

# OREGON BULLETIN

Supplements the 2012 *Oregon Administrative Rules Compilation*

**Volume 51, No. 7**  
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**For May 16, 2012–June 15, 2012**



Published by  
**KATE BROWN**  
Secretary of State  
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# INFORMATION AND PUBLICATION SCHEDULE

## General Information

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

## Background on Oregon Administrative Rules

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

## How to Cite

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

## Understanding an Administrative Rule’s “History”

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

## Locating the Most Recent Version of an Administrative Rule

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

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

## Locating Administrative Rules Unit Publications

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

## 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

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## EXECUTIVE ORDER 12 - 09

### AMENDS EXECUTIVE ORDER NO. 10-06 REGARDING ESTABLISHMENT OF THE EARLY CHILDHOOD MATTERS ADVISORY COUNCIL

#### IT IS HEREBY DIRECTED AND ORDERED:

1. Executive Order No. 10 - 06 established the Early Childhood Matters Advisory Council. The duties of the Early Childhood Matters Advisory Council have been assumed by the Early Learning Council established by the Head Start Act (2012 House Bill 4165).

2. Section 11 of Executive Order 10-06 is amended to state as follows:

“This Order shall expire June 15, 2012.”

Done at Salem, Oregon, this 13th day of June, 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 PROPOSED REMEDY FOR PECO, INC.

**COMMENTS DUE:** July 30, 2012 5:00 PM

**PROJECT LOCATION:** 4707 SE 17th Avenue, Portland, OR

**PROPOSAL:** In accordance with ORS 465.200, the Department of Environmental Quality (DEQ) invites public comment on its proposed remedy for the site.

**HIGHLIGHTS:** The PECO facility occupies approximately 6 acres and includes four industrial-use buildings and associated parking areas located near SE Schiller Street between 16th and 18th Avenues in Portland, Oregon. The facility is used for the manufacture of parts for the aerospace industry, and includes die casting, machining, and plastic injection molding. Surrounding use is primarily commercial or industrial.

Environmental investigation has identified solvents including tetrachloroethene and trichloroethene in soil and groundwater. Treatment has reduced contaminant levels, but concentrations continue to exceed DEQ screening values in some areas. Polychlorinated biphenyl (PCB) contamination in soil and building materials was previously removed to DEQ and EPA satisfaction, and does not require further action.

A remedy is proposed to address remaining soil and groundwater that poses a potential risk to site users. The action includes removal of soil below the West Plant exceeding "hot spot" values, treatment of shallow groundwater below the East Plant, and ongoing operation of a soil vapor collection system in both buildings to capture contaminated vapor that could enter occupied buildings. If properly implemented, the remedy will reduce contamination to levels that do not pose a risk.

DEQ welcomes the public's comments on the proposed remedial actions.

**HOW TO COMMENT:** To review project records, contact Dawn Weinburger at (503) 229-5425 and ask for records for Environmental Cleanup Site Information (ECSI) site #178. The DEQ Project Manager is Daniel Hafley (503-229-5417). Written comments should be sent to Daniel Hafley at the Department of Environmental Quality, Northwest Region, 2020 SW 4th Avenue, Suite 400, Portland, OR 97201 and must be received no later than 5 pm on July 30, 2012. A public meeting will be held to receive verbal comments if requested by 10 or more people, or by a group with a membership of 10 or more. Site information can also be found in DEQ's on-line ECSI database at: <http://www.deq.state.or.us/lq/ECSI/ecsi.htm>, by searching on Site ID #1973.

**THE NEXT STEP:** DEQ will consider all comments received and make a final decision on the proposed site remedy after consideration of these comments.

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

People with hearing impairments may call DEQ's TTY number, 1(800)735-2900.

### REQUEST FOR COMMENTS PROPOSED APPROVAL OF CLEANUP AT PACIFICORP YOUNGS BAY SITE

**COMMENTS DUE:** 5 p.m., Tuesday, July 31, 2012

**PROJECT LOCATION:** 1224 West Marine Drive Astoria, OR

**PROPOSAL:** The Department of Environmental Quality invites public comment on the proposed conditional approval of environmental cleanup action at the PacifiCorp Youngs Bay site. This is also known as a conditional no further action determination.

**HIGHLIGHTS:** The PacifiCorp Youngs Bay site consists of an upland area that is approximately 4.5 to 5 acres in size, a shoreline slope that separates the upland from the intertidal area, and an off-shore zone of intertidal mudflats that extends southward several

hundred feet into Youngs Bay. Between 1921 and 1950, PacifiCorp manufactured compressed, petroleum-based gas for heating and lighting at the site. Petroleum oils were used as a base stock for gas manufacturing. Between 1922 and 1954 electricity and steam were also produced at the site from a generating plant that used wood-based hog fuel. Tarry residues were released from the site during gas manufacturing operations, leaving tarry material along the shoreline of the property and a tar "body" that extends from the shore approximately 300 feet into Youngs Bay. Contaminants associated with oil and tar were also detected at elevated concentrations in upland site soils.

In 1987, under Remedial Action Agreement between PacifiCorp and DEQ, PacifiCorp demolished the existing site structures and placed demolition material in the southeastern portion of the upland. This area was then covered with sand to fill voids and approximately 2 feet of clean soil. The soil was vegetated and the entire site was fenced.

In September 2004, PacifiCorp excavated lampblack-contaminated soil near the site entrance and disposed of the material in a permitted landfill.

In the summer of 2005, PacifiCorp removed a portion of the off-shore tar and capped the remaining tar as described in the DEQ record of decision issued February 2005.

In 2011, PacifiCorp excavated the most contaminated soils in the upland portion of the site and placed them in an extension of the existing capped area onsite or, if product was observed, disposed the material at a permitted landfill, as described in the DEQ record of decision issued September 2010.

PacifiCorp prepared Long-Term Monitoring and Maintenance Plans for the upland and shoreline/off-shore portions of the site. In addition to regular monitoring and maintenance of the caps, inspections will be conducted after any events that could impact cap integrity.

Based on evaluation of the actions described above, DEQ is proposing that no further action be required at the PacifiCorp Youngs Bay site. The proposed cleanup approval is conditional because of the need to maintain engineering controls and conduct long-term monitoring and maintenance of cleanup measures at the site.

**HOW TO COMMENT:** A memorandum describing the basis for the no further action is available at: <http://www.deq.state.or.us/Webdocs/Forms/Output/FPCController.ashx?SourceId=147&SourceId Type=11>. Complete site files are available for public review at DEQ's Northwest Region Office in Portland. To schedule an appointment to review files, call 503- 229-6729. Send written comments to Project Manager Jennifer Sutter, DEQ Northwest Region, 2020 SW 4th Ave., Portland, OR 97201 or [sutter.jennifer@deq.state.or.us](mailto:sutter.jennifer@deq.state.or.us), by Tuesday, July 31. Contact Sutter at 503- 229-6148.

**THE NEXT STEP:** DEQ will consider all public comments and the DEQ Northwest Region Administrator will make and publish the final decision after consideration of these comments.

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

People with hearing impairments may call 711.

### REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION DETERMINATION, FORMER CIRCLE 9 DRYCLEANERS CORVALLIS, OREGON

**COMMENTS DUE:** July 30, 2012

**PROJECT LOCATION:** The former Circle 9 Drycleaners is located in the Circle 9 Plaza at 960 NW Circle Boulevard in Corvallis Oregon. The site consists of tax lots 00300, 00304, 00306, and 00307 as described on Map No. 110526AC, Township 11 South, Range 5 West, Section 26 (the "Property").

## OTHER NOTICES

**PROPOSAL:** DEQ is proposing that no further action is required at the site to human health and the environment.

**HIGHLIGHTS:** A drycleaner operated on the Property from around 1978 to around 1990. During historic dry cleaner operations at the Property, hazardous substances were released at and from the Property. Between 2002 and 2007, Multiple rounds of soil and groundwater investigation were conducted under DEQ supervision. During the investigation, soil and groundwater contamination were found on the site. A soil cleanup occurred in 2008, followed by mitigation measures to prevent chlorinated solvent vapors (from dry-cleaning chemicals) from entering the buildings on site. In 2009, DEQ discovered multiple nearby wells were contaminated with chlorinated solvents at levels that are not safe to drink. DEQ believes these chemicals originated at the former Circle 9 Drycleaners facility. Other currently unknown sources in the area may also have contributed to contamination in the Lawndale wells. DEQ provided bottled water to affected residents and then hooked up residents to carbon filtration units to ensure safe household water supplies. DEQ will maintain these treatment systems until concentrations of chlorinated solvents in the groundwater decrease to safe levels. Since the soil contamination at the site was removed, there are no additional actions that could be taken that would improve groundwater conditions in the nearby area. Since conditions on site and off site are protective of human health and since there is no ecological risk posed by the groundwater contamination, DEQ has determined that no further action is required. On July 1, running through July 30, 2012, DEQ will provide public notice and opportunity to comment on the determination.

**HOW TO COMMENT:** The proposed determination is available at DEQ's Western Region Office, at 165 E 7th, Suite 100, Eugene, Oregon 97401, or electronically by request to brown.geoff@deq.state.or.us. To review files at DEQ's office, please contact DEQ's file review coordinator at (541) 686-7819 to make an appointment. Comments may be submitted to Geoff Brown, DEQ Cleanup Project Manager, by email at brown.geoff@deq.state.or.us ; by mail at DEQ, 167 E 7th, Suite 100, Eugene, Oregon 97401; or by fax at 541-686-7551.

**THE NEXT STEP:** DEQ will review and consider all comments received during the comment period. Once all comments have been considered and addressed, DEQ will issue a letter of no further action to the property owner and change the status of the site in the ECSI database.

### REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION FOR FORMER BRIDAL VEIL LUMBER SITE

**COMMENTS DUE:** 5 p.m., July 31, 2012

**PROJECT LOCATION:** 46249-46701 E Historic Columbia River Hwy, Bridal Veil

**PROPOSAL:** The Oregon Department of Environmental Quality's Voluntary Cleanup Program proposes to issue a no further action determination for the former Bridal Veil Lumber site located at 46249-46701 E Historic Columbia River Hwy in Bridal Veil. DEQ issues a no further action determination when a cleanup has met regulatory standards.

**HIGHLIGHTS:** The site is the location of a lumber milling operation that was active for more than 100 years and the associated mill town. Lumber milling operations ceased at the site in about 1988, and most of the site structures were demolished by 2001. The site used for public recreation purposes and for railroad maintenance purposes.

Various environmental issues including solid waste dumps, petroleum storage tanks, and other contaminants associated with the mill's former operations were assessed and cleaned up. The Voluntary Cleanup Program has reviewed assessment and cleanup activities performed at the site and have determined no further action is required.

**HOW TO COMMENT:** Send comments by 5 p.m., July 31, 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](http://www.deq.state.or.us/lq/ECSI/ecsi.htm), select "Search complete ECSI database" link, enter 3280 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 3280 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](mailto:deqinfo@deq.state.or.us), or 711 for people with hearing impairments.

### REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION FOR REDDAWAY TRUCKING

**COMMENTS DUE:** 5 p.m., July 31, 2012

**PROJECT LOCATION:** 3122 Hilyard Ave., Klamath Falls

**PROPOSAL:** The Oregon Department of Environmental Quality's Voluntary Cleanup Program proposes to issue a no further action determination for the Reddaway Trucking site located at 3122 Hilyard Ave., Klamath Falls. DEQ issues a no further action determination when a cleanup has met regulatory standards.

**HIGHLIGHTS:** An above ground, heating oil storage tank with chronic leaks was removed from the site in April 2012. Approximately 23 tons of petroleum contaminated soil was excavated and transported to Dry Creek Landfill for disposal. Residual soil and groundwater contamination are less than applicable screening levels. 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., July 31, 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](mailto: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](http://www.deq.state.or.us/lq/ECSI/ecsi.htm), select "Search complete ECSI database" link, enter 5724 in the Site ID box and click "Submit" at the bottom of the page. Next, click the link labeled 5724 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](mailto:deqinfo@deq.state.or.us), or 711 for people with hearing impairments.

### REQUEST FOR COMMENTS PROPOSED CLEANUP APPROACH FOR CANOE BAY SHORELINE

**COMMENTS DUE:** 5 p.m., Tuesday, July 31, 2012

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

**PROPOSAL:** The Department of Environmental Quality invites public comment on the proposed cleanup approach for contaminated shoreline and bank areas on the west side of Canoe Bay, an inlet off the Columbia River located on the north side of Hayden Island. DEQ proposes that contamination present along the western shoreline of the bay adjacent to property owned by Inland Sea Maritime

## OTHER NOTICES

Group be capped as part of a larger shoreline stabilization project in this area. Contamination in this area appears to be the most significant remaining source of contamination to Canoe Bay. Once these shoreline sources of contamination are cleaned up, contaminant concentrations in bay sediments are expected to decline over time through natural recovery processes.

**HIGHLIGHTS:** Canoe Bay is a 7.6-acre rectangular inlet off the Columbia River located on the central north side of Hayden Island. Inland Sea Maritime Group owns approximately 6 acres of upland land on the southwestern edge of the bay. Schooner Creek Boat Works operates a boat maintenance facility on a portion of the upland property.

Historic dumping occurred into and around Canoe Bay between 1966 and 1989, creating 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 (known as PCBs), metals, polycyclic aromatic hydrocarbons, and tri-butyl 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 stormwater outfall.

DEQ is proposing that the owner cap the more highly contaminated soils and sediments in the vicinity of the debris pile and stormwater outfall in conjunction with a shoreline stabilization project. The proposed clean-up would include placing an Envirolok® 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. Envirolok® consists of non-biodegradable polypropylene bags filled with soil and tied together to create a stable cap that will support vegetation. Containerized plants would be placed in conjunction with the Envirolok® system and would act to lock the bags to each other and the surrounding soil. The sand cap would 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.

The proposed remedy is considered to be consistent with Oregon rule and statute and, if properly implemented, protective of public health and the environment.

**HOW TO COMMENT:** A DEQ staff report outlining the proposed cleanup approach is available for public review at DEQ's Northwest Region Office in Portland and on line at <http://www.deq.state.or.us/Webdocs/Forms/Output/FPCcontroller.ashx?SourceId=3333&SourceIdType=11>. To schedule an appointment to review files in DEQ's Northwest Region office, call 503-229-6729. Send comment to DEQ Project Manager, Jennifer Sutter, DEQ Northwest Region, 2020 SW 4th Ave., Portland, OR 97201 or [sutter.jennifer@deq.state.or.us](mailto:sutter.jennifer@deq.state.or.us) by Tuesday, July 31, 2012. For more information contact Jennifer at 503-229-6148.

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

**ACCESSIBILITY INFORMATION:** DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these

arrangements, contact DEQ Communications & Outreach (503) 229-5696 or toll free in Oregon at (800) 452-4011; fax to 503-229-6762; or e-mail to [deqinfo@deq.state.or.us](mailto:deqinfo@deq.state.or.us)

People with hearing impairments may call DEQ's 711.

### REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION FOR RK WILSON PROPERTY

**COMMENTS DUE:** 5 p.m., Monday, July 30, 2012

**PROJECT LOCATION:** RK Wilson Property at 7360 Pointer Road and 7385 SW Canyon Lane Beaverton, OR

**PROPOSAL:** The Department of Environmental Quality invites public comment on DEQ's proposal to issue a No Further Action determination for the site, following completion of remedial actions at the RK Wilson Property.

**HIGHLIGHTS:** The site is located in the West Slope neighborhood in Beaverton, Oregon, between Highway 26 to the north and Canyon Lane. Historical site use included rural residential and agricultural land uses, and greenhouse operations on a portion of the site from the 1930s until 2005. Mr. Ronnie Wilson purchased the site in 2005 and demolished the greenhouses.

The Tualatin Parks and Recreation District plans to purchase the site for future development as a neighborhood park.

Site investigations in 2011 to 2012 resulted in the excavation and disposal of 435 tons of soils that exceeded residential risk based concentrations for arsenic. All remaining surface soils are below pesticide and metals relevant risk criteria for residential exposures.

Ground water sampled from an onsite well did not exceed risk standards but exceeded DEQ's arsenic drinking water standard. However it was below federal standards. Shallow ground water from an onsite irrigation well is not currently used and future groundwater use is unlikely due to city water availability.

Based on the review of site information, DEQ proposes that no further action is required to address environmental contamination at the site.

**HOW TO COMMENT:** To review project records, contact Dawn Weinberger at 503 229-6729. Send written comments by 5 p.m., July 30, to Project Manager, Jim Orr at the Department of Environmental Quality, Northwest Region, 2020 SW 4th Avenue, Suite 400, Portland, OR 97201, [orr.jim@deq.state.or.us](mailto:orr.jim@deq.state.or.us). DEQ will hold a public meeting to receive verbal comments if review is requested by 10 or more people or by a group with a membership of 10 or more. The DEQ staff report for this site is at: <http://www.deq.state.or.us/Webdocs/Forms/Output/FPCcontroller.ashx?SourceId=5281&SourceIdType=11>

**THE NEXT STEP:** DEQ will consider all comments received and make a final decision after consideration of these comments.

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

People with hearing impairments may call 711.

# NOTICES OF PROPOSED RULEMAKING

## Notices of Proposed Rulemaking and Proposed Rulemaking Hearings

The following agencies provide Notice of Proposed Rulemaking to offer interested parties reasonable opportunity to submit data or views on proposed rulemaking activity. To expedite the rulemaking process, many agencies have set the time and place for a hearing in the notice. Copies of rulemaking materials may be obtained from the Rules Coordinator at the address and telephone number indicated.

Public comment may be submitted in writing directly to an agency or presented orally or in writing at the rulemaking hearing. Written comment must be submitted to an agency by 5:00 p.m. on the Last Day for Comment listed, unless a different time of day is specified. Written and oral comments may be submitted at the appropriate time during a rulemaking hearing as outlined in OAR 137-001-0030.

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

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

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

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**Board of Architect Examiners**  
**Chapter 806**

**Rule Caption:** Architect continuing education rules.

**Date:** 7-24-12      **Time:** 9:30 a.m.      **Location:** 205 Liberty St. NE  
Salem, OR 97301

**Hearing Officer:** Patrick Bickler

**Stat. Auth.:** ORS 671.020 & 671.125

**Stats. Implemented:** ORS 671.020 & 671.125

**Proposed Amendments:** 806-010-0090, 806-010-0105, 806-010-0145

**Last Date for Comment:** 7-24-12, 4:30 p.m.

**Summary:** Amends the rules regarding Continuing Education requirements. OBAE has completed the transition from a one-year license period to a two-year license period. These rules need to be amended to reflect that new reality. In addition, Continuing Education for architects has become a patchwork of confusing regulations nationally. Continuing Education hours are called different things in different jurisdictions. There are over 30 different reporting periods and 6 different hourly requirements. Architects may even need to collect 5 different types of hours needed to satisfy specific jurisdictional registration renewals. In a monumental effort to bring some order to this chaos, Registration Boards agreed last year at their annual meeting to bring some uniformity to this system. Oregon is doing its part by revising its rules for Continuing Education regarding name, definition and tying the number of hours needed to our two-year registration period. In this regard, the Board is proposing to allow registrants to complete 24 Continuing Education Hours (CEH) over the two-year registration period. The provision for carry-over would be dropped. The Board believes 24 months is ample time for registrants to take advantage of CEH opportunities as they present themselves.

**Rules Coordinator:** Jim Denno

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

**Telephone:** (503) 763-0662

**Rule Caption:** Inactive Status and Reinstatement.

**Date:** 7-24-12      **Time:** 9:30 a.m.      **Location:** 205 Liberty St. NE  
Salem, OR 97301

**Hearing Officer:** Patrick Bickler

**Stat. Auth.:** ORS 671.020

**Stats. Implemented:** ORS 671.020

**Proposed Amendments:** 806-010-0060

**Last Date for Comment:** 7-24-12, 4:30 p.m.

**Summary:** Amends the rules regarding Inactive Status and Reinstatement requirements. In light of the change from a one to a two-year license renewal cycle, and the alignment of CEH rules with other jurisdictions nationally, as well as for clarity of language, the Board has proposed changes to the Rule regarding Inactive Status and Reinstatement.

**Rules Coordinator:** Jim Denno

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

**Telephone:** (503) 763-0662

\*\*\*\*\*  
**Board of Chiropractic Examiners**  
**Chapter 811**

**Rule Caption:** Rules of Procedure in Contested Cases Amendments and date change.

**Date:** 9-20-12      **Time:** 2 p.m.      **Location:** 3218 Pringle Rd. SE  
Salem, OR

**Hearing Officer:** Dave McTeague

**Stat. Auth.:** ORS 183

**Stats. Implemented:** ORS 684.155(b)

**Proposed Amendments:** 811-001-0010, 811-001-0005

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

**Summary:** Proposed Amendments

811-001-0010, Rules of Procedure in Contested Cases

(1) In sexual boundary and unprofessional conduct cases; The Board requires an answer to charges as part of notices to parties in contested cases: In addition to the requirements of the Attorney General's Model Rules of Procedure adopted by the Board, the notice to parties in contested cases may include a statement that an answer to the assertions or charges will be requested and, if so, the consequences of failure to answer. A statement of the consequences of failure to answer may be satisfied by enclosing a copy of section (2) of this rule with the notice.

(2) In sexual boundary and unprofessional conduct cases, hearing requests and answers: Consequences of failure to answer:

(a) A hearing request, and answer when requested, shall be made in writing to the Board by the party or his attorney and an answer shall include the following:

(A) An admission or denial of each factual matter alleged in the notice;

(B) A short and plain statement of each relevant affirmative defense the party may have.

(b) Except for good cause:

(A) Factual matters alleged in the notice and not denied in the answer shall be presumed admitted;

(B) Failure to raise a particular defense in the answer will be considered a waiver of such defense;

(C) New matters alleged in the answer (affirmative defenses) shall be presumed to be denied by the agency; and

(D) Evidence shall not be taken on any issue not raised in the notice and answer.

811-001-0005

Pursuant to the provisions of ORS 183.341, the Board of Chiropractic Examiners adopts the Attorney General's Uniform and Model Rules of Procedure under the Administrative Procedures Act January 2012, these rules shall be controlling except as otherwise required by statute or rule.

**Rules Coordinator:** Donna Dougan



# NOTICES OF PROPOSED RULEMAKING

**Address:** Board of Chiropractic Examiners, 3218 Pringle Rd. SE, Suite 150, Salem, OR 97302  
**Telephone:** (503) 373-1579

\*\*\*\*\*

## **Board of Licensed Professional Counselors and Therapists Chapter 833**

**Rule Caption:** Client records, PDS, online grad programs, Code of Ethics changes.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
7-25-12	1:30 p.m.	3218 Pringle Rd. SE Salem, OR

**Hearing Officer:** Becky Eklund

**Stat. Auth.:** ORS 675.705 – 675.835

**Stats. Implemented:** ORS 675.705–675.835

**Proposed Adoptions:** 833-100-0081

**Proposed Amendments:** 833-010-0001, 833-020-0201, 833-060-0012, 833-080-0011, 833-100-0041

**Last Date for Comment:** 7-25-12, Close of Business

**Summary:** Adds definition of “client record.” Adds record retention. Adds custodian of record reporting. Adds requirements to professional disclosure statements. Removes national accreditation requirement for online graduate programs. Amends Code of Ethics to include supervisee relationships in Integrity section.

**Rules Coordinator:** Becky Eklund

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

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

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## **Bureau of Labor and Industries Chapter 839**

**Rule Caption:** Proposed rules clarifying that complaints under ORS 654.062 need not be notarized written complaints.

**Stat. Auth.:** ORS 659A.805

**Other Auth.:** ORS 659A.820

**Stats. Implemented:** ORS 654.062 & 659A

**Proposed Adoptions:** 839-003-0031

**Proposed Amendments:** 839-003-0005, 839-003-0025, 839-003-0200

**Last Date for Comment:** 8-6-12, Close of Business

**Summary:** Current rules require 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

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

**Telephone:** (971) 673-0784

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## **Department of Administrative Services Chapter 125**

**Rule Caption:** Adopt rule to implement the Sale of Compressed Natural Gas (CNG) to Private Entities.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
7-16-12	10 a.m.	1225 Ferry St. SE, Mt. Mazama Conference Rm. Salem, OR

**Hearing Officer:** Brian King

**Stat. Auth.:** ORS 283.310

**Other Auth.:** 2010 OL Ch. 30, Sec. 13 & 14

**Stats. Implemented:** ORS 283.327

**Proposed Adoptions:** 125-156-0000

**Last Date for Comment:** 7-16-12, 5 p.m.

**Summary:** 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

**Address:** Department of Administrative Services, 155 Cottage St. NE, Salem, OR 97301

**Telephone:** (503) 378-5522

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## **Department of Agriculture Chapter 603**

**Rule Caption:** Adoption of Federal Regulations for Food Standards, Processing, Manufacture, and Distribution.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
7-25-12	10:30 a.m.	OR Dept. of Agriculture Bldg. 635 Capitol St. NE Salem, OR 97301

**Hearing Officer:** Eric Edmunds

**Stat. Auth.:** ORS 561.190, 561.605, 561.620 & 616.230

**Stats. Implemented:** ORS 561.605–561.620 & 616.230

**Proposed Amendments:** 603-025-0190

**Last Date for Comment:** 7-27-12, 5 p.m.

**Summary:** The proposed amendment updates the Code of Federal Regulations reference from the 2005 version to the 2010 version. This will ensure that Oregon maintains regulations that are current and consistent with neighboring states. The parts of the C.F.R. that were previously adopted are substantially similar in the 2010 version. The amendment will adopt 21 C.F.R. parts 7 (Enforcement Policy), 111 (Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements), and 118 (Production, Storage, and Transportation of Shell Eggs) for the first time in Oregon.

21 C.F.R. 7 governs the practices and procedures of enforcement actions initiated by the government and provides guidance for manufacturers and distributors to follow with respect to their voluntary removal or correction of marketed violative products (recall of products). 21 C.F.R. 111 regulates the manufacture, packaging, labeling, and storage of dietary supplements. The regulations in 21 C.F.R. 111 do not apply to a person that is holding dietary supplements at a retail establishment for the sole purpose of direct retail sale to individual customers. 21 C.F.R. 118 regulates the production, storage, and transportation of shell eggs, and applies to: (1) shell egg producers with 3,000 or more laying hens at a particular farm that do not sell all of their eggs directly to consumers and produces shell eggs for the table market, and (2) persons that transport or hold shell eggs for shell egg processing or egg products facilities from farms with 3,000 or more laying hens.

**Rules Coordinator:** Sue Gooch

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

**Telephone:** (503) 986-4583

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

**Rule Caption:** Changes licensee continuing education requirements, course content requirements, and provider approval process.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
7-17-12	9:30 a.m.	1535 Edgewater St. NW Salem, OR 97304

**Hearing Officer:** Jim Hanson

**Stat. Auth.:** ORS 455.030, 455.110 & 455.117

**Stats. Implemented:** ORS 455.117

**Proposed Adoptions:** Rules in 918-035

**Proposed Amendments:** Rules in 918-030, 918-035

# NOTICES OF PROPOSED RULEMAKING

**Last Date for Comment:** 7-20-12, 5 p.m.

**Summary:** These rules amend the code-change course requirements for persons licensed by the Building Codes Division by specifying the number of code-change hours for certain licenses, changing code-change course content requirements, adding separate Oregon rule and law requirements, and streamlining the course approval processes. These rules remove the requirement that all code-change courses contain materials about the Oregon amendments. These rules also clarify that licensees who take code-change courses covering only a national model code must still obtain continuing education on the Oregon amendments to that code. Finally, these rules allow for a streamlined course approval process for certain national code-development organizations.

**Rules Coordinator:** Stephanie Snyder

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

**Telephone:** (503) 373-7438

\*\*\*\*\*

**Rule Caption:** Amendment of radon gas mitigation standards in the 2010 OSSC.

Date:	Time:	Location:
7-17-12	10 a.m.	1535 Edgewater St. NW Salem, OR 97304

**Hearing Officer:** Richard Rogers

**Stat. Auth.:** ORS 455.020, 455.030, 455.110, 455.112 & 455.365

**Stats. Implemented:** ORS 455.365

**Proposed Amendments:** 918-460-0015

**Last Date for Comment:** 7-20-12, 5 p.m.

**Summary:** Senate Bill 1025 (2010) required the Building Codes Structures Board to adopt radon mitigation standards by January 1, 2011 for new public buildings in seven identified counties: Baker, Clackamas, Hood River, Multnomah, Polk, Washington and Yamhill. The Board adopted commercial standards by the January 1, 2011 date mandated in the legislation, but acknowledged that the radon mitigation standards in the Oregon Structural Specialty Code (OSSC) for new public buildings still needed further work to provide the clarity and detail about the components of radon mitigation systems for new public buildings constructed to the OSSC. These proposed rule amendments provide that needed clarity and specificity about the radon mitigation systems to be constructed for new public buildings. The proposed amendments will be effective April 1, 2013.

**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, Insurance Division Chapter 836

**Rule Caption:** Notice Requirements for Carriers Regarding State Continuation of Health Insurance.

Date:	Time:	Location:
8-9-12	9 a.m.	Labor & Industries Bldg. 350 Winter St. NE, CR-F Salem, Oregon

**Hearing Officer:** Jeannette Holman

**Stat. Auth.:** ORS 731.244, 743.610

**Stats. Implemented:** ORS 743.610

**Proposed Adoptions:** 836-053-0863

**Proposed Repeals:** 836-053-0862

**Last Date for Comment:** 8-17-12, 5 p.m.

**Summary:** This rulemaking repeals a rule adopted by the Department of Consumer and Business Services (DCBS) related to state continuation of health insurance. The repealed rule includes material required by federal law (American Recovery and Reinvestment Act) that is no longer applicable to state continuation. The new rule establishes the requirements for carriers as reflected in 2012 legislation, chapter 24, Oregon Laws 2012 (Enrolled Senate Bill 1504)

that amended ORS 743.610 to eliminate the notice requirement for state continuation benefits specifically prescribed in statute and gave DCBS the authority to prescribe requirements by rule. Oregon's state continuation program is crucial in allowing many newly unemployed Oregonians to maintain their health insurance coverage at a time when they need it the most and it is important that notice of the availability of the program be provided in a timely and understandable manner. A standardized notice as proposed in these rules will facilitate this goal.

The notice proposed under this rule includes a provision that defines when the notice requirement is triggered and provision to allow an insurer to send a single notice to multiple persons who are eligible for state continuation as a result of a single qualifying event.

**Rules Coordinator:** Sue Munson

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

**Telephone:** (503) 947-7272

\*\*\*\*\*

**Rule Caption:** Adoption of Revisions to Workers' Compensation Statistical Plan.

**Stat. Auth.:** ORS 731.244 & 737.225

**Stats. Implemented:** ORS 737.225

**Proposed Amendments:** 836-042-0040, 836-042-0043, 836-042-0045

**Last Date for Comment:** 7-31-12, 5 p.m.

**Summary:** 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

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

**Telephone:** (503) 947-7272

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

**Rule Caption:** Propose to adopt federal correction/technical amendment to Rigging Equipment for Material Handling in construction.

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

**Stats. Implemented:** ORS 654.001–654.295

**Proposed Amendments:** 437-003-0001

**Last Date for Comment:** 7-31-12, Close of Business

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

Federal OSHA corrected the sling standard for construction titled Rigging Equipment for Material Handling, by removing the rated capacity tables and making minor, nonsubstantive revisions to the regulatory text. These changes were published in the April 18, 2012 Federal Register.

Oregon OSHA proposes to make these corrections and amendments to 1926.251 in Division 3/H.

Please visit our website [www.orosha.org](http://www.orosha.org)

# NOTICES OF PROPOSED RULEMAKING

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

**Rules Coordinator:** Sue C. Joye

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

**Telephone:** (503) 947-7449

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**Department of Fish and Wildlife**  
**Chapter 635**

**Rule Caption:** Regulations Governing Marine Reserves and Protected Areas in Oregon's Territorial Sea.

Date:	Time:	Location:
8-3-12	8 a.m.	3406 Cherry Ave. NE Salem, OR 97303

**Hearing Officer:** Oregon Fish & Wildlife Commission

**Stat. Auth.:** ORS 496.138, 496.146, 506.036, 506.109, 506.119 & 506.129

**Other Auth.:** Senate Bill 1510 (2012)

**Stats. Implemented:** ORS 196.540-196.555, 496.162 & 506.129

**Proposed Adoptions:** Rules in 635-012

**Proposed Amendments:** Rules in 635-012

**Proposed Repeals:** Rules in 635-012

**Proposed Renumberings:** Rules in 635-012

**Proposed Ren. & Amends:** Rules in 635-012

**Last Date for Comment:** 8-3-12, 8 a.m.

**Summary:** Adoptions and amendments to Oregon's Administrative Rules relative to Oregon's Marine Reserves extensively modify and expand regulations for the marine reserves and marine protected areas to meet 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:** Therese Kucera

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

**Telephone:** (503) 947-6033

.....  
**Rule Caption:** Allowable Sales of Steelhead and Walleye by Columbia River Treaty Tribes.

Date:	Time:	Location:
8-3-12	8 a.m.	3406 Cherry Ave. NE Salem, OR 97303

**Hearing Officer:** Oregon Fish & Wildlife Commission

**Stat. Auth.:** ORS 506.119, 508.530 & 509.031

**Stats. Implemented:** ORS 498.022, 506.129, 508.535 & 508.550

**Proposed Adoptions:** Rules in 635-041

**Proposed Amendments:** Rules in 635-041

**Proposed Repeals:** Rules in 635-041

**Last Date for Comment:** 8-3-12, 8 a.m.

**Summary:** 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

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

**Telephone:** (503) 947-6033

.....  
**Rule Caption:** Amendments regarding harvest of game birds, season dates, open areas and bag limits.

Date:	Time:	Location:
8-3-12	8 a.m.	3406 Cherry Ave. NE Salem, OR 97303

**Hearing Officer:** Oregon Fish and Wildlife Commission

**Stat. Auth.:** ORS 496.012, 496.138, 486.146, 496.162 & 498.002  
**Stats. Implemented:** ORS 496.012, 496.138, 486.146, 496.162 & 498.002

**Proposed Amendments:** Rules in 635-008, 635-010, 635-044, 635-045, 635-051, 635-052, 635-053, 635-054, 635-056, 635-060, 635-200

**Last Date for Comment:** 8-2-12, Close of Business

**Summary:** 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

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

**Telephone:** (503) 947-6033

.....  
**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.

Date:	Time:	Location:
7-19-12	3:30 p.m.	Human Services Bldg., Rm. 352 500 Summer St. NE Salem, OR 97301

**Hearing Officer:** Jennifer Bittel

**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 & 2012 OL Ch. 70

**Proposed Adoptions:** 407-007-0277

**Proposed Amendments:** 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

**Proposed Repeals:** 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)

**Last Date for Comment:** 7-25-12, 5 p.m.

**Summary:** The Background Check Unit (BCU) implemented the use of the Criminal Records Information Management System (CRIMS); the proposed 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.

Proposed rules are available on the Background Check Unit website: <http://www.oregon.gov/DHS/chc/index.shtml>, and the Department of Human Services website: <http://www.oregon.gov/DHS/admin/dwssrules/index.shtml>. For hardcopy requests, call: (503) 947-5250.

**Rules Coordinator:** Jennifer Bittel

# NOTICES OF PROPOSED RULEMAKING

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

**Telephone:** (503) 947-5250

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

**Rule Caption:** Medicaid Nursing Facilities.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
7-17-12	3:30 p.m.	500 Summer St. NE, Rm. 160 Salem, OR 97301

**Hearing Officer:** Staff

**Stat. Auth.:** ORS 410.070 & 414.065

**Other Auth.:** Senate Bill 939 (2011) (2011 OL Ch. 630)

**Stats. Implemented:** ORS 410.070 & 414.065

**Proposed Amendments:** 411-070-0442, 411-070-0452

**Last Date for Comment:** 7-23-12, 5 p.m.

**Summary:** The Department of Human Services (Department) is proposing to amend 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

**Address:** Department of Human Services, Seniors and People with Disabilities Division, 500 Summer St. NE, E-10, Salem, OR 97301

**Telephone:** (503) 945-6398

.....

**Rule Caption:** Residential Care and Assisted Living Facilities.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
7-17-12	2:30 p.m.	500 Summer St. NE, Rm. 160 Salem, OR 97301

**Hearing Officer:** Staff

**Stat. Auth.:** ORS 410.070 & 443.450

**Other Auth.:** Senate Bill 557 (2011)

**Stats. Implemented:** ORS 443.004, 443.400-443.455 & 443.991

**Proposed Amendments:** 411-054-0005, 411-054-0010, 411-054-0012, 411-054-0013, 411-054-0016, 411-054-0019, 411-054-0025, 411-054-0027, 411-054-0034, 411-054-0085, 411-054-0093, 411-054-0200, 411-054-0300

**Last Date for Comment:** 7-23-12, 5 p.m.

**Summary:** The Department of Human Services (Department) is updating the residential care (RCF) and assisted living facility (ALF) rules in OAR chapter 411, division 054 to:

- Update the application and license renewal requirements to comply with direction from the Center for Medicare and Medicaid Services (CMS) regarding ownership;
- Comply with Senate Bill 557 regarding the sexual assault task force by requiring facilities to implement a policy for the referral of residents who may be victims of acute sexual assault to the nearest trained sexual assault examiner;
- Update the facility building requirements as of August 1, 2012 to comply with current building codes and regulations and the International Code Council, American National Standards Institute (ICC/ANSI), Accessible and Usable Building and Facilities, A117.1;
- Clarify the rules relating to remodeling, renovating, and resident displacement due to remodeling;
- Remove the requirement that providers submit an Emergency Preparedness Plan Summary to the Department annually and upon change in ownership to reduce the workload impact for providers and the Department which is prudent during these times of fiscal reductions;
- Comply with the Oregon Indoor Clean Air Act, ORS 443.835 to 433.875, by clarifying the evaluation of smoking addressed in service plans; and

- Clarify the rules relating to voluntary closures, ownership issues, required postings, use of resident funds, and the evaluation of alcohol and drug use addressed in service plans.

**Rules Coordinator:** Christina Hartman

**Address:** Department of Human Services, Seniors and People with Disabilities Division, 500 Summer St. NE, E-10, Salem, OR 97301

**Telephone:** (503) 945-6398

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

**Rule Caption:** Registration Card; Information Required by the Department.

**Stat. Auth.:** ORS 184.616, 184.619, 802.010 & 803.500

**Stats. Implemented:** ORS 803.500

**Proposed Adoptions:** 735-030-0105

**Last Date for Comment:** 7-23-12, Close of Business

**Summary:** ORS 803.500 specifies the information required to be shown on an Oregon registration card. That information includes the name of the registered owner, vehicle make, year model, vehicle identification number, vehicle mileage, and the word "totaled" if the vehicle has been reported totaled to the department. In addition, DMV is granted authority to specify any other information required to be shown on the registration card.

As authorized under ORS 803.500(7), DMV proposes to adopt OAR 735-030-0105 to specify information required by DMV to be shown on an Oregon vehicle registration card. The proposed rule also authorizes the registered owner to black out or otherwise obscure the residence address, business address, vehicle address, and mailing address once the registration card has been received.

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

**Rules Coordinator:** Lauri Kunze

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

**Telephone:** (503) 986-3171

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## **Department of Transportation, Motor Carrier Transportation Division Chapter 740**

**Rule Caption:** Motor carrier accounts.

**Stat. Auth.:** ORS 184.616, 184.619, 823.011 & 825.470

**Stats. Implemented:** ORS 823.027, 823.029, 825.470 & 825.506

**Proposed Adoptions:** 740-035-0005, 740-035-0015, 740-055-0025

**Proposed Amendments:** 740-040-0070

**Last Date for Comment:** 7-23-12, Close of Business

**Summary:** These rules describe the application process for certificates, permits, and licenses for a motor carrier to obtain authority to operate in Oregon. In addition, these rules describe the records, reports, fees and taxes that relate to a motor carrier's account and the applicable bond and insurance requirements. The proposed new rules define the meaning of a temporary motor carrier account, an established motor carrier account and a motor carrier's legal entity. A temporary motor carrier account is necessary to temporarily grant authority to operate a commercial motor vehicle in Oregon. Because fees, registration and taxes are paid at the time a temporary pass is purchased, a motor carrier operating on a temporary account is not required to complete an Application for Motor Carrier Account Form 9075 which is necessary to determine the motor carrier's legal entity. The proposed new rule limits the number of temporary passes a motor carrier can purchase in a twelve month period before a motor carrier is required to provide the Department with sufficient information to identify the motor carrier's legal entity. The proposed new rules are needed to ensure a motor carrier that operates on a regular basis in Oregon establishes an account, provides the Department with

# NOTICES OF PROPOSED RULEMAKING

their legal entity, and provides deposits to secure payment of fees. The proposed rule amendment establishes cash deposit and security bond requirements for motor carriers that operate on temporary accounts. A temporary pass fee is \$9 and is charged every time a pass is issued.

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

**Rules Coordinator:** Lauri Kunze

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

**Telephone:** (503) 986-3171

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**Rule Caption:** Registration refunds and transfer of fees.

**Stat. Auth.:** ORS 184.616, 184.619 & 823.011

**Stats. Implemented:** ORS 803.590, 826.009, 826.011, 826.027 & 826.039

**Proposed Amendments:** 740-200-0030

**Last Date for Comment:** 7-23-12, Close of Business

**Summary:** These rules describe registration and the methods the Department will reimburse unused apportioned and non-apportioned registration fees. The proposed rule amendments provide definitions that explain when the Department will allow unused registration fees to be refunded or transferred to a like vehicle in the registrant's fleet. In addition, the proposed rule amendments specify the conditions for granting credit or not. The rules are needed to clarify the scope and intent of Division 200 rules regarding unused registration fee disbursement and reflect current practices.

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

**Rules Coordinator:** Lauri Kunze

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

**Telephone:** (503) 986-3171

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## Landscape Contractors Board Chapter 808

**Rule Caption:** Amends 2011-2013 adopted budget.

Date:	Time:	Location:
7-23-12	9 a.m.	2111 Front St. NE, Suite 2-101 Salem, OR 97301

**Hearing Officer:** Shelley Sneed

**Stat. Auth.:** ORS 670.310 & 671.760

**Stats. Implemented:** ORS 182.462

**Proposed Amendments:** 808-001-0008

**Last Date for Comment:** 7-23-12, 5 p.m.

**Summary:** OAR 808-001-0008 is being amended to amend the 2011-2013 budget.

**Rules Coordinator:** Kim Gladwill-Rowley

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

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

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## Oregon Health Authority Chapter 943

**Rule Caption:** Public Contracting and Procurement Rules for the Oregon Health Authority.

Date:	Time:	Location:
7-19-12	1 p.m.	State Library Bldg., Rm. 102 Salem, OR

**Hearing Officer:** Jennifer Bittel

**Stat. Auth.:** ORS 179.040, 279A.065, 279A.070, 413.014, 413.033 & 413.042

**Stats. Implemented:** ORS 179.040, 279A.025, 279A.050, 279A.065, 279A.070, 279A.075, 279A.140, 279A.180, 279B.050, 279B.085, 413.033, 413.042 & 670.600

**Proposed Adoptions:** 943-060-0000 – 943-060-0120

**Proposed Repeals:** 943-060-0050(T)

**Last Date for Comment:** 7-25-12, 5 p.m.

**Summary:** 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

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

**Telephone:** (503) 932-9663

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**Rule Caption:** Criminal and Abuse Checks and Appeal Rights for Authority Employees, Volunteers, Contractors and Providers.

**Stat. Auth.:** ORS 181.534, 181.537 & 413.042

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

**Stats. Implemented:** ORS 181.534, 181.537 & 183.341

**Proposed Adoptions:** 943-007-0001, 943-007-0335, 943-007-0501

**Proposed Repeals:** 943-007-0001(T), 943-007-0335(T), 943-007-0501(T)

**Last Date for Comment:** 7-26-12, 5 p.m.

**Summary:** 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 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 needs to adopt OAR 943-007-0001 which allows the Authority to use reports of abuse and neglect when conducting background checks on subject individuals.

The Authority needs to adopt 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

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

**Telephone:** (503) 932-9663

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## Oregon Health Authority, Division of Medical Assistance Programs Chapter 410

**Rule Caption:** Rural Medical Practitioners Insurance Subsidy Program Practitioner Participation Criteria and Carrier Requirements for Subsidy Payments.

Date:	Time:	Location:
7-17-12	10:30 a.m.	500 Summer St. NE, Rm. 137C Salem, OR 97301

**Hearing Officer:** Cheryl Peters

# NOTICES OF PROPOSED RULEMAKING

**Stat. Auth.:** ORS 413.042

**Stats. Implemented:** ORS 676.550, 676.552, 676.554 & 676.556

**Proposed Adoptions:** 410-500-0000, 410-500-0010, 410-500-0020, 410-500-0030, 410-500-0040, 410-500-0050, 410-500-0060.

**Last Date for Comment:** 7-19-12, 5 p.m.

**Summary:** 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 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

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

**Telephone:** (503) 945-6527

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**Rule Caption:** Adopts Attorney General's model rules with the exception to the postmark date.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
7-15-12	10:30 a.m.	500 Summer St. NE, Rm. 137C Salem, OR 97301

**Hearing Officer:** Cheryl Peters

**Stat. Auth.:** ORS 183.341 & 413.042

**Stats. Implemented:** ORS 183.411–183.470, 414.025 & 414.065

**Proposed Amendments:** 410-141-0264

**Last Date for Comment:** 7-19-12, 5 p.m.

**Summary:** 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.

**Rules Coordinator:** Cheryl Peters

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

**Telephone:** (503) 945-6527

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**Rule Caption:** Implementation of Coordinated Care Organizations to Provide Care for Medical Assistance Recipients.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
7-17-12	10:30 a.m.	500 Summer St. NE Human Services Bldg., Rm. 137C Salem, OR 97301

**Hearing Officer:** Cheryl Peters

**Stat. Auth.:** ORS 410.032, 414.615, 414.625, 414.635 & 414.651

**Other Auth.:** ORS 2011 HB 3650, 2011 OL Ch. 602 & 2012 SB 1580

**Stats. Implemented:** ORS 414.610–414.685

**Proposed Adoptions:** 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

**Proposed Amendments:** 410-141-0000

**Proposed Repeals:** 410-141-3265, 410-141-3266

**Last Date for Comment:** 7-22-12, 5 p.m.

**Summary:** 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 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

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

**Telephone:** (503) 945-6527

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## Oregon Health Licensing Agency Chapter 331

**Rule Caption:** Adopt qualifications and requirements for polysomnographic technologist licensure including pathways to licensure, supervision protocols/requirements.

**Stat. Auth.:** ORS 676.615, 676.607, 688.819, 688.830

**Stats. Implemented:** ORS 676.607, 676.615, 688.800, 688.815, 688.819, 688.830

**Proposed Adoptions:** 331-710-0060, 331-710-0070, 331-710-0080, 331-710-0090, 331-710-0100, 331-710-0110

**Proposed Amendments:** 331-710-0010, 331-710-0040, 331-710-0050

**Last Date for Comment:** 7-28-12, 5 p.m.

**Summary:** Repeal requirement that an individual applying for licensure must provide proof of high school diploma or General Education Degree (GED) and align with statutory requirement of a high school diploma or equivalent pursuant to ORS 688.815.

Align timeline for passing the Board approved examination with other Agency programs to two-years.

Amend documentation of 18 months experience to "work experience" pursuant to OAR 331-710-0110 and require passage of Oregon Laws and Rules Examination for Polysomnography.

Adopt application requirements for polysomnographic technologist's licensure. Pathways to licensure include the following: Pathway 1 academic degree pursuant to ORS 688.819(1); Pathway 2 completion of the polysomnographic technologist temporary licensee training requirements; Pathway 3 reciprocity and Pathway 4 endorsement with proof of current license as a physician or respiratory therapist or credential from the National Board of Respiratory Care as a Certified Respiratory Therapist or Registered Respiratory Therapist with the Sleep Disorder Specialty.

Adopt rule which defines the a Polysomnographic Technologist under direct and indirect supervision including timeline, supervision requirements and notification of changes.

Adopt application requirements for a Polysomnographic Technologist-Direct Supervision licensee including minimum education requirements and completion of the American Academy of Sleep Medicine (AASM) Accredited Sleep Technology Education Program (A-STEP) Self Study Modules.

Adopt application requirements for a Polysomnographic Technologist-Indirect Supervision licensee including minimum number of sleep studies performed and passage of Oregon Laws and Rules Examination for polysomnography.

Adopt rule which specifies requirements for being an approved supervisor for temporary polysomnographic technologist including current licensure as a polysomnographic technologist with no current or pending disciplinary action, three years experience in polysomnography, ratio of patients to supervisors, notification requirements and documentation of work experience.

**Rules Coordinator:** Samantha Patnode

# NOTICES OF PROPOSED RULEMAKING

**Address:** Oregon Health Licensing Agency, 700 Summer St. NE, Suite 320, Salem, OR 97301-1287  
**Telephone:** (503) 373-1917

.....  
**Oregon Liquor Control Commission**  
**Chapter 845**

**Rule Caption:** Amend rule to implement statutory changes allowing additional Special Events Distillery license privileges.

**Date:** 7-24-12      **Time:** 10 a.m.      **Location:** 9079 SE McLoughlin Blvd. Portland, OR 97222

**Hearing Officer:** Jennifer Huntsman

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

**Stats. Implemented:** ORS 471.230

**Proposed Amendments:** 845-005-0413

**Last Date for Comment:** 8-7-12, 5 p.m.

**Summary:** This rule describes the Special Events license that is available to current Distillery licensees and also describes the application process. House Bill (HB) 4092 amends ORS 471.230 to provide the additional license privileges of selling distilled spirits manufactured by the distillery licensee both by the drink and by the bottle at these special events. Staff recommends amending section (5) of the rule by adding a new (5)(h) which requires compliance with applicable food standards if the licensee chooses to offer distilled spirits by the drink. Staff also recommends replacing the current sections (14) and (15) regarding tastings with a new section (14) outlining the three privileges now allowed: tastings, drinks, and factory-sealed containers (bottles). This new language will also include any purchase or sale pricing requirements as specified in statute. Because the statute specifies that they must be appointed as a retail outlet agent to sell by the bottle, subsection (14)(c) will also include a cross reference to their agent agreement and manual. Also recommended by staff is the deletion of section (18), since the same rules governing service permit and server age requirements that apply to all other licensees will now apply to this special event license. And finally, staff recommends minor housekeeping amendments such as deleting the duplicative language of section (19) regarding violation level.

**Rules Coordinator:** Jennifer Huntsman

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

**Telephone:** (503) 872-5004

.....  
**Oregon Public Employees Retirement System**  
**Chapter 459**

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

**Date:** 8-22-12      **Time:** 2 p.m.      **Location:** PERS Boardroom 11410 SW 68th Pkwy. Tigard, OR 97223

**Hearing Officer:** Daniel Rivas

**Stat. Auth.:** ORS 238 & 238A, 238.410, 238.650 & 238A.450

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

**Proposed Adoptions:** 459-005-0400, 459-005-0410, 459-005-0420, 459-005-0430

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

**Last Date for Comment:** 8-29-12, 5 p.m.

**Summary:** PERS is generally subject to the public contracting and procurement provisions in ORS Chapters 279A, 279B, and 279C, with some statutory exceptions. The purpose of this rulemaking is to establish uniform rules applicable when PERS has independent contracting and procurement authority. PERS proposes to adopt the DOJ Model Public Contracting Rules, as effective on January 1, 2012 and as thereafter amended, as generally applicable to PERS, with exceptions being specifically identified.

**Rules Coordinator:** Daniel Rivas

**Address:** Oregon Public Employees Retirement System, PO Box 23700, Tigard, OR 97281  
**Telephone:** (503) 603-7713

.....  
**Oregon University System,**  
**Eastern Oregon University**  
**Chapter 579**

**Rule Caption:** To increase monthly rent due to increased costs.

**Stat. Auth.:** ORS 351.070

**Stats. Implemented:** ORS 351.070

**Proposed Amendments:** 579-030-0010

**Last Date for Comment:** 7-23-12, 5 p.m.

**Summary:** Family Housing two bedroom units \$350, includes water, sewer and garbage service. \$30.00 application deposit required.

**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,**  
**Oregon State University**  
**Chapter 576**

**Rule Caption:** Providing random and individualized drug testing of athletes.

**Date:** 7-24-12      **Time:** 1 p.m.      **Location:** Memorial Union 206 Oregon State University Corvallis, OR

**Hearing Officer:** Beth Giddens

**Stat. Auth.:** ORS 351.070

**Stats. Implemented:** ORS 351.070

**Proposed Amendments:** 576-023-0005, 576-023-0010, 576-023-0015, 576-023-0020, 576-023-0025, 576-023-0030, 576-023-0035, 576-023-0040

**Proposed Repeals:** 576-023-0012

**Last Date for Comment:** 7-26-12, Close of Business

**Summary:** 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

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

**Telephone:** (541) 737-2449

.....  
**Rule Caption:** Allowing beer and wine consumption at the OSU-Cascades campus.

**Date:** 7-24-12      **Time:** 1 p.m.      **Location:** Memorial Union 206 Oregon State University Corvallis, OR

**Hearing Officer:** Beth Giddens

**Stat. Auth.:** ORS 351.070

**Stats. Implemented:** ORS 351.070

**Proposed Amendments:** 576-060-0025, 576-060-0035

**Last Date for Comment:** 7-26-12, 11:30 a.m.

**Summary:** 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

## NOTICES OF PROPOSED RULEMAKING

**Address:** Oregon University System, Oregon State University, 638  
Kerr Administration Bldg., Corvallis, OR 97331  
**Telephone:** (541) 737-2449

.....  
**Oregon University System,  
University of Oregon  
Chapter 571**

**Rule Caption:** Amend OAR 571-060-0005 to include residence  
hall room and board rates.

<b>Date:</b>	<b>Time:</b>	<b>Location:</b>
7-24-12	9 a.m.	Walnut Rm., Erb Memorial Union University of Oregon Eugene, OR

**Hearing Officer:** Kathie Stanley

**Stat. Auth.:** ORS 351.070 & 352

**Other Auth.:** Delegation granted in OSBHE Finance & Adminis-  
tration Committee Nov. 4, 2011 mtg.

**Stats. Implemented:** ORS 351.070

**Proposed Amendments:** 571-060-0005

**Last Date for Comment:** 7-25-12, 12 p.m.

**Summary:** 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 dining.  
This permanent rule will replace the temporary rule to be effective  
July 1, 2012.

Copies of proposed amendments to the rates may be obtained from  
Lauren Townsend, Rules Coordinator, at [lmt@uoregon.edu](mailto:lmt@uoregon.edu) or  
541-346-3082.

**Rules Coordinator:** Lauren Townsend

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

**Telephone:** (541) 346-3082

.....  
**Oregon University System,  
Western Oregon University  
Chapter 574**

**Rule Caption:** Revisions to special course fees/general services  
fees; student conduct and judicial structure; parking regulations.

**Stat. Auth.:** ORS 351.070 & 351.072

**Stats. Implemented:** ORS 351.070 & 351.072

**Proposed Adoptions:** 574-085-0140

**Proposed Amendments:** 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, 574-032-0040, 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

**Last Date for Comment:** 7-21-12, 5 p.m.

**Summary:** 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

**Address:** Oregon University System, Western Oregon University,  
345 N Monmouth Ave., Monmouth, OR 97361

**Telephone:** (503) 838-8597



# ADMINISTRATIVE RULES

## Board of Chiropractic Examiners Chapter 811

**Rule Caption:** Changes chiropractic assistant application fees to non-refundable and establishes a retention schedule for inactive applications.

**Adm. Order No.:** BCE 1-2012

**Filed with Sec. of State:** 5-31-2012

**Certified to be Effective:** 5-31-12

**Notice Publication Date:** 3-1-2012

**Rules Amended:** 811-010-0110

**Subject:** Changes chiropractic assistant application fees to non-refundable and establishes a retention schedule for inactive applications.

(3)(a) A non-refundable application fee – \$25.00;

(b) A non-refundable application fee – \$35.00; and

(c) License fee – \$50.00. A refund of the license fee will only be allowed when requested within 60 days of the initial application.

(4) The Board shall maintain an incomplete application file for six months from the date the application was received; afterward applicants will need to re-apply.

**Rules Coordinator:** Donna Dougan—(503) 373-1579

### 811-010-0110

#### Chiropractic Assistants

(1) Ancillary personnel authorized by ORS 684.155(c) shall be known as Chiropractic Assistants.

(2) Chiropractic Assistants may be certified upon compliance with the following standards and procedures:

(a) The Chiropractic Assistant applicant shall successfully complete a Board approved training course offered by an association, college or otherwise approved person. Effective January 1, 2011, the initial training course shall be at least twelve hours in length, of which eight hours shall be didactic training and four hours shall be practical training.

(i) The practical training must be in physiotherapy, electrotherapy and hydrotherapy administered by a health care provider licensed to independently provide those therapies.

(ii) A chiropractic physician may perform the initial practical training provided this is direct contact time.

(iii) The initial training must have been completed within 60 days preceding the application submission date;

(b) The applicant shall complete an application form and an open book examination supplied by the Board;

(c) If an applicant has a certificate or license from another state and adequate documentation of training, the Board may waive the requirement for the initial training course; and

(d) A person initially certified between March 1st and May 31st is exempt from the continuing education requirement for renewal.

(3) The training course verification form, completed application form, completed examination, and fees in the following amounts shall be submitted to the Board:

(a) A non-refundable application fee — \$25;

(b) A non-refundable examination fee — \$35; and

(c) License fee — \$50. A refund of the license fee will only be allowed when requested within 60 days of the initial application.

(d) In circumstances beyond the applicant's control (e.g. board review of criminal history) the Board may determine to refund the fees or portion thereof.

(e) In the event the Board requires the NBCE chiropractic assistant examination in lieu of the Board's examination, the fee in subsection (b) will be waived.

(4) The Board shall maintain an incomplete application file for six months from the date the application was received; afterward, applicants will need to re-apply.

(5) The applicant shall be at least 18 years of age.

(6) The Chiropractic Assistant shall not perform electrotherapy, hydrotherapy, or physiotherapy until he or she receives a certificate from the Board.

(7) A Chiropractic Assistant shall be directly supervised by the Chiropractor at all times. The supervising Chiropractor must be on the premises.

(8) The scope of practice does not include performing physical examinations, taking initial histories, taking X-rays, interpretation of postural

screening, doing manual muscle testing or performing osseous adjustments or manipulations.

(9) Chiropractic Assistants shall report to the Board, in writing, his/her mailing address and place of employment. Notification of a change of mailing address or place of employment must be made within 10 days of the change.

(10) On or before each June 1, the Board of Examiners shall send the renewal notice to the Chiropractic Assistant at the last known mailing address.

(11) On or before each August 1 the Chiropractic Assistant shall mail to the Board of Examiners the renewal form with the following:

(a) Renewal fee of \$50; and

(b) Evidence of successful completion of six hours of continuing education during the 12 months preceding. No continuing education hours may be carried over into the next renewal year.

(12) Continuing education programs may be comprised of subjects that are pertinent to clinical practices of chiropractic. Continuing education must meet the criteria outlined in OAR 811-015-0025 sections (8), (9) and (10).

(13) The failure, neglect or refusal of any person holding a certificate to show compliance with subsection (10)(a) and (b) of this rule shall cause the certificate to automatically expire August 1 and the Chiropractic Assistant must reapply.

(14) The Chiropractic Assistant's certificate shall be displayed at all times in the Chiropractic Physician's office during the Chiropractic Assistant's employment.

(15) The Board may refuse to grant a certificate to any applicant, may suspend or revoke a certificate, or may impose upon an applicant for certification or Chiropractic Assistant a civil penalty not to exceed \$1,000 upon finding of any of the following:

(a) Cause, which is defined as, but not limited to, failure to follow directions, unprofessional or dishonorable conduct, injuring a patient, or unlawful disclosure of patient information. The supervising Chiropractic Physician is required to notify the Board, in writing, of any dismissal of a Chiropractic Assistant for cause within ten days. The Board shall determine if there is cause for action and shall be governed by the rules of the Board adopted pursuant to ORS Chapter 183;

(b) Conviction of a misdemeanor involving moral turpitude or a felony; or

(c) Failure to notify the Board of a change of location of employment as required by these rules.

(16) Unprofessional or dishonorable conduct is defined as: any unethical, deceptive, or deleterious conduct or practice harmful to the public; any departure from, or failure to conform to, the minimal standards of acceptable Chiropractic Assistant practice; or a willful or careless disregard for the health, welfare or safety of patients, in any of which cases proof of actual injury need not be established. Unprofessional conduct shall include, but not be limited to, the following acts of a Chiropractic Assistant:

(a) Engaging in any conduct or verbal behavior with or towards a current patient that may reasonably be interpreted as sexual, seductive, sexually demeaning or romantic (also see ORS 684.100).

(b) A certificate holder shall not engage in sexual relations or have a romantic relationship with a current patient unless a consensual sexual relationship or a romantic relationship existed between them before the commencement of the Chiropractic Assistant-patient relationship.

(A) "Sexual relations" means:

(i) Sexual intercourse; or

(ii) Any touching of sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the Chiropractic Assistant for the purpose of arousing or gratifying the sexual desire of either Chiropractic Assistant or patient.

(B) A patient's consent to, initiation of or participation in sexual behavior or involvement with a Chiropractic Assistant does not change the nature of the conduct nor lift the prohibition.

(C) In determining whether a patient is a current patient, the Board may consider the length of time of the Chiropractic Assistant-patient contact, evidence of termination of the Chiropractic Assistant-patient relationship, the nature of the Chiropractic Assistant-patient relationship, and any other relevant information.

(c) Use of protected or privileged information obtained from the patient to the detriment of the patient.

(d) Practicing outside the scope of the practice of a Chiropractic Assistant in Oregon;

(e) Charging a patient for services not rendered;

(f) Intentionally causing physical or emotional injury to a patient;

# ADMINISTRATIVE RULES

(g) Directly or indirectly engaging in threatening, dishonest, or misleading fee collection techniques;

(h) Soliciting or borrowing money from patients;

(i) Possessing, obtaining, attempting to obtain, furnishing, or prescribing controlled drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs; illegally using or dispensing controlled drugs;

(j) Aiding, abetting, or assisting an individual to violate any law, rule or regulation intended to guide the conduct of Chiropractic Assistants or other health care providers; or

(k) Violating the rights of privacy or confidentiality of the patient unless required by law to disclose such information;

(l) Perpetrating fraud upon patients or third party payors, relating to the practice of chiropractic;

(m) Using any controlled or illegal substance or intoxicating liquor to the extent that such use impacts the ability to safely conduct the practice of a Chiropractic Assistant;

(n) Practicing as a Chiropractic Assistant without a current Oregon certificate;

(o) Allowing another person to use one's Chiropractic Assistant certification for any purpose;

(p) Resorting to fraud, misrepresentation, or deceit in applying for or taking the certificate examination or obtaining a certificate or renewal thereof;

(q) Impersonating any applicant or acting as a proxy for the applicant in any Chiropractic Assistant certificate examination;

(r) Disclosing the contents of the certificate examination or soliciting, accepting, or compiling information regarding the contents of the examination before, during, or after its administration;

(s) Failing to provide the Board with any documents requested by the Board;

(t) Failing to fully cooperate with the Board during the course of an investigation, including but not limited to, waiver of confidentiality privileges, except attorney-client privilege;

(u) Claiming any academic degree not actually conferred or awarded;

(v) Disobeying a final order of the Board; and

(w) Splitting fees or giving or receiving a commission in the referral of patients for services.

(x) Receiving a suspension or revocation of a certificate or license for a Chiropractic Assistant, or other license or certificate, by another state based upon acts by the Chiropractic Assistant or applicant that describes acts similar to this section. A certified copy of the record of suspension or revocation of the state making that is conclusive evidence thereof.

(17) The service of the Chiropractic Assistant is the direct responsibility of the licensed Chiropractic Physician. Violations may be grounds for disciplinary action against the Chiropractic Physician under ORS 684.100(9).

Stat. Auth.: ORS 684.155

Stats. Implemented: ORS 684.054 & 684.155(c)(A)

Hist.: CE 1-1990, f. & cert. ef. 2-15-90; CE 5-1992(Temp), f. 10-21-92, cert. ef. 10-23-92; CE 2-1993, f. 3-1-93, cert. ef. 4-23-93; CE 4-1997, f. & cert. ef. 11-3-97; BCE 3-2000, cert. ef. 8-23-00; BCE 1-2001, f. 1-31-01, cert. ef. 2-1-01; BCE 1-2002, f. & cert. ef. 2-6-02; BCE 2-2008, f. & cert. ef. 10-9-08; BCE 2-2010, f. & cert. ef. 6-15-10; BCE 1-2012, f. & cert. ef. 5-31-12

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## Board of Geologist Examiners Chapter 809

**Rule Caption:** Establish procedures for reissuance of revoked registration, clarify meaning of responsible charge, update registration standards.

**Adm. Order No.:** BGE 1-2012

**Filed with Sec. of State:** 6-15-2012

**Certified to be Effective:** 6-15-12

**Notice Publication Date:** 4-1-2012

**Rules Adopted:** 809-015-0020

**Rules Amended:** 809-003-0000, 809-030-0005, 809-030-0015, 809-030-0020, 809-050-0000, 809-050-0010

**Subject:** 809-015-0020 – New rule to establish procedures for Board consideration of a request to reissue a revoked registration.

809-003-0000 – Adopt new definitions to clarify meaning of “responsible charge of work” as defined in ORS 672.505(11) and within OSGBE rules adopted in OAR Chapter 809.

809-030-0005 – Ensure consistent use of the term “responsible charge” within OSGBE rules.

809-030-0015 – Clarify standards for geologist registration with respect to education, examination, and work experience and address supervision in “responsible charge”.

809-030-0020 – Clarify standards for certified engineering geologist registration with respect to education, examination, and work experience and allow a combination of supervised and “responsible charge” work experience as qualifying experience.

809-050-0000 – Clarify when registrant has “responsible charge” in context of sealing and signing geology work products.

809-050-0010 – Clarify standards for cooperative geologist registration with respect to education, examination and work experience in a manner comparable to Oregon standards as required in ORS 672.595 and update temporary permit criteria to reflect limitation imposed by ORS 672.545(3)(b).

**Rules Coordinator:** Christine Valentine—(503) 566-2837

### 809-003-0000

#### Definitions

The definitions of terms used in ORS 672.505 to 672.991, and the rules of this OAR chapter 809, are:

(1) “ASBOG”: National Association of State Boards of Geology; an organization of state boards that regulate the public practice of geology; ASBOG prepares the national geology examinations.

(2) “Deceit”: An attempt to portray as true or valid something that is untrue or invalid.

(3) “Equivalent of 45 quarter hours”: 30 semester hours.

(4) “Expert Opinion”: An opinion tendered to a court, commission, hearings officer, or other tribunal which is considered to be expert testimony by virtue of the professional experience, training, and registration and certification of the geologist tendering the opinion.

(5) “Falsely Impersonate”: To assume without authority or with fraudulent intent the identity of another person.

(6) “False or Forged Evidence”: Untrue documents purporting to be proof, or falsely and fraudulently altered proof.

(7) “Felony”: A crime declared a felony by statute because of the punishment imposed.

(8) “Fraud”: Intentional perversion of truth in order to induce another to part with something of value or to surrender a legal right.

(9) “Geological Work”: For purposes of ORS 672.505(11), “geological work” means the public practice of geology as defined at 672.505(7) or that would otherwise require registration or certification by the Board if not exempted under 672.525 or 672.535, regardless of whether the work is conducted in or outside of Oregon.

(10) “Gross Negligence”: Reckless and wanton disregard for exercising care and caution.

(11) “Incompetence”: Inadequacy or unsuitability for effective action. The Board shall consider incompetence in the practice of geology to include, but not be limited to instances where a geologist has been adjudicated mentally incompetent by the court; been engaged in conduct which shows a lack of ability or fitness to discharge the duties and responsibilities a geologist owes a client, employer, or the general public; or been engaged in conduct which shows a lack of knowledge, or inability, to apply the principles or skills of the profession.

(12) “Misconduct”: Violation of any state or federal rule or statute in the course of the practice of geology.

(13) “Mutual Recognition”: When one state allows a geologist who is registered in another state to perform work in that state without obtaining local registration.

(14) “National examination”: prepared by ASBOG and comprised of a four-hour fundamental section and a four-hour practice section.

(15) “Neglect of Duty”: Lack of attention to the performance or services that arise from one's position.

(16) “Negligence”: Failure by a registrant to exercise the care, skill, and diligence demonstrated by a registrant under similar circumstances in the community in which the registrant practices.

(17) “Official Transcript”: Transcript certified by the school and received under seal.

(18) “Project”: A contractually specified scope and amount of geologic work relating to a specific undertaking, such as, but not limited to, the geologic reconnaissance of an area, a geohydrologic study of an area, or an analysis of volcanic hazards from a volcano.

(19) “Proprietary”: Belonging to a client, employer or geologist.

# ADMINISTRATIVE RULES

(20) "Public proceeding": as used in ORS 672.525(9) means a public forum where members of the public are invited to comment or testify or permitted to comment or testify.

(21) "Reciprocity": When one state will issue a registration to a geologist because the geologist holds a registration in another state.

(22) "Reinstatement of Registration": One-time process to bring a lapsed registration or certification to current, valid status.

(23) "Related Geological Science": A course of study that includes at least 36 quarter hours, or the equivalent, in geological subjects taken in the third or fourth year or in graduate courses.

(24) "Renewal of Registration": Annual process to maintain the current status of a valid registration or certification.

(25) "Responsible Charge": This means in responsible charge of work as defined in ORS 672.505(11) and under these rules.

(26) "Seal": The term seal means the same thing as to stamp as used within OAR Chapter 809.

(27) "Supervision of Geological Work": For purposes of ORS 672.505(11), "supervision" means oversight by an individual who is fully responsible, accountable and liable for the geological work and where the individual is:

- (a) Registered as a geologist in Oregon;
- (b) Certified as an engineering geologist in Oregon;
- (c) Registered as a geologist in another jurisdiction with licensing requirements comparable to Oregon; or
- (d) In charge of the geological work in a situation or another jurisdiction that does not require licensure.

(28) "Third or Fourth Year": Upper division college classes.

(29) "Threat to the Public Health, Welfare, or Property": A threat of geologic nature such as, but not limited to, induced or imminent instability of a slope, exacerbation of or continuation of a high rate of erosion, flood hazard or land subsidence, ongoing or potential contamination of underground or surface waters. Also a potential threat which would be induced by an action taken in ignorance of, or without regard to geologic conditions such as construction of residences or other structures intended for habitation in areas prone to landslides, mudflows, volcanic eruption, tsunamis, or earthquakes without proper mitigation measures, or construction of dams or other waterworks, bridges, power plants or other critical facilities without exhaustive investigation of potential geologic hazards and incorporation of approved mitigation measures into their design.

(30) "Year of Study": 36 quarter hours or 24 semester hours.

Stat. Auth.: ORS 672.515, 672.545, 672.555, 672.565, 672.585, 672.595, 672.605  
Stats. Implemented: ORS 672.505 - 672.705

Hist.: GE 1-1984, f. & ef. 2-1-84; GE 3-1984, f. & ef. 12-4-84; GE 4-1984, f. & ef. 12-18-84; GE 1-1985, f. & ef. 7-1-85; BGE 2-1999, f. & cert. ef. 11-8-99; BGE 2-2002, f. & cert. ef. 4-15-02; BGE 9-2004, f. & cert. ef. 10-19-04; BGE 3-2006, f. & cert. ef. 11-13-06; BGE 1-2012, f. & cert. ef. 6-15-12

## 809-015-0020

### Reissuance of Revoked Registration

At its discretion, the Board may reissue a revoked certificate of registration according to ORS 672.685 under the following conditions:

(1) Submission of a written request for reissuance by the revoked registrant;

(2) Receipt of written documentation demonstrating good cause to justify the reissuance;

(3) Submission of all application materials meeting the requirements for first-time registrants as prescribed in Qualification Standards and Experience, OAR 809-30-0000 through 809-30-0025, and all relevant registration and application fees as prescribed in Fees, OAR 809-010-0001;

(4) Take or retake and pass the ASBOG fundamental and practice examinations, and specialty examinations as applicable.

Stat. Auth.: ORS 672.515, 672.685

Stats. Implemented: ORS 672.505-672.705

Hist.: BGE 1-2012, f. & cert. ef. 6-15-12

## 809-030-0005

### Experience Standards

To determine if an applicant's experience meets the required qualifications, the Board may use the following standards:

(1) The diversity and complexity of the applicant's work.

(2) Whether the work was routine in nature, requiring a minimum of knowledge or experience.

(3) The amount of time the applicant was in responsible charge of geologic work.

(4) Whether reports prepared principally by the applicant demonstrate the applicant's knowledge to perform geologic work.

Stat. Auth.: ORS 672.515, 672.545, 672.555, 672.565, 672.585, 672.595, 672.605

Stats. Implemented: ORS 672.505 - 672.705

Hist.: GE 2-1978, f. & ef. 7-28-78; GE 1-1981, f. & ef. 8-3-81; GE 1-1982, f. & ef. 5-14-82; GE 1-1984, f. & ef. 2-1-84; BGE 1-2012, f. & cert. ef. 6-15-12

## 809-030-0015

### Qualifications for Geologist Practice Examination and Geologist Registration

(1) To qualify to take the geologist examination, an applicant must have a minimum of seven years of geology experience computed as follows:

(a) Two years of experience are granted for an undergraduate degree in geology or a related geological science with a minimum of 45 quarter hours of geology coursework; or two years of experience are granted to applicants without a degree who have a minimum of 45 quarter hours of geology coursework including 36 quarter hours upper division or graduate course hours leading to a geology major. These two years' experience must be included in the seven-year minimum.

(b) One year of experience, up to a maximum of three years, is granted for each year of full-time equivalent graduate study in geology or a related geological science.

(c) Credit shall not exceed four years for the undergraduate geology or geological science degree or specific coursework plus graduate study.

(d) One year of experience is granted for each year spent working under the supervision of an Oregon registered geologist, Oregon certified engineering geologist, or a geologist who, in the determination of the Board, was providing supervision in responsible charge; however, a minimum of three years of such experience must be completed before any credit is granted.

(e) One year of experience is granted for each year spent in responsible charge; however, a minimum of five years in responsible charge must be completed before any credit is granted.

(f) Geology faculty may acquire the seven years experience in accordance with the following criteria:

(A) Meet the requirements of OAR 809-030-0015(1)(a); and

(B) Five years experience is granted for geologic work conducted in responsible charge as professional faculty activities conducted other than teaching or administrative duties. Such duties may include, but are not limited to, the following:

(i) Geologic report preparation;

(ii) Publication and the preparation for publication of published geologic work;

(iii) Geologic field or laboratory data collection; or

(iv) Geologic data analysis or interpretation.

(C) Geologic experience must be documented and calculated as a percentage of non-teaching full-time experience such as follows:

(i) Experience documented by the preparation of geology reports or publications; and

(ii) Geologic experience verified by the Board.

(D) Post-baccalaureate research in geology or a related geological science may be granted for in responsible charge experience, at the discretion of the Board.

(g) Duplicate credit will not be given for experience and education gained concurrently.

(h) Experience of less than one month will not be recognized.

(2) Applicants for the ASBOG practice examination must:

(a) Be registered as a GIT in Oregon; or

(b) Apply to take the ASBOG fundamental examination on the same day as the practice examination; or

(c) Provide to the Board proof of having passed the ASBOG fundamental examination.

(3) To qualify for registration as a geologist, an applicant must meet the following requirements:

(a) Pass the ASBOG fundamental and practice examinations;

(b) Submit a complete application on forms provided by the Board;

(c) Submit applicable fees as per OAR 809-010-0001.

Stat. Auth.: ORS 672.515, 672.545, 672.555, 672.565, 672.585, 672.595, 672.605

Stats. Implemented: ORS 672.505 - 672.705

Hist.: GE 1-1984, f. & ef. 2-1-84; GE 1-1992, f. & cert. ef. 6-10-92; BGE 1-2002, f. & cert. ef. 2-6-02; BGE 7-2004, f. & cert. ef. 8-5-04; BGE 1-2012, f. & cert. ef. 6-15-12

## 809-030-0020

### Qualifications for Engineering Geologist Examination and Certification as an Engineering Geologist

(1) To qualify to take the certification examination as an engineering geologist, the applicant must:

(a) Be registered as a geologist, or have met the qualifications and passed the geologist examination.

(b) Meet one of the following experience requirements:

# ADMINISTRATIVE RULES

(A) Three years' experience under the direct supervision of an Oregon, California, or Washington certified engineering geologist or an engineering geologist who, in the determination of the Board, was providing supervision in responsible charge. Engineering geology experience used to meet geologist qualifications may be used;

(B) Five years' experience in responsible charge of engineering geological projects. Engineering geology experience used to meet geologist qualifications may be used; or

(C) A minimum of 5 years work experience from a combination of (A) and (B). Engineering geology experience used to meet geologist qualifications may be used.

(2) To qualify for certification as an engineering geologist, an applicant must meet the following requirements:

- (a) Receive registration as geologist from the Board;
- (b) Pass a certification examination approved by the Board for engineering geologists as per OAR 809-005-0000 and OAR 809-040-0008;
- (c) Submit a complete application on forms provided by the Board;
- (d) Submit applicable fees as per OAR 809-010-0001.

Stat. Auth.: ORS 672.515, 672.545, 672.555, 672.565, 672.585, 672.595, 672.605  
Stats. Implemented: ORS 672.505 - 672.705  
Hist.: GE 1-1984, f. & ef. 2-1-84; BGE 1-2012, f. & cert. ef. 6-15-12

## 809-050-0000

### Use of Seal

A facsimile of a registrant's seal shall be affixed to final products created in the public practice of geology.

(1) A Registered Geologist shall use a seal bearing the Registered Geologist's name, certificate number, and registration title, as shown in Exhibit 1 of this rule. The Registered Geologist seal must be at least 1.5 inches in diameter from point to point. A Registered Geologist may use an electronic seal that meets these requirements.

(2) A Certified Engineering Geologist shall use a seal bearing the Certified Engineering Geologist's name, certificate number, and registration title, as shown in Exhibit 2 of this rule. The Certified Engineering Geologist seal must be at least 1.5 inches in diameter from point to point. A Certified Engineering Geologist may use an electronic seal that meets these requirements.

(3) Draft geology or specialty geology products or documents clearly marked as draft do not require a geologist's seal.

(4) If a stand-alone report is sealed by the registrant responsible for the work, then individual work products prepared by the registrant and compiled in the report, for example geology figures, maps, and logs, do not need to be individually sealed. The geology products within a stand-alone report not prepared by the registrant that seals the report shall be individually sealed by the registrant(s) who prepared those products.

(5) Final geology work products not included in a compiled report, such as boring logs, shall be individually sealed and signed.

(6) A registrant who seals and signs a final version of a geology product must be in responsible charge for the geology content of that product.

[ED. NOTE: Exhibits referenced are available from the agency.]  
Stat. Auth.: ORS 672.515, 672.545, 672.555, 672.565, 672.585, 672.595, 672.605  
Stats. Implemented: ORS 672.505 - 672.705  
Hist.: GE 1-1984, f. & ef. 2-1-84; BGE 2-2002, f. & cert. ef. 4-15-02; BGE 8-2004, f. & cert. ef. 8-5-04; BGE 2-2006, f. & cert. ef. 6-26-06; BGE 1-2012, f. & cert. ef. 6-15-12

## 809-050-0010

### Qualifications for Cooperative Registration or Temporary Permits

(1) To qualify for cooperative registration as a geologist, the applicant shall:

(a) Hold a valid registration, obtained by passing the ASBOG examination, from a state, territory or possession of the United States or the District of Columbia, as verified by the Administrator;

(b) Meet the education, experience, and exam requirements of OAR 809-030-0015(1), including passing the ASBOG practice examination and demonstrating a minimum of seven years qualifying geology experience;

- (c) Apply for registration on forms provided by the Board; and
- (d) Submit the required fee(s) as per OAR 809-010-0001.

(2) To qualify for cooperative certification as an engineering geologist, the applicant shall:

(a) First receive cooperative registration as geologist from the Board;

(b) Provide evidence of passing a certification examination approved by the Board for engineering geologists as per OAR 809-005-0000, 809-030-0020, and 809-040-0008;

(c) Submit a complete application on forms provided by the Board; and

- (d) Submit applicable fees as per OAR 809-010-0001.

(3) To qualify for a 60-day temporary permits to engage in the public practice of geology, non-registrants must:

- (a) Submit an application on a form provided by the Board;
- (b) Pay appropriate application fees as per OAR 809-010-0001;
- (c) Not reside in Oregon or have an established place of business in Oregon;

(d) hold a current registration or certification to practice geology from another state, territory or possession of the United States or the District of Columbia, as verified by the Administrator; and

(e) explain how work will be limited to one period of 60 consecutive days in the calendar year.

Stat. Auth.: ORS 672.515, 672.545, 672.555, 672.565, 672.585, 672.595, 672.605  
Stats. Implemented: ORS 672.505-672.705  
Hist.: GE 1-1984, f. & ef. 2-1-84; GE 2-1986, f. & ef. 3-5-86; GE 3-1986, f. & ef. 7-15-86; GE 1-1990, f. & cert. ef. 10-2-90; BGE 1-2000, f. & cert. ef. 8-3-00; BGE 2-2002, f. & cert. ef. 4-15-02; BGE 2-2005, f. & cert. ef. 9-28-05; BGE 1-2012, f. & cert. ef. 6-15-12

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**Rule Caption:** Update Reference to DOJ Model Rules of Procedure.

**Adm. Order No.:** BGE 2-2012

**Filed with Sec. of State:** 6-15-2012

**Certified to be Effective:** 6-15-12

**Notice Publication Date:**

**Rules Amended:** 809-001-0005

**Subject:** Updated reference to the DOJ Model Rules of Procedure that the Board follows to address compliance with the Administrative Procedures Act.

**Rules Coordinator:** Christine Valentine—(503) 566-2837

## 809-001-0005

### Model Rules of Procedure

The Attorney General's Model Rules of Procedure under the Administrative Procedures Act, in effect on February 1, 2012, are hereby adopted as the rules of procedure by reference for the State Board of Geologist Examiners.

Stat. Auth.: ORS 183, ORS 672.505 - 672.705  
Stats. Implemented: ORS 672.505 - 672.705  
Hist.: GE 1(Temp), f. & ef. 11-3-77; GE 2, f. & ef. 12-13-77; GE 1-1982, f. & ef. 5-14-82; GE 1-1984, f. & ef. 2-1-84; GE 3-1986, f. & ef. 7-15-86; EE 1-1996, f. & cert. ef. 8-30-96; GE 1-1996, f. & cert. ef. 8-30-96; BGE 2-1999, f. & cert. ef. 11-8-99; BGE 1-2000, f. & cert. ef. 8-3-00; BGE 2-2004, f. & cert. ef. 4-6-04; BGE 4-2004, f. & cert. ef. 6-23-04; BGE 2-2012, f. & cert. ef. 6-15-12

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## Board of Nursing Chapter 851

**Rule Caption:** Clarifies registration requirements for students enrolled in non-Oregon based graduate programs leading to licensure.

**Adm. Order No.:** BN 9-2012

**Filed with Sec. of State:** 6-5-2012

**Certified to be Effective:** 6-5-12

**Notice Publication Date:** 4-1-2012

**Rules Amended:** 851-045-0100

**Subject:** Re-locates section of registration requirements for Nurse Practitioner students enrolled in out of state programs. Provides definitions for out of state and in state programs. Amends rules for Clinical Nurse Specialist students and Certified Registered Nurse Anesthetist students to be consistent with registration requirements for Nurse Practitioner students. Proposes civil penalty for preceptors violating state law.

\*\*\*Omitted key words in 851-045-0100(2)(d) that were added by temporary rulemaking process that was effective 4/26/12.\*\*\*

**Rules Coordinator:** Peggy A. Lightfoot—(971) 673-0638

## 851-045-0100

### Imposition of Civil Penalties

(1) Imposition of a civil penalty does not preclude disciplinary sanction against the nurse's license. Disciplinary sanction against the nurse's license does not preclude imposing a civil penalty. Criminal conviction does not preclude imposition of a civil penalty for the same offense.

(2) Civil penalties may be imposed according to the following schedule:

(a) Practicing nursing as a Licensed Practical Nurse (LPN), Registered Nurse (RN), Nurse Practitioner (NP), Certified Registered

# ADMINISTRATIVE RULES

Nurse Anesthetist (CRNA) or Clinical Nurse Specialist (CNS) without a current license or certificate or Board required concurrent national certification; or prescribing, dispensing, or distributing drugs without current prescription writing authority, due to failure to renew and continuing to practice \$50 per day, up to \$5,000.

(b) Using a limited license to practice nursing for other than its intended purpose \$100 per day.

(c) Nurses not licensed in Oregon hired to meet a temporary staffing shortage who fail to make application for an Oregon license by the day placed on staff \$100 per day up to \$3,000.

(d) Practicing nursing prior to obtaining an Oregon license by examination or endorsement \$100 per day.

(e) Nurse imposter up to \$5,000. "Nurse Imposter" means an individual who has not attended or completed a nursing education program or who is ineligible for nursing licensure or certification as a LPN, RN, NP, CRNA or CNS and who practices or offers to practice nursing or uses any title, abbreviation, card or device to indicate that the individual is so licensed or certified to practice nursing in Oregon; and

(f) Conduct derogatory to the standards of nursing \$1,000 – \$5,000. The following factors will be considered in determining the dollar amount, to include, but not be limited to:

- (A) Intent;
- (B) Damage and/or injury to the client;
- (C) History of performance in current and former employment settings;

(D) Potential danger to the public health, safety and welfare;

(E) Prior offenses or violations including prior complaints filed with the Board and past disciplinary actions taken by the Board;

- (F) Severity of the incident;
- (G) Duration of the incident; and
- (H) Economic impact on the person.

(g) Violation of any disciplinary sanction imposed by the Board of Nursing \$1,000–\$5,000.

(h) Conviction of a crime which relates adversely to the practice of nursing or the ability to safely practice \$1,000–\$5,000.

(i) Gross incompetence in the practice of nursing \$2,500 – \$5,000.

(j) Gross negligence in the practice of nursing \$2,500 – \$5,000.

(k) Employing any person without a current Oregon LPN, RN or CRNA license, NP or CNS certificate to function as a LPN, RN, CRNA, NP or CNS subject to the following conditions:

(A) Knowingly hiring an individual in a position of a licensed nurse when the individual does not have a current, valid Oregon license or certificate \$5,000; or

(B) Allowing an individual to continue practicing as a LPN, RN, NP, CRNA or CNS knowing that the individual does not have a current, valid Oregon license or certificate \$5,000.

(l) Employing a LPN, RN, NP, CRNA or CNS without a procedure in place for checking the current status of that nurse's license or certificate to ensure that only those nurses with a current, valid Oregon license or certificate be allowed to practice nursing \$5,000;

(m) Supplying false information regarding conviction of a crime, discipline in another state, physical or mental illness/physical handicap, or meeting the practice requirement on an application for initial licensure or re-licensure, or certification or recertification \$5,000; and

(n) Precepting a nursing student at any level without verifying their appropriate licensure, registration, or certification \$5,000.

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.150 & 678.117

Hist.: BN 4-2008, f. & cert. ef. 6-24-08; BN 2-2012(Temp), f. & cert. ef. 4-26-12 thru 10-1-12; BN 5-2012, f. 5-7-12, cert. ef. 6-1-12; BN 9-2012, f. & cert. ef. 6-5-12

## Board of Pharmacy Chapter 855

**Rule Caption:** Adopt new Outlet Conduct rules.

**Adm. Order No.:** BP 2-2012

**Filed with Sec. of State:** 6-12-2012

**Certified to be Effective:** 6-12-12

**Notice Publication Date:** 5-1-2012

**Rules Adopted:** 855-041-0016

**Subject:** Division 41 Drug Outlet conduct rules define the Grounds for Discipline for outlets that fail to provide a working environment that protects the health, safety and welfare of patients.

The complete text of these rules is available on the Board's website at [www.pharmacy.state.or.us](http://www.pharmacy.state.or.us)

**Rules Coordinator:** Karen MacLean—(971) 673-0001

### 855-041-0016

#### Grounds for Discipline

The State Board of Pharmacy may impose one or more of the following penalties which includes: suspend, revoke, or restrict the license of an outlet or may impose a civil penalty upon the outlet upon the following grounds:

(1) Unprofessional conduct as defined in OAR 855-006-0005;

(2) Advertising or soliciting that may jeopardize the health, safety, or welfare of the patient including, but not be limited to, advertising or soliciting that:

(a) Is false, fraudulent, deceptive, or misleading; or

(b) Makes any claim regarding a professional service or product or the cost or price thereof which cannot be substantiated by the licensee.

(3) Failure to provide a working environment that protects the health, safety and welfare of a patient which includes but is not limited to:

(a) Sufficient personnel to prevent fatigue, distraction or other conditions that interfere with a pharmacist's ability to practice with reasonable competency and safety.

(b) Appropriate opportunities for uninterrupted rest periods and meal breaks.

(c) Adequate time for a pharmacist to complete professional duties and responsibilities including, but not limited to:

(A) Drug Utilization Review;

(B) Immunization;

(C) Counseling;

(D) Verification of the accuracy of a prescription; and

(E) All other duties and responsibilities of a pharmacist as specified in Division 19 of this chapter of rules.

(4) Introducing external factors such as productivity or production quotas or other programs to the extent that they interfere with the ability to provide appropriate professional services to the public.

(5) Incenting or inducing the transfer of a prescription absent professional rationale.

Stat. Auth.: ORS 689.151, 689.155(2), 689.205, 689.225(4)

Stat. Implemented: ORS 689.155

Hist.: BP 2-2012, f. & cert. ef 6-12-12

## Board of Psychologist Examiners Chapter 858

**Rule Caption:** Oregon Farm Direct Nutrition Program.

**Adm. Order No.:** BPE 2-2012

**Filed with Sec. of State:** 6-8-2012

**Certified to be Effective:** 6-8-12

**Notice Publication Date:** 5-1-2012

**Rules Amended:** 858-010-0001, 858-010-0010, 858-010-0011, 858-010-0012, 858-010-0013, 858-010-0015, 858-010-0016, 858-010-0017, 858-010-0020, 858-010-0025, 858-010-0030, 858-010-0036, 858-010-0037, 858-010-0038, 858-010-0039

**Rules Repealed:** 858-020-0065, 858-020-0095, 858-010-0010(T), 858-010-0011(T), 858-010-0012(T), 858-010-0013(T), 858-010-0016(T), 858-010-0017(T)

**Subject:** The Oregon Health Authority, Public Health Division is proposing to temporarily amend and adopt rules in OAR chapter 333, division 52 to incorporate the eligibility and benefit requirements of individuals participating in the Oregon Farm Direct Nutrition Program. The addition of these requirements limits potential program liability should an individual dispute benefit distribution.

**Rules Coordinator:** Debra Orman McHugh—(503) 373-1155

### 858-010-0001

#### Definitions

(1) The practice of psychology is defined to include:

(a) Evaluation means assessing or diagnosing mental disorders or mental functioning, including administering, scoring, and interpreting tests of mental abilities or personality;

(b) Therapy means treating mental disorders;

# ADMINISTRATIVE RULES

(c) Consultation means conferring or giving expert advice on the diagnosis or treatment of mental disorders;

(d) Supervision means the ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular, documented individual consultation, guidance and instruction with respect to the skills and competencies of the person supervised.

(2) Applicant means a person who submits a complete application for licensure with the appropriate fees.

(3) Applied psychology means providing psychological services outside of the health and mental health field and shall include:

(a) The provision of direct services to individuals and groups, using psychological principles, methods, and/or procedures for the purpose of enhancing individual and/or organizational effectiveness; or

(b) The provision of services to organizations that are provided for the benefit of the organization and do not involve direct services to individuals.

(4) Board means the Oregon Board of Psychologist Examiners.

(5) Candidate for Licensure means a person who has satisfactorily completed the appropriate educational and experience requirements for licensure and has been deemed eligible by the Board to sit for the required examinations.

(6) Client or patient means direct recipients of psychological services, which may include child, adolescent, adult, older adult, couple, family, group, organization, community, or any other individual.

(7) Demonstrable areas of competence means those therapeutic and assessment methods and techniques, and populations served, for which one can document adequate graduate training, workshops, or appropriate supervised experience.

(8) Developed Areas of Practice means:

(a) National recognition of the practice area by a national organization(s) whose purpose includes recognizing or representing and developing the practice area, by relevant divisions of the APA, or by involvement in similar umbrella organizations;

(b) An accumulated body of knowledge in the professional literature that provides a scientific basis for the practice area including empirical support for the effectiveness of the services provided;

(c) Representation by or in a national training council that is recognized, functional, and broadly accepted;

(d) Development and wide dissemination by the training council of doctoral educational and training guidelines consistent with the Accreditation Guidelines & Principles;

(e) Existence of the practice area in current education and training programs; and

(f) Geographically dispersed psychology practitioners who identify with the practice area and provide such services.

(9) Full-Time Graduate study is defined as six semester hours or nine quarter hours.

(10) Practicum means a formal, pre-degree organized training experience designed to develop a foundation of clinical skills and professional competence with diverse client populations, and to prepare for more substantial responsibilities required in internship.

(11) Internship means an ongoing, supervised and organized practical experience obtained in an integrated training program identified as a psychology internship. Other supervised experience or on-the-job training does not constitute an internship.

(12) Professional psychology program means an integrated program of doctoral study designed to train professional psychologists to deliver services in psychology.

(13) Regional accrediting agency means one of the six regional accrediting agencies recognized by the United States Secretary of Education established to accredit senior institutions of higher education.

(14) Residency means a post-terminal degree, supervised experience approved by the board.

(15) Specialty means a defined area of psychological practice that requires advanced knowledge and skills acquired through an organized sequence of education and training. The advanced knowledge and skills specific to a specialty are obtained subsequent to the acquisition of core scientific and professional foundations in psychology.

(16) Supervision means the ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular, documented individual and group consultation, guidance and instruction with respect to the skills and competencies of the person supervised.

(17) Supervisor means an individual who assumes full responsibility for the education and training activities of a person and provides the supervision required by such a person.

(18) Treatment means services provided to an individual, group or organization for the purpose of improving mental health and/or alleviating behavioral, emotional or mental disorders.

Stat. Auth.: ORS 675.010 - 675.150

Stats. Implemented: ORS 675.110

Hist.: BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 2-2012, f. & cert. ef. 6-8-12

## 858-010-0010

### Education Requirements — Clinical Psychologist

To meet the education requirement of ORS 675.030(1), applicants for licensure must:

(1) Possess a doctoral degree in psychology from a program accredited by the American Psychological Association or the Canadian Psychological Association as of the date the degree was awarded; or

(2) Possess a doctoral degree in psychology from:

(a) A program at an institution of higher learning that was accredited by a regional accrediting agency as of the date the degree was awarded;

(b) For Canadian universities, an institution of higher education that is provincially or territorially chartered; or

(c) A foreign program evaluated to be equivalent to American Psychological Association accreditation as of the date the degree was awarded. Evaluation must be completed by a credentialing body recognized by the Board. Submission of proof of foreign degree equivalency and cost of the foreign degree equivalency determination are the responsibility of the applicant.

(3) An applicant who possesses a degree under section (2) must show that his or her doctoral program in psychology meets all of the following requirements:

(a) A minimum of three academic years of full-time graduate study.

(b) A minimum of one continuous year in residence at the institution from which the degree is granted.

(A) One continuous year means two consecutive semesters or three consecutive quarters.

(B) In residence means physical presence, in person, at an educational institution or training facility in a manner that facilitates acculturation into the profession, the full participation and integration of the individual in the educational and training experience, and includes faculty and student interaction.

(C) The doctoral program may include distance education, but a minimum of one continuous year of the program shall be in-residence. Programs that use physical presence, including face-to-face contact for durations of less than one continuous year, (e.g., multiple long weekends and/or summer intensive sessions) or that use video teleconferencing or other electronic means as a substitute for physical presence at the institution in order to meet the residency requirement are deemed not to be acceptable for licensure.

(D) Training models that rely exclusively on physical presence for periods of less than one continuous year (e.g., multiple long weekends and/or summer intensive sessions) or that use video teleconferencing or other electronic means as a substitute for physical presence at the institution do not meet the in residence requirement.

(c) The program, wherever it may be administratively housed, must be clearly identified and labeled as a program in psychology. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists.

(d) The psychology program must stand as a recognizable, coherent organizational entity within the institution.

(e) There must be a clear authority and primary responsibility for the core and specialty areas, whether or not the program cuts across administrative lines.

(f) The program must be an integrated, organized sequence of study.

(g) There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities and a psychologist responsible for the program.

(h) The program must have an identifiable body of students who are matriculated in that program for a degree.

(i) The program must include a coordinated, sequential and supervised practicum appropriate to the practice of psychology as described in OAR 858-010-0012.

(j) The program must include a coordinated, sequential and supervised internship, field or laboratory training appropriate to the practice of psychology as described in OAR 858-010-0013.

(k) The curriculum of the program must:

# ADMINISTRATIVE RULES

(A) Encompass a minimum of three academic years of full time graduate study, including a minimum of one continuous year in residence at the educational institution granting the doctoral degree; and

(B) Require an original dissertation or equivalent that was psychological in nature that meets the requirement for an approved doctoral program.

(l) The core program shall require every student to demonstrate competence in each of the following substantive areas. This typically will be met through substantial instruction in each of these foundational areas, as demonstrated by a minimum of three graduate semester hours, five or more graduate quarter hours (when an academic term is other than a semester, credit hours will be evaluated on the basis of 15 hours of classroom instruction per semester hour).

(A) Scientific and professional ethics and standards;

(B) Research design and methodology;

(C) Statistics;

(D) Psychometric theory;

(E) Biological bases of behavior such as physiological psychology, comparative psychology, neuropsychology, sensation and perception, and psychopharmacology;

(F) Cognitive-affective bases of behavior such as learning, thinking, motivation, and emotion; and

(G) Social bases of behavior such as social psychology, group processes, organizational and systems theory.

(m) All professional education programs in psychology must include course requirements in developed practice areas/specialties.

(n) The program must demonstrate that it provides training relevant to the development of competence to practice in a diverse and multicultural society.

(o) Demonstration of competence in clinical psychology shall be met by including a minimum of at least 3 or more semester hours or 5 or more quarter hours in each of the following clinical psychology content areas:

(A) Individual differences in behavior (e.g. personality theory, cultural difference and diversity);

(B) Human development (e.g. child, adolescent, geriatric psychology);

(C) Dysfunctional behavior, abnormal psychology or psychopathology;

(D) Theories and methods of intellectual assessment and diagnosis;

(E) Theories and methods of personality assessment and diagnosis including practical application;

(F) Effective interventions and evaluating the efficacy of interventions; and

(G) Consultation and supervision.

(4) Provide syllabi or other documentation regarding course content upon the Board's request.

Stat. Auth.: ORS 675.030

Stats. Implemented: ORS 675.030(1)(b)(c)

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 1-1992, f. & cert. ef. 1-16-92; PE 3-1992, f. & cert. ef. 7-14-92; PE 1-1996, f. & cert. ef. 6-25-96; PE 1-1997, f. & cert. ef. 6-17-97; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 1-2011, f. & cert. ef. 1-25-11; BPE 2-2011, f. & cert. ef. 5-31-11; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 1-2012(Temp), f. & cert. ef. 2-15-12 thru 8-12-12; BPE 2-2012, f. & cert. ef. 6-8-12

## 858-010-0011

### Education Requirements — Applied Psychologist

To meet the education requirement of ORS 675.030(1), applicants for licensure must:

(1) Possess a doctoral degree in psychology from a program accredited by the American Psychological Association or the Canadian Psychological Association as of the date the degree was awarded; or

(2) Possess a doctoral degree in psychology from:

(a) A doctoral degree in psychology from a program at an institution of higher learning that was accredited by a regional accrediting agency as of the date the degree was awarded;

(b) For Canadian universities, an institution of higher education that is provincially or territorially chartered; or

(c) A foreign degree from a program evaluated to be equivalent to American Psychological Association accreditation as of the date the degree was awarded. Evaluation must be completed by a credentialing body recognized by the Board. Submission of proof of foreign degree equivalency and cost of the foreign degree equivalency determination are the responsibility of the applicant.

(3) An applicant who possesses a degree under section (2) must show that his or her doctoral program in psychology meets all of the following requirements:

(a) A minimum of three academic years of full-time graduate study.

(b) A minimum of one continuous year in residence at the institution from which the degree is granted.

(A) One continuous year means two consecutive semesters or three consecutive quarters.

(B) In residence means physical presence, in person, at an educational institution or training facility in a manner that facilitates acculturation into the profession, the full participation and integration of the individual in the educational and training experience, and includes faculty and student interaction.

(C) The doctoral program may include distance education, but a minimum of one continuous year of the program shall be in-residence. Programs that use physical presence, including face-to-face contact for durations of less than one continuous year, (e.g., multiple long weekends and/or summer intensive sessions) or that use video conferencing or other electronic means as a substitute for physical presence at the institution in order to meet the residency requirement are deemed not to be acceptable for licensure.

(D) Training models that rely exclusively on physical presence for periods of less than one continuous year (e.g., multiple long weekends and/or summer intensive sessions) or that use video conferencing or other electronic means as a substitute for physical presence at the institution do not meet the in residence requirement.

(c) The program, wherever it may be administratively housed, must be clearly identified and labeled as a program in psychology. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists.

(d) The psychology program must stand as a recognizable, coherent organizational entity within the institution.

(e) There must be a clear authority and primary responsibility for the core and specialty areas, whether or not the program cuts across administrative lines.

(f) The program must be an integrated, organized sequence of study.

(g) There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities and a psychologist responsible for the program.

(h) The program must have an identifiable body of students who are matriculated in that program for a degree.

(i) The program must include a coordinated, sequential and supervised practicum appropriate to the practice of psychology as described in OAR 858-010-0012.

(j) The program must include a coordinated, sequential and supervised internship, field or laboratory training appropriate to the practice of psychology as described in OAR 858-010-0013.

(k) The curriculum of the program must:

(A) Encompass a minimum of three academic years of full time graduate study, including a minimum of one continuous year in residence at the educational institution granting the doctoral degree; and

(B) Require an original dissertation or equivalent that was psychological in nature that meets the requirement for an approved doctoral program.

(l) The core program shall require every student to demonstrate competence in each of the following substantive areas. This typically will be met through substantial instruction in each of these foundational areas, as demonstrated by a minimum of three graduate semester hours, five or more graduate quarter hours (when an academic term is other than a semester, credit hours will be evaluated on the basis of 15 hours of classroom instruction per semester hour).

(A) Scientific and professional ethics and standards;

(B) Research design and methodology;

(C) Statistics;

(D) Psychometric theory;

(E) Biological bases of behavior such as physiological psychology, comparative psychology, neuropsychology, sensation and perception, and psychopharmacology;

(F) Cognitive-affective bases of behavior such as learning, thinking, motivation, and emotion;

(G) Social bases of behavior such as social psychology, group processes, organizational and systems theory; and

(H) Individual differences in behavior (e.g. personality theory, cultural difference and diversity).

(m) All professional education programs in psychology must include course requirements in developed practice areas/specialties.

(n) The program must demonstrate that it provides training relevant to the development of competence to practice in a diverse and multicultural society.

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(o) Demonstration of competence in applied psychology shall be met by including a minimum of 18 semester hours or 30 quarter hours in a concentrated program of study in an identified area of psychology, e.g., developmental, social, cognitive, motivation, applied behavioral analysis, industrial/organizational, human factors, personnel selection and evaluation.

(4) Provide syllabi or other documentation regarding course content upon the Board's request.

Stat. Auth.: ORS 675.010 - 675.150

Stats. Implemented: ORS 675.030 & 675.110

Hist.: BPE 3-2011, f. & cert. ef. 9-27-11; BPE 1-2012(Temp), f. & cert. ef. 2-15-12 thru 8-12-12; BPE 2-2012, f. & cert. ef. 6-8-12

## 858-010-0012

### Practicum

(1) The degree program required in OAR 858-010-0010(2), 858-010-0011(2), or 858-010-0015 must include an organized practicum of at least two semesters (or three quarters) and at least 300 hours of supervised psychological services as defined in OAR 858-010-0036(1)(c).

(2) Supervision must include the following:

(a) Discussion of services provided by the student;

(b) Selection of service plan for and review of each case or work unit of the student;

(c) Discussion of and instruction in theoretical concepts underlying the work;

(d) Discussion of the management of professional practice and other administrative or business issues;

(e) Evaluation of the supervisory process by the student and the supervisor;

(f) Discussion of coordination of services among the professionals involved in the particular cases or work units;

(g) Discussion of relevant state laws and rules;

(h) Discussion of ethical principles including principles applicable to the work;

(i) Review of standards for providers of psychological services; and

(j) Discussion of reading materials relevant to cases, ethical issues and the supervisory process.

Stat. Auth.: ORS 675.010 - 675.150

Stats. Implemented: ORS 675.030 & 675.110

Hist.: BPE 3-2011, f. & cert. ef. 9-27-11; BPE 1-2012(Temp), f. & cert. ef. 2-15-12 thru 8-12-12; BPE 2-2012, f. & cert. ef. 6-8-12

## 858-010-0013

### Internship

(1) Applicants must successfully complete an organized internship as part of the degree program required in OAR 858-010-0010(2), 858-010-0011(2), or 858-010-0015.

(2) The internship must include at least 1,500 hours of supervised experience and be completed within twenty-four months.

(3) The internship program must meet the following requirements:

(a) The internship must have a written statement or brochure describing the goals and content of the internship, stating clear expectations and quality of student work, and made available to prospective interns.

(b) A psychologist licensed by the appropriate state or provincial licensing authority must be clearly designated as responsible for the integrity and quality of the internship program.

(c) Interns must use titles indicating their training status.

(d) The internship must be designed to provide a planned sequence of training experiences focusing on breadth and quality of training. Supervision and training related to ethics must be ongoing.

(e) At least twenty-five percent of the internship experience must be in direct client contact providing assessment and intervention services.

(f) For every 40 hours of internship experience, the student must receive:

(A) At least 2 hours of regularly scheduled, formal, face-to-face individual supervision that addresses the direct psychological services provided by the intern; and

(B) At least 2 hours of other learning activities such as case conferences, seminars on applied issues, conducting co-therapy with a staff person including discussion of the case, and group supervision.

(3) Supervision of the internship experience.

(a) The internship setting must have two or more psychologists available as supervisors, at least one of whom is licensed as a psychologist.

(b) The internship experience must be supervised by the person(s) responsible for the assigned casework.

(c) At least seventy-five percent of the supervision must be by a licensed psychologist with two years post-license experience.

Stat. Auth.: ORS 675.010 - 675.150

Stats. Implemented: ORS 675.030 & 675.110

Hist.: BPE 3-2011, f. & cert. ef. 9-27-11; BPE 1-2012(Temp), f. & cert. ef. 2-15-12 thru 8-12-12; BPE 2-2012, f. & cert. ef. 6-8-12

## 858-010-0015

### Education Requirements — Psychologist Associate

(1) To meet the education requirement of ORS 675.030(1), an applicant must possess a masters degree in psychology from a program at an institution of higher learning that was accredited by a regional accrediting agency at the graduate level as of the date the degree was awarded, or for Canadian universities, an institution of higher education that was provincially or territorially chartered.

(2) The masters program must include at least 45 quarter hours or 30 semester hours of graduate credit, 30 quarter hours or 20 semester hours of which must be in graded (not "pass-no pass") courses. Hours must be from at least five of the basic areas of psychology including:

(a) Experimental psychology; Learning theory; Physiological psychology; Motivation; Perception; Comparative psychology; Statistical methods; Design of research; Developmental psychology; Individual differences; Social psychology; Organizational psychology; Personality theory; Abnormal psychology; and

(b) A minimum of one graduate level course in ethics; and

(c) A minimum of one graduate level course psychological tests and measurements.

Stat. Auth.: ORS 675.065

Stats. Implemented: ORS 675.065(1)(4)(c)

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 1-1979, f. & ef. 9-5-79; PE 1-1989(Temp), f. & cert. ef. 2-24-89; PE 2-1989, f. & cert. ef. 5-24-89; PE 3-1989(Temp), f. & cert. ef. 9-7-89; PE 1-1990, f. & cert. ef. 2-16-90; PE 3-1992, f. & cert. ef. 7-14-92; PE 1-1993(Temp), f. & cert. ef. 2-12-93; PE 3-1993, f. & cert. ef. 4-13-93; PE 5-1993, f. & cert. ef. 10-6-93; PE 1-1995, f. & cert. ef. 2-16-95; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 1-2002(Temp), f. 1-28-02, cert. ef. 1-31-02 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 1-2011, f. & cert. ef. 1-25-11; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 2-2012, f. & cert. ef. 6-8-12

## 858-010-0016

### Standard Application Procedure

(1) Filing of Applications. Upon receipt of an application for licensure, the Board shall process the application and determine if the applicant's file is ready for review. An application is considered ready for review when the following items have been received:

(a) Final graduate level transcript(s) imprinted with date degree was awarded

(b) Reference forms;

(c) Social Security Number Authorization Form;

(d) For non-APA accredited schools only:

(A) University Accreditation Form;

(B) Educational Record in Psychology Form; and

(C) Verification of pre-degree supervised work.

(e) Verification of post-degree supervised work experience (if completed);

(f) National written examination (EPPP) score (if taken);

(g) Verification of licensure in good standing in other states (if any);

(h) Application fee;

(i) Fingerprinting fee and results of the criminal background check; and

(j) Other clarifying information requested by the Board.

(2) The Board may issue a license if the candidate for licensure:

(a) Meets the education requirements of OAR 858-010-0010, 858-010-0011, or 858-010-0015;

(b) Completes the supervised work experience requirements of OAR 858-010-0036 or 858-010-0037.

(c) Passes the national written examination (EPPP); and

(d) Passes the Oregon jurisprudence examination.

Stat. Auth.: ORS 675.030

Stats. Implemented: ORS 675.030(1)(a), (b), (c), (d), (e) & (2)

Hist.: BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 2-2011, f. & cert. ef. 5-31-11; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 1-2012(Temp), f. & cert. ef. 2-15-12 thru 8-12-12; BPE 2-2012, f. & cert. ef. 6-8-12

## 858-010-0017

### Licensure by Endorsement

If an applicant possesses a current license to practice psychology based on a doctoral degree in psychology that is issued by a board with licensing standards substantially equivalent to Oregon, the applicant may be licensed by endorsement.

(1) Applicants who have maintained an active psychologist license for less than 10 years:

(a) Filing of Applications. Upon receipt of a complete Licensure by Endorsement Application, the Board shall process the application and



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determine if the applicant's file is ready for review. An application is considered ready for review when the following items have been received:

(A) Final graduate level transcript(s) imprinted with date degree was awarded;

(B) Social Security Number Authorization Form;

(C) An official verification of licensure in good standing from each health care professional license or registration, current or expired;

(D) A copy of the applicant's:

(i) Licensure file from the state(s) in which the applicant is licensed;

(ii) CPQ file from ASPPB;

(iii) Certification file from ABPP; or

(iv) HSPP file from the National Register.

(E) Endorsement Reference Forms from three mental health professionals;

(F) National written examination (EPPP) score;

(G) Application fee; and

(H) Fingerprinting fee and results of criminal background check.

(b) The Board may issue a license if the candidate for licensure:

(A) Has met the educational requirements for licensure of OAR 858-010-0010 or 858-010-0011;

(B) Has complied with the post-doctoral supervised work experience requirements of OAR 858-010-0036;

(C) Passes the Oregon jurisprudence examination; and

(D) Has received a passing score on the National Written Examination (EPPP).

(2) Applicants who have maintained an active psychologist license for 10 years or more:

(a) Filing of Applications. Upon receipt of a complete Licensure by Endorsement Application, the Board shall process the application and determine if the applicant's file is ready for review. An application is considered ready for review when the following items have been received:

(A) Social Security Number Authorization Form;

(B) An official verification of licensure in good standing from each health care professional license or registration, current or expired;

(C) A copy of the applicant's:

(i) Licensure file from the state(s) in which the applicant is licensed;

(ii) CPQ file from ASPPB;

(iii) Certification file from ABPP; or

(iv) HSPP file from the National Register.

(D) Endorsement Reference Forms from three mental health professionals;

(E) National written examination (EPPP) score;

(F) Application fee; and

(G) Fingerprinting fee and results of criminal background check.

(b) The Board may issue a license if the candidate for licensure:

(A) Passes the Oregon jurisprudence examination; and

(B) Has received a passing score on the National Written Examination (EPPP).

Stat. Auth.: ORS 675.030

Stats. Implemented: ORS 675.030

Hist.: BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 2-2011, f. & cert. ef. 5-31-11; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 1-2012(Temp), f. & cert. ef. 2-15-12 thru 8-12-12; BPE 2-2012, f. & cert. ef. 6-8-12

## 858-010-0020

### Process and Disposition of Application for License

(1) Application Review Procedure. When the application and all of the required supporting documents have been received, the application file shall be reviewed for eligibility. The reviewer shall either:

(a) Approve the application. When the reviewer determines the application is complete, a letter of approval shall be sent notifying the applicant of eligibility to take the EPPP and the Jurisprudence examination and to enter into a Resident Supervision Contract.

(b) Deny the application. If the application is denied, the reviewer shall send the applicant a letter stating the reason.

(c) Full Board review. Under unusual circumstances, the application will be reviewed by the full Board for determination of disposition.

(d) Incomplete Application. If the application is incomplete, the reviewer shall send the applicant a letter stating the reason.

(e) Request for Review. Applicants for licensure may request, in writing, that any decision by the reviewer be reconsidered by the Board.

(2) Active Application. The Board shall maintain an incomplete application file for one year from the date the application was received. The Board shall maintain a complete application file for two years from the date the application was approved. A file shall be presumed inactive and archived if correspondence from the Board is returned by the post office.

(3) The Board may extend the active application period upon written request prior to the expiration date. Failure to receive a courtesy reminder notice from the Board shall not relieve an applicant of the responsibility to request an extension.

(4) Reapplication. If an application for licensure has been denied by the Board for any reason, the Board will not review a second application until at least one year has lapsed from the date of the previous denial.

(5) Information Changes. An Applicant must notify the Board immediately if any information submitted on the application changes, including but not limited to: name; address and telephone number; complaints; disciplinary actions; and, civil, criminal, or ethical charges and employment investigations which lead to termination or resignation. Failure to do so may be grounds for denial of the application or revocation of the license, once issued.

Stat. Auth.: ORS 675.040, 675.045 & 675.050

Stats. Implemented: ORS 675.040(1)(2)(3), 675.045(1)(2)(a)(b), 675.050(1)(a)(b)(2)

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 2-1989, f. & cert. ef. 5-24-89; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 2-2012, f. & cert. ef. 6-8-12

## 858-010-0025

### Procedure for Written Examination

(1) National Written Examination. The Board shall utilize the Examination for Professional Practice in Psychology (EPPP) developed by the Professional Examination Service (PES) for the Association of State and Provincial Psychology Boards (ASPPB).

(a) Candidates for licensure who are prepared to take the EPPP must submit a written request to the Board. The Board shall provide PES with the names of eligible candidates.

(b) Candidates for licensure who have taken the EPPP prior to April 20, 1990, must have passed the examination by achieving a score at or above the national mean of doctoral candidates taking the examination for the first time on that day. Candidates who have taken the EPPP prior to April 1993 must have passed the examination by achieving a score at or above the national mean of doctoral candidates taking the examination for the first time on that day or 75 percent, whichever is lower. The passing score for the EPPP from April 1993 to April 2001 shall be 140 or 70 percent. For computer administered forms of the EPPP, the Board requires a scaled score of 500.

(c) Special Accommodations. The Board shall provide PES an approval for special accommodations for a verified disability or for English as a second language upon written request by the candidate as described in OAR 858-010-0030(5).

(2) Re-examination. Any candidate who fails to achieve a passing score on the EPPP shall be allowed to take the examination a second time. If the examination is failed twice, the candidate must submit a written study plan for the Board to review and approve. If a candidate fails to pass a third examination, the candidate's application for licensure shall be denied.

Stat. Auth.: ORS 675.040 & 675.045

Stats. Implemented: ORS 675.040 & 675.045

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 1-1979, f. & ef. 9-5-79; PE 1-1980, f. & ef. 3-10-80; PE 1-1981(Temp), f. & ef. 12-9-81; PE 1-1982, f. 4-13-82, ef. 6-1-82; PE 2-1982, f. & ef. 7-23-82; PE 2-1989, f. & cert. ef. 5-24-89; PE 1-1990, f. & cert. ef. 2-16-90; PE 1-1991, f. & cert. ef. 4-3-91; PE 3-1993, f. & cert. ef. 4-13-93; PE 4-1993, f. & cert. ef. 7-19-93; PE 1-1995, f. & cert. ef. 2-16-95; PE 1-1996, f. & cert. ef. 6-25-96; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 2-2012, f. & cert. ef. 6-8-12

## 858-010-0030

### Procedures for Oregon Jurisprudence Examination

(1) Jurisprudence Examination. The purpose of the examination is to measure the candidate's knowledge and application of state laws and regulations related to the professional practice of psychology, including the American Psychological Association's ethical principles incorporated by Board statute and rule.

(a) Candidates whose education credentials, training and references have been accepted by the Board shall be notified in writing of their eligibility take the jurisprudence examination.

(b) The jurisprudence examination shall be administered at least twice a year.

(2) Eligible candidates prepared to take the jurisprudence examination must submit a written request to the Board postmarked at least 30 days prior to the examination date and pay the examination fee.

(3) The jurisprudence examination fee is not refundable except in extraordinary circumstances.

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(4) The applicant shall be given no less than two weeks' notice of the date, time and place of the applicant's scheduled examination. Appearance at the scheduled examination shall constitute a waiver of the prior written notice.

(5) Special Accommodations. Requests for special accommodations for a disability or for English as a second language must be made at the time the written request to sit for the examination is made, or when the disability becomes known to the applicant. The request must include:

(a) Written verification of the disability from a qualified care provider (i.e. a person certified or licensed by the state to provide such services) detailing:

(A) Nature, extent and duration of disability; and

(B) Recommendation(s) for accommodation.

(b) English as a Second Language: Written request for reasonable accommodation detailing:

(A) Level of proficiency in English including, but not limited to, number of years speaking and/or writing English;

(B) History of special accommodations granted in similar testing circumstances;

(C) Other information to support request for special accommodation; and

(D) Recommendation(s) for accommodation.

(6) Administration.

(a) The Board shall determine the questions on each examination and shall determine the passing score.

(b) The Board shall provide a Candidate Handbook that includes a copy of the Board's examination rules, an explanation of the Board requirements related to scheduling and conduct during the examination, and current examination study materials. The Candidate Handbook shall be available at all times on the Board's website.

(c) Disqualification. A candidate sitting for the jurisprudence examination may be disqualified during or after the examination for conduct which affects the integrity of the candidate's performance or the examination. Disqualification will result in denial of the candidate's application.

(7) Scoring. Candidates shall be assigned a number so test scorers do not know the identity of the test taker until the examination report is prepared for the Board. The Board shall notify each candidate in writing regarding the result of the examination within one week of the date of the examination. If a candidate has a complaint under investigation, the Board may delay issuing the licensure of that candidate until the complaint has been resolved.

(8) Reconsideration, Review and Reexamination.

(a) Within thirty days after notice of the examination results, a candidate who does not pass the examination may appeal in writing to have their examination rescored.

(b) Review. A candidate who does not pass the examination may review the examination record of incorrect questions and answers at the Board's office within a period of ninety days following the date of the examination and upon written request to the Board. The purpose of the review is to assist the candidate prepare to retake the examination. No more than one review shall be allowed.

(c) Reexamination. A candidate who does not pass the examination may be reexamined. If a candidate does not pass the second examination and wishes to take a third examination the candidate must submit a study plan for the Board's review and approval prior to sitting for the third examination. If a candidate fails to pass the third examination, the candidate's application for licensure shall be denied.

Stat. Auth.: ORS 675.030, 675.040, 675.045, 675.050 & 675.065

Stats. Implemented: ORS 675.030, 675.040, 675.045, 675.050 & 675.065

Hist.: PE 6, f. 12-19-73, ef. 1-11-74; PE 1-1979, f. & ef. 9-5-79; PE 1-1981(Temp), f. & ef. 12-9-81; PE 1-1982, f. 4-13-82, ef. 6-1-82; PE 2-1982, f. & ef. 7-23-82; PE 1-1985(Temp), f. & ef. 12-20-85; PE 1-1986, f. & ef. 7-1-86; PE 1-1988, f. & cert. ef. 7-25-88; PE 3-1988(Temp), f. & cert. ef. 11-30-88; PE 1-1990, f. & cert. ef. 2-16-90; PE 1-1991, f. & cert. ef. 4-3-91; PE 2-1991, f. 8-15-91, cert. ef. 8-16-91; PE 3-1992(Temp), f. & cert. ef. 12-10-91; PE 1-1992, f. & cert. ef. 1-16-92; PE 3-1992, f. & cert. ef. 7-14-92; PE 1-1995, f. & cert. ef. 2-16-95; PE 1-1996, f. & cert. ef. 6-25-96; PE 1-1997, f. & cert. ef. 6-17-97; BPE 1-2000(Temp), f. 3-8-00, cert. ef. 3-8-00 thru 9-4-00; BPE 3-2000, f. & cert. ef. 9-7-00; BPE 1-2001(Temp), f. & cert. ef. 8-31-01 thru 2-27-02; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 4-2002, f. & cert. ef. 10-11-02; BPE 1-2004(Temp), f. & cert. ef. 3-2-04 thru 8-29-04; BPE 2-2004, f. & cert. ef. 8-30-04; BPE 1-2006, f. 8-29-06, cert. ef. 9-1-06; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 2-2012, f. & cert. ef. 6-8-12

## 858-010-0036

### Guidelines for Post-Doctoral Supervised Work Experience

(1) Policy. One year of post-doctoral supervised work experience is required for licensure. The required work experience must take place after the doctorate degree is conferred.

(a) One year of supervised work experience is defined as 1,500 hours of clinical or applied psychological services performed over a period not less than twelve months.

(b) Psychological services are defined as direct psychological services to an individual, group or organization; diagnosis and assessment; completing documentation related to services provided; client needs meetings and consultation; psychological testing; research related to client services; report writing; and receiving formal training including workshops and conferences.

(c) For the purposes of licensure, psychological services do not include business development; credentialing activities; marketing; purchasing; creating forms; administrative billing or other business management activities.

(2) The following guidelines shall be used by the Board to define supervised employment.

(a) While obtaining postdoctoral supervised work experience in Oregon, the candidate for licensure must be in a Board approved Resident Supervision Contract:

(A) Working under the supervision of an Oregon licensed psychologist licensed in Oregon for at least two years; or

(B) Working under the supervision of an Oregon licensed psychologist licensed for at least two years in a state with licensing standards comparable to Oregon.

(b) To receive supervised work experience credit from other jurisdictions, the experience must be a formal arrangement under the supervision of a psychologist who has been licensed for at least two years in a state with licensing standards comparable to Oregon.

(3) Candidates for licensure shall be eligible to enter into a Resident Supervision Contract as described in subsection (2)(a) of this rule.

(a) Resident status shall begin the date the Board approves the Resident Supervision Contract.

(b) Duration. The resident status is a transitional step toward licensure and is not intended as a means to avoid licensure. A Resident Supervision Contract shall be effective for a period not to exceed two years from the date of Board approval. The Board may extend the contract beyond two years upon a written request from the resident and the supervisor prior to the expiration of the contract. Failure to receive a courtesy reminder notice from the Board shall not relieve the resident of the responsibility to request an extension.

(c) Termination of a Resident Supervision Contract will be granted by the Board at the written request of the supervisor or the resident. The termination shall be effective at the time the Board approves the request in writing, or on the date indicated by the supervisor in the final residency evaluation, whichever is later.

(d) If the supervisor is to be paid for supervision payment must be in the form of a per-hour fee.

(e) Supervision of more than three residents concurrently shall require prior approval by the Board.

(4) Resident's Responsibilities. The resident's conduct must conform to the following standards:

(a) Title. The resident must be designated at all times by the title "psychologist resident." All signed materials, letterhead, business cards, telephone directory listings, internet postings, brochures, insurance billing and any other public or private representation must include the individual's title as "psychologist resident" and the supervisor's name and designation "supervisor."

(b) Scope of Practice. The resident will only offer services in those areas that the supervisor is competent.

(c) Nature of Supervision. The resident must obtain frequent and regular supervision meetings throughout the duration of the Resident Supervision Contract. The resident must provide the supervisor with a periodic evaluation of all cases and psychological activities in which the resident is engaged. The resident's practice must comply with Oregon laws and administrative rules.

(d) The supervisor is not required to be working on-site with the resident.

(e) Non-routine individual supervision may occur by electronic means when geographical distance, weather or emergency prohibit a face-to-face meeting.

(f) Frequency:

(A) If a resident works 1-20 hours in a week the resident must at least one hour of individual supervision every week.

(B) If a resident works more than 20 hours in a week the resident must receive at least two hours of supervision every week. One hour must be

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individual and one hour may be group supervision. Group supervision must be:

(i) A formal and on-going group of at least three mental health professionals;

(ii) Facilitated by a licensed psychologist; and

(iii) Approved by the resident's supervisor.

(C) On a non-routine basis individual supervision may be delayed up to 14 days to accommodate vacations, illness, travel or inclement weather.

(g) In the absence of the primary supervisor, not to exceed fourteen days, one-on-one supervision hours may be conducted retroactively;

(h) Confidentiality. The resident must advise all clients orally and in their informed consent policy that the supervisor may have access to all information and material relevant to the client's case.

(i) Promptly communicate to the Board any significant interruption or expected termination of the Resident Supervision Contract;

(j) The resident must discuss with their supervisor the Supervisor Evaluation Report at the conclusion or termination of the Resident Supervision Contract.

(5) Responsibilities of the Supervisor. The supervisor's conduct must conform to the following standards:

(a) Closely review, supervise and evaluate representative and problem cases with attention to diagnostic evaluation, treatment planning, ongoing case management, emergency intervention, recordkeeping and termination;

(b) Countersign all psychological reports and professional correspondence produced by the resident; and ensure that letterhead, business cards, telephone directory listings, internet postings, brochures, insurance billing and any other public or private representation includes the appropriate title of "clinical psychologist resident" or "psychologist associate resident" and the supervisor's name and designation as "supervisor." Client progress notes do not need to be co-signed by the supervisor.

(c) Review with the resident, Oregon laws and administrative rules related to the practice of psychology, including the current APA "Ethical Principles of Psychologists and Code of Conduct," professional relationships and referrals, protection of records, billing practices, recordkeeping and report writing;

(d) Assist the psychologist resident in developing a plan to prepare for the national written exam and the Oregon jurisprudence examination;

(e) Promptly communicate to the Board any professional or ethical concerns regarding the resident's conduct or performance;

(f) Promptly communicate to the Board any significant interruption or expected termination of the Resident Supervision Contract;

(g) Ensure that the resident has access to supervision by telephone to discuss urgent matters, if the supervisor is unavailable for any reason, during a period not to exceed fourteen days;

(h) Keep notes of each supervisory session, and provide them to the Board upon request;

(i) Maintain a record of hours of supervision and provide it to the Board upon request;

(j) Provide the Board with an interim Resident Evaluation Report upon request; and

(k) Provide the Board with a final Resident Evaluation Report at the conclusion or termination of the Resident Supervision Contract.

(6) Associate Supervisor. Any supervision of the resident by a person other than the primary supervisor must be identified in the Resident Contract and approved by the Board.

(a) The associate supervisor is responsible for providing supervision as described in section (5) of this rule in the event that the primary supervisor is unavailable for any reason; and

(b) The associate supervisor is responsible for reporting any professional or ethical concerns regarding the resident's conduct or performance to the primary supervisor and the Board.

Stat. Auth.: ORS 675.030, 675.040, 675.045, 675.050, 675.065 & 675.110

Stats. Implemented: ORS 675.030, 675.040, 675.045, 675.050, 675.065, 675.110

Hist.: PE 1-1988, f. & cert. ef. 7-25-88; PE 1-1990, f. & cert. ef. 2-16-90; PE 1-1991, f. & cert. ef. 4-3-91; PE 2-1991, f. & cert. ef. 8-15-91, cert. ef. 8-16-91; PE 4-1993, f. & cert. ef. 7-19-93; PE 1-1996, f. & cert. ef. 6-25-96; BPE 2-2002, f. & cert. ef. 2-27-02; BPE 4-2002, f. & cert. ef. 10-11-02; BPE 1-2008, f. & cert. ef. 3-26-08; BPE 1-2010, f. & cert. ef. 1-8-10; BPE 2-2010, f. & cert. ef. 9-28-10; BPE 1-2011, f. & cert. ef. 1-25-11; BPE 2-2011, f. & cert. ef. 5-31-11; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 2-2012, f. & cert. ef. 6-8-12

## 858-010-0037

### Supervised Work Experience — Psychologist Associate

(1) Applicants must complete a one year full-time internship or one year of other supervised learning practicum deemed equivalent by the Board. The internship or practicum must meet the requirements of OAR 858-010-0012 or 858-010-0013.

(2) Applicants must complete three years of full-time post-masters degree supervised work experience. The guidelines used by the Board to define the three-year supervised work experience requirement for psychologist associate applicants shall conform to those guidelines used in OAR 858-010-0036, except that:

(a) The resident shall be designated at all times by the title "psychologist associate resident"; and

(b) A Resident Supervision Contract will be effective for a period not to exceed four years. The Board, in its discretion, may extend the contract beyond four years.

Stat. Auth.: ORS 675.065 & 675.110

Stats. Implemented: ORS 675.065 & 675.110

Hist.: BPE 1-2010, f. & cert. ef. 1-8-10; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 2-2012, f. & cert. ef. 6-8-12

## 858-010-0038

### Continued Supervision — Licensed Psychologist Associate

Before the initial license is issued, the psychologist associate and the supervising psychologist must submit a "Contract for Continued Supervision of a Licensed Psychologist Associate." Day-to-day supervision of the licensed psychologist associate is the responsibility of the supervisor and includes such face-to-face consultation as is required by the nature of the work of the psychologist associate, and is consistent with accepted professional practices in psychology.

Stat. Auth.: ORS 675.065 & 675.110

Stats. Implemented: ORS 675.065 & 675.110

Hist.: BPE 1-2010, f. & cert. ef. 1-8-10; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 2-2012, f. & cert. ef. 6-8-12

## 858-010-0039

### Application for Independent Status — Psychologist Associate

A licensed psychologist associate may apply to the Board for approval to function as an independent psychologist associate. Independent status will be granted only after at least three years of work as a licensed psychologist associate or a psychologist at a demonstrated high level of professional proficiency.

Stat. Auth.: ORS 675.065 & 675.110

Stats. Implemented: ORS 675.065 & 675.110

Hist.: BPE 1-2010, f. & cert. ef. 1-8-10; BPE 1-2011, f. & cert. ef. 1-25-11; BPE 3-2011, f. & cert. ef. 9-27-11; BPE 2-2012, f. & cert. ef. 6-8-12

## Bureau of Labor and Industries Chapter 839

**Rule Caption:** Temporary rules clarifying that complaints under ORS 654.062 need not be notarized written complaints.

**Adm. Order No.:** BLI 5-2012(Temp)

**Filed with Sec. of State:** 6-13-2012

**Certified to be Effective:** 6-13-12 thru 12-10-12

**Notice Publication Date:**

**Rules Adopted:** 839-003-0031

**Rules Amended:** 839-003-0005, 839-003-0025, 839-003-0200

**Subject:** The temporary rules will clarify that complaints under ORS 654.062 may be filed without a notarized signature on the complaint.

**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.

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(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 proof that a reasonable person would accept as sufficient to support the allegations of the complaint.

(17) "Substantial Evidence Determination" means the division's written findings of substantial evidence.

(18) "Written verified complaint" means a complaint that is:

(a) In writing; and

(b) Under oath or affirmation.

Stat. Auth.: ORS 659A.805

Stats. Implemented: ORS 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

## 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. 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

## 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

## 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.

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(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 by the minor and 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

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## Department of Agriculture Chapter 603

**Rule Caption:** Inspection fee increase and correction of ORS reference in rule.

**Adm. Order No.:** DOA 12-2012

**Filed with Sec. of State:** 5-17-2012

**Certified to be Effective:** 1-1-13

**Notice Publication Date:** 4-1-2012

**Rules Amended:** 603-059-0020

**Subject:** Increase inspection fees for each ton of fertilizer, agricultural mineral, agricultural amendment from thirty five cents (\$.35) to forty five cents (\$.45).

Increase inspection fees for each ton of gypsum from three cents (\$.03) to five cents (\$.05).

Correct reference erroneously listed as ORS 633.310 to the correct reference of ORS 633.311.

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

### 603-059-0020

#### Inspection Fees

(1) The inspection fees authorized to be established by ORS 633 and payable under ORS 633 are as follows:

(a) Forty five cents (\$.45) for each ton of fertilizer;

(b) Forty five cents (\$.45) for each ton of agricultural mineral;

(c) Forty five cents (\$.45) for each ton of agricultural amendment;

(d) Five cents (\$.05) for each ton of fertilizer, agricultural mineral, or agricultural amendment containing 100% "compost" as defined in ORS 633.311.

(e) Five cents (\$.05) for each ton of gypsum.

(2) A portion of the inspection fees paid to the department for fertilizer, agricultural minerals and agricultural amendments shall be continuously appropriated for the purpose of funding grants for research and development related to the interaction of fertilizer, agricultural mineral or agricultural amendment products and ground water or surface water as described in ORS 633. The portion of fees so appropriated shall be determined by the Department based on the recommendation of the Fertilizer Research Committee (ORS 633.479).

(3) The inspection fees specified in section (1) of this rule shall be in effect commencing January 1, 2013.

Stat. Auth.: ORS 561.190 & 633 as amended by Ch. 914 OL 2001

Stats. Implemented: ORS 561.190 & 633

Hist.: AD 1071(17-75), f. & ef. 11-20-75; AD 10-1978, f. & ef. 7-10-78; AD 15-1983, f. 11-23-83, ef. 12-31-83; AD 14-1989, f. 10-12-89, cert. ef. 10-9-89; AD 1-1996, f. & cert. ef. 2-12-96; DOA 24-2001, f. & cert. ef. 10-15-01; DOA 12-2004, f. 4-15-04 cert. ef. 7-1-04; DOA 12-2012, f. 5-17-12, cert. ef. 1-1-13

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**Rule Caption:** Updates State Shellfish Rules and Distribution Regulations for Non-Interstate Approved Harvest Areas.

**Adm. Order No.:** DOA 13-2012

**Filed with Sec. of State:** 5-29-2012

**Certified to be Effective:** 1-1-13

**Notice Publication Date:** 4-1-2012

**Rules Adopted:** 603-100-0050

**Rules Amended:** 603-100-0000, 603-100-0010

**Subject:** Currently, OAR 603-100-0010 refers to the 2005 Revision of the National Shellfish Sanitation Program's Guide for the Control of Molluscan Shellfish. It is being amended to refer to the 2009 Revision in order to keep Oregon's Shellfish Program current. OAR 603-100-0000 supplies the definitions used in the State Shellfish Rules. It is being amended so the definitions will be consistent throughout the State Shellfish Rules, including the proposed OAR 603-100-0050. OAR 603-100-0050 will clarify regulations regarding non-interstate approved harvest areas. Dealers listed in the Interstate Certified Shellfish Shippers List (ICSSL) are not allowed to possess or sell shellstock harvested from non-interstate approved harvest areas. Also, the rule will require tags for shellstock harvested from non-interstate approved harvest areas to include the phrase, "OREGON DISTRIBUTION ONLY."

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

### 603-100-0000

#### Definitions

As used in OAR 603-100-0000 to and including 603-100-0050 and in addition to the definitions set forth in ORS 622.010 and 622.080, the following shall apply:

(1) "Director" means the Director of the Department of Agriculture or authorized representative.

(2) "Certification Number" means the number assigned by the Department to each certified shellfish dealer. It consists of a one-to-five digit number preceded by the two-letter state abbreviation and followed by the two-letter symbol designating the type of operation certified.

(3) "Dealer" means every person or peddler engaged in the business of growing, harvesting, processing, or distributing shellfish. Dealers are certified and assigned a certification number by type of operation classified as follows:

(a) "Depuration processor (DP)" means a shellfish dealer who purchases or harvests shell stock from conditionally approved or restricted growing areas and submits such shell stock to an approved controlled purification process. Such dealers shall be certified as a shucker-packer and assigned a certification number designating depuration processor (DP) as the type of operation;

(b) "Distributor" means a jobber or wholesaler who furnishes or sells shellfish to retail outlets. Such dealers shall be certified as a distributor and assigned a certification number designating shellstock shipper (SS) as the type of operation;

(c) "Grower (GR)" means a dealer engaged in the business of growing shellfish intended for human consumption. Such dealers shall be certified as a grower and assigned a certification number designating (GR) as the type of operation;

(d) "Harvester (HV)" means a dealer who harvests shellfish intended for human consumption or employs persons to harvest shellfish intended for human consumption from growing areas. Such dealers shall be certified as harvesters and assigned a certification number designating harvester (HV) as type of operation;

(e) "Repackers (RP)" means dealers other than the original certified shucker-packer who repack shucked shellfish. Such dealers shall be certified as a shucker-packer, and assigned a certification number designating repacker (RP) as type of operation;

(f) "Reshippers (RS)" means dealers who receive shellfish, either shellstock or shucked stock in original containers from certified shellfish distributors and transship such shellfish to other dealers or to the final con-

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sumer. Such dealers will be certified as distributors, and assigned a certification number designating shellstock reshipper (RS) as the type of operation;

(g) "Shellstock shippers (SS)" means dealers who buy, sell, or ship shellstock. Such dealers will be certified as a distributor and assigned a certification number designating shellstock shipper (SS) as the type of operation. A shellstock shipper may ship shucked shellfish, but, is not authorized to shuck or repack shucked shellfish;

(h) "Shucker-packer (SP)" means dealers who shuck, pack, and repack shellfish. Such dealers will be certified as a shucker-packer and assigned a certification number designating shucker-packer (SP) as the type of operation.

(4) "Seed" means shellfish that are less than market size for human consumption and have a maximum shell length of:

- (a) Thirteen millimeters (1/2 inch) for mussels;
- (b) Twenty-five millimeters (1 inch) for scallops;
- (c) Nineteen millimeters (3/4 inch) for Olympia oysters;
- (d) Nineteen millimeters (3/4 inch) for Kumamoto oysters;
- (e) Fifty-one millimeters (2 inches) for other oyster species;
- (f) Thirty-eight millimeters (1 and 1/2 inch) for geoducks; and
- (g) Thirteen millimeters (1/2 inch) for other clam species.

(5) "Shellfish" means:

(a) All edible species of oysters, either shucked or in the shell, fresh or frozen, whole or in part and intended for human consumption.

(b) All edible species of clams, either shucked or in the shell, fresh or frozen, whole or in part and intended for human consumption.

(c) All edible species of mussels, either shucked or in the shell, fresh or frozen, whole or in part and intended for human consumption.

(d) All edible species of scallops, either shucked or in the shell, fresh or frozen, whole or in part, except when the final product is the shucked adductor muscle only, and intended for human consumption.

(6) "State Waters" means waters that belong wholly to the state including the Territorial Sea out to the three mile limit.

Stat. Auth.: ORS 561.190 & 622.180

Stats. Implemented: ORS 622.180

Hist.: HD 24-1987, f. & ef. 11-30-87; AD 22-1993, f. & cert. ef. 12-15-93; Renumbered from 333-190-0000; DOA 1-2007, f. & cert. ef. 1-2-07; DOA 13-2012, f. 5-29-12, cert. ef. 1-1-13

## 603-100-0010

### Sanitation of Shellfish Growing Areas and Harvesting, Processing and Distribution of Shellfish

As provided in ORS 622.180, the National Shellfish Sanitation Program, Guide for the Control of Molluscan Shellfish, 2009 Revision, is hereby adopted as the rules governing this subject matter in Oregon. The material covered is that governing growing area survey and classification, controlled relaying, patrol of harvest areas, control of harvesting, aquaculture, laboratory and administrative procedures. In addition the rules cover the harvesting, handling and shipping of shellfish; wet storage; shucking and packing shellfish; shellfish shipping, heat shock, depuration and application of Hazardous Analysis Critical Control Point (HACCP). These rules are recommended by the Interstate Shellfish Sanitation Conference and the Food and Drug Administration of Health and Human Services.

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

Stat. Auth.: ORS 561.190 & 622.180

Stats. Implemented: ORS 622.180

Hist.: HD 24-1987, f. & ef. 11-30-87; AD 22-1993, f. & cert. ef. 12-15-93; Renumbered from 333-191-0000; DOA 11-1999, f. & cert. ef. 6-4-99; DOA 1-2007, f. & cert. ef. 1-2-07; DOA 13-2012, f. 5-29-12, cert. ef. 1-1-13

## 603-100-0050

### Shellstock Harvesting and Distribution from Non-Interstate Approved Harvest Areas

(1) Each tag of any shellstock harvested from a non-interstate approved harvest area shall include the following statement in bold capital-ized type, "OREGON DISTRIBUTION ONLY."

(a) This requirement is in addition to the Shellstock Identification requirements found in the 2009 Version of the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish.

(2) Any person listed in the Interstate Certified Shellfish Shipper List (ICSSL) shall not sell or possess shellstock harvested from a non-interstate approved harvest area.

Stat. Auth.: ORS 561.190 & 622.180

Stat. Implemented: ORS 622.180

Hist.: DOA 13-2012, f. 5-29-12, cert. ef. 1-1-13

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**Rule Caption:** Exempts Agricultural procedures selling specified products from state licensing as produce dealer or food establishment.

**Adm. Order No.:** DOA 14-2012

**Filed with Sec. of State:** 6-1-2012

**Certified to be Effective:** 6-1-12

**Notice Publication Date:** 1-1-2012

**Rules Adopted:** 603-025-0215, 603-025-0225, 603-025-0235, 603-025-0245, 603-025-0255, 603-025-0265, 603-025-0275

**Subject:** The Farm Direct Marketing Rules provide an exemption from licensure and inspection for farm direct marketers under specific conditions. Farm direct marketers are allowed to sell certain products that they have grown, raised, harvested and produced directly to the end user of the product. The rules also allow farm direct marketers to consign some products to other farm direct marketers from the same or adjoining counties. The Oregon Department of Agriculture may require that farm direct marketers or the entity in control of the location become licensed for a failure to maintain clean, healthful and sanitary conditions. Farm direct marketers will follow labeling and records requirements prescribed by the rules.

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

## 603-025-0215

### Purpose

This administrative rule recognizes farm direct marketing, including consignment between farm direct marketers, as a modern and accepted method of producing and selling food products, and maintains the integrity of food safety principles as required by state and federal laws. These legislative mandates are accomplished by exempting from licensure and inspection only those that raise their own products, that limit their food processing activities to only those identified by the Legislature as permissible without a license, and that sell to an end user a limited amount of products produced without a license and regulatory oversight.

Stat. Auth.: ORS 561.190, 616 & (Enrolled HB 2336)

Stat. Implemented: ORS 616.230 & (Enrolled HB 2336)

Hist.: DOA 14-2012, f. & cert. ef. 6-1-12

## 603-025-0225

### Definitions

For purposes of this chapter:

(1) "Acidic foods" means a bottled, packaged or canned food product that meets any of the following requirements:

(a) Having a naturally occurring equilibrium pH of 4.6 or below; or

(b) Having been lacto-fermented to decrease the equilibrium pH of the food to 4.6 or below; or

(c) Having a water activity (aw) greater than 0.85 and having been acidified to decrease the equilibrium pH of the food to 4.6 or below.

(2) "Address" means physical street address, city, county, state, and zip code.

(3) "Agricultural producer" means a person, including family members and employees, who grows, raises, and harvests agricultural products to the point at which the products are ready for sale.

(4) "Approved" means conforming to scientific principles, applicable federal laws, and generally recognized industry standards that protect public health.

(5) "Approved source" means a source that is licensed and inspected by a recognized regulatory authority, and whose license is in good standing.

(6) "Commingle" means to mix, pool, or combine agricultural products of more than one agricultural producer prior to the sale of the products.

(7) "Consign" means to send a farm direct product to market to be sold by a farm direct marketer who did not produce the product. Ownership of consigned products remains with the agricultural producer who produced the product until the product is sold to an end user.

(a) Consignment agreements are limited to farm direct marketers who are from the same county or from adjoining counties.

(b) A farm direct marketer is prohibited from representing that products offered for sale on consignment are his/her own.

(c) Farm direct products that may be consigned to a farm direct marketer are limited to:

(A) Fruits, vegetables, edible flowers and herbs that are fresh, or cured or dried as a part of routine post-harvest handling;

(B) Unshelled nuts that are raw, cured or dried in the shell; and

(C) Honey that has not been combined with any other ingredient.

(d) Shell eggs may be consigned only to a farm direct marketer who is a licensed egg handler.

(8) "Cure" means to ripen naturally or by controlled environmental storage whereby the taste, smell, texture, or appearance of the product is

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altered without causing the product to become adulterated or processed to an extent that the product changes significantly from its original form. Examples of agricultural products that may be cured include, but are not limited to: garlic, potatoes, and sweet potatoes.

(9) "Department" means the Oregon Department of Agriculture.

(10) "Farm direct marketer" means an agricultural producer that sells farm direct products or producer processed products directly to the retail consumer.

(11) "Farm direct product" means an agricultural product grown, raised and harvested by an agricultural producer to the point at which the product is ready for direct, retail sale.

(12) "Fresh" means not altered by processing. "Fresh" excludes potentially hazardous foods, including but not limited to, raw seed sprouts of all kinds, raw melons that have been cut in any way, and raw tomatoes that have been cut in any way.

(13) "Lacto-fermented" means food processed by lactobacilli whereby the lactic acid content of the food decreases the equilibrium pH to 4.6 or below. Examples of lacto-fermented products include sauerkraut and kimchi.

(14) "Major food allergens" means the eight most common food allergens defined in the Food Allergen Labeling Protection Act of 2004 (FALCPA). The major food allergens that may be used under the farm direct marketing rules are peanuts, tree nuts, soy and wheat.

(15) "Principal ingredients" means the farm direct products that comprise a producer-processed product except for: herbs, spices, salt, vinegar, pectin, lemon or lime juice, honey, and sugar. For example, jalapeño peppers produced by a farm direct marketer would be a principal ingredient in pepper jelly, and tomatoes, onions, peppers, and garlic would be principal ingredients in salsa.

(16) "Producer-processed products" means farm direct products for which an agricultural producer has performed every step necessary to prepare the farm direct products for sale, including but not limited to: processing, bottling, canning and packaging. Every step necessary to prepare the farm direct products for sale will be conducted in a facility located where the farm direct products were grown.

(17) "Retail consumer" means the end user of a product. "Retail consumer" excludes: restaurants, grocery stores, schools, daycare centers, caterers, and other institutions, such as, prisons, hospitals, and nursing homes.

(18) "Water activity" means the measure of free moisture in a product and is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature.

Stat. Auth.: ORS 561.190, 616 & (Enrolled HB 2336)

Stat. Implemented: ORS 616.230 & (Enrolled HB 2336)

Hist.: DOA 14-2012, f. & cert. ef. 6-1-12

## 603-025-0235

### Farm Direct Marketer Exemption

(1) Agricultural products sold by farm direct marketers that are exempt from the licensing requirements in Section (3) are limited to:

(a) Fruits, vegetables, edible flowers and herbs that are:

(A) Fresh; or

(B) Cured or dried by the agricultural producer as part of routine post-harvest handling.

(b) Dried or cured fruits, vegetables, edible flowers and herbs for which drying or curing is not part of routine post-harvest handling, if:

(A) All principal ingredients are grown by the agricultural producer; and

(B) The product is labeled with a list of ingredients and the name and address of the agricultural producer that produced the ingredients.

(c) Shelled nuts and unshelled nuts cured or dried by an agricultural producer as part of routine post-harvest handling;

(d) Shell eggs;

(e) Honey, only when not combined with other ingredients;

(f) Whole, hulled, crushed or ground grain, legumes and seeds, if of a type customarily cooked before eating;

(g) Parched or roasted grains, if of a type customarily cooked before eating;

(h) Popcorn, nuts, peppers and corn on the cob, if those items are:

(A) Roasted at the place of purchase,

(B) By a farm direct marketer,

(C) After purchase, and

(D) Not sold for immediate consumption.

(2) Producer-processed products sold by farm direct marketers that are exempt from the licensing requirements in Section (3) are limited to:

(a) Fruit-based syrups, fruit in syrup, preserves, jams, jellies, processed fruits and processed vegetables that meet all of the following conditions:

(A) They are producer-processed products;

(B) They are acidic foods;

(i) Products having a naturally occurring equilibrium pH of 4.6 or below will be processed in a clean, healthful and sanitary manner;

(ii) Products having been lacto-fermented to decrease the equilibrium pH of the food to 4.6 or below will be processed in a clean, healthful and sanitary manner;

(iii) Products having a water activity (aw) greater than 0.85 and having been acidified to decrease the equilibrium pH of the food to 4.6 or below will be processed in a clean, healthful and sanitary manner using:

(I) A published process and product formulation that has been approved by a recognized process authority. Examples of published processes and product formulations that have been approved by a recognized process authority can be found in:

(I-a) United States Department of Agriculture Complete Guide to Home Canning, 2009 Revision;

(I-b) Pacific Northwest Extension publications. The Pacific Northwest Extension publications are produced cooperatively by Oregon State University, Washington State University, and the University of Idaho; or

(I-c) So Easy to Preserve, 5th Edition, which is offered by the University of Georgia Cooperative Extension.

(II) Any process and product formulation that has been submitted to, and approved by a recognized process authority. A recognized process authority may be contacted through the Oregon State University, Department of Food Science and Technology Extension Service.

(C) They are labeled with:

(i) A product identity;

(ii) Net weight;

(iii) An ingredient statement that also includes properly declared major food allergens; and

(iv) The name and address of the agricultural producer that produced the principal ingredients and processed the product.

(D) During the preceding calendar year, had annual sales of producer-processed products that in total did not exceed \$20,000.

(i) Bottling, packaging and canning supplies will be made from food grade materials.

(ii) Ingredients other than the principal ingredients are limited to herbs, spices, salt, vinegar, pectin, lemon or lime juice, honey and sugar, and will be:

(I) From an approved source; or

(II) Farmed or produced by the agricultural producer.

(b) Producer-processed products that are exempt from licensure do not include any raw juices.

(3) The provisions of ORS 585.010 to 585.220 (Agricultural Marketing and Warehousing) and ORS 616.695 to 616.755 (Sanitary Regulations for Food and Food Establishments) do not apply to the following:

(a) A farm direct marketer;

(b) A consigning agricultural producer; and

(c) The location(s) used by a farm direct marketer or a consigning agricultural producer to prepare, store, sell, expose for sale, or offer for sale the farm direct marketer's own or consigned agricultural products identified in Sections (1) and (2).

(4) The farm direct marketer exemptions provided in Section (3) may be revoked by the Department when it determines that:

(a) The location used by a farm direct marketer is not maintained in a clean, healthful and sanitary condition, or

(b) A farm direct marketer failed to ensure the condition and safety of the food it processed for direct sale.

Stat. Auth.: ORS 561.190, 616 & (Enrolled HB 2336)

Stat. Implemented: ORS 616.230 & (Enrolled HB 2336)

Hist.: DOA 14-2012, f. & cert. ef. 6-1-12

## 603-025-0245

### Consigning Sales

(1) Consigning agricultural producers exempt under OAR 603-025-0235(3)(b) are limited to sales of the following types of agricultural products:

(a) Fruits, vegetables, edible flowers and herbs that are:

(A) Fresh; or

(B) Cured or dried by an agricultural producer as part of routine post-harvest handling.

# ADMINISTRATIVE RULES

(b) Unshelled nuts cured or dried in the shell by an agricultural producer as part of routine post-harvest handling;

(c) Shell eggs, if the agricultural producer selling the consigned eggs is an egg handler licensed under ORS 632.715 (Egg Handler's License);

(d) Honey, only when not combined with other ingredients.

(2) A consigning agricultural producer will provide a farm direct marketer with documentation to be clearly and conspicuously posted during the sale of the products on consignment. The documentation will include:

(a) The name of the consigning agricultural producer;

(b) The product consigned by the consigning agricultural producer;

(c) The address of the consigning agricultural producer.

(3) A farm direct marketer will maintain separate sales logs for products sold on consignment.

(a) Sales logs will include, but are not limited to, the following information:

(A) The name of the consigning agricultural producer;

(B) The contact information of the consigning agricultural producer, including the address and phone number;

(C) Item(s) sold on consignment; and

(D) Quantity of item(s) sold on consignment.

Stat. Auth.: ORS 561.190 & (Enrolled HB 2336)

Stat. Implemented: ORS 616.700, 616.835 & (Enrolled HB 2336)

Hist.: DOA 14-2012, f. & cert. ef. 6-1-12

## 603-025-0255

### Prohibitions; Department Enforcement

(1) A farm direct marketer will not:

(a) Sell, offer for sale, or expose for sale foods that are adulterated or misbranded under ORS 616.205 to 616.385 (Sale of Adulterated, Misbranded or Imitation Foods);

(b) Receive, accept, possess, sell, offer for sale, or expose for sale food from a consigning agricultural producer that is adulterated or misbranded under ORS 616.205 to 616.385 (Sale of Adulterated, Misbranded or Imitation Foods);

(c) Commingle products;

(d) Knowingly sell or offer for sale foods covered by the farm direct sales exemption to a person that is not a retail consumer;

(A) An agricultural producer extracting only their own honey from 20 or fewer hives and licensed honey producers are exempt from this requirement.

(e) Sell foods other than those covered by the farm direct sales exemption found at OAR 603-025-0235 without an appropriate license.

(2) The Department may require a farm direct marketer or the entity in control of the location used by farm direct marketers to obtain and maintain a license under ORS 585.010 to 585.220 (Agricultural Marketing and Warehousing), 616.695 to 616.755 (Sanitary Regulations for Food and Food Establishments) for failure to maintain the location in a clean, healthful and sanitary condition in accordance with rules adopted under ORS 616.700 (Department to Enforce Sanitation Requirements for Food and Food Establishments).

Stat. Auth.: ORS 561.190, 616.700 (Enrolled HB 2336)

Stat. Implemented: ORS 616.835 & (Enrolled HB 2336)

Hist.: DOA 14-2012, f. & cert. ef. 6-1-12

## 603-025-0265

### Labeling Requirements

(1) The principal display panel of a producer-processed product as defined by OAR 603-025-0225(15) will contain in a prominent location the following statements in legible, all capital, and bold-face type no less than one-eighth inch:

(a) "THIS PRODUCT IS HOMEMADE AND IS NOT PREPARED IN AN INSPECTED FOOD ESTABLISHMENT" and

(b) "NOT FOR RESALE."

(2) The principal display panel of shell eggs, grain, legumes, seeds and honey described under OAR 603-025-0235(1)(d) to (g) and 603-025-0245(1)(c) and (d) will contain in a prominent location the following statements in legible, all capital, and bold-face type no less than one-eighth inch:

(a) "THIS PRODUCT IS NOT PREPARED IN AN INSPECTED FOOD ESTABLISHMENT" and

(b) "NOT FOR RESALE."

(c) An agricultural producer extracting only their own honey from 20 or fewer hives and licensed honey producers are exempt from the labeling requirements in (a) and (b).

(3) All bottled, packaged and canned food products described under OAR 603-025-0235 will be labeled with all of the following:

(a) A product identity, which is a truthful or common name of the product that is contained in the package;

(b) The net weight of the product. Net weight or volume must be in both the US lbs./oz. and metric scale. For example, "Net Wt. 12 oz. (340 g)" for a dry product and "Net Wt. 32 fl. Oz (1 QT) 946 ml" for a liquid product;

(c) An ingredient statement that properly declares all major food allergens. All ingredients will be listed in descending order of predominance by weight or volume; and

(A) Major food allergens allowed in producer-processed products under this rule are peanuts, tree nuts, soy and wheat;

(B) Major food allergens will be labeled:

(i) Using the appropriate major food allergen in parenthesis within the ingredient list after the common or usual name of the ingredient derived from that major food allergen, for example, if a product contained semolina, the ingredient list could read: semolina (wheat); or

(ii) Using a "Contains" statement to summarize the allergen information in a statement at the end of, or immediately adjacent to, the ingredient list.

(d) The address of the agricultural producer that produced the principal ingredients and bottled, packaged or canned the food products.

(4) When Oregon or the Federal Government has adopted a standard of identity for any labeled product covered by the farm direct marketer exemption, that product will specifically meet those standards of identity found in ORS Chapters 616 (Food and Other Commodities) and 632 (Agricultural and Horticultural Products) and in OAR 603-025-0190 (Standards of Identity).

Stat. Auth.: ORS 561, 616 & (Enrolled HB 2336)

Stat. Implemented: ORS 616.835 & (Enrolled HB 2336)

Hist.: DOA 14-2012, f. & cert. ef. 6-1-12

## 603-025-0275

### Producer-Processed Foods Records

(1) Raw materials, packaging materials, and finished products that are not in compliance with United States Food and Drug Administration (FDA) regulations may be considered adulterated.

(2) Processing and production records for products having a water activity (aw) greater than 0.85 and having been acidified to decrease the equilibrium pH of the food to 4.6 or below will show that the process and product formulations comply with all critical factors mandated by a recognized process.

(a) To demonstrate compliance with acceptable equilibrium pH measurements, batch-by-batch records of pH meter calibration and batch-by-batch records of finished product testing will be maintained.

(A) Finished product testing will be performed following the requirements of the 2010 version of 21 CFR 114.90(a) and (b) (Methodology). A pH meter or potentiometer is the primary instrument used in determining product pH. Colorimetric methods including, but not limited to, indicator solutions and indicator paper may be used if the equilibrium pH of the product is 4.0 or lower.

(b) Processing and production records will be associated with production dates and batches.

(c) Any deviation from an approved process and the corrective action taken to remedy the deviation will be recorded and maintained.

(A) A product produced with a processing deviation will:

(i) Not be sold for human consumption; or,

(ii) Be permitted for sale for human consumption if the product is reprocessed to rectify the deviation in a manner approved by a recognized process authority.

(3) Farm direct marketers will maintain sales records of products subject to OAR 603-025-0235(2). Sales records will include, but need not be limited to, the following information:

(a) Product(s) sold;

(b) Price;

(c) Quantity sold;

(d) Current, rolling total of year-to-date sales.

(4) Copies of all records required by these administrative rules (OAR 603-025-0225 through 0275) will be retained at the processing facility or other reasonably accessible location for a period of three years from the date of manufacture.

(a) Records will be made available to the Department upon request.

(b) Failure to provide records to the Department upon request may result in the revocation of the farm direct marketer exemption.

Stat. Auth.: ORS 616.700 & (Enrolled HB 2336)

Stat. Implemented: (Enrolled HB 2336)

Hist.: DOA 14-2012, f. & cert. ef. 6-1-12



# ADMINISTRATIVE RULES

**Rule Caption:** Inland Rogue Agricultural Water Quality Management Area Rules.

**Adm. Order No.:** DOA 15-2012

**Filed with Sec. of State:** 6-1-2012

**Certified to be Effective:** 6-1-12

**Notice Publication Date:** 5-1-2012

**Rules Adopted:** 603-095-1460

**Rules Amended:** 603-095-1400, 603-095-1420, 603-095-1440

**Rules Repealed:** 603-095-0200, 603-095-0220, 603-095-0240, 603-095-0260, 603-095-0280

**Subject:** This rule is a refile of a previously adopted filing due to a missed deadline.

The rules effectuate the implementation of the Inland Rogue Agricultural Water Quality Management Area Plan developed under ORS 568.900 through 568.933 and OAR Chapter 603 Division 90.

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

## 603-095-1400

### Purpose

(1) These rules have been developed to implement a water quality management area plan for the Inland Rogue Agricultural Water Quality Management Area pursuant to authorities vested in the department through ORS 568.900 – 568.933 and 561.190 – 561.191. The area plan is known as the Inland Rogue Agricultural Water Quality Management Area Plan.

(2) The purpose of these rules is to outline requirements for landowners in the Inland Rogue Agricultural Water Quality Management Area to prevent and control water pollution from agricultural activities and soil erosion. Compliance with OAR 603-095-1400 to 603-095-1460 is expected to aid in the achievement of applicable water quality standards in the Inland Rogue Agricultural Water Quality Management Area.

Stat. Auth.: ORS 561.190 – 561.191, 568.912

Stats. Implemented: ORS 568.900 - 568.933

Hist.: DOA 13-2001, f. & cert. ef. 6-8-01; DOA 1-2012, f. & cert. ef. 1-12-12; DOA 15-2012, f. & cert. ef. 6-1-12

## 603-095-1420

### Geographic and Programmatic Scope

(1) The Inland Rogue Agricultural Water Quality Management Area includes the drainage area of the Rogue River primarily within the political boundaries of Jackson and Josephine counties. It does not include the drainage area of the Lower Rogue outside the Josephine county boundary. The physical boundaries of the Inland Rogue Agricultural Water Quality Management Area are indicated on the map included as Appendix 1 of these rules.

(2) Operational boundaries for the land base under the purview of these rules include all lands within the Inland Rogue Agricultural Water Quality Management Area in agricultural use, agricultural and rural lands that are lying idle, or on which management has been deferred, and forested lands with agricultural activities, with the exception of public lands managed by federal agencies, reservation and tribal trust lands, and activities which are subject to the Forest Practices Act.

(3) Current productive agricultural use is not required for the provisions of these rules to apply. For example, highly erodible lands with no present active use are within the purview of these rules.

(4) The provisions and requirements outlined in these rules may be adopted by reference by Designated Management Agencies with appropriate authority and responsibilities in other geographic areas of the Inland Rogue Agricultural Water Quality Management Area.

(5) For lands in agricultural use within other Designated Management Agencies' or state agency jurisdictions, the Department of Agriculture (department) and the appropriate Local Management Agency will work with these Designated Management Agencies to assure that provisions of these rules apply and to assure that duplication of any services provided, or fees assessed does not occur.

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

Stat. Auth.: ORS 561.190 - 561.191 & 568.912

Stats. Implemented: ORS 568.900 - 568.933

Hist.: DOA 13-2001, f. & cert. ef. 6-8-01; DOA 1-2012, f. & cert. ef. 1-12-12; DOA 15-2012, f. & cert. ef. 6-1-12

## 603-095-1440

### Prohibited Conditions

(1) All landowners or operators conducting activities on lands described above in OAR 603-095-1420(2) shall be in compliance with the following rules. A landowner shall be responsible for only those conditions caused by the activities of the landowner or operator. Rules do not apply to

conditions resulting from unusual weather events or other exceptional circumstances that could not have been reasonably anticipated. Limited duration activities may be exempt from these conditions subject to approval by the department.

(2) Excessive Soil Erosion

(a) There shall be no visible evidence of erosion resulting from agricultural management in a location where erosion has contributed or will contribute sediment to waters of the state. Visible evidence of erosion may consist of the following features:

(A) Sheet wash, noted by visible pedestalling, surface undulations, and/or flute marks on bare or sparsely-vegetated ground;

(B) Visibly active gullies, as defined by OAR 603-095-0010(1);

(C) Multiple rills, which have the form of gullies, but are smaller, in cross-sectional area, than one square foot.

(3) Riparian Vegetation Destruction

(a) Agricultural management of riparian areas shall not impede the development and maintenance of adequate riparian vegetation to control water pollution, provide stream channel stability, moderate solar heating, and filter nutrients and sediment from runoff.

(b) This condition is not intended to prohibit riparian grazing where it can be done while managing for riparian vegetation required in OAR 603-095-1440(3)(a).

(c) Constructed ditches that carry only irrigation delivery and drainage water are exempt from conditions described in OAR 603-095-1440(3).

(4) Surface Irrigation Return Flows Runoff of surface irrigation that enters waters of the state shall not exceed water quality standards or cause pollution of the receiving water.

(5) Waste No person subject to these rules shall violate any provision of ORS 468B.025 or 468B.050.

Stat. Auth.: ORS 561.190 - 561.191 & 568.912

Stats. Implemented: ORS 568.900 - 568.933

Hist.: DOA 13-2001, f. & cert. ef. 6-8-01; DOA 1-2012, f. & cert. ef. 1-12-12; DOA 15-2012, f. & cert. ef. 6-1-12

## 603-095-1460

### Complaints and Investigations

(1) When the department receives notice of an alleged occurrence of agricultural pollution through a written complaint, its own observation, through notification by another agency, or by other means, the department may conduct an investigation. The department may coordinate inspection activities with the appropriate Local Management Agency.

(2) Each notice of an alleged occurrence of agricultural pollution will be evaluated in accordance with the criteria in ORS 568.900 to 568.933, or any rules adopted thereunder to determine whether an investigation is warranted.

(3) Any person allegedly being damaged or otherwise adversely affected by agricultural pollution, or alleging any violation of ORS 568.900 to 568.933, or any rules adopted thereunder, may file a complaint with the department.

(4) The department will evaluate or investigate a complaint filed by a person under section OAR 603-095-1460(3) if the complaint is in writing, signed and dated by the complainant and indicates the location and description of:

(a) The waters of the state allegedly being damaged or impacted; and  
(b) The property allegedly being managed under conditions violating criteria described in ORS 568.900 to 568.933, or any rules adopted thereunder.

(5) As used in section OAR 603-095-1460(4), "person" does not include any local, state, or federal agency.

(6) Notwithstanding OAR 603-095-1460(4), the department may investigate at any time any complaint if the department determines that the violation alleged in the complaint may present an immediate threat to the public health or safety.

(7) If the department determines that a violation of ORS 568.900 to 568.933 or any rules adopted thereunder has occurred, the landowner may be subject to the enforcement procedures of the department outlined in OARs 603-090-0060 through 603-090-0120.

Statutory Authority: ORS 561.190 - 561.191 & 568.912

Statutes Implemented: ORS 568.900 - 568.933

Hist.: DOA 1-2012, f. & cert. ef. 1-12-12; DOA 15-2012, f. & cert. ef. 6-1-12

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**Rule Caption:** Renames directly supervised trainee license and allows for multiple year renewal with educational component.

**Adm. Order No.:** DOA 16-2012

**Filed with Sec. of State:** 6-1-2012

# ADMINISTRATIVE RULES

**Certified to be Effective:** 6-1-12

**Notice Publication Date:** 5-1-2012

**Rules Amended:** 603-057-0001, 603-057-0100, 603-057-0127

**Subject:** This rule is a refile of a previously adopted filing due to a missed deadline.

The rules rename the directly Supervised Trainee License to avoid confusion with the Immediately Supervised Trainee License. The Directly Supervised Trainee License is renamed the Pesticide Apprentice License. In addition, the rules expand the ability to renew the Pesticide Apprentice License. Existing administrative rules limit directly supervised trainees to one lifetime annual renewal. A pesticide apprentice may maintain a pesticide trainee license indefinitely by attending educational programs and demonstrating attempts to attain pesticide applicator certification. The rules restrict pesticide apprentices and immediately supervised trainees from applying pesticides by helicopter or fixed wing aircraft. Finally, the supervisor of an immediately supervised trainee or apprentice must be named in each pesticide application record.

These changes are intended to allow flexibility for employers to hire, train and supervise trainees. Persons who qualify for the Pesticide Apprentice License will be able to enter the industry at a more gradual pace and will be introduced to concepts presented in continuing education programs. Persons with limited written English language skills or test taking abilities will be allowed to continue employment under the supervision of a fully licensed applicator. The rules will clarify several trainee-related topics, ensure documentation of the supervisor-trainee relationship and reduce confusion over what level of supervision is required for each type of trainee license.

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

## 603-057-0001

### Definitions

In addition to the definitions set forth in ORS 634.006, the following shall apply (1) "Accident" means an undesirable and unintended event, caused by the use or application of pesticides, that adversely affects the environment.

(2) "Compatibility" means the properties of a pesticide that permit its use with other chemicals without undesirable results being caused by such combination.

(3) "Competence" means the proficiency in the performance of activities related to pesticide application, the degree of which is directly related to the nature of such activities.

(4) "Common Exposure Route" means a likely way (oral, dermal, respiratory) by which a pesticide may enter an organism.

(5) "Environment" means water, air, land and plants, humans, or other animals living therein or thereon, and the interrelationships existing among them.

(6) For the purpose of pesticide registration as specified in ORS 634.016, "pesticide product" means a pesticide readily distinguishable from any other pesticide by its content, registration number assigned by the United States Environmental Protection Agency, brand name, trade name, manufacturer, registrant, use as specified in labeling, or other distinction, but not including size or quantity of package.

(7) "Non-Target Organism" means plant or animal life other than to which the pesticide is applied or is intended to be applied.

(8) "Regulated Pest" means a specific organism determined by the Department to be a pest requiring control, or eradication in order to protect the environment.

(9) For the purposes of ORS 634.006(9)(c), 634.106(7), 634.126(1)(c), 603-057-0001(11), and 603-057-0127, the terms "direct charge of," "supervises," "direct supervision," or "supervision" means that:

(a) The supervisor of the person applying a pesticide has determined that the person applying a pesticide has sufficient knowledge and ability to safely apply the particular pesticide according to its label directions and any other additional directions;

(b) The person applying a pesticide is applying the particular pesticide under the instructions of their supervisor; and

(c) The person applying a pesticide is applying the pesticide in such proximity to their supervisor that such supervisor is reasonably available for any needed consultation or further direction, even though such supervisor is not physically present at the time or place of the pesticide application.

(10) "Immediate Supervision" means supervision by an appropriately licensed applicator who is:

(a) Located on the pesticide application site at all times during the application; and

(b) Available at the specific point of pesticide use within a time period of no more than five minutes.

(11) "Pesticide Apprentice" is a type of pesticide trainee or a type of public trainee, as those terms are defined in ORS 634.006(14) and (18), that engages in pesticide application activities under the supervision of a licensed pesticide applicator or a licensed public applicator as described in OAR 603-057-0127. A pesticide apprentice is limited to the categories of pesticide application authorized on the applicator license of the supervisor.

(12) For the purposes of subsection (9) of this rule, "supervisor" means a person that is responsible for the actions of a person applying a pesticide.

Stat. Auth.: ORS 561.190 & 634

Stats. Implemented: ORS 634.306

Hist.: AD 7-1977, f. & ef. 4-5-77; AD 7-1980, f. & ef. 9-25-80; AD 17, f. & cert. ef. 11-15-89; AD 12-1992, f. 10-13-92, cert. ef. 1-1-93; DOA 2-2012, f. 1-13-12, cert. ef. 1-1-13; DOA 16-2012, f. & cert. ef. 6-1-12

## 603-057-0100

### License Fees

The following designated annual fees shall be applicable to each described license:

(1) Pesticide Operator: \$90 including one category; \$15 for each additional category; and \$20 for each additional category after license issued.

(2) Pesticide Applicator: \$50 including one category; \$7.50 for each additional category; and \$12.50 for each additional category after license issued.

(3) Pesticide Trainee or Apprentice: Same as pesticide applicators.

(4) Public Applicator, Trainee or Apprentice: Same as pesticide applicators.

(5) Pesticide Dealer: \$75, with a separate license required for each sales outlet or location.

(6) Pesticide Consultant: \$40.

Stat. Auth.: ORS 561 & 634

Stats. Implemented: ORS 634.116, 634.122, 634.126, 634.132 & 634.136

Hist.: AD 1001(15-73), f. 11-20-73, ef. 12-11-73; AD 7-1977, f. & ef. 4-5-77; AD 24-1981, f. & ef. 12-1-81; DOA 39-2003, f. 10-17-03, cert. ef. 11-15-03; DOA 2-2012, f. 1-13-12, cert. ef. 1-1-13; DOA 16-2012, f. & cert. ef. 6-1-12

## 603-057-0127

### Pesticide Apprentice Standards of Competence

(1) The department may issue a pesticide apprentice license for one licensing period, or portion thereof. The department may issue the license to an applicant that is at least 18 years of age upon receipt of:

(a) A license application form that contains all of the information requested by the department;

(b) Payment of the appropriate fee; and

(c) Documentation that the applicant successfully completed, within two years of the date of initial application, a written examination developed and administered by the department for the purpose of assuring that the applicant is competent in the use of pesticides as a pesticide apprentice. The content of this examination shall include the topics listed in OAR 603-057-0129(1)(a) through (e). Successful completion of the examination shall require answering at least 70 percent of the examination questions correctly.

(d) A pesticide apprentice license shall expire on December 31 of the year of issuance, or the following year if issued a license for two consecutive years.

(2) The department may renew a pesticide apprentice license for consecutive licensing periods upon receipt of:

(a) A license renewal application form containing all of the information requested by the department;

(b) Payment of the appropriate fee; and

(c) Documentation that the applicant successfully completed the required credit hours of pesticide instructional sessions during the previous licensing period. The department must accredit the instructional sessions. Eight (8) credit hours are required for each year of a licensing period. Four (4) of the eight (8) credit hours must be core credits as described in OAR 603-057-0135. All training requirements may be waived for the first year of the initial licensing period only.

(3) If a person licensed as a pesticide apprentice does not deliver the form, fee, and documentation described in subsection (2) of this rule to consecutively renew their license, the person will not be eligible to renew their pesticide apprentice license. The person must retake the qualifying examination as described in (1)(c) of this section.

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(4) A pesticide apprentice license authorizes the holder to conduct pesticide application activities under the supervision of an appropriately licensed supervisor. The licensed apprentice may apply pesticides only in the categories listed on the supervisor's license. If the supervisor is a licensed public applicator, the licensed apprentice may only apply pesticides as described in ORS 634.116(12).

(5) For each pesticide application made by a pesticide apprentice, a pesticide application record, as required by ORS 634.146 and OAR 603-057-0130, must be made that also contains the names and pesticide license numbers of the appropriately licensed pesticide apprentice(s) and the supervisor(s). The employer of the licensed pesticide apprentice shall retain the record for a period of three years and release them to the department for inspection as required or authorized by ORS chapters 561 or 634 or rules adopted thereunder.

(6) A pesticide apprentice license does not authorize the holder to conduct pesticide applications by helicopter or fixed wing aircraft.

(7) For purposes of this section "an appropriately licensed supervisor" is:

(a) A licensed pesticide applicator, or licensed public applicator;

(b) Licensed in the category, or categories, in which the pesticide apprentice is currently engaged.

(8) Any pesticide apprentice conducting pesticide application activities without a valid appropriately licensed supervisor, or who is unable to identify their supervisor, will be considered unlicensed and subject to enforcement actions in accordance to ORS 634.900

Stat. Auth.: ORS 561.190 & 634

Stats. Implemented: ORS 634.306

Hist.: AD 12-1992, f. 10-13-92, cert. ef. 1-1-93; DOA 2-2012, f. 1-13-12, cert. ef. 1-1-13; DOA 16-2012, f. & cert. ef. 6-1-12

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**Rule Caption:** Clarifies the description of the area under quarantine.

**Adm. Order No.:** DOA 17-2012

**Filed with Sec. of State:** 6-6-2012

**Certified to be Effective:** 6-6-12

**Notice Publication Date:** 5-1-2012

**Rules Amended:** 603-052-1020

**Subject:** The proposed amendment clarifies the description of the area under quarantine. Currently, the entire states of Washington and Idaho are exempt from the quarantine. Washington currently has a comparable statewide quarantine for hop powdery mildew. However, in Idaho, only the northern counties are covered by a comparable quarantine, creating a situation where potentially infected hop plants could be shipped into Oregon from southern Idaho counties. This amendment clarifies that only hop plants from counties in Washington and Idaho covered by a comparable quarantine for hop powdery mildew are eligible for shipment into Oregon. This is a housekeeping change to this rule.

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

## 603-052-1020

### Quarantine Against Powdery Mildew of Hops

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

(2) Area under Quarantine: All states and districts of the United States, except those counties in the states of Washington and Idaho covered by a comparable quarantine.

(3) Commodities Covered: Plants and all plant parts of hops, *Humulus lupulus*, excepting kiln dried cones of hops are prohibited entry into this state directly, indirectly, diverted or reconsigned. Used bale coverings and any other articles or equipment that could transmit spores or other infectious material.

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

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

(6) Disposition of Commodities in Violation of the Quarantine: All covered commodities described in section (3) of this rule found to be in vio-

lation of this quarantine shall be returned immediately to point of origin by the Oregon receiver, or at the receiver's option be destroyed under the supervision of the Oregon Department of Agriculture without expense to or indemnity paid by the Oregon Department of Agriculture.

Stat. Auth.: ORS 561 & 570.305

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

Hist.: AD 7-1993(Temp), f. & cert. ef. 5-26-93; AD 20-1993, f. & cert. ef. 12-14-93; AD 10-1996, f. & cert. ef. 9-5-96; DOA 4-1998, f. & cert. ef. 5-11-98; DOA 12-1999, f. & cert. ef. 6-4-99; DOA 4-2009, f. & cert. ef. 4-9-09; DOA 17-2012, f. & cert. ef. 6-6-12

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**Rule Caption:** Increase fees related to audit and third-party certification services.

**Adm. Order No.:** DOA 18-2012

**Filed with Sec. of State:** 6-12-2012

**Certified to be Effective:** 6-12-12

**Notice Publication Date:** 4-1-2012

**Rules Amended:** 603-053-0200

**Subject:** Federal-State Cooperative Agreement with USDA requires that fees charged for audit services conducted under that agreement follow the current federal rate, currently at \$92/hour. OAR-603-053 currently puts the Oregon Department of Agriculture out of compliance with this agreement. Increased revenue generated from this fee increase will help pay for administrative costs of the program, as well as yearly continuing education for auditors and accreditation and audit fees for certification programs.

The ODA proposes a revised fee schedule as follows: change the minimum hourly charge from \$75 to \$92, with a 4 hour minimum of service. Additionally, it proposes application fees for the National Organic Program certification program at \$250 for new organic applicants and \$100 yearly renewal application fee for returning customers to cover the administrative cost of accepting and reviewing organic applications before inspection and audit fees can be billed. Additionally, as the Department has begun to offer Global Food Safety Initiative benchmarked audits, a certification fee is proposed to be charged per certificate to cover technical review and administrative costs of this program.

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

## 603-053-0200

### Inspection Fees For Agricultural Products

The following fees and charges are established for grading, inspection, and certification of horticultural and agricultural products and processes. Fees will be established in an amount reasonably necessary to cover the cost of providing grading, inspection, certification and auditing in the Shipping Point Inspection program and administration of the program pursuant to ORS 632.940:

(1) Separate fees and hourly rates for inspection of fresh products at specific facilities may be available upon request. At the option of the department, fees and hourly rates may be established for specific facilities at an amount reasonably necessary to cover the cost of services rendered. Such fees and hourly rates shall be calculated by determining the costs, including administrative overhead, for providing the service to the specific facility. Fees and rates established pursuant to this section supersede the fee schedule and rates established herein.

(2) Regular inspection and Expense Guarantee: Regular inspection fees are established in an amount reasonably necessary to cover the cost of providing the services and administration of the program in each of the Shipping Point Inspection Districts. An expense guarantee may be part of the regular inspection charges. Expense Guarantee: When service is requested that will require the assignment of an inspector at a point where the volume of work, at regular fee schedule, would not be adequate to cover the costs of the service, an expense guarantee may be required. This guarantee may include:

(a) A charge for a minimum of four hours of service at a rate of \$ 60 per hour unless otherwise specified by contract;

(b) Travel time at the rate of \$ 60 per hour;

(c) Mileage at the rate per mile established by the Department of Administrative Services;

(d) Eight hours per day at \$ 60 per hour for a minimum of five days per week Monday through Friday during the assignment;

(e) When regular fees equal or exceed the Expense Guarantee, the regular Fee Schedule shall apply;

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(f) Credit may be given towards the Expense Guarantee for any work performed for other applicants;

(g) Overtime charges shall be in addition to the Expense Guarantee.

(3) Fresh Produce Grade and Condition Certification:

(a) All Fresh Fruit and Vegetables (except Onions and Potatoes):

(A) 65 lbs. Or less net — 6-1/2¢ per container;

(B) Bulk or bulk bins — \$ 3.25 per ton

(b) Brine Cherries:

(A) 15,500 lbs. or less — \$ 43;

(B) 15,501 to 31,250 lbs. — \$ 50;

(C) 31,251 to 37,500 lbs. — \$ 57;

(D) Quantities in excess of 37,500 lbs. — 18¢ per cwt. for the over-

age;

(c) Onions: — 12¢ per cwt.

(d) Potatoes: — 12¢ per cwt.;

(A) Certified Seed — 12¢ per cwt.;

(B) Diversion — 8¢ per cwt.

(e) Tree Nuts;

(A) Filberts Inshell — 20¢ per cwt.;

(B) Walnuts Inshell — 28¢ per cwt.;

(C) Filbert Kernels — 38¢ per cwt.;

(D) Shelled Walnuts — 48¢ per cwt.

(4) Inspection of Product for Processing: Fees and hourly rates for inspecting fruits and vegetables intended for processing shall be established on a separate, uniform basis for each facility. The fees and hourly rates shall be set at an amount reasonably necessary to cover the cost of services rendered. Such fees and hourly rates shall be calculated by determining the costs, including administrative overhead, for providing the service to the specific facility.

(5) Certification and Third-Party Audit Services Fees: All certification and third-party audit services will be provided on a first come, first served basis as qualified auditing staff is available. These include: USDA National Organic Program (NOP) certification, USDA Good Agricultural Practices/Good Handling Practices (GAP/GHP), USDA Produce GAPs Harmonized Standard, Global Food Safety Initiative benchmarked audit schemes and additional industry or private standards as requested. Audit fees will be applied to all services for accredited programs or for additional audit standards as requested by the industry. The cost for such services may include:

(a) A charge for a minimum of four hours of service at a rate of \$92 per hour;

(b) Travel time at the rate of \$92 per hour;

(c) Mileage, lodging and per diem reimbursed at rates established by the Department of Administrative Services;

(d) Annual application fees for USDA National Organic Program (NOP) certification at \$250 for first-time applicants and \$100 for renewal applications; and

(e) Certification fees for Global Food Safety Initiative benchmarked schemes at \$300 per certificate, or per site.

(6) Minimum Certificate Charge: When small lots are written up to meet a specific need in an operating packing house, of a commodity which is being inspected on a regular basis, the minimum certificate charge shall be calculated on the regular schedule for that commodity with a \$ 10 minimum fee.

(7) Mileage Charges: Mileage may be charged in addition to all inspection fees or time charges, at the rate per mile established by the Department of Administrative Services, when travel is required.

(8) Special Services or Determinations: When platform inspections, checkloading, checkweighing, count certification, sealing, or other special services are requested, then at the option of the Department the fee, hourly charge, and/or the minimum number of hours per day, per week or period, may be agreed upon by prior written contractual agreement between the applicant or applicants and the Department. In no case, however, shall such charges be less than is necessary to completely reimburse the Department for its total costs of furnishing such services. The provisions of this section supersede the other fee schedules and provisions relating thereto.

(9) Off Grade or Size Certification: When containers of rejected commodity are not emptied by the close of the business day, an off grade certificate shall be issued covering the total amount of rejected commodity and the regular fee schedule shall be applied.

(10) Overtime Charges: For all inspection services performed during the following times (which will be considered overtime), the regular inspection fees or hourly charges shall be charged plus \$ 30 per hour for all time involved. Overtime charges shall be figured to the nearest one-half hour:

(a) After eight hours shed operation (per scheduled shift) or 6:00 p.m., whichever comes first, on Monday through Friday of each week;

(b) At any time on Saturdays or Sundays; and

(c) At any time on any day which is declared by law to be a holiday for state employees.

(11) Overtime Service Charge: The minimum overtime service charge for Saturdays, Sundays and other legal holidays shall be four hours.

(12) No Service Days: No service will be given on Thanksgiving, Christmas, or New Years days.

(13) Standardization Inspection Charges: Produce requiring inspection under ORS 632, arriving on Oregon terminal markets without evidence of inspection or without request for inspection being made to the Department prior to arrival will be assessed double the applicable fee stated in the fee schedule and a state certificate will be issued.

(14) Extra Service Charge: When extra service is requested in conjunction with grade and condition certification, an additional charge at the applicable fee stated per hour may be made for additional time used to make these determinations. Time shall be figured to the nearest 1/2 hour.

(15) Additional Certificates: When it is necessary to issue extra certificates, certificate copies, or superceded certificates, a charge of \$ 10 for each certificate shall be made. When the cost to issue the certificates exceed \$10, the hourly rate shall apply. When it is necessary to issue extra certificates or supercede certificates due to errors of Inspection Service, no charge will be made.

(16) Phytosanitary or Federal FV-294 Certificates or Federal FV-184 Certificates (extra service charge for sampling and inspection):

(a) When in conjunction with and at the time of grade inspection — 2¢ per cwt.;

(b) When not grade inspected or at time of inspection, the hourly inspection fee will apply plus — 2¢ per cwt.;

(c) Minimum service charge for each certificate issued — \$10.

(17) Fumigation Certificates: When fumigation certification is requested, a charge at the applicable rate per hour will be made for all time required, including travel time, plus mileage at a rate established by the Department of Administrative Services.

Stat. Auth.: ORS 561.190, 632.940 & 632.945

Stats. Implemented: ORS 632.940 & 632.945

Hist.: AD 562, f. & ef. 10-7-57; AD 611, f. 7-10-59; AD 672, f. 6-29-61; AD 767, f. & ef. 7-17-63; AD 799(6-65), f. 6-30-65, ef. 7-15-65; AD 854(26-67), f. 9-26-67, ef. 10-1-67; AD 886(16-68), f. 8-21-68, ef. 10-1-68; AD 904(10-69), f. 8-29-69, ef. 9-8-69; AD 973(6-72), f. 7-11-72, ef. 8-1-72; AD 1037(27-74), f. 8-20-74, ef. 9-11-74; AD 1069(15-75), f. 9-5-75, ef. 9-25-75; AD 13-1979, f. 9-28-79, ef. 10-1-79; AD 10-1983, f. & ef. 8-22-83; AD 2-1991, f. & cert. ef. 2-15-91; AD 17-1992, f. & cert. ef. 11-30-92; AD 11-1994, f. 8-30-94, cert. ef. 9-1-94; AD 9-1996, f. & cert. ef. 7-26-96; DOA 7-1999, f. & cert. ef. 4-26-99; DOA 28-2000, f. & cert. ef. 10-13-00; DOA 27-2002, f. & cert. ef. 12-23-02; DOA 19-2006, f. & cert. ef. 11-2-06; DOA 18-2012, f. & cert. ef. 6-12-12

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**Rule Caption:** Deleting multiple sections of OAR for programs that are outdated or defunded.

**Adm. Order No.:** DOA 19-2012

**Filed with Sec. of State:** 6-15-2012

**Certified to be Effective:** 7-1-12

**Notice Publication Date:** 5-1-2012

**Rules Repealed:** 603-016-0355, 603-016-0360, 603-016-0365, 603-016-0370, 603-016-0375, 603-016-0380, 603-016-0385, 603-016-0390, 603-031-0105, 603-031-0111, 603-031-0112, 603-031-0113, 603-031-0114, 603-031-0116, 603-031-0117, 603-031-0120, 603-031-0125, 603-031-0140, 603-031-0180, 603-031-0185, 603-050-0100, 603-061-0005, 603-062-0005, 603-062-0010, 603-062-0015, 603-062-0020, 603-063-0005, 603-063-0010, 603-063-0015, 603-063-0020, 603-063-0025, 603-064-0005, 603-064-0050, 603-064-0100, 603-064-0105, 603-064-0110, 603-064-0115, 603-064-0120, 603-064-0130, 603-064-0200, 603-065-0005, 603-065-0010, 603-065-0015, 603-065-0017, 603-065-0020, 603-065-0023, 603-065-0025, 603-065-0032, 603-065-0035, 603-065-0040, 603-065-0045, 603-065-0050, 603-065-0055, 603-065-0060, 603-065-0065, 603-065-0070, 603-065-0075, 603-065-0080, 603-065-0085, 603-066-0005, 603-066-0010, 603-066-0015, 603-066-0020, 603-066-0025, 603-066-0030, 603-066-0100, 603-066-0110, 603-066-0200, 603-066-0205, 603-066-0210, 603-066-0300, 603-066-0305, 603-066-0310, 603-067-0020, 603-067-0035, 603-068-0005, 603-068-0010, 603-068-0015, 603-068-0100, 603-068-0105, 603-068-0110, 603-068-0200, 603-068-0205, 603-068-0210, 603-068-0300, 603-068-0305, 603-068-0310, 603-068-0400, 603-068-0405, 603-068-0410, 603-069-0010, 603-069-0015, 603-069-0020, 603-069-0025, 603-

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069-0032, 603-069-0035, 603-069-0040, 603-070-0025, 603-070-0030, 603-070-0035, 603-070-0040, 603-070-0050, 603-070-0055, 603-085-0000, 603-085-0010, 603-085-0020, 603-085-0030, 603-085-0040, 603-085-0050, 603-085-0060, 603-085-0070, 603-085-0080, 603-105-0010, 603-064-0205, 603-069-0005, 603-069-0030, 603-069-0034, 603-057-0300, 603-070-0045, 603-070-0060

**Subject:** The Oregon Department of Agriculture adopts permanent repeal of the following Administrative Rules:

Animal Health/ID: 603-016 – Eradication and Control of Turkey Diseases, and the Inspection and Grading of Turkeys – No industry need for this.

Commodity Inspection Programs: 603-031- Grain Inspection – ODA no longer performs this function.

603-050-0100 – Transportation Permits for Potatoes – Program no longer in use.

Pesticides Division: 603-057-0300 – Specifications for Use of Pesticides Containing Thiram as Animal Repellents – EPA cancelled use of product.

Dairy: 603-061 thru 603-069 – Milk Stabilization Program – ODA no longer conducts this program.

Conservation: 603-070 – Conservation Planning and Implementation Grant Programs – No longer funded or functioning.

Research: 603-085-0000 – 603-085-0080 – Center for Applied Agricultural Research – No longer funded or functioning

Wine Advisory Board: 603-105-0010 – Wine Advisory Board – No longer a function of ODA; operates outside of the department.

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

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

**Rule Caption:** Postponing the expanded arc-fault circuit interrupter provisions of the Oregon Electrical Specialty Code.

**Adm. Order No.:** BCD 5-2012(Temp)

**Filed with Sec. of State:** 6-7-2012

**Certified to be Effective:** 6-7-12 thru 10-31-12

**Notice Publication Date:**

**Rules Amended:** 918-305-0105

**Subject:** This rule will temporarily delay implementing a requirement for arc-fault circuit interrupter (AFCI) protection in family rooms, dining rooms, living rooms, parlors, libraries, dens, sunrooms, recreation rooms, closets, hallways, or similar rooms and areas. This temporary rule will expire on October 31, 2012.

**Rules Coordinator:** Stephanie Snyder—(503) 373-7438

### 918-305-0105

#### Amendments to the Oregon Electrical Specialty Code

(1) The Oregon Electrical Specialty Code is adopted and amended pursuant to OAR chapter 918, division 8. Amendments adopted for inclusion into the Oregon Electrical Specialty Code are placed in this rule, showing the section reference and a descriptive caption. Amendments to the Oregon Electrical Specialty Code are printed in their entirety in Table 1-E, located at the end of Division 305.

(2) Section 210.12(A) Arc-Fault Circuit Interrupter Protection. Section 210.12(A) is amended by deleting “family rooms, dining rooms, living rooms, parlors, libraries, dens, sunrooms, recreation rooms, closets, hallways, or similar rooms or areas” until November 1, 2012.

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

Stat. Auth.: ORS 479.730

Stats. Implemented: ORS 479.730

Hist.: BCD 23-2004, f. 12-15-04, cert. ef. 4-1-05; BCD 6-2008, f. 3-7-08, cert. ef. 4-1-08; BCD 3-2011, f. 3-11-11, cert. ef. 4-1-11; BCD 5-2012(Temp), f. & cert. ef. 6-7-12 thru 10-31-12

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## Department of Consumer and Business Services, Insurance Division Chapter 836

**Rule Caption:** Amends current rule allowing title insurers to provide certain real property information to intermediaries.

**Adm. Order No.:** ID 10-2012

**Filed with Sec. of State:** 6-7-2012

**Certified to be Effective:** 6-7-12

**Notice Publication Date:** 5-1-2012

**Rules Amended:** 836-080-0337

**Subject:** The current rule allows title companies to provide certain information on real property located in Multnomah, Clackamas or Washington counties, or any county in which real property data bases if the information is available on a commercially available software program, The ability of a title company to provide the information is subject to a \$10 limit, including but not limited to labor and materials.

The changes to the rule allow a title company to provide demographic information for property located anywhere in Oregon. The rule also changes the limitation on cost to \$15 per request, including but not limited to labor and materials, and prohibits a title company from providing to intermediaries any other thing of value in connection with the property information, including but not limited to packaging.

**Rules Coordinator:** Sue Munson—(503) 947-7272

### 836-080-0337

#### Real Property Information

(1) A title company may give to an intermediary information that relates to a specific parcel of real property located in this state if the cost to the title company, including but not limited to labor and materials, is \$15 or less per request.

(2) A title company may distribute the information described in section (1) of this rule in any form and in any manner.

(3) This rule does not apply when a title company provides real property information in connection with a title insurance policy according to the title company’s filed rating plan approved by the Director pursuant to ORS 737.320.

(4) Nothing in this rule allows a title company to provide:

(a) The means of access to the real property information to an intermediary for less than reasonably equivalent consideration; or

(b) Any other thing of value in connection with the information described in section (1) of this rule including but not limited to packaging such as binders, dividers, folders, page protectors or compact disc cases.

Stat. Auth.: ORS 731.244

Stats. Implemented: ORS 746.045, 746.055, 746.160 & 746.240

Hist.: ID 9-1996, f. 6-25-96, cert. ef. 7-1-96; ID 10-2012, f. & cert. ef. 6-7-12

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**Rule Caption:** Rules to implement Senate Bill 1547 relating to regulating and licensing captive insurers in Oregon.

**Adm. Order No.:** ID 11-2012(Temp)

**Filed with Sec. of State:** 6-15-2012

**Certified to be Effective:** 7-1-12 thru 12-27-12

**Notice Publication Date:**

**Rules Adopted:** 836-029-0000, 836-029-0005, 836-029-0010, 836-029-0015, 836-029-0020, 836-029-0025, 836-029-0030, 836-029-0035, 836-029-0040, 836-029-0045, 836-029-0050, 836-029-0055, 836-029-0060, 836-029-0065, 836-029-0070, 836-029-0075, 836-029-0080, 836-029-0085, 836-029-0090, 836-029-0095, 836-029-0100, 836-029-0105, 836-029-0110, 836-029-0115, 836-029-0120

**Rules Amended:** 836-009-0007

**Subject:** Senate Bill 1547 (2012 Legislative Session) authorized the Department of Consumer and Business Services to admit and regulate captive insurers in Oregon. A captive insurer is an insurance company formed to provide certain classes of insurance coverage to its parent organization or its affiliates, not to the public as a whole. Many major U.S. and multinational corporations use captive insurers to finance portions of their insurance risks. A captive insurer can be organized under the laws of any jurisdiction with a captive insurer enabling statute. The jurisdiction under which the captive insurer is organized is called the “domicile”, and the captive insurer is regulated by the laws of that domicile.

These temporary rules implement the provisions of Senate Bill 1547, setting out the regulatory and procedural details to administer the new captive insurers program. The rules include provisions

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that establish and clarify application requirements, annual reporting and audit requirements, documentation and recordkeeping requirements, provisions to assure there is no conflict of interest by directors of captive insurers, procedures for suspending or revoking a captive insurer license, forms and fee requirements.

**Rules Coordinator:** Sue Munson—(503) 947-7272

### 836-009-0007

#### Fees

(1) The following fees apply to certificates of authority:

(a) The fee for application for a certificate of authority to transact insurance as an insurer is \$2,500. The fee for application as a domestic insurer must be paid when application for a permit to organize as a domestic insurer is made. Otherwise, the fee must be paid when the application for the certificate is made;

(b) The fee for annual continuation of a certificate of authority issued under subsection (a) of this section is \$1,500;

(c) The fee for obtaining a certificate of authority to transact insurance as a captive insurer for the year the director first issues a certificate is \$5,000. The fee for a domestic insurer must be paid when application for a permit to organize as a domestic insurer is made. Otherwise, the fee must be paid when the application for the certificate is made;

(d) The fee for annual renewal of a certificate of authority for a captive insurer issued under subsection (d) of this section is \$5,000;

(e) The fee for reinstatement of a certificate of authority is \$100.

(2) The fees in this section apply to examinations for licenses for insurance producers, adjusters and insurance consultants. The fees may be charged by the examination vendor under contract with the Department of Consumer and Business Services and are as follows:

(a) Examination fees:

(A) Insurance producer, property and casualty insurance or life and health insurance — \$55;

(B) Insurance producer, property insurance only, casualty insurance only, personal lines insurance only, life insurance only or health insurance only — \$45;

(C) Surplus lines licensee — \$45;

(D) Adjuster, general lines insurance or life and health insurance — \$45;

(E) Adjuster, health insurance or any single other line designated by rule — \$45;

(F) Consultant, life and health insurance or general lines insurance — \$55;

(G) Consultant, life insurance only, health insurance only or any other single line designated by rule — \$45;

(b) Reexamination fees, to be charged when the applicant retakes an examination:

(A) Insurance producer, property and casualty insurance or life and health insurance — \$55

(B) Insurance producer, property insurance only, casualty insurance only, personal lines insurance only, life insurance only or health insurance only — \$45;

(C) Surplus lines licensee — \$45;

(D) Adjuster, general lines insurance or life and health insurance — \$45;

(E) Adjuster, health insurance or any single other line designated by rule — \$45;

(F) Consultant, life and health insurance or general lines insurance — \$55;

(G) Consultant, life insurance only, health insurance only or any other single line designated by rule — \$45;

(c) For purposes of the fees charged under subsections (a) and (b) of this section:

(A) Surety is included in the casualty insurance line and marine and transportation insurance may be included in the property insurance line or the casualty insurance line; and

(B) The personal lines line is a subcategory of the casualty insurance line. Consequently, a person who holds a license that is endorsed to transact casualty insurance need not obtain a separate endorsement to transact personal lines insurance.

(3) The following fees apply to application for licenses for insurance producers, adjusters and insurance consultants:

(a) Resident insurance producer — \$30;

(b) Nonresident insurance producer — \$30;

(c) Adjuster — \$30;

(d) Insurance consultant — \$30.

(4) The following fees apply to issuance of licenses for insurance producers, adjusters and insurance consultants:

(a) Resident insurance producer — \$45;

(b) Nonresident insurance producer — \$45;

(c) Adjuster — \$45;

(d) Insurance consultant — \$45;

(e) In addition, the actual cost of any criminal records check under 836-072-0010. The amount charged will not exceed the actual cost of acquiring and furnishing criminal offender information as authorized by ORS 181.534(9)(g).

(5) The examination fee under section (2) of this rule must be paid to the examination vendor. The application fee under section (3) of this rule and the license issuance fee under section (4) of this rule must be paid at the same time. There is no refund of the application and examination fees. Refund of the license issuance fee is governed by section (14) of this rule.

(6) The fees established in this section apply to the renewal of licenses for insurance producers, adjusters and insurance consultants. A license expires biennially in the month of the individual's birthday anniversary. The fees are as follows:

(a) Resident insurance producer — \$45;

(b) Nonresident insurance producer — \$45;

(c) Adjuster — \$45;

(d) Insurance consultant — \$45.

(7) The applicable fee under sections (3) and (4) of this rule shall be paid for each category of insurance business appearing on a license.

(8) The following fees apply to certificates of registration for legal expense organizations:

(a) Application for a certificate of registration -- \$350;

(b) Renewal of certificate of registration -- \$350. The fee under this subsection shall be paid annually.

(9) Annual registration of a foreign risk retention group -- \$350. The fee under this section shall be paid at the time of initial registration and annually thereafter.

(10) Annual registration of a purchasing group -- \$100. The fee under this section shall be paid at the time of initial registration and annually thereafter.

(11) The license for a rating organization -- \$180. The fee under this section shall be paid at the time of initial licensing and triennially thereafter.

(12) The fee for filing a statement by an acquiring party under ORS 732.521 for the purpose of acquiring a controlling interest in an insurer (a "Form A" filing as prescribed in OAR 836-027-0100) is \$50 per hour of Division staff time spent on reviewing the statement, with a minimum fee of \$5,000.

(13) The Fire Marshal shall pay \$50,000 each year for services provided by the Department in the collection of gross premium taxes on insurance covering the peril of fire under ORS 731.820.

(14) Fees paid as required under this rule are not refundable except as provided in this section. If the director determines that an amount paid exceeds the amount legally due and payable to the Department and the amount of the overpayment is less than \$20, the Department shall refund the amount only upon receipt of a written request from the payer or the representative of the payer. A fee paid for a license under section (4) of this rule is refundable if the license applicant fails the examination or if the license is otherwise not issued to the applicant.

(15) The amendments to section (2)(a), (b) and (d) of this rule that were filed in ID 15-2002 with the Secretary of State on June 26, 2002 to become effective on July 1, 2002, are re-adopted with the operative date of July 1, 2002, and those same amendments to section (2)(a) and (b) of this rule are repealed effective July 1, 2003.

Stat. Auth.: ORS 181.534, 293.445, 731.244, 731.804 & 744.037

Stats. Implemented: ORS 181.534, 731.804, 744.001, 744.002, 744.004, 744.007, 744.058, 744.062, 744.063, 744.064, 744.072, 744.528, 744.531, 744.535, 744.619 & 744.621

Hist.: ID 6-1989(Temp), f. & cert. ef. 7-3-89; ID 14-1989, f. 12-12-89, cert. ef. 1-1-90; ID 21-

1990, f. & cert. ef. 12-18-90; ID 4-1991, f. & cert. ef. 4-25-91; ID 8-1991, f. & cert. ef. 10-

21-91; ID 7-1993, f. & cert. ef. 9-3-93; ID 16-1997, f. 11-25-97, cert. ef. 1-1-98; ID 6-1999,

f. 12-13-99, cert. ef. 1-1-00; ID 14-2000, f. 12-27-00, cert. ef. 1-1-01; ID 13-2001, f. 11-16-

01, cert. ef. 1-1-02; ID 15-2002, f. 6-26-02, cert. ef. 7-1-02; ID 4-2003(Temp), f. 6-30-03,

cert. ef. 7-1-03 thru 12-19-03; ID 8-2003, f. 12-12-03, cert. ef. 12-19-03; ID 8-2005, f. 5-18-

05, cert. ef. 8-1-05; ID 11-2007(Temp), f. & cert. ef. 12-11-07 thru 6-1-08; ID 7-2008, f. 5-

20-08, cert. ef. 6-2-08; ID 2-2010, f. 1-8-10, cert. ef. 2-1-10; ID 23-2010, f. 12-30-10, cert.

ef. 1-1-11; ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

### 836-029-0000

#### Authority

OAR 836-029-0000(T) to 836-029-0120(T) are adopted under the general rulemaking authority of the Director of the Department of Consumer and Business Services under ORS 731.244 and the specific authority granted by Section 4, chapter 84, Oregon Laws 2012.

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)

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Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)  
Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

## 836-029-0005

### Purpose and Scope

The purpose of these rules is to set forth the financial, reporting, record-keeping and other requirements the Director of the Department of Consumer and Business Services considers necessary for the regulation of captive insurers, under sections 2 to 22, chapter 84, Oregon Laws 2012.

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)  
Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)  
Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

## 836-029-0010

### Definitions

As used in OAR 836-029-0000(T) to 836-029-0120(T):

(1) "GAAP" means generally accepted accounting principles.

(2) "Work Papers" or "working papers" include but are not limited to schedules, analyses, reconciliations, abstracts, memoranda, narratives, flow charts, copies of captive insurer records or other documents prepared or obtained by the independent certified public accountant and the accountant's employees in the conduct of their audit of a captive insurer.

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)  
Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)  
Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

## 836-029-0015

### Annual Reporting Requirements

(1) Not later than March 1, a captive insurer authorized in this state shall file an annual report of its financial condition as of the immediately preceding December 31 with the Director of the Department of Consumer and Business Services. The report shall be verified by oath of two of its executive officers and shall be prepared using GAAP. The annual report may be filed electronically in accordance with directions from the director.

(2) An association captive insurer shall comply with the requirements of section 13, chapter 84, Oregon Laws 2012 when filing an annual report on the captive insurer's financial condition.

(3) All captive insurers must use the "Captive Insurer Annual Statement Form" as set forth on the Insurance Division website of the Department of Consumer and Business Services at [www.insurance.oregon.gov](http://www.insurance.oregon.gov).

(4) The annual report required under section (1) of this rule must be accompanied by a management discussion and analysis that provides details of the captive's financial condition, changes in financial condition and results of operations. The Management Discussion and analysis shall be prepared in accordance with annual statement instructions set forth on the Insurance Division website of the Department of Consumer and Business Services at [www.insurance.oregon.gov](http://www.insurance.oregon.gov) and applicable to the required filing period as set forth in OAR 836-011-0000.

(5) A captive insurer shall file information applicable to holding company systems required by OAR 836-027-0001 to 836-027-0180 on or before April 30 covering activities for the preceding year.

(6) Upon request, the director may grant an extension of time for filing a report or document required under this rule.

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)  
Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)  
Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

## 836-029-0020

### Risk Limitation

The Director of the Department of Consumer and Business Services may:

(1) Limit the net amount of risk a captive insurer retains for a single risk after considering the impact of the retention on the captive insurer's capital and surplus; or

(2) Prescribe and demand additional capital and surplus of any captive insurer if the director determines that the captive insurer is not adequately capitalized for the type, volume and nature of the risk that is being covered by the captive insurer.

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)  
Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)  
Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

## 836-029-0025

### Annual Audit

(1) All captive insurers shall have an annual audit by an independent certified public accountant, approved by the Director of the Department of Consumer and Business Services, and shall file an audited financial report with the director on or before June 30 for the preceding year. Financial

statements furnished under this section shall be prepared in accordance with generally accepted auditing standards as determined by the AICPA. At the discretion of the director, the requirement of an audit may be waived so long as the audit was not waived in the prior year.

(2) The annual audit report shall be considered part of the captive insurer's annual report of financial condition except with respect to the date by which it must be filed with the director. The director may grant an extension of time for filing the annual audit.

(3) The annual audit shall include all of the following:

(a) Opinion of an Independent Certified Public Accountant. The opinion of the independent certified public accountant shall:

(A) Cover all years presented; and

(B) Be addressed to the captive insurer on stationery of the accountant showing the address of issuance, shall bear original manual signatures and shall be dated.

(b) Internal Controls Letter.

(A) In accordance with AU Section 319 of the Professional Standards of the AICPA, *Considerations of Internal Controls in a Financial Statement Audit*, the independent certified public accountant shall obtain an understanding of internal controls sufficient to plan the audit. To the extent required by AU 319, for those insurers required to file a Management's Report of Internal Control over Financial Reporting pursuant to 836-029-0030(T), the independent certified public accountant shall consider (as that term is defined in Statement on Auditing Standards (SAS) No. 102, *Defining Professional Requirements in Statements on Auditing Standards* or its replacement) the most recently available report in planning and performing the audit of the statutory financial statements.

(B) Based on such understanding, the accountant shall include a letter about the internal controls of the captive insurer relating to the methods and procedures used in the securing of assets and the reliability of the financial records, including but not limited to, controls as the system of authorization and approval and the separation of duties. The review shall be conducted in accordance with generally accepted auditing standards and procedures.

(C) Accountant's Letter of Qualifications. For a captive insurer that has an annual direct written premium of \$500 million or more, the accountant shall furnish the captive insurer, for inclusion in the filing of the audited annual report, a letter stating:

(A) That the accountant is independent with respect to the captive insurer and conforms to the standards of the profession as contained in the Code of Professional Ethics and pronouncements of the AICPA and pronouncements of the Financial Accounting Standards Board;

(B) The general background and experience of the staff engaged in the audit, including **their** experience in auditing captive or other insurance companies;

(C) That the accountant understands that the audited annual report and the accountant's opinions on the audited annual report will be filed in compliance with this rule.

(D) That the accountant consents to the requirements of OAR 836-029-0055(T);

(E) That the accountant consents and agrees to make the work papers available for review by the director and any designee or agent of the director; and

(F) That the accountant is properly licensed by an appropriate state licensing authority.

(d) Financial Statements. The financial statements required shall include all of the following:

(A) Balance sheet;

(B) Statement of gain or loss from operations;

(C) Statement of changes in financial position;

(D) Statement of cash flow;

(E) Statement of changes in capital paid up, gross paid in and contributed surplus and unassigned funds (surplus); and

(F) Notes to financial statements required by GAAP including:

(i) A reconciliation of differences, if any, between the audited financial report and the statement or form filed with the director;

(ii) A summary of ownership and relationship of the captive insurer and all affiliated corporations or companies insured by the captive;

(iii) A narrative explanation of all material transactions with the captive insurer. For purposes of this provision, no transaction shall be deemed material unless it involves three percent or more of a captive insurer's admitted assets as of the immediately preceding December 31; and

(iv) A reconciliation of differences between capital paid up, gross paid in and contributed surplus and unassigned funds (surplus) prepared on a GAAP and Statutory Accounting basis.

# ADMINISTRATIVE RULES

(e) Certification of Loss Reserves and Loss Expense Reserves of the Captive Insurer's Opining Actuary. The annual audit shall include an actuarial opinion as to the reasonableness of the captive insurer's loss reserves and loss expense reserves.

(A) The individual who certifies as to the reasonableness of reserves shall be approved by the director and shall be a Fellow or Associate of the Casualty Actuarial Society and a member in good standing of the American Academy of Actuaries, for property and casualty companies.

(B) The director may waive the requirement under this section to include an actuarial opinion as to the reasonableness of the captive insurer's loss reserves and loss expense reserves.

(C) Certification under this subsection shall be in the form the director determines appropriate.

(4) As used in this rule, "AICPA" means American Institute of Certified Public Accountants.

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)

Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)

Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

## 836-029-0030

### Management's Report of Internal Control over Financial Reporting

(1) Each insurer required to file an audited financial report pursuant to OAR 836-029-0015(T) that has annual direct written and assumed premiums of \$500,000,000 or more, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, shall prepare a report of the insurer's or group of insurers' internal control over financial reporting. The insurer shall file the report with the director, along with the Communication of Internal Control Related Matters Noted in an Audit, as described in OAR 836-029-0035(T). The Management's Report of Internal Control over Financial Reporting shall be as of December 31 immediately preceding.

(2) A Management's Report of Internal Control over Financial Reporting must include:

(a) A statement that management is responsible for establishing and maintaining adequate internal control over financial reporting;

(b) A statement that management has established internal control over financial reporting and an assertion, to the best of management's knowledge and belief, after diligent inquiry, as to whether its internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles;

(c) A statement that briefly describes the approach or processes by which management evaluated the effectiveness of its internal control over financial reporting;

(d) A statement that briefly describes the scope of work that is included and whether any internal controls were excluded;

(e) Disclosure of any unremediated material weaknesses in the internal control over financial reporting identified by management as of December 31 immediately preceding;

(f) A statement regarding the inherent limitations of internal control systems; and

(g) Signatures of the chief executive officer and the chief financial officer (or equivalent position and title).

(3) For a Management's Report of Internal Control over Financial Reporting under section (2) of this rule, management may not conclude that the internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles if there is one or more unremediated material weaknesses in its Internal control over financial reporting

(4) Management shall document and make available upon financial condition examination the basis upon which its assertions, required in section (2) of this rule, are made. Management may base its assertions, in part, upon its review, monitoring and testing of internal controls undertaken in the normal course of its activities. In addition:

(a) Management shall have discretion as to the nature of the internal control framework used, and the nature and extent of documentation, in order to make its assertion in a cost effective manner and, as such, may include assembly of or reference to existing documentation.

(b) Management's Report on Internal Control over Financial Reporting, required by section (1) of this rule, and any documentation provided in support thereof during the course of a financial condition examination, shall be kept confidential by the Department.

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)

Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)

Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

## 836-029-0035

### Communication of Internal Control Related Matters Noted in an Audit

(1) In addition to the annual audited financial report, each captive insurer that has annual direct written premium of \$500,000,000 or more shall furnish the director with a written communication as to any unremediated material weaknesses in its internal control over financial reporting noted during the audit. The communication must be prepared by the accountant not later than the 60th day after the filing of the annual audited financial report and shall contain a description of any unremediated material weakness (as the term material weakness is defined by Statement on Auditing Standards 60, *Communication of Internal Control Related Matters Noted in an Audit*, or its replacement) as of December 31 immediately preceding (so as to coincide with the audited financial report required by OAR 836-029-0025(T)) in the captive insurer's internal control over financial reporting noted by the accountant during the course of their audit of the financial statements. If no unremediated material weaknesses were noted, the communication must so state.

(2) The captive insurer shall submit with the report required under section (1) of this rule a description of remedial actions taken or proposed to correct unremediated material weaknesses, if the actions are not described in the accountant's report.

(3) The captive insurer shall maintain information about significant deficiencies communicated by the independent certified public accountant. The information must be made available to the examiner conducting a financial condition examination for review and kept in such a manner as to remain confidential.

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)

Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)

Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

## 836-029-0040

### Designation of Service Providers

(1) A certified public accountant retained to conduct the independent annual audit must be selected from the list of approved certified public accounting firms or individual certified public accountants maintained by the Director of the Department of Consumer and Business Services.

(2) A captive insurer that terminates the appointment of an independent certified public accountant retained to conduct the annual audit required in this rule shall report the name and address of the certified public accountant in writing to the director within ninety days after the appointment is terminated and shall within the same period report the name and address of the certified public accountant that is subsequently retained.

(3) A captive manager hired to manage a captive insurer must be selected from the list of approved captive managers maintained by the Director of the Department of Consumer and Business Services.

(4) A captive insurer that terminates the appointment of a captive manager hired to manage a captive insurer shall report the name and address of the captive manager in writing to the director within ninety days after the appointment is terminated and shall within the same period report the name and address of the captive manager that is subsequently retained.

(5) An actuary hired to opine on the reserves of a captive insurer must be selected from the list of approved actuaries maintained by the Director of the Department of Consumer and Business Services.

(6) A captive insurer that terminates the appointment of an actuary hired to opine on the reserves of a captive insurer shall report the name and address of the actuary in writing to the director within ninety days after the appointment is terminated and shall within the same period report the name and address of the actuary that is subsequently retained.

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)

Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)

Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

## 836-029-0045

### Notification of Material Misstatement of Financial Condition

A captive insurer shall require its certified public accountant to immediately notify an officer and all members of the board of directors of the captive insurer in writing of any determination by the independent certified public accountant that the captive insurer has materially misstated its financial condition in its report to the Director of the Department of Consumer and Business Services. The captive insurer shall furnish the notification to the director within five working days after receiving the notification from its certified public accountant.

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)

Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)

Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12



# ADMINISTRATIVE RULES

## 836-029-0050

### Additional Deposit Requirement

(1) Whenever the Director of the Department of Consumer and Business Services determines that the financial condition of a captive insurer warrants additional security, the director may require the captive insurer to deposit with the director, in trust for the captive insurer, cash, securities approved by the director, or an irrevocable letter of credit issued by a bank chartered by the State of Oregon or a member bank of the Federal Reserve System with the director.

(2) The director shall return the deposit or letter of credit of a captive insurer if the captive insurer ceases to do any business only after being satisfied that all obligations of the captive insurer have been discharged.

(3) With the approval of the director a captive insurer may receive interest or dividends from the deposit or exchange the deposits for others of equal value.

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)  
Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)  
Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

## 836-029-0055

### Availability and Maintenance of Working Papers of the Independent Certified Public Accountant

(1) Each captive insurer shall require its independent certified public accountant to make all work papers prepared in the conduct of the audit of the captive insurer available for review by the Director of the Department of Consumer and Business Services or his appointed agent. The captive insurer shall require that the accountant retain the audit work papers for a period of not less than five years after the end of the report period.

(2) The review by the director shall be considered an official investigation by the director and all working papers obtained during the course of such investigation shall be confidential business papers and shall be classified as business confidential protected records. The captive insurer shall require that the independent certified public accountant provide photocopies to the department of any of the working papers that the department considers relevant. The department may retain any photocopies of working papers.

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)  
Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)  
Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

## 836-029-0060

### Documentation Required to be Held in Oregon by Licensed Captives

(1) Any captive insurer authorized by the Director of the Department of Consumer and Business Services, shall maintain and make ready for inspection and examination by the director, or the director's agent, any and all documents pertaining to the formation, operation, management, finances, insurance and reinsurance of the captive insurer.

(2) Original documents may be kept in the offices of the captive insurer's captive manager, the captive insurer's parent or the captive insurer itself. Accurate and complete copies shall be held in an office located in Oregon designated by the captive insurer and approved by the director as part of the application process.

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)  
Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)  
Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

## 836-029-0065

### Reinsurance

(1) Any captive insurer authorized to do business in this state may take credit for reserves on risks ceded to a reinsurer subject to the following limitations:

(a) No credit shall be allowed for reinsurance where the reinsurance contract does not result in the transfer of the risk or liability to the reinsurer.

(b) No credit shall be allowed, as an asset or a deduction from liability, to any ceding insurer for reinsurance unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contract reinsured without diminution because of the insolvency of the ceding insurer.

(2) Reinsurance under this section shall be effected through a written agreement of reinsurance setting forth the terms, provisions and conditions governing such reinsurance.

(3) A captive insurer shall file with the Director of the Department of Consumer and Business Services complete copies of all reinsurance treaties and contracts for prior approval by the director. Any amendments to reinsurance agreements must be submitted to the director for prior approval.

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)  
Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)  
Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

## 836-029-0070

### Service Providers

A person may not act in or from this state, as a service provider, including but not limited to as a captive insurance manager, producer, actuary or certified public accountant, for a captive insurer without the authorization of the Director of the Department of Consumer and Business Services. Application for such authorization must be on a form prescribed by the director. The application shall include information regarding the service provider's character, reputation and experience, relative to captive insurer. A captive insurance producer must be licensed as a producer under ORS 744.052 to 744.089.

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)  
Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)  
Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

## 836-029-0075

### Directors

(1) Every captive insurer shall report any change in its executive officers or directors to the Director of the Department of Consumer and Business Services within thirty days after a change is made and include in its report, a biographical affidavit of any new executive officer or director.

(2) No director, officer or employee of a captive insurer shall, except on behalf of the captive insurer, accept, or be the beneficiary of, any fee, brokerage, gift or other emolument because of any investment, loan, deposit, purchase, sale, payment or exchange made by or for the captive insurer. The person may receive only reasonable compensation for necessary services rendered to the captive insurer in the person's usual private, professional or business capacity.

(3) Any profit or gain received by or on behalf of any person in violation of this section shall inure to and be recoverable by the captive insurer.

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)  
Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)  
Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

## 836-029-0080

### Conflict of Interest

(1) Each captive insurer licensed in Oregon shall adopt a conflict of interest statement for officers, directors and key employees. The statement shall disclose that the individual has no outside commitments, personal or otherwise, that would divert the person from the duty to further the interests of the captive insurer the person represents but this shall not preclude a person from being a director or officer in more than one insurance captive insurer.

(2) Each officer, director and key employee shall file a yearly disclosure with the board of directors.

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)  
Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)  
Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

## 836-029-0085

### Acquisition of Control of or Merger with Domestic Captive insurer

The acquisition of control of, or merger of, a domestic captive insurer shall be regulated in accordance with section 9, chapter 84, Oregon Laws 2012. However, the Director of the Department of Consumer and Business Services may waive or modify the requirements for public notice and hearing when the director concludes the public hearing is not necessary due to limited public interest in the change of control.

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)  
Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)  
Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

## 836-029-0090

### Suspension or Revocation

(1) The of the Department of Consumer and Business Services may by order suspend or revoke the license of a captive insurer or place the captive insurer on probation on the following grounds:

(a) The captive insurer has not commenced business according to its plan of operation within two years of being authorized;

(b) The captive insurer has ceased to carry on insurance business in or from within Oregon;

(c) At the request of the captive insurer;

(d) The captive insurer uses methods that render the operation of the captive insurer detrimental to the public or the policyholders of the captive insurer according to standards set forth in OAR 836-029-0095(T) or

(e) Any reason provided in section 16, chapter 84, Oregon Laws 2012.

(2) Before the director takes any action set forth under section 16, chapter 84, Oregon Laws 2012 the director shall give the captive insurer notice in writing of the grounds on which the director proposes to act, and

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shall provide an opportunity for hearing on the proposed action in accordance with the provision applicable to a contested case proceeding in ORS 183.310 to 183.490.

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)  
Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)  
Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

## 836-029-0095

### Standards

The director may consider the following standards, either singly or in combination of two or more, to determine whether the continued operation of any captive insurer transacting insurance in this state might be determined to be hazardous to the policyholders, its creditors or the general public:

(1) Adverse findings reported in financial condition and audit reports, and actuarial opinions, reports or summaries.

(2) Whether the captive insurer 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 captive insurer, when considered in light of the assets held by the captive insurer 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 policies and contracts.

(3) The ability of an assuming reinsurer to perform and whether the captive insurer's reinsurance program provides sufficient protection for the captive insurer's remaining capital and surplus after taking into account the captive insurer's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer.

(4) Whether the captive insurer's operating loss in the last 12-month period or any shorter period of time, including but not limited to net capital gain or loss, change in non-admitted assets and cash dividends paid to shareholders, is greater than 50 percent of the captive insurer's remaining capital and surplus in excess of the minimum required.

(5) Whether the captive insurer'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 captive insurer's remaining surplus as regards policyholders in excess of the minimum required.

(6) Whether a reinsurer or obligor, or any entity within the captive insurer's insurance holding company system is insolvent, threatened with insolvency or delinquent in payment of its monetary or other obligations and which, in the opinion of the director may affect the solvency of the captive insurer.

(7) Contingent liabilities, pledges or guaranties that either individually or collectively involve a total amount that in the opinion of the director may affect the solvency of the captive insurer.

(8) Whether any "controlling person" of a captive insurer is delinquent in the transmitting to, or payment of, net premiums to the captive insurer.

(9) The age and collectability of receivables.

(10) Whether the management of a captive insurer, including officers, directors or any other person who directly or indirectly controls the operation of the captive insurer, fails to possess and demonstrate the competence, fitness and reputation determined by the director to be necessary to serve the captive insurer in such position.

(11) Whether management of a captive insurer has failed to respond to inquiries relating to the condition of the captive insurer or has furnished false and misleading information concerning an inquiry.

(12) Whether the captive insurer has failed to meet financial and holding company filing requirements in the absence of a reason satisfactory to the director.

(13) Whether management of a captive insurer 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 captive insurer.

(14) Whether the captive insurer 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.

(15) Whether the captive insurer has experienced or will experience in the foreseeable future cash flow or liquidity problems, or both.

(16) Whether management has established reserves that do not comply with minimum standards established by state insurance laws, regulations, statutory accounting standards, sound actuarial principles and standards of practice.

(17) Whether management persistently engages in material under reserving that results in adverse development.

(18) Whether transactions among affiliates, subsidiaries or controlling persons for which the captive insurer receives assets or capital gains, or both, do not provide sufficient value, liquidity or diversity to assure the captive insurer's ability to meet its outstanding obligations as they mature.

(19) Any other finding determined by the director to be hazardous to the captive insurer's policyholders, creditors or general public.

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)  
Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)  
Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

## 836-029-0100

### Director's Authority

(1) For the purposes of making a determination of the financial condition of a captive insurer under OAR 836-029-0090(T) to 836-029-0100(T), the director 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 captive insurer's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the captive insurer will be called upon to meet the obligation undertaken within the next 12-month period.

(2) An order of the director under ORS 731.385 regarding a foreign captive insurer may be limited to the extent provided by statute.

(3) In addition to the requirements the director may impose under ORS 731.385, if the director determines that the continued operation of the captive insurer licensed to transact business in this state may be hazardous to the policyholders or the general public, the director may require the captive insurer to:

(a) File reports in a form acceptable to the director concerning the market value of the captive insurer's assets;

(b) Document the adequacy of premium rates in relation to the risks insured;

(c) In addition to regular annual statements, file interim financial reports on the form specified by the director;

(d) Correct corporate governance practice deficiencies, and adopt and utilize the governance practices acceptable to the director; or

(e) Provide a business plan to the director in order to continue to transact business in this state.

(4) Notwithstanding any other provision of law limiting the frequency or amount of premium rate adjustments, the director may include as a requirement under section (3) of this rule, any rate adjustment for any non-life insurance product written by the captive insurer that the director considers necessary to improve the financial condition of the captive insurer.

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)  
Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)  
Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

## 836-029-0105

### Change of Information in Initial Application

(1) Any material change in a captive insurer's business plan that is filed with the Director of the Department of Consumer and Business Services at the time of initial application and any subsequent amendment of the plan requires prior approval of the director.

(2) Any change in any other information filed with the initial application must be filed with the director within sixty days after the change, but does not require prior approval.

(3) The captive insurer shall immediately notify the director upon making changes in board members or officers of the captive insurer.

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)  
Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)  
Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

## 836-029-0110

### Application

(1) In order to form a domestic captive insurer a person shall apply to the Director of the Department of Consumer and Business Services for a permit to organize using the form, "Application for Permit to Organize Captive Insurer With or Without Capital Stock" as set forth on the Insurance Division website of the Department of Consumer and Business Services at [www.insurance.oregon.gov](http://www.insurance.oregon.gov). The written application for permit

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to organize, including all required attachments and information, must be submitted to the department in accordance with instructions provided with the application.

(2) In order to be authorized to transact insurance as a captive insurer a person shall apply to the director for authority to conduct a captive insurance using the form, "Application to Form a Captive insurer" as set forth on the Insurance Division website of the Department of Consumer and Business Services at [www.insurance.oregon.gov](http://www.insurance.oregon.gov). The application materials must:

(a) Include one complete copy of the application including forms, attachments, exhibits and all other papers and documents filed as a part thereof, accompanied by the appropriate filing fee filed in writing or online with the director. The written application, including all required attachments and information, must be submitted to the department in accordance with instructions provided with the application.

(b) Be signed in the manner prescribed in the application. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of the power of attorney or other authority must also be filed with the application.

(c) Include with the application a business plan with supporting data and all other information required by the application.

(d) Include a feasibility study demonstrating the feasibility of the business plan of the captive insurer. The department may test the feasibility of the study by examining the captive insurer's corporate records, including but not limited to the insurer's charter, bylaws and minute books, verification of capital and surplus, verification of principal place of business, determination of assets and liabilities, and any other factor the director considers necessary.

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)  
Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)  
Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

## 836-029-0115

### Fees

(1) At the time an applicant submits an application under OAR 836-029-0110(T) for a permit to organize a captive insurer or for a certificate of authority to operate as a captive insurer the applicant shall pay to the Director of the Department of Consumer and Business Services a non-refundable fee as set forth in OAR 836-009-0007 for processing the initial application for a permit to organize or for a certificate of authority.

(2) In addition, each captive insurer that is authorized by the director shall pay prior to April 1 an annual continuation fee, without proration, for the year following the year during which the certificate of authority was originally issued and each year thereafter in the amount established in OAR 836-009-0007.

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)  
Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)  
Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

## 836-029-0120

### Authorized Forms

(1) The following forms must be used for any applicant applying for a certificate of authority as a new captive insurer:

(a) "Application for Permit to Organize Captive Insurer With or Without Capital Stock;"

(b) "Application to Form a Captive insurer;"

(c) "Biographical Affidavit for Captive insurer;"

(d) "Oregon Insurance Division Captive insurer Reinsurance Exhibit;"

(e) "Oregon Approved Irrevocable Letter of Credit" if applicable;

(f) "Statement of Economic Benefit to the State of Oregon;" and

(g) "Appointment of the Director of the Department of Consumer and Business Services as Attorney to Accept Service of Process."

(2) Except for a captive insurance producer applying to be licensed as a producer pursuant to ORS 744.052 to 744.089, the following forms must be used when applying to become an approved captive insurer service provider:

(a) "Application for Placement on Approved Captive Insurer Management Firm List;"

(b) "Application to Certify Loss and Expense for Captive insurers Captive Actuary Application;"

(c) "Application for Authorization as an Independent Certified Public Accountant for Captive insurers;" and

(d) "Application for Authorization as Producer for Captive insurers."

(3) All captive insurers must use the "Captive Insurer Annual Statement Form."

(4) The forms required in sections (1) to (3) of this section are set forth on the Insurance Division website of the Department of Consumer and Business Services at [www.insurance.oregon.gov](http://www.insurance.oregon.gov).

Stat. Auth.: ORS 731.244, 2012 OL Ch. 84, Sec. 4 (Enrolled SB 1547)  
Stats. Implemented: 2012 OL Ch. 84, Sec. 2-22 (Enrolled SB 1547)  
Hist.: ID 11-2012(Temp), f. 6-15-12, cert. ef. 7-1-12 thru 12-27-12

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

**Rule Caption:** Attorney fees awarded under ORS 656.385(1) of the Workers' Compensation Law.

**Adm. Order No.:** WCD 3-2012(Temp)

**Filed with Sec. of State:** 6-13-2012

**Certified to be Effective:** 7-1-12 thru 12-27-12

**Notice Publication Date:**

**Rules Amended:** 436-001-0003, 436-001-0410

**Subject:** These temporary rules amend the attorney fee matrix in OAR 436-001-0410 to show the maximum fee and fee ranges as percentages of the adjusted maximum fee payable under ORS 656.385(1). The permanent rule had shown the maximum fee and fee ranges as percentages of the state average weekly wage (SAWW). These formulas were accurate for any year in which the SAWW increased or remained the same. However, effective July 1, 2012, the state average weekly wage has gone down, and the percentages in rule 0410 were no longer accurate because attorney fees may only be adjusted based on an increase, if any, in the SAWW. The revised formulas will remain accurate whether the SAWW goes up, goes down, or stays the same in future years. The net effect of the temporary rule is that the maximum attorney fee and fee ranges will remain the same as those in effect from 7/1/2011 through 6/30/2012.

**Rules Coordinator:** Fred Bruyns—(503) 947-7717

## 436-001-0003

### Applicability and Purpose of these Rules

(1) OAR 436-001-0005 through 436-001-0009 establish supplemental procedures for rulemaking under ORS chapter 183 and apply to all division rulemaking on or after Jan. 1, 2010.

(2) OAR 436-001-0019 through 436-001-0300 establish supplemental procedures for hearings on matters within the director's jurisdiction, which are matters other than those concerning a claim as defined in ORS 656.704.

(a) In general, the rules of the Workers' Compensation Board in OAR chapter 438 apply to the conduct of hearings, unless these rules provide otherwise.

(b) These rules do not apply to hearings requested under ORS 656.740.

(c) These rules apply to hearings held on or after Jan. 1, 2010.

(3) OAR 436-001-0400 through 436-001-0440 apply to attorney fees awarded by the director under ORS 656.262 and 656.386, and to attorney fees awarded by the director or administrative law judge under ORS 656.385(1).

(a) These rules apply to attorney fees assessed by an order that is issued on or after July 1, 2012.

(b) For attorney fees that are ordered to be paid in reconsideration proceedings under ORS 656.268(6), OAR 436-030-0175 applies.

(4) The director may waive procedural rules as justice requires, unless otherwise obligated by statute.

Stat. Auth.: ORS 656.726(4)  
Stats. Implemented: ORS 656.704 & 183

Hist.: WCD 9-1992, f. & cert. ef. 5-22-92; WCD 6-1995(Temp), f. & cert. ef. 7-14-95; WCD 7-1996, f. & cert. ef. 2-12-96; WCD 8-1998, f. 8-10-98, cert. ef. 9-15-98; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 7-2005, f. 10-20-05, cert. ef. 1-2-06; WCD 1-2006, f. 1-13-06, cert. ef. 1-17-06; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 3-2012(Temp), f. 6-13-12, cert. ef. 7-1-12 thru 12-27-12

## 436-001-0410

### Attorney fees awarded under ORS 656.385(1)

(1) In cases in which the director or administrative law judge awards a fee under ORS 656.385(1):

(a) The fee must fall within the ranges of the matrix in subsection (1)(d), unless extraordinary circumstances are shown or the parties otherwise agree.

(b) Extraordinary circumstances are not established merely by exceeding eight hours or a benefit of \$6,000.

# ADMINISTRATIVE RULES

(c) The matrix in subsection (1)(d) shows the maximum fee and fee ranges as percentages of the maximum fee under ORS 656.385(1), as adjusted annually by the same percentage increase, if any, to the average weekly wage defined in 656.211. Before July 1 of each year the director, by bulletin, will publish the matrix showing the maximum fee and fee ranges as dollar amounts after the annual adjustment to the statutory maximum fee. Dollar amounts will be rounded to the nearest whole dollar. If the average weekly wage does not change or goes down, the maximum attorney fee awarded under ORS 656.385(1) will remain the same.

(d) [Table not included. See ED. NOTE.]

(2) For purposes of applying the matrix in medical disputes under ORS 656.245, 656.247, 656.260, and 656.327, the following may be considered in determining the value of the results achieved or the benefit to the worker:

(a) The fee allowed by the medical fee schedule in OAR 436-009 for the medical service at issue.

(b) The overall cost of the medical service at issue.

(3) For purposes of applying the matrix in vocational disputes under ORS 656.340, the value of vocational assistance or a training plan, unless determined to be otherwise, falls within the highest range of the matrix for "benefit achieved." In addition, the following may be considered in determining the value of the results achieved or the benefit to the worker:

(a) The actual or projected cost of the service at issue.

(b) The maximum spending limit in the fee schedule for vocational assistance costs in OAR 436-120-0720 for the service at issue.

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

Stat. Auth.: ORS 656.385(1) & 656.726(4)

Stats. Implemented: ORS 656.262, 656.385, 656.388 & 656.704

Hist.: WCD 6-1995(Temp), f. & cert. ef. 7-14-95; WCD 7-1996, f. & cert. ef. 2-12-96; WCD 8-1998, f. 8-10-98, cert. ef. 9-15-98; WCD 14-2003(Temp), f. 12-15-03, cert. ef. 1-1-04 thru 6-28-04; WCD 3-2004, f. 3-5-04 cert. ef. 4-1-04; WCD 6-2005, f. 6-9-05, cert. ef. 7-1-05; WCD 7-2005, f. 10-20-05, cert. ef. 1-2-06; WCD 1-2008, f. 6-13-08, cert. ef. 7-1-08; Renumbered from 436-001-0265, WCD 3-2009, f. 12-1-09, cert. ef. 1-1-10; WCD 3-2012(Temp), f. 6-13-12, cert. ef. 7-1-12 thru 12-27-12

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## Department of Corrections Chapter 291

**Rule Caption:** Interstate Compact – Retaken Offenders.

**Adm. Order No.:** DOC 6-2012

**Filed with Sec. of State:** 5-24-2012

**Certified to be Effective:** 5-24-12

**Notice Publication Date:** 2-1-2012

**Rules Amended:** 291-180-0275

**Subject:** This rulemaking is necessary in order for the Department of Corrections to require that an offender who was previously retaken and returned to this state from another state at cost to the State of Oregon, whether by formal or informal means, repay those costs to the State of Oregon before the offender may be approved by the Department for an interstate compact supervision transfer. Limited exceptions may be granted by the Compact Administrator or designee based on individual circumstances.

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

### 291-180-0275

#### Retaken Offenders

(1) An offender who was previously retaken and returned to this state from another state at cost to the State of Oregon, whether by formal or informal means, shall not be approved by the Department of Corrections for an interstate compact supervision transfer under these rules until such time as the offender repays to the State of Oregon all costs incurred by the State of Oregon in effecting the offender's return to this state. Limited exceptions may be granted by the Compact Administrator or designee based on individual circumstances.

(2) This rule applies to all offenders applying for a transfer of their supervision to another state under the Interstate Compact for Adult Offender Supervision (ICAOS) before, on or after January 1, 2012, whose applications have not been previously approved by the Department of Corrections.

Stat. Auth.: ORS 144.600, 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 144.600, 179.040, 423.020, 423.030 & 423.075

Hist.: DOC 2-2005, f. & cert. ef. 2-24-05; DOC 1-2012(Temp), f. & cert. ef. 1-10-12 thru 7-8-12; DOC 6-2012, f. & cert. ef. 5-24-12

## Department of Energy Chapter 330

**Rule Caption:** Permanent rules to administer the transit services tax credit within the Energy Incentives Program.

**Adm. Order No.:** DOE 5-2012

**Filed with Sec. of State:** 6-11-2012

**Certified to be Effective:** 6-11-12

**Notice Publication Date:** 5-1-2012

**Rules Adopted:** 330-225-0000, 330-225-0010, 330-225-0020, 330-225-0030, 330-225-0040, 330-225-0050, 330-225-0070, 330-225-0080, 330-225-0090, 330-225-0100, 330-225-0150

**Subject:** These rules provide the operating framework for the transit services tax credit within the Energy Incentives Program created by HB 3672 (2011) and amended by HB 4079 (2012). The rules include the application process, allocation of tax credits within funding limits and issuance of tax credits. The department engaged an advisory committee to provide comments and feedback on the proposed rules.

**Rules Coordinator:** Kathy Stuttaford — (503) 373-2127

### 330-225-0000

#### Applicability of Rules

These rules implement the incentive program for transit services established in House Bill 3672 (2011) and amended by House Bill 4079 (2012). The rules also provide procedures for submission, agency review and selection of transit services for preliminary and final certification of tax credits.

These rules apply to all applications for tax credits for transit services, as governed by ORS 469B.320 to 469B.347.

Stat. Auth.: ORS 469.040 & 469B.347

Stats. Implemented: ORS 469B.320-469B.347, 315.336 & OL 2012 Ch. 45

Hist.: DOE 5-2012, f. & cert. ef. 6-11-12

### 330-225-0010

#### Definitions

For the purposes of this division, the following definitions apply:

(1) "Allocated project cost" means the amount of the transit services project's cost that may be eligible for tax credits. The department calculates by dividing the amount of the potential tax credit available to each applicant, determined by the process in OAR 330-225-0050(6), by the tax credit rate in effect for that Opportunity Announcement.

(2) "Applicant" means a person who has applied for or who has received a preliminary certificate for a transit services energy incentives program tax credit.

(3) "Certified cost" means the cost certified in the final certification.

(4) "Cost" has the meaning given in ORS 469B.320.

(5) "Department" means the Oregon Department of Energy.

(6) "Director" means the director of the department.

(7) "Opportunity period" means the timeframe specified in an Opportunity Announcement for the department to accept applications for transit services.

(8) "Substantial Energy Savings" means a reduction of at least 10 percent in the energy used by the transit service compared to the equivalent energy use of single occupant vehicles traveling the same number of passenger miles.

(9) "Transit Services Provider" means a public or nonprofit entity that provides transit services to the public and that receives state or federal funding for those services, or is the direct recipient of funding from an entity that receives state or federal funding for the services.

(10) "Transit Services" means transportation by a conveyance that provides regular and continuing transportation to the public, but does not include school bus, charter or intercity passenger rail transportation.

(11) "Vehicle Miles Reduced" (VMR) means the difference in miles driven by the transit services compared to miles driven by single occupant vehicles.

Stat. Auth.: ORS 469.040 & 469B.347

Stats. Implemented: ORS 469B.320-469B.347, 315.336 & OL 2012 Ch. 45

Hist.: DOE 5-2012, f. & cert. ef. 6-11-12

### 330-225-0020

#### Opportunity Announcement

(1) The department will announce the availability of tax credits for transit services by issuing an Opportunity Announcement.

# ADMINISTRATIVE RULES

(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 caps 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 and the percent level of tax credits available;
- (c) Application requirements including the time period during which transit services are eligible;
- (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 469.040 & 469B.347

Stats. Implemented: ORS 469B.320-469B.347, 315.336 & OL 2012 Ch. 45

Hist.: DOE 5-2012, f. & cert. ef. 6-11-12

## 330-225-0030

### Preliminary Certification Application

(1) Any person may apply for preliminary certification by submitting a complete preliminary certification application. The application must meet requirements provided by 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 accompanied by the fee specified in these rules. The department will not process applications received outside of an opportunity period.

(c) Only one application will be accepted from each transit services provider for each Opportunity Announcement.

(2) The application must be accompanied by the 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 nonprofit entity, the application must include evidence of its nonprofit status.

(B) 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. An employee of the applicant may sign the application and attest they have the authority through their employment to apply for and receive transit services tax credits.

(b) The name, address, email address and telephone number of the responsible party for the applicant.

(c) The applicant's federal tax identification 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 is the recipient or sub-recipient of state or federal funds, either confirmed or anticipated to be received for the services and period identified in the Opportunity Announcement.

(e) An identification of the types of State or Federal funds received or anticipated for the transit services included in the application, which may be an executive summary of the agreement or line item budget under which the applicant qualifies as a recipient or sub-recipient.

(f) The geographic area or region for which transit services will be provided.

(g) A calculation estimating the vehicle miles reduced (VMR).

(h) The period during which transit services will be provided.

(i) A statement of compliance with applicable state and local regulations and that the applicant will obtain required licenses and permits, including any legally required audits associated with the service.

(j) The number and type of new jobs that will be created by the transit services and the number of existing jobs that will be sustained throughout the operation of the transit services. Job estimates should be submitted in hours. These hours must be directly related to the transit services.

(k) The anticipated costs of providing the transit services.

(l) The amount of any anticipated or received incentives or grants directly related to the transit services.

(m) Current line item budget including labor, operations, maintenance, fuel, administrative costs and revenue that corresponds to the funding for the transit provider's service.

(n) The dollar amount of tax credit requested by the applicant.

(o) If the applicant intends to include costs for performance of the transit services prior to the project period in the Opportunity Announcement, a written description of the special circumstances that rendered filing of an application prior to the start of performance unreasonable. Pre-qualified waivers may be provided in the Opportunity Announcement; a written description is not required for the period covered by a pre-qualified waiver.

(p) Other information the department considers necessary.

Stat. Auth.: ORS 469.040 & 469B.347

Stats. Implemented: ORS 469B.320-469B.347, 315.336 & OL 2012 Ch. 45

Hist.: DOE 5-2012, f. & cert. ef. 6-11-12

## 330-225-0040

### Fees

The department adopts the following schedule of fees as provided by ORS 469B.326 for applicants. All fee payments are non-refundable, despite the results of the department's review.

(1) Applicants must submit an application fee of \$200 with their preliminary certification application.

(2) Applicants selected for technical review will be required to pay a technical review fee prior to that review. The fee amount is equal to the allocated 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 allocated 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 transfer their tax credit to a pass-through partner must pay a pass-through fee. The fee is due after a pass-through partner has been identified and before the department can issue a tax credit.

(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 certificate issued.

(b) If the department does not assist the applicant in obtaining a pass-through partner, the fee is \$100 per tax certificate issued.

(7) Applicants issued a tax credit that choose to have their tax credit 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 469.040 & 469B.347

Stats. Implemented: ORS 469B.320-469B.347, 315.336 & OL 2012 Ch. 45

Hist.: DOE 5-2012, f. & cert. ef. 6-11-12

## 330-225-0050

### Completeness Review and Allocation of Potential Tax Credits

(1) The department will determine the allocation of potential tax credits as detailed in the Opportunity Announcement prior to beginning review of an application.

(2) Tax credits must be claimed over a five year period as required by ORS 315.336, and as shown below:

(a) If a preliminary certification is issued on or after January 1, 2012, and before January 1, 2013, the tax credit is 25 percent of certified cost. The tax credit allowed in each of five tax years is 5 percent of the certified cost.

(b) If a preliminary certification is issued on or after January 1, 2013, and before January 1, 2014, the tax credit is 20 percent of certified cost. The tax credit allowed in each of five tax years is 4 percent of the certified cost.

(c) If a preliminary certification is issued on or after January 1, 2014, and before January 1, 2015, the tax credit is 15 percent of certified cost. The tax credit allowed in each of five tax years is 3 percent of the certified cost.

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(d) If a preliminary certification is issued on or after January 1, 2015, and before January 1, 2016, the tax credit is 10 percent of certified cost. The tax credit allowed in each of five tax years is 2 percent of the certified cost.

(3) The department will review all preliminary certification 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 service meets the definition of transit services.

(d) The applicant is applying prior to the performance of the project.

(A) If the applicant applies after performance 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. The director may pre-qualify waivers as provided in the Opportunity Announcement; a written description is not required for the period covered by a pre-qualified waiver.

(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 transit services are located in Oregon.

(f) Other requirements described in the Opportunity Announcement have been met.

(4) If the department finds that the application is complete, the application will be included in the process used to allocate potential tax credits.

(5) The department will deny all incomplete applications and notify applicants in writing of the reason for denying the application.

(6) If the department receives applications with a total amount of requested potential tax credits in excess of the amount available for the Opportunity Announcement, the department will use the following process to allocate potential tax credits between applicants. The department will:

(a) Include all complete applications received within the opportunity period in the allocation process.

(b) Sum the total requested tax credit amount of all complete applications and determine the percent of the total requested tax credit amount represented by each application.

(c) If any applications represent 20 percent or more of the total, restrict those applications to 20 percent.

(d) If step (c) results in a total of less than 100 percent, re-allocate the percentage points between applications, excluding those restricted to 20 percent.

(e) Repeat the reduction (c) and re-allocation (d) steps until all the available tax credits are allocated.

(f) Calculate the potential tax credit allocated to each application to ensure no application is allocated more than the requested amount.

(g) If an application is allocated more than the requested amount, allocate the additional amount proportionately to applicants restricted to 20 percent of the total.

(7) The department will notify applicants of the amount of potential tax credit allocated and the fee payment required for technical review.

(8) If the allocation of potential tax credits to an applicant is reduced during the same biennium that the tax credits were first allocated, the department may reallocate the unallocated potential tax credits to applicants from the same Opportunity Announcement that were allocated less than their requested amount.

(9) The department considers the completeness review as a test; the decision to deny an incomplete application is not subject to review under ORS Chapter 183.

Stat. Auth.: ORS 469.040 & 469B.347

Stats. Implemented: ORS 469B.320-469B.347, 315.336 & OL 2012 Ch. 45

Hist.: DOE 5-2012, f. & cert. ef. 6-11-12

## 330-225-0070

### Technical Review

(1) Once the applicant has paid the technical review fee, the department will conduct a technical review of transit services project applications advanced from the completeness review process. If the applicant does not submit the required technical review fee to the department within 21 calendar days of mailing of the 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 service will operate as represented by the applicant.

(3) To be eligible the transit services must meet the following requirements:

(a) The project must meet the requirements of the statutes, these rules and the Opportunity Announcement. Transit services may operate for a period of less than five years.

(b) The applicant must be the owner, contract purchaser or project lessee at the time of the project's performance.

(c) The applicant must be a recipient or sub-recipient of state or federal funds for the transit services included in the application.

(A) "Recipient" refers to the entity that directly receives funds from the state or federal agency for transit services.

(B) "Sub-recipient" refers to the entity that directly receives state or federal funds from a recipient for transit services. Vendors or contractors of recipients who are not an owner, contract purchaser or lessee of the project are not considered sub-recipients and may not submit applications.

(4) The department will review transit services costs for eligibility. If a cost is eligible under the agreement that qualifies the applicant as a recipient or sub-recipient, it will be considered a qualifying service cost. The application must document cost by providing a line item budget.

(a) Transit services cost may include:

(A) Costs for all materials and supplies needed for the performance of the proposed transit services;

(B) 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 do the work;

(ii) The work must be associated with the performance of the transit services for which state or federal funds were received;

(iii) Fiscal administration costs, which may include accounting, auditing, contract management and fiscal reporting expenses and other similar costs for the transit services may not exceed 20 percent of the eligible costs; and

(iv) Costs for employees' or contractors' work on the transit services must be detailed and documented as to specific tasks, hours worked and compensation costs. This cost may include employee benefits and taxes.

(C) Costs of training associated with the transit services that is approved by the department; and

(D) Other costs the department determines should be included.

(b) Qualifying transit services cost does not include items that are ineligible under the standards for federal Office of Management and Budget Circular A-87 as in effect on May 10, 2004 or A-122 as in effect on May 10, 2004.

(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.

(7) If the technical review determines that inaccurate information was submitted by the applicant during the allocation of tax credits, the department may reduce the amount of potential tax credit allocated to the applicant.

Stat. Auth.: ORS 469.040 & 469B.347

Stats. Implemented: ORS 469B.320-469B.347, 315.336 & OL 2012 Ch. 45

Hist.: DOE 5-2012, f. & cert. ef. 6-11-12

## 330-225-0080

### Preliminary Certification

(1) The department may issue a preliminary certificate if it determines that the transit services are technically feasible and capable of operating in accordance with the representations made by the applicant. The department may issue a tax credit that is less than the amount requested in the transit services application, pursuant to statute and applicable rules.

(2) The sum of any state or federal funding and the transit services incentive may not exceed project costs.

(3) The preliminary certificate will state the qualifying project cost, the potential amount of allowable tax credit and any conditions for claiming the credit.

(4) A preliminary certification remains valid for a period of three calendar years after the date the department issues the original preliminary certification or until the sunset of the program, whichever comes first.

Stat. Auth.: ORS 469.040 & 469B.347

Stats. Implemented: ORS 469B.320-469B.347, 315.336 & OL 2012 Ch. 45

Hist.: DOE 5-2012, f. & cert. ef. 6-11-12

# ADMINISTRATIVE RULES

## 330-225-0090

### Amendments to Preliminary Certifications

(1) The applicant must notify the department of any changes to the project described in the application for preliminary certification.

(2) An applicant must declare all changes to the transit services 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) The applicant must submit an amendment request to the director to amend a transit services preliminary certification for any changes to the project.

(4) Applicants must submit amendments on the form specified in the Opportunity Announcement.

(5) The applicant must demonstrate that the transit services project, with the proposed change, would continue to be technically feasible and would operate as represented. The applicant has the responsibility to provide an amendment request with complete 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, the department may deny the request to amend the preliminary certification.

(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 amendment 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 469.040 & 469B.347

Stats. Implemented: ORS 469B.320-469B.347, 315.336 & OL 2012 Ch. 45

Hist.: DOE 5-2012, f. & cert. ef. 6-11-12

## 330-225-0100

### Final Certification

(1) Transit services projects must be completed prior to applying for a final certification. An applicant must submit amendments to preliminary certifications prior to or at the time of submission of 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 transit services project was completed.

(b) Compliance with statute, rules, the relevant Opportunity Announcement and the preliminary certification.

(c) Compliance with state and local regulations, including required licenses and permits.

(d) That the transit services project was maintained and operated for the period specified in the preliminary certification.

(e) The costs for performance of the project were paid in full.

(A) The applicant must verify the actual costs of the project by providing an attestation of costs provided by a certified public accountant or a copy of a completed audit, in compliance with federal Office of Management and Budget Circular A-133 as in effect on June, 2010 or if the 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 or agreements.

(iii) The department may waive the requirement for a certified public accountant attestation of costs if the entity has been the subject of an audit conducted within the two years prior to the date at which the final application is received and the audited accounts include the costs of the transit services project.

(B) The application must demonstrate that contract or loan agreements directly related to the project are not in default.

(C) The application must include information regarding all incentives and grants, regardless of source, applied for or received in connection with the project.

(f) 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, 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 performance of the transit services are complete and that the project complies with statute, rules, the relevant Opportunity Announcement, the preliminary certification and any other applicable requirements.

(a) 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 state or federal funding and the tax credit may not exceed final project costs.

(c) If the final certification review determines that the final costs are less than the information submitted by the applicant during the allocation of tax credits, the department may reduce the amount of tax credit certified.

(8) The department will send a written notification to the applicant of its decision whether to issue a final certification within 60 days after the department receives a complete application for final certification. If more than 60 days pass from the date the applicant submits 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 330-225-0100(5) is not included in this 60 day period.

Stat. Auth.: ORS 469.040 & 469B.347

Stats. Implemented: ORS 469B.320-469B.347, 315.336 & OL 2012 Ch. 45

Hist.: DOE 5-2012, f. & cert. ef. 6-11-12

## 330-225-0150

### Compliance and Pass-through

All participants in this program are subject to OAR 330-230-0000 through 330-230-0140.

Stat. Auth.: ORS 469.040 & 469B.347

Stats. Implemented: ORS 469B.320-469B.347, 315.336 & OL 2012 Ch. 45

Hist.: DOE 5-2012, f. & cert. ef. 6-11-12

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## Department of Environmental Quality Chapter 340

**Rule Caption:** Small and mid-size boiler rule amendments.

**Adm. Order No.:** DEQ 1-2012

**Filed with Sec. of State:** 5-17-2012

**Certified to be Effective:** 5-17-12

**Notice Publication Date:** 8-1-2011

**Rules Amended:** 340-200-0020, 340-200-0040, 340-210-0100, 340-210-0110, 340-210-0120, 340-210-0250, 340-228-0020, 340-228-0200, 340-228-0210, 340-262-0450, 340-262-0600

**Subject:** The Heat Smart rules under OAR chapter 340 division 262 prohibit the sale of uncertified biomass boilers and other solid fuel burning devices with maximum heat output capacities below one million British thermal units per hour in Oregon. For small-scale and mid-size commercial, industrial and institutional solid fuel-fired boilers that are not under a DEQ air quality permit but are already subject to federal National Emission Standards for Hazardous Air Pollutants, the rules adopted by the EQC:

- Provide an exemption from Heat Smart certification requirements if the owner or operator obtains construction approval from DEQ under OAR chapter 340 division 210.

- Require registration of a boiler with DEQ upon written request. Registration includes confirmation that the boiler complies with

# ADMINISTRATIVE RULES

existing applicable state visible emissions standards and federal air toxics regulations.

The exemption from Heat Smart allows small-scale commercial, industrial and institutional biomass boilers already subject to federal National Emission Standards for Hazardous Air Pollutants to be sold in Oregon while ensuring it meets applicable air quality standards. Registration of a boiler does not authorize its operation like an air quality permit; however, it does provide DEQ with information about the location and compliance status of solid fuel boilers located at facilities that are not required to obtain air emissions permits.

These amendments, if adopted, will be submitted to the U.S. Environmental Protection Agency (EPA) as a revision to the State Implementation Plan, which is a requirement of the Clean Air Act.

**Rules Coordinator:** Maggie Vandehey—(503) 229-6878

## 340-200-0020

### General Air Quality Definitions

As used in divisions 200 through 268, unless specifically defined otherwise:

(1) “Act” or “FCAA” means the Federal Clean Air Act, 42 U.S.C.A. 7401 to 7671q.

(2) “Activity” means any process, operation, action, or reaction (e.g., chemical) at a source that emits a regulated pollutant.

(3) “Actual emissions” means the mass emissions of a pollutant from an emissions source during a specified time period.

(a) For determining actual emissions as of the baseline period:

(A) Except as provided in paragraphs (B) and (C) of this subsection and subsection (b) of this section, actual emissions equal the average rate at which the source actually emitted the pollutant during an applicable baseline period and that represents normal source operation;

(B) The Department presumes that the source-specific mass emissions limit included in a source’s permit that was effective on September 8, 1981 is equivalent to the source’s actual emissions during the applicable baseline period if it is within 10% of the actual emissions calculated under paragraph (A) of this subsection.

(C) Actual emissions equal the potential to emit of the source for the sources listed in paragraphs (i) through (iii) of this paragraph. The actual emissions will be reset if required in accordance with subsection (c) of this section.

(i) Any source or part of a source that had not begun normal operations during the applicable baseline period but was approved to construct and operate before or during the baseline period in accordance with OAR 340 division 210, or

(ii) Any source or part of a source of greenhouse gases that had not begun normal operations prior to January 1, 2010, but was approved to construct and operate prior to January 1, 2011 in accordance with OAR 340 division 210, or

(iii) Any source or part of a source that had not begun normal operations during the applicable baseline period and was not required to obtain approval to construct and operate before or during the applicable baseline period.

(b) For any source or part of a source that had not begun normal operations during the applicable baseline period, but was approved to construct and operate in accordance with OAR 340 division 224, actual emissions on the date the permit is issued equal the potential to emit of the source. The actual emissions will be reset if required in accordance with subsection (c) of this section.

(c) Where actual emissions equal potential to emit under paragraph (a)(C) or subsection (b) of this section, the potential emissions will be reset to actual emissions as follows:

(A) Paragraphs (A) through (D) of this subsection apply to sources whose actual emissions of greenhouse gases were determined pursuant paragraph 3(a)(C), and to all other sources of all other regulated pollutants that are permitted in accordance with OAR division 224 on or after May 1, 2011.

(B) Except as provided in paragraph (D) of this subsection, ten years from the end of the applicable baseline period under paragraph (a)(C) or ten years from the date the permit is issued under subsection (b), or an earlier time if requested by the source in a permit application involving public notice, the Department will reset actual emissions to equal the highest actual emission rate during any consecutive 12-month period during the ten year period or any shorter period if requested by the source.

(C) Any emission reductions achieved due to enforceable permit conditions based on OAR 340-226-0110 and 0120 (highest and best practicable treatment and control) are not included in the reset calculation required in paragraph (B) of this subsection.

(D) The Department may extend the date of resetting by five additional years upon satisfactory demonstration by the source that construction is ongoing or normal operation has not yet been achieved.

(d) For determining actual emissions for Emission Statements under OAR 340-214-0200 through 340-214-0220 and Oregon Title V Operating Permit Fees under OAR 340 division 220, actual emissions include, but are not limited to, routine process emissions, fugitive emissions, excess emissions from maintenance, startups and shutdowns, equipment malfunction, and other activities, except categorically insignificant activities and secondary emissions.

(e) For Oregon Title V Operating Permit Fees under OAR 340 division 220, actual emissions must be directly measured with a continuous monitoring system or calculated using a material balance or verified emission factor determined in accordance with division 220 in combination with the source’s actual operating hours, production rates, or types of materials processed, stored, or combusted during the specified time period.

(4) “Adjacent” means interdependent facilities that are nearby to each other.

(5) “Affected source” means a source that includes one or more affected units that are subject to emission reduction requirements or limitations under Title IV of the FCAA.

(6) “Affected states” means all states:

(a) Whose air quality may be affected by a proposed permit, permit modification, or permit renewal and that are contiguous to Oregon; or

(b) That are within 50 miles of the permitted source.

(7) “Aggregate insignificant emissions” means the annual actual emissions of any regulated air pollutant from one or more designated activities at a source that are less than or equal to the lowest applicable level specified in this section. The total emissions from each designated activity and the aggregate emissions from all designated activities must be less than or equal to the lowest applicable level specified.

(a) One ton for total reduced sulfur, hydrogen sulfide, sulfuric acid mist, any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act, and each criteria pollutant, except lead;

(b) 120 pounds for lead;

(c) 600 pounds for fluoride;

(d) 500 pounds for PM10 in a PM10 nonattainment area;

(e) 500 pounds for direct PM2.5 in a PM2.5 nonattainment area;

(f) The lesser of the amount established in OAR 340-244-0040, Table 1 or 340-244-0230, Table 3, or 1,000 pounds;

(g) An aggregate of 5,000 pounds for all Hazardous Air Pollutants;

(h) 2,756 tons CO<sub>2</sub>e for greenhouse gases.

(8) “Air Contaminant” means a dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter, or any combination thereof.

(9) “Air Contaminant Discharge Permit” or “ACDP” means a written permit issued, renewed, amended, or revised by the Department, pursuant to OAR 340 division 216.

(10) “Alternative method” means any method of sampling and analyzing for an air pollutant that is not a reference or equivalent method but has been demonstrated to the Department’s satisfaction to, in specific cases, produce results adequate for determination of compliance. An alternative method used to meet an applicable federal requirement for which a reference method is specified must be approved by EPA unless EPA has delegated authority for the approval to the Department.

(11) “Ambient Air” means that portion of the atmosphere, external to buildings, to which the general public has access.

(12) “Applicable requirement” means all of the following as they apply to emissions units in an Oregon Title V Operating Permit program source or ACDP program source, including requirements that have been promulgated or approved by the EPA through rule making at the time of issuance but have future-effective compliance dates:

(a) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by the EPA through rule-making under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR Part 52;

(b) Any standard or other requirement adopted under OAR 340-200-0040 of the State of Oregon Clean Air Act Implementation Plan that is more stringent than the federal standard or requirement which has not yet been



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approved by the EPA, and other state-only enforceable air pollution control requirements;

(c) Any term or condition in an ACDP, OAR 340 division 216, including any term or condition of any preconstruction permits issued pursuant to OAR 340 division 224, New Source Review, until or unless the Department revokes or modifies the term or condition by a permit modification;

(d) Any term or condition in a Notice of Construction and Approval of Plans, OAR 340-210-0205 through 340-210-0240, until or unless the Department revokes or modifies the term or condition by a Notice of Construction and Approval of Plans or a permit modification;

(e) Any term or condition in a Notice of Approval, OAR 340-218-0190, issued before July 1, 2001, until or unless the Department revokes or modifies the term or condition by a Notice of Approval or a permit modification;

(f) Any term or condition of a PSD permit issued by the EPA until or unless the EPA revokes or modifies the term or condition by a permit modification;

(g) Any standard or other requirement under section 111 of the Act, including section 111(d);

(h) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act;

(i) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;

(j) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;

(k) Any standard or other requirement under section 126(a)(1) and (c) of the Act;

(l) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;

(m) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;

(n) Any standard or other requirement for tank vessels, under section 183(f) of the Act;

(o) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under section 328 of the Act;

(p) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in an Oregon Title V Operating Permit; and

(q) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.

(13) "Baseline Emission Rate" means the actual emission rate during a baseline period. Baseline emission rate does not include increases due to voluntary fuel switches or increased hours of operation that occurred after that baseline period.

(a) A baseline emission rate will be established only for regulated pollutants subject to OAR 340 division 224 as specified in the definition of regulated pollutant. A baseline emission rate will not be established for PM<sub>2.5</sub>.

(b) The baseline emission rate for greenhouse gases, on a CO<sub>2e</sub> basis, will be established with the first permitting action issued after July 1, 2011, provided the permitting action involved a public notice period that began after July 1, 2011.

(c) For a pollutant that becomes a regulated pollutant subject to OAR 340 division 224 after May 1, 2011, the initial baseline emission rate is the actual emissions of that pollutant during any consecutive 12 month period within the 24 months immediately preceding its designation as a regulated pollutant if a baseline period has not been defined for the pollutant.

(d) The baseline emission rate will be recalculated if actual emissions are reset in accordance with the definition of actual emissions.

(e) Once the baseline emission rate has been established or recalculated in accordance with subsection (d) of this section, the production basis for the baseline emission rate may only be changed if a material mistake or an inaccurate statement was made in establishing the production basis for baseline emission rate.

(14) "Baseline Period" means:

(a) Any consecutive 12 calendar month period during the calendar years 1977 or 1978 for any regulated pollutant other than greenhouse gases. The Department may allow the use of a prior time period upon a determination that it is more representative of normal source operation.

(b) Any consecutive 12 calendar month period during the calendar years 2000 through 2010 for greenhouse gases.

(15) "Best Available Control Technology" or "BACT" means an emission limitation, including, but not limited to, a visible emission standard, based on the maximum degree of reduction of each air contaminant subject to regulation under the Act which would be emitted from any proposed major source or major modification which, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such air contaminant. In no event may the application of BACT result in emissions of any air contaminant that would exceed the emissions allowed by any applicable new source performance standard or any standard for hazardous air pollutant. If an emission limitation is not feasible, a design, equipment, work practice, or operational standard, or combination thereof, may be required. Such standard must, to the degree possible, set forth the emission reduction achievable and provide for compliance by prescribing appropriate permit conditions.

(16) "Biomass" means non-fossilized and biodegradable organic material originating from plants, animals, and micro-organisms, including products, byproducts, residues and waste from agriculture, forestry, and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic matter.

(17) "Capacity" means the maximum regulated pollutant emissions from a stationary source under its physical and operational design.

(18) "Capture system" means the equipment (including but not limited to hoods, ducts, fans, and booths) used to contain, capture and transport a pollutant to a control device.

(19) "Carbon dioxide equivalent" or "CO<sub>2e</sub>" means an amount of a greenhouse gas or gases expressed as the equivalent amount of carbon dioxide, and shall be computed by multiplying the mass of each of the greenhouse gases by the global warming potential published for each gas at 40 CFR Part 98, subpart A, Table A-1—Global Warming Potentials, and adding the resulting value for each greenhouse gas to compute the total equivalent amount of carbon dioxide.

(20) "Categorically insignificant activity" means any of the following listed pollutant emitting activities principally supporting the source or the major industrial group. Categorically insignificant activities must comply with all applicable requirements.

(a) Constituents of a chemical mixture present at less than 1% by weight of any chemical or compound regulated under divisions 200 through 268 excluding divisions 248 and 262 of this chapter, or less than 0.1% by weight of any carcinogen listed in the U.S. Department of Health and Human Service's Annual Report on Carcinogens when usage of the chemical mixture is less than 100,000 pounds/year;

(b) Evaporative and tail pipe emissions from on-site motor vehicle operation;

(c) Distillate oil, kerosene, and gasoline fuel burning equipment rated at less than or equal to 0.4 million Btu/hr;

(d) Natural gas and propane burning equipment rated at less than or equal to 2.0 million Btu/hr;

(e) Office activities;

(f) Food service activities;

(g) Janitorial activities;

(h) Personal care activities;

(i) Groundskeeping activities including, but not limited to building painting and road and parking lot maintenance;

(j) On-site laundry activities;

(k) On-site recreation facilities;

(l) Instrument calibration;

(m) Maintenance and repair shop;

(n) Automotive repair shops or storage garages;

(o) Air cooling or ventilating equipment not designed to remove air contaminants generated by or released from associated equipment;

(p) Refrigeration systems with less than 50 pounds of charge of ozone depleting substances regulated under Title VI, including pressure tanks used in refrigeration systems but excluding any combustion equipment associated with such systems;

(q) Bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including associated vacuum producing devices but excluding research and development facilities;

(r) Temporary construction activities;

(s) Warehouse activities;

(t) Accidental fires;

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(u) Air vents from air compressors;  
(v) Air purification systems;  
(w) Continuous emissions monitoring vent lines;  
(x) Demineralized water tanks;  
(y) Pre-treatment of municipal water, including use of deionized water purification systems;  
(z) Electrical charging stations;  
(aa) Fire brigade training;  
(bb) Instrument air dryers and distribution;  
(cc) Process raw water filtration systems;  
(dd) Pharmaceutical packaging;  
(ee) Fire suppression;  
(ff) Blueprint making;  
(gg) Routine maintenance, repair, and replacement such as anticipated activities most often associated with and performed during regularly scheduled equipment outages to maintain a plant and its equipment in good operating condition, including but not limited to steam cleaning, abrasive use, and woodworking;  
(hh) Electric motors;  
(ii) Storage tanks, reservoirs, transfer and lubricating equipment used for ASTM grade distillate or residual fuels, lubricants, and hydraulic fluids;  
(jj) On-site storage tanks not subject to any New Source Performance Standards (NSPS), including underground storage tanks (UST), storing gasoline or diesel used exclusively for fueling of the facility's fleet of vehicles;  
(kk) Natural gas, propane, and liquefied petroleum gas (LPG) storage tanks and transfer equipment;  
(ll) Pressurized tanks containing gaseous compounds;  
(mm) Vacuum sheet stacker vents;  
(nn) Emissions from wastewater discharges to publicly owned treatment works (POTW) provided the source is authorized to discharge to the POTW, not including on-site wastewater treatment and/or holding facilities;  
(oo) Log ponds;  
(pp) Storm water settling basins;  
(qq) Fire suppression and training;  
(rr) Paved roads and paved parking lots within an urban growth boundary;  
(ss) Hazardous air pollutant emissions of fugitive dust from paved and unpaved roads except for those sources that have processes or activities that contribute to the deposition and entrainment of hazardous air pollutants from surface soils;  
(tt) Health, safety, and emergency response activities;  
(uu) Emergency generators and pumps used only during loss of primary equipment or utility service due to circumstances beyond the reasonable control of the owner or operator, or to address a power emergency as determined by the Department;  
(vv) Non-contact steam vents and leaks and safety and relief valves for boiler steam distribution systems;  
(ww) Non-contact steam condensate flash tanks;  
(xx) Non-contact steam vents on condensate receivers, deaerators and similar equipment;  
(yy) Boiler blowdown tanks;  
(zz) Industrial cooling towers that do not use chromium-based water treatment chemicals;  
(aaa) Ash piles maintained in a wetted condition and associated handling systems and activities;  
(bbb) Oil/water separators in effluent treatment systems;  
(ccc) Combustion source flame safety purging on startup;  
(ddd) Broke beaters, pulp and repulping tanks, stock chests and pulp handling equipment, excluding thickening equipment and repulpers;  
(eee) Stock cleaning and pressurized pulp washing, excluding open stock washing systems; and  
(fff) White water storage tanks.  
(21) "Certifying individual" means the responsible person or official authorized by the owner or operator of a source who certifies the accuracy of the emission statement.  
(22) "CFR" means Code of Federal Regulations.  
(23) "Class I area" means any Federal, State or Indian reservation land which is classified or reclassified as Class I area. Class I areas are identified in OAR 340-204-0050.  
(24) "Commence" or "commencement" means that the owner or operator has obtained all necessary preconstruction approvals required by the Act and either has:  
(a) Begun, or caused to begin, a continuous program of actual on-site construction of the source to be completed in a reasonable time; or

(b) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed in a reasonable time.

(25) "Commission" or "EQC" means Environmental Quality Commission.

(26) "Constant Process Rate" means the average variation in process rate for the calendar year is not greater than plus or minus ten percent of the average process rate.

(27) "Construction":

(a) Except as provided in subsection (b) of this section means any physical change including, but not limited to, fabrication, erection, installation, demolition, or modification of a source or part of a source;

(b) As used in OAR 340 division 224 means any physical change including, but not limited to, fabrication, erection, installation, demolition, or modification of an emissions unit, or change in the method of operation of a source which would result in a change in actual emissions.

(28) "Continuous compliance determination method" means a method, specified by the applicable standard or an applicable permit condition, which:

(a) Is used to determine compliance with an emission limitation or standard on a continuous basis, consistent with the averaging period established for the emission limitation or standard; and

(b) Provides data either in units of the standard or correlated directly with the compliance limit.

(29) "Continuous Monitoring Systems" means sampling and analysis, in a timed sequence, using techniques which will adequately reflect actual emissions or concentrations on a continuing basis in accordance with the Department's Continuous Monitoring Manual, and includes continuous emission monitoring systems, continuous opacity monitoring system (COMS) and continuous parameter monitoring systems.

(30) "Control device" means equipment, other than inherent process equipment that is used to destroy or remove air pollutant(s) prior to discharge to the atmosphere. The types of equipment that may commonly be used as control devices include, but are not limited to, fabric filters, mechanical collectors, electrostatic precipitators, inertial separators, afterburners, thermal or catalytic incinerators, adsorption devices (such as carbon beds), condensers, scrubbers (such as wet collection and gas absorption devices), selective catalytic or non-catalytic reduction systems, flue gas recirculation systems, spray dryers, spray towers, mist eliminators, acid plants, sulfur recovery plants, injection systems (such as water, steam, ammonia, sorbent or limestone injection), and combustion devices independent of the particular process being conducted at an emissions unit (e.g., the destruction of emissions achieved by venting process emission streams to flares, boilers or process heaters). For purposes of OAR 340-212-0200 through 340-212-0280, a control device does not include passive control measures that act to prevent pollutants from forming, such as the use of seals, lids, or roofs to prevent the release of pollutants, use of low-polluting fuel or feedstocks, or the use of combustion or other process design features or characteristics. If an applicable requirement establishes that particular equipment which otherwise meets this definition of a control device does not constitute a control device as applied to a particular pollutant-specific emissions unit, then that definition will be binding for purposes of OAR 340-212-0200 through 340-212-0280.

(31) "Criteria Pollutant" means nitrogen oxides, volatile organic compounds, particulate matter, PM10, PM2.5, sulfur dioxide, carbon monoxide, or lead.

(32) "Data" means the results of any type of monitoring or method, including the results of instrumental or non-instrumental monitoring, emission calculations, manual sampling procedures, recordkeeping procedures, or any other form of information collection procedure used in connection with any type of monitoring or method.

(33) "De minimis emission levels" mean the levels for the pollutants listed in Table 4.

NOTE: De minimis is compared to all increases that are not included in the PSEL.

(34) "Department":

(a) Means Department of Environmental Quality; except

(b) As used in OAR 340 divisions 218 and 220 means Department of Environmental Quality or in the case of Lane County, Lane Regional Air Protection Agency.

(35) "Device" means any machine, equipment, raw material, product, or byproduct at a source that produces or emits a regulated pollutant.

(36) "Direct PM2.5" has the meaning provided in the definition of PM2.5.

(37) "Director" means the Director of the Department or the Director's designee.

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(38) "Draft permit" means the version of an Oregon Title V Operating Permit for which the Department or Lane Regional Air Protection Agency offers public participation under OAR 340-218-0210 or the EPA and affected State review under 340-218-0230.

(39) "Effective date of the program" means the date that the EPA approves the Oregon Title V Operating Permit program submitted by the Department on a full or interim basis. In case of a partial approval, the "effective date of the program" for each portion of the program is the date of the EPA approval of that portion.

(40) "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency does not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

(41) "Emission" means a release into the atmosphere of any regulated pollutant or any air contaminant.

(42) "Emission Estimate Adjustment Factor" or "EEAF" means an adjustment applied to an emission factor to account for the relative inaccuracy of the emission factor.

(43) "Emission Factor" means an estimate of the rate at which a pollutant is released into the atmosphere, as the result of some activity, divided by the rate of that activity (e.g., production or process rate).

(44)(a) Except as provided in subsection (b) of this section, "Emission Limitation" and "Emission Standard" mean a requirement established by a State, local government, or the EPA which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

(b) As used in OAR 340-212-0200 through 340-212-0280, "Emission limitation or standard" means any applicable requirement that constitutes an emission limitation, emission standard, standard of performance or means of emission limitation as defined under the Act. An emission limitation or standard may be expressed in terms of the pollutant, expressed either as a specific quantity, rate or concentration of emissions (e.g., pounds of SO<sub>2</sub> per hour, pounds of SO<sub>2</sub> per million British thermal units of fuel input, kilograms of VOC per liter of applied coating solids, or parts per million by volume of SO<sub>2</sub>) or as the relationship of uncontrolled to controlled emissions (e.g., percentage capture and destruction efficiency of VOC or percentage reduction of SO<sub>2</sub>). An emission limitation or standard may also be expressed either as a work practice, process or control device parameter, or other form of specific design, equipment, operational, or operation and maintenance requirement. For purposes of 340-212-0200 through 340-212-0280, an emission limitation or standard does not include general operation requirements that an owner or operator may be required to meet, such as requirements to obtain a permit, to operate and maintain sources in accordance with good air pollution control practices, to develop and maintain a malfunction abatement plan, to keep records, submit reports, or conduct monitoring.

(45) "Emission Reduction Credit Banking" means to presently reserve, subject to requirements of OAR 340 division 268, Emission Reduction Credits, emission reductions for use by the reserver or assignee for future compliance with air pollution reduction requirements.

(46) "Emission Reporting Form" means a paper or electronic form developed by the Department that must be completed by the permittee to report calculated emissions, actual emissions, or permitted emissions for interim emission fee assessment purposes.

(47) "Emissions unit" means any part or activity of a source that emits or has the potential to emit any regulated air pollutant.

(a) A part of a source is any machine, equipment, raw material, product, or byproduct that produces or emits regulated air pollutants. An activity is any process, operation, action, or reaction (e.g., chemical) at a stationary source that emits regulated air pollutants. Except as described in subsection (d) of this section, parts and activities may be grouped for purposes of defining an emissions unit if the following conditions are met:

(A) The group used to define the emissions unit may not include discrete parts or activities to which a distinct emissions standard applies or for which different compliance demonstration requirements apply; and

(B) The emissions from the emissions unit are quantifiable.

(b) Emissions units may be defined on a pollutant by pollutant basis where applicable.

(c) The term emissions unit is not meant to alter or affect the definition of the term "unit" under Title IV of the FCAA.

(d) Parts and activities cannot be grouped for determining emissions increases from an emissions unit under OAR 340-224-0050 through 340-224-0070, or 340 division 210, or for determining the applicability of any New Source Performance Standard (NSPS).

(48) "EPA" or "Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's designee.

(49) "Equivalent method" means any method of sampling and analyzing for an air pollutant that has been demonstrated to the Department's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions. An equivalent method used to meet an applicable federal requirement for which a reference method is specified must be approved by EPA unless EPA has delegated authority for the approval to the Department.

(50) "Event" means excess emissions that arise from the same condition and occur during a single calendar day or continue into subsequent calendar days.

(51) "Exceedance" means a condition that is detected by monitoring that provides data in terms of an emission limitation or standard and that indicates that emissions (or opacity) are greater than the applicable emission limitation or standard (or less than the applicable standard in the case of a percent reduction requirement) consistent with any averaging period specified for averaging the results of the monitoring.

(52) "Excess emissions" means emissions in excess of a permit limit or any applicable air quality rule.

(53) "Excursion" means a departure from an indicator range established for monitoring under OAR 340-212-0200 through 340-212-0280 and 340-218-0050(3)(a), consistent with any averaging period specified for averaging the results of the monitoring.

(54) "Federal Land Manager" means with respect to any lands in the United States, the Secretary of the federal department with authority over such lands.

(55) "Federal Major Source" means a source with potential to emit any individual regulated pollutant, excluding hazardous air pollutants listed in OAR 340 division 244, greater than or equal to 100 tons per year if in a source category listed below, or 250 tons per year if not in a source category listed. In addition, for greenhouse gases, a federal major source must also have the potential to emit CO<sub>2</sub>e greater than or equal to 100,000 tons per year. The fugitive emissions and insignificant activity emissions of a stationary source are considered in determining whether it is a federal major source. Potential to emit calculations must include emission increases due to a new or modified source and may include emission decreases.

(a) Fossil fuel-fired steam electric plants of more than 250 million BTU/hour heat input;

(b) Coal cleaning plants with thermal dryers;

(c) Kraft pulp mills;

(d) Portland cement plants;

(e) Primary Zinc Smelters;

(f) Iron and Steel Mill Plants;

(g) Primary aluminum ore reduction plants;

(h) Primary copper smelters;

(i) Municipal Incinerators capable of charging more than 50 tons of refuse per day;

(j) Hydrofluoric acid plants;

(k) Sulfuric acid plants;

(l) Nitric acid plants;

(m) Petroleum Refineries;

(n) Lime plants;

(o) Phosphate rock processing plants;

(p) Coke oven batteries;

(q) Sulfur recovery plants;

(r) Carbon black plants, furnace process;

(s) Primary lead smelters;

(t) Fuel conversion plants;

(u) Sintering plants;

(v) Secondary metal production plants;

(w) Chemical process plants;

(x) Fossil fuel fired boilers, or combinations thereof, totaling more than 250 million BTU per hour heat input;

(y) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(z) Taconite ore processing plants;

(aa) Glass fiber processing plants;

(bb) Charcoal production plants.

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(56) "Final permit" means the version of an Oregon Title V Operating Permit issued by the Department or Lane Regional Air Protection Agency that has completed all review procedures required by OAR 340-218-0120 through 340-218-0240.

(57) "Form" means a paper or electronic form developed by the Department.

(58) "Fugitive Emissions":

(a) Except as used in subsection (b) of this section, means emissions of any air contaminant which escape to the atmosphere from any point or area that is not identifiable as a stack, vent, duct, or equivalent opening.

(b) As used to define a major Oregon Title V Operating Permit program source, means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(59) "General permit":

(a) Except as provided in subsection (b) of this section, means an Oregon Air Contaminant Discharge Permit established under OAR 340-216-0060;

(b) As used in OAR 340 division 218 means an Oregon Title V Operating Permit established under OAR 340-218-0090.

(60) "Generic PSEL" means the levels for the pollutants listed in Table 5.

**NOTE:** Sources are eligible for a generic PSEL if expected emissions are less than or equal to the levels listed in Table 5. Baseline emission rate and netting basis do not apply to pollutants at sources using generic PSELs.

(61)(a) "Greenhouse Gases" or "GHGs" means the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. Each gas is also individually a greenhouse gas.

(b) The definition of greenhouse gases in subsection (a) of this section does not include, for purposes of division 216, 218, and 224, carbon dioxide emissions from the combustion or decomposition of biomass except to the extent required by federal law.

(62) "Growth Allowance" means an allocation of some part of an airshed's capacity to accommodate future proposed major sources and major modifications of sources.

(63) "Immediately" means as soon as possible but in no case more than one hour after a source knew or should have known of an excess emission period.

(64) "Inherent process equipment" means equipment that is necessary for the proper or safe functioning of the process, or material recovery equipment that the owner or operator documents is installed and operated primarily for purposes other than compliance with air pollution regulations. Equipment that must be operated at an efficiency higher than that achieved during normal process operations in order to comply with the applicable emission limitation or standard is not inherent process equipment. For the purposes of OAR 340-212-0200 through 340-212-0280, inherent process equipment is not considered a control device.

(65) "Insignificant Activity" means an activity or emission that the Department has designated as categorically insignificant, or that meets the criteria of aggregate insignificant emissions.

(66) "Insignificant Change" means an off-permit change defined under OAR 340-218-0140(2)(a) to either a significant or an insignificant activity which:

(a) Does not result in a re-designation from an insignificant to a significant activity;

(b) Does not invoke an applicable requirement not included in the permit; and

(c) Does not result in emission of regulated air pollutants not regulated by the source's permit.

(67) "Late Payment" means a fee payment which is postmarked after the due date.

(68) "Lowest Achievable Emission Rate" or "LAER" means that rate of emissions which reflects: the most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable; or the most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent. The application of this term cannot permit a proposed new or modified source to emit any air contaminant in excess of the amount allowable under applicable New Source Performance Standards (NSPS) or standards for hazardous air pollutants.

(69) "Maintenance Area" means a geographical area of the State that was designated as a nonattainment area, redesignated as an attainment area by EPA, and redesignated as a maintenance area by the Environmental Quality Commission in OAR 340, division 204.

(70) "Maintenance Pollutant" means a pollutant for which a maintenance area was formerly designated a nonattainment area.

(71) "Major Modification" means any physical change or change in the method of operation of a source that results in satisfying the requirements of both subsections (a) and (b) of this section, or of subsection (c) of this section for any regulated air pollutant. Major modifications for ozone precursors or PM<sub>2.5</sub> precursors also constitute major modifications for ozone and PM<sub>2.5</sub>, respectively.

(a) Except as provided in subsection (d) of this section, a PSEL that exceeds the netting basis by an amount that is equal to or greater than the significant emission rate.

(b) The accumulation of emission increases due to physical changes and changes in the method of operation as determined in accordance with paragraphs (A) and (B) of this subsection is equal to or greater than the significant emission rate.

(A) Calculations of emission increases in subsection (b) of this section must account for all accumulated increases in actual emissions due to physical changes and changes in the method of operation occurring at the source since the applicable baseline period, or since the time of the last construction approval issued for the source pursuant to the New Source Review Regulations in OAR 340 division 224 for that pollutant, whichever time is more recent. These include fugitive emissions and emissions from insignificant activities.

(B) Emission increases due solely to increased use of equipment or facilities that existed or were permitted or approved to construct in accordance with OAR 340 division 210 during the applicable baseline period are not included, except if the increased use is to support a physical change or change in the method of operation.

(c) Any change at a source, including production increases, that would result in a Plant Site Emission Limit increase of 1 ton or more for any regulated pollutant for which the source is a major source in nonattainment or maintenance areas or a federal major source in attainment or unclassified areas, if the source obtained permits to construct and operate after the applicable baseline period but has not undergone New Source Review.

(A) Subsection (c) of this section does not apply to PM<sub>2.5</sub> and greenhouse gases.

(B) Changes to the PSEL solely due to the availability of better emissions information are exempt from being considered an increase.

(d) If a portion of the netting basis or PSEL (or both) was set based on PTE because the source had not begun normal operations but was permitted or approved to construct and operate, that portion of the netting basis or PSEL (or both) must be excluded from the tests in subsections (a) and (b) of this section until the netting basis is reset as specified in the definitions of baseline emission rate and netting basis.

(e) The following are not considered major modifications:

(A) Except as provided in subsection (c) of this section, proposed increases in hours of operation or production rates that would cause emission increases above the levels allowed in a permit and would not involve a physical change or change in method of operation in the source;

(B) Routine maintenance, repair, and replacement of components;

(C) Temporary equipment installed for maintenance of the permanent equipment if the temporary equipment is in place for less than six months and operated within the permanent equipment's existing PSEL;

(D) Use of alternate fuel or raw materials, that were available and the source was capable of accommodating in the baseline period.

(72) "Major Source":

(a) Except as provided in subsection (b) of this section, means a source that emits, or has the potential to emit, any regulated air pollutant at a Significant Emission Rate. The fugitive emissions and insignificant activity emissions of a stationary source are considered in determining whether it is a major source. Potential to emit calculations must include emission increases due to a new or modified source and may include emission decreases.

(b) As used in OAR 340 division 210, Stationary Source Notification Requirements, OAR 340 division 218, rules applicable to sources required to have Oregon Title V Operating Permits, OAR 340 division 220, Oregon Title V Operating Permit Fees, and 340-216-0066 Standard ACDPs, means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping or supporting the major industrial group and that is described in paragraphs (A), (B), (C) or (D) of this subsection. For the purposes of this subsection, a stationary source or group of stationary sources is considered part of a single industrial grouping if all of the

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pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual (U.S. Office of Management and Budget, 1987) or support the major industrial group.

(A) A major source of hazardous air pollutants, which means:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutants that has been listed pursuant to OAR 340-244-0040; 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Emissions from any oil or gas exploration or production well, along with its associated equipment, and emissions from any pipeline compressor or pump station will not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(ii) For radionuclides, "major source" will have the meaning specified by the Administrator by rule.

(B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit 100 tpy or more of any regulated air pollutant, except greenhouse gases, including any major source of fugitive emissions of any such pollutant. The fugitive emissions of a stationary source are not considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than 50 tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants(furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants;
- (xxi) Fossil-fuel boilers, or combination thereof, totaling more than 250 million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
- (xxvii) Any other stationary source category, that as of August 7, 1980 is being regulated under section 111 or 112 of the Act.

(C) Beginning July 1, 2011, a major stationary source of air pollutants, as defined by Section 302 of the Act, that directly emits or has the potential to emit 100 tpy or more of greenhouse gases and directly emits or has the potential to emit 100,000 tpy or more CO<sub>2e</sub>, including fugitive emissions.

(D) A major stationary source as defined in part D of Title I of the Act, including:

(i) For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of VOCs or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph of this subsection to 100, 50, 25, and 10 tpy of nitrogen oxides do not apply with respect to any source for which the Administrator has made a finding, under

section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;

(ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of VOCs;

(iii) For carbon monoxide nonattainment areas:

(I) That are classified as "serious"; and

(II) In which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide.

(iv) For particulate matter(PM<sub>10</sub>) nonattainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM<sub>10</sub>.

(73) "Material Balance" means a procedure for determining emissions based on the difference in the amount of material added to a process and the amount consumed and/or recovered from a process.

(74) "Modification," except as used in the term "major modification," means any physical change to, or change in the method of operation of, a stationary source that results in an increase in the stationary source's potential to emit any regulated air pollutant on an hourly basis. Modifications do not include the following:

(a) Increases in hours of operation or production rates that do not involve a physical change or change in the method of operation;

(b) Changes in the method of operation due to using an alternative fuel or raw material that the stationary source was physically capable of accommodating during the baseline period; and

(c) Routine maintenance, repair and like-for-like replacement of components unless they increase the expected life of the stationary source by using component upgrades that would not otherwise be necessary for the stationary source to function.

(75) "Monitoring" means any form of collecting data on a routine basis to determine or otherwise assess compliance with emission limitations or standards. Monitoring may include record keeping if the records are used to determine or assess compliance with an emission limitation or standard (such as records of raw material content and usage, or records documenting compliance with work practice requirements). Monitoring may include conducting compliance method tests, such as the procedures in appendix A to 40 CFR part 60, on a routine periodic basis. Requirements to conduct such tests on a one-time basis, or at such times as a regulatory authority may require on a non-regular basis, are not considered monitoring requirements for purposes of this definition. Monitoring may include one or more than one of the following data collection techniques as appropriate for a particular circumstance:

(a) Continuous emission or opacity monitoring systems.

(b) Continuous process, capture system, control device or other relevant parameter monitoring systems or procedures, including a predictive emission monitoring system.

(c) Emission estimation and calculation procedures (e.g., mass balance or stoichiometric calculations).

(d) Maintaining and analyzing records of fuel or raw materials usage.

(e) Recording results of a program or protocol to conduct specific operation and maintenance procedures.

(f) Verifying emissions, process parameters, capture system parameters, or control device parameters using portable or in situ measurement devices.

(g) Visible emission observations and recording.

(h) Any other form of measuring, recording, or verifying on a routine basis emissions, process parameters, capture system parameters, control device parameters or other factors relevant to assessing compliance with emission limitations or standards.

(76) "Netting Basis" means the baseline emission rate MINUS any emission reductions required by rule, orders, or permit conditions required by the SIP or used to avoid SIP requirements, MINUS any unassigned emissions that are reduced from allowable under OAR 340-222-0045, MINUS any emission reduction credits transferred off site, PLUS any emission increases approved through the New Source Review regulations in OAR 340 division 224 MINUS any emissions reductions required by subsection (g) of this section.

(a) A netting basis will only be established for regulated pollutants subject to OAR 340 division 224 as specified in the definition of regulated pollutant.

(b) The initial PM<sub>2.5</sub> netting basis and PSEL for a source that was permitted prior to May 1, 2011 will be established with the first permitting action issued after July 1, 2011, provided the permitting action involved a public notice period that began after July 1, 2011.

(A) The initial netting basis is the PM<sub>2.5</sub> fraction of the PM<sub>10</sub> netting basis in effect on May 1, 2011. DEQ may increase the initial PM<sub>2.5</sub> netting

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basis by up to 5 tons if necessary to avoid exceedance of the PM<sub>2.5</sub> significant emission rate as of May 1, 2011.

(B) Notwithstanding OAR 340-222-0041(2), the initial source specific PSEL for a source with PTE greater than or equal to the SER will be set equal to the PM<sub>2.5</sub> fraction of the PM<sub>10</sub> PSEL.

(c) The initial greenhouse gas netting basis and PSEL for a source will be established with the first permitting action issued after July 1, 2011, provided the permitting action involved a public notice period that began after July 1, 2011.

(d) Netting basis is zero for:

(A) Any regulated pollutant emitted from a source that first obtained permits to construct and operate after the applicable baseline period for that regulated pollutant, and has not undergone New Source Review for that pollutant;

(B) Any pollutant that has a generic PSEL in a permit;

(C) Any source permitted as portable; or

(D) Any source with a netting basis calculation resulting in a negative number.

(e) If a source relocates to an adjacent site, and the time between operation at the old and new sites is less than six months, the source may retain the netting basis from the old site.

(f) Emission reductions required by rule, order, or permit condition affect the netting basis if the source currently has devices or emissions units that are subject to the rules, order, or permit condition. The baseline emission rate is not affected. The netting basis reduction will be effective on the effective date of the rule, order, or permit condition requiring the reduction. The PSEL reduction will be effective on the compliance date of the rule, order, or permit condition.

(g) For permits issued after May 1, 2011 under New Source Review regulations in OAR 340 division 224, and where the netting basis initially equaled the potential to emit for a new or modified source, the netting basis will be reduced in accordance with the definition of actual emissions. Notwithstanding OAR 340-222-0041(2), this adjustment does not require a reduction in the PSEL.

(h) Emission reductions required by rule do not include emissions reductions achieved under OAR 340-226-0110 and 0120.

(i) Netting basis for a pollutant with a revised definition will be adjusted if the source is emitting the pollutant at the time of redefining and the pollutant is included in the permit's netting basis.

(j) Where EPA requires an attainment demonstration based on dispersion modeling, the netting basis will be established at no more than the level used in the dispersion modeling to demonstrate attainment with the ambient air quality standard (i.e., the attainment demonstration is an emission reduction required by rule).

(77) "Nitrogen Oxides" or "NO<sub>x</sub>" means all oxides of nitrogen except nitrous oxide.

(78) "Nonattainment Area" means a geographical area of the State, as designated by the Environmental Quality Commission or the EPA, that exceeds any state or federal primary or secondary ambient air quality standard.

(79) "Nonattainment Pollutant" means a pollutant for which an area is designated a nonattainment area.

(80) "Normal Source Operation" means operations which do not include such conditions as forced fuel substitution, equipment malfunction, or highly abnormal market conditions.

(81) "Offset" means an equivalent or greater emission reduction that is required before allowing an emission increase from a proposed major source or major modification of an existing source.

(82) "Opacity" means the degree to which an emission reduces transmission of light and obscures the view of an object in the background as measured in accordance with OAR 340-212-0120 and 212-0140. Unless otherwise specified by rule, opacity shall be measured in accordance with EPA Method 9 or a continuous opacity monitoring system (COMS) installed and operated in accordance with the Department's Continuous Monitoring Manual. For all standards, the minimum observation period shall be six minutes, though longer periods may be required by a specific rule or permit condition. Aggregate times (e.g. 3 minutes in any one hour) consist of the total duration of all readings during the observation period that equal or exceed the opacity percentage in the standard, whether or not the readings are consecutive.

(83) "Oregon Title V Operating Permit" means any permit covering an Oregon Title V Operating Permit source that is issued, renewed, amended, or revised pursuant to division 218.

(84) "Oregon Title V Operating Permit program" means a program approved by the Administrator under 40 CFR Part 70.

(85) "Oregon Title V Operating Permit program source" means any source subject to the permitting requirements, OAR 340 division 218.

(86) "Ozone Precursor" means nitrogen oxides and volatile organic compounds as measured by an applicable reference method in accordance with the Department's Source Sampling Manual (January, 1992) or as measured by an EPA reference method in 40 CFR Part 60, appendix A or as measured by a material balance calculation for VOC as appropriate.

(87) "Ozone Season" means the contiguous 3 month period during which ozone exceedances typically occur (i.e., June, July, and August).

(88) "Particulate Matter" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air. When used in emission standards, particulate matter is defined by the method specified within the standard or by an applicable reference method in accordance with OAR 340-212-0120 and 340-212-0140. Unless otherwise specified, sources with exhaust gases at or near ambient conditions may be tested with DEQ Method 5 or DEQ Method 8, as approved by the Department. Direct heat transfer sources shall be tested with DEQ Method 7; indirect heat transfer combustion sources and all other non-fugitive emissions sources not listed above shall be tested with DEQ Method 5.

(89) "Permit" means an Air Contaminant Discharge Permit or an Oregon Title V Operating Permit.

(90) "Permit modification" means a permit revision that meets the applicable requirements of OAR 340 division 216, 340 division 224, or 340-218-0160 through 340-218-0180.

(91) "Permit revision" means any permit modification or administrative permit amendment.

(92) "Permitted Emissions" as used in OAR division 220 means each regulated pollutant portion of the PSEL, as identified in an ACDP, Oregon Title V Operating Permit, review report, or by the Department pursuant to OAR 340-220-0090.

(93) "Permittee" means the owner or operator of the facility, authorized by the ACDP or the Oregon Title V Operating Permit to operate the source.

(94) "Person" means individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the State of Oregon and any agencies thereof, and the federal government and any agencies thereof.

(95) "Plant Site Emission Limit" or "PSEL" means the total mass emissions per unit time of an individual air pollutant specified in a permit for a source. The PSEL for a major source may consist of more than one permitted emission.

(96) "PM<sub>10</sub>":

(a) When used in the context of emissions, means finely divided solid or liquid material, including condensable particulate, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal 10 micrometers, emitted to the ambient air as measured by an applicable reference method in accordance with the Department's Source Sampling Manual (January, 1992);

(b) When used in the context of ambient concentration, means airborne finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured in accordance with 40 CFR Part 50, Appendix J.

(97) "PM<sub>2.5</sub>":

(a) When used in the context of direct PM<sub>2.5</sub> emissions, means finely divided solid or liquid material, including condensable particulate, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers, emitted to the ambient air as measured by EPA reference methods 201A and 202 in 40 CFR Part 51, appendix M.

(b) When used in the context of PM<sub>2.5</sub> precursor emissions, means sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>) emitted to the ambient air as measured by EPA reference methods in 40 CFR Part 60, appendix A.

(c) When used in the context of ambient concentration, means particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR Part 50, Appendix L, or an equivalent method designated in accordance with 40 CFR Part 53.

(98) "PM<sub>2.5</sub> fraction" means the fraction of PM<sub>2.5</sub> to PM<sub>10</sub> for each emissions unit that is included in the netting basis and PSEL.

(99) "Pollutant-specific emissions unit" means an emissions unit considered separately with respect to each regulated air pollutant.

(100) "Potential to emit" or "PTE" means the lesser of:

(a) The capacity of a stationary source; or

(b) The maximum allowable emissions taking into consideration any physical or operational limitation, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material

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combusted, stored, or processed, if the limitation is enforceable by the Administrator.

(c) This definition does not alter or affect the use of this term for any other purposes under the Act or the term “capacity factor” as used in Title IV of the Act and the regulations promulgated thereunder. Secondary emissions are not considered in determining the potential to emit.

(101) “Predictive emission monitoring system (PEMS)” means a system that uses process and other parameters as inputs to a computer program or other data reduction system to produce values in terms of the applicable emission limitation or standard.

(102) “Process Upset” means a failure or malfunction of a production process or system to operate in a normal and usual manner.

(103) “Proposed permit” means the version of an Oregon Title V Operating Permit that the Department or a Regional Agency proposes to issue and forwards to the Administrator for review in compliance with OAR 340-218-0230.

(104) “Reference method” means any method of sampling and analyzing for an air pollutant as specified in 40 CFR Part 52, 60, 61 or 63.

(105) “Regional Agency” means Lane Regional Air Protection Agency.

(106) “Regulated air pollutant” or “Regulated Pollutant”:

(a) Except as provided in subsections (b) and (c) of this section, means:

(A) Nitrogen oxides or any VOCs;

(B) Any pollutant for which a national ambient air quality standard has been promulgated, including any precursors to such pollutants;

(C) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(D) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act;

(E) Any pollutant listed under OAR 340-244-0040 or 340-244-0230; and

(F) Greenhouse Gases.

(b) As used in OAR 340 division 220, regulated pollutant means particulates, volatile organic compounds, oxides of nitrogen and sulfur dioxide.

(c) As used in OAR 340 division 224, regulated pollutant does not include any pollutant listed in divisions 244 and 246, unless the pollutant is listed in OAR 340 division 200 Table 2 (significant emission rates).

(107) “Renewal” means the process by which a permit is reissued at the end of its term.

(108) “Responsible official” means one of the following:

(a) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(A) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or

(B) The delegation of authority to such representative is approved in advance by the Department or Lane Regional Air Protection Agency.

(b) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

(c) For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this division, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of the EPA); or

(d) For affected sources:

(A) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated there under are concerned; and

(B) The designated representative for any other purposes under the Oregon Title V Operating Permit program.

(109) “Secondary Emissions” means emissions that are a result of the construction and/or operation of a source or modification, but that do not come from the source itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source associated with the secondary emissions. Secondary emissions may include, but are not limited to:

(a) Emissions from ships and trains coming to or from a facility;

(b) Emissions from off-site support facilities that would be constructed or would otherwise increase emissions as a result of the construction or modification of a source.

(110) “Section 111” means section 111 of the FCAA which includes Standards of Performance for New Stationary Sources (NSPS).

(111) “Section 111(d)” means subsection 111(d) of the FCAA which requires states to submit to the EPA plans that establish standards of performance for existing sources and provides for implementing and enforcing such standards.

(112) “Section 112” means section 112 of the FCAA which contains regulations for Hazardous Air Pollutants (HAP).

(113) “Section 112(b)” means subsection 112(b) of the FCAA which includes the list of hazardous air pollutants to be regulated.

(114) “Section 112(d)” means subsection 112(d) of the FCAA which directs the EPA to establish emission standards for sources of hazardous air pollutants. This section also defines the criteria to be used by the EPA when establishing the emission standards.

(115) “Section 112(e)” means subsection 112(e) of the FCAA which directs the EPA to establish and promulgate emissions standards for categories and subcategories of sources that emit hazardous air pollutants.

(116) “Section 112(r)(7)” means subsection 112(r)(7) of the FCAA which requires the EPA to promulgate regulations for the prevention of accidental releases and requires owners or operators to prepare risk management plans.

(117) “Section 114(a)(3)” means subsection 114(a)(3) of the FCAA which requires enhanced monitoring and submission of compliance certifications for major sources.

(118) “Section 129” means section 129 of the FCAA which requires the EPA to establish emission standards and other requirements for solid waste incineration units.

(119) “Section 129(e)” means subsection 129(e) of the FCAA which requires solid waste incineration units to obtain Oregon Title V Operating Permits.

(120) “Section 182(f)” means subsection 182(f) of the FCAA which requires states to include plan provisions in the State Implementation Plan for NOx in ozone nonattainment areas.

(121) “Section 182(f)(1)” means subsection 182(f)(1) of the FCAA which requires states to apply those plan provisions developed for major VOC sources and major NOx sources in ozone nonattainment areas.

(122) “Section 183(e)” means subsection 183(e) of the FCAA which requires the EPA to study and develop regulations for the control of certain VOC sources under federal ozone measures.

(123) “Section 183(f)” means subsection 182(f) of the FCAA which requires the EPA to develop regulations pertaining to tank vessels under federal ozone measures.

(124) “Section 184” means section 184 of the FCAA which contains regulations for the control of interstate ozone air pollution.

(125) “Section 302” means section 302 of the FCAA which contains definitions for general and administrative purposes in the Act.

(126) “Section 302(j)” means subsection 302(j) of the FCAA which contains definitions of “major stationary source” and “major emitting facility.”

(127) “Section 328” means section 328 of the FCAA which contains regulations for air pollution from outer continental shelf activities.

(128) “Section 408(a)” means subsection 408(a) of the FCAA which contains regulations for the Title IV permit program.

(129) “Section 502(b)(10) change” means a change which contravenes an express permit term but is not a change that:

(a) Would violate applicable requirements;

(b) Would contravene federally enforceable permit terms and conditions that are monitoring, recordkeeping, reporting, or compliance certification requirements; or

(c) Is a Title I modification.

(130) “Section 504(b)” means subsection 504(b) of the FCAA which states that the EPA can prescribe by rule procedures and methods for determining compliance and for monitoring.

(131) “Section 504(e)” means subsection 504(e) of the FCAA which contains regulations for permit requirements for temporary sources.

(132) “Significant Air Quality Impact” means an additional ambient air quality concentration equal to or greater than in the concentrations listed in Table 1. The threshold concentrations listed in Table 1 are used for comparison against the ambient air quality standard and do not apply for protecting PSD Class I increments or air quality related values (including visibility). For sources of VOC or NOx, a major source or major modifica-

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tion has a significant impact if it is located within the Ozone Precursor Distance defined in OAR 340-225-0020.

(133) "Significant Emission Rate" or "SER," except as provided in subsections (a) through (c) of this section, means an emission rate equal to or greater than the rates specified in Table 2.

(a) For the Medford-Ashland Air Quality Maintenance Area, the Significant Emission Rate for PM10 is defined in Table 3.

(b) For regulated air pollutants not listed in Table 2 or 3, the significant emission rate is zero unless the Department determines the rate that constitutes a significant emission rate.

(c) Any new source or modification with an emissions increase less than the rates specified in Table 2 or 3 associated with a new source or modification which would construct within 10 kilometers of a Class I area, and would have an impact on such area equal to or greater than 1 ug/m3 (24 hour average) is emitting at a significant emission rate. This provision does not apply to greenhouse gas emissions.

(134) "Significant Impairment" occurs when the Department determines that visibility impairment interferes with the management, protection, preservation, or enjoyment of the visual experience within a Class I area. The Department will make this determination on a case-by-case basis after considering the recommendations of the Federal Land Manager and the geographic extent, intensity, duration, frequency, and time of visibility impairment. These factors will be considered along with visitor use of the Class I areas, and the frequency and occurrence of natural conditions that reduce visibility.

(135) "Small scale local energy project" means:

(a) A system, mechanism or series of mechanisms located primarily in Oregon that directly or indirectly uses or enables the use of, by the owner or operator, renewable resources including, but not limited to, solar, wind, geothermal, biomass, waste heat or water resources to produce energy, including heat, electricity and substitute fuels, to meet a local community or regional energy need in this state;

(b) A system, mechanism or series of mechanisms located primarily in Oregon or providing substantial benefits to Oregon that directly or indirectly conserves energy or enables the conservation of energy by the owner or operator, including energy used in transportation;

(c) A recycling project;

(d) An alternative fuel project;

(e) An improvement that increases the production or efficiency, or extends the operating life, of a system, mechanism, series of mechanisms or project otherwise described in this section of this rule, including but not limited to restarting a dormant project;

(f) A system, mechanism or series of mechanisms installed in a facility or portions of a facility that directly or indirectly reduces the amount of energy needed for the construction and operation of the facility and that meets the sustainable building practices standard established by the State Department of Energy by rule; or

(g) A project described in subsections (a) to (f) of this section, whether or not the existing project was originally financed under ORS 470, together with any refinancing necessary to remove prior liens or encumbrances against the existing project.

(h) A project described in subsections (a) to (g) of this section that conserves energy or produces energy by generation or by processing or collection of a renewable resource.

(136) "Source" means any building, structure, facility, installation or combination thereof that emits or is capable of emitting air contaminants to the atmosphere, is located on one or more contiguous or adjacent properties and is owned or operated by the same person or by persons under common control. The term includes all pollutant emitting activities that belong to a single major industrial group (i.e., that have the same two-digit code) as described in the Standard Industrial Classification Manual, (U.S. Office of Management and Budget, 1987) or that support the major industrial group.

(137) "Source category":

(a) Except as provided in subsection (b) of this section, means all the pollutant emitting activities that belong to the same industrial grouping (i.e., that have the same two-digit code) as described in the Standard Industrial Classification Manual, (U.S. Office of Management and Budget, 1987).

(b) As used in OAR 340 division 220, Oregon Title V Operating Permit Fees, means a group of major sources that the Department determines are using similar raw materials and have equivalent process controls and pollution control equipment.

(138) "Source Test" means the average of at least three test runs conducted in accordance with the Department's Source Sampling Manual.

(139) "Startup" and "shutdown" means that time during which an air contaminant source or emission-control equipment is brought into normal operation or normal operation is terminated, respectively.

(140) "State Implementation Plan" or "SIP" means the State of Oregon Clean Air Act Implementation Plan as adopted by the Commission under OAR 340-200-0040 and approved by EPA.

(141) "Stationary source" means any building, structure, facility, or installation at a source that emits or may emit any regulated air pollutant.

(142) "Substantial Underpayment" means the lesser of ten percent (10%) of the total interim emission fee for the major source or five hundred dollars.

(143) "Synthetic minor source" means a source that would be classified as a major source under OAR 340-200-0020, but for limits on its potential to emit air pollutants contained in a permit issued by the Department under OAR 340 division 216 or 218.

(144) "Title I modification" means one of the following modifications pursuant to Title I of the FCAA:

(a) A major modification subject to OAR 340-224-0050, Requirements for Sources in Nonattainment Areas;

(b) A major modification subject to OAR 340-224-0060, Requirements for Sources in Maintenance Areas;

(c) A major modification subject to OAR 340-224-0070, Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas;

(d) A modification that is subject to a New Source Performance Standard under Section 111 of the FCAA; or

(e) A modification under Section 112 of the FCAA.

(145) "Total Reduced Sulfur" or "TRS" means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides present expressed as hydrogen sulfide (H2S).

(146) "Typically Achievable Control Technology" or "TACT" means the emission limit established on a case-by-case basis for a criteria pollutant from a particular emissions unit in accordance with OAR 340-226-0130. For existing sources, the emission limit established will be typical of the emission level achieved by emissions units similar in type and size. For new and modified sources, the emission limit established will be typical of the emission level achieved by well controlled new or modified emissions units similar in type and size that were recently installed. TACT determinations will be based on information known to the Department while considering pollution prevention, impacts on other environmental media, energy impacts, capital and operating costs, cost effectiveness, and the age and remaining economic life of existing emission control equipment. The Department may consider emission control technologies typically applied to other types of emissions units where such technologies could be readily applied to the emissions unit. If an emission limitation is not feasible, a design, equipment, work practice, operational standard, or combination thereof, may be required.

(147) "Unassigned Emissions" means the amount of emissions that are in excess of the PSEL but less than the Netting Basis.

(148) "Unavoidable" or "could not be avoided" means events that are not caused entirely or in part by poor or inadequate design, operation, maintenance, or any other preventable condition in either process or control equipment.

(149) "Upset" or "Breakdown" means any failure or malfunction of any pollution control equipment or operating equipment that may cause excess emissions.

(150) "Visibility Impairment" means any humanly perceptible change in visual range, contrast or coloration from that which existed under natural conditions. Natural conditions include fog, clouds, windblown dust, rain, sand, naturally ignited wildfires, and natural aerosols.

(151) "Volatile Organic Compounds" or "VOC" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions.

(a) This includes any such organic compound except the following, which have been determined to have negligible photochemical reactivity in the formation of tropospheric ozone: methane; ethane; methylene chloride(dichloromethane); dimethyl carbonate, propylene carbonate, 1,1,1-trichloroethane(methyl chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane(CFC-113); trichlorofluoromethane(CFC-11); dichlorodifluoromethane(CFC-12); chlorodifluoromethane(HCFC-22); trifluoromethane(HFC-23); 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane(CFC-115); 1,1,1-trifluoro 2,2-dichloroethane(HCFC-123); 1,1,1,2-tetrafluoroethane(HFC-134a); 1,1-



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dichloro 1-fluoroethane(HCFC-141b); 1-chloro 1,1-difluoroethane(HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane(HCFC-124); pentafluoroethane(HFC-125); 1,1,2,2-tetrafluoroethane(HFC-134); 1,1,1-trifluoroethane(HFC-143a); 1,1-difluoroethane (HFC-152a); parachlorobenzotrifluoride(PCBTF); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene(tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane(HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane HFC 43-10mee); difluoromethane(HFC-32); ethylfluoride(HFC-161); 1,1,1,3,3,3-hexafluoropropane(HFC-236fa); 1,1,2,2,3-pentafluoropropane(HFC-245ca); 1,1,2,3,3-pentafluoropropane(HFC-245ea); 1,1,1,2,3-pentafluoropropane(HFC-245eb); 1,1,1,3,3-pentafluoropropane(HFC-245fa); 1,1,1,2,3,3-hexafluoropropane(HFC-236ea); 1,1,1,3,3-pentafluorobutane(HFC-365mf); chlorofluoromethane (HCFC-31); 1 chloro-1-fluoroethane(HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane(HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxybutane(C4F9OCH3 or HFE-7100); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane((CF3)2CFCF2OCH3); 1-ethoxy-1,1,2,2,3,3,4,4-nonafluorobutane(C4F9OC2H5 or HFE-7200); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane((CF3)2CFCF2OC2H5); methyl acetate; 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane(n-C3F7OCH3, HFE-7000); 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane(HFE-7500); 1,1,1,2,3,3,3-heptafluoropropane(HFC 227ea); methyl formate (HCOOCH3); (1) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane(HFE-7300); and perfluorocarbon compounds that fall into these classes:

(A) Cyclic, branched, or linear, completely fluorinated alkanes;

(B) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;

(C) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and

(D) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(b) For purposes of determining compliance with emissions limits, VOC will be measured by an applicable reference method in accordance with the Department's Source Sampling Manual, January, 1992. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOC if the amount of such compounds is accurately quantified, and the Department approves the exclusion.

(c) The Department may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the Department's satisfaction, the amount of negligibly-reactive compounds in the source's emissions.

(d) The following compound(s) are VOC for purposes of all record-keeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOC and must be uniquely identified in emission reports, but are not VOC for purposes of VOC emissions limitations or VOC content requirements: t-butyl acetate.

(152) "Year" means any consecutive 12 month period of time.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

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

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

Stat. Auth.: ORS 468.020, 468A.025, 468A.035, 468A.055 & 468A.070

Stats. Implemented: ORS 468A.025 & 468A.035

Hist.: [DEQ 15-1978, f. & ef. 10-13-78; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033.04; DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 14-1989, f. & cert. ef. 6-26-89; DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; DEQ 2-1992, f. & cert. ef. 1-30-92; DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0145, 340-020-0225, 340-020-0305, 340-020-0355, 340-020-0460 & 340-020-0520; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 21-1994, f. & cert. ef. 10-14-94; DEQ 24-1994, f. & cert. ef. 10-28-94; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 14-1998, f. & cert. ef. 9-14-98; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 21-1998, f. & cert. ef. 10-14-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 6-1999, f. & cert. ef. 5-21-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0205, 340-028-0110; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 10-2008, f. & cert. ef. 8-25-08; DEQ 5-2010, f. & cert. ef. 5-21-10; DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11; Administrative correction 3-29-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11; DEQ 7-2011(Temp), f. & cert. ef. 6-24-11 thru 12-19-11; Administrative correction, 2-6-12; DEQ 1-2012, f. & cert. ef. 5-17-12

## 340-200-0040

### State of Oregon Clean Air Act Implementation Plan

(1) This implementation plan, consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program, contains control strategies, rules and standards prepared by the Department of Environmental Quality and is adopted as the state implementation plan (SIP) of the State of Oregon pursuant to the federal Clean Air Act, 42 U.S.C.A 7401 to 7671q.

(2) Except as provided in section (3), revisions to the SIP will be made pursuant to the Commission's rulemaking procedures in division 11 of this chapter and any other requirements contained in the SIP and will be submitted to the United States Environmental Protection Agency for approval. The State Implementation Plan was last modified by the Commission on February 16, 2012.

(3) Notwithstanding any other requirement contained in the SIP, the Department may:

(a) Submit to the Environmental Protection Agency any permit condition implementing a rule that is part of the federally-approved SIP as a source-specific SIP revision after the Department has complied with the public hearings provisions of 40 CFR 51.102 (July 1, 2002); and

(b) Approve the standards submitted by a regional authority if the regional authority adopts verbatim any standard that the Commission has adopted, and submit the standards to EPA for approval as a SIP revision.

**NOTE:** Revisions to the State of Oregon Clean Air Act Implementation Plan become federally enforceable upon approval by the United States Environmental Protection Agency. If any provision of the federally approved Implementation Plan conflicts with any provision adopted by the Commission, the Department shall enforce the more stringent provision.

Stat. Auth.: ORS 468.020, 468A.035 & 468A.070

Stats. Implemented: ORS 468A.035

Hist.: DEQ 35, f. 2-3-72, ef. 2-15-72; DEQ 54, f. 6-21-73, ef. 7-1-73; DEQ 19-1979, f. & ef. 6-25-79; DEQ 21-1979, f. & ef. 7-2-79; DEQ 22-1980, f. & ef. 9-26-80; DEQ 11-1981, f. & ef. 3-26-81; DEQ 14-1982, f. & ef. 7-21-82; DEQ 21-1982, f. & ef. 10-27-82; DEQ 1-1983, f. & ef. 1-21-83; DEQ 6-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 25-1984, f. & ef. 11-27-84; DEQ 3-1985, f. & ef. 2-1-85; DEQ 12-1985, f. & ef. 9-30-85; DEQ 5-1986, f. & ef. 2-21-86; DEQ 10-1986, f. & ef. 5-9-86; DEQ 20-1986, f. & ef. 11-7-86; DEQ 21-1986, f. & ef. 11-7-86; DEQ 4-1987, f. & ef. 3-2-87; DEQ 5-1987, f. & ef. 3-2-87; DEQ 8-1987, f. & ef. 4-23-87; DEQ 21-1987, f. & ef. 12-16-87; DEQ 31-1988, f. 12-20-88, cert. ef. 12-23-88; DEQ 2-1991, f. & cert. ef. 2-14-91; DEQ 19-1991, f. & cert. ef. 11-13-91; DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ 21-1991, f. & cert. ef. 11-13-91; DEQ 22-1991, f. & cert. ef. 11-13-91; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ 25-1991, f. & cert. ef. 11-13-91; DEQ 1-1992, f. & cert. ef. 2-4-92; DEQ 3-1992, f. & cert. ef. 2-4-92; DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 19-1992, f. & cert. ef. 8-11-92; DEQ 20-1992, f. & cert. ef. 8-11-92; DEQ 25-1992, f. 10-30-92, cert. ef. 11-1-92; DEQ 26-1992, f. & cert. ef. 11-2-92; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 8-1993, f. & cert. ef. 5-11-93; DEQ 12-1993, f. & cert. ef. 9-24-93; DEQ 15-1993, f. & cert. ef. 11-4-93; DEQ 16-1993, f. & cert. ef. 11-4-93; DEQ 17-1993, f. & cert. ef. 11-4-93; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 1-1994, f. & cert. ef. 1-3-94; DEQ 5-1994, f. & cert. ef. 3-21-94; DEQ 14-1994, f. & cert. ef. 5-31-94; DEQ 15-1994, f. 6-8-94, cert. ef. 7-1-94; DEQ 25-1994, f. & cert. ef. 11-2-94; DEQ 9-1995, f. & cert. ef. 5-1-95; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 14-1995, f. & cert. ef. 5-25-95; DEQ 17-1995, f. & cert. ef. 7-12-95; DEQ 19-1995, f. & cert. ef. 9-1-95; DEQ 20-1995 (Temp), f. & cert. ef. 9-14-95; DEQ 8-1996(Temp), f. & cert. ef. 6-3-96; DEQ 15-1996, f. & cert. ef. 8-14-96; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 23-1996, f. & cert. ef. 11-4-96; DEQ 24-1996, f. & cert. ef. 11-26-96; DEQ 10-1998, f. & cert. ef. 6-22-98; DEQ 15-1998, f. & cert. ef. 9-23-98; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 17-1998, f. & cert. ef. 9-23-98; DEQ 20-1998, f. & cert. ef. 10-12-98; DEQ 21-1998, f. & cert. ef. 10-12-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 5-1999, f. & cert. ef. 3-25-99; DEQ 6-1999, f. & cert. ef. 5-21-99; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0047; DEQ 15-1999, f. & cert. ef. 10-22-99; DEQ 2-2000, f. 2-17-00, cert. ef. 6-1-01; DEQ 6-2000, f. & cert. ef. 5-22-00; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 13-2000, f. & cert. ef. 7-28-00; DEQ 16-2000, f. & cert. ef. 10-25-00; DEQ 17-2000, f. & cert. ef. 10-25-00; DEQ 20-2000, f. & cert. ef. 12-15-00; DEQ 21-2000, f. & cert. ef. 12-15-00; DEQ 2-2001, f. & cert. ef. 2-5-01; DEQ 4-2001, f. & cert. ef. 3-27-01; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 15-2001, f. & cert. ef. 12-26-01; DEQ 16-2001, f. & cert. ef. 12-26-01; DEQ 17-2001, f. & cert. ef. 12-28-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 5-2002, f. & cert. ef. 5-3-02; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 5-2003, f. & cert. ef. 2-6-03; DEQ 14-2003, f. & cert. ef. 10-24-03; DEQ 19-2003, f. & cert. ef. 12-12-03; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 10-2004, f. & cert. ef. 12-15-04; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05; DEQ 7-2005, f. & cert. ef. 7-12-05; DEQ 9-2005, f. & cert. ef. 9-9-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06; DEQ 3-2007, f. & cert. ef. 4-12-07; DEQ 4-2007, f. & cert. ef. 6-28-07; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 5-2008, f. & cert. ef. 3-20-08; DEQ 11-2008, f. & cert. ef. 8-29-08; DEQ 12-2008, f. & cert. ef. 9-17-08; DEQ 14-2008, f. & cert. ef. 11-10-08; DEQ 15-2008, f. & cert. ef. 12-31-08; DEQ 3-2009, f. & cert. ef. 6-30-09; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 2-2010, f. & cert. ef. 3-5-10; DEQ 5-2010, f. & cert. ef. 5-21-10; DEQ 14-2010, f. & cert. ef. 12-10-10; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11; DEQ 18-2011, f. & cert. ef. 12-21-11; DEQ 1-2012, f. & cert. ef. 5-17-12

## 340-210-0100

### Registration in General

(1) Any air contaminant source not subject to Air Contaminant Discharge Permits, OAR 340 division 216, or Oregon Title V Operating Permits, OAR 340 division 218, must register with the Department upon request pursuant to OAR 340-210-0110 through 340-210-0120.

(2) The owner or operator of an air contaminant source listed in subsection (2)(a) of this rule that is certified through a Department approved environmental certification program and subject to an Area Source

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NESHAP may register the source with the Department pursuant to OAR 340-210-0110 through 340-210-0120 in lieu of obtaining a permit in accordance with OAR 340-216-0020, unless the Department determines that the source has not complied with the requirements of the environmental certification program.

(a) The following air contaminant sources may be registered under this section:

- (A) Motor vehicle surface coating operations.
- (B) Dry cleaners using perchloroethylene.

(b) Approved environmental certification program. To be approved, the environmental certification program must, at a minimum, require certified air contaminant sources to comply with all applicable state and federal rules and regulations and require additional measures to increase environmental protection.

(c) Fees. In order to obtain and maintain registration, owners and operators of air contaminant sources registered pursuant to this section must pay the following annual fees by March 1 of each year:

- (A) Motor vehicle surface coating operations — \$240.00.
- (B) Dry cleaners using perchloroethylene — \$180.00.
- (C) Late fees.
  - (i) 30 days late: 5% of annual fee.
  - (ii) 31-60 days late: 10% of annual fee.
  - (iii) 61 or more days late: 20% of annual fee.
- (D) Failure to pay fees. Registration is automatically terminated upon failure to pay annual fees within 90 days of invoice by the Department, unless prior arrangements for payment have been approved in writing by the Department.

(d) Recordkeeping. In order to maintain registration, owners and operators of air contaminant sources registered pursuant to this section must maintain records required by the approved environmental performance program under subsection (2)(b) of this rule. The records must be kept on site and in a form suitable and readily available for expeditious inspection and review.

(3) The owner or operator of an air contaminant source that is subject to a federal NSPS or NESHAP in 40 CFR Part 60 or 40 CFR Part 63 and that is not located at a source that is required to obtain a permit under OAR chapter 340, division 216 (Air Contaminant Discharge Permits) or OAR chapter 340, division 218 (Oregon Title V Operating Permits), must register and maintain registration with the Department pursuant to OAR 340-210-0110 through 340-210-0120 if requested in writing by the Department (or by EPA at the Department's request).

(4) Revocation. The Department may revoke a registration if a source fails to meet any requirement in OAR 340-210-0110.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.  
Stat. Auth.: ORS 468.020, 468A.025, 468A.035, 468A.050, 468A.070 & 468A.310  
Stats. Implemented: ORS 468 & 468A  
Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0010; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-0500; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 7-2011(Temp), f. & cert. ef. 6-24-11 thru 12-19-11; Administrative correction, 2-6-12; DEQ 1-2012, f. & cert. ef. 5-17-12

## 340-210-0110

### Registration Requirements

(1) Registration pursuant to OAR 340-210-0100(1) or (3) must be completed within 30 days following the mailing date of the request by the Department.

(2) Registration must be completed by the owner, lessee of the source, or agent on forms made available by the Department. If a form is not available from the Department, the registrant may provide the information using a format approved by the Department.

(3) In order to obtain registration pursuant to OAR 340-210-0100(1), the following information must be reported by registrants:

- (a) Name, address, and nature of business;
- (b) Name of local person responsible for compliance with these rules;
- (c) Name of person authorized to receive requests for data and information;
- (d) A description of the production processes and a related flow chart;
- (e) A plot plan showing the location and height of all air contaminant sources. The plot plan must also indicate the nearest residential or commercial property;
- (f) Type and quantity of fuels used;
- (g) Amount, nature, and duration of air contaminant emissions;
- (h) Estimated efficiency of air pollution control equipment under present or anticipated operating conditions;
- (i) Any other information requested by the Department.

(4) In order to obtain registration pursuant to OAR 340-210-0100(2), a registrant must submit the information in section (3)(a), (b), (c), and (i) of this rule and the following:

(a) Information demonstrating that the air contaminant source is operating in compliance with all applicable state and federal rules and regulations, as requested by the Department.

(b) Information demonstrating that the source is certified through an approved environmental certification program.

(c) A signed statement that the submitted information is true, accurate, and complete. This signed statement shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

(5) In order to obtain registration pursuant to OAR 340-210-0100(3), the following must be submitted by a registrant:

- (a) Name, address and nature of business or institution;
- (b) Name of local person responsible for compliance with these rules;
- (c) Name of person authorized to receive requests for data and information;
- (d) A description of the air contaminant source subject to regulation;
- (e) Identification of the applicable regulation(s);
- (f) Confirmation that approval to construct and operate the air contaminant source was obtained in accordance with OAR 340-210-0205 through 340-0210-0250;
- (g) Confirmation that the air contaminant source is operating in compliance with all applicable state rules and regulations, including but not limited to OAR 340-208-0110 (visible air contaminant limitations) and 340-226-0210 or 340-228-0210 (grain loading standards);
- (h) Confirmation that the air contaminant source is operating in compliance with all applicable federal rules and regulations, including but not limited to 40 CFR Part 60 and Part 63 standards and work practice requirements, such as routine tune-up for boilers; and
- (i) Any other information requested by the Department.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.  
Stat. Auth.: ORS 468.020, 468A.025, 468A.035, 468A.050, 468A.055, 468A.070 & 468A.310  
Stats. Implemented: ORS 468 & 468A  
Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0010; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-0510; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 7-2011(Temp), f. & cert. ef. 6-24-11 thru 12-19-11; Administrative correction, 2-6-12; DEQ 1-2012, f. & cert. ef. 5-17-12

## 340-210-0120

### Re-Registration and Maintaining Registration

(1) In order to re-register or maintain registration pursuant to OAR 340-210-0100, a person responsible for an air contaminant source must reaffirm in writing, by March 1 of each year, the correctness and current status of the information furnished to the Department.

(2) In order to re-register or maintain registration pursuant to OAR 340-210-0100(3):

(a) The registrant must report any change in any of the factual information reported under OAR 340-210-0110 to the Department on a form made available by the Department; and

(b) The registrant must confirm the compliance status of the air contaminant source, including but not limited to compliance with any work practice requirements such as routine tune-ups. Confirmation must be made in writing on a form furnished by the Department.

(3) In order to re-register, or maintain registration, a person must not have had their registration terminated or revoked within the last 3 years, unless the air contaminant source has changed ownership since termination or revocation.

(4) If a registered air contaminant source is sold or transferred, the sale or transfer must be reported to the Department by either the former owner or the new owner within 30 days of the date of sale or transfer. The new owner of the registered air contaminant source must register the air contaminant source within 30 days of the date of sale or transfer in accordance with OAR 340-210-0110(2) and (5).

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.  
Stat. Auth.: ORS 468.020, 468A.035, 468A.050 & 468A.310  
Stats. Implemented: ORS 468 & 468A  
Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0015; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-0520; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 7-2011(Temp), f. & cert. ef. 6-24-11 thru 12-19-11; Administrative correction, 2-6-12; DEQ 1-2012, f. & cert. ef. 5-17-12

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## 340-210-0250

### Approval to Operate

(1) The approval to construct does not provide approval to operate the constructed or modified stationary source or air pollution control equipment unless otherwise allowed by section (2) of this rule or the ACDP or Oregon Title V Operating Permit programs (OAR 340 divisions 216 and 218).

(2) Type 1 and 2 changes:

(a) For sources that are not required to obtain a permit in accordance with OAR 340-216-0020, Type 1 and 2 changes may be operated without further approval subject to the conditions of the Department's approval to construct provided in accordance with OAR 340-210-0240.

(A) Approval to operate does not relieve the owner of the obligation of complying with applicable requirements that may include but are not limited to the general opacity standards in OAR 340-208-0110 and general particulate matter standards in OAR 340-226-0210 and 340-228-0210.

(B) If required by the Department as a condition of the approval to construct or at any other time in accordance with OAR 340-212-0120, the owner or operator must conduct testing or monitoring to verify compliance with applicable requirements. Testing of boilers must be performed in accordance with OAR 340-212-0140.

(C) The owner or operator must register the air contaminant source with the Department if required as a condition of the approval to construct or at any other time in accordance with OAR 340-210-0100.

(b) For new sources that are required to obtain an ACDP in accordance with OAR 340-216-0020, the ACDP, which allows operation, is required before operating Type 1 or 2 changes.

(c) For sources currently operating under an ACDP, Type 1 and 2 changes may be operated without further approval unless the ACDP specifically prohibits the operation.

(d) For sources currently operating under an Oregon Title V Operating Permit, Type 1 and 2 changes may only be operated in accordance with OAR 340-218-0190(2).

(3) Type 3 and 4 changes:

(a) For new sources, Type 3 or 4 changes require a standard ACDP before operation of the changes.

(b) For sources currently operating under an ACDP, approval to operate Type 3 or 4 changes will require a new or modified standard ACDP. All ACDP terms and conditions remain in effect until the ACDP is modified.

(c) For sources currently operating under an Oregon Title V Operating Permit, approval to operate Type 3 or 4 changes must be in accordance with OAR 340-218-0190(2).

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.  
Stat. Auth.: ORS 468 & 468A  
Stats. Implemented: ORS 468 & 468A  
Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 1-2012, f. & cert. ef. 5-17-12

## 340-228-0020

### Definitions

The definitions in OAR 340-200-0020 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020, the definition in this rule applies to this division.

(1) "ASTM" means the American Society for Testing and Materials.

(2) "Coastal Areas" means Clatsop, Tillamook, Lincoln, Coos, and Curry Counties and those portions of Douglas and Lane County west of Range 8 West, Willamette Meridian.

(3) "Distillate Fuel Oil" means any oil meeting the specifications of ASTM Grade 1 or 2 fuel oils;

(4) "Fuel burning equipment" means equipment, other than internal combustion engines, the principal purpose of which is to produce heat or power by indirect heat transfer.

(5) "Residual Fuel Oil" means any oil meeting the specifications of ASTM Grade 4, 5, or 6 fuel oils.

(6) "Standard conditions" means a temperature of 68° Fahrenheit and a pressure of 14.7 pounds per square inch absolute.

(7) "Standard cubic foot" means the amount of gas that would occupy a volume of one cubic foot, if the gas were free of uncombined water at standard conditions. When applied to combustion flue gases from fuel or refuse burning, "standard cubic foot" also implies adjustment of gas volume to that which would result at a concentration of 12% carbon dioxide or 50% excess air.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

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

Stat. Auth.: ORS 468 & 468A

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

Hist.: [DEQ 16, f. 6-12-70, ef. 7-11-70; DEQ 1-1984, f. & ef. 1-16-84; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 3-1996, f. & cert. ef. 1-29-96]; [DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93]; [DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93]; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-021-0005, 340-022-0005, 340-022-0050; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 7-2011(Temp), f. & cert. ef. 6-24-11 thru 12-19-11; Administrative correction, 2-6-12; DEQ 1-2012, f. & cert. ef. 5-17-12

## 340-228-0200

### Sulfur Dioxide Standards

The following emission standards are applicable to sources installed, constructed, or modified after January 1, 1972 only:

(1) For fuel burning equipment having a heat input capacity between 150 million BTU per hour and 250 million BTU, no person may cause, suffer, allow, or permit the emission into the atmosphere of sulfur dioxide in excess of:

(a) 1.4 lb. per million BTU heat input, maximum three-hour average, when liquid fuel is burned;

(b) 1.6 lb. per million BTU heat input, maximum three-hour average, when solid fuel is burned.

(2) For fuel burning equipment having a heat input capacity of more than 250 million BTU per hour, no person may cause, suffer, allow, or permit the emission into the atmosphere of sulfur dioxide in excess of:

(a) 0.8 lb. per million BTU heat input, maximum three-hour average, when liquid fuel is burned;

(b) 1.2 lb. per million BTU heat input, maximum three-hour average, when solid fuel is burned.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468.020, 468A.025, 468A.035 & 468A.055

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-022-0055; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 7-2011(Temp), f. & cert. ef. 6-24-11 thru 12-19-11; Administrative correction, 2-6-12; DEQ 1-2012, f. & cert. ef. 5-17-12

## 340-228-0210

### Grain Loading Standards

(1) Except as provided in sections (2) and (3) of this rule, no person shall cause, suffer, allow, or permit the emission of particulate matter, from any fuel burning equipment in excess of:

(a) 0.2 grains per standard cubic foot for sources installed, constructed, or modified on or before June 1, 1970;

(b) 0.1 grains per standard cubic foot for sources installed, constructed, or modified after June 1, 1970.

(2) For sources burning salt laden wood waste on July 1, 1981, where salt in the fuel is the only reason for failure to comply with the above limits and when the salt in the fuel results from storage or transportation of logs in salt water, the resulting salt portion of the emissions shall be exempted from subsection (1)(a) or (b) of this rule and OAR 340-208-0110. In no case shall sources burning salt laden woodwaste exceed 0.6 grains per standard cubic foot.

(a) This exemption and the alternative emissions standard are only applicable upon prior notice to the Department.

(b) Sources which utilize this exemption, to demonstrate compliance otherwise with subsection (1)(a) or (b) of this rule, shall submit the results of a particulate emissions source test of the boiler stacks bi-annually.

(3) This rule does not apply to solid fuel burning devices that have been certified under OAR 340-262-0500.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A

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

Hist.: DEQ 16, f. 6-12-70, ef. 7-11-70; DEQ 12-1979, f. & ef. 6-8-79; DEQ 6-1981, f. & ef. 2-17-81; DEQ 18-1982, f. & ef. 9-1-82; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 3-1996, f. & cert. ef. 1-29-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-021-0020; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 7-2011(Temp), f. & cert. ef. 6-24-11 thru 12-19-11; Administrative correction, 2-6-12; DEQ 1-2012, f. & cert. ef. 5-17-12

## 340-262-0450

### Definitions

The definitions in OAR 340-200-0020 and this rule apply to this Division. If OAR 340-0200-0020 and this rule define the same term, the definition in this rule applies to this Division.

(1) "Antique woodstove" means a woodstove built before 1940 that has an ornate construction and a current market value substantially higher than a common woodstove manufactured during the same period.

(2) "Central wood-fired furnace" means an indoor, wood-fired furnace that is thermostatically controlled, has a dedicated cold air inlet and

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dedicated hot air outlet, and is connected to heating ductwork for the entire residential structure.

(3) "CFR" means Code of Federal Regulations.

(4) "Consumer" means a person who buys a solid fuel burning device for personal use.

(5) "Cookstove" means an indoor wood-burning appliance designed for the primary purpose of cooking food.

(6) "Dealer" means a person that sells solid fuel burning devices to retailers or other dealers for resale. For the purpose of this Division, a dealer that is also an Oregon retailer shall be considered to be only a retailer.

(7) "DEQ" means Oregon Department of Environmental Quality.

(8) "Destroy" means to demolish or decommission to the extent that restoration or reuse as a heating device is impossible.

(9) "EPA" means United States Environmental Protection Agency.

(10) "EQC" means Environmental Quality Commission

(11) "Federal Regulations" means 40 CFR, Part 60, Subpart AAA as in effect on July 1, 2010.

(12) "Fireplace" means a site-built or factory-built masonry fireplace that is designed to be used with an open combustion chamber and that is without features to control air-to-fuel ratios.

(13) "Hydronic heater" means a fuel-burning device which may be equipped with a heat storage unit, and which is designed to:

(a) Burn wood or other automatically fed fuels such as wood pellets, shelled corn, and wood chips;

(b) Be installed according to the manufacturer's specifications either indoors or outdoors; and

(c) Heat building space and/or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture.

(14) "Manufacturer" means a person who designs a solid fuel burning device, constructs a solid fuel burning device or constructs parts for solid fuel burning devices.

(15) "Masonry heater" means a site-built or site-assembled, solid fueled heating device constructed of structural masonry mass used to store heat from intermittent fires burned rapidly in the structure's firebox and slow release the heat to the site. Such solid-fueled heating device must meet the design and construction specifications set forth in ASTM E 1602-03, "Guide for Construction of Solid Fuel Burning Masonry Heaters."

(16) "New solid fuel burning device" or "new device" means a solid fuel burning device defined under ORS 468A.485(4)(a) that has not been sold, bargained, exchanged, given away, acquired secondhand, or otherwise had its ownership transferred from the person who first acquired it from a retailer.

(17) "PM10" means particulate matter less than 10 microns.

(18) "PM2.5" means particulate matter less than 2.5 microns.

(19) "Pellet stove" means a heating device that uses wood pellets, or other biomass fuels designed for use in pellet stoves, as its primary source of fuel.

(20) "Phase 1 emission level qualified model" is a model of a hydronic heater that achieves an average emission level of 0.60 lbs/million Btu heat input or less for all fuel types listed in the owner's manual and/or mentioned in marketing/sales materials, as acknowledged by EPA in writing to the manufacturer as part of EPA's acceptance of the model as a qualified model.

(21) "Phase 2 emission level qualified model" is a model of a hydronic heater that achieves an average emissions level of 0.32 lbs/million Btu heat output or less for all fuel types listed in the owner's manual and/or mentioned in marketing/sales materials, and that did not exceed 18.0 grams/hr of fine particles in any individual test run that was used in the calculation of the average, as acknowledged by EPA in writing to the manufacturer as part of EPA's acceptance of the model as a qualified model pursuant to the EPA Hydronic Heater Program Phase 2 Partnership Agreement.

(22) "Residential structure" has the meaning given that term in ORS 701.005.

(23) "Retailer" means a person engaged in the sale of solid fuel burning devices directly to consumers.

(24) "Solid fuel burning device" or "device" means a woodstove or any other device that burns wood, coal or other nongaseous or non-liquid fuels for aesthetic, space-heating or water-heating purposes in or for a private residential structure or a commercial establishment and that has a heat output of less than one million British thermal units per hour. Solid fuel burning device does not include:

(a) Fireplaces;

(b) Antique stoves;

(c) Pellet stoves;

(d) Masonry heaters;

(e) Central, wood-fired furnaces;

(f) Saunas; and

(g) Boilers subject to 40 CFR part 63, subpart DDDDD or subpart JJJJJ, as in effect on February 16, 2012 that obtain construction approval under OAR 340-210-0205 through 340-210-0250.

(25) "Trash burner" means any equipment that is used to dispose of waste by burning and has not been issued an air quality permit under ORS 468A.040.

(26) "Treated Wood" means wood of any species that has been chemically impregnated, painted or similarly modified to prevent weathering and deterioration.

(27) "Used solid fuel burning device" or "used device" means a solid fuel burning device that has been sold, bargained, exchanged, given away, or otherwise has had its ownership transferred.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.035 & 468A.460 - 468A.515

Hist.: DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11; DEQ 7-2011(Temp), f. & cert. ef. 6-24-11 thru 12-19-11; Administrative correction, 2-6-12; DEQ 1-2012, f. & cert. ef. 5-17-12

## 340-262-0600

### New and Used Solid Fuel Burning Devices Sold in Oregon

(1) No person may advertise to sell, offer to sell or sell a new or used solid fuel burning device in Oregon unless:

(a) The device has been certified for sale as new by DEQ pursuant to OAR 340-262-0500, or by EPA pursuant to 40 CFR part 60, subpart AAA; and

(b) The device is permanently labeled as certified, or in the case of a hydronic heater is permanently labeled as a Phase 1 or Phase 2 emission level qualified model, with a label authorized by DEQ or EPA.

(2) Exempt devices. Cookstoves are exempt from this rule in addition to those devices that are not considered solid fuel burning devices as defined in OAR 340-262-0450(24).

(3) Exempt consumer transactions. Consumer transactions are exempt from this rule, if the consumer:

(a) Sells a used solid fuel burning device to a person in the business of reusing, reclaiming or recycling scrap metal and the person destroys the device; or

(b) Remits a used device to a retailer for a price reduction on a new residential heating system.

(4) Prohibited label alteration. No person may alter DEQ or EPA authorized labels.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468A.035 & 468A.460 - 468A.515

Hist.: DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11; DEQ 7-2011(Temp), f. & cert. ef. 6-24-11 thru 12-19-11; Administrative correction, 2-6-12; DEQ 1-2012, f. & cert. ef. 5-17-12

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**Rule Caption:** Water Quality Certification Procedures for Klamath River Restoration Project.

**Adm. Order No.:** DEQ 2-2012

**Filed with Sec. of State:** 5-21-2012

**Certified to be Effective:** 5-21-12

**Notice Publication Date:** 11-1-2011

**Rules Amended:** 340-041-0185

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

**Rules Coordinator:** Maggie Vandehey—(503) 229-6878

# ADMINISTRATIVE RULES

## 340-041-0185

### Water Quality Standards and Policies for this Basin

(1) pH (hydrogen ion concentration). pH values may not fall outside the following ranges:

(a) Fresh waters except Cascade lakes: pH values may not fall outside the range of 6.5-9.0. When greater than 25 percent of ambient measurements taken between June and September are greater than pH 8.7, and as resources are available according to priorities set by the Department, the Department will determine whether the values higher than 8.7 are anthropogenic or natural in origin;

(b) Cascade lakes above 5,000 feet altitude: pH values may not fall outside the range of 6.0 to 8.5.

(2) Temperature. From June 1 to September 30, no NPDES point source that discharges to the portion of the Klamath River designated for cool water species may cause the temperature of the water body to increase more than 0.3°C above the natural background after mixing with 25% of the stream flow. Natural background for the Klamath River means the temperature of the Klamath River at the outflow from Upper Klamath Lake plus any natural warming or cooling that occurs downstream. This criterion supersedes OAR 340-041-0028(9)(a) during the specified time period for NPDES permitted point sources.

(3) Total Dissolved Solids. Guide concentrations listed below may not be exceeded unless otherwise specifically authorized by DEQ upon such conditions as it may deem necessary to carry out the general intent of this plan and to protect the beneficial uses set forth in OAR 340-041-0180: main stem Klamath River from Klamath Lake to the Oregon-California Border (river miles 255 to 208.5): The specific conductance may not exceed 400 micro-ohms at 77°F when measured at the Oregon-California Border (river mile 208.5).

(4) Minimum Design Criteria for Treatment and Control of Sewage Wastes:

(a) During periods of low stream flows (approximately May 1 to October 31): Treatment resulting in monthly average effluent concentrations not to exceed 20 mg/l of BOD and 20 of suspended solids or equivalent control;

(b) During the period of high stream flows (approximately November 1 to April 30): A minimum of secondary treatment or equivalent control and unless otherwise specifically authorized by the Department, operation of all waste treatment and control facilities to maximum practicable efficient and effectiveness so as to minimize waste discharge to public waters.

(5) Time Schedule for Dam Removal.

(a) DEQ may issue a 401 Water Quality Certification for the federal license or permit authorizing the removal of J.C. Boyle Dam on the Klamath River that includes a time schedule for compliance with water quality standards, if DEQ makes the following findings:

(A) The dam removal and its associated water quality impacts will be of limited duration;

(B) The dam removal and related restoration activities will provide a net ecological benefit;

(C) The dam removal will be performed in a manner minimizing, to the maximum extent practicable, adverse impacts to water quality, threatened and endangered species, and beneficial uses of the Klamath River; and

(D) The dam removal, by the end of a specified time schedule, is not expected to cause an exceedance of a water quality standard set forth in this Division.

(b) Any 401 Water Quality Certification issued by DEQ for removal of J.C. Boyle Dam must:

(A) Be based on an application, evaluation, and public participation complying with OAR chapter 340 division 48; and

(B) Contain conditions ensuring that the dam removal:

(i) will be performed in accordance with interim milestones and a time schedule specified in the certification;

(ii) will be performed in a manner that, to the maximum practicable extent, minimizes adverse impacts to water quality, threatened and endangered species, and beneficial uses of the Klamath River (including the use of best practices and interim and post-removal protection, mitigation, and monitoring measures); and (iii) will not cause an exceedance of a water quality standard set forth in this Division by the end of the maximum period for meeting standards specified in the certification.

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

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

Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 1-2007, f. & cert. ef. 3-14-07; DEQ 2-2012, f. & cert. ef. 5-21-12

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**Rule Caption:** Water Quality Standards Revision for the West Division Main Canal (Umatilla basin) near Hermiston, Oregon.

**Adm. Order No.:** DEQ 3-2012

**Filed with Sec. of State:** 5-21-2012

**Certified to be Effective:** 5-21-12

**Notice Publication Date:** 10-1-2011

**Rules Amended:** 340-041-0002, 340-041-0310, 340-041-0315

**Subject:** The rule revises water quality standards for the West Division Main Canal located near the City of Hermiston in the Umatilla basin. The rule revises the designated beneficial uses for the West Division Main Canal and establishes site-specific water quality criteria (numeric and narrative) for the canal that protect those uses. The canal is primarily a man-made, concrete lined irrigation water conveyance that is screened at both ends to prevent fish from entering the canal. The current beneficial uses were designated broadly for all streams in the Umatilla subbasin, including the canal. The rule removes uses that do not exist and are not feasibly attainable in the canal, including aquatic life, public and private domestic water supply and fishing. The rule establishes water quality standards based on the actual or possible uses of the canal: irrigation, livestock watering, water contact and modified aquatic habitat in the lower segment.

The revised criteria are less stringent than the previous criteria. The new criteria will make discharge to the canal a feasible alternative for the City of Hermiston (indirect effect of rule). DEQ does not expect that the revisions to the water quality standards will result in a degradation of water quality within the canal; rather, the proposed revisions are intended to protect existing uses and water quality.

**Rules Coordinator:** Maggie Vandehey—(503) 229-6878

## 340-041-0002

### Definitions

Definitions in this rule apply to all basins unless context requires otherwise.

(1) “401 Water Quality Certification” means a determination made by DEQ that a dredge and fill activity, private hydropower facility, or other federally licensed or permitted activity that may result in a discharge to waters of the state has adequate terms and conditions to prevent an exceedance of water quality criteria. The federal permit in question may not be issued without this state determination in accordance with the Federal Clean Water Act, section 401 (33 USC 1341).

(2) “Ambient Stream Temperature” means the stream temperature measured at a specific time and place. The selected location for measuring stream temperature must be representative of the stream in the vicinity of the point being measured.

(3) “Anthropogenic,” when used to describe “sources” or “warming,” means that which results from human activity;

(4) “Applicable Criteria” means the biologically based temperature criteria in OAR 340-041-0028(4), the superseding cold water protection criteria in OAR 340-041-0028(11), or the superseding natural condition criteria as described in OAR 340-041-0028(8). The applicable criteria may also be site-specific criteria approved by U.S. EPA. A subbasin may have a combination of applicable temperature criteria derived from some or all of these numeric and narrative criteria.

(5) “Appropriate Reference Site or Region” means a site on the same water body or within the same basin or ecoregion that has similar habitat conditions and represents the water quality and biological community attainable within the areas of concern.

(6) “Aquatic Species” means plants or animals that live at least part of their life cycle in waters of the state.

(7) “Basin” means a third-field hydrologic unit as identified by the U.S. Geological Survey.

(8) “BOD” means 5-day, 20°C Biochemical Oxygen Demand.

(9) “Cold-Water Aquatic Life” means aquatic organisms that are physiologically restricted to cold water, including but not limited to native salmon, steelhead, mountain whitefish, char (including bull trout), and trout.

(10) “Cold Water Refugia” means those portions of a water body where or times during the diel temperature cycle when the water temperature is at least 2 degrees Celsius colder than the daily maximum temperature of the adjacent well-mixed flow of the water body.

(11) “Commission” means the Oregon Environmental Quality Commission.

(12) “Cool-Water Aquatic Life” means aquatic organisms that are physiologically restricted to cool waters, including but not limited to native

## ADMINISTRATIVE RULES

sturgeon, Pacific lamprey, suckers, chub, sculpins, and certain species of cyprinids (minnows).

(13) "Core Cold-Water Habitat Use" means waters that are expected to maintain temperatures within the range generally considered optimal for salmon and steelhead rearing, or that are suitable for bull trout migration, foraging, and sub-adult rearing that occurs during the summer. These uses are designated on the following subbasin maps set out at OAR 340-041-0101 to 340-041-0340: Figures 130A, 151A, 160A, 170A, 180A, 201A, 220A, 230A, 271A, 286A, 300A, 310A, 320A, and 340A.

(14) "Critical Habitat" means those areas that support rare, threatened, or endangered species or serve as sensitive spawning and rearing areas for aquatic life as designated by the U.S. Fish and Wildlife Service or National Oceanic and Atmospheric Administration-Fisheries pursuant to the Endangered Species Act (16 USC 1531).

(15) "Daily Mean" for dissolved oxygen means the numeric average of an adequate number of data to describe the variation in dissolved oxygen concentration throughout a day, including daily maximums and minimums. For the purpose of calculating the mean, concentrations in excess of 100 percent of saturation are valued at the saturation concentration.

(16) "Department" or "DEQ" means the Oregon State Department of Environmental Quality.

(17) "Designated Beneficial Use" means the purpose or benefit to be derived from a water body as designated by the Water Resources Department or the Water Resources Commission.

(18) "DO" means dissolved oxygen.

(19) "Ecological Integrity" means the summation of chemical, physical, and biological integrity capable of supporting and maintaining a balanced, integrated, adaptive community of organisms having a species composition, diversity, and functional organization comparable to that of the natural habitat of the region.

(20) "Epilimnion" means the seasonally stratified layer of a lake or reservoir above the metalimnion; the surface layer.

(21) "Erosion Control Plan" means a plan containing a list of best management practices to be applied during construction to control and limit soil erosion.

(22) "Estuarine Waters" means all mixed fresh and oceanic waters in estuaries or bays from the point of oceanic water intrusion inland to a line connecting the outermost points of the headlands or protective jetties.

(23) "High Quality Waters" means those waters that meet or exceed levels that are necessary to support the propagation of fish, shellfish, and wildlife; recreation in and on the water; and other designated beneficial uses.

(24) "Hypolimnion" means the seasonally stratified layer of a lake or reservoir below the metalimnion; the bottom layer.

(25) "Industrial Waste" means any liquid, gaseous, radioactive, or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resources.

(26) "In Lieu Fee" means a fee collected by a jurisdiction in lieu of requiring construction of onsite stormwater quality control facilities.

(27) "Intergravel Dissolved Oxygen" (IGDO) means the concentration of oxygen measured in the water within the stream bed gravels. Measurements should be taken within a limited time period before emergence of fry.

(28) "Jurisdiction" means any city or county agency in the Tualatin River and Oswego Lake subbasin that regulates land development activities within its boundaries by approving plats or site plans or issuing permits for land development.

(29) "Land Development" means any human-induced change to improved or unimproved real estate, including but not limited to construction, installation or expansion of a building or other structure; land division; drilling; and site alteration such as land surface mining, dredging, grading, construction of earthen berms, paving, improvements for use as parking or storage, excavation, or clearing.

(30) "Load Allocation (LA)" means the portion of a receiving water's loading capacity that is attributed either to one of its existing or future nonpoint sources of pollution or to natural background sources. Load allocations are best estimates of the loading that may range from reasonably accurate estimates to gross allotments, depending on the availability of data and appropriate techniques for predicting loading. Whenever possible, natural and nonpoint source loads should be distinguished.

(31) "Loading Capacity (LC)" means the greatest amount of loading that a water body can receive without violating water quality standards.

(32) "Low Flow Period" means the flows in a stream resulting primarily from groundwater discharge or base flows augmented from lakes and

storage projects during the driest period of the year. The dry weather period varies across the state according to climate and topography. Wherever the low flow period is indicated in Water Quality Management Plans, this period has been approximated by the inclusive months. Where applicable in a waste discharge permit, the low flow period may be further defined.

(33) "Managed Lakes" refers to lakes in which hydrology is managed by controlling the rate or timing of inflow or outflow.

(34) "Marine Waters" means all oceanic, offshore waters outside of estuaries or bays and within the territorial limits of the State of Oregon.

(35) "mg/l" or "mg/L" means milligrams per liter.

(36) "Metalimnion" means the seasonal, thermally stratified layer of a lake or reservoir that is characterized by a rapid change in temperature with depth and that effectively isolates the waters of the epilimnion from those of the hypolimnion during the period of stratification; the middle layer.

(37) "Migration Corridors" mean those waters that are predominantly used for salmon and steelhead migration during the summer and have little or no anadromous salmonid rearing in the months of July and August. These uses are designated on the following subbasin maps set out at OAR 340-041-0101 to 340-041-0340: Tables 101B, and 121B, and Figures 151A, 170A, 300A and 340A.

(38) "Minimum" for dissolved oxygen means the minimum recorded concentration including seasonal and diurnal minimums.

(39) "Modified Aquatic Habitat" means waters in which cool or cold-water aquatic communities are absent, limited or substantially degraded due to modifications of the physical habitat, hydrology or water quality. The physical, hydrologic or chemical modifications preclude or limit the attainment of cool or cold water habitat or the species composition that would be expected based on a natural reference stream, and cannot feasibly or reasonably be reversed or abated.

(40) "Monthly (30-day) Mean Minimum" for dissolved oxygen means the minimum of the 30 consecutive-day floating averages of the calculated daily mean dissolved oxygen concentration.

(41) "Natural Conditions" means conditions or circumstances affecting the physical, chemical, or biological integrity of a water of the state that are not influenced by past or present anthropogenic activities. Disturbances from wildfire, floods, earthquakes, volcanic or geothermal activity, wind, insect infestation, and diseased vegetation are considered natural conditions.

(42) "Natural Thermal Potential" means the determination of the thermal profile of a water body using best available methods of analysis and the best available information on the site-potential riparian vegetation, stream geomorphology, stream flows, and other measures to reflect natural conditions.

(43) "Nonpoint Sources" means any source of water pollution other than a point source. Generally, a nonpoint source is a diffuse or unconfined source of pollution where wastes can either enter into or be conveyed by the movement of water to waters of the state.

(44) "Ocean Waters" means all oceanic, offshore waters outside of estuaries or bays and within the territorial limits of Oregon.

(45) "Outstanding Resource Waters" means those waters designated by the commission where existing high quality waters constitute an outstanding state or national resource based on their extraordinary water quality or ecological values or where special water quality protection is needed to maintain critical habitat areas.

(46) "Pollution" means such contamination or other alteration of the physical, chemical, or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any water of the state that either by itself or in connection with any other substance present can reasonably be expected to create a public nuisance or render such waters harmful, detrimental, or injurious to public health, safety, or welfare; to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or to livestock, wildlife, fish, other aquatic life or the habitat thereof.

(47) "Point Source" means a discernable, confined, and discrete conveyance, including but not limited to a pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft, or leachate collection system from which pollutants are or may be discharged. Point source does not include agricultural storm water discharges and return flows from irrigated agriculture.

(48) "Public Water" means the same as "waters of the state".

(49) "Public Works Project" means any land development conducted or financed by a local, state, or federal governmental body.

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(50) "Reserve Capacity" means that portion of a receiving stream's loading capacity that has not been allocated to point sources or to nonpoint sources and natural background as waste load allocations or load allocations, respectively. The reserve capacity includes that loading capacity that has been set aside for a safety margin and is otherwise unallocated.

(51) "Resident Biological Community" means aquatic life expected to exist in a particular habitat when water quality standards for a specific ecoregion, basin, or water body are met. This must be established by accepted biomonitoring techniques.

(52) "Salmon" means chinook, chum, coho, sockeye, and pink salmon.

(53) "Salmon and Steelhead Spawning Use" means waters that are or could be used for salmon and steelhead spawning, egg incubation, and fry emergence. These uses are designated on the following subbasin maps set out at OAR 340-041-0101 to 340-041-0340: Tables 101B, and 121B, and Figures 130B, 151B, 160B, 170B, 220B, 230B, 271B, 286B, 300B, 310B, 320B, and 340B.

(54) "Salmon and Trout Rearing and Migration Use" means thermal suitable rearing habitat for salmon, steelhead, rainbow trout, and cutthroat trout as designated on subbasin maps set out at OAR 340-041-0101 to 340-041-0340: Figures 130A, 151A, 160A, 170A, 220A, 230A, 271A, 286A, 300A, 310A, 320A, and 340A.

(55) "Salmonid or Salmonids" means native salmon, trout, mountain whitefish, and char (including bull trout). For purposes of Oregon water quality standards, salmonid does not include brook or brown trout since they are introduced species.

(56) "Secondary Treatment" means the following depending on the context:

(a) For "sewage wastes," secondary treatment means the minimum level of treatment mandated by EPA regulations pursuant to Public Law 92-500.

(b) For "industrial and other waste sources," secondary treatment means control equivalent to best practicable treatment (BPT).

(57) "Seven-Day Average Maximum Temperature" means a calculation of the average of the daily maximum temperatures from seven consecutive days made on a rolling basis.

(58) "Sewage" means the water-carried human or animal waste from residences, buildings, industrial establishments, or other places together with such groundwater infiltration and surface water as may be present. The admixture with sewage of industrial wastes or wastes, as defined in this rule, may also be considered "sewage" within the meaning of this division.

(59) "Short-Term Disturbance" means a temporary disturbance of six months or less when water quality standards may be violated briefly but not of sufficient duration to cause acute or chronic effects on beneficial uses.

(60) "Spatial Median" means the value that falls in the middle of a data set of multiple intergravel dissolved oxygen (IGDO) measurements taken within a spawning area. Half the samples should be greater than and half the samples should be less than the spatial median.

(61) "SS" means suspended solids.

(62) "Stormwater Quality Control Facility" means any structure or drainage way that is designed, constructed, and maintained to collect and filter, retain, or detain surface water runoff during and after a storm event for the purpose of water quality improvement. It may also include but is not limited to existing features such as wetlands, water quality swales, and ponds that are maintained as stormwater quality control facilities.

(63) "Subbasin" means a fourth-field hydrologic unit as identified by the U.S. Geological Survey.

(64) "Summer" means June 1 through September 30 of each calendar year.

(65) "Threatened or Endangered Species" means aquatic species listed as either threatened or endangered under the federal Endangered Species Act (16 USC 1531 et seq. and Title 50 of the Code of Federal Regulations).

(66) "Total Maximum Daily Load (TMDL)" means the sum of the individual waste load allocations (WLAs) for point sources and load allocations (LAs) for nonpoint sources and background. If receiving water has only one point source discharger, the TMDL is the sum of that point source WLA plus the LAs for any nonpoint sources of pollution and natural background sources, tributaries, or adjacent segments. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. If Best Management Practices (BMPs) or other nonpoint source pollution controls make more stringent load allocations practicable, then wasteload allocations can be made less stringent. Thus, the TMDL process provides for nonpoint source control tradeoffs.

(67) "Toxic Substance" means those pollutants or combinations of pollutants, including disease-causing agents, that after introduction to

waters of the state and upon exposure, ingestion, inhalation, or assimilation either directly from the environment or indirectly by ingestion through food chains will cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction), or physical deformations in any organism or its offspring.

(68) "Wasteload Allocation (WLA)" means the portion of receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. WLAs constitute a type of water quality-based effluent limitation.

(69) "Warm-Water Aquatic Life" means the aquatic communities that are adapted to warm-water conditions and do not contain either cold- or cool-water species.

(70) "Wastes" means sewage, industrial wastes, and all other liquid, gaseous, solid, radioactive, or other substances that may cause or tend to cause pollution of any water of the state.

(71) "Water Quality Limited" means one of the following:

(a) A receiving stream that does not meet narrative or numeric water quality criteria during the entire year or defined season even after the implementation of standard technology;

(b) A receiving stream that achieves and is expected to continue to achieve narrative or numeric water quality criteria but uses higher than standard technology to protect beneficial uses;

(c) A receiving stream for which there is insufficient information to determine whether water quality criteria are being met with higher-than-standard treatment technology or a receiving stream that would not be expected to meet water quality criteria during the entire year or defined season without higher than standard technology.

(72) "Water Quality Swale" means a natural depression or wide, shallow ditch that is used to temporarily store, route, or filter runoff for the purpose of improving water quality.

(73) "Waters of the State" means lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters) that are located wholly or partially within or bordering the state or within its jurisdiction.

(74) "Weekly (seven-day) Mean Minimum" for dissolved oxygen means the minimum of the seven consecutive-day floating average of the calculated daily mean dissolved oxygen concentration.

(75) "Weekly (seven-day) Minimum Mean" for dissolved oxygen means the minimum of the seven consecutive-day floating average of the daily minimum concentration. For purposes of application of the criteria, this value will be used as the reference for diurnal minimums.

(76) "Without Detrimental Changes in the Resident Biological Community" means no loss of ecological integrity when compared to natural conditions at an appropriate reference site or region.

Stat. Auth.: ORS 468.020, 468B.010, 468B.015, 468B.035, 468B.048

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

Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 3-2004, f. & cert. ef. 5-28-04; DEQ 2-2007, f. & cert. ef. 3-15-07; DEQ 3-2012, f. & cert. ef. 5-21-12

## 340-041-0310

### Beneficial Uses to Be Protected in the Umatilla Basin

(1) Water quality in the Umatilla Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 310A (April 2012).

(2) Designated fish uses to be protected in the Umatilla Basin are shown in Figures 310A and 310B (November 2003).

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

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

Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 3-2012, f. & cert. ef. 5-21-12

## 340-041-0315

### Water Quality Standards and Policies for this Basin

(1) pH (hydrogen ion concentration). pH values may not fall outside the following range: all Basin streams (other than main stem Columbia River and the West Division Main Canal): 6.5-9.0. When greater than 25 percent of ambient measurements taken between June and September are greater than pH 8.7, and as resources are available according to priorities set by the Department, the Department will determine whether the values higher than 8.7 are anthropogenic or natural in origin.

(2) The following criteria apply to the West Division Main Canal and supersede the water quality standards in OAR 340-041-0011 through 340-041-0036:

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(a) Canal waters may not exceed the numeric criteria shown in Table 315. These criteria apply from the uppermost irrigation withdrawal to the confluence with the Columbia River;

(b) Toxic substances shall not be present in canal waters in amounts that are likely to singularly or in combination harm the designated beneficial uses of the canal or downstream waters. The presence of substances at naturally occurring levels shall not be considered harmful to the designated uses;

(c) Sediment load and particulate size shall not exceed levels that interfere with irrigation or the other designated beneficial uses of the canal;

(d) The dissolved oxygen criteria contained in OAR 340-041-0016(4) apply to "overflow channels" segment of the canal to protect the "modified aquatic habitat" use.

(e) pH values in the "constructed channel" segment of the canal may not fall outside the range of 4.5 to 9.0.

(f) pH values in the "overflow channels" segment of the canal may not fall outside the range of 6.5 to 9.0 in order to protect the "modified aquatic habitat" use.

(3) Minimum Design Criteria for Treatment and control of Sewage Wastes in this Basin:

(a) During periods of low stream flows (approximately April 1 to October 31): Treatment resulting in monthly average effluent concentrations not to exceed 20 mg/l of BOD and 20 mg/l of SS or equivalent control;

(b) During the period of high stream flows (approximately November 1 to April 30): A minimum of secondary treatment or equivalent control and unless otherwise specifically authorized by the Department, operation of all waste treatment and control facilities at maximum practicable efficiency and effectiveness so as to minimize waste discharges to public waters.

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048  
Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048  
Hist.: DEQ 17-2003, f. & cert. ef. 12-9-03; DEQ 2-2007, f. & cert. ef. 3-15-07; DEQ 3-2012, f. & cert. ef. 5-21-12

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## Department of Fish and Wildlife Chapter 635

**Rule Caption:** Spring Chinook Fisheries In the Northeast Sport Fishing Zone.

**Adm. Order No.:** DFW 48-2012(Temp)

**Filed with Sec. of State:** 5-18-2012

**Certified to be Effective:** 5-23-12 thru 9-1-12

**Notice Publication Date:**

**Rules Amended:** 635-019-0090

**Subject:** This amended rule allows recreational anglers opportunities to harvest adipose fin-clipped adult and jack Chinook salmon, which are in excess of the Department's hatchery production needs in: 1) Catherine and Lookingglass creeks from May 26, 2012 until further notice; and 2) Imnaha and Wallowa rivers from Saturday, June 9, 2012 until further notice; and to harvest adult and jack Chinook in the John Day River, from a population of over 6,000 wild Chinook, from May 23 through June 3, 2012.

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

### 635-019-0090

#### Inclusions and Modifications

(1) The 2012 Oregon Sport Fishing Regulations provide requirements for the Northeast 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 John Day River from the Longview Ranch's Johnson Creek Division Bridge (located approximately 200 feet upstream from the mouth of the North Fork John Day River) upstream to the mouth of Rattlesnake Creek (19.5 miles) near the south end of Picture Gorge is open to angling for adult Chinook salmon from May 23 through June 3, 2012.

(a) The daily bag limit is two (2) adult Chinook and five (5) jacks; two daily limits in possession. It is illegal to continue fishing for jack Chinook once the adult daily bag limit is met.

(b) Statewide salmon gear restrictions apply. See pages 10-11 of the 2012 Oregon Sport Fishing Regulations for details or online at [www.dfw.state.or.us](http://www.dfw.state.or.us).

(c) All other General, Statewide and Northeast Zone Regulations, as provided in the 2012 Oregon Sport Fishing Regulations, remain in effect.

(3) Lookingglass Creek from the Moses Creek Lane Bridge (County Road 42) to the confluence of Jarboe Creek is open to angling for adipose fin-clipped adult Chinook salmon from May 26 until further notice.

(a) The daily bag limit is two (2) adipose fin-clipped adult Chinook and five (5) adipose fin-clipped jacks; two daily limits in possession. It is illegal to continue fishing for jack Chinook once the adult bag limit is met.

(b) During the duration of the spring Chinook angling season, the area closure listed for Lookingglass Creek in the Northeast Zone Special Regulations is modified to: Lookingglass Creek closed between Jarboe Creek and 200 feet upstream of the hatchery water intake.

(c) Hook gap restrictions listed in the Northeast Zone Special Regulations for Lookingglass Creek are removed for the duration of the spring Chinook angling season.

(d) All other General, Statewide and Northeast Zone Regulations, as provided in the 2012 Oregon Sport Fishing Regulations, remain in effect.

(4) Catherine Creek from the Miller Lane Bridge to the Highway 203 Bridge, located upstream of Catherine Creek State Park, is open to angling for adipose fin-clipped adult Chinook salmon from May 26 until further notice.

(a) The daily bag limit is two (2) adipose fin-clipped adult Chinook and five (5) adipose fin-clipped jacks; two daily limits in possession. It is illegal to continue fishing for jack Chinook once the adult bag limit is met.

(b) All other General, Statewide and Northeast Zone Regulations, as provided in the 2012 Oregon Sport Fishing Regulations, remain in effect.

(5) The Imnaha River from the mouth to Summit Creek Bridge (River Mile 45) is open to angling for adipose fin-clipped adult Chinook salmon from June 9 until further notice.

(a) The daily bag limit is two (2) adipose fin-clipped adult Chinook and five (5) adipose fin-clipped jacks; two daily jack salmon limits in possession. It is illegal to continue fishing for jack Chinook once the adult bag limit is met.

(b) All other General, Statewide and Northeast Zone Regulations, as provided in the 2012 Oregon Sport Fishing Regulations, remain in effect.

(6) The Wallowa River from a deadline at the lower end of Minam State Park upstream to the confluence with the Lostine River is open to angling for adipose fin-clipped adult Chinook salmon from June 9 until further notice.

(a) The daily bag limit is two (2) adipose fin-clipped adult Chinook and five (5) adipose fin-clipped jacks; two daily jack salmon limits in possession. It is illegal to continue fishing for jack Chinook once the adult bag limit is met.

(b) All other General, Statewide and Northeast Zone Regulations, as provided in the 2012 Oregon Sport Fishing Regulations, remain in effect.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 57-1994(Temp), f. 8-30-94, cert. ef. 10-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 70-1995, f. 8-29-95, cert. ef. 9-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 27-1996(Temp), f. 5-24-96, cert. ef. 5-25-96; FWC 57-1996(Temp), f. 9-27-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 26-1997(Temp), f. 4-23-97, cert. ef. 5-17-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 13-1998(Temp), f. & cert. ef. 2-26-98 thru 4-15-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 5-1999(Temp), f. 2-5-99, cert. ef. 2-6-99 thru 2-19-99; DFW 8-1999(Temp), f. & cert. ef. 2-23-99 thru 4-15-99; DFW 37-1999(Temp), f. 5-24-99, cert. ef. 5-29-99 thru 6-5-99; DFW 43-1999(Temp), f. & cert. ef. 6-10-99 thru 6-13-99; DFW 45-1999(Temp), f. & cert. ef. 6-14-99 thru 6-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 17-2000(Temp), f. 4-10-00, cert. ef. 4-16-00 thru 6-30-00; DFW 64-2000(Temp), f. 9-21-00, cert. ef. 9-22-00 thru 3-20-01; 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 5-2001(Temp), f. 2-22-01, cert. ef. 2-24-01 thru 4-15-01; DFW 39-2001(Temp), f. 5-23-01, cert. ef. 5-26-01 thru 7-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 45-2001(Temp), f. 7-1-01, cert. ef. 6-2-01 thru 7-31-01; DFW 49-2001(Temp), f. 6-19-01, cert. ef. 6-22-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 71-2001(Temp), f. 8-10-01, cert. ef. 9-1-01 thru 12-31-01; DFW 96-2001(Temp), f. 10-4-01, cert. ef. 12-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 52-2002(Temp), f. 5-22-02, cert. ef. 5-26-02 thru 7-1-02; DFW 53-2002(Temp), f. 5-24-02, cert. ef. 5-26-02 thru 7-1-02; DFW 57-2002(Temp), f. & cert. ef. 5-30-02 thru 7-1-02; 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 44-2003(Temp), f. & cert. ef. 5-28-03 thru 7-1-03; DFW 48-2003(Temp), f. & cert. ef. 6-5-03 thru 7-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 40-2004(Temp), f. 5-7-04, cert. ef. 5-13-04 thru 7-1-04; DFW 46-2004(Temp), f. 5-21-04, cert. ef. 5-22-04 thru 7-1-04; DFW 55-2004(Temp), f. 6-16-04, cert. ef. 6-19-04 thru 7-5-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 42-2005(Temp), f. & cert. ef. 5-13-05 thru 9-1-05; DFW 61-2005(Temp), f. 6-22-05, cert. ef. 6-25-05 thru 7-4-05; Administrative correction 7-20-05; DFW 99-2005(Temp), f. 8-24-05, cert. ef. 8-26-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 28-2006(Temp), f. & cert. ef. 5-15-06 thru 6-30-06; DFW 33-2006(Temp), f. 5-24-06, cert. ef. 5-25-06 thru 6-30-06; Administrative correction 7-21-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 12-2007(Temp), f. 2-28-07, cert. ef. 3-1-07 thru 8-27-07; DFW 30-2007(Temp), f. 5-9-07, cert. ef. 5-10-07 thru 9-30-07; DFW 34-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 9-30-07; Administrative correction 10-16-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 56-2008(Temp), f. 5-30-08, cert. ef. 5-31-08 thru 6-30-08; DFW 76-2008(Temp), f. & cert. ef. 7-9-08 thru 9-1-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 128-2009(Temp), f. 10-12-09, cert. ef. 10-18-09 thru 4-15-10; DFW 131-2009(Temp),



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f. 10-14-09, cert. ef. 10-18-09 thru 4-15-10; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 54-2010(Temp), f. 5-6-10, cert. ef. 5-22-10 thru 9-1-10; DFW 95-2010(Temp), f. 7-1-10, cert. ef. 7-11-10 thru 9-1-10; DFW 102-2010(Temp), f. 7-20-10, cert. ef. 7-25-10 thru 9-1-10; Administrative correction 9-22-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 49-2011(Temp), f. 5-16-11, cert. ef. 5-28-11 thru 9-1-11; DFW 64-2011(Temp), f. 6-10-11, cert. ef. 6-13-11 thru 9-1-11; DFW 90-2011(Temp), f. & cert. ef. 7-11-11 thru 9-1-11; DFW 92-2011(Temp), f. 7-12-11, cert. ef. 7-16-11 thru 10-31-11; DFW 99-2011(Temp), f. 7-21-11, cert. ef. 7-23-11 thru 9-1-11; DFW 104-2011(Temp), f. 8-1-11, cert. ef. 8-7-11 thru 9-1-11; Administrative correction 9-23-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 48-2012(Temp), f. 5-18-12, cert. ef. 5-23-12 thru 9-1-12

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**Rule Caption:** Two-day Recreational Spring Chinook Season In the Columbia River Below Beacon Rock Authorized.

**Adm. Order No.:** DFW 49-2012(Temp)

**Filed with Sec. of State:** 5-18-2012

**Certified to be Effective:** 5-19-12 thru 7-31-12

**Notice Publication Date:**

**Rules Amended:** 635-023-0125

**Rules Suspended:** 635-023-0125(T)

**Subject:** These rule modifications authorize a two-day Columbia River recreational spring Chinook season, on Saturday May 26 and Sunday May 27, 2012 for harvest of adipose fin-clipped Chinook salmon, sockeye salmon and adipose fin-clipped steelhead. The daily bag limit includes up to two adult salmon or steelhead in combination, but only one may be a Chinook. Revisions are consistent with action taken May 22, 2012 by the Columbia River Compact agencies of Oregon and Washington.

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

## 635-023-0125

### Spring Sport Fishery

(1) The 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 Columbia River is open from January 1 through February 29 and May 26 through May 27 from the mouth at Buoy 10 upstream to Beacon Rock with the following restrictions:

(a) Adipose fin-clipped Chinook salmon and adipose fin-clipped steelhead may be retained.

(b) All non-adipose fin-clipped Chinook salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(c) Catch limits of two adult adipose fin-clipped salmon or two adult adipose fin-clipped steelhead in combination, but only one may be a Chinook, may be retained per day. Catch limits for jacks remain in effect as per the 2012 Oregon Sport Fishing Regulations.

(3) Effective through June 15, 2012, in Oregon and Washington Select Areas the hatchery adult Chinook daily bag limit will be the same as the adjacent mainstem Columbia River when the mainstem is open for adult Chinook retention. When the adjacent mainstem Columbia River is closed for adult retention, the salmon daily limit will revert to permanent rules.

(4) Effective May 16 through July 31, 2012, only single-point hooks are allowed when angling at Cascade Locks in the area between the boat ramp at the lower end of the locks upstream to the east (upstream) end of the lock wall.

(5) Retention of sockeye salmon is allowed:

(a) May 16 through June 15 from a line projected from Rocky Point on the Washington shore through red buoy #44 to the navigation light at Tongue Point upstream to the I-5 Bridge;

(b) June 16 through July 1 from Astoria-Megler Bridge upstream to Bonneville Dam;

(c) June 16 through July 31 from Bonneville Dam upstream to the OR/WA border; and

(d) All sockeye salmon count as an adult salmonid in the daily limit regardless of size.

(6) The Columbia River is open May 19 and May 20 from the Tower Island power lines (approximately 6 miles below The Dalles Dam) upstream to the Oregon/Washington border; plus the Oregon and Washington banks between Bonneville Dam and the Tower Island power lines.

(a) Adipose fin-clipped Chinook salmon and adipose fin-clipped steelhead may be retained.

(b) All non-adipose fin-clipped Chinook salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(c) Catch limits of two adult adipose fin-clipped salmon or two adult adipose fin-clipped steelhead may be retained per day. Catch limits for jacks remain in effect as per the 2012 Oregon Sport Fishing Regulations.

(7) For the mainstem Columbia River salmon and steelhead fishery upstream of the Rocky Point-Tongue Point line to the Oregon/Washington border effective through June 15 it is unlawful when fishing from vessels which are less than 30 feet in length, substantiated by Coast Guard documentation or Marine Board registration, to totally remove from the water any salmon or steelhead required to be released.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 17-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 29-2004(Temp), f. 4-15-04, cert. ef. 4-22-04 thru 7-31-04; DFW 30-2004(Temp), f. 4-21-04, cert. ef. 4-22-04 thru 7-31-04; DFW 36-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 7-31-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 51-2004(Temp), f. 6-9-04, cert. ef. 6-16-04 thru 7-31-04; Administrative correction 8-19-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 35-2005(Temp), f. 5-4-05, cert. ef. 5-5-05 thru 10-16-05; DFW 38-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 44-2005(Temp), f. 5-17-05, cert. ef. 5-22-05 thru 10-16-05; DFW 51-2005(Temp), f. 6-3-05, cert. ef. 6-4-05 thru 7-31-05; Administrative correction 11-18-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 37-2006(Temp), f. 4-13-06, cert. ef. 4-14-06 thru 5-15-06; DFW 27-2006(Temp), f. 5-12-06, cert. ef. 5-13-06 thru 6-15-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 33-2007(Temp), f. 5-15-07, cert. ef. 5-16-07 thru 7-30-07; DFW 37-2007(Temp), f. & cert. ef. 5-31-07 thru 7-30-07; DFW 39-2007(Temp), f. 6-5-07, cert. ef. 6-6-07 thru 7-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 13-2008(Temp), f. 2-21-08, cert. ef. 2-25-08 thru 8-22-08; DFW 17-2008(Temp), f. & cert. ef. 2-27-08 thru 8-22-08; DFW 35-2008(Temp), f. 4-17-08, cert. ef. 4-21-08 thru 8-22-08; DFW 49-2008(Temp), f. & cert. ef. 5-13-08 thru 6-15-08; Administrative correction 7-22-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 10-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 6-15-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 48-2009(Temp), f. 5-14-09, cert. ef. 5-15-09 thru 6-16-09; DFW 68-2009(Temp), f. 6-11-09, cert. ef. 6-12-09 thru 6-16-09; Administrative correction 7-21-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 19-2010(Temp), f. 2-26-10, cert. ef. 3-1-10 thru 8-27-10; DFW 23-2010(Temp), f. & cert. ef. 3-2-10 thru 8-27-10; DFW 45-2010(Temp), f. 4-21-10, cert. ef. 4-24-10 thru 7-31-10; DFW 49-2010(Temp), f. 4-27-10, cert. ef. 4-29-10 thru 7-31-10; DFW 55-2010(Temp), f. 5-7-10, cert. ef. 5-8-10 thru 7-31-10; Suspended by DFW 88-2010(Temp), f. 6-25-10, cert. ef. 6-26-10 thru 7-31-10; Administrative correction 8-18-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 13-2011(Temp), f. & cert. ef. 2-14-11 thru 6-15-11; DFW 28-2011(Temp), f. 4-7-11, cert. ef. 4-8-11 thru 6-15-11; DFW 30-2011(Temp), f. 4-15-11, cert. ef. 4-16-11 thru 6-15-11; DFW 33-2011(Temp), f. & cert. ef. 4-21-11 thru 6-15-11; DFW 39-2011(Temp), f. 5-5-11, cert. ef. 5-7-11 thru 6-15-11; DFW 48-2011(Temp), f. 5-13-11, cert. ef. 5-15-11 thru 6-15-11; DFW 55-2011(Temp), f. 5-25-11, cert. ef. 5-27-11 thru 6-15-11; DFW 59-2011(Temp), f. & cert. ef. 6-2-11 thru 6-15-11; Administrative correction 6-28-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 8-2012(Temp), f. 2-6-12, cert. ef. 2-15-12 thru 6-15-12; DFW 31-2012(Temp), f. 4-5-12, cert. ef. 4-6-12 thru 6-15-12; DFW 33-2012(Temp), f. 4-12-12, cert. ef. 4-14-12 thru 6-15-12; DFW 45-2012(Temp), f. 5-1-12, cert. ef. 5-2-12 thru 7-31-12; DFW 47-2012(Temp), f. 5-15-12, cert. ef. 5-16-12 thru 7-31-12; DFW 49-2012(Temp), f. 5-18-12, cert. ef. 5-19-12 thru 7-31-12

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**Rule Caption:** Emergency Closure of the Umatilla River Spring Chinook Salmon Fishery.

**Adm. Order No.:** DFW 50-2012(Temp)

**Filed with Sec. of State:** 5-22-2012

**Certified to be Effective:** 5-24-12 thru 9-1-12

**Notice Publication Date:**

**Rules Amended:** 635-019-0090

**Rules Suspended:** 635-019-0090(T)

**Subject:** Amended rule closes the Umatilla River spring Chinook salmon fishery, set in permanent rule to run through 11:59 p.m. June 12, 2012 in the area from the Highway 730 Bridge upstream to Three Mile Dam, and run through 11:59 p.m. June 30, 2012 in the area from Three Mile Dam upstream to reservation boundary located upstream from Highway 11 bridge at Pendleton. The 2012 Umatilla River spring Chinook return has not met pre-season estimates and catch rates have been higher than expected. Low River flows, high water temperatures and increased irrigation demands on river flows are also playing a role in this management decision. The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) co-manage this fishery and operational plans for the species.

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

## 635-019-0090

### Inclusions and Modifications

(1) The 2012 Oregon Sport Fishing Regulations provide requirements for the Northeast Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any

# ADMINISTRATIVE RULES

inconsistency, they supersede the **2012 Oregon Sport Fishing Regulations**.

(2) The John Day River from the Longview Ranch's Johnson Creek Division Bridge (located approximately 200 feet upstream from the mouth of the North Fork John Day River) upstream to the mouth of Rattlesnake Creek (19.5 miles) near the south end of Picture Gorge is open to angling for adult Chinook salmon from May 23 through June 3, 2012.

(a) The daily bag limit is two (2) adult Chinook and five (5) jacks; two daily limits in possession. It is illegal to continue fishing for jack Chinook once the adult daily bag limit is met.

(b) Statewide salmon gear restrictions apply. See pages 10-11 of the 2012 Oregon Sport Fishing Regulations for details or online at [www.dfw.state.or.us](http://www.dfw.state.or.us).

(c) All other General, Statewide and Northeast Zone Regulations, as provided in the **2012 Oregon Sport Fishing Regulations**, remain in effect.

(3) Lookingglass Creek from the Moses Creek Lane Bridge (County Road 42) to the confluence of Jarboe Creek is open to angling for adipose fin-clipped adult Chinook salmon from May 26 until further notice.

(a) The daily bag limit is two (2) adipose fin-clipped adult Chinook and five (5) adipose fin-clipped jacks; two daily limits in possession. It is illegal to continue fishing for jack Chinook once the adult bag limit is met.

(b) During the duration of the spring Chinook angling season, the area closure listed for Lookingglass Creek in the Northeast Zone Special Regulations is modified to: Lookingglass Creek closed between Jarboe Creek and 200 feet upstream of the hatchery water intake.

(c) Hook gap restrictions listed in the Northeast Zone Special Regulations for Lookingglass Creek are removed for the duration of the spring Chinook angling season.

(d) All other General, Statewide and Northeast Zone Regulations, as provided in the 2012 Oregon Sport Fishing Regulations, remain in effect.

(4) Catherine Creek from the Miller Lane Bridge to the Highway 203 Bridge, located upstream of Catherine Creek State Park, is open to angling for adipose fin-clipped adult Chinook salmon from May 26 until further notice.

(a) The daily bag limit is two (2) adipose fin-clipped adult Chinook and five (5) adipose fin-clipped jacks; two daily limits in possession. It is illegal to continue fishing for jack Chinook once the adult bag limit is met.

(b) All other General, Statewide and Northeast Zone Regulations, as provided in the **2012 Oregon Sport Fishing Regulations**, remain in effect.

(5) The Imnaha River from the mouth to Summit Creek Bridge (River Mile 45) is open to angling for adipose fin-clipped adult Chinook salmon from June 9 until further notice.

(a) The daily bag limit is two (2) adipose fin-clipped adult Chinook and five (5) adipose fin-clipped jacks; two daily jack salmon limits in possession. It is illegal to continue fishing for jack Chinook once the adult bag limit is met.

(b) All other General, Statewide and Northeast Zone Regulations, as provided in the 2012 Oregon Sport Fishing Regulations, remain in effect.

(6) The Wallowa River from a deadline at the lower end of Minam State Park upstream to the confluence with the Lostine River is open to angling for adipose fin-clipped adult Chinook salmon from June 9 until further notice.

(a) The daily bag limit is two (2) adipose fin-clipped adult Chinook and five (5) adipose fin-clipped jacks; two daily jack salmon limits in possession. It is illegal to continue fishing for jack Chinook once the adult bag limit is met.

(b) All other General, Statewide and Northeast Zone Regulations, as provided in the 2012 Oregon Sport Fishing Regulations, remain in effect.

(7) The Umatilla River spring Chinook fishery that was previously scheduled to run through June 12, 2012 in the area from the Highway 730 Bridge upstream to Three Mile Dam, and run through June 30, 2012 in the area from Three Mile Dam upstream to reservation boundary located upstream from Highway 11 bridge at Pendleton, will close effective 12:01 a.m. Thursday, May 24, 2012.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 57-1994(Temp), f. 8-30-94, cert. ef. 10-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 70-1995, f. 8-29-95, cert. ef. 9-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 27-1996(Temp), f. 5-24-96, cert. ef. 5-25-96; FWC 57-1996(Temp), f. 9-27-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 26-1997(Temp), f. 4-23-97, cert. ef. 5-17-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 13-1998(Temp), f. & cert. ef. 2-26-98 thru 4-15-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 5-1999(Temp), f. 2-5-99, cert. ef. 2-6-99 thru 2-19-99; DFW 8-1999(Temp), f. & cert. ef. 2-23-99 thru 4-15-99; DFW 37-1999(Temp), f. 5-24-99, cert. ef. 5-29-99 thru 6-5-99; DFW 43-1999(Temp), f. & cert. ef. 6-10-99 thru 6-13-99; DFW 45-1999(Temp), f. & cert. ef. 6-14-99 thru 6-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 17-2000(Temp), f. 4-10-00, cert. ef. 4-16-00 thru 6-30-00; DFW 64-2000(Temp), f. 9-21-00, cert. ef. 9-22-00 thru 3-20-01; 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 5-2001(Temp), f. 2-22-01, cert. ef. 2-24-01 thru 4-15-01; DFW 39-2001(Temp), f. 5-23-01, cert. ef. 5-26-01 thru 7-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 45-2001(Temp), f. 6-1-01, cert. ef. 6-2-01 thru 7-31-01; DFW 49-2001(Temp), f. 6-19-01, cert. ef. 6-22-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 71-2001(Temp), f. 8-10-01, cert. ef. 9-1-01 thru 12-31-01; DFW 96-2001(Temp), f. 10-4-01, cert. ef. 12-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 52-2002(Temp), f. 5-22-02, cert. ef. 5-26-02 thru 7-1-02; DFW 53-2002(Temp), f. 5-24-02, cert. ef. 5-26-02 thru 7-1-02; DFW 57-2002(Temp), f. & cert. ef. 5-30-02 thru 7-1-02; 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 44-2003(Temp), f. 5-23-03, cert. ef. 5-28-03 thru 7-1-03; DFW 48-2003(Temp), f. & cert. ef. 6-5-03 thru 7-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 40-2004(Temp), f. 5-7-04, cert. ef. 5-13-04 thru 7-1-04; DFW 46-2004(Temp), f. 5-21-04, cert. ef. 5-22-04 thru 7-1-04; DFW 55-2004(Temp), f. 6-16-04, cert. ef. 6-19-04 thru 7-5-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 42-2005(Temp), f. & cert. ef. 5-13-05 thru 9-1-05; DFW 61-2005(Temp), f. 6-22-05, cert. ef. 6-25-05 thru 7-4-05; Administrative correction 7-20-05; DFW 99-2005(Temp), f. 8-24-05, cert. ef. 8-26-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 28-2006(Temp), f. & cert. ef. 5-15-06 thru 6-30-06; DFW 33-2006(Temp), f. 5-24-06, cert. ef. 5-25-06 thru 6-30-06; Administrative correction 7-21-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 12-2007(Temp), f. 2-28-07, cert. ef. 3-1-07 thru 8-27-07; DFW 30-2007(Temp), f. 5-9-07, cert. ef. 5-10-07 thru 9-30-07; DFW 34-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 9-30-07; Administrative correction 10-16-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 56-2008(Temp), f. 5-30-08, cert. ef. 5-31-08 thru 6-30-08; DFW 76-2008(Temp), f. & cert. ef. 7-9-08 thru 9-1-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 128-2009(Temp), f. 10-12-09, cert. ef. 10-18-09 thru 4-15-10; DFW 131-2009(Temp), f. 10-14-09, cert. ef. 10-18-09 thru 4-15-10; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 54-2010(Temp), f. 5-6-10, cert. ef. 5-22-10 thru 9-1-10; DFW 95-2010(Temp), f. 7-1-10, cert. ef. 7-11-10 thru 9-1-10; DFW 102-2010(Temp), f. 7-20-10, cert. ef. 7-25-10 thru 9-1-10; Administrative correction 9-22-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 49-2011(Temp), f. 5-16-11, cert. ef. 5-28-11 thru 9-1-11; DFW 64-2011(Temp), f. 6-10-11, cert. ef. 6-13-11 thru 9-1-11; DFW 90-2011(Temp), f. & cert. ef. 7-11-11 thru 9-1-11; DFW 92-2011(Temp), f. 7-12-11, cert. ef. 7-16-11 thru 10-31-11; DFW 99-2011(Temp), f. 7-21-11, cert. ef. 7-23-11 thru 9-1-11; DFW 104-2011(Temp), f. 8-1-11, cert. ef. 8-7-11 thru 9-1-11; Administrative correction 9-23-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 48-2012(Temp), f. 5-18-12, cert. ef. 5-23-12 thru 9-1-12; DFW 50-2012(Temp), f. 5-22-12, cert. ef. 5-24-12 thru 9-1-12

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**Rule Caption:** Two-day Recreational Spring Chinook Season In the Columbia River Below Beacon Rock Authorized.

**Adm. Order No.:** DFW 51-2012(Temp)

**Filed with Sec. of State:** 5-23-2012

**Certified to be Effective:** 5-26-12 thru 7-31-12

**Notice Publication Date:**

**Rules Amended:** 635-023-0125

**Rules Suspended:** 635-023-0125(T)

**Subject:** These rule modifications authorize a two-day Columbia River recreational spring Chinook season, on Saturday May 26 and Sunday May 27, 2012 for harvest of adipose fin-clipped Chinook salmon, sockeye salmon and adipose fin-clipped steelhead. The daily bag limit includes up to two adult salmon or steelhead in combination, but only one may be a Chinook. Revisions are consistent with action taken May 22, 2012 by the Columbia River Compact agencies of Oregon and Washington.

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

**635-023-0125**

**Spring Sport Fishery**

(1) The **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 Columbia River is open from January 1 through February 29 and May 26 through May 27 from the mouth at Buoy 10 upstream to Beacon Rock with the following restrictions:

(a) Adipose fin-clipped Chinook salmon and adipose fin-clipped steelhead may be retained.

(b) All non-adipose fin-clipped Chinook salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(c) Catch limits of two adult adipose fin-clipped salmon or two adult adipose fin-clipped steelhead in combination, but only one may be a Chinook, may be retained per day. Catch limits for jacks remain in effect as per the **2012 Oregon Sport Fishing Regulations**.

(3) Effective through June 15, 2012, in Oregon and Washington Select Areas the hatchery adult Chinook daily bag limit will be the same as the adjacent mainstem Columbia River when the mainstem is open for adult Chinook retention. When the adjacent mainstem Columbia River is closed for adult retention, the salmon daily limit will revert to permanent rules.

(4) Effective May 16 through July 31, 2012, only single-point hooks are allowed when angling at Cascade Locks in the area between the boat

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ramp at the lower end of the locks upstream to the east (upstream) end of the lock wall.

(5) Retention of sockeye salmon is allowed:

(a) May 16 through June 15 from a line projected from Rocky Point on the Washington shore through red buoy #44 to the navigation light at Tongue Point upstream to the I-5 Bridge;

(b) June 16 through July 1 from Astoria-Megler Bridge upstream to Bonneville Dam;

(c) June 16 through July 31 from Bonneville Dam upstream to the OR/WA border; and

(d) All sockeye salmon count as an adult salmonid in the daily limit regardless of size.

(6) The Columbia River is open May 19 and May 20 from the Tower Island power lines (approximately 6 miles below The Dalles Dam) upstream to the Oregon/Washington border; plus the Oregon and Washington banks between Bonneville Dam and the Tower Island power lines.

(a) Adipose fin-clipped Chinook salmon and adipose fin-clipped steelhead may be retained.

(b) All non-adipose fin-clipped Chinook salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(c) Catch limits of two adult adipose fin-clipped salmon or two adult adipose fin-clipped steelhead may be retained per day. Catch limits for jacks remain in effect as per the **2012 Oregon Sport Fishing Regulations**.

(7) For the mainstem Columbia River salmon and steelhead fishery upstream of the Rocky Point-Tongue Point line to the Oregon/Washington border effective through June 15 it is *unlawful* when fishing from vessels which are less than 30 feet in length, substantiated by Coast Guard documentation or Marine Board registration, to totally remove from the water any salmon or steelhead required to be released.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 11-2004, f. & cert. ef. 2-13-04; DFW 17-2004(Temp), f. & cert. ef. 3-10-04 thru 7-31-04; DFW 29-2004(Temp), f. 4-15-04, cert. ef. 4-22-04 thru 7-31-04; DFW 30-2004(Temp), f. 4-21-04, cert. ef. 4-22-04 thru 7-31-04; DFW 36-2004(Temp), f. 4-29-04, cert. ef. 5-1-04 thru 7-31-04; DFW 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; DFW 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; DFW 51-2004(Temp), f. 6-9-04, cert. ef. 6-16-04 thru 7-31-04; Administrative correction 8-19-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; DFW 35-2005(Temp), f. 5-4-05, cert. ef. 5-5-05 thru 10-16-05; DFW 38-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; DFW 44-2005(Temp), f. 5-17-05, cert. ef. 5-22-05 thru 10-16-05; DFW 51-2005(Temp), f. 6-3-05, cert. ef. 6-4-05 thru 7-31-05; Administrative correction 11-18-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 21-2006(Temp), f. 4-13-06, cert. ef. 4-14-06 thru 5-15-06; DFW 27-2006(Temp), f. 5-12-06, cert. ef. 5-13-06 thru 6-15-06; DFW 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 28-2007(Temp), f. & cert. ef. 4-26-07 thru 7-26-07; DFW 33-2007(Temp), f. 5-15-07, cert. ef. 5-16-07 thru 7-30-07; DFW 37-2007(Temp), f. & cert. ef. 5-31-07 thru 7-30-07; DFW 39-2007(Temp), f. 6-5-07, cert. ef. 6-6-07 thru 7-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 13-2008(Temp), f. 2-21-08, cert. ef. 2-25-08 thru 8-22-08; DFW 17-2008(Temp), f. & cert. ef. 2-27-08 thru 8-22-08; DFW 35-2008(Temp), f. 4-17-08, cert. ef. 4-21-08 thru 8-22-08; DFW 49-2008(Temp), f. & cert. ef. 5-13-08 thru 6-15-08; Administrative correction 7-22-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 10-2009(Temp), f. 2-13-09, cert. ef. 3-1-09 thru 6-15-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 48-2009(Temp), f. 5-14-09, cert. ef. 5-15-09 thru 6-16-09; DFW 68-2009(Temp), f. 6-11-09, cert. ef. 6-12-09 thru 6-16-09; Administrative correction 7-21-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 19-2010(Temp), f. 2-26-10, cert. ef. 3-1-10 thru 8-27-10; DFW 23-2010(Temp), f. & cert. ef. 3-2-10 thru 8-27-10; DFW 45-2010(Temp), f. 4-21-10, cert. ef. 4-24-10 thru 7-31-10; DFW 49-2010(Temp), f. 4-27-10, cert. ef. 4-29-10 thru 7-31-10; DFW 55-2010(Temp), f. 5-7-10, cert. ef. 5-8-10 thru 7-31-10; Suspended by DFW 88-2010(Temp), f. 6-25-10, cert. ef. 6-26-10 thru 7-31-10; Administrative correction 8-18-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 13-2011(Temp), f. & cert. ef. 2-14-11 thru 6-15-11; DFW 28-2011(Temp), f. 4-7-11, cert. ef. 4-8-11 thru 6-15-11; DFW 30-2011(Temp), f. 4-15-11, cert. ef. 4-16-11 thru 6-15-11; DFW 33-2011(Temp), f. & cert. ef. 4-21-11 thru 6-15-11; DFW 39-2011(Temp), f. 5-5-11, cert. ef. 5-7-11 thru 6-15-11; DFW 48-2011(Temp), f. 5-13-11, cert. ef. 5-15-11 thru 6-15-11; DFW 55-2011(Temp), f. 5-25-11, cert. ef. 5-27-11 thru 6-15-11; DFW 59-2011(Temp), f. & cert. ef. 6-2-11 thru 6-15-11; Administrative correction 6-28-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 8-2012(Temp), f. 2-6-12, cert. ef. 2-15-12 thru 6-15-12; DFW 31-2012(Temp), f. 4-5-12, cert. ef. 4-6-12 thru 6-15-12; DFW 33-2012(Temp), f. 4-12-12, cert. ef. 4-14-12 thru 6-15-12; DFW 45-2012(Temp), f. 5-1-12, cert. ef. 5-2-12 thru 7-31-12; DFW 47-2012(Temp), f. 5-15-12, cert. ef. 5-16-12 thru 7-31-12; DFW 49-2012(Temp), f. 5-18-12, cert. ef. 5-19-12 thru 7-31-12; DFW 51-2012(Temp), f. 5-23-12, cert. ef. 5-26-12 thru 7-31-12

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**Rule Caption:** Experimental Gear Authorized for Use In Columbia River Shad Fisheries.

**Adm. Order No.:** DFW 52-2012(Temp)

**Filed with Sec. of State:** 5-24-2012

**Certified to be Effective:** 5-24-12 thru 11-19-12

**Notice Publication Date:**

**Rules Amended:** 635-042-0105

**Subject:** This amended rule authorizes use of experimental fishing gears in Columbia River shad fisheries when the fisher has been issued an experimental gears permit by the Department. All salmon, steelhead, walleye, and sturgeon taken in shad nets must be immediately returned unharmed to the water. Revisions are consistent with action taken on May 23, 2012 by the State of Oregon.

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

**635-042-0105**

**Shad Season**

(1) Shad may be taken for commercial purposes from the Columbia River below Bonneville Dam during commercial salmon seasons with the same fishing gear authorized for the taking of salmon.

(2) Shad may also be taken and sold for commercial purposes with experimental fishing gears.

(a) A permit issued by the Department as described in OAR 635-006-0020 is required to use experimental gear types for shad.

(b) Conditions under which shad may be taken and sold for commercial purposes will be specified in the permit.

(c) Any salmon, steelhead or non-target species taken as incidental catch in operation of such gear shall immediately, with care and the least possible injury, be released and transferred to the water without violence.

Stat. Auth.: ORS 506 & 507

Stats. Implemented: ORS 506 & 507

Hist.: FWC 85, 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 635-035-0270; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 4-1984, f. & ef. 1-31-84; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; DFW 52-2012(Temp), f. & cert. ef. 5-24-12 thru 11-19-12

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**Rule Caption:** Trask River and Three Rivers Angling Regulations Modified Effective June 1, 2012.

**Adm. Order No.:** DFW 53-2012(Temp)

**Filed with Sec. of State:** 5-29-2012

**Certified to be Effective:** 6-1-12 thru 10-31-12

**Notice Publication Date:**

**Rules Amended:** 635-014-0090

**Subject:** These rule modifications delay the spring Chinook fishery closure at the Trask River Hatchery Hole from June 1 until July 1, 2012 in order to allow anglers greater opportunity to harvest hatchery spring Chinook by extending the season 200 feet upstream and 900 feet downstream of the hatchery. Further modifications reduce the ability of anglers to employ illegitimate snagging methods in a segment of the Trask River and Three Rivers by imposing more restrictive gear regulations during the later portion of the spring Chinook angling season.

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

**635-014-0090**

**Inclusions and Modifications**

(1) The **2012 Oregon Sport Fishing Regulations** provide requirements for the Northwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2012 Oregon Sport Fishing Regulations pamphlet**.

(2) Notwithstanding all other requirements provided in the 2012 Oregon Sport Fishing Regulations pamphlet, the following additional rules apply to adult salmon angling in waters of the Northwest Zone:

(a) All waters of the Necanicum River Basin, Nehalem River Basin (including North Fork), Tillamook Bay Basin, (including the Miami, Kilchis, Wilson, Trask, and Tillamook rivers), and the Nestucca River Basin (including the Little Nestucca and Three Rivers) and Salmon River that are open for Chinook salmon are limited to no more than 1 adult non fin-clipped Chinook salmon per day, or 2 adult non fin-clipped Chinook salmon per day from the Siletz or Yaquina rivers, and 10 adult non fin-clipped Chinook salmon in the seasonal aggregate when combined with all other waters in the Northwest Zone and all state waters terminal area seasons in the Marine Zone with a 10 adult non fin-clipped Chinook salmon seasonal aggregate limit. Seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between August 1 and December 31 except in the Nehalem Basin where the seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between July 1 and December 31 and except in the Tillamook Terminal Area where the seasonal aggregate

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applies to all adult non fin-clipped Chinook salmon retained between October 1-31.

(A) The Trask River will be closed from Gold Creek, at the hatchery, 200 feet upstream and 900 feet downstream July 1 through November 30, 2012; and for the Trask River segment from Cedar Creek wooden boat slide (RM 10.9) downstream to Loren's Drift wooden boat slide (RM 9.0) from June 1 to July 31 angling is restricted to fly angling and bobber angling only.

(i) Bobber angling gear must include a bobber and a leader no longer than 36-inches in length. Any weight (except the bobber) may be no more than 36-inches from the lowermost hook when suspended vertically. The leader below the bobber must remain suspended in the water column and not resting on the river bottom.

(ii) For purposes of this rule, a bobber is a hook-less, floating device that is attached to or slides along the mainline or leader above the hook(s) for the purpose of suspending hook(s) (which are part of the bait, lure or fly) off the bottom of the stream and visually signaling (from the surface of the water) a fish's strike at the hook(s).

(iii) For purposes of this rule, a leader is a section of line, other than the mainline, extending from the lowermost hook (part of bait, lure, or fly) to the first swivel, weight, bobber, or any other attachment.

(B) Three Rivers, a tributary of the Nestucca River, is open to angling for adipose fin-clipped spring Chinook and adipose fin-clipped summer steelhead through June 30, 2012.

(i) From June 1 through June 30, 2012, use of leaders longer than 36-inches is prohibited. Hooks are limited to no more than 1 single point, size 3/8-inch gap width (approximately size #2) or smaller hook.

(ii) For the purposes of this rule, a leader is defined as described in section (2)(a)(A)(iii) above.

(b) Within the Nehalem Basin (including the North Fork) the following additional rules apply:

(A) Mainstem (bay) closed to all salmon and steelhead angling seaward from a line extending from Nehalem Bay State Park Boat Ramp to Fishery Point July 1 through September 14 and closed to all Chinook salmon angling upstream of Peterson Creek (RM 10.2) July 1 through December 31.

(B) Nehalem tidewater from the jetty tips upstream to Peterson Creek (RM 10.2) on South Fork and North Fork Road Bridge on the North Fork is open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 1,200 non adipose fin-clipped coho salmon.

(C) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 2 adult non adipose fin-clipped coho salmon seasonal aggregate limit.

(c) Within the Tillamook Bay Basin the following additional rules apply:

(A) Tillamook Bay tidewater from the jetty tips upstream to Hwy. 101 Bridge on Miami, Kilchis, Wilson, and Trask rivers and Burton Bridge on Tillamook River is open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 600 non adipose fin-clipped coho salmon.

(B) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 1 adult non adipose fin-clipped coho salmon seasonal aggregate limit.

(d) Within the Nestucca Basin (including the Little Nestucca River and Three Rivers) the following rules apply:

(A) Mainstem Nestucca upstream of First Bridge (RM 15.8) near Beaver closed to all Chinook angling August 1 through December 31.

(B) Nestucca Bay tidewater (excluding Little Nestucca tidewater) from the bay mouth upstream to the Cloverdale Bridge (RM 7.1) is open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 200 non adipose fin-clipped coho salmon.

(C) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 1 adult non adipose fin-clipped coho salmon seasonal aggregate limit.

(e) Within the Siletz River Basin the following additional rules apply:

(A) Mainstem and tributaries above Ojalla Bridge (RM 31) closed to Chinook August 1-December 31; Drift Creek (Siletz River Basin) upstream of the confluence with Quarry Creek at RM 8 is closed for Chinook salmon from August 1 through December 31;

(B) Siletz River and Bay upstream to Ojalla Bridge (RM 31) is open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 700 non adipose fin-clipped coho salmon; and

(C) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(f) Within the Yaquina River Basin the following additional rules apply:

(A) All waters of the Yaquina River upstream of the confluence of the Yaquina River and Big Elk Creek at RM 18.3 and all waters of Big Elk Creek (Yaquina River Basin) are closed for Chinook salmon from August 1 through December 31;

(B) The Yaquina River and Bay upstream to the confluence of the Yaquina River and Big Elk Creek are open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 575 non adipose fin-clipped coho salmon; and

(C) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(g) Within the Alsea River Basin the following additional rules apply:

(A) All waters of Drift Creek (Alsea River Basin) within the Drift Creek Wilderness Area and upstream are closed for Chinook salmon from August 1 through December 31;

(B) All waters of the Alsea River upstream of the confluence with Five Rivers at RM 21 are closed for Chinook salmon from August 1 through December 31;

(C) All waters of Five Rivers are closed for Chinook salmon from August 1 through December 31.

(D) The Alsea River and Bay upstream to the confluence of the Alsea River and Five Rivers are open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 675 non adipose fin-clipped coho salmon; and

(E) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(h) Within the Siuslaw River Basin the following additional rules apply:

(A) All waters of the Siuslaw River upstream of the confluence with Lake Creek at RM 30.0 are closed for Chinook salmon from August 1 through December 31;

(B) All waters of Lake Creek are closed for Chinook salmon August 1 through December 31 and all waters of Lake Creek downstream of Fish Creek are closed to all angling from September 1 through November 30;

(C) The Siuslaw River and Bay upstream to the confluence of the Siuslaw River and Lake Creek are open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 900 non adipose fin-clipped coho salmon; and

(D) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

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

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 28-1995(Temp), f. 3-31-95, cert. ef. 5-1-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 19-1996, f. & cert. ef. 5-16-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 29-1996, f. & cert. ef. 5-31-96; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 55-1996(Temp), f. 9-25-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 58-1997, f. 9-8-97, cert. ef. 10-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru

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4-24-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 69-1998, f. 8-28-98, cert. ef. 9-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 81-2001, f. & cert. ef. 8-29-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 118-2002(Temp), f. 10-22-02, cert. ef. 12-1-02 thru 3-31-03; DFW 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 38-2003(Temp), f. 5-7-03, cert. ef. 5-10-03 thru 10-31-03; DFW 51-2003(Temp), f. & cert. ef. 6-13-03 thru 10-31-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 108-2003(Temp), f. 10-28-03, cert. ef. 12-1-03 thru 3-31-04; DFW 123-2003(Temp), f. 12-10-03, cert. ef. 12-11-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 126-2003(Temp), f. 12-11-03, cert. ef. 1-1-04 thru 3-31-04; DFW 60-2004(Temp), f. 6-29-04, cert. ef. 7-1-04 thru 7-15-04; DFW 90-2004(Temp), f. 8-30-04, cert. ef. 10-1-04 thru 12-31-04; DFW 103-2004(Temp), f. & cert. ef. 10-4-04 thru 12-31-04; DFW 108-2004(Temp), f. & cert. ef. 10-18-04 thru 12-31-04; DFW 111-2004(Temp), f. 11-16-04, cert. ef. 11-20-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 62-2005(Temp), f. 6-29-05, cert. ef. 7-1-05 thru 7-10-05; Administrative correction 7-20-05; DFW 105-2005(Temp), f. 9-12-05, cert. ef. 10-1-05 thru 12-15-05; DFW 127-2005(Temp), f. & cert. ef. 11-23-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 53-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 7-9-06; Administrative correction 7-20-06; DFW 64-2006(Temp), f. 7-17-06, cert. ef. 8-1-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 104-2006(Temp), f. 9-19-06, cert. ef. 10-1-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 63-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 25-2008(Temp), f. 3-13-08, cert. ef. 3-15-08 thru 9-10-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 43-2009(Temp), f. 5-5-09, cert. ef. 5-22-09 thru 10-31-09; DFW 67-2009(Temp), f. 6-9-09, cert. ef. 6-15-09 thru 10-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 99-2009(Temp), f. 8-26-09, cert. ef. 9-1-09 thru 12-31-09; DFW 115-2009(Temp), f. & cert. ef. 9-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 44-2010(Temp), f. 4-20-10, cert. ef. 4-21-10 thru 9-30-10; DFW 73-2010(Temp), f. 5-27-10, cert. ef. 6-1-10 thru 9-30-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 89-2010(Temp), f. 6-28-10, cert. ef. 7-1-10 thru 9-30-10; Administrative correction 10-26-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 57-2011(Temp), f. 5-27-11, cert. ef. 6-1-11 thru 6-30-11; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 139-2011(Temp), f. 10-3-11, cert. ef. 10-6-11 thru 12-31-11; DFW 141-2011(Temp), f. 10-6-11, cert. ef. 10-10-11 thru 12-31-11; DFW 143-2011(Temp), f. 10-10-11, cert. ef. 10-11-11 thru 12-31-11; DFW 148-2011(Temp), f. 10-20-11, cert. ef. 10-21-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 53-2012(Temp), f. 5-29-12, cert. ef. 6-1-12 thru 10-31-12

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**Rule Caption:** Increased Cumulative Trip Limits for Black and Blue Rockfish Combined in Periods 3 and 4.

**Adm. Order No.:** DFW 54-2012(Temp)

**Filed with Sec. of State:** 5-31-2012

**Certified to be Effective:** 6-1-12 thru 11-27-12

**Notice Publication Date:**

**Rules Amended:** 635-004-0033

**Subject:** This amended rule increases the cumulative trip limits for black rockfish and blue rockfish combined by 400 pounds, from 1,400 to 1,800 pounds, in each of periods 3 and 4.

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

## 635-004-0033

### Groundfish Restrictions

(1) The season for most species of ocean food fish is open year-round, until catch quotas are met (where applicable). Regulations for the following species or species groups of ocean food fish change throughout the season and the Oregon Administrative Rules and federal regulations should be consulted before fishing:

- (a) Minor Shelf Rockfish;
- (b) Minor Slope Rockfish;
- (c) Black and Yellow Rockfish;
- (d) Brown Rockfish;
- (e) Calico Rockfish;
- (f) China Rockfish;
- (g) Copper Rockfish;
- (h) Gopher Rockfish;
- (i) Grass Rockfish;
- (j) Kelp Rockfish;
- (k) Olive Rockfish;
- (l) Quillback Rockfish;
- (m) Treefish;
- (n) Black Rockfish;
- (o) Blue Rockfish;
- (p) Cabezon;
- (q) Canary Rockfish;
- (r) Greenling;

- (s) Tiger Rockfish;
- (t) Vermilion Rockfish;
- (u) Widow Rockfish;
- (v) Yelloweye Rockfish;
- (w) Yellowtail Rockfish;
- (x) Darkblotched Rockfish;
- (y) Pacific Ocean Perch;
- (z) Longspine Thornyhead;
- (aa) Shortspine Thornyhead;
- (bb) Arrowtooth Flounder;
- (cc) Dover Sole;
- (dd) Petrale Sole;
- (ee) Rex Sole;
- (ff) Other Flatfish;
- (gg) Lingcod;
- (hh) Sablefish;
- (ii) Pacific Whiting.

(2) For the purpose of this rule, "Other nearshore rockfish" means: black and yellow (*Sebastes chrysomelas*); brown (*S. auriculatus*); calico (*S. dalli*); China (*S. nebulosus*); copper (*S. caurinus*); gopher (*S. carnatus*); grass (*S. rastelliger*); kelp (*S. atrovirens*); olive (*S. serranoides*); quillback (*S. maliger*); and treefish (*S. serriceps*).

(3) For the purpose of this rule a "commercial harvest cap" is defined as the total fishery-related mortality for a given species, or species group, that may occur in a single calendar year in Oregon commercial fisheries. For 2012, the commercial harvest caps are:

- (a) Black rockfish, 139.2 metric tons.
- (b) Cabezon, 30.8 metric tons.

(4) For the purpose of this rule a "commercial landing cap" is defined as the total landed catch of a given species, or species group, that may be taken in a single calendar year in Oregon commercial fisheries. For 2012, the commercial landing caps are:

- (a) Black rockfish, 137.9 metric tons.
- (b) Black rockfish and blue rockfish combined of 141.9 metric tons.
- (c) Other nearshore rockfish, 14.3 metric tons.
- (d) Cabezon, 30.5 metric tons.
- (e) Greenling, 23.4 metric tons.

(5) For the purpose of this rule, the periods to which cumulative trip limits apply are: January through February (period 1); March through April (period 2); May through June (period 3); July through August (period 4); September through October (period 5); and November through December (period 6).

(6) For black and blue rockfish combined, no vessel may land more than:

- (a) 800 pounds in period 1;
- (b) 1,000 pounds in period 2;
- (c) 1,800 pounds in each of periods 3 and 4;
- (d) 1,000 pounds in period 5; and
- (e) 800 pounds in period 6.

(7) In each period, no vessel may land more than:

- (a) 700 pounds of other nearshore rockfish, combined;
- (b) 1,500 pounds of cabezon; or
- (c) 250 pounds of greenling species.

Stat. Auth.: ORS 506.109 & 506.119

Stats. Implemented: ORS 506.129

Hist.: FWC 73-1982(Temp), f. & ef. 10-27-82; FWC 1-1983 (Temp), f. & ef. 1-6-83; FWC 10-1983, f. & ef. 3-1-83; FWC 23-1983(Temp), f. & ef. 6-14-83; FWC 41-1983(Temp), f. & ef. 9-6-83; FWC 3-1984 f. & ef. 1-26-84; FWC 18-1984 (Temp), f. 5-4-84, ef. 5-6-84; FWC 36-1984(Temp), f. 7-31-84, ef. 8-1-84; FWC 1-1985(Temp), f. & ef. 1-4-85; FWC 5-1985, f. & ef. 2-19-85; FWC 18-1985(Temp), f. 4-26-85, ef. 4-27-85; FWC 52-1985(Temp), f. 8-30-85, ef. 9-1-85; FWC 65-1985 (Temp), f. & ef. 10-4-85; FWC 82-1985, f. 12-16-85, ef. 1-1-86; FWC 50-1986(Temp), f. & ef. 8-29-86; FWC 81-1986, f. 12-31-86, ef. 1-1-87; FWC 57-1987(Temp), f. & ef. 7-24-87; FWC 104-1987, f. 12-18-87, ef. 1-1-88; FWC 97-1988(Temp), f. & cert. ef. 1-6-88; FWC 103-1988, f. 12-29-88, cert. ef. 1-1-89; FWC 49-1989(Temp), f. & cert. ef. 7-26-89; FWC 69-1990 (Temp), f. 7-24-90, cert. ef. 7-25-90; FWC 122-1990, f. 11-26-90, cert. ef. 11-29-90; FWC 130-1990, f. 12-31-90, cert. ef. 1-1-91; FWC 48-1991(Temp), f. & cert. ef. 5-3-91; FWC 82-1991(Temp), f. 7-30-91, cert. ef. 7-31-91; FWC 83-1991, f. 8-1-91, cert. ef. 7-31-91; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 141-1991, f. 12-31-91, cert. ef. 1-1-92; FWC 9-1992, f. 2-20-92, cert. ef. 2-21-92; FWC 58-1992(Temp), f. & cert. ef. 7-29-92; FWC 6-1993, f. 1-28-93, cert. ef. 2-1-93; FWC 10-1993, f. & cert. ef. 2-10-93; FWC 1-1994, f. & cert. ef. 1-14-94; FWC 32-1994, f. & cert. ef. 6-3-94; FWC 44-1994, f. 7-26-94, cert. ef. 8-1-94; FWC 95-1994, f. 12-28-94, cert. ef. 1-1-95; FWC 45-1995, f. & cert. ef. 6-1-95; FWC 94-1995(Temp), f. 12-29-95, cert. ef. 1-1-96; FWC 9-1996, f. 3-5-96, cert. ef. 3-8-96; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 119-2002(Temp), f. 10-24-02, cert. ef. 10-25-02 thru 12-31-02; DFW 135-2002, f. 12-23-02, cert. ef. 1-1-03; DFW 14-2003(Temp), f. 2-20-03, cert. ef. 2-21-03 thru 8-19-03; DFW 25-2003, f. & cert. ef. 3-26-03; DFW 60-2003(Temp), f. 7-15-03, cert. ef. 7-16-03 thru 12-31-03; DFW 79-2003(Temp), f. & cert. ef. 8-18-03 thru 12-31-03; DFW 102-2003(Temp), f. 9-30-03, cert. ef. 10-1-03 thru 12-31-03; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 76-2004(Temp), f. 7-23-04, cert. ef. 7-28-04 thru 12-31-04; DFW 100-2004(Temp), f. & cert. ef. 9-28-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 120-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 31-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 82-2005(Temp), f. 7-



# ADMINISTRATIVE RULES

(2) Any person possessing a valid furtaker's license or hunting license for furbearers is required to fill out and return a completed harvest report form to the Department at 3406 Cherry Avenue NE, Salem, Oregon 97303. The form shall be postmarked by April 15, 2013 for the 2012–2013 seasons and April 15, 2014 for the 2013–2014 seasons. Failure to do so shall deny the license holder the opportunity to purchase a hunting license for furbearers or furtaker's license for the following furbearer season, unless the non-compliant licensee pays a fee of \$50.00 and completes and returns the harvest report form prior to the requested license being issued.

(3) Any person may sell or exchange the hide, carcass, or any part thereof, of any legally taken furbearing or unprotected mammal.

(4) All traps and snares, whether set for furbearing or other unprotected mammals, shall be legibly marked or branded with the owner's license (brand) number that has been assigned by the Department; except that unmarked traps or snares may be set for nongame mammals unprotected by law or Department regulations by any person or member of his immediate family upon land of which he is the lawful owner. A landowner is required to register the location of such land with the Department and shall possess each year a free landowner's license before hunting or trapping furbearing mammals.

(5) No branded trap or snare may be sold unless accompanied by a uniform bill of sale.

(6) Bobcat, raccoon and opossum may be hunted with the aid of an artificial light provided the light is not cast from or attached to a motor vehicle or boat.

(7) An artificial light may be used to provide light to aid in the dispatch of animals legally restrained in a trap or snare.

(8) Use of dogs is permitted to hunt or pursue bobcat, raccoon, fox, and unprotected mammals.

(9) It is unlawful for any person to trap for furbearers, predatory animals or unprotected mammals using:

(a) A steel foothold trap with a jaw spread greater than 9 inches.

(b) A No. 3 or larger foothold trap or any foothold trap with an inside jaw spread at dog greater than 6" not having a jaw spacing of at least 3/16 of one inch when the trap is sprung (measurement excludes pads on padded jaw traps) and when the trap is placed in a manner that is not capable of drowning a trapped animal.

(c) The flesh of any game bird, game fish, game mammal for trap bait.

(d) Any killing trap having a jaw spread of 9 inches or more in any land set.

(e) Any killing trap having a jaw spread of 7.5 inches or more but less than 9 inches, in a land set on public lands, at a distance greater than 50 feet from a permanent water source or a seasonal water source when water is present except when authorized by the Oregon Department of Fish and Wildlife.

(f) Any toothed trap, or trap with a protuberance on the facing edge of the jaws that is intended to hold the animal (except pads on padded jaw traps).

(g) Or possessing the branded traps or snares of another unless in possession of written permission from the person to whom the brand is registered.

(h) Sight bait within 15 feet of any foothold trap set for carnivores.

(10) Except for persons authorized to enforce the wildlife laws, it is unlawful to disturb or remove the traps or snares of any licensed trapper while he is trapping on public lands or on land where he has permission to trap.

(11) All traps or snares set or used for the taking of furbearing or unprotected mammals shall be inspected at least every 48 hours and all trapped animals removed. This regulation does not apply to the taking of predatory animals.

(12) Any person setting a trap for predatory animals, as defined in ORS 610.002, must check the trap as follows:

(a) For killing traps and snares, at least once every 30 days and remove all animals;

(b) For restraining traps and snares, at least once every 76 hours and remove all animals. However, restraining traps and snares set by a person owning, leasing, occupying, possessing or having charge of or dominion over any land, place, building, structure, wharf, pier or dock or their agent, and set for predatory animals damaging land, livestock or agricultural or forest crops, shall be checked at least once every 7 days. Any person(s) acting as an agent for a landowner shall have in their possession written authority from the landowner or lawful occupant of the land. Such written authority shall contain at least all of the following:

(A) The date of issuance of the authorization;

(B) The name, address, telephone number and signature of the person granting the authorization;

(C) The name, address and telephone number of the person to whom the authorization is granted; and

(D) The expiration date of the authorization, which shall be not later than one year from the date of issuance of the authorization.

(13) A "killing trap" means a device used to kill a mammal as part of a killing trap system. A killing trap system is a system set with the intent to kill a mammal comprising a combination of: equipment (the trap and trigger configuration), and set (including site modifications, lures, baits, location and other relevant requirements).

(14) A "restraining trap" means a device used to capture and restrain (but not kill) a mammal as part of a restraining trap system. A restraining trap system is a system set with the intent to capture and restrain (but not kill) a mammal comprising a combination of: equipment (the trap and the trigger configuration), and set (including site modifications, lures, baits, location and other relevant requirements).

(15) These general furbearer regulations do not apply to the trapping of gophers, moles, ground squirrels and mountain beaver.

(16) When any furbearer or raw furbearer pelt is transferred to the possession of another person, a written record indicating the name and address of the person from whom the raw pelt was obtained shall accompany such transfer and remain with same so long as preserved in raw pelt form.

(17) It is unlawful for any person to damage or destroy any muskrat house at any time except where such muskrat house is an obstruction to a private or public ditch or watercourse.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162  
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162  
Hist.: FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 9-2004, f. & cert. ef. 2-11-04; DFW 31-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10; DFW 127-2010, f. & cert. ef. 9-10-10; DFW 70-2011, f. 6-15-11, cert. ef. 7-1-11; DFW 56-2012, f. & cert. ef. 6-11-12

## 635-050-0047

### Set-Back Restrictions

On state or federal lands, except when authorized by the Oregon Department of Fish and Wildlife, no traps or snares may be set on land:

(1) Within 50 feet of any public trail;

(2) Within 300 feet of any trailhead that is designated and maintained as such by the public land management agency and is accessible to vehicular traffic; or

(3) Within 300 feet of any public campground or picnic area designated and maintained as such by the public land management agency on the most current official map of 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.: DFW 56-2012, f. & cert. ef. 6-11-12

## 635-050-0050

### Definitions

(1) "Western Oregon" means all counties west of the summit of the Cascade range except Klamath and Hood River Counties.

(2) "Eastern Oregon" means all counties east of the summit of the Cascade range, including all of Klamath and Hood River Counties.

(3) "Raw pelt" means any pelt that has not been processed or converted to any usable form beyond initial cleaning, stretching, and drying.

(4) "Resident" means 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 alien students attending school in Oregon under a foreign student exchange program may purchase a resident license and tags. All other persons are nonresidents.

(5) "River" means that portion of a natural water body lying below the level of bankfull stage. Bankfull stage means the stage or elevation at which overflow of the natural banks of a stream or body of water begins to inundate the upland.

(6) "Sight bait" means exposed flesh bait, including whole animal carcasses, within 15 feet of any foothold trap set for carnivores.

(7) "Furbearers or furbearing mammals" means beaver, bobcat, fisher, marten, mink, muskrat, otter, raccoon, red fox, and gray fox.

(8) "Predatory animals" means coyotes, rabbits and rodents which are or may be destructive to agricultural crops, products and activities.





# ADMINISTRATIVE RULES

## 635-050-0130

### Muskrat

(1) Open season: November 15, 2012 through March 31, 2013 and November 15, 2013 through March 31, 2014.

(2) Open area: Entire state.

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 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10; DFW 56-2012, f. & cert. ef. 6-11-12

## 635-050-0140

### Raccoon

(1) Open season: November 15, 2012 through March 15, 2013 and November 15, 2013 through March 15, 2014.

(2) Open area: Entire state.

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 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10; DFW 56-2012, f. & cert. ef. 6-11-12

## 635-050-0150

### River Otter

(1) Open season: November 15, 2012 through March 15, 2013 and November 15, 2013 through March 15, 2014.

(2) Open area: Entire state except for all areas closed to beaver trapping in OAR 635-050-0070.

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 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10; DFW 56-2012, f. & cert. ef. 6-11-12

## 635-050-0170

### Pursuit Seasons

(1) The following pursuit seasons are authorized:

(a) Bobcat: September 1, 2012 through February 28, 2013 and September 1, 2013 through February 28, 2014.

(b) Fox: September 1, 2012 through February 28, 2013 and September 1, 2013 through February 28, 2014.

(c) Raccoon: September 1, 2012 through March 15, 2013 and September 1, 2013 through March 15, 2014.

(2) License Requirements: Furtaker's license or hunting license for furbearers shall be on one's person during pursuit.

(3) No animals shall be killed except during authorized open harvest season.

(4) A bobcat record card shall be on one's person while taking or attempting to take bobcat.

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

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 35-1980, f. & ef. 7-2-80; FWC 21-1981, f. & ef. 6-29-81, Renumbered from 635-050-0026; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 58-1983, f. & ef. 10-19-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 79-1988, f. & cert. ef. 9-2-88; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 61-2001, f. & cert. ef. 7-25-01; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 85-2003(Temp), f. & cert. ef. 8-27-03 thru 2-23-04; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10; DFW 56-2012, f. & cert. ef. 6-11-12

## 635-050-0183

### Bobcat and River Otter Ownership Tags

(1) The ownership tag shall be affixed by Department personnel at district and regional offices and shall remain so affixed while the pelt is in raw form.

(2) Ownership tags may be used as foreign export tags.

(3) Each ownership tag authorizes the holder to sell one bobcat or river otter.

(4) Each person shall have an ownership tag affixed to his or her bobcat or river otter pelt at a Department district or regional office within five business days after the season ends.

(5) It shall be *unlawful* to possess a 2012–2013 or 2013–2014 harvested bobcat or river otter after five business days following the season closure without an ownership tag.

(6) It shall be *unlawful* to sell or remove from the state a 2012–2013 or 2013–2014 harvested bobcat or river otter pelt without the respective year's ownership tag.

(7) A furtaker shall be responsible for surrendering to the Oregon Department of Fish and Wildlife the lower jawbone and information on sex, date of catch and county of harvest with each individual Oregon bobcat and river otter to qualify for ownership tags. A district office may, on a case-by-case basis, waive the lower jawbone requirement where the furtaker provides evidence that failure to provide the jawbone is due to unexpected circumstances beyond his or her control.

(8) The record card with the required information including species, sex, date of possession and county shall be presented to obtain an ownership tag.

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

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 79-1988, f. & cert. ef. 9-2-88; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10; DFW 56-2012, f. & cert. ef. 6-11-12

## 635-050-0189

### Special Bobcat and River Otter Regulations

(1) Raw pelts taken prior to September 1, 1982 may not be sold unless they were metal-sealed by the Oregon State Police or the Department prior to that date.

(2) Those persons failing to comply with 2012–2013 or 2013–2014 Special Bobcat and River Otter Regulations shall not be issued a license for the following furbearer season and shall be subject to the penalties provided in ORS 496.992.

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

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 79-1988, f. & cert. ef. 9-2-88; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 70-1990, f. & cert. ef. 7-25-90; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 73-2002, f. & cert. ef. 7-16-02; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 60-2006, f. & cert. ef. 7-12-06; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 82-2010, f. & cert. ef. 6-15-10; DFW 56-2012, f. & cert. ef. 6-11-12

## 635-050-0210

### Areas Closed to Hunting or Trapping

It is *unlawful* to hunt or trap furbearing mammals or unprotected mammals on the following areas except as authorized by permit or as provided in section (24) of this section:

- (1) Cemeteries;
- (2) City and municipal watersheds declared to be refuges;
- (3) Enterprise Wildlife Area, south of U.P. Railroad, and Marr tract;
- (4) Federal refuges;
- (5) Denman Wildlife Area;
- (6) Fern Ridge Wildlife Area;
- (7) Irrigon Wildlife Area;
- (8) Jewell Meadows Wildlife Area;
- (9) Klamath Wildlife Area;
- (10) Ladd Marsh Wildlife Area;
- (11) McDonald Forest (Benton County);
- (12) Metolius Wildlife Refuge;
- (13) North Bank Habitat Management Area (BLM);
- (14) Public campgrounds;
- (15) National, state and public parks;
- (16) Rimrock Springs Wildlife Area;
- (17) Sauvie Island Wildlife Area;
- (18) School lands;
- (19) Summer Lake Wildlife Area;
- (20) E.E. Wilson Wildlife Area;
- (21) St. Louis Ponds
- (22) Within city boundaries (note, however, that ORS 498.012 allows landowners and their agents to trap for the purpose of dealing with certain

# ADMINISTRATIVE RULES

types of damage, public nuisance and public health risk. This authority overrides the restriction on trapping within cities);

(23)Tillicum Natural Area.

(24)Notwithstanding section (22) of this rule, trapping furbearing and unprotected mammals is permitted within incorporated city limits as follows:

(a) Warrenton, except within 100 yards of any residential building or within the boundaries of Fort Stevens State Park;

(b) Klamath Falls, on a person's own property for muskrat and beaver;

(c) Bend, as approved and permitted by the Department;

(d) Cottage Grove; applicants must submit written request to the City of Cottage Grove for a trapping permit.

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

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: FWC 140, f. & ef. 8-29-77; FWC 44-1978, f. & ef. 9-1-78; FWC 37-1979, f. & ef. 8-29-79; FWC 35-1980, f. & ef. 7-2-80; FWC 45-1980, f. & ef. 8-28-80; FWC 21-1981, f. & ef. 6-29-81, Renumbered from 635-050-0037; FWC 43-1982, f. & ef. 7-9-82; FWC 27-1983, f. & ef. 7-8-83; FWC 65-1983(Temp), f. & ef. 11-22-83; FWC 9-1984, f. & ef. 3-12-84; FWC 52-1984, f. & ef. 9-5-84; FWC 44-1985, f. & ef. 8-22-85; FWC 48-1986, f. & ef. 8-28-86; FWC 79-1988, f. & cert. ef. 9-2-88; FWC 59-1989, f. & cert. ef. 8-15-89; FWC 60-1992, f. & cert. ef. 7-30-92; FWC 49-1994, f. & cert. ef. 8-12-94; FWC 43-1996, f. & cert. ef. 8-12-96; DFW 62-1998, f. & cert. ef. 8-10-98; DFW 39-2000, f. & cert. ef. 7-25-00; DFW 67-2004, f. & cert. ef. 7-13-04; DFW 83-2008, f. & cert. ef. 7-25-08; DFW 56-2012, f. & cert. ef. 6-11-12

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**Rule Caption:** Amend rules relating to the Habitat Conservation Stamp.

**Adm. Order No.:** DFW 57-2012

**Filed with Sec. of State:** 6-11-2012

**Certified to be Effective:** 6-11-12

**Notice Publication Date:** 5-1-2012

**Rules Amended:** 635-008-0151, 635-010-0170, 635-095-0105, 635-095-0125

**Rules Repealed:** 635-008-0151(T), 635-010-0170(T)

**Subject:** Amended rules for the Habitat Conservation Stamp procedures and rules governing the sale of the Habitat Conservation Stamp and the Wildlife Area Parking Permits.

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

## 635-095-0105

### Submission of Artwork: Requirements

(1) Applicants shall submit artwork for the habitat conservation stamp to the Department headquarters office by 5:00 p.m. on the following deadline dates: For 2013, the habitat conservation stamp deadline is Friday, August 31, 2012. All subsequent years the habitat conservation stamp deadline is the last Friday of the month of August of the preceding year;

(2) Habitat conservation stamp artwork shall feature at least one Strategy Species in a respective Strategy Habitat. Strategy Species and Strategy Habitats are identified in the 2006 Oregon Conservation Strategy.

(3) Each entry shall measure 13 inches by 18 inches (horizontal or vertical) and shall be in any full color medium.

(4) No photographs, sculptures, fabric art or carvings will be accepted.

(5) The artwork shall be original and not computer-generated or computer-enhanced.

(6) The artwork shall be unsigned by the artist, and shall not have been used in production or entered into any other state habitat stamp competition, including Oregon. Any artwork signed by the artist will not be accepted and will be returned to the artist without being judged.

(7) The artwork shall be completely dry. The Department is not responsible for damage to any artwork submitted wet or uncured.

(8) The entry shall be mounted and/or matted, but it shall not be framed or under glass.

(9) Artists may submit more than one entry meeting the requirements herein.

(10) 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.

(11) Department employees are not eligible to participate in the contest.

(8) Department employees are not eligible to participate in the contest.

Stat. Auth.: ORS 496.012, 496.138 & HB 2127 (2011) (2011 OL Ch. 50)

Stats. Implemented: ORS 496 & HB 2127 (2011) (2011 OL Ch. 50)

Hist.: DFW 13-2012, f. & cert. ef. 2-10-12; DFW 57-2012, f. & cert. ef. 6-11-12

## 635-095-0125

### Other Provisions

(1) The fee for the habitat conservation stamp is \$38.00 (plus \$2.00 agent fee) and includes a free annual ODFW Wildlife Area Parking Permit.

(2) Sale of habitat conservation stamps by the Department shall end at the close of business on December 31, of the respective year. Excess stamps at that time shall be shredded after auditing of sales takes place.

(3) The Department shall award three thousand dollars (\$3,000) to the artist whose entry is selected for the habitat conservation stamp.

(4) The winning entry shall become the exclusive property of the Department.

(5) The Department shall retain all reproduction rights and may review proposals for limited edition prints, posters, or other related art products.

(6) The artist shall sign, at no charge, up to two hundred fifty (250) habitat conservation prints for sale by the Department.

Stat. Auth.: ORS 496.012, 496.138 & HB 2127 (2011) (2011 OL Ch. 50)

Stats. Implemented: ORS 496 & HB 2127 (2011) (2011 OL Ch. 50)

Hist.: DFW 13-2012, f. & cert. ef. 2-10-12; DFW 57-2012, f. & cert. ef. 6-11-12

## 635-008-0151

### Procedures for Issuance and Enforcement of Parking Permits for Department Wildlife Areas

The Oregon Department of Fish and Wildlife hereby adopts the following procedures relating to issuance and enforcement of parking permits for certain vehicles in Department Wildlife Area parking areas:

(1) Parking is permitted only in designated parking areas. A parking permit is required at all times for all fee parking areas.

(2) Fee parking areas are designated by the following signs:

(a) "Entering ODFW Wildlife Area — Parking Permit Required Beyond This Point";

(b) "Parking allowed only in designated areas — ODFW Wildlife Area Parking Permit Required".

(3) There are two separate permits: an annual permit and a daily permit.

(4) The fee for parking permits is \$5.00 (plus \$2.00 agent fee) for permits issued on a daily basis or \$20.00 (plus \$2.00 agent fee) for permits issued on an annual basis beginning each January 1. Beginning with 2012 licenses, any annual hunting license (including Combination and Sports Pac), and/or purchase of the Habitat Conservation Stamp will include a free annual parking permit.

(5) Permits are issued by selected local agents, Department offices that sell licenses and the Department's Online License Sales website to a party upon payment and may be transferred from vehicle to vehicle.

(6) The permits must be visible from outside the vehicle and be displayed in the front or rear window of the vehicle.

(7) No parking permits will be required for those vehicles which are owned or operated by government agencies. Notwithstanding paragraph (5), the Department reserves the right to issue free administrative parking permits for private vehicles used by volunteers while participating in official Department-related activities. Parking permits will not be required for individuals arriving in private vehicles to address fire, health or safety emergencies.

(8)(a) A person who operates or parks a motor-propelled vehicle in violation of restrictions established and posted under OAR 635-008-0146 through 635-008-0151 commits an offense punishable as provided in ORS 496.992;

(b) The procedure for a peace officer (or other person authorized to enforce the wildlife laws) to follow upon finding a non government vehicle parked in a designated fee parking area without a permit shall consist of the issuance of a citation which shall be either delivered to the defendant or placed in a conspicuous place upon the vehicle in the violation.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 497.071

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 497.071

Hist.: FWC 12-1990, f. & cert. ef. 2-2-90; FWC 8-1993, f. & cert. ef. 2-8-93; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 3-2002(Temp), f. & cert. ef. 1-3-02 thru 1-23-02; DFW 74-2003(Temp), f. 8-1-03, cert. ef. 8-3-03 thru 8-7-03; Administrative correction 1-12-04; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 3-2011, f. & cert. ef. 1-14-11; DFW 54-2011, f. & cert. ef. 5-24-11; DFW 6-2012(Temp), f. & cert. ef. 2-6-12 thru 8-1-12; DFW 57-2012, f. & cert. ef. 6-11-12

## 635-010-0170

### Licenses, Tags or Documents Available by Mail Order, Fax or Internet

(1) All licenses, tags, permits or validations sold by the Department over the Internet fall into one of three categories concerning how the sale is made: Instant; Temporary; or Postal. Postal transactions are also available by mail order or fax.

# ADMINISTRATIVE RULES

(a) Instant: means that the internet purchase results in an immediate sale and printing of the item, allowing the purchaser to make immediate use of item purchased. No other action is required to complete the transaction. The items in this category are:

(A) Daily Angling Licenses: one-, two-, three-, four- and seven-day licenses;

- (B) Three-day Nonresident Shellfish licenses;
- (C) Three-day Nonresident Bird Hunting Licenses;
- (D) Big Game controlled hunt applications;
- (E) Game Bird controlled hunt applications;
- (F) Daily parking permits;
- (G) Band-tailed Pigeon permits;
- (H) Black Brant Permits;
- (I) Sage Grouse Permits;
- (J) Fern Ridge Reservation Permits;
- (K) Klamath Reservation Permits; and
- (L) Sauvie Island Reservation Permits.

(b) Temporary: means that the internet purchase results in an immediate sale and printing of the item, allowing the purchaser to make limited use (10 days) of the item purchased. The Department will send the final, permanent item to the purchaser via postal mail. The items in this category are:

- (A) HIP Migratory Bird Validations;
- (B) HIP Upland Bird Validations;
- (C) HIP Crow Validations;
- (D) Nonresident Game Bird Validations;
- (E) Upland Game Bird Validations;
- (F) Waterfowl Bird Validations;
- (G) Annual Parking Permits;
- (H) Sea Duck Permits;
- (I) Aquatic Invasive Species Prevention Permit;
- (J) Two-Rod Angling License; and
- (K) All annual hunting and angling licenses;

(c) Postal: means that the internet purchase results in an immediate sale and the printing of a transaction receipt, but that the Department mails the actual item to the purchaser via postal mail. The privilege(s) purchased is not valid until the purchaser receives the item. The items in this category are:

- (A) Combined Hunting Tags;
- (B) Combined Angling Tag;
- (C) Hatchery Harvest Tag;
- (D) All Big Game Tags (controlled hunt and general season);
- (E) Pheasant Tags;
- (F) NW Oregon Goose Permit;
- (G) Turkey Tags; and
- (H) Habitat Conservation Stamp

(2) The Department will charge shipping and handling fee of \$2.00 per session whenever a person makes a purchase via Internet, fax, or mail order. This fee is in addition to all other document costs and covers the processing, printing, and postal mailing of the requested documents.

Stat. Auth.: ORS 496 & 497

Stats. Implemented: ORS 496 & 497

Hist.: DFW 130-2008, f. & cert. ef. 10-14-08; DFW 147-2008(Temp), f. & cert. ef. 12-6-08 thru 6-6-09; DFW 51-2009(Temp), f. & cert. ef. 5-14-09 thru 6-1-09; Administrative correction 6-22-09; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 7-2012(Temp), f. & cert. ef. 2-6-12 thru 8-1-12; DFW 57-2012, f. & cert. ef. 6-11-12

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**Rule Caption:** 2012 Controlled Hunt tag numbers plus 2013 annual changes to game mammal hunting regulations.

**Adm. Order No.:** DFW 58-2012

**Filed with Sec. of State:** 6-11-2012

**Certified to be Effective:** 6-11-12

**Notice Publication Date:** 5-1-2012

**Rules Amended:** 635-060-0046, 635-065-0720, 635-067-0000, 635-068-0000, 635-069-0000, 635-070-0000, 635-071-0000, 635-073-0000

**Rules Repealed:** 635-060-0046(T)

**Subject:** Adopted 2012 controlled hunt tag numbers and/or season regulations for the hunting of pronghorn antelope, bighorn sheep, Rocky Mountain goat, deer and elk.

Amended rules relating to reinstatement of preference points and the use of the bows during designated rifle hunts.

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

## 635-060-0046

### Lost Tags and Tag Exchanges

(1) A fee of \$15.00 (plus a \$2.00 license agent fee) is charged to replace a tag or permit. If the fee paid for the tag or permit that was lost, destroyed or stolen was less than \$15, the same fee shall be charged for the duplicate tag or permit. A fee of \$5.00 (plus a \$2.00 license agent fee) is charged to exchange a tag or permit. Duplicates and exchanges may be obtained only through the Salem headquarters, regional offices of the Department, and designated district offices. Exception: Replacement controlled hunt tags or permits will be issued at no charge only through the Salem headquarters or regional office of the Department if the Department determines that the person never received the original controlled tag or permit mailed from the Salem headquarters office.

(2) A Controlled Buck Deer Tag or Controlled Elk Tag may be exchanged for a general season tag before the opening date of the season for which either tag is valid.

(3) No controlled hunt tag shall be exchanged for another controlled hunt tag, except as described in 635-060-0008(5) and 635-075-0015(3).

(4) A Controlled Antlerless Deer Tag shall not be exchanged.

(5) In the event of the death of a successful controlled hunt applicant before the start of the season for which the tag or permit was issued, the tags of the deceased may be issued to a family member as defined by OAR 635-045-0002. Tag or permit transfer shall require a copy of the death certificate and the original controlled hunt tag or permit, and must be requested by the legal heir to the deceased which shall be presumed by possession of the tag or permit and death certificate.

(6) A "leftover" controlled hunt tag may only be exchanged for a general season tag, but only if the person does not already possess a tag authorized by OAR 635-065-0015(4)(a), (b) or (c) or 635-0065-0015(5)(a), (b), (c), (d), (e), (f), or (g).

(7) The Commission shall accommodate Oregon residents who have lost preference points because of being called to active military service after June 1, 2002.

(a) The Commission shall accommodate the following individuals called to service at any location: Oregon National Guard.

(b) The Commission shall accommodate the following Oregon residents with military operational commitments: regular members of the United States Armed Forces (Army, Navy, Air Force, Marines, and Coast Guard), members of the United States military reserves, and members of the National Guard.

(c) The Commission authorizes the Director to make such accommodations by:

(A) Reinstating preference points existing for a series, plus an additional point for participating in the draw.

(B) Reinstating preference points lost after two consecutive years of not applying for a controlled hunt in that series.

(d) Individuals seeking accommodation pursuant to this rule (or immediate family members acting on their behalf) must make a request in writing or in person to the Salem headquarters office. Each request must include a letter from a supervising officer on official unit letterhead verifying operational commitments.

(8)(a) The Director may reinstate the preference points of a person who the Director determines did not or will not participate in a controlled hunt because of:

(A) Circumstances beyond the person's control; or

(B) Tragic personal circumstances.

(b) "Tragic personal circumstances" means:

(A) Death or life-threatening injury or illness in the person's immediate family; or

(B) The person's own serious injury or illness, which results in the person's hospitalization. The person need not be hospitalized during the hunt; this rule also applies if preparation for surgery or recovery after hospitalization renders the person incapable of participating in the hunt.

(c) To apply for reinstatement, the person must provide a sworn affidavit providing adequate details and must return the unused tag if it was purchased or a signed affidavit stating the tag was not used. When relying upon tragic personal circumstances, the person must also provide a sworn affidavit by a physician. When relying upon circumstances beyond the person's control, the person must also provide documentation of the circumstances (such as an accident report or affidavit from an employer).

(d) "Circumstances beyond the person's control" excludes complaints about the quality of a hunt (including, but not limited to, road closures, inclement weather and work being conducted in the hunt area).

(e) If the Director decides that the person does not qualify for reinstatement, the person may appeal that decision to the Oregon Fish and

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Wildlife Commission (Commission). The Commission must review the Director's decision within 60 days after receipt of appeal. The Commission will not take verbal testimony from the person, and the Commission's decision is final.

(f) If the Director or Commission reinstates a person's preference point under this subsection, the person will be awarded a new point as when classified as "unsuccessful" in the draw and is not entitled to a refund of license or tag fees.

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. & ef. 6-3-77; FWC 32-1978, f. & ef. 6-30-78; FWC 29-1979, f. & ef. 8-2-79; FWC 33-1980, f. & ef. 6-30-80; FWC 7-1981, f. & ef. 2-18-81, ef. 6-1-81; FWC 10-1981, f. & ef. 3-31-81; FWC 22-1981, f. & ef. 6-29-81; FWC 21-1982, f. & ef. 3-31-82; FWC 38-1982, f. & ef. 6-25-82; FWC 43-1985, f. & ef. 8-22-85; FWC 35-1986, f. & ef. 8-7-86; FWC 11-1987, f. & ef. 3-6-87; FWC 40-1987, f. & ef. 7-6-87; FWC 12-1988, f. & cert. ef. 3-10-88; FWC 37-1988, f. & cert. ef. 6-13-88; FWC 48-1989, f. & cert. ef. 7-25-89; FWC 18-1991, f. & cert. ef. 3-12-91; FWC 55-1992(Temp), f. 7-22-92, cert. ef. 7-24-92; FWC 36-1993, f. & cert. ef. 6-14-93; FWC 46-1993, f. & cert. ef. 8-4-93; FWC 6-1994, f. & cert. ef. 1-26-94; FWC 94-1994, f. & cert. ef. 12-22-94; FWC 63-1995, f. & cert. ef. 8-3-95; FWC 9-1997, f. & cert. ef. 2-27-97; 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 52-2001(Temp) f. & cert. ef. 6-27-01 thru 12-24-01; DFW 13-2002, f. & cert. ef. 2-12-02; DFW 34-2002, f. & cert. ef. 4-18-02; DFW 36-2002(Temp), f. & cert. ef. 4-22-02 thru 10-19-02; DFW 50-2002(Temp), f. & cert. ef. 5-16-02 thru 11-12-02; DFW 29-2003(Temp), f. & cert. ef. 4-9-03 thru 10-1-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 105-2004(Temp), f. & cert. ef. 10-13-04 thru 11-15-04; DFW 107-2004(Temp), f. & cert. ef. 10-18-04 thru 11-27-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 26-2005, f. & cert. ef. 4-20-05; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 93-2007(Temp), f. & cert. ef. 9-26-07 thru 3-23-08; Administrative correction 4-23-08; DFW 126-2008(Temp), f. & cert. ef. 10-6-08 thru 4-4-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 142-2009, f. 11-12-09, cert. ef. 1-1-10; DFW 14-2012(Temp), f. & cert. ef. 2-10-12 thru 8-7-12; DFW 58-2012, f. & cert. ef. 6-11-12

## 635-065-0720

### Bows and Arrows

Hunters shall use:

(1) Any long, recurve, or compound bow with 40-pound or heavier pull rating to hunt pronghorn antelope, black bear, cougar (mountain lion), or deer.

(2) Any long, recurve, or compound bow to hunt western gray squirrels.

(3) Any long, recurve, or compound bow with a 50-pound or heavier pull rating to hunt bighorn sheep, Rocky Mountain goat, or elk.

(4) Only unbarbed fixed position blade broadheads at least 7/8-inch wide to hunt game mammals other than western gray squirrel. Possession of moveable blade broadheads is prohibited when hunting game mammals, except western gray squirrels may be hunted with moveable blade broadheads.

(5) A long, recurve, or compound bow and shall not possess any crossbow while hunting within an authorized bowhunting area or season.

(6) Only a long, recurve, or compound bow during any authorized pronghorn antelope, deer or elk bowhunting season to hunt pronghorn antelope, deer, or elk.

(7) For hunting seasons designated as bowhunting, hunters shall only use the bows legal for the species being hunted. Bows may be used during controlled antlerless deer seasons.

(8) Hunters shall not use any electronic device(s) attached to bow or arrow.

(9) Hunters shall not use any device secured to or supported by the bow for the purpose of maintaining the bow at full draw (Persons unable to comply because of a disability may be eligible for a temporary permit from the Department).

(10) Hunters shall not use any device secured to or supported by a bow's riser which supports or guides an arrow from a point rearward of a bow's brace height (i.e. the position of the bows string when the bow is undrawn).

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 21-1982, f. & ef. 3-31-82; FWC 37-1982, f. & ef. 6-25-82; FWC 15-1983, f. & ef. 4-19-83; FWC 28, f. & ef. 7-8-83; FWC 34-1984, f. & ef. 7-24-84; 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 15-1989, f. & cert. ef. 3-28-89; FWC 63-1989, f. & cert. ef. 8-15-89; FWC 24-1990, f. & cert. ef. 3-21-90; FWC 20-1991, f. & cert. ef. 3-12-91; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 125-2009, f. & cert. ef. 10-7-09; DFW 58-2012, f. & cert. ef. 6-11-12

## 635-067-0000

### Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods, and other restrictions for hunting pronghorn antelope, cougar, bighorn sheep, and Rocky Mountain goat pursuant to ORS Chapter 496.

(2) OAR chapter 635, division 067 incorporates, by reference, the requirements for hunting pronghorn antelope, cougar, bighorn sheep, and Rocky Mountain goat set out in the document entitled "2012 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2012 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting pronghorn antelope, cougar, bighorn sheep, and Rocky Mountain goat. The annual Oregon Big Game Regulations are available at authorized license agents and regional, district and headquarters offices and website of the Oregon Department of Fish and Wildlife.

(3) Controlled hunt tags shall be issued by a controlled hunt drawing following the procedures established in OAR chapter 635, division 060. Permitted weapons and ammunition are established in OAR chapter 635, division 065. Controlled hunt tag numbers for 2012 are listed in Tables 1, 2, and 3 and are adopted and incorporated into OAR chapter 635, division 067 by reference.

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

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162  
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162  
Hist.: FWC 65-1989, f. & cert. ef. 8-15-89; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 122-2004, f. 12-21-04, cert. ef. 1-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 128-2005, f. 12-1-05, cert. ef. 1-1-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 127-2006, f. 12-7-06, cert. ef. 1-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 118-2007, f. 10-31-07, c cert. ef. 1-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 150-2008, f. 12-18-08, cert. ef. 1-1-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 140-2009, f. 11-3-09, cert. ef. 1-1-10; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 85-2010(Temp), f. & cert. ef. 6-21-10 thru 12-17-10; DFW 168-2010, f. 12-29-10, cert. ef. 1-1-11; DFW 62-2011, f. & cert. ef. 6-3-11; DFW 159-2011, f. 12-14-11, cert. ef. 1-1-12; DFW 58-2012, f. & cert. ef. 6-11-12

## 635-068-0000

### Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting western Oregon deer pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2012 are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 068 by reference.

(3) OAR chapter 635, division 068 incorporates, by reference, the requirements for hunting western Oregon deer set out in the document entitled "2012 Oregon Big Game Regulations," into Oregon Administrative Rules. Therefore, persons must consult the "2012 Oregon Big Game Regulations" in addition to OAR chapter 635, to determine all applicable requirements for hunting western Oregon deer. The annual Oregon Big Game Regulations are available at authorized license agents and regional, district, and headquarters offices of the Oregon Department of Fish and Wildlife.

[Publications: Publications referenced are available from the agency.]  
Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162  
Hist.: FWC 39-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 3-2003, f. 1-17-03, cert. ef. 1-19-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 124-2004, f. 12-21-04, cert. ef. 3-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 131-2005, f. 12-1-05, cert. ef. 3-1-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 125-2006, f. 12-4-06, cert. ef. 3-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 116-2007, f. 10-31-07, cert. ef. 3-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 133-2009, f. 2-19-09, cert. ef. 3-1-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 14-2010, f. 2-16-10, cert. ef. 3-1-10; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 14-2011, f. 2-15-11, cert. ef. 3-1-11; DFW 62-2011, f. & cert. ef. 6-3-11; DFW 15-2012, f. 2-10-12, cert. ef. 3-1-12; DFW 58-2012, f. & cert. ef. 6-11-12

## 635-069-0000

### Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting eastern Oregon deer pursuant to ORS Chapter 496.

# ADMINISTRATIVE RULES

(2) Controlled hunt tag numbers for 2012 are listed in Tables 1 and 2 and are adopted and incorporated into OAR Chapter 635, Division 069 by reference.

(3) OAR Chapter 635, Division 069 incorporates, by reference, the requirements for hunting eastern Oregon deer set out in the document entitled “2012 Oregon Big Game Regulations,” into Oregon Administrative Rules. Therefore, persons must consult the “2012 Oregon Big Game Regulations” in addition to OAR Chapter 635, to determine all applicable requirements for hunting eastern Oregon deer. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices and website of the Oregon Department of Fish and Wildlife.

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

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162  
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162  
Hist.: FWC 40-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 32-1999(Temp), f. & cert. ef. 5-4-99 thru 10-31-99; DFW 34-1999(Temp), f. & cert. ef. 5-12-99 thru 10-31-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 20-2000(Temp), f. 4-12-00, cert. ef. 4-12-00 thru 6-30-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 7-2003, f. 1-17-03, cert. ef. 2-1-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 122-2003, f. 12-4-03, cert. ef. 2-2-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 123-2004, f. 12-21-04, cert. ef. 2-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 130-2005, f. 12-1-05, cert. ef. 2-1-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 124-2006, f. 12-7-06, cert. ef. 2-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 117-2007, f. 10-31-07, cert. ef. 2-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 8-2009, f. & cert. ef. 2-3-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 4-2010, f. 1-12-10, cert. ef. 2-1-10; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 7-2011, f. 1-31-11, cert. ef. 2-1-11; DFW 62-2011, f. & cert. ef. 6-3-11; DFW 3-2012, f. 1-13-12, cert. ef. 2-1-12; DFW 58-2012, f. & cert. ef. 6-11-12

## 635-070-0000

### Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting Cascade and Coast elk pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2012 are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 070 by reference.

(3) OAR chapter 635, division 070 incorporates, by reference, the requirements for hunting western Oregon elk set out in the document entitled “2012 Oregon Big Game Regulations,” into Oregon Administrative Rules. Therefore, persons must consult the “2012 Oregon Big Game Regulations” in addition to OAR chapter 635, to determine all applicable requirements for hunting western Oregon elk. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

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

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162  
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162  
Hist.: FWC 41-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 119-2003, f. 12-4-03, cert. ef. 4-1-04; DFW 130-2003(Temp), f. & cert. ef. 12-24-03 thru 3-1-04; DFW 8-2004(Temp), f. & cert. ef. 2-2-04 thru 7-31-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 107-2004(Temp), f. & cert. ef. 10-18-04 thru 11-27-04; DFW 131-2004, f. 12-21-04, cert. ef. 4-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 132-2005, f. 12-1-05, cert. ef. 4-1-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 126-2006, f. 12-7-06, cert. ef. 4-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 115-2007, f. 10-31-07, cert. ef. 4-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 31-2009, f. 3-23-09, cert. ef. 4-1-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 22-2010, f. 3-1-10, cert. ef. 4-1-10; DFW 31-2010, f. 3-12-10, cert. ef. 4-1-10; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 62-2011, f. & cert. ef. 6-3-11; DFW 22-2012, f. 3-14-12, cert. ef. 4-1-12; DFW 58-2012, f. & cert. ef. 6-11-12

## 635-071-0000

### Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas, methods and other restrictions for hunting Rocky Mountain elk pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2012 are listed in Tables 1 and 2 and are adopted and incorporated in OAR chapter 635, division 71 by reference.

(3) OAR chapter 635, division 71 incorporates, by reference, the requirements for hunting Rocky Mountain elk set out in the document entitled “2012 Oregon Big Game Regulations,” into Oregon Administrative

Rules. Therefore, persons must consult the “2012 Oregon Big Game Regulations” in addition to OAR chapter 635, to determine all applicable requirements for hunting Rocky Mountain elk. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices of the Oregon Department of Fish and Wildlife.

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

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162  
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162  
Hist.: FWC 42-1988, f. & cert. ef. 6-13-88; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 2-2003, f. & cert. ef. 1-17-03; DFW 9-2003(Temp), f. & cert. ef. 1-28-03 thru 6-16-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 118-2003, f. 12-4-03, cert. ef. 1-1-04; DFW 1-2004(Temp), f. & cert. ef. 1-13-04 thru 7-9-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 105-2004(Temp), f. & cert. ef. 10-13-04 thru 11-15-04; Administrative correction 11-22-04; DFW 131-2004, f. 12-21-04, cert. ef. 4-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 132-2005, f. 12-1-05, cert. ef. 4-1-06; DFW 22-2006(Temp), f. & cert. ef. 4-7-06 thru 10-4-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 126-2006, f. 12-7-06, cert. ef. 4-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 115-2007, f. 10-31-07, cert. ef. 4-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 31-2009, f. 3-23-09, cert. ef. 4-1-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 22-2010, f. 3-1-10, cert. ef. 4-1-10; DFW 31-2010, f. 3-12-10, cert. ef. 4-1-10; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 62-2011, f. & cert. ef. 6-3-11; DFW 22-2012, f. 3-14-12, cert. ef. 4-1-12; DFW 58-2012, f. & cert. ef. 6-11-12

## 635-073-0000

### Purpose and General Information

(1) The purpose of these rules is to establish season dates, bag limits, areas and other restrictions for bow and muzzleloader hunting and controlled deer and elk youth hunts; pursuant to ORS Chapter 496.

(2) Controlled hunt tag numbers for 2012 for deer and elk bow and muzzleloader hunting and deer and elk youth hunts are listed in Tables 1 and 2 and are adopted and incorporated into OAR chapter 635, division 073 by reference.

(3) OAR chapter 073 incorporates, by reference, the requirements for bow and muzzleloader hunting and controlled deer and elk youth hunts set out in the document entitled “2012 Oregon Big Game Regulations,” into Oregon Administrative Rules. Therefore, persons must consult the “2012 Oregon Big Game Regulations,” in addition to OAR chapter 635, to determine all applicable requirements for bow and muzzleloader hunting and controlled deer and elk youth hunts. The annual Oregon Big Game Regulations are available at hunting license agents and regional, district and headquarters offices and website of the Oregon Department of Fish and Wildlife.

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

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 496.162  
Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162  
Hist.: FWC 44-1988, f. & cert. ef. 6-13-88; FWC 18-1994, f. 3-30-94, cert. ef. 5-1-94; FWC 17-1996, f. 4-10-96, cert. ef. 4-15-96; FWC 35-1996, f. & cert. ef. 6-7-96; FWC 9-1997, f. & cert. ef. 2-27-97; FWC 38-1997, f. & cert. ef. 6-17-97; FWC 71-1997, f. & cert. ef. 12-29-97; DFW 49-1998, f. & cert. ef. 6-22-98; DFW 1-1999, f. & cert. ef. 1-14-99; DFW 47-1999, f. & cert. ef. 6-16-99; DFW 92-1999, f. 12-8-99, cert. ef. 1-1-00; DFW 21-2000(Temp), f. 4-12-00, cert. ef. 4-12-00 thru 6-30-00; DFW 30-2000, f. & cert. ef. 6-14-00; DFW 82-2000, f. 12-21-00, cert. ef. 1-1-01; DFW 47-2001, f. & cert. ef. 6-13-01; DFW 121-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 59-2002, f. & cert. ef. 6-11-02; DFW 3-2003, f. 1-17-03, cert. ef. 1-20-03; DFW 50-2003, f. & cert. ef. 6-13-03; DFW 122-2003, f. 12-4-03, cert. ef. 2-2-04; DFW 130-2003(Temp), f. & cert. ef. 12-24-03 thru 3-1-04; DFW 53-2004, f. & cert. ef. 6-16-04; DFW 123-2004, f. 12-21-04, cert. ef. 2-1-05; DFW 53-2005, f. & cert. ef. 6-14-05; DFW 130-2005, f. 12-1-05, cert. ef. 2-1-06; DFW 22-2006(Temp), f. & cert. ef. 4-7-06 thru 10-4-06; DFW 41-2006, f. & cert. ef. 6-14-06; DFW 124-2006, f. 12-7-06, cert. ef. 2-1-07; DFW 42-2007, f. & cert. ef. 6-14-07; DFW 117-2007, f. 10-31-07, cert. ef. 2-1-08; DFW 60-2008, f. & cert. ef. 6-12-08; DFW 8-2009, f. & cert. ef. 2-3-09; DFW 66-2009, f. & cert. ef. 6-10-09; DFW 4-2010, f. 1-12-10, cert. ef. 2-1-10; DFW 83-2010, f. & cert. ef. 6-15-10; DFW 7-2011, f. 1-31-11, cert. ef. 2-1-11; DFW 62-2011, f. & cert. ef. 6-3-11; DFW 3-2012, f. 1-13-12, cert. ef. 2-1-12; DFW 58-2012, f. & cert. ef. 6-11-12

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**Rule Caption:** Adoption of the 2012 Oregon Black Bear Management Plan.

**Adm. Order No.:** DFW 59-2012

**Filed with Sec. of State:** 6-11-2012

**Certified to be Effective:** 6-11-12

**Notice Publication Date:** 5-1-2012

**Rules Adopted:** 635-170-0000

**Subject:** Adoption of the 2012 Oregon Black Bear Management Plan and associated administrative rules.

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

# ADMINISTRATIVE RULES

## 635-170-0000

### Black Bear Management Plan

(1) The goal of black bear management is to manage black bear populations to attain the optimum balance among species protection, recreational uses, habitat availability, primary land uses, and other wildlife species.

(2) Objectives to accomplish this goal are to:

(a) Maintain healthy and optimum bear populations while providing optimum recreational benefits, and considering objectives related to other wildlife species and the level of human-bear conflicts.

(b) Work to reduce the number of human-bear conflicts that result in the removal (lethal and nonlethal) of bears.

(c) Develop, refine, and evaluate population abundance estimation through modeling techniques.

(d) Continue to improve basic understanding of black bear management and ecology through applied research.

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

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 496.162

Hist.: DFW 59-2012, f. & cert. ef. 6-11-12

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**Rule Caption:** Powder River Sport Spring Chinook Fishery Opens June 13.

**Adm. Order No.:** DFW 60-2012(Temp)

**Filed with Sec. of State:** 6-11-2012

**Certified to be Effective:** 6-13-12 thru 9-1-12

**Notice Publication Date:**

**Rules Amended:** 635-021-0090

**Subject:** This amended rule allows the sport harvest of out-planted spring Chinook salmon in the Powder River from Wednesday, June 13 through September 1, 2012. Modifications allow sport anglers an opportunity to harvest spring Chinook salmon returning to Hells Canyon Dam which have been out-planted specifically for this purpose. The salmon trapped and transported to the Powder River are predominantly the result of smolt releases intended to provide fisheries on the Snake River and are in excess of the number needed to provide those fisheries.

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

## 635-021-0090

### Inclusions and Modifications

(1) **2012 Oregon Sport Fishing Regulations** provide requirements for the Southeast 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 Powder River is open to angling for spring Chinook salmon from Hughes Lane Bridge near Baker City upstream to Mason Dam from June 13 through September 1, 2012.

(a) The daily bag limit is two (2) adipose fin-clipped Chinook; two daily limits in possession.

(b) All other General, Statewide and Southeast Zone Regulations, as provided in the **2012 Oregon Sport Fishing Regulations**, remain in effect.

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

Stat. Auth.: ORS 183.325, 496.138 & 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 76-1994(Temp), f. & cert. ef. 10-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; 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 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 55-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 56-2001(Temp), f. & cert. ef. 6-29-01 thru 12-26-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 54-2002(Temp), f. 5-24-02, cert. ef. 6-15-02 thru 12-1-02; 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 93-2002(Temp), f. 8-22-02, cert. ef. 8-24-02 thru 12-31-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 80-2003(Temp), f. & cert. ef. 8-22-03 thru 9-30-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 101-2005(Temp), f. 8-31-05, cert. ef. 9-2-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 36-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 9-30-07; DFW 54-2007(Temp), f. 7-6-07, cert. ef. 7-14-07 thru 9-30-07; DFW 62-2009(Temp), f. 7-31-07, cert. ef. 8-1-07 thru 9-30-07; Administrative correction 10-16-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 51-2008(Temp), f. 5-16-08, cert. ef. 5-31-08 thru 9-1-08; DFW 74-2008(Temp), f. 7-3-08, cert. ef. 7-4-08 thru 9-1-08; DFW 77-2008(Temp), f. & cert. ef. 7-9-08 thru 9-1-08; Administrative correction 9-29-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 53-2009(Temp), f. 5-18-09, cert. ef. 5-30-09 thru 9-1-09; DFW 62-2009(Temp), f. 6-2-09, cert. ef. 6-13-09 thru 9-1-09; DFW 79-2009(Temp), f. 6-30-09, cert. ef. 7-5-09 thru 9-1-09; Administrative correction 9-29-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 52-2010(Temp), f. 4-30-10, cert. ef. 5-1-10 thru 9-30-10; DFW 60-2010(Temp), f. 5-13-10, cert. ef. 5-22-10 thru 9-30-10; DFW 67-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 9-30-10; DFW 78-2010(Temp), f. 6-10-10,

cert. ef. 6-11-10 thru 9-1-10; Administrative correction 9-22-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 50-2011(Temp), f. 5-16-11, cert. ef. 5-28-11 thru 9-1-11; Administrative correction 9-23-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 60-2012(Temp), f. 6-11-12, cert. ef. 6-13-12 thru 9-1-12

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**Rule Caption:** Recreational Spring Chinook Fishery In Lookingglass Creek Closes.

**Adm. Order No.:** DFW 61-2012(Temp)

**Filed with Sec. of State:** 6-11-2012

**Certified to be Effective:** 6-11-12 thru 8-31-12

**Notice Publication Date:**

**Rules Amended:** 635-019-0090

**Rules Suspended:** 635-019-0090(T)

**Subject:** This amended rule closes the recreational spring Chinook fishery for adipose fin-clipped adult and jack Chinook salmon in Lookingglass creek which began May 26, 2012 due to attainment of the preseason allocation of this valuable resource.

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

## 635-019-0090

### Inclusions and Modifications

(1) The **2012 Oregon Sport Fishing Regulations** provide requirements for the Northeast 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 John Day River from the Longview Ranch's Johnson Creek Division Bridge (located approximately 200 feet upstream from the mouth of the North Fork John Day River) upstream to the mouth of Rattlesnake Creek (19.5 miles) near the south end of Picture Gorge is open to angling for adult Chinook salmon from May 23 through June 3, 2012.

(a) The daily bag limit is two (2) adult Chinook and five (5) jacks; two daily limits in possession. It is illegal to continue fishing for jack Chinook once the adult daily bag limit is met.

(b) Statewide salmon gear restrictions apply. See pages 10–11 of the **2012 Oregon Sport Fishing Regulations** for details or online at [www.dfw.state.or.us](http://www.dfw.state.or.us).

(c) All other General, Statewide and Northeast Zone Regulations, as provided in the **2012 Oregon Sport Fishing Regulations**, remain in effect.

(3) Lookingglass Creek from the Moses Creek Lane Bridge (County Road 42) to the confluence of Jarboe Creek is open to angling for adipose fin-clipped adult Chinook salmon from May 26 through 11:59 p.m. Monday, June 11, 2012.

(a) The daily bag limit is two (2) adipose fin-clipped adult Chinook and five (5) adipose fin-clipped jacks; two daily limits in possession. It is illegal to continue fishing for jack Chinook once the adult bag limit is met.

(b) During the duration of the spring Chinook angling season, the area closure listed for Lookingglass Creek in the *Northeast Zone Special Regulations* is modified to: Lookingglass Creek closed between Jarboe Creek and 200 feet upstream of the hatchery water intake.

(c) Hook gap restrictions listed in the *Northeast Zone Special Regulations* for Lookingglass Creek are removed for the duration of the spring Chinook angling season.

(d) All other General, Statewide and Northeast Zone Regulations, as provided in the **2012 Oregon Sport Fishing Regulations**, remain in effect.

(4) Catherine Creek from the Miller Lane Bridge to the Highway 203 Bridge, located upstream of Catherine Creek State Park, is open to angling for adipose fin-clipped adult Chinook salmon from May 26 until further notice.

(a) The daily bag limit is two (2) adipose fin-clipped adult Chinook and five (5) adipose fin-clipped jacks; two daily limits in possession. It is illegal to continue fishing for jack Chinook once the adult bag limit is met.

(b) All other General, Statewide and Northeast Zone Regulations, as provided in the **2012 Oregon Sport Fishing Regulations**, remain in effect.

(5) The Imnaha River from the mouth to Summit Creek Bridge (River Mile 45) is open to angling for adipose fin-clipped adult Chinook salmon from June 9 until further notice.

(a) The daily bag limit is two (2) adipose fin-clipped adult Chinook and five (5) adipose fin-clipped jacks; two daily jack salmon limits in possession. It is illegal to continue fishing for jack Chinook once the adult bag limit is met.

(b) All other General, Statewide and Northeast Zone Regulations, as provided in the **2012 Oregon Sport Fishing Regulations**, remain in effect.

(6) The Willowa River from a deadline at the lower end of Minam State Park upstream to the confluence with the Lostine River is open to

# ADMINISTRATIVE RULES

angling for adipose fin-clipped adult Chinook salmon from June 9 until further notice.

(a) The daily bag limit is two (2) adipose fin-clipped adult Chinook and five (5) adipose fin-clipped jacks; two daily jack salmon limits in possession. It is illegal to continue fishing for jack Chinook once the adult bag limit is met.

(b) All other General, Statewide and Northeast Zone Regulations, as provided in the 2012 Oregon Sport Fishing Regulations, remain in effect.

[Publications referenced are available from the agency.]  
Stat. Auth.: ORS 496.138, 496.146 & 506.119  
Stats. Implemented: 496.162 & 506.129

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 57-1994(Temp), f. 8-30-94, cert. ef. 10-1-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 70-1995, f. 8-29-95, cert. ef. 9-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 27-1996(Temp), f. 5-24-96, cert. ef. 5-25-96; FWC 57-1996(Temp), f. 9-27-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 26-1997(Temp), f. 4-23-97, cert. ef. 5-17-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 13-1998(Temp), f. & cert. ef. 2-26-98 thru 4-15-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 5-1999(Temp), f. 2-5-99, cert. ef. 2-6-99 thru 2-19-99; DFW 8-1999(Temp), f. & cert. ef. 1-23-99 thru 4-15-99; DFW 37-1999(Temp), f. 5-24-99, cert. ef. 5-29-99 thru 6-5-99; DFW 43-1999(Temp), f. & cert. ef. 6-10-99 thru 6-13-99; DFW 45-1999(Temp), f. & cert. ef. 6-14-99 thru 6-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 17-2000(Temp), f. 4-10-00, cert. ef. 4-16-00 thru 6-30-00; DFW 64-2000(Temp), f. 9-21-00, cert. ef. 9-22-00 thru 3-20-01; 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. 12-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 52-2002(Temp), f. 5-22-02, cert. ef. 5-26-02 thru 7-1-02; DFW 53-2002(Temp), f. 5-24-02, cert. ef. 5-26-02 thru 7-1-02; DFW 57-2002(Temp), f. & cert. ef. 5-30-02 thru 7-1-02; 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 44-2003(Temp), f. 5-23-03, cert. ef. 5-28-03 thru 7-1-03; DFW 48-2003(Temp), f. & cert. ef. 6-5-03 thru 7-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 40-2004(Temp), f. 5-7-04, cert. ef. 5-13-04 thru 7-1-04; DFW 46-2004(Temp), f. 5-21-04, cert. ef. 5-22-04 thru 7-1-04; DFW 55-2004(Temp), f. 6-16-04, cert. ef. 6-19-04 thru 7-5-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 42-2005(Temp), f. & cert. ef. 5-13-05 thru 9-1-05; DFW 61-2005(Temp), f. 6-22-05, cert. ef. 6-25-05 thru 7-4-05; Administrative correction 7-20-05; DFW 99-2005(Temp), f. 8-24-05, cert. ef. 8-26-05 thru 9-30-05; Administrative correction 10-19-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 28-2006(Temp), f. & cert. ef. 5-15-06 thru 6-30-06; DFW 33-2006(Temp), f. 5-24-06, cert. ef. 5-25-06 thru 6-30-06; Administrative correction 7-21-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 12-2007(Temp), f. 2-28-07, cert. ef. 3-1-07 thru 8-27-07; DFW 30-2007(Temp), f. 5-9-07, cert. ef. 5-10-07 thru 9-30-07; DFW 34-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 9-30-07; Administrative correction 10-16-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 56-2008(Temp), f. 5-30-08, cert. ef. 5-31-08 thru 6-30-08; DFW 76-2008(Temp), f. & cert. ef. 7-9-08 thru 9-1-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 128-2009(Temp), f. 10-12-09, cert. ef. 10-18-09 thru 4-15-10; DFW 131-2009(Temp), f. 10-14-09, cert. ef. 10-18-09 thru 4-15-10; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 54-2010(Temp), f. 5-6-10, cert. ef. 5-22-10 thru 9-1-10; DFW 95-2010(Temp), f. 7-1-10, cert. ef. 7-11-10 thru 9-1-10; DFW 102-2010(Temp), f. 7-20-10, cert. ef. 7-25-10 thru 9-1-10; Administrative correction 9-22-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 49-2011(Temp), f. 5-16-11, cert. ef. 5-28-11 thru 9-1-11; DFW 64-2011(Temp), f. 6-10-11, cert. ef. 6-13-11 thru 9-1-11; DFW 90-2011(Temp), f. & cert. ef. 7-11-11 thru 9-1-11; DFW 92-2011(Temp), f. 7-12-11, cert. ef. 7-16-11 thru 10-31-11; DFW 99-2011(Temp), f. 7-21-11, cert. ef. 7-23-11 thru 9-1-11; DFW 104-2011(Temp), f. 8-1-11, cert. ef. 8-7-11 thru 9-1-11; Administrative correction 9-23-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 48-2012(Temp), f. 5-18-12, cert. ef. 5-23-12 thru 9-1-12; DFW 50-2012(Temp), f. 5-22-12, cert. ef. 5-24-12 thru 9-1-12; DFW 61-2012(Temp), f. & cert. ef. 6-11-12 thru 8-31-12

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**Rule Caption:** Oregon Ocean Commercial, Terminal Area, and Coastal Zone Sport Salmon Fisheries.

**Adm. Order No.:** DFW 62-2012

**Filed with Sec. of State:** 6-12-2012

**Certified to be Effective:** 7-1-12

**Notice Publication Date:** 5-1-2012

**Rules Amended:** 635-003-0085, 635-013-0007, 635-014-0090, 635-016-0090

**Subject:** Amended rules for sport and commercial fishing for coastal fall Chinook and coho salmon in Oregon ocean terminal areas, bays and rivers; in the Marine, Northwest and Southwest zones consistent with guidelines established by the Oregon Fish and Wildlife Commission and Pacific Fishery Management Council; and recent enacted Federal Regulation changes. Housekeeping and technical corrections to the regulations were made to ensure rule consistency.

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

## 635-003-0085

### Extended Commercial Seasons

In addition to the open seasons prescribed in OAR 635-003-0003 there are open seasons for Chinook salmon as follows:

(1) Elk River Ocean Terminal Area - from November 1 through November 30 in the area described in section (1)(a) of this rule.

(a) The open area is all Pacific Ocean waters shoreward of a line drawn from Cape Blanco (42°50'20" N. Lat.) thence SW to Black Rock (42°49'24" N. Lat. 124°35'00" W. Long.), thence SSW to Best Rock (42°47'24" N. Lat. 124°35'42" W. Long.), thence SE to 42°40'30" N. Lat. 124°29'00" W. Long., thence to shore (Humbug Mountain).

(b) During the season described in this section (1), it is *unlawful* to take Chinook salmon less than 26 inches in total length; it is *unlawful* to use multipoint or barbed hooks or to fish more than four spreads per line; it is *unlawful* to make more than one landing of Chinook per day; and it is *unlawful* to have in possession or to land more than 20 Chinook per day taken in this fishery. Landings are restricted to Port Orford.

(2) Chetco River Ocean Terminal Area — from October 13 through the earlier of October 31 or quota of 750 Chinook in the area described in section (3)(a) of this rule:

(a) The open area is all Pacific Ocean waters inside an area south of the north shore of Twin Rocks (42°05'36" N. Lat.) to the Oregon/California border (42°00'00" N. Lat.) and seaward three nautical miles offshore;

(b) During the season described in this section (3) it is *unlawful* to take Chinook salmon less than 28 inches in total length; it is *unlawful* to use multipoint or barbed hooks, or to fish more than four spreads per line; it is *unlawful* to make more than one landing of Chinook per day; and it is *unlawful* to have in possession or to land more than 20 Chinook per day taken in this fishery. Landings are restricted to Brookings.

(c) All vessels landing salmon caught in this season must report to ODFW within one hour of delivery or prior to transport away from the port of landing by either calling (541) 867-0300, ext. 252 or by e-mail to kmzor.trollreport@state.or.us. Notification shall include vessel name and number, number of salmon by species, port of landing, location of delivery, and estimated time of delivery.

Stat. Auth.: ORS 496.138, 496.146, & 506.119  
Stats. Implemented: ORS 506.129

Hist.: FWC 48-1984(Temp), f. & cert. ef. 8-31-84; 57-1984(Temp), f. & cert. ef. 9-15-84; FWC 59-1986(Temp), f. & cert. ef. 9-19-86; FWC 106-1992(Temp), f. 10-8-92, cert. ef. 10-24-92; FWC 111-1992(Temp), f. 10-26-92, cert. ef. 10-27-92; FWC 62-1993, f. & cert. ef. 10-1-93; FWC 56-1994, f. 8-30-94, cert. ef. 9-1-94; FWC 80-1994(Temp), f. 10-25-94, cert. ef. 10-26-94; FWC 82-1994(Temp), f. 10-28-94, cert. ef. 10-30-94; FWC 81-1995, f. 9-29-95, cert. ef. 10-1-95; FWC 85-1995(Temp), f. & cert. ef. 10-20-95; FWC 56-1996, f. 9-27-96, cert. ef. 10-1-96; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 66-1997(Temp), f. 10-24-97, cert. ef. 10-26-97; FWC 67-1997(Temp), f. 10-28-97, cert. ef. 10-29-97; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; DFW 78-2006(Temp), f. 8-7-06, cert. ef. 9-1-06 thru 12-15-06; Administrative correction 12-16-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 65-2008(Temp), f. 6-20-08, cert. ef. 9-1-08 thru 12-31-08; DFW 128-2008(Temp), f. 10-9-08, cert. ef. 10-12-08 thru 12-31-08; Administrative correction 1-23-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 102-2009(Temp), f. 8-27-09, cert. ef. 9-1-09 thru 12-31-09; DFW 132-2009(Temp), f. & cert. ef. 10-19-09 thru 10-31-09; Administrative correction 11-19-09; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 147-2010(Temp), f. & cert. ef. 10-15-10 thru 10-31-10; DFW 151-2010(Temp), f. 10-19-10, cert. ef. 10-20-10 thru 10-31-10; DFW 153-2010(Temp), f. & cert. ef. 10-29-10 thru 10-31-10; Administrative correction 11-23-10; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 62-2012, f. 6-12-12, cert. ef. 7-1-12

## 635-013-0007

### Special South Coast Seasons

In addition to the open seasons prescribed in OAR 635-013-0005 there are open seasons for Chinook salmon as follows:

(1) Elk River Area.

(a) From November 1 through November 30 in all Pacific Ocean waters shoreward of a line drawn from Cape Blanco (42°50'20" N. Lat.) thence SW to Black Rock (42°49'24" N. Lat. 124°35'00" W. Long.), thence SSW to Best Rock (42°47'24" N. Lat. 124°35'42" W. Long.), thence SE to 42°40'30" N. Lat. 124°29'00" W. Long., thence to shore (Humbug Mountain);

(b) During the season described for the Elk River Area in section (1)(a) of this rule it is *unlawful* to take Chinook salmon less than 24 inches in length. No more than one non fin-clipped Chinook salmon per day and 10 non fin-clipped Chinook salmon in the seasonal aggregate when combined with waters of the Sixes River and Elk River may be retained during the November 1–30 season. It is *unlawful* to use multipoint or barbed hooks.

(2) Chetco River Area.

(a) From October 1–14 in an area south of the north shore of Twin Rocks (42°05'36" N. Lat.) to the Oregon/California border (42°00'00" N. Lat.) and seaward three nautical miles offshore.

(b) During the seasons described in section (2)(a) of this rule it is *unlawful* to take Chinook salmon less than 24 inches in length. No more than one Chinook salmon may be retained per day and no more than 5 fish may be retained during the October 1–14 season. It is *unlawful* to use multipoint or barbed hooks.

Stat. Auth.: ORS 496.138, 496.146, & 506.119  
Stats. Implemented: ORS 496.162 & 506.129

# ADMINISTRATIVE RULES

Hist.: FWC 25-1982, f. & ef. 4-30-82; FWC 62-1983(Temp), f. & ef. 11-1-83; FWC 69-1984(Temp), f. & ef. 10-2-84; FWC 59-1985(Temp), f. & ef. 9-13-85; FWC 59-1986(Temp), f. & ef. 9-19-86; FWC 77-1986(Temp), f. & ef. 11-26-86; FWC 76-1987, f. & ef. 9-15-87; FWC 84-1988, f. & cert. ef. 9-9-88; FWC 83-1989, f. 8-31-89, cert. ef. 9-16-89; FWC 86-1990, f. 8-24-90, cert. ef. 9-1-90; FWC 42-1991, f. 4-29-91, cert. ef. 5-1-91; FWC 101-1992, f. 9-29-92, cert. ef. 10-1-92; FWC 114-1992(Temp), f. 10-26-92, cert. ef. 10-27-92; FWC 62-1993, f. & cert. ef. 10-1-93; FWC 56-1994, f. 8-30-94, cert. ef. 9-1-94; FWC 78-1994(Temp), f. 10-20-94, cert. ef. 10-21-94; FWC 81-1995, f. 9-29-95, cert. ef. 10-1-95; FWC 84-1995(Temp), f. 10-13-95, cert. ef. 10-16-95; FWC 86-1995(Temp), f. 10-20-95, cert. ef. 10-21-95; FWC 56-1996, f. 9-27-96, cert. ef. 10-1-96; FWC 30-1997, f. & cert. ef. 5-5-97; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 121-2008(Temp), f. & cert. ef. 10-2-08 thru 12-31-08; Administrative correction 1-23-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; Administrative correction 1-25-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 151-2011(Temp), f. 10-27-11, cert. ef. 11-1-11 thru 11-30-11; Administrative correction, 12-27-11; DFW 62-2012, f. 6-12-12, cert. ef. 7-1-12

## 635-014-0090

### Inclusions and Modifications

(1) The **2012 Oregon Sport Fishing Regulations** provide requirements for the Northwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2012 Oregon Sport Fishing Regulations** pamphlet.

(2) Notwithstanding all other requirements provided in the 2012 Oregon Sport Fishing Regulations pamphlet, the following additional rules apply to adult salmon angling in waters of the Northwest Zone:

(a) All waters of the Necanicum River Basin, Nehalem River Basin (including North Fork), Tillamook Bay Basin, (including the Miami, Kilchis, Wilson, Trask, and Tillamook rivers), and the Nestucca River Basin (including the Little Nestucca and Three Rivers) and Salmon River that are open for Chinook salmon are limited to no more than 2 adult non fin-clipped Chinook salmon per day, and 10 adult non fin-clipped Chinook salmon in the seasonal aggregate when combined with all other waters in the Northwest Zone with a 10 adult non fin-clipped Chinook salmon seasonal aggregate limit. Seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between August 1 and December 31 except in the Nehalem Basin where the seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between July 1 and December 31.

(b) Within the Nehalem Basin (including the North Fork) the following additional rules apply:

(A) Mainstem closed to all salmon angling upstream of Foss Road (CC) Bridge (RM 15.5) July 1 through December 31.

(B) Nehalem tidewater from the jetty tips upstream to Miami-Foley Bridge on South Fork and North Fork Road Bridge on the North Fork is open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 1,200 non adipose fin-clipped coho salmon.

(C) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 2 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 2 adult non adipose fin-clipped coho salmon seasonal aggregate limit (Siletz River, Yaquina River, Alsea River, Siuslaw River, Umpqua River).

(c) Within the Tillamook Bay Basin the following additional rules apply:

(A) Tillamook Bay tidewater from the jetty tips upstream to Highway 101 Bridge on Miami, Kilchis, Wilson, and Trask rivers and Burton Bridge on Tillamook River is open on Fridays and Saturdays only for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 1,000 non adipose fin-clipped coho salmon.

(B) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 1 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 1 adult non adipose fin-clipped coho salmon seasonal aggregate limit (Nestucca River).

(d) Within the Nestucca Basin (including the Little Nestucca River and Three Rivers) the following rules apply:

(A) Mainstem Nestucca upstream of First Bridge (RM 15.8) near Beaver closed to all Chinook angling August 1 through December 31.

(B) Nestucca Bay tidewater (excluding Little Nestucca tidewater) from the bay mouth upstream to the Cloverdale Bridge (RM 7.1) is open on Sundays and Mondays only for non adipose fin-clipped coho salmon from

September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 250 non adipose fin-clipped coho salmon.

(C) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 1 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 1 adult non adipose fin-clipped coho salmon seasonal aggregate limit (Tillamook Basin rivers).

(e) Within the Siletz River Basin the following additional rules apply:

(A) Mainstem and tributaries above an ODFW marker sign approximately 1,200 feet upstream of Ojalla Bridge (RM 31) closed to Chinook August 1-December 31; Drift Creek (Siletz River Basin) upstream of the confluence with Quarry Creek at RM 8 is closed for Chinook salmon from August 1 through December 31;

(B) Siletz River and Bay upstream an ODFW marker sign approximately 1,200 feet upstream of Ojalla Bridge (RM 31) is open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 1,200 non adipose fin-clipped coho salmon; and

(C) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 2 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 2 adult non adipose fin-clipped coho salmon seasonal aggregate limit (Nehalem River, Yaquina River, Alsea River, Siuslaw River, Umpqua River).

(f) Within the Yaquina River Basin the following additional rules apply:

(A) All waters of the Yaquina River upstream of the confluence of the Yaquina River and Big Elk Creek at RM 18.3 and all waters of Big Elk Creek (Yaquina River Basin) are closed for Chinook salmon from August 1 through December 31;

(B) The Yaquina River and Bay upstream to the confluence of the Yaquina River and Big Elk Creek are open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 800 non adipose fin-clipped coho salmon; and

(C) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 5 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 2 adult non adipose fin-clipped coho salmon seasonal aggregate limit (Nehalem River, Siletz River, Alsea River, Siuslaw River, Umpqua River).

(g) Within the Alsea River Basin the following additional rules apply:

(A) All waters of Drift Creek (Alsea River Basin) within the Drift Creek Wilderness Area and upstream are closed for Chinook salmon from August 1 through December 31;

(B) All waters of the Alsea River upstream of the confluence with Five Rivers at RM 21 are closed for Chinook salmon from August 1 through December 31;

(C) All waters of Five Rivers are closed for Chinook salmon from August 1 through December 31.

(D) The Alsea River and Bay upstream to the confluence of the Alsea River and Five Rivers are open for non adipose fin-clipped coho salmon from October 1 through the earlier of December 15 or attainment of an adult coho salmon quota of 950 non adipose fin-clipped coho salmon; and

(E) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 2 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 2 adult non adipose fin-clipped coho salmon seasonal aggregate limit (Nehalem River, Siletz River, Yaquina River, Siuslaw River, Umpqua River).

(h) Within the Siuslaw River Basin the following additional rules apply:

(A) All waters of the Siuslaw River upstream of the confluence with Lake Creek at RM 30.0 are closed for Chinook salmon from August 1 through December 31;

(B) All waters of Lake Creek are closed for Chinook salmon August 1 through December 31 and all waters of Lake Creek downstream of Fish Creek are closed to all angling from September 1 through November 30;

(C) The Siuslaw River and Bay upstream to the confluence of the Siuslaw River and Lake Creek are open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attain-



# ADMINISTRATIVE RULES

ment of an adult coho salmon quota of 1,700 non adipose fin-clipped coho salmon; and

(D) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 2 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 2 adult non adipose fin-clipped coho salmon seasonal aggregate limit (Nehalem River, Yaquina River, Alsea River, Siuslaw River, Umpqua 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 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 28-1995(Temp), f. 3-31-95, cert. ef. 5-1-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 19-1996, f. & cert. ef. 5-16-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 29-1996, f. & cert. ef. 5-31-96; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 55-1996(Temp), f. 9-25-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 30-1997, f. & cert. ef. 1-1-98; FWC 58-1997, f. 9-8-97, cert. ef. 10-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 69-1998, f. 8-28-98, cert. ef. 9-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 81-2001, f. & cert. ef. 8-29-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 118-2002(Temp), f. 10-22-02, cert. ef. 12-1-02 thru 3-31-03; DFW 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 38-2003(Temp), f. 5-7-03, cert. ef. 5-10-03 thru 10-31-03; DFW 51-2003(Temp), f. & cert. ef. 6-13-03 thru 10-31-03; DFW 90-2003(Temp), f. 9-12-03, cert. ef. 9-13-03 thru 12-31-03; DFW 108-2003(Temp), f. 10-28-03, cert. ef. 12-1-03 thru 3-31-04; DFW 123-2003(Temp), f. 12-10-03, cert. ef. 12-11-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 126-2003(Temp), f. 12-11-03, cert. ef. 1-1-04 thru 3-31-04; DFW 60-2004(Temp), f. 6-29-04, cert. ef. 7-1-04 thru 7-15-04; DFW 90-2004(Temp), f. 8-30-04, cert. ef. 10-1-04 thru 12-31-04; DFW 103-2004(Temp), f. & cert. ef. 10-4-04 thru 12-31-04; DFW 108-2004(Temp), f. & cert. ef. 10-18-04 thru 12-31-04; DFW 111-2004(Temp), f. 11-16-04, cert. ef. 11-20-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 62-2005(Temp), f. 6-29-05, cert. ef. 7-1-05 thru 7-10-05; Administrative correction 7-20-05; DFW 105-2005(Temp), f. 9-12-05, cert. ef. 10-1-05 thru 12-15-05; DFW 127-2005(Temp), f. & cert. ef. 11-23-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 53-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 7-9-06; Administrative correction 7-20-06; DFW 64-2006(Temp), f. 7-17-06, cert. ef. 8-1-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 104-2006(Temp), f. 9-19-06, cert. ef. 10-1-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 63-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 25-2008(Temp), f. 3-13-08, cert. ef. 3-15-08 thru 9-10-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 43-2009(Temp), f. 5-5-09, cert. ef. 5-22-09 thru 10-31-09; DFW 67-2009(Temp), f. 6-9-09, cert. ef. 6-15-09 thru 10-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 99-2009(Temp), f. 8-26-09, cert. ef. 9-1-09 thru 12-31-09; DFW 115-2009(Temp), f. & cert. ef. 9-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 44-2010(Temp), f. 4-20-10, cert. ef. 4-21-10 thru 9-30-10; DFW 73-2010(Temp), f. 5-27-10, cert. ef. 6-1-10 thru 9-30-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 89-2010(Temp), f. 6-28-10, cert. ef. 7-1-10 thru 9-30-10; Administrative correction 10-26-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 57-2011(Temp), f. 5-27-11, cert. ef. 6-1-11 thru 6-30-11; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 139-2011(Temp), f. 10-3-11, cert. ef. 10-6-11 thru 12-31-11; DFW 141-2011(Temp), f. 10-6-11, cert. ef. 10-10-11 thru 12-31-11; DFW 143-2011(Temp), f. 10-10-11, cert. ef. 10-11-11 thru 12-31-11; DFW 148-2011(Temp), f. 10-20-11, cert. ef. 10-21-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 53-2012(Temp), f. 5-29-12, cert. ef. 6-1-12 thru 10-31-12; DFW 62-2012, f. 6-12-12, cert. ef. 7-1-12

## 635-016-0090

### Inclusions and Modifications

(1) The **2012 Oregon Sport Fishing Regulations** provide requirements for the Southwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2012 Oregon Sport Fishing Regulations**.

(2) Notwithstanding all other requirements provided in the **2012 Oregon Sport Fishing Regulations**, the following restrictions apply to angling in waters of the Southwest Zone:

(a) Within the Umpqua River Basin the following additional rules apply: Open for non adipose fin-clipped coho salmon in the Mainstem Umpqua River and Bay from the mouth to Scottsburg Bridge at RM 27.5 from September 15 through the earlier of November 30 or attainment of an adult coho quota of 3,000 non adipose fin-clipped coho. The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho, and no more than 2 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 2 adult non adi-

pose fin-clipped coho salmon seasonal aggregate limit (Nehalem River, Siletz River, Yaquina River, Alsea River, Siuslaw River).

(b) Within the Coos River Basin the following additional rules apply:

(A) All waters of the South Fork Coos River upstream from the head of tidewater at Dellwood at RM 10.0 are closed for all salmon angling from August 1 through December 31 and closed for steelhead from August 1 through November 14; and

(B) Open for non adipose fin-clipped coho salmon upstream to the head of tide at Dellwood at RM 10.0 on the South Coos River and to the East Fork/West Fork Millicoma confluence from September 15 through the earlier of November 30 or attainment of an adult coho quota of 1,200 non adipose fin-clipped coho. The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon, and no more than 5 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(c) Within the Coquille River Basin the following additional rules apply: Open for non adipose fin-clipped coho salmon in Coquille River and Bay upstream to the Highway 42S bridge (Sturdivant Park) at RM 24.0 from September 15 through the earlier of November 30 or attainment of an adult coho quota of 1,500 non adipose fin-clipped coho. The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon, and no more than 5 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(d) Within the Tenmile Lakes Basin the following additional rules apply: North and South Tenmile Lakes (Coos County) upstream from Hilltop Bridge are open for non adipose fin-clipped coho salmon from October 1 through December 31. The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon, and no more than 5 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone. Only one rod per angler may be used while angling for coho. Streams that empty into North and South Tenmile Lakes are not open to coho salmon angling, nor is the canal that connects North and South Tenmile Lakes.

(e) All waters of Floras Creek upstream of the County Road 124 bridge over Floras Creek at RM 5.0 are closed for Chinook salmon from August 1 through December 31.

(f) Within the Sixes River Basin the following additional rules apply:

(A) All waters of the Sixes River Basin that are open for Chinook salmon are limited to no more than 1 adult non fin-clipped Chinook salmon per day and 10 adult non fin-clipped Chinook salmon in the seasonal aggregate when combined with waters of the Elk River and Elk River Ocean Terminal Area. Seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between August 1 and December 31.

(B) Closed to Chinook salmon upstream of Edson Creek at RM 10.0 from August 1 through December 31.

(g) Within the Elk River Basin the following additional rules apply: All waters of the Elk River Basin that are open for Chinook salmon are limited to no more than 1 adult non fin-clipped Chinook salmon per day and 10 adult non fin-clipped Chinook salmon in the seasonal aggregate when combined with waters of the Sixes River and Elk River Ocean Terminal Area. Seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between August 1 and December 31.

(h) All waters of the Chetco River mainstem upstream of the powerline crossing at RM 2.2 are closed to angling from August 1 through November 2.

(i) All waters of the Winchuck River mainstem, including tidewater, are closed to angling from August 1 through November 2.

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

Stat. Auth.: ORS 496.138 & 496.146

Stats. Implemented: ORS 496.162

Hist.: FWC 80-1993(Temp), f. 12-21-93, cert. ef. 1-1-94; FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 79-1994(Temp), f. 10-21-94, cert. ef. 7-22-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 57-1995(Temp), f. 7-3-95, cert. ef. 7-4-95; FWC 59-1995(Temp), f. 7-24-95, cert. ef. 8-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 82-1995(Temp), f. 9-29-95, cert. ef. 10-1-95; FWC 90-1995(Temp), f. 11-29-95, cert. ef. 1-1-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 52-1996, f. & cert. ef. 9-11-96; FWC 61-1996, f. & cert. ef. 10-9-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 17-1997(Temp), f. 3-19-97, cert. ef. 4-1-97; FWC 32-1997(Temp), f. & cert. ef. 5-23-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 24-1998(Temp), f. & cert. ef. 3-25-98 thru 9-15-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 52-1998(Temp), f. 7-10-98, cert. ef. 7-11-98 thru 7-24-98; DFW 55-1998(Temp), f. & cert. ef. 7-24-98 thru 12-31-98; DFW 70-1998, f. & cert. ef. 8-28-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 48-2000(Temp), f. 8-14-00, cert. ef. 8-15-00 thru 12-31-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 8-2001, f. & cert. ef. 3-5-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-

# ADMINISTRATIVE RULES

20-01; DFW 42-2001(Temp), f. 5-25-01, cert. ef. 5-29-01 thru 7-31-01; DFW 70-2001, f. & cert. ef. 8-10-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 90-2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 97-2001(Temp), f. 10-4-01, cert. ef. 11-1-01 thru 12-31-01; DFW 105-2001(Temp), f. 10-26-01, cert. ef. 11-1-01 thru 12-31-01; DFW 122-2001(Temp), f. & cert. ef. 12-31-01 thru 5-31-02; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp) f. 1-11-02 cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 55-2002(Temp), f. 5-28-02, cert. ef. 7-1-02 thru 11-31-02; DFW 91-2002(Temp) f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 124-2002(Temp), f. & cert. ef. 10-30-02 thru 12-31-02 (Suspended by DFW 125-2002(Temp), f. 11-8-02, cert. ef. 11-9-2002); DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 90-2003(Temp), f. 9-12-03 cert. ef. 9-13-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 127-2004, f. 12-22-04, cert. ef. 1-1-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 24-2006(Temp), f. 4-25-06, cert. ef. 5-13-06 thru 10-31-06; DFW 37-2006(Temp), f. 6-2-06, cert. ef. 6-5-06 thru 12-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 47-2007(Temp), f. 6-18-07, cert. ef. 6-21-07 thru 10-31-07; DFW 56-2007(Temp), 7-6-07, cert. ef. 8-1-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 137-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 54-2008(Temp), f. 5-28-08, cert. ef. 6-1-08 thru 7-31-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 138-2008(Temp), f. 10-28-08, cert. ef. 11-1-08 thru 11-30-08; DFW 140-2008(Temp), f. 11-4-08, cert. ef. 11-5-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 57-2009(Temp), f. 5-27-09, cert. ef. 6-1-09 thru 7-31-09; DFW 77-2009(Temp), f. 6-29-09, cert. ef. 7-1-09 thru 7-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 113-2009(Temp), f. & cert. ef. 9-18-09 thru 12-31-09; DFW 141-2009(Temp), f. 11-4-09, cert. ef. 11-7-09 thru 12-21-09; DFW 143-2009(Temp), f. 11-17-09, cert. ef. 11-19-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 65-2010(Temp), f. 5-18-10, cert. ef. 5-22-10 thru 5-31-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 143-2010(Temp), f. 10-8-10, cert. ef. 10-10-10 thru 12-31-10; DFW 152-2010(Temp), f. 10-27-10, cert. ef. 10-30-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 31-2011(Temp), f. 4-18-11, cert. ef. 5-1-11 thru 10-27-11; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 137-2011(Temp), 9-30-11, cert. ef. 10-1-11 thru 12-31-11; DFW 145-2011(Temp), f. 10-11-11, cert. ef. 10-12-11 thru 12-31-11; DFW 149-2011(Temp), f. 10-20-11, cert. ef. 10-22-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 62-2012, f. 6-12-12, cert. ef. 7-1-12

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**Rule Caption:** Northwest Zone Angling Regulations Modified Effective June 12, 2012.

**Adm. Order No.:** DFW 63-2012(Temp)

**Filed with Sec. of State:** 6-12-2012

**Certified to be Effective:** 6-12-12 thru 10-31-12

**Notice Publication Date:**

**Rules Amended:** 635-014-0090

**Rules Suspended:** 635-019-0090(T)

**Subject:** This amended rule updates the quota amounts for several Northwest Zone rivers based on data presented to the Oregon Fish & Wildlife Commission at its June 8, 2012 hearing. The Trask River Hatchery Hole closure remains delayed from June 1 until July 1, 2012; and modifications allow anglers greater opportunity to harvest hatchery spring Chinook by extending the season 200 feet upstream and 900 feet downstream of the hatchery. This amended rule also reduces the ability of anglers to employ illegitimate snagging methods in a segment of the Trask River and Three Rivers by continuing restrictive gear regulations during the later portion of the spring Chinook angling season.

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

## 635-014-0090

### Inclusions and Modifications

(1) The **2012 Oregon Sport Fishing Regulations** provide requirements for the Northwest Zone. However, additional regulations may be adopted in this rule division from time to time and to the extent of any inconsistency, they supersede the **2012 Oregon Sport Fishing Regulations** pamphlet.

(2) Notwithstanding all other requirements provided in the **2012 Oregon Sport Fishing Regulations** pamphlet, the following additional rules apply to adult salmon angling in waters of the Northwest Zone:

(a) All waters of the Necanicum River Basin, Nehalem River Basin (including North Fork), Tillamook Bay Basin, (including the Miami, Kilchis, Wilson, Trask, and Tillamook rivers), and the Nestucca River Basin (including the Little Nestucca and Three Rivers) and Salmon River that are open for Chinook salmon are limited to no more than 2 adult non fin-clipped Chinook salmon per day, and 10 adult non fin-clipped Chinook salmon in the seasonal aggregate when combined with all other waters in the Northwest Zone with a 10 adult non fin-clipped Chinook salmon seasonal aggregate limit. Seasonal aggregate applies to all adult non fin-clipped Chinook salmon retained between August 1 and December 31.

(A) The Trask River will be closed from Gold Creek, at the hatchery, 200 feet upstream and 900 feet downstream July 1 through November 30, 2012; and for the Trask River segment from Cedar Creek wooden boat slide (RM 10.9) downstream to Loren's Drift wooden boat slide (RM 9.0) from

June 1 to July 31 angling is restricted to fly angling and bobber angling only.

(i) Bobber angling gear must include a bobber and a leader no longer than 36-inches in length. Any weight (except the bobber) may be no more than 36-inches from the lowermost hook when suspended vertically. The leader below the bobber must remain suspended in the water column and not resting on the river bottom.

(ii) For purposes of this rule, a bobber is a hook-less, floating device that is attached to or slides along the mainline or leader above the hook(s) for the purpose of suspending hook(s) (which are part of the bait, lure or fly) off the bottom of the stream and visually signaling (from the surface of the water) a fish's strike at the hook(s).

(iii) For purposes of this rule, a leader is a section of line, other than the mainline, extending from the lowermost hook (part of bait, lure, or fly) to the first swivel, weight, bobber, or any other attachment.

(B) Three Rivers, a tributary of the Nestucca River, is open to angling for adipose fin-clipped spring Chinook and adipose fin-clipped summer steelhead through June 30, 2012.

(i) From June 1 through June 30, 2012, use of leaders longer than 36-inches is prohibited. Hooks are limited to no more than 1 single point, size 3/8-inch gap width (approximately size #2) or smaller hook.

(ii) For the purposes of this rule, a leader is defined as described in section (2)(a)(A)(iii) above.

(b) Within the Nehalem Basin (including the North Fork) the following additional rules apply:

(A) Mainstem (bay) closed to all salmon and steelhead angling seaward from a line extending from Nehalem Bay State Park Boat Ramp to Fishery Point July 1 through September 14 and closed to all Chinook salmon angling upstream of Peterson Creek (RM 10.2) July 1 through December 31.

(B) Nehalem tidewater from the jetty tips upstream to Peterson Creek (RM 10.2) on South Fork and North Fork Road Bridge on the North Fork is open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 1,200 non adipose fin-clipped coho salmon.

(C) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 2 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 2 adult non adipose fin-clipped coho salmon seasonal aggregate limit.

(c) Within the Tillamook Bay Basin the following additional rules apply:

(A) Tillamook Bay tidewater from the jetty tips upstream to Hwy. 101 Bridge on Miami, Kilchis, Wilson, and Trask rivers and Burton Bridge on Tillamook River is open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 1,000 non adipose fin-clipped coho salmon.

(B) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 1 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 1 adult non adipose fin-clipped coho salmon seasonal aggregate limit.

(d) Within the Nestucca Basin (including the Little Nestucca River and Three Rivers) the following rules apply:

(A) Mainstem Nestucca upstream of First Bridge (RM 15.8) near Beaver closed to all Chinook angling August 1 through December 31.

(B) Nestucca Bay tidewater (excluding Little Nestucca tidewater) from the bay mouth upstream to the Cloverdale Bridge (RM 7.1) is open on Sundays and Mondays only for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 250 non adipose fin-clipped coho salmon.

(C) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 1 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone with a 1 adult non adipose fin-clipped coho salmon seasonal aggregate limit.

(e) Within the Siletz River Basin the following additional rules apply:

(A) Mainstem and tributaries above Ojalla Bridge (RM 31) closed to Chinook August 1–December 31; Drift Creek (Siletz River Basin) upstream of the confluence with Quarry Creek at RM 8 is closed for Chinook salmon from August 1 through December 31;

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(B) Siletz River and Bay upstream to Ojalla Bridge (RM 31) is open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 1,200 non adipose fin-clipped coho salmon; and

(C) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 2 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(f) Within the Yaquina River Basin the following additional rules apply:

(A) All waters of the Yaquina River upstream of the confluence of the Yaquina River and Big Elk Creek at RM 18.3 and all waters of Big Elk Creek (Yaquina River Basin) are closed for Chinook salmon from August 1 through December 31;

(B) The Yaquina River and Bay upstream to the confluence of the Yaquina River and Big Elk Creek are open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 575 non adipose fin-clipped coho salmon; and

(C) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 5 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(g) Within the Alsea River Basin the following additional rules apply:

(A) All waters of Drift Creek (Alsea River Basin) within the Drift Creek Wilderness Area and upstream are closed for Chinook salmon from August 1 through December 31;

(B) All waters of the Alsea River upstream of the confluence with Five Rivers at RM 21 are closed for Chinook salmon from August 1 through December 31;

(C) All waters of Five Rivers are closed for Chinook salmon from August 1 through December 31.

(D) The Alsea River and Bay upstream to the confluence of the Alsea River and Five Rivers are open for non adipose fin-clipped coho salmon from October 1 through the earlier of December 15 or attainment of an adult coho salmon quota of 950 non adipose fin-clipped coho salmon; and

(E) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 5 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

(h) Within the Siuslaw River Basin the following additional rules apply:

(A) All waters of the Siuslaw River upstream of the confluence with Lake Creek at RM 30.0 are closed for Chinook salmon from August 1 through December 31;

(B) All waters of Lake Creek are closed for Chinook salmon August 1 through December 31 and all waters of Lake Creek downstream of Fish Creek are closed to all angling from September 1 through November 30;

(C) The Siuslaw River and Bay upstream to the confluence of the Siuslaw River and Lake Creek are open for non adipose fin-clipped coho salmon from September 15 through the earlier of November 30 or attainment of an adult coho salmon quota of 1,700 non adipose fin-clipped coho salmon; and

(D) The daily catch limit may include one adult non adipose fin-clipped coho salmon per day and one non adipose fin-clipped jack coho salmon per day, and no more than 5 total adult non adipose fin-clipped coho salmon in the seasonal aggregate from all waters in the Northwest Zone and Southwest Zone.

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

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

Hist.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 31-1994, f. 5-26-94, cert. ef. 6-20-94; FWC 65-1994(Temp), f. 9-15-94, cert. ef. 9-17-94; FWC 22-1995, f. 3-7-95, cert. ef. 3-10-95; FWC 28-1995(Temp), f. 3-31-95, cert. ef. 5-1-95; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 39-1995, f. 5-10-95, cert. ef. 5-12-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-96; FWC 19-1996, f. & cert. ef. 5-16-96; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 29-1996, f. & cert. ef. 5-31-96; FWC 46-1996, f. & cert. ef. 8-23-96; FWC 55-1996(Temp), f. 9-25-96, cert. ef. 10-1-96; FWC 72-1996, f. 12-31-96, cert. ef. 1-1-97; FWC 73-1996(Temp), f. 12-31-96, cert. ef. 1-1-97; FWC 5-1997, f. & cert. ef. 2-4-97; FWC 30-1997, f. & cert. ef. 5-5-97; FWC 58-1997, f. 9-8-97, cert. ef. 10-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 12-1998(Temp), f. & cert. ef. 2-24-98 thru 4-24-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 69-1998, f. 8-28-98, cert. ef. 9-1-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 36-1999, f. & cert. ef. 5-20-99; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 24-2000, f. 4-28-00, cert. ef. 5-1-00; DFW 83-2000(Temp), f. 12-28-00, cert. ef. 1-1-01 thru 1-31-01; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 40-2001(Temp), f. & cert. ef. 5-24-01 thru 11-20-01; DFW 72-2001(Temp), f. 8-10-01, cert. ef. 8-16-01 thru 12-31-01; DFW 81-2001, f. & cert. ef. 8-29-01; DFW 85-2001(Temp), f. & cert. ef. 8-30-01 thru 12-31-01; DFW 90-

2001(Temp), f. 9-14-01, cert. ef. 9-15-01 thru 12-31-01; DFW 123-2001, f. 12-31-01, cert. ef. 1-1-02; DFW 5-2002(Temp), f. 1-11-02, cert. ef. 1-12-02 thru 7-11-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 91-2002(Temp), f. 8-19-02, cert. ef. 8-20-02 thru 11-1-02 (Suspended by DFW 101-2002(Temp), f. & cert. ef. 10-3-02 thru 11-1-02); DFW 118-2002(Temp), f. 10-22-02, cert. ef. 12-1-02 thru 3-31-03; DFW 120-2002(Temp), f. 10-24-02, cert. ef. 10-26-02 thru 3-31-03; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 18-2003(Temp), f. 2-28-03, cert. ef. 3-1-03 thru 4-30-03; DFW 38-2003(Temp), f. 5-7-03, cert. ef. 5-10-03 thru 10-31-03; DFW 51-2003(Temp), f. & cert. ef. 6-13-03 thru 10-31-03; DFW 90-2003(Temp), f. 9-12-03, cert. ef. 9-13-03 thru 12-31-03; DFW 108-2003(Temp), f. 10-28-03, cert. ef. 12-1-03 thru 3-31-04; DFW 123-2003(Temp), f. 12-10-03, cert. ef. 12-11-03 thru 12-31-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 126-2003(Temp), f. 12-11-03, cert. ef. 1-1-04 thru 3-31-04; DFW 60-2004(Temp), f. 6-29-04, cert. ef. 7-1-04 thru 7-15-04; DFW 90-2004(Temp), f. 8-30-04, cert. ef. 10-1-04 thru 12-31-04; DFW 103-2004(Temp), f. & cert. ef. 10-4-04 thru 12-31-04; DFW 108-2004(Temp), f. & cert. ef. 10-18-04 thru 12-31-04; DFW 111-2004(Temp), f. 11-16-04, cert. ef. 11-20-04 thru 12-31-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 62-2005(Temp), f. 6-29-05, cert. ef. 7-1-05 thru 7-10-05; Administrative correction 7-20-05; DFW 105-2005(Temp), f. 9-12-05, cert. ef. 10-1-05 thru 12-15-05; DFW 127-2005(Temp), f. & cert. ef. 11-23-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 53-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 7-9-06; Administrative correction 7-20-06; DFW 64-2006(Temp), f. 7-17-06, cert. ef. 8-1-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 104-2006(Temp), f. 9-19-06, cert. ef. 10-1-06 thru 12-31-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 63-2007(Temp), f. 8-6-07, cert. ef. 8-11-07 thru 12-31-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 25-2008(Temp), f. 3-13-08, cert. ef. 3-15-08 thru 9-10-08; DFW 67-2008(Temp), f. 6-20-08, cert. ef. 8-1-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 43-2009(Temp), f. 5-5-09, cert. ef. 5-22-09 thru 10-31-09; DFW 67-2009(Temp), f. 6-9-09, cert. ef. 6-15-09 thru 10-31-09; DFW 87-2009(Temp), f. 7-31-09, cert. ef. 8-1-09 thru 12-31-09; DFW 99-2009(Temp), f. 8-26-09, cert. ef. 9-1-09 thru 12-31-09; DFW 115-2009(Temp), f. & cert. ef. 9-22-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 44-2010(Temp), f. 4-20-10, cert. ef. 4-21-10 thru 9-30-10; DFW 73-2010(Temp), f. 5-27-10, cert. ef. 6-1-10 thru 9-30-10; DFW 76-2010, f. 6-8-10, cert. ef. 8-1-10; DFW 89-2010(Temp), f. 6-28-10, cert. ef. 7-1-10 thru 9-30-10; Administrative correction 10-26-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 57-2011(Temp), f. 5-27-11, cert. ef. 6-1-11 thru 6-30-11; DFW 83-2011, f. 6-30-11, cert. ef. 7-1-11; DFW 139-2011(Temp), f. 10-3-11, cert. ef. 10-6-11 thru 12-31-11; DFW 141-2011(Temp), f. 10-6-11, cert. ef. 10-10-11 thru 12-31-11; DFW 143-2011(Temp), f. 10-10-11, cert. ef. 10-11-11 thru 12-31-11; DFW 148-2011(Temp), f. 10-20-11, cert. ef. 10-21-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 53-2012(Temp), f. 5-29-12, cert. ef. 6-1-12 thru 10-31-12; DFW 62-2012, f. 6-12-12, cert. ef. 7-1-12; DFW 63-2012(Temp), f. & cert. ef. 6-12-12 thru 10-31-12

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**Rule Caption:** 2012 Columbia River Summer Recreational Fisheries Implemented.

**Adm. Order No.:** DFW 64-2012(Temp)

**Filed with Sec. of State:** 6-16-12

**Certified to be Effective:** 6-16-12 thru 7-31-12

**Notice Publication Date:**

**Rules Amended:** 635-023-0128

**Rules Suspended:** 635-023-0125(T)

**Subject:** This amended rule implements the summer recreational salmon fishing seasons in the Columbia River. Modifications to regulations for 2012 conform to recent regulation changes developed through the Pacific Fishery Management Council/North of Falcon Process. Housekeeping and technical corrections to the regulations were made to ensure rule consistency.

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

## 635-023-0128

### Summer 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) Effective June 16 through July 1 the mainstem Columbia River is open to the retention of adipose fin-clipped jack Chinook, adipose fin-clipped adult Chinook and sockeye salmon from the Astoria-Megler Bridge upstream to the Bonneville Dam.

(b) Effective June 15 through July 31 the mainstem Columbia River is open to the retention of adipose fin-clipped adult Chinook and sockeye salmon from Bonneville Dam upstream to the Oregon/Washington border.

(c) The combined daily bag limit for adult salmon and steelhead is two fish. Only adipose fin-clipped Chinook and steelhead may be retained. All sockeye salmon count as an adult salmonid in the daily limit regardless of size.

(3) Effective through July 31, 2012, only single-point hooks are allowed when angling at Cascade Locks in the area between the boat ramp at the lower end of the locks upstream to the east (upstream) end of the lock wall.

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

Stat. Auth.: ORS 496.138, 496.146 & 506.119

# ADMINISTRATIVE RULES

Stats. Implemented: ORS 496.162 & 506.129  
Hist.: DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 52-2005(Temp), f. 6-3-05, cert. ef. 6-16-05 thru 7-31-05; DFW 64-2005(Temp), f. 6-30-05, cert. ef. 7-1-05 thru 7-31-05; Administrative correction 8-17-05; 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 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 51-2007(Temp), f. 6-29-07, cert. ef. 7-2-07 thru 7-31-07; 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 61-2008(Temp), f. 6-13-08, cert. ef. 6-16-08 thru 7-31-08; DFW 68-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 8-31-08; DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; Administrative correction 9-29-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 69-2009(Temp), f. 6-11-09, cert. ef. 6-16-09 thru 7-31-09; Administrative correction 8-21-09; 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 88-2010(Temp), f. 6-25-10, cert. ef. 6-26-10 thru 7-31-10; Administrative correction 8-18-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 65-2011(Temp), f. 6-14-11, cert. ef. 6-16-11 thru 7-31-11; DFW 95-2011(Temp), f. 7-15-11, cert. ef. 7-18-11 thru 7-31-11; Administrative correction 9-23-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 64-2012(Temp), f. 6-12-12, cert. ef. 6-16-12 thru 7-31-12

31-11; Administrative correction, 11-18-11; DFW 65-2012(Temp), f. 6-14-12, cert. ef. 6-16-12 thru 11-15-12

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**Rule Caption:** Zone 6 Treaty Indian Subsistence Fishing Area Modified.

**Adm. Order No.:** DFW 65-2012(Temp)

**Filed with Sec. of State:** 6-14-2012

**Certified to be Effective:** 6-16-12 thru 11-15-12

**Notice Publication Date:**

**Rules Amended:** 635-041-0020

**Subject:** Rule amendments modify the subsistence sanctuary restriction around the mouth of 15-mile creek in Bonneville Reservoir to allow the taking of salmon and steelhead, during the period from June 16 through November 15, near the mouth of 15-mile creek.

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

## 635-041-0020

### Areas Closed to Subsistence Fishing

It is *unlawful* to engage in subsistence fishing at any time in:

(1) Those waters of the main stem Columbia River near Bonneville Dam westerly and downstream of a line from Light “4” on the Oregon shore, located approximately 200 yards upstream of the mouth of Eagle Creek, thence northerly to Light “5” located on Boat Rock in midriver, thence perpendicular to the thread of the river to a marker on the Washington shore.

(2) Those waters of the main stem Columbia River near The Dalles Dam easterly and upstream from a line at marker on Covington Point on the Oregon shore, thence in a westerly direction to a marker on the Washington shore beneath the Interstate Bridge to a point 200 feet above The Dalles Dam. Subsistence fishing for salmon and steelhead is allowed within this closed area except:

(a) within 600 feet of fishway entrances,

(b) within 600 feet of the mouth of Fifteenmile Creek during November 16 through June 15, and

(c) within 200 feet above The Dalles Dam.

(3) Those waters of the main stem Columbia River within a radius of one-quarter mile of the mouths of the Hood River, Deschutes River, Wind River, Little White Salmon River, Spring Creek, and Klickitat River.

(4) Those waters of the main stem Columbia River near John Day Dam from a line at marker on the Oregon shore located 600 feet below the fishway entrance, thence westerly to Light “2” located on the navigation lock wing wall, thence to a marker on the Washington shore easterly and upstream to 200 feet above John Day Dam.

(5) Those waters of the mainstem Columbia River near McNary Dam easterly and upstream from a line at marker on the Oregon shore located 600 feet below the fishway entrance, thence westerly to the end of the navigation lock wing wall, thence to a marker on the Washington shore.

(6) All fishways in Oregon tributary streams of the Columbia River within 100 feet above and below such fishways. This closure does not apply to the taking of lamprey eel so long as such taking does not interfere with the migration of salmon or steelhead through such fishways.

(7) Those waters of Eagle Creek from its mouth to 100 feet above the Department intake Dam.

(8) Those waters of Herman Creek from its mouth to 100 feet above the Department holding ponds.

Stat. Auth.: ORS 183.325 & 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 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 635-035-0020; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1991, f. & ef. 1-19-81; FWC 12-1981(Temp), f. & ef. 3-31-81; FWC 6-1982, f. & ef. 1-28-82; FWC 4-1984, f. & ef. 1-31-84; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 10-1988, f. & cert. ef. 3-4-88; FWC 54-1989(Temp), f. & cert. ef. 8-7-89; FWC 90-1989, f. & cert. ef. 9-6-89; DFW 43-2010(Temp), f. & cert. ef. 4-15-10 thru 10-11-10; Administrative correction 10-26-10; DFW 40-2011(Temp), f. & cert. ef. 5-5-11 thru 10-

**Rule Caption:** Columbia River Treaty Indian Commercial Gill Net Salmon Season Implemented.

**Adm. Order No.:** DFW 66-2012(Temp)

**Filed with Sec. of State:** 6-14-2012

**Certified to be Effective:** 6-18-12 thru 7-31-12

**Notice Publication Date:**

**Rules Amended:** 635-041-0076

**Subject:** Rule modifications set two gill net fishing periods in Zone 6 of the Columbia River and allow the sales of fish caught during those periods. Revisions are consistent with action taken June 13, 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

## 635-041-0076

### Summer Salmon Season

(1) Commercial sales of platform and hook-and-line caught fish from Zone 6 of the mainstem Columbia River are allowed until further notice.

(a) Chinook, steelhead, sockeye, 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. 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.

(b) Gear is restricted to subsistence fishing gear: hoopnets, dipnets and rod and reel with hook-and-line are allowed.

(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 beginning 6:00 a.m. Monday, June 18 through 6:00 p.m. Thursday, June 21, 2012 (3.5 days); and from 6:00 a.m. Monday, June 25 through 6:00 p.m. Thursday, June 28, 2012 (3.5 days).

(a) Salmon, steelhead, shad, yellow perch, bass, walleye, catfish and carp landed during any open gill net fishing period may be sold at any time or retained for subsistence purposes. 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.

(b) Gear is restricted to gill nets. No minimum mesh size restriction is in effect.

(c) Closed areas in Zone 6, except the Spring Creek sanctuary, are as set forth in OAR 635-041-0045 and remain in effect.

(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.

Stat. Auth.: ORS 496.118 & 506.119

Stats. Implemented: ORS 506.109, 506.129 & 507.030

Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 39-2006(Temp), f. & cert. ef. 6-8-06 thru 7-31-06; DFW 46-2006(Temp), f. & cert. ef. 6-20-06 thru 7-31-06; DFW 49-2006(Temp), f. 6-26-06, cert. ef. 6-27-06 thru 7-31-06; DFW 56-2006(Temp), f. 6-30-06, cert. ef. 7-3-06 thru 7-31-06; DFW 58-2006(Temp), f. 7-6-06, cert. ef. 7-10-06 thru 7-31-06; Administrative correction 8-22-06; DFW 46-2007(Temp), f. 6-15-07, cert. ef. 6-16-07 thru 9-13-07; DFW 49-2007(Temp), f. 6-22-07, cert. ef. 6-26-07 thru 9-13-07; DFW 53-2007(Temp), f. & cert. ef. 7-6-07 thru 7-31-07; Administrative correction 9-16-07; DFW 45-2008(Temp), f. 5-2-08, cert. ef. 5-5-08 thru 7-31-08; DFW 47-2008(Temp), f. 5-9-08, cert. ef. 5-11-08 thru 7-31-08; DFW 62-2008(Temp), f. 6-13-08, cert. ef. 6-16-08 thru 8-31-08; DFW 68-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 8-31-08; DFW 71-2008(Temp), f. 6-27-08, cert. ef. 6-28-08 thru 8-31-08; DFW 80-2008(Temp), f. & cert. ef. 7-10-08 thru 8-31-08; DFW 87-2008(Temp), f. & cert. ef. 7-25-08 thru 8-31-08; DFW 94-2008(Temp), f. & cert. ef. 8-14-08 thru 9-30-08; Administrative correction 10-21-08; DFW 50-2009(Temp), f. 5-14-09, cert. ef. 5-16-09 thru 7-31-09; DFW 56-2009(Temp), f. 5-26-09, cert. ef. 5-27-09 thru 7-31-09; DFW 71-2009(Temp), f. 6-15-09, cert. ef. 6-16-09 thru 7-31-09; DFW 76-2009(Temp), f. 6-26-09, cert. ef. 6-30-09 thru 7-31-09; DFW 82-2009(Temp), f. 7-6-09, cert. ef. 7-8-09 thru 7-31-09; DFW 84-2009(Temp), f. 7-13-09, cert. ef. 7-15-09 thru 7-31-09; Administrative correction 8-21-09; DFW 48-2010(Temp), f. 4-26-10, cert. ef. 4-27-10 thru 7-31-10; DFW 51-2010(Temp), f. & cert. ef. 4-29-10 thru 7-31-10; DFW 56-2010(Temp), f. 5-10-10, cert. ef. 5-11-10 thru 7-31-10; DFW 68-2010(Temp), f. 5-18-10, cert. ef. 5-19-10 thru 7-31-10; DFW 71-2010(Temp), f. 5-19-10, cert. ef. 5-21-10 thru 6-16-10; DFW 74-2010(Temp), f. & cert. ef. 6-2-10 thru 7-31-10; DFW 80-2010(Temp), f. 6-14-10, cert. ef. 6-16-10 thru 7-31-10; DFW 87-2010(Temp), f. 6-25-10, cert. ef. 6-29-10 thru 7-31-10; DFW 97-2010(Temp), f. 7-8-10, cert. ef. 7-13-10 thru 7-31-10; DFW 101-2010(Temp), f. 7-19-10, cert. ef. 7-20-10 thru 7-31-10; DFW 105-2010(Temp), f. 7-23-10, cert. ef. 7-26-10 thru 7-31-10; Administrative correction 8-18-10; DFW 43-2011(Temp), f. & cert. ef. 5-10-11 thru 10-31-11; DFW 66-

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2011(Temp), f. 6-14-11, cert. ef. 6-16-11 thru 10-31-11; DFW 75-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 10-31-11; DFW 84-2011(Temp), f. 7-1-11, cert. ef. 7-5-11 thru 10-31-11; DFW 88-2011(Temp), f. 7-8-11, cert. ef. 7-10-11 thru 10-31-11; DFW 94-2011(Temp), f. 7-14-11, cert. ef. 7-18-11 thru 10-31-11; DFW 98-2011(Temp), f. 7-20-11, cert. ef. 7-25-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 66-2012(Temp), f. 6-14-12, cert. ef. 6-18-12 thru 7-31-12

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**Rule Caption:** Implementation of 2012 Columbia River Summer Chinook Non-Indian Commercial Gillnet Fishery.

**Adm. Order No.:** DFW 67-2012(Temp)

**Filed with Sec. of State:** 6-14-2012

**Certified to be Effective:** 6-17-12 thru 7-31-12

**Notice Publication Date:**

**Rules Amended:** 635-042-0027

**Subject:** This amended rule implements the 2012 summer Chinook salmon non-Indian commercial gillnet fishery in the Columbia River mainstem consistent with provisions of the US v Oregon management agreement. Modifications allows an 8-hour non-Indian commercial summer Chinook fishing period in the mainstem Columbia River beginning at 9:00 p.m. Sunday, June 17 through 5:00 a.m. Monday, June 18, 2012. Fishing is authorized in all of Zones 1 through 5. Implementation is consistent with action taken June 13, 2012 by the Columbia River Compact agencies of Oregon and Washington.

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

## 635-042-0027

### Summer Salmon Season

(1) Chinook and sockeye salmon, white sturgeon and shad may be taken by drift gill net for commercial purposes in Zones 1 thru 5, from 9:00 p.m. Sunday, June 17 to 5:00 a.m. Monday, June 18, 2012 (8 hours).

(2) It is *unlawful* to use a gill net having a mesh size less than 8 inches. 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.

(3) A maximum of five white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open.

(4) Allowable sales include Chinook and sockeye salmon, white sturgeon and shad. All steelhead must be released immediately.

(5) Closed waters, as described in OAR 635-042-0005 for Grays River, Elokomina-A, Cowlitz River, Kalama A, Lewis A, Washougal River and Sandy River sanctuaries are in effect during open fishing periods as applicable.

Stat. Auth.: ORS 496.118, 506.109 & 506.129

Stats. Implemented: ORS 506.119 & 507.030

Hist.: DFW 5-2006, f. & cert. ef. 2-15-06; DFW 47-2006(Temp), f. 6-20-06, cert. ef. 6-26-06 thru 7-31-06; DFW 51-2006(Temp), f. & cert. ef. 6-29-06 thru 7-31-06; DFW 57-2006(Temp), f. 7-5-06, cert. ef. 7-6-06 thru 7-31-06; DFW 63-2006(Temp), f. 7-14-2006, cert. ef. 7-16-06 thru 7-31-06; DFW 68-2006(Temp), f. 7-28-06, cert. ef. 7-30-06 thru 7-31-06; Administrative correction 8-22-06; DFW 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; DFW 52-2007(Temp), f. & cert. ef. 7-6-07 thru 7-31-07; DFW 63-2008(Temp), f. 6-13-08, cert. ef. 6-24-08 thru 7-31-08; DFW 68-2008(Temp), f. 6-20-08, cert. ef. 6-21-08 thru 8-31-08; DFW 75-2008(Temp), f. 7-3-08, cert. ef. 7-7-08 thru 7-31-08; Administrative correction 8-21-08; DFW 72-2009(Temp), f. 6-15-09, cert. ef. 6-18-09 thru 7-31-09; Administrative correction 8-21-09; DFW 81-2010(Temp), f. 6-14-10, cert. ef. 6-17-10 thru 7-31-10; Administrative correction 8-18-10; DFW 67-2011(Temp), f. 6-14-11, cert. ef. 6-16-11 thru 7-31-11; Administrative correction 9-23-11; DFW 67-2012(Temp), f. 6-14-12, cert. ef. 6-17-12 thru 7-31-12

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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 18-2012(Temp)

**Filed with Sec. of State:** 5-23-2012

**Certified to be Effective:** 5-23-12 thru 9-30-12

**Notice Publication Date:**

**Rules Amended:** 461-190-0211

**Rules Suspended:** 461-190-0211(T)

**Subject:** OAR 461-190-0211 about the case plan activities and standards for support service payments for the Department's Temporary

Assistance for Needy Families Job Opportunity and Basic Skills (JOBS) program which was amended by temporary rule on April 6, 2012 is being further amended to adjust and clarify program restrictions implemented July 1, 2011 as a result of budget reductions from the 2011 legislative session. Effective July 1, 2011, a monthly family maximum was imposed for support services, including child care. All families were subject to this limitation. The monthly family support services maximum amounts were removed retroactive to March 14, 2012; however, the related teen parent policy was inadvertently left unaddressed. This amendment applies the policy to all families with authorized child care, including teen parents. This amendment also clarifies the rule in the context of removing maximum amounts.  
**Rules Coordinator:** Annette Tesch—(503) 945-6067

## 461-190-0211

### Case Plan Activities and Standards for Support Service Payments; JOBS, Post-TANF, REF, SFPSS, TA-DVS, TANF

In the JOBS, Post-TANF, Pre-TANF, REF, SFPSS, TA-DVS, and TANF programs, notwithstanding any other administrative rule in Chapter 461 and subject to the limitations of state funding, the following special provisions apply:

(1) Participation in an activity (see OAR 461-001-0025) is limited as provided in each of the following subsections:

(a) An individual who is determined to be a work-eligible individual according to federal definition (45 CFR 261.2(n)(1)). Unless sections (10) or (11) of this rule apply, no other individual may participate in and access JOBS contract activities and support services (see OAR 461-001-0025).

(b) An individual who is an applicant in the Pre-TANF program or a recipient of TANF or Post-TANF program benefits.

(2) For eligible individuals, subject to the requirements and limitations in sections (1), (5), (6), and (7) of this rule, the following activities will be available, and include support services payments if needed:

(a) Job search (see OAR 461-001-0025).

(b) JOBS Plus (see OAR 461-001-0025 and 461-101-0010) is limited to six months per individual.

(c) Work experience (see OAR 461-001-0025).

(d) Sheltered or supported work (see OAR 461-001-0025).

(e) High School or GED Completion Attendance (see OAR 461-001-0025) limited to a teen parent (see OAR 461-001-0000 and 461-001-0025).

(f) Parents as Scholars (see OAR 461-001-0025).

(g) Limited family stability (see OAR 461-001-0000).

(A) Drug and alcohol services (see OAR 461-001-0025).

(B) Mental health services (see OAR 461-001-0025).

(C) Attending medical appointments or services.

(D) Rehabilitative activities (see OAR 461-001-0025).

(3) The following activities will not include support services payments:

(a) Domestic Violence Intervention.

(b) Family Stability (see OAR 461-001-0000), unless subsection (2)(g) applies.

(c) Family Support & Connection.

(d) Post-TANF.

(e) Program entry (see OAR 461-001-0025).

(f) Self Initiated Training (see OAR 461-001-0025).

(g) SSI Application Process.

(h) Unsubsidized employment (work).

(4) Participation in an activity is based on whether an individual is Job Ready, Near Job Ready, Not Job Ready, or a teen parent.

(a) Job Ready means the individual has no barrier (see OAR 461-001-0025) or current barriers do not impact participation or employment. In addition, the individual has all of the following:

(A) Prior stable work history, either paid or unpaid.

(B) Had not voluntarily quit or been dismissed from their most recent employment (see OAR 461-135-0070), without good cause (see OAR 461-135-0070).

(C) Reliable or available transportation.

(D) No outstanding legal issues that would impact or prevent employment.

(E) Access to reliable child care within support services limits, or does not need help to pay for child care, or does not need child care.

(b) Near Job Ready means the individual has minimal barriers to participation or employment and the individual is addressing the barriers. In addition, the individual has all of the following:

(A) Limited or no work history, either paid or unpaid.

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(B) Reliable or available transportation.

(C) No outstanding legal issues that would impact or prevent employment, or such legal issues are identified and are being addressed.

(D) Access to reliable child care within support services limits, or does not need help to pay for child care, or does not need child care.

(c) Not Job Ready means the individual has one or more barriers to participation or employment or is in crisis, and the individual is not addressing the barriers. For example, the individual has one or more of the following:

(A) Lack of stable housing that is preventing participation in an activity or employment.

(B) Domestic violence, mental health or alcohol and drug issues, and the individual is not addressing the issue.

(C) Medical issues that prevent participation in an activity or employment.

(D) Outstanding legal issues that would impact or prevent employment.

(E) Literacy issues that impact the ability for the individual to participate in an activity or obtain employment.

(5) In approving JOBS program support services payments, the Department must consider lower cost alternatives. It is not the intent of the Department or of this rule to supplant Department funding with other funding that is available in the community. It is the Department's expectation that case managers and clients will work collaboratively to seek resources that are reasonably available to the client in order to participate in activities.

(6) Payments for support services are only provided when:

(a) Necessary to participate in activities in a signed case plan;

(b) Authorized in advance; and

(c) All other provisions of this rule are met.

(7) Payments for support services are subject to the following limitations:

(a) Job Ready individuals may be eligible for child care, transportation, or other costs related to a job offer.

(b) Near Job Ready individuals may be eligible for child care, transportation, or other costs related to a job offer.

(c) Not Job Ready individuals are not eligible for support services, unless subsection (2)(g) of this rule applies.

(d) A teen parent may be eligible for child care, transportation, or other support services, for participation in a basic education (see OAR 461-001-0025) component (see OAR 461-001-0025).

(e) Child Care. Payments for child care may be authorized, as limited by OAR 461-160-0040, if necessary to enable a single-parent Job Ready or Near Job Ready individual or teen parent to participate in an approved JOBS program activity specified in the individual's case plan, or a Not Job Ready individual approved by the district to complete a family stability activity. If authorized, payment for child care will be:

(A) The lesser of the actual rate charged by the care provider and the rate established in OAR 461-155-0150. The Department rate for children in care less than 158 hours in a month is limited by OAR 461-155-0150.

(B) The minimum hours necessary, including meal and commute time, for the individual to participate in an approved JOBS program activity.

(f) Transportation. The Department may provide payments for a Job Ready or Near Job Ready individual or teen parent for transportation costs incurred in travel to and from an approved JOBS program activity or a Not Job Ready individual approved by the district to complete a family stability activity. Payment is made only for the cost of public transportation or the cost of fuel. Payments are subject to the following considerations:

(A) Payment for public transportation is a priority over payment for a privately owned vehicle.

(B) Payment for fuel costs for a privately-owned vehicle is only provided if the client or individual providing the transportation has a valid driver's license and vehicle insurance and either of the following is true:

(i) No public transportation is available or the client is unable to use public transportation because of a verifiable medical condition or disability for which no accommodation is available.

(ii) Public transportation is available but is more costly than the cost of fuel.

(g) Housing and Utilities. Payments for housing and utilities are not allowed.

(h) Other Payments. The Department may provide payments to individuals for costs directly related to a job offer, or costs needed for a teen parent to attain a high school diploma or GED.

(8) The Department may require an individual to provide verification of a need for, or costs associated with, support services prior to approval and issuance of payment if verification is reasonably available.

(9) The Department may reduce, close, or deny in whole or in part an individual's request for a support services payment in the following circumstances:

(a) The individual is disqualified for failing to comply with a case plan, unless the payment in question is necessary for the individual to demonstrate cooperation with his or her case plan.

(b) The purpose for the payment is not related to the individual's case plan.

(c) The individual disagrees with a support services payment offered or made by the Department as outlined in the individual's case plan.

(d) The individual is not determined to be a Job Ready or Near Job Ready individual or teen parent.

(10) An individual who is not a teen parent and who is otherwise exempt from JOBS requirements as a one-parent household with a dependent child (see OAR 461-001-0000) under two years of age may be a volunteer (see OAR 461-130-0305) and participate, subject to the availability of services.

(11) An individual who has gone over-income for the TANF program due to earnings and needs to increase activity hours to meet Post-TANF federally required participation rates (see OAR 461-001-0025) may be a volunteer and participate.

(12) The amendments to this rule adopted on April 6, 2012 and May 23, 2012 are retroactive to March 14, 2012.

Stat. Auth.: ORS 411.060, 412.006, 412.009, 412.014, 412.049, 412.124 & 2011 OL Ch. 604  
Stats. Implemented: ORS 411.060, 412.001, 412.006, 412.009, 412.014, 412.049, 412.124 & 2011 OL Ch. 604

Hist.: AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 18-1998, f. & cert. ef. 10-2-98; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 3-2000, f. 1-31-00, cert. ef. 2-1-00; SSP 33-2003, f. 12-31-03, cert. ef. 1-4-04; SSP 21-2004, f. & cert. ef. 10-1-04; SSP 11-2005(Temp), f. & cert. ef. 9-1-05 thru 12-31-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 42-2010(Temp), f. 12-30-10, cert. ef. 1-1-11 thru 6-30-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 19-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 30-2011(Temp), f. & cert. ef. 11-1-11 thru 4-29-12; SSP 11-2012, f. & cert. ef. 4-6-12; SSP 12-2012(Temp), f. & cert. ef. 4-6-12 thru 9-30-12; SSP 18-2012(Temp), f. & cert. ef. 5-23-12 thru 9-30-12

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

**Adm. Order No.:** SSP 19-2012(Temp)

**Filed with Sec. of State:** 5-23-2012

**Certified to be Effective:** 5-24-12 thru 10-28-12

**Notice Publication Date:**

**Rules Amended:** 461-135-1260

**Rules Suspended:** 461-135-1260(T)

**Subject:** OAR 461-135-1260 about the specific requirements for the Job Participation Incentive (a \$10 monthly food benefit) which was amended by temporary rule on May 1, 2012 is being further amended to expand JPI benefits to SNAP cases in which the parent has a child at least age 6 and under age 18, starting this month. Currently the benefit is only accessible for parents with children under 6 and working an average of 20 hours weekly. The amended rule allows parents with no children under 6 but at least one child age 6 through 17 and working an average of 30 hours weekly to be considered for the JPI benefit.

**Rules Coordinator:** Annette Tesch—(503) 945-6067

## 461-135-1260

### Specific Requirements: Job Participation Incentive

(1) This rule explains specific requirements of the Job Participation Incentive (JPI). The JPI food benefit provides \$10 per month for qualifying SNAP households with a dependent child (see OAR 461-001-0000) under age 18.

(2) An individual eligible for JPI may receive a \$10 monthly food benefit.

(a) The individual receives the \$10 incentive payment starting the month the Department receives documentation that all enrollment criteria in section (3) of this rule have been met.

(b) There are no partial months of JPI benefits.

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(c) The individual may only be issued retroactive JPI benefits as allowed under OAR 461-180-0130.

(3) To receive JPI, an individual must meet the requirements of all of the following subsections:

(a) Be working at an unsubsidized paid employment that meets the federally required participation rates (see OAR 461-001-0025). For self-employment or piece rate work, the hours of work must be equivalent to the required average weekly hours at Oregon State minimum wage. An individual must either:

(A) Be a single parent of a dependent child under six years of age and working at an unsubsidized paid employment for an average of at least 20 weekly hours; or

(B) Be a single parent of a dependent child at least six years of age and under 18 years of age, and working at an unsubsidized paid employment for an average of at least 30 weekly hours.

(b) Provide the Department with employer-produced documents of paid, unsubsidized work hours covering a consecutive two-week period that has occurred within the last 60 days.

(c) Anticipate weekly employment hours will remain the same or increase for the reporting period.

(d) Provide employer-produced documents of paid, unsubsidized work hours each time requested by the Department and no later than the last day of the sixth month following the date the client provides the verification of work hours in accordance with subsections (a) and (b) of this section.

(e) Be an eligible adult in a SNAP benefit group (see OAR 461-110-0750) and the sole parent of an eligible dependent child under age 18 in the same SNAP benefit group.

(f) Not be receiving any Post-TANF, SFPSS, or TANF program benefits in the same month.

(4) To remain eligible for JPI, a client must:

(a) Meet all SNAP eligibility and reporting requirements (see OAR 461-170-0011); and

(b) Meet all requirements in section (3) of this rule at the time of the interim change report and at the time of the recertification of SNAP benefits.

(5) Household income in JPI is calculated in accordance with all SNAP financial rules.

(6) A client is no longer eligible for JPI when it has been determined that the client does not meet federally required participation rates and requirements due to any of the following:

(a) Loss of employment.

(b) A reduction in work hours.

(c) The client no longer has a dependent child under age 18 in their SNAP benefit group.

(d) The client is no longer the sole parent of a dependent child under age 18.

Stat. Auth.: ORS 409.050, 411.060, 411.070 & 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070 & 412.049

Hist.: SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; SSP 10-2012, f. 3-29-12, cert. ef. 3-30-12; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12; SSP 19-2012(Temp), f. 5-23-12, cert. ef. 5-24-12 thru 10-28-12

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

**Adm. Order No.:** SSP 20-2012(Temp)

**Filed with Sec. of State:** 5-23-2012

**Certified to be Effective:** 5-24-12 thru 11-20-12

**Notice Publication Date:**

**Rules Amended:** 461-180-0130

**Subject:** OAR 461-180-0130 about the effective date for restoring benefits is being amended as part of the expansion of JPI. This amendment clarifies that restoration of benefits for JPI is limited to months under which the JPI rule makes the individual eligible. Parents in the newly expanded group will not receive restored JPI benefits prior to May of this year.

**Rules Coordinator:** Annette Tesch—(503) 945-6067

## 461-180-0130

### Effective Dates; Restored Benefits

(1) The effective date for restoring benefits that were underpaid (including erroneous collections of overpayments) or denied or closed in error is set as follows:

(a) Except as provided in subsections (b) and (c) of this section, in all programs except the SNAP program, for underpayments resulting from administrative error, the effective date is the date the error was made.

(b) In all programs except as provided in subsection (c) of this section, benefits may be restored only for the preceding 12 months.

(c) JPI benefits may be restored only for the preceding four months and not to a date earlier than the individual is eligible under OAR 461-135-1260.

(d) In all programs except the SNAP program, for underpayments resulting from client error, the effective date is the earliest of the following:

(A) The month the benefit group (see OAR 461-110-0750) notifies the branch office (see OAR 461-001-0000) of the possible loss.

(B) The month the branch office discovers the loss.

(C) The date a hearing is requested.

(2) In the SNAP program, for underpayments resulting from administrative error, benefits are restored for not more than twelve months prior to whichever of the following occurs first:

(a) The date the benefit group notifies the branch office of the possible loss.

(b) The date the branch office discovers the loss.

(c) The date a hearing is requested.

(3) In the SNAP program, benefits are not restored for underpayments resulting from client error.

(4) The effective date for restoring benefits that have been suspended is:

(a) For individuals whose medical assistance is suspended because they are incarcerated with an anticipated stay of a year or less, see OAR 461-135-0950(8).

(b) When subsection (a) of this section does not apply:

(A) The first of the month after the suspension, if suspension was for only one month; or

(B) The date the benefit group again becomes eligible, if benefits have been suspended for more than 30 days. The Department treats the month in which benefits are restored as an initial month (see OAR 461-001-0000).

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404, 411.816, 412.014, 412.049, 414.231  
Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404, 411.439, 411.816, 412.014, 412.049, 414.231

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1991, f. & cert. ef. 7-1-91; SSP 7-2005, f. & cert. ef. 7-1-05; SSP 19-2005, f. 12-30-05, cert. ef. 1-1-06; SSP 15-2011(Temp), f. & cert. ef. 6-29-11 thru 12-26-11; SSP 28-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 12-26-11; SSP 32-2011, f. & cert. ef. 12-27-11; SSP 33-2011(Temp), f. & cert. ef. 12-27-11 thru 6-24-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 20-2012(Temp), f. 5-23-12, cert. ef. 5-24-12 thru 11-20-12

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

**Adm. Order No.:** SSP 21-2012(Temp)

**Filed with Sec. of State:** 6-8-2012

**Certified to be Effective:** 6-8-12 thru 12-5-12

**Notice Publication Date:**

**Rules Suspended:** 461-135-1175

**Subject:** OAR 461-135-1175 about the Senior Farm Direct Nutrition Program is being suspended because this program has been transferred to the Oregon Health Authority, Public Health Division, and its policies are set out at OAR 333-052-0030, 333-052-0040, 333-052-0041, 333-052-0042, 333-052-0100.

**Rules Coordinator:** Annette Tesch—(503) 945-6067

## 461-135-1175

### Senior Farm Direct Nutrition Program

(1) The Senior Farm Direct Nutrition Program (SFDNP) provides farm direct checks to low income individuals.

(2) An individual is eligible for SFDNP if the individual meets all of the following eligibility criteria on April 1 of the calendar year in which benefits are sought:

(a) Has countable income (see OAR 461-001-0000) less than 135 percent of the Federal Poverty Level as listed in OAR 461-155-0295.

(b) Receives Medicaid or SNAP benefits.

(c) Is homeless or resides in their own home or rental property.

(d) Is age 60 or older.

(3) SFDNP is funded by a grant from the United States Department of Agriculture (USDA). The Department determines the allotment amount and number of eligible individuals on an annual basis, based on the grant allocation received from the USDA.

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(4) The Department may not issue more than one SFDNP allotment per participant, per year.

(5) SFDNP begins June 1 each year and ends on October 31 each year. In order to qualify for the program, the Department must receive the applicant's letter of interest by September 15 of the year in question.

(6) The Department processes applicants' letters of interest in the order in which the letters are received at the Department's central office.

(7) When the grant allocation received from the USDA is expended in its entirety, the Department closes SFDNP for the year in question.

(8) The Department determines the treatment of SFDNP benefits during the eligibility process for other programs in accordance with OAR 461-145-0190.

Stat. Auth.: ORS 409.050, 410.070, 411.060, 411.070

Stats. Implemented: ORS 409.050, 410.070, 411.060, 411.070

Hist.: SSP 8-2006, f. & cert. ef. 6-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 11-2009(Temp), f. & cert. ef. 6-1-09 thru 11-27-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 8-2010(Temp), f. & cert. ef. 4-1-10 thru 9-28-10; SSP 18-2010, f. & cert. ef. 7-1-10; Suspended by SSP 21-2012(Temp), f. & cert. ef. 6-8-12 thru 12-5-12

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

**Rule Caption:** Adult Foster Homes for Individuals with Developmental Disabilities.

**Adm. Order No.:** SPD 5-2012

**Filed with Sec. of State:** 5-29-2012

**Certified to be Effective:** 5-29-12

**Notice Publication Date:** 5-1-2012

**Rules Amended:** 411-360-0130, 411-360-0170, 411-360-0180, 411-360-0190, 411-360-0260

**Rules Repealed:** 411-360-0130(T), 411-360-0170(T), 411-360-0190(T)

**Subject:** The Department of Human Services (Department) is permanently updating the rules in OAR chapter 411, division 360 relating to adult foster homes for individuals with developmental disabilities (AFH-DD) to:

- Remove the requirement that providers of an AFH-DD submit a one page Emergency Plan Summary to the Department annually each January 15th.

- Clarify the smoking regulations for AFH-DD homes with one or more employees to comply with the Oregon Indoor Air Act, ORS 443.835 to 433.875;

- Remove tobacco as an example of items that may be purchased with Personal Incidental Funds;

- Permanently reinstate the standards for AFH-DD transfers and exits; and

- Specify that caregivers that must be on duty must be qualified.

**Rules Coordinator:** Christina Hartman—(503) 945-6398

### 411-360-0130

#### Facility Standards

In order to qualify for or renew a license, an AFH-DD must meet the following provisions.

##### (1) GENERAL CONDITIONS.

(a) Each AFH-DD must maintain up-to-date documentation verifying they meet applicable local business license, zoning, building and housing codes, and state and local fire and safety regulations for a single-family residence. It is the duty of the provider to check with local government to be sure all applicable local codes have been met. A current floor plan of the house must be on file with the local CDDP.

(b) The building and furnishings must be clean and in good repair and grounds must be maintained. Walls, ceilings, and floors must be of such character to permit frequent washing, cleaning, or painting. There must be no accumulation of garbage, debris, rubbish, or offensive odors.

(c) Stairways (interior and exterior) must have handrails and be adequately lighted. Yard and exterior steps must be accessible and appropriate to the needs of individuals.

(d) Adequate lighting must be provided in each room, internal and external stairways, and internal and external exit ways. Incandescent light bulbs and florescent tubes must be protected and installed per manufacturer's directions.

(e) The heating system must be in working order. Areas of the AFH-DD used by individuals must be maintained at no less than 68 degrees F during the day (when individuals are home) and 60 degrees F during sleeping hours. During times of extreme summer heat, the provider must make every reasonable effort to make the individuals comfortable and safe using ventilation, fans, or air conditioners.

(f) There must be at least 150 square feet of common space and sufficient comfortable furniture in the AFH-DD to accommodate the recreational and socialization needs of the occupants at one time. Common space may not be located in the basement or garages unless such space was constructed for that purpose or has otherwise been legalized under permit. Additional space may be required if wheelchairs are to be accommodated.

(g) Providers may not permit individuals to access or use swimming or other pools, hot tubs, saunas, or spas on the premise without supervision. Swimming pools, hot tubs, spas, or saunas must be equipped with sufficient safety barriers or devices designed to prevent accidental injury or unsupervised access.

(h) Interior doorways used by individuals must be wide enough to accommodate wheelchairs and walkers if used by individuals.

(i) Marijuana must not be grown in or on the premises of the AFH-DD. Individuals with Oregon Medical Marijuana Program (OMMP) registry cards must arrange for and obtain their own supply of medical marijuana from a designated grower as authorized by OMMP. The licensed provider, the caregiver, other employee, or any occupant in or on the premises of the AFH-DD must not be designated as the individual's grower and must not deliver marijuana from the supplier.

##### (2) SANITATION.

(a) A public water supply must be utilized if available. If a non-municipal water source is used, it must be tested for coliform bacteria by a certified agent yearly and records must be retained for two years. Corrective action must be taken to ensure potability.

(b) If a septic tank or other non-municipal sewage disposal system is used, it must be in good working order.

(c) Garbage and refuse must be suitably stored in readily cleanable, rodent proof, covered containers, pending weekly removal.

(d) Prior to laundering, soiled linens and clothing must be stored in containers in an area separate from food storage, kitchen, and dining areas. Special pre-wash attention must be given to soiled and wet bed linens.

(e) Sanitation for household pets and other domestic animals must be adequate to prevent health hazards. Proof of rabies or other vaccinations as required by a licensed veterinarian must be maintained on the premises for household pets. Pets not confined in enclosures must be under control and must not present a danger to individuals or guests.

(f) There must be adequate control of insects and rodents, including screens in good repair on doors and windows used for ventilation.

(g) Universal precautions for infection control must be followed in care to individuals. Hands and other skin surfaces must be washed immediately and thoroughly if contaminated with blood or other body fluids.

(h) All caregivers must take precautions to prevent injuries caused by needles, scalpels, and other sharp instruments or devices during procedures. After they are used, disposable syringes and needles, scalpel blades, and other sharp items must be placed in puncture-resistant containers for disposal. The puncture-resistant containers must be located as close as practical to the use area. Disposal must be according to local regulations and resources (ORS 459.386 to 459.405).

##### (3) BATHROOMS. Bathrooms must:

(a) Provide for individual privacy and have a finished interior, a mirror, an openable window or other means of ventilation, and a window covering. No person must have to walk through another person's bedroom to get to a bathroom;

(b) Be clean and free of objectionable odors;

(c) Have tubs or showers, toilets, and sinks in good repair, and hot and cold water. A sink must be located near each toilet. A toilet and sink must be provided on each floor where rooms of non-ambulatory individuals or individuals with limited mobility are located. There must be at least one toilet, one sink, and one tub or shower for each six household occupants, including the provider and family;

(d) Have hot and cold water in sufficient supply to meet the needs of individuals for personal hygiene. Hot water temperature sources for bathing areas may not exceed 120 degrees F;

(e) Have shower enclosures with nonporous surfaces. Glass shower doors must be tempered safety glass. Shower curtains must be clean and in good condition. Non-slip floor surfaces must be provided in tubs and showers;



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(f) Have grab bars for toilets, tubs, and showers for the safety of individuals as required by individual disabilities;

(g) Have barrier-free access to toilet and bathing facilities with appropriate fixtures if there are non-ambulatory individuals. Alternative arrangements for non-ambulatory individuals must be appropriate to individual needs for maintaining good personal hygiene; and

(h) Have adequate supplies of toilet paper for each toilet and soap for each sink. Individuals must be provided with individual towels and wash cloths that are laundered in hot water at least weekly or more often if necessary. Individuals must have appropriate racks or hooks for drying bath linens. If individual hand towels are not provided, individuals must be provided with individually dispensed paper towels.

### (4) BEDROOMS.

(a) Bedrooms for all household occupants must:

(A) Have been constructed as a bedroom when the home was built or remodeled under permit;

(B) Be finished with walls or partitions of standard construction that go from floor to ceiling and a door that opens directly to a hallway or common use room without passage through another bedroom or common bathroom;

(C) Be adequately ventilated, heated, and lighted with at least one openable window that meets the fire regulations described in subsection (7)(a) of this rule;

(D) Have at least 70 square feet of usable floor space for each individual or 120 square feet for two individuals; and

(E) Have no more than two persons per room.

(b) Providers, resident managers, or family members must not sleep in areas designated as common use living areas, nor share bedrooms with individuals.

(c) There must be an individual bed for each individual consisting of a mattress and box springs at least 36 inches wide. Cots, rollaways, bunks, trundles, couches, futons, and folding beds must not be used for individuals. Each bed must have clean bedding in good condition consisting of a bedspread, mattress pad, two sheets, a pillow, a pillowcase, and blankets adequate for the weather. Sheets and pillowcases must be laundered at least weekly, and more often if necessary. Waterproof mattress covers must be used for incontinent individuals. An individual's bed must not be used by day care persons.

(d) Each bedroom must have sufficient, separate, private dresser and closet space for each individual's clothing and personal effects, including hygiene and grooming supplies. Individuals must be allowed to keep and use reasonable amounts of personal belongings and to have private, secure storage space. Drapes or shades for windows must be in good condition and allow privacy for individuals.

(e) Bedrooms must be on ground level for individuals who are non-ambulatory or have impaired mobility.

(f) Individual bedrooms must be in close enough proximity to the provider to alert the provider to nighttime needs or emergencies, or be equipped with an intercom or audio monitor as approved by the ISP team.

(g) Bedrooms must have at least one window or exterior door that readily opens from the inside without special tools and that provides a clear opening of not less than 821 square inches (5.7 sq. ft.), with the least dimensions not less than 22 inches in height or 20 inches in width. Sill height must not be more than 44 inches from the floor level or there must be approved steps or other aids to window egress that may be used by individuals. Windows with a clear opening of not less than 5.0 square feet or 720 square inches with sill heights of 48 inches may be accepted when approved by the State Fire Marshal or designee.

(h) For AFH-DD homes with one or more employees, smoking regulations in compliance with Oregon's Indoor Clean Air Act must be adopted to allow smoking only in outdoor designated areas. Signs must be posted prohibiting smoking in the workplace per OAR 333-015-0040. Designated smoking areas must be at least 10 feet from entrances, exits, windows that open, ventilation intakes, or accessibility ramps.

### (5) MEALS.

(a) Three nutritious meals must be served daily at times consistent with those in the community. Each daily menu must include food from the four basic food groups and fresh fruit and vegetables in season unless otherwise specified in writing by the physician. There must be no more than a 14-hour span between the evening meal and breakfast, unless snacks and liquids are served as supplements. Consideration must be given to cultural and ethnic backgrounds, as well as, the food preferences of individuals in food preparation. Special consideration must be given to individuals with chewing difficulties and other eating limitations. Food may not be used as an inducement to control the behavior of an individual.

(b) Menus for the coming week that consider individual preferences must be prepared and posted weekly in a location that is accessible to individuals and families. Menu substitutions in compliance with subsection (5)(a) of this section are acceptable.

(c) MODIFIED OR SPECIAL DIETS. For individuals with physician or health care provider ordered modified or special diets, the provider must:

(A) Have menus for the current week that provide food and beverages that consider the individual's preferences and are appropriate to the modified or special diet; and

(B) Maintain documentation that identifies how modified texture or special diets are prepared and served to individuals.

(d) Adequate storage must be available to maintain food at a proper temperature, including a properly working refrigerator. Food storage must be such that food is protected from dirt and contamination and maintained at proper temperatures to prevent spoilage.

(e) Utensils, dishes, glassware, and food supplies must not be stored in bedrooms, bathrooms, or living areas.

(f) Meals must be prepared and served in the AFH-DD where individuals live. Payment for meals eaten away from the AFH-DD for the convenience of the provider (e.g. restaurants, senior meal sites) is the responsibility of the provider. Meals and snacks as part of an individual recreational outing are the responsibility of the individual.

(g) Utensils, dishes, and glassware must be washed in hot soapy water, rinsed, and stored to prevent contamination. A dishwasher with sanitize cycle is recommended.

(h) Food storage and preparation areas and equipment must be clean, free of obnoxious odors, and in good repair.

(i) Home-canned foods must be processed according to the guidelines of the Oregon Extension Service. Freezing is the most acceptable method of food preservation. Milk must be pasteurized.

### (6) TELEPHONE.

(a) A telephone must be provided in the AFH-DD that is available and accessible for individuals' use for incoming and outgoing calls. Telephone lines must be unblocked to allow for access.

(b) Emergency telephone numbers for the local CDDP, police, fire, medical if not served by 911, an emergency number to reach a provider who does not live in the AFH-DD, and any emergency physician and additional persons to be contacted in the case of an emergency, must be posted in close proximity to all phones utilized by the licensee, resident manager, individuals, and caregivers.

(c) Telephone numbers for making complaints or a report of alleged abuse to the Department, the local CDDP, and Disability Rights Oregon must also be posted.

(d) Limitations on the use of the telephone by individuals are to be specified in the written house rules. Individual restrictions must be specified in the ISP. In all cases, a telephone must be accessible to individuals for outgoing calls (emergencies) 24 hours a day.

(e) AFH-DD telephone numbers must be listed in the local telephone directory.

(f) The licensee must notify the Department and the Department's designee, individuals, individuals' families, legal representatives, and service coordinators, as applicable, of any change in the adult foster home's telephone number within 24 hours of the change.

### (7) SAFETY.

(a) Buildings must meet all applicable state and local building, mechanical, and housing codes for fire and life safety. The AFH-DD may be inspected for fire safety by the State Fire Marshal's office at the request of the Department using the standards in these rules as appropriate.

(b) Heating in accordance with manufacturer's specifications and electrical equipment, including wood stoves, must be installed in accordance with all applicable fire and life safety codes. Such equipment must be used and maintained properly and be in good repair. Providers who do not have a permit verifying proper installation of an existing wood stove must have the wood stove inspected by a qualified inspector, Certified Oregon Chimney Sweep Association member, or Oregon Hearth Products Association member and follow their recommended maintenance schedule. Protective glass screens or metal mesh curtains attached top and bottom are required on fireplaces. The installation of a non-combustible heat resistant safety barrier may be required to be installed 36 inches around wood stoves to prevent individuals with ambulation or confusion problems from coming in contact with the stove. Un-vented portable oil, gas, or kerosene heaters are prohibited. Sealed electric transfer heaters or electric space heaters with tip-over shut-off capability may be used when approved by the authority having jurisdiction.

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(c) Extension cord wiring must not be used in place of permanent wiring.

(d) Hardware for all exit doors and interior doors used for exit purposes must have simple hardware that cannot be locked against exit and must have an obvious method of single action operation. Hasps, sliding bolts, hooks and eyes, and double key deadbolts are not permitted. Homes with one or more individuals who have impaired judgment and are known to wander away from their place of residence must have a functional and activated alarm system to alert a caregiver of an unsupervised exit by an individual.

(e) EMERGENCY PROCEDURES.

(A) GENERAL FIRE DRILL REQUIREMENTS. The provider must conduct unannounced evacuation drills when individuals are present, once every quarter with at least one drill per year occurring during the hours of sleep. Drills must occur at different times of the day, evening, and night, with exit routes being varied based on the location of a simulated fire. All residents must participate in the evacuation drills.

(B) WRITTEN FIRE DRILL DOCUMENTATION REQUIRED. Written documentation must be made at the time of the fire drill and kept by the provider for at least two years following the drill. Fire drill documentation must include:

- (i) The date and time of the drill or simulated drill;
- (ii) The location of the simulated fire and exit route;
- (iii) The last names of all individuals and providers present on the premises at the time of the drill;
- (iv) The type of evacuation assistance provided by providers to individuals;
- (v) The amount of time required by each individual to evacuate; and
- (vi) The signature of the provider conducting the drill.

(C) The ISP must document that, within 24 hours of arrival, each new individual receives an orientation to basic safety and is shown how to respond to a fire alarm and how to exit from the AFH-DD in an emergency.

(D) The provider must demonstrate the ability to evacuate all individuals from the AFH-DD within three minutes. If there are problems in demonstrating this evacuation time, the licensing authority may apply conditions to the license that include but are not limited to reduction of individuals under care, additional staffing, increased fire protection, or revocation of the license.

(E) The provider must provide, keep updated, and post a floor plan on each floor containing room sizes, location of each individual's bed, window, exit doors, resident manager or provider's sleeping room, smoke detectors, fire extinguishers, escape routes, and wheelchair ramps. A copy of the floor plan must be submitted with the application and updated to reflect any change.

(F) There must be at least one plug-in rechargeable flashlight available for emergency lighting in a readily accessible area on each floor including the basement.

(f) SMOKE ALARMS. Battery operated smoke alarms with a 10-year battery life and hush feature must be installed in accordance with the manufacturer's listing in each bedroom, adjacent hallways, common living areas, basements, and in two-story homes at the top of each stairway. Ceiling placement of smoke alarms is recommended. If wall mounted, smoke alarms must be between 6 inches and 12 inches from the ceiling and not within 12 inches of a corner. Alarms must be equipped with a device that warns of low battery condition when battery operated. All smoke alarms must be maintained in functional condition.

(g) PORTABLE FIRE FIGHTING EQUIPMENT. At least one 2A-10BC rated fire extinguisher must be in a visible and readily accessible location on each floor, including basements, and must be inspected at least once a year by a qualified worker that is well versed in fire extinguisher maintenance. All recharging and hydrostatic testing must be completed by a qualified agency properly trained and equipped for this purpose and documentation maintained.

(h) SPECIAL HAZARDS.

(A) Flammable and combustible liquids and hazardous materials must be safely and properly stored in original, properly labeled containers or safety containers, and secured to prevent tampering by individuals and vandals. To protect the safety of an individual in an AFH-DD, the provider must store hunting equipment and weapons in a safe and secure manner inaccessible to the individuals in the AFH-DD.

(B) Smoking regulations must be adopted to allow smoking only in outdoor designated areas in compliance with Oregon's Indoor Clean Air Act. Smoking is prohibited in sleeping rooms. Ashtrays of noncombustible material and safe design must be provided in areas where smoking is per-

mitted. Ashtrays must be at least 10 feet from any entrance, exit, window that opens, ventilation intake, or accessibility ramp.

(C) Smoking is prohibited in vehicles when individuals or employees occupy the vehicle.

(D) Cleaning supplies, medical sharps containers, poisons, and insecticides must be properly stored in original, properly labeled containers in a safe area away from food, preparation and storage, dining areas, and medications.

(8) EMERGENCY PLANNING.

(a) If an individual accesses the community independently, the provider must provide the individual information about appropriate steps to take in an emergency, such as emergency contact telephone numbers, contacting police or fire personnel, or other strategies to obtain assistance.

(b) WRITTEN EMERGENCY PLAN. Providers must develop, maintain, update, and implement a written Emergency Plan for the protection of all the individuals in the event of an emergency or disaster. The Emergency Plan must:

(A) Be practiced at least annually. The Emergency Plan practice may consist of a walk-through of the duties or a discussion exercise dealing with a hypothetical event, commonly known as a tabletop exercise.

(B) Consider the needs of the individuals being served and address all natural and human-caused events identified as a significant risk for the home such as a pandemic or an earthquake.

(C) Include provisions and sufficient supplies, such as sanitation and food supplies, to shelter in place, when unable to relocate, for a minimum of three days under the following conditions:

- (i) Extended utility outage;
- (ii) No running water;
- (iii) Inability to replace food supplies; and
- (iv) Caregivers unable to report as scheduled.

(D) Include provisions for evacuation and relocation that identifies:

(i) The duties of caregivers during evacuation, transporting, and housing of individuals including instructions to caregivers to notify the Department or the Department's designee and local CDDP of the plan to evacuate or the evacuation of the home as soon as the emergency or disaster reasonably allows;

(ii) The method and source of transportation;

(iii) Planned relocation sites that are reasonably anticipated to meet the needs of the individuals in the home;

(iv) A method that provides persons unknown to the individual the ability to identify each individual by the individuals name, and to identify the name of the individual's supporting provider; and

(v) A method for tracking and reporting to the Department, or the Department's designee, and the local CDDP the physical location of each individual until a different entity resumes responsibility for the individual,

(E) Address the needs of the individuals including provisions to provide:

(i) Immediate and continued access to medical treatment with the evacuation of the individual summary sheet and the individual's emergency information identified in OAR 411-360-0170, and other information necessary to obtain care, treatment, food, and fluids for individuals;

(ii) Continued access to life sustaining pharmaceuticals, medical supplies, and equipment during and after an evacuation and relocation;

(iii) Behavior support needs anticipated during an emergency; and

(iv) Adequate staffing to meet the life-sustaining and safety needs of the individuals.

(c) Providers must instruct and provide training to all caregivers about the caregivers' duties and responsibilities for implementing the Emergency Plan.

(A) Documentation of caregiver training must be kept on record by the provider.

(B) The provider must re-evaluate the Emergency Plan at least annually or when there is a significant change in the home.

(d) Applicable parts of the Emergency Plan must coordinate with each applicable Employment, Alternative to Employment, or Day Program provider to address the possibility of an emergency or disaster during day time hours.

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

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 25-2011(Temp), f. & cert. ef. 12-1-11 thru 5-29-12; SPD 5-2012, f. & cert. ef. 5-29-12

# ADMINISTRATIVE RULES

## 411-360-0170

### Documentation and Record Requirements

(1) **INDIVIDUAL RECORDS.** A record must be developed, kept current, and available on the premises for each individual admitted to the AFH-DD.

(a) The provider must maintain a summary sheet for each individual in the home. The summary sheet must include:

(A) The individual's name, current and previous address, date of entry into AFH-DD, date of birth, gender, marital status, religious preference, preferred hospital, Medicaid prime and private insurance number if applicable, and guardianship status; and

(B) The name, address, and telephone number of:

(i) The individual's legal representative, family, advocate, or other significant person;

(ii) The individual's preferred primary health care provider and designated back up health care provider or clinic;

(iii) The individual's preferred dentist;

(iv) The individual's day program or employer; if any;

(v) The individual's services coordinator; and

(vi) Other agency representatives providing services to the individual.

(b) **EMERGENCY INFORMATION.** The AFH-DD provider must maintain emergency information for each individual receiving services in the AFH-DD in addition to the individual summary sheet identified in subsection (1)(a) of this section. The emergency information must be kept current and must include:

(A) The individual's name;

(B) The provider's name, address, and telephone number;

(C) The address and telephone number of the AFH-DD where the individual resides if different from that of the licensee;

(D) The individual's physical description, which could include a picture and the date it was taken, and identification of:

(i) The individual's race, gender, height, weight range, hair, and eye color; and

(ii) Any other identifying characteristics that may assist in identifying the individual should the need arise, such as marks or scars, tattoos, or body piercings.

(E) Information on the individual's abilities and characteristics including:

(i) How the individual communicates;

(ii) The language the individual uses and understands;

(iii) The ability of the individual to know how to take care of bodily functions; and

(iv) Any additional information that could assist a person not familiar with the individual to understand what the individual can do for him or herself.

(F) The individual's health support needs including:

(i) Diagnosis;

(ii) Allergies or adverse drug reactions;

(iii) Health issues that a person would need to know when taking care of the individual;

(iv) Special dietary or nutritional needs such as requirements around textures or consistency of foods and fluids;

(v) Food or fluid limitations due to allergies, diagnosis, or medications the individual is taking that may be an aspiration risk or other risk for the individual;

(vi) Additional special requirements the individual has related to eating or drinking, such as special positional needs or a specific way foods or fluids are given to the individual;

(vii) Physical limitations that may affect the individual's ability to communicate, respond to instructions, or follow directions; and

(viii) Specialized equipment needed for mobility, positioning, or other health related needs.

(G) The individual's emotional and behavioral support needs including:

(i) Mental health or behavioral diagnosis and the behaviors displayed by the individual; and

(ii) Approaches to use when dealing with the individual to minimize emotional and physical outbursts.

(H) Any court ordered or guardian authorized contacts or limitations;

(I) The individual's supervision requirements and why; and

(J) Any additional pertinent information the provider has that may assist in the care and support of the individual should a natural or man-made disaster occur.

(c) Individual records must be available to representatives of the Department, or the Department's designee conducting inspections or inves-

tigations, as well as to individuals to whom the information pertains, their authorized representative, or other legally authorized persons;

(d) **INDIVIDUAL RECORDS.** Individual records must be kept by the provider for a period of at least three years. When an individual moves or the AFH-DD closes, copies of pertinent information must be transferred to the individual's new place of residence; and

(e) In all other matters pertaining to confidential records and release of information, providers must comply with ORS 179.505.

(2) **INDIVIDUAL ACCOUNT RECORDS.** For those individuals not yet capable of managing their own money as determined by the ISP Team or guardian, the provider must prepare, maintain, and keep current a separate and accurate written record for each individual of all money received or disbursed on behalf of or by the individual.

(a) The record must include:

(A) The date, amount, and source of income received;

(B) The date, amount, and purpose of funds disbursed; and

(C) Signature of the provider making each entry.

(b) Purchases of \$10.00 or more made on behalf of an individual must be documented by receipts unless an alternate amount is otherwise specified by the ISP team.

(c) Personal Incidental Funds (PIF) for individuals are to be used at the discretion of the individual for such things as clothing, video games, and snacks (not part of daily diet) and addressed in the ISP.

(d) Each record must include the disposition of the room and board fee that the individual pays to the provider at the beginning of each month.

(e) **REIMBURSEMENT TO INDIVIDUAL.** The provider must reimburse the individual any funds that are missing due to theft or mismanagement on the part of the provider, resident manager, or caregiver of the AFH-DD, or for any funds within the custody of the provider that are missing. Such reimbursement must be made within 10 working days of the verification that funds are missing.

(f) Financial records must be maintained for at least seven years.

(3) **INDIVIDUALS' PERSONAL PROPERTY RECORD.** The provider must prepare and maintain an accurate individual written record of personal property that has significant or monetary value to each individual as determined by a documented ISP team or guardian decision. The record must include:

(a) The description and identifying number, if any;

(b) Date of inclusion in the record;

(c) Date and reason for removal from record;

(d) Signature of provider making each entry; and

(e) A signed and dated annual review of the record for accuracy.

(4) **INDIVIDUAL SUPPORT PLAN.** A health and safety transition plan must be developed at the time of admission for the first 60 days of service. A complete ISP must be developed by the end of 60 days. It must be updated at a minimum annually, and more often when the individual's support needs change.

(a) A completed ISP must be documented on the Department-mandated Foster Care ISP Form that includes the following:

(A) What is most important to the individual and what works and doesn't work;

(B) The individual's support needs as identified on the Support Needs Assessment Profile (SNAP) (if applicable);

(C) The type and frequency of supports to be provided;

(D) The person responsible for carrying out the supports; and

(E) A copy of the Employment, Alternatives to Employment, or Day Program provider's plan must be integrated or attached to the AFH-DD ISP for persons also served in an employment or other Department-funded day service.

(b) The ISP must include at least six hours of activities each week that are of interest to the individual, not including television or movies made available by the provider. Activities available in the community and made available or offered by the provider or the CDDP may include but are not limited to:

(A) Habilitation services;

(B) Rehabilitation services;

(C) Educational services;

(D) Vocational services;

(E) Recreational and leisure activities; and

(F) Other services required to meet an individual's needs as defined in the ISP.

(5) **HOUSE RULES.** The provider must document that a copy of the written house rules has been provided and discussed with the individual annually. House rules must be in compliance with section (9) of this rule

## ADMINISTRATIVE RULES

governing the rights of individuals. House rules established by the provider must:

(a) Include any restrictions the AFH-DD may have on the use of alcohol, tobacco in compliance with Oregon's Indoor Clean Air Act, medical marijuana (if applicable), pets, visiting hours, dietary restrictions, or religious preference.

(b) Include house rules specific to the presence and use of medical marijuana on the AFH-DD premises, if applicable. The home's medical marijuana rules must be reviewed and approved by the Department or the Department's designee.

(c) Not be in conflict with the individual's Bill of Rights, the family atmosphere of the home, or any of these rules.

(d) Include house rules specific to the immediate notification of substantiated abuse as described in OAR 411-360-0210(16).

(e) Be reviewed and approved by the Department or the Department's designee prior to the issuance of a license and prior to implementing changes.

(f) Be readily available to be seen and read by individuals and visitors.

(6) UNUSUAL INCIDENTS. A written report of all unusual incidents relating to an individual must be sent to the CDDP within five working days of the incident. The report must include how and when the incident occurred, who was involved, what action was taken by the provider or caregiver, the outcome to the individual, and what action is being taken to prevent the reoccurrence of the incident.

(7) GENERAL INFORMATION. The provider must maintain all other information or correspondence pertaining to the individual.

(8) MONTHLY PROGRESS NOTES. The provider must maintain and keep current, at minimum, monthly progress notes for each individual residing in the home regarding the progress of the ISP supports, any medical, behavioral, or safety issues, or any other events that are significant to the individual.

(9) INDIVIDUAL'S BILL OF RIGHTS. The provider must abide by the individual's Bill of Rights and post them in a location that is accessible to individuals and the individuals' parents, guardians, or legal representatives. The provider must give a copy of the individual's Bill of Rights along with a description of how to exercise these rights to each individual and the individual's parent, guardian, or legal representative. The individual's Bill of Rights must be reviewed annually or as changes occur by the provider with the individual and any parent, guardian, or legal representative. The individual's Bill of Rights states each individual has the right to:

(a) Be treated as an adult with respect and dignity;

(b) Be encouraged and assisted to exercise constitutional and legal rights as a citizen including the right to vote;

(c) Receive appropriate care and services and prompt health care as needed;

(d) Have adequate personal privacy and privacy to associate and communicate privately with any person of choice, such as family members, friends, advocates, and legal, social service, and medical professionals, send and receive personal mail unopened, and engage in telephone conversations as explained in OAR 411-360-0130(6);

(e) Have access to and participate in activities of social, religious, and community groups;

(f) Be able to keep and use personal clothing and possessions as space permits;

(g) Be free of discrimination in regard to race, color, national origin, gender, sexual orientation, or religion;

(h) Manage his or her financial affairs unless determined unable by the ISP team or legally restricted;

(i) Have a safe and secure environment;

(j) Have a written agreement regarding services to be provided;

(k) Voice grievance without fear of retaliation;

(l) Have freedom from training, treatment, or chemical or protective physical interventions except as agreed to, in writing, in an individual's ISP;

(m) Be allowed and encouraged to learn new skills, to act on their own behalf to their maximum ability, and to relate to individuals in an age appropriate manner;

(n) Have an opportunity to exercise choices including such areas as food selection, personal spending, friends, personal schedule, leisure activities, and place of residence;

(o) Be free from punishment. Behavior intervention programs must be approved in writing on the individual's ISP;

(p) Be free from abuse and neglect;

(q) Have the opportunity to contribute to the maintenance and normal activities of the household;

(r) Have access and opportunity to interact with persons with or without disabilities; and

(s) Have the right not to be transferred or moved without advance notice as provided in ORS 443.739(18) and OAR 411-088-0070, and the opportunity for a hearing as provided in ORS 443.738(11)(c) and OAR 411-088-0080.

(10) AFH-DD records must be kept current and maintained by the AFH-DD provider and be available for inspection upon request. AFH-DD records must include but not be limited to proof that the provider, resident manager, and any other caregivers have met the minimum qualifications as required by OAR 411-360-0110. The following documentation must be available for review upon request:

(a) Completed employment applications including the names, addresses, and telephone numbers of all caregivers employed by the provider. All employment applications for persons hired to provide care in an AFH-DD must ask if the applicant has ever been found to have committed abuse.

(b) Proof that the provider has the Department's approval for each subject individual, who is 16 years of age and older, to have contact with adults who are elderly or physically disabled or developmentally disabled as a result of a background check as defined in OAR 407-007-0210.

(c) Proof of required training according to OAR 411-360-0120. Documentation must include the date of each training, subject matter, name of agency or organization providing the training, and number of training hours.

(d) A certificate to document completion of the Department's Basic Training Course for the provider, resident manager, and all caregivers.

(e) Proof of mandatory abuse report training for all caregivers.

(f) Proof of any additional training required for resident managers and caregivers.

(g) Documentation of caregiver orientation to the AFH-DD, training of emergency procedures, training on individual's ISP's, and training on behavior supports and Nursing Care Plan (if applicable).

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 25-2011(Temp), f. & cert. ef. 12-1-11 thru 5-29-12; SPD 29-2011(Temp), f. & cert. ef. 12-30-11 thru 5-29-12; SPD 5-2012, f. & cert. ef. 5-29-12

### 411-360-0180

#### General Practices

The provider must:

(1) Conspicuously post the state license where it can be seen by individuals;

(2) Explain and document in the individual's file that a copy of the individual's Bill of Rights is given to each individual at admission. The individual's Bill of Rights must be posted in a conspicuous place and include the name and phone number of the office to call in order to report complaints;

(3) Develop written house rules regarding hours, visitors, designated smoking areas, alcohol, use and presence of medical marijuana, meal times, use of telephones and kitchen, monthly charges and services to be provided, and policies on refunds in case of departure, hospitalization, or death. House rules must be discussed with individuals and their families at the time of admission, reviewed annually, and posted in a conspicuous place in the AFH-DD. House rules are subject to review and approval by the Department or the Department's designee and may not violate individual's rights as stated in ORS 430.210, 443.739, and OAR 411-360-0170(9). If the individual intends to use medical marijuana in the AFH-DD, the individual's record must include the home's medical marijuana house rules signed and dated by the individual or the individual's legal representative;

(4) Cooperate with Department personnel or the Department's designee in complaint investigation procedures, abuse investigations and protective services, planning for individual care, application procedures, and other necessary activities, and allow access of Department personnel, or the Department's designee, to the AFH-DD, its individuals, and all records;

(5) Give care and services, as appropriate to the age and condition of the individuals and as identified in the ISP. The provider must be responsible for ensuring that physicians' orders and those of other medical or health professionals are followed and that the individual's physicians and other health professionals are informed of changes in health status and if the individual refuses care;

(6) In the provider's absence, have a substitute caregiver on the premises that can provide care or services as required by the age and condition of the individuals. An AFH-DD service recipient may not be a substitute

# ADMINISTRATIVE RULES

caregiver. For provider absences beyond 72 hours, the CDDP must be notified of the name of the substitute caregiver;

(7) A provider, resident manager, or caregiver must be present in the home at all times individuals are present, unless specifically stated in the ISP and granted as a variance by the Department;

(8) Allow individuals to exercise all civil and human rights accorded to other citizens;

(9) Not allow or tolerate physical, sexual, or emotional abuse or punishment, exploitation, or neglect of individuals;

(10) Provide care and services as agreed to in the ISP;

(11) Keep information related to individuals confidential as required under ORS 179.050;

(12) Assure that the number of individuals requiring nursing care does not exceed the provider's capability as determined by the CDDP and Department;

(13) Not admit individuals without developmental disabilities prior to the express permission of the Department or the Department's designee. The provider must notify the CDDP prior to admitting an individual not referred for placement by the CDDP;

(14) Notify the Department and CDDP prior to announcing a planned closure to individuals and families. The provider must give individuals, families, and the CDDP staff 30 days written notice of the planned change except in circumstances where undue delay might jeopardize the health, safety, or well-being of individuals, providers, or caregivers. If a provider has more than one AFH-DD, individuals may not be shifted from one AFH-DD to another without the same period of notice unless prior approval is given and agreement obtained from individuals, family members, and the CDDP;

(15) Exercise reasonable precautions against any conditions that may threaten the health, safety, or welfare of individuals;

(16) Immediately notify the appropriate ISP team members (in particular the services coordinator and family or guardian) of any unusual incidents that include the following:

- (a) Any significant change in medical status;
- (b) An unexplained or unanticipated absence from the AFH-DD;
- (c) Any alleged or actual abuse of the individual;
- (d) Any major behavioral incident, accident, illness, or hospitalization;

(e) If the individual contacts or is contacted by the police; or  
(f) The individual dies.

(17) Write an incident report for any unusual incident and forward a copy of the incident report to the CDDP within five working days of the incident unless the incident must be referred immediately for a protective services investigation. Copies of incident reports not involving a protective services investigation must be provided to the guardian or personal agent, when applicable; and

(18) Notify the Department and the Department's designee within 24 hours upon a change in the business address for electronic mail and the telephone number for the provider and the AFH-DD.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 5-2012, f. & cert. ef. 5-29-12

## 411-360-0190

### Standards for Admission, Transfers, Respite, Crisis Placements, Exit, and Closures

(1) **ADMISSION.** All individuals considered for admission into the AFH-DD must:

(a) Not be discriminated against because of race, color, creed, age, disability, gender, sexual orientation, national origin, duration of Oregon residence, method of payment, or other forms of discrimination under applicable state or federal law; and

(b) Be determined to have a developmental disability by the Department or the Department's designee; and

(A) Be referred by the CDDP or have prior written approval of the CDDP or Department if the individual's services are paid for by the Department; or

(B) Be placed with the agreement of the CDDP if the individual is either private pay or not developmentally disabled.

(2) **INFORMATION REQUIRED FOR ADMISSION.** At the time of the referral, the provider must be given:

(a) A copy of the individual's eligibility determination document;

(b) A statement indicating the individual's safety skills including ability to evacuate from a building when warned by a signal device and adjusting water temperature for bathing and washing;

(c) A brief written history of any behavioral challenges including supervision and support needs;

(d) A medical history and information on health care support that includes where available:

(A) The results of a physical exam made within 90 days prior to entry;

(B) The results of any dental evaluation;

(C) A record of immunizations;

(D) A record of known communicable diseases and allergies; and

(E) A record of major illnesses and hospitalizations.

(e) A written record of any current or recommended medications, treatments, diets, and aids to physical functioning;

(f) Copies of documents relating to guardianship or conservatorship or any other legal restrictions on the rights of the individual, if applicable; and

(g) A copy of the most recent Functional Behavioral Assessment, Behavior Support Plan, ISP, and Individual Education Plan if applicable.

(3) **ADMISSION MEETING.** An ISP team meeting must be conducted prior to the onset of services for the individual. The findings of the meeting must be recorded in the individual's file and include at a minimum:

(a) The name of the individual proposed for services;

(b) The date of the meeting and the date determined to be the date of entry;

(c) The names and role of the participants at the meeting;

(d) Documentation of the pre-admission information required by section (2) of this rule;

(e) Documentation of the decision to serve or not serve the individual requesting service with reasons; and

(f) A written Transition Plan to include all medical, behavior, and safety supports needed by the individual, to be provided to the individual for no longer than 60 days, if the decision was made to serve.

(4) The provider must retain the right to deny admission of any individual if they feel the individual's support needs may not be met by the AFH-DD provider, or for any other reason specifically prohibited by these rules.

(5) AFH-DD homes may not be used as a site for foster care for children, adults from other agencies, or any other type of shelter or day care without the written approval of the CDDP or the Department.

(6) **TRANSFERS.**

(a) An individual may not be transferred by a provider to another AFH-DD or moved out of the AFH-DD without 30 days advance written notice to the individual, the individual's legal representative, guardian, or conservator, and the CDDP stating reasons for the transfer as provided in ORS 443.739(18) and OAR 411-088-0070, and the individual's right to a hearing as provided in ORS 443.738(11)(c) and OAR 411-088-0080, except for a medical emergency, or to protect the welfare of the individual or other individuals. Individuals may only be transferred by a provider for the following reasons:

(A) Behavior that poses a significant danger to the individual or others;

(B) Failure to make payment for care;

(C) The AFH-DD has had its license suspended, revoked, not renewed, or the provider voluntarily surrendered their license;

(D) The individual's care needs exceed the ability of the provider; or

(E) There is a mutual decision made by the individual and the ISP team that a transfer is in the individual's best interest and all team members agree.

(b) Individuals who object to the transfer by the AFH-DD provider must be given the opportunity for hearing as provided in ORS 443.738(11)(c) and OAR 411-088-0080. Participants may include the individual, and at the individual's request, the provider, a family member, and the CDDP. If a hearing is requested to appeal a transfer, the individual must continue to receive the same services until the appeal is resolved.

(7) **RESPITE.** Providers may not exceed the licensed capacity of their AFH-DD. However, respite care of no longer than 14 days duration may be provided to one or more individuals if the addition of the respite individual does not cause the total number of individuals to exceed five. Thus, a provider may exceed the licensed number of individuals by one or more respite individuals for 14 days or less if:

(a) Approved by the CDDP or the Department;

(b) The total number of individuals does not exceed five;

(c) There is adequate bedroom and living space available in the AFH-DD; and

(d) The provider has information sufficient to provide for the health and safety of individuals receiving respite.

(8) **CRISIS SERVICES.**

# ADMINISTRATIVE RULES

(a) All individuals considered for crisis services received in an AFH-DD must:

(A) Be referred by the CDDP or Department;

(B) Be determined to have a developmental disability by the Department or the Department's designee;

(C) Be determined to be eligible for developmental disability services as described in OAR 411-320-0080;

(D) Not be discriminated against because of race, color, creed, age, disability, gender, sexual orientation, national origin, duration of Oregon residence, method of payment, or other forms of discrimination under applicable state or federal law; and

(E) Have a written Crisis Plan developed by the CDDP or Regional Crisis Diversion Program that serves as the justification for, and the authorization of, supports and expenditures pertaining to an individual receiving crisis services provided under this rule.

(b) SUPPORT SERVICES PLAN OF CARE AND CRISIS ADDENDUM REQUIRED. Individuals receiving support services under OAR chapter 411, division 340, and receiving crisis services in an AFH-DD must have a Support Services Plan of Care and a Crisis Addendum upon admission to the AFH-DD.

(c) PLAN OF CARE. Individuals not enrolled in support services receiving crisis services for less than 90 consecutive days must have a Transition Plan on admission that addresses any critical information relevant to the individual's health and safety including current physicians' orders.

(d) ADMISSION MEETING REQUIRED. Admission meetings are required for individuals receiving crisis services.

(e) EXIT MEETING REQUIRED. Exit meetings are required for individuals receiving crisis services.

(f) WAIVER OF APPEAL RIGHTS FOR EXIT. Individuals receiving crisis services do not have appeal rights regarding exit upon completion of the Crisis Plan.

(9) EXIT.

(a) A provider may only exit an individual for valid reasons equivalent to those for transfers stated in section (6)(a) of this rule. The provider must give at least 30 days written notice to an individual, the CDDP services coordinator, and the Department or the Department's designee before termination of residency, except where undue delay might jeopardize the health, safety, or well-being of the individual or others. If an individual requests a hearing to appeal the exit from an AFH-DD, the individual must receive the same services until the grievance is resolved.

(b) The provider must promptly notify the CDDP in writing if an individual gives notice or plans to leave the AFH-DD or if an individual abruptly leaves. An individual is not required to give notice to an AFH-DD provider if they choose to exit the AFH-DD.

(10) EXIT MEETING. Each individual considered for exit must have a meeting by the ISP team before any decision to exit is made. Findings of such a meeting must be recorded in the individual's file and include at a minimum:

(a) The name of the individual considered for exit;

(b) The date of the meeting;

(c) Documentation of the participants included in the meeting;

(d) Documentation of the circumstances leading to the proposed exit;

(e) Documentation of the discussion of strategies to prevent an exit from the AFH-DD unless the individual or the individual's guardian is requesting exit;

(f) Documentation of the decision regarding exit including verification of a majority agreement of the meeting participants regarding the decision; and

(g) Documentation of the proposed plan for services to the individual after the exit.

(11) REQUIREMENTS FOR WAIVER OF EXIT MEETING. Requirements for an exit meeting may be waived if an individual is immediately removed from the AFH-DD under the following conditions:

(a) The individual and the individual's guardian or legal representative request an immediate move from the AFH-DD home; or

(b) The individual is removed by legal authority acting pursuant to civil or criminal proceedings.

(12) CLOSING. Providers must notify the Department in writing prior to a voluntary closure of an AFH-DD and give individuals, families, and the CDDP 30 days written notice, except in circumstances where undue delay might jeopardize the health, safety, or well-being of individuals, providers, or caregivers. If a provider has more than one AFH-DD, individuals may not be shifted from one house to another house without the same period of notice unless prior approval is given and agreement obtained from

individuals, family members, and the CDDP. A provider must return the AFH-DD license to the Department if the home closes prior to the expiration of the license.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 25-2011(Temp), f. & cert. ef. 12-1-11 thru 5-29-12; SPD 29-2011(Temp), f. & cert. ef. 12-30-11 thru 5-29-12; SPD 5-2012, f. & cert. ef. 5-29-12

## 411-360-0260

### Civil Penalties

(1) Civil penalties, except as otherwise provided in this rule, may not exceed \$100 per violation to a maximum of \$250 assessed for a general violation of these rules.

(2) A civil penalty of up to \$500, unless otherwise required by law, shall be imposed for falsifying individual or AFH-DD records or causing another to do so.

(3) A civil penalty of \$250 shall be imposed on a licensee for failure to have either the provider, resident manager, or other qualified caregiver on duty 24 hours per day in the AFH-DD per ORS 443.725(3), unless permitted under OAR 411-360-0180(7).

(4) A civil penalty of \$250 shall be imposed for dismantling or removing the battery from any required smoke alarm or failing to install any required smoke alarm.

(5) A civil penalty of not less than \$250 and not more than \$500, unless otherwise required by law, shall be imposed on a provider who admits knowing that the individual's care needs exceed the license classification of the AFH-DD if the admission places the individual or other individuals at grave risk of harm.

(6) Civil penalties of up to \$1,000 per occurrence may be assessed for substantiated abuse.

(7) If the Department or the Department's designee conducts an investigation or survey and abuse is substantiated and if the abuse resulted in the death, serious injury, rape, or sexual abuse of a resident, the Department shall impose a civil penalty of not less than \$2,500 for each violation.

(A) To impose this civil penalty, the Department shall establish that:

(A) The abuse arose from deliberate or other than accidental action or inaction;

(B) The conduct resulting in the abuse was likely to cause death, serious injury, rape, or sexual abuse of a resident; and

(C) The person with the finding of abuse had a duty of care toward the resident.

(b) For the purposes of this civil penalty, the following definitions apply:

(A) "Serious injury" means a physical injury that creates a substantial risk of death or that causes serious disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

(B) "Rape" means rape in the first, second, or third degree as described in ORS 163.355, 163.365, and 163.375.

(C) "Sexual abuse" means any form of nonconsensual sexual contact including but not limited to unwanted or inappropriate touching, sodomy, sexual coercion, sexually explicit photographing, or sexual harassment. The sexual contact must be in the form of any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party.

(D) "Other than accidental" means failure on the part of the licensee, or licensee's employees, agents, or volunteers for whose conduct licensee is responsible, to comply with applicable Oregon Administrative Rules.

(8) In addition to any other liability or penalty, the Department may impose a civil penalty for any of the following:

(a) Operating the AFH-DD without a license;

(b) The number of individuals exceeds the licensed capacity;

(c) The provider fails to achieve satisfactory compliance with the requirements of these rules within the time specified or fails to maintain such compliance;

(d) The AFH-DD is unable to provide adequate level of care to individuals;

(e) There is retaliation or discrimination against an individual, family, employee, or any other person for making a complaint against the AFH-DD;

(f) The provider fails to cooperate with the Department, physician, registered nurse, or other health care professional in carrying out an individual's care plan; or

(g) Violations are found on two consecutive inspections of an AFH-DD after a reasonable amount of time prescribed for elimination of the violations has passed.

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(9) In imposing a civil penalty pursuant to this rule, the Department shall consider the following factors:

(a) The past history of the provider incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation;

(b) Any prior violations of statutes or rules pertaining to AFH-DD homes;

(c) The economic and financial conditions of the provider incurring the penalty; and

(d) The immediacy and extent to which the violation threatens or threatened the health, safety, and well being of the individuals.

(10) Any civil penalty imposed under this rule shall become due and payable when the provider incurring the penalty receives a notice in writing from the Department. The notice shall be sent by registered or certified mail and shall include:

(a) A reference to the particular sections of the statute, rule, standard, or order involved;

(b) A short and plain statement of the matter asserted or charged;

(c) A statement of the amount of the penalty or penalties imposed; and

(d) A statement of the right to request a hearing.

(11) The provider, to whom the notice is addressed, shall have 10 days from the date of service of the notice in which to make a written application for a contested case hearing before the Department.

(12) All hearings shall be conducted pursuant to the applicable provisions of ORS chapter 183.

(13) If the provider notified fails to request a contested case hearing within 10 days, a final order may be entered by the Department assessing a civil penalty.

(14) A civil penalty imposed under ORS 443.455 or 441.710 may be remitted or reduced upon such terms and conditions as the Director of the Department considers proper and consistent with individual health and safety.

(15) If the final order is not appealed, the amount of the penalty is payable within 10 days after the final order is entered. If the order is appealed and is sustained, the amount of the penalty is payable within 10 days after the court decision. The order, if not appealed or sustained on appeal, shall constitute a judgment and may be filed in accordance with provisions of ORS chapter 18. Execution may be issued upon the order in the same manner as execution upon a judgment of a court of record.

(16) A violation of any general order or final order pertaining to an AFH-DD issued by the Department is subject to a civil penalty in the amount of not less than \$5 and not more than \$500 for each and every violation.

(17) Judicial review of civil penalties imposed under ORS 441.710 shall be provided under ORS 183.480, except that the court may, in its discretion, reduce the amount of the penalty.

(18) All penalties recovered under ORS 443.455 and 441.710 to 441.740 shall be paid into the Quality Care Fund.

Stat. Auth.: ORS 409.050

Stats. Implemented: ORS 443.705 - 443.825

Hist.: SPD 3-2005, f. 1-10-05, cert. ef. 2-1-05; SPD 13-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 5-2012, f. & cert. ef. 5-29-12

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**Rule Caption:** In-Home Services, Instrumental Activities of Daily Living (IADL).

**Adm. Order No.:** SPD 6-2012

**Filed with Sec. of State:** 5-31-2012

**Certified to be Effective:** 6-1-12

**Notice Publication Date:** 5-1-2012

**Rules Amended:** 411-030-0070

**Rules Repealed:** 411-030-0070(T)

**Subject:** In response to a budgetary shortfall, the Department of Human Services is permanently amending OAR 411-030-0070 to reduce the in-home services maximum monthly hours for instrumental activities of daily living (IADL) by 10 percent. The reduction became effective January 1, 2012.

Meal preparation and housekeeping are the only IADL service hours reduced since the highest allotment of hours are in these two areas. This reduction minimizes the loss of IADL hours in areas only allowed a small allotment of hours (medication and oxygen management, transportation or escort assistance, and shopping). Reducing meal preparation and housekeeping hours accomplishes a total 10 percent reduction of the IADLs.

**Rules Coordinator:** Christina Hartman—(503) 945-6398

## 411-030-0070

### Maximum Hours of Service

(1) LEVELS OF ASSISTANCE FOR DETERMINING SERVICE PLAN HOURS.

(a) "Minimal Assistance" means the individual is able to perform the majority of an activity, but requires some assistance from another person.

(b) "Substantial Assistance" means the individual can perform only a small portion of the tasks that comprise the activity without assistance from another person.

(c) "Full Assistance" means the individual needs assistance from another person through all phases of the activity, every time the activity is attempted.

(2) MAXIMUM MONTHLY HOURS FOR ADL.

(a) The planning process uses the following limitations for time allotments for ADL tasks. Hours authorized must be based on the service needs of the individual. Case managers may authorize up to the amount of hours identified in these assistance levels (minimal, substantial, or full assist).

(A) Eating:

(i) Minimal assistance, 5 hours;

(ii) Substantial assistance, 20 hours;

(iii) Full assistance, 30 hours;

(B) Dressing/Grooming:

(i) Minimal assistance, 5 hours;

(ii) Substantial assistance, 15 hours;

(iii) Full assistance, 20 hours;

(C) Bathing and Personal Hygiene:

(i) Minimal assistance, 10 hours;

(ii) Substantial assistance, 15 hours;

(iii) Full assistance, 25 hours;

(D) Mobility:

(i) Minimal assistance, 10 hours;

(ii) Substantial assistance, 15 hours;

(iii) Full assistance, 25 hours;

(E) Elimination (Toileting, Bowel, and Bladder):

(i) Minimal assistance, 10 hours;

(ii) Substantial assistance, 20 hours;

(iii) Full assistance, 25 hours;

(F) Cognition/Behavior:

(i) Minimal assistance, 5 hours;

(ii) Substantial assistance, 10 hours;

(iii) Full assistance, 20 hours.

(b) Service plan hours for ADL may only be authorized for an individual if the individual requires assistance (minimal, substantial, or full assist) from another person in that activity of daily living as determined by a service assessment applying the parameters in OAR 411-015-0006.

(c) For households with two or more eligible individuals, each individual's ADL service needs must be considered separately. In accordance with section (3)(c) of this rule, authorization of IADL hours shall be limited for each additional individual in the home.

(d) Hours authorized for ADL are paid at hourly rates in accordance with the rate schedule. The Independent Choices Program cash benefit is based on the hours authorized for ADLs paid at the hourly rates. Participants of the Independent Choices Program may determine their own employee provider pay rates.

(3) MAXIMUM MONTHLY HOURS FOR IADL.

(a) The planning process uses the following limitations for time allotments for IADL tasks. Hours authorized must be based on the service needs of the individual. Case managers may authorize up to the amount of hours identified in these assistance levels (minimal, substantial, or full assist).

(A) Medication and Oxygen Management:

(i) Minimal assistance, 2 hours;

(ii) Substantial assistance, 4 hours;

(iii) Full assistance, 6 hours;

(B) Transportation or Escort Assistance:

(i) Minimal assistance, 2 hours;

(ii) Substantial assistance, 3 hours;

(iii) Full assistance, 5 hours;

(C) Meal Preparation:

(i) Minimal assistance prior to January 1, 2012:

(I) Breakfast, 4 hours;

(II) Lunch, 4 hours;

(III) Supper, 8 hours.

(ii) Minimal assistance effective January 1, 2012:

(I) Breakfast, 3 hours;

(II) Lunch, 3 hours;

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- (III) Supper, 7 hours.
- (iii) Substantial assistance prior to January 1, 2012:
- (I) Breakfast, 8 hours;
- (II) Lunch, 8 hours;
- (III) Supper, 16 hours.
- (iv) Substantial assistance effective January 1, 2012:

- (I) Breakfast, 7 hours;
- (II) Lunch, 7 hours;
- (III) Supper, 14 hours.
- (v) Full assistance prior to January 1, 2012:
- (I) Breakfast, 12 hours;
- (II) Lunch, 12 hours;
- (III) Supper, 24 hours.
- (vi) Full assistance effective January 1, 2012:

- (I) Breakfast, 10 hours;
- (II) Lunch, 10 hours;
- (III) Supper, 21 hours.
- (D) Shopping:
- (i) Minimal assistance, 2 hours;
- (ii) Substantial assistance, 4 hours;
- (iii) Full assistance, 6 hours;
- (E) Housecleaning:
- (i) Minimal assistance:
- (I) Prior to January 1, 2012, 5 hours.
- (II) Effective January 1, 2012, 4 hours.
- (ii) Substantial assistance:
- (I) Prior to January 1, 2012, 10 hours.
- (II) Effective January 1, 2012, 9 hours.
- (iii) Full assistance:
- (I) Prior to January 1, 2012, 20 hours.
- (II) Effective January 1, 2012, 18 hours.

(b) Rates shall be paid in accordance with the rate schedule. When a live-in employee is present, these hours may be paid at less than minimum wage according to the Fair Labor Standards Act. The Independent Choices Program cash benefit is based on the hours authorized for IADL tasks paid at the hourly rates. Participants of the Independent Choices Program may determine their own employee provider pay rates.

(c) When two or more individuals eligible for IADL task hours live in the same household, the assessed IADL need of each individual must be calculated. Payment shall be made for the highest of the allotments and a total of four additional IADL hours per month for each additional individual to allow for the specific IADL needs of the other individuals.

(d) Service plan hours for IADL tasks may only be authorized for an individual if the individual requires assistance (minimal, substantial, or full assist) from another person in that IADL task as determined by a service assessment applying the parameters in OAR 411-015-0007.

#### (4) TWENTY-FOUR HOUR AVAILABILITY.

(a) Payment for 24-hour availability shall be authorized only when an individual employs a live-in homecare worker or Independent Choices Program employee provider and requires 24-hour availability due to the following:

(A) The individual requires assistance with ADL or IADL tasks at unpredictable times throughout most 24-hour periods; and

(B) The individual requires minimal, substantial, or full assistance with ambulation and requires assistance with transfer (as defined in OAR 411-015-0006); or

(C) The individual requires full assistance in transfer or elimination (as defined in OAR 411-015-0006); or

(D) The individual requires full assist in at least three of the eight components of cognition/behavior (as defined in OAR 411-015-0006).

(b) The number of hours allowed per month shall have the following maximums. Hours authorized are based on the service needs of the individual. Case managers may authorize up to the amount of hours identified in these assistance levels (minimal, substantial, or full assist).

(A) Minimal assistance — 60 hours. Minimal assistance hours may be authorized when an individual requires one of these assessed needs as defined in OAR 411-015-0006:

- (i) Full assist in cognition; or
- (ii) Full assist in toileting or bowel or bladder.

(B) Substantial assistance — 110 hours. Substantial assistance hours may be authorized when an individual requires these assessed needs as defined in OAR 411-015-0006:

- (i) Assist in transfer; and
- (ii) Assist in ambulation; and
- (iii) Full assist in cognition; or

(iv) Full assist in toileting or bowel or bladder.

(C) Full assistance — 159 hours. Full assistance hours may be authorized when:

(i) The authorized provider cannot get at least five continuous hours of sleep in an eight hour period during a 24-hour work period; and

(ii) The eligible individual requires these assessed needs as defined in OAR 411-015-0006:

- (I) Full assist in transfer; and
- (II) Assist in mobility; or
- (III) Full assist in toileting or bowel or bladder; or
- (IV) Full assist in cognition.

(c) Service plans that include full-time live-in homecare workers or Independent Choices Program employee providers must include a minimum of 60 hours per month of 24-hour availability. When a live-in homecare worker or Independent Choices Program employee provider is employed less than full time, the hours must be pro-rated. Full-time means the live-in homecare worker is providing services to the client-employer seven days per week throughout a calendar month.

(d) Rates for 24-hour availability shall be in accordance with the rate schedule and paid at less than minimum wage according to the Fair Labor Standards Act and ORS 653.020.

(e) Twenty-four hour availability assumes the homecare worker is available to address the service needs of an individual as they arise throughout a 24-hour period. A homecare worker who engages in employment outside the eligible individual's home or building during the work periods the homecare worker is on duty, is not considered available to meet the service needs of the individual.

(5) Under no circumstances shall any provider receive payment from the Department for more than the total amount authorized by the Department on the service plan authorization form. All service payments must be prior-authorized by the Department/AAA.

(6) AUTHORIZED HOURS ARE SUBJECT TO THE AVAILABILITY OF FUNDS. Case managers must assess and utilize as appropriate, natural supports, cost-effective assistive devices, durable medical equipment, housing accommodations, and alternative service resources (as defined in OAR 411-015-0005) which could reduce the individual's reliance on paid in-home services hours.

(7) The Department may authorize paid in-home services only to the extent necessary to supplement potential or existing resources within the individual's natural supports system.

(8) Payment by the Department for waived in-home services shall only be made for those tasks described in this rule as ADL, IADL tasks, and 24-hour availability. Services must be authorized to meet the needs of the eligible individual and may not be provided to benefit the entire household.

#### (9) EXCEPTIONS TO MAXIMUM HOURS OF SERVICE.

(a) To meet an extraordinary ADL service need that has been documented, the hours authorized for ADL may exceed the full assistance hours (described in section (2) of this rule) as long as the total number of ADL hours in the service plan does not exceed 145 hours per month.

(b) Monthly service payments that exceed 145 ADL hours per month may be approved by the Department when the exceptional payment criteria identified in OAR 411-027-0020 and 411-027-0050 is met.

(c) Monthly service plans that exceed 145 ADL, 76 IADL, and 159 24-hour availability hours per month for a live-in homecare worker or Independent Choices Program employee provider, or that exceed the equivalent monthly service payment for an hourly services plan, may be approved by the Department when the exceptional payment criteria identified in OAR 411-027-0020 and 411-027-0050 is met.

(d) As long as the total number of IADL task hours in the service plan does not exceed 76 hours per month and the service need is documented, the hours authorized for IADL tasks may exceed the hours for full assistance (as described in section (3) of this rule) for the following tasks and circumstances:

(A) Housekeeping based on medical need (such as immune deficiency);

(B) Short-term extraordinary housekeeping services necessary to reverse unsanitary conditions that jeopardize the health of the individual; or

(C) Extraordinary IADL needs in medication management or service-related transportation.

(e) Monthly service plans that exceed 76 hours per month in IADL tasks may be approved by the Department when the individual meets the exceptional payment criteria identified in OAR 411-027-0020 and 411-027-0050.

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

Stat. Auth.: ORS 409.050, 410.070 & 410.090

Stats. Implemented: ORS 410.010, 410.020 & 410.070



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Hist.: SSD 4-1993, f. 4-30-93, cert. ef. 6-1-93; SSD 6-1994, f. & cert. ef. 11-15-94; SDDS 8-1999(Temp), f. & cert. ef. 10-15-99 thru 4-11-00; SDDS 3-2000, f. 4-11-00, cert. ef. 4-12-00; SPD 14-2003, f. & cert. ef. 7-31-03; SPD 15-2003 f. & cert. ef. 9-30-03; SPD 15-2004, f. 5-28-04, cert. ef. 6-7-04; SPD 15-2004, f. 5-28-04, cert. ef. 6-7-04; SPD 18-2005(Temp), f. 12-20-05, cert. ef. 12-21-05 thru 6-1-06; SPD 20-2006, f. 5-26-06, cert. ef. 6-1-06; SPD 4-2008(Temp), f. & cert. ef. 4-1-08 thru 9-24-08; SPD 13-2008, f. & cert. ef. 9-24-08; SPD 15-2008, f. 12-26-08, cert. ef. 1-1-09; SPD 24-2011(Temp), f. 11-15-11, cert. ef. 1-1-12 thru 6-29-12; SPD 6-2012, f. 5-31-12, cert. ef. 6-1-12

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**Rule Caption:** Adult Protective Services – House Bill 4084.

**Adm. Order No.:** SPD 7-2012(Temp)

**Filed with Sec. of State:** 6-1-2012

**Certified to be Effective:** 6-1-12 thru 11-28-12

**Notice Publication Date:**

**Rules Adopted:** 411-020-0123, 411-020-0126

**Rules Amended:** 411-020-0002, 411-020-0030, 411-020-0085

**Subject:** The Department of Human Services (Department) is temporarily updating the adult protective services rules in OAR chapter 411, division 020 to immediately implement provisions of House Bill 4084 (2012), including changes to the way confidential information is handled and how medical or financial records need to be obtained during the course of an adult protective services investigation.

**Rules Coordinator:** Christina Hartman—(503) 945-6398

## 411-020-0002

### Definitions

(1) "Abuse" means any of the following:

(a) PHYSICAL ABUSE.

(A) Physical abuse includes:

(i) The use of physical force that may result in bodily injury, physical pain, or impairment; or

(ii) Any physical injury to an adult caused by other than accidental means.

(B) For purposes of this section, conduct that may be considered physical abuse includes but is not limited to:

(i) Acts of violence such as striking (with or without an object), hitting, beating, punching, shoving, shaking, kicking, pinching, choking, or burning; or

(ii) The use of force-feeding or physical punishment.

(C) Physical abuse is presumed to cause physical injury, including pain, to adults in a coma or adults otherwise incapable of expressing injury or pain.

(b) NEGLECT. Neglect including:

(A) Active or passive failure to provide the care, supervision, or services necessary to maintain the physical health and emotional well-being of an adult that creates a risk of serious harm or results in physical harm, significant emotional harm or unreasonable discomfort, or serious loss of personal dignity. The expectation for care, supervision, or services may exist as a result of an assumed responsibility or a legal or contractual agreement, including but not limited to where an individual has a fiduciary responsibility to assure the continuation of necessary care.

(B) Failure of an individual who is responsible to provide care or services to make a reasonable effort to protect an adult from abuse.

(C) An older adult who in good faith is voluntarily under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner shall, for this reason alone, not be considered subjected to abuse by reason of neglect as defined in these rules.

(c) ABANDONMENT. Abandonment including desertion or willful forsaking of an adult for any period of time by an individual who has assumed responsibility for providing care, when that desertion or forsaking results in harm or places the adult at risk of serious harm.

(d) VERBAL OR EMOTIONAL ABUSE.

(A) Verbal or emotional abuse includes threatening significant physical harm or threatening or causing significant emotional harm to an adult through the use of:

(i) Derogatory or inappropriate names, insults, verbal assaults, profanity, or ridicule; or

(ii) Harassment, coercion, threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments.

(B) For the purposes of this section:

(i) Conduct that may be considered verbal or emotional abuse includes but is not limited to the use of oral, written, or gestured communication that is directed to an adult or within their hearing distance, regardless of their ability to comprehend.

(ii) The emotional harm that may result from verbal or emotional abuse includes but is not limited to anguish, distress, fear, unreasonable emotional discomfort, loss of personal dignity, or loss of autonomy.

(e) FINANCIAL EXPLOITATION. Financial exploitation including:

(A) Wrongfully taking, by means including but not limited to deceit, trickery, subterfuge, coercion, harassment, duress, fraud, or undue influence, the assets, funds, property, or medications belonging to or intended for the use of an adult;

(B) Alarming an adult by conveying a threat to wrongfully take or appropriate money or property of the adult if the adult would reasonably believe that the threat conveyed would be carried out;

(C) Misappropriating or misusing any money from any account held jointly or singly by an adult; or

(D) Failing to use income or assets of an adult for the benefit, support, and maintenance of the adult.

(f) SEXUAL ABUSE. Sexual abuse including:

(A) Sexual contact with a non-consenting adult or with an adult considered incapable of consenting to a sexual act. Consent, for purposes of this definition, means a voluntary agreement or concurrence of wills. Mere failure to object does not, in and of itself, constitute an expression of consent;

(B) Sexual harassment or sexual exploitation of an adult or inappropriately exposing an adult to, or making an adult the subject of, sexually explicit material or language;

(C) Any sexual contact between an employee or volunteer of a facility or caregiver and an adult served by the facility or caregiver, unless a pre-existing relationship existed. Sexual abuse does not include consensual sexual contact between an adult and a caregiver who is the spouse or domestic partner of the adult;

(D) Any sexual contact that is achieved through force, trickery, threat, or coercion; or

(E) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.465, 163.467, or 163.525 except for incest due to marriage alone.

(g) INVOLUNTARY SECLUSION. Involuntary seclusion of an adult for the convenience of a caregiver or to discipline the adult.

(A) Involuntary seclusion may include:

(i) Confinement or restriction of an adult to his or her room or a specific area; or

(ii) Placing restrictions on an adult's ability to associate, interact, or communicate with other individuals.

(B) In a facility, emergency or short-term, monitored separation from other residents may be permitted if used for a limited period of time when:

(i) Used as part of the care plan after other interventions have been attempted;

(ii) Used as a de-escalating intervention until the facility can evaluate the behavior and develop care plan interventions to meet the resident's needs; or

(iii) The resident needs to be secluded from certain areas of the facility when their presence in that specified area would pose a risk to health or safety.

(h) WRONGFUL USE OF A PHYSICAL OR CHEMICAL RESTRAINT OF AN ADULT.

(A) A wrongful use of a physical or chemical restraint includes situations where:

(i) A licensed health professional has not conducted a thorough assessment prior to implementing a licensed physician's prescription for restraint;

(ii) Less restrictive alternatives have not been evaluated prior to the use of the restraint; or

(iii) The restraint is used for convenience or discipline.

(B) Physical restraints may be permitted if used when a resident's actions present an imminent danger to self or others and only until immediate action is taken by medical, emergency, or police personnel.

(2) "Adult" means an older adult, an individual with a physical disability who is 18 years of age or older, or a resident of a Department licensed residential care facility, assisted living facility, or adult foster home.

(3) "APS" means adult protective services.

(4) "APS Risk Management" means the process by which adult protective services continues to maintain ongoing active contact with a reported victim who continues to be at serious risk of harm.

(5) "Area Agency on Aging (AAA)" means the agency designated by the Department with responsibility to provide a comprehensive and coordi-

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nated system of service to older adults or adults with disabilities in a designated planning and service area.

(6) "At-risk" means there is reason to believe injury, hazard, damage, or loss may occur.

(7) "Community Based Care Facility" means an assisted living facility, residential care facility, adult foster home, or registered room and board facility.

(8) "Conclusion" means:

(a) For the purposes of a facility investigation, a determination by the adult protective services worker whether an incident occurred and, if it did, whether the incident was the result of wrongdoing; and

(b) For the purposes of a community investigation or self-neglect assessment, a determination by the adult protective services worker as to whether an incident occurred and, if it did, whether the incident was the result of wrongdoing or self-neglect.

(9) "Conservatorship" means that a court has issued an order appointing and investing an individual with the power and duty of managing the property of another individual.

(10) "Department" means the Department of Human Services. The term "Department" is synonymous with "Division".

(11) "Evidence" for the purpose of these rules, means material gathered, examined, or produced during the course of an adult protective services investigation. Evidence includes but is not limited to witness statements, documentation, photographs, and relevant physical evidence.

(12) "Financial Institution" has the meaning given that term in ORS 192.583.

(13) "Guardianship" means a court has issued an order appointing and investing an individual with the power and duty of managing the care, comfort, or maintenance of an incapacitated adult.

(14) "Health Care Provider" has the meaning given that term in ORS 192.556.

(15) "Imminent Danger" means there is reasonable cause to believe an adult's life, physical well-being, or resources are in danger if no intervention is initiated immediately.

(16) "Inconclusive" means that after a careful analysis of the evidence gathered in an investigation, a determination of whether wrongdoing occurred cannot be reached by a preponderance of the evidence.

(17) "Informed Choice" means the individual has the mental capacity, adequate information, and freedom from undue influence to understand the current situation, understand the options available and their likely consequences, and be able to reasonably choose from among those options and communicate that choice.

(18) "Law Enforcement Agency" means:

(a) Any city or municipal police department;

(b) Any county sheriff's office;

(c) The Oregon State Police;

(d) Any district attorney; or

(e) The Oregon Department of Justice.

(19) "Licensed Care Facility" means a facility licensed by the Department, including nursing facilities, assisted living facilities, residential care facilities, and adult foster homes.

(20) "Local Office" means the local service staff of the Department or Area Agency on Aging.

(21) "Mandatory Reporter" for the purpose of these rules, means any public or private official who is required by statute to report suspected abuse or neglect.

(a) If an individual is a mandatory reporter and, while acting in an official capacity, comes in contact with and has reasonable cause to believe that any individual living in a nursing facility or an older adult in any setting has suffered abuse or neglect, the mandatory reporter must immediately file a report with local law enforcement or an office of the Department.

(b) Definitions of abuse or neglect for these purposes and procedures for investigation are defined in ORS 124.050 to 124.095 or 441.615 to 441.695 and OAR 411-085-0005, 411-085-0360, and 411-085-0370 (Nursing Facility Abuse).

(c) Mandatory reporting is also required if the individual, while acting in an official capacity, comes into contact with anyone who has abused an older adult or any individual living in a nursing facility.

(d) The public or private officials who are mandatory reporters are:

(A) Physician, naturopathic physician, osteopathic physician, chiropractor, podiatric physician, physician assistant, or surgeon including any intern or resident;

(B) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide, or employee of an in-home health agency;

(C) Employee of the Department, county health department, community mental health program, community developmental disabilities program, or a nursing facility, or an individual who contracts to provide services to a nursing facility;

(D) Peace officer;

(E) Clergy;

(F) Licensed clinical social worker, licensed professional counselor, or licensed marriage and family therapist;

(G) Physical, speech, or occupational therapist, audiologist, or speech language pathologist;

(H) Senior center employee;

(I) Information and referral or outreach worker;

(J) Area Agency on Aging employee;

(K) Firefighter;

(L) Emergency Medical Technician;

(M) Psychologist;

(N) Licensee of an adult foster home or an employee of the licensee; and

(O) For nursing facility abuse, all of the above, plus legal counsel, guardian, or family member of the resident.

(22) "Multidisciplinary Team (MDT)" means a county-based investigative and assessment team that coordinates and collaborates for allegations of adult abuse and self-neglect. The team may consist of personnel of law enforcement, the local district attorney office, local Department or Area Agency on Aging offices, community mental health and developmental disability programs, plus advocates for older adults and individuals with disabilities, and individuals specially trained in abuse.

(23) "Multidisciplinary Team (MDT) Member" means an individual or a representative of an agency that is allowed by law and recognized to participate on the multidisciplinary team.

(24) "Older Adult" for the purpose of these rules, means any individual 65 years of age or older.

(25) "Physical Disability" for the purpose of these rules, means any physical or cognitive condition such as brain injury and dementia that significantly interferes with an adult's ability to protect his or her self from harm or neglect. (See OAR 411-020-0015, Eligibility)

(26) "Protected Health Information" has the meaning given that term in ORS 192.556.

(27) "Relevant" means tending to prove or disprove the allegation at hand.

(28) "Reported Perpetrator (RP)" means the facility, an agent or employee of the facility, or any individual reported to have committed wrongdoing.

(29) "Reported Victim (RV)" means the individual whom wrongdoing or self-neglect is reported to have been committed against.

(30) "Risk Assessment" means the process by which an individual is evaluated for risk of harm and for the physical and cognitive abilities to protect his or her interests and personal safety. The living situation, support system, and other relevant factors are also evaluated to determine their impact on the individual's ability to become or remain safe.

(31) "Self-Determination" means an adult's ability to decide his or her own fate or course of action without undue influence.

(32) "Self-Neglect" means the inability of an adult to understand the consequences of his or her actions or inaction when that inability leads to or may lead to harm or endangerment to self or others.

(33) "Serious Risk of Harm" means that without intervention the individual is likely to incur substantial injury or loss.

(34) "Services" as used in the definition of abuse includes but is not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other service essential to the well-being of an adult.

(35) "Substantiated" means that the preponderance (majority) of the evidence gathered and analyzed in an investigation indicates that the allegation is true.

(36) "These Rules" mean the rules in OAR chapter 411, division 020.

(37) "Undue Influence" means the process by which an individual uses his or her role and power to exploit the trust, dependency, and fear of another individual and to deceptively gain control over the decision making of the second individual.

(38) "Unsubstantiated" means that the preponderance (majority) of the evidence gathered and analyzed in an investigation indicates that the allegation is not true.

(39) "Wrongdoing" means:

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(a) For the purposes of a facility investigation, an act that violates a licensing or other rule without regard to the intent of the reported perpetrator or the outcome to the reported victim; and

(b) For the purposes of a community investigation, an action or inaction that meets the definition of abuse, without regard to the intent of the reported perpetrator or the outcome to the reported victim.

Stat. Auth.: ORS 410.070, 411.116, 441.637, 443.450, 443.765, 443.767  
Stats. Implemented: ORS 124.050-124.095, 410.020, 410.040, 410.070, 411.116, 441.630-441.695, 443.450, 443.500, 443.767 & 2012 OL Ch. 70  
Hist.: SSD 5-1994, f. & cert. ef. 11-15-94; SSD 5-1995, f. 5-31-95, cert. ef. 6-1-95; SPD 6-2005, f. 4-29-05, cert. ef. 7-1-05; SPD 10-2006, f. 3-23-06, cert. ef. 4-1-06; SPD 33-2006, f. & cert. ef. 12-21-06; SPD 21-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 8-2010, f. 6-29-10, cert. ef. 7-1-10; SPD 7-2012(Temp), f. & cert. ef. 6-1-12 thru 11-28-12

## 411-020-0030 Confidentiality

(1) Oregon and federal statutes provide for the confidentiality of the identity of certain individuals and information obtained as a result of an APS intervention. Confidentiality of information is important to protect the privacy of individuals, to encourage the reporting of abuse and neglect, and to facilitate the obtaining of information.

(2) All information involving non-facility based investigations is confidential except for disclosure of the conclusion under OAR 411-020-0100(6) and may be disclosed only by judicial process, or as required by specific exceptions under state and federal law, or with the consent of the victim, but no names may be released without the consent of the individual named except as provided in section (4) of this rule.

(3) If the investigation involves a licensed care facility, information regarding the complaint and subsequent findings shall be made available to the general public upon request. On these types of complaints, information regarding the identity of the complainant, the reported victim, all witnesses, and the protected health information of any party shall remain confidential, unless release is specifically authorized by the affected individual or otherwise dictated by judicial process.

(4) Where the Department deems it is appropriate for the purpose of furthering a protective service, or when necessary to prevent or treat abuse, or when deemed to be in the best interest of an older adult, the names of the reported victim, witnesses (other than the complainant except as expressly permitted below), any investigative report, and any records compiled during the course of an investigation, may be made available to:

(a) Any law enforcement agency, to which the name of the complainant may also be made available;

(b) An agency that licenses or certifies a facility where the reported abuse occurred, or licenses or certifies the individual who practices there;

(c) A public agency that licenses or certifies an individual that has abused or is alleged to have abused an older adult;

(d) The Long Term Care Ombudsman;

(e) Any governmental or private non-profit agency providing adult protective services to the reported victim when that agency meets the confidentiality standards of ORS 124.090, including any federal law enforcement agency that has jurisdiction to investigate or prosecute for abuse defined in these rules, including but not limited to the Federal Bureau of Investigation (FBI), the Federal Trade Commission, or the U.S. Postal Inspection Service;

(f) The MDT for the purpose of adult protective services for the abuse and self-neglect of older adults and adults with physical disabilities;

(g) A court, pursuant to court order; or

(h) An administrative law judge in an administrative proceeding when necessary to provide protective services, investigate, prevent, or treat abuse of an older adult or when in the best interest of an older adult.

(5) Recipients of information disclosed under section (4) of this rule must maintain the confidentiality of the information as required by Oregon statute unless superseded by other state or federal law.

Stat. Auth.: ORS 410.070, 411.116, 441.637, 443.450, 443.765 & 443.767  
Stats. Implemented: ORS 124.050 – 124.095, 410.070, 410.150, 411.116, 441.630 – 441.695, 443.769 & 2012 OL Ch. 70  
Hist.: SSD 5-1994, f. & cert. ef. 11-15-94; SPD 6-2005, f. 4-29-05, cert. ef. 7-1-05; SPD 10-2006, f. 3-23-06, cert. ef. 4-1-06; SPD 21-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 8-2010, f. 6-29-10, cert. ef. 7-1-10; SPD 7-2012(Temp), f. & cert. ef. 6-1-12 thru 11-28-12

## 411-020-0085 Law Enforcement Notification

(1) The Department shall immediately notify law enforcement if any of the following conditions exist and proceed collaboratively in a way that does not further endanger the reported victim. Any law enforcement officer accompanying the investigator must be identified as such to any party interviewed. Conditions include:

(a) There is reasonable cause to believe a crime has been committed;

(b) Access to the reportedly abused individual is denied and legal assistance is needed in gaining access;

(c) The situation presents a credible danger to the Department worker or others and police escort is advisable;

(d) Forensic photographic or other evidence is needed; or

(e) As required under OAR 411-020-0123 or 411-020-0126.

(2) Written notice, regardless of any verbal notice given, shall be provided to law enforcement for all instances when the Department finds that there is reasonable cause to believe a crime has been committed.

(3) When the local Department or AAA office notifies a law enforcement agency of suspected crime committed against a reported victim, the local office must track the progress as reported from the law enforcement agency on the investigation and the district attorney's office on the prosecution of the crime.

Stat. Auth.: ORS 410.070, 411.116, 441.637, 443.450, 443.765, 443.767  
Stats. Implemented: ORS 124.065-124.070, 410.070, 411.116, 441.645 – 441.650, 443.500, 443.767  
Hist.: SPD 21-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 8-2010, f. 6-29-10, cert. ef. 7-1-10; SPD 7-2012(Temp), f. & cert. ef. 6-1-12 thru 11-28-12

## 411-020-0123 Accessing Protected Health Information and Records

Protected health information from a health care provider may be obtained in the course of an APS investigation into alleged abuse as follows:

(1) COMMUNITY BASED. In a community setting where the reported victim is an older adult:

(a) CONSENT BY REPORTED VICTIM. APS may obtain a reported victim's protected health information for an APS investigation with that reported victim's consent.

(b) DECLINED CONSENT. If a reported victim is able to make an informed choice and declines to consent to APS obtaining protected health information, APS may not obtain the reported victim's protected health information.

(c) REPORTED VICTIM INCAPABLE OF CONSENT. If a reported victim does not have the ability to make an informed choice to consent to APS obtaining the reported victim's protected health information, and the reported victim does not have a fiduciary or legal representative that can consent to APS accessing the reported victim's protected health information, or when the fiduciary or legal representative is a reported perpetrator and refuses to consent to APS accessing the reported victim's protected health information, then the following procedure must be followed:

(A) APS must request the appropriate law enforcement agency to submit a written request for the health care provider to allow the law enforcement agency to inspect and copy, or otherwise obtain, the protected health information.

(B) APS shall inform the law enforcement agency that the written request must state that an investigation into abuse is being conducted under ORS 124.070 (elder abuse) or ORS 441.650 (nursing facility resident abuse).

(C) APS shall inform the law enforcement agency that the written request must notify the health care provider that they are required, per 45 CFR 164.512(c)(2), to promptly inform the individual to whom the medical record belongs that protected health information has been or shall be disclosed, unless:

(i) The health care provider, in the exercise of their professional judgment, believes that informing the individual may place the individual at risk of serious harm; or

(ii) The health care provider may be informing a personal representative of the individual and the health care provider reasonably believes that the personal representative is responsible for the abuse, neglect, or other injury, and that informing such person may not be in the best interests of the individual as determined by the health care provider in the exercise of their professional judgment.

(2) LICENSED CARE FACILITY. In a licensed care facility where the reported victim is an older adult:

(a) HIPAA AUTHORIZATION FOR HEALTH CARE PROVIDERS. For an abuse investigation involving a resident of a licensed care facility, a health care provider is authorized to disclose to APS (as a health oversight agency), per 45 CFR 164.512(d), a reported victim's protected health information for purposes of oversight of that facility, including oversight through investigation of complaints of abuse of residents in such facility. APS shall inform the health care provider of their authority to disclose protected health information under HIPAA regulation 45 CFR 164.512(d) when requesting protected health information of a resident of a licensed care facility.

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(b) HEALTH CARE PROVIDER REFUSAL TO DISCLOSE. If a health care provider refuses to release protected health information pursuant to the authority granted them under 45 CFR 164.512(d), APS may follow the procedure outlined under section (1)(c) of this rule.

(c) OBTAINING RESIDENT RECORDS MAINTAINED BY A LICENSED CARE FACILITY. Licensed care facilities must provide APS access to all resident and facility records, including protected health information, maintained by the facility as required by their respective Oregon Administrative Rules.

Stat. Auth.: ORS 410.070, 411.116, 441.637, 443.450, 443.765, & 443.767  
Stats. Implemented: ORS 124.050–124.095, 410.020, 410.040, 410.070, 411.116, 441.630–441.695, 443.450, 443.500, 443.767 & 2012 OL Ch. 70  
Hist.: SPD 7-2012(Temp), f. & cert. ef. 6-1-12 thru 11-28-12

## 411-020-0126

### Accessing Financial Records

(1) Financial records from a financial institution, including a bank or credit union, may be obtained in the course of an APS investigation into alleged abuse.

(2) DEFAULT STANDARD. APS may not request or receive from a financial institution financial records of customers unless one of the following exceptions applies and the corresponding procedures followed:

(a) CUSTOMER AUTHORIZATION. APS may request and receive from a financial institution financial records of a customer when the customer authorizes such disclosure. The authorization must:

- (A) Be in writing, signed, and dated by the customer;
- (B) Identify with particularity the records authorized to be disclosed;
- (C) Name the Department or Area Agency on Aging to whom disclosure is authorized;

(D) Contain notice to the customer that the customer may revoke such authorization at any time in writing; and

(E) Inform the customer as to the reason for such request and disclosure.

(b) FINANCIAL INSTITUTION INITIATES CONTACT. Where a financial institution initiates contact with APS or a law enforcement agency regarding suspected financial exploitation, the financial institution may share financial records with APS or the law enforcement agency and is not otherwise precluded from communicating with and disclosing customer financial records to APS or the law enforcement agency.

(c) CUSTOMER INCAPABLE OF AUTHORIZING. If a financial institution has not initiated contact with APS or a law enforcement agency and; the reported victim does not have the ability to make an informed choice to consent to APS obtaining the reported victim's financial records; or a fiduciary or legal representative who is a reported perpetrator refuses to authorize disclosure; or the account is jointly held by a reported perpetrator as well as the reported victim and the reported perpetrator refuses to authorize disclosure, these procedures must be followed:

(A) APS shall work with the appropriate law enforcement agency to obtain a subpoena issued by a court or on behalf of a grand jury to request financial records of the reported victim's individually or jointly held accounts.

(B) APS shall:

(i) Confirm to the law enforcement agency that an investigation under ORS 124.070 (elder abuse, including older adult residents in a community based care facility) or under ORS 441.650 (abuse of a nursing facility resident) is open and that the individual about whom financial records are sought is the alleged victim in the abuse investigation.

(ii) Provide or work with the law enforcement agency to obtain the name and social security number of the individual about whom financial records are sought.

(C) A bank or credit union may request reimbursement for the production of records under this process, pursuant to ORS 192.602. If local law enforcement, the district attorney's office, or the local APS office are unable to reimburse a financial institution upon that financial institution's request for reimbursement, the financial institution may refuse to disclose requested financial records.

Stat. Auth.: ORS 410.070, 411.116, 441.637, 443.450, 443.765, & 443.767  
Stats. Implemented: ORS 124.050–124.095, 192.586, 192.600, 192.602, 410.020, 410.040, 410.070, 411.116, 441.630–441.695, 443.450, 443.500, 443.767 & 2012 OL Ch. 70  
Hist.: SPD 7-2012(Temp), f. & cert. ef. 6-1-12 thru 11-28-12

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

**Rule Caption:** Clarifies incarcerated obligors and modifications; clarifies renewal of temporary modifications.

**Adm. Order No.:** DOJ 6-2012(Temp)

**Filed with Sec. of State:** 5-24-2012

**Certified to be Effective:** 5-24-12 thru 11-20-12

**Notice Publication Date:**

**Rules Amended:** 137-055-3300, 137-055-3430

**Subject:** OAR 137-055-3300 is amended to clarify that the provisions of ORS 416.425(12) apply in any case where the administrator modifies an order where the obligor is incarcerated, whether or not the request explicitly states the incarceration as the basis.

OAR 137-055-3430 is amended to clarify that a temporary, employment-related modification entered pursuant to ORS 416.425(13) may be renewed only once, and that a parent whose employment-related income change remains after a renewal might more appropriately pursue a conventional modification.

**Rules Coordinator:** Lori Worthing—(503) 947-4367

## 137-055-3300

### Incarcerated Obligor

(1) For purposes of establishing or modifying a support order, the following definitions apply:

(a) "Correctional facility" means any place used for the confinement of persons charged with or convicted of a crime or otherwise confined under a court order, and includes but is not limited to a youth correction facility.

(A) "Correctional facility" applies to a state hospital only as to persons detained therein charged with or convicted of a crime, or detained therein after acquittal of a crime by reason of mental defect;

(B) "Correctional facility" includes alternative forms of confinement, such as house arrest or confinement, where an obligor is not permitted to seek or hold regular employment.

(b) "Incarcerated obligor" means a person who:

(A) Is or may become subject to an order establishing or modifying child support; and

(B) Is, or is expected to be, confined in a correctional facility for at least six consecutive months from the date of initiation of action to establish a support order, or from the date of a request to modify an existing order pursuant to this rule.

(2) For purposes of computing a monthly support obligation for an incarcerated obligor, all provisions of the Oregon child support guidelines, as set forth in OAR 137-050-0700 through 137-050-0765, will apply except as otherwise specified in this rule.

(3) The incarcerated obligor's income and assets are presumed available to the obligor, unless such income or assets are specifically restricted, assigned, or otherwise inaccessible pursuant to state or federal laws or rules regarding the income and assets of incarcerated obligors.

(4) If the incarcerated obligor has gross income less than \$200 per month, the administrator shall presume that the obligor has zero ability to pay support.

(5) If the provisions of section (4) of this rule apply, the administrator will not initiate an action to establish a support obligation if the obligor is an incarcerated obligor, as defined in subsection (1)(b) of this rule, until 61 days after the obligor's release from incarceration.

(6) The administrator will not initiate an action to modify a support obligation because of incarceration unless the obligor is an incarcerated obligor, as defined in subsection (1)(b) of this rule, and a party to the current order has requested a modification.

(7) An order entered pursuant to ORS 416.425 and this rule, that modifies a support order because of the incarceration of the obligor, is effective only during the period of the obligor's incarceration and for 60 days after the obligor's release from incarceration. The previous support order is reinstated by operation of law on the 61st day after the obligor's release from incarceration.

(a) An order that modifies a support order because of the obligor's incarceration must contain a notice that the previous order will be reinstated on the 61st day after the obligor's release from incarceration;

(b) Nothing in this rule precludes an obligor from requesting a modification based on a change of circumstances, pursuant to OAR 137-055-3420.

(8) The provisions of this rule do not apply to an obligor who is incarcerated because of nonpayment of support.

Stat. Auth.: ORS 416.455 & 180.345

Stats. Implemented: ORS 416.425

Hist.: AFS 21-2000, f. & cert. ef. 8-1-00; AFS 32-2000, f. 11-29-00, cert. ef. 12-1-00, Renumbered from 461-195-0078; AFS 4-2001, f. 3-28-01, cert. ef. 4-1-01; DOJ 6-2003(Temp), f. 6-25-03, cert. ef. 7-1-03 thru 12-28-03, Renumbered from 461-200-3300;

# ADMINISTRATIVE RULES

DOJ 10-2003, f. 9-29-03, cert. ef. 10-1-03; DOJ 7-2004, f. 3-30-04, cert. ef. 4-1-04; DOJ 12-2004, f. & cert. ef. 10-1-04; DOJ 1-2010, f. & cert. ef. 1-4-10; DOJ 6-2012(Temp), f. & cert. ef. 5-24-12 thru 11-20-12

## 137-055-3430

### Substantial Change in Circumstance Review and Modification of Child Support Order Amounts

(1) For purposes of this rule:

(a) The definitions provided in ORS 25.321, OAR 137-050-0750 and 137-055-3420 apply;

(b) A "temporary modification" is an order entered under ORS 416.425(13), which suspends and temporarily modifies a support order based on a party's employment-related change of income; and

(c) "Employment-related change of income" includes but is not limited to reduced work hours, unpaid furloughs, loss of job and wage reductions. Employment-related change of income does not include a voluntary reduction of income or self-imposed curtailment of earning capacity, if it is shown that such action was not taken in good faith but was for the primary purpose of avoiding the support obligation. A party's employment-related change of income is considered to take place "during a period of significant unemployment" even if the change occurred prior to the Attorney General's determination under ORS 416.425(13)(b), as long as the effects of the employment-related change of income continue into the time period covered by the determination.

(2) Notwithstanding OAR 137-055-3420, proceedings may be initiated at any time to review and modify a support obligation based upon a substantial change in circumstance.

(3) The administrator will conduct a review based upon a request for a change of circumstance modification when:

(a) Oregon has jurisdiction to modify;

(b) The administrator:

(A) Receives a request for modification based upon a change of circumstance and at least 60 days have passed from the date the existing support order was entered, except for those cases where a review is requested pursuant to paragraphs (3)(c)(H) or (I);

(B) Determines that a temporary modification should be initiated based on receipt of a request from a party who has experienced an employment-related change of income; or

(C) Determines that a modification should be initiated based on the administrator's own motion; and

(c) At least one of the following criteria are met:

(A) A change in the written parenting time agreement or order has taken place;

(B) The financial or household circumstances of one or more of the parties are different now than they were at the time the order was entered;

(C) Social Security benefits received on behalf of a child due to a parent's disability or retirement were not previously considered in the order or they were considered in an action initiated before May 12, 2003;

(D) Veterans' benefits received on behalf of a child due to a parent's disability or retirement were not previously considered in the order or they were considered in an action initiated before May 12, 2003;

(E) Survivors and Dependents Education Assistance benefits received by the child or on behalf of the child were not previously considered in the order;

(F) Since the date of the last order, the obligor has been incarcerated, as defined in OAR 137-055-3300;

(G) The needs of the child(ren) have changed;

(H) There is a need to add or change medical support provisions for a child;

(I) A change in the physical custody of a minor child has taken place;

(J) An order is being modified to include a subsequent child of the parties or to remove a child of the parties;

(K) A child between 18 and 20 years old does not qualify as a child attending school under ORS 107.108 and OAR 137-055-5110 and, pursuant to ORS 107.108(10), tiered order provisions must be added, removed or changed. Tiered order has the meaning given in OAR 137-055-1020,

(d) And the requesting party (if other than the administrator):

(A) Completes a written or verbal request for modification based upon a substantial change of circumstance;

(B) Pursuant to ORS 416.425, provides appropriate documentation for the criteria in subsection (c) of this section showing that a substantial change of circumstance has occurred; and

(C) Completes a Uniform Income Statement or Uniform Support Affidavit or, if a temporary modification, provides employment status and income information sufficient to permit the administrator to have a reasonable basis to make a determination.

(4) Sections (5) through (9) do not apply to temporary modifications.

(5) Upon receipt of a request for a review and modification, or upon the administrator's own initiative, the administrator will notify the parties of the review in writing, allowing the parties 30 days to provide information which may affect the support calculation.

(6) A request for review will be granted unless:

(a) The conditions in section (3) have not been met; or

(b) The review was requested due to one of the criteria in paragraphs (3)(c)(A) through (3)(c)(G), and the order is in substantial compliance with the guidelines. The determination of substantial compliance will be made as outlined in OAR 137-055-3420(1)(d), except as provided in section (7).

(7) The provisions of subsection (6)(b) do not apply if the new calculation:

(a) Includes consent by the parties as provided in OAR 137-050-0765;

(b) Includes compelling factors in the reasonable-in-cost limitation, as provided in OAR 137-050-0750(2)(a);

(c) Includes application of rebuttals, as provided in OAR 137-050-0760; or

(d) Is for a modification to consider receipt of Social Security or Veterans' benefits as provided in paragraphs (3)(c)(C) or (D).

(8) If the request for review is granted, the administrator will advise the parties of the presumed correct support amount. Notification may be by motion for modification and will include a request for hearing form. If there is an adult child on the case, the proposed modification will be a tiered order as defined in OAR 137-055-1020.

(9) If the order is found to be in substantial compliance, and at least 35 months have passed since the date the most recent support order took effect, the administrator will complete the request as provided in OAR 137-055-3420(9).

(10) Sections (11) and (12) apply only to temporary modifications.

(11) The administrator will, to the extent possible, gather information from the parties which could affect the support calculation by phone or other electronic means, including facsimile and e-mail.

(12) The administrator will advise the parties of the presumed correct support amount and may seek a consent order. Notification may be by motion for modification and will include a request for hearing form.

(13) If the circumstances under which a temporary modification was issued have not changed and the administrator receives a request from one of the parties prior to the order expiring, the administrator may renew the order for one additional six-month period. The administrator will not renew a temporary modification more than once. If the circumstances have not changed at the time the renewal expires, the administrator will tell the parties that they may request a change of circumstances modification.

(14) If a request under this rule is denied, the administrator will notify the requesting party of the denial in writing within 30 days and inform the party of their right to file a motion for modification as provided in ORS 416.425. The administrator will advise the party on how to obtain the Oregon Judicial Department packet that has been prescribed for this purpose.

(15) No provision of this rule precludes the parties from obtaining the services of private legal counsel at any time to pursue modification of the support order pursuant to all applicable laws.

(16) If a request for review and modification is received because a change in the physical custody of the minor child(ren) has taken place, a party may also request a credit back to the date the change in physical custody took place in accordance with OAR 137-055-5510.

Stat. Auth.: ORS 180.345 & 416.455

Stats. Implemented: ORS 25.080, 25.287, 25.321 - 25.343, 107.108, 107.135, 416.425

Hist.: DOJ 10-2004, f. & cert. ef. 7-1-04; DOJ 16-2004, f. 12-30-04, cert. ef. 1-3-05; DOJ 4-2005, f. & cert. ef. 4-1-05; DOJ 8-2005(Temp), f. & cert. ef. 9-1-05 thru 2-17-06; DOJ 1-2006, f. & cert. ef. 1-3-06; DOJ 5-2006, f. 6-29-06, cert. ef. 7-3-06; DOJ 8-2007, f. 9-28-07, cert. ef. 10-1-07; DOJ 4-2009(Temp), f. 5-6-09, cert. ef. 5-7-09 thru 11-1-09; DOJ 6-2009(Temp), f. & cert. ef. 5-14-09 thru 11-1-09; DOJ 13-2009, f. & cert. ef. 10-30-09; DOJ 13-2010(Temp), f. & cert. ef. 7-1-10 thru 12-27-10; DOJ 19-2010, f. 12-20-10, cert. ef. 12-27-10; DOJ 13-2011, f. 12-30-11, cert. ef. 1-3-12; DOJ 6-2012(Temp), f. & cert. ef. 5-24-12 thru 11-20-12

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## Department of Oregon State Police Chapter 257

**Rule Caption:** Adopts rules allowing OSP to gather, access, maintain, and transmit mental health info to NICS.

**Adm. Order No.:** OSP 2-2012

**Filed with Sec. of State:** 5-22-2012

**Certified to be Effective:** 5-22-12

**Notice Publication Date:** 4-1-2012

**Rules Adopted:** 257-010-0060

## ADMINISTRATIVE RULES

**Subject:** The federal Brady Handgun Violence Prevention Act of 1993 (Brady Act), the United States Attorney General is required to establish the National Instant Criminal Background Check System (NICS), which allows federal firearm licensees to instantly contact the Federal Bureau of Investigation and determine whether a prospective firearm transfer would violate federal or state law. The federal NICS Improvement Amendment Act of 2007 (NIAA) became effective January 8, 2008 and requires states to transmit to NICS all state records of individuals who are subject to a federal firearm ban under 18 USC §922(d) and (g), including those individuals with mental health issues or state mental health commitments. The NIAA also requires states to adopt procedures whereby persons with mental health issues or state mental health commitments and who are prohibited from purchasing, possessing, transporting or receiving a firearm under 18 USC §922(d)(4) and (g)(4), may petition to have their federal firearm rights restored. Oregon Laws 2009, chapter 826 (House Bill 2853) implements the requirements of the NIAA by not only requiring certain state agencies in possession of records of individuals with mental health issues or state mental health commitments to transmit “minimum information” of those persons to the department for maintenance of that information, but requires the department to transmit that “minimum information” to NICS. Oregon Laws 2009, chapter 826 (House Bill 2853) further implements the NIAA by allowing the Psychiatric Security Review Board (PSRB) to conduct contested case administrative hearings to determine whether a person subject to either a federal firearm prohibition under 18 USC §922(d)(4) and (g)(4), a state firearm prohibition under ORS 166.250(1)(c)(D) or (E), or a state firearm prohibition under ORS 166.470(1)(e) or (f), should be granted relief and their gun rights restored.

This administrative rule creates the means and manner by which “minimum information” of persons prohibited under 18 U.S.C. §922(d)(4) and (g)(4) from purchasing, possessing, transporting or receiving a firearm is received and maintained, as well as transmitted to the federal government for inclusion in the NICS database, by the department. It creates the means and manner by which “minimum information” of persons prohibited from possessing a firearm under ORS 166.250 (1)(c)(D) or (E), or prohibited from receiving a firearm under ORS 166.470 (1)(e) or (f), is received and maintained by the department. Creates the means and manner by which the department processes, maintains, updates, and transmits to the federal government, records of relief from firearm prohibitions granted by either the Psychiatric Security Review Board or an appellate court. Specifically defines “designated agencies” for purposes of the rule to mean the Oregon Department of Human Services (DHS), the Oregon Health Authority (OHA), the PSRB, and the Oregon Judicial Department (OJD). Defines “minimum information” to mean only those data elements or identifying information that is minimally or nominally required under federal law to accurately identify a person prohibited under 18 U.S.C. §922(d)(4) and (g)(4) from purchasing, possessing, transporting or receiving a firearm, and includes the person’s name, date of birth, gender and reference information that identifies the originating agency or court. Defines “PPF” to mean a Prohibited Persons File created by the department and to which “minimum information” from designated agencies is deposited and maintained by the department, and from which “minimum information” is transmitted to NICS for persons prohibited under 18 U.S.C. §922(d)(4) and (g)(4) from purchasing, possessing, transporting or receiving a firearm. Requires designated agencies to send to the department all current and former client “minimum information” in a single file as required under ORS 181.740 in order for the department to enter that information into the PPF and transmit the PPF to NICS. Requires designated agencies to provide subsequent “minimum information” for their clients to the department immediately to OSP or as soon as such client “minimum information” becomes available, in an electronic format approved by the department. Requires the department to transmit subsequent “minimum information” obtained from designated agencies contained in the PPF to NICS on a daily basis

through a secure electronic message via the Law Enforcement Message Switch (LEMS). Requires the department to request NICS to send the department a report every 3 months that details Oregon’s mental health prohibited person record data located in NICS for comparison with the data contained in the department’s PPF. Requires the department to refer any discrepancies between NICS and the PPF back to the agency that originally created the mental health record of the prohibited person for resolution, and requires designated agencies to include any updates made to previously submitted “minimum information” by originating agencies in their subsequent electronic transmissions of “minimal information” to the department. Requires the PSRB to send an electronic notification alerting the department to update the PPF if the PSRB grants relief from the prohibitions under 18 U.S.C. §922(d)(4) and (g)(4) for the purchase, possession, transportation or receipt of a firearm, and requires the department to transmit the record of relief to NICS on the day the department receives the electronic notification, either in its daily PPF transmission to NICS or in a separate transmission to NICS. Requires the department to transmit an appellate judgment granting relief from the prohibitions under 18 U.S.C. §922(d)(4) and (g)(4) for the purchase, possession, transportation or receipt of a firearm to NICS on the day OSP receives the appellate judgment, either in its daily PPF transmission to NICS or in a separate transmission to NICS. Specifies that when the PSRB grants relief from the prohibitions under 18 U.S.C. §922(d)(4) and (g)(4) for the purchase, possession, transportation or receipt of a firearm, or grants additional or alternative relief from either the prohibition on possessing a firearm under ORS 166.250 (1)(c)(D) or (E), or the prohibition on receiving a firearm under ORS 166.470 (1)(e) or (f), the PSRB shall send the minimum information of the person for whom relief is granted electronically to OSP and that OSP, upon receipt of the minimum information from the PSRB, shall then update the PPF and transmit the minimum information and notification of relief to NICS on the same day that OSP receives the minimum information from the PSRB. Requires that when a person files a petition for judicial review with an appellate court following a final order of the PSRB that denies relief, and an appellate court subsequently grants the person relief from the prohibitions under 18 U.S.C. §922(d)(4) and (g)(4) for the purchase, possession, transportation or receipt of a firearm, or grants additional or alternative relief from either the prohibition on possessing a firearm under ORS 166.250 (1)(c)(D) or (E), or the prohibition on receiving a firearm under ORS 166.470 (1)(e) or (f), the Oregon Judicial Department (OJD) shall send the minimum information of the person for whom relief is granted electronically to OSP and that OSP, upon receipt of the minimum information from OJD, shall update the PPF and transmit the minimum information and notification of relief to NICS on the same day OSP receives the minimum information from OJD. Requires a person granted relief under the following situations to provide OSP with a certified copy of either the PSRB written order or appellate judgment granting relief and a copy of the person’s fingerprint card: a) the person granted relief was found responsible except for insanity for an act under ORS 419C.411, b) the person granted relief was found guilty except for insanity of a crime under ORS 161.295 to 161.370 and the person has an existing criminal history, or c) the person granted relief was found by a court to lack fitness to proceed under ORS 161.370 and the person has an existing criminal history.

**Rules Coordinator:** Shannon Peterson—(503) 934-0183

### 257-010-0060

#### Mental Health Information Reporting to NICS

(1) Definitions. As used in this administrative rule:

(a) “Designated Agencies” means the Oregon Department of Human Services (DHS), the Oregon Health Authority (OHA), the Psychiatric Review Board (PSRB), and the Oregon Judicial Department (OJD).

(b) “Minimum Information” means only those data elements or identifying information that is minimally or nominally necessary to accurately identify a person listed under ORS 181.740(1) and who is prohibited under either 18 U.S.C. §922(d)(4) and (g)(4) from purchasing, possessing, trans-

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porting or receiving a firearm, ORS 166.250 (1)(c)(D) or (E) from possessing a firearm, or ORS 166.470 (1)(e) or (f) from receiving a firearm. "Minimum information" includes at least the person's name, date of birth, gender and ORI number of the designated agency or originating court that originally created the underlying record or file of the person. "Minimum information" does not include any medical, psychiatric or psychological information, case histories or files of a person, or any record or file of a designated agency or originating court.

(c) "NICS" means the National Instant Criminal Background Check System mandated by the Brady Handgun Violence Prevention Act of 1993 (Pub. L. 103-159, 107 Stat. 1536).

(d) "ORI" means the Law Enforcement Data System (LEDS) and FBI National Crime Information Center (NCIC) originating agency identifier code.

(e) "Originating court" means the Oregon county circuit court that transmits a mental health record to OSP as required under either ORS 426.160 or 427.293.

(f) "Prohibited Persons File" (PPF) means a data table created by OSP that contains minimum information, as reported to OSP by the designated agencies or originating courts responsible for maintaining Oregon mental health records, for individuals that are prohibited under either 18 U.S.C. §922(d)(4) and (g)(4) from purchasing, possessing, transporting or receiving a firearm, ORS 166.250 (1)(c)(D) or (E) from possessing a firearm, or ORS 166.470 (1)(e) or (f) from receiving a firearm. This file will be maintained by OSP in LEDS. The agencies contributing to the file will be responsible for ensuring the data is accurate. Information in this file is confidential and not to be accessed for any purpose other than:

(A) Maintaining the minimum information in the PPF;

(B) Reporting minimum information to NICS as required by federal and state law; or

(C) Conducting instant firearm criminal history checks as defined under ORS 166.432.

(2) Transmission of Existing Minimum Information to OSP and NICS.

(a) As soon as a designated agency is capable of electronically transmitting existing minimum information to OSP, the designated agency shall provide OSP with all current and former client minimum information as required under ORS 181.740.

(b) Each designated agency shall provide all of its current and former client information to OSP in one single electronic file. The single electronic file shall contain all minimum information data elements in an electronic format that is capable of being individually searched and copied.

(c) Notwithstanding subsection (2)(b) of this rule, designated agencies may provide minimum information to OSP in a non-electronic format, on a client-by-client basis and only as approved by OSP.

(d) Given the current limitations of the Oregon Judicial Department's information systems, OJD shall continue working with OSP and designated agencies to accomplish reconciliation of its records to those records of the other designated agencies. OJD shall continue its efforts to upgrade its information systems in order for OJD to provide minimum information to OSP as required under ORS 181.740. Upon OJD having the capability of providing minimum information to OSP from its information systems, OJD shall provide all of its current and former minimum information to OSP in one single electronic file, as provided in section (2)(b) of this rule.

(e) Upon receipt of any designated agency's minimum information, OSP may search, use, copy, and maintain that minimum information. OSP shall enter the minimum information into the PPF and electronically transmit it from the PPF to NICS.

(3) Transmission of Subsequent Minimum Information to OSP and NICS.

(a) Upon providing OSP with minimum information as provided under subsection 2 of this rule, designated agencies shall thereafter provide subsequent client information to OSP in electronic format, in a format approved by OSP. Designated agencies and originating courts shall electronically transmit subsequent minimum information to OSP as soon as such client minimum information becomes available for transmission and inclusion into the PPF. Designated agencies shall not delay in transmitting minimum information to OSP and shall transmit minimum information to OSP immediately upon such information becoming available to the designated agency.

(b) Designated agencies shall provide minimum information data elements to OSP in an electronic format that is capable of being individually searched and copied.

(c) Upon OJD having the capability of providing minimum information to OSP from its information systems, OJD shall thereafter provide sub-

sequent minimum information to OSP, including information from originating courts, as provided in section (3)(a) of this rule.

(d) Upon receipt of any designated agency's minimum information, OSP may search, use, copy, and maintain that minimum information. OSP shall enter the minimum information into the PPF and electronically transmit it from the PPF to NICS on a daily basis through a secure electronic message via the Law Enforcement Message Switch (LEMS).

(e) Notwithstanding subsection (3)(b) of this rule, designated agencies may provide minimum information to OSP in a non-electronic format, on a client-by-client basis and only as approved by OSP. In the event that OSP accepts minimum information from a designated agency in a non-electronic format, OSP shall electronically enter the minimum information for that particular person into the PPF, and return the non-electronically formatted minimum information to the designated agency.

(4) PPF and Minimum Information Maintenance. OSP shall request a report from NICS every 3 months that details Oregon's mental health prohibited person record data located in NICS for comparison with the data in the PPF. OSP shall send data discrepancies to the submitting designated agency for resolution. Based on ORI number, designated agencies may further re-direct challenges to the court of original jurisdiction for resolution. Designated agencies shall include any changes or amendments to previously submitted minimum information in their subsequent electronic transmissions of minimum information to OSP.

(5) Challenges to Minimum Information. All minimum information and data elements maintained by OSP in the PPF is the minimum information and data elements directly submitted to OSP by designated agencies. Any and all challenges to minimum information data elements submitted to OSP by a designated agency and that are contained or maintained by OSP in the PPF and transmitted to NICS will be re-directed to the submitting designated agency for resolution. Based on ORI number, designated agencies may further re-direct challenges to the court of original jurisdiction for resolution.

(6) Relief Maintenance.

(a) When the PSRB grants relief from the prohibitions under 18 U.S.C. §922(d)(4) and (g)(4) for the purchase, possession, transportation or receipt of a firearm, or grants additional or alternative relief from either the prohibition on possessing a firearm under ORS 166.250 (1)(c)(D) or (E), or the prohibition on receiving a firearm under ORS 166.470 (1)(e) or (f), the PSRB shall send the minimum information of the person for whom relief is granted electronically to OSP. Upon receipt of the minimum information from the PSRB, OSP shall update the PPF and transmit the minimum information and notification of relief to NICS on the same day OSP receives the minimum information from the PSRB.

(b) When a person files a petition for judicial review with an appellate court following a final order of the PSRB that denies relief, and the appellate court subsequently grants the person relief from the prohibitions under 18 U.S.C. §922(d)(4) and (g)(4) for the purchase, possession, transportation or receipt of a firearm, or grants additional or alternative relief from either the prohibition on possessing a firearm under ORS 166.250 (1)(c)(D) or (E), or the prohibition on receiving a firearm under ORS 166.470 (1)(e) or (f), OJD shall send the minimum information of the person for whom relief is granted electronically to OSP as provided in subsection 3(b) of this rule. Upon receipt of the minimum information from OJD, OSP shall update the PPF and transmit the minimum information and notification of relief to NICS on the same day OSP receives the minimum information from OJD.

(c) In addition to the requirements set forth in 6 (a), whenever the PSRB or an appellate court grants relief under the following circumstances, the person granted relief shall provide a certified copy of either the PSRB written final order or appellate judgment and the person's fingerprint card to OSP for the purposes of updating the petitioner's Computerized Criminal History:

(A) The person granted relief was found responsible except for insanity for an act under ORS 419C.411;

(B) The person granted relief was found guilty except for insanity of a crime under ORS 161.295 to 161.370 and the person has an existing criminal history; or

(C) The person granted relief was found by a court to lack fitness to proceed under ORS 161.370 and the person has an existing criminal history.

Stat. Auth.: ORS 181.740, 426.130, 426.160, 427.290, 427.293, 161.370, 161.295-161.370, 419C.411, 161.327, 161.336-161.351, & 419C.529-419C.544 & 192.440

Stats. Implemented: ORS 181.740, OL 2009 Ch 826

Hist.: OSP 5-2011(Temp), f. 12-13-11, cert. ef. 12-15-11 thru 6-12-12; OSP 2-2012, f. & cert. ef. 5-22-12

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

**Rule Caption:** Correlates 2010 Oregon Fire Code, Section 914.8.2 with 2010 Oregon Structural Specialty Code, Section 412.4.5.

**Adm. Order No.:** OSFM 7-2012

**Filed with Sec. of State:** 5-16-2012

**Certified to be Effective:** 8-2-12

**Notice Publication Date:** 3-1-2012

**Rules Amended:** 837-040-0020

**Subject:** This will make the temporary rule for 837-040-0020 filed in February 2012 permanent. The permanent rule correlates the language in the 2010 Oregon Fire Code, Section 914.8.2 with the 2010 Oregon Structural Specialty Code, Section 412.4.5.

**Rules Coordinator:** Connie Dalke—(503) 934-8211

### 837-040-0020

#### Amendments to the Oregon Fire Code

(1) The Office of State Fire Marshal may amend the Oregon Fire Code approximately midway between publications of the International Fire Code based on proposed code amendments submitted for consideration by interested persons.

(2) Any time between publications of the international Fire Code, the Office of State Fire Marshal may initiate and adopt code amendments to the Oregon Fire Code, as circumstances merit (Referenced publications are available for review at the agency. See agency web site for information on where to purchase publications).

(3) Effective April 1, 2011, the 2010 Oregon Fire Code (OFC) is amended by the Office of State Fire Marshal as follows:

(a) Add new section 908.7, Carbon Monoxide alarms, to correlate with the change to the 2010 Oregon Structural Specialty Code.

(b) Amend Chapter 47, National Fire Protection Association (NFPA) Standards and Underwriters Laboratories Standards, as follows:

NFPA 720-09 Standard for the Installation of Carbon Monoxide (CO) Detection and Warning Equipment 6 908.7.

UL 2034-08 Standard for single and Multiple Station Carbon Monoxide Alarms, with revisions through February 20, 2009 6 908.7.

(4) Effective January 1, 2012, the 2010 Oregon Fire Code (OFC) is amended by the Office of State Fire Marshal as follows:

(a) Amend Section 202, Definitions for Group R-3 Occupancy to correlate to the Oregon Structural Specialty Code, Section 310.

(b) Amend Section 510.2.2 by adding the words "at the agency's antenna port" after "-100 dBm and before shall be received.."

(c) Amend Section 906.1 by using language from the 2012 International Fire Code.

(d) Amend Section 914.8.2 by adding a second exception to correlate to the Oregon Structural Specialty Codes, Section 412.4.5.

(e) Amend Section 4001.1, Exception 3 by adding "and SR" occupancies.

(f) Amend Section 4006.1 by adding "and SR" occupancies.

(g) Amend Section 4604.17 by updating with language from 2012 International Fire Code.

(h) Amend Chapter 47, National Fire Protection Association (NFPA) Standards, to current editions as follows:

(A) NFPA 10 to the 2010 edition.

(B) NFPA 13, 13R and 13D to the 2010 edition.

(C) NFPA 17 to the 2009 edition.

(D) NFPA 17A to the 2009 edition.

(E) NFPA 20 to the 2010 edition.

(F) NFPA 58 to the 2011 edition.

(G) NFPA 72 to the 2010 edition.

(H) NFPA 96 to the 2011 edition.

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

Stat. Auth: ORS 476.030

Stats. Implemented: ORS 476.030

Hist.: OSFM 1-2006(Temp), f. 1-9-06 cert. ef. 2-1-06 thru 7-28-06; OSFM 9-2006, f. & cert. ef. 6-12-06; OSFM 13-2006, f. 12-1-06, cert. ef. 4-1-07; OSFM 6-2008, f. 9-2-08, cert. ef. 10-1-08; OSFM 10-2008, f. 12-18-09, cert. ef. 12-31-09; OSFM 4-2009, f. 11-19-09, cert. ef. 4-1-10; OSFM 2-2010(Temp), f. 2-3-10, cert. ef. 7-1-10 thru 9-30-10; Administrative correction 10-26-10; OSFM 4-2010, f. & cert. ef. 11-3-10; OSFM 2-2011, f. 3-15-11, cert. ef. 4-1-11; OSFM 4-2011, f. 11-10-11, cert. ef. 1-1-12; OSFM 2-2012, f. 1-24-12, cert. ef. 3-1-12; OSFM 5-2012(Temp), f. & cert. ef. 2-10-12 thru 8-3-12; OSFM 7-2012, f. 5-16-12, cert. ef. 8-2-12

## Department of Revenue Chapter 150

**Rule Caption:** Revising rule to implement a tax credit auction for the Office of Film and Television.

**Adm. Order No.:** REV 3-2012(Temp)

**Filed with Sec. of State:** 5-17-2012

**Certified to be Effective:** 6-1-12 thru 7-31-12

**Notice Publication Date:**

**Rules Amended:** 150-315.514

**Subject:** This rule implements the changes made to ORS 315.514 in the 2011 legislative session (HB 3672). This statute gives a tax credit for contributors to the Oregon Production Investment Fund. The house bill directed the Office of Film and Video and the Department of Revenue to sell the tax credit by auction. The rule spells out the processes and limitations of the auction.

**Rules Coordinator:** Ken Ross—(503) 945-8890

### 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.



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(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.

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

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

**Rule Caption:** Specifies Title and Registration Requirements for ATVs and Emergency Fire Apparatus. Repeals OAR 735-022-0120.

**Adm. Order No.:** DMV 5-2012

**Filed with Sec. of State:** 5-18-2012

**Certified to be Effective:** 5-18-12

**Notice Publication Date:** 4-1-2012

**Rules Adopted:** 735-022-0130, 735-032-0055

**Rules Repealed:** 735-022-0120

**Subject:** ORS 803.035 authorizes DMV to adopt rules for the titling of vehicles that are not subject to vehicle titling requirements under ORS 803.025, or that are exempt from vehicle titling requirements under ORS 803.030. ORS 803.310 authorizes DMV to adopt rules for the registration of vehicles that are exempt from vehicle registration requirements under ORS 803.305. Pursuant to ORS 803.035 and ORS 803.310 respectively, DMV has adopted:

(1) OAR 735-022-0130 authorizes issuance of title and specifies titling requirements for:

(a) Class I, Class III and Class IV ATVs exempt from title requirements under ORS 803.030(3); and

(b) Emergency fire apparatus owned by a fire service agency, exempt from title requirements under ORS 803.030(8). Emergency fire apparatus include but are not limited to a fire truck, fire engine, tanker or any other similar vehicle that is designed and used primarily for public fire protection or suppression.

Providing for the titling of ATVs and emergency fire apparatus, will facilitate perfection of security interests for banks and other lending institutions that provide loans for the purchase of these vehicles. Having a vehicle title issued by DMV may also make transfer of ownership interests in these vehicles easier, and may assist the vehicle owner in obtaining insurance. Issuing a title for emergency fire apparatus will also allow emergency fire apparatus to be registered as provided under ORS 803.310 and DMV rule.

(2) OAR 735-032-0055 authorizes DMV to issue registration and specifies registration requirements for emergency fire apparatus,

owned by a fire service agency. Because these vehicles are exempt from registration requirements under ORS 803.305(8), they do not need a registration plate to operate on Oregon highways. This has created confusion for law enforcement officials and made it difficult for some fire service agencies to purchase fuel at commercial filling stations. Issuance of registration will alleviate these problems.

OAR 735-022-0130 replaces OAR 735-022-0120 which DMV has repealed in its entirety.

**Rules Coordinator:** Lauri Kunze—(503) 986-3171

### 735-022-0130

#### Titling All-Terrain Vehicles and Emergency Fire Apparatus

(1) For purposes of this rule, the following definitions apply:

(a) Class I all-terrain vehicle is defined as set forth in ORS 801.190.

(b) Class III all-terrain vehicle is defined as set forth in ORS 801.194(1).

(c) Class IV all-terrain vehicle is defined as set forth in ORS 801.194(2).

(d) "Emergency fire apparatus" means a vehicle such as, but not limited to, a fire truck, fire engine, tanker or any other similar vehicle that is primarily designed and used for public fire protection and suppression.

(e) "Fire service agency" means a unit of state or local government, a special purpose district or a private firm which provides, or has authority to provide public fire protection and suppression services in Oregon, including, but not limited to, the Oregon Department of Forestry, a rangeland fire protection association, a rural fire protection district, a city fire department, or a private fire department.

(2) DMV may issue an Oregon title for an emergency fire apparatus that is owned by a fire service agency and is exempt from title requirements under ORS 803.030(8), or for Class I, Class III or Class IV all-terrain vehicles that are exempt from title requirements under ORS 803.030(3), if the vehicle owner:

(a) Submits an application for Oregon title that meets the requirements of ORS 803.050; and

(b) Meets the qualifications for issuance of title under ORS 803.045, including but not limited to payment of all required fees and submission of evidence of ownership as described in OAR 735-022-0000;

(3) Effect of Title. Upon issuance of an Oregon title under section (2) of this rule:

(a) A vehicle is not authorized to operate on Oregon highways unless the vehicle is lawfully registered in Oregon or a jurisdiction where the owner is domiciled or is a resident, or the vehicle is exempt from registration requirements under ORS 803.305;

(b) The owner must comply with all applicable state and federal laws, rules and regulations related to the titling of vehicles; and

(c) The vehicle must remain titled in Oregon and is subject to all provisions of the Oregon law applicable to vehicles titled in Oregon until the vehicle is legally titled under the laws of another jurisdiction or an Oregon salvage title is issued.

(4) Notwithstanding section (2) of this rule, DMV may refuse to issue an Oregon title if issuance of an Oregon title violates the law of another jurisdiction.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.030 & 803.035

Stats. Implemented: 803.010, 803.030, 803.035, 803.040, 803.045 & 803.092

Hist.: DMV 5-2012, f. & cert. ef. 5-18-12

### 735-032-0055

#### Registration of Emergency Fire Apparatus

(1) For purposes of this rule, the following definitions apply:

(a) "Emergency fire apparatus" means a vehicle such as, but not limited to, a fire truck, fire engine, tanker or any other similar vehicle that is primarily designed and used for public fire protection and suppression.

(b) "Fire service agency" means a unit of state or local government, a special purpose district or a private firm which provides, or has authority to provide, public fire protection and suppression services in Oregon, including, but not limited to, the Oregon Department of Forestry, a rangeland fire protection association, a rural fire protection district, a city fire department, or a private fire department.

(2) DMV may issue Oregon registration for an emergency fire apparatus that is exempt from registration requirements under ORS 803.305(8), if the vehicle owner:

(a) Is a fire service agency;

(b) Submits an application for Oregon registration that meets the requirements of ORS 803.370; and

# ADMINISTRATIVE RULES

(c) Meets the qualifications for issuance of registration under ORS 803.350, including but not limited to:

(A) At the time of application, the applicant requests and is issued a vehicle title in the applicant's name, or presents satisfactory evidence that an Oregon title covering the vehicle has been issued to the applicant; and

(B) Pays the appropriate registration fees under ORS 803.420, and, if applicable, title fees.

(3) Effect of Registration. Upon the issuance of Oregon registration under section (2) of this rule:

(a) The vehicle owner must comply with all applicable state and federal laws, rules and regulations related to the registration of vehicles; and

(b) The vehicle is subject to all provisions of the Oregon Vehicle Code applicable to vehicles registered in Oregon until the vehicle is registered under the laws of another jurisdiction.

(4) Notwithstanding sections (1) and (2) of this rule, DMV may refuse to issue Oregon registration if:

(a) The vehicle is not manufactured primarily for operation on a highway;

(b) The vehicle does not comply with federal vehicle standards as described under OAR 735-022-0090; or

(c) Issuance of Oregon registration violates the law of another jurisdiction.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 803.305 & 803.310

Stats. Implemented: ORS 803.305

Hist.: DMV 5-2012, f. & cert. ef. 5-18-12

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## Department of Transportation, Motor Carrier Transportation Division Chapter 740

**Rule Caption:** Amendment of intrastate exceptions to federal motor carrier safety transportation regulations.

**Adm. Order No.:** MCTD 5-2012

**Filed with Sec. of State:** 5-18-2012

**Certified to be Effective:** 5-18-12

**Notice Publication Date:** 4-1-2012

**Rules Amended:** 740-100-0010

**Subject:** Amendments to this rule were originally filed with the Secretary of State on October 26, 2011, but were inadvertently omitted during the annual re-adoption filed in February 2012. This is a new filing to correct the omission.

This rule covers the adoption of federal motor carrier safety regulations and the intrastate exceptions. A Motor Carrier Safety Assistance Program (MCSAP) review identified intrastate exceptions that were determined not compatible with federal regulations. These amendments revise the provisions identified as deficient in the review.

Specifically, the rule previously allowed an exemption from external identification requirements found in Title 49, Code of Federal Regulations (CFR) Part 390.21 and some driver qualification requirements found in 49 CFR Part 391 for intrastate private carriers operating with a gross weight rating of 26,000 pounds or less. The amended rule limits applicability of the exemptions by stating that in addition to the vehicle(s) weight rating not exceeding 26,000 pounds, actual weight of the vehicle or combination may not exceed 26,000 pounds to use this exemption. The rule specifies that an intrastate commercial motor vehicle operator must be 18 years of age and clarifies the rule and is consistent with the provisions of ORS 807.060. Finally, an exception from CFR 49 Part 396.17 through 396.23 allowing an exemption for periodic inspection requirements for carriers operating wholly in intrastate commerce is repealed in its entirety.

**Rules Coordinator:** Lauri Kunze—(503) 986-3171

### 740-100-0010

#### Adoption of Federal Safety Regulations

(1) Except as provided in section (4) of this rule, the rules and regulations adopted by the United States Department of Transportation contained in Title 49, Code of Federal Regulations (CFR), Parts 380 (Special Training Requirements), 382 (Controlled Substances and Alcohol Use and Testing), 383 (Commercial Driver's License Standards Requirements and Penalties), 385 (Safety Fitness Procedures), 387 (Minimum Levels of Financial Responsibility for Motor Carriers), 390 (Federal Motor Carrier

Safety Regulations: General), 391 (Qualification of Drivers), 392 (Driving of Motor Vehicles), 393 (Parts and Accessories Necessary for Safe Operation), 395 (Hours of Service of Drivers), 396 (Inspection, Repair and Maintenance), 398 (Transportation of Migrant Workers), 399 (Employee Safety and Health Standards) and all amendments thereto in effect April 1, 2012, are adopted and prescribed by the Department of Transportation (ODOT) to be observed by carriers conducting operations in interstate commerce, subject to ORS Chapter 825.

(2) The provisions of section (1) of this rule as adopted are prescribed by the Department to be observed by carriers conducting operations in intrastate commerce, subject to ORS Chapter 825, except:

(a) Relating to Part 385:

(A) The provisions of Part 385.1(b), 385.13(b), 385.13(c), 385.13(d)(3), 385.301 through 385.337 and Appendix A to Part 385 do not apply to a motor carrier operating exclusively in intrastate commerce.

(B) With reference to Part 385.13(a), 385.19(c) and 385.19(d), current intrastate safety rating information is available from ODOT only by telephone at (503) 378-6963.

(C) With reference to Part 385.15 and 385.17, requests for administrative review of an intrastate safety rating or requests for a change to a proposed or final intrastate safety rating based on corrective actions must be submitted in writing to the ODOT Motor Carrier Transportation Division, 550 Capitol St. NE, Salem OR 97301-2530.

(D) With reference to Appendix B of Part 385, a final intrastate safety rating will be determined by the Department and the motor carrier to whom the rating applies will be notified in writing of its intrastate safety rating.

(E) In addition to the violations described in the List of Acute and Critical Violations in Appendix B of Part 385, the Department will include the following violations in a determination of an intrastate or an interstate safety rating:

(i) Financial responsibility requirements in OAR 740-040-0010 (critical) and 740-040-0020 (acute); and

(ii) Intrastate drivers hours-of-service requirements found in OAR 740-100-0010(2)(i) (critical).

(b) The provisions of Part 387 will apply to intrastate motor carriers only when transporting hazardous materials, hazardous substances or hazardous wastes.

(c) With reference to Part 390.21, external identification requirements do not apply to vehicles operated exclusively in intrastate private carriage provided that neither the gross vehicle weight, the gross vehicle weight rating, the gross combination weight or the gross combination weight rating exceeds 26,000 pounds, except those vehicles transporting hazardous materials of a type or quantity requiring placarding or passenger vehicles designed or used to transport more than 15 passengers including the driver.

(d) The rules in Part 391.11(b)(1) regarding the minimum age for a commercial motor vehicle operator do not apply to a driver engaged in intrastate commerce. A driver engaged in intrastate commerce must be at least 18 years old.

(e) The rules in Part 391 (except Part 391.11(b)(2), English Speaking Driver, Part 391.11(b)(5), Valid Operator's License and Part 391.15, Disqualification of Drivers) do not apply to a driver who is employed by a private carrier and:

(A) Does not transport hazardous materials of a type or quantity requiring the vehicle to be marked or placarded in accordance with Title 49, CFR, Part 177.823, and drives a motor vehicle with a gross vehicle weight, gross vehicle weight rating, gross combination weight or gross combination weight rating of 26,000 pounds or less; or

(B) Operates a passenger vehicle designed or used to transport fewer than 16 passengers, including the driver.

(f) Notwithstanding Parts 391.41 to 391.49 (Subpart E — Physical Qualifications and Examinations) the Department may issue a waiver of physical disqualification to a commercial vehicle driver who has met the conditions established by the Driver and Motor Vehicle Services Division.

(g) With reference to Part 395.1(e)(1), motor carriers conducting intrastate transportation of property may not require or permit any driver used by it to exceed 12 hours driving following ten consecutive hours off-duty;

(h) With reference to Part 395.1(g), motor carriers conducting intrastate transportation of property may not require or permit any driver used by it to drive a commercial motor vehicle, nor may any such driver:

(A) Exceed 12 hours driving following ten consecutive hours off-duty;

(B) Drive for any period beyond the 16th hour after coming on-duty following ten consecutive hours off-duty;

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(i) With reference to Part 395.1(e)(2) and Part 395.3, a motor carrier conducting intrastate transportation of property may not require or permit any driver used by it to drive a commercial motor vehicle, nor may any such driver:

(A) Exceed 12 hours driving following ten consecutive hours off-duty;

(B) Drive for any period beyond the 16th hour after coming on-duty following ten consecutive hours off-duty;

(C) Drive for any period following 70 hours on-duty in any seven consecutive days if the employing motor carrier does not operate commercial motor vehicles every day of the week, however, any period of seven consecutive days may end with the beginning of any off-duty period of 34 or more consecutive hours; or

(D) Drive for any period following 80 hours on-duty in any eight consecutive days if the employing motor carrier operates commercial motor vehicles every day of the week, however, any period of eight consecutive days may end with the beginning of any off-duty period of 34 or more consecutive hours.

(j) The provisions of subsections (g) through (i) of this section are not applicable to the transportation of hazardous materials of a type or quantity requiring placarding. A motor carrier transporting hazardous materials of a type or quantity requiring placarding must comply with Part 395.

(3) The provisions of Part 386.83(a)(1) and Part 386.84(a)(1), related to sanctions for failure to pay civil monetary penalties are adopted for operations conducted in intrastate commerce and apply to penalties and sanctions found in ORS Chapter 825, pursuant to the provisions of ORS Chapter 183.

(4) The intracity operation exemption adopted by the US Department of Transportation found in Part 391.62 is not adopted and prescribed.

(5) Wherever reference is made in Title 49 of the CFR as adopted by this rule to a federal entity, including but not limited to "Federal Highway Administrator," "Regional Director," "Special Agent of the Federal Highway Administration" or the "Federal Motor Carrier Safety Administration," it will be construed to mean the Oregon Department of Transportation or a person authorized by the Oregon Department of Transportation to act on its behalf.

(6) Copies of the federal regulations referred to in this rule are available from ODOT Motor Carrier Transportation Division or may be accessed on the Federal Motor Carrier Safety Administration website, [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov).

Stat. Auth.: ORS 184.616, 184.619, 823.011, 825.232 & 825.252  
Stats. Implemented: ORS 825.210, 825.250 & 825.252  
Hist.: PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); PUC 181, f. 12-30-77, ef. 1-15-78 (Order No. 77-896); PUC 4-1979, f. & ef. 9-21-79 (Order No. 79-641); PUC 5-1979, f. & ef. 9-21-79 (Order No. 79-635); PUC 2-1980, f. & ef. 3-27-80 (Order No. 80-179); PUC 3-1980, Part 1, f. & ef. 6-30-80 (Order No. 79-805); Part 2, f. & ef. 6-30-80 (Order No. 80-475); PUC 7-1980, f. & ef. 11-6-80 (Order No. 80-845); Renumbered from 860-035-0010; PUC 12-1981, f. & ef. 12-16-81 (Order No. 81-880); PUC 12-1982(Temp), f. 12-20-82, ef. 1-1-83 (Order No. 82-872); PUC 1-1983, f. & ef. 1-17-83 (Order No. 83-024); PUC 2-1983, f. & ef. 3-1-83 (Order No. 83-117); PUC 13-1984, f. & ef. 7-26-84 (Order No. 84-546); PUC 19-1984, f. & ef. 9-10-84 (Order No. 84-713); PUC 8-1985, f. & ef. 6-10-85 (Order No. 85-499); PUC 17-1986 (Temp), f. & ef. 12-3-86; (Order No. 86-1239); PUC 2-1987 (Temp), f. & ef. 2-25-87 (Order No. 87-248); PUC 4-1987, f. & ef. 6-9-87 (Order No. 87-509); PUC 16-1987(Temp), f. & ef. 12-11-87 (Order No. 87-1244); PUC 4-1988(Temp), f. & cert. ef. 2-12-88 (Order No. 88-161); PUC 6-1988(Temp), f. & cert. ef. 3-9-88 (Order No. 88-818); PUC 14-1988, f. & cert. ef. 7-22-88 (Order No. 88-245); PUC 7-1989, f. & cert. ef. 5-23-89 (Order No. 89-663); PUC 1-1991, f. & cert. ef. 1-11-91 (and corrected 1-31-91) (Order No. 91-20); PUC 6-1992, f. & cert. ef. 2-26-92 (Order No. 92-292); PUC 13-1992(Temp), f. & cert. ef. 9-4-92 (Order No. 92-1303); PUC 10-1993, f. & cert. ef. 6-3-93 (Order No. 93-693 & 93-761); PUC 6-1994, f. & cert. ef. 3-28-94 (Order No. 94-525); PUC 6-1995, f. & cert. ef. 7-13-95 (Order No. 95-562); MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0010; MCT 4-1996, f. 3-20-96, cert. ef. 4-1-96; MCT 5-1996, f. & cert. ef. 9-17-96; MCT 1-1997, f. 3-24-97, cert. ef. 4-1-97; MCT 2-1997, f. & cert. ef. 5-9-97; MCT 6-1997, f. & cert. ef. 8-26-97; MCT 10-1997, f. & cert. ef. 12-22-97; MCTB 1-1998, f. 3-10-98, cert. ef. 4-1-98; MCTB 2-1998, f. & cert. ef. 8-20-98; MCTB 1-1999, f. & cert. ef. 4-22-99; MCTB 1-2000, f. 3-16-00, cert. ef. 4-1-00; MCTB 2-2001, f. 3-13-01, cert. ef. 4-1-01; MCTB 2-2002, f. & cert. ef. 6-21-02; MCTD 2-2003, f. & cert. ef. 4-21-03; MCTD 6-2003, f. & 11-18-03, cert. ef. 1-1-04; MCTD 2-2005, f. 3-18-05, cert. ef. 4-1-05; MCTD 5-2005(Temp), f. 9-16-05, cert. ef. 10-1-05 thru 3-29-06; MCTD 2-2006, f. 3-17-06, cert. ef. 4-1-06; MCTD 1-2007, f. 3-26-07, cert. ef. 4-1-07; MCTD 1-2008, f. 3-20-08, cert. ef. 4-1-08; MCTD 1-2009, f. 3-20-09, cert. ef. 4-1-09; MCTD 1-2010, f. 3-17-10, cert. ef. 4-1-10; MCTD 2-2011, f. & cert. ef. 5-27-11; MCTD 3-2011, f. & cert. ef. 10-26-11; MCTD 1-2012, f. 2-21-12, cert. ef. 4-1-12; MCTD 5-2012, f. & cert. ef. 5-18-12

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

**Rule Caption:** Sun screen.

**Adm. Order No.:** CCD 1-2012(Temp)

**Filed with Sec. of State:** 6-12-2012

**Certified to be Effective:** 6-12-12 thru 11-6-12

## Notice Publication Date:

**Rules Amended:** 414-205-0100, 414-300-0230, 414-350-0180

**Subject:** Clarified and made more specific, requirements for the safe and appropriate use of sunscreen in child care settings, including: requiring written parental authorization, permitting use of bulk sunscreen, prohibiting use of aerosol spray bottles.

**Rules Coordinator:** Courtney Brooks—(503) 947-1724

## 414-205-0100

### Health

(1) The home must be a healthy environment for children.

(a) No person shall smoke or use smokeless tobacco in the family child care home during the hours the child care business is conducted. No person shall smoke or use smokeless tobacco in motor vehicles while child care children are passengers.

(b) No one shall consume alcohol or use non-prescription controlled substances in the presence of children. No one under the influence of alcohol or non-prescription controlled substances shall be in the home when child care children are present.

(c) There must be at least one flush toilet and one hand-washing sink available to children. Steps or blocks must be available to ensure children can use the toilet and sink without assistance.

(d) The room temperature must be at least 68°F during the hours the child care business is conducted.

(e) Rooms occupied by children must have a combination of natural and artificial lighting.

(f) Floors must be free of splinters, large unsealed cracks, sliding rugs and other hazards.

(2) The provider must have a basic first aid kit available for use. The kit must be kept out of the reach of children.

(3) Infants must be put to sleep on their backs.

(4) Except for mild cold symptoms that do not impair a child's function, children who are ill shall not be in care.

(5) If a child becomes ill in child care, the provider must separate the child from other children, to the extent possible, and contact the child's parent(s) to remove the child from care as soon as possible.

(6) Parents must be notified if their child is exposed to a communicable disease.

(7) Prescription and non-prescription medication may be given to a child only if the provider has written authorization from the parent, as required in OAR 414-205-0130(3).

(8) Prescription and non-prescription medications must be properly labeled and stored.

(a) Non-prescription medications or topical substances must be labeled with the child's name.

(b) Prescription medications must be in the original container and labeled with the child's name, the name of the drug, dosage, directions for administering, and the physician's name.

(c) Medication requiring refrigeration must be kept in a separate, covered container, marked "medication," in the refrigerator.

(9) Sunscreen is considered a non-prescription medication and may be used for child care children under the following conditions:

(a) Providers must obtain written parental authorization prior to using sunscreen.

(b) One container of sunscreen may be used for child care children unless a parent supplies an individual container for their child. The sunscreen shall be applied in a manner that prevents contaminating the container.

(A) Parents must be informed of the type of product and the sun protective factor (SPF).

(B) Parents must be given the opportunity to inspect the product and active ingredients.

(c) If sunscreen is supplied for an individual child care child, the sunscreen must be labeled with the child's first and last name and must be used for only that child.

(d) Providers must reapply sunscreen every two hours while the child care children are exposed to the sun.

(e) Providers shall use a sunscreen with an SPF of 15 or higher.

(f) Providers shall not use aerosol sunscreens on child care children.

(g) Sunscreen shall not be used on child care children younger than six months.

(h) Child care children over six years of age may apply sunscreen to themselves under the direct supervision of the provider or staff member.

(10) Parents must be informed daily of any medications given to their child or any injuries their child has had.

# ADMINISTRATIVE RULES

(11) The provider must provide or ensure the availability of meals and snacks appropriate for the ages and needs of the children served.

(a) Meals and snacks must be based on the guidelines of the USDA Child Care Food Program.

(b) Foods must be stored and maintained at the proper temperature.

(c) Foods must be prepared and served according to the minimum standards for food handler certification.

(d) Infants must either be held or be fed sitting up for bottle feeding. Propping bottles is prohibited.

(12) Any animal at the family child care home must be in good health and be a friendly companion for the children in care.

(a) Potentially aggressive animals must not be in the same physical space as the children.

(b) Dogs and cats must be vaccinated according to a licensed veterinarian's recommendations.

(13) Animal litter boxes shall not be located in areas accessible to children.

(14) Caregivers must be physically present when children are interacting with animals.

(15) Reptiles (e.g. lizards, turtles, snakes, iguanas) frogs, monkeys, hooked beaked birds, baby chicks and ferrets are prohibited unless they are housed in and remain in a tank or other container which precludes any direct contact by children. Educational programs that include prohibited animals and are run by zoos, museums and other professional animal handlers are permitted.

(16) Parents must be made aware of the presence of any animals in the child care home.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 1-2008(Temp), f. & cert. ef. 8-6-08 thru 2-2-09; CCD 3-2008, f. & cert. ef. 10-2-08; CCD 2-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; Administrative correction 7-27-10; CCD 7-2010, f. 12-29-10, cert. ef. 1-1-11; CCD 1-2012(Temp), f. & cert. ef. 6-12-12 thru 11-6-12

## 414-300-0230

### Medications

(1) No prescription medication or non-prescription medication, including, but not limited to, pain relievers, sunscreen, cough syrup, diapering and first aid ointments or nose drops, may be given to a child except under the following conditions:

(a) A signed, dated, written authorization by the parent(s) is on file;

(b) Prescription medication is in the original container and labeled with the child's name, name of the drug, dosage, directions for administering, date, and physician's name;

(c) Non-prescription medication is in the original container, labeled with the child's name, dosage, and directions for administering; and

(d) A written record of all medications administered listing, as a minimum, the name of the child, type of medication, the signature of the person administering the medication, date, time, and dosage given, shall be kept.

(2) All medications shall be:

(a) Secured in a tightly-covered container with a child-proof lock or latch; and

(b) Stored in an area not used by children.

(3) Medications requiring refrigeration shall be kept in the refrigerator in a separate tightly-covered container, with a child-proof lock or latch, clearly marked "medication".

(4) Sunscreen is considered a non-prescription medication and may be used for child care children under the following conditions:

(a) Providers must obtain written parental authorization prior to using sunscreen.

(b) One container of sunscreen may be used for child care children unless a parent supplies an individual container for their child. The sunscreen shall be applied in a manner that prevents contaminating the container.

(A) Parents must be informed of the type of product and the sun protective factor (SPF).

(B) Parents must be given the opportunity to inspect the product and active ingredients.

(c) If sunscreen is supplied for an individual child care child, the sunscreen must be labeled with the child's first and last name and must be used for only that child.

(d) Providers must reapply sunscreen every two hours while the child care children are exposed to the sun.

(e) Providers shall use a sunscreen with an SPF of 15 or higher.

(f) Providers shall not use aerosol sunscreens on child care children.

(g) Sunscreen shall not be used on child care children younger than six months.

(h) Child care children over six years of age may apply sunscreen to themselves under the direct supervision of the provider or staff member.

(5) Parent(s) shall be informed daily of medication administered to their child.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CSD 21-1988, f. & cert. ef. 9-29-8; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0652; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01; CCD 3-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; Administrative correction 7-27-10; CCD 1-2012(Temp), f. & cert. ef. 6-12-12 thru 11-6-12

## 414-350-0180

### Illness or Injury

(1) A provider shall not admit, or retain in care, a child who:

(a) Is diagnosed as having or being a carrier of a child care-restrictable disease, as defined in Department of Human Services administrative rules, OAR 333-019-0010; or

(b) Has one of the following symptoms, or combination of symptoms, of illness:

(A) Diarrhea (more than one abnormally loose, runny, watery or bloody stool);

(B) Vomiting;

(C) Fever over 100 degrees F taken under the arm;

(D) Severe cough;

(E) Unusual yellow color to skin or eyes;

(F) Skin or eye lesions or rashes that are severe, weeping, or pus-filled;

(G) Stiff neck and headache with one or more of the symptoms listed above;

(H) Difficult breathing or abnormal wheezing; or

(I) Complaints of severe pain.

(2) A child who, after being admitted, shows signs of illness, as defined in subsection (1) of this rule, shall be isolated and the parent(s) notified and asked to remove the child from the home as soon as possible.

(3) If a child has mild cold symptoms that do not impair his/her functioning, the child may remain in the home and the parent(s) notified when they pick up the child.

(4) A specific place for isolating a child who becomes ill shall be provided. The isolation area shall be:

(a) Located where the child can be seen and heard by a caregiver; and

(b) Equipped with a cot, mat, or bed for each sick child.

(5) The provider shall identify a licensed physician, hospital, or clinic to be used for emergency medical care:

(a) The provider shall have written procedures for taking a child to emergency medical care;

(b) In the event of an illness or injury which requires immediate medical care, the provider is responsible for securing such care and notifying the parent(s).

(6) First aid supplies and a chart or handbook of first aid instructions shall be maintained in one identified place but kept out of reach of children:

(a) The first aid supplies shall include bandaids, adhesive tape, sterile gauze pads, soap or sealed antiseptic towelettes or solution to be used as a wound cleaning agent, scissors, disposable plastic gloves for handling blood spills, chlorine bleach for sanitizing after a blood spill, a sanitary temperature taking device, and CPR mouthguards; and

(b) First aid supplies shall be taken on all field trips.

(7) Injuries or accidents shall be reported to the child's parent(s) on the day of occurrence:

(a) A written report of the injury or accident shall be maintained on file;

(b) The report shall include the date, child's full name, nature of the injury, witnesses, action taken, and the signatures of the provider and parent(s); and

(c) The injury to or death of a child shall be reported to CCD in accordance with OAR 414-350-0050(9).

(8) No prescription or non-prescription medication, including, but not limited to, pain relievers, sunscreen, cough syrup, diapering and first aid ointments or nose drops, shall be given to a child except under the following conditions:

(a) A signed, dated, written authorization from the parent(s) is on file;

(b) Prescription medication is in the original container and labeled with the child's name, the name of the drug, dosage, directions for administering, date and physician's name;

(c) Non-prescription medication is in the original container, labeled with the child's name, the dosage, and directions for administering;

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(d) A written record of all medications administered, listing, as a minimum, the name of the child, type of medication, the signature of the caregiver administering the medication, date, time, and dosage given, shall be kept;

(e) All medications shall be secured in a tightly-covered container with a child-proof lock or latch and stored so that they are not accessible to children;

(f) Medications requiring refrigeration shall be kept in the refrigerator in a separate, tightly-covered container, with a child-proof lock or latch, clearly marked "medication"; and

(g) Parent(s) shall be informed daily of medication administered to their child.

(9) Sunscreen is considered a non-prescription medication and may be used for child care children under the following conditions:

(a) Providers must obtain written parental authorization prior to using sunscreen.

(b) One container of sunscreen may be used for child care children unless a parent supplies an individual container for their child. The sunscreen shall be applied in a manner that prevents contaminating the container.

(A) Parents must be informed of the type of product and the sun protective factor (SPF).

(B) Parents must be given the opportunity to inspect the product and active ingredients.

(c) If sunscreen is supplied for an individual child care child, the sunscreen must be labeled with the child's first and last name and must be used for only that child.

(d) Providers must reapply sunscreen every two hours while the child care children are exposed to the sun.

(e) Providers shall use a sunscreen with an SPF of 15 or higher.

(f) Providers shall not use aerosol sunscreens on child care children.

(g) Sunscreen shall not be used on child care children younger than six months.

(h) Child care children over six years of age may apply sunscreen to themselves under the direct supervision of the provider or staff member.

(10) Parents of all children enrolled in the certified family child care home shall be informed of any outbreak of communicable disease within the facility.

Stat. Auth.: ORS 657A.260  
Stats. Implemented: ORS 657A.260, 657A.280 & 657A.290  
Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CSD 2-1989, f. & cert. ef. 1-25-89; CSD 10-1990, f. & cert. ef. 4-34-90; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0750; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02; CCD 2-2007, f. & cert. ef. 7-13-07; CCD 4-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; Administrative correction 7-27-10; CCD 1-2012(Temp), f. & cert. ef. 6-12-12 thru 11-6-12

## Land Conservation and Development Department Chapter 660

**Rule Caption:** Adopt, amend, and repeal rules governing Oregon's implementation of Federal CZMA consistency requirements.

**Adm. Order No.:** LCDD 8-2012

**Filed with Sec. of State:** 6-15-2012

**Certified to be Effective:** 6-15-12

**Notice Publication Date:** 4-1-2012

**Rules Adopted:** 660-035-0005, 660-035-0015

**Rules Amended:** 660-035-0000, 660-035-0010, 660-035-0020, 660-035-0030, 660-035-0050, 660-035-0060, 660-035-0070

**Rules Repealed:** 660-035-0040, 660-035-0080

**Subject:** The federal Coastal Zone Management Act of 1972, as amended, contains a "federal consistency" provision that allows states with an approved coastal management program to review federal activities affecting coastal uses or resources. The Department of Land Conservation and Development (department) is Oregon's designated coastal zone management agency, and administers Oregon's federal consistency program. The department administers federal consistency reviews according to the federal requirements outlined in 15 CFR Part 930, and the corollary state rules in OAR chapter 660, division 35. The attached rule adoptions, amendments, and repeals update division 35 to reflect changes in federal requirements since the rule was last updated, and to clarify that the department will follow the requirements of 15 CFR Part 930 when performing consistency reviews.

**Rules Coordinator:** Casaria Tuttle—(503) 373-0050, ext. 322

### 660-035-0000

#### Purpose

This division establishes state procedures for implementing the federal consistency requirements of the federal Coastal Zone Management Act of 1972 (CZMA), as amended, section 307(c).

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 196.435

Hist.: LCDC 7-1988, f. & cert. ef. 9-29-88; LCDD 8-2012, f. & cert. ef. 6-15-12

### 660-035-0005

#### Conformance with Federal Consistency Review Rules

The CZMA provides a federal consistency requirement that allows states with an approved coastal management program to review federal actions affecting coastal uses or resources. Pursuant to ORS 196.435, the Department of Land Conservation and Development is Oregon's designated coastal zone management agency and administers federal consistency reviews. In administering federal consistency reviews, the department will follow the federal requirements and procedures provided in 15 CFR Part 930. All references to 15 CFR Part 930 in this division are to the version that existed on May 11, 2012.

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 196.435

Hist.: LCDD 8-2012, f. & cert. ef. 6-15-12

### 660-035-0010

#### Definitions

As used in this division, the definitions at CZMA section 304, 15 CFR Part 930, ORS 196.405, and 197.015 apply, unless the context requires otherwise. Additionally, the following definitions apply:

(1) "Coastal Zone," as defined in CZMA §304(1) and 15 CFR §930.11(e), specifically means the area lying between the State of Oregon border with the State of Washington on the north, to the State of Oregon border with the State of California on the south, seaward to the extent of the state's jurisdiction as recognized by federal law, and inland to the crest of the Coast Range Mountains, excepting:

(a) The Umpqua River basin, where the coastal zone extends to Scottsburg;

(b) The Rogue River basin, where the coastal zone extends to Agness;

(c) The Columbia River basin, where the coastal zone extends to the downstream end of Puget Island; and

(d) Land the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers, or agents, which federal law excludes from the coastal zone.

**NOTE:** A map depicting the boundaries of Oregon's coastal zone, but not depicting the excluded federal lands, is available from the department and on the coastal program website.

(2) "OCMP" means the Oregon Coastal Management Program described in ORS 196.425(1), which the federal Office of Ocean and Coastal Resource Management approved in 1977 and all federally approved amendments thereto.

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

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 196.435

Hist.: LCDC 7-1988, f. & cert. ef. 9-29-88; LCDD 8-2012, f. & cert. ef. 6-15-12

### 660-035-0015

#### Activities Subject to Review

The following types of federal actions are subject to federal consistency review:

(1) Proposed federal agency activities, including proposed federal development projects, which affect any coastal use or resource, pursuant to 15 CFR Part 930, Subpart C;

(2) Activities that affect any coastal use or resource and that require one or more federal licenses or permits identified on the federally-approved OCMP license and permit list developed pursuant to 15 CFR §930.53, or unlisted licenses or permits the department identifies through the process set forth in 15 CFR §930.54, pursuant to 15 CFR Part 930, Subpart D;

(3) Federal license or permit activities described in detail in outer continental shelf plans that affect any coastal use or resource, pursuant to 15 CFR Part 930, Subpart E; and

(4) Federal assistance to state and local governments, including special purpose districts and related public entities, for activities that affect any coastal use or resource, pursuant to 15 CFR Part 930, Subpart F.

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 196.435

Hist.: LCDD 8-2012, f. & cert. ef. 6-15-12

# ADMINISTRATIVE RULES

## 660-035-0020

### Federal Consistency in the OCMP

(1) To initiate consistency review, the responsible party identified in 15 CFR Part 930 shall submit all required consistency determinations, consistency certifications, or applications for federal financial assistance to the department along with supporting information or necessary data and information required by 15 CFR Part 930 and, for 15 CFR Part 930, Subparts D, E and F, as augmented by OAR 660-035-0030 through 660-035-0070.

(2) The department will review activities for consistency with the federally-approved enforceable policies of the OCMP. The enforceable policies can be found generally within:

- (a) The statewide planning goals;
- (b) The applicable acknowledged city or county comprehensive plan and implementing land use regulations; and
- (c) Selected state agency statutory and regulatory authorities governing any coastal use or resource.

(3) A person may contact the department for a list of federally-approved enforceable policies.

Stat. Auth.:ORS 197.040

Stats. Implemented: ORS 196.435

Hist.: LCDC 7-1988, f. & cert. ef. 9-29-88; LCDD 8-2012, f. & cert. ef. 6-15-12

## 660-035-0030

### Consistency for Federal Agency Activities

(1) When reviewing a federal agency activity or development project for consistency to the maximum extent practicable with the enforceable policies of the OCMP, the department shall conform to the requirements and procedures provided in 15 CFR Part 930, Subpart C.

(2) For review of a consistency determination submitted by a federal agency for a federal agency activity or federal development project, the federal agency must submit to the department the information described in 15 CFR §930.39(a).

(a) Although 15 CFR §930.37 limits state authority to require National Environmental Policy Act (NEPA) documents for federal consistency review purposes, a federal agency may mutually agree with the department to rely on information contained in NEPA documents or other project documents to provide some of the comprehensive data and information sufficient to support the federal agency's consistency statement under 15 CFR §930.39(a).

(b) A federal agency may elect to rely on information contained in NEPA documents or other project documents to demonstrate consistency to the maximum extent practicable with the enforceable policies of the OCMP. If relying on NEPA documents or other project documentation, the federal agency must clearly demonstrate how the materials support a finding of consistency with OCMP enforceable policies.

(3) The department shall provide for public participation consistent with the provisions of 15 CFR §930.42. The department will:

- (a) Maintain a mailing list of interested parties;
- (b) Notify interested parties when the department is reviewing federal agency activities or development projects for consistency with the OCMP; and

(c) Solicit comments that address the consistency of the proposed federal activity or development project with applicable elements of the OCMP.

(4) Evidence supporting consistency for a federal agency activity or development project: Federal agencies are not required to file applications for state and local permits and other authorizations unless required to do so by provisions of federal law other than the CZMA. However, federal agencies are required to demonstrate that the proposed activity is consistent to the maximum extent practicable with the applicable state and local enforceable policies underlying the permits. While federal agencies are not required to apply for state and local permits and other authorizations otherwise required by enforceable policies, where federal law authorizes a federal agency to do so the department will consider such applications when determining whether the federal activity or development project is consistent with the enforceable policies underlying the permit or authorization.

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

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 196.435

Hist.: LCDC 7-1988, f. & cert. ef. 9-29-88; LCDD 8-2012, f. & cert. ef. 6-15-12

## 660-035-0050

### Consistency for Activities Requiring a Federal License or Permit

(1) When reviewing any consistency certification submitted by an applicant for a federal license or permit activity affecting any coastal use or resource for consistency with the enforceable policies of the OCMP, the department shall conform to the requirements and procedures provided in 15 CFR Part 930, Subpart D.

(2) For review of a federal license or permit application, an applicant must submit to the department a consistency certification and the necessary data and information described in 15 CFR §930.58(a).

(a) Copies of complete applications for permits that state and local governments require for the proposed activity are required as necessary data and information to begin the CZMA six-month review period. The department does not require issued state or local permits as necessary data or information to begin the six-month review. If at the end of the six-month review period the applicant has not obtained all required state and local permits:

(A) The department may object to the consistency certification as provided in 15 CFR §930.63, or

(B) The department and the applicant may enter into a written agreement to stay the CZMA review period to permit resolution of the remaining issues as provided in 15 CFR §930.60(b).

(b) To expedite the federal consistency review process, the department encourages applicants to obtain state and local permits and other authorizations required by enforceable policies before beginning the federal consistency review process.

(c) Draft NEPA documents are necessary data and information to begin the CZMA six-month review period except when a federal statute requires a federal agency to initiate CZMA consistency review prior to its completion of NEPA compliance.

(d) In cases where an applicant relies on draft NEPA documents to satisfy some of the necessary data and information requirements for federal consistency review under subsection (c), the department will not begin the federal consistency review period until the applicant submits the draft NEPA documents, together with all other required necessary data and information, to the department.

(e) An applicant must clearly demonstrate how draft NEPA or other project documentation materials support a finding of consistency with OCMP enforceable policies.

(3) The department shall provide for public participation consistent with the provisions of 15 CFR §930.61. The department will:

- (a) Maintain a mailing list of interested parties;
- (b) Notify interested parties when the department is reviewing a federally licensed or permitted activity for consistency with the OCMP. The department may issue joint public notices with the federal permitting or licensing agency; and

(c) Solicit comments that address the consistency of the proposed activity with applicable elements of the OCMP.

(4) Evidence supporting consistency for federal license or permit activities: For activities located within the state's jurisdiction that require state or local permits or authorizations, the issued permit or authorization is the only acceptable evidence demonstrating consistency with the enforceable policies that the permit or authorization covers.

Stat. Auth.: ORS 183 & 197

Stats. Implemented: ORS 196.435 & 197.040

Hist.: LCDC 7-1988, f. & cert. ef. 9-29-88; LCDD 8-2012, f. & cert. ef. 6-15-12

## 660-035-0060

### Consistency for Outer Continental Shelf (OCS) Activities

(1) When reviewing an outer continental shelf activity that requires an authorization from the U.S. Department of the Interior pursuant to the Outer Continental Shelf Lands Act (43 USC §§ 1331-1356(a) for consistency with the enforceable policies of the OCMP, the department shall conform to the requirements and procedures provided in 15 CFR Part 930, Subpart E.

(2) For review of an outer continental shelf activity, an applicant must submit to the Secretary of the Interior or designee a consistency certification and materials described in 15 CFR §930.76. The Secretary of the Interior or designee will furnish the department with a copy of the information.

(3) The department shall provide for public participation consistent with the provisions of 15 CFR §930.77. To do so, the department will follow the procedure set forth in OAR 660-035-0050(3)(a)-(c).

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 196.435

Hist.: LCDC 7-1988, f. & cert. ef. 9-29-88; LCDD 8-2012, f. & cert. ef. 6-15-12

## 660-035-0070

### Consistency for Federal Assistance to State and Local Governments

(1) When reviewing applications for federal assistance to state and local governments for consistency with the enforceable policies of the OCMP, the department shall conform to the requirements and procedures provided in 15 CFR Part 930, Subpart F.

# ADMINISTRATIVE RULES

(2) For review of federal assistance to state and local governments, the applicant agency must submit to the department the materials described in 15 CFR §930.94.

(3) The department's review period for consistency certifications of federal assistance to state and local governments shall be 60 days.

Stat. Auth.: ORS 197.040  
Stats. Implemented: ORS 196.435  
Hist.: LCDDC 7-1988, f. & cert. ef. 9-29-88; LCDDC 8-2012, f. & cert. ef. 6-15-12

## Landscape Architect Board Chapter 804

**Rule Caption:** Updates to Registration Rules, Including Standards for Registration by Reciprocity.

**Adm. Order No.:** LAB 1-2012

**Filed with Sec. of State:** 5-17-2012

**Certified to be Effective:** 6-1-12

**Notice Publication Date:** 4-1-2012

**Rules Amended:** 804-022-0005, 804-022-0010

**Subject:** Amendments to OAR 804-022-0005 and 804-022-0010 clarify language in relation to application criteria for registration. Additional amendments to OAR 804-022-0010 are proposed to define an additional path for determining that an applicant for registration by reciprocity has qualifications substantially equivalent to the registration requirements of 804-022-0005 as required by ORS 671.435. The rule revisions related to reciprocity are designated to add flexibility and fairness while still ensuring that only duly qualified professional obtain an Oregon registration.

**Rules Coordinator:** Christine Valentine—(503) 589-0093

### 804-022-0005

#### Initial Landscape Architect Registration not by Reciprocity

(1) An individual may apply for registration as a Landscape Architect.

(2) The application must include the following:

(a) Completed application form for Landscape Architect registration;

(b) Verification of passing all sections of the LARE through;

(c) Exams passed under this Board's administration and already on file; or

(B) As verified by the administering Board or CLARB Council Record.

(c) An official transcript from an LAAB accredited university in the university sealed envelope;

(d) Verification of three years of work experience under the direct supervision of a registered Landscape Architect which has been accrued after satisfying the education requirements of OAR 804 Division 10 but may have been accrued while sitting for the examination:

(A) Up to two years of the three years of experience may be supervised by a licensed or registered Engineer or Architect;

(e) Application fee;

(f) Annual renewal fee; and

(g) A signed Statement of Understanding which confirms that the applicant has read and understands the Oregon Revised Statutes and the Oregon Administrative Rules that govern the practice of Landscape Architecture.

(3) Upon acceptance by the Board, the applicant is required to complete an Oral Exam.

(4) The initial date of registration shall be the date of the meeting during which the applicant completed an Oral Exam or the date of the meeting during which the Board approves the application for registration, whichever comes later.

Stat. Auth.: ORS 671.316, ORS 671.335, 671.415

Stats. Implemented: ORS 671.310-671.459

Hist.: LAB 1-2007, f. & cert. ef. 4-27-07; LAB 1-2012, f. 5-17-12, cert. ef. 6-1-12

### 804-022-0010

#### Landscape Architect Registration by Reciprocity

(1) Any person not registered as a Landscape Architect in Oregon, but who currently holds a license or certificate to practice as a Landscape Architect in another state or territory, may file an application for registration by reciprocity under ORS 671.345.

(2) An application must include the following:

(a) A current Council of Landscape Architectural Registration Boards (CLARB) Council Record to aid the board in determining the applicant's qualifications or the alternative documentation listed under (3);

(A) Information presented on the CLARB Council Record is subject to verification by the Board.

(b) A Board application form;

(c) An application fee;

(d) Annual registration fee; and

(e) Statement of Understanding stating that the applicant has read and understands the Oregon Landscape Architect Law and the Oregon Administrative Rules governing the practice of Landscape Architecture.

(3) In lieu of the CLARB Council Record referred to in (2)(a), the applicant may instead submit the following documentation:

(a) An official transcript from an LAAB accredited university in the university sealed envelope;

(b) Documentation verifying work experience under provision (A) or (B) as follows:

(A) Verification of three years of work experience under the direct supervision of a registered Landscape Architect which has been accrued after satisfying the education requirements of OAR 804 Division 10 but may have been accrued while sitting for the examination;

(i) Up to two years of the three years of experience may be supervised by a licensed or registered Engineer or Architect; or

(B) Verification of a minimum of 10 years of work experience as a Landscape Architect licensed or registered in another U.S. state or territory.

(i) Work experience must be verified through a minimum of three professional references signed by licensed or registered Landscape Architects, Engineers, or Architects and submitted on forms approved by the Board for this use; and

(ii) The application will need to include a resume detailing the work experience.

(c) Proof of passing all sections of the national registration examination for Landscape Architecture;

(d) Identification of the state(s) where examinations were passed; and

(e) Identification of all states in which licensure is currently held.

(4) Registration may be granted after all application materials are approved.

Stat. Auth.: ORS 671.316, 671.335, 671.345, 671.415

Stats. Implemented: ORS 671.310-671.459

Hist.: LAB 1-1983, f. & ef. 2-1-83; LAB 1-1984, f. & ef. 1-5-84; LAB 2-1989, f. 7-1-89, cert. & ef. 6-23-89; LAB 2-1989, f. 6-23-89, cert. ef. 7-1-89; LAB 1-1993, f. & cert. ef. 7-1-93; LAB 2-1998, f. & cert. ef. 4-22-98; Renumbered from 804-010-0025, LAB 1-2007, f. & cert. ef. 4-27-07; LAB 1-2008, f. & cert. ef. 2-4-08; LAB 1-2012, f. 5-17-12, cert. ef. 6-1-12

**Rule Caption:** Update Reference to DOJ Model Rules of Procedure.

**Adm. Order No.:** LAB 2-2012

**Filed with Sec. of State:** 5-23-2012

**Certified to be Effective:** 5-23-12

**Notice Publication Date:**

**Rules Amended:** 804-001-0005

**Subject:** Update reference to the DOJ model Rules of Procedure that the Board follows to address compliance with the Administrative Procedures Act.

**Rules Coordinator:** Christine Valentine—(503) 589-0093

### 804-001-0005

#### Model Rules of Procedure

The Attorney General's Model Rules of Procedure under the Administrative Procedures Act, in effect on February 1, 2012, are adopted as the rules of procedure for the State Landscape Architect Board.

Stat. Auth.: ORS 183, 671.310 - 671.459

Stats. Implemented: ORS 671.415

Hist.: LAB 2-1982, f. & ef. 6-24-82; LAB 1-1984, f. & ef. 1-5-84; LAB 2-1986, f. & ef. 3-5-86; LAB 1-1989, f. 4-4-89, cert. ef. 4-7-89; LAB 3-2006, f. & cert. ef. 8-14-06; LAB 4-2008, f. & cert. ef. 11-7-08; LAB 2-2012, f. & cert. ef. 5-23-12

## Landscape Contractors Board Chapter 808

**Rule Caption:** Amends rule to adopt new Attorney General's Model rules.

**Adm. Order No.:** LCB 3-2012

**Filed with Sec. of State:** 5-30-2012

**Certified to be Effective:** 6-1-12

**Notice Publication Date:** 4-1-2012

**Rules Amended:** 808-001-0005

# ADMINISTRATIVE RULES

**Subject:** OAR 808-001-0005 is amended to adopt the new Attorney General's Model Rules of Procedure.

**Rules Coordinator:** Kim Gladwill-Rowley—(503) 967-6291, ext. 223

## 808-001-0005 Model Rules

The Landscape Contractors Board adopts the Attorney General's Uniform and Model Rules of Procedure under the Administrative Procedures Act in effect January 31, 2012, with the following exceptions: OAR 137-003-0015, 137-005-0050, 137-005-0060, and 137-005-0070.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Landscape Contractors Board.]

Stat. Auth.: ORS 671

Stats. Implemented: ORS 183.341 & 279

Hist.: LC 2, f. & ef. 5-18-76; LC 3, f. & ef. 2-7-77; LC 1-1984, f. & ef. 7-17-84; LCB 1-1988, f. 1-26-88, cert. ef. 2-1-88; LCB 4-1988, f. 11-23-88, cert. ef. 12-1-88; LCB 1-1991, f. & cert. ef. 7-22-91; LCB 2-1992, f. 7-14-92, cert. ef. 7-15-92; LSCB 1-1995, f. & cert. ef. 2-2-95; LSCB 1-1996, f. & cert. ef. 6-18-96; LCB 2-1999, f. & cert. ef. 5-4-99; LCB 1-2003, f. 1-31-03, cert. ef. 2-1-03; LCB 1-2005, f. & cert. ef. 2-15-05; LCB 3-2006, f. & cert. ef. 8-2-06; LCB 5-2008, f. & cert. ef. 4-25-08; LCB 3-2012, f. 5-30-12, cert. ef. 6-1-12

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**Rule Caption:** Updates rule to reflect what documentation the agency needs to renew a license.

**Adm. Order No.:** LCB 4-2012

**Filed with Sec. of State:** 5-30-2012

**Certified to be Effective:** 6-1-12

**Notice Publication Date:** 4-1-2012

**Rules Amended:** 808-003-0230

**Subject:** OAR 808-002-0230 is being amended to update the rule to reflect what documentation the agency needs to renew a license.

**Rules Coordinator:** Kim Gladwill-Rowley—(503) 967-6291, ext. 223

## 808-003-0230

### Renewal of Landscaping Contracting business and Landscape Construction Professional License

(1) Application for renewal of a landscape contracting business license shall comply with ORS 671.660 and be:

(a) Accompanied by:

(A) Required renewal fee; and

(B) Documentation of any unpaid court judgment, arbitration award or administrative agency final order entered or issued in any state that requires the applicant to pay damages arising out of the performance of, or a contract for, landscaping work issued on or after January 1, 2008, along with the status of any appeal or exceptions. For purposes of this rule and ORS 671.560 and 671.563, "applicant" has the same meaning as owner as defined in OAR 808-002-0734.

(b) On forms provided by the agency and the licensee shall update the following items:

(A) Mailing address;

(B) Assumed business name;

(C) Entity type;

(D) Employer status as required by ORS 671.525 and OAR 808-003-0090;

(E) Listing of owners/officers and percentage of ownership of each owner;

(F) List of landscape construction professional(s), with accompanying license numbers employed by the business;

(G) Bond amount as required by ORS 671.690 and OAR 808-003-0613;

(H) Insurance expiration date as required by OAR 808-003-0095; and

(I) Name of the owner/managing employee, if applicable as required by ORS 671.595

(2) Application for renewal of a landscape construction professional license shall comply with ORS 671.660 and be:

(a) Accompanied by:

(A) Required renewal fee; and

(B) Documentation of any unpaid court judgment, arbitration award or administrative agency final order entered or issued in any state that requires the applicant to pay damages arising out of the performance of, or a contract for, landscaping work issued on or after January 1, 2008, along with the status of any appeal or exceptions. For purposes of this rule and ORS 671.560 and 671.563, "applicant" has the same meaning as owner as defined in OAR 808-002-0734.;

(b) On forms provided by the agency and the licensee shall update the following items:

(A) Mailing address; and

(B) Name of landscape contracting business(es) individual is employed by, if applicable;

(C) Listing of continuing education courses completed, if applicable; and

(D) Signature of applicant.

(3) If an applicant as defined in subsections (1) and (2) of this rule has any unpaid damages as stated in subsections (1) and (2) of this rule and there are no appeals or exceptions filed, the applicant must show current payments are being made. If payments are not being made, the Landscape Contractors Board may refuse to renew the license.

(4) If an applicant satisfies all requirements for license renewal before the expiration date:

(a) The license is renewed;

(b) The effective date of the license is the expiration date; and

(c) The license is valid until the last day of the anniversary month of the initial issues of the license.

(5) If an applicant satisfies all requirements for license renewal within two years after the expiration date:

(a) The license will be renewed;

(b) The effective date of the license is the date the agency updates the record; and

(c) The license is valid until the last day of the anniversary month of initial issuance of the license

(6) If an applicant satisfies all requirements for renewal more than two years after the expiration date, the license cannot be renewed or reissued. The applicant must apply for a new license under OAR 808-003-0015.

Stat. Auth.: ORS 670.310 & 671.670

Stats. Implemented: ORS 671.568 & 671.574

Hist.: LCB 6-2005, f. 12-30-05, cert. ef. 1-1-06; LCB 4-2007, f. 12-19-07, cert. ef. 1-1-08; LCB 6-2010, f. 8-12-10, cert. ef. 8-13-10; LCB 4-2012, f. 5-30-12, cert. ef. 6-1-12

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## Oregon Board of Dentistry Chapter 818

**Rule Caption:** Adopts, amends Agency Rules regarding Practice, Renewal, Anesthesia, Prohibited Acts, Orthodontic Assistants, Expanded Practice Permits.

**Adm. Order No.:** OBD 2-2012

**Filed with Sec. of State:** 6-14-2012

**Certified to be Effective:** 7-1-12

**Notice Publication Date:** 5-1-2012

**Rules Adopted:** 818-035-0066

**Rules Amended:** 818-021-0085, 818-026-0030, 818-026-0055, 818-035-0065, 818-042-0020, 818-042-0040, 818-042-0100

**Subject:** The Board adopted 818-035-0066 Additional Populations for Expanded Practice Dental Hygiene Permit Holders.

The Board amended 818-021-0085 Reinstatement of Expired License to clarify reinstatement and renewal of licenses.

The Board amended 818-026-0030 Requirement for Anesthesia Permit, Standards and Qualifications of an Anesthesia Monitor to further clarify the requirements for permits.

The Board amended 818-026-0055 Dental Hygiene and Dental Assistant Procedures Performed under Minimal Sedation to clarify the requirements for Nitrous Oxide.

The Board amended 818-035-0065 Expanded Practice Dental Hygiene Permit to remove a phrase that was added in error.

The Board amended 818-042-0020 Dentist and Dental Hygienist Responsibility to update the name of a permit due to recent legislative changes.

The Board amended 818-042-0040 Prohibited Acts to remove a phrase that will help to clarify the standard of care in the community.

The Board amended 818-042-0100 Expanded Function Orthodontic Assistant (EFODA) to clarify the standard of care for Orthodontic Assistants.

**Rules Coordinator:** Patrick D. Braatz—(971) 673-3200



# ADMINISTRATIVE RULES

## 818-021-0085

### Renewal or Reinstatement of Expired License

Any person whose license to practice as a dentist or dental hygienist has expired, may apply for reinstatement under the following circumstances:

- (1) If the license has been expired 30 days or less, the applicant shall:
  - (a) Pay a penalty fee of \$50;
  - (b) Pay the biennial renewal fee; and
  - (c) Submit a completed renewal application and certification of having completed the Board's continuing education requirements.
- (2) If the license has been expired more than 30 days but less than 60 days, the applicant shall:
  - (a) Pay a penalty fee of \$100;
  - (b) Pay the biennial renewal fee; and
  - (c) Submit a completed renewal application and certification of having completed the continuing education requirements.
- (3) If the license has been expired more than 60 days, but less than one year, the applicant shall:
  - (a) Pay a penalty fee of \$150;
  - (b) Pay a fee equal to the renewal fees that would have been due during the period the license was expired;
  - (c) Pay a reinstatement fee of \$500; and
  - (d) Submit a completed application for reinstatement provided by the Board, including certification of having completed continuing education credits as required by the Board during the period the license was expired. The Board may request evidence of satisfactory completion of continuing education courses.
- (4) If the license has been expired for more than one year but less than four years, the applicant shall:
  - (a) Pay a penalty fee of \$250;
  - (b) Pay a fee of equal to the renewal fees that would have been due during the period the license was expired;
  - (c) Pay a reinstatement fee of \$500;
  - (d) Pass the Board's Jurisprudence Examination;
  - (e) Pass any other qualifying examination as may be determined necessary by the Board after assessing the applicant's professional background and credentials;
  - (f) Submit evidence of good standing from all states in which the applicant is currently licensed; and
  - (g) Submit a completed application for reinstatement provided by the Board including certification of having completed continuing education credits as required by the Board during the period the license was expired. The Board may request evidence of satisfactory completion of continuing education courses.
- (5) If a dentist or dental hygienist fails to renew or reinstate his or her license within four years from expiration, the dentist or dental hygienist must apply for licensure under the current statute and rules of the Board.

Stat. Auth.: ORS 679 & 680

Stats. Implemented: ORS 679.090, 679.120, 680.072 & 680.075

Hist.: OBD 7-2000, f. 6-22-00, cert. ef. 7-1-00; OBD 2-2012, f. 6-14-12, cert. ef. 7-1-12

## 818-026-0030

### Requirement for Anesthesia Permit, Standards and Qualifications of an Anesthesia Monitor

- (1) A permit holder who administers sedation shall assure that drugs, drug dosages, and/or techniques used to produce sedation shall carry a margin of safety wide enough to prevent unintended deeper levels of sedation.
- (2) No licensee shall induce central nervous system sedation or general anesthesia without first having obtained a permit under these rules for the level of anesthesia being induced.
- (3) A licensee may be granted a permit to administer sedation or general anesthesia with documentation of training/education and/or competency in the permit category for which the licensee is applying by any one the following:
  - (a) Initial training/education in the permit category for which the applicant is applying shall be completed no more than two years immediately prior to application for sedation or general anesthesia permit; or
  - (b) If greater than two years but less than five years since completion of initial training/education, an applicant must document completion of all continuing education that would have been required for that anesthesia/permit category during that five year period following initial training; or
  - (c) If greater than two years but less than five years since completion of initial training/education, immediately prior to application for sedation or general anesthesia permit, current competency or experience must be documented by completion of a comprehensive review course approved by the Board in the permit category to which the applicant is applying and

must consist of at least one-half (50%) of the hours required by rule for Nitrous Oxide, Minimal Sedation, Moderate Sedation and General Anesthesia Permits. Deep Sedation and General Anesthesia Permits will require at least 120 hours of general anesthesia training.

(d) An applicant for sedation or general anesthesia permit whose completion of initial training/education is greater than five years immediately prior to application, may be granted a sedation or general anesthesia permit by submitting documentation of the requested permit level from another state or jurisdiction where the applicant is also licensed to practice dentistry or dental hygiene, and provides documentation of the completion of at least 25 cases in the requested level of sedation or general anesthesia in the 12 months immediately preceding application; or

(e) Demonstration of current competency to the satisfaction of the Board that the applicant possesses adequate sedation or general anesthesia skill to safely deliver sedation or general anesthesia services to the public.

(4) Persons serving as anesthesia monitors in a dental office shall maintain current certification in Health Care Provider Basic Life Support (BLS)/Cardio Pulmonary Resuscitation (CPR) training, or its equivalent, shall be trained in monitoring patient vital signs, and be competent in the use of monitoring and emergency equipment appropriate for the level of sedation utilized. (The term "competent" as used in these rules means displaying special skill or knowledge derived from training and experience.)

(5) A licensee holding an anesthesia permit shall at all times hold a current Health Care Provider BLS/CPR level certificate or its equivalent, or a current Advanced Cardiac Life Support (ACLS) Certificate or Pediatric Advanced Life Support (PALS) Certificate, whichever is appropriate for the patient being sedated.

(6) When a dentist utilizes a single dose oral agent to achieve anxiolysis only, no anesthesia permit is required.

(7) The applicant for an anesthesia permit must pay the appropriate permit fee, submit a completed Board-approved application and consent to an office evaluation.

(8) Permits shall be issued to coincide with the applicant's licensing period.

Stat. Auth.: ORS 679 & 680

Stats. Implemented: ORS 679.250

Hist.: OBD 2-1998, f. 7-13-98, cert. ef. 10-1-98; OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 2-2005, f. 1-31-05, cert. ef. 2-1-05; OBD 3-2005, f. 10-26-05, cert. ef. 11-1-05; OBD 1-2008, f. 11-10-08, cert. ef. 12-1-08; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 2-2012, f. 6-14-12, cert. ef. 7-1-12

## 818-026-0055

### Dental Hygiene and Dental Assistant Procedures Performed Under Nitrous Oxide or Minimal Sedation

(1) Under indirect supervision, dental hygiene procedures may be performed for a patient who is under nitrous oxide or minimal sedation under the following conditions:

(a) A licensee holding a Nitrous Oxide, Minimal, Moderate, Deep Sedation or General Anesthesia Permit administers the sedative agents;

(b) The permit holder performs the appropriate pre- and post-operative evaluation and discharges the patient in accordance with 818-026-0050(7) and (8); and

(c) An anesthesia monitor, in addition to the dental hygienist performing the authorized procedures, is present with the patient at all times.

(2) Under direct supervision, a dental assistant may perform those procedures for which the dental assistant holds the appropriate certification for a patient who is under nitrous oxide or minimal sedation under the following conditions:

(a) A licensee holding the Nitrous Oxide, Minimal, Moderate, Deep Sedation or General Anesthesia Permit administers the sedative agents;

(b) The permit holder, or an anesthesia monitor, monitors the patient; and

(c) The permit holder performs the appropriate pre- and post-operative evaluation and discharges the patient in accordance with 818-026-0050(7) and (8).

Stat. Auth.: ORS 679 & 680

Stats. Implemented: ORS 679.250(7) & 679.250(10)

Hist.: OBD 3-2003, f. 9-15-03, cert. ef. 10-1-03; OBD 1-2005, f. 1-28-05, cert. ef. 2-1-05; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 2-2012, f. 6-14-12, cert. ef. 7-1-12

## 818-035-0065

### Expanded Practice Dental Hygiene Permit

The Board shall issue an Expanded Practice Permit to a Dental Hygienist who holds an unrestricted Oregon license, and completes an application approved by the Board, pays the permit fee, and

(1) Certifies on the application that the dental hygienist has completed at least 2,500 hours of supervised dental hygiene clinical practice, or clinical teaching hours, and also completes 40 hours of courses chosen by

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the applicant in clinical dental hygiene or public health sponsored by continuing education providers approved by the Board; or

(2) Certifies on the application that the dental hygienist has completed a course of study, before or after graduation from a dental hygiene program, that includes at least 500 hours of dental hygiene practice on patients described in ORS 680.205; and

(3) Provides the Board with a copy of the applicant's current professional liability policy or declaration page which will include, the policy number and expiration date of the policy.

(4) Notwithstanding OAR 818-035-0025(1), prior to performing any dental hygiene services an Expanded Practice Dental Hygienist shall examine the patient, gather data, interpret the data to determine the patient's dental hygiene treatment needs and formulate a patient care plan.

(5) An Expanded Practice Dental Hygienist may render the services described in paragraphs 6(a) to (d) of this rule to the patients described in ORS 680.205(1) if the Expanded Practice Dental Hygienist has entered into a written collaborative agreement in a format approved by the Board with a dentist licensed under ORS Chapter 679.

(6) The collaborative agreement must set forth the agreed upon scope of the dental hygienist's practice with regard to:

- (a) Administering local anesthesia;
- (b) Administering temporary restorations without excavation;
- (c) Prescribing prophylactic antibiotics and nonsteroidal anti-inflammatory drugs; and
- (d) Overall dental risk assessment and referral parameters.

(7) The collaborative agreement must comply with ORS 679.010 to 680.990.

(8) From the date this rule is effective, the Board has the authority to grant a Limited Access Permit through December 31, 2011, pursuant to ORS 680.200.

Stat. Auth.: ORS 680  
Stats. Implemented: ORS 680.200  
Hist.: OBD 1-1998, f. & cert. ef. 6-8-98; OBD 3-2001, f. & cert. ef. 1-8-01; OBD 3-2007, f. & cert. ef. 11-30-07; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 2-2012, f. 6-14-12, cert. ef. 7-1-12

## 818-035-0066

### Additional Populations for Expanded Practice Dental Hygiene Permit Holders

A dental hygienist with an Expanded Practice Permit may practice without supervision at locations and on persons as described in ORS 680.205 (1)(a) through (e) and on the following additional populations: Low-income persons, as defined by earning up to 200% of the Federal Poverty Level.

Stat. Auth.: ORS 679 & 680  
Stats. Implemented: 680.205 & 679.250(9)  
Hist.: OBD 2-2012, f. 6-14-12, cert. ef. 7-1-12

## 818-042-0020

### Dentist and Dental Hygienist Responsibility

(1) A dentist is responsible for assuring that a dental assistant has been properly trained, has demonstrated proficiency, and is supervised in all the duties the assistant performs in the dental office. Unless otherwise specified, dental assistants shall work under indirect supervision in the dental office.

(2) A dental hygienist who works under general supervision may supervise a dental assistant in the dental office if the dental assistant is rendering assistance to the dental hygienist in providing dental hygiene services and the dentist is not in the office to provide indirect supervision. A dental hygienist with an Expanded Practice Permit may hire and supervise a dental assistant who will render assistance to the dental hygienist in providing dental hygiene services.

(3) The supervising dentist or dental hygienist is responsible for assuring that all required licenses, permits or certificates are current and posted in a conspicuous place.

(4) Dental assistants who are in compliance with written training and screening protocols adopted by the Board may perform oral health screenings under general supervision.

Stat. Auth.: ORS 679 & 680  
Stats. Implemented: ORS 679.025(2)(j) & 679.250(7)  
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 1-2004, f. 5-27-04, cert. ef. 6-1-04; OBD 2-2012, f. 6-14-12, cert. ef. 7-1-12

## 818-042-0040

### Prohibited Acts

No licensee may authorize any dental assistant to perform the following acts:

- (1) Diagnose or plan treatment.

(2) Cut hard or soft tissue.

(3) Any Expanded Function duty (818-042-0070 and 818-042-0090) or Expanded Orthodontic Function duty (818-042-0100) without holding the appropriate certification.

(4) Correct or attempt to correct the malposition or malocclusion of teeth except as provided by OAR 818-042-0100.

(5) Adjust or attempt to adjust any orthodontic wire, fixed or removable appliance or other structure while it is in the patient's mouth.

(6) Administer or dispense any drug except fluoride, topical anesthetic, desensitizing agents or drugs administered pursuant to OAR 818-026-0060(11), 818-026-0065(11), 818-026-0070(11) and as provided in 818-042-0070 and 818-042-0115.

(7) Prescribe any drug.

(8) Place periodontal packs.

(9) Start nitrous oxide.

(10) Remove stains or deposits except as provided in OAR 818-042-0070.

(11) Use ultrasonic equipment intra-orally except as provided in OAR 818-042-0100.

(12) Use a high-speed handpiece or any device that is operated by a high-speed handpiece intra-orally.

(13) Use lasers, except laser-curing lights.

(14) Use air abrasion or air polishing.

(15) Remove teeth or parts of tooth structure.

(16) Cement or bond any fixed prosthetic or orthodontic appliance including bands, brackets, retainers, tooth moving devices, or orthopedic appliances except as provided in 818-042-0100.

(17) Condense and carve permanent restorative material except as provided in OAR 818-042-0095.

(18) Place any type of cord subgingivally.

(19) Take jaw registrations or oral impressions for supplying artificial teeth as substitutes for natural teeth, except diagnostic or opposing models or for the fabrication of temporary or provisional restorations or appliances.

(20) Apply denture relines except as provided in OAR 818-042-0090(2).

(21) Expose radiographs without holding a current Certificate of Radiologic Proficiency issued by the Board (818-042-0050 and 818-042-0060) except while taking a course of instruction approved by the Oregon Health Authority, Oregon Public Health Division, Office of Environmental Public Health, Radiation Protection Services, or the Oregon Board of Dentistry.

(22) Use the behavior management techniques known as Hand Over Mouth (HOM) or Hand Over Mouth Airway Restriction (HOMAR) on any patient.

(23) Perform periodontal probing.

(24) Place or remove healing caps or healing abutments, except under direct supervision.

(25) Place implant impression copings, except under direct supervision.

(26) Any act in violation of Board statute or rules.

Stat. Auth.: ORS 679 & 680  
Stats. Implemented: ORS 679.020, 679.025 & 679.250  
Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 2-2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-18-00; OBD 1-2001, f. & cert. ef. 1-8-01; OBD 15-2001, f. 12-7-01, cert. ef. 1-1-02; OBD 3-20BD 1-2010, f. 6-22-10, cert. ef. 7-1-10005, f. 10-26-05, cert. ef. 11-1-05; OBD 3-2007, f. & cert. ef. 11-30-07; OBD 1-2010, f. 6-22-10, cert. ef. 7-1-10; OBD 4-2011, f. & cert. ef. 11-15-11; OBD 2-2012, f. 6-14-12, cert. ef. 7-1-12

## 818-042-0100

### Expanded Functions — Orthodontic Assistant (EFODA)

(1) An EFODA may perform the following duties while under the indirect supervision of a licensed dentist:

(a) Remove orthodontic bands and brackets and attachments with removal of the bonding material and cement. An ultrasonic scaler, hand scaler or slow speed handpiece may be used. Use of a high speed handpiece is prohibited;

(b) Select or try for the fit of orthodontic bands;

(c) Recement loose orthodontic bands;

(d) Place and remove orthodontic separators;

(e) Prepare teeth for bonding or placement of orthodontic appliances and select, pre-position and cure orthodontic brackets, attachments and/or retainers after their position has been approved by the supervising licensed dentist;

(f) Fit and adjust headgear;

(g) Remove fixed orthodontic appliances;

(h) Remove and replace orthodontic wires. Place and ligate archwires. Place elastic ligatures or chains as directed;

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(i) Cut arch wires; and  
(j) Take impressions for study models or temporary oral devices such as, but not limited to, space maintainers, orthodontic retainers and occlusal guards.

(2) An EFODA may perform the following duties while under the general supervision of a licensed dentist:

(a) An expanded function orthodontic assistant may remove any portion of an orthodontic appliance causing a patient discomfort and in the process may replace ligatures and/or separators if the dentist is not available, providing that the patient is rescheduled for follow-up care by a licensed dentist as soon as is reasonably appropriate.

(b) An EFODA may recement orthodontic bands if the dentist is not available and the patient is in discomfort, providing that the patient is rescheduled for follow-up care by a licensed dentist as soon as is reasonably appropriate.

Stat. Auth.: ORS 679

Stats. Implemented: ORS 679.025(2)(j) & 679.250(7)

Hist.: OBD 9-1999, f. 8-10-99, cert. ef. 1-1-00; OBD 2-2012, f. 6-14-12, cert. ef. 7-1-12

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## Oregon Board of Naturopathic Medicine Chapter 850

**Rule Caption:** Amendments existing licensing requirements and making examination and license application requirements separate rules.

**Adm. Order No.:** OBNM 2-2012

**Filed with Sec. of State:** 6-15-2012

**Certified to be Effective:** 6-15-12

**Notice Publication Date:** 5-1-2012

**Rules Adopted:** 850-030-0031

**Rules Amended:** 850-030-0010, 850-030-0030, 850-030-0070

**Rules Repealed:** 850-030-0010(T), 850-030-0030(T), 850-030-0031(T), 850-030-0070(T)

**Subject:** 850-030-0010, 850-030-0030, and 850-030-0070 are being amended to clarify existing licensing requirements by application and examination.

850-030-0031 is a new rule to split the existing examination and license application requirements into two separate clarifying rules. Requirements are currently found in one rule – 850-030-0030.

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

### 850-030-0010

#### Requirements for Application

(1) An individual applying for a license to practice in Oregon must undergo examination as provided in OAR 850-030-0030 and comply with OAR 850-030-0031 before the Board may issue a license to practice Naturopathic medicine in Oregon.

(2) An applicant for examination may submit information required for a criminal background check with application for examination. This information is required with the application for licensure, and a criminal background check must be completed before a license can be issued.

(3) An individual seeking to take the Naturopathic Physician Licensing Examinations (NPLEX) must register through the North American Board of Naturopathic Examiners (NABNE) and meet the qualifications established by NABNE. The Board does not administer NPLEX examinations.

(4) An individual who seeks to obtain a license by reciprocity must comply with OAR 850-030-0070.

Stat. Auth.: ORS 685.125

Stats. Implemented: ORS 685.070 & 685.080

Hist.: NE 2, f. 6-7-59; NE 2-1984, f. & ef. 2-28-84; NE 1-1986, f. & ef. 4-10-86; NE 3-1990(Temp), f. 11-27-90, cert. ef. 12-1-90; Renumbered from 850-010-0010, BNE 8-2005, f. & cert. ef. 10-27-05; OBNM 1-2012(Temp), f. & cert. ef. 4-12-12 thru 10-4-12; OBMN 2-2012, f. & cert. ef. 6-15-12

### 850-030-0030

#### Application for Examination

(1) An individual applying for a license by examination must pass the following Naturopathic Physician Licensing Examinations (NPLEX) that are administered by the North American Board of Naturopathic Examiner (NABNE): the basic science examination also known as the NPLEX Part I Biomedical Science examination, the core clinical examinations also known as NPLEX Part II Clinical Science examinations and the clinical elective Minor Surgery examination.

(2) An individual applying for a license must pass the following state examinations: the Formulary and Jurisprudence examinations. To be eligi-

ble to sit for the state Formulary or Jurisprudence examinations an applicant must have passed NPLEX Part I, and be eligible to sit for NPLEX Part II and Minor Surgery examination, or have already passed Part I, Part II and the Minor Surgery examinations.

(3) An applicant applying to take the state Formulary or Jurisprudence examinations for Oregon must:

(a) Submit a completed application, furnished by the Board. If the applicant is applying to take both examinations, the applicant may submit one application for both exams;

(b) Submit a copy of the applicant's diploma of graduation from the school of naturopathic medicine accredited by the Council of Naturopathic Medical Education (CNME);

(c) Have transcripts from any school of naturopathic medicine attended by the applicant submitted to the Board directly from the school; and

(d) Pay the non-refundable fees per 850-030-0035.

(4) An applicant may submit fingerprint cards and the fee for the criminal background check at the same time as submitting the application for examination. Fingerprint cards for the criminal background check are not required to take the Formulary or Jurisprudence examinations, but failure to submit the cards with the examination application may increase the time before a license may be issued when the applicant submits the application for licensure.

(5) An applicant may have undergraduate transcripts submitted directly from the college or university to the Board from the colleges or universities the individual attended and which attendance was used to support admission into the naturopathic school from which the individual graduated, at the same time as submitting the application for examination. Undergraduate transcripts are not required to take the state examinations, but failure to submit the transcripts prior to application for licensure, may increase the time before a license may be issued when the applicant submits the application for licensure.

(6) The Board may allow a licensee or other individual who is not applying for licensure by examination to apply for and take the state Formulary or Jurisprudence examination on a case-by-case basis.

Stat. Auth.: ORS 685.125

Stats. Implemented: ORS 685.070

Hist.: NE 2, f. 6-7-59; NE 2-1984, f. & ef. 2-28-84; BNE 6-2001, f. 10-9-01, cert. ef. 1-1-02; Renumbered from 850-010-0030, BNE 8-2005, f. & cert. ef. 10-27-05; OBNM 1-2012(Temp), f. & cert. ef. 4-12-12 thru 10-4-12; OBNM 2-2012, f. & cert. ef. 6-15-12

### 850-030-0031

#### Application for License

(1) An individual must submit the following for a license application:

(a) A completed license application, on the form furnished by the Board;

(b) Arrange for NABNE to submit to the Board proof that the individual has successfully passed the required NPLEX examinations;

(c) Successfully pass the Oregon Formulary and Jurisprudence examinations;

(d) Have undergraduate transcripts submitted directly from the college or university to the Board from the colleges or universities the individual attended and which attendance was used to support admission into the naturopathic school from which the individual graduated;

(e) Submit to a national criminal background check per ORS 685.195 by providing to the Board fingerprint cards that can be read for purposes of a background check along with the required fee under OAR 850-030-0035;

(f) Pay the non-refundable license application fee under OAR 850-030-0035.

(2) To qualify for a license an individual must submit the completed application for licensure within one year of receiving notification of successfully passing all the required examinations. If the individual does not submit the complete application within one year of passing the required examinations, the Board may no longer accept the results on all the examinations, in which case one or more of the examinations may need to be retaken.

Stat. Auth.: ORS 685.125

Stats. Implemented: ORS 685.080

Hist.: OBNM 1-2012(Temp), f. & cert. ef. 4-12-12 thru 10-4-12; OBMN 2-2012, f. & cert. ef. 6-15-12

### 850-030-0070

#### License by Reciprocity

The Board on an individual basis may consider reciprocity for individuals who hold an active license to practice naturopathic medicine in good-standing in another state, jurisdiction or territory of the United States, the District of Columbia or Canada.

(1) If an individual is currently licensed as a naturopathic physician in good-standing in another licensing state or jurisdiction following success-

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ful completion of the NPLEX examinations required by Oregon, the individual must submit a complete license application within two years after successfully passing the required state examinations administered by the Board.

(a) The individual must have verification that he or she is licensed and in good-standing as a naturopathic physician directly submitted from the state(s) or jurisdiction(s) in which license is held.

(b) If the individual does not submit a complete license application within two years of passing the required state examinations, the Board may no longer accept the individual's results on all of the required examinations in which case one or more of all the exams may need to be retaken.

(2) To qualify for license by reciprocity an individual must submit the following for a license:

(a) A completed license application, on the form furnished by the Board;

(b) Arrange for NABNE to submit to the Board proof that the individual has successfully passed the NPLEX examinations required by the Board;

(c) Successfully pass the Oregon Formulary and Jurisprudence examinations;

(d) Have undergraduate transcripts submitted directly from the college or university to the Board from the colleges or universities the individual attended and which attendance was used to support admission into the naturopathic school from which the individual graduated;

(e) Submit to a national criminal background check per ORS 685.195 by providing to the Board fingerprint cards that can be read for purposes of a background check along with the required fee under OAR 850-030-0035;

(f) Pay the non-refundable license application fee under OAR 850-030-0035.

(3) An applicant may submit fingerprint cards and the fee for the criminal background check at the same time as submitting the application for the Formulary or Jurisprudence examinations. Fingerprint cards are not required to take the Formulary or Jurisprudence examinations, but may delay licensure once an application for license is made.

(4) Applicants for license by reciprocity must possess qualifications equal to those required of persons eligible for licensure by examination. An application for license by reciprocity will be denied if applicant does not meet all those qualifications.

Stat. Auth.: ORS 68.125

Stats. Implemented: ORS 685.085

Hist.: NE 2, f. 6-7-59; NE 2-1984, f. & ef. 2-28-84; BNE 7-2001, f. 10-9-01, cert. ef. 1-1-02; Renumbered from 850-010-0070, BNE 8-2005, f. & cert. ef. 10-27-05; OBNM 1-2012(Temp), f. & cert. ef. 4-12-12 thru 10-4-12; OBMN 2-2012, f. & cert. ef. 6-15-12

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**Rule Caption:** Amends Formulary to include Nitrous Oxide; Brings 850-050-0120 compliant with ORS 676.150.

**Adm. Order No.:** OBNM 3-2012

**Filed with Sec. of State:** 6-15-2012

**Certified to be Effective:** 6-15-12

**Notice Publication Date:** 5-1-2012

**Rules Amended:** 850-050-0120, 850-060-0226

**Subject:** 850-060-0225 corrects a numbering error and adds nitrous oxide to 850-060-0226(8)(f)(B)(i).

850-050-0120 amends the language to be consistent with statute ORS 676.150.

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

## 850-050-0120

### Illegal Practice; Duty to Self-Report

(1) No person, including a graduate of any naturopathic medicine program, other than a licensee complying with the provisions of ORS Chapter 685 shall:

(a) Practice naturopathic medicine or naturopathy in Oregon, or

(b) Advertise, hold out to the public or represent in any manner that the person is authorized to practice naturopathy or naturopathic medicine in Oregon, or

(c) Use the terms "naturopathic practitioner," "naturopathic healer," "naturopathic doctor," "naturopathic consultant" or any other terms that convey intent to practice naturopathy or naturopathic medicine.

(2) Any person convicted of practicing illegally in Oregon or any person who, without a license, makes a diagnosis shall not be admitted to examination by the Board at any time.

(3) It shall be the duty of all Board licensees, in the interests of both the public and the profession, to inform the Board, in writing, of anyone

practicing naturopathy or naturopathic medicine in Oregon without a license or otherwise in violations of the law.

(4) For the purpose of this rule, naturopathic treatment shall be considered as practicing naturopathy or naturopathic medicine within the meaning of ORS 685.010(5), unless under the direct supervision of a licensee of the Board.

(5) Each Board licensee must self-report to the Board in writing as soon as possible, but no later than 10 business days after official action taken against the licensee, of any of the following:

(a) Any conviction of the licensee for a misdemeanor crime;

(b) Any arrest or conviction of the licensee for a felony crime;

(c) Any action brought against the licensee by a health regulatory agency; and

(d) Any action brought against the licensee by a patient, former patient, or health care facility, based upon allegations or findings of medical incompetence, malpractice, unprofessional conduct or licensee impairment.

Stat. Auth.: ORS 685

Stats. Implemented: ORS 685.220, 685.110 & 676.150

Hist.: NE 2, f. 6-7-59; BNE 4-2004, f. & cert. ef. 6-10-04; Renumbered from 850-010-0120, BNE 8-2005, f. & cert. ef. 10-27-05; BNE 5-2008, f. & cert. ef. 6-11-08; OBNM 4-2010, f. & cert. ef. 6-30-10; OBNM 6-2011, f. 12-15-11, cert. ef. 12-23-11; OBNM 3-2012, f. & cert. ef. 6-15-12

## 850-060-0226

### Formulary Compendium Classifications

The Formulary Council has approved the following pharmacologic-therapeutic classifications in addition to drugs previously approved by the Formulary Council and listed in 850-060-0225. This listing does not supersede the education and training requirement established in 850-060-0212 for administration of IV agents. The Formulary Council may consider new agents, substances and pharmacologic-therapeutic classifications for addition to this list.

(1) Antihistamine Drugs;

(a) First Generation Antihistamine Drugs;

(A) Ethanolamine Derivatives;

(B) Ethylenediamine Derivatives;

(C) Phenothiazine Derivatives;

(D) Piperazine Derivatives;

(E) Propylamine Derivatives;

(F) Miscellaneous Derivatives;

(b) Second Generation Antihistamines.

(2) Anti-Infective Agents;

(a) Anthelmintics;

(b) Antibacterials;

(A) Aminoglycosides;

(B) Cephalosporins;

(i) First Generation Cephalosporins;

(ii) Second Generation Cephalosporins;

(iii) Third Generation Cephalosporins;

(iv) Fourth Generation Cephalosporins.

(C) Miscellaneous  $\beta$ -Lactams;

(i) Carbacephems;

(ii) Carbapenems;

(iii) Cephamycins;

(iv) Monobactams.

(D) Chloramphenicol;

(E) Macrolides.

(i) Erythromycins;

(ii) Ketolides;

(iii) Other Macrolides.

(F) Penicillins;

(i) Natural Penicillins;

(ii) Aminopenicillins;

(iii) Penicillinase-resistant Penicillins;

(iv) Extended-spectrum Penicillins.

(G) Quinolones;

(H) Sulfonamides;

(I) Tetracyclines: Glycylcyclines;

(J) Antibacterials, Miscellaneous.

(i) Aminocyclitols;

(ii) Bacitracins;

(iii) Cyclic Lipopeptides;

(iv) Glycopeptides;

(v) Lincomycins;

(vi) Oxazolidinones;

(vii) Polymyxins;

# ADMINISTRATIVE RULES

- (viii) Rifamycins;
- (ix) Streptogramins;
- (c) Antifungals;
- (A) Allylamines;
- (B) Azoles;
- (C) Echinocandins;
- (D) Polyenes;
- (E) Pyrimidines;
- (F) Antifungals, Miscellaneous.
- (d) Antimycobacterials;
- (A) Antituberculosis Agents;
- (B) Antimycobacterials, Miscellaneous.
- (e) Antivirals;
- (A) Adamantanes;
- (B) Antiretrovirals;
- (i) HIV Fusion Inhibitors;
- (ii) HIV Protease Inhibitors;
- (iii) Integrase Inhibitors;
- (iv) Nonnucleoside Reverse Transcriptase Inhibitors;
- (v) Nucleoside and Nucleotide Reverse Transcriptase Inhibitors
- (C) Interferons;
- (D) Monoclonal Antibodies;
- (E) Neuraminidase Inhibitors;
- (F) Nucleosides and Nucleotides;
- (G) Antivirals, Miscellaneous;
- (f) Antiprotozoals;
- (A) Amebicides;
- (B) Antimalarials;
- (C) Antiprotozoals, Miscellaneous.
- (3) Antineoplastic Agents (oral and topical only) limited to the following:
  - (a) 5FU;
  - (b) Anastrozole;
  - (c) Letrozole;
  - (d) Megestrol;
  - (e) Mercaptopurine;
  - (f) Methotrexate;
  - (g) Tamoxifen;
  - (h) Tretinoin.
- (4) Autonomic Drugs;
  - (a) Parasympathomimetic (Cholinergic) Agents;
  - (b) Anticholinergic Agents: Antimuscarinics/ Antispasmodics;
  - (c) Sympathomimetic (Adrenergic) Agents;
    - (A)  $\alpha$ -Adrenergic Agonists;
    - (B)  $\beta$ -Adrenergic Agonists;
      - (i) Non-selective  $\beta$ -Adrenergic Agonists;
      - (ii) Selective  $\beta_1$ -Adrenergic Agonists;
      - (iii) Selective  $\beta_2$ -Adrenergic Agonists;
    - (C)  $\alpha$ -And  $\beta$ -Adrenergic Agonists;
    - (d) Sympatholytic (Adrenergic Blocking) Agents;
    - (e) Skeletal Muscle Relaxants;
      - (A) Centrally Acting Skeletal Muscle Relaxants;
      - (B) Direct-acting Skeletal Muscle Relaxants;
      - (C) GABA-derivative Skeletal Muscle Relaxants;
      - (D) Neuromuscular Blocking Agents;
      - (E) Skeletal Muscle Relaxants, Miscellaneous.
    - (f) Autonomic Drugs, Miscellaneous.
  - (5) Blood Derivatives.
  - (6) Blood Formation, Coagulation, and Thrombosis;
    - (a) Antianemia Drugs: Iron Preparations;
    - (b) Antithrombotic Agents;
      - (A) Anticoagulants;
        - (i) Coumarin Derivatives;
        - (ii) Direct Thrombin Inhibitors;
        - (iii) Heparins;
      - (iv) Anticoagulants, Miscellaneous.
    - (B) Platelet-reducing Agents;
    - (C) Platelet-aggregation Inhibitors;
    - (D) Thrombolytic Agents;
    - (c) Hematopoietic Agents;
    - (d) Hemorrhagic Agents;
    - (e) Antihemorrhagic Agents;
      - (A) Antiheparin Agents;
      - (B) Hemostatics.
  - (7) Cardiovascular Drugs;
    - (a) Cardiac Drugs;
      - (A) Antiarrhythmic Agents;
        - (i) Class Ia Antiarrhythmics;
        - (ii) Class Ib Antiarrhythmics;
        - (iii) Class Ic Antiarrhythmics;
        - (iv) Class III Antiarrhythmics;
        - (v) Class IV Antiarrhythmics.
      - (B) Cardiotonic Agents;
      - (C) Cardiac Drugs, Miscellaneous.
        - (b) Antilipemic Agents;
          - (A) Bile Acid Sequestrants;
          - (B) Cholesterol Absorption Inhibitors;
          - (C) Fibric Acid Derivatives;
          - (D) HMG-CoA Reductase Inhibitors;
          - (E) Antilipemic Agents, Miscellaneous.
        - (c) Hypotensive Agents;
          - (A) Calcium-Channel Blocking Agents;
          - (B) Central  $\alpha$ -Agonists;
          - (C) Direct Vasodilators;
          - (D) Peripheral Adrenergic Inhibitors.
        - (d) Vasodilating Agents;
          - (A) Nitrates and Nitrites;
          - (B) Phosphodiesterase Inhibitors;
          - (C) Vasodilating Agents, Miscellaneous.
        - (e) Sclerosing Agents;
        - (f)  $\alpha$ -Adrenergic Blocking Agents;
        - (g)  $\beta$ -Adrenergic Blocking Agents;
        - (h) Calcium-Channel Blocking Agents;
          - (A) Dihydropyridines;
          - (B) Calcium-Channel Blocking Agents, Miscellaneous;
        - (i) Renin-Angiotensin-Aldosterone System Inhibitors;
          - (A) Angiotensin-Converting Enzyme Inhibitors;
          - (B) Angiotensin II Receptor Antagonists;
          - (C) Mineralocorticoid (Aldosterone) Receptor Antagonists;
          - (D) Renin Inhibitors.
      - (8) Central Nervous System Agents;
        - (a) Analgesics and Antipyretics;
          - (A) Nonsteroidal Anti-inflammatory Agents;
            - (i) Cyclooxygenase-2 (COX-2) Inhibitors;
            - (ii) Salicylates;
            - (iii) Other Nonsteroidal Anti-inflammatory Agents;
          - (B) Opiate Agonists;
          - (C) Opiate Partial Agonists;
          - (D) Analgesics and Antipyretics, Miscellaneous.
        - (b) Opiate Antagonists;
        - (c) Anticonvulsants, does not include Barbiturates;
          - (A) Benzodiazepines;
          - (B) Hydantoins;
          - (C) Succinimides;
          - (D) Anticonvulsants, Miscellaneous.
        - (d) Psychotherapeutic Agents;
          - (A) Antidepressants;
            - (i) Monoamine Oxidase Inhibitors;
            - (ii) Selective Serotonin- and Norepinephrine-reuptake Inhibitors;
            - (iii) Selective Serotonin- Reuptake Inhibitors;
            - (iv) Serotonin Modulators;
            - (v) Tricyclics and Other Norepinephrine-reuptake Inhibitors.
          - (vi) Antidepressants, Miscellaneous.
        - (B) Antipsychotics, to include only the following: Atypical antipsychotics.
          - (e) Anorexigenic Agents and Respiratory and Cerebral Stimulants.
            - (A) Amphetamines.
            - (B) Anorexigenic Agents and Respiratory and Cerebral Stimulants, Miscellaneous.
          - (f) Anxiolytics, Sedatives, and Hypnotics, does not include Barbiturates;
            - (A) Benzodiazepines;
            - (B)(i) Anxiolytics, Sedatives, and Hypnotics; Miscellaneous;
            - (ii) Nitrous oxide;
            - (g) Antimanic Agents;
            - (h) Antimigraine Agents: Selective Serotonin Agonists;
            - (i) Antiparkinsonian Agents;
              - (A) Adamantanes;
              - (B) Anticholinergic Agents;
              - (C) Catechol-O-Methyltransferase (COMT) Inhibitors;

# ADMINISTRATIVE RULES

- (D) Dopamine Precursors;
- (E) Dopamine Receptor Agonists;
- (i) Ergot-derivative Dopamine Receptor Agonists;
- (ii) Non-ergot-derivative Dopamine Receptor Agonists;
- (F) Monoamine Oxidase B Inhibitors;
- (j) Central Nervous System Agents, Miscellaneous.
- (9) Contraceptives (foams, devices).
- (10) Diagnostic Agents.
- (11) Disinfectants (for Agents used on objects other than skin).
- (12) Electrolytic, Caloric, and Water Balance;
- (a) Acidifying Agents;
- (b) Alkalinizing Agents;
- (c) Ammonia Detoxicants;
- (d) Replacements Preparations;
- (e) Ion-Removing Agents;
- (A) Calcium-removing Agents;
- (B) Potassium-removing Agents;
- (C) Phosphate-removing Agents;
- (D) Other Ion-removing Agents;
- (f) Caloric Agents;
- (g) Diuretics;
- (A) Loop Diuretics;
- (B) Osmotic Diuretics;
- (C) Potassium-sparing Diuretics;
- (D) Thiazide Diuretics;
- (E) Thiazide-like Diuretics;
- (F) Diuretics, Miscellaneous;
- (h) Irrigation Solutions;
- (i) Uricosuric Agents.
- (13) Enzymes.
- (14) Respiratory Tract Agents;
- (a) Antihistamines;
- (b) Antitussives;
- (c) Anti-inflammatory Agents;
- (A) Leukotriene Modifiers;
- (B) Mast-cell Stabilizers;
- (d) Expectorants;
- (e) Pulmonary Surfactants;
- (f) Respiratory Agents, Miscellaneous.
- (15) Eye, Ear, Nose, and Throat (EENT) Preparations;
- (a) Antiallergic Agents;
- (b) Anti-infectives;
- (A) Antibacterials;
- (B) Antifungals;
- (C) Antivirals;
- (D) Anti-infectives, Miscellaneous.
- (c) Anti-inflammatory Agents;
- (A) Corticosteroids;
- (B) Nonsteroidal Anti-inflammatory Agents;
- (C) Anti-inflammatory Agents, Miscellaneous.
- (d) Local Anesthetics;
- (e) Mydriatics;
- (f) Mouthwashes and Gargles;
- (g) Vasoconstrictors;
- (h) Antiglaucoma Agents;
- (A)  $\alpha$ -Adrenergic Agonists;
- (B)  $\beta$ -Adrenergic Agents;
- (C) Carbonic Anhydrase Inhibitors;
- (D) Miotics;
- (E) Prostaglandin Analogs;
- (i) EENT Drugs, Miscellaneous.
- (16) Gastrointestinal Drugs;
- (a) Antacids and Adsorbents;
- (b) Antidiarrhea Agents;
- (c) Antiflatulents;
- (d) Cathartics and Laxatives;
- (e) Cholelitholytic Agents;
- (f) Emetics;
- (g) Antiemetics;
- (A) Antihistamines;
- (B) 5-HT<sub>3</sub> Receptor Antagonists;
- (C) Antiemetics, Miscellaneous.
- (h) Antiulcer Agents and Acid Suppressants;
- (A) Histamine H<sub>2</sub>-Antagonists;
- (B) Prostaglandins;
- (C) Protectants;
- (D) Proton-pump Inhibitors;
- (i) Prokinetic Agents;
- (j) Anti-inflammatory Agents;
- (k) GI Drugs, Miscellaneous.
- (17) Gold Compounds.
- (18) Heavy Metal Antagonists.
- NOTE: IV administration requires education and training compliance with 850-060-0212.
- (19) Hormones and Synthetic Substitutes;
- (a) Adrenals;
- (b) Androgens;
- (c) Contraceptives;
- (d) Estrogens and Antiestrogens;
- (A) Estrogens;
- (B) Estrogen Agonists-Antiagonists.
- (e) Gonadotropins;
- (f) Antidiabetic Agents;
- (A)  $\alpha$ -Glucosidase Inhibitors;
- (B) Amylinomimetics;
- (C) Biguanides;
- (D) Dipeptidyl Peptidase (DDP-4) Inhibitors;
- (E) Incretin Mimetics;
- (F) Insulins;
- (G) Meglitinides;
- (H) Sulfonylureas;
- (I) Thiazolidinediones.
- (g) Antihypoglycemic Agents: Glycogenolytic Agents;
- (h) Parathyroid;
- (i) Pituitary;
- (j) Somatotropin Agonists and Antagonists;
- (A) Somatotropin Agonists;
- (B) Somatotropin Antagonists;
- (k) Progestins;
- (l) Thyroid and Antithyroid Agents;
- (A) Thyroid Agents;
- (B) Antithyroid Agents.
- (20) Local Anesthetics.
- (21) Oxytocics, except for Mifepristone.
- (22) Serums, Toxoids, and Vaccines;
- (a) Serums;
- (b) Toxoids;
- (c) Vaccines.
- (23) Skin and Mucous Membrane Agents;
- (a) Anti-infectives;
- (A) Antibacterials;
- (B) Antivirals;
- (C) Antifungals;
- (i) Allylamines;
- (ii) Azoles;
- (iii) Benzylamines;
- (iv) Hydroxypyridones;
- (v) Polyenes;
- (vi) Thiocarbamates;
- (vii) Antifungals, Miscellaneous.
- (D) Scabicides and Pediculicides;
- (E) Local Anti-infectives, Miscellaneous.
- (b) Anti-inflammatory Agents;
- (c) Antipruritics and Local Anesthetics;
- (d) Astringents;
- (e) Cell Stimulants and Proliferants;
- (f) Detergents;
- (g) Emollients, Demulcents, and Protectants;
- (h) Keratolytic Agents;
- (i) Keratoplastic Agents;
- (j) Depigmenting and Pigmenting Agents;
- (A) Depigmenting Agents;
- (B) Pigmenting Agents;
- (k) Sunscreen Agents;
- (l) Skin and Mucous Membrane Agents, Miscellaneous.
- (24) Smooth Muscle Relaxants;
- (a) Gastrointestinal Smooth Muscle Relaxants;
- (b) Genitourinary Smooth Muscle Relaxants;
- (c) Respiratory Smooth Muscle Relaxants.
- (25) Vitamins.
- (26) Miscellaneous Therapeutic Agents;

# ADMINISTRATIVE RULES

- (a) Alcohol Deterrents limited to the following:
  - (A) Acamprosate;
  - (B) Disulfiram;
  - (C) Naltrexone.
- (b) 5-a Reductase Inhibitors;
- (c) Antidotes;
- (d) Antigout Agents;
- (e) Biologic Response Modifiers, limited to Interferons;
- (f) Bone Resorption Inhibitors;
- (g) Cariostatic Agents;
- (h) Complement Inhibitors;
- (i) Disease-Modifying Antirheumatic Agents;
- (j) Gonadotropin-releasing Hormone Antagonists;
- (k) Immunosuppressive Agents;
- (l) Other Miscellaneous Therapeutic Agents limited to the following:
  - (A) Alfuzosin Hydrochloride;
  - (B) Drotrecogin Alfa (Activated);
  - (C) Lanreotide Acetate;
  - (D) Rilonecept;
  - (E) Sapropterin Dihydrochloride;
  - (F) Tamsulosin Hydrochloride.

Stat. Auth.: ORS 685.125

Stats. Implemented: ORS 685.145

Hist.: BNE 1-2002, f. & cert. ef. 2-19-02; BNE 4-2002, f. & cert. ef. 8-8-02; BNE 3-2003, f. & cert. ef. 6-9-03; BNE 5-2003, f. & cert. ef. 12-5-03; BNE 5-2004, f. & cert. ef. 6-10-04; Renumbered from 850-010-0226, BNE 8-2005, f. & cert. ef. 10-27-05; BNE 9-2005, f. & cert. ef. 12-12-05; BNE 4-2006, f. & cert. ef. 12-11-06; BNE 3-2007, f. & cert. ef. 6-12-07; BNE 1-2008, f. & cert. ef. 2-19-08; BNE 2-2008, f. & cert. ef. 3-21-08; BNE 6-2008, f. & cert. ef. 6-11-08; BNE 7-2008, f. & cert. ef. 12-8-08; BNE 2-2009, f. & cert. ef. 6-17-09; BNE 7-2009, f. 12-14-09, cert. ef. 1-1-10; OBNM 5-2010, f. & cert. ef. 6-30-10; OBNM 7-2010, f. & cert. ef. 12-13-10; OBNM 2-2011, f. & cert. ef. 4-12-11; OBNM 4-2011, f. & cert. ef. 6-15-11; OBNM 3-2012, f. & cert. ef. 6-15-12

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## Oregon Business Development Department Chapter 123

**Rule Caption:** These rules have been amended due to the passage of SB 57 in the 2011 Legislative Session and new requirements from the Security and Exchange Commission.

**Adm. Order No.:** OBDD 5-2012

**Filed with Sec. of State:** 6-1-2012

**Certified to be Effective:** 6-1-12

**Notice Publication Date:** 5-1-2012

**Rules Amended:** 123-011-0021, 123-011-0025, 123-011-0027, 123-011-0030, 123-011-0035, 123-011-0037, 123-011-0040, 123-011-0045, 123-011-0050

**Rules Repealed:** 123-011-0035(T), 123-011-0045(T)

**Subject:** In the 2011 Legislative Session, the passage of Oregon SB 57 eliminated the prohibition of facilities designed primarily for the generation, transmission, sale, or distribution of electrical energy as an eligible activity.

Also in 2011, the U.S. Securities and Exchange Commission modified the continuing disclosure requirements. Due to the recent changes (and future possible changes) to reporting requirements, removal of the fee ceiling will ensure that the costs of reporting are offset.

**Rules Coordinator:** Mindee Sublette—(503) 986-0036

### 123-011-0021

#### Commission Powers

For the purposes of these rules, the Business Development Commission (the "Commission") shall retain and possess, in addition to all authority reserved to it under OAR 123-011-0027, all rights and powers delegated to the Finance Committee. Upon written notice to the Finance Committee, the Commission may elect to exercise directly, either in a specific instance or generally, any right or power delegated to the Finance Committee under these rules and the Finance Committee shall not have the authority to exercise the right or power identified in the notice under the circumstances described in the notice.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.320 - 285B.371

Hist.: EDD 36-1988, f. & cert. ef. 12-15-88; EDD 2-1999(Temp), f. & cert. ef. 3-18-99 thru 9-14-99; EDD 10-1999, f. & cert. ef. 10-11-99; EDD 4-2005, f. & cert. ef. 5-5-05; OBDD 11-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 5-2012, f. & cert. ef. 6-1-12

### 123-011-0025

#### Definitions

For the purposes of these rules, the following terms shall have the following meaning, unless the context clearly indicates otherwise:

(1) "Applicant" means any person, firm or public or private corporation or federal or state governmental subdivision or agency which submits an application for Oregon Economic Development Revenue Bonds.

(2) "Bonds" means Oregon Economic Development Revenue Bonds issued by the State of Oregon under ORS 285B.320 to 285B.371.

(3) "Capital Asset" means real or personal property that the Commission expects to be:

(a) Used in connection with a revenue-producing enterprise, an exempt, or a non-profit entity; and

(b) Located in Oregon.

(4) "Economic Development Project" means a Capital Asset and may also include one or more the following:

(a) Research and development conducted in Oregon; or

(b) Estimated operating expenses associated with a Capital Asset.

(5) "Eligible Project" means the portion of an Economic Development Project that the Commission:

(a) Has found in compliance with applicable standards of the Commission;

(b) Has found will produce benefits substantially in Oregon; and

(c) Has approved for financing with proceeds of Bonds authorized under ORS 285B.320 to 285B.371.

(6) "Exempt Facility" means any facility described in section 142(a) of the Internal Revenue Code of 1986, as amended and in effect as of July 1, 2011.

(7) "Finance Committee" means the Finance Committee for the Business Development Commission as allowed in ORS 285A.060.

(8) "Financial Institution" means any commercial bank, mutual savings bank, savings and loan association, insurance company, investment bank or NASD securities underwriter licensed or authorized to do business in the State of Oregon.

(9) "In-state Plant Relocation" means the relocation of an Applicant's plant from one labor market area, as defined by the Oregon Employment Department, in Oregon to a different labor market area in Oregon.

(10) "Nonprofit Entity" means an institution, organization, or other entity exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, as amended and in effect as of July 1, 2011.

(11) "Oregon Express Bond Program" means a department program that involves a method of sale for a single client purchase that includes, but is not limited to, direct placement of bonds with a bank. Such a purchase does not require the use of placement agents, underwriters, marketing agents or letters of credit. To utilize this program, use of a standardized departmental bond process is required.

(12) "Treasurer" means the Treasurer of the State of Oregon or the Treasurer's designee.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.320 - 285B.371

Hist.: EDD 8-1984(Temp), f. 12-31-84, ef. 1-1-85; EDD 3-1985, f. & ef. 6-28-85; EDD 4-1988, f. & cert. ef. 2-10-88; EDD 6-1988(Temp), f. & cert. ef. 2-29-88; EDD 9-1988 (Temp), f. & cert. ef. 3-18-88; EDD 15-1988, f. & cert. ef. 5-24-88; EDD 36-1988, f. & cert. ef. 12-15-88; EDD 14-1994(Temp), f. & cert. ef. 11-10-94; EDD 4-1995, f. 4-28-95, cert. ef. 5-3-95; EDD 2-1999(Temp), f. & cert. ef. 3-18-99 thru 9-14-99; EDD 10-1999, f. & cert. ef. 10-11-99; EDD 4-2005, f. & cert. ef. 5-5-05; EDD 20-2008, f. 7-31-08, cert. ef. 8-1-08; OBDD 11-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 5-2012, f. & cert. ef. 6-1-12

### 123-011-0027

#### Delegation

(1) Authority for the day-to-day operation of the Economic Development Revenue Bond Program, including determination of eligibility, authorization of the issuance of bonds, adoption of inducement and bond resolutions and amendments thereto, is delegated to the Finance Committee.

(2) The Finance Committee may adopt standards and procedures for the operation of the bond program. Such standards and procedures shall not be inconsistent with any part of this division.

(3) The Department may send to each member of the Commission a summary of each project to be considered by the Finance Committee. If so, Commissioners shall receive such summaries in sufficient time to comment on the projects and to attend each Finance Committee meeting, as each individual commissioner may in his or her sole discretion determine.

(4) The Commission shall review and evaluate the operation of the bond program as it may from time to time determine and may order any changes that it considers necessary or desirable.

(5) The Commission shall retain final authority over policies and administrative procedures governing the operation of the bond program.

# ADMINISTRATIVE RULES

(6) If at any time the Commission decides to take any action or make any decision, it may do so at any regular or special meeting or through any telephone conference call as the Commission in its sole discretion may determine.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.320 - 285B.371

Hist.: EDD 9-1988(Temp), f. & cert. ef. 3-18-88; EDD 36-1988, f. & cert. ef. 12-15-88; EDD 2-1999(Temp), f. & cert. ef. 3-18-99 thru 9-14-99; EDD 10-1999, f. & cert. ef. 10-11-99; EDD 4-2005, f. & cert. ef. 5-5-05; EDD 20-2008, f. 7-31-08, cert. ef. 8-1-08; OBDD 11-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 5-2012, f. & cert. ef. 6-1-12

## 123-011-0030

### Application

(1) An Applicant desiring issuance of Economic Development Revenue Bonds must submit a complete application to the Department in a form approved by the Department.

(2) The application shall be received by the Department at least 21 days prior to the Finance Committee meeting at which the application will be considered. The Department may waive this requirement at its sole discretion.

(3) A non-refundable application fee is to be submitted with the Application: The application fee is a non-refundable application fee of \$500 and shall be paid by an Applicant seeking Economic Development Revenue Bond financing.

(4) Application materials may be obtained from the Oregon Business Development Department, 775 Summer Street N.E., Suite 200 Salem, OR 97301-1280.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.320 - 285B.371

Hist.: EDD 8-1984(Temp), f. 12-31-84, ef. 1-1-85; EDD 3-1985, f. & ef. 6-28-85; EDD 4-1988, f. & cert. ef. 2-10-88; EDD 6-1988(Temp), f. & cert. ef. 2-29-88; EDD 9-1988 (Temp), f. & cert. ef. 3-18-88; EDD 15-1988, f. & cert. ef. 5-24-88; EDD 36-1988, f. & cert. ef. 12-15-88; EDD 13-1990, f. & cert. ef. 6-7-90; EDD 2-1999(Temp), f. & cert. ef. 3-18-99 thru 9-14-99; EDD 10-1999, f. & cert. ef. 10-11-99; EDD 4-2005, f. & cert. ef. 5-5-05; EDD 9-2007(Temp), f. & cert. ef. 9-4-07 thru 2-29-08; EDD 9-2008(Temp), f. & cert. ef. 3-4-08 thru 8-1-08; EDD 20-2008, f. 7-31-08, cert. ef. 8-1-08; OBDD 11-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 5-2012, f. & cert. ef. 6-1-12

## 123-011-0035

### Determination of Eligibility

(1) The Department shall review the application.

(2) The Department shall make a recommendation to the Finance Committee to either approve or deny the application for eligibility for Economic Development Revenue Bonds. The review of the application will be based upon the standards set forth in this rule:

(a) The following Economic Development Projects are eligible for Economic Development Revenue Bonds, unless otherwise prohibited under this section:

- (A) Manufacturing or other industrial production;
- (B) Agricultural development or food processing;
- (C) Aquaculture development or seafood processing;
- (D) Development or improved utilization of natural resources;
- (E) Research and development;
- (F) Destination facilities other than retail or food service businesses;
- (G) Convention and trade centers;
- (H) Construction of buildings for corporate headquarters;
- (I) Product distribution facilities;
- (J) Transportation or freight facilities;
- (K) Scientific testing including, but not limited to, medical, clinical or engineering testing services;

(L) Sports facilities not otherwise prohibited under paragraph

(2)(b)(D) of this rule;

(M) Nonprofit entities organized under Section 501(c)(3) of the U.S. Internal Revenue Code ;

(N) Utilities, as allowed by ORS 285B.323(2);

(O) Management of waste;

(P) Other activities which represent a new technology or type of economic enterprise that the Finance Committee determines are needed to diversify the economic base of an area, or any other activities allowed by Federal law.

(b) Activities or projects that will not be considered for the issuance of Oregon Economic Development Revenue Bonds include:

- (A) Retail businesses and shopping centers;
- (B) Food service not part of a convention center or destination resort;
- (C) Professional corporations for medicine, law, dentistry, or finance;
- (D) Athletic, racquetball, handball clubs, amusement parks, or similar endeavors;

(E) Commercial office buildings except for corporate headquarters, unless the office building supports the eligible economic activities listed in (2)(a) of this section;

(F) Activities that maintain private memberships; are not open to the general public; or do not serve a broad cross section of the general public;

(c) The following serve as an elaboration and clarification of activities which qualify as Eligible Projects for Economic Development Revenue Bonds:

(A) "Destination Facility" means a project which has a significant impact on the regional tourism economy and has the capacity to be marketed to national or international markets. Incidental food service facilities may be included. Sleeping accommodations without unique attraction capabilities are not eligible;

(B) "Convention and Trade Centers" may include sleeping accommodations, but the majority of the total bond issue must be used for convention meeting facilities. Such facilities must have the capacity to seat a minimum of 300 people. However, the Finance Committee may approve financing for projects, as convention centers, consisting solely or primarily of sleeping accommodations, if the Applicant sufficiently demonstrates existing sleeping accommodations are inadequate for existing meeting facility space;

(C) "Corporate Headquarters" may qualify if a minimum of 75 percent of the floor space is allocated to the corporate headquarter function. Corporate headquarters do not include professional corporations for medicine, law, dentistry, or finance or office space to be leased to others;

(D) "Transportation" is not intended to include rolling stock or other highly moveable equipment operated by a carrier for hire;

(E) In deciding whether or not to approve economic development revenue bonding for a utility project, the Finance Committee may consider all relevant factors including but not limited to the utility company's published tariff schedules and construction and extension procedures as filed with the Oregon Public Utility Commission;

(F) "Pollution Control" equipment may qualify as part of projects that otherwise qualifies under this rule. Where pollution control equipment costs are incidental to the total capital investment of the project, the Finance Committee may qualify such equipment, provided the Oregon Department of Environmental Quality concurs;

(G) "In-State Plant Relocations" not accompanied by an expansion of the Applicant's business or employment, may be considered when the Applicant is able to demonstrate that:

(i) The relocation is caused by reasons beyond its control; or

(ii) The relocation will not cause a resulting loss of employment at the former site of the business; or

(iii) The relocation is necessary for the continued operation of the business.

(H) "Nonprofit entities" do not include religious or fraternal organizations;

(I) "Developer Project" may qualify. The Finance Committee shall have right of approval for each tenant occupying 25 percent or more of the leasable space. No more than 25 percent of the leasable space shall be leased to tenants relocating from another Oregon location, unless such relocation is accompanied by an expansion of the tenants' labor force. These conditions shall be incorporated into bond documents, shall survive closing and shall be enforceable for the term of the bond.

(d) The following serves as an elaboration and clarification of the qualifications of an Eligible Project for which Economic Development Revenue Bond proceeds can be used:

(A) The Applicant shall provide detailed information on the proposed uses of Bond proceeds for research and development costs. Research and development costs shall not represent a significant portion of the total amount of the Bonds, at the discretion of the Finance Committee.

(B) The Applicant shall provide detailed information on how Bond proceeds will be used for operating expenses. Operating expenses shall not represent a significant portion of the total amount of the Bonds, at the discretion of the Finance Committee.

(C) Unless the Finance Committee determines otherwise, Bond proceeds shall not be used to refinance outstanding financing, but may be used to reimburse approved Applicants for short-term financing for costs of Capital Assets.

(D) Unless the Finance Committee determines otherwise, Bond proceeds may only be used for capitalized interest that accrued prior to completion of an Eligible Project and that is directly related to the financing of a Capital Asset.

(e) Public Purpose. The Applicant must demonstrate that a public purpose is served by the proposed Economic Development Project through



# ADMINISTRATIVE RULES

economic diversification, creation of new jobs including construction activity, construction occurring before it otherwise could or would, economic activity occurring during economic slumps, tax dollars remaining in the state, increased productivity, or other public health benefit as determined by the Finance Committee. The Applicant is encouraged to demonstrate as many public purposes for the proposed project as can be prudently shown.; The Finance Committee shall consider these public purposes in determining whether a proposed project will produce benefits substantially in Oregon, pursuant to OAR 123-011-0025(5)(b).

(f) Prior to determining that an Economic Development Project is an Eligible Project, the Finance Committee shall:

(A) Determine that the action is cost effective, considering both major public expenses and major public benefits, unless the Economic Development Project involves an Exempt Facility;

(B) Find that the project involved is consistent with the Department's comprehensive policy and programs;

(C) Find that the project will produce goods or services which are sold in markets for which national or international competition exists, unless the Economic Development Project involves an Exempt Facility;

(D) Determine that, if the project is to be constructed and operated by a Non-profit Entity, the project will not compete significantly with local for-profit businesses;

(E) Determine that the action is the best use of the moneys involved, considering other pending applications for those moneys; and

(F) Provide for public notice of, and public comment on, the action. The public hearing is not a contested case hearing. Members of the public are invited to present written or oral testimony. Only Finance Committee members and department staff will ask questions.

(G) Notify a senior official (such as mayor or city manager) of the city or county (if in unincorporated county property) in which the project will be located about the project and the potential use of Economic Development Revenue Bonds.

(g) The Finance Committee may deny an application if the Applicant does not demonstrate, to the satisfaction of the Finance Committee, that the project is financially feasible. When bond proceeds for an Economic Development Project are to be used for research and development costs or operating expenses, the determination of financial feasibility may include one or more of the following criterion:

(A) The adequacy of long-term equity investment in the project;

(B) Collateral value of assets as supported by appraisals; or

(C) Other valuations or factors determined to be necessary by the Finance Committee.

(h) The Finance Committee may deny an application if the Applicant (or any of the principals in the Applicant) is subject to any existing, pending or threatened litigation or unasserted claim, unless such litigation or claim is fully disclosed to the Finance Committee and the arrangements for the settlement thereof are acceptable to the Finance Committee. In any case where such litigation or claim is unknown to the Finance Committee at the time project eligibility is granted or if such litigation or claim arises subsequent to a grant of project eligibility, the Finance Committee may rescind the project eligibility;

(i) The Finance Committee may make any reasonable requirement of the Applicant related to the administration of the Oregon Economic Development Revenue Bond Program, including requirements that would survive closing and be enforceable for the term of the Bond.

(j) If Bond proceeds for an Economic Development Project are to be used for research and development costs or operating expenses, the Finance Committee may require, regardless of the method of sale, that the proposed Bond issuance receive an investment grade rating from a nationally recognized rating agency (Moody's Investors Service, Fitch Ratings or Standard and Poor's Corporation) or receive an equivalent rating through the use of credit enhancement. However, the investment grade rating requirement may be waived for Applicants who are listed on the New York Stock Exchange (NYSE) or the National Association of Securities Dealers Exchange (NASDAQ).

(k) If Bond proceeds for an Economic Development Project are to be used for research and development costs or operating expenses and research and development costs and operating expenses total more than 5% of the total amount of the Bonds, the Finance Committee shall approve the investment bankers, remarketing agents, and other finance team professionals, in addition to the approvals from Oregon State Treasury.

(l) If Bond proceeds for an Economic Development Project are to be used for research and development costs or operating expenses, the Finance Committee may impose requirements on the resale of the Bonds.

(3) The Finance Committee shall issue a Resolution for Project Eligibility for each economic development project determined to be an eligible project. The term of eligibility shall last 12 months unless extended by the department or the Finance Committee.

(4) Administrative rules in effect at the time the Finance Committee determines a project to be eligible shall continue to govern the project until the bonds have been redeemed, notwithstanding any contrary provision in any subsequently adopted administrative rule.

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

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.320 - 285B.371

Hist.: EDD 8-1984(Temp), f. 12-31-84, ef. 1-1-85; EDD 1-1985(Temp), f. & ef. 2-26-85; EDD 3-1985, f. & ef. 6-28-85; EDD 5-1985(Temp), f. & ef. 10-4-85; EDD 6-1985(Temp), f. & ef. 10-22-85; EDD 1-1986, f. 1-28-86, ef. 2-1-86; EDD 4-1988, f. & cert. ef. 2-10-88; EDD 6-1988(Temp), f. & cert. ef. 2-29-88; EDD 9-1988(Temp), f. & cert. ef. 3-18-88; EDD 15-1988, f. & cert. ef. 5-24-88; EDD 36-1988, f. & cert. ef. 12-15-88; EDD 13-1990, f. & cert. ef. 6-7-90; EDD 14-1994(Temp), f. & cert. ef. 11-10-94; EDD 4-1995, f. 4-28-95, cert. ef. 5-3-95; EDD 2-1999(Temp), f. & cert. ef. 3-18-99 thru 9-14-99; EDD 10-1999, f. & cert. ef. 10-11-99; EDD 4-2005, f. & cert. ef. 5-5-05; EDD 9-2007(Temp), f. & cert. ef. 9-4-07 thru 2-29-08; EDD 9-2008(Temp), f. & cert. ef. 3-4-08 thru 8-1-08; EDD 20-2008, f. 7-31-08, cert. ef. 8-1-08; OBDD 11-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 7-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 5-2012, f. & cert. ef. 6-1-12

## 123-011-0037

### Approval of Bond Closing Resolution

Prior to the approval of bond financing for an eligible project, as evidenced by the Commission's approval of a bond closing resolution, the Commission shall:

(1) Determine that the project satisfies the applicable requirements of OAR chapter 123, division 8 (compliance with local land use planning requirements), as evidenced by documentation to be provided by the city or county (if in unincorporated county property) in which the project is located.

(2) Determine that the project involved is consistent with applicable adopted local economic development plans, as evidenced by documentation from the city or county.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.320 - 285B.371

Hist.: EDD 9-2008(Temp), f. & cert. ef. 3-4-08 thru 8-1-08; EDD 20-2008, f. 7-31-08, cert. ef. 8-1-08; OBDD 5-2012, f. & cert. ef. 6-1-12

## 123-011-0040

### Extension

(1) The Department may extend the eligibility granted by the Finance Committee for up to six months if the Department determines that the project still constitutes an eligible activity and that there is a reasonable prospect of the Bonds being issued within the six-month extension period. The Applicant must provide updated financial information, and a project status report to the Department, in a form approved by the Department, at least 14 calendar days before eligibility expires. The Department may waive the 14 calendar day requirement at its sole discretion.

(2) The Finance Committee may extend eligibility if the Department denies extended eligibility or if the initial extension granted by the Department under section (1) of this rule has expired. The Finance Committee must determine that the project still constitutes an eligible activity, and that there is a reasonable prospect of the Bonds being issued within the extension period. The Applicant must provide updated financial information and a project status report, as well as a request for extension, in a form approved by the Department, at least one month prior to the expiration date of the original or extended eligibility period. The Finance Committee may waive this time period at its sole discretion.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.320 - 285B.371

Hist.: EDD 8-1984(Temp), f. 12-31-84, ef. 1-1-85; EDD 3-1985, f. & ef. 6-28-85; EDD 1-1986, f. 1-28-86, ef. 2-1-86; EDD 4-1988, f. & cert. ef. 2-10-88; EDD 6-1988(Temp), f. & cert. ef. 2-29-88; EDD 9-1988(Temp), f. & cert. ef. 3-18-88; EDD 15-1988, f. & cert. ef. 5-24-88; EDD 36-1988, f. & cert. ef. 12-15-88; EDD 10-1999, f. & cert. ef. 10-11-99; EDD 4-2005, f. & cert. ef. 5-5-05; EDD 9-2007(Temp), f. & cert. ef. 9-4-07 thru 2-29-08; EDD 9-2008(Temp), f. & cert. ef. 3-4-08 thru 8-1-08; EDD 20-2008, f. 7-31-08, cert. ef. 8-1-08; OBDD 11-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 5-2012, f. & cert. ef. 6-1-12

## 123-011-0045

### Fees

In addition to the application fee specified in OAR 123-011-0030(5):

(1) The Applicant shall pay to the Department at the time of initial bond closing a closing fee of 1/2 of one percent of the total Bonds issued for the project.

(2) For the Oregon Express Bond Program, the Applicant shall pay to the Department at the time of the initial Bond closing a closing fee of 1/4th of one percent of the total Bond Issuance for the project.

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(3) An Applicant for a current refunding of an outstanding Bond shall pay to the Department a non-refundable processing fee of \$500 that shall accompany the request for the refunding.

(4) The Applicant shall pay to the Department a closing fee of 1/10 of one percent of the amount of the refunding Bond or for any additional Bonds issued under a single project eligibility. This closing fee may be waived for any refunding Bond issued within 18 months of the closing date of the Bond issue to be refunded.

(5) The Department may charge any out-of-pocket expenses, including but not limited to legal expenses, incurred by the Department for processing any Bond request.

(6) The Commission may collect the above fees and expense reimbursements from an Applicant that seeks to have an Economic Development Project declared eligible for financing, even though the project has not been determined to be eligible for financing.

(7) An Applicant for the restructuring of existing Bonds shall pay to the Department a non-refundable processing fee of \$1,000 that shall accompany the request for approval of the restructuring.

(8) The Department may charge the Applicant a closing fee of up to 1/10 of one percent of the amount of the restructured Bond.

(9) Applicants or beneficiaries of Bond financing shall pay directly to the Commission's bond counsel their legal fees and direct expenses related to issuance, refunding, modifications, or restructuring of Bonds.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.326

Hist.: EDD 8-1984(Temp), f. 12-31-84, ef. 1-1-85; EDD 3-1985, f. & ef. 6-28-85; EDD 4-1988, f. & cert. ef. 2-10-88; EDD 6-1988(Temp), f. & cert. ef. 2-29-88; EDD 9-1988 (Temp), f. & cert. ef. 3-18-88; EDD 15-1988, f. & cert. ef. 5-24-88; EDD 36-1988, f. & cert. ef. 12-15-88; EDD 15-1994, f. & cert. ef. 11-10-94; EDD 10-1996(Temp), f. & cert. ef. 12-4-96; EDD 2-1999(Temp), f. & cert. ef. 3-18-99 thru 9-14-99; EDD 10-1999, f. & cert. ef. 10-11-99; EDD 14-2000(Temp), f. & cert. ef. 12-14-00 thru 6-12-01; Administrative correction 6-14-01; EDD 10-2001(Temp), f. & cert. ef. 12-13-01 thru 6-1-02; Administrative correction 11-29-02; EDD 4-2005, f. & cert. ef. 5-5-05; EDD 9-2007(Temp), f. & cert. ef. 9-4-07 thru 2-29-08; EDD 9-2008(Temp), f. & cert. ef. 3-4-08 thru 8-1-08; EDD 20-2008, f. 7-31-08, cert. ef. 8-1-08; OBDD 7-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 5-2012, f. & cert. ef. 6-1-12

## 123-011-0050

### Confidential Records

(1) Upon written request and within a reasonable time, the Director or his designee shall provide program records, for inspection in accordance with ORS Chapter 192.

(2) The person requesting records will be charged for preparing and mailing such records. Costs may include but not be limited to costs incurred in locating records, separating exempt and nonexempt records, having a custodian present during the inspection, preparing lists of data, making photocopies and telefaxing materials. Fees to be collected shall be set forth in the Department's schedule of fees and may be amended from time to time as the Department may determine.

(3) Except as otherwise provided in ORS 192.410-192.595, records exempt from disclosure include but are not limited to:

(a) Reports and analyses of reports which bear on the Applicant's character, finances, management ability and reliability, and which were obtained in confidence from persons or firms not required by law to submit them and the Department has obliged itself in good faith not to disclose the information;

(b) Financial statements, tax returns, business records, employment history and other personal data submitted by or for Applicants, or analysis of such data;

(c) Intra-departmental advisory memoranda preliminary to a decision;

(d) Formulas, plans, designs and related information that constitute trade secrets under ORS Chapter 192;

(e) Personal financial statement;

(f) Financial statements of Applicants;

(g) Customer lists;

(h) Information of an Applicant pertaining to litigation to which the Applicant is a party if the complaint has been filed, or if the complaint has not been filed, if the Applicant shows that such litigation is reasonably likely to occur. This exemption does not apply to concluded litigation and nothing in this section shall limit any right or opportunity granted by law to a party involved in litigation;

(i) Production, sales or cost data; and

(j) Marketing strategy information that relates to an Applicant's plan to address specific markets and Applicant's strategy regarding specific competitors.

Stat. Auth.: ORS 285A.075(5) & 285A.110

Stats. Implemented: ORS 285B.320 - 285B.371

Hist.: EDD 8-1984(Temp), f. 12-31-84, ef. 1-1-85; EDD 3-1985, f. & ef. 6-28-85; EDD 4-1988, f. & cert. ef. 2-10-88; EDD 6-1988(Temp), f. & cert. ef. 2-29-88; EDD 9-1988 (Temp), f. & cert. ef. 3-18-88; EDD 15-1988, f. & cert. ef. 5-24-88; EDD 36-1988, f. & cert. ef. 12-

15-88; EDD 2-1999(Temp), f. & cert. ef. 3-18-99 thru 9-14-99; EDD 10-1999, f. & cert. ef. 10-11-99; EDD 4-2005, f. & cert. ef. 5-5-05; OBDD 5-2012, f. & cert. ef. 6-1-12

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**Rule Caption:** Temporary rulemaking becomes permanent for reporting and loan eligibility requirements for the Capital Access Program.

**Adm. Order No.:** OBDD 6-2012

**Filed with Sec. of State:** 6-1-2012

**Certified to be Effective:** 6-1-12

**Notice Publication Date:** 5-1-2012

**Rules Amended:** 123-018-0010, 123-018-0065, 123-018-0140

**Rules Repealed:** 123-018-0010(T), 123-018-0065(T), 123-018-0140(T)

**Subject:** On September 27, 2010 The Small Business Jobs Act (Congressional HB 5297) was signed into law. One component of the Small Business Jobs Act was the creation of the State Small Business Credit Initiative (SSBCI). SSBCI will support at least \$15 billion in small business lending by strengthening state small business programs that leverage private-sector lenders to extend additional credit. \$1.5 billion has been allocated to provide capitalization for existing state loan and loan guarantee programs. As a result of the bill, Oregon has been allocated more than \$16.5 million for the purpose of providing capitalization to state managed business finance programs (revolving loan programs, forgivable loan programs, loan guarantee programs, capital access programs and venture capital programs).

The primary deliverable associated with the SSBCI program will be to demonstrate a 10:1 public/private leverage ratio. As a result, by December 31, 2016, to comply with the terms and intent of the program will need to demonstrate that over \$165 million in private financing (debt and equity) result from the \$16.5 million investment in the Business Finance programs outlined in the application. As a result, the Capital Access Program was identified as a fund to receive capitalization.

In order to begin enrolling new loans using the SSBCI funds which will help Oregon begin to meet the \$165 million private leverage requirement associated with the SSBCI funds, these rules have been amended to reflect the program changes and restrictions associated with the federal funding.

**Rules Coordinator:** Mindee Sublette—(503) 986-0036

## 123-018-0010

### Definitions

For the purposes of these rules additional definitions may be found in Procedural Rules, OAR 123-001 as used in this division of administrative rules, the following definitions apply, unless the context requires otherwise:

(1) "Agreement" means a contract between a Financial Institution and the Department authorizing the Financial Institution to participate in the Program as required under ORS 285B.113.

(2) "Borrower" means a Qualified Business, including but not limited to a corporation, partnership, limited liability company, joint venture, sole proprietorship, cooperative, or non-profit corporation, that has received a Qualified Loan from a Participating Financial Institution. The borrower, or any principal of the borrower, may not be an executive officer, director, or principal shareholder of the financial institution lender; a member of the immediate family of such executive officer, director or principal shareholder; or a related interest to any of the above. The terms "executive officer", "director", "principal shareholder", "immediate family", and "related interest" are described in 12 C.F.R. part 215.

(3) "Brownfield" means any real property where expansion or redevelopment is complicated by actual or perceived environmental contamination.

(4) "Department" means the State of Oregon Business Development Department under ORS Chapter 285A.

(5) "Distressed Area" means a geographic area so designated as described in division 024 of these administrative rules.

(6) "Enrolled Loan" means a Qualified Loan enrolled in the Program as described in OAR 123-018-0080, including but not limited to a term loan or line of credit.

(7) "Environmental action" on a brownfield(s) means activities undertaken to:

# ADMINISTRATIVE RULES

(a) Determine if a release has occurred, or may occur, if the release or potential release poses a significant threat to human health or the environment, or if additional remedial actions may be required at the site;

(b) Conduct a remedial investigation and a feasibility study;

(c) Plan for remedial action or removal; or

(d) Conduct a remedial action or removal action at a site.

(8) "Fund" means the Capital Access Fund in the State Treasury under ORS 285B.109.

(9) "Loss" means any principal amount due and not paid, accrued interest due and not paid, and actual and necessary, documented out-of-pocket collection expenses at the time the Participating Financial Institution determines, in a manner consistent with its standard lending and loan loss criteria and normal method for making such determinations, that an Enrolled Loan is uncollectible and is to be charged off as a loss. The amount of principal and interest included in the Loss shall not exceed the principal amount of the Enrolled Loan, plus accrued and unpaid interest on covered principal amount from the date the Qualified Loan is made.

(10) "Loss Reserve Account" means an account in the State Treasury or any Financial Institution that is established and maintained by the Department for the benefit of a Financial Institution participating in Program.

(11) "Participating Financial Institution" means a Financial Institution that has executed an Agreement with the Department to participate in the Program, has enrolled one or more qualified loans, and has adequate capacity, as determined by the Department, to underwrite and monitor business-purpose loans.

(12) "Primary Economic Effect" means the majority of economic benefit resulting from a business activity. A business's Primary Economic Effect is in a particular geographic location if either at least 51 percent of the business's total revenues are generated, or at least 51 percent of the business's total jobs are created or retained, in that location.

(13) "Principal" in regards to a Borrower is defined as:

(a) If a sole proprietorship, the proprietor;

(b) If a partnership, each managing partner and each partner who is a natural person and holds a twenty percent (20%) or more ownership interest in the partnership; and

(c) If a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives or officers of the entity, and each natural person who is a direct or indirect holder of twenty percent (20%) or more of the ownership stock or stock equivalent of the entity.

(14) "Principal" in regards to a Lender is defined as:

(a) If a sole proprietorship, the proprietor;

(b) If a partnership, each partner; and

(c) If a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives, officers or employees of the entity, and each direct or indirect holder of twenty percent (20%) or more of the ownership stock or stock equivalent of the entity.

(15) "Program" means the Capital Access Program authorized by ORS 285B.109 to 285B.119.

(16) "Qualified Business" means any person, conducting business for profit or not for profit, which is authorized to conduct business in the State of Oregon.

(17) "Qualified Loan" means a loan or portion of a loan made by a Participating Financial Institution to a Qualified Business for any business activity that has its Primary Economic Effect in Oregon. The term does not include a loan or portion of a loan used for any of the following purposes:

(a) The purchase of owner-occupied residential housing or for the construction, improvement, or purchase of residential housing that is owned or to be owned by the Borrower;

(b) The purchase of real property that is intended for resale or not used for the business operations of the Borrower;

(c) Refinance of the balance of an existing loan that is not an Enrolled Loan. Any portion of the loan used for a qualified purpose (i.e., that is in excess of the balance of an existing loan that is not an Enrolled Loan) may be eligible to be enrolled.

(d) The purchase of securities;

(e) Lobbying activities;

(f) Repayment of delinquent federal or state income taxes unless the Borrower has a payment plan in place with the relevant taxing authority;

(g) Repayment of taxes held in trust or escrow;

(h) Reimbursement of funds owed to any owner, including any equity injection or injection of capital for the business' continuance;

(i) Purchase of any portion of the ownership interest of any owner of the business; or

(j) Refinance of any portion of a loan enrolled in another state or federal credit enhancement or credit insurance program.

(k) The term also does not include a loan where any Principal of the Borrower has been convicted of a sex offense against a minor as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911).

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

Stat. Auth.: ORS 285A.075, 285B.115(3) & 285B.117(4)

Stats. Implemented: ORS 285B.109 - 285B.119

Hist.: EDD 27-1990(Temp), f. & cert. ef. 10-16-90; EDD 3-1991, f. & cert. ef. 4-17-91; EDD 15-1991(Temp), f. & cert. ef. 10-31-91; EDD 11-1992, f. & cert. ef. 8-18-92; EDD 1-1994(Temp), f. & cert. ef. 1-11-94; EDD 9-1994, f. & cert. ef. 5-27-94, cert. ef. 6-1-94; EDD 10-1997(Temp), f. & cert. ef. 10-7-97; EDD 9-1998, f. & cert. ef. 5-22-98; EDD 8-2005, f. & cert. ef. 10-24-05; EDD 8-2007(Temp), f. & cert. ef. 9-4-07 thru 2-29-08; EDD 6-2008(Temp), f. & cert. ef. 3-4-08 thru 8-1-08; EDD 22-2008, f. 7-31-08, cert. ef. 8-1-08; OBDD 13-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 9-2011(Temp), f. & cert. ef. 12-19-11 thru 6-15-12; OBDD 6-2012, f. & cert. ef. 6-1-12

## 123-018-0065

### Loan Eligibility

A Participating Financial Institution may determine that a Qualified Loan is eligible for the Department to enroll in the Program if the Participating Financial Institution determines the Qualified Loan meets the following conditions:

(1) The Qualified Loan is not for a business enterprise in which a person described in section (2) of this section has a shared ownership, investment or other significant pecuniary interest; and

(2) The Qualified Loan is provided to a Borrower, who is not an executive officer, director or principal shareholder of the Participating Financial Institution, or person with comparable official capacity with or significant ownership in the Participating Financial Institution, or a member of the immediate family of such a person.

(3) The Borrower may not be:

(a) A business engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade unless those activities are incidental to the regular activities of the business and part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the business; or

(b) A business that earn more than half of its annual net revenue from lending activities; or

(c) A business engaged in pyramid sales, where a participant's primary incentive is based on the sales made by an ever-increasing number of participants; or

(d) A business engaged in activities that are prohibited by federal law or applicable law in the jurisdiction where the business is located or conducted; or

(E) A business engaged in gambling enterprises, unless the business earns less than 33% of its annual net revenue from lottery sales.

Stat. Auth.: ORS 285A.075 & 285B.115(3)

Stats. Implemented: ORS 285B.115 & 285B.119

Hist.: EDD 8-2005, f. & cert. ef. 10-24-05; OBDD 9-2011(Temp), f. & cert. ef. 12-19-11 thru 6-15-12; OBDD 6-2012, f. & cert. ef. 6-1-12

## 123-018-0140

### Reporting

(1) When a Loss Reserve Account is domiciled with the Participating Financial Institution, the Participating Financial Institution shall provide the Department with a monthly statement providing details of the balance and the payments and receipts activity in the Loss Reserve Account for the prior month.

(2) On or before January 15, April 15, July 15, and October 15 of each year, a Participating Financial Institution must file a quarterly report with the Department providing a complete list of Enrolled Loans and indicating the outstanding balance of each of its Enrolled Loans.

(3) When a Participating Financial Institution computes the aggregate outstanding balance of all its Enrolled Loans, it may only consider the balance of the portion of a loan enrolled in the Program.

Stat. Auth.: ORS 285A.075 & 285B.115(3)

Stats. Implemented: ORS 285B.115

Hist.: EDD 27-1990(Temp), f. & cert. ef. 10-16-90; EDD 3-1991, f. & cert. ef. 4-17-91; EDD 15-1991(Temp), f. & cert. ef. 10-31-91; EDD 11-1992, f. & cert. ef. 8-18-92; EDD 8-2005, f. & cert. ef. 10-24-05; OBDD 9-2011(Temp), f. & cert. ef. 12-19-11 thru 6-15-12; OBDD 6-2012, f. & cert. ef. 6-1-12

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**Rule Caption:** This filing amends the language for eligibility requirements, loan insurance programs and insurance premiums relating to the Credit Enhancement Fund.

# ADMINISTRATIVE RULES

**Adm. Order No.:** OBDD 7-2012

**Filed with Sec. of State:** 6-1-2012

**Certified to be Effective:** 6-1-12

**Notice Publication Date:** 5-1-2012

**Rules Amended:** 123-021-0000, 123-021-0010, 123-021-0015, 123-021-0020, 123-021-0040, 123-021-0080, 123-021-0090, 123-021-0110, 123-021-0130

**Rules Repealed:** 123-021-0000(T), 123-021-0010(T), 123-021-0015(T), 123-021-0020(T), 123-021-0040(T), 123-021-0080(T), 123-021-0090(T), 123-021-0110(T), 123-021-0130(T)

**Subject:** On September 27, 2010 The Small Business Jobs Act (Congressional HB 5297) was signed into law. One component of the Small Business Jobs Act was the creation of the State Small Business Credit Initiative (SSBCI). SSBCI will support at least \$15 billion in small business lending by strengthening state small business programs that leverage private-sector lenders to extend additional credit. \$1.5 billion has been allocated to provide capitalization for existing state loan and loan guarantee programs. As a result of the bill, Oregon has been allocated more than \$16.5 million for the purpose of providing capitalization to state managed business finance programs (revolving loan programs, forgivable loan programs, loan guarantee programs, capital access programs and venture capital programs).

The primary deliverable associated with the SSBCI program will be to demonstrate a 10:1 public/private leverage ratio. As a result, by December 31, 2016, to comply with the terms and intent of the program will need to demonstrate that over \$165 million in private financing (debt and equity) result from the \$16.5 million investment in the Business Finance programs outlined in the application. As a result, the Credit Enhancement Fund was identified as a program to receive capitalization.

In order to begin enrolling new loans using the SSBCI funds which will help Oregon begin to meet the \$165 million private leverage requirement associated with the SSBCI funds, these rules have been amended to reflect the program changes and restrictions associated with the federal funding.

The agency 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 rules were filed as temporary rules on December 8, 2011. The department is now making them permanent.

**Rules Coordinator:** Mindee Sublette—(503) 986-0036

## 123-021-0000

### Purpose

The purpose of these rules is to provide procedures, standards, and criteria for providing loan insurance from the Oregon Credit Enhancement Fund.

Stat. Auth.: ORS 285A.075 & 285B.200 - 285B.218

Stats. Implemented: ORS 285B.200 - 285B.218

Hist.: EDD 5-1994(Temp), f. & cert. ef. 3-3-94; EDD 11-1994, f. & cert. ef. 7-29-94; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 8-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 7-2012, f. & cert. ef. 6-1-12

## 123-021-0010

### Definitions

For the purposes of these rules, additional definitions may be found in OAR chapter 123, division 1. The following terms shall have the following definitions, unless the context clearly indicates otherwise:

(1) "Authorized loan amount" means the amount of a loan authorized by the Department to be under the CEF Program pursuant to a loan insurance authorization issued by the Department to the financial institution making the loan.

(2) "Brownfield" means any real property where expansion or redevelopment is complicated by actual or perceived environmental contamination.

(3) "CEF Program" means the Credit Enhancement Fund Insurance Program established under ORS 285B.200 to 285B.218.

(4) The "deficiency" of a loan means the amount of principal outstanding upon default, accrued interest and the financial institution's reasonable costs of collection, exclusive of costs attributable to environmental

problems, remaining unpaid after liquidation of collateral and collection of guarantees.

(5) "Destination facilities other than retail or food service" means a qualified business which has a significant impact on the regional recreational or tourism economy. Incidental food service or retail facilities necessary to the operation of a destination facility are eligible. Sleeping accommodations without unique attraction capabilities are not qualified businesses.

(6) "Financial institution" has the meaning set forth in ORS 706.008.

(7) "Fund" means the Credit Enhancement Fund created by ORS 285B.215.

(8) "Loan insurance authorization" means a letter from the director or deputy director or designee to a financial institution agreeing to insure a loan to a borrower on the terms and conditions and subject to the requirements stated therein.

(9) "Loan insurance agreement" means the agreement between the financial institution and the Department required by OAR 123-021-0100.

(10) "Working capital loan" means any loan, the proceeds of which are to be used for operating, maintenance and other costs and expenses, or for purposes other than acquiring real property, production equipment, or other capital assets.

(11) "Principal" in regards to a borrower is defined as:

(a) If a sole proprietorship, the proprietor;

(b) If a partnership, each managing partner and each partner who is a natural person and holds a twenty percent (20%) or more ownership interest in the partnership; and,

(c) If a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives or officers of the entity, and each natural person who is a direct or indirect holder of twenty percent (20%) or more of the ownership stock or stock equivalent of the entity.

(12) "Principal" in regards to a financial institution is defined as:

(a) If a sole proprietorship, the proprietor;

(b) If a partnership, each partner; and

(c) If a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives, officers or employees of the entity, and each direct or indirect holder of twenty percent (20%) or more of the ownership stock or stock equivalent of the entity.

(13) "SSBCI Funds" means U.S. Treasury funds allocated to the Department under the State Small Business Credit Initiative Act of 2010 (title III of the Small Business Jobs Act of 2010, P.L. 111-240, 124 Stat. 2568, 2582).

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285B.200 - 285B.218

Hist.: EDD 5-1994(Temp), f. & cert. ef. 3-3-94; EDD 11-1994, f. & cert. ef. 7-29-94; EDD 12-1997(Temp), f. & cert. ef. 10-7-97; EDD 11-1998, f. & cert. ef. 5-22-98; EDD 8-1999, f. & cert. ef. 10-1-99; EDD 4-2007(Temp), f. & cert. ef. 8-28-07 thru 2-22-08; EDD 5-2008(Temp), f. & cert. ef. 2-26-08 thru 8-1-08; EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 8-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 7-2012, f. & cert. ef. 6-1-12

## 123-021-0015

### Qualified Business

In a distressed area, any existing or proposed business is a Qualified business. Any company that owns, occupies, operates, or has entered into an agreement to own, occupy or operate real property containing a brownfield is a Qualified business. Outside of a distressed area, a Qualified business is defined as any existing or proposed business that sells goods or services in markets for which national or international competition exists, and such sales of goods or services will result in or will aid, promote or facilitate the development of one or more of the following activities:

(1) Manufacturing or other industrial production;

(2) Food processing;

(3) Aquaculture development or seafood processing;

(4) Convention facilities or trade centers;

(5) Destination facilities other than retail or food service;

(6) Transportation or freight facilities;

(7) Distribution facilities; or

(8) Other activities, as approved by the Department that represent new technology or diversifying activity but not including:

(a) Construction of office buildings;

(b) Retail businesses, shopping centers or food service facilities;

(c) Motels or bed and breakfast hotels;

(d) Professional services for medicine, law, dentistry or finance;

(e) Athletic, racquetball, handball, or private membership clubs, or golf courses;

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- (f) Sand and gravel facilities;
- (g) Newspapers;
- (h) Lobbying activities (as defined in Section 3(7) of the Lobbying Disclosure Act of 1995, P.L. 104-65, as amended); or,
- (i) Acquiring or holding passive investments such as commercial real estate ownership or the purchase of securities; this does not include acquisitions of businesses through 100% stock transfer.

(9) For the Evergreen Entrants Insurance, a Qualified business includes an existing or proposed business without, or about to be without, an existing line of credit. For the Evergreen Plus Insurance, a Qualified business includes an existing or proposed business with an existing line of credit

Stat. Auth.: ORS 285A.075 & 285B.200 - 285B.218

Stats. Implemented: ORS 285B.200 - 285B.218

Hist.: EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 8-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 7-2012, f. & cert. ef. 6-1-12

## 123-021-0020

### Eligibility

(1) In order for a Qualified business to be eligible, its project must meet one of the following purposes. Eligible purposes mean the acquisition, improvement, or rehabilitation of real or personal property, working capital for operations, export transactions, maintenance and other business costs and expenses which are used for purposes other than acquiring real or personal property. Eligible purposes do not include:

(a) An insured loan used for any personal, family, or household expenses of the Qualified business or any owner or guarantor;

(b) An insured loan used for construction financing; however, permanent financing after completion of construction may be insured;

(c) An insured loan for the purchase or construction of residential housing;

(d) An insured loan made primarily to pay off or refinance an existing debt to a creditor whose loan is inadequately secured or who is in danger of sustaining a loss;

(e) Repayment of delinquent federal or state income taxes unless the Qualified Business has a payment plan in place with the relevant taxing authority;

(f) Repayment of taxes held in trust or escrow;

(g) Reimbursement of funds owed to any owner, including any equity injection or injection of business capital for the business' continuance;

(h) (For loans insured by SSBCI Funds) Purchase of any portion of the ownership interest of any owner of the business;

(i) An insured loan used to purchase an existing Qualified business, except for:

(A) Expansions where the majority of loan proceeds are used to support expansion improvements;

(B) Purchase of all or substantially all of the assets of a Qualified business,

(C) (For loans not insured by SSBCI Funds) Purchase of 100% of the stock of a Qualified business, including stock held by employee stock ownership plans, where jobs will be created or retained; provided that the Department's liability for any loss resulting from a loan made for such purchase shall not exceed \$500,000.

(2) The Department will consider refinancing requests on a case by case basis. In evaluating such requests, the Department will consider the financial benefits to the borrower, the prospects for success, public benefits such as jobs created or retained, the extent to which financial institutions agree to extend terms or provide other favorable financing to a borrower, and the extent to which collateral securing an insured loan is improved. The Department's maximum liability for any loss resulting from a refinance that is insured under the CEF Program will be limited to no more than \$500,000 and no more than 75% of the authorized loan amount, whichever is less. Unless specifically waived by the Department, all business and personal assets securing a refinance may require an appraisal or other third party valuation to determine liquidation values at the time of application. The Department reserves the right to set the enrollment terms at the time of approval for loan insurance, including but not limited to the Department's maximum liability or the insured percentage and in its sole discretion may, when setting the Department's maximum liability or the insured percentage or both, consider whether a loan is less than fully secured, as determined by the estimated liquidation value of the collateral.

(3) The maximum term for an eligible loan insurance per borrower project is the lesser of fifteen (15) years or the useful life of the assets being financed, or one year plus four annual renewals for the Evergreen Entrants Insurance or Evergreen Plus Insurance.

(4) Eligible borrowers are Qualified businesses as defined in OAR 123-021-0015.

(5) Eligible financial institutions are financial institutions as defined by ORS 706.008.

(6) Any loans insured by SSBCI Funds will be required to meet additional U.S. Treasury requirements including, but not limited to:

(a) The loan has not been made in order to place under the protection of the CEF Program prior debt that is not covered by the CEF Program and that is or was owed by the borrower to the financial institution or to an affiliate of the financial institution.

(b) The loan is not a refinancing of a loan previously made to that borrower by the financial institution or an affiliate of the financial institution.

(c) No Principal of the borrower or the financial institution has been convicted of a sex offense against a minor as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911).

(d) The borrower, or any principal of the borrower, is not:

(A) an executive officer, director, or principal shareholder of the financial institution, or

(B) a member of the immediate family of an executive officer, director or principal shareholder of the financial institution; or

(C) a related interest of any such executive officer, director, principal shareholder or member of the immediate family. For the purposes of this OAR 123-021-0002(6)(d), the terms "executive officer", "director", "principal shareholder", "immediate family", and "related interest" refer to the same relationship to the financial institution as the relationship described in 12 C.F.R. Part 215.2 (1990), whether or not the financial institution is a member bank of the Federal Reserve System.

(e) The activities of the borrower are not activities currently prohibited by U.S. Treasury, such as but not limited to:

(A) The borrower is not a business engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade unless those activities are incidental to the regular activities of the business and are part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the business;

(B) The borrower is not a business that earns more than half of its annual net revenue from lending activities unless the business is a non-bank or non-bank holding company community development financial institution;

(C) The borrower is not a business engaged in pyramid sales, or engaged in activities that are prohibited by federal law or applicable law in the jurisdiction where the business is located or conducted; or,

(D) The borrower is not a business engaged in gambling enterprises, unless the business earns less than 33% of its annual net revenue from lottery sales.

(f) The financial institution is in compliance with requirements of 31 C.F.R. § 103.121.

(g) At the time of approval the borrower does not employ more than 750 employees in the United States.

(h) Total financing for the project is \$20,000,000 or less.

(i) No Principal of the borrower is a current member or delegate to the United States Congress or resident U.S. Commissioner.

Stat. Auth.: ORS 285A.075 & 285B.200 - 285B.218

Stats. Implemented: ORS 285B.200 - 285B.218

Hist.: EDD 5-1994(Temp), f. & cert. ef. 3-3-94; EDD 11-1994, f. & cert. ef. 7-29-94; EDD 8-1999, f. & cert. ef. 10-1-99; EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 14-2010, f. 4-30-10, cert. ef. 5-1-10; OBDD 8-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 7-2012, f. & cert. ef. 6-1-12

## 123-021-0040

### Application Contents

(1) Required Contents. Unless waived by the Department, the financial institution shall submit to the Department an application containing the following:

(a) A completed General Information Sheet provided by the Department;

(b) A written narrative by the financial institution analyzing the borrower's application (i.e. credit analysis), including an identification of the proposed amount of the loan, the requested percentage of insurance and Department insurance program, the purpose, terms and conditions of the loan, a description of the collateral and basis for its valuation, a summary of the borrower's credit standing, and a description of other sources of financing;

(c) Complete resumes of the borrower, all partners, owners, officers and guarantors, as applicable;

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(d) Historical business financial statements for the prior three years, including income statements and balance sheets (income tax returns may also be required), as applicable, if an existing borrower. Income tax returns may be sufficient if accountant prepared statements are unavailable. Interim financial statements must also be included if the most recent statements are beyond 90 days;

(e) Signed current personal financial statement(s) of owners with a minimum 20% ownership interest in the borrower. Federal tax returns may be required. This information may also be required of guarantors;

(f) Pro forma balance sheet and income statement with supporting assumptions. In some instances, monthly cash flow statements may also be required. Cash flow statements are required in cases where loan repayment is dependent on projections, and for borrowers seeking working capital financing;

(g) Completion of the Department's environmental questionnaire or a comparable one provided by the financial institution and approved by the Department for loans secured in whole or part by real property and for other insured loans, if requested by the Department;

(h) Other information as the Department may require including, but not limited to, projected jobs created or jobs retained by a borrower.

(2) Supplemental Information. The Department may require, at its discretion:

(a) Appraisals of collateral or the financial institution's basis for determining collateral value;

(b) A business or marketing plan, including an analysis of competition;

(c) Certificates from the Oregon Department of Environmental Quality or any other governmental or regulatory agencies with jurisdiction, if applicable;

(d) Copies of leases or purchase agreements, as applicable;

(e) Any other information or certifications from the borrower or the financial institution deemed by the Department to be necessary or desirable in connection with an insured loan application.

Stat. Auth.: ORS 285A.075 & 285B.200 - 285B.218

Stats. Implemented: ORS 285B.200 - 285B.218

Hist.: EDD 5-1994(Temp), f. & cert. ef. 3-3-94; EDD 11-1994, f. & cert. ef. 7-29-94; EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 8-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 7-2012, f. & cert. ef. 6-1-12

## 123-021-0080

### Loan and Insurance Terms and Conditions

(1) Interest rate and term. The rate of interest on the insured loan and the term of the loan shall be agreed between the financial institution and a borrower provided that no term may exceed the lesser of fifteen years or the useful life of the assets being financed or one year plus four annual renewals for the Evergreen Entrants or Evergreen Plus Programs.

(2) Collateral. Repayment of an insured loan shall be secured by such collateral as the Department deems prudent.

(a) Insured loans may, at the discretion of the Department, be secured by collateral valued for collateral purposes at less than the amount of the insured loan, provided the borrower, its principals, and the guarantors, to the satisfaction of the Department, are of good character, have good credit histories, and exhibit the ability to service the proposed and existing debt;

(b) Real estate or unmovable machinery or equipment constituting a significant portion of collateral for repayment of an insured loan shall be located within the state. Mobile machinery or equipment, including vessels, constituting a significant portion of collateral for repayment of an insured loan shall be registered with and taxed by the state or municipal authorities, if the State or municipal authorities register or tax machinery or equipment of a type similar to the collateral, and shall be stored or berthed in the state when not in use.

(c) The Department may, at its sole discretion, require independent collateral valuation and appraisal of the real property assets securing the loan.

(3) Covenants. The covenants and requirements of the loan shall be established by the financial institution in accordance with prudent lending practices. The Department may require such additional covenants and requirements as may be necessary, prudent or desirable. At a minimum, the loan documents should require the borrower to:

(a) Make periodic payments of principal and interest, with the exception of short term working capital loans or evergreen working capital loans or lines of credit where periodic interest payments with a balloon principal payment and/or term options may be acceptable, as determined by the Department;

(b) Make any lease payments;

(c) Maintain adequate insurance on collateral, and maintain books and records on the business;

(d) Pay any taxes or governmental charges assessed against the collateral and comply with all applicable laws and regulations;

(e) Keep the collateral free of liens and encumbrances except for as may be expressly accepted by the financial institution and Department;

(f) Provide for periodic financial reports to the financial institution;

(g) Pay advances necessary to protect the collateral and all expenses of protecting or enforcing the rights of the financial institution and Department.

Stat. Auth.: ORS 285A.075 & 285B.200 - 285B.218

Stats. Implemented: ORS 285B.200 - 285B.218

Hist.: EDD 5-1994(Temp), f. & cert. ef. 3-3-94; EDD 11-1994, f. & cert. ef. 7-29-94; EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 8-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 7-2012, f. & cert. ef. 6-1-12

## 123-021-0090

### Loan Insurance Programs

The Department shall offer the following insurance programs:

(1) Conventional Insurance, under which the Department may insure

(a) up to 80 percent of a loan in which case the Department's maximum liability for any loss under the Conventional Insurance is the lesser of \$2,000,000 or an amount equal to the insured percentage times the authorized loan amount, or (b) up to 90 percent of a loan in which case the Department's maximum liability for any loss under the Conventional Insurance is the lesser of \$500,000 or an amount equal to the insured percentage times the authorized loan amount. Should a borrower which receives an insured loan default or otherwise be unable to make loan payments, the Department will pay the financial institution the deficiency of a loan times the insured percentage, subject to the limitation set forth above. The balance of any loss is absorbed by the financial institution. Loan payments, the proceeds of collateral (including collection of guarantees), and any recovery after payment of a deficiency are applied pro rata to the portion of a loan insured through Conventional Insurance and the uninsured portion of the loan.

(2)(a) Evergreen Entrants Insurance, under which the Department may insure up to 75 percent of a line of credit working capital loan. Should a borrower which receives an insured loan default or otherwise be unable to make loan payments, the Department will pay the financial institution the deficiency of the line of credit working capital loan times the insured percentage; provided that the Department's maximum liability for any deficiency under the Evergreen Entrants Insurance is the lesser of \$1,500,000 or an amount equal to the insured percentage of the authorized loan amount. The balance of any loss is absorbed by the financial institution. Loan payments, the proceeds of collateral (including collection of guarantees), and any recovery after payment of a deficiency are applied pro rata to the portion of a loan insured through Evergreen Entrants Insurance and the uninsured portion of the loan.

(b) Eligible borrowers include persons or enterprises without or about to be without existing line of credit working capital loans.

(c) To obtain Evergreen Entrants Insurance, a financial institution must have the capacity to service the loan effectively, including monitoring compliance with any audit and control procedures prescribed by the Department or comparable procedures of the financial institution approved by the Department and must have in place and operating a lending program specializing in line of credit loans secured by or with advances based upon eligible accounts receivable and inventory or other assets. The Department must be satisfied that the financial institution is sufficiently experienced and capable of operating such a lending program effectively.

(3) First Loss Insurance, under which the Department will pay 100 percent of the deficiency of a loan, but the Department's maximum liability under the First Loss Insurance shall be the lesser of (a) the insured percentage (which shall not exceed 25 percent) times the authorized loan amount, (b) the insured percentage (which shall not exceed 25 percent) times the outstanding balance of the loan, including accrued interest and reasonable costs and expenses of collection and liquidation of collateral exclusive of costs attributable to environmental problems, but not taking into account the proceeds of collateral liquidation and payments by guarantors, or (c) \$300,000. Any recovery after payment of a deficiency is applied first to the uninsured portion of the loan and then to the portion of a loan insured through First Loss Insurance.

(4)(a) Evergreen Plus Insurance, under which the Department may insure up to 90 percent of a new increment of a line of credit; provided that the Department's maximum liability under the Evergreen Plus Insurance is \$1,500,000 and the aggregate amount of the line of credit insured under any program does not exceed 80% of the total line of credit. If a financial institution makes a payment request for any deficiency, the Department will pay to the financial institution the lesser of:

(A) A ratable share of the total default charges; or

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(B) the deficiency times the insured percentage.

The balance of any loss is absorbed by the financial institution. Loan payments, the proceeds of collateral (including collection of guarantees), and any recovery after payment of a deficiency are applied pro rata to the portion of a loan insured through Evergreen Plus Insurance and the uninsured portion of the loan.

(b) The formula for calculating the Department's ratable share of total default charges is:

$$R = (G \div T) \times P$$

R represents the ratable share of total default charges.

G represents the amount of the new increment of the line of credit.

T represents the total credit facility made available.

P represents the principal outstanding upon default plus accrued unpaid interest and costs of collateral liquidation and collection of guarantees exclusive of costs attributable to environmental problems.

(c) To obtain the Evergreen Plus Insurance, a financial institution must have in place and operating a lending program specializing in line of credit loans secured by or with advances based upon eligible accounts receivable and inventory or other assets. The Department must be satisfied that the financial institution is sufficiently experienced and capable of operating such a lending program effectively.

(5) The Conventional Insurance and First Loss Insurance are available for all types of non-revolving loans with regular periodic payments of principal and interest no less often than annually for eligible purposes, including working capital loans that are secured by fixed assets.

Stat. Auth.: ORS 285A.075 & 285B.200 - 285B.218

Stats. Implemented: ORS 285B.200 - 285B.218

Hist.: EDD 5-1994(Temp), f. & cert. ef. 3-3-94; EDD 11-1994, f. & cert. ef. 7-29-94; EDD 13-2002(Temp), f. & cert. ef. 6-18-02 thru 12-13-02; Administrative correction 4-15-03; EDD 6-2005(Temp), f. & cert. ef. 8-5-05 thru 1-31-06; EDD 1-2006, f. & cert. ef. 2-10-06; EDD 5-2008(Temp), f. & cert. ef. 2-26-08 thru 8-1-08; EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 8-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 7-2012, f. & cert. ef. 6-1-12

## 123-021-0110

### Insurance Premiums

(1) The Department shall charge a one-time (up-front) insurance premium. Premiums are due at the time financial institutions originate loans and execute loan authorizations with the Department. The Department's insurance is not effective until premiums are paid. It is expected that financial institutions will pass along the cost of premiums to borrowers. Premiums, expressed as a percentage of the Department's maximum liability, shall be charged in accordance with the following schedule for the programs indicated: [Schedule not included. See ED. NOTE.]

(2) The fee for the Evergreen Entrants Insurance is 1.25 percent annually; the fee for the Evergreen Plus Insurance is 2.5 percent annually.

(3) For revolving lines of credit or evergreen facilities, the premium is based on the Department's maximum liability in regard to the credit facility made available to a borrower, regardless of whether or not the line of credit is fully drawn down. Examples:

(a) The premium due on a \$200,000, five year loan with 85% Conventional Insurance would be \$3,400 ( $\$200,000 \times .85 \times .02$ );

(b) The premium for a \$200,000 loan with 75% Evergreen Entrants Insurance is \$1,875 ( $\$200,000 \times .75 \times .0125$ ); this amount would be due every year thereafter for up to four additional years, assuming the loan and amount is renewed each year for the maximum term permitted under the Evergreen Entrants program (5 years);

(c) The premium for a \$200,000, eight year loan with 25% First Loss Insurance is \$2,500 ( $\$200,000 \times .25 \times .05$ );

(d) The premium for a \$700,000 increment to the line of credit with 25% Evergreen Plus Insurance is \$4,375 ( $\$700,000 \times .25 \times .025$ ); this amount would be due every year thereafter for up to four additional years, assuming the loan and amount is renewed each year for the maximum term permitted under the program (5 years).

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

Stat. Auth.: ORS 285A.075 & 285B.200 - 285B.218

Stats. Implemented: ORS 285B.200 - 285B.218

Hist.: EDD 5-1994(Temp), f. & cert. ef. 3-3-94; EDD 11-1994, f. & cert. ef. 7-29-94; EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 8-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 7-2012, f. & cert. ef. 6-1-12

## 123-021-0130

### Delegation

With the exception of appeals, the Department may authorize and approve loan insurance authorizations and require execution of any document necessary or convenient to make effective such insurance.

Stat. Auth.: ORS 285A.075 & 285B.200 - 285B.218

Stats. Implemented: ORS 285B.200 - 285B.218

Hist.: EDD 5-1994(Temp), f. & cert. ef. 3-3-94; EDD 11-1994, f. & cert. ef. 7-29-94; EDD 24-2008, f. 7-31-08, cert. ef. 8-1-08; EDD 17-2009, f. 10-30-09, cert. ef. 11-1-09; OBDD 8-2011(Temp), f. & cert. ef. 12-8-11 thru 6-5-12; OBDD 7-2012, f. & cert. ef. 6-1-12

**Rule Caption:** These new rules are being adopted to implement the Manufacturing Business Energy Tax Credit.

**Adm. Order No.:** OBDD 8-2012

**Filed with Sec. of State:** 6-1-2012

**Certified to be Effective:** 6-1-12

**Notice Publication Date:** 5-1-2012

**Rules Adopted:** 123-600-0100, 123-600-0105, 123-600-0110, 123-600-0120, 123-600-0130, 123-600-0135, 123-600-0140, 123-600-0150, 123-600-0250

**Subject:** In the 2011 Special Legislative Session, the passage of Oregon HB 2523 transferred the duties of the Business Energy Tax Credit for renewable energy resource equipment manufacturing program (Manufacturing BETC) from the Oregon Department of Energy to the Oregon Business Development Department (Business Oregon). In the 2012 Regular Legislative Session, the passage of Oregon HB 4079 made changes relating to the Manufacturing BETC and other energy incentives programs. This serves as a re-notice and these rules implement the Manufacturing BETC program and replace the ones previous posted on the agency's website in February 2012.

**Rules Coordinator:** Mindee Sublette—(503) 986-0036

## 123-600-0100

### Purpose and Scope

This division of administrative rules applies to all applicants for the Business Energy Tax Credit for Renewable Energy Resource Equipment Manufacturing ("Manufacturing BETC") as provided under Oregon Revised Statutes ORS 285C.540 through 285C.559, and ORS 315.341, 356, Oregon Law 2011 CH. 474 HB2523 and 2012 CH. 45 HB4079. These rules apply to all applications pending as of the effective date of these rules.

(1) Amount of Tax Credit. Qualified Oregon facilities that manufacture renewable energy resource equipment may be eligible for a tax credit equal to 50% of maximum eligible cost. Costs are limited up to \$2.5 million for a facility used to manufacture electric vehicles or component parts of electric vehicles and up to \$40 million in the case of any other eligible facility.

(2) Application Review. Application for the Manufacturing BETC is subject to detailed technical and financial review of the project. The Applicant is also required to sign a performance contract with measures that include job creation requirements, job retention requirements and other economic or operational benchmarks as determined by the Department.

(3) Certification of Cost for Tax Credit. The Director shall issue a final certificate pursuant to ORS 285C.553 before the tax credit can be claimed. The Director shall determine the dollar amount certified for any facility and the priority between applications for certification based upon the criteria contained in ORS 285C.540 to 285C.559 and applicable rules and standards adopted under ORS 285C.540 to 285C.559. The Director may consider the status of a facility as a research, development or demonstration facility of new renewable resource generating and conservation technologies in the determination.

(4) Use of Tax Credit. The tax credit may be offset against Oregon income and corporation excise taxes owed pursuant to ORS 315.341. An Applicant qualifying for the tax credit may transfer the tax credit through the pass-through option in return for a discounted cash payment from a qualified pass-through partner.

Stat. Auth.: ORS 285C.540 - 285C.559, ORS 315.341, OL 2011, Ch. 474 HB2523

Stats. Implemented: ORS 285C.540-559, 315.341, OL 2011, Ch. 474 HB2523, OL 2012, Ch. 45 HB 4079

Hist.: OBDD 8-2012, f. & cert. ef. 6-1-12

## 123-600-0105

### Definitions

The following definitions apply unless the context requires otherwise:

(1) "Applicant" means a person who applies for preliminary certification of a Manufacturing BETC facility under this section including individuals, corporations, associations, firms, partnerships, limited liability companies and joint stock companies.

(2) "Cost" means the capital costs and expenses necessarily incurred in the erection, construction, installation and acquisition of a facility.

(3) "Completed application" means receipt of payments under OAR 123-600-0140 and all information required in the application form to demonstrate substantive compliance with the provisions of ORS 285C.540 to 285C.559 and any applicable rules or standards adopted by the Director, and all supplemental attachments, exhibits and so forth that the Applicant

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furnishes at the Department's request under these rules for the Manufacturing BETC.

(4) "Completed Facility" means a manufacturing facility that is operating in accordance with requirements in the Preliminary Certificate and performance agreement between the Department and the Applicant for which all costs have been paid or committed by a binding contract or agreement.

(5) "Component parts of electric vehicles" means component parts that are for exclusive use in electric vehicles and may not be used in both electric and conventional vehicles. A component part of electric vehicles does not include batteries.

(6) "Director" means the Director of the Oregon Business Development Department or designees.

(7) "Department" means the Oregon Business Development Department, aka: Business Oregon.

(8) "Electric vehicles" means vehicles that are designed for use as Class I or Class II all-terrain vehicles, as those terms are defined in ORS 801.190 and 801.193, and that are used for agricultural, commercial, industrial or governmental purposes, or vehicles that are designed for use as modes of transportation on public roads and highways. The Director of the Oregon Business Development Department may further define "agricultural, commercial, industrial or governmental purposes" of electric vehicles.

(9) "Facility operator" means the person or people to whom the Applicant gives authority to manage a facility. Such person or people shall be the Applicant's agent for all reasons related to the facility once its development begins.

(10) "Facility start" means the earliest date on or after the date the application for preliminary certification is received by the Department where a non-refundable deposit will be placed on the facility equipment or; a purchase order will be placed for the equipment or; a contract for the design of the facility will be executed or; a document that obligates the Applicant to proceed with a facility will be executed; or any other type of financial commitment towards the erection, construction, installation or acquisition of the facility.

(11) "Federal grant" means any grant received from the federal government in connection with a facility.

(12) "Final certification" means the review and approval of the application for final certification leading to issuance of a final certificate for a completed facility under ORS 285C.551.

(13) "Lease contract" means a lease-purchase contract in which the lessee owns the facility at the end of the lease and is eligible for the Manufacturing BETC, or a lease or lease-option contract in which the lessor owns the facility through the life of the contract and is eligible for the Manufacturing BETC.

(14) "Pass-through payment" means a minimum cash payment equivalent to the net present value of the Manufacturing BETC as determined under OAR 123-600-0135. This is also referred to as the "pass-through rate."

(15) "Pass-through option" means the option that allows an Applicant a one time only transfer of all or a portion of the facility's tax credit eligibility to certain persons or businesses in return for a cash payment.

(16) "Pass-through partner" means a personal income tax payer, individual, C corporation or S corporation that is transferred a tax credit certificate in return for a cash payment to an Applicant.

(17) "Preliminary certification" means the review and approval of the application for preliminary certification leading to issuance of a preliminary certificate for an eligible facility under ORS 285C.551.

(18) "Renewable energy resource" means energy derived from sources including but not limited to: straw, forest slash, wood waste or other wastes from farm or forest land, nonpetroleum plant or animal based biomass, ocean wave energy, solar energy, wind power, water power or geothermal energy.

(19) "Renewable energy resource equipment manufacturing facility" means any structure, building, installation, excavation, device, machinery or equipment, or an addition, reconstruction or improvement to land, to an existing structure, building, installation, excavation or device or to existing machinery or equipment, that is necessarily acquired, constructed or installed by a person in connection with the conduct of a trade or business and that is used primarily to manufacture:

(a) Component parts of electric vehicles.

(b) Electric vehicles.

(c) Equipment, machinery or other products designed to use a renewable energy resource and that meets the criteria established under ORS 285C.543 and these rules.

(d) Renewable energy storage devices. [2011 c.474 §5]

(20) "Renewable energy storage device" means a device that enables the storage of energy derived from renewable energy resources. A renewable energy storage device a facility does not need to be directly connected to a renewable energy resource, but a beneficial relationship shall be demonstrated between the energy output of the resource or resources and the charge and discharge capabilities of the facility. The storage device may be designed to store energy for transmission lines provided that the transmission lines serve, at least in part, renewable energy resources. A renewable energy storage device includes, but is not limited to, batteries or similar devices used to provide propulsive energy in electric vehicles.

(21) "Research, development, or demonstration facility (RDD)" means a facility under ORS 285C.545 (3) and subject to standards adopted by the Director in these rules that is not standard practice and produces or is likely to produce new renewable resource generating and conservation technologies or products in Oregon when commercialized.

Stat. Auth.: ORS 285C.540 - 285C.559, ORS 315.341, OL 2011, Ch. 474 HB2523

Stats. Implemented: ORS 285C.540-559, 315.341, OL 2011, Ch. 474 HB2523, OL 2012, Ch. 45 HB 4079

Hist.: OBDD 8-2012, f. & cert. ef. 6-1-12

## 123-600-0110

### Process Overview

(1) Application Stages. The Department reviews an application for a Manufacturing BETC in two stages.

(a) The first stage is called preliminary certification. Prior to submitting an application and fee payment, the Applicant must contact the Department to initiate a pre-screening process. Once accepted, the application is subject to in-depth review of the manufacturer's technology, financial model and plan, which may be conducted by a third party contractor selected by the Department for the purpose of determining if a preliminary certificate shall be issued. If the Department determines that the Applicant qualifies for a Manufacturing BETC, the Department may issue a preliminary certificate. The preliminary certificate may contain specific criteria and conditions for the facility to meet in order to complete final certification based on the information provided in the application for the BETC and type of facility that is described in the application. In addition, the Department shall require the Applicant to enter into a performance agreement or other similar agreement as a condition of approval.

(b) The second stage is called final certification. During this stage the application is subject to verification of completion of the facility in accordance with conditions and criteria imposed in the preliminary certificate and performance agreement, and the determination of final eligible costs for purpose of issuing the final tax certificate.

(2) Application. To begin the review process for each stage as described in 123-600-0120 and 123-600-0130, or to change the facility during the review process, an Applicant shall submit the information on the application form approved by the Department and additional information as requested by the Department.

(3) Receipt of Applications. Applications shall be considered received on the date marked received by the Department, unless the application is determined to be incomplete.

(4) Pass-through Option Commitment. An Applicant planning to use a pass-through partner should indicate their intention on the application for preliminary certification and shall select the pass-through option on the application for final certification.

(5) Conditions for Approval. The Director may impose conditions in approving a preliminary or final certificate that the facility shall operate in accordance with the representations made by the Applicant, and any applicable rules or standards adopted by the Director in accordance with the provisions of ORS 285C.540 to 285C.559.

(6) Separate and Distinct Facilities. The Director may issue only one Manufacturing BETC for each separate and distinct facility under these rules. To determine if a facility is separate and distinct, the Director will consider such factors as phases of development, expansion of or additions to existing facilities or product lines, increased production and number of jobs created or maintained by an Applicant.

Stat. Auth.: ORS 285C.540 - 285C.559, ORS 315.341, OL 2011, Ch. 474 HB2523

Stats. Implemented: ORS 285C.540-559, 315.341, OL 2011, Ch. 474 HB2523, OL 2012, Ch. 45 HB 4079

Hist.: OBDD 8-2012, f. & cert. ef. 6-1-12

## 123-600-0120

### Preliminary Certification

(1) Pre Screening. Persons interested in applying for a Manufacturing BETC shall first contact the Department to initiate a pre-screening process.

(2) Submission of Application. Persons determined by the Department to have projects for proposed facilities eligible for a



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Manufacturing BETC shall submit the application form approved by the Department for application for preliminary certification along with the appropriate fee under OAR 123-600-0140. The Applicant shall also provide additional information the Director considers necessary to determine whether the proposed facility is in accordance with the provisions of ORS 285C.540 to 285C.559 and these rules, including but not limited to:

(a) The type of equipment, machinery or other products being manufactured meet related performance and efficiency standards applicable to the manufactured products;

(b) The economic viability of the facility and any other information for consideration of such factors as phases of development, expansion of or additions to existing facilities or product lines, increased production and number of jobs created or maintained by the Applicant;

(c) The minimum levels of increased employment in Oregon for the facility are proportionate to industry standards;

(d) The compensation paid and benefits provided to employees meet or exceed the national average in annual compensation for comparable employment;

(e) Details related to the technology and financial plan that can be independently reviewed by a third party;

(f) The credit worthiness of the Applicant and the likelihood of long-term operation and success of the facility; and

(g) The Applicant's decision to locate or expand a facility in Oregon is based on the allowance of a tax credit under ORS 315.341.

(3) Qualified Applicant. A qualified Applicant shall meet one of the following criteria:

(a) The Applicant is a person to whom a tax credit for the facility has been transferred; or

(b) The Applicant shall be the owner, contract purchaser or lessee of the facility at the time of erection, construction, installation or acquisition of the proposed facility, and:

(A) The Applicant is the owner, contract purchaser or lessee of a trade or business that plans to utilize the facility in connection with Oregon property; or

(B) The Applicant is the owner, contract purchaser or lessee of a trade or business that plans to lease the facility to a person that will utilize the facility in connection with Oregon property.

(C) The Applicant is the owner, contract purchaser or lessee of a trade or business that plans to lease the facility to a person that will utilize the facility in connection with Oregon property.

(4) Eligible Costs. Subject to the facility cost limitations of OAR 123-600-0100(1) and the criteria established under ORS 285C.543:

(a) Eligible costs include land purchase costs, structures, buildings, installations, excavations, machinery, equipment or devices, or any addition, reconstruction or improvements to land or existing structures, buildings, installations, excavations, machinery, equipment or devices, necessarily acquired, constructed or installed by a person in connection with the conduct of a trade or business, that is used to manufacture the equipment, machinery or other products used primarily for:

(A) Component parts of electric vehicles; or

(B) Electric vehicles; or

(C) Renewable energy storage devices; or

(D) Equipment, machinery or other products designed to use a renewable energy resource.

(b) An application shall demonstrate compliance with these provisions to be accepted, including clearly describing the specific characteristics of the equipment, machinery or other products that demonstrate why such equipment, machinery or other products will be used primarily for component parts of electric vehicles or; electric vehicles; renewable energy storage devices or; equipment, machinery or other products designed to use a renewable energy resource that meets the criteria established under ORS 285C.543 and not for other commercial purposes and therefore why the costs of such of such equipment, machinery or other products are eligible costs.

(c) The Department may conduct inspections to verify eligible costs.

(d) Eligible facility costs are limited by costs for a facility, or portion thereof, that has previously received a Business Energy Tax Credit.

(e) The sum of any payments from federal grants and the Manufacturing BETC may not exceed total costs.

(f) Eligible costs do not include fees or costs associated with the review of the application.

(g) Eligible costs cannot be incurred prior to submitting an application for preliminary certification, except as provided for under OAR 123-600-0120(7).

(h) Cost can include payments for:

(A) Fees to finance, design or engineer the facility, including but not limited to debt fees and equity fees;

(B) Title searches, escrow fees, government fees, excluding fees required by OAR 330-091-0150, and shipping;

(C) All materials and supplies needed for the erection, construction, installation or acquisition of the proposed facility; and

(D) Work performed by employees or independent contractors of the applicant based on the following conditions:

(i) Employees or contractors must be certified, accredited, licensed, or otherwise qualified to do the work;

(ii) The work must be associated with the erection, construction, installation or acquisition of the proposed facility or in the case of a research development and demonstration facility, the work shall be directly related to the research, development, demonstration, facility design, monitoring, assessment, evaluation and reporting related to the product or technology;

(iii) Project management and other similar costs may only account for up to 15 percent of the total eligible costs; and

(iv) Costs for employee's or contractor's work on the facility must be detailed and documented as to specific tasks, hours worked, and compensation costs. Donated, in-kind or volunteer labor is not eligible;

(E) Costs for legal counsel that is directly related to the development of a qualifying facility (non-litigation related) or directly linked to the research, development or demonstration facility; and

(F) Other costs the Director includes.

(i) Cost may not include:

(A) Interest;

(B) Litigation or other operational-related legal fees and court costs;

(C) Costs to maintain and operate a facility;

(D) Administrative costs to apply for grants, loans, tax credits or other similar funding for a facility including, but not limited to, the BETC charge, costs associated with the creation and development of the CPA verification letter and costs associated with securing a pass-through partner for the facility;

(E) Routine operational or maintenance costs associated with the facility, including services, supplies and labor;

(F) Expenses that are directly or indirectly offset with federal fee waivers; and

(G) Other costs the Director excludes.

(j) If a facility is built under a lease, lease-option or lease-purchase contract, the lessee's cost to acquire the facility is the value paid for the facility. If that amount is not known, the cost is the sum of:

(A) Tax credits passed-through by the lessor to the lessee;

(B) The amount paid when the facility is transferred; and (C) The lease payments not including taxes, insurance, interest, and operating costs.

(C) Payments to be made in the future must be discounted to present value.

(5) Preliminary Certification Review Process. Except as provided in OAR 123-600-0120(7), an application for preliminary certification shall be received by the Department on or prior to the facility start for the erection, construction, installation or acquisition of a facility.

(a) The application for preliminary certification shall be considered received on the date marked received by the Department, unless the application does not contain all information required in the application form and the payment as required in OAR 123-600-0140.

(b) An application is incomplete if it does not include information needed to demonstrate substantive compliance with the provisions of ORS 285C.540 to 285C.559 and any applicable rules or standards adopted by the Director. The Department shall provide the Applicant a written notice relating to the incomplete application and the information needed to make the application complete. If no action is taken within 30 days by the Applicant, the application shall expire.

(c) After a completed application is received, the Department shall notify the Applicant of the procedures for the Department's due diligence review.

(d) If the application complies with the provisions of ORS 285C.540 to 285C.559, the Director may approve the preliminary certificate. The preliminary certificate shall state the amount of eligible costs for a Manufacturing BETC up to the maximum amount of certifiable costs under ORS 285C.545. It may differ from the amount requested for reasons explained and based on these rules. Also, it shall state any conditions that shall be met before development, final certification, or some other event can occur. The Director shall explain why each condition is needed to comply with these rules.

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(e) If it does not comply, the Director may deny the application. No later than 60 days after the Director issues an order denying the application, the Applicant may request reconsideration as provided in these rules.

(f) An Applicant can re-submit an application that is denied if features of the facility change, the Applicant provides data the absence of which resulted in the denial, or other changes warrant. An application for preliminary certification can be amended or withdrawn by the Applicant before the Director issues a preliminary certificate. The Applicant may be required to pay additional fee for expenses incurred by the Department in connection with the additional review of the application for preliminary certification or amendment to the preliminary certificate.

(6) Preliminary Certification for Less than Total Eligible Costs. If under the provisions of ORS 285C.545(2), the Department intends to certify less than the total or no amount of eligible costs of renewable energy resource equipment Manufacturing BETC facility, the Department shall notify the Applicant in writing of that intent before approving the preliminary certificate.

(a) The Applicant shall have 30 calendar days from the date notification was issued to inform the Department in writing whether it wishes to withdraw the application or suspend further consideration of the application until a future date specified or submit additional information in support of the application.

(b) If the Department has not received notification or additional information in support of the application within that period of time, the Director may certify less than the total or no amount of eligible costs of the Manufacturing BETC facility.

(c) Once eligible costs are certified and a preliminary certificate is issued under this section, the certified eligible costs may be revised if conditions under ORS 285C.545 (2) change or upon notification from the Applicant or other information indicating that the scope of the project or the facility has changed in such a way to impact the preliminary certificate.

(7) Eligibility of Costs Before Facility Start. The Director may approve a preliminary certificate for costs incurred prior to the Department's receipt of the application for preliminary certification if the Applicant files a written request for a waiver in accordance with these rules.

(a) Special circumstances beyond the Applicant's control made application for preliminary certification before facility start impracticable. Such circumstances include process delays, facility funding and energy supplies or markets; and

(b) The Department is in receipt of the application for preliminary certification and receives a waiver request from the Applicant within 90 days of the facility start. Under extraordinary circumstances the Department may extend the waiver period provided the facility serves the aims of the program.

(c) Failing to submit an application for preliminary certification before signing contracts for the facility does not constitute special circumstances supporting a waiver.

(8) Preliminary Certificate. If the Department determines that the application for preliminary certification qualifies the Applicant and the facility for a Manufacturing BETC, the Director may issue a preliminary certificate.

(a) The preliminary certificate may contain specific criteria and conditions for the facility to meet in order to complete final certification based on the information provided in the application for the BETC and type of facility that is described in the application. In addition, the Department shall require the Applicant to enter into a performance agreement or other similar agreement as a condition of approval. The Director may consider a broad range of comparative data sources in determining criteria and conditions for job creation, job maintenance and compensation in the preliminary certificate or performance agreement, including but not limited to:

(A) National Compensation Survey (NCS), US Department of Labor Bureau of Labor Statistics

(B) Quarterly Census of Employment and Wages, US Department of Labor Bureau of Labor Statistics

(C) Oregon Labor Market Information System including the Oregon Employment Department's most current Covered Employment and Wages Summary Report for Total Private Coverage.

(b) If the facility does not proceed the Applicant shall inform the Department in writing if it does not proceed with the facility or intends to proceed without the tax credit. In that case, the Director shall cancel the preliminary certificate.

(9) Applicant's Request to Amend a Preliminary Certificate. An Applicant shall file a written request with the Department prior to the completion of the facility to amend a preliminary certificate.

(a) The request shall describe the change to the facility and reasons for the change. It may include changes in cost, tax credit amount, facility design, and materials. The request may also include changes in the jobs created, project financing, the Applicant, the location, or other matters that demonstrate substantial change in the project's scope. The request shall be accompanied by the appropriate fee.

(b) If a request does not include information needed to demonstrate substantive compliance with the provisions of ORS 285C.540 to 285C.559 and any applicable rules or standards adopted by the Director shall provide the Applicant a written notice relating to the information needed to make the request complete. If the Applicant does not provide all of the requested information to the Department within 30 days, the request shall expire and no changes shall be made to the preliminary certificate.

(c) After the Applicant files the change request, the Department shall decide if the facility as modified complies with ORS 285C.540 to 285C.559 and these rules.

(A) If it complies, the Director may issue an amended preliminary certificate which may contain new or amended criteria, conditions and requirements.

(B) If it does not comply, the Director shall issue an order that denies the change and provide written reasons for the denial.

(10) Director's Amendment or Revocation of a Preliminary Certificate. The Director may issue an order altering, conditioning, suspending or denying preliminary certification if the Director determines that:

(a) The erection, construction, installation or acquisition does not comply with the provisions of ORS 285C.540 to 285C.559 and applicable rules and standards; or

(b) The Applicant has previously received preliminary or final certification for the same costs; or

(c) The Applicant is unable to demonstrate that the facility would be economically viable without the allowance of additional credits under ORS 315.341; or

(d) The Applicant was directly involved in an act for which the Director has levied civil penalties or revoked, canceled or suspended any certification under ORS 285C.540 to 285C.559; or

(e) The Applicant or the principal, director, officer, owner, majority shareholder or member of the Applicant, or the manager of the Applicant if the Applicant is a limited liability company, is in arrears for payments owed to any government agency while in any capacity with direct or indirect control over a business; or

(f) The facility undergoes changes without the changes being approved under these rules;

(g) Any other reason allowed by the amendments to ORS 285C.551(3) in Oregon Laws, 2011, Chapter 474, Section 11.

Stat. Auth.: ORS 285C.540 - 285C.559, ORS 315.341, OL 2011, Ch. 474 HB2523

Stats. Implemented: ORS 285C.540-559, 315.341, OL 2011, Ch. 474 HB2523, OL 2012, Ch. 45 HB 4079

Hist.: OBDD 8-2012, f. & cert. ef. 6-1-12

### 123-600-0130

#### Final Certification

(1) Facility Completion. To qualify for a final certificate, the facility shall be completed as described in the preliminary certificate, and in accordance with the performance agreement and these rules. Any changes to the preliminary certificate and/or application for preliminary certification shall be made through the amendment process outlined in these rules and shall be completed prior to the project completion date. Failure to obtain approval through the amendment process may result in denial of the application for final certification.

(2) Application and Review.

(a) Applicants with completed facilities must have a valid preliminary certificate for a Manufacturing BETC in accordance with ORS 285C.547(5) in order to complete final certification including all transactions associated with the pass-through option described in 123-600-0135.

(b) The application shall be considered received for the purposes of ORS 285C.557 on the date marked received by the Department, unless the application is incomplete. If the application for final certification is not complete, the date marked received by the Department on the complete application containing all of the required information shall be considered the received date.

(c) Review of the application for final certification shall include a determination by the Director that the proposed erection, construction, installation or acquisition is technically feasible and should operate in accordance with the representations made by the Applicant, and is in accordance with the provisions of ORS 285C.540 to 285C.559 and any applicable rules or standards adopted by the Director, including but not limited to:

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(A) Evidence in a form acceptable to the Department that the conditions of the preliminary certification and performance agreement have been complied with;

(B) Evidence of the costs of the facility. If the actual cost of the facility is less than \$50,000, copies of receipts for purchase and installation of the facility; or if the actual cost of the facility is \$50,000 or more, certified to by a certified public accountant who is not an employee of the Applicant. The certified public accountant shall:

(i) Complete a written review of costs paid or incurred to be reported in the Final Application, related to the facility as described in the Preliminary Application and Preliminary Certificate, based on canceled checks, invoices, or receipts, a binding contract or agreement, or other documentation as may be required under these rules and certify that such costs were properly paid or incurred and represent eligible costs under these rules indicating exceptions as applicable.

(ii) Conduct the review in the form of an agreed-upon procedures engagement that is in accordance with AT Section 201, Agreed-Upon Procedure Engagements (Statements on Standards for Attestation Engagements 10, as amended) of the American Institute of Certified Public Accountants.

(iii) Conduct any sampling of costs in accordance with procedures in the Statement on Auditing Standards in the AICPA Guidelines.

(iv) Review sufficient information if an applicant has an outstanding binding contract or loan agreement, to become satisfied that accounts directly related to the facility are not in default in order to include such costs as eligible costs.

(C) The amount of the credit under ORS 315.341 that is to be claimed and that the costs have not previously received preliminary or final certification;

(D) Information sufficient to demonstrate the number and type of jobs created and maintained by the operation and maintenance of the facility over the five-year period beginning with the year of preliminary certification under ORS 285C.551 and information on the benefits of the facility with regard to overall economic activity in this state will be met;

(E) Information sufficient to demonstrate that the facility shall remain in operation for at least five years, unless the Director by rule specifies a shorter period of operation;

(F) Documentation of compliance with applicable state and local laws and regulations and licensing and permitting requirements as defined by the Department; and

(G) A statement that the Applicant or the principal, director, officer, owner, majority shareholder or member of the Applicant, or the manager of the Applicant if the Applicant is a limited liability company, is not in arrears for payments owed to any government agency while in any capacity with direct or indirect control over a business.

(H) Any other information determined by the Department to be necessary prior to issuance of a final certificate, including inspection of the facility by the Department.

(b) After an application for final certification is received, the Department shall determine whether the application is complete. An application is incomplete if it does not include information needed to demonstrate substantive compliance with the provisions of ORS 285C.540 to 285C.559 and any applicable rules or standards and preliminary certification conditions adopted by the Director. If it is not complete, the Applicant shall be provided a written explanation describing deficiencies. If it is complete, the Department shall process the application. Within 60 days after a completed application for final certification is received the Department shall either approve or deny the application.

(c) If the Department approves the application; the Director shall issue a certified amount letter, which shall state the amount of certified costs, reduced as applicable by any federal grants received, and the amount of the tax credit approved. The certified amount letter may contain additional criteria and conditions that shall be met in order to retain tax credit benefits or the tax credit certificate issued to the Applicant may be subject to revocation. If the facility fails to meet any of the criteria, conditions and requirements established in final certification, the Applicant shall notify the Department within 30 days.

(d) When an Applicant chooses to transfer the tax credit under ORS 285C.549, the Department may hold the application for final certification until pass-through partner(s) information is received by the Department.

(3) Final Certificate. A certificate issued under ORS 285C.553 is required for purposes of obtaining tax credits in accordance with ORS 315.341. Such certification shall be granted for a period not to exceed five years. Unless transferred to a pass-through partner under ORS 285C.549, the five-year period shall begin with the tax year of the Applicant during

which the completed application for final certification of the facility under ORS 285C.553 is received by the Department.

(a) If the original owner of the certificate uses any portion of the credit, the certificate becomes nontransferable.

(b) After the Director issues a final certificate, an Applicant shall notify the Department in writing within 30 days of any of the following conditions:

(A) The facility has been moved;

(B) Title to the facility has been conveyed;

(C) The facility is subject to or part of a bankruptcy proceeding;

(D) The facility is not operating; or

(E) The term of a leased facility has ended.

(4)(a) Basis for Denying Tax Credit Benefits. The Department may deny final certification if any of the following conditions exist:

(A) Final certification is not complete before 1,825 days (5 years) after the preliminary certificate was issued.

(B) The Applicant does not provide information about the facility in a reasonable time after the Department requests it;

(C) The facility is significantly different than the proposed facility for which the preliminary certificate was issued;

(D) The Applicant misrepresents or fails to construct or operate the facility;

(E) The Applicant fails to demonstrate that the facility described in the application is separate and distinct from previous or current applications reviewed by the Department;

(F) The facility does not meet all of the conditions and requirements contained in the preliminary certificate or performance agreement; or

(G) The Applicant is unable to demonstrate that the facility complies with all applicable provisions of ORS Chapter 285C.540 to 285C.559 and these rules.

(b) If the Department does not approve the application, the Department shall provide written notice of the action, including a statement of the findings and reasons for the denial by regular and certified mail.

(c) An application for final certification that is denied can be submitted again. An application for final certification can be amended or withdrawn by the Applicant. If an application is submitted again or amended, the time for review of the application for final certification starts over.

(d) If the Director does not issue a certified amount letter for final certified cost or a final certificate within 60 days after an application is filed, the application is denied pursuant to ORS 285C.553(4).

(5)(a) Basis for Revoking Tax Credit Benefits. The Director shall revoke certificates as provided in ORS 285C.559 and 315.341 (4) (a) if the Director finds that:

(A) The certification was obtained by fraud or misrepresentation. For the purposes of this section, "fraud or misrepresentation" means any misrepresentation made by an Applicant for a preliminary or final certification, including but not limited to, misrepresentations as to the Applicant's financial viability, facility construction and operation, or any other information provided as part of an application for a preliminary or final certification;

(B) The holder of the certificate or the operator of the facility has failed to construct or operate the facility in compliance with the plans, specifications and procedures in the certificate or the performance agreement; or

(C) The facility is no longer in operation.

(b) If all or a part of the tax credit certificate has been transferred to a pass-through partner under ORS 285C.549, the certificate is not considered revoked as to the pass-through partner, but the Applicant is liable for the amount of tax credits claimed or that could be claimed.

(6)(a) Sale or Disposition of the Facility After Final Certification. Pursuant to ORS 315.341 (4)(a), upon receiving notice that the facility has been sold or otherwise transferred, the Director shall revoke the final certificate, as of the date of the disposition of the facility, unless the Manufacturing BETC for the facility has already been transferred under ORS 285C.549.

(b) The new owner or new or renewed lessee of a facility may apply for a final certificate. The request shall comply with ORS 285C.540 through 285C.559 and these rules and include information to allow the Department to determine the amount of tax credit not claimed by the former owner or former lessee. If the facility continues to comply with the requirements set out in these rules and any applicable conditions imposed by the Department, the Director shall issue a new final certificate consistent with the provisions of ORS 315.341 (4)(a).

(7) Request for Reconsideration. No later than 60 days after the Director issues an order on preliminary certification, final certification, or

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canceling or revoking a preliminary or final certificate under these rules, the Applicant may request reconsideration in writing.

(8) Inspections. After an application is filed under ORS 285C.547 or 285C.553 or a tax credit is claimed under these rules, the Department may inspect the facility. The Department shall schedule the inspection during normal working hours, following reasonable notice to the facility operator.

Stat. Auth.: ORS 285C.540 - 285C.559, ORS 315.341, OL 2011, Ch. 474 HB2523  
Stats. Implemented: ORS 285C.540-559, 315.341, OL 2011, Ch. 474 HB2523, OL 2012, Ch. 45 HB 4079  
Hist.: OBDD 8-2012, f. & cert. ef. 6-1-12

## 123-600-0135

### Pass-through Transfer of the Tax Credit

For purposes of ORS 285C.549 and the pass-through rate for discounting the face value of a certified Business Energy Tax Credit to the Net Present Value that is the minimum amount the Applicant shall receive as a cash payment from the Pass-through Partner(s) in exchange for the Credit:

(1) Rate Formula. As set forth by the Department on the first business day of each calendar quarter, the pass-through rate, to be multiplied by the credit amount, equals  $1 \div (1 + R + S + P)^5$ , where:

(a) "R" is the U.S. Prime Rate as published by The Wall Street Journal newspaper;

(b) "S" is a spread factor greater than zero to account for special transactional and risk elements, and initially set at 3.25 percentage points, but subject to adjustment by the Department based on experience and changing circumstances;

(c) "P" is an estimate of projected price inflation, as determined by the Department, but to be not less than the average of the lower central tendency for core price inflation in the succeeding two years from the latest economic projections of the Federal Reserve Board members and Federal Reserve Bank presidents; and

(d) "5" means to exponentially raise the preceding sum to the fifth power in accordance with the five years over which the credit may be claimed.

(2) Modification of Formula. In addition to modifications of the variables "R" and "S" in subsection (1)(a) of this rule, the Department may alter the formula for purposes of this rule, as announced at the start of the calendar quarter, in response to any greatly changing situation with prevailing market rates of return or projected price inflation, potentially pending a temporary or permanent rulemaking.

(3) Rate Option. The Applicant may elect to use the quarterly pass-through rate as set in section (1) of this rule for the calendar quarter, during which occurs either:

- (a) Preliminary Certification, or
- (b) Transaction of the pass-through payment.

(4) For the Department to issue a tax credit certificate to a pass through partner the Applicant must be in compliance with the conditions and requirements of the Preliminary Certificate, the performance agreement and these rules.

(5) A tax credit may be transferred one time only, from the Applicant to an eligible pass through partner.

(6) Finding Pass-through Partners. The Applicant is responsible for seeking a pass-through partner. The Department cannot guarantee a pass-through partner for any completed project.

(a) The Applicant will notify the Department if a third-party intermediary will be used to assist the Applicant in seeking a pass-through partner.

(b) The Applicant will notify the Department when a pass-through partner(s) is identified. The Department will provide the necessary instructions and forms needed to complete verification of the pass-through payment transaction in order to issue a tax credit certificate.

(7) Transferee's Certification Period. For a transferee holding a credit that has been transferred under ORS 285C.549, the five-year period begins with the tax year of the transferee in which the transferee pays for the credit.

(8) Expiration of Transferability. The Director may issue a final certificate in the name of the Applicant for any tax credit balance remaining sixty days prior to the expiration of the Preliminary Certificate under ORS 285C.547(5).

Stat. Auth.: ORS 285C.540 - 285C.559, ORS 315.341, OL 2011, Ch. 474 HB2523  
Stats. Implemented: ORS 285C.540-559, 315.341, OL 2011, Ch. 474 HB2523, OL 2012, Ch. 45 HB 4079  
Hist.: OBDD 8-2012, f. & cert. ef. 6-1-12

## 123-600-0140

### Budget Limits and Payments

(1) Amount of Credits Allowed for a Facility. During any calendar year, a Manufacturing BETC preliminary certificate shall not be issued for more than:

(a) \$40 million in maximum eligible facility costs for a renewable energy resource equipment facility, not including those used to manufacture electric vehicles;

(b) \$2.5 million in maximum eligible facility costs for a facility used to manufacture electric vehicles;

(2) Fees for Certification. The Department has established the following schedule for payments to accompany an application as required under 285C.555.

(a) Included with each application for preliminary certification shall be an initial payment payable to the Department. The payment is 0.0060 multiplied by the facility eligible cost and not to exceed a payment amount of \$75,000, and subject to additional expenses incurred by the Department as described in this section.

(A) A refund shall not be granted for any reduced eligible costs that are included in an amended certificate.

(B) An additional application payment shall be paid as specified in (3)(a) of this rule if a request to amend a certificate to increase the eligible cost.

(C) No facilities shall be exempt from these requirements.

(b) Applications for preliminary certification shall not be reviewed or considered complete if not accompanied by the fee payment. Preliminary certificates shall only be issued if the application is complete. In addition, the Applicant may be required to pay for expenses incurred by the Department in connection with the application that exceed these payments and which the Department determines are incurred in connection with processing the application. The Applicant shall be advised of any additional application expenses the Applicant shall pay before the expenses are incurred by the Department.

Stat. Auth.: ORS 285C.540 - 285C.559, ORS 315.341, OL 2011, Ch. 474 HB2523  
Stats. Implemented: ORS 285C.540-559, 315.341, OL 2011, Ch. 474 HB2523, OL 2012, Ch. 45 HB 4079  
Hist.: OBDD 8-2012, f. & cert. ef. 6-1-12

## 123-600-0150

### Prioritization System for Manufacturing BETC Facilities

Applications in Excess of Biennial Limits. In the event that the Department receives applications for preliminary certification with a total amount of potential tax credits in excess of the limitations in ORS 285C.545, the Department shall allocate the potential tax credits according to the order in which the applications are complete.

Stat. Auth.: ORS 285C.540 - 285C.559, ORS 315.341, OL 2011, Ch. 474 HB2523  
Stats. Implemented: ORS 285C.540-559, 315.341, OL 2011, Ch. 474 HB2523, OL 2012, Ch. 45 HB 4079  
Hist.: OBDD 8-2012, f. & cert. ef. 6-1-12

## 123-600-0250

### Research, Development, or Demonstration Facility (RDD)

(1) Criteria. Eligible RDD facilities shall comply with one or more of the following criteria:

(a) Research facilities that include a test bench research, prototype or pilot scale construction of a theoretically proved or primary researched new renewable resource generating or conservation technology;

(b) Development facilities that include the manufacture or initiation of the capability to manufacture new products for renewable resource generating or energy conservation in Oregon;

(c) Demonstration facilities that are likely to resolve questions on how to apply new renewable resource generating or more efficient energy technologies through pilot or production scale applications of technology; and

(d) Facilities that are likely to achieve Department's goals as determined by the Director and shall demonstrate a reasonable potential to result in benefits in Oregon for which the value is likely to exceed the value of the tax credit, based on information filed with the application for preliminary certification.

(2) Eligible costs. Eligible costs for a RDD facility may include:

(a) Engineering, design and administrative costs

(b) Costs inherent in a research, development or demonstration facility that may not result directly in saved or produced energy. Such costs may include:

(A) Facility design, monitoring, assessment, evaluation and reporting. This includes but is not limited to: the development of standards, specifications, policies and procedures facilitating technology transfer; instruments, and controls.

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(B) Other equipment needed to monitor, assess or evaluate the facility and the impacts of the facility.

(c) The following costs related to demonstration model(s) may be considered eligible:

(A) Materials for the demonstration model(s).

(B) The manufacturing, construction, assembly, and/or installation of the demonstration model(s).

(C) Testing and monitoring the demonstration model(s).

(d) Other eligible costs as determined by the Director.

Stat. Auth.: ORS 285C.540 - 285C.559, ORS 315.341, OL 2011, Ch. 474 HB2523  
Stats. Implemented: ORS 285C.540-559, 315.341, OL 2011, Ch. 474 HB2523, OL 2012, Ch. 45 HB 4079

Hist.: OBDD 8-2012, f. & cert. ef. 6-1-12

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**Rule Caption:** This new rules division implements the Oregon Low Income Community Jobs Initiative.

**Adm. Order No.:** OBDD 9-2012

**Filed with Sec. of State:** 6-1-2012

**Certified to be Effective:** 6-1-12

**Notice Publication Date:** 5-1-2012

**Rules Adopted:** 123-630-0000, 123-630-0010, 123-630-0020, 123-630-0030, 123-630-0040, 123-630-0050, 123-630-0060, 123-630-0070, 123-630-0080, 123-630-0090, 123-630-0100

**Subject:** The Oregon Low Income Community Jobs Initiative was brought forth in the 2011 Legislative Session through SB 817. These rules implement the program which includes criteria for eligibility, as well as fees associated with the program.

**Rules Coordinator:** Mindee Sublette—(503) 986-0036

## 123-630-0000

### Purpose

This division of administrative rules specifies procedures and criteria necessary to administer processes under the Oregon Low Income Community Jobs Initiative for the certification of a qualified equity investment in order to receive a credit allowance for taxes otherwise due under ORS 316, 317 or 318.

Stat Auth: ORS 315.526 – 315.536

Stats Implemented: ORS 315.526 – 315.536, 316, 317, 318

Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12

## 123-630-0010

### Definitions

For the purposes of this division of administrative rules, additional definitions are found in Procedural Rules, OAR 123-001. As used in OAR 123 division 630 the following terms have the meanings set forth below, unless the context clearly indicates otherwise.

(1) “Applicable percentage” means zero percent for each of the first two credit allowance dates, seven percent for the third credit allowance date and eight percent for the next four credit allowance dates.

(2) “Credit allowance date” means, with respect to any qualified equity investment:

(a) The date on which the investment is initially made; and

(b) Each of the six yearly anniversary dates after that initial date.

(3) “Long-term debt security” means any debt instrument issued by a qualified community development entity, at par value or at a premium, with an original maturity date of at least seven years from the date of its issuance, with no acceleration of repayment, amortization or prepayment features prior to its original maturity date.

(4) “Purchase price” means the amount of cash paid to a qualified community development entity for a qualified equity investment.

(5) “Qualified active low-income community business” has the meaning given that term in section 45D of the Internal Revenue Code and the rules and regulations adopted thereunder. “Qualified active low-income community business” does not include, a business that derives or projects to derive 15 percent or more of its annual revenue from the rental or sale of real estate, unless the business is controlled by, or under common control with, another business that:

(a) Does not derive or project to derive 15 percent or more of its annual gross revenues from the rental or sale of real estate; and

(b) Is the primary tenant of real estate leased from the controlled business.

(6) “Qualified community development entity” has the meaning given that term in section 45D of the Internal Revenue Code, provided that the entity has entered into, or is controlled by an entity that has entered into, an allocation agreement with the Community Development Financial

Institutions Fund of the United States Department of the Treasury with respect to credits authorized by section 45D of the Internal Revenue Code, and the State of Oregon is included within the service area set forth in the allocation agreement.

(7) “Qualified equity investment” means any equity investment in, or long-term debt security issued by, a qualified community development entity, that:

(a) Is acquired at its original issuance solely in exchange for cash after July 1, 2012, unless it was a qualified equity investment in the hands of a prior holder; and

(b) Has at least 85 percent of its cash purchase price used by the issuer to make qualified low-income community investments in qualified active low-income community businesses located in this state.

(8) “Qualified low-income community investment” means any capital or equity investment in, or loan to, any qualified active low-income community business made after July 1, 2012.

Stat Auth: ORS 315.526 – 315.536

Stats Implemented: ORS 315.526 – 315.536

Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12

## 123-630-0020

### Credit Allowance

(1) A person or entity that makes a qualified equity investment shall, at the time of investment, earn a vested credit against the taxes otherwise due under ORS chapter 316, 317 or 318.

(2) The total amount of the tax credit available to a taxpayer under this section shall equal 39 percent of the purchase price of the qualified equity investment. The tax credit structure is over the course of seven years. The total tax credit value will be 39 percent of the total purchase price of the qualified equity investment. The applicable percentage is zero percent for years 1 and 2, seven percent for year 3 and eight percent for years 4, 5, 6 and 7. A tax credit allowed under this section may not be sold or transferred, with the exception that tax credits that a partnership, limited liability company, S corporation or other pass-through entity is entitled to claim may be allocated to the partners, members or shareholders of the entity for their direct use in accordance with the provisions of any agreement among the partners, members or shareholders.

(3) The holder of a qualified equity investment or any partner, member or shareholder of such holder pursuant to subparagraph 2 above on a particular credit allowance date of the qualified equity investment may claim a portion of the tax credit against its tax liability for the tax year that includes the credit allowance date equal to the applicable percentage for that credit allowance date multiplied by the purchase price of the qualified equity investment.

(4) The credit allowed under this section may not exceed the tax liability of the taxpayer claiming the credit for the tax year in which the credit is claimed.

(5) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular tax year may be carried forward and offset against the taxpayer’s tax liability in any succeeding tax year.

Stat Auth: ORS 315.526 – 315.536

Stats Implemented: ORS 315.526 – 315.536, 316, 317 or 318

Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12

## 123-630-0030

### Eligibility

(1) The following conditions and/or criteria must exist for a taxpayer to be eligible for the credit:

(a) A qualified community development entity that issues a debt instrument may not make cash interest payments on the debt instrument during the period commencing with its issuance and ending on its final credit allowance date in excess of the sum of the cash interest payments and the cumulative operating income, as defined in the regulations promulgated under section 45D of the Internal Revenue Code, of the qualified community development entity for the same period. This limitation shall only apply to long-term debt securities issued by a qualified community development entity that are designated as qualified equity investments and shall not apply to other debt of the qualified community development entity. Neither this paragraph nor the definition of “long-term debt security” provided in 123-630-0010 in any way limits the holder’s ability to accelerate payments on the debt instrument in situations where the qualified community development entity has defaulted on covenants designed to ensure compliance with this section or section 45D of the Internal Revenue Code.

(b) A business is considered a qualified active low-income community business for the duration of a qualified community development entity’s investment in or loan to the business if it is reasonable to expect that at the time of the qualified community development entity’s investment in or loan

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to a qualified active low-income community business, the business will continue throughout the duration of the investment in or loan to the business.

(c) A qualified equity investment must be designated a qualified equity investment by the qualified community development entity and be certified by the department.

(d) The maximum amount of qualified low-income community investments made in a qualified active low-income community business, together with all of its affiliates, that may count towards the requirement that a qualified community development entity invest at least 85 percent of the qualified equity investment in qualified active low-income community businesses in this state is \$4 million, whether made by one or several qualified community development entities.

(e) A qualified equity investment must be made before July 1, 2016. Nothing in this paragraph precludes an entity that makes a qualified equity investment prior to July 1, 2016, from claiming a tax credit relating to that qualified equity investment for each applicable credit allowance date.

(2) A taxpayer claiming a credit may not claim any other credit under ORS 315 or 285C during the same tax year based on activities related to the same qualified active low-income community business.

Stat Auth: ORS 315.526 – 315.536  
Stats Implemented: ORS 315.526 – 315.536  
Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12

## 123-630-0040

### Ineligible Activities

(1) Not all projects or businesses will qualify for the Oregon Low Income Community Jobs Initiative. Example businesses that are ineligible include but are not limited to:

- (a) Residential rental;
- (b) Owner occupied housing;
- (c) Farming operations;
- (d) Private or commercial golf courses;
- (e) Country clubs;
- (f) Massage parlors;
- (g) Hot tub facilities;
- (h) Suntan facilities;
- (i) Racetracks or other facilities used for gambling; and
- (j) Any store of which the principal business is the sale of alcoholic beverages for consumption off premises.

Stat Auth: ORS 315.526 – 315.536  
Stats Implemented: ORS 315.526 – 315.536, 285C  
Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12

## 123-630-0050

### Application and Fees

(1) An applicant seeking to have an equity investment or long-term debt security certified as a qualified equity investment and eligible for a tax credit under 123-630-0020 must submit an application to the department on a form that the department provides. A complete application must include all of the following:

- (a) The entity's name, address, tax identification number and evidence of certification as a qualified community development entity.
- (b) A copy of an allocation agreement executed by the entity, or its controlling entity, and the Community Development Financial Institutions Fund that includes the State of Oregon in its service area.
- (c) A certificate executed by an executive officer of the entity attesting that the allocation agreement remains in effect and has not been revoked or canceled by the Community Development Financial Institutions Fund.
- (d) A description of the proposed purchase price, structure and purchaser of the equity investment or long-term debt security.
- (e) The name and tax identification number of any person eligible to claim a tax credit, under 123-630-0020, allowed as a result of the certification of the qualified equity investment.
- (f) Information regarding the proposed use of proceeds from the issuance of the qualified equity investment on a form provided by the department. The information will include but is not limited to the following for each proposed qualified low-income community investment:

- (A) Location;
  - (B) Sources and uses of funds;
  - (C) Impacts to communities;
  - (D) Revenues;
  - (E) Number of jobs created and/or retained; and
  - (F) Economic impacts
- (g) A nonrefundable application fee of \$20,000. This fee shall be paid to the department and shall be required for each application submitted.

(2) In addition to what is required by the application or in this division of administrative rules, the applicant will submit any information requested by the Department for purposes of evaluating the application.

(3) A qualified community development entity that is certified under 123-630-0080 shall pay an annual evaluation fee of \$1,000 to the department with the submission of each report set forth in 123-630-0070.

(4) Applications will be processed on a first come, first serve basis. The department will begin accepting applications on July 2, 2012. Any application received by the department before July 2, 2012 shall be considered received by the department on July 2, 2012.

Stat Auth: ORS 285C.650 , 315.526 – 315.536  
Stats Implemented: ORS 285C.650 & 315.526 – 315.536  
Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12

## 123-630-0060

### Preference

The department may give preference to applications for projects in traded sectors as identified by the Commission in the Strategic Plan and that demonstrates overall community benefit and have one or more of the following characteristics:

- (1) Produce goods that directly reduce emissions of greenhouse gases or are designed as environmentally sensitive replacements for products in current use;
- (2) Have a primary purpose of improving the environment or reducing emissions of greenhouse gases;
- (3) Are operated by businesses with 100 or fewer employees;
- (4) Are located in rural or distressed areas of the state;
- (5) Employ displaced workers in the area;
- (6) Assist in the economic diversification of the area;
- (7) Contain a significant amount of owner equity capital. At least ten percent of the project costs for established companies and 30 percent of project costs for start-ups should come from equity or subordinated loans from the owners;
- (8) Encourage the flow of capital from outside the local area; or
- (9) Do not cause adverse competitive disadvantages to existing businesses.

Stat Auth: ORS 285A, 315.526 – 315.536  
Stats Implemented: ORS 315.526 – 315.536  
Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12

## 123-630-0070

### Reporting Requirements

(1) The qualified community development entity will submit a report by the first anniversary of the initial credit allowance date that provides proof that at least 85 percent of the cash purchase price of its qualified equity investment was used to make qualified low-income community investments in qualified active low-income community businesses located in this state.

(2) Thereafter, the qualified community development entity will submit an annual report within 45 days of the beginning of the state's fiscal year during the compliance period on a form provided by the department. No annual report shall be due prior to the first anniversary of the initial credit allowance date. The form shall be remitted to the department both in electronic and hard copy formats. The report will include but is not limited to the following:

- (a) Number of employment positions created and retained as a result of qualified low-income community investments;
- (b) Annual salary of each position described in subparagraph (a) of this paragraph; and
- (c) Number of positions described in subparagraph (a) of this paragraph that provide health benefits as described in ORS 743.730.

(3) The qualified community development entity is not required to provide the annual report information set forth in 123-630-0070(2) for qualified low-income community investments that have been redeemed or repaid.

Stat Auth: ORS 315.526 – 315.536  
Stats Implemented: ORS 315.526 – 315.536  
Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12

## 123-630-0080

### Certification

(1) Within 15 days after having received a complete application, the Department will grant or deny the application in full or in part and notify the applicant of the decision.

(2) If the application is deemed complete, the department will certify the proposed equity investment or long-term debt security as a qualified equity investment and eligible for a tax credit under 123-630-0020, and subject to the limitations stated in 123-630-0020. The department shall pro-

# ADMINISTRATIVE RULES

vide written notice of the certification to the qualified community development entity. The notice shall include the names of those taxpayers who are eligible to utilize the credits and their respective credit amounts. If the names of the persons or entities that are eligible to utilize the credits change due to a transfer of a qualified equity investment or a change in an allocation pursuant to 123-630-0020(2), the qualified community development entity shall notify the department of the change.

(3) Within 60 days after receiving notice of certification, the qualified community development entity shall issue the qualified equity investment and receive cash in the amount of the certified purchase price. The qualified community development entity must provide the department with evidence of the receipt of the cash investment within 10 business days after receipt. If the qualified community development entity does not receive the cash investment and issue the qualified equity investment within 60 days following receipt of the certification notice, the certification shall lapse and the entity may not issue the qualified equity investment without reapplying to the department for certification. A certification that lapses reverts to the department and may be reissued only in accordance with the application process outlined in this section.

(4) The department shall certify qualified equity investments in the order applications are received by the department. Applications received on the same day shall be deemed to have been received simultaneously. For applications received on the same day and deemed complete, the department shall certify, consistent with remaining tax credit capacity, qualified equity investments in proportionate percentages based upon the ratio of the amount of qualified equity investment requested in an application to the total amount of qualified equity investments requested in all applications received on the same day. If a pending request cannot be fully certified because of the limitation in 123-630-0090, the department shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial credit.

(5) If the department denies any part of the application, the notification to the applicant will include the grounds for denial. The applicant will have 15 days of receipt of the notification to provide additional information to mediate the denial. Within 15 days after the department receives any such additional information, the department will reconsider the application. If the department grants the application upon reconsideration, the approval will be effective as of the original date of submission. If the applicant fails to provide additional information within 15 days of receipt of the denial, the application remains denied.

Stat Auth: ORS 315.526 – 315.536  
Stats Implemented: ORS 315.526 – 315.536  
Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12

## 123-630-0090

### Limitations for Certification

(1) Once the department has certified a cumulative amount of qualified equity investments that can result in the utilization of \$16 million of tax credits in any tax year, the department may not certify any more qualified equity investments under 123-630-0080. This limitation shall be based on the scheduled utilization of tax credits without regard to the potential for taxpayers to carry forward tax credits to later tax years.

(2) The department will reserve \$30 million of qualified equity investment authority for qualified low-income community investments in qualified active low-income community businesses that:

(a) Have a primary purpose of improving the environment or reducing emissions of greenhouse gases; or

(b) Produce goods that directly reduce emissions of greenhouse gases or are designed as environmentally sensitive replacements for products in current use.

(3) The department will reserve \$170 million of qualified equity investment authority for all other qualified active low-income community investments (which may include the types of investments set forth in 123-630-0090(2)).

(4) All applications will indicate the amount of qualified equity investment authority sought by the applicant under 123-630-0090(2) and 123-630-0090(3). The maximum amount of qualified equity investment authority for which an applicant may apply under 123-630-0090(2) is \$30 million and under 123-630-0090(3) is \$170 million.

Stat Auth: ORS 285C.650 – 653, 315.526 – 315.536  
Stats Implemented: ORS 315.526 – 315.536  
Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12

## 123-630-0100

### Recapture of Tax Credit

(1) The Department of Revenue may recapture any portion of a tax credit per ORS 285C.656 and 315.533.

(2) The Department of Revenue may recapture any portion of a tax credit if the qualified community development entity applies for and receives qualified equity investment authority under 123-630-0090(2) and fails to invest at least 85 percent of the cash purchase price of the QEI in qualified active low-income community businesses that satisfy the requirements of 123-630-0090(2) within 12 months of the issuance of the qualified equity investment and maintain such level of investment in qualified active low-income community businesses satisfying such requirements until the last credit allowance date for such qualified equity investment.

(3) The department shall pre-screen a qualified community development entity's proposed investment in a qualified active low-income community business for purposes of determining if the business satisfies the requirements of 123-630-0090(2). The department shall, not later than 15 business days after the date of receipt of all relevant documentation, determine whether the qualified active low-income community business satisfies the requirements of 123-630-0090(2) and notify the qualified community development entity in writing of the determination and an explanation of its determination. If the department fails to notify the qualified community development entity with respect to the proposed investment within the period specified in this paragraph, the business in which the qualified community development entity proposes to invest is considered to satisfy the requirements of 123-630-0090(2).

Stat Auth: ORS 285C.656 & 315.526 – 315.536  
Stats Implemented: ORS 285C.656 & 315.526 – 315.536  
Hist.: OBDD 9-2012, f. & cert. ef. 6-1-12

## Oregon Commission on Children and Families Chapter 423

**Rule Caption:** Waiver of requirements of Local Commissions codified in OAR due to reduced state and local resources and staff capacity.

**Adm. Order No.:** OCCF 1-2012

**Filed with Sec. of State:** 6-1-2012

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**Notice Publication Date:** 5-1-2012

**Rules Amended:** 423-010-0023, 423-010-0026

**Subject:** HB 4165, enacted during the 2012 Legislative Session, sunsets the Oregon Commission on Children and Families on June 30, 2012 and transitions all of its functions to other entities. Funding for Local Commission administration was reduced in the 2011–13 budget. Therefore, the State Commission is amending the stated administrative rules in order to maximize limited resources and focus staff work toward meeting statutory obligation and transition process.

**Rules Coordinator:** Sandra Flickinger—(503) 378-5125

## 423-010-0023

### Categorization and Limitation of Local Commission Costs

(1) Basic Capacity:

(a) The State Commission determines a biennial allocation of funds to assist Local Commissions in the costs associated with functions related to the Local Commission office. County Basic Capacity allocations may be used for activities in accordance to the limitations in 423-010-0023(5) for costs associated with operating an office, which include functions such as policy and planning, evaluation of state and local outcomes, information systems, fiscal and budget, communications, personnel, reception, general correspondence, contracting processes, mapping systems, designing and assessing strategies, and other related functions of the Local Commission office. Basic Capacity may also be used for costs associated with the monitoring of contracts, quality control, and the measurement of outcomes to determine the efficiency and effectiveness of an activity.

(b) Each county must provide the State Commission information on the Local Commission staffing structure that, at minimum, meets the requirements of ORS 417.760(1)(b) and continues activities to meet the county's Local Commission obligations as detailed in OR 417.760 through 417.787 and State Commission on Children and Families Oregon Administrative Rules.

(c) The Executive Committee of the State Commission may waive the 2.0 full-time equivalent staff requirement only when the following criteria have been met:

(A) A plan for staffing is submitted to the Agency that includes a detailed description of how the staffing plan meets the requirements of the Partnership Agreement and accomplishes critical areas of the Components Document and documents in-kind, volunteer assistance or other methods to meet those requirements.

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(B) A review is completed by the Agency of past performance of the Local Commission, including meeting timelines, monitoring and compliance requirements, and quality of plans and outcomes.

(C) A written description is provided to the Agency that demonstrates that there is no real or perceived conflict of interest or conflict with ORS 417.775(2) (a), which prohibits Local Commissions from providing direct services.

(D) Letters or other form of written communication that supports the waiver request are provided from community partners from formal and informal systems that work regularly with the Local Commission in accomplishing its work.

(E) Written evidence of the Local Commission recommendation and BOCC support.

(F) If the Local Commission disagrees with the decision of the Executive Committee, it may request reconsideration of the decision at the next regularly scheduled meeting of the Executive Committee. Following that, the Local Commission may appeal the decision to the State Commission at its next regularly scheduled meeting.

(d) Funds remaining in the Basic Capacity allocation after meeting the requirement of 423-010-0023(1)(a) may be used for Community Mobilization or programs or services to children and families that are identified in the Local Plan.

(e) Basic Capacity appropriations cannot be carried from one biennium to the next pursuant to OAR 423-010-0027(7) and (8), but will revert to the State if not obligated or expended at the end of the biennium.

(2) Community Mobilization: Counties may allocate funds for the purposes of community mobilization activities and strategies from locally invested funds as defined in OAR 423-001-006 (20). All community mobilization activities and strategies funded with locally invested funds must use proven practices of effectiveness and outcomes data must be reported for each activity and strategy.

(3) Medicaid (Title XIX): Local Commissions may allocate a combined total of up to 5 percent from Medicaid (Title XIX) claims for reimbursement of documented costs of administering Medicaid (Title XIX). There is no limit to the amount of Medicaid (Title XIX) claims that can be allocated to service providers so long as the Medicaid (Title XIX) earnings are reinvested in the program from which they were earned.

(4) Local Commissions may allocate up to a total of 4 percent of Healthy Start General Fund for contract management functions.

(5) Limitation on Usage:

(a) Consistent with the terms and conditions in the Intergovernmental Agreement, all budget allocations will be directly related to at least one strategy in the Local Plan, meet the purpose and restrictions of each program area and grant stream, and have measurable outcomes.

(b) Service provider contracts: Counties may allocate funds to providers for the cost of services or activities to children and families, however all services or activities must be identified in the Local Plan.

(c) Services and programs funded by another federal or state funding source cannot be funded with OCCF dollars when blending of those funds are not allowed by state or federal agreements or when duplication will occur.

(d) County Indirect/Direct Cost Assessment: Counties may assess direct and indirect charges from the Basic Capacity funding stream at an assessment no higher than 10 percent of the total annual Local Commission allocation from the Agency less funding streams expressly disallowed by state or federal statute or rule. This rule is subject to monitoring and review by the Agency.

(6) A Local Commission may not provide direct services as defined in OAR 423-001-0006(11). However a Local Commission may provide direct services for children, youth or families for a period not to exceed six months under conditions determined in ORS 417.775(2)(a) through (b). The State Commission will not allow an extension beyond six months. Local Commissions not in compliance with this section will be subject to withholding of funds described in OAR 423-010-0027(9).

(7) Agency Approval: Budget allocations effectuated pursuant to the Intergovernmental Agreement and amendments will be subject to Agency review and approval.

Stat. Auth.: ORS 417.705 - 417.797

Stats. Implemented: ORS 417.705 - 417.797

Hist.: CCF 3-1994, f. & cert. ef. 5-18-94; CCF 1-1995, f. & cert. ef. 8-1-95; CCF 1-1997, f. 12-15-97, cert. ef. 12-19-97; OCCF 1-2002, f. & cert. ef. 1-14-02; OCCF 1-2004, f. & cert. ef. 9-15-04; OCCF 3-2007(Temp), f. 5-8-07, cert. ef. 5-11-07 thru 9-7-07; Administrative correction 8-16-07; OCCF 2-2008(Temp), f. & cert. ef. 6-30-08 thru 11-25-08; OCCF 3-2008, f. & cert. ef. 12-12-08; OCCF 1-2012, f. & cert. ef. 6-1-12

## 423-010-0026

### Plan Approval

(1) The State Commission may delegate authority to the Agency to approve plans, plan updates and plan amendments, or budgets. If a Local Commission contests an Agency recommendation or decision, the Local Commission may appeal the recommendation or decision to the State Commission.

(2) Local Plans will be for six years in duration from the time of approval by the State Commission Representatives from Local Commissions may participate in the development of the format and process. During the six year plan duration, a plan may be amended as needed by the county to respond to new issues or opportunities. The Agency will review plan amendments following a similar process as the plan approval.

(3) The State Commission will review and approve the Local Plan and amendments, except for any portions pertaining to alcohol and drug prevention and treatment plans, local mental health service plans and public health plans, in conjunction with other child- and family-serving state agencies as noted in ORS 417.735(4). All plans and plan amendments must meet the following minimum requirements:

(a) Signed by the Board of County Commissioners,

(b) Meets guidelines developed through state and local agency collaboration and provided in advance to counties, and

(c) Demonstrates that appropriate systems and planning connections were met, such as inclusion of diverse populations and broad involvement by citizens and organizations.

(4) Under the conditions outlined in ORS 417.735(4), the State Commission may disapprove a Local Plan in whole or in part only upon making specific findings that the Local Plan substantially fails to conform to the principles, characteristics and values identified in ORS 417.710-417.725 and 417.735(4), for failure to address the elements required in OAR 423-010-0026(3), or that the Local Plan fails to conform with the planning process requirements of ORS 417.775. If the State Commission disapproves a Local Plan in part or whole, the State Commission will provide the Local Commission with written comments on the areas of the Local Plan that led to the disapproval within 90 days of the receipt of the plan. If the State Commission disapproves only part of the Local Plan, the remainder of the Local Plan may be implemented. The Agency will provide technical assistance for remedying the deficiencies in the planning process or the local early childhood system planning. The State Commission will set a date by which the Local Plan or the deficient portion thereof will be revised and resubmitted.

(5) The State Commission approval or disapproval will not apply to the components of the Local Plan or amendments that relate to local alcohol and drug prevention and treatment planning, local public health or mental health service plans, or high-risk juvenile crime prevention planning.

(6) Following approval of a Plan or plan amendment, the State Commission, or its delegate, will send to the BOCC a notification of plan approval, including any special conditions attached to the approval and any actions required before disbursement of funds to implement the plan.

Stat. Auth.: ORS 183 & 417.705 - 417.797

Stats. Implemented:

Hist.: JSC 1-1984, f. 12-28-84, ef. 1-1-85; JSC 1-1986, f. & ef. 12-29-86; CCYS 3-1990, f. & cert. ef. 12-24-90 (and corrected 3-5-91); CCF 2-1994(Temp), f. & cert. ef. 3-10-94; CCF 3-1994, f. & cert. ef. 5-18-94; OCCF 1-2002, f. & cert. ef. 1-14-02; OCCF 1-2004, f. & cert. ef. 9-15-04; OCCF 1-2012, f. & cert. ef. 6-1-12

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## Oregon Department of Aviation Chapter 738

**Rule Caption:** Wado Lake access and the use of seaplanes with certain restrictions.

**Adm. Order No.:** AVIA 2-2012(Temp)

**Filed with Sec. of State:** 6-11-2012

**Certified to be Effective:** 6-11-12 thru 12-7-12

**Notice Publication Date:**

**Rules Adopted:** 738-040-0035

**Subject:** Temporary rule amends Oregon Administrative Rule 738-040 by including new paragraph 738-040-0035 to allow for the use of seaplanes at Waldo Lake to empirically document usage and impose certain restrictions.

**Rules Coordinator:** Cindy M. Pease—(503) 378-4881



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## 738-040-0035

### Waldo Lake Access and the Use of Seaplanes with Certain Restrictions.

(1) Seaplane pilots shall not use Waldo Lake for pilot training. Waldo Lake may only be used as a destination lake for the purpose of recreation. Seaplanes may only be used as the mode of transportation to and from the lake.

(2) Seaplanes shall be limited in their hours of operation to access Waldo Lake between the hours of 8am or 30 minutes after sunrise whichever is later and 8pm or 30 minutes prior to sunset whichever is earlier for arrivals and departures.

(3) Seaplane operations on Waldo Lake shall be limited to the eastern half of the lake at a location where seaplanes can operate safely. Pilots will be responsible for operating in a safe manner so as to not endanger any persons or watercraft using the lake.

(4) Seaplane pilots shall screen their aircraft for invasive species prior to landing at Waldo Lake. Any invasive species discovered shall be removed prior to arrival at Waldo Lake.

(5) Pilots shall use best noise abatement procedures consistent with safe operating procedures.

(6) Pilots are required to notify the Department of Aviation, using an FAA flight plan form within 48 hours of departure from Waldo Lake to empirically document usage. The Department shall keep track of seaplane operations to quantify the scope of usage. The Flight Plan report shall include:

- (a) Point of contact including phone number.
- (b) Time of Arrival.
- (c) Time of Departure.

Stat. Auth.: ORS 183.335, 835.035, 835.200, 835.205

Stats. Implemented: ORS 183 & 830

Hist.: AVIA 2-2012(Temp), f. & cert. ef. 6-11-12 thru 12-7-12

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## Oregon Department of Education Chapter 581

**Rule Caption:** Clarifies that both federal FERPA and IDEA apply to education records of children with disabilities.

**Adm. Order No.:** ODE 15-2012

**Filed with Sec. of State:** 6-8-2012

**Certified to be Effective:** 6-11-12

**Notice Publication Date:** 4-1-2012

**Rules Amended:** 581-015-2300, 581-015-2770

**Rules Repealed:** 581-015-2300(T), 581-015-2770(T)

**Subject:** Rules clarify that both federal FERPA and IDEA apply to children with disabilities, birth to age 21. Timelines for parental access to these records differ by age of the child.

**Rules Coordinator:** Shelby Campos—(503) 947-5801

## 581-015-2300

### Access to Student Education Records

(1) For purposes of ensuring the safeguards required for education records of children with disabilities, including early intervention and early childhood special education records, the Department adopts by reference the provisions of FERPA, 34 CFR 99.1 to 99.38, the IDEA, 34 CFR 300.610 to 34 CFR 300.627 and 34 CFR 303.401 through 303.411.

(a) For children with disabilities under age three, references to a “student” in these rules means an infant or toddler with a disability.

(b) For children with disabilities under age three, “student records” means EI records.

(2) This provision includes all education records with respect to:

(a) The identification, evaluation, and educational placement of the child; and

(b) The provision of a free appropriate public education to the child.

(3) The program, district, agency, or contractor must comply with a parent’s request to inspect and review records without unnecessary delay and within the following timelines:

(a) For children under age three, before any meeting regarding an IFSP, or any hearing pursuant to 303.430(d) and 303.435 through 303.340, and in no case more than 10 days after the request has been made.

(b) For children over the age of three, before any meeting regarding an IEP/IFSP, or any due process hearing, or resolution session related to a due process hearing, and in no case more than 45 days after the request has been made.

Stat. Auth.: ORS 343.041, 343.155

Stats. Implemented: ORS 343.155, 343.173, 34 CFR 300.501 & 34 CFR 303.405(a)

Hist: ODE 4-2000, f. & cert. ef. 2-1-00; ODE 6-2003, f. 4-29-03, cert. ef. 4-30-03; Renumbered from 581-015-0606, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 13-2012(Temp), f. 3-30-12, cert. ef. 4-2-12 thru 9-1-12; ODE 15-2012, f. 6-8-12, cert. ef. 6-11-12

## 581-015-2770

### Confidentiality of Records for Preschool Children with Disabilities

Contractors and subcontractors must follow the rules and procedures in OAR 581-015-2030 and 34 CFR 303.400 through 303.416 for confidentiality of records for preschool children with disabilities with the following exception: “School district” means contractors or subcontractors.

Stat. Auth.: ORS 343.475, 343.485

Stats. Implemented: ORS 343.485 & 34 CFR 303.400–303.417

Hist.: EB 23-1992, f. & cert. ef. 6-23-92; ODE 24-2000, f. & cert. ef. 10-16-00; Renumbered from 581-015-1010, ODE 10-2007, f. & cert. ef. 4-25-07; ODE 13-2012(Temp), f. 3-30-12, cert. ef. 4-2-12 thru 9-1-12; ODE 15-2012, f. 6-8-12, cert. ef. 6-11-12

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**Rule Caption:** Prohibits public schools from using race based Native American mascots.

**Adm. Order No.:** ODE 16-2012

**Filed with Sec. of State:** 6-8-2012

**Certified to be Effective:** 6-11-12

**Notice Publication Date:** 4-1-2012

**Rules Adopted:** 581-021-0047

**Subject:** Prohibits use of race based Native American mascots by public schools on or after July 1, 2017. Defines the term “Native American mascot.” Requires school districts, education service districts and charter school sponsors to notify public schools that use Native American mascots, notify the Department of Education of each school’s use and notify Department when new mascot is adopted.

Allows Superintendent to withhold all or part of state funding for noncompliance.

**Rules Coordinator:** Shelby Campos—(503) 947-5801

## 581-021-0047

### Prohibits Public Schools from using Native American Mascots

(1) As used in this section:

(a) “Native American mascot” means a name, symbol or image that depicts or refers to an American Indian Tribe, individual, custom or tradition that is used by a public school as a mascot, nickname, logo, letterhead or team name.

(b) “Public school” means a school or program operated by a school district, education service district or public charter school.

(2) To ensure that all public schools are in compliance with ORS 659.850 which prohibits discrimination in public schools, on or after July 1, 2017, the use of any Native American mascot by a public school is prohibited.

(3)(a) The prohibition under this section includes a prohibition on the use of team names such as “Redskins,” “Savages,” “Indians,” “Indianettes,” “Chiefs,” “Chieftains,” and “Braves.”

(b) A public school may continue to use the team name “Warriors” as long as it is not combined with a symbol or image that depicts or refers to an American Indian Tribe, individual, custom or tradition.

(c) A public school may continue to use a mascot that may be associated with Native American culture, custom or tradition if the mascot depicts an animal or other image that is not a person. Examples of such mascots include team names and images such as the “Thunderbirds”, “White Buffalo” and “Eagles.”

(4) Nothing in this rule shall be construed to prohibit a public school from:

(a) Displaying art work, historical exhibits or other cultural educational exhibits or conducting educational programs related to Native Americans as long as the display or program is not associated with a Native American mascot;

(b) Honoring the contributions of Native Americans by naming a school, building or program after a Native American. (5) Each school district, education service district or sponsor of a public charter school shall notify:

(a) On or before January 1, 2013, the Department of Education if any school operated by the district or sponsor uses a Native American Mascot; and

(b) On or before July 1, 2017, the Department of Education when a new mascot is adopted for the public school.

(6) The Superintendent of Public Instruction shall find any school district, education service district or public charter school that violates this

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section to be in noncompliance with the discrimination prohibitions under ORS 659.855. Pursuant to ORS 659.855, the Superintendent may immediately withhold all or part of state funding from the school district, education service district or public charter school.

Stat. Auth. ORS 326.051, 659.850 & 659.855  
Stat. Implemented: ORS 326.051, 338.115, 659.850 & 659.855  
Hist.: ODE 16-2012, f. 6-8-12, cert. ef. 6-11-12

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**Rule Caption:** Student physical restraint and seclusion requirements for public education programs.

**Adm. Order No.:** ODE 17-2012

**Filed with Sec. of State:** 6-8-2012

**Certified to be Effective:** 6-11-12

**Notice Publication Date:** 2-1-2012

**Rules Repealed:** 581-021-0062

**Subject:** HB 2939 was enacted in 2011. To implement this legislation the state board drafted 6 new rules to replace this existing rule which is being repealed. These new rules relate to physical restraint and seclusion in public education programs and implement HB 2939 enacted by the 2011 Legislature. The rules:

1. Specify when restraint methods may be used and what types of restraint may be used on students.

2. Procedures regarding restraint and seclusion.

3. Reporting requirements for public education programs.

4. Approval of training programs on restraint and seclusion.

5. Use of training programs by public education programs.

**Rules Coordinator:** Shelby Campos—(503) 947-5801

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**Rule Caption:** Calculation of Extended ADMw for Charter Schools for purposes of state school funding.

**Adm. Order No.:** ODE 18-2012

**Filed with Sec. of State:** 6-8-2012

**Certified to be Effective:** 6-11-12

**Notice Publication Date:** 1-1-2012

**Rules Adopted:** 581-023-0106

**Subject:** The average daily membership weighted (ADMw) of a public charter school is used to calculate the amount state funding a charter school receives. The 2011 Legislature enacted multiple bills that impacted the calculation of ADMw for both public charter schools and school districts. Specifically, the rule addresses the following areas that were the subject of this legislation:

1. The calculation of extended ADMw for both charter schools and school districts.

2. The weight that is to be added to a charter school's ADM for students with disabilities, pregnant and parenting programs, English as a Second Language programs, poverty and small schools.

The rule also specifies that it first applies to the 2011-2012 fiscal year which is consistent with applicability of the legislation.

**Rules Coordinator:** Shelby Campos—(503) 947-5801

## 581-023-0106

### Calculation of Extended ADMw for Charter Schools

(1) The following definitions and abbreviations apply to this rule:

(a) "ADM" means average daily membership as defined in ORS 327.006(3) and OAR 581-023-0006 to 581-023-0008.

(b) "ADMw" or "average daily membership weighted" means ADMw or average daily membership weighted as defined in ORS 372.013(1)(c)(A).

(c) "Extended ADMw" means as that term is described in ORS 327.013(1)(c).

(d) "Public Charter Schools" means as that term is defined in ORS 338.005.

(e) "Non-charter schools" are all institutions, programs and schools used by a district to calculate and receive funding pursuant to ORS 327.013, excluding charter schools as defined in ORS 338.005.

(f) "Students Eligible for Special Education" means children with a disability under ORS 343.035.

(g) "English as a Second Language Program", or "ESL", means programs that comply with OAR 581-023-0100(4)

(h) "Pregnant and Parenting Program" means programs that comply with OAR 581-023-0100(3).

(i) "Small School Correction" means additional weighting pursuant to ORS 327.077.

(j) "Students in poverty" means those students as defined in ORS 327.013(1)(c)(A)(v)(D).

(2) Pursuant to ORS 338.155, for State School Fund purposes, extended ADMw for public charter schools will be calculated as follows:

(a) The ADMw of all charter schools in a given school district will be separately calculated on an individual charter school basis;

(b) The charter school Extended ADMw will be calculated separately from the Extended ADMw calculated for non-charter schools in that same school district.

(c) The Extended ADMw for charter schools will be combined with the Extended ADMw for the non-charter schools to arrive at one extended ADMw for each school district.

(d) The combined Extended ADMw will be used to calculate the school district's portion of the State School Fund distribution pursuant to ORS 327.013.

(3) The ADMw for a charter school includes:

(a) An additional 1.0 weight for all students in a Pregnant and Parenting program as described in OAR 581-023-0100(3).

(b) An additional 0.5 weight for all students in an English as a Second Language Program as described in OAR 581-023-0100(4).

(c) An additional 0.25 weight for each student in the charter school as calculated by ORS 338.157 to adjust for the poverty level.

(d) An additional weight for a remote small elementary school correction as calculated pursuant to ORS 327.077 if the charter school qualifies as a remote small elementary school under ORS 327.077.

(e) An additional weight for a small high school correction as calculated pursuant to ORS 327.077 if the charter school qualifies as a small high school under ORS 327.077.

(f) Students Eligible for Special Education attending a charter school will be added to the charter school's ADMw pursuant to ORS 338.165.

(4) The extended ADMw for non-charter schools shall be calculated as the district extended ADMw pursuant to ORS 327.013(1)(c)(A)-(C).

(5) Pursuant to ORS 338.155(1)(b)(C) all funds to be distributed to charter schools based on charter schools' ADMw will first be distributed to the district where the charter school is located. The funds will then be distributed to the charter schools pursuant to ORS 338.155(2), (3) or (7).

(6) This rule first applies to State School Fund distribution commencing with the 2011-2012 fiscal year.

Stat. Auth.: ORS 327.125 & 338.025  
Stats. Implemented: ORS 327.013, 327.077, 338.155 & 338.165  
Hist.: ODE 18-2012, f. 6-8-12, cert. ef. 6-11-12

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**Rule Caption:** Rewrite and reorganization of pupil transportation rules.

**Adm. Order No.:** ODE 19-2012

**Filed with Sec. of State:** 6-14-2012

**Certified to be Effective:** 6-14-12

**Notice Publication Date:** 4-1-2012

**Rules Adopted:** 581-053-0003, 581-053-0004, 581-053-0021, 581-053-0031, 581-053-0040, 581-053-0050, 581-053-0060, 581-053-0070, 581-053-0100, 581-053-0110, 581-053-0120, 581-053-0130, 581-053-0135, 581-053-0140, 581-053-0145, 581-053-0150, 581-053-0160, 581-053-0170, 581-053-0180, 581-053-0210, 581-053-0220, 581-053-0225, 581-053-0230, 581-053-0240, 581-053-0250, 581-053-0310, 581-053-0320, 581-053-0330, 581-053-0340, 581-053-0410, 581-053-0420, 581-053-0430, 581-053-0440, 581-053-0445, 581-053-0511, 581-053-0521, 581-053-0531, 581-053-0610, 581-053-0615, 581-053-0620, 581-053-0630, 581-053-0640

**Rules Amended:** 581-053-0002, 581-053-0010, 581-053-0540

**Rules Repealed:** 581-053-0006, 581-053-0008, 581-053-0015, 581-053-0507, 581-053-0512, 581-053-0516, 581-053-0527, 581-053-0535, 581-053-0545, 581-053-0550, 581-053-0555, 581-053-0556

**Subject:** These rule revisions separate several rules and reorganize the entire rule division relating to pupil transportation.

**Rules Coordinator:** Shelby Campos—(503) 947-5801

## 581-053-0002

### Purpose and Applicability

(1) The purpose of the rules set forth in this division is to ensure the safety of students while being transported to or from school or authorized school activities by establishing standards for vehicle construction, driver

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qualifications, vehicle and record inspections, and administrative provisions of pupil transportation;

(2) The rules in this division apply to all school districts and individual schools, including public, private, parochial, public charter, and alternative schools, and education service districts and head start agencies which provide transportation services to students from home to school or to authorized school activities, either through internal or contracted services.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: 1EB 13-1978, f. 4-3-78, ef. 9-1-78; 1EB 5-1979, f. & ef. 3-30-79; EB 3-1987, f. & ef. 2-18-87; EB 43-1988, f. 12-16-88, cert. ef. 1-1-89; EB 5-1992, f. & cert. ef. 2-21-92; EB 21-1993, f. & cert. ef. 6-2-93; ODE 11-1999, f. & cert. ef. 2-12-99; ODE 30-1999, f. 12-13-99, cert. ef. 12-14-99; ODE 7-2002, f. & cert. ef. 3-11-02; ODE 1-2003(Temp), f. & cert. ef. 3-4-03 thru 8-1-03; ODE 11-2003, f. & cert. ef. 6-13-03; ODE 11-2004, f. & cert. ef. 8-4-04; ODE 16-2007, f. & cert. ef. 7-6-07; ODE 27-2007, f. & cert. ef. 10-26-07; ODE 4-2011, f. & cert. ef. 3-17-11; ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0003

### Definitions

The following terms used in OAR Chapter 581, Division 053 shall be defined as follows:

(1) "Accident" means an occurrence that results in any of the following:

(a) An injury requiring medical or dental treatment.

(b) Combined vehicle and property damage in excess of \$500. This includes:

(A) Damage to the school bus or school activity vehicle; and

(B) Damage to property other than the school bus or school activity vehicle, including damage to another school bus or school activity vehicle, or transportation entity property.

(2) "Activity trip" means transportation between a school or location to another school or location, but not home-to-school.

(3) "Actual knowledge" means direct and clear awareness of a circumstance or fact, resulting from either observation or investigation.

(4) "Approved" means a motor carrier approved by ODE for transportation of school children for activity trips.

(5) "Authorized official" means a person designated by the local employer.

(6) "CDL" means a commercial driver license as defined in ORS 801.207

(7) "CLP" means a commercial learners permit issued by this state or another jurisdiction to allow an individual to be trained on the operation of a commercial motor vehicle, including a school bus.

(8) "Carrier or Motor carrier" means for-hire carrier or private carrier subject to ORS Chapter 825.

(9) "Certificate of Carrier Approval" means a certificate from ODE authorizing a motor carrier to transport students for Oregon schools.

(10) "Chaperone" means a person authorized by the school district.

(11) "Chargeable Accident" is an accident in which the driver is answerable as the primary cause of, or the result of, the accident.

(12) "Classroom instructor" means a person who holds one or more of the following certificates issued by ODE:

(a) Core Instructor Certificate;

(b) Core Refresher Instructor Certificate; or

(c) Transporting Students with Special Needs Instructor Certificate.

(13) "Contractor" means any company, organization or person that provides transportation services to a transportation entity and is not subject to ORS Chapter 825 while providing that service.

(14) "DMV" means the Oregon Department of Transportation, Driver and Motor Vehicle Services Division.

(15) "Diabetic person" means a person who takes insulin.

(16) "Driving instructor" means a person who holds one of the following certificates issued by ODE:

(a) Behind-the-Wheel Trainer Certificate;

(b) Behind-the-Wheel Probationary Trainer Certificate;

(c) Advanced Reference Point Trainer Certificate; or

(d) Assistant Trainer Certificate.

(17) "Invalid" means a certificate or permit that has expired, has been made inactive, or is otherwise immediately disqualified by rule.

(18) "Medical certificate" is defined in OAR 735-063-0060.

(19) "Home to School" means transportation between the student's residence, babysitter, daycare or designated pick up or drop off spot and their educational facility.

(20) "Motor coach" means an over-the-road bus, having a gross vehicle weight rating (GVWR) of 26,000 lbs or more but does not include the following:

(a) Buses used in public transportation provided by a State or local government; and

(b) Vehicles owned or operated by a mass transport district created under ORS Chapter 267.

(21) "OAR" means Oregon Administrative Rule(s).

(22) "ODE" means the Oregon Department of Education.

(23) "ORS" means Oregon Revised Statute(s).

(24) "Provider of Motor coach services" means a motor carrier providing passenger transportation service with a motor coach for compensation, including per-trip compensation or chartered compensation.

(25) "Refused" means that ODE has determined that an applicant is unqualified for the certificate or permit being applied for.

(26) "Rejected" means that an application for certificate or permit is incomplete and no determination of qualification will be made.

(27) "Revoke" means the termination of one or more certificates or permits. Revoked certificates are not reinstated at the end of the revocation period. Individuals who have had a certificate revoked shall reenter the program in the same way as an individual entering the program for the first time.

(28) "School board" means the governing board or governing body of the transportation entity.

(29) "School activity vehicle" is defined in ORS 801.455 and includes all such vehicles that are owned, leased, or rented by a transportation entity.

(30) School Activity Vehicle Types:

(a) "Type 10 vehicle" means a vehicle that has a capacity of not more than ten persons, a gross vehicle weight rating of not more than 10,000 pounds and are used to transport students to and from school or authorized school activities.

(b) "Type 20 vehicle" means a vehicle that has a capacity of not more than 20 passengers, a gross vehicle weight rating of not more than 14,500 pounds, and are used to transport students to and from authorized school activities.

(c) "School pupil activity bus (SPAB)" means a motor coach operated by a motor carrier, used under a contractual agreement between a transportation entity and a carrier to transport school pupils on activity trips.

(31) "School bus" is defined in ORS 801.460 and includes all such vehicles that are owned, leased, or rented by a transportation entity.

(32) School Bus Types:

(a) "Type A-1" means a school bus with a gross weight rating of 14,500 pounds or less.

(b) "Type A-2" means a school bus with a gross weight rating between 14,500 and 19,500 pounds, and a passenger capacity not to exceed 36.

(c) "Type B" means a school bus with a gross weight rating between 10,000 pounds and 19,500 pounds. Most of the engine is beneath and/or behind the windshield and beside the driver's seat. The entrance door is behind the front wheels.

(d) "Type C" means a school bus with all or part of the engine in front of the windshield and the entrance door behind the front wheels.

(e) "Type D" means a school bus with the engine mounted in the front behind the windshield, midship, or rear. The entrance door is ahead of the front wheels.

(33) "Skills test" means the test given to a school bus or school activity vehicle driver prior to certification or approval to drive that type of vehicle. The skills test is composed of the following tests:

(a) Vehicle Inspection Test

(b) Basic Control Skills Test (only applicable to a school bus or type 21 test)

(c) On-Road Driving Test

(34) "Submit" means that a document has been received by ODE

(35) "Supervisor":

(a) Prior to July 1, 2015 means a person authorized by the transportation entity or contractor.

(b) On or after July 1, 2015 means a person designated by the transportation entity or contractor who holds ODE Supervisor Certification.

(36) "Suspend" means the temporary withdrawal of one or more certificates or permits for a period not to exceed one year. Suspended certificates are reinstated at the end of the suspension period provided that all other certificate requirements are met.

(37) "Trained in first aid" means a person who possesses a valid first aid card verifying completion of a hands-on first aid class that meets the requirements of the American Red Cross first aid program or an equivalent course that is consistent with the Best Practices Guide: Fundamentals of a Workplace First-Aid Program (OSHA 3317-2006) published by the

# ADMINISTRATIVE RULES

Occupational Safety Health Administration, U.S. Department of Labor. The training program shall include instructor observation of acquired skills and shall include, but not be limited to, the following training:

- (a) Curriculum based on a consensus of scientific evidence;
- (b) Treating airway obstruction in a conscious victim;
- (c) Recognizing the signs and symptoms of shock and providing first aid for shock due to illness or injury;
- (d) Controlling bleeding with direct pressure;
- (e) Poisoning;
- (f) Wounds;
- (g) Burns;
- (h) Temperature Extremes;
- (i) Musculoskeletal Injuries;
- (j) Eye Injuries;
- (k) Mouth and Teeth Injuries; and
- (l) Bites and Stings.

(38) "Transportation entity" means any school district, individual school, educational service district or head start agency to which the rules of this division apply.

(39) "Transportation service" means home to school or school to home transportation provided to a qualifying student, regardless of how that transportation is provided.

(40) "Valid" means an unexpired, active certificate or permit with no automatic disqualifiers listed in the rule for that certificate or permit.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0004

### Administration of Pupil Transportation – Generally

(1) Transportation entities shall provide transportation in compliance with all applicable laws and administrative rules.

(2) Transportation entities that contract out all or part of their pupil transportation services are required to ensure that their contractor complies with all applicable laws and administrative rules.

(3) Transportation entities or contractors shall not require or knowingly permit any person to operate a school bus or school activity vehicle in violation of any applicable rules of the State Board of Education or Oregon laws.

(4) Transportation entities or contractors shall notify ODE within 30 days if they have actual knowledge that:

(a) A school bus or school activity vehicle driver has violated an ORS or OAR; and

(b) Student or public safety was jeopardized by the violation.

(5) Transportation entities or contractors shall notify ODE within 30 days anytime a school bus or school activity vehicle driver leaves their employment or is hired while already possessing an otherwise valid certificate or permit:

(6) Each school board shall adopt and implement written policies that:

(a) Direct schools governed by the board to notify the transportation service provider's designee if students receiving transportation services have special medical or behavioral protocols identified in their student records; and

(b) Ensure drivers receive appropriate and documented training related to specified protocols, including but not limited to satisfying confidentiality requirements.

(7) Relocation of school buses and school activity vehicles:

(a) Written notification must be sent to ODE when a school bus or school activity vehicle is moved to another transportation entity for a period exceeding 10 days.

(b) Written notification must be sent to ODE when a school bus or school activity vehicle is received from another transportation entity for a period exceeding 10 days.

(c) School buses with a manufacture date prior to September 1, 1998 may not be relocated.

(d) Type 20 and Type 21 school activity vehicles with a manufacture date prior to September 1, 1994 may not be relocated.

(8) A seat that fully supports the passenger shall be provided for every passenger on all school buses and school activity vehicles. Seating is not permitted on any portion of the vehicle not designed for that purpose. Passengers shall not be permitted to stand while the vehicle is in motion.

(9) Transportation entities and contractors shall provide for the required training, examination and testing of their school bus and school activity vehicle drivers to comply with rules promulgated by the State Board of Education. Appropriate specialized training designed for special needs transportation shall be provided prior to allowing drivers to transport

students with disabilities. Records to document training and testing shall be maintained by transportation entities. Such records shall be made part of each driver's driver-training record file. Records shall be made available to ODE personnel or the driver upon request.

(10) Transportation entities or contractors employing school bus drivers or school activity vehicle drivers shall immediately notify ODE if they have reason to believe any change has occurred in an employed driver's criminal or driving record that could affect the driver's qualifications under the provisions of OAR 581-053-0050.

(11) A transportation entity or contractor shall notify ODE in writing within 30 days of when they receive notification that a school bus driver employed by the entity or contractor:

(a) No longer meets the physical requirements for school bus drivers specified in OAR 581-053-0040;

(b) Fails to comply with the testing or screening requirements established by the Federal Motor Carrier Safety Administration for commercial drivers at title 49 CFR part 382.

(12) Transportation entities shall submit accident reports to ODE, signed by a supervisor or designee, within 72 hours of the crash. In the case of an accident involving serious injury or death, ODE shall be notified immediately.

(13) Transportation entities shall report to ODE statistics related to pupil transportation.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0010

### Rules Governing Pupils Riding School Buses and School Activity Vehicles

(1) Pupils being transported are under authority of the bus driver.

(2) Fighting, wrestling, or boisterous activity is prohibited on the bus.

(3) Pupils shall use the emergency exit only in case of emergency.

(4) Pupils shall be on time for the bus both morning and evening.

(5) Pupils shall not bring firearms, weapons, or other potentially hazardous material on the bus.

(6) Pupils shall not bring animals, except approved assistance guide animals on the bus.

(7) Pupils shall remain seated while bus is in motion.

(8) Pupils may be assigned seats by the bus driver.

(9) When necessary to cross the road, pupils shall cross in front of the bus or as instructed by the bus driver.

(10) Pupils shall not extend their hands, arms, or body parts through bus windows.

(11) Pupils shall have written permission to leave the bus other than at home or school.

(12) Pupils shall converse in normal tones; loud or vulgar language is prohibited.

(13) Pupils shall not open or close windows without permission of driver.

(14) Pupils shall keep the bus clean, and must refrain from damaging it.

(15) Pupils shall be courteous to the driver, to fellow pupils, and passersby.

(16) Pupils who refuse to obey promptly the directions of the driver or refuse to obey regulations may forfeit their privilege to ride buses.

(17) Rules Governing Pupils Riding School Buses and School Activity Vehicles must be kept posted in a conspicuous place in all school buses, type 20, and type 21 activity vehicles.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: 1EB 118, f. 11-28-67, ef. 12-25-67; 1EB 134, f. 6-26-72, ef. 7-15-72; 1EB 217, f. 2-17-76, ef. 3-15-76; EB 25-1993, f. & cert. ef. 7-30-93; ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0021

### Minimum Record Retention Requirements

(1) Accident reports shall be retained for three years.

(2) Annual vehicle inspection shall be retained until the vehicle is sold.

(3) Application for school bus driver's permit or certificate (copy) shall be retained for four years or for one year after the transportation entity or contractor notifies ODE that the driver is no longer active, whichever occurs first.

(4) Application for type 20 driver's certificate shall be retained for four years or for one year after the transportation entity or contractor notifies ODE that the driver is no longer active, whichever is first.

# ADMINISTRATIVE RULES

(5) Approval of a temporary school bus driver shall be retained until July 1, following approval.

(6) Approval of a type 10 driver shall be retained until the transportation entity or contractor notifies ODE that the driver is no longer active with them.

(7) Driver vehicle inspection reports shall be retained for three months.

(8) License approvals for school buses and school activity vehicles shall be retained until the vehicle is sold.

(9) Performance checklist for school bus, type 20, and type 21 drivers shall be retained until one year after the transportation entity or contractor notifies ODE that the driver is no longer active with them.

(10) Safety instruction records required in OAR 581-053-0210 (Transportation Entity Requirements for School Buses) shall be retained for four years.

(11) Safety instruction records required in OAR 581-053-0610 (Transportation Entity Requirements for School Pupil Activity Buses) shall be retained for two years.

(12) School bus driver training attendance records shall be retained for four years.

(13) Skills tests administered to school bus, type 10, type 20, or type 21 drivers shall be retained until one year after the driver is made inactive with ODE.

(14) Vehicle maintenance records in OAR 581-053-0070 shall be retained until the vehicle is sold.

(15) Further record requirements can be found in OAR Chapter 166, Division 400 Secretary of State Archives Division Educational Service Districts, School Districts, and Individual School Records Retention Schedule. In the case of a conflict between the record retention requirements of the two rules, the stricter requirement shall prevail.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0031

### Driving Hour Limitations

(1) A driver of a school bus or school activity vehicle shall comply with one of the following driving hour regulations:

(a) Following eight hours free from driving a school bus or school activity vehicle, a driver may drive a school bus or school activity vehicle for ten hours in a 15 hour period; or

(b) Following eight hours free from driving a school bus or school activity vehicle, a driver may:

(A) Drive a morning route transporting students from home to school;

(B) Be free from driving a school bus or school activity vehicle for a minimum of four consecutive hours; and

(C) Drive a school bus or school activity vehicle for eight hours:

(i) In a ten hour period; or

(ii) Until midnight.

(2) A driver shall not drive more than three hours continuously without taking at least a 15-minute break from driving duties;

(3) Notwithstanding section (1) of this rule, in the event of an emergency or unforeseen circumstance a driver may complete the trip without being in violation of the provisions of this rule if such trip could have reasonably been completed as originally scheduled without violation of this rule.

(4) Notwithstanding all other sections of this rule, SPAB drivers shall follow FMCSA Hours of Service for Drivers regulations found at 49 CFR 395.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0040

### Physical Examinations

(1) An applicant for a school bus driver's permit or certificate, or renewal of a school bus driver's certificate must have passed a physical examination approved by the Oregon Department of Education and administered within six months prior to the date of application by a:

(a) Physician or physician assistant licensed under ORS chapter 677;

(b) Nurse practitioner certified under ORS 678.375, or

(c) Chiropractic physician licensed under ORS chapter 684.

(2) Physicians completing the required ODE forms for diabetic persons must be a:

(a) Board certified endocrinologist;

(b) Board certified diabetologist;

(c) Board certified family practitioner; or

(d) Board certified internist.

(3) A cardiac stress test shall be required with medical examination given any evidence of myocardial infarction within the past three months or unstable angina pectoris. The examining physician may require a resting electrocardiogram (ECG) or other testing as determined appropriate related to coronary insufficiency, thrombosis or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse or congestive heart failure.

(4) Physical examination and certificate application forms adopted by the ODE shall be utilized by applicants for a school bus driver's certificate or permit.

(5) An applicant is physically qualified to drive a school bus if the applicant:

(a) Has no impairment in the use of the driver's foot, leg, finger, hand or arm or other structural defect or limitation likely to interfere with the driver's ability to perform tasks associated with operating a school bus. Drivers may be required to demonstrate their ability to:

(A) Utilize a manually operated bus entrance door control with a force of at least 30 pounds;

(B) Ascend and descend steps with a maximum step height of 17 1/2 inches;

(C) Operate two hand controls simultaneously and quickly;

(D) Have a reaction time of 3/4 of a second or less from the throttle to the brake control;

(E) Carry or drag a 125 pound person 30 feet in 30 seconds or less;

(F) Depress a brake pedal with the foot to a pressure of at least 90 pounds;

(G) Depress a clutch pedal with the foot to a pressure of at least 40 pounds unless operating an automatic transmission; and

(H) Exit from an emergency door opening of 24 x 48 inches at least 42 inches from the ground in ten seconds or less.

(b) Is physically able to open all emergency exits installed in any school bus they drive; and

(c) Has no mental, nervous, organic or functional disease or disability likely to interfere with safe driving or other responsibilities of a school bus driver.

(d) Has visual acuity of at least 20/40 (Snellen) in each eye either with or without corrective lenses and a binocular acuity of at least 20/40 (Snellen) in both eyes either with or without corrective lenses. Form field of vision shall not be less than a total of 140 degrees and the ability to distinguish colors red, green and yellow. Drivers requiring corrective lenses shall wear properly prescribed lenses at all times while driving.

(e) Perceives a forced whispered voice in the better ear not less than five feet with or without the use of a hearing aid, or if tested by the use of an audiometric device, the applicant shall not have average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard Z24.5-1951. Drivers requiring a hearing aid shall wear a properly operating hearing aid at all times while driving.

(f) Controlled substances:

(A) Does not use any controlled substance identified in 21 CFR 1308.11 Schedule 1, an amphetamine, a narcotic, or other habit-forming drug.

(B) Does not use any non-Schedule I controlled substance except when the use is pursuant to the instructions of a licensed medical practitioner who is familiar with the driver's medical history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a school bus.

(g) Has no current clinical diagnosis of alcoholism.

(h) Has not had a loss of consciousness or loss of control (cognitive function) due to a diabetic event within the preceding one year period, provided there has not been a recurrent hypoglycemic reaction requiring assistance of another person within the previous five years. A period of one year of demonstrated stability is required following the first episode of hypoglycemia.

(i) Does not have a diabetic condition; Applicants with a diabetic condition may be physically qualified provided they comply with all of the following requirements. Drivers shall:

(A) Self-monitor their blood glucose and demonstrate a blood glucose level of more than 100mg/dl and less than 300 mg/dl, using a device approved by the Food and Drug Administration, U.S. Department of Health and Human Services, within one hour before driving pupil transporting vehicles and approximately every four hours while on duty;

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(B) Report immediately to their employer, any failure to comply with specific glucose level requirements as listed in paragraphs (i)(A) and (E) of this subsection, or loss of consciousness or control;

(C) Maintain a daily log of all blood glucose test results for the previous six month period and provide copies to their employer, the examining physician and the Oregon Department of Education, upon request;

(D) Carry a source of readily absorbable, fast-acting glucose while on duty;

(E) Undergo and submit physician-signed results of a glycated hemoglobin (HbA1c) test indicating glucose levels of more than 5.9 percent and less than 9.6 percent to their employer for transmission to the Oregon Department of Education every six months;

(F) Undergo and submit the results of an annual examination to detect any peripheral neuropathy, unstable diabetic retinopathy or clinically significant eye disease that prevents the individual from meeting current vision standards included in this rule, or circulatory insufficiency;

(G) Provide a signed statement by the examining physician indicating that within the past three years the driver has completed instruction to address diabetes management and driving safety, to identify signs and symptoms of hypoglycemia and hyperglycemia, and what procedures must be followed if complications from diabetes arise;

(H) Submit all required Oregon Department of Education forms signed by the appropriate medical professionals within the prescribed timelines;

(j) Does not have severe hypertension (grade 3 retinopathy); or

(k) Does not have an established medical history or clinical diagnosis of epilepsy or any other condition likely to cause loss of consciousness or any loss of ability to control a motor vehicle.

(6) A driver is no longer physically qualified to operate a school bus and shall be immediately removed from duty for the following:

(a) Diabetic person:

(A) Results of an HbA1c test indicating values less than 6.0 or greater than 9.5 unless accompanied by the required medical opinion that the event was incidental and not an indication of failure to control glucose levels;

(B) Results of self-monitoring indicate glucose levels less than 100 mg/dl or greater than 300 mg/dl, until self-monitoring indicates compliance with specifications; proofread

(C) Experiencing a loss of consciousness or control relating to a diabetic condition; or

(D) Failing to maintain or falsifying the required medical records.

(b) A new diagnosis of diabetes requiring insulin until all requirements under subsection (5)(i) have been met;

(c) Notwithstanding subsections (a) and (b) of this section, if the driver has a serious illness, injury, or change in physical or mental condition and no longer meets the physical requirements outlined in this rule, then re-examination and medical approval are required before the driver may resume driving a school bus.

(7) Notwithstanding any other section of this rule, Type 20 CDL drivers and SPAB drivers shall meet the FMCSA physical requirements found in 49 CFR part 391 and shall carry a medical certificate to indicate compliance.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0050

### Driving and Criminal Records

(1) The Oregon Department of Education shall review the driving record of each applicant for certification or approval as a school bus or school activity driver. Applicants who have held a driver license in a state other than Oregon anytime during the preceding three-year period may be required to furnish a copy of the driving record from each state in which the applicant has held a driver license to ODE. If the driver currently holds a driver license from another state, the driving record shall be printed no more than 30 days prior to the date received by ODE.

(2) ODE shall review the criminal record of each applicant for certification or approval as a school bus or school activity driver.

(3) An applicant does not qualify as a school bus or school activity driver if the applicant:

(a) Has ever been convicted of a crime listed in ORS 342.143. (Forever Crime)

(b) Has ever been convicted of a crime involving violence, threat of violence or theft. This shall not apply if the applicant or driver has been free from custody, probation and parole for the preceding three-year period from date of application.

(c) Has ever been convicted of a crime involving activity in drugs or alcoholic beverages. This shall not apply if the applicant or driver has been free from custody, probation, and parole for the preceding three-year period from date of application.

(d) Has had his or her driving privileges suspended by any state, within the preceding three-year period, for a cause involving the unsafe operation of a motor vehicle or because of driving record.

(e) Has been convicted within the preceding three-year period of:

(A) Driving under the influence of intoxicants, as defined in ORS 813.010;

(B) Reckless driving, as defined in ORS 811.140;

(C) Fleeing or attempting to elude a police officer, as defined in under ORS 811.540;

(D) Failure to perform the duties of a driver involved in an accident or collision which results in injury or death of any person, as described in ORS 811.705; or

(E) An equivalent out of state conviction for any of the above.

(f) Has had his or her driving privileges revoked or suspended as a habitual offender under ORS 809.600. This shall not apply if applicant or driver has had his or her driving privileges restored under ORS 809.660 for the preceding three years;

(g) Has a driving record for the preceding three-year period that has an accumulation of 31 or more points based upon the following point system:

(A) Each chargeable accident shall have a value of 10 points. Applicable traffic code and preventability guidelines published by the National Safety Council and the Pupil Transportation Safety Institute may be used to determine if an accident is chargeable; and

(B) Each of the traffic violations on Table 1 shall have a value of 10 points.

(C) One point shall be subtracted from the total number of points for each full month, since the last chargeable accident or conviction, to the time of driving record check; however, all subtracted points will be reinstated if any additional qualifying convictions or chargeable accidents occur within the three-year calculation period.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0060

### Refusals, Suspensions, Revocations and Invalid Certificates

The Oregon Department of Education shall refuse to issue a certificate or permit to an applicant who does not meet the qualifications for the certificate or permit being sought. Incomplete applications shall be rejected.

(1) ODE may suspend or revoke a certificate or permit based on the violations and sanctions listed on table 1. If the certificate holder has been suspended within the prior three- year period, the current offense may be considered a second or subsequent offense.

(2) If the conditions of reinstatement are not met for a suspended certificate or permit at the end of the suspension period, the certificate or permit shall be immediately revoked.

(3) A certificate or permit holder shall surrender any suspended or revoked certificate or permit to ODE.

(4) A certificate or permit holder whose certificate or permit was suspended or revoked, or application for a certificate for permit was refused, may request a hearing. Hearings conducted under this section on appeal for refusal, suspension or revocation of a certificate or permit shall be conducted pursuant to ORS chapter 183.

(5) ODE may only reinstate a certificate or permit if all conditions of the suspension or revocation have been met, and the person otherwise qualifies for the certificate or permit being reinstated.

(6) Notwithstanding section (5) of this rule, no hearing will be held when a certificate or permit becomes invalid because of the provisions of the rule that govern the certificate or permit.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0070

### School Bus and School Activity Vehicle Acquisition, Maintenance and Inspection

(1) Upon entry into Oregon, all school buses and school activity vehicles shall conform to the Oregon minimum standards currently in force as they apply to each vehicle and to the Federal Motor Vehicle Safety Standards in place at time of manufacture, prior to transporting students.

# ADMINISTRATIVE RULES

(2) Transportation entities shall not transport students in any school bus or school activity vehicle until:

(a) The school bus or school activity vehicle license approval form has been received by ODE certifying that the vehicle meets all applicable minimum standards; and

(b) The transportation entity has received approval from ODE.

(3) Any additions of vehicle equipment or alterations in the vehicle construction that are not provided for in the applicable minimum standards for Oregon school buses or school activity vehicles are prohibited without first receiving prior approval from ODE.

(4) School buses and school activity vehicles used for transportation of students with disabilities or for specific educational purposes that do not meet all current Oregon Minimum Standards for School Buses must be approved by ODE.

(5) Appeal for Variance:

(a) A transportation entity or contractor desiring to purchase a pupil transporting vehicle that cannot meet all required minimum construction standards for school buses or school activity vehicles as applicable in Oregon must forward an "Appeal for Variance" request to the State Superintendent of Public Instruction. This appeal must be made by the highest ranking official with the local operation and contain at least the following information:

(A) The need for such a vehicle;

(B) Why a standard school bus or school activity vehicle will not suffice;

(C) List of items which will not meet applicable standards; and

(D) Passenger capacity of vehicle.

(b) This variance provision is designed for unique changes or alterations necessary to accommodate special equipment or conditions.

(6) School buses and school activity vehicles shall be maintained in safe operating condition and shall meet or exceed the minimum standards in effect at the time of purchase, as well as any subsequently adopted standards that are applicable to the vehicle.

(7) The transportation entity shall keep vehicle maintenance records for each vehicle used to transport students. These records shall be available to ODE upon request. Records shall be kept for every service, adjustment or repair of the following items and shall include date and mileage:

(a) Chassis lubrications;

(b) Engine oil and filter changes;

(c) Major engine tune-ups and repairs;

(d) All adjustment, service and repair of brake system;

(e) All adjustment, service and repair of steering mechanism and other related parts;

(f) Tires; and

(g) Drive train components.

(8) Notwithstanding OAR 581-053-0120, under the direction of a certified inspector, repair items listed below may be done by uncertified personnel:

(a) Belts and hoses;

(b) Body and paint repair;

(c) Camera systems;

(d) Electrical systems;

(e) Exhaust systems;

(f) Fluid changes;

(g) Glass repair;

(h) Lights;

(i) Seat repairs;

(j) Tires;

(k) Tune-ups.

(9) Transportation entities or contractors planning to rebuild a school bus or school activity vehicle that has been totaled shall first secure written approval from ODE. (This does not apply to repair of damage.) All rebuilt school buses must meet current Oregon Minimum Standards for School Buses and applicable U.S. Department of Transportation regulations in effect at the time of approval.

(10) The transportation entity shall ensure the following is inspected daily:

(a) Windshield and wipers;

(b) All lights;

(c) Service door;

(d) Tires and wheel lug nuts;

(e) Battery, belts, oil and coolant level;

(f) Horns;

(g) Brakes;

(h) Steering;

(i) Exhaust system;

(j) See that lights, windshield, mirrors, and warning sign is clean;

(k) Emergency equipment;

(l) Emergency exits and audible warning devices;

(m) Suspension;

(n) Seats; and

(o) Gauges

(11) Transporting entities shall have all vehicles used in transporting pupils inspected annually by inspectors holding current school bus inspection certification, and certify to ODE that all deficiencies have been corrected before September 1 each year. ODE shall furnish forms for the inspection and for the certification reports.

(12) ODE personnel may inspect school buses and school activity vehicles at any time or upon request of transportation entities. ODE may investigate accidents and examine school buses and school activity vehicles involved in accidents as ODE considers necessary.

(13) Upon inspection of school buses or school activity vehicles by ODE personnel, the vehicle owner shall be notified in writing of deficiencies. Such deficiencies shall be corrected within 30 days. If the vehicle owner is unable to correct the deficiency within 30 days, the transportation entity may submit a written request for an extension of time to ODE. Such request may be granted, provided the deficiency does not affect the safety of students or public, and is not contrary to Oregon Motor Vehicle Laws.

(14) ODE personnel may issue a written order that a vehicle is unsafe and shall not be used to transport students when there is reason to believe that a deficiency is such that continued operation of the vehicle may jeopardize the safety of students or public.

(15) The transportation entity or vehicle owner shall notify ODE in writing that the deficiency is corrected before transporting students in a vehicle that has been declared unsafe in section (14) of this rule.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0100

### Non-Driving Related Certificates — Generally

(1) To provide for the proper training of school bus drivers, proper vehicle inspection, and proper application of the rules, ODE has created various non-driving related certificates as outlined in OAR 581-053-0100 through 581-053-0199.

(2) Non-driving related certificates may require participation in a specialized workshop developed by ODE. A schedule of workshops shall be published by January 31 of each year.

(3) To be a candidate for a workshop, an individual shall:

(a) Submit a completed application form by the application deadline; and

(b) Meet all requirements listed on the application.

(4) ODE may limit the size of workshops. If workshop sizes are limited, candidates may be accepted based on, but not limited to:

(a) Qualifications;

(b) Experience;

(c) Location need for a certified person; and

(d) Other certifications held by the candidate.

(5) ODE may accept a candidate who has filed an application under section (3) of this rule who does not meet the minimum qualifications. Candidates accepted into the workshop under this provision shall not receive certification until all minimum qualifications are met.

(6) A Third Party Examiner Recertification Workshop shall be held in conjunction with examiner certificate expiration, or as otherwise required by DMV.

(7) Recertification may be required for the holders of other certificates as deemed necessary by ODE. Certificate holders will be notified in writing how to recertify and the date the current certificate will become invalid due to failure to recertify.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0110

### Supervisor Certificate

(1) The Oregon Department of Education shall issue a Supervisor Certificate to an individual who has completed the supervisor training workshop.

(2) Part of the workshop requirements may be waived for Supervisor Certificate applicants who hold one or more of the following certificates:

(a) Annual Vehicle Inspection Certificate;

(b) Behind-the-Wheel Instructor Certificate;

# ADMINISTRATIVE RULES

- (c) Third Party Examiner Certificate;
  - (d) Core & Advanced Instructor Certificate;
  - (e) Core Refresher Instructor Certificate; or
  - (f) Transporting Students with Special Needs Instructor Certificate.
- (3) Portions of the workshop waived in section (2) of this rule shall relate directly to the certificate(s) currently held by the applicant.

(4) The Supervisor Certificate allows an individual to sign an ODE form that requires a supervisor signature.

(5) Notwithstanding section (4) of this rule, ODE may grant an exception to an individual who:

- (a) Has been hired between scheduled workshops;
- (b) Submits a letter from the school board or their designee outlining the need for the exception; and
- (c) Submits an application, or letter of intent, to attend the next scheduled workshop for supervisors.

(6) Supervisor exceptions issued under section (5) of this rule shall expire on the date of the next scheduled workshop for supervisors and shall not be renewed except due to extreme circumstances at the discretion of the Director of Pupil Transportation.

(7) The provisions of this rule become effective on July 1, 2015.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0120

### Vehicle Inspector Certificate

(1) Any person performing an annual school bus or school activity vehicle inspection and signing the Annual Vehicle Inspection and Maintenance Report form 581-2255-M, or performing repairs on a school bus or school activity vehicle, must successfully complete a test administered by the Oregon Department of Education or designee and be certified over the contents of the School Bus Maintenance and Inspection Manual for Oregon School Buses, current edition.

(2) ODE may require re-certification when the School Bus Maintenance and Inspection Manual is revised.

(3) Vehicle inspection certificate may be suspended or revoked under the provisions of OAR 581-053-0060.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0130

### Assistant Trainer Certificate

(1) The Oregon Department of Education may issue an Assistant Trainer Certificate to an individual who has:

- (a) One year experience operating a school bus;
- (b) A current School Bus Driver's Certificate;
- (c) Submitted an application that includes information regarding the behind-the-wheel trainer(s) that the applicant will be working with; and
- (d) Submitted a letter of recommendation from their supervisor.

(2) Assistant trainers shall work under the direction of a certified behind-the-wheel trainer.

(3) The Assistant Trainer Certificate authorizes an individual to:

- (a) Work with school bus driver applicants on portions of the behind-the-wheel training that have already been taught and documented by a certified behind-the-wheel trainer; and
- (b) Train applicants to drive a type 20 vehicle and sign off on the type 20 performance check list and application in accordance with OAR 581-053-0420.

(4) Assistant trainers shall not sign off on any item on the performance checklist for new school bus drivers except for the assistant trainer line on the last page.

(5) The assistant trainer certificate shall be invalid if:

- (a) The assistant trainer no longer has a valid school bus certificate; or
- (b) The behind-the-wheel trainer(s) is (are) no longer available to provide direction to the assistant trainer.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0135

### Reference Point Trainer Certificate

(1) The Oregon Department of Education may issue a Reference Point Trainer Certificate to an individual who has:

- (a) A valid Assistant Trainer Certificate;
- (b) Submitted an application; and

(c) Submitted a completed advanced reference point performance checklist indicating that the applicant has mastered all parts of the Advanced Reference Point Manual, signed by a behind-the-wheel trainer.

(2) The Reference Point Trainer Certificate authorizes an individual to:  
(a) Teach the material out of the Advanced Reference Point Manual, published by ODE, to school bus drivers who already possess a valid School Bus Driver's Permit or Certificate; and

(b) Sign-off mastery of reference points on the advanced reference point performance checklist for the driver's file and for ODE training credit.

(3) The Reference Point Trainer Certificate shall be invalid if the individual does not have a valid Assistant Trainer Certificate.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0140

### Behind-the-Wheel Trainer Certificate

(1) The Oregon Department of Education shall issue a Behind-the-Wheel Trainer Certificate to an individual who has:

- (a) Two years experience operating commercial motor vehicles;
- (b) One year experience operating a school bus;
- (c) Six months experience as a certified assistant trainer, except that:

(A) This requirement may be waived by the ODE Director of Pupil Transportation. Request for exception from this requirement will be decided on an individual basis.

(B) Trainers who have attended the Behind-the-Wheel Instructor Workshop prior to July 1, 2012 are exempt from this provision.

- (d) A current School Bus Driver's Certificate;
- (e) Been recommended by a transportation entity or contractor; and
- (f) Either:

(A) Completed the Behind-the-Wheel Instructor Workshop with a score of at least 80%; or

(B) Met all conditions of probation after being issued a Behind-the-Wheel Probationary Trainer Certificate in OAR 581-053-0145 prior to the expiration date of the probationary certificate.

(2) The Behind-the-Wheel Training Certificate authorizes an individual to:

(a) Train applicants for a School Bus Driver's Permit or Certificate in accordance with OAR 581-053-0220, only if the applicant has:

(A) A valid CDL with proper endorsements, or a valid CLP and documentation that the individual has passed the proper written endorsement exams at DMV; and

(B) A valid medical certificate.

(b) Train applicants for a Type 20 Certificate in accordance with OAR 581-053-0420, only if the applicant has a valid driver license or CDL. If the type 20 vehicle is designed to hold more than 15 passengers, a CDL or CLP with a medical certificate is required.

(c) Test applicants for a School Bus Driver's Permit or Certificate who have:

(A) Met all requirements of subsection (a) of this section;

(B) A School Bus Application Form signed by the a medical examiner, the applicant, and the behind-the-wheel trainer that conducted the training; and

(C) A completed school bus performance checklist on file that is initialed and signed by the applicant and the behind-the-wheel trainer that conducted the training.

(d) Test applicants for a Type 20 Certificate who have:

(A) A valid driver's license or CDL. If the type 20 vehicle is designed to hold more than 15 passengers, a CDL with a medical certificate is required; and

(B) A completed type 20 performance checklist on file that is initialed and signed by the applicant and the behind-the-wheel or assistant trainer that conducted the training.

(e) Teach the material out of the Advanced Reference Point Manual, published by ODE, to school bus drivers who already possess a valid School Bus Driver's Permit or Certificate and sign-off mastery of the reference points on the Advanced Reference Point Performance Checklist for the driver's file and ODE training credit.

(3) The Behind-the-Wheel Training Certificate shall become invalid if the certificate holder:

(a) Does not have a valid School Bus Certificate; or

(b) Does not recertify when required by OAR 581-053-0100.

(4) Behind-the-wheel trainers shall not conduct skills tests for applicants they have trained unless:

(a) The applicant has taken a CDL skills test at DMV; or



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(b) The behind-the-wheel trainer has written permission from ODE.  
Stat. Auth.: ORS 327.013 & 820.100 - 820.120  
Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120  
Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0145

### Behind-the-Wheel Probationary Trainer Certificate

(1) The Oregon Department of Education may issue a Behind-the-Wheel Probationary Trainer Certificate to an individual who has:

- (a) Two years experience operating commercial motor vehicles;
- (b) One year experience operating a school bus within the last 24 months;
- (c) Six months experience as an assistant trainer, except that: this requirement may be waived by the ODE Director of Pupil Transportation. Request for exception from this requirement will be decided on an individual basis.

- (d) A current School Bus Driver's Certificate;
- (e) Been recommended by a transportation entity or contractor; and
- (f) Completed the Behind-the-Wheel Training Workshop with a score of at least 75%.

(2) The Behind-the-Wheel Probationary Trainer Certificate shall expire 120 days from time of issuance. The certificate shall become immediately invalid if the certificate holder:

- (a) Does not have a valid School Bus Certificate; or
- (b) Does not recertify when required by OAR 581-053-0100.
- (3) ODE may grant one 60 day extension of a probationary certificate.
- (4) ODE may convert the Behind-the-Wheel Probationary Trainer Certificate to a Behind-the-Wheel Trainer Certificate once the certificate holder:

- (a) Trains two school bus driver applicants in accordance with the rules;
- (b) Submits copies of completed performance checklists for each driver;

(c) Ensures that each driver is tested by a third party examiner sponsored by ODE. Each test shall be conducted by a different examiner;

(d) Submits a copy of all tests administered to the school bus driver applicants trained in accordance with this section, including test failures;

(e) Submits documentation of additional training if a school bus driver applicant fails a School Bus Skills Test; and

(f) Meets any additional requirements deemed appropriate by ODE.

(5) The Behind-the-Wheel Probationary Trainer Certificate may be suspended or revoked for the same reasons that the Behind-the-Wheel Trainer Certificate may be suspended or revoked.

(6) A probationary trainer shall not conduct skills tests of school bus or type 20 drivers as outlined in OAR 581-053-0140 Behind-the-Wheel Trainer Certificate.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120  
Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120  
Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0150

### Third Party Examiner Training and Support

DMV issues Third Party Examiner Certificates to individuals who are supported by the Oregon Department of Education. OAR chapter 735, division 60 mandates ODE, as a Third Party Tester, to ensure that examiners supported by ODE meet all of the rules in OAR chapter 735, division 60. The purpose of this rule (581-053-0150) is to layout how an individual gains and maintains ODE support to be a Third Party Examiner. No part of this rule supersedes DMV's ability to sanction examiners in accordance with OAR chapter 735, division 60.

(1) ODE may support an individual who is entering the program for the first time and has:

- (a) Three years experience operating commercial motor vehicles;
- (b) A current School Bus Driver's Certificate;
- (c) One year experience training school bus drivers;
- (d) A current Behind-the-Wheel Instructor Certificate;
- (e) Met all requirements listed in OAR Chapter 735, Division 60;
- (f) Been recommended by a school bus operation that will house the examiner's records;

(g) Completed the Third Party Examiner Workshop with a score of at least 80%;

(h) Submitted a test route that is approved by ODE; and

(i) Submitted an Application for Third Party Examiner Certificate to ODE.

(2) All Third Party Certificates expire in accordance with OAR Chapter 735, Division 60. ODE may continue support for an active third party examiner who has:

- (a) A current school bus certificate;
- (b) A current Behind-the-Wheel Instructor Certificate;
- (c) Complete a Third Party Recertification Workshop with a score of at least 80% as required in OAR 581-053-0100;
- (d) Been recommended by a school bus operation that will house the examiner's records; and

(e) Met all requirements of OAR Chapter 735, Division 60.  
(3) A third party examiner sponsored by ODE shall not conduct tests anytime they:

- (a) Do not have a valid School Bus Driver's Certificate.
- (b) Do not have a valid Behind-the-Wheel Instructor Certificate.
- (c) Do not have a sponsor location on file with ODE.
- (4) ODE may withdraw sponsorship of any active third party examiner for any violation of the rules that govern testing and training of school bus and school activity vehicle drivers.

(5) Inactive examiners:  
(a) A third party examiner may become inactive by submitting a written request to ODE to become inactive. An inactive examiner shall:

- (A) Complete all Third Party Recertification Training as required by ODE;
- (B) Not conduct tests for new or upgraded commercial driver's licenses;

(C) Not sign or issue certificates of test completion.  
(b) Failure to comply with the section (5) (a) of this rule may result in the examiner's support status being changed from inactive to surrendered.

(c) An inactive examiner may become active again by submitting an Application for Third Party Examiner Certificate to ODE for sponsorship. Once reactivated an examiner shall:

- (A) Administer a third party qualifying School Bus Skills Test within 12 months; and
- (B) Remain active for two years.

(6) A third party examiner may surrender their Third Party Examiner Certificate by submitting a written request to be removed from the program. Examiners with surrendered status shall meet all requirements listed in section (1) of this rule to re-enter the program.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120  
Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120  
Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0160

### Core Instructor Certificate

(1) The Oregon Department of Education shall issue a Core Instructor Certificate to an individual who has completed the Core and Advanced Instructor Workshop with a score of 80% or greater.

(2) The Core Instructor Certificate authorizes an individual to teach the following classroom curriculum, from a current manual published by ODE:

(a) Core, an 8 hour program for new school bus drivers. Core consists of four parts:

(A) Section 1 is a one hour course that covers qualifications and bus construction standards.

(B) Section 2 is a two hour course that covers responsibilities and regulations.

(C) Section 3 is a two and a half hour course that covers pupil management.

(D) Section 4 is a two and a half hour course that covers emergency and accident procedures.

(b) Advanced unit A, a two hour course that covers laws and liability.

(c) Advanced unit B, a three hour course that covers special driving conditions and techniques.

(d) Advanced unit C, a two hour course that covers CDL complying vehicle inspections.

(e) Advanced unit D, a two hour course that covers field trips.

(f) Advanced unit E, a two hour course that covers brakes.

(g) Advanced unit F, a two hour course that covers power train.

(3) Notwithstanding section (2) of this rule, a certified core instructor may conduct classroom instruction that has been approved by ODE under OAR 581-053-0225.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120  
Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120  
Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0170

### Core Refresher Instructor Certificate

(1) The Oregon Department of Education shall issue a Core Refresher Instructor Certificate to an individual who has:

- (a) A valid Core Instructor Certificate; and

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(b) Completed the Core Refresher Instructor Workshop with a score of 80% or greater.

(2) The Core Refresher Instructor Certificate authorizes an individual to teach the four hour Core Refresher classroom curriculum, from a current manual published by ODE.

(3) The Core Refresher Instructor Certificate is invalid anytime that the certificate holder does not have a valid Core Instructor Certificate.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0180

### Transporting Students with Special Needs Instructor Certificate

(1) The Oregon Department of Education shall issue a Transporting Students with Special Needs Instructor Certificate to an individual who has:

(a) A valid Core Instructor Certificate; and

(b) Completed the Transporting Students with Special Needs Instructor Workshop with a score of 80% or greater.

(2) The Transporting Students with Special Needs Instructor Certificate authorizes an individual to teach the eight hour Transporting Students with Special Needs curriculum, from a current manual published by ODE. This curriculum consists of five sections.

(a) Section 1 is a one and a half hour course that covers familiarization.

(b) Section 2 is a one hour course that covers terminology and laws.

(c) Section 3 is a two hour course that covers pupil management.

(d) Section 4 is a two hour course that covers lifts and securements.

(e) Section 5 is a one and a half hour course that covers bus emergencies.

(3) The Transporting Students with Special Needs Instructor Certificate is invalid anytime the certificate holder does not have a valid Core Instructor Certificate.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0210

### Administrative Requirements Pertaining to School Buses

(1) Each school board shall adopt and implement a written transportation policy regarding student conduct and discipline that conforms to ORS 339.250 Duty of student to comply with rules; discipline, suspension, expulsion, removal and counseling; written information on alternative programs required, ORS 343.533 Transportation service to preschool children with disabilities, OAR 581-021-0065 Suspension, OAR 581-021-0070 Expulsion, 581-015-2400 through 581-015-2445 Special Education: Discipline, and the Individuals with Disabilities Education Act, 20 USC 1400 et seq.

(2) Safety instruction:

(a) All regularly transported pupils shall receive the following instruction at least once within the first six weeks of the first half of each school year and once within the first six weeks of the second half of each school year:

(A) Safe school bus riding procedures, including but not limited to loading, unloading and crossing;

(B) Use of emergency exits; and

(C) Planned and orderly evacuation of the school bus in case of emergency, including participation in actual evacuation drills.

(b) All pupils who are not regularly transported shall receive the following instruction at least once in the first half of each school year:

(A) Safe school bus riding procedures, including but not limited to loading, unloading and crossing; and

(B) Use of emergency exits.

(c) Records listing safety instruction course content and dates of training shall be maintained locally.

(3) Transportation entities or contractors selling a used school bus shall be responsible for removing all markings that would identify it as a school bus, including the bus safety lights and school bus stop arm. If the school bus is sold for the purpose of:

(a) Transporting school children to and from a school, the school bus identifying markings, bus safety lights, and school bus stop arm need not be removed; or

(b) Transporting workers, the bus safety lights need not be removed.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0220

### School Bus Driver's Permit and Certificate

(1) No person shall transport pupils in a school bus or a vehicle that has a capacity of more than 20 passengers and not subject to regulations promulgated by the Oregon Department of Transportation or U.S. Department of Transportation, unless such person has a valid School Bus Driver's Permit or Certificate or is a temporary driver, approved by ODE. No person shall transport pupils in a school bus of any size or type without first receiving documented instruction in its safe operation.

(2) ODE shall issue a School Bus Driver's Permit to an applicant who:

(a) Possess a valid CDL with proper endorsements for the vehicle being driven;

(b) Passes a physical examination as required in OAR 581-053-0040 Physical Examinations within six months prior to application;

(c) Passes a behind-the-wheel test administered by an ODE certified behind-the-wheel trainer within one year prior to application;

(d) Is not disqualified based on driving or criminal record as required in OAR 581-053-0050 Driving and Criminal Records;

(e) Submits an application for School Bus Driver's Permit or Certificate signed by the local supervisor certifying:

(A) The employer will:

(i) Immediately notify ODE if the employer learns of any changes to the applicant's driving and criminal records that could disqualify them from driving under OAR 581-053-0050 Driving and Criminal Records;

(ii) Be in compliance with 49 CFR Part 382 FMCSA Controlled Substances and Alcohol Use and Testing; and

(iii) Ensure the driver complies with all applicable OARs.

(B) The applicant demonstrates the knowledge and ability to perform the duties of a school bus driver.

(f) Completes approved behind-the-wheel training.

(A) Training shall be for a minimum of 15 hours in actual operation of the vehicle(s) that the applicant will be expected to drive, except training may be to a minimum of four hours if:

(i) The applicant has regularly driven a school bus of a size and type similar to that which the applicant will be expected to drive; and

(ii) The employer has documentation from the applicant's previous employer regarding previous experience.

(B) Hours counted in paragraph (A) of this subsection shall be spent with a certified Behind-the-Wheel Trainer, or a certified Assistant Trainer working under the direction of a Behind-the-Wheel Trainer, as outlined in OAR 581-053-0130 Assistant Trainer Certificate.

(g) Reads and speak the English language sufficiently to converse with the general public, understand highway signs and traffic signals in the English language and respond to official inquires and make entries on reports and records; and

(h) Complies with 49 CFR Part 382, FMCSA Controlled Substances and Alcohol Use and Testing.

(i) Has not held a valid School Bus Driver's Permit or Certificate within the last year.

(3) ODE shall issue an original School Bus Driver's Certificate to applicants who:

(a) Possess a valid CDL with proper endorsements for the vehicle being driven;

(b) Pass a physical examination as required in OAR 581-053-0040 within six months prior to application;

(c) Pass a behind-the-wheel test administered by an ODE certified behind-the-wheel trainer within one year prior to application;

(d) Are not disqualified based on driving or criminal record as required in OAR 581-053-0050;

(e) Submit an application for School Bus Driver's Permit or Certificate signed by the local supervisor certifying that:

(A) The employer will:

(i) Immediately notify ODE if the employer learns of any changes to the applicant's driving and criminal records that could disqualify them from driving under OAR 581-053-0050;

(ii) Be in compliance with FMCSA Controlled Substances and Alcohol Use and Testing regulations at 49 CFR 382; and

(iii) Ensure that the driver complies with all applicable OARs.

(B) The applicant:

(i) Demonstrates the knowledge and ability to perform the duties of a school bus driver;

(ii) Has completed the Core Course for school bus drivers taught by a certified Core instructor within the last four years; and

(iii) Is trained in first aid;

(f) Complete approved behind-the-wheel training.

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(A) Training shall be for a minimum of 15 hours in actual operation of the vehicle(s) that the applicant will be expected to drive, except the training shall be for a minimum of four hours if:

(i) The applicant has regularly driven a school bus of a size and type similar to that which the applicant will be expected to driver; and

(ii) The employer has documentation from the applicant's previous employer regarding previous experience.

(B) Hours counted in paragraph (A) of this subsection shall be spent with a certified Behind-the-Wheel Trainer, or a certified Assistant Trainer working under the direction of a Behind-the-Wheel Trainer, as outlined in OAR 581-053-0130 Assistant Trainer Certificate;

(g) Read and speak the English language sufficiently to converse with the general public, understand highway signs and traffic signals in the English language, and respond to official inquiries and make entries on reports and records; and

(h) Comply with 49 CFR Part 382 FMCSA Controlled Substances and Alcohol Use and Testing regulations.

(i) Notwithstanding any other provision of this section, ODE shall issue a School Bus Driver's Certificate to an applicant who holds a valid School Bus Driver's Permit issued under section (2) of this rule, and who submits a School Bus Driver's Permit Conversion Card signed by a local supervisor certifying that the applicant has:

(A) Completed the Core Course for school bus drivers taught by a certified Core Instructor within the last four years; and

(B) Is trained in first aid.

(4) ODE shall renew a School Bus Driver's Certificate for an applicant who:

(a) Possesses or has possessed within the last 12 month period a valid School Bus Driver's Certificate;

(b) Possesses a valid CDL with proper endorsements for the type of vehicle being driven;

(c) Passes a physical examination as required in OAR 581-053-0040 Physical Examinations within six months prior to application;

(d) Is not disqualified based on driving or criminal record as required in OAR 581-053-0050 Driving and Criminal Records;

(e) Submits an application for School Bus Driver's Permit or Certificate signed by a local supervisor certifying:

(A) The employer will:

(i) Immediately notify ODE if the employer learns of any changes to the applicant's driving and criminal records that could disqualify them from driving under OAR 581-053-0050;

(ii) Be in compliance with 49 CFR Part 382 FMCSA Controlled Substances and Alcohol Use and Testing; and

(iii) Ensure that the driver complies with all applicable OARs.

(B) The applicant:

(i) Demonstrates the knowledge and ability to perform the duties of a school bus driver;

(ii) Has completed a Core or Core Refresher Course for school bus drivers, taught by a Core or Core Refresher instructor within the last four years;

(iii) Is trained in first aid; and

(iv) Has completed training averaging at least eight hours annually, while certified as a school bus driver during the preceding four-year period. Training must meet the requirements in OAR 581-053-0225 Approved Training for School Bus Drivers and be received by ODE to qualify.

(v) Complies with 49 CFR Part 382 FMCSA Controlled Substances and Alcohol Use and Testing.

(f) Additional tests may be required by ODE if reasonable doubt of driver competency exists or as required by rule.

(5) ODE may approve a person who does not currently possess a valid School Bus Driver's Certificate or Permit as a temporary driver. If approved, a driver shall not drive more than 10 days as a temporary driver during the approval period. ODE shall only approve a temporary driver if the driver:

(a) Submits a Request for Approval of a Temporary Driver form, signed by a supervisor;

(b) Is judged competent by the local supervisor;

(c) Possesses a valid CDL with proper endorsements for the vehicle being driven;

(d) Possesses a valid medical certificate;

(e) Has passed a driving and criminal records check as required in OAR 581-053-0050 Driving and Criminal Records; and

(f) Meets all other requirements listed on the Request for Approval of a Temporary Driver form.

(6) Expiration:

(a) School Bus Driver's permits expire 120 days after issuance, or on the date of medical certificate expiration, whichever occurs first. Permits may not be renewed. The holder of a valid permit may apply for a School Bus Driver's Certificate, provided that all requirements have been met for such certificate.

(b) School Bus Drivers' Certificates shall expire two years from the date of the physical examination required in OAR 581-053-0040, except:

(A) Certificates for applicants 55 years of age and older shall expire one year from the date of physical examination required in OAR 581-053-0040;

(B) Certificates for applicants who are diabetic shall expire one year from the date of the physical examination required in OAR 581-053-0040; and

(C) Certificates for applicants who have had a physical examination as required in OAR 581-053-0040 and have been issued a medical certificate with an expiration date that is prior to the expiration dates outlined in this subsection shall expire on the date the medical certificate expires.

(c) An approval of a temporary driver expires on July 1, following approval.

(7) Age Restrictions: To obtain an original School Bus Driver's Certificate or Permit, or to renew a School Bus Driver's Certificate following a person's 70th birthday, an applicant must comply with all certification requirements and successfully complete an ODE behind-the-wheel test no more than 30 days before the date of application. The test must be administered by a behind-the-wheel trainer. A copy of the test shall be attached to the application form.

(8) A driver shall notify ODE, in writing, of any change in the driver's name, address or employer within 30 days of the change. A duplicate certificate will be issued if necessary.

(9) A School Bus Driver's Permit or Certificate shall be invalid any time that:

(a) A transportation entity or contractor notifies ODE that the driver is no longer active;

(b) The driver is no longer trained in first aid (School Bus Certificate Only);

(c) The driver no longer meets the physical requirements outlined in OAR 581-053-0040; or

(d) The driver does not maintain or falsifies records required of a diabetic driver outlined in OAR 581-053-0040.

(10) A School Bus Driver's Permit or Certificate shall be valid again if:

(a) The permit or certificate was invalid under subsection (9)(a) of this rule when a transportation entity or contractor notifies ODE that they are ensuring the driver's compliance with these OARs.

(b) The certificate was invalid under subsection (9)(b) of this rule when the driver is trained in first aid.

(c) The permit or certificate was invalid under subsection (9)(c) of this rule when the driver meets the physical requirements outlined in OAR 581-053-0040.

(d) The permit or certificate was invalid under subsection (9)(d) of this rule when the driver is able to produce two weeks of medical records demonstrating compliance with the physical requirements for diabetic drivers outlined in 581-053-0040.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

### 581-053-0225

#### Approved Training for School Bus Drivers

(1) Training taught from material published by the Oregon Department of Education shall count towards a school bus driver's average training hours when taught by a certified instructor within the scope of their certificate.

(2) Training taught from material not published by ODE shall count towards a school bus driver's required training hours if:

(a) The transportation entity has an ODE approval letter on file; and

(b) The training was conducted in accordance with the letter and applicable OARs.

(3) ODE may approve training for inclusion in a school bus driver's required training hours if the transportation entity:

(a) Submits a letter to ODE requesting approval of the training that includes a list of instructors who will teach the material. If the instructors are not certified through ODE, then the letter shall include background information and supporting documentation to establish the instructor as an expert in the field being taught; and

# ADMINISTRATIVE RULES

(b) A copy of the presentation material. This may include, but is not limited to, hand outs, outlines, and multimedia presentations.

(4) If ODE approves training that has been properly submitted as required by section (3) of this rule, then ODE shall issue a letter that indicates:

(a) The amount of time that will be accredited towards a school bus driver's required training hours for attending the training;

(b) The class and unit that the training will be assigned for record keeping purposes;

(c) The instructor(s) that may teach the material; and

(d) The expiration date for the approval shall be four years after the approval date.

(5) Transportation entities may request a renewal of an expired approval letter or request that additional instructors be added to an approval letter by submitting:

(a) A letter certifying that the material being taught has not changed since the original approval letter was issued by ODE

(b) A list of instructors that will teach the material; and

(c) A copy of the original letter issued by ODE.

(d) Letters issued under this section will contain the same information as a letter issued in section (4) of this rule.

(6) Approval letters issued before July 1, 2012 that do not have an expiration date shall expire on July 1, 2013 or four years after the issue date of the letter, whichever is later.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0230

### Rules Pertaining to School Bus Drivers

(1) The driver shall report as soon as possible to the proper official any deficiency or malfunction of any equipment or component of the vehicle.

(2) The driver shall not transport students unless the vehicle is safe to operate.

(3) School bus drivers shall observe all local and state traffic laws and ordinances.

(4) Drivers shall enforce local school board and Oregon Department of Education rules governing pupils riding school buses.

(5) Drivers shall observe local school board and Oregon Department of Education rules pertaining to school bus drivers.

(6) After stopping at a railway crossing as required by law, the driver shall turn off any noise-producing device with the exception of two-way radio communication. The driver shall then open the bus entrance door and driver window, look and listen for an approaching train, then close the door before proceeding across the tracks.

(7) The driver shall assist in conducting student instruction and evacuation drills as directed by the transportation entity.

(8) Drivers shall report to their employer(s) within 15 days:

(a) Any conviction for driving or criminal offenses specified in OAR 581-053-0050.

(b) Any involvement in an accident.

(c) If their CDL is no longer valid.

(9) A school bus driver shall:

(a) Never drive backwards on the school grounds prior to looking behind the bus, sounding the horn, and placing a responsible person to guard the rear;

(b) Not leave the bus when pupils are in it until the motor is shut off, the brakes set, a manual transmission put in gear and the key removed from the ignition;

(c) Not disengage the clutch or have transmission in neutral to allow the bus to coast;

(d) Stop to load or unload pupils only at designated places;

(e) See that all doors on the bus are kept closed while the bus is in motion;

(f) Bring the bus to a complete stop before taking on or letting off pupils. Whenever possible the driver shall stop at a place where the road may be clearly seen for several hundred feet in either direction;

(g) Not permit anyone to hang on or hitch onto the outside of the bus;

(h) Not use a school bus for any purpose other than transporting pupils to and from schools or authorized school activities;

(i) Not permit anyone else to operate the bus or controls, except with the permission of transportation entity or contractor;

(j) Not permit animals on the bus except guide dogs and assistance animals from recognized programs that will be accepted when accompanying blind, deaf, or physically impaired persons as identified on an IEP.

Guide/assistance animals or animals in training as defined in ORS 346.680 are also accepted when they comply with all the following:

(A) Are enrolled and identified in an assistance animal training program registered with and regulated by an appropriate county extension service or designated state agency;

(B) Have a comprehensive immunization record on file with the district;

(C) Are always clearly and distinctively identified as an assistance animal in training;

(D) Are accompanied by the trainer identified in district records;

(E) Continue to demonstrate their ability to ride safely with students, posing no hazards or distractions; and

(F) Comply with any additional requirements and safeguards specified by the transportation entity.

(k) Not permit firearms or other weapons to be carried in the bus;

(l) Not operate the bus with a trailer attached;

(m) Not fill the fuel tank while pupils are in the bus or while the motor is running;

(n) Not transport any person who is not a pupil, a teacher, or an official of the school while traveling the regular route, unless authorized to do so by a authorized school official. School officials may authorize other persons to ride in the school buses on special occasions having to do with school affairs;

(o) Make certain that all aisles and passageways are kept clear;

(p) Not permit signs of any kind to be attached to the bus, except those specifically permitted by law or regulation;

(q) Report to school officials immediately when buses are overloaded as described in OAR 581-053-0002 and ORS 820.180(1)(b);

(r) Stop the bus if any difficulty arises or if disorder prevails in the bus making it unsafe to continue and not proceed until the situation is remedied. Misconduct of pupils shall be reported to the proper official;

(s) Not use tobacco on the school bus and shall not permit passengers to use tobacco on the bus;

(t) Not be under the influence of any alcoholic beverage or any drug likely to affect the person's ability to operate the vehicle safely while on duty; shall not consume an alcoholic beverage, regardless of its alcoholic content or any drug likely to affect the person's ability to operate the vehicle safely while on duty or within eight hours before going on duty to operate a pupil transporting vehicle;

(u) Not allow pupils to leave the bus except at their designated stop without the authorization of school officials;

(v) Ensure students are seated before putting the bus in motion;

(w) Complete any training required by the Oregon Department of Education, transportation entity or contractor;

(x) Make written reports of accidents involving the pupil-transporting vehicle to the Oregon Department of Education. Reports shall be submitted within 72 hours of the accident. Drivers shall use forms provided by ODE.

(y) Make other reports as required by the transportation entity, the Oregon Department of Education and the Motor Vehicles Division;

(z) Use all securement straps and attachments for students with adaptive/assistive devices in a manner consistent with their design;

(aa) Not transport pupils seated on three-wheeled mobile seating devices.

(bb) Not use a cell phone, with or without a hands free device, while driving a school bus unless summoning medical or other emergency help if no other person in the vehicle is capable of summoning help.

(cc) Not eat or drink while driving the bus.

(dd) Not transport students in three wheeled devices.

(ee) Not transport compressed oxygen unless:

(A) The capacity is less than or equal to 22 cubic feet;

(B) The tank is certified and labeled as approved by the Department of Transportation;

(C) The tank valve and regulator are protected from breakage; and

(D) The tank is securely attached to avoid being a hazard for students and away from intense heat.

(ff) Not transport liquid oxygen unless:

(A) The capacity is less than or equal to 23 cubic feet;

(B) The tank is certified and labeled as approved by the Department of Transportation; and

(C) The tank is securely attached to avoid being a hazard for students and away from intense heat.

(10) Use of Bus Safety Lights:

(a) When pupils must cross the roadway to board, or after leaving the bus, the driver shall actuate the amber flashing warning lights 100 to 300 feet before the stop. The driver shall stop the bus in the right hand traffic

# ADMINISTRATIVE RULES

lane. The red lights shall remain flashing until all pupils have safely crossed the roadway;

(b) When pupils need not cross the roadway to board, or after leaving the bus, the driver shall:

(A) When practicable, stop completely off the main traveled portion of the roadway. The driver shall not actuate the bus safety lights;

(B) Where it is not practicable to stop completely off the main traveled portion of the roadway the driver shall actuate the amber flashing warning lights 100 to 300 feet before the stop. The driver shall stop the bus in the right-hand traffic lane. The red lights shall remain flashing until pupils have safely boarded or left the bus.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0240

### Minimum Standards for School Buses

(1) Air Cleaner:

(a) The engine intake air cleaner shall be furnished and properly installed by the chassis manufacturer to meet engine specifications;

(b) All Type C and Type D buses equipped with diesel engines shall have an air cleaner restriction indicator properly installed by the chassis manufacturer to meet engine specifications.

(2) Air System: All buses equipped with air systems for brakes shall provide and identify an appropriate air port for plumbing in air powered accessories.

(3) Air-Operated Accessories: Air-operated accessories shall be plumbed into the vehicle's air supply system in compliance with all the following:

(a) Safeguarded by a check valve or equivalent device located between the air supply system and the accessory to prevent air loss due to accessory failure. This shall include the supply line for a designated accessory air tank;

(b) Connected to the air supply system in compliance with all applicable Federal Motor Vehicle Safety Standards;

(c) Connected in the manner prescribed by the vehicle manufacturer.

(4) Aisle:

(a) Minimum clearance of all aisles shall be 12 inches.

(b) Minimum clearance of aisles from wheelchair areas to an emergency door shall be at least 30 inches wide to permit passage of a wheelchair. Special service entrance doors are not considered emergency doors unless in compliance with all right side emergency door requirements.

(5) Axles: The front and rear axles and suspension systems shall have a gross axle weight rating at ground commensurate with the respective front and rear weight loads of the bus loaded to the rated passenger capacity.

(6) Back-up camera: A back-up camera may be installed. The camera housing shall not block any signage or lights that are required. The monitor for the back-up camera system shall not block the view of any window, gauges, or required indicator lights. The monitor shall only work when the transmission is in reverse.

(7) Body Construction:

(a) Construction shall be of prime commercial quality steel, or other metal, or other material with strength at least equivalent to all-steel as certified by bus body manufacturer;

(b) Construction shall provide a water-tight and reasonably dustproof unit;

(c) Must meet or exceed applicable federal motor vehicle safety standards for construction, effective December 2, 1993.

(8) Body Sizes:

(a) Body manufacturer shall determine the vehicle's maximum designed and equipped passenger capacity and post it on the vehicle with the GVWR and vehicle compliance information.

(b) For determining standard requirements on buses with power lifts and wheel chair tie down stations, the passenger and gross vehicle weight rating classification will be determined as if the vehicle were equipped with a standard seating arrangement.

(9) Brakes:

(a) Air brakes are required on all buses having a manufacturer's gross vehicle weight rating of 26,001 pounds or greater;

(b) Buses using air or vacuum in the operation of the brake system shall be equipped with warning signals, readily audible and visible to the driver, that will give a continuous warning when the air pressure available in the system for braking is 60 psi (pounds per square inch) or less or the vacuum in the system available for braking is 8 inches of mercury or less. An illuminated gauge shall be provided that will indicate to the driver, the

air pressure in pounds per square inch available for the operation of the brake.

(A) Vacuum-assist brake systems shall have a reservoir used exclusively for brakes which shall be adequate to ensure loss in vacuum at full stroke application of not more than 30 percent with engine not running. Brake system on gas-powered chassis shall include suitable and convenient connections for the installation of separate vacuum reservoir;

(B) Any brake system dry reservoir shall be so safeguarded by a check valve or equivalent device that in the event of failure or leakage in its connection to the source of compressed air or vacuum, the stored dry air or vacuum shall not be depleted by the leakage or failure.

(c) Buses using a hydraulic assist-booster in the operation of brake system shall be equipped with a warning signal, readily audible and visible to the driver, which will provide continuous warning in the event of a loss of fluid pressure from primary source or loss of electric source powering the backup system;

(d) The brake lines and booster-assist lines shall be protected from excessive heat and vibrations and be so installed as to prevent chafing;

(e) All brake systems shall be designed to permit visual inspection of brake lining wear without removal of any chassis components except for inspection dust covers or wheels;

(f) Air brake systems shall be equipped with manual drain valves on all air tanks. A provision shall be made to operate manual drain valve(s) on first (wet) reservoir(s) from the side of the bus unless one of the following options is provided:

(A) Automatic moisture ejector on the first (wet) reservoir;

(B) An air dryer that has the drying ability to ensure an adequate margin of safety under normal and adverse operating conditions;

(C) Skirt-mounted controls for manual drain valve(s) shall not extend beyond the outer side of bus skirt panel.

(10) Bumper (Front):

(a) The bumper on Type A-2, B, C, and D buses shall be equivalent in strength and durability to pressed steel channel at least 3/16 inches thick and not less than 8 inches wide (high). It shall extend beyond the forward-most part of the body, grille, hood and fenders and shall extend to the outer edges of the fenders at the bumper's top line.

(b) Type A-1 buses may be equipped with an OEM-supplied bumper.

(c) The bumper shall be of sufficient strength to permit pushing or being pushed by another vehicle with the same GVWR on a smooth surface with a five degree (8.7 percent) grade, without permanent distortion to the bumper, chassis, or body.

(d) The bumper shall be designed or reinforced so that it will not deform when the bus is lifted by a chain that is attached to both tow hooks when the bus is empty and positioned on a level, hard surface and both tow hooks share the load equally.

(e) Deer guards may be added to a front bumper to protect the front grill. Deer guards shall not be in any portion of the driver's forward view, including use of all mirrors.

(11) Bumper (Rear):

(a) Rear bumper for all body on chassis units shall be of pressed steel channel or equivalent material at least 3/16-inch thick and eight inches wide (high), and of sufficient strength to permit pushing by another vehicle without distortion;

(b) Bumper for all body on chassis units shall wrap around back corners of bus. It shall extend forward at least 12 inches, measured from rear-most point of body at floor line;

(c) Bumper shall be attached to chassis frame in such manner that it may be easily removed, shall be so braced as to develop full strength of bumper section from rear or side impact, and shall be so attached as to prevent the insertion of small fingers between the body and bumper;

(d) Bumper shall extend beyond rear-most part of body surface at least one inch, measured at floor line;

(e) An energy absorbing rear bumper may be used providing a self-restoring energy absorbing bumper system so attached as to prevent the hitching of rides and of sufficient strength to permit pushing by another vehicle without permanent distortion to the bumper, chassis, or body;

(f) The manufacturer of the energy absorbing system shall provide evidence from an approved test facility (capable of performing the above FMVSS tests) that their product conforms to the above.

(12) Certification:

(a) The vehicle shall be certified as a "School Bus" as required in the FMVSS certification requirements of 49 CFR part 567.

(b) Manufacturer will, upon request, certify to the Oregon Department of Education that their product meets minimum standards on items not covered by FMVSS certification requirements of 49 CFR part 567.

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(13) Chains, Automatic: Automatic tire chains (traction) may be installed at drive wheels in conformance with manufacturer specifications and any applicable chassis manufacturer standards.

**NOTE:** Air-applied chain systems must comply with air-operated accessory requirement included in this rule.

(14) Child Safety Restraint Systems:

(a) Child safety restraint systems used for transporting infants, toddlers, or others requiring added support shall conform to specific strength and performance standards or dynamic test standards identified in 49 CFR 571.213 for protection of a child up to 50 pounds;

(b) Child safety restraint systems shall bear a label specifying compliance with all applicable Federal Motor Vehicle Safety Standards at the time of their manufacture;

(c) Child safety restraint systems shall be secured to the school bus seat as per the manufacturer's instructions. If used, a child safety restraint anchorage system must meet 49 CFR 571.225 and a seat belt shall meet section 61 of this rule.

(15) Clutch:

(a) Clutch torque capacity shall be equal to or greater than, the engine torque output;

(b) A starter interlock shall be installed to prevent actuation of the starter if the clutch is not depressed on all buses manufactured after January 1, 1999.

(16) Color:

(a) Chassis and bumpers shall be black; Wheels may be painted either black or National School Bus Yellow. Type A-1, A-2, and B buses may have manufacturer standard color wheels.

(b) The school bus body shall be painted a uniform National School Bus Yellow. The body exterior paint trim, bumper, lamp hoods, and emergency door lettering shall be black. The engine hood may be painted low-luster yellow. The roof of the bus may be painted white. The white color may extend across the roof down to the drip rails or within 6 inches above the passenger windows on the sides of the bus except that front and rear caps shall remain National School Bus Yellow. Retroreflective material may be used as trim on rear bumper;

(17) Crossing Arm: A crossing arm may be mounted on the front of a school bus in accordance with the following specifications:

(a) Installed on the front bumper as close as practicable to the right (curb) side, opening left to right and providing an extension of the curbside of bus;

(b) Arm shall be located at least 18 inches but not more than 32 inches above ground level and in the closed position; arm shall not cover numbers on license plate;

(c) Installed in a manner to limit the outward deployment to 90 degrees from the front bumper;

(d) Arm shall extend 70 inches from the front bumper in its extended position;

(e) Arm shall be activated through the existing bus safety light system assuring the driver is required to take no additional action to either deploy or retract the arm. No outward movement of the arm may occur before red flashing sequence begins;

(f) Override switches are prohibited;

(g) Crossing arm must be safeguarded from damage due to pushing or pulling by hand through the use of a clutch-like device or equivalent, double spring hinges are not acceptable;

(h) The arm may be equipped with an amber flashing light that functions only when the arm is in the fully extended position;

(i) Entire unit shall have no sharp edges or other projections that could injure children or others due to casual contact;

(j) Unit shall provide secure mounting opportunities to prevent misalignment or failure due to extreme weather conditions;

(k) Shall be either air, vacuum, or electrically operated and in conformance to section (69)(g) of this rule;

(l) Crossing arm color shall be yellow or yellow and black;

(m) All components and connections shall be weatherproofed.

(18) Cup holders on vehicles manufactured after July 1, 2013 shall not be allowed. No additional cup holders shall be installed.

(19) Defrosters:

(a) Defrosting and defogging equipment shall direct a sufficient flow of heated air onto the windshield, the window to the left of the driver and the glass in the viewing area directly to the right of the driver to reduce the amount of frost, fog and snow;

(b) The defrosting system shall conform to SAE performance standards J-381 and 382;

(c) The defroster and defogging system shall be capable of furnishing heated outside ambient air, except that part of the system furnishing addi-

tional air to the windshield, entrance door and step well may be of the recirculation air type;

(d) Auxiliary fans, if used, shall not be considered as a defrosting and defogging system:

(A) Auxiliary fans shall be mounted above the windshield, so as not to interfere with the driver's vision of the roadway, mirrors or students outside the bus;

(B) The fan blades shall be covered with a protective cage.

(20) Doors:

(a) Service door shall be under the driver's control, designed to afford easy release and to provide a positive latching device on manual operating doors to prevent accidental opening. When hand lever is used, no part shall come together so as to shear or crush fingers. Manual door controls shall not require more than 25 pounds of force to operate at any point throughout the range of operation, as tested on a 10% grade, both up hill and downhill;

(b) Service door shall be located on right side of bus opposite driver and within direct view;

(c) Service door shall have minimum horizontal opening of 24 inches and minimum vertical opening of 68 inches;

(d) Service door shall be a split-type door and shall open outward;

(e) If service door is power operated, pressure shall be controlled by a regulator valve or switch and provision shall be made for opening the door manually in the event of driver disability or mechanical failure. Emergency release valve or switch for power operated doors shall be located in an accessible place, in plain view, as near the service door as practicable. Valve or switch shall be properly identified and "open" and "closed" position plainly marked;

(f) All service door windows shall be approved safety glass. Bottom of lower glass panel shall not be more than ten inches from top surface of bottom step. Top of upper glass panel shall not be more than six inches from top of door.

(g) Vertical closing edges on the service door shall be equipped with flexible material to protect children's fingers.

(h) There shall be no door to left of driver. (This shall not be interpreted to conflict with emergency doors or windows.) Type A-1 and A-2 and B buses may be equipped with chassis manufacturers' left side driver's door;

(i) All doors shall be equipped with an energy absorbing pad at the top edge of each door opening. Pad shall be at least 3 inches wide and 1 inch thick and extend the full width of the door opening.

(21) Drive Shaft: Drive shafts over 24 inches in length shall be protected by metal guard or guards around circumference of drive shaft to reduce the possibility of the shaft whipping through floor or dropping to ground if broken. Guards shall be mounted around front half of each drive shaft section.

(22) Electrical System:

(a) Battery(ies):

(A) Battery shall have a minimum cold cranking capacity rating equal to the cranking current required for 30-seconds at 0° Fahrenheit (-17.8c) and a minimum reserve capacity rating of 120-minutes at 25 amp. Higher capacities may be needed dependent upon optional equipment and local environmental conditions;

(B) The manufacturer shall securely attach the battery(ies) on a slide-out or swing-out tray in a closed, vented compartment in the body skirt so that the battery(ies) is accessible for convenient servicing from the outside. Battery compartment(s) door or cover shall be hinged at front or top and secured by adequate and conveniently operated latch or other type fastener. Type A-1 and A-2 buses may have battery(ies) mounted under the hood in an accessible location;

(C) Access to battery shall not be through body floor;

(D) Buses may be equipped with a battery shut-off switch. The switch shall be placed in a battery compartment or the engine compartment.

(b) Circuits: An appropriate identifying diagram (color and number coded) for electrical circuits shall be provided to the body manufacturer for distribution to the end user;

(c) Generator or Alternator:

(A) All buses with a GVWR of 14,500 pounds or less shall have a generator or alternator with a minimum rating of at least 130 amperes (in accordance with Society of Automotive Engineer rating) with minimum charging of 50 percent of maximum rated output at manufacturer's recommended engine idle speed (12 volt system), and shall be ventilated and voltage-controlled and, if necessary, current-controlled;

(B) All buses with a GVWR greater than 14,500 pounds shall have a generator or alternator with a minimum rating of at least 160 amperes (in

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accordance with Society of Automotive Engineer rating) with minimum charging of 50 percent of maximum rated output at manufacturer's recommended engine idle speed (12 volt system), and shall be ventilated and voltage-controlled and, if necessary, current-controlled;

(C) Generator or alternator may be direct/gear driven or belt driven. Belt driven generator or alternators shall be capable of handling the rated capacity of the generator or alternator with no detrimental effect on other belt driven components;

(d) Wiring, Chassis:

(A) General — all wiring shall conform to current applicable recommended practices of the Society of Automotive Engineers. All wiring shall use a standard color coding and each chassis shall be delivered with a wiring diagram that coincides with the wiring of the chassis;

(B) Chassis manufacturer shall install a readily accessible terminal strip or plug on the body side of the cowl, or at accessible location in engine compartment of vehicles designed without a cowl, which shall contain the following terminals for the body connections:

- (i) Main 100 amp body circuit;
- (ii) Tail lamps;
- (iii) Right turn signal;
- (iv) Left turn signal;
- (v) Stop lamps;
- (vi) Back up lamps;
- (vii) Instrument panel lights (controlled by dimmer switch).

(e) Wiring, Body:

(A) All wiring shall conform to current standards of Society of Automotive Engineers;

(B) Circuits:

(i) Wiring shall be arranged in circuits, as required, with a circuit protection system. A system of color or number coding shall be used for all buses purchased after September 1, 1993 and an appropriate identifying diagram shall be provided the end user along with the wiring diagram provided by the chassis manufacturer. The following interconnecting circuits shall be color coded as noted:

- (I) Left rear directional light — yellow;
- (II) Right rear directional light — dark green;
- (III) Stop lights — red;
- (IV) Back-up lights — blue;
- (V) Tail lights — brown;
- (VI) Ground — white;
- (VII) Ignition feed, primary feed — black;
- (VIII) The color of cables shall correspond to SAE J1128.

(ii) Wiring shall be arranged in at least seven regular circuits, as follows:

- (I) Head, tail, stop (brake) and instrument panel lamps;
- (II) Clearance and step well lamps (step well lamp shall be activated when service door is opened);
- (III) Dome lamp;
- (IV) Ignition and emergency door signal;
- (V) Turn signal lamps;
- (VI) School Bus Safety Lights;
- (VII) Heaters and defrosters.

(iii) Any of above combination circuits may be subdivided into additional independent circuits;

(iv) Whenever possible, all other electrical functions (such as Sanders and electric-type windshield wipers) shall be provided with independent and properly protected circuits.

(C) The entire electrical system of the body shall be designed for the same voltage as the chassis on which the body is mounted;

(D) All wiring shall have an amperage capacity equal to or exceeding the designed load. All wiring splices are to be done at an accessible location and noted as splices on wiring schematic;

(E) Each body circuit shall be coded by number or letter on a diagram of easily readable size and be furnished with each bus body or affixed in an area convenient to the electrical accessory control panel;

(F) Body power wire is to be attached to special terminal on the chassis;

(G) All wires passing through metal openings shall be protected by a grommet;

(H) Wires not enclosed within body shall be fastened securely at intervals of not more than 18 inches. All joints shall be soldered or joined by equally effective connectors and shall be moisture and corrosion resistant.

(I) A 12-volt power port may be installed in the driver's area;

(J) There shall be a non-momentary manual noise suppression switch installed in the control panel. The switch shall be clearly labeled and dis-

tinguishable from other switches. This switch shall be an on/off type that deactivates body equipment that produces noise, including the AM/FM/audio radio, heaters, air conditioners, fans and defrosters. The switch shall not deactivate safety systems such as windshield wipers or lighting systems.

(23) Emergency Equipment:

(a) Belt cutter: Each bus equipped with passenger seat belts or webbed restraining devices shall have a belt cutter mounted in the driver's compartment within reach of a driver sitting in the driver's seat. Belt cutter shall be of a design offering protected cutting edges to prevent accidental or intentional injury to drivers or passengers;

(b) Emergency road reflectors:

(A) Each bus shall be equipped with at least three reflex reflective triangle vehicle warning devices that conform to 49 CFR 581.125;

(B) Reflectors must be in a container securely mounted with nut-and-bolt fasteners enhanced with large flat (fender) washers or held in place by a nut-and-bolt mounted metal bracket that also protects and secures the container lid. Both shall be located in an accessible location. Reflectors shall not be mounted in any engine compartment;

(c) Body fluid cleanup kit: Buses shall have a removable moisture proof and dust proof body fluid cleanup kit, mounted in an accessible place within the driver's compartment. Contents shall include at least the following items:

(A) Two pair rubber/latex gloves;

(B) Two four-ounce packages of stabilized chlorine absorbent deodorant (or equivalent) capable of stabilizing at least 1 liter/36 fl. oz. of body fluids;

(C) One spatula for pick up of congealed fluid;

(D) One plastic bag in which to place congealed fluid;

(E) One red plastic bag with tie, identified for infectious waste and as a bio-hazard;

(F) One two-ounce bottle of germicidal detergent to apply to a contaminated area;

(G) Four paper towels to wipe up contaminated area;

(H) One one-ounce antiseptic alcohol hand rinse (or equivalent);

(I) One placard of step by step use instructions;

(J) Germicidal detergents, stabilized chlorine absorbent deodorant, alcohol hand rinse, or their equivalents shall provide documentation of EPA approval regarding their microbiological efficacy for at least the following:

(i) Staphylococcus aureus;

(ii) Pseudomonas aeruginosa;

(iii) Salmonella choleraesuis;

(iv) Streptococcus species;

(v) Herpes simplex Type II;

(vi) HIV (Associated with AIDS);

(vii) Fungi (athlete's foot);

(viii) Poliovirus; and

(ix) Tuberculosis.

(K) Documentation of efficacy for Hepatitis B may be hospital or test studies. The certified effective shelf life of these products shall be a minimum of 12 months. Product expiration date shall be clearly displayed on all time-sensitive products.

(d) Fire extinguishers:

(A) Each bus shall be equipped with at least one pressurized, dry, chemical type fire extinguisher, mounted in a bracket, located in the driver's compartment, and readily accessible. A pressure gauge shall be mounted on the extinguisher so as to be readily read without removing the extinguisher from its mounted position;

(B) The fire extinguisher shall be of a type approved by the Underwriters Laboratories, Inc., with a rating of not less than 2 A-10 BC. The extinguisher shall have a minimum five pound capacity and equipped with a hose and nozzle;

(C) The operating mechanism shall be sealed with a type of seal that will not interfere with the use of the fire extinguisher;

(D) Extinguishers with plastic heads are not permitted.

(e) First aid kit:

(A) Each bus shall have a readily removable, moisture proof and dust-proof first-aid kit container mounted in an accessible place within driver's compartment;

(B) The first aid kit contains a minimum of 24 units that shall include the following:

(i) One 1" adhesive compress — 16 per unit;

(ii) Two 2" bandage compress — 4 per unit;

(iii) Two 3" bandage compress — 2 per unit;

(iv) Two 4" bandage compress — 1 per unit;

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- (v) Two 3" x 3" plain gauze pads — 4 per unit;
  - (vi) Two 2" x 6 yards gauze roller bandage — 1 per unit;
  - (vii) Three 1/2 square yard gauze;
  - (viii) Three 24" x 72" gauze;
  - (ix) Four triangular bandages;
  - (x) One 1/2 x 5 yard adhesive tape - one per unit;
  - (xi) One round nose scissors and tweezers. Latex gloves - one pair;
- and

(xii) One micro-shield for mouth-to-mouth airway (to lay on top of other contents).

(C) Specific local requirements may be substituted in lieu of 2 units of 1/2 square yard gauze.

(f) Any piece of emergency equipment may be mounted in an enclosed compartment, provided the compartment is labeled in not less than 1 inch letters, identifying each piece of equipment contained therein. If emergency road reflectors are stored outside the driver's compartment, the location of the triangles shall be displayed in a readily viewable location by the driver in minimum 1 inch letters.

### (24) Emergency Exits:

(a) All emergency exits and doors shall comply with the design and performance requirements of 49 CFR 571.217, Bus Emergency Exits and Window Retention and Release applicable to that type of exit.

(b) In addition to the requirements of 49 CFR 571.217, all emergency exits and doors shall meet the additional requirements:

#### (A) Doors:

(i) Upper portion of emergency door shall be equipped with approved safety glazing, exposed area of not less than 400 square inches;

(ii) Lower portion of rear emergency door shall be equipped with approved safety glass and shall have an exposed area of not less than 350 square inches of approved safety glazing;

(iii) There shall be no steps leading to emergency door;

(iv) Clearance between outside emergency door handle and emergency door shall not exceed 1/4 inch when handle is in the closed position. Handle shall not provide a firm handhold for someone trying to "hitch" a ride. Handles shall be positioned to prevent snagging of clothing or pinching of fingers;

(v) Emergency door hinge shall not provide an opening for insertion of fingers when door is closed;

(vi) An adequately padded head bumper shall be placed on the interior directly above any emergency exit door opening. The pad shall extend the full width of the door opening and shall be at least three inches wide and one inch thick;

(vii) If emergency door is lockable, provision must be made to prevent the bus from starting while the door is locked. An audible warning which does not affect engine operation shall be provided to alert the driver should the door be locked while the bus is in operation; and

(viii) Emergency doors shall be labeled "Emergency Door" in minimum 2 inch letters that contrast with the background at the top of, or immediately above, the emergency door on both the inside and outside of the bus;

#### (B) Rear Push-Out Window:

(i) Rear push-out window shall be operable from inside or outside the bus;

(ii) Rear push-out window shall have a lifting assistance device that will aid in lifting and holding the rear emergency window open; and

(iii) If rear push-out window is lockable, provision must be made to prevent the bus from starting while the exit is locked. An audible warning which does not affect engine operation shall be provided to alert the driver should the exit be locked while the bus is in operation;

#### (C) Swing-Out Windows:

(i) Swing-out windows are windows along the side of the bus with a hinge that is opposite of the emergency release so that it "swings-out" when opened. Swing-out windows may be hinged along any edge of the window. If the hinge is installed vertically, it shall be installed on the forward side of the window;

(ii) Swing-out windows shall not be located above a stop arm;

(iii) Swing-out windows shall provide a minimum clear opening of 18" x 24"; and

(iv) Swing-out windows that are inoperable from the outside shall include the message "Operates From Inside Only" adjacent to the outside "Emergency Exit" labeling required under 49 CFR 571.217;

#### (D) Roof Hatches:

(i) Roof hatch shall be waterproof and provide a minimum clear opening of 16" x 16";

(ii) When a release mechanism on the roof hatch is open and the vehicle's ignition is in the "on" position, a continuous warning shall be audible at the drivers seating position; and

(iii) Roof hatch may also serve as a roof ventilator; however, this shall not be used in place of the required static vent.

(c) Each bus shall be equipped with:

(A) A rear emergency exit door and one roof hatch; or

(B) A left side emergency exit door, a rear emergency push out window, and one roof hatch.

(d) Buses equipped with a rear emergency exit door and roof hatch (as in paragraph (c)(A) of this section) require additional emergency exits based on the maximum design passenger capacity listed below:

(A) Buses designed or equipped with a maximum design passenger capacity of 1 to 22 shall also provide:

(i) 2 swing-out windows placed at approximately the midpoint of the passenger compartment; or

(ii) Side windows with a 12 inch vertical drop.

(B) Buses designed or equipped with a maximum design passenger capacity of 23 to 45 shall also provide:

(i) Left side emergency door; or

(ii) 2 swing-out windows at approximately the midpoint of the passenger compartment.

(C) Buses designed or equipped with a maximum design passenger capacity of 46 and above shall also provide one additional roof hatch and:

(i) Left side emergency door; or

(ii) 4 swing-out windows at approximately the midpoint of the passenger compartment, but not immediately adjacent to each other.

(e) Buses equipped with a left side door and rear push-out window (as in paragraph (c)(B) of this section) require additional emergency exits based on the maximum design passenger capacity listed below:

(A) Buses designed or equipped with a maximum design passenger capacity of 1 to 22 shall also provide:

(i) 2 swing-out windows placed at approximately the midpoint of the passenger compartment; or

(ii) Side windows with a 12 inch vertical drop.

(B) Buses designed or equipped with a maximum design passenger capacity of 23 to 45 shall also provide two swing out windows.

(C) Buses designed or equipped with a maximum design passenger capacity of 46 and above shall also provide one additional roof hatch and:

(i) Right side emergency door; or

(ii) Four swing-out windows.

(f) Any additional emergency exits necessary to comply with the "additional emergency exit area" requirements of 49 CFR 571.217 shall be made by the vehicle purchaser.

(g) Manufacturer shall identify all emergency exits used for calculations relating to this rule and 49 CFR 571.217 compliance and list the daylight (clear) opening for each exit.

(h) All emergency exits shall be marked on the exterior perimeter with one inch retroreflective yellow material that meets the retro reflectivity requirements of section (57) of this rule. The color of the retroreflective material may be white for a roof hatch on a white roof.

(25) Engine Compartment Fire Suppression System: Automatic fire extinguisher systems may be installed in the engine compartment on buses. System shall have a visible gauge easily read from the driver's seat and a manual activation switch clearly identified and located in the driver's compartment. The entire system must be UL (Underwriters Laboratories) approved and assure protection from passenger compartment. Extinguisher system manual activation switch/control shall be safeguarded from accidental activation by a pull-pin or equivalent device. The extinguisher, if mounted in the passenger compartment, shall not be readily removable for use elsewhere, but dedicated for the engine compartment.

#### (26) Exhaust System:

(a) Exhaust pipe, muffler, and tailpipe shall be outside bus body compartment and attached to chassis;

(b) Tailpipe shall be constructed of a corrosion-resistant tubing material at least equal in strength and durability to 16 gauge steel tubing;

(c) Tailpipe shall meet one of the following options:

(A) Tailpipe may exit in the rear of the bus provided it:

(i) Does not create a hand hold.

(ii) Does not create a step.

(iii) Exhaust is defused away from passenger compartment.

(B) Tailpipe may extend to, but not beyond the body limits on the left side of the bus forward or rearward of the rear tires outboard of chassis centerline as described in sub-section (c)(C) of this section. If the tailpipe terminates forward of the rear tires it shall terminate not more than 24 inches



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or less than 6 inches forward of rear tires. No tailpipe shall terminate beneath any emergency exit or fuel fill receptacle;

(C) Tailpipe shall not exit the right side of the vehicle.

(d) Exhaust system shall be properly insulated from fuel tank and connections by securely attached metal shield at any point where it is 12 inches or less from tank or tank connections;

(e) Muffler shall be constructed of corrosion-resistant material.

(27) Fenders, Front:

(a) Total spread of outer edges of front fenders, measured at fender line, shall exceed total spread of front tires when front wheels are in straight-ahead position;

(b) When equipped, front fenders shall be properly braced and free from any body attachments.

(28) Floor:

(a) Floor in under seat area, including tops of wheel housing, driver's compartment and toe board, shall be covered with rubber floor covering or equivalent having minimum overall thickness of .125 inch:

(A) Floor covering in aisle shall be of aisle-type fire-resistant rubber or equivalent, wear-resistant and ribbed or equivalent non-slip material. Minimum overall thickness shall be .1875 inch measured from tops of ribs;

(B) Floor covering shall be permanently bonded to floor and shall not crack when subjected to sudden changes in temperature. Bonding or adhesive material shall be waterproof and shall be of type recommended by manufacturer of floor-covering material. All seams shall be sealed with waterproof sealer.

(b) Edge of floor at step well shall be treated as a step edge and shall be protected as required in section (67)(f)(C) of this rule;

(c) A vapor and liquid proof inspection plate provided for access to the fuel tank sending may be installed;

(d) A subfloor of 5-ply plywood, at least 5/8 inch nominal thickness or equivalent, shall be installed over the standard school bus floor. Plywood shall equal or exceed properties of exterior grade C-C plywood as specified in NIST PS 1. Floor shall be level from front to back and from side to side except for wheel housing, toe board and driver's seat platform areas;

(e) Plywood sub-floor may be replaced with an equivalent material provided it has equal or greater insulation R-value, sound abatement, deterioration-resistant, and moisture-resistant properties.

(29) Frame:

(a) Frame shall be of such design and strength characteristics as to correspond at least to standard practice, for trucks of same general load characteristics which are used for highway service;

(b) Any secondary manufacturer that modifies the original chassis frame shall guarantee the performance of workmanship and materials resulting from such modification;

(c) Any frame modification shall not be for the purpose of extending the wheelbase;

(d) Holes in top or bottom flanges of frame side rail shall not be permitted except as provided in original chassis frame. There shall be no welding to frame side rails except by chassis manufacturer;

(e) Frame lengths shall be established in accordance with the design criteria for the complete vehicle.

(30) Fuel System:

(a) The following fuels may be used:

(A) Diesel, including biodiesel blends,

(B) Gasoline, including ethanol blends,

(C) Liquefied Petroleum Gas (LPG),

(D) Compressed Natural Gas (CNG),

(E) Dual fuel systems using any combination of (A) through (D) above, provided that the system:

(i) Meets Environmental Protection Agency specifications;

(ii) Meets vehicle manufacture specifications; and

(iii) Has been approved by the Oregon Department of Education.

(F) Other fuels may be approved by the Oregon Department of Education upon request.

(b) Buses with a capacity of 57 or less shall be equipped with one or more fuel tanks that provide a combined liquid capacity of not less than 30 gallons.

(c) Buses with a capacity of 58 or more shall be equipped with one or more fuel tanks that provide a combined liquid capacity of not less than 60 gallons.

(d) The actual draw capacity of each fuel tank shall be a minimum of 83 percent of the tank capacity.

(e) No portion of the fuel system, which is located outside of the engine compartment, except the filler tube, shall extend above the top of the

chassis frame rail. Fuel lines shall be mounted to obtain maximum possible protection from the chassis frame;

(f) Fuel filter with replaceable element shall be installed between fuel tank and engine;

(g) Tank(s) shall be mounted, filled and vented outside of body. The tank(s) location shall not permit fuel spillage to drip or drain on any portion of the exhaust system.

(h) Liquefied Petroleum Gas (LPG) systems shall comply with National Fire Protection Association (NFPA) 58, Liquefied Petroleum Gas Code.

(31) G.P.S. Navigation: A G.P.S. navigation unit may be installed. The unit shall not block any windows, gauges or indicator lights that are required. Portable units shall use an installed 12 volt power port.

(32) Governor:

(a) An electronic engine speed limiter shall be provided and set to limit engine speed, not to exceed the maximum revolutions per minute, as recommended by the engine manufacturer.

(b) When it is desired to limit road speed, a road-speed governor should be installed;

(33) Heaters:

(a) At least one heater of hot water type shall be required;

(b) If only one heater is used, it shall be of fresh-air or combination fresh-air and recirculation type;

(c) If more than one heater is used, additional heaters may be of recirculation air type;

(d) The heating system shall be capable of maintaining throughout the bus a temperature of not less than 50 degrees Fahrenheit at average minimum January temperature as established by the National Weather Service, for the area in which the vehicle is to be operated;

(e) All heaters shall bear a name plate which shall indicate the heater rating in accordance with SBMTC Standard No. 001, said plate to be affixed by the heater manufacturer which shall constitute certification that the heater performance is as shown on the plate;

(f) Heater hoses shall be adequately supported to guard against excessive wear due to vibration. The hoses shall not dangle or rub against the chassis or sharp edges, and shall not interfere with or restrict the operation of any engine function. Heater hose shall conform to SAE J20c. Heater hoses on the interior of the bus shall be shielded to prevent scalding of the driver or passengers;

(g) Each hot water heater system installed by a body manufacturer shall include a shutoff valve installed in the pressure and return lines near the engine in an accessible location. There shall be a water flow regulating valve or airflow regulating door for the front heater installed for convenient operation by the driver while seated;

(h) Return heater lines on body company installed heaters shall be equipped with bleeder valves in an accessible location to allow for removal of heater line air;

(i) Auxiliary fuel-fired combustion heating systems may be installed, provided that:

(A) The auxiliary heating system shall be marked plainly with certification stating, "Meets FMCSA Bus Heater Requirements"

(B) The auxiliary heating system shall utilize the same type of fuel as specified for the vehicle engine;

(C) The auxiliary heating system may be direct, hot air-type or may be connected to the engine coolant system;

(D) When connected to the engine coolant system, the auxiliary heating system may be used to preheat the engine coolant or preheat and add supplementary heat to the heating system, or both;

(E) Auxiliary heating systems shall be installed pursuant to the manufacturer's recommendations outside of the passenger compartment;

(F) Exhaust from auxiliary heating system shall not exit the right side of the bus;

(G) Installation of auxiliary heating system shall not compromise the requirements of Title 49 CFR Part 579.301 Fuel System Integrity.

(j) Portable heaters shall not be used.

(34) Horn: Bus shall be equipped with horn or horns of standard make, each horn capable of producing complex sound in bands of audio frequencies between approximately 250 and 2,000 cycles per second and tested per SAE Standard J-377.

(35) Identification:

(a) School buses shall bear the words "SCHOOL BUS" in black capital series letters at least eight inches high and of proportionate width on both front and rear of bus. Lettering shall be placed as high as possible without impairment of its visibility. The background shall be a maximum of 12 inches by 36 inches and shall be either:

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(A) Retroreflective material that conforms to the retro reflectivity requirements of section (57); or

(B) Illuminated.

(b) A warning sign shall be installed on the rear of all school buses calling attention to the school bus stop law. It shall be located in the most attainable vertical center of the rear emergency door, between the upper and lower windows. Signs on rear engine transit type buses shall be vertically centered and horizontally adjacent to the left and right upper brake lights. Sign shall be either:

(A) A decal with white retroreflectorized letters that conform to the retroreflective requirements listed in section (57) of this rule mounted on a flat black background. The word message shall be centered horizontally and vertically on the decal. The decal shall have the lettering shown below:

UNLAWFUL TO PASS (3 inches in height)

WHEN (1 inches in height)

RED LIGHTS FLASH (3 inches in height)

or:

(B) An electronic sign that displays warning messages to motorists.

The electronic sign:

(i) Shall be sealed weather tight construction approximately 23.5 X 8.75 X 1.5 in size.

(ii) Shall be connected to the school bus safety lights;

(iii) Shall alternately flash the word message "CAUTION" and the word message "STOPPING" when the amber school bus safety lights are active. The letters in the word messages shall be amber with a minimum height of three inches;

(iv) Shall alternately flash the word message "STOP" and the word message "DO NOT PASS" when the red school bus lights are active. The letters in the word messages shall be red with a minimum of three inches;

(v) May flash or display the word message "CAUTION" or the word message "CAUTION STOPPING" when the hazard lights are activated. The letters in the word message shall be amber with a minimum height of three inches;

(vi) May flash or display the word message "CAUTION" when the backup lights are activated. The letters in the word message shall be amber with a minimum height of three inches;

(vii) Shall have a minimum viewing angle of 15 degrees on each side of the perpendicular axis;

(viii) Flashing messages may be controlled by the hazard light and school bus safety light flashers;

(ix) Word and picture messages shall be clearly visible in direct sunlight from a distance of 500 ft along the axis of the vehicle; and

(x) L.E.D. lights, if used, shall be of sufficient quantity to result in a clear and legible message.

(C) An electronic sign that displays warning messages to motorists may be placed on the front of the bus provided that:

(i) There is an electronic sign on the back of the bus per section (B) above;

(ii) The sign shall only be wired to the amber and red bus safety lights; and

(iii) The sign shall be mounted below the windshield, vertically centered.

(c) The name of the school district, private school, or parochial school, and contractor name if applicable, shall be placed on the left and right sides of the bus. The name shall appear in the area directly below the side windows and the letters and figures in the name shall not be less than four inches nor more than seven inches in height and of proportionate width;

(d) School team name or contractor's insignia may be placed above the side windows on the front portion of the bus body. All such lettering must be approved by the Pupil Transportation Section of the Oregon Department of Education;

(e) One bus identification number at least four inches in height shall be placed on a flat vertical surface on each side and on the front and rear of the bus. At least one complete bus identification number shall be visible from any point 50 feet from the bus. Type A-1 and A-2 bus numbers may be three inches in height.

(f) Only signs and lettering approved by state law or by the regulations of the Department of Education shall appear on the inside or outside of a school bus.

(g) Optional identification and lettering may be added to the vehicle as outlined below:

(i) Bus identification number on top of the bus. Numbers shall be black and a minimum of 12 inches high;

(ii) The location of the battery(ies) identified by the word "BATTERY" or "BATTERIES" in black letters on the battery compartment door in 2 inch capital series letters;

(iii) Manufacture or dealer identification or logos. Placement must be approved by the Pupil Transportation Section of the Oregon Department of Education;

(iv) Identification of fuel type on or adjacent to the fuel filler opening in 2 inch black capital series letters;

(v) Symbols, letters, or numbers not to exceed 64 square inches of total display near the entrance door, displaying information for identification by the students of the bus or route served;

(vi) Buses designed and used for transporting children with special needs may display universal handicapped symbols located near service entrance door and at the rear of the vehicle below the window line. Such emblems shall be white on blue, shall not exceed 12 inches square in size, and may be reflectorized.

(36) Inside Height:

(a) Clear inside body height for type A-1 buses shall be a minimum of 62 inches measured at any point on the longitudinal center line from the front vertical bow to the rear vertical bow.

(b) Clear inside body height for all other buses shall be a minimum of 72 inches measured at any point on the longitudinal center line from front vertical bow to rear vertical bow.

(c) Height requirements do not apply to air conditioning units installed in the passenger compartment when installed to manufacture's specifications.

(37) Instruments, Gauges, and Indicators:

(a) Bus shall be equipped with the following instruments and gauges. (Telltale warning lights in lieu of gauges are not acceptable except as noted):

(A) Speedometer;

(B) Odometer, which will give accrued mileage including tenths of miles;

(C) Voltmeter: A graduated charge and discharge ampmeter compatible with generating capacities is permitted in lieu of or in addition to a voltmeter;

(D) Oil-pressure gauge;

(E) Water temperature gauge;

(F) Fuel gauge;

(G) High beam headlight indicator light;

(H) Air pressure or vacuum gauge according to brake system used: Light indicator or gauge required on vehicle equipped with hydraulic-over hydraulic brake system;

(I) Turn signal indicator light;

(J) Tachometer on type B, C, or D buses. Tachometer is optional on Type A buses;

(K) Glow plug indicator light, where appropriate;

(L) Fog light indicator, if fog lights are installed;

(M) Bus safety light pilot lamps / monitors: Each bus shall be equipped with 2 illuminated pilot lamps, one amber and one red. The placement of these lamps shall be in accordance with other telltale light placement requirements in 49 CFR 571.101 Controls and Displays. Pilot lamps shall provide an unmistakable indication that the flasher system is operating and an unmistakable indication if any lamp is not operating or the system is not otherwise functioning normally.

(b) All instruments shall be easily accessible for maintenance and repair;

(c) Above instruments and gauges shall be mounted on instrument panel in such a manner that each is clearly visible to and lies within a 140 degree field of vision for a 95th percentile female anthropomorphic dummy while in normal seated position;

(d) Instrument panel shall have lamps of sufficient candlepower to illuminate all instruments and gauges and shift selector indicator for automatic transmission.

(e) All control and indicator lights shall be dimmable except telltale lights. Control and indicator lights may be controlled by one or two dimmer switches.

(38) Insulation:

(a) Ceiling and walls shall be insulated with proper material to deaden sound and to reduce vibration to a minimum.

(b) Thermal insulation that is fire-resistant, non-water absorbing, UL approved, with a minimum R-value of 5.5 shall be installed in the ceiling and walls;

(c) If floor insulation is desired it shall be installed in accordance with the floor section of this rule.

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### (39) Interior:

(a) Interior of bus shall be free of all projections, including but not limited to luggage/book racks or attendant hand holds, that can cause injury in the event of a collision or rollover.

(b) The ceilings and walls shall have an inner lining.

(c) If ceiling is constructed with lap joints, forward panel shall be lapped by rear panel and exposed edges shall be beaded, hemmed, flanged or otherwise treated to minimize sharp edges;

(d) Buses shall assure noise level taken at the ear of the occupant nearest to the primary vehicle noise source shall not exceed 85 DBA when tested according to the Noise Test Procedure.

### (40) Lamps and Signals:

(a) All lamps, signals, and reflectors shall comply with the design and performance requirements of FMVSS No. 108, Lamps, reflective devices, and associated equipment; Oregon Revised Statutes, Chapter 816, Vehicle Equipment: Lights; and Oregon Administrative rules, Chapter 735, Division 108, Lighting Equipment applicable to that type of lamp, signal or reflector.

(b) The following lights shall be installed with any additional requirements listed:

(A) Back-up lamps: The bus shall be equipped with 2 white rear back-up lamps that have a minimum illuminated area of 12 square inches. If back up lamps are placed in the same horizontal line as the tail-stop lamps and turn signal lamps, they shall be to the inside.

(B) Back-up warning alarm: An automatic audible alarm shall be installed on the rear of the bus that complies with SAE 994 Back-Up Alarm Standard specifying a minimum of 97±4db(A).

### (C) Bus Safety Lights:

(i) Shall have red and amber flashing lights installed in accordance with SAE Standard J887. Each amber light shall be located near each red signal lamp, at the same level, but closer to the vertical centerline of the bus.

(ii) The area around each lens of the bus safety lights shall be painted black, extending outward a minimum of 3 inches where practicable.

(iii) The front bus safety lights shall be visible either directly or indirectly from inside the bus.

(iv) A separate fuse or circuit breaker, adequate to prevent damage to the system in the event of a short circuit, shall be provided between the power source and flasher system.

(v) The system shall be wired so that the system is activated by a manually operated spring-loaded switch that is clearly labeled and distinguishable from other switches.

(vi) A circuit master switch, if installed, shall be part of the activation switch outlined in subparagraph (v) of this paragraph.

(vii) Buses equipped with power-controlled entrance doors may have an additional spring loaded switch that will activate the red school bus safety lights prior to opening the entrance door or keep the red bus safety lights on after closing the entrance door.

(viii) The flashing mechanism shall be capable of carrying the full current load of the signal system.

(ix) Each lamp shall have a minimum illumination area of 38 square inches, flash a minimum of 60 times per minute, and be clearly visible in direct sunlight from a distance of 500ft along the axis of the vehicle.

(x) The Bus Safety Light System shall operate as follows:

(I) The bus safety light activation switch shall activate the amber safety lights when the entrance door is closed or red safety lights when the entrance door is open;

(II) When amber safety lights are activated, they shall automatically deactivate and the red safety lights shall automatically activate when the entrance door is opened;

(III) Once active, the red safety lights shall automatically deactivate when the entrance door is closed;

(IV) No bus safety lights shall activate when the entrance door is opened without first pressing the bus safety light activation switch;

(V) The amber bus safety lights and red bus safety lights shall not flash at the same time.

(VI) There shall be a canceling switch that will deactivate the bus safety lights and activation sequence if they are accidentally activated or if the driver discovers there is no need to make a stop after activating the switch.

(D) Clearance lamps;

(E) Headlamps;

(F) Identification Lamps;

(G) Fog lamps may be installed:

(i) Fog lamps shall be mounted symmetrically around the front centerline of the bus, below the headlights not less than 12 inches, no more than 30 inches above the ground;

(ii) Fog lamps shall be wired to a separate switch and pilot light and shall only come on when the low beam head lights are on.

(H) Interior dome lamps: Interior lamps shall be provided which will adequately illuminate interior aisles. There shall be at least one interior lamp for every two rows of passenger seats. One or two rear dome lamp(s) shall be wired through a separate switch unless there are less than five rows of seats.

(I) Reflectors;

(J) Side Marker Lamps;

(K) Step well Lamp: A step well lamp shall be provided which will adequately illuminate the entire step well. The lamp circuit shall be wired through the headlamp or clearance lamp system and shall be activated only when the door is opened.

(L) Strobe Lamp: A white flashing strobe lamp may be installed on the longitudinal center of the roof on the rear third of the bus, but no closer than one foot from the rear of the bus.

(i) The lamp shall have a single clear lens emitting light 360 degrees around its vertical axis and may not extend above the roof more than 6-1/2 inches, or exceed maximum legal vehicle height.

(ii) The lamp shall have a separate switch and be wired through the vehicle hazard lamp system. A pilot lamp to indicate when the light is in operation is required.

(M) Tail lamps & Stop lamps: Buses shall be equipped with four combination red tail-stop lamps.

(i) Two combination lamps with a minimum 38 square inches of illuminated area shall be mounted immediately inside of, and in line with, the rear turn signal lamps.

(ii) Two combination lamps with a minimum 12 square inches of illuminated area shall be placed on the rear of the bus between the beltline and the floor line. The horizontal centerline of the lights shall be a maximum of 12 inches above the floor line.

(iii) Stop lamps shall be activated by the service brakes and shall emit a steady light when illuminated.

(N) Turn Signals:

(i) Front signals shall either:

(I) Have a minimum illuminated area of 38 square inches; or

(II) Be manufacturer's standard front turn signals for Type A.

(ii) Rear signals shall have a minimum illuminated area of 38 square inches and be placed as wide apart as practical with the horizontal centerline a maximum of 12 inches below the rear window.

(iii) Side signals: A turn signal lamp with a minimum of 4 candlepower shall be mounted on each side of the bus at approximately seat level height, located to the rear of the entrance door on the right side, and to the rear of the stop arm on the left side. Side turn signals should be in approximately the same location on each side of the bus. Additional side turn signals may be installed if the horizontal centerline is the same for all side turn signals, and additional signals are in the same approximate location on each side of the bus.

(iv) All turn signal lamps shall be amber in color.

(v) All turn signal lamps shall be independent units and connected to turn signal switch and four-way hazard warning switch that will cause all turn signals to flash simultaneously.

(41) Metal Treatment:

(a) All metal used in construction of bus body shall be zinc- or aluminum-coated or treated by equivalent process before bus is constructed. Included are such items as structural members, inside and outside panels and floor sills; excluded are such items as door handles, grab handles, interior decorative parts and other interior plated parts;

(b) All metal parts that will be painted shall be (in addition to above requirements) chemically cleaned, etched, zinc-phosphate coated and zinc-chromate or epoxy primed or conditioned by equivalent process;

(c) In providing for these requirements, particular attention shall be given lapped surfaces, welded connections of structural members, cut edges, punched or drilled hole areas in sheet metal, closed or box sections, un-vented or un-drained areas and surfaces subjected to abrasion during vehicle operation;

(d) As evidence that above requirements have been met, samples of materials and sections used in construction of bus shall be subjected to a cyclic corrosion testing as outlined in SAE J1563.

(42) Mirrors:

(a) Exterior Mirror Systems:

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(A) Bus shall be equipped with mirror systems complying with 49 CFR Part 571, FMVSS 111 as adopted by the National Highway Traffic Safety Administration for December 3, 1993 implementation, plus all applicable standards specified in this rule;

(B) Manufacturer shall certify compliance with mirror and direct/indirect visibility standards listed in the aforementioned FMVSS 111.

(b) Interior Mirror:

(A) Interior mirror shall be either laminated or tempered. Mirror shall be a minimum of 6" x 30". Mirror shall have rounded corners and protected edges;

(B) Type A buses shall be equipped with a mirror that is 6" x 16" or providing at least 96 square inches of flat mirror surface;

(C) Bus seller shall certify compliance with mirror and direct/indirect visibility standards listed in the aforementioned FMVSS 111 and provide a copy to used bus purchasers when certification is not available from manufacturer for all buses manufactured prior to January 1, 1994.

(43) Mounting:

(a) Chassis frame shall support rear body cross member. Bus body shall be attached to chassis frame at each main floor sill, except where chassis components interfere, in such a manner as to prevent shifting or separation of body from chassis under severe operating conditions;

(b) Body front shall be attached and sealed to chassis in such manner as to prevent entry of water, dust or fumes through joint between chassis cowl and body;

(c) When floor is provided by bus body manufacturer, adequate insulating padding shall be placed at all contact points between body and chassis frame. Insulating material shall be approximately 1/4-inch thick and shall be so attached as to prevent movement under severe operating conditions.

(44) Mud Flaps:

(a) Mud flaps or splash aprons are required for rear wheels on all school buses;

(b) Flaps shall be of heavy-duty rubberized material or equivalent and shall extend at least the full width of tires from a point above the center of the tires to a point not more than ten inches above the surface of the highway when such vehicle is empty.

(45) Oil Filter: Oil filter of replaceable element or cartridge type shall be provided and shall be connected by flexible oil lines if it is not built-in or engine mounted design. Oil filter shall have a capacity in accordance with the engine manufacturer's recommendation.

(46) Openings: All openings in floorboard or firewall between chassis and passenger-carrying compartment, such as for gearshift lever and parking brake lever, shall be sealed. Access plates to cover openings shall have adequate gaskets and be fastened securely.

(47) Overall Length: Maximum length for school buses shall be limited to 45 feet.

(48) Overall Width: Overall width of bus shall not exceed 8.5 feet. The mirrors may exceed the maximum allowable width by a distance of not greater than five inches on each side of the vehicle.

(49) Overhang: Body shall be so mounted as to comply with requirements described in chassis weight distribution standard. Body length extending beyond the rear axle shall not exceed three-fourths the length of the vehicle's wheel base per Oregon Vehicle Code.

(50) Passenger Load:

(a) Actual gross vehicle weight (GVW) is the sum of the chassis wet weight, plus the body weight, plus the driver's weight, plus total seated pupil weight:

(A) For purposes of calculation, the driver's weight is 250 pounds;

(B) For purposes of calculation, the pupil weight is 120 pounds per pupil.

(b) Actual gross vehicle weight (GVW) shall not exceed the chassis manufacturer's gross vehicle weight rating (GVWR) or gross axle weight rating (GAWR) for the chassis;

(c) Manufacturer's gross vehicle weight rating and other chassis information shall be furnished by the manufacturer, the manufacturer's representative or seller to the Oregon Department of Education on forms furnished by the department.

(51) Power and Gradeability: Gross vehicle weight (GVW) shall not exceed 165 pounds per net published horsepower of the engine at the manufacturer's recommended maximum number of revolutions per minute.

(52) Power Lift: A power lift may be installed

(a) Vehicle lifts and installations shall comply with the public use lift requirements set forth in 49 CFR 571.403, Platform Lift Systems for Motor Vehicles, and 49 CFR 571.404, Platform Lift Installations in Motor

Vehicles. This rule change applies to buses manufactured after December 27, 2004.

(b) Lifting mechanism shall be located on the right side of the bus and be capable of lifting a minimum load of 800 pounds;

(c) When the platform is in the fully upright position, it shall be locked in position mechanically by means other than a support, or lug in the door;

(d) Controls shall be provided that enable the operator to activate the lift mechanism from either inside or outside of the bus. There shall be a means of preventing the lift platform from falling while in operation due to a power failure. If equipped with a control switch flex cord, the cord shall be installed to minimize entanglement with lift mechanism;

(e) Power lifts shall be so equipped that they may be manually raised and lowered in the event of power failure of the power lift mechanism;

(f) Lift travel shall allow the lift platform to rest securely on the ground;

(g) All edges of the platform shall be designed to restrain wheelchair and operator's feet from being entangled during the raising and lowering process;

(h) Lift platform shall have a minimum usable area of 30 inches by 48 inches;

(i) Platform shall be fitted on both sides with full width barriers which extend above the floor line of the lift platform;

(j) A restraining device shall be affixed to the outer edge (curb end) of the platform that will prohibit the wheelchair from rolling off the platform when the lift is in any position other than fully extended to ground or desired platform level. Minimum height of device/barrier shall be four inches;

(k) A self-adjusting, skid resistant plate shall be installed on the outer edge of the platform to minimize the incline from the lift platform to the ground level. This plate, if so designed, may also suffice as the restraining device described in subsection (h) of this section. The lift platform must be skid resistant;

(l) A circuit breaker or fuse shall be installed between power source and lift motor if electrical power is used;

(m) The lift mechanism shall be equipped with adjustable limit switches or bypass valves to prevent excessive pressure from building in the hydraulic system when the platform reaches the full up position or full down position;

(n) Sharp corners or projections of the lift which are likely to cause injury to passengers in the event of a collision or rollover shall be padded with impact absorbing material;

(o) There shall be no exposed areas on lift mechanism or adjacent to lift that could cause injury to children while lift is in motion;

(p) Power unit for lift shall be located so as not to restrict or impair center aisle space or foot and leg room between seats;

(q) If body floor section serves as a portion of the lift platform, the adjacent under-floor areas on three sides shall be closed off with shields when platform is in the lowered position;

(r) Platform shall be confined within the perimeter of the school bus body when not extended, in no way attached to the exterior sides of the bus.

(53) Racks: The installation of any kind of exterior luggage rack outside the bus is prohibited. This does not prohibit enclosed luggage compartments.

(54) Radios and Public Address Systems:

(a) Buses shall be equipped with a public address system having interior and exterior speakers and a switch to separate inside and outside speaker systems.

(b) AM/FM/audio radio may be installed.

(c) Interior speakers mounted in the ceiling panels or side panels shall be either flush mounted or may protrude not more than 1-1/2 inches if the speaker housing is free of any corners or projections which can cause injury by striking with the head or in the event of a collision or rollover. Speakers protruding more than 1-1/2 inches may be mounted in the vertical end panels above the windshield or back windows as long as speakers are free of corners or projections that could cause injury;

(d) Speakers shall not be placed above any aisle or within four feet of the driver's seat back in its rearmost upright position;

(55) Ramps: a ramp may be installed on Type A buses:

(a) Ramp shall utilize a special service entrance located on the right side of the bus that is not less than 30 inches in width;

(b) Ramp shall be of sufficient strength and rigidity to support wheelchair, occupant and attendant. It shall be equipped with protective flange on each longitudinal side to keep wheelchair on ramp;

(c) Floor of ramp shall be covered with nonskid material;

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(d) Ramp shall be of weight, and equipped with handle(s), to permit one person to put ramp in place and return it to storage place;

(e) Provisions shall be made to secure ramp to side of bus for use without danger of detachment, and ramp shall be connected to bus at floor level in such manner as to permit easy access of wheels on wheelchair to floor of bus;

(f) Ramp shall be at least 80 inches in length, and width of the ramp shall be adequate to accommodate wheelchairs up to 30 inches wide. Ramp shall be of one piece, or two 40-inch sections hinged to allow for storage;

(g) Dustproof and waterproof enclosed container shall be provided.

(h) Ramp shall not be stored in the passenger compartment.

(56) Retarder System: Retarder system, if installed, shall maintain the speed of the fully loaded school bus at 19.0 MPH on a seven percent grade for 3.6 miles without incurring damage to the retarder or vehicle.

(57) Retroreflective Material and Placement:

(a) Red: when used or required, red retroreflective material shall meet or exceed ASDM D4956 standards for type V super high-intensity sheeting and have a coefficient of retro reflection equal to or greater than:

(A) 120 for an observation angle of 0.2 degrees and a light entrance angle of -4 degrees; and

(B) 72 for an observation angle of 0.2 degrees and a light entrance angle of +30 degrees; and

(C) 28 for an observation angle of 0.5 degrees and a light entrance angle of -4 degrees; and

(D) 13 for an observation angle of 0.5 degrees and a light entrance angle of +30 degrees;

(b) White: when used or required, white retroreflective material shall meet or exceed ASDM D4956 standards for type V super high-intensity sheeting and have a coefficient of retro reflection equal to or greater than:

(A) 700 for an observation angle of 0.2 degrees and a light entrance angle of -4 degrees; and

(B) 400 for an observation angle of 0.2 degrees and a light entrance angle of +30 degrees; and

(C) 160 for an observation angle of 0.5 degrees and a light entrance angle of -4 degrees; and

(D) 75 for an observation angle of 0.5 degrees and a light entrance angle of +30 degrees;

(E) Exception: white retroreflective material on the "unlawful to pass" sign shall meet or exceed ASDM D4956 standards for type I engineering grade sheeting and have a coefficient of retro reflection equal to or greater than:

(i) 70 for an observation angle of 0.2 degrees and a light entrance angle of -4 degrees; and

(ii) 30 for an observation angle of 0.2 degrees and a light entrance angle of +30 degrees; and

(iii) 30 for an observation angle of 0.5 degrees and a light entrance angle of -4 degrees; and

(iv) 15 for an observation angle of 0.5 degrees and a light entrance angle of +30 degrees;

(c) Yellow: when used or required, yellow retroreflective material shall meet or exceed ASDM D4956 standards for type V super high-intensity sheeting and have a coefficient of retro reflection equal to or greater than:

(A) 470 for an observation angle of 0.2 degrees and a light entrance angle of -4 degrees; and

(B) 270 for an observation angle of 0.2 degrees and a light entrance angle of +30 degrees; and

(C) 110 for an observation angle of 0.5 degrees and a light entrance angle of -4 degrees; and

(D) 51 for an observation angle of 0.5 degrees and a light entrance angle of +30 degrees;

(d) All retroreflective material shall maintain at least 50 percent of the coefficient of retro reflection for a minimum of six years.

(e) Bumpers may be marked diagonally 45 degrees down to centerline of pavement with two-inch wide strips of black retroreflective material.

(f) Rub Rails may have retroreflective black material.

(g) The rear of the bus body shall be marked with strips of retroreflective yellow material that is a minimum of 1 inch and a maximum of 2 inches to outline the perimeter of the back of the bus. The horizontal strips shall be placed above the rear windows, and immediately above the bumper. Both horizontal strips shall extend to each rear corner of the bus. The vertical strips shall connect the two horizontal strips.

(h) Each side of the bus shall be marked with yellow retroreflective material that extends for the entire length of the bus body and is either:

(A) A background for the name of the school district identification required in section (35)(c) of this rule that is not less than 6 inches and not more than 12 inches in width; or

(B) A two inch wide strip that is between the beltline and the floor line;

(i) Further retroreflective placement requirements can be found in: Emergency Exits (section 24 of this rule), Identification (section 35 of this rule), and Stop Arm (section 69 of this rule)

(58) Rub Rails:

(a) There shall be one rub rail on each side of bus at, or no more than 8 inches above, the seat cushion level which shall extend from rear side of entrance door completely around bus body (except for emergency door and access panel(s)) to point of curvature near outside cowl on left side;

(b) There shall be one rub rail located 10 inches or less above the floor line which shall cover same longitudinal area as upper rub rail, except at wheel housing, and shall extend only to longitudinal tangent of right and left rear corners;

(c) All rub rails shall be attached at each body post and all other upright structural members;

(d) All rub rails shall be four inches or more in width, shall be of 16-gauge steel, suitable material of equivalent strength, and shall be constructed in corrugated or ribbed fashion;

(e) All rub rails shall be applied to the outside body or outside body posts. Pressed-in or snap-on rub rails do not satisfy this requirement. For buses using rear luggage or engine compartment, rub rails need not extend around rear corners.

(f) The bottom edge of the body side skirts shall be stiffened by application of a rub rail, or the edge may be stiffened by providing a flange or other stiffeners.

(59) Sanders and other traction assisting devices:

(a) Sanders may be installed. When installed, sanders shall:

(A) Be of hopper cartridge-valve type;

(B) Have metal hopper with all interior surfaces treated to prevent condensation of moisture;

(C) Be of at least 100 pound (grit) capacity;

(D) Have cover on filler opening of hopper, which screws into place, sealing unit airtight;

(E) Have discharge tubes extending to front of each rear wheel under fender;

(F) Have no-clogging discharge tubes with slush-proof, nonfreezing rubber nozzles;

(G) Be operated by electric switch with telltale light mounted on instrument panel;

(H) Be exclusively driver-controlled.

(b) Automatic traction chains may be installed.

(60) Seat Belts:

(a) Driver's seat belt: A Type 2 seat belt shall be provided for the driver, a driver's seat with an integrated Type 2 seat belt may be substituted. Each belt section shall be booted to keep belt and the button or buckle type latch off floor when not in use. Shoulder belt assemblies on Type B, C, and D buses shall provide for a height adjustment of at least four inches at its upper point of attachment to the bus. Belt shall be anchored or guided in a manner at the seat frame to prevent the driver from sliding sideways when belt is in use. Locking retractors may be either an ELR (Emergency Locking Retractor) or an ALR (Automatic Locking Retractor). All ALR equipped buses received after July 1, 1989, must include an approved anti-cinching device;

(b) Passenger seat belts:

(A) On buses manufactured prior to October 21, 2011 with a GVWR of more than 10,000 pounds, Type 1 seat belts or Type 2 seat belts may be installed. The attachments, belts and installation shall meet the requirements of:

(i) 49 CFR 571.208 Occupant Crash Protection, 49 CFR 571.209 Seat Belt Assemblies, and 49 CFR 571.210 Seat Belt Assembly Anchorages, as they apply to school buses with a GVWR of 10,000 pounds or less; or

(ii) The voluntary Type 1 or Type 2 installation requirements outlined in 49 CFR 571.222 School Bus Passenger Seating and Crash Protection that take effect on October 21, 2011.

(B) On buses manufactured on or after October 21, 2011 with a GVWR of more than 10,000 pounds, Type 2 seat belts may be installed. Standards for voluntary installation of seat belts are outlined in 49 CFR 571.222 School Bus Passengers Seating and Crash Protection.

(C) On buses with a GVWR of 10,000 pounds or less, mandatory seat belt standards are outlined in 49 CFR 571.222 School Bus Passenger Seating and Crash Protection.

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### (61) Seats and Crash Barriers:

(a) Driver's seat shall be so located in relationship to the steering wheel that the driver may assume a natural position while driving, have a clear view of the road, and sufficient leg room to operate safely and effectively the brake and clutch pedals and accelerator without cramping or interference. Minimum distance between steering wheel and back rest of driver's seat shall be 11 inches. Driver's seat shall have a fore-and-aft adjustment of not less than four inches and shall on Type B, C, and D buses be capable of being raised and lowered at least three inches and shall be strongly attached to comply with acceptable installation procedures:

(A) For type B, C, and D buses, driver's seat shall be a high back (suspension) seat with a minimum seat back adjustment of 15 degrees, not requiring the use of tools, and with a head restraint to accommodate a 95th percentile female anthropomorphic dummy as defined in FMVSS 208. The driver's seat shall be secured with nuts, bolts, and washers or flanged-headed nuts. Type A buses may use manufacturer's standard driver's seat.

(B) Driver's seat positioning and range of adjustment shall be designed to accommodate comfortable actuation of the foot control pedal by 95 percent of the adult female population.

(b) Passenger Seats: In addition to the requirements of 49 CFR 571.222 School Bus Passenger Seating and Crash Protection, all passenger seats have the following requirements:

(A) All seats shall have minimum depth of 15 inches;

(B) In determining seating capacity of bus, the minimum allowable rump width shall be 13 inches;

(C) Seat, seat back cushion and crash barrier shall be covered with a material having a minimum 42-ounce finished weight, 54-inch width and finished vinyl coating of 1.06 broken twill, or other material with equal tensile strength, tear strength, seam strength, adhesion strength, resistance to abrasion, resistance to cold, and flex separation. Material shall meet or exceed the criteria contained in the School Bus Seat Upholstery Fire Block Test. (see Appendix);

(D) All seats shall be forward facing and shall be securely fastened to that part(s) of bus that support them with a nut-and-bolt type of fastener. Each seat leg shall be secured to the floor by a minimum of two nut-and-bolt type fasteners of at least grade 5 SAE strength. Sheet metal screw-type fasteners without a nut are not acceptable, except in areas where it is not possible to install a nut-and-bolt type fastener. Seats may be track mounted;

(E) If flexible track mounted seating is installed, the manufacturer shall supply minimum and maximum seat spacing dimensions on a label permanently affixed to the bus to notify end user of seat installation requirements.

(F) No bus shall be equipped with jump seats or portable seats. Flip-up seats at side emergency exit doors are allowed;

(G) Seat spacing shall not be less than 24 inches between the front of the back of each seat and the rear of the back of the seat immediately ahead, measured at all points of the seat width. This shall be measured at cushion height on a plane parallel to the center line of the bus;

(62) Shock Absorbers: Bus shall be equipped with front and rear double-acting shock absorbers compatible with manufacturer's rated axle capacity at each wheel location.

(63) Side skirts shall be 2 inches above the horizontal line between the center of the front spindle to the center of the rear axle, or lower. Measurement shall apply to an unloaded school bus located on a flat, level surface.

### (64) Special Service Entrance:

(a) Bus bodies may have a special service entrance constructed in the body to accommodate a power lift;

(b) The special service entrance shall be at any convenient point on the right of the bus and far enough to the rear to prevent the door(s) from obstructing the right front regular service door when open;

(c) The opening may extend below the floor through the bottom of the body skirt. If such an opening is used, reinforcements shall be installed at the front and rear of the floor opening to support the floor and give the same strength as other floor openings;

(d) Entrance shall be of sufficient width and depth to accommodate various mechanical lifts and related accessories as well as the lifting platform. The minimum clear opening width shall be adequate to accommodate the minimum platform defined in section (10) of this rule;

(e) Door posts and headers from entrance shall be reinforced sufficiently to provide support and strength equivalent to the areas of the side of the bus not used for service doors;

(f) A drip molding shall be installed above the opening to effectively divert water from entrance;

(g) A pad shall be placed at the top edge of the special service entrance that is at least three inches wide and one inch thick and shall extend the full width of the door opening.

(h) A single door or double door may be used for special service entrance;

(i) A single door shall be hinged to the forward side of the entrance. If double doors are used, the system shall be designed to prevent the door(s) from being blown open by the aerodynamic forces created by the forward motion of the bus, and/or shall incorporate a safety mechanism to provide secondary protection should the primary latching mechanism(s) fail;

(j) All doors shall open outwardly;

(k) All doors shall be weather sealed;

(l) All doors shall have positive non-hitchable fastening devices to hold doors in the open position;

(m) All doors shall be weather sealed and on buses with double doors, they shall be so constructed that a flange on the forward door overlaps the edge of the rear door when closed;

(n) When manually operated dual doors are provided the rear door leaf shall have at least a one-point fastening device to the header. The forward mounted door shall have at least three-point fastening devices. One shall be to the header, one to the floor line of the body, and the other shall be into the rear door. These locking devices shall afford maximum safety when the doors are in the closed position. The door and hinge mechanism shall be of a strength that will provide for the same type of use as that of a standard entrance door;

(o) If optional power doors are installed the design shall permit manual release of the doors for opening and closing by the attendant from the platform inside the bus;

(p) Door materials, panels, and structural strength shall be equivalent to the conventional service and emergency doors. Color, rub rail extensions, lettering and other exterior features shall match adjacent sections of the body;

(q) Each door shall have windows set in a waterproof manner that are visually similar in size and location to adjacent non-door windows. Glazing shall be of the same type and tinting (if applicable) as standard fixed glass in other body locations;

(r) Door(s) shall be equipped with a device that will activate a green flashing signal located in the driver's compartment when door(s) is not securely closed and ignition is in "on" position;

(s) A switch shall be installed so that the lifting mechanism will not operate when the lift platform door(s) is closed;

(t) An interior light shall be placed to illuminate the area directly inside the special service door and be activated when the door is open. Circuit may be wired through step well light circuit.

(u) Buses equipped with special service entrance doors not currently in use for service to students with disabilities or power lift equipped, must assure that doors are in compliance with all requirements for right side emergency door, or all of the following:

(A) Be sealed and inoperable;

(B) Have no handles; and

(C) Have the words NOT AN EXIT placed in letters at least two inches high above the door on both the interior and exterior of the bus.

### (65) Springs:

(a) Capacity of springs or suspension assemblies shall be commensurate with chassis manufacturer's gross vehicle weight rating;

(b) If rear springs are used they shall be of progressive type. Front leaf springs shall have a stationary eye at one end and shall be protected by a wrapped leaf in addition to the main leaf.

### (66) Steering Gear:

(a) Steering gear shall be approved by manufacturer and designed to assure safe and accurate performance when vehicle is operated with maximum load and at maximum speed;

(b) Steering mechanism that allows for external adjustment to correct for lost motion shall provide an accessible adjustment location;

(c) No changes shall be made in steering apparatus which are not approved by manufacturer;

(d) There shall be clearance of at least two inches between steering wheel and cowl, instrument panel, windshield, or any other surface;

(e) Power steering of the integral type is required;

(f) The steering system shall be designed to provide for means for lubrication of all wear-points, if wear points are not permanently lubricated.

### (67) Steps:

(a) Service door entrance may be equipped with two-step or three-step step well. Risers in each case shall be approximately equal and shall not

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exceed 10 inches in height. When plywood floor is used on steel, differential may be increased by thickness of plywood used:

(A) First step at service door for type A-1, A-2, B, and C buses shall be not less than 10 inches and not more than 14 inches from ground, based on standard chassis specifications;

(B) Type D buses shall be equipped with a three-step step well. First step at service door shall not be less than 12 inches and not more than 16 inches from the ground based on standard chassis specifications.

(b) Steps shall be enclosed to prevent accumulation of ice and snow;

(c) Steps shall not protrude beyond side body line;

(d) Steps (if any) on Type A-1 and A-2 buses not manufactured originally as school buses may be chassis manufacturer's standard;

(e) At least one grab handle not less than 20 inches in length shall be provided to assist passengers during entry or egress in unobstructed locations inside doorway. Grab handle shall be designed, installed and maintained to minimize the opportunity for entanglement of passenger clothing and belongings.

(f) Step Treads:

(A) All steps, including floor line platform area, shall be covered with 3/16-inch rubber floor covering or other materials equal in wear resistance and abrasion resistance to top grade rubber;

(B) The step covering shall be permanently bonded to a durable backing material that is resistant;

(C) 3/16-inch ribbed step tread shall have a 1-1/2-inch white or yellow nosing as integral piece without any joint;

(D) Rubber portion of step treads shall have the following characteristics:

(i) Special compounding for good abrasion resistance and high coefficient of friction;

(ii) Flexibility so that it can be bent around a 1/2-inch mandrel both at 130 degrees F and 20 degrees F without breaking, cracking or crazing;

(iii) Show a durometer hardness 85 to 95.

(68) Steps, Windshield Access: There shall be at least one folding step or recessed foothold and suitably located handles on each side of the front of the body for easy accessibility for cleaning the windshield and lamps except when windshield and lamps are easily accessible from the ground. Standard does not apply to chassis not originally manufactured as school buses.

(69) Stop Signal Arms: Buses shall be equipped with stop signal arms mounted in accordance with the following requirements:

(a) Shall be installed on the left side of the bus; the vertical center of the stop blade shall be at least seven inches but not more than 14 inches below the window line, on the first body post to the rear of the driver or as close as practicable;

(b) A wind guard shall be provided. All sheet metal parts shall be 16 gauge metal or heavier;

(c) All parts of the assembly that are not color specific in 49 CFR 571.131 School Pedestrian Safety Devices shall be painted black;

(d) Shall be equipped with two, four-inch, double faced alternating flashing red lamps to be mounted centered on the vertical centerline of the stop arm near the perimeter of the sign with a minimum of 12 inches spacing between lamp centers. Lamps shall be LED or strobe

(e) The stop arm and lamps shall be wired to the circuit of the flashing red warning lamps mounted on the front and rear of the bus and shall operate simultaneously with the red bus safety lamps. Override switch is prohibited;

(f) Shall be retroreflectORIZED on both sides meeting the Retroreflective Materials standard (57) of this rule.

(g) Shall be either air, vacuum, or electrically operated:

(A) Air operated stop arms:

(i) Air may be supplied from an air accessory tank or from the first (wet) tank;

(ii) If source is from the first (wet) tank a pressure protection valve shall be installed to prevent the tank air supply from falling below 60 pounds;

(iii) Stop arm system must have a pressure regulating valve;

(iv) All fittings shall be brass.

(B) Vacuum operated stop arms:

(i) Vacuum shall be supplied from a separate accessory tank. Tank shall be protected by a check valve;

(ii) All fittings shall be brass.

(70) Sun Visor: Interior adjustable sun visor, not less than 6 by 30 inches in size, shall be installed above windshield in position convenient for use by driver. If transparent visor is used, it shall be of such material so as not to prevent distinguishing between the colors of red and green traffic sig-

nals. Type A-1 and A-2 may be equipped with manufacturer's standard visor. Visor shall have protected edges.

(71) Throttle: The force required to operate the throttle shall not exceed 16 pounds throughout the full range of accelerator pedal travel.

(72) Tires and Rims:

(a) Tires and rims of proper size and tires with load rating commensurate with chassis manufacturer's gross vehicle weight rating shall be provided. The use of multi-piece rims and/or tube type tires shall not be permitted;

(b) All tires on new buses shall be of same size. Load range of tires shall meet or exceed the gross axle weight rating as required by 49 CFR 571.120 Tire Selection and Rims for Vehicles Other Than Passenger Cars, and as indicated on the manufacturer's data plaque;

(c) If bus is equipped with spare tire and rim assembly, it shall be of the same size and load range as those mounted on the vehicle;

(d) A spare tire, when carried, shall be suitably mounted in an accessible location outside passenger compartment. Type A-1, and A-2 buses may have spare tire securely mounted in the rear corner of passenger compartment;

(e) Recapped tires are prohibited on the front of the bus;

(f) Regrooved tires are not permitted on any bus;

(g) Minimum tread depth on tires shall be:

(A) Front axle — 4/32 inch;

(B) Rear axle — 2/32 inch.

(h) Tread depth shall be measured as follows: The minimum depth in any two adjacent major grooves at three locations spaced approximately equally around the outside of the tire but not on wear indicators.

(73) Tool Compartment: A metal container of adequate strength and capacity for storage of tire chains, tow chains and such tools as may be necessary, may be provided. Container may be located inside or outside of passenger compartment. If inside, it shall have a cover and positive type latch to prevent opening in event of a severe impact or bus rollover, and shall be attached to the floor with a nut and bolt fastener, or may be securely attached to a seat frame under a seat. If tool compartment is outside, it shall be lockable.

(74) Tow Hooks: Type C and D buses shall have two front and rear tow hooks that have sufficient strength to pull or be pulled by another vehicle of the same GVWR. Tow hooks shall be installed in order that no permanent distortion to the body or chassis will result if the bus must be towed.

(75) Transmission:

(a) Transmission shall have an input torque capacity greater than maximum net torque developed by engine.

(b) When automatic or semi-automatic transmission is used, it shall provide for not less than three forward and one reverse speed. The shift selector, if applicable, shall provide a detent between each gear position when shift selector is not steering column mounted. Type C and D buses shall be equipped with a transmission temperature gauge.

(c) When manual transmission is used, second gear and higher shall be synchronized. A minimum of three forward speeds and one reverse shall be provided.

(d) Automatic transmissions incorporating a parking pawl shall have a transmission shifter interlock controlled by the application of the service brake to prohibit accidental engagement of the transmission. All non-park pawl transmissions shall incorporate a park brake interlock that requires the service brake to be applied to allow release of the parking brake.

(76) Trash container: When used, the trash container shall be secured by a holding device that is designed to prevent movement and to allow easy removal and replacement. It shall be installed in an accessible location in the driver's compartment, not obstruct passenger access to the entrance door and maintained to minimize the opportunity for entanglement of passenger clothing and belongings.

(77) Turning Radius:

(a) Chassis with a wheel base of 264 inches or less shall have a right and left turning radius of not more than 42 1/2 feet, curb to curb measurement;

(b) Chassis with a wheelbase of 265 inches or more shall have a right and left turning radius of not more than 44 1/2 feet, curb to curb measurement.

(78) Under carriage luggage compartments: Luggage compartments may be installed on the outside of the bus mounted below the floor level or in the rear of the bus. Access to compartments must be from the outside only. Compartment doors must have a positive retention to hold the doors open. Compartment doors must be lockable.

(79) Undercoating:

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(a) The entire underside of the bus body, including floor sections, cross members and below floor-line side panels, shall be coated with rust-proofing material for which the material manufacturer has issued to the bus manufacturer a notarized certification that the materials meet or exceed all performance requirements of SAE J1959, Corrosion Preventive Compound, Underbody Vehicle Corrosion Protection;

(b) The undercoating material shall be applied to the material manufacturer's specifications, including application method and recommended film thickness, and shall show no evidence of voids in the cured film.

(c) The undercoating material shall not cover any exhaust components of the chassis.

(80) Ventilation:

(a) Body shall be equipped with suitable, controlled ventilating system of sufficient capacity to maintain proper quantity of air under operating conditions without opening of windows except in extremely warm weather;

(b) Static-type non-closable exhaust ventilation shall be installed in low-pressure area of roof.

(81) Video surveillance cameras may be mounted inside or on either the forward or rear bulkhead, or to the ceiling in compliance with the following requirements:

(a) Surface mounted camera/camera housing/recording devices shall be mounted as far forward (if forward mounted) or as far rearward (if rear mounted) as possible and directly above the center of the windshield/rear window, and shall not:

(A) Extend into the passenger compartment more than 9 inches;

(B) Extend(s) down from the ceiling more than five inches;

(C) Be more than five inches wide;

(D) Interfere with the rear view mirror or sun visor.

(b) Recording devices or their housings shall not be mounted overhead in the passenger compartment;

(c) Video cameras/housings (not recorders) may be mounted overhead in the passenger compartment, provided they are over the seating area, but not over any part of the aisle, all edges must be rounded and/or protected with enclosure of shatterproof construction;

(d) Flush mounted cameras/housings may be mounted in any position in the front or rear bulkhead or ceiling provided that any modification to the body, in order to achieve flush mounting does not compromise the structural integrity of the body panels;

(e) All video related devices mounted to the interior bus body shall be securely fastened in a manner to prevent separation from the bus body in the event of collision or mishap;

(f) Recording devices/housings must allow ready access for camera and video recording medium removal without the use of tools;

(g) All electrical connections shall be made with UL approved wiring and terminals, and protected by grommets any place it passes through metal panels. Any electrical load added to the vehicles electrical system shall be protected with appropriate over current device (fuse).

(82) Weight Distribution:

(a) Weight distribution of fully loaded bus on level surface shall be such as to not exceed the manufacturer's front gross axle weight rating and rear gross axle weight rating;

(b) Weight distribution of fully loaded bus on level surface shall be such that no more than 75 percent of gross vehicle weight is on rear tires and no more than 35 percent is on front tires. Type B and D buses with engine inside front of body and entrance door ahead of front wheels shall have no more than 75 percent of gross vehicle weight on rear tires, no more than 50 percent on front tires. If entrance door is behind front wheels, no more than 75 percent of gross vehicle weight shall be on rear tires, no more than 40 percent on front tires. With engine in rear, no more than 75 percent of gross vehicle weight shall be on rear tires, no more than 40 percent on front tires.

(83) Wheelhousing:

(a) The wheelhousing opening shall allow for easy tire removal and service;

(b) Wheelhousing shall be attached to floor sheets in such a manner as to prevent any dust, water or fumes from entering the body. Wheelhousing shall be constructed of 16-gauge steel, or other material of equal strength;

(c) The inside height of the wheelhousing above the floor line shall not exceed 12 inches;

(d) The wheelhousing shall provide clearance for installation and use of tire chains on single and dual (if so equipped) power-driving wheels;

(e) No part of a raised wheelhousing shall extend into the emergency door opening.

(84) Wheelchair Tie Down and Occupant Restraint System (WTORS):

(a) A WTORS that meets 49 CFR 571.222 shall be provided for each fixed wheelchair location.

(b) A WTORS that meets 49 CFR 571.222 shall be provided for each flexible wheelchair location not occupied by a flexible track mounted school bus seat.

(c) The WTORS, including the anchorage track, floor plates, pockets or other anchorages, shall be provided by the same manufacturer or shall be certified to be compatible by the manufacturers of all equipment/systems used.

(d) Adjustable and accessible positive fastening devices shall be provided, attached to floor or walls or both, that will securely hold wheelchairs or other type of ambulatory mobility devices in the event the vehicle is overturned and to prevent the wheels from leaving the floor in case of a sudden movement. All floor-mounted attachment devices shall be affixed with nut and bolt fasteners, except in areas where it is not practicable.

(e) Wheelchairs or other devices designed solely for use by handicapped or convalescent passengers may be positioned in a direction other than forward-facing only at the specific direction of the student's IEP when forward-facing positions are available;

(f) No fastening device shall be attached to any door;

(85) Wind deflectors may be installed according to manufacturer's standards on the rear roof to deflect snow, dust and dirt from the rear window.

(86) Windshield and Windows:

(a) All glass in windshield, windows and doors shall be of approved safety glass so mounted that its identification mark is visible and of a quality to prevent distortion in any direction. All glazing materials shall be on the approved list of the Oregon Department of Motor Vehicles;

(b) Windshield shall be of safety plate glass AS-1 grade as specified by American National Standards Institute Safety Code Z26.1;

(c) Windshield glass may be heat absorbing and may have a horizontal gradation band starting slightly above the line of the operator's vision and gradually decreasing in light transmission to 20 percent or less at the top of the windshield in compliance with Federal Motor Vehicle Safety Standard 205;

(d) Glass in all side windows, doors and rear windows shall be AS-2 or better grade, as specified in ANSI Z26.1, or AS-4 coated abrasion resistant rigid plastic meeting requirements of Federal Motor Vehicle Safety Standard 205. Rigid plastic cannot be used for windshields or windows immediately to the left or right of the driver;

(e) Side windows shall conform to the following:

(A) Buses shall provide full drop or split sash windows which provide an unobstructed opening of at least 12 inches and not more than 14 inches in height, obtained by lowering the sash, and at least 22 inches in width. Type A-1 and A-2 buses may have a full drop or split sash windows which provide an unobstructed opening of at least 9 inches and not more than 13 inches in height, obtained by lowering the sash, and at least 22 inches in width, provided the bus has 2 swing-out windows. This requirement does not apply to emergency exit windows installed in compliance with subsection (22) of this rule

(B) One window on each side of the bus may be less than 22 inches in width. This window need not be split sash.

(C) Windows may be tinted.

(87) Windshield Washers: Bus shall be equipped with windshield washers.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0250

### Retrofit Standards for Oregon School Buses

In addition to meeting the minimum standards in effect at the time of purchase, all school buses in use by a pupil transportation entity shall meet the following additional requirements:

(1) Body Fluid Kits: All school buses shall have body fluid kits that meet the requirements in OAR 581-053-0240

(2) Emergency Door and Exit Labeling:

(a) All emergency doors shall have the designation "Emergency Door" in letters at least one inch high, of a color that contrasts with its background. The designation shall be located at the top of, or directly above, the emergency door on both the inside and outside surfaces of the bus;

(b) All emergency window exits (swing-out windows and rear push-out windows) shall have the designation "Emergency Exit" in letters at least one inch high, of a color that contrasts with its background. The designa-



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tion shall be located at the top of, or directly above, or at the bottom of the emergency window exit on both the inside and outside surfaces of the bus.

(3) Fog Lights: Regardless of the age of the vehicle, if a front fog light system is installed after January 21, 1997, then the system shall meet the following requirements:

(a) Fog lamps shall be mounted symmetrically around the front centerline of the bus, below the headlights not less than 12 inches no more than 30 inches above the ground;

(b) Fog lamps shall be wired to a separate switch and shall only come on when the low beam head lights are on.

(c) A steady burning indicator light shall be wired so it comes on when the fog lamps are turned on and mounted in a location readily visible to the driver

(d) Fog light systems installed on vehicles prior to January 21, 1997 are exempted from this regulation.

(4) Identification: The name of the school district, private school, or parochial school shall be placed on all school buses on both the left and right sides of the bus. The name shall appear in the area directly below the side windows and the letters and figures in the name shall not be less than four inches nor more than seven inches in height and of proportionate width.

(5) Stop Arm: All school buses shall have a stop arm that meets the requirements in OAR 581-053-0240 except that retroreflective material on the stop arm is not mandated on buses manufactured prior to October 21, 2011.

(6) Wheelchair Restraint Systems: All buses manufactured prior to September 3, 1993 that are equipped to transport students in a wheel chair shall be retrofitted to meet the following requirements:

(a) Each wheelchair location shall have not less than four wheelchair securement anchorages and shall be situated so that:

(A) The wheelchair is secured in a forward-facing position; and

(B) The wheelchair can be secured by wheelchair securement devices at two locations in the front and two locations in the rear.

(b) Each wheelchair location shall have:

(A) Not less than one anchorage for the upper end of the upper torso restraint; and

(B) Not less than two floor anchorages for wheelchair occupant pelvic and upper torso restraint.

(c) Wheelchair securement devices and an occupant restraint may share a common anchorage.

(d) All components must conform to 49 CFR 571.222 School Bus Passenger Seating and Crash Protection published in volume 58 of the Federal Register, September 3, 1993.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0310

### Administrative Requirements Pertaining to Type 10 School Activity Vehicles

(1) Type 10 vehicles may be used for transportation from home to school, school to home, and to and from authorized school activities.

(2) Each transportation entity that operates type 10 school activity vehicles shall implement written procedures to ensure compliance with applicable rules and laws.

(3) If type 10 school activity vehicles are used for home to school transportation, then the school board shall adopt and implement a written transportation policy as outlined in OAR 581-053-0210 (1) and ensure safety instruction is provided as required in OAR 581-053-0210 (2).

(4) Transportation entity shall notify ODE within 30 days if a type 10 driver, who is on an approved list, is no longer employed or performing the duties of a type 10 driver.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0320

### Type 10 Driver Training and Approval

Oregon Department of Education shall approve a type 10 driver who:

(1) Is at least 18 years of age;

(2) Possesses a valid driver license or commercial driver license;

(3) Is not disqualified based on driving or criminal record as required in OAR 581-053-0050;

(4) Receives emergency procedure and evacuation training, vehicle pretrip inspection training and all other training as determined necessary by the transportation entity;

(5) Submits an application for type 10 driver approval signed by a supervisor certifying:

(a) The employer will immediately notify ODE if the employer learns of any changes to the applicant's driving and criminal records that could disqualify them from driving under OAR 581-053-0050 and ensure that the driver complies with all applicable OARs;

(b) The applicant will be trained in first aid within 120 days of ODE approval. The applicant shall remain trained in first aid to maintain approval with ODE.

(6) A type 10 driver may use a type 10 vehicle for a regular home to school route if:

(a) The applicant meets all minimum requirements for a type 10 driver listed in this rule;

(b) The applicant demonstrates the knowledge and ability to operate a type 10 vehicle safely and to perform related duties; and

(c) The applicant has passed a driving skills test and written knowledge test of laws and regulations if the applicant will be transporting students from home to school.

(7) ODE shall maintain a list of approved drivers for each school district. The approved driver list will be sent to each transportation entity twice a year, and shall be made available on request.

(8) Occasional/emergency use provision — A person who does not currently meet the driver requirements for a type 10 vehicle may be used on an occasional/emergency basis if such driver:

(a) Is judged competent by the local supervisor;

(b) Possesses a valid driver license or commercial driver license;

(c) Does not operate vehicles under this provision more than three days in any given fiscal year (July 1 to June 30); and

(d) Is not transporting students to and from school on regularly scheduled routes.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0330

### Rules Pertaining to Type 10 Drivers

(1) A type 10 driver shall:

(a) Receive specialized training designed for special education transportation prior to transporting students with disabilities.

(b) Submit written reports of accidents involving the type 10 vehicle to ODE.

(c) Report to his/her employer(s) within 15 days:

(A) Any conviction for driving or criminal offenses specified in OAR 581-053-0050;

(B) Any involvement in an accident; or

(C) If their driver license is no longer valid.

(d) Make other reports as required by the transportation entity, ODE, and DMV.

(e) Not operate a vehicle with more passengers than the manufacturer's rated capacity.

(f) Instruct passengers to use seat belts at all times the vehicle is in motion.

(g) Maintain order in the vehicle at all times.

(h) The inside of the vehicle shall be kept clean.

(i) See that all doors on the vehicle are kept closed while the vehicle is in motion.

(j) Not permit anyone else to operate the vehicle except with the permission of transportation entity supervisor.

(k) Make certain that all passageways are kept clear.

(l) Make sure all doors including emergency exits are unlocked during vehicle operation.

(m) Not use tobacco on the vehicle and shall not permit passengers to use tobacco on the vehicle.

(n) Not be under the influence of any alcoholic beverage or any drug likely to affect the person's ability to operate a vehicle safely while on duty.

(o) Not consume any alcoholic beverage regardless of its alcoholic content or any drug likely to affect a person's ability to operate a vehicle safely while operating or within eight hours before operating a type 10 vehicle.

(p) Not permit signs of any kind to be attached to the vehicle except those specifically permitted by law or regulation.

(q) Not permit animals in the vehicle except guide dogs and assistance animals from recognized programs that will be accepted when accompanying blind, deaf, or physically impaired persons. Guide/assistance animals or animals in training as defined in ORS 346.680 are also accepted.

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(r) Not permit firearms, other weapons, or potentially hazardous materials in the vehicle.

(s) Secure any article in the passenger compartment likely to cause injury to a passenger in the event of an accident.

(t) Not fill the fuel tank while passengers are in the vehicle or while the motor is running.

(u) Not leave the vehicle when passengers are aboard until the motor is shut off, the brakes set, a manual transmission put in gear and the key removed from the ignition.

(v) Report as soon as possible to the proper official any deficiency or malfunction of any equipment or component of the vehicle.

(w) Not alter routes unless approved by transportation entity.

(x) Shall use all securement straps and attachments for students with adaptive/assistive devices in a manner consistent with their design.

(y) Not transport students unless the vehicle is safe to operate.

(z) Observe all local and state traffic laws and ordinances.

(aa) Complete any training required by ODE or local employer.

(bb) Not use a cell phone, with or without a hands free device, while driving a type 10 vehicle unless calling 911 to report an emergency situation.

(2) If the type 10 is used for home to school transportation, then the driver shall inspect the following prior to each trip, unless the inspection is performed by other designated employees:

(a) Windshield and wipers;

(b) All outside lights;

(c) Service door, emergency door and buzzer;

(d) Tires and wheel lug nuts;

(e) Battery, belts, oil, and coolant level;

(f) Horns;

(g) Brakes;

(h) Steering;

(i) Exhaust system;

(j) Emergency equipment; and

(k) See that lights, windshield and mirrors are clean.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0340

### Minimum Standards for Type 10 School Activity Vehicles

(1) Vehicle certification tag shall not indicate that the vehicle is a 'Bus'.

(2) Vehicle construction shall be according to manufacturers' standard for all vehicles having a capacity of ten or fewer persons including the driver. Capacity shall be based on each vehicle's manufacturer-designated seating capacity;

(3) In addition to the manufacturers' standard equipment, type 10 vehicles shall have all emergency equipment as listed for school buses in OAR 581-053-0240.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0410

### Transportation Entity Requirements for Type 20 School Activity Vehicle Operation

(1) Type 20 activity vehicles shall not be used for home to school transportation.

(2) Each transportation entity that operates type 20 activity vehicles shall implement written procedures to ensure compliance with applicable rules and laws.

(3) Transportation entity shall notify ODE within 30 days if a type 20 driver is no longer driving for the entity.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0420

### Type 20 Training and Certification

(1) No person shall transport pupils in a type 20 vehicle, unless such person has completed all requirements for a Type 20 Certificate and meets the standards established by the Oregon Department of Education for type 20 activity drivers.

(2) ODE shall issue an original Type 20 Certificate for an 11-14 passenger type 20 vehicle to applicants who:

(a) Are at least 18 years of age;

(b) Possess a driver license or CDL

(c) Has completed a minimum of two hours of approved behind-the-wheel training within one year prior to application by a behind-the-wheel trainer or assistant trainer certified by the ODE. Training shall include:

(A) Actual operation of the vehicle or vehicles the applicant will be expected to drive;

(B) Complete training for proper vehicle pre-trip inspection;

(C) A written test so the applicant can demonstrate knowledge of laws and regulations applicable to the vehicle being used;

(D) Complete emergency procedure and evacuation training;

(d) Pass a behind-the-wheel type 20 test, administered by a certified behind-the-wheel trainer;

(e) Is not disqualified based on driving or criminal record as required in OAR 581-053-0050;

(f) Submits an application for type 20 certificate signed by a supervisor certifying:

(A) The employer will immediately notify ODE if the employer learns of any changes to the applicant's driving and criminal records that could disqualify them from driving under OAR 581-053-0050 and ensure that the driver complies with all applicable OARs;

(B) The applicant will be trained in first aid within 120 days of the issue date of the Type 20 Certificate and that the training shall be valid at all times while driving after the initial training; and

(C) The applicant meets all minimum requirements for a type 20 driver listed in this rule.

(3) ODE shall issue an original Type 20 Certificate for a 15-20 passenger type 20 vehicle to applicants who meet all of the requirements in section (2) of this rule, and who:

(a) Hold a CDL with a passenger endorsement;

(b) Have a valid medical certificate, received with the application; and

(c) Comply with FMCSA Controlled Substances and Alcohol Testing regulations at 49 CFR part 382.

(4) ODE shall renew a Type 20 Certificate for applicants who:

(a) Possesses or has possessed within the last 12 month period a valid Type 20 Certificate.

(b) Possess the proper licensing:

(A) A valid driver license or CDL for an 11-14 passenger type 20 vehicle; or

(B) A valid CDL with passenger endorsement for a 15-20 passenger type 20 vehicle, and:

(i) A valid medical certificate;

(ii) Complies with FMCSA Controlled Substances and Alcohol Testing regulations at 49 CFR part 382.

(5) Type 20 Certificates expire:

(a) Two years after the date issued by ODE for 11-14 passenger certificates.

(b) On the date of medical certificate expiration for 15-20 passenger certificates.

(6) Certificates shall be immediately invalid if:

(a) The driver fails to maintain first aid certification after the initial 120 day period; or

(b) The transportation entity notifies ODE that the driver is no longer employed with the entity or is no longer performing duties related to type 20 driving, and the entity is no longer ensuring the driver's compliance with applicable OARs.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0430

### Rules Pertaining to Type 20 Drivers

A type 20 driver shall:

(1) Submit written reports of accidents involving the type 20 vehicle to ODE.

(2) Report to his/her employer(s) within 15 days:

(a) Any conviction for driving or criminal offenses specified in OAR 581-053-0050;

(b) Any involvement in an accident; or

(c) If their driver license is no longer valid.

(3) Receive specialized training designed for special education transportation prior to transporting students with disabilities.

(4) Not operate a vehicle with more passengers than the manufacturer's designed or equipped capacity.

(5) Instruct passengers to use seat belts at all times the vehicle is in motion.

(6) Maintain order in the vehicle at all times.

(7) The inside of the vehicle shall be kept clean.

# ADMINISTRATIVE RULES

(8) See that all doors on the vehicle are kept closed while the vehicle is in motion.

(9) Not permit anyone else to operate the vehicle except with the permission of the transportation entity supervisor.

(10) Make certain that all aisles and passageways are kept clear.

(11) Make sure all rear doors and emergency exits are unlocked during vehicle operation.

(12) Not use tobacco in the vehicle or the vicinity and shall not permit passengers to use tobacco on the vehicle.

(13) Not be under the influence of any alcoholic beverage or any drug likely to affect the person's ability to operate a vehicle safely while on duty.

(14) Not consume any alcoholic beverage regardless of its alcoholic content or any drug likely to affect a person's ability to operate a vehicle safely while operating or within eight hours before operating a type 20 vehicle.

(15) Not permit signs of any kind to be attached to the vehicle except those specifically permitted by law or regulation;

(16) Not permit animals in the vehicle except guide dogs and assistance animals from recognized programs will be accepted when accompanying blind, deaf, or physically impaired persons. Guide/assistance animals in training as defined in ORS 346.680 are also accepted.

(17) Not permit firearms, other weapons, or potentially hazardous materials to be carried in the vehicle.

(18) Secure any article in the passenger compartment likely to cause injury to a passenger in the event of an accident.

(19) Not fill the fuel tank while passengers are in the vehicle or while the motor is running.

(20) Not leave the vehicle when passengers are aboard until the motor is shut off, the brakes set, a manual transmission put in gear and the key removed from the ignition.

(21) Report as soon as possible to the proper official any deficiency or malfunction or any equipment or component of the vehicle.

(22) Not transport students unless the vehicle is safe to operate.

(23) Shall inspect the following prior to each trip, unless the inspection is performed by other designated employees:

- (a) Windshield and wipers;
- (b) All outside lights;
- (c) Service door, emergency door and buzzer;
- (d) Tires, wheels and lug nuts;
- (e) Battery, belts, oil and coolant level;
- (f) Horns;
- (g) Brakes;
- (h) Steering;
- (i) Exhaust system;
- (j) Emergency equipment; and
- (k) See that lights, windshield and mirrors are clean.

(24) Shall use all securement straps and attachments for students with adaptive/assistive devices in a manner consistent with their design.

(25) Observe all local and state traffic laws and ordinances.

(26) Complete any training required by ODE or local employer.

(27) Not use a cell phone, with or without a hands free device, while driving a type 20 vehicle unless summoning medical or other emergency help if no other person in the vehicle is capable of summoning help.

(28) Shall not tow a trailer with a gross vehicle weight rating of more than 3,000 lbs or longer than the type 20 vehicle.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0440

### Minimum Standards for Purpose Built Type 20 Vehicles or Type 20 Vehicles converted from School Bus

Type 20 school activity vehicles shall meet all minimum standards for a type A-1 school bus as listed in OAR 581-053-0240 and retrofit standards applicable to a type A-1 school bus as listed in OAR 581-053-0250, with the following modifications. Type 20 vehicles:

(1) Shall be certified as a school bus or multifunctional school activity bus, as required by the FMVSS.

(2) May be painted any color.

(3) Shall not have a crossing arm.

(4) Shall not display the words "School Bus".

(5) Shall not display bus safety lights. If the vehicle has been converted from school bus use to activity vehicle use, the safety lights shall be inoperable.

(6) Shall not display a school bus stop arm. If the vehicle has been converted from school bus use to activity vehicle use, the school bus stop arm shall be removed.

(7) Does not require a public address system.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0445

### Use of a School Bus as a Type 20 Vehicle

(1) When a school bus is temporarily used as a type 20 vehicle:

(a) The words "School Bus" shall not be displayed;

(b) The bus safety light shall be covered to prevent display after accidental activation;

(c) The school bus stop arm shall be covered to prevent display of both sides of the stop arm after accidental activation.

(2) Vehicles used for both school bus and school activity vehicle applications shall be inspected as a school bus for its annual inspection or for inspections conducted by ODE staff.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0511

### District Requirements for Type 21 School Activity Vehicle Operation

(1) Type 21 activity vehicles shall not be used for home to school transportation.

(2) Each transportation entity that operates type 21 activity vehicles shall implement written procedures to ensure compliance with applicable rules and laws.

(3) Transportation entity shall notify ODE within 30 days if a type 21 driver is no longer employed by the entity.

(4) Transportation entity shall ensure that all type 21 drivers are part of a random drug testing pool as required under 49 CFR 382, and that any driver who has been out of a random drug testing pool for longer than 30 days is given a pre-employment screen required under 49 CFR 382.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0521

### Type 21 Driver Training and Certification

(1) No person shall transport pupils in a type 21 activity vehicle unless such person has completed all requirements for a School Bus Permit or Certificate as outlined in OAR 581-053-0220, except that a restricted "Type 21 Only" School Bus Permit or Certificate will be issued to a person who does not have the proper CDL for, or does not test in, a school bus.

(2) A person may drive a type 21 activity vehicle as a temporary driver as listed in OAR 581-053-0220, except that a restricted "Type 21 Only" temporary driver may be approved.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0531

### Rules Pertaining to Type 21 Drivers

A type 21 driver shall:

(1) Submit written reports of accidents involving the type 21 vehicle to ODE.

(2) Report to his/her employer(s) within 15 days:

(a) Any conviction for driving or criminal offenses specified in OAR 581-053-0050;

(b) Any involvement in an accident; or

(c) If their driver license is no longer valid.

(3) Receive specialized training designed for special education transportation prior to transporting students with disabilities.

(4) Not operate a vehicle with more passengers than the manufacturers designed or equipped capacity.

(5) Instruct passengers to use seat belts, if equipped, at all times the vehicle is in motion.

(6) Maintain order in the vehicle at all times. The inside of the vehicle shall be kept clean.

(7) See that all doors on the vehicle are kept closed while the vehicle is in motion.

(8) Not permit anyone else to operate the vehicle except with the permission of transportation entity supervisor.

(9) Make certain that all aisles and passageways are kept clear.

(10) Make sure all rear doors (emergency exits) are unlocked during vehicle operation.

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(11) Not use tobacco in the vehicle and shall not permit passengers to use tobacco in the vehicle.

(12) Not be under the influence of any alcoholic beverage or any drug likely to affect the person's ability to operate a vehicle safely while on duty.

(13) Not consume any alcoholic beverage regardless of its alcoholic content or any drug likely to affect a person's ability to operate a vehicle safely while operating or within eight hours before operating a type 21 vehicle.

(14) Not permit signs of any kind to be attached to the vehicle except those specifically permitted by law or regulation;

(15) Not permit animals in the vehicle except guide dogs and assistance animals from recognized programs will be accepted when accompanying blind, deaf, or physically impaired persons. Guide/assistance animals in training as defined in ORS 346.680 are also accepted.

(16) Not permit firearms, other weapons, or potentially hazardous materials to be carried in the vehicle.

(17) Secure any article in the passenger compartment likely to cause injury to a passenger in the event of an accident.

(18) Not fill the fuel tank while passengers are in the vehicle or while the motor is running.

(19) Not leave the vehicle when passengers are aboard until the motor is shut off, the brakes set, a manual transmission put in gear and the key removed from the ignition.

(20) Report as soon as possible to the proper official any deficiency or malfunction of any equipment or component of the vehicle.

(21) Not transport students unless the vehicle is safe to operate.

(22) Not alter routes unless approved by school authorities.

(23) Shall inspect the following prior to each trip, unless the inspection is performed by other designated employees:

(a) Windshield and wipers;

(b) All outside lights;

(c) Service door, emergency door and buzzer;

(d) Tires and wheel lug nuts;

(e) Battery, belts, oil and coolant level;

(f) Horns;

(g) Brakes;

(h) Steering;

(i) Exhaust system;

(j) Emergency equipment; and

(k) See that lights, windshield and mirrors are clean.

(24) Shall use all securement straps and attachments for students with adaptive/assistive devices in a manner consistent with their design.

(25) Observe all local and state traffic laws and ordinances.

(26) Complete any training required by ODE or local employer.

(27) Not use a cell phone, with or without a hands free device, while driving a type 21 vehicle unless summoning medical or other emergency help if no other person in the vehicle is capable of summoning help.

(28) Shall not tow a trailer.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0540

### Minimum Standards for Type 21 Vehicles

Type 21 school activity vehicles shall meet all minimum standards for a school bus as listed in OAR 581-053-0240 and retrofit standards applicable to school buses as listed in OAR 581-053-0250, with the following modifications. Type 21 vehicles:

(1) Shall be certified as a school bus or multifunctional school activity bus, as required by the FMVSS.

(2) May be painted any color.

(3) Shall not display the words "School Bus".

(4) Shall not display bus safety lights.

(5) Shall not display a school bus stop arm.

(6) Does not require a public address system.

Stat. Auth.: ORS 820

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: 1EB 26-1986, f. 7-17-86, ef. 10-1-86; ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0610

### District Requirements for use of a Special Pupil Activity Bus

(1) A transportation entity may only use school buses, activity vehicles and Special Pupil Activity Buses (SPABs) to provide transportation for students for school activity trips. A transportation entity may only use a SPAB if the transportation entity and the SPAB meets the requirements of this rule.

(2) The transportation entity shall notify the parents or guardians of students if the transportation entity is using SPABs for pupil transportation.

(3) A chaperone is to be present on the SPAB any time students are present.

(4) Transportation entity shall ensure that owners and operators of SPABs meet the requirements stated in OAR 581-053-0615.

(a) Transportation entities may only use a carrier that has a valid ODE Certificate of Carrier Approval.

(b) Transportation entities may only use SPAB drivers that have been certified by the Oregon Department of Education.

(5) Transportation entities should encourage students to:

(a) Limit the amount of time that they are out of their seat during vehicle operation;

(b) Have a good grip on seat back or designated hand grips when students are out of their seat during vehicle operation; and

(c) Not walk or stand during stop and go traffic circumstances or while the SPAB is traveling roads with many twists and turns.

(6) Transportation entities shall keep a copy of the SPAB carrier's:

(a) Current "Certificate of Carrier Approval" issued by the Oregon Department of Education.

(b) List of qualified SPAB drivers.

(c) Districts shall document and keep evidence of required safety instructions for 2 years.

(7) Transportation entities shall report to the Oregon Department of Education SPAB carriers or their drivers that have been observed by patrons, staff, parents or students engaging in any of the following:

(a) Violating speed laws;

(b) Unsafe vehicle operation;

(c) Unsafe or poorly maintained SPAB;

(d) Inappropriate behavior, contact or language;

(e) Students left or stranded because the carrier failed to perform duties of the contract; or

(f) Supplies an unqualified SPAB driver.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0615

### Special Pupil Activity Bus (SPAB) Motor Carrier Requirements

(1) Providers of SPAB services to Oregon Transportation Entities must receive a Certificate of Carrier Approval from ODE.

(2) ODE shall issue a Certificate of Carrier Approval to a provider of SPAB services if the provider submits:

(a) A complete ODE Certificate of Carrier Approval application form;

(b) A copy of insurance information obtained through Federal Motor Carrier Safety Administration (FMCSA's) SAFER site;

(c) Documentation of a safety rating of:

(A) "Satisfactory" from the USDOT within the last 3 years; or

(B) "1, 2, or 3" from Pupil Transportation Safety Program (PTSP); or

(C) "1, 2, or 3" from Department of Defense (DOD); or

(D) Current copies of:

(i) A level 1 or 5 safety inspection report with the number of Commercial Vehicle Safety Alliance (CVSA) decal for each SPAB; and

(ii) Documentation that the provider has implemented an alcohol and controlled substance testing program in compliance with 49 CFR parts 40 and 382; and that all drivers seeking SBAP certification are enrolled in a random testing program for alcohol and controlled substance meeting all applicable requirements; and

(iii) Driver logs as requested by ODE during the past 6 months; and

(iv) List of SPABs by license plate number that will be used for student activities.

(3) Certificate of Carrier Approval shall expire one year after date of issuance.

(4) ODE may inspect records of vehicles and drivers at the carrier's facility. Failure to allow ODE to inspect records may result in revocation of the "Certificate of Carrier Approval".

(5) SPAB Carriers may only subcontract with carriers that possess a valid Certificate of Carrier Approval to provide SPAB services.

(6) A SPAB shall not be used for home to school transportation services.

(7) ODE shall revoke a "Certificate of Carrier Approval" for failure to maintain or meet requirements of this rule.

(8) The provisions of this rule apply to SPAB carriers providing services to Oregon schools and students.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

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## 581-053-0620

### SPAB Driver Training and Certification

(1) A person may not transport pupils in a SPAB unless the person has completed all requirements for a SPAB Certificate and meets the standards established by ODE for issuance of certificates or holds a valid School Bus Certificate or Permit.

(a) ODE may issue a SPAB certificate to qualified individuals who have filed with ODE an application for SPAB certification, signed by an official designated by the motor carrier certifying that the driver:

(A) Has demonstrated the knowledge and ability to perform the duties of a SPAB driver; and

(B) To the best of the local employer's knowledge, has not been convicted of any driving or criminal offense listed in OAR 581-053-0050 Driving and Criminal Records which could prevent certification.

(b) Applicants shall:

(A) Possess a valid CDL with the proper endorsements for the vehicle being driven;

(B) Possess a valid medical certificate; and

(C) Pass a check of driving and criminal records as required in OAR 581-053-0050 Driving and Criminal Records.

(c) SPAB certificates shall expire when the medical certificate expires.

(d) Drivers shall strictly adhere to all alcohol and controlled substance use and testing requirements of the US Department of Transportation (USDOT) and the Federal Motor Carrier Safety Administration (FMCSA) contained in 49 CFR parts 40 and 382.

(e) In cases of serious illness, injury, or change in physical or mental condition which may impair ability to fulfill the duties and responsibilities of a SPAB driver re-examination and medical approval are required prior to resumption of driving.

(2) Transportation entities and Carriers shall inform ODE if the driver no longer meets the qualifications of this rule.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0630

### Rules Pertaining to SPAB Drivers

(1) Safety Instructions:

(a) Prior to departure the driver shall instruct passengers on the operation and location of all emergency exits;

(b) Driver shall instruct students to:

(A) Keep hand and head inside the vehicle at all times;

(B) Keep aisle clear;

(C) Use caution when opening the overhead compartments;

(D) Use seat belts if equipped; and

(E) Keep emergency exits clear.

(2) Driver's shall:

(a) Notify ODE within 30 days of a change of name, address or employer. A duplicate certificate will be issued if necessary; and

(b) Not use a cellular telephone, with or without a hands free device, while driving a SPAB vehicle unless summoning medical or other emergency help if no other person in the vehicle is capable of summoning help.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

## 581-053-0640

### Minimum Standards for Special Pupil Activity Buses

(1) SPAB equipment requirements:

(a) Emergency exits shall be labeled with instructions to meet FMVSS 217.

(b) Shall have roof hatches that meet FMVSS 217.

(c) Shall have reflective "conspicuity marking" on the rear that meets or exceeds the coefficient of retro reflectivity of ASTM D 4956 for Type 1 Engineering Grade standards.

(d) Rear wheel wells shall not be composed of exposed flammable material or rear wheel wells shall have pressure and temperature sending units mounted inside rear wheel rims that will activate an alarm in the drivers compartment when either pressure or temperature are outside normal ranges.

(2) Emergency Equipment:

(a) Emergency road reflectors:

(A) Each SPAB shall be equipped with at least three DOT triangle reflectorized disabled vehicle warning devices;

(B) Reflectors must be in a container securely mounted with nut-and-bolt fasteners enhanced with large flat (fender) washers or held in place by

a nut-and-bolt mounted metal bracket that also protects and secures the container lid or in a location provided by the Original Equipment Manufacturer (OEM) which securely holds the container. Both must be located in an accessible location. Reflectors must not be mounted in any engine compartment;

(C) If not mounted in plain view of the driver, the location must be clearly designated.

(b) Fire extinguishers:

(A) Each SPAB shall be equipped with at least one pressurized, dry, chemical type fire extinguisher, mounted in a bracket. A pressure gauge shall be mounted on each extinguisher so as to be readily read without removing the extinguisher from its mounted position. A SPAB must have either:

(i) One or more fire extinguishers of a type approved by the Underwriters Laboratories, Inc., with a rating of 5 BC or more; or

(ii) Two or more fire extinguishers, each of which has Underwriters Laboratories, Inc., rating of 4 BC or more.

(B) Extinguishers with plastic heads are not permitted.

(c) A first aid kit.

(3) Maintenance and inspections:

(a) SPABs must be maintained in safe operating condition and must meet or exceed the minimum standards in effect at the time of purchase for the type of vehicle, plus any subsequent rules applicable to the vehicle.

(b) Vehicle maintenance records must be kept for each vehicle used to transport students. These records shall be available to ODE upon request. Records shall be kept for every service, adjustment or repair of the following items and shall include date and mileage:

(A) Chassis lubrication;

(B) Engine oil and filter changes;

(C) Major engine tune-ups and repairs;

(D) All adjustment, service and repair of brake system;

(E) All adjustment, service and repair of steering mechanism and other related parts;

(F) Tires; and

(G) Drive train components.

(c) SPAB carriers shall have all vehicles used in transporting pupils inspected annually, and certify to ODE that all deficiencies have been corrected before the SPAB is used to transport students. Copies of the Annual Vehicle Inspection Report must be sent to ODE.

(d) ODE personnel may conduct an inspection of a SPAB at any time or upon request of the motorcoach carrier. ODE may investigate accidents and examine SPABs involved in accidents as the Department considers necessary.

(e) Upon inspection of a SPAB by ODE personnel, motor coach carrier shall be notified in writing of deficiencies. Such deficiencies must be corrected by the motorcoach carrier before the SPAB is dispatched.

(f) The motor coach carrier must notify ODE in writing that the deficiency is corrected before transporting students in a SPAB that has been declared unsafe in subsection (e) of this section.

Stat. Auth.: ORS 327.013 & 820.100 - 820.120

Stats. Implemented: ORS 327.013, 820.100, 820.105, 820.110 & 820.120

Hist.: ODE 19-2012, f. & cert. ef. 6-14-12

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

**Rule Caption:** Medicaid Payment for Habilitative and Rehabilitative Mental Health Services.

**Adm. Order No.:** MHS 7-2012(Temp)

**Filed with Sec. of State:** 5-17-2012

**Certified to be Effective:** 5-17-12 thru 11-11-12

**Notice Publication Date:**

**Rules Adopted:** 309-016-0726, 309-016-0727, 309-016-0728, 309-016-0729

**Rules Amended:** 309-016-0605, 309-016-0630, 309-016-0675, 309-016-0680

**Subject:** These rules specify standards for authorized appropriate reimbursement of Medicaid or State Children's Health Plan funded addictions and mental health services and supports. This includes payments for community-based services as well as those payments made for acute inpatient services in a general medical setting or a free-standing facility meeting the federal definition as an institute for

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mental disease reimbursed as a result of a request for payment. The requirements set forth here in these rules must be met in order for Medicaid payment to have been made appropriately.

**Rules Coordinator:** Nola Russell—(503) 945-7652

### 309-016-0605

#### Definitions

- (1) “Action” means:
  - (a) The denial, limitation or restriction of a requested covered services including the type or level of service;
  - (b) The reduction, suspension or termination of a previously authorized service; or
  - (c) The failure to provide services in a timely manner, as defined by the Addictions and Mental Health Division of the Oregon Health Authority.
- (2) “Active Treatment” means a service provided as prescribed in a professionally developed and supervised Individual Services and Supports Plan to address or improve a condition.
- (3) “Addictions and Mental Health Division” means the Division of the Oregon Health Authority responsible for the administration of addictions and mental health services provided in Oregon or to its residents.
- (4) “Allowable Cost” means the cost of treatment services based on cost finding principles found in the appropriate OMB Circular such as “Cost Principles for Non-Profit Organization” (OMB Circular A-122) or “Cost Principles for State, Local, and Indian Tribal Governments” (OMB Circular A-87) and including allowable costs incurred for interest on the acquisition of buildings and improvements thereon.
- (5) “Appeal” means a request by an Individual or their representative to review an Action as defined in this rule.
- (6) “Certificate of Approval” means the document awarded by the Division signifying that a specific, named organization is judged by the Division to operate in compliance with applicable rules. A “Certificate of Approval” for mental health services is valid only when signed by the Deputy Director of the Division of Mental Health Services and, in the case of a subcontract provider of a CMHP, the CMHP director.
- (7) “Certification of Need” means the procedures established by the Division to certify in writing a child’s need for psychiatric residential treatment services.
- (8) “Child” or “Children” means a person under the age of 18. An individual with Medicaid eligibility, who is in need of services specific to children, adolescents, or young adults in transition, will be considered a child until age 21 for purposes of these rules.
- (9) “Children, Adults and Families” (CAF) means the Division serving as Oregon’s child welfare agency.
- (10) “Clean Claim(s)” means a claim that can be processed without obtaining additional information from the provider of the service or from a third party. It includes a claim with errors originating in the State’s claims system. It does not include a claim from a provider who is under investigation for fraud or abuse, or a claim under review for medical necessity.
- (11) “Commission on Accreditation of Rehabilitation” (CARF) means an organization that accredits behavioral health care and community providers based on the current edition of the “CARF Behavioral Health” standards manual.
- (12) “Community Mental Health Program” (CMHP) means an entity that is responsible for planning and delivery of services for persons with substance use disorders, mental health diagnosis, or developmental disabilities, operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Division.
- (13) “Complaint” means an expression of dissatisfaction from an Individual or their representative to a Practitioner or Provider about any matter other than an Action.
- (14) “Council on Accreditation of Services for Families and Children Facilities” (COA) means an organization that accredits behavioral health care and social service programs based on the current edition of the COA “Standards for Behavioral Health Care Services and Community Support and Education Services Manual.”
- (15) “Disabling Mental Illness” means a mental illness that substantially limits functioning in one or more major life activity.
- (16) “Division” means the Addictions and Mental Health Division of the Oregon Health Authority.
- (17) “Division of Medical Assistance Programs” (DMAP) means the Division of the Oregon Health Authority responsible for coordinating the medical assistance programs within the State of Oregon including the Oregon Health Plan (OHP) Medicaid demonstration, the State Children’s Health Insurance Program (SCHIP -Title XXI), and several other programs.
- (18) “DMAP/AMH” means the Division of Medical Assistance or Addictions and Mental Health Division. Both DMAP and AMH have delegated responsibilities for the administration of Medicaid funded addictions and mental health services and supports. A lead agency will be identified to each entity involved in any process when the delegation of such is necessary.
- (19) “Diagnostic and Statistical Manual” (DSM) means the current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association.
- (20) “Grievance System” means the overall system in which an Individual can express dissatisfaction and that expression acted on if necessary. The Grievance System includes a Complaint process, and Appeals process and access to the Division of Medical Assistance Programs Administrative Hearing process.
- (21) “Habilitation Services” means services designed to help an individual attain or maintain their maximal level of independence, including the individual’s acceptance of a current residence and the prevention of unnecessary changes in residence. Services are provided in order to assist an individual to acquire, retain or improve skills in the one or more of the following areas: assistance with activities of daily living, cooking, home maintenance, recreation, community inclusion and mobility, money management, shopping, community survival skills, communication, self-help, socialization, and adaptive skills necessary to reside successfully in home and community-based settings.
- (22) “Individual” means any person being considered for or receiving services and supports.
- (23) “Individual Service and Support Plan” (ISSP) means a comprehensive plan for services and supports provided to or coordinated for an individual and his or her family, as applicable, that is reflective of the assessment and the desired outcomes of service.
- (24) “Interdisciplinary Team” means the group of people designated to advise in the planning and provision of services and supports to individuals receiving Intensive Treatment Services (ITS) and Enhanced Care Services (ECS) and may include multiple disciplines or agencies. For ITS programs, the composition of the interdisciplinary team must be consistent with the requirements of 42 CFR Part 441.156.
- (25) “Joint Commission on Accreditation of Healthcare Organizations” (JCAHO) means the Joint Commission on Accreditation of Healthcare Organizations. The Joint Commission accredits psychiatric residential treatment facilities according to its current edition of the “Comprehensive Accreditation Manual for Behavioral Health Care.”
- (26) “Letter of Approval” means the document awarded to service providers under OAR 309-012-0010 which states that the provider is in compliance with applicable administrative rules of the Division. Letters of Approval issued for mental health services are obsolete upon their expiration date, or upon the effective date of 309-012-0140, whichever is later.
- (27) “Licensed Medical Practitioner” (LMP) means a person who meets the following minimum qualifications as documented by the LMHA or designee:
  - (a) Physician licensed to practice in the State of Oregon; or
  - (b) Nurse practitioner licensed to practice in the State of Oregon; or
  - (c) Physician’s Assistant licensed to practice in the State of Oregon.
  - (d) In addition, whose training, experience and competence demonstrate the ability to conduct a mental health assessment and provide medication management.
  - (e) For ICTS and ITS providers, a “Licensed Medical Practitioner” or “LMP” means a board-certified or board-eligible child and adolescent psychiatrist licensed to practice in the State of Oregon.
- (28) “Local Mental Health Authority” (LMHA) means one of the following entities:
  - (a) The board of county commissioners of one or more counties that establishes or operates a Community Mental Health Program (CMHP);
  - (b) The tribal council, in the case of a federally recognized tribe of Native Americans that elects to enter into an agreement to provide mental health services; or
  - (c) A regional local mental health authority comprised of two or more boards of county commissioners.
- (29) “Medicaid” means the federal grant-in-aid program to state governments to provide medical assistance to eligible persons, under Title XIX of the Social Security Act.
- (30) “Medicaid Management Information System” The mechanized claims processing and information retrieval system that all states are required to have according to section 1903(a)(3) of the Social Security Act and defined in regulation at 42 CFR 433.111. All states operate an MMIS to support Medicaid business functions and maintain information in such

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areas as provider enrollment; client eligibility, including third party liability; benefit package maintenance; managed care enrollment; claims processing; and prior authorization.

(31) "Medically Appropriate" means services and medical supplies required for prevention, diagnosis or treatment of a physical or mental health condition, or injuries, and which are:

(a) Consistent with the symptoms of a health condition or treatment of a health condition;

(b) Appropriate with regard to standards of good health practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(c) Not solely for the convenience of an individual or a provider of the service or medical supplies; and

(d) The most cost effective of the alternative levels of medical services or medical supplies that can be safely provided to an individual.

(32) "National Provider Identifier" (NPI) means a unique 10-digit identifier mandated by the Administrative Simplification provisions of the federal Health Insurance Portability and Accountability Act (HIPAA) for all healthcare providers that is good for the life of the provider.

(33) "Non-Contiguous Area Provider" means a provider located more than 75 miles from Oregon and enrolled with the Division.

(34) "Plan of Care" (POC) means a tool within the Medicaid Management Information System used to authorize certain Medicaid funded services for Individuals.

(35) "Provider" means an organizational entity, or qualified person, that is operated by or contractually affiliated with, a community mental health program, or contracted directly with the Division, for the direct delivery of addictions, problem gambling or mental health services and supports.

(36) "Psychiatric Residential Treatment Facility" means facilities that are structured residential treatment environments with daily 24-hour supervision and active psychiatric treatment, Psychiatric Residential Treatment Services (PRTS), Secure Children's Inpatient Treatment Programs (SCIP), Secure Adolescent Inpatient Treatment Programs (SAIP), and Sub-acute psychiatric treatment for children who require active treatment for a diagnosed mental health condition in a 24-hour residential setting.

(37) "Psychiatric Residential Treatment Services" means services delivered in a PRTF that include 24-hour supervision for children who have serious psychiatric, emotional or acute mental health conditions that require intensive therapeutic counseling and activity and intensive staff supervision, support and assistance.

(38) "Qualified Mental Health Associate" (QMHA) means a person delivering services under the direct supervision of a Qualified Mental Health Professional (QMHP) and meeting the following minimum qualifications as documented by the LMHA or designee:

(a) A bachelor's degree in a behavioral sciences field; or

(b) A combination of at least three year's relevant work, education, training or experience; and

(c) Has the competencies necessary to:

(A) Communicate effectively;

(B) Understand mental health assessment, treatment and service terminology and to apply the concepts; and

(C) Provide psychosocial skills development and to implement interventions prescribed on a Treatment Plan within the scope of his or her practice.

(39) "Qualified Mental Health Professional" (QMHP) means a Licensed Medical Practitioner (LMP) or any other person meeting the following minimum qualifications as documented by the LMHA or designee:

(a) Graduate degree in psychology;

(b) Bachelor's degree in nursing and licensed by the State of Oregon;

(c) Graduate degree in social work;

(d) Graduate degree in a behavioral science field;

(e) Graduate degree in recreational, art, or music therapy; or

(f) Bachelor's degree in occupational therapy and licensed by the State of Oregon; and

(g) Whose education and experience demonstrates the competencies to identify precipitating events; gather histories of mental and physical disabilities, alcohol and drug use, past mental health services and criminal justice contacts; assess family, social and work relationships; conduct a mental status examination; document a multiaxial DSM diagnosis; write and supervise a Treatment Plan; conduct a Comprehensive Mental Health Assessment; and provide individual, family, and/or group therapy within the scope of his or her practice.

(40) "Representative" means a person who acts on behalf of an individual at the individual's request with respect to a grievance, including, but

not limited to a relative, friend, employee of the Division, attorney or legal guardian.

(41) "System Of Care" means the comprehensive array of mental health and other necessary services which are organized to meet the multiple and changing needs of children with severe emotional disorders and their families.

(42) "Usual and Customary Charge" means the lesser of the following unless prohibited from billing by federal statute or regulation:

(a) The Provider's charge per unit of service for the majority of non-medical assistance users of the same service based on the preceding month's charges;

(b) The Provider's lowest charge per unit of service on the same date that is advertised, quoted or posted. The lesser of these applies regardless of the payment source or means of payment;

(c) Where the Provider has established a written sliding fee scale based upon income for individuals and families with income equal to or less than 200% of the federal poverty level, the fees paid by these individuals and families are not considered in determining the usual charge. Any amounts charged to Third Party Resources (TPR) are to be considered.

Stat. Auth.: ORS 413.042 & 430.640

Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715

Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10; MHS 11-2010, f. & cert. ef. 8-25-10; MHS 14-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-28-12; MHS 7-2012(Temp), f. & cert. ef. 5-17-12 thru 11-11-12

## 309-016-0630

### Payment

(1) The Division of Medical Assistance Programs or the Addictions and Mental Health Division (DMAP) will make payment in compliance with 42CFR 447.10. Any contracted Billing Agent or Billing Service submitting claims on behalf of a Provider but not receiving payment in the name of or on behalf of the Provider does not meet the requirements for Billing Provider enrollment. If electronic transactions will be submitted, Billing Agents and Billing Services must register and comply with Oregon Health Authority Electronic Data Interchange (EDI) rules, OAR 407-120-0100 through 407-120-0200. DMAP may require that payment for services be made only after review by DMAP.

(2) The Division sets Fee-for-Service (FFS) payment rates.

(3) All FFS payment rates are the rates in effect on the date of service that are the lesser of the amount billed, the AMH maximum allowable amount or the reimbursement specified in the individual program Provider rules:

(a) The Division's maximum allowable rate setting process uses a methodology that is based on the existing Medicaid fee schedule with adjustments for legislative changes and payment levels. The rates are updated periodically and posted on the Division's web site at <http://egov.oregon.gov/oha/mentalhealth/tools-providers.shtml>

(b) A daily unit of service begins at midnight and ends 24 hours later. A partial day, including the day of admission, the day of discharge and a day on which an individual returns from temporary leave of absence, usually counts as a full day. If an individual, however, received a service that is billed in daily units, from more than one provider on the same day, only one provider may bill for that service. The billing provider is the provider that renders the majority of services that day.

(c) Provider rules may specify reimbursement rates for particular services or items. Provider specific rates are determined based on the Provider's allowable costs of providing the service.

(4) The Authority sets payment rates for out-of-state institutions and similar facilities, such as psychiatric and rehabilitative care facilities at a rate that is:

(a) Consistent with similar services provided in the State of Oregon; and

(b) The lesser of the rate paid to the most similar facility licensed in the State of Oregon or the rate paid by the Medical Assistance Programs in that state for that service.

(5) DMAP will not make payment on claims that have been assigned, sold, or otherwise transferred or when the Billing Provider, Billing Agent or Billing Service receives a percentage of the amount billed or collected or payment authorized. This includes, but is not limited to, transfer to a collection agency or individual who advances money to a Provider for accounts receivable.

(6) Payment for DMAP Clients with Medicare and Medicaid, excluding qualified Medicare beneficiary programs:

(a) DMAP limits payment to the Medicaid allowed amount less the Medicare payment up to the Medicare co-insurance and deductible, whichever is less. DMAP payment cannot exceed the co-insurance and deductible amounts due;

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(b) DMAP pays the DMAP allowable rate for DMAP covered services that are documented to be not covered by Medicare.

(7) For Clients with Third-Party Resources (TPR), DMAP pays the DMAP allowed rate less the TPR payment but not to exceed the billed amount.

(8) DMAP payments, including contracted Prepaid Health Plan (PHP) payments, unless in error, constitute payment in full, except in limited instances involving allowable spend-down or co-payments. For DMAP such payment in full includes:

(a) Zero payments for claims where a third party or other resource has paid an amount equivalent to or exceeding the DMAP allowable payment; and

(b) Denials of payment for failure to submit a claim in a timely manner, failure to obtain Payment Authorization in a timely and appropriate manner, or failure to follow other required procedures identified in the individual Provider rules.

(9) The Division will reimburse providers consistent with all requirements in 42CFR447.45 Timely Claims Payment including but not limited to:

(a) The Division must pay 90 percent of all clean claims from Providers within 30 days of the date of receipt.

(b) The Division must pay 99 percent of all clean claims from Providers within 90 days of the date of receipt.

(c) The Division must pay all other claims within 12 months of the date of receipt except in various circumstances listed in 42CFR447.45(4).

(10) Payment by DMAP does not limit the Authority or any state or federal oversight entity from reviewing or auditing a claim before or after the payment. Payment may be denied or subject to recovery if medical review, audit or other post-payment review determines the service was not provided in accordance with applicable rules or does not meet the criteria for quality of care, or medical appropriateness of the care or payment.

Stat. Auth.: ORS 413.042 & 430.640

Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705 & 430.715

Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10; MHS 11-2010, f. & cert. ef. 8-25-10; MHS 14-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-28-12; MHS 7-2012(Temp), f. & cert. ef. 5-17-12 thru 11-11-12

## 309-016-0675

### Prior Authorization

#### Authorization of Payment

(1) Some of the services or items covered by the Division require authorization before payment will be made. Some services require authorization before the service can be provided. Services requiring prior authorization can be found on the Mental Health Procedure Codes and Reimbursement Rates Table located at <http://egov.oregon.gov/oha/mentalhealth/tools-providers.shtml>. The procedure for receiving authorization is detailed in the Provider Manual found on the same website.

(2) Documentation submitted when requesting authorization must support the medical justification for the service. A complete request is one that contains all necessary documentation and meets any other requirements as described in the appropriate Provider rules.

(3) The Division will authorize for the level of care or type of service that meets the Individual's medical need. Only services which are Medically Appropriate and for which the required documentation has been supplied may be authorized. The authorizing agency may request additional information from the Provider to determine medical appropriateness or appropriateness of the service.

(4) The Division and its authorizing agencies are not required to authorize services or to make payment for authorized services under the following circumstances:

(a) The individual was not eligible for Medicaid at the time services were provided. The provider is responsible for checking the individual's eligibility each time services are provided;

(b) The Provider does not hold a valid Certificate of Approval from the Division for the service;

(c) The Provider cannot produce appropriate documentation to support medical appropriateness, or the appropriate documentation was not submitted to the Division;

(d) The service has not been adequately documented (see 309-016-0610.); that is, the documentation in the Provider's files is not adequate to determine the type, medical appropriateness, or frequency and duration of services provided and required documentation is not in the Provider's files;

(e) The services billed or provided are not consistent with the information submitted when authorization was requested or the services provided are determined retrospectively not to be medically appropriate;

(f) The services billed are not consistent with those provided;

(g) The services were not provided within the timeframe specified on the authorization of payment document;

(h) The services were not authorized or provided in compliance with these rules, the General Rules and in the appropriate Provider rules.

(i) The provider was not eligible to receive reimbursement from Medicaid at the time the service was rendered.

(j) The individual's needs can be better met through another system of care, such as Aging and People with Disabilities; the individual is eligible for services under that system of care; the individual has been given notice of that eligibility; and the services necessary to support a successful transition to the alternate system of care have been provided.

(5) Payment made for services described in subsections (a)-(h) of this rule will be recovered (see also Basis for Mandatory Sanctions and Basis for Discretionary Sanctions).

(6) Retroactive Eligibility:

(a) In those instances when Individuals are made retroactively eligible, authorization for payment may be given if:

(A) The Individual was eligible on the date of service;

(B) The services provided meet all other criteria and Oregon Administrative Rules, and;

(C) The request for authorization is received by the Division within 90 days of the date of service;

(b) Services provided when a Medicaid-eligible Individual is retroactively dis-enrolled from a Prepaid Health Plan (PHP) or services provided after the Individual was dis-enrolled from a PHP may be authorized if:

(A) The Individual was eligible on the date of service;

(B) The services provided meet all other criteria and Oregon Administrative Rules; and

(C) The request for authorization is received by the Division within 90 days of the date of service;

(c) Any requests for authorization after 90 days from date of service require documentation from the Provider that authorization could not have been obtained within 90 days of the date of service.

(7) The Division will process requests for prior authorization that do not require additional information from the provider or third party consistent with timeliness of payments for clean claims described in 42CFR447.45 and included in 309-016-0630(9).

(8) Prior Authorization is valid for the time period specified on the authorization notice, but not to exceed 12 months, unless the Individual's benefit package no longer covers the service, in which case the authorization will terminate on the date coverage ends.

(9) Prior Authorization for Individuals with other insurance or for Medicare beneficiaries:

(a) When Medicare is the primary payer for a service, no Prior Authorization from the Division is required, unless specified in the appropriate program Provider rules;

(b) For Individuals who have private insurance or other Third Party Resources (TPRs), such as Blue Cross, Tri-Care, etc., the Division requires Prior Authorization as specified above and in the appropriate Provider rules when the other insurer or resource does not cover the service or when the other insurer reimburses less than the Division rate;

(c) For Individuals in a Medicare's Social Health Maintenance Organization (SHMO), the SHMO requires Payment Authorization for some services. The Division requires Prior Authorization for services which are covered by the Division but which are not covered under the SHMO as specified above and in the appropriate Provider rules.

Stat. Auth.: ORS 413.042 & 430.640

Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705 & 430.715

Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10; MHS 11-2010, f. & cert. ef. 8-25-10; MHS 14-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-28-12; MHS 7-2012(Temp), f. & cert. ef. 5-17-12 thru 11-11-12

## 309-016-0680

### Limitations

#### Published Payment Schedule

(1) Payment will be made at each Provider's usual and customary charge or the Division's published reimbursement upper payment limit, whichever is less, minus payments received or due from other payors. Payments to other specified Providers will be made according to other approved schedules:

(a) Limitations contained in the Medicaid Rehabilitative Services Procedure Codes and Reimbursement Rates Schedule, such as the maximum rate and the amount, duration, and scope of services provided, are subject to change at the discretion of the Division. Providers will be notified of such changes in writing;

(b) Reimbursement for specific services that are typically limited in frequency or when occurring on the same day as other services may be



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reimbursed for a special population of individuals who are at high-risk for long-term institutionalization and have been authorized by the Division for fee-for-service mental health rehabilitative services. Pending CMS approval, the following combination of services, when authorized prior to the service, billed with an HK modifier and when approved for a specific individual by the Division, will be reimbursed:

**Procedure Code — Additional Services Rendered on the Same Day of Service**

90805 — G0176, G0177, 90857, 90882  
90807 — G0176, G0177, 90857, 90882  
90809 — G0176, G0177, 90857, 90882  
90804 — G0176, G0177  
90806 — G0176, G0177  
90808 — G0176, G0177  
90846 — G0176, G0177, 90857, 90882  
90847 — G0176, G0177  
90853 — G0176, G0177, 90882  
90857 — G0176, G0177, 90882

(2) Payment will be made for services listed in the Medicaid Rehabilitative Services Procedure Codes and Reimbursement Rates Schedule which are rendered to Medicaid-eligible Individuals by qualified staff meeting the definition of OAR 309-032-1520 during the period in which the Provider is enrolled in the Division of Medical Assistance Program.

Stat. Auth.: ORS 413.042 & 430.640  
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705 & 430.715  
Hist.: MHS 8-2010(Temp), f. 6-15-10, cert. ef. 7-1-10 thru 8-28-10; MHS 11-2010, f. & cert. ef. 8-25-10; MHS 7-2012(Temp), f. & cert. ef. 5-17-12 thru 11-11-12

## 309-016-0726 Program

The provider shall meet the following requirements:

(1) Possess the appropriate current and valid License, Letter of Approval and/or Certificate of Approval issued by the Division for the mental health and addictions services provided, when required by rule.

(2) Provide services in accordance with the Civil Rights Act of 1964, the Americans with Disabilities Act and any other state and federal laws and regulations listed in the contract with the Division.

(3) Participate in the claim review process outlined in OAR 410-120-1397

(4) Providers offering mental health rehabilitative services under this program must meet requirements for providers identified in OAR 309-016-0660.

(5) Providers must be enrolled with the Division of Medicaid Assistance Programs (DMAP) as a Mental Health Provider. Providers shall meet all requirements in OAR 410-120-1260, Medical Assistance Programs Provider Enrollment; OAR 407-120-0310, Provider Requirements; and 407-120-0320, Provider Enrollment.

Stat. Auth.: ORS 413.042 & 430.640  
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715  
Hist.: MHS 7-2012(Temp), f. & cert. ef. 5-17-12 thru 11-11-12

## 309-016-0727 Individual Eligibility

Individual eligibility for services under the 1915 (i) State Plan HCBS will be determined by meeting the following requirements:

(1) Financial eligibility under the State's Medicaid State plan with an income that does not exceed 150 % of the Federal Poverty level;

(2) A need for daily assistance of at least one hour per day to perform at least two Personal Care Services as identified in OAR 309-016-0695 due to a serious mental illness.

(3) Eligibility determined by an External Quality Review Organization, as identified by the Division.

Stat. Auth.: ORS 413.042 & 430.640  
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715  
Hist.: MHS 7-2012(Temp), f. & cert. ef. 5-17-12 thru 11-11-12

## 309-016-0728 Covered Services

Covered services include the following:

(1) Mental health rehabilitative services identified in the Oregon Health Authority's Medicaid Procedure Codes and Reimbursement Rate Schedule.

(2) Personal care services as identified in OAR 309-016-0695.

(3) Habilitative Services as defined in these rules.

Stat. Auth.: ORS 413.042 & 430.640  
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715  
Hist.: MHS 7-2012(Temp), f. & cert. ef. 5-17-12 thru 11-11-12

## 309-016-0729

### Service Prior Authorizations

Eligibility for reimbursement through the 1915 (i) State Plan Home and Community-Based Services Program requires authorization prior to the services as follows:

(1) For Mental Health Rehabilitative Services, as detailed in OAR 309-016-0675 and

(2) For Personal Care and Habilitative Services, as detailed in OAR 309-016-0725.

(3) Mental health rehabilitative services and facility-based personal care and habilitative services must be reauthorized every 180 days or whenever there is a change in services offered.

(4) Personal care and habilitative services must be reauthorized every 360 days or whenever there is a change in services provided.

Stat. Auth.: ORS 413.042 & 430.640  
Stats. Implemented: ORS 413.042, 414.025, 414.065, 430.640, 430.705, 430.715  
Hist.: MHS 7-2012(Temp), f. & cert. ef. 5-17-12 thru 11-11-12

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**Rule Caption:** Community Treatment and Support Services/Integrated Services and Supports Rule.

**Adm. Order No.:** MHS 8-2012

**Filed with Sec. of State:** 6-15-2012

**Certified to be Effective:** 6-15-12

**Notice Publication Date:** 5-1-2012

**Rules Amended:** 309-032-1500, 309-032-1505, 309-032-1510, 309-032-1515, 309-032-1520, 309-032-1525, 309-032-1530, 309-032-1535, 309-032-1540, 309-032-1545, 309-032-1550, 309-032-1555, 309-032-1560, 309-032-1565

**Rules Repealed:** 309-032-1500(T), 309-032-1505(T), 309-032-1510(T), 309-032-1515(T), 309-032-1520(T), 309-032-1525(T), 309-032-1530(T), 309-032-1535(T), 309-032-1540(T), 309-032-1545(T), 309-032-1550(T), 309-032-1555(T), 309-032-1560(T), 309-032-1565(T)

**Subject:** These rules prescribe minimum standards for the services and supports provided by addiction and mental health providers approved by the Addictions and Mental Health Division. These amendments implement SB 238 as it relates integrated services and supports.

**Rules Coordinator:** Nola Russell — (503) 945-7652

## 309-032-1500

### Purpose and Scope

(1) Purpose: These rules prescribe minimum standards for the services and supports provided by addictions and mental health providers approved by the Addictions and Mental Health Division of the Oregon Health Authority. These rules:

(a) Promote recovery, resiliency, wellness, independence and safety for individuals receiving addictions and mental health services and supports;

(b) Specify standards for services and supports that are person-directed, youth guided, family-driven, culturally competent, trauma-informed and wellness-informed; and

(c) Promote functional and rehabilitative outcomes for individuals that are developmentally appropriate.

(2) Scope: In addition to applicable requirements in OAR 410-120-0000 through 410-120-1980 and 407-120-0000 through 407-120-0400, these rules specify standards for addictions and mental health services and supports provided in:

(a) Outpatient Community Mental Health Services and Supports for Children and Adults;

(b) Intensive Community-based Treatment and Support Services (ICTS) for Children;

(c) Intensive Treatment Services (ITS) for Children;

(d) Outpatient and Residential Alcohol and Other Drug Treatment Services; and

(e) Outpatient and Residential Problem Gambling Treatment Services.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.450  
Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 409.430 - 409.435, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270  
Hist.: MHS 4-2010, f. & cert. ef. 3-4-10; MHS 15-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 8-2012, f. & cert. ef. 6-15-12

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## 309-032-1505

### Definitions

(1) "Abuse of an adult" means the circumstances defined in OAR 407-045-0260 for abuse of an adult with mental illness.

(2) "Abuse of a child" means the circumstances defined in ORS 419B.005.

(3) "Addictions and Mental Health Services and Supports" means all services and supports that are regulated by this rule, including, but not limited to, Outpatient Community Mental Health Services and Supports for Children and Adults, ICTS for Children, ITS for Children, Outpatient and Residential Alcohol and Other Drug Treatment Services and Outpatient and Residential Problem Gambling Treatment Services.

(4) "Adolescent" means an individual from 12 through 17 years of age, or those individuals who are determined to be developmentally appropriate for youth services.

(5) "Adult" means a person 18 years of age or older, or an emancipated minor. An individual with Medicaid eligibility, who is in need of services specific to children, adolescents, or young adults in transition, must be considered a child until age 21 for the purposes of these rules. Adults who are between the ages of 18 and 21, who are considered children for purposes of these rules, must have all rights afforded to adults as specified in these rules.

(6) "Alcohol and Other Drug Treatment and Recovery Services" means outpatient, intensive outpatient, and residential services and supports for individuals with substance use disorders.

(7) "Alcohol and Other Drug Treatment Staff" means a person certified or licensed by a health or allied provider agency to provide alcohol and other drug treatment services that include assessment, development of an Individual Service and Support Plan (ISSP), and individual, group and family counseling.

(a) For treatment staff holding certification in addiction counseling, qualifications for the certificate must have included at least:

(A) 750 hours of supervised experience in substance use counseling;

(B) 150 contact hours of education and training in substance use related subjects; and

(C) Successful completion of a written objective examination or portfolio review by the certifying body.

(b) For treatment staff holding a health or allied provider license, the license or registration must have been issued by one of the following state bodies and the person must possess documentation of at least 60 contact hours of academic or continuing professional education in alcohol and other drug treatment:

(A) Board of Medical Examiners;

(B) Board of Psychologist Examiners;

(C) Board of Licensed Social Workers;

(D) Board of Licensed Professional Counselors and Therapists; or

(E) Board of Nursing.

(8) "Assessment" means the process of obtaining all pertinent biopsychosocial information, through a face-to-face interview and additional information as provided by the individual, family and collateral sources as relevant, to determine a diagnosis and to plan individualized services and supports.

(9) "ASAM PPC-2R" means the American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Substance-related Disorders, Second Edition Revised, April 2001, which is a clinical guide used in matching individuals to appropriate levels of care, and incorporated by reference in these rules.

(10) "Authority" means the Oregon Health Authority.

(11) "Behavior Support Plan" means the individualized proactive support strategies, consistent with OAR 309-032-1540(8), documented in the ISSP that are used by the provider and family when applicable, to support positive behavior.

(12) "Behavior Support Strategies" means proactive supports designed to replace challenging behavior with functional, positive behavior. The strategies address environmental, social, neurodevelopmental and physical factors that affect behavior.

(13) "Biopsychosocial Information" means the combination of physical, psychological, social, environmental and cultural factors that influence the individual's development and functioning.

(14) "Care Coordination" means a process-oriented activity to facilitate ongoing communication and collaboration to meet multiple needs. Care coordination includes facilitating communication between the family, natural supports, community resources, and involved providers and agencies; organizing, facilitating and participating in team meetings; and providing for continuity of care by creating linkages to and managing transi-

tions between levels of care and transitions for transition-age young adults to adult services.

(15) "Case Management" means the services provided to assist individuals, who reside in a community setting, or are transitioning to a community setting, in gaining access to needed medical, social, educational, entitlement and other applicable services.

(16) "Chemical Restraint" means the administration of medication for the acute management of potentially harmful behavior. Chemical restraint is prohibited in the services regulated by these rules.

(17) "Child" means a person under the age of 18. An individual with Medicaid eligibility, who is in need of services specific to children, adolescents, or young adults in transition, must be considered a child until age 21 for purposes of these rules.

(18) "Child and Family Team" means those persons who are responsible for creating, implementing, reviewing, and revising the service coordination section of the ISSP in ICTS programs. At a minimum, the team must be comprised of the family, care coordinator, and child when appropriate. The team should also include any involved child-serving providers and agencies and any other natural, formal, and informal supports as identified by the family.

(19) "Children's Emergency Safety Intervention Specialist (CESIS)" means a Qualified Mental Health Professional (QMHP) who is licensed to order, monitor, and evaluate the use of seclusion and restraint in accredited and certified facilities providing intensive mental health treatment services to individuals under 21 years of age.

(20) "Clinical Supervision" means oversight by a qualified Clinical Supervisor of addictions and mental health services and supports provided according to this rule, including ongoing evaluation and improvement of the effectiveness of those services and supports.

(21) "Clinical Supervisor" means a person qualified to oversee and evaluate addictions or mental health services and supports.

(a) For supervisors in alcohol and other drug treatment programs, holding a certification or license in addiction counseling, qualifications for the certificate or license must have included at least:

(A) 4000 hours of supervised experience in substance use counseling;

(B) 300 contact hours of education and training in substance use related subjects; and

(C) Successful completion of a written objective examination or portfolio review by the certifying body.

(b) For supervisors, in alcohol and other drug treatment programs, holding a health or allied provider license, such license or registration must have been issued by one of the following state bodies and the supervisor must possess documentation of at least 120 contact hours of academic or continuing professional education in the treatment of alcohol and other drug-related disorders:

(A) Board of Medical Examiners;

(B) Board of Psychologist Examiners;

(C) Board of Licensed Social Workers;

(D) Board of Licensed Professional Counselors and Therapists; or

(E) Board of Nursing.

(22) "Co-occurring substance use and mental health disorders (COD)" means the existence of a diagnosis of both a substance use disorder and a mental health disorder.

(23) "Community Mental Health Program (CMHP)" means an entity that is responsible for planning and delivery of services for persons with substance use disorders or a mental health diagnosis, operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Division.

(24) "Conditional Release" means placement by a court or the Psychiatric Security Review Board (PSRB), of a person who has been found eligible under ORS 161.327(2)(b) or 161.336, for supervision and treatment in a community setting.

(25) "Court" means the last convicting or ruling court unless specifically noted.

(26) "Criminal Records Check" means the Oregon Criminal Records Check and the processes and procedures required by OAR 407-007-0000 through 407-007-0370.

(27) "Crisis" means either an actual or perceived urgent or emergent situation that occurs when an individual's stability or functioning is disrupted and there is an immediate need to resolve the situation to prevent a serious deterioration in the individual's mental or physical health or to prevent referral to a significantly higher level of care.

(28) "Cultural Competence" means the process by which people and systems respond respectfully and effectively to people of all cultures, languages, classes, races, ethnic backgrounds, disabilities, religions, genders,

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sexual orientations and other diversity factors in a manner that recognizes, affirms, and values the worth of individuals, families and communities and protects and preserves the dignity of each.

(29) “Culturally Specific Program” means a program that is designed to meet the unique service needs of a specific culture and that provides services to a majority of individuals representing that culture.

(30) “Declaration for Mental Health Treatment” means a written statement of an individual’s preferences concerning his or her mental health treatment. The declaration is made when the individual is able to understand and legally make decisions related to such treatment. It is honored, as clinically appropriate, in the event the individual becomes unable to make such decisions.

(31) “Deputy Director” means the Deputy Director of the Addictions and Mental Health Division, or that person’s designee.

(32) “Developmentally Appropriate” means services and supports that match emotional, social and cognitive development rather than chronological age.

(33) “Diagnosis” means the principal mental health, substance use or problem gambling diagnosis listed in the Diagnostic and Statistical Manual of Mental Disorders (DSM). The diagnosis is determined through the assessment and any examinations, tests, or consultations suggested by the assessment, and is the medically appropriate reason for services.

(34) “Director” means the Director of the Addictions and Mental Health Division, or that person’s designee.

(35) “Division” means the Addictions and Mental Health Division.

(36) “DSM” means the Diagnostic and Statistical Manual of Mental Disorders-IV-R, published by the American Psychiatric Association.

(37) “DSM Five-axis Diagnosis” means the multi-axial diagnosis, consistent with the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM), resulting from the assessment.

(38) “Driving Under the Influence of Intoxicants (DUI) Alcohol and Other Drug Rehabilitation Program” means a program of treatment and therapeutically oriented education services for an individual who is either:

(a) A violator of ORS 813.010 Driving Under the Influence of Intoxicants; or

(b) A defendant who is participating in a diversion agreement under ORS 813.200.

(39) “Emergency Safety Intervention” means the use of seclusion or personal restraint under OAR 309-032-1540(9) of these rules, as an immediate response to an unanticipated threat of violence or injury to an individual, or others.

(40) “Emergent” means the onset of symptoms requiring attention within 24 hours to prevent serious deterioration in mental or physical health or threat to safety.

(41) “Enhanced Care Services (ECS)” and “Enhanced Care Outreach Services (ECOS)” means mental health services and supports provided to individuals residing in licensed Seniors and People with Disabilities (SPD) facilities.

(42) “Entry” means the act or process of acceptance and enrollment into services regulated by this rule.

(43) “Evaluation Specialist” means a person who possesses valid certification issued by the Division to conduct DUI evaluations.

(44) “Family” means the biological or legal parents, siblings, other relatives, foster parents, legal guardians, spouse, domestic partner, caregivers and other primary relations to the individual whether by blood, adoption, legal or social relationships. Family also means any natural, formal or informal support persons identified as important by the individual.

(45) “Family Support” means the provision of supportive services to persons defined as family to the individual. It includes support to caregivers at community meetings, assistance to families in system navigation and managing multiple appointments, supportive home visits, peer support, parent mentoring and coaching, advocacy, and furthering efforts to develop natural and informal community supports.

(46) “Fully Capitated Health Plan (FCHP)” means a prepaid health plan under contract with the Division of Medical Assistance Programs to provide capitated physical or behavioral health services.

(47) “Gender Identity” means a person’s self-identification of gender, without regard to legal or biological identification, including, but not limited to persons identifying themselves as male, female, transgender and transsexual.

(48) “Gender Presentation” means the external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, mannerisms, speech patterns and social interactions.

(49) “Grievance” means a formal complaint submitted to a provider verbally, or in writing, by an individual, or the individual’s chosen representative, pertaining to the denial or delivery of services and supports.

(50) “Guardian” means a person appointed by a court of law to act as guardian of a minor or a legally incapacitated person.

(51) “HIPAA” means the federal Health Insurance Portability and Accountability Act of 1996 and the regulations published in Title 45, parts 160 and 164, of the Code of Federal Regulations (CFR).

(52) “Incident Report” means a written description of any incident involving an individual, occurring on the premises of a program, or involving program staff or an ISSP activity, including, but not limited to, injury, major illness, accident, act of physical aggression, medication error, suspected abuse or neglect, or any other unusual incident that presents a risk to health and safety.

(53) “Individual” means any person being considered for or receiving services and supports regulated by these rules.

(54) “Individual Service and Support Plan” (ISSP) means a comprehensive plan for services and supports provided to or coordinated for an individual and his or her family, as applicable, that is reflective of the assessment and the intended outcomes of service.

(55) “Individual Service Note” means the written record of services and supports provided, including documentation of progress toward intended outcomes, consistent with the timelines stated in the ISSP.

(56) “Individual Service Record” means the documentation, written or electronic, regarding an individual and resulting from entry, assessment, orientation, service and support planning, services and supports provided, and transfer.

(57) “Informed Consent for Services” means that the service options, risks and benefits have been explained to the individual and guardian, if applicable, in a manner that they comprehend, and the individual and guardian, if applicable, have consented to the services on, or prior to, the first date of service.

(58) “Intensive Outpatient Alcohol and Other Drug Treatment Services” means structured nonresidential evaluation, treatment, and continued care services for individuals with substance use disorders who need a greater number of therapeutic contacts per week than are provided by traditional outpatient services. Intensive outpatient services may include, but are not limited to, day treatment, correctional day treatment, evening treatment, and partial hospitalization.

(59) “Intensive Community-based Treatment and Support Services (ICTS)” means a specialized set of comprehensive in-home and community-based supports and mental health treatment services, including care coordination as defined in these rules, for children that are developed by the child and family team and delivered in the most integrated setting in the community.

(60) “Intensive Treatment Services (ITS)” means the range of services in the system of care comprised of Psychiatric Residential Treatment Facilities (PRTF) and Psychiatric Day Treatment Services (PDTS), or other services as determined by the Division, that provide active psychiatric treatment for children with severe emotional disorders and their families.

(61) “Interim Referral and Information Services” means services provided by an alcohol and other drug treatment provider to individuals on a waiting list, and whose services are funded by the Substance Abuse Prevention and Treatment (SAPT) Block Grant, to reduce the adverse health effects of alcohol and other drug use, promote the health of the individual and reduce the risk of disease transmission.

(62) “Interdisciplinary Team” means the group of people designated to advise in the planning and provision of services and supports to individuals receiving ITS services or ECS services and may include multiple disciplines or agencies. For Psychiatric Residential Treatment Facilities (PRTF), the composition of the interdisciplinary team must be consistent with the requirements of 42 CFR Part 441.156.

(63) “Intern” or “Student” means a person who provides a paid or unpaid program service to complete a credentialed or accredited educational program recognized by the state of Oregon.

(64) “Juvenile Psychiatric Security Review Board (JPSRB)” means the entity described in ORS 161.385.

(65) “Level of Care” means the range of available services provided from the most integrated setting to the most restrictive and most intensive in an inpatient setting.

(66) “Level of Service Intensity Determination.” means the Division approved process by which children and young adults in transition are assessed for ITS and ICTS services.

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(67) "Licensed Health Care Professional" means a practitioner of the healing arts, acting within the scope of his or her practice under State law, who is licensed by a recognized governing board in Oregon.

(68) "Licensed Medical Practitioner (LMP)" means a person who meets the following minimum qualifications as documented by the Local Mental Health Authority (LMHA) or designee:

- (a) Physician licensed to practice in the State of Oregon; or
- (b) Nurse practitioner licensed to practice in the State of Oregon; or
- (c) Physician's Assistant licensed to practice in the State of Oregon;

and

(d) Whose training, experience and competence demonstrate the ability to conduct a mental health assessment and provide medication management.

(e) For ICTS and ITS providers, LMP means a board-certified or board-eligible child and adolescent psychiatrist licensed to practice in the State of Oregon.

(69) "Local Mental Health Authority (LMHA)" means one of the following entities:

(a) The board of county commissioners of one or more counties that establishes or operates a CMHP;

(b) The tribal council, in the case of a federally recognized tribe of Native Americans that elects to enter into an agreement to provide mental health services; or

(c) A regional local mental health authority comprised of two or more boards of county commissioners.

(70) "Mandatory Reporter" means any public or private official, as defined in ORS 419B.005(3), who comes in contact with or has reasonable cause to believe that an individual has suffered abuse, or that any person with whom the official comes in contact with, has abused the individual. Pursuant to 430.765(2) psychiatrists, psychologists, clergy and attorneys are not mandatory reporters with regard to information received through communications that are privileged under 40.225 to 40.295.

(71) "Mechanical Restraint" means the use of any physical device to involuntarily restrain the movement of all or a portion of an individual's body as a means of controlling his or her physical activities in order to protect the individual or other persons from injury. Mechanical restraint is prohibited in the services regulated by these rules.

(72) "Medicaid" means the federal grant-in-aid program to state governments to provide medical assistance to eligible persons, under Title XIX of the Social Security Act.

(73) "Medical Director" means a physician licensed to practice medicine in the State of Oregon and who is designated by an alcohol and other drug treatment program to be responsible for the program's medical services, either as an employee or through a contract.

(74) "Medical Supervision" means an LMP's review and approval, at least annually, of the assessment and the medical appropriateness of services and supports identified in the ISSP for each individual receiving mental health services for one or more continuous years.

(75) "Medically Appropriate" means services and medical supplies required for prevention, diagnosis or treatment of a physical or mental health condition, or injuries, and which are:

(a) Consistent with the symptoms of a health condition or treatment of a health condition;

(b) Appropriate with regard to standards of good health practice and generally recognized by the relevant scientific community and professional standards of care as effective;

(c) Not solely for the convenience of an individual or a provider of the service or medical supplies; and

(d) The most cost effective of the alternative levels of medical services or medical supplies that can be safely provided to an individual.

(76) "Medication Administration Record" means the documentation of the administration of written or verbal orders for medication, laboratory and other medical procedures issued by a LMP employed by, or under contract with, the provider and acting within the scope of his or her license.

(77) "Mental Health Organization (MHO)" means an approved organization that manages most mental health services through a capitated payment mechanism under the Oregon Health Plan. MHOs can be fully capitated health plans, community mental health programs, private mental health organizations or combinations thereof.

(78) "Older Adult" means an individual who is 60 years of age or older.

(79) "Older Adult Services" means age-appropriate services designed for older adults and provided by professionals trained in geriatrics. The services are preventative and include primary prevention efforts including

suicide prevention, early identification services, early intervention services and comprehensive local planning for older adult mental health services.

(80) "Oregon Health Authority" means the Oregon Health Authority of the State of Oregon.

(81) "Outpatient Alcohol and Other Drug Treatment Program" means a publicly or privately operated program that provides assessment, treatment, and rehabilitation on a regularly scheduled basis or in response to crisis for individuals with alcohol or other drug use disorders and their family members, or significant others, consistent with Level I or Level II of the ASAM PPC-2R.

(82) "Outpatient Community Mental Health Services and Supports" means all outpatient mental health services and supports provided to children, youth and adults.

(83) "Outpatient Problem Gambling Treatment Services" means all outpatient treatment services and supports provided to individuals with gambling related problems and their families.

(84) "Outreach" means the delivery of addictions, problem gambling or mental health services, referral services and case management services in non-traditional settings, such as, but not limited to, the individual's residence, shelters, streets, jails, transitional housing sites, drop-in centers, single room occupancy hotels, child welfare settings, educational settings or medical settings. It also refers to attempts made to engage or re-engage an individual in services by such means as letters or telephone calls.

(85) "Peer" means any person supporting an individual, or a family member of an individual, who has similar life experience, either as a current or former recipient of addictions or mental health services, or as a family member of an individual who is a current or former recipient of addictions or mental health services.

(86) "Peer Delivered Services" means an array of agency or community-based services and supports provided by peers, and peer support specialists, to individuals or family members with similar lived experience, that are designed to support the needs of individuals and families as applicable.

(87) "Peer Support Specialist" means a person providing peer delivered services to an individual or family member with similar life experience, under the supervision of a qualified Clinical Supervisor. A Peer Support Specialist must complete a Division approved training program and be:

(a) A self-identified person currently or formerly receiving mental health services; or

(b) A self-identified person in recovery from a substance use or gambling disorder, who meets the abstinence requirements for recovering staff in alcohol and other drug or gambling treatment programs; or

(c) A family member of an individual who is a current or former recipient of addictions or mental health services.

(88) "Performance Improvement Plan" means a plan that describes the provider's quality assessment and performance improvement strategies and measurements.

(89) "Person-directed" means the individual, and others involved in supporting the treatment and recovery of the individual, are actively involved in assessment, planning and revising services and supports and intended outcomes. Individuals are empowered through this process to regain their health, safety and independence to the greatest extent possible and in a manner that is holistic and specific to the individual, including culturally, developmentally, age and gender appropriate.

(90) "Personal Restraint" means the application of physical force without the use of any device, for the purpose of restraining the free movement of an individual's body to protect the individual, or others, from immediate harm. Personal restraint does not include briefly holding without undue force an individual to calm or comfort him or her, or holding an individual's hand to safely escort him or her from one area to another. Personal restraint can be used only in approved ITS programs as an emergency safety intervention under OAR 309-032-1540(9).

(91) "Problem Gambling Treatment Staff" means a person certified or licensed by a health or allied provider agency to provide problem gambling treatment services that include assessment, development of an Individual Service and Support Plan (ISSP), and an individual, group and family counseling.

(a) For treatment staff holding certification in problem gambling counseling, qualifications for the certificate must have included at least:

(A) 100 hours of supervised experience in problem gambling counseling;

(B) 30 contact hours of education and training in problem gambling related subjects; and

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(C) Successful completion of a written objective examination or portfolio review by the certifying body.

(b) For treatment staff holding a health or allied provider license, the license or registration must have been issued by one of the following state bodies and the person must possess documentation of at least 60 contact hours of academic or continuing professional education in problem gambling treatment:

- (A) Board of Medical Examiners;
- (B) Board of Psychologist Examiners;
- (C) Board of Licensed Social Workers;
- (D) Board of Licensed Professional Counselors and Therapists; or
- (E) Board of Nursing.

(92) "Program" means a particular type or level of service that is organizationally distinct.

(93) "Program Administrator" or "Program Director" means a person with appropriate professional qualifications and experience, who is designated to manage the operation of a program.

(94) "Program Staff" means an employee or person who, by contract with the program, provides a service and who has the applicable competencies, qualifications or certification, required in this rule to provide the service.

(95) "Provider" means an organizational entity, or qualified person, that is operated by or contractually affiliated with, a community mental health program, or contracted directly with the Division, for the direct delivery of addictions, problem gambling or mental health services and supports.

(96) "Provisional Assessment" means an initial assessment that identifies a presenting problem, provisional diagnosis and sufficient information to support the provisional diagnosis.

(97) "Provisional ISSP" means an initial ISSP that includes short term objectives and medically appropriate services sufficient to address presenting issues as they relate to a provisional, or full diagnosis, including any engagement strategies, crisis services and activities necessary to complete the assessment and the ISSP.

(98) "Psychiatric Day Treatment Services (PDTs)" means the comprehensive, interdisciplinary, non-residential, community-based program certified under this rule consisting of psychiatric treatment, family treatment and therapeutic activities integrated with an accredited education program.

(99) "Psychiatric Residential Treatment Facility (PRTF)" means facilities that are structured residential treatment environments with daily 24-hour supervision and active psychiatric treatment including Psychiatric Residential Treatment Services (PRTS), Secure Children's Inpatient Treatment Programs (SCIP), Secure Adolescent Inpatient Treatment Programs (SAIP), and Sub-acute psychiatric treatment for children who require active treatment for a diagnosed mental health condition in a 24-hour residential setting.

(100) "Psychiatric Residential Treatment Services (PRTS)" means services delivered in a PRTF that include 24-hour supervision for children who have serious psychiatric, emotional or acute mental health conditions that require intensive therapeutic counseling and activity and intensive staff supervision, support and assistance.

(101) "Psychiatric Security Review Board (PSRB)" means the entity described in ORS 161.295 through 161.400.

(102) "Psychiatrist" means a physician licensed pursuant to ORS 677.010 to 677.228 and 677.410 to 677.450 by the Board of Medical Examiners for the State of Oregon and who has completed an approved residency training program in psychiatry.

(103) "Psychologist" means a psychologist licensed by the Oregon Board of Psychologist Examiners.

(104) "Qualified Mental Health Associate (QMHA)" means a person delivering services under the direct supervision of a QMHP and meeting the following minimum qualifications as authorized by the LMHA or designee:

- (a) Bachelor's degree in a behavioral sciences field; or
- (b) A combination of at least three years relevant work, education, training or experience.

(105) "Qualified Mental Health Professional (QMHP)" means a LMP or any other person meeting one or more of the following minimum qualifications as authorized by the LMHA or designee:

- (a) Bachelor's degree in nursing and licensed by the State of Oregon;
- (b) Bachelor's degree in occupational therapy and licensed by the State of Oregon;
- (c) Graduate degree in psychology;
- (d) Graduate degree in social work;
- (e) Graduate degree in recreational, art, or music therapy; or

(f) Graduate degree in a behavioral science field.

(106) "Qualified Person" means a person who is a QMHP, or a QMHA, and is identified by the PSRB in its Conditional Release Order. This person is designated by the provider to deliver or arrange and monitor the provision of the reports and services required by the Conditional Release Order.

(107) "Quality Assessment and Performance Improvement" means the structured, internal monitoring and evaluation of services to improve processes, service delivery and service outcomes.

(108) "Recovery" means a process of healing and transformation for a person to achieve full human potential and personhood in leading a meaningful life in communities of his or her choice.

(109) "Representative" means a person who acts on behalf of an individual, at the individual's request, with respect to a grievance, including, but not limited to a relative, friend, employee of the Division, attorney or legal guardian.

(110) "Reportable Incident" means a serious incident involving an individual in an ITS program that must be reported in writing to the Division within 24 hours of the incident, including, but not limited to, serious injury or illness, act of physical aggression that results in injury, suspected abuse or neglect, involvement of law enforcement or emergency services, or any other serious incident that presents a risk to health and safety.

(111) "Residential Alcohol and Other Drug Treatment Program" means a publicly or privately operated program as defined in ORS 430.010 that provides assessment, treatment, rehabilitation, and twenty-four hour observation and monitoring for individuals with alcohol and other drug dependence, consistent with Level III of ASAM PCC-2R.

(112) "Residential Problem Gambling Treatment Program" means a publicly or privately operated program that is licensed in accordance with OAR 309-032-1540(11), that provides assessment, treatment, rehabilitation, and twenty-four hour observation and monitoring for individuals with gambling related problems.

(113) "Residential Transition Program" means an Alcohol and Other Drug residential program that provides a drug-free supportive living environment and provides clinical services consistent with Level III of the ASAM PPC-2R.

(114) "Resilience" means the universal capacity that a person uses to prevent, minimize, or overcome the effects of adversity. Resilience reflects a person's strengths as protective factors and assets for positive development.

(115) "Respite care" means planned and emergency supports designed to provide temporary relief from care giving to maintain a stable and safe living environment. Respite care can be provided in or out of the home. Respite care includes supervision and behavior support consistent with the strategies specified in the ISSP.

(116) "Screening" means the process to determine whether the individual needs further assessment to identify circumstances requiring referrals or additional services and supports.

(117) "Seclusion" means the involuntary confinement of an individual to an area or room from which the individual is physically prevented from leaving. Seclusion can be used only in approved ITS programs as an emergency safety intervention specified in OAR 309-032-1540(9).

(118) "Secure Children's Inpatient Programs (SCIP) and Secure Adolescent Inpatient Programs (SAIP)" means ITS programs that are designed to provide inpatient psychiatric stabilization and treatment services to children up to age 14 for SCIP services and individuals under the age of 21 for SAIP services, who require a secure intensive treatment setting.

(119) "Services" means those activities and treatments described in the ISSP that are intended to assist the individual's transition to recovery from a substance use disorder, problem gambling disorder or mental health condition, and to promote resiliency, and rehabilitative and functional individual and family outcomes.

(120) "Signature" means any written or electronic means of entering the name, date of authentication and credentials of the person providing a specific service or the person authorizing services and supports. Signature also means any written or electronic means of entering the name and date of authentication of the individual receiving services, the guardian of the individual receiving services, or any authorized representative of the individual receiving services.

(121) "Skills Training" means providing information and training to individuals and families designed to assist with the development of skills in areas including, but not limited to, anger management, stress reduction, conflict resolution, self-esteem, parent-child interactions, peer relations,

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drug and alcohol awareness, behavior support, symptom management, accessing community services and daily living.

(122) "Sub-Acute Psychiatric Care" means services that are provided by nationally accredited providers to children who need 24-hour intensive mental health services and supports, provided in a secure setting to assess, evaluate, stabilize or resolve the symptoms of an acute episode that occurred as the result of a diagnosed mental health condition.

(123) "Substance Abuse Prevention and Treatment Block Grant" or "SAPT Block Grant" means the federal block grants for prevention and treatment of substance abuse under Public Law 102-321 (31 U.S.C. 7301-7305) and the regulations published in Title 45 Part 96 of the Code of Federal Regulations.

(124) "Substance Use Disorders" means disorders related to the taking of a drug of abuse including alcohol, to the side effects of a medication, and to a toxin exposure. The disorders include substance use disorders such as substance dependence and substance abuse, and substance-induced disorders, including substance intoxication, withdrawal, delirium, and dementia, as well as substance induced psychotic disorder, mood disorder, etc., as defined in DSM criteria.

(125) "Successful DUII Completion" means that the DUII program has documented in its records that for the period of service deemed necessary by the program, the individual has:

(a) Met the completion criteria approved by the Division; and

(b) Met the terms of the fee agreement between the provider and the individual.

(126) "Supports" means activities, referrals and supportive relationships designed to enhance the services delivered to individuals and families for the purpose of facilitating progress toward intended outcomes.

(127) "Systems Integration" means the efforts by providers to work collaboratively with other service systems including, but not limited to, schools, corrections, child welfare and physical health providers, in order to coordinate and enhance services and supports and reduce barriers to service delivery.

(128) "Time out" means the restriction of a child for a period of time to a designated area from which he or she is not physically prevented from leaving, for the purpose of providing him or her an opportunity to regain self-control. When time out is documented as a behavior support strategy in the ISSP, it must be tracked for effectiveness in increasing positive behavior.

(129) "Transfer" means the process of assisting an individual to transition from the current services to the next appropriate setting or level of care.

(130) "Trauma Informed Services" means services that are reflective of the consideration and evaluation of the role that trauma plays in the lives of people seeking mental health and addictions services, including recognition of the traumatic effect of misdiagnosis and coercive treatment. Services are responsive to the vulnerabilities of trauma survivors and are delivered in a way that avoids inadvertent re-traumatization and facilitates individual direction of services.

(131) "Treatment" means the planned, medically appropriate, individualized program of medical, psychological, and rehabilitative procedures, experiences and activities designed to remediate symptoms of a DSM diagnosis, that are included in the ISSP.

(132) "Urinalysis Test" means an initial test and, if positive, a confirmatory test:

(a) An initial test must include, at a minimum, a sensitive, rapid, and inexpensive immunoassay screen to eliminate "true negative" specimens from further consideration.

(b) A confirmatory test is a second analytical procedure used to identify the presence of a specific drug or metabolite in a urine specimen. The confirmatory test must be by a different analytical method from that of the initial test to ensure reliability and accuracy.

(c) All urinalysis tests must be performed by laboratories meeting the requirements of OAR 333-024-0305 to 333-024-0365.

(133) "Urgent" means the onset of symptoms requiring attention within 48 hours to prevent a serious deterioration in an individual's mental or physical health or threat to safety.

(134) "Variance" means an exception from a provision of these rules, granted in writing by the Division, upon written application from the provider. Duration of a variance is determined on a case-by-case basis.

(135) "Volunteer" means an individual who provides a program service or who takes part in a program service and who is not an employee of the program and is not paid for services. The services must be non-clinical unless the individual has the required credentials to provide a clinical service.

(136) "Wellness" means an approach to healthcare that emphasizes good physical and mental health, preventing illness, and prolonging life.

(137) "Young Adult in Transition" means an individual who is developmentally transitioning into independence, sometime between the ages of 14 and 25.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 409.430 - 409.435, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270

Hist.: MHS 4-2010, f. & cert. ef. 3-4-10; MHS 15-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 8-2012, f. & cert. ef. 6-15-12

## 309-032-1510

### Provider Policies

(1) Personnel Policies: All providers must develop and implement written personnel policies and procedures, compliant with these rules, including:

(a) Personnel Qualifications and Credentialing;

(b) Mandatory abuse reporting, compliant with ORS 430.735-430.768 and 407-045-0250 through 407-045-0360;

(c) Criminal Records Checks, compliant with ORS 181.533 through 181.575 and 407-007-0000 through 407-007-0370; and

(d) Fraud, waste and abuse in Federal Medicaid and Medicare programs compliant with OAR 410-120-1380 and 410-120-1510.

(2) Service Delivery Policies: All providers must develop and implement written policies and procedures, consistent with these rules, describing the provider's approach to services and supports and the procedures for the delivery of services and supports.

(a) Policies must be available to individuals and family members upon request; and

(b) Service delivery policies and procedures must include, at a minimum:

(A) Entry and orientation;

(B) Fee agreements;

(C) Assessment, service planning, coordination and documentation;

(D) Person-directed services, including:

(i) Cultural competency;

(ii) Developmentally appropriate and age-appropriate service planning and delivery; and

(iii) Family involvement.

(E) Transfer and Continuity of Care;

(F) Trauma-informed Services, as defined in these rules;

(G) Confidentiality and compliance with HIPAA, Federal Confidentiality Regulations (42 CFR, Part 2), and State confidentiality regulations as specified in ORS 179.505 and 192.518 through 192.530;

(H) Compliance with Title 2 of the Americans with Disabilities Act of 1990 (ADA);

(I) Grievances and Appeals;

(J) Individual Rights;

(K) Quality Assessment and Performance Improvement;

(L) Crisis Prevention and Response, and Incident Reporting;

(M) Services to Young Adults in Transition, when applicable; and

(N) Urinalysis testing to ensure validity of urine specimens collected by staff authorized to collect urine samples, when applicable.

(3) Residential Program Policies: In addition to the personnel and service delivery policies required of all providers, residential program providers must develop and implement written policies and procedures for the following:

(a) Medical Protocols and Medical Emergencies;

(b) Medication Administration, Storage and Disposal;

(c) Facility standards for Alcohol and Other Drug Residential Treatment Programs, including the standards under these rules;

(d) General Safety and Emergency Procedures; and

(e) Emergency Safety Interventions in ITS Programs.

(f) Alcohol and Other Drug Residential Treatment programs must establish written policies that prohibit:

(A) Physical or other forms of aversive action to discipline an individual;

(B) Seclusion, personal restraint, mechanical restraint and chemical restraint;

(C) Withholding shelter, regular meals, clothing or aids to physical functioning; and

(D) Discipline of one individual by another.

(4) Behavior Support Policies: Applicable providers, as specified below, must develop behavior support policies including:

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(a) ITS and ICTS Services: policies consistent with 309-032-1540 (8) of these rules.

(b) ECS Services: policies consistent with 309-032-1540 (8) of these rules.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 409.430 - 409.435, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270

Hist.: MHS 4-2010, f. & cert. ef. 3-4-10; MHS 15-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 8-2012, f. & cert. ef. 6-15-12

## 309-032-1515

### Individual Rights

(1) In addition to all applicable statutory and constitutional rights, every individual receiving services has the right to:

(a) Choose from available services and supports, those that are consistent with the ISSP and provided in the most integrated setting in the community and under conditions that are least restrictive to the individual's liberty, that are least intrusive to the individual and that provide for the greatest degree of independence;

(b) Be treated with dignity and respect;

(c) Participate in the development of a written ISSP, receive services consistent with that plan and participate in periodic review and reassessment of service and support needs, assist in the development of the plan, and to receive a copy of the written ISSP;

(d) Have all services explained, including expected outcomes and possible risks;

(e) Confidentiality, and the right to consent to disclosure in accordance with ORS 107.154, 179.505, 179.507, 192.515, 192.507, 42 CFR Part 2 and 45 CFR Part 205.50.

(f) Give informed consent in writing prior to the start of services, except in a medical emergency or as otherwise permitted by law. Minor children may give informed consent to services in the following circumstances:

(A) Under age 18 and lawfully married;

(B) Age 16 or older and legally emancipated by the court; or

(C) Age 14 or older for outpatient services only. For purposes of informed consent, outpatient service does not include service provided in residential programs or in day or partial hospitalization programs;

(g) Inspect their Individual Service Record in accordance with ORS 179.505;

(h) Refuse participation in experimentation;

(i) Receive medication specific to the individual's diagnosed clinical needs;

(j) Receive prior notice of transfer, unless the circumstances necessitating transfer pose a threat to health and safety;

(k) Be free from abuse or neglect and to report any incident of abuse or neglect without being subject to retaliation;

(l) Have religious freedom;

(m) Be free from seclusion and restraint, except as regulated in OAR 309-032-1540(9).

(n) Be informed at the start of services, and periodically thereafter, of the rights guaranteed by this rule;

(o) Be informed of the policies and procedures, service agreements and fees applicable to the services provided, and to have a custodial parent, guardian, or representative, assist with understanding any information presented;

(p) Have family and guardian involvement in service planning and delivery;

(q) Make a declaration for mental health treatment, when legally an adult;

(r) File grievances, including appealing decisions resulting from the grievance;

(s) Exercise all rights set forth in ORS 109.610 through 109.697 if the individual is a child, as defined by these rules;

(t) Exercise all rights set forth in ORS 426.385 if the individual is committed to the Authority; and

(u) Exercise all rights described in this rule without any form of reprisal or punishment.

(2) In addition to the rights specified in (1) of this rule, every individual receiving residential services has the right to:

(a) A safe, secure and sanitary living environment;

(b) A humane service environment that affords reasonable protection from harm, reasonable privacy and daily access to fresh air and the outdoors;

(c) Keep and use personal clothing and belongings, and to have an adequate amount of private, secure storage space. Reasonable restriction of the time and place of use, of certain classes of property may be implemented if necessary to prevent the individual or others from harm, provided that notice of this restriction is given to individuals and their families, if applicable, upon entry to the program, documented, and reviewed periodically;

(d) Express sexual orientation, gender identity and gender presentation;

(e) Have access to and participate in social, religious and community activities;

(f) Private and uncensored communications by mail, telephone and visitation, subject to the following restrictions:

(A) This right may be restricted only if the provider documents in the individual's record that there is a court order to the contrary, or that in the absence of this restriction, significant physical or clinical harm will result to the individual or others. The nature of the harm must be specified in reasonable detail, and any restriction of the right to communicate must be no broader than necessary to prevent this harm; and

(B) The individual and his or her guardian, if applicable, must be given specific written notice of each restriction of the individual's right to private and uncensored communication. The provider must ensure that correspondence can be conveniently received and mailed, that telephones are reasonably accessible and allow for confidential communication, and that space is available for visits. Reasonable times for the use of telephones and visits may be established in writing by the provider;

(g) Communicate privately with public or private rights protection programs or rights advocates, clergy, and legal or medical professionals;

(h) Have access to and receive available and applicable educational services in the most integrated setting in the community;

(i) Participate regularly in indoor and outdoor recreation;

(j) Not be required to perform labor;

(k) Have access to adequate food and shelter; and

(l) A reasonable accommodation if, due to a disability, the housing and services are not sufficiently accessible.

(3) Notification of Rights: The provider must give to the individual and, if appropriate, the guardian, a document that describes the applicable individual's rights as follows:

(a) Information given to the individual must be in written form or, upon request, in an alternative format or language appropriate to the individual's need;

(b) The rights, and how to exercise them, must be explained to the individual, and if appropriate, to her or his guardian; and

(c) Individual rights must be posted in writing in a common area.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 409.430 - 409.435, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270

Hist.: MHS 4-2010, f. & cert. ef. 3-4-10; MHS 15-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 8-2012, f. & cert. ef. 6-15-12

## 309-032-1520

### Personnel

(1) Licensing and Credentialing: All program staff must meet applicable credentialing or licensing standards, including those outlined in these rules, for the following:

(a) Alcohol and Other Drug Treatment Staff;

(b) CESIS;

(c) Clinical Supervisor;

(d) LMP;

(e) Medical Director;

(f) Peer Support Specialist;

(g) Problem Gambling Treatment Staff;

(h) QMHA; and

(i) QMHP.

(2) Specific Program Staff Competencies: At minimum, competencies for the following specified program staff must include:

(a) Program Administrators or Program Directors must demonstrate competence in leadership, program planning and budgeting, fiscal management, supervision of program staff, personnel management, program staff performance assessment, use of data, reporting, program evaluation, quality assurance, and developing and coordinating community resources;

(b) Clinical Supervisors in addictions and mental health programs must demonstrate competence in leadership, wellness, oversight and evaluation of services, staff development, individual service and support plan-

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ning, case management and coordination, utilization of community resources, group, family and individual therapy or counseling, documentation and rationale for services to promote intended outcomes and implementation of all provider policies. In addition:

(A) Clinical Supervisors in alcohol and other drug treatment programs must be certified or licensed by a health or allied provider agency, as defined in these rules, to provide addiction treatment, and have one of the following qualifications:

(i) Five years of paid full-time experience in the field of alcohol and other drug counseling; or

(ii) A Bachelor's degree and four years of paid full-time experience in the social services field, with a minimum of two years of direct alcohol and other drug counseling experience; or

(iii) A Master's degree and three years of paid full-time experience in the social services field with a minimum of two years of direct alcohol and other drug counseling experience;

(B) Clinical Supervisors in mental health programs must meet QMHP requirements and have completed two years of post-graduate clinical experience in a mental health treatment setting; and

(C) Clinical Supervisors in problem gambling treatment programs must meet the requirements for clinical supervisors in either mental health or alcohol and other drug treatment programs, and have completed 10 hours of gambling specific training within two years of designation as a problem gambling services supervisor.

(c) Alcohol and other drug treatment staff must:

(A) Be certified or licensed by a health or allied provider agency, as defined in these rules, to provide addiction treatment within two years of the first hire date and must make application for certification no later than six months following that date. The two years is not renewable if the person ends employment with a provider and becomes re-employed with another provider.

(B) Demonstrate competence in treatment of substance-use disorders including individual assessment and individual, group, family and other counseling techniques, program policies and procedures for service delivery and documentation, and identification, implementation and coordination of services identified to facilitate intended outcomes.

(d) Problem gambling treatment staff must demonstrate competence in treatment of problem gambling including individual assessment and individual, group, family and other counseling techniques, program policies and procedures for service delivery and documentation, and identification, implementation and coordination of services identified to facilitate intended outcomes.

(e) QMHAs must demonstrate the ability to communicate effectively, understand mental health assessment, treatment and service terminology and apply each of these concepts, implement skills development strategies, and identify, implement and coordinate the services and supports identified in an ISSP.

(f) QMHPs must demonstrate the ability to conduct an assessment, including identifying precipitating events, gathering histories of mental and physical health, alcohol and other drug use, past mental health services and criminal justice contacts, assessing family, cultural, social and work relationships, and conducting a mental status examination, complete a five-axis DSM diagnosis, write and supervise the implementation of a ISSP and provide individual, family or group therapy within the scope of their training.

(g) Peer support specialists must demonstrate knowledge of approaches to support others in recovery and resiliency, and demonstrate efforts at self-directed recovery.

(3) Recovering Staff: Program staff, contractors, volunteers and interns recovering from a substance-use disorder, providing treatment services or peer support services in alcohol and other drug treatment programs, must be able to document continuous abstinence under independent living conditions or recovery housing for the immediate past two years.

(4) Personnel Documentation: Providers must maintain personnel records for each program staff that contains all of the following documentation:

(a) An employment application;

(b) Where required, verification of a criminal record check consistent with OAR 407-007-0200 through 407-007-0370;

(c) A current job description that includes applicable competencies;

(d) Copies of relevant licensure or certification, diploma, or certified transcripts from an accredited college, indicating that the program staff meets applicable qualifications;

(e) Periodic performance appraisals;

(f) Staff orientation and development activities;

(g) Program staff incident reports;

(h) Disciplinary documentation;

(i) Reference checks;

(j) Emergency contact information; and

(k) Information from subsection (6) of this rule, if applicable.

(5) For providers utilizing contractors, interns or volunteers, providers must maintain the following documentation, as applicable:

(a) A contract, or written agreement, if applicable;

(b) A signed confidentiality agreement;

(c) Service-specific orientation documentation; and

(d) For subject individuals, verification of a criminal records check consistent with OAR 407-007-0200 through 407-007-0370.

(6)(a) Program Specific Personnel Documentation: In addition to general program staff documentation requirements, providers must maintain additional documentation as applicable.

(b) For all program staff and volunteers providing residential services to children or adults: Results of a Tuberculosis screening as per OAR 333-071-0057.

(7)(a) Training: Providers must ensure that program staff receives training applicable to the specific population for whom services are planned, delivered, or supervised as follows:

(B) Orientation training: The program must document appropriate orientation training for each program staff, or person providing services, within 30 days of the hire date. At minimum, orientation training for all program staff must include, but not be limited to,

(A) A review of individual crisis response procedures;

(B) A review of emergency procedures;

(C) A review of program policies and procedures;

(D) A review of rights for individuals receiving services and supports; and

(E) Mandatory abuse reporting procedures;

(F) For ICTS, ITS and Enhanced Care Services, positive behavior support training consistent with 309-032-1540(8).

(8) Supervision: Persons providing services to individuals in accordance with this rule must receive supervision by a qualified Clinical Supervisor, as defined in these rules, related to the development, implementation and outcome of services.

(a) Clinical supervision must be provided to assist program staff and volunteers to increase their skills, improve quality of services to individuals, and supervise program staff and volunteers' compliance with program policies and procedures, including:

(A) Documentation of supervision for each person supervised, of no less than two hours per month. The two hours must include one hour of face-to-face contact for each person supervised, or a proportional level of supervision for part-time program staff. Face-to-face contact may include real time, two-way audio visual conferencing; and

(B) Documentation of two hours of quarterly supervision for program staff holding a health or allied provider license, including at least one hour of face-to-face contact for each person supervised.

(b) Medical supervision must be secured, when required, through a current written agreement, job description, or similar type of binding arrangement between a LMP and the provider, which describes the LMP's responsibility in reviewing and approving the assessment and services and supports identified in the ISSP for each individual receiving mental health services for one or more continuous years.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 409.430 - 409.435, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270

Hist.: MHS 4-2010, f. & cert. ef. 3-4-10; MHS 15-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 8-2012, f. & cert. ef. 6-15-12

## 309-032-1525

### Entry and Assessment

(1) Entry Process: The program must utilize a written entry procedure to ensure the following:

(a) Individuals must be considered for entry without regard to race, ethnicity, gender, gender identity, gender presentation, sexual orientation, religion, creed, national origin, age, except when program eligibility is restricted to children, adults or older adults, familial status, marital status, source of income, and disability.

(b) Individuals must receive services in the most timely manner feasible consistent with the presenting circumstances.

(c) For individuals receiving services funded by the SAPT Block Grant, entry of pregnant women to services must occur no later than 48 hours from the date of first contact, and no less than 14 days after the date



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of first contact for individuals using substances intravenously. If services are not available within the required timeframe, the provider must document the reason and provide interim referral and informational services as defined in these rules, within 48 hours.

(d) Written informed consent for services must be obtained from the individual or guardian, if applicable, prior to the start of services. If such consent is not obtained, the reason must be documented and further attempts to obtain informed consent must be made as appropriate.

(e) The provider must establish an Individual Service Record for each individual on the date of entry.

(f) The provider must report the entry of all individuals on the mandated state data system.

(g) In accordance with ORS 179.505 and HIPAA, an authorization for the release of information must be obtained for any confidential information concerning the individual being considered for, or receiving, services.

(h) Orientation: At the time of entry, the program must offer to the individual and guardian if applicable, written program orientation information. The written information must be in a language understood by the individual and must include:

(A) The program's philosophical approach to providing services and supports;

(B) A description of individual rights consistent with these rules;

(C) An overview of services available including any related fees when applicable; and

(D) Policies concerning grievances and confidentiality.

(2) Entry Priority:

(a) Entry of adults and older adults, in community-based mental health programs, whose services are not funded by Medicaid, must be prioritized in the following order:

(A) Individuals who, in accordance with the assessment of professionals in the field of mental health, are at immediate risk of hospitalization for the treatment of mental health conditions or are in need of continuing services to avoid hospitalization or pose a hazard to the health and safety of themselves, including the potential for suicide;

(B) Individuals who, because of the nature of their diagnosis, their geographic location or their family income, are least capable of obtaining assistance from the private sector; and

(C) Individuals who, in accordance with the assessment of professionals in the field of mental health, are experiencing mental health conditions but will not require hospitalization in the foreseeable future.

(b) Entry of children in community-based mental health services, whose services are not funded by Medicaid, must be prioritized in the following order:

(A) Children who are at immediate risk of psychiatric hospitalization or removal from home due to emotional and mental health conditions;

(B) Children who have severe mental health conditions;

(C) Children who exhibit behavior which indicates high risk of developing conditions of a severe or persistent nature; and

(D) Any other child who is experiencing mental health conditions which significantly affect the child's ability to function in everyday life but not requiring hospitalization or removal from home in the near future.

(c) Entry of individuals whose services are funded by the SAPT Block Grant, must be prioritized in the following order:

(A) Women who are pregnant and using substances intravenously;

(B) Women who are pregnant;

(C) Individuals who are using substances intravenously; and

(D) Women with dependent children.

(3) Assessment:

(a) When an individual is admitted for services, an assessment must be completed prior to development of the ISSP, or provisional ISSP, if applicable.

(b) When an assessment cannot be completed at entry, a provisional assessment, as defined in these rules, must document the immediate medical appropriateness of services. If services are continued, an assessment must be completed within a timeframe that reflects the level and complexity of services and supports to be provided.

(c) The assessment must be completed by qualified program staff as follows:

(A) A QMHP in mental health programs. A QMHA may assist in the gathering and compiling of information to be included in the assessment.

(B) Supervisory or treatment staff in alcohol and other drug treatment programs, and

(C) Supervisory or treatment staff in problem gambling treatment programs.

(d) Each assessment must include:

(A) Sufficient biopsychosocial information and documentation to determine the presence of a DSM five-axis diagnosis that is the medically appropriate reason for services.

(B) Screening for the presence of substance use, problem gambling, mental health conditions, and chronic medical conditions.

(C) Screening for the presence of symptoms related to psychological and physical trauma.

(D) Suicide potential must be assessed and individual service records must contain follow-up actions and referrals when an individual reports symptoms indicating risk of suicide.

(E) In addition, for children age zero to five, diagnosis must be informed by treatment guidelines included in the Health Services Commission prioritized list of paired conditions and treatments, and must include:

(i) Direct observation of child, parent, family and interaction;

(ii) Neurodevelopment considerations; and

(iii) Parental and family biopsychosocial functioning within the context of the home, community and culture.

(F) Subsections (3)(d)(A), (3)(d)(B), (3)(d)(C) and (3)(d)(D) of this rule, apply to alcohol and other drug assessments, which must be consistent with the dimensions described in the ASAM PPC-2R, and must document a diagnosis and level of care determination consistent with the DSM and ASAM PPC-2R.

(e) When the assessment process determines the presence of co-occurring substance use and mental health disorders, all providers must document referral for further assessment, planning and intervention from an appropriate professional, either with the same provider or with a collaborative community provider.

(f) Providers must document updates to the assessment consistent with the timelines specified in the ISSP, and when there are changes related to the biopsychosocial information in the assessment.

(g) In addition to periodic assessment updates, any individual continuing to receive mental health services for one or more continuous years, must receive an annual assessment by a QMHP, that has documented approval by an LMP.

(h) The requirements in OAR 309-032-1525(3)(d)(A) and 309-032-1525(3)(g) are minimum requirements to meet Medicaid auditing standards and may result in financial findings when not met. The requirements in 309-032-1525(3)(d)(B) through 309-032-1525(3)(f) are quality standards and may result in limitations, or revocation of, certification when not met. Failure to maintain certification may result in exclusion or limited participation in the Medicaid program.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 409.430 - 409.435, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270

Hist.: MHS 4-2010, f. & cert. ef. 3-4-10; MHS 15-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 8-2012, f. & cert. ef. 6-15-12

## 309-032-1530

### Individual Service and Support Planning and Coordination

(1) Individual Services and Supports: The provider must deliver or coordinate, for each individual, appropriate services and supports to collaboratively facilitate intended service outcomes as identified by the individual, and family, when applicable.

(a) Qualified program staff must facilitate a planning process, resulting in an ISSP that reflects the assessment and the level of care to be provided.

(b) An ISSP, or provisional ISSP, must be completed prior to the start of services. For mental health services, a QMHP, who is also a licensed health care professional, must recommend the services and supports by signing the ISSP or provisional ISSP.

(c) If a provisional ISSP is used to start services, and services are continued, an ISSP must be completed within a timeframe that reflects:

(A) The type and level of services and supports to be provided;

(B) A complete assessment; and

(C) Engagement and agreement of the individual, and family if applicable, in the development of the ISSP.

(d) Individuals, and family members, as applicable, must collaboratively participate in the development of the ISSP.

(e) Providers must fully inform the individual and guardian when applicable, of the proposed services and supports, in developmentally and culturally appropriate language, obtain informed consent for all proposed services, and give the individual and guardian when applicable, a written copy of the ISSP.

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(f) Providers must collaborate with community partners to coordinate or deliver services and supports identified in the ISSP.

(g) Providers must request authorization to exchange information with any applicable physical health care providers or Fully Capitated Health Plans, for the individual, to collaborate in promoting regular and adequate health care.

(h) When there are barriers to services due to culture, gender, language, illiteracy, or disability, the provider must take measures to address or overcome those barriers including: Providing supports including, but not limited to, the provision of interpreters to provide translation services, at no additional cost to the individual.

(2) Individual Service and Support Plan (ISSP):

(a) The ISSP must document the specific services and supports to be provided, arranged or coordinated to assist the individual and his or her family, if applicable, to achieve intended outcomes.

(b) At minimum, each ISSP must include:

(A) Measurable or observable intended outcomes;

(B) Specific services and supports to be provided;

(C) Applicable service and support delivery details including frequency and duration of each service; and

(D) Timelines for review of progress and ISSP updates must be documented in the ISSP and be consistent with the level of care provided and the needs of the individual. For ITS programs, the interdisciplinary team must conduct a review of progress and transfer criteria at least every 30 days from the date of entry and must document members present, progress and changes made. For Psychiatric Day Treatment Services, the review must be conducted every 30 days and the LMP must participate in the review at least every 90 days.

(c) For ICTS and ITS programs, the ISSP must include:

(A) Proactive safety and crisis planning; and

(B) A behavior support plan, consistent with OAR 309-032-1540(8) of these rules.

(d) A QMHP, who is also a licensed health care professional, must recommend the services and supports by signing the ISSP for each individual receiving mental health services within five business days of the development of the ISSP;

(e) A LMP must approve updates to the ISSP at least annually for each individual receiving mental health services for one or more continuous years. The LMP may designate oversight activities by documenting the designation to a specific licensed health care professional.

(f) The requirements in OAR 309-032-1530(2)(a) through 309-032-1530(2)(e) are minimum requirements to meet both Medicaid auditing and quality standards and may result in financial findings or limitations or both, or revocation of certification when not met. Failure to maintain certification may result in exclusion or limited participation in the Medicaid program.

(3) Individual Service Notes:

(a) A written individual service note must be recorded each time a service is provided.

(b) Individual Service Notes must document the:

(A) Specific service provided;

(B) Duration of the service provided;

(C) Date on which the service was provided;

(D) Location of service; and

(E) Date of authentication and name, signature, and credentials, of the person who provided the service.

(c) Individual service notes must also include:

(A) Periodic reviews of progress toward intended outcomes, consistent with timelines documented in the ISSP;

(B) Any significant events or changes in the individual's life circumstances, including mental status, treatment response and recovery status; and

(C) Any decisions to transfer an individual from service.

(d) The requirements in OAR 309-032-1530(3)(a) and 309-032-1530(3)(b)(A) through 309-032-1530(3)(b)(E) are minimum requirements to meet Medicaid auditing standards and may result in financial findings when not met. The requirements in 309-032-1530(3)(c)(A) through 309-032-1530(3)(c)(C) are quality standards and may result in limitations, or revocation of, certification when not met. Failure to maintain certification may result in exclusion or limited participation in the Medicaid program.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 409.430 - 409.435, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270

Hist.: MHS 4-2010, f. & cert. ef. 3-4-10; MHS 15-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 8-2012, f. & cert. ef. 6-15-12

## 309-032-1535

### Individual Service Record

(1) Documentation Standards: Documentation must be appropriate in quality and quantity to meet professional standards applicable to the provider and any additional standards for documentation in the provider's policies and any pertinent contracts.

(2) General Requirements for Individual Service Record: All providers must develop and maintain an Individual Service Record for each individual upon entry. The record must, at a minimum, include:

(a) Identifying information, or documentation of attempts to obtain the information, including:

(A) The individual's name, address, telephone number, date of birth, gender, and for adults, marital status and military status;

(B) Name, address, and telephone number of the parent or legal guardian, primary care giver or emergency contact;

(C) Contact information for medical and dental providers;

(b) Informed Consent for Service, including medications, or documentation specifying why the provider could not obtain consent by the individual or guardian as applicable;

(c) Written refusal of any services and supports offered, including medications;

(d) A signed fee agreement, when applicable;

(e) Assessment or provisional assessment and updates to the assessment;

(f) An ISSP or provisional ISSP, including any applicable behavior support or crisis intervention planning;

(g) Individual service notes;

(h) A Transfer Summary, when required;

(i) Other plans as made available, such as, but not limited to recovery plans, wellness action plans, education plans, and advance directives for physical and mental health care; and

(j) Applicable signed consents for release of information.

(3) Medical Service Records: When medical services are provided, the following documents must be part of the Individual Service Record as applicable:

(a) Medication Administration Records as per these rules;

(b) Laboratory reports; and

(c) LMP orders for medication, protocols or procedures.

(4) Documentation in Residential Programs: In addition to the requirements for Individual Service Records in subsection 309-032-1535(2), PRTS and Alcohol and Other Drug Residential Treatment providers must include the following documentation in the Individual Service Record:

(a) A personal belongings inventory created upon entry and updated whenever an item of significant value is added or removed, or on the date of transfer;

(b) Documentation indicating that the individual and guardian, as applicable, were provided with the required orientation information upon entry;

(c) Background information including strengths and interests, all available previous mental health or substance use assessments, previous living arrangements, service history, behavior support considerations, education service plans if applicable, and family and other support resources;

(d) Medical information including a brief history of any health conditions, documentation from a LMP or other qualified health care professional of the individual's current physical health, and a written record of any prescribed or recommended medications, services, dietary specifications, and aids to physical functioning;

(e) Copies of documents relating to guardianship or any other legal considerations, as applicable;

(f) A copy of the individual's most recent ISSP, if applicable, or in the case of an emergency or crisis-respite entry, a summary of current addictions or mental health services and any applicable behavior support plans;

(g) Documentation of the individual's ability to evacuate the home consistent with the program's evacuation plan developed in accordance with the Oregon Structural Specialty Code and Oregon Fire Code;

(h) Documentation of any safety risks; and

(i) Incident reports, when required, including:

(A) The date of the incident, the persons involved, the details of the incident, and the quality and performance actions taken to initiate investigation of the incident and correct any identified deficiencies; and

(B) Any child abuse reports made by the provider to law enforcement or to the DHS Children, Adults and Families Division, documenting the date of the incident, the persons involved and, if known, the outcome of the reports.

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(5) Additional documentation in ITS Programs: In addition to OAR 309-032-1535(2), 309-032-1535(3) and 309-032-1535(4), ITS providers must include the following documentation in the Individual Service Record:

- (a) Level of Service Intensity Determination;
- (b) Names and contact information of the members of the interdisciplinary team;
- (c) Documentation by the interdisciplinary team that the child's ISSP has been reviewed, the services provided are medically appropriate for the specific level of care, and changes in the plan recommended by the interdisciplinary team, as indicated by the child's service and support needs, have been implemented;
- (d) Emergency safety intervention records, in a separate section or in a separate format, documenting each incident of personal restraint or seclusion, signed and dated by the qualified program staff directing the intervention and, if required, by the psychiatrist or clinical supervisor authorizing the intervention; and
- (e) A copy of the written transition instructions provided to the child and family on the date of transfer.

(6) Additional documentation in ICTS Programs: In addition to OAR 309-032-1535(2), ICTS providers must include the following documentation in the Individual Service Record:

- (a) Level of Service Intensity Determination;
- (b) Names and contact information of the members of the child and family team;
- (c) Documented identification of strengths and needs; and
- (d) A summary and review of service coordination planning in all relevant life domains by the participating team members.

(7) PSRB and JPSRB Documentation: When the individual is under the jurisdiction of the PSRB or JPSRB, providers must include the following additional documentation in the Individual Service Record:

- (a) Monthly reports to the PSRB or JPSRB;
- (b) Interim reports, as applicable;
- (c) The PSRB Initial Evaluation; and
- (d) For PSRB and JPSRB services, a copy of the Conditional Order of Release.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.450  
Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 409.430 - 409.435, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270  
Hist.: MHS 4-2010, f. & cert. ef. 3-4-10; MHS 15-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 8-2012, f. & cert. ef. 6-15-12

## 309-032-1540

### Program Specific Service Standards

In addition to individualized service and support planning and coordination, providers of each of the following program-specific service areas must ensure the following requirements listed for that service are met.

(1) Co-Occurring Mental Health and Substance Use Disorders (COD): Providers approved and designated to provide services and supports for individuals diagnosed with COD must provide concurrent service and support planning and delivery for substance use and mental health diagnosis, including integrated assessment, ISSP and individual service record

(2) Outpatient Mental Health Services to Children, Adults and Older Adults:

(a) Crisis services must be provided directly or through linkage to a local crisis services provider and must include the following:

(A) 24 hours, seven days per week telephone or face-to-face screening to determine an individual's need for immediate community mental health services; and

(B) 24 hour, seven days per week capability to conduct, by or under the supervision of a QMHP, a provisional assessment resulting in a provisional ISSP that includes the crisis services necessary to assist the individual and family to stabilize and transition to the appropriate level of care.

(b) Individual, family and group therapy provided by a QMHP;

(c) Psychiatric services including medication management as applicable, provided by a LMP who is either an employee of the provider or is a contracted provider; and

(d) Available case management services including the following:

(A) Assistance in applying for benefits to which the individual may be entitled. Program staff must assist individuals in gaining access to, and maintaining, resources such as Social Security benefits, general assistance, food stamps, vocational rehabilitation, and housing. When needed, program staff must arrange transportation or accompany individuals to help them apply for benefits;

(B) Assistance with completion of a declaration for mental health treatment with the individual's participation and informed consent;

(C) Referral and coordination to help individuals gain access to services and supports identified in the ISSP;

(D) When an individual receives residential services, program staff must collaborate with the residential program and family to coordinate services;

(E) When an individual resides in an Adult Foster Home, program staff must assist in the development of a Personal Care Plan. Program staff must also evaluate the appropriateness of services in relation to the individual's assessed need and review the Personal Care Plan every 180 days;

(F) When an individual is admitted to a hospital or non-hospital facility, program staff must make contact in person or by telephone with the individual within one working day of entry and be actively involved with transition planning from the hospital or non-hospital facility;

(G) If an individual is receiving treatment in a state funded long-term care psychiatric facility, program staff must, from the point of entry, be actively involved with transitioning the individual from long term care;

(H) When significant health and safety concerns are identified, program staff must assure that necessary services or actions occur to address the identified health and safety needs for the individual; and

(I) For children and youth, program staff must create linkages to and ongoing communication with other involved child-serving providers and agencies such as child welfare, education, primary care and juvenile justice, and make referrals for additional services and supports as indicated.

(e) Skills training as indicated;

(f) Peer delivered supports, as indicated; and

(g) Older adult services, including preventative mental health services, when applicable.

(3) Enhanced Care Services:

(a) Enhanced care services must be provided in DHS' SPD licensed facilities that have a multipurpose room, an area providing an environment with low stimulation, an accessible outdoor space with a covered area, a refrigerator, a microwave conveniently located for program activities, space for interdisciplinary meetings, space for mental health treatment and space for storage of records. A minimum of one private room is required in facilities opened after January 1, 1994.

(b) Services must include:

(A) 12 hours per week of mental health services available during evening and weekend shifts provided or arranged for by the contracted mental health provider;

(B) Weekly interdisciplinary team meetings to develop the ISSP, review the behavior support plan and to coordinate care planning with the SPD licensed provider staff and related professionals, including a QMHP, prescriber, SPD direct care staff, SPD case manager, SPD facility RN and SPD facility administrator; and

(C) A crisis service staffed by a QMHP or the local CMHP available to the provider and facility direct care staff 24-hours per day.

(c) ECOS services must be delivered according to the individual's needs and do not require the services listed under OAR 309-032-1540(3)(b)(A) and 309-032-1540(3)(b)(B) of this rule.

(d) Behavior support services must be consistent with OAR 309-032-1540(8) of these rules.

(4) Psychiatric Security Review Board and Juvenile Psychiatric Security Review Board: Services and supports must include all appropriate services determined necessary to assist the individual in maintaining community placement and which are consistent with Conditional Release Orders and the Agreement to Conditional Release.

(a) Providers of PSRB and JPSRB services acting through the designated Qualified Person, must submit reports to the PSRB or JPSRB as follows:

(A) Orders for Evaluation: For individuals under the jurisdiction of the PSRB or the JPSRB, providers must take the following action upon receipt of an Order for Evaluation:

(i) Within 15 days of receipt of the Order, schedule an interview with the individual for the purpose of initiating or conducting the evaluation;

(ii) Appoint a QMHP to conduct the evaluation and to provide an evaluation report to the PSRB or JPSRB;

(iii) Within 30 days of the evaluation interview, submit the evaluation report to the PSRB or JPSRB responding to the questions asked in the Order for Evaluation; and

(iv) If supervision by the provider is recommended, notify the PSRB or JPSRB of the name of the person designated to serve as the individual's Qualified Person, who must be primarily responsible for delivering or

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arranging for the delivery of services and the submission of reports under these rules.

(B) Monthly reports consistent with PSRB or JPSRB reporting requirements as specified in the Conditional Release Order that summarize the individual's adherence to Conditional Release requirements and general progress; and

(C) Interim reports, including immediate reports by phone, if necessary, to ensure the public or individual's safety including:

(i) At the time of any significant change in the individual's health, legal, employment or other status which may affect compliance with Conditional Release orders;

(ii) Upon noting major symptoms requiring psychiatric stabilization or hospitalization;

(iii) Upon noting any other major change in the individual's ISSP;

(iv) Upon learning of any violations of the Conditional Release Order; and

(v) At any other time when, in the opinion of the Qualified Person, such an interim report is needed to assist the individual.

(b) JPSRB providers must submit copies of all monthly reports and interim reports to both the JPSRB and the Division.

(5) Intensive Community-Based Treatment and Support Services (ICTS) for Children: ICTS services may be delivered at a clinic, facility, home, school, other provider or allied agency location or other setting as identified by the child and family team. In addition to services specified by the ISSP and the standards for outpatient mental health services, ICTS services must include:

(a) Care coordination provided by a QMHP or a QMHA supervised by a QMHP;

(b) A child and family team, as defined in these rules;

(c) Service coordination planning, to be developed by the child and family team;

(d) Review of progress at child and family team meetings to occur at a frequency determined by the child and family team and consistent with needs;

(e) Family support and respite care, as indicated;

(f) Proactive safety and crisis planning that utilizes professional and natural supports to provide 24 hours, seven days per week flexible response and is reflective of strategies to avert potential crisis without placement disruptions; and

(g) Behavior support planning, consistent with OAR 309-032-1540(8) of these rules.

(6) Intensive Treatment Services (ITS) for Children:

(a) ITS Providers must meet the following general requirements:

(A) Maintain the organizational capacity and interdisciplinary treatment capability to deliver clinically and developmentally appropriate services in the medically appropriate amount, intensity and duration for each child specific to the child's diagnosis, level of functioning and the acuity and severity of the child's psychiatric symptoms;

(B) Maintain 24 hour, seven days per week treatment responsibility for children in the program;

(C) Non-residential programs must maintain on-call capability at all times to respond directly or by referral to the treatment needs of children, including crises, 24 hours per day and seven days per week;

(D) Inform the Division and the legal guardian within twenty-four hours of reportable incidents;

(E) Maintain linkages with primary care physicians, CMHPs and MHOs and the child's parent or guardian to coordinate necessary continuing care resources for the child; and

(F) Maintain linkages with the applicable education service district or school district to coordinate and provide the necessary educational services for the children and integrate education services in all phases of assessment, service and support planning, active treatment and transition planning.

(b) General staffing requirements: ITS providers must have the clinical leadership and sufficient QMHP, QMHA and other program staff to meet the 24-hour, seven days per week treatment needs of children and must establish policies, procedures and contracts to assure:

(A) Availability of psychiatric services to meet the following requirements;

(i) Provide medical oversight of the clinical aspects of care in nationally accredited sub-acute and psychiatric residential treatment facilities and provide 24-hour, seven days per week psychiatric on-call coverage; or consult on clinical care and treatment in psychiatric day treatment; and

(ii) Assess each child's medication and treatment needs, prescribe medicine or otherwise assure that case management and consultation serv-

ices are provided to obtain prescriptions, and prescribe therapeutic modalities to achieve the child's individual service and support plan goals.

(B) There must be at least one program staff who has completed First Aid and CPR training on duty at all times.

(c) ITS providers must ensure that the following services and supports are available and accessible through direct service, contract or by referral:

(A) Active psychiatric treatment and education services must be functionally integrated in a therapeutic environment designed to reflect and promote achievement of the intended outcomes of each child's ISSP;

(B) When treatment services interrupt the child's day to day educational environment, the program must provide or make arrangements for the continuity of the child's education;

(C) Family therapy must be provided by a QMHP. The family therapist to child ratio must be at least one family therapist for each 12 children;

(D) Psychiatric services;

(E) Individual, group and family therapies provided by a QMHP. There must be no less than one family therapist available for each 12 children;

(F) Medication evaluation, management and monitoring;

(G) Pre-vocational or vocational rehabilitation;

(H) Therapies supporting speech, language and hearing rehabilitation;

(I) Individual and group psychosocial skills development;

(J) Activity and recreational therapies;

(K) Nutrition;

(L) Physical health care services or coordination;

(M) Recreational and social activities consistent with individual strengths and interests;

(N) Educational services coordination and advocacy; and

(O) Behavior support services, consistent with OAR 309-032-1540(8) of these rules.

(7) Program Specific Requirements for ITS Providers: In addition to the general requirements for all ITS providers listed in OAR 309-032-1540(6), the following program-specific requirements must be met:

(a) Psychiatric Residential Treatment Facilities (PRTF):

(A) Children must either have or be screened for an Individual Education Plan, Personal Education Plan, or an Individual Family Service Plan;

(B) Psychiatric Residential Treatment Facilities must maintain one or more linkages with acute care hospitals or MHOs to coordinate necessary inpatient care;

(C) Psychiatric residential clinical care and treatment must be under the direction of a psychiatrist and delivered by an interdisciplinary team of board-certified or board-eligible child and adolescent psychiatrists, registered nurses, psychologists, other qualified mental health professionals, and other relevant program staff. A psychiatrist must be available to the unit 24-hours per day, seven days per week; and

(D) Psychiatric Residential Treatment Facilities must be staffed at a clinical staffing ratio of not less than one program staff for three children during the day and evening shifts. At least one program staff for every three program staff members during the day and evening shifts must be a QMHP or QMHA. For overnight program staff there must be a staffing ratio of at least one program staff for six children; at least one of the overnight program staff must be a QMHA. For units that by this ratio have only one overnight program staff, there must be additional program staff immediately available within the facility or on the premises. At least one QMHP must be on site or on call at all times. At least one program staff with designated clinical leadership responsibilities must be on site at all times.

(b) SCIP and SAIP: Programs providing SCIP and SAIP Services must meet the requirements for PRTFs listed in 7(a) of this subsection. They must also establish policies and practices to meet the following:

(A) The staffing model must allow for the child's frequent contact with the child psychiatrist a minimum of one hour per week;

(B) Psychiatric nursing staff must be provided in the program 24 hours per day;

(C) A psychologist, psychiatric social worker, rehabilitation therapist and psychologist with documented training in forensic evaluations must be available 24 hours per day as appropriate; and

(D) Program staff with specialized training in SCIP or SAIP must be available 24 hours per day;

(E) The program must provide all medically appropriate psychiatric services necessary to meet the child's psychiatric care needs;

(F) The program must provide secure psychiatric treatment services in a manner that ensures public safety to youth who are under the care and custody of the Oregon Youth Authority, court ordered for the purpose of psychiatric evaluation, or admitted by the authority of the JPSRB; and

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(G) The program must not rely on external entities such as law enforcement or acute hospital care to assist in the management of the SCIP or SAIP setting.

(c) Sub-Acute Psychiatric Care: In addition to the services provided as indicated by the assessment and specified in the ISSP, Sub-Acute Psychiatric Care providers must:

(A) Provide psychiatric nursing staffing at least 16 hours per day;

(B) Provide nursing supervision and monitoring and psychiatric supervision at least once per week; and

(C) Work actively with the child and family team and multi-disciplinary community partners, to plan for the long-term emotional, behavioral, physical and social needs of the child to be met in the most integrated setting in the community.

(d) Psychiatric Day Treatment Services (PDTs):

(A) PDTs must be provided to children who remain at home with a parent, guardian or foster parent by qualified mental health professionals and qualified mental health associates in consultation with a psychiatrist;

(B) An education program must be provided and children must either have or be screened for an Individual Education Plan, Personal Education Plan or Individual Family Service Plan; and

(C) Psychiatric Day Treatment programs must be staffed at a clinical staffing ratio of at least one QMHP or QMHA for three children.

(8) Behavior Support Services: Behavior support services must be proactive, recovery-oriented, individualized, and designed to facilitate positive alternatives to challenging behavior, as well as to assist the individual in developing adaptive and functional living skills. Behavior support services are required in ITS, ICTS and ECS Services. Providers of these services must:

(a) Develop and implement individual behavior support strategies, based on a functional or other clinically appropriate assessment of challenging behavior;

(b) Document the behavior support strategies and measures for tracking progress as a behavior support plan in the ISSP;

(c) Establish a framework which assures individualized positive behavior support practices throughout the program and articulates a rationale consistent with the philosophies supported by the Division, including the Division's Trauma-informed Services Policy;

(d) Obtain informed consent from the parent or guardian, when applicable, in the use of behavior support strategies and communicate both verbally and in writing the information to the individual and guardian in a language understood by the individual and in a developmentally appropriate manner;

(e) Establish outcome-based tracking methods to measure the effectiveness of behavior support strategies in:

(A) Reducing or eliminating the use of emergency safety interventions ; and

(B) Increasing positive behavior.

(f) Require all program staff to receive annual training in Collaborative Problem Solving, Positive Behavior Support or other Evidence-based Practice to promote positive behavior support; and

(g) Review and update behavior support policies, procedures, and practices annually.

(9) Emergency Safety Interventions in ITS Programs: Providers of ITS services must:

(a) Adopt policies and procedures for Emergency safety interventions as part of a Crisis Prevention and Intervention Policy. The policy must be consistent with the provider's trauma-informed services policies and procedures.

(b) Inform the individual and his or her parent or guardian of the provider's policy regarding the use of personal restraint and seclusion during an emergency safety situation by both furnishing a written copy of the policy and providing an explanation in the individual's primary language that is developmentally appropriate.

(c) Obtain a written acknowledgment from the parent or guardian that he or she has been informed of the provider's policies and procedures regarding the use of personal restraint and seclusion.

(d) Prohibit the use of mechanical restraint and chemical restraint as defined in these rules.

(e) Establish an Emergency Safety Interventions Committee or designate this function to an already established Quality Assessment and Performance Improvement Committee. Committee membership must minimally include a program staff with designated clinical leadership responsibilities, the person responsible for staff training in crisis intervention procedures and other clinical personnel not directly responsible for authorizing the use of emergency safety interventions. The committee must:

(A) Monitor the use of emergency safety interventions to assure that individuals are safeguarded and their rights are always protected;

(B) Meet at least monthly and must report in writing to the provider's Quality Assessment and Performance Improvement Committee at least quarterly regarding the committee's activities, findings and recommendations;

(C) Analyze emergency safety interventions to determine opportunities to prevent their use, increase the use of alternatives, improve the quality of care and safety of individuals receiving services and recommend whether follow up action is needed;

(D) Review and update emergency safety interventions policies and procedures annually;

(E) Conduct individual and aggregate review of all incidents of personal restraint and seclusion; and

(F) Report the aggregate number of personal restraints and incidents of seclusion to the Division within 30 days of the end of each calendar quarter.

(f) Providers must meet the following general conditions of personal restraint and seclusion:

(A) Personal restraint and seclusion must only be used in an emergency safety situation to prevent immediate injury to an individual who is in danger of physically harming him or herself or others in situations such as the occurrence of, or serious threat of violence, personal injury or attempted suicide;

(B) Any use of personal restraint or seclusion must respect the dignity and civil rights of the individual;

(C) The use of personal restraint or seclusion must be directly related to the immediate risk related to the behavior of the individual and must not be used as punishment, discipline, or for the convenience of staff;

(D) Personal restraint or seclusion must only be used for the length of time necessary for the individual to resume self-control and prevent harm to the individual or others, even if the order for seclusion or personal restraint has not expired, and must under no circumstances, exceed 4 hours for individuals ages 18 to 21, 2 hours for individuals ages 9 to 17, or 1 hour for individuals under age 9;

(E) An order for personal restraint or seclusion must not be written as a standing order or on an as needed basis;

(F) Personal restraint and seclusion must not be used simultaneously;

(G) Providers must notify the individual's parent or guardian of any incident of seclusion or personal restraint as soon as possible;

(H) If incidents of personal restraint or seclusion used with an individual cumulatively exceed five interventions over a period of five days, or a single episode of one hour within 24 hours, the psychiatrist, or designee, must convene, by phone or in person, program staff with designated clinical leadership responsibilities to:

(i) Discuss the emergency safety situation that required the intervention, including the precipitating factors that led up to the intervention and any alternative strategies that might have prevented the use of the personal restraint or seclusion;

(ii) Discuss the procedures, if any, to be implemented to prevent any recurrence of the use of personal restraint or seclusion;

(iii) Discuss the outcome of the intervention including any injuries that may have resulted; and

(iv) Review the individual's ISSP, making the necessary revisions, and document the discussion and any resulting changes to the individual's ISSP in the Individual Service Record.

(g) Personal Restraint:

(A) Each personal restraint must require an immediate documented order by a physician, licensed practitioner, or, in accordance with OAR 309-034-0400 through 309-034-0490, a licensed CESIS;

(B) The order must include:

(i) Name of the person authorized to order the personal restraint;

(ii) Date and time the order was obtained; and

(iii) Length of time for which the intervention was authorized.

(C) Each personal restraint must be conducted by program staff that have completed and use Division-approved crisis intervention training. If in the event of an emergency a non Division-approved crisis intervention technique is used, the provider's on-call administrator must immediately review the intervention and document the review in an incident report to be provided to the Division within 24 hours;

(D) At least one program staff trained in the use of emergency safety interventions must be physically present, continually assessing and monitoring the physical and psychological well-being of the individual and the safe use of the personal restraint throughout the duration of the personal restraint;

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(E) Within one hour of the initiation of a personal restraint, a psychiatrist, licensed practitioner, or CESIS must conduct a face-to-face assessment of the physical and psychological well being of the individual;

(F) A designated program staff with clinical leadership responsibilities must review all personal restraint documentation prior to the end of the shift in which the intervention occurred; and

(G) Each incident of personal restraint must be documented in the individual service record. The documentation must specify:

(i) Behavior support strategies and less restrictive interventions attempted prior to the personal restraint;

(ii) Required authorization;

(iii) Events precipitating the personal restraint;

(iv) Length of time the personal restraint was used;

(v) Assessment of appropriateness of the personal restraint based on threat of harm to self or others;

(vi) Assessment of physical injury; and

(vii) Individuals response to the emergency safety intervention.

(h) Seclusion: Providers must be approved by the Division for the use of seclusion.

(A) Authorization for seclusion must be obtained by a psychiatrist, licensed practitioner or CESIS prior to, or immediately after the initiation of seclusion. Written orders for seclusion must be completed for each instance of seclusion and must include:

(i) Name of the person authorized to order seclusion;

(ii) Date and time the order was obtained; and

(iii) Length of time for which the intervention was authorized.

(B) Program staff trained in the use of emergency safety interventions must be physically present continually assessing and monitoring the physical and psychological well-being of the individual throughout the duration of the seclusion;

(C) Visual monitoring of the individual in seclusion must occur continuously and be documented at least every fifteen minutes or more often as clinically indicated;

(D) Within one hour of the initiation of seclusion a psychiatrist or CESIS must conduct a face-to-face assessment of the physical and psychological well being of the individual;

(E) The individual must have regular meals, bathing, and use of the bathroom during seclusion and the provision of these must be documented in the individual service record; and

(F) Each incident of seclusion must be documented in the individual service record. The documentation must specify:

(i) The behavior support strategies and less restrictive interventions attempted prior to the use of seclusion;

(ii) The required authorization for the use of seclusion;

(iii) The events precipitating the use of seclusion;

(iv) The length of time seclusion was used;

(v) An assessment of the appropriateness of seclusion based on threat of harm to self or others;

(vi) An assessment of physical injury to the individual, if any; and

(vii) The individual's response to the emergency safety intervention.

(i) Any room specifically designated for the use of seclusion or time out must be approved by the Division.

(j) If the use of seclusion occurs in a room with a locking door, the program must be authorized by the Division for this purpose and must meet the following requirements:

(A) A facility or program seeking authorization for the use of seclusion must submit a written application to the Division;

(B) Application must include a comprehensive plan for the need for and use of seclusion of children in the program and copies of the facility's policies and procedures for the utilization and monitoring of seclusion including a statistical analysis of the facility's actual use of seclusion, physical space, staff training, staff authorization, record keeping and quality assessment practices;

(C) The Division must review the application and, after a determination that the written application is complete and satisfies all applicable requirements, must provide for a review of the facility by authorized Division staff;

(D) The Division must have access to all records including individual service records, the physical plant of the facility, the employees of the facility, the professional credentials and training records for all program staff, and must have the opportunity to fully observe the treatment and seclusion practices employed by the facility;

(E) After the review, the Deputy Director of the Division or their designee must approve or disapprove the facility's application and upon approval must certify the facility based on the determination of the facili-

ty's compliance with all applicable requirements for the seclusion of children;

(F) If disapproved, the facility must be provided with specific recommendations and have the right of appeal to the Division; and

(G) Certification of a facility must be effective for a maximum of three years and may be renewed thereafter upon approval of a renewal application.

(K) Structural and physical requirements for seclusion: An ITS provider seeking this certification under these rules must have available at least one room that meets the following specifications and requirements:

(A) The room must be of adequate size to permit three adults to move freely and allows for one adult to lie down. Any newly constructed room must be no less than 64 square feet;

(B) The room must not be isolated from regular program staff of the facility, and must be equipped with adequate locking devices on all doors and windows;

(C) The door must open outward and contain a port of shatterproof glass or plastic through which the entire room may be viewed from outside;

(D) The room must contain no protruding, exposed, or sharp objects;

(E) The room must contain no furniture. A fireproof mattress or mat must be available for comfort;

(F) Any windows must be made of unbreakable or shatterproof glass or plastic. Non-shatterproof glass must be protected by adequate climb-proof screening;

(G) There must be no exposed pipes or electrical wiring in the room. Electrical outlets must be permanently capped or covered with a metal shield secured by tamper-proof screws. Ceiling and wall lights must be recessed and covered with safety glass or unbreakable plastic. Any cover, cap or shield must be secured by tamper-proof screws;

(H) The room must meet State Fire Marshal fire, safety, and health standards. If sprinklers are installed, they must be recessed and covered with fine mesh screening. If pop-down type, sprinklers must have break-away strength of under 80 pounds. In lieu of sprinklers, combined smoke and heat detector must be used with similar protective design or installation;

(I) The room must be ventilated, kept at a temperature no less than 64°F and no more than 85°F. Heating and cooling vents must be secure and out of reach;

(J) The room must be designed and equipped in a manner that would not allow a child to climb off the ground;

(K) Walls, floor and ceiling must be solidly and smoothly constructed, to be cleaned easily, and have no rough or jagged portions; and

(L) Adequate and safe bathrooms must be available.

(10) Outpatient Problem Gambling Treatment Services: These services include group, individual and family treatment consistent with the following requirements:

(a) The first offered service appointment must be five business days or less from the date of request for services;

(b) Service sessions must address the challenges of the individual as they relate, directly or indirectly, to the problem gambling behavior;

(c) Telephone counseling: Providers may provide telephone counseling when person-to-person contact would involve an unwise delay, as follows:

(A) Individual must be currently enrolled in the problem gambling treatment program;

(B) Phone counseling must be provided by a qualified provider within their scope of practice;

(C) Individual service notes must follow the same criteria as face-to-face counseling and identify the session was conducted by phone and the clinical rationale for the phone session;

(D) Telephone counseling must meet HIPAA and 42 CFR standards for privacy; and

(E) There must be an agreement of informed consent for phone counseling that is discussed with the individual and documented in the individual's service record.

(d) Family Counseling: Family counseling includes face-to-face or non face-to-face service sessions between a program staff member delivering the service and a family member whose life has been negatively impacted by gambling.

(A) Service sessions must address the problems of the family member as they relate directly or indirectly to the problem gambling behavior; and

(B) Services to the family must be offered even if the individual identified as a problem gambler is unwilling, or unavailable to accept services.

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(e) 24-hour crisis response accomplished through agreement with other crisis services, on-call program staff or other arrangement acceptable to the Division.

(11) Residential Problem Gambling Treatment Services: Providers of this service must comply with OAR 309-032-1545 of these rules.

(a) When problem gambling treatment services are provided in a psychiatric health facility, providers must have Division approved written policies and procedures for operating this service, and must be licensed in accordance with OAR 309-035-0100 through OAR 309-035-0460.

(b) When problem gambling treatment services are provided in an alcohol and other drug residential treatment facility providers of this service must have Division approved written policies and procedures for operating this service and have a current license issued by the Division in accordance with OAR 415-012-0000 through 415-012-0090.

(c) Providers must coordinate services and make appropriate referrals to other formal and informal service systems to insure continuity of care, including, but not limited to, mental health, self-help support groups, financial consultants, legal advice, medical, crisis management, cultural issues, housing and vocational. All referral and follow-up actions must be documented in the individual service record.

(12) Alcohol and Other Drug Treatment and Recovery Services:

(a) Interim Referral and Information Services: Pregnant women or other individuals using substances intravenously, whose services are funded by the SAPT Block Grant, must receive interim referrals and information prior to entry, to reduce the adverse health effects of alcohol and other drug use, promote the health of the individual, and reduce the risk of transmission of disease. At a minimum, interim referral and informational services must include:

(A) Counseling and education about blood borne pathogens including Hepatitis, HIV, STDs and Tuberculosis (TB); the risks of needle and paraphernalia sharing and the likelihood of transmission to sexual partners and infants;

(B) Counseling and education about steps that can decrease the likelihood of Hepatitis, HIV, STD, and TB transmission;

(C) Referral for Hepatitis, HIV, STD and TB testing, vaccine or care services if necessary; and

(D) For pregnant women, counseling on the likelihood of blood borne pathogen transmission as well as the effects of alcohol, tobacco and other drug use on the fetus and referral for prenatal care.

(b) Culturally Specific Services: Programs approved and designated as culturally specific programs must meet the following criteria:

(A) Serve a majority of individuals representing the culturally specific population; and

(B) Governing Board: Develop and maintain a governing or advisory board that must:

(i) Have a majority representation of the culturally specific group being served;

(ii) Receive training concerning the significance of culturally relevant services and supports;

(iii) Include at least 20% representation of individuals, as defined in these rules, or family members of individuals; and

(iv) Meet at least quarterly.

(C) Maintain accessibility to culturally specific populations including:

(i) The physical location of the program must be within close proximity to the culturally specific populations;

(ii) Where available, public transportation must be within close proximity to the program; and

(iii) Hours of service, telephone contact, and other accessibility issues must be appropriate for the population; and

(D) The physical facility within which the culturally specific services are delivered must be psychologically comfortable for the group including:

(i) Materials displayed must be culturally relevant;

(ii) Mass media programming (radio, television, etc.) must be sensitive to cultural background; and

(iii) Other cultural differences must be considered and accommodated when possible, such as the need or desire to bring family members to the facility, play areas for small children and related accommodations.

(c) Adolescent Treatment Services: Programs approved to provide adolescent alcohol and other drug treatment services or those with adolescent-designated service funding must meet the following standards:

(A) Residential programs providing services to individuals defined as children for purposes of this rule must, in addition to the applicable requirements of this rule, be licensed by the Department of Human Services (DHS) in cooperation with the Division.

(B) Development of ISSPs and case management services must include participation of parents, other family members, schools, children's services agencies, and juvenile corrections, as appropriate;

(C) Services, or appropriate referrals, must include:

(i) Family service;

(ii) Recreation and leisure time consistent with the individual's interests;

(iii) Community and social skills training;

(iv) Academic education services or referral; and

(v) Smoking cessation service.

(D) Continuing care services must be of appropriate duration, consistent with ASAM PPC-2R criteria, and designed to maximize recovery opportunities. The services must include:

(i) Reintegration services and coordination with family and schools;

(ii) Youth dominated self-help groups where available;

(iii) Linkage to emancipation services when appropriate; and

(iv) Linkage to physical or sexual abuse counseling and support services when appropriate.

(E) There must be a sufficient number of qualified program staff to ensure a ratio of at least one treatment staff per eight adolescents at all times.

(F) Program staff coverage must be provided 24 hours per day, seven days per week.

(d) Women's Treatment Services: Programs approved and designated to provide alcohol and other drug treatment services primarily to women must meet the following standards:

(A) The Assessment must contain an evaluation that identifies and assesses needs specific to women's issues in service such as social isolation, self-reliance, parenting issues, domestic violence, women's physical health, housing and financial considerations;

(B) The Individual Service and Support Plan must address all areas identified in (12)(d)(A) of this subsection as well as alcohol and other drug use and any other applicable service coordination details;

(C) The program must provide or coordinate services and supports that meet the special access needs of women such as childcare, mental health services, and transportation, as indicated;

(D) The program must provide, or coordinate, the following services and supports unless clinically contraindicated:

(i) Gender-specific services and supports;

(ii) Family services, including therapeutic services for children in the custody of women in treatment;

(iii) Reintegration with family;

(iv) Peer delivered supports;

(v) Smoking cessation;

(vi) Housing; and

(vii) Transportation.

(E) Individual Service and Support Planning and treatment must include the participation of family and other agencies as appropriate, such as social service, child welfare, or corrections agencies;

(F) Referral Services: The program must coordinate services with the following, if indicated:

(i) Agencies providing services to women who have experienced physical abuse, sexual abuse or other types of domestic violence; and

(ii) Parenting training; and

(G) Continuing care treatment services must be consistent with the ASAM PPC-2R and must include referrals to female dominated support groups where available; and

(H) Programs that receive SAPT Block Grant funding must provide or coordinate the following services for pregnant women and women with dependent children, including women who are attempting to regain custody of their children:

(i) Primary medical care for women, including referral for prenatal care and, while the women are receiving such services, child care;

(ii) Primary pediatric care, including immunizations for their children;

(iii) Gender specific substance abuse treatment and other therapeutic interventions for women which may include, but are not limited to:

(I) Relationship issues;

(II) Sexual and physical abuse;

(III) Parenting; and

(IV) Access to child care while the women are receiving these services; and

(v) Therapeutic interventions for children in the custody of women in treatment which may include, but are not limited to:

(I) Their developmental needs; and

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(II) Any issues concerning sexual and physical abuse, and neglect; and

(III) Sufficient case management and transportation to ensure that women and their children have access to services.

(e) Specialized Alcohol and Other Drug Community-based Programs for Individuals in the Criminal Justice System: These services and supports are for individuals who are under the supervision of a probation officer or on parole or post-prison supervision or participating in a drug treatment court program or otherwise under the direct supervision of the court.

(A) Services and supports must incorporate interventions and strategies that target criminogenic risk factors and include:

- (i) Cognitive behavioral interventions;
- (ii) Motivational interventions;
- (iii) Relapse prevention; and
- (iv) Healthy relationships education;

(B) Providers must demonstrate coordination of services with criminal justice partners through written protocols, program staff activities, and individual record documentation;

(C) Program Directors or clinical supervisors must have experience in community-based offender treatment programs and have specific training and experience applying effective, evidence-based clinical strategies and services for individuals receiving community-based alcohol and other drug treatment services to individuals in the criminal justice system;

(D) Within the first six months of hire, program staff must receive training on effective principles of evidenced-based practices for individuals with criminogenic risk factors; and

(E) Within six months of hire, program staff must have documented knowledge, skills, and abilities demonstrating treatment strategies for individuals with criminogenic risk factors.

(f) DUII Alcohol and Other Drug Rehabilitation Programs: In addition to the general standards for alcohol and other drug treatment programs, those programs approved to provide DUII rehabilitation services must meet the following standards:

(A) DUII rehabilitation programs must assess individuals referred for treatment by the evaluation specialist. Placement, continued stay and transfer of individuals must be based on the criteria described in the ASAM PPC-2R, subject to the following additional terms and conditions:

(i) Abstinence: Individuals must demonstrate continuous abstinence for a minimum of 90 days prior to completion as documented by urinalysis tests and other evidence;

(ii) Treatment Completion: Only DUII rehabilitation programs may certify treatment completion;

(iii) Residential Treatment: Using the ASAM PPC-2R, the DUII program's assessment may indicate that the individual requires treatment in a residential program. It is the responsibility of the DUII program to:

(I) Monitor the case carefully while the individual is in residential treatment;

(II) Provide or monitor outpatient and follow-up services when the individual is transferred from the residential program; and

(III) Verify completion of residential treatment and follow-up outpatient treatment.

(iv) Urinalysis Testing: A minimum of one urinalysis sample per month must be collected during the period of service deemed necessary by an individual's DUII rehabilitation program:

(I) Using the process defined in these rules, the samples must be tested for at least five controlled drugs;

(II) At least one of the samples is to be collected and tested in the first two weeks of the program and at least one is to be collected and tested in the last two weeks of the program;

(III) If the first sample is positive, two or more samples must be collected and tested, including one sample within the last two weeks before completion; and

(IV) Programs may use methods of testing for the presence of alcohol and other drugs in the individual's body other than urinalysis tests if they have obtained the prior review and approval of such methods by the Division.

(v) Reporting: The program must report:

(I) To the Division on forms prescribed by the Division;

(II) To the evaluation specialist within 30 days from the date of the referral by the specialist. Subsequent reports must be provided within 30 days of completion or within 10 days of the time that the individual enters noncompliant status; and

(III) To the appropriate evaluation specialist, case manager, court, or other agency as required when requested concerning individual cooperation, attendance, treatment progress, utilized modalities, and fee payment.

(vi) Certifying Completion: The program must send a numbered Certificate of Completion to the Department of Motor Vehicles to verify the completion of convicted individuals. Payment for treatment may be considered in determining completion. A certificate of completion must not be issued until the individual has satisfied the abstinence requirements of 309-032-1540(f)(A)(i).

(vii) Records: The DUII rehabilitation program must maintain in the permanent Individual Service Record, urinalysis results and all information necessary to determine whether the program is being, or has been, successfully completed.

(viii) Separation of Evaluation and Rehabilitation Functions: Without the approval of the Director, no agency or person may provide DUII rehabilitation to an individual who has also been referred by a Judge to the same agency or person for a DUII evaluation. Failure to comply with this rule will be considered a violation of ORS chapter 813. If the Director finds such a violation, the Director may deny, suspend, revoke, or refuse to renew a letter of approval.

(13) Medical Protocols in Alcohol and Other Drug Treatment Programs: Medical protocols must be approved by a medical director under contract with a program or written reciprocal agreement with a medical practitioner under managed care. The protocols must:

(a) Require, but not be limited to a medical history, as described in the Assessment;

(b) Designate those medical symptoms that, when found, require further investigation, physical examinations, service, or laboratory testing;

(c) Require that individuals admitted to the program who are currently injecting or intravenously using a drug, or have injected or intravenously used a drug within the past 30 days, or who are at risk of withdrawal from a drug, or who may be pregnant, must be referred for a physical examination and appropriate lab testing within 30 days of entry to the program. This requirement may be waived by the medical director if these services have been received within the past 90 days and documentation is provided;

(d) Require pregnant women be referred for prenatal care within two weeks of entry to the program;

(e) Require that the program provide HIV and AIDS, TB, sexually transmitted disease, Hepatitis and other infectious disease information and risk assessment, including any needed referral, within 30 days of entry; and

(f) Specify the steps for follow up and coordination with physical health care providers in the event the individual is found to have an infectious disease or other major medical problem.

(14) Administration of Medications: The following guidelines must be followed in policies on administration of medications in residential programs:

(a) Medications prescribed for one individual must not be administered to or self-administered by another individual or program staff;

(b) When an individual self-administers medication in a residential program, self-administration must be approved in writing by a physician and closely monitored by the residential program staff;

(c) No unused, outdated, or recalled drugs must be kept in a program. On a monthly basis any unused, outdated, or recalled drugs must be disposed of in a manner that assures they cannot be retrieved;

(d) Disposal of prescription drugs in a residential program: A written record of all disposals of drugs must be maintained in the program and must include:

- (A) A description of the drug, including the amount;
- (B) The individual for whom the medication was prescribed;
- (C) The reason for disposal; and
- (D) The method of disposal.

(e) Storage of Prescription Drugs in residential programs: All prescription drugs stored in the residential program must be kept in a locked stationary container. Medications requiring refrigeration must be stored in a refrigerator using a locked container; and

(f) Written documentation of medications prescribed for the individual by a LMP must be maintained in the Individual Service Record. Documentation for each medication prescribed must include the following:

(A) A copy or detailed written description of the signed prescription order;

- (B) The name of the medication prescribed;
- (C) The prescribed dosage and method of administration;
- (D) The date medications were prescribed, reviewed, or renewed;
- (E) The date, the signature and credentials of program staff administering or prescribing medications; and
- (F) Medication records which contain:

(i) Observed side effects including laboratory findings; and

(ii) Medication allergies and adverse reaction.



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(15) Building Requirements for Alcohol and Other Drug Programs: Each alcohol and other drug treatment program must provide facilities that:

(a) Comply with all applicable state and local building, electrical, plumbing, fire, safety, and zoning codes;

(b) Maintain up-to-date documentation verifying that they meet applicable local business license, zoning and building codes and federal, state and local fire and safety regulations. It is the responsibility of the program to check with local government to make sure all applicable local codes have been met;

(c) Provide space for services including but not limited to intake, assessment, counseling and telephone conversations that assures the privacy and confidentiality of individuals and is furnished in an adequate and comfortable fashion including plumbing, sanitation, heating, and cooling;

(d) Provide rest rooms for individuals, visitors, and staff that are accessible to persons with disabilities pursuant to Title II of the Americans with Disabilities Act if the program receives any public funds or Title III of the Act if no public funds are received;

(e) Adopt and implement emergency policies and procedures, including an evacuation plan and emergency plan in case of fire, explosion, accident, death or other emergency. The policies and procedures and emergency plans must be current and posted in a conspicuous area; and

(f) Tobacco Use: Outpatient programs must not allow tobacco use in program facilities and on program grounds. Effective July 1, 2012, residential programs both licensed and funded by AMH must not allow tobacco use in program facilities and on program grounds.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 409.430 - 409.435, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270

Hist.: MHS 4-2010, f. & cert. ef. 3-4-10; MHS 15-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 8-2012, f. & cert. ef. 6-15-12

## 309-032-1545

### Facility Standards for Alcohol and Other Drug Residential Treatment Programs

(1)(a) Building Requirements: In addition to the building requirements for outpatient Alcohol and Other Drug treatment programs, residential programs must meet the following standards:

(b) Prior to construction of a new building or major alteration of or addition to an existing building:

(A) One set of plans and specifications must be submitted to the State Fire Marshal for approval;

(B) Plans must be in accordance with the State of Oregon Structural Specialty Code and Fire and Life Safety Regulations;

(C) Plans for construction containing 4,000 square feet or more must be prepared and bear the stamp of an Oregon licensed architect or engineer; and

(D) The water supply, sewage, and garbage disposal system must be approved by the agency having jurisdiction.

(2) Interiors: All rooms used by individuals must have floors, walls, and ceilings that meet the interior finish requirements of the State of Oregon Structural Specialty Code and Fire and Life Safety Regulations:

(a) A separate dining room or area must be provided for exclusive use of individuals, program staff, and invited guests, and must:

(A) Seat at least one-half of the individuals at a time with a minimum of 15 square feet per occupant; and

(B) Be provided with adequate ventilation.

(b) A separate living room or lounge area must be provided for the exclusive use of individuals, program staff, and invited guests and must:

(A) Provide a minimum of 15 square feet per occupant; and

(B) Be provided with adequate ventilation.

(c) Bedrooms must be provided for all individuals and must:

(A) Be separate from the dining, living, multi-purpose, laundry, kitchen, and storage areas;

(B) Be an outside room with a window that can be opened, and is at least the minimum required by the State Fire Marshal;

(C) Have a ceiling height of at least seven feet, six inches;

(D) Provide a minimum of 60 square feet per individual, with at least three feet between beds;

(E) Provide permanently wired light fixtures located and maintained to give light to all parts of the room; and

(F) Provide a curtain or window shade at each window to assure privacy.

(d) Bathrooms must be provided and conveniently located in each building containing a bedroom and must:

(A) Provide a minimum of one toilet and one hand-washing sink for each eight individuals, and one bathtub or shower for each ten individuals;

(B) Provide one hand-washing sink convenient to every room containing a toilet;

(C) Provide permanently wired light fixtures located and maintained to give adequate light to all parts of the room;

(D) Provide arrangements for personal privacy for individuals;

(E) Provide a privacy screen at each window;

(F) Provide a mirror; and

(G) Be provided with adequate ventilation.

(e) A supply of hot and cold water installed and maintained in compliance with rules of, the Authority, Health Services, Office of Public Health Systems, must be distributed to taps conveniently located throughout the residential program;

(f) All plumbing must comply with applicable codes;

(g) Laundry facilities, when provided, must be separate from:

(A) Resident living areas, including bedrooms;

(B) Kitchen and dining areas; and

(C) Areas used for the storage of unrefrigerated perishable foods.

(h) Storage areas must be provided appropriate to the size of the residential program. Separate storage areas must be provided for:

(A) Food, kitchen supplies, and utensils;

(B) Clean linens;

(C) Soiled linens and clothing;

(D) Cleaning compounds and equipment; and

(E) Poisons, chemicals, insecticides, and other toxic materials, which must be properly labeled, stored in the original container, and kept in a locked storage area.

(i) Furniture must be provided for each individual and must include:

(A) A bed with a frame and a clean mattress and pillow;

(B) A private dresser or similar storage area for personal belongings which is readily accessible to the individual; and

(C) Access to a closet or similar storage area for clothing and

(j) Linens must be provided for each individual and must include:

(A) Sheets and pillowcases;

(B) Blankets, appropriate in number and type for the season and the individual's comfort; and

(C) Towel and washcloth.

(3) Food Service and Storage: The residential program must meet the requirements of the State of Oregon Sanitary Code for Eating and Drinking Establishments relating to the preparation, storage, and serving of food. At minimum:

(a) Menus must be prepared in advance to provide a sufficient variety of foods served in adequate amounts for each resident at each meal;

(b) Records of menus as served must be filed and maintained in the residential program records for at least 30 days;

(c) All modified or special diets must be ordered by a physician;

(d) At least three meals must be provided daily;

(e) Supplies of staple foods for a minimum of one week and of perishable foods for a minimum of a two-day period must be maintained on the premises;

(f) Food must be stored and served at proper temperature;

(g) All utensils, including dishes, glassware, and silverware used in the serving or preparation of drink or food for individuals must be effectively washed, rinsed, sanitized, and stored after each individual use to prevent contamination in accordance with Health Division standards; and

(h) Raw milk and home-canned vegetables, meats, and fish must not be served or stored in a residential program.

(4) Safety: The residential program must meet the following safety requirements:

(a) At no time must the number of individuals served exceed the approved capacity;

(b) A written emergency plan must be developed and posted next to the telephone used by program staff and must include:

(A) Instructions for the program staff or designated resident in the event of fire, explosion, accident, death, or other emergency and the telephone numbers of the local fire department, law enforcement agencies, hospital emergency rooms, and the residential program's designated physician and on-call back-up program staff;

(B) The telephone number of the administrator or clinical supervisor and other persons to be contacted in case of emergency; and

(C) Instructions for the evacuation of individuals and program staff in the event of fire, explosion, or other emergency.

(c) The residential program must provide fire safety equipment appropriate to the number of individuals served, and meeting the requirements of

# ADMINISTRATIVE RULES

the State of Oregon Structural Specialty Code and Fire and Life Safety Regulations:

(A) Fire detection and protection equipment must be inspected as required by the State Fire Marshal;

(B) All flammable and combustible materials must be properly labeled and stored in the original container in accordance with the rules of the State Fire Marshal; and

(C) The residential program must conduct unannounced fire evacuation drills at least monthly. At least once every three months the monthly drill must occur between 10 p.m. and 6 a.m. Written documentation of the dates and times of the drills, time elapsed to evacuate, and program staff conducting the drills must be maintained.

(d) At least one program staff who is trained in First Aid and CPR must be onsite at all times; and

(e) In Residential Transition programs, at least one individual, designated by the administrator as being capable of managing emergencies and other situations that require immediate attention, must be onsite at all times when there is no onsite program staff coverage.

(5) Sanitation: The residential program must meet the following sanitation requirements:

(a) All floors, walls, ceilings, window, furniture, and equipment must be kept in good repair, clean, neat, orderly, and free from odors;

(b) Each bathtub, shower, hand-washing sink, and toilet must be kept clean and free from odors;

(c) The water supply in the residential program must meet the requirements of the rules of the Health Division governing domestic water supplies;

(d) Soiled linens and clothing must be stored in an area separate from kitchens, dining areas, clean linens and clothing and unrefrigerated food;

(e) All measures necessary to prevent the entry into the program of mosquitoes and other insects must be taken;

(f) All measures necessary to control rodents must be taken;

(g) The grounds of the program must be kept orderly and free of litter, unused articles, and refuse;

(h) Garbage and refuse receptacles must be clean, durable, water-tight, insect- and rodent proof and kept covered with a tight-fitting lid;

(i) All garbage solid waste must be disposed of at least weekly and in compliance with the rules of the Department of Environmental Quality; and

(j) Sewage and liquid waste must be collected, treated and disposed of in compliance with the rules of the Department of Environmental Quality.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 409.430 - 409.435, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270

Hist.: MHS 4-2010, f. & cert. ef. 3-4-10; MHS 15-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 8-2012, f. & cert. ef. 6-15-12

## 309-032-1550

### Transfer and Continuity of Care

(1) Planned Transfer: Providers must meet the following requirements for planned transfer:

(a) Decisions to transfer individuals must be documented in a transfer summary. The documentation must include the reason for transfer;

(b) For alcohol and other drug treatment services, planned transfer must be consistent with ASAM criteria established in the assessment;

(c) For ITS programs, planned transfer must be consistent with the transfer criteria established by the interdisciplinary team and documented in the ISSP. In addition:

(A) Providers must not transfer services unless the interdisciplinary team, in consultation with the child's parent or guardian and the next provider, agree that the child requires a more or less restrictive level of care; and

(B) If the determination is made to admit the child to acute care, the provider must not transfer services during the acute care stay unless the interdisciplinary team, in consultation with the child's parent or guardian and the next provider, agree that the child requires a more or less restrictive level of care following the acute care stay; and

(d) For DUII Alcohol and Other Drug Rehabilitation Programs, the balance, if any, of fees charged not paid by the individual.

(2) Transfer Process and Continuity of Care: Prior to transfer, providers must:

(a) When applicable, coordinate and provide appropriate referrals for medical care and medication management. The transferring provider must assist the individual to identify the medical provider who will provide continuing care and to arrange an initial appointment with that provider;

(b) Coordinate recovery and ongoing support services for individuals and their families including identifying resources and facilitating linkage to other service systems necessary to sustain recovery, including peer delivered services.;

(c) Complete a Transfer Summary;

(d) When services are transferred due to the absence of the individual, the provider must document outreach efforts made to re-engage the individual, or document the reason why such efforts were not made;

(e) If the individual is under the jurisdiction of the PSRB or JPSRB, the provider must notify the PSRB or JPSRB immediately and provide a copy of the Transfer Summary within 30 days;

(f) The provider must report all instances of Transfer on the mandated state data system; and

(g) Transfer in ITS programs: At a minimum, the provider's interdisciplinary team must:

(A) Integrate transfer planning into ongoing treatment planning and documentation from the time of entry, and specify the transfer criteria that must indicate resolution of the symptoms and behaviors that justified the entry;

(B) Review and, if needed, modify the transfer criteria in the ISSP every 30 days;

(C) Notify the child's parent or guardian, and the provider to which the child must be transitioned of the anticipated transfer dates at the time of entry, and when the ISSP is changed;

(D) Include the parent or guardian, and provider to which the child must be transitioned in transfer planning and reflect their needs and desires to the extent clinically indicated;

(E) Finalize the transition plan prior to transfer and identify in the plan the continuum of services and the type and frequency of follow-up contacts recommended by the provider to assist in the child's successful transition to the next appropriate level of care;

(F) Assure that appropriate medical care and medication management must be provided to individuals who leave through a planned transfer. The last service provider's interdisciplinary team must identify the medical personnel who will provide continuing care and must arrange an initial appointment with that provider;

(G) Coordinate appropriate education services with applicable school district personnel; and

(H) Give written transition instructions to the child's parent or guardian and the next provider if applicable, on the date of transfer.

(3) Transfer Summary:

(a) A Transfer Summary must include:

(A) The date and reason for the transfer;

(B) A summary statement that describes the effectiveness of services in assisting the individual and his or her family to achieve intended outcomes identified in the ISSP;

(C) Where appropriate, a plan for personal wellness and resilience, including relapse prevention; and

(D) Identification of resources to assist the individual and family, if applicable, in accessing recovery and resiliency services and supports.

(b) If the transfer is to services with another provider, all documentation contained in the Individual Service Record requested by the receiving provider must be furnished, compliant with applicable confidentiality policies and procedures, within 14 days of receipt of a written request for the documentation.

(c) A complete transfer summary must be sent to the receiving provider within 30 days of the transfer.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.45

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 409.430 - 409.435, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270

Hist.: MHS 4-2010, f. & cert. ef. 3-4-10; MHS 15-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 8-2012, f. & cert. ef. 6-15-12

## 309-032-1555

### Quality Assessment and Performance Improvement

(1) Quality Assessment and Performance Improvement Process: Providers must develop and implement a structured and ongoing process to assess, monitor, and improve the quality and effectiveness of services provided to individuals and their families.

(2) Quality Improvement Committee: The Quality Improvement Committee must oversee and advise the Quality Assessment and Performance Improvement process:

(a) The Quality Improvement Committee must include representatives of individuals served and their families; and

# ADMINISTRATIVE RULES

(b) The Quality Improvement Committee must meet at least quarterly to:

- (A) Identify indicators of quality including:
  - (i) Access to services;
  - (ii) Outcomes of services;
  - (iii) Systems integration and coordination of services; and
  - (iv) Utilization of services.

(B) Review incident reports, emergency safety intervention documentation, grievances and other documentation as applicable;

(C) Identify measurable and time-specific performance objectives and strategies to meet the objectives and measure progress;

(D) Recommend policy and operational changes necessary to achieve performance objectives; and

(E) Reassess and, if necessary, revise objectives and methods to measure performance on an ongoing basis to ensure sustainability of improvements.

(3) Performance Improvement Plan: The quality assessment and performance improvement process must be documented in a Performance Improvement Plan including:

(a) Performance objectives aimed at improving services; and

(b) Strategies designed to meet the performance objectives and measure progress.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 409.430 - 409.435, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270

Hist.: MHS 4-2010, f. & cert. ef. 3-4-10; MHS 15-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 8-2012, f. & cert. ef. 6-15-12

## 309-032-1560

### Grievances and Appeals

(1) Any individual receiving services, or the parent or guardian of the individual receiving services, may file a grievance with the provider, the individual's managed care plan or the Division.

(2) For individuals whose services are funded by Medicaid, grievance and appeal procedures outlined in OAR 410-141-0260 through 410-141-0266, must be followed.

(3) For individuals whose services are not funded by Medicaid, providers must:

(a) Notify each individual, or guardian, of the grievance procedures by reviewing a written copy of the policy upon entry;

(b) Assist individuals and parents or guardians, as applicable, to understand and complete the grievance process; and notify them of the results and basis for the decision;

(c) Encourage and facilitate resolution of the grievance at the lowest possible level;

(d) Complete an investigation of any grievance within 30 calendar days;

(e) Implement a procedure for accepting, processing and responding to grievances including specific timelines for each;

(f) Designate a program staff person to receive and process the grievance;

(g) Document any action taken on a substantiated grievance within a timely manner; and

(h) Document receipt, investigation and action taken in response to the grievance.

(4) Grievance Process Notice. The provider must have a Grievance Process Notice, which must be posted in a conspicuous place stating the telephone number of:

(a) The Division;

(b) The CMHP;

(c) Disability Rights Oregon; and

(d) The applicable managed care organization.

(5) Expedited Grievances: In circumstances where the matter of the grievance is likely to cause harm to the individual before the grievance procedures outlined in these rules are completed, the individual, or guardian of the individual, may request an expedited review. The program administrator must review and respond in writing to the grievance within 48 hours of receipt of the grievance. The written response must include information about the appeal process.

(6) Retaliation: A grievant, witness or staff member of a provider must not be subject to retaliation by a provider for making a report or being interviewed about a grievance or being a witness. Retaliation may include, but is not limited to, dismissal or harassment, reduction in services, wages or benefits, or basing service or a performance review on the action.

(7) Immunity: The grievant is immune from any civil or criminal liability with respect to the making or content of a grievance made in good faith.

(8) Appeals: Individuals and their legal guardians, as applicable, must have the right to appeal entry, transfer and grievance decisions as follows:

(a) If the individual or guardian, if applicable, is not satisfied with the decision, the individual or guardian may file an appeal in writing within ten working days of the date of the program administrator's response to the grievance or notification of denial for services as applicable. The appeal must be submitted to the CMHP Director in the county where the provider is located or to the Division as applicable;

(b) If requested, program staff must be available to assist the individual;

(c) The CMHP Director or Division, must provide a written response within ten working days of the receipt of the appeal; and

(d) If the individual or guardian, if applicable, is not satisfied with the appeal decision, he or she may file a second appeal in writing within ten working days of the date of the written response to the Director.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 409.430 - 409.435, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270

Hist.: MHS 4-2010, f. & cert. ef. 3-4-10; MHS 15-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 8-2012, f. & cert. ef. 6-15-12

## 309-032-1565

### Variations

(1) Criteria for a Variance: Variations may be granted to a LMHA, CMHP or provider holding a certificate directly with the Division, by the Division:

(a) If there is a lack of resources to implement the standards required in these rules; or

(b) If implementation of the proposed alternative services, methods, concepts or procedures would result in improved outcomes for the individual.

(2) Application for a Variance:

(a) CMHPs and other providers may submit their variance request directly to the Division;

(b) Providers who hold Certificates of Approval jointly with CMHP's and the Division must submit their variance requests to the CMHP. The CMHP must then submit the variance request, along with the CMHP's written recommendation;

(c) The LMHA, CMHP or provider requesting a variance must submit a written application to the Deputy Director; and

(d) Variance requests must contain the following:

(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 proposal for the duration of the variance; and

(E) A plan and timetable for compliance with the section of the rule for which the variance applies.

(3) Division Review and Notification: The Deputy Director of the Division must approve or deny the request for a variance and must notify the LMHA, CMHP or provider in writing of the decision to approve or deny the requested variance, within 30 days of receipt of the variance. The written notification must include the specific alternative practice, service, method, concept or procedure that is approved and the duration of the approval.

(4) Appeal Application: Appeal of the denial of a variance request must be made in writing to the Director of the Division, whose decision will be final and must be provided in writing within 30 days of receipt of the appeal.

(5) Written Approval: The LMHA, CMHP or provider may implement a variance only after written approval from the Division.

(6) Duration of Variance: It is the responsibility of the LMHA, CMHP or the provider to submit a request to extend a variance in writing prior to a variance expiring. Extension must be approved in writing by the Division.

(7) Granting a variance for one request does not set a precedent that must be followed by the Division when evaluating subsequent requests for variance.

Stat. Auth.: ORS 161.390, 413.042, 409.410, 409.420, 426.490 - 426.500, 428.205 - 428.270, 430.640 & 443.450

Stats. Implemented: ORS 109.675, 161.390 - 161.400, 179.505, 409.430 - 409.435, 426.380 - 426.395, 426.490 - 426.500, 430.010, 430.205 - 430.210, 430.240 - 430.640, 430.850 - 430.955, 443.400 - 443.460, 443.991, 461.549, 743A.168, 813.010 - 813.052 & 813.200 - 813.270

# ADMINISTRATIVE RULES

Hist.: MHS 4-2010, f. & cert. ef. 3-4-10; MHS 15-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 8-2012, f. & cert. ef. 6-15-12

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## Oregon Health Authority, Office for Oregon Health Policy and Research Chapter 409

**Rule Caption:** Data release rules for All-Payer Healthcare Claims Data Reporting Program.

**Adm. Order No.:** OHP 4-2012

**Filed with Sec. of State:** 5-23-2012

**Certified to be Effective:** 6-1-12

**Notice Publication Date:** 5-1-2012

**Rules Amended:** 409-025-0100, 409-025-0110, 409-025-0120, 409-025-0130, 409-025-0160

**Subject:** The Office for Oregon Health Policy and Research needs to amend these rules in order to correct administrative inefficiencies in general reporting requirements and filing data requirements, make minor updates to submission requirements, and implement release of data mandates in ORS 442.466.

**Rules Coordinator:** Zarie Haverkate—(503) 373-1574

### 409-025-0100

#### Definitions

The following definitions apply to OAR 409-025-0100 to 409-025-0170:

(1) “Accident policy” means an insurance policy that provides benefits only for a loss due to accidental bodily injury.

(2) “Administrator” means the administrator of the Office for Oregon Health Policy and Research.

(3) “Allowed amount” means the actual amount of charges for health-care services, equipment, or supplies that are covered expenses under the terms of an insurance policy or health benefits plan.

(4) “Association” means any organization, including a labor union, that has an active existence for at least one year, that has a constitution and bylaws and that has been organized and is maintained in good faith primarily for purposes other than that of obtaining insurance.

(5) “Attending provider” means the individual health care provider who delivered the health care services, equipment, or supplies specified on a health care claim.

(6) “Authority” means the Oregon Health Authority.

(7) “Billing provider” means the individual or entity that submits claims for health care services, equipment, or supplies delivered by an attending provider.

(8) “Capitated services” means services rendered by a provider through a contract in which payments are based upon a fixed dollar amount for each enrolled member on a monthly basis.

(9) “Carrier” shall have the meaning given that term in ORS 743.730(6).

(10) “Certificate of authority” shall have the meaning given that term in ORS 731.072.

(11) “Charges” means the actual dollar amount charged on the claim.

(12) “Claim” means an encounter or request for payment under the terms of an insurance policy, health benefits plan, Medicare, or Medicaid.

(13) “Co-insurance” means the percentage an enrolled member pays toward the cost of a covered service.

(14) “Coordinated Care Organization (CCO)” shall have the meaning given that term in ORS 414.025(5).

(15) “Co-payment” means the fixed dollar amount an enrolled member pays to a health care provider at the time a covered service is provided or the full cost of a service when that is less than the fixed dollar amount.

(16) “Current Procedural Terminology (CPT)” means a medical code set of physician and other services, maintained and copyrighted by the American Medical Association, and adopted by the U.S. Secretary of Health and Human Services as the standard for reporting physician and other services on standard transactions.

(17) “Data set” means a collection of individual data records, whether in electronic or manual files.

(18) “DCBS” means the Oregon Department of Consumer and Business Services.

(19) “Deductible” means the total dollar amount an enrolled member pays toward the cost of covered services over an established period of time before the carrier or third-party administrator makes any payments under an insurance policy or health benefit plan.

(20) “De-identified health information” means health information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual.

(21) “Direct personal identifier” means information relating to an individual patient or enrolled member that contains primary or obvious identifiers, including:

(a) Names;

(b) Business names when that name would serve to identify a person;

(c) Postal address information other than town or city, state, and 5-digit zip code;

(d) Specific latitude and longitude or other geographic information that would be used to derive postal address;

(e) Telephone and fax numbers;

(f) Electronic mail addresses;

(g) Social security numbers;

(h) Vehicle identifiers and serial numbers, including license plate numbers;

(i) Medical record numbers;

(j) Health plan beneficiary numbers;

(k) Certificate and license numbers;

(l) Internet protocol (IP) addresses and uniform resource locators (URL) that identify a business that would serve to identify a person;

(m) Biometric identifiers, including finger and voice prints; and

(n) Personal photographic images.

(22) “Director’s Office” means the Director’s Office of the Oregon Health Authority.

(23) “Disability policy” means an insurance policy that provides benefits for losses due to a covered illness or disability.

(24) “Disclosure” means the release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information.

(25) “Eligibility file” means a data set containing demographic information for each individual enrolled member eligible for medical benefits for one or more days of coverage at any time during a calendar month for an Oregon resident as defined in ORS 803.355, a non-Oregon resident who is a member of a PEBB or OEBB group health insurance plan, or services provided in Oregon.

(26) “Eligible employee” shall have the meaning given that term in ORS 743.730(12).

(27) “Employee” shall have the meaning given that term in ORS 654.005(4).

(28) “Employer” shall have the meaning given that term in ORS 654.005(5).

(29) “Encrypted identifier” means a code or other means of identification to allow individual patients or enrolled members to be tracked across data sets without revealing their identity.

(30) “Encryption” means a method by which the true value of data has been disguised in order to prevent the identification of individual patients or enrolled members and does not provide the means for recovering the true value of the data.

(31) “Enrolled member” means enrollee as defined in ORS 743.730(14).

(32) “Facility” means a health care facility as defined in ORS 442.015(16).

(33) “Genetic tests” shall have the meaning given that term in ORS 192.531(14).

(34) “Group health insurance” shall have the meaning given that term in ORS 743.522.

(35) “Health benefit plan” shall have the meaning given that term in ORS 743.730(19).

(36) “Health care” shall have the meaning given that term in ORS 192.519(3).

(37) “Health care provider” shall have the meaning given that term in ORS 192.519(5).

(38) “Health information” shall have the meaning given that term in ORS 192.519(6).

(39) “Healthcare claims data file” means electronic health information including medical claims files, medical eligibility files, pharmacy claims files, pharmacy eligibility files, and any other related information specified in this rule.

(40) “Healthcare Common Procedure Coding System (HCPCS)” means a medical code set, maintained by the United States Department of Health and Human Services, that identifies health care procedures, equipment, and supplies for claim submission purposes.

## ADMINISTRATIVE RULES

(41) "HIPAA" means Title II, Subtitle F of the Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d, et seq. and the federal regulations adopted to implement the Act.

(42) "Hospital indemnity policy" means an insurance policy that provides benefits only for covered hospital stays.

(43) "Indirect personal identifier" means information relating to an individual patient or enrolled member that a person with appropriate knowledge of and experience with generally accepted statistical and scientific principles and methods could apply to render such information individually identifiable by using such information alone or in combination with other reasonably available information.

(44) "Individual", when used in a list of required lines of business, means individual health benefit plans.

(45) "Individually identifiable health information" shall have the meaning given that term in ORS 192.519(8).

(46) "Insurance" shall have the meaning given that term in ORS 731.102.

(47) "Labor union" means any organization which is constituted for the purpose, in whole or in part, of collective bargaining or dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection in connection with employees.

(48) "Large group" means health benefit plans for employers with more than 50 employees.

(49) "Limited data set" means protected health information that excludes direct personal identifiers and is disclosed for research, program operations, or to a public health authority for public health purposes.

(50) "Long-term care insurance" shall have the meaning given that term in ORS 743.652(4).

(51) "Managed care organization" (MCO) means a prepaid managed care health services organization as defined in ORS 414.736.

(52) "Mandatory reporter" means any reporting entity defined as a mandatory reporter in OAR 409-025-0110.

(53) "Medicaid" means medical assistance provided under 42 U.S.C. section 1396a (section 1902 of the Social Security Act), as administered by the Division of Medical Assistance Programs.

(54) "Medicaid fee-for-service" (Medicaid FFS) means that portion of Medicaid where a health care provider is paid a fee for each covered health care service delivered to an eligible Medicaid patient.

(55) "Medical claims file" means a data set composed of health care service level remittance information for all adjudicated claims for each billed service including but not limited to member demographics, provider information, charge and payment information, and clinical diagnosis and procedure codes for an Oregon resident as defined in ORS 803.355, a non-Oregon resident who is a member of a PEBB or OEGB group health insurance plan, or services provided in Oregon.

(56) "Medical provider file" means a data set containing information about health care providers providing health care services, equipment, or supplies to enrolled members during the reporting period.

(57) "Medicare" means coverage under Part A, Part B, Part C, or Part D of Title XVIII of the Social Security Act, 42 U.S.C. 1395 et seq., as amended.

(58) "OEGB" means the Oregon Educators Benefit Board.

(59) "OHPR" means the Office for Oregon Health Policy and Research.

(60) "OMIP" means the Oregon Medical Insurance Pool.

(61) "Patient" means any person in the data set who is the subject of the activities of the claim performed by the health care provider.

(62) "Paid amount" means the actual dollar amount paid for claims.

(63) "PEBB" means the Oregon Public Employees' Benefit Board.

(64) "Person" shall have the meaning given that term in ORS 731.116.

(65) "Pharmacy benefit manager (PBM)" means a person or entity that performs pharmacy benefit management, including a person or entity in a contractual or employment relationship with a person or entity performing pharmacy benefit management for a health benefits plan.

(66) "Pharmacy claims file" means a data set containing service level remittance information from all adjudicated claims including, but not limited to, enrolled member demographics, provider information, charge and payment information, and national drug codes for an Oregon resident as defined in ORS 803.355, a non-Oregon resident who is a member of a PEBB or OEGB group health insurance plan, or services provided in Oregon.

(67) "Pharmacy eligibility file" means a data set containing demographic information for each individual enrolled member eligible for pharmacy benefits for one or more days of coverage at any time during a calendar month for an Oregon resident as defined in ORS 803.355, a non-Oregon

resident who is a member of a PEBB or OEGB group health insurance plan, or services provided in Oregon.

(68) "Policy" shall have the meaning given that term in ORS 731.122.

(69) "Portability" means portability health benefit plans as defined in ORS 743.760.

(70) "Prepaid amount" means the fee for the service equivalent that would have been paid for a specific service if the service had not been capitated.

(71) "Premium" shall have the meaning given that term in ORS 743.730.

(72) "Principal investigator (PI)" means the person in charge of a research project that makes use of limited data sets. The PI is the custodian of the data and shall comply with all state and federal restrictions, limitations, and conditions of use associated with the data release.

(73) "Protected health information" shall have the meaning given that term in ORS 192.519(11).

(74) "Public health authority" means the Public Health Division of the Authority or local public health authority as defined in ORS 431.260(7).

(75) "Public health purposes" means the activities of a public health authority for the purpose of preventing or controlling disease, injury, or disability including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, investigations, and interventions.

(76) "Public use data set" means a publicly available data set of de-identified health information containing only the data elements specified by OHPR for inclusion.

(77) "Registered entity" means any person required to register with DCBS under ORS 744.714.

(78) "Reporting entity" means:

(a) An insurer as defined in ORS 731.106 or fraternal benefit society as defined in ORS 748.106 required to have a certificate of authority to transact health insurance business in Oregon.

(b) A health care service contractor as defined in ORS 750.005 that issues medical insurance in Oregon.

(c) A third-party administrator required to obtain a license under ORS 744.702.

(d) A pharmacy benefit manager or fiscal intermediary, or other person that is by statute, contract, or agreement legally responsible for payment of a claim for a health care item or service.

(e) A prepaid managed care health services organization as defined in ORS 414.736.

(f) An insurer providing coverage funded under Part A, Part B, or Part D of Title XVIII of the Social Security Act, subject to approval by the United States Department of Health and Human Services.

(79) "Research" means a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalized knowledge.

(80) "Self-insured plan" means any plan, program, contract, or any other arrangement under which one or more employers, unions, or other organizations provide health care services or benefits to their employees or members in this state, either directly or indirectly through a trust or third-party administrator.

(81) "Small employer health insurance" means health benefit plans for employers whose workforce consists of at least two but not more than 50 eligible employees.

(82) "Specific disease policy" means an insurance policy that provides benefits only for a loss due to a covered disease.

(83) "Strongly-encrypted" means an encryption method that uses a cryptographic key with a large number of random keyboard characters.

(84) "Subscriber" means the individual responsible for payment of premiums or whose employment is the basis for eligibility for membership in a health benefit plan.

(85) "Third-party administrator (TPA)" means any person who directly or indirectly solicits or effects coverage of, underwrites, collects charges or premiums from, or adjusts or settles claims on, residents of Oregon or residents of another state from offices in Oregon, in connection with life insurance or health insurance coverage; or any person or entity who must otherwise be licensed under ORS 744.702.

(86) "Transact insurance" shall have the meaning given that term in ORS 731.146.

(87) "Trust" means a fund established by:

(a) Two or more employers in the same or related industry; or

(b) One or more labor unions; or

(c) One or more employers and one or more labor unions; or

(d) An association as described in ORS 743.522(1)(b).

# ADMINISTRATIVE RULES

(88) "Vision policy" means a health benefits plan covering only vision health care.

(89) "Voluntary reporter" means any registered or reporting entity, other than a mandatory reporter, that voluntarily elects to comply with the reporting requirements in OAR 409-025-0100 to 409-025-0170.

Stat. Auth.: ORS 442.466

Stats. Implemented: ORS 442.464 & 442.466

Hist.: OHP 1-2010, f. 2-26-10, cert. ef. 3-1-10; OHP 4-2012, f. 5-23-12, cert. ef. 6-1-12

## 409-025-0110

### General Reporting Requirements

(1) Definition of "mandatory reporter"

(a) For carriers and licensed third-party administrators, OHPR shall identify mandatory reporters using information collected by DCBS including, but not limited to, data from the Health Insurance Member Enrollment Report.

(A) OHPR shall aggregate the most recent four quarters of data.

(B) OHPR shall calculate the mean total lives for each carrier and licensed third-party administrator.

(C) All carriers and licensed third-party administrators with calculated mean total lives of 5,000 or higher shall be mandatory reporters.

(b) All PBMs shall be mandatory reporters.

(c) All MCOs shall be mandatory reporters.

(d) All CCOs shall be mandatory reporters.

(2) Voluntary reporters may elect to participate by notifying the Administrator in writing.

(3) Mandatory and voluntary reporters shall submit healthcare claims data files for all required lines of business and shall not submit claims for any excluded lines of business. Required and excluded lines of business are specified in Schedule B.

(4) Mandatory and voluntary reporters shall comply with healthcare claims data file layout, format, and coding requirements in OAR 409-025-0120.

(5) Mandatory and voluntary reporters shall comply with healthcare claims data submission requirements in OAR 409-025-0130.

(6) Unless otherwise required by state or federal rules, regulations or statutes, mandatory and voluntary reporters shall not submit the following types of claims:

(a) Claims related to genetic tests; or

(b) Any claims subject to stricter disclosure limits imposed by state or federal rules, regulations, or statutes.

(7) OHPR shall provide written notification to all mandatory reporters subject to the reporting requirements of OAR 409-025-0100 to 409-025-0170.

(a) Beginning March 1, 2010 OHPR shall notify all mandatory reporters subject to the reporting requirements of OAR 409-025-0100 to 409-025-0170 during the calendar year 2010.

(b) By July 1, 2010 OHPR shall notify all mandatory reporters subject to the reporting requirements of OAR 409-025-0100 to 409-025-0170 for the calendar year 2011.

(c) Beginning January 1, 2011, OHPR shall notify by July 1 all mandatory reporters subject to the reporting requirements of OAR 409-025-0100 to 409-025-0170 for the following calendar year.

Stat. Auth.: ORS 442.466

Stats. Implemented: ORS 442.464 & 442.466

Hist.: OHP 1-2010, f. 2-26-10, cert. ef. 3-1-10; OHP 4-2012, f. 5-23-12, cert. ef. 6-1-12

## 409-025-0120

### Healthcare Claims Data File Layout, Format, and Coding Requirements

(1) Required healthcare claims data files shall include:

(a) Medical claims;

(b) Eligibility;

(c) Medical provider;

(d) Pharmacy claims; and

(e) Control totals.

(2) The medical claims file shall be submitted using the approved layout, format, and coding described in Appendix A.

(3) The eligibility file shall be submitted using the approved layout, format, and coding described in Appendix B.

(4) The medical provider file shall be submitted using the approved layout, format, and coding described in Appendix C.

(5) The pharmacy claims file shall be submitted using the approved layout, format, and coding described in Appendix D.

(6) The control totals file shall be submitted using the approved layout, format, and coding described in Appendix E.

(7) All data elements are required unless specified as optional or situational.

(8) All required healthcare claims data files shall be submitted as delimited ASCII files.

(9) Numeric data are positive integers unless otherwise specified.

(a) Negative values are allowed for revenue codes, quantities, charges, payment, co-payment, co-insurance, deductible, and prepaid amount.

(b) Negative values shall be preceded by a minus sign.

(10) OHPR shall convene a technical advisory group to advise OHPR and associated contractors on submission specifications including but not limited to Appendices A-E, Schedule A and any additional data submission requirements. The advisory group shall include, but not be limited to representatives from:

(a) Carriers;

(b) TPAs;

(c) PBMs;

(d) CCOs; and

(e) Other stakeholders and interested parties.

(11) All data files shall pass edit checks and validations implemented by OHPR or the data vendor.

Stat. Auth.: ORS 442.466

Stats. Implemented: ORS 442.464 & 442.466

Hist.: OHP 1-2010, f. 2-26-10, cert. ef. 3-1-10; OHP 4-2012, f. 5-23-12, cert. ef. 6-1-12

## 409-025-0130

### Healthcare Claims Data Submission Requirements

(1) OHPR shall notify mandatory reporters of the submission start date for program initiation in 2010, which shall occur when the following conditions are met:

(a) Final versions of Appendices A-C have been published on the OHPR web site for at least 120 days; and

(b) OHPR is satisfied that the data vendor is prepared to test transmission of healthcare claims data files from mandatory reporters.

(2) Mandatory reporters shall submit healthcare claims data files as specified in Schedule A. Voluntary reporters may consult with OHPR to submit healthcare claims data files on an alternative schedule.

(3) Mandatory and voluntary reporters shall submit healthcare claims data files directly to the data vendor unless otherwise specified by OHPR.

(4) Mandatory and voluntary reporters shall transmit healthcare claims data files using one of the following approved processes:

(a) Secure file transfer protocol (SFTP) including separate strong encryption of data files prior to SFTP transmission; or

(b) Any process incorporating strong encryption that is approved in writing by both OHPR and the data vendor.

Stat. Auth.: ORS 442.466

Stats. Implemented: ORS 442.464 & 442.466

Hist.: OHP 1-2010, f. 2-26-10, cert. ef. 3-1-10; OHP 4-2012, f. 5-23-12, cert. ef. 6-1-12

## 409-025-0160

### Limited and Public Use Data Sets

(1) Public use data sets.

(a) OHPR shall maintain an approved list of data elements, described in Appendix F, that may be included in APAC public use data sets. Appendix F shall comply with applicable Authority policies and state and federal rules, regulations, and statutes.

(b) Requesters seeking access to data from the APAC Public Use Data Sets shall complete an Application for Public Use Data Sets Form (APAC-4) and comply with the application procedures for public use data sets outlined on the APAC website.

(c) OHPR shall approve or deny the completed request and provide written notification to the requester within 30 calendar days of receipt of the request.

(d) OHPR shall deny the completed request for reasons which include, but are not limited to:

(A) Requester or any person who will have access to the data has previously violated a data use agreement with the Authority.

(B) The Administrator finds that the general purpose of the study does not serve the public interest.

(C) The Administrator finds that the specific details of the request do not sufficiently explain the proposed use.

(D) The Administrator finds that the specific details of the request violate any state or federal rule, regulation, or statute.

(E) The Administrator finds that the specific details of the request violate form APAC-4, Section 3: Data Use Agreement.

(F) The Administrator finds that the administrative, technical, and physical safeguards specified in the request do not sufficiently protect the data set.

# ADMINISTRATIVE RULES

(G) Full payment is not included with the application.

(e) If OHPR denies the Application for Public Use Data Sets:

(A) OHPR shall provide written notification stating the reason for the denial; and

(B) The requester may appeal the denial by requesting a contested case hearing. The appeal must be filed within 30 business days of the denial. The appeal process is conducted pursuant to ORS chapter 183 and the Attorney General's Uniform and Model Rules of Procedure, OAR 137-003-0501 to 137-003-0700. The requester shall have the burden to prove that OHPR unreasonably denied the application.

(2) Limited data sets.

(a) OHPR shall maintain an approved list of data elements, described in Appendix G, that may be included in APAC limited data sets.

(b) APAC limited data sets may be disclosed for research or to a public health authority for public health purposes.

(c) Researchers seeking access to the APAC Limited Data Sets shall complete an Application for Limited Data Sets Form (APAC-5) and comply with the application procedures for limited data sets outlined on the APAC website.

(d) OHPR shall review all applications for completeness and provide requesters written notification of completeness within 30 calendar days of receipt of the request.

(e) If OHPR determines that the application is incomplete, the requester shall have 30 calendar days from notification of incompleteness to complete the application. Incomplete applications that are not completed shall be discarded without further notification to the requester.

(f) Completed applications shall be made available for public inspection and written comment for no fewer than 14 days.

(g) OHPR shall convene a Privacy and Security Advisory Board to evaluate completed applications for limited data sets.

(A) The Privacy and Security Advisory Board shall include:

(i) Authority's privacy officer or designee;

(ii) One representative of the Division of Medical Assistance Programs;

(iii) One representative of the Addictions and Mental Health Division;

(iv) One representative of the Public Health Division;

(v) One representative of the Director's Office;

(vi) One representative of an insurer licensed to transact health insurance in Oregon;

(vii) One representative of a Coordinated Care Organization;

(viii) One representative of a hospital;

(ix) One representative of an ambulatory clinic;

(x) One academic researcher;

(xi) One other interested person not represented above; and

(xii) One non-voting chair, appointed by the Administrator.

(B) OHPR may accept nominations for and make appointments to the Privacy and Security Advisory Board.

(C) The Privacy and Security Advisory Board's review shall include, but is not limited to:

(i) Whether submitted IRB documentation is sufficient.

(ii) Whether the proposed disclosure serves the public interest.

(iii) Whether the proposed disclosure supports the mission and aims of the Authority.

(iv) Whether the proposed privacy and security protections are sufficient.

(v) Whether additional clarification is needed to complete the review.

(vi) Public comments about the completed application.

(D) When reviewing applications for limited data sets, the Privacy and Security Advisory Board may request any expert testimony that it deems necessary and appropriate.

(h) OHPR shall publish a Privacy and Security Advisory Board meeting schedule on its website and periodically update the number of completed applications scheduled to be reviewed during each meeting.

(i) OHPR shall schedule completed applications for limited data sets for review by the Privacy and Security Advisory Board on a first-come-first-served basis.

(j) The Privacy and Security Advisory Board shall recommend that OHPR approve the application, deny the application, defer action pending expert testimony, or defer action pending clarification from the requester.

(k) OHPR shall accept or reject the Privacy and Security Advisory Board's recommendation and notify the requester within ten business days of the review.

(l) OHPR shall deny a completed application for reasons which include, but are not limited to:

(A) Requester or any person who will have access to the data has previously violated a data use agreement with the Authority.

(B) Full payment is not included with the application.

(m) If the Privacy and Security Advisory Board requests clarification, the requester shall have 30 calendar days to provide the requested information to OHPR. After 30 calendar days, applications with incomplete requests for clarification shall be discarded without further notification to the requester.

(n) Upon receipt of the requested clarification OHPR shall schedule re-evaluation with the Privacy and Security Advisory Board on a first-come-first-served basis.

(o) If OHPR denies the application:

(A) OHPR shall provide written notification stating the reason for the denial.

(B) The requester may appeal the denial by requesting a contested case hearing. The appeal must be filed within 30 business days of the denial. The appeal process is conducted pursuant to ORS chapter 183 and the Attorney General's Uniform and Model rules of Procedure, OAR 137-003-0501 to 137-003-0700. The requester shall have the burden to prove that OHPR unreasonably denied the application.

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Hist.: OHP 1-2010, f. 2-26-10, cert. ef. 3-1-10; OHP 4-2012, f. 5-23-12, cert. ef. 6-1-12

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**Rule Caption:** Data collection rules for all payer healthcare claims data reporting program.

**Adm. Order No.:** OHP 5-2012(Temp)

**Filed with Sec. of State:** 5-23-2012

**Certified to be Effective:** 6-1-12 thru 11-15-12

**Notice Publication Date:**

**Rules Amended:** 409-025-0100, 409-025-0110

**Subject:** The Office for Oregon Health Policy and Research (OHPR) needs to file temporary rules in order to correct a technical flaw in general reporting requirements to include entities with Dual Eligible Special Needs Plans in Oregon as mandatory reporters.

**Rules Coordinator:** Zarie Haverkate—(503) 373-1574

## 409-025-0100

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- (b) Business names when that name would serve to identify a person;
- (c) Postal address information other than town or city, state, and 5-digit zip code;
- (d) Specific latitude and longitude or other geographic information that would be used to derive postal address;
- (e) Telephone and fax numbers;
- (f) Electronic mail addresses;
- (g) Social security numbers;
- (h) Vehicle identifiers and serial numbers, including license plate numbers;

- (i) Medical record numbers;
  - (j) Health plan beneficiary numbers;
  - (k) Certificate and license numbers;
  - (l) Internet protocol (IP) addresses and uniform resource locators (URL) that identify a business that would serve to identify a person;
  - (m) Biometric identifiers, including finger and voice prints; and
  - (n) Personal photographic images.
- (22) "Director's Office" means the Director's Office of the Oregon Health Authority.

(23) "Disability policy" means an insurance policy that provides benefits for losses due to a covered illness or disability.

(24) "Disclosure" means the release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information.

(25) "Dual Eligible Special Needs Plan" means a Special Needs Plan that enrolls beneficiaries entitled to both Medicare and Medicaid.

(26) "Eligibility file" means a data set containing demographic information for each individual enrolled member eligible for medical benefits for one or more days of coverage at any time during a calendar month for an Oregon resident as defined in ORS 803.355, a non-Oregon resident who is a member of a PEBB or OEGB group health insurance plan, or services provided in Oregon.

(27) "Eligible employee" shall have the meaning given that term in ORS 743.730(12).

(28) "Employee" shall have the meaning given that term in ORS 654.005(4).

(29) "Employer" shall have the meaning given that term in ORS 654.005(5).

(30) "Encrypted identifier" means a code or other means of identification to allow individual patients or enrolled members to be tracked across data sets without revealing their identity.

(31) "Encryption" means a method by which the true value of data has been disguised in order to prevent the identification of individual patients or enrolled members and does not provide the means for recovering the true value of the data.

(32) "Enrolled member" means enrollee as defined in ORS 743.730(14).

(33) "Facility" means a health care facility as defined in ORS 442.015(16).

(34) "Genetic tests" shall have the meaning given that term in ORS 192.531(14).

(35) "Group health insurance" shall have the meaning given that term in ORS 743.522.

(36) "Health benefit plan" shall have the meaning given that term in ORS 743.730(19).

(37) "Health care" shall have the meaning given that term in ORS 192.519(3).

(38) "Health care provider" shall have the meaning given that term in ORS 192.519(5).

(39) "Health information" shall have the meaning given that term in ORS 192.519(6).

(40) "Healthcare claims data file" means electronic health information including medical claims files, medical eligibility files, pharmacy claims files, pharmacy eligibility files, and any other related information specified in this rule.

(41) "Healthcare Common Procedure Coding System (HCPCS)" means a medical code set, maintained by the United States Department of Health and Human Services, that identifies health care procedures, equipment, and supplies for claim submission purposes.

(42) "HIPAA" means Title II, Subtitle F of the Health Insurance Portability and Accountability Act of 1996, 42 USC 1320d, et seq. and the federal regulations adopted to implement the Act.

(43) "Hospital indemnity policy" means an insurance policy that provides benefits only for covered hospital stays.

(44) "Indirect personal identifier" means information relating to an individual patient or enrolled member that a person with appropriate knowledge of and experience with generally accepted statistical and scientific principles and methods could apply to render such information individually identifiable by using such information alone or in combination with other reasonably available information.

(45) "Individual", when used in a list of required lines of business, means individual health benefit plans.

(46) "Individually identifiable health information" shall have the meaning given that term in ORS 192.519(8).

(47) "Insurance" shall have the meaning given that term in ORS 731.102.

(48) "Labor union" means any organization which is constituted for the purpose, in whole or in part, of collective bargaining or dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection in connection with employees.

(49) "Large group" means health benefit plans for employers with more than 50 employees.

(50) "Limited data set" means protected health information that excludes direct personal identifiers and is disclosed for research, program operations, or to a public health authority for public health purposes.

(51) "Long-term care insurance" shall have the meaning given that term in ORS 743.652(4).

(52) "Managed care organization" (MCO) means a prepaid managed care health services organization as defined in ORS 414.736.

(53) "Mandatory reporter" means any reporting entity defined as a mandatory reporter in OAR 409-025-0110.

(54) "Medicaid" means medical assistance provided under 42 U.S.C. section 1396a (section 1902 of the Social Security Act), as administered by the Division of Medical Assistance Programs.

(55) "Medicaid fee-for-service" (Medicaid FFS) means that portion of Medicaid where a health care provider is paid a fee for each covered health care service delivered to an eligible Medicaid patient.

(56) "Medical claims file" means a data set composed of health care service level remittance information for all adjudicated claims for each billed service including but not limited to member demographics, provider information, charge and payment information, and clinical diagnosis and procedure codes for an Oregon resident as defined in ORS 803.355, a non-Oregon resident who is a member of a PEBB or OEGB group health insurance plan, or services provided in Oregon.

(57) "Medical provider file" means a data set containing information about health care providers providing health care services, equipment, or supplies to enrolled members during the reporting period.

(58) "Medicare" means coverage under Part A, Part B, Part C, or Part D of Title XVIII of the Social Security Act, 42 U.S.C. 1395 et seq., as amended.

(59) "Medicare Modernization Act" means the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173) and the federal regulations adopted to implement the Act.

(60) "OEGB" means the Oregon Educators Benefit Board.

(61) "OHPR" means the Office for Oregon Health Policy and Research.



# ADMINISTRATIVE RULES

- (62) "OMIP" means the Oregon Medical Insurance Pool.
- (63) "Patient" means any person in the data set who is the subject of the activities of the claim performed by the health care provider.
- (64) "Paid amount" means the actual dollar amount paid for claims.
- (65) "PEBB" means the Oregon Public Employees' Benefit Board.
- (66) "Person" shall have the meaning given that term in ORS 731.116.
- (67) "Pharmacy benefit manager (PBM)" means a person or entity that performs pharmacy benefit management, including a person or entity in a contractual or employment relationship with a person or entity performing pharmacy benefit management for a health benefits plan.
- (68) "Pharmacy claims file" means a data set containing service level remittance information from all adjudicated claims including, but not limited to, enrolled member demographics, provider information, charge and payment information, and national drug codes for an Oregon resident as defined in ORS 803.355, a non-Oregon resident who is a member of a PEBB or OEGB group health insurance plan, or services provided in Oregon.
- (69) "Pharmacy eligibility file" means a data set containing demographic information for each individual enrolled member eligible for pharmacy benefits for one or more days of coverage at any time during a calendar month for an Oregon resident as defined in ORS 803.355, a non-Oregon resident who is a member of a PEBB or OEGB group health insurance plan, or services provided in Oregon.
- (70) "Policy" shall have the meaning given that term in ORS 731.122.
- (71) "Portability" means portability health benefit plans as defined in ORS 743.760.
- (72) "Prepaid amount" means the fee for the service equivalent that would have been paid for a specific service if the service had not been capitated.
- (73) "Premium" shall have the meaning given that term in ORS 743.730.
- (74) "Principal investigator (PI)" means the person in charge of a research project that makes use of limited data sets. The PI is the custodian of the data and shall comply with all state and federal restrictions, limitations, and conditions of use associated with the data release.
- (75) "Protected health information" shall have the meaning given that term in ORS 192.519(11).
- (76) "Public health authority" means the Public Health Division of the Authority or local public health authority as defined in ORS 431.260(7).
- (77) "Public health purposes" means the activities of a public health authority for the purpose of preventing or controlling disease, injury, or disability including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, investigations, and interventions.
- (78) "Public use data set" means a publicly available data set of de-identified health information containing only the data elements specified by OHPR for inclusion.
- (79) "Registered entity" means any person required to register with DCBS under ORS 744.714.
- (80) "Reporting entity" means:
- (a) An insurer as defined in ORS 731.106 or fraternal benefit society as defined in ORS 748.106 required to have a certificate of authority to transact health insurance business in Oregon.
- (b) A health care service contractor as defined in ORS 750.005 that issues medical insurance in Oregon.
- (c) A third-party administrator required to obtain a license under ORS 744.702.
- (d) A pharmacy benefit manager or fiscal intermediary, or other person that is by statute, contract, or agreement legally responsible for payment of a claim for a health care item or service.
- (e) A prepaid managed care health services organization as defined in ORS 414.736.
- (f) An insurer providing coverage funded under Part A, Part B, or Part D of Title XVIII of the Social Security Act, subject to approval by the United States Department of Health and Human Services.
- (81) "Research" means a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalized knowledge.
- (82) "Self-insured plan" means any plan, program, contract, or any other arrangement under which one or more employers, unions, or other organizations provide health care services or benefits to their employees or members in this state, either directly or indirectly through a trust or third-party administrator.

(83) "Small employer health insurance" means health benefit plans for employers whose workforce consists of at least two but not more than 50 eligible employees.

(84) "Special Needs Plan" means a Medicare health benefit plan created by the Medicare Modernization Act that is specifically designed to provide targeted care to individuals with special needs.

(85) "Specific disease policy" means an insurance policy that provides benefits only for a loss due to a covered disease.

(86) "Strongly-encrypted" means an encryption method that uses a cryptographic key with a large number of random keyboard characters.

(87) "Subscriber" means the individual responsible for payment of premiums or whose employment is the basis for eligibility for membership in a health benefit plan.

(88) "Third-party administrator (TPA)" means any person who directly or indirectly solicits or effects coverage of, underwrites, collects charges or premiums from, or adjusts or settles claims on, residents of Oregon or residents of another state from offices in Oregon, in connection with life insurance or health insurance coverage; or any person or entity who must otherwise be licensed under ORS 744.702.

(89) "Transact insurance" shall have the meaning given that term in ORS 731.146.

(90) "Trust" means a fund established by:

- (a) Two or more employers in the same or related industry; or
- (b) One or more labor unions; or
- (c) One or more employers and one or more labor unions; or
- (d) An association as described in ORS 743.522(1)(b).

(91) "Vision policy" means a health benefits plan covering only vision health care.

(92) "Voluntary reporter" means any registered or reporting entity, other than a mandatory reporter, that voluntarily elects to comply with the reporting requirements in OAR 409-025-0100 to 409-025-0170.

Stat. Auth.: ORS 442.466

Stats. Implemented: ORS 442.464 & 442.466

Hist.: OHP 1-2010, f. 2-26-10, cert. ef. 3-1-10; OHP 4-2012, f. 5-23-12, cert. ef. 6-1-12; OHP 5-2012(Temp), f. 5-23-12, cert. ef. 6-1-12 thru 11-15-12

## 409-025-0110

### General Reporting Requirements

(1) Definition of "mandatory reporter"

(a) For carriers and licensed third-party administrators, OHPR shall identify mandatory reporters using information collected by DCBS including, but not limited to, data from the Health Insurance Member Enrollment Report.

(A) OHPR shall aggregate the most recent four quarters of data.

(B) OHPR shall calculate the mean total lives for each carrier and licensed third-party administrator.

(C) All carriers and licensed third-party administrators with calculated mean total lives of 5,000 or higher shall be mandatory reporters.

(b) All PBMs shall be mandatory reporters.

(c) All MCOs shall be mandatory reporters.

(d) All CCOs shall be mandatory reporters.

(e) All reporting entities with Dual Eligible Special Needs Plans in Oregon shall be mandatory reporters.

(2) Voluntary reporters may elect to participate by notifying the Administrator in writing.

(3) Mandatory and voluntary reporters shall submit healthcare claims data files for all required lines of business and shall not submit claims for any excluded lines of business. Required and excluded lines of business are specified in Schedule B.

(4) Mandatory and voluntary reporters shall comply with healthcare claims data file layout, format, and coding requirements in OAR 409-025-0120.

(5) Mandatory and voluntary reporters shall comply with healthcare claims data submission requirements in OAR 409-025-0130.

(6) Unless otherwise required by state or federal rules, regulations or statutes, mandatory and voluntary reporters shall not submit the following types of claims:

(a) Claims related to genetic tests; or

(b) Any claims subject to stricter disclosure limits imposed by state or federal rules, regulations, or statutes.

(7) OHPR shall provide written notification to all mandatory reporters subject to the reporting requirements of OAR 409-025-0100 to 409-025-0170.

(a) Beginning March 1, 2010 OHPR shall notify all mandatory reporters subject to the reporting requirements of OAR 409-025-0100 to 409-025-0170 during the calendar year 2010.

# ADMINISTRATIVE RULES

(b) By July 1, 2010 OHPR shall notify all mandatory reporters subject to the reporting requirements of OAR 409-025-0100 to 409-025-0170 for the calendar year 2011.

(c) Beginning January 1, 2011, OHPR shall notify by July 1 all mandatory reporters subject to the reporting requirements of OAR 409-025-0100 to 409-025-0170 for the following calendar year.

Stat. Auth.: ORS 442.466

Stats. Implemented: ORS 442.464 & 442.466

Hist.: OHP 1-2010, f. 2-26-10, cert. ef. 3-1-10; OHP 4-2012, f. 5-23-12, cert. ef. 6-1-12; OHP 5-2012(Temp), f. 5-23-12, cert. ef. 6-1-12 thru 11-15-12

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**Oregon Health Authority,  
Public Health Division  
Chapter 333**

**Rule Caption:** Oregon Farm Direct Nutrition Program.

**Adm. Order No.:** PH 8-2012(Temp)

**Filed with Sec. of State:** 6-11-2012

**Certified to be Effective:** 6-11-12 thru 12-7-12

**Notice Publication Date:**

**Rules Adopted:** 333-052-0041, 333-052-0042

**Rules Amended:** 333-052-0030, 333-052-0040, 333-052-0100

**Subject:** The Oregon Health Authority, Public Health Division is proposing to temporarily amend and adopt rules in OAR chapter 333, division 52 to incorporate the eligibility and benefit requirements of individuals participating in the Oregon Farm Direct Nutrition Program. The addition of these requirements limits potential program liability should an individual dispute benefit distribution.

**Rules Coordinator:** Brittany Sande—(971) 673-1291

## 333-052-0030

### Program Overview

(1) The purpose of the Oregon Farm Direct Nutrition Program (Oregon FDNP) is to:

(a) Provide locally grown, fresh, nutritious, unprepared fruits and vegetables to women, infants over five months of age, and children, who participate in the special supplemental nutrition program for women, infants, and children (WIC) and to low income seniors; and

(b) Expand the awareness and use of farmers' markets and farm stands where consumers can buy directly from the farmer.

(2) The Oregon FDNP is administered by the Oregon Health Authority (Authority) in partnership with the Oregon Department of Agriculture.

Stat. Auth.: ORS 413.500

Stats. Implemented: ORS 413.500

Hist.: PH 10-2006, f. & cert. ef. 6-5-06; PH 7-2008, f. & cert. ef. 4-3-08; PH 8-2012(Temp), f. & cert. ef. 6-11-12 thru 12-7-12

## 333-052-0040

### Definitions

(1) "Adequate Participant Access" means there are authorized farmers sufficient for participant need.

(2) "Agreement" means a written legal document binding the market or farmer and the Authority to designated terms and conditions.

(3) "Authority" means the Oregon Health Authority.

(4) "Authorized" or "authorization" means an eligible farmer or farmers' market has met the selection criteria and signed an agreement with the Authority allowing participation in FDNP, and is not currently disqualified.

(5) "Check" means a negotiable financial instrument by which FDNP benefits are provided to participants.

(6) "CMP" means a civil money penalty.

(7) "Countable" means that an available asset (either income or a resource) is not excluded and may be considered by some programs to determine eligibility.

(8) "Disqualification" means the act of terminating the agreement of an authorized farmers' market, or farmer from the FDNP for noncompliance with program requirements.

(9) "Eligible foods" means fresh, nutritious, unprepared, locally grown fruits and vegetables and culinary herbs for human consumption. Eligible foods may not be processed or prepared beyond their natural state except for usual harvesting and cleaning processes. For example, checks cannot be used for honey, maple syrup, cider, nuts, seeds, plants, eggs, meat, cheese and seafood.

(10) "Farm Direct Nutrition Program" or "FDNP" means the Oregon Farm Direct Nutrition Program (Oregon FDNP), which is comprised of the collective Senior Farm Direct Nutrition Program and WIC Farm Direct

Nutrition Program, regulated by the United States Department of Agriculture, Food and Nutrition Services and administered by the State of Oregon.

(11) "Farmer" means an individual who owns, leases, rents or share-crops land to grow, cultivate or harvest crops on that land.

(12) "Farmers' Market" means a group of five or more farmers who assemble over the course of a year at a defined location for the purpose of selling their eligible produce directly to consumers.

(13) "Farm Stand" means a location at which a farmer sells produce directly to consumers.

(14) "FDNP Participant" or "participant" means a senior participant or a WIC participant receiving FDNP benefits.

(15) "Fine" means a monetary penalty imposed against the farmer for non-compliance of FDNP rules.

(16) "Locally grown" means grown in the state of Oregon or in the following counties of a contiguous state: California — Del Norte, Modoc, Siskiyou; Idaho — Adams, Canyon, Idaho, Owyhee, Payette, Washington; Nevada — Humboldt, Washoe; Washington — Asotin, Benton, Clark, Columbia, Cowlitz, Garfield, Klickitat, Pacific, Skamania, Wahkiakum, Walla Walla.

(17) "Local WIC agency" means the agency or clinic where a WIC participant receives WIC services and benefits.

(18) "Market" means a farmers' market that has a signed agreement with the Authority to participate in the FDNP.

(19) "Market Coordinator" means an individual designated by the farmers' market manager (or market board members) responsible for overseeing the market's participation in the FDNP.

(20) "Market Season" means the time period in which FDNP checks may be transacted as determined by the Authority.

(21) "Senior Farm Direct Nutrition Program (SFDNP)" means the Senior Farmers' Market Nutrition Program funded by the USDA that provides senior participants with checks that can be used to buy eligible foods from an authorized farmer.

(22) "Senior Participant" means an individual who is over 60 years of age, meets all the eligibility components of the program and who receives SFDNP checks.

(23) "Trafficking" means the buying or exchanging of FDNP checks for cash, drugs, firearms or alcohol.

(24) "USDA" means the United States Department of Agriculture.

(25) "Validating" means stamping the FDNP check in the designated box with the farmer identification number using the stamp provided by the Authority.

(26) "Violation" means an activity that is prohibited by OAR 333-052-0030 through 333-052-0090 and classified in 333-052-0080 through 333-052-0130.

(27) "WIC" or "WIC program" means the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) authorized by Section 17 of the Federal Child Nutrition Act of 1966, as amended, 42 U.S.C. § 1786.

(28) "WIC Farm Direct Nutrition Program (WIC FDNP)" means the Farmers' Market Nutrition Program funded by the USDA that provides WIC participants with checks that can be used to buy eligible foods from an authorized farmer.

(29) "WIC participant" means any pregnant, breastfeeding, or postpartum woman, infant, or child who meets all of the eligibility components of the WIC FDNP and receives WIC FDNP checks.

Stat. Auth.: ORS 413.500

Stats. Implemented: ORS 413.500

Hist.: PH 10-2006, f. & cert. ef. 6-5-06; PH 7-2008, f. & cert. ef. 4-3-08; PH 5-2011(Temp), f. & cert. ef. 7-1-11 thru 12-27-11; PH 11-2011, f. & cert. ef. 10-27-11; PH 8-2012(Temp), f. & cert. ef. 6-11-12 thru 12-7-12

## 333-052-0041

### Senior Participant Eligibility and Benefits

(1) An individual is eligible for the Senior Farm Direct Nutrition Program (SFDNP) if the individual meets all of the following eligibility criteria on April 1 of the calendar year in which benefits are sought:

(a) Has countable income less than 135 percent of the Federal Poverty Level as listed in OAR 461-155-0295;

(b) Receives Medicaid or SNAP benefits;

(c) Is homeless or resides in their own home or rental property; and

(d) Is age 60 or older.

(2) SFDNP benefits are limited and benefits will be distributed in an equitable manner but may not be distributed to all individuals who are eligible.

(3) The Authority shall inform eligible seniors each year of the available benefits and how the benefits will be distributed.

# ADMINISTRATIVE RULES

(4) SFDNP benefits are valid from June 1 through October 31 each year.

(5) Lost or stolen SFDNP benefits will not be replaced.

(6) An individual who does not receive a benefit in any given year due to lack of sufficient funding to provide SFDNP benefits to all eligible seniors is not entitled to hearing rights.

Stat. Auth.: ORS 413.500

Stats. Implemented: ORS 413.500

Hist.: PH 8-2012(Temp), f. & cert. ef. 6-11-12 thru 12-7-12

## 333-052-0042

### WIC Participant Eligibility and Benefits

(1) An individual is eligible for WIC Farm Direct Nutrition Program (WIC FDNP) if the individual meets all of the following eligibility criteria on May 1 of the calendar year in which FDNP benefits are distributed:

(a) Is currently receiving benefits under the WIC Program; and

(b) Belongs to any of the eligible WIC categories for the calendar year in which WIC FDNP benefits are distributed.

(2) WIC FDNP benefits are limited and benefits will be distributed in an equitable manner within participating local agencies but may not be distributed to all individuals who are eligible.

(3) The Authority will determine a standard benefit package per eligible individual and per family each year.

(4) WIC FDNP benefits will only be issued to the participant/caretaker in a face-to-face contact from the local agency where WIC benefits are received, and the participant/caretaker must receive a FDNP orientation when receiving checks for the first time in the current year.

(5) WIC FDNP benefits are valid from June 1 through October 31 each year.

(6) Lost or stolen WIC FDNP benefits will not be replaced.

(7) Individuals who are denied WIC FDNP benefits may appeal the denial, but shall not receive WIC FDNP benefits while awaiting the decision.

(8) WIC participants whose WIC FDNP benefits are terminated may appeal the termination of benefits and shall continue to receive WIC FDNP benefits until the hearing official reaches a decision or the expiration of the current FDNP season, whichever occurs first.

Stat. Auth.: ORS 413.500

Stats. Implemented: ORS 413.500

Hist.: PH 8-2012(Temp), f. & cert. ef. 6-11-12 thru 12-7-12

## 333-052-0100

### Oregon Health Authority Responsibilities

The Authority must:

(1) Administer the Oregon Farm Direct Nutrition Program in accordance with 7 CFR 248 (Farmers' Market Nutrition Program) and 7 CFR 249 (Senior Farmers' Market Nutrition Program).

(2) Distribute or facilitate distribution of FDNP checks to participants.

(3) Assure payment to farmers for properly redeemed FDNP checks.

(4) Assure that training is provided to new market managers and farmers who are new to the FDNP.

(5) Assure that "Oregon Farm Direct Nutrition Checks Welcome Here" signs are provided to all authorized farmers.

(6) Monitor authorized farmers and markets for compliance with FDNP rules and agreements, and if necessary, impose sanctions.

Stat. Auth.: ORS 413.500

Stats. Implemented: ORS 413.500

Hist.: PH 10-2006, f. & cert. ef. 6-5-06; PH 7-2008, f. & cert. ef. 4-3-08; PH 8-2012(Temp), f. & cert. ef. 6-11-12 thru 12-7-12

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**Rule Caption:** Clean-up of outdated rules that are no longer needed by the Public Health Division.

**Adm. Order No.:** PH 9-2012

**Filed with Sec. of State:** 6-11-2012

**Certified to be Effective:** 6-11-12

**Notice Publication Date:** 5-1-2012

**Rules Amended:** 333-013-0004

**Rules Repealed:** 333-010-0340, 333-012-0002, 333-012-0003, 333-012-0004, 333-012-0010, 333-012-0035, 333-012-0040, 333-012-0041, 333-012-0043, 333-012-0045, 333-013-0001, 333-013-0100, 333-021-0150, 333-021-0500, 333-021-0600

**Subject:** The Oregon Health Authority, Public Health Division is permanently repealing Oregon Administrative Rules in chapter 333, divisions 10, 12, 13, and 21. Various rules in these divisions are outdated and/or pertain to programs that the Public Health Division no longer administers. In addition to the proposed repeals, OAR 333-

013-0004 is being permanently amended to remove outdated language referencing OARs that have been repealed previously. This rulemaking is being done to clean-up chapter 333 rules and remove outdated language that is no longer needed.

**Rules Coordinator:** Brittany Sande—(971) 673-1291

## 333-013-0004

### Definitions

The term "Blood" as used in ORS 813.010 and 813.160 means any of the following:

(1) "Plasma" means the liquid portion of blood including the clotting factors, prepared by mechanical separation of the liquid from cellular components after the inhibition of the clotting process.

(2) "Serum" means the liquid portion of blood minus the clotting factors, prepared by separation of the liquid from the clot upon completion of the clotting process.

(3) "Whole Blood" means the fluid that circulates through the heart, arteries and veins; composed of cellular and liquid components.

Stat. Auth.: ORS 813.160

Stats. Implemented: ORS 813.010 & 813.160

Hist.: HD 27-1988, f. & cert. ef. 12-7-88; HD 8-1989, f. & cert. ef. 9-21-89; PH 9-2012, f. & cert. ef. 6-11-12

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## Oregon Public Employees Retirement System Chapter 459

**Rule Caption:** Address allocation of administrative expenses based on court rulings.

**Adm. Order No.:** PERS 9-2012

**Filed with Sec. of State:** 5-24-2012

**Certified to be Effective:** 5-24-12

**Notice Publication Date:** 3-1-2012

**Rules Amended:** 459-007-0005

**Subject:** In a recent court case, *Murray v. Public Employees Retirement Bd.*, 235 Or App 262, 230 P3d 993 (2010), the Court of Appeals held that the PERS Board "erred in concluding that the Variable Account was required in 2001 and 2002 to pay a pro rata share of PERS administrative expenses from principal rather than from interest."

The Murray decision requires the Board to change the way administrative expenses of the Variable Annuity Program are paid in years in which the annual variable earnings are insufficient to cover its expenses. When annual variable earnings are insufficient to cover all or a portion of the variable administrative expense, the expense had been charged to each participant on a pro rata basis. Following the Murray decision, any shortfall must be paid from a different source.

The amendments to OAR 459-007-0005 reflect the changes required by the Murray case. The modifications clarify that the Variable Annuity Program administrative expenses will be paid by deducting from earnings on other accounts within the Public Employees Retirement Fund (PERF), if earnings are available. If such earnings are insufficient, those expenses will be paid by deductions from the employers' accounts, as provided in ORS 238.610.

**Rules Coordinator:** Daniel Rivas—(503) 603-7713

## 459-007-0005

### Annual Earnings Crediting

(1) For purposes of this rule, "remaining earnings" means earnings available for distribution to a particular account or reserve after deduction of amounts required or authorized by law for other purposes.

(2) Except as otherwise specified in this division, earnings on all accounts and reserves in the Fund shall be credited as of December 31 of each calendar year in the manner specified in this rule.

(3) Health insurance accounts. All earnings attributable to the Standard Retiree Health Insurance Account (SRHIA), Retiree Health Insurance Premium Account (RHIPA) or Retirement Health Insurance Account (RHIA) shall be credited to the account from which they were derived, less administrative expenses incurred by each account, as provided in ORS 238.410, 238.415 and 238.420, respectively.

(4) Employer lump sum payments. All earnings or losses attributable to the employer lump sum payment accounts established under ORS 238.229 shall be credited to the accounts from which they were derived.

# ADMINISTRATIVE RULES

(5) Member variable accounts. Earnings on the Variable Annuity Account shall first be used to pay a pro rata share of administrative expenses in accordance with ORS 238.260(6). If the annual earnings from the Variable Annuity Account are insufficient to pay for the pro rata share of administrative expenses, those administrative expenses shall be paid from earnings on other accounts within the Public Employees Retirement Fund (PERF), if available. If earnings from those accounts within the PERF are insufficient to pay for the administrative expenses, those expenses shall be paid from employer accounts as required by ORS 238.610. All remaining earnings or losses attributable to the Variable Annuity Account shall be credited to the participants of that account, as provided under 238.260(6) and (7)(b).

(6) Individual Account Program accounts. Earnings on the Individual Account Program accounts shall first be used to pay a pro rata share of administrative expenses in accordance with ORS 238A.350(1). If the Individual Account Program experiences a loss, the loss shall be increased to pay a pro rata share of administrative expenses. All remaining earnings or losses attributable to the Individual Account Program shall be credited to the participant accounts of that program, as provided under 238A.350.

(7) Administrative expenses. Earnings attributable to Tier One regular accounts, the Tier One Rate Guarantee Reserve, Tier Two member regular accounts, judge member regular accounts, the OPSRP Pension Program reserve, employer contribution accounts, the Contingency Reserve, the Benefits-in-Force Reserve and the Capital Preservation Reserve shall first be used to pay the system's remaining administrative expenses under ORS 238.610.

(8) Contingency Reserve.

(a) In any year in which total earnings on the Fund equal or exceed the assumed rate, an amount not exceeding seven and one-half percent of remaining earnings attributable to Tier One regular accounts, the Tier One Rate Guarantee Reserve, Tier Two regular accounts, Judge member regular accounts, the OPSRP Pension Program reserve, the Benefits-in-Force Reserve, employer contribution accounts, the Capital Preservation Reserve and the Contingency Reserve shall be credited to the Contingency Reserve to the level at which the Board determines it is adequately funded for the purposes specified in ORS 238.670(1).

(b) The portion of the Contingency Reserve allowed under ORS 238.670(1)(a) for use in preventing a deficit in the fund due to employer insolvency may only be credited using earnings attributable to employer contribution accounts.

(9) Tier One Member Rate Guarantee Reserve. All remaining earnings attributable to Tier One regular accounts, the Tier One Member Rate Guarantee Reserve, Judge member regular accounts, the Benefits-in-Force Reserve, and the Contingency Reserve may be credited to the Tier One Member Rate Guarantee Reserve established under ORS 238.255(1).

(10) Capital Preservation Reserve. Remaining earnings attributable to the Tier Two member regular accounts, Judge member regular accounts, OPSRP Pension Program reserve, employer contribution accounts, the Benefits-in-Force Reserve, the Contingency Reserve and the Capital Preservation Reserve may be credited from those sources to one or more reserve accounts that may be established under ORS 238.670(3) to offset gains and losses of invested capital.

(11) Tier One regular accounts. All remaining earnings attributable to Tier One regular accounts and the Tier One Rate Guarantee Reserve shall be credited to Tier One member regular accounts at the assumed rate in any year in which the conditions set out in ORS 238.255 have not been met. Crediting under this subsection shall be funded first by all remaining earnings attributable to Tier One regular accounts and the Tier One Rate Guarantee Reserve, then moneys in the Tier One Rate Guarantee Reserve.

(12) Judge member regular accounts. All remaining earnings attributable to Judge member regular accounts shall be credited to all active and inactive Judge member regular accounts at the Judge member rate. Crediting under this subsection shall be funded first by all remaining earnings attributable to the Judge member regular accounts and the Tier One Rate Guarantee Reserve, then moneys in the Tier One Rate Guarantee Reserve.

(13) Tier Two member regular accounts. All remaining earnings or losses attributable to Tier Two member regular accounts shall be credited to all active and inactive Tier Two member regular accounts under ORS 238.250.

(14) OPSRP Pension Program Reserve. Remaining earnings attributable to the OPSRP Pension Program Reserve, the Contingency Reserve, and the Capital Preservation Reserve may be used to credit the OPSRP Pension Program reserve.

(15) Benefits-in-Force Reserve. Remaining earnings attributable to the Benefits-in-Force Reserve, the Contingency Reserve, the Capital Preservation Reserve and employer contribution accounts, in that order, shall be used, to the extent available, to credit the Benefits-in-Force Reserve with earnings up to the assumed rate for that calendar year in accordance with ORS 238.670(2).

(16) Employer contribution accounts. All remaining earnings attributable to employer contribution accounts shall be credited to employer contribution accounts.

(17) Remaining earnings. Any remaining earnings shall be credited to accounts and reserves in the Fund at the Board's discretion.

Stat. Auth.: ORS 238.650, 238A.450  
Stats. Implemented: ORS 238, 238A.350  
Hist.: PER 8-2004, f. & cert. ef. 4-15-04; PER 18-2005(Temp), f. & cert. ef. 10-26-05 thru 4-19-06; PER 1-2006, f. & cert. ef. 2-1-06; PER 4-2009, f. & cert. ef. 4-6-09; PER 9-2012, f. & cert. ef. 5-24-12

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**Rule Caption:** Establish Roth 457 account within Oregon Savings Growth Plan as approved by HB 2113 (2011).

**Adm. Order No.:** PERS 10-2012

**Filed with Sec. of State:** 5-24-2012

**Certified to be Effective:** 5-24-12

**Notice Publication Date:** 3-1-2012

**Rules Adopted:** 459-050-0076

**Rules Amended:** 459-050-0000, 459-050-0001, 459-050-0005, 459-050-0030, 459-050-0050, 459-050-0060, 459-050-0070, 459-050-0075, 459-050-0077, 459-050-0080, 459-050-0090, 459-050-0120, 459-050-0150, 459-050-0200, 459-050-0210, 459-050-0230, 459-050-0250, 459-050-0300

**Subject:** The federal Small Business Jobs Act of 2010 added a qualified Roth contribution program option to governmental 457 plans. The 2011 Oregon Legislative Assembly passed House Bill 2113 (chapter 722, Oregon Laws 2011), which became effective on August 5, 2011. The bill amended the statutes governing the Oregon Savings Growth Plan (OSGP) to allow that plan to offer the Roth account program and conform to the change in federal law. This rulemaking is to make the necessary changes and edits to division 50 of the OSGP administrative rule to implement the Roth 457 account option as authorized by HB 2113.

**Rules Coordinator:** Daniel Rivas—(503) 603-7713

## 459-050-0000

### Purpose and Authority

(1) The Deferred Compensation Program is established within PERS for the administration of deferred compensation plans under ORS 243.401 to 243.507 pursuant to Section 457 and Section 402A of the Internal Revenue Code.

(2) In accordance with ORS 243.435, the Deferred Compensation Program shall be administered by the Public Employees Retirement Board (Board), and under the policies established by the Board. Such policies are limited to all technical and administrative aspects of the program management, but may not include investment policy for and the investment of the Deferred Compensation Fund.

(3) In accordance with ORS 243.421, Oregon Investment Council (OIC) shall establish and maintain an investment program and policies for the state deferred compensation moneys consistent with the requirement of ORS 293.701 to 293.820, and to the extent practicable the needs of the Deferred Compensation Program.

(4) Because the duties and powers of the Board and the OIC with respect to the Deferred Compensation Program are complementary, there is a need for coordination and cooperation between the two agencies.

Stat. Auth.: ORS 243.470  
Stats. Implemented: ORS 243.401 - 243.507  
Hist.: PER 2-1995, f. 10-13-95, cert. ef. 11-1-95; PER 5-2000, f. & cert. ef. 8-11-00; PER 10-2012, f. & cert. ef. 5-24-12

## 459-050-0001

### Definitions

The words and phrases used in this Division have the same meaning given them in ORS 243.401 — 243.507 and ORS 293.701 — 293.820. Specific and additional terms are defined as follows unless the context requires otherwise.

(1) "Advisory Committee" means the committee established pursuant to ORS 243.505 and appointed by the Board.

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(2) "Alternate Payee" shall have the same meaning as provided in ORS 243.507(9)(a).

(3) "Alternate Payee Account" means a separate account created under ORS 243.507 in the name of an alternate payee pursuant to a court order.

(4) "Alternate Payee's Award" is the portion of a participant's Deferred Compensation Account, Designated Roth Account, or a combination of both, awarded to an alternate payee by a court order, and includes the creation of separate account(s) in the fund in the name of the alternate payee.

(5) "Alternate Payee Release" means a written statement signed by the alternate payee and received by the Deferred Compensation Program. An alternate payee release may pertain to any of the matters set forth in subsections (5)(a) through (5)(c) of this rule, may authorize the release of information, and direct the Deferred Compensation Program to send information to a named person at a specified address.

(a) Pertaining to the alternate payee's interest in the participant's Deferred Compensation Account and the Designated Roth Account;

(b) Pertaining to the alternate payee's account(s) and distribution(s) if separate account(s) have been created in the name of the alternate payee; or

(c) Pertaining to award information contained in any draft or final court order in regard to the alternate payee on record with the Deferred Compensation Program.

(6) "Board" shall have the same meaning as provided in ORS 243.401(1).

(7) "Committee" shall have the same meaning as provided in section (1) of this rule.

(8) "Court Order" means a court decree or judgment of dissolution of marriage, separation, or annulment, or the terms of any court order or court approved marital property settlement agreement, incident to any court decree or judgment of dissolution of marriage, separation, or annulment.

(9) "Deferred Compensation Account" means the participant's individual account in the Deferred Compensation Plan as defined in ORS 243.401(5) that is made up of pre-tax employee contributions and earnings.

(10) "Deferred Compensation Advisory Committee" shall have the same meaning as provided in section (1) of this rule.

(11) "Deferred Compensation Contract" shall have the same meaning as provided in ORS 243.401(3).

(12) "Deferred Compensation Investment Program" shall have the same meaning as provided in ORS 243.401(4).

(13) "Deferred Compensation Manager" means the person appointed by the Director to serve as the Manager of the Deferred Compensation Program of the Public Employees Retirement System.

(14) "Deferred Compensation Plan" shall have the same meaning as provided in ORS 243.401(5).

(15) "Deferred Compensation Program" means a program established by the State of Oregon and administered under policies established by the Public Employees Retirement Board that has as its purposes the deferral of compensation to eligible employees.

(16) "Designated Roth Account" means a participant's individual account in the Deferred Compensation Program that is made up of Designated Roth Contributions, eligible rollovers and earnings.

(17) "Designated Roth Contribution" means any elective deferral which would otherwise be excludable from gross income of an employee under section 457(b) of the Internal Revenue Code and the employee designates as not being so excludable under section 402A of the Internal Revenue Code.

(18) "Disclosure Statement" means the statement, required by ORS 243.450, that describes the probable income and probable safety of money deferred.

(19) "Domestic Relations Order" means a judgment, decree or court order made pursuant to a state's domestic relations law that creates or recognizes the existence of an alternate payee's right, or assigns to an alternate payee the right, to receive all or a portion of a participant's Deferred Compensation Account, Designated Roth Account, or a combination of both, or benefit payments.

(20) "Draft Court Order" means an Order as described in section (8) of this rule which contains proposed language for the division of a Deferred Compensation Account, Designated Roth Account, or a combination of both, and has been prepared but not approved or signed by the court or has not been filed with the court clerk.

(21) "Eligible Employee" shall have the same meaning as ORS 243.401(6) for an employee of the state, or as provided in the plan description of a local government deferred compensation plan, and shall exclude persons who are inmates of any prison or detention facility operated by the

state or local government, and persons who are employed by contract with a private sector business.

(22) "Enrollment Form" means a contract between the eligible employee and the plan sponsor which defines the circumstance, responsibilities and liabilities of both parties relating to the participation of the employee in the Deferred Compensation Program.

(23) "Estimate" means a projection of distributions prepared by staff. An estimate is not a guarantee or promise of actual distributions that eventually may become due and payable.

(24) "Final Court Order" means a court order or judgment that has been signed by a judge and shows the stamp of the court clerk or trial court administrator, indicating the order is a certified copy of the original record on file with the court.

(25) "Fund" shall have the same meaning as provided in ORS 243.401(7).

(26) "Local Government" shall have the same meaning as provided in ORS 243.401(8).

(27) "Local Government Deferred Compensation Contract" means a written contract between a local government and an eligible employee of that local government that provides for deferral of income for service currently rendered, as defined in the established policy of the local government.

(28) "Local Government Deferred Compensation Plan" shall have the same meaning as provided in ORS 243.401(9).

(29) "Manager" shall have the same meaning as provided in section (13) of this rule.

(30) "OIC" means the Oregon Investment Council created by ORS 293.706.

(31) "Participant" means a person defined in either ORS 243.401(10) or 243.401(13) participating in one or more deferred compensation plans under ORS 243.401 to 243.507, either through current or past deferrals or compensation.

(32) "Participant's Release" means a written statement signed by a deferred compensation plan participant and received by the Deferred Compensation Program. A participant's release may pertain to any of the matters set forth in subsections (a) through (c) of this section, may authorize the release of information, and direct the Deferred Compensation Program to send information to a named person at a specified address.

(a) Pertaining to the participant's Deferred Compensation Account and Designated Roth Account;

(b) Pertaining to the participant's distribution(s); or

(c) Pertaining to award information contained in any draft or final court order in regard to the participant on record with the Deferred Compensation Program.

(33) "Participating Local Government" shall have the same meaning as provided in ORS 243.401(11).

(34) "Payroll Disbursing Officer" means:

(a) The person authorized by the state to disburse moneys in payment of salaries and wages of employees of a state agency; or

(b) The person authorized by a local government to disburse money in payment of salaries and wages of employees of that local government.

(35) "PERS" shall have the same meaning as provided in ORS 243.401(14).

(36) "Plan Sponsor" means a public employer that establishes an eligible deferred compensation plan as defined in Section 457 of the Internal Revenue Code and which enters into an agreement with PERS to participate in the Deferred Compensation Program.

(37) "Program" shall have the same meaning as provided in section (15) of this rule.

(38) "Public Employees Retirement Board" shall have the same meaning as provided in ORS 243.401(1).

(39) "Public Employer" means the state or a local government as defined in ORS 243.401(8).

(40) "Qualified Domestic Relations Order" or "QDRO" means a domestic relations order that has been reviewed and determined to be qualified by the Deferred Compensation Program Manager.

(41) "Solicitation of Offers from Vendors" means a notice to potential vendors of investment services prepared by the OIC informing the potential vendor of the needs of the Deferred Compensation Investment Program and notice that the OIC will accept offers from qualified vendors to sign a contract with the State of Oregon providing for the vendors' acceptance of deposits under the terms and conditions of the contract.

(42) "Staff" means any employee of the Public Employees Retirement System, who has been appointed in accordance with ORS 238.645.

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(43) "State Agency" means every state officer, board, commission, department or other activity of state government.

(44) "State Deferred Compensation Plan" shall have the same meaning as provided in ORS 243.401(12).

(45) "Vendor" means an entity offering investment or other service related to investment of deferred compensation pursuant to a contract with the State of Oregon.

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

Stat. Auth: ORS 243.470

Stats. Implemented: ORS 243.401 - 243.507

Hist.: PER 2-1995, f. 10-13-95, cert. ef. 11-1-95; PERS 5-2000, f. & cert. ef. 8-11-00, Renumbered from 459-050-0010; PERS 13-2001(Temp), f. 12-14-01, cert. ef. 1-1-02 thru 6-28-02; PERS 9-2002, f. & cert. ef. 6-13-02; PERS 10-2012, f. & cert. ef. 5-24-12

## 459-050-0005

### Policy and Goals of Deferred Compensation Program

The Deferred Compensation Program shall be administered to provide the maximum opportunity for eligible employees to participate in a deferred compensation plan which allows participants to defer a portion of their compensation until a time when the participant seeks to withdraw the funds as a supplement to the participant's other retirement and pension benefits. To this end, the Program shall:

(1) Establish and administer an effective and efficient program of administration, either directly, or by contract, that provides for billing service, participant enrollment services, participant accounts, data processing, record keeping and other related services, and which gives due consideration not only to the services provided but also the cost to the participants;

(2) Provide eligible employees, before their participation in a deferred compensation plan under the Program, with a written disclosure statement that contains, for that plan, all of the relevant information, including the probable income and probable safety of the moneys deferred;

(3) Offer general education to participants on how to make personally-based investment choices based on their preferences of the investment options available through the investment program;

(4) Permit eligible employees who participate in a deferred compensation plan to make changes, when permitted by law and the deferred compensation investment program, to withdraw the deferred compensation and any earnings on deposit, and, when eligible under a plan, to select and transfer those funds to other accounts or annuity instruments;

(5) Identify the expressed desires of the diverse group of eligible employees who are deferring compensation until retirement, consistent with the statutory requirements of the Program and communicate those investment needs to the OIC; and

(6) Provide cooperation with and assistance to the OIC and staff of the State Treasurer in structuring, monitoring, and revising an investment program that reasonably meets the needs of eligible employees.

Stat. Auth: ORS 243.470

Stats. Implemented: ORS 243.401 - 243.507

Hist.: PER 2-1995, f. 10-13-95, cert. ef. 11-1-95; PERS 5-2000, f. & cert. ef. 8-11-00; PERS 10-2012, f. & cert. ef. 5-24-12

## 459-050-0030

### Deferred Compensation Administrator

(1) The Deferred Compensation Manager (Manager) shall administer the Deferred Compensation Program (Program) established pursuant to ORS 243.401 to 243.507 consistent with the laws and administrative rules applicable thereto and on the best possible basis with relation to both the welfare of eligible employees and the State of Oregon. To this end, the Manager may contract for services necessary to the administration of the Program, either independently or in a joint agreement with the OIC or the Oregon State Treasurer.

(2) The Manager shall prepare and maintain standard forms necessary to the administration of the Program.

(3) The Manager shall provide forms and procedures for promptly communicating participating employee requests for deferral of compensation to the appropriate public officers.

(4) The Manager shall provide forms and procedures for promptly communicating employees' requests for types of investment or deposit of funds to the investments record keeper for each investment option selected.

(5) The Manager shall provide for settlement agreement with employees participating in the deferred compensation program that provides for distributions to those employees or their designated beneficiaries, upon conditions which are consistent with maintaining the tax exempt status of the Program.

(6) The Manager shall approve or deny all applications for a financial hardship distribution as provided in OAR 459-050-0150.

(7) The Manager shall select members of the Financial Hardship Committee established under OAR 459-050-0040.

(8) The Manager shall obtain disclosure statements concerning the probable safety and probable return of investment of deferred compensation funds for distribution to participants. These disclosure statements shall be given to all employees expressing interest in participating in the deferred compensation program or in changing investments under the Program and shall include, at a minimum:

(a) The probable income and probable safety of the monies deferred, based upon the historical performance of the investment option; and

(b) The fees and costs associated with each investment option or plan, including related administrative costs, insofar as the information is known.

(9) The Manager shall provide with the disclosure statements a general comparison of investments under the Program, using standard units of comparison, and the following disclaimer:

"Statements about the relative risk and returns of investment options do not represent predictions of how the investments will perform in the future, but rather provide only a general description of the current investment and how it has performed in the past. The disclosure statement and other information provided by the state is not intended to provide individualized investment counseling, but only general information. Employees who participate in the Deferred Compensation Program will be entitled only to the funds that are lawfully credited to their Deferred Compensation and Designated Roth Accounts when those funds are distributed. Participants assume the risk that, at time of such distribution, the deferred compensation investments related to their Deferred Compensation and Designated Roth Accounts may have decreased in value or become valueless."

(10) The Manager shall undertake a continuing agenda of educating participants regarding the goals and objectives of the Program. As part of this education, the Manager shall prepare and distribute to eligible employees a written general description of available investment options, including their expected relative risks and returns. This document shall also include a general description of disclosure statements and their purpose in assisting employees in evaluating deferred compensation investments.

(11) The Manager shall assure that there are regular audits of the Program, consistent with generally accepted accounting principles.

(12) The Manager shall monitor the performance of all deferred compensation investment options offered to eligible employees under the Program.

(13) The Manager shall obtain information concerning pending legislation and such advice as appears necessary to comply with state and federal laws, and administrative rules or regulations applicable to the administration of the Program.

(14) Unless excused by the Director of the Public Employees Retirement System, the Manager shall attend all meetings of the Board and of the Advisory Committee. The Manager shall supply the Board and the Advisory Committee with such information and assistance as they may request.

(15) The Manager shall prepare an annual report to the Board and the Advisory Committee concerning:

(a) The effectiveness of and any substantial problems with the administration of the Program, including but not limited to the method of accepting deposits from the payroll disbursing officer, preparing disclosure forms, making investments and deposits of funds as consistent with the request of participants as possible, maintaining accounts and records of deposits and the costs and fees associated with the administration of individual plans, communications with and education of participants, participant elections of investment options and changes in their elections, participants' elections of payment method upon withdrawal from service or retirement, and problems with participants' creditors;

(b) The status of state and federal legislation and laws that may affect the program or require action by the Board;

(c) The performance of all deferred compensation investment options; and

(d) The results of the latest reported audit(s) of the deferred compensation plan(s), and the Deferred Compensation Program.

Stat. Auth: ORS 243.470

Stats. Implemented: ORS 243.401 - 243.507

Hist.: PERS 2-1995, f. 10-13-95, cert. ef. 11-1-95; PERS 5-2000, f. & cert. ef. 8-11-00; PERS 10-2012, f. & cert. ef. 5-24-12

## 459-050-0050

### Eligibility and Enrollment

The purpose of this rule is to establish eligibility criteria and the process for an eligible employee to enroll in the Deferred Compensation Plan established in accordance with section 457 of the Internal Revenue Code and ORS chapter 243.

(1) Eligible employee. Eligible employee shall have the same meaning as in OAR 459-050-0001, and as defined by section 457 of the Internal Revenue Code.

(2) Application for enrollment. Subject to the requirements of subsections (a) through (c) of this section, an eligible employee may enroll to par-

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participate in the Deferred Compensation Program by entering into a written agreement as specified herein with the plan sponsor. The written agreement must specify that a portion of the eligible employee's future compensation will be reduced each month, the amount of the reduction, and that the amount of the reduction will be contributed to account(s) established for the employee in the Deferred Compensation Plan.

(a) An eligible employee may enter into an agreement to participate in the plan on or before the first day of employment or anytime while employed; provided, however, that the requirements of subsection (b) of this section must be satisfied.

(b) In order for an eligible employee to be enrolled, the following forms provided by the Deferred Compensation Program must be properly completed and filed with the Deferred Compensation Program:

(A) An Enrollment Form, as defined in OAR 459-050-0001, and which is also an eligible employee's written acknowledgement that the employee understands the terms of the Enrollment Form and is an eligible employee's election of investment option preferences; and

(B) A Designation of Beneficiary form, as provided in OAR 459-050-0060.

(c) If the forms are incomplete, do not comply with plan provisions in any manner whatsoever, or the Plan is unable to process the application, then staff will notify the eligible employee within 30 calendar days from the date the enrollment forms are received with the reasons the Deferred Compensation Program cannot accept the enrollment as submitted.

(3) Deferral effective date. The Deferred Compensation Program must receive an application for enrollment and be able to determine that the application is complete and may be processed no later than the 25th day of any calendar month for salary reduction of future earnings to begin from compensation paid for services performed during the calendar month following receipt of enrollment.

(4) Investment option preference(s). All or any portion of a participant's account may be, but is not be required to be, invested by the plan sponsor in the investment options designated by the participant. The plan sponsor shall have absolute and uncontrolled discretion with respect to the option or options in which the account shall be invested.

(5) Disclosure statement. Before the deferral of any part of an eligible employee's salary, the employee shall be provided information about the investment options including, but not limited to, the probable income and safety of the moneys deferred. Statements about the relative risk and returns of investment options do not represent predictions of how the investments will perform in the future, but rather provide only a general description of the current investment and how it has performed in the past. The Deferred Compensation Program does not provide investment advice, fund analysis or research. Investment options are not guaranteed nor FDIC insured.

(6) Deferral amount. A participant's salary shall be reduced each pay period in an amount or percentage specified by the participant for the purpose of contribution to the participant's account(s) in the Deferred Compensation Program. The amount of the salary reduction may not be less than the minimum per month established by the plan sponsor and may not exceed the maximum applicable allowable contribution to a Deferred Compensation Plan as defined in section 457(b)(2) of the Internal Revenue Code.

(a) A new participant who enrolls after the first pay period in a calendar year may elect to defer the maximum allowable contribution for the year from future compensation for the remainder of the year.

(b) The participant's maximum deferral limit is determined without regard to amounts rolled over from an eligible retirement plan to the participant's Deferred Compensation account.

Stat. Auth: ORS 243.470

Stats. Implemented: ORS 243.401 - 243.507

Hist.: PERS 9-2002, f. & cert. ef. 6-13-02; PERS 10-2012, f. & cert. ef. 5-24-12

### 459-050-0060

#### OSGP Designation of Beneficiary

The purpose of this rule is to establish the criteria and process that must be used to designate a beneficiary. The provisions in this rule apply to participants, a participant's surviving beneficiaries, alternate payees and an alternate payee's surviving beneficiaries.

(1) Definitions. The following definitions apply for the purpose of this rule:

(a) "Administrator" means the person appointed by a probate court to handle the distribution of property of someone who has died without a will, or with a will that fails to name someone to carry out this task.

(b) "Conservator" means the person who has been appointed by a court to manage the property and financial affairs of an incapacitated person.

(c) "Executor" means the person named in a will to handle the property of someone who has died. The executor must collect and manage the property, pay debts and taxes, and distribute the remaining assets as specified in the will. In addition, the executor handles any probate court. Executors are also called personal representatives.

(d) "Personal Representative" means the person named in a will to handle the property of someone who has died. Personal representatives are also called executors.

(2) Designation of Beneficiary. When a participant in the Deferred Compensation Program dies, the benefit of the participant's account shall be paid to the beneficiaries designated by the participant. For purposes of this rule, a participant may designate any of the following as a primary or contingent beneficiary:

(a) Any natural person(s);

(b) The personal representative or executor of the estate of the participant;

(c) A charity or other non-profit organization; or

(d) A trust that is valid under Oregon state law.

(A) If a living trust is designated, the trust must be legally in existence before the participant makes the designation.

(B) If a designated trust fails to satisfy the requirements in OAR 459-050-0300(1)(c)(B), payment to the trust shall be made as provided in OAR 459-050-0300(11).

(3) Surviving beneficiary or alternate payee. Any surviving beneficiary designated under section (2) of this rule or an alternate payee may designate a beneficiary in the same manner as a participant.

(4) Power of attorney. The agent shall submit a copy of the Power of Attorney document with the filing of the designation of beneficiary form. The Deferred Compensation Program may, but is not required to, accept a beneficiary designation made by an agent or attorney-in-fact appointed under a Power of Attorney document. If the Deferred Compensation Program is satisfied that a Power of Attorney document is valid, has not been revoked, and empowers the agent or attorney-in-fact to designate a beneficiary, the program shall accept a beneficiary designation made by the agent or attorney-in-fact appointed under the Power of Attorney document.

(5) Conservator. The Deferred Compensation Program shall accept a beneficiary designation made by a conservator for the participant provided that the conservator submit a certified copy of the letters of conservatorship or other court order appointing a conservator with the designation of beneficiary form.

(6) Effective date of designation of beneficiary. A designation of beneficiary is not effective until a properly completed designation on a form supplied by the Deferred Compensation Program is filed with the Deferred Compensation Program. In the event a designation of beneficiary is incomplete staff will provide notification within 30 days explaining why the form is incomplete.

(7) Revocation of designation of beneficiary. A participant, alternate payee or surviving beneficiary may revoke any and all previous beneficiary designations by filing a new designation on a properly completed form supplied by the Deferred Compensation Program. This designation must be in accordance with section (2) of this rule.

(8) Dissolution of marriage. A participant's designation of beneficiary may be revoked or nullified by a decree of divorce, decree of annulment, or other similar circumstance effective upon the entry of a judgment that revokes the designation of the beneficiary.

(9) No Designated Beneficiary. If the designated primary and contingent beneficiaries on file with the Deferred Compensation Program have predeceased the deceased participant, surviving beneficiary, or alternate payee who made the designation, or if the program is otherwise unable to administer the designation, the Deferred Compensation Program shall distribute the benefit of the deceased's account to the executor, personal representative, or administrator of the deceased's estate.

(a) If the program is unable to locate the designated beneficiaries or the executor, personal representative, or administrator of the estate by December 31 of the calendar year following the participant's death, the amount in the deceased's account on that date shall be credited to the Deferred Compensation Fund. The amount credited may be used for the payment of administrative expenses of the Deferred Compensation Program.

(b) If the designated beneficiaries or the executor, personal representative, or administrator of the estate is later located or other future successful claim is filed, payment will be made in an amount not to exceed the balance in the deceased's account credited to the Deferred Compensation Fund in subsection (a) of this section.

Stat. Auth: ORS 243.470

Stats. Implemented: ORS 243.401 - 243.507

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Hist.: PERS 6-2002, f. & cert. ef. 5-24-02; PERS 6-2006, f. & cert. ef. 4-5-06; PERS 10-2012, f. & cert. ef. 5-24-12

## 459-050-0070

### Catch-Up Programs

The purpose of this rule is to establish the criteria and process to allow an eligible employee to contribute additional amounts, in excess of the regular applicable maximum allowable contributions, to the eligible employee's account.

(1) Except as provided in subsections (a) and (b) of this section, for purposes of this rule, "normal retirement age" shall be the normal retirement age established in the plan sponsor's retirement plan.

(a) "Normal retirement age" for members of the Public Employees Retirement System shall be as provided in ORS 238.005, 238.280(3), 238A.160, or 238.535.

(b) If an eligible employee continues to work beyond normal retirement age, "normal retirement age" shall be that date or age designated by the eligible employee but may not be later than 70-1/2 years of age.

(2) 50-Plus Catch-Up Program. Pursuant to the conditions of this rule, eligible employees who are 50 years of age and older may elect to contribute an additional amount under section 414(v) of the Internal Revenue Code in excess of the maximum regular contribution allowed.

(a) Conditions for enrollment: An eligible employee must be 50 years of age or older on December 31 of the calendar year in which the eligible employee begins to participate in the 50-Plus Catch-Up Program.

(A) An eligible employee may participate in the 50-Plus Catch-Up Program during years either before or after participation in the 3-Year Catch-Up Program, but may not participate in both programs during the same calendar year.

(B) An eligible employee may participate in the 50-Plus Catch-Up Program during the calendar year containing the employee's retirement date.

(b) Application for enrollment. An eligible employee choosing to participate must enroll by entering into a written agreement with the plan sponsor. The written agreement must specify the amount of the additional annual deferral, including whether any portion of the additional deferral should be a Designated Roth Contribution, and that the additional deferral will be divided equally by the available months for the calendar year, and that the amount is in addition to the eligible employee's regular maximum deferral.

(A) An eligible employee may enter into a written agreement to participate in the 50-Plus Catch-Up Program on or before the first day of employment or anytime while employed.

(B) A properly completed 50-Plus Catch-Up Program enrollment form provided by the Deferred Compensation Program must be filed with and approved by the Deferred Compensation Program.

(C) If the form is incomplete or does not comply with 50-Plus Catch-Up Program conditions of enrollment, then the Deferred Compensation Program will notify the eligible employee within 30 calendar days from the date the enrollment form is received of the reasons the enrollment cannot be accepted.

(c) 50-Plus Catch-Up Program deferral effective date. 50-Plus Catch-Up Program contributions may be deferred for any calendar month by salary reduction only if an agreement providing for the deferral has been entered into before the first day of the month in which the compensation is paid or made available.

(d) Additional deferral amounts. The additional deferral may be an amount elected by an eligible employee, but may not exceed the maximum additional deferral amount allowed under section 414(v) of the Internal Revenue Code, 26 USC 414(v). An eligible employee may change the amount of additional contributions deferred within the maximum additional deferral amount allowed. Changes may be made at any time on forms or by other approved methods prescribed by the Deferred Compensation Program. Additional contributions may be deferred for any calendar month by salary reduction only if an agreement providing for the deferral has been entered into before the first day of the month in which the compensation is paid or made available.

(e) Cancellation of Participation in the 50-Plus Catch-Up Program. An eligible employee may cancel participation in the 50-Plus Catch-Up Program at any time on forms or by other approved methods prescribed by the Deferred Compensation Program. The cancellation will be effective for any calendar month only if an agreement providing for the cancellation has been entered into before the first day of the month in which the compensation is paid or made available. An eligible employee who has cancelled participation may later re-apply to begin participation in the 50-Plus Catch-Up Program.

(3) 3-Year Catch-Up Program. An eligible employee may elect to contribute an additional amount under section 457 of the Internal Revenue Code, in excess of the maximum regular contribution allowed, for one or more of the three consecutive calendar years of employment before attaining normal retirement age, if in previous years the eligible employee did not contribute the maximum regular contribution amount.

(a) Conditions for enrollment. The earliest date to begin participation in the 3-Year Catch-Up Program is in the three calendar years immediately preceding the year in which an eligible employee reaches normal retirement age.

(A) Contributions over the maximum allowable regular contribution limit are permitted only to the extent of the unused portions of the maximum allowable regular contribution for previous calendar years during which the eligible employee contributed less than the maximum allowable regular contribution or did not make contributions to the Deferred Compensation Program.

(B) Calendar years during which contributions were made under the 50-Plus Catch-Up Program may not be included in the calculation to determine the maximum allowable contribution under the 3-Year Catch-Up Program.

(C) An eligible employee may not participate in the 3-Year Catch-Up Program and the 50-Plus Catch-Up Program during the same calendar year.

(D) An eligible employee must designate a proposed retirement date upon application. The designated proposed retirement date shall be used for the purpose of determining the catch-up period only. The catch-up period so determined may not include the year of the designated proposed retirement date. An eligible employee who retires during the catch-up period may contribute the maximum allowable amount for the year of the employee's retirement.

(E) Pursuant to section 457(b) of the Internal Revenue Code, an eligible employee who is 70-1/2 years of age or older may not participate in the 3-Year Catch-Up Program.

(F) An eligible employee may participate only once in the 3-Year Catch-Up Program, regardless of whether participation in the 3-Year Catch-Up Program is for less than three calendar years or whether the eligible employee participates in an eligible plan after retirement.

(b) Application for enrollment. An eligible employee may participate in the 3-Year Catch-Up Program by entering into a written agreement with the plan sponsor. The written agreement must specify the eligible employee's designated proposed retirement date, the month in which to begin the 3-Year Catch-Up Program contributions and the number of years the eligible employee plans to participate in the 3-Year Catch-Up Program.

(A) An eligible employee may enter into a written agreement to participate in the 3-Year Catch-Up Program at any time while employed.

(B) A properly completed 3-Year Catch-Up Program enrollment form provided by the Deferred Compensation Program must be filed with and approved by the Deferred Compensation Program. Wage or salary information must be submitted for previous calendar years during which an eligible employee either did not participate in the Deferred Compensation Program or did not contribute the maximum regular contribution amount. An eligible employee must submit:

(i) Legible copies of W-2 Wage and Tax Statement forms for each relevant calendar or tax year; or

(ii) Legible copies of final pay stubs showing gross and taxable salary for each relevant calendar year.

(C) If the application for enrollment is incomplete, if wage or salary information is incomplete or illegible, or if the application does not comply with the 3-Year Catch-Up Program conditions of enrollment, then the Deferred Compensation Program will notify the eligible employee within 30 calendar days from the date the enrollment documents are received of the reasons the Deferred Compensation Program cannot accept the enrollment.

(c) 3-Year Catch-Up Program deferral effective date. 3-Year Catch-Up Program contributions may be deferred for any calendar month by salary reduction only if an agreement providing for the deferral has been entered into before the first day of the month in which the compensation is paid or made available.

(d) Additional Deferral Amount. After receipt of a properly completed 3-Year Catch-Up Program enrollment form and required wage or salary information, the Deferred Compensation Program will notify the eligible employee of the maximum amount of additional contributions that may be deferred.

(A) The amount of the 3-Year Catch-Up Program salary reduction may not be less than the minimum additional contribution amount estab-



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lished by the plan sponsor and may not exceed the maximum allowable contribution under section 457(b)(3) of the Internal Revenue Code.

(B) An eligible employee may change the amount of additional contributions deferred within the minimum and maximum additional deferral amounts allowed. Changes may be made at any time on forms or by other approved methods prescribed by the Deferred Compensation Program and will be effective for any calendar month only if an agreement providing for the deferral has been entered into before the first day of the month in which the compensation is paid or made available.

(e) Cancellation of Participation in the 3-Year Catch-Up Program. An eligible employee may cancel participation in the 3-Year Catch-Up Program at any time on forms or by other approved methods prescribed by the Deferred Compensation Program. The cancellation will be effective for any calendar month only if an agreement providing for the cancellation has been entered into before the first day of the month in which the compensation is paid or made available. An election to cancel participation is irrevocable.

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

Stat. Auth.: ORS 243.470

Stats. Implemented: ORS 243.401 - 243.507

Hist.: PERS 12-2002, f. & cert. ef. 7-17-02; PERS 28-2004, f. & cert. ef. 11-23-04; PERS 20-2005, f. 11-1-05, cert. ef. 11-4-05; PERS 3-2007, f. & cert. ef. 1-23-07; PERS 10-2012, f. & cert. ef. 5-24-12

## 459-050-0075

### Distributions During Employment

The purpose of this rule is to describe the types of distributions available to a participant who has not had a severance of employment. Distributions made while a participant is still employed are in-service distributions.

(1) De minimis distribution. A de minimis distribution is an in-service distribution of the entire balance of a small account before the date a participant has a severance of employment. A de minimis distribution may be made if all of the following conditions are satisfied:

(a) No prior de minimis distribution was made to the participant;

(b) The total balance of the participant's account(s) within the Deferred Compensation Program do(es) not exceed the limitations in the Internal Revenue Code Section (IRC) 457(e)(9)(A), which is \$5,000;

(c) Participant has not made any contributions to the Deferred Compensation Program in the two-year period before the date of distribution; and

(d) Participant has submitted an application for a de minimis distribution on forms provided by, or other methods approved by the Deferred Compensation Program. No distribution will be paid unless a complete application is filed with, and approved by, the Deferred Compensation Program.

(2) Unforeseeable emergency withdrawal. An unforeseeable emergency withdrawal is an in-service distribution made to a participant due to an unforeseeable emergency. This withdrawal may be made before the date a participant has a severance of employment and as defined in OAR 459-050-0150. A participant must apply for an unforeseeable emergency withdrawal using forms provided by, or other methods approved by, the Deferred Compensation Program as provided for in OAR 459-050-0150(4).

(3) Military distribution. A participant is treated as having been severed from employment during any period the participant is performing service in the uniformed services while on active duty for a period of more than 30 days for the purposes of the limitation on in-service distributions. For purposes of this rule, "uniformed services" has the same meaning as given in OAR 459-050-0072. This section applies to distributions made on or after January 1, 2009.

(4) Trustee-to-Trustee Transfers. A Trustee-to-Trustee Transfer for the purpose of purchasing permissive service credit as described in Code Section 415(n) or a Trustee-to-Trustee Transfer that meets the requirements of 26 CFR 1.457.10(b)(4) may be made while a participant is still employed, except no Designated Roth Account balance may be transferred for the purpose of purchasing permissive service credit as described in Code Section 415(n).

(5) Funds available for in-service distribution. Funds contributed to the Deferred Compensation Program, and earnings on those contributions may be distributed in a de minimis distribution or unforeseeable emergency withdrawal. Any funds directly transferred or rolled over to the Deferred Compensation Program from any plan other than an IRC 457 deferred compensation plan may not be distributed for a de minimis distribution or an unforeseeable emergency withdrawal.

(6) Prohibitions on elective deferrals after an in-service distribution. A participant who receives a de minimis distribution, an unforeseeable emergency withdrawal, or a military distribution may not make elective

deferrals and employee contributions to the Deferred Compensation Program for a period of six consecutive months from the date of distribution.

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

Stat. Auth.: ORS 243.470

Stats. Implemented: ORS 243.401 - 243.507

Hist.: PERS 13-2001(Temp), f. 12-14-01, cert. ef. 1-1-02 thru 6-28-02; PERS 9-2002, f. & cert. ef. 6-13-02; PERS 1-2009, f. & cert. ef. 2-12-09; PERS 2-2011, f. & cert. ef. 6-1-11; PERS 10-2012, f. & cert. ef. 5-24-12

## 459-050-0076

### In-Plan Roth Conversion

(1) Definitions. For purposes of this rule:

(a) "Distributee" means:

(A) A Deferred Compensation Plan participant who has a severance of employment;

(B) A Deferred Compensation Plan participant who is approved for a de minimis distribution under OAR 459-050-0075(1);

(C) The surviving spouse of a deceased participant; or

(D) The spouse or former spouse who is the alternate payee under a domestic relations order that satisfies the requirements of ORS 243.507.

(E) The non-spouse beneficiary of a deceased participant who is a designated beneficiary under Code Section 402(c)(11).

(b) "In-Plan Roth Conversion" means the payment of an eligible rollover distribution by the Deferred Compensation Program directly from the Deferred Compensation Account to the Designated Roth Account as instructed by the Distributee and in compliance with Code Section 402A(c)(4) and meets the otherwise applicable rollover requirements of Code Section 457(e)(16).

(2) Limitations.

(a) If a Distributee elects an In-Plan Roth Conversion, the Distributee may not roll the money back to the Deferred Compensation Account at a later date.

(b) Once completed, all balances from any Roth In-Plan Conversion shall be accounted for individually and separately within the Designated Roth Account.

(3) 402(f) Notice and Election Procedure.

(a) The Deferred Compensation Program staff shall provide each Distributee with a written explanation of the direct rollover rules for any eligible distribution, as required by Code Section 402(f).

(b) An In-Plan Roth Conversion election shall be in writing and must be signed by the Distributee or by his or her authorized representative pursuant to a valid power of attorney. The election must be on forms furnished by the Deferred Compensation Program.

Stat. Auth.: ORS 243.470

Stats. Implemented: ORS 243.462

Hist.: PERS 10-2012, f. & cert. ef. 5-24-12

## 459-050-0077

### Loan Program

(1) Definitions. For purposes of this rule:

(a) "Cure period" is that time from when a default occurs until the end of the quarter following the quarter in which the default occurred.

(b) "Deferred Compensation Account" means the account described in OAR 459-050-0001, but does not include any amount in the Self-Directed Brokerage Option.

(c) "Designated Roth Account" means the account described in OAR 459-050-0001, but does not include any amount in the Self-Directed Brokerage Option.

(d) "Loan balance" means the outstanding principal and accrued interest due on the loan.

(e) "Participant Loan" means a loan that affects the Deferred Compensation Account, Designated Roth Account, or a combination of both, of a participant.

(f) "Promissory note" means the agreement of loan terms between the Program and a participant.

(g) "Third Party Administrator (TPA)" means the entity providing record keeping and administrative services to the Program.

(2) Eligibility for loan. Participants who are currently employed by a Plan Sponsor that has agreed to participate in a Participant Loan program are eligible for a Participant Loan. Retired participants, participants separated from employment, designated beneficiaries, and alternate payees are not eligible.

(3) Application for loan: A participant must apply for a loan and meet the requirements set forth in this rule.

(a) Once a loan is approved, a participant must execute a promissory note in the form prescribed by the Program.

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(b) If a participant is deceased before the disbursement of the proceeds of a loan, the participant's loan application shall be void as of the date of death.

(4) Loan Types:

(a) General purpose loan — a loan not taken for the purpose of acquiring a principal residence. General purpose loans must be repaid over a non-renewable repayment period of up to five years.

(b) Residential loan — a loan made for the purpose of acquiring a principal residence, which is, or within a reasonable time shall be, the principal residence of the participant. Residential loans must be repaid over a non-renewable repayment period of up to 15 years. A refinancing does not qualify as a residential loan. However, a loan from the Program that will be used to repay a loan from a third party will qualify as a residential loan if the loan would qualify as a residential loan without regard to the loan from the third party.

(5) Interest Rate: The rate of interest for a loan shall be fixed at one percent (1%) above the prime interest rate as published by the Wall Street Journal on the last business day of the month before the month in which the loan is requested.

(6) Loan Fees: A loan fee of \$50.00 shall be assessed when the loan is approved. The fee shall be deducted from a participant's deferred compensation account on a pro-rata basis from existing investments.

(7) Loan Limitations:

(a) The maximum loan amount is the lesser of:

(A) \$50,000; or

(B) One-half of the combined value of the participant's Deferred Compensation Account and the Designated Roth Account on the date the loan is made.

(b) The minimum loan amount is \$1,000.

(c) A participant may only have one outstanding loan.

(d) A participant who has received a loan may not apply for another loan until 12 months from the date the previous loan was paid in full.

(8) Source of Loan: The loan amount will be deducted from a participant's Deferred Compensation Account, Designated Roth Account, or a combination of both.

(a) Loan amounts will be deducted first from the Deferred Compensation Account.

(b) Loan amounts will be deducted pro-rata from existing investments in a participant's account(s).

(c) A participant may not transfer a loan to or from another retirement or deferred compensation plan.

(9) Repayment Terms: The loan amount will be amortized over the repayment period of the loan with interest compounded daily to calculate a level payment for the duration of the loan.

(a) Loan payments must be made by payroll deduction. To receive a loan from the Program a participant must enter into a payroll deduction agreement. For the purposes of this rule, a promissory note or other document that includes the payroll deduction amount and is signed by a participant as a requirement to obtain a loan may be a payroll deduction agreement. Except as provided in this rule, a participant may not submit a loan payment directly to the Program or the Third Party Administrator.

(b) A participant is responsible for loan repayment even if the employer fails to deduct or submit payments as directed under the payroll deduction agreement. To avoid defaulting on a loan by reason of the employer's failure to deduct or submit a payment a participant may submit a loan payment by sending a money order or certified check to the Third Party Administrator.

(c) A participant may repay the loan balance in a single payment at any time before the date the final loan payment is due.

(d) Partial payment of a scheduled payment and partial prepayment or advance payment of future payments may not be permitted.

(e) Loan payments will be allocated in a participant's account(s) in the same manner as the participant's current contribution allocation. If, for any reason, the allocation is not known, the payment will be allocated to the Short-Term Fixed Income Option.

(f) Any overpayment will be refunded to the participant.

(10) Leave of Absence. Terms of outstanding loans are not subject to revision except as provided in this section.

(a) Loan payments may be suspended up to one year during an authorized leave of absence if a participant's pay from the employer does not at least equal the payment amount.

(A) Interest on a loan continues to accrue during a leave of absence.

(B) A participant must immediately resume payments by payroll deduction upon return to work.

(C) The loan balance will be re-amortized upon the participant's return to work to be repaid within the remaining loan repayment period.

(D) Loan payments may be revised to extend the remaining loan repayment period to the maximum period allowed in the event the loan originally had a term shorter than the maximum period allowed under section (4) of this rule.

(E) If a participant is on a leave of absence that exceeds one year, the loan shall be in default unless repayment begins one year from the participant's last date worked or the date the final payment is due under the promissory note, whichever is earlier.

(b) Military Leave. Loan payments for participants on military leave may be suspended for the period of military service.

(A) A leave of absence for military service longer than one year will not cause a loan to be in default.

(B) Loan payments by payroll deduction must resume upon the participant's return to work.

(C) The original repayment period of a loan will be extended for the period of military service or to the maximum repayment period allowed for that type of loan, whichever is greater.

(D) Interest on a loan continues to accrue during a leave of absence for military service. If the interest rate on the loan is greater than 6%, then under the provisions of the Servicemembers Civil Relief Act of 2003, the rate shall be reduced to 6% during the period of military service.

(E) The loan balance will be re-amortized upon the participant's return to work to be repaid within the remaining loan repayment period as determined under paragraph (C) of this subsection.

(c) A participant on an authorized leave of absence or military leave may submit loan payments by sending a money order or certified check to the Third Party Administrator.

(11) Tax Reporting.

(a) The loan balance of a general purpose loan will be reported as a taxable distribution to the participant on the earlier of the last day of the loan repayment period, as adjusted under paragraphs (10)(a)(D) or (10)(b)(C) of this rule, if applicable, or if the loan is in default, the last day of the cure period.

(b) The loan balance of a residential loan will be reported as a taxable distribution to the participant on the earlier of the last day of the loan repayment period, as adjusted under paragraphs (10)(a)(D) or (10)(b)(C) of this rule, if applicable, or if the loan is in default, the last day of the cure period.

(c) If a participant dies before the loan balance being repaid, and the participant's beneficiary does not repay the loan balance in a single payment within 90 days of the participant's death, the loan balance will be reported as a taxable distribution to the estate of the participant.

(d) If a participant is eligible to receive a distribution under the Program, the reporting of a loan balance as a taxable distribution under this section will cancel the loan at the time the taxable distribution is reported. A canceled loan is a distribution and is no longer outstanding in a participant's account.

(e) If a participant is not eligible to receive a distribution under the Program, a loan balance reported as a taxable distribution under this section will be a deemed distribution for tax reporting purposes. A loan deemed distributed may not be canceled until the loan balance is repaid or the participant becomes eligible to receive a distribution. The loan balance will remain outstanding in the participant's account and will continue to accrue interest until repaid or canceled.

(12) Default.

(a) A loan is in default if a payment is not paid as scheduled or under any of the provisions set forth in this rule, the promissory note, or any related loan agreement.

(b) A loan is in default if the participant separates from employment with the plan sponsor that administers the loan payment payroll deductions.

(c) If a participant with a loan in default resumes loan payments by payroll deduction before the end of the cure period, the default will be cured. The participant must pay any missed payments and accrued interest before the end of the loan repayment period.

(d) Except as provided in subsection (c) of this section, if the participant does not cure a default by repaying the loan balance before the end of the cure period, the loan balance will be reported as a taxable distribution to the participant as provided in section (11) of this rule.

Stat. Auth.: ORS 243.470

Stats. Implemented: ORS 243.401 – 243.507

Hist.: PERS 4-2007, f. 1-23-07, cert. ef. 5-1-07; PERS 8-2007, f. & cert. ef. 7-26-07; PERS 6-2011, f. & cert. ef. 8-4-11; PERS 10-2012, f. & cert. ef. 5-24-12

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459-050-0080

## Distribution of Funds After a Severance of Employment

The purpose of this rule is to establish the criteria and process for obtaining a distribution of deferred compensation funds after a participant's severance of employment as defined herein. Distribution under the Deferred Compensation Program shall be made in accordance with any minimum distribution or other limitations required by Internal Revenue Code (IRC) section 401(a)(9), 26 U.S.C. 401(a)(9) and related regulations.

(1) Definitions. The following definitions apply for the purpose of this rule:

(a) "Commencement date" means the month and year that a participant will begin receiving a distribution(s) from the Deferred Compensation Program, whether by operation of the participant's election or under the terms of the plan. The commencement date is not the date that the necessary funds are liquidated for distribution.

(b) "Date of distribution" means the date funds are distributed to the participant, alternate payee, beneficiary, or other recipient in accordance with the plan, regardless of the mechanism by which those funds are distributed.

(c) "Intention to return to work" means a written or oral, formal or informal agreement has been made with the plan sponsor to return to work on a full time, part time or temporary basis at the time the severance is effective. If a participant returns to work with the plan sponsor within 30 calendar days of severance, then a rebuttable presumption exists that the participant intended to return to work as of the date of severance.

(d) "Liquidation date" means the date the Deferred Compensation Program designates for liquidation of funds. Generally, the liquidation date will not be earlier than the 25th day of the calendar month preceding the commencement date. The Deferred Compensation Program may determine the liquidation date based on normal business practices. The Deferred Compensation Program is not liable to a participant for failure to liquidate an investment on a specified date.

(e) "Liquidation of funds" means the conversion of the necessary funds from the investments in the Deferred Compensation Program into cash for payment under a specified manner of distribution.

(f) "Manner of distribution" means the manner elected by the participant, alternate payee, or beneficiary in accordance with the terms of the plan, in which a distribution is to be paid out of the Deferred Compensation Program.

(g) "Required beginning date" means April 1 of the calendar year following the later of:

(A) The calendar year in which the participant reaches 70-1/2 years of age; or

(B) The calendar year in which the participant retires.

(h) "Severance of Employment" means a participant has ceased rendering services as an employee or an independent contractor of a plan sponsor for a minimum of 30 consecutive days, including services as a temporary employee, and has no intention to return to work for the plan sponsor.

(2) Manner of distribution. Subject to the provisions of sections (3) through (5) set out below, a participant, surviving beneficiary, or alternate payee may elect a manner of distribution, designate one or more beneficiaries, and change beneficiaries at any time. The total amount distributed may not exceed the total account value. The following manners of distribution are available:

(a) Total distribution of the account value in a lump sum. A lump-sum distribution is not eligible for direct deposit;

(b) Single distribution of a portion of the account value in a lump sum. This form of lump-sum distribution is not eligible for direct deposit. Funds not distributed shall continue to receive earnings or losses based on the performance of investment option(s) in which funds are held;

(c) Systematic withdrawal distribution for a specific number of years, which may be paid annually, semiannually, quarterly or monthly. Any funds remaining after each periodic payment shall continue to receive earnings or losses based on the performance of investment option(s) in which the funds are held. The remaining number of periodic distributions may not change. However, the amount of distributions shall be adjusted depending on the earnings or losses experienced;

(d) Periodic specified dollar amount distribution. This distribution may be paid annually, semiannually, quarterly or monthly, and may be paid in specific dollar amounts in \$5 increments. Any funds remaining after each periodic payment shall continue to receive earnings or losses based on the performance of investment option(s) in which the funds are held. The amount of each periodic distribution will remain the same throughout the withdrawal period. However, the withdrawal period may vary depending on the earnings or losses experienced;

(e) Required minimum distribution, which will provide an annual distribution of the minimum amount required in IRC section 401(a)(9), 26 U.S.C. 401(a)(9). This manner of distribution is available only to those who defer distribution to age 70-1/2 years of age (no later than April of the year following the year reaching 70-1/2 years of age) or a participant who continues to work and severs employment after 70-1/2 years of age. Funds not distributed shall continue to receive earnings or losses based on the performance of investment option(s) in which funds are held; or

(f) Mandatory single lump-sum distribution of an account balance of less than \$1,000. This distribution shall be made to any participant or alternate payee with an account balance of less than \$1,000 within one year of the participant's severance of employment.

(3) Application Requirements. Application shall be made on forms provided by, or other methods approved by, the Deferred Compensation Program. No distribution may be paid unless a timely and complete application is filed with the Deferred Compensation Program as follows:

(a) An application for distribution or to change the manner of distribution will be considered filed in a timely manner if it is received in writing or other method approved by the Deferred Compensation Program at least 30 days before the requested commencement date. The commencement date may be no earlier than the second calendar month following the month of severance of employment.

(b) An application for distribution or to change the manner of distribution may be made by a participant, surviving beneficiary, or alternate payee or the authorized representative of a participant, surviving beneficiary or alternate payee. A valid document appointing an authorized representative such as a power of attorney, guardianship or conservatorship appointment, must be submitted to the Deferred Compensation Program. The Deferred Compensation Program retains the discretion to determine whether the document is valid for purposes of this rule.

(c) Except in the case of a qualified distribution as defined in section 402A(d)(2) of the Internal Revenue Code, the participant, surviving beneficiary, or alternate payee must file a tax-withholding certificate with the Deferred Compensation Program at least 30 days before the requested commencement date. If the certificate is not filed, the Deferred Compensation Program shall withhold state income taxes based on a marital status of single and no dependents and federal income taxes based on a marital status of married and 3 dependents, or other federally mandated tax withholding requirements. A new certificate may be filed at any time, and will be applied to distributions paid on and after the first calendar month following the date received or as soon as reasonably possible.

(d) When direct deposit is permitted under the Deferred Compensation Program, a request for periodic distributions to be transmitted to a financial institution for direct deposit must be made using a Deferred Compensation Program Automatic Deposit Agreement.

(e) Distribution of deferred compensation funds will occur no later than five days following the date funds necessary for a specified payment were liquidated. Liquidation of funds will be done on a pro-rata basis determined by the investment allocation of an account at the time the funds are liquidated or from the Stable Value account, at the participant's election. The election must be filed before the participant begins receiving distributions. If the participant elects distribution from the Stable Value account and there are insufficient funds in that account on the date of each distribution (whether monthly, quarterly, semi-annually, or annually), the distribution will be done on the pro-rata basis described above regardless of the participant's election.

(4) Denial of distribution election. The Deferred Compensation Program may deny any distribution election if that denial is required to maintain the status of the Deferred Compensation Program under the Internal Revenue Code and regulations adopted pursuant to the Internal Revenue Code and ORS Chapter 243.

(5) Changing the manner of distribution. A participant, surviving beneficiary or alternate payee may change or discontinue the manner of distribution only as follows and subject to the requirements of section (3) above:

(a) Manners of distribution under sections (2)(c), (2)(d) and (2)(e) of this rule may be changed at any time upon application as required under section (3) of this rule.

(b) Distributions under sections (2)(c) and (2)(d) of this rule may be discontinued upon written notification or by other methods approved by the Deferred Compensation Program. The participant, surviving beneficiary, or alternate payee must submit an application, as required in section (3) of this rule, to restart distributions and elect a manner of distribution for the remaining account.

(c) Subject to the requirements of this rule, a participant, surviving beneficiary or alternate payee who has commenced receiving a required

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minimum distribution may apply under the requirements of section (3) of this rule:

(A) For one or more additional distributions in a lump sum not to exceed the total value of the account; and

(B) To change the manner of distribution so long as future distributions will be continuous and equal to or greater than the minimum distribution required.

Stat. Auth: ORS 243.470

Stats. Implemented: ORS 243.401 - 243.507, OL 2007 Ch. 54

Hist.: PERS 5-2000, f. & cert. ef. 8-11-00; PERS 13-2001(Temp), f. 12-14-01, cert. ef. 1-1-02 thru 6-28-02; PERS 9-2002, f. & cert. ef. 6-13-02; PERS 28-2004, f. & cert. ef. 11-23-04; PERS 20-2007, f. & cert. ef. 11-23-07; PERS 10-2012, f. & cert. ef. 5-24-12

## 459-050-0090

### Direct Rollover and Trustee-to-Trustee Transfer

The purpose of this rule is to establish the criteria and processes for Direct Rollovers between the Deferred Compensation Program and an Eligible Retirement Plan and Trustee-to-Trustee Transfers between the Deferred Compensation Program and either a defined benefit governmental plan or a deferred compensation plan described in Code Section 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

(1) Definitions. The following definitions apply for the purpose of this rule:

(a) "Code" means the Internal Revenue Code of 1986, as amended.

(b) "Direct Rollover" means:

(A) The payment of an eligible rollover distribution by the Deferred Compensation Program to an Eligible Retirement Plan specified by the Distributee; or

(B) The payment of an eligible rollover distribution by an Eligible Retirement Plan to the Deferred Compensation Program.

(c) "Distributee" means an individual who has requested a distribution under one of the following criteria:

(A) A Deferred Compensation Program participant who has a severance of employment;

(B) A Deferred Compensation Program participant who is approved for a de minimis distribution under OAR 459-050-0075(1);

(C) The surviving spouse of a deceased participant;

(D) The spouse or former spouse who is the alternate payee under a domestic relations order that satisfies the requirements of ORS 243.507 and OAR 459-050-0200 to 459-050-0250; or

(E) The non-spouse beneficiary of a deceased participant who is a designated beneficiary under Code Section 402(c)(11).

(F) A plan participant who has requested a Trustee-to-Trustee Transfer for the purpose of purchasing permissive service credit as described in Code Section 415(n).

(d) "Distributing Plan" means an Eligible Retirement Plan that is designated to distribute a direct rollover or send a Trustee-to-Trustee Transfer to another eligible plan (recipient plan).

(e) "Eligible Retirement Plan" means any one of the following:

(A) An individual retirement account or annuity described in Code Section 408(a) or (b), including a Roth IRA as described in Code Section 408(A);

(B) An annuity plan described in Code Section 403(a);

(C) An annuity contract described in Code Section 403(b);

(D) A qualified trust described in Code Section 401(a);

(E) An eligible deferred compensation plan described in Code Section 457(b), which may include a qualified Roth contribution program defined in Code Section 402A, and that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state; or

(F) A plan described in Code Section 401(k).

(f) "Eligible Rollover Distribution" means any distribution of all or any portion of a person's account in an Eligible Retirement Plan. An Eligible Rollover Distribution may not include:

(A) A distribution that is one of a series of substantially equal periodic payments made no less frequently than annually for the life (or life expectancy) of the Distributee or the joint lives (or life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of 10 years or more;

(B) A distribution that is a required or minimum distribution under Code Section 401(a)(9);

(C) An amount that is distributed due to an unforeseen emergency under OAR 459-050-0075(2).

(g) "Recipient Plan" means an Eligible Retirement Plan that is designated by a Distributee to receive a Direct Rollover or Trustee-to-Trustee Transfer.

(h) "Trustee-to-Trustee Transfer" means a transfer either:

(A) By the Deferred Compensation Program to:

(i) A governmental defined benefit plan (within the meaning of Code Section 414(d)) for the purchase of permissive service credit as described in Code Section 415(n); or

(ii) A deferred compensation plan described in Code Section 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

(B) To the Deferred Compensation Program from a deferred compensation plan described in Code Section 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

(2) Direct rollover to an Eligible Retirement Plan. The Direct Rollover of an Eligible Rollover Distribution by the Deferred Compensation Program to an Eligible Retirement Plan shall be interpreted and administered in accordance with Code Section 457(d)(1)(C), 402A(c)(3) and all applicable regulations. A Distributee may elect to have an Eligible Rollover Distribution paid by the Deferred Compensation Program directly to an Eligible Retirement Plan specified by the Distributee.

(a) The Deferred Compensation Program staff shall provide each Distributee with a written explanation of the direct rollover rules for an eligible distribution, as required by the Code.

(b) A Distributee's right to elect a Direct Rollover is subject to the following limitations:

(A) A Distributee may elect to have an Eligible Rollover Distribution paid as a Direct Rollover to only one Eligible Retirement Plan.

(B) A Distributee may elect to have part of an Eligible Rollover Distribution be paid directly to the Distributee, and to have part of the distribution paid as a Direct Rollover only if the Distributee elects to have at least \$500 transferred to the Eligible Retirement Plan.

(C) A Distributee of the Designated Roth Account may elect to have a Direct Rollover only to a Roth IRA as described in Code Section 408A or another qualified Roth contribution program as described in Code Section 402A.

(c) A Direct Rollover election shall be in writing and must be signed by the Distributee or by his or her authorized representative pursuant to a valid power of attorney. The Direct Rollover election may be on forms furnished by the Deferred Compensation Program, or on forms submitted by the Recipient Plan which must include:

(A) The Distributee's full name;

(B) The Distributee's social security number;

(C) The Distributee's account number with the Recipient Plan, if available;

(D) The name and complete mailing address of the Recipient Plan; and

(E) If the Distributee is a non-spouse beneficiary of the member, the title of the recipient IRA account.

(d) The Distributee is responsible for determining that the Recipient Plan's administrator will accept the Direct Rollover for the benefit of the Distributee. Any taxes or penalties that are the result of the Distributee's failure to ascertain that the recipient plan will accept the direct rollover shall be the sole liability of the Distributee.

(3) Trustee-to-Trustee Transfer to another deferred compensation plan or governmental defined benefit plan.

(a) A Trustee-to-Trustee Transfer request shall be in writing and must be signed by the Distributee or by his or her authorized representative pursuant to a valid power of attorney. The Trustee-to-Trustee Transfer request may be on forms furnished by the Deferred Compensation Program, or on forms submitted by the Recipient Plan which must include:

(A) The Distributee's full name;

(B) The Distributee's social security number;

(C) The Distributee's account number with the Recipient Plan, if available;

(D) The name and complete mailing address of the Recipient Plan; and

(E) If the transfer is for the purpose of purchasing service credit under a governmental defined benefit plan, the exact amount to be transferred.

(b) The Distributee is responsible for determining that the Recipient Plan's administrator will accept the Trustee-to-Trustee Transfer for the benefit of the participant. Any taxes or penalties that are the result of the Distributee's failure to ascertain that the Recipient Plan will accept the Trustee-to-Trustee Transfer shall be the sole liability of the Distributee.

(4) Direct Rollover from an Eligible Retirement Plan. The Deferred Compensation Program may accept rollover contributions from participants

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and direct rollovers of distributions from an eligible retirement plan on behalf of a participant. This section shall be interpreted and administered in accordance with Code Section 402(c) and all applicable regulations.

(a) The Deferred Compensation Program may accept both pre-tax and after-tax rollover money. However, the only after-tax money eligible for rollover into the Deferred Compensation Program is money from another qualified Roth contribution program as described in Code Section 402A.

(b) A Direct Rollover from an Eligible Retirement Plan must be an Eligible Rollover Distribution. It is the participant's responsibility to determine that the assets qualify for rollover treatment. Any taxes or penalties that are the result of the participant's failure to ascertain that the distributing plan assets qualify for a direct rollover to a deferred compensation plan described in Code Section 457(b), shall be the sole liability of the participant.

(c) Subject to the requirements of subsections (4)(c)(A) and (B) below, Eligible Rollover Distribution(s) shall be credited to the participant's Deferred Compensation Account or Designated Roth Account established pursuant to the Enrollment Form on file with the Deferred Compensation Program and shall be subject to all the terms and provisions of the Enrollment Form. Account assets received from the Distributing Plan will be invested by the Deferred Compensation Program record keeper in accordance with the terms and conditions of the Deferred Compensation Program according to the asset allocation the participant has established for monthly contributions unless instructed otherwise in writing on forms provided by the Deferred Compensation Program.

(A) Assets from an Eligible Retirement Plan other than a deferred compensation plan described in Code Section 457(b) will be segregated into a separate account established by the Deferred Compensation Program for tax purposes only, but not for investment purposes. For investment purposes, the participant's assets are treated as a single account. If a participant changes the allocation of existing assets among investment options within the plan, the transfer or reallocation shall apply to and will occur in all accounts automatically.

(B) Assets directly rolled over to the Deferred Compensation Program may be subject to the 10 percent penalty on early withdrawal to the extent that the funds directly rolled over are attributable to rollovers from a qualified plan, a 403(b) annuity, or an individual retirement account.

(5) Trustee-to-Trustee Transfer from another deferred compensation plan. The Deferred Compensation Program may accept Trustee-to-Trustee Transfers from other eligible deferred compensation plans described in Code Section 457(b), which may include a qualified Roth contribution program defined in Code Section 402A. Assets transferred from an eligible deferred compensation plan will be aggregated with the participant's accumulated Deferred Compensation Program account(s).

Stat. Auth.: ORS 243.470

Stats. Implemented: ORS 243.401 - 243.507

Hist.: PERS 2-2002(Temp), f. & cert. ef. 1-11-02 thru 6-28-02; PERS 9-2002, f. & cert. ef. 6-13-02; PERS 5-2007(Temp), f. & cert. ef. 2-16-07 thru 8-14-07; PERS 9-2007, f. & cert. ef. 7-26-07; PERS 8-2008(Temp), f. & cert. ef. 5-21-08 thru 11-10-08; PERS 11-2008, f. & cert. ef. 7-31-08; PERS 2-2011, f. & cert. ef. 6-1-11; PERS 10-2012, f. & cert. ef. 5-24-12

## 459-050-0120

### Self-Directed Brokerage Option

(1) For purposes of this rule:

(a) "Core Investment Option" means an investment alternative made available under ORS 243.421, but does not include the Self-Directed Brokerage Option.

(b) "Self-Directed Brokerage Option" means an investment alternative made available under ORS 243.421 that permits a participant to establish a brokerage account and participate in investment products other than core investment options.

(c) "Trade" has the same meaning as in OAR 459-050-0037.

(2) A participant may initiate participation in the Self-Directed Brokerage Option only by a trade from core investment options.

(a) The participant's combined Deferred Compensation and Designated Roth Accounts balance must be at least \$20,000 on the date of the trade.

(b) The amount of the trade may not exceed 50 percent of the participant's combined Deferred Compensation and Designated Roth Accounts balance on the date of the trade.

(3) A participant in the Self-Directed Brokerage Option may not:

(a) Contribute to the Self-Directed Brokerage Option by any means other than a trade from a core investment option.

(b) Make a trade from a core investment option to the Self-Directed Brokerage Option if:

(A) The participant's balance in the Self-Directed Brokerage Option exceeds the balance in the participant's core investment options on the date of the trade; or

(B) The trade would cause the participant's balance in the Self-Directed Brokerage Option to exceed the participant's balance in the core investment options on the date of the trade.

(4) The Self-Directed Brokerage Option may not be included in any automatic account rebalancing function offered by the Program.

(5) Notwithstanding OAR 459-050-0080, funds in the Self-Directed Brokerage Option are not available for distribution.

(a) Funds in the Self-Directed Brokerage Option must be traded to a core investment option to be available for distribution under OAR 459-050-0080.

(b) A participant, beneficiary, or alternate payee subject to Required Minimum Distributions, as described in OAR 459-050-0300, must maintain a balance in the core investment options that will accommodate the timely distribution of the required amount.

(c) A participant, beneficiary, or alternate payee who fails to comply with subsection (b) of this section is solely responsible for any tax, penalty, or cost imposed by reason of a delayed or partial required minimum distribution.

(6) The Deferred Compensation Manager, if necessary to comply with restrictions imposed by a participating mutual fund, a contracted broker, or the Securities and Exchange Commission, may establish additional temporary restrictions for the Self-Directed Brokerage Option.

(7) Any action taken by the Deferred Compensation Manager under section (6) of this rule must be presented to the Board at its next scheduled meeting. The Board may take action as authorized by ORS 243.401 to 243.507. If the Board does not act, the action(s) taken by the Deferred Compensation Manager shall expire on the first business day following the date of the meeting.

(8) The restrictions provided in this rule are not exclusive. The Board may establish additional restrictions or sanctions as authorized by ORS 243.401 to 243.507.

Stat. Auth.: ORS 243.470

Stats. Implemented: ORS 243.401 - 243.507

Hist.: PERS 6-2011, f. & cert. ef. 8-4-11; PERS 10-2012, f. & cert. ef. 5-24-12

## 459-050-0150

### Unforeseeable Emergency Withdrawal

The purpose of this rule is to establish the criteria and process for a participant to obtain a distribution of deferred compensation funds before separation from employment due to an unforeseeable emergency.

(1) Definitions. For purposes of this rule:

(a) "Deferred Compensation Account" means the account described in OAR 459-050-0001, but does not include any amount in the Self-Directed Brokerage Option.

(b) "Designated Roth Account" means the account described in OAR 459-050-0001, but does not include any amount in the Self-Directed Brokerage Option.

(c) "Emergency withdrawal" means a payment to the participant from the participant's Deferred Compensation Account, Designated Roth Account, or a combination of both, in an amount directly related to and reasonably necessary to satisfy a financial obligation attributable to an unforeseeable emergency.

(d) "Unforeseeable emergency" or "Unforeseen emergency" means a severe financial hardship to a participant resulting from a sudden and unexpected illness or accident of the participant or of a dependent of the participant as defined in 26 CFR 1.152-1, a loss of the participant's property due to casualty or other similar extraordinary and unforeseeable circumstance beyond the control of the participant.

(2) Eligibility for emergency withdrawals. Only a participant who established a deferred compensation account as an eligible employee and has not terminated from employment with their plan sponsor may apply to receive an unforeseeable emergency withdrawal. An alternate payee of a participant may not be eligible to receive an emergency withdrawal.

(3) A participant must, if eligible, apply for a loan under the provisions of OAR 459-050-0077 before application for an unforeseen emergency withdrawal unless, as determined by the Deferred Compensation Manager, the participant would suffer additional financial hardship by complying with the loan application requirement.

(4) Source of emergency withdrawals. The amount of an emergency withdrawal will be deducted first from the participant's Deferred Compensation Account unless otherwise indicated by the participant on the emergency withdrawal application.

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(5) Circumstances that do not constitute an unforeseeable emergency. An emergency withdrawal may not be approved for any reason other than an unforeseeable emergency. Circumstances that do not constitute an unforeseeable emergency include, but are not limited to:

- (a) Participant or dependent school expenses;
  - (b) The purchase of a home or costs associated with a voluntary relocation of housing;
  - (c) The reduction of personal credit liabilities not associated with an unforeseeable emergency;
  - (d) Expenses associated with a legal separation or the dissolution of a marriage;
  - (e) Expenses associated with medical procedures that are elective or not medically required;
  - (f) Expenses associated with establishing or managing a personal business;
  - (g) Recreational expenses;
  - (h) Travel expenses not associated with an unforeseeable emergency;
- and

(i) Usual and customary tax obligations.  
(6) Limitations on amount of emergency withdrawal. The amount of an emergency withdrawal may not exceed the combined balance of the participant's Deferred Compensation Account and Designated Roth Account. The maximum amount that may be approved as an emergency withdrawal shall be limited to what is reasonably needed to satisfy the immediate financial obligation related to the unforeseeable emergency, including taxes anticipated on the distribution. The amount of the emergency withdrawal shall be limited to the extent that the financial obligation can or may be satisfied by:

- (a) Reimbursement or compensation by insurance or otherwise;
- (b) Liquidation of the participant's assets, to the extent the liquidation of such assets would not itself cause severe unforeseeable emergency; or
- (c) Cessation of participant contributions to the Deferred Compensation Program.

(7) Application for an emergency withdrawal. A participant must submit a completed emergency withdrawal application and financial information and related documentation sufficient to satisfy the provisions of this rule. The emergency withdrawal application may be returned if incomplete or if insufficient financial information or related documentation is submitted.

(a) The application form may be obtained from the Deferred Compensation Program or the third party administrator (TPA) retained to administer a portion of the Deferred Compensation Program.

(b) The completed application, financial information, and related documentation shall be submitted by use of the United State Postal Service or by private express carrier as defined in ORS 293.660(2) for initial review.

(8) Cancellation of future contributions. Contributions by a participant to the Deferred Compensation Program shall immediately be cancelled upon receipt of an application for an emergency withdrawal from the participant.

(a) A participant who receives approval for an emergency withdrawal shall be prohibited from making elective deferrals and contributions to the Deferred Compensation Program for a period of six consecutive months from the date of distribution.

(b) A participant who receives a denial for an emergency withdrawal may enroll to make elective deferrals and contributions to the Deferred Compensation Program at any time.

(9) Approval or denial notification. The Deferred Compensation Manager or an authorized designee shall approve or deny a request for an emergency withdrawal within three working days after receipt of an accepted application. The participant will be notified by mail within 10 days after a decision is made.

(10) Release of payment upon approval of an emergency withdrawal. The Deferred Compensation Manager or an authorized designee shall determine the method of payment. The Deferred Compensation Program shall immediately notify the TPA to release the requested funds.

(11) A participant may appeal a denial of an emergency withdrawal to the Unforeseeable Emergency Withdrawal Appeals Committee as provided in OAR 459-050-0040. The appeal shall be in writing and must include:

- (a) A request for review by the Unforeseeable Emergency Withdrawal Appeals Committee;
- (b) A short statement of the facts that are the basis of the appeal; and
- (c) Any additional information or documentation to support the request for an emergency withdrawal.

(12) Number of emergency withdrawal requests. The number of times a participant may apply for an emergency withdrawal is unlimited and is unaffected by previous applications.

Stat. Auth.: ORS 243.470

Stats. Implemented: ORS 243.401 - 243.507

Hist.: PERS 5-2000, f. & cert. ef. 8-11-00; PERS 28-2004, f. & cert. ef. 11-23-04; PERS 3-2007, f. & cert. ef. 1-23-07; PERS 6-2011, f. & cert. ef. 8-4-11; PERS 10-2012, f. & cert. ef. 5-24-12

## 459-050-0200

### Court Orders

The purpose of this rule is to describe the procedures for the administration of a court order and the requirements for a court order to be approved as a Qualified Domestic Relations Order.

(1) Legal requirements. A final court order or judgment must clearly specify the amount awarded to an alternate payee from the participant's Deferred Compensation Account, Designated Roth Account, or a combination of both, and the language must be administrable under ORS Chapter 243.507 and OAR chapter 459, Division 50. Subject to the requirements of the Internal Revenue Code and Oregon law, including these administrative rules, the Deferred Compensation Program will segregate an alternate payee's award from a participant's account once it has determined that the court order meets the requirements of a Qualified Domestic Relations Order (QDRO).

(2) Requirements of a QDRO. The Deferred Compensation Program may approve a court order as a Qualified Domestic Relations Order (QDRO), if the following conditions are satisfied:

(a) The Deferred Compensation Program office has received the QDRO;

(b) The QDRO includes a specific percentage or dollar amount to be awarded to the alternate payee from the participant's account; and

(c) The QDRO directs the Deferred Compensation Program to segregate the participant's account or otherwise assign the amount of the award from the participant's account, and deposit the award amount in a separate account in the name of the alternate payee as of a date specified in the order.

(3) Final court order. A final court order is required. The Deferred Compensation Program may not divide a participant's account(s) or make a payment to or on behalf of an alternate payee upon receipt of a draft court order. The Deferred Compensation Program will divide the account(s) so long as the other requirements under the Internal Revenue Code and Oregon law including these rules have been met, upon subsequent receipt of a certified copy of a final court order that specifies the action(s) required by the Deferred Compensation Program concerning the alternate payee's award.

(a) All certified copies must be subsequently reviewed and approved by staff as administrable pursuant to ORS 243.507, and OAR chapter 459, division 050, before the Deferred Compensation Program shall disburse funds from an account to which a QDRO applies or an order is currently under review for determination of QDRO status.

(b) Staff shall provide a written explanation to the participant and the alternate payee(s) as soon as practicable setting out the Deferred Compensation Program's determination whether a final court order can be administered by the Deferred Compensation Program as a QDRO.

(c) Case-specific award information shall be provided to attorneys or other representatives of a participant or an alternate payee only if a participant release or an alternate payee release has been received by the Deferred Compensation Program, as described in OAR 459-050-0001.

(4) The Deferred Compensation Program may, in its discretion, accept or reject any court order, or any portion thereof. The Deferred Compensation Program shall provide a written explanation of any rejection as soon as practicable to the participant and the alternate payee, as well as to their attorneys if a release, as defined in OAR 459-050-0001, has been filed with the Deferred Compensation Program.

(5) The Deferred Compensation Program may require a court-approved modification to enable the Deferred Compensation Program to comply with the order and the parties' intent, and so that the Deferred Compensation Program may administer the court order according to applicable Oregon and federal law. For example, if the Deferred Compensation Program determines that a court order is unclear or silent with regard to the alternate payee's right to all or a portion of the participant's Deferred Compensation account, the Deferred Compensation Program may not approve the court order until a court order is received that clearly states what comprises the alternate payee's award.

(6) The court order must not require the Deferred Compensation Program to:

(a) Provide any type or form of distribution or any option not otherwise provided under the plan; and

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(b) Monitor any designations of beneficiary(s) for compliance with the designation of beneficiary requirements in the court order.

(7) An original or certified copy of a final court order must be received by the Deferred Compensation Program, by mail or delivered in person, before the Deferred Compensation Program shall commence paying benefits to or on behalf of an alternate payee. The Deferred Compensation Program in its discretion may accept a legible photocopy of a final court order, either by mail or delivered in person, as long as the Deferred Compensation Program can confirm it was filed with the court. If the Deferred Compensation Program cannot confirm that the order was filed with the court, the Deferred Compensation Program shall, within a reasonable time thereafter, notify the party who submitted the order that an original or certified copy of the final court order is required.

(8) In the absence of a final court order, a restraining order, injunction, or stay must be filed with the Deferred Compensation Program in order to prevent the distribution of any funds to a participant. Except as may otherwise be allowed by law, a subsequent court order shall be required in order to allow future distributions.

(9) If a final court order states that another court order shall follow, a certified copy of the subsequent court order must be received and approved by staff before any payment shall be made pursuant to the court order.

(10) Discontinuation of domestic action. A confirmation signed and notarized by both the participant and the alternate payee is received by the Deferred Compensation Program, stating that all divorce or other domestic actions have been dismissed or abandoned, and that no final decree or court order shall be forth-coming. If no restraining order, injunction, or stay is on file with the Deferred Compensation Program, there shall be no further obligation or responsibility on the Deferred Compensation Program to correspond or communicate with any person other than the participant and no distribution may be made to anyone other than the participant or the participant's beneficiary(s).

(11) Draft court orders. If the Deferred Compensation Program does not receive a final court order within 12 months after the date the Deferred Compensation Program received the draft court order, the Deferred Compensation Program shall consider that no award was made to an alternate payee from the participant's Deferred Compensation account. There shall be no further obligation or responsibility on the part of the Deferred Compensation Program to correspond or communicate with any person other than the participant and no payment shall be distributed to anyone other than the participant or the participant's beneficiary(s).

(12) Review of draft court orders. Upon request, the Deferred Compensation Program may review draft court orders that contain language pertaining to the division of a participant's deferred compensation account. Staff shall provide a written response as soon as practicable to the submitting party and shall send a copy of the response to the other persons named in the draft court order if mailing addresses are provided.

(13) The Deferred Compensation Program is not responsible for the safekeeping or return of any court orders, whether draft or final, that are received. The Deferred Compensation Program staff may not modify, return, or sign and return, any documents that are received by the Deferred Compensation Program.

(14) Prospective award. If the Deferred Compensation Program has already generated distribution checks to the participant for the first of the month following the date the final court order was received and the court order meets the requirements of this rule, Oregon law, and the Internal Revenue Code, the Deferred Compensation Program shall:

(a) Pay distribution to the participant, notwithstanding the court order. The distribution payment shall be deemed by the Deferred Compensation Program as received by the participant.

(b) Establish an alternate payee's award on a prospective basis only and may not pay retroactive distributions of any kind. Payment of future distributions to an alternate payee shall be made as soon as administratively feasible.

(15) If a final court order is received after a participant has received a distribution of his or her full account balance, the Deferred Compensation Program may not invoice the participant for any funds that may have been awarded to the alternate payee.

Stat. Auth: ORS 243.470

Stats. Implemented: ORS 243.401 - 243.507

Hist.: PERS 13-2001(Temp), f. 12-14-01, cert. ef. 1-1-02 thru 6-28-02; PERS 9-2002, f. & cert. ef. 6-13-02; PERS 10-2012, f. & cert. ef. 5-24-12

## 459-050-0210

### Segregation of a Participant Account

The purpose of this rule is to describe the process and criteria the Deferred Compensation Program shall use to segregate an alternate payee's

award from a participant's account(s), and how the alternate payee's account is maintained once established.

(1) Qualified Domestic Relations Order. Once the Manager or a designated employee has determined that a domestic relations order or another court order is a Qualified Domestic Relations Order as defined under the Internal Revenue Code and Oregon law and in accordance with OAR 459-050-0200, the plan participant's account(s) in the Deferred Compensation Program shall be divided and separate account(s) established in the name of the alternate payee as required under the Qualified Domestic Relations Order (QDRO).

(2) Effective date of segregation. The QDRO may specify a date between January 1 and December 31, on which to calculate the award and segregate the alternate payee's award from the participant's account(s) in the Deferred Compensation Program. If a date is not specified in a QDRO, the Deferred Compensation Program shall use the date that the QDRO was signed by the court on which to calculate and segregate the alternate payee's award from a participant's account(s).

(3) Segregation of Participant Account. If a QDRO directs or otherwise requires the Deferred Compensation Program to segregate the participant's account based on a certain percentage awarded to the alternate payee, the percentage shall be converted into a dollar amount. The converted dollar amount or the dollar amount stated in the QDRO that is awarded to the alternate payee shall be deposited into a separate account in the name of the alternate payee.

(4) Investment of funds. Except as otherwise limited by Oregon statute or administrative rule, the alternate payee shall have the same rights and privileges as a participant concerning the investment of funds under the deferred compensation plan.

(5) Fees. The alternate payee's segregated account shall bear all fees and expenses related to the alternate payee's segregated account as though the alternate payee were a participant.

(6) Designation of beneficiary(s). Subject to the terms and conditions of the Deferred Compensation Plan, the alternate payee shall designate a beneficiary(s) as provided for in OAR 459-050-0060. The designated beneficiary(s) shall receive the alternate payee's account if:

(a) The alternate payee dies before distributions from the account began or were required to begin; or

(b) The alternate payee dies and was receiving a distribution that allowed the alternate payee to designate a designation of beneficiary(s) in which case the beneficiary(s) shall receive the balance of the account.

(7) The participant or alternate payee is responsible for the filing and maintenance of all designations of beneficiary(s) as may be required pursuant to a court order. Benefits shall be paid only to the designated beneficiary(s) on file with the Deferred Compensation Program.

(8) Except as may otherwise be required under applicable Oregon law, a divorce may not revoke a beneficiary designation on file with the Deferred Compensation Program that names the former spouse as the participant's or alternate payee's beneficiary. After a divorce, a participant or an alternate payee is responsible for filing any beneficiary designation changes with the Deferred Compensation Program if a change of beneficiary is desired.

(9) Mailing address. An alternate payee shall notify the Deferred Compensation Program of their current mailing address by sending it in writing to the Deferred Compensation Program office whenever a change in mailing address occurs. Such notification is deemed filed when it is received by the Deferred Compensation Program and is effective upon filing.

Stat. Auth: ORS 243.470

Stats. Implemented: ORS 243.401 - 243.507

Hist.: PERS 13-2001(Temp), f. 12-14-01, cert. ef. 1-1-02 thru 6-28-02; PERS 9-2002, f. & cert. ef. 6-13-02; PERS 10-2012, f. & cert. ef. 5-24-12

## 459-050-0230

### Release of Information

(1) Written release. Unless otherwise required by the Oregon Public Records Law in ORS Chapter 192, the Deferred Compensation Program must receive a signed participant's release, as defined in OAR 459-050-0001, from the participant or the alternate payee before the Deferred Compensation Program may provide information pertaining to the participant's or alternate payee's account(s), beneficiary designations, distributions, or award information contained in any draft or final court order on record to any person other than the parties to the court order. A written authorization to release information is valid indefinitely, unless a specific end date is provided in the written statement.

(2) Subpoena. Unless otherwise required by the Oregon Public Records Law in ORS Chapter 192, a subpoena for information available from the Deferred Compensation Program must be made out to the State of

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Oregon, Deferred Compensation Program. The Deferred Compensation Program reserves the right to object to any subpoena on the grounds that the subpoena fails to provide a reasonable time for preparation and travel, is otherwise unreasonable or oppressive, or that service was improper, in addition to any other basis legally available. To facilitate prompt processing, copies of subpoenas should be served at the Deferred Compensation Program office. Faxed subpoenas are not acceptable.

Stat. Auth: ORS 243.470  
Stats. Implemented: ORS 243.401 - 243.507  
Hist.: PERS 4-2002, f. & cert. ef. 3-26-02; PERS 11-2003, f. & cert. ef. 8-4-03; PERS 10-2012, f. & cert. ef. 5-24-12

## 459-050-0250

### Fee for Administration of a Court Order

(1) Fee charged to participant and alternate payee. If the Deferred Compensation Program is required by a court order to segregate a participant's account and create a separate account for an alternate payee(s), the Deferred Compensation Program shall charge the participant and the alternate payee actual and reasonable administrative expenses and related costs incurred by the Deferred Compensation Program in obtaining data and making calculations.

(2) Fee calculation. The Deferred Compensation Program, when collecting administrative expenses and related costs, shall allocate those expenses and costs between the participant and the alternate payee on a pro-rata basis, based on the fraction of the account received by the participant or alternate payee. The Deferred Compensation Program may not charge the participant and alternate payee more than a combined total of \$300.00 for administrative expenses and related costs incurred in obtaining data or making calculations.

(3) Collection of fee. The fee shall be deducted out of the participant's and alternate payee's account(s) after the accounts have been separated per court order.

(4) The fee that shall be charged for dividing the participant's account may not be contingent on the number of days it takes for the Deferred Compensation Program to complete its review of any type of court order that is received by the Deferred Compensation Program.

Stat. Auth: ORS 243.470  
Stats. Implemented: ORS 243.401 - 243.507  
Hist.: PERS 4-2002, f. & cert. ef. 3-26-02; PERS 10-2012, f. & cert. ef. 5-24-12

## 459-050-0300

### Required Minimum Distribution Requirements

(1) Definitions. The following definitions apply for the purposes of this rule:

(a) "Designated Beneficiary" means:

(A) A natural person designated as a beneficiary by the participant, alternate payee, or surviving beneficiary as provided in OAR 459-050-0060; or

(B) If a trust is designated as a beneficiary, the individual beneficiaries of the trust will be treated as designated beneficiaries if the trust satisfies the requirements in section (2) of this rule and applicable Treasury Regulations, including but not limited to Proposed Treasury Regulation Section 1.401(a)(9)-1, Q&A-D-5.

(C) If the beneficiary is not a person or a trust satisfying these requirements, the participant, alternate payee, or surviving beneficiary will be deemed to have no designated beneficiary only for purposes of required minimum distributions under IRC 409(a)(9), and distribution shall be made in accordance with section (11) of this rule.

(b) "Life Expectancy" means the length of time a person of a given age is expected to live as set forth in Treasury Regulation Section 1.72-9. Required minimum distributions shall be calculated so as to satisfy the requirements of Section 401(a)(9) using the life expectancy tables provided in Treasury regulations. Life expectancies may not be recalculated after the initial determination, except as otherwise required under Oregon or federal law.

(c) "Required Beginning Date" means April 1 of the calendar year following the later of:

(A) The calendar year in which the participant reaches 70-1/2 years of age; or

(B) The calendar year in which the participant retires.

(d) "Required Commencement Date" means the date that the deferred compensation plan must begin to distribute all or part of an account to a surviving beneficiary.

(2) A trust as beneficiary. If a trust is designated as a beneficiary, the individual beneficiaries of the trust will be treated as designated beneficiaries as defined in paragraph (1)(c)(B) if by December 31 of the calendar year

following the death of a person who designated a trust as beneficiary, the trust satisfies the following conditions:

(a) The trust must be irrevocable, or become irrevocable by its terms at the time of the person's death;

(b) The trust's beneficiaries must be natural persons who are identifiable from the trust instrument; and

(c) One of the following must be provided to the Deferred Compensation Program:

(A) A list of all beneficiaries of the trust, including contingent beneficiaries, along with a description of the portion to which they are entitled and any conditions on their entitlement, all corrected certifications of trust amendments, and a copy of the trust instrument if requested by the Deferred Compensation Program; or

(B) A copy of the trust instrument and copies of any amendments after they are adopted.

(3) Applicable law. Distributions under the Deferred Compensation Program shall be made in accordance with Internal Revenue Code (IRC) Section 401(a)(9), Treasury regulations, Internal Revenue Service rulings and other interpretations issued, including Proposed Treasury Regulation Section 1.401(a)(9)-2. IRC Section 401(a)(9) overrides the provisions of this rule and any other statute or rule pertaining to the required minimum distribution requirements and any manners of distributions, if they are found to be inconsistent with IRC Section 401(a)(9).

(a) If a participant, alternate payee, or surviving beneficiary has not begun distribution or elected a minimum distribution by the beginning date or commencement date required in this rule and IRC Section 401(a)(9), the Deferred Compensation Program shall begin distribution of the minimum amount required as provided under OAR 459-050-0080(2)(e) or, if required, the entire account. Distribution under this subsection is subject to the provisions of OAR 459-050-0120(5).

(b) The required minimum distribution amount may never exceed the entire account balance on the date of distribution.

(4) Minimum distribution requirements for participants. Distributions must begin no later than the participant's required beginning date.

(a) The participant's entire account balance shall be distributed over the participant's life expectancy or over a period not extending beyond the participant's life expectancy without regard to the designated beneficiary's age unless the designated beneficiary is a spouse who is more than 10 years younger than the participant.

(b) If the designated beneficiary is a spouse and is more than 10 years younger than the participant, the entire account balance shall be distributed over the joint lives of the participant and the designated beneficiary.

(c) The participant's entire account(s) balance in the Deferred Compensation Program shall be distributed first from the Deferred Compensation Account unless the participant indicates otherwise.

(5) Minimum distribution requirements for alternate payees. The minimum distribution requirements applicable to an alternate payee are determined by whether a Qualified Domestic Relations Order (QDRO) allocates a separate account to the alternate payee or provides that a portion of a participant's benefit is to be paid to the alternate payee.

(a) If a separate account is established in the name of the alternate payee under OAR 459-050-0210, required minimum distributions to the alternate payee must begin no later than the participant's required beginning date. The alternate payee's entire account balance shall be distributed over the alternate payee's life expectancy or over a period not extending beyond the alternate payee's life expectancy.

(b) If no separate account is established in the name of the alternate payee and the alternate payee is paid a portion of a participant's benefit, the alternate payee's portion of the benefit shall be aggregated with the amount distributed to the participant and will be treated, for purposes of meeting the minimum distribution requirement, as if it had been distributed to the participant.

(6) Manners of distribution available to surviving designated beneficiaries. A surviving designated beneficiary may choose a manner of distribution and apply for a distribution as provided for in OAR 459-050-0080. If the distribution to a participant or alternate payee has begun in accordance with section 401(a)(9)(A)(ii) and the participant dies before the entire account has been distributed or after distributions are required to begin under section (4) of this rule, distributions to the surviving designated beneficiary must be made at least as rapidly as under the manner of distribution used before the participant's or alternate payee's death.

(7)(a) Distributions treated as having begun. Distributions from an individual account are not treated as having begun to a participant in accordance with section 401(a)(9)(A)(ii) until the participant's required minimum distribution beginning date, without regard to whether distributions



# ADMINISTRATIVE RULES

from an individual account have been made before the required beginning date.

(b) If distribution has been made before the required beginning date in the form of an irrevocable annuity, the distributions are treated as having begun if a participant dies after the annuity starting date but before the required beginning date. The annuity starting date will be deemed the required minimum distribution beginning date.

(8) Required commencement date for a surviving designated beneficiary. If a participant dies before distributions are required to begin or are treated as having begun, the entire account balance must be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death, unless the beneficiary makes the following distribution election in the manner prescribed by the Deferred Compensation Plan:

(a) Distributions must begin no later than December 31 of the calendar year following the year of the participant's or alternate payee's death; and

(b) Distribution of payments over the designated beneficiary's life-time or over a period not exceeding the designated beneficiary's life expectancy.

(A) The beneficiary's life expectancy is calculated using the age of the beneficiary in the year following the year of the participant's death, reduced by one for each subsequent year.

(B) If the participant has more than one designated beneficiary as of December 31 of the calendar year following the year of the participant's death and the account has not been divided into separate accounts for each beneficiary, the beneficiary with the shortest life expectancy is treated as the designated beneficiary.

(9) Required commencement date for a spousal beneficiary. If distributions have not begun before the participant's death and if the sole designated beneficiary is the participant's surviving spouse, distributions to the surviving spouse must commence on or before the later of the dates set forth in subsections (a) and (b) below:

(a) December 31 of the calendar year immediately following the calendar year in which the participant died; or

(b) December 31 of the calendar year in which the participant would have attained 70-1/2 years of age.

(c) The distribution period during the surviving spouse's life is the spouse's single life expectancy.

(10)(a) Required commencement date for a surviving spouse's beneficiary. If the surviving spouse dies after the participant's death but before distributions to the spouse have begun, any death benefits payable to the surviving spouse's beneficiary will be applied as if the surviving spouse were the participant. The date of death of the surviving spouse will be substituted for the date of death of the participant.

(b) A death benefit payable to the surviving spouse of the deceased participant's surviving spouse shall be distributed as provided in section (8) of this rule. The provisions of section (9) of this rule do not apply to a death benefit payable to a surviving spouse of the deceased participant's surviving spouse.

(11)(a) Required commencement date if no designated beneficiary: If a participant dies before the required beginning date with no designated beneficiary as defined in paragraph (1)(c)(C) of this rule, the total account balance must be distributed as provided for in OAR 459-050-0060, by December 31 of the calendar year containing the fifth anniversary of the participant's or alternate payee's death.

(b) If a participant dies after the required beginning date with no designated beneficiary as defined in paragraph (1)(c)(C) of this rule, the applicable distribution period must not be longer than the participant's life expectancy.

(12) Determining the designated beneficiary. The designated beneficiary will be determined based on the beneficiary(s) designated as of December 31 of the calendar year following the calendar year of the participant's, alternate payee's, or surviving beneficiary's death.

(a) A participant may change beneficiaries after his or her required beginning date.

(b) A beneficiary may be changed after a participant's death, such as by one or more beneficiaries disclaiming benefits.

Stat. Auth.: ORS 243.470

Stats. Implemented: ORS 243.401 - 243.507

Hist.: PERS 6-2002, f. & cert. ef. 5-24-02; PERS 6-2011, f. & cert. ef. 8-4-11; PERS 10-2012, f. & cert. ef. 5-24-12

## Oregon University System, Eastern Oregon University Chapter 579

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

**Adm. Order No.:** EOU 3-2012(Temp)

**Filed with Sec. of State:** 6-8-2012

**Certified to be Effective:** 6-8-12 thru 12-1-12

**Notice Publication Date:**

**Rules Amended:** 579-060-0190

**Subject:** 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—(541) 962-3773

### 579-060-0190

#### 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.

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

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 183 & OAR 580-011-0015

Hist.: EOSC 1-1994, f. & cert. ef. 3-7-94; EOU 4-2005, f. & cert. ef. 7-7-05; EOU 3-2012(Temp), f. & cert. ef. 6-8-12 thru 12-1-12

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## Oregon University System, Oregon State University Chapter 576

**Rule Caption:** Sets fees and charges for designated services at Oregon State University for fiscal year 2012–2013.

**Adm. Order No.:** OSU 3-2012

**Filed with Sec. of State:** 6-6-2012

**Certified to be Effective:** 7-1-12

**Notice Publication Date:** 5-1-2012

**Rules Amended:** 576-010-0000

**Subject:** The rules sets fees and charges for designated services at Oregon State University for fiscal year 2012–2013. The rule states: "The University hereby adopts by reference a list of fees and charges for the fiscal year 2012–2013. The list of fees and charges is available at Oregon State University's Valley Library, and is hereby incorporated by reference in this rule.

**Rules Coordinator:** Beth Giddens—(541) 737-2449

### 576-010-0000

#### Fees and Charges

The University hereby adopts by reference a list of fees and charges for July 1, 2012–June 30, 2013. This List of Fees and Charges is available at the Oregon State University Valley Library, and is hereby incorporated by reference in the rule.

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

Stat. Auth.: ORS 351.070, 352.360 & 580-040-0010

Stats. Implemented: ORS 351.070 & 352.360

Hist.: OSU 3-1980, f. & ef. 10-31-80; OSU 1-1982, f. & ef. 8-27-82; OSU 1-1983(Temp), f. & ef. 9-26-83; OSU 1-1986, f. & ef. 6-4-86; OSU 2-1987, f. 6-11-87, ef. 7-1-87; OSU 2-1988, f. 6-15-88, cert. ef. 7-1-88; OSU 4-1989, f. 6-13-89, cert. ef. 7-1-89; OSU 1-1990, f. 6-15-90, cert. ef. 7-1-90; OSU 6-1991, f. 6-3-91, cert. ef. 7-1-91; OSU 2-1992, f. 6-5-92, cert. ef. 7-1-92; OSU 5-1993, f. 6-9-93, cert. ef. 7-1-93; OSU 1-1994, f. 6-8-94, cert. ef. 7-1-94; OSU 2-1995, f. 6-20-95, cert. ef. 7-1-95; OSU 6-1996, f. & cert. ef. 7-1-96; OSU 5-1997, f. 6-16-97, cert. ef. 7-1-97; OSU 7-1998, f. 6-30-98, cert. ef. 7-1-98; OSU 3-1999, f. 6-17-99, cert. ef. 7-1-99; OSU 1-2000, f. 6-21-00, cert. ef. 7-1-00; OSU 5-2001, f. 6-18-01, cert. ef. 7-1-01; OSU 6-2002, f. 6-5-02, cert. ef. 7-1-02; OSU 1-2003, f. 6-19-03, cert. ef. 7-1-03; OSU 1-2004, f. 6-23-04, cert. ef. 7-1-04; OSU 1-2005, f. 6-13-05, cert. ef. 7-1-05; OSU 1-2006, f. 6-23-06, cert. ef. 7-1-06; OSU 1-2007, f. 6-18-07, cert. ef. 7-1-07; OSU 3-2008, f. 6-27-08, cert. ef. 7-1-08; OSU 2-2009, f. 6-16-09, cert. ef. 7-1-09; OSU 1-2010, f. 6-30-10, cert. ef. 7-1-10; OSU 1-2011, f. 6-13-11, cert. ef. 7-1-11; OSU 8-2011, f. & cert. ef. 12-27-11; OSU 3-2012, f. 6-6-12, cert. ef. 7-1-12

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**Rule Caption:** Amending rules regarding vehicle definitions and parking on campus.

# ADMINISTRATIVE RULES

**Adm. Order No.:** OSU 4-2012

**Filed with Sec. of State:** 6-6-2012

**Certified to be Effective:** 7-1-12

**Notice Publication Date:** 5-1-2012

**Rules Amended:** 576-030-0015, 576-030-0020, 576-030-0040, 576-030-0045, 576-030-0050, 576-030-0055, 576-030-0060, 576-030-0070

**Subject:** The rule's definitions are supplemented by adding Parking Space, Golf Cart, Motorcycle, Motorized scooter, Moped and trailer, and by adding "Moped" to the definition of Vehicle. Two provisions regarding parking permits are added. Three hours of free parking in ADA spaces with visitor parking permit are added.

**Rules Coordinator:** Beth Giddens—(541) 737-2449

## 576-030-0015

### Definitions

For the purpose of these rules:

(1) "Golf Cart" means a motor vehicle that:

(a) Has not less than three wheels in contact with the ground;

(b) Has an unloaded weight less than 1,300 pounds;

(c) Is designed to be and is operated at not more than 15 miles per hour; and

(d) Is designed to carry golf equipment and not more than two persons, including the driver.

(2) "Moped" means a vehicle, including any bicycle equipped with a power source, other than an electric assisted bicycle as defined in ORS 801.258 or a motor assisted scooter as defined in ORS 801.348, that complies with all of the following:

(a) It is designed to be operated on the ground upon wheels.

(b) It has a seat or saddle for use of the rider.

(c) It is designed to travel with not more than three wheels in contact with the ground.

(d) It is equipped with an independent power source that:

(A) Is capable of propelling the vehicle, unassisted, at a speed of not more than 30 miles per hour on a level road surface; and

(B) If the power source is a combustion engine, has a piston or rotor displacement of 35.01 to 50 cubic centimeters regardless of the number of chambers in the power source.

(e) It is equipped with a power drive system that functions directly or automatically only and does not require clutching or shifting by the operator after the system is engaged.

(3) "Motor scooter" means a vehicle that:

(a) Is designed to be operated on the ground with not more than three wheels;

(b) Has handlebars and a foot support or seat for the operator's use;

(c) Can be propelled by motor or human propulsion; and

(d) Is equipped with a power source that is incapable of propelling the vehicle at a speed of greater than 24 miles per hour on level ground and:

(A) If the power source is a combustion engine, has a piston or rotor displacement of 35 cubic centimeters or less regardless of the number of chambers in the power source; or

(B) If the power source is electric, has a power output of not more than 1,000 watts.

(4) "Motorcycle" means any self-propelled vehicle other than a moped or farm tractor that:

(a) Has a seat or saddle for use of the rider;

(b) Is designed to be operated on the ground upon wheels; and

(c) Is designed to travel with not more than three wheels in contact with the ground.

(5) "Parked" means that a Vehicle is stopped regardless of the period of time the Vehicle is stopped or whether a driver is present in the Vehicle when it is stopped, unless the Vehicle is stopped for reasons beyond the driver's reasonable control.

(6) "Parking space" means any space marked by painted lines and curbs, and not marked as a "No Parking" area.

(7) "Signage" means signs placed by OSU's Transit and Parking Services ("TAPS") on campus to designate parking rights. Signage may be posted or painted on pavement.

(8) "Trailer" means every vehicle without motive power designed to be drawn by another vehicle. Trailer includes, but is not limited to, the following types of trailers:

(a) Balance trailers.

(b) Bus trailers.

(c) Commercial bus trailers.

(d) Farm trailers.

(e) Pole trailers.

(f) Semitrailers.

(g) Travel trailers.

(h) Truck trailers.

(i) Self-supporting trailers.

(j) Special use trailers.

(9) "Vehicle" means any type of motor-powered or alternative-powered conveyance including, but not limited to, automobiles, trucks, Motorcycles, Motor scooters, and Mopeds

Stat. Auth.: ORS 351.070 & 352.360

Stats. Implemented: ORS 351.070 & 352.360

Hist.: OSU 1-1978, f. & ef. 10-16-78; OSU 3-1987, f. & ef. 6-11-87; OSU 2-1990, f. 6-15-90, cert. ef. 10-1-90; OSU 6-1993, f. 6-9-93, cert. ef. 10-1-93; OSU 6-1999, f. & cert. ef. 6-17-99; OSU 3-2009, f. 6-16-09, cert. ef. 7-1-09; OSU 4-2012, f. 6-6-12, cert. ef. 7-1-12

## 576-030-0020

### Parking Permits

(1) OSU offers a variety of Parking Permits, specified below, for parking in designated parking areas or specific parking places on Campus. Unless otherwise specified by Signage, Parking Permits are required for parking on Campus. Parking Permits and informational parking brochures may be obtained through TAPS. Permits must be clearly and appropriately displayed in Vehicles as specified in the applicable parking brochure in order to park in the areas or spaces for which the Parking Permits are valid. Use of parking areas on Campus without a properly-displayed, current Parking Permit in areas or spaces where it is required on Signage may result in a citation and a fine as established in OSU's List of Fees and Charges, pursuant to OAR 576-010-0000.

(2) Parking Permits available for purchase and their applicable fees are specified in OSU's List of Fees and Charges, pursuant to OAR 576-010-0000. Permits will not be issued to persons who have an outstanding balance on their TAPS account.

(3) Unless otherwise specified on the Parking Permit, Parking Permits will expire on September 30th. Term Permits, however, expire at the conclusion of the term for which they were issued.

(4) Parking Permits are personal to the persons to whom they are issued and may not be used or transferred to other persons 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.

(5) Faculty/Staff Parking Permits may be purchased by all non-Student-status, full or part-time employees of OSU or businesses or agencies with which OSU has contracted to locate full or part-time employees on OSU's campus. Annual Faculty/Staff Parking Permits expire on September 30, unless otherwise specified. Term Faculty/Staff Parking Permits expire on the last day of the academic term for which they were issued.

(6) Student Parking Permits may be purchased by any OSU Student. Annual Student Parking Permits expire on September 30, unless otherwise specified. Term Student Parking Permits expire on the last day of the academic term for which they were issued.

(7) Emeritus Parking Permits may be purchased by emeritus and retired OSU employees. Annual Emeritus Parking Permits expire on September 30, unless otherwise specified. Term Emeritus Parking Permits expire on the last day of the academic term for which they were issued.

(8) Motorcycle, Motor Scooter and Moped Permits may be purchased by Faculty, Staff, Students, Emeritus Faculty, and Vendors for use in accordance with OAR 576-030-0060.

(9) Vendor Parking Permits may be purchased by persons, businesses, or agencies desiring to park on Campus to facilitate provision of services to be provided to OSU.

(10) Temporary Parking Permits may be purchased by OSU employees, students or Visitors, for use in lots as designated by the Parking Permit.

(11) Visitor Parking Permits may be purchased by Visitors from pay and display stations located on Campus. Applicable rules, instructions, and charges are subject to change and displayed on the machines at pay and display stations.

(12) Guest Parking Permits may be purchased by persons attending qualifying conferences, workshops, and meetings.

(13) Complimentary Courtesy Parking Permits may be issued to OSU administrative personnel who are required to utilize their personal Vehicle in the performance of official duties. A valid Faculty/Staff Parking Permit must be displayed along with the Complimentary Courtesy Parking Permit. The Complimentary Courtesy Parking Permit is valid in each space for up to three (3) hours in designated Service Vehicle or Vendor parking areas.

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(14) Parking on the Campus in parking spaces designated by Signage as Disability Parking requires one of the above current, valid OSU Parking Permits in addition to a valid Americans with Disabilities Act ("ADA") parking placard issued by Department of Motor Vehicles (DMV). Both Parking Permits must be properly displayed at all times. Requests for reserved disabled parking spaces should be submitted to the OSU Office of Affirmative Action and Equal Opportunity for approval.

(15) Government Parking Permits may be purchased by all non-student-status, full or part-time employees of OSU or businesses or agencies with which OSU has contracted to locate full or part-time employees on OSU's campus. Annual Faculty/Staff Parking Permits expire on September 30, unless otherwise specified. Term Faculty/Staff Parking Permits expire on the last day of the academic term for which they were issued.

(16) Golf Cart and Trailer Parking Permits may be purchased by all non-student-status, full or part-time employees of OSU or businesses or agencies with which OSU has contracted to locate full or part-time employees on OSU's campus. Annual Faculty/Staff Parking Permits expire on September 30, unless otherwise specified. Term Faculty/Staff Parking Permits expire on the last day of the academic term for which they were issued.

(17) Lost or stolen Parking Permits should be reported to TAPS. A replacement for a lost or stolen Parking Permit will be issued after payment of the fee set in OSU's List of Fees and Charges, pursuant to OAR 576-010-0000.

(18) Reserved parking spaces designated for exclusive use by any College, School, Department, or other approved organizations such as businesses or agencies required to park on campus to facilitate provision of services to be provided to OSU will be assessed an annual fee set forth in OSU's List of Fees and Charges, pursuant to OAR 576-010-0000. Purchase of these reserved parking spaces must be renewed annually. Valid reserved Parking Permit issued to the College, School, Department, or other approved organizations must be properly displayed in Vehicles. OSU Faculty, Staff, Emeritus, or Students must display a valid OSU Parking Permit in addition to the reserved space Parking Permit when utilizing reserved spaces.

(19) Motor Pool Vehicles and other Vehicles owned by OSU that are to be parked on campus for one month or longer shall be subject to an annual parking fee equal to the fee for an Annual Faculty/Staff Parking Permit or a Term Faculty/Staff Parking Permit as specified in OSU's List of Fees and Charges, pursuant to OAR 576-010-0000.

(20) ADA Visitor Parking Permits will be issued only to OSU visitors (non-students and non-employees) who are displaying valid, DMV-issued ADA placards. This Parking Permit allows for three (3) hours of free parking in all Student/Visitor, Staff/Faculty, and ADA parking areas.

(21) As used on Signage, a "compact vehicle" means small Vehicle that does not exceed 5'6" by 15'6".

Stat. Auth.: ORS 351.070 & 352.360

Stats. Implemented: ORS 351.070 & 352.360

Hist.: OSU 1-1978, f. & ef. 10-16-78; OSU 3-1987, f. & ef. 6-11-87; OSU 2-1990, f. 6-15-90, cert. ef. 10-1-90; OSU 7-1991, f. 6-3-91, cert. ef. 10-1-91; OSU 3-1992, f. 6-5-92, cert. ef. 10-1-92; OSU 6-1993, f. 6-9-93, cert. ef. 10-1-93; OSU 3-1995, f. & cert. ef. 6-20-95; OSU 5-1996, f. & cert. ef. 6-21-96; OSU 2-2004, f. 6-23-04, cert. ef. 7-1-04; OSU 3-2009, f. 6-16-09, cert. ef. 7-1-09; OSU 4-2012, f. 6-6-12, cert. ef. 7-1-12

## 576-030-0040

### Driving and Parking Regulations on Campus

(1) Anyone operating a Vehicle on campus shall observe Signage, speed limits, barricades, bicycle lanes, crosswalks, stop signs, and all other traffic signs and regulations and shall drive in a safe and prudent manner. The speed limit on campus is 15 MPH unless Signage directs otherwise. Driving or parking Vehicles on sidewalks, lawns, and other areas not designated for driving or parking is prohibited.

(2) Campus traffic boundaries and parking areas are indicated on the campus parking map published by TAPS.

(3) Most parking areas on campus are reserved for Vehicles with specific Parking Permits, as indicated by Signage in the parking areas.

(4) All vehicles parked on OSU property are required to observe posted parking and traffic signs.

(5) On the OSU campus any area not specifically designated for parking is a "No Parking Zone."

(6) No Vehicle may be parked in more than one parking space or stall.

(7) Vehicles may not be parked in loading zones at any time for any purpose other than loading and unloading. The maximum time limit is fifteen minutes or as otherwise required by Signage.

(8) All persons operating Vehicles parked on OSU property are required to observe Signage.

(9) Abandoned or immobilized Vehicles left on OSU property more than 72 hours may be removed at the Registered Owner's expense unless an extension has been granted by TAPS or by the OSU Department of Public Safety. Unlicensed Vehicles and Vehicles without OSU Parking Permits parked more than 24 consecutive hours on OSU property Monday through Friday may be considered abandoned and subject to removal at the Registered Owner's expense.

(10) All Vehicles driven on OSU property shall be operated by a legally licensed driver. The license must be displayed upon request of Department of Public Safety Officers or Campus Patrol Officers.

(11) Reserved, service and timed parking areas are enforced at all times unless otherwise posted or as provided in these rules.

(12) All reserved spaces allocated for specific Vehicles are reserved at all times.

(13) Persons are prohibited from living in Vehicles of any kind on University property. Streets, lots and other areas are not to be used as living areas for cars, trailers, campers, motor homes, trucks, buses or other like Vehicles. Violators may be cited for improper parking or the Vehicle may be booted or towed.

(14) Parking Spaces are marked by painted lines and curbs. Any area not specifically marked is a "No Parking" area.

Stat. Auth.: ORS 351.070 & 352.360

Stats. Implemented: ORS 351.070 & 352.360

Hist.: OSU 1-1978, f. & ef. 10-16-78; OSU 3-1987, f. & ef. 6-11-87; OSU 2-1990, f. 6-15-90, cert. ef. 10-1-90; OSU 3-1992, f. 6-5-92, cert. ef. 10-1-92; OSU 6-1993, f. 6-9-93, cert. ef. 10-1-93; OSU 3-1995, f. & cert. ef. 6-20-95; OSU 2-2004, f. 6-23-04, cert. ef. 7-1-04; OSU 3-2009, f. 6-16-09, cert. ef. 7-1-09; OSU 4-2012, f. 6-6-12, cert. ef. 7-1-12

## 576-030-0045

### Parking Committee and Appeal Review Committee

(1) The Vice President for Finance and Administration appoints the members of the Parking Committee to represent faculty, staff, and students on parking matters. Requests for hearings and/or suggestions for enforcement, modification, or amplification of parking regulations should be presented in person or in writing to the Parking Committee.

(2) Any appropriate matter presented to the Parking Committee will be considered to determine what action, if any, is required.

(3) The Appeal Review Committee is composed of two Parking Committee members, appointed by the Chair of the Parking Committee to review parking citation appeals filed by affected persons, other than Students, and appeals from Student Appeal Court decisions filed by Students.

(4) The Student Appeal Court is composed of at least two Students. At least one member of the Student Appeal Court must be a Parking Committee member appointed by the Vice President for Finance and Administration. The Student Appeal Court reviews parking citation appeals filed by Students.

Stat. Auth.: ORS 351.070 & 352.360

Stats. Implemented: ORS 351.070 & 352.360

Hist.: OSU 1-1978, f. & ef. 10-16-78; OSU 3-1987, f. & ef. 6-11-87; OSU 2-1990, f. 6-15-90, cert. ef. 10-1-90; OSU 3-1992, f. 6-5-92, cert. ef. 10-1-92; OSU 6-1993, f. 6-9-93, cert. ef. 10-1-93; OSU 2-1994, f. & cert. ef. 6-8-94; OSU 3-1995, f. & cert. ef. 6-20-95; OSU 6-1999, f. & cert. ef. 6-17-99; OSU 3-2009, f. 6-16-09, cert. ef. 7-1-09; OSU 4-2012, f. 6-6-12, cert. ef. 7-1-12

## 576-030-0050

### Penalties for Offenses

(1) Fines in an amount set out in OSU's List of Fees and Charges, pursuant to OAR 576-010-0000 will be imposed for:

(a) Failure to display a Parking Permit on any Vehicle parked on campus in violation of these regulations or Signage.

(b) Counterfeiting, altering, defacing, or giving false information in an application or hearing or for misuse of any Parking Permit. Such a violation may result in the revocation of the Parking Permit or campus parking privileges in addition to a fine.

(c) Parking in a "No Parking" area.

(d) Parking in an area not authorized by the Parking Permit on display in the Vehicle.

(e) Unauthorized parking in a Disability space or van access area as designated by Signage.

(f) Parking on a lawn, sidewalk, crosswalk, bike lane, driving lane or any other area on campus not designated by Signage as a parking area.

(g) Parking overtime at single or multi-space meters or posted timed parking areas.

(h) Living in Vehicles.

(i) Parking in posted fire lanes.

(2) Any other offenses not specified herein which are violations of the motor vehicle laws and ordinances of the State of Oregon, City of Corvallis or OSU, may be prosecuted in the appropriate state or municipal courts.

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(3) A Vehicle may be booted or towed and impounded, and is subject to towing and storage fees at the Registered Owner's expense in addition to fines if the Vehicle is a traffic hazard, a hazard to pedestrians or to public safety, if it impedes University operations, or if it is parked without authorization in a reserved parking space.

(4) In the event three or more unpaid citations are associated with a Vehicle, TAPS may do any or a combination of the following:

- (a) Terminate the Vehicle Parking Permit without a refund;
- (b) Revoke campus parking privileges;
- (c) Boot the Vehicle until all citation fines have been paid. Booted Vehicles are subject to tow after ten (10) days.

Stat. Auth.: ORS 351.070 & 352.360  
Stats. Implemented: ORS 351.070 & 352.360  
Hist.: OSU 1-1978, f. & ef. 10-16-78; OSU 3-1987, f. & ef. 6-11-87; OSU 2-1990, f. 6-15-90, cert. ef. 10-1-90; OSU 6-1993, f. 6-9-93, cert. ef. 10-1-93; OSU 2-1994, f. & cert. ef. 6-8-94; OSU 3-1995, f. & cert. ef. 6-20-95; OSU 5-1996, f. & cert. ef. 6-21-96; OSU 2-2004, f. 6-23-04, cert. ef. 7-1-04; OSU 3-2009, f. 6-16-09, cert. ef. 7-1-09; OSU 6-2009, f. & cert. ef. 10-15-09; OSU 4-2012, f. 6-6-12, cert. ef. 7-1-12

## 576-030-0055

### Enforcement and Appeals

(1) All penalties prescribed in OAR 576-030-0050, other than violations referred to appropriate courts of law as provided in 576-030-0050(2), will be administratively enforced by OSU. For all administratively enforced violations, a parking citation or notice of offense, including the scheduled fine, will be issued to the person charged with the violation who is in possession or control of the Vehicle or Parking Permit in use, or it will be attached to the Vehicle.

(2) Fines for cited violations must be paid to TAPS, on or before the date indicated on the citation. Citations not paid within thirty days may be forwarded to for collection.

(3) A person charged with a violation may appeal the citation by paying the scheduled fine and filing a request for a hearing within ten days of the date of issuance of the citation. The appeal must be submitted to TAPS on an Appeal Request Form that is available from TAPS.

(4) After the appeal is filed, the case will be scheduled for review by the appropriate Appeal Review Committee as described in 576-030-0045. Student Appeal Court findings may be appealed by the student to the Appeal Review Committee. All judgments rendered by the Appeal Review Committee are final and not subject to further appeal.

(5) A person who fails to pay and appeal a violation on or before the date specified in the citation forfeits his or her right of appeal.

Stat. Auth.: ORS 351.070 & 352.360  
Stats. Implemented: ORS 351.070 & 352.360  
Hist.: OSU 1-1978, f. & ef. 10-16-78; OSU 3-1987, f. & ef. 6-11-87; OSU 2-1990, f. 6-15-90, cert. ef. 10-1-90; OSU 7-1991, f. 6-3-91, cert. ef. 10-1-91; OSU 3-1992, f. 6-5-92, cert. ef. 10-1-92; OSU 6-1993, f. 6-9-93, cert. ef. 10-1-93; OSU 2-1994, f. & cert. ef. 6-8-94; OSU 3-1995, f. & cert. ef. 6-20-95; OSU 3-2009, f. 6-16-09, cert. ef. 7-1-09; OSU 4-2012, f. 6-6-12, cert. ef. 7-1-12

## 576-030-0060

### Motorcycle and Motor Scooter Operation

(1) Parking areas for motorcycles, Motor scooters, and Mopeds are specifically designated by Signage.

(2) Motorcycles, Motor scooters, and Mopeds may not park in any areas prohibited for other motorized Vehicles including sidewalks, bicycle parking areas, bicycle lanes, or pedestrian areas.

(3) Motorcycles, Motor scooters, and Mopeds are prohibited from entering or parking in the area designated "Campus Core" by Signage, unless otherwise authorized by TAPS or OSU Department of Public Safety.

Stat. Auth.: ORS 351.070 & 352.360  
Stats. Implemented: ORS 351.070 & 352.360  
Hist.: OSU 1-1978, f. & ef. 10-16-78; OSU 3-1987, f. & ef. 6-11-87; OSU 2-1990, f. 6-15-90, cert. ef. 10-1-90; OSU 7-1991, f. 6-3-91, cert. ef. 10-1-91; OSU 6-1993, f. 6-9-93, cert. ef. 10-1-93; OSU 3-2009, f. 6-16-09, cert. ef. 7-1-09; OSU 4-2012, f. 6-6-12, cert. ef. 7-1-12

## 576-030-0070

### Skateboard, Skate and Non-motorized Scooter Regulations

(1) Skateboard, skate and non-motorized scooter use is prohibited on property owned or controlled by Oregon State University except use as specified in these regulations.

(2) Skateboards, skates and non-motorized scooters may be operated in the area in McAlexander Field House designated for their use. All other use of skateboards, skates and non-motorized scooters is prohibited in University buildings.

(3) Skateboards, skates and non-motorized scooters may be operated on the University paved roadways that are designed for vehicular travel.

(4) Skates may be operated on paths, walkways, and sidewalks at no more than walk speed.

(5) Skateboards, skates and non-motorized scooter users shall yield the right-of-way to pedestrians, Vehicles and bicycles while in the roadway, and emergency Vehicles.

(6) Skateboard, skate and non-motorized scooter users shall obey all stop and yield signs.

(7) Skateboards, skates and non-motorized scooters shall not be used on that portion of Jefferson Street commonly known as Library Hill (immediately south of Valley Library).

(8) Skateboard, skate and non-motorized scooter users shall not perform acrobatics or other stunts when using skateboards, non-motorized scooters or while wearing skates.

(9) All persons using skateboards, skates or non-motorized scooters as authorized by this rule shall use them in a reasonable and prudent manner, having due regard to traffic, pedestrians' rights, surface of the roadway, the hazard at intersections, and any other condition then existing.

(10) Any person who violates this rule is subject to:

- (a) Issuance of a University Citation and a fine of \$50.00;
- (b) Institutional disciplinary proceedings, if a student or employee;
- (c) An order to leave the immediate premises or property owned or controlled by the University by a person in charge of University property.

(11) Persons failing to comply with an order by a person in charge to leave or to remain off the immediate premises or property owned or controlled by the University are subject to arrest for criminal trespass.

(12) Parents and guardians of minors and adult operators, including students, staff and faculty, are responsible for damage to University buildings or property by their skateboards, skates or non-motorized scooters and for payment of any fines.

(13) The Vice President for Finance and Administration, the Vice Provost for Student Affairs, Department of Public Safety Manager, Manager of Environmental Health and Safety, Director of Facilities Services, Director of University Housing and Dining Services, Director of Conferences and Special Events, the Director of the Memorial Union and Educational Activities, and their designees are included among those "persons in charge" of University property for purposes of ORS 164.205(5) and this rule.

Stat. Auth.: ORS 164.205(5), 351.070 & 352.360  
Stats. Implemented: ORS 164.205(5), 351.070 & 352.360  
Hist.: OSU 1-1987, f. & ef. 4-21-87; OSU 5-1990, f. 9-7-90, cert. ef. 9-15-90; OSU 3-1993, f. & cert. ef. 5-7-93; OSU 2-1994, f. & cert. ef. 6-8-94; OSU 2-1999(Temp), f. & cert. ef. 4-14-99 thru 9-30-99; OSU 7-1999, f. & cert. ef. 9-9-99; OSU 3-2009, f. 6-16-09, cert. ef. 7-1-09; OSU 4-2012, f. 6-6-12, cert. ef. 7-1-12

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## Oregon University System, Southern Oregon University Chapter 573

**Rule Caption:** Parking Enforcement and Appeals.

**Adm. Order No.:** SOU 2-2012

**Filed with Sec. of State:** 6-11-2012

**Certified to be Effective:** 6-11-12

**Notice Publication Date:** 5-1-2012

**Rules Amended:** 573-050-0015, 573-050-0025

**Subject:** This amendments in division 50 removes/modifies outdated language in the rule and increases permit fees.

**Rules Coordinator:** Treasa Sprague—(541) 552-6319

## 573-050-0015

### Definitions

(1) For the purpose of these regulations, the word "parking" 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 a vehicle immobilized by traffic control, congestion, or accident.

(2) The word "vehicle" means any type of motor-powered conveyance including, but not limited to, automobiles, trucks, trailers, motorcycles, mopeds, scooters, bicycles, skateboards, personal assistive mobility devices and all methods of transportation on wheels.

(3) The word "permit" as used in these regulations includes all the following:

- (a) Faculty/Staff decal/hang tag.
- (b) Student Commuter decal;
- (c) Residence Hall decal;
- (d) Motorcycle and Scooter decal;
- (e) Carpool decal;
- (f) Temporary Substitute permit;
- (g) Weekly Parking permit;
- (h) Guest Parking permit;

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- (i) Service Vehicle permit;
- (j) Daily Parking permit.
- (k) Special Permits
- (4) A “decal” is the permanent permit affixed to a vehicle.
- (5) The word “permit” means a valid decal or permit as recognized by the Parking Department.

(6) Service vehicles are defined as University-owned service trucks or cars, vehicles with commercial permits, or vehicles with special temporary service permits performing a service for Southern Oregon University.

(7) Delivery vehicles are defined as vehicles owned by companies doing pick-up and delivery business with the University departments or vehicles with temporary special delivery permits on pick-up and delivery business.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 352.360

Hist.: SOSC 5, f. & ef. 9-2-76; SOSC 4-1979, f. 8-8-79, ef. 9-1-79; SOSC 5-1980, f. & ef. 8-19-80; SOSC 4-1982, f. & ef. 7-28-82; SOSC 6-1983, f. & ef. 8-23-83; SOSC 2-1984, f. & ef. 8-14-84; SOSC 8-1985, f. & ef. 8-12-85; SOSC 5-1987, f. & ef. 9-8-87; SOSC 2-1996, f. & cert. ef. 8-2-96; SOU 2-2011, f. & cert. ef. 6-13-11; SOU 2-2012, f. & cert. ef. 6-11-12

## 573-050-0025

### Vehicle Permits, Parking Areas and Fee Schedule

(1) All vehicles parked on the University campus are required to display a valid SOU permit when the posted signs require a permit. Faculty/Staff lots are posted yellow; Student Commuter lots are posted green; Resident Student lots are posted red. Parking Services can be contacted for the location where other types of permits may be obtained. Failure to display a permit may result in the issuance of a parking citation. Permits may be purchased during normal office hours at the Enrollment Services Center (ESC) located in Britt Hall. All permits are valid for the current academic year only, unless otherwise designated by Parking Services at the time of issuance; there are no open-ended permits.

(a) Permit is defined as any Parking Services sanctioned or issued permit. Examples include: decal, hangtag, guest, special, metered, temporary, courtesy\*, media, or other placard or device issued or developed by Parking Services as needed to facilitate parking of vehicles on Southern Oregon University property. \*(A courtesy permit refers to a Retiree, VIP, or a Volunteer.) Any misuse of these parking permits may cause them to be revoked.

(2) Parking permits and faculty/staff hangtags are serialized for use on specific vehicle(s) with a license plate designated by the purchaser at the time of purchase. Permits (decals) must be affixed outside to left-rear bumper, left-rear body, left-rear window, or rear-side window behind driver of the vehicle where visible. The adhesive on the back of the permit must be the attaching mechanism. Hangtags are to be hung from the rear-view mirror; serialized numbers facing out. Parking Services (at the Enrollment Services Center in Britt Hall) must be informed of changes in vehicles; re-registering the hangtags to the appropriate vehicle(s). If a vehicle is disposed of, the permit must be removed and returned to Parking Services.

(3) Parking permits may be purchased for the time period designated on the decals; generally the academic year. The academic year begins and ends in September. Parking permits purchased during the winter, spring, or summer terms are at a proportionately reduced rate.

(4) Faculty/Staff parking permits (or hangtags) will be sold to classified employees, graduate assistants, temporary employees who are half-time or more, and faculty. Faculty/staff employees working .50 FTE or less will be eligible for a permit at a reduced rate of one-half the cost of the permit. Hangtags are issued for a three-year period. Faculty/staff hangtags are considered the first permit. They are not to be sold as a second permit. Vehicles displaying a Faculty/Staff permit (or hangtag) are authorized to park in designated Faculty/Staff (yellow) parking areas.

(5) Student Commuter parking permits will be sold to students who live off campus and wish to bring vehicles on campus. Vehicles displaying a Student Commuter permit are authorized to park in designated Student Commuter (green) parking areas only.

(6) Residence Hall parking permits will be sold to students living in campus residence halls. Vehicles displaying a Residence Hall permit are authorized to park in designated Residence Hall (red) parking areas only.

(7) Second parking permits may be purchased for an additional vehicle if more than one vehicle will be brought to campus. The purchaser must also be the registered owner of the vehicle. Only one permit (the original or second permit) is valid in permit-required lots at a time. If both first and second permits of one person are parked in permit-required lots at the same time, both vehicles will be cited for improper permits. A second permit may not be purchased for a car if the first permit is for a vehicle used in a Residence Hall Parking area, a motorcycle, moped, or scooter.

(8) A replacement permit may be obtained for a damaged, unreadable permit or for a replacement vehicle. The replacement vehicle must be registered to the same owner as the original vehicle. The permit which is being replaced will be considered void and should be returned to Parking Services (at the Enrollment Services Center in Britt Hall) upon purchase of a replacement permit.

(9) Guest permits are available at Parking Services and departmental offices. Guest permits are issued for one day only. Guest permits may not be used in timed or visitor pay meter lots. Guest permits will not be valid if issued to University employees, faculty, students, buses, or vehicles displaying a valid parking permit. Guest permits will not be valid and a citation may be issued for failure to display permit if any of the following information is illegible or omitted:

(a) Both license number and make or color of vehicle;

(b) Date that permit is valid;

(c) Name and telephone extension of departmental personnel issuing the permit.

(10) Carpool parking permits will be sold for the entire school year only if the carpool meets the following criteria:

(a) The carpool must contain at least two registered participants but no more than six.

(b) No more than one vehicle from the carpool is allowed on campus at a particular time. They may not purchase a second permit. However, replacement permits are available if requirements as stated in the regulations for replacement permits are met.

(11) Temporary replacement vehicles for a vehicle with a permit may be brought on campus after obtaining a Substitute Vehicle parking permit from Parking Services. This permit is used for temporary situations of short duration (30 days or less).

(12) Special permits may be approved by Parking Services on an as-needed basis.

(13) Weekly or Daily permits, for those persons who use the campus parking facilities only intermittently, may be purchased at Parking Services (at the Enrollment Services Center in Britt Hall) or may be available in departments that have purchased them for use in special programs or events on campus.

(14) Courtesy (purple), parking permits are available to Emeritus Faculty only. Courtesy (purple), permits are valid for Emeritus Faculty only, not to be used by family or friends. A grandfather clause exists for employees who have already received a purple permit prior to the effective date of this rule. Volunteer board members, designated governmental officials, media representatives, and such others as deemed necessary by the President will have dated and numbered VIP hangtags to facilitate their interaction with the institution. Media representatives will receive dated and numbered hangtags. Permits may be used only for their intended purpose.

(15) Vendor or Volunteer permits may be obtained through Parking Services.

(a) Commercial permits will be sold to commercial vendors, including vending machine, video game, outside maintenance, travel, office supply, and food vendor companies, and contractors' employees. Companies or departments can purchase a long-term permit for six months or a year. Short-term permits are available for one day or one month. Companies or departments will be billed for the permits by Parking Services.

(b) Volunteer parking permits will be sold to departments for use by volunteers. Departments can purchase long-term permits for one year, short-term permits for less than one month or term-by-term. These permits will be billed by Parking Services to the issuing department. Volunteer permits are not valid if issued to current University employees, faculty or students.

(16) Disabled parking is in accordance with ORS 811.602, 811.605, 811.606, 811.607, and 811.615. Only vehicles displaying a disabled placard or license plate issued and registered at the Motor Vehicles Division (as designated in Rule 573-050-0020) will be allowed to park in spaces posted for use by disabled persons. These vehicles must also display an SOU permit or meter permit unless otherwise posted.

(a) Temporary placards are issued by the Motor Vehicle Division for persons with qualifying temporary disabilities (as provided by ORS 811.606 and 811.640). The requirements for parking on campus apply for all disabled parking listed above.

(b) Vehicles with an appropriate disabled placard or license plate and SOU permit may park in any lot or space without incurring citations, except where the lot or space is designated for parking limited to 60 minutes or less in a parking space reserved for other vehicles, or visitor-pay meter lots.

(17) Refunds will be given for student/staff parking permits for unused academic terms, except summer term. No refunds will be given for

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year permits that are not used summer term. Refunds will be given upon return of the permit or fragments thereof showing the permit numbers and expiration date. Refund schedules are on file at ESC.

(18) Vehicles displaying valid permits are not guaranteed a parking space on the campus.

(19) Vehicles displaying valid permits are not exempt from timed parking restrictions. Vehicles may park in a timed space or in a metered parking space but must comply with the time limits or metered fee payment of the specific space.

(20) Mopeds, scooters, & motorcycles must have a motorcycle permit and be parked in a motorcycle parking space. If a motorcycle has a full price vehicle parking permit they may park in a vehicle space that corresponds with the color of the permit. Motorcycles may park in timed spaces that are open to the public. Mopeds, scooters, and motorcycles parked in bicycle racks and on the campus grounds will be cited for improper parking. Vehicles parked inside University buildings will be towed at the owner's expense.

(21) If a faculty/staff hangtag is the first legal permit, and a motorcycle is the second vehicle, a decal may be purchased at second decal rate.

(22) If, during the process of issuing a parking citation, the driver of the violating vehicle drives away from the scene, thus preventing the issuing agent from placing the citation on the vehicle, the citation will be entered into the parking system as if it had been placed on the vehicle. When a driver leaves the scene during the issuing process, this will be considered "constructive notice" of the citation.

(23) Vehicles parked facing in the direction against one-way arrows will be cited for improper parking. Vehicles parked on the side of street opposing direction of usual traffic flow will be cited for improper parking.

(24) Vehicles using parking lots marked "Visitor Pay Parking" are required to display the serialized meter permit purchased at each lot of this type. Failure to display the meter permit in plain view on the left side of the vehicle's dashboard will result in a citation for failure to display a permit. There is no grace period to obtain change for the permit machine.

(25) Government Vehicles not assigned a permanent parking space may only be parked for a period of 24 hours in Faculty/Staff or Student parking spaces unless permission has been obtained from Parking Services. Vehicles may be liable for enforcement action for non-compliance.

(26) Buses may park where directed by Parking Services.

(27) Fee Schedule:

(a) Carpool, sold for entire school year only: \$130 each pool.

(b) Faculty and staff decal for first-registered vehicle, fall term through summer term: \$137.

(c) Faculty/staff hangtags are issued for a three-year period: \$412.

(A) This fee is for a one-time purchase.

(B) Payroll deduction is available, plus applicable increases in permit fees.

(d) Student Commuter and Residence Hall decal for first-registered vehicle for only fall term through summer term: \$130.

(e) Motorcycles, mopeds, and scooters, one vehicle only:

(A) Fall term through summer term: \$53.

(B) If motorcycles park in auto spaces, the fee is commensurate with full auto fee for the area.

(f) Second Vehicle permit: \$44.

(A) Second permits will be sold only to Faculty/Staff and Commuter permit holders. Red permit holders may not purchase a second permit.

(B) One second permit is allowed for each full-price (first-registered vehicle) permit purchased.

(C) Replacement permits can be obtained only in accordance with OAR 573-050-0025(8).

(g) Replacement permits or hangtags: \$29.

(h) Lost/stolen permits: \$23.

(i) Departmental Reserved Parking spaces (nonrefundable): \$100 over and above price for regular parking permit and a \$50 fee for each subsequent sign-change after a sign is posted.

(j) Commercial permit, each vehicle:

(A) Long-term, twelve months: \$180.

(B) Long-term, six months: \$107.

(C) Short-term, one month: \$29.

(D) Short-term, daily: \$10.

(k) Weekly parking permits: \$29 per week (available at Housing, and Parking Services).

(l) Daily parking permits: \$10 per day (available at Housing, and Parking Services).

(m) Department Daily Guest Pass booklets: \$44.

(n) Evening and weekend parking in designated lots: \$1.

(o) Visitor pay parking in specified lots: \$1 per hour (lot 12, and lot 29; in lot 1, pay \$0.25 per hour). Lots 27, 30, 32, are \$1.00 per visit after 6 PM and weekends.

(p) Volunteer permit:

(A) Volunteer, each vehicle, long-term, one year: \$7.

(B) Volunteer, each vehicle, short-term, less than one month: \$2.

(q) Handling charges:

(A) Deducting fines from payroll check: \$7.

(B) Out-of-state Department of Motor Vehicles research fee: \$7.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 352.360

Hist.: SOSC 5, f. & ef. 9-2-76; SOSC 4-1979, f. 8-8-79, ef. 9-1-79; SOSC 5-1980, f. & ef. 8-19-80; SOSC 3-1981, f. & ef. 9-9-81; SOSC 4-1982, f. & ef. 7-28-82; SOSC 1-1983, f. & ef. 1-3-83; SOSC 6-1983, f. & ef. 8-23-83; SOSC 2-1984, f. & ef. 8-14-84; SOSC 8-1985, f. & ef. 8-12-85; SOSC 3-1986, f. & ef. 7-22-86; SOSC 5-1987, f. & ef. 9-8-87; SOSC 4-1989, f. & cert. ef. 9-19-89; SOSC 3-1990, f. & cert. ef. 5-31-90; SOSC 4-1991, f. & cert. ef. 6-11-91; SOSC 2-1994, f. & cert. ef. 6-10-94; SOSC 2-1996, f. & cert. ef. 8-2-96; SOU 2-1997, f. & cert. ef. 8-26-97; SOU 2-1998, f. & cert. ef. 7-16-98; SOU 1-1999, f. & cert. ef. 5-7-99; SOU 2-2000, f. & cert. ef. 6-9-00; SOU 1-2001, f. & cert. ef. 4-4-01; SOU 2-2002, f. & cert. ef. 6-28-02; SOU 1-2004, f. & cert. ef. 4-5-04; SOU 3-2006, f. & cert. ef. 6-29-06; SOU 3-2007, f. & cert. ef. 7-23-07; SOU 3-2009, f. 10-1-09, cert. ef. 10-4-09; SOU 3-2010, f. & cert. ef. 6-8-10; SOU 2-2011, f. & cert. ef. 6-13-11; SOU 2-2012, f. & cert. ef. 6-11-12

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## Oregon University System, University of Oregon Chapter 571

**Rule Caption:** Amend special fees, fines, penalties, and service charges – including Family Housing Rental Rates.

**Adm. Order No.:** UO 1-2012

**Filed with Sec. of State:** 6-4-2012

**Certified to be Effective:** 7-1-12

**Notice Publication Date:** 4-1-2012

**Rules Amended:** 571-060-0005

**Subject:** The University administration has determined that the adoption of the amendments to the fee list will be necessary in order to provide the basis for funding to cover the expenses of the services rendered and to maintain a current schedule of fees, fines, and penalties.

Copies of the amended rates are attached.

**Rules Coordinator:** Lauren Townsend—(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

# ADMINISTRATIVE RULES

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; UO 1-1998, f. 6-17-98, cert. ef. 7-1-98; UO 2-1998, f. 6-17-98, cert. ef. 7-1-98; UO 2-1999, f. 6-1-99, cert. ef. 7-1-99; UO 3-1999, f. 6-1-99, cert. ef. 7-1-99; UO 2-2000, f. 6-15-00, cert. ef. 7-1-00; UO 1-2001, f. 6-18-01, cert. ef. 7-1-01; UO 2-2001, f. 6-18-01, cert. ef. 7-1-01; UO 2-2002, f. 6-19-02, cert. ef. 7-1-02; UO 3-2002, f. 6-19-02, cert. ef. 7-1-02; UO 1-2003, f. 6-23-03, cert. ef. 7-1-03; UO 2-2003, f. 6-23-03, cert. ef. 7-1-03; UO 2-2004, f. 5-11-04, cert. ef. 7-1-04; UO 3-2004, f. 6-30-04, cert. ef. 7-1-04; UO 6-2007, f. & cert. ef. 2-22-07; UO 8-2007, f. & cert. ef. 3-12-07; UO 9-2007, f. 5-10-07, cert. ef. 6-29-07; UO 11-2007, f. 6-19-07, cert. ef. 6-29-07; UO 2-2008, f. 5-6-08, cert. ef. 7-1-08; UO 4-2008, f. 6-27-08, cert. ef. 7-1-08; UO 1-2009, f. 4-24-09, cert. ef. 7-1-09; UO 2-2009, f. 6-30-09, cert. ef. 7-1-09; UO 1-2010, f. 4-22-10, cert. ef. 7-1-10; UO 2-2010, f. 7-29-10, cert. ef. 7-30-10; UO 2-2011, f. 6-22-11, cert. ef. 7-1-11; UO 1-2012, f. 6-4-12, cert. ef. 7-1-12

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**Rule Caption:** Amend 571-050-0005 – Smoking and tobacco restrictions on University owned or controlled properties.

**Adm. Order No.:** UO 2-2012

**Filed with Sec. of State:** 6-13-2012

**Certified to be Effective:** 6-13-12

**Notice Publication Date:** 4-1-2012

**Rules Amended:** 571-050-0005

**Subject:** The University of Oregon has determined that amendments to the current smoking restrictions on University owned or controlled property are necessary because of the harm caused by second-hand smoke and the chronic disease and death caused by tobacco use. The University of Oregon is also committed to educating its employees and students about the harm associated with tobacco use. The rule defines smoking and tobacco and tobacco-related items that are prohibited on University of Oregon owned or controlled property, outlines sanctions resulting from violations, sets forth a mechanism to appeal sanctions, and notes assistance provided to treat tobacco addiction.

A copy of the amended rule is attached.

**Rules Coordinator:** Lauren Townsend—(541) 346-3082

## 571-050-0005

**Smoking and Tobacco Restrictions on University Owned or Controlled Properties**

### (1) Definitions

(a) “Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated Tobacco product, including legal smoking substances that are not Tobacco, and smoking instruments.

(b) “Tobacco Use” includes Smoking, chewing, dipping or any other use of Tobacco products.

(c) “Tobacco” means all forms of Tobacco, including but not limited to cigarettes, cigars, shisha, pipes, water pipes (hookah), electronic cigarettes, and all forms of smokeless Tobacco including but not limited to chew, snus, snuff, sticks, strips and orbs.

(d) “Tobacco-related” means the use of Tobacco brand or corporate name, trademark, logo, symbol, motto, or selling message that is identifiable with those used for any brand of Tobacco products or company that manufactures Tobacco products.

(e) “Person” means a natural person.

(f) “Property” means all property owned or controlled by the University.

(g) “Vehicle” means any vehicle owned, rented or leased by the University.

(2) Prohibitions. Smoking and Tobacco Use is prohibited on all Property and in all Vehicles. Tobacco may not be sold or distributed on any Property. Any violation of this rule impairs and disrupts the educational or other activities of the University. An employee who violates this rule may be subject to discipline. A student who violates this rule may be subject to sanction under the Student Conduct Code.

(3) Citation and Appeals. Anyone else who violates this rule may be issued a citation for thirty dollars (\$30). Any complaints about citations issued or appeal of an issued citation may be directed to the Vice President for Finance and Administration or that person’s designee. Appeals of citations must be received by the Office of the Vice President for Finance and Administration within thirty (30) days of the date of issuance of the citation.

(4) Assistance to Employees and Students. The University will publicize the availability of Tobacco addiction treatment assistance for employees and students.

(5) Exceptions. Exceptions to this administrative rule may be approved by the President of the University upon a finding of reasonable cause.

Stat. Auth.: ORS 351 & 352

Stats. Implemented: ORS 351.060

Hist.: UOO 8, f. 5-3-74, ef. 6-25-74; UOO 12-1982, f. & cert. ef. 12-10-82; UOO 6-1990, f. & cert. ef. 5-18-90; UO 2-2012, f. & cert. ef. 6-13-12

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**Rule Caption:** Amend OAR 571-060-0005 to include residence hall room and board rates.

**Adm. Order No.:** UO 3-2012(Temp)

**Filed with Sec. of State:** 6-13-2012

**Certified to be Effective:** 7-1-12 thru 12-21-12

**Notice Publication Date:**

**Rules Amended:** 571-060-0005

**Subject:** The University administration has determined that adoption of amendments to the residence hall room and board rates is necessary to cover the expenses of providing UO on-campus housing and dining. In the past, the State Board of Higher Education established fees, fines and charges for residence hall room and board rates. However, this authority has been delegated to the institution presidents. A copy of the amended rates is attached.

**Rules Coordinator:** Lauren Townsend—(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.

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(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

## Public Utility Commission, Board of Maritime Pilots Chapter 856

**Rule Caption:** Amends “substantive elements” of ratemaking provisions.

**Adm. Order No.:** BMP 1-2012

**Filed with Sec. of State:** 5-29-2012

**Certified to be Effective:** 5-29-12

**Notice Publication Date:** 5-1-2012

**Rules Amended:** 856-030-0000

**Subject:** Proposed rule amendments to substantive elements of ratemaking provisions adds Board consideration of evidence of economic and market conditions; and compensation and benefits of licensees serving Puget Sound and San Francisco.

**Rules Coordinator:** Susan Johnson—(971) 673-1530

### 856-030-0000

#### Ratemaking — Substantive Elements

The Board shall for each pilotage ground, establish a rate structure that provides for efficient, economical, and competent pilotage services and fair compensation for pilotage services and expenses:

(1) In determining the number of pilot positions needed and fair compensation for services and expenses, the Board shall consider:

(a) The amount of activity, including number of vessels, number of pilot assignments, size of vessels by gross registered tonnage (GRT), length, and draft;

(b) Any change in the amount of activity since the last rate order;

(c) The public interest in prompt and efficient service;

(d) The professional skills and experience required of a pilot and the difficulty and inconvenience of providing the service, including time necessary to perform the service;

(e) Evidence of compensation for comparable maritime professions, including other state regulated pilotage associations;

(f) Evidence of the economic and market conditions existing both locally and within the region of any pilotage association used for the purpose of comparison;

(g) Total gross and net income for the pilots’ group since the last rate order, or as directed by the Board, including sources of income by tariff category; and

(h) Individual amounts paid to pilots since the last rate order, or as directed by the Board, which may be shown as both gross and adjusted gross income, as reported for tax purposes.

(2) For the purposes of subsection (1)(e) above, the Board shall at a minimum consider evidence of the compensation and benefits provided to pilots in pilotage associations serving Puget Sound and San Francisco.

(3) In determining compensation for expenses the Board shall consider evidence of appropriate expenses related to the provision of pilotage services as shown by records of the pilots’ group, and verified by an independent audit.

(4) In receiving evidence on any financial or economic issue, the Board or its hearings officer may require parties to submit independently audited or other financial records in order to hold all parties to a comparable standard of proof.

Stat. Auth.: ORS 776

Stats. Implemented: ORS 776.115

Hist.: MP 2-1983, f. & ef. 12-15-83; MP 3-1988, f. & cert. ef. 11-9-88; BMP 3-2003, f. & cert. ef. 5-23-03; BMP 1-2012, f. & cert. ef. 5-29-12

## Racing Commission Chapter 462

**Rule Caption:** Amends administrative rules to provide direction regarding the use of the drug Clenbuterol.

**Adm. Order No.:** RC 1-2012(Temp)

**Filed with Sec. of State:** 5-21-2012

**Certified to be Effective:** 5-22-12 thru 11-17-12

**Notice Publication Date:**

**Rules Amended:** 462-160-0130

**Subject:** Amend: 462-160-0130 (Medications and Prohibited Substances): Adds language to the rule that describes acceptable use of the drug Clenbuterol.

**Rules Coordinator:** Nancy A. Artmann—(971) 673-0211

### 462-160-0130

#### Medications and Prohibited Substances

(1) No horse may be administered any substance, other than foods, by any route or method less than 24 hours before the original post time for the race in which the horse is entered except furosemide (by the manner described in these rules) unless approved by a commission veterinarian:

(a) Any licensee of the commission, including veterinarians, found to be responsible for the improper or intentional administration of any drug resulting in a positive test may, after proper notice and hearing, be subject to the same penalties set forth for the licensed trainer;

(b) The licensed trainer is responsible for notifying the licensed owner, veterinarian or any other licensed party involved in a positive laboratory finding of any hearings and any resulting action. In addition their presence may be required at any and all hearings relative to the case;

(c) Any veterinarian found to be involved in the administration of any drug with an RCI Classification of 1, 2, or 3, involved in a prohibited practice as outlined in OAR 462-160-0120, or involved in an ORS 462 violation shall be referred to the State Licensing Board of Veterinary Medicine for consideration of further disciplinary action and/or license revocation. This is in addition to any penalties issued by the stewards or the commission;

(d) Any person who the stewards or the commission believe may have committed acts in violation of criminal statutes may be referred to the appropriate law enforcement agency. Administrative action taken by the stewards or the commission does not prohibit a prosecution for criminal acts committed, nor does a potential criminal prosecution stall administrative action by the stewards or the commission;

(e) A licensed trainer shall not benefit financially during the period for which the individual has been suspended. This includes, but is not limited to, ensuring that horses are not transferred to licensed family members.

(2) Medication Restrictions:

(a) A finding by the commission approved laboratory of a prohibited drug, chemical or other substance in a test specimen of a horse is prima facie evidence that the prohibited drug, chemical or other substance was administered to the horse and, in the case of a race day test, was present in the horse’s body on race day. Prohibited substances include:

(A) Drugs or medications for which no acceptable threshold concentration has been established;

(B) Therapeutic medications in excess of established threshold concentrations;

(C) Substances present in the horse in excess of concentrations at which such substances could occur naturally; and



## ADMINISTRATIVE RULES

(D) Substances foreign to a horse at concentrations that cause interference with testing procedures.

(b) Except as otherwise provided by this chapter, a person may not administer or cause to be administered by any means to a horse a prohibited drug, medication, chemical or other substance, including any restricted medication pursuant to this chapter less than 24-hours before post time for the race in which the horse is entered.

(3) Medical Labeling:

(a) No person on association grounds where horses are lodged or kept, excluding licensed veterinarians, shall have in or upon association grounds which that person occupies or has the right to occupy, or in that person's personal property or effects or vehicle in that person's care, custody or control, a drug, medication, chemical, foreign substance or other substance that is prohibited in a horse on a race day unless the product is labeled in accordance with this subsection;

(b) Any drug or medication which is used or kept on association grounds and which, by federal or state law, requires a prescription must have been validly prescribed by a duly licensed veterinarian, and in compliance with the applicable state statutes. All such allowable medications must have a prescription label which is securely attached and clearly ascribed to show the following:

(A) The name of the product;

(B) The name, address and telephone number of the veterinarian prescribing or dispensing the product;

(C) The name of each patient (horse) for whom the product is intended/prescribed;

(D) The dose, dosage, duration of treatment and expiration date of the prescribed/dispensed product; and

(E) The name of the person (trainer) to whom the product was dispensed.

(4) Non-Steroidal Anti-Inflammatory Drugs (NSAIDs):

(a) The use of one of three approved NSAIDs shall be permitted under the following conditions:

(A) The approved NSAIDs shall be authorized medication at race meets at which the average daily gross mutuel wagering during the preceding year exceeded \$150,000. If a race meet with average daily gross mutuel wagering during the preceding year of \$150,000 or less desires NSAIDs be authorized medications at their race meet they may petition the commission to approve the use of permitted NSAIDs at their race meet. The commission may approve the use of permitted NSAIDs at such race meet, if in the opinion of the commission the race meet can provide for the necessary qualified staffing, security and for the additional laboratory analysis costs and any other controls necessary to administer the program adequately. Horses on any permitted NSAID will be designated on the overnight and the daily racing program;

(B) No horse utilizing a permitted NSAID may be entered into a race unless the presence of the specific NSAID is stated on the entry form at the time of entry. Errors may be corrected up until scratch time. If no scratch time is used, the stewards may designate a time until which errors may be corrected;

(C) Not to exceed the following permitted serum or plasma threshold concentrations which are consistent with administration by a single intravenous injection not less than 24-hours before the post time for the race in which the horse is entered:

(i) Phenylbutazone (or its metabolite oxyphenylbutazone) – 5 micrograms per milliliter;

(ii) Flunixin – 50 nanograms per milliliter;

(iii) Ketoprofen – 10 nanograms per milliliter.

(D) These or any other NSAID are prohibited to be administered within the 24-hours before the original post time for the race in which the horse is entered;

(E) The presence of more than one of the three approved NSAIDs in serum or plasma is not permitted in a race day sample; however, the presence of two approved NSAIDs in a race day sample is allowed if one of them is phenylbutazone with a serum or plasma concentration less than one microgram per milliliter (mcg/ml).

(F) The presence of any unapproved NSAID in serum, plasma or urine sample is not permitted in a race day sample.

(b) Any horse to which an NSAID has been administered shall be subject to having a blood and/or urine sample(s) taken at the direction of a commission veterinarian to determine the quantitative NSAID level(s) and/or the presence of other drugs which may be present in the blood or urine sample(s);

(c) When listed to race on a permitted NSAID, the approved laboratory must be able to detect the presence of a permitted NSAID in serum,

plasma or urine by the routine methods of detection; (d) If a permitted NSAID is detected in the urine or in any other specimen taken from a horse not stated to have permitted medication in its system on the entry form and/or program, the violation will result in a penalty to the horse's trainer and may result in loss of purse;

(e) If the same horse has three (3) overages of any permitted NSAID during a 365 day period a commission veterinarian may rule the horse off all NSAIDs for a period of one year (365 days); (f) The decision of whether to scratch a horse which has been entered incorrectly or is incorrectly treated shall be left to the discretion of a commission veterinarian.

(5) Furosemide:

(a) The commission may approve the use of furosemide at any race meet if, in the opinion of the commission, the race meet can provide the necessary qualified staffing, security and for the additional laboratory analysis costs and any other controls necessary to administer a furosemide program;

(b) Furosemide may be administered intravenously to a horse, which is entered to compete in a race. Except under the instructions of a commission veterinarian or the racing veterinarian for the purpose of removing a horse from the Veterinarian's List or to facilitate the collection of a post-race urine sample, furosemide shall be permitted only if the following process is followed:

(A) After the horse's licensed trainer and licensed veterinarian determine that it would be in the horse's best interests to race with furosemide, the horse may be so entered.

(B) The horse may be discontinued from racing on furosemide at the licensed trainer's choice at the time of entry.

(C) Furosemide shall only be administered on association grounds;

(D) Upon the request of the regulatory agency designee, the veterinarian administering the authorized bleeder medication shall surrender the syringe used to administer such medication which may then be submitted for testing.

(c) Horses to run with furosemide must be so noted on the entry form at the time of entry. Errors may be corrected up until scratch time. If no scratch time is used, the stewards may designate a time until which errors may be corrected:

(A) Horses entered to race with furosemide will be designated on the overnight and the daily racing program with a "Lasix®" or "L". If the race is the first race the horse is to run in on furosemide, it shall be designated in the daily racing program with a "1-L". If the race is the first race the horse runs without furosemide after running one or more races with furosemide, it shall be designated in the program by "O-L" or "L-X";

(B) When discovered prior to the race, errors in the listing of furosemide treatments in the program shall be announced to the public.

(d) The use of furosemide shall be permitted under the following circumstances:

(A) Furosemide shall be administered no more than five hours but not less than four hours prior to the original scheduled post time for the race for which the horse is entered;

(B) The furosemide dosage administered shall not exceed 500 mg, nor be less than 150 mg;

(C) Furosemide shall be administered by a single, intravenous injection;

(D) The veterinarian treating the horse shall cause to be delivered to a commission veterinarian or designated representative no later than one hour prior to post time for the race for which the horse is entered the following information under oath on a form approved by a commission veterinarian:

(i) The name of the horse, racetrack name, the date and time the furosemide was administered to the entered horse;

(ii) The dosage amount of furosemide administered to the entered horse; and

(iii) The printed name and signature of the attending licensed veterinarian who administered the furosemide;

(iv) Violations of this subsection (subsection (d)) shall result in a fine and scratch from the race the horse was entered to run. Violations may also result in a commission veterinarian ordering the loss of furosemide privileges.

(e) Test results must show a detectable concentration of the drug in the race day serum, plasma or urine sample. If furosemide is not detected in a race day sample, a penalty may be imposed upon the horse's trainer without loss of purse:

(A) Quantification of furosemide in serum or plasma shall be performed. Concentrations of furosemide in serum or plasma shall not exceed 100 nanograms of furosemide per milliliter of serum or plasma. When the

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concentration of furosemide exceeds 100 nanograms of furosemide per milliliter of serum or plasma, specific gravity of the corresponding urine sample shall be measured.

(B) The specific gravity of race day urine samples may be measured to ensure that samples are sufficiently concentrated for proper chemical analysis. The specific gravity shall not be below 1.010.

(f) Unauthorized use of furosemide shall result in a penalty to the horse's trainer;

(g) The decision of whether to scratch a horse which has been entered incorrectly or is incorrectly treated shall be left to the discretion of a commission veterinarian;

(h) A commission veterinarian may rule a horse off furosemide if in his/her opinion it is in the horse's best interest, the interest of the citizens of the state or the best interest of horse racing.

(6) Bleeder List:

(a) The commission veterinarians shall maintain a Bleeder List of all horses, which have demonstrated external evidence of exercise induced pulmonary hemorrhage from one or both nostrils during or after a race or workout as observed by a commission veterinarian;

(b) Every confirmed bleeder, regardless of age, shall be placed on the Bleeder List and be ineligible to enter for the following time periods:

(A) First incident – 14 days;

(B) Second incident within 365 day period – 30 days;

(C) Third incident within 365 day period – 180 days;

(D) Fourth incident within 365-day period – barred for racing lifetime.

(c) For the purposes of counting the number of days a horse is ineligible to be entered for a race, the day the horse bled externally is the first day of the recovery period;

(d) The voluntary administration of furosemide without an external bleeding incident shall not subject the horse to the initial period of ineligibility as defined by this policy;

(e) A horse may be removed from the Bleeder List only upon the direction of a commission veterinarian;

(f) A horse which has been placed on a Bleeder List in another jurisdiction pursuant to these rules shall be placed on a Bleeder List in this jurisdiction.

(7) Anti-Ulcer Medications. The following anti-ulcer medications are permitted to be administered, at the stated dosage, up to 24 hours prior to the post time for a race in which the horse is entered:

(a) Cimetidine – 8-20 mg/kg by mouth two to three times a day; and

(b) Omeprazole – 2.2 grams by mouth once a day; and

(c) Ranitidine – 6.6 mg/kg by mouth three times a day.

(8) Environmental Contaminants and Substances of Human Use:

(a) The following substances can be environmental contaminants in that they are endogenous to the horse or that they can arise from plants traditionally grazed or harvested as equine feed or are present in equine feed because of contamination during the cultivation, processing, treatment, storage or transportation phases: Polyethylene glycol (PEG), PEG-like substances, Hordenine;

(b) Regulatory thresholds have been set for the following substances: Caffeine – 100 nanograms of caffeine per milliliter of serum or plasma;

(c) If the preponderance of evidence presented in the hearing shows that a positive test is the result of environmental contamination or inadvertent exposure due to human drug use it should be considered as a mitigating factor in any disciplinary action taken against the affected trainer.

(9) Dimethylsulfoxide (DMSO): The use of DMSO shall be permitted under the following conditions:

(a) It is only administered as an external topical application;

(b) A test sample shall not exceed 10 micrograms / ml. in serum of DMSO or its analogs.

(10) Androgenic-Anabolic Steroids (AAS)

(a) No AAS shall be permitted in test samples collected from racing horses except for residues of the major metabolite of stanozolol, nandrolone, and the naturally occurring substances boldenone and testosterone at concentrations equal to or less than the indicated thresholds.

(b) Concentrations of these AAS shall not exceed the following urine threshold concentrations in total (free drug; or metabolite and drug; or metabolite liberated from its conjugates):

(A) 16beta-hydroxystanozolol (metabolite of stanozolol (Winstrol)): 1 ng/ml for all horses regardless of sex.

(B) Boldenone (Equipose® is the undecylenate ester of boldenone) in:

(i) Male horses other than geldings – 15 ng/ml.

(ii) No boldenone shall be permitted in geldings or female horses.

(C) Nandrolone (Durabolin® is the phenylpropionate ester and Deca-Durabolin® is the decanoate ester) in:

(i) Geldings – 1 ng/ml.

(ii) Fillies and mares – 1 ng/ml.

(iii) In male horses other than geldings – forty-five (45) ng/ml of nandrolone metabolite, 5a-oestrane-3β17a-diol

(D) Testosterone in:

(i) Geldings – 20 ng/ml.

(ii) Fillies and mares – 55 ng/ml.

(iii) Male horses other than geldings – Testosterone will not be tested.

(c) All other AAS are prohibited in racing horses.

(d) Race day urine samples collected from intact males must be identified to the laboratory.

(e) Any horse to which an anabolic steroid has been administered in order to assist in the recovery from illness or injury may be placed on the veterinarian's list in order to monitor the concentration of the drug or metabolite in urine. After the urine concentration has fallen below the designated threshold for the administered AAS, the horse is eligible to be removed from the list.

(11) Clenbuterol. The use of Clenbuterol shall be permitted under the following conditions:

(a) A test sample shall not exceed 2 picograms/milliliter (ml) of Clenbuterol in the blood or serum of all horses racing in Oregon.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270 & 462.415

Hist.: RC 2-2006(Temp), f. & cert. ef. 10-2-06 thru 3-21-07; RC 1-2007, f. 2-28-07, cert. ef. 3-7-07; RC 6-2007(Temp), f. & cert. ef. 11-28-07 thru 5-23-08; RC 1-2008, f. & cert. ef. 4-7-08; RC 2-2008, f. & cert. ef. 9-30-08; RC 2-2009, f. 8-24-09, cert. ef. 10-1-09; RC 1-2010, f. 9-23-10, cert. ef. 10-1-10; RC 1-2012(Temp), f. 5-21-12, cert. ef. 5-22-12 thru 11-17-12

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**Rule Caption:** Rulemaking will edit OARs with detailed direction to licenses and updates rule terminology.

**Adm. Order No.:** RC 2-2012

**Filed with Sec. of State:** 5-29-2012

**Certified to be Effective:** 6-1-12

**Notice Publication Date:** 4-1-2012

**Rules Adopted:** 462-230-0010, 462-230-0020

**Rules Amended:** 462-120-0050, 462-120-0100, 462-130-0010, 462-210-0010, 462-210-0020, 462-210-0030, 462-220-0010, 462-220-0040, 462-220-0050, 462-220-0080, 462-220-0090

**Subject:** Adoption #1: 462-230-0010 (Totalizator Licensing Requirements) Proposed, new rule text establishes that Totalizator companies transacting any business within the State of Oregon shall be licensed by the Oregon Racing Commission. Further, it lists what the license application shall include.

Adoption #2: 462-230-0020 (General Totalizator Requirements) Proposed, new rule details requirements for Totalizator companies.

**AMEND:**

Amendment #1: 462-120-0100 (Renewals; Reapplications; Duplicates): The proposed rule amendments remove "Renewals" from the title, (1) "Renewals" and renames it "Reapplication," and clarify the language regarding replacement fees for duplicate licenses.

Amendment #2: 462-120-0050 (License Application Procedures; Requirements for Corporations and Partnerships; Stable/Assumed Name): The proposed rule amendment removes (3) as listed in current rule and proposes new language for (3) that clarifies licensing fees. The term "shareholders" is replaced by "designated representative." Updates rule to current practice.

Amendment #3 462-130-0010 (Prohibited Conduct; Investigations; Discipline): Adds a section to the rule that describes authority needed to enter locations such as stalls, shed row, tack rooms and feed sheds.

Amendment #4: 462-210-0010 (Definitions): Proposed amendments add definitions for "Advance Deposit Wagering Licensee or ADW," "Business Day," and "Person" and clarify existing definitions.

Amendment #5: 462-210-0020 (Authorization for Account Wagering): Proposed rule amendment adds additional statutory citations and updates language to current terminology.

Amendment #6: 462-210-0030 (Establishing an Account): Proposed rule amendments add direction to account wagering centers regarding time period to comply with requests for information

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from the Oregon Racing Commission. Further, they specify how an account should be established by a commercial race meet licensee facility. Updates some language to current terminology.

Amendment #7: 462-220-0010 (Definitions): Proposed amendments update some language to current terminology and clarify existing definitions.

Amendment #8: 462-220-0040 (State of Oregon Share of the Pari-Mutuel Handle): Proposed amendments to this rule update some of the rule language and list an updated tax table.

Amendment #9: 462-220-0050 (Total Take-out Rates for Non-Merged Pools): Proposed amendments to this rule add more direction for Hub operators.

Amendment #10: 462-220-0080 (Distribution of Receipts from Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizer Hubs): Proposed amendment to this rule corrects a spelling error.

Amendment #11: 462-220-0090 (Enforcement): Proposed amendment to this rule is a grammatical correction.

**Rules Coordinator:** Nancy A. Artmann—(971) 673-0211

## 462-120-0050

### License Application Procedures; Requirements for Corporations and Partnerships; Stable/Assumed Name

(1) License applications shall be made on forms furnished by the commission. An application is not complete until the application form has been filled out completely and signed by the applicant, the proper fee has been paid, and the applicant has submitted all documentation and information reasonably requested by the board of stewards or the commission. An oral interview may be required in a particular case. All licensees are required to maintain current information regarding themselves on file with the Oregon Racing Commission, including but not limited to their current address, telephone number and any information regarding rulings, arrests or convictions. The commission will send all forms of written communications, including notices, to the address the licensee has on file with the commission. Every person making application for a license to hold a race meet shall file the application with the Oregon Racing Commission in accordance with ORS 462.050. All applications, which will be due thirty days prior to the scheduled commission meeting at which the application is to be presented, should include: (a) The applicant's legal name;

(A) If the applicant is a corporation, the names, addresses, dates of birth of its shareholders, directors and officers; if a shareholder is a corporation the date of incorporation, the place of incorporation and the names, addresses, and dates of birth of its designated representative, directors and officers must be provided; and

(B) If the applicant is a partnership the names, addresses, dates of birth of the partners; if a partner is a corporation the date of incorporation, the place of incorporation and the names, addresses, and dates of birth of its designated representative must be provided.

(C) If the shareholder of a corporate licensee, or a partner of a partnership licensee, is a corporation, the designated representative of that corporation shall provide to the commission the names, addresses and birth dates of that corporation's shareholders promptly upon request by the stewards or the executive director of the commission.

(b) The names of the race tracks the applicant, or its agent, has contracts with that allow the applicant to provide the simulcast signals and pari-mutuel wagering on the product at the time the application is made;

(c) Financial information from the applicant that demonstrates whether the applicant has the financial resources to operate the race meet;

(d) A detailed budget showing anticipated revenue, expenditures and cash flows by month, from the race meet's operation during the license period;

(e) The number of days that the applicant is planning to offer live racing during the fiscal year in which they are seeking to be licensed;

(f) A list of all race meet personnel containing the name, position and job location;

(g) A chart illustrating the organizational structure, including reporting lines;

(h) A list of all host contracts for exporting of signal on file at the time of application;

(i) A check representing \$100 per racing day payable to the Oregon Racing Commission;

(j) Documentation supporting current Public liability insurance;

(k) Documentation supporting current Jockey Insurance;

(l) Documentation supporting a current Bond that shows the Oregon Racing Commission as beneficiary equal to the amount of all moneys that escheat under 462.110(2);

(m) Documentation that the applicant and/or parent company are registered to do business in the state of Oregon;

(n) As part of the application for licensure as a race meet, the applicant shall submit a detailed plan of operations in a format and containing such information as required by the commission. At a minimum, the operating plan shall address the following issues:

(A) The manner in which the proposed simulcasting and wagering system will operate;

(B) The take-out rates for wagering during the licensing period;

(C) Programs for responsible wagering;

(D) Physical security controls for the Tote Room;

(E) An agreement between the Oregon Horsemen's Benevolent Protective Association (OHBPA) and the state commercial race meet licensee as defined in ORS 462.062, a copy of which has been submitted to the commission;

(F) A complete listing of all names, operators and addresses of Off-track Betting (OTB) locations; and

(G) Narrative acknowledging tax liabilities as set forth in Chapter 462.

(2) The application must show the true name of the applicant, and must also disclose any other name used by the applicant during the past 10 years. An application for an owner's license must identify the true names of all other persons who have any ownership interest, leasehold interest, or other investment in any of the applicant's racing animal(s) which will be racing in Oregon. All applicants should be aware that Oregon law prohibits any person from conducting business in Oregon under an assumed name or under any name other than the real and true name of each person conducting the business or having an interest therein, unless the assumed name is registered with the Office of the Secretary of State. Refer to ORS 648.010(1).

(3) Licensing fees. The application fee for licensure or for the renewal of licensure shall be \$20 per year for the first category, with a sum not to exceed an additional \$10 per year for any and all additional categories. In no case shall the total fees paid exceed \$30 per year, regardless of the number of categories held. The period of licensure shall be three years in duration, with any subsequent additional licenses to expire on the same date as the original license. The fees that accompany license applications are non-refundable.

(4) Dual licenses may be denied if, in the opinion of the stewards or commission, there is a conflict of interest in holding more than one license.

(a) When an applicant applies for a license in more than one occupation, the stewards or the commission shall consider whether the holding of such multiple licensing creates a conflict of interest (such as, but not limited to, a sudden change in ownership to immediate family members or a change in ownership without adequate consideration). If such appearance is created, the multiple license may be denied.

(b) The following dual licenses shall be prohibited:

(A) A person licensed as a jockey shall not be licensed in any other capacity unless approved by the board of stewards.

(B) A person licensed as an owner shall not be licensed as a jockey agent or racing official.

(C) A person licensed as a race track owner or operator or as a racing official shall not be licensed in another capacity during the race meeting which the person owns or operates or at which that person is serving as a racing official unless approved by the board of stewards or as provided in OAR 462-140-0050(6).

(D) Any veterinarian licensed by the Oregon Racing Commission to practice veterinary medicine on a racecourse shall be prohibited from concurrently holding any other license at any location under the jurisdiction of the commission unless otherwise approved by the board of stewards.

(c) A holder of a groom's license may be a hot walker. A trainer or an assistant trainer may also perform the duties of a groom or hot walker. An owner may also groom or hot walk only the horse(s) he/she owns. However, except for those license categories specifically mentioned herein, no licensee shall act in any capacity other than that for which he/she is licensed. Thus, for example:

(A) A pony person may not exercise horses if not licensed as an exercise rider.

(B) A groom may not perform the duties of a trainer if not licensed as a trainer.

(C) A trainer may not pony or exercise a horse if not licensed as a pony person or an exercise person. (D) An outrider may not perform duties

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of a pony person except as needed in the performance of their duties as an outrider.

(5) All corporations, limited partnerships, partnerships and other entities (except natural persons) which apply for licenses shall attach to the application as applicable:

(a) A document, signed by the president and secretary of the corporation, listing the true name and address of all officers, directors, shareholders, general partners, limited partners, and other persons having a legal or beneficial interest in the horse, stable or other business sought to be licensed, and identifying the nature and amount of each person's interest; and

(b) For corporations, a copy of the certificate of incorporation, an affidavit signed by the president indicating whether any officer, director, or stockholder has been ruled off, denied a license, or is under suspension by any official body of any racing jurisdiction, and a written agreement to notify the commission within 30 days after there has been a change in any officer, director, or stockholder; or

(c) For partnerships, a copy of the written partnership agreement, an affidavit signed by a general partner indicating whether any partner has been ruled off, denied a license, or is under suspension by any official body of any racing jurisdiction, and a written agreement to notify the commission within 30 days after there has been a change in any partner. Persons who do not have a written partnership agreement may not be licensed under the partnership name; instead, each person must be individually licensed under his/her own name; and

(d) For claiming purposes, all corporations must have an authorized agent, who may be a corporate officer, and all partnerships and licensed stables must either designate an authorized agent to sign claim forms (who may be one of the partners) or else all partners must sign the claim form.

(6) All licensees, in accepting a license, or any person introducing an animal onto the confines of any racecourse, or licensed training track, are considered to have granted permission to Oregon Racing Commission veterinarians, investigators, and members of the board of stewards, to enter upon those premises for the purpose of inspection to determine if those premises are suitable for the housing of animals, and to determine the health, safety and physical conditions of any animals contained therein.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.020

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2001, f. 3-19-01, cert. ef. 4-1-01; RC 5-2002, f. 12-6-02, cert. ef. 1-1-03; RC 2-2008, f. & cert. ef. 9-30-08; RC 2-2009, f. 8-24-09, cert. ef. 10-1-09; RC 1-2010, f. 9-23-10, cert. ef. 10-1-10; RC 2-2012, f. 5-29-12, cert. ef. 6-1-12

## 462-120-0100

### Renewals; Reapplications; Duplicates

(1) Reapplication.

(a) Any person who, for reasons specific to that license category, has had a license application denied by the commission or stewards must wait at least six months before reapplying for that category of license unless otherwise specified in the order.

(b) If a license is denied due to failure of a written or oral exam, the stewards may consider a period of less than six months before the applicant can reapply for a license. In no case shall the applicant be eligible to reapply within 30 days from the date the application was denied.

(c) Any person who has had a license application denied by the commission or stewards for reasons not specific to a particular license category (such as criminal background, license falsification, or financial irresponsibility) shall not be eligible to apply for a license in any category for a period of at least six months unless otherwise specified in the order.

(2) Duplicates. If a license is lost or destroyed, a replacement fee of \$10 may be required for a duplicate license.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.020

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 5-2002, f. 12-6-02, cert. ef. 1-1-03; RC 2-2008, f. & cert. ef. 9-30-08; RC 2-2009, f. 8-24-09, cert. ef. 10-1-09; RC 1-2010, f. 9-23-10, cert. ef. 10-1-10; RC 2-2012, f. 5-29-12, cert. ef. 6-1-12

## 462-130-0010

### Prohibited Conduct; Investigations; Discipline

(1) No person (including licensees) shall:

(a) Incite, encourage, instruct, assist, or cause or attempt to cause another person to engage in any violation of ORS Chapter 462 or any rule of the commission, or to commit any prohibited act in relation to racing in another racing jurisdiction.

(b) Offer or accept any form of compensation for cashing a pari-mutuel ticket for another.

(c) Direct any personally offensive language, inappropriate gesture or sign, profanity, obscenity, or abusive epithets toward any racing official or

employee of the commission at any place under the jurisdiction of the racing commission.

(d) Take any action upon a racecourse that creates or causes a clear and present danger of violence.

(e) Initiate any physical altercation with another person on a racecourse.

(f) Threaten another person with physical harm or probable physical harm.

(g) Refuse to obey reasonable orders or directions of a racing official, security personnel of the race meet licensee or Oregon Racing Commission employees.

(h) Sell or offer to sell tip sheets or any other written, electronic or oral predictions as to the outcome of races at any place under the jurisdiction of the commission unless licensed to do so by the commission. (i) Gamble, bet, or wager on a racecourse except as authorized by the State of Oregon.

(j) Except for the race meet licensee, solicit any wagers from the public.

(k) Give or offer to give any bribe directly or indirectly, to any licensee, racing official, commission member or employee, or any other person having official duties in relation to any race, racecourse, or racing animal.

(l) Tamper or attempt to tamper with an animal, or apply or aid in applying to an animal or possess on a racecourse any electrical or mechanical device or prohibited medication intended to affect the performance of an animal.

(m) Possess a hypodermic needle or usable injectable syringe on which a needle may be attached on a racecourse, except veterinarians or veterinarian assistants licensed by the Oregon Racing Commission. On a racecourse, veterinarians may use only one-time disposable needles, and shall dispose of them appropriately, according to Oregon Veterinary Medical Examining Board standards. If a person has a medical condition which makes it necessary to have a syringe on the racecourse, that person must request permission of the stewards in writing, furnish a letter from a licensed physician explaining why it is necessary for the person to have a syringe on the racecourse, and must comply with any conditions and restrictions set by the stewards.

(n) Administer, offer to administer, or allow to be administered to any racing animal any prohibited drug or medication, or an unauthorized quantity of an approved drug or medication.

(o) Alter or forge a prescription for medication for a racing animal, or any legal document including but not limited to: a bill of sale, a claim blank, a license application, a treatment form, a registration certificate, ownership registration certificate, lease certificate, a check, or a license application.

(p) Impersonate any racing official, commission member or employee, or any other person having official duties in relation to any race, racecourse, or animal in any manner including forging any of these individuals' names or initials on any document.

(q) Submit or knowingly allow to be submitted to the commission, commission personnel, racing secretary or any racing animal registry, any report or document or application which contains false or misleading information.

(r) Mar or alter any identification mark on a racing animal.

(s) With the exception of commission staff and racing officials in the conduct of official business, use cell phones in the paddock, jockeys' room, test barn enclosure/area and on the racing surface when the area is actively in use.

(t) Smoke inside the test barn/storage area, under the covered portion of the stables, including stalls, tack rooms, shedrow, or in designated "No Smoking" areas.

(u) Use any tobacco products or have food or beverages in the designated testing areas.

(v) Test barn commission staff is permitted to have food or beverages in specified areas only under the following conditions:

(A) Test barn staff is to be free of food residues on their person and to wash their hands prior to testing horses or handling samples.

(B) Food or beverage items that contain prohibited substances are not permitted in the test barn enclosure.

(w) Possess on a racecourse any deadly weapon or firearm, a BB gun, blow gun, pellet gun or similar device, except law enforcement officers, commission officials and security personnel.

(x) While employed by the race meet licensee, racing commission or acting as a racing official, wager at the racecourse where employed or working, while on duty, or ask any other person to place a bet on their behalf. This includes individuals working under contract with the race meet

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licensee during the racing program and the employees of contractors of the race meet licensee who are working during the racing program.

(y) Allow any person under the age of eighteen (18) years to place or collect a wager. Race meet licensee shall turn over to the proper civil authorities any person who violates this rule, to be punished upon conviction of any such violation, according to law. This rule shall be posted conspicuously at entrance gates and throughout wagering areas. The license of any employee participating in any transaction relative to wagering with persons under the age of eighteen (18) years may be summarily, suspended or revoked.

(z) Move, nominate or enter to race a racing animal on a racecourse except with express permission of the trainer, racing secretary, owner, stall superintendent or the stewards.

(aa) Submit any animal in their charge to cruel or inhumane treatment. Cruel or inhumane treatment includes, but is not limited to:

(A) Inadequate food, shelter and water as defined by typical industry standards for those animals kept in similar climates and conditions;

(B) Neglect in any manner, including adequate veterinary care and attention when necessary;

(C) Conditions which cause the animal unnecessary physical pain or suffering;

(D) Prohibited conduct described in ORS 167.310 to 167.388 in the form the statute provided on the effective date of this rule.

(bb) Commit theft or buy, sell or possess any stolen property, or buy, sell or possess any illegal contraband.

(cc) Illegally influence or conspire, or attempt to influence or conspire, to affect the result of any race or manipulate the odds in which an animal participates.

(dd) Violate any written agreement entered into with the Oregon Racing Commission, the board of stewards or any other commission employee as a result of an order of the commission or stewards.

(ee) Engage in any lewd, obscene, indecent, or inappropriate conduct

(2) No licensee shall:

(a) Enter for official racing, official schooling, start, cause or allow to be entered or start, a racing animal that the licensee knows or should know does not meet all entry requirements.

(b) Come onto a racecourse or participate in a race meet while suspended, excluded or ruled off by the official body of any racing jurisdiction unless otherwise ordered by the board of stewards or the Oregon Racing Commission.

(c) Knowingly harbor or otherwise enable the unlawful presence of any individual who is suspended or revoked by the official body of any racing jurisdiction or excluded by the race meet licensee.

(d) Fail to immediately notify the racing secretary when the licensee discovers that any entry or starting requirement for a racing animal under the licensee's control is not met or is no longer being met.

(e) Allow or cause a scratch to become necessary, which could have been avoided by the exercise of reasonable care.

(f) Fail to request a scratch immediately upon learning that a scratch is necessary.

(g) Solicit, offer or accept any bribe in any form, directly or indirectly, to or from any person, in connection with any race meet in any racing jurisdiction which is a member of Association of Racing Commissioners International (ARCI). A conviction is not required in order to prove a violation of this rule.

(h) Commit any corrupt, fraudulent, or unlawful act on any racecourse or in connection with any race meet in any racing jurisdiction which is a member of ARCI.

(i) Fail to cooperate with commission personnel, officials or security personnel when requested to comply with these statutes and rules relating to racing.

(j) Fail to report to the stewards' office promptly upon request.

(k) Be intoxicated or under the influence of controlled substances in a restricted area or on duty.

(l) Lodge a frivolous complaint.

(m) Knowingly allow an unlicensed person to participate in a race meet if the licensee knows or should know that the person is required to be licensed.

(n) Fail to properly escort unlicensed individuals after registering them with security personnel as guests.

(o) Fail to immediately report to the commission the unlicensed participation in a race meet of any person who the licensee knows or should know is required to be licensed.

(p) Fail to report promptly to a commission representative any possession or use of a prohibited drug, prohibited medication or prohibited paraphernalia.

(q) Fail to notify the commission in writing of a change of officer, director, stockholder (except for publicly traded corporations), or partner, within 30 days, if the change occurred during a race meet, or prior to the next race meet, if the change occurred after a race meet.

(r) Ride a horse on the racecourse without properly wearing an approved helmet and vest.

(s) Retain any prize or purse money which the person has reason to know was paid in error or lost because of disqualification or commission action as a result of an appeal.

(t) If an owner, assistant trainer, groom or other person having charge, custody or care of a racing animal, fail to protect the racing animal and guard it against the administration of unauthorized drugs or any other illegal conduct. (u) Direct, by use of language, gesture or sign, any profanity, obscenity or abusive epithets toward the public at a racecourse.

(v) Direct any personally offensive language, inappropriate gesture or sign, profanity, obscenity, or abusive epithets toward any person while in view of the public.

(w) Allow anyone other than participating jockey, authorized racing officials, representatives of the commission, licensed valets and authorized licensed vendors in the jockey room between two hours before post time for the first race of the day and one hour after the last race without consent of the stewards for each time of entry.

(x) Other than a licensed jockey agent, make engagements for a jockey. A jockey may make his/her own engagements if not represented by a jockey agent.

(y) Engage in any dishonest conduct on a racecourse.

(z) Engage in any unprofessional conduct on a racecourse.

(aa) Willfully and deliberately fail or refuse to pay any monies when due for any service, supplies or fees connected with their operations as a licensee; nor shall a licensee falsely deny any such amount due or the validity of the complaint thereof with the purpose of hindering or delaying the payment of the debt or defrauding the person to whom the indebtedness is due.

(bb) Write, issue, make or present any check in payment for any license fee, fine, nomination or entry fee or other fees, or for any service or supplies when such licensee knows or should reasonably know that the said check will be refused for payment by the bank upon which it is written, or that the account upon which the check is written does not contain sufficient funds for payment of the said check, or that the check is a stop payment check or is written on a closed account or a nonexisting account. The fact that such a check is returned to the payee by the bank as refused, constitutes a rebuttable presumption for a finding of financial irresponsibility.

(cc) Except in cases deemed appropriate by the Board of Stewards, no person shall enter the stalls, shed row, tack rooms, feed sheds or the immediate adjacent area of the locations, unless the person has prior approval of the trainer to whom the locations are assigned by the association. This rule does not apply to racing officials, investigators of the Commission, security officers, employees or agents of the association who are on duty, law enforcement or fire protection officers, or employees, agents or representatives of the trainer to whom the locations are assigned.

Stat. Auth.: ORS 462.270(3)

Stats. Implemented: ORS 462.270

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2001, f. 3-19-01, cert. ef. 4-1-01; RC 5-2002, f. 12-6-02, cert. ef. 1-1-03; RC 2-2008, f. & cert. ef. 9-30-08; RC 2-2009, f. 8-24-09, cert. ef. 10-1-09; RC 1-2010, f. 9-23-10, cert. ef. 10-1-10; RC 2-2011, f. 9-23-11, cert. ef. 10-1-11; RC 2-2012, f. 5-29-12, cert. ef. 6-1-12

### 462-210-0010

#### Definitions

The following definitions and interpretations shall apply to these rules unless otherwise indicated or text otherwise requires.

(1) "Account": An account for account wagering with a specific identifiable record of deposits, wagers, and withdrawals established by an account holder and managed by the advance deposit wagering licensee or race meet licensee.

(2) "Account Holder": A person who successfully completed an application and for whom an account has been opened.

(3) "Account Wagering": A form of pari-mutuel wagering in which a person may deposit money in an account with an advance deposit wagering licensee or race meet licensee and then use the current balance to pay for pari-mutuel wagering.

(4) "Account Wagering Center": An actual location, equipment, and staff of an advance deposit wagering licensee or race meet licensee and/or

# ADMINISTRATIVE RULES

agents involved in the management, servicing, and operation of account wagering.

(5) "Advance Deposit Wagering Licensee or ADW": Any person or entity holding a currently valid license to engage in related activities as a multi-jurisdictional simulcasting and interactive wagering totalizator hub as defined in OAR 462-220-0010(1).

(6) "Agent": Those persons or entities with the authority to accept deposits and wagers or issue a receipt or other confirmation to the account holder evidencing such deposits and wagers, and transfer credits and debits to and from accounts on behalf of the advance deposit wagering licensee or race meet licensee.

(7) "Applicant": A person who has submitted an application to establish an account with an advance deposit wagering licensee or race meet licensee.

(8) "Application": The form or forms and other required submissions received from an applicant with the intent of opening an account.

(9) "Business Day": Monday through Friday with the exception of a federal or state observed holiday.

(10) "Commission": The Oregon Racing Commission or any successor agency.

(11) "Confidential Information":

(a) The amount of money credited to, debited from, withdrawn from, or present in any particular account holder's account;

(b) The amount of money wagered by a particular account holder on any race or series of races;

(c) The account number and secure personal identification code of a particular account holder;

(d) The identities of particular entries on which the account holder is wagering or has wagered; and

(e) Unless otherwise authorized by the account holder, the name, address, and other information in the possession of the account wagering center and race meet licensee that would identify the account holder to anyone other than the commission, the account wagering center or the race meet licensee.

(12) "Credits": All positive inflows of money to an account.

(13) "Debits": All negative outflow of money from an account.

(14) "Deposit": A payment of money by cash, check, money order, credit card, debit card, or electronic funds transfer made by an account holder to the account holder's account.

(15) "Person": Any natural person at least 18 years of age or a single member limited liability company where the single member is a natural person. A person is not a corporation, partnership, a limited liability company with more than one member, a trust or estate.

(16) "Principal Residence Address": That place where the person submitting an application for an account resides at least fifty percent (50%) of the time during the calendar year.

(17) "Proper Identification": A form of identification accepted in the normal course of business to establish that the person making a transaction is an account holder.

(18) "Race Course": As defined in ORS 462.010(5).

(19) "Race Meet Licensee": Any person or entity holding a currently valid license to engage in racing or related regulated activities.

(20) "Secure Personal Identification Code": An alpha-numeric character code chosen by an account holder as a means by which the advance deposit wagering licensee or race meet licensee may verify a wager or account transaction as authorized by the account holder.

(21) "Withdrawal": A payment of money from an account by the advance deposit wagering licensee or race meet licensee to the account holder when properly requested by the account holder.

(22) "Withdrawal Slip": A form provided by the race meet licensee for use by an account holder in withdrawing funds from an account.

Stat. Auth.: ORS 462.270(3) & 462.700

Stats. Implemented: ORS 462.142

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2012, f. 5-29-12, cert. ef. 6-1-12

## 462-210-0020

### Authorization for Account Wagering

(1) An advance deposit wagering licensee or race meet licensee who is the holder of or applicant for a license issued under ORS 462.057, 462.062, 462.067, 462.142 or 462.725 may request authorization from the commission to conduct account wagering in accordance with 462.142 and these rules. As part of the request, the advance deposit wagering licensee or race meet licensee shall submit a detailed plan of how its proposed account wagering system would operate; the commission may require changes in a proposed plan of operations as a condition of granting a request. No subsequent changes in the system's operation may occur unless ordered by the

commission or until approval is obtained from the commission after it receives a written request.

(2) The commission may conduct investigations or inspections or request additional information from the race meet applicant or multi-jurisdictional simulcasting and interactive wagering totalizator hub applicant for a license as it deems appropriate in determining whether to allow account wagering.

(3) The race meet licensee or multi-jurisdictional simulcasting and interactive wagering totalizator hub licensee and/or their agents shall establish and manage an account wagering center.

(4) The making and/or acceptance of wagers over the communications facility known as the "Internet" is not authorized with the exception of the Multi-Jurisdictional Totalizator Wagering Hubs as authorized in ORS 462.725. However, nothing herein precludes the transmission of handicapping data, race results or other information relating to pari-mutuel racing over the communications facility known as the "Internet."

Stat. Auth.: ORS 462.270(3) & 462.700

Stats. Implemented: ORS 462.142

Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2012, f. 5-29-12, cert. ef. 6-1-12

## 462-210-0030

### Establishing An Account

(1) An established account is necessary to place account wagers. An account may be established at either an account wagering center or in-person at commercial race meet licensee facilities.

(a) For establishing the account with an account wagering center an application form must be signed or otherwise authorized in a manner acceptable to the commission and include:

(A) The applicant's full legal name;

(B) Principal residence address;

(C) Telephone number; and

(D) Any other information required by the commission.

(b) Each application submitted will be subject to electronic verification with respect to name, principal residence address and date of birth by either a national, independent, individual reference service company or another technology which meets or exceeds the reliability, security, accuracy, privacy and timeliness provided by individual reference service companies. An account wagering center may require the applicant's social security number to complete the verification process and for tax reporting purposes. If there is a discrepancy between the application submitted and the information provided by the electronic verification described above or if no information on the applicant is available from such electronic verification, another individual reference service may be accessed or another technology meeting the requirements described above may be used to verify the information provided. If these measures prove unsatisfactory, then the applicant will be contacted by the account wagering center and given instructions as to how to resolve the matter.

(c) All account holder identities must be verified via electronic means or copies of other documents before a wager can occur.

(2) Each account shall have a unique identifying account number. The identifying account number may be changed at any time by the account wagering center provided the account wagering center informs the account holder in writing prior to the change.

(3) The applicant shall supply the account wagering center with an alpha-numeric code, to be used as a secure personal identification code when the account holder is placing an account wager. The account holder has the right to change this code at any time.

(4) The account wagering center may not establish an account for any person whose principal residence address is not within the State of Oregon. The principal residence address shall be established by reliance on the information submitted on the application form provided and certified by the applicant.

(5) The holder of the account shall receive at the time the account is approved:

(a) Unique account identification number;

(b) Copy of the account wagering rules and such other information and material that is pertinent to the operation of the account; and

(c) Such other information as the account wagering center or commission may deem appropriate.

(6) The account wagering center shall accept accounts in the name of a person only.

(7) The account is nontransferable between persons.

(8) The account wagering center may close or refuse to open an account for what it deems good and sufficient reason, and shall order an account closed if it is determined that information that was used to open an

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account was false, or that the account has been used in violation of these rules.

(9) The account wagering center shall provide all information requested by the Oregon Racing Commission within ten business days from the date a request is submitted, unless an extension is granted for good cause by either the Hub Manager or Executive Director.

Stat. Auth.: ORS 462.270(3) & 462.700  
Stats. Implemented: ORS 462.142  
Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 1-2002, f. & cert. ef. 1-3-02; RC 3-2007, f. 3-29-07, cert. ef. 7-1-07; RC 1-2009, f. 4-21-09, cert. ef. 7-1-09; RC 1-2010, f. 9-23-10, cert. ef. 10-1-10; RC 1-2011, f. 6-6-11, cert. ef. 6-9-11; RC 2-2012, f. 5-29-12, cert. ef. 6-1-12

## 462-220-0010

### Definitions

(1) A multi-jurisdictional simulcasting and interactive wagering totalizator hub is a business that, through a qualified subscriber based service, conducts pari-mutuel wagering on the races that it simulcasts and other races that it carries in its wagering menu. The term "advance deposit wagering licensee" or "hub" will be used in these rules to refer to the multi-jurisdictional simulcasting and interactive wagering totalizator hub.

(2) The terms "qualified subscriber based service" and "closed-loop subscriber based system" shall mean any information service or system that uses:

(a) A device or combination of devices authorized and operated for placing, receiving, or otherwise making a wager and by which a person must subscribe in order to be able to place, receive, or otherwise make a bet or wager;

(b) An effective customer verification and age verification system; and

(c) Appropriate data security standards to prevent unauthorized access by any person who has not subscribed or who is a minor.

(3) "Foreign jurisdiction" means a jurisdiction of a foreign country or political subdivision thereof.

Stat. Auth.: ORS 462.270(3) & 462.725  
Stats. Implemented: ORS 462.725  
Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2012, f. 5-29-12, cert. ef. 6-1-12

## 462-220-0040

### State of Oregon Share of the Pari-Mutuel Handle

In addition to the licensing fee set forth in OAR 462-220-0030(5), the hub operator shall pay to the Oregon Racing Commission the tax authorized by ORS 462.725(3)(b) on all gross mutuel wagering receipts recorded by the hub's totalizator system during the license period. The payments shall be made as follows:

(1) Payments shall be made each week based on the gross mutuel wagering receipts for that week.

(2) Payments shall be made in a timely manner as prescribed by the executive director of the commission.

(3) Payments shall be calculated according to one of the following formulas as elected by the hub operator in the manner specified in section (4):

(a) Payment of 0.125% of the first 60 million dollars in gross mutuel wagering receipts during the license period and 0.25% of the gross mutuel wagering receipts in excess of 60 million dollars during that period; or

(b) Payment of 0.25% of gross mutuel wagering receipts, except that, if the hub operator conducts business in a state where hubs are specifically authorized and the tax rate is less than 0.25%, the tax rate for wagers by the residents of such state would be that of the state in which they reside. This exception is limited to a single state designated by the hub operator in the manner specified in section (4).

(A) The base tax for fiscal year 2007-08 is \$350,000.

(B) The maximum payment set out in section (3), subsection (a), paragraph (A), will increase 7.5% on an annual basis for each fiscal year unless the commission changes that limit before the beginning of a fiscal year.

Fiscal Year	Tax Amount
2008-09	376,250.00
2009-10	404,469.00
2010-11	434,804.00
2011-12	467,414.00
2012-13	502,470.00
2013-14	540,156.00
2015-16	580,667.00
2016-17	624,217.00
2017-18	671,034.00

(4) The hub operator shall state in its election to pay tax calculated pursuant to section (3), subsections (a) or (b) for gross mutuel wagering on merged pools and shall designate a state that is subject to the exception in section (3), subsection (b), if that formula is elected, in its license application for each year or at such other time as is specified by the commission. Neither the payment formula nor the state subject to the exception may be

changed during a license period without the prior approval of the commission.

Stat. Auth.: 462.270(3) & 462.725  
Stats. Implemented: 462.725  
Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 1-2001, f. & cert. ef. 3-19-01; RC 4-2002, f. & cert. ef. 6-28-02; RC 3-2003, f. 6-13-03, cert. ef. 7-1-03; RC 4-2003, f. 6-20-03, cert. ef. 7-1-03; RC 3-2004, f. 6-23-04, cert. ef. 7-1-04; RC 1-2005, f. 5-23-05, cert. ef. 7-1-05; RC 2-2012, f. 5-29-12, cert. ef. 6-1-12

## 462-220-0050

### Total Take-out Rates for Non-Merged Pools

(1) A Hub operator may include a provision for hosting non-merged pools as part of their operating plan or update to the plan. Subject to approval by the Commission, the Hub operator shall:

(a) As part of the operating plan or update to the plan, set the total take-out rate for those wagering pools which are not merged with the wagering pools of the race track where the race is being run live; and

(b) Pay a 1% fee to the Commission for all hosted non-merged wagers excluding wagers placed through the Hub operator's own ADW system which will be taxed under the formulas set out in OAR 462-220-0040.

(2) Fees required under this provision do not apply to wagering options such as a betting exchange.

Stat. Auth.: ORS 462.270(3) & 462.725  
Stats. Implemented: ORS 462.725  
Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2012, f. 5-29-12, cert. ef. 6-1-12

## 462-220-0080

### Distribution of Receipts from Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hubs

From the payments made to the Oregon Racing Commission by Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hubs per ORS 462.725(3)(b), the commission shall:

(1) Transfer to the State General Fund 33-1/3% of the receipts;

(2) Retain 66-2/3% in the agency's cash account. Of the retained money, the commission may distribute it for the benefit of the Oregon pari-mutuel racing industry as follows:

(a) First, to race meets that were licensed under ORS 462.057 during the 1999 calendar year in the amounts necessary, in the commission's judgment, to allow an appropriate race meet with an appropriate purse level;

(b) Second, if there are funds remaining, to any entity in the Oregon pari-mutuel racing industry, after the receipt of a petition submitted to the commission, for purposes that benefit members of the pari-mutuel industry.

(3) The commission's decision on the distribution of these funds is final.

Stat. Auth.: ORS 462.270(3) & 462.725  
Stats. Implemented: ORS 462.725  
Hist.: RC 3-2000, f. 3-27-00, cert. ef. 5-1-00; RC 2-2012, f. 5-29-12, cert. ef. 6-1-12

## 462-220-0090

### Enforcement

All proceedings against an applicant or licensed hub shall be before the Commission.

Stat. Auth.: ORS 462.270(3) & 462.725  
Stats. Implemented: ORS 462.405  
Hist.: RC 3-2007, f. 3-29-07, cert. ef. 7-1-07; RC 2-2012, f. 5-29-12, cert. ef. 6-1-12

## 462-230-0010

### Totalizator Licensing Requirements

(1) A Totalizator company transacting any business within the State of Oregon shall first obtain a license from the Oregon Racing Commission. As a condition of licensing, or annual license renewal, the license application shall include the following:

(a) The applicant's legal name;

(b) A list of personnel assigned to work in this jurisdiction and their current license numbers issued by the Oregon Racing Commission;

(c) Disclosure of all officers, directors, partners, and share holders with at least a five percent share of ownership or beneficial interest;

(d) A completed Oregon Racing Commission Personal History Record application for any individual requiring disclosure under subsection (1)(c);

(e) Documentation that the applicant and/or parent company is registered to do business in the State of Oregon. If the applicant and/or parent company is not required to be registered to do business in the state of Oregon an explanation is to be included;

(f) A chart illustrating the organizational structure, including reporting lines;

(g) A list of all jurisdictions in which the company is operating.

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(2) The Commission may conduct investigations or inspections or request additional information from the applicant as it deems appropriate in determining whether to approve the license application.

(3) Totalizator companies shall submit their an application at least 30 days in advance of the scheduled commission meeting at which the application is to be presented.

(4) The fee for Totalizator companies providing service subject to ORS 462.057 shall be \$100.00. The fee for Totalizator companies providing service subject to ORS 462.062 and 462.725 shall be \$1000.00.

Stat. Auth.: ORS 462.727  
Stats. Implemented: ORS 462.727  
Hist.: RC 2-2012, f. 5-29-12, cert. ef. 6-1-12

## 462-230-0020

### General Totalizator Requirements

(1) Totalizator companies providing service within the state of Oregon shall meet the following requirements:

(a) Agreement to facility inspections and verification by the commission;

(b) Agreement to testing of hardware and software as may be directed by the Oregon Racing Commission;

(c) Agreement to provide information upon request by the commission.

(2) Totalizator companies providing service subject to ORS 462.062 and 462.725:

(a) Shall make reimbursement to the commission for incurred expenses related to out-of-state regulatory visits; and

(b) Provide a copy of the annual Type II SSAE report or an independent report completed within the previous 12 month period that is approved by the Oregon Racing Commission.

Stat. Auth.: ORS 462.727  
Stats. Implemented: ORS 462.727  
Hist.: RC 2-2012, f. 5-29-12, cert. ef. 6-1-12

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**Secretary of State,  
Corporation Division  
Chapter 160**

**Rule Caption:** Email address rule.

**Adm. Order No.:** CORP 4-2012

**Filed with Sec. of State:** 6-1-2012

**Certified to be Effective:** 6-1-12

**Notice Publication Date:** 5-1-2012

**Rules Adopted:** 160-010-0050

**Subject:** This rule requires online filers to provide an e-mail address for notices and filing acknowledgments.

**Rules Coordinator:** Ginger Spotts—(503) 986-2333

## 160-010-0050

### E-mail Address

(1) Documents electronically delivered to the office of the Secretary of State for filing under ORS chapters 58, 60, 62, 63, 65, 67, 70, 554, 647, 648 and 649 and ORS 128.560 to 128.600 and 661.210 to 661.280 shall include an e-mail address for delivery of official notices and filing acknowledgments.

(2) For the purposes of this rule, “electronically delivered” shall not include electronic facsimile transmission.

Stat. Auth.: ORS 56.022  
Stats. Implemented: ORS 56.016  
Hist.: CORP 4-2012, f. & cert. ef. 6-1-12

\*\*\*\*\*  
**Rule Caption:** Amends the fees on federal tax lien filings.

**Adm. Order No.:** CORP 5-2012

**Filed with Sec. of State:** 6-1-2012

**Certified to be Effective:** 6-1-12

**Notice Publication Date:** 5-1-2012

**Rules Amended:** 160-050-0140

**Subject:** This rule amends the filing fee for the various types of federal tax liens.

**Rules Coordinator:** Ginger Spotts—(503) 986-2333

## 160-050-0140

### Statutory Lien Filing and Search Fees

(1) The Statutory Lien filing fees are:

(a) Agricultural Produce Lien:

(A) Notice of Claim of Agricultural Produce Lien — \$15 per form;  
(B) Certificate of Satisfaction of Agricultural Produce Lien — No Charge.

(b) Agricultural Services Lien:

(A) Notice of Claim of Agricultural Services Lien — \$15 per form;

(B) Certificate of Satisfaction — No Charge;

(C) Cessation — \$15 per form.

(c) Grain Producer’s Lien:

(A) Notice of Claim of Grain Producer’s Lien — \$15 per form;

(B) Certificate of Satisfaction — No Charge.

(d) Hazardous Waste Lien: Notice of Claim of Lien for Environmental Cleanup of Hazardous Waste — \$15 per form.

(e) Federal Tax Lien:

(A) Notice of Federal Tax Lien — \$15;

(B) Refiling of Notice of Federal Tax Lien — \$15;

(C) Certificate of Release, Nonattachment, Discharge, or Subordination — \$15;

(D) Notice of Revocation of Certificate— \$15.

(2) The Statutory Lien search fees are:

(a) Lien Search — \$10 per name;

(b) Requested Lien Copy(ies) — \$5;

(c) Certificate (State seal) — \$10 per cert.

Stat. Auth.: ORS 87.246(3), 87.767, 177.130 & 192.440

Stats. Implemented: ORS 87.246, 87.736, 87.767, 177.130 & 192.440

Hist.: PRD 4-1988, f. & cert. ef. 3-17-88; Renumbered from 164-010-0030; PRD 1-1989, f. 12-12-89, cert. ef. 1-1-90; CORP 1-1993, f. 12-29-93, cert. ef. 1-1-94; CORP 1-1995, f. 2-8-95, cert. ef. 9-1-95; CORP 3-2001 f. 12-14-01 cert. ef. 1-1-02; CORP 3-2010(Temp), f. 2-3-10, cert. ef. 2-27-10 thru 8-26-10; CORP 5-2010, f. 3-24-10, cert. ef. 4-2-10; CORP 5-2012, f. & cert. ef. 6-1-12

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**Teacher Standards and Practices Commission  
Chapter 584**

**Rule Caption:** Amends charter school registration and educator licensure rules; adopts new program standards; adopts disciplinary rule.

**Adm. Order No.:** TSPC 4-2012

**Filed with Sec. of State:** 5-18-2012

**Certified to be Effective:** 5-18-12

**Notice Publication Date:** 3-1-2012

**Rules Adopted:** 584-017-1028, 584-018-0305, 584-018-0310, 584-050-0021, 584-066-0001, 584-066-0010

**Rules Amended:** 584-023-0005, 584-023-0015, 584-060-0062, 584-080-0161

**Subject:** ADOPT: 584-017-1028, *Selection, Recruitment, Admission and Retention of Candidates*: Adopts standards for educator licensure program admission and retention of new candidates.

584-018-0305, *Knowledge, Skills, Abilities, Cultural Competencies and Professional Dispositions for Initial School Counselor License*: Adopts new program standards for Initial School Counselor Licenses.

584-018-0310, *Knowledge, Skills, Abilities and Cultural Competencies and Professional Dispositions for Continuing School Counselor License*: Adopts new program standards for Continuing School Counselor Licenses.

584-066-0001, *Purpose of Specialization on a License*: Distinguishes a “specialization” from an “endorsement” or “authorization.”

584-066-0010, *Autism Spectrum Disorder (ASD) Licensed Specialist Standards and Competencies*: Establishes Autism Spectrum Disorder standards to add an Autism Spectrum Disorder specialization to a teaching license.

OAR 584-050-0021, *Reinstatement of Right to Apply for a License Following Revocation of a Provisional License*: Clarifies applicant’s “status” when the Commission revokes a license that cannot be reinstated.

AMEND: 584-023-0005, *Registry of Charter School Teachers and Administrators*: Clarifies that the registration is not transferrable to another charter school and that the assignment of charter school teachers is up to the charter school.

584-023-0015, *Standards of [Competence] Professional Practices and Ethics for Charter School Registrants*: Housekeeping language



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to clarify that it applies to charter school registrants not to a “registry.”

584-060-0062, *Adding Endorsements to Initial or Continuing Teaching Licenses*: Adds Chinese as a world language for which an academic program must be completed in order to add to the license since the Commission does not currently have a Chinese language licensure test.

584-080-0161, *Exceptional Administrator License*: Clarifies that district must submit a letter of support, and that applicant is not eligible for positions requiring supervision or evaluation of teachers or working directly with children and other clarifications.

**Rules Coordinator:** Lynn Beaton—(503) 373-0981

### 584-017-1028

#### **Selection, Recruitment, Admission and Retention of Candidates**

The unit attracts and admits qualified candidates to licensure programs, giving special attention to the current personnel needs of schools and actively recruits under-represented groups.

(1) The unit admits into all initial and advanced programs only those who meet the following entry standards and requirements.

(2) Each candidate must demonstrate aptitude and interest in working with school-aged children.

(3) Each candidate attests to possessing moral character, a commitment to the profession, vow not to harm children, and commit to educational excellence. This attestation must be filed with the Commission upon application for first licensure in a format approved by the Commission.

(4) All teacher candidates for first application for licensure must:

(a) Pass the Commission approved basic skills tests or the equivalent basic skills testing alternative prior to admission into the licensure program;

(b) Pass the Protecting Student and Civil Rights in the Educational Environment test prior to placement into any clinical, student teaching or internship experiences where work samples are required;

(c) Receive full clearance from the Commission on fingerprints and character questions prior to placement into student teaching or internship experiences.

(5) Educational Leadership Licensure: Candidates for admission into an initial educational leadership licensure program (formerly administration) must document:

(a) Licensure as either a teacher or personnel service specialist in any state;

(b) Three years of experience in the schools as a licensed educator or the legal equivalent;

(c) Evidence of educational leadership potential based on the following or the equivalent: assessments in instructional leadership, administrative experience in an educational environment, human relations, and cultural inclusion;

(d) Passing scores on a Commission-approved basic skills test, unless waived based on possession of a master’s degree or higher upon admission;

(e) Passing score on Protecting Student and Civil Rights in the Educational Environment; and

(f) Receive full clearance from the Commission on fingerprints and character questions prior to placement into clinical or internship experiences.

(6) Personnel Service Licensure (School Counseling, School Psychology, School Social Work) All candidates for admission into a personnel service licensure program must document:

(a) Experience working with youth in educational or social agencies;

(b) Preparation in human behavior to include: psychological, sociological, and psychological development, learning theory, and motivation; and

(c) Full clearance from the Commission on fingerprints and character questions prior to placement into clinical or internship experiences.

(d) School Counseling candidates must document prior to licensure, either:

(A) Two years teaching experience in schools; or

(B) Alternative practicum experiences in lieu of teaching.

(e) School Social Worker candidates must document a master’s degree in social work prior to licensure.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120-342.430, 342.455-342.495, 342.553

Hist.: TSPC 4-2012, f. & cert. ef. 5-18-12

### 584-018-0305

#### **Knowledge, Skills, Abilities, Cultural Competencies and Professional Dispositions for Initial School Counselor License**

These standards align with the Counsel for Accreditation of Counseling and Related Educational Programs (CACREP) school counselor standards found at: <http://www.cacrep.org/doc/2009%20Standards%20with%20cover.pdf>. (Specifically, pp. 40-46 of the 2009 CACREP standards document.) Candidates who are preparing to work as school counselors will demonstrate the professional knowledge, skills, cultural competence and practices necessary to promote the academic, career, and personal and social development of all K–12 students. In addition to the common core curricular experiences outlined in Professional Identity section of the CACREP standards at subsection (G), Initial School Counselor programs must provide evidence that student learning has occurred in the following domains:

(1) Foundations:

(a) Knowledge:

(A) Know the history, philosophy, and current trends in school counseling and educational systems;

(B) Understands ethical and legal considerations specifically related to the practice of school counseling;

(C) Knows roles, functions, settings, and professional identity of the school counselor in relation to the roles of other professional and support personnel in the school;

(D) Knows professional organizations, preparation standards, and credentials that are relevant to the practice of school counseling;

(E) Understands current models of school counseling programs and their integral relationship to the total educational program;

(F) Understands the effects of: Atypical growth and development, health and wellness, language; ability level, multicultural issues, and factors of resiliency on student learning and development; and

(G) Understands the operation of the school emergency management plan and the roles and responsibilities of the school counselor during crises, disasters, and other trauma-causing events.

(b) Skills and Practices:

(A) Demonstrates the ability to apply and adhere to ethical and legal standards in school counseling; and

(B) Demonstrates the ability to articulate, model, and advocate for an appropriate school counselor identity and program.

(2) Counseling, Prevention and Intervention:

(a) Knowledge:

(A) Knows the theories and processes of effective counseling and wellness programs for individual students and groups of students;

(B) Knows how to design, implement, manage, and evaluate programs to enhance the academic, career, and personal/social development of students;

(C) Knows strategies for helping students identify strengths and cope with environmental and developmental problems;

(D) Knows how to design, implement, manage, and evaluate transition programs, including school-to-work, postsecondary planning, and college admissions counseling;

(E) Understands group dynamics—including counseling, psycho-educational, task, and peer helping groups—and the facilitation of teams to enable students to overcome barriers and impediments to learning; and

(F) Understands the potential impact of crises, emergencies, and disasters on students, educators, and schools, and knows the skills needed for crisis intervention.

(b) Skills and Practices:

(A) Demonstrates self-awareness, sensitivity to others, and the skills needed to relate to each diverse individual, group, and classroom;

(B) Provides individual and group counseling and classroom guidance to promote the academic, career, and personal and social development of students;

(C) Designs and implements prevention and intervention plans related to the effects of: Atypical growth and development, health and wellness, language, ability level, multicultural issues, and factors of resiliency on student learning and development;

(D) Demonstrates the ability to use procedures for assessing and managing suicide risk; and

(E) Demonstrates the ability to recognize his or her limitations as a school counselor and to seek supervision or refer clients when appropriate.

(3) Diversity and Advocacy:

(a) Knowledge:

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(A) Understands the cultural, ethical, economic, legal, and political issues surrounding diversity, equity, and multicultural excellence in terms of student learning;

(B) Identifies community, environmental, and institutional opportunities that enhance, as well as barriers that impede, the academic, career, and personal and social development of students;

(C) Understands the ways in which educational policies, programs, and practices can be developed, adapted, and modified to be culturally congruent with the needs of students and their families; and

(D) Understands multicultural counseling issues, as well as the impact of ability levels, stereotyping, family, socioeconomic status, gender, and sexual identity, and their effects on student achievement.

(b) Skills and Practices:

(A) Demonstrates multicultural competencies in relation to diversity, equity, and opportunity in student learning and development;

(B) Advocates for the learning and academic experiences necessary to promote the academic, career, and personal/social development of students;

(C) Advocates for school policies, programs, and services that enhance a positive school climate and are equitable and responsive to multicultural student populations; and

(D) Engages parents, guardians, and families to promote the academic, career, and personal and social development of students.

(4) Assessment:

(a) Knowledge:

(A) Understands the influence of multiple factors such as: Abuse, violence, eating disorders, attention deficit hyperactivity disorder, and childhood depression; that may affect the personal, social, and academic functioning of students;

(B) Knows the signs and symptoms of substance abuse in children and adolescents, as well as the signs and symptoms of living in a home where substance abuse occurs; and

(C) Identifies various forms of needs assessments for academic, career, and personal and social development.

(b) Skills and Practices:

(A) Assesses and interprets students' strengths and needs, recognizing uniqueness in cultures, languages, values, backgrounds, and abilities;

(B) Selects appropriate assessment strategies that can be used to evaluate a student's academic, career, and personal/social development;

(C) Analyzes assessment information in a manner that produces valid inferences when evaluating the needs of individual students and assessing the effectiveness of educational programs;

(D) Makes appropriate referrals to school and/or community resources; and

(E) Assesses barriers that impede students' academic, career, and personal and social development.

(5) Research and Evaluation:

(a) Knowledge:

(A) Understands how to critically evaluate research relevant to the practice of school counseling;

(B) Knows models of program evaluation for school counseling programs;

(C) Knows basic strategies for evaluating counseling outcomes in school counseling such as: behavioral observation and program evaluation;

(D) Knows current methods of using data to inform decision making and accountability such as: school improvement plan and school report card; and

(E) Understands the outcome research data and best practices identified in the school counseling research literature.

(b) Skills and Practices:

(A) Applies relevant research findings to inform the practice of school counseling;

(B) Develops measurable outcomes for school counseling programs, activities, interventions, and experiences; and

(C) Analyzes and uses data to enhance school counseling programs.

(6) Academic Development:

(a) Knowledge:

(A) Understands the relationship of the school counseling program to the academic mission of the school;

(B) Understands the concepts, principles, strategies, programs, and practices designed to close the achievement gap, promote student academic success, and prevent students from dropping out of school; and

(C) Understands curriculum design, lesson plan development, classroom management strategies, and differentiated instructional strategies for teaching counseling- and guidance-related material.

(b) Skills and Practices:

(A) Conducts programs designed to enhance student academic development;

(B) Implements strategies and activities to prepare students for a full range of postsecondary options and opportunities; and

(C) Implements differentiated instructional strategies that draw on subject matter and pedagogical content knowledge and skills to promote student achievement.

(7) Collaboration and Consultation:

(a) Knowledge:

(A) Understands the ways in which student development, well-being, and learning are enhanced by family-school-community collaboration;

(B) Knows strategies to promote, develop, and enhance effective teamwork within the school and the larger community;

(C) Knows how to build effective working teams of school staff, parents, and community members to promote the academic, career, and personal and social development of students;

(D) Understands systems theories, models, and processes of consultation in school system settings;

(E) Knows strategies and methods for working with parents, guardians, families, and communities to empower them to act on behalf of their children;

(F) Understands the various peer programming interventions such as: peer meditation, peer mentoring, and peer tutoring; and how to coordinate them; and

(G) Knows school and community collaboration models for crisis or disaster preparedness and response.

(b) Skills and Practices:

(A) Works with parents, guardians, and families to act on behalf of their children to address problems that affect student success in school;

(B) Locates resources in the community that can be used in the school to improve student achievement and success;

(C) Consults with teachers, staff, and community-based organizations to promote student academic, career, and personal/social development;

(D) Uses peer helping strategies in the school counseling program; and

(E) Uses referral procedures with helping agents in the community such as: mental health centers, businesses, and service groups; to secure assistance for students and their families.

(8) Leadership:

(a) Knowledge:

(A) Knows the qualities, principles, skills, and styles of effective leadership;

(B) Knows strategies of leadership designed to enhance the learning environment of schools;

(C) Knows how to design, implement, manage, and evaluate a comprehensive school counseling program;

(D) Understands the important role of the school counselor as a system change agent; and

(E) Understands the school counselor's role in student assistance programs, school leadership, curriculum, and advisory meetings.

(b) Skills and Practices:

(A) Participates in the design, implementation, management, and evaluation of a comprehensive developmental school counseling program; and

(B) Plans and presents school-counseling-related educational programs for use with parents and teachers such as: parent education programs, materials used in classroom guidance, and advisor and advisee programs for teachers.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120-342.430, 342.455-342.495, 342.553

Hist.: TSPC 4-2012, f. & cert. ef. 5-18-12

## 584-018-0310

### Knowledge, Skills, Abilities and Cultural Competencies for Continuing School Counselor License

(1) Candidates who complete the Continuing School Counselor program are accomplished school counselors and educational leaders who have the knowledge, skill, ability, and cultural competence to document and contribute to the professional literature or program development within their district. Candidates demonstrate an understanding of and ability to apply emerging research on counseling, learning, and school improvement to increase comprehensive counseling program effectiveness.

(2) Candidates who complete the Continuing School Counselor program are accomplished school counselors and educational leaders who have the knowledge, skill, ability, and cultural competence to implement

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research-based educational practices that assess perception, process, and results data emerging from programs. Candidates:

(a) Use analysis directed toward developing programs to improve students' ability to live, learn, work, and contribute to their communities; and

(b) Use practices that are sensitive to individual differences, and diverse cultural, ethnic and socioeconomic backgrounds.

(3) Candidates who complete the Continuing School Counselor program are accomplished school counselors and educational leaders who have the knowledge, skill, ability, and cultural competence to consult and collaborate with colleagues, staff, parents, and the public to enhance the student's performance, as well as advocate for changes in the program that benefit all students.

(4) Candidates who complete the Continuing School Counselor program are accomplished school counselors and educational leaders who have the knowledge, skill, ability, and cultural competence to demonstrate effective leadership in program development and communication with diverse and special interest organizations. Candidates seek and secure appropriate funding for program expansion.

(5) Candidates who complete the Continuing School Counselor program are accomplished school counselors and educational leaders who have the knowledge, skill, ability, and cultural competence to demonstrate an advanced understanding of ethics and laws applicable to professional school counselors.

(6) Candidates who complete the Continuing School Counselor program are accomplished school counselors and educational leaders who have the knowledge, skill, ability, and cultural competence to demonstrate professional training and development as a supervisor of school counselors and school counselors in training.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120-342.430, 342.455-342.495, 342.553

Hist.: TSPC 4-2012, f. & cert. ef. 5-18-12

## 584-023-0005

### Registry of Charter School Teachers and Administrators

(1) No persons shall serve as a teacher or administrator (as defined in ORS 342.120) in a public charter school unless such person either holds a valid Oregon license issued by TSPC pursuant to 338.135 or is registered with TSPC as a charter school teacher or charter school administrator in accordance with 342.125(5).

(2) TSPC shall create a Public Charter School Registry for all non-licensed persons who are employed as teachers or administrators in any charter school.

(3) To obtain a charter school registration, an applicant and the employing charter school will submit a joint application, which will include the following documentation:

(a) Description of the specific teaching or administrative position the applicant will fill with the employing charter school;

(b) Fingerprints on forms prescribed by the Oregon State Police and in the manner required by TSPC. Fingerprint cards previously filed with the Oregon Department of Education do not qualify;

(c) Completed application and fee;

(d) A description of the applicant's post-secondary education and other experience relevant to the teaching or administrator position the applicant is seeking;

(e) A list of any professional licenses held; and

(f) A passing score on a commission-approved test of knowledge of U.S. and Oregon civil rights laws and professional ethics.

(4) Successful completion of the background checks disclosing no disqualifying materials or information will entitle the registrant to serve as a teacher or administrator as defined in ORS 342.120 in the employing charter school for a period of up to three (3) years or until employment with the employing charter school ceases, whichever occurs first.

(5) The registration is not transferrable to another charter school without an application for a registration change with TSPC.

(6) A charter school registration may be renewed for an additional three-year term upon joint application of the registrant and employing charter school on forms established by the Commission and upon the payment of the applicable fee.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.533

Hist.: TSPC 5-1999(Temp), f. & cert. ef. 8-24-99 thru 2-19-00; TSPC 7-1999, f. & cert. ef. 10-8-99; TSPC 9-2006, f. & cert. ef. 6-15-06; TSPC 7-2007, f. & cert. ef. 12-14-07; TSPC 4-2009, f. & cert. ef. 9-22-09; TSPC 5-2010(Temp), f. & cert. ef. 8-13-10 thru 12-31-10; TSPC 9-2010, f. 12-15-10, cert. ef. 1-1-11; TSPC 4-2012, f. & cert. ef. 5-18-12

## 584-023-0015

### Standards of Professional Practices and Ethics for Charter School Registrants

The provisions of ORS 342.120 to 342.430 and the administrative rules in OAR chapter 584 relating to the issuance, denial, continuation, renewal, lapse, revocation, suspension or reinstatements of licenses shall be applicable to all teachers and administrators holding a charter school registration.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.125, 338.135

Hist.: TSPC 5-1999(Temp), f. & cert. ef. 8-24-99 thru 2-19-00; TSPC 7-1999, f. & cert. ef. 10-8-99; TSPC 9-2006, f. & cert. ef. 6-15-06; TSPC 7-2007, f. & cert. ef. 12-14-07; TSPC 4-2009, f. & cert. ef. 9-22-09; TSPC 4-2012, f. & cert. ef. 5-18-12

## 584-050-0021

### Reinstatement of Right to Apply for a License Following Revocation of a Provisional License

(1) Educators who are only eligible for a provisional license upon application for reinstatement or who have had a provisional license revoked and are applying for a right to apply for a non-provisional license, will be applying for reinstatement of the "right to apply" for any TSPC license whether the revocation order expressly stated the Commission revoked the educator's "right to apply".

(2) Non-Provisional Licenses or certificates include any pre-1965 Five-Year, Basic, Standard, Initial, Continuing, Nursing Certificate or Career and Technical Education II license.

(3) Provisional licenses, certificates or registrations include but are not limited to any: Emergency, Limited, Restricted Transitional, Charter School Registry, International Visiting Teaching, NCLB Alternative Route, Career and Technical Education License, except as noted in subsection (2) above, Transitional and Substitute licenses.

(4) Application for reinstatement of the right to apply for any license, certificate or registration revoked for any reason other than those cited in ORS 342.143(3) may be submitted at any time after the period of revocation has expired.

(5) The burden will be on the educator to establish fitness for reinstatement.

(6) The application for reinstatement must include:

(a) A C-1 application form;

(b) A fee pursuant to OAR 584-036-0055;

(c) A personal notarized affidavit attesting that:

(A) All the conditions of the order for revocation have been met; and

(B) That the educator has not violated any laws of the states, including ethical violations related to licensure, certificate or registration; and

(d) Any additional documentation, sufficient to establish convincingly that the educator possesses all of the qualifications required for first licensure or reinstatement of a license, certificate or registration. Letters of recommendations from educator colleagues are insufficient alone to establish fitness for licensure following a revocation. The educator must be clear regarding what proactive steps have been taken to ensure to the Commission that the conduct that resulted in the revocation is highly unlikely to occur again.

(7) Following review of the application for reinstatement pursuant to this section, the Executive Director may make a recommendation to the Commission regarding whether to approve or deny the application.

(8) All decisions to reinstate a revoked right to apply for a license, certificate, or registration under this rule or will be made by the Commission in executive session.

(9) The Executive Director or the Commission may require the educator to appear before the Commission in executive session prior to consideration of the application for reinstatement.

(a) It is entirely at the Commission's discretion whether an educator may meet with the Commission under these circumstances.

(b) This subsection does not grant a right to any applicant to appear before the Commission prior to the Commission's consideration of the application for reinstatement following a revocation.

(10) If the Commission denies the application for reinstatement, or the right to apply for a license, certificate or registration, the Executive Director will mail a copy of the recommendation of denial to the educator and a notice of right to a hearing under ORS 342.175.

Stat. Auth.: ORS 181 & 342

Stats. Implemented: ORS 181.525, 342.120 - 342.430, 342.455 - 342.495 & 342.553

Hist.: TSPC 4-2012, f. & cert. ef. 5-18-12

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## 584-060-0062

### Adding Endorsements to Initial or Continuing Teaching Licenses

(1) An endorsement is the subject matter or specialty education field in which the educator is licensed to teach. Educators may only teach the subjects in which they are licensed in the grade levels authorized on the license (authorization level).

(2) A multiple subjects self-contained endorsement does not allow the teacher to teach: Adaptive Physical Education, Art, Communications Disorders, Early Intervention/Special Education, ESOL, ESOL/Bilingual, Hearing Impaired, Library Media, Music, Physical Education, Reading Specialist, Special Education, or Vision Impaired.

(3) Subject-Matter Competency: A new endorsement will be added to a new or existing Initial I, Initial II or Continuing Teaching License upon documentation of one of the following: (For Middle-Level Endorsement exceptions see subsection (5) below.)

(a) For endorsements where subject-matter mastery tests are required by the commission:

(A) Documentation of a passing score on all Commission-approved tests required for the endorsement; or

(B) Documentation of successful completion of the commission-approved alternative assessment in lieu of the passing score on the subject-matter mastery test.

(b) For the endorsements where the commission has not approved subject-matter mastery tests including but not limited to: Drama, Japanese, Latin, Chinese, Russian, and Adaptive Physical Education:

(A) Completion of a program or demonstrated completion of required coursework; or

(B) A nonprovisional out-of-state license showing endorsement in the subject-area.

(c) Special Exception for Out-of-State Applicants: For out-of-state applicants upon first licensure in Oregon. (See OAR 584-036-0080 Licensure Tests.)

(4) Practicum Requirements: In addition to the requirements in subsection (3)(a) and (b) of this rule, one of the following practical experiences must be completed:

(a) A program-supervised practicum of two semester hours or three quarter hours, which except as specified below may or may not be part of a longer preparation that includes content or methods courses in the subject area, in an institution approved to prepare teachers for that endorsement;

(b) Verification of 60 hours or more of experience teaching the new subject-area at least one hour each day or the equivalent on either an optional assignment of ten hours or less or an approved conditional assignment permit (CAP) as allowed by OAR 584-036-0181; or

(c) Completion of an approved program in the new subject-matter endorsement area.

(5) Adding Endorsements to the Middle-Level (ML) Authorization Level:

(a) Teachers holding an Initial, Initial I, Initial II, or Continuing Teaching License with a multiple subjects self-contained or a multiple subjects endorsement with either an elementary or middle-level authorization are not required to complete an additional subject-related practicum to add the endorsements specified in this subsection.

(b) To add the endorsements listed below, teachers qualifying under this section must pass the Commission-approved high school or middle school test or tests in the appropriate subject-matter area:

(A) Language Arts or middle-school Language Arts;

(B) Social Studies or middle-school Social Studies;

(C) Science or middle school science; or

(D) Basic or Advanced Math.

(c) A multiple subjects endorsement is also required to add all general education endorsements at the middle-level authorization except the following specialty endorsements:

(A) Adaptive Physical Education

(B) Art;

(C) ESOL;

(D) ESOL/Bilingual;

(E) Library Media Specialist;

(F) Music;

(G) Physical Education;

(H) Reading; and

(I) Special Education;

(J) Vision Impaired;

(K) Hearing Impaired;

(L) Communications Disorders;

(M) Early Intervention/Special Education.

(6) Grade Authorization Level: Some endorsement areas may require the completion of a new authorization level program prior to being added to the license. The applicant should obtain a check sheet of requirements from TSPC prior to pursuing adding a new endorsement to an existing license. (See, OAR 584-060-0052 Adding Authorization Levels to Existing Initial and Continuing Teaching Licenses.)

(7) When Programs are Required: (a) An approved program including content courses, methods courses, and practica is always required as preparation for added endorsement in the following areas:

(A) All Special Education endorsements, including:

(i) Early Intervention/Special Education;

(ii) Hearing Impairment;

(iii) Vision Impairment;

(iv) Special Education; and

(v) Communication Disorders;

(B) English to Speakers of Other Languages (ESOL);

(C) Reading; or

(D) Subjects for which no subject mastery test has been required by the Commission for endorsement including but not limited to:

(i) Drama;

(ii) Japanese;

(iii) Latin;

(iv) Chinese;

(v) Russian; and

(vi) Adaptive Physical Education.

(b) Program evaluations for waiver of the subject matter test for out-of-state applicants requesting these endorsements must align with the requirements in Division 38;

(c) Adding a Multiple Subjects or other General Education Endorsement to a License with Only a Specialty Endorsement: To add any general education endorsement to a license that holds a "specialty endorsement" only requires the following:

(A) Evidence of completion of a general education program at the grade levels at which the general education endorsement is sought; or

(B) A recommendation by C-2 form by an Oregon program approved to offer the endorsement.

(8) Specialty Endorsements: Adding specialty endorsements such as art, music, ESOL, ESOL/bilingual, reading, physical education, and library media specialists may involve additional course work. (See, OAR 584-060-0071 Endorsements Requiring Special Preparation.)

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120–342.430; 342.455–342.495; 342.553

Hist.: TSPC 3-2005(Temp), f. & cert. ef. 4-15-05 thru 9-30-05; TSPC 7-2005, f. & cert. ef. 8-24-05; TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 4-2009, f. & cert. ef. 9-22-09; TSPC 2-2011, f. & cert. ef. 1-28-11; TSPC 6-2011, f. 8-15-11, cert. ef. 9-1-11; TSPC 4-2012, f. & cert. ef. 5-18-12

## 584-066-0001

### Purpose of Specialization on a License

(1) A specialization on a TSPC-issued license is an optional indication of specialized expertise or preparation in an area the Commission recognizes as "added value" on a license. A specialization indicates the educator has demonstrated exceptional knowledge, skills and related abilities in that area. A specialization must meet standards set by the Commission.

(2) A specialization is distinguished from an endorsement or grade authorization in that a specialization is not required to teach or work in the specialized area, whereas both an endorsement and an authorization are required to work in those areas or at those grade levels. The specialization will be indicated as follows on the license: Example: Specialization: Autism Spectrum Disorder.

(3) An educator may not be labeled as a specialist or call themselves a specialist in any area recognized by the Commission as requiring additional and exceptional preparation without actually holding the specialization on the license.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120–342.430, 342.455–342.495; 342.553

Hist.: TSPC 4-2012, f. & cert. ef. 5-18-12

## 584-066-0010

### Autism Spectrum Disorder (ASD) Licensed Specialist Standards and Competencies

(1)(a) An Autism Spectrum Disorder Specialization may be indicated on any TSPC Basic, Standard, Initial or Continuing Teaching License with a special education endorsement so long as the educator qualifies for the specialization by demonstrated completion of a Commission-approved program for Autism Spectrum Disorder specialization.

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(b) Once the specialization is earned and placed on a license, it may only be removed at the educator's request.

(2) Definitions:

(a) Academic Curriculum: Language arts, mathematics, science, social sciences, health, physical education, world languages, and the arts;

(b) Expanded Functional Core Curriculum: Communication development, social development, self-advocacy, cognitive development, sensory processing skills, organization skills, adaptive skills-life function, and transitional skills for life span.

(3) To be eligible to add an Autism Spectrum Disorder specialization on a TSPC license, the application must:

(a) Hold a Basic, Standard, Initial or Continuing Teaching License with any special education endorsement;

(b) Provide evidence of three years experience working with a range of ASD learners; and

(c) Completed a Commission-approved program for Autism Spectrum Disorder (ASD) Specialization.

(4) Candidates for Autism Spectrum Disorder (ASD) Specialization must demonstrate competency in the following standards:

(a) Standard 1: Foundations of ASD: Candidates indicate knowledge of autism spectrum disorders including development and characteristics of learners. Candidates will:

(A) Describe unique developmental and behavioral characteristics of individuals with ASD as identified in DSM and how these: Differ from neuro-typical development; differ across people with ASD; change with age; and impact an individual's learning;

(B) Describe current theories of etiology for individuals with ASD;

(C) Describe State (OAR) and Federal requirements for assessment, eligibility, and education of individuals with ASD;

(D) Differentiate between medical diagnosis (current DSM definitions) and educational eligibility (federal and state requirements);

(E) Differentiate ASD from other disabilities (differential diagnosis) and identify co-existing conditions associated with ASD and their impact on learning and behavior;

(F) Describe unique learning characteristics of individuals with ASD;

(G) Describe the unique influence of stress, age, instruction, and environmental factors on individuals with ASD;

(H) Describe the standards for determining and a process for locating evidence-based instructional and behavioral interventions for individuals with ASD;

(I) Describe academic curriculum and expanded functional core curriculum for individuals with ASD at various age levels;

(J) Describe current best family-centered practices;

(K) Describe a continuum of placements and services available for the individual with ASD and families;

(L) Describe health issues that potentially impact the individual with ASD and their families;

(M) Describe how to evaluate and access public and private systems and organizations that serve individuals with ASD;

(N) Describe concepts and impacts of self-determination, advocacy, community and family supports in the lives of individuals with ASD;

(O) Provide families with information about community support services such as respite care, in-home behavior support, home health care, transportation, and parent education for individuals with ASD;

(P) Describe typical child development milestones across domains; and

(Q) Identify strengths and needs for an individual with ASD across core and expanded core curricula.

(b) Standard 2: ASD Service Needs: Candidates indicate knowledge of ASD Assessments for Development and Educational Impact on ASD service needs. Candidates will:

(A) Describe the impact that ethnic, cultural, and linguistic diversity issues have on the assessment of the individual with ASD;

(B) Administer or assist in the completion of the required components of the identification assessment for initial and reevaluation of an individual with ASD;

(C) Select, administer, and assist with appropriate educational assessments to determine the present level of academic and functional performance for individuals with ASD;

(D) Interpret assessment data, write summaries, and report results to teams, including families, in a systematic manner that leads directly to programmatic recommendations for instruction for individuals with ASD;

(E) Collaborate with teams, including families, to identify unique needs and to develop appropriate, functional IFSP/IEP goals, matched to assessment information for individuals with ASD;

(F) Collaborate with teams, including families, to identify sufficient special education and related services to enable the individual with ASD to progress on his or her goals;

(G) Assist teams with development and maintenance of ongoing data collection, data analysis, and progress reports for individuals with ASD;

(H) Assist teams in the assessment of environmental conditions that impact access to learning for individuals with ASD;

(I) Assist teams with a functional behavior assessment (FBA) to design behavior support plans for the challenging behaviors of individuals with ASD;

(J) Describe typical child developmental milestones across domains; and

(K) Identify strengths and needs for an individual with ASD across core and expanded core curricula.

(c) Standard 3: ASD Program Development and Implementation: Candidates demonstrate knowledge of system-wide considerations. Candidates will:

(A) Encourage collaboration with the higher education community, foundations, nonprofit and other organizations engaged in researching critical educational issues;

(B) Facilitate the interpretation, communication and dissemination of research findings related to ASD;

(C) Implement expanded core functional curriculum designed to meet the needs of individual learners with ASD;

(D) Conduct expanded core functional curriculum-based assessment to determine areas to address specific skills to teach, and to identify the appropriate evidence-based interventions to implement for learners with ASD;

(E) Collect data on abilities in all skill areas identified from expanded core functional curriculum-based assessments and other performance-based measures for learners with ASD;

(F) Design, facilitate, monitor, and evaluate instruction that is appropriate for both age and skill level of the learner with ASD;

(G) Apply the principles of applied behavior analysis (ABA) within a variety of instructional formats with a variety of learners with ASD, in a variety of settings to teach the skills identified from a curriculum-based assessment;

(H) Utilize appropriate evidence-based curricula content appropriate for a full range of learners with ASD.

(I) Design, facilitate, monitor, and evaluate instructional strategies that promote generalization and maintenance of skills across domains and settings;

(J) Facilitate the identification of assistive technology (low-high) across all areas of skill development appropriate to meet the needs of the individual;

(K) Train and coach others to:

(i) Implement the appropriate evidence-based instructional interventions, curriculum content, accommodations, and modifications identified for the learner with ASD;

(ii) Use individual strengths of the learner with ASD to reinforce and maintain skills; and

(L) Plan with the families for the transition needs of the learner with ASD.

(d) Standard 4: ASD Systematic Instruction: Candidates demonstrate knowledge of evidence-based interventions to promote focused, engaged time for learners with ASD. Candidates will:

(A) Match evidence-based interventions with the needs of individual learners with ASD;

(B) Design evidence-based interventions based on components of core and expanded core curricula;

(C) Implement data based decision-making by:

(i) Collecting baseline data;

(ii) Collecting, reviewing, and interpreting ongoing data;

(iii) Modifying program as needed to promote performance; and

(D) Demonstrate with fidelity the implementation of evidence-based strategies across a range of learners with ASD;

(E) Design and implement plans to ensure generalization of skills across settings and materials for learners with ASD;

(F) Demonstrate knowledge of the general education academic curriculum and supports necessary to facilitate the success of the learner with ASD;

(G) Design environmental plans that define expectations for appropriate behaviors across settings, utilizing evidence-based intervention strategies for learners with ASD;

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(H) Design visual, auditory, and tactile supports to enable the learner with ASD to:

- (i) Predict events and activities;
- (ii) Anticipate change;
- (iii) Understand expectations in a variety of settings;
- (iv) Maintain or re-gain appropriate self regulation for learning; and
- (v) Demonstrate independence;

(I) Assist in determining appropriate evidence-based assistive and/or augmentative communication systems;

(J) Plan and implement evidence-based strategies to support sustained peer interactions and memberships across all environments; and

(K) Demonstrate skills in teaching family members to implement expanded core functional curriculum at home.

(e) Standard 5: Training and Coaching of Adults Serving Individuals with ASD. Candidates will:

(A) Work with administrators to organize, set-up, and deliver the Oregon Education Guidelines for ASD Program and Self-Assessment.

(B) Identify appropriate technologies to deliver training and coaching;

(C) Collaborate with teams to analyze and interpret learner data to improve instruction and evaluate the impact of instructional interventions on learners with ASD;

(D) Work with teams to incorporate coaching in school, home, and community environments;

(E) Provide feedback to adults serving individuals with ASD to strengthen teaching practice and improve learning for the learner;

(F) Evaluate the effectiveness of the training and coaching to ensure implementation and improvement in progress for learners with ASD;

(G) Demonstrate how to investigate, access, and evaluate electronic and print resources on ASD;

(H) Assess, plan, and use an appropriate evidenced based format for training and coaching;

(I) Facilitate group processes to help team members work collaboratively to solve problems, manage conflict, and make decisions; and

(J) Model effective skills in listening, presenting ideas, leading discussions, clarifying, mediating and identifying the needs of self and others in order to advance shared goals and professional learning.

(f) Standard 6: Professional Practices for ASD Specialists. Candidates will:

(A) Advocate for professional resources, including financial support, human and other material resources, which allow for the implementation of the Oregon Comprehensive ASD Program;

(B) Represent and advocate for the profession in contexts outside of the classroom, such as:

(i) Be a member of committees or task forces addressing curriculum, assessment, professional development or other educational issues; and

(ii) Participate in local, state or national educational professional associations or professional standards boards;

(C) Access professional organizations and publications related to ASD to keep current on evidence based practices.

(D) Demonstrate professional skills;

(E) Comply with federal, state, and local policies and regulations;

(F) Maintain professional relationships with colleagues, employers, students, and families; and

(G) Participate in on-going professional development activities.

(g) Standard 7: Collaboration with Families and Communities. Candidates will:

(A) Identify access and share resources from community-based services to support individuals with ASD;

(B) Develop comprehensive strategies, including the use of technology, for engaging families and community members as partners in the educational process;

(C) Establish and maintain positive collaborative relationships with families in a manner which acknowledges culture, language, values, and parenting styles of the families;

(D) Apply effective strategies for participating, collaborating, and facilitating team processes; and

(E) Describe the impact of one's own experience, culture, language, race, and ethnicity on attitudes, beliefs, values, and ways of thinking, behaving, and teaching.

(h) Field Experience: Field experience will be designed in accordance with OAR 584-017-1038 through 584-017-1048 and be aligned with the TSPC Professional Standards Handbook.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430, 342.455-342.495; 342.533

Hist.: TSPC 4-2012, f. & cert. ef. 5-18-12

## 584-080-0161

### Exceptional Administrator License

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, an unconventionally qualified applicant may be granted an Exceptional Administrator License at the sole discretion of the commission as permitted under ORS 342.200.

(2) The Exceptional Administrator License is issued for three years and renewable under conditions that the Executive Director may specify, is valid only for a designated position with a job description approved by the Executive Director.

(3) To be eligible for an Exceptional Administrator License the applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Hold a master's or higher degree in the arts and sciences or an advanced degree in the professions from a regionally accredited institution or approved foreign equivalent;

(c) Demonstrate extraordinary professional experience that compensates for lack of experience in prekindergarten-12 schools;

(d) Submit a letter from the district consistent with subsection (5) below;

(e) Submit a recent résumé or curriculum vitae;

(e) Obtain a passing score on a commission-adopted test of knowledge of U.S. and Oregon civil rights and professional ethics; and

(f) Furnish fingerprints in the manner prescribed by the commission and provide satisfactory responses to the character questions contained in the commission's licensure application. (See OAR 584-036-0062 for Criminal Records Check Requirement.)

(4) The Exceptional Administrator License is valid for the position for which the district requested licensure so long as the position does not require supervising or evaluating teachers or working directly with students in Oregon public schools.

(5) The Exceptional Administrator License will be restricted to use in a district that has applied for it jointly with the administrator. Upon application, the district's superintendent or board chair must:

(a) Submit a letter that describes the district's particular need in relation to the co-applicant administrator's qualifications as summarized on the submitted résumé;

(b) Attest that no suitable candidate with any unrestricted administrator license is comparably qualified and available for the role to be filled; and

(c) Attests that the administrator will not be supervising or evaluating teachers or working directly with children.

(6) The Exceptional Administrator License may be renewed upon:

(a) Evidence of district support for the renewal; and

(b) A statement by the district that the administrator's position has not changed since the license was requested or last renewed; and

(c) Continuing professional development in accordance with OAR 584-090.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430, 342.455 – 342.495; 342.533

Hist.: TSPC 3-1999, f. & cert. ef. 7-15-99; TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 7-2008,

f. & cert. ef. 8-20-08; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09;

Administrative correction 11-19-09; TSPC 8-2009, f. & cert. ef. 12-15-09; TSPC 5-

2010(Temp), f. & cert. ef. 8-13-10 thru 12-31-10; TSPC 9-2010, f. 12-15-10, cert. ef. 1-1-11;

TSPC 4-2012, f. & cert. ef. 5-18-12

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**Rule Caption:** Adopts new administrator standards; clarifies licensure rules; clarifies highly qualified rules.

**Adm. Order No.:** TSPC 5-2012

**Filed with Sec. of State:** 5-18-2012

**Certified to be Effective:** 5-18-12

**Notice Publication Date:** 12-1-2011

**Rules Adopted:** 584-100-0017

**Rules Amended:** 584-018-0205, 584-036-0010, 584-060-0002, 584-070-0112, 584-070-0132, 584-070-0271, 584-070-0431, 584-080-0151, 584-080-0152, 584-100-0011, 584-100-0016, 584-100-0021, 584-100-0026, 584-100-0031, 584-100-0038

**Subject:** ADOPT: 584-100-0017 *Highly Qualified Elementary Teachers Teaching Title I or Remedial Reading* – Clarifies require-

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ments for all elementary teachers who teach Title 1 or remedial Reading.

AMEND: 584-018-0205 *Standards for Administrator Licensure* – Adopts standards for administrator licenses.

584-036-0010 *Personnel Required to Hold Licenses, Certificates or Charter School Registrations* – Amends rule to include scope of administrator licensure changes.

584-060-0002 *Definitions for Division 60* – Clarifies waiver of Basic Skills Tests (7) in lieu of a Master's Degree

584-070-0112 *Restricted Transitional School Counselor License* – Amends subsection (6)(a). Emergency School Counselor Licenses may be issued for up to one year at the Executive Director's discretion.

584-070-0132 *Emergency School Counselor License* – Housekeeping edits.

584-070-0271 *Transitional School Psychologist License for First Time Out-of-State Applicants* – Aligns the Transitional School Psychologist License with the Transitional School Counseling and School Social Worker Licenses.

584-070-0431 *Transitional School Social Worker License for First Time Out-of-State Applicants* – Housekeeping edit.

584-080-0151 *Transitional Administrator License for First Time Out-of-State Applicants* – Clarifies Transitional Administrator license valid for only one year and applicant must hold an unrestricted administrator license from another state.

584-080-0152 *Transitional Superintendent License for First Time Out-of-State Applicants* – Clarifies applicant must hold an unrestricted administrator license from another state and have 5 years or more employment as a superintendent on a license valid for the assignment before holding an Oregon license.

584-100-0011 *Highly Qualified Elementary Teacher New to the Profession* – Clarifies that multiple subjects are only considered highly qualified in grades K-6.

584-100-0016 *Highly Qualified Elementary Teacher Not New to the Profession* – Clarifies that multiple subjects are only considered highly qualified in grades K-6.

584-100-0021 *Highly Qualified Middle Teacher New to the Profession* – Removes reference to Conditional Assignment Permit (CAP) and inserts Licensed Conditional Assignment (LCA).

584-100-0026 *Highly Qualified Middle Teacher Not New to the Profession* – Removes reference to Conditional Assignment Permit (CAP) and inserts Licensed Conditional Assignment (LCA).

584-100-0031 *Highly Qualified Secondary Teacher New to the Profession* – Removes reference to Conditional Assignment Permit (CAP) and inserts Licensed Conditional Assignment (LCA).

584-100-0038 *HOUSSE for Middle Level and High School Teachers* – Removes reference to Conditional Assignment Permit (CAP) and inserts Licensed Conditional Assignment (LCA).

**Rules Coordinator:** Lynn Beaton—(503) 373-0981

## 584-018-0205

### Educational Leadership for Administrator Licensure Standards

These standards align with the Educational Leadership Constituents Council (ELCC) 2009 standards for Educational Leadership published at: <http://www.npbea.org/ncate.php>. The knowledge and skill abilities required for each program standard are found within the full document of the 2009 standards. These standards are aligned with the Interstate School Leader Licensure Consortium (ISLLC). Oregon programs must demonstrate integration of principles of cultural competency and equitable practice in each standard through the entire educational leadership and school administration licensure programs.

(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] Educational Leaders:

(a) Collaboratively develop and implement a shared vision and mission;

(b) Collect and use data to identify goals, assess organizational effectiveness, and promote organizational learning;

(c) Create and implement plans to achieve goals;

(d) Promote continuous and sustainable improvement; and

(e) Monitor and evaluate progress and revise plans.

(2) Instructional Improvement: 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] Educational Leaders:

(a) Nurture and sustain a culture of collaboration, trust, learning and high expectations;

(b) Create a comprehensive, rigorous and coherent curricular program;

(c) Create a personalized and motivating learning environment for students;

(d) Supervise and support instruction;

(e) Develop assessment and accountability systems to monitor student progress;

(f) Develop the instructional and leadership capacity of staff;

(g) Maximize time spent on quality instruction;

(h) Promote the use of the most effective and appropriate technologies to support teaching and learning; and

(i) Monitor and evaluate the impact of instruction.

(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] Educational Leaders:

(a) Monitor and evaluate the management and operational systems;

(b) Obtain, allocate, align and efficiently use human, fiscal and technological resources;

(c) Promote and protect the welfare and safety of students and staff;

(d) Develop the capacity for adaptive leadership; and

(e) Ensure teacher and organizational time is focused to support quality instruction and student learning.

(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] Educational leaders:

(a) Collect and analyze data pertinent to equitable outcomes;

(b) Understand and integrate the community's diverse cultural, social and intellectual resources;

(c) Build and sustain positive relationships with families and caregivers; and

(d) Build and sustain productive relationships with community partners.

(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] Educational leaders:

(a) Ensure a system of accountability for every student's academic and social success;

(b) Model principles of self-awareness, reflective practice, transparency and ethical behavior;

(c) Safeguard the values of democracy, equity and diversity;

(d) Evaluate the potential ethical and legal consequences of decision-making; and

(e) Promote social justice and ensure that individual student needs inform all aspects of schooling.

(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] Educational leaders:

(a) Advocate for children, families and caregivers;

(b) Act to influence local, district, state and national decisions affecting student learning; and

(c) Assess, analyze and anticipate emerging trends and initiatives in order to adapt leadership strategies.

(7) Practicum Experience: The practicum provides significant opportunities for candidates to synthesize and apply the knowledge and practice and develop the skills identified in Standards 1-6 through substantial, sus-

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tained, standards-based work in real settings, planned and guided cooperatively by the institution and school district personnel for graduate credit.

(a) The practicum will be substantial. Candidates:

(A) Demonstrate the ability to accept genuine responsibility for leading, facilitating, and making decisions typical of those made by educational leaders. The experience(s) should provide candidates with substantial responsibilities that increase over time in amount and complexity and involve direct interaction and involvement with staff, students, parents, and community leaders; and

(B) Each candidate should have a minimum of six months or equivalent of full-time practicum experience in at least two non-congruent authorization levels (e.g., ECE/ELE and ML or HS).

(b) The practicum will be sustained. Candidates: Participate in planned practicum activities during the entire course of the program, including an extended period of time near the conclusion of the program to allow for candidate application of knowledge and skills on a full-time basis.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430, 342.455-342.495; 342.553

Hist.: TSPC 3-2012, f. & cert. ef. 3-9-12; TSPC 5-2012, f. & cert. ef. 5-18-12

## 584-036-0010

### Personnel Required to Hold Licenses, Certificates or Charter School Registrations

(1) Educators who are employed by public schools and who are compensated for their services from public funds must hold licenses, certificates or registrations issued by the Commission except as provided in section (2) of this rule. Licenses, certificates or registrations are required for:

(a) Teachers;

(b) School counselors;

(c) School psychologists;

(d) Supervisors;

(e) Career and technical education directors;

(f) Principals;

(g) Program directors; and

(h) District administrators who evaluate or discipline licensed personnel, or who authorize out-of-school suspensions or expulsions of students;

(i) Superintendents and Assistant or Deputy Superintendents;

(j) Athletic coaches who coach during the school day;

(k) School nurses (certificates);

(l) Substitute teachers;

(m) Charter school teachers (registrations);

(n) Charter school administrators (registrations); and

(o) Other personnel performing the above duties regardless of title.

(2) School districts may provide related services for children identified as requiring special education services by employing a public agency, such as a community mental health program, or by employing professionals who are licensed within their own specialties by the State of Oregon. These personnel are not required to hold licensure from the Commission. See also ORS 343.221.

(3) Notwithstanding ORS 342.173, community college faculty who provide instruction in cooperation with a school district for academic career and technical education, school-to-work or other work-related programs under ORS Chapter 329 shall not be required to have teaching licenses. See also ORS 341.535. Both full-time and part-time faculty employed under this section are subject to criminal history records checks by the Oregon State Police and the Federal Bureau of Investigation. See also ORS 326.603 and OAR 581-022-1730.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 342.430, 342.455 - 342.495 & 342.553

Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 2-1979, f. 8-21-79, ef. 1-1-80; TS 1-1982, f. & ef. 1-5-82; TS 2-1986, f. 4-18-86, cert. ef. 1-15-88; TS 1-1988, f. 1-14-88, cert. ef. 1-15-88; TS 1-1992, f. & cert. ef. 1-15-92; TS 4-1995, f. & cert. ef. 11-9-95; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 2-2009, f. & cert. ef. 3-12-09; TSPC 5-2012, f. & cert. ef. 5-18-12

## 584-060-0002

### Definitions for Division 060

(1) "Alternative Assessment:" Procedures established by the Commission for candidates seeking licensure who fail to achieve a passing score on required subject matter or specialty area licensure tests for endorsement or authorization. (See OAR 584-052-0030 through 584-052-0033 Alternative Assessment Rules.)

(2) "Application:" A request for an Oregon license authorizing service in public schools or a request for reinstatement or renewal of such license. As used in these rules, "application" includes the Application Form, C-1, the fee, and all supporting documents necessary for the evaluation for the license. A copy of the C-1 can be found on TSPC's Web page at [www.Oregon.gov/TSPC](http://www.Oregon.gov/TSPC).

(3) "Appropriately Assigned:" Assignments for administrator, teacher, school counselor, school psychologist, school social worker or school nurse duties for which the person involved holds the proper license, certificate or endorsements and authorizations. (See OAR 584-060-0250 for License for Conditional Assignment.)

(4) "Approved Institution:" A U.S. regionally accredited institution of higher education approved to prepare licensed personnel by a U.S. governmental jurisdiction in which the institution is located. (See definition of "Regional Accrediting Associations" at OAR 584-005-0005.)

(5) "Approved Programs:" An Oregon program of educator preparation approved by TSPC and offered by a regionally accredited Oregon institution or other legally approved provider. As it applies to out-of-state programs, a program approved by the licensure body of any U.S. governmental jurisdiction or member of the National Association of State Directors of Teacher Education and Certification (NASDTEC) authorized to approve educator preparation programs.

(6) "Authorization Level:" The grade levels in which a person may teach, i.e., early childhood, elementary, middle level and high school as defined in OAR 584-060-0051.

(7) "Basic Skills Tests:" Tests of basic reading, writing and mathematics as approved by the commission. These tests may only be waived if the applicant possesses a regionally accredited master's degree, doctor's degree or was licensed in Oregon prior to 1985. The master's degree and doctor's degree must have been fully conferred prior to the educator's admission into the licensure program.

(8) "Completion of Approved Program:" The applicant has met the institution's academic requirements and any additional state or federal requirements and has obtained the institution's recommendation for licensure.

(9) "Endorsement:" The subject matter or specialty education field in which the individual is licensed to teach.

(10) "National Board for Professional Teaching Standards (NBPTS):" A professional board established to award a National Teaching Certificate or National Principal Certificate or National Teacher Leader Certificate to qualified educators.

(11) "Out of State Licenses or Certificates:" A certificate or license valid for full-time employment which is at least equivalent to the Oregon license being requested and is issued by one of the United States, a U.S. jurisdiction (American Samoa, Commonwealth of Northern Marianas, District of Columbia, Guam, Puerto Rico, and Virgin Islands), a Canadian province that is a member of the National Association of State Director of Teacher Education and Certification (NASDTEC) or the U.S. Department of Defense.

(12) "Personal Qualifications:" Personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator.

(13) "Private Schools:" A privately funded school, preprimary through grade twelve, approved, regionally accredited or registered by another U.S. jurisdiction or government.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120-342.430; 342.455-342.495; 342.533

Hist.: TSPC 6-2004, f. & cert. ef. 8-25-04; TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 3-2009(Temp), f. & cert. ef. 5-15-09 thru 11-11-09; TSPC 5-2009, f. & cert. ef. 10-5-09; TSPC 5-2012, f. & cert. ef. 5-18-12

## 584-070-0112

### Restricted Transitional School Counselor License

(1) Upon filing a correct and complete application with a co-applicant district in form and manner prescribed by the commission, a qualified applicant may be granted a Restricted Transitional School Counselor License.

(2) The Restricted Transitional School Counselor License may be issued for three years and is non-renewable.

(3) The Restricted Transitional School Counselor License will be restricted for use within a district that has applied for it jointly with the counselor and may not be used for substitute teaching unless the educator also holds another license valid for substitute teaching issued by the commission.

(4) To be eligible for a Restricted Transitional School Counselor License, the applicant must have all of the following:

(a) An application that includes the following:

(A) A joint request by an employing district;

(B) The applicant counselor's qualifications summarized on a submitted resume;



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(C) A statement from the district describing the circumstances that prevent hiring a school counselor with an unrestricted license for the position being filled; and

(D) The appropriate fee for the license.

(b) A bachelor's or higher degree from a regionally accredited institution or approved foreign equivalent;

(c) Have obtained a passing score on a commission-approved test of knowledge of U.S. and Oregon civil rights and professional ethics;

(d) Furnished fingerprints and passed a background check in the manner prescribed by the commission and provide satisfactory responses to the character questions contained in the commission's licensure application. (See also, OAR 584-036-0062 for Criminal Records Check Requirement); and

(e) One of the following:

(A) Be enrolled in a school counselor program approved for school counseling licensure by any state and have completed approximately one-half of the program; or

(B) Have been a full-time certified Child Development Specialist (CDS) for at least three academic years; or

(C) Have a master's degree in a counseling-related field.

(5) The Restricted Transitional School Counselor License is not transferable to another district. However, another district may co-apply for a Restricted Transitional School Counselor License for any time remaining in the three years from the date the first Restricted Transitional School Counselor License was issued. A C-1 application and full fee must accompany the request.

(6) All requirements for the Initial I School Counselor License must be completed upon the expiration of the Restricted Transitional School Counselor License. Under very limited exigent circumstances, an applicant may be eligible for an Emergency School Counselor License. The applicant must show that serious circumstances beyond the applicant's control prevented completion of the requirements for an Initial I School Counselor License.

**Note:** See, OAR 584-070-0132 for Emergency School Counselor License.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430; 342.455 - 342.495; 342.533

Hist.: TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 8-2009, f. & cert. ef. 12-15-09; TSPC 5-2010(Temp), f. & cert. ef. 8-13-10 thru 12-31-10; TSPC 9-2010, f. 12-15-10, cert. ef. 1-1-11; TSPC 5-2012, f. & cert. ef. 5-18-12

## 584-070-0132

### Emergency School Counselor License

(1) Upon filing an application and full fee in the form and manner required by the Commission, an Emergency School Counselor License may be issued in any increment of time at the Executive Director's discretion, but generally will be limited to the least amount of time reasonably necessary to complete non-provisional licensure requirements or to bridge the actual emergency generating the district's request.

(2) An Emergency School Counselor License may be issued when a school district demonstrates significant extenuating circumstances that merit the issuance of the license in order to protect the district's programs or students.

(3) The Executive Director is authorized to deny application for an Emergency School Counselor License if the request exceeds more than one year beyond the expiration of a Restricted Transitional School Counselor License.

(4) To be eligible for the Emergency School Counselor License the following must be submitted:

(a) A C-1 application and full fee;

(b) A letter each from the district and the applicant describing the extenuating circumstances that require the issuance of an Emergency School Counselor License; and

(c) A description of the steps the district will take to ensure the applicant will qualify for the Initial School Social Worker License upon expiration of the Emergency School Counselor License.

(5) The Emergency School Counselor License will be issued solely at the discretion of the Executive Director for any length of time deemed necessary to protect the district's programs or students. The Executive Director will consider the following:

(a) Whether the educator has had any academic preparation or experience in the area of counseling;

(b) Efforts the educator has made in meeting the Initial I School Counselor License requirements;

(c) Whether the educator has obtained a passing score on a commission-approved test of knowledge of U.S. and Oregon civil rights and professional ethics.

(6) The Emergency School Counselor License is not subject to the 120 day grace period allowed for licensure renewal purposes under ORS 342.127.

Stat. Auth.: ORS 342.125

Stats. Implemented: ORS 342.120 - 342.430; 342.455 - 342.495; 342.533

Hist.: TSPC 7-2005, f. & cert. ef. 8-24-05; TSPC 2-2008, f. & cert. ef. 4-15-08; TSPC 5-2010(Temp), f. & cert. ef. 8-13-10 thru 12-31-10; TSPC 9-2010, f. 12-15-10, cert. ef. 1-1-11; TSPC 5-2012, f. & cert. ef. 5-18-12

## 584-070-0271

### Transitional School Psychologist License for First Time Out-of-State Applicants

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant may be granted a Transitional School Psychologist License.

(2) The Transitional School Psychologist License is issued for eighteen months and is not renewable. At that time, the educator must qualify for an Initial or a Continuing School Psychologist License. Under significant extenuating circumstances, additional time may be allowed, as described below in section (5) of this rule.

(b) The educator must qualify for a Continuing School Psychologist License upon expiration of six (6) years following the date the Transitional School Psychologist License was first issued.

(3) The Transitional School Psychologist License is valid for:

(a) School psychology at all age or grade levels;

(b) Substitute counseling at any level;

(c) Substitute teaching at any level in any specialty.

(4) To be eligible for a Transitional School Psychologist License, the applicant must:

(a) Have a master's or higher degree in educational psychology or therapeutic psychology from a regionally accredited institution or approved foreign equivalent;

(b) Hold an unrestricted school psychologist license or certificate in any state or comparable jurisdiction; and

(c) Furnish fingerprints in the manner prescribed by the commission and provide satisfactory responses to the character questions contained in the commission's licensure application. (See also, OAR 584-036-0062 for Criminal Records Check Requirement.)

(5) If significant extenuating circumstances prevent the educator from completing these requirements prior to expiration of the Transitional School Psychologist License, an Emergency School Psychologist License may be issued, at the sole discretion of the Executive Director. Evidence of the extenuating circumstances must be presented to the Executive Director, who then determines if and for how long an emergency license should be issued as needed to protect the district's programs or students.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430; 342.455 - 342.495; 342.533

Hist.: TSPC 3-1999, f. & cert. ef. 7-15-99; TSPC 9-1999, f. & cert. ef. 11-22-99; TSPC 5-2001, f. & cert. ef. 12-13-01; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 10-2010, f. 12-30-10, cert. ef. 1-1-11; TSPC 5-2012, f. & cert. ef. 5-18-12

## 584-070-0431

### Transitional School Social Worker License for First Time Out-of-State Applicants

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant who has never been licensed in Oregon as a social worker or school social worker may be granted a Transitional School Social Worker License.

(2)(a) The Transitional School Social Worker License is issued for eighteen months and is not renewable. At that time, the educator must qualify for an Initial or a Continuing School Social Worker License. Under significant extenuating circumstances, additional time may be allowed, as described below in section (5) of this rule.

(b) The educator must qualify for a Continuing School Social Worker License upon expiration of six (6) years following the date the Transitional School Social Worker License was first issued.

(3) The Transitional School Social Worker License is valid for:

(a) School social work at all age or grade levels; and

(b) Substitute counseling at any level.

(4) To be eligible for a Transitional School Social Worker License, the applicant must:

(a) Have a master's or higher degree in social work from a regionally accredited institution or approved foreign equivalent;

(b) Hold an unrestricted school social worker license or certificate in any state or comparable jurisdiction; and

(c) Furnish fingerprints in the manner prescribed by the commission and provide satisfactory responses to the character questions contained in

# ADMINISTRATIVE RULES

the commission's licensure application. (See also, OAR 584-036-0062 for Criminal Records Check Requirement.)

(5) Persons holding a Transitional School Social Worker License may:

(a) Substitute as a School Counselor for a period not to exceed three consecutive months without obtaining the School Counselor License;

(b) Not substitute as a School Psychologist; and

(c) Not accept any full or part-time position as a School Counselor or as a School Psychologist and may not go by the title of School Counselor or School Psychologist.

(d) Violations of the provisions of this subsection may result in referral to the Commission for violation of professional practices.

(6) If significant extenuating circumstances prevent the educator from completing these requirements prior to expiration of the Transitional School Psychologist License, an Emergency School Psychologist License may be issued, at the sole discretion of the Executive Director. Evidence of the extenuating circumstances must be presented to the Executive Director, who then determines if and for how long an emergency license should be issued as needed to protect the district's programs or students.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120-342.430; 342.455-342.495, 342.533

Hist.: TSPC 10-2010, f. 12-30-10, cert. ef. 1-1-11; TSPC 4-2011, f. & cert. ef. 4-14-11; TSPC 5-2011, f. & cert. ef. 6-15-11; TSPC 5-2012, f. & cert. ef. 5-18-12

## 584-080-0151

### Transitional Administrator License for First Time Out-of-State Applicants

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant who has never been licensed in Oregon as an administrator may be granted a Transitional Administrator License.

(2)(a) The Transitional Administrator License is issued for eighteen months and is not renewable. At that time, the educator must qualify for an Initial or a Continuing Administrator License. Under significant extenuating circumstances, additional time may be allowed, as described below in section (5) of this rule.

(b) The educator must qualify for a Continuing Administrator License upon expiration of six (6) years following the date the Transitional Administrator License was first issued.

(3) The Transitional Administrator License is valid for:

(a) Administration at all levels (principal or superintendent); and

(b) Substitute administration at all age or grade levels; and it is also valid for substitute

(c) Substitute teaching at any level in any specialty. Note: An active teaching license is required for any teaching beyond substituting.

(4) To be eligible for a Transitional Administrator License, the applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Hold a master's or higher degree in the arts and sciences or an advanced degree in the professions from a regionally accredited institution in the United States or approved foreign equivalent;

(c) Hold a non-provisional state license for school administration; and

(d) Furnish fingerprints in the manner prescribed by the commission and provide satisfactory responses to the character questions contained in the commission's licensure application. (See also, OAR 584-036-0062 for Criminal Records Check Requirement.)

(5) If significant extenuating circumstances prevent the educator from completing these requirements prior to the expiration of the Transitional Administrator License an Emergency Administrator License may be issued, at the sole discretion of the Executive Director. Evidence of the extenuating circumstances must be presented to the Executive Director, who then determines if and for how long an emergency license should be issued as needed to protect the district's programs or students.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.533

Hist.: TSPC 3-1999, f. & cert. ef. 7-15-99; TSPC 5-2001, f. & cert. ef. 12-13-01; TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 8-2009, f. & cert. ef. 12-15-09; TSPC 3-2011, f. & cert. ef. 3-15-11; TSPC 5-2012, f. & cert. ef. 5-18-12

## 584-080-0152

### Transitional Superintendent License for First Time Out-of-State Applicants

(1) Upon filing a correct and complete application in form and manner prescribed by the commission, a qualified applicant who has never been licensed in Oregon as an administrator may be granted a Transitional Superintendent License.

(2) The Transitional Superintendent License is issued for eighteen months and is not renewable. At that time, the educator must qualify for an Initial or a Continuing Administrator License. Under significant extenuating circumstances, additional time may be allowed, as described below in section (5) of this rule.

(3) The Transitional Superintendent License is valid for:

(a) The position of superintendent when issued to a person who has been a superintendent on regular assignment and license in any state; and

(b) Substitute teaching at any level in any specialty.

(4) To be eligible for a Transitional Superintendent License, the applicant must:

(a) Possess the personal qualifications for licensure including attainment of at least eighteen years of age and possessing good moral character and mental and physical health necessary for employment as an educator;

(b) Hold a master's degree or higher degree in the arts and sciences or an advanced degree in the professions from a regionally accredited institution;

(c) Have been employed as a superintendent for five years or more in any state on a license valid for the assignment before holding an Oregon license;

(d) Hold a valid superintendent's license from that state based upon completion of an approved program; and

(e) Furnish fingerprints in the manner prescribed by the Commission and provide satisfactory responses to the character questions contained in the commission's licensure application. (See OAR 584-036-0062 for Criminal Records Check Requirement.)

(5) While holding this license, an applicant must complete:

(a) An Oregon school law and finance class; and

(b) Obtain a passing score on a commission-approved test of knowledge of U.S. and Oregon civil rights and professional ethics.

(6) Upon completion of the requirements in subsection (5) above, in addition to three consecutive years of full-time experience as a superintendent in the state of Oregon, the applicant qualifies for a Continuing Administrator License as defined in OAR 584-080-0022.

(7) If extenuating circumstances prevent the educator from completing these requirements prior to the expiration of the Transitional Superintendent License, an Emergency Administrator License may be issued, at the sole discretion of the Executive Director. Evidence of the extenuating circumstances must be presented to the Executive Director, who then determines if and for how long an emergency license should be issued as needed to protect the district's programs or students.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430, 342.455 - 342.495 & 342.533

Hist.: TSPC 3-2001, f. & cert. ef. 6-21-01; TSPC 5-2001, f. & cert. ef. 12-13-01; TSPC 2-2007, f. & cert. ef. 4-23-07; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 8-2009, f. & cert. ef. 12-15-09; TSPC 3-2011, f. & cert. ef. 3-15-11; TSPC 5-2012, f. & cert. ef. 5-18-12

## 584-100-0011

### Highly Qualified Elementary Teacher New to the Profession

Teachers new to the profession teaching multiple subjects in grades kindergarten (K) through six (6) in an Oregon elementary school must meet the following criteria in order to meet the federal definition of "highly qualified teacher." The teacher must:

(1) Hold a bachelor's degree;

(2) Hold a Basic, Initial, Initial I, or an Approved NCLB Alternative Route Teaching License;

(3) Have passed a rigorous Commission-adopted multiple subjects examination; and

(4) Be properly assigned in grades kindergarten (K) through six (6).

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 5-2012, f. & cert. ef. 5-18-12

## 584-100-0016

### Highly Qualified Elementary Teacher Not New to the Profession

Teachers not new to the profession teaching multiple subjects in grades kindergarten (K) through six (6) must meet the following criteria in order to meet the federal definition of "highly qualified teacher." The teacher must:

(1) Hold a bachelor's degree;

(2) Hold a Basic, Standard, Initial, Continuing, Pre-1965 Five-Year Elementary Teaching License; and

(3) Demonstrate subject-matter competency by passing a rigorous Commission-adopted multiple subjects examination appropriate for grades kindergarten (K) through six (6); or

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(4)(a) Demonstrate subject-matter competency by meeting the following High Objective Uniform State Standards of Evaluation (HOUSSE):

(b) Complete an approved elementary teacher education program or the coursework equivalent to sixty-quarter hours distributed as follows:

- (A) Eighteen quarter or twelve semester hours in language arts;
- (B) Twelve quarter or eight semester hours in mathematics;
- (C) Nine quarter or six semester hours in science;
- (D) Nine quarter or six semester hours in U.S. history, cultural geography, and other social sciences;
- (E) Three quarter or two semester hours in health education;
- (F) Three quarter or two semester hours in physical education;
- (G) Three quarter or two semester hours in music education; and
- (H) Three quarter or two semester hours in art education.

(5) Obtain a certificate as Early Childhood Generalist, Early Childhood Art, Early Childhood Music, or Early Childhood ESOL from the National Board for Professional Teaching Standards; and

(6) Be properly assigned in grades kindergarten (K) through six (6).

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 5-2012, f. & cert. ef. 5-18-12

## 584-100-0017

### Highly Qualified Elementary Teachers teaching Title I or Remedial Reading

All non-provisionally licensed teachers assigned to teach Title I or remedial reading in grades K-6 must hold:

(1) Either a Basic or Standard Elementary Teaching License and be properly assigned to teach Title I or remedial reading at .49 FTE or less; or

(2) A Reading Specialist Endorsement.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 5-2012, f. & cert. ef. 5-18-12

## 584-100-0021

### Highly Qualified Middle Level Teacher New to the Profession

(1) Teachers new to the profession teaching core academic subjects in grades seven (7) and eight (8) in an Oregon middle, junior high school, or a high school that includes grades seven (7) and eight (8), must meet the following criteria in order to meet the federal definition of "highly qualified teacher." The teacher must:

(a) Hold a Basic, Initial, or *Approved NCLB Alternative Route Teaching License* authorized to teach in any one of the core academic areas and satisfy one of the following:

(A) Pass a rigorous state exam in the core academic subject matter area; or

(B) Hold an undergraduate major in the subject core academic matter area; or

(C) Hold a graduate degree in the core academic subject matter area; or

(D) Complete coursework equivalent to an undergraduate major in the core academic subject; and

(b) Be properly assigned in the core academic subject matter area in grades seven (7) or eight (8).

(2) Teachers on an approved License for Conditional Assignment (LCA) for any core academic subject may be highly qualified based on completed coursework in the core academic subject area.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 5-2012, f. & cert. ef. 5-18-12

## 584-100-0026

### Highly Qualified Middle Level Teacher Not New to the Profession

Teachers not new to the profession teaching core academic subjects in grades seven (7) and eight (8) in an Oregon middle or junior high school must meet the following criteria in order to meet the federal definition of "highly qualified teacher." The teacher must:

(1) Hold a Basic, Standard, Initial, Continuing, Five-Year Elementary, Five-Year Secondary, or an Approved NCLB Alternative Route Teaching License and satisfy one of the following:

(a) Pass the prescribed rigorous state exam in the core academic subject; or

(b) Hold an undergraduate major in the core academic subject area(s); or

(c) Hold a graduate degree in the core academic subject area(s); or

(d) Complete coursework equivalent to an undergraduate major in the core academic subject area; or

(e) Hold advanced certification or credentialing in the core academic subject area; or

(f) Meet the HOUSSE requirements as defined in OAR 584-100-0038; and

(g) Be properly assigned in the core academic subject area in grades seven (7) or eight (8).

(2) Teachers on an approved License for Conditional Assignment (LCA) for any core academic subject may be highly qualified based on completed coursework in the core academic subject area pursuant to OAR 584-100-0038.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 4-2004(Temp), f. & cert. ef. 5-14-04 thru 11-9-04; TSPC 6-2004, f. & cert. ef. 8-25-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 5-2012, f. & cert. ef. 5-18-12

## 584-100-0031

### Highly Qualified Secondary Teacher New to the Profession

(1) Teachers new to the profession teaching core academic subjects in grades nine (9) through twelve (12) in an Oregon high school must meet the following criteria in order to meet the federal definition of "highly qualified teacher." The teacher must:

(a) Hold a Basic, Initial, or an *Approved NCLB Alternative Route Teaching License* with an endorsement in the core academic subjects taught; and

(b) Be properly assigned in the core academic subject area in grades nine (9) through twelve (12).

(2) New secondary teachers on an approved License for Conditional Assignment (LCA) for any core academic subject may be highly qualified based on completed coursework in the core academic subject area if they have a major or coursework equivalent to a major in the core academic subject, but lack the endorsement on the license.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2004, f. & cert. ef. 3-17-04; TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 5-2012, f. & cert. ef. 5-18-12

## 584-100-0038

### HOUSSE for Middle-Level and High School Teachers

(1) Teachers may use a combination of coursework, professional development and experience to acquire points on a one-hundred (100) point scale to meet the federal definition of Highly Qualified Teacher (HQT) through Oregon's High Objective Uniform State Standard of Evaluation (HOUSSE).

(2) To qualify for the HOUSSE, a total of one hundred (100) points of combined coursework, professional development and experience must be earned. Experience may not count for more than 50 points.

(3) Teaching Off License in the Core Academic Subjects: Teachers who are conditionally assigned to teach the core academic subject more than 10 hours per week must apply for a License for Conditional Assignment (LCA) pursuant to Division 60 and must add the endorsement to teach the assignment for more than three years. Unless the teacher meets the federal definition for HQT in the core academic subject, the district may not report the teacher as being highly qualified.

(a) If the educator meets the federal definition for HQT under any circumstances, then the district may report the teacher as HQT for purposes of that core academic subject even if the teacher does not immediately qualify to add the endorsement to the teaching license and even if the teacher is teaching under a License for Conditional Assignment (LCA).

(b) If the educator meets the federal definition for HQT and is teaching less than 10 hours per week in the core academic subject, the district may report the teacher as highly qualified and the teacher does not have to add the core academic endorsement to the license.

(4) Experience: Experience may not exceed more than fifty (50) points in the HOUSSE calculation. Generally, the educator will be given ten (10) points of credit for each full academic year as defined by the district's contracted teacher year. Experience will be valued under the following conditions:

(a) One (1) instructional day is one (1) period or more teaching the core academic subject.

(b) The subject must have been taught at grade 4 or above.

(c) One full instructional year equals 10 points.

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(d) Partial instructional years will be calculated as the number of instructional days teaching the subject divided by the number of contracted days in one full instructional year times 10.

[Example: 150 days taught/180 days in full instructional year = (5/6 x 10) = 8.3 points.]

(e) An educator must have taught at least five complete school years in order to earn the full fifty (50) points.

(5) Academic Coursework in the Core Academic Subject: There is no limit to the number of points that may be obtained through academic coursework related to the core academic subject.

(a) Core academic coursework must be college transfer level or graduate credit and must have a course number of 100 or greater;

(b) Transcripts for core academic coursework must be from a regionally accredited college or university;

(c) Core academic coursework will be valued as follows:

(A) One (1) quarter hour of credit equals three (3) points.

(B) One (1) semester hour of credit equals four and one-half (4.5) points.

(6) Professional Development: Professional Development directly related to the core academic credit may be counted toward the one hundred (100) points needed to meet the state's HOUSSE. Professional Development points will be valued under the following conditions:

(a) One (1) hour of core academic professional development is equal to 0.15 points.

(b) School district personnel authorized to certify professional development must verify that the professional development is directly relevant to the core academic subject in which the teacher is seeking to meet the definition of being "highly qualified." "Directly relevant" means that upon scrutiny, the professional development is more content related than pedagogy related.

Stat. Auth: ORS 342

Stats. Implemented: ORS 342.125

Hist.: TSPC 2-2006(Temp), f. & cert. ef. 2-3-06 thru 8-2-06; TSPC 8-2006, f. 5-15-06, cert. ef. 7-1-06; TSPC 5-2012, f. & cert. ef. 5-18-12

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**Rule Caption:** Adopts late fee waiver; new continuing professional development, social worker rules; aligns fees; modifies licensure rules.

**Adm. Order No.:** TSPC 6-2012

**Filed with Sec. of State:** 5-18-2012

**Certified to be Effective:** 5-18-12

**Notice Publication Date:** 1-1-2012

**Rules Adopted:** 584-036-0057, 584-070-0441, 584-070-0451, 584-090-0100, 584-090-0105, 584-090-0110

**Rules Amended:** 584-036-0015, 584-036-0055

**Subject:** ADOPT: 584-036-0057 *Late Fee Waiver* – Allows educators who are unable to find employment during the life of a license to waive late fees upon reinstatement of their license issued by TSPC.

584-070-0441 *Restricted Transitional School Social Worker* – Creates new license for districts who wish to license persons who are completing a school social worker program or who are planning to enroll in a school social worker program.

584-070-0451 *Emergency School Social Worker License* – Adopts new license to allow districts to hire an emergency social worker. The license allows for an "extension" without issuing an "informal" extension to a license.

584-090-0100 *Professional Development General* – Requires professional development for all educators including charter schools and school nurses.

584-090-0105 *Professional Development Objectives* – Adopts objectives that align with the national standards adopted by Learning Forward.

584-090-0110 *Standards for Professional Learning* – Clarifies the professional development standards are aligned with the national standards developed and adopted by Learning Forward in 2011.

AMEND: 584-036-0015 *Basic and Standard Teaching Licenses with Authorizations and Endorsements* – Clarifies waiver of Basic

Skills Tests (7) in lieu of a Master's Degree. Removes "building" designation from rule except with Specialty Endorsements.

584-036-0055 *Fees* – Amends rule to state: (9)(c) If the educator is eligible for fee waiver under OAR 584-036-0057, the Executive Director may waive late fees.

**Rules Coordinator:** Lynn Beaton—(503) 373-0981

## 584-036-0015

### Basic and Standard Teaching Licenses with Authorizations and Endorsements

(1) A Basic Teaching License issued under rules adopted prior to 1999 is valid for three years and may be renewed under conditions set forth in division 90. Except as provided in subsection (b) immediately below, the endorsements are valid only for assignments in grade K through grade nine if requirements leading to standard licensure are not met.

(a) To retain authorization for teaching in a high school, holders of subject matter endorsements must meet renewal requirements leading to standard licensure (See, Division 40 for further information).

(b) If the Basic Teaching License is endorsed in art, library (educational) media, world (foreign) language, health, family and consumer science (home economics), technology (industrial arts), music, physical education and reading, the assignment is limited to preprimary programs and grades 1 through 8, in any school and grade 9 if the teacher is teaching in a middle school or a junior high.

(2) A Standard Teaching License issued under rules adopted prior to 1999 is valid for five years and may be renewed. A Standard Teaching License is valid for the same assignments as a Basic Teaching License with similar authorizations and endorsements. In addition, the Standard Teaching License authorizes assignments in grades five through twelve or in preprimary through grade twelve for which a renewed Basic Teaching License may not provide authorization. These authorizations and endorsements are explained in the following sections.

(3) Grade level authorizations are stated on a Basic or Standard Teaching License as follows:

(a) Preprimary through nine, except as provided in section (1)(b) of this rule;

(b) Preprimary through twelve;

(c) Grades five through nine; or

(d) Grades five through twelve.

(4) Assignments: Assignments which are permitted on Basic and Standard Teaching Licenses are stated as endorsements as follows:

(a) Elementary (014): An elementary subject matter endorsement issued before January 14, 1987 is valid for the self-contained classroom and for departmental assignments in preprimary through grade nine of an elementary, middle, or junior high school except assignments of .51 percent or more in:

(A) Art;

(B) Library media;

(C) Foreign language;

(D) Health;

(E) Home economics;

(F) Technology education;

(G) Music;

(H) Physical education;

(I) Reading;

(J) ESOL; and

(K) School Counseling.

(b) Elementary (016): An elementary subject matter endorsement issued after January 14, 1987 is valid for the self-contained classroom and for departmental assignments in preprimary through grade nine except assignments of .51 percent or more in:

(A) Art;

(B) Library media;

(C) Foreign language;

(D) Health;

(E) Home economics;

(F) Technology education;

(G) Mathematics;

(H) Music;

(I) Physical education;

(J) Reading;

(K) ESOL; and

(L) School Counseling.

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(c) The elementary endorsement is also valid for assignments in the high school in which the holder is teaching elementary basic skills as it relates to more than one of the following high school subject areas:

- (A) Language arts;
- (B) Social studies;
- (C) Mathematics; or
- (D) Reading.

(d) Middle School endorsements: Middle school endorsements in language arts, social studies or science may be added to a Basic or Standard teaching license. These endorsements are valid to teach the subject in grades 5 through 9 in an elementary, middle or junior high school only.

(e) Subject matter endorsements valid in preprimary through 12: The following subject matter endorsements are valid for teaching in the subject area in grades preprimary through grade twelve:

- (A) Art;
- (B) ESOL;
- (C) Foreign language;
- (D) Health;
- (E) Home economics;
- (F) Technology education;
- (G) Library media;
- (H) Mathematics;
- (I) Music;
- (J) Physical education; or
- (K) Reading.

(5) Special Education Assignments: The appropriate special education endorsement is required for a special education assignment in a state-reimbursed or state-approved program. Special education endorsements are valid in preprimary through grade twelve, but are limited to teaching in the special education endorsement area only.

(a) The Exceptional Learner I and II endorsements are valid for teaching exceptional learners and severe exceptional needs learners, except hearing impaired, speech impaired, and visually impaired, which require the specific endorsement.

(b) The Severe Exceptional Needs Learner endorsement is valid for teaching those defined in OAR 584-036-0005.

(6) Basic special education license must qualify for standard: Upon expiration of the second Basic Teaching License, the holder of a special education endorsement must qualify for a Standard Teaching License with a standard special education endorsement. The severe exceptional needs learner endorsement is an exception to this rule; it may be renewed without completion of a Standard Teaching License. (See OAR 584-048-0030 regarding renewal of the severe exceptional needs learner endorsement.)

(7) Career and Technical Education endorsements: A career and technical education endorsement is valid for teaching in career and technical education programs approved by the Oregon Department of Education and as noted on the license. Any career and technical education endorsement is valid for assignments in diversified occupations or as work experience coordinators. (See OAR 584 division 42 for Career and Technical Education Licenses.)

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120-342.430; 342.430-342.455; 342.533

Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 2-1979, f. 8-21-79, ef. 1-1-80; TS 2-1981(Temp), f. & ef. 8-17-81; TS 1-1982, f. & ef. 1-5-82; TS 6-1982, f. & ef. 12-9-82; TS 3-1983, f. & ef. 5-16-83; TS 6-1984, f. 12-27-84, ef. 1-15-85; TS 7-1986, f. 10-15-86, ef. 1-15-87; TS 1-1987, f. & ef. 3-3-87; TS 1-1988, f. 1-14-88, cert. ef. 1-15-88; TS 3-1988, f. & cert. ef. 4-7-88; TS 2-1989, f. & cert. ef. 2-16-89; TS 3-1989, f. & cert. ef. 7-31-89; TS 5-1989(Temp), f. & cert. ef. 10-6-89; TS 7-1989, f. & cert. ef. 12-13-89; TS 2-1990, f. 6-1-90, cert. ef. 6-14-90; TS 1-1992, f. & cert. ef. 1-15-92; TS 4-1992, f. & cert. ef. 10-1-92; TS 6-1997, f. 9-25-97, cert. ef. 1-15-01; TSPC 5-2001, f. & cert. ef. 12-13-01; TSPC 4-2005(Temp), f. & cert. ef. 5-6-05 thru 9-30-05; TSPC 7-2005, f. & cert. ef. 8-24-05; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 2-2009, f. & cert. ef. 3-12-09; TSPC 7-2011(Temp), f. & cert. ef. 11-15-11 thru 5-11-12; Administrative correction, 5-25-12; TSPC 6-2012, f. & cert. ef. 5-18-12

## 584-036-0055

### Fees

(1) All fees are assessed for evaluation of the application and are not refundable.

(2) If the applicant is eligible for the license, registration, or certificate for which application is made and the license, registration or certificate is issued within 90 days of original application, the commission shall issue the license, without additional charge with the following exceptions:

(a) If the commission determines the application is incomplete and fails to notify the applicant in less than one calendar week, the commission will extend the 90 days by an amount equal to the number of days the commission delayed notifying the applicant of incomplete items.

(b) For renewable licenses with a 120 day grace period, the original application fee remains good throughout the 120 days.

(c) If the commission fails to issue the license within 90 days due to commission backlog, the fee shall remain good until the license is issued or 120 days, whichever is less.

(3) The fee for evaluating an application:

- (a) Initial I License (3 years): \$100;
- (b) Initial I Teaching License (18 months): \$50;
- (c) Initial II Teaching License (3 years): \$100;
- (d) Basic License (3 years): \$100;
- (e) Continuing License (5 years): \$100;
- (f) Standard License (5 years): \$100;
- (g) Restricted Transitional License (1 year or 3 years): \$100;
- (h) Limited License (3 years): \$100;
- (i) American Indian Language License (3 years): \$100;
- (j) Substitute License (3 years): \$100;
- (k) Restricted Substitute License (3 years, 60 days per year): \$100;
- (l) Exceptional Administrator License (3 years): \$100;
- (m) Career and Technical Education I Teaching License (1 year): \$100;

(n) Career and Technical Education II Teaching License (3 years): \$100;

(o) Five-Year Career and Technical Education License (5 years): \$100;

(p) Emergency License (term at discretion of Executive Director): \$100;

(q) School Nurse Certification (3 years): \$100;

(r) International Visiting Teaching License (1 year): \$100; and

(s) License for Conditional Assignment (1 to 3 years) \$25;

(t) Initial Administrator License (3 years): \$100;

(u) Initial School Psychologist License (3 years): \$100

(v) Initial School Social Worker License (3 years): \$100; and

(w) Distinguished Administrator License (5 years): \$100

(4) The fee for evaluating all applications for a first Oregon license based on completion of an out-of-state educator preparation program or an out of state license is \$120 regardless of the license issued.

(5) The fee for registration of a charter school teacher or administrator is \$75 which includes the fee for required criminal records and fingerprinting costs.

(6) The fee for evaluating an application for renewal of any license or certification is \$100 except as follows:

(a) Renewal of a one-year Restricted Transitional Teaching License is \$25;

(b) Renewal of a charter school registration is \$25;

(c) Renewal of an International Visiting Teacher License is \$25;

(d) Renewal of Career and Technical Education I Teaching License is \$25; and

(e) Renewal of License for Conditional Assignment is \$25.

(7) The fee for each of the following circumstances is \$20:

(a) A duplicate license, registration, or certificate for any reason;

(b) An approved extension to a provisional license; and

(c) Adding a district to an existing restricted license requiring a co-applicant school district.

(8) The fee for evaluating an application to add one or more endorsements or authorization levels to a currently valid license is \$100. No additional fee is required to add an endorsement or authorization in conjunction with an application for renewal or reinstatement of a license.

(9) The fee to evaluate an application for reinstatement of an expired license or certificate is \$100 plus a late application fee of \$25 for each month or portion of a month that the license or certificate has been expired to a maximum of \$200 total.

(a) The reinstatement fee does not include any separate fingerprint fee that may be required if more than three years has elapsed from the date of the expired license, registration or school nurse certification.

(b) Late fees may only be imposed one time following the expiration of a license or school nurse certificate. If the applicant does not initially qualify for the license or certificate the applicant is seeking to reinstate, no additional late fees will be imposed upon application for subsequent licenses so long as the applicant has a current active license, registration or certification in effect at the time of application.

(c) If the educator is eligible for fee waiver under OAR 584-036-0057, the Executive Director may waive late fees.

(10) The fee for evaluating an application for reinstatement of a suspended license or certificate is \$100 in addition to the \$100 application fee for a total of \$200. The fee does not include any separate fingerprint fee that may be required if more than three years has elapsed from the date of the expired license or certificate.

# ADMINISTRATIVE RULES

(11) The fee for evaluating an application for reinstatement of a suspended charter school registration is \$50 and does not include any separate fingerprint fee that may be required if more than three years has elapsed from the date of the expired registration.

(12) In addition to the application fees required by this rule, the Commission shall collect a late application fee not to exceed \$25 per month up to a maximum of \$125 from an applicant who fails to make timely application for renewal of the license, certificate or registration.

(13) The fee for evaluating an application for reinstatement of a revoked license or certificate is \$150 in addition to the \$100 application fee for a total of \$250. The reinstatement fee does not include any separate fingerprint fee that may be required if more than three years has elapsed from the date of the expired license, or school nurse certificate.

(14) The fee for evaluating an application for reinstatement of a revoked charter school registration is \$150 in addition to the \$25 application fee for a total of \$175. The reinstatement fee does not include any separate fingerprint fee that may be required if more than three years has elapsed from the date of the expired charter school registration.

(15) Forfeiture for a check which the applicant's bank will not honor is \$25, unrelated to any evaluation fees. The total amount due shall be paid in cash, credit, or Money Order at the Commission's office.

(16) The fee for evaluating licensure applications submitted on behalf of teachers participating in exchange programs or on Congressional appointment from foreign countries is \$100.

(17) The fee for alternative assessment in lieu of the test for licensure endorsement is \$100.

(18) The fee for expedited service for an emergency or other license, registration or certificate is \$99 plus the fee for the license registration or certificate application as defined in this administrative rule.

(19) The fee to evaluate an application for reinstatement of an expired charter school registration is \$25 plus a late application fee of \$25 for each month or portion of a month that the registration has been expired to a maximum of \$125 total. The reinstatement fee does not include any separate fingerprint fee that may be required if more than three years has elapsed from the date of the expired charter school registration.

(20) The fee for a criminal records check including fingerprinting is \$62.

(21) The fee for a "highly qualified teacher" evaluation is \$50.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 – 342.430; 342.430 – 342.455; 342.533

Hist.: TS 15, f. 12-20-76, ef. 1-1-77; TS 17, f. 12-19-77, ef. 1-1-78; TS 2-1979, f. 8-21-79, ef. 1-1-80; TS 1-1982, f. & ef. 1-5-82; TS 3-1983, f. & ef. 5-16-83; TS 4-1983, f. 5-17-83, ef. 7-1-83; TS 6-1984, f. 12-27-84, ef. 1-15-85; TS 4-1985, f. 10-4-85, ef. 1-1-86; TS 7-1986, f. 10-15-86, ef. 1-15-87; TS 5-1988, f. 10-6-88, cert. ef. 1-15-89; TS 7-1989, f. & cert. ef. 12-13-89; TS 1-1992, f. & cert. ef. 1-15-92; TS 4-1994, f. 7-19-94, cert. ef. 10-15-94; TS 5-1994, f. 9-29-95, cert. ef. 10-15-94; TS 4-1997, f. 9-25-97, cert. ef. 10-4-97; TSPC 4-1999, f. & cert. ef. 8-2-99; TSPC 2-2000, f. & cert. ef. 5-15-00; TSPC 1-2003, f. & cert. ef. 1-13-03; TSPC 6-2004, f. & cert. ef. 8-25-04; TSPC 6-2005(Temp), f. & cert. ef. 8-16-05 thru 1-30-06; TSPC 9-2005, f. & cert. ef. 11-15-05; TSPC 11-2005(Temp), f. 11-18-05, cert. ef. 1-1-06 thru 6-29-06; TSPC 5-2006, f. & cert. ef. 2-10-06; TSPC 5-2007, f. & cert. ef. 8-15-07; TSPC 5-2008, f. & cert. ef. 6-13-08; TSPC 7-2008, f. & cert. ef. 8-20-08; TSPC 1-2009(Temp), f. & cert. ef. 2-27-09 thru 8-25-09; Administrative correction 9-29-09; TSPC 4-2009, f. & cert. ef. 9-22-09; TSPC 8-2009, f. & cert. ef. 12-15-09; TSPC 4-2010, f. & cert. ef. 7-15-10; TSPC 5-2010(Temp), f. & cert. ef. 8-13-10 thru 12-31-10; TSPC 9-2010, f. 12-15-10, cert. ef. 1-1-11; TSPC 5-2011, f. & cert. ef. 6-15-11; TSPC 2-2012, f. & cert. ef. 2-15-12; TSPC 6-2012, f. & cert. ef. 5-18-12

## 584-036-0057

### Late Fee Waiver

(1) Intent: The Commission's intent is to alleviate the burden imposed by licensure late fees in the event an educator is unable to find any education-related employment during the life of an active license.

(2) Eligibility: The Commission authorizes the Executive Director to waive late fees upon application for reinstatement of an expired license under the following conditions when the educator:

(a) Submits a notarized affidavit affirming that the educator was unable to obtain education-related employment during the life of the expired license;

(b) Meets all renewal requirements the educator would have had to meet in order to renew the license including academic progress toward a next stage license or continuing professional development; and

(c) Is in good professional practices standing and has not engaged in conduct that resulted in sanction by the Commission.

(3) Education-related Employment: Education-related employment includes but is not limited to:

(a) Substitute employment in a public or private school;

(b) Charter School employment in any licensed or registered capacity;

(c) Private School employment in any capacity that would require a license in a public or charter school;

(d) Education policy work for a nonprofit organization focused on education policy, the Oregon Department of Education, the Governor's office or some other similar education-related policy body;

(e) Instructional employment at any public or private post-secondary education institution;

(f) Other employment deemed by the Executive Director to be education-related.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120–342.430; 342.430–342.455; 342.533

Hist.: TSPC 6-2012, f. & cert. ef. 5-18-12

## 584-070-0441

### Restricted Transitional School Social Worker

(1) Upon filing a correct and complete application with a co-applicant district in form and manner prescribed by the commission, a qualified applicant may be granted a Restricted Transitional School Social Worker License.

(2) The Restricted Transitional School Social Worker License may be issued for three years and is non-renewable.

(3) The Restricted Transitional School Social Worker License will be restricted for use within a district that has applied for it jointly with the social worker and may not be used for substitute teaching unless the educator also holds another license valid for regular or substitute teaching issued by the commission.

(4) To be eligible for a Restricted Transitional School Social Worker License, the applicant must have all of the following:

(a) An application that includes the following:

(A) A joint request by an employing district; and

(B) The applicant social worker's qualifications summarized on a submitted resume; and

(C) A statement from the district describing the circumstances that prevented hiring a school social worker with an unrestricted license for the position being filled; and

(D) The appropriate fee for the license;

(b) A bachelor's or higher degree from a regionally accredited institution or approved foreign equivalent;

(c) A passing score on a commission-approved test of knowledge of U.S. and Oregon civil rights and ethics;

(d) Fingerprints, a cleared background check in the manner prescribed by the commission and also must provide satisfactory responses to the character questions contained in the commission's licensure application. (See also, OAR 584-036-0062 for Criminal Records Check Requirement.); and

(e) One of the following:

(A) Be enrolled in a school social worker program approved for school social worker licensure by any state and have completed approximately one-half of the program; or

(B) Has completed a Master's in Social Work; or

(C) Has a master's degree in a counseling or social worker related field.

(5) The Restricted Transitional School Social Worker License is not transferable to another district. However, another district may co-apply for a Restricted Transitional School Social Worker License for any time remaining in the three years from the date the first Restricted Transitional School Social Worker License was first issued by the Commission. A C-1 application and full fee must accompany the request to change districts.

(6) All requirements for the Initial School Social Worker License must be completed upon the expiration of Restricted Transitional School Social Worker License. Under very limited circumstances, an applicant may be eligible for an Emergency School Social Worker License. The applicant must show that circumstances beyond the applicant's control prevented completion of the requirements for an Initial School Social Worker license.

(See, OAR 584-070-0451 for Emergency School Social Worker License.)

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120–342.430; 342.455–342.495; 342.533

Hist.: TSPC 6-2012, f. & cert. ef. 5-18-12

## 584-070-0451

### Emergency School Social Worker License

(1) Upon filing an application and full fee in the form and manner required by the Commission, an Emergency School Social Worker License may be issued in any increment of time at the Executive Director's discretion, but generally will be limited to the least amount of time reasonably necessary to complete non-provisional licensure requirements or to bridge the actual emergency generating the district's request.

# ADMINISTRATIVE RULES

(2) An Emergency School Social Worker License may be issued when a school district demonstrates extenuating circumstances that merit the issuance of the license in order to protect the district's programs or students.

(3) The Executive Director is authorized to deny application for an Emergency School Social Worker License if the request exceeds more than one year beyond the expiration of a Restricted Transitional School Social Worker License.

(4) To be eligible for the Emergency School Social Worker License the following must be submitted:

(a) A C-1 application and full fee;

(b) A letter each from the district and the applicant describing the extenuating circumstances that require the issuance of an Emergency School Social Worker License; and

(c) A description of the steps the district will take to ensure the applicant will qualify for the Initial School Social Worker License upon expiration of the Emergency School Social Worker License.

(5) The Emergency School Social Worker License will be issued solely at the discretion of the Executive Director for any length of time deemed necessary to protect the district's programs or students. The Executive Director may consider the following:

(a) Whether the educator has had any academic preparation or experience in the area of social work;

(b) Efforts the educator has made in meeting the Initial School Social Worker License requirements; and

(c) Whether the educator has obtained a passing score on a commission-approved test of knowledge of U.S. and Oregon civil rights and professional ethics.

(6) The Emergency School Social Worker License is not subject to the 120 day grace period allowed for licensure renewal purposes under ORS 342.127.

Stat. Auth.: ORS 342.125

Stats. Implemented: ORS 342.120-342.430; 342.455-342.495; 342.533

Hist.: TSPC 6-2012, f. & cert. ef. 5-18-12

## 584-090-0100

### Professional Development Generally

(1) Professional development is required for renewal of most active licenses, registrations and certificates for public school or charter school teachers, administrators, school counselors, school psychologists, school social workers, school nurses.

(2) Educators seeking to reinstate a renewable license must demonstrate completion of all professional development requirements obtained after the date on which their last active license was issued by the Commission provided continuing professional development (CPD) is required for renewal.

(3) New out-of-state educators may submit professional development obtained prior to licensure in Oregon as a basis for licensure renewal so long as:

(a) The professional development was obtained within the five (5) years immediately preceding the date the first Oregon educator license, registration or certification was issued;

(b) The professional development is consistent with the requirements of this Division; and

(c) The professional development was obtained within the five years immediately preceding the expiration date on the license for which they are seeking renewal.

(4) Professional development is required for renewal of the following licenses, registrations or certificates for teaching, administration, personnel service, and school nursing:

(a) American Indian Language Teaching;

(b) Basic;

(c) Standard;

(d) Career and Technical Education II Teaching (See also, OAR 584-042-0051);

(e) Charter School registrations;

(f) Continuing;

(g) Five-Year Career and Technical Education Teaching;

(h) Five Year Teaching (pre-1965);

(g) Initial II;

(h) Limited;

(j) Substitute;

(k) Restricted Substitute;

(l) Distinguished Administrator;

(m) Exceptional Administrator;

(n) Five Year Administrator (pre-1965);

(o) Five Year Personnel Service (pre-1965); and

(p) Professional School Nurse.

(5) Educators who hold dual licensure with other state professional licensing boards may fulfill their CPD requirements by completing PDU's provided by those professional licensure areas.

(6) It is the sole responsibility of the licensed educator to ensure accurate completion of continuing professional development upon renewal. Failure to complete continuing professional development does not constitute an "emergency" for the purposes of receiving an Emergency License when CPD requirements have not been met.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120-342.430; 342.455-342.495; 342.533

Hist.: TSPC 6-2012, f. & cert. ef. 5-18-12

## 584-090-0105

### Professional Development Objectives

High quality professional development increases the effectiveness of all educators and has characteristics that lead to:

(1) Effective teaching practices;

(2) Supportive leadership; and

(3) Improved student results.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120 - 342.430; 342.455-342.495; 342.533

Hist.: TSPC 6-2012, f. & cert. ef. 5-18-12

## 584-090-0110

### Standards for Professional Learning

These professional development standards are aligned with the national standards developed and adopted by *Learning Forward* in 2011.

(1) Learning Communities: Professional learning that increases educator effectiveness and results for all students occurs within learning communities committed to continuous improvement, collective responsibility, and goal alignment.

(2) Leadership: Professional learning that increases educator effectiveness and results for all students requires skillful leaders who: develop capacity, advocate and create support systems for professional learning.

(3) Resources: Professional learning that increases educator effectiveness and results for all students requires prioritizing, monitoring, and coordinating resources for educator learning.

(4) Data: Professional learning that increases educator effectiveness and results for all students uses a variety of sources and types of student, educator, and system data to plan, assess, and evaluate professional learning.

(5) Learning Designs: Professional learning that increases educator effectiveness and results for all students integrates theories, research, and models of human learning to achieve its intended outcomes.

(6) Implementation: Professional learning that increases educator effectiveness and results for all students applies research on change and sustains support for implementation of professional learning for long term change.

(7) Outcomes: Professional learning that increases educator effectiveness and results for all students aligns its outcomes with educator performance and student curriculum standards.

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120-342.430; 342.455-342.495; 342.533

Hist.: TSPC 6-2012, f. & cert. ef. 5-18-12

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123-021-0015	12-8-2011	Amend(T)	1-1-2012	123-630-0090	6-1-2012	Adopt	7-1-2012
123-021-0015	6-1-2012	Amend	7-1-2012	123-630-0100	6-1-2012	Adopt	7-1-2012
123-021-0015(T)	6-1-2012	Repeal	7-1-2012	125-246-0100	1-1-2012	Amend	2-1-2012
123-021-0020	12-8-2011	Amend(T)	1-1-2012	125-246-0300	1-1-2012	Amend	2-1-2012
123-021-0020	6-1-2012	Amend	7-1-2012	125-246-0570	1-1-2012	Amend	2-1-2012
123-021-0020(T)	6-1-2012	Repeal	7-1-2012	125-247-0100	1-1-2012	Amend	2-1-2012
123-021-0040	12-8-2011	Amend(T)	1-1-2012	125-247-0310	1-1-2012	Amend	2-1-2012
123-021-0040	6-1-2012	Amend	7-1-2012	125-247-0320	1-1-2012	Amend	2-1-2012
123-021-0040(T)	6-1-2012	Repeal	7-1-2012	125-247-0400	1-1-2012	Amend	2-1-2012
123-021-0080	12-8-2011	Amend(T)	1-1-2012	125-247-0410	1-1-2012	Amend	2-1-2012
123-021-0080	6-1-2012	Amend	7-1-2012	125-247-0420	1-1-2012	Amend	2-1-2012
123-021-0080(T)	6-1-2012	Repeal	7-1-2012	125-247-0440	1-1-2012	Amend	2-1-2012
123-021-0090	12-8-2011	Amend(T)	1-1-2012	125-247-0450	1-1-2012	Amend	2-1-2012
123-021-0090	6-1-2012	Amend	7-1-2012	125-247-0460	1-1-2012	Amend	2-1-2012
123-021-0090(T)	6-1-2012	Repeal	7-1-2012	125-247-0470	1-1-2012	Amend	2-1-2012
123-021-0110	12-8-2011	Amend(T)	1-1-2012	125-247-0480	1-1-2012	Amend	2-1-2012
123-021-0110	6-1-2012	Amend	7-1-2012	125-247-0490	1-1-2012	Amend	2-1-2012
123-021-0110(T)	6-1-2012	Repeal	7-1-2012	125-247-0525	1-1-2012	Amend	2-1-2012
123-021-0130	12-8-2011	Amend(T)	1-1-2012	125-247-0575	1-1-2012	Amend	2-1-2012
123-021-0130	6-1-2012	Amend	7-1-2012	125-247-0620	1-1-2012	Amend	2-1-2012
123-021-0130(T)	6-1-2012	Repeal	7-1-2012	125-247-0640	1-1-2012	Amend	2-1-2012
123-042-0026	1-1-2012	Amend	2-1-2012	125-247-0650	1-1-2012	Amend	2-1-2012
123-042-0045	1-1-2012	Amend	2-1-2012	125-247-0660	1-1-2012	Amend	2-1-2012
123-043-0010	4-2-2012	Amend	5-1-2012	125-247-0670	1-1-2012	Amend	2-1-2012
123-043-0010(T)	4-2-2012	Repeal	5-1-2012	125-247-0700	1-1-2012	Amend	2-1-2012
123-043-0025	4-2-2012	Amend	5-1-2012	125-247-0710	1-1-2012	Amend	2-1-2012
123-043-0025(T)	4-2-2012	Repeal	5-1-2012	125-247-0720	1-1-2012	Amend	2-1-2012
123-043-0115	4-2-2012	Amend	5-1-2012	125-247-0731	1-1-2012	Amend	2-1-2012
123-043-0115(T)	4-2-2012	Repeal	5-1-2012	125-247-0740	1-1-2012	Amend	2-1-2012
123-091-0001	4-2-2012	Adopt	5-1-2012	125-247-0750	1-1-2012	Amend	2-1-2012
123-091-0010	4-2-2012	Adopt	5-1-2012	125-247-0760	1-1-2012	Amend	2-1-2012
123-091-0015	4-2-2012	Adopt	5-1-2012	125-248-0100	1-1-2012	Amend	2-1-2012
123-091-0020	4-2-2012	Adopt	5-1-2012	125-248-0110	1-1-2012	Amend	2-1-2012
123-091-0025	4-2-2012	Adopt	5-1-2012	125-248-0120	1-1-2012	Amend	2-1-2012
123-091-0030	4-2-2012	Adopt	5-1-2012	125-248-0130	1-1-2012	Amend	2-1-2012
123-475-0012	1-1-2012	Amend	2-1-2012	125-248-0200	1-1-2012	Amend	2-1-2012
123-475-0025	1-1-2012	Amend	2-1-2012	125-248-0210	1-1-2012	Amend	2-1-2012
123-475-0030	1-1-2012	Amend	2-1-2012	125-248-0220	1-1-2012	Amend	2-1-2012
123-600-0100	6-1-2012	Adopt	7-1-2012	125-248-0230	1-1-2012	Amend	2-1-2012
123-600-0105	6-1-2012	Adopt	7-1-2012	125-248-0240	1-1-2012	Amend	2-1-2012
123-600-0110	6-1-2012	Adopt	7-1-2012	125-248-0250	1-1-2012	Amend	2-1-2012
123-600-0120	6-1-2012	Adopt	7-1-2012	125-248-0260	1-1-2012	Amend	2-1-2012
123-600-0130	6-1-2012	Adopt	7-1-2012	125-248-0300	1-1-2012	Amend	2-1-2012
123-600-0135	6-1-2012	Adopt	7-1-2012	125-248-0310	1-1-2012	Amend	2-1-2012
123-600-0140	6-1-2012	Adopt	7-1-2012	125-248-0340	1-1-2012	Amend	2-1-2012
123-600-0150	6-1-2012	Adopt	7-1-2012	125-249-0100	1-1-2012	Amend	2-1-2012

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125-249-0140	1-1-2012	Amend	2-1-2012	137-003-0501	1-31-2012	Amend	2-1-2012
125-249-0150	1-1-2012	Amend	2-1-2012	137-003-0505	1-31-2012	Amend	2-1-2012
125-249-0160	1-1-2012	Amend	2-1-2012	137-003-0510	1-31-2012	Amend	2-1-2012
125-249-0200	1-1-2012	Amend	2-1-2012	137-003-0520	1-31-2012	Amend	2-1-2012
125-249-0210	1-1-2012	Amend	2-1-2012	137-003-0525	1-31-2012	Amend	2-1-2012
125-249-0220	1-1-2012	Amend	2-1-2012	137-003-0528	1-31-2012	Amend	2-1-2012
125-249-0230	1-1-2012	Amend	2-1-2012	137-003-0530	1-31-2012	Amend	2-1-2012
125-249-0240	1-1-2012	Amend	2-1-2012	137-003-0545	1-31-2012	Amend	2-1-2012
125-249-0250	1-1-2012	Amend	2-1-2012	137-003-0550	1-31-2012	Amend	2-1-2012
125-249-0260	1-1-2012	Amend	2-1-2012	137-003-0555	1-31-2012	Amend	2-1-2012
125-249-0270	1-1-2012	Amend	2-1-2012	137-003-0560	1-31-2012	Amend	2-1-2012
125-249-0280	1-1-2012	Amend	2-1-2012	137-003-0570	1-31-2012	Am. & Ren.	2-1-2012
125-249-0290	1-1-2012	Amend	2-1-2012	137-003-0570	1-31-2012	Am. & Ren.	2-1-2012
125-249-0300	1-1-2012	Amend	2-1-2012	137-003-0570	1-31-2012	Am. & Ren.	2-1-2012
125-249-0310	1-1-2012	Amend	2-1-2012	137-003-0570	1-31-2012	Am. & Ren.	2-1-2012
125-249-0320	1-1-2012	Amend	2-1-2012	137-003-0575	1-31-2012	Amend	2-1-2012
125-249-0330	1-1-2012	Amend	2-1-2012	137-003-0580	1-31-2012	Amend	2-1-2012
125-249-0340	1-1-2012	Amend	2-1-2012	137-003-0600	1-31-2012	Amend	2-1-2012
125-249-0350	1-1-2012	Amend	2-1-2012	137-003-0605	1-31-2012	Amend	2-1-2012
125-249-0360	1-1-2012	Amend	2-1-2012	137-003-0625	1-31-2012	Amend	2-1-2012
125-249-0370	1-1-2012	Amend	2-1-2012	137-003-0635	1-31-2012	Amend	2-1-2012
125-249-0380	1-1-2012	Amend	2-1-2012	137-003-0640	1-31-2012	Amend	2-1-2012
125-249-0390	1-1-2012	Amend	2-1-2012	137-003-0645	1-31-2012	Amend	2-1-2012
125-249-0395	1-1-2012	Amend	2-1-2012	137-003-0655	1-31-2012	Amend	2-1-2012
125-249-0400	1-1-2012	Amend	2-1-2012	137-003-0665	1-31-2012	Amend	2-1-2012
125-249-0410	1-1-2012	Amend	2-1-2012	137-003-0670	1-31-2012	Amend	2-1-2012
125-249-0420	1-1-2012	Amend	2-1-2012	137-003-0672	1-31-2012	Amend	2-1-2012
125-249-0430	1-1-2012	Amend	2-1-2012	137-003-0690	1-31-2012	Amend	2-1-2012
125-249-0440	1-1-2012	Amend	2-1-2012	137-020-0800	1-27-2012	Adopt(T)	3-1-2012
125-249-0450	1-1-2012	Amend	2-1-2012	137-020-0800(T)	2-15-2012	Suspend	3-1-2012
125-249-0460	1-1-2012	Amend	2-1-2012	137-020-0805	2-15-2012	Adopt(T)	3-1-2012
125-249-0470	1-1-2012	Amend	2-1-2012	137-045-0030	1-1-2012	Amend	1-1-2012
125-249-0490	1-1-2012	Amend	2-1-2012	137-045-0090	1-1-2012	Amend	1-1-2012
125-249-0600	1-1-2012	Amend	2-1-2012	137-046-0110	1-1-2012	Amend	1-1-2012
125-249-0610	1-1-2012	Amend	2-1-2012	137-046-0300	1-1-2012	Amend	1-1-2012
125-249-0620	1-1-2012	Amend	2-1-2012	137-047-0257	1-1-2012	Amend	1-1-2012
125-249-0640	1-1-2012	Amend	2-1-2012	137-047-0260	1-1-2012	Amend	1-1-2012
125-249-0645	1-1-2012	Amend	2-1-2012	137-047-0261	1-1-2012	Amend	1-1-2012
125-249-0650	1-1-2012	Amend	2-1-2012	137-047-0262	1-1-2012	Repeal	1-1-2012
125-249-0660	1-1-2012	Amend	2-1-2012	137-047-0263	1-1-2012	Repeal	1-1-2012
125-249-0670	1-1-2012	Amend	2-1-2012	137-047-0270	2-27-2012	Amend	4-1-2012
125-249-0680	1-1-2012	Amend	2-1-2012	137-047-0310	1-1-2012	Amend	1-1-2012
125-249-0690	1-1-2012	Amend	2-1-2012	137-047-0430	1-1-2012	Amend	1-1-2012
125-249-0800	1-1-2012	Amend	2-1-2012	137-047-0460	1-1-2012	Amend	1-1-2012
125-249-0810	1-1-2012	Amend	2-1-2012	137-047-0600	1-1-2012	Amend	1-1-2012
125-249-0815	1-1-2012	Amend	2-1-2012	137-047-0620	1-1-2012	Amend	1-1-2012
125-249-0820	1-1-2012	Amend	2-1-2012	137-047-0800	1-1-2012	Amend	1-1-2012
125-249-0830	1-1-2012	Amend	2-1-2012	137-048-0100	1-1-2012	Amend	1-1-2012
125-249-0840	1-1-2012	Amend	2-1-2012	137-048-0110	1-1-2012	Amend	1-1-2012
125-249-0850	1-1-2012	Amend	2-1-2012	137-048-0120	1-1-2012	Amend	1-1-2012
125-249-0860	1-1-2012	Amend	2-1-2012	137-048-0130	1-1-2012	Amend	1-1-2012
125-249-0870	1-1-2012	Amend	2-1-2012	137-048-0200	1-1-2012	Amend	1-1-2012
125-249-0880	1-1-2012	Amend	2-1-2012	137-048-0210	1-1-2012	Amend	1-1-2012
125-249-0890	1-1-2012	Amend	2-1-2012	137-048-0220	1-1-2012	Amend	1-1-2012
125-249-0900	1-1-2012	Amend	2-1-2012	137-048-0230	1-1-2012	Amend	1-1-2012

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137-048-0250	1-1-2012	Amend	1-1-2012	141-093-0220	4-2-2012	Adopt(T)	5-1-2012
137-048-0260	1-1-2012	Amend	1-1-2012	141-093-0225	4-2-2012	Adopt(T)	5-1-2012
137-048-0270	1-1-2012	Adopt	1-1-2012	141-093-0230	4-2-2012	Adopt(T)	5-1-2012
137-048-0300	1-1-2012	Amend	1-1-2012	141-093-0235	4-2-2012	Adopt(T)	5-1-2012
137-048-0310	1-1-2012	Amend	1-1-2012	141-093-0240	4-2-2012	Adopt(T)	5-1-2012
137-048-0320	1-1-2012	Amend	1-1-2012	141-110-0080	12-13-2011	Amend	1-1-2012
137-049-0380	1-1-2012	Amend	1-1-2012	150-18.385	1-1-2012	Amend	2-1-2012
137-049-0650	1-1-2012	Amend	1-1-2012	150-18.385(A)	1-1-2012	Amend	2-1-2012
137-049-0860	1-1-2012	Amend	1-1-2012	150-267.380(2)	1-1-2012	Amend	2-1-2012
137-050-0750	1-3-2012	Amend	2-1-2012	150-294.435(1)-(A)	1-1-2012	Amend	2-1-2012
137-055-1100	1-3-2012	Amend	2-1-2012	150-294.435(1)-(C)	1-1-2012	Amend	2-1-2012
137-055-1140	12-5-2011	Amend(T)	1-1-2012	150-294.480	1-1-2012	Amend	2-1-2012
137-055-1140	1-3-2012	Amend	2-1-2012	150-294.525-(A)	1-1-2012	Amend	2-1-2012
137-055-1145	12-5-2011	Suspend	1-1-2012	150-305.810	2-1-2012	Amend(T)	3-1-2012
137-055-1145	1-3-2012	Repeal	2-1-2012	150-307.250(1)(c)	1-1-2012	Am. & Ren.	2-1-2012
137-055-1160	1-3-2012	Amend	2-1-2012	150-308.290(4)(b)	1-1-2012	Am. & Ren.	2-1-2012
137-055-1800	1-3-2012	Amend	2-1-2012	150-308.505(3)	2-1-2012	Adopt(T)	3-1-2012
137-055-2100	1-3-2012	Adopt	2-1-2012	150-311.216	1-1-2012	Amend	2-1-2012
137-055-2160	1-3-2012	Amend	2-1-2012	150-314.280-(F)	1-1-2012	Amend	2-1-2012
137-055-3220	1-3-2012	Amend	2-1-2012	150-314.360	1-1-2012	Amend	2-1-2012
137-055-3300	5-24-2012	Amend(T)	7-1-2012	150-314.HB2071(A)	1-1-2012	Adopt	2-1-2012
137-055-3430	1-3-2012	Amend	2-1-2012	150-314.HB2071(B)	1-1-2012	Adopt	2-1-2012
137-055-3430	5-24-2012	Amend(T)	7-1-2012	150-315.326	1-1-2012	Adopt	2-1-2012
137-055-3640	1-3-2012	Amend	2-1-2012	150-315.354	1-1-2012	Repeal	2-1-2012
137-055-4130	1-3-2012	Amend	2-1-2012	150-315.514	6-1-2012	Amend(T)	7-1-2012
137-055-4440	1-3-2012	Amend	2-1-2012	150-315.HB 3672	11-29-2011	Adopt(T)	1-1-2012
137-055-4520	1-3-2012	Amend	2-1-2012	150-315.HB 3672(T)	11-29-2011	Suspend	1-1-2012
137-055-5400	1-3-2012	Amend	2-1-2012	150-315.HB3672	1-1-2012	Suspend	2-1-2012
137-055-5420	1-3-2012	Amend	2-1-2012	150-317.710(5)(b)	1-1-2012	Amend	2-1-2012
137-055-6021	1-3-2012	Amend	2-1-2012	160-010-0030	3-1-2012	Adopt	4-1-2012
137-055-6100	1-3-2012	Repeal	2-1-2012	160-010-0050	6-1-2012	Adopt	7-1-2012
137-055-6200	1-3-2012	Amend	2-1-2012	160-010-0310	3-1-2012	Amend	4-1-2012
137-055-6220	1-3-2012	Amend	2-1-2012	160-010-0400	3-1-2012	Amend	4-1-2012
137-055-6240	1-3-2012	Amend	2-1-2012	160-010-0450	3-1-2012	Adopt	4-1-2012
137-055-6260	1-3-2012	Amend	2-1-2012	160-050-0115	3-1-2012	Adopt	4-1-2012
137-060-0130	2-2-2012	Amend	3-1-2012	160-050-0140	6-1-2012	Amend	7-1-2012
137-060-0150	2-2-2012	Amend	3-1-2012	160-050-0200	3-1-2012	Amend	4-1-2012
137-060-0160	2-2-2012	Amend	3-1-2012	160-050-0210	3-1-2012	Amend	4-1-2012
137-060-0230	2-2-2012	Amend	3-1-2012	161-002-0000	11-17-2011	Amend	1-1-2012
137-060-0250	2-2-2012	Amend	3-1-2012	161-002-0000	1-1-2012	Amend(T)	2-1-2012
137-060-0330	2-2-2012	Amend	3-1-2012	161-006-0000	11-17-2011	Amend	1-1-2012
137-060-0350	2-2-2012	Amend	3-1-2012	161-006-0025	11-17-2011	Amend	1-1-2012
137-060-0360	2-2-2012	Amend	3-1-2012	161-006-0025(T)	11-17-2011	Repeal	1-1-2012
137-060-0430	2-2-2012	Amend	3-1-2012	161-006-0160	11-17-2011	Amend	1-1-2012
137-060-0450	2-2-2012	Amend	3-1-2012	161-006-0175	11-17-2011	Amend	1-1-2012
141-093-0107	4-1-2012	Amend	4-1-2012	161-008-0040	11-17-2011	Amend	1-1-2012
141-093-0115	4-1-2012	Amend	4-1-2012	161-010-0020	11-17-2011	Amend	1-1-2012
141-093-0135	4-1-2012	Amend	4-1-2012	161-010-0025	11-17-2011	Amend	1-1-2012
141-093-0180	4-1-2012	Adopt	4-1-2012	161-010-0035	11-17-2011	Amend	1-1-2012
141-093-0185	4-1-2012	Adopt	4-1-2012	161-010-0045	11-17-2011	Amend	1-1-2012
141-093-0187	4-1-2012	Adopt	4-1-2012	161-010-0085	11-17-2011	Amend	1-1-2012
141-093-0190	4-1-2012	Adopt	4-1-2012	161-020-0015	11-17-2011	Amend	1-1-2012
141-093-0195	4-1-2012	Adopt	4-1-2012	161-020-0045	11-17-2011	Amend	1-1-2012
141-093-0200	4-1-2012	Adopt	4-1-2012	161-020-0055	11-17-2011	Amend	1-1-2012
141-093-0205	4-1-2012	Adopt	4-1-2012	161-020-0140	11-17-2011	Amend	1-1-2012

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161-025-0060	11-17-2011	Amend	1-1-2012	165-012-0005	1-3-2012	Amend	2-1-2012
161-025-0060	1-1-2012	Amend(T)	2-1-2012	165-012-0060	1-3-2012	Repeal	2-1-2012
161-030-0000	1-1-2012	Amend	1-1-2012	165-012-0240	1-3-2012	Amend	2-1-2012
161-500-0000	1-1-2012	Adopt(T)	2-1-2012	165-013-0010	1-3-2012	Amend	2-1-2012
161-510-0010	1-1-2012	Adopt(T)	2-1-2012	165-013-0020	1-3-2012	Amend	2-1-2012
161-510-0030	1-1-2012	Adopt(T)	2-1-2012	165-014-0005	1-3-2012	Amend	2-1-2012
161-520-0010	1-1-2012	Adopt(T)	2-1-2012	165-014-0270	1-3-2012	Amend	2-1-2012
161-520-0020	1-1-2012	Adopt(T)	2-1-2012	165-020-0005	1-3-2012	Repeal	2-1-2012
161-520-0030	1-1-2012	Adopt(T)	2-1-2012	166-500-0030	5-1-2012	Amend(T)	6-1-2012
161-520-0040	1-1-2012	Adopt(T)	2-1-2012	170-061-0015	1-26-2012	Amend(T)	3-1-2012
161-530-0010	1-1-2012	Adopt(T)	2-1-2012	177-052-0000	12-1-2011	Adopt	1-1-2012
161-530-0020	1-1-2012	Adopt(T)	2-1-2012	177-052-0000(T)	12-1-2011	Repeal	1-1-2012
161-530-0030	1-1-2012	Adopt(T)	2-1-2012	177-052-0010	12-1-2011	Adopt	1-1-2012
161-530-0040	1-1-2012	Adopt(T)	2-1-2012	177-052-0010(T)	12-1-2011	Repeal	1-1-2012
161-540-0010	1-1-2012	Adopt(T)	2-1-2012	177-052-0020	12-1-2011	Adopt	1-1-2012
161-550-0010	1-1-2012	Adopt(T)	2-1-2012	177-052-0020(T)	12-1-2011	Repeal	1-1-2012
161-560-0010	1-1-2012	Adopt(T)	2-1-2012	177-052-0030	12-1-2011	Adopt	1-1-2012
161-560-0020	1-1-2012	Adopt(T)	2-1-2012	177-052-0030(T)	12-1-2011	Repeal	1-1-2012
161-570-0010	1-1-2012	Adopt(T)	2-1-2012	177-052-0040	12-1-2011	Adopt	1-1-2012
162-040-0001	4-1-2012	Amend	3-1-2012	177-052-0040(T)	12-1-2011	Repeal	1-1-2012
162-040-0002	4-1-2012	Amend	3-1-2012	177-052-0050	12-1-2011	Adopt	1-1-2012
162-040-0005	4-1-2012	Amend	3-1-2012	177-052-0050(T)	12-1-2011	Repeal	1-1-2012
162-040-0010	4-1-2012	Amend	3-1-2012	177-052-0060	12-1-2011	Adopt	1-1-2012
162-040-0015	4-1-2012	Repeal	3-1-2012	177-052-0060(T)	12-1-2011	Repeal	1-1-2012
162-040-0020	4-1-2012	Amend	3-1-2012	177-052-0070	12-1-2011	Adopt	1-1-2012
162-040-0050	4-1-2012	Amend	3-1-2012	177-052-0070(T)	12-1-2011	Repeal	1-1-2012
162-040-0054	4-1-2012	Amend	3-1-2012	177-085-0000	1-15-2012	Amend	2-1-2012
162-040-0055	4-1-2012	Amend	3-1-2012	177-085-0005	1-15-2012	Amend	2-1-2012
162-040-0060	4-1-2012	Amend	3-1-2012	177-085-0010	1-15-2012	Amend	2-1-2012
162-040-0065	4-1-2012	Amend	3-1-2012	177-085-0015	1-15-2012	Amend	2-1-2012
162-040-0070	4-1-2012	Amend	3-1-2012	177-085-0020	1-15-2012	Amend	2-1-2012
162-040-0075	4-1-2012	Amend	3-1-2012	177-085-0025	1-15-2012	Amend	2-1-2012
162-040-0090	4-1-2012	Repeal	3-1-2012	177-085-0025	1-15-2012	Amend(T)	2-1-2012
162-040-0095	4-1-2012	Amend	3-1-2012	177-085-0025	5-1-2012	Amend	6-1-2012
162-040-0096	4-1-2012	Adopt	3-1-2012	177-085-0025(T)	5-1-2012	Repeal	6-1-2012
162-040-0110	4-1-2012	Repeal	3-1-2012	177-085-0030	1-15-2012	Amend	2-1-2012
162-040-0115	4-1-2012	Repeal	3-1-2012	177-085-0035	1-15-2012	Amend	2-1-2012
162-040-0120	4-1-2012	Repeal	3-1-2012	177-085-0065	1-15-2012	Amend	2-1-2012
162-040-0125	4-1-2012	Repeal	3-1-2012	177-085-0065	1-15-2012	Amend(T)	2-1-2012
162-040-0130	4-1-2012	Repeal	3-1-2012	177-085-0065	5-1-2012	Amend	6-1-2012
162-040-0135	4-1-2012	Repeal	3-1-2012	177-085-0065(T)	5-1-2012	Repeal	6-1-2012
162-040-0136	4-1-2012	Repeal	3-1-2012	177-098-0110	1-9-2012	Amend(T)	2-1-2012
162-040-0140	4-1-2012	Repeal	3-1-2012	177-098-0110	5-1-2012	Amend	6-1-2012
162-040-0146	4-1-2012	Repeal	3-1-2012	177-098-0110(T)	5-1-2012	Repeal	6-1-2012
162-040-0148	4-1-2012	Repeal	3-1-2012	177-200-0020	12-1-2011	Amend	1-1-2012
162-040-0155	4-1-2012	Amend	3-1-2012	177-200-0020(T)	12-1-2011	Repeal	1-1-2012
165-001-0015	1-3-2012	Amend	2-1-2012	177-200-0032	12-1-2011	Amend	1-1-2012
165-001-0016	1-3-2012	Amend	2-1-2012	177-200-0032(T)	12-1-2011	Repeal	1-1-2012
165-001-0025	1-3-2012	Amend	2-1-2012	213-001-0000	4-27-2012	Amend(T)	6-1-2012
165-001-0034	1-3-2012	Amend	2-1-2012	213-003-0001	1-1-2012	Amend(T)	2-1-2012
165-007-0030	4-24-2012	Amend	6-1-2012	213-003-0001	4-27-2012	Amend	6-1-2012
165-007-0300	1-3-2012	Amend	2-1-2012	213-003-0001(T)	1-1-2012	Suspend	2-1-2012
165-007-0320	1-3-2012	Repeal	2-1-2012	213-003-0001(T)	4-27-2012	Repeal	6-1-2012
165-010-0005	1-3-2012	Amend	2-1-2012	213-004-0001	4-27-2012	Amend	6-1-2012
165-010-0060	1-3-2012	Amend	2-1-2012	213-005-0001	4-27-2012	Amend	6-1-2012

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213-005-0011	4-27-2012	Amend	6-1-2012	259-008-0005	3-27-2012	Amend	5-1-2012
213-005-0013	4-27-2012	Amend	6-1-2012	259-008-0011	3-26-2012	Amend	5-1-2012
213-017-0006	1-1-2012	Amend(T)	2-1-2012	259-008-0025	5-8-2012	Amend(T)	6-1-2012
213-017-0006	4-27-2012	Amend	6-1-2012	259-008-0060	12-23-2011	Amend	2-1-2012
213-017-0006(T)	1-1-2012	Suspend	2-1-2012	259-008-0066	3-29-2012	Amend	5-1-2012
213-017-0006(T)	4-27-2012	Repeal	6-1-2012	259-008-0068	5-1-2012	Repeal	6-1-2012
213-017-0007	1-27-2012	Amend(T)	3-1-2012	259-008-0069	11-28-2011	Amend(T)	1-1-2012
213-017-0007	4-27-2012	Amend	6-1-2012	259-008-0069	2-29-2012	Adopt	4-1-2012
213-017-0007(T)	4-27-2012	Repeal	6-1-2012	259-008-0069(T)	2-29-2012	Repeal	4-1-2012
213-017-0008	4-27-2012	Amend	6-1-2012	259-008-0070	4-24-2012	Amend	6-1-2012
213-017-0008(T)	4-27-2012	Repeal	6-1-2012	259-008-0100	4-9-2012	Amend	5-1-2012
213-018-0037	4-27-2012	Adopt	6-1-2012	259-009-0062	3-28-2012	Amend	5-1-2012
250-010-0150	4-20-2012	Amend	6-1-2012	259-020-0015	12-30-2011	Amend	2-1-2012
250-010-0440	12-22-2011	Amend(T)	2-1-2012	259-020-0015	2-24-2012	Amend(T)	4-1-2012
250-010-0440	4-20-2012	Amend	6-1-2012	259-060-0015	4-2-2012	Amend	5-1-2012
250-010-0440(T)	4-20-2012	Repeal	6-1-2012	259-061-0018	2-6-2012	Adopt(T)	3-1-2012
250-010-0650	2-1-2012	Amend	2-1-2012	259-070-0010	12-28-2011	Amend	2-1-2012
250-010-0650	3-14-2012	Amend	4-1-2012	274-015-0010	2-22-2012	Amend	4-1-2012
250-010-0650(T)	2-1-2012	Repeal	2-1-2012	274-015-0020	2-22-2012	Adopt	4-1-2012
250-010-0660	2-1-2012	Adopt	2-1-2012	291-024-0081	11-17-2011	Adopt(T)	1-1-2012
250-010-0660(T)	2-1-2012	Repeal	2-1-2012	291-031-0025	1-27-2012	Amend	3-1-2012
250-014-0001	5-1-2012	Amend	6-1-2012	291-062-0110	3-1-2012	Amend	4-1-2012
250-014-0004	5-1-2012	Amend	6-1-2012	291-062-0140	3-1-2012	Amend	4-1-2012
250-017-0000	2-1-2012	Amend	2-1-2012	291-082-0105	3-1-2012	Amend	4-1-2012
250-017-0010	2-1-2012	Amend	2-1-2012	291-082-0110	3-1-2012	Amend	4-1-2012
250-017-0020	2-1-2012	Amend	2-1-2012	291-105-0005	12-7-2011	Amend	1-1-2012
250-017-0030	2-1-2012	Amend	2-1-2012	291-105-0010	12-7-2011	Amend	1-1-2012
250-017-0040	2-1-2012	Amend	2-1-2012	291-105-0013	12-7-2011	Amend	1-1-2012
250-020-0221	4-2-2012	Amend(T)	5-1-2012	291-105-0015	12-7-2011	Amend	1-1-2012
250-020-0221	5-1-2012	Amend	6-1-2012	291-105-0021	12-7-2011	Amend	1-1-2012
250-020-0280	12-1-2011	Amend(T)	1-1-2012	291-105-0026	12-7-2011	Amend	1-1-2012
250-020-0280	1-1-2012	Amend(T)	2-1-2012	291-105-0028	12-7-2011	Amend	1-1-2012
250-020-0280	4-20-2012	Amend	6-1-2012	291-105-0031	12-7-2011	Amend	1-1-2012
250-020-0280(T)	1-1-2012	Suspend	2-1-2012	291-105-0036	12-7-2011	Amend	1-1-2012
250-020-0280(T)	4-20-2012	Repeal	6-1-2012	291-105-0041	12-7-2011	Amend	1-1-2012
250-030-0030	5-1-2012	Amend	6-1-2012	291-105-0046	12-7-2011	Amend	1-1-2012
255-032-0005	3-13-2012	Amend	4-1-2012	291-105-0066	12-7-2011	Amend	1-1-2012
255-032-0011	3-13-2012	Repeal	4-1-2012	291-105-0069	12-7-2011	Amend	1-1-2012
255-032-0035	11-30-2011	Amend	1-1-2012	291-105-0081	12-7-2011	Amend	1-1-2012
255-032-0037	11-30-2011	Adopt	1-1-2012	291-105-0100	12-7-2011	Amend	1-1-2012
255-032-0037	3-13-2012	Amend	4-1-2012	291-180-0115	12-7-2011	Repeal	1-1-2012
257-010-0060	12-15-2011	Adopt(T)	1-1-2012	291-180-0125	12-7-2011	Repeal	1-1-2012
257-010-0060	5-22-2012	Adopt	7-1-2012	291-180-0135	12-7-2011	Repeal	1-1-2012
257-080-0000	5-9-2012	Suspend	6-1-2012	291-180-0145	12-7-2011	Repeal	1-1-2012
257-080-0005	5-9-2012	Suspend	6-1-2012	291-180-0155	12-7-2011	Repeal	1-1-2012
257-080-0010	5-9-2012	Suspend	6-1-2012	291-180-0165	12-7-2011	Repeal	1-1-2012
257-080-0015	5-9-2012	Suspend	6-1-2012	291-180-0175	12-7-2011	Repeal	1-1-2012
257-080-0020	5-9-2012	Suspend	6-1-2012	291-180-0185	12-7-2011	Repeal	1-1-2012
257-080-0025	5-9-2012	Suspend	6-1-2012	291-180-0195	12-7-2011	Repeal	1-1-2012
257-080-0030	5-9-2012	Suspend	6-1-2012	291-180-0205	12-7-2011	Repeal	1-1-2012
257-080-0035	5-9-2012	Suspend	6-1-2012	291-180-0215	12-7-2011	Repeal	1-1-2012
257-080-0040	5-9-2012	Suspend	6-1-2012	291-180-0225	12-7-2011	Repeal	1-1-2012
257-080-0045	5-9-2012	Suspend	6-1-2012	291-180-0235	12-7-2011	Repeal	1-1-2012
259-001-0015	3-7-2012	Amend	4-1-2012	291-180-0245	12-7-2011	Repeal	1-1-2012
259-003-0015	3-7-2012	Amend	4-1-2012	291-180-0252	12-7-2011	Adopt	1-1-2012
259-005-0015	3-7-2012	Amend	4-1-2012	291-180-0255	12-7-2011	Repeal	1-1-2012

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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	309-016-0605	1-1-2012	Amend(T)	2-1-2012
291-180-0285	12-7-2011	Repeal	1-1-2012	309-016-0605	5-17-2012	Amend(T)	7-1-2012
291-180-0295	12-7-2011	Repeal	1-1-2012	309-016-0610	1-1-2012	Amend(T)	2-1-2012
291-180-0305	12-7-2011	Repeal	1-1-2012	309-016-0630	1-1-2012	Amend(T)	2-1-2012
291-180-0315	12-7-2011	Repeal	1-1-2012	309-016-0630	5-17-2012	Amend(T)	7-1-2012
291-180-0325	12-7-2011	Repeal	1-1-2012	309-016-0675	1-1-2012	Amend(T)	2-1-2012
291-180-0335	12-7-2011	Repeal	1-1-2012	309-016-0675	5-17-2012	Amend(T)	7-1-2012
291-180-0345	12-7-2011	Repeal	1-1-2012	309-016-0680	5-17-2012	Amend(T)	7-1-2012
291-180-0355	12-7-2011	Repeal	1-1-2012	309-016-0685	1-1-2012	Amend(T)	2-1-2012
291-180-0365	12-7-2011	Repeal	1-1-2012	309-016-0726	5-17-2012	Adopt(T)	7-1-2012
291-180-0375	12-7-2011	Repeal	1-1-2012	309-016-0727	5-17-2012	Adopt(T)	7-1-2012
291-180-0385	12-7-2011	Repeal	1-1-2012	309-016-0728	5-17-2012	Adopt(T)	7-1-2012
291-180-0395	12-7-2011	Repeal	1-1-2012	309-016-0729	5-17-2012	Adopt(T)	7-1-2012
291-180-0405	12-7-2011	Repeal	1-1-2012	309-016-0745	1-1-2012	Amend(T)	2-1-2012
291-180-0415	12-7-2011	Repeal	1-1-2012	309-016-0750	1-1-2012	Amend(T)	2-1-2012
291-180-0425	12-7-2011	Repeal	1-1-2012	309-031-0200	1-1-2012	Suspend	2-1-2012
291-180-0435	12-7-2011	Repeal	1-1-2012	309-031-0205	1-1-2012	Suspend	2-1-2012
291-180-0445	12-7-2011	Repeal	1-1-2012	309-031-0210	1-1-2012	Suspend	2-1-2012
291-180-0455	12-7-2011	Repeal	1-1-2012	309-031-0215	1-1-2012	Suspend	2-1-2012
291-180-0465	12-7-2011	Repeal	1-1-2012	309-031-0220	1-1-2012	Suspend	2-1-2012
291-180-0475	12-7-2011	Repeal	1-1-2012	309-031-0250	1-1-2012	Suspend	2-1-2012
291-180-0485	12-7-2011	Repeal	1-1-2012	309-031-0255	1-1-2012	Suspend	2-1-2012
291-180-0495	12-7-2011	Repeal	1-1-2012	309-032-0175	11-22-2011	Suspend	1-1-2012
291-180-0505	12-7-2011	Repeal	1-1-2012	309-032-0180	11-22-2011	Suspend	1-1-2012
291-180-0515	12-7-2011	Repeal	1-1-2012	309-032-0185	11-22-2011	Suspend	1-1-2012
291-180-0525	12-7-2011	Repeal	1-1-2012	309-032-0190	11-22-2011	Suspend	1-1-2012
291-180-0535	12-7-2011	Repeal	1-1-2012	309-032-0195	11-22-2011	Suspend	1-1-2012
291-180-0545	12-7-2011	Repeal	1-1-2012	309-032-0200	11-22-2011	Suspend	1-1-2012
291-180-0555	12-7-2011	Repeal	1-1-2012	309-032-0205	11-22-2011	Suspend	1-1-2012
291-180-0565	12-7-2011	Repeal	1-1-2012	309-032-0210	11-22-2011	Suspend	1-1-2012
291-180-0575	12-7-2011	Repeal	1-1-2012	309-032-0301	11-22-2011	Adopt(T)	1-1-2012
291-180-0585	12-7-2011	Repeal	1-1-2012	309-032-0301	2-9-2012	Adopt	3-1-2012
291-180-0595	12-7-2011	Repeal	1-1-2012	309-032-0301(T)	2-9-2012	Repeal	3-1-2012
291-180-0605	12-7-2011	Repeal	1-1-2012	309-032-0311	11-22-2011	Adopt(T)	1-1-2012
291-180-0615	12-7-2011	Repeal	1-1-2012	309-032-0311	2-9-2012	Adopt	3-1-2012
291-180-0625	12-7-2011	Repeal	1-1-2012	309-032-0311(T)	2-9-2012	Repeal	3-1-2012
291-180-0635	12-7-2011	Repeal	1-1-2012	309-032-0321	11-22-2011	Adopt(T)	1-1-2012
291-180-0645	12-7-2011	Repeal	1-1-2012	309-032-0321	2-9-2012	Adopt	3-1-2012
291-180-0655	12-7-2011	Repeal	1-1-2012	309-032-0321(T)	2-9-2012	Repeal	3-1-2012
291-180-0665	12-7-2011	Repeal	1-1-2012	309-032-0331	11-22-2011	Adopt(T)	1-1-2012
291-208-0010	1-27-2012	Adopt	3-1-2012	309-032-0331	2-9-2012	Adopt	3-1-2012
291-208-0020	1-27-2012	Adopt	3-1-2012	309-032-0331(T)	2-9-2012	Repeal	3-1-2012
291-208-0030	1-27-2012	Adopt	3-1-2012	309-032-0341	11-22-2011	Adopt(T)	1-1-2012
291-208-0040	1-27-2012	Adopt	3-1-2012	309-032-0341	2-9-2012	Adopt	3-1-2012
291-208-0050	1-27-2012	Adopt	3-1-2012	309-032-0341(T)	2-9-2012	Repeal	3-1-2012
309-014-0300	2-23-2012	Adopt	4-1-2012	309-032-0351	11-22-2011	Adopt(T)	1-1-2012
309-014-0300(T)	2-23-2012	Repeal	4-1-2012	309-032-0351	2-9-2012	Adopt	3-1-2012
309-014-0310	2-23-2012	Adopt	4-1-2012	309-032-0351(T)	2-9-2012	Repeal	3-1-2012
309-014-0310(T)	2-23-2012	Repeal	4-1-2012	309-032-1500	1-1-2012	Amend(T)	2-1-2012
309-014-0320	2-23-2012	Adopt	4-1-2012	309-032-1500	6-15-2012	Amend	7-1-2012
309-014-0320(T)	2-23-2012	Repeal	4-1-2012	309-032-1500(T)	6-15-2012	Repeal	7-1-2012
309-014-0330	2-23-2012	Adopt	4-1-2012	309-032-1505	1-1-2012	Amend(T)	2-1-2012
309-014-0330(T)	2-23-2012	Repeal	4-1-2012	309-032-1505	6-15-2012	Amend	7-1-2012
309-014-0340	2-23-2012	Adopt	4-1-2012	309-032-1505(T)	6-15-2012	Repeal	7-1-2012

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309-032-1510	6-15-2012	Amend	7-1-2012	309-090-0015	1-1-2012	Adopt(T)	2-1-2012
309-032-1510(T)	6-15-2012	Repeal	7-1-2012	309-090-0020	1-1-2012	Adopt(T)	2-1-2012
309-032-1515	1-1-2012	Amend(T)	2-1-2012	309-090-0025	1-1-2012	Adopt(T)	2-1-2012
309-032-1515	6-15-2012	Amend	7-1-2012	309-090-0030	1-1-2012	Adopt(T)	2-1-2012
309-032-1515(T)	6-15-2012	Repeal	7-1-2012	309-090-0035	1-1-2012	Adopt(T)	2-1-2012
309-032-1520	1-1-2012	Amend(T)	2-1-2012	309-090-0040	1-1-2012	Adopt(T)	2-1-2012
309-032-1520	6-15-2012	Amend	7-1-2012	309-091-0000	1-1-2012	Adopt(T)	2-1-2012
309-032-1520(T)	6-15-2012	Repeal	7-1-2012	309-091-0000	5-4-2012	Adopt	6-1-2012
309-032-1525	1-1-2012	Amend(T)	2-1-2012	309-091-0000(T)	5-4-2012	Repeal	6-1-2012
309-032-1525	6-15-2012	Amend	7-1-2012	309-091-0005	1-1-2012	Adopt(T)	2-1-2012
309-032-1525(T)	6-15-2012	Repeal	7-1-2012	309-091-0005	5-4-2012	Adopt	6-1-2012
309-032-1530	1-1-2012	Amend(T)	2-1-2012	309-091-0005(T)	5-4-2012	Repeal	6-1-2012
309-032-1530	6-15-2012	Amend	7-1-2012	309-091-0010	1-1-2012	Adopt(T)	2-1-2012
309-032-1530(T)	6-15-2012	Repeal	7-1-2012	309-091-0010	5-4-2012	Adopt	6-1-2012
309-032-1535	1-1-2012	Amend(T)	2-1-2012	309-091-0010(T)	5-4-2012	Repeal	6-1-2012
309-032-1535	6-15-2012	Amend	7-1-2012	309-091-0015	1-1-2012	Adopt(T)	2-1-2012
309-032-1535(T)	6-15-2012	Repeal	7-1-2012	309-091-0015	5-4-2012	Adopt	6-1-2012
309-032-1540	1-1-2012	Amend(T)	2-1-2012	309-091-0015(T)	5-4-2012	Repeal	6-1-2012
309-032-1540	6-15-2012	Amend	7-1-2012	309-091-0020	1-1-2012	Adopt(T)	2-1-2012
309-032-1540(T)	6-15-2012	Repeal	7-1-2012	309-091-0020	5-4-2012	Adopt	6-1-2012
309-032-1545	1-1-2012	Amend(T)	2-1-2012	309-091-0020(T)	5-4-2012	Repeal	6-1-2012
309-032-1545	6-15-2012	Amend	7-1-2012	309-091-0025	1-1-2012	Adopt(T)	2-1-2012
309-032-1545(T)	6-15-2012	Repeal	7-1-2012	309-091-0025	5-4-2012	Adopt	6-1-2012
309-032-1550	1-1-2012	Amend(T)	2-1-2012	309-091-0025(T)	5-4-2012	Repeal	6-1-2012
309-032-1550	6-15-2012	Amend	7-1-2012	309-091-0030	1-1-2012	Adopt(T)	2-1-2012
309-032-1550(T)	6-15-2012	Repeal	7-1-2012	309-091-0030	5-4-2012	Adopt	6-1-2012
309-032-1555	1-1-2012	Amend(T)	2-1-2012	309-091-0030(T)	5-4-2012	Repeal	6-1-2012
309-032-1555	6-15-2012	Amend	7-1-2012	309-091-0035	1-1-2012	Adopt(T)	2-1-2012
309-032-1555(T)	6-15-2012	Repeal	7-1-2012	309-091-0035	5-4-2012	Adopt	6-1-2012
309-032-1560	1-1-2012	Amend(T)	2-1-2012	309-091-0035(T)	5-4-2012	Repeal	6-1-2012
309-032-1560	6-15-2012	Amend	7-1-2012	309-091-0040	1-1-2012	Adopt(T)	2-1-2012
309-032-1560(T)	6-15-2012	Repeal	7-1-2012	309-091-0040	5-4-2012	Adopt	6-1-2012
309-032-1565	1-1-2012	Amend(T)	2-1-2012	309-091-0040(T)	5-4-2012	Repeal	6-1-2012
309-032-1565	6-15-2012	Amend	7-1-2012	309-091-0045	1-1-2012	Adopt(T)	2-1-2012
309-032-1565(T)	6-15-2012	Repeal	7-1-2012	309-091-0045	5-4-2012	Adopt	6-1-2012
309-035-0100	12-5-2011	Amend(T)	1-1-2012	309-091-0045(T)	5-4-2012	Repeal	6-1-2012
309-035-0100	5-4-2012	Amend	6-1-2012	309-091-0050	1-1-2012	Adopt(T)	2-1-2012
309-035-0100(T)	5-4-2012	Repeal	6-1-2012	309-091-0050	5-4-2012	Adopt	6-1-2012
309-035-0105	12-5-2011	Amend(T)	1-1-2012	309-091-0050(T)	5-4-2012	Repeal	6-1-2012
309-035-0105	5-4-2012	Amend	6-1-2012	309-092-0000	1-1-2012	Adopt(T)	2-1-2012
309-035-0105(T)	5-4-2012	Repeal	6-1-2012	309-092-0005	1-1-2012	Adopt(T)	2-1-2012
309-035-0250	12-5-2011	Amend(T)	1-1-2012	309-092-0010	1-1-2012	Adopt(T)	2-1-2012
309-035-0250	5-4-2012	Amend	6-1-2012	309-092-0015	1-1-2012	Adopt(T)	2-1-2012
309-035-0250(T)	5-4-2012	Repeal	6-1-2012	309-092-0020	1-1-2012	Adopt(T)	2-1-2012
309-035-0260	12-5-2011	Amend(T)	1-1-2012	309-092-0025	1-1-2012	Adopt(T)	2-1-2012
309-035-0260	5-4-2012	Amend	6-1-2012	309-092-0030	1-1-2012	Adopt(T)	2-1-2012
309-035-0260(T)	5-4-2012	Repeal	6-1-2012	309-092-0035	1-1-2012	Adopt(T)	2-1-2012
309-040-0300	12-5-2011	Amend(T)	1-1-2012	309-092-0040	1-1-2012	Adopt(T)	2-1-2012
309-040-0300	5-4-2012	Amend	6-1-2012	309-092-0045	1-1-2012	Adopt(T)	2-1-2012
309-040-0300(T)	5-4-2012	Repeal	6-1-2012	309-092-0050	1-1-2012	Adopt(T)	2-1-2012
309-040-0305	12-5-2011	Amend(T)	1-1-2012	309-092-0055	1-1-2012	Adopt(T)	2-1-2012
309-040-0305	5-4-2012	Amend	6-1-2012	309-092-0060	1-1-2012	Adopt(T)	2-1-2012
309-040-0305(T)	5-4-2012	Repeal	6-1-2012	309-092-0065	1-1-2012	Adopt(T)	2-1-2012
309-090-0000	1-1-2012	Adopt(T)	2-1-2012	309-092-0070	1-1-2012	Adopt(T)	2-1-2012
309-090-0005	1-1-2012	Adopt(T)	2-1-2012	309-092-0075	1-1-2012	Adopt(T)	2-1-2012

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309-092-0080	1-1-2012	Adopt(T)	2-1-2012	330-070-0029	1-1-2012	Adopt	2-1-2012
309-092-0085	1-1-2012	Adopt(T)	2-1-2012	330-070-0045	1-1-2012	Amend	2-1-2012
309-092-0090	1-1-2012	Adopt(T)	2-1-2012	330-070-0048	1-1-2012	Amend	2-1-2012
309-092-0095	1-1-2012	Adopt(T)	2-1-2012	330-070-0060	1-1-2012	Amend	2-1-2012
309-092-0100	1-1-2012	Adopt(T)	2-1-2012	330-070-0064	1-1-2012	Amend	2-1-2012
309-092-0105	1-1-2012	Adopt(T)	2-1-2012	330-070-0070	1-1-2012	Amend	2-1-2012
309-092-0110	1-1-2012	Adopt(T)	2-1-2012	330-070-0073	1-1-2012	Amend	2-1-2012
309-092-0115	1-1-2012	Adopt(T)	2-1-2012	330-070-0089	1-1-2012	Amend	2-1-2012
309-092-0120	1-1-2012	Adopt(T)	2-1-2012	330-070-0091	1-1-2012	Amend	2-1-2012
309-092-0125	1-1-2012	Adopt(T)	2-1-2012	330-070-0097	1-1-2012	Amend	2-1-2012
309-092-0130	1-1-2012	Adopt(T)	2-1-2012	330-090-0130	1-13-2012	Amend(T)	2-1-2012
309-092-0135	1-1-2012	Adopt(T)	2-1-2012	330-090-0133	11-30-2011	Amend	1-1-2012
309-092-0140	1-1-2012	Adopt(T)	2-1-2012	330-090-0160	11-30-2011	Adopt	1-1-2012
309-092-0145	1-1-2012	Adopt(T)	2-1-2012	330-150-0005	5-1-2012	Repeal	6-1-2012
309-092-0150	1-1-2012	Adopt(T)	2-1-2012	330-150-0015	5-1-2012	Repeal	6-1-2012
309-092-0155	1-1-2012	Adopt(T)	2-1-2012	330-150-0020	5-1-2012	Repeal	6-1-2012
309-092-0160	1-1-2012	Adopt(T)	2-1-2012	330-150-0025	5-1-2012	Repeal	6-1-2012
309-092-0165	1-1-2012	Adopt(T)	2-1-2012	330-150-0030	5-1-2012	Repeal	6-1-2012
309-092-0170	1-1-2012	Adopt(T)	2-1-2012	330-180-0010	11-22-2011	Adopt	1-1-2012
309-092-0175	1-1-2012	Adopt(T)	2-1-2012	330-180-0020	11-22-2011	Adopt	1-1-2012
309-092-0180	1-1-2012	Adopt(T)	2-1-2012	330-180-0030	11-22-2011	Adopt	1-1-2012
309-092-0185	1-1-2012	Adopt(T)	2-1-2012	330-180-0040	11-22-2011	Adopt	1-1-2012
309-092-0190	1-1-2012	Adopt(T)	2-1-2012	330-180-0050	11-22-2011	Adopt	1-1-2012
309-092-0195	1-1-2012	Adopt(T)	2-1-2012	330-180-0060	11-22-2011	Adopt	1-1-2012
309-092-0200	1-1-2012	Adopt(T)	2-1-2012	330-180-0070	11-22-2011	Adopt	1-1-2012
309-092-0205	1-1-2012	Adopt(T)	2-1-2012	330-200-0000	2-22-2012	Adopt(T)	4-1-2012
309-092-0210	1-1-2012	Adopt(T)	2-1-2012	330-200-0010	2-22-2012	Adopt(T)	4-1-2012
309-092-0215	1-1-2012	Adopt(T)	2-1-2012	330-200-0020	2-22-2012	Adopt(T)	4-1-2012
309-092-0220	1-1-2012	Adopt(T)	2-1-2012	330-200-0030	2-22-2012	Adopt(T)	4-1-2012
309-092-0225	1-1-2012	Adopt(T)	2-1-2012	330-200-0040	2-22-2012	Adopt(T)	4-1-2012
309-092-0230	1-1-2012	Adopt(T)	2-1-2012	330-200-0050	2-22-2012	Adopt(T)	4-1-2012
309-092-0235	1-1-2012	Adopt(T)	2-1-2012	330-200-0060	2-22-2012	Adopt(T)	4-1-2012
309-092-0240	1-1-2012	Adopt(T)	2-1-2012	330-200-0070	2-22-2012	Adopt(T)	4-1-2012
309-102-0100	2-9-2012	Adopt	3-1-2012	330-200-0080	2-22-2012	Adopt(T)	4-1-2012
309-102-0100(T)	2-9-2012	Repeal	3-1-2012	330-200-0090	2-22-2012	Adopt(T)	4-1-2012
309-102-0110	2-9-2012	Adopt	3-1-2012	330-200-0150	2-22-2012	Adopt(T)	4-1-2012
309-102-0110(T)	2-9-2012	Repeal	3-1-2012	330-210-0000	12-23-2011	Adopt(T)	2-1-2012
309-102-0120	2-9-2012	Adopt	3-1-2012	330-210-0010	12-23-2011	Adopt(T)	2-1-2012
309-102-0120(T)	2-9-2012	Repeal	3-1-2012	330-210-0020	12-23-2011	Adopt(T)	2-1-2012
309-102-0130	2-9-2012	Adopt	3-1-2012	330-210-0030	12-23-2011	Adopt(T)	2-1-2012
309-102-0130(T)	2-9-2012	Repeal	3-1-2012	330-210-0040	12-23-2011	Adopt(T)	2-1-2012
309-102-0140	2-9-2012	Adopt	3-1-2012	330-210-0045	12-23-2011	Adopt(T)	2-1-2012
309-102-0140(T)	2-9-2012	Repeal	3-1-2012	330-210-0050	12-23-2011	Adopt(T)	2-1-2012
309-102-0150	2-9-2012	Adopt	3-1-2012	330-210-0060	12-23-2011	Adopt(T)	2-1-2012
309-102-0150(T)	2-9-2012	Repeal	3-1-2012	330-210-0070	12-23-2011	Adopt(T)	2-1-2012
325-005-0015	4-1-2012	Amend	5-1-2012	330-210-0080	12-23-2011	Adopt(T)	2-1-2012
330-070-0013	1-1-2012	Amend	2-1-2012	330-210-0090	12-23-2011	Adopt(T)	2-1-2012
330-070-0014	1-1-2012	Amend	2-1-2012	330-210-0100	12-23-2011	Adopt(T)	2-1-2012
330-070-0019	1-1-2012	Amend	2-1-2012	330-210-0150	12-23-2011	Adopt(T)	2-1-2012
330-070-0020	1-1-2012	Amend	2-1-2012	330-220-0000	2-7-2012	Adopt(T)	3-1-2012
330-070-0021	1-1-2012	Amend	2-1-2012	330-220-0010	2-7-2012	Adopt(T)	3-1-2012
330-070-0022	1-1-2012	Amend	2-1-2012	330-220-0020	2-7-2012	Adopt(T)	3-1-2012
330-070-0024	1-1-2012	Amend	2-1-2012	330-220-0030	2-7-2012	Adopt(T)	3-1-2012
330-070-0025	1-1-2012	Amend	2-1-2012	330-220-0040	2-7-2012	Adopt(T)	3-1-2012
330-070-0026	1-1-2012	Amend	2-1-2012	330-220-0050	2-7-2012	Adopt(T)	3-1-2012
330-070-0027	1-1-2012	Amend	2-1-2012	330-220-0070	2-7-2012	Adopt(T)	3-1-2012



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330-220-0080	2-7-2012	Adopt(T)	3-1-2012	331-225-0090	1-1-2012	Repeal	2-1-2012
330-220-0090	2-7-2012	Adopt(T)	3-1-2012	331-225-0100	1-1-2012	Repeal	2-1-2012
330-220-0100	2-7-2012	Adopt(T)	3-1-2012	331-225-0110	1-1-2012	Repeal	2-1-2012
330-220-0150	2-7-2012	Adopt(T)	3-1-2012	331-225-0120	1-1-2012	Repeal	2-1-2012
330-225-0000	6-11-2012	Adopt	7-1-2012	331-225-0130	1-1-2012	Repeal	2-1-2012
330-225-0010	6-11-2012	Adopt	7-1-2012	331-225-0140	1-1-2012	Repeal	2-1-2012
330-225-0020	6-11-2012	Adopt	7-1-2012	331-225-0150	1-1-2012	Repeal	2-1-2012
330-225-0030	6-11-2012	Adopt	7-1-2012	331-225-0160	1-1-2012	Repeal	2-1-2012
330-225-0040	6-11-2012	Adopt	7-1-2012	331-505-0000	1-1-2012	Repeal	2-1-2012
330-225-0050	6-11-2012	Adopt	7-1-2012	331-505-0010	1-1-2012	Repeal	2-1-2012
330-225-0070	6-11-2012	Adopt	7-1-2012	331-510-0000	1-1-2012	Repeal	2-1-2012
330-225-0080	6-11-2012	Adopt	7-1-2012	331-515-0000	1-1-2012	Repeal	2-1-2012
330-225-0090	6-11-2012	Adopt	7-1-2012	331-515-0010	1-1-2012	Repeal	2-1-2012
330-225-0100	6-11-2012	Adopt	7-1-2012	331-515-0020	1-1-2012	Repeal	2-1-2012
330-225-0150	6-11-2012	Adopt	7-1-2012	331-515-0030	1-1-2012	Repeal	2-1-2012
330-230-0000	12-23-2011	Adopt(T)	2-1-2012	331-520-0000	1-1-2012	Repeal	2-1-2012
330-230-0010	12-23-2011	Adopt(T)	2-1-2012	331-520-0010	1-1-2012	Repeal	2-1-2012
330-230-0020	12-23-2011	Adopt(T)	2-1-2012	331-520-0030	1-1-2012	Repeal	2-1-2012
330-230-0030	12-23-2011	Adopt(T)	2-1-2012	331-520-0040	1-1-2012	Repeal	2-1-2012
330-230-0040	12-23-2011	Adopt(T)	2-1-2012	331-520-0070	1-1-2012	Repeal	2-1-2012
330-230-0050	12-23-2011	Adopt(T)	2-1-2012	331-525-0000	1-1-2012	Repeal	2-1-2012
330-230-0060	12-23-2011	Adopt(T)	2-1-2012	331-525-0020	1-1-2012	Repeal	2-1-2012
330-230-0110	12-23-2011	Adopt(T)	2-1-2012	331-525-0035	1-1-2012	Repeal	2-1-2012
330-230-0120	12-23-2011	Adopt(T)	2-1-2012	331-525-0038	1-1-2012	Repeal	2-1-2012
330-230-0130	12-23-2011	Adopt(T)	2-1-2012	331-525-0040	1-1-2012	Repeal	2-1-2012
330-230-0140	12-23-2011	Adopt(T)	2-1-2012	331-525-0055	1-1-2012	Repeal	2-1-2012
331-020-0020	3-1-2012	Amend(T)	4-1-2012	331-525-0060	1-1-2012	Repeal	2-1-2012
331-020-0020	5-15-2012	Amend	6-1-2012	331-525-0065	1-1-2012	Repeal	2-1-2012
331-020-0020(T)	5-15-2012	Repeal	6-1-2012	331-530-0000	1-1-2012	Repeal	2-1-2012
331-205-0020	1-1-2012	Repeal	2-1-2012	331-530-0020	1-1-2012	Repeal	2-1-2012
331-205-0030	1-1-2012	Repeal	2-1-2012	331-535-0000	1-1-2012	Repeal	2-1-2012
331-210-0000	1-1-2012	Repeal	2-1-2012	331-535-0010	1-1-2012	Repeal	2-1-2012
331-210-0010	1-1-2012	Repeal	2-1-2012	331-535-0020	1-1-2012	Repeal	2-1-2012
331-210-0020	1-1-2012	Repeal	2-1-2012	331-535-0030	1-1-2012	Repeal	2-1-2012
331-210-0021	1-1-2012	Repeal	2-1-2012	331-535-0040	1-1-2012	Repeal	2-1-2012
331-215-0000	1-1-2012	Repeal	2-1-2012	331-535-0050	1-1-2012	Repeal	2-1-2012
331-215-0010	1-1-2012	Repeal	2-1-2012	331-535-0060	1-1-2012	Repeal	2-1-2012
331-215-0020	1-1-2012	Repeal	2-1-2012	331-535-0070	1-1-2012	Repeal	2-1-2012
331-215-0030	1-1-2012	Repeal	2-1-2012	331-535-0080	1-1-2012	Repeal	2-1-2012
331-215-0040	1-1-2012	Repeal	2-1-2012	331-540-0000	1-1-2012	Repeal	2-1-2012
331-220-0000	1-1-2012	Repeal	2-1-2012	331-540-0010	1-1-2012	Repeal	2-1-2012
331-220-0010	1-1-2012	Repeal	2-1-2012	331-540-0020	1-1-2012	Repeal	2-1-2012
331-220-0020	1-1-2012	Repeal	2-1-2012	331-540-0030	1-1-2012	Repeal	2-1-2012
331-220-0030	1-1-2012	Repeal	2-1-2012	331-545-0000	1-1-2012	Repeal	2-1-2012
331-220-0040	1-1-2012	Repeal	2-1-2012	331-545-0020	1-1-2012	Repeal	2-1-2012
331-220-0050	1-1-2012	Repeal	2-1-2012	331-550-0000	1-1-2012	Repeal	2-1-2012
331-220-0060	1-1-2012	Repeal	2-1-2012	331-555-0010	1-1-2012	Repeal	2-1-2012
331-220-0080	1-1-2012	Repeal	2-1-2012	331-555-0030	1-1-2012	Repeal	2-1-2012
331-225-0000	1-1-2012	Repeal	2-1-2012	331-555-0040	1-1-2012	Repeal	2-1-2012
331-225-0020	1-1-2012	Repeal	2-1-2012	331-560-0000	1-1-2012	Repeal	2-1-2012
331-225-0030	1-1-2012	Repeal	2-1-2012	331-560-0010	1-1-2012	Repeal	2-1-2012
331-225-0040	1-1-2012	Repeal	2-1-2012	331-560-0020	1-1-2012	Repeal	2-1-2012
331-225-0050	1-1-2012	Repeal	2-1-2012	331-560-0030	1-1-2012	Repeal	2-1-2012
331-225-0060	1-1-2012	Repeal	2-1-2012	331-560-0040	1-1-2012	Repeal	2-1-2012
331-225-0070	1-1-2012	Repeal	2-1-2012	331-560-0060	1-1-2012	Repeal	2-1-2012
331-225-0080	1-1-2012	Repeal	2-1-2012	331-565-0000	1-1-2012	Repeal	2-1-2012

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331-565-0025	1-1-2012	Repeal	2-1-2012	331-900-0000	3-1-2012	Amend(T)	4-1-2012
331-565-0030	1-1-2012	Repeal	2-1-2012	331-900-0005	1-1-2012	Adopt	2-1-2012
331-565-0040	1-1-2012	Repeal	2-1-2012	331-900-0005	3-1-2012	Amend(T)	4-1-2012
331-565-0050	1-1-2012	Repeal	2-1-2012	331-900-0010	1-1-2012	Adopt	2-1-2012
331-565-0060	1-1-2012	Repeal	2-1-2012	331-900-0010	3-1-2012	Amend(T)	4-1-2012
331-565-0080	1-1-2012	Repeal	2-1-2012	331-900-0015	1-1-2012	Adopt	2-1-2012
331-565-0085	1-1-2012	Repeal	2-1-2012	331-900-0015	3-1-2012	Amend(T)	4-1-2012
331-565-0090	1-1-2012	Repeal	2-1-2012	331-900-0020	1-1-2012	Adopt	2-1-2012
331-565-0095	1-1-2012	Repeal	2-1-2012	331-900-0020	3-1-2012	Amend(T)	4-1-2012
331-570-0000	1-1-2012	Repeal	2-1-2012	331-900-0025	1-1-2012	Adopt	2-1-2012
331-570-0020	1-1-2012	Repeal	2-1-2012	331-900-0030	1-1-2012	Adopt	2-1-2012
331-575-0000	1-1-2012	Repeal	2-1-2012	331-900-0030	3-1-2012	Amend(T)	4-1-2012
331-575-0010	1-1-2012	Repeal	2-1-2012	331-900-0035	1-1-2012	Adopt	2-1-2012
331-575-0020	1-1-2012	Repeal	2-1-2012	331-900-0040	1-1-2012	Adopt	2-1-2012
331-575-0030	1-1-2012	Repeal	2-1-2012	331-900-0040	3-1-2012	Amend(T)	4-1-2012
331-575-0040	1-1-2012	Repeal	2-1-2012	331-900-0045	1-1-2012	Adopt	2-1-2012
331-575-0050	1-1-2012	Repeal	2-1-2012	331-900-0050	1-1-2012	Adopt	2-1-2012
331-580-0000	1-1-2012	Repeal	2-1-2012	331-900-0055	1-1-2012	Adopt	2-1-2012
331-580-0010	1-1-2012	Repeal	2-1-2012	331-900-0060	1-1-2012	Adopt	2-1-2012
331-580-0020	1-1-2012	Repeal	2-1-2012	331-900-0065	1-1-2012	Adopt	2-1-2012
331-580-0030	1-1-2012	Repeal	2-1-2012	331-900-0070	1-1-2012	Adopt	2-1-2012
331-585-0000	1-1-2012	Repeal	2-1-2012	331-900-0070	3-1-2012	Amend(T)	4-1-2012
331-585-0010	1-1-2012	Repeal	2-1-2012	331-900-0075	1-1-2012	Adopt	2-1-2012
331-585-0020	1-1-2012	Repeal	2-1-2012	331-900-0080	1-1-2012	Adopt	2-1-2012
331-585-0030	1-1-2012	Repeal	2-1-2012	331-900-0085	1-1-2012	Adopt	2-1-2012
331-585-0040	1-1-2012	Repeal	2-1-2012	331-900-0085	3-1-2012	Amend(T)	4-1-2012
331-590-0000	1-1-2012	Repeal	2-1-2012	331-900-0090	1-1-2012	Adopt	2-1-2012
331-590-0020	1-1-2012	Repeal	2-1-2012	331-900-0090	3-1-2012	Amend(T)	4-1-2012
331-705-0050	1-1-2012	Amend	2-1-2012	331-900-0095	1-1-2012	Adopt	2-1-2012
331-705-0060	1-1-2012	Repeal	2-1-2012	331-900-0095	3-1-2012	Amend(T)	4-1-2012
331-705-0072	11-22-2011	Adopt(T)	1-1-2012	331-900-0100	1-1-2012	Adopt	2-1-2012
331-705-0072	1-1-2012	Adopt	2-1-2012	331-900-0100	3-1-2012	Amend(T)	4-1-2012
331-705-0072(T)	1-1-2012	Repeal	2-1-2012	331-900-0105	1-1-2012	Adopt	2-1-2012
331-705-0080	1-1-2012	Adopt	2-1-2012	331-900-0110	1-1-2012	Adopt	2-1-2012
331-710-0005	1-1-2012	Adopt	2-1-2012	331-905-0000	1-1-2012	Adopt(T)	2-1-2012
331-710-0010	1-1-2012	Amend	2-1-2012	331-905-0000	3-1-2012	Adopt(T)	4-1-2012
331-710-0015	1-1-2012	Adopt	2-1-2012	331-905-0000(T)	3-1-2012	Suspend	4-1-2012
331-710-0020	1-1-2012	Amend	2-1-2012	331-905-0003	3-1-2012	Adopt(T)	4-1-2012
331-710-0030	1-1-2012	Repeal	2-1-2012	331-905-0005	1-1-2012	Adopt(T)	2-1-2012
331-710-0040	1-1-2012	Adopt	2-1-2012	331-905-0005	3-1-2012	Adopt(T)	4-1-2012
331-710-0045	1-1-2012	Adopt	2-1-2012	331-905-0005(T)	3-1-2012	Suspend	4-1-2012
331-710-0050	1-1-2012	Adopt	2-1-2012	331-905-0010	1-1-2012	Adopt(T)	2-1-2012
331-712-0000	1-1-2012	Adopt	2-1-2012	331-905-0010	3-1-2012	Adopt(T)	4-1-2012
331-712-0010	1-1-2012	Adopt	2-1-2012	331-905-0010(T)	3-1-2012	Suspend	4-1-2012
331-712-0020	1-1-2012	Adopt	2-1-2012	331-905-0012	3-1-2012	Adopt(T)	4-1-2012
331-715-0010	1-1-2012	Amend	2-1-2012	331-905-0014	3-1-2012	Adopt(T)	4-1-2012
331-715-0030	1-1-2012	Repeal	2-1-2012	331-905-0015	1-1-2012	Adopt(T)	2-1-2012
331-715-0045	1-1-2012	Repeal	2-1-2012	331-905-0015	3-1-2012	Adopt(T)	4-1-2012
331-718-0000	1-1-2012	Adopt	2-1-2012	331-905-0015(T)	3-1-2012	Suspend	4-1-2012
331-718-0010	1-1-2012	Adopt	2-1-2012	331-905-0020	1-1-2012	Adopt(T)	2-1-2012
331-718-0020	1-1-2012	Adopt	2-1-2012	331-905-0020	3-1-2012	Adopt(T)	4-1-2012
331-720-0010	1-1-2012	Amend	2-1-2012	331-905-0020(T)	3-1-2012	Suspend	4-1-2012
331-720-0015	1-1-2012	Adopt	2-1-2012	331-905-0025	1-1-2012	Adopt(T)	2-1-2012
331-725-0020	1-1-2012	Repeal	2-1-2012	331-905-0025	3-1-2012	Adopt(T)	4-1-2012
331-740-0000	1-1-2012	Adopt	2-1-2012	331-905-0025(T)	3-1-2012	Suspend	4-1-2012

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331-905-0030	1-1-2012	Adopt(T)	2-1-2012	331-915-0015	1-1-2012	Adopt	2-1-2012
331-905-0030	3-1-2012	Adopt(T)	4-1-2012	331-915-0015	3-1-2012	Amend(T)	4-1-2012
331-905-0030(T)	3-1-2012	Suspend	4-1-2012	331-915-0020	1-1-2012	Adopt	2-1-2012
331-905-0032	3-1-2012	Adopt(T)	4-1-2012	331-915-0020	3-1-2012	Amend(T)	4-1-2012
331-905-0034	3-1-2012	Adopt(T)	4-1-2012	331-915-0025	1-1-2012	Adopt	2-1-2012
331-905-0035	1-1-2012	Adopt(T)	2-1-2012	331-915-0025	4-20-2012	Amend(T)	6-1-2012
331-905-0035	3-1-2012	Adopt(T)	4-1-2012	331-915-0025	5-3-2012	Amend(T)	6-1-2012
331-905-0035(T)	3-1-2012	Suspend	4-1-2012	331-915-0027	3-21-2012	Adopt(T)	5-1-2012
331-905-0040	1-1-2012	Adopt(T)	2-1-2012	331-915-0027	3-30-2012	Suspend	5-1-2012
331-905-0040	3-1-2012	Adopt(T)	4-1-2012	331-915-0029	3-21-2012	Adopt(T)	5-1-2012
331-905-0040(T)	3-1-2012	Suspend	4-1-2012	331-915-0029	3-30-2012	Suspend	5-1-2012
331-905-0045	1-1-2012	Adopt(T)	2-1-2012	331-915-0030	1-1-2012	Adopt	2-1-2012
331-905-0045	3-1-2012	Adopt(T)	4-1-2012	331-915-0035	1-1-2012	Adopt	2-1-2012
331-905-0045(T)	3-1-2012	Suspend	4-1-2012	331-915-0040	1-1-2012	Adopt	2-1-2012
331-905-0050	1-1-2012	Adopt(T)	2-1-2012	331-915-0040	3-1-2012	Amend(T)	4-1-2012
331-905-0050	3-1-2012	Adopt(T)	4-1-2012	331-915-0045	1-1-2012	Adopt	2-1-2012
331-905-0050(T)	3-1-2012	Suspend	4-1-2012	331-915-0045	3-1-2012	Amend(T)	4-1-2012
331-905-0053	3-1-2012	Adopt(T)	4-1-2012	331-915-0050	1-1-2012	Adopt	2-1-2012
331-905-0055	1-1-2012	Adopt(T)	2-1-2012	331-915-0055	1-1-2012	Adopt	2-1-2012
331-905-0055	3-1-2012	Adopt(T)	4-1-2012	331-915-0060	1-1-2012	Adopt	2-1-2012
331-905-0055(T)	3-1-2012	Suspend	4-1-2012	331-915-0065	1-1-2012	Adopt	2-1-2012
331-905-0060	1-1-2012	Adopt(T)	2-1-2012	331-920-0000	1-1-2012	Adopt	2-1-2012
331-905-0060	3-1-2012	Adopt(T)	4-1-2012	331-920-0005	1-1-2012	Adopt	2-1-2012
331-905-0060(T)	3-1-2012	Suspend	4-1-2012	331-925-0000	1-1-2012	Adopt	2-1-2012
331-905-0065	1-1-2012	Adopt(T)	2-1-2012	331-925-0000	3-1-2012	Amend(T)	4-1-2012
331-905-0065	3-1-2012	Adopt(T)	4-1-2012	331-925-0005	1-1-2012	Adopt	2-1-2012
331-910-0000	1-1-2012	Adopt	2-1-2012	331-925-0005	3-1-2012	Amend(T)	4-1-2012
331-910-0005	1-1-2012	Adopt	2-1-2012	331-925-0010	1-1-2012	Adopt	2-1-2012
331-910-0010	1-1-2012	Adopt	2-1-2012	331-925-0010	3-1-2012	Amend(T)	4-1-2012
331-910-0010	3-1-2012	Amend(T)	4-1-2012	331-925-0015	1-1-2012	Adopt	2-1-2012
331-910-0015	1-1-2012	Adopt	2-1-2012	331-925-0015	3-1-2012	Amend(T)	4-1-2012
331-910-0015	3-1-2012	Amend(T)	4-1-2012	331-925-0020	1-1-2012	Adopt	2-1-2012
331-910-0020	1-1-2012	Adopt	2-1-2012	331-925-0020	3-1-2012	Amend(T)	4-1-2012
331-910-0020	3-1-2012	Amend(T)	4-1-2012	331-925-0025	1-1-2012	Adopt	2-1-2012
331-910-0025	1-1-2012	Adopt	2-1-2012	331-925-0025	3-1-2012	Amend(T)	4-1-2012
331-910-0025	3-1-2012	Amend(T)	4-1-2012	331-925-0030	1-1-2012	Adopt	2-1-2012
331-910-0030	1-1-2012	Adopt	2-1-2012	331-925-0030	3-1-2012	Amend(T)	4-1-2012
331-910-0035	1-1-2012	Adopt	2-1-2012	331-925-0035	1-1-2012	Adopt	2-1-2012
331-910-0040	1-1-2012	Adopt	2-1-2012	331-925-0035	3-1-2012	Amend(T)	4-1-2012
331-910-0040	3-1-2012	Amend(T)	4-1-2012	331-925-0040	1-1-2012	Adopt	2-1-2012
331-910-0045	1-1-2012	Adopt	2-1-2012	331-925-0040	3-1-2012	Amend(T)	4-1-2012
331-910-0045	3-1-2012	Amend(T)	4-1-2012	331-925-0045	1-1-2012	Adopt	2-1-2012
331-910-0050	1-1-2012	Adopt	2-1-2012	331-925-0050	3-1-2012	Adopt(T)	4-1-2012
331-910-0055	1-1-2012	Adopt	2-1-2012	331-925-0055	3-1-2012	Adopt(T)	4-1-2012
331-910-0055	3-1-2012	Amend(T)	4-1-2012	331-930-0000	1-1-2012	Adopt	2-1-2012
331-910-0060	1-1-2012	Adopt	2-1-2012	331-930-0000	3-1-2012	Amend(T)	4-1-2012
331-910-0065	1-1-2012	Adopt	2-1-2012	331-930-0005	1-1-2012	Adopt	2-1-2012
331-910-0065	3-1-2012	Amend(T)	4-1-2012	331-930-0005	3-1-2012	Suspend	4-1-2012
331-910-0070	3-1-2012	Adopt(T)	4-1-2012	331-930-0010	1-1-2012	Adopt	2-1-2012
331-910-0075	3-1-2012	Adopt(T)	4-1-2012	331-930-0010	3-1-2012	Suspend	4-1-2012
331-910-0080	3-1-2012	Adopt(T)	4-1-2012	331-930-0015	1-1-2012	Adopt	2-1-2012
331-910-0085	3-1-2012	Adopt(T)	4-1-2012	331-930-0015	3-1-2012	Amend(T)	4-1-2012
331-915-0000	1-1-2012	Adopt	2-1-2012	331-930-0020	1-1-2012	Adopt	2-1-2012
331-915-0005	1-1-2012	Adopt	2-1-2012	331-930-0020	3-1-2012	Amend(T)	4-1-2012
331-915-0010	1-1-2012	Adopt	2-1-2012	331-930-0025	1-1-2012	Adopt	2-1-2012
331-915-0010	3-1-2012	Amend(T)	4-1-2012	331-930-0025	3-1-2012	Amend(T)	4-1-2012

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
331-930-0030	1-1-2012	Adopt	2-1-2012	333-012-0045	6-11-2012	Repeal	7-1-2012
331-930-0030	3-1-2012	Amend(T)	4-1-2012	333-012-0053	3-1-2012	Amend	4-1-2012
331-940-0000	1-1-2012	Adopt	2-1-2012	333-012-0055	3-1-2012	Amend	4-1-2012
331-940-0000	3-5-2012	Amend(T)	4-1-2012	333-013-0001	6-11-2012	Repeal	7-1-2012
331-950-0010	1-1-2012	Adopt	2-1-2012	333-013-0004	6-11-2012	Amend	7-1-2012
331-950-0020	1-1-2012	Adopt	2-1-2012	333-013-0100	6-11-2012	Repeal	7-1-2012
331-950-0030	1-1-2012	Adopt	2-1-2012	333-015-0025	2-1-2012	Amend	3-1-2012
331-950-0040	1-1-2012	Adopt	2-1-2012	333-015-0030	2-1-2012	Amend	3-1-2012
331-950-0050	1-1-2012	Adopt	2-1-2012	333-015-0035	2-1-2012	Amend	3-1-2012
331-950-0060	1-1-2012	Adopt	2-1-2012	333-015-0040	2-1-2012	Amend	3-1-2012
331-950-0070	1-1-2012	Adopt	2-1-2012	333-015-0045	2-1-2012	Amend	3-1-2012
332-025-0120	4-12-2012	Amend(T)	4-1-2012	333-015-0064	2-1-2012	Amend	3-1-2012
332-025-0120	5-10-2012	Amend(T)	6-1-2012	333-015-0066	2-1-2012	Amend	3-1-2012
332-025-0120(T)	5-10-2012	Suspend	6-1-2012	333-015-0068	2-1-2012	Amend	3-1-2012
332-040-0000	1-1-2012	Amend(T)	2-1-2012	333-015-0069	2-1-2012	Amend	3-1-2012
332-040-0000	3-9-2012	Amend(T)	4-1-2012	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
333-012-0002	6-11-2012	Repeal	7-1-2012	333-027-0110	4-1-2012	Amend	5-1-2012
333-012-0003	6-11-2012	Repeal	7-1-2012	333-027-0120	4-1-2012	Amend	5-1-2012
333-012-0004	6-11-2012	Repeal	7-1-2012	333-027-0130	4-1-2012	Amend	5-1-2012
333-012-0010	6-11-2012	Repeal	7-1-2012	333-027-0140	4-1-2012	Amend	5-1-2012
333-012-0035	6-11-2012	Repeal	7-1-2012	333-027-0150	4-1-2012	Amend	5-1-2012
333-012-0040	6-11-2012	Repeal	7-1-2012	333-027-0170	4-1-2012	Amend	5-1-2012
333-012-0041	6-11-2012	Repeal	7-1-2012	333-027-0175	4-1-2012	Adopt	5-1-2012
333-012-0043	6-11-2012	Repeal	7-1-2012	333-027-0180	4-1-2012	Adopt	5-1-2012

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333-027-0190	4-1-2012	Adopt	5-1-2012	333-700-0020	4-1-2012	Amend	5-1-2012
333-047-0010	1-1-2012	Adopt	2-1-2012	333-700-0025	4-1-2012	Amend	5-1-2012
333-047-0030	1-1-2012	Adopt	2-1-2012	333-700-0030	4-1-2012	Amend	5-1-2012
333-047-0040	1-1-2012	Adopt	2-1-2012	333-700-0035	4-1-2012	Amend	5-1-2012
333-047-0050	1-1-2012	Adopt	2-1-2012	333-700-0040	4-1-2012	Amend	5-1-2012
333-049-0010	1-1-2012	Amend	2-1-2012	333-700-0045	4-1-2012	Amend	5-1-2012
333-049-0040	1-1-2012	Amend	2-1-2012	333-700-0050	4-1-2012	Amend	5-1-2012
333-049-0050	1-1-2012	Amend	2-1-2012	333-700-0053	4-1-2012	Adopt	5-1-2012
333-049-0065	1-1-2012	Amend	2-1-2012	333-700-0055	4-1-2012	Repeal	5-1-2012
333-049-0070	1-1-2012	Amend	2-1-2012	333-700-0057	4-1-2012	Adopt	5-1-2012
333-049-0090	1-1-2012	Amend	2-1-2012	333-700-0060	4-1-2012	Amend	5-1-2012
333-052-0030	6-11-2012	Amend(T)	7-1-2012	333-700-0061	4-1-2012	Adopt	5-1-2012
333-052-0040	6-11-2012	Amend(T)	7-1-2012	333-700-0062	4-1-2012	Adopt	5-1-2012
333-052-0041	6-11-2012	Adopt(T)	7-1-2012	333-700-0063	4-1-2012	Adopt	5-1-2012
333-052-0042	6-11-2012	Adopt(T)	7-1-2012	333-700-0064	4-1-2012	Adopt	5-1-2012
333-052-0100	6-11-2012	Amend(T)	7-1-2012	333-700-0065	4-1-2012	Amend	5-1-2012
333-076-0001	4-1-2012	Adopt	5-1-2012	333-700-0070	4-1-2012	Repeal	5-1-2012
333-076-0185	4-1-2012	Amend	5-1-2012	333-700-0072	4-1-2012	Adopt	5-1-2012
333-157-0073	3-1-2012	Adopt	4-1-2012	333-700-0073	4-1-2012	Adopt	5-1-2012
333-157-0077	3-1-2012	Adopt	4-1-2012	333-700-0075	4-1-2012	Amend	5-1-2012
333-265-0000	1-1-2012	Amend	2-1-2012	333-700-0080	4-1-2012	Amend	5-1-2012
333-265-0010	1-1-2012	Amend	2-1-2012	333-700-0085	4-1-2012	Amend	5-1-2012
333-265-0012	1-1-2012	Amend	2-1-2012	333-700-0090	4-1-2012	Amend	5-1-2012
333-265-0014	1-1-2012	Amend	2-1-2012	333-700-0095	4-1-2012	Amend	5-1-2012
333-265-0015	1-1-2012	Amend	2-1-2012	333-700-0100	4-1-2012	Amend	5-1-2012
333-265-0016	1-1-2012	Amend	2-1-2012	333-700-0105	4-1-2012	Amend	5-1-2012
333-265-0018	1-1-2012	Amend	2-1-2012	333-700-0110	4-1-2012	Amend	5-1-2012
333-265-0020	1-1-2012	Amend	2-1-2012	333-700-0115	4-1-2012	Amend	5-1-2012
333-265-0022	1-1-2012	Amend	2-1-2012	333-700-0120	4-1-2012	Amend	5-1-2012
333-265-0023	1-1-2012	Amend	2-1-2012	333-700-0125	4-1-2012	Amend	5-1-2012
333-265-0025	1-1-2012	Amend	2-1-2012	333-700-0130	4-1-2012	Amend	5-1-2012
333-265-0030	1-1-2012	Amend	2-1-2012	334-001-0000	1-1-2012	Amend	1-1-2012
333-265-0040	1-1-2012	Amend	2-1-2012	334-001-0005	1-1-2012	Amend	1-1-2012
333-265-0050	1-1-2012	Amend	2-1-2012	334-001-0020	1-1-2012	Amend	1-1-2012
333-265-0060	1-1-2012	Amend	2-1-2012	334-001-0025	1-1-2012	Adopt	1-1-2012
333-265-0070	1-1-2012	Amend	2-1-2012	334-001-0028	1-1-2012	Adopt	1-1-2012
333-265-0080	1-1-2012	Amend	2-1-2012	334-001-0032	1-1-2012	Adopt	1-1-2012
333-265-0083	1-1-2012	Amend	2-1-2012	334-001-0035	1-1-2012	Repeal	1-1-2012
333-265-0085	1-1-2012	Amend	2-1-2012	334-001-0036	1-1-2012	Adopt	1-1-2012
333-265-0087	1-1-2012	Amend	2-1-2012	334-001-0060	1-1-2012	Amend	1-1-2012
333-265-0090	1-1-2012	Amend	2-1-2012	334-010-0005	1-1-2012	Amend	1-1-2012
333-265-0100	1-1-2012	Amend	2-1-2012	334-010-0008	1-1-2012	Amend	1-1-2012
333-265-0105	1-1-2012	Amend	2-1-2012	334-010-0009	1-1-2012	Adopt	1-1-2012
333-265-0110	1-1-2012	Amend	2-1-2012	334-010-0010	1-1-2012	Amend	1-1-2012
333-265-0140	1-1-2012	Amend	2-1-2012	334-010-0012	1-1-2012	Amend	1-1-2012
333-265-0150	1-1-2012	Amend	2-1-2012	334-010-0015	1-1-2012	Amend	1-1-2012
333-265-0160	1-1-2012	Amend	2-1-2012	334-010-0017	1-1-2012	Amend	1-1-2012
333-265-0170	1-1-2012	Amend	2-1-2012	334-010-0018	1-1-2012	Adopt	1-1-2012
333-700-0000	4-1-2012	Amend	5-1-2012	334-010-0025	1-1-2012	Amend	1-1-2012
333-700-0004	4-1-2012	Adopt	5-1-2012	334-010-0027	1-1-2012	Adopt	1-1-2012
333-700-0005	4-1-2012	Amend	5-1-2012	334-010-0033	1-1-2012	Amend	1-1-2012
333-700-0010	4-1-2012	Amend	5-1-2012	334-010-0046	1-1-2012	Amend	1-1-2012
333-700-0015	4-1-2012	Amend	5-1-2012	334-010-0050	1-1-2012	Amend	1-1-2012
333-700-0017	4-1-2012	Adopt	5-1-2012	334-020-0015	1-1-2012	Amend	1-1-2012
333-700-0018	4-1-2012	Adopt	5-1-2012	334-030-0001	1-1-2012	Amend	1-1-2012

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334-040-0001	1-1-2012	Amend	1-1-2012	345-024-0015	5-15-2012	Amend	6-1-2012
334-040-0010	1-1-2012	Amend	1-1-2012	345-024-0550	5-15-2012	Amend	6-1-2012
335-060-0006	2-23-2012	Amend	4-1-2012	345-024-0560	5-15-2012	Amend	6-1-2012
335-060-0007	2-23-2012	Amend	4-1-2012	345-024-0570	5-15-2012	Amend	6-1-2012
335-060-0010	2-23-2012	Amend	4-1-2012	345-024-0590	5-15-2012	Amend	6-1-2012
337-010-0030	1-12-2012	Amend	2-1-2012	345-024-0600	5-15-2012	Amend	6-1-2012
337-010-0045	5-1-2012	Amend	6-1-2012	345-024-0610	5-15-2012	Amend	6-1-2012
340-041-0002	5-21-2012	Amend	7-1-2012	345-024-0620	5-15-2012	Amend	6-1-2012
340-041-0185	5-21-2012	Amend	7-1-2012	345-024-0630	5-15-2012	Amend	6-1-2012
340-041-0310	5-21-2012	Amend	7-1-2012	345-024-0640	5-15-2012	Amend	6-1-2012
340-041-0315	5-21-2012	Amend	7-1-2012	345-024-0680	5-15-2012	Amend	6-1-2012
340-045-0100	11-18-2011	Amend	1-1-2012	345-024-0710	5-15-2012	Amend	6-1-2012
340-200-0020	5-17-2012	Amend	7-1-2012	345-024-0720	5-15-2012	Amend	6-1-2012
340-200-0040	12-21-2011	Amend	2-1-2012	345-026-0080	5-15-2012	Amend	6-1-2012
340-200-0040	5-17-2012	Amend	7-1-2012	345-026-0170	5-15-2012	Amend	6-1-2012
340-204-0010	12-21-2011	Amend	2-1-2012	345-027-0020	5-15-2012	Amend	6-1-2012
340-204-0030	12-21-2011	Amend	2-1-2012	345-027-0023	5-15-2012	Amend	6-1-2012
340-204-0040	12-21-2011	Amend	2-1-2012	345-027-0028	5-15-2012	Amend	6-1-2012
340-210-0100	5-17-2012	Amend	7-1-2012	345-027-0030	5-15-2012	Amend	6-1-2012
340-210-0110	5-17-2012	Amend	7-1-2012	345-027-0050	5-15-2012	Amend	6-1-2012
340-210-0120	5-17-2012	Amend	7-1-2012	345-027-0060	5-15-2012	Amend	6-1-2012
340-210-0250	5-17-2012	Amend	7-1-2012	345-027-0070	5-15-2012	Amend	6-1-2012
340-228-0020	5-17-2012	Amend	7-1-2012	345-027-0080	5-15-2012	Amend	6-1-2012
340-228-0200	5-17-2012	Amend	7-1-2012	345-027-0090	5-15-2012	Amend	6-1-2012
340-228-0210	5-17-2012	Amend	7-1-2012	345-027-0100	5-15-2012	Amend	6-1-2012
340-262-0450	5-17-2012	Amend	7-1-2012	345-027-0110	5-15-2012	Amend	6-1-2012
340-262-0600	5-17-2012	Amend	7-1-2012	345-027-0210	5-15-2012	Amend	6-1-2012
345-001-0005	5-15-2012	Amend	6-1-2012	345-027-0220	5-15-2012	Amend	6-1-2012
345-001-0010	5-15-2012	Amend	6-1-2012	345-027-0230	5-15-2012	Amend	6-1-2012
345-001-0050	5-15-2012	Amend	6-1-2012	350-081-0020	6-1-2012	Amend	6-1-2012
345-011-0020	5-15-2012	Amend	6-1-2012	350-081-0036	6-1-2012	Amend	6-1-2012
345-011-0050	5-15-2012	Amend	6-1-2012	350-081-0038	6-1-2012	Amend	6-1-2012
345-015-0014	5-15-2012	Amend	6-1-2012	350-081-0042	6-1-2012	Amend	6-1-2012
345-015-0085	5-15-2012	Amend	6-1-2012	350-081-0054	6-1-2012	Amend	6-1-2012
345-015-0110	5-15-2012	Amend	6-1-2012	350-081-0082	6-1-2012	Amend	6-1-2012
345-015-0120	5-15-2012	Amend	6-1-2012	350-081-0190	6-1-2012	Amend	6-1-2012
345-015-0160	5-15-2012	Amend	6-1-2012	350-081-0370	6-1-2012	Amend	6-1-2012
345-015-0180	5-15-2012	Amend	6-1-2012	350-081-0550	6-1-2012	Amend	6-1-2012
345-015-0190	5-15-2012	Amend	6-1-2012	350-081-0600	6-1-2012	Amend	6-1-2012
345-015-0220	5-15-2012	Amend	6-1-2012	350-081-0620	6-1-2012	Amend	6-1-2012
345-015-0230	5-15-2012	Amend	6-1-2012	407-007-0200	2-27-2012	Amend(T)	4-1-2012
345-015-0240	5-15-2012	Amend	6-1-2012	407-007-0210	2-27-2012	Amend(T)	4-1-2012
345-015-0300	5-15-2012	Amend	6-1-2012	407-007-0215	2-27-2012	Adopt(T)	4-1-2012
345-015-0310	5-15-2012	Amend	6-1-2012	407-007-0220	2-27-2012	Amend(T)	4-1-2012
345-020-0011	5-15-2012	Amend	6-1-2012	407-007-0220	4-13-2012	Amend(T)	5-1-2012
345-020-0016	5-15-2012	Amend	6-1-2012	407-007-0220(T)	4-13-2012	Suspend	5-1-2012
345-020-0040	5-15-2012	Amend	6-1-2012	407-007-0230	2-27-2012	Amend(T)	4-1-2012
345-021-0000	5-15-2012	Amend	6-1-2012	407-007-0240	2-27-2012	Amend(T)	4-1-2012
345-021-0010	5-15-2012	Amend	6-1-2012	407-007-0250	2-27-2012	Amend(T)	4-1-2012
345-021-0050	5-15-2012	Amend	6-1-2012	407-007-0275	2-27-2012	Amend(T)	4-1-2012
345-021-0055	5-15-2012	Amend	6-1-2012	407-007-0275	4-13-2012	Amend(T)	5-1-2012
345-021-0090	5-15-2012	Amend	6-1-2012	407-007-0275(T)	4-13-2012	Suspend	5-1-2012
345-022-0020	5-15-2012	Amend	6-1-2012	407-007-0277	4-13-2012	Adopt(T)	5-1-2012
345-023-0005	5-15-2012	Amend	6-1-2012	407-007-0280	2-27-2012	Amend(T)	4-1-2012
345-023-0030	5-15-2012	Amend	6-1-2012	407-007-0290	2-27-2012	Amend(T)	4-1-2012

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407-007-0315	2-27-2012	Amend(T)	4-1-2012	407-120-0100(T)	12-27-2011	Repeal	2-1-2012
407-007-0320	2-27-2012	Amend(T)	4-1-2012	407-120-0112	12-27-2011	Amend	2-1-2012
407-007-0325	2-27-2012	Amend(T)	4-1-2012	407-120-0112(T)	12-27-2011	Repeal	2-1-2012
407-007-0330	2-27-2012	Amend(T)	4-1-2012	407-120-0114	12-27-2011	Amend	2-1-2012
407-007-0335	2-27-2012	Amend(T)	4-1-2012	407-120-0114(T)	12-27-2011	Repeal	2-1-2012
407-007-0340	2-27-2012	Amend(T)	4-1-2012	407-120-0150	12-27-2011	Amend	2-1-2012
407-007-0350	2-27-2012	Amend(T)	4-1-2012	407-120-0150(T)	12-27-2011	Repeal	2-1-2012
407-007-0370	2-27-2012	Amend(T)	4-1-2012	407-120-0200	12-27-2011	Amend	2-1-2012
407-014-0000	12-16-2011	Amend	2-1-2012	407-120-0200(T)	12-27-2011	Repeal	2-1-2012
407-014-0000(T)	12-16-2011	Repeal	2-1-2012	409-025-0100	6-1-2012	Amend	7-1-2012
407-014-0015	12-16-2011	Adopt	2-1-2012	409-025-0100	6-1-2012	Amend(T)	7-1-2012
407-014-0015(T)	12-16-2011	Repeal	2-1-2012	409-025-0110	6-1-2012	Amend	7-1-2012
407-014-0020	12-16-2011	Amend	2-1-2012	409-025-0110	6-1-2012	Amend(T)	7-1-2012
407-014-0020(T)	12-16-2011	Repeal	2-1-2012	409-025-0120	6-1-2012	Amend	7-1-2012
407-014-0030	12-16-2011	Amend	2-1-2012	409-025-0130	6-1-2012	Amend	7-1-2012
407-014-0030(T)	12-16-2011	Repeal	2-1-2012	409-025-0160	6-1-2012	Amend	7-1-2012
407-014-0040	12-16-2011	Amend	2-1-2012	409-045-0000	1-11-2012	Adopt(T)	2-1-2012
407-014-0040(T)	12-16-2011	Repeal	2-1-2012	409-045-0000	5-1-2012	Amend	6-1-2012
407-014-0050	12-16-2011	Amend	2-1-2012	409-045-0000(T)	5-1-2012	Repeal	6-1-2012
407-014-0050(T)	12-16-2011	Repeal	2-1-2012	409-050-0110	12-1-2011	Amend	1-1-2012
407-014-0060	12-16-2011	Amend	2-1-2012	409-050-0110(T)	12-1-2011	Repeal	1-1-2012
407-014-0060(T)	12-16-2011	Repeal	2-1-2012	409-050-0120	12-1-2011	Amend	1-1-2012
407-014-0070	12-16-2011	Amend	2-1-2012	409-050-0120(T)	12-1-2011	Repeal	1-1-2012
407-014-0070(T)	12-16-2011	Repeal	2-1-2012	409-050-0130	12-22-2011	Amend	2-1-2012
407-014-0300	2-1-2012	Amend	3-1-2012	409-050-0130(T)	12-22-2011	Repeal	2-1-2012
407-014-0300(T)	2-1-2012	Repeal	3-1-2012	409-055-0000	3-1-2012	Amend	4-1-2012
407-014-0305	2-1-2012	Amend	3-1-2012	409-055-0000(T)	3-1-2012	Repeal	4-1-2012
407-014-0305(T)	2-1-2012	Repeal	3-1-2012	409-055-0010	3-1-2012	Amend	4-1-2012
407-014-0310	2-1-2012	Amend	3-1-2012	409-055-0010(T)	3-1-2012	Repeal	4-1-2012
407-014-0310(T)	2-1-2012	Repeal	3-1-2012	409-055-0020	3-1-2012	Amend	4-1-2012
407-014-0315	2-1-2012	Amend	3-1-2012	409-055-0020(T)	3-1-2012	Repeal	4-1-2012
407-014-0315(T)	2-1-2012	Repeal	3-1-2012	409-055-0030	3-1-2012	Amend	4-1-2012
407-014-0320	2-1-2012	Amend	3-1-2012	409-055-0030(T)	3-1-2012	Repeal	4-1-2012
407-014-0320(T)	2-1-2012	Repeal	3-1-2012	409-055-0040	3-1-2012	Amend	4-1-2012
407-043-0020	12-27-2011	Adopt	2-1-2012	409-055-0040(T)	3-1-2012	Repeal	4-1-2012
407-043-0020(T)	12-27-2011	Repeal	2-1-2012	409-055-0050	3-1-2012	Amend	4-1-2012
407-045-0250	12-5-2011	Amend	1-1-2012	409-055-0050(T)	3-1-2012	Repeal	4-1-2012
407-045-0260	12-5-2011	Amend	1-1-2012	409-055-0060	3-1-2012	Amend	4-1-2012
407-045-0280	12-5-2011	Amend	1-1-2012	409-055-0060(T)	3-1-2012	Repeal	4-1-2012
407-045-0290	12-5-2011	Amend	1-1-2012	409-055-0070	3-1-2012	Amend	4-1-2012
407-045-0320	12-5-2011	Amend	1-1-2012	409-055-0070(T)	3-1-2012	Repeal	4-1-2012
407-045-0400	12-1-2011	Amend	1-1-2012	409-055-0080	3-1-2012	Amend	4-1-2012
407-045-0400(T)	12-1-2011	Repeal	1-1-2012	409-055-0080(T)	3-1-2012	Repeal	4-1-2012
407-045-0410	12-1-2011	Repeal	1-1-2012	409-055-0090	3-1-2012	Adopt	4-1-2012
407-045-0420	12-1-2011	Repeal	1-1-2012	410-050-0861	1-1-2012	Amend(T)	2-1-2012
407-045-0430	12-1-2011	Repeal	1-1-2012	410-050-0861	3-1-2012	Amend	4-1-2012
407-045-0440	12-1-2011	Repeal	1-1-2012	410-050-0861(T)	3-1-2012	Repeal	4-1-2012
407-045-0450	12-1-2011	Repeal	1-1-2012	410-120-0000	1-1-2012	Amend	1-1-2012
407-045-0460	12-1-2011	Repeal	1-1-2012	410-120-0000	3-16-2012	Amend(T)	5-1-2012
407-045-0470	12-1-2011	Repeal	1-1-2012	410-120-0006	1-1-2012	Amend	1-1-2012
407-045-0480	12-1-2011	Repeal	1-1-2012	410-120-0006	1-13-2012	Amend(T)	2-1-2012
407-045-0490	12-1-2011	Repeal	1-1-2012	410-120-0006	1-26-2012	Amend(T)	3-1-2012
407-045-0500	12-1-2011	Repeal	1-1-2012	410-120-0006	1-31-2012	Amend(T)	3-1-2012
407-045-0510	12-1-2011	Repeal	1-1-2012	410-120-0006	2-1-2012	Amend(T)	3-1-2012
407-045-0520	12-1-2011	Repeal	1-1-2012	410-120-0006	3-1-2012	Amend(T)	4-1-2012

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410-120-0006	5-1-2012	Amend(T)	6-1-2012	410-122-0630	4-1-2012	Amend	5-1-2012
410-120-0006(T)	1-1-2012	Repeal	1-1-2012	410-122-0630(T)	1-1-2012	Repeal	2-1-2012
410-120-0006(T)	1-26-2012	Suspend	3-1-2012	410-122-0660	4-1-2012	Amend	5-1-2012
410-120-0006(T)	3-1-2012	Suspend	4-1-2012	410-123-1000	1-1-2012	Amend	2-1-2012
410-120-0006(T)	4-1-2012	Suspend	5-1-2012	410-123-1060	1-1-2012	Amend	2-1-2012
410-120-0006(T)	5-1-2012	Suspend	6-1-2012	410-123-1060	1-1-2012	Amend	2-1-2012
410-120-0030	4-1-2012	Amend	5-1-2012	410-123-1220	1-1-2012	Amend	2-1-2012
410-120-1160	1-1-2012	Amend	1-1-2012	410-123-1220	1-1-2012	Amend	2-1-2012
410-120-1200	1-1-2012	Amend	1-1-2012	410-123-1260	1-1-2012	Amend	2-1-2012
410-120-1210	1-1-2012	Amend	1-1-2012	410-123-1260	1-1-2012	Amend	2-1-2012
410-120-1295	3-22-2012	Amend	5-1-2012	410-123-1490	1-1-2012	Amend	2-1-2012
410-120-1295(T)	3-22-2012	Repeal	5-1-2012	410-123-1490	1-1-2012	Amend	2-1-2012
410-120-1340	1-1-2012	Amend	1-1-2012	410-125-0045	1-1-2012	Amend	1-1-2012
410-120-1340(T)	1-1-2012	Repeal	1-1-2012	410-125-0047	1-1-2012	Amend	1-1-2012
410-120-1510	1-1-2012	Amend	1-1-2012	410-125-0080	1-1-2012	Amend	1-1-2012
410-120-1860	2-1-2012	Amend(T)	3-1-2012	410-125-0085	1-1-2012	Amend	1-1-2012
410-120-1920	1-1-2012	Amend	1-1-2012	410-125-0140	1-1-2012	Amend	1-1-2012
410-120-1960	1-1-2012	Amend	1-1-2012	410-125-0195	1-1-2012	Amend(T)	2-1-2012
410-121-0000	1-1-2012	Amend	2-1-2012	410-125-0220	1-1-2012	Amend	1-1-2012
410-121-0030	1-1-2012	Amend	2-1-2012	410-125-0450	1-1-2012	Amend(T)	2-1-2012
410-121-0030	3-16-2012	Amend(T)	5-1-2012	410-127-0060	1-1-2012	Amend	1-1-2012
410-121-0030	4-9-2012	Amend	5-1-2012	410-130-0000	1-1-2012	Amend	2-1-2012
410-121-0030	5-14-2012	Amend	6-1-2012	410-130-0200	1-1-2012	Amend	2-1-2012
410-121-0030(T)	4-9-2012	Repeal	5-1-2012	410-130-0220	1-1-2012	Amend	2-1-2012
410-121-0032	1-1-2012	Amend	2-1-2012	410-130-0255	1-1-2012	Amend	2-1-2012
410-121-0033	3-16-2012	Amend(T)	5-1-2012	410-130-0368	1-1-2012	Amend	2-1-2012
410-121-0040	1-1-2012	Amend	2-1-2012	410-130-0595	1-1-2012	Amend	2-1-2012
410-121-0040	3-16-2012	Amend(T)	5-1-2012	410-130-0595(T)	1-1-2012	Repeal	2-1-2012
410-121-0040	4-9-2012	Amend	5-1-2012	410-131-0040	1-1-2012	Amend	1-1-2012
410-121-0040	4-20-2012	Amend(T)	6-1-2012	410-131-0060	1-1-2012	Repeal	1-1-2012
410-121-0040	5-14-2012	Amend(T)	6-1-2012	410-131-0080	1-1-2012	Amend	1-1-2012
410-121-0040(T)	4-9-2012	Repeal	5-1-2012	410-131-0100	1-1-2012	Amend	1-1-2012
410-121-0040(T)	5-14-2012	Suspend	6-1-2012	410-131-0120	1-1-2012	Amend	1-1-2012
410-121-0061	1-1-2012	Amend	2-1-2012	410-131-0140	1-1-2012	Repeal	1-1-2012
410-121-0100	3-16-2012	Amend(T)	5-1-2012	410-131-0160	1-1-2012	Amend	1-1-2012
410-121-0111	3-16-2012	Adopt(T)	5-1-2012	410-131-0180	1-1-2012	Repeal	1-1-2012
410-121-0146	1-1-2012	Amend	2-1-2012	410-131-0200	1-1-2012	Repeal	1-1-2012
410-121-0147	1-1-2012	Amend	2-1-2012	410-131-0270	1-1-2012	Repeal	1-1-2012
410-121-0160	1-1-2012	Amend	2-1-2012	410-131-0275	1-1-2012	Repeal	1-1-2012
410-121-0160(T)	1-1-2012	Repeal	2-1-2012	410-131-0280	1-1-2012	Repeal	1-1-2012
410-121-0185	1-1-2012	Amend	2-1-2012	410-140-0080	12-6-2011	Amend	1-1-2012
410-121-0190	1-1-2012	Amend	2-1-2012	410-140-0260	12-6-2011	Amend	1-1-2012
410-121-2000	3-13-2012	Amend	4-1-2012	410-140-0400	12-6-2011	Amend	1-1-2012
410-121-2005	3-13-2012	Amend	4-1-2012	410-141-0000	3-16-2012	Amend(T)	5-1-2012
410-121-2010	3-13-2012	Amend	4-1-2012	410-141-0070	11-21-2011	Amend(T)	1-1-2012
410-121-2020	3-13-2012	Amend	4-1-2012	410-141-0070	5-1-2012	Amend	6-1-2012
410-121-2030	3-13-2012	Amend	4-1-2012	410-141-0070(T)	5-1-2012	Repeal	6-1-2012
410-121-2050	3-13-2012	Amend	4-1-2012	410-141-0080	1-1-2012	Amend(T)	1-1-2012
410-121-2065	3-13-2012	Amend	4-1-2012	410-141-0080	5-1-2012	Amend	6-1-2012
410-122-0186	1-1-2012	Amend	2-1-2012	410-141-0080(T)	5-1-2012	Repeal	6-1-2012
410-122-0186(T)	1-1-2012	Repeal	2-1-2012	410-141-0264	2-7-2012	Amend(T)	3-1-2012
410-122-0188	1-1-2012	Adopt	2-1-2012	410-141-0420	1-1-2012	Amend(T)	2-1-2012
410-122-0340	4-1-2012	Amend	5-1-2012	410-141-0520	12-23-2011	Amend	2-1-2012
410-122-0520	1-1-2012	Amend	2-1-2012	410-141-0520	1-1-2012	Amend(T)	2-1-2012
410-122-0540	4-1-2012	Amend	5-1-2012	410-141-0520	4-1-2012	Amend(T)	5-1-2012



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410-141-0520(T)	12-23-2011	Repeal	2-1-2012	410-500-0030	1-31-2012	Adopt(T)	3-1-2012
410-141-0520(T)	4-1-2012	Suspend	5-1-2012	410-500-0040	1-31-2012	Adopt(T)	3-1-2012
410-141-0860	3-22-2012	Amend	5-1-2012	410-500-0050	1-31-2012	Adopt(T)	3-1-2012
410-141-0860(T)	3-22-2012	Repeal	5-1-2012	410-500-0060	1-31-2012	Adopt(T)	3-1-2012
410-141-3000	3-16-2012	Adopt(T)	5-1-2012	411-020-0002	6-1-2012	Amend(T)	7-1-2012
410-141-3010	3-16-2012	Adopt(T)	5-1-2012	411-020-0030	6-1-2012	Amend(T)	7-1-2012
410-141-3015	3-26-2012	Adopt(T)	5-1-2012	411-020-0085	6-1-2012	Amend(T)	7-1-2012
410-141-3020	3-26-2012	Adopt(T)	5-1-2012	411-020-0123	6-1-2012	Adopt(T)	7-1-2012
410-141-3030	3-26-2012	Adopt(T)	5-1-2012	411-020-0126	6-1-2012	Adopt(T)	7-1-2012
410-141-3050	3-26-2012	Adopt(T)	5-1-2012	411-030-0070	6-1-2012	Amend	7-1-2012
410-141-3060	3-26-2012	Adopt(T)	5-1-2012	411-030-0070(T)	6-1-2012	Repeal	7-1-2012
410-141-3070	3-26-2012	Adopt(T)	5-1-2012	411-040-0000	12-20-2011	Amend(T)	2-1-2012
410-141-3080	3-26-2012	Adopt(T)	5-1-2012	411-054-0005	5-1-2012	Amend	6-1-2012
410-141-3120	3-30-2012	Adopt(T)	5-1-2012	411-054-0005(T)	5-1-2012	Repeal	6-1-2012
410-141-3140	3-26-2012	Adopt(T)	5-1-2012	411-054-0013	5-1-2012	Amend	6-1-2012
410-141-3145	3-26-2012	Adopt(T)	5-1-2012	411-054-0013(T)	5-1-2012	Repeal	6-1-2012
410-141-3160	3-26-2012	Adopt(T)	5-1-2012	411-054-0016	5-1-2012	Amend	6-1-2012
410-141-3170	3-26-2012	Adopt(T)	5-1-2012	411-054-0016(T)	5-1-2012	Repeal	6-1-2012
410-141-3180	3-26-2012	Adopt(T)	5-1-2012	411-085-0010	4-10-2012	Amend	5-1-2012
410-141-3200	3-26-2012	Adopt(T)	5-1-2012	411-085-0015	4-10-2012	Amend	5-1-2012
410-141-3220	3-26-2012	Adopt(T)	5-1-2012	411-320-0020	1-1-2012	Amend	2-1-2012
410-141-3260	3-26-2012	Adopt(T)	5-1-2012	411-320-0080	1-1-2012	Amend	2-1-2012
410-141-3261	3-26-2012	Adopt(T)	5-1-2012	411-320-0090	12-28-2011	Amend	2-1-2012
410-141-3262	3-26-2012	Adopt(T)	5-1-2012	411-320-0090(T)	12-28-2011	Repeal	2-1-2012
410-141-3263	3-26-2012	Adopt(T)	5-1-2012	411-320-0110	12-28-2011	Amend	2-1-2012
410-141-3264	3-26-2012	Adopt(T)	5-1-2012	411-320-0110(T)	12-28-2011	Repeal	2-1-2012
410-141-3265	3-26-2012	Adopt(T)	5-1-2012	411-320-0175	1-1-2012	Amend(T)	2-1-2012
410-141-3266	3-26-2012	Adopt(T)	5-1-2012	411-320-0190	1-1-2012	Amend	2-1-2012
410-141-3268	3-26-2012	Adopt(T)	5-1-2012	411-323-0010	1-6-2012	Amend	2-1-2012
410-141-3270	3-26-2012	Adopt(T)	5-1-2012	411-323-0010(T)	1-6-2012	Repeal	2-1-2012
410-141-3280	3-26-2012	Adopt(T)	5-1-2012	411-323-0020	1-6-2012	Amend	2-1-2012
410-141-3300	3-26-2012	Adopt(T)	5-1-2012	411-323-0020(T)	1-6-2012	Repeal	2-1-2012
410-141-3320	3-26-2012	Adopt(T)	5-1-2012	411-323-0030	1-6-2012	Amend	2-1-2012
410-141-3340	3-20-2012	Adopt(T)	5-1-2012	411-323-0030(T)	1-6-2012	Repeal	2-1-2012
410-141-3345	3-20-2012	Adopt(T)	5-1-2012	411-323-0035	1-6-2012	Adopt	2-1-2012
410-141-3350	3-20-2012	Adopt(T)	5-1-2012	411-323-0035(T)	1-6-2012	Repeal	2-1-2012
410-141-3355	3-20-2012	Adopt(T)	5-1-2012	411-323-0040	1-6-2012	Amend	2-1-2012
410-141-3360	3-20-2012	Adopt(T)	5-1-2012	411-323-0040(T)	1-6-2012	Repeal	2-1-2012
410-141-3365	3-20-2012	Adopt(T)	5-1-2012	411-323-0050	1-6-2012	Amend	2-1-2012
410-141-3370	3-20-2012	Adopt(T)	5-1-2012	411-323-0050(T)	1-6-2012	Repeal	2-1-2012
410-141-3375	3-20-2012	Adopt(T)	5-1-2012	411-323-0060	1-6-2012	Amend	2-1-2012
410-141-3380	3-20-2012	Adopt(T)	5-1-2012	411-323-0060(T)	1-6-2012	Repeal	2-1-2012
410-141-3385	3-20-2012	Adopt(T)	5-1-2012	411-323-0070	1-6-2012	Amend	2-1-2012
410-141-3390	3-20-2012	Adopt(T)	5-1-2012	411-323-0070(T)	1-6-2012	Repeal	2-1-2012
410-141-3395	3-20-2012	Adopt(T)	5-1-2012	411-325-0020	1-6-2012	Amend	2-1-2012
410-141-3420	3-26-2012	Adopt(T)	5-1-2012	411-325-0020(T)	1-6-2012	Repeal	2-1-2012
410-142-0020	1-1-2012	Amend	1-1-2012	411-325-0025	1-6-2012	Adopt	2-1-2012
410-142-0040	1-1-2012	Amend	1-1-2012	411-325-0025(T)	1-6-2012	Repeal	2-1-2012
410-146-0020	3-22-2012	Amend	5-1-2012	411-325-0060	1-6-2012	Amend	2-1-2012
410-146-0020(T)	3-22-2012	Repeal	5-1-2012	411-325-0060(T)	1-6-2012	Repeal	2-1-2012
410-147-0362	3-22-2012	Amend	5-1-2012	411-325-0080	1-6-2012	Repeal	2-1-2012
410-147-0362(T)	3-22-2012	Repeal	5-1-2012	411-325-0100	1-6-2012	Repeal	2-1-2012
410-148-0060	1-1-2012	Amend	1-1-2012	411-325-0110	1-6-2012	Amend	2-1-2012
410-500-0000	1-31-2012	Adopt(T)	3-1-2012	411-325-0150	1-6-2012	Amend	2-1-2012
410-500-0010	1-31-2012	Adopt(T)	3-1-2012	411-325-0160	1-6-2012	Repeal	2-1-2012
410-500-0020	1-31-2012	Adopt(T)	3-1-2012	411-325-0210	1-6-2012	Repeal	2-1-2012

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411-325-0310	1-6-2012	Repeal	2-1-2012	411-340-0130	12-28-2011	Amend	2-1-2012
411-325-0320	1-6-2012	Amend	2-1-2012	411-340-0140	12-28-2011	Amend	2-1-2012
411-325-0320(T)	1-6-2012	Repeal	2-1-2012	411-340-0150	12-28-2011	Amend	2-1-2012
411-325-0430	1-6-2012	Amend	2-1-2012	411-345-0010	1-6-2012	Amend	2-1-2012
411-325-0450	1-6-2012	Repeal	2-1-2012	411-345-0010(T)	1-6-2012	Repeal	2-1-2012
411-325-0460	1-6-2012	Amend	2-1-2012	411-345-0020	1-6-2012	Amend	2-1-2012
411-325-0460(T)	1-6-2012	Repeal	2-1-2012	411-345-0020(T)	1-6-2012	Repeal	2-1-2012
411-328-0560	1-6-2012	Amend	2-1-2012	411-345-0030	1-6-2012	Amend	2-1-2012
411-328-0560(T)	1-6-2012	Repeal	2-1-2012	411-345-0030(T)	1-6-2012	Repeal	2-1-2012
411-328-0570	1-6-2012	Amend	2-1-2012	411-345-0050	1-6-2012	Amend	2-1-2012
411-328-0570(T)	1-6-2012	Repeal	2-1-2012	411-345-0050(T)	1-6-2012	Repeal	2-1-2012
411-328-0580	1-6-2012	Repeal	2-1-2012	411-345-0080	1-6-2012	Repeal	2-1-2012
411-328-0590	1-6-2012	Repeal	2-1-2012	411-345-0090	1-6-2012	Amend	2-1-2012
411-328-0600	1-6-2012	Repeal	2-1-2012	411-345-0100	1-6-2012	Amend	2-1-2012
411-328-0610	1-6-2012	Repeal	2-1-2012	411-345-0100(T)	1-6-2012	Repeal	2-1-2012
411-328-0620	1-6-2012	Amend	2-1-2012	411-345-0110	1-6-2012	Amend	2-1-2012
411-328-0630	1-6-2012	Amend	2-1-2012	411-345-0110(T)	1-6-2012	Repeal	2-1-2012
411-328-0630(T)	1-6-2012	Repeal	2-1-2012	411-345-0130	1-6-2012	Amend	2-1-2012
411-328-0670	1-6-2012	Repeal	2-1-2012	411-345-0130(T)	1-6-2012	Repeal	2-1-2012
411-328-0730	1-6-2012	Repeal	2-1-2012	411-345-0190	1-6-2012	Amend	2-1-2012
411-328-0740	1-6-2012	Amend	2-1-2012	411-345-0190(T)	1-6-2012	Repeal	2-1-2012
411-328-0740(T)	1-6-2012	Repeal	2-1-2012	411-360-0130	12-1-2011	Amend(T)	1-1-2012
411-328-0805	1-6-2012	Repeal	2-1-2012	411-360-0130	5-29-2012	Amend	7-1-2012
411-328-0810	1-6-2012	Repeal	2-1-2012	411-360-0130(T)	5-29-2012	Repeal	7-1-2012
411-328-0820	1-6-2012	Repeal	2-1-2012	411-360-0170	12-1-2011	Amend(T)	1-1-2012
411-328-0830	1-6-2012	Repeal	2-1-2012	411-360-0170	12-30-2011	Amend(T)	2-1-2012
411-335-0010	1-6-2012	Amend	2-1-2012	411-360-0170	5-29-2012	Amend	7-1-2012
411-335-0010(T)	1-6-2012	Repeal	2-1-2012	411-360-0170(T)	12-30-2011	Suspend	2-1-2012
411-335-0020	1-6-2012	Amend	2-1-2012	411-360-0170(T)	5-29-2012	Repeal	7-1-2012
411-335-0020(T)	1-6-2012	Repeal	2-1-2012	411-360-0180	5-29-2012	Amend	7-1-2012
411-335-0030	1-6-2012	Amend	2-1-2012	411-360-0190	12-1-2011	Amend(T)	1-1-2012
411-335-0030(T)	1-6-2012	Repeal	2-1-2012	411-360-0190	12-30-2011	Amend(T)	2-1-2012
411-335-0050	1-6-2012	Repeal	2-1-2012	411-360-0190	5-29-2012	Amend	7-1-2012
411-335-0060	1-6-2012	Amend	2-1-2012	411-360-0190(T)	12-30-2011	Suspend	2-1-2012
411-335-0060(T)	1-6-2012	Repeal	2-1-2012	411-360-0190(T)	5-29-2012	Repeal	7-1-2012
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

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413-010-0720	4-4-2012	Amend	5-1-2012	413-130-0020	12-28-2011	Amend	2-1-2012
413-010-0721	4-4-2012	Amend	5-1-2012	413-130-0030	12-28-2011	Am. & Ren.	2-1-2012
413-010-0722	4-4-2012	Amend	5-1-2012	413-130-0040	12-28-2011	Amend	2-1-2012
413-010-0723	4-4-2012	Amend	5-1-2012	413-130-0045	12-28-2011	Repeal	2-1-2012
413-010-0732	4-4-2012	Amend	5-1-2012	413-130-0050	12-28-2011	Amend	2-1-2012
413-010-0735	4-4-2012	Amend	5-1-2012	413-130-0055	12-28-2011	Adopt	2-1-2012
413-010-0738	4-4-2012	Amend	5-1-2012	413-130-0060	12-28-2011	Repeal	2-1-2012
413-010-0740	4-4-2012	Amend	5-1-2012	413-130-0070	12-28-2011	Amend	2-1-2012
413-010-0743	4-4-2012	Amend	5-1-2012	413-130-0075	12-28-2011	Amend	2-1-2012
413-010-0745	4-4-2012	Amend	5-1-2012	413-130-0080	12-28-2011	Amend	2-1-2012
413-010-0746	4-4-2012	Amend	5-1-2012	413-130-0090	12-28-2011	Amend	2-1-2012
413-010-0748	4-4-2012	Amend	5-1-2012	413-130-0100	12-28-2011	Amend	2-1-2012
413-010-0750	4-4-2012	Amend	5-1-2012	413-130-0110	12-28-2011	Amend	2-1-2012
413-015-0470	3-12-2012	Amend(T)	4-1-2012	413-130-0115	12-28-2011	Repeal	2-1-2012
413-020-0200	12-28-2011	Amend	2-1-2012	413-130-0125	12-28-2011	Amend	2-1-2012
413-020-0210	12-28-2011	Amend	2-1-2012	413-130-0130	12-28-2011	Amend	2-1-2012
413-020-0230	12-28-2011	Amend	2-1-2012	413-200-0270	12-28-2011	Amend	2-1-2012
413-020-0233	12-28-2011	Amend	2-1-2012	413-200-0272	12-28-2011	Amend	2-1-2012
413-020-0236	12-28-2011	Amend	2-1-2012	413-200-0274	12-28-2011	Amend	2-1-2012
413-020-0240	12-28-2011	Amend	2-1-2012	413-200-0276	12-28-2011	Amend	2-1-2012
413-020-0245	12-28-2011	Amend	2-1-2012	413-200-0278	12-28-2011	Amend	2-1-2012
413-020-0255	12-28-2011	Amend	2-1-2012	413-200-0281	12-28-2011	Amend	2-1-2012
413-070-0063	12-28-2011	Amend	2-1-2012	413-200-0283	12-28-2011	Amend	2-1-2012
413-070-0900	12-28-2011	Amend	2-1-2012	413-200-0285	12-28-2011	Amend	2-1-2012
413-070-0905	12-28-2011	Amend	2-1-2012	413-200-0287	12-28-2011	Amend	2-1-2012
413-070-0909	12-28-2011	Amend	2-1-2012	413-200-0289	12-28-2011	Amend	2-1-2012
413-070-0917	12-28-2011	Amend	2-1-2012	413-200-0292	12-28-2011	Amend	2-1-2012
413-070-0919	12-28-2011	Amend	2-1-2012	413-200-0294	12-28-2011	Amend	2-1-2012
413-070-0925	12-28-2011	Amend	2-1-2012	413-200-0296	12-28-2011	Amend	2-1-2012
413-070-0929	12-28-2011	Repeal	2-1-2012	413-200-0301	12-28-2011	Amend	2-1-2012
413-070-0934	12-28-2011	Amend	2-1-2012	413-200-0305	12-28-2011	Amend	2-1-2012
413-070-0939	12-28-2011	Amend	2-1-2012	413-200-0306	12-28-2011	Amend	2-1-2012
413-070-0944	12-28-2011	Amend	2-1-2012	413-200-0308	12-28-2011	Amend	2-1-2012
413-070-0949	12-28-2011	Amend	2-1-2012	413-200-0314	12-28-2011	Amend	2-1-2012
413-070-0959	12-28-2011	Amend	2-1-2012	413-200-0335	12-28-2011	Amend	2-1-2012
413-070-0964	12-28-2011	Amend	2-1-2012	413-200-0348	12-28-2011	Amend	2-1-2012
413-070-0969	12-28-2011	Amend	2-1-2012	413-200-0352	12-28-2011	Amend	2-1-2012
413-070-0970	12-28-2011	Amend	2-1-2012	413-200-0354	12-28-2011	Amend	2-1-2012
413-070-0974	12-28-2011	Amend	2-1-2012	413-200-0358	12-28-2011	Amend	2-1-2012
413-070-0979	12-28-2011	Repeal	2-1-2012	413-200-0362	12-28-2011	Amend	2-1-2012
413-100-0135	12-28-2011	Amend	2-1-2012	413-200-0371	12-28-2011	Amend	2-1-2012
413-100-0150	12-28-2011	Amend	2-1-2012	413-200-0377	12-28-2011	Amend	2-1-2012
413-100-0900	12-28-2011	Amend	2-1-2012	413-200-0379	12-28-2011	Amend	2-1-2012
413-100-0905	12-28-2011	Amend	2-1-2012	413-200-0383	12-28-2011	Amend	2-1-2012
413-100-0910	12-28-2011	Amend	2-1-2012	413-200-0386	12-28-2011	Amend	2-1-2012
413-100-0915	12-28-2011	Amend	2-1-2012	413-200-0388	12-28-2011	Amend	2-1-2012
413-100-0920	12-28-2011	Amend	2-1-2012	413-200-0390	12-28-2011	Amend	2-1-2012
413-100-0925	12-28-2011	Amend	2-1-2012	413-200-0393	12-28-2011	Amend	2-1-2012
413-100-0930	12-28-2011	Amend	2-1-2012	413-200-0394	12-28-2011	Amend	2-1-2012
413-100-0940	12-28-2011	Amend	2-1-2012	413-200-0395	12-28-2011	Amend	2-1-2012
413-120-0420	12-28-2011	Amend(T)	2-1-2012	413-200-0396	12-28-2011	Amend	2-1-2012
413-120-0460	12-28-2011	Amend(T)	2-1-2012	413-200-0404	1-3-2012	Amend	2-1-2012
413-120-0470	12-28-2011	Suspend	2-1-2012	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

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413-200-0414(T)	1-3-2012	Repeal	2-1-2012	416-115-0160	12-14-2011	Repeal	1-1-2012
413-200-0419	1-3-2012	Amend	2-1-2012	416-115-0170	12-14-2011	Repeal	1-1-2012
413-200-0419(T)	1-3-2012	Repeal	2-1-2012	416-115-0180	12-14-2011	Repeal	1-1-2012
413-200-0424	1-3-2012	Amend	2-1-2012	416-115-0190	12-14-2011	Repeal	1-1-2012
413-200-0424(T)	1-3-2012	Repeal	2-1-2012	416-115-0200	12-14-2011	Repeal	1-1-2012
414-205-0100	6-12-2012	Amend(T)	7-1-2012	416-115-0210	12-14-2011	Repeal	1-1-2012
414-300-0230	6-12-2012	Amend(T)	7-1-2012	416-115-0220	12-14-2011	Repeal	1-1-2012
414-350-0180	6-12-2012	Amend(T)	7-1-2012	416-115-0230	12-14-2011	Repeal	1-1-2012
415-056-0000	2-9-2012	Repeal	3-1-2012	416-115-0240	12-14-2011	Repeal	1-1-2012
415-056-0005	2-9-2012	Repeal	3-1-2012	416-115-0250	12-14-2011	Repeal	1-1-2012
415-056-0010	2-9-2012	Repeal	3-1-2012	416-115-0260	12-14-2011	Repeal	1-1-2012
415-056-0015	2-9-2012	Repeal	3-1-2012	416-115-0270	12-14-2011	Repeal	1-1-2012
415-056-0020	2-9-2012	Repeal	3-1-2012	416-115-0280	12-14-2011	Repeal	1-1-2012
415-056-0025	2-9-2012	Repeal	3-1-2012	416-170-0000	2-3-2012	Amend	3-1-2012
415-056-0030	2-9-2012	Adopt	3-1-2012	416-170-0005	2-3-2012	Amend	3-1-2012
415-056-0035	2-9-2012	Adopt	3-1-2012	416-170-0010	2-3-2012	Amend	3-1-2012
415-056-0040	2-9-2012	Adopt	3-1-2012	416-170-0020	2-3-2012	Amend	3-1-2012
415-056-0045	2-9-2012	Adopt	3-1-2012	416-170-0030	2-3-2012	Amend	3-1-2012
415-056-0050	2-9-2012	Adopt	3-1-2012	416-410-0010	4-3-2012	Amend	5-1-2012
415-065-0010	2-9-2012	Amend	3-1-2012	416-450-0000	4-3-2012	Amend	5-1-2012
415-065-0015	2-9-2012	Amend	3-1-2012	416-450-0010	4-3-2012	Amend	5-1-2012
415-065-0025	2-9-2012	Amend	3-1-2012	416-450-0020	4-3-2012	Amend	5-1-2012
415-065-0030	2-9-2012	Amend	3-1-2012	416-450-0030	4-3-2012	Amend	5-1-2012
415-065-0035	2-9-2012	Amend	3-1-2012	416-450-0040	4-3-2012	Amend	5-1-2012
415-065-0040	2-9-2012	Amend	3-1-2012	416-450-0050	4-3-2012	Amend	5-1-2012
415-065-0045	2-9-2012	Amend	3-1-2012	416-450-0060	4-3-2012	Amend	5-1-2012
415-065-0050	2-9-2012	Amend	3-1-2012	416-450-0070	4-3-2012	Amend	5-1-2012
415-065-0055	2-9-2012	Amend	3-1-2012	423-010-0023	6-1-2012	Amend	7-1-2012
415-065-0060	2-9-2012	Amend	3-1-2012	423-010-0026	6-1-2012	Amend	7-1-2012
415-065-0065	2-9-2012	Amend	3-1-2012	436-001-0003	7-1-2012	Amend(T)	7-1-2012
416-100-0000	4-3-2012	Amend	5-1-2012	436-001-0410	7-1-2012	Amend(T)	7-1-2012
416-100-0005	4-3-2012	Amend	5-1-2012	436-009-0003	4-1-2012	Amend	4-1-2012
416-100-0010	4-3-2012	Amend	5-1-2012	436-009-0004	4-1-2012	Amend	4-1-2012
416-100-0020	4-3-2012	Amend	5-1-2012	436-009-0010	4-1-2012	Amend	4-1-2012
416-100-0030	4-3-2012	Amend	5-1-2012	436-009-0022	4-1-2012	Repeal	4-1-2012
416-100-0040	4-3-2012	Amend	5-1-2012	436-009-0030	4-1-2012	Amend	4-1-2012
416-100-0050	4-3-2012	Amend	5-1-2012	436-009-0040	4-1-2012	Amend	4-1-2012
416-100-0060	4-3-2012	Amend	5-1-2012	436-009-0050	4-1-2012	Amend	4-1-2012
416-100-0070	4-3-2012	Repeal	5-1-2012	436-009-0060	4-1-2012	Amend	4-1-2012
416-115-0000	12-14-2011	Repeal	1-1-2012	436-009-0070	4-1-2012	Amend	4-1-2012
416-115-0010	12-14-2011	Amend	1-1-2012	436-009-0080	1-1-2012	Amend	1-1-2012
416-115-0020	12-14-2011	Amend	1-1-2012	436-009-0080	4-1-2012	Amend	4-1-2012
416-115-0025	12-14-2011	Adopt	1-1-2012	436-009-0080	4-23-2012	Amend(T)	5-1-2012
416-115-0030	12-14-2011	Amend	1-1-2012	436-009-0090	4-1-2012	Amend	4-1-2012
416-115-0040	12-14-2011	Repeal	1-1-2012	436-009-0110	4-1-2012	Amend	4-1-2012
416-115-0050	12-14-2011	Repeal	1-1-2012	436-009-0115	4-1-2012	Amend	4-1-2012
416-115-0060	12-14-2011	Repeal	1-1-2012	436-009-0120	4-1-2012	Amend	4-1-2012
416-115-0070	12-14-2011	Repeal	1-1-2012	436-009-0125	4-1-2012	Amend	4-1-2012
416-115-0080	12-14-2011	Repeal	1-1-2012	436-009-0130	4-1-2012	Amend	4-1-2012
416-115-0090	12-14-2011	Repeal	1-1-2012	436-009-0135	4-1-2012	Amend	4-1-2012
416-115-0100	12-14-2011	Repeal	1-1-2012	436-009-0140	4-1-2012	Amend	4-1-2012
416-115-0110	12-14-2011	Repeal	1-1-2012	436-009-0145	4-1-2012	Amend	4-1-2012
416-115-0120	12-14-2011	Repeal	1-1-2012	436-009-0150	4-1-2012	Repeal	4-1-2012
416-115-0130	12-14-2011	Repeal	1-1-2012	436-009-0155	4-1-2012	Amend	4-1-2012
416-115-0140	12-14-2011	Repeal	1-1-2012	436-009-0160	4-1-2012	Amend	4-1-2012

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436-009-0170	4-1-2012	Amend	4-1-2012	437-001-0400	7-1-2012	Amend	6-1-2012
436-009-0175	4-1-2012	Amend	4-1-2012	437-001-0405	7-1-2012	Amend	6-1-2012
436-009-0177	4-1-2012	Adopt	4-1-2012	437-001-0410	7-1-2012	Amend	6-1-2012
436-009-0180	4-1-2012	Amend	4-1-2012	437-001-0411	7-1-2012	Amend	6-1-2012
436-009-0185	4-1-2012	Amend	4-1-2012	437-001-0415	7-1-2012	Amend	6-1-2012
436-009-0200	4-1-2012	Amend	4-1-2012	437-001-0420	7-1-2012	Amend	6-1-2012
436-009-0205	4-1-2012	Amend	4-1-2012	437-001-0430	7-1-2012	Amend	6-1-2012
436-009-0206	4-1-2012	Amend	4-1-2012	437-001-0435	7-1-2012	Amend	6-1-2012
436-009-0207	4-1-2012	Amend	4-1-2012	437-001-0760	7-1-2012	Amend	6-1-2012
436-009-0210	4-1-2012	Amend	4-1-2012	437-002-0005	12-8-2011	Amend	1-1-2012
436-009-0215	4-1-2012	Amend	4-1-2012	437-002-0080	4-10-2012	Amend	5-1-2012
436-009-0220	4-1-2012	Amend	4-1-2012	437-002-0100	4-10-2012	Amend	5-1-2012
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

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437-003-0001	4-10-2012	Amend	5-1-2012	442-010-0065	12-22-2011	Repeal	2-1-2012
437-003-0001	7-1-2012	Amend	1-1-2012	442-010-0070	12-22-2011	Amend	2-1-2012
437-003-0015	12-8-2011	Amend	1-1-2012	442-010-0075	12-22-2011	Amend	2-1-2012
437-003-0062	7-1-2012	Adopt	1-1-2012	442-010-0075(T)	12-22-2011	Repeal	2-1-2012
437-003-0096	12-8-2011	Amend	1-1-2012	442-010-0080	12-22-2011	Amend	2-1-2012
437-003-0875	4-10-2012	Amend	5-1-2012	442-010-0085	12-22-2011	Amend	2-1-2012
437-003-1101	7-1-2012	Adopt	1-1-2012	442-010-0090	12-22-2011	Amend	2-1-2012
437-003-1127	7-1-2012	Adopt	1-1-2012	442-010-0100	12-22-2011	Amend	2-1-2012
437-003-3060	7-1-2012	Adopt	1-1-2012	442-010-0110	12-22-2011	Amend	2-1-2012
437-004-1110	12-8-2011	Amend	1-1-2012	442-010-0120	12-22-2011	Amend	2-1-2012
437-005-0001	12-8-2011	Amend	1-1-2012	442-010-0160	12-22-2011	Amend	2-1-2012
437-005-0001	4-10-2012	Amend	5-1-2012	442-010-0170	12-22-2011	Amend	2-1-2012
437-005-0002	12-8-2011	Amend	1-1-2012	442-010-0180	12-22-2011	Amend	2-1-2012
437-005-0003	12-8-2011	Amend	1-1-2012	442-010-0190	12-22-2011	Amend	2-1-2012
441-505-3046	12-15-2011	Amend(T)	1-1-2012	442-010-0200	12-22-2011	Repeal	2-1-2012
441-674-0005	1-1-2012	Repeal	2-1-2012	442-010-0210	12-22-2011	Amend	2-1-2012
441-674-0100	1-1-2012	Repeal	2-1-2012	442-010-0215	12-22-2011	Amend	2-1-2012
441-674-0120	1-1-2012	Repeal	2-1-2012	442-010-0220	12-22-2011	Amend	2-1-2012
441-674-0130	1-1-2012	Repeal	2-1-2012	442-010-0230	12-22-2011	Amend	2-1-2012
441-674-0140	1-1-2012	Repeal	2-1-2012	442-010-0240	12-22-2011	Amend	2-1-2012
441-674-0210	1-1-2012	Repeal	2-1-2012	442-010-0250	12-22-2011	Repeal	2-1-2012
441-674-0220	1-1-2012	Repeal	2-1-2012	442-010-0260	12-22-2011	Amend	2-1-2012
441-674-0230	1-1-2012	Repeal	2-1-2012	443-002-0070	2-6-2012	Amend	3-1-2012
441-674-0240	1-1-2012	Repeal	2-1-2012	443-002-0190	2-6-2012	Amend	3-1-2012
441-674-0250	1-1-2012	Repeal	2-1-2012	459-001-0025	3-28-2012	Amend	5-1-2012
441-674-0310	1-1-2012	Repeal	2-1-2012	459-005-0001	2-1-2012	Amend	3-1-2012
441-674-0510	1-1-2012	Repeal	2-1-2012	459-005-0525	2-1-2012	Amend	3-1-2012
441-674-0520	1-1-2012	Repeal	2-1-2012	459-005-0545	2-1-2012	Amend	3-1-2012
441-674-0910	1-1-2012	Repeal	2-1-2012	459-005-0615	3-28-2012	Adopt	5-1-2012
441-674-0915	1-1-2012	Repeal	2-1-2012	459-005-0620	11-22-2011	Adopt(T)	1-1-2012
441-674-0920	1-1-2012	Repeal	2-1-2012	459-005-0620	2-1-2012	Adopt	3-1-2012
441-710-0540	12-15-2011	Amend(T)	1-1-2012	459-007-0005	5-24-2012	Amend	7-1-2012
441-730-0246	12-15-2011	Amend(T)	1-1-2012	459-007-0090	3-28-2012	Amend	5-1-2012
441-830-0010	11-23-2011	Repeal	1-1-2012	459-007-0270	3-28-2012	Amend	5-1-2012
441-830-0015	11-23-2011	Repeal	1-1-2012	459-010-0005	11-23-2011	Repeal	1-1-2012
441-830-0020	11-23-2011	Repeal	1-1-2012	459-013-0310	3-28-2012	Adopt	5-1-2012
441-830-0030	11-23-2011	Repeal	1-1-2012	459-013-0320	3-28-2012	Adopt	5-1-2012
441-830-0040	11-23-2011	Repeal	1-1-2012	459-014-0030	2-1-2012	Amend	3-1-2012
441-850-0042	12-15-2011	Amend(T)	1-1-2012	459-014-0040	2-1-2012	Adopt	3-1-2012
441-880-0005	11-23-2011	Adopt	1-1-2012	459-014-0050	2-1-2012	Adopt	3-1-2012
441-880-0006	11-23-2011	Adopt	1-1-2012	459-015-0005	11-23-2011	Amend	1-1-2012
441-880-0007	11-23-2011	Adopt	1-1-2012	459-017-0060	3-28-2012	Amend	5-1-2012
441-880-0008	11-23-2011	Adopt	1-1-2012	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

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459-050-0150	5-24-2012	Amend	7-1-2012	461-135-0070	5-1-2012	Amend(T)	6-1-2012
459-050-0200	5-24-2012	Amend	7-1-2012	461-135-0075	4-1-2012	Amend	5-1-2012
459-050-0210	5-24-2012	Amend	7-1-2012	461-135-0075	5-1-2012	Amend(T)	6-1-2012
459-050-0230	5-24-2012	Amend	7-1-2012	461-135-0075(T)	4-1-2012	Repeal	5-1-2012
459-050-0250	5-24-2012	Amend	7-1-2012	461-135-0089	1-1-2012	Amend	2-1-2012
459-050-0300	5-24-2012	Amend	7-1-2012	461-135-0089(T)	1-1-2012	Repeal	2-1-2012
459-060-0020	11-23-2011	Amend	1-1-2012	461-135-0475	12-29-2011	Amend	2-1-2012
459-075-0060	2-1-2012	Amend	3-1-2012	461-135-0485	1-1-2012	Adopt	2-1-2012
459-076-0005	11-23-2011	Amend	1-1-2012	461-135-0485(T)	1-1-2012	Repeal	2-1-2012
459-080-0010	2-1-2012	Amend	3-1-2012	461-135-0780	1-1-2012	Amend	2-1-2012
459-080-0500	3-28-2012	Amend	5-1-2012	461-135-0832	1-1-2012	Amend	2-1-2012
461-001-0000	5-1-2012	Amend(T)	6-1-2012	461-135-0845	1-1-2012	Amend	2-1-2012
461-001-0025	12-29-2011	Amend	2-1-2012	461-135-0950	1-1-2012	Amend	2-1-2012
461-025-0300	1-31-2012	Amend(T)	3-1-2012	461-135-0950(T)	1-1-2012	Repeal	2-1-2012
461-025-0310	1-31-2012	Amend(T)	3-1-2012	461-135-0960	1-1-2012	Repeal	2-1-2012
461-101-0010	4-1-2012	Amend	5-1-2012	461-135-0990	1-1-2012	Amend	2-1-2012
461-110-0340	5-1-2012	Amend(T)	6-1-2012	461-135-1100	1-1-2012	Amend(T)	2-1-2012
461-110-0530	5-1-2012	Amend(T)	6-1-2012	461-135-1100	4-1-2012	Amend	5-1-2012
461-110-0630	5-1-2012	Amend(T)	6-1-2012	461-135-1100(T)	4-1-2012	Repeal	5-1-2012
461-115-0016	1-1-2012	Adopt	2-1-2012	461-135-1110	1-1-2012	Suspend	2-1-2012
461-115-0016(T)	1-1-2012	Repeal	2-1-2012	461-135-1110	4-1-2012	Repeal	5-1-2012
461-115-0030	1-1-2012	Amend	2-1-2012	461-135-1175	6-8-2012	Suspend	7-1-2012
461-115-0030(T)	1-1-2012	Repeal	2-1-2012	461-135-1195	1-1-2012	Amend	2-1-2012
461-115-0050	1-1-2012	Amend	2-1-2012	461-135-1195(T)	1-1-2012	Repeal	2-1-2012
461-115-0050(T)	1-1-2012	Repeal	2-1-2012	461-135-1210	4-1-2012	Repeal	5-1-2012
461-115-0230	1-1-2012	Amend	2-1-2012	461-135-1250	4-12-2012	Amend(T)	5-1-2012
461-115-0230	2-29-2012	Amend(T)	4-1-2012	461-135-1250	4-13-2012	Amend(T)	5-1-2012
461-115-0230(T)	1-1-2012	Repeal	2-1-2012	461-135-1250(T)	4-13-2012	Suspend	5-1-2012
461-115-0690	1-1-2012	Amend	2-1-2012	461-135-1260	3-30-2012	Adopt	5-1-2012
461-115-0690(T)	1-1-2012	Repeal	2-1-2012	461-135-1260	5-1-2012	Amend(T)	6-1-2012
461-115-0705	1-1-2012	Amend(T)	2-1-2012	461-135-1260	5-24-2012	Amend(T)	7-1-2012
461-115-0705	4-1-2012	Amend	5-1-2012	461-135-1260(T)	5-24-2012	Suspend	7-1-2012
461-115-0705(T)	4-1-2012	Repeal	5-1-2012	461-145-0080	4-1-2012	Amend	5-1-2012
461-120-0010	4-1-2012	Amend	5-1-2012	461-145-0080(T)	4-1-2012	Repeal	5-1-2012
461-120-0030	4-1-2012	Amend	5-1-2012	461-145-0130	1-1-2012	Amend	2-1-2012
461-120-0050	4-1-2012	Amend	5-1-2012	461-145-0220	1-1-2012	Amend	2-1-2012
461-120-0110	4-1-2012	Amend	5-1-2012	461-145-0410	1-1-2012	Amend	2-1-2012
461-120-0120	4-1-2012	Repeal	5-1-2012	461-145-0410	1-1-2012	Amend(T)	2-1-2012
461-120-0125	4-1-2012	Amend	5-1-2012	461-145-0410	4-1-2012	Amend	5-1-2012
461-120-0130	4-1-2012	Amend	5-1-2012	461-145-0410(T)	1-1-2012	Repeal	2-1-2012
461-120-0210	4-1-2012	Amend	5-1-2012	461-145-0410(T)	4-1-2012	Repeal	5-1-2012
461-120-0315	4-1-2012	Amend	5-1-2012	461-145-0870	5-1-2012	Amend(T)	6-1-2012
461-120-0330	4-1-2012	Amend	5-1-2012	461-155-0030	1-26-2012	Amend(T)	3-1-2012
461-120-0340	4-1-2012	Amend	5-1-2012	461-155-0030	4-1-2012	Amend	5-1-2012
461-120-0340(T)	4-1-2012	Repeal	5-1-2012	461-155-0150	1-1-2012	Amend	2-1-2012
461-120-0350	4-1-2012	Amend	5-1-2012	461-155-0150	4-10-2012	Amend(T)	5-1-2012
461-120-0510	4-1-2012	Amend	5-1-2012	461-155-0180	1-25-2012	Amend	3-1-2012
461-120-0530	4-1-2012	Repeal	5-1-2012	461-155-0235	1-25-2012	Amend	3-1-2012
461-120-0630	4-1-2012	Amend	5-1-2012	461-155-0250	1-1-2012	Amend	2-1-2012
461-125-0170	5-1-2012	Amend(T)	6-1-2012	461-155-0250	2-1-2012	Amend(T)	3-1-2012
461-130-0327	12-29-2011	Amend	2-1-2012	461-155-0270	1-1-2012	Amend	2-1-2012
461-130-0330	1-1-2012	Amend	2-1-2012	461-155-0290	3-1-2012	Amend	4-1-2012
461-130-0330(T)	1-1-2012	Repeal	2-1-2012	461-155-0291	3-1-2012	Amend	4-1-2012
461-130-0335	1-1-2012	Amend	2-1-2012	461-155-0295	3-1-2012	Amend	4-1-2012
461-130-0335(T)	1-1-2012	Repeal	2-1-2012	461-155-0300	1-1-2012	Amend	2-1-2012
461-135-0010	1-13-2012	Amend(T)	2-1-2012	461-155-0320	1-1-2012	Amend	2-1-2012

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461-155-0320(T)	1-1-2012	Repeal	2-1-2012	471-040-0040	2-10-2012	Amend	3-1-2012
461-155-0360	1-1-2012	Amend	2-1-2012	471-040-0040(T)	2-10-2012	Repeal	3-1-2012
461-155-0500	4-1-2012	Amend	5-1-2012	471-040-0041	2-10-2012	Amend	3-1-2012
461-155-0528	1-1-2012	Repeal	2-1-2012	471-040-0041(T)	2-10-2012	Repeal	3-1-2012
461-155-0575	12-1-2011	Amend(T)	1-1-2012	571-050-0005	6-13-2012	Amend	7-1-2012
461-155-0575(T)	12-1-2011	Suspend	1-1-2012	571-060-0005	7-1-2012	Amend	7-1-2012
461-155-0693	1-1-2012	Repeal	2-1-2012	571-060-0005	7-1-2012	Amend(T)	7-1-2012
461-160-0015	1-1-2012	Amend	2-1-2012	573-040-0005	5-10-2012	Amend	6-1-2012
461-160-0015(T)	1-1-2012	Repeal	2-1-2012	573-050-0015	6-11-2012	Amend	7-1-2012
461-160-0120	5-1-2012	Amend(T)	6-1-2012	573-050-0025	6-11-2012	Amend	7-1-2012
461-160-0580	1-1-2012	Amend	2-1-2012	574-050-0005	1-27-2012	Amend	3-1-2012
461-160-0620	1-1-2012	Amend	2-1-2012	576-001-0060	12-27-2011	Adopt	2-1-2012
461-165-0035	2-27-2012	Amend(T)	4-1-2012	576-010-0000	12-27-2011	Amend	2-1-2012
461-170-0011	3-30-2012	Amend	5-1-2012	576-010-0000	7-1-2012	Amend	7-1-2012
461-170-0011	5-1-2012	Amend(T)	6-1-2012	576-015-0020	3-30-2012	Amend(T)	5-1-2012
461-175-0210	1-1-2012	Amend(T)	2-1-2012	576-015-0020	5-9-2012	Amend	6-1-2012
461-175-0290	1-1-2012	Amend	2-1-2012	576-024-0000	3-30-2012	Amend(T)	5-1-2012
461-180-0050	1-1-2012	Amend	2-1-2012	576-024-0000	5-9-2012	Amend	6-1-2012
461-180-0050(T)	1-1-2012	Repeal	2-1-2012	576-030-0015	7-1-2012	Amend	7-1-2012
461-180-0070	1-1-2012	Amend	2-1-2012	576-030-0020	7-1-2012	Amend	7-1-2012
461-180-0070(T)	1-1-2012	Repeal	2-1-2012	576-030-0040	7-1-2012	Amend	7-1-2012
461-180-0085	1-1-2012	Amend	2-1-2012	576-030-0045	7-1-2012	Amend	7-1-2012
461-180-0130	12-27-2011	Amend	2-1-2012	576-030-0050	7-1-2012	Amend	7-1-2012
461-180-0130	12-27-2011	Amend(T)	2-1-2012	576-030-0055	7-1-2012	Amend	7-1-2012
461-180-0130	4-1-2012	Amend	5-1-2012	576-030-0060	7-1-2012	Amend	7-1-2012
461-180-0130	5-24-2012	Amend(T)	7-1-2012	576-030-0070	7-1-2012	Amend	7-1-2012
461-180-0130(T)	4-1-2012	Repeal	5-1-2012	576-040-0010	12-27-2011	Amend	2-1-2012
461-190-0211	4-6-2012	Amend	5-1-2012	576-040-0012	12-27-2011	Amend	2-1-2012
461-190-0211	4-6-2012	Amend(T)	5-1-2012	576-040-0015	12-27-2011	Amend	2-1-2012
461-190-0211	5-23-2012	Amend(T)	7-1-2012	576-040-0025	12-27-2011	Repeal	2-1-2012
461-190-0211(T)	4-6-2012	Repeal	5-1-2012	576-040-0030	12-27-2011	Repeal	2-1-2012
461-190-0211(T)	5-23-2012	Suspend	7-1-2012	576-040-0035	12-27-2011	Repeal	2-1-2012
462-120-0050	6-1-2012	Amend	7-1-2012	576-065-0000	3-30-2012	Amend(T)	5-1-2012
462-120-0100	6-1-2012	Amend	7-1-2012	576-065-0000	5-9-2012	Amend	6-1-2012
462-130-0010	6-1-2012	Amend	7-1-2012	576-065-0010	3-30-2012	Amend(T)	5-1-2012
462-160-0130	5-21-2012	Amend(T)	7-1-2012	576-065-0010	5-9-2012	Amend	6-1-2012
462-210-0010	6-1-2012	Amend	7-1-2012	577-031-0135	3-12-2012	Amend(T)	4-1-2012
462-210-0020	6-1-2012	Amend	7-1-2012	579-020-0006	12-1-2011	Amend(T)	1-1-2012
462-210-0030	6-1-2012	Amend	7-1-2012	579-020-0006	4-23-2012	Amend	6-1-2012
462-220-0010	6-1-2012	Amend	7-1-2012	579-030-0010	7-1-2012	Amend(T)	6-1-2012
462-220-0040	6-1-2012	Amend	7-1-2012	579-060-0190	6-8-2012	Amend(T)	7-1-2012
462-220-0050	6-1-2012	Amend	7-1-2012	580-020-0005	1-12-2012	Amend	2-1-2012
462-220-0080	6-1-2012	Amend	7-1-2012	580-022-0045	3-16-2012	Amend(T)	5-1-2012
462-220-0090	6-1-2012	Amend	7-1-2012	580-040-0030	3-16-2012	Amend(T)	5-1-2012
462-230-0010	6-1-2012	Adopt	7-1-2012	580-040-0035	1-12-2012	Amend	2-1-2012
462-230-0020	6-1-2012	Adopt	7-1-2012	581-001-0000	4-2-2012	Amend	5-1-2012
471-030-0053	12-5-2011	Amend	1-1-2012	581-001-0005	4-2-2012	Amend	5-1-2012
471-030-0053(T)	12-5-2011	Repeal	1-1-2012	581-015-2000	4-2-2012	Amend	5-1-2012
471-030-0080	3-5-2012	Amend	4-1-2012	581-015-2005	2-17-2012	Amend	4-1-2012
471-030-0080(T)	3-5-2012	Repeal	4-1-2012	581-015-2010	2-17-2012	Amend	4-1-2012
471-030-0230	1-1-2012	Adopt(T)	2-1-2012	581-015-2040	2-17-2012	Amend	4-1-2012
471-030-0230	2-29-2012	Adopt(T)	4-1-2012	581-015-2075	2-17-2012	Amend	4-1-2012
471-030-0230(T)	2-29-2012	Suspend	4-1-2012	581-015-2080	2-17-2012	Amend	4-1-2012
471-031-0200	5-9-2012	Repeal	6-1-2012	581-015-2080	4-2-2012	Amend	5-1-2012
471-040-0010	2-10-2012	Amend	3-1-2012	581-015-2300	4-2-2012	Amend(T)	5-1-2012
471-040-0010(T)	2-10-2012	Repeal	3-1-2012	581-015-2300	6-11-2012	Amend	7-1-2012



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581-015-2570	12-15-2011	Amend	1-1-2012	581-022-1330	12-15-2011	Amend	1-1-2012
581-015-2571	12-15-2011	Amend	1-1-2012	581-022-1369	1-1-2012	Repeal	1-1-2012
581-015-2572	12-15-2011	Amend	1-1-2012	581-022-1680	1-1-2012	Repeal	1-1-2012
581-015-2573	12-15-2011	Amend	1-1-2012	581-022-1720	12-15-2011	Amend	1-1-2012
581-015-2574	12-15-2011	Amend	1-1-2012	581-022-1723	12-15-2011	Adopt	1-1-2012
581-015-2700	4-2-2012	Amend	5-1-2012	581-022-1724	12-15-2011	Adopt	1-1-2012
581-015-2712	4-2-2012	Adopt	5-1-2012	581-022-1725	12-15-2011	Adopt	1-1-2012
581-015-2713	4-2-2012	Adopt	5-1-2012	581-023-0012	1-1-2012	Repeal	1-1-2012
581-015-2730	4-2-2012	Amend	5-1-2012	581-023-0040	12-15-2011	Amend	1-1-2012
581-015-2770	4-2-2012	Amend(T)	5-1-2012	581-023-0106	6-11-2012	Adopt	7-1-2012
581-015-2770	6-11-2012	Amend	7-1-2012	581-023-0110	1-1-2012	Repeal	1-1-2012
581-015-2770(T)	6-11-2012	Repeal	7-1-2012	581-023-0112	1-1-2012	Amend	1-1-2012
581-015-2774	4-2-2012	Adopt	5-1-2012	581-040-0000	12-15-2011	Repeal	1-1-2012
581-015-2775	4-2-2012	Amend	5-1-2012	581-044-0080	12-15-2011	Repeal	1-1-2012
581-015-2780	4-2-2012	Amend	5-1-2012	581-044-0090	12-15-2011	Repeal	1-1-2012
581-015-2790	4-2-2012	Amend	5-1-2012	581-044-0100	12-15-2011	Repeal	1-1-2012
581-015-2805	4-2-2012	Amend	5-1-2012	581-044-0110	12-15-2011	Repeal	1-1-2012
581-015-2810	4-2-2012	Amend	5-1-2012	581-044-0120	12-15-2011	Repeal	1-1-2012
581-015-2815	4-2-2012	Amend	5-1-2012	581-044-0130	12-15-2011	Repeal	1-1-2012
581-015-2825	4-2-2012	Amend	5-1-2012	581-044-0140	12-15-2011	Repeal	1-1-2012
581-015-2830	4-2-2012	Amend	5-1-2012	581-044-0200	12-15-2011	Repeal	1-1-2012
581-015-2835	4-2-2012	Amend	5-1-2012	581-044-0210	4-2-2012	Adopt	5-1-2012
581-015-2840	4-2-2012	Amend	5-1-2012	581-044-0220	4-2-2012	Adopt	5-1-2012
581-015-2863	4-2-2012	Adopt	5-1-2012	581-044-0230	4-2-2012	Adopt	5-1-2012
581-015-2870	4-2-2012	Amend	5-1-2012	581-044-0240	4-2-2012	Adopt	5-1-2012
581-015-2885	4-2-2012	Amend	5-1-2012	581-044-0250	4-2-2012	Adopt	5-1-2012
581-015-2890	4-2-2012	Amend	5-1-2012	581-044-0260	4-2-2012	Adopt	5-1-2012
581-020-0334	12-15-2011	Amend	1-1-2012	581-045-0500	2-3-2012	Repeal	3-1-2012
581-020-0336	1-1-2012	Amend	1-1-2012	581-045-0505	2-3-2012	Repeal	3-1-2012
581-020-0339	12-15-2011	Repeal	1-1-2012	581-045-0510	2-3-2012	Repeal	3-1-2012
581-020-0342	12-15-2011	Adopt	1-1-2012	581-045-0515	2-3-2012	Repeal	3-1-2012
581-020-0342(T)	12-15-2011	Repeal	1-1-2012	581-045-0520	2-3-2012	Repeal	3-1-2012
581-020-0343	12-15-2011	Adopt	1-1-2012	581-045-0522	2-3-2012	Repeal	3-1-2012
581-020-0343(T)	12-15-2011	Repeal	1-1-2012	581-045-0525	2-3-2012	Repeal	3-1-2012
581-021-00032	1-1-2012	Repeal	1-1-2012	581-045-0530	2-3-2012	Repeal	3-1-2012
581-021-0019	2-3-2012	Amend	3-1-2012	581-045-0535	2-3-2012	Repeal	3-1-2012
581-021-0034	1-1-2012	Repeal	1-1-2012	581-045-0538	2-3-2012	Repeal	3-1-2012
581-021-0035	1-1-2012	Repeal	1-1-2012	581-045-0540	2-3-2012	Repeal	3-1-2012
581-021-0042	1-1-2012	Repeal	1-1-2012	581-045-0545	2-3-2012	Repeal	3-1-2012
581-021-0044	1-1-2012	Repeal	1-1-2012	581-045-0550	2-3-2012	Repeal	3-1-2012
581-021-0047	6-11-2012	Adopt	7-1-2012	581-045-0555	2-3-2012	Repeal	3-1-2012
581-021-0062	6-11-2012	Repeal	7-1-2012	581-045-0560	2-3-2012	Repeal	3-1-2012
581-021-0220	4-2-2012	Amend	5-1-2012	581-045-0565	2-3-2012	Repeal	3-1-2012
581-021-0255	1-1-2012	Amend	1-1-2012	581-045-0570	2-3-2012	Repeal	3-1-2012
581-021-0270	4-2-2012	Amend	5-1-2012	581-045-0580	2-3-2012	Repeal	3-1-2012
581-021-0500	2-3-2012	Amend	3-1-2012	581-045-0586	2-3-2012	Amend	3-1-2012
581-021-0550	5-1-2012	Adopt	5-1-2012	581-053-0002	6-14-2012	Amend	7-1-2012
581-021-0553	5-1-2012	Adopt	5-1-2012	581-053-0003	6-14-2012	Adopt	7-1-2012
581-021-0556	5-1-2012	Adopt	5-1-2012	581-053-0004	6-14-2012	Adopt	7-1-2012
581-021-0559	5-1-2012	Adopt	5-1-2012	581-053-0006	6-14-2012	Repeal	7-1-2012
581-021-0563	5-1-2012	Adopt	5-1-2012	581-053-0008	6-14-2012	Repeal	7-1-2012
581-021-0566	5-1-2012	Adopt	5-1-2012	581-053-0010	6-14-2012	Amend	7-1-2012
581-022-1060	1-1-2012	Amend	1-1-2012	581-053-0015	6-14-2012	Repeal	7-1-2012
581-022-1133	2-3-2012	Amend	3-1-2012	581-053-0021	6-14-2012	Adopt	7-1-2012
581-022-1134	2-3-2012	Amend	3-1-2012	581-053-0031	6-14-2012	Adopt	7-1-2012

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581-053-0050	6-14-2012	Adopt	7-1-2012	581-070-0050	12-15-2011	Repeal	1-1-2012
581-053-0060	6-14-2012	Adopt	7-1-2012	581-070-0060	12-15-2011	Repeal	1-1-2012
581-053-0070	6-14-2012	Adopt	7-1-2012	581-070-0070	12-15-2011	Repeal	1-1-2012
581-053-0100	6-14-2012	Adopt	7-1-2012	581-070-0080	12-15-2011	Repeal	1-1-2012
581-053-0110	6-14-2012	Adopt	7-1-2012	581-070-0090	12-15-2011	Repeal	1-1-2012
581-053-0120	6-14-2012	Adopt	7-1-2012	581-070-0110	12-15-2011	Repeal	1-1-2012
581-053-0130	6-14-2012	Adopt	7-1-2012	581-070-0130	12-15-2011	Repeal	1-1-2012
581-053-0135	6-14-2012	Adopt	7-1-2012	581-070-0140	12-15-2011	Repeal	1-1-2012
581-053-0140	6-14-2012	Adopt	7-1-2012	581-070-0150	12-15-2011	Repeal	1-1-2012
581-053-0145	6-14-2012	Adopt	7-1-2012	581-070-0170	12-15-2011	Repeal	1-1-2012
581-053-0150	6-14-2012	Adopt	7-1-2012	581-070-0180	12-15-2011	Repeal	1-1-2012
581-053-0160	6-14-2012	Adopt	7-1-2012	581-070-0190	12-15-2011	Repeal	1-1-2012
581-053-0170	6-14-2012	Adopt	7-1-2012	581-070-0200	12-15-2011	Repeal	1-1-2012
581-053-0180	6-14-2012	Adopt	7-1-2012	581-070-0210	12-15-2011	Repeal	1-1-2012
581-053-0210	6-14-2012	Adopt	7-1-2012	581-070-0220	12-15-2011	Repeal	1-1-2012
581-053-0220	6-14-2012	Adopt	7-1-2012	581-070-0230	12-15-2011	Repeal	1-1-2012
581-053-0225	6-14-2012	Adopt	7-1-2012	581-070-0240	12-15-2011	Repeal	1-1-2012
581-053-0230	6-14-2012	Adopt	7-1-2012	581-070-0250	12-15-2011	Repeal	1-1-2012
581-053-0240	6-14-2012	Adopt	7-1-2012	581-070-0380	12-15-2011	Repeal	1-1-2012
581-053-0250	6-14-2012	Adopt	7-1-2012	581-070-0390	12-15-2011	Repeal	1-1-2012
581-053-0310	6-14-2012	Adopt	7-1-2012	581-070-0400	12-15-2011	Repeal	1-1-2012
581-053-0320	6-14-2012	Adopt	7-1-2012	581-070-0410	12-15-2011	Repeal	1-1-2012
581-053-0330	6-14-2012	Adopt	7-1-2012	581-070-0420	12-15-2011	Repeal	1-1-2012
581-053-0340	6-14-2012	Adopt	7-1-2012	581-070-0500	12-15-2011	Repeal	1-1-2012
581-053-0410	6-14-2012	Adopt	7-1-2012	581-070-0510	12-15-2011	Repeal	1-1-2012
581-053-0420	6-14-2012	Adopt	7-1-2012	581-071-0005	12-15-2011	Repeal	1-1-2012
581-053-0430	6-14-2012	Adopt	7-1-2012	581-071-0010	12-15-2011	Repeal	1-1-2012
581-053-0440	6-14-2012	Adopt	7-1-2012	584-010-0001	3-9-2012	Amend	4-1-2012
581-053-0445	6-14-2012	Adopt	7-1-2012	584-010-0010	3-9-2012	Amend	4-1-2012
581-053-0507	6-14-2012	Repeal	7-1-2012	584-010-0015	3-9-2012	Amend	4-1-2012
581-053-0511	6-14-2012	Adopt	7-1-2012	584-010-0020	3-9-2012	Amend	4-1-2012
581-053-0512	6-14-2012	Repeal	7-1-2012	584-010-0022	3-9-2012	Adopt	4-1-2012
581-053-0516	6-14-2012	Repeal	7-1-2012	584-010-0025	3-9-2012	Amend	4-1-2012
581-053-0521	6-14-2012	Adopt	7-1-2012	584-010-0030	3-9-2012	Amend	4-1-2012
581-053-0527	6-14-2012	Repeal	7-1-2012	584-010-0035	3-9-2012	Amend	4-1-2012
581-053-0531	6-14-2012	Adopt	7-1-2012	584-010-0045	3-9-2012	Amend	4-1-2012
581-053-0535	6-14-2012	Repeal	7-1-2012	584-010-0050	3-9-2012	Amend	4-1-2012
581-053-0540	6-14-2012	Amend	7-1-2012	584-010-0055	3-9-2012	Amend	4-1-2012
581-053-0545	6-14-2012	Repeal	7-1-2012	584-010-0060	3-9-2012	Amend	4-1-2012
581-053-0550	6-14-2012	Repeal	7-1-2012	584-010-0080	3-9-2012	Repeal	4-1-2012
581-053-0555	6-14-2012	Repeal	7-1-2012	584-010-0090	3-9-2012	Amend	4-1-2012
581-053-0556	6-14-2012	Repeal	7-1-2012	584-010-0100	3-9-2012	Amend	4-1-2012
581-053-0610	6-14-2012	Adopt	7-1-2012	584-010-0140	3-9-2012	Repeal	4-1-2012
581-053-0615	6-14-2012	Adopt	7-1-2012	584-017-1005	3-9-2012	Adopt	4-1-2012
581-053-0620	6-14-2012	Adopt	7-1-2012	584-017-1008	3-9-2012	Adopt	4-1-2012
581-053-0630	6-14-2012	Adopt	7-1-2012	584-017-1010	3-9-2012	Adopt	4-1-2012
581-053-0640	6-14-2012	Adopt	7-1-2012	584-017-1012	3-9-2012	Adopt	4-1-2012
581-060-0005	12-15-2011	Repeal	1-1-2012	584-017-1015	3-9-2012	Adopt	4-1-2012
581-060-0010	12-15-2011	Repeal	1-1-2012	584-017-1020	3-9-2012	Adopt	4-1-2012
581-060-0015	12-15-2011	Repeal	1-1-2012	584-017-1022	3-9-2012	Adopt	4-1-2012
581-060-0020	12-15-2011	Repeal	1-1-2012	584-017-1025	3-9-2012	Adopt	4-1-2012
581-070-0000	12-15-2011	Repeal	1-1-2012	584-017-1028	5-18-2012	Adopt	7-1-2012
581-070-0010	12-15-2011	Repeal	1-1-2012	584-017-1030	3-9-2012	Adopt	4-1-2012
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

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584-017-1040	3-9-2012	Adopt	4-1-2012	584-080-0152	5-18-2012	Amend	7-1-2012
584-017-1042	3-9-2012	Adopt	4-1-2012	584-080-0161	5-18-2012	Amend	7-1-2012
584-017-1045	3-9-2012	Adopt	4-1-2012	584-090-0100	5-18-2012	Adopt	7-1-2012
584-017-1048	3-9-2012	Adopt	4-1-2012	584-090-0105	5-18-2012	Adopt	7-1-2012
584-017-1050	3-9-2012	Adopt	4-1-2012	584-090-0110	5-18-2012	Adopt	7-1-2012
584-017-1052	3-9-2012	Adopt	4-1-2012	584-100-0011	5-18-2012	Amend	7-1-2012
584-017-1055	3-9-2012	Adopt	4-1-2012	584-100-0016	5-18-2012	Amend	7-1-2012
584-018-0100	3-9-2012	Adopt	4-1-2012	584-100-0017	5-18-2012	Adopt	7-1-2012
584-018-0105	3-9-2012	Adopt	4-1-2012	584-100-0021	5-18-2012	Amend	7-1-2012
584-018-0110	3-9-2012	Adopt	4-1-2012	584-100-0026	5-18-2012	Amend	7-1-2012
584-018-0115	3-9-2012	Adopt	4-1-2012	584-100-0031	5-18-2012	Amend	7-1-2012
584-018-0120	3-9-2012	Adopt	4-1-2012	584-100-0038	5-18-2012	Amend	7-1-2012
584-018-0125	3-9-2012	Adopt	4-1-2012	589-007-0700	12-9-2011	Amend	1-1-2012
584-018-0130	3-9-2012	Adopt	4-1-2012	589-007-0800	12-9-2011	Adopt	1-1-2012
584-018-0135	3-9-2012	Adopt	4-1-2012	603-016-0355	7-1-2012	Repeal	7-1-2012
584-018-0140	3-9-2012	Adopt	4-1-2012	603-016-0360	7-1-2012	Repeal	7-1-2012
584-018-0205	3-9-2012	Adopt	4-1-2012	603-016-0365	7-1-2012	Repeal	7-1-2012
584-018-0205	5-18-2012	Amend	7-1-2012	603-016-0370	7-1-2012	Repeal	7-1-2012
584-018-0305	5-18-2012	Adopt	7-1-2012	603-016-0375	7-1-2012	Repeal	7-1-2012
584-018-0310	5-18-2012	Adopt	7-1-2012	603-016-0380	7-1-2012	Repeal	7-1-2012
584-018-0315	3-9-2012	Adopt	4-1-2012	603-016-0385	7-1-2012	Repeal	7-1-2012
584-018-0405	3-9-2012	Adopt	4-1-2012	603-016-0390	7-1-2012	Repeal	7-1-2012
584-018-0410	3-9-2012	Adopt	4-1-2012	603-018-0001	12-28-2011	Adopt(T)	2-1-2012
584-018-0415	3-9-2012	Adopt	4-1-2012	603-018-0003	12-28-2011	Adopt(T)	2-1-2012
584-018-0505	3-9-2012	Adopt	4-1-2012	603-018-0007	12-28-2011	Adopt(T)	2-1-2012
584-018-0510	3-9-2012	Adopt	4-1-2012	603-018-0009	12-28-2011	Adopt(T)	2-1-2012
584-018-0515	3-9-2012	Adopt	4-1-2012	603-018-0011	12-28-2011	Adopt(T)	2-1-2012
584-023-0005	5-18-2012	Amend	7-1-2012	603-018-0013	12-28-2011	Adopt(T)	2-1-2012
584-023-0015	5-18-2012	Amend	7-1-2012	603-019-0001	12-28-2011	Adopt	2-1-2012
584-036-0010	5-18-2012	Amend	7-1-2012	603-019-0005	12-28-2011	Adopt	2-1-2012
584-036-0015	5-18-2012	Amend	7-1-2012	603-019-0010	12-28-2011	Adopt	2-1-2012
584-036-0055	2-15-2012	Amend	3-1-2012	603-019-0015	12-28-2011	Adopt	2-1-2012
584-036-0055	5-18-2012	Amend	7-1-2012	603-019-0020	12-28-2011	Adopt	2-1-2012
584-036-0057	5-18-2012	Adopt	7-1-2012	603-019-0025	12-28-2011	Adopt	2-1-2012
584-042-0008	2-15-2012	Amend	3-1-2012	603-019-0030	12-28-2011	Adopt	2-1-2012
584-042-0012	2-15-2012	Amend	3-1-2012	603-019-0035	12-28-2011	Adopt	2-1-2012
584-042-0021	2-15-2012	Amend	3-1-2012	603-019-0040	12-28-2011	Adopt	2-1-2012
584-042-0031	2-15-2012	Amend	3-1-2012	603-024-0211	5-15-2012	Amend	6-1-2012
584-042-0036	2-15-2012	Amend	3-1-2012	603-024-0592	7-1-2012	Amend	5-1-2012
584-042-0044	2-15-2012	Amend	3-1-2012	603-025-0215	6-1-2012	Adopt	7-1-2012
584-042-0051	2-15-2012	Amend	3-1-2012	603-025-0225	6-1-2012	Adopt	7-1-2012
584-042-0081	2-15-2012	Amend	3-1-2012	603-025-0235	6-1-2012	Adopt	7-1-2012
584-050-0021	5-18-2012	Adopt	7-1-2012	603-025-0245	6-1-2012	Adopt	7-1-2012
584-060-0002	5-18-2012	Amend	7-1-2012	603-025-0255	6-1-2012	Adopt	7-1-2012
584-060-0051	2-15-2012	Amend(T)	3-1-2012	603-025-0265	6-1-2012	Adopt	7-1-2012
584-060-0062	5-18-2012	Amend	7-1-2012	603-025-0275	6-1-2012	Adopt	7-1-2012
584-060-0250	1-15-2012	Adopt	1-1-2012	603-027-0410	12-14-2011	Amend	1-1-2012
584-066-0001	5-18-2012	Adopt	7-1-2012	603-027-0420	12-14-2011	Amend	1-1-2012
584-066-0010	5-18-2012	Adopt	7-1-2012	603-027-0430	12-14-2011	Amend	1-1-2012
584-070-0112	5-18-2012	Amend	7-1-2012	603-027-0440	12-14-2011	Amend	1-1-2012
584-070-0132	5-18-2012	Amend	7-1-2012	603-027-0490	12-14-2011	Amend	1-1-2012
584-070-0271	5-18-2012	Amend	7-1-2012	603-028-0710	5-15-2012	Adopt	6-1-2012
584-070-0431	5-18-2012	Amend	7-1-2012	603-028-0715	5-15-2012	Adopt	6-1-2012
584-070-0441	5-18-2012	Adopt	7-1-2012	603-028-0720	5-15-2012	Adopt	6-1-2012
584-070-0451	5-18-2012	Adopt	7-1-2012	603-028-0725	5-15-2012	Adopt	6-1-2012

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603-028-0735	5-15-2012	Adopt	6-1-2012	603-062-0010	7-1-2012	Repeal	7-1-2012
603-028-0740	5-15-2012	Adopt	6-1-2012	603-062-0015	7-1-2012	Repeal	7-1-2012
603-031-0105	7-1-2012	Repeal	7-1-2012	603-062-0020	7-1-2012	Repeal	7-1-2012
603-031-0111	7-1-2012	Repeal	7-1-2012	603-063-0005	7-1-2012	Repeal	7-1-2012
603-031-0112	7-1-2012	Repeal	7-1-2012	603-063-0010	7-1-2012	Repeal	7-1-2012
603-031-0113	7-1-2012	Repeal	7-1-2012	603-063-0015	7-1-2012	Repeal	7-1-2012
603-031-0114	7-1-2012	Repeal	7-1-2012	603-063-0020	7-1-2012	Repeal	7-1-2012
603-031-0116	7-1-2012	Repeal	7-1-2012	603-063-0025	7-1-2012	Repeal	7-1-2012
603-031-0117	7-1-2012	Repeal	7-1-2012	603-064-0005	7-1-2012	Repeal	7-1-2012
603-031-0120	7-1-2012	Repeal	7-1-2012	603-064-0050	7-1-2012	Repeal	7-1-2012
603-031-0125	7-1-2012	Repeal	7-1-2012	603-064-0100	7-1-2012	Repeal	7-1-2012
603-031-0140	7-1-2012	Repeal	7-1-2012	603-064-0105	7-1-2012	Repeal	7-1-2012
603-031-0180	7-1-2012	Repeal	7-1-2012	603-064-0110	7-1-2012	Repeal	7-1-2012
603-031-0185	7-1-2012	Repeal	7-1-2012	603-064-0115	7-1-2012	Repeal	7-1-2012
603-050-0100	7-1-2012	Repeal	7-1-2012	603-064-0120	7-1-2012	Repeal	7-1-2012
603-051-0365	2-9-2012	Amend	3-1-2012	603-064-0130	7-1-2012	Repeal	7-1-2012
603-051-0366	2-9-2012	Adopt	3-1-2012	603-064-0200	7-1-2012	Repeal	7-1-2012
603-051-0370	2-9-2012	Amend	3-1-2012	603-064-0205	7-1-2012	Repeal	7-1-2012
603-051-0375	2-9-2012	Amend	3-1-2012	603-065-0005	7-1-2012	Repeal	7-1-2012
603-051-0380	2-9-2012	Repeal	3-1-2012	603-065-0010	7-1-2012	Repeal	7-1-2012
603-051-0385	2-9-2012	Repeal	3-1-2012	603-065-0015	7-1-2012	Repeal	7-1-2012
603-051-0390	2-9-2012	Amend	3-1-2012	603-065-0017	7-1-2012	Repeal	7-1-2012
603-051-0395	2-9-2012	Amend	3-1-2012	603-065-0020	7-1-2012	Repeal	7-1-2012
603-051-0775	2-1-2012	Adopt	3-1-2012	603-065-0023	7-1-2012	Repeal	7-1-2012
603-051-0777	2-1-2012	Adopt	3-1-2012	603-065-0025	7-1-2012	Repeal	7-1-2012
603-051-0779	2-1-2012	Adopt	3-1-2012	603-065-0032	7-1-2012	Repeal	7-1-2012
603-051-0780	2-1-2012	Adopt	3-1-2012	603-065-0035	7-1-2012	Repeal	7-1-2012
603-051-0785	2-1-2012	Adopt	3-1-2012	603-065-0040	7-1-2012	Repeal	7-1-2012
603-052-0115	3-26-2012	Amend	5-1-2012	603-065-0045	7-1-2012	Repeal	7-1-2012
603-052-0116	3-26-2012	Amend	5-1-2012	603-065-0050	7-1-2012	Repeal	7-1-2012
603-052-0117	3-22-2012	Repeal	5-1-2012	603-065-0055	7-1-2012	Repeal	7-1-2012
603-052-0118	3-26-2012	Amend	5-1-2012	603-065-0060	7-1-2012	Repeal	7-1-2012
603-052-0126	3-26-2012	Amend	5-1-2012	603-065-0065	7-1-2012	Repeal	7-1-2012
603-052-0150	3-26-2012	Amend	5-1-2012	603-065-0070	7-1-2012	Repeal	7-1-2012
603-052-0201	3-22-2012	Repeal	5-1-2012	603-065-0075	7-1-2012	Repeal	7-1-2012
603-052-0206	3-22-2012	Repeal	5-1-2012	603-065-0080	7-1-2012	Repeal	7-1-2012
603-052-0207	3-22-2012	Repeal	5-1-2012	603-065-0085	7-1-2012	Repeal	7-1-2012
603-052-0208	3-22-2012	Repeal	5-1-2012	603-066-0005	7-1-2012	Repeal	7-1-2012
603-052-0209	3-22-2012	Repeal	5-1-2012	603-066-0010	7-1-2012	Repeal	7-1-2012
603-052-0334	3-22-2012	Repeal	5-1-2012	603-066-0015	7-1-2012	Repeal	7-1-2012
603-052-0800	3-22-2012	Repeal	5-1-2012	603-066-0020	7-1-2012	Repeal	7-1-2012
603-052-1020	6-6-2012	Amend	7-1-2012	603-066-0025	7-1-2012	Repeal	7-1-2012
603-052-1025	3-26-2012	Amend	5-1-2012	603-066-0030	7-1-2012	Repeal	7-1-2012
603-052-1230	3-22-2012	Amend	5-1-2012	603-066-0100	7-1-2012	Repeal	7-1-2012
603-053-0200	6-12-2012	Amend	7-1-2012	603-066-0110	7-1-2012	Repeal	7-1-2012
603-057-0001	6-1-2012	Amend	7-1-2012	603-066-0200	7-1-2012	Repeal	7-1-2012
603-057-0001	1-1-2013	Amend	2-1-2012	603-066-0205	7-1-2012	Repeal	7-1-2012
603-057-0100	6-1-2012	Amend	7-1-2012	603-066-0210	7-1-2012	Repeal	7-1-2012
603-057-0100	1-1-2013	Amend	2-1-2012	603-066-0300	7-1-2012	Repeal	7-1-2012
603-057-0106	1-1-2013	Amend	6-1-2012	603-066-0305	7-1-2012	Repeal	7-1-2012
603-057-0127	6-1-2012	Amend	7-1-2012	603-066-0310	7-1-2012	Repeal	7-1-2012
603-057-0127	1-1-2013	Amend	2-1-2012	603-067-0020	7-1-2012	Repeal	7-1-2012
603-057-0300	7-1-2012	Repeal	7-1-2012	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

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603-068-0015	7-1-2012	Repeal	7-1-2012	603-095-1440	6-1-2012	Amend	7-1-2012
603-068-0100	7-1-2012	Repeal	7-1-2012	603-095-1460	1-12-2012	Adopt	2-1-2012
603-068-0105	7-1-2012	Repeal	7-1-2012	603-095-1460	6-1-2012	Adopt	7-1-2012
603-068-0110	7-1-2012	Repeal	7-1-2012	603-100-0000	1-1-2013	Amend	7-1-2012
603-068-0200	7-1-2012	Repeal	7-1-2012	603-100-0010	1-1-2013	Amend	7-1-2012
603-068-0205	7-1-2012	Repeal	7-1-2012	603-100-0050	1-1-2013	Adopt	7-1-2012
603-068-0210	7-1-2012	Repeal	7-1-2012	603-105-0010	7-1-2012	Repeal	7-1-2012
603-068-0300	7-1-2012	Repeal	7-1-2012	629-035-0105	1-1-2012	Amend	1-1-2012
603-068-0305	7-1-2012	Repeal	7-1-2012	632-001-0020	12-14-2011	Adopt	1-1-2012
603-068-0310	7-1-2012	Repeal	7-1-2012	635-003-0003	5-1-2012	Amend	6-1-2012
603-068-0400	7-1-2012	Repeal	7-1-2012	635-003-0085	7-1-2012	Amend	7-1-2012
603-068-0405	7-1-2012	Repeal	7-1-2012	635-004-0005	4-24-2012	Amend	6-1-2012
603-068-0410	7-1-2012	Repeal	7-1-2012	635-004-0009	4-24-2012	Amend	6-1-2012
603-069-0005	7-1-2012	Repeal	7-1-2012	635-004-0017	4-24-2012	Amend	6-1-2012
603-069-0010	7-1-2012	Repeal	7-1-2012	635-004-0018	1-1-2012	Amend	2-1-2012
603-069-0015	7-1-2012	Repeal	7-1-2012	635-004-0019	1-1-2012	Amend	2-1-2012
603-069-0020	7-1-2012	Repeal	7-1-2012	635-004-0019	5-1-2012	Amend(T)	6-1-2012
603-069-0025	7-1-2012	Repeal	7-1-2012	635-004-0019	5-1-2012	Amend(T)	6-1-2012
603-069-0030	7-1-2012	Repeal	7-1-2012	635-004-0019(T)	5-1-2012	Suspend	6-1-2012
603-069-0032	7-1-2012	Repeal	7-1-2012	635-004-0027	1-9-2012	Amend(T)	2-1-2012
603-069-0034	7-1-2012	Repeal	7-1-2012	635-004-0033	1-1-2012	Amend	2-1-2012
603-069-0035	7-1-2012	Repeal	7-1-2012	635-004-0033	6-1-2012	Amend(T)	7-1-2012
603-069-0040	7-1-2012	Repeal	7-1-2012	635-005-0045	12-1-2011	Amend(T)	1-1-2012
603-070-0025	7-1-2012	Repeal	7-1-2012	635-005-0045	12-15-2011	Amend(T)	1-1-2012
603-070-0030	7-1-2012	Repeal	7-1-2012	635-005-0045	5-1-2012	Amend	6-1-2012
603-070-0035	7-1-2012	Repeal	7-1-2012	635-005-0045(T)	12-15-2011	Suspend	1-1-2012
603-070-0040	7-1-2012	Repeal	7-1-2012	635-005-0055	12-1-2011	Amend(T)	1-1-2012
603-070-0045	7-1-2012	Repeal	7-1-2012	635-005-0055	5-1-2012	Amend	6-1-2012
603-070-0050	7-1-2012	Repeal	7-1-2012	635-006-0210	1-1-2012	Amend	2-1-2012
603-070-0055	7-1-2012	Repeal	7-1-2012	635-006-0211	1-1-2012	Amend	2-1-2012
603-070-0060	7-1-2012	Repeal	7-1-2012	635-006-0215	1-1-2012	Amend	2-1-2012
603-076-0052	12-8-2011	Amend(T)	1-1-2012	635-006-0232	1-1-2012	Amend(T)	2-1-2012
603-085-0000	7-1-2012	Repeal	7-1-2012	635-006-0232	2-7-2012	Amend	3-1-2012
603-085-0010	7-1-2012	Repeal	7-1-2012	635-006-0232(T)	2-7-2012	Repeal	3-1-2012
603-085-0020	7-1-2012	Repeal	7-1-2012	635-006-1010	12-1-2011	Amend(T)	1-1-2012
603-085-0030	7-1-2012	Repeal	7-1-2012	635-006-1010	5-1-2012	Amend	6-1-2012
603-085-0040	7-1-2012	Repeal	7-1-2012	635-006-1015	12-1-2011	Amend(T)	1-1-2012
603-085-0050	7-1-2012	Repeal	7-1-2012	635-006-1015	5-1-2012	Amend	6-1-2012
603-085-0060	7-1-2012	Repeal	7-1-2012	635-006-1065	12-1-2011	Amend(T)	1-1-2012
603-085-0070	7-1-2012	Repeal	7-1-2012	635-006-1065	5-1-2012	Amend	6-1-2012
603-085-0080	7-1-2012	Repeal	7-1-2012	635-006-1075	4-24-2012	Amend	6-1-2012
603-095-0200	1-12-2012	Repeal	2-1-2012	635-006-1095	5-1-2012	Amend	6-1-2012
603-095-0200	6-1-2012	Repeal	7-1-2012	635-008-0123	1-1-2012	Amend	1-1-2012
603-095-0220	1-12-2012	Repeal	2-1-2012	635-008-0135	1-1-2012	Amend	1-1-2012
603-095-0220	6-1-2012	Repeal	7-1-2012	635-008-0146	4-24-2012	Amend	6-1-2012
603-095-0240	1-12-2012	Repeal	2-1-2012	635-008-0147	4-24-2012	Amend	6-1-2012
603-095-0240	6-1-2012	Repeal	7-1-2012	635-008-0151	2-6-2012	Amend(T)	3-1-2012
603-095-0260	1-12-2012	Repeal	2-1-2012	635-008-0155	1-1-2012	Amend	1-1-2012
603-095-0260	6-1-2012	Repeal	7-1-2012	635-010-0170	2-6-2012	Amend(T)	3-1-2012
603-095-0280	1-12-2012	Repeal	2-1-2012	635-010-0170(T)	6-11-2012	Repeal	7-1-2012
603-095-0280	6-1-2012	Repeal	7-1-2012	635-011-0100	1-1-2012	Amend	2-1-2012
603-095-1400	1-12-2012	Amend	2-1-2012	635-012-0020	12-25-2011	Amend(T)	1-1-2012
603-095-1400	6-1-2012	Amend	7-1-2012	635-012-0020(T)	12-25-2011	Suspend	1-1-2012
603-095-1420	1-12-2012	Amend	2-1-2012	635-012-0030	12-25-2011	Suspend	1-1-2012
603-095-1420	6-1-2012	Amend	7-1-2012	635-012-0040	12-25-2011	Suspend	1-1-2012
603-095-1440	1-12-2012	Amend	2-1-2012	635-012-0050	12-25-2011	Suspend	1-1-2012

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635-012-0060	12-25-2011	Suspend	1-1-2012	635-023-0125	5-26-2012	Amend(T)	7-1-2012
635-013-0003	1-1-2012	Amend	2-1-2012	635-023-0125(T)	4-6-2012	Suspend	5-1-2012
635-013-0003	5-1-2012	Amend	6-1-2012	635-023-0125(T)	4-14-2012	Suspend	5-1-2012
635-013-0004	1-1-2012	Amend	2-1-2012	635-023-0125(T)	5-2-2012	Suspend	6-1-2012
635-013-0007	7-1-2012	Amend	7-1-2012	635-023-0125(T)	5-16-2012	Suspend	6-1-2012
635-014-0080	1-1-2012	Amend	2-1-2012	635-023-0125(T)	5-19-2012	Suspend	7-1-2012
635-014-0090	1-1-2012	Amend	2-1-2012	635-023-0125(T)	5-26-2012	Suspend	7-1-2012
635-014-0090	6-1-2012	Amend(T)	7-1-2012	635-023-0125(T)	6-16-2012	Suspend	7-1-2012
635-014-0090	6-12-2012	Amend(T)	7-1-2012	635-023-0128	1-1-2012	Amend	2-1-2012
635-014-0090	7-1-2012	Amend	7-1-2012	635-023-0128	6-16-2012	Amend(T)	7-1-2012
635-016-0080	1-1-2012	Amend	2-1-2012	635-023-0130	1-1-2012	Amend	2-1-2012
635-016-0090	1-1-2012	Amend	2-1-2012	635-023-0134	1-1-2012	Amend	2-1-2012
635-016-0090	7-1-2012	Amend	7-1-2012	635-023-0134	4-22-2012	Amend(T)	6-1-2012
635-017-0080	1-1-2012	Amend	2-1-2012	635-039-0080	1-1-2012	Amend	2-1-2012
635-017-0090	1-1-2012	Amend	2-1-2012	635-039-0080	4-24-2012	Amend	6-1-2012
635-017-0090	1-1-2012	Amend(T)	1-1-2012	635-039-0085	4-24-2012	Amend	6-1-2012
635-017-0090	3-12-2012	Amend	4-1-2012	635-039-0090	12-1-2011	Amend(T)	1-1-2012
635-017-0095	1-1-2012	Amend	2-1-2012	635-039-0090	12-15-2011	Amend(T)	1-1-2012
635-017-0095	2-17-2012	Amend(T)	3-1-2012	635-039-0090	1-1-2012	Amend	2-1-2012
635-017-0095	2-23-2012	Amend(T)	4-1-2012	635-039-0090(T)	12-1-2011	Suspend	1-1-2012
635-017-0095(T)	2-23-2012	Suspend	4-1-2012	635-039-0090(T)	12-15-2011	Suspend	1-1-2012
635-018-0080	1-1-2012	Amend	2-1-2012	635-041-0020	6-16-2012	Amend(T)	7-1-2012
635-018-0090	1-1-2012	Amend	2-1-2012	635-041-0045	2-1-2012	Amend(T)	3-1-2012
635-018-0090	1-1-2012	Amend(T)	2-1-2012	635-041-0045	2-29-2012	Amend(T)	4-1-2012
635-018-0090	3-12-2012	Amend	4-1-2012	635-041-0045	5-15-2012	Amend(T)	6-1-2012
635-018-0090	4-15-2012	Amend(T)	5-1-2012	635-041-0045(T)	2-29-2012	Suspend	4-1-2012
635-018-0090	6-4-2012	Amend(T)	7-1-2012	635-041-0045(T)	5-15-2012	Suspend	6-1-2012
635-018-0090(T)	4-15-2012	Suspend	5-1-2012	635-041-0065	2-1-2012	Amend(T)	3-1-2012
635-018-0090(T)	6-4-2012	Suspend	7-1-2012	635-041-0065	2-29-2012	Amend(T)	4-1-2012
635-019-0080	1-1-2012	Amend	2-1-2012	635-041-0065	3-5-2012	Amend(T)	4-1-2012
635-019-0090	1-1-2012	Amend	2-1-2012	635-041-0065	3-5-2012	Amend(T)	4-1-2012
635-019-0090	5-23-2012	Amend(T)	7-1-2012	635-041-0065	5-15-2012	Amend(T)	6-1-2012
635-019-0090	5-24-2012	Amend(T)	7-1-2012	635-041-0065(T)	2-29-2012	Suspend	4-1-2012
635-019-0090	6-11-2012	Amend(T)	7-1-2012	635-041-0065(T)	3-5-2012	Suspend	4-1-2012
635-019-0090(T)	5-24-2012	Suspend	7-1-2012	635-041-0065(T)	3-5-2012	Suspend	4-1-2012
635-019-0090(T)	6-11-2012	Suspend	7-1-2012	635-041-0065(T)	5-15-2012	Suspend	6-1-2012
635-019-0090(T)	6-12-2012	Suspend	7-1-2012	635-041-0076	6-18-2012	Amend(T)	7-1-2012
635-021-0080	1-1-2012	Amend	2-1-2012	635-042-0022	4-3-2012	Amend(T)	5-1-2012
635-021-0090	1-1-2012	Amend	2-1-2012	635-042-0022	4-10-2012	Amend(T)	5-1-2012
635-021-0090	6-13-2012	Amend(T)	7-1-2012	635-042-0022(T)	4-10-2012	Suspend	5-1-2012
635-023-0080	1-1-2012	Amend	2-1-2012	635-042-0027	6-17-2012	Amend(T)	7-1-2012
635-023-0090	1-1-2012	Amend	2-1-2012	635-042-0105	5-24-2012	Amend(T)	7-1-2012
635-023-0095	1-1-2012	Amend	2-1-2012	635-042-0135	1-30-2012	Amend(T)	3-1-2012
635-023-0095	1-5-2012	Amend(T)	2-1-2012	635-042-0145	2-12-2012	Amend(T)	3-1-2012
635-023-0095	2-7-2012	Amend	3-1-2012	635-042-0145	3-18-2012	Amend(T)	4-1-2012
635-023-0095	2-18-2012	Amend(T)	3-1-2012	635-042-0145	3-21-2012	Amend(T)	5-1-2012
635-023-0095	5-20-2012	Amend(T)	6-1-2012	635-042-0145	3-29-2012	Amend(T)	5-1-2012
635-023-0095(T)	2-7-2012	Repeal	3-1-2012	635-042-0145	4-1-2012	Amend(T)	5-1-2012
635-023-0095(T)	5-20-2012	Suspend	6-1-2012	635-042-0145	4-5-2012	Amend(T)	5-1-2012
635-023-0125	1-1-2012	Amend	2-1-2012	635-042-0145	4-19-2012	Amend(T)	6-1-2012
635-023-0125	2-15-2012	Amend(T)	3-1-2012	635-042-0145(T)	3-18-2012	Suspend	4-1-2012
635-023-0125	4-6-2012	Amend(T)	5-1-2012	635-042-0145(T)	3-21-2012	Suspend	5-1-2012
635-023-0125	4-14-2012	Amend(T)	5-1-2012	635-042-0145(T)	3-29-2012	Suspend	5-1-2012
635-023-0125	5-2-2012	Amend(T)	6-1-2012	635-042-0145(T)	4-1-2012	Suspend	5-1-2012
635-023-0125	5-16-2012	Amend(T)	6-1-2012	635-042-0145(T)	4-5-2012	Suspend	5-1-2012
635-023-0125	5-19-2012	Amend(T)	7-1-2012	635-042-0145(T)	4-19-2012	Suspend	6-1-2012

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635-042-0170	4-26-2012	Amend(T)	6-1-2012	635-095-0105	2-10-2012	Adopt	3-1-2012
635-042-0180	2-12-2012	Amend(T)	3-1-2012	635-095-0105	6-11-2012	Amend	7-1-2012
635-043-0051	12-30-2011	Amend(T)	2-1-2012	635-095-0111	2-10-2012	Adopt	3-1-2012
635-050-0045	6-11-2012	Amend	7-1-2012	635-095-0125	2-10-2012	Adopt	3-1-2012
635-050-0047	6-11-2012	Adopt	7-1-2012	635-095-0125	6-11-2012	Amend	7-1-2012
635-050-0050	6-11-2012	Amend	7-1-2012	635-008-0151	6-11-2012	Amend	7-1-2012
635-050-0070	6-11-2012	Amend	7-1-2012	635-008-0151(T)	6-11-2012	Repeal	7-1-2012
635-050-0080	6-11-2012	Amend	7-1-2012	635-010-0170	6-11-2012	Amend	7-1-2012
635-050-0090	6-11-2012	Amend	7-1-2012	635-100-0125	3-14-2012	Amend	4-1-2012
635-050-0100	6-11-2012	Amend	7-1-2012	635-170-0000	6-11-2012	Adopt	7-1-2012
635-050-0110	6-11-2012	Amend	7-1-2012	635-435-0000	3-16-2012	Amend	5-1-2012
635-050-0120	6-11-2012	Amend	7-1-2012	635-435-0005	3-16-2012	Amend	5-1-2012
635-050-0130	6-11-2012	Amend	7-1-2012	635-435-0010	3-16-2012	Amend	5-1-2012
635-050-0140	6-11-2012	Amend	7-1-2012	635-435-0015	3-16-2012	Amend	5-1-2012
635-050-0150	6-11-2012	Amend	7-1-2012	635-435-0025	3-16-2012	Amend	5-1-2012
635-050-0170	6-11-2012	Amend	7-1-2012	635-435-0030	3-16-2012	Amend	5-1-2012
635-050-0183	6-11-2012	Amend	7-1-2012	635-435-0035	3-16-2012	Amend	5-1-2012
635-050-0189	6-11-2012	Amend	7-1-2012	635-435-0040	3-16-2012	Amend	5-1-2012
635-050-0210	6-11-2012	Amend	7-1-2012	635-435-0060	3-16-2012	Amend	5-1-2012
635-053-0035	12-21-2011	Amend(T)	2-1-2012	647-010-0010	7-1-2012	Amend	6-1-2012
635-060-0023	4-1-2012	Amend	4-1-2012	656-010-0000	11-30-2011	Amend	1-1-2012
635-060-0046	2-10-2012	Amend(T)	3-1-2012	656-010-0010	11-30-2011	Amend	1-1-2012
635-060-0046	6-11-2012	Amend	7-1-2012	660-007-0000	2-14-2012	Amend	3-1-2012
635-060-0046(T)	6-11-2012	Repeal	7-1-2012	660-007-0005	2-14-2012	Amend	3-1-2012
635-065-0001	1-1-2012	Amend	1-1-2012	660-007-0015	2-14-2012	Amend	3-1-2012
635-065-0015	1-1-2012	Amend	1-1-2012	660-007-0018	2-14-2012	Amend	3-1-2012
635-065-0090	1-1-2012	Amend	1-1-2012	660-007-0020	2-14-2012	Amend	3-1-2012
635-065-0401	1-1-2012	Amend	1-1-2012	660-007-0022	2-14-2012	Amend	3-1-2012
635-065-0625	1-1-2012	Amend	1-1-2012	660-007-0030	2-14-2012	Amend	3-1-2012
635-065-0635	1-1-2012	Amend	1-1-2012	660-007-0033	2-14-2012	Amend	3-1-2012
635-065-0720	6-11-2012	Amend	7-1-2012	660-007-0035	2-14-2012	Amend	3-1-2012
635-065-0733	1-1-2012	Amend	1-1-2012	660-007-0037	2-14-2012	Amend	3-1-2012
635-065-0740	1-1-2012	Amend	1-1-2012	660-007-0045	2-14-2012	Amend	3-1-2012
635-065-0760	1-1-2012	Amend	1-1-2012	660-007-0050	2-14-2012	Amend	3-1-2012
635-066-0000	1-1-2012	Amend	1-1-2012	660-007-0060	2-14-2012	Amend	3-1-2012
635-066-0010	1-1-2012	Amend	1-1-2012	660-008-0000	2-14-2012	Amend	3-1-2012
635-067-0000	1-1-2012	Amend	1-1-2012	660-008-0005	2-14-2012	Amend	3-1-2012
635-067-0000	6-11-2012	Amend	7-1-2012	660-008-0010	2-14-2012	Amend	3-1-2012
635-067-0004	1-1-2012	Amend	1-1-2012	660-008-0015	2-14-2012	Amend	3-1-2012
635-067-0030	1-1-2012	Amend	1-1-2012	660-008-0020	2-14-2012	Amend	3-1-2012
635-067-0040	1-1-2012	Amend	1-1-2012	660-008-0025	2-14-2012	Amend	3-1-2012
635-068-0000	3-1-2012	Amend	3-1-2012	660-008-0030	2-14-2012	Amend	3-1-2012
635-068-0000	6-11-2012	Amend	7-1-2012	660-008-0035	2-14-2012	Amend	3-1-2012
635-069-0000	2-1-2012	Amend	2-1-2012	660-008-0040	2-14-2012	Amend	3-1-2012
635-069-0000	6-11-2012	Amend	7-1-2012	660-012-0005	1-1-2012	Amend	2-1-2012
635-070-0000	4-1-2012	Amend	4-1-2012	660-012-0060	1-1-2012	Amend	2-1-2012
635-070-0000	6-11-2012	Amend	7-1-2012	660-018-0005	2-14-2012	Amend	3-1-2012
635-071-0000	4-1-2012	Amend	4-1-2012	660-018-0010	2-14-2012	Amend	3-1-2012
635-071-0000	6-11-2012	Amend	7-1-2012	660-018-0020	1-1-2012	Amend(T)	2-1-2012
635-072-0000	1-1-2012	Amend	1-1-2012	660-018-0020	2-14-2012	Amend	3-1-2012
635-073-0000	2-1-2012	Amend	2-1-2012	660-018-0020(T)	2-14-2012	Repeal	3-1-2012
635-073-0000	6-11-2012	Amend	7-1-2012	660-018-0021	1-1-2012	Amend(T)	2-1-2012
635-073-0065	2-1-2012	Amend	2-1-2012	660-018-0021	2-14-2012	Amend	3-1-2012
635-073-0070	2-1-2012	Amend	2-1-2012	660-018-0021(T)	2-14-2012	Repeal	3-1-2012
635-078-0011	4-1-2012	Amend	4-1-2012	660-018-0022	1-1-2012	Amend(T)	2-1-2012

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660-018-0022(T)	2-14-2012	Repeal	3-1-2012	660-035-0030	6-15-2012	Amend	7-1-2012
660-018-0025	2-14-2012	Amend	3-1-2012	660-035-0040	6-15-2012	Repeal	7-1-2012
660-018-0030	2-14-2012	Repeal	3-1-2012	660-035-0050	6-15-2012	Amend	7-1-2012
660-018-0035	2-14-2012	Amend	3-1-2012	660-035-0060	6-15-2012	Amend	7-1-2012
660-018-0040	1-1-2012	Amend(T)	2-1-2012	660-035-0070	6-15-2012	Amend	7-1-2012
660-018-0040	2-14-2012	Amend	3-1-2012	660-035-0080	6-15-2012	Repeal	7-1-2012
660-018-0040(T)	2-14-2012	Repeal	3-1-2012	668-010-0015	4-12-2012	Amend	5-1-2012
660-018-0045	2-14-2012	Amend	3-1-2012	668-030-0020	4-12-2012	Amend	5-1-2012
660-018-0050	2-14-2012	Amend	3-1-2012	690-013-0100	2-1-2012	Amend	3-1-2012
660-018-0055	2-14-2012	Amend	3-1-2012	690-013-0310	2-1-2012	Amend	3-1-2012
660-018-0060	2-14-2012	Amend	3-1-2012	690-018-0050	2-1-2012	Amend	3-1-2012
660-018-0085	2-14-2012	Amend	3-1-2012	690-019-0080	2-1-2012	Amend	3-1-2012
660-018-0140	2-14-2012	Repeal	3-1-2012	690-053-0015	2-1-2012	Amend	3-1-2012
660-018-0150	2-14-2012	Amend	3-1-2012	690-053-0030	2-1-2012	Amend	3-1-2012
660-025-0010	2-14-2012	Amend	3-1-2012	690-053-0035	2-1-2012	Amend	3-1-2012
660-025-0020	2-14-2012	Amend	3-1-2012	690-077-0029	2-1-2012	Amend	3-1-2012
660-025-0030	2-14-2012	Amend	3-1-2012	690-077-0031	2-1-2012	Amend	3-1-2012
660-025-0035	2-14-2012	Amend	3-1-2012	690-077-0039	2-1-2012	Amend	3-1-2012
660-025-0040	2-14-2012	Amend	3-1-2012	690-077-0077	2-1-2012	Amend	3-1-2012
660-025-0050	2-14-2012	Amend	3-1-2012	690-240-0010	2-2-2012	Amend	3-1-2012
660-025-0060	2-14-2012	Amend	3-1-2012	690-240-0035	2-2-2012	Amend	3-1-2012
660-025-0070	2-14-2012	Amend	3-1-2012	690-240-0040	2-2-2012	Adopt	3-1-2012
660-025-0080	2-14-2012	Amend	3-1-2012	690-240-0043	2-2-2012	Adopt	3-1-2012
660-025-0085	2-14-2012	Amend	3-1-2012	690-240-0046	2-2-2012	Adopt	3-1-2012
660-025-0090	2-14-2012	Amend	3-1-2012	690-240-0049	2-2-2012	Adopt	3-1-2012
660-025-0100	2-14-2012	Amend	3-1-2012	690-300-0010	2-1-2012	Amend	3-1-2012
660-025-0110	2-14-2012	Amend	3-1-2012	690-310-0020	2-1-2012	Amend	3-1-2012
660-025-0130	2-14-2012	Amend	3-1-2012	690-310-0050	2-1-2012	Amend	3-1-2012
660-025-0140	2-14-2012	Amend	3-1-2012	690-310-0080	2-1-2012	Amend	3-1-2012
660-025-0150	2-14-2012	Amend	3-1-2012	690-310-0090	2-1-2012	Amend	3-1-2012
660-025-0160	2-14-2012	Amend	3-1-2012	690-310-0100	2-1-2012	Amend	3-1-2012
660-025-0170	2-14-2012	Amend	3-1-2012	690-310-0150	2-1-2012	Amend	3-1-2012
660-025-0175	2-14-2012	Amend	3-1-2012	690-315-0050	2-1-2012	Amend	3-1-2012
660-025-0180	2-14-2012	Amend	3-1-2012	690-330-0010	2-1-2012	Amend	3-1-2012
660-025-0210	2-14-2012	Amend	3-1-2012	690-380-2260	2-1-2012	Amend	3-1-2012
660-025-0220	2-14-2012	Amend	3-1-2012	690-380-3100	2-1-2012	Amend	3-1-2012
660-025-0230	2-14-2012	Amend	3-1-2012	690-380-4000	2-1-2012	Amend	3-1-2012
660-025-0250	2-14-2012	Amend	3-1-2012	690-380-4020	2-1-2012	Amend	3-1-2012
660-027-0070	2-14-2012	Amend	3-1-2012	690-380-6040	2-1-2012	Amend	3-1-2012
660-028-0010	2-14-2012	Amend	3-1-2012	690-382-0600	2-1-2012	Amend	3-1-2012
660-028-0020	2-14-2012	Amend	3-1-2012	690-382-0800	2-1-2012	Amend	3-1-2012
660-028-0030	2-14-2012	Amend	3-1-2012	690-385-4100	2-1-2012	Amend	3-1-2012
660-033-0030	12-20-2011	Amend	2-1-2012	690-385-4600	2-1-2012	Amend	3-1-2012
660-033-0030	2-14-2012	Amend	3-1-2012	690-385-7600	2-1-2012	Amend	3-1-2012
660-033-0045	2-14-2012	Adopt	3-1-2012	705-001-0000	3-28-2012	Adopt(T)	5-1-2012
660-033-0100	2-14-2012	Amend	3-1-2012	705-001-0005	3-28-2012	Adopt(T)	5-1-2012
660-033-0120	11-23-2011	Amend	1-1-2012	705-001-0010	3-28-2012	Adopt(T)	5-1-2012
660-033-0120	2-14-2012	Amend	3-1-2012	705-010-0005	3-29-2012	Adopt(T)	5-1-2012
660-033-0130	11-23-2011	Amend	1-1-2012	705-010-0010	3-29-2012	Adopt(T)	5-1-2012
660-033-0130	2-14-2012	Amend	3-1-2012	705-010-0015	3-29-2012	Adopt(T)	5-1-2012
660-033-0135	2-14-2012	Amend	3-1-2012	705-010-0020	3-29-2012	Adopt(T)	5-1-2012
660-035-0000	6-15-2012	Amend	7-1-2012	705-010-0025	3-29-2012	Adopt(T)	5-1-2012
660-035-0005	6-15-2012	Adopt	7-1-2012	705-010-0030	3-29-2012	Adopt(T)	5-1-2012
660-035-0010	6-15-2012	Amend	7-1-2012	705-010-0035	3-29-2012	Adopt(T)	5-1-2012
660-035-0015	6-15-2012	Adopt	7-1-2012	705-010-0040	3-29-2012	Adopt(T)	5-1-2012



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705-010-0050	3-29-2012	Adopt(T)	5-1-2012	734-051-0010	1-1-2012	Suspend	2-1-2012
705-010-0055	3-29-2012	Adopt(T)	5-1-2012	734-051-0020	1-1-2012	Suspend	2-1-2012
705-010-0060	3-29-2012	Adopt(T)	5-1-2012	734-051-0035	1-1-2012	Suspend	2-1-2012
731-001-0005	2-21-2012	Amend(T)	4-1-2012	734-051-0040	1-1-2012	Suspend	2-1-2012
731-003-0005	3-21-2012	Adopt	5-1-2012	734-051-0045	1-1-2012	Suspend	2-1-2012
731-003-0005(T)	3-21-2012	Repeal	5-1-2012	734-051-0070	1-1-2012	Suspend	2-1-2012
731-035-0020	12-22-2011	Amend	2-1-2012	734-051-0080	1-1-2012	Suspend	2-1-2012
731-035-0040	12-22-2011	Amend	2-1-2012	734-051-0085	1-1-2012	Suspend	2-1-2012
731-035-0050	12-22-2011	Amend	2-1-2012	734-051-0095	1-1-2012	Suspend	2-1-2012
731-035-0060	12-22-2011	Amend	2-1-2012	734-051-0105	1-1-2012	Suspend	2-1-2012
731-035-0070	12-22-2011	Amend	2-1-2012	734-051-0115	1-1-2012	Suspend	2-1-2012
731-035-0080	12-22-2011	Amend	2-1-2012	734-051-0125	1-1-2012	Suspend	2-1-2012
731-146-0010	1-1-2012	Amend	2-1-2012	734-051-0135	1-1-2012	Suspend	2-1-2012
731-146-0015	1-1-2012	Amend	2-1-2012	734-051-0145	1-1-2012	Suspend	2-1-2012
731-146-0020	1-1-2012	Amend	2-1-2012	734-051-0155	1-1-2012	Suspend	2-1-2012
731-146-0025	1-1-2012	Amend	2-1-2012	734-051-0165	1-1-2012	Suspend	2-1-2012
731-146-0030	1-1-2012	Amend	2-1-2012	734-051-0175	1-1-2012	Suspend	2-1-2012
731-146-0050	1-1-2012	Amend	2-1-2012	734-051-0185	1-1-2012	Suspend	2-1-2012
731-146-0060	1-1-2012	Amend	2-1-2012	734-051-0195	1-1-2012	Suspend	2-1-2012
731-147-0010	1-1-2012	Amend	2-1-2012	734-051-0205	1-1-2012	Suspend	2-1-2012
731-147-0040	1-1-2012	Amend	2-1-2012	734-051-0215	1-1-2012	Suspend	2-1-2012
731-147-0060	1-1-2012	Repeal	2-1-2012	734-051-0225	1-1-2012	Suspend	2-1-2012
731-148-0010	1-1-2012	Amend	2-1-2012	734-051-0245	1-1-2012	Suspend	2-1-2012
731-148-0020	1-1-2012	Repeal	2-1-2012	734-051-0255	1-1-2012	Suspend	2-1-2012
731-149-0010	1-1-2012	Amend	2-1-2012	734-051-0265	1-1-2012	Suspend	2-1-2012
734-005-0005	1-1-2012	Adopt	2-1-2012	734-051-0275	1-1-2012	Suspend	2-1-2012
734-005-0010	1-1-2012	Adopt	2-1-2012	734-051-0285	1-1-2012	Suspend	2-1-2012
734-005-0015	1-1-2012	Adopt	2-1-2012	734-051-0295	1-1-2012	Suspend	2-1-2012
734-020-0005	12-22-2011	Amend	2-1-2012	734-051-0305	1-1-2012	Suspend	2-1-2012
734-020-0018	1-27-2012	Adopt	3-1-2012	734-051-0315	1-1-2012	Suspend	2-1-2012
734-020-0019	1-27-2012	Adopt	3-1-2012	734-051-0325	1-1-2012	Suspend	2-1-2012
734-020-0020	3-26-2012	Amend	5-1-2012	734-051-0335	1-1-2012	Suspend	2-1-2012
734-020-0025	3-26-2012	Repeal	5-1-2012	734-051-0345	1-1-2012	Suspend	2-1-2012
734-020-0032	3-26-2012	Repeal	5-1-2012	734-051-0355	1-1-2012	Suspend	2-1-2012
734-020-0034	3-26-2012	Repeal	5-1-2012	734-051-0500	1-1-2012	Suspend	2-1-2012
734-020-0055	12-22-2011	Repeal	2-1-2012	734-051-0510	1-1-2012	Suspend	2-1-2012
734-020-0135	3-26-2012	Repeal	5-1-2012	734-051-0520	1-1-2012	Suspend	2-1-2012
734-020-0140	3-26-2012	Repeal	5-1-2012	734-051-0530	1-1-2012	Suspend	2-1-2012
734-020-0400	3-26-2012	Amend	5-1-2012	734-051-0540	1-1-2012	Suspend	2-1-2012
734-020-0420	3-26-2012	Amend	5-1-2012	734-051-0550	1-1-2012	Suspend	2-1-2012
734-020-0430	3-26-2012	Amend	5-1-2012	734-051-0560	1-1-2012	Suspend	2-1-2012
734-020-0440	3-26-2012	Repeal	5-1-2012	734-051-1010	1-1-2012	Adopt(T)	2-1-2012
734-020-0450	3-26-2012	Repeal	5-1-2012	734-051-1020	1-1-2012	Adopt(T)	2-1-2012
734-020-0460	3-26-2012	Repeal	5-1-2012	734-051-1030	1-1-2012	Adopt(T)	2-1-2012
734-020-0470	3-26-2012	Amend	5-1-2012	734-051-1050	1-1-2012	Adopt(T)	2-1-2012
734-020-0480	3-26-2012	Amend	5-1-2012	734-051-1060	1-1-2012	Adopt(T)	2-1-2012
734-020-0485	3-26-2012	Adopt	5-1-2012	734-051-1070	1-1-2012	Adopt(T)	2-1-2012
734-020-0490	3-26-2012	Repeal	5-1-2012	734-051-2010	1-1-2012	Adopt(T)	2-1-2012
734-020-0500	3-26-2012	Amend	5-1-2012	734-051-2020	1-1-2012	Adopt(T)	2-1-2012
734-026-0010	1-1-2012	Adopt	2-1-2012	734-051-2030	1-1-2012	Adopt(T)	2-1-2012
734-026-0020	1-1-2012	Adopt	2-1-2012	734-051-3010	1-1-2012	Adopt(T)	2-1-2012
734-026-0030	1-1-2012	Adopt	2-1-2012	734-051-3020	1-1-2012	Adopt(T)	2-1-2012
734-026-0040	1-1-2012	Adopt	2-1-2012	734-051-3020	5-3-2012	Amend(T)	6-1-2012
734-026-0045	1-1-2012	Adopt	2-1-2012	734-051-3020(T)	5-3-2012	Suspend	6-1-2012
734-035-0010	2-24-2012	Amend	4-1-2012	734-051-3030	1-1-2012	Adopt(T)	2-1-2012

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734-051-3050	1-1-2012	Adopt(T)	2-1-2012	734-075-0085	1-27-2012	Amend	3-1-2012
734-051-3060	1-1-2012	Adopt(T)	2-1-2012	734-076-0065	1-27-2012	Amend	3-1-2012
734-051-3070	1-1-2012	Adopt(T)	2-1-2012	734-076-0075	1-27-2012	Amend	3-1-2012
734-051-3080	1-1-2012	Adopt(T)	2-1-2012	734-076-0105	1-27-2012	Amend	3-1-2012
734-051-3090	1-1-2012	Adopt(T)	2-1-2012	734-076-0115	1-27-2012	Amend	3-1-2012
734-051-3100	1-1-2012	Adopt(T)	2-1-2012	734-076-0135	1-27-2012	Amend	3-1-2012
734-051-3110	1-1-2012	Adopt(T)	2-1-2012	734-076-0145	1-27-2012	Amend	3-1-2012
734-051-4010	1-1-2012	Adopt(T)	2-1-2012	734-076-0155	1-27-2012	Amend	3-1-2012
734-051-4020	1-1-2012	Adopt(T)	2-1-2012	734-076-0165	1-27-2012	Amend	3-1-2012
734-051-4030	1-1-2012	Adopt(T)	2-1-2012	734-076-0175	1-27-2012	Amend	3-1-2012
734-051-4040	1-1-2012	Adopt(T)	2-1-2012	734-082-0021	1-27-2012	Amend	3-1-2012
734-051-4050	1-1-2012	Adopt(T)	2-1-2012	735-001-0030	12-22-2011	Repeal	2-1-2012
734-051-5010	1-1-2012	Adopt(T)	2-1-2012	735-001-0050	1-30-2012	Amend	3-1-2012
734-051-5020	1-1-2012	Adopt(T)	2-1-2012	735-010-0030	1-30-2012	Amend	3-1-2012
734-051-5030	1-1-2012	Adopt(T)	2-1-2012	735-016-0080	12-22-2011	Repeal	2-1-2012
734-051-5040	1-1-2012	Adopt(T)	2-1-2012	735-020-0010	2-21-2012	Amend	4-1-2012
734-051-5050	1-1-2012	Adopt(T)	2-1-2012	735-020-0012	2-21-2012	Amend	4-1-2012
734-051-5060	1-1-2012	Adopt(T)	2-1-2012	735-022-0120	5-18-2012	Repeal	7-1-2012
734-051-5070	1-1-2012	Adopt(T)	2-1-2012	735-022-0130	5-18-2012	Adopt	7-1-2012
734-051-5080	1-1-2012	Adopt(T)	2-1-2012	735-030-0330	1-1-2012	Amend	2-1-2012
734-051-5090	1-1-2012	Adopt(T)	2-1-2012	735-032-0010	4-1-2012	Amend	5-1-2012
734-051-5100	1-1-2012	Adopt(T)	2-1-2012	735-032-0055	5-18-2012	Adopt	7-1-2012
734-051-5110	1-1-2012	Adopt(T)	2-1-2012	735-040-0030	1-1-2012	Amend	2-1-2012
734-051-5120	1-1-2012	Adopt(T)	2-1-2012	735-050-0090	12-22-2011	Repeal	2-1-2012
734-051-6010	1-1-2012	Adopt(T)	2-1-2012	735-062-0002	1-30-2012	Amend	3-1-2012
734-051-6020	1-1-2012	Adopt(T)	2-1-2012	735-062-0005	1-1-2012	Amend	2-1-2012
734-051-6030	1-1-2012	Adopt(T)	2-1-2012	735-062-0007	1-30-2012	Amend	3-1-2012
734-051-6040	1-1-2012	Adopt(T)	2-1-2012	735-062-0010	1-1-2012	Amend	2-1-2012
734-051-6050	1-1-2012	Adopt(T)	2-1-2012	735-062-0015	1-1-2012	Amend	2-1-2012
734-051-6060	1-1-2012	Adopt(T)	2-1-2012	735-062-0016	11-23-2011	Amend	1-1-2012
734-051-6070	1-1-2012	Adopt(T)	2-1-2012	735-062-0032	1-1-2012	Amend	2-1-2012
734-051-7010	1-1-2012	Adopt(T)	2-1-2012	735-062-0033	1-1-2012	Amend	2-1-2012
734-060-0000	3-26-2012	Amend	5-1-2012	735-062-0080	1-30-2012	Amend	3-1-2012
734-060-0000(T)	3-26-2012	Repeal	5-1-2012	735-062-0085	1-30-2012	Amend	3-1-2012
734-060-0007	3-26-2012	Adopt	5-1-2012	735-062-0090	1-30-2012	Amend	3-1-2012
734-060-0007(T)	3-26-2012	Repeal	5-1-2012	735-062-0110	1-30-2012	Amend	3-1-2012
734-060-0010	3-26-2012	Amend	5-1-2012	735-062-0120	1-1-2012	Amend	2-1-2012
734-065-0015	3-26-2012	Amend	5-1-2012	735-062-0125	1-1-2012	Amend	2-1-2012
734-065-0020	3-26-2012	Amend	5-1-2012	735-062-0135	1-1-2012	Amend	2-1-2012
734-065-0025	3-26-2012	Amend	5-1-2012	735-062-0200	1-30-2012	Amend	3-1-2012
734-070-0010	1-27-2012	Amend	3-1-2012	735-063-0000	1-30-2012	Amend	3-1-2012
734-075-0005	1-27-2012	Amend	3-1-2012	735-063-0050	1-30-2012	Amend	3-1-2012
734-075-0008	1-27-2012	Amend	3-1-2012	735-063-0060	1-30-2012	Amend	3-1-2012
734-075-0010	1-27-2012	Amend	3-1-2012	735-063-0065	1-30-2012	Amend	3-1-2012
734-075-0011	1-27-2012	Amend	3-1-2012	735-063-0067	1-30-2012	Adopt	3-1-2012
734-075-0015	1-27-2012	Amend	3-1-2012	735-064-0085	12-22-2011	Repeal	2-1-2012
734-075-0020	1-27-2012	Amend	3-1-2012	735-064-0220	1-1-2012	Amend	2-1-2012
734-075-0022	1-27-2012	Amend	3-1-2012	735-070-0004	11-23-2011	Amend	1-1-2012
734-075-0025	1-27-2012	Amend	3-1-2012	735-070-0010	1-1-2012	Amend	2-1-2012
734-075-0035	1-27-2012	Amend	3-1-2012	735-070-0054	11-23-2011	Amend	1-1-2012
734-075-0036	1-27-2012	Amend	3-1-2012	735-070-0085	3-26-2012	Amend(T)	5-1-2012
734-075-0037	1-27-2012	Amend	3-1-2012	735-072-0035	1-1-2012	Amend	2-1-2012
734-075-0040	1-27-2012	Amend	3-1-2012	735-074-0140	1-1-2012	Amend	2-1-2012
734-075-0041	1-27-2012	Amend	3-1-2012	735-076-0020	1-1-2012	Amend	2-1-2012
734-075-0045	1-27-2012	Amend	3-1-2012	735-152-0000	1-1-2012	Amend	2-1-2012

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OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
735-152-0005	1-1-2012	Amend	2-1-2012	736-045-0426	5-4-2012	Adopt	6-1-2012
735-152-0020	1-1-2012	Amend	2-1-2012	736-045-0428	5-4-2012	Adopt	6-1-2012
735-152-0040	1-1-2012	Amend	2-1-2012	736-045-0430	5-4-2012	Adopt	6-1-2012
735-152-0050	1-1-2012	Amend	2-1-2012	736-045-0432	5-4-2012	Adopt	6-1-2012
735-152-0060	1-1-2012	Amend	2-1-2012	736-045-0434	5-4-2012	Adopt	6-1-2012
736-004-0005	2-15-2012	Amend	3-1-2012	736-045-0436	5-4-2012	Adopt	6-1-2012
736-004-0010	2-15-2012	Amend	3-1-2012	736-045-0438	5-4-2012	Adopt	6-1-2012
736-004-0015	2-15-2012	Amend	3-1-2012	736-045-0440	5-4-2012	Adopt	6-1-2012
736-004-0020	2-15-2012	Amend	3-1-2012	736-045-0442	5-4-2012	Adopt	6-1-2012
736-004-0025	2-15-2012	Amend	3-1-2012	736-045-0444	5-4-2012	Adopt	6-1-2012
736-004-0030	2-15-2012	Amend	3-1-2012	736-045-0446	5-4-2012	Adopt	6-1-2012
736-004-0045	2-15-2012	Amend	3-1-2012	736-045-0448	5-4-2012	Adopt	6-1-2012
736-004-0060	2-15-2012	Amend	3-1-2012	736-045-0500	5-4-2012	Adopt	6-1-2012
736-004-0062	2-15-2012	Amend	3-1-2012	736-045-0505	5-4-2012	Adopt	6-1-2012
736-004-0085	2-15-2012	Amend	3-1-2012	738-010-0025	2-28-2012	Amend(T)	4-1-2012
736-004-0090	2-15-2012	Amend	3-1-2012	738-040-0035	6-11-2012	Adopt(T)	7-1-2012
736-004-0095	2-15-2012	Amend	3-1-2012	740-055-0010	12-22-2011	Amend	2-1-2012
736-004-0100	2-15-2012	Amend	3-1-2012	740-055-0100	11-23-2011	Amend	1-1-2012
736-004-0105	2-15-2012	Amend	3-1-2012	740-100-0010	4-1-2012	Amend	4-1-2012
736-004-0115	2-15-2012	Amend	3-1-2012	740-100-0010	5-18-2012	Amend	7-1-2012
736-004-0120	2-15-2012	Amend	3-1-2012	740-100-0065	4-1-2012	Amend	4-1-2012
736-004-0125	2-15-2012	Amend	3-1-2012	740-100-0070	4-1-2012	Amend	4-1-2012
736-004-0130	2-15-2012	Adopt	3-1-2012	740-100-0080	4-1-2012	Amend	4-1-2012
736-006-0110	5-11-2012	Amend	6-1-2012	740-100-0085	4-1-2012	Amend	4-1-2012
736-006-0115	5-11-2012	Amend	6-1-2012	740-100-0090	4-1-2012	Amend	4-1-2012
736-006-0125	5-11-2012	Amend	6-1-2012	740-100-0100	1-1-2012	Amend	2-1-2012
736-006-0145	5-11-2012	Amend	6-1-2012	740-100-0230	4-23-2012	Amend	6-1-2012
736-006-0150	5-11-2012	Amend	6-1-2012	740-110-0010	4-1-2012	Amend	4-1-2012
736-015-0010	11-28-2011	Amend	1-1-2012	740-200-0020	2-21-2012	Amend	4-1-2012
736-015-0020	11-28-2011	Amend	1-1-2012	740-200-0040	2-21-2012	Amend	4-1-2012
736-015-0026	11-28-2011	Amend	1-1-2012	740-300-0010	11-23-2011	Amend	1-1-2012
736-015-0030	11-28-2011	Amend	1-1-2012	740-300-0060	3-26-2012	Amend	5-1-2012
736-017-0005	5-11-2012	Amend	6-1-2012	741-040-0010	1-27-2012	Adopt	3-1-2012
736-017-0010	5-11-2012	Amend	6-1-2012	741-040-0020	1-27-2012	Adopt	3-1-2012
736-017-0020	5-11-2012	Amend	6-1-2012	741-040-0030	1-27-2012	Adopt	3-1-2012
736-017-0035	5-11-2012	Amend	6-1-2012	741-040-0040	1-27-2012	Adopt	3-1-2012
736-045-0006	5-4-2012	Adopt	6-1-2012	741-040-0050	1-27-2012	Adopt	3-1-2012
736-045-0011	5-4-2012	Adopt	6-1-2012	741-040-0060	1-27-2012	Adopt	3-1-2012
736-045-0100	5-4-2012	Adopt	6-1-2012	741-040-0070	1-27-2012	Adopt	3-1-2012
736-045-0200	5-4-2012	Adopt	6-1-2012	800-010-0015	2-1-2012	Amend	3-1-2012
736-045-0300	5-4-2012	Adopt	6-1-2012	800-010-0040	2-1-2012	Amend	3-1-2012
736-045-0305	5-4-2012	Adopt	6-1-2012	800-015-0005	2-1-2012	Amend	3-1-2012
736-045-0310	5-4-2012	Adopt	6-1-2012	800-015-0010	2-1-2012	Amend	3-1-2012
736-045-0320	5-4-2012	Adopt	6-1-2012	800-015-0015	2-1-2012	Amend	3-1-2012
736-045-0330	5-4-2012	Adopt	6-1-2012	800-015-0020	2-1-2012	Amend	3-1-2012
736-045-0340	5-4-2012	Adopt	6-1-2012	800-015-0030	2-1-2012	Amend	3-1-2012
736-045-0400	5-4-2012	Adopt	6-1-2012	800-020-0015	2-1-2012	Amend	3-1-2012
736-045-0405	5-4-2012	Adopt	6-1-2012	800-020-0022	2-1-2012	Amend	3-1-2012
736-045-0410	5-4-2012	Adopt	6-1-2012	800-020-0025	2-1-2012	Amend	3-1-2012
736-045-0412	5-4-2012	Adopt	6-1-2012	800-025-0020	2-1-2012	Amend	3-1-2012
736-045-0414	5-4-2012	Adopt	6-1-2012	800-025-0027	2-1-2012	Amend	3-1-2012
736-045-0416	5-4-2012	Adopt	6-1-2012	801-001-0035	1-1-2012	Amend	2-1-2012
736-045-0418	5-4-2012	Adopt	6-1-2012	801-001-0045	1-1-2012	Adopt	2-1-2012
736-045-0420	5-4-2012	Adopt	6-1-2012	801-005-0010	1-1-2012	Amend	2-1-2012
736-045-0422	5-4-2012	Adopt	6-1-2012	801-005-0300	1-1-2012	Amend	2-1-2012
736-045-0424	5-4-2012	Adopt	6-1-2012	801-010-0010	1-1-2012	Amend	2-1-2012

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801-010-0040	1-1-2012	Amend	2-1-2012	809-050-0000	6-15-2012	Amend	7-1-2012
801-010-0050	1-1-2012	Amend	2-1-2012	809-050-0010	6-15-2012	Amend	7-1-2012
801-010-0065	1-1-2012	Amend	2-1-2012	811-010-0110	5-31-2012	Amend	7-1-2012
801-010-0073	1-1-2012	Amend	2-1-2012	812-001-0120	5-1-2012	Amend	6-1-2012
801-010-0075	1-1-2012	Amend	2-1-2012	812-001-0140	5-1-2012	Amend	6-1-2012
801-010-0079	1-1-2012	Amend	2-1-2012	812-002-0060	5-1-2012	Amend	6-1-2012
801-010-0080	1-1-2012	Amend	2-1-2012	812-002-0100	5-1-2012	Amend	6-1-2012
801-010-0085	1-1-2012	Amend	2-1-2012	812-002-0160	5-1-2012	Amend	6-1-2012
801-010-0110	1-1-2012	Amend	2-1-2012	812-002-0250	5-1-2012	Amend	6-1-2012
801-010-0115	1-1-2012	Amend	2-1-2012	812-002-0260	1-1-2012	Amend	1-1-2012
801-010-0120	1-1-2012	Amend	2-1-2012	812-002-0360	5-1-2012	Amend	6-1-2012
801-010-0125	1-1-2012	Amend	2-1-2012	812-002-0443	3-2-2012	Amend	4-1-2012
801-010-0130	1-1-2012	Amend	2-1-2012	812-002-0673	5-1-2012	Amend	6-1-2012
801-010-0190	1-1-2012	Am. & Ren.	2-1-2012	812-002-0700	5-1-2012	Amend	6-1-2012
801-010-0340	1-1-2012	Amend	2-1-2012	812-002-0800	5-1-2012	Amend	6-1-2012
801-010-0345	1-1-2012	Amend	2-1-2012	812-004-0200	5-1-2012	Amend	6-1-2012
801-040-0010	1-1-2012	Amend	2-1-2012	812-004-0560	5-1-2012	Amend	6-1-2012
801-040-0020	1-1-2012	Amend	2-1-2012	812-004-1001	5-1-2012	Amend	6-1-2012
801-040-0090	1-1-2012	Amend	2-1-2012	812-004-1110	5-1-2012	Amend	6-1-2012
801-040-0100	1-1-2012	Amend	2-1-2012	812-004-1120	5-1-2012	Amend	6-1-2012
801-040-0160	1-1-2012	Amend	2-1-2012	812-004-1140	5-1-2012	Amend	6-1-2012
801-050-0010	1-1-2012	Amend	2-1-2012	812-004-1160	5-1-2012	Amend	6-1-2012
801-050-0020	1-1-2012	Amend	2-1-2012	812-004-1180	5-1-2012	Amend	6-1-2012
801-050-0040	1-1-2012	Amend	2-1-2012	812-004-1195	5-1-2012	Amend	6-1-2012
804-001-0005	5-23-2012	Amend	7-1-2012	812-004-1210	5-1-2012	Amend	6-1-2012
804-022-0005	6-1-2012	Amend	7-1-2012	812-004-1240	5-1-2012	Amend	6-1-2012
804-022-0010	6-1-2012	Amend	7-1-2012	812-004-1250	5-1-2012	Amend	6-1-2012
806-010-0045	1-4-2012	Amend	2-1-2012	812-004-1260	5-1-2012	Amend	6-1-2012
808-001-0005	5-30-2012	Amend	7-1-2012	812-004-1300	5-1-2012	Amend	6-1-2012
808-002-0020	1-1-2012	Amend	2-1-2012	812-004-1320	5-1-2012	Amend	6-1-2012
808-002-0390	1-1-2012	Adopt	2-1-2012	812-004-1340	5-1-2012	Amend	6-1-2012
808-002-0625	1-1-2012	Amend	2-1-2012	812-004-1350	5-1-2012	Amend	6-1-2012
808-003-0015	1-1-2012	Amend	2-1-2012	812-004-1360	5-1-2012	Amend	6-1-2012
808-003-0025	1-1-2012	Amend	2-1-2012	812-004-1400	5-1-2012	Amend	6-1-2012
808-003-0030	1-1-2012	Amend	2-1-2012	812-004-1420	5-1-2012	Amend	6-1-2012
808-003-0040	1-1-2012	Amend	2-1-2012	812-004-1440	5-1-2012	Amend	6-1-2012
808-003-0065	1-1-2012	Amend	2-1-2012	812-004-1450	5-1-2012	Amend	6-1-2012
808-003-0090	1-1-2012	Amend	2-1-2012	812-004-1460	5-1-2012	Amend	6-1-2012
808-003-0126	1-1-2012	Adopt	2-1-2012	812-004-1480	5-1-2012	Amend	6-1-2012
808-003-0130	1-1-2012	Amend	2-1-2012	812-004-1490	5-1-2012	Amend	6-1-2012
808-003-0230	5-30-2012	Amend	7-1-2012	812-004-1500	5-1-2012	Amend	6-1-2012
808-003-0620	1-1-2012	Adopt	2-1-2012	812-004-1505	5-1-2012	Amend	6-1-2012
808-004-0320	1-1-2012	Amend	2-1-2012	812-004-1510	5-1-2012	Amend	6-1-2012
808-005-0020	1-1-2012	Amend	2-1-2012	812-004-1520	5-1-2012	Amend	6-1-2012
808-040-0020	1-1-2012	Amend	2-1-2012	812-004-1530	5-1-2012	Amend	6-1-2012
808-040-0020	4-1-2012	Amend	5-1-2012	812-004-1537	5-1-2012	Amend	6-1-2012
808-040-0025	4-1-2012	Amend	5-1-2012	812-004-1600	5-1-2012	Amend	6-1-2012
808-040-0050	4-1-2012	Amend(T)	5-1-2012	812-005-0100	5-1-2012	Amend	6-1-2012
808-040-0080	1-1-2012	Amend	2-1-2012	812-005-0110	5-1-2012	Amend	6-1-2012
808-040-0080	4-1-2012	Amend	5-1-2012	812-005-0140	3-2-2012	Amend	4-1-2012
809-001-0005	6-15-2012	Amend	7-1-2012	812-005-0140(T)	3-2-2012	Repeal	4-1-2012
809-003-0000	6-15-2012	Amend	7-1-2012	812-005-0210	5-1-2012	Amend	6-1-2012
809-015-0020	6-15-2012	Adopt	7-1-2012	812-005-0250	3-2-2012	Amend	4-1-2012
809-030-0005	6-15-2012	Amend	7-1-2012	812-005-0270	5-1-2012	Amend	6-1-2012
809-030-0015	6-15-2012	Amend	7-1-2012	812-005-0280	5-1-2012	Amend	6-1-2012
809-030-0020	6-15-2012	Amend	7-1-2012	812-005-0800	1-1-2012	Amend	1-1-2012

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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
812-021-0025(T)	3-2-2012	Repeal	4-1-2012	818-021-0085	7-1-2012	Amend	7-1-2012
812-021-0030	2-9-2012	Amend(T)	3-1-2012	818-026-0030	7-1-2012	Amend	7-1-2012
812-021-0030	5-1-2012	Amend	6-1-2012	818-026-0055	7-1-2012	Amend	7-1-2012
812-021-0030(T)	5-1-2012	Repeal	6-1-2012	818-035-0065	7-1-2012	Amend	7-1-2012
812-021-0031	2-9-2012	Amend(T)	3-1-2012	818-035-0066	7-1-2012	Adopt	7-1-2012
812-021-0031	5-1-2012	Amend	6-1-2012	818-042-0020	7-1-2012	Amend	7-1-2012
812-021-0031(T)	5-1-2012	Repeal	6-1-2012	818-042-0040	7-1-2012	Amend	7-1-2012
812-021-0040	3-2-2012	Amend	4-1-2012	818-042-0100	7-1-2012	Amend	7-1-2012
813-006-0025	4-2-2012	Amend(T)	5-1-2012	820-010-0204	5-10-2012	Amend	6-1-2012
813-020-0005	3-27-2012	Amend	5-1-2012	820-010-0206	5-10-2012	Amend	6-1-2012
813-020-0005(T)	3-27-2012	Repeal	5-1-2012	820-010-0208	5-10-2012	Amend	6-1-2012
813-020-0010	3-27-2012	Repeal	5-1-2012	820-010-0209	5-10-2012	Amend	6-1-2012
813-020-0015	3-27-2012	Repeal	5-1-2012	820-010-0210	5-10-2012	Amend	6-1-2012
813-020-0016	3-27-2012	Repeal	5-1-2012	820-010-0212	5-10-2012	Amend	6-1-2012
813-020-0017	3-27-2012	Renumber	5-1-2012	820-010-0213	5-10-2012	Amend	6-1-2012
813-020-0020	3-27-2012	Amend	5-1-2012	820-010-0214	5-10-2012	Amend	6-1-2012
813-020-0020(T)	3-27-2012	Repeal	5-1-2012	820-010-0215	5-10-2012	Amend	6-1-2012
813-020-0024	3-27-2012	Renumber	5-1-2012	820-010-0260	5-10-2012	Amend	6-1-2012
813-020-0025	3-27-2012	Amend	5-1-2012	820-010-0300	5-10-2012	Amend	6-1-2012
813-020-0025(T)	3-27-2012	Repeal	5-1-2012	820-010-0305	3-16-2012	Amend(T)	5-1-2012
813-020-0030	3-27-2012	Renumber	5-1-2012	820-010-0305	5-10-2012	Amend	6-1-2012
813-020-0032	3-27-2012	Renumber	5-1-2012	820-010-0305(T)	5-10-2012	Repeal	6-1-2012
813-020-0033	3-27-2012	Repeal	5-1-2012	820-010-0442	5-10-2012	Amend	6-1-2012
813-020-0035	3-27-2012	Amend	5-1-2012	820-010-0465	5-10-2012	Amend	6-1-2012
813-020-0035(T)	3-27-2012	Repeal	5-1-2012	820-010-0505	3-16-2012	Amend(T)	5-1-2012
813-020-0040	3-27-2012	Renumber	5-1-2012	820-010-0505	5-10-2012	Amend	6-1-2012
813-020-0041	3-27-2012	Renumber	5-1-2012	820-010-0505(T)	5-10-2012	Repeal	6-1-2012
813-020-0042	3-27-2012	Renumber	5-1-2012	820-010-0520	5-10-2012	Amend	6-1-2012
813-020-0045	3-27-2012	Amend	5-1-2012	820-010-0530	5-10-2012	Amend	6-1-2012
813-020-0045(T)	3-27-2012	Repeal	5-1-2012	820-010-0621	5-10-2012	Amend	6-1-2012
813-020-0050	3-27-2012	Renumber	5-1-2012	820-010-0622	5-10-2012	Amend	6-1-2012
813-020-0051	3-27-2012	Renumber	5-1-2012	820-010-0730	5-10-2012	Adopt	6-1-2012

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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	836-052-0138	1-1-2013	Amend	4-1-2012
830-020-0030	4-1-2012	Amend	5-1-2012	836-052-0143	1-1-2013	Adopt	4-1-2012
830-020-0040	4-1-2012	Amend	5-1-2012	836-052-0508	2-14-2012	Amend	3-1-2012
830-020-0050	4-1-2012	Amend	5-1-2012	836-052-0768	2-14-2012	Adopt	3-1-2012
830-030-0000	4-1-2012	Amend	5-1-2012	836-052-0770	2-14-2012	Adopt	3-1-2012
830-030-0008	4-1-2012	Amend	5-1-2012	836-052-0900	1-13-2012	Suspend	2-1-2012
830-030-0010	4-1-2012	Amend	5-1-2012	836-052-0900	5-1-2012	Repeal	6-1-2012
830-030-0030	4-1-2012	Amend	5-1-2012	836-052-1000	4-5-2012	Amend	5-1-2012
830-030-0040	4-1-2012	Amend	5-1-2012	836-053-0410	12-19-2011	Amend	2-1-2012
830-030-0050	4-1-2012	Amend	5-1-2012	836-053-0415	12-19-2011	Adopt	2-1-2012
830-030-0090	4-1-2012	Amend	5-1-2012	836-053-0825	12-19-2011	Adopt	2-1-2012
830-030-0100	4-1-2012	Amend	5-1-2012	836-053-0830	12-19-2011	Adopt	2-1-2012
830-040-0000	4-1-2012	Amend	5-1-2012	836-053-0851	12-19-2011	Amend	2-1-2012
830-040-0010	4-1-2012	Amend	5-1-2012	836-053-0856	12-19-2011	Repeal	2-1-2012
830-040-0020	4-1-2012	Amend	5-1-2012	836-053-0857	12-19-2011	Adopt	2-1-2012
830-040-0040	4-1-2012	Amend	5-1-2012	836-053-0861	12-19-2011	Repeal	2-1-2012
830-040-0050	4-1-2012	Amend	5-1-2012	836-053-0862	12-19-2011	Adopt	2-1-2012
833-020-0021	5-15-2012	Amend	6-1-2012	836-053-0862	4-15-2012	Suspend	5-1-2012
833-020-0075	5-15-2012	Adopt	6-1-2012	836-053-0863	4-15-2012	Adopt(T)	5-1-2012
833-120-0011	12-15-2011	Amend	1-1-2012	836-053-0866	12-19-2011	Repeal	2-1-2012
833-120-0021	12-15-2011	Amend	1-1-2012	836-053-1000	12-19-2011	Amend	2-1-2012
833-120-0031	12-15-2011	Amend	1-1-2012	836-053-1030	12-19-2011	Amend	2-1-2012
833-120-0041	12-15-2011	Amend	1-1-2012	836-053-1033	12-19-2011	Adopt	2-1-2012
834-040-0000	3-28-2012	Adopt	5-1-2012	836-053-1035	12-19-2011	Adopt	2-1-2012
836-005-0107	3-27-2012	Amend	5-1-2012	836-053-1060	12-19-2011	Amend	2-1-2012
836-009-0007	7-1-2012	Amend(T)	7-1-2012	836-053-1070	12-19-2011	Amend	2-1-2012
836-010-0000	1-1-2012	Amend	2-1-2012	836-053-1080	12-19-2011	Amend	2-1-2012
836-010-0011	1-1-2012	Amend	2-1-2012	836-053-1100	12-19-2011	Amend	2-1-2012
836-010-0012	1-1-2012	Repeal	2-1-2012	836-053-1110	12-19-2011	Amend	2-1-2012
836-011-0000	2-7-2012	Amend	3-1-2012	836-053-1140	12-19-2011	Amend	2-1-2012
836-011-0600	2-16-2012	Adopt	4-1-2012	836-053-1310	12-19-2011	Amend	2-1-2012
836-029-0000	7-1-2012	Adopt(T)	7-1-2012	836-053-1340	12-19-2011	Amend	2-1-2012
836-029-0005	7-1-2012	Adopt(T)	7-1-2012	836-053-1342	12-19-2011	Amend	2-1-2012
836-029-0010	7-1-2012	Adopt(T)	7-1-2012	836-053-1350	12-19-2011	Amend	2-1-2012
836-029-0015	7-1-2012	Adopt(T)	7-1-2012	836-071-0500	1-1-2012	Amend	2-1-2012
836-029-0020	7-1-2012	Adopt(T)	7-1-2012	836-071-0501	1-1-2012	Adopt	2-1-2012
836-029-0025	7-1-2012	Adopt(T)	7-1-2012	836-071-0550	1-1-2012	Adopt	2-1-2012
836-029-0030	7-1-2012	Adopt(T)	7-1-2012	836-071-0560	1-1-2012	Adopt	2-1-2012
836-029-0035	7-1-2012	Adopt(T)	7-1-2012	836-071-0565	1-1-2012	Adopt	2-1-2012
836-029-0040	7-1-2012	Adopt(T)	7-1-2012	836-071-0570	1-1-2012	Adopt	2-1-2012
836-029-0045	7-1-2012	Adopt(T)	7-1-2012	836-080-0337	6-7-2012	Amend	7-1-2012
836-029-0050	7-1-2012	Adopt(T)	7-1-2012	836-200-0250	1-1-2012	Adopt	1-1-2012
836-029-0055	7-1-2012	Adopt(T)	7-1-2012	836-200-0255	1-1-2012	Adopt	1-1-2012
836-029-0060	7-1-2012	Adopt(T)	7-1-2012	836-200-0300	1-1-2012	Adopt	1-1-2012
836-029-0065	7-1-2012	Adopt(T)	7-1-2012	836-200-0305	1-1-2012	Adopt	1-1-2012
836-029-0070	7-1-2012	Adopt(T)	7-1-2012	836-200-0310	1-1-2012	Adopt	1-1-2012
836-029-0075	7-1-2012	Adopt(T)	7-1-2012	836-200-0315	1-1-2012	Adopt	1-1-2012
836-029-0080	7-1-2012	Adopt(T)	7-1-2012	837-012-0515	2-6-2012	Amend(T)	3-1-2012
836-029-0085	7-1-2012	Adopt(T)	7-1-2012	837-012-0515	8-3-2012	Amend	6-1-2012
836-029-0090	7-1-2012	Adopt(T)	7-1-2012	837-020-0080	1-24-2012	Amend	3-1-2012
836-029-0095	7-1-2012	Adopt(T)	7-1-2012	837-020-0085	1-24-2012	Amend	3-1-2012
836-029-0100	7-1-2012	Adopt(T)	7-1-2012	837-020-0115	1-24-2012	Amend	3-1-2012
836-029-0105	7-1-2012	Adopt(T)	7-1-2012	837-035-0000	1-24-2012	Amend	3-1-2012
836-029-0110	7-1-2012	Adopt(T)	7-1-2012	837-035-0060	1-24-2012	Amend	3-1-2012

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837-035-0100	1-24-2012	Amend	3-1-2012	839-009-0330	2-8-2012	Amend	3-1-2012
837-035-0160	1-24-2012	Amend	3-1-2012	839-009-0340	1-1-2012	Amend	2-1-2012
837-035-0200	1-24-2012	Amend	3-1-2012	839-009-0340	2-8-2012	Amend	3-1-2012
837-035-0220	1-24-2012	Amend	3-1-2012	839-009-0345	1-1-2012	Amend	2-1-2012
837-035-0240	1-24-2012	Amend	3-1-2012	839-009-0345	2-8-2012	Amend	3-1-2012
837-040-0020	2-10-2012	Amend(T)	3-1-2012	839-009-0355	1-1-2012	Amend	2-1-2012
837-040-0020	3-1-2012	Amend	3-1-2012	839-009-0355	2-8-2012	Amend	3-1-2012
837-040-0020	8-2-2012	Amend	7-1-2012	839-009-0360	1-1-2012	Amend	2-1-2012
839-001-0300	1-1-2012	Adopt	2-1-2012	839-009-0360	2-8-2012	Amend	3-1-2012
839-001-0560	1-1-2012	Amend	2-1-2012	839-009-0362	1-1-2012	Amend	2-1-2012
839-002-0001	1-1-2012	Amend	2-1-2012	839-009-0362	2-8-2012	Amend	3-1-2012
839-002-0002	1-1-2012	Amend	2-1-2012	839-009-0365	1-1-2012	Amend	2-1-2012
839-002-0005	1-1-2012	Amend	2-1-2012	839-009-0365	2-8-2012	Amend	3-1-2012
839-002-0015	1-1-2012	Amend	2-1-2012	839-011-0020	1-3-2012	Amend	2-1-2012
839-002-0020	1-1-2012	Amend	2-1-2012	839-011-0050	1-3-2012	Amend	2-1-2012
839-002-0025	1-1-2012	Amend	2-1-2012	839-011-0051	1-3-2012	Amend	2-1-2012
839-002-0030	1-1-2012	Amend	2-1-2012	839-011-0060	1-3-2012	Amend	2-1-2012
839-002-0035	1-1-2012	Amend	2-1-2012	839-011-0070	1-3-2012	Amend	2-1-2012
839-002-0040	1-1-2012	Amend	2-1-2012	839-011-0072	1-3-2012	Amend	2-1-2012
839-002-0045	1-1-2012	Amend	2-1-2012	839-011-0074	1-3-2012	Amend	2-1-2012
839-002-0050	1-1-2012	Amend	2-1-2012	839-011-0082	1-3-2012	Amend	2-1-2012
839-002-0055	1-1-2012	Amend	2-1-2012	839-011-0084	1-3-2012	Amend	2-1-2012
839-002-0060	1-1-2012	Amend	2-1-2012	839-011-0088	1-3-2012	Amend	2-1-2012
839-002-0065	1-1-2012	Amend	2-1-2012	839-011-0090	1-3-2012	Amend	2-1-2012
839-002-0070	1-1-2012	Amend	2-1-2012	839-011-0140	1-3-2012	Amend	2-1-2012
839-002-0075	1-1-2012	Amend	2-1-2012	839-011-0141	1-3-2012	Amend	2-1-2012
839-002-0080	1-1-2012	Amend	2-1-2012	839-011-0142	1-3-2012	Amend	2-1-2012
839-003-0005	6-13-2012	Amend(T)	7-1-2012	839-011-0143	1-3-2012	Amend	2-1-2012
839-003-0025	6-13-2012	Amend(T)	7-1-2012	839-011-0145	1-3-2012	Amend	2-1-2012
839-003-0031	6-13-2012	Adopt(T)	7-1-2012	839-011-0162	1-3-2012	Amend	2-1-2012
839-003-0200	6-13-2012	Amend(T)	7-1-2012	839-011-0175	1-3-2012	Amend	2-1-2012
839-005-0033	1-1-2012	Renumber	2-1-2012	839-011-0265	1-3-2012	Amend	2-1-2012
839-005-0033	2-8-2012	Am. & Ren.	3-1-2012	839-011-0270	1-3-2012	Amend	2-1-2012
839-005-0075	1-1-2012	Adopt	2-1-2012	839-011-0290	1-3-2012	Amend	2-1-2012
839-005-0075	2-8-2012	Adopt	3-1-2012	839-011-0310	1-3-2012	Amend	2-1-2012
839-005-0130	1-1-2012	Adopt	2-1-2012	839-011-0320	1-3-2012	Amend	2-1-2012
839-005-0130	2-8-2012	Adopt	3-1-2012	839-011-0334	1-3-2012	Amend	2-1-2012
839-005-0135	1-1-2012	Adopt	2-1-2012	839-025-0700	1-1-2012	Amend	2-1-2012
839-005-0135	2-8-2012	Adopt	3-1-2012	839-025-0700	3-29-2012	Amend	5-1-2012
839-005-0160	1-1-2012	Amend	2-1-2012	839-050-0040	1-1-2012	Amend	2-1-2012
839-005-0160	2-8-2012	Amend	3-1-2012	839-050-0310	1-1-2012	Amend	2-1-2012
839-005-0170	1-1-2012	Amend	2-1-2012	839-050-0340	1-1-2012	Amend	2-1-2012
839-005-0170	2-8-2012	Amend	3-1-2012	845-001-0007	6-1-2012	Amend	6-1-2012
839-006-0440	1-1-2012	Amend	2-1-2012	845-005-0413	4-5-2012	Amend(T)	5-1-2012
839-006-0440	2-8-2012	Amend	3-1-2012	845-005-0425	1-1-2012	Amend	1-1-2012
839-006-0450	1-1-2012	Amend	2-1-2012	845-006-0335	5-1-2012	Amend	5-1-2012
839-006-0450	2-8-2012	Amend	3-1-2012	845-006-0392	5-1-2012	Amend	5-1-2012
839-006-0455	1-1-2012	Amend	2-1-2012	845-006-0396	5-1-2012	Amend	5-1-2012
839-006-0455	2-8-2012	Amend	3-1-2012	845-009-0135	1-1-2012	Amend	1-1-2012
839-006-0470	1-1-2012	Amend	2-1-2012	845-015-0101	1-1-2012	Amend	1-1-2012
839-006-0470	2-8-2012	Amend	3-1-2012	845-015-0101	4-1-2012	Amend	5-1-2012
839-006-0480	1-1-2012	Amend	2-1-2012	845-015-0105	4-1-2012	Amend	5-1-2012
839-006-0480	2-8-2012	Amend	3-1-2012	845-015-0115	4-1-2012	Amend	5-1-2012
839-009-0325	1-1-2012	Amend	2-1-2012	845-015-0118	4-1-2012	Amend	5-1-2012
839-009-0325	2-8-2012	Amend	3-1-2012	845-015-0120	1-1-2012	Amend	1-1-2012

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845-015-0185	1-1-2012	Amend	1-1-2012	847-050-0025(T)	2-10-2012	Repeal	3-1-2012
845-015-0190	1-1-2012	Amend	1-1-2012	847-050-0026	1-1-2012	Amend(T)	1-1-2012
845-015-0196	1-1-2012	Amend	1-1-2012	847-050-0026	2-10-2012	Amend	3-1-2012
845-015-0210	1-1-2012	Adopt	1-1-2012	847-050-0026(T)	2-10-2012	Repeal	3-1-2012
847-001-0000	2-7-2012	Amend(T)	3-1-2012	847-050-0027	1-1-2012	Amend(T)	1-1-2012
847-001-0000	4-17-2012	Amend	6-1-2012	847-050-0027	2-10-2012	Amend	3-1-2012
847-001-0000(T)	4-17-2012	Repeal	6-1-2012	847-050-0027	3-2-2012	Amend(T)	4-1-2012
847-001-0005	2-7-2012	Amend(T)	3-1-2012	847-050-0027(T)	2-10-2012	Repeal	3-1-2012
847-001-0005(T)	4-17-2012	Repeal	6-1-2012	847-050-0029	1-1-2012	Amend(T)	1-1-2012
847-001-0007	2-10-2012	Adopt	3-1-2012	847-050-0029	2-10-2012	Amend	3-1-2012
847-001-0010	2-7-2012	Amend(T)	3-1-2012	847-050-0029(T)	2-10-2012	Repeal	3-1-2012
847-001-0010(T)	4-17-2012	Repeal	6-1-2012	847-050-0035	1-1-2012	Amend(T)	1-1-2012
847-001-0015	2-7-2012	Amend(T)	3-1-2012	847-050-0035	2-10-2012	Amend	3-1-2012
847-001-0015	4-17-2012	Amend	6-1-2012	847-050-0035(T)	2-10-2012	Repeal	3-1-2012
847-001-0015(T)	4-17-2012	Repeal	6-1-2012	847-050-0037	1-1-2012	Amend(T)	1-1-2012
847-001-0020	2-7-2012	Amend(T)	3-1-2012	847-050-0037	2-10-2012	Amend	3-1-2012
847-001-0020	4-17-2012	Amend	6-1-2012	847-050-0037(T)	2-10-2012	Repeal	3-1-2012
847-001-0020(T)	4-17-2012	Repeal	6-1-2012	847-050-0038	1-1-2012	Amend(T)	1-1-2012
847-001-0022	2-7-2012	Amend(T)	3-1-2012	847-050-0038	2-10-2012	Amend	3-1-2012
847-001-0022(T)	4-17-2012	Repeal	6-1-2012	847-050-0038(T)	2-10-2012	Repeal	3-1-2012
847-001-0025	2-7-2012	Amend(T)	3-1-2012	847-050-0040	1-1-2012	Amend(T)	1-1-2012
847-001-0025(T)	4-17-2012	Repeal	6-1-2012	847-050-0040	2-10-2012	Amend	3-1-2012
847-001-0030	2-7-2012	Amend(T)	3-1-2012	847-050-0040(T)	2-10-2012	Repeal	3-1-2012
847-001-0030	4-17-2012	Amend	6-1-2012	847-050-0041	1-1-2012	Amend(T)	1-1-2012
847-001-0030(T)	4-17-2012	Repeal	6-1-2012	847-050-0041	2-10-2012	Amend	3-1-2012
847-005-0005	1-1-2012	Amend(T)	2-1-2012	847-050-0041	6-1-2012	Amend(T)	6-1-2012
847-005-0005	2-10-2012	Amend	3-1-2012	847-050-0041(T)	2-10-2012	Repeal	3-1-2012
847-005-0005	3-2-2012	Amend(T)	4-1-2012	847-050-0042	1-1-2012	Amend(T)	1-1-2012
847-005-0005(T)	2-10-2012	Repeal	3-1-2012	847-050-0042	2-10-2012	Amend	3-1-2012
847-008-0010	4-17-2012	Amend	6-1-2012	847-050-0042(T)	2-10-2012	Repeal	3-1-2012
847-008-0040	1-1-2012	Amend(T)	1-1-2012	847-050-0043	1-1-2012	Amend(T)	1-1-2012
847-008-0040	2-10-2012	Amend	3-1-2012	847-050-0043	2-10-2012	Amend	3-1-2012
847-008-0040(T)	2-10-2012	Repeal	3-1-2012	847-050-0043(T)	2-10-2012	Repeal	3-1-2012
847-020-0155	2-10-2012	Amend	3-1-2012	847-050-0046	1-1-2012	Amend(T)	1-1-2012
847-020-0155	3-2-2012	Amend(T)	4-1-2012	847-050-0046	2-10-2012	Amend	3-1-2012
847-020-0155(T)	2-10-2012	Repeal	3-1-2012	847-050-0046(T)	2-10-2012	Repeal	3-1-2012
847-035-0011	4-17-2012	Amend	6-1-2012	847-050-0050	1-1-2012	Amend(T)	1-1-2012
847-035-0020	2-10-2012	Amend	3-1-2012	847-050-0050	2-10-2012	Amend	3-1-2012
847-035-0030	4-17-2012	Amend	6-1-2012	847-050-0050(T)	2-10-2012	Repeal	3-1-2012
847-050-0005	1-1-2012	Amend(T)	1-1-2012	847-050-0055	1-1-2012	Amend(T)	1-1-2012
847-050-0005	2-10-2012	Amend	3-1-2012	847-050-0055	2-10-2012	Amend	3-1-2012
847-050-0005(T)	2-10-2012	Repeal	3-1-2012	847-050-0055(T)	2-10-2012	Repeal	3-1-2012
847-050-0010	1-1-2012	Amend(T)	1-1-2012	847-050-0060	1-1-2012	Amend(T)	1-1-2012
847-050-0010	2-10-2012	Amend	3-1-2012	847-050-0060	2-10-2012	Amend	3-1-2012
847-050-0010(T)	2-10-2012	Repeal	3-1-2012	847-050-0060(T)	2-10-2012	Repeal	3-1-2012
847-050-0015	1-1-2012	Amend(T)	1-1-2012	847-050-0063	1-1-2012	Amend(T)	1-1-2012
847-050-0015	2-10-2012	Amend	3-1-2012	847-050-0063	2-10-2012	Amend	3-1-2012
847-050-0015(T)	2-10-2012	Repeal	3-1-2012	847-050-0063(T)	2-10-2012	Repeal	3-1-2012
847-050-0020	1-1-2012	Amend(T)	1-1-2012	847-050-0065	1-1-2012	Amend(T)	1-1-2012
847-050-0020	2-10-2012	Amend	3-1-2012	847-050-0065	2-10-2012	Amend	3-1-2012
847-050-0020(T)	2-10-2012	Repeal	3-1-2012	847-050-0065	6-1-2012	Amend(T)	6-1-2012
847-050-0023	1-1-2012	Amend(T)	1-1-2012	847-050-0065(T)	2-10-2012	Repeal	3-1-2012
847-050-0023	2-10-2012	Amend	3-1-2012	847-070-0045	2-10-2012	Amend	3-1-2012
847-050-0023(T)	2-10-2012	Repeal	3-1-2012	848-010-0015	3-1-2012	Amend	3-1-2012
847-050-0025	1-1-2012	Amend(T)	1-1-2012	848-010-0020	3-1-2012	Amend	3-1-2012
847-050-0025	2-10-2012	Amend	3-1-2012	848-010-0026	3-1-2012	Amend	3-1-2012



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848-035-0030	3-1-2012	Amend	3-1-2012	853-010-0078	1-1-2012	Repeal	1-1-2012
848-035-0040	3-1-2012	Amend	3-1-2012	853-010-0079	1-1-2012	Repeal	1-1-2012
848-040-0125	3-1-2012	Amend	3-1-2012	853-010-0080	1-1-2012	Repeal	1-1-2012
848-045-0010	3-1-2012	Amend	3-1-2012	853-020-0000	1-1-2012	Adopt	1-1-2012
850-030-0010	4-12-2012	Amend(T)	5-1-2012	853-030-0000	1-1-2012	Adopt	1-1-2012
850-030-0010	6-15-2012	Amend	7-1-2012	853-030-0010	1-1-2012	Adopt	1-1-2012
850-030-0010(T)	6-15-2012	Repeal	7-1-2012	853-030-0020	1-1-2012	Adopt	1-1-2012
850-030-0030	4-12-2012	Amend(T)	5-1-2012	853-030-0030	1-1-2012	Adopt	1-1-2012
850-030-0030	6-15-2012	Amend	7-1-2012	853-030-0040	1-1-2012	Adopt	1-1-2012
850-030-0030(T)	6-15-2012	Repeal	7-1-2012	853-030-0050	1-1-2012	Adopt	1-1-2012
850-030-0031	4-12-2012	Adopt(T)	5-1-2012	853-030-0060	1-1-2012	Adopt	1-1-2012
850-030-0031	6-15-2012	Adopt	7-1-2012	853-030-0070	1-1-2012	Adopt	1-1-2012
850-030-0031(T)	6-15-2012	Repeal	7-1-2012	853-040-0000	1-1-2012	Adopt	1-1-2012
850-030-0070	4-12-2012	Amend(T)	5-1-2012	853-050-0000	1-1-2012	Adopt	1-1-2012
850-030-0070	6-15-2012	Amend	7-1-2012	853-050-0010	1-1-2012	Adopt	1-1-2012
850-030-0070(T)	6-15-2012	Repeal	7-1-2012	853-060-0000	1-1-2012	Adopt	1-1-2012
850-050-0120	12-23-2011	Amend	1-1-2012	853-060-0010	1-1-2012	Adopt	1-1-2012
850-050-0120	6-15-2012	Amend	7-1-2012	855-019-0260	1-1-2012	Amend	2-1-2012
850-060-0215	12-23-2011	Amend	1-1-2012	855-019-0280	1-1-2012	Amend	2-1-2012
850-060-0226	6-15-2012	Amend	7-1-2012	855-019-0290	1-1-2012	Amend	2-1-2012
851-002-0000	11-22-2011	Amend	1-1-2012	855-031-0010	1-1-2012	Amend	2-1-2012
851-045-0030	6-1-2012	Amend	6-1-2012	855-031-0020	1-1-2012	Amend	2-1-2012
851-045-0070	6-1-2012	Amend	6-1-2012	855-031-0026	1-1-2012	Adopt	2-1-2012
851-045-0100	4-26-2012	Amend(T)	6-1-2012	855-031-0045	1-1-2012	Amend	2-1-2012
851-045-0100	6-1-2012	Amend	6-1-2012	855-041-0016	6-12-2012	Adopt	7-1-2012
851-045-0100	6-5-2012	Amend	7-1-2012	855-041-0095	1-1-2012	Amend	2-1-2012
851-050-0004	6-1-2012	Amend	6-1-2012	855-041-0095	5-1-2012	Amend	6-1-2012
851-050-0009	6-1-2012	Adopt	6-1-2012	855-041-0105	5-1-2012	Am. & Ren.	6-1-2012
851-050-0150	4-26-2012	Suspend	6-1-2012	855-041-0110	5-1-2012	Repeal	6-1-2012
851-052-0040	6-1-2012	Amend	6-1-2012	855-041-0115	5-1-2012	Am. & Ren.	6-1-2012
851-054-0060	6-1-2012	Adopt	6-1-2012	855-041-5100	5-1-2012	Adopt	6-1-2012
851-062-0090	4-1-2012	Amend	4-1-2012	855-041-5120	5-1-2012	Adopt	6-1-2012
851-062-0110	4-1-2012	Amend	4-1-2012	855-041-5130	5-1-2012	Adopt	6-1-2012
851-070-0090	4-26-2012	Amend(T)	6-1-2012	855-041-5140	5-1-2012	Adopt	6-1-2012
853-001-0000	1-1-2012	Repeal	1-1-2012	855-041-5150	5-1-2012	Adopt	6-1-2012
853-001-0005	1-1-2012	Repeal	1-1-2012	855-041-5160	5-1-2012	Adopt	6-1-2012
853-001-0020	1-1-2012	Repeal	1-1-2012	855-041-5170	5-1-2012	Adopt	6-1-2012
853-001-0025	1-1-2012	Repeal	1-1-2012	855-060-0004	1-1-2012	Adopt	2-1-2012
853-001-0030	1-1-2012	Repeal	1-1-2012	855-080-0100	12-15-2011	Amend(T)	1-1-2012
853-010-0010	1-1-2012	Repeal	1-1-2012	855-080-0100(T)	12-15-2011	Suspend	1-1-2012
853-010-0015	1-1-2012	Repeal	1-1-2012	855-080-0103(T)	12-15-2011	Suspend	1-1-2012
853-010-0017	1-1-2012	Repeal	1-1-2012	855-110-0005	12-15-2011	Amend	1-1-2012
853-010-0020	1-1-2012	Repeal	1-1-2012	855-110-0007	12-15-2011	Amend	1-1-2012
853-010-0025	1-1-2012	Repeal	1-1-2012	855-110-0010	12-15-2011	Amend	1-1-2012
853-010-0035	1-1-2012	Repeal	1-1-2012	856-010-0015	12-30-2011	Amend	2-1-2012
853-010-0040	1-1-2012	Repeal	1-1-2012	856-010-0027	12-30-2011	Adopt	2-1-2012
853-010-0045	1-1-2012	Repeal	1-1-2012	856-030-0000	5-29-2012	Amend	7-1-2012
853-010-0050	1-1-2012	Repeal	1-1-2012	858-010-0001	6-8-2012	Amend	7-1-2012
853-010-0055	1-1-2012	Repeal	1-1-2012	858-010-0010	2-15-2012	Amend(T)	3-1-2012
853-010-0060	1-1-2012	Repeal	1-1-2012	858-010-0010	6-8-2012	Amend	7-1-2012
853-010-0065	1-1-2012	Repeal	1-1-2012	858-010-0010(T)	6-8-2012	Repeal	7-1-2012
853-010-0070	1-1-2012	Repeal	1-1-2012	858-010-0011	2-15-2012	Amend(T)	3-1-2012
853-010-0074	1-1-2012	Repeal	1-1-2012	858-010-0011	6-8-2012	Amend	7-1-2012
853-010-0075	1-1-2012	Repeal	1-1-2012	858-010-0011(T)	6-8-2012	Repeal	7-1-2012
853-010-0076	1-1-2012	Repeal	1-1-2012	858-010-0012	2-15-2012	Amend(T)	3-1-2012

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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	875-005-0005	12-12-2011	Amend(T)	1-1-2012
859-070-0040	4-16-2012	Adopt	6-1-2012	875-040-0005	12-12-2011	Adopt(T)	1-1-2012
859-070-0040(T)	4-16-2012	Repeal	6-1-2012	877-001-0020	12-29-2011	Amend	2-1-2012
859-200-0001	12-22-2011	Adopt(T)	2-1-2012	877-010-0015	12-29-2011	Amend	2-1-2012
859-300-0050	12-13-2011	Amend	1-1-2012	877-010-0020	12-29-2011	Amend	2-1-2012
859-300-0050(T)	12-13-2011	Repeal	1-1-2012	877-015-0105	12-29-2011	Amend	2-1-2012
860-001-0080	4-17-2012	Amend	6-1-2012	877-015-0108	12-29-2011	Amend	2-1-2012
860-001-0500	4-17-2012	Amend	6-1-2012	877-015-0136	12-29-2011	Amend	2-1-2012
860-022-0019	4-17-2012	Amend	6-1-2012	877-020-0005	12-29-2011	Amend	2-1-2012
860-022-0041	4-17-2012	Repeal	6-1-2012	877-020-0008	12-29-2011	Amend	2-1-2012
860-023-0080	1-1-2012	Repeal	1-1-2012	877-020-0010	12-29-2011	Amend	2-1-2012
860-023-0090	1-1-2012	Repeal	1-1-2012	877-020-0016	12-29-2011	Amend	2-1-2012
860-023-0100	1-1-2012	Repeal	1-1-2012	877-020-0036	12-29-2011	Amend	2-1-2012
860-023-0110	1-1-2012	Repeal	1-1-2012	877-025-0006	12-29-2011	Amend	2-1-2012
860-023-0120	1-1-2012	Repeal	1-1-2012	877-025-0011	12-29-2011	Amend	2-1-2012
860-023-0130	1-1-2012	Repeal	1-1-2012	877-040-0050	12-29-2011	Amend	2-1-2012
860-023-0140	1-1-2012	Repeal	1-1-2012	918-098-1000	1-1-2012	Amend	2-1-2012
860-023-0150	1-1-2012	Repeal	1-1-2012	918-098-1510	3-1-2012	Amend(T)	4-1-2012
860-023-0160	1-1-2012	Repeal	1-1-2012	918-098-1530	3-1-2012	Amend(T)	4-1-2012
860-024-0010	3-9-2012	Amend	4-1-2012	918-098-1590	3-1-2012	Adopt(T)	4-1-2012
860-027-0200	4-17-2012	Amend	6-1-2012	918-098-1620	1-1-2012	Amend	2-1-2012
860-036-0001	1-1-2012	Amend	2-1-2012	918-225-0240	1-1-2012	Amend	2-1-2012
860-036-0010	1-1-2012	Amend	2-1-2012	918-225-0430	1-1-2012	Amend	2-1-2012
860-036-0015	1-1-2012	Amend	2-1-2012	918-225-0435	1-1-2012	Amend	2-1-2012
860-036-0030	1-1-2012	Amend	2-1-2012	918-225-0570	1-1-2012	Amend	2-1-2012
860-036-0040	1-1-2012	Amend	2-1-2012	918-225-0600	1-1-2012	Amend	2-1-2012
860-036-0050	1-1-2012	Amend	2-1-2012	918-225-0600	1-1-2012	Amend	2-1-2012
860-036-0060	1-1-2012	Amend	2-1-2012	918-225-0606	1-1-2012	Adopt	2-1-2012
860-036-0065	1-1-2012	Amend	2-1-2012	918-225-0609	1-1-2012	Adopt	2-1-2012

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918-225-0615	1-1-2012	Adopt	2-1-2012	943-045-0360(T)	12-5-2011	Repeal	1-1-2012
918-225-0618	1-1-2012	Adopt	2-1-2012	943-045-0370	12-5-2011	Adopt	1-1-2012
918-225-0620	1-1-2012	Amend	2-1-2012	943-045-0370(T)	12-5-2011	Repeal	1-1-2012
918-305-0105	6-7-2012	Amend(T)	7-1-2012	943-045-0400	12-23-2011	Adopt	2-1-2012
918-311-0065	5-1-2012	Amend(T)	6-1-2012	943-045-0400(T)	12-23-2011	Repeal	2-1-2012
918-400-0455	1-1-2012	Amend	2-1-2012	943-045-0410	12-23-2011	Adopt	2-1-2012
918-400-0458	1-1-2012	Amend	2-1-2012	943-045-0410(T)	12-23-2011	Repeal	2-1-2012
918-440-0012	1-1-2012	Amend	2-1-2012	943-045-0420	12-23-2011	Adopt	2-1-2012
918-460-0015	1-1-2012	Amend	2-1-2012	943-045-0420(T)	12-23-2011	Repeal	2-1-2012
918-460-0015	2-1-2012	Amend	3-1-2012	943-045-0430	12-23-2011	Adopt	2-1-2012
918-460-0510	1-1-2012	Amend	2-1-2012	943-045-0430(T)	12-23-2011	Repeal	2-1-2012
918-525-0042	4-9-2012	Amend(T)	5-1-2012	943-045-0440	12-23-2011	Adopt	2-1-2012
943-007-0001	5-7-2012	Adopt(T)	6-1-2012	943-045-0440(T)	12-23-2011	Repeal	2-1-2012
943-007-0335	5-7-2012	Adopt(T)	6-1-2012	943-045-0450	12-23-2011	Adopt	2-1-2012
943-007-0501	5-7-2012	Adopt(T)	6-1-2012	943-045-0450(T)	12-23-2011	Repeal	2-1-2012
943-014-0300	12-1-2011	Adopt	1-1-2012	943-045-0460	12-23-2011	Adopt	2-1-2012
943-014-0300(T)	12-1-2011	Repeal	1-1-2012	943-045-0460(T)	12-23-2011	Repeal	2-1-2012
943-014-0305	12-1-2011	Adopt	1-1-2012	943-045-0470	12-23-2011	Adopt	2-1-2012
943-014-0305(T)	12-1-2011	Repeal	1-1-2012	943-045-0470(T)	12-23-2011	Repeal	2-1-2012
943-014-0310	12-1-2011	Adopt	1-1-2012	943-045-0480	12-23-2011	Adopt	2-1-2012
943-014-0310(T)	12-1-2011	Repeal	1-1-2012	943-045-0480(T)	12-23-2011	Repeal	2-1-2012
943-014-0315	12-1-2011	Adopt	1-1-2012	943-045-0490	12-23-2011	Adopt	2-1-2012
943-014-0315(T)	12-1-2011	Repeal	1-1-2012	943-045-0490(T)	12-23-2011	Repeal	2-1-2012
943-014-0320	12-1-2011	Adopt	1-1-2012	943-045-0500	12-23-2011	Adopt	2-1-2012
943-014-0320(T)	12-1-2011	Repeal	1-1-2012	943-045-0500(T)	12-23-2011	Repeal	2-1-2012
943-045-0000	12-4-2011	Adopt	1-1-2012	943-045-0510	12-23-2011	Adopt	2-1-2012
943-045-0000(T)	12-4-2011	Repeal	1-1-2012	943-045-0510(T)	12-23-2011	Repeal	2-1-2012
943-045-0250	12-5-2011	Adopt	1-1-2012	943-045-0520	12-23-2011	Adopt	2-1-2012
943-045-0250(T)	12-5-2011	Repeal	1-1-2012	943-045-0520(T)	12-23-2011	Repeal	2-1-2012
943-045-0260	12-5-2011	Adopt	1-1-2012	943-060-0050	2-17-2012	Adopt(T)	4-1-2012
943-045-0260(T)	12-5-2011	Repeal	1-1-2012	945-001-0001	3-6-2012	Adopt	4-1-2012
943-045-0280	12-5-2011	Adopt	1-1-2012	945-001-0006	3-6-2012	Adopt	4-1-2012
943-045-0280(T)	12-5-2011	Repeal	1-1-2012	945-001-0011	3-6-2012	Adopt	4-1-2012
943-045-0290	12-5-2011	Adopt	1-1-2012	945-010-0001	3-6-2012	Adopt	4-1-2012
943-045-0290(T)	12-5-2011	Repeal	1-1-2012	945-010-0006	3-6-2012	Adopt	4-1-2012
943-045-0300	12-5-2011	Adopt	1-1-2012	945-010-0011	3-6-2012	Adopt	4-1-2012
943-045-0300(T)	12-5-2011	Repeal	1-1-2012	945-010-0021	3-6-2012	Adopt	4-1-2012
943-045-0310	12-5-2011	Adopt	1-1-2012	945-010-0031	3-6-2012	Adopt	4-1-2012
943-045-0310(T)	12-5-2011	Repeal	1-1-2012	945-010-0041	3-6-2012	Adopt	4-1-2012
943-045-0320	12-5-2011	Adopt	1-1-2012	945-010-0051	3-6-2012	Adopt	4-1-2012
943-045-0320(T)	12-5-2011	Repeal	1-1-2012	945-010-0061	3-6-2012	Adopt	4-1-2012
943-045-0330	12-5-2011	Adopt	1-1-2012	945-010-0071	3-6-2012	Adopt	4-1-2012
943-045-0330(T)	12-5-2011	Repeal	1-1-2012	945-010-0081	3-6-2012	Adopt	4-1-2012
943-045-0340	12-5-2011	Adopt	1-1-2012	945-010-0091	3-6-2012	Adopt	4-1-2012
943-045-0340(T)	12-5-2011	Repeal	1-1-2012	945-010-0101	3-6-2012	Adopt	4-1-2012
943-045-0350	12-5-2011	Adopt	1-1-2012	951-004-0003	1-1-2012	Amend	1-1-2012
943-045-0350(T)	12-5-2011	Repeal	1-1-2012	951-004-0004	1-1-2012	Amend	1-1-2012