.HB 3672	11-29-2011	Adopt(T)	1-1-2012	161-510-0010	1-1-2012	Adopt(T)	2-1-2012
150-315.HB 3672(T)	11-29-2011	Suspend	1-1-2012	161-510-0010	7-3-2012	Adopt	8-1-2012
150-315.HB3672	1-1-2012	Suspend	2-1-2012	161-510-0010	8-3-2012	Amend(T)	9-1-2012
150-316.014	8-1-2012	Am. & Ren.	9-1-2012	161-510-0030	1-1-2012	Adopt(T)	2-1-2012
150-317.710(5)(b)	1-1-2012	Amend	2-1-2012	161-510-0030	7-3-2012	Adopt	8-1-2012
150-401.000 Note	8-1-2012	Repeal	9-1-2012	161-510-0030	8-3-2012	Suspend	9-1-2012
150.294.458(3)-(A)	8-1-2012	Am. & Ren.	9-1-2012	161-520-0005	7-3-2012	Adopt	8-1-2012
160-010-0030	3-1-2012	Adopt	4-1-2012	161-520-0010	1-1-2012	Adopt(T)	2-1-2012
160-010-0050	6-1-2012	Adopt	7-1-2012	161-520-0010	7-3-2012	Adopt	8-1-2012
160-010-0310	3-1-2012	Amend	4-1-2012	161-520-0020	1-1-2012	Adopt(T)	2-1-2012
160-010-0400	3-1-2012	Amend	4-1-2012	161-520-0020	7-3-2012	Adopt	8-1-2012
160-010-0450	3-1-2012	Adopt	4-1-2012	161-520-0030	1-1-2012	Adopt(T)	2-1-2012
160-050-0115	3-1-2012	Adopt	4-1-2012	161-520-0030	7-3-2012	Adopt	8-1-2012
160-050-0140	6-1-2012	Amend	7-1-2012	161-520-0030	8-3-2012	Amend(T)	9-1-2012
160-050-0200	3-1-2012	Amend	4-1-2012	161-520-0035	8-3-2012	Adopt(T)	9-1-2012
160-050-0210	3-1-2012	Amend	4-1-2012	161-520-0040	1-1-2012	Adopt(T)	2-1-2012
161-002-0000	11-17-2011	Amend	1-1-2012	161-520-0040	7-3-2012	Adopt	8-1-2012
161-002-0000	1-1-2012	Amend(T)	2-1-2012	161-520-0045	7-3-2012	Adopt	8-1-2012
161-002-0000	7-3-2012	Amend	8-1-2012	161-520-0050	7-3-2012	Adopt	8-1-2012
161-002-0000	8-3-2012	Amend(T)	9-1-2012	161-520-0055	7-3-2012	Adopt	8-1-2012
161-006-0000	11-17-2011	Amend	1-1-2012	161-520-0060	7-3-2012	Adopt	8-1-2012
161-006-0025	11-17-2011	Amend	1-1-2012	161-530-0010	1-1-2012	Adopt(T)	2-1-2012
161-006-0025	8-3-2012	Amend(T)	9-1-2012	161-530-0010	7-3-2012	Adopt	8-1-2012
161-006-0025(T)	11-17-2011	Repeal	1-1-2012	161-530-0010	8-3-2012	Amend(T)	9-1-2012
161-006-0160	11-17-2011	Amend	1-1-2012	161-530-0020	1-1-2012	Adopt(T)	2-1-2012
161-006-0175	11-17-2011	Amend	1-1-2012	161-530-0020	7-3-2012	Adopt	8-1-2012
161-008-0040	11-17-2011	Amend	1-1-2012	161-530-0030	1-1-2012	Adopt(T)	2-1-2012
161-010-0010	8-3-2012	Amend(T)	9-1-2012	161-530-0030	7-3-2012	Adopt	8-1-2012
161-010-0020	11-17-2011	Amend	1-1-2012	161-530-0040	1-1-2012	Adopt(T)	2-1-2012
161-010-0020	8-3-2012	Amend(T)	9-1-2012	161-530-0040	7-3-2012	Adopt	8-1-2012
161-010-0025	11-17-2011	Amend	1-1-2012	161-540-0010	1-1-2012	Adopt(T)	2-1-2012
161-010-0035	11-17-2011	Amend	1-1-2012	161-540-0010	7-3-2012	Adopt	8-1-2012
161-010-0045	11-17-2011	Amend	1-1-2012	161-550-0010	1-1-2012	Adopt(T)	2-1-2012
161-010-0065	8-3-2012	Adopt(T)	9-1-2012	161-550-0010	7-3-2012	Adopt	8-1-2012
161-010-0080	8-3-2012	Amend(T)	9-1-2012	161-550-0020	7-3-2012	Adopt	8-1-2012
161-010-0085	11-17-2011	Amend	1-1-2012	161-560-0010	1-1-2012	Adopt(T)	2-1-2012
161-015-0010	8-3-2012	Amend(T)	9-1-2012	161-560-0010	7-3-2012	Adopt	8-1-2012
161-015-0025	8-3-2012	Amend(T)	9-1-2012	161-560-0020	1-1-2012	Adopt(T)	2-1-2012
161-015-0030	8-3-2012	Amend(T)	9-1-2012	161-560-0020	7-3-2012	Adopt	8-1-2012
161-020-0005	8-3-2012	Amend(T)	9-1-2012	161-570-0010	1-1-2012	Adopt(T)	2-1-2012
161-020-0015	11-17-2011	Amend	1-1-2012	161-570-0010	7-3-2012	Adopt	8-1-2012
161-020-0025	8-3-2012	Amend(T)	9-1-2012	161-570-0015	7-3-2012	Adopt	8-1-2012
161-020-0045	11-17-2011	Amend	1-1-2012	161-570-0020	7-3-2012	Adopt	8-1-2012
161-020-0055	11-17-2011	Amend	1-1-2012	161-570-0030	7-3-2012	Adopt	8-1-2012
161-020-0110	8-3-2012	Amend(T)	9-1-2012	161-570-0045	7-3-2012	Adopt	8-1-2012
161-020-0140	11-17-2011	Amend	1-1-2012	161-570-0050	7-3-2012	Adopt	8-1-2012
161-020-0150	11-17-2011	Amend	1-1-2012	162-040-0001	4-1-2012	Amend	3-1-2012
161-025-0030	8-3-2012	Amend(T)	9-1-2012	162-040-0002	4-1-2012	Amend	3-1-2012
161-025-0060	11-17-2011	Amend	1-1-2012	162-040-0005	4-1-2012	Amend	3-1-2012
161-025-0060	1-1-2012	Amend(T)	2-1-2012	162-040-0010	4-1-2012	Amend	3-1-2012
161-025-0060	7-3-2012	Amend	8-1-2012	162-040-0015	4-1-2012	Repeal	3-1-2012
161-030-0000	1-1-2012	Amend	1-1-2012	162-040-0020	4-1-2012	Amend	3-1-2012
161-050-0000	8-3-2012	Amend(T)	9-1-2012	162-040-0050	4-1-2012	Amend	3-1-2012
161-050-0050	8-3-2012	Amend(T)	9-1-2012	162-040-0054	4-1-2012	Amend	3-1-2012

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162-040-0055	4-1-2012	Amend	3-1-2012	177-052-0040(T)	12-1-2011	Repeal	1-1-2012
162-040-0060	4-1-2012	Amend	3-1-2012	177-052-0050	12-1-2011	Adopt	1-1-2012
162-040-0065	4-1-2012	Amend	3-1-2012	177-052-0050(T)	12-1-2011	Repeal	1-1-2012
162-040-0070	4-1-2012	Amend	3-1-2012	177-052-0060	12-1-2011	Adopt	1-1-2012
162-040-0075	4-1-2012	Amend	3-1-2012	177-052-0060(T)	12-1-2011	Repeal	1-1-2012
162-040-0090	4-1-2012	Repeal	3-1-2012	177-052-0070	12-1-2011	Adopt	1-1-2012
162-040-0095	4-1-2012	Amend	3-1-2012	177-052-0070(T)	12-1-2011	Repeal	1-1-2012
162-040-0096	4-1-2012	Adopt	3-1-2012	177-085-0000	1-15-2012	Amend	2-1-2012
162-040-0110	4-1-2012	Repeal	3-1-2012	177-085-0005	1-15-2012	Amend	2-1-2012
162-040-0115	4-1-2012	Repeal	3-1-2012	177-085-0010	1-15-2012	Amend	2-1-2012
162-040-0120	4-1-2012	Repeal	3-1-2012	177-085-0015	1-15-2012	Amend	2-1-2012
162-040-0125	4-1-2012	Repeal	3-1-2012	177-085-0020	1-15-2012	Amend	2-1-2012
162-040-0130	4-1-2012	Repeal	3-1-2012	177-085-0025	1-15-2012	Amend	2-1-2012
162-040-0135	4-1-2012	Repeal	3-1-2012	177-085-0025	1-15-2012	Amend(T)	2-1-2012
162-040-0136	4-1-2012	Repeal	3-1-2012	177-085-0025	5-1-2012	Amend	6-1-2012
162-040-0140	4-1-2012	Repeal	3-1-2012	177-085-0025(T)	5-1-2012	Repeal	6-1-2012
162-040-0146	4-1-2012	Repeal	3-1-2012	177-085-0030	1-15-2012	Amend	2-1-2012
162-040-0148	4-1-2012	Repeal	3-1-2012	177-085-0035	1-15-2012	Amend	2-1-2012
162-040-0155	4-1-2012	Amend	3-1-2012	177-085-0065	1-15-2012	Amend	2-1-2012
165-001-0015	1-3-2012	Amend	2-1-2012	177-085-0065	1-15-2012	Amend(T)	2-1-2012
165-001-0016	1-3-2012	Amend	2-1-2012	177-085-0065	5-1-2012	Amend	6-1-2012
165-001-0025	1-3-2012	Amend	2-1-2012	177-085-0065(T)	5-1-2012	Repeal	6-1-2012
165-001-0034	1-3-2012	Amend	2-1-2012	177-094-0080	6-29-2012	Amend(T)	8-1-2012
165-007-0030	4-24-2012	Amend	6-1-2012	177-094-0085	6-29-2012	Amend(T)	8-1-2012
165-007-0300	1-3-2012	Amend	2-1-2012	177-098-0110	1-9-2012	Amend(T)	2-1-2012
165-007-0320	1-3-2012	Repeal	2-1-2012	177-098-0110	5-1-2012	Amend	6-1-2012
165-010-0005	1-3-2012	Amend	2-1-2012	177-098-0110(T)	5-1-2012	Repeal	6-1-2012
165-010-0060	1-3-2012	Amend	2-1-2012	177-200-0020	12-1-2011	Amend	1-1-2012
165-010-0085	1-3-2012	Repeal	2-1-2012	177-200-0020(T)	12-1-2011	Repeal	1-1-2012
165-012-0005	1-3-2012	Amend	2-1-2012	177-200-0032	12-1-2011	Amend	1-1-2012
165-012-0060	1-3-2012	Repeal	2-1-2012	177-200-0032(T)	12-1-2011	Repeal	1-1-2012
165-012-0240	1-3-2012	Amend	2-1-2012	213-001-0000	4-27-2012	Amend(T)	6-1-2012
165-013-0010	1-3-2012	Amend	2-1-2012	213-003-0001	1-1-2012	Amend(T)	2-1-2012
165-013-0020	1-3-2012	Amend	2-1-2012	213-003-0001	4-27-2012	Amend	6-1-2012
165-014-0005	1-3-2012	Amend	2-1-2012	213-003-0001(T)	1-1-2012	Suspend	2-1-2012
165-014-0270	1-3-2012	Amend	2-1-2012	213-003-0001(T)	4-27-2012	Repeal	6-1-2012
165-016-0040	6-21-2012	Amend	8-1-2012	213-004-0001	4-27-2012	Amend	6-1-2012
165-016-0045	6-21-2012	Amend	8-1-2012	213-005-0001	4-27-2012	Amend	6-1-2012
165-016-0050	6-21-2012	Amend	8-1-2012	213-005-0011	4-27-2012	Amend	6-1-2012
165-016-0055	6-21-2012	Amend	8-1-2012	213-005-0013	4-27-2012	Amend	6-1-2012
165-016-0070	6-21-2012	Amend	8-1-2012	213-017-0006	1-1-2012	Amend(T)	2-1-2012
165-016-0080	6-21-2012	Amend	8-1-2012	213-017-0006	4-27-2012	Amend	6-1-2012
165-016-0100	6-21-2012	Adopt	8-1-2012	213-017-0006(T)	1-1-2012	Suspend	2-1-2012
165-016-0105	6-21-2012	Adopt	8-1-2012	213-017-0006(T)	4-27-2012	Repeal	6-1-2012
165-020-0005	1-3-2012	Repeal	2-1-2012	213-017-0007	1-27-2012	Amend(T)	3-1-2012
166-500-0030	5-1-2012	Amend(T)	6-1-2012	213-017-0007	4-27-2012	Amend	6-1-2012
170-061-0015	1-26-2012	Amend(T)	3-1-2012	213-017-0007(T)	4-27-2012	Repeal	6-1-2012
177-052-0000	12-1-2011	Adopt	1-1-2012	213-017-0008	4-27-2012	Amend	6-1-2012
177-052-0000(T)	12-1-2011	Repeal	1-1-2012	213-017-0008(T)	4-27-2012	Repeal	6-1-2012
177-052-0010	12-1-2011	Adopt	1-1-2012	213-018-0037	4-27-2012	Adopt	6-1-2012
177-052-0010(T)	12-1-2011	Repeal	1-1-2012	230-020-0300	7-12-2012	Amend(T)	8-1-2012
177-052-0020	12-1-2011	Adopt	1-1-2012	250-010-0150	4-20-2012	Amend	6-1-2012
177-052-0020(T)	12-1-2011	Repeal	1-1-2012	250-010-0440	12-22-2011	Amend(T)	2-1-2012
177-052-0030	12-1-2011	Adopt	1-1-2012	250-010-0440	4-20-2012	Amend	6-1-2012
177-052-0030(T)	12-1-2011	Repeal	1-1-2012	250-010-0440(T)	4-20-2012	Repeal	6-1-2012
177-052-0040	12-1-2011	Adopt	1-1-2012	250-010-0650	2-1-2012	Amend	2-1-2012

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250-010-0650	3-14-2012	Amend	4-1-2012	257-080-0040	7-12-2012	Amend(T)	8-1-2012
250-010-0650(T)	2-1-2012	Repeal	2-1-2012	257-080-0040(T)	7-12-2012	Suspend	8-1-2012
250-010-0660	2-1-2012	Adopt	2-1-2012	257-080-0045	5-9-2012	Suspend	6-1-2012
250-010-0660(T)	2-1-2012	Repeal	2-1-2012	257-080-0045	7-12-2012	Amend(T)	8-1-2012
250-014-0001	5-1-2012	Amend	6-1-2012	257-080-0045(T)	7-12-2012	Suspend	8-1-2012
250-014-0004	5-1-2012	Amend	6-1-2012	257-080-0050	7-12-2012	Adopt(T)	8-1-2012
250-017-0000	2-1-2012	Amend	2-1-2012	257-080-0055	7-12-2012	Adopt(T)	8-1-2012
250-017-0010	2-1-2012	Amend	2-1-2012	259-001-0015	3-7-2012	Amend	4-1-2012
250-017-0020	2-1-2012	Amend	2-1-2012	259-003-0015	3-7-2012	Amend	4-1-2012
250-017-0030	2-1-2012	Amend	2-1-2012	259-005-0015	3-7-2012	Amend	4-1-2012
250-017-0040	2-1-2012	Amend	2-1-2012	259-008-0005	3-27-2012	Amend	5-1-2012
250-020-0221	4-2-2012	Amend(T)	5-1-2012	259-008-0011	3-26-2012	Amend	5-1-2012
250-020-0221	5-1-2012	Amend	6-1-2012	259-008-0025	5-8-2012	Amend(T)	6-1-2012
250-020-0280	12-1-2011	Amend(T)	1-1-2012	259-008-0060	12-23-2011	Amend	2-1-2012
250-020-0280	1-1-2012	Amend(T)	2-1-2012	259-008-0066	3-29-2012	Amend	5-1-2012
250-020-0280	4-20-2012	Amend	6-1-2012	259-008-0068	5-1-2012	Repeal	6-1-2012
250-020-0280(T)	1-1-2012	Suspend	2-1-2012	259-008-0069	11-28-2011	Amend(T)	1-1-2012
250-020-0280(T)	4-20-2012	Repeal	6-1-2012	259-008-0069	2-29-2012	Adopt	4-1-2012
250-025-0010	8-1-2012	Repeal	9-1-2012	259-008-0069(T)	2-29-2012	Repeal	4-1-2012
250-025-0020	8-1-2012	Repeal	9-1-2012	259-008-0070	4-24-2012	Amend	6-1-2012
250-030-0030	5-1-2012	Amend	6-1-2012	259-008-0100	4-9-2012	Amend	5-1-2012
255-030-0013	6-28-2012	Amend(T)	8-1-2012	259-009-0062	3-28-2012	Amend	5-1-2012
255-032-0005	3-13-2012	Amend	4-1-2012	259-020-0005	6-28-2012	Amend	8-1-2012
255-032-0011	3-13-2012	Repeal	4-1-2012	259-020-0010	6-28-2012	Amend	8-1-2012
255-032-0022	6-28-2012	Amend(T)	8-1-2012	259-020-0015	12-30-2011	Amend	2-1-2012
255-032-0035	11-30-2011	Amend	1-1-2012	259-020-0015	2-24-2012	Amend(T)	4-1-2012
255-032-0037	11-30-2011	Adopt	1-1-2012	259-020-0015	6-28-2012	Amend	8-1-2012
255-032-0037	3-13-2012	Amend	4-1-2012	259-060-0015	4-2-2012	Amend	5-1-2012
255-075-0025	6-28-2012	Amend(T)	8-1-2012	259-061-0018	2-6-2012	Adopt(T)	3-1-2012
257-010-0060	12-15-2011	Adopt(T)	1-1-2012	259-061-0018	7-2-2012	Amend	8-1-2012
257-010-0060	5-22-2012	Adopt	7-1-2012	259-061-0018(T)	7-2-2012	Repeal	8-1-2012
257-080-0000	5-9-2012	Suspend	6-1-2012	259-070-0010	12-28-2011	Amend	2-1-2012
257-080-0000	7-12-2012	Amend(T)	8-1-2012	259-070-0020	7-1-2012	Amend	8-1-2012
257-080-0000(T)	7-12-2012	Suspend	8-1-2012	274-015-0010	2-22-2012	Amend	4-1-2012
257-080-0005	5-9-2012	Suspend	6-1-2012	274-015-0020	2-22-2012	Adopt	4-1-2012
257-080-0005	7-12-2012	Amend(T)	8-1-2012	274-020-0440	6-25-2012	Amend	8-1-2012
257-080-0005(T)	7-12-2012	Suspend	8-1-2012	274-045-0220	6-25-2012	Amend	8-1-2012
257-080-0010	5-9-2012	Suspend	6-1-2012	291-024-0081	11-17-2011	Adopt(T)	1-1-2012
257-080-0010	7-12-2012	Amend(T)	8-1-2012	291-031-0025	1-27-2012	Amend	3-1-2012
257-080-0010(T)	7-12-2012	Suspend	8-1-2012	291-031-0300	6-19-2012	Adopt	8-1-2012
257-080-0015	5-9-2012	Suspend	6-1-2012	291-031-0310	6-19-2012	Adopt	8-1-2012
257-080-0015	7-12-2012	Amend(T)	8-1-2012	291-031-0320	6-19-2012	Adopt	8-1-2012
257-080-0015(T)	7-12-2012	Suspend	8-1-2012	291-031-0330	6-19-2012	Adopt	8-1-2012
257-080-0020	5-9-2012	Suspend	6-1-2012	291-031-0340	6-19-2012	Adopt	8-1-2012
257-080-0020	7-12-2012	Amend(T)	8-1-2012	291-031-0350	6-19-2012	Adopt	8-1-2012
257-080-0020(T)	7-12-2012	Suspend	8-1-2012	291-031-0360	6-19-2012	Adopt	8-1-2012
257-080-0025	5-9-2012	Suspend	6-1-2012	291-062-0110	3-1-2012	Amend	4-1-2012
257-080-0025	7-12-2012	Amend(T)	8-1-2012	291-062-0140	3-1-2012	Amend	4-1-2012
257-080-0025(T)	7-12-2012	Suspend	8-1-2012	291-082-0105	3-1-2012	Amend	4-1-2012
257-080-0030	5-9-2012	Suspend	6-1-2012	291-082-0110	3-1-2012	Amend	4-1-2012
257-080-0030	7-12-2012	Amend(T)	8-1-2012	291-105-0005	12-7-2011	Amend	1-1-2012
257-080-0030(T)	7-12-2012	Suspend	8-1-2012	291-105-0010	12-7-2011	Amend	1-1-2012
257-080-0035	5-9-2012	Suspend	6-1-2012	291-105-0013	12-7-2011	Amend	1-1-2012
257-080-0035	7-12-2012	Amend(T)	8-1-2012	291-105-0015	12-7-2011	Amend	1-1-2012
257-080-0025(T)	7-12-2012	Suspend	8-1-2012	291-105-0021	12-7-2011	Amend	1-1-2012
257-080-0035(T)	7-12-2012	Suspend	8-1-2012	291-105-0026	12-7-2011	Amend	1-1-2012
257-080-0040	5-9-2012	Suspend	6-1-2012				

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291-105-0031	12-7-2011	Amend	1-1-2012	291-180-0565	12-7-2011	Repeal	1-1-2012
291-105-0036	12-7-2011	Amend	1-1-2012	291-180-0575	12-7-2011	Repeal	1-1-2012
291-105-0041	12-7-2011	Amend	1-1-2012	291-180-0585	12-7-2011	Repeal	1-1-2012
291-105-0046	12-7-2011	Amend	1-1-2012	291-180-0595	12-7-2011	Repeal	1-1-2012
291-105-0066	12-7-2011	Amend	1-1-2012	291-180-0605	12-7-2011	Repeal	1-1-2012
291-105-0069	12-7-2011	Amend	1-1-2012	291-180-0615	12-7-2011	Repeal	1-1-2012
291-105-0081	12-7-2011	Amend	1-1-2012	291-180-0625	12-7-2011	Repeal	1-1-2012
291-105-0100	12-7-2011	Amend	1-1-2012	291-180-0635	12-7-2011	Repeal	1-1-2012
291-127-0320	6-19-2012	Amend	8-1-2012	291-180-0645	12-7-2011	Repeal	1-1-2012
291-180-0115	12-7-2011	Repeal	1-1-2012	291-180-0655	12-7-2011	Repeal	1-1-2012
291-180-0125	12-7-2011	Repeal	1-1-2012	291-180-0665	12-7-2011	Repeal	1-1-2012
291-180-0135	12-7-2011	Repeal	1-1-2012	291-208-0010	1-27-2012	Adopt	3-1-2012
291-180-0145	12-7-2011	Repeal	1-1-2012	291-208-0020	1-27-2012	Adopt	3-1-2012
291-180-0155	12-7-2011	Repeal	1-1-2012	291-208-0030	1-27-2012	Adopt	3-1-2012
291-180-0165	12-7-2011	Repeal	1-1-2012	291-208-0040	1-27-2012	Adopt	3-1-2012
291-180-0175	12-7-2011	Repeal	1-1-2012	291-208-0050	1-27-2012	Adopt	3-1-2012
291-180-0185	12-7-2011	Repeal	1-1-2012	309-014-0300	2-23-2012	Adopt	4-1-2012
291-180-0195	12-7-2011	Repeal	1-1-2012	309-014-0300(T)	2-23-2012	Repeal	4-1-2012
291-180-0205	12-7-2011	Repeal	1-1-2012	309-014-0310	2-23-2012	Adopt	4-1-2012
291-180-0215	12-7-2011	Repeal	1-1-2012	309-014-0310(T)	2-23-2012	Repeal	4-1-2012
291-180-0225	12-7-2011	Repeal	1-1-2012	309-014-0320	2-23-2012	Adopt	4-1-2012
291-180-0235	12-7-2011	Repeal	1-1-2012	309-014-0320(T)	2-23-2012	Repeal	4-1-2012
291-180-0245	12-7-2011	Repeal	1-1-2012	309-014-0330	2-23-2012	Adopt	4-1-2012
291-180-0252	12-7-2011	Adopt	1-1-2012	309-014-0330(T)	2-23-2012	Repeal	4-1-2012
291-180-0255	12-7-2011	Repeal	1-1-2012	309-014-0340	2-23-2012	Adopt	4-1-2012
291-180-0262	12-7-2011	Adopt	1-1-2012	309-014-0340(T)	2-23-2012	Repeal	4-1-2012
291-180-0275	1-10-2012	Amend(T)	2-1-2012	309-016-0600	1-1-2012	Amend(T)	2-1-2012
291-180-0275	5-24-2012	Amend	7-1-2012	309-016-0600	6-19-2012	Amend	8-1-2012
291-180-0285	12-7-2011	Repeal	1-1-2012	309-016-0600	7-1-2012	Amend(T)	8-1-2012
291-180-0295	12-7-2011	Repeal	1-1-2012	309-016-0600(T)	6-19-2012	Repeal	8-1-2012
291-180-0305	12-7-2011	Repeal	1-1-2012	309-016-0605	1-1-2012	Amend(T)	2-1-2012
291-180-0315	12-7-2011	Repeal	1-1-2012	309-016-0605	5-17-2012	Amend(T)	7-1-2012
291-180-0325	12-7-2011	Repeal	1-1-2012	309-016-0605	6-19-2012	Amend	8-1-2012
291-180-0335	12-7-2011	Repeal	1-1-2012	309-016-0605	7-1-2012	Amend(T)	8-1-2012
291-180-0345	12-7-2011	Repeal	1-1-2012	309-016-0605(T)	6-19-2012	Repeal	8-1-2012
291-180-0355	12-7-2011	Repeal	1-1-2012	309-016-0610	1-1-2012	Amend(T)	2-1-2012
291-180-0365	12-7-2011	Repeal	1-1-2012	309-016-0610(T)	6-19-2012	Repeal	8-1-2012
291-180-0375	12-7-2011	Repeal	1-1-2012	309-016-0630	1-1-2012	Amend(T)	2-1-2012
291-180-0385	12-7-2011	Repeal	1-1-2012	309-016-0630	5-17-2012	Amend(T)	7-1-2012
291-180-0395	12-7-2011	Repeal	1-1-2012	309-016-0630	6-19-2012	Amend	8-1-2012
291-180-0405	12-7-2011	Repeal	1-1-2012	309-016-0630(T)	6-19-2012	Repeal	8-1-2012
291-180-0415	12-7-2011	Repeal	1-1-2012	309-016-0675	1-1-2012	Amend(T)	2-1-2012
291-180-0425	12-7-2011	Repeal	1-1-2012	309-016-0675	5-17-2012	Amend(T)	7-1-2012
291-180-0435	12-7-2011	Repeal	1-1-2012	309-016-0675	6-19-2012	Amend	8-1-2012
291-180-0445	12-7-2011	Repeal	1-1-2012	309-016-0675(T)	6-19-2012	Repeal	8-1-2012
291-180-0455	12-7-2011	Repeal	1-1-2012	309-016-0680	5-17-2012	Amend(T)	7-1-2012
291-180-0465	12-7-2011	Repeal	1-1-2012	309-016-0685	1-1-2012	Amend(T)	2-1-2012
291-180-0475	12-7-2011	Repeal	1-1-2012	309-016-0685	6-19-2012	Amend	8-1-2012
291-180-0485	12-7-2011	Repeal	1-1-2012	309-016-0685(T)	6-19-2012	Repeal	8-1-2012
291-180-0495	12-7-2011	Repeal	1-1-2012	309-016-0726	5-17-2012	Adopt(T)	7-1-2012
291-180-0505	12-7-2011	Repeal	1-1-2012	309-016-0727	5-17-2012	Adopt(T)	7-1-2012
291-180-0515	12-7-2011	Repeal	1-1-2012	309-016-0728	5-17-2012	Adopt(T)	7-1-2012
291-180-0525	12-7-2011	Repeal	1-1-2012	309-016-0729	5-17-2012	Adopt(T)	7-1-2012
291-180-0535	12-7-2011	Repeal	1-1-2012	309-016-0745	1-1-2012	Amend(T)	2-1-2012
291-180-0545	12-7-2011	Repeal	1-1-2012	309-016-0745	6-19-2012	Amend	8-1-2012

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309-016-0745(T)	6-19-2012	Repeal	8-1-2012	309-032-1500(T)	6-15-2012	Repeal	7-1-2012
309-016-0750	1-1-2012	Amend(T)	2-1-2012	309-032-1505	1-1-2012	Amend(T)	2-1-2012
309-016-0750	6-19-2012	Amend	8-1-2012	309-032-1505	6-15-2012	Amend	7-1-2012
309-016-0750(T).	6-19-2012	Repeal	8-1-2012	309-032-1505(T)	6-15-2012	Repeal	7-1-2012
309-016-0760	7-1-2012	Adopt(T)	8-1-2012	309-032-1510	1-1-2012	Amend(T)	2-1-2012
309-016-0765	7-1-2012	Adopt(T)	8-1-2012	309-032-1510	6-15-2012	Amend	7-1-2012
309-016-0770	7-1-2012	Adopt(T)	8-1-2012	309-032-1510(T)	6-15-2012	Repeal	7-1-2012
309-016-0775	7-1-2012	Adopt(T)	8-1-2012	309-032-1515	1-1-2012	Amend(T)	2-1-2012
309-016-0780	7-1-2012	Adopt(T)	8-1-2012	309-032-1515	6-15-2012	Amend	7-1-2012
309-016-0800	7-1-2012	Adopt(T)	8-1-2012	309-032-1515(T)	6-15-2012	Repeal	7-1-2012
309-016-0805	7-1-2012	Adopt(T)	8-1-2012	309-032-1520	1-1-2012	Amend(T)	2-1-2012
309-016-0810	7-1-2012	Adopt(T)	8-1-2012	309-032-1520	6-15-2012	Amend	7-1-2012
309-016-0815	7-1-2012	Adopt(T)	8-1-2012	309-032-1520(T)	6-15-2012	Repeal	7-1-2012
309-016-0820	7-1-2012	Adopt(T)	8-1-2012	309-032-1525	1-1-2012	Amend(T)	2-1-2012
309-031-0200	1-1-2012	Suspend	2-1-2012	309-032-1525	6-15-2012	Amend	7-1-2012
309-031-0200	6-25-2012	Repeal	8-1-2012	309-032-1525(T)	6-15-2012	Repeal	7-1-2012
309-031-0205	1-1-2012	Suspend	2-1-2012	309-032-1530	1-1-2012	Amend(T)	2-1-2012
309-031-0205	6-25-2012	Repeal	8-1-2012	309-032-1530	6-15-2012	Amend	7-1-2012
309-031-0210	1-1-2012	Suspend	2-1-2012	309-032-1530(T)	6-15-2012	Repeal	7-1-2012
309-031-0210	6-25-2012	Repeal	8-1-2012	309-032-1535	1-1-2012	Amend(T)	2-1-2012
309-031-0215	1-1-2012	Suspend	2-1-2012	309-032-1535	6-15-2012	Amend	7-1-2012
309-031-0215	6-25-2012	Repeal	8-1-2012	309-032-1535(T)	6-15-2012	Repeal	7-1-2012
309-031-0220	1-1-2012	Suspend	2-1-2012	309-032-1540	1-1-2012	Amend(T)	2-1-2012
309-031-0220	6-25-2012	Repeal	8-1-2012	309-032-1540	6-15-2012	Amend	7-1-2012
309-031-0250	1-1-2012	Suspend	2-1-2012	309-032-1540(T)	6-15-2012	Repeal	7-1-2012
309-031-0250	6-25-2012	Repeal	8-1-2012	309-032-1545	1-1-2012	Amend(T)	2-1-2012
309-031-0255	1-1-2012	Suspend	2-1-2012	309-032-1545	6-15-2012	Amend	7-1-2012
309-031-0255	6-25-2012	Repeal	8-1-2012	309-032-1545(T)	6-15-2012	Repeal	7-1-2012
309-032-0175	11-22-2011	Suspend	1-1-2012	309-032-1550	1-1-2012	Amend(T)	2-1-2012
309-032-0180	11-22-2011	Suspend	1-1-2012	309-032-1550	6-15-2012	Amend	7-1-2012
309-032-0185	11-22-2011	Suspend	1-1-2012	309-032-1550(T)	6-15-2012	Repeal	7-1-2012
309-032-0190	11-22-2011	Suspend	1-1-2012	309-032-1555	1-1-2012	Amend(T)	2-1-2012
309-032-0195	11-22-2011	Suspend	1-1-2012	309-032-1555	6-15-2012	Amend	7-1-2012
309-032-0200	11-22-2011	Suspend	1-1-2012	309-032-1555(T)	6-15-2012	Repeal	7-1-2012
309-032-0205	11-22-2011	Suspend	1-1-2012	309-032-1560	1-1-2012	Amend(T)	2-1-2012
309-032-0210	11-22-2011	Suspend	1-1-2012	309-032-1560	6-15-2012	Amend	7-1-2012
309-032-0301	11-22-2011	Adopt(T)	1-1-2012	309-032-1560(T)	6-15-2012	Repeal	7-1-2012
309-032-0301	2-9-2012	Adopt	3-1-2012	309-032-1565	1-1-2012	Amend(T)	2-1-2012
309-032-0301(T)	2-9-2012	Repeal	3-1-2012	309-032-1565	6-15-2012	Amend	7-1-2012
309-032-0311	11-22-2011	Adopt(T)	1-1-2012	309-032-1565(T)	6-15-2012	Repeal	7-1-2012
309-032-0311	2-9-2012	Adopt	3-1-2012	309-035-0100	12-5-2011	Amend(T)	1-1-2012
309-032-0311(T)	2-9-2012	Repeal	3-1-2012	309-035-0100	5-4-2012	Amend	6-1-2012
309-032-0321	11-22-2011	Adopt(T)	1-1-2012	309-035-0100(T)	5-4-2012	Repeal	6-1-2012
309-032-0321	2-9-2012	Adopt	3-1-2012	309-035-0105	12-5-2011	Amend(T)	1-1-2012
309-032-0321(T)	2-9-2012	Repeal	3-1-2012	309-035-0105	5-4-2012	Amend	6-1-2012
309-032-0331	11-22-2011	Adopt(T)	1-1-2012	309-035-0105(T)	5-4-2012	Repeal	6-1-2012
309-032-0331	2-9-2012	Adopt	3-1-2012	309-035-0250	12-5-2011	Amend(T)	1-1-2012
309-032-0331(T)	2-9-2012	Repeal	3-1-2012	309-035-0250	5-4-2012	Amend	6-1-2012
309-032-0341	11-22-2011	Adopt(T)	1-1-2012	309-035-0250(T)	5-4-2012	Repeal	6-1-2012
309-032-0341	2-9-2012	Adopt	3-1-2012	309-035-0260	12-5-2011	Amend(T)	1-1-2012
309-032-0341(T)	2-9-2012	Repeal	3-1-2012	309-035-0260	5-4-2012	Amend	6-1-2012
309-032-0351	11-22-2011	Adopt(T)	1-1-2012	309-035-0260(T)	5-4-2012	Repeal	6-1-2012
309-032-0351	2-9-2012	Adopt	3-1-2012	309-040-0300	12-5-2011	Amend(T)	1-1-2012
309-032-0351(T)	2-9-2012	Repeal	3-1-2012	309-040-0300	5-4-2012	Amend	6-1-2012
309-032-1500	1-1-2012	Amend(T)	2-1-2012	309-040-0300(T)	5-4-2012	Repeal	6-1-2012
309-032-1500	6-15-2012	Amend	7-1-2012	309-040-0305	12-5-2011	Amend(T)	1-1-2012

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309-040-0305	5-4-2012	Amend	6-1-2012	309-091-0040(T)	5-4-2012	Repeal	6-1-2012
309-040-0305(T)	5-4-2012	Repeal	6-1-2012	309-091-0045	1-1-2012	Adopt(T)	2-1-2012
309-090-0000	1-1-2012	Adopt(T)	2-1-2012	309-091-0045	5-4-2012	Adopt	6-1-2012
309-090-0000	6-25-2012	Adopt	8-1-2012	309-091-0045(T)	5-4-2012	Repeal	6-1-2012
309-090-0000(T)	6-25-2012	Repeal	8-1-2012	309-091-0050	1-1-2012	Adopt(T)	2-1-2012
309-090-0005	1-1-2012	Adopt(T)	2-1-2012	309-091-0050	5-4-2012	Adopt	6-1-2012
309-090-0005	6-25-2012	Adopt	8-1-2012	309-091-0050(T)	5-4-2012	Repeal	6-1-2012
309-090-0005(T)	6-25-2012	Repeal	8-1-2012	309-092-0000	1-1-2012	Adopt(T)	2-1-2012
309-090-0010	1-1-2012	Adopt(T)	2-1-2012	309-092-0000	6-19-2012	Adopt	8-1-2012
309-090-0010	6-25-2012	Adopt	8-1-2012	309-092-0000(T)	6-19-2012	Repeal	8-1-2012
309-090-0010(T)	6-25-2012	Repeal	8-1-2012	309-092-0005	1-1-2012	Adopt(T)	2-1-2012
309-090-0015	1-1-2012	Adopt(T)	2-1-2012	309-092-0005	6-19-2012	Adopt	8-1-2012
309-090-0015	6-25-2012	Adopt	8-1-2012	309-092-0005(T)	6-19-2012	Repeal	8-1-2012
309-090-0015(T)	6-25-2012	Repeal	8-1-2012	309-092-0010	1-1-2012	Adopt(T)	2-1-2012
309-090-0020	1-1-2012	Adopt(T)	2-1-2012	309-092-0010	6-19-2012	Adopt	8-1-2012
309-090-0020	6-25-2012	Adopt	8-1-2012	309-092-0010(T)	6-19-2012	Repeal	8-1-2012
309-090-0020(T)	6-25-2012	Repeal	8-1-2012	309-092-0015	1-1-2012	Adopt(T)	2-1-2012
309-090-0025	1-1-2012	Adopt(T)	2-1-2012	309-092-0015	6-19-2012	Adopt	8-1-2012
309-090-0025	6-25-2012	Adopt	8-1-2012	309-092-0015(T)	6-19-2012	Repeal	8-1-2012
309-090-0025(T)	6-25-2012	Repeal	8-1-2012	309-092-0020	1-1-2012	Adopt(T)	2-1-2012
309-090-0030	1-1-2012	Adopt(T)	2-1-2012	309-092-0020	6-19-2012	Adopt	8-1-2012
309-090-0030	6-25-2012	Adopt	8-1-2012	309-092-0020(T)	6-19-2012	Repeal	8-1-2012
309-090-0030(T)	6-25-2012	Repeal	8-1-2012	309-092-0025	1-1-2012	Adopt(T)	2-1-2012
309-090-0035	1-1-2012	Adopt(T)	2-1-2012	309-092-0025	6-19-2012	Adopt	8-1-2012
309-090-0035	6-25-2012	Adopt	8-1-2012	309-092-0025(T)	6-19-2012	Repeal	8-1-2012
309-090-0035(T)	6-25-2012	Repeal	8-1-2012	309-092-0030	1-1-2012	Adopt(T)	2-1-2012
309-090-0040	1-1-2012	Adopt(T)	2-1-2012	309-092-0030	6-19-2012	Adopt	8-1-2012
309-090-0040	6-25-2012	Adopt	8-1-2012	309-092-0030(T)	6-19-2012	Repeal	8-1-2012
309-090-0040(T)	6-25-2012	Repeal	8-1-2012	309-092-0035	1-1-2012	Adopt(T)	2-1-2012
309-090-0050	6-25-2012	Adopt	8-1-2012	309-092-0035	6-19-2012	Adopt	8-1-2012
309-091-0000	1-1-2012	Adopt(T)	2-1-2012	309-092-0035(T)	6-19-2012	Repeal	8-1-2012
309-091-0000	5-4-2012	Adopt	6-1-2012	309-092-0040	1-1-2012	Adopt(T)	2-1-2012
309-091-0000(T)	5-4-2012	Repeal	6-1-2012	309-092-0040	6-19-2012	Adopt	8-1-2012
309-091-0005	1-1-2012	Adopt(T)	2-1-2012	309-092-0040(T)	6-19-2012	Repeal	8-1-2012
309-091-0005	5-4-2012	Adopt	6-1-2012	309-092-0045	1-1-2012	Adopt(T)	2-1-2012
309-091-0005(T)	5-4-2012	Repeal	6-1-2012	309-092-0045	6-19-2012	Adopt	8-1-2012
309-091-0010	1-1-2012	Adopt(T)	2-1-2012	309-092-0045(T)	6-19-2012	Repeal	8-1-2012
309-091-0010	5-4-2012	Adopt	6-1-2012	309-092-0050	1-1-2012	Adopt(T)	2-1-2012
309-091-0010(T)	5-4-2012	Repeal	6-1-2012	309-092-0050	6-19-2012	Adopt	8-1-2012
309-091-0015	1-1-2012	Adopt(T)	2-1-2012	309-092-0050(T)	6-19-2012	Repeal	8-1-2012
309-091-0015	5-4-2012	Adopt	6-1-2012	309-092-0055	1-1-2012	Adopt(T)	2-1-2012
309-091-0015(T)	5-4-2012	Repeal	6-1-2012	309-092-0055	6-19-2012	Adopt	8-1-2012
309-091-0020	1-1-2012	Adopt(T)	2-1-2012	309-092-0055(T)	6-19-2012	Repeal	8-1-2012
309-091-0020	5-4-2012	Adopt	6-1-2012	309-092-0060	1-1-2012	Adopt(T)	2-1-2012
309-091-0020(T)	5-4-2012	Repeal	6-1-2012	309-092-0060	6-19-2012	Adopt	8-1-2012
309-091-0025	1-1-2012	Adopt(T)	2-1-2012	309-092-0060(T)	6-19-2012	Repeal	8-1-2012
309-091-0025	5-4-2012	Adopt	6-1-2012	309-092-0065	1-1-2012	Adopt(T)	2-1-2012
309-091-0025(T)	5-4-2012	Repeal	6-1-2012	309-092-0065	6-19-2012	Adopt	8-1-2012
309-091-0030	1-1-2012	Adopt(T)	2-1-2012	309-092-0065(T)	6-19-2012	Repeal	8-1-2012
309-091-0030	5-4-2012	Adopt	6-1-2012	309-092-0070	1-1-2012	Adopt(T)	2-1-2012
309-091-0030(T)	5-4-2012	Repeal	6-1-2012	309-092-0070	6-19-2012	Adopt	8-1-2012
309-091-0035	1-1-2012	Adopt(T)	2-1-2012	309-092-0070(T)	6-19-2012	Repeal	8-1-2012
309-091-0035	5-4-2012	Adopt	6-1-2012	309-092-0075	1-1-2012	Adopt(T)	2-1-2012
309-091-0035(T)	5-4-2012	Repeal	6-1-2012	309-092-0075	6-19-2012	Adopt	8-1-2012
309-091-0040	1-1-2012	Adopt(T)	2-1-2012	309-092-0075(T)	6-19-2012	Repeal	8-1-2012
309-091-0040	5-4-2012	Adopt	6-1-2012	309-092-0080	1-1-2012	Adopt(T)	2-1-2012

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309-092-0080	6-19-2012	Adopt	8-1-2012	309-092-0175	1-1-2012	Adopt(T)	2-1-2012
309-092-0080(T)	6-19-2012	Repeal	8-1-2012	309-092-0175	6-19-2012	Adopt	8-1-2012
309-092-0085	1-1-2012	Adopt(T)	2-1-2012	309-092-0175(T)	6-19-2012	Repeal	8-1-2012
309-092-0085	6-19-2012	Adopt	8-1-2012	309-092-0178	6-19-2012	Adopt	8-1-2012
309-092-0085(T)	6-19-2012	Repeal	8-1-2012	309-092-0180	1-1-2012	Adopt(T)	2-1-2012
309-092-0090	1-1-2012	Adopt(T)	2-1-2012	309-092-0180	6-19-2012	Adopt	8-1-2012
309-092-0090	6-19-2012	Adopt	8-1-2012	309-092-0180(T)	6-19-2012	Repeal	8-1-2012
309-092-0090(T)	6-19-2012	Repeal	8-1-2012	309-092-0185	1-1-2012	Adopt(T)	2-1-2012
309-092-0095	1-1-2012	Adopt(T)	2-1-2012	309-092-0185	6-19-2012	Adopt	8-1-2012
309-092-0095	6-19-2012	Adopt	8-1-2012	309-092-0185(T)	6-19-2012	Repeal	8-1-2012
309-092-0095(T)	6-19-2012	Repeal	8-1-2012	309-092-0190	1-1-2012	Adopt(T)	2-1-2012
309-092-0100	1-1-2012	Adopt(T)	2-1-2012	309-092-0190	6-19-2012	Adopt	8-1-2012
309-092-0100	6-19-2012	Adopt	8-1-2012	309-092-0190(T)	6-19-2012	Repeal	8-1-2012
309-092-0100(T)	6-19-2012	Repeal	8-1-2012	309-092-0195	1-1-2012	Adopt(T)	2-1-2012
309-092-0105	1-1-2012	Adopt(T)	2-1-2012	309-092-0195	6-19-2012	Adopt	8-1-2012
309-092-0105	6-19-2012	Adopt	8-1-2012	309-092-0195(T)	6-19-2012	Repeal	8-1-2012
309-092-0105(T)	6-19-2012	Repeal	8-1-2012	309-092-0200	1-1-2012	Adopt(T)	2-1-2012
309-092-0110	1-1-2012	Adopt(T)	2-1-2012	309-092-0200	6-19-2012	Adopt	8-1-2012
309-092-0110	6-19-2012	Adopt	8-1-2012	309-092-0200(T)	6-19-2012	Repeal	8-1-2012
309-092-0110(T)	6-19-2012	Repeal	8-1-2012	309-092-0205	1-1-2012	Adopt(T)	2-1-2012
309-092-0115	1-1-2012	Adopt(T)	2-1-2012	309-092-0205	6-19-2012	Adopt	8-1-2012
309-092-0115	6-19-2012	Adopt	8-1-2012	309-092-0205(T)	6-19-2012	Repeal	8-1-2012
309-092-0115(T)	6-19-2012	Repeal	8-1-2012	309-092-0210	1-1-2012	Adopt(T)	2-1-2012
309-092-0120	1-1-2012	Adopt(T)	2-1-2012	309-092-0210	6-19-2012	Adopt	8-1-2012
309-092-0120	6-19-2012	Adopt	8-1-2012	309-092-0210(T)	6-19-2012	Repeal	8-1-2012
309-092-0120(T)	6-19-2012	Repeal	8-1-2012	309-092-0215	1-1-2012	Adopt(T)	2-1-2012
309-092-0125	1-1-2012	Adopt(T)	2-1-2012	309-092-0215	6-19-2012	Adopt	8-1-2012
309-092-0125	6-19-2012	Adopt	8-1-2012	309-092-0215(T)	6-19-2012	Repeal	8-1-2012
309-092-0125(T)	6-19-2012	Repeal	8-1-2012	309-092-0220	1-1-2012	Adopt(T)	2-1-2012
309-092-0130	1-1-2012	Adopt(T)	2-1-2012	309-092-0220	6-19-2012	Adopt	8-1-2012
309-092-0130	6-19-2012	Adopt	8-1-2012	309-092-0220(T)	6-19-2012	Repeal	8-1-2012
309-092-0130(T)	6-19-2012	Repeal	8-1-2012	309-092-0225	1-1-2012	Adopt(T)	2-1-2012
309-092-0135	1-1-2012	Adopt(T)	2-1-2012	309-092-0225	6-19-2012	Adopt	8-1-2012
309-092-0135	6-19-2012	Adopt	8-1-2012	309-092-0225(T)	6-19-2012	Repeal	8-1-2012
309-092-0135(T)	6-19-2012	Repeal	8-1-2012	309-092-0230	1-1-2012	Adopt(T)	2-1-2012
309-092-0140	1-1-2012	Adopt(T)	2-1-2012	309-092-0230	6-19-2012	Adopt	8-1-2012
309-092-0140	6-19-2012	Adopt	8-1-2012	309-092-0230(T)	6-19-2012	Repeal	8-1-2012
309-092-0140(T)	6-19-2012	Repeal	8-1-2012	309-092-0235	1-1-2012	Adopt(T)	2-1-2012
309-092-0145	1-1-2012	Adopt(T)	2-1-2012	309-092-0235	6-19-2012	Adopt	8-1-2012
309-092-0145	6-19-2012	Adopt	8-1-2012	309-092-0235(T)	6-19-2012	Repeal	8-1-2012
309-092-0145(T)	6-19-2012	Repeal	8-1-2012	309-092-0240	1-1-2012	Adopt(T)	2-1-2012
309-092-0150	1-1-2012	Adopt(T)	2-1-2012	309-092-0240	6-19-2012	Adopt	8-1-2012
309-092-0150	6-19-2012	Adopt	8-1-2012	309-092-0240(T)	6-19-2012	Repeal	8-1-2012
309-092-0150(T)	6-19-2012	Repeal	8-1-2012	309-102-0100	2-9-2012	Adopt	3-1-2012
309-092-0155	1-1-2012	Adopt(T)	2-1-2012	309-102-0100(T)	2-9-2012	Repeal	3-1-2012
309-092-0155	6-19-2012	Adopt	8-1-2012	309-102-0110	2-9-2012	Adopt	3-1-2012
309-092-0155(T)	6-19-2012	Repeal	8-1-2012	309-102-0110(T)	2-9-2012	Repeal	3-1-2012
309-092-0160	1-1-2012	Adopt(T)	2-1-2012	309-102-0120	2-9-2012	Adopt	3-1-2012
309-092-0160	6-19-2012	Adopt	8-1-2012	309-102-0120(T)	2-9-2012	Repeal	3-1-2012
309-092-0160(T)	6-19-2012	Repeal	8-1-2012	309-102-0130	2-9-2012	Adopt	3-1-2012
309-092-0165	1-1-2012	Adopt(T)	2-1-2012	309-102-0130(T)	2-9-2012	Repeal	3-1-2012
309-092-0165	6-19-2012	Adopt	8-1-2012	309-102-0140	2-9-2012	Adopt	3-1-2012
309-092-0165(T)	6-19-2012	Repeal	8-1-2012	309-102-0140(T)	2-9-2012	Repeal	3-1-2012
309-092-0170	1-1-2012	Adopt(T)	2-1-2012	309-102-0150	2-9-2012	Adopt	3-1-2012
309-092-0170	6-19-2012	Adopt	8-1-2012	309-102-0150(T)	2-9-2012	Repeal	3-1-2012
309-092-0170(T)	6-19-2012	Repeal	8-1-2012	325-005-0015	4-1-2012	Amend	5-1-2012

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330-070-0013	1-1-2012	Amend	2-1-2012	330-200-0040	2-22-2012	Adopt(T)	4-1-2012
330-070-0014	1-1-2012	Amend	2-1-2012	330-200-0040	8-15-2012	Adopt	9-1-2012
330-070-0019	1-1-2012	Amend	2-1-2012	330-200-0040(T)	8-15-2012	Repeal	9-1-2012
330-070-0020	1-1-2012	Amend	2-1-2012	330-200-0050	2-22-2012	Adopt(T)	4-1-2012
330-070-0021	1-1-2012	Amend	2-1-2012	330-200-0050	8-15-2012	Adopt	9-1-2012
330-070-0022	1-1-2012	Amend	2-1-2012	330-200-0050(T)	8-15-2012	Repeal	9-1-2012
330-070-0024	1-1-2012	Amend	2-1-2012	330-200-0060	2-22-2012	Adopt(T)	4-1-2012
330-070-0025	1-1-2012	Amend	2-1-2012	330-200-0060	8-15-2012	Adopt	9-1-2012
330-070-0026	1-1-2012	Amend	2-1-2012	330-200-0060(T)	8-15-2012	Repeal	9-1-2012
330-070-0027	1-1-2012	Amend	2-1-2012	330-200-0070	2-22-2012	Adopt(T)	4-1-2012
330-070-0029	1-1-2012	Adopt	2-1-2012	330-200-0070	8-15-2012	Adopt	9-1-2012
330-070-0045	1-1-2012	Amend	2-1-2012	330-200-0070(T)	8-15-2012	Repeal	9-1-2012
330-070-0048	1-1-2012	Amend	2-1-2012	330-200-0080	2-22-2012	Adopt(T)	4-1-2012
330-070-0060	1-1-2012	Amend	2-1-2012	330-200-0080	8-15-2012	Adopt	9-1-2012
330-070-0064	1-1-2012	Amend	2-1-2012	330-200-0080(T)	8-15-2012	Repeal	9-1-2012
330-070-0070	1-1-2012	Amend	2-1-2012	330-200-0090	2-22-2012	Adopt(T)	4-1-2012
330-070-0073	1-1-2012	Amend	2-1-2012	330-200-0090	8-15-2012	Adopt	9-1-2012
330-070-0089	1-1-2012	Amend	2-1-2012	330-200-0090(T)	8-15-2012	Repeal	9-1-2012
330-070-0091	1-1-2012	Amend	2-1-2012	330-200-0150	2-22-2012	Adopt(T)	4-1-2012
330-070-0097	1-1-2012	Amend	2-1-2012	330-200-0150	8-15-2012	Adopt	9-1-2012
330-090-0105	7-10-2012	Amend	8-1-2012	330-200-0150(T)	8-15-2012	Repeal	9-1-2012
330-090-0110	7-10-2012	Amend	8-1-2012	330-210-0000	12-23-2011	Adopt(T)	2-1-2012
330-090-0120	7-10-2012	Amend	8-1-2012	330-210-0000	6-19-2012	Adopt	8-1-2012
330-090-0130	1-13-2012	Amend(T)	2-1-2012	330-210-0000(T)	6-19-2012	Repeal	8-1-2012
330-090-0130	7-10-2012	Amend	8-1-2012	330-210-0010	12-23-2011	Adopt(T)	2-1-2012
330-090-0130(T)	7-10-2012	Repeal	8-1-2012	330-210-0010	6-19-2012	Adopt	8-1-2012
330-090-0133	11-30-2011	Amend	1-1-2012	330-210-0010(T)	6-19-2012	Repeal	8-1-2012
330-090-0133	7-10-2012	Amend	8-1-2012	330-210-0020	12-23-2011	Adopt(T)	2-1-2012
330-090-0150	7-10-2012	Amend	8-1-2012	330-210-0020	6-19-2012	Adopt	8-1-2012
330-090-0160	11-30-2011	Adopt	1-1-2012	330-210-0020(T)	6-19-2012	Repeal	8-1-2012
330-090-0160	7-10-2012	Amend	8-1-2012	330-210-0030	12-23-2011	Adopt(T)	2-1-2012
330-090-0350	7-10-2012	Amend	8-1-2012	330-210-0030	6-19-2012	Adopt	8-1-2012
330-150-0005	5-1-2012	Repeal	6-1-2012	330-210-0030(T)	6-19-2012	Repeal	8-1-2012
330-150-0015	5-1-2012	Repeal	6-1-2012	330-210-0040	12-23-2011	Adopt(T)	2-1-2012
330-150-0020	5-1-2012	Repeal	6-1-2012	330-210-0040	6-19-2012	Adopt	8-1-2012
330-150-0025	5-1-2012	Repeal	6-1-2012	330-210-0040(T)	6-19-2012	Repeal	8-1-2012
330-150-0030	5-1-2012	Repeal	6-1-2012	330-210-0045	12-23-2011	Adopt(T)	2-1-2012
330-180-0010	11-22-2011	Adopt	1-1-2012	330-210-0045	6-19-2012	Adopt	8-1-2012
330-180-0020	11-22-2011	Adopt	1-1-2012	330-210-0045(T)	6-19-2012	Repeal	8-1-2012
330-180-0030	11-22-2011	Adopt	1-1-2012	330-210-0050	12-23-2011	Adopt(T)	2-1-2012
330-180-0040	11-22-2011	Adopt	1-1-2012	330-210-0050	6-19-2012	Adopt	8-1-2012
330-180-0050	11-22-2011	Adopt	1-1-2012	330-210-0050(T)	6-19-2012	Repeal	8-1-2012
330-180-0060	11-22-2011	Adopt	1-1-2012	330-210-0060	12-23-2011	Adopt(T)	2-1-2012
330-180-0070	11-22-2011	Adopt	1-1-2012	330-210-0060	6-19-2012	Adopt	8-1-2012
330-200-0000	2-22-2012	Adopt(T)	4-1-2012	330-210-0060(T)	6-19-2012	Repeal	8-1-2012
330-200-0000	8-15-2012	Adopt	9-1-2012	330-210-0070	12-23-2011	Adopt(T)	2-1-2012
330-200-0000(T)	8-15-2012	Repeal	9-1-2012	330-210-0070	6-19-2012	Adopt	8-1-2012
330-200-0010	2-22-2012	Adopt(T)	4-1-2012	330-210-0070(T)	6-19-2012	Repeal	8-1-2012
330-200-0010	8-15-2012	Adopt	9-1-2012	330-210-0080	12-23-2011	Adopt(T)	2-1-2012
330-200-0010(T)	8-15-2012	Repeal	9-1-2012	330-210-0080	6-19-2012	Adopt	8-1-2012
330-200-0020	2-22-2012	Adopt(T)	4-1-2012	330-210-0080(T)	6-19-2012	Repeal	8-1-2012
330-200-0020	8-15-2012	Adopt	9-1-2012	330-210-0090	12-23-2011	Adopt(T)	2-1-2012
330-200-0020(T)	8-15-2012	Repeal	9-1-2012	330-210-0090	6-19-2012	Adopt	8-1-2012
330-200-0030	2-22-2012	Adopt(T)	4-1-2012	330-210-0090(T)	6-19-2012	Repeal	8-1-2012
330-200-0030	8-15-2012	Adopt	9-1-2012	330-210-0100	12-23-2011	Adopt(T)	2-1-2012
330-200-0030(T)	8-15-2012	Repeal	9-1-2012	330-210-0100	6-19-2012	Adopt	8-1-2012

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330-210-0100(T)	6-19-2012	Repeal	8-1-2012	330-230-0020(T)	6-19-2012	Repeal	8-1-2012
330-210-0150	12-23-2011	Adopt(T)	2-1-2012	330-230-0030	12-23-2011	Adopt(T)	2-1-2012
330-210-0150	6-19-2012	Adopt	8-1-2012	330-230-0030	6-19-2012	Adopt	8-1-2012
330-210-0150(T)	6-19-2012	Repeal	8-1-2012	330-230-0030(T)	6-19-2012	Repeal	8-1-2012
330-220-0000	2-7-2012	Adopt(T)	3-1-2012	330-230-0040	12-23-2011	Adopt(T)	2-1-2012
330-220-0000	8-1-2012	Adopt	9-1-2012	330-230-0040	6-19-2012	Adopt	8-1-2012
330-220-0000(T)	8-1-2012	Repeal	9-1-2012	330-230-0040(T)	6-19-2012	Repeal	8-1-2012
330-220-0010	2-7-2012	Adopt(T)	3-1-2012	330-230-0050	12-23-2011	Adopt(T)	2-1-2012
330-220-0010	8-1-2012	Adopt	9-1-2012	330-230-0050	6-19-2012	Adopt	8-1-2012
330-220-0010(T)	8-1-2012	Repeal	9-1-2012	330-230-0050(T)	6-19-2012	Repeal	8-1-2012
330-220-0020	2-7-2012	Adopt(T)	3-1-2012	330-230-0060	12-23-2011	Adopt(T)	2-1-2012
330-220-0020	8-1-2012	Adopt	9-1-2012	330-230-0060	6-19-2012	Adopt	8-1-2012
330-220-0020(T)	8-1-2012	Repeal	9-1-2012	330-230-0060(T)	6-19-2012	Repeal	8-1-2012
330-220-0030	2-7-2012	Adopt(T)	3-1-2012	330-230-0110	12-23-2011	Adopt(T)	2-1-2012
330-220-0030	8-1-2012	Adopt	9-1-2012	330-230-0110	6-19-2012	Adopt	8-1-2012
330-220-0030(T)	8-1-2012	Repeal	9-1-2012	330-230-0110(T)	6-19-2012	Repeal	8-1-2012
330-220-0040	2-7-2012	Adopt(T)	3-1-2012	330-230-0120	12-23-2011	Adopt(T)	2-1-2012
330-220-0040	8-1-2012	Adopt	9-1-2012	330-230-0120	6-19-2012	Adopt	8-1-2012
330-220-0040(T)	8-1-2012	Repeal	9-1-2012	330-230-0120(T)	6-19-2012	Repeal	8-1-2012
330-220-0050	2-7-2012	Adopt(T)	3-1-2012	330-230-0130	12-23-2011	Adopt(T)	2-1-2012
330-220-0050	8-1-2012	Adopt	9-1-2012	330-230-0130	6-19-2012	Adopt	8-1-2012
330-220-0050(T)	8-1-2012	Repeal	9-1-2012	330-230-0130(T)	6-19-2012	Repeal	8-1-2012
330-220-0070	2-7-2012	Adopt(T)	3-1-2012	330-230-0140	12-23-2011	Adopt(T)	2-1-2012
330-220-0070	8-1-2012	Adopt	9-1-2012	330-230-0140	6-19-2012	Adopt	8-1-2012
330-220-0070(T)	8-1-2012	Repeal	9-1-2012	330-230-0140(T)	6-19-2012	Repeal	8-1-2012
330-220-0080	2-7-2012	Adopt(T)	3-1-2012	330-230-0150	6-19-2012	Adopt	8-1-2012
330-220-0080	8-1-2012	Adopt	9-1-2012	331-020-0020	3-1-2012	Amend(T)	4-1-2012
330-220-0080(T)	8-1-2012	Repeal	9-1-2012	331-020-0020	5-15-2012	Amend	6-1-2012
330-220-0090	2-7-2012	Adopt(T)	3-1-2012	331-020-0020(T)	5-15-2012	Repeal	6-1-2012
330-220-0090	8-1-2012	Adopt	9-1-2012	331-1-900-0000(T)	6-25-2012	Repeal	8-1-2012
330-220-0090(T)	8-1-2012	Repeal	9-1-2012	331-205-0020	1-1-2012	Repeal	2-1-2012
330-220-0100	2-7-2012	Adopt(T)	3-1-2012	331-205-0030	1-1-2012	Repeal	2-1-2012
330-220-0100	8-1-2012	Adopt	9-1-2012	331-210-0000	1-1-2012	Repeal	2-1-2012
330-220-0100(T)	8-1-2012	Repeal	9-1-2012	331-210-0010	1-1-2012	Repeal	2-1-2012
330-220-0150	2-7-2012	Adopt(T)	3-1-2012	331-210-0020	1-1-2012	Repeal	2-1-2012
330-220-0150	8-1-2012	Adopt	9-1-2012	331-210-0021	1-1-2012	Repeal	2-1-2012
330-220-0150(T)	8-1-2012	Repeal	9-1-2012	331-215-0000	1-1-2012	Repeal	2-1-2012
330-225-0000	6-11-2012	Adopt	7-1-2012	331-215-0010	1-1-2012	Repeal	2-1-2012
330-225-0010	6-11-2012	Adopt	7-1-2012	331-215-0020	1-1-2012	Repeal	2-1-2012
330-225-0020	6-11-2012	Adopt	7-1-2012	331-215-0030	1-1-2012	Repeal	2-1-2012
330-225-0030	6-11-2012	Adopt	7-1-2012	331-215-0040	1-1-2012	Repeal	2-1-2012
330-225-0040	6-11-2012	Adopt	7-1-2012	331-220-0000	1-1-2012	Repeal	2-1-2012
330-225-0050	6-11-2012	Adopt	7-1-2012	331-220-0010	1-1-2012	Repeal	2-1-2012
330-225-0070	6-11-2012	Adopt	7-1-2012	331-220-0020	1-1-2012	Repeal	2-1-2012
330-225-0080	6-11-2012	Adopt	7-1-2012	331-220-0030	1-1-2012	Repeal	2-1-2012
330-225-0090	6-11-2012	Adopt	7-1-2012	331-220-0040	1-1-2012	Repeal	2-1-2012
330-225-0100	6-11-2012	Adopt	7-1-2012	331-220-0050	1-1-2012	Repeal	2-1-2012
330-225-0150	6-11-2012	Adopt	7-1-2012	331-220-0060	1-1-2012	Repeal	2-1-2012
330-230-0000	12-23-2011	Adopt(T)	2-1-2012	331-220-0080	1-1-2012	Repeal	2-1-2012
330-230-0000	6-19-2012	Adopt	8-1-2012	331-225-0000	1-1-2012	Repeal	2-1-2012
330-230-0000(T)	6-19-2012	Repeal	8-1-2012	331-225-0020	1-1-2012	Repeal	2-1-2012
330-230-0010	12-23-2011	Adopt(T)	2-1-2012	331-225-0030	1-1-2012	Repeal	2-1-2012
330-230-0010	6-19-2012	Adopt	8-1-2012	331-225-0040	1-1-2012	Repeal	2-1-2012
330-230-0010(T)	6-19-2012	Repeal	8-1-2012	331-225-0050	1-1-2012	Repeal	2-1-2012
330-230-0020	12-23-2011	Adopt(T)	2-1-2012	331-225-0060	1-1-2012	Repeal	2-1-2012
330-230-0020	6-19-2012	Adopt	8-1-2012	331-225-0070	1-1-2012	Repeal	2-1-2012

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331-225-0080	1-1-2012	Repeal	2-1-2012	331-565-0000	1-1-2012	Repeal	2-1-2012
331-225-0090	1-1-2012	Repeal	2-1-2012	331-565-0020	1-1-2012	Repeal	2-1-2012
331-225-0100	1-1-2012	Repeal	2-1-2012	331-565-0025	1-1-2012	Repeal	2-1-2012
331-225-0110	1-1-2012	Repeal	2-1-2012	331-565-0030	1-1-2012	Repeal	2-1-2012
331-225-0120	1-1-2012	Repeal	2-1-2012	331-565-0040	1-1-2012	Repeal	2-1-2012
331-225-0130	1-1-2012	Repeal	2-1-2012	331-565-0050	1-1-2012	Repeal	2-1-2012
331-225-0140	1-1-2012	Repeal	2-1-2012	331-565-0060	1-1-2012	Repeal	2-1-2012
331-225-0150	1-1-2012	Repeal	2-1-2012	331-565-0080	1-1-2012	Repeal	2-1-2012
331-225-0160	1-1-2012	Repeal	2-1-2012	331-565-0085	1-1-2012	Repeal	2-1-2012
331-505-0000	1-1-2012	Repeal	2-1-2012	331-565-0090	1-1-2012	Repeal	2-1-2012
331-505-0010	1-1-2012	Repeal	2-1-2012	331-565-0095	1-1-2012	Repeal	2-1-2012
331-510-0000	1-1-2012	Repeal	2-1-2012	331-570-0000	1-1-2012	Repeal	2-1-2012
331-515-0000	1-1-2012	Repeal	2-1-2012	331-570-0020	1-1-2012	Repeal	2-1-2012
331-515-0010	1-1-2012	Repeal	2-1-2012	331-575-0000	1-1-2012	Repeal	2-1-2012
331-515-0020	1-1-2012	Repeal	2-1-2012	331-575-0010	1-1-2012	Repeal	2-1-2012
331-515-0030	1-1-2012	Repeal	2-1-2012	331-575-0020	1-1-2012	Repeal	2-1-2012
331-520-0000	1-1-2012	Repeal	2-1-2012	331-575-0030	1-1-2012	Repeal	2-1-2012
331-520-0010	1-1-2012	Repeal	2-1-2012	331-575-0040	1-1-2012	Repeal	2-1-2012
331-520-0030	1-1-2012	Repeal	2-1-2012	331-575-0050	1-1-2012	Repeal	2-1-2012
331-520-0040	1-1-2012	Repeal	2-1-2012	331-580-0000	1-1-2012	Repeal	2-1-2012
331-520-0070	1-1-2012	Repeal	2-1-2012	331-580-0010	1-1-2012	Repeal	2-1-2012
331-525-0000	1-1-2012	Repeal	2-1-2012	331-580-0020	1-1-2012	Repeal	2-1-2012
331-525-0020	1-1-2012	Repeal	2-1-2012	331-580-0030	1-1-2012	Repeal	2-1-2012
331-525-0035	1-1-2012	Repeal	2-1-2012	331-585-0000	1-1-2012	Repeal	2-1-2012
331-525-0038	1-1-2012	Repeal	2-1-2012	331-585-0010	1-1-2012	Repeal	2-1-2012
331-525-0040	1-1-2012	Repeal	2-1-2012	331-585-0020	1-1-2012	Repeal	2-1-2012
331-525-0055	1-1-2012	Repeal	2-1-2012	331-585-0030	1-1-2012	Repeal	2-1-2012
331-525-0060	1-1-2012	Repeal	2-1-2012	331-585-0040	1-1-2012	Repeal	2-1-2012
331-525-0065	1-1-2012	Repeal	2-1-2012	331-590-0000	1-1-2012	Repeal	2-1-2012
331-530-0000	1-1-2012	Repeal	2-1-2012	331-590-0020	1-1-2012	Repeal	2-1-2012
331-530-0020	1-1-2012	Repeal	2-1-2012	331-705-0050	1-1-2012	Amend	2-1-2012
331-535-0000	1-1-2012	Repeal	2-1-2012	331-705-0060	1-1-2012	Repeal	2-1-2012
331-535-0010	1-1-2012	Repeal	2-1-2012	331-705-0072	11-22-2011	Adopt(T)	1-1-2012
331-535-0020	1-1-2012	Repeal	2-1-2012	331-705-0072	1-1-2012	Adopt	2-1-2012
331-535-0030	1-1-2012	Repeal	2-1-2012	331-705-0072(T)	1-1-2012	Repeal	2-1-2012
331-535-0040	1-1-2012	Repeal	2-1-2012	331-705-0080	1-1-2012	Adopt	2-1-2012
331-535-0050	1-1-2012	Repeal	2-1-2012	331-710-0005	1-1-2012	Adopt	2-1-2012
331-535-0060	1-1-2012	Repeal	2-1-2012	331-710-0010	1-1-2012	Amend	2-1-2012
331-535-0070	1-1-2012	Repeal	2-1-2012	331-710-0015	1-1-2012	Adopt	2-1-2012
331-535-0080	1-1-2012	Repeal	2-1-2012	331-710-0020	1-1-2012	Amend	2-1-2012
331-540-0000	1-1-2012	Repeal	2-1-2012	331-710-0030	1-1-2012	Repeal	2-1-2012
331-540-0010	1-1-2012	Repeal	2-1-2012	331-710-0040	1-1-2012	Adopt	2-1-2012
331-540-0020	1-1-2012	Repeal	2-1-2012	331-710-0045	1-1-2012	Adopt	2-1-2012
331-540-0030	1-1-2012	Repeal	2-1-2012	331-710-0050	1-1-2012	Adopt	2-1-2012
331-545-0000	1-1-2012	Repeal	2-1-2012	331-712-0000	1-1-2012	Adopt	2-1-2012
331-545-0020	1-1-2012	Repeal	2-1-2012	331-712-0010	1-1-2012	Adopt	2-1-2012
331-550-0000	1-1-2012	Repeal	2-1-2012	331-712-0020	1-1-2012	Adopt	2-1-2012
331-555-0010	1-1-2012	Repeal	2-1-2012	331-715-0010	1-1-2012	Amend	2-1-2012
331-555-0030	1-1-2012	Repeal	2-1-2012	331-715-0030	1-1-2012	Repeal	2-1-2012
331-555-0040	1-1-2012	Repeal	2-1-2012	331-715-0045	1-1-2012	Repeal	2-1-2012
331-560-0000	1-1-2012	Repeal	2-1-2012	331-718-0000	1-1-2012	Adopt	2-1-2012
331-560-0010	1-1-2012	Repeal	2-1-2012	331-718-0010	1-1-2012	Adopt	2-1-2012
331-560-0020	1-1-2012	Repeal	2-1-2012	331-718-0020	1-1-2012	Adopt	2-1-2012
331-560-0030	1-1-2012	Repeal	2-1-2012	331-720-0010	1-1-2012	Amend	2-1-2012
331-560-0040	1-1-2012	Repeal	2-1-2012	331-720-0015	1-1-2012	Adopt	2-1-2012
331-560-0060	1-1-2012	Repeal	2-1-2012	331-725-0020	1-1-2012	Repeal	2-1-2012

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331-740-0000	1-1-2012	Adopt	2-1-2012	331-900-0097	6-25-2012	Adopt	8-1-2012
331-900-0000	1-1-2012	Adopt	2-1-2012	331-900-0098	6-25-2012	Adopt	8-1-2012
331-900-0000	3-1-2012	Amend(T)	4-1-2012	331-900-0099	6-25-2012	Adopt	8-1-2012
331-900-0000	6-25-2012	Amend	8-1-2012	331-900-0100	1-1-2012	Adopt	2-1-2012
331-900-0005	1-1-2012	Adopt	2-1-2012	331-900-0100	3-1-2012	Amend(T)	4-1-2012
331-900-0005	3-1-2012	Amend(T)	4-1-2012	331-900-0100	6-25-2012	Amend	8-1-2012
331-900-0005	6-25-2012	Amend	8-1-2012	331-900-0100(T)	6-25-2012	Repeal	8-1-2012
331-900-0005(T)	6-25-2012	Repeal	8-1-2012	331-900-0105	1-1-2012	Adopt	2-1-2012
331-900-0010	1-1-2012	Adopt	2-1-2012	331-900-0110	1-1-2012	Adopt	2-1-2012
331-900-0010	3-1-2012	Amend(T)	4-1-2012	331-900-0110	6-25-2012	Amend	8-1-2012
331-900-0010	6-25-2012	Amend	8-1-2012	331-900-0115	6-25-2012	Adopt	8-1-2012
331-900-0010(T)	6-25-2012	Repeal	8-1-2012	331-900-0120	6-25-2012	Adopt	8-1-2012
331-900-0015	1-1-2012	Adopt	2-1-2012	331-900-0125	6-25-2012	Adopt	8-1-2012
331-900-0015	3-1-2012	Amend(T)	4-1-2012	331-900-0130	6-25-2012	Adopt	8-1-2012
331-900-0015	6-25-2012	Amend	8-1-2012	331-905-0000	1-1-2012	Adopt(T)	2-1-2012
331-900-0015(T)	6-25-2012	Repeal	8-1-2012	331-905-0000	3-1-2012	Adopt(T)	4-1-2012
331-900-0020	1-1-2012	Adopt	2-1-2012	331-905-0000	6-25-2012	Adopt	8-1-2012
331-900-0020	3-1-2012	Amend(T)	4-1-2012	331-905-0000(T)	3-1-2012	Suspend	4-1-2012
331-900-0020	6-25-2012	Amend	8-1-2012	331-905-0000(T)	6-25-2012	Repeal	8-1-2012
331-900-0020(T)	6-25-2012	Repeal	8-1-2012	331-905-0003	3-1-2012	Adopt(T)	4-1-2012
331-900-0025	1-1-2012	Adopt	2-1-2012	331-905-0003(T)	6-25-2012	Repeal	8-1-2012
331-900-0025	6-25-2012	Amend	8-1-2012	331-905-0005	1-1-2012	Adopt(T)	2-1-2012
331-900-0030	1-1-2012	Adopt	2-1-2012	331-905-0005	3-1-2012	Adopt(T)	4-1-2012
331-900-0030	3-1-2012	Amend(T)	4-1-2012	331-905-0005	6-25-2012	Adopt	8-1-2012
331-900-0030	6-25-2012	Amend	8-1-2012	331-905-0005(T)	3-1-2012	Suspend	4-1-2012
331-900-0030(T)	6-25-2012	Repeal	8-1-2012	331-905-0005(T)	6-25-2012	Repeal	8-1-2012
331-900-0035	1-1-2012	Adopt	2-1-2012	331-905-0010	1-1-2012	Adopt(T)	2-1-2012
331-900-0035	6-25-2012	Amend	8-1-2012	331-905-0010	3-1-2012	Adopt(T)	4-1-2012
331-900-0040	1-1-2012	Adopt	2-1-2012	331-905-0010	6-25-2012	Adopt	8-1-2012
331-900-0040	3-1-2012	Amend(T)	4-1-2012	331-905-0010(T)	3-1-2012	Suspend	4-1-2012
331-900-0040	6-25-2012	Amend	8-1-2012	331-905-0010(T)	6-25-2012	Repeal	8-1-2012
331-900-0040(T)	6-25-2012	Repeal	8-1-2012	331-905-0011	6-25-2012	Adopt	8-1-2012
331-900-0045	1-1-2012	Adopt	2-1-2012	331-905-0012	3-1-2012	Adopt(T)	4-1-2012
331-900-0045	6-25-2012	Amend	8-1-2012	331-905-0012	6-25-2012	Adopt	8-1-2012
331-900-0050	1-1-2012	Adopt	2-1-2012	331-905-0012(T)	6-25-2012	Repeal	8-1-2012
331-900-0055	1-1-2012	Adopt	2-1-2012	331-905-0013	6-25-2012	Adopt	8-1-2012
331-900-0060	1-1-2012	Adopt	2-1-2012	331-905-0014	3-1-2012	Adopt(T)	4-1-2012
331-900-0065	1-1-2012	Adopt	2-1-2012	331-905-0014	6-25-2012	Adopt	8-1-2012
331-900-0070	1-1-2012	Adopt	2-1-2012	331-905-0014(T)	6-25-2012	Repeal	8-1-2012
331-900-0070	3-1-2012	Amend(T)	4-1-2012	331-905-0015	1-1-2012	Adopt(T)	2-1-2012
331-900-0070	6-25-2012	Amend	8-1-2012	331-905-0015	3-1-2012	Adopt(T)	4-1-2012
331-900-0070(T)	6-25-2012	Repeal	8-1-2012	331-905-0015	6-25-2012	Adopt	8-1-2012
331-900-0075	1-1-2012	Adopt	2-1-2012	331-905-0015(T)	3-1-2012	Suspend	4-1-2012
331-900-0080	1-1-2012	Adopt	2-1-2012	331-905-0015(T)	6-25-2012	Repeal	8-1-2012
331-900-0085	1-1-2012	Adopt	2-1-2012	331-905-0020	1-1-2012	Adopt(T)	2-1-2012
331-900-0085	3-1-2012	Amend(T)	4-1-2012	331-905-0020	3-1-2012	Adopt(T)	4-1-2012
331-900-0085	6-25-2012	Amend	8-1-2012	331-905-0020	6-25-2012	Adopt	8-1-2012
331-900-0085(T)	6-25-2012	Repeal	8-1-2012	331-905-0020(T)	3-1-2012	Suspend	4-1-2012
331-900-0090	1-1-2012	Adopt	2-1-2012	331-905-0020(T)	6-25-2012	Repeal	8-1-2012
331-900-0090	3-1-2012	Amend(T)	4-1-2012	331-905-0025	1-1-2012	Adopt(T)	2-1-2012
331-900-0090	6-25-2012	Amend	8-1-2012	331-905-0025	3-1-2012	Adopt(T)	4-1-2012
331-900-0090(T)	6-25-2012	Repeal	8-1-2012	331-905-0025	6-25-2012	Adopt	8-1-2012
331-900-0095	1-1-2012	Adopt	2-1-2012	331-905-0025(T)	3-1-2012	Suspend	4-1-2012
331-900-0095	3-1-2012	Amend(T)	4-1-2012	331-905-0025(T)	6-25-2012	Repeal	8-1-2012
331-900-0095	6-25-2012	Amend	8-1-2012	331-905-0030	1-1-2012	Adopt(T)	2-1-2012
331-900-0095(T)	6-25-2012	Repeal	8-1-2012	331-905-0030	3-1-2012	Adopt(T)	4-1-2012

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331-905-0030	6-25-2012	Adopt	8-1-2012	331-910-0000	6-25-2012	Amend	8-1-2012
331-905-0030(T)	3-1-2012	Suspend	4-1-2012	331-910-0005	1-1-2012	Adopt	2-1-2012
331-905-0030(T)	6-25-2012	Repeal	8-1-2012	331-910-0010	1-1-2012	Adopt	2-1-2012
331-905-0032	3-1-2012	Adopt(T)	4-1-2012	331-910-0010	3-1-2012	Amend(T)	4-1-2012
331-905-0032(T)	6-25-2012	Repeal	8-1-2012	331-910-0010	6-25-2012	Amend	8-1-2012
331-905-0034	3-1-2012	Adopt(T)	4-1-2012	331-910-0010(T)	6-25-2012	Repeal	8-1-2012
331-905-0034(T)	6-25-2012	Repeal	8-1-2012	331-910-0015	1-1-2012	Adopt	2-1-2012
331-905-0035	1-1-2012	Adopt(T)	2-1-2012	331-910-0015	3-1-2012	Amend(T)	4-1-2012
331-905-0035	3-1-2012	Adopt(T)	4-1-2012	331-910-0015	6-25-2012	Amend	8-1-2012
331-905-0035	6-25-2012	Adopt	8-1-2012	331-910-0015(T)	6-25-2012	Repeal	8-1-2012
331-905-0035(T)	3-1-2012	Suspend	4-1-2012	331-910-0020	1-1-2012	Adopt	2-1-2012
331-905-0035(T)	6-25-2012	Repeal	8-1-2012	331-910-0020	3-1-2012	Amend(T)	4-1-2012
331-905-0040	1-1-2012	Adopt(T)	2-1-2012	331-910-0020	6-25-2012	Amend	8-1-2012
331-905-0040	3-1-2012	Adopt(T)	4-1-2012	331-910-0020(T)	6-25-2012	Repeal	8-1-2012
331-905-0040	6-25-2012	Adopt	8-1-2012	331-910-0025	1-1-2012	Adopt	2-1-2012
331-905-0040(T)	3-1-2012	Suspend	4-1-2012	331-910-0025	3-1-2012	Amend(T)	4-1-2012
331-905-0040(T)	6-25-2012	Repeal	8-1-2012	331-910-0025	6-25-2012	Amend	8-1-2012
331-905-0045	1-1-2012	Adopt(T)	2-1-2012	331-910-0025(T)	6-25-2012	Repeal	8-1-2012
331-905-0045	3-1-2012	Adopt(T)	4-1-2012	331-910-0030	1-1-2012	Adopt	2-1-2012
331-905-0045	6-25-2012	Adopt	8-1-2012	331-910-0035	1-1-2012	Adopt	2-1-2012
331-905-0045(T)	3-1-2012	Suspend	4-1-2012	331-910-0040	1-1-2012	Adopt	2-1-2012
331-905-0045(T)	6-25-2012	Repeal	8-1-2012	331-910-0040	3-1-2012	Amend(T)	4-1-2012
331-905-0050	1-1-2012	Adopt(T)	2-1-2012	331-910-0040	6-25-2012	Amend	8-1-2012
331-905-0050	3-1-2012	Adopt(T)	4-1-2012	331-910-0040(T)	6-25-2012	Repeal	8-1-2012
331-905-0050	6-25-2012	Adopt	8-1-2012	331-910-0045	1-1-2012	Adopt	2-1-2012
331-905-0050(T)	3-1-2012	Suspend	4-1-2012	331-910-0045	3-1-2012	Amend(T)	4-1-2012
331-905-0050(T)	6-25-2012	Repeal	8-1-2012	331-910-0045	6-25-2012	Amend	8-1-2012
331-905-0052	6-25-2012	Adopt	8-1-2012	331-910-0045(T)	6-25-2012	Repeal	8-1-2012
331-905-0053	3-1-2012	Adopt(T)	4-1-2012	331-910-0050	1-1-2012	Adopt	2-1-2012
331-905-0053(T)	6-25-2012	Repeal	8-1-2012	331-910-0055	1-1-2012	Adopt	2-1-2012
331-905-0055	1-1-2012	Adopt(T)	2-1-2012	331-910-0055	3-1-2012	Amend(T)	4-1-2012
331-905-0055	3-1-2012	Adopt(T)	4-1-2012	331-910-0055	6-25-2012	Amend	8-1-2012
331-905-0055	6-25-2012	Adopt	8-1-2012	331-910-0055(T)	6-25-2012	Repeal	8-1-2012
331-905-0055(T)	3-1-2012	Suspend	4-1-2012	331-910-0060	1-1-2012	Adopt	2-1-2012
331-905-0055(T)	6-25-2012	Repeal	8-1-2012	331-910-0065	1-1-2012	Adopt	2-1-2012
331-905-0058	6-25-2012	Adopt	8-1-2012	331-910-0065	3-1-2012	Amend(T)	4-1-2012
331-905-0060	1-1-2012	Adopt(T)	2-1-2012	331-910-0065	6-25-2012	Amend	8-1-2012
331-905-0060	3-1-2012	Adopt(T)	4-1-2012	331-910-0065(T)	6-25-2012	Repeal	8-1-2012
331-905-0060	6-25-2012	Adopt	8-1-2012	331-910-0070	3-1-2012	Adopt(T)	4-1-2012
331-905-0060(T)	3-1-2012	Suspend	4-1-2012	331-910-0070	6-25-2012	Adopt	8-1-2012
331-905-0060(T)	6-25-2012	Repeal	8-1-2012	331-910-0070(T)	6-25-2012	Repeal	8-1-2012
331-905-0065	1-1-2012	Adopt(T)	2-1-2012	331-910-0075	3-1-2012	Adopt(T)	4-1-2012
331-905-0065	3-1-2012	Adopt(T)	4-1-2012	331-910-0075	6-25-2012	Adopt	8-1-2012
331-905-0065(T)	6-25-2012	Repeal	8-1-2012	331-910-0075(T)	6-25-2012	Repeal	8-1-2012
331-905-0070	6-25-2012	Adopt	8-1-2012	331-910-0080	3-1-2012	Adopt(T)	4-1-2012
331-905-0075	6-25-2012	Adopt	8-1-2012	331-910-0080	6-25-2012	Adopt	8-1-2012
331-905-0080	6-25-2012	Adopt	8-1-2012	331-910-0080(T)	6-25-2012	Repeal	8-1-2012
331-905-0085	6-25-2012	Adopt	8-1-2012	331-910-0085	3-1-2012	Adopt(T)	4-1-2012
331-905-0090	6-25-2012	Adopt	8-1-2012	331-910-0085	6-25-2012	Adopt	8-1-2012
331-905-0095	6-25-2012	Adopt	8-1-2012	331-910-0085(T)	6-25-2012	Repeal	8-1-2012
331-905-0100	6-25-2012	Adopt	8-1-2012	331-915-0000	1-1-2012	Adopt	2-1-2012
331-905-0105	6-25-2012	Adopt	8-1-2012	331-915-0000	6-25-2012	Amend	8-1-2012
331-905-0110	6-25-2012	Adopt	8-1-2012	331-915-0005	1-1-2012	Adopt	2-1-2012
331-905-0115	6-25-2012	Adopt	8-1-2012	331-915-0010	1-1-2012	Adopt	2-1-2012
331-905-0120	6-25-2012	Adopt	8-1-2012	331-915-0010	3-1-2012	Amend(T)	4-1-2012
331-910-0000	1-1-2012	Adopt	2-1-2012	331-915-0010	6-25-2012	Amend	8-1-2012

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331-915-0010(T)	6-25-2012	Repeal	8-1-2012	331-925-0015(T)	6-25-2012	Repeal	8-1-2012
331-915-0015	1-1-2012	Adopt	2-1-2012	331-925-0020	1-1-2012	Adopt	2-1-2012
331-915-0015	3-1-2012	Amend(T)	4-1-2012	331-925-0020	3-1-2012	Amend(T)	4-1-2012
331-915-0015	6-25-2012	Amend	8-1-2012	331-925-0020	6-25-2012	Amend	8-1-2012
331-915-0015(T)	6-25-2012	Repeal	8-1-2012	331-925-0020(T)	6-25-2012	Repeal	8-1-2012
331-915-0020	1-1-2012	Adopt	2-1-2012	331-925-0025	1-1-2012	Adopt	2-1-2012
331-915-0020	3-1-2012	Amend(T)	4-1-2012	331-925-0025	3-1-2012	Amend(T)	4-1-2012
331-915-0020	6-25-2012	Amend	8-1-2012	331-925-0025	6-25-2012	Amend	8-1-2012
331-915-0020(T)	6-25-2012	Repeal	8-1-2012	331-925-0025(T)	6-25-2012	Repeal	8-1-2012
331-915-0025	1-1-2012	Adopt	2-1-2012	331-925-0030	1-1-2012	Adopt	2-1-2012
331-915-0025	4-20-2012	Amend(T)	6-1-2012	331-925-0030	3-1-2012	Amend(T)	4-1-2012
331-915-0025	5-3-2012	Amend(T)	6-1-2012	331-925-0030	6-25-2012	Amend	8-1-2012
331-915-0025	6-25-2012	Amend	8-1-2012	331-925-0030(T)	6-25-2012	Repeal	8-1-2012
331-915-0025(T)	6-25-2012	Repeal	8-1-2012	331-925-0035	1-1-2012	Adopt	2-1-2012
331-915-0027	3-21-2012	Adopt(T)	5-1-2012	331-925-0035	3-1-2012	Amend(T)	4-1-2012
331-915-0027	3-30-2012	Suspend	5-1-2012	331-925-0035	6-25-2012	Amend	8-1-2012
331-915-0027(T)	6-25-2012	Repeal	8-1-2012	331-925-0035(T)	6-25-2012	Repeal	8-1-2012
331-915-0029	3-21-2012	Adopt(T)	5-1-2012	331-925-0040	1-1-2012	Adopt	2-1-2012
331-915-0029	3-30-2012	Suspend	5-1-2012	331-925-0040	3-1-2012	Amend(T)	4-1-2012
331-915-0029(T)	6-25-2012	Repeal	8-1-2012	331-925-0040	6-25-2012	Amend	8-1-2012
331-915-0030	1-1-2012	Adopt	2-1-2012	331-925-0040(T)	6-25-2012	Repeal	8-1-2012
331-915-0035	1-1-2012	Adopt	2-1-2012	331-925-0045	1-1-2012	Adopt	2-1-2012
331-915-0040	1-1-2012	Adopt	2-1-2012	331-925-0045	6-25-2012	Amend	8-1-2012
331-915-0040	3-1-2012	Amend(T)	4-1-2012	331-925-0050	3-1-2012	Adopt(T)	4-1-2012
331-915-0040	6-25-2012	Amend	8-1-2012	331-925-0050	6-25-2012	Adopt	8-1-2012
331-915-0040(T)	6-25-2012	Repeal	8-1-2012	331-925-0050(T)	6-25-2012	Repeal	8-1-2012
331-915-0045	1-1-2012	Adopt	2-1-2012	331-925-0055	3-1-2012	Adopt(T)	4-1-2012
331-915-0045	3-1-2012	Amend(T)	4-1-2012	331-925-0055	6-25-2012	Adopt	8-1-2012
331-915-0045	6-25-2012	Amend	8-1-2012	331-925-0055(T)	6-25-2012	Repeal	8-1-2012
331-915-0045(T)	6-25-2012	Repeal	8-1-2012	331-930-0000	1-1-2012	Adopt	2-1-2012
331-915-0050	1-1-2012	Adopt	2-1-2012	331-930-0000	3-1-2012	Amend(T)	4-1-2012
331-915-0055	1-1-2012	Adopt	2-1-2012	331-930-0000	6-25-2012	Repeal	8-1-2012
331-915-0060	1-1-2012	Adopt	2-1-2012	331-930-0000(T)	6-25-2012	Repeal	8-1-2012
331-915-0065	1-1-2012	Adopt	2-1-2012	331-930-0005	1-1-2012	Adopt	2-1-2012
331-915-0065	6-25-2012	Amend	8-1-2012	331-930-0005	3-1-2012	Suspend	4-1-2012
331-915-0070	6-25-2012	Adopt	8-1-2012	331-930-0005	6-25-2012	Repeal	8-1-2012
331-915-0075	6-25-2012	Adopt	8-1-2012	331-930-0005(T)	6-25-2012	Repeal	8-1-2012
331-915-0080	6-25-2012	Adopt	8-1-2012	331-930-0010	1-1-2012	Adopt	2-1-2012
331-915-0085	6-25-2012	Adopt	8-1-2012	331-930-0010	3-1-2012	Suspend	4-1-2012
331-920-0000	1-1-2012	Adopt	2-1-2012	331-930-0010	6-25-2012	Repeal	8-1-2012
331-920-0005	1-1-2012	Adopt	2-1-2012	331-930-0010(T)	6-25-2012	Repeal	8-1-2012
331-925-0000	1-1-2012	Adopt	2-1-2012	331-930-0015	1-1-2012	Adopt	2-1-2012
331-925-0000	3-1-2012	Amend(T)	4-1-2012	331-930-0015	3-1-2012	Amend(T)	4-1-2012
331-925-0000	6-25-2012	Amend	8-1-2012	331-930-0015	6-25-2012	Repeal	8-1-2012
331-925-0000(T)	6-25-2012	Repeal	8-1-2012	331-930-0015(T)	6-25-2012	Repeal	8-1-2012
331-925-0005	1-1-2012	Adopt	2-1-2012	331-930-0020	1-1-2012	Adopt	2-1-2012
331-925-0005	3-1-2012	Amend(T)	4-1-2012	331-930-0020	3-1-2012	Amend(T)	4-1-2012
331-925-0005	6-25-2012	Amend	8-1-2012	331-930-0020	6-25-2012	Repeal	8-1-2012
331-925-0005(T)	6-25-2012	Repeal	8-1-2012	331-930-0020(T)	6-25-2012	Repeal	8-1-2012
331-925-0010	1-1-2012	Adopt	2-1-2012	331-930-0025	1-1-2012	Adopt	2-1-2012
331-925-0010	3-1-2012	Amend(T)	4-1-2012	331-930-0025	3-1-2012	Amend(T)	4-1-2012
331-925-0010	6-25-2012	Amend	8-1-2012	331-930-0025	6-25-2012	Repeal	8-1-2012
331-925-0010(T)	6-25-2012	Repeal	8-1-2012	331-930-0025(T)	6-25-2012	Repeal	8-1-2012
331-925-0015	1-1-2012	Adopt	2-1-2012	331-930-0030	1-1-2012	Adopt	2-1-2012
331-925-0015	3-1-2012	Amend(T)	4-1-2012	331-930-0030	3-1-2012	Amend(T)	4-1-2012
331-925-0015	6-25-2012	Amend	8-1-2012	331-930-0030	6-25-2012	Repeal	8-1-2012

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331-930-0030(T)	6-25-2012	Repeal	8-1-2012	333-012-0002	6-11-2012	Repeal	7-1-2012
331-940-0000	1-1-2012	Adopt	2-1-2012	333-012-0003	6-11-2012	Repeal	7-1-2012
331-940-0000	3-5-2012	Amend(T)	4-1-2012	333-012-0004	6-11-2012	Repeal	7-1-2012
331-940-0000	7-25-2012	Amend	9-1-2012	333-012-0010	6-11-2012	Repeal	7-1-2012
331-950-0010	1-1-2012	Adopt	2-1-2012	333-012-0035	6-11-2012	Repeal	7-1-2012
331-950-0010	6-25-2012	Amend	8-1-2012	333-012-0040	6-11-2012	Repeal	7-1-2012
331-950-0020	1-1-2012	Adopt	2-1-2012	333-012-0041	6-11-2012	Repeal	7-1-2012
331-950-0020	6-25-2012	Amend	8-1-2012	333-012-0043	6-11-2012	Repeal	7-1-2012
331-950-0030	1-1-2012	Adopt	2-1-2012	333-012-0045	6-11-2012	Repeal	7-1-2012
331-950-0030	6-25-2012	Amend	8-1-2012	333-012-0053	3-1-2012	Amend	4-1-2012
331-950-0040	1-1-2012	Adopt	2-1-2012	333-012-0055	3-1-2012	Amend	4-1-2012
331-950-0040	6-25-2012	Amend	8-1-2012	333-013-0001	6-11-2012	Repeal	7-1-2012
331-950-0050	1-1-2012	Adopt	2-1-2012	333-013-0004	6-11-2012	Amend	7-1-2012
331-950-0050	6-25-2012	Amend	8-1-2012	333-013-0100	6-11-2012	Repeal	7-1-2012
331-950-0060	1-1-2012	Adopt	2-1-2012	333-015-0025	2-1-2012	Amend	3-1-2012
331-950-0060	6-25-2012	Amend	8-1-2012	333-015-0030	2-1-2012	Amend	3-1-2012
331-950-0070	1-1-2012	Adopt	2-1-2012	333-015-0035	2-1-2012	Amend	3-1-2012
331-950-0070	6-25-2012	Amend	8-1-2012	333-015-0040	2-1-2012	Amend	3-1-2012
332-025-0120	4-12-2012	Amend(T)	4-1-2012	333-015-0045	2-1-2012	Amend	3-1-2012
332-025-0120	5-10-2012	Amend(T)	6-1-2012	333-015-0064	2-1-2012	Amend	3-1-2012
332-025-0120(T)	5-10-2012	Suspend	6-1-2012	333-015-0066	2-1-2012	Amend	3-1-2012
332-040-0000	1-1-2012	Amend(T)	2-1-2012	333-015-0068	2-1-2012	Amend	3-1-2012
332-040-0000	3-9-2012	Amend(T)	4-1-2012	333-015-0069	2-1-2012	Amend	3-1-2012
332-040-0000	7-25-2012	Amend	9-1-2012	333-015-0070	2-1-2012	Amend	3-1-2012
333-003-0105	4-1-2012	Amend	5-1-2012	333-015-0075	2-1-2012	Amend	3-1-2012
333-003-0110	4-1-2012	Amend	5-1-2012	333-015-0080	2-1-2012	Amend	3-1-2012
333-003-0115	4-1-2012	Amend	5-1-2012	333-015-0082	2-1-2012	Amend	3-1-2012
333-003-0117	4-1-2012	Adopt	5-1-2012	333-015-0085	2-1-2012	Amend	3-1-2012
333-003-0118	4-1-2012	Amend	5-1-2012	333-015-0090	2-1-2012	Repeal	3-1-2012
333-003-0119	4-1-2012	Adopt	5-1-2012	333-019-0041	12-14-2011	Amend	1-1-2012
333-003-0125	4-1-2012	Amend	5-1-2012	333-019-0042	12-14-2011	Adopt	1-1-2012
333-003-0140	4-1-2012	Amend	5-1-2012	333-021-0150	6-11-2012	Repeal	7-1-2012
333-003-0210	4-1-2012	Amend	5-1-2012	333-021-0500	6-11-2012	Repeal	7-1-2012
333-010-0000	1-1-2012	Amend	2-1-2012	333-021-0600	6-11-2012	Repeal	7-1-2012
333-010-0010	1-1-2012	Amend	2-1-2012	333-027-0000	4-1-2012	Amend	5-1-2012
333-010-0020	1-1-2012	Amend	2-1-2012	333-027-0005	4-1-2012	Amend	5-1-2012
333-010-0030	1-1-2012	Amend	2-1-2012	333-027-0010	4-1-2012	Amend	5-1-2012
333-010-0032	1-1-2012	Adopt	2-1-2012	333-027-0015	4-1-2012	Amend	5-1-2012
333-010-0035	1-1-2012	Amend	2-1-2012	333-027-0017	4-1-2012	Adopt	5-1-2012
333-010-0040	1-1-2012	Amend	2-1-2012	333-027-0018	4-1-2012	Adopt	5-1-2012
333-010-0050	1-1-2012	Amend	2-1-2012	333-027-0020	4-1-2012	Amend	5-1-2012
333-010-0055	1-1-2012	Amend	2-1-2012	333-027-0025	4-1-2012	Amend	5-1-2012
333-010-0060	1-1-2012	Amend	2-1-2012	333-027-0029	4-1-2012	Adopt	5-1-2012
333-010-0070	1-1-2012	Amend	2-1-2012	333-027-0030	4-1-2012	Repeal	5-1-2012
333-010-0080	1-1-2012	Amend	2-1-2012	333-027-0033	4-1-2012	Adopt	5-1-2012
333-010-0100	1-17-2012	Amend	3-1-2012	333-027-0035	4-1-2012	Repeal	5-1-2012
333-010-0105	1-17-2012	Amend	3-1-2012	333-027-0036	4-1-2012	Adopt	5-1-2012
333-010-0110	1-17-2012	Amend	3-1-2012	333-027-0037	4-1-2012	Adopt	5-1-2012
333-010-0115	1-17-2012	Amend	3-1-2012	333-027-0038	4-1-2012	Adopt	5-1-2012
333-010-0130	1-17-2012	Amend	3-1-2012	333-027-0040	4-1-2012	Amend	5-1-2012
333-010-0197	1-17-2012	Adopt	3-1-2012	333-027-0050	4-1-2012	Amend	5-1-2012
333-010-0340	6-11-2012	Repeal	7-1-2012	333-027-0060	4-1-2012	Amend	5-1-2012
333-011-0006	1-1-2012	Amend	2-1-2012	333-027-0064	4-1-2012	Adopt	5-1-2012
333-011-0016	1-1-2012	Amend	2-1-2012	333-027-0080	4-1-2012	Amend	5-1-2012
333-011-0061	1-1-2012	Amend	2-1-2012	333-027-0090	4-1-2012	Amend	5-1-2012
333-011-0101	1-1-2012	Amend	2-1-2012	333-027-0100	4-1-2012	Amend	5-1-2012

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333-027-0110	4-1-2012	Amend	5-1-2012	333-265-0160	1-1-2012	Amend	2-1-2012
333-027-0120	4-1-2012	Amend	5-1-2012	333-265-0170	1-1-2012	Amend	2-1-2012
333-027-0130	4-1-2012	Amend	5-1-2012	333-536-0000	7-1-2012	Amend	8-1-2012
333-027-0140	4-1-2012	Amend	5-1-2012	333-536-0005	7-1-2012	Amend	8-1-2012
333-027-0150	4-1-2012	Amend	5-1-2012	333-536-0007	7-1-2012	Adopt	8-1-2012
333-027-0170	4-1-2012	Amend	5-1-2012	333-536-0010	7-1-2012	Amend	8-1-2012
333-027-0175	4-1-2012	Adopt	5-1-2012	333-536-0015	7-1-2012	Amend	8-1-2012
333-027-0180	4-1-2012	Adopt	5-1-2012	333-536-0020	7-1-2012	Repeal	8-1-2012
333-027-0185	4-1-2012	Adopt	5-1-2012	333-536-0021	7-1-2012	Adopt	8-1-2012
333-027-0190	4-1-2012	Adopt	5-1-2012	333-536-0023	7-1-2012	Adopt	8-1-2012
333-047-0010	1-1-2012	Adopt	2-1-2012	333-536-0025	7-1-2012	Amend	8-1-2012
333-047-0030	1-1-2012	Adopt	2-1-2012	333-536-0030	7-1-2012	Repeal	8-1-2012
333-047-0040	1-1-2012	Adopt	2-1-2012	333-536-0031	7-1-2012	Adopt	8-1-2012
333-047-0050	1-1-2012	Adopt	2-1-2012	333-536-0033	7-1-2012	Adopt	8-1-2012
333-049-0010	1-1-2012	Amend	2-1-2012	333-536-0035	7-1-2012	Amend	8-1-2012
333-049-0040	1-1-2012	Amend	2-1-2012	333-536-0040	7-1-2012	Repeal	8-1-2012
333-049-0050	1-1-2012	Amend	2-1-2012	333-536-0041	7-1-2012	Adopt	8-1-2012
333-049-0065	1-1-2012	Amend	2-1-2012	333-536-0042	7-1-2012	Adopt	8-1-2012
333-049-0070	1-1-2012	Amend	2-1-2012	333-536-0043	7-1-2012	Adopt	8-1-2012
333-049-0090	1-1-2012	Amend	2-1-2012	333-536-0045	7-1-2012	Amend	8-1-2012
333-052-0030	6-11-2012	Amend(T)	7-1-2012	333-536-0050	7-1-2012	Amend	8-1-2012
333-052-0040	6-11-2012	Amend(T)	7-1-2012	333-536-0055	7-1-2012	Amend	8-1-2012
333-052-0041	6-11-2012	Adopt(T)	7-1-2012	333-536-0060	7-1-2012	Amend	8-1-2012
333-052-0042	6-11-2012	Adopt(T)	7-1-2012	333-536-0065	7-1-2012	Amend	8-1-2012
333-052-0100	6-11-2012	Amend(T)	7-1-2012	333-536-0070	7-1-2012	Amend	8-1-2012
333-076-0001	4-1-2012	Adopt	5-1-2012	333-536-0075	7-1-2012	Amend	8-1-2012
333-076-0185	4-1-2012	Amend	5-1-2012	333-536-0080	7-1-2012	Amend	8-1-2012
333-157-0073	3-1-2012	Adopt	4-1-2012	333-536-0085	7-1-2012	Amend	8-1-2012
333-157-0077	3-1-2012	Adopt	4-1-2012	333-536-0090	7-1-2012	Amend	8-1-2012
333-250-0051	7-1-2012	Adopt(T)	8-1-2012	333-536-0093	7-1-2012	Adopt	8-1-2012
333-265-0000	1-1-2012	Amend	2-1-2012	333-536-0095	7-1-2012	Amend	8-1-2012
333-265-0010	1-1-2012	Amend	2-1-2012	333-536-0105	7-1-2012	Amend	8-1-2012
333-265-0012	1-1-2012	Amend	2-1-2012	333-536-0110	7-1-2012	Adopt	8-1-2012
333-265-0014	1-1-2012	Amend	2-1-2012	333-536-0115	7-1-2012	Repeal	8-1-2012
333-265-0015	1-1-2012	Amend	2-1-2012	333-536-0117	7-1-2012	Adopt	8-1-2012
333-265-0016	1-1-2012	Amend	2-1-2012	333-536-0120	7-1-2012	Adopt	8-1-2012
333-265-0018	1-1-2012	Amend	2-1-2012	333-536-0125	7-1-2012	Adopt	8-1-2012
333-265-0020	1-1-2012	Amend	2-1-2012	333-700-0000	4-1-2012	Amend	5-1-2012
333-265-0022	1-1-2012	Amend	2-1-2012	333-700-0004	4-1-2012	Adopt	5-1-2012
333-265-0023	1-1-2012	Amend	2-1-2012	333-700-0005	4-1-2012	Amend	5-1-2012
333-265-0025	1-1-2012	Amend	2-1-2012	333-700-0010	4-1-2012	Amend	5-1-2012
333-265-0030	1-1-2012	Amend	2-1-2012	333-700-0015	4-1-2012	Amend	5-1-2012
333-265-0040	1-1-2012	Amend	2-1-2012	333-700-0017	4-1-2012	Adopt	5-1-2012
333-265-0050	1-1-2012	Amend	2-1-2012	333-700-0018	4-1-2012	Adopt	5-1-2012
333-265-0060	1-1-2012	Amend	2-1-2012	333-700-0019	4-1-2012	Adopt	5-1-2012
333-265-0070	1-1-2012	Amend	2-1-2012	333-700-0020	4-1-2012	Amend	5-1-2012
333-265-0080	1-1-2012	Amend	2-1-2012	333-700-0025	4-1-2012	Amend	5-1-2012
333-265-0083	1-1-2012	Amend	2-1-2012	333-700-0030	4-1-2012	Amend	5-1-2012
333-265-0085	1-1-2012	Amend	2-1-2012	333-700-0035	4-1-2012	Amend	5-1-2012
333-265-0087	1-1-2012	Amend	2-1-2012	333-700-0040	4-1-2012	Amend	5-1-2012
333-265-0090	1-1-2012	Amend	2-1-2012	333-700-0045	4-1-2012	Amend	5-1-2012
333-265-0100	1-1-2012	Amend	2-1-2012	333-700-0050	4-1-2012	Amend	5-1-2012
333-265-0105	1-1-2012	Amend	2-1-2012	333-700-0053	4-1-2012	Adopt	5-1-2012
333-265-0110	1-1-2012	Amend	2-1-2012	333-700-0055	4-1-2012	Repeal	5-1-2012
333-265-0140	1-1-2012	Amend	2-1-2012	333-700-0057	4-1-2012	Adopt	5-1-2012
333-265-0150	1-1-2012	Amend	2-1-2012	333-700-0060	4-1-2012	Amend	5-1-2012

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333-700-0062	4-1-2012	Adopt	5-1-2012	337-010-0045	5-1-2012	Amend	6-1-2012
333-700-0063	4-1-2012	Adopt	5-1-2012	339-010-0012	9-1-2012	Amend	8-1-2012
333-700-0064	4-1-2012	Adopt	5-1-2012	339-010-0013	9-1-2012	Adopt	8-1-2012
333-700-0065	4-1-2012	Amend	5-1-2012	340-041-0002	5-21-2012	Amend	7-1-2012
333-700-0070	4-1-2012	Repeal	5-1-2012	340-041-0185	5-21-2012	Amend	7-1-2012
333-700-0072	4-1-2012	Adopt	5-1-2012	340-041-0310	5-21-2012	Amend	7-1-2012
333-700-0073	4-1-2012	Adopt	5-1-2012	340-041-0315	5-21-2012	Amend	7-1-2012
333-700-0075	4-1-2012	Amend	5-1-2012	340-045-0100	11-18-2011	Amend	1-1-2012
333-700-0080	4-1-2012	Amend	5-1-2012	340-098-0000	6-26-2012	Adopt	8-1-2012
333-700-0085	4-1-2012	Amend	5-1-2012	340-098-0010	6-26-2012	Adopt	8-1-2012
333-700-0090	4-1-2012	Amend	5-1-2012	340-098-0100	6-26-2012	Adopt	8-1-2012
333-700-0095	4-1-2012	Amend	5-1-2012	340-098-0150	6-26-2012	Adopt	8-1-2012
333-700-0100	4-1-2012	Amend	5-1-2012	340-098-0200	6-26-2012	Adopt	8-1-2012
333-700-0105	4-1-2012	Amend	5-1-2012	340-200-0020	5-17-2012	Amend	7-1-2012
333-700-0110	4-1-2012	Amend	5-1-2012	340-200-0040	12-21-2011	Amend	2-1-2012
333-700-0115	4-1-2012	Amend	5-1-2012	340-200-0040	5-17-2012	Amend	7-1-2012
333-700-0120	4-1-2012	Amend	5-1-2012	340-204-0010	12-21-2011	Amend	2-1-2012
333-700-0125	4-1-2012	Amend	5-1-2012	340-204-0030	12-21-2011	Amend	2-1-2012
333-700-0130	4-1-2012	Amend	5-1-2012	340-204-0040	12-21-2011	Amend	2-1-2012
334-001-0000	1-1-2012	Amend	1-1-2012	340-210-0100	5-17-2012	Amend	7-1-2012
334-001-0005	1-1-2012	Amend	1-1-2012	340-210-0110	5-17-2012	Amend	7-1-2012
334-001-0020	1-1-2012	Amend	1-1-2012	340-210-0120	5-17-2012	Amend	7-1-2012
334-001-0025	1-1-2012	Adopt	1-1-2012	340-210-0250	5-17-2012	Amend	7-1-2012
334-001-0028	1-1-2012	Adopt	1-1-2012	340-215-0060	7-2-2012	Amend	8-1-2012
334-001-0032	1-1-2012	Adopt	1-1-2012	340-220-0030	7-2-2012	Amend	8-1-2012
334-001-0035	1-1-2012	Repeal	1-1-2012	340-220-0040	7-2-2012	Amend	8-1-2012
334-001-0036	1-1-2012	Adopt	1-1-2012	340-220-0050	7-2-2012	Amend	8-1-2012
334-001-0060	1-1-2012	Amend	1-1-2012	340-228-0020	5-17-2012	Amend	7-1-2012
334-010-0005	1-1-2012	Amend	1-1-2012	340-228-0200	5-17-2012	Amend	7-1-2012
334-010-0008	1-1-2012	Amend	1-1-2012	340-228-0210	5-17-2012	Amend	7-1-2012
334-010-0009	1-1-2012	Adopt	1-1-2012	340-262-0450	5-17-2012	Amend	7-1-2012
334-010-0009	7-1-2012	Amend	8-1-2012	340-262-0600	5-17-2012	Amend	7-1-2012
334-010-0010	1-1-2012	Amend	1-1-2012	345-001-0005	5-15-2012	Amend	6-1-2012
334-010-0012	1-1-2012	Amend	1-1-2012	345-001-0010	5-15-2012	Amend	6-1-2012
334-010-0015	1-1-2012	Amend	1-1-2012	345-001-0050	5-15-2012	Amend	6-1-2012
334-010-0015	7-1-2012	Amend	8-1-2012	345-011-0020	5-15-2012	Amend	6-1-2012
334-010-0017	1-1-2012	Amend	1-1-2012	345-011-0050	5-15-2012	Amend	6-1-2012
334-010-0018	1-1-2012	Adopt	1-1-2012	345-015-0014	5-15-2012	Amend	6-1-2012
334-010-0018	7-1-2012	Amend	8-1-2012	345-015-0085	5-15-2012	Amend	6-1-2012
334-010-0025	1-1-2012	Amend	1-1-2012	345-015-0110	5-15-2012	Amend	6-1-2012
334-010-0027	1-1-2012	Adopt	1-1-2012	345-015-0120	5-15-2012	Amend	6-1-2012
334-010-0028	7-1-2012	Adopt	8-1-2012	345-015-0160	5-15-2012	Amend	6-1-2012
334-010-0029	7-1-2012	Adopt	8-1-2012	345-015-0180	5-15-2012	Amend	6-1-2012
334-010-0033	1-1-2012	Amend	1-1-2012	345-015-0190	5-15-2012	Amend	6-1-2012
334-010-0033	7-1-2012	Amend	8-1-2012	345-015-0220	5-15-2012	Amend	6-1-2012
334-010-0046	1-1-2012	Amend	1-1-2012	345-015-0230	5-15-2012	Amend	6-1-2012
334-010-0050	1-1-2012	Amend	1-1-2012	345-015-0240	5-15-2012	Amend	6-1-2012
334-020-0015	1-1-2012	Amend	1-1-2012	345-015-0300	5-15-2012	Amend	6-1-2012
334-030-0001	1-1-2012	Amend	1-1-2012	345-015-0310	5-15-2012	Amend	6-1-2012
334-030-0005	1-1-2012	Amend	1-1-2012	345-020-0011	5-15-2012	Amend	6-1-2012
334-040-0001	1-1-2012	Amend	1-1-2012	345-020-0016	5-15-2012	Amend	6-1-2012
334-040-0010	1-1-2012	Amend	1-1-2012	345-020-0040	5-15-2012	Amend	6-1-2012
335-060-0006	2-23-2012	Amend	4-1-2012	345-021-0000	5-15-2012	Amend	6-1-2012
335-060-0007	2-23-2012	Amend	4-1-2012	345-021-0010	5-15-2012	Amend	6-1-2012
335-060-0010	2-23-2012	Amend	4-1-2012	345-021-0050	5-15-2012	Amend	6-1-2012

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345-021-0055	5-15-2012	Amend	6-1-2012	407-007-0220	8-1-2012	Amend	9-1-2012
345-021-0090	5-15-2012	Amend	6-1-2012	407-007-0220(T)	4-13-2012	Suspend	5-1-2012
345-022-0020	5-15-2012	Amend	6-1-2012	407-007-0220(T)	8-1-2012	Repeal	9-1-2012
345-023-0005	5-15-2012	Amend	6-1-2012	407-007-0230	2-27-2012	Amend(T)	4-1-2012
345-023-0030	5-15-2012	Amend	6-1-2012	407-007-0230	8-1-2012	Amend	9-1-2012
345-023-0040	5-15-2012	Amend	6-1-2012	407-007-0230(T)	8-1-2012	Repeal	9-1-2012
345-024-0015	5-15-2012	Amend	6-1-2012	407-007-0240	2-27-2012	Amend(T)	4-1-2012
345-024-0550	5-15-2012	Amend	6-1-2012	407-007-0240	8-1-2012	Amend	9-1-2012
345-024-0560	5-15-2012	Amend	6-1-2012	407-007-0240(T)	8-1-2012	Repeal	9-1-2012
345-024-0570	5-15-2012	Amend	6-1-2012	407-007-0250	2-27-2012	Amend(T)	4-1-2012
345-024-0590	5-15-2012	Amend	6-1-2012	407-007-0250	8-1-2012	Amend	9-1-2012
345-024-0600	5-15-2012	Amend	6-1-2012	407-007-0250(T)	8-1-2012	Repeal	9-1-2012
345-024-0610	5-15-2012	Amend	6-1-2012	407-007-0275	2-27-2012	Amend(T)	4-1-2012
345-024-0620	5-15-2012	Amend	6-1-2012	407-007-0275	4-13-2012	Amend(T)	5-1-2012
345-024-0630	5-15-2012	Amend	6-1-2012	407-007-0275	8-1-2012	Amend	9-1-2012
345-024-0640	5-15-2012	Amend	6-1-2012	407-007-0275(T)	4-13-2012	Suspend	5-1-2012
345-024-0680	5-15-2012	Amend	6-1-2012	407-007-0275(T)	8-1-2012	Repeal	9-1-2012
345-024-0710	5-15-2012	Amend	6-1-2012	407-007-0277	4-13-2012	Adopt(T)	5-1-2012
345-024-0720	5-15-2012	Amend	6-1-2012	407-007-0277	8-1-2012	Adopt	9-1-2012
345-026-0080	5-15-2012	Amend	6-1-2012	407-007-0277(T)	8-1-2012	Repeal	9-1-2012
345-026-0170	5-15-2012	Amend	6-1-2012	407-007-0280	2-27-2012	Amend(T)	4-1-2012
345-027-0020	5-15-2012	Amend	6-1-2012	407-007-0280	8-1-2012	Amend	9-1-2012
345-027-0023	5-15-2012	Amend	6-1-2012	407-007-0280(T)	8-1-2012	Repeal	9-1-2012
345-027-0028	5-15-2012	Amend	6-1-2012	407-007-0290	2-27-2012	Amend(T)	4-1-2012
345-027-0030	5-15-2012	Amend	6-1-2012	407-007-0290	8-1-2012	Amend	9-1-2012
345-027-0050	5-15-2012	Amend	6-1-2012	407-007-0290(T)	8-1-2012	Repeal	9-1-2012
345-027-0060	5-15-2012	Amend	6-1-2012	407-007-0300	2-27-2012	Amend(T)	4-1-2012
345-027-0070	5-15-2012	Amend	6-1-2012	407-007-0300	8-1-2012	Amend	9-1-2012
345-027-0080	5-15-2012	Amend	6-1-2012	407-007-0300(T)	8-1-2012	Repeal	9-1-2012
345-027-0090	5-15-2012	Amend	6-1-2012	407-007-0315	2-27-2012	Amend(T)	4-1-2012
345-027-0100	5-15-2012	Amend	6-1-2012	407-007-0315	8-1-2012	Amend	9-1-2012
345-027-0110	5-15-2012	Amend	6-1-2012	407-007-0315(T)	8-1-2012	Repeal	9-1-2012
345-027-0210	5-15-2012	Amend	6-1-2012	407-007-0320	2-27-2012	Amend(T)	4-1-2012
345-027-0220	5-15-2012	Amend	6-1-2012	407-007-0320	8-1-2012	Amend	9-1-2012
345-027-0230	5-15-2012	Amend	6-1-2012	407-007-0320(T)	8-1-2012	Repeal	9-1-2012
350-081-0020	6-1-2012	Amend	6-1-2012	407-007-0325	2-27-2012	Amend(T)	4-1-2012
350-081-0036	6-1-2012	Amend	6-1-2012	407-007-0325	8-1-2012	Amend	9-1-2012
350-081-0038	6-1-2012	Amend	6-1-2012	407-007-0325(T)	8-1-2012	Repeal	9-1-2012
350-081-0042	6-1-2012	Amend	6-1-2012	407-007-0330	2-27-2012	Amend(T)	4-1-2012
350-081-0054	6-1-2012	Amend	6-1-2012	407-007-0330	8-1-2012	Amend	9-1-2012
350-081-0082	6-1-2012	Amend	6-1-2012	407-007-0330(T)	8-1-2012	Repeal	9-1-2012
350-081-0190	6-1-2012	Amend	6-1-2012	407-007-0335	2-27-2012	Amend(T)	4-1-2012
350-081-0370	6-1-2012	Amend	6-1-2012	407-007-0335	8-1-2012	Amend	9-1-2012
350-081-0550	6-1-2012	Amend	6-1-2012	407-007-0335(T)	8-1-2012	Repeal	9-1-2012
350-081-0600	6-1-2012	Amend	6-1-2012	407-007-0340	2-27-2012	Amend(T)	4-1-2012
350-081-0620	6-1-2012	Amend	6-1-2012	407-007-0340	8-1-2012	Amend	9-1-2012
407-007-0200	2-27-2012	Amend(T)	4-1-2012	407-007-0340(T)	8-1-2012	Repeal	9-1-2012
407-007-0200	8-1-2012	Amend	9-1-2012	407-007-0350	2-27-2012	Amend(T)	4-1-2012
407-007-0200(T)	8-1-2012	Repeal	9-1-2012	407-007-0350	8-1-2012	Amend	9-1-2012
407-007-0210	2-27-2012	Amend(T)	4-1-2012	407-007-0350(T)	8-1-2012	Repeal	9-1-2012
407-007-0210	8-1-2012	Amend	9-1-2012	407-007-0370	2-27-2012	Amend(T)	4-1-2012
407-007-0210(T)	8-1-2012	Repeal	9-1-2012	407-007-0370	8-1-2012	Amend	9-1-2012
407-007-0215	2-27-2012	Adopt(T)	4-1-2012	407-007-0370(T)	8-1-2012	Repeal	9-1-2012
407-007-0215(T)	8-1-2012	Repeal	9-1-2012	407-014-0000	12-16-2011	Amend	2-1-2012
407-007-0220	2-27-2012	Amend(T)	4-1-2012	407-014-0000(T)	12-16-2011	Repeal	2-1-2012
407-007-0220	4-13-2012	Amend(T)	5-1-2012	407-014-0015	12-16-2011	Adopt	2-1-2012

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407-014-0015(T)	12-16-2011	Repeal	2-1-2012	409-025-0100	7-9-2012	Amend	8-1-2012
407-014-0020	12-16-2011	Amend	2-1-2012	409-025-0100(T)	7-9-2012	Repeal	8-1-2012
407-014-0020(T)	12-16-2011	Repeal	2-1-2012	409-025-0110	6-1-2012	Amend	7-1-2012
407-014-0030	12-16-2011	Amend	2-1-2012	409-025-0110	6-1-2012	Amend(T)	7-1-2012
407-014-0030(T)	12-16-2011	Repeal	2-1-2012	409-025-0110	7-9-2012	Amend	8-1-2012
407-014-0040	12-16-2011	Amend	2-1-2012	409-025-0110(T)	7-9-2012	Repeal	8-1-2012
407-014-0040(T)	12-16-2011	Repeal	2-1-2012	409-025-0120	6-1-2012	Amend	7-1-2012
407-014-0050	12-16-2011	Amend	2-1-2012	409-025-0130	6-1-2012	Amend	7-1-2012
407-014-0050(T)	12-16-2011	Repeal	2-1-2012	409-025-0160	6-1-2012	Amend	7-1-2012
407-014-0060	12-16-2011	Amend	2-1-2012	409-045-0000	1-11-2012	Adopt(T)	2-1-2012
407-014-0060(T)	12-16-2011	Repeal	2-1-2012	409-045-0000	5-1-2012	Amend	6-1-2012
407-014-0070	12-16-2011	Amend	2-1-2012	409-045-0000(T)	5-1-2012	Repeal	6-1-2012
407-014-0070(T)	12-16-2011	Repeal	2-1-2012	409-050-0110	12-1-2011	Amend	1-1-2012
407-014-0300	2-1-2012	Amend	3-1-2012	409-050-0110(T)	12-1-2011	Repeal	1-1-2012
407-014-0300(T)	2-1-2012	Repeal	3-1-2012	409-050-0120	12-1-2011	Amend	1-1-2012
407-014-0305	2-1-2012	Amend	3-1-2012	409-050-0120(T)	12-1-2011	Repeal	1-1-2012
407-014-0305(T)	2-1-2012	Repeal	3-1-2012	409-050-0130	12-22-2011	Amend	2-1-2012
407-014-0310	2-1-2012	Amend	3-1-2012	409-050-0130(T)	12-22-2011	Repeal	2-1-2012
407-014-0310(T)	2-1-2012	Repeal	3-1-2012	409-055-0000	3-1-2012	Amend	4-1-2012
407-014-0315	2-1-2012	Amend	3-1-2012	409-055-0000(T)	3-1-2012	Repeal	4-1-2012
407-014-0315(T)	2-1-2012	Repeal	3-1-2012	409-055-0010	3-1-2012	Amend	4-1-2012
407-014-0320	2-1-2012	Amend	3-1-2012	409-055-0010(T)	3-1-2012	Repeal	4-1-2012
407-014-0320(T)	2-1-2012	Repeal	3-1-2012	409-055-0020	3-1-2012	Amend	4-1-2012
407-043-0020	12-27-2011	Adopt	2-1-2012	409-055-0020(T)	3-1-2012	Repeal	4-1-2012
407-043-0020(T)	12-27-2011	Repeal	2-1-2012	409-055-0030	3-1-2012	Amend	4-1-2012
407-045-0250	12-5-2011	Amend	1-1-2012	409-055-0030(T)	3-1-2012	Repeal	4-1-2012
407-045-0260	12-5-2011	Amend	1-1-2012	409-055-0040	3-1-2012	Amend	4-1-2012
407-045-0280	12-5-2011	Amend	1-1-2012	409-055-0040(T)	3-1-2012	Repeal	4-1-2012
407-045-0290	12-5-2011	Amend	1-1-2012	409-055-0050	3-1-2012	Amend	4-1-2012
407-045-0320	12-5-2011	Amend	1-1-2012	409-055-0050(T)	3-1-2012	Repeal	4-1-2012
407-045-0400	12-1-2011	Amend	1-1-2012	409-055-0060	3-1-2012	Amend	4-1-2012
407-045-0400(T)	12-1-2011	Repeal	1-1-2012	409-055-0060(T)	3-1-2012	Repeal	4-1-2012
407-045-0410	12-1-2011	Repeal	1-1-2012	409-055-0070	3-1-2012	Amend	4-1-2012
407-045-0420	12-1-2011	Repeal	1-1-2012	409-055-0070(T)	3-1-2012	Repeal	4-1-2012
407-045-0430	12-1-2011	Repeal	1-1-2012	409-055-0080	3-1-2012	Amend	4-1-2012
407-045-0440	12-1-2011	Repeal	1-1-2012	409-055-0080(T)	3-1-2012	Repeal	4-1-2012
407-045-0450	12-1-2011	Repeal	1-1-2012	409-055-0090	3-1-2012	Adopt	4-1-2012
407-045-0460	12-1-2011	Repeal	1-1-2012	410-050-0100	7-1-2012	Amend(T)	8-1-2012
407-045-0470	12-1-2011	Repeal	1-1-2012	410-050-0110	7-1-2012	Amend(T)	8-1-2012
407-045-0480	12-1-2011	Repeal	1-1-2012	410-050-0861	1-1-2012	Amend(T)	2-1-2012
407-045-0490	12-1-2011	Repeal	1-1-2012	410-050-0861	3-1-2012	Amend	4-1-2012
407-045-0500	12-1-2011	Repeal	1-1-2012	410-050-0861(T)	3-1-2012	Repeal	4-1-2012
407-045-0510	12-1-2011	Repeal	1-1-2012	410-120-0000	1-1-2012	Amend	1-1-2012
407-045-0520	12-1-2011	Repeal	1-1-2012	410-120-0000	3-16-2012	Amend(T)	5-1-2012
407-120-0100	12-27-2011	Amend	2-1-2012	410-120-0000	7-1-2012	Amend	8-1-2012
407-120-0100(T)	12-27-2011	Repeal	2-1-2012	410-120-0000(T)	7-1-2012	Repeal	8-1-2012
407-120-0112	12-27-2011	Amend	2-1-2012	410-120-0006	1-1-2012	Amend	1-1-2012
407-120-0112(T)	12-27-2011	Repeal	2-1-2012	410-120-0006	1-13-2012	Amend(T)	2-1-2012
407-120-0114	12-27-2011	Amend	2-1-2012	410-120-0006	1-26-2012	Amend(T)	3-1-2012
407-120-0114(T)	12-27-2011	Repeal	2-1-2012	410-120-0006	1-31-2012	Amend(T)	3-1-2012
407-120-0150	12-27-2011	Amend	2-1-2012	410-120-0006	2-1-2012	Amend(T)	3-1-2012
407-120-0150(T)	12-27-2011	Repeal	2-1-2012	410-120-0006	3-1-2012	Amend(T)	4-1-2012
407-120-0200	12-27-2011	Amend	2-1-2012	410-120-0006	4-1-2012	Amend(T)	5-1-2012
407-120-0200(T)	12-27-2011	Repeal	2-1-2012	410-120-0006	5-1-2012	Amend(T)	6-1-2012
409-025-0100	6-1-2012	Amend	7-1-2012	410-120-0006	7-20-2012	Amend(T)	9-1-2012
409-025-0100	6-1-2012	Amend(T)	7-1-2012	410-120-0006(T)	1-1-2012	Repeal	1-1-2012

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410-120-0006(T)	1-26-2012	Suspend	3-1-2012	410-121-2020	3-13-2012	Amend	4-1-2012
410-120-0006(T)	3-1-2012	Suspend	4-1-2012	410-121-2030	3-13-2012	Amend	4-1-2012
410-120-0006(T)	4-1-2012	Suspend	5-1-2012	410-121-2050	3-13-2012	Amend	4-1-2012
410-120-0006(T)	5-1-2012	Suspend	6-1-2012	410-121-2065	3-13-2012	Amend	4-1-2012
410-120-0025	7-1-2012	Amend	8-1-2012	410-122-0186	1-1-2012	Amend	2-1-2012
410-120-0027	7-1-2012	Repeal	8-1-2012	410-122-0186	7-1-2012	Amend(T)	8-1-2012
410-120-0030	4-1-2012	Amend	5-1-2012	410-122-0186(T)	1-1-2012	Repeal	2-1-2012
410-120-0250	7-1-2012	Amend	8-1-2012	410-122-0188	1-1-2012	Adopt	2-1-2012
410-120-1160	1-1-2012	Amend	1-1-2012	410-122-0325	7-1-2012	Amend(T)	8-1-2012
410-120-1200	1-1-2012	Amend	1-1-2012	410-122-0340	4-1-2012	Amend	5-1-2012
410-120-1210	1-1-2012	Amend	1-1-2012	410-122-0520	1-1-2012	Amend	2-1-2012
410-120-1260	7-1-2012	Amend	8-1-2012	410-122-0540	4-1-2012	Amend	5-1-2012
410-120-1295	3-22-2012	Amend	5-1-2012	410-122-0630	1-1-2012	Amend	2-1-2012
410-120-1295(T)	3-22-2012	Repeal	5-1-2012	410-122-0630	4-1-2012	Amend	5-1-2012
410-120-1340	1-1-2012	Amend	1-1-2012	410-122-0630(T)	1-1-2012	Repeal	2-1-2012
410-120-1340	7-1-2012	Amend	8-1-2012	410-122-0660	4-1-2012	Amend	5-1-2012
410-120-1340(T)	1-1-2012	Repeal	1-1-2012	410-123-1000	1-1-2012	Amend	2-1-2012
410-120-1395	7-1-2012	Amend	8-1-2012	410-123-1060	1-1-2012	Amend	2-1-2012
410-120-1510	1-1-2012	Amend	1-1-2012	410-123-1060	1-1-2012	Amend	2-1-2012
410-120-1860	2-1-2012	Amend(T)	3-1-2012	410-123-1220	1-1-2012	Amend	2-1-2012
410-120-1860	7-1-2012	Amend	8-1-2012	410-123-1220	1-1-2012	Amend	2-1-2012
410-120-1860(T)	7-1-2012	Repeal	8-1-2012	410-123-1260	1-1-2012	Amend	2-1-2012
410-120-1920	1-1-2012	Amend	1-1-2012	410-123-1260	1-1-2012	Amend	2-1-2012
410-120-1960	1-1-2012	Amend	1-1-2012	410-123-1490	1-1-2012	Amend	2-1-2012
410-121-0000	1-1-2012	Amend	2-1-2012	410-123-1490	1-1-2012	Amend	2-1-2012
410-121-0030	1-1-2012	Amend	2-1-2012	410-125-0045	1-1-2012	Amend	1-1-2012
410-121-0030	3-16-2012	Amend(T)	5-1-2012	410-125-0047	1-1-2012	Amend	1-1-2012
410-121-0030	4-9-2012	Amend	5-1-2012	410-125-0080	1-1-2012	Amend	1-1-2012
410-121-0030	5-14-2012	Amend	6-1-2012	410-125-0085	1-1-2012	Amend	1-1-2012
410-121-0030	6-21-2012	Amend	8-1-2012	410-125-0120	7-1-2012	Amend	8-1-2012
410-121-0030	7-23-2012	Amend(T)	9-1-2012	410-125-0140	1-1-2012	Amend	1-1-2012
410-121-0030(T)	4-9-2012	Repeal	5-1-2012	410-125-0145	7-1-2012	Repeal	8-1-2012
410-121-0032	1-1-2012	Amend	2-1-2012	410-125-0150	7-1-2012	Amend	8-1-2012
410-121-0033	3-16-2012	Amend(T)	5-1-2012	410-125-0155	7-1-2012	Amend	8-1-2012
410-121-0040	1-1-2012	Amend	2-1-2012	410-125-0195	1-1-2012	Amend(T)	2-1-2012
410-121-0040	3-16-2012	Amend(T)	5-1-2012	410-125-0195	7-1-2012	Amend	8-1-2012
410-121-0040	4-9-2012	Amend	5-1-2012	410-125-0220	1-1-2012	Amend	1-1-2012
410-121-0040	4-20-2012	Amend(T)	6-1-2012	410-125-0410	7-1-2012	Amend	8-1-2012
410-121-0040	5-14-2012	Amend(T)	6-1-2012	410-125-0450	1-1-2012	Amend(T)	2-1-2012
410-121-0040	6-21-2012	Amend	8-1-2012	410-125-0450	7-1-2012	Amend	8-1-2012
410-121-0040	7-23-2012	Amend(T)	9-1-2012	410-127-0060	1-1-2012	Amend	1-1-2012
410-121-0040(T)	4-9-2012	Repeal	5-1-2012	410-130-0000	1-1-2012	Amend	2-1-2012
410-121-0040(T)	5-14-2012	Suspend	6-1-2012	410-130-0200	1-1-2012	Amend	2-1-2012
410-121-0040(T)	6-21-2012	Repeal	8-1-2012	410-130-0220	1-1-2012	Amend	2-1-2012
410-121-0061	1-1-2012	Amend	2-1-2012	410-130-0255	1-1-2012	Amend	2-1-2012
410-121-0100	3-16-2012	Amend(T)	5-1-2012	410-130-0368	1-1-2012	Amend	2-1-2012
410-121-0111	3-16-2012	Adopt(T)	5-1-2012	410-130-0595	1-1-2012	Amend	2-1-2012
410-121-0146	1-1-2012	Amend	2-1-2012	410-130-0595(T)	1-1-2012	Repeal	2-1-2012
410-121-0147	1-1-2012	Amend	2-1-2012	410-131-0040	1-1-2012	Amend	1-1-2012
410-121-0160	1-1-2012	Amend	2-1-2012	410-131-0060	1-1-2012	Repeal	1-1-2012
410-121-0160(T)	1-1-2012	Repeal	2-1-2012	410-131-0080	1-1-2012	Amend	1-1-2012
410-121-0185	1-1-2012	Amend	2-1-2012	410-131-0100	1-1-2012	Amend	1-1-2012
410-121-0190	1-1-2012	Amend	2-1-2012	410-131-0120	1-1-2012	Amend	1-1-2012
410-121-2000	3-13-2012	Amend	4-1-2012	410-131-0140	1-1-2012	Repeal	1-1-2012
410-121-2005	3-13-2012	Amend	4-1-2012	410-131-0160	1-1-2012	Amend	1-1-2012
410-121-2010	3-13-2012	Amend	4-1-2012	410-131-0180	1-1-2012	Repeal	1-1-2012

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410-131-0200	1-1-2012	Repeal	1-1-2012	410-141-3200	8-1-2012	Adopt	9-1-2012
410-131-0270	1-1-2012	Repeal	1-1-2012	410-141-3220	3-26-2012	Adopt(T)	5-1-2012
410-131-0275	1-1-2012	Repeal	1-1-2012	410-141-3220	8-1-2012	Adopt	9-1-2012
410-131-0280	1-1-2012	Repeal	1-1-2012	410-141-3260	3-26-2012	Adopt(T)	5-1-2012
410-140-0080	12-6-2011	Amend	1-1-2012	410-141-3260	8-1-2012	Adopt	9-1-2012
410-140-0260	12-6-2011	Amend	1-1-2012	410-141-3261	3-26-2012	Adopt(T)	5-1-2012
410-140-0400	12-6-2011	Amend	1-1-2012	410-141-3261	8-1-2012	Adopt	9-1-2012
410-141-0000	3-16-2012	Amend(T)	5-1-2012	410-141-3262	3-26-2012	Adopt(T)	5-1-2012
410-141-0000	8-1-2012	Amend	9-1-2012	410-141-3262	8-1-2012	Adopt	9-1-2012
410-141-0070	11-21-2011	Amend(T)	1-1-2012	410-141-3263	3-26-2012	Adopt(T)	5-1-2012
410-141-0070	5-1-2012	Amend	6-1-2012	410-141-3263	8-1-2012	Adopt	9-1-2012
410-141-0070(T)	5-1-2012	Repeal	6-1-2012	410-141-3264	3-26-2012	Adopt(T)	5-1-2012
410-141-0080	1-1-2012	Amend(T)	1-1-2012	410-141-3264	8-1-2012	Adopt	9-1-2012
410-141-0080	5-1-2012	Amend	6-1-2012	410-141-3265	3-26-2012	Adopt(T)	5-1-2012
410-141-0080(T)	5-1-2012	Repeal	6-1-2012	410-141-3265	8-1-2012	Repeal	9-1-2012
410-141-0264	2-7-2012	Amend(T)	3-1-2012	410-141-3266	3-26-2012	Adopt(T)	5-1-2012
410-141-0264	8-4-2012	Amend	9-1-2012	410-141-3266	8-1-2012	Repeal	9-1-2012
410-141-0420	1-1-2012	Amend(T)	2-1-2012	410-141-3268	3-26-2012	Adopt(T)	5-1-2012
410-141-0520	12-23-2011	Amend	2-1-2012	410-141-3268	8-1-2012	Adopt	9-1-2012
410-141-0520	1-1-2012	Amend(T)	2-1-2012	410-141-3270	3-26-2012	Adopt(T)	5-1-2012
410-141-0520	4-1-2012	Amend(T)	5-1-2012	410-141-3270	8-1-2012	Adopt	9-1-2012
410-141-0520(T)	12-23-2011	Repeal	2-1-2012	410-141-3280	3-26-2012	Adopt(T)	5-1-2012
410-141-0520(T)	4-1-2012	Suspend	5-1-2012	410-141-3280	8-1-2012	Adopt	9-1-2012
410-141-0860	3-22-2012	Amend	5-1-2012	410-141-3300	3-26-2012	Adopt(T)	5-1-2012
410-141-0860(T)	3-22-2012	Repeal	5-1-2012	410-141-3300	8-1-2012	Adopt	9-1-2012
410-141-3000	3-16-2012	Adopt(T)	5-1-2012	410-141-3320	3-26-2012	Adopt(T)	5-1-2012
410-141-3000	8-1-2012	Adopt	9-1-2012	410-141-3320	8-1-2012	Adopt	9-1-2012
410-141-3010	3-16-2012	Adopt(T)	5-1-2012	410-141-3340	3-20-2012	Adopt(T)	5-1-2012
410-141-3010	8-1-2012	Adopt	9-1-2012	410-141-3340	8-1-2012	Adopt	9-1-2012
410-141-3015	3-26-2012	Adopt(T)	5-1-2012	410-141-3345	3-20-2012	Adopt(T)	5-1-2012
410-141-3015	8-1-2012	Adopt	9-1-2012	410-141-3345	8-1-2012	Adopt	9-1-2012
410-141-3020	3-26-2012	Adopt(T)	5-1-2012	410-141-3350	3-20-2012	Adopt(T)	5-1-2012
410-141-3020	8-1-2012	Adopt	9-1-2012	410-141-3350	8-1-2012	Adopt	9-1-2012
410-141-3030	3-26-2012	Adopt(T)	5-1-2012	410-141-3355	3-20-2012	Adopt(T)	5-1-2012
410-141-3030	8-1-2012	Adopt	9-1-2012	410-141-3355	8-1-2012	Adopt	9-1-2012
410-141-3050	3-26-2012	Adopt(T)	5-1-2012	410-141-3360	3-20-2012	Adopt(T)	5-1-2012
410-141-3050	8-1-2012	Adopt	9-1-2012	410-141-3360	8-1-2012	Adopt	9-1-2012
410-141-3060	3-26-2012	Adopt(T)	5-1-2012	410-141-3365	3-20-2012	Adopt(T)	5-1-2012
410-141-3060	8-1-2012	Adopt	9-1-2012	410-141-3365	8-1-2012	Adopt	9-1-2012
410-141-3070	3-26-2012	Adopt(T)	5-1-2012	410-141-3370	3-20-2012	Adopt(T)	5-1-2012
410-141-3070	8-1-2012	Adopt	9-1-2012	410-141-3370	8-1-2012	Adopt	9-1-2012
410-141-3080	3-26-2012	Adopt(T)	5-1-2012	410-141-3375	3-20-2012	Adopt(T)	5-1-2012
410-141-3080	8-1-2012	Adopt	9-1-2012	410-141-3375	8-1-2012	Adopt	9-1-2012
410-141-3120	3-30-2012	Adopt(T)	5-1-2012	410-141-3380	3-20-2012	Adopt(T)	5-1-2012
410-141-3120	8-1-2012	Adopt	9-1-2012	410-141-3380	8-1-2012	Adopt	9-1-2012
410-141-3140	3-26-2012	Adopt(T)	5-1-2012	410-141-3385	3-20-2012	Adopt(T)	5-1-2012
410-141-3140	8-1-2012	Adopt	9-1-2012	410-141-3385	8-1-2012	Adopt	9-1-2012
410-141-3145	3-26-2012	Adopt(T)	5-1-2012	410-141-3390	3-20-2012	Adopt(T)	5-1-2012
410-141-3145	8-1-2012	Adopt	9-1-2012	410-141-3390	8-1-2012	Adopt	9-1-2012
410-141-3160	3-26-2012	Adopt(T)	5-1-2012	410-141-3395	3-20-2012	Adopt(T)	5-1-2012
410-141-3160	8-1-2012	Adopt	9-1-2012	410-141-3395	8-1-2012	Adopt	9-1-2012
410-141-3170	3-26-2012	Adopt(T)	5-1-2012	410-141-3420	3-26-2012	Adopt(T)	5-1-2012
410-141-3170	8-1-2012	Adopt	9-1-2012	410-141-3420	8-1-2012	Adopt	9-1-2012
410-141-3180	3-26-2012	Adopt(T)	5-1-2012	410-141-3430	8-9-2012	Adopt(T)	9-1-2012
410-141-3180	8-1-2012	Adopt	9-1-2012	410-142-0020	1-1-2012	Amend	1-1-2012
410-141-3200	3-26-2012	Adopt(T)	5-1-2012	410-142-0040	1-1-2012	Amend	1-1-2012

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410-142-0290	7-20-2012	Adopt	9-1-2012	411-323-0040	1-6-2012	Amend	2-1-2012
410-146-0020	3-22-2012	Amend	5-1-2012	411-323-0040(T)	1-6-2012	Repeal	2-1-2012
410-146-0020(T)	3-22-2012	Repeal	5-1-2012	411-323-0050	1-6-2012	Amend	2-1-2012
410-147-0362	3-22-2012	Amend	5-1-2012	411-323-0050(T)	1-6-2012	Repeal	2-1-2012
410-147-0362(T)	3-22-2012	Repeal	5-1-2012	411-323-0060	1-6-2012	Amend	2-1-2012
410-148-0060	1-1-2012	Amend	1-1-2012	411-323-0060(T)	1-6-2012	Repeal	2-1-2012
410-500-0000	1-31-2012	Adopt(T)	3-1-2012	411-323-0070	1-6-2012	Amend	2-1-2012
410-500-0000	7-28-2012	Adopt	9-1-2012	411-323-0070(T)	1-6-2012	Repeal	2-1-2012
410-500-0010	1-31-2012	Adopt(T)	3-1-2012	411-325-0020	1-6-2012	Amend	2-1-2012
410-500-0010	7-28-2012	Adopt	9-1-2012	411-325-0020(T)	1-6-2012	Repeal	2-1-2012
410-500-0020	1-31-2012	Adopt(T)	3-1-2012	411-325-0025	1-6-2012	Adopt	2-1-2012
410-500-0020	7-28-2012	Adopt	9-1-2012	411-325-0025(T)	1-6-2012	Repeal	2-1-2012
410-500-0030	1-31-2012	Adopt(T)	3-1-2012	411-325-0060	1-6-2012	Amend	2-1-2012
410-500-0030	7-28-2012	Adopt	9-1-2012	411-325-0060(T)	1-6-2012	Repeal	2-1-2012
410-500-0040	1-31-2012	Adopt(T)	3-1-2012	411-325-0080	1-6-2012	Repeal	2-1-2012
410-500-0040	7-28-2012	Adopt	9-1-2012	411-325-0100	1-6-2012	Repeal	2-1-2012
410-500-0050	1-31-2012	Adopt(T)	3-1-2012	411-325-0110	1-6-2012	Amend	2-1-2012
410-500-0050	7-28-2012	Adopt	9-1-2012	411-325-0150	1-6-2012	Amend	2-1-2012
410-500-0060	1-31-2012	Adopt(T)	3-1-2012	411-325-0160	1-6-2012	Repeal	2-1-2012
410-500-0060	7-28-2012	Adopt	9-1-2012	411-325-0210	1-6-2012	Repeal	2-1-2012
411-020-0002	6-1-2012	Amend(T)	7-1-2012	411-325-0310	1-6-2012	Repeal	2-1-2012
411-020-0030	6-1-2012	Amend(T)	7-1-2012	411-325-0320	1-6-2012	Amend	2-1-2012
411-020-0085	6-1-2012	Amend(T)	7-1-2012	411-325-0320(T)	1-6-2012	Repeal	2-1-2012
411-020-0123	6-1-2012	Adopt(T)	7-1-2012	411-325-0430	1-6-2012	Amend	2-1-2012
411-020-0126	6-1-2012	Adopt(T)	7-1-2012	411-325-0450	1-6-2012	Repeal	2-1-2012
411-030-0070	6-1-2012	Amend	7-1-2012	411-325-0460	1-6-2012	Amend	2-1-2012
411-030-0070(T)	6-1-2012	Repeal	7-1-2012	411-325-0460(T)	1-6-2012	Repeal	2-1-2012
411-040-0000	12-20-2011	Amend(T)	2-1-2012	411-328-0560	1-6-2012	Amend	2-1-2012
411-054-0005	5-1-2012	Amend	6-1-2012	411-328-0560(T)	1-6-2012	Repeal	2-1-2012
411-054-0005(T)	5-1-2012	Repeal	6-1-2012	411-328-0570	1-6-2012	Amend	2-1-2012
411-054-0013	5-1-2012	Amend	6-1-2012	411-328-0570(T)	1-6-2012	Repeal	2-1-2012
411-054-0013(T)	5-1-2012	Repeal	6-1-2012	411-328-0580	1-6-2012	Repeal	2-1-2012
411-054-0016	5-1-2012	Amend	6-1-2012	411-328-0590	1-6-2012	Repeal	2-1-2012
411-054-0016(T)	5-1-2012	Repeal	6-1-2012	411-328-0600	1-6-2012	Repeal	2-1-2012
411-070-0442	8-1-2012	Amend	9-1-2012	411-328-0610	1-6-2012	Repeal	2-1-2012
411-070-0452	8-1-2012	Amend	9-1-2012	411-328-0620	1-6-2012	Amend	2-1-2012
411-085-0010	4-10-2012	Amend	5-1-2012	411-328-0630	1-6-2012	Amend	2-1-2012
411-085-0015	4-10-2012	Amend	5-1-2012	411-328-0630(T)	1-6-2012	Repeal	2-1-2012
411-320-0020	1-1-2012	Amend	2-1-2012	411-328-0670	1-6-2012	Repeal	2-1-2012
411-320-0080	1-1-2012	Amend	2-1-2012	411-328-0730	1-6-2012	Repeal	2-1-2012
411-320-0090	12-28-2011	Amend	2-1-2012	411-328-0740	1-6-2012	Amend	2-1-2012
411-320-0090(T)	12-28-2011	Repeal	2-1-2012	411-328-0740(T)	1-6-2012	Repeal	2-1-2012
411-320-0110	12-28-2011	Amend	2-1-2012	411-328-0805	1-6-2012	Repeal	2-1-2012
411-320-0110(T)	12-28-2011	Repeal	2-1-2012	411-328-0810	1-6-2012	Repeal	2-1-2012
411-320-0175	1-1-2012	Amend(T)	2-1-2012	411-328-0820	1-6-2012	Repeal	2-1-2012
411-320-0175	6-30-2012	Amend	8-1-2012	411-328-0830	1-6-2012	Repeal	2-1-2012
411-320-0175(T)	6-30-2012	Repeal	8-1-2012	411-330-0020	7-10-2012	Amend(T)	8-1-2012
411-320-0190	1-1-2012	Amend	2-1-2012	411-330-0065	7-10-2012	Adopt(T)	8-1-2012
411-323-0010	1-6-2012	Amend	2-1-2012	411-335-0010	1-6-2012	Amend	2-1-2012
411-323-0010(T)	1-6-2012	Repeal	2-1-2012	411-335-0010(T)	1-6-2012	Repeal	2-1-2012
411-323-0020	1-6-2012	Amend	2-1-2012	411-335-0020	1-6-2012	Amend	2-1-2012
411-323-0020(T)	1-6-2012	Repeal	2-1-2012	411-335-0020(T)	1-6-2012	Repeal	2-1-2012
411-323-0030	1-6-2012	Amend	2-1-2012	411-335-0030	1-6-2012	Amend	2-1-2012
411-323-0030(T)	1-6-2012	Repeal	2-1-2012	411-335-0030(T)	1-6-2012	Repeal	2-1-2012
411-323-0035	1-6-2012	Adopt	2-1-2012	411-335-0050	1-6-2012	Repeal	2-1-2012
411-323-0035(T)	1-6-2012	Repeal	2-1-2012	411-335-0060	1-6-2012	Amend	2-1-2012

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411-335-0070	1-6-2012	Repeal	2-1-2012	411-360-0260	5-29-2012	Amend	7-1-2012
411-335-0080	1-6-2012	Repeal	2-1-2012	411-365-0100	3-1-2012	Amend	4-1-2012
411-335-0090	1-6-2012	Repeal	2-1-2012	411-365-0120	3-1-2012	Amend	4-1-2012
411-335-0100	1-6-2012	Repeal	2-1-2012	411-365-0140	3-1-2012	Amend	4-1-2012
411-335-0110	1-6-2012	Repeal	2-1-2012	411-365-0160	3-1-2012	Amend	4-1-2012
411-335-0120	1-6-2012	Amend	2-1-2012	411-365-0180	3-1-2012	Amend	4-1-2012
411-335-0140	1-6-2012	Repeal	2-1-2012	411-365-0200	3-1-2012	Amend	4-1-2012
411-335-0230	1-6-2012	Amend	2-1-2012	411-365-0220	3-1-2012	Amend	4-1-2012
411-335-0300	1-6-2012	Repeal	2-1-2012	411-365-0240	3-1-2012	Amend	4-1-2012
411-335-0310	1-6-2012	Amend	2-1-2012	411-365-0260	3-1-2012	Amend	4-1-2012
411-335-0310(T)	1-6-2012	Repeal	2-1-2012	411-365-0280	3-1-2012	Amend	4-1-2012
411-335-0370	1-6-2012	Repeal	2-1-2012	411-365-0300	3-1-2012	Amend	4-1-2012
411-335-0380	1-6-2012	Repeal	2-1-2012	411-365-0320	3-1-2012	Amend	4-1-2012
411-335-0390	1-6-2012	Repeal	2-1-2012	413-010-0700	4-4-2012	Amend	5-1-2012
411-340-0020	12-28-2011	Amend	2-1-2012	413-010-0705	4-4-2012	Amend	5-1-2012
411-340-0100	12-28-2011	Amend	2-1-2012	413-010-0710	4-4-2012	Amend	5-1-2012
411-340-0100(T)	12-28-2011	Repeal	2-1-2012	413-010-0712	4-4-2012	Repeal	5-1-2012
411-340-0110	12-28-2011	Amend	2-1-2012	413-010-0714	4-4-2012	Amend	5-1-2012
411-340-0110(T)	12-28-2011	Repeal	2-1-2012	413-010-0715	4-4-2012	Amend	5-1-2012
411-340-0120	12-28-2011	Amend	2-1-2012	413-010-0716	4-4-2012	Amend	5-1-2012
411-340-0125	12-28-2011	Adopt	2-1-2012	413-010-0717	4-4-2012	Amend	5-1-2012
411-340-0130	12-28-2011	Amend	2-1-2012	413-010-0718	4-4-2012	Amend	5-1-2012
411-340-0140	12-28-2011	Amend	2-1-2012	413-010-0720	4-4-2012	Amend	5-1-2012
411-340-0150	12-28-2011	Amend	2-1-2012	413-010-0721	4-4-2012	Amend	5-1-2012
411-345-0010	1-6-2012	Amend	2-1-2012	413-010-0722	4-4-2012	Amend	5-1-2012
411-345-0010(T)	1-6-2012	Repeal	2-1-2012	413-010-0723	4-4-2012	Amend	5-1-2012
411-345-0020	1-6-2012	Amend	2-1-2012	413-010-0732	4-4-2012	Amend	5-1-2012
411-345-0020(T)	1-6-2012	Repeal	2-1-2012	413-010-0735	4-4-2012	Amend	5-1-2012
411-345-0030	1-6-2012	Amend	2-1-2012	413-010-0738	4-4-2012	Amend	5-1-2012
411-345-0030(T)	1-6-2012	Repeal	2-1-2012	413-010-0740	4-4-2012	Amend	5-1-2012
411-345-0050	1-6-2012	Amend	2-1-2012	413-010-0743	4-4-2012	Amend	5-1-2012
411-345-0050(T)	1-6-2012	Repeal	2-1-2012	413-010-0745	4-4-2012	Amend	5-1-2012
411-345-0080	1-6-2012	Repeal	2-1-2012	413-010-0746	4-4-2012	Amend	5-1-2012
411-345-0090	1-6-2012	Amend	2-1-2012	413-010-0748	4-4-2012	Amend	5-1-2012
411-345-0100	1-6-2012	Amend	2-1-2012	413-010-0750	4-4-2012	Amend	5-1-2012
411-345-0100(T)	1-6-2012	Repeal	2-1-2012	413-015-0470	3-12-2012	Amend(T)	4-1-2012
411-345-0110	1-6-2012	Amend	2-1-2012	413-020-0200	12-28-2011	Amend	2-1-2012
411-345-0110(T)	1-6-2012	Repeal	2-1-2012	413-020-0210	12-28-2011	Amend	2-1-2012
411-345-0130	1-6-2012	Amend	2-1-2012	413-020-0230	12-28-2011	Amend	2-1-2012
411-345-0130(T)	1-6-2012	Repeal	2-1-2012	413-020-0233	12-28-2011	Amend	2-1-2012
411-345-0190	1-6-2012	Amend	2-1-2012	413-020-0236	12-28-2011	Amend	2-1-2012
411-345-0190(T)	1-6-2012	Repeal	2-1-2012	413-020-0240	12-28-2011	Amend	2-1-2012
411-360-0130	12-1-2011	Amend(T)	1-1-2012	413-020-0245	12-28-2011	Amend	2-1-2012
411-360-0130	5-29-2012	Amend	7-1-2012	413-020-0255	12-28-2011	Amend	2-1-2012
411-360-0130(T)	5-29-2012	Repeal	7-1-2012	413-070-0063	12-28-2011	Amend	2-1-2012
411-360-0170	12-1-2011	Amend(T)	1-1-2012	413-070-0900	12-28-2011	Amend	2-1-2012
411-360-0170	12-30-2011	Amend(T)	2-1-2012	413-070-0905	12-28-2011	Amend	2-1-2012
411-360-0170	5-29-2012	Amend	7-1-2012	413-070-0909	12-28-2011	Amend	2-1-2012
411-360-0170(T)	12-30-2011	Suspend	2-1-2012	413-070-0917	12-28-2011	Amend	2-1-2012
411-360-0170(T)	5-29-2012	Repeal	7-1-2012	413-070-0919	12-28-2011	Amend	2-1-2012
411-360-0180	5-29-2012	Amend	7-1-2012	413-070-0925	12-28-2011	Amend	2-1-2012
411-360-0190	12-1-2011	Amend(T)	1-1-2012	413-070-0929	12-28-2011	Repeal	2-1-2012
411-360-0190	12-30-2011	Amend(T)	2-1-2012	413-070-0934	12-28-2011	Amend	2-1-2012
411-360-0190	5-29-2012	Amend	7-1-2012	413-070-0939	12-28-2011	Amend	2-1-2012
411-360-0190(T)	12-30-2011	Suspend	2-1-2012	413-070-0944	12-28-2011	Amend	2-1-2012

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413-070-0949	12-28-2011	Amend	2-1-2012	413-200-0287	12-28-2011	Amend	2-1-2012
413-070-0959	12-28-2011	Amend	2-1-2012	413-200-0289	12-28-2011	Amend	2-1-2012
413-070-0964	12-28-2011	Amend	2-1-2012	413-200-0292	12-28-2011	Amend	2-1-2012
413-070-0969	12-28-2011	Amend	2-1-2012	413-200-0294	12-28-2011	Amend	2-1-2012
413-070-0970	12-28-2011	Amend	2-1-2012	413-200-0296	12-28-2011	Amend	2-1-2012
413-070-0974	12-28-2011	Amend	2-1-2012	413-200-0301	12-28-2011	Amend	2-1-2012
413-070-0979	12-28-2011	Repeal	2-1-2012	413-200-0305	12-28-2011	Amend	2-1-2012
413-100-0135	12-28-2011	Amend	2-1-2012	413-200-0306	12-28-2011	Amend	2-1-2012
413-100-0150	12-28-2011	Amend	2-1-2012	413-200-0308	12-28-2011	Amend	2-1-2012
413-100-0900	12-28-2011	Amend	2-1-2012	413-200-0314	12-28-2011	Amend	2-1-2012
413-100-0905	12-28-2011	Amend	2-1-2012	413-200-0335	12-28-2011	Amend	2-1-2012
413-100-0910	12-28-2011	Amend	2-1-2012	413-200-0348	12-28-2011	Amend	2-1-2012
413-100-0915	12-28-2011	Amend	2-1-2012	413-200-0352	12-28-2011	Amend	2-1-2012
413-100-0920	12-28-2011	Amend	2-1-2012	413-200-0354	12-28-2011	Amend	2-1-2012
413-100-0925	12-28-2011	Amend	2-1-2012	413-200-0358	12-28-2011	Amend	2-1-2012
413-100-0930	12-28-2011	Amend	2-1-2012	413-200-0362	12-28-2011	Amend	2-1-2012
413-100-0940	12-28-2011	Amend	2-1-2012	413-200-0371	12-28-2011	Amend	2-1-2012
413-120-0400	6-26-2012	Amend	8-1-2012	413-200-0377	12-28-2011	Amend	2-1-2012
413-120-0420	12-28-2011	Amend(T)	2-1-2012	413-200-0379	12-28-2011	Amend	2-1-2012
413-120-0420	6-26-2012	Amend	8-1-2012	413-200-0383	12-28-2011	Amend	2-1-2012
413-120-0440	6-26-2012	Amend	8-1-2012	413-200-0386	12-28-2011	Amend	2-1-2012
413-120-0450	6-26-2012	Amend	8-1-2012	413-200-0388	12-28-2011	Amend	2-1-2012
413-120-0455	6-26-2012	Amend	8-1-2012	413-200-0390	12-28-2011	Amend	2-1-2012
413-120-0457	6-26-2012	Adopt	8-1-2012	413-200-0393	12-28-2011	Amend	2-1-2012
413-120-0460	12-28-2011	Amend(T)	2-1-2012	413-200-0394	12-28-2011	Amend	2-1-2012
413-120-0460	6-26-2012	Amend	8-1-2012	413-200-0395	12-28-2011	Amend	2-1-2012
413-120-0470	12-28-2011	Suspend	2-1-2012	413-200-0396	12-28-2011	Amend	2-1-2012
413-120-0470	6-26-2012	Repeal	8-1-2012	413-200-0404	1-3-2012	Amend	2-1-2012
413-120-0475	6-26-2012	Adopt	8-1-2012	413-200-0404(T)	1-3-2012	Repeal	2-1-2012
413-130-0000	12-28-2011	Amend	2-1-2012	413-200-0409	1-3-2012	Amend	2-1-2012
413-130-0010	12-28-2011	Amend	2-1-2012	413-200-0409(T)	1-3-2012	Repeal	2-1-2012
413-130-0015	12-28-2011	Adopt	2-1-2012	413-200-0414	1-3-2012	Amend	2-1-2012
413-130-0020	12-28-2011	Amend	2-1-2012	413-200-0414(T)	1-3-2012	Repeal	2-1-2012
413-130-0030	12-28-2011	Am. & Ren.	2-1-2012	413-200-0419	1-3-2012	Amend	2-1-2012
413-130-0040	12-28-2011	Amend	2-1-2012	413-200-0419(T)	1-3-2012	Repeal	2-1-2012
413-130-0045	12-28-2011	Repeal	2-1-2012	413-200-0424	1-3-2012	Amend	2-1-2012
413-130-0050	12-28-2011	Amend	2-1-2012	413-200-0424(T)	1-3-2012	Repeal	2-1-2012
413-130-0055	12-28-2011	Adopt	2-1-2012	414-205-0100	6-12-2012	Amend(T)	7-1-2012
413-130-0060	12-28-2011	Repeal	2-1-2012	414-300-0230	6-12-2012	Amend(T)	7-1-2012
413-130-0070	12-28-2011	Amend	2-1-2012	414-350-0180	6-12-2012	Amend(T)	7-1-2012
413-130-0075	12-28-2011	Amend	2-1-2012	415-056-0000	2-9-2012	Repeal	3-1-2012
413-130-0080	12-28-2011	Amend	2-1-2012	415-056-0005	2-9-2012	Repeal	3-1-2012
413-130-0090	12-28-2011	Amend	2-1-2012	415-056-0010	2-9-2012	Repeal	3-1-2012
413-130-0100	12-28-2011	Amend	2-1-2012	415-056-0015	2-9-2012	Repeal	3-1-2012
413-130-0110	12-28-2011	Amend	2-1-2012	415-056-0020	2-9-2012	Repeal	3-1-2012
413-130-0115	12-28-2011	Repeal	2-1-2012	415-056-0025	2-9-2012	Repeal	3-1-2012
413-130-0125	12-28-2011	Amend	2-1-2012	415-056-0030	2-9-2012	Adopt	3-1-2012
413-130-0130	12-28-2011	Amend	2-1-2012	415-056-0035	2-9-2012	Adopt	3-1-2012
413-200-0270	12-28-2011	Amend	2-1-2012	415-056-0040	2-9-2012	Adopt	3-1-2012
413-200-0272	12-28-2011	Amend	2-1-2012	415-056-0045	2-9-2012	Adopt	3-1-2012
413-200-0274	12-28-2011	Amend	2-1-2012	415-056-0050	2-9-2012	Adopt	3-1-2012
413-200-0276	12-28-2011	Amend	2-1-2012	415-065-0010	2-9-2012	Amend	3-1-2012
413-200-0278	12-28-2011	Amend	2-1-2012	415-065-0010	7-1-2012	Amend	8-1-2012
413-200-0281	12-28-2011	Amend	2-1-2012	415-065-0015	2-9-2012	Amend	3-1-2012
413-200-0283	12-28-2011	Amend	2-1-2012	415-065-0020	7-1-2012	Amend	8-1-2012
413-200-0285	12-28-2011	Amend	2-1-2012	415-065-0025	2-9-2012	Amend	3-1-2012

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415-065-0030	2-9-2012	Amend	3-1-2012	416-115-0280	12-14-2011	Repeal	1-1-2012
415-065-0030	7-1-2012	Amend	8-1-2012	416-170-0000	2-3-2012	Amend	3-1-2012
415-065-0035	2-9-2012	Amend	3-1-2012	416-170-0005	2-3-2012	Amend	3-1-2012
415-065-0035	7-1-2012	Amend	8-1-2012	416-170-0010	2-3-2012	Amend	3-1-2012
415-065-0040	2-9-2012	Amend	3-1-2012	416-170-0020	2-3-2012	Amend	3-1-2012
415-065-0040	7-1-2012	Amend	8-1-2012	416-170-0030	2-3-2012	Amend	3-1-2012
415-065-0045	2-9-2012	Amend	3-1-2012	416-410-0010	4-3-2012	Amend	5-1-2012
415-065-0050	2-9-2012	Amend	3-1-2012	416-450-0000	4-3-2012	Amend	5-1-2012
415-065-0050	7-1-2012	Amend	8-1-2012	416-450-0010	4-3-2012	Amend	5-1-2012
415-065-0055	2-9-2012	Amend	3-1-2012	416-450-0020	4-3-2012	Amend	5-1-2012
415-065-0055	7-1-2012	Amend	8-1-2012	416-450-0030	4-3-2012	Amend	5-1-2012
415-065-0060	2-9-2012	Amend	3-1-2012	416-450-0040	4-3-2012	Amend	5-1-2012
415-065-0060	7-1-2012	Amend	8-1-2012	416-450-0050	4-3-2012	Amend	5-1-2012
415-065-0065	2-9-2012	Amend	3-1-2012	416-450-0060	4-3-2012	Amend	5-1-2012
415-065-0070	7-1-2012	Repeal	8-1-2012	416-450-0070	4-3-2012	Amend	5-1-2012
416-100-0000	4-3-2012	Amend	5-1-2012	416-500-0050	6-25-2012	Amend	8-1-2012
416-100-0005	4-3-2012	Amend	5-1-2012	423-010-0023	6-1-2012	Amend	7-1-2012
416-100-0010	4-3-2012	Amend	5-1-2012	423-010-0026	6-1-2012	Amend	7-1-2012
416-100-0020	4-3-2012	Amend	5-1-2012	436-001-0003	7-1-2012	Amend(T)	7-1-2012
416-100-0030	4-3-2012	Amend	5-1-2012	436-001-0410	7-1-2012	Amend(T)	7-1-2012
416-100-0040	4-3-2012	Amend	5-1-2012	436-009-0003	4-1-2012	Amend	4-1-2012
416-100-0050	4-3-2012	Amend	5-1-2012	436-009-0004	4-1-2012	Amend	4-1-2012
416-100-0060	4-3-2012	Amend	5-1-2012	436-009-0010	4-1-2012	Amend	4-1-2012
416-100-0070	4-3-2012	Repeal	5-1-2012	436-009-0022	4-1-2012	Repeal	4-1-2012
416-115-0000	12-14-2011	Repeal	1-1-2012	436-009-0030	4-1-2012	Amend	4-1-2012
416-115-0010	12-14-2011	Amend	1-1-2012	436-009-0040	4-1-2012	Amend	4-1-2012
416-115-0010	6-25-2012	Amend	8-1-2012	436-009-0050	4-1-2012	Amend	4-1-2012
416-115-0020	12-14-2011	Amend	1-1-2012	436-009-0060	4-1-2012	Amend	4-1-2012
416-115-0025	12-14-2011	Adopt	1-1-2012	436-009-0070	4-1-2012	Amend	4-1-2012
416-115-0025	6-25-2012	Amend	8-1-2012	436-009-0080	1-1-2012	Amend	1-1-2012
416-115-0030	12-14-2011	Amend	1-1-2012	436-009-0080	4-1-2012	Amend	4-1-2012
416-115-0030	6-25-2012	Amend	8-1-2012	436-009-0080	4-23-2012	Amend(T)	5-1-2012
416-115-0040	12-14-2011	Repeal	1-1-2012	436-009-0090	4-1-2012	Amend	4-1-2012
416-115-0050	12-14-2011	Repeal	1-1-2012	436-009-0110	4-1-2012	Amend	4-1-2012
416-115-0060	12-14-2011	Repeal	1-1-2012	436-009-0115	4-1-2012	Amend	4-1-2012
416-115-0070	12-14-2011	Repeal	1-1-2012	436-009-0120	4-1-2012	Amend	4-1-2012
416-115-0080	12-14-2011	Repeal	1-1-2012	436-009-0125	4-1-2012	Amend	4-1-2012
416-115-0090	12-14-2011	Repeal	1-1-2012	436-009-0130	4-1-2012	Amend	4-1-2012
416-115-0100	12-14-2011	Repeal	1-1-2012	436-009-0135	4-1-2012	Amend	4-1-2012
416-115-0110	12-14-2011	Repeal	1-1-2012	436-009-0140	4-1-2012	Amend	4-1-2012
416-115-0120	12-14-2011	Repeal	1-1-2012	436-009-0145	4-1-2012	Amend	4-1-2012
416-115-0130	12-14-2011	Repeal	1-1-2012	436-009-0150	4-1-2012	Repeal	4-1-2012
416-115-0140	12-14-2011	Repeal	1-1-2012	436-009-0155	4-1-2012	Amend	4-1-2012
416-115-0150	12-14-2011	Repeal	1-1-2012	436-009-0160	4-1-2012	Amend	4-1-2012
416-115-0160	12-14-2011	Repeal	1-1-2012	436-009-0165	4-1-2012	Amend	4-1-2012
416-115-0170	12-14-2011	Repeal	1-1-2012	436-009-0170	4-1-2012	Amend	4-1-2012
416-115-0180	12-14-2011	Repeal	1-1-2012	436-009-0175	4-1-2012	Amend	4-1-2012
416-115-0190	12-14-2011	Repeal	1-1-2012	436-009-0177	4-1-2012	Adopt	4-1-2012
416-115-0200	12-14-2011	Repeal	1-1-2012	436-009-0180	4-1-2012	Amend	4-1-2012
416-115-0210	12-14-2011	Repeal	1-1-2012	436-009-0185	4-1-2012	Amend	4-1-2012
416-115-0220	12-14-2011	Repeal	1-1-2012	436-009-0200	4-1-2012	Amend	4-1-2012
416-115-0230	12-14-2011	Repeal	1-1-2012	436-009-0205	4-1-2012	Amend	4-1-2012
416-115-0240	12-14-2011	Repeal	1-1-2012	436-009-0206	4-1-2012	Amend	4-1-2012
416-115-0250	12-14-2011	Repeal	1-1-2012	436-009-0207	4-1-2012	Amend	4-1-2012
416-115-0260	12-14-2011	Repeal	1-1-2012	436-009-0210	4-1-2012	Amend	4-1-2012
416-115-0270	12-14-2011	Repeal	1-1-2012	436-009-0215	4-1-2012	Amend	4-1-2012

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436-009-0225	4-1-2012	Amend	4-1-2012	437-002-0120	12-8-2011	Amend	1-1-2012
436-009-0230	4-1-2012	Amend	4-1-2012	437-002-0120	4-10-2012	Amend	5-1-2012
436-009-0235	4-1-2012	Amend	4-1-2012	437-002-0123	12-8-2011	Repeal	1-1-2012
436-009-0240	4-1-2012	Amend	4-1-2012	437-002-0125	12-8-2011	Repeal	1-1-2012
436-009-0245	4-1-2012	Amend	4-1-2012	437-002-0127	12-8-2011	Repeal	1-1-2012
436-009-0250	4-1-2012	Repeal	4-1-2012	437-002-0128	12-8-2011	Repeal	1-1-2012
436-009-0255	4-1-2012	Amend	4-1-2012	437-002-0130	12-8-2011	Repeal	1-1-2012
436-009-0260	4-1-2012	Amend	4-1-2012	437-002-0134	12-8-2011	Adopt	1-1-2012
436-009-0260	4-23-2012	Amend(T)	5-1-2012	437-002-0135	12-8-2011	Repeal	1-1-2012
436-009-0265	4-1-2012	Amend	4-1-2012	437-002-0136	12-8-2011	Repeal	1-1-2012
436-009-0270	4-1-2012	Amend	4-1-2012	437-002-0137	12-8-2011	Repeal	1-1-2012
436-009-0275	4-1-2012	Amend	4-1-2012	437-002-0140	12-8-2011	Amend	1-1-2012
436-009-0280	4-1-2012	Repeal	4-1-2012	437-002-0161	4-10-2012	Amend	5-1-2012
436-009-0285	4-1-2012	Amend	4-1-2012	437-002-0180	4-10-2012	Amend	5-1-2012
436-009-0290	4-1-2012	Amend	4-1-2012	437-002-0182	4-10-2012	Amend	5-1-2012
436-010-0210	1-1-2012	Amend	1-1-2012	437-002-0220	12-8-2011	Amend	1-1-2012
436-010-0230	1-1-2012	Amend	1-1-2012	437-002-0220	4-10-2012	Amend	5-1-2012
436-010-0280	1-1-2012	Amend	1-1-2012	437-002-0240	4-10-2012	Amend	5-1-2012
436-010-0330	4-1-2012	Amend	4-1-2012	437-002-0280	4-10-2012	Amend	5-1-2012
436-015-0003	4-1-2012	Amend	4-1-2012	437-002-0300	4-10-2012	Amend	5-1-2012
436-015-0005	4-1-2012	Amend	4-1-2012	437-002-0312	4-10-2012	Amend	5-1-2012
436-015-0007	4-1-2012	Amend	4-1-2012	437-002-0340	12-8-2011	Amend	1-1-2012
436-015-0008	1-1-2012	Amend	1-1-2012	437-002-0340	4-10-2012	Amend	5-1-2012
436-015-0009	4-1-2012	Amend	4-1-2012	437-002-0360	12-8-2011	Amend	1-1-2012
436-015-0010	4-1-2012	Amend	4-1-2012	437-002-0360	4-10-2012	Amend	5-1-2012
436-015-0020	4-1-2012	Repeal	4-1-2012	437-002-0360	7-1-2012	Amend	1-1-2012
436-015-0030	4-1-2012	Amend	4-1-2012	437-002-0364	12-8-2011	Amend	1-1-2012
436-015-0050	4-1-2012	Amend	4-1-2012	437-002-0373	4-10-2012	Amend	5-1-2012
436-015-0075	4-1-2012	Adopt	4-1-2012	437-002-1001	7-1-2012	Adopt	1-1-2012
436-015-0080	4-1-2012	Amend	4-1-2012	437-002-1017	7-1-2012	Adopt	1-1-2012
436-015-0110	4-1-2012	Amend	4-1-2012	437-002-1018	7-1-2012	Adopt	1-1-2012
436-030-0003	1-1-2012	Amend	1-1-2012	437-002-1025	7-1-2012	Adopt	1-1-2012
436-030-0036	1-1-2012	Amend	1-1-2012	437-002-1027	7-1-2012	Adopt	1-1-2012
436-030-0145	1-1-2012	Amend	1-1-2012	437-002-1028	7-1-2012	Adopt	1-1-2012
436-030-0165	1-1-2012	Amend	1-1-2012	437-002-1029	7-1-2012	Adopt	1-1-2012
437-001-0015	7-1-2012	Amend	6-1-2012	437-002-1043	7-1-2012	Adopt	1-1-2012
437-001-0075	7-1-2012	Amend	6-1-2012	437-002-1044	7-1-2012	Adopt	1-1-2012
437-001-0145	7-1-2012	Amend	6-1-2012	437-002-1045	7-1-2012	Adopt	1-1-2012
437-001-0160	7-1-2012	Amend	6-1-2012	437-002-1047	7-1-2012	Adopt	1-1-2012
437-001-0165	7-1-2012	Amend	6-1-2012	437-002-1048	7-1-2012	Adopt	1-1-2012
437-001-0175	7-1-2012	Amend	6-1-2012	437-002-1050	7-1-2012	Adopt	1-1-2012
437-001-0230	7-1-2012	Amend	6-1-2012	437-002-1051	7-1-2012	Adopt	1-1-2012
437-001-0255	7-1-2012	Amend	6-1-2012	437-002-1052	7-1-2012	Adopt	1-1-2012
437-001-0260	7-1-2012	Repeal	6-1-2012	437-003-0001	12-8-2011	Amend	1-1-2012
437-001-0400	7-1-2012	Amend	6-1-2012	437-003-0001	4-10-2012	Amend	5-1-2012
437-001-0405	7-1-2012	Amend	6-1-2012	437-003-0001	7-1-2012	Amend	1-1-2012
437-001-0410	7-1-2012	Amend	6-1-2012	437-003-0015	12-8-2011	Amend	1-1-2012
437-001-0411	7-1-2012	Amend	6-1-2012	437-003-0062	7-1-2012	Adopt	1-1-2012
437-001-0415	7-1-2012	Amend	6-1-2012	437-003-0096	12-8-2011	Amend	1-1-2012
437-001-0420	7-1-2012	Amend	6-1-2012	437-003-0875	4-10-2012	Amend	5-1-2012
437-001-0430	7-1-2012	Amend	6-1-2012	437-003-1101	7-1-2012	Adopt	1-1-2012
437-001-0435	7-1-2012	Amend	6-1-2012	437-003-1127	7-1-2012	Adopt	1-1-2012
437-001-0760	7-1-2012	Amend	6-1-2012	437-003-3060	7-1-2012	Adopt	1-1-2012
437-002-0005	12-8-2011	Amend	1-1-2012	437-004-1110	12-8-2011	Amend	1-1-2012
437-002-0080	4-10-2012	Amend	5-1-2012	437-005-0001	12-8-2011	Amend	1-1-2012

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437-005-0001	4-10-2012	Amend	5-1-2012	441-735-0240	7-23-2012	Amend	9-1-2012
437-005-0002	12-8-2011	Amend	1-1-2012	441-735-0250	7-23-2012	Amend	9-1-2012
437-005-0003	12-8-2011	Amend	1-1-2012	441-735-0255	7-23-2012	Amend	9-1-2012
441-025-0050	7-9-2012	Amend	8-1-2012	441-735-0271	7-23-2012	Amend	9-1-2012
441-175-0002	7-9-2012	Amend	8-1-2012	441-735-0272	7-23-2012	Amend	9-1-2012
441-175-0010	7-9-2012	Amend	8-1-2012	441-735-0275	7-23-2012	Amend	9-1-2012
441-175-0060	7-9-2012	Amend	8-1-2012	441-735-0280	7-23-2012	Amend	9-1-2012
441-175-0070	7-9-2012	Amend	8-1-2012	441-735-0310	7-23-2012	Amend	9-1-2012
441-175-0080	7-9-2012	Amend	8-1-2012	441-735-0320	7-23-2012	Amend	9-1-2012
441-175-0100	7-9-2012	Amend	8-1-2012	441-755-0000	7-23-2012	Amend	9-1-2012
441-175-0105	7-9-2012	Amend	8-1-2012	441-755-0100	7-23-2012	Amend	9-1-2012
441-175-0120	7-9-2012	Amend	8-1-2012	441-755-0110	7-23-2012	Amend	9-1-2012
441-175-0130	7-9-2012	Amend	8-1-2012	441-755-0120	7-23-2012	Amend	9-1-2012
441-175-0150	7-9-2012	Amend	8-1-2012	441-755-0140	7-23-2012	Amend	9-1-2012
441-175-0160	7-9-2012	Amend	8-1-2012	441-755-0150	7-23-2012	Amend	9-1-2012
441-175-0165	7-9-2012	Amend	8-1-2012	441-755-0160	7-23-2012	Amend	9-1-2012
441-195-0020	7-9-2012	Amend	8-1-2012	441-755-0170	7-23-2012	Amend	9-1-2012
441-505-3046	12-15-2011	Amend(T)	1-1-2012	441-755-0210	7-23-2012	Amend	9-1-2012
441-505-3090	8-8-2012	Adopt(T)	9-1-2012	441-755-0300	7-23-2012	Amend	9-1-2012
441-674-0005	1-1-2012	Repeal	2-1-2012	441-755-0310	7-23-2012	Amend	9-1-2012
441-674-0100	1-1-2012	Repeal	2-1-2012	441-830-0010	11-23-2011	Repeal	1-1-2012
441-674-0120	1-1-2012	Repeal	2-1-2012	441-830-0015	11-23-2011	Repeal	1-1-2012
441-674-0130	1-1-2012	Repeal	2-1-2012	441-830-0020	11-23-2011	Repeal	1-1-2012
441-674-0140	1-1-2012	Repeal	2-1-2012	441-830-0030	11-23-2011	Repeal	1-1-2012
441-674-0210	1-1-2012	Repeal	2-1-2012	441-830-0040	11-23-2011	Repeal	1-1-2012
441-674-0220	1-1-2012	Repeal	2-1-2012	441-850-0005	8-1-2012	Amend	9-1-2012
441-674-0230	1-1-2012	Repeal	2-1-2012	441-850-0042	12-15-2011	Amend(T)	1-1-2012
441-674-0240	1-1-2012	Repeal	2-1-2012	441-860-0020	8-1-2012	Amend	9-1-2012
441-674-0250	1-1-2012	Repeal	2-1-2012	441-860-0021	8-1-2012	Adopt	9-1-2012
441-674-0310	1-1-2012	Repeal	2-1-2012	441-860-0024	8-1-2012	Adopt	9-1-2012
441-674-0510	1-1-2012	Repeal	2-1-2012	441-860-0025	8-1-2012	Amend	9-1-2012
441-674-0520	1-1-2012	Repeal	2-1-2012	441-860-0030	8-1-2012	Amend	9-1-2012
441-674-0910	1-1-2012	Repeal	2-1-2012	441-860-0040	8-1-2012	Amend	9-1-2012
441-674-0915	1-1-2012	Repeal	2-1-2012	441-860-0050	8-1-2012	Amend	9-1-2012
441-674-0920	1-1-2012	Repeal	2-1-2012	441-860-0060	8-1-2012	Amend	9-1-2012
441-710-0540	12-15-2011	Amend(T)	1-1-2012	441-860-0080	8-1-2012	Amend	9-1-2012
441-730-0026	8-1-2012	Amend	9-1-2012	441-860-0085	8-1-2012	Amend	9-1-2012
441-730-0246	12-15-2011	Amend(T)	1-1-2012	441-860-0090	8-1-2012	Amend	9-1-2012
441-730-0320	8-1-2012	Amend	9-1-2012	441-860-0110	8-1-2012	Amend	9-1-2012
441-735-0000	7-23-2012	Amend	9-1-2012	441-865-0025	8-1-2012	Amend	9-1-2012
441-735-0010	7-23-2012	Amend	9-1-2012	441-865-0060	8-1-2012	Amend	9-1-2012
441-735-0015	7-23-2012	Amend	9-1-2012	441-880-0005	11-23-2011	Adopt	1-1-2012
441-735-0025	7-23-2012	Amend	9-1-2012	441-880-0005	8-1-2012	Amend	9-1-2012
441-735-0030	7-23-2012	Amend	9-1-2012	441-880-0006	11-23-2011	Adopt	1-1-2012
441-735-0050	7-23-2012	Amend	9-1-2012	441-880-0006	8-1-2012	Amend	9-1-2012
441-735-0060	7-23-2012	Amend	9-1-2012	441-880-0007	11-23-2011	Adopt	1-1-2012
441-735-0070	7-23-2012	Amend	9-1-2012	441-880-0007	8-1-2012	Amend	9-1-2012
441-735-0080	7-23-2012	Amend	9-1-2012	441-880-0008	11-23-2011	Adopt	1-1-2012
441-735-0100	7-23-2012	Amend	9-1-2012	441-880-0008	8-1-2012	Amend	9-1-2012
441-735-0110	7-23-2012	Amend	9-1-2012	441-880-0010	8-1-2012	Repeal	9-1-2012
441-735-0120	7-23-2012	Amend	9-1-2012	441-880-0021	8-1-2012	Repeal	9-1-2012
441-735-0130	7-23-2012	Amend	9-1-2012	441-880-0022	8-1-2012	Repeal	9-1-2012
441-735-0140	7-23-2012	Amend	9-1-2012	441-880-0030	8-1-2012	Repeal	9-1-2012
441-735-0160	7-23-2012	Amend	9-1-2012	441-880-0040	8-1-2012	Repeal	9-1-2012
441-735-0165	7-23-2012	Amend	9-1-2012	441-880-0200	8-1-2012	Amend	9-1-2012
441-735-0205	7-23-2012	Amend	9-1-2012	441-880-0205	8-1-2012	Amend	9-1-2012

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441-880-0215	8-1-2012	Amend	9-1-2012	459-014-0040	2-1-2012	Adopt	3-1-2012
441-880-0300	8-1-2012	Amend	9-1-2012	459-014-0050	2-1-2012	Adopt	3-1-2012
441-880-0310	8-1-2012	Amend	9-1-2012	459-015-0005	11-23-2011	Amend	1-1-2012
441-880-0315	8-1-2012	Adopt	9-1-2012	459-017-0060	3-28-2012	Amend	5-1-2012
441-880-0320	8-1-2012	Adopt	9-1-2012	459-050-0000	5-24-2012	Amend	7-1-2012
441-910-0000	1-1-2012	Amend	1-1-2012	459-050-0001	5-24-2012	Amend	7-1-2012
441-910-0092	1-1-2012	Repeal	1-1-2012	459-050-0005	5-24-2012	Amend	7-1-2012
442-005-0020	1-13-2012	Amend	2-1-2012	459-050-0030	5-24-2012	Amend	7-1-2012
442-005-0030	1-13-2012	Amend	2-1-2012	459-050-0050	5-24-2012	Amend	7-1-2012
442-005-0050	1-13-2012	Amend	2-1-2012	459-050-0060	5-24-2012	Amend	7-1-2012
442-005-0070	1-13-2012	Amend	2-1-2012	459-050-0070	5-24-2012	Amend	7-1-2012
442-010-0020	12-22-2011	Amend	2-1-2012	459-050-0075	5-24-2012	Amend	7-1-2012
442-010-0020(T)	12-22-2011	Repeal	2-1-2012	459-050-0076	5-24-2012	Adopt	7-1-2012
442-010-0030	12-22-2011	Amend	2-1-2012	459-050-0077	5-24-2012	Amend	7-1-2012
442-010-0040	12-22-2011	Amend	2-1-2012	459-050-0080	5-24-2012	Amend	7-1-2012
442-010-0055	12-22-2011	Amend	2-1-2012	459-050-0090	5-24-2012	Amend	7-1-2012
442-010-0060	12-22-2011	Amend	2-1-2012	459-050-0120	5-24-2012	Amend	7-1-2012
442-010-0060(T)	12-22-2011	Repeal	2-1-2012	459-050-0150	5-24-2012	Amend	7-1-2012
442-010-0065	12-22-2011	Repeal	2-1-2012	459-050-0200	5-24-2012	Amend	7-1-2012
442-010-0070	12-22-2011	Amend	2-1-2012	459-050-0210	5-24-2012	Amend	7-1-2012
442-010-0075	12-22-2011	Amend	2-1-2012	459-050-0230	5-24-2012	Amend	7-1-2012
442-010-0075(T)	12-22-2011	Repeal	2-1-2012	459-050-0250	5-24-2012	Amend	7-1-2012
442-010-0080	12-22-2011	Amend	2-1-2012	459-050-0300	5-24-2012	Amend	7-1-2012
442-010-0085	12-22-2011	Amend	2-1-2012	459-060-0020	11-23-2011	Amend	1-1-2012
442-010-0090	12-22-2011	Amend	2-1-2012	459-075-0060	2-1-2012	Amend	3-1-2012
442-010-0100	12-22-2011	Amend	2-1-2012	459-076-0005	11-23-2011	Amend	1-1-2012
442-010-0110	12-22-2011	Amend	2-1-2012	459-080-0010	2-1-2012	Amend	3-1-2012
442-010-0120	12-22-2011	Amend	2-1-2012	459-080-0500	3-28-2012	Amend	5-1-2012
442-010-0160	12-22-2011	Amend	2-1-2012	461-001-0000	5-1-2012	Amend(T)	6-1-2012
442-010-0170	12-22-2011	Amend	2-1-2012	461-001-0025	12-29-2011	Amend	2-1-2012
442-010-0180	12-22-2011	Amend	2-1-2012	461-025-0300	1-31-2012	Amend(T)	3-1-2012
442-010-0190	12-22-2011	Amend	2-1-2012	461-025-0300	7-1-2012	Amend	8-1-2012
442-010-0200	12-22-2011	Repeal	2-1-2012	461-025-0300(T)	7-1-2012	Repeal	8-1-2012
442-010-0210	12-22-2011	Amend	2-1-2012	461-025-0310	1-31-2012	Amend(T)	3-1-2012
442-010-0215	12-22-2011	Amend	2-1-2012	461-025-0310	7-1-2012	Amend	8-1-2012
442-010-0220	12-22-2011	Amend	2-1-2012	461-025-0310(T)	7-1-2012	Repeal	8-1-2012
442-010-0230	12-22-2011	Amend	2-1-2012	461-025-0315	7-1-2012	Amend	8-1-2012
442-010-0240	12-22-2011	Amend	2-1-2012	461-101-0010	4-1-2012	Amend	5-1-2012
442-010-0250	12-22-2011	Repeal	2-1-2012	461-110-0340	5-1-2012	Amend(T)	6-1-2012
442-010-0260	12-22-2011	Amend	2-1-2012	461-110-0530	5-1-2012	Amend(T)	6-1-2012
443-002-0070	2-6-2012	Amend	3-1-2012	461-110-0630	5-1-2012	Amend(T)	6-1-2012
443-002-0190	2-6-2012	Amend	3-1-2012	461-115-0016	1-1-2012	Adopt	2-1-2012
459-001-0025	3-28-2012	Amend	5-1-2012	461-115-0016(T)	1-1-2012	Repeal	2-1-2012
459-005-0001	2-1-2012	Amend	3-1-2012	461-115-0030	1-1-2012	Amend	2-1-2012
459-005-0525	2-1-2012	Amend	3-1-2012	461-115-0030(T)	1-1-2012	Repeal	2-1-2012
459-005-0545	2-1-2012	Amend	3-1-2012	461-115-0050	1-1-2012	Amend	2-1-2012
459-005-0615	3-28-2012	Adopt	5-1-2012	461-115-0050(T)	1-1-2012	Repeal	2-1-2012
459-005-0620	11-22-2011	Adopt(T)	1-1-2012	461-115-0090	7-1-2012	Amend	8-1-2012
459-005-0620	2-1-2012	Adopt	3-1-2012	461-115-0140	7-1-2012	Amend	8-1-2012
459-007-0005	5-24-2012	Amend	7-1-2012	461-115-0230	1-1-2012	Amend	2-1-2012
459-007-0090	3-28-2012	Amend	5-1-2012	461-115-0230	2-29-2012	Amend(T)	4-1-2012
459-007-0270	3-28-2012	Amend	5-1-2012	461-115-0230	7-1-2012	Amend	8-1-2012
459-010-0005	11-23-2011	Repeal	1-1-2012	461-115-0230(T)	1-1-2012	Repeal	2-1-2012
459-013-0310	3-28-2012	Adopt	5-1-2012	461-115-0230(T)	7-1-2012	Repeal	8-1-2012
459-013-0320	3-28-2012	Adopt	5-1-2012	461-115-0690	1-1-2012	Amend	2-1-2012

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461-115-0705	1-1-2012	Amend(T)	2-1-2012	461-135-1250	4-12-2012	Amend(T)	5-1-2012
461-115-0705	4-1-2012	Amend	5-1-2012	461-135-1250	4-13-2012	Amend(T)	5-1-2012
461-115-0705(T)	4-1-2012	Repeal	5-1-2012	461-135-1250(T)	4-13-2012	Suspend	5-1-2012
461-120-0010	4-1-2012	Amend	5-1-2012	461-135-1260	3-30-2012	Adopt	5-1-2012
461-120-0030	4-1-2012	Amend	5-1-2012	461-135-1260	5-1-2012	Amend(T)	6-1-2012
461-120-0050	4-1-2012	Amend	5-1-2012	461-135-1260	5-24-2012	Amend(T)	7-1-2012
461-120-0110	4-1-2012	Amend	5-1-2012	461-135-1260(T)	5-24-2012	Suspend	7-1-2012
461-120-0120	4-1-2012	Repeal	5-1-2012	461-140-0120	7-1-2012	Amend	8-1-2012
461-120-0125	4-1-2012	Amend	5-1-2012	461-145-0080	4-1-2012	Amend	5-1-2012
461-120-0130	4-1-2012	Amend	5-1-2012	461-145-0080	7-1-2012	Amend(T)	8-1-2012
461-120-0210	4-1-2012	Amend	5-1-2012	461-145-0080(T)	4-1-2012	Repeal	5-1-2012
461-120-0210	7-1-2012	Amend	8-1-2012	461-145-0130	1-1-2012	Amend	2-1-2012
461-120-0315	4-1-2012	Amend	5-1-2012	461-145-0220	1-1-2012	Amend	2-1-2012
461-120-0330	4-1-2012	Amend	5-1-2012	461-145-0260	8-7-2012	Amend(T)	9-1-2012
461-120-0340	4-1-2012	Amend	5-1-2012	461-145-0410	1-1-2012	Amend	2-1-2012
461-120-0340	7-1-2012	Amend(T)	8-1-2012	461-145-0410	1-1-2012	Amend(T)	2-1-2012
461-120-0340(T)	4-1-2012	Repeal	5-1-2012	461-145-0410	4-1-2012	Amend	5-1-2012
461-120-0350	4-1-2012	Amend	5-1-2012	461-145-0410(T)	1-1-2012	Repeal	2-1-2012
461-120-0510	4-1-2012	Amend	5-1-2012	461-145-0410(T)	4-1-2012	Repeal	5-1-2012
461-120-0530	4-1-2012	Repeal	5-1-2012	461-145-0580	7-11-2012	Amend(T)	8-1-2012
461-120-0630	4-1-2012	Amend	5-1-2012	461-145-0870	5-1-2012	Amend(T)	6-1-2012
461-125-0170	5-1-2012	Amend(T)	6-1-2012	461-150-0080	7-1-2012	Amend	8-1-2012
461-130-0327	12-29-2011	Amend	2-1-2012	461-155-0030	1-26-2012	Amend(T)	3-1-2012
461-130-0330	1-1-2012	Amend	2-1-2012	461-155-0030	4-1-2012	Amend	5-1-2012
461-130-0330	7-1-2012	Amend	8-1-2012	461-155-0150	1-1-2012	Amend	2-1-2012
461-130-0330(T)	1-1-2012	Repeal	2-1-2012	461-155-0150	4-10-2012	Amend(T)	5-1-2012
461-130-0335	1-1-2012	Amend	2-1-2012	461-155-0180	1-25-2012	Amend	3-1-2012
461-130-0335(T)	1-1-2012	Repeal	2-1-2012	461-155-0235	1-25-2012	Amend	3-1-2012
461-135-0010	1-13-2012	Amend(T)	2-1-2012	461-155-0250	1-1-2012	Amend	2-1-2012
461-135-0010	7-1-2012	Amend	8-1-2012	461-155-0250	2-1-2012	Amend(T)	3-1-2012
461-135-0010(T)	7-1-2012	Repeal	8-1-2012	461-155-0250	7-1-2012	Amend	8-1-2012
461-135-0070	5-1-2012	Amend(T)	6-1-2012	461-155-0250(T)	7-1-2012	Repeal	8-1-2012
461-135-0075	4-1-2012	Amend	5-1-2012	461-155-0270	1-1-2012	Amend	2-1-2012
461-135-0075	5-1-2012	Amend(T)	6-1-2012	461-155-0290	3-1-2012	Amend	4-1-2012
461-135-0075(T)	4-1-2012	Repeal	5-1-2012	461-155-0291	3-1-2012	Amend	4-1-2012
461-135-0089	1-1-2012	Amend	2-1-2012	461-155-0295	3-1-2012	Amend	4-1-2012
461-135-0089(T)	1-1-2012	Repeal	2-1-2012	461-155-0300	1-1-2012	Amend	2-1-2012
461-135-0475	12-29-2011	Amend	2-1-2012	461-155-0320	1-1-2012	Amend	2-1-2012
461-135-0485	1-1-2012	Adopt	2-1-2012	461-155-0320(T)	1-1-2012	Repeal	2-1-2012
461-135-0485(T)	1-1-2012	Repeal	2-1-2012	461-155-0360	1-1-2012	Amend	2-1-2012
461-135-0780	1-1-2012	Amend	2-1-2012	461-155-0500	4-1-2012	Amend	5-1-2012
461-135-0832	1-1-2012	Amend	2-1-2012	461-155-0528	1-1-2012	Repeal	2-1-2012
461-135-0845	1-1-2012	Amend	2-1-2012	461-155-0575	12-1-2011	Amend(T)	1-1-2012
461-135-0950	1-1-2012	Amend	2-1-2012	461-155-0575(T)	12-1-2011	Suspend	1-1-2012
461-135-0950(T)	1-1-2012	Repeal	2-1-2012	461-155-0693	1-1-2012	Repeal	2-1-2012
461-135-0960	1-1-2012	Repeal	2-1-2012	461-160-0015	1-1-2012	Amend	2-1-2012
461-135-0990	1-1-2012	Amend	2-1-2012	461-160-0015(T)	1-1-2012	Repeal	2-1-2012
461-135-1100	1-1-2012	Amend(T)	2-1-2012	461-160-0055	7-12-2012	Amend(T)	8-1-2012
461-135-1100	4-1-2012	Amend	5-1-2012	461-160-0120	5-1-2012	Amend(T)	6-1-2012
461-135-1100(T)	4-1-2012	Repeal	5-1-2012	461-160-0580	1-1-2012	Amend	2-1-2012
461-135-1110	1-1-2012	Suspend	2-1-2012	461-160-0620	1-1-2012	Amend	2-1-2012
461-135-1110	4-1-2012	Repeal	5-1-2012	461-160-0620	7-1-2012	Amend(T)	8-1-2012
461-135-1175	6-8-2012	Suspend	7-1-2012	461-165-0035	2-27-2012	Amend(T)	4-1-2012
461-135-1195	1-1-2012	Amend	2-1-2012	461-165-0035	7-1-2012	Amend	8-1-2012
461-135-1195(T)	1-1-2012	Repeal	2-1-2012	461-165-0035(T)	7-1-2012	Repeal	8-1-2012

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461-165-0180	7-1-2012	Amend	8-1-2012	571-060-0005(T)	8-13-2012	Repeal	9-1-2012
461-170-0011	3-30-2012	Amend	5-1-2012	573-040-0005	5-10-2012	Amend	6-1-2012
461-170-0011	5-1-2012	Amend(T)	6-1-2012	573-050-0015	6-11-2012	Amend	7-1-2012
461-175-0200	7-1-2012	Amend	8-1-2012	573-050-0025	6-11-2012	Amend	7-1-2012
461-175-0210	1-1-2012	Amend(T)	2-1-2012	574-031-0000	7-31-2012	Amend	9-1-2012
461-175-0210	6-30-2012	Amend	8-1-2012	574-031-0010	7-31-2012	Amend	9-1-2012
461-175-0290	1-1-2012	Amend	2-1-2012	574-031-0020	7-31-2012	Amend	9-1-2012
461-180-0050	1-1-2012	Amend	2-1-2012	574-031-0030	7-31-2012	Amend	9-1-2012
461-180-0050(T)	1-1-2012	Repeal	2-1-2012	574-031-0040	7-31-2012	Amend	9-1-2012
461-180-0070	1-1-2012	Amend	2-1-2012	574-032-0000	7-31-2012	Amend	9-1-2012
461-180-0070(T)	1-1-2012	Repeal	2-1-2012	574-032-0010	7-31-2012	Amend	9-1-2012
461-180-0085	1-1-2012	Amend	2-1-2012	574-032-0020	7-31-2012	Amend	9-1-2012
461-180-0130	12-27-2011	Amend	2-1-2012	574-032-0030	7-31-2012	Amend	9-1-2012
461-180-0130	12-27-2011	Amend(T)	2-1-2012	574-032-0040	7-31-2012	Repeal	9-1-2012
461-180-0130	4-1-2012	Amend	5-1-2012	574-032-0050	7-31-2012	Amend	9-1-2012
461-180-0130	5-24-2012	Amend(T)	7-1-2012	574-032-0060	7-31-2012	Amend	9-1-2012
461-180-0130(T)	4-1-2012	Repeal	5-1-2012	574-032-0070	7-31-2012	Amend	9-1-2012
461-190-0211	4-6-2012	Amend	5-1-2012	574-032-0080	7-31-2012	Amend	9-1-2012
461-190-0211	4-6-2012	Amend(T)	5-1-2012	574-032-0090	7-31-2012	Amend	9-1-2012
461-190-0211	5-23-2012	Amend(T)	7-1-2012	574-032-0100	7-31-2012	Amend	9-1-2012
461-190-0211(T)	4-6-2012	Repeal	5-1-2012	574-032-0110	7-31-2012	Amend	9-1-2012
461-190-0211(T)	5-23-2012	Suspend	7-1-2012	574-032-0120	7-31-2012	Amend	9-1-2012
462-120-0050	6-1-2012	Amend	7-1-2012	574-032-0130	7-31-2012	Amend	9-1-2012
462-120-0100	6-1-2012	Amend	7-1-2012	574-032-0150	7-31-2012	Amend	9-1-2012
462-130-0010	6-1-2012	Amend	7-1-2012	574-032-0160	7-31-2012	Amend	9-1-2012
462-160-0130	5-21-2012	Amend(T)	7-1-2012	574-050-0005	1-27-2012	Amend	3-1-2012
462-210-0010	6-1-2012	Amend	7-1-2012	574-050-0005	7-31-2012	Amend	9-1-2012
462-210-0020	6-1-2012	Amend	7-1-2012	574-085-0000	7-31-2012	Amend	9-1-2012
462-210-0030	6-1-2012	Amend	7-1-2012	574-085-0020	7-31-2012	Amend	9-1-2012
462-220-0010	6-1-2012	Amend	7-1-2012	574-085-0040	7-31-2012	Amend	9-1-2012
462-220-0040	6-1-2012	Amend	7-1-2012	574-085-0060	7-31-2012	Amend	9-1-2012
462-220-0050	6-1-2012	Amend	7-1-2012	574-085-0070	7-31-2012	Amend	9-1-2012
462-220-0080	6-1-2012	Amend	7-1-2012	574-085-0110	7-31-2012	Amend	9-1-2012
462-220-0090	6-1-2012	Amend	7-1-2012	574-085-0120	7-31-2012	Amend	9-1-2012
462-230-0010	6-1-2012	Adopt	7-1-2012	574-085-0140	7-31-2012	Adopt	9-1-2012
462-230-0020	6-1-2012	Adopt	7-1-2012	576-001-0060	12-27-2011	Adopt	2-1-2012
471-030-0053	12-5-2011	Amend	1-1-2012	576-010-0000	12-27-2011	Amend	2-1-2012
471-030-0053(T)	12-5-2011	Repeal	1-1-2012	576-010-0000	7-1-2012	Amend	7-1-2012
471-030-0080	3-5-2012	Amend	4-1-2012	576-015-0020	3-30-2012	Amend(T)	5-1-2012
471-030-0080(T)	3-5-2012	Repeal	4-1-2012	576-015-0020	5-9-2012	Amend	6-1-2012
471-030-0230	1-1-2012	Adopt(T)	2-1-2012	576-023-0005	7-31-2012	Amend	9-1-2012
471-030-0230	2-29-2012	Adopt(T)	4-1-2012	576-023-0010	7-31-2012	Amend	9-1-2012
471-030-0230(T)	2-29-2012	Suspend	4-1-2012	576-023-0012	7-31-2012	Repeal	9-1-2012
471-031-0200	5-9-2012	Repeal	6-1-2012	576-023-0015	7-31-2012	Amend	9-1-2012
471-040-0010	2-10-2012	Amend	3-1-2012	576-023-0020	7-31-2012	Amend	9-1-2012
471-040-0010(T)	2-10-2012	Repeal	3-1-2012	576-023-0025	7-31-2012	Amend	9-1-2012
471-040-0040	2-10-2012	Amend	3-1-2012	576-023-0030	7-31-2012	Amend	9-1-2012
471-040-0040(T)	2-10-2012	Repeal	3-1-2012	576-023-0035	7-31-2012	Amend	9-1-2012
471-040-0041	2-10-2012	Amend	3-1-2012	576-023-0040	7-31-2012	Amend	9-1-2012
471-040-0041(T)	2-10-2012	Repeal	3-1-2012	576-024-0000	3-30-2012	Amend(T)	5-1-2012
571-050-0005	6-13-2012	Amend	7-1-2012	576-024-0000	5-9-2012	Amend	6-1-2012
571-051-0005	7-11-2012	Amend	8-1-2012	576-030-0015	7-1-2012	Amend	7-1-2012
571-051-0010	7-11-2012	Amend	8-1-2012	576-030-0020	7-1-2012	Amend	7-1-2012
571-060-0005	7-1-2012	Amend	7-1-2012	576-030-0040	7-1-2012	Amend	7-1-2012
571-060-0005	7-1-2012	Amend(T)	7-1-2012	576-030-0045	7-1-2012	Amend	7-1-2012
571-060-0005	8-13-2012	Amend	9-1-2012	576-030-0050	7-1-2012	Amend	7-1-2012

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576-030-0060	7-1-2012	Amend	7-1-2012	581-015-2574	12-15-2011	Amend	1-1-2012
576-030-0070	7-1-2012	Amend	7-1-2012	581-015-2700	4-2-2012	Amend	5-1-2012
576-040-0010	12-27-2011	Amend	2-1-2012	581-015-2700	8-1-2012	Amend	9-1-2012
576-040-0012	12-27-2011	Amend	2-1-2012	581-015-2712	4-2-2012	Adopt	5-1-2012
576-040-0015	12-27-2011	Amend	2-1-2012	581-015-2713	4-2-2012	Adopt	5-1-2012
576-040-0025	12-27-2011	Repeal	2-1-2012	581-015-2730	4-2-2012	Amend	5-1-2012
576-040-0030	12-27-2011	Repeal	2-1-2012	581-015-2770	4-2-2012	Amend(T)	5-1-2012
576-040-0035	12-27-2011	Repeal	2-1-2012	581-015-2770	6-11-2012	Amend	7-1-2012
576-060-0025	7-31-2012	Amend	9-1-2012	581-015-2770(T)	6-11-2012	Repeal	7-1-2012
576-060-0035	7-31-2012	Amend	9-1-2012	581-015-2774	4-2-2012	Adopt	5-1-2012
576-065-0000	3-30-2012	Amend(T)	5-1-2012	581-015-2775	4-2-2012	Amend	5-1-2012
576-065-0000	5-9-2012	Amend	6-1-2012	581-015-2780	4-2-2012	Amend	5-1-2012
576-065-0010	3-30-2012	Amend(T)	5-1-2012	581-015-2780	8-1-2012	Amend	9-1-2012
576-065-0010	5-9-2012	Amend	6-1-2012	581-015-2790	4-2-2012	Amend	5-1-2012
577-031-0135	3-12-2012	Amend(T)	4-1-2012	581-015-2805	4-2-2012	Amend	5-1-2012
577-031-0135	8-13-2012	Amend	9-1-2012	581-015-2810	4-2-2012	Amend	5-1-2012
577-060-0020	6-26-2012	Amend	8-1-2012	581-015-2815	4-2-2012	Amend	5-1-2012
578-041-0030	7-11-2012	Amend	8-1-2012	581-015-2825	4-2-2012	Amend	5-1-2012
578-072-0030	7-11-2012	Amend	8-1-2012	581-015-2830	4-2-2012	Amend	5-1-2012
579-020-0006	12-1-2011	Amend(T)	1-1-2012	581-015-2835	4-2-2012	Amend	5-1-2012
579-020-0006	4-23-2012	Amend	6-1-2012	581-015-2840	4-2-2012	Amend	5-1-2012
579-020-0006	6-22-2012	Amend(T)	8-1-2012	581-015-2863	4-2-2012	Adopt	5-1-2012
579-030-0010	7-1-2012	Amend(T)	6-1-2012	581-015-2870	4-2-2012	Amend	5-1-2012
579-030-0010	8-1-2012	Amend	9-1-2012	581-015-2885	4-2-2012	Amend	5-1-2012
579-060-0190	6-8-2012	Amend(T)	7-1-2012	581-015-2890	4-2-2012	Amend	5-1-2012
580-010-0081	6-18-2012	Amend	8-1-2012	581-020-0331	8-1-2012	Amend	9-1-2012
580-010-0089	6-18-2012	Adopt	8-1-2012	581-020-0334	12-15-2011	Amend	1-1-2012
580-020-0005	1-12-2012	Amend	2-1-2012	581-020-0336	1-1-2012	Amend	1-1-2012
580-020-0005	6-18-2012	Amend	8-1-2012	581-020-0339	12-15-2011	Repeal	1-1-2012
580-022-0045	3-16-2012	Amend(T)	5-1-2012	581-020-0342	12-15-2011	Adopt	1-1-2012
580-040-0030	3-16-2012	Amend(T)	5-1-2012	581-020-0342(T)	12-15-2011	Repeal	1-1-2012
580-040-0035	1-12-2012	Amend	2-1-2012	581-020-0343	12-15-2011	Adopt	1-1-2012
580-040-0035	6-18-2012	Repeal	8-1-2012	581-020-0343(T)	12-15-2011	Repeal	1-1-2012
580-040-0040	6-18-2012	Amend	8-1-2012	581-021-00032	1-1-2012	Repeal	1-1-2012
580-060-0050	6-18-2012	Amend	8-1-2012	581-021-0019	2-3-2012	Amend	3-1-2012
580-061-0010	6-18-2012	Amend	8-1-2012	581-021-0034	1-1-2012	Repeal	1-1-2012
580-061-0030	6-18-2012	Amend	8-1-2012	581-021-0035	1-1-2012	Repeal	1-1-2012
580-062-0020	6-18-2012	Amend	8-1-2012	581-021-0042	1-1-2012	Repeal	1-1-2012
580-063-0005	6-18-2012	Amend	8-1-2012	581-021-0044	1-1-2012	Repeal	1-1-2012
580-063-0020	6-18-2012	Amend	8-1-2012	581-021-0047	6-11-2012	Adopt	7-1-2012
581-001-0000	4-2-2012	Amend	5-1-2012	581-021-0062	6-11-2012	Repeal	7-1-2012
581-001-0005	4-2-2012	Amend	5-1-2012	581-021-0220	4-2-2012	Amend	5-1-2012
581-015-2000	4-2-2012	Amend	5-1-2012	581-021-0255	1-1-2012	Amend	1-1-2012
581-015-2005	2-17-2012	Amend	4-1-2012	581-021-0270	4-2-2012	Amend	5-1-2012
581-015-2010	2-17-2012	Amend	4-1-2012	581-021-0500	2-3-2012	Amend	3-1-2012
581-015-2040	2-17-2012	Amend	4-1-2012	581-021-0550	5-1-2012	Adopt	5-1-2012
581-015-2075	2-17-2012	Amend	4-1-2012	581-021-0553	5-1-2012	Adopt	5-1-2012
581-015-2080	2-17-2012	Amend	4-1-2012	581-021-0556	5-1-2012	Adopt	5-1-2012
581-015-2080	4-2-2012	Amend	5-1-2012	581-021-0559	5-1-2012	Adopt	5-1-2012
581-015-2300	4-2-2012	Amend(T)	5-1-2012	581-021-0563	5-1-2012	Adopt	5-1-2012
581-015-2300	6-11-2012	Amend	7-1-2012	581-021-0566	5-1-2012	Adopt	5-1-2012
581-015-2300(T)	6-11-2012	Repeal	7-1-2012	581-022-1060	1-1-2012	Amend	1-1-2012
581-015-2570	12-15-2011	Amend	1-1-2012	581-022-1133	2-3-2012	Amend	3-1-2012
581-015-2571	12-15-2011	Amend	1-1-2012	581-022-1134	2-3-2012	Amend	3-1-2012
581-015-2572	12-15-2011	Amend	1-1-2012	581-022-1135	2-3-2012	Amend	3-1-2012

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581-022-1369	1-1-2012	Repeal	1-1-2012	581-053-0031	6-14-2012	Adopt	7-1-2012
581-022-1622	8-1-2012	Amend	9-1-2012	581-053-0040	6-14-2012	Adopt	7-1-2012
581-022-1680	1-1-2012	Repeal	1-1-2012	581-053-0050	6-14-2012	Adopt	7-1-2012
581-022-1720	12-15-2011	Amend	1-1-2012	581-053-0060	6-14-2012	Adopt	7-1-2012
581-022-1723	12-15-2011	Adopt	1-1-2012	581-053-0070	6-14-2012	Adopt	7-1-2012
581-022-1723	8-1-2012	Amend	9-1-2012	581-053-0100	6-14-2012	Adopt	7-1-2012
581-022-1724	12-15-2011	Adopt	1-1-2012	581-053-0110	6-14-2012	Adopt	7-1-2012
581-022-1725	12-15-2011	Adopt	1-1-2012	581-053-0120	6-14-2012	Adopt	7-1-2012
581-022-1725	8-1-2012	Amend	9-1-2012	581-053-0130	6-14-2012	Adopt	7-1-2012
581-023-0012	1-1-2012	Repeal	1-1-2012	581-053-0135	6-14-2012	Adopt	7-1-2012
581-023-0040	12-15-2011	Amend	1-1-2012	581-053-0140	6-14-2012	Adopt	7-1-2012
581-023-0106	6-11-2012	Adopt	7-1-2012	581-053-0145	6-14-2012	Adopt	7-1-2012
581-023-0110	1-1-2012	Repeal	1-1-2012	581-053-0150	6-14-2012	Adopt	7-1-2012
581-023-0112	1-1-2012	Amend	1-1-2012	581-053-0160	6-14-2012	Adopt	7-1-2012
581-040-0000	12-15-2011	Repeal	1-1-2012	581-053-0170	6-14-2012	Adopt	7-1-2012
581-044-0080	12-15-2011	Repeal	1-1-2012	581-053-0180	6-14-2012	Adopt	7-1-2012
581-044-0090	12-15-2011	Repeal	1-1-2012	581-053-0210	6-14-2012	Adopt	7-1-2012
581-044-0100	12-15-2011	Repeal	1-1-2012	581-053-0220	6-14-2012	Adopt	7-1-2012
581-044-0110	12-15-2011	Repeal	1-1-2012	581-053-0225	6-14-2012	Adopt	7-1-2012
581-044-0120	12-15-2011	Repeal	1-1-2012	581-053-0230	6-14-2012	Adopt	7-1-2012
581-044-0130	12-15-2011	Repeal	1-1-2012	581-053-0240	6-14-2012	Adopt	7-1-2012
581-044-0140	12-15-2011	Repeal	1-1-2012	581-053-0250	6-14-2012	Adopt	7-1-2012
581-044-0200	12-15-2011	Repeal	1-1-2012	581-053-0310	6-14-2012	Adopt	7-1-2012
581-044-0210	4-2-2012	Adopt	5-1-2012	581-053-0320	6-14-2012	Adopt	7-1-2012
581-044-0220	4-2-2012	Adopt	5-1-2012	581-053-0330	6-14-2012	Adopt	7-1-2012
581-044-0230	4-2-2012	Adopt	5-1-2012	581-053-0340	6-14-2012	Adopt	7-1-2012
581-044-0240	4-2-2012	Adopt	5-1-2012	581-053-0410	6-14-2012	Adopt	7-1-2012
581-044-0250	4-2-2012	Adopt	5-1-2012	581-053-0420	6-14-2012	Adopt	7-1-2012
581-044-0260	4-2-2012	Adopt	5-1-2012	581-053-0430	6-14-2012	Adopt	7-1-2012
581-045-0500	2-3-2012	Repeal	3-1-2012	581-053-0440	6-14-2012	Adopt	7-1-2012
581-045-0505	2-3-2012	Repeal	3-1-2012	581-053-0445	6-14-2012	Adopt	7-1-2012
581-045-0510	2-3-2012	Repeal	3-1-2012	581-053-0507	6-14-2012	Repeal	7-1-2012
581-045-0515	2-3-2012	Repeal	3-1-2012	581-053-0511	6-14-2012	Adopt	7-1-2012
581-045-0520	2-3-2012	Repeal	3-1-2012	581-053-0512	6-14-2012	Repeal	7-1-2012
581-045-0522	2-3-2012	Repeal	3-1-2012	581-053-0516	6-14-2012	Repeal	7-1-2012
581-045-0525	2-3-2012	Repeal	3-1-2012	581-053-0521	6-14-2012	Adopt	7-1-2012
581-045-0530	2-3-2012	Repeal	3-1-2012	581-053-0527	6-14-2012	Repeal	7-1-2012
581-045-0535	2-3-2012	Repeal	3-1-2012	581-053-0531	6-14-2012	Adopt	7-1-2012
581-045-0538	2-3-2012	Repeal	3-1-2012	581-053-0535	6-14-2012	Repeal	7-1-2012
581-045-0540	2-3-2012	Repeal	3-1-2012	581-053-0540	6-14-2012	Amend	7-1-2012
581-045-0545	2-3-2012	Repeal	3-1-2012	581-053-0545	6-14-2012	Repeal	7-1-2012
581-045-0550	2-3-2012	Repeal	3-1-2012	581-053-0550	6-14-2012	Repeal	7-1-2012
581-045-0555	2-3-2012	Repeal	3-1-2012	581-053-0555	6-14-2012	Repeal	7-1-2012
581-045-0560	2-3-2012	Repeal	3-1-2012	581-053-0556	6-14-2012	Repeal	7-1-2012
581-045-0565	2-3-2012	Repeal	3-1-2012	581-053-0610	6-14-2012	Adopt	7-1-2012
581-045-0570	2-3-2012	Repeal	3-1-2012	581-053-0615	6-14-2012	Adopt	7-1-2012
581-045-0580	2-3-2012	Repeal	3-1-2012	581-053-0620	6-14-2012	Adopt	7-1-2012
581-045-0586	2-3-2012	Amend	3-1-2012	581-053-0630	6-14-2012	Adopt	7-1-2012
581-053-0002	6-14-2012	Amend	7-1-2012	581-053-0640	6-14-2012	Adopt	7-1-2012
581-053-0003	6-14-2012	Adopt	7-1-2012	581-060-0005	12-15-2011	Repeal	1-1-2012
581-053-0004	6-14-2012	Adopt	7-1-2012	581-060-0010	12-15-2011	Repeal	1-1-2012
581-053-0006	6-14-2012	Repeal	7-1-2012	581-060-0015	12-15-2011	Repeal	1-1-2012
581-053-0008	6-14-2012	Repeal	7-1-2012	581-060-0020	12-15-2011	Repeal	1-1-2012
581-053-0010	6-14-2012	Amend	7-1-2012	581-070-0000	12-15-2011	Repeal	1-1-2012
581-053-0015	6-14-2012	Repeal	7-1-2012	581-070-0010	12-15-2011	Repeal	1-1-2012

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581-070-0020	12-15-2011	Repeal	1-1-2012	584-017-1032	3-9-2012	Adopt	4-1-2012
581-070-0030	12-15-2011	Repeal	1-1-2012	584-017-1035	3-9-2012	Adopt	4-1-2012
581-070-0040	12-15-2011	Repeal	1-1-2012	584-017-1038	3-9-2012	Adopt	4-1-2012
581-070-0050	12-15-2011	Repeal	1-1-2012	584-017-1040	3-9-2012	Adopt	4-1-2012
581-070-0060	12-15-2011	Repeal	1-1-2012	584-017-1042	3-9-2012	Adopt	4-1-2012
581-070-0070	12-15-2011	Repeal	1-1-2012	584-017-1045	3-9-2012	Adopt	4-1-2012
581-070-0080	12-15-2011	Repeal	1-1-2012	584-017-1048	3-9-2012	Adopt	4-1-2012
581-070-0090	12-15-2011	Repeal	1-1-2012	584-017-1050	3-9-2012	Adopt	4-1-2012
581-070-0110	12-15-2011	Repeal	1-1-2012	584-017-1052	3-9-2012	Adopt	4-1-2012
581-070-0130	12-15-2011	Repeal	1-1-2012	584-017-1055	3-9-2012	Adopt	4-1-2012
581-070-0140	12-15-2011	Repeal	1-1-2012	584-018-0100	3-9-2012	Adopt	4-1-2012
581-070-0150	12-15-2011	Repeal	1-1-2012	584-018-0105	3-9-2012	Adopt	4-1-2012
581-070-0170	12-15-2011	Repeal	1-1-2012	584-018-0110	3-9-2012	Adopt	4-1-2012
581-070-0180	12-15-2011	Repeal	1-1-2012	584-018-0115	3-9-2012	Adopt	4-1-2012
581-070-0190	12-15-2011	Repeal	1-1-2012	584-018-0120	3-9-2012	Adopt	4-1-2012
581-070-0200	12-15-2011	Repeal	1-1-2012	584-018-0125	3-9-2012	Adopt	4-1-2012
581-070-0210	12-15-2011	Repeal	1-1-2012	584-018-0130	3-9-2012	Adopt	4-1-2012
581-070-0220	12-15-2011	Repeal	1-1-2012	584-018-0135	3-9-2012	Adopt	4-1-2012
581-070-0230	12-15-2011	Repeal	1-1-2012	584-018-0140	3-9-2012	Adopt	4-1-2012
581-070-0240	12-15-2011	Repeal	1-1-2012	584-018-0205	3-9-2012	Adopt	4-1-2012
581-070-0250	12-15-2011	Repeal	1-1-2012	584-018-0205	5-18-2012	Amend	7-1-2012
581-070-0380	12-15-2011	Repeal	1-1-2012	584-018-0305	5-18-2012	Adopt	7-1-2012
581-070-0390	12-15-2011	Repeal	1-1-2012	584-018-0310	5-18-2012	Adopt	7-1-2012
581-070-0400	12-15-2011	Repeal	1-1-2012	584-018-0315	3-9-2012	Adopt	4-1-2012
581-070-0410	12-15-2011	Repeal	1-1-2012	584-018-0405	3-9-2012	Adopt	4-1-2012
581-070-0420	12-15-2011	Repeal	1-1-2012	584-018-0410	3-9-2012	Adopt	4-1-2012
581-070-0500	12-15-2011	Repeal	1-1-2012	584-018-0415	3-9-2012	Adopt	4-1-2012
581-070-0510	12-15-2011	Repeal	1-1-2012	584-018-0505	3-9-2012	Adopt	4-1-2012
581-071-0005	12-15-2011	Repeal	1-1-2012	584-018-0510	3-9-2012	Adopt	4-1-2012
581-071-0010	12-15-2011	Repeal	1-1-2012	584-018-0515	3-9-2012	Adopt	4-1-2012
584-010-0001	3-9-2012	Amend	4-1-2012	584-023-0005	5-18-2012	Amend	7-1-2012
584-010-0010	3-9-2012	Amend	4-1-2012	584-023-0015	5-18-2012	Amend	7-1-2012
584-010-0015	3-9-2012	Amend	4-1-2012	584-036-0010	5-18-2012	Amend	7-1-2012
584-010-0020	3-9-2012	Amend	4-1-2012	584-036-0015	5-18-2012	Amend	7-1-2012
584-010-0022	3-9-2012	Adopt	4-1-2012	584-036-0055	2-15-2012	Amend	3-1-2012
584-010-0025	3-9-2012	Amend	4-1-2012	584-036-0055	5-18-2012	Amend	7-1-2012
584-010-0030	3-9-2012	Amend	4-1-2012	584-036-0057	5-18-2012	Adopt	7-1-2012
584-010-0035	3-9-2012	Amend	4-1-2012	584-042-0008	2-15-2012	Amend	3-1-2012
584-010-0045	3-9-2012	Amend	4-1-2012	584-042-0012	2-15-2012	Amend	3-1-2012
584-010-0050	3-9-2012	Amend	4-1-2012	584-042-0021	2-15-2012	Amend	3-1-2012
584-010-0055	3-9-2012	Amend	4-1-2012	584-042-0031	2-15-2012	Amend	3-1-2012
584-010-0060	3-9-2012	Amend	4-1-2012	584-042-0036	2-15-2012	Amend	3-1-2012
584-010-0080	3-9-2012	Repeal	4-1-2012	584-042-0044	2-15-2012	Amend	3-1-2012
584-010-0090	3-9-2012	Amend	4-1-2012	584-042-0051	2-15-2012	Amend	3-1-2012
584-010-0100	3-9-2012	Amend	4-1-2012	584-042-0081	2-15-2012	Amend	3-1-2012
584-010-0140	3-9-2012	Repeal	4-1-2012	584-050-0021	5-18-2012	Adopt	7-1-2012
584-017-1005	3-9-2012	Adopt	4-1-2012	584-060-0002	5-18-2012	Amend	7-1-2012
584-017-1008	3-9-2012	Adopt	4-1-2012	584-060-0051	2-15-2012	Amend(T)	3-1-2012
584-017-1010	3-9-2012	Adopt	4-1-2012	584-060-0051	8-7-2012	Amend	9-1-2012
584-017-1012	3-9-2012	Adopt	4-1-2012	584-060-0062	5-18-2012	Amend	7-1-2012
584-017-1015	3-9-2012	Adopt	4-1-2012	584-060-0250	1-15-2012	Adopt	1-1-2012
584-017-1020	3-9-2012	Adopt	4-1-2012	584-066-0001	5-18-2012	Adopt	7-1-2012
584-017-1022	3-9-2012	Adopt	4-1-2012	584-066-0010	5-18-2012	Adopt	7-1-2012
584-017-1025	3-9-2012	Adopt	4-1-2012	584-070-0112	5-18-2012	Amend	7-1-2012
584-017-1028	5-18-2012	Adopt	7-1-2012	584-070-0132	5-18-2012	Amend	7-1-2012
584-017-1030	3-9-2012	Adopt	4-1-2012	584-070-0271	5-18-2012	Amend	7-1-2012

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584-070-0441	5-18-2012	Adopt	7-1-2012	603-025-0215	6-1-2012	Adopt	7-1-2012
584-070-0451	5-18-2012	Adopt	7-1-2012	603-025-0225	6-1-2012	Adopt	7-1-2012
584-080-0151	5-18-2012	Amend	7-1-2012	603-025-0235	6-1-2012	Adopt	7-1-2012
584-080-0152	5-18-2012	Amend	7-1-2012	603-025-0245	6-1-2012	Adopt	7-1-2012
584-080-0161	5-18-2012	Amend	7-1-2012	603-025-0255	6-1-2012	Adopt	7-1-2012
584-090-0100	5-18-2012	Adopt	7-1-2012	603-025-0265	6-1-2012	Adopt	7-1-2012
584-090-0105	5-18-2012	Adopt	7-1-2012	603-025-0275	6-1-2012	Adopt	7-1-2012
584-090-0110	5-18-2012	Adopt	7-1-2012	603-027-0410	12-14-2011	Amend	1-1-2012
584-090-0115	8-15-2012	Adopt	9-1-2012	603-027-0420	12-14-2011	Amend	1-1-2012
584-090-0120	8-15-2012	Adopt	9-1-2012	603-027-0430	12-14-2011	Amend	1-1-2012
584-100-0011	5-18-2012	Amend	7-1-2012	603-027-0440	12-14-2011	Amend	1-1-2012
584-100-0016	5-18-2012	Amend	7-1-2012	603-027-0490	12-14-2011	Amend	1-1-2012
584-100-0017	5-18-2012	Adopt	7-1-2012	603-028-0710	5-15-2012	Adopt	6-1-2012
584-100-0021	5-18-2012	Amend	7-1-2012	603-028-0715	5-15-2012	Adopt	6-1-2012
584-100-0026	5-18-2012	Amend	7-1-2012	603-028-0720	5-15-2012	Adopt	6-1-2012
584-100-0031	5-18-2012	Amend	7-1-2012	603-028-0725	5-15-2012	Adopt	6-1-2012
584-100-0038	5-18-2012	Amend	7-1-2012	603-028-0730	5-15-2012	Adopt	6-1-2012
585-010-0310	8-9-2012	Amend	9-1-2012	603-028-0735	5-15-2012	Adopt	6-1-2012
589-002-0100	7-17-2012	Amend(T)	9-1-2012	603-028-0740	5-15-2012	Adopt	6-1-2012
589-002-0110	7-17-2012	Adopt(T)	9-1-2012	603-031-0105	7-1-2012	Repeal	7-1-2012
589-002-0120	7-17-2012	Adopt(T)	9-1-2012	603-031-0111	7-1-2012	Repeal	7-1-2012
589-002-0130	7-17-2012	Adopt(T)	9-1-2012	603-031-0112	7-1-2012	Repeal	7-1-2012
589-007-0700	12-9-2011	Amend	1-1-2012	603-031-0113	7-1-2012	Repeal	7-1-2012
589-007-0700	8-6-2012	Amend(T)	9-1-2012	603-031-0114	7-1-2012	Repeal	7-1-2012
589-007-0800	12-9-2011	Adopt	1-1-2012	603-031-0116	7-1-2012	Repeal	7-1-2012
603-016-0355	7-1-2012	Repeal	7-1-2012	603-031-0117	7-1-2012	Repeal	7-1-2012
603-016-0360	7-1-2012	Repeal	7-1-2012	603-031-0120	7-1-2012	Repeal	7-1-2012
603-016-0365	7-1-2012	Repeal	7-1-2012	603-031-0125	7-1-2012	Repeal	7-1-2012
603-016-0370	7-1-2012	Repeal	7-1-2012	603-031-0140	7-1-2012	Repeal	7-1-2012
603-016-0375	7-1-2012	Repeal	7-1-2012	603-031-0180	7-1-2012	Repeal	7-1-2012
603-016-0380	7-1-2012	Repeal	7-1-2012	603-031-0185	7-1-2012	Repeal	7-1-2012
603-016-0385	7-1-2012	Repeal	7-1-2012	603-042-0020	8-6-2012	Amend	9-1-2012
603-016-0390	7-1-2012	Repeal	7-1-2012	603-050-0100	7-1-2012	Repeal	7-1-2012
603-018-0000	7-3-2012	Adopt	8-1-2012	603-051-0365	2-9-2012	Amend	3-1-2012
603-018-0001	12-28-2011	Adopt(T)	2-1-2012	603-051-0366	2-9-2012	Adopt	3-1-2012
603-018-0003	12-28-2011	Adopt(T)	2-1-2012	603-051-0370	2-9-2012	Amend	3-1-2012
603-018-0005	7-3-2012	Adopt	8-1-2012	603-051-0375	2-9-2012	Amend	3-1-2012
603-018-0007	12-28-2011	Adopt(T)	2-1-2012	603-051-0380	2-9-2012	Repeal	3-1-2012
603-018-0009	12-28-2011	Adopt(T)	2-1-2012	603-051-0385	2-9-2012	Repeal	3-1-2012
603-018-0010	7-3-2012	Adopt	8-1-2012	603-051-0390	2-9-2012	Amend	3-1-2012
603-018-0011	12-28-2011	Adopt(T)	2-1-2012	603-051-0395	2-9-2012	Amend	3-1-2012
603-018-0013	12-28-2011	Adopt(T)	2-1-2012	603-051-0775	2-1-2012	Adopt	3-1-2012
603-018-0015	7-3-2012	Adopt	8-1-2012	603-051-0777	2-1-2012	Adopt	3-1-2012
603-018-0020	7-3-2012	Adopt	8-1-2012	603-051-0779	2-1-2012	Adopt	3-1-2012
603-018-0025	7-3-2012	Adopt	8-1-2012	603-051-0780	2-1-2012	Adopt	3-1-2012
603-019-0001	12-28-2011	Adopt	2-1-2012	603-051-0785	2-1-2012	Adopt	3-1-2012
603-019-0005	12-28-2011	Adopt	2-1-2012	603-052-0115	3-26-2012	Amend	5-1-2012
603-019-0010	12-28-2011	Adopt	2-1-2012	603-052-0116	3-26-2012	Amend	5-1-2012
603-019-0015	12-28-2011	Adopt	2-1-2012	603-052-0117	3-22-2012	Repeal	5-1-2012
603-019-0020	12-28-2011	Adopt	2-1-2012	603-052-0118	3-26-2012	Amend	5-1-2012
603-019-0025	12-28-2011	Adopt	2-1-2012	603-052-0126	3-26-2012	Amend	5-1-2012
603-019-0030	12-28-2011	Adopt	2-1-2012	603-052-0150	3-26-2012	Amend	5-1-2012
603-019-0035	12-28-2011	Adopt	2-1-2012	603-052-0201	3-22-2012	Repeal	5-1-2012
603-019-0040	12-28-2011	Adopt	2-1-2012	603-052-0206	3-22-2012	Repeal	5-1-2012
603-024-0211	5-15-2012	Amend	6-1-2012	603-052-0207	3-22-2012	Repeal	5-1-2012

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603-052-0209	3-22-2012	Repeal	5-1-2012	603-065-0040	7-1-2012	Repeal	7-1-2012
603-052-0334	3-22-2012	Repeal	5-1-2012	603-065-0045	7-1-2012	Repeal	7-1-2012
603-052-0800	3-22-2012	Repeal	5-1-2012	603-065-0050	7-1-2012	Repeal	7-1-2012
603-052-0850	8-10-2012	Amend(T)	9-1-2012	603-065-0055	7-1-2012	Repeal	7-1-2012
603-052-0852	8-10-2012	Adopt(T)	9-1-2012	603-065-0060	7-1-2012	Repeal	7-1-2012
603-052-0860	8-10-2012	Amend(T)	9-1-2012	603-065-0065	7-1-2012	Repeal	7-1-2012
603-052-0870	8-10-2012	Amend(T)	9-1-2012	603-065-0070	7-1-2012	Repeal	7-1-2012
603-052-0880	8-10-2012	Amend(T)	9-1-2012	603-065-0075	7-1-2012	Repeal	7-1-2012
603-052-1020	6-6-2012	Amend	7-1-2012	603-065-0080	7-1-2012	Repeal	7-1-2012
603-052-1025	3-26-2012	Amend	5-1-2012	603-065-0085	7-1-2012	Repeal	7-1-2012
603-052-1230	3-22-2012	Amend	5-1-2012	603-066-0005	7-1-2012	Repeal	7-1-2012
603-053-0200	6-12-2012	Amend	7-1-2012	603-066-0010	7-1-2012	Repeal	7-1-2012
603-057-0001	6-1-2012	Amend	7-1-2012	603-066-0015	7-1-2012	Repeal	7-1-2012
603-057-0001	1-1-2013	Amend	2-1-2012	603-066-0020	7-1-2012	Repeal	7-1-2012
603-057-0006	7-10-2012	Amend	8-1-2012	603-066-0025	7-1-2012	Repeal	7-1-2012
603-057-0100	6-1-2012	Amend	7-1-2012	603-066-0030	7-1-2012	Repeal	7-1-2012
603-057-0100	1-1-2013	Amend	2-1-2012	603-066-0100	7-1-2012	Repeal	7-1-2012
603-057-0106	1-1-2013	Amend	6-1-2012	603-066-0110	7-1-2012	Repeal	7-1-2012
603-057-0120	7-10-2012	Amend	8-1-2012	603-066-0200	7-1-2012	Repeal	7-1-2012
603-057-0127	6-1-2012	Amend	7-1-2012	603-066-0205	7-1-2012	Repeal	7-1-2012
603-057-0127	1-1-2013	Amend	2-1-2012	603-066-0210	7-1-2012	Repeal	7-1-2012
603-057-0135	7-10-2012	Amend	8-1-2012	603-066-0300	7-1-2012	Repeal	7-1-2012
603-057-0150	7-10-2012	Amend	8-1-2012	603-066-0305	7-1-2012	Repeal	7-1-2012
603-057-0300	7-1-2012	Repeal	7-1-2012	603-066-0310	7-1-2012	Repeal	7-1-2012
603-057-0500	7-10-2012	Amend	8-1-2012	603-067-0020	7-1-2012	Repeal	7-1-2012
603-057-0525	7-10-2012	Amend	8-1-2012	603-067-0035	7-1-2012	Repeal	7-1-2012
603-059-0020	1-1-2013	Amend	7-1-2012	603-068-0005	7-1-2012	Repeal	7-1-2012
603-061-0005	7-1-2012	Repeal	7-1-2012	603-068-0010	7-1-2012	Repeal	7-1-2012
603-062-0005	7-1-2012	Repeal	7-1-2012	603-068-0015	7-1-2012	Repeal	7-1-2012
603-062-0010	7-1-2012	Repeal	7-1-2012	603-068-0100	7-1-2012	Repeal	7-1-2012
603-062-0015	7-1-2012	Repeal	7-1-2012	603-068-0105	7-1-2012	Repeal	7-1-2012
603-062-0020	7-1-2012	Repeal	7-1-2012	603-068-0110	7-1-2012	Repeal	7-1-2012
603-063-0005	7-1-2012	Repeal	7-1-2012	603-068-0200	7-1-2012	Repeal	7-1-2012
603-063-0010	7-1-2012	Repeal	7-1-2012	603-068-0205	7-1-2012	Repeal	7-1-2012
603-063-0015	7-1-2012	Repeal	7-1-2012	603-068-0210	7-1-2012	Repeal	7-1-2012
603-063-0020	7-1-2012	Repeal	7-1-2012	603-068-0300	7-1-2012	Repeal	7-1-2012
603-063-0025	7-1-2012	Repeal	7-1-2012	603-068-0305	7-1-2012	Repeal	7-1-2012
603-064-0005	7-1-2012	Repeal	7-1-2012	603-068-0310	7-1-2012	Repeal	7-1-2012
603-064-0050	7-1-2012	Repeal	7-1-2012	603-068-0400	7-1-2012	Repeal	7-1-2012
603-064-0100	7-1-2012	Repeal	7-1-2012	603-068-0405	7-1-2012	Repeal	7-1-2012
603-064-0105	7-1-2012	Repeal	7-1-2012	603-068-0410	7-1-2012	Repeal	7-1-2012
603-064-0110	7-1-2012	Repeal	7-1-2012	603-069-0005	7-1-2012	Repeal	7-1-2012
603-064-0115	7-1-2012	Repeal	7-1-2012	603-069-0010	7-1-2012	Repeal	7-1-2012
603-064-0120	7-1-2012	Repeal	7-1-2012	603-069-0015	7-1-2012	Repeal	7-1-2012
603-064-0130	7-1-2012	Repeal	7-1-2012	603-069-0020	7-1-2012	Repeal	7-1-2012
603-064-0200	7-1-2012	Repeal	7-1-2012	603-069-0025	7-1-2012	Repeal	7-1-2012
603-064-0205	7-1-2012	Repeal	7-1-2012	603-069-0030	7-1-2012	Repeal	7-1-2012
603-065-0005	7-1-2012	Repeal	7-1-2012	603-069-0032	7-1-2012	Repeal	7-1-2012
603-065-0010	7-1-2012	Repeal	7-1-2012	603-069-0034	7-1-2012	Repeal	7-1-2012
603-065-0015	7-1-2012	Repeal	7-1-2012	603-069-0035	7-1-2012	Repeal	7-1-2012
603-065-0017	7-1-2012	Repeal	7-1-2012	603-069-0040	7-1-2012	Repeal	7-1-2012
603-065-0020	7-1-2012	Repeal	7-1-2012	603-070-0025	7-1-2012	Repeal	7-1-2012
603-065-0023	7-1-2012	Repeal	7-1-2012	603-070-0030	7-1-2012	Repeal	7-1-2012
603-065-0025	7-1-2012	Repeal	7-1-2012	603-070-0035	7-1-2012	Repeal	7-1-2012
603-065-0032	7-1-2012	Repeal	7-1-2012	603-070-0040	7-1-2012	Repeal	7-1-2012

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603-070-0050	7-1-2012	Repeal	7-1-2012	635-004-0018	1-1-2012	Amend	2-1-2012
603-070-0055	7-1-2012	Repeal	7-1-2012	635-004-0018	7-1-2012	Repeal	8-1-2012
603-070-0060	7-1-2012	Repeal	7-1-2012	635-004-0019	1-1-2012	Amend	2-1-2012
603-076-0052	12-8-2011	Amend(T)	1-1-2012	635-004-0019	5-1-2012	Amend(T)	6-1-2012
603-077-0105	8-1-2012	Amend	9-1-2012	635-004-0019	5-1-2012	Amend(T)	6-1-2012
603-077-0110	8-1-2012	Amend	9-1-2012	635-004-0019	7-1-2012	Repeal	8-1-2012
603-077-0112	8-1-2012	Amend	9-1-2012	635-004-0019(T)	5-1-2012	Suspend	6-1-2012
603-077-0113	8-1-2012	Amend	9-1-2012	635-004-0019(T)	7-1-2012	Suspend	8-1-2012
603-077-0119	8-1-2012	Amend	9-1-2012	635-004-0020	7-1-2012	Am. & Ren.	8-1-2012
603-085-0000	7-1-2012	Repeal	7-1-2012	635-004-0021	7-1-2012	Am. & Ren.	8-1-2012
603-085-0010	7-1-2012	Repeal	7-1-2012	635-004-0025	7-1-2012	Am. & Ren.	8-1-2012
603-085-0020	7-1-2012	Repeal	7-1-2012	635-004-0026	7-1-2012	Renumber	8-1-2012
603-085-0030	7-1-2012	Repeal	7-1-2012	635-004-0027	1-9-2012	Amend(T)	2-1-2012
603-085-0040	7-1-2012	Repeal	7-1-2012	635-004-0027	7-1-2012	Am. & Ren.	8-1-2012
603-085-0050	7-1-2012	Repeal	7-1-2012	635-004-0029	7-1-2012	Repeal	8-1-2012
603-085-0060	7-1-2012	Repeal	7-1-2012	635-004-0033	1-1-2012	Amend	2-1-2012
603-085-0070	7-1-2012	Repeal	7-1-2012	635-004-0033	6-1-2012	Amend(T)	7-1-2012
603-085-0080	7-1-2012	Repeal	7-1-2012	635-004-0033	7-1-2012	Repeal	8-1-2012
603-095-0200	1-12-2012	Repeal	2-1-2012	635-004-0035	7-1-2012	Am. & Ren.	8-1-2012
603-095-0200	6-1-2012	Repeal	7-1-2012	635-004-0036	7-1-2012	Am. & Ren.	8-1-2012
603-095-0220	1-12-2012	Repeal	2-1-2012	635-004-0040	7-1-2012	Repeal	8-1-2012
603-095-0220	6-1-2012	Repeal	7-1-2012	635-004-0042	7-1-2012	Am. & Ren.	8-1-2012
603-095-0240	1-12-2012	Repeal	2-1-2012	635-004-0048	7-1-2012	Am. & Ren.	8-1-2012
603-095-0240	6-1-2012	Repeal	7-1-2012	635-004-0050	7-1-2012	Am. & Ren.	8-1-2012
603-095-0260	1-12-2012	Repeal	2-1-2012	635-004-0052	7-1-2012	Repeal	8-1-2012
603-095-0260	6-1-2012	Repeal	7-1-2012	635-004-0055	7-1-2012	Am. & Ren.	8-1-2012
603-095-0280	1-12-2012	Repeal	2-1-2012	635-004-0060	7-1-2012	Am. & Ren.	8-1-2012
603-095-0280	6-1-2012	Repeal	7-1-2012	635-004-0065	7-1-2012	Am. & Ren.	8-1-2012
603-095-1400	1-12-2012	Amend	2-1-2012	635-004-0066	7-1-2012	Am. & Ren.	8-1-2012
603-095-1400	6-1-2012	Amend	7-1-2012	635-004-0068	7-1-2012	Am. & Ren.	8-1-2012
603-095-1420	1-12-2012	Amend	2-1-2012	635-004-0070	7-1-2012	Am. & Ren.	8-1-2012
603-095-1420	6-1-2012	Amend	7-1-2012	635-004-0075	7-1-2012	Repeal	8-1-2012
603-095-1440	1-12-2012	Amend	2-1-2012	635-004-0080	7-1-2012	Am. & Ren.	8-1-2012
603-095-1440	6-1-2012	Amend	7-1-2012	635-004-0085	7-1-2012	Am. & Ren.	8-1-2012
603-095-1460	1-12-2012	Adopt	2-1-2012	635-004-0090	7-1-2012	Am. & Ren.	8-1-2012
603-095-1460	6-1-2012	Adopt	7-1-2012	635-004-0100	7-1-2012	Repeal	8-1-2012
603-100-0000	1-1-2013	Amend	7-1-2012	635-004-0110	7-1-2012	Repeal	8-1-2012
603-100-0010	1-1-2013	Amend	7-1-2012	635-004-0125	7-1-2012	Am. & Ren.	8-1-2012
603-100-0050	1-1-2013	Adopt	7-1-2012	635-004-0130	7-1-2012	Am. & Ren.	8-1-2012
603-105-0010	7-1-2012	Repeal	7-1-2012	635-004-0135	7-1-2012	Am. & Ren.	8-1-2012
629-035-0105	1-1-2012	Amend	1-1-2012	635-004-0140	7-1-2012	Renumber	8-1-2012
632-001-0020	12-14-2011	Adopt	1-1-2012	635-004-0145	7-1-2012	Am. & Ren.	8-1-2012
635-003-0003	5-1-2012	Amend	6-1-2012	635-004-0150	7-1-2012	Am. & Ren.	8-1-2012
635-003-0085	7-1-2012	Amend	7-1-2012	635-004-0160	7-1-2012	Am. & Ren.	8-1-2012
635-004-0003	7-1-2012	Renumber	8-1-2012	635-004-0165	7-1-2012	Am. & Ren.	8-1-2012
635-004-0005	4-24-2012	Amend	6-1-2012	635-004-0170	7-1-2012	Am. & Ren.	8-1-2012
635-004-0005	7-1-2012	Repeal	8-1-2012	635-004-0200	7-1-2012	Adopt	8-1-2012
635-004-0009	4-24-2012	Amend	6-1-2012	635-004-0205	7-1-2012	Adopt	8-1-2012
635-004-0009	7-1-2012	Repeal	8-1-2012	635-004-0210	7-1-2012	Adopt	8-1-2012
635-004-0011	7-1-2012	Renumber	8-1-2012	635-004-0230	7-1-2012	Adopt	8-1-2012
635-004-0012	7-1-2012	Am. & Ren.	8-1-2012	635-004-0270	7-1-2012	Adopt	8-1-2012
635-004-0013	7-1-2012	Am. & Ren.	8-1-2012	635-004-0275	7-1-2012	Adopt	8-1-2012
635-004-0014	7-1-2012	Renumber	8-1-2012	635-004-0275	7-1-2012	Amend(T)	8-1-2012
635-004-0016	7-1-2012	Repeal	8-1-2012	635-004-0275	9-1-2012	Amend(T)	9-1-2012
635-004-0017	4-24-2012	Amend	6-1-2012	635-004-0275(T)	9-1-2012	Suspend	9-1-2012

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635-004-0300	7-1-2012	Adopt	8-1-2012	635-004-0675	7-1-2012	Adopt	8-1-2012
635-004-0305	7-1-2012	Adopt	8-1-2012	635-004-0680	7-1-2012	Adopt	8-1-2012
635-004-0310	7-1-2012	Adopt	8-1-2012	635-004-0685	7-1-2012	Adopt	8-1-2012
635-004-0315	7-1-2012	Adopt	8-1-2012	635-004-0690	7-1-2012	Adopt	8-1-2012
635-004-0320	7-1-2012	Adopt	8-1-2012	635-005-0001	7-1-2012	Am. & Ren.	8-1-2012
635-004-0325	7-1-2012	Adopt	8-1-2012	635-005-0002	7-1-2012	Repeal	8-1-2012
635-004-0330	7-1-2012	Adopt	8-1-2012	635-005-0003	7-1-2012	Am. & Ren.	8-1-2012
635-004-0335	7-1-2012	Adopt	8-1-2012	635-005-0005	7-1-2012	Am. & Ren.	8-1-2012
635-004-0350	7-1-2012	Adopt	8-1-2012	635-005-0015	7-1-2012	Repeal	8-1-2012
635-004-0355	7-1-2012	Adopt	8-1-2012	635-005-0016	7-1-2012	Repeal	8-1-2012
635-004-0355	7-1-2012	Amend(T)	8-1-2012	635-005-0020	7-1-2012	Am. & Ren.	8-1-2012
635-004-0370	7-1-2012	Adopt	8-1-2012	635-005-0030	7-1-2012	Am. & Ren.	8-1-2012
635-004-0375	7-1-2012	Adopt	8-1-2012	635-005-0031	7-1-2012	Repeal	8-1-2012
635-004-0380	7-1-2012	Adopt	8-1-2012	635-005-0032	7-1-2012	Am. & Ren.	8-1-2012
635-004-0385	7-1-2012	Adopt	8-1-2012	635-005-0035	7-1-2012	Repeal	8-1-2012
635-004-0390	7-1-2012	Adopt	8-1-2012	635-005-0040	7-1-2012	Renumber	8-1-2012
635-004-0395	7-1-2012	Adopt	8-1-2012	635-005-0042	7-1-2012	Am. & Ren.	8-1-2012
635-004-0400	7-1-2012	Adopt	8-1-2012	635-005-0045	12-1-2011	Amend(T)	1-1-2012
635-004-0405	7-1-2012	Adopt	8-1-2012	635-005-0045	12-15-2011	Amend(T)	1-1-2012
635-004-0410	7-1-2012	Adopt	8-1-2012	635-005-0045	5-1-2012	Amend	6-1-2012
635-004-0415	7-1-2012	Adopt	8-1-2012	635-005-0045	7-1-2012	Am. & Ren.	8-1-2012
635-004-0420	7-1-2012	Adopt	8-1-2012	635-005-0045(T)	12-15-2011	Suspend	1-1-2012
635-004-0445	7-1-2012	Adopt	8-1-2012	635-005-0047	7-1-2012	Am. & Ren.	8-1-2012
635-004-0455	7-1-2012	Adopt	8-1-2012	635-005-0048	7-1-2012	Repeal	8-1-2012
635-004-0460	7-1-2012	Adopt	8-1-2012	635-005-0049	7-1-2012	Am. & Ren.	8-1-2012
635-004-0465	7-1-2012	Adopt	8-1-2012	635-005-0055	12-1-2011	Amend(T)	1-1-2012
635-004-0470	7-1-2012	Adopt	8-1-2012	635-005-0055	5-1-2012	Amend	6-1-2012
635-004-0475	7-1-2012	Adopt	8-1-2012	635-005-0055	7-1-2012	Am. & Ren.	8-1-2012
635-004-0480	7-1-2012	Adopt	8-1-2012	635-005-0060	7-1-2012	Am. & Ren.	8-1-2012
635-004-0485	7-1-2012	Adopt	8-1-2012	635-005-0063	7-1-2012	Am. & Ren.	8-1-2012
635-004-0490	7-1-2012	Adopt	8-1-2012	635-005-0064	7-1-2012	Am. & Ren.	8-1-2012
635-004-0495	7-1-2012	Adopt	8-1-2012	635-005-0065	7-1-2012	Am. & Ren.	8-1-2012
635-004-0500	7-1-2012	Adopt	8-1-2012	635-005-0066	7-1-2012	Am. & Ren.	8-1-2012
635-004-0505	7-1-2012	Adopt	8-1-2012	635-005-0067	7-1-2012	Am. & Ren.	8-1-2012
635-004-0510	7-1-2012	Adopt	8-1-2012	635-005-0068	7-1-2012	Am. & Ren.	8-1-2012
635-004-0520	7-1-2012	Adopt	8-1-2012	635-005-0069	7-1-2012	Am. & Ren.	8-1-2012
635-004-0525	7-1-2012	Adopt	8-1-2012	635-005-0070	7-1-2012	Renumber	8-1-2012
635-004-0535	7-1-2012	Adopt	8-1-2012	635-005-0075	7-1-2012	Am. & Ren.	8-1-2012
635-004-0540	7-1-2012	Adopt	8-1-2012	635-005-0080	7-1-2012	Renumber	8-1-2012
635-004-0550	7-1-2012	Adopt	8-1-2012	635-005-0082	7-1-2012	Renumber	8-1-2012
635-004-0555	7-1-2012	Adopt	8-1-2012	635-005-0084	7-1-2012	Am. & Ren.	8-1-2012
635-004-0560	7-1-2012	Adopt	8-1-2012	635-005-0085	7-1-2012	Am. & Ren.	8-1-2012
635-004-0565	7-1-2012	Adopt	8-1-2012	635-005-0090	7-1-2012	Repeal	8-1-2012
635-004-0570	7-1-2012	Adopt	8-1-2012	635-005-0095	7-1-2012	Repeal	8-1-2012
635-004-0575	7-1-2012	Adopt	8-1-2012	635-005-0100	7-1-2012	Repeal	8-1-2012
635-004-0580	7-1-2012	Adopt	8-1-2012	635-005-0115	7-1-2012	Repeal	8-1-2012
635-004-0585	7-1-2012	Adopt	8-1-2012	635-005-0120	7-1-2012	Repeal	8-1-2012
635-004-0590	7-1-2012	Adopt	8-1-2012	635-005-0130	7-1-2012	Repeal	8-1-2012
635-004-0610	7-1-2012	Adopt	8-1-2012	635-005-0135	7-1-2012	Repeal	8-1-2012
635-004-0625	7-1-2012	Adopt	8-1-2012	635-005-0140	7-1-2012	Am. & Ren.	8-1-2012
635-004-0630	7-1-2012	Adopt	8-1-2012	635-005-0145	7-1-2012	Am. & Ren.	8-1-2012
635-004-0650	7-1-2012	Adopt	8-1-2012	635-005-0150	7-1-2012	Renumber	8-1-2012
635-004-0655	7-1-2012	Adopt	8-1-2012	635-005-0160	7-1-2012	Renumber	8-1-2012
635-004-0660	7-1-2012	Adopt	8-1-2012	635-005-0170	7-1-2012	Am. & Ren.	8-1-2012
635-004-0665	7-1-2012	Adopt	8-1-2012	635-005-0175	7-1-2012	Am. & Ren.	8-1-2012

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635-005-0185	7-1-2012	Am. & Ren.	8-1-2012	635-005-0525	7-1-2012	Adopt	8-1-2012
635-005-0186	7-1-2012	Renumber	8-1-2012	635-005-0565	7-1-2012	Adopt	8-1-2012
635-005-0190	7-1-2012	Am. & Ren.	8-1-2012	635-005-0570	7-1-2012	Adopt	8-1-2012
635-005-0195	7-1-2012	Am. & Ren.	8-1-2012	635-005-0575	7-1-2012	Adopt	8-1-2012
635-005-0200	7-1-2012	Renumber	8-1-2012	635-005-0580	7-1-2012	Adopt	8-1-2012
635-005-0205	7-1-2012	Am. & Ren.	8-1-2012	635-005-0585	7-1-2012	Adopt	8-1-2012
635-005-0210	7-1-2012	Am. & Ren.	8-1-2012	635-005-0590	7-1-2012	Adopt	8-1-2012
635-005-0215	7-1-2012	Am. & Ren.	8-1-2012	635-005-0595	7-1-2012	Adopt	8-1-2012
635-005-0220	7-1-2012	Am. & Ren.	8-1-2012	635-005-0600	7-1-2012	Adopt	8-1-2012
635-005-0225	7-1-2012	Adopt	8-1-2012	635-005-0605	7-1-2012	Adopt	8-1-2012
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635-005-0235	7-1-2012	Adopt	8-1-2012	635-005-0615	7-1-2012	Adopt	8-1-2012
635-005-0245	7-1-2012	Adopt	8-1-2012	635-005-0620	7-1-2012	Adopt	8-1-2012
635-005-0250	7-1-2012	Adopt	8-1-2012	635-005-0650	7-1-2012	Adopt	8-1-2012
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635-005-0260	7-1-2012	Adopt	8-1-2012	635-005-0680	7-1-2012	Adopt	8-1-2012
635-005-0265	7-1-2012	Adopt	8-1-2012	635-005-0685	7-1-2012	Adopt	8-1-2012
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635-005-0345	7-1-2012	Adopt	8-1-2012	635-005-0745	7-1-2012	Adopt	8-1-2012
635-005-0355	7-4-2012	Amend(T)	8-1-2012	635-005-0750	7-1-2012	Adopt	8-1-2012
635-005-0360	7-1-2012	Adopt	8-1-2012	635-005-0755	7-1-2012	Adopt	8-1-2012
635-005-0365	7-1-2012	Adopt	8-1-2012	635-005-0760	7-1-2012	Adopt	8-1-2012
635-005-0370	7-1-2012	Adopt	8-1-2012	635-005-0765	7-1-2012	Adopt	8-1-2012
635-005-0375	7-1-2012	Adopt	8-1-2012	635-005-0770	7-1-2012	Adopt	8-1-2012
635-005-0380	7-1-2012	Adopt	8-1-2012	635-005-0775	7-1-2012	Adopt	8-1-2012
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635-005-0500	7-1-2012	Adopt	8-1-2012	635-005-0925	7-1-2012	Adopt	8-1-2012
635-005-0510	7-1-2012	Adopt	8-1-2012	635-005-0930	7-1-2012	Adopt	8-1-2012
635-005-0515	7-1-2012	Adopt	8-1-2012	635-005-0935	7-1-2012	Adopt	8-1-2012

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635-006-0133	7-1-2012	Repeal	8-1-2012	635-006-1065	7-1-2012	Amend	8-1-2012
635-006-0134	7-1-2012	Amend	8-1-2012	635-006-1075	4-24-2012	Amend	6-1-2012
635-006-0135	7-1-2012	Amend	8-1-2012	635-006-1075	7-1-2012	Amend	8-1-2012
635-006-0140	7-1-2012	Amend	8-1-2012	635-006-1085	7-1-2012	Amend	8-1-2012
635-006-0150	7-1-2012	Amend	8-1-2012	635-006-1095	5-1-2012	Amend	6-1-2012
635-006-0160	7-1-2012	Amend	8-1-2012	635-006-1095	7-1-2012	Amend	8-1-2012
635-006-0165	7-1-2012	Amend	8-1-2012	635-006-1110	7-1-2012	Repeal	8-1-2012
635-006-0205	7-1-2012	Amend	8-1-2012	635-006-1200	7-1-2012	Amend	8-1-2012
635-006-0207	7-1-2012	Amend	8-1-2012	635-006-1210	7-1-2012	Amend	8-1-2012
635-006-0209	7-1-2012	Adopt	8-1-2012	635-008-0120	8-6-2012	Amend	9-1-2012
635-006-0210	1-1-2012	Amend	2-1-2012	635-008-0123	1-1-2012	Amend	1-1-2012
635-006-0210	7-1-2012	Amend	8-1-2012	635-008-0135	1-1-2012	Amend	1-1-2012
635-006-0211	1-1-2012	Amend	2-1-2012	635-008-0146	4-24-2012	Amend	6-1-2012
635-006-0211	7-1-2012	Amend	8-1-2012	635-008-0147	4-24-2012	Amend	6-1-2012
635-006-0212	7-1-2012	Amend	8-1-2012	635-008-0151	2-6-2012	Amend(T)	3-1-2012
635-006-0212	7-5-2012	Amend(T)	8-1-2012	635-008-0151	6-11-2012	Amend	7-1-2012
635-006-0213	7-1-2012	Amend	8-1-2012	635-008-0151(T)	6-11-2012	Repeal	7-1-2012
635-006-0215	1-1-2012	Amend	2-1-2012	635-008-0155	1-1-2012	Amend	1-1-2012
635-006-0215	7-1-2012	Amend	8-1-2012	635-010-0170	2-6-2012	Amend(T)	3-1-2012
635-006-0215	7-5-2012	Amend(T)	8-1-2012	635-010-0170	6-11-2012	Amend	7-1-2012
635-006-0225	7-1-2012	Amend	8-1-2012	635-010-0170(T)	6-11-2012	Repeal	7-1-2012
635-006-0225	7-5-2012	Amend(T)	8-1-2012	635-011-0100	1-1-2012	Amend	2-1-2012
635-006-0225	8-6-2012	Amend	9-1-2012	635-012-0020	12-25-2011	Amend(T)	1-1-2012
635-006-0232	1-1-2012	Amend(T)	2-1-2012	635-012-0020	8-6-2012	Amend	9-1-2012
635-006-0232	2-7-2012	Amend	3-1-2012	635-012-0020(T)	12-25-2011	Suspend	1-1-2012
635-006-0232(T)	2-7-2012	Repeal	3-1-2012	635-012-0030	12-25-2011	Suspend	1-1-2012
635-006-0235	7-1-2012	Amend	8-1-2012	635-012-0030	8-6-2012	Amend	9-1-2012
635-006-0405	7-1-2012	Amend	8-1-2012	635-012-0040	12-25-2011	Suspend	1-1-2012
635-006-0425	7-1-2012	Amend	8-1-2012	635-012-0040	8-6-2012	Amend	9-1-2012
635-006-0800	7-1-2012	Repeal	8-1-2012	635-012-0050	12-25-2011	Suspend	1-1-2012
635-006-0810	7-1-2012	Repeal	8-1-2012	635-012-0050	8-6-2012	Amend	9-1-2012
635-006-0820	7-1-2012	Repeal	8-1-2012	635-012-0060	12-25-2011	Suspend	1-1-2012
635-006-0830	7-1-2012	Repeal	8-1-2012	635-012-0060	8-6-2012	Amend	9-1-2012
635-006-0840	7-1-2012	Repeal	8-1-2012	635-012-0070	8-6-2012	Adopt	9-1-2012
635-006-0850	7-1-2012	Repeal	8-1-2012	635-012-0080	8-6-2012	Adopt	9-1-2012
635-006-0870	7-1-2012	Repeal	8-1-2012	635-012-0090	8-6-2012	Adopt	9-1-2012
635-006-0880	7-1-2012	Repeal	8-1-2012	635-012-0100	8-6-2012	Adopt	9-1-2012
635-006-0890	7-1-2012	Repeal	8-1-2012	635-012-0110	8-6-2012	Adopt	9-1-2012
635-006-0900	7-1-2012	Repeal	8-1-2012	635-012-0120	8-6-2012	Adopt	9-1-2012
635-006-0910	7-1-2012	Repeal	8-1-2012	635-012-0130	8-6-2012	Adopt	9-1-2012
635-006-0915	7-1-2012	Repeal	8-1-2012	635-012-0140	8-6-2012	Adopt	9-1-2012
635-006-0930	7-1-2012	Repeal	8-1-2012	635-012-0150	8-6-2012	Adopt	9-1-2012
635-006-0940	7-1-2012	Repeal	8-1-2012	635-012-0160	8-6-2012	Adopt	9-1-2012
635-006-0950	7-1-2012	Repeal	8-1-2012	635-013-0003	1-1-2012	Amend	2-1-2012
635-006-1005	7-1-2012	Amend	8-1-2012	635-013-0003	5-1-2012	Amend	6-1-2012
635-006-1010	12-1-2011	Amend(T)	1-1-2012	635-013-0004	1-1-2012	Amend	2-1-2012
635-006-1010	5-1-2012	Amend	6-1-2012	635-013-0007	7-1-2012	Amend	7-1-2012
635-006-1010	7-1-2012	Repeal	8-1-2012	635-014-0080	1-1-2012	Amend	2-1-2012
635-006-1015	12-1-2011	Amend(T)	1-1-2012	635-014-0090	1-1-2012	Amend	2-1-2012
635-006-1015	5-1-2012	Amend	6-1-2012	635-014-0090	6-1-2012	Amend(T)	7-1-2012
635-006-1015	7-1-2012	Amend	8-1-2012	635-014-0090	6-12-2012	Amend(T)	7-1-2012
635-006-1025	7-1-2012	Amend	8-1-2012	635-014-0090	7-1-2012	Amend	7-1-2012
635-006-1035	7-1-2012	Amend	8-1-2012	635-014-0090	7-1-2012	Amend(T)	8-1-2012

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635-016-0080	1-1-2012	Amend	2-1-2012	635-023-0125	2-15-2012	Amend(T)	3-1-2012
635-016-0090	1-1-2012	Amend	2-1-2012	635-023-0125	4-6-2012	Amend(T)	5-1-2012
635-016-0090	7-1-2012	Amend	7-1-2012	635-023-0125	4-14-2012	Amend(T)	5-1-2012
635-017-0080	1-1-2012	Amend	2-1-2012	635-023-0125	5-2-2012	Amend(T)	6-1-2012
635-017-0090	1-1-2012	Amend	2-1-2012	635-023-0125	5-16-2012	Amend(T)	6-1-2012
635-017-0090	1-1-2012	Amend(T)	1-1-2012	635-023-0125	5-19-2012	Amend(T)	7-1-2012
635-017-0090	3-12-2012	Amend	4-1-2012	635-023-0125	5-26-2012	Amend(T)	7-1-2012
635-017-0090	7-26-2012	Amend(T)	9-1-2012	635-023-0125(T)	4-6-2012	Suspend	5-1-2012
635-017-0090	8-1-2012	Amend(T)	9-1-2012	635-023-0125(T)	4-14-2012	Suspend	5-1-2012
635-017-0090(T)	8-1-2012	Suspend	9-1-2012	635-023-0125(T)	5-2-2012	Suspend	6-1-2012
635-017-0095	1-1-2012	Amend	2-1-2012	635-023-0125(T)	5-16-2012	Suspend	6-1-2012
635-017-0095	2-17-2012	Amend(T)	3-1-2012	635-023-0125(T)	5-19-2012	Suspend	7-1-2012
635-017-0095	2-23-2012	Amend(T)	4-1-2012	635-023-0125(T)	5-26-2012	Suspend	7-1-2012
635-017-0095(T)	2-23-2012	Suspend	4-1-2012	635-023-0125(T)	6-16-2012	Suspend	7-1-2012
635-018-0080	1-1-2012	Amend	2-1-2012	635-023-0125(T)	7-9-2012	Suspend	8-1-2012
635-018-0090	1-1-2012	Amend	2-1-2012	635-023-0128	1-1-2012	Amend	2-1-2012
635-018-0090	1-1-2012	Amend(T)	2-1-2012	635-023-0128	6-16-2012	Amend(T)	7-1-2012
635-018-0090	3-12-2012	Amend	4-1-2012	635-023-0128	7-9-2012	Amend(T)	8-1-2012
635-018-0090	4-15-2012	Amend(T)	5-1-2012	635-023-0128(T)	7-9-2012	Suspend	8-1-2012
635-018-0090	6-4-2012	Amend(T)	7-1-2012	635-023-0128(T)	8-1-2012	Suspend	9-1-2012
635-018-0090	8-1-2012	Amend(T)	9-1-2012	635-023-0130	1-1-2012	Amend	2-1-2012
635-018-0090(T)	4-15-2012	Suspend	5-1-2012	635-023-0130	8-1-2012	Amend(T)	9-1-2012
635-018-0090(T)	6-4-2012	Suspend	7-1-2012	635-023-0134	1-1-2012	Amend	2-1-2012
635-019-0080	1-1-2012	Amend	2-1-2012	635-023-0134	4-22-2012	Amend(T)	6-1-2012
635-019-0090	1-1-2012	Amend	2-1-2012	635-023-0134	8-5-2012	Amend(T)	9-1-2012
635-019-0090	5-23-2012	Amend(T)	7-1-2012	635-023-0134(T)	8-5-2012	Suspend	9-1-2012
635-019-0090	5-24-2012	Amend(T)	7-1-2012	635-039-0080	1-1-2012	Amend	2-1-2012
635-019-0090	6-11-2012	Amend(T)	7-1-2012	635-039-0080	4-24-2012	Amend	6-1-2012
635-019-0090	6-22-2012	Amend(T)	8-1-2012	635-039-0085	4-24-2012	Amend	6-1-2012
635-019-0090	6-27-2012	Amend(T)	8-1-2012	635-039-0085	7-5-2012	Amend(T)	8-1-2012
635-019-0090	7-1-2012	Amend(T)	8-1-2012	635-039-0085	7-22-2012	Amend(T)	9-1-2012
635-019-0090	7-15-2012	Amend(T)	8-1-2012	635-039-0085(T)	7-22-2012	Suspend	9-1-2012
635-019-0090(T)	5-24-2012	Suspend	7-1-2012	635-039-0090	12-1-2011	Amend(T)	1-1-2012
635-019-0090(T)	6-11-2012	Suspend	7-1-2012	635-039-0090	12-15-2011	Amend(T)	1-1-2012
635-019-0090(T)	6-12-2012	Suspend	7-1-2012	635-039-0090	1-1-2012	Amend	2-1-2012
635-019-0090(T)	6-22-2012	Suspend	8-1-2012	635-039-0090	7-20-2012	Amend(T)	9-1-2012
635-019-0090(T)	6-27-2012	Suspend	8-1-2012	635-039-0090(T)	12-1-2011	Suspend	1-1-2012
635-019-0090(T)	7-1-2012	Suspend	8-1-2012	635-039-0090(T)	12-15-2011	Suspend	1-1-2012
635-019-0090(T)	7-15-2012	Suspend	8-1-2012	635-041-0020	6-16-2012	Amend(T)	7-1-2012
635-021-0080	1-1-2012	Amend	2-1-2012	635-041-0045	2-1-2012	Amend(T)	3-1-2012
635-021-0090	1-1-2012	Amend	2-1-2012	635-041-0045	2-29-2012	Amend(T)	4-1-2012
635-021-0090	6-13-2012	Amend(T)	7-1-2012	635-041-0045	5-15-2012	Amend(T)	6-1-2012
635-023-0080	1-1-2012	Amend	2-1-2012	635-041-0045	7-1-2012	Amend(T)	8-1-2012
635-023-0090	1-1-2012	Amend	2-1-2012	635-041-0045	7-12-2012	Amend(T)	8-1-2012
635-023-0095	1-1-2012	Amend	2-1-2012	635-041-0045	7-27-2012	Amend(T)	9-1-2012
635-023-0095	1-5-2012	Amend(T)	2-1-2012	635-041-0045(T)	2-29-2012	Suspend	4-1-2012
635-023-0095	2-7-2012	Amend	3-1-2012	635-041-0045(T)	5-15-2012	Suspend	6-1-2012
635-023-0095	2-18-2012	Amend(T)	3-1-2012	635-041-0045(T)	7-12-2012	Suspend	8-1-2012
635-023-0095	5-20-2012	Amend(T)	6-1-2012	635-041-0045(T)	7-27-2012	Suspend	9-1-2012
635-023-0095	7-1-2012	Amend(T)	8-1-2012	635-041-0063	7-30-2012	Amend(T)	9-1-2012
635-023-0095	8-1-2012	Amend(T)	9-1-2012	635-041-0065	2-1-2012	Amend(T)	3-1-2012
635-023-0095(T)	2-7-2012	Repeal	3-1-2012	635-041-0065	2-29-2012	Amend(T)	4-1-2012
635-023-0095(T)	5-20-2012	Suspend	6-1-2012	635-041-0065	3-5-2012	Amend(T)	4-1-2012
635-023-0095(T)	7-1-2012	Suspend	8-1-2012	635-041-0065	3-5-2012	Amend(T)	4-1-2012
635-023-0095(T)	8-1-2012	Suspend	9-1-2012	635-041-0065	5-15-2012	Amend(T)	6-1-2012

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635-041-0065(T)	2-29-2012	Suspend	4-1-2012	635-050-0090	6-11-2012	Amend	7-1-2012
635-041-0065(T)	3-5-2012	Suspend	4-1-2012	635-050-0100	6-11-2012	Amend	7-1-2012
635-041-0065(T)	3-5-2012	Suspend	4-1-2012	635-050-0110	6-11-2012	Amend	7-1-2012
635-041-0065(T)	5-15-2012	Suspend	6-1-2012	635-050-0120	6-11-2012	Amend	7-1-2012
635-041-0072	6-21-2012	Amend(T)	8-1-2012	635-050-0130	6-11-2012	Amend	7-1-2012
635-041-0072	7-12-2012	Amend(T)	8-1-2012	635-050-0140	6-11-2012	Amend	7-1-2012
635-041-0072(T)	7-12-2012	Suspend	8-1-2012	635-050-0150	6-11-2012	Amend	7-1-2012
635-041-0075	7-27-2012	Amend(T)	9-1-2012	635-050-0170	6-11-2012	Amend	7-1-2012
635-041-0075	8-21-2012	Amend(T)	9-1-2012	635-050-0183	6-11-2012	Amend	7-1-2012
635-041-0075(T)	8-21-2012	Suspend	9-1-2012	635-050-0189	6-11-2012	Amend	7-1-2012
635-041-0076	6-18-2012	Amend(T)	7-1-2012	635-050-0210	6-11-2012	Amend	7-1-2012
635-041-0076	7-3-2012	Amend(T)	8-1-2012	635-051-0000	8-6-2012	Amend	9-1-2012
635-041-0076	7-12-2012	Amend(T)	8-1-2012	635-051-0001	8-10-2012	Amend(T)	9-1-2012
635-041-0076(T)	7-3-2012	Suspend	8-1-2012	635-051-0048	8-6-2012	Amend	9-1-2012
635-041-0076(T)	7-12-2012	Suspend	8-1-2012	635-052-0000	8-6-2012	Amend	9-1-2012
635-041-0076(T)	7-27-2012	Suspend	9-1-2012	635-053-0000	8-6-2012	Amend	9-1-2012
635-042-0022	4-3-2012	Amend(T)	5-1-2012	635-053-0005	8-10-2012	Amend(T)	9-1-2012
635-042-0022	4-10-2012	Amend(T)	5-1-2012	635-053-0035	12-21-2011	Amend(T)	2-1-2012
635-042-0022(T)	4-10-2012	Suspend	5-1-2012	635-053-0100	8-6-2012	Amend	9-1-2012
635-042-0027	6-17-2012	Amend(T)	7-1-2012	635-053-0105	8-6-2012	Amend	9-1-2012
635-042-0031	8-5-2012	Amend(T)	9-1-2012	635-053-0111	8-6-2012	Amend	9-1-2012
635-042-0105	5-24-2012	Amend(T)	7-1-2012	635-053-0125	8-6-2012	Amend	9-1-2012
635-042-0135	1-30-2012	Amend(T)	3-1-2012	635-054-0000	8-6-2012	Amend	9-1-2012
635-042-0145	2-12-2012	Amend(T)	3-1-2012	635-060-0000	8-6-2012	Amend	9-1-2012
635-042-0145	3-18-2012	Amend(T)	4-1-2012	635-060-0023	4-1-2012	Amend	4-1-2012
635-042-0145	3-21-2012	Amend(T)	5-1-2012	635-060-0046	2-10-2012	Amend(T)	3-1-2012
635-042-0145	3-29-2012	Amend(T)	5-1-2012	635-060-0046	6-11-2012	Amend	7-1-2012
635-042-0145	4-1-2012	Amend(T)	5-1-2012	635-060-0046(T)	6-11-2012	Repeal	7-1-2012
635-042-0145	4-5-2012	Amend(T)	5-1-2012	635-065-0001	1-1-2012	Amend	1-1-2012
635-042-0145	4-19-2012	Amend(T)	6-1-2012	635-065-0015	1-1-2012	Amend	1-1-2012
635-042-0145	7-2-2012	Amend(T)	8-1-2012	635-065-0090	1-1-2012	Amend	1-1-2012
635-042-0145	8-1-2012	Amend(T)	9-1-2012	635-065-0401	1-1-2012	Amend	1-1-2012
635-042-0145(T)	3-18-2012	Suspend	4-1-2012	635-065-0625	1-1-2012	Amend	1-1-2012
635-042-0145(T)	3-21-2012	Suspend	5-1-2012	635-065-0635	1-1-2012	Amend	1-1-2012
635-042-0145(T)	3-29-2012	Suspend	5-1-2012	635-065-0720	6-11-2012	Amend	7-1-2012
635-042-0145(T)	4-1-2012	Suspend	5-1-2012	635-065-0733	1-1-2012	Amend	1-1-2012
635-042-0145(T)	4-5-2012	Suspend	5-1-2012	635-065-0740	1-1-2012	Amend	1-1-2012
635-042-0145(T)	4-19-2012	Suspend	6-1-2012	635-065-0760	1-1-2012	Amend	1-1-2012
635-042-0145(T)	7-2-2012	Suspend	8-1-2012	635-065-0765	7-23-2012	Amend(T)	9-1-2012
635-042-0160	2-12-2012	Amend(T)	3-1-2012	635-066-0000	1-1-2012	Amend	1-1-2012
635-042-0160	8-13-2012	Amend(T)	9-1-2012	635-066-0010	1-1-2012	Amend	1-1-2012
635-042-0170	4-26-2012	Amend(T)	6-1-2012	635-067-0000	1-1-2012	Amend	1-1-2012
635-042-0170	8-13-2012	Amend(T)	9-1-2012	635-067-0000	6-11-2012	Amend	7-1-2012
635-042-0180	2-12-2012	Amend(T)	3-1-2012	635-067-0004	1-1-2012	Amend	1-1-2012
635-042-0180	8-13-2012	Amend(T)	9-1-2012	635-067-0030	1-1-2012	Amend	1-1-2012
635-043-0051	12-30-2011	Amend(T)	2-1-2012	635-067-0040	1-1-2012	Amend	1-1-2012
635-044-0000	8-6-2012	Amend	9-1-2012	635-068-0000	3-1-2012	Amend	3-1-2012
635-044-0002	8-6-2012	Amend	9-1-2012	635-068-0000	6-11-2012	Amend	7-1-2012
635-044-0130	8-6-2012	Amend	9-1-2012	635-069-0000	2-1-2012	Amend	2-1-2012
635-045-0000	8-6-2012	Amend	9-1-2012	635-069-0000	6-11-2012	Amend	7-1-2012
635-045-0002	8-6-2012	Amend	9-1-2012	635-070-0000	4-1-2012	Amend	4-1-2012
635-050-0045	6-11-2012	Amend	7-1-2012	635-070-0000	6-11-2012	Amend	7-1-2012
635-050-0047	6-11-2012	Adopt	7-1-2012	635-071-0000	4-1-2012	Amend	4-1-2012
635-050-0050	6-11-2012	Amend	7-1-2012	635-071-0000	6-11-2012	Amend	7-1-2012
635-050-0070	6-11-2012	Amend	7-1-2012	635-072-0000	1-1-2012	Amend	1-1-2012
635-050-0080	6-11-2012	Amend	7-1-2012	635-073-0000	2-1-2012	Amend	2-1-2012

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635-073-0065	2-1-2012	Amend	2-1-2012	660-018-0022	2-14-2012	Amend	3-1-2012
635-073-0070	2-1-2012	Amend	2-1-2012	660-018-0022(T)	2-14-2012	Repeal	3-1-2012
635-078-0011	4-1-2012	Amend	4-1-2012	660-018-0025	2-14-2012	Amend	3-1-2012
635-095-0100	2-10-2012	Adopt	3-1-2012	660-018-0030	2-14-2012	Repeal	3-1-2012
635-095-0105	2-10-2012	Adopt	3-1-2012	660-018-0035	2-14-2012	Amend	3-1-2012
635-095-0105	6-11-2012	Amend	7-1-2012	660-018-0040	1-1-2012	Amend(T)	2-1-2012
635-095-0111	2-10-2012	Adopt	3-1-2012	660-018-0040	2-14-2012	Amend	3-1-2012
635-095-0125	2-10-2012	Adopt	3-1-2012	660-018-0040(T)	2-14-2012	Repeal	3-1-2012
635-095-0125	6-11-2012	Amend	7-1-2012	660-018-0045	2-14-2012	Amend	3-1-2012
635-100-0125	3-14-2012	Amend	4-1-2012	660-018-0050	2-14-2012	Amend	3-1-2012
635-170-0000	6-11-2012	Adopt	7-1-2012	660-018-0055	2-14-2012	Amend	3-1-2012
635-435-0000	3-16-2012	Amend	5-1-2012	660-018-0060	2-14-2012	Amend	3-1-2012
635-435-0005	3-16-2012	Amend	5-1-2012	660-018-0085	2-14-2012	Amend	3-1-2012
635-435-0010	3-16-2012	Amend	5-1-2012	660-018-0140	2-14-2012	Repeal	3-1-2012
635-435-0015	3-16-2012	Amend	5-1-2012	660-018-0150	2-14-2012	Amend	3-1-2012
635-435-0025	3-16-2012	Amend	5-1-2012	660-025-0010	2-14-2012	Amend	3-1-2012
635-435-0030	3-16-2012	Amend	5-1-2012	660-025-0020	2-14-2012	Amend	3-1-2012
635-435-0035	3-16-2012	Amend	5-1-2012	660-025-0030	2-14-2012	Amend	3-1-2012
635-435-0040	3-16-2012	Amend	5-1-2012	660-025-0035	2-14-2012	Amend	3-1-2012
635-435-0060	3-16-2012	Amend	5-1-2012	660-025-0040	2-14-2012	Amend	3-1-2012
647-010-0010	7-1-2012	Amend	6-1-2012	660-025-0050	2-14-2012	Amend	3-1-2012
656-010-0000	11-30-2011	Amend	1-1-2012	660-025-0060	2-14-2012	Amend	3-1-2012
656-010-0010	11-30-2011	Amend	1-1-2012	660-025-0070	2-14-2012	Amend	3-1-2012
660-007-0000	2-14-2012	Amend	3-1-2012	660-025-0080	2-14-2012	Amend	3-1-2012
660-007-0005	2-14-2012	Amend	3-1-2012	660-025-0085	2-14-2012	Amend	3-1-2012
660-007-0015	2-14-2012	Amend	3-1-2012	660-025-0090	2-14-2012	Amend	3-1-2012
660-007-0018	2-14-2012	Amend	3-1-2012	660-025-0100	2-14-2012	Amend	3-1-2012
660-007-0020	2-14-2012	Amend	3-1-2012	660-025-0110	2-14-2012	Amend	3-1-2012
660-007-0022	2-14-2012	Amend	3-1-2012	660-025-0130	2-14-2012	Amend	3-1-2012
660-007-0030	2-14-2012	Amend	3-1-2012	660-025-0140	2-14-2012	Amend	3-1-2012
660-007-0033	2-14-2012	Amend	3-1-2012	660-025-0150	2-14-2012	Amend	3-1-2012
660-007-0035	2-14-2012	Amend	3-1-2012	660-025-0160	2-14-2012	Amend	3-1-2012
660-007-0037	2-14-2012	Amend	3-1-2012	660-025-0170	2-14-2012	Amend	3-1-2012
660-007-0045	2-14-2012	Amend	3-1-2012	660-025-0175	2-14-2012	Amend	3-1-2012
660-007-0050	2-14-2012	Amend	3-1-2012	660-025-0180	2-14-2012	Amend	3-1-2012
660-007-0060	2-14-2012	Amend	3-1-2012	660-025-0210	2-14-2012	Amend	3-1-2012
660-008-0000	2-14-2012	Amend	3-1-2012	660-025-0220	2-14-2012	Amend	3-1-2012
660-008-0005	2-14-2012	Amend	3-1-2012	660-025-0230	2-14-2012	Amend	3-1-2012
660-008-0010	2-14-2012	Amend	3-1-2012	660-025-0250	2-14-2012	Amend	3-1-2012
660-008-0015	2-14-2012	Amend	3-1-2012	660-027-0070	2-14-2012	Amend	3-1-2012
660-008-0020	2-14-2012	Amend	3-1-2012	660-028-0010	2-14-2012	Amend	3-1-2012
660-008-0025	2-14-2012	Amend	3-1-2012	660-028-0020	2-14-2012	Amend	3-1-2012
660-008-0030	2-14-2012	Amend	3-1-2012	660-028-0030	2-14-2012	Amend	3-1-2012
660-008-0035	2-14-2012	Amend	3-1-2012	660-033-0030	12-20-2011	Amend	2-1-2012
660-008-0040	2-14-2012	Amend	3-1-2012	660-033-0030	2-14-2012	Amend	3-1-2012
660-012-0005	1-1-2012	Amend	2-1-2012	660-033-0045	2-14-2012	Adopt	3-1-2012
660-012-0060	1-1-2012	Amend	2-1-2012	660-033-0100	2-14-2012	Amend	3-1-2012
660-018-0005	2-14-2012	Amend	3-1-2012	660-033-0120	11-23-2011	Amend	1-1-2012
660-018-0010	2-14-2012	Amend	3-1-2012	660-033-0120	2-14-2012	Amend	3-1-2012
660-018-0020	1-1-2012	Amend(T)	2-1-2012	660-033-0130	11-23-2011	Amend	1-1-2012
660-018-0020	2-14-2012	Amend	3-1-2012	660-033-0130	2-14-2012	Amend	3-1-2012
660-018-0020(T)	2-14-2012	Repeal	3-1-2012	660-033-0135	2-14-2012	Amend	3-1-2012
660-018-0021	1-1-2012	Amend(T)	2-1-2012	660-035-0000	6-15-2012	Amend	7-1-2012
660-018-0021	2-14-2012	Amend	3-1-2012	660-035-0005	6-15-2012	Adopt	7-1-2012
660-018-0021(T)	2-14-2012	Repeal	3-1-2012	660-035-0010	6-15-2012	Amend	7-1-2012

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660-035-0020	6-15-2012	Amend	7-1-2012	705-010-0045	3-29-2012	Adopt(T)	5-1-2012
660-035-0030	6-15-2012	Amend	7-1-2012	705-010-0050	3-29-2012	Adopt(T)	5-1-2012
660-035-0040	6-15-2012	Repeal	7-1-2012	705-010-0055	3-29-2012	Adopt(T)	5-1-2012
660-035-0050	6-15-2012	Amend	7-1-2012	705-010-0060	3-29-2012	Adopt(T)	5-1-2012
660-035-0060	6-15-2012	Amend	7-1-2012	715-001-0000	7-2-2012	Adopt(T)	8-1-2012
660-035-0070	6-15-2012	Amend	7-1-2012	715-001-0005	7-2-2012	Adopt(T)	8-1-2012
660-035-0080	6-15-2012	Repeal	7-1-2012	715-001-0010	7-2-2012	Adopt(T)	8-1-2012
668-010-0015	4-12-2012	Amend	5-1-2012	715-010-0005	7-3-2012	Adopt(T)	8-1-2012
668-030-0020	4-12-2012	Amend	5-1-2012	715-010-0010	7-3-2012	Adopt(T)	8-1-2012
690-013-0100	2-1-2012	Amend	3-1-2012	715-010-0020	7-3-2012	Adopt(T)	8-1-2012
690-013-0310	2-1-2012	Amend	3-1-2012	731-001-0005	2-21-2012	Amend(T)	4-1-2012
690-018-0050	2-1-2012	Amend	3-1-2012	731-001-0005	7-19-2012	Amend	9-1-2012
690-019-0080	2-1-2012	Amend	3-1-2012	731-003-0005	3-21-2012	Adopt	5-1-2012
690-053-0015	2-1-2012	Amend	3-1-2012	731-003-0005(T)	3-21-2012	Repeal	5-1-2012
690-053-0030	2-1-2012	Amend	3-1-2012	731-030-0010	6-27-2012	Amend	8-1-2012
690-053-0035	2-1-2012	Amend	3-1-2012	731-030-0030	6-27-2012	Amend	8-1-2012
690-077-0029	2-1-2012	Amend	3-1-2012	731-030-0040	6-27-2012	Amend	8-1-2012
690-077-0031	2-1-2012	Amend	3-1-2012	731-030-0050	6-27-2012	Amend	8-1-2012
690-077-0039	2-1-2012	Amend	3-1-2012	731-030-0080	6-27-2012	Repeal	8-1-2012
690-077-0077	2-1-2012	Amend	3-1-2012	731-030-0090	6-27-2012	Amend	8-1-2012
690-240-0010	2-2-2012	Amend	3-1-2012	731-030-0100	6-27-2012	Amend	8-1-2012
690-240-0035	2-2-2012	Amend	3-1-2012	731-030-0110	6-27-2012	Amend	8-1-2012
690-240-0040	2-2-2012	Adopt	3-1-2012	731-030-0120	6-27-2012	Amend	8-1-2012
690-240-0043	2-2-2012	Adopt	3-1-2012	731-030-0130	6-27-2012	Amend	8-1-2012
690-240-0046	2-2-2012	Adopt	3-1-2012	731-030-0150	6-27-2012	Amend	8-1-2012
690-240-0049	2-2-2012	Adopt	3-1-2012	731-030-0160	6-27-2012	Amend	8-1-2012
690-300-0010	2-1-2012	Amend	3-1-2012	731-030-0170	6-27-2012	Adopt	8-1-2012
690-310-0020	2-1-2012	Amend	3-1-2012	731-035-0020	12-22-2011	Amend	2-1-2012
690-310-0050	2-1-2012	Amend	3-1-2012	731-035-0040	12-22-2011	Amend	2-1-2012
690-310-0080	2-1-2012	Amend	3-1-2012	731-035-0050	12-22-2011	Amend	2-1-2012
690-310-0090	2-1-2012	Amend	3-1-2012	731-035-0060	12-22-2011	Amend	2-1-2012
690-310-0100	2-1-2012	Amend	3-1-2012	731-035-0070	12-22-2011	Amend	2-1-2012
690-310-0150	2-1-2012	Amend	3-1-2012	731-035-0080	12-22-2011	Amend	2-1-2012
690-315-0050	2-1-2012	Amend	3-1-2012	731-040-0010	7-19-2012	Amend	9-1-2012
690-330-0010	2-1-2012	Amend	3-1-2012	731-040-0020	7-19-2012	Amend	9-1-2012
690-380-2260	2-1-2012	Amend	3-1-2012	731-040-0030	7-19-2012	Amend	9-1-2012
690-380-3100	2-1-2012	Amend	3-1-2012	731-040-0040	7-19-2012	Repeal	9-1-2012
690-380-4000	2-1-2012	Amend	3-1-2012	731-040-0050	7-19-2012	Amend	9-1-2012
690-380-4020	2-1-2012	Amend	3-1-2012	731-040-0052	7-19-2012	Adopt	9-1-2012
690-380-6040	2-1-2012	Amend	3-1-2012	731-040-0053	7-19-2012	Adopt	9-1-2012
690-382-0600	2-1-2012	Amend	3-1-2012	731-040-0054	7-19-2012	Adopt	9-1-2012
690-382-0800	2-1-2012	Amend	3-1-2012	731-040-0055	7-19-2012	Adopt	9-1-2012
690-385-4100	2-1-2012	Amend	3-1-2012	731-040-0056	7-19-2012	Adopt	9-1-2012
690-385-4600	2-1-2012	Amend	3-1-2012	731-040-0057	7-19-2012	Adopt	9-1-2012
690-385-7600	2-1-2012	Amend	3-1-2012	731-040-0058	7-19-2012	Adopt	9-1-2012
705-001-0000	3-28-2012	Adopt(T)	5-1-2012	731-040-0059	7-19-2012	Adopt	9-1-2012
705-001-0005	3-28-2012	Adopt(T)	5-1-2012	731-040-0060	7-19-2012	Repeal	9-1-2012
705-001-0010	3-28-2012	Adopt(T)	5-1-2012	731-040-0062	7-19-2012	Adopt	9-1-2012
705-010-0005	3-29-2012	Adopt(T)	5-1-2012	731-040-0064	7-19-2012	Adopt	9-1-2012
705-010-0010	3-29-2012	Adopt(T)	5-1-2012	731-040-0070	7-19-2012	Repeal	9-1-2012
705-010-0015	3-29-2012	Adopt(T)	5-1-2012	731-040-0080	7-19-2012	Repeal	9-1-2012
705-010-0020	3-29-2012	Adopt(T)	5-1-2012	731-080-0010	7-19-2012	Amend	9-1-2012
705-010-0025	3-29-2012	Adopt(T)	5-1-2012	731-080-0020	7-19-2012	Amend	9-1-2012
705-010-0030	3-29-2012	Adopt(T)	5-1-2012	731-080-0030	7-19-2012	Amend	9-1-2012
705-010-0035	3-29-2012	Adopt(T)	5-1-2012	731-080-0040	7-19-2012	Amend	9-1-2012

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731-080-0060	7-19-2012	Repeal	9-1-2012	734-051-0045	1-1-2012	Suspend	2-1-2012
731-080-0070	7-19-2012	Amend	9-1-2012	734-051-0045	6-29-2012	Repeal	8-1-2012
731-080-0080	7-19-2012	Adopt	9-1-2012	734-051-0070	1-1-2012	Suspend	2-1-2012
731-146-0010	1-1-2012	Amend	2-1-2012	734-051-0070	6-29-2012	Repeal	8-1-2012
731-146-0015	1-1-2012	Amend	2-1-2012	734-051-0080	1-1-2012	Suspend	2-1-2012
731-146-0020	1-1-2012	Amend	2-1-2012	734-051-0080	6-29-2012	Repeal	8-1-2012
731-146-0025	1-1-2012	Amend	2-1-2012	734-051-0085	1-1-2012	Suspend	2-1-2012
731-146-0030	1-1-2012	Amend	2-1-2012	734-051-0085	6-29-2012	Repeal	8-1-2012
731-146-0050	1-1-2012	Amend	2-1-2012	734-051-0095	1-1-2012	Suspend	2-1-2012
731-146-0060	1-1-2012	Amend	2-1-2012	734-051-0095	6-29-2012	Repeal	8-1-2012
731-147-0010	1-1-2012	Amend	2-1-2012	734-051-0105	1-1-2012	Suspend	2-1-2012
731-147-0040	1-1-2012	Amend	2-1-2012	734-051-0105	6-29-2012	Repeal	8-1-2012
731-147-0060	1-1-2012	Repeal	2-1-2012	734-051-0115	1-1-2012	Suspend	2-1-2012
731-148-0010	1-1-2012	Amend	2-1-2012	734-051-0115	6-29-2012	Repeal	8-1-2012
731-148-0020	1-1-2012	Repeal	2-1-2012	734-051-0125	1-1-2012	Suspend	2-1-2012
731-149-0010	1-1-2012	Amend	2-1-2012	734-051-0125	6-29-2012	Repeal	8-1-2012
734-005-0005	1-1-2012	Adopt	2-1-2012	734-051-0135	1-1-2012	Suspend	2-1-2012
734-005-0010	1-1-2012	Adopt	2-1-2012	734-051-0135	6-29-2012	Repeal	8-1-2012
734-005-0015	1-1-2012	Adopt	2-1-2012	734-051-0145	1-1-2012	Suspend	2-1-2012
734-010-0240	7-19-2012	Amend	9-1-2012	734-051-0145	6-29-2012	Repeal	8-1-2012
734-020-0005	12-22-2011	Amend	2-1-2012	734-051-0155	1-1-2012	Suspend	2-1-2012
734-020-0018	1-27-2012	Adopt	3-1-2012	734-051-0155	6-29-2012	Repeal	8-1-2012
734-020-0019	1-27-2012	Adopt	3-1-2012	734-051-0165	1-1-2012	Suspend	2-1-2012
734-020-0020	3-26-2012	Amend	5-1-2012	734-051-0165	6-29-2012	Repeal	8-1-2012
734-020-0025	3-26-2012	Repeal	5-1-2012	734-051-0175	1-1-2012	Suspend	2-1-2012
734-020-0032	3-26-2012	Repeal	5-1-2012	734-051-0175	6-29-2012	Repeal	8-1-2012
734-020-0034	3-26-2012	Repeal	5-1-2012	734-051-0185	1-1-2012	Suspend	2-1-2012
734-020-0055	12-22-2011	Repeal	2-1-2012	734-051-0185	6-29-2012	Repeal	8-1-2012
734-020-0135	3-26-2012	Repeal	5-1-2012	734-051-0195	1-1-2012	Suspend	2-1-2012
734-020-0140	3-26-2012	Repeal	5-1-2012	734-051-0195	6-29-2012	Repeal	8-1-2012
734-020-0400	3-26-2012	Amend	5-1-2012	734-051-0205	1-1-2012	Suspend	2-1-2012
734-020-0420	3-26-2012	Amend	5-1-2012	734-051-0205	6-29-2012	Repeal	8-1-2012
734-020-0430	3-26-2012	Amend	5-1-2012	734-051-0215	1-1-2012	Suspend	2-1-2012
734-020-0440	3-26-2012	Repeal	5-1-2012	734-051-0215	6-29-2012	Repeal	8-1-2012
734-020-0450	3-26-2012	Repeal	5-1-2012	734-051-0225	1-1-2012	Suspend	2-1-2012
734-020-0460	3-26-2012	Repeal	5-1-2012	734-051-0225	6-29-2012	Repeal	8-1-2012
734-020-0470	3-26-2012	Amend	5-1-2012	734-051-0245	1-1-2012	Suspend	2-1-2012
734-020-0480	3-26-2012	Amend	5-1-2012	734-051-0245	6-29-2012	Repeal	8-1-2012
734-020-0485	3-26-2012	Adopt	5-1-2012	734-051-0255	1-1-2012	Suspend	2-1-2012
734-020-0490	3-26-2012	Repeal	5-1-2012	734-051-0255	6-29-2012	Repeal	8-1-2012
734-020-0500	3-26-2012	Amend	5-1-2012	734-051-0265	1-1-2012	Suspend	2-1-2012
734-026-0010	1-1-2012	Adopt	2-1-2012	734-051-0265	6-29-2012	Repeal	8-1-2012
734-026-0020	1-1-2012	Adopt	2-1-2012	734-051-0275	1-1-2012	Suspend	2-1-2012
734-026-0030	1-1-2012	Adopt	2-1-2012	734-051-0275	6-29-2012	Repeal	8-1-2012
734-026-0040	1-1-2012	Adopt	2-1-2012	734-051-0285	1-1-2012	Suspend	2-1-2012
734-026-0045	1-1-2012	Adopt	2-1-2012	734-051-0285	6-29-2012	Repeal	8-1-2012
734-035-0010	2-24-2012	Amend	4-1-2012	734-051-0295	1-1-2012	Suspend	2-1-2012
734-035-0040	2-24-2012	Amend	4-1-2012	734-051-0295	6-29-2012	Repeal	8-1-2012
734-051-0010	1-1-2012	Suspend	2-1-2012	734-051-0305	1-1-2012	Suspend	2-1-2012
734-051-0010	6-29-2012	Repeal	8-1-2012	734-051-0305	6-29-2012	Repeal	8-1-2012
734-051-0020	1-1-2012	Suspend	2-1-2012	734-051-0315	1-1-2012	Suspend	2-1-2012
734-051-0020	6-29-2012	Repeal	8-1-2012	734-051-0315	6-29-2012	Repeal	8-1-2012
734-051-0035	1-1-2012	Suspend	2-1-2012	734-051-0325	1-1-2012	Suspend	2-1-2012
734-051-0035	6-29-2012	Repeal	8-1-2012	734-051-0325	6-29-2012	Repeal	8-1-2012
734-051-0040	1-1-2012	Suspend	2-1-2012	734-051-0335	1-1-2012	Suspend	2-1-2012

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734-051-0345	1-1-2012	Suspend	2-1-2012	734-051-3030	6-29-2012	Adopt	8-1-2012
734-051-0345	6-29-2012	Repeal	8-1-2012	734-051-3030(T)	6-29-2012	Repeal	8-1-2012
734-051-0355	1-1-2012	Suspend	2-1-2012	734-051-3040	1-1-2012	Adopt(T)	2-1-2012
734-051-0355	6-29-2012	Repeal	8-1-2012	734-051-3040	6-29-2012	Adopt	8-1-2012
734-051-0500	1-1-2012	Suspend	2-1-2012	734-051-3040(T)	6-29-2012	Repeal	8-1-2012
734-051-0500	6-29-2012	Repeal	8-1-2012	734-051-3050	1-1-2012	Adopt(T)	2-1-2012
734-051-0510	1-1-2012	Suspend	2-1-2012	734-051-3050	6-29-2012	Adopt	8-1-2012
734-051-0510	6-29-2012	Repeal	8-1-2012	734-051-3050(T)	6-29-2012	Repeal	8-1-2012
734-051-0520	1-1-2012	Suspend	2-1-2012	734-051-3060	1-1-2012	Adopt(T)	2-1-2012
734-051-0520	6-29-2012	Repeal	8-1-2012	734-051-3060	6-29-2012	Adopt	8-1-2012
734-051-0530	1-1-2012	Suspend	2-1-2012	734-051-3060(T)	6-29-2012	Repeal	8-1-2012
734-051-0530	6-29-2012	Repeal	8-1-2012	734-051-3070	1-1-2012	Adopt(T)	2-1-2012
734-051-0540	1-1-2012	Suspend	2-1-2012	734-051-3070	6-29-2012	Adopt	8-1-2012
734-051-0540	6-29-2012	Repeal	8-1-2012	734-051-3070(T)	6-29-2012	Repeal	8-1-2012
734-051-0550	1-1-2012	Suspend	2-1-2012	734-051-3080	1-1-2012	Adopt(T)	2-1-2012
734-051-0550	6-29-2012	Repeal	8-1-2012	734-051-3080	6-29-2012	Adopt	8-1-2012
734-051-0560	1-1-2012	Suspend	2-1-2012	734-051-3080(T)	6-29-2012	Repeal	8-1-2012
734-051-0560	6-29-2012	Repeal	8-1-2012	734-051-3090	1-1-2012	Adopt(T)	2-1-2012
734-051-1010	1-1-2012	Adopt(T)	2-1-2012	734-051-3090	6-29-2012	Adopt	8-1-2012
734-051-1010	6-29-2012	Adopt	8-1-2012	734-051-3090(T)	6-29-2012	Repeal	8-1-2012
734-051-1010(T)	6-29-2012	Repeal	8-1-2012	734-051-3100	1-1-2012	Adopt(T)	2-1-2012
734-051-1020	1-1-2012	Adopt(T)	2-1-2012	734-051-3100	6-29-2012	Adopt	8-1-2012
734-051-1020	6-29-2012	Adopt	8-1-2012	734-051-3100(T)	6-29-2012	Repeal	8-1-2012
734-051-1020(T)	6-29-2012	Repeal	8-1-2012	734-051-3110	1-1-2012	Adopt(T)	2-1-2012
734-051-1030	1-1-2012	Adopt(T)	2-1-2012	734-051-3110	6-29-2012	Adopt	8-1-2012
734-051-1030	6-29-2012	Adopt	8-1-2012	734-051-3110(T)	6-29-2012	Repeal	8-1-2012
734-051-1030(T)	6-29-2012	Repeal	8-1-2012	734-051-4010	1-1-2012	Adopt(T)	2-1-2012
734-051-1040	6-29-2012	Adopt	8-1-2012	734-051-4010	6-29-2012	Adopt	8-1-2012
734-051-1040(T)	6-29-2012	Repeal	8-1-2012	734-051-4010(T)	6-29-2012	Repeal	8-1-2012
734-051-1050	1-1-2012	Adopt(T)	2-1-2012	734-051-4020	1-1-2012	Adopt(T)	2-1-2012
734-051-1050	6-29-2012	Adopt	8-1-2012	734-051-4020	6-29-2012	Adopt	8-1-2012
734-051-1050(T)	6-29-2012	Repeal	8-1-2012	734-051-4020(T)	6-29-2012	Repeal	8-1-2012
734-051-1060	1-1-2012	Adopt(T)	2-1-2012	734-051-4030	1-1-2012	Adopt(T)	2-1-2012
734-051-1060	6-29-2012	Adopt	8-1-2012	734-051-4030	6-29-2012	Adopt	8-1-2012
734-051-1060(T)	6-29-2012	Repeal	8-1-2012	734-051-4030(T)	6-29-2012	Repeal	8-1-2012
734-051-1070	1-1-2012	Adopt(T)	2-1-2012	734-051-4040	1-1-2012	Adopt(T)	2-1-2012
734-051-1070	6-29-2012	Adopt	8-1-2012	734-051-4040	6-29-2012	Adopt	8-1-2012
734-051-1070(T)	6-29-2012	Repeal	8-1-2012	734-051-4040(T)	6-29-2012	Repeal	8-1-2012
734-051-2010	1-1-2012	Adopt(T)	2-1-2012	734-051-4050	1-1-2012	Adopt(T)	2-1-2012
734-051-2010	6-29-2012	Adopt	8-1-2012	734-051-4050	6-29-2012	Adopt	8-1-2012
734-051-2010(T)	6-29-2012	Repeal	8-1-2012	734-051-4050(T)	6-29-2012	Repeal	8-1-2012
734-051-2020	1-1-2012	Adopt(T)	2-1-2012	734-051-5010	1-1-2012	Adopt(T)	2-1-2012
734-051-2020	6-29-2012	Adopt	8-1-2012	734-051-5010	6-29-2012	Adopt	8-1-2012
734-051-2020(T)	6-29-2012	Repeal	8-1-2012	734-051-5010(T)	6-29-2012	Repeal	8-1-2012
734-051-2030	1-1-2012	Adopt(T)	2-1-2012	734-051-5020	1-1-2012	Adopt(T)	2-1-2012
734-051-2030	6-29-2012	Adopt	8-1-2012	734-051-5020	6-29-2012	Adopt	8-1-2012
734-051-2030(T)	6-29-2012	Repeal	8-1-2012	734-051-5020(T)	6-29-2012	Repeal	8-1-2012
734-051-3010	1-1-2012	Adopt(T)	2-1-2012	734-051-5030	1-1-2012	Adopt(T)	2-1-2012
734-051-3010	6-29-2012	Adopt	8-1-2012	734-051-5030	6-29-2012	Adopt	8-1-2012
734-051-3010(T)	6-29-2012	Repeal	8-1-2012	734-051-5030(T)	6-29-2012	Repeal	8-1-2012
734-051-3020	1-1-2012	Adopt(T)	2-1-2012	734-051-5040	1-1-2012	Adopt(T)	2-1-2012
734-051-3020	5-3-2012	Amend(T)	6-1-2012	734-051-5040	6-29-2012	Adopt	8-1-2012
734-051-3020	6-29-2012	Adopt	8-1-2012	734-051-5040(T)	6-29-2012	Repeal	8-1-2012
734-051-3020(T)	5-3-2012	Suspend	6-1-2012	734-051-5050	1-1-2012	Adopt(T)	2-1-2012
734-051-3020(T)	6-29-2012	Repeal	8-1-2012	734-051-5050	6-29-2012	Adopt	8-1-2012

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734-051-5060	1-1-2012	Adopt(T)	2-1-2012	734-075-0010	1-27-2012	Amend	3-1-2012
734-051-5060	6-29-2012	Adopt	8-1-2012	734-075-0011	1-27-2012	Amend	3-1-2012
734-051-5060(T)	6-29-2012	Repeal	8-1-2012	734-075-0015	1-27-2012	Amend	3-1-2012
734-051-5070	1-1-2012	Adopt(T)	2-1-2012	734-075-0020	1-27-2012	Amend	3-1-2012
734-051-5070	6-29-2012	Adopt	8-1-2012	734-075-0022	1-27-2012	Amend	3-1-2012
734-051-5070(T)	6-29-2012	Repeal	8-1-2012	734-075-0025	1-27-2012	Amend	3-1-2012
734-051-5080	1-1-2012	Adopt(T)	2-1-2012	734-075-0035	1-27-2012	Amend	3-1-2012
734-051-5080	6-29-2012	Adopt	8-1-2012	734-075-0036	1-27-2012	Amend	3-1-2012
734-051-5080(T)	6-29-2012	Repeal	8-1-2012	734-075-0037	1-27-2012	Amend	3-1-2012
734-051-5090	1-1-2012	Adopt(T)	2-1-2012	734-075-0040	1-27-2012	Amend	3-1-2012
734-051-5090	6-29-2012	Adopt	8-1-2012	734-075-0041	1-27-2012	Amend	3-1-2012
734-051-5090(T)	6-29-2012	Repeal	8-1-2012	734-075-0045	1-27-2012	Amend	3-1-2012
734-051-5100	1-1-2012	Adopt(T)	2-1-2012	734-075-0055	1-27-2012	Amend	3-1-2012
734-051-5100	6-29-2012	Adopt	8-1-2012	734-075-0085	1-27-2012	Amend	3-1-2012
734-051-5100(T)	6-29-2012	Repeal	8-1-2012	734-076-0065	1-27-2012	Amend	3-1-2012
734-051-5110	1-1-2012	Adopt(T)	2-1-2012	734-076-0075	1-27-2012	Amend	3-1-2012
734-051-5110	6-29-2012	Adopt	8-1-2012	734-076-0105	1-27-2012	Amend	3-1-2012
734-051-5110(T)	6-29-2012	Repeal	8-1-2012	734-076-0115	1-27-2012	Amend	3-1-2012
734-051-5120	1-1-2012	Adopt(T)	2-1-2012	734-076-0135	1-27-2012	Amend	3-1-2012
734-051-5120	6-29-2012	Adopt	8-1-2012	734-076-0145	1-27-2012	Amend	3-1-2012
734-051-5120(T)	6-29-2012	Repeal	8-1-2012	734-076-0155	1-27-2012	Amend	3-1-2012
734-051-6010	1-1-2012	Adopt(T)	2-1-2012	734-076-0165	1-27-2012	Amend	3-1-2012
734-051-6010	6-29-2012	Adopt	8-1-2012	734-076-0175	1-27-2012	Amend	3-1-2012
734-051-6010(T)	6-29-2012	Repeal	8-1-2012	734-082-0021	1-27-2012	Amend	3-1-2012
734-051-6020	1-1-2012	Adopt(T)	2-1-2012	735-001-0030	12-22-2011	Repeal	2-1-2012
734-051-6020	6-29-2012	Adopt	8-1-2012	735-001-0050	1-30-2012	Amend	3-1-2012
734-051-6020(T)	6-29-2012	Repeal	8-1-2012	735-010-0000	6-27-2012	Amend	8-1-2012
734-051-6030	1-1-2012	Adopt(T)	2-1-2012	735-010-0008	6-27-2012	Amend	8-1-2012
734-051-6030	6-29-2012	Adopt	8-1-2012	735-010-0010	6-27-2012	Amend	8-1-2012
734-051-6030(T)	6-29-2012	Repeal	8-1-2012	735-010-0030	1-30-2012	Amend	3-1-2012
734-051-6040	1-1-2012	Adopt(T)	2-1-2012	735-010-0030	6-27-2012	Amend	8-1-2012
734-051-6040	6-29-2012	Adopt	8-1-2012	735-010-0040	6-27-2012	Amend	8-1-2012
734-051-6040(T)	6-29-2012	Repeal	8-1-2012	735-012-0000	7-19-2012	Amend(T)	9-1-2012
734-051-6050	1-1-2012	Adopt(T)	2-1-2012	735-016-0080	12-22-2011	Repeal	2-1-2012
734-051-6050	6-29-2012	Adopt	8-1-2012	735-020-0010	2-21-2012	Amend	4-1-2012
734-051-6050(T)	6-29-2012	Repeal	8-1-2012	735-020-0012	2-21-2012	Amend	4-1-2012
734-051-6060	1-1-2012	Adopt(T)	2-1-2012	735-022-0120	5-18-2012	Repeal	7-1-2012
734-051-6060	6-29-2012	Adopt	8-1-2012	735-022-0130	5-18-2012	Adopt	7-1-2012
734-051-6060(T)	6-29-2012	Repeal	8-1-2012	735-030-0330	1-1-2012	Amend	2-1-2012
734-051-6070	1-1-2012	Adopt(T)	2-1-2012	735-032-0010	4-1-2012	Amend	5-1-2012
734-051-6070	6-29-2012	Adopt	8-1-2012	735-032-0055	5-18-2012	Adopt	7-1-2012
734-051-6070(T)	6-29-2012	Repeal	8-1-2012	735-040-0030	1-1-2012	Amend	2-1-2012
734-051-7010	1-1-2012	Adopt(T)	2-1-2012	735-040-0098	7-19-2012	Amend	9-1-2012
734-051-7010	6-29-2012	Adopt	8-1-2012	735-050-0090	12-22-2011	Repeal	2-1-2012
734-051-7010(T)	6-29-2012	Repeal	8-1-2012	735-062-0002	1-30-2012	Amend	3-1-2012
734-060-0000	3-26-2012	Amend	5-1-2012	735-062-0005	1-1-2012	Amend	2-1-2012
734-060-0000(T)	3-26-2012	Repeal	5-1-2012	735-062-0007	1-30-2012	Amend	3-1-2012
734-060-0007	3-26-2012	Adopt	5-1-2012	735-062-0010	1-1-2012	Amend	2-1-2012
734-060-0007(T)	3-26-2012	Repeal	5-1-2012	735-062-0015	1-1-2012	Amend	2-1-2012
734-060-0010	3-26-2012	Amend	5-1-2012	735-062-0016	11-23-2011	Amend	1-1-2012
734-065-0015	3-26-2012	Amend	5-1-2012	735-062-0016	7-19-2012	Amend	9-1-2012
734-065-0020	3-26-2012	Amend	5-1-2012	735-062-0032	1-1-2012	Amend	2-1-2012
734-065-0025	3-26-2012	Amend	5-1-2012	735-062-0033	1-1-2012	Amend	2-1-2012
734-070-0010	1-27-2012	Amend	3-1-2012	735-062-0080	1-30-2012	Amend	3-1-2012
734-075-0005	1-27-2012	Amend	3-1-2012	735-062-0085	1-30-2012	Amend	3-1-2012

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735-062-0110	1-30-2012	Amend	3-1-2012	736-017-0020	5-11-2012	Amend	6-1-2012
735-062-0120	1-1-2012	Amend	2-1-2012	736-017-0035	5-11-2012	Amend	6-1-2012
735-062-0125	1-1-2012	Amend	2-1-2012	736-045-0006	5-4-2012	Adopt	6-1-2012
735-062-0135	1-1-2012	Amend	2-1-2012	736-045-0011	5-4-2012	Adopt	6-1-2012
735-062-0200	1-30-2012	Amend	3-1-2012	736-045-0100	5-4-2012	Adopt	6-1-2012
735-063-0000	1-30-2012	Amend	3-1-2012	736-045-0200	5-4-2012	Adopt	6-1-2012
735-063-0050	1-30-2012	Amend	3-1-2012	736-045-0300	5-4-2012	Adopt	6-1-2012
735-063-0060	1-30-2012	Amend	3-1-2012	736-045-0305	5-4-2012	Adopt	6-1-2012
735-063-0065	1-30-2012	Amend	3-1-2012	736-045-0310	5-4-2012	Adopt	6-1-2012
735-063-0067	1-30-2012	Adopt	3-1-2012	736-045-0320	5-4-2012	Adopt	6-1-2012
735-064-0085	12-22-2011	Repeal	2-1-2012	736-045-0330	5-4-2012	Adopt	6-1-2012
735-064-0220	1-1-2012	Amend	2-1-2012	736-045-0340	5-4-2012	Adopt	6-1-2012
735-070-0004	11-23-2011	Amend	1-1-2012	736-045-0400	5-4-2012	Adopt	6-1-2012
735-070-0010	1-1-2012	Amend	2-1-2012	736-045-0405	5-4-2012	Adopt	6-1-2012
735-070-0054	11-23-2011	Amend	1-1-2012	736-045-0410	5-4-2012	Adopt	6-1-2012
735-070-0085	3-26-2012	Amend(T)	5-1-2012	736-045-0412	5-4-2012	Adopt	6-1-2012
735-070-0085	7-19-2012	Amend	9-1-2012	736-045-0414	5-4-2012	Adopt	6-1-2012
735-072-0035	1-1-2012	Amend	2-1-2012	736-045-0416	5-4-2012	Adopt	6-1-2012
735-074-0140	1-1-2012	Amend	2-1-2012	736-045-0418	5-4-2012	Adopt	6-1-2012
735-076-0020	1-1-2012	Amend	2-1-2012	736-045-0420	5-4-2012	Adopt	6-1-2012
735-152-0000	1-1-2012	Amend	2-1-2012	736-045-0422	5-4-2012	Adopt	6-1-2012
735-152-0005	1-1-2012	Amend	2-1-2012	736-045-0424	5-4-2012	Adopt	6-1-2012
735-152-0020	1-1-2012	Amend	2-1-2012	736-045-0426	5-4-2012	Adopt	6-1-2012
735-152-0040	1-1-2012	Amend	2-1-2012	736-045-0428	5-4-2012	Adopt	6-1-2012
735-152-0050	1-1-2012	Amend	2-1-2012	736-045-0430	5-4-2012	Adopt	6-1-2012
735-152-0060	1-1-2012	Amend	2-1-2012	736-045-0432	5-4-2012	Adopt	6-1-2012
736-004-0005	2-15-2012	Amend	3-1-2012	736-045-0434	5-4-2012	Adopt	6-1-2012
736-004-0010	2-15-2012	Amend	3-1-2012	736-045-0436	5-4-2012	Adopt	6-1-2012
736-004-0015	2-15-2012	Amend	3-1-2012	736-045-0438	5-4-2012	Adopt	6-1-2012
736-004-0020	2-15-2012	Amend	3-1-2012	736-045-0440	5-4-2012	Adopt	6-1-2012
736-004-0025	2-15-2012	Amend	3-1-2012	736-045-0442	5-4-2012	Adopt	6-1-2012
736-004-0030	2-15-2012	Amend	3-1-2012	736-045-0444	5-4-2012	Adopt	6-1-2012
736-004-0045	2-15-2012	Amend	3-1-2012	736-045-0446	5-4-2012	Adopt	6-1-2012
736-004-0060	2-15-2012	Amend	3-1-2012	736-045-0448	5-4-2012	Adopt	6-1-2012
736-004-0062	2-15-2012	Amend	3-1-2012	736-045-0500	5-4-2012	Adopt	6-1-2012
736-004-0085	2-15-2012	Amend	3-1-2012	736-045-0505	5-4-2012	Adopt	6-1-2012
736-004-0090	2-15-2012	Amend	3-1-2012	738-010-0025	2-28-2012	Amend(T)	4-1-2012
736-004-0095	2-15-2012	Amend	3-1-2012	738-040-0035	6-11-2012	Adopt(T)	7-1-2012
736-004-0100	2-15-2012	Amend	3-1-2012	740-055-0010	12-22-2011	Amend	2-1-2012
736-004-0105	2-15-2012	Amend	3-1-2012	740-055-0100	11-23-2011	Amend	1-1-2012
736-004-0115	2-15-2012	Amend	3-1-2012	740-100-0010	4-1-2012	Amend	4-1-2012
736-004-0120	2-15-2012	Amend	3-1-2012	740-100-0010	5-18-2012	Amend	7-1-2012
736-004-0125	2-15-2012	Amend	3-1-2012	740-100-0065	4-1-2012	Amend	4-1-2012
736-004-0130	2-15-2012	Adopt	3-1-2012	740-100-0070	4-1-2012	Amend	4-1-2012
736-006-0110	5-11-2012	Amend	6-1-2012	740-100-0080	4-1-2012	Amend	4-1-2012
736-006-0115	5-11-2012	Amend	6-1-2012	740-100-0085	4-1-2012	Amend	4-1-2012
736-006-0125	5-11-2012	Amend	6-1-2012	740-100-0090	4-1-2012	Amend	4-1-2012
736-006-0145	5-11-2012	Amend	6-1-2012	740-100-0100	1-1-2012	Amend	2-1-2012
736-006-0150	5-11-2012	Amend	6-1-2012	740-100-0230	4-23-2012	Amend	6-1-2012
736-015-0006	6-26-2012	Amend(T)	8-1-2012	740-110-0010	4-1-2012	Amend	4-1-2012
736-015-0010	11-28-2011	Amend	1-1-2012	740-200-0010	7-19-2012	Amend	9-1-2012
736-015-0020	11-28-2011	Amend	1-1-2012	740-200-0020	2-21-2012	Amend	4-1-2012
736-015-0026	11-28-2011	Amend	1-1-2012	740-200-0040	2-21-2012	Amend	4-1-2012
736-015-0030	11-28-2011	Amend	1-1-2012	740-300-0010	11-23-2011	Amend	1-1-2012
736-017-0005	5-11-2012	Amend	6-1-2012	740-300-0060	3-26-2012	Amend	5-1-2012

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741-040-0020	1-27-2012	Adopt	3-1-2012	808-001-0008	8-2-2012	Amend	9-1-2012
741-040-0030	1-27-2012	Adopt	3-1-2012	808-002-0020	1-1-2012	Amend	2-1-2012
741-040-0040	1-27-2012	Adopt	3-1-2012	808-002-0390	1-1-2012	Adopt	2-1-2012
741-040-0050	1-27-2012	Adopt	3-1-2012	808-002-0500	8-2-2012	Amend	9-1-2012
741-040-0060	1-27-2012	Adopt	3-1-2012	808-002-0625	1-1-2012	Amend	2-1-2012
741-040-0070	1-27-2012	Adopt	3-1-2012	808-003-0015	1-1-2012	Amend	2-1-2012
800-010-0015	2-1-2012	Amend	3-1-2012	808-003-0025	1-1-2012	Amend	2-1-2012
800-010-0040	2-1-2012	Amend	3-1-2012	808-003-0030	1-1-2012	Amend	2-1-2012
800-015-0005	2-1-2012	Amend	3-1-2012	808-003-0040	1-1-2012	Amend	2-1-2012
800-015-0010	2-1-2012	Amend	3-1-2012	808-003-0065	1-1-2012	Amend	2-1-2012
800-015-0015	2-1-2012	Amend	3-1-2012	808-003-0090	1-1-2012	Amend	2-1-2012
800-015-0020	2-1-2012	Amend	3-1-2012	808-003-0126	1-1-2012	Adopt	2-1-2012
800-015-0030	2-1-2012	Amend	3-1-2012	808-003-0130	1-1-2012	Amend	2-1-2012
800-020-0015	2-1-2012	Amend	3-1-2012	808-003-0230	5-30-2012	Amend	7-1-2012
800-020-0022	2-1-2012	Amend	3-1-2012	808-003-0620	1-1-2012	Adopt	2-1-2012
800-020-0025	2-1-2012	Amend	3-1-2012	808-004-0320	1-1-2012	Amend	2-1-2012
800-025-0020	2-1-2012	Amend	3-1-2012	808-005-0020	1-1-2012	Amend	2-1-2012
800-025-0027	2-1-2012	Amend	3-1-2012	808-040-0020	1-1-2012	Amend	2-1-2012
801-001-0035	1-1-2012	Amend	2-1-2012	808-040-0020	4-1-2012	Amend	5-1-2012
801-001-0045	1-1-2012	Adopt	2-1-2012	808-040-0025	4-1-2012	Amend	5-1-2012
801-005-0010	1-1-2012	Amend	2-1-2012	808-040-0050	4-1-2012	Amend(T)	5-1-2012
801-005-0300	1-1-2012	Amend	2-1-2012	808-040-0050	8-2-2012	Amend	9-1-2012
801-010-0010	1-1-2012	Amend	2-1-2012	808-040-0050(T)	8-2-2012	Repeal	9-1-2012
801-010-0040	1-1-2012	Amend	2-1-2012	808-040-0080	1-1-2012	Amend	2-1-2012
801-010-0050	1-1-2012	Amend	2-1-2012	808-040-0080	4-1-2012	Amend	5-1-2012
801-010-0065	1-1-2012	Amend	2-1-2012	809-001-0005	6-15-2012	Amend	7-1-2012
801-010-0073	1-1-2012	Amend	2-1-2012	809-003-0000	6-15-2012	Amend	7-1-2012
801-010-0075	1-1-2012	Amend	2-1-2012	809-015-0020	6-15-2012	Adopt	7-1-2012
801-010-0079	1-1-2012	Amend	2-1-2012	809-030-0005	6-15-2012	Amend	7-1-2012
801-010-0080	1-1-2012	Amend	2-1-2012	809-030-0015	6-15-2012	Amend	7-1-2012
801-010-0085	1-1-2012	Amend	2-1-2012	809-030-0020	6-15-2012	Amend	7-1-2012
801-010-0110	1-1-2012	Amend	2-1-2012	809-050-0000	6-15-2012	Amend	7-1-2012
801-010-0115	1-1-2012	Amend	2-1-2012	809-050-0010	6-15-2012	Amend	7-1-2012
801-010-0120	1-1-2012	Amend	2-1-2012	811-010-0110	5-31-2012	Amend	7-1-2012
801-010-0125	1-1-2012	Amend	2-1-2012	812-001-0120	5-1-2012	Amend	6-1-2012
801-010-0130	1-1-2012	Amend	2-1-2012	812-001-0140	5-1-2012	Amend	6-1-2012
801-010-0190	1-1-2012	Am. & Ren.	2-1-2012	812-002-0060	5-1-2012	Amend	6-1-2012
801-010-0340	1-1-2012	Amend	2-1-2012	812-002-0100	5-1-2012	Amend	6-1-2012
801-010-0345	1-1-2012	Amend	2-1-2012	812-002-0160	5-1-2012	Amend	6-1-2012
801-040-0010	1-1-2012	Amend	2-1-2012	812-002-0250	5-1-2012	Amend	6-1-2012
801-040-0020	1-1-2012	Amend	2-1-2012	812-002-0260	1-1-2012	Amend	1-1-2012
801-040-0090	1-1-2012	Amend	2-1-2012	812-002-0360	5-1-2012	Amend	6-1-2012
801-040-0100	1-1-2012	Amend	2-1-2012	812-002-0443	3-2-2012	Amend	4-1-2012
801-040-0160	1-1-2012	Amend	2-1-2012	812-002-0673	5-1-2012	Amend	6-1-2012
801-050-0010	1-1-2012	Amend	2-1-2012	812-002-0700	5-1-2012	Amend	6-1-2012
801-050-0020	1-1-2012	Amend	2-1-2012	812-002-0800	5-1-2012	Amend	6-1-2012
801-050-0040	1-1-2012	Amend	2-1-2012	812-004-0200	5-1-2012	Amend	6-1-2012
804-001-0005	5-23-2012	Amend	7-1-2012	812-004-0560	5-1-2012	Amend	6-1-2012
804-022-0005	6-1-2012	Amend	7-1-2012	812-004-1001	5-1-2012	Amend	6-1-2012
804-022-0010	6-1-2012	Amend	7-1-2012	812-004-1110	5-1-2012	Amend	6-1-2012
806-010-0045	1-4-2012	Amend	2-1-2012	812-004-1120	5-1-2012	Amend	6-1-2012
806-010-0060	8-13-2012	Amend	9-1-2012	812-004-1140	5-1-2012	Amend	6-1-2012
806-010-0090	8-13-2012	Amend	9-1-2012	812-004-1160	5-1-2012	Amend	6-1-2012
806-010-0105	8-13-2012	Amend	9-1-2012	812-004-1180	5-1-2012	Amend	6-1-2012
806-010-0145	8-13-2012	Amend	9-1-2012	812-004-1195	5-1-2012	Amend	6-1-2012

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812-004-1240	5-1-2012	Amend	6-1-2012	812-021-0030	2-9-2012	Amend(T)	3-1-2012
812-004-1250	5-1-2012	Amend	6-1-2012	812-021-0030	5-1-2012	Amend	6-1-2012
812-004-1260	5-1-2012	Amend	6-1-2012	812-021-0030(T)	5-1-2012	Repeal	6-1-2012
812-004-1300	5-1-2012	Amend	6-1-2012	812-021-0031	2-9-2012	Amend(T)	3-1-2012
812-004-1320	5-1-2012	Amend	6-1-2012	812-021-0031	5-1-2012	Amend	6-1-2012
812-004-1340	5-1-2012	Amend	6-1-2012	812-021-0031(T)	5-1-2012	Repeal	6-1-2012
812-004-1350	5-1-2012	Amend	6-1-2012	812-021-0040	3-2-2012	Amend	4-1-2012
812-004-1360	5-1-2012	Amend	6-1-2012	813-006-0025	4-2-2012	Amend(T)	5-1-2012
812-004-1400	5-1-2012	Amend	6-1-2012	813-020-0005	3-27-2012	Amend	5-1-2012
812-004-1420	5-1-2012	Amend	6-1-2012	813-020-0005(T)	3-27-2012	Repeal	5-1-2012
812-004-1440	5-1-2012	Amend	6-1-2012	813-020-0010	3-27-2012	Repeal	5-1-2012
812-004-1450	5-1-2012	Amend	6-1-2012	813-020-0015	3-27-2012	Repeal	5-1-2012
812-004-1460	5-1-2012	Amend	6-1-2012	813-020-0016	3-27-2012	Repeal	5-1-2012
812-004-1480	5-1-2012	Amend	6-1-2012	813-020-0017	3-27-2012	Renumber	5-1-2012
812-004-1490	5-1-2012	Amend	6-1-2012	813-020-0020	3-27-2012	Amend	5-1-2012
812-004-1500	5-1-2012	Amend	6-1-2012	813-020-0020(T)	3-27-2012	Repeal	5-1-2012
812-004-1505	5-1-2012	Amend	6-1-2012	813-020-0024	3-27-2012	Renumber	5-1-2012
812-004-1510	5-1-2012	Amend	6-1-2012	813-020-0025	3-27-2012	Amend	5-1-2012
812-004-1520	5-1-2012	Amend	6-1-2012	813-020-0025(T)	3-27-2012	Repeal	5-1-2012
812-004-1530	5-1-2012	Amend	6-1-2012	813-020-0030	3-27-2012	Renumber	5-1-2012
812-004-1537	5-1-2012	Amend	6-1-2012	813-020-0032	3-27-2012	Renumber	5-1-2012
812-004-1600	5-1-2012	Amend	6-1-2012	813-020-0033	3-27-2012	Repeal	5-1-2012
812-005-0100	5-1-2012	Amend	6-1-2012	813-020-0035	3-27-2012	Amend	5-1-2012
812-005-0110	5-1-2012	Amend	6-1-2012	813-020-0035(T)	3-27-2012	Repeal	5-1-2012
812-005-0140	3-2-2012	Amend	4-1-2012	813-020-0040	3-27-2012	Renumber	5-1-2012
812-005-0140(T)	3-2-2012	Repeal	4-1-2012	813-020-0041	3-27-2012	Renumber	5-1-2012
812-005-0210	5-1-2012	Amend	6-1-2012	813-020-0042	3-27-2012	Renumber	5-1-2012
812-005-0250	3-2-2012	Amend	4-1-2012	813-020-0045	3-27-2012	Amend	5-1-2012
812-005-0270	5-1-2012	Amend	6-1-2012	813-020-0045(T)	3-27-2012	Repeal	5-1-2012
812-005-0280	5-1-2012	Amend	6-1-2012	813-020-0050	3-27-2012	Renumber	5-1-2012
812-005-0800	1-1-2012	Amend	1-1-2012	813-020-0051	3-27-2012	Renumber	5-1-2012
812-005-0800	3-2-2012	Amend	4-1-2012	813-020-0060	3-27-2012	Amend	5-1-2012
812-005-0800	5-1-2012	Amend	6-1-2012	813-020-0060(T)	3-27-2012	Repeal	5-1-2012
812-007-0020	3-2-2012	Amend	4-1-2012	813-020-0070	3-27-2012	Amend	5-1-2012
812-007-0302	3-2-2012	Amend	4-1-2012	813-020-0070(T)	3-27-2012	Repeal	5-1-2012
812-007-0350	3-2-2012	Amend	4-1-2012	813-044-0000	3-27-2012	Amend	5-1-2012
812-008-0000	1-1-2012	Amend	1-1-2012	813-044-0000(T)	3-27-2012	Repeal	5-1-2012
812-008-0020	1-1-2012	Amend	1-1-2012	813-044-0010	3-27-2012	Repeal	5-1-2012
812-008-0030	1-1-2012	Amend	1-1-2012	813-044-0020	3-27-2012	Repeal	5-1-2012
812-009-0060	5-1-2012	Amend	6-1-2012	813-044-0030	3-27-2012	Amend	5-1-2012
812-009-0085	5-1-2012	Amend	6-1-2012	813-044-0030(T)	3-27-2012	Repeal	5-1-2012
812-009-0090	5-1-2012	Amend	6-1-2012	813-044-0040	3-27-2012	Amend	5-1-2012
812-009-0185	5-1-2012	Adopt	6-1-2012	813-044-0040(T)	3-27-2012	Repeal	5-1-2012
812-009-0300	5-1-2012	Amend	6-1-2012	813-044-0050	3-27-2012	Amend	5-1-2012
812-009-0350	5-1-2012	Adopt	6-1-2012	813-044-0050(T)	3-27-2012	Repeal	5-1-2012
812-021-0005	1-13-2012	Amend(T)	2-1-2012	813-044-0055	3-27-2012	Adopt	5-1-2012
812-021-0005	5-1-2012	Amend	6-1-2012	813-044-0055(T)	3-27-2012	Repeal	5-1-2012
812-021-0005(T)	5-1-2012	Repeal	6-1-2012	813-044-0060	3-27-2012	Repeal	5-1-2012
812-021-0015	11-18-2011	Amend(T)	1-1-2012	813-140-0096	4-11-2012	Amend	5-1-2012
812-021-0015	3-2-2012	Amend	4-1-2012	817-090-0025	3-12-2012	Amend(T)	4-1-2012
812-021-0015(T)	3-2-2012	Repeal	4-1-2012	817-090-0035	3-12-2012	Amend(T)	4-1-2012
812-021-0019	3-2-2012	Amend	4-1-2012	817-090-0045	3-12-2012	Amend(T)	4-1-2012
812-021-0025	2-9-2012	Amend(T)	3-1-2012	817-090-0105	3-12-2012	Amend(T)	4-1-2012
812-021-0025	3-2-2012	Amend	4-1-2012	817-120-0005	3-12-2012	Amend(T)	4-1-2012
812-021-0025	5-1-2012	Amend	6-1-2012	818-001-0087	1-27-2012	Amend	3-1-2012

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818-026-0030	7-1-2012	Amend	7-1-2012	833-120-0041	12-15-2011	Amend	1-1-2012
818-026-0055	7-1-2012	Amend	7-1-2012	834-040-0000	3-28-2012	Adopt	5-1-2012
818-035-0065	7-1-2012	Amend	7-1-2012	836-005-0107	3-27-2012	Amend	5-1-2012
818-035-0066	7-1-2012	Adopt	7-1-2012	836-009-0007	7-1-2012	Amend(T)	7-1-2012
818-042-0020	7-1-2012	Amend	7-1-2012	836-010-0000	1-1-2012	Amend	2-1-2012
818-042-0040	7-1-2012	Amend	7-1-2012	836-010-0011	1-1-2012	Amend	2-1-2012
818-042-0100	7-1-2012	Amend	7-1-2012	836-010-0012	1-1-2012	Repeal	2-1-2012
820-010-0204	5-10-2012	Amend	6-1-2012	836-011-0000	2-7-2012	Amend	3-1-2012
820-010-0206	5-10-2012	Amend	6-1-2012	836-011-0600	2-16-2012	Adopt	4-1-2012
820-010-0208	5-10-2012	Amend	6-1-2012	836-029-0000	7-1-2012	Adopt(T)	7-1-2012
820-010-0209	5-10-2012	Amend	6-1-2012	836-029-0005	7-1-2012	Adopt(T)	7-1-2012
820-010-0210	5-10-2012	Amend	6-1-2012	836-029-0010	7-1-2012	Adopt(T)	7-1-2012
820-010-0212	5-10-2012	Amend	6-1-2012	836-029-0015	7-1-2012	Adopt(T)	7-1-2012
820-010-0213	5-10-2012	Amend	6-1-2012	836-029-0020	7-1-2012	Adopt(T)	7-1-2012
820-010-0214	5-10-2012	Amend	6-1-2012	836-029-0025	7-1-2012	Adopt(T)	7-1-2012
820-010-0215	5-10-2012	Amend	6-1-2012	836-029-0030	7-1-2012	Adopt(T)	7-1-2012
820-010-0260	5-10-2012	Amend	6-1-2012	836-029-0035	7-1-2012	Adopt(T)	7-1-2012
820-010-0300	5-10-2012	Amend	6-1-2012	836-029-0040	7-1-2012	Adopt(T)	7-1-2012
820-010-0305	3-16-2012	Amend(T)	5-1-2012	836-029-0045	7-1-2012	Adopt(T)	7-1-2012
820-010-0305	5-10-2012	Amend	6-1-2012	836-029-0050	7-1-2012	Adopt(T)	7-1-2012
820-010-0305(T)	5-10-2012	Repeal	6-1-2012	836-029-0055	7-1-2012	Adopt(T)	7-1-2012
820-010-0442	5-10-2012	Amend	6-1-2012	836-029-0060	7-1-2012	Adopt(T)	7-1-2012
820-010-0465	5-10-2012	Amend	6-1-2012	836-029-0065	7-1-2012	Adopt(T)	7-1-2012
820-010-0505	3-16-2012	Amend(T)	5-1-2012	836-029-0070	7-1-2012	Adopt(T)	7-1-2012
820-010-0505	5-10-2012	Amend	6-1-2012	836-029-0075	7-1-2012	Adopt(T)	7-1-2012
820-010-0505(T)	5-10-2012	Repeal	6-1-2012	836-029-0080	7-1-2012	Adopt(T)	7-1-2012
820-010-0520	5-10-2012	Amend	6-1-2012	836-029-0085	7-1-2012	Adopt(T)	7-1-2012
820-010-0530	5-10-2012	Amend	6-1-2012	836-029-0090	7-1-2012	Adopt(T)	7-1-2012
820-010-0621	5-10-2012	Amend	6-1-2012	836-029-0095	7-1-2012	Adopt(T)	7-1-2012
820-010-0622	5-10-2012	Amend	6-1-2012	836-029-0100	7-1-2012	Adopt(T)	7-1-2012
820-010-0622	7-13-2012	Amend	8-1-2012	836-029-0105	7-1-2012	Adopt(T)	7-1-2012
820-010-0730	5-10-2012	Adopt	6-1-2012	836-029-0110	7-1-2012	Adopt(T)	7-1-2012
830-011-0000	4-1-2012	Amend	5-1-2012	836-029-0115	7-1-2012	Adopt(T)	7-1-2012
830-011-0020	4-1-2012	Amend	5-1-2012	836-029-0120	7-1-2012	Adopt(T)	7-1-2012
830-011-0070	4-1-2012	Amend	5-1-2012	836-042-0040	1-1-2013	Amend	9-1-2012
830-020-0030	4-1-2012	Amend	5-1-2012	836-042-0043	1-1-2013	Amend	9-1-2012
830-020-0040	4-1-2012	Amend	5-1-2012	836-042-0045	1-1-2013	Amend	9-1-2012
830-020-0050	4-1-2012	Amend	5-1-2012	836-043-0101	1-1-2013	Amend	9-1-2012
830-030-0000	4-1-2012	Amend	5-1-2012	836-043-0105	1-1-2013	Amend	9-1-2012
830-030-0008	4-1-2012	Amend	5-1-2012	836-043-0110	1-1-2013	Amend	9-1-2012
830-030-0010	4-1-2012	Amend	5-1-2012	836-043-0115	1-1-2013	Amend	9-1-2012
830-030-0030	4-1-2012	Amend	5-1-2012	836-043-0120	1-1-2013	Amend	9-1-2012
830-030-0040	4-1-2012	Amend	5-1-2012	836-043-0125	1-1-2013	Amend	9-1-2012
830-030-0050	4-1-2012	Amend	5-1-2012	836-043-0130	1-1-2013	Amend	9-1-2012
830-030-0090	4-1-2012	Amend	5-1-2012	836-043-0135	1-1-2013	Amend	9-1-2012
830-030-0100	4-1-2012	Amend	5-1-2012	836-043-0140	1-1-2013	Repeal	9-1-2012
830-040-0000	4-1-2012	Amend	5-1-2012	836-043-0145	1-1-2013	Amend	9-1-2012
830-040-0010	4-1-2012	Amend	5-1-2012	836-043-0150	1-1-2013	Amend	9-1-2012
830-040-0020	4-1-2012	Amend	5-1-2012	836-043-0155	1-1-2013	Amend	9-1-2012
830-040-0040	4-1-2012	Amend	5-1-2012	836-043-0165	1-1-2013	Amend	9-1-2012
830-040-0050	4-1-2012	Amend	5-1-2012	836-043-0170	1-1-2013	Amend	9-1-2012
833-020-0021	5-15-2012	Amend	6-1-2012	836-043-0175	1-1-2013	Amend	9-1-2012
833-020-0075	5-15-2012	Adopt	6-1-2012	836-043-0180	1-1-2013	Amend	9-1-2012
833-120-0011	12-15-2011	Amend	1-1-2012	836-043-0185	1-1-2013	Amend	9-1-2012
833-120-0021	12-15-2011	Amend	1-1-2012	836-043-0190	1-1-2013	Repeal	9-1-2012

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836-052-0143	1-1-2013	Adopt	4-1-2012	836-200-0250	1-1-2012	Adopt	1-1-2012
836-052-0508	2-14-2012	Amend	3-1-2012	836-200-0255	1-1-2012	Adopt	1-1-2012
836-052-0768	2-14-2012	Adopt	3-1-2012	836-200-0300	1-1-2012	Adopt	1-1-2012
836-052-0770	2-14-2012	Adopt	3-1-2012	836-200-0305	1-1-2012	Adopt	1-1-2012
836-052-0900	1-13-2012	Suspend	2-1-2012	836-200-0310	1-1-2012	Adopt	1-1-2012
836-052-0900	5-1-2012	Repeal	6-1-2012	836-200-0315	1-1-2012	Adopt	1-1-2012
836-052-1000	4-5-2012	Amend	5-1-2012	837-012-0515	2-6-2012	Amend(T)	3-1-2012
836-053-0410	12-19-2011	Amend	2-1-2012	837-012-0515	8-3-2012	Amend	6-1-2012
836-053-0415	12-19-2011	Adopt	2-1-2012	837-020-0080	1-24-2012	Amend	3-1-2012
836-053-0471	8-1-2012	Amend	9-1-2012	837-020-0085	1-24-2012	Amend	3-1-2012
836-053-0825	12-19-2011	Adopt	2-1-2012	837-020-0115	1-24-2012	Amend	3-1-2012
836-053-0830	12-19-2011	Adopt	2-1-2012	837-035-0000	1-24-2012	Amend	3-1-2012
836-053-0851	12-19-2011	Amend	2-1-2012	837-035-0060	1-24-2012	Amend	3-1-2012
836-053-0856	12-19-2011	Repeal	2-1-2012	837-035-0080	1-24-2012	Amend	3-1-2012
836-053-0857	12-19-2011	Adopt	2-1-2012	837-035-0100	1-24-2012	Amend	3-1-2012
836-053-0861	12-19-2011	Repeal	2-1-2012	837-035-0160	1-24-2012	Amend	3-1-2012
836-053-0862	12-19-2011	Adopt	2-1-2012	837-035-0200	1-24-2012	Amend	3-1-2012
836-053-0862	4-15-2012	Suspend	5-1-2012	837-035-0220	1-24-2012	Amend	3-1-2012
836-053-0863	4-15-2012	Adopt(T)	5-1-2012	837-035-0240	1-24-2012	Amend	3-1-2012
836-053-0866	12-19-2011	Repeal	2-1-2012	837-039-0040	6-27-2012	Amend	8-1-2012
836-053-1000	12-19-2011	Amend	2-1-2012	837-040-0020	2-10-2012	Amend(T)	3-1-2012
836-053-1030	12-19-2011	Amend	2-1-2012	837-040-0020	3-1-2012	Amend	3-1-2012
836-053-1033	12-19-2011	Adopt	2-1-2012	837-040-0020	8-2-2012	Amend	7-1-2012
836-053-1035	12-19-2011	Adopt	2-1-2012	839-001-0300	1-1-2012	Adopt	2-1-2012
836-053-1060	12-19-2011	Amend	2-1-2012	839-001-0560	1-1-2012	Amend	2-1-2012
836-053-1070	12-19-2011	Amend	2-1-2012	839-002-0001	1-1-2012	Amend	2-1-2012
836-053-1080	12-19-2011	Amend	2-1-2012	839-002-0002	1-1-2012	Amend	2-1-2012
836-053-1100	12-19-2011	Amend	2-1-2012	839-002-0005	1-1-2012	Amend	2-1-2012
836-053-1110	12-19-2011	Amend	2-1-2012	839-002-0015	1-1-2012	Amend	2-1-2012
836-053-1140	12-19-2011	Amend	2-1-2012	839-002-0020	1-1-2012	Amend	2-1-2012
836-053-1310	12-19-2011	Amend	2-1-2012	839-002-0025	1-1-2012	Amend	2-1-2012
836-053-1340	12-19-2011	Amend	2-1-2012	839-002-0030	1-1-2012	Amend	2-1-2012
836-053-1342	12-19-2011	Amend	2-1-2012	839-002-0035	1-1-2012	Amend	2-1-2012
836-053-1350	12-19-2011	Amend	2-1-2012	839-002-0040	1-1-2012	Amend	2-1-2012
836-071-0110	8-1-2012	Amend(T)	8-1-2012	839-002-0045	1-1-2012	Amend	2-1-2012
836-071-0118	8-1-2012	Amend(T)	8-1-2012	839-002-0050	1-1-2012	Amend	2-1-2012
836-071-0130	8-1-2012	Amend(T)	8-1-2012	839-002-0055	1-1-2012	Amend	2-1-2012
836-071-0140	8-1-2012	Amend(T)	8-1-2012	839-002-0060	1-1-2012	Amend	2-1-2012
836-071-0220	8-1-2012	Amend(T)	8-1-2012	839-002-0065	1-1-2012	Amend	2-1-2012
836-071-0225	8-1-2012	Amend(T)	8-1-2012	839-002-0070	1-1-2012	Amend	2-1-2012
836-071-0235	8-1-2012	Amend(T)	8-1-2012	839-002-0075	1-1-2012	Amend	2-1-2012
836-071-0240	8-1-2012	Amend(T)	8-1-2012	839-002-0080	1-1-2012	Amend	2-1-2012
836-071-0355	8-1-2012	Amend(T)	8-1-2012	839-003-0005	6-13-2012	Amend(T)	7-1-2012
836-071-0360	8-1-2012	Amend(T)	8-1-2012	839-003-0005	8-8-2012	Amend	9-1-2012
836-071-0500	1-1-2012	Amend	2-1-2012	839-003-0005	8-8-2012	Amend(T)	9-1-2012
836-071-0501	1-1-2012	Adopt	2-1-2012	839-003-0025	6-13-2012	Amend(T)	7-1-2012
836-071-0550	1-1-2012	Adopt	2-1-2012	839-003-0025	8-8-2012	Amend	9-1-2012
836-071-0560	1-1-2012	Adopt	2-1-2012	839-003-0031	6-13-2012	Adopt(T)	7-1-2012
836-071-0560	8-1-2012	Amend(T)	8-1-2012	839-003-0031	8-8-2012	Adopt	9-1-2012
836-071-0565	1-1-2012	Adopt	2-1-2012	839-003-0200	6-13-2012	Amend(T)	7-1-2012
836-071-0565	8-1-2012	Amend(T)	8-1-2012	839-003-0200	8-8-2012	Amend	9-1-2012
836-071-0570	1-1-2012	Adopt	2-1-2012	839-003-0200	8-8-2012	Amend(T)	9-1-2012
836-072-0010	8-1-2012	Amend(T)	8-1-2012	839-005-0033	1-1-2012	Renumber	2-1-2012
836-075-0000	8-1-2012	Amend(T)	8-1-2012	839-005-0033	2-8-2012	Am. & Ren.	3-1-2012
836-075-0030	8-1-2012	Amend(T)	8-1-2012	839-005-0075	1-1-2012	Adopt	2-1-2012

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839-005-0130	1-1-2012	Adopt	2-1-2012	839-011-0310	1-3-2012	Amend	2-1-2012
839-005-0130	2-8-2012	Adopt	3-1-2012	839-011-0320	1-3-2012	Amend	2-1-2012
839-005-0135	1-1-2012	Adopt	2-1-2012	839-011-0334	1-3-2012	Amend	2-1-2012
839-005-0135	2-8-2012	Adopt	3-1-2012	839-025-0700	1-1-2012	Amend	2-1-2012
839-005-0160	1-1-2012	Amend	2-1-2012	839-025-0700	3-29-2012	Amend	5-1-2012
839-005-0160	2-8-2012	Amend	3-1-2012	839-025-0700	7-2-2012	Amend	8-1-2012
839-005-0170	1-1-2012	Amend	2-1-2012	839-050-0040	1-1-2012	Amend	2-1-2012
839-005-0170	2-8-2012	Amend	3-1-2012	839-050-0310	1-1-2012	Amend	2-1-2012
839-006-0440	1-1-2012	Amend	2-1-2012	839-050-0340	1-1-2012	Amend	2-1-2012
839-006-0440	2-8-2012	Amend	3-1-2012	845-001-0007	6-1-2012	Amend	6-1-2012
839-006-0450	1-1-2012	Amend	2-1-2012	845-003-0200	9-1-2012	Amend	9-1-2012
839-006-0450	2-8-2012	Amend	3-1-2012	845-003-0210	9-1-2012	Amend	9-1-2012
839-006-0455	1-1-2012	Amend	2-1-2012	845-003-0220	9-1-2012	Amend	9-1-2012
839-006-0455	2-8-2012	Amend	3-1-2012	845-003-0270	9-1-2012	Amend	9-1-2012
839-006-0470	1-1-2012	Amend	2-1-2012	845-003-0331	9-1-2012	Amend	9-1-2012
839-006-0470	2-8-2012	Amend	3-1-2012	845-003-0340	9-1-2012	Amend	9-1-2012
839-006-0480	1-1-2012	Amend	2-1-2012	845-003-0460	9-1-2012	Amend	9-1-2012
839-006-0480	2-8-2012	Amend	3-1-2012	845-003-0590	9-1-2012	Amend	9-1-2012
839-009-0325	1-1-2012	Amend	2-1-2012	845-003-0670	9-1-2012	Amend	9-1-2012
839-009-0325	2-8-2012	Amend	3-1-2012	845-005-0413	4-5-2012	Amend(T)	5-1-2012
839-009-0330	1-1-2012	Amend	2-1-2012	845-005-0425	1-1-2012	Amend	1-1-2012
839-009-0330	2-8-2012	Amend	3-1-2012	845-006-0335	5-1-2012	Amend	5-1-2012
839-009-0340	1-1-2012	Amend	2-1-2012	845-006-0392	5-1-2012	Amend	5-1-2012
839-009-0340	2-8-2012	Amend	3-1-2012	845-006-0396	5-1-2012	Amend	5-1-2012
839-009-0345	1-1-2012	Amend	2-1-2012	845-009-0135	1-1-2012	Amend	1-1-2012
839-009-0345	2-8-2012	Amend	3-1-2012	845-015-0101	1-1-2012	Amend	1-1-2012
839-009-0355	1-1-2012	Amend	2-1-2012	845-015-0101	4-1-2012	Amend	5-1-2012
839-009-0355	2-8-2012	Amend	3-1-2012	845-015-0105	4-1-2012	Amend	5-1-2012
839-009-0360	1-1-2012	Amend	2-1-2012	845-015-0115	4-1-2012	Amend	5-1-2012
839-009-0360	2-8-2012	Amend	3-1-2012	845-015-0118	4-1-2012	Amend	5-1-2012
839-009-0362	1-1-2012	Amend	2-1-2012	845-015-0120	1-1-2012	Amend	1-1-2012
839-009-0362	2-8-2012	Amend	3-1-2012	845-015-0185	1-1-2012	Amend	1-1-2012
839-009-0365	1-1-2012	Amend	2-1-2012	845-015-0190	1-1-2012	Amend	1-1-2012
839-009-0365	2-8-2012	Amend	3-1-2012	845-015-0196	1-1-2012	Amend	1-1-2012
839-011-0020	1-3-2012	Amend	2-1-2012	845-015-0210	1-1-2012	Adopt	1-1-2012
839-011-0050	1-3-2012	Amend	2-1-2012	847-001-0000	2-7-2012	Amend(T)	3-1-2012
839-011-0051	1-3-2012	Amend	2-1-2012	847-001-0000	4-17-2012	Amend	6-1-2012
839-011-0060	1-3-2012	Amend	2-1-2012	847-001-0000(T)	4-17-2012	Repeal	6-1-2012
839-011-0070	1-3-2012	Amend	2-1-2012	847-001-0005	2-7-2012	Amend(T)	3-1-2012
839-011-0072	1-3-2012	Amend	2-1-2012	847-001-0005(T)	4-17-2012	Repeal	6-1-2012
839-011-0074	1-3-2012	Amend	2-1-2012	847-001-0007	2-10-2012	Adopt	3-1-2012
839-011-0082	1-3-2012	Amend	2-1-2012	847-001-0007	8-3-2012	Amend	9-1-2012
839-011-0084	1-3-2012	Amend	2-1-2012	847-001-0010	2-7-2012	Amend(T)	3-1-2012
839-011-0088	1-3-2012	Amend	2-1-2012	847-001-0010(T)	4-17-2012	Repeal	6-1-2012
839-011-0090	1-3-2012	Amend	2-1-2012	847-001-0015	2-7-2012	Amend(T)	3-1-2012
839-011-0140	1-3-2012	Amend	2-1-2012	847-001-0015	4-17-2012	Amend	6-1-2012
839-011-0141	1-3-2012	Amend	2-1-2012	847-001-0015(T)	4-17-2012	Repeal	6-1-2012
839-011-0142	1-3-2012	Amend	2-1-2012	847-001-0020	2-7-2012	Amend(T)	3-1-2012
839-011-0143	1-3-2012	Amend	2-1-2012	847-001-0020	4-17-2012	Amend	6-1-2012
839-011-0145	1-3-2012	Amend	2-1-2012	847-001-0020(T)	4-17-2012	Repeal	6-1-2012
839-011-0162	1-3-2012	Amend	2-1-2012	847-001-0022	2-7-2012	Amend(T)	3-1-2012
839-011-0170	8-15-2012	Amend(T)	9-1-2012	847-001-0022(T)	4-17-2012	Repeal	6-1-2012
839-011-0175	1-3-2012	Amend	2-1-2012	847-001-0025	2-7-2012	Amend(T)	3-1-2012
839-011-0265	1-3-2012	Amend	2-1-2012	847-001-0025(T)	4-17-2012	Repeal	6-1-2012
839-011-0270	1-3-2012	Amend	2-1-2012	847-001-0030	2-7-2012	Amend(T)	3-1-2012

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847-001-0030	4-17-2012	Amend	6-1-2012	847-050-0029	2-10-2012	Amend	3-1-2012
847-001-0030(T)	4-17-2012	Repeal	6-1-2012	847-050-0029(T)	2-10-2012	Repeal	3-1-2012
847-003-0100	8-3-2012	Adopt	9-1-2012	847-050-0035	1-1-2012	Amend(T)	1-1-2012
847-005-0005	1-1-2012	Amend(T)	2-1-2012	847-050-0035	2-10-2012	Amend	3-1-2012
847-005-0005	2-10-2012	Amend	3-1-2012	847-050-0035(T)	2-10-2012	Repeal	3-1-2012
847-005-0005	3-2-2012	Amend(T)	4-1-2012	847-050-0037	1-1-2012	Amend(T)	1-1-2012
847-005-0005	8-3-2012	Amend	9-1-2012	847-050-0037	2-10-2012	Amend	3-1-2012
847-005-0005(T)	2-10-2012	Repeal	3-1-2012	847-050-0037(T)	2-10-2012	Repeal	3-1-2012
847-005-0005(T)	8-3-2012	Repeal	9-1-2012	847-050-0038	1-1-2012	Amend(T)	1-1-2012
847-008-0010	4-17-2012	Amend	6-1-2012	847-050-0038	2-10-2012	Amend	3-1-2012
847-008-0015	8-3-2012	Amend	9-1-2012	847-050-0038(T)	2-10-2012	Repeal	3-1-2012
847-008-0018	8-3-2012	Amend	9-1-2012	847-050-0040	1-1-2012	Amend(T)	1-1-2012
847-008-0040	1-1-2012	Amend(T)	1-1-2012	847-050-0040	2-10-2012	Amend	3-1-2012
847-008-0040	2-10-2012	Amend	3-1-2012	847-050-0040(T)	2-10-2012	Repeal	3-1-2012
847-008-0040	8-3-2012	Amend	9-1-2012	847-050-0041	1-1-2012	Amend(T)	1-1-2012
847-008-0040(T)	2-10-2012	Repeal	3-1-2012	847-050-0041	2-10-2012	Amend	3-1-2012
847-008-0070	8-3-2012	Amend	9-1-2012	847-050-0041	6-1-2012	Amend(T)	6-1-2012
847-020-0155	2-10-2012	Amend	3-1-2012	847-050-0041(T)	2-10-2012	Repeal	3-1-2012
847-020-0155	3-2-2012	Amend(T)	4-1-2012	847-050-0042	1-1-2012	Amend(T)	1-1-2012
847-020-0155	8-3-2012	Amend	9-1-2012	847-050-0042	2-10-2012	Amend	3-1-2012
847-020-0155(T)	2-10-2012	Repeal	3-1-2012	847-050-0042(T)	2-10-2012	Repeal	3-1-2012
847-020-0155(T)	8-3-2012	Repeal	9-1-2012	847-050-0043	1-1-2012	Amend(T)	1-1-2012
847-020-0170	8-3-2012	Amend	9-1-2012	847-050-0043	2-10-2012	Amend	3-1-2012
847-020-0180	8-3-2012	Amend	9-1-2012	847-050-0043(T)	2-10-2012	Repeal	3-1-2012
847-020-0182	8-3-2012	Adopt	9-1-2012	847-050-0046	1-1-2012	Amend(T)	1-1-2012
847-035-0011	4-17-2012	Amend	6-1-2012	847-050-0046	2-10-2012	Amend	3-1-2012
847-035-0020	2-10-2012	Amend	3-1-2012	847-050-0046(T)	2-10-2012	Repeal	3-1-2012
847-035-0030	4-17-2012	Amend	6-1-2012	847-050-0050	1-1-2012	Amend(T)	1-1-2012
847-050-0005	1-1-2012	Amend(T)	1-1-2012	847-050-0050	2-10-2012	Amend	3-1-2012
847-050-0005	2-10-2012	Amend	3-1-2012	847-050-0050(T)	2-10-2012	Repeal	3-1-2012
847-050-0005(T)	2-10-2012	Repeal	3-1-2012	847-050-0055	1-1-2012	Amend(T)	1-1-2012
847-050-0010	1-1-2012	Amend(T)	1-1-2012	847-050-0055	2-10-2012	Amend	3-1-2012
847-050-0010	2-10-2012	Amend	3-1-2012	847-050-0055(T)	2-10-2012	Repeal	3-1-2012
847-050-0010(T)	2-10-2012	Repeal	3-1-2012	847-050-0060	1-1-2012	Amend(T)	1-1-2012
847-050-0015	1-1-2012	Amend(T)	1-1-2012	847-050-0060	2-10-2012	Amend	3-1-2012
847-050-0015	2-10-2012	Amend	3-1-2012	847-050-0060(T)	2-10-2012	Repeal	3-1-2012
847-050-0015(T)	2-10-2012	Repeal	3-1-2012	847-050-0063	1-1-2012	Amend(T)	1-1-2012
847-050-0020	1-1-2012	Amend(T)	1-1-2012	847-050-0063	2-10-2012	Amend	3-1-2012
847-050-0020	2-10-2012	Amend	3-1-2012	847-050-0063(T)	2-10-2012	Repeal	3-1-2012
847-050-0020(T)	2-10-2012	Repeal	3-1-2012	847-050-0065	1-1-2012	Amend(T)	1-1-2012
847-050-0023	1-1-2012	Amend(T)	1-1-2012	847-050-0065	2-10-2012	Amend	3-1-2012
847-050-0023	2-10-2012	Amend	3-1-2012	847-050-0065	6-1-2012	Amend(T)	6-1-2012
847-050-0023(T)	2-10-2012	Repeal	3-1-2012	847-050-0065(T)	2-10-2012	Repeal	3-1-2012
847-050-0025	1-1-2012	Amend(T)	1-1-2012	847-065-0010	7-31-2012	Amend(T)	9-1-2012
847-050-0025	2-10-2012	Amend	3-1-2012	847-065-0015	7-31-2012	Amend(T)	9-1-2012
847-050-0025(T)	2-10-2012	Repeal	3-1-2012	847-065-0020	7-31-2012	Amend(T)	9-1-2012
847-050-0026	1-1-2012	Amend(T)	1-1-2012	847-065-0025	7-31-2012	Amend(T)	9-1-2012
847-050-0026	2-10-2012	Amend	3-1-2012	847-065-0030	7-31-2012	Amend(T)	9-1-2012
847-050-0026(T)	2-10-2012	Repeal	3-1-2012	847-065-0035	7-31-2012	Amend(T)	9-1-2012
847-050-0027	1-1-2012	Amend(T)	1-1-2012	847-065-0040	7-31-2012	Amend(T)	9-1-2012
847-050-0027	2-10-2012	Amend	3-1-2012	847-065-0045	7-31-2012	Amend(T)	9-1-2012
847-050-0027	3-2-2012	Amend(T)	4-1-2012	847-065-0050	7-31-2012	Amend(T)	9-1-2012
847-050-0027	8-3-2012	Amend	9-1-2012	847-065-0055	7-31-2012	Amend(T)	9-1-2012
847-050-0027(T)	2-10-2012	Repeal	3-1-2012	847-065-0060	7-31-2012	Amend(T)	9-1-2012
847-050-0027(T)	8-3-2012	Repeal	9-1-2012	847-065-0065	7-31-2012	Amend(T)	9-1-2012
847-050-0029	1-1-2012	Amend(T)	1-1-2012	847-065-0070	7-31-2012	Amend(T)	9-1-2012

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848-010-0015	3-1-2012	Amend	3-1-2012	853-010-0040	1-1-2012	Repeal	1-1-2012
848-010-0020	3-1-2012	Amend	3-1-2012	853-010-0045	1-1-2012	Repeal	1-1-2012
848-010-0026	3-1-2012	Amend	3-1-2012	853-010-0050	1-1-2012	Repeal	1-1-2012
848-010-0035	3-1-2012	Amend	3-1-2012	853-010-0055	1-1-2012	Repeal	1-1-2012
848-035-0030	3-1-2012	Amend	3-1-2012	853-010-0060	1-1-2012	Repeal	1-1-2012
848-035-0040	3-1-2012	Amend	3-1-2012	853-010-0065	1-1-2012	Repeal	1-1-2012
848-040-0125	3-1-2012	Amend	3-1-2012	853-010-0070	1-1-2012	Repeal	1-1-2012
848-045-0010	3-1-2012	Amend	3-1-2012	853-010-0074	1-1-2012	Repeal	1-1-2012
850-030-0010	4-12-2012	Amend(T)	5-1-2012	853-010-0075	1-1-2012	Repeal	1-1-2012
850-030-0010	6-15-2012	Amend	7-1-2012	853-010-0076	1-1-2012	Repeal	1-1-2012
850-030-0010(T)	6-15-2012	Repeal	7-1-2012	853-010-0077	1-1-2012	Repeal	1-1-2012
850-030-0030	4-12-2012	Amend(T)	5-1-2012	853-010-0078	1-1-2012	Repeal	1-1-2012
850-030-0030	6-15-2012	Amend	7-1-2012	853-010-0079	1-1-2012	Repeal	1-1-2012
850-030-0030(T)	6-15-2012	Repeal	7-1-2012	853-010-0080	1-1-2012	Repeal	1-1-2012
850-030-0031	4-12-2012	Adopt(T)	5-1-2012	853-020-0000	1-1-2012	Adopt	1-1-2012
850-030-0031	6-15-2012	Adopt	7-1-2012	853-030-0000	1-1-2012	Adopt	1-1-2012
850-030-0031(T)	6-15-2012	Repeal	7-1-2012	853-030-0010	1-1-2012	Adopt	1-1-2012
850-030-0070	4-12-2012	Amend(T)	5-1-2012	853-030-0020	1-1-2012	Adopt	1-1-2012
850-030-0070	6-15-2012	Amend	7-1-2012	853-030-0030	1-1-2012	Adopt	1-1-2012
850-030-0070(T)	6-15-2012	Repeal	7-1-2012	853-030-0040	1-1-2012	Adopt	1-1-2012
850-050-0120	12-23-2011	Amend	1-1-2012	853-030-0050	1-1-2012	Adopt	1-1-2012
850-050-0120	6-15-2012	Amend	7-1-2012	853-030-0060	1-1-2012	Adopt	1-1-2012
850-060-0215	12-23-2011	Amend	1-1-2012	853-030-0070	1-1-2012	Adopt	1-1-2012
850-060-0226	6-15-2012	Amend	7-1-2012	853-040-0000	1-1-2012	Adopt	1-1-2012
851-002-0000	11-22-2011	Amend	1-1-2012	853-050-0000	1-1-2012	Adopt	1-1-2012
851-002-0010	8-1-2012	Amend	8-1-2012	853-050-0010	1-1-2012	Adopt	1-1-2012
851-002-0020	8-1-2012	Amend	8-1-2012	853-060-0000	1-1-2012	Adopt	1-1-2012
851-002-0030	8-1-2012	Amend	8-1-2012	853-060-0010	1-1-2012	Adopt	1-1-2012
851-002-0035	8-1-2012	Amend	8-1-2012	855-006-0005	6-19-2012	Amend	8-1-2012
851-045-0030	6-1-2012	Amend	6-1-2012	855-019-0260	1-1-2012	Amend	2-1-2012
851-045-0070	6-1-2012	Amend	6-1-2012	855-019-0280	1-1-2012	Amend	2-1-2012
851-045-0100	4-26-2012	Amend(T)	6-1-2012	855-019-0290	1-1-2012	Amend	2-1-2012
851-045-0100	6-1-2012	Amend	6-1-2012	855-031-0010	1-1-2012	Amend	2-1-2012
851-045-0100	6-5-2012	Amend	7-1-2012	855-031-0020	1-1-2012	Amend	2-1-2012
851-045-0100	8-1-2012	Amend	8-1-2012	855-031-0026	1-1-2012	Adopt	2-1-2012
851-050-0004	6-1-2012	Amend	6-1-2012	855-031-0045	1-1-2012	Amend	2-1-2012
851-050-0009	6-1-2012	Adopt	6-1-2012	855-041-0016	6-12-2012	Adopt	7-1-2012
851-050-0150	4-26-2012	Suspend	6-1-2012	855-041-0095	1-1-2012	Amend	2-1-2012
851-050-0150	8-1-2012	Repeal	8-1-2012	855-041-0095	5-1-2012	Amend	6-1-2012
851-052-0040	6-1-2012	Amend	6-1-2012	855-041-0105	5-1-2012	Am. & Ren.	6-1-2012
851-054-0060	6-1-2012	Adopt	6-1-2012	855-041-0110	5-1-2012	Repeal	6-1-2012
851-062-0090	4-1-2012	Amend	4-1-2012	855-041-0115	5-1-2012	Am. & Ren.	6-1-2012
851-062-0110	4-1-2012	Amend	4-1-2012	855-041-5100	5-1-2012	Adopt	6-1-2012
851-070-0090	4-26-2012	Amend(T)	6-1-2012	855-041-5120	5-1-2012	Adopt	6-1-2012
851-070-0090	8-1-2012	Amend	8-1-2012	855-041-5130	5-1-2012	Adopt	6-1-2012
853-001-0000	1-1-2012	Repeal	1-1-2012	855-041-5140	5-1-2012	Adopt	6-1-2012
853-001-0005	1-1-2012	Repeal	1-1-2012	855-041-5150	5-1-2012	Adopt	6-1-2012
853-001-0020	1-1-2012	Repeal	1-1-2012	855-041-5160	5-1-2012	Adopt	6-1-2012
853-001-0025	1-1-2012	Repeal	1-1-2012	855-041-5170	5-1-2012	Adopt	6-1-2012
853-001-0030	1-1-2012	Repeal	1-1-2012	855-043-0002	6-19-2012	Amend	8-1-2012
853-010-0010	1-1-2012	Repeal	1-1-2012	855-043-0405	6-19-2012	Adopt	8-1-2012
853-010-0015	1-1-2012	Repeal	1-1-2012	855-043-0410	6-19-2012	Adopt	8-1-2012
853-010-0017	1-1-2012	Repeal	1-1-2012	855-043-0415	6-19-2012	Adopt	8-1-2012
853-010-0020	1-1-2012	Repeal	1-1-2012	855-043-0420	6-19-2012	Adopt	8-1-2012
853-010-0025	1-1-2012	Repeal	1-1-2012	855-043-0425	6-19-2012	Adopt	8-1-2012

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855-043-0435	6-19-2012	Adopt	8-1-2012	859-200-0001	12-22-2011	Adopt(T)	2-1-2012
855-043-0440	6-19-2012	Adopt	8-1-2012	859-300-0050	12-13-2011	Amend	1-1-2012
855-043-0445	6-19-2012	Adopt	8-1-2012	859-300-0050(T)	12-13-2011	Repeal	1-1-2012
855-043-0450	6-19-2012	Adopt	8-1-2012	860-001-0080	4-17-2012	Amend	6-1-2012
855-043-0455	6-19-2012	Adopt	8-1-2012	860-001-0500	4-17-2012	Amend	6-1-2012
855-060-0004	1-1-2012	Adopt	2-1-2012	860-022-0019	4-17-2012	Amend	6-1-2012
855-065-0005	6-19-2012	Amend(T)	8-1-2012	860-022-0041	4-17-2012	Repeal	6-1-2012
855-080-0100	12-15-2011	Amend(T)	1-1-2012	860-023-0080	1-1-2012	Repeal	1-1-2012
855-080-0100	6-19-2012	Amend	8-1-2012	860-023-0090	1-1-2012	Repeal	1-1-2012
855-080-0100(T)	12-15-2011	Suspend	1-1-2012	860-023-0100	1-1-2012	Repeal	1-1-2012
855-080-0103(T)	12-15-2011	Suspend	1-1-2012	860-023-0110	1-1-2012	Repeal	1-1-2012
855-110-0005	12-15-2011	Amend	1-1-2012	860-023-0120	1-1-2012	Repeal	1-1-2012
855-110-0007	12-15-2011	Amend	1-1-2012	860-023-0130	1-1-2012	Repeal	1-1-2012
855-110-0007	6-19-2012	Amend(T)	8-1-2012	860-023-0140	1-1-2012	Repeal	1-1-2012
855-110-0010	12-15-2011	Amend	1-1-2012	860-023-0150	1-1-2012	Repeal	1-1-2012
856-010-0015	12-30-2011	Amend	2-1-2012	860-023-0160	1-1-2012	Repeal	1-1-2012
856-010-0027	12-30-2011	Adopt	2-1-2012	860-024-0010	3-9-2012	Amend	4-1-2012
856-030-0000	5-29-2012	Amend	7-1-2012	860-027-0200	4-17-2012	Amend	6-1-2012
858-010-0001	6-8-2012	Amend	7-1-2012	860-036-0001	1-1-2012	Amend	2-1-2012
858-010-0010	2-15-2012	Amend(T)	3-1-2012	860-036-0010	1-1-2012	Amend	2-1-2012
858-010-0010	6-8-2012	Amend	7-1-2012	860-036-0015	1-1-2012	Amend	2-1-2012
858-010-0010(T)	6-8-2012	Repeal	7-1-2012	860-036-0030	1-1-2012	Amend	2-1-2012
858-010-0011	2-15-2012	Amend(T)	3-1-2012	860-036-0040	1-1-2012	Amend	2-1-2012
858-010-0011	6-8-2012	Amend	7-1-2012	860-036-0050	1-1-2012	Amend	2-1-2012
858-010-0011(T)	6-8-2012	Repeal	7-1-2012	860-036-0060	1-1-2012	Amend	2-1-2012
858-010-0012	2-15-2012	Amend(T)	3-1-2012	860-036-0065	1-1-2012	Amend	2-1-2012
858-010-0012	6-8-2012	Amend	7-1-2012	860-036-0097	1-1-2012	Amend	2-1-2012
858-010-0012(T)	6-8-2012	Repeal	7-1-2012	860-036-0130	1-1-2012	Amend	2-1-2012
858-010-0013	2-15-2012	Amend(T)	3-1-2012	860-036-0405	1-1-2012	Amend	2-1-2012
858-010-0013	6-8-2012	Amend	7-1-2012	860-036-0407	1-1-2012	Repeal	2-1-2012
858-010-0013(T)	6-8-2012	Repeal	7-1-2012	860-036-0425	1-1-2012	Adopt	2-1-2012
858-010-0015	6-8-2012	Amend	7-1-2012	860-036-0505	1-1-2012	Amend	2-1-2012
858-010-0016	2-15-2012	Amend(T)	3-1-2012	860-036-0605	1-1-2012	Amend	2-1-2012
858-010-0016	6-8-2012	Amend	7-1-2012	860-036-0610	1-1-2012	Amend	2-1-2012
858-010-0016(T)	6-8-2012	Repeal	7-1-2012	860-036-0615	1-1-2012	Amend	2-1-2012
858-010-0017	2-15-2012	Amend(T)	3-1-2012	860-036-0625	1-1-2012	Am. & Ren.	2-1-2012
858-010-0017	6-8-2012	Amend	7-1-2012	860-036-0640	1-1-2012	Amend	2-1-2012
858-010-0017(T)	6-8-2012	Repeal	7-1-2012	860-036-0705	1-1-2012	Amend	2-1-2012
858-010-0020	6-8-2012	Amend	7-1-2012	860-036-0708	1-1-2012	Adopt	2-1-2012
858-010-0025	6-8-2012	Amend	7-1-2012	860-036-0710	1-1-2012	Amend	2-1-2012
858-010-0030	6-8-2012	Amend	7-1-2012	860-036-0715	1-1-2012	Amend	2-1-2012
858-010-0036	6-8-2012	Amend	7-1-2012	860-036-0737	1-1-2012	Amend	2-1-2012
858-010-0037	6-8-2012	Amend	7-1-2012	860-036-0739	1-1-2012	Amend	2-1-2012
858-010-0038	6-8-2012	Amend	7-1-2012	860-036-0740	1-1-2012	Amend	2-1-2012
858-010-0039	6-8-2012	Amend	7-1-2012	860-036-0745	1-1-2012	Amend	2-1-2012
858-020-0065	6-8-2012	Repeal	7-1-2012	860-036-0750	1-1-2012	Amend	2-1-2012
858-020-0095	6-8-2012	Repeal	7-1-2012	860-036-0756	1-1-2012	Amend	2-1-2012
859-030-0005	2-3-2012	Amend(T)	3-1-2012	860-036-0757	1-1-2012	Amend	2-1-2012
859-030-0005	4-16-2012	Amend	6-1-2012	860-036-0815	1-1-2012	Amend	2-1-2012
859-030-0005(T)	4-16-2012	Repeal	6-1-2012	860-036-0816	1-1-2012	Adopt	2-1-2012
859-030-0010	2-3-2012	Amend(T)	3-1-2012	860-038-0480	3-15-2012	Amend	4-1-2012
859-030-0010	4-16-2012	Amend	6-1-2012	860-038-0480(T)	3-15-2012	Repeal	4-1-2012
859-030-0010(T)	4-16-2012	Repeal	6-1-2012	860-039-0005	2-22-2012	Amend	4-1-2012
859-070-0040	2-3-2012	Adopt(T)	3-1-2012	863-020-0000	8-15-2012	Amend(T)	9-1-2012
859-070-0040	4-16-2012	Adopt	6-1-2012	863-020-0005	8-15-2012	Amend(T)	9-1-2012

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863-020-0008	8-15-2012	Suspend	9-1-2012	918-225-0430	1-1-2012	Amend	2-1-2012
863-020-0010	8-15-2012	Amend(T)	9-1-2012	918-225-0435	1-1-2012	Amend	2-1-2012
863-020-0015	8-15-2012	Amend(T)	9-1-2012	918-225-0570	1-1-2012	Amend	2-1-2012
863-020-0020	8-15-2012	Amend(T)	9-1-2012	918-225-0600	1-1-2012	Amend	2-1-2012
863-020-0025	8-15-2012	Amend(T)	9-1-2012	918-225-0600	1-1-2012	Amend	2-1-2012
863-020-0030	8-15-2012	Amend(T)	9-1-2012	918-225-0606	1-1-2012	Adopt	2-1-2012
863-020-0035	8-15-2012	Amend(T)	9-1-2012	918-225-0609	1-1-2012	Adopt	2-1-2012
863-020-0040	8-15-2012	Amend(T)	9-1-2012	918-225-0612	1-1-2012	Adopt	2-1-2012
863-020-0045	8-15-2012	Amend(T)	9-1-2012	918-225-0615	1-1-2012	Adopt	2-1-2012
863-020-0050	8-15-2012	Amend(T)	9-1-2012	918-225-0618	1-1-2012	Adopt	2-1-2012
863-020-0055	8-15-2012	Amend(T)	9-1-2012	918-225-0620	1-1-2012	Amend	2-1-2012
863-020-0060	8-15-2012	Amend(T)	9-1-2012	918-305-0105	6-7-2012	Amend(T)	7-1-2012
863-020-0065	8-15-2012	Amend(T)	9-1-2012	918-311-0065	5-1-2012	Amend(T)	6-1-2012
863-022-0000	8-15-2012	Amend(T)	9-1-2012	918-400-0455	1-1-2012	Amend	2-1-2012
863-022-0005	8-15-2012	Amend(T)	9-1-2012	918-400-0458	1-1-2012	Amend	2-1-2012
863-022-0010	8-15-2012	Amend(T)	9-1-2012	918-440-0012	1-1-2012	Amend	2-1-2012
863-022-0015	8-15-2012	Amend(T)	9-1-2012	918-460-0015	1-1-2012	Amend	2-1-2012
863-022-0020	8-15-2012	Amend(T)	9-1-2012	918-460-0015	2-1-2012	Amend	3-1-2012
863-022-0022	8-15-2012	Adopt(T)	9-1-2012	918-460-0510	1-1-2012	Amend	2-1-2012
863-022-0025	8-15-2012	Amend(T)	9-1-2012	918-525-0042	4-9-2012	Amend(T)	5-1-2012
863-022-0030	8-15-2012	Amend(T)	9-1-2012	918-525-0042	7-1-2012	Amend	8-1-2012
863-022-0035	8-15-2012	Amend(T)	9-1-2012	943-007-0001	5-7-2012	Adopt(T)	6-1-2012
863-022-0040	8-15-2012	Suspend	9-1-2012	943-007-0001	8-10-2012	Adopt	9-1-2012
863-022-0045	8-15-2012	Amend(T)	9-1-2012	943-007-0001(T)	8-10-2012	Repeal	9-1-2012
863-022-0050	8-15-2012	Amend(T)	9-1-2012	943-007-0335	5-7-2012	Adopt(T)	6-1-2012
863-022-0055	8-15-2012	Amend(T)	9-1-2012	943-007-0335	8-10-2012	Adopt	9-1-2012
863-022-0060	8-15-2012	Amend(T)	9-1-2012	943-007-0335(T)	8-10-2012	Repeal	9-1-2012
875-005-0005	12-12-2011	Amend(T)	1-1-2012	943-007-0501	5-7-2012	Adopt(T)	6-1-2012
875-005-0005	6-25-2012	Amend	8-1-2012	943-007-0501	8-10-2012	Adopt	9-1-2012
875-040-0000	6-25-2012	Amend	8-1-2012	943-007-0501(T)	8-10-2012	Repeal	9-1-2012
875-040-0005	12-12-2011	Adopt(T)	1-1-2012	943-014-0300	12-1-2011	Adopt	1-1-2012
875-040-0010	6-25-2012	Adopt	8-1-2012	943-014-0300(T)	12-1-2011	Repeal	1-1-2012
877-001-0020	12-29-2011	Amend	2-1-2012	943-014-0305	12-1-2011	Adopt	1-1-2012
877-010-0015	12-29-2011	Amend	2-1-2012	943-014-0305(T)	12-1-2011	Repeal	1-1-2012
877-010-0020	12-29-2011	Amend	2-1-2012	943-014-0310	12-1-2011	Adopt	1-1-2012
877-015-0105	12-29-2011	Amend	2-1-2012	943-014-0310(T)	12-1-2011	Repeal	1-1-2012
877-015-0108	12-29-2011	Amend	2-1-2012	943-014-0315	12-1-2011	Adopt	1-1-2012
877-015-0136	12-29-2011	Amend	2-1-2012	943-014-0315(T)	12-1-2011	Repeal	1-1-2012
877-020-0005	12-29-2011	Amend	2-1-2012	943-014-0320	12-1-2011	Adopt	1-1-2012
877-020-0008	12-29-2011	Amend	2-1-2012	943-014-0320(T)	12-1-2011	Repeal	1-1-2012
877-020-0010	12-29-2011	Amend	2-1-2012	943-045-0000	12-4-2011	Adopt	1-1-2012
877-020-0016	12-29-2011	Amend	2-1-2012	943-045-0000(T)	12-4-2011	Repeal	1-1-2012
877-020-0036	12-29-2011	Amend	2-1-2012	943-045-0250	12-5-2011	Adopt	1-1-2012
877-025-0006	12-29-2011	Amend	2-1-2012	943-045-0250	6-28-2012	Adopt	8-1-2012
877-025-0011	12-29-2011	Amend	2-1-2012	943-045-0250(T)	12-5-2011	Repeal	1-1-2012
877-040-0050	12-29-2011	Amend	2-1-2012	943-045-0250(T)	6-28-2012	Repeal	8-1-2012
918-098-1000	1-1-2012	Amend	2-1-2012	943-045-0260	12-5-2011	Adopt	1-1-2012
918-098-1510	3-1-2012	Amend(T)	4-1-2012	943-045-0260	6-28-2012	Adopt	8-1-2012
918-098-1510	7-1-2012	Amend	8-1-2012	943-045-0260(T)	12-5-2011	Repeal	1-1-2012
918-098-1530	3-1-2012	Amend(T)	4-1-2012	943-045-0260(T)	6-28-2012	Repeal	8-1-2012
918-098-1530	7-1-2012	Amend	8-1-2012	943-045-0280	12-5-2011	Adopt	1-1-2012
918-098-1590	3-1-2012	Adopt(T)	4-1-2012	943-045-0280	6-28-2012	Adopt	8-1-2012
918-098-1590	7-1-2012	Adopt	8-1-2012	943-045-0280(T)	12-5-2011	Repeal	1-1-2012
918-098-1591	7-1-2012	Adopt	8-1-2012	943-045-0280(T)	6-28-2012	Repeal	8-1-2012
918-098-1620	1-1-2012	Amend	2-1-2012	943-045-0290	12-5-2011	Adopt	1-1-2012

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943-045-0290(T)	12-5-2011	Repeal	1-1-2012	943-045-0490	12-23-2011	Adopt	2-1-2012
943-045-0290(T)	6-28-2012	Repeal	8-1-2012	943-045-0490(T)	12-23-2011	Repeal	2-1-2012
943-045-0300	12-5-2011	Adopt	1-1-2012	943-045-0500	12-23-2011	Adopt	2-1-2012
943-045-0300	6-28-2012	Adopt	8-1-2012	943-045-0500(T)	12-23-2011	Repeal	2-1-2012
943-045-0300(T)	12-5-2011	Repeal	1-1-2012	943-045-0510	12-23-2011	Adopt	2-1-2012
943-045-0300(T)	6-28-2012	Repeal	8-1-2012	943-045-0510(T)	12-23-2011	Repeal	2-1-2012
943-045-0310	12-5-2011	Adopt	1-1-2012	943-045-0520	12-23-2011	Adopt	2-1-2012
943-045-0310	6-28-2012	Adopt	8-1-2012	943-045-0520(T)	12-23-2011	Repeal	2-1-2012
943-045-0310(T)	12-5-2011	Repeal	1-1-2012	943-060-0000	8-1-2012	Adopt	9-1-2012
943-045-0310(T)	6-28-2012	Repeal	8-1-2012	943-060-0010	8-1-2012	Adopt	9-1-2012
943-045-0320	12-5-2011	Adopt	1-1-2012	943-060-0020	8-1-2012	Adopt	9-1-2012
943-045-0320	6-28-2012	Adopt	8-1-2012	943-060-0030	8-1-2012	Adopt	9-1-2012
943-045-0320(T)	12-5-2011	Repeal	1-1-2012	943-060-0040	8-1-2012	Adopt	9-1-2012
943-045-0320(T)	6-28-2012	Repeal	8-1-2012	943-060-0050	2-17-2012	Adopt(T)	4-1-2012
943-045-0330	12-5-2011	Adopt	1-1-2012	943-060-0050	8-1-2012	Adopt	9-1-2012
943-045-0330	6-28-2012	Adopt	8-1-2012	943-060-0050(T)	8-1-2012	Repeal	9-1-2012
943-045-0330(T)	12-5-2011	Repeal	1-1-2012	943-060-0060	8-1-2012	Adopt	9-1-2012
943-045-0330(T)	6-28-2012	Repeal	8-1-2012	943-060-0070	8-1-2012	Adopt	9-1-2012
943-045-0340	12-5-2011	Adopt	1-1-2012	943-060-0080	8-1-2012	Adopt	9-1-2012
943-045-0340	6-28-2012	Adopt	8-1-2012	943-060-0090	8-1-2012	Adopt	9-1-2012
943-045-0340(T)	12-5-2011	Repeal	1-1-2012	943-060-0100	8-1-2012	Adopt	9-1-2012
943-045-0340(T)	6-28-2012	Repeal	8-1-2012	943-060-0110	8-1-2012	Adopt	9-1-2012
943-045-0350	12-5-2011	Adopt	1-1-2012	943-060-0120	8-1-2012	Adopt	9-1-2012
943-045-0350	6-28-2012	Adopt	8-1-2012	943-120-0100	7-12-2012	Amend(T)	8-1-2012
943-045-0350(T)	12-5-2011	Repeal	1-1-2012	943-120-0110	7-12-2012	Amend(T)	8-1-2012
943-045-0350(T)	6-28-2012	Repeal	8-1-2012	943-120-0112	7-12-2012	Amend(T)	8-1-2012
943-045-0360	12-5-2011	Adopt	1-1-2012	943-120-0114	7-12-2012	Amend(T)	8-1-2012
943-045-0360	6-28-2012	Adopt	8-1-2012	943-120-0116	7-12-2012	Amend(T)	8-1-2012
943-045-0360(T)	12-5-2011	Repeal	1-1-2012	943-120-0118	7-12-2012	Amend(T)	8-1-2012
943-045-0360(T)	6-28-2012	Repeal	8-1-2012	943-120-0120	7-12-2012	Amend(T)	8-1-2012
943-045-0370	12-5-2011	Adopt	1-1-2012	943-120-0170	7-12-2012	Amend(T)	8-1-2012
943-045-0370	6-28-2012	Adopt	8-1-2012	943-120-0180	7-12-2012	Amend(T)	8-1-2012
943-045-0370(T)	12-5-2011	Repeal	1-1-2012	943-120-0200	7-12-2012	Amend(T)	8-1-2012
943-045-0370(T)	6-28-2012	Repeal	8-1-2012	945-001-0001	3-6-2012	Adopt	4-1-2012
943-045-0400	12-23-2011	Adopt	2-1-2012	945-001-0006	3-6-2012	Adopt	4-1-2012
943-045-0400(T)	12-23-2011	Repeal	2-1-2012	945-001-0011	3-6-2012	Adopt	4-1-2012
943-045-0410	12-23-2011	Adopt	2-1-2012	945-010-0001	3-6-2012	Adopt	4-1-2012
943-045-0410(T)	12-23-2011	Repeal	2-1-2012	945-010-0006	3-6-2012	Adopt	4-1-2012
943-045-0420	12-23-2011	Adopt	2-1-2012	945-010-0011	3-6-2012	Adopt	4-1-2012
943-045-0420(T)	12-23-2011	Repeal	2-1-2012	945-010-0021	3-6-2012	Adopt	4-1-2012
943-045-0430	12-23-2011	Adopt	2-1-2012	945-010-0031	3-6-2012	Adopt	4-1-2012
943-045-0430(T)	12-23-2011	Repeal	2-1-2012	945-010-0041	3-6-2012	Adopt	4-1-2012
943-045-0440	12-23-2011	Adopt	2-1-2012	945-010-0051	3-6-2012	Adopt	4-1-2012
943-045-0440(T)	12-23-2011	Repeal	2-1-2012	945-010-0061	3-6-2012	Adopt	4-1-2012
943-045-0450	12-23-2011	Adopt	2-1-2012	945-010-0071	3-6-2012	Adopt	4-1-2012
943-045-0450(T)	12-23-2011	Repeal	2-1-2012	945-010-0081	3-6-2012	Adopt	4-1-2012
943-045-0460	12-23-2011	Adopt	2-1-2012	945-010-0091	3-6-2012	Adopt	4-1-2012
943-045-0460(T)	12-23-2011	Repeal	2-1-2012	945-010-0101	3-6-2012	Adopt	4-1-2012
943-045-0470	12-23-2011	Adopt	2-1-2012	951-003-0005	7-20-2012	Repeal	9-1-2012
943-045-0470(T)	12-23-2011	Repeal	2-1-2012	951-004-0003	1-1-2012	Amend	1-1-2012
943-045-0480	12-23-2011	Adopt	2-1-2012	951-004-0004	1-1-2012	Amend	1-1-2012