

OREGON BULLETIN

Supplements the 2012 *Oregon Administrative Rules Compilation*

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Secretary of State
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INFORMATION AND PUBLICATION SCHEDULE

General Information

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

Background on Oregon Administrative Rules

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

How to Cite

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

Understanding an Administrative Rule’s “History”

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

Locating the Most Recent Version of an Administrative Rule

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

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

Locating Administrative Rules Unit Publications

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

2011–2012 Oregon Bulletin Publication Schedule

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

Submission Deadline — Publishing Date

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

Reminder for Agency Rules Coordinators

Each agency that engages in rulemaking must appoint a rules coordinator and file an “Appointment of Agency Rules Coordinator” form, ARC 910-2011, with the Administrative Rules Unit, Archives Division, Secretary of State. Agencies which delegate rulemaking authority to an officer or employee within the agency must also file a “Delegation of Rulemaking Authority” form, ARC 915-2005. It is the agency’s responsibility to monitor the rulemaking authority of selected employees and to keep the appropriate forms updated. The Administrative Rules Unit does not verify agency signatures as part of the rulemaking process. Forms are available from the Administrative Rules Unit, Archives Division, 800 Summer Street NE, Salem, Oregon 97301, (503) 373-0701, or are downloadable at <<http://arcweb.sos.state.or.us/pages/rules/index.html>>

Publication Authority

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

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

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TABLE OF CONTENTS

	<i>Page</i>
Information and Publication Schedule	2
Table of Contents	3
Executive Orders	4–8
Other Notices	9
Notices of Proposed Rulemaking Hearings/Notices	
The citations and statements required by ORS 183.335(2)(b)(A)–(D) have been filed with and are available from the Secretary of State.	
Appraiser Certification and Licensure Board, Chapter 161	10
Board of Licensed Professional Counselors and Therapists, Chapter 833	10
Board of Nursing, Chapter 851	10, 11
Commission for the Blind, Chapter 585	11
Department of Agriculture, Chapter 603.....	11, 12
Department of Consumer and Business Services, Building Codes Division, Chapter 918.....	12
Division of Finance and Corporate Securities, Chapter 441	12, 13
Insurance Division, Chapter 836	13
Workers’ Compensation Board, Chapter 438	14
Department of Energy, Chapter 330.....	14, 15
Department of Human Services, Seniors and People with Disabilities Division, Chapter 411	15
Department of Justice, Chapter 137	15, 16
Department of Oregon State Police, Office of State Fire Marshal, Chapter 837	16
Department of Public Safety Standards and Training, Chapter 259.....	16, 17
Department of Revenue, Chapter 150	17, 18
Department of State Lands, Chapter 141	19
Department of Transportation, Chapter 731	19, 20
Department of Transportation, Driver and Motor Vehicle Services Division, Chapter 735	20
Highway Division, Chapter 734	20, 21
Motor Carrier Transportation Division, Chapter 740	21
Department of Veterans’ Affairs, Chapter 274	21
Oregon Business Development Department, Chapter 123.....	21, 22
Oregon Department of Education, Chapter 581	22
Oregon Film and Video Office, Chapter 951	22
Oregon Health Authority, Addictions and Mental Health Division: Addiction Services, Chapter 415	22
Division of Medical Assistance Programs, Chapter 410.....	22, 23
Office for Oregon Health Policy and Research, Chapter 409.....	23
Oregon Educators Benefit Board, Chapter 111	23, 24
Oregon Health Licensing Agency, Board of Direct Entry Midwifery, Chapter 332	24
Oregon Medical Board, Chapter 847	24
Oregon State Marine Board, Chapter 250.....	24
Oregon State Treasury, Chapter 170	24
Oregon University System, Chapter 580.....	24, 25
Oregon University System, Portland State University, Chapter 577	25
University of Oregon, Chapter 571	25
Oregon Youth Authority, Chapter 416	25
Public Utility Commission, Chapter 860	25, 26
Secretary of State, Archives Division, Chapter 166	26
Teacher Standards and Practices Commission, Chapter 584.....	26
Administrative Rules	
The citations and statements required by ORS 183.335(2)(b)(A)–(D) have been filed with and are available from the Secretary of State.	
Board of Examiners for Engineering and Land Surveying, Chapter 820.....	27–32
Board of Licensed Professional Counselors and Therapists, Chapter 833.....	32
Board of Medical Imaging, Chapter 337	32, 33
Board of Nursing, Chapter 851	33–38
Board of Pharmacy, Chapter 855	38–40
Columbia River Gorge Commission, Chapter 350	40–56
Construction Contractors Board, Chapter 812	56–69
Department of Agriculture, Chapter 603.....	69–71
Department of Agriculture, Oregon Processed Vegetable Commission, Chapter 647.....	71
Department of Consumer and Business Services, Building Codes Division, Chapter 918.....	71, 72
Insurance Division, Chapter 836	72
Oregon Occupational Safety and Health Division, Chapter 437.....	72–80
Department of Energy, Chapter 330.....	80
Department of Energy, Energy Facility Siting Council, Chapter 345	80–114
Department of Fish and Wildlife, Chapter 635	114–128
Department of Human Services, Children, Adults and Families Division: Self-Sufficiency Programs, Chapter 461	128–137
Seniors and People with Disabilities Division, Chapter 411	137–140
Department of Oregon State Police, Chapter 257.....	140–142
Department of Oregon State Police, Office of State Fire Marshal, Chapter 837	142
Department of Public Safety Standards and Training, Chapter 259.....	142–149
Department of Transportation, Highway Division, Chapter 734	149–151
Motor Carrier Transportation Division, Chapter 740	151
Employment Department, Chapter 471.....	151
Oregon Criminal Justice Commission, Chapter 213.....	151–156
Oregon Health Authority, Chapter 943	156–159
Oregon Health Authority, Addictions and Mental Health Division: Mental Health Services, Chapter 309	159–168
Division of Medical Assistance Programs, Chapter 410	168–174
Office for Oregon Health Policy and Research, Chapter 409.....	174, 175
Oregon Educators Benefit Board, Chapter 111	175–184
Oregon Health Licensing Agency, Chapter 331.....	184, 185
Oregon Health Licensing Agency, Board of Direct Entry Midwifery, Chapter 332	185
Oregon Liquor Control Commission, Chapter 845	186
Oregon Medical Board, Chapter 847	186–190
Oregon State Lottery, Chapter 177.....	190–192
Oregon State Marine Board, Chapter 250.....	192–198
Oregon University System, Eastern Oregon University, Chapter 579	198
Oregon State University, Chapter 576.....	198–200
Southern Oregon University, Chapter 573	200
Parks and Recreation Department, Chapter 736	200–207
Psychiatric Security Review Board, Chapter 859	207, 208
Public Utility Commission, Chapter 860	208–210
Secretary of State, Archives Division, Chapter 166	210
Elections Division, Chapter 165.....	210, 211
OAR Revision Cumulative Index	212–250

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 12 - 05

FOSTERING ENVIRONMENTALLY-FRIENDLY PURCHASING AND PRODUCT DESIGN

Emerging market opportunities driven by consumer demand and changing regulations in the U.S. and abroad are creating a shift to products that are designed to be safe for people and the environment. Building materials, electronics, apparel and cleaning products are just some of the products that are increasingly being designed to eliminate or significantly reduce the use of toxic materials. Businesses that use safer, cleaner alternatives to toxic chemicals and processes will be in the best position to capture this growing market.

Fostering innovation and encouraging new business development through a coordinated effort in Oregon will help firms take advantage of emerging market opportunities. Thoughtful application of green chemistry principles, aligned with an over-arching toxic reduction strategy, can foster a cleaner environment that will help all Oregonians live healthy and productive lives, free of illness and disease. Green chemistry is based on a philosophy of encouraging the design of products and processes to minimize the use and generation of toxic substances.

By encouraging the design and use of chemicals and materials that are benign by design and more sustainable throughout their lifecycle, Oregon and its business community will boost our state economy and lower the cost of health care in the future. Scientific studies show that chemical exposures can lead to or contribute to chronic disease.

Oregon universities are already recognized leaders in green chemistry research and education. We are also home to a number of businesses that are early adopters of green chemistry. As an added benefit, Oregon's agricultural and forest resources can serve as feedstocks for non-toxic, bio-based chemicals and products, supporting the creation and retention of jobs in rural Oregon, and economic development for rural counties.

By fostering the development of the next generation of green materials, Oregon has the opportunity to demonstrate national leadership and a commitment to the quality of life that Oregonians value. Ultimately, successful innovation will create good jobs that are safer for workers and offer a high quality of life for our communities, enhancing opportunities and resources for future generations. By applying green chemistry, Oregon will be able to address some of our most significant sustainability related challenges head on. In doing so, we will be supporting the health and well-being of our citizens and protecting the resiliency of the ecosystems we depend upon.

To further catalyze Oregon's efforts to develop and use safer, more efficient products and processes, this Executive Order establishes an Oregon Green Chemistry Innovation Initiative (the "Initiative"). This Initiative will help ensure the long-term competitiveness of Oregon in the global market for greener technologies. To achieve this will require collaboration among agencies and businesses, universities and non-governmental organizations. The Initiative includes actions that represent the most effective and efficient ways for state government to foster this type of innovation.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

To further catalyze the development of innovative products and processes through green chemistry in Oregon, the Green Chemistry Innovation Initiative is established.

1. The following are four strategic areas where Oregon policies and programs can effectively foster innovation:

a. Building Awareness: State agencies, including but not limited to the Department of Environmental Quality (DEQ) and Business Oregon, will build awareness in the business community about the economic, environmental and public health benefits that are created by using green chemistry. To accomplish this, DEQ and Business Oregon, working in partnership with business leaders and other relevant organizations, including universities, will develop an outreach and education strategy designed to help organizations identify opportunities to apply green chemistry in ways that strengthen competitiveness and address chemicals of known and emerging concern. That outreach strategy should include efforts to highlight existing efforts consistent with green chemistry principles.

In addition, the Oregon Department of Administrative Services (DAS) may provide information on best practices and appropriate training materials for environmentally preferable purchasing to state agencies that procure goods or services. For purposes of this executive order, environmentally preferable purchasing means goods and services that have a lesser or reduced negative effect on health and the environment when compared with competing goods and services that serve the same purpose. This comparison may consider acquisition of raw materials or production, manufacturing, packaging, distribution, reuse, operation, maintenance or disposal of the goods or services.

b. Providing Innovation Tools: DEQ, Business Oregon, and DAS, working with representatives from businesses, universities and other interested organizations, will develop proposals to incentivize green chemistry through new or existing programs, including state investment funds and loan and grant programs, among others. Such proposals may include proposals for legislation.

c. Strengthening Demand: DAS, in consultation with DEQ, will revise state purchasing and procurement practices to include specific guidelines designed to reduce effectively the amount of toxic chemicals of concern contained in products used by state agencies, as well as by contract service providers to state agencies. The guidelines will establish clear preferences for products designed and manufactured in a manner that is consistent with the principles of green chemistry. DAS and DEQ will solicit input on the development and implementation of the purchasing guidelines from experts identified from within state government and organizations outside of state government prior to implementation. DEQ's Toxics Focus List and other state-based toxics priority lists will be used as the initial basis for determining toxic chemicals of concern.

By December 31, 2012, DAS and other state agencies will begin implementation of revised purchasing and procurement guidelines on a pilot basis for cleaning products using, to the extent practicable and relevant for chemicals of concern, third-party product certification programs that have been established to reduce toxic chemicals in products. DAS also may develop a chemical disclosure form for use by each bidder or proposer providing cleaning products to a state agency as part of this pilot program. In developing and implementing the use of such a form, DAS will assure that the form does not require disclosure of proprietary information.

By July 1, 2013, DAS, in consultation with DEQ, will complete a plan for revising purchasing guidelines that effectively reduce the amount of toxic chemicals of concern for other product categories including but not limited to electronics, furniture and building materials. The plan will identify time frames for the implementation of the revised purchasing guidelines for specific product categories, as well as related modifications to the current Lifecycle Costing methodology that will, to the extent practicable, incorporate environmental and social costs from product cradle to

EXECUTIVE ORDERS

grave. To help ensure that revised guidelines are implemented by state agencies, they should be incorporated into individual agency sustainability plans.

d. Refining Toxics Reduction Strategies: To further promote efficient and responsive state government, DEQ will (and DAS may) refine and enhance strategies to improve the development and use of safer alternatives to toxic chemicals and reduce the adverse impacts of toxic pollutants in the state.

i. The Governor's Office will convene a group of agency leaders to work collaboratively on the development of an Oregon Interagency Toxic Chemical and Pollutant Reduction Strategy. The Strategy will build on existing effective state programs, ensure efficient coordination between agencies, and address gaps related to toxic chemicals of concern. This interagency strategy will draw from the recommended actions described in DEQ's Toxics Reduction Strategy, including those designed to support more widespread use of green chemistry. To the extent feasible, environmental metrics will be developed and included in the strategy to achieve downward trends in the use and release of toxic chemicals of concern in Oregon.

ii. Individual state agencies will integrate policies to promote the use of safer alternatives to toxic chemicals through green chemistry, as well as the safer management and use of those chemicals, into existing programs as part of the Interagency Toxics Reduction Strategy.

iii. DEQ will evaluate the adequacy of the existing Toxics Use and Hazardous Waste Reduction Program to determine if modifications are necessary to more effectively promote and support green chemistry in Oregon businesses and institutions.

iv. DEQ will identify at least two industries in Oregon where green chemistry should be applied to reduce the use and generation of chemicals of concern included in the Toxics Reduction Strategy

Focus List. Once identified, DEQ will develop voluntary action plans that emphasize opportunities to use green chemistry in ways that protect human health and the environment.

2. Deliverables: To evaluate the impact of the actions included in this Executive Order, DEQ, Business Oregon and DAS will prepare a biennial report to the Governor on the status of implementation. Specifically, the implementation report will include information about the following:

a. Building Awareness: Number and type of organizations reached as part of the outreach and awareness activities.

b. Strengthening Demand: Identify and utilize relevant metrics for assessing the reductions in toxic chemicals of concern through state procurement and purchasing, including the extent to which revised purchasing guidelines have been integrated into agency sustainability plans.

c. Providing Innovation Tools: Description of potential new innovation tools or modifications to existing tools that could be included in a legislative proposal.

d. Refining Toxics Reduction Strategies: Status of efforts to develop Interagency Toxics Reduction Strategy, the extent to which agencies have taken steps to integrate policies, potential modifications to the Toxics Use and Hazardous Waste Reduction program and development of industry-specific action plans.

3. For purposes of this Executive Order, products are consistent with the principles of "green chemistry" if they are designed and manufactured using the following principles:

- a. They avoid the use of hazardous chemicals.
- b. They maximize the incorporation of all materials used to create the final product.
- c. They use and generate substances that minimize toxicity to health and the environment.
- d. They accomplish their desired function while minimizing the toxicity of the product.
- e. They minimize the use of extraneous substances.
- f. They minimize the amount of energy used when creating chemical products.
- g. They use renewable raw material or feedstock.
- h. They minimize or avoid the conversion of a chemical compound into a derivative.
- i. They use catalytic reagents instead of stoichiometric reagents.
- j. They are designed so that chemicals used in the goods and services break down into innocuous substances.
- k. They use a chemical process that minimizes the potential for chemical accidents, including chemical releases, explosions and fires.

4. These directives are in addition to those in Executive Order 00-07: Development of a State Strategy Promoting Sustainability in Internal State Government Operations; Executive Order 03-03: A Sustainable Oregon for the 21st Century; and Executive Order 06-02: Sustainability for the 21st Century.

5. In the event of a conflict between any provision of Oregon law, including but not limited to the Oregon Public Contracting Code, and this Executive Order, Oregon law will prevail and the remaining terms of this Executive Order shall remain in force and effect.

6. This Executive Order shall remain in effect until it is otherwise modified, amended or terminated.

Done at Portland, Oregon, this 27th day of April, 2012.

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

ATTEST

/s/ Kate Brown
Kate Brown
SECRETARY OF STATE

EXECUTIVE ORDER NO. 12 - 06

DETERMINATION OF A STATE OF EMERGENCY IN BENTON, CLACKAMAS, COLUMBIA, COOS, CURRY, DOUGLAS, LANE, LINCOLN, LINN, MULTNOMAH, POLK, TILLAMOOK, AND YAMHILL COUNTIES DUE TO DAMAGING WINDS, HEAVY RAINS, FLOODING, MUDSLIDES, AND LANDSLIDES

Pursuant to ORS 401.165, I find that a threat to life, safety, and property exists due to severe weather that has caused a natural disaster of major proportions to the state highway system in Benton, Clackamas, Columbia, Coos, Curry, Douglas, Lane, Lincoln, Linn, Multnomah, Polk, Tillamook, and Yamhill Counties. Beginning

EXECUTIVE ORDERS

March 11, 2012, damaging winds and heavy rains caused flooding, mudslides, landslides and erosion throughout the Counties.

This has resulted in an estimated \$5,856,881 of damage to federal-aid highways in Benton, Clackamas, Columbia, Coos, Curry, Douglas, Lane, Lincoln, Linn, Multnomah, Polk, Tillamook, and Yamhill Counties. Continuous storm systems compounded damage to state highways throughout these Counties with scour, washouts, sink holes, serious tree and debris flow, mudslides and landslides.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

The Oregon Department of Transportation shall provide appropriate assistance and seek federal resources to effect repairs and restoration of the federal-aid highway system in Benton, Clackamas, Columbia, Coos, Curry, Douglas, Lane, Lincoln, Linn, Multnomah, Polk, Tillamook, and Yamhill Counties.

This order was made by proclamation this 8th day of May, 2012.

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

ATTEST

/s/ Kate Brown
Kate Brown
SECRETARY OF STATE

EXECUTIVE ORDER NO. 12 - 07

A PILOT PROGRAM FOR REGIONAL FARM AND FOREST LAND CONSERVATION

Oregon's land use program has successfully conserved important farm and forest lands, helping to maintain the key roles of agriculture and forest products in the state's economy (the second and third largest industries in Oregon). Almost all of the lands devoted to farm or forest uses in Oregon in the mid 1980s are still planned for those uses today. In contrast, Washington, California and Idaho have lost substantial amounts of farm and forest lands to urban and rural sprawl.

Rural development, if not carefully managed, can lead to substantial public costs. The major driver of the high (and increasing) cost of fighting wildfire is the cost of protecting rural residences. Police, schools, roads and social services also can be more difficult and expensive to provide to scattered residences in rural settings. Rural development can interfere with forest and some farm operations as a result of conflicts over pesticides, noise, truck traffic and other normal aspects of farming and forestry. Research by the Oregon Department of Forestry shows that once there are more than about four homes per square mile, forest lands typically are managed less for timber operations and more for their residential real estate value. Dispersed rural development also puts stress on drinking water supplies, leading to conflicts over groundwater, and has led to significant water pollution problems in places like South Deschutes County. Finally, dispersed rural development adversely affects wildlife and fish habitat, and has led to declines in big game, and conflicts over hunting and fishing access.

Oregon is a great place for growing food and fiber. There are, however, significant variations between different regions of the state in terms of the types of farming and forest uses that are best suited for the landscape, and in the economic returns from farming, forestry and ranching. The flat, fertile fields of the Willamette Valley differ from lands in the Rogue and Umpqua valleys and lands along Oregon's coast. High value crop areas in parts of Central Oregon irrigated from

the Crooked and Deschutes Rivers differ from the high plateau wheat fields in the northern part of the state. Livestock operations in Baker Valley differ from ranching operations on drier lands in Harney and Malheur counties. In some areas, lands currently planned for resource uses have little direct value to their owners for those uses.

For all these reasons, there are both state and local interests in how rural lands are planned, what uses are allowed on them, and the intensity of those uses. Some counties have planned rural areas for non-resource uses. Other counties have an interest in developing region-specific criteria for what lands are planned for resource uses, and allowing lands that do not meet those criteria to be used for non-resource uses. Any county or region-wide conversion of resource lands to non-resource designations must proceed with care, and include consideration of how the affected lands will be used. The process for considering such changes must provide for wide-scale public involvement, and include an analysis of costs, benefits and likely outcomes.

The purpose of this executive order is to direct certain state agencies to work with three Southern Oregon counties, if those counties elect to participate, in developing a pilot program that allows appropriate additional regional variation in what lands must be planned and managed as farm and forest lands. Lands that are no longer planned and managed as farm and forest lands will still need to be planned for sustainable types and levels of uses, so that the economic, fiscal and environmental effects of dispersed rural development (described above) are considered and kept at a level that is acceptable to both the state and to affected local governments (including cities and districts in the area under consideration), and consistent with the carrying capacity of the land.

The three counties that may participate in the pilot project are: Jackson County, Douglas County, and Josephine County. This executive order stems from the decision of the Legislative Assembly, in its 2012 session, to provide some funding for initial work by the counties interested in taking on this effort. The understanding between legislative leadership and the Governor was that the Governor would issue this executive order, setting out how this pilot effort will proceed. The final cost of the program will depend on how many counties elect to participate, the criteria that LCDC develops for resource and non-resource lands, and the analyses and processes that the counties use to make decisions.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The Department of Land Conservation and Development (DLCD) will make \$350,000 in funds appropriated through SB 5701 available to Jackson, Josephine and Douglas counties, if those counties elect to participate. DLCD will enter into one or more grant agreements with the counties that agree to complete the technical studies, mapping and preparation of materials required for preparing a rulemaking petition to the Land Conservation and Development Commission (LCDC), which petition may not be submitted to LCDC prior to July 1, 2013. If a petition is submitted by two or more of the counties, LCDC may initiate rulemaking for the purpose of considering a new, regional, approach to what lands must be planned and zoned for farm or forest uses
2. Prior to initiating the rulemaking, DLCD will determine whether the proposed new rules are likely to require amendments to statewide land use planning goals 3 (Agriculture) or 4 (Forestry). If the agency determines that one or more amendments to goal 3 or goal 4 are likely to be required, LCDC will initiate the process as an amendment to the statewide land use planning goals, as well as the implementing rules, necessary for the anticipated pilot project to proceed.

EXECUTIVE ORDERS

3. In the grant agreement or agreements providing funding to the counties under paragraph 1 of this executive order, DLCD will ensure that the counties undertaking this work confer with DLCD about the intended scope and outcomes of the pilot project before they begin work and before they submit the rulemaking petition. The purpose of conferring is to ensure that the counties understand the agency's practical and policy concerns so that the petition is more likely to be successful. LCDC will initiate rulemaking under this executive order only if two or more of the counties formally agree to participate in the pilot project, which agreement must, at a minimum, include the county's commitment to work with DLCD and other participants in the rulemaking to develop collaboratively the proposed rules for consideration by LCDC. This rulemaking is intended to be a collaborative process, between the state and the counties electing to participate in the pilot program.

4. The proposed rules developed for LCDC's consideration will be designed so that lands that are functionally important to the types of farming and forest operations that occur, or that are likely to occur in the future, within the area that would be covered by the rules, are retained in farm or forest planning and zoning designations. In developing proposed criteria for rezoning for consideration by LCDC, DLCD will work with the county or counties in question, as well as local farming and forest interests. DLCD also will seek input from the Oregon Department of Agriculture, the Oregon Department of Forestry, and the Oregon Water Resources Department in developing the proposed criteria. To the extent possible, DLCD may provide funding to the other agencies involved in this effort using funds available under SB 5701 or other funds appropriated for that purpose by the legislature.

5. The proposed rules developed for LCDC's consideration will be designed to include provisions relating to lands that are rezoned to non-farm or non-forest uses (non-resource lands), that assure that such lands are planned and zoned for types of uses and at levels that: (a) will not significantly interfere with nearby farm or forest uses; (b) will not significantly interfere with the future urbanization of nearby cities; (c) are sustainable in terms of fiscal impacts to local and state government, including affected districts; and (d) are sustainable in terms of their effects on water supplies, transportation, water quality, fire protection, wildlife, and fish and wildlife habitat. The rules also must be consistent with existing legislative policy, including the policies expressed in ORS 197.005 to .010, 215.243, 215.700, and ORS 527.630.

6. DLCD will work with other state agencies, and affected local governments and interests in developing proposed rules that reflect the considerations described in this paragraph to assure that newly allowed uses do not exceed the carrying capacity of the lands. To the extent possible, DLCD may provide funding to the other agencies involved in this effort using funds available under SB 5701 or other funds appropriated for that purpose by the legislature.

7. If LCDC adopts rules establishing the pilot project described in this executive order, DLCD may provide funding to the counties participating in the pilot to assist them in implementing the pilot program by amending their respective comprehensive plans and zoning designations and codes in a manner that complies with the new rules.

8. DLCD must review any comprehensive plan or zoning amendment adopted by a county under this pilot program, including any amendments adopted as post-acknowledgment plan amendments subject to review by the Land Use Board of Appeals. If DLCD determines that the amendments do not comply with applicable statutes or rules, it will notify LCDC and may file an appeal of the amendment.

9. DLCD will report to the Governor and the appropriate committees of the Oregon House of Representatives and Oregon Senate on or before January 1, 2014 on the status of this program.

Done at Salem, Oregon, this 10th day of May, 2012.

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

ATTEST

/s/ Kate Brown
Kate Brown
SECRETARY OF STATE

EXECUTIVE ORDER NO. 12 - 08

RECONVENING THE GOVERNOR'S COMMISSION ON PUBLIC SAFETY

Executive Order No. 11-06 created the Governor's Commission on Public Safety to take stock of our current public safety system with its successes and challenges and to chart a path for the future. By convening leaders from the three branches of state government and one public member, the Commission's purpose was to focus Oregon's long-term planning efforts on sentencing and public safety. Within a short-time frame, the Commission identified key findings, recommended future work, and established principles to guide future work.

According to FBI statistics, crime rates have decreased across the United States over the past 30 years and Oregon is no exception. Both violent crime and property crime rates have fallen in Oregon. Oregon also has been recognized for its efforts to reduce recidivism and for its support of evidence-based practices. Even with these accomplishments, there is a widespread misperception among Oregonians that crime has increased.

The state is on an unsustainable path of corrections growth that will limit funding available for proven crime-prevention, reformation, and re-entry strategies. We must reverse the presumption of unlimited corrections growth and redesign a sustainable system that provides opportunities to reduce victimization and keep people safe in the long term, as it holds offenders accountable and protects public safety.

After receiving the Commission's report on December 30, 2011, the leaders of the Legislative Assembly have pledged their commitment to work to develop fiscally responsible, data-driven policies and practices that protect public safety, hold offenders accountable, and control corrections costs. Given the commitment by leaders of all three branches of government to address the unsustainable path we are travelling, I am now reconvening the Governor's Commission on Public Safety.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

1. The Governor's Commission on Public Safety ("Commission") is hereby reconvened.

2. The Commission shall consist of 12 members, which includes the original seven members of the Commission appointed by Executive Order No. 11-06 and are described below in paragraphs (a) through (f).

If any of those original members are unable to serve, then the appointing authority shall appoint a replacement. In addition to the original seven members, there are five new members described below in paragraphs (g) through (k).

EXECUTIVE ORDERS

Accordingly, the 12 members of the Commission shall be appointed as follows:

- a. The Chief Justice of the Oregon Supreme Court or his designee, appointed by the Chief Justice;
 - b. The Governor of Oregon or his designee, appointed by the Governor;
 - c. Each Co-Speaker of the Oregon House of Representatives, or their respective designee, appointed by each Co-Speaker;
 - d. The President of the Oregon Senate, or his designee;
 - e. A member of the Oregon Senate who is not a member of the same political party as the President, appointed by the President;
 - f. A member of the public to be appointed by a majority vote of the Commission members;
 - g. A district attorney appointed by the Oregon District Attorneys Association;
 - h. A criminal defense attorney appointed by the Oregon Criminal Defense Lawyers Association;
 - i. A law enforcement representative appointed jointly by the Oregon State Sheriffs Association and the Oregon Association of Chiefs of Police;
 - j. A representative of the Oregon Association of Community Corrections Directors; and
 - k. An active or senior circuit court judge appointed by the Chief Justice.
3. All members shall serve at the pleasure of their appointing authority. The chair of the Commission will be appointed by the Governor and will serve as chair at the pleasure of the Governor. The chair shall develop a work plan, set the agenda, and provide leadership and direction for the Commission.
 4. A quorum for Commission meetings shall consist of a majority of the members. The Commission shall make recommendations on an affirmative vote of a majority of its members.
 5. Using Article I, section 15, of the Oregon Constitution, and the other principles identified in the Commission's December 30, 2011, report the Commission shall identify fiscally responsible and sustainable, evidence-based policies and practices that will control corrections growth, hold offenders accountable, and protect public safety.
 - a. The Commission may recommend any structural changes, sentencing changes, or allocation of funding changes that will control corrections growth, hold offenders accountable, and protect public safety necessary to implement these policies and practices.
 - b. In developing its recommendations, the Commission may form workgroups.
 6. The Commission shall produce a written report of recommendations to the Governor before 2013. The recommendations may include draft legislation for the Legislative Assembly to consider during its 2013 session.
 7. The Commission shall participate in the Justice Reinvestment Initiative (JRI) of the Bureau of Justice Assistance (United States Department of Justice) and partner with the Public Safety Performance Project of the Pew Center on the States. The JRI assistance may provide data analysis; information on evidence-based practices in sentencing and corrections policies; assistance with Commission facilitation and engagement of the public, interested parties, and public safety stakeholders; development of policy options and modeling the impact of those options; development of a communications plan; and assistance in building public and policymaker support for the Commission's recommendations.
 8. In addition to any partnership with the Justice Reinvestment Initiative, the Oregon Criminal Justice Commission and the Oregon Department of Corrections shall provide staff support for the Commission. If the Commission requires assistance of any other State agency, board, or commission, then such agency, board, or commission shall provide assistance to the Commission upon request.
 9. The members of the Commission shall not receive per diem for their activities as members of the Commission, but may be reimbursed for expenses incurred in attending Commission business pursuant to ORS 292.495(2), subject to availability of funds.
 10. This order expires on July 31, 2013.

Done at Salem, Oregon, this 11th day of May, 2012.

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

ATTEST

/s/ Kate Brown
Kate Brown
SECRETARY OF STATE

OTHER NOTICES

REQUEST FOR COMMENTS PROPOSAL TO REIMBURSE SEATTLE CHILDREN'S HOSPITAL COST OUTLIER PAYMENTS FOR OREGON HEALTH PLAN INPATIENT STAYS

COMMENTS DUE: June 30, 2012

PROPOSAL: The Oregon Health Authority (OHA) is proposing to reimburse Seattle Children's Hospital cost outlier payments through an Inter-governmental Agreement (IGA) between Seattle Children's Hospital and OHA.

Seattle Children's Hospital would receive these additional payments for emergency and highly specialized inpatient care specifically authorized by OHA on a case-by-case basis for children on the Oregon Health Plan.

BACKGROUND: Cost outlier payments are an additional payment for exceptionally costly services or exceptionally long lengths of stays in a hospital.

Hospitals that are located more than 75 miles outside the Oregon border, such as Seattle Children's Hospital, are not currently eligible for such payments.

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

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

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

REQUEST FOR COMMENTS PROPOSED NO FURTHER ACTION FOR STATES INDUSTRIES

COMMENTS DUE: 5 p.m., June 29, 2012

PROJECT LOCATION: 29545 East Enid Road, Eugene, Lane County

PROPOSAL: No Further Action (partial) under Oregon Environmental Cleanup Law ORS 465.200; The site operates as a manufacturing facility with processes that involve applying veneer to plywood using glue, and applying paint and UV coating to the plywood sheets; The partial NFA refers only to a hydraulic oil spill that occurred in November 2006.

HIGHLIGHTS: In November 2006, an estimated 50-200 gallons of hydraulic oil was released from an underground pipe leading to a

hydraulic press housed on the facility's east side. Contaminated soil was excavated to 10 feet beneath a concrete floor in the building. Approximately 30 tons of contaminated soil was taken to Short Mountain Landfill for disposal. Confirmation soil samples were collected at 4.5 feet bgs. Diesel was not detected in the samples, but lube oil was present at 2,730 ppm on the northeast sidewall.

Groundwater collected from the excavation developed a thick, oily layer in each sample bottle. Later, two additional water samples were collected from the excavation, and contained diesel (367 ppb) and lube oil (1,100 ppb).

Contractors installed one boring in July 2011 to assess the Hydraulic Spill Site. Borehole B-5 was advanced outside of the building where the hydraulic press is located, approximately 100 feet east of the spill area. The soil and water samples collected from B-5 did not contain hydrocarbons.

The Hydraulic Spill Site is enclosed by a large structure and capped with concrete. Remaining soil and groundwater contamination appears to be limited and inaccessible by workers under current site conditions.

HOW TO COMMENT: Send comments by 5 p.m., June 29, 2012, to DEQ Project Manager Cathy Rodda at 165 E. 7th Avenue, Suite 100, Eugene, OR 97401, by fax 541-686-7551, or by email rodda.cathy@deq.state.or.us.

To see the project records, call Cathy Rodda at 541-687-7325 for a file review appointment.

To access site summary information and file documents, go to the project WebDocs page at: <http://www.deq.state.or.us/Webdocs/Forms/Output/FPCcontroller.aspx?SourceIdType=11&SourceId=4800&Screen=Load>. You can also review information in DEQ's Environmental Cleanup Site Information database at <http://www.deq.state.or.us/lq/ECSI/ecsi.htm>. Enter 4800 in the Site ID box, click "Submit" at the bottom of the page, then click the link labeled 4800 in the Site ID/Info column.

THE NEXT STEP: If no comments opposed to closure are received, no further action (investigation or remedial action) will be required for the Hydraulic Spill Site at States Industries. This partial no further action determination applies only to the Hydraulic Spill Site, and does not include other environmental conditions at the facility.

ACCESSIBILITY INFORMATION: DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications and Outreach, 503-229-5696 or toll free in Oregon at 800-452-4011; fax to 503-229-6762; or email to deqinfo@deq.state.or.us. People with hearing impairments may call 711.

NOTICES OF PROPOSED RULEMAKING

Notices of Proposed Rulemaking and Proposed Rulemaking Hearings

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

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

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

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

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

Appraiser Certification and Licensure Board Chapter 161

Rule Caption: Adoption of permanent rules regarding USPAP, and registration and enforcement of Appraisal Management Companies.

Date:	Time:	Location:
6-18-12	9 a.m.	3000 Market St. NE, Suite 541 Salem OR 97301

Hearing Officer: Jill Merwin

Stat. Auth.: ORS 183.355, 674.305 & 674.310

Other Auth.: Title XI of the Federal Financial Reform, Recovery & Enforcement Act of 1989 (12 USC 3310 et seq.), & Title XIV of the Dodd-Frank Wall Street Reform & Consumer Protection Act of 2010.
Stats. Implemented: ORS 674.305(7), 674.310(2), 674.205, 674.215, 674.230, 674.245 & 674.250

Proposed Adoptions: 161-500-0000, 161-510-0010, 161-510-0030, 161-520-0005, 161-520-0010, 161-520-0020, 161-520-0030, 161-520-0040, 161-520-0045, 161-520-0050, 161-520-0055, 161-520-0060, 161-530-0010, 161-530-0020, 161-530-0030, 161-530-0040, 161-540-0010, 161-550-0010, 161-550-0020, 161-560-0010, 161-560-0020, 161-570-0010, 161-570-0015, 161-570-0020, 161-570-0030, 161-570-0045

Proposed Amendments: 161-002-0000, 161-025-0060

Last Date for Comment: 6-18-12, Close of Hearing

Summary: Adopts Oregon Administrative Rule 161, Division 500, Rule 0000 regarding definitions; Division 510, Rule 0010 regarding application and registration fees, and Rule 0030 regarding Miscellaneous Fees; Division 520, Rule 0005 regarding business name registration, Rule 0010 regarding registration requirements, Rule 0020 regarding appraiser competency, Rule 0030 regarding renewal or reactivation of registration, and Rule 0040 regarding change or addition of subject individual; Rule 0045 regarding change in business name, Rule 0050 regarding change of individual ownership, Rule 0055 regarding change of address, and Rule 0060 regarding termination or cancellation of Surety Bond or Letter of Credit; Division 530, Rule 0010 regarding criminal records check, Rule 0020 regard-

ing background check authorizations and fingerprint card, Rule 0030 regarding potentially disqualifying crimes, and Rule 0040 regarding reporting litigation involving subject individuals; Division 540, Rule 0010 regarding training; Division 550, Rule 0010 regarding annual reports; Division 550, Rule 0020 regarding records and real estate appraisal activity report retention requirements; Division 560, Rule 0010 regarding audits, and Rule 0020 regarding audit standards; Division 570, Rule 0010 regarding duty to cooperate; Rule 0015 regarding appraisal review, Rule 0030 regarding appraisal management company complaints, and Rule 0045 regarding appraisal management company investigations and audits.

Amends Oregon Administrative Rule 161, Division 2, Rule 0000 regarding definitions; and Division 025, Rule 0060 regarding appraisal standards and USPAP.

Rules Coordinator: Karen Turnbow

Address: Appraiser Certification and Licensure Board, 3000 Market St. NE, Suite 541, Salem, OR 97301

Telephone: (503) 485-2555

Board of Licensed Professional Counselors and Therapists Chapter 833

Rule Caption: Miscellaneous changes.

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: 6-30-12, Close of Business

Summary: Adds definition of “client record.”

Adds a section on client records that includes how long to retain client records and a requirement that licensees report to the board contact information of person designated to have records in case of licensee incapacitation or death.

Adds licensee telephone number to PDS requirement.

Adds board website and email addresses to PDS.

Adds requirement that PDS include a statement as to where to find licensee discipline information.

Removes format requirement for PDS.

Corrects misspelled word.

Removes CACREP accreditation requirement for online programs.

Removes requirement that graduate program students abide by the board's Code of Ethics.

Adds missing word in continuing education.

Adds supervisee relationship to Integrity section of Code of Ethics.

Rules Coordinator: Becky Eklund

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

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

Board of Nursing Chapter 851

Rule Caption: Delinquent renewal fees for RN/LPN and AP applications increase from \$12.00 to \$100.00.

Date:	Time:	Location:
6-21-12	9 a.m.	17938 SW Upper Boones Ferry Rd. Portland, OR 97224

Hearing Officer: Kay Carnegie, Board President

Stat. Auth.: ORS 678.150 & 678.410

Stats. Implemented: ORS 678.410

Proposed Amendments: 851-002-0010, 851-002-0020, 851-002-0030, 851-002-0035

Last Date for Comment: 6-19-12, 5 p.m.

Summary: The proposed rule changes will streamline the processing of late renewals and reduce OSBN operational and licensee costs of administering civil penalties for those practicing as a nurse without an active license for less than 60 days delinquent. Rather than

NOTICES OF PROPOSED RULEMAKING

pursue a civil penalty of \$50/day for up to 60 days for working without a license, the delinquent renewal fee for RN/LPN and Advanced Practice applications would increase in all cases from \$12.00 to \$100.00. The OSBN will pursue civil penalties for practicing as a nurse without a license, where a renewal or reactivation application is more than 60 days late or deemed necessary by Board order, at \$50/day up to \$5,000 maximum.

Rules Coordinator: Peggy A. Lightfoot
Address: Board of Nursing, 17938 SW Upper Bones Ferry Rd., Portland, OR 97224
Telephone: (971) 673-0638

Rule Caption: To bring the language in line with previous versions and the intent of the Board.

Date:	Time:	Location:
6-21-12	9 a.m.	17938 SW Upper Boones Ferry Rd. Portland, OR 97224

Hearing Officer: Kay Carnegie, Board President

Stat. Auth.: ORS 678.150

Stats. Implemented: ORS 678.150 & 678.117

Proposed Amendments: 851-045-0100

Last Date for Comment: 6-19-12, 5 p.m.

Summary: The purpose of the revision to 851-045-0100 is to bring the language in line with previous versions of the rule and the intent of the Board.

Rules Coordinator: Peggy A. Lightfoot
Address: Board of Nursing, 17938 SW Upper Bones Ferry Rd., Portland, OR 97224
Telephone: (971) 673-0638

Rule Caption: To bring the language in line with previous versions and the intent of the Board.

Date:	Time:	Location:
6-21-12	9 a.m.	17938 SW Upper Boones Ferry Rd. Portland, OR 97224

Hearing Officer: Kay Carnegie, Board President

Stat. Auth.: ORS 678.375 & 678.390

Stats. Implemented: ORS 678.390

Proposed Repeals: 851-050-0150

Last Date for Comment: 6-19-12, 5 p.m.

Summary: The proposed revision to Division 50 will bring the language in line with previous versions of the rule and the intent of the Board

Rules Coordinator: Peggy A. Lightfoot
Address: Board of Nursing, 17938 SW Upper Bones Ferry Rd., Portland, OR 97224
Telephone: (971) 673-0638

Rule Caption: To clarify language regarding the requirements of the Health Professionals' Services Program.

Date:	Time:	Location:
6-21-12	9 a.m.	17938 SW Upper Boones Ferry Rd. Portland, OR 97224

Hearing Officer: Kay Carnegie, Board President

Stat. Auth.: ORS 676.200

Stats. Implemented: ORS 676.200

Proposed Amendments: 851-070-0090

Last Date for Comment: 6-19-12, 5 p.m.

Summary: The purpose of the revision to 851-070-0090 is to:

- Clarify that the program is for four years for a substance use disorder and/or substance use and mental health disorder (co-occurring); and
- Clarify that the program is for two years for a mental health disorder; and
- Clarify that monitored practice is to be supervised in the work setting.

Rules Coordinator: Peggy A. Lightfoot
Address: Board of Nursing, 17938 SW Upper Bones Ferry Rd., Portland, OR 97224
Telephone: (971) 673-0638

Commission for the Blind Chapter 585

Rule Caption: Financial Support for Funding Business Ventures.

Date:	Time:	Location:
6-19-12	10 a.m.	535 SE 12th Ave. Portland, OR

Hearing Officer: Dacia Johnson

Stat. Auth.: ORS 346.150

Stats. Implemented: ORS 183.341

Proposed Amendments: Rules in 585-010, 585-010-0310

Last Date for Comment: 7-2-12, 5 p.m.

Summary: Division 10: Business Policy – Updates language to reflect current practice.

Rules Coordinator: Linda Mock

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

Telephone: (971) 673-1588

Department of Agriculture Chapter 603

Rule Caption: Changes fee reimbursing the Department for statutorily required commission oversight function; changes maximum cap.

Date:	Time:	Location:
6-26-12	10 a.m.	Oregon Dept. of Agriculture 635 Capitol St. NE, Conference Rm. D Salem, OR

Hearing Officer: Lindsay Eng

Stat. Auth.: ORS 576, 577, 578

Stats. Implemented: ORS 576, 577, 578

Proposed Amendments: 603-042-0010

Last Date for Comment: 6-26-12, 5 p.m.

Summary: Revises rule to ensure the Oregon Department of Agriculture is reimbursed for all costs of supervisory and administrative functions that the Department is required by law to perform with regard to commodity commissions. The rule change provides for a maximum fee of \$300,000 to cover all program costs. (The Department estimates that the operating costs for 2011–12 will be less than \$264,000. The Commodity Commission Oversight Program Advisory Committee will continue to review program costs annually but wants does not want to revise the rule each year. All 23 commissions are billed a pro rata share with a maximum cap and a minimum fee.) The maximum fee per commission will be capped at \$40,000. For 2011-12 fee billing, the Department estimates the maximum fee will be \$36,003.48.

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

Rule Caption: Amend field burning rules to increase field burning fees and general housekeeping.

Date:	Time:	Location:
6-26-12	10 a.m.	Oregon Dept. of Agriculture 635 Capitol St. NE Salem, OR

Hearing Officer: Sephanie Page

Stat. Auth.: ORS 561.190

Stats. Implemented: ORS 468A.585

Proposed Amendments: 603-077-0105, 603-077-0110, 603-077-0112, 603-077-0113, 603-077-0119

Last Date for Comment: 7-2-12, 5 p.m.

NOTICES OF PROPOSED RULEMAKING

Summary: The rules govern the operation and enforcement of field burning in the Willamette Valley. The rules are necessary for the Department of Agriculture to increase the fees for field burning as outlined in ORS 468A.615(2)(b), and general housekeeping corrections.

The Oregon Department of Agriculture (ODA), operates the Smoke Management Program under a Memorandum of Understanding with the Oregon Department of Environmental Quality.

The Smoke Management Program regulates the field burning of grass seed in the Willamette Valley.

Field burning typically commences following harvest in July.

The 2009 Oregon Legislative Assembly reduced field burning in the Willamette Valley from a maximum of 65,000 acres to 15,000 acres annually. This legislation increased field burning fees from \$8.00 to \$16.00 per acre. However, the current fees generated following the legislatively mandated field burning acreage reduction does not cover the costs of operating the Smoke Management Program. The recommended fee increase is \$4.00 per acre (\$16.00 to \$20.00 per acre).

Rules Coordinator: Sue Gooch

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

Telephone: (503) 986-4583

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

Rule Caption: Establishes specialized inspector training and certifications as allowed by House Bill 3462 (2009).

Stat. Auth.: ORS 455.720, 455.730 & 455.735

Other Auth.: 2009 OL Ch. 593

Stats. Implemented: ORS 455.720, 455.730 & 455.735

Proposed Adoptions: 918-098-1590, 918-098-1591

Proposed Amendments: 918-098-1510, 918-098-1530

Last Date for Comment: 6-22-12, 5 p.m.

Summary: HB 3462 (2009) authorized the Building Codes Division to create a program for training, qualifying, and certifying individuals as specialized building inspectors authorized to perform inspections and enforce portions of Oregon's specialty codes. These new inspector certifications will cover limited commercial and other multidisciplinary inspections that presently are not independently authorized by the division's existing inspector certifications. These proposed rules will establish the criteria for the Specialized Finals Inspector certification. The proposed multidisciplinary certification will allow an individual to perform residential final inspections. The scope of work is detailed in the proposed rules

Rules Coordinator: Stephanie Snyder

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

Telephone: (503) 373-7438

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

Rule Caption: Establishes process for master trustee to calculate trust fund balance at least twice each year.

Date:	Time:	Location:
6-26-12	1 p.m.	Labor & Industries Bldg. 350 Winter St. NE, Rm. 260 Salem, OR 97301

Hearing Officer: Richard Y. Blackwell

Stat. Auth.: ORS 97.943

Other Auth.: 2012 O OL Ch. 7 § 10

Stats. Implemented: ORS 97.926, 97.935 & 2012 OL Ch. 7 § 10

Proposed Adoptions: 441-930-0085

Proposed Amendments: 441-930-0010

Last Date for Comment: 6-29-12, 5 p.m.

Summary: The proposed rules comply with Section 10 of 2012 Oregon Laws ch. 7 (HB 4117). That law requires DCBS to create a process, by rule, to allow a master trustee to calculate the balance of their trust fund deposits at least two times each year.

Rules Coordinator: Shelley Greiner

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

Telephone: (503) 947-7484

Rule Caption: Revises requirements for books, records, and reporting and corrects statutory references for check cashing businesses.

Date:	Time:	Location:
6-26-12	9 a.m.	Labor & Industries Bldg. 350 Winter St. NE, Rm. 260 Salem, OR 97301

Hearing Officer: Sarah I. Hackett

Stat. Auth.: ORS 697.528 & 697.550

Other Auth.: 2007 OL Ch. 358, § 16

Stats. Implemented: ORS 697.502, 697.504, 697.510, 697.512, 697.514, 697.526, 697.528 & 697.530

Proposed Amendments: 441-755-0000, 441-755-0100, 441-755-0110, 441-755-0120, 441-755-0140, 441-755-0150, 441-755-0160, 441-755-0170, 441-755-0210, 441-755-0300, 441-755-0310

Last Date for Comment: 6-29-12, 5 p.m.

Summary: The proposed rules streamline and simplify reporting requirements for check cashing licensees and reduce the data that licensees must provide in the annual report. Licensees will still be required to comply with statutory requirements that provide consumer protections. The department expects these changes to improve the accuracy of data submitted by licensees while lessening the regulatory burdens on licensees. The proposed rules also make technical revisions to the rules to correct statutory citations and update statutory references.

Rules Coordinator: Shelley Greiner

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

Telephone: (503) 947-7484

Rule Caption: Updates citations and corrects statutory references for payday and title lending rules.

Date:	Time:	Location:
6-26-12	10:30 a.m.	Labor & Industries Bldg. 350 Winter St. NE, Rm. 260 Salem, OR 97301

Hearing Officer: Sarah I. Hackett

Stat. Auth.: ORS 725A.092

Other Auth.: 2010 OL Ch. 23, § 27

Stats. Implemented: ORS 725A.010-725A.990

Proposed Amendments: 441-735-0000, 441-735-0010, 441-735-0015, 441-735-0025, 441-735-0030, 441-735-0050, 441-735-0060, 441-735-0070, 441-735-0080, 441-735-0100, 441-735-0110, 441-735-0120, 441-735-0130, 441-735-0140, 441-735-0160, 441-735-0165, 441-735-0205, 441-735-0240, 441-735-0250, 441-735-0255, 441-735-0271, 441-735-0272, 441-735-0275, 441-735-0280, 441-735-0310, 441-735-0320

Last Date for Comment: 6-29-12, 5 p.m.

Summary: SB 993 (2010) had not been codified in statute when the department adopted OAR 441-735-0000 through 441-735-0320 for payday and title lending. This law has now been codified in Oregon Revised Statutes in ORS chapter 725A and the department needs to update the statutory references in the payday and title rules. In addition, the proposed rules correct some citations related to statutes that were incorrectly cited and to update some references to federal regulations

Rules Coordinator: Shelley Greiner

NOTICES OF PROPOSED RULEMAKING

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

Telephone: (503) 947-7484

Rule Caption: Makes technical, streamlining and other house-keeping changes to the mortgage lending licensing rules.

Date:	Time:	Location:
6-28-12	9:30 a.m.	Labor & Industries Bldg. 350 Winter St. NE, Rm. 260 Salem, OR 97301

Hearing Officer: Lauren Winters

Stat. Auth.: ORS 86A.102, 86A.106, 86A.109, 86A.112, 86A.115, 86A.124, 86A.136, 86A.188, 86A.212, 86A.242 & 725.505

Stats. Implemented: ORS 86A.100, 86A.103, 86A.106, 86A.109, 86A.112, 86A.115, 86A.124, 86A.179, 86A.188, 86A.200, 86A.203, 86A.209, 86A.212, 86A.215, 86A.218, 86A.227, 86A.239 & 725.190

Proposed Adoptions: 441-860-0021, 441-860-0024, 441-880-0315, 441-880-0320

Proposed Amendments: 441-730-0026, 441-730-0320, 441-850-0005, 441-860-0020, 441-860-0025, 441-860-0030, 441-860-0040, 441-860-0050, 441-860-0060, 441-860-0080, 441-860-0085, 441-860-0090, 441-860-0110, 441-865-0025, 441-865-0060, 441-880-0005, 441-880-0006, 441-880-0007, 441-880-0008, 441-880-0200, 441-880-0205, 441-880-0210, 441-880-0215, 441-880-0300, 441-880-0310

Proposed Repeals: 441-880-0010, 441-880-0021, 441-880-0022, 441-880-0030, 441-880-0040

Last Date for Comment: 7-3-12, 5 p.m.

Summary: This proposed rulemaking activity is a set of house-keeping rules meant to address issues that have arisen under Oregon's implementation of the federal S.A.F.E. Act, which requires states to license mortgage loan originators in coordination with the Nationwide Mortgage Licensing System and Registry. Most of the changes proposed by this rulemaking activity correct reference to state and federal law, move portions of rules into new rules for readability, and make other purely technical alterations. In addition, this proposed rulemaking activity:

(1) Makes reference to the application forms required by the Nationwide Mortgage Licensing System and Registry, and provides information on where the forms may be located;

(2) Removes transitional rules adopted to implement 2009 HB 2189;

(3) Clarifies how mortgage bankers, brokers and loan originators address problems with license applications;

(4) Makes changes to the delivery and effective date of the surety bond required of a person employing mortgage loan originators;

(5) Clarifies who should retain the "rate lock/float" form required under Oregon statute;

(6) Changes the date of the mortgage call report required by Oregon law from to August 15, consistent with NMLSR requirements; and

(7) Addresses lying and cheating on a mortgage loan originator examination.

Rules Coordinator: Shelley Greiner

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

Telephone: (503) 947-7484

Department of Consumer and Business Services, Insurance Division Chapter 836

Rule Caption: Amendment of the workers' compensation premium audit and classification notice rules.

Date:	Time:	Location:
6-27-12	9 a.m.	Conference Rm. F, Labor & Industries Bldg. 350 Winter St. NE Salem, OR 97301

Hearing Officer: Fred Bruyns

Stat. Auth.: ORS 731.244, 737.310 & 737.318

Stats. Implemented: ORS 737.235, 737.310, 737.318 & 737.505

Proposed Amendments: 836-043-0101, 836-043-0105, 836-043-0110, 836-043-0115, 836-043-0120, 836-043-0125, 836-043-0130, 836-043-0135, 836-043-0145, 836-043-0150, 836-043-0155, 836-043-0165, 836-043-0170, 836-043-0175, 836-043-0180, 836-043-0185

Proposed Repeals: 836-043-0140, 836-043-0190

Last Date for Comment: 7-2-12, 5 p.m.

Summary: The agency proposes to amend these rules to improve organization, clarity, and consistency, and to update or remove obsolete information. More specifically these rules:

- Define terms: "audit," "desk audit," "field audit," "committee" (Oregon Workers' Compensation Rating System Review and Advisory Committee), "insured," "payroll report," and "standard premium."

- Update audit procedures involving records used to conduct audits, final audit billing disputes, and classification of exposure.

- Eliminate the requirement that the "bureau" (National Council on Compensation Insurance) conduct seminars on audit fundamentals for employers.

- Revise requirements of the test audit program to:

- Clarify the time allowed for insurers to report audit findings to the bureau.

- Require insurers to report all compensable indemnity claims to the bureau (currently limited to all claims greater than \$2,000).

- Require insurers to report compensable medical-only claims to the bureau only if the reported loss amounts are \$5,000 or more (currently required for all claims greater than \$2,000).

- Clarify policy selection process and constraints.

- Exclude "wrap-up" projects from the test audit selection.

- Eliminate the requirement for weekly production reporting of all test audits.

- Eliminate the requirement that summarized quarterly and six quarterly audit results be furnished to the Workers' Compensation Rating System Review and Advisory Committee.

- Amend the minimum standard for test audit performance; the number of premium differences in excess of \$500 or 2% of standard premium (currently \$300 or 1% of standard premium) must not exceed the critical number shown in the Table of Minimum Standards.

- Update and clarify premium audit hearing procedures, including:

- Time frames for an insured to petition for hearing;

- Elements that must be included in a final premium audit billing (to render the bill collectible);

- Referrals of hearing requests and requests for stays of collection to the Office of Administrative Hearings (OAH); and

- Reasons the director will dismiss an insured's request for a hearing.

- Clarify classification notice requirements.

Rules Coordinator: Sue Munson

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

Telephone: (503) 947-7272

NOTICES OF PROPOSED RULEMAKING

Department of Consumer and Business Services, Workers' Compensation Board Chapter 438

Rule Caption: OAR Chapter 438 provisions for electronic filing, service, and notification of specified matters.

Date: 6-29-12
Time: 10 a.m.
Location: 2601 25th St. SE, Suite 150
Salem, OR 97302

Hearing Officer: Debra L. Young

Stat. Auth.: ORS 656.726(5)

Stats. Implemented: ORS 45.273, 45.275, 45.285, 45.288, ORS Ch. 84, 656.236, 656.262(6) & (15), 656.278(1), 656.283(1), 656.289(3) & (4), 656.295(1), (2), (5) & 656.307

Proposed Amendments: 438-005-0046, 438-005-0050, 438-005-0055, 438-005-0070, 438-007-0015, 438-009-0015, 438-009-0022, 438-009-0025, 438-009-0028, 438-009-0030, 438-011-0005, 438-011-0020, 438-012-0016, 438-020-0010

Last Date for Comment: 6-29-12, 5:30 p.m.

Summary: After considering the report from the Technology Advisory Committee, the Board proposes to: (1) amend OAR 438-005-0046(1) and (2) to provide for e-mail and website portal filing/service of requests for hearing, Board review, extension of a briefing schedule under OAR 438-011-0020, or waiver of the Board's rules under OAR 438-011-0030, and add section (4) to provide for electronically transmitted signatures; (2) amend OAR 438-005-0050(2) and OAR 438-005-0055(1), (2) to add reference to the Ombudsman for Injured Workers and toll-free number in the notice provisions and to provide for physical delivery, FAX (and the Board's FAX number), and e-mail filing (and the Board's e-mail address) in the hearing rights notices to accompany a carrier's response to objection to a notice of claim acceptance, and notices of denials based on compensability and noncooperation, respectively; (3) amend the following rules to replace references to "mailing" with references to "service": OAR 438-005-0070 and OAR 438-011-0005(2); (4) amend the following rules to add "delivering"/"delivered" as a means of notification in addition to "mailing"/"mailed," respectively: OAR 438-007-0015(2), (3), and OAR 438-0012-0016; (5) amend OAR 438-009-0015(5) and OAR 438-009-0025(1) to remove the requirement of the original settlement document and claim disposition agreement, respectively; (6) amend OAR 438-009-0022(4)(h) to update the Ombudsman's title and phone number; (7) amend OAR 438-009-0028 and OAR 438-009-0030 concerning methods to notify parties and practitioners of the approval of claim disposition agreements; (8) amend OAR 438-011-0005(2) to provide that copies of a request for Board review of an ALJ's order shall be "served on" all parties "to the proceeding"; (9) amend OAR 438-011-0020(2) to replace references to "mailing" with references to "filing" and to provide that the briefing schedule begins from the date of the Board's Notice of Briefing; (10) amend OAR 438-011-0020(3) to provide that briefing extensions will be allowed only on written request filed "pursuant to OAR 438-005-0046(1)"; and (11) amend OAR 438-020-0010 to add the Board's website portal and website Online Services page as additional preferred methods of notification that an interpreter is needed.

Rules Coordinator: Karen Burton

Address: Department of Consumer and Business Services, Workers' Compensation Board, 2601 25th St. SE, Suite 150, Salem, OR 97302
Telephone: (503) 934-0123

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**Department of Energy
Chapter 330**

Rule Caption: Modification of BETC rules to prohibit increases in tax credits and implement pass-through fees.

Date: 6-22-12
Time: 9 a.m.
Location: Oregon Dept. of Energy
625 Marion St. NE
Salem, OR 97301

Hearing Officer: Elizabeth Ross

Stat. Auth.: ORS 469.040 & 469B.164

Stats. Implemented: ORS 469B.130–469B.171, 315.354–315.357 & 2012 OL Ch. 45, Sec. 16 & 19 (HB 4079)

Proposed Amendments: 330-090-0105, 330-090-0110, 330-090-0120, 330-090-0130, 330-090-0133, 330-090-0150, 330-090-0160, 330-090-0350

Proposed Repeals: 330-090-0130(T)

Last Date for Comment: 6-22-12, 5 p.m.

Summary: These rules prevent applicants that apply to amend existing projects from increasing the amount of tax credit earned. HB 3672 (2011) removed the option to submit new applications for projects under BETC. Without this rule, prior BETC program applicants could seek amendments to increase the size of existing projects and subvert the intent of HB 3672 to stop new activity within the program. In January 2012, the Department of Energy adopted temporary rules covering this provision. In 2012, HB 4079 amended the BETC statute to simplify the sunset date provisions, this rulemaking aligns BETC rules with this amendment. Additionally, the department held a fee hearing for implementing pass-through fees and a re-inspection fee. This rulemaking repeals the temporary rules and implements permanent rules. Since filing the temporary rules, the department held a stakeholder meeting and fee hearing to provide comments and feedback on the rules. The rules also cover the updating of statutory references from HB 3680 (2010).

330-090-0105: ORS 469B update, applicability dates.

330-090-0110: ORS 469B update.

330-090-0120: ORS 469B update.

330-090-0130: ORS 469B update, amendment and extension language.

330-090-0133: ORS 469B update, reference to pass-through.

330-090-0150: ORS 469B update, extension language, pass-through fees, re-inspection fee.

330-090-0160: ORS 469B update and sunset language.

330-090-0350: ORS 469B update.

Rules Coordinator: Kathy Stuttaford

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

Telephone: (503) 373-2127

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Rule Caption: Permanent rules to administer the renewable energy development grant within the Energy Incentives Program.

Date: 6-28-12
Time: 9 a.m.
Location: OR Dept. of Energy
625 Marion St. NE
Salem, OR 97301

Hearing Officer: Elizabeth Ross

Stat. Auth.: ORS 469.040 & 469B.265

Stats. Implemented: ORS 469B.250–469B.265, 315.326, 315.329 & 2012 OL Ch. 45, Sec. 1–5 (HB 4079)

Proposed Adoptions: 330-200-0000, 330-200-0010, 330-200-0020, 330-200-0030, 330-200-0040, 330-200-0050, 330-200-0060, 330-200-0070, 330-200-0080, 330-200-0090, 330-200-0150

Proposed Repeals: 330-200-0000(T), 330-200-0010(T), 330-200-0020(T), 330-200-0030(T), 330-200-0040(T), 330-200-0050(T), 330-200-0060(T), 330-200-0070(T), 330-200-0080(T), 330-200-0090(T), 330-200-0150(T)

Last Date for Comment: 6-28-12, 5 p.m.

Summary: These rules provide the operating framework for the renewable energy development grant within the Energy Incentives Program. The rules include the application process, prioritization of applications within funding limits and performance agreement conditions. In February 2012, the Department of Energy adopted temporary rules for the renewable energy development program created by HB 3672 (2011) and amended by HB 4079 (2012), this rulemaking repeals the temporary rules and implements permanent rules. Since filing the temporary rules, the department has issued a funding opportunity announcement and engaged an advisory committee to provide comments and feedback on the rules.

Rules Coordinator: Kathy Stuttaford

NOTICES OF PROPOSED RULEMAKING

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

Telephone: (503) 373-2127

Rule Caption: Permanent rules to administer the alternative fuel vehicle infrastructure tax credit within Energy Incentives Program.

Date:	Time:	Location:
6-26-12	9 a.m.	OR Dept. of Energy 625 Marion St. NE Salem, OR 97301

Hearing Officer: Jo Morgan

Stat. Auth.: ORS 469.040 & 469B.347

Stats. Implemented: ORS 469B.320–469B.347, 315.336 & 2012 OL Ch.45, Sec. 6–11 (HB 4079)

Proposed Adoptions: 330-220-0000, 330-220-0010, 330-220-0020, 330-220-0030, 330-220-0040, 330-220-0050, 330-220-0070, 330-220-0080, 330-220-0090, 330-220-0100, 330-220-0150

Proposed Repeals: 330-220-0000(T), 330-220-0010(T), 330-220-0020(T), 330-220-0030(T), 330-220-0040(T), 330-220-0050(T), 330-220-0070(T), 330-220-0080(T), 330-220-0090(T), 330-220-0100(T), 330-220-0150(T)

Last Date for Comment: 6-26-12, 5 p.m.

Summary: These rules provide the operating framework for the alternative fuel vehicle infrastructure 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 has engaged an advisory committee to provide comments and feedback on the proposed rules.

Rules Coordinator: Kathy Stuttaford

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

Telephone: (503) 373-2127

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

Rule Caption: Hearings for Developmental Disability Services Eligibility Determination.

Date:	Time:	Location:
6-19-12	2:30 p.m.	500 Summer St. NE, Rms. 137AB Salem, OR 97301

Hearing Officer: Staff

Stat. Auth.: ORS 409.050 & 430.662

Stats. Implemented: ORS 427.005, 427.007 & 430.610 to 430.670

Proposed Amendments: 411-320-0175

Proposed Repeals: 411-320-0175(T)

Last Date for Comment: 6-21-12, 5 p.m.

Summary: The Department of Human Services (Department) is proposing to permanently amend OAR 411-320-0175 to reflect recent policy and practice changes made temporarily by the Department effective January 1, 2012 regarding when the Department shall delegate final order authority to the Office of Administrative Hearings (OAH).

Final order has always been delegated to OAH and the Department was required to revoke this delegation each time the Department desired to request a proposed order or proposed and final order.

The temporary rulemaking allowed the Department to identify the type of order the Department desired when making a referral to OAH. This permitted the Department to request a proposed order or proposed and final order without having to revoke delegation of final order authority.

The temporary rulemaking also allowed the Department to properly inform and explain the process for filing exceptions, describe timelines, and describe process followed when a proposed order or a proposed and final order is requested and then received by the Department.

The Department is now proposing to make these temporary amendments permanent.

Rules Coordinator: Christina Hartman

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

Telephone: (503) 945-6398

Department of Justice Chapter 137

Rule Caption: Amends Attorney General's Model Public Contract Rules, Divisions 46, 47, 48 and 49.

Date:	Time:	Location:
6-18-12	10 a.m.	1241 State St. NE Thunderegg Conference Rm. Salem OR

Hearing Officer: Karen Johnson

Stat. Auth.: ORS 279A.065, 2011 OL Ch 237, 2011 OL Ch. 458, 279B.055, 279B.060, 279B.065, 279B.070, 279B.075, 279C.125, 279B.400, 279B.405, 279B.410, 279C.335, 279C.340 & 279C.405
Stats. Implemented: ORS 279A.065; 279A.120; 279A.128; 279B.100; 279B.110; 279C.100-279C.125; 279C.110; 279C.527; OL 2009, ch 880, sec 11; OL 2011, ch 237; OL 2011, ch 458; OL 2012, ch 53; OL 2012, ch 58; 200.035; 200.065; 200.075; 279A.015; 279A.030; 279A.050; 279A.055; 279A.105; 279A.110; 279A.125; 279A.180; 279A.205; 279A.210; 279A.215; 279A.220; 279A.225; 279B.015; 279B.030; 279B.036; 279B.050; 279B.055; 279B.060; 279B.065; 279B.070; 279B.075; 279B.080; 279B.085; 279B.115; 279B.120; 279B.130; 279B.135; 279B.140; 279B.400; 279B.405; 279B.410; 279B.415; 279B.425; 279C.107, 279C.120; 279C.115; 279C.125; 279C.110-279C.125; 279C.300; 279C.305; 279C.307; 279C.315; 279C.320; 279C.325, 279C.335; 279C.340; 279C.345; 279C.360; 279C.365; 279C.370; 279C.375; 279C.380; 279C.385; 279C.390; 279C.395; 279C.400; 279C.405; 279C.410; 279C.400-279C.410; 279C.430; 279C.435; 279C.440; 279C.445; 279C.450; 279C.460; 279C.505-580; 279C.585; 279C.590; 279C.605; 279C.650; 279C.655; 279C.660; 279C.665; 279C.670; 279C.800; 279C.830; 279C.835; 279C.870; 305.385; 351.086; 468A.720, 671.530; 701.005; 701.420; 701.055

Proposed Adoptions: 137-046-0252, 137-046-0330, 137-047-0560

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

NOTICES OF PROPOSED RULEMAKING

0600, 137-049-0610, 137-049-0620, 137-049-0630, 137-049-0640, 137-049-0645, 137-049-0650, 137-049-0660, 137-049-0670, 137-049-0680, 137-049-0690, 137-049-0800, 137-049-0810, 137-049-0815, 137-049-0820, 137-049-0830, 137-049-0840, 137-049-0850, 137-049-0860, 137-049-0870, 137-049-0880, 137-049-0890, 137-049-0900, 137-049-0910

Last Date for Comment: 6-18-12, 5 p.m.

Summary: The Attorney General proposes to amend the model public contract rules applicable to state and local contracting agencies to respond to 2012 legislative changes and to clarify, improve and correct the rules. Proposed changes would implement the following legislation: SB 1518 (limits on contractor participation in preparation of solicitation documents; personnel deployment disclosure and preference; applicable only to state contracting agencies procuring goods and services); SB 1556 allowing a contract preference for exceeding federal Buy America requirements on federally funded transit projects; and SB 1533 pertaining to green technology in public buildings. Other proposed changes would clarify that qualifications based selection requirements do not apply to direct appointments at the \$100,000 level and under and to emergency selections, for architectural and engineering and other consultants under ORS chapter 279 C and clarify, improve and correct the rules in response to comments received.

Rules Coordinator: Carol Riches

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

Telephone: (503) 947-4700

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Rule Caption: Mortgage Loan Servicing.

Date:	Time:	Location:
6-13-12	9 a.m.	1515 SW Fifth Ave. Portland, OR
6-28-12	9 a.m.	340 Vista Ave. SE Salem, OR

Hearing Officer: Keith Dubanevich

Stat. Auth.: ORS 646.608(4)

Stats. Implemented: ORS 646.608(1)(u) & (4)

Proposed Adoptions: 137-020-0800 – 137-020-0890

Proposed Repeals: 137-020-0800(T), 137-020-0805(T)

Last Date for Comment: 7-17-12, Close of Business

Summary: The rules under consideration by DOJ would be heavily based on the National Mortgage Settlement Agreement that Oregon and 48 other states and the District of Columbia entered into with the five largest national mortgage loan servicers.

The rules under consideration are intended to clearly establish certain mortgage servicer practices as unfair and deceptive, and to establish a uniform standard of behavior in the mortgage servicer industry with regard to the services that are offered to consumers. The rules under consideration would provide consumers with a private right of action in the event that mortgage loan servicers were to fail to comply with the rules.

The rules under consideration would declare certain practices to be an unlawful trade practice, including the improper execution of sworn documents; misapplication of borrowers' payments; failure to provide borrowers with certain information on monthly mortgage statements, including, but not limited to, the total amount due, how previous payments were allocated, a current escrow balance, and an explanation for a change in the borrower's payment; referring a borrower to foreclosure while considering the borrower's request for a loan modification; failing to inform the borrower of possible loss mitigation options before referring the borrower to foreclosure; failing to disclose and provide accurate information to borrowers relating to the qualification process and eligibility factors for loss mitigation programs; failing to conduct an independent evaluation of a loan modification denial before notifying the borrower of the denial; failure to permit the borrower at least 30 days to appeal a loan modification denial; instructing, advising, or recommending that a borrower go into default to obtain a loan modification; failing to respond to

qualified written requests within the time period required by the Real Estate and Settlement Procedures Act; improper imposition of fees; and, imposing hazard insurance without providing a borrower adequate notice.

Rules Coordinator: Carol Riches

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

Telephone: (503) 947-4700

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

Rule Caption: Clarifies fire investigator qualification requirements for exempt jurisdictions.

Stat. Auth.: ORS 476.030

Stats. Implemented: ORS 476.030(3)

Proposed Amendments: 837-039-0040

Last Date for Comment: 6-22-12, Close of Business

Summary: Requires fire investigators that are doing fire investigations beyond that of company level investigations to be Department of Public Safety Standards and Training (DPSST) certified or possess a nationally recognized Certified Fire Investigator (CFI) certification issued by the International Association of Arson Investigators (IAAI) or a Certified Fire and Explosion Investigator (CFEI) certification issued by the National Association of Fire Investigators or possess a state or federal certification that meets the requirements of the National Fire Protection Association 1033, Professional Qualifications for Fire Investigator.

Rules Coordinator: Connie Dalke

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

Telephone: (503) 934-8211

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Department of Public Safety Standards and Training Chapter 259

Rule Caption: Clarify discretionary Public Safety Memorial Fund benefits parameters.

Stat. Auth.: ORS 243.950

Stats. Implemented: ORS 243.962 & 243.968

Proposed Amendments: 259-070-0020

Last Date for Comment: 6-21-12, Close of Business

Summary: This rule change clarifies the parameters for discretionary Public Safety Memorial Fund benefits which may be awarded by the Public Safety Memorial Fund Board to eligible beneficiaries. First, clarification is made to allow for health and dental coverage reimbursement only if an eligible child, as defined in statute, was enrolled as an undergraduate student during the entire period of requested reimbursement. Secondly, clarification is made by indicating that an application requesting mortgage payments must be made within one year following the initial determination of benefit eligibility.

Rules Coordinator: Linsay Hale

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

Telephone: (503) 378-2431

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Rule Caption: Update polygraph definitions to mirror statutory definitions.

Stat. Auth.: ORS 703.230

Stats. Implemented: ORS 703.230

Proposed Amendments: 259-020-0005

Last Date for Comment: 6-21-12, Close of Business

Summary: All definitions have been reviewed to ensure consistency between ORS 703.010 and Oregon Administrative Rule. Definitions for internship, polygraph examiner, and trainee have been added to rule. Statutory references were corrected.

Rules Coordinator: Linsay Hale

NOTICES OF PROPOSED RULEMAKING

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

Rule Caption: Clarify the private investigator licensure exemption identified in ORS 703.411(1).

Stat. Auth.: ORS 703.480

Stats. Implemented: ORS 703.411 & 703.480

Proposed Adoptions: 259-061-0018

Proposed Repeals: 259-061-0018(T)

Last Date for Comment: 6-21-12, Close of Business

Summary: The proposed rule adoption clarifies the interpretation of the exception to the private investigator licensure requirement that is identified in ORS 703.411(1). "A person who is employed exclusively by one employer in connection with the affairs of that employer" is explained to be a person who has one, exclusive employer and who conducts business on behalf of that employer only. The exception does not cover a person who conducts investigations on behalf of the employer's clients. The rule, upon effect, will be retroactive to the date in which the Department of Public Safety Standards and Training began relying on Department of Justice advice (August 9, 2011).

Rules Coordinator: Linsay Hale

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

Telephone: (503) 378-2431

Rule Caption: Update contested case proceedings; Remove ORS 167.54 from mandatory disqualifier list of crimes.

Stat. Auth.: ORS 181.640, 181.644, 181.661, 181.662, 181.664 & 183.341

Stats. Implemented: ORS 181.640, 181.644, 181.661, 181.662, 181.664 & 183.341

Proposed Amendments: 259-008-0010, 259-008-0011, 259-008-0070, 259-009-0070

Last Date for Comment: 6-21-12, Close of Business

Summary: The Attorney General's Model Rules were updated effective January 1, 2012. All DPSST rules containing references to the contested case proceedings are updated to reflect these changes. Also, specific rule number citations are replaced with a general reference to "the applicable provisions of the Administrative Procedures Act," per DOJ advice.

HB 3323, passed during the 2011 legislative session, repeals the crime of Furnishing Sexually Explicit Material to a Minor (ORS 167.54). The crime is removed from the mandatory disqualifier list of crimes found in OAR 259-008-0070.

Rules Coordinator: Linsay Hale

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

Telephone: (503) 378-2431

Rule Caption: Allow equivalent military training and experience to meet minimum polygraph licensure requirements; Clarify education requirements.

Stat. Auth.: ORS 703.230

Stats. Implemented: ORS 703.230

Proposed Amendments: 259-020-0010, 259-020-0015

Proposed Repeals: 259-020-0015(T)

Last Date for Comment: 6-21-12, Close of Business

Summary: House Bill 4063 passed during the 2012 legislative session and requires licensing agencies to accept an applicant's military training or experience as a substitute for required education or experience if the military training is substantially similar to the education and experience requirements for licensure, certification or registration.

OAR 259-020-0015 was recently updated to implement Senate Bill 71, which was enacted during the 2011 legislative session. This bill allows individuals to meet the minimum education requirement

for a general polygraph examiner's licensure if they have been awarded a GED certificate. It has been brought to the attention of the Department that the current organization of the education requirements in rule may be confusing. On the advice of legislative counsel, the rule is being re-organized to clarify that an individual applying for general polygraph licensure must either have received a baccalaureate degree OR have graduated from high school or received a GED and has at least five years of active investigative experience.

Rules Coordinator: Linsay Hale

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

Telephone: (503) 378-2431

Department of Revenue Chapter 150

Rule Caption: Criminal Fines: clarification of distributions from Criminal Fine Account.

Date:	Time:	Location:
6-25-12	9 a.m.	Fishbowl Conference Rm. Revenue Bldg. 955 Center St. NE Salem, OR 97301

Hearing Officer: Phil McClellan

Stat. Auth.: ORS 305.100 & 137.300

Stats. Implemented: ORS 137.300

Proposed Repeals: 150-137.302(7)

Proposed Ren. & Amends: 150-137.300(3) to 150-137.300

Last Date for Comment: 6-25-12, 5 p.m.

Summary: The changes to this rule clarify that distributions from the Criminal Fine Account are done monthly.

Rules Coordinator: Ken Ross

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

Telephone: (503) 945-8890

Rule Caption: Personal income tax: verifying returns, alternative filing methods, separate refunds, credit auction, efile mandate.

Date:	Time:	Location:
6-25-12	9 a.m.	Fishbowl Conference Rm. Revenue Bldg. 955 Center St. NE Salem, OR 97301

Hearing Officer: Phil McClellan

Stat. Auth.: ORS 305.100, 305.265, 315.311, 315.324 & 315.514

Stats. Implemented: ORS 305.810, 314.385, 314.415, 314.364 & 315.514

Proposed Amendments: 150-305.810, 150-314.385(4), 150-314.415(7), 150-315.514

Proposed Repeals: 150-305.265(12), 150-315.134, 150-315.311(1), 150-315.311(2), 150-315.311(6), 150-315.324(7)

Proposed Renumberings: 150-314.HB2071(B) to 150-314.364(B)

Proposed Ren. & Amends: 150-316.014 to 150-316.028

Last Date for Comment: 6-25-12, 5 p.m.

Summary: 150-305.810 explains the different methods the department will accept for a taxpayer to verify their return is true and accurate. The update specifies that submitting a direct efile income tax return is the act of verifying as well as clarifying for other tax programs.

150-314.385(4) specifies alternative method, and allowed, for filing a tax return. This gives the department the ability to specify and allow alternative methods as new processes or methods are developed, including direct electronic filing with the department.

150-314.415(7) clarifies when a separate refund will be issued when a joint return has been filed. The update is to correct a code cite and include examples.

NOTICES OF PROPOSED RULEMAKING

150-314.514 allows the Office of Film and Television to sell their tax credits through an auction. The rule spells out the parameters of the auction.

150-314.HB2071(B) implemented mandatory efile in 2012. This change is to renumber to match codification of House Bill.

150-316.014 discusses an Oregon Net Operating Loss. This change is to renumber to match statute number.

Rules Coordinator: Ken Ross

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

Telephone: (503) 945-8890

Rule Caption: Property Tax: Definition of Data Transmission Services; new numbers for local budget rules.

Date:	Time:	Location:
6-25-12	9 a.m.	Fishbowl Conference Rm. Revenue Bldg. 955 Center St. NE Salem, OR 97301

Hearing Officer: Phil McClellan

Stat. Auth.: ORS 305.100

Stats. Implemented: ORS 308.505 & 294.311–294.471

Proposed Adoptions: 150-308.505(3)

Proposed Renumberings: 150-294.336 to 150-294.414, 150-294.376 to 150-294.358, 150-294.401(7) to 150-294.426(8), 150-294.430(1) to 150-294.453(1), 150-294.450(3) to 150-294.463(3), 150-294.555(2)-(B) to 150-294.458(3)-(B)

Proposed Ren. & Amends: 150-294.326(3) to 150-294.338(2), 150-294.352(1)-(A) to 150-294.388(1)-(A), 150-294.352(8) to 150-294.388(7), 150-294.352 to 150-294.388, 150-294.371 to 150-294.398, 150-294.381(2) to 150-294.368(2), 150-294.416 to 150-294.438, 150-294.435(1)-(A) to 150-294.456(1)-(A), 150-294.435(1)-(C) to 150-294.456(1)-(C), 150-294.435(3) to 150-294.456(3), 150-294.480 to 150-294.471, 150-294.525-(A) to 150-294.346-(A), 150-294.525 to 150-294.346, 150-294.555(2)-(A) to 150-294.458(3)-(A), 150-310.060(7) to 150-294.311(6)

Last Date for Comment: 6-25-12, 5 p.m.

Summary: 150-308.505(3) – This rule is needed to clarify what businesses the department has determined to be within the statutory definition of “data transmission services” for central assessment and valuation purposes (ORS 308.505(3)). This definition, along with the statutes, will be used to determine which Internet data service companies are centrally assessed for ad valorem property tax purposes.

Chapter 294 – All rule changes are to renumber to match statute numbers and correct cites within the rule. There are no policy changes.

Rules Coordinator: Ken Ross

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

Telephone: (503) 945-8890

Rule Caption: Business Tax: 911 Tax revisions.

Date:	Time:	Location:
6-25-12	9 a.m.	Fishbowl Conference Rm. Revenue Bldg. 955 Center St. NE Salem, OR 97301

Hearing Officer: Phil McClellan

Stat. Auth.: ORS 305.100, 403.200–403.230

Stats. Implemented: ORS 314.364 & 403.200

Proposed Repeals: 150-401.000 Note

Proposed Renumberings: 150-314.HB2071(A) to 150-314.364(A)

Proposed Ren. & Amends: 150-401.794 to 150-403.200

Last Date for Comment: 6-25-12, 5 p.m.

Summary: 150-314.HB2071(A) requires Corporations to electronically file their tax returns. This change is to renumber the rule to match the new statute number.

150-401.794 The rule provides definitions and filing guidance for the Emergency 911 tax. The proposed amendments to the rule are to

1) renumber to match statute change from several years ago;

2) update cites to federal provisions or state law that have changed or become obsolete (including entities that are exempt from the tax); and

3) give specific guidance to providers of pre-paid wireless services. These changes are needed to make the rule more up to date and consistent with statute as well as to provide specific guidance to providers of pre-paid wireless services regarding their obligation to collect and remit the 9-1-1 tax, specific methods for determining which subscribers are subject to the tax and examples of how the tax may be collected by the provider.

150-401.000 was a note under the old Ch 401 statute. When rewritten into Ch 403, this issue was clearly addressed making the rule obsolete.

Rules Coordinator: Ken Ross

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

Telephone: (503) 945-8890

Rule Caption: Business Tax: Estate Rules.

Date:	Time:	Location:
6-25-12	9 a.m.	Fishbowl Conference Rm. Revenue Bldg. 955 Center St. NE Salem, OR 97301

Hearing Officer: Phil McClellan

Stat. Auth.: ORS 305.100, 118.140, 118.160 & 118.225

Stats. Implemented: ORS 118.010–118.300

Proposed Adoptions: 150-118.010, 150-118.010(8), 150-118.100(6), 150-118.160, 150-118.260, 150-118.265

Proposed Amendments: 150-118.010(1), 150-118.010(2), 150-118.010(3), 150-118.010(4)(b), 150-118.010(7), 150-118.100(1), 150-118.140, 150-118.160-(B), 150-118.171, 150-118.225, 150-118.260(1)-(A), 150-118.260(1)-(B), 150-118.260(4), 150-118.260(6), 150-118.300

Proposed Ren. & Amends: 150-118.250(1) to 150-118.250

Last Date for Comment: 6-25-12, 5 p.m.

Summary: HB 2541 (2011) made considerable changes to chapter 118, which required revisions to the chapter 118 rules. The bill replaced the inheritance tax with an estate tax as of 1/1/2012 and revised ORS Chapter 118 to disconnect from the outdated 2000 Internal Revenue Code. It was based on recommendations from the Oregon Law Commission (OLC).

The intent of the OLC Inheritance Tax Work Group when drafting the legislation was to provide clarity in statute and minimize the need for rule writing. However some policy areas need clarification by rule:

--The taxability of qualified terminal interest property (QTIP) and Oregon special marital property (OSMP) for the estates of surviving spouse that are nonresident decedents.

--Extensions of time to file estate tax returns.

--Whether appraisals are required when determining the date of death fair market value of an estate's property.

--Definitions related to the estate tax credit for natural resource property.

--The general tie provided by ORS 118.171 to the administrative provisions of chapter 305, including penalty waivers.

--Extensions of time to pay estate tax and timeline for submitting collateral.

--Estate tax penalty waivers (clarify only one 5 percent penalty will be imposed and that the one-time waiver does not apply to the estate tax).

Rules Coordinator: Ken Ross

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

Telephone: (503) 945-8890

NOTICES OF PROPOSED RULEMAKING

Department of State Lands Chapter 141

Rule Caption: Adopting new and amending existing rules governing the establishment marine reserves and marine protected areas.

Date:	Time:	Location:
6-19-12	6-8 p.m.	Clatsop Community College Columbia Hall, Rm. 219 1651 Lexington Ave. Astoria, OR
6-20-12	6-8 p.m.	Oregon Dept. of Forestry 5005 3rd St. Tillamook, OR
6-25-12	6-8 p.m.	Florence Events Center 715 Quince St. Florence, OR
6-26-12	6-8 p.m.	Depoe Bay Community Hall 220 SE Bay St. Depoe Bay, OR

Hearing Officer: Chris Castelli

Stat. Auth.: ORS 183, 273, 274 & 196.540-196.555

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

Stats. Implemented: 2009 OL Ch. 847

Proposed Adoptions: 141-142-0045, 141-142-0050, 141-142-0055, 141-142-0060, 141-142-0065, 141-142-0070, 141-142-0075, 141-142-0080, 141-142-0085, 141-142-0090, 141-142-0095

Proposed Amendments: 141-142-0010, 141-142-0015, 141-142-0020, 141-142-0025

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

Summary: During the 2009 session of the Oregon Legislative Assembly, House Bill 3013 (codified as ORS 196.540 to 196.555) was enacted. ORS 195.540 provides that the State Land Board adopt administrative rules to: "...establish, study, monitor, evaluate and enforce a pilot marine reserve at Otter Rock and a pilot marine reserve and a marine protected area at Redfish Rocks..." and to study and evaluate "potential marine reserves at Cape Falcon, Cascade Head and Cape Perpetua". In addition, ORS 195.555 provides that the State Land Board: "...shall, based on review of the periodic reporting, initiate appropriate rulemaking adjustments that may include size, location and restrictions on marine reserves." In late 2009, pursuant to these statutes, the Department of State Lands developed, and the State Land Board adopted administrative rules governing the management of marine reserves and marine protected areas in the Territorial Sea. These rules specifically established the Otter Rock Marine Reserve and the Redfish Rocks Marine Reserve and Marine Protected Area.

The purpose of this rulemaking activity is to formally establish by rule three additional areas of marine reserves/marine protected areas at Cape Perpetua, Cascade Head and Cape Falcon and a Seabird Protection Area at Cape Perpetua (as recommended by the Oregon Ocean Policy Advisory Council) pursuant to ORS 195.540 and 195.555. These areas were recommended by the Ocean Policy Advisory Council and were established in law during the 2012 Regular Legislative Session.

Rules Coordinator: Christopher Castelli

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

Telephone: (503) 986-5280

Department of Transportation Chapter 731

Rule Caption: Interrogatories not allowed in certain contested cases.

Date:	Time:	Location:
6-21-12	1:30 p.m.	DMV HQ, Rm. 382 1905 Lana Ave. NE Salem OR

Hearing Officer: David Eyerly

Stat. Auth.: ORS 183.341, 184.616 & 184.619

Stats. Implemented: ORS 183.341 & 183.425

Proposed Amendments: 731-001-0005

Last Date for Comment: 6-21-12, Close of Business

Summary: On January 31, 2012, the Oregon Attorney General's office adopted OAR 137-003-0566 that requires discovery methods for agency contested case hearings. Section (2) of the rule authorizes agencies to opt out of some or all discovery methods under certain conditions. ODOT has determined the use of interrogatories for contested case hearings will unduly complicate or interfere with the hearing process given the volume of cases and the need for informality in cases involving the following Divisions or programs: Motor Carrier Transportation Division; Driver and Motor Vehicles Services Division; and in the Highway Division, Access Management and Right-of-Way Relocation Benefits cases. ODOT believes alternative discovery and alternative procedure for sharing relevant information are sufficient to ensure fundamental fairness in these types of proceedings.

ODOT filed a temporary amendment of OAR 731-001-0005 because there was not sufficient time to complete the permanent rulemaking process to coincide with the January 31, 2012 effective date of the Attorney General's rule and the requirement for interrogatories. ODOT is now proposing to permanently amend OAR 731-001-0005.

Rules Coordinator: Lauri Kunze

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

Telephone: (503) 986-3171

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Rule Caption: Road Usage Fee Pilot Program.

Date:	Time:	Location:
6-20-12	9 a.m.	ODOT Short Term Bldg. 3930 Fairview Industrial Dr. SE, Rm. 118 Salem OR

Hearing Officer: Randal Thomas

Stat. Auth.: ORS 184.616, 184.619 & 184.846(9)

Stats. Implemented: ORS 184.846 & 2011 OI Ch. 470

Proposed Amendments: 731-080-0010, 731-080-0020, 731-080-0030, 731-080-0040, 731-080-0070

Last Date for Comment: 6-21-12, Close of Business

Summary: ODOT is amending these rules to specify the procedures and requirements for Road Usage Fee Pilot Program as authorized by ORS 184.846.

Rules Coordinator: Lauri Kunze

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

Telephone: (503) 986-3171

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Rule Caption: Tollway Rules.

Date:	Time:	Location:
6-15-12	9 a.m.	ODOT Mill Creek Bldg., Crown Point Conf. Rm. 555 13th St. NE Salem OR

Hearing Officer: Staff

Stat. Auth.: ORS 184.616, 184.619, 381.010, 381.098, 383.004, 383.014, 383.015, 383.035 & 383.055

Stats. Implemented: ORS 383

Proposed Adoptions: 731-040-0052, 731-040-0053, 731-040-0054, 731-040-0055, 731-040-0056, 731-040-0057, 731-040-0058, 731-040-0059, 731-040-0062, 731-040-0064

Proposed Amendments: 731-040-0010, 731-040-0020, 731-040-0030, 731-040-0050

Proposed Repeals: 731-040-0040, 731-040-0060, 731-040-0070, 731-040-0080

Last Date for Comment: 6-21-12, Close of Business

Summary: ORS Chapter 383 was completely re-written in 2007. Revised ORS Chapter 383 requires ODOT to adopt rules. This rulemaking is designed to implement this re-written chapter.

NOTICES OF PROPOSED RULEMAKING

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

Telephone: (503) 986-3171

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

Rule Caption: Proof of Treatment Completion Required for Reinstatement of DUII Suspension.

Date:	Time:	Location:
6-21-12	9 a.m.	Public Utility Commission Main Hearing Rm. 550 Capitol St. NE Salem, OR

Hearing Officer: Liz Woods

Stat. Auth.: ORS 184.616, 184.619, 802.010, 809.380 & 2012 OL Ch.9 (HB 4011)

Stats. Implemented: 2012 OL Ch. 9

Proposed Amendments: 735-070-0085

Last Date for Comment: 6-21-12, Close of Business

Summary: Oregon Laws 2012, Chapter 9 (Enrolled HB 4011), requires a person convicted of Driving Under the Influence of Intoxicants (DUII) to provide proof to the Department of Transportation that the person completed a treatment program, unless DMV waives the requirement for good cause. DMV is required to establish the criteria for what constitutes good cause by administrative rule. Therefore, DMV proposes to amend OAR 735-070-0085 to specify such criteria and the basis for DMV's finding of just cause. The rule is being amended further to specify what constitutes proof of completion of a DUII treatment program.

As Oregon Laws 2012, Chapter 9, Section 7 established an emergency for immediate implementation of the law, DMV adopted a rule amendment as a temporary rule effective March 26, 2012. This proposed rule amendment differs slightly from the version adopted temporarily, since DMV learned more about the types of documents and requests that are submitted.

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

Rules Coordinator: Lauri Kunze

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

Telephone: (503) 986-3171

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Rule Caption: Implements section 1 of chapter 698, Oregon Laws 2011, regarding group registration plates.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 805.205 & 2011 OL Ch. 698, Sec. 1

Stats. Implemented: ORS 805.205

Proposed Amendments: 735-040-0098

Last Date for Comment: 6-21-12, Close of Business

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

ORS 805.205(2)(a) requires DMV to collect a surcharge amount, as determined by DMV, for non-profit group plates. The surcharge amount may not be less than \$2.50 per plate or more than \$16 for each non-profit group plate issued or renewed. When setting the surcharge, DMV is required to consult with the non-profit group for which plates are issued. In August of 2009, after consulting with existing non-profit groups, DMV adopted OAR 735-040-0098 to set the surcharge amount for non-profit group plates at \$2.50 per plate. Under OAR 735-040-0097, a non-profit group may request that DMV collect a surcharge amount more than \$2.50 per plate.

In consultation with the Children's Trust Fund of Oregon Foundation, a non-profit group, DMV is setting the surcharge for Keep

Kids Safe registration plates at \$7.50 per plate for each year of the registration period. DMV proposes to amend OAR 735-040-0098 to establish the \$7.50 surcharge for Keep Kids Safe registration plates.

Rules Coordinator: Lauri Kunze

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

Telephone: (503) 986-3171

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Rule Caption: Exemption from Collection of Biometric Data if Exposure to Camera Flash May Cause Seizure.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.021 & 807.024
Stats. Implemented: ORS 807.021, 807.024, 807.400, 809.135, 809.310, 807.400 & 809.411

Proposed Amendments: 735-062-0016

Last Date for Comment: 6-21-12, Close of Business

Summary: In July 2008, DMV began collecting biometric data for the purpose of establishing an applicant's identity. The photograph taken for a driver license, driver permit or identification card is the biometric data. DMV's process for taking a photograph has changed due to the nature of the facial recognition software used for the collection of biometric data. No longer is a person allowed to be photographed wearing eyeglasses or with closed eyes. Photographs for collecting biometric data must be taken in DMV field offices using special cameras that include a flash. On rare occasions an applicant will object to being photographed because the flash on the camera triggers a photosensitivity that may result in a seizure or other serious medical condition. ORS 807.024(2) authorizes DMV, by rule, to provide for the issuance, renewal and replacement of a driver license, driver permit or identification card without the collection of biometric data. DMV has determined that having a recent photograph on the driver license or ID card, even if the person's eyes are closed, is better than no photograph as authorized under OAR 735-062-0120 for a person who objects either on religious grounds or because of the applicant's facial disfigurement, or with a previous photograph as authorized under OAR 735-062-0125 for a person who is out-of-state or medically unable to appear in a field office to obtain a recent photograph. Therefore, DMV proposes to amend OAR 735-062-0016 to authorize DMV to photograph a person with his or her eyes closed when the applicant provides documentation from a physician that the applicant may suffer a seizure or other serious medical condition due to the flash on the camera.

DMV also proposes to change the citation of a statute listed in Section (8) and Section (9) as Chapter 61, Oregon Laws (SB 1000) amends ORS 807.400 in such a way as to renumber subsections. Other changes are made for clarification.

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

Rules Coordinator: Lauri Kunze

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

Telephone: (503) 986-3171

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**Department of Transportation,
Highway Division
Chapter 734**

Rule Caption: Highway Approach Permitting, Access Control and Access Management.

Date:	Time:	Location:
6-21-12	9:30 a.m.	Red Lion Hotel, South Umpqua Rm. 1313 N Bayshore Dr. Coos Bay, OR 97420

Hearing Officer: Oregon Transportation Commission Chair

Stat. Auth.: ORS 184.616, 184.619, 374.310-374.314, 374.345 & 374.355

Stats. Implemented: ORS 374.300-374.360 & 2011 Ol Ch. 330 §27

NOTICES OF PROPOSED RULEMAKING

Proposed Adoptions: 734-051-1010 – 734-051-7010
Proposed Repeals: 734-051-0010 – 734-051-0560, 734-051-1010(T) through 734-051-7010(T)
Last Date for Comment: 6-21-12, Close of Hearing
Summary: A toll free telephone number is available for making comments on the hearing record. To obtain the call-in number and instructions, dial 541-388-6191, Monday through Friday between 8:00 and 5:00, on or before June 18.

The 2011 Oregon legislature substantially changed the authorizing legislation for how the Oregon Department of Transportation issues permits for access to state highways. The OTC adopted temporary rules on December 21, 2011. Adoption of the proposed permanent rules is necessary to bring the agency's processes into compliance with the legislation.

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

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

Rule Caption: Conditions of Prequalification.
Stat. Auth.: ORS 184.616, 184.619, 279A.050, 279A.065 & 279C.430
Stats. Implemented: ORS 279C.430
Proposed Amendments: 734-010-0240
Last Date for Comment: 6-21-12, Close of Business
Summary: The Oregon Department of Transportation currently processes over 500 prequalification applications for prime contractors who want to bid on public improvement contracts, including any local government projects. OAR 734-010-0240(9) currently states that prequalifications are valid from September 1 of each year until August 31 of the following year.

ODOT proposes staggering prequalification renewal dates to monthly. Staggering the application renewals would level out the number of applications to review and spread the review over 12 months.

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

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

Department of Transportation, Motor Carrier Transportation Division Chapter 740

Rule Caption: Adoption of International Registration Plan regulations.
Stat. Auth.: ORS 184.616, 184.619, 823.011 & 826.003
Stats. Implemented: ORS 826.005 & 826.007
Proposed Amendments: 740-200-0010
Last Date for Comment: 6-21-12, Close of Business

Summary: The proposed amendment constitutes an adoption of the rules of the International Registration Plan (IRP) to the date of January 1, 2012. In addition, the proposed amendment would modify the method penalties, late payment and interest is calculated in an IRP audit. Currently, the penalties, late payment, and interest for an IRP audit are assessed using the calculations from ORS 825.490 as advised by Oregon Department of Justice (DOJ) counsel in a 2002 interpretation. A recent IRP ballot measure imposes progressive penalties for carriers who repeatedly provide inadequate records for an IRP audit. When researching the implementation of the ballot, the current DOJ counsel set aside the prior advice given in 2002 and instructed the Department to follow the interest, late payment, and penalties as specified in IRP. The proposed rule is necessary to make these changes.

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

Department of Veterans' Affairs Chapter 274

Rule Caption: Veterans' Home Loan Program Fees.
Stat. Auth.: ORS 82.300, 406.030, 407.115, 407.135, 407.145, 407.275 & 742.282
Stats. Implemented: ORS 407.135, 407.145 & 407.275
Proposed Amendments: 274-020-0440, 274-045-0220
Last Date for Comment: 6-21-12

Summary: These rules are being amended to identify the addition of two new fees to be charged with regard to the Veterans' Home Loan Programs as follows:

- 1) A fee in the amount of \$25 for insufficient funds through the electronic funds transfer process.
- 2) A fee in the amount of \$495 for loan processing and document preparation.

Additionally, the processing fee for Release of Mineral Rights and Geothermal Resource Rights being amended to identify an increase from \$50 to \$150. This increase is necessary to cover the costs of County recording fees and processing.

Rules Coordinator: Bruce Craig
Address: Department of Veterans' Affairs, 700 Summer St. NE, Salem, OR 97301-1285
Telephone: (503) 373-2327

Oregon Business Development Department Chapter 123

Rule Caption: Modify rules relating to Enterprise Zone Program, Strategic Investment Program and the Oregon Investment Advantage.

Stat. Auth.: ORS 285A.075, 285C.060, 285C.065, 285C.066, 285C.095, 285C.120, 285C.250, 285C.370, 285C.500–285C.506 & 285C.615(7)

Other Auth.: 2011 OL Ch. 375 & 730 & 2012 OL Ch. 71
Stats. Implemented: ORS 285B.283, 285C.050, 285C.065, 285C.075, 285C.080, 285C.090, 285C.100, 285C.115, 285C.120, 285C.135, 825C.140, 285C.185, 285C.200, 285C.210, 285C.245, 285C.250, 285C.255, 285C.306, 285C.320, 285C.350, 285C.370, 285C.500, 285C.503, 285C.506, 316.778 & 317.391

Proposed Adoptions: Rules in 123-623, 123-635, 123-650, 123-656, 123-656, 123-662, 123-668, 123-674, 123-680, 123-690

Proposed Amendments: Rules in 123-623, 123-635, 123-650, 123-656, 123-656, 123-662, 123-668, 123-674, 123-680, 123-690

Proposed Repeals: Rules in 123-623, 123-635, 123-650, 123-656, 123-656, 123-662, 123-668, 123-674, 123-680, 123-690

Last Date for Comment: 6-21-12, 4 p.m.

Summary: Rule modifications for the Enterprise Zone Program, Strategic Investment Program, Oregon Investment Advantage and divisions related to the Enterprise Zone Program are being modified to reflect minor improvements, corrections or clarifications.

Changes are made in the Enterprise Zone Program due to HB 3017 which was passed in the 2011 Legislative Session. These changes reflect the overall extension of the Enterprise Zone Program sunset date to 2025. HB 3672 was passed in the 2012 Legislative Session. Modifications are made to the rules to reflect additional enterprise zone numbers and size limitations.

Modifications are made in the Oregon Investment Advantage due to HB 3672 passed in the 2011 Legislative Session.

Housekeeping and technical corrections to these rules may occur to ensure consistency and comply with statute.

Rules Coordinator: Mindee Sublette

NOTICES OF PROPOSED RULEMAKING

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

Rule Caption: Rule modification related to 1% for Art in Public Buildings.

Stat. Auth.: ORS 359.025, 359.142

Stats. Implemented: ORS 276.073–276.090

Proposed Amendments: 123-475-0015

Last Date for Comment: 6-21-12, 4 p.m.

Summary: Modification of rule to include up to three visual artists or other design professionals that will be appointed by the Oregon Arts Commission to the Selection Committee.

This part of rule 123-475-0015 was mistakenly repealed in the last rulemaking for this division in January 2012.

Rules Coordinator: Mindee Sublette

Address: Oregon Business Development Department, 775 Summer St. NE, Suite 200, Salem, OR 97301

Telephone: (503) 986-0036

Oregon Department of Education Chapter 581

Rule Caption: Modifies requirements for independent adoption by school districts of instructional materials.

Stat. Auth.: ORS 337.050 & 337.141

Stats. Implemented: ORS 337.120 & 337.141

Proposed Amendments: 581-022-1622

Last Date for Comment: 6-21-12, 5 p.m.

Summary: HB 4014 (2012) amended the law relating to independent adoptions of instructional materials by school districts. Previously, a district was required to file notice of adoption with the State Board of Education. HB 4014 eliminated this requirement as long as the district adopts the materials pursuant to guidelines established by the State Board.

Rules Coordinator: Cindy Hunt

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

Telephone: (503) 947-5651

Rule Caption: Modifies provisions relating to educator evaluation and support.

Stat. Auth.: ORS 342.856

Stats. Implemented: ORS 342.805–342.937

Proposed Amendments: 581-022-1723, 581-022-1725

Last Date for Comment: 6-22-12, 5 p.m.

Summary: SB 290 (2011) directed the State Board to adopt teacher and administrator standards for school districts to use. The rules also specify that the standards must be used by districts in evaluations. The rules modify requirements for local evaluation systems. The rules also further define multiple measures for measuring teacher and administrator effectiveness.

Rules Coordinator: Cindy Hunt

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

Telephone: (503) 947-5651

Oregon Film and Video Office Chapter 951

Rule Caption: Directing all OPIF Rules for the Production Tax Credit sales to the Department of Revenue.

Stat. Auth.: ORS 284.335 & OL 2005, Ch. 559

Stats. Implemented: House Bill 3672 (2011)

Proposed Repeals: 951-003-0005

Last Date for Comment: 7-6-12, 3 p.m.

Summary: (1) The Department of Revenue, in cooperation with Oregon Film & Video Office, conducts auctions of tax credits author-

ized by ORS 315.514 for contributions to the Oregon Production Investment Fund.

(2) OAR 150-315.514 governs auctions described in Section (1) of this rule, including without limitation relating to the tax credit discount, dates of the auction, and determination of eligibility.

(3) Within 45 days after the closure of a tax credit auction, the Oregon Film & Video Office will issue tax credit certificates to the recipients, as determined by the Department of Revenue.

Rules Coordinator: Jane Ridley

Address: Oregon Film and Video Office, 1001 SE Water Ave., Suite 430, Portland, OR 97214

Telephone: (503) 229-5832

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

Rule Caption: Health Professionals' Services Program.

Date:	Time:	Location:
6-20-12	1 p.m.	500 Summer St. NE E-86 Rm. 137B Salem, OR

Hearing Officer: Nola Russell

Stat. Auth.: ORS 413.042 & 676.190

Stats. Implemented: ORS 676.185–676.200

Proposed Amendments: 415-065-0010, 415-065-0020, 415-065-0030, 415-065-0035, 415-065-0040, 415-065-0050, 415-065-0055, 415-065-0060

Proposed Repeals: 415-065-0070

Last Date for Comment: 6-25-12, Close of Business

Summary: The purpose of these rules is to establish a consolidated, statewide health professionals' monitoring program for licensees of participating health licensing boards, as required by ORS 676.190, who are unable to practice with professional skill and safety due to substance use disorders, mental health disorders or both types of disorders. The program shall provide non-treatment compliance monitoring and reporting services.

Rules Coordinator: Nola Russell

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

Telephone: (503) 945-7652

Oregon Health Authority, Division of Medical Assistance Programs Chapter 410

Rule Caption: Revisions to methodology, perm temporary rules, add clarifying language and repeal a rule.

Date:	Time:	Location:
6-15-12	10:30 a.m.	500 Summer St. NE Salem, OR 97301

Hearing Officer: Cheryl Peters

Stat. Auth.: ORS 414.065

Stats. Implemented: ORS 414.065

Proposed Amendments: 410-125-0120, 410-125-0150, 410-125-0155, 410-125-0195, 410-125-0410, 410-125-0450

Proposed Repeals: 410-125-0145

Last Date for Comment: 6-19-12

Summary: The Hospital Program administrative rules govern the Division of Medical Assistance Programs' (Division) payment for services to certain clients. The Division will permanently amend OAR 410-125-0120 to clarify language for medical transportation; OAR 410-125-0150 and 410-125-0155 to reflect changes in payment methodology for Disproportionate Share Hospitals and Hospital Upper Payment Limits; OAR 410-125-0410 changes hospital readmission policy to 30 days; OAR 410-125-0195 and 410-125-0150 will perm temporary rules. Repeal OAR 410-125-0145 for Proportionate She Payments for Public Academic teaching Hospitals.

NOTICES OF PROPOSED RULEMAKING

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: Amending Preferred Drug List and Prior Authorization Guide – March 29, 2012 DUR/P&T Action.

Date: 6-15-12 **Time:** 10:30 a.m. **Location:** 500 Summer St. NE, Rm. 137
Salem, OR 97301

Hearing Officer: Cheryl Peters

Stat. Auth.: ORS 413.032, 413.042, 414.065, 414.325 & 414.330–414.414

Stats. Implemented: ORS 414.065, 414.325, 414.334, 414.361 414.369 & 414.371

Proposed Amendments: 410-121-0030, 410-121-0040

Last Date for Comment: 6-19-12, Close of Business

Summary: The Pharmaceutical Services Program administrative rules (division 121) govern Division payments for services provided to certain clients. The Division permanently amended 410-121-0030 and 410-121-0040 per the Drug Use Review (DUR) Pharmacy & Therapeutics (P&T) Committee’s recommendations made in the March 29, 2012 meeting.

The Authority needs to implement changes to the Preferred Drug List and Prior Authorization Guide to ensure the safe and appropriate use of cost effective prescription drugs for the Oregon Health Plan’s fee-for-service recipients.

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 Authority, Office for Oregon Health Policy and Research Chapter 409

Rule Caption: Data collection rules for all payer healthcare claims data reporting program.

Stat. Auth.: ORS 442.464 & 442.466

Stats. Implemented: ORS 442.464 & 442.466

Proposed Amendments: 409-025-0100, 409-025-0110

Last Date for Comment: 6-21-12, 5 p.m.

Summary: The Office for Oregon Health Policy and Research (OHPR) needs to amend these 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

Address: Oregon Health Authority, Office for Oregon Health Policy and Research, 1225 Ferry St. SE, Salem, OR 97301

Telephone: (503) 373-1574

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Oregon Health Authority, Oregon Educators Benefit Board Chapter 111

Rule Caption: Removes limits on plan selection options and adopts language for a new benefit plan offering.

Date: 6-20-12 **Time:** 10 a.m. **Location:** OEBB/PEBB Boardroom
1225 Ferry St. SE
Salem, OR 97301

Hearing Officer: OEBB Staff

Stat. Auth.: ORS 243.860–243.886

Stats. Implemented: ORS 243.864(1)(a) & 243.874(5)

Proposed Adoptions: 111-030-0047

Proposed Amendments: 111-030-0005, 111-030-0010

Last Date for Comment: 6-30-12, 5 p.m.

Summary: Amended language in 111-030-0005 and 111-030-0010 removes limits on the number of plan options effective for the

2012–2013 plan year. 111-030-0047 is new language that details the development of a new benefit plan, flexible spending accounts.

Rules Coordinator: April Kelly

Address: Oregon Health Authority, Oregon Educators Benefit Board, 1225 Ferry St. SE, Salem, OR 97301

Telephone: (503) 378-6588

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Rule Caption: Amendments to these enrollment rules clarifies existing language.

Date: 6-20-12 **Time:** 10 a.m. **Location:** OEBB/PEBB Boardroom
1225 Ferry St. SE
Salem, OR 97301

Hearing Officer: OEBB Staff

Stat. Auth.: ORS 243.860–243.886

Stats. Implemented: ORS 243.864(1)(a)

Proposed Amendments: 111-040-0001, 111-040-0005, 111-040-0010, 111-040-0015, 111-040-0020, 111-040-0025, 111-030-0030, 111-040-0040, 111-040-0050

Last Date for Comment: 6-30-12, 5 p.m.

Summary: Amendments to 111-040-0001, 111-040-0005, 111-040-0010, 111-040-0020, 111-040-0030 and 111-040-0050 clarify existing language in rule. 111-040-0015 expands language on eligibility audits. 111-040-0025 tightens the timeframe on correcting processing errors and also gives the OEBB Administrator the authority to grant exceptions to the OEBB Administrative Rules. 111-040-0040 removes some events as Qualified Status Change events which are written and explained in other parts of the rule. OEBB’s review of these rules prompted revisions to keep language used in contracts with carriers, communication materials and everyday language consistent with our administrative rules.

Rules Coordinator: April Kelly

Address: Oregon Health Authority, Oregon Educators Benefit Board, 1225 Ferry St. SE, Salem, OR 97301

Telephone: (503) 378-6588

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Rule Caption: Amendments to these continuation of coverage rules clarifies existing language.

Date: 6-20-12 **Time:** 10 a.m. **Location:** OEBB/PEBB Boardroom
1225 Ferry St. SE
Salem, OR 97301

Hearing Officer: OEBB Staff

Stat. Auth.: ORS 243.860–243.886

Stats. Implemented: ORS 243.864(1)(a)

Proposed Amendments: 111-050-0010, 111-050-0015, 111-050-0016, 111-050-0020, 111-050-0025, 111-050-0030, 111-050-0035, 111-050-0045, 111-050-0050

Last Date for Comment: 6-30-12, 5 p.m.

Summary: Amendments to our Continuation of Coverage Division 50 rules are similar to those amendments in Division 40, but apply to COBRA and Early Retiree population. OEBB’s review of these rules prompted revisions to keep language used in contracts with carriers, communication materials and everyday language consistent with our administrative rules.

Rules Coordinator: April Kelly

Address: Oregon Health Authority, Oregon Educators Benefit Board, 1225 Ferry St. SE, Salem, OR 97301

Telephone: (503) 378-6588

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Rule Caption: Adopts new rules for the OEBB Administration of Early Retiree Group.

Date: 6-20-12 **Time:** 10 a.m. **Location:** OEBB/PEBB Boardroom
1225 Ferry St. SE
Salem, OR 97301

Hearing Officer: OEBB Staff

Stat. Auth.: ORS 243.860–243.886

Stats. Implemented: ORS 243.864(1)(a)

NOTICES OF PROPOSED RULEMAKING

Proposed Adoptions: 111-065-0001, 111-065-0005, 111-065-0010, 111-065-0015, 111-065-0020, 111-065-0025, 111-065-0030, 111-065-0035, 111-065-0040

Last Date for Comment: 6-30-12, 5 p.m.

Summary: These new rules govern the processes and procedures for which OEBB plans to administer the new self pay early retiree groups.

Rules Coordinator: April Kelly

Address: Oregon Health Authority, Oregon Educators Benefit Board, 1225 Ferry St. SE, Salem, OR 97301

Telephone: (503) 378-6588

Rule Caption: Amends Appeals and Administrative Review rule.

Date:	Time:	Location:
6-20-12	10 a.m.	OEBB/PEBB Boardroom 1225 Ferry St. SE Salem, OR

Hearing Officer: OEBB Staff

Stat. Auth.: ORS 243.860–243.886

Stats. Implemented: ORS 243.864(1)(a)

Proposed Amendments: 111-080-0030

Last Date for Comment: 6-30-12, 5 p.m.

Summary: The amendment to the Appeals and Administrative Reviews rule, 111-080-0030 gives the Administrative Review Committee (ARC) the authority to make exceptions to our administrative rules.

Rules Coordinator: April Kelly

Address: Oregon Health Authority, Oregon Educators Benefit Board, 1225 Ferry St. SE, Salem, OR 97301

Telephone: (503) 378-6588

Oregon Health Licensing Agency, Board of Direct Entry Midwifery Chapter 332

Rule Caption: Revise risk information which must be provided by licensed direct entry midwives to clients.

Stat. Auth.: ORS 676.607, 676.615

Stats. Implemented: ORS 676.607, 687.480

Proposed Amendments: 332-025-0120

Proposed Repeals: 332-025-0120(T)

Last Date for Comment: 6-28-12, 5 p.m.

Summary: Amend OAR 332-025-0120 to remove specific date in which a licensed direct entry midwife (LDM) must provide risk information to client and broaden the types of care for which the LDM must provide risk information to include all planned out-of-hospital births. Require that LDMs provide risk information and obtain informed consent from each client for all out-of-hospital births and for each non-absolute risk factor, as soon as it is revealed, discovered, or suspected.

Rules Coordinator: Samantha Patnode

Address: Oregon Health Licensing Agency, Board of Direct Entry Midwifery, 700 Summer St. NE, Suite 320, Salem, OR 97301-1287

Telephone: (503) 373-1917

Oregon Medical Board Chapter 847

Rule Caption: Implements 2012 Senate Bill 1565 related to physician assistant dispensing.

Stat. Auth.: ORS 677.265

Other Auth.: 2012 SB 1565

Stats. Implemented: ORS 677.190, 677.205, 677.470, 677.515, 677.540 & 677.545

Proposed Amendments: 847-050-0041, 847-050-0065

Last Date for Comment: 6-21-12, Close of Business

Summary: Proposed rule amendments implement 2012 Senate Bill 1565 related to physician assistant dispensing and contain general language and grammar housekeeping.

Rules Coordinator: Nicole Krishnaswami

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

Telephone: (971) 673-2667

Oregon State Marine Board Chapter 250

Rule Caption: Repeal of Division 25.

Stat. Auth.: ORS 830.110 & 830.175

Stats. Implemented: ORS 830.110 & 830.175

Proposed Repeals: 250-025-0010, 250-025-0020

Last Date for Comment: 6-30-12, 5 p.m.

Summary: Division not needed as a place holder for temporary rules.

Rules Coordinator: June LeTarte

Address: Oregon State Marine Board, P.O. Box 14145, Salem, OR 97309-5065

Telephone: (503) 378-2617

Oregon State Treasury Chapter 170

Rule Caption: Amendments to this rule clarify OST's Debt Management Division's fees charged to an agency.

Stat. Auth.: ORS 286A.014, 287A.370 & 287A.634

Stats. Implemented: ORS 286A & 287A

Proposed Amendments: 170-061-0015

Last Date for Comment: 6-21-12, 5 p.m.

Summary: Amendments to this rule will clarify the Debt Management Division's fee charged to an agency replacing a SWAP Counter Party Provider or Liquidity Provider for an outstanding bond transaction. An agency will be charged, in many cases, less than if the agency were issuing new bonds.

Amendments to this rule provide for the Debt Management Division to specifically charge for the Division's work to generate past Overlapping Debt Reports. Debt reports from prior years often require staff to do atypical research and analysis to complete. These type reports are expected to be requested more frequently as local government issuers use the report to fulfill past continuing disclosure requirements. This need for prior year overlapping debt reports is often the result of the Securities and Exchange Commission requiring bond underwriters to do more thorough due diligence with new municipal bond issues. Current year debt reports are provided to local government bond issuers free of charge, as the cost for those reports is covered under the Administrative Tracking and Reporting fee.

Amendments to this rule also clarify that the fees charged by the Debt Management Division to state agencies related to the issuance of conduit revenue bonds, apply to: new money issues; and refundings or restructuring of conduit revenue debt. These amendments also eliminate the review and approval fee for a state agency advance refunding plans, which is no longer a requirement by state law.

Rules Coordinator: Curtis Hartinger

Address: Oregon State Treasury, 350 Winter St. NE, Suite 100, Salem, OR 97301

Telephone: (503) 378-3150

Oregon University System Chapter 580

Rule Caption: To comply with ruling on use of concealed weapons on OUS property.

Stat. Auth.: ORS 351

Stats. Implemented: ORS 351

Proposed Amendments: 580-022-0045

Last Date for Comment: 6-25-12, 5 p.m.

Summary: On September 28, 2011, the Oregon Court of Appeals invalidated the Board's rule on firearms, holding that it was preempted by the Oregon Legislature as a "regulation." While the Court of Appeals observed that this Board possessed broad authority to con-

NOTICES OF PROPOSED RULEMAKING

trol its property, it held that an administrative rule – which carries the ‘force of law’ – attempted to “regulate” firearms in a way that the Legislature intended to preempt. This action revises the language of the administrative rule in question to comply with the Oregon Court of Appeals decision by removing reference to firearms.

Rules Coordinator: Marcia M. Stuart
Address: Oregon University System, PO Box 3175, Eugene, OR 97403-0175
Telephone: (541) 346-5749

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**Oregon University System,
Portland State University
Chapter 577**

Rule Caption: Schedule of Fines and Fees for General Services and Other Charges.

Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 352.360
Proposed Amendments: 577-060-0020

Last Date for Comment: 6-22-12, Close of Business
Summary: Portland State University (PSU) hereby adopts by reference a list of fees and other charges for fiscal year 2012–2013. The list of fees and other charges is available at Portland State University’s Office of Finance and Administration <http://www.pdx.edu/fadm/rulemaking-portland-state>, and is hereby incorporated by reference in the rule.

Rules Coordinator: Lorraine D. Baker
Address: Oregon University System, Portland State University, PO Box 751, Portland, OR 97207-0751
Telephone: (503) 725-2656

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

Rule Caption: Update Museum of Art titles and clarify collections and de-accessioning procedures.

Date:	Time:	Location:
6-25-12	2 p.m.	Oak Room, Erb Memorial Union University of Oregon Eugene, OR 97403

Hearing Officer: Kurt Neugebauer
Stat. Auth.: ORS 351 & 352
Stats. Implemented: ORS 351.060
Proposed Amendments: 571-051-0005, 571-051-0010
Last Date for Comment: 6-26-12, 12 p.m.
Summary: The proposed amendments update the Museum’s name, committee names and University staff titles. The proposed amendments also clarify the Museum’s collections and de-accessioning procedures and align those procedures with existing museum policies.

Copies of proposed amendments may be obtained from Lauren Townsend, Rules Coordinator, at 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

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**Oregon Youth Authority
Chapter 416**

Rule Caption: Proposed changes update a rule definition and reference to current Interstate Compact for Juveniles rules.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 417.010–417.080
Proposed Amendments: 416-115-0010, 416-115-0025, 416-115-0030
Last Date for Comment: 6-14-12, 5 p.m.

Summary: The proposed rule changes correctly define the role of the Deputy Juvenile Compact Administrator. The proposed changes

also update a reference to the current Interstate Compact for Juveniles rules published by the Interstate Commission for Juveniles on March 1, 2012.

Rules Coordinator: Winifred Skinner
Address: Oregon Youth Authority, 530 Center St. NE, Suite 200, Salem, OR 97301-3765
Telephone: (503) 373-7570

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Rule Caption: The proposed changes align the rule with current agency management structure and authority.

Stat. Auth.: ORS 420A.025
Stats. Implemented: ORS 419C.481, 419C.588 & 420A.010
Proposed Amendments: 416-500-0050

Last Date for Comment: 6-14-12, 5 p.m.
Summary: The proposed rule changes correct references to repealed OAR 416-120-0010, and an outdated agency management structure. Youth offenders in substitute care requesting travel outside of Oregon for recreational purposes may be authorized on a case-by-case basis.

Rules Coordinator: Winifred Skinner
Address: Oregon Youth Authority, 530 Center St. NE, Suite 200, Salem, OR 97301-3765
Telephone: (503) 373-7570

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**Public Utility Commission
Chapter 860**

Rule Caption: In the Matter of Rulemaking for Recovery of Certain Facility Relocation Costs.

Date:	Time:	Location:
7-12-12	9:30 a.m.	Public Utility Commission Main Hearing Rm. 550 Capitol St. NE Salem, OR 97301

Hearing Officer: Traci Kirkpatrick
Stat. Auth.: ORS Ch. 183, 756, 758 & 759
Stats. Implemented: ORS 758.025
Proposed Amendments: 860-022-0047
Last Date for Comment: 7-26-12, 5 p.m.

Summary: This rulemaking is needed to implement the requirements of SB 269 passed in the 2009 session and codified as ORS 758.025. The proposed rule provides a subject telecommunications utility the information it needs to petition the PUC for recovery of certain costs incurred by the telecommunications utility to relocate its facilities as required by a public body. The proposed rule also provides a subject telecommunications utility guidance on the contents of its petition and allocation of costs, as required by the statute.

The Commission encourages participants to file written comments as early as practicable in the proceedings so that other participants have the opportunity to consider and respond to the comments before the deadline. Please reference Docket No. AR 565 on comments and file them by e-mail to the Commission’s Filing Center at PUC.FilingCenter@state.or.us and also send a signed paper copy to the Filing Center at PO Box 2148, Salem, Oregon 97308-2418. For more information about the Commission’s Filing Center, please see <http://apps.puc.state.or.us/edockets/center.htm>. Interested persons may review all filings online at <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=17554>. For guidelines on filing and participation, please see OAR 860-001-0140 through 860-001-0160 and 860-001-0200 through 860-001-0250 found online at http://arcweb.sos.state.or.us/pages/rules/oars_800/oar_860/860_tofc.html.

Participants wishing to monitor the hearing by telephone must contact Diane Davis at diane.davis@state.or.us or (503) 378-4372 by close of business July 10, 2012, to request a dial-in number. The Commission strongly encourages those planning to present oral comment at the hearing to attend in person.

Rules Coordinator: Diane Davis

NOTICES OF PROPOSED RULEMAKING

Address: Public Utility Commission of Oregon, PO Box 2148,
Salem, OR 97308
Telephone: (503) 378-4372

**Secretary of State,
Archives Division
Chapter 166**

Rule Caption: Amending rules that set forth the manner and form for filing and publishing administrative rules.

Date:	Time:	Location:
6-19-12	9 a.m.	State Archives 800 Summer Street NE. Salem, OR 97310

Hearing Officer: Julie Yamaka

Stat. Auth.: ORS 183 & 183.360(2)(b)

Stats. Implemented: ORS 183 & 183.360(2)(b)

Proposed Amendments: Rules in 166-500

Last Date for Comment: 6-19-12, Close of Hearing

Summary: Rule amendments change administrative rule filing language to describe an on-line electronic filing system rather than a paper-based system with hand delivery of hard copies. It sets forth the manner and form for filing administrative rulemaking actions using an on-line filing system. These proposed rules also increase the fee for purchasing the annual Oregon Administrative Rules Compilation set in hard copy, to reflect the agency's costs to publish these books.

Rules Coordinator: Julie Yamaka

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

Telephone: (503) 378-5199

**Teacher Standards and Practices Commission
Chapter 584**

Rule Caption: Adopts professional development requirements; amends licensure; fingerprint rules; repeals conditional permits and course substitution.

Date:	Time:	Location:
6-20-12	2-3 p.m.	250 Division St. NE Salem, OR 97301

Hearing Officer: Lynn Beaton

Stat. Auth.: ORS 342

Stats. Implemented: ORS 342.120-342.430, 342.455-342.495 & 342.533

Proposed Adoptions: 584-090-0115, 584-090-0120

Proposed Amendments: 584-010-0001, 584-010-0006, 584-036-0055, 584-036-0062, 584-036-0080, 584-050-0012, 584-060-0220, 584-065-0035

Proposed Repeals: 584-036-0081, 584-036-0082

Last Date for Comment: 7-18-12, 2 p.m.

Summary: Adopt: 584-090-0115 – *Professional development Requirements:* Defines continuing professional development units needed to renew certain licenses.

584-090-0120 – *Verification of Continuing Professional Development:* Describes how educators validate CPD and allows appeal to Commission if conflict with employer.

Amend: 584-010-0001 – *Purpose of Program Approval:* State purpose of newly-ad opted program accreditation standards.

584-010-0006 – *Definitions:* Updates and add definitions for: conceptual framework, institutional report, off campus programs, etc.

584-036-0055 – *Fees:* Reduces fingerprint fees by \$3 due to reduction in FBI fees.

584-036-0062 – *Criminal Records and Professional Conduct Background Check [Requirements]:* Clarifies when fingerprints are required and describes further background checks.

584-036-0080 – *Licensure Tests:* Adds Commission-adopted new essential skills test; eliminates mixing and matching tests.

584-050-0012 – *[Criteria for Denial of Licensure Based on Conviction for Crimes] Fingerprinting and Criminal Background Checks:* Clarifies fingerprint requirements and defines substantially equivalent crime pursuant to ORS 342.143.

584-060-0220 – *International Visiting Teacher License:* Clarifies that only international candidates working on a J-I visa are eligible for this license.

584-065-0035 – *Knowledge, Skills and Abilities for Special Education Endorsement:* Housekeeping change to add clarifying language around meeting the definition of “highly-qualified” and changing the administrative rules that refer to work samples (Evidence of Effectiveness).

Repeal: 584-036-0081 – *Conditional Assignment Permits:* The License for Conditional Assignment becomes effective July 1, 2012. The repeal of this rule should be effective June 30, 2012.

584-036-0082 – *Courses in Lieu of or in Preparation for Basic Skills Examination:* Would eliminate substitution of courses for basic skills tests.

Rules Coordinator: Lynn Beaton

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

Telephone: (503) 373-0981

ADMINISTRATIVE RULES

Board of Examiners for Engineering and Land Surveying Chapter 820

Rule Caption: Amend rules that clarify requirements related to registration or application for registration. Adopt 1 rule.

Adm. Order No.: BEELS 2-2012

Filed with Sec. of State: 5-10-2012

Certified to be Effective: 5-10-12

Notice Publication Date: 4-1-2012

Rules Adopted: 820-010-0730

Rules Amended: 820-010-0204, 820-010-0206, 820-010-0208, 820-010-0209, 820-010-0210, 820-010-0212, 820-010-0213, 820-010-0214, 820-010-0215, 820-010-0260, 820-010-0300, 820-010-0305, 820-010-0442, 820-010-0465, 820-010-0505, 820-010-0520, 820-010-0530, 820-010-0621, 820-010-0622

Rules Repealed: 820-010-0305(T), 820-010-0505(T)

Subject: OAR 820-010-0204 – Revises the time frame from ‘two’ to ‘five’ years remaining consistent with the statute.

OAR 820-010-0206 – Revises the time frame from ‘two’ to ‘five’ years remaining consistent with the statute.

OAR 820-010-0208 – Revises the time frame from ‘two’ to ‘five’ years remaining consistent with the statute.

OAR 820-010-0209 – Housekeeping. Revises term ‘reapplication’ to ‘application for readmission’ consistent with the rule for readmission.

OAR 820-010-0210 – Housekeeping. Revises term ‘reapplication’ to ‘application for readmission’ consistent with the rule for readmission.

OAR 820-010-0212 – Housekeeping. Revises term ‘reapplication’ to ‘application for readmission’ consistent with the rule for readmission.

OAR 820-010-0213 – Housekeeping. Revises term ‘reapplication’ to ‘application for readmission’ consistent with the rule for readmission.

OAR 820-010-0214 – Housekeeping. Revises term ‘reapplication’ to ‘application for readmission’ consistent with the rule for readmission.

OAR 820-010-0215 – Clarifies that incomplete applications can not be forwarded.

OAR 820-010-0260 – Housekeeping. Revises term from ‘reject-ed’ to ‘denied’ in relation to applications.

OAR 820-010-0300 – Housekeeping. Revises term ‘reapplication’ to ‘application for readmission’ consistent with the rule for readmission.

OAR 820-010-0305 – Reduces the annual renewal fee for PE, PLS, and RPP from \$90.00 to \$75.00. Revises term ‘reapplication’ to ‘application for readmission’ consistent with the rule for readmission (housekeeping).

OAR 820-010-0442 – Adds a separate deadline for applications for readmission to an examination and separate deadlines for applications by comity or 1st licensure.

OAR 820-010-0465 – Adds requirements for additional information if two or more administrations passed since the last application was submitted.

OAR 820-010-0505 – Reduces the biennial renewal fee for PE, PLS, and RPP from \$180.00 to \$150.00.

OAR 820-010-0520 – Housekeeping. Deletes language ‘if applicable’ since the requirements will apply to all circumstances.

OAR 820-010-0530 – Housekeeping. Deletes language ‘if applicable’ since the requirement will apply to the circumstance.

OAR 820-010-0621 – Housekeeping. Deletes unnecessary language.

OAR 820-010-0622 – Separates the circumstances in which a PE may modify designs or documents.

OAR 820-010-0730 – Adopts language for the use of engineering title if registered in another jurisdiction.

Rules Coordinator: Mari Lopez—(503) 362-2666, ext. 26

820-010-0204

Applications for Registration as Professional Engineers (PE) Based on Examination by Another Jurisdiction or by NCEES (1st Registration)

(1) Applicants who are not registered in another jurisdiction but who meet all the requirements for registration in Oregon may be considered for registration if the application is submitted within five years following passing the practical examination as a professional engineer in another jurisdiction or by NCEES. This includes, for example, applicants who have passed the FE and PE examinations in another jurisdiction or by NCEES, but who are not registered in a jurisdiction. This rule does not apply to applicants who are not currently registered due to expired, delinquent, or otherwise invalid certificates of registration.

(2) Application must include:

(a) Experience Details form including active practice in engineering;

(b) Five references that meet the requirements of the OAR 820-010-0255, three of whom hold registration in a NCEES jurisdiction;

(A) Qualifying experience accrued by the applicant must be accompanied by a reference that supervised the work product as meeting the definition of engineering as defined in the OAR 820-010-0010.

(B) References must be submitted on the Board approved Reference Details form.

(C) The Board may, for good cause upon written application, reduce the number of references required.

(c) Official transcripts or evaluation of degree credentials for those degrees not from an ABET accredited program.

(d) Official verification of successful completion of the NCEES Fundamentals of Engineering examination and the NCEES Principles and Practice of Engineering examination.

(3) Before receiving a certificate of registration to practice professional engineering in Oregon, each applicant must pass a take-home examination on the laws and rules in Oregon.

(4) Application must be accompanied by the \$375.00 fee.

Stat. Auth.: ORS 670.310, 672.095, & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 2-2012, f. & cert. ef. 5-10-12

820-010-0206

Applications for Registration as a Professional Land Surveyors (PLS) Based on Examination by Another Jurisdiction or by NCEES (1st Registration)

(1) Applicants who are not registered in another jurisdiction but who meet all the requirements for registration in Oregon may be considered for registration if the application is submitted within five years following passing the practical examination as a professional land surveyor in another jurisdiction or by NCEES. This includes, for example, applicants who have passed the FLS and PLS examinations in another jurisdiction or by NCEES, but who are not registered in a jurisdiction. This rule does not apply to applicants who are not currently registered due to expired, delinquent, or otherwise invalid certificates of registration.

(2) Application must include:

(a) Experience Details form including active practice in land surveying;

(b) Five references that meet the requirements of the OAR 820-010-0255, three of whom hold registration in a NCEES jurisdiction;

(A) Qualifying experience accrued by the applicant must be accompanied by a reference that supervised the work product as meeting the definition of land surveying as defined in the OAR 820-010-0010.

(B) References must be submitted on the Board approved Reference Details form.

(C) The Board may, for good cause upon written application, reduce the number of references required.

(c) Official transcripts or evaluation of degree credentials for those degrees not from an ABET accredited program.

(d) Official verification of successful completion of the NCEES Fundamentals of Land Surveying examination and the NCEES Principles and Practice of Land Surveying examination.

(3) Before receiving a certificate of registration to practice professional land surveying in Oregon, each applicant must successfully pass a state specific examination covering Oregon law relating to land surveying.

(4) Before receiving a certificate of registration to practice professional land surveying in Oregon, each applicant must pass a take-home examination on the laws and rules in Oregon.

(5) Application must be accompanied by the \$375.00 fee.

Stat. Auth.: ORS 670.310, 672.095, 672.157, & 672.255

Stats. Implemented: ORS 672.002 - 672.325

ADMINISTRATIVE RULES

Hist.: BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 2-2012, f. & cert. ef. 5-10-12

820-010-0208

Applications for Registration as a Professional Photogrammetrists Based on Examination by Another Jurisdiction or by NCEES (1st Registration)

(1) Applicants who are not registered in another jurisdiction but who meet all the requirements for registration in Oregon may be considered for registration if the application is submitted within five years following passing the examination as a photogrammetrist in another jurisdiction or by NCEES. This rule does not apply to applicants who are not currently registered due to expired, delinquent, or otherwise invalid certificates of registration.

(2) Application must include:

(a) Experience Details form including active practice in photogrammetric mapping;

(b) Five references that meet the requirements of the OAR 820-010-0255, three of whom hold registration in a NCEES jurisdiction;

(A) Qualifying experience accrued by the applicant must be accompanied by a reference that supervised the work product as meeting the definition of photogrammetric mapping as defined in the OAR 820-010-0010.

(B) References must be submitted on the Board approved Reference Details form.

(C) The Board may, for good cause upon written application, reduce the number of references required.

(c) Official transcripts or evaluation of degree credentials for those degrees not from an ABET accredited program.

(d) Official verification of successful completion of the NCEES Fundamentals of Land Surveying examination and a professional photogrammetry examination recognized by the Board.

(3) Before receiving a certificate of registration to practice professional photogrammetric mapping in Oregon, each applicant must pass a take-home examination on the laws and rules in Oregon.

(4) Application must be accompanied by the \$375.00 fee.

Stat. Auth.: ORS 670.310, 672.095, 672.157, & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 2-2012, f. & cert. ef. 5-10-12

820-010-0209

Applications for Certification as a Water Right Examiner

(1) Applicants who hold a current registration as a professional engineer, land surveyor, or registered geologist may be considered for certification as a water right examiner.

(2) Before receiving a certificate as a water right examiner, the applicant must successfully pass a written examination on properly performing surveying, mapping, hydraulic computations, and information gathering duties required by ORS 537.798.

(3) Applications must be submitted by the dates specified in OAR 820-010-0442 to be considered by the Board.

(4) Applications submitted by registered geologists will be accompanied by official documentation verifying current registration with the Oregon State Board of Geologist Examiners (OSBGE).

(5) Requests for special accommodations will be made in accordance with OAR 820-010-0443.

(6) Fee for an initial application for certification as a water right examiner is \$105.00.

(7) Fee for an application for readmission to the examination for certification as a water right examiner is \$40.00.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 1-2011, f. & cert. ef. 1-14-11; BEELS 2-2012, f. & cert. ef. 5-10-12

820-010-0210

Application for Enrollment as an Engineering Intern (EI) and Land Surveying Intern (LSI)

Applicants for enrollment as an EI or LSI must submit documentation, compliant with OAR 820-010-0215.

(1) Applications for admission to examination based on educational qualifications must include:

(a) Application for the Fundamentals of Engineering/Fundamentals of Land Surveying examination.

(b) Official transcripts or evaluation of degree credentials demonstrating completion of a curriculum satisfactory to the Board as defined in OAR 820-010-0225 or 820-010-0226.

(2) Applications for admission to examination based on experience or based on a combination of educational and experience qualifications must include:

(a) Application for the Fundamentals of Engineering/Fundamentals of Land Surveying examination.

(b) Official transcripts or evaluation of degree credentials for those degrees not from an ABET accredited program, if applicable.

(c) Experience Details form.

(d) Three references that meet the requirements of the OAR 820-010-0255;

(A) Qualifying experience accrued by the applicant must be accompanied by a reference that supervised the work product as meeting the definition of engineering as defined in the OAR 820-010-0010.

(B) References must be submitted on the Board approved Reference Details form.

(C) The Board may, for good cause upon written application, reduce the number of references required.

(3) Application must be accompanied by the \$35.00 fee.

(4) Application for readmission must be accompanied by the \$25.00 fee.

Stat. Auth.: ORS 670.310, 672.105, 672.118 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: EE 13, f. 3-29-72, ef. 4-15-72; EE 20, f. & ef. 12-15-77; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; BEELS 2-1999, f. & cert. ef. 9-15-99; BEELS 2-2007, f. & cert. ef. 4-5-07; BEELS 1-2011, f. & cert. ef. 1-14-11; BEELS 2-2012, f. & cert. ef. 5-10-12

820-010-0212

Applications for Registration as Professional Engineers (PE) Based on Examination

(1) Applicants for registration as a professional engineer must submit documentation, compliant with OAR 820-010-0215, to include:

(a) Application for Registration by Examination;

(b) Experience Details form including active practice in engineering;

(c) Five references that meet the requirements of the OAR 820-010-0255, three of whom hold registration in a NCEES jurisdiction;

(A) Qualifying experience accrued by the applicant must be accompanied by a reference that supervised the work product as meeting the definition of engineering as defined in the OAR 820-010-0010.

(B) References must be submitted on the Board approved Reference Details form.

(C) The Board may, for good cause upon written application, reduce the number of references required.

(d) Official transcripts or evaluation of degree credentials for those degrees not from an ABET accredited program.

(e) Official verification of successful completion of the Fundamentals of Engineering examination.

(2) Before receiving a certificate of registration to practice professional engineering in Oregon, each applicant must pass a take-home examination on the laws and rules in Oregon.

(3) Application must be accompanied by the \$225.00 fee.

(4) Application for readmission must be accompanied by the \$90.00 fee.

Stat. Auth.: ORS 670.310, 672.095, 672.157, & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 1-2010, f. & cert. ef. 5-12-10; BEELS 1-2011, f. & cert. ef. 1-14-11; BEELS 2-2012, f. & cert. ef. 5-10-12

820-010-0213

Applications for Registration as Professional Land Surveyors (PLS) Based on Examination

(1) Applicants for registration as a professional land surveyor must submit documentation to include:

(a) Application for Registration by Examination;

(b) Experience Details form including active practice in land surveying;

(c) Five references that meet the requirements of the OAR 820-010-0255, three of whom hold registration in a NCEES jurisdiction;

(A) Qualifying experience accrued by the applicant must be accompanied by a reference that supervised the work product as meeting the definition of land surveying as defined in the OAR 820-010-0010.

(B) References must be submitted on the Board approved Reference Details form.

(C) The Board may, for good cause upon written application, reduce the number of references required.

(d) Official transcripts or evaluation of degree credentials for those degrees not from an ABET accredited program.

(e) Official verification of successful completion of the Fundamentals of Land Surveying examination.

ADMINISTRATIVE RULES

(2) Before receiving a certificate of registration to practice professional land surveying in Oregon, each applicant must pass a take-home examination on the laws and rules in Oregon.

(3) Application must be accompanied by the \$265.00 fee.

(4) Applications for readmission:

(a) Applications for readmission for both the National (6-hour) examination and the Oregon Specific (4-hour) examination must be accompanied by the \$130.00 fee.

(b) Application for readmission for the National (6-hour) examination must be accompanied by the \$75.00 fee.

(c) Application for readmission for the Oregon Specific (4-hour) examination must be accompanied by the \$55.00 fee.

Stat. Auth.: ORS 670.310, 672.095, 672.157, & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 1-2010, f. & cert. ef. 5-12-10; BEELS 1-2011, f. & cert. ef. 1-14-11; BEELS 2-2012, f. & cert. ef. 5-10-12

820-010-0214

Applications for Registration as Professional Photogrammetrists (RPP) Based on Examination

(1) Applicants for registration as a professional photogrammetrist must submit documentation to include:

(a) Application for Registration by Examination;

(b) Experience Details form including active practice in photogrammetric mapping;

(c) Five references that meet the requirements of the OAR 820-010-0255, three of whom hold registration in a NCEES jurisdiction;

(A) Qualifying experience accrued by the applicant must be accompanied by a reference that supervised the work product as meeting the definition of photogrammetric mapping as defined in the OAR 820-010-0010.

(B) References must be submitted on the Board approved Reference Details form.

(C) The Board may, for good cause upon written application, reduce the number of references required.

(d) Official transcripts or evaluation of degree credentials for those degrees not from an ABET accredited program.

(e) Official verification of successful completion of the Fundamentals of Land Surveying examination.

(2) Before receiving a certificate of registration to practice professional photogrammetric mapping in Oregon, each applicant must pass a take-home examination on the laws and rules in Oregon.

(3) Application must be accompanied by the \$245.00 fee.

(4) Application for readmission must be accompanied by the \$110.00 fee.

Stat. Auth.: ORS 670.310, 672.095, 672.157, & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 1-2010, f. & cert. ef. 5-12-10; BEELS 1-2011, f. & cert. ef. 1-14-11; BEELS 2-2012, f. & cert. ef. 5-10-12

820-010-0215

Form of Applications

(1) Applications for registration as professional engineers, professional land surveyors, professional photogrammetrists and for enrollment as an EI, an LSI, or an application for certification as a water right examiner will be made on printed forms issued by the Board in accordance with Board instructions.

(2) All applications must be accompanied by the appropriate fee.

(3) The following must be submitted to the Board in a single package by the application deadline in OAR 820-010-0442:

(a) Application;

(b) Experience Details form;

(c) Reference Details forms;

(d) Request for Reasonable Accommodations to Oregon Specific Examinations; and

(e) Explanation of any work performed in conjunction with any educational program as defined in OAR 820-010-0010.

(4) Applications for registration as professional engineers, professional land surveyors, or professional photogrammetrists must be accompanied by a completed take-home examination on the laws and rules in Oregon.

(5) The following documents may be submitted by the issuer to the Board office and received no later than December 15 for the Spring examination administration or no later than June 15 for the Fall examination administration:

(a) Official verification of examinations and/or substantially equivalent examinations successfully passed;

(b) Official verification of current registration by another jurisdiction;

(c) Official transcripts or course-by-course evaluations; or

(d) NCEES Records.

(6) Applicants who do not comply with this rule will be considered failing to complete the application process, subject to OAR 820-010-0300, and not eligible to forward fees.

Stat. Auth.: ORS 670.310, 672.095, 672.157, & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: EE 13, f. 3-29-72, ef. 4-15-72; EE 20, f. & ef. 12-15-77; EE 1-1983, f. 2-28-83, ef. 3-1-83; EE 2-1986, f. 3-26-86, ef. 3-31-86; EE 4-1987, f. & ef. 12-1-87; EE 1-1992, f. & cert. ef. 2-3-92; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; Renumbered from 820-010-0220; BEELS 6-2005, f. & cert. ef. 12-13-05; BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 4-2008, f. & cert. ef. 12-12-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 1-2010, f. & cert. ef. 5-12-10; BEELS 2-2010(Temp), f. & cert. ef. 12-28-10 thru 6-26-11; BEELS 1-2011, f. & cert. ef. 1-14-11; BEELS 2-2012, f. & cert. ef. 5-10-12

820-010-0260

Denied Applications

A denied applicant shall on request be fully informed as to the reason for the rejection of their application, and they may thereafter file with the Board any reason they desire to support a claim for reconsideration.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: EE 13, f. 3-29-72, ef. 4-15-72; EE 20, f. & ef. 12-15-77; EE 1-1992, f. & cert. ef. 2-3-92; BEELS 2-2012, f. & cert. ef. 5-10-12

820-010-0300

Refunds and Charges

(1) Application fees are non-refundable.

(2) Refunds of application fees will not be made to individuals who fail to complete the application process, to qualify for, withdraw from, or do not appear for, the examination.

(3) Comity application fees will not be refunded, but may be applied toward examination fee if requested by the applicant and the application has not been denied.

(4) Rescore fees are non-refundable.

(5) If the Board receives payment of any fees by check and the check is deposited and returned to the Board, the payor of the fees will be assessed a charge of \$20 in addition to the required payment of the fees.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: EE 13, f. 3-29-72, ef. 4-15-72; EE 20, f. & ef. 12-15-77; EE 2-1985, f. 12-4-85, ef. 12-16-85; BEELS 2-2004, f. & cert. ef. 7-14-04; BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 1-2008, f. & cert. ef. 3-12-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 2-2012, f. & cert. ef. 5-10-12

820-010-0305

Fees

(1) The Board has determined an outside testing provider will administer examinations on behalf of the Board. In addition to state fees, all approved applicants are charged for the test administration fee in addition to any book or scoring fees or any other examination-related fees. The applicant must pay all these costs in advance to the Board and the outside testing provider. The amount for each specific application is compiled in section (2) of this rule. Where applicable, the initial activation and certificate fee must be included. The total amount for each specific application is compiled in a fee schedule published separately. The amount to be submitted will be equal to a total of items (a) through (c) in this section. Actual dollar amounts for application, initial activation, renewal and certificate are listed in sections (2) and (3) of these rules:

(a) Fee for application.

(b) Fee for initial activation equal to one year renewal (one time fee applies to PE, PLS, RPP, and CWRE only; not applicable to reexamination).

(c) Fee for issuance of first certificate (one time fee applies to PE, PLS, RPP, and CWRE only).

(2) Fees for examination application:

(a) Initial fundamentals of engineering examination application — \$35.

(b) Initial fundamentals of land surveying examination application — \$35.

(c) Initial professional engineering (PE) examination application — \$100.

(d) Initial professional geotechnical examination application — \$375.

(e) Initial professional land surveying examination application — \$140.

(f) Initial professional photogrammetric mapping examination application — \$120.

(g) Certified Water Right Examiner test application — \$50.

ADMINISTRATIVE RULES

(h) Application for readmission to the Fundamentals of engineering examination — \$25.

(i) Application for readmission to the Fundamentals of land surveying examination — \$25.

(j) Application for readmission to the Professional engineering (PE) examination — \$90.

(k) Application for readmission to the Professional geotechnical examination — \$365.

(l) Application for readmission to the Professional land surveying (PLS) examination — \$130.

(m) Application for readmission to the Oregon law portion of PLS examination — \$55.

(n) Application for readmission to the National portion of PLS examination — \$75.

(o) Application for readmission to the Professional photogrammetric mapping examination — \$110.

(p) Application for readmission to the Certified Water Rights Examiner test — \$40.

(q) Proctor Request — \$100.

(3) Fees for certification, registration, and renewal:

(a) Professional wall certificate — \$35.

(b) Application for registration as a professional engineer — \$250.

(c) Application for registration as a professional land surveyor — \$250.

(d) Application for registration as a registered professional photogrammetrist — \$250.

(e) Temporary permit issued under ORS 672.109 and 672.127 — \$100.

(f) Re-issuance of lost or mutilated pocket card — \$10.

(g) Issuance of certificate without examination based on experience as provided under ORS 672.255 — \$250.

(h) Re-score of an Oregon specific examination item — \$50.

(i) Annual renewal of a professional engineering certificate — \$75.

(j) Annual renewal of a professional land surveyor certificate — \$75.

(k) Annual renewal of a registered professional photogrammetrist certificate — \$75.

(l) Delinquency renewal fee — \$80 for any part of each two-year renewal period during delinquency.

(m) Fee for reinstatement for inactive or retired registrant or certificate holder — \$225.

(n) Annual renewal of water right examiner certificate — \$20.

(o) Verification of certification(s) and/or registration(s) — \$15.

Stat. Auth.: ORS 670.310, 672.153, 672.155, & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: EE 2-1980, f. & ef. 5-14-80; EE 4-1981, f. & ef. 12-14-81; EE 2-1984(Temp), f. & ef. 5-7-84; EE 2-1984(Temp), f. & ef. 5-7-84; EE 4-1984, f. & ef. 12-11-84; EE 2-1987, f. & ef. 7-2-87; EE 3-1987, f. & ef. 8-25-87; EE 2-1989, f. 1-3-89, cert. ef. 1-15-89; EE 1-1990(Temp), f. & cert. ef. 5-21-90; EE 1-1991(Temp), f. 8-14-91, cert. ef. 9-1-91; EE 2-1991, f. & cert. ef. 9-23-91; EE 1-1992, f. & cert. ef. 2-3-92; EE 2-1992, f. & cert. ef. 2-4-92; EE 4-1992, f. & cert. ef. 7-22-92; EE 2-1993(Temp), f. & cert. ef. 2-22-93; EE 3-1993, f. & cert. ef. 6-3-93; EE 2-1994, f. & cert. ef. 7-22-94; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; EE 2-1997, f. & cert. ef. 8-6-97; BEELS 3-1998, f. & cert. ef. 5-11-98; BEELS 1-1999, f. 5-27-99, cert. ef. 7-1-99; BEELS 1-2000, f. & cert. ef. 1-14-00; BEELS 3-2000, f. 3-17-00, cert. ef. 3-20-00; BEELS 3-2001, f. & cert. ef. 11-26-01; BEELS 3-2002, f. & cert. ef. 11-13-02; BEELS 4-2002, f. & cert. ef. 12-3-02; BEELS 6-2005, f. & cert. ef. 12-13-05; BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 1-2008, f. & cert. ef. 3-12-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 1-2010, f. & cert. ef. 5-12-10; BEELS 1-2011, f. & cert. ef. 1-14-11; BEELS 1-2012(Temp), f. & cert. ef. 3-16-12 thru 5-15-12; BEELS 2-2012, f. & cert. ef. 5-10-12

820-010-0442

Application Deadlines

(1) Deadlines to submit applications for admission to examinations based on the schedule contained in OAR 820-010-0440 are:

(a) December 1 is the deadline for applications for the Spring examination administration.

(b) January 1 is the deadline for applications for readmission to the Spring examination administration.

(c) June 1 is the deadline for applications for the Fall examination administration.

(d) July 1 is the deadline for applications for readmission to the Fall examination administration.

(2) Applicants may request to withdraw an application and fees paid to the Board for consideration from an examination administration. An application and fees paid to the Board may be withdrawn and forwarded to the next available examination administration only.

(a) Request must be made in writing; and

(b) Request must be made no later than March 1 to withdraw from the Spring examination administration or no later than September 1 to withdraw from the Fall examination administration; and

(c) The request can only be made once per application.

(3) Deadlines to submit applications for registration as a PE or RPP based on licensure by another jurisdiction (comity) or based on examination by another jurisdiction or NCEES (1st registration) are the first day of the month prior to the month of a Board meeting.

(a) If an application package is lacking information, the applicant may request to forward the application and fees to the following Board meeting for approval. An application package and fees may be forwarded to the following two Board meetings only.

(b) If the application package is still lacking information after the third consideration, the application will be considered incomplete and the fees will be non-refundable.

(4) Deadlines to submit applications for registration as a PLS based on licensure by another jurisdiction (comity) or based on examination by another jurisdiction or NCEES (1st registration) are:

(a) February 1st to sit for the Spring Oregon Specific Land Surveying examination.

(b) August 1st to sit for the Fall Oregon Specific Land Surveying examination.

(c) If successful results on the Oregon Specific Land Surveying examination are not attained, the applicant must comply with the deadlines contained in subsection (1) of this rule.

(5) All applications must be postmarked or hand delivered by 5:00 p.m. on the deadline. If the deadline falls on a Saturday, Sunday, or legal Holiday, applications are accepted until 5:00 p.m. on the preceding business day.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 2-2012, f. & cert. ef. 5-10-12

820-010-0465

Application for Readmission to Examination

(1) Applicants for registration as a PE, PLS, or RPP, and for EI and LSI enrollment who did not achieve a passing grade in their first and second written examinations will, before re-admittance to a subsequent examination, be required to submit valid evidence of further preparation on their part. Such evidence must include proof of one or more of the following:

(a) Courses of study undertaken;

(b) Special training; or

(c) Additional experiences gained since their last examination.

(2) If two or more examination administrations have passed since the date the last application was made to the Board, applicants must provide the following updated documents:

(a) Experience Details form; and

(b) One Reference Details form.

(3) In all cases, submitted proof must be satisfactory to the Board.

(4) Application for readmission and fees will not be accepted prior to the release of the results from the preceding examination.

(5) If five years or more have passed since the date the last application was made to the Board, applicants must submit a new initial application along with all supporting documents and a full application fee.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: EE 13, f. 3-29-72, ef. 4-15-72; EE 20, f. & ef. 12-15-77; EE 1-1995, f. 8-15-95, cert. ef. 9-1-95; BEELS 6-2005, f. & cert. ef. 12-13-05; BEELS 2-2008, f. & cert. ef. 7-9-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 2-2012, f. & cert. ef. 5-10-12

820-010-0505

Biennial Renewal of Registration or Certification

(1) Registration as a professional engineer, professional land surveyor, or professional photogrammetrist with the Board is on a biennial renewal schedule. As a condition of registration renewal, registrants must comply with the continuing professional development requirements in OAR 820-010-0635. Certification of completing the required professional development requirements on the CPD Organizational Form and fee must be postmarked or hand delivered by 5:00 p.m. on the day of the expiration date of the registration. The biennial fee to renew a registration is described below:

(a) Professional Engineer — \$150.00;

(b) Professional Land Surveyor — \$150.00;

(c) Professional Photogrammetrist — \$150.00;

(2) Certification as a certified water right examiner is on a biennial renewal schedule. The fee must be postmarked or hand delivered by 5:00 p.m. on the day of the expiration date of the certification. The biennial fee to renew a certification as a water right examiner is \$40.00

ADMINISTRATIVE RULES

(3) A delinquent fee of \$80.00 will be assessed on the first day following the expiration date of each registration or certification, for each biennial renewal period in which payment or certification of completing the required continuing professional development hours is not submitted.

(4) Registrations or certificates in the delinquent or retired status for a period of 5 years or more may not be renewed. Delinquent or retired registrants or certificate holders must re-apply and re-take any applicable examination to obtain their certificate of registration or other certificate after a period of 5 years.

Stat. Auth.: ORS 670.310, 672.160, 672.170, & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 3-2008, f. & cert. ef. 11-14-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 1-2011, f. & cert. ef. 1-14-11; BEELS 1-2012(Temp), f. & cert. ef. 3-16-12 thru 5-15-12; BEELS 2-2012, f. & cert. ef. 5-10-12

820-010-0520

Registrants or Certificate Holders Not Qualified to Practice

Registrants or certificate holders who are delinquent, retired, inactive, suspended or revoked by the Board, are not authorized to engage in the professional practice of engineering, land surveying, photogrammetric mapping, or the professional activities of a certified water right examiner as defined in ORS Chapter 537 and OAR chapter 690. Except as provided in section (2), registrants or certificate holders who are delinquent, retired, inactive, suspended or revoked may not hold out as professional engineers, professional land surveyors, professional photogrammetrists, or certified water right examiners.

(1) Delinquent registrants or certificate holders. Registrants or certificate holders become delinquent because they fail, within a period of five years from the renewal date, to renew their certificate of registration or to pay their renewal fees or satisfy the required PDH units. A delinquent registrant or certificate holder may return to active status:

(a) Upon application to the Board;

(b) By paying the delinquent renewal fee required by OAR 820-010-0305(3);

(c) By paying the biennial renewal fee required by OAR 820-010-0505; and

(d) By satisfying and submitting proof of completion on a form approved by the Board of all delinquent PDH units, at a rate of 15 PDH units per year delinquent, to a maximum of 30 PDH units as stated in OAR 820-010-0635.

(2) Retired registrants or certificate holders. Registrants or certificate holders may retire once they notify the Board that they are not providing engineering, land surveying, photogrammetric mapping services, or professional activities of a certified water right examiner to the public and they request retired status. Registrants or certificate holders who are retired may not use their seal. However, retired registrants may sign documents, listing after their name the designation "PE (Retired)," "SE (Retired)," "PLS (Retired)," "Photogrammetrist (Retired)," or "CWRE (Retired)," as appropriate. A retired registrant or certificate holder may, within a period of 5 years from retirement, return to active status:

(a) Upon application to the Board,

(b) Successfully pass a take-home examination on the laws and rules in Oregon;

(c) By paying the reinstatement fee required by OAR 820-010-0305(3);

(d) By paying the biennial renewal fee required by OAR 820-010-0505; and

(e) By satisfying and submitting proof of completion on a form approved by the Board of 15 PDH units per year for each year (or part of a year) retired, to a maximum of 30 PDH units as stated in OAR 820-010-0635.

(3) Inactive registrants or certificate holders. Registrants or certificate holders may place their license or certification on inactive status if the registrant or certificate holder has suffered a debilitating mental or physical illness, injury or disease that prevents the registrant or certificate holder from engaging in the professional practice. Registrants or certificate holders must request to be placed on inactive status. Registrants or certificate holders making such requests must provide documentation prepared by a licensed physician that the registrant or certificate holder suffers from a specific, named debilitating mental or physical illness, injury or disease that prevents the registrant or certificate holder from engaging in the professional practice, and an estimate of the period of time during when the illness, injury or disease will last or whether it is of an unlimited duration. An inactive registrant or certificate holder may, within a period of 5 years from inactive, return to active status:

(a) Upon application to the Board;

(b) Successfully pass a take-home examination on the laws and rules in Oregon;

(c) By paying the reinstatement fee required by OAR 820-010-0305(3);

(d) By paying the biennial renewal fee required by OAR 820-010-0505; and

(e) By satisfying and submitting proof of completion on a form approved by the Board of 15 PDH units per year for each year (or part of a year) inactive, to a maximum of 30 PDH units as stated in OAR 820-010-0635.

Stat. Auth.: ORS 672.255(1)(g)

Stats. Implemented: ORS 672.170(4), 672.180 & 672.255(1)(g)

Hist.: BEELS 5-2007, f. & cert. ef. 9-20-07; BEELS 2-2008, f. & cert. ef. 7-9-08; BEELS 2-2009, f. & cert. ef. 11-13-09; BEELS 1-2011, f. & cert. ef. 1-14-11; BEELS 2-2012, f. & cert. ef. 5-10-12

820-010-0530

United States Military Registrants

(1) Upon written request, biennial renewal fees and continuing professional development units may be waived while a registrant holding a registration to practice engineering, land surveying, or photogrammetry in Oregon is on active duty with the Armed Forces of the United States.

(2) An active duty registrant with the Armed Forces of the United States may return a registration to its former status upon written notification to the Board within 60 days of the date of honorable discharge. Former status will be restored by satisfying and submitting proof of completion of 15 PDH units per year for each year (or part of a year) in active military status on the Continuing Professional Development Organizational Form. Biennial renewal fees will not be required until the biennial renewal period following the date of honorable discharge.

(3) If a registrant fails to notify the Board in writing within 60 days from the date of honorable discharge, or within the registration biennial renewal period in which the honorable discharge becomes effective, whichever is the longer period of time, that person may be subject to fees, including late-payment fees, assessed by the Board or other registration requirements in accordance with ORS Chapter 672.

Stat. Auth.: ORS 408.450 & 672.255(1)(g)

Stats. Implemented: ORS 672.020(1), 672.025(1), 672.028(1) & 672.045(1)

Hist.: BEELS 1-2010, f. & cert. ef. 5-12-10; BEELS 2-2012, f. & cert. ef. 5-10-12

820-010-0621

Final Documents

(1) In addition to the final documents identified in ORS 672.020(2) and 672.025(2), final documents include plats, design information, and calculations. All final documents will bear the seal and signature of the registrant under whose supervision and control they were prepared.

(2) Documents that are not final documents must be marked as "preliminary", "not for construction", "review copy", "draft copy, subject to change", or with some similar wording to indicate that the documents are not intended to represent the final work product of the registrant.

Stat. Auth.: ORS 670.310 & 672.255

Stats. Implemented: ORS 672.002 - 672.325

Hist.: BEELS 3-2006(Temp), f. & cert. ef. 12-5-06 thru 6-3-07; BEELS 2-2007, f. & cert. ef. 4-5-07; BEELS 2-2012, f. & cert. ef. 5-10-12

820-010-0622

Modifying Designs or Documents

(1) Documents prepared and sealed by a Professional Engineer may be modified only when all of the following requirements are met:

(a) Only a Professional Engineer can modify designs or documents prepared and sealed by another Professional Engineer.

document if they are competent by education or experience.

(c) The Professional Engineer modifying another Professional Engineer's design or document will cloud, encircle, or in some other way clearly indicate the portion of the design or document they are revising and refer the viewer to a separate design or document.

(d) The Professional Engineer making the design revisions will seal and sign the separate design or document.

(e) A Professional Engineer modifying designs or documents not sealed must provide all the engineering services that would have been required had they started the work from its origin.

(2) Professional Engineers modifying designs or documents prepared by an unlicensed person for an exempt structure must do the following:

(a) The Professional Engineer modifying the design or document will cloud, encircle, or in some other way clearly indicate the portion of the design or document they are revising and refer the viewer to a separate design or document.

ADMINISTRATIVE RULES

(b) The Professional Engineer making the design revision will seal and sign the separate design or document.

Stat. Auth.: ORS 670.310 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 1-2005, f. & cert. ef. 3-16-05; BEELS 2-2006, f. & cert. ef. 11-21-06; BEELS 2-2012, f. & cert. ef. 5-10-12

820-010-0730

Use of Engineering Title if Registered in Other Jurisdiction

(1) A person who is not registered in Oregon, but holds a substantially equivalent unexpired certificate of registration in another state, territory or possession of the United States, the District of Columbia, or a foreign country, may use the title, "engineer," "professional engineer," "registered professional engineer," or any of its derivations provided that the jurisdiction(s) in which they are registered is written/printed after the title so as not to mislead the public regarding their credentials.

(2) Other than as described in subsection (1) of this rule, no persons may hold themselves out as an engineer in Oregon by use of the title "professional engineer," "registered professional engineer," or any of their abbreviations or derivatives;

(3) Unless registered as a professional engineer in Oregon, no persons may;

(a) Hold themselves out as an "engineer" other than as described in subsection (1) of this rule or in ORS 672.060;

(b) Offer to practice engineering; or

(c) Engage in the practice of engineering.

Stat. Auth.: ORS 672.007, 672.020 & 672.255
Stats. Implemented: ORS 672.002 - 672.325
Hist.: BEELS 2-2012, f. & cert. ef. 5-10-12

Board of Licensed Professional Counselors and Therapists

Chapter 833

Rule Caption: Counselor educator application method.

Adm. Order No.: BLPCT 1-2012

Filed with Sec. of State: 4-23-2012

Certified to be Effective: 5-15-12

Notice Publication Date: 1-1-2012

Rules Adopted: 833-020-0075

Rules Amended: 833-020-0021

Subject: Establishes a new license application method for counselor educators who seek acceptance of graduate level teaching to meet education requirements for licensure as a professional counselor or a marriage and family therapist.

Rules Coordinator: Becky Eklund—(503) 378-5499, ext. 3

833-020-0021

Methods of Application

(1) Applications for licensure must indicate one of the following methods.

(a) Intern registration;

(b) Direct;

(c) Reciprocity;

(d) Re-licensure; or

(e) Reapplication; or

(f) Counselor educator.

(2) Applicants may request permission to change their method of application or license requested without re-application if they do so within the year allowed to complete application.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

Stats. Implemented: ORS 675.785 - 675.835

Hist.: BLPCT 1-2010, f. & cert. ef. 1-5-10; BLPCT 1-2012, f. 4-23-12, cert. ef. 5-15-12

833-020-0075

Counselor Educator Method

(1) The counselor educator application method is for those who seek acceptance of graduate level teaching to meet education requirements for licensure.

(2) Application for licensure must be submitted to the board office in accordance with OAR chapter 833, division 20 by June 30, 2014.

(3) The application must include documentation that the applicant meets the following requirements:

(a) Teaches graduate level classes that meet coursework required for Oregon licensing as a professional counselor or marriage and family therapist, as specified in OAR 833-060-0012 and 833-060-0022;

(A) At an Oregon university accredited by a national counselor or marriage and family therapy program or regional accreditation body; and

(B) Full time, for at least 3 years.

(b) Holds a masters or doctorate degree in

(A) Counseling;

(B) Counseling rehabilitation;

(C) Counselor education and supervision;

(D) Marriage and family therapy;

(E) Psychology; or

(F) Other closely related field as approved by the Board.

(c) Teaches at least 100 clock hours of clinically related courses within one year after applying for license and before license is granted.

(d) Clinically related courses include:

(A) Treatment planning;

(B) Practicum; and

(C) Supervising graduate students in internship.

(e) Has a minimum of 100 hours supervising graduate students, interns registered with the board, licensed professional counselors, or marriage and family therapists. Supervision hours must have been accumulated in no less than 2 years and no more than 5 years.

(f) Certification as a supervisor by a national counseling or marriage and family therapy organization may substitute for supervising experience.

(g) Earned at least 2,000 hours of supervised clinical experience or equivalent:

(A) Acquired in a minimum of 3 years; and

(B) The supervisor met supervision requirements specified in OAR 833-030-0031 or 833-040-0031.

(4) Applicant must pass a board-approved national exam and Oregon law and rules exam as specified in OAR 833-020-0085.

(5) Applicant must provide a letter of recommendation or support for licensing from the employing university graduate program director or division attesting to the applicant's clinical skills and ethical and professional behavior.

Stat. Auth.: ORS 675.785 - 675.835 & 676.160 - 676.180

Stats. Implemented: ORS 675.785 - 675.835

Hist.: BLPCT 1-2012, f. 4-23-12, cert. ef. 5-15-12

Board of Medical Imaging

Chapter 337

Rule Caption: Specifies limit on temporary license renewal and timeframes for issuance prior to graduation.

Adm. Order No.: BMI 2-2012

Filed with Sec. of State: 4-26-2012

Certified to be Effective: 5-1-12

Notice Publication Date: 3-1-2012

Rules Amended: 337-010-0045

Subject: This rules amendment completes two actions:

(1) Specifies that a medical imaging student may be approved by the board to utilize a temporary license to work in the practice of medical imaging beginning five months prior to the course completion date, if the license application includes an endorsement from the director of the student's school to the board of medical imaging to indicate that (a) the student is in good standing; (b) the student is in the process of meeting educational requirements for graduation on a date specified; and (c) the student is competent to work under supervision.

(2) Specifies that the board may renew a six-month temporary license one time only.

(3) Clarifies the level of supervision required for a temporary licensee. This clarification makes no substantive change to the level of supervision required.

Rules Coordinator: Ed Conlow—(971) 673-0216

337-010-0045

Temporary Licensee

(1) Temporary Licensee

(a) Students who have successfully completed, or will successfully complete within six months, an approved school's didactic and clinical programs may apply for a temporary license that will be effective upon completion of the approved school's program.

(b) A temporary license is intended to allow graduates of an approved school to gain additional paid medical imaging experience in the applicable imaging modality before completing required credentialing examinations.

(c) With an endorsement to OBMI from the medical imaging program director at a student's school, indicating that the student is in good standing

ADMINISTRATIVE RULES

and is in the process of meeting educational requirements for graduation on a date specified, and that the student is competent to work under supervision, a temporary license may be issued which will be valid up to five months prior to the specified course completion date.

(d) A temporary license is valid for 6 months and may be renewed for a single six-month renewal period upon Board approval.

(e) A temporary licensee must apply to the Board for a medical imaging license within 30 days of being awarded a credential in a medical imaging modality by a recognized credentialing organization.

(f) If a temporary licensee is also licensed by the Board in another medical imaging modality, the restrictions of this subsection shall only apply when the individual is functioning as a temporary licensee.

(2) Temporary Licensee Supervision. A temporary licensee may only operate the applicable medical imaging modality under the indirect supervision of a licensed physician, or an individual licensed by the Board and credentialed by a credentialing organization in the medical imaging modality identified on the temporary license. For purposes of this subsection, indirect supervision means that the supervisor is physically present in the building and available to assist the temporary licensee as needed.

Stat. Auth.: ORS 688.520(7)

Stats. Implemented:

Hist.: RT 2-1978, f. & ef. 7-7-78; BRT 1-2010, f. & cert. ef. 6-15-10; BMI 2-2012, f. 4-26-12, cert. ef. 5-1-12

Board of Nursing
Chapter 851

Rule Caption: To bring the language in line with previous versions and the intent of the Board.

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

Filed with Sec. of State: 4-26-2012

Certified to be Effective: 4-26-12 thru 10-1-12

Notice Publication Date:

Rules Amended: 851-045-0100

Subject: The purpose of the revision to 851-045-0100(2)(d) is to bring the language in line with previous versions of the rule and the intent of the Board.

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 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; and

(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.

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

Rule Caption: To bring the language in line with previous versions and the intent of the Board.

Adm. Order No.: BN 3-2012(Temp)

Filed with Sec. of State: 4-26-2012

Certified to be Effective: 4-26-12 thru 10-1-12

Notice Publication Date:

Rules Suspended: 851-050-0150

Subject: The purpose of the revision to division 50 is to bring the language in line with previous versions of the rule and the intent of the Board.

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

851-050-0150

Renewal of Emergency Drug Dispensing Authority

(1) Emergency dispensing authority may be renewed with each renewal of prescriptive privileges, provided that the nurse practitioner continues to meet criteria in OAR 851-050-0145(1).

(2) Documentation that the clinic continues to meet criteria shall be provided by the nurse practitioner seeking authority, and by the dispensing site itself if requested.

Stat. Auth.: ORS 678.375 & 678.390

Stats. Implemented: ORS 678.390

Hist.: NB 7-1987, f. & ef. 10-5-87; BN 10-2003, f. & cert. ef. 10-2-03; Suspended by BN 14-2003(Temp), f. & cert. ef. 12-23-03 thru 6-19-04; Suspended by BN 3-2012(Temp), f. & cert. ef. 4-26-12 thru 10-1-12

Rule Caption: To clarify language regarding the requirements of the Health Professionals' Services Program.

Adm. Order No.: BN 4-2012(Temp)

Filed with Sec. of State: 4-26-2012

Certified to be Effective: 4-26-12 thru 10-1-12

Notice Publication Date:

Rules Amended: 851-070-0090

ADMINISTRATIVE RULES

Subject: The purpose of the revisions to division 70 is to:

Clarify that the program is for four years for a substance use disorder and/or substance use and mental health disorder (co-occurring); and

Clarify that the program is for two years for a mental health disorder; and

Clarify that monitored practice is to be supervised in the work setting.

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

851-070-0090

Completion Requirements

(1) To successfully complete the Health Professionals' Services Program (HPSP), licensees with a substance use disorder, or with a mental health disorder and a substance use disorder, must have participated in the HPSP program for a minimum of four years and have worked for at least two years in a supervised monitored practice. Licensees must complete the required two years of supervised monitored practice within four years of entering the Health Professionals' Services Program.

(2) To successfully complete the Health Professionals' Services Program, licensees with a mental health disorder, but no substance use disorder, must have participated in the HPSP program for a minimum of two years and have worked for at least one year in a supervised monitored practice. Licensees must complete the required year of supervised monitored practice within two years of entering the Health Professionals' Services Program.

(3) The Board may extend by one year the time within which a licensee must complete the supervised monitored practice if the licensee has remained compliant with the program.

(4) A licensee who does not complete the required term of supervised monitored practice will be discharged from the Health Professionals' Services Program and may be subject to discipline.

(5) The time spent working in a supervised monitored practice before transferring from the Nurse Monitoring Program to the Health Professionals' Services Program effective July 1, 2010, will be counted toward the required term of supervised monitored practice.

Stat. Auth.: ORS 676.200

Stats. Implemented: ORS 676.200

Hist.: BN 6-2010(Temp), f. 6-23-10, cert. ef. 7-1-10 thru 12-28-10; BN 19-2010, f. & cert. ef. 12-2-10; BN 4-2012(Temp), f. & cert. ef. 4-26-12 thru 10-1-12

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

Adm. Order No.: BN 5-2012

Filed with Sec. of State: 5-7-2012

Certified to be Effective: 6-1-12

Notice Publication Date: 4-1-2012

Rules Amended: 851-045-0030, 851-045-0070, 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.

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

851-045-0030

Purpose of Standards and Scope of Practice and Definitions

(1) Purpose of Standards and Scope of Practice:

(a) To establish acceptable levels of safe practice for the Licensed Practical Nurse (LPN) and Registered Nurse (RN);

(b) To serve as a guide for the Board to evaluate safe and effective nursing care as well as a guide to determine when nursing practice is below the expected standard of care; and

(c) To provide a framework for evaluation of continued competency in nursing practice.

(2) Definitions:

(a) "Assignment" means the act of directing and distributing, by a licensed nurse, and within a given work period, the work that each staff member is already authorized to perform;

(b) "Client" means individuals, families, groups, communities, organizations, and populations who are engaged in a relationship with the nurse

in order to receive the services provided by the nurse's application of nursing knowledge and skill in practice;

(c) "Comprehensive Assessment" means the extensive collection and analysis of data for assessment involves, but is not limited to, the synthesis of the biological, psychological, social, sexual, economic, cultural and spiritual aspects of the client's condition or needs, within the environment of practice for the purpose of establishing nursing diagnostic statements, and developing, implementing and evaluating a plan of care;

(d) "Context of Care" means the cumulative factors which affect the manner in which nursing care will be provided for a client. These factors may include, but are not limited to, the practice setting; the urgency of the situation; knowledge, beliefs and abilities of the client; the surrounding environment; and community and industry standards;

(e) "Delegation," except as defined in OAR 851-047-0010(7), is the process a Registered Nurse uses when authorizing a competent individual to perform a task of nursing, while retaining accountability for the outcome;

(f) "Focused Assessment" means an appraisal of a client's status and situation at hand, through observation and collection of objective and subjective data. Focused assessment involves identification of normal and abnormal findings, anticipation and recognition of changes or potential changes in client's health status, and may contribute to a comprehensive assessment performed by the Registered Nurse;

(g) "Health Education" means the development and provision of instruction and learning experiences for a client, including health teaching and health counseling, using evidence-based information, for the purpose of promoting wellness, preventing illness or disability, maintaining or restoring health, or assisting the client to adapt to the effects of illness or disability;

(h) "Licensed Nurse" means all Licensed Practical Nurses and Registered Nurses licensed under ORS 678.

(i) "Non-Oregon Based Graduate Program" means an academic program accredited by a nursing organization recognized by the United States Department of Education or the Council of Higher Education Accreditation that offers a graduate degree or graduate level certificate to qualified students for licensure as an advanced practice nurse (Clinical Nurse Specialist, Certified Registered Nurse Anesthetist, Nurse Practitioner) and does not have a physical location in Oregon;

(j) "Nursing Diagnostic Statements" means the nursing diagnoses or reasoned conclusions which are developed as a result of nursing assessment. They describe a client's actual or potential health problems which are amenable to resolution by means of nursing strategies, interventions or actions;

(k) "Nursing Interventions" means actions deliberately designed, selected and performed to implement the plan of care;

(l) "Nursing orders" means directives for specific nursing interventions initiated by the Registered Nurse which are intended to produce the desired outcome or objective, as defined in the plan of care;

(m) "Nursing process" means the systematic problem solving method licensed nurses use when they provide nursing care. The nursing process includes assessing, making nursing diagnoses, planning, intervening, and evaluating. The steps of the nursing process are interrelated and together form the basis for the practice of nursing;

(n) "Oregon Based Graduate Program" means an academic program accredited by a nursing organization recognized by the United States Department of Education or the Council of Higher Education Accreditation that offers a graduate degree or graduate level certificate to qualified students and has a physical location in Oregon which provides clinical experiences designated for licensure requirements as an advanced practice nurse (Clinical Nurse Specialist, Certified Registered Nurse Anesthetist, Nurse Practitioner);

(o) "Person-centered Care" means the collaboration with an individual person regarding his or her health care in a manner that is considerate and respectful of the specific wishes and needs of that person;

(p) "Plan of Care" means the written guidelines developed to identify specific needs of the client and intervention/regimen to assist clients to achieve optimal health potential. Developing the plan of care includes establishing client and nursing goals and determining nursing interventions to meet care objectives;

(q) "Professional Boundaries" means the limits that allow for safe and therapeutic connections between the nurse and the client;

(r) "Supervision" means the provision of guidance, direction, oversight, evaluation and follow-up by a licensed nurse for the accomplishment of nursing tasks and activities by other nurses and nursing assistive personnel;

ADMINISTRATIVE RULES

(s) "Tasks of Nursing" means those procedures normally performed by nurses when implementing the nursing plan of care; and

(t) "Unlicensed Assistive Personnel" means individuals who are not licensed to practice nursing, medicine or any other health occupation requiring a license in Oregon, but who may carry out delegated tasks of nursing. For the purpose of these rules, Certified Nursing Assistants and Certified Medication Aides are not considered unlicensed assistive personnel.

Stat. Auth.: ORS 678.150
Stats. Implemented: ORS 678.150 & 678.010
Hist.: BN 4-2008, f. & cert. ef. 6-24-08; BN 5-2012, f. 5-7-12, cert. ef. 6-1-12

851-045-0070

Conduct Derogatory to the Standards of Nursing Defined

Nurses, regardless of role, whose behavior fails to conform to the legal standard and accepted standards of the nursing profession, or who may adversely affect the health, safety, and welfare of the public, may be found guilty of conduct derogatory to the standards of nursing. Such conduct shall include, but is not limited to, the following:

(1) Conduct related to the client's safety and integrity:

(a) Developing, modifying, or implementing standards of nursing practice/care which jeopardize patient safety.

(b) Failing to take action to preserve or promote the client's safety based on nursing assessment and judgment.

(c) Failing to develop, implement and/or follow through with the plan of care.

(d) Failing to modify, or failing to attempt to modify the plan of care as needed based on nursing assessment and judgment, either directly or through proper channels.

(e) Assigning persons to perform functions for which they are not prepared or which are beyond their scope of practice/scope of duties.

(f) Improperly delegating tasks of nursing care to unlicensed persons in settings where a registered nurse is not regularly scheduled.

(g) Failing to supervise persons to whom nursing tasks have been assigned.

(h) Failing to teach and supervise unlicensed persons to whom nursing tasks have been delegated.

(i) Leaving a client care assignment during the previously agreed upon work time period without notifying the appropriate supervisory personnel and confirming that nursing care for the client(s) will be continued.

(j) Leaving or failing to complete any nursing assignment, including a supervisory assignment, without notifying the appropriate personnel and confirming that nursing assignment responsibilities will be met.

(k) Failing to report through proper channels facts known regarding the incompetent, unethical, unsafe or illegal practice of any health care provider.

(l) Failing to respect the dignity and rights of clients, regardless of social or economic status, age, race, religion, sex, sexual orientation, national origin, nature of health needs, or disability.

(m) Engaging in or attempting to engage in sexual contact with a client; and

(n) Failing to maintain professional boundaries with a client.

(2) Conduct related to other federal or state statute/rule violations:

(a) Abusing a client. The definition of abuse includes, but is not limited to, intentionally causing physical or emotional harm or discomfort, striking a client, intimidating, threatening or harassing a client, wrongfully taking or appropriating money or property, or knowingly subjecting a client to distress by conveying a threat to wrongfully take or appropriate money or property in a manner that causes the client to believe the threat will be carried out.

(b) Neglecting a client. The definition of neglect includes, but is not limited to, carelessly allowing a client to be in physical discomfort or be injured.

(c) Engaging in other unacceptable behavior towards or in the presence of a client such as using derogatory names or gestures or profane language.

(d) Failing to report actual or suspected incidents of client abuse through the proper channels in the work place and to the appropriate state agencies.

(e) Failing to report actual or suspected incidents of child abuse or elder abuse to the appropriate state agencies.

(f) Unauthorized removal or attempted removal of narcotics, other drugs, supplies, property, or money from clients, the work place, or any person.

(g) Soliciting or borrowing money, materials, or property from clients.

(h) Using the nurse client relationship to exploit the client by gaining property or other items of value from the client either for personal gain or sale, beyond the compensation for nursing services.

(i) Possessing, obtaining, attempting to obtain, furnishing, or administering prescription or controlled drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs.

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

(k) Failing to conduct practice without discrimination on the basis of age, race, religion, sex, sexual orientation, national origin, nature of health needs, or disability.

(l) Violating the rights of privacy, confidentiality of information, or knowledge concerning the client, unless required by law to disclose such information or unless there is a "need to know."

(m) Violating the rights of privacy, confidentiality of information, or knowledge concerning the client by obtaining the information without proper authorization or when there is no "need to know."

(n) Unauthorized removal of client records, client information, facility property, policies or written standards from the work place; and

(o) Failing to dispense or administer medications, including Methadone, in a manner consistent with state and federal law.

(3) Conduct related to communication:

(a) Inaccurate recordkeeping in client or agency records.

(b) Incomplete recordkeeping regarding client care; including, but not limited to, failure to document care given or other information important to the client's care or documentation which is inconsistent with the care given.

(c) Falsifying a client or agency record or records prepared for an accrediting or credentialing entity; including, but not limited to, filling in someone else's omissions, signing someone else's name, record care not given, and fabricating data/values.

(d) Altering a client or agency record or records prepared for an accrediting or credentialing entity; including, but not limited to, changing words/letters/numbers from the original document to mislead the reader of the record, adding to the record after the original time/date without indicating a late entry.

(e) Destroying a client or agency record or records prepared for an accrediting or credentialing entity.

(f) Directing another person to falsify, alter or destroy client or agency records or records prepared for an accrediting or credentialing entity.

(g) Failing to maintain client records in a timely manner which accurately reflects management of client care, including failure to make a late entry within a reasonable time period.

(h) Failing to communicate information regarding the client's status to members of the health care team (physician, nurse practitioner, nursing supervisor, nurse co-worker) in an ongoing and timely manner; and

(i) Failing to communicate information regarding the client's status to other individuals who need to know; for example, family, and facility administrator.

(4) Conduct related to achieving and maintaining clinical competency:

(a) Performing acts beyond the authorized scope or the level of nursing for which the individual is licensed.

(b) Failing to conform to the essential standards of acceptable and prevailing nursing practice. Actual injury need not be established.

(c) Assuming duties and responsibilities within the practice of nursing for direct client care, supervisory, managerial or consulting roles without documented preparation for the duties and responsibilities and when competency has not been established and maintained; and

(d) Performing new nursing techniques or procedures without documented education specific to the technique or procedure and clinical precepted experience to establish competency.

(5) Conduct related to impaired function:

(a) Practicing nursing when unable/unfit to perform procedures and/or make decisions due to physical impairment as evidenced by documented deterioration of functioning in the practice setting and/or by the assessment of a health care provider qualified to diagnose physical condition/status.

(b) Practicing nursing when unable/unfit to perform procedures and/or make decisions due to psychological or mental impairment as evidenced by documented deterioration of functioning in the practice setting and/or by the assessment of a health care provider qualified to diagnose mental condition/status; and

(c) Practicing nursing when physical or mental ability to practice is impaired by use of drugs, alcohol or mind-altering substances.

ADMINISTRATIVE RULES

(d) Use of drugs, alcohol or mind-altering substances to an extent or in a manner dangerous or injurious to the licensee or others or to an extent that such use impairs the ability to conduct safely the practice for which the licensee is licensed.

(6) Conduct related to licensure or certification violations:

(a) Practicing nursing without a current Oregon license or certificate.

(b) Practicing as a nurse practitioner or clinical nurse specialist without a current Oregon certificate.

(c) Allowing another person to use one's nursing license or certificate for any purpose.

(d) Using another's nursing license or certificate for any purpose.

(e) Resorting to fraud, misrepresentation, or deceit during the application process for licensure or certification, while taking the examination for licensure or certification, while obtaining initial licensure or certification or renewal of licensure or certification.

(f) Impersonating any applicant or acting as a proxy for the applicant in any nurse licensure or certification examination;

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

(h) Failing to obtain Board authorization prior to participating in a clinical practicum in Oregon for nursing students enrolled in a Non-Oregon Based Graduate Program.

(7) Conduct related to the licensee's relationship with the Board:

(a) Failing to provide the Board with any documents requested by the Board.

(b) Failing to answer truthfully and completely any question asked by the Board on an application for licensure or during the course of an investigation or any other question asked by the Board.

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

(d) Violating the terms and conditions of a Board order; and

(e) Failing to comply with the terms and conditions of Nurse Monitoring Program agreements.

(8) Conduct related to the client's family:

(a) Failing to respect the rights of the client's family regardless of social or economic status, race, religion or national origin.

(b) Using the nurse client relationship to exploit the family for the nurse's personal gain or for any other reason.

(c) Theft of money, property, services or supplies from the family; and

(d) Soliciting or borrowing money, materials or property from the family.

(9) Conduct related to co-workers: Violent, abusive or threatening behavior towards a co-worker which either occurs in the presence of clients or otherwise relates to the delivery of safe care to clients.

(10) Conduct related to advanced practice nursing:

(a) Ordering laboratory or other diagnostic tests or treatments or therapies for one's self.

(b) Prescribing for or dispensing medications to one's self.

(c) Using self-assessment and diagnosis as the basis for the provision of care which would otherwise be provided by a client's professional caregiver.

(d) Billing fraudulently.

(e) Failing to release patient records upon receipt of request or release of information, including after closure of practice, and within a reasonable time, not to exceed 60 days from receipt of written notification from patient.

(f) Ordering unnecessary laboratory or other diagnostic test or treatments for the purpose of personal gain; and

(g) Failing to properly maintain patient records after closure of practice or practice setting.

Stat. Auth: ORS 678.150

Stats. Implemented: ORS 678.150, 678.111 & 678.390

Hist.: BN 4-2008, f. & cert. ef. 6-24-08; BN 2-2010(Temp), f. & cert. ef. 4-19-10 thru 10-15-10; BN 12-2010, f. & cert. ef. 9-30-10; BN 5-2012, f. 5-7-12, cert. ef. 6-1-12

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 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.

(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-\$5000.

(i) Gross incompetence in the practice of nursing \$2,500-\$5000.

(j) Gross negligence in the practice of nursing \$2,500-\$5000.

(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 2-2010(Temp), f. & cert. ef. 4-26-12; BN 5-2012, f. 5-7-12, cert. ef. 6-1-12

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

Adm. Order No.: BN 6-2012

Filed with Sec. of State: 5-7-2012

Certified to be Effective: 6-1-12

Notice Publication Date: 4-1-2012

Rules Adopted: 851-050-0009

Rules Amended: 851-050-0004

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 Clin-

ADMINISTRATIVE RULES

ical 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.

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

851-050-0004

Nurse Practitioner Practice Requirements

(1) The practice requirement as a nurse practitioner must be met through practice, which meets the definition in OAR 851-050-0000(17) in the following manner:

- (a) Completion of a nurse practitioner program within the past one year; or
- (b) Completion of a nurse practitioner program within the past two years and a minimum of 192 hours of practice as a nurse practitioner; or
- (c) 960 hours of nurse practitioner practice within the five years preceding certification application or renewal; or
- (d) Completion of a Board supervised advanced practice re-entry program which meets the requirements of OAR 851-050-0006 within two years immediately preceding issuance of certification under a limited or registered nurse license and a limited nurse practitioner certificate.

(2) The prior practice as a registered nurse requirement for nurse practitioner applicants is as follows:

- (a) All initial applicants must provide documentation of a minimum of 384 hours of registered nurse practice, which includes assessment and management of clients and is not completed as an academic clinical requirement or continuing education program.
- (b) The applicant shall verify completion of the required hours before issuance of the nurse practitioner certificate.
- (c) This requirement shall be waived for individuals practicing in the specialty area as a licensed certified nurse practitioner in another state for at least 384 hours in the advanced practice role.

(3) All practice hours claimed are subject to audit and disciplinary action for falsification.

Stat. Auth.: ORS 678.375, 678.380 & 678.390
Stats. Implemented: ORS 678.380 & 390
Hist.: BN 10-2003, f. & cert. ef. 10-2-03; BN 8-2004, f. 5-4-04, cert. ef. 5-12-04; BN 9-2009, f. 12-17-09, cert. ef. 1-1-10; BN 6-2012, f. 5-7-12, cert. ef. 6-1-12

851-050-0009

Clinical Practicum in Oregon for Nurse Practitioner Students Enrolled in a Non-Oregon Based Graduate Program

(1) A nurse practitioner student enrolled in a Non-Oregon Based Graduate Program may not participate in a clinical practicum in Oregon without prior Board authorization.

(2) Prior authorization will be predicated upon approval of the following:

- (a) A completed registration form (Advanced Practice Student Verification of Supervised Practice in Oregon in a Non-Oregon Based Graduate Program);
- (b) Verification of a current, unencumbered registered nurse license in Oregon;
- (c) Verification of enrollment in a graduate program accredited by a United States Department of Education or the Council of Higher Education Accreditation approved national accrediting body;
- (d) Verification of regional accreditation and/or Board of Nursing approval from the state in which the program originates;
- (e) Proof of approval by the Office of Degree Authorization of the Non-Oregon Based Graduate Program;
- (f) Submission of a written signed agreement between the Non-Oregon Based Graduate Program responsible for the student and the Oregon licensed preceptor;
- (g) Identification of the faculty advisor accountable for general supervision from the Non-Oregon Based Graduate Program; and
- (h) Identification of the Oregon licensed nurse practitioner faculty providing direct clinical evaluation of the nurse practitioner student.

(3) Oregon licensed preceptors are responsible for validating that the student has registered and received Board authorization prior to participating in a clinical practicum in Oregon.

(4) A nurse practitioner student shall practice under the direct supervision of an approved Oregon licensed nurse practitioner, clinical nurse specialist, medical physician, or doctor of osteopathy who agrees to serve as preceptor, and general supervision of a faculty member as approved in the clinical practicum registration.

Stat. Auth.: ORS 678.150
Stats. Implemented: ORS 678.150
Hist.: BN 6-2012, f. 5-7-12, cert. ef. 6-1-12

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

Adm. Order No.: BN 7-2012

Filed with Sec. of State: 5-7-2012

Certified to be Effective: 6-1-12

Notice Publication Date: 4-1-2012

Rules Amended: 851-052-0040

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.

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

851-052-0040

Clinical Practicum in Oregon for Certified Registered Nurse Anesthetist Students Enrolled in a Non-Oregon Based Graduate Program

(1) A nurse anesthesia student enrolled in a Non-Oregon Based Graduate Program may not participate in a clinical practicum in Oregon without prior Board authorization.

(2) Prior authorization will be predicated upon approval of the following:

- (a) A completed registration form (Advanced Practice Student Verification of Supervised Practice in Oregon in a Non-Oregon Based Graduate Program);
- (b) Verification of a current, unencumbered registered nurse license in Oregon;
- (c) Verification of enrollment in a graduate program accredited by a United States Department of Education or the Council of Higher Education Accreditation approved national accrediting body;
- (d) Verification of regional accreditation and/or Board of Nursing approval from the state in which the program originates;
- (e) Proof of approval by the Office of Degree Authorization of the Non-Oregon Based Graduate Program;
- (f) Submission of a written signed agreement between the Non-Oregon Based Graduate Program responsible for the student and the Oregon licensed preceptor;
- (g) Identification of the faculty advisor accountable for general supervision from the Non-Oregon Based Graduate Program; and
- (h) Identification of the Oregon licensed nurse anesthesia faculty providing direct clinical evaluation of the nurse anesthesia student.

(3) Oregon licensed preceptors are responsible for validating that the student has registered and received Board authorization prior to participating in a clinical practicum in Oregon.

(4) A nurse anesthesia student shall practice under the direct supervision of a CRNA or anesthesiologist who agrees to serve as preceptor, and general supervision of a faculty member as approved in the clinical practicum registration.

Stat. Auth.: ORS 678.285
Stats. Implemented: ORS 678.285
Hist.: BN 9-1998, f. 7-16-98, cert. ef. 9-1-98; BN 7-2012, f. 5-7-12, cert. ef. 6-1-12

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

Adm. Order No.: BN 8-2012

Filed with Sec. of State: 5-7-2012

Certified to be Effective: 6-1-12

Notice Publication Date: 4-1-2012

Rules Adopted: 851-054-0060

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.

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

ADMINISTRATIVE RULES

851-054-0060

Clinical Practicum in Oregon for Clinical Nurse Specialist Students Enrolled in a Non-Oregon Based Graduate Program

(1) A clinical nurse specialist student enrolled in a Non-Oregon Based Graduate Program may not participate in a clinical practicum in Oregon without prior Board authorization.

(2) Prior authorization will be predicated upon approval of the following:

(a) A completed registration form (Advanced Practice Student Verification of Supervised Practice in Oregon in a Non-Oregon Based Graduate Program);

(b) Verification of a current, unencumbered registered nurse license in Oregon;

(c) Verification of enrollment in a graduate program accredited by a United States Department of Education or the Council of Higher Education Accreditation approved national accrediting body;

(d) Verification of regional accreditation and/or Board of Nursing approval from the state in which the program originates;

(e) Proof of approval by the Office of Degree Authorization of the Non-Oregon Based Graduate Program;

(f) Submission of a written signed agreement between the Non-Oregon Based Graduate Program responsible for the student and the Oregon licensed preceptor;

(g) Identification of the faculty advisor accountable for general supervision from the Non-Oregon Based Graduate Program; and

(h) Identification of the Oregon licensed clinical nurse specialist faculty providing direct clinical evaluation of the clinical nurse specialist student.

(3) Oregon licensed preceptors are responsible for validating that the student has registered and received Board authorization prior to participating in a clinical practicum in Oregon.

(4) A clinical nurse specialist student shall practice under the direct supervision of an approved Oregon licensed clinical nurse specialist, nurse practitioner, medical physician, or doctor of osteopathy who agrees to serve as preceptor, and general supervision of a faculty member as approved in the clinical practicum registration.

Stat. Auth.: ORS 678.150
Stats. Implemented: ORS 678.150
Hist.: BN 8-2012, f. 5-7-12, cert. ef. 6-1-12

Board of Pharmacy
Chapter 855

Rule Caption: Adopt/amend rules related to Pharmacy Depots, Technician Checking Validation Programs and Residential Drug Outlets.

Adm. Order No.: BP 1-2012

Filed with Sec. of State: 4-26-2012

Certified to be Effective: 5-1-12

Notice Publication Date: 3-1-2012

Rules Adopted: 855-041-5100, 855-041-5120, 855-041-5130, 855-041-5140, 855-041-5150, 855-041-5160, 855-041-5170

Rules Amended: 855-041-0095

Rules Repealed: 855-041-0110

Rules Ren. & Amend: 855-041-0105 to 855-041-5005, 855-041-0115 to 855-041-5015

Subject: The Board amends, adopts, repeals and renumbers a variety of rules in Division 041. The Div. 041 Pharmacy Depot Rules previously amended in December 2011 are amended to further clarify where a patient may designate delivery of a prescription. The Div. 041 Residential Drug Outlet rules are renumbered, amended and repealed to update rules that have not been updated since 1990. The Div. 041 Technician Checking Validation Program (TCVP) rules will allow hospitals to implement TCVP's to allow the redirection of a pharmacist from a distributive role to a patient oriented role.

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

855-041-0095

Pharmacy Depots

(1) Except when delivering directly to a patient, licensed pharmacists may not participate in the transfer of completed prescription medication containers to or from any location that is not a licensed pharmacy, unless the transfer occurs to:

(a) The office of the patient's health care practitioner; or

(b) The location of the patient; or

(A) Patient's primary residence; or

(B) Alternate residence designated by the patient; or

(C) Patient's workplace; or

(c) The hospital or medical care facility in which a patient is receiving care.

(2) Upon written request, the Board may waive any of the requirements of this rule if a waiver will further public health or safety or the health and safety of a patient. A waiver granted under this section shall only be effective when it is issued by the Board in writing.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689

Hist.: IPB 2-1979(Temp), f. & ef. 10-3-79; IPB 2-1980, f. & ef. 4-3-80; BP 9-2011, f. 12-30-11, cert. ef. 1-1-12; BP 1-2012, f. 4-26-12, cert. ef. 5-1-12

855-041-5005

Definitions

For purposes of these rules, OAR 855-041-5000 through 855-041-9999 the following definitions apply:

(1) "Institutional Facility" means a hospital or other health care facility which is an inpatient care facility referred to in ORS 442.015, which includes long-term care facilities and special inpatient care facilities, and such facility is licensed by the appropriate state agency. For the purpose of this rule, an Institutional Facility is a Residential Drug Outlet.

(2) "Institutional Pharmacy" means a pharmacy where medications are dispensed to other health care professionals for administration to institutionalized patients served by an institutional facility, and which is:

(a) Located within the institutional facility;

(b) Located outside the facility but provides pharmaceutical services to institutionalized patients; and

(c) For the purpose of this rule, an Institutional Pharmacy is a Residential Pharmacy.

(3) "Drug Room" means a secure and lockable location within an inpatient care facility that does not have a pharmacy.

(4) "Pharmaceutical Service" means the control of the utilization of drugs, biologicals and chemicals including procuring, manufacturing, compounding, dispensing, distribution and storing of drugs, biologicals and chemicals under the conditions prescribed by this rule. The provision of drug information to patients and to other health professionals is included within the meaning of pharmaceutical services.

(5) "Supervision" means stationed within the same work area, coupled with the ability to control and be responsible for an action.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155

Hist.: IPB 2-1980, f. & ef. 4-3-80; PB 8-1990, f. & cert. ef. 12-5-90; Renumbered from 855-041-0105 by BP 1-2012, f. 4-26-12, cert. ef. 5-1-12

855-041-5015

Registration

All residential drug outlets shall register annually with the Board of Pharmacy. Residential drug outlets which also provide outpatient pharmacy services shall also register as retail drug outlets.

Stat. Auth.: ORS 689.205

Stats. Implemented: ORS 689.155

Hist.: IPB 2-1980, f. & ef. 4-3-80; Renumbered from 855-041-0115 by BP 1-2012, f. 4-26-12, cert. ef. 5-1-12

855-041-5100

Definitions

(1) "Error" in Automated Distribution Cabinet (ADC) is any occurrence of a wrong drug, dose, quantity, or dosage form or the inclusion of any drug with an expired date in a line item. All errors in a line item counts as one error.

(2) "Error" in a unit of use cart is any occurrence of a wrong drug, dose, quantity, or dosage form or the inclusion of any drug with an expired date. All errors in any single dose count as one error.

(3) "Line Item" is a checking unit for ADC restocking (example: one specific drug and dose, regardless of quantity).

(4) "Technician Checker" is an Oregon certified technician who has completed the TCVP validation process and is currently authorized to check another technician's work.

(5) "Technician Checking Validation Program (TCVP)" is a program that uses a technician checker to check functions completed by another technician.

(6) "Unit Dose" is the physical quantity of a drug product designed to be administered to a patient specifically labeled to identify the drug name, strength, dosage amount and volume, if applicable. The unit dosed drug can be obtained from the manufacturer or repackaged from an external re-pack-

ADMINISTRATIVE RULES

ager. A drug may be repackaged on-site through a batch repackaging process that includes a pharmacist as a check. Unit dose examples include oral solids individually packaged by a manufacturer or re-packaged, oral liquids drawn up in a labeled oral syringe, all individually labeled injectable products, and pre-mixed IV products.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155
Hist.: BP 1-2012, f. 4-26-12, cert. ef. 5-1-12

855-041-5120

Hospital and Pharmacist in Charge Requirements

(1) Only a hospital pharmacy may apply to participate in a TCVP. To participate in the TCVP, the hospital pharmacy must meet the following requirements:

(a) The hospital pharmacy must develop policies and procedures for the TCVP to include a list of high-risk medications that are excluded from the TCVP. The policies and procedures for the TCVP must be available in the pharmacy for board inspectors.

(b) The hospital pharmacy must obtain approval from the appropriate committee before the TCVP can be implemented;

(c) The hospital pharmacy must have a drug distribution system that is structured to allow for one additional check of the distributed medications by a licensed nurse or other licensed health care professional with authority to administer medications after the delivery of checked medications; and

(d) The Pharmacist-in-Charge is responsible for the TCVP and will document any error, or irregularity in the quality assurance documentation records.

(2) A hospital may not operate a TCVP without prior written approval from the Oregon Board of Pharmacy. To apply for approval, the hospital must submit the following to the Board:

(a) Copies of written training material that will be used to train technicians as technician checkers;

(b) Copies of quality assurance documentation records and forms that will be used to evaluate the technician checkers and the proposed TCVP;

(c) Copies of the policy and procedures for the proposed TCVP; and

(d) A description of how the proposed TVCP will improve patient safety by focusing on assessing the accuracy and appropriateness of the medications ordered and on educating staff and patients.

(e) Other items as requested by the Board.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155
Hist.: BP 1-2012, f. 4-26-12, cert. ef. 5-1-12

855-041-5130

Technician Eligibility and Training

(1) Only Oregon certified technicians who undergo specific training may work as technician checkers. The training must include the following:

(a) A minimum of one year of drug distribution experience;

(b) Didactic lecture or equivalent training with a self-learning packet;

(c) Practical sessions that consist of individual training in checking a cart fill or ADC that is provided by a pharmacist; and

(d) Initial Validation Process as described in OAR 855-041-5140(1).

(2) The practical training sessions must include:

(a) The trainee observing a technician checker or pharmacist performing the checking process that the trainee is learning;

(b) The trainee performing the initial check with a pharmacist verifying all doses;

(c) The trainee completing the validation process with a pharmacist verifying all doses;

(d) The introduction of artificial errors into a live or simulated environment, to monitor the ability of the technician to catch errors. Artificial errors introduced into the live environment, which are not corrected by the technician, must be removed.

(e) The pharmacist must document and notify a technician checker of any errors found during training.

(3) If at any time a TCVP technician loses his or her validation the technician must be retrained and revalidated before acting as a technician checker.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155
Hist.: BP 1-2012, f. 4-26-12, cert. ef. 5-1-12

855-041-5140

Initial Validation Process and Quality Assurance Process

(1) Initial Validation Process: The initial process to validate a trainee's ability to accurately check another technician's work must include:

(a) Unit of Use: For initial validation of a trainee to check a unit of use cart fill, the trainee must obtain a 99.8% accuracy rate in 1500 total doses, divided among five separate training checks. A trainee who makes more than three errors in 1500 doses fails the validation and may not work as a technician checker until the checking process is repeated and until successfully completed.

(A) In each initial validation check, a pharmacist must check the accuracy of all unit of use medications after the trainee has checked them. The pharmacist must document any errors in the unit of use cart and discuss them with the trainee.

(B) In each initial validation check, the pharmacist will introduce at least three errors. The pharmacist coordinating the training check will keep a record of the introduced errors and will ensure that all introduced errors are removed before medications are distributed.

(C) The pharmacist must document the results of each initial validation check and retain the results in the quality assurance file.

(b) ADC or non-emergent trays and kits: For initial validation of a trainee to fill ADC or non-emergent trays and kits, the trainee must obtain a 99.8% accuracy rate in 500 total line items, divided among five separate training checks. A trainee who makes more than one error in 500 line items fails the validation and may not work as a technician checker until the checking process is repeated and until successfully completed.

(A) In each initial validation check, a pharmacist must check the accuracy of all ADC or non-emergent tray or kit medications after the trainee has checked them. The pharmacist must document any errors and discuss them with the trainee.

(B) In each initial validation check, the pharmacist will artificially introduce at least three errors. The pharmacist will keep a record of the introduced errors and will ensure that all introduced errors are removed before medications are distributed.

(C) The pharmacist must document the results of each initial validation check and retain the results in the quality assurance file.

(2) Quality Assurance Process: The Quality Assurance Process that ensures on-going competency of technician checkers must include:

(a) Quality checks conducted in the same manner as the applicable initial validation process described in section one of this rule, except that the quality check sample must consist of at least 300 doses for technicians checking unit of use carts and at least 100 line items for technicians checking ADC or non-emergent trays and kits.

(b) The quality checks must occur on random and unannounced dates and times.

(c) A technician checker who makes more than one error fails the quality check and may not work as a technician checker unless the technician first passes a second quality check within 30 days of the failed quality check. If the technician does not pass the second quality check within 30 days, the technician must be retrained and revalidated before working as a technician checker.

(d) The results of each quality check must be documented, including the total number of doses or line items checked, a description of each error, the total number of errors, and the percent error rate. Documentation must be retained in the quality assurance file.

(3) Timing and Frequency of Quality Checks: A technician checker must undergo a quality check at least monthly. A technician checker who has successfully completed three consecutive monthly quality checks must be checked at least quarterly for at least one year. A technician checker who has successfully completed four consecutive quarterly quality checks must be checked at least every six months.

(4) A technician checker who does not perform TCVP duties for more than six months must undergo initial validation as described in section one of this rule.

(5) A description of the quality assurance process must be included in the hospital's and the pharmacy's quality assurance program and error reporting system.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155
Hist.: BP 1-2012, f. 4-26-12, cert. ef. 5-1-12

855-041-5150

Checking Procedure

(1) A technician checker must use the following procedure when checking another technician's work:

(a) A pharmacy technician fills the medication for the cart fill or ADC restocking batch or non-emergent trays and kits.

(b) A technician checker must check the accuracy of cart fill batches or ADC or non-emergent trays and kits. The technician checker shall review

ADMINISTRATIVE RULES

the medications for the correct drug, dose, dosage form, and quantity and must review the expiration dates of medications.

(c) If the technician checker discovers a filling error the technician checker must record the error and return the product to the technician who originally filled it, if available, or to another technician. The filling technician must correct the error and the technician checker must check the correction. A pharmacist or another technician checker must check any cart fill batches, ADC or non-emergent tray or kit, or medication corrections filled by a technician checker

(d) If a technician checker is not available, then all doses must be checked by a pharmacist.

(2) This checking process continues until all doses have been checked and determined to be correct.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155
Hist.: BP 1-2012, f. 4-26-12, cert. ef. 5-1-12

855-041-5160

Eligible Specialized Functions

(1) The following specialized functions are eligible for participation in the TCVP:

- (a) Cart fill;
- (b) ADC batch replacement; and
- (c) Non-Emergent kits and trays.

(2) Upon written request, the Board may permit additional specialized functions if to do so will further public health or safety. A waiver granted under this section shall be effective only when issued in writing and approved by the Board.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155
Hist.: BP 1-2012, f. 4-26-12, cert. ef. 5-1-12

855-041-5170

Records

(1) Unless specified otherwise, all records and documentation required by these rules must be retained for three years and made available to the Board for inspection upon request. Records must be stored onsite for at least one year and may be stored in a secured off-site location if retrievable within three business days. Records and documentation may be written, electronic or a combination of the two.

(2) The PIC must ensure maintenance of written or electronic records and reports as necessary to ensure patient health, safety and welfare. Records must include:

- (a) Technician checker training documents;
- (b) List of high risk medications;
- (c) Documentation of any errors, irregularities and results of each initial validation check.

(d) Documentation of quality assurance and forms used to evaluate the technician checker including:

- (A) Total number of doses or line item checks;
 - (B) Description of errors;
 - (C) Total number of errors; and
 - (D) Percent error rate.
- (e) Documentation of the initial validation check.

Stat. Auth.: ORS 689.205
Stats. Implemented: ORS 689.155
Hist.: BP 1-2012, f. 4-26-12, cert. ef. 5-1-12

Columbia River Gorge Commission
Chapter 350

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

Adm. Order No.: CRGC 1-2012

Filed with Sec. of State: 4-18-2012

Certified to be Effective: 6-1-12

Notice Publication Date: 11-1-2011

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

Subject: Currently, the Executive Director of the Gorge Commission must review a document review application for completeness within 14 days after receiving it, and must issue a decision on a standard development review within 72 days after accepting the application as complete and an expedited review application within 30 days. The rules changes those time periods into goals that the Executive Direc-

tor will attempt to make. The rule also eliminates the requirement that the Commission publish notices of development review applications in the local newspaper and send a notice to the local library. Finally, the rule incorporates changes to the Management Plan for the Special Management Areas that the Forest Service provided to the Commission in 2011 and the Commission adopted without change.

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

350-081-0020

Definitions

As used in Commission Rule 350-81, unless otherwise noted, the following words and their derivations shall have the following meanings:

(1) Accepted agricultural practice: A mode of operation that is common to farms or ranches of similar nature, necessary for the operation of such farms or ranches to obtain a profit in money and customarily utilized in conjunction with agricultural use.

(2) Accessory structure/building: A structure or detached building whose use is incidental and subordinate to that of the main use of the property, and that is located on the same parcel as the main building or use. The term “detached” means that the main building and accessory building do not share a common wall. An accessory building connected to the main building by a breezeway is a detached building.

(3) Active wildlife site: A wildlife site that has been used within the past 5 years by a sensitive wildlife species.

(4) Addition: An extension or increase in the area or height of an existing building.

(5) Agency official: The federal, state, or local agency head or designee who has authority over a proposed project.

(6) Agricultural specialist (SMA): A person such as a county extension agent with a demonstrated knowledge of farming operations, and a demonstrated ability to interpret and recommend methods to implement regulations pertaining to agriculture. Such abilities are usually obtained through a combination of higher education and experience.

(7) Agricultural structure/building: A structure or building located on a farm or ranch and used in the operation for the storage, repair, and maintenance of farm equipment and supplies or for the raising and/or storage of crops and livestock. These include, but are not limited to: barns, silos, workshops, equipment sheds, greenhouses, wind machines (orchards), processing facilities, storage bins and structures.

(8) Agricultural use: The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting, and selling crops; or by the feeding, breeding, management, and sale of, or production of, livestock, poultry, fur bearing animals or honeybees; or for dairying and the sale of dairy products; or any other agricultural or horticultural use, including Christmas trees. Current employment of land for agricultural use includes:

(a) The operation or use of farmland subject to any agriculture related government program.

(b) Land lying fallow for 1 year as a normal and regular requirement of good agricultural husbandry.

(c) Land planted in orchards or other perennials prior to maturity.

(d) Land under buildings supporting accepted agricultural practices. Agricultural use does not include livestock feedlots.

(9) Anadromous fish: Species of fish that migrate upstream to freshwater after spending part of their life in the ocean (saltwater).

(10) Anaerobic: A condition in which molecular oxygen is absent (or effectively so) from the environment.

(11) Aquaculture: The cultivation, maintenance, and harvesting of aquatic species.

(12) Aquatic area: The water area of a stream, pond, or lake measured at the ordinary high water mark.

(13) Archaeological resources: See cultural resource.

(14) Archival research: Research in primary documents that is likely to yield information regarding human occupation of the area in question, including but not limited to deed, census, cartographic, and judicial records.

(15) Bed and breakfast inn: An establishment located in a structure designed as a single family dwelling where more than two rooms but fewer than six rooms are rented on a daily basis. Bed and breakfast inns are clearly incidental to the use of a structure as a single family dwelling and are owner occupied and operated. Bed and breakfast inns operate as transient accommodations, not as rooming or boarding houses.

(16) Best management practices: Conservation techniques and management measures that (1) control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment; (2) minimize adverse affects to groundwater and surface water flow and circulation

ADMINISTRATIVE RULES

patterns; and (3) maintain the chemical, biological, and physical characteristics of wetlands, ponds, streams, and riparian areas.

(17) Biodiversity (SMA): A diversity of biological organisms at the genetic, species, ecosystem, and landscape levels.

(18) Boat landing: Cleared area or developed structure used to facilitate launching or retrieving watercraft.

(19) Buffer zone: An area adjacent to a wetland, stream, pond, or other sensitive area that is established and managed to protect sensitive natural resources from human disturbance. In instances that involve a wetland, stream, or pond, the buffer zone includes all or a portion of the riparian area.

(20) Building: Any structure used or intended for supporting or sheltering any use or occupancy. Buildings have a roof supported by columns or walls. They include, but are not limited to, dwellings, garages, barns, sheds and shop buildings.

(21) Camping or recreational vehicle: A vacation trailer, camper, self propelled vehicle, or structure equipped with wheels for highway use that is intended for recreational purposes, but not for residential purposes, and is equipped with plumbing, sink, or toilet. A camping or recreational vehicle shall be considered a dwelling unit if it is connected to a sewer system (including septic tank), water, and electrical lines or is occupied on the same parcel for more than 60 days in any consecutive 12-month period.

(22) Campsite: Single camping unit, that usually consists of a cleared, level area for a tent, and may include a parking spur, fire ring, table, and other amenities.

(23) Capability: The ability of land to produce forest or agricultural products due to characteristics of the land itself, such as soil, slope, exposure, or other natural factors.

(24) Canopy closure (SMA): For forest practices, the percentage measuring the degree to which one layer of a tree canopy blocks sunlight or obscures the sky as measured from below.

(25) Cascadian architecture (SMA): Architectural style using native rock work, large timber, and steeply pitched roofs in a rustic manner.

(26) Catastrophic situations (SMA): Forces such as fire, insect and disease infestations, and earth movements.

(27) Childcare center: A facility providing daycare to three or more children, but not including:

(a) The provision of care that is primarily educational, unless provided to a preschool child for more than 4 hours a day.

(b) The provision of care that is primarily supervised training in a specific subject, including but not limited to dancing, gymnastics, drama, music or religion.

(c) The provision of short-term care related to or associated with group athletic or social activities.

(d) The provision of daycare in the provider's home in the family living quarters for less than 13 children.

(28) Columbia River Gorge National Scenic Area Graphic Signing System: Sign design standards developed for the Scenic Area for public signs in and adjacent to public road rights-of-way.

(29) Commercial development/use: Any facility or use of land or water whose function is primarily retail buying or selling of goods or services or both. This does not include fruit or produce stands.

(30) Commercial forest products: These include timber for lumber, pulp, and firewood for commercial purposes.

(31) Commercial recreation: Any private (non governmental) recreational activity or facility on privately owned land, excluding nonprofit facilities. This does not include operation of a public recreation facility by a private vendor.

(32) Community facility: Basic utilities and services necessary to support public service needs, including but not limited to water and power utilities, sanitation facilities, public microwave stations and communication facilities, schools, roads and highways. This does not include sanitary landfills.

(33) Consulting parties (cultural resources): Organizations or individuals who submit substantive written comments to a local government in a timely manner because they are concerned with the effects of a proposed use on cultural resources.

(34) Contiguous land: Parcels or other lands that are under the same ownership and have a common boundary, regardless of whether or not portions of the parcels have separate tax lot numbers, lie in different counties, lie in different sections or government lots, lie in different land use or zoning designations, or are separated by public or private roads. Contiguous land does not include parcels that meet only at a single point.

(35) Counties: The six counties within the Scenic Area: Hood River, Multnomah, and Wasco in Oregon, and Clark, Skamania, and Klickitat in Washington.

(36) Created opening (SMA): A created forest opening with less than 40 percent average canopy closure of overstory trees and less than 60 percent average canopy closure of understory trees averaging less than 5 inches diameter at breast height for coniferous forests and less than 25 percent total canopy cover for oak woodlands. This definition does not include agricultural fields.

(37) Creation (wetlands): A human activity that converts an upland into a wetland. This definition presumes that the area to be converted has not been a wetland in recent times (100 to 200 years).

(38) Cultivation: Any activity that prepares land for raising crops by turning, breaking, or loosening the soil. Cultivation includes plowing, harrowing, leveling, and tilling.

(39) Cultural resource: Evidence of human occupation or activity that is important in the history, architecture, archaeology or culture of a community or region. Cultural resources include, but are not limited to, the following:

(a) Archaeological resources. Physical evidence or ruins of human occupation or activity that are located on or below the surface of the ground and are at least 50 years old. Archaeological resources include, but are not limited to, the remains of houses, villages, camp and fishing sites, and cave shelters; rock art such as petroglyphs and pictographs; artifacts such as arrowheads, utensils, tools, fragments of tools and utensils, obsidian flakes or other material byproducts from tool and utensil-making activities; and graves, human remains, and associated artifacts.

(b) Historic buildings and structures. Standing or above ground buildings and structures that are at least 50 years old. Historic buildings and structures include, but are not limited to, log cabins, barns, canals, flumes, pipelines, highways, and tunnels.

(c) Traditional cultural properties. Locations, buildings, structures, and objects that are associated with cultural beliefs, customs, or practices of a living community that are rooted in that community's history and are important in maintaining the continuing cultural identity of the community. Traditional cultural properties include, but are not limited to, a location associated with the traditional beliefs of a Native American group about its origins or its cultural history; a location where a community has traditionally carried out artistic or other cultural practices important in maintaining its historical identity; and a location where Native American religious practitioners have historically gone, and go today, to perform ceremonial activities. Objects may include petroglyphs, pictographs, rock cairns or other rock structures, trees, and rock outcrops.

(40) Cumulative effects: The combined effects of two or more activities. The effects may be related to the number of individual activities, or to the number of repeated activities on the same piece of ground. Cumulative effects can result from individually minor but collectively significant actions taking place over a period of time.

(41) Cut: An area where soil or earth is excavated or removed in conjunction with development activities.

(42) Dedicated site: An area actively devoted to the current use and as delineated on the site plan.

(43) Deer and elk winter range: Areas normally used, or capable of being used, by deer and elk from December through April.

(44) Destruction of wetlands: Loss of the wetlands or any of its component parts, including the filling, draining, or other adverse effect to the sustainable functioning of the wetland.

(45) Developed recreation: Recreational opportunities characterized by high density use on specific sites and requiring facilities installation. Density of use, amount of site development, and type of recreation site can vary widely across the spectrum of recreation activities.

(46) Developed road prism (SMA): The area of the ground associated with a particular road and containing the road surface, ditch, shoulder, retaining walls, or other developed features. Does not include the natural appearing portions of cut and fill slopes.

(47) Development: Any land division or structure, including but not limited to new construction of buildings and structures, and mining, dredging, filling, grading, paving, and excavation.

(48) Diameter at breast height (dbh): The diameter of a tree as measured at breast height.

(49) Duplex: A building containing two dwelling units and designed for occupancy by two families.

(50) Dwelling, single family: A detached building containing one dwelling unit and designed for occupancy by one family only.

ADMINISTRATIVE RULES

(51) Dwelling unit: A single unit designed for occupancy by one family and having not more than one cooking area or kitchen.

(52) Earth materials: Any rock, natural soil or any combination thereof. Earth materials do not include non-earth or processed materials, including, but not limited to, construction debris (e.g., concrete, asphalt, wood), organic waste (e.g., cull fruit, food waste) and industrial byproducts (e.g., slag, wood waste).

(53) Effect on treaty rights: To bring about a change in, to influence, to modify, or to have a consequence to Indian treaty or treaty-related rights in the Treaties of 1855 with the Nez Perce, Umatilla, Warm Springs and Yakima tribes executed between the individual Indian tribes and the Congress of the United States and as adjudicated by the Federal courts.

(54) Emergency/disaster: A sudden unexpected occurrence, either the result of human or natural forces, necessitating immediate action to prevent or mitigate significant loss or damage to life, health, property, essential public services, or the environment.

(55) Emergency/disaster response: Actions involving any development (such as new structures, grading, or excavation) or vegetation removal that must be taken immediately in response to an emergency/disaster event (as defined above). Emergency/disaster response actions not involving any structural development or ground-disturbance (such as use of emergency transport vehicles, communications activities or traffic control measures) are not included in this definition and are not affected by these provisions.

(56) Endemic: Plant and animal species that are found only in the vicinity of the Columbia River Gorge area.

(57) Enhancement (natural resources): A human activity that increases one or more functions of an existing wetland, stream, lake, riparian area, or other sensitive area. Enhancement is generally limited to a wetland, stream, lake, riparian area, or other sensitive area that is degraded. Enhancing an area that is in good or excellent condition may reduce biological diversity and eliminate other natural functions and may not be desirable.

(58) Ephemeral streams (SMA): streams that contain flowing water only during, and for a short duration after, precipitation events.

(59) Ethnography: The descriptive and analytic study of the culture of particular groups. An ethnographer seeks to understand a group through interviews with its members and often through living in and observing it.

(60) Existing use or structure: Any use or structure that was legally established. "Legally established" means: (1) the landowner or developer obtained applicable land use and building permits and complied with land use regulations and other laws that were in effect at the time the use or structure was established, or that were in effect at the time the landowner or developer corrected an improperly established use or structure; (2) the use or structure was initially operated or constructed according to those applicable permits, land use regulations and other laws, or has been operated or constructed according to permits obtained to correct an improperly established use or structure; and (3) any changes to the original use or structure must comply with all applicable permit requirements, land use regulations and other laws that were in effect at the time the change was established.

(61) Exploration, development (extraction and excavation), and production of mineral resources: Includes all or any part of the process of surface, underground, or submerged mining of mineral resources. Minerals include soil, coal, clay, stone, sand, gravel, metallic ore, oil and gases and any other material or substance excavated for commercial, industrial or construction use. For the Management Plan, this definition includes all exploration and mining, regardless of area disturbed or volume mined. Production of mineral resources means the use of portable crushing, onsite stockpiling, washing, milling, screening, or sorting equipment or other similar methods of initial treatment of a mineral resource to transport to another site for use or further processing. Secondary processing such as concrete or asphalt batch plants are considered industrial uses.

(62) Fill: The placement, deposition, or stockpiling of sand, sediment, or other earth materials to create new uplands or create an elevation above the existing surface.

(63) Finished grade: The final elevation of the ground level of a property after construction is completed.

(64) Fire break: A break in ground cover fuels, adjacent to and surrounding buildings.

(65) Footprint: The area that falls directly beneath and shares the same perimeter as a structure.

(66) Forbs: Broad leaved herbs, in contrast to ferns, fern allies, and grasses and grasslike plants.

(67) Foreground (SMA): One half mile on either side of a traveled road or trail.

(68) Forest health (SMA): A measure of the robustness of forest ecosystems. Forests are deemed healthy when they have capacity across the landscape for renewal, for the maintenance of wildlife habitats, for recovery from a wide range of disturbances, and for retention of their resilience.

(69) Forest practice (SMA): Any activity conducted on or directly pertaining to forested land and relating to forest ecosystem management including but not limited to growing, thinning, or removing live or dead forest tree or shrub species, road and trail construction, reforestation, fertilizing, brush control, prevention of wildfire, and suppression of diseases and insects. The removal of hazardous trees is excluded. Uses that include establishment, management or harvest of Christmas trees, nursery stock, or fiber producing tree species requiring intensive cultivation (irrigation, fertilization, etc.) and a harvest rotation of 12 years or less are considered agricultural uses.

(70) Forest practice (GMA): Those activities related to the growing and harvesting of forest tree species, as defined by the Oregon Forest Practices Act or the Washington Forest Practices Act.

(71) Forest products: Commodities produced from a forest, including, but not limited to, timber products, boughs, mushrooms, pine cones, and huckleberries.

(72) Forest stand structure (SMA): The number, types and spacing of tree species, tree sizes, and canopy layers contained in a stand of trees.

(73) Forest use: The growing, propagation, and harvesting of forest tree species and other forest products.

(74) Fully screened: A description of the relative visibility of a structure where that structure is not visible as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan).

(75) Grade (ground level): The average elevation of the finished ground elevation as defined by the Uniform Building Code.

(76) Grading: Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

(77) Hazard tree (SMA): A tree with a structural defect that will predictably result in whole or partial failure within 1.5 tree lengths of a road or maintained development. A defective tree is hazardous only when its failure could result in danger to people or damage to structures, vehicles, or other property.

(78) Height of building: The greatest vertical distance between the point of lowest finished grade adjoining any exterior wall of a building and the highest point of the roof, such as the highest coping or parapet of a flat roof, the highest deck line of a mansard roof, or the highest ridge of a hip, gable, gambrel, shed or other pitched roof.

(79) Herbaceous: A plant with no persistent woody stem above the ground, with characteristics of an herb.

(80) Herbs: Nonwoody (herbaceous) plants, including grasses and grasslike plants, forbs, ferns, fern allies, and nonwoody vines. (Note: Seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)

(81) Historic buildings and structures: See cultural resource.

(82) Historic survey: Actions that document the form, style, integrity, and physical condition of historic buildings and structures. Historic surveys may include archival research, architectural drawings, and photographs.

(83) Horses, boarding of (GMA): The stabling, feeding, and grooming, or the use of stalls for and the care of horses not belonging to the owner of the property, and related facilities, such as training arenas, corrals, and exercise tracks. These facilities are either operated for a fee or by a non-profit organization.

(84) Hydric soil: A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

(85) In lieu sites: Sites acquired by the Army Corps of Engineers and transferred to the Bureau of Indian Affairs for treaty fishing, in lieu of those usual and accustomed fishing areas lost by inundation from reservoir construction. These sites were acquired under the provisions of Public Law 14 and Public Law 100 581, Section 401. Additional in lieu sites will be provided for.

(86) Indian tribal government: The governing bodies of the Nez Perce Tribe (Nez Perce Tribal Executive Committee), the Confederated Tribes of the Umatilla Indian Reservation (Board of Trustees), the Confederated Tribes of the Warm Springs Reservation of Oregon (Tribal Council), and the Confederated Tribes and Bands of the Yakama Indian Nation (Tribal Council).

(87) Indian tribes: The Nez Perce Tribe, the Confederated Tribes and Bands of the Yakama Indian Nation, the Confederated Tribes of the Warm

ADMINISTRATIVE RULES

Springs Reservation of Oregon, and the Confederated Tribes of the Umatilla Indian Reservation.

(88) Industrial uses: Any use of land or water primarily involved in:

(a) Assembly or manufacture of goods or products,

(b) Processing or reprocessing of raw materials, processing of recyclable materials or agricultural products not produced within a constituent farm unit,

(c) Storage or warehousing, handling or distribution of manufactured goods or products, raw materials, agricultural products, forest products, or recyclable materials for purposes other than retail sale and service, or

(d) Production of electric power for commercial purposes.

(89) Interpretive displays: Signs and structures that provide for the convenience, education, and enjoyment of visitors, helping visitors understand and appreciate natural and cultural resources and their relationship to them.

(90) Key components: The attributes that are essential to maintain the long term use and productivity of a wildlife site. The key components vary by species and wildlife site. Examples include fledgling and perching trees, watering sites, and foraging habitat.

(91) Key viewing areas: Those portions of important public roads, parks, or other vantage points within the Scenic Area from which the public views Scenic Area landscapes. These include:

(a) Historic Columbia River Highway;

(b) Crown Point;

(c) Highway I 84, including rest stops;

(d) Multnomah Falls;

(e) Washington State Route 14;

(f) Beacon Rock;

(g) Panorama Point Park;

(h) Cape Horn;

(i) Dog Mountain Trail;

(j) Cook Underwood Road;

(k) Rowena Plateau and Nature Conservancy Viewpoint;

(l) Portland Women's Forum State Park;

(m) Bridal Veil State Park;

(n) Larch Mountain;

(o) Rooster Rock State Park;

(p) Bonneville Dam Visitor Centers;

(q) Columbia River;

(r) Washington State Route 141;

(s) Washington State Route 142;

(t) Oregon Highway 35;

(u) Sandy River;

(v) Pacific Crest Trail;

(w) SMA only:

(x) Old Washington State Route 14 (County Road 1230);

(y) Wyeth Bench Road;

(z) Larch Mountain Road;

(aa) Sherrard Point on Larch Mountain.

(92) Land division: The division or redivision of contiguous land(s) into tracts, parcels, sites or divisions, regardless of the proposed parcel or tract size or use. A land division includes, but is not limited to, short subdivisions, partitions, and subdivisions.

(93) Landscape setting: The combination of land use, landform, and vegetation patterns that distinguish an area in appearance and character from other portions of the Scenic Area.

(94) Livestock feedlot: Stockyards and commercial livestock finishing yards for cattle, sheep, swine, and fur bearers. Feedlots do not include winter pasture or winter hay feeding grounds.

(95) Lot line adjustment: Relocation of one or more common boundary lines between two contiguous parcels that does not create additional parcels.

(96) Maintenance: Ordinary upkeep or preservation of a serviceable structure affected by wear or natural elements. Maintenance does not change the original size, scope, configuration or design of a structure. Maintenance includes, but is not limited to, painting and refinishing, regrouting masonry, patching roofs, grading gravel roads and road shoulders, cleaning and armoring ditches and culverts, filling potholes, controlling vegetation within rights-of-way, removing trees and other roadside hazards within rights-of-way, and testing and treating utility poles.

(97) Mitigation: The use of any or all of the following actions:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(98) Mosaic (SMA): The dispersal of overstory and understory leave trees in irregularly spaced clumps of varying sizes throughout an irregularly shaped created forest opening.

(99) Multifamily dwelling: A dwelling constructed or modified into two or more single family units.

(100) Native species: Species that naturally inhabit an area.

(101) Natural grade: The undisturbed elevation of the ground level of a property before any excavation or construction operations.

(102) Natural Resources: Wetlands, streams, ponds and lakes, riparian areas, wildlife and wildlife habitat, rare plants, and natural areas.

(103) Natural resource specialist: A person with professional qualifications, including an academic degree or sufficient professional experience, in the subject matter the specialist is being asked to analyze or evaluate.

(104) Natural resource based recreation (SMA): Recreation activities, uses, or facilities that essentially depend on the unique natural, scenic, or cultural resources found within the Scenic Area. Campgrounds, trails, boating and windsurfing facilities, swimming beaches, picnic sites, viewpoints, interpretive parks, and similar outdoor recreation facilities are considered resource based; golf courses, tennis courts, and rental cabins are not.

(105) Nonprofit organization: An organization whose nonprofit status has been approved by the U.S. Internal Revenue Service.

(106) Not visually evident (SMA): A visual quality standard that provides for development or uses that are not visually noticeable to the casual visitor. Developments or uses shall only repeat form, line, color, and texture that are frequently found in the natural landscape, while changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not be noticeable.

(107) Old growth (SMA): A forest stand usually at least 180-220 years old with moderate to high canopy closure; a multi-layered, multi-species canopy dominated by large overstory trees; high incidence of large trees, some with broken tops and other indications of old and decaying wood (decadence); numerous large snags, and heavy accumulations of wood, including large logs on the ground.

(108) Operational (SMA): For new agricultural use, an agricultural use shall be deemed operational when the improvements and investments described in the Stewardship Plan are in place on the parcel.

(109) Ordinary high water mark: The mark on all streams, ponds, and lakes that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a vegetative character distinct from that of the abutting upland. In any area where the ordinary high water mark cannot be found, the line of mean high water shall substitute.

(110) Other related major structure (SMA): A structure related to a dwelling on a parcel in the SMA that is less than 40 acres in size, which is not incidental and subordinate to the main use of the property. A building or structure that satisfies the definition of "accessory building" is not an "other related major structure" or a "major development action."

(111) Overstory (SMA): For forest practices, the tall or mature trees that rise above the shorter or immature understory trees.

(112) Parcel:

(a) Any unit of land legally created by a short division, partition, or subdivision that was legally recognized under all state laws and local ordinances in effect on November 17, 1986. A unit of land that is eligible for consolidation as provided in the Management Plan shall not be considered a parcel.

(b) Any unit of land legally created and separately described by deed, sales contract, or record of survey prior to November 17, 1986, if the unit of land complied with all planning, zoning, and land division ordinances or regulations applicable at the time of creation and up through November 16, 1986.

(c) A unit of land legally created and separately described by deed or sales contract after November 17, 1986 if the unit was approved under the Final Interim Guidelines or a land use ordinance consistent with the Management Plan, or by the Forest Service Office prior to the Final Interim Guidelines.

(d) A unit of land shall not be considered a separate parcel simply because the subject tract of land:

(A) Is a unit of land solely created to establish a separate tax account;

(B) Lies in different counties;

(C) Lies in different sections or government lots;

ADMINISTRATIVE RULES

(D) Lies in different land use or zoning designations; or

(E) Is dissected by a public or private road.

(113) Practicable: Able to be done, considering technology and cost.

(114) Preexisting: Existing prior to the adoption of the Columbia River Gorge National Scenic Area Management Plan.

(115) Previously disturbed: An area of land where the natural surface has been graded, excavated, paved and/or graveled.

(116) Project area: The geographic area or areas within which new development and uses may cause changes in the character or use of cultural resources, if any such resources exist.

(117) Public use facility: Recreation development(s) that meet the definition of "recreation

facility" in the Management Plan and are open for use by the general public. Private clubs and other facilities limited to members or otherwise restricted in availability shall not be considered public use facilities.

(118) Rare plant species: Used in a generic sense to refer to various categories of sensitive plants cited in federal and state programs.

(119) Recreation facility: A cluster or grouping of recreational developments or improvements located in relatively close proximity to one another, and that are not separated in distance by more than 1/4 mile of land that does not contain any such developments or improvements, except for roads and/or pathways.

(120) Reconnaissance survey: Actions conducted to determine if archaeological resources are present in an area that would be affected by a proposed use. Reconnaissance surveys may include archival research, surface surveys, subsurface testing, and ethnographic research.

(121) Recreation opportunity spectrum (ROS): A means of classifying areas in relation to the types of recreation opportunities and experiences they provide or are appropriate for. The spectrum ranges from primitive (wilderness areas) to urban (highly modified areas).

(a) Primitive: Remote, inaccessible areas with a high degree of solitude and with resources essentially unmodified.

(b) Semiprimitive: Areas accessible only by primitive transportation routes, with low to moderately infrequent human encounters and with only subtle modifications to the natural setting.

(c) Roaded Natural: Roaded areas with moderately frequent human encounters and with resource modifications evident.

(d) Rural: Roaded areas with moderate to highly frequent human encounters and with the natural setting dominated by cultural modifications.

(e) Suburban: Areas representing the rural-urban interface, with urban-like roads, structures, highly frequent human encounters, and dominant resource modifications encroaching into the rural landscape.

(f) Urban: Highly accessible, roaded areas dominated by human encounters and human-related structures.

(122) Recreation resources: Areas and facilities that provide recreation opportunities and experiences. Recreation resources include semi-primitive areas with few facilities and developed sites.

(123) Regularly maintained: An area of land that has been previously disturbed and where periodic actions have been taken to (1) keep the area clear of vegetation (e.g., shoulders, utility yards), (2) limit the height and type of vegetation (e.g., utility rights-of-way), and/or (3) establish and retain non-native vegetation (e.g., landscaped medians, rest area grounds).

(124) Rehabilitation (natural resources): A human activity that returns a wetland, stream, buffer zone, or other sensitive area that was disturbed during construction of a permitted use to its natural or preconstruction condition.

(125) Remnant old forest (SMA): Large trees in the overstory that are well into the mature growth state (older than 180 years).

(126) Repair: Replacement or reconstruction of a part of a serviceable structure after damage, decay or wear. A repair returns a structure to its original and previously authorized and undamaged condition. It does not change the original size, scope, configuration or design of a structure, nor does it excavate beyond the depth of the original structure. Repair includes, but is not limited to, reroofing a building, replacing damaged guardrails, reconstructing a rotten deck or porch, replacing a broken window or door, replacing a utility pole and associated anchors, replacing a section of broken water or sewer line, replacing a damaged or defective utility line, reconstructing a portion of a building damaged by fire or a natural event, and replacing railroad ties or rails.

(127) Resource based recreation: Those recreation uses that are essentially dependent upon the natural, scenic, or cultural resources of the Scenic Area and that do not adversely affect those resources upon which they depend.

(128) Restoration (wetlands): A human activity that converts an area that was formerly a wetland back into a wetland. This definition presumes that the area to be restored no longer qualifies as a wetland because of past activities, alterations, or catastrophic events.

(129) Review uses: Proposed uses and developments that must be reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they comply with the policies and guidelines in the Management Plan.

(130) Riparian area: The area immediately adjacent to streams, ponds, lakes, and wetlands that directly contributes to the water quality and habitat components of the water body. This may include areas that have high water tables and soils and vegetation that exhibit characteristics of wetness, as well as upland areas immediately adjacent to the water body that directly contribute shade, nutrients, cover, or debris, or that directly enhance water quality within the water body.

(131) Road: The entire right of way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. "Road" includes, but is not limited to:

(a) Ways described as streets, highways, throughways, or alleys.

(b) Road related structures that are in the right of way, such as tunnels, culverts, or similar structures.

(c) Structures that provide for continuity of the right of way, such as bridges.

(132) Scenic Area: The Columbia River Gorge National Scenic Area.

(133) Scenic travel corridor: Those portions of Interstate 84, the Historic Columbia River Highway, Oregon Highway 35, and Washington State Routes 14, 141, and 142 located in the Scenic Area and specifically designated to be managed as scenic and recreational travel routes.

(134) Secretary: The Secretary of Agriculture.

(135) Sensitive plant species: Plant species that are (1) endemic to the Columbia River Gorge and vicinity, (2) listed as endangered or threatened pursuant to federal or state endangered species acts, or (3) listed as endangered, threatened or sensitive by the Oregon or Washington Natural Heritage Program. In the SMA, sensitive plant species also include plant species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

(136) Sensitive wildlife species: Animal species that are (1) listed as endangered or threatened pursuant to federal or state endangered species acts, (2) listed as endangered, threatened, sensitive, or candidate by the Washington Wildlife Commission, (3) listed as sensitive by the Oregon Fish and Wildlife Commission, or (4) considered to be of special interest to the public, limited to great blue heron, osprey, mountain goat, golden eagle, and prairie falcon. In the SMA, sensitive wildlife species also include animal species recognized by the Regional Forester as needing special management to prevent them from being placed on federal or state endangered species lists.

(137) Service station: A business operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

(138) Serviceable: Presently useable.

(139) Shall: Action is mandatory.

(140) Should: Action is encouraged.

(141) Shrub: A woody plant usually greater than 3 feet but less than 20 feet tall that generally exhibits several erect, spreading, or prostrate stems and has a bushy appearance. (Note: For the Management Plan, seedlings of woody plants that are less than 3 feet tall shall be considered part of the herbaceous layer.)

(142) Sign: Any placard, poster, billboard, advertising structure or inscribed surface, pattern or artificial lighting, pictorial or symbolic ornament, emblematic structure, banner, fluttering apparatus, statue, model, ornamental figure, or other visually communicative or expressive device that is visible from an out of doors position and is used to advertise or call the public's attention to any public, business, commercial, industrial, recreational or any other activity, object for sale or lease, person or place, or to bear any kind of message. It includes any surface on which a name, text, device, signal, ornament, logotype, or advertising matters is made visible. The meaning of "sign" shall also include any sign currently in disuse, but still visible from an out of doors position, and any frame or support structure erected specifically to bear or uphold a sign.

(143) Significant cultural resource (SMA): A cultural resource that is included in, or eligible for inclusion in, the National Register of Historic Places. (The criteria for evaluating the eligibility of properties for the National Register of Historic Places appear in "National Register Criteria for Evaluation" [36 CFR 60].)

ADMINISTRATIVE RULES

(144) Skyline: The line that represents the place at which a landform, such as a cliff, bluff or ridge, meets the sky, as viewed from a specified vantage point (generally a key viewing area, for the purpose of the Management Plan). In areas with thick, unbroken tree cover, the skyline is generally formed by the top of the vegetative canopy. In treeless areas or areas with more open tree cover, the skyline is generally formed by the surface of the ground.

(145) Soil capability class: A classification system developed by the U.S. Department of Agriculture, Natural Resources Conservation Service to group soils as to their capability for agricultural use.

(146) Special habitat area: Wetlands, mudflats, shallow water, and riparian vegetation that have high values for waterfowl, shorebirds, raptors, songbirds, upland game, and reptiles.

(147) Special streams: Streams that are primary water supplies for fish hatcheries and rearing ponds.

(148) Stand: A group of trees possessing uniformity in regard to type, age, vigor, or size.

(149) Story: A single floor level of a structure, as defined by the Uniform Building Code.

(150) Streams: Areas where surface water produces a defined channel or bed, including bedrock channels, gravel beds, sand and silt beds, springs and defined channel swales. The channel or bed does not have to contain water year round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff structures, or other artificial watercourses unless they are used to convey streams naturally occurring prior to construction of such watercourses. For the Management Plan, streams are categorized into two classes: perennial streams and intermittent streams. Perennial stream means a stream that flows year round during years of normal precipitation. Intermittent stream means a stream that flows only part of the year, or seasonally, during years of normal precipitation.

(151) Structure: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. This includes, but is not limited to, buildings, walls, fences, roads, parking lots, signs, and additions/alterations to structures.

(152) Submit: To deliver a document (e.g., land use application, written comment) to a reviewing agency's office by personal delivery, commercial delivery, mail, fax, or E-mail. When a document must be submitted within a specified period, it must arrive at the reviewing agency's office by the close of business on the last day of the specified period.

(153) Subsurface testing: Any procedure that removes material from beneath the ground surface for the purpose of identifying cultural resources, such as shovel tests, posthole digger tests, and auger borings.

(154) Suitability: The appropriateness of land for production of agricultural or forest products or for recreation, considering its capability for production; surrounding uses and features associated with development; compatibility with scenic, cultural, natural and recreation resources; compatibility among uses; and other cultural factors, such as roads, powerlines, dwellings, and size of ownership.

(155) Thinning (SMA): A forest practice intended to create favorable conditions for the continued growth of trees within an existing stand of trees. A thinning becomes a forest opening in coniferous forests when the average canopy closure of the overstory layer is zero or less than 40 percent and the understory layer is less than 60 percent average canopy closure of trees averaging less than 5 inches diameter at breast height. A thinning becomes a forest opening in oak woodlands when the total average canopy closure is less than 25 percent.

(156) Total canopy closure (SMA): For forest practices, the percentage measuring the degree to which all layers of the tree canopy combine together to block sunlight or obscure the sky as measured from below.

(157) Travelers accommodations: Any establishment having rooms rented or kept for rent on a daily or weekly basis to travelers or transients for a charge or fee paid or to be paid for rental use or use of facilities.

(158) Treatment (SMA): For forest practices, a site-specific operation that carries out the forest management objectives for an area.

(159) Treaty rights or other rights: Rights reserved by the Indian tribes through the Treaties of 1855. These include the right of fishing at all usual and accustomed places, as well as the privilege of pasturing livestock and hunting and gathering on open and unclaimed lands in common with the citizens of the states.

(160) Tributary fish habitat: Streams that are used by anadromous or resident fish for spawning, rearing and/or migration.

(161) Understory (SMA): For forest practices, the shorter or immature trees below the tall or mature overstory trees.

(162) Undertaking: Any project, activity, program or development or change in land use that can result in changes in the character or use of a cultural resource, if any such cultural resources are located in the area of potential effects. For federal undertakings, the project, activity, or program must be under the direct or indirect jurisdiction of a federal agency or licensed or assisted by a federal agency. Undertakings include new and continuing projects, activities, or programs and any of their elements [36 CFR 800.16(y)].

(163) Unimproved lands: Lands that generally do not have developments such as buildings or structures.

(164) Upland: Any area that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils, and/or hydrologic characteristics associated with wetlands.

(165) Uses allowed outright: New uses and developments that may occur without being reviewed by a county planning department, the Gorge Commission, or the Forest Service to determine if they are consistent with the Management Plan.

(166) Utility facility: Any structure that provides for the transmission or distribution of water, sewer, fuel, electricity, or communications.

(167) Vested right: The right to develop or continue to develop a use, development or structure that was reviewed and approved pursuant to this Management Plan.

(168) Viewshed: A landscape unit seen from a key viewing area.

(169) Visual quality objective (VQO): A set of visual management goals established by the Forest Service to achieve a desired visual objective. These objectives include retention (not visually evident) and partial retention (visually subordinate), and others in the Mt. Hood and Gifford Pinchot National Forest Plans.

(170) Visually subordinate: A description of the relative visibility of a structure or use where that structure or use does not noticeably contrast with the surrounding landscape, as viewed from a specified vantage point (generally a key viewing area, for the Management Plan). As opposed to structures that are fully screened, structures that are visually subordinate may be partially visible. They are not visually dominant in relation to their surroundings. Visually subordinate forest practices in the SMA shall repeat form, line, color, or texture common to the natural landscape, while changes in their qualities of size, amount, intensity, direction, pattern, etc., shall not dominate the natural landscape setting.

(171) Water dependent: Uses that absolutely require, and cannot exist without, access or proximity to, or siting within, a water body to fulfill their basic purpose. Water dependent uses include, but are not limited to, docks, wharfs, piers, dolphins, certain fish and wildlife structures, boat launch facilities, and marinas. Dwellings, parking lots, spoil and dump sites, roads, restaurants, trails and paths, trailer parks, resorts, and motels are not water dependent.

(172) Water related: Uses not directly dependent upon access to a water body, but whose presence facilitates public access to and enjoyment of a water body. In the GMA, water related uses shall be limited to boardwalks, trails and paths, observation decks, and interpretative aids, such as kiosks and signs.

(173) Wetlands: Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. This does not include riparian areas, rivers, streams, and lakes.

(174) Wetlands functions: The beneficial roles that wetlands serve, including storage, conveyance, and attenuation of floodwaters and stormwaters; groundwater recharge and discharge; protection of water quality and reduction of sediment and erosion; production of waterfowl, game and nongame birds, mammals, and other living resources; protection of habitat for endangered, threatened, and sensitive species; food chain support for a broad range of wildlife and fisheries; educational, historical, and archaeological value protection; and scenic, aesthetic, and recreational amenities.

(175) Winery: An agricultural facility used for processing grapes into wine, including laboratories, processing areas, offices, and storage areas. A winery is distinct from a wine sales/tasting room; each of these uses must be explicitly reviewed and approved.

(176) Wine sales/tasting room: A facility that is accessory to a winery and used for tasting and retail sales of wine, including interior space (e.g., wine bar, sitting room) and exterior space (e.g., patio, veranda). A wine sales/tasting room shall not be used for preparing or serving meals or hosting weddings, receptions or other commercial events, unless allowed, reviewed and approved under the "Commercial Events" provisions in 350-

ADMINISTRATIVE RULES

81-108. A wine sales/tasting room is distinct from a winery; each of these uses must be explicitly reviewed and approved.

(177) Woody plant: A seed plant (gymnosperm or angiosperm) that develops persistent, hard, fibrous tissues.

Stat. Auth.: ORS 196.150, RCW 43.97.015 & 16 U.S.C. sec. 544c(b)

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08; CRGC 1-2011, f. 3-23-11, cert. ef. 5-1-11; CRGC 1-2012, f. 4-18-12, cert. ef. 6-1-12

350-081-0036

Acceptance of Application

Within 14 days of the receipt of an application, the Executive Director shall review the application for completeness and if complete, shall accept the application for review.

(1) No application shall be accepted until all documented omissions and deficiencies have been corrected by the applicant. The Executive Director shall notify the applicant of all omissions and deficiencies in writing within 14 days of receipt of the application. The Executive Director shall review supplemental application materials within 14 days after receipt of the materials to determine if the application is complete.

(2) No application for a proposed use, which is explicitly prohibited by this ordinance, shall be accepted.

(a) The application shall be returned to the applicant.

(b) A letter, signed by the Executive Director, stating that the proposed use is prohibited and citing the guideline which explicitly prohibits the proposed use, shall be sent to the applicant.

(c) Issuance of this letter shall not prohibit the applicant from appealing the decision pursuant to 350-070.

Stat. Auth.: ORS 196.150, RCW 43.97.015 & 16 U.S.C. sec. 544c(b)

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 2-2011(Temp), f. & cert. ef. 6-16-11 thru 10-12-11; CRGC 3-2011(Temp), f. 10-5-11, cert. ef. 10-13-11 thru 2-9-12; Administrative correction, 2-24-12; CRGC 1-2012, f. 4-18-12, cert. ef. 6-1-12

350-081-0038

Notice of Development Review

(1) Within 7 days of the acceptance of an application, the Executive Director shall issue notice of a proposed development review. The notice shall provide the following information:

(a) The name of the applicant;

(b) The general and specific location of the subject property;

(c) A brief description of the proposed action;

(d) The deadline for issuing a decision; and

(e) The deadline for filing comments on the proposed action.

(2) The notice shall state that the application and supporting documents are available for inspection at the Commission office during normal working hours.

(4) The notice shall be mailed to:

(a) The Forest Service, the applicable state, the four Indian tribal governments, and the applicable county or city planning office; and

(b) Owners of property within a radius of the subject parcel(s) as determined by 350-81-630; and

(c) Other agencies and interested parties which request a notice or which the Executive Director determines should be notified.

(5) A copy of the notice shall be posted on the Commission's website.

Stat. Auth.: ORS 196.150, RCW 43.97.015 & 16 U.S.C. sec. 544c(b)

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2012, f. 4-18-12, cert. ef. 6-1-12

350-081-0042

Decision of the Executive Director

(1) In making a decision on a proposed use or development the Executive Director shall:

(a) Consult with the applicant and such agencies as the Executive Director deems appropriate;

(b) Consider information submitted by the applicant and all other relevant information available;

(c) Consider all comments submitted pursuant to Commission Rule 350-81-040; and

(d) Solicit and consider the comments of the Forest Service.

(2) The Executive Director shall approve a proposed use or development only if it is consistent with the standards of section 6 and the purposes of P.L. 99-663 and Commission Rule 350-81.

(a) In approving a proposed development action, the Executive Director may impose conditions as necessary to ensure consistency with the guidelines of Commission Rule 350-81.

(b) Conditions attached to approval of a proposed development action shall be recorded in county deeds and records to ensure notice of the con-

ditions to successors in interest. The Executive Director's decision shall include this requirement.

(3) The Executive Director shall issue a decision on a proposed use or development including findings of fact and conclusions of law and any conditions to ensure consistency with the standards of section 6 and the purposes of P.L. 99-663 and Commission Rule 350-81. As a goal, the Executive Director shall attempt to issue a decision within 72 days after acceptance of the application.

(4) The Executive Director shall send a copy of the decision to the applicant, the Forest Service, the applicable state, the four Indian tribal governments, the applicable county and/or city and each person who submitted comments under Commission Rule 350-81-040. The decision shall set forth the rights of appeal under Commission Rule 350-70.

(5) The decision of the Executive Director shall be final unless a Notice of Appeal is filed in accordance with Commission Rule 350-70. An applicant who chooses to proceed with an approved development during the appeal period shall assume all associated risks and liabilities.

(6) The 72-day time period in this rule is effective retroactively to all development review applications that have been submitted to the Commission and for which the Executive Director has not made a decision.

Stat. Auth.: ORS 196.150, RCW 43.97.015 & 16 U.S.C. sec. 544c(b)

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08; CRGC 2-2011(Temp), f. & cert. ef. 6-16-11 thru 10-12-11; CRGC 3-2011(Temp), f. 10-5-11, cert. ef. 10-13-11 thru 2-9-12; Administrative correction, 2-24-12; CRGC 1-2012, f. 4-18-12, cert. ef. 6-1-12

350-081-0054

Procedures for Expedited Review Process

(1) Applications

(a) Prior to initiating any use or development which requires review and approval by the Executive Director, an application shall be completed pursuant to 350-81-054.

(b) The Executive Director shall accept and review the application pursuant to 350-81-054 for consistency with the appropriate guidelines of this rule.

(c) The Commission may charge a fee for review of applications after a public hearing. The Gorge Commission shall set the fee.

(d) Standard application forms shall be available at the Commission Office, and shall be provided to county and city planning offices for which this ordinance is effective and the Forest Service.

(e) Applications for uses eligible for expedited review shall include the information required for review uses listed in 350-81-032(5). They shall also include elevation drawings if the proposed development would be visible from a key viewing area. The drawing shall show natural grade and finished grade.

(2) Acceptance of Application

(a) The Executive Director shall review the application for completeness, and if complete, shall accept the application for review.

(b) No application shall be accepted until all documented omissions and deficiencies have been corrected by the applicant. The Executive Director shall notify the applicant of all omissions and deficiencies in writing. The Executive Director shall review supplemental application materials to determine if the application is complete.

(c) As a goal, the Executive Director shall attempt to accept the application as complete or notify the applicant of omissions and deficiencies in writing within 14 days of receipt of the application. The Executive Director shall attempt to review supplemental application materials within 14 days of receipt of the materials.

(3) Notice of Development Review

(a) Within 7 days of the acceptance of an application, the Executive Director shall issue notice of a proposed development review. The notice shall provide the following information:

(A) The name of the applicant;

(B) The general and specific location of the subject property;

(C) A brief description of the proposed action;

(D) The deadline for issuing a decision; and

(E) The deadline for filing comments on the proposed action.

(b) The notice shall state that the application and supporting documents are available for inspection at the Commission office during normal working hours.

(d) The notice shall be mailed to the Forest Service, the four Indian tribal governments, applicable county or city planning office(s), and other agencies and interested parties that request a notice or that the Executive Director determines should be notified.

(e) A copy of the notice shall be posted on the Commission's website.

ADMINISTRATIVE RULES

(4) Comment Period: Any interested person or party shall submit written comments within 10 days from the date a notice is sent.

(5) Written Decision

(a) In making a decision on a proposed use or development the Executive Director shall:

(A) Consult with the applicant and such agencies as the Executive Director deems appropriate;

(B) Consider information submitted by the applicant and all other relevant information available;

(C) Consider all comments submitted pursuant to 350-81-054(4); and

(D) Solicit and consider the comments of the Forest Service.

(b) The Executive Director shall approve a proposed use or development only if it is consistent with the standards of section 6 and the purposes of P.L. 99-663 and Commission Rule 350-81.

(A) In approving a proposed development action, the Executive Director may impose conditions as necessary to ensure consistency with the guidelines of Commission Rule 350-81.

(B) Conditions attached to approval of a proposed development action shall be recorded in county deeds and records to ensure notice of the conditions to successors in interest. The Executive Director's decision shall include this requirement.

(c) The Executive Director shall issue a decision on a proposed use or development including findings of fact and conclusions of law and any conditions to ensure consistency with the standards of section 6 and the purposes of P.L. 99-663 and Commission Rule 350-81. As a goal, the Executive Director shall attempt to issue a decision within 30 days after acceptance of the application.

(d) The decision of the Executive Director shall be final unless a Notice of Appeal is filed in accordance with Commission Rule 350-70. An applicant who chooses to proceed with an approved development during the appeal period shall assume all associated risks and liabilities.

(6) Notice of Decision and Opportunity to Appeal

(a) The Executive Director shall send a copy of a decision issued under the expedited review process to the four Indian tribal governments, the Forest Service, landowners within 200 feet of the perimeter of the subject parcel, and anyone who submitted comments pursuant to 350-81-054(4).

(b) Any person shall be allowed to appeal a decision issued under the expedited review process in accordance with Commission Rule 350-70.

(7) Expiration of Approvals. Approvals issued under the expedited review process shall expire in accordance with the standards for expiration of approvals for review uses (Commission Rule 350-81-044, above).

(8) Changes or Alterations to an Approved Action. Changes or alterations to an approval issued under the expedited review process shall be made in accordance with the standards for changes or alterations to approved actions for review uses (Commission Rule 350-81-046, above).

(9) The time periods in this rule are effective retroactively to all expedited review applications that have been submitted to the Commission and for which the Executive Director has not made a decision.

Stat. Auth.: ORS 196.150, RCW 43.97.015 & 16 U.S.C. sec. 544c(b)

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 2-2011(Temp), f. & cert. ef. 6-16-11 thru 10-12-11; CRGC 3-2011(Temp), f. 10-5-11, cert. ef. 10-13-11 thru 2-9-12;

Administrative correction, 2-24-12; CRGC 1-2012, f. 4-18-12, cert. ef. 6-1-12

350-081-0082

Existing Uses and Discontinued Uses

(1) Right to Continue Existing Uses and Structures

(a) Except as otherwise provided, any existing use or structure may continue as long as it is used in the same manner and for the same purpose.

(2) Replacement of Existing Structures Not Damaged or Destroyed by Disaster

(a) Except as provided in 350-81-082(3), an existing structure may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within one year of the date the use of the original structure was discontinued. The replacement structure shall comply with the following standards:

(A) The replacement structure shall be used in the same manner and for the same purpose as the original structure.

(B) The replacement structure may have a different size and/or location than the original structure. An existing mobile home may be replaced with a framed residence and an existing framed residence may be replaced with a mobile home.

(C) The replacement structure shall be subject to the scenic, cultural, recreation and natural resources guidelines; the treaty rights guidelines; and the land use designations guidelines involving agricultural buffer zones,

approval criteria for fire protection, and approval criteria for siting of dwellings on forest land.

(D) The original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the one year time frame.

(3) Replacement of Existing Structures Damaged or Destroyed by Disaster

(a) An existing structure damaged or destroyed by fire, flood, landslide or other similar disaster may be replaced if a complete land use application for a replacement structure is submitted to the reviewing agency within two years of the date the original structure was damaged or destroyed. The replacement structure shall comply with the following standards:

(A) The replacement structure shall be used in the same manner and for the same purpose as the original structure. An existing mobile home may be replaced with a framed residence.

(B) The replacement structure shall be in the same location as the original structure. An exception may be granted and the replacement structure may be sited in a different location if the following conditions exist:

(i) A registered civil engineer, registered geologist, or other qualified and licensed professional hired by the applicant demonstrates the disaster made the original building site physically unsuitable for reconstruction.

(ii) The new building site is no more visible from key viewing areas than the original building site. An exception may be granted if a registered civil engineer, registered geologist, or other qualified and licensed professional hired by the applicant demonstrates the subject parcel lacks alternative building sites physically suitable for construction that are no more visible from key viewing areas than the original building site.

(iii) The new building site complies with the cultural resources, natural resources, and treaty rights protection guidelines.

(C) The replacement structure shall be the same size and height as the original structure, provided:

(i) The footprint of the replacement structure may be up to 10 percent larger than the footprint of the original structure.

(ii) The walls of the replacement structure shall be the same height as the walls of the original structure unless a minor increase is required to comply with standards in the current jurisdictional building code.

(D) The replacement structure shall only be subject to the following scenic resources standards:

(i) The replacement structure shall comply with the scenic resources guidelines regarding color and reflectivity. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate or not visually evident) to the maximum extent practicable.

(ii) Decks, verandas, balconies and other open portions of the original structure shall not be rebuilt as enclosed (walls and roof) portions of the replacement structure.

(iii) In the General Management Area, the replacement structure shall comply with the scenic resources guidelines regarding landscaping. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate) to the maximum extent practicable, provided:

(I) Except as provided in 350-81-082(3)(a)(D)(iii)(II), the percent of the replacement structure screened by vegetation as seen from key viewing areas shall not exceed the percent of the original structure that was screened by vegetation as seen from key viewing areas. Coniferous vegetation shall be replaced with coniferous vegetation and deciduous vegetation shall be replaced with deciduous vegetation unless the applicant chooses to use all coniferous vegetation.

(II) In situations where the original structure was approved under Scenic Area regulations (e.g., Final Interim Guidelines, land use ordinance), the percent of the replacement structure screened by vegetation shall comply with any conditions of approval that required a landowner to preserve existing vegetation and/or plant and maintain new vegetation to screen the original structure as seen from key viewing areas.

(III) To help determine how much vegetation may be required under 350-81-082(3)(a)(D)(iii)(I) and (II), land use applications shall include all available documentation (photographic or otherwise) on the amount and type of vegetation that screened the original structure from key viewing areas. At a minimum, development review decisions shall include findings that address the following:

(1) The percent of original structure facing each key viewing area that was screened by coniferous vegetation, for each key viewing area from which the structure was visible.

(2) The percent of original structure facing each key viewing area that was screened by deciduous vegetation, for each key viewing area from which the structure was visible.

ADMINISTRATIVE RULES

(3) Elevation drawings showing the replacement structure and the amount of coniferous and deciduous vegetation that would screen the structure from key viewing areas in 10 years.

(IV) The height of any new trees shall not be required to exceed 5 feet.

(V) The time frame for achieving visual subordination shall be 10 years or less from the commencement of construction.

(iv) In the Special Management Area, the replacement structure shall comply with the scenic resources guidelines regarding landscaping. These guidelines shall be applied to achieve the applicable scenic standard (visually subordinate or not visually evident) to the maximum extent practicable, provided:

(I) The Scenic Resources Implementation Handbook shall be utilized to determine approvable species and minimum approvable sizes of new trees planted (based on average growth rates expected for approvable species).

(II) The height of any new trees shall not be required to exceed 5 feet.

(III) The time frame for achieving the applicable scenic standard (visually subordinate or not visually evident) shall be 10 years.

(E) The replacement structure shall be subject to 350-81-082(2)(a)(A), (B), and (C) above if it would not comply with 350-81-082(3)(a)(B) and (C).

(F) The original structure shall be considered discontinued if a complete land use application for a replacement structure is not submitted within the two year time frame.

(4) Changes to Existing Uses and Structures

(a) Except as otherwise provided, any change to an existing use or modification to the exterior of an existing structure shall be subject to review and approval pursuant to Commission Rule 350-81.

(A) Conversion of Existing Industrial Uses in the GMA: In the GMA, existing industrial uses may convert to less intensive uses. For this section, a less intensive use is a commercial, recreation, or residential use with fewer adverse effects upon scenic, cultural, natural, and recreation resources.

(B) Existing Development or Production of Mineral Resources in the GMA: In the GMA, existing development or production of mineral resources may continue unless the Gorge Commission determines that the uses adversely affect the scenic, cultural, natural, or recreation resources of the Scenic Area. These uses will be considered discontinued and subject to land use ordinances under the Management Plan if any of the following conditions exist:

(i) The mined land has been reclaimed naturally or artificially to a point where it is revegetated to 50 percent of its original cover (considering both basal and canopy) or has reverted to another beneficial use, such as grazing. Mined land shall not include terrain that was merely leveled or cleared of vegetation.

(ii) The site has not maintained a required state permit.

(iii) The site has not operated legally within 5 years before October 15, 1991.

(C) Existing Development or Production of Mineral Resources in the SMA: Uses involving the exploration, development, or production of sand, gravel, or crushed rock in the SMA may continue if both of the following conditions exist:

(i) The sand, gravel, or crushed rock is used for construction or maintenance of roads used to manage or harvest forest products in the SMA.

(ii) A determination by the Forest Service finds that the use does not adversely affect the scenic, cultural, natural, or recreation resources.

(5) Discontinuance of Existing Uses and Structures

(a) Except as provided in 350-81-082(3)(a) and (3)(a)(F), any use or structure that is discontinued for one (1) year or more shall not be considered an existing use or structure. Proof of intent to abandon is not required to determine that an existing use or use of an existing structure has been discontinued.

(A) Multiple Uses: An existing use or structure with more than one legally established use may discontinue one of the uses without discontinuing the others.

(B) Change in Use: An existing use or structure shall become discontinued if the use or use of the structure changes.

(6) Discontinued Uses and Structures:

(a) Re-establishment or replacement of any use or structure that has been discontinued shall be subject to all applicable policies and guidelines in the Management Plan, including, but not limited to, guidelines for land use designations and scenic, cultural, recreation and natural resources.

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

Stat. Auth.: ORS 196.150, RCW 43.97.015 & 16 U.S.C. sec. 544c(b)

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08;

CRGC 1-2011, f. 3-23-11, cert. ef. 5-1-11; CRGC 1-2012, f. 4-18-12, cert. ef. 6-1-12

350-081-0190

Review Uses — Agricultural Land

(1) The following uses may be allowed on lands designated Large-Scale or Small Scale Agriculture subject to compliance with guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620):

(a) New cultivation, subject to compliance with guidelines for the protection of cultural resources (350-81-540) and natural resources (350-81-560 through 350-81-590).

(b) Agricultural structures, except buildings, in conjunction with agricultural use.

(c) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-81-090).

(d) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(e) and (f) below.

(e) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(f) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(C) The height of any individual accessory building shall not exceed 24 feet.

(g) The temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use Hardship Dwelling" (350-81-092).

(h) On lands designated Large Scale Agriculture, a single-family dwelling in conjunction with agricultural use, upon a demonstration that all of the following conditions exist:

(A) The subject farm or ranch (including all of its constituent parcels, contiguous or otherwise) has no other dwellings that are vacant or currently occupied by persons not directly engaged in farming or working on the subject farm or ranch and that could be used as the principal agricultural dwelling.

(B) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use where the day-to-day activities of one or more residents of the agricultural dwelling will be principally directed to the agricultural use of the land. The farm or ranch must currently satisfy subsection (h)(C)(iv) below.

(C) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following factors:

(i) Size of the entire farm or ranch, including all land in the same ownership.

(ii) Type(s) of agricultural uses (crops, livestock) and acreage.

(iii) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area.

(iv) Income capability. The farm or ranch, and all its constituent parcels, must be capable of producing at least \$40,000 in gross annual income. This determination can be made using the following formula:

(A)(B) (C) = I

where:

A = Average yield of the commodity per acre or unit of production

B = Average price of the commodity

C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch

I = Income capability

(i) On lands designated Large Scale Agriculture, a second single family dwelling in conjunction with agricultural use when the dwelling would replace an existing dwelling that is included in, or eligible for inclusion in, the National Register of Historic Places, in accordance with the criteria listed in 350-81-540(1)(e).

ADMINISTRATIVE RULES

(j) On lands designated Small Scale Agriculture, a single family dwelling on any legally existing parcel.

(k) On lands designated Large Scale Agriculture, a single-family dwelling for an agricultural operator's relative provided that all of the following conditions exist:

(A) The dwelling would be occupied by a relative of the agricultural operator or of the agricultural operator's spouse who will be actively engaged in the management of the farm or ranch. Relative means grandparent, grandchild, parent, child, brother or sister.

(B) The dwelling would be located on the same parcel as the dwelling of the principal operator.

(C) The operation is a commercial enterprise, as determined by an evaluation of the factors described in 350-81-190(1)(h)(C).

(l) Construction, reconstruction, or modifications of roads not in conjunction with agriculture.

(m) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(n) Structures associated with hunting and fishing operations.

(o) Towers and fire stations for forest fire protection.

(p) Agricultural labor housing, under the following conditions:

(A) The proposed housing is necessary and accessory to a current agricultural use.

(B) The housing shall be seasonal, unless it is shown that an additional full time dwelling is necessary to the current agricultural use of the subject farm or ranch unit. Seasonal use shall not exceed 9 months.

(C) The housing shall be located to minimize the conversion of lands capable of production of farm crops or livestock, and shall not force a significant change in or significantly increase the cost of accepted agricultural practices employed on nearby lands devoted to agricultural use.

(q) On lands designated Large Scale Agriculture, on a parcel that was legally created and existed prior to November 17, 1986, a single family dwelling not in conjunction with agricultural use upon a demonstration that all of the following conditions exist:

(A) The dwelling will not force a change in or increase the cost of accepted agricultural practices on surrounding lands.

(B) The subject parcel is predominantly unsuitable for the production of farm crops and livestock, considering soils, terrain, location, and size of the parcel. Size alone shall not be used to determine whether a parcel is unsuitable for agricultural use. An analysis of suitability shall include the capability of the subject parcel to be used in conjunction with other agricultural operations in the area.

(C) The dwelling shall be set back from any abutting parcel designated Large-Scale or Small Scale Agriculture, as required by 350-81-076, or designated Commercial Forest Land or Large or Small Woodland, as required in "Siting of Dwellings on Forest Land" (350-81-310).

(D) A declaration has been signed by the landowner and recorded into county deeds and records specifying that the owners, successors, heirs, and assigns of the subject property are aware that adjacent and nearby operators are entitled to carry on accepted agriculture or forest practices on lands designated Large-Scale or Small Scale Agriculture, Commercial Forest Land, Large or Small Woodland.

(E) All owners of land in areas designated Large-Scale or Small Scale Agriculture, Commercial Forest Land, or Large or Small Woodland that is within 500 feet of the perimeter of the subject parcel on which the dwelling is proposed to be located have been notified and given at least 10 days to comment prior to a decision.

(r) On parcels in Small Scale Agriculture, a land division creating parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in "Land Divisions and Cluster Development" (350-81-124). If the designated minimum parcel size is 20 acres, this provision will apply to parcels 40 acres in size or larger. Similarly, if the designated minimum parcel size is 40, 80, or 160 acres, this provision will apply to parcels 80 acres or larger, 160 acres or larger, or 320 acres or larger, respectively.

(s) Life estates, subject to the guidelines in "Approval Criteria for Life Estates," (350-81-210).

(t) Land divisions, subject to the minimum lot sizes designated on the Land Use Designation Map.

(u) Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (350-81-126).

(v) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(w) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

(x) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(y) Commercial events, subject to the guidelines in "Commercial Events" (350-81-108).

(z) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (350-81-114).

(2) The following uses may be allowed on lands designated SMA Agriculture subject to review for compliance with the scenic, cultural, natural, and recreation resource guidelines (350-81-520 through 350-81-620). The use or development shall be sited to minimize the loss of land suitable for the production of agricultural crops or livestock.

(a) New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to the additional requirements of 350-81-270(2)(x).

(b) Forest uses and practices, as allowed for in 350-81-270(2)(y).

(c) A single family dwelling necessary for and accessory to agricultural use upon a demonstration that all of the following conditions exist:

(A) The proposed dwelling would be the only dwelling on the subject farm or ranch, including contiguous lots/parcels.

(B) The farm or ranch upon which the dwelling will be located is currently devoted to agricultural use, where the day to-day activities of one or more residents of the dwelling will be principally directed to the agricultural use of the land. The farm or ranch must currently satisfy C(iv) below.

(C) The farm or ranch is a commercial agricultural enterprise as determined by an evaluation of the following criteria:

(i) Size of the entire farm or ranch, including all land in the same ownership.

(ii) Type(s) of agricultural uses (crops, livestock, orchard, etc.) and acreage.

(iii) Operational requirements for the particular agricultural use that are common to other agricultural operations in the area.

(iv) Income capability. The farm or ranch, and all its contiguous parcels, must be capable of producing at least \$40,000 in gross annual income. This determination can be made using the following formula, with periodic adjustments for inflation:

$(A)(B)(C) = I$

where:

A = Average yield of the commodity per acre or unit of production

B = Average price of the commodity

C = Total acres suitable for production, or total units of production that can be sustained, on the subject farm or ranch

I = Income capability

(D) Minimum parcel size of 40 contiguous acres.

(d) Farm labor housing on a parcel with an existing dwelling under the following conditions:

(A) The proposed housing is necessary and accessory to a current agricultural use, and the operation is a commercial agricultural enterprise as determined by 350-81-190(2)(c)(C).

(B) The housing shall be seasonal, unless it is shown that an additional full time dwelling is necessary for the current agricultural use. Seasonal use shall not exceed 9 months.

(C) The housing shall be located to minimize the conversion of lands capable of production of farm crops and livestock, and shall not force a significant change in or significantly increase the cost of accepted agricultural uses employed on nearby lands devoted to agricultural use.

(D) Minimum parcel size of 40 contiguous acres.

(e) Agricultural structures, except buildings, in conjunction with agricultural use.

(f) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-81-090).

(g) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in 2(h) or 2(i), below.

(h) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel less than or equal to 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

ADMINISTRATIVE RULES

(B) The height of any individual accessory building shall not exceed 24 feet.

(i) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel larger than 10 acres in size are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 2,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The footprint of any individual accessory building shall not exceed 1,500 square feet.

(C) The height of any individual accessory building shall not exceed 24 feet.

(j) Home occupations and cottage industries, subject to the guidelines in "Home Occupations and Cottage Industries" (350-81-098). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

(k) Bed and breakfast inns, subject to the guidelines in "Bed and Breakfast Inns" (350-81-100). The use or development shall be compatible with agricultural use. Buffer zones should be considered to protect agricultural practices from conflicting uses.

(l) Fruit stands and produce stands, upon a showing that sales will be limited to agricultural products raised on the property and other agriculture properties in the local region.

(m) Aquaculture.

(n) Exploration, development, and production of sand, gravel, and crushed rock for the construction, maintenance, or reconstruction of roads used to manage or harvest commercial forest products on lands within the SMA.

(o) Utility facilities necessary for public service, upon a showing that:

(A) There is no alternative location with less adverse effect on Agriculture lands.

(B) The size is the minimum necessary to provide the service.

(p) Temporary asphalt/batch plant operations related to public road projects, not to exceed 6 months.

(q) Community facilities and nonprofit facilities related to agricultural resource management.

(r) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(s) Expansion of existing nonprofit group camps, retreats, and conference or education centers for the successful operation on the dedicated site. Expansion beyond the dedicated site is prohibited.

(t) Public recreation, commercial recreation, interpretive, and educational developments and uses, consistent with the guidelines in 350-81-620.

(u) Road and railroad construction and reconstruction.

(v) Agricultural product processing and packaging, upon demonstration that the processing will be limited to products produced primarily on or adjacent to the property. "Primarily" means a clear majority of the product as measured by volume, weight, or value.

(w) On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use Hardship Dwelling" (350-81-092).

(x) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(y) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

(z) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(aa) Disposal sites managed and operated by the Oregon Department of Transportation, the Washington State Department of Transportation, or a Gorge county public works department for earth materials and any intermixed vegetation generated by routine or emergency/disaster public road maintenance activities within the Scenic Area, subject to compliance with the guidelines in "Disposal Sites for Spoil Materials from Public Road Maintenance Activities" (350-81-106).

Stat. Auth.: ORS 196.150, RCW 43.97.015 & 16 U.S.C. sec. 544c(b)

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 2-2006, f. 6-22-06, cert. ef. 8-1-06; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08; CRGC 1-2012, f. 4-18-12, cert. ef. 6-1-12

350-081-0370

Review Uses — Residential Land

(1) The following uses may be allowed on lands designated GMA-Residential, subject to compliance with the guidelines for the protection of scenic, cultural, natural, and recreation resources (350-81-520 through 350-81-620):

(a) One single family dwelling per legally created parcel. If the subject parcel is located adjacent to lands designated Large-Scale or Small Scale Agriculture, Commercial Forest Land, or Large or Small Woodland, the use shall comply with the buffer and notification requirements for agricultural land [350-81-076 and 350-81-190(1)(q)(E)], or forest land [(350-81-290(1)(a) and 350-81-310(1)(a))]. If the subject parcel is located within a Residential designation that is adjacent to lands designated Commercial Forest Land or Large or Small Woodland, the placement of a dwelling shall also comply with the fire protection guidelines in "Approval Criteria for Fire Protection" (350-81-300).

(b) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (1)(c) below.

(c) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(d) The temporary use of a mobile home in the case of a family hardship, subject to guidelines for hardship dwellings in "Temporary Use Hardship Dwelling" (350-81-092).

(e) Construction or reconstruction of roads.

(f) On parcels 10 acres or larger in the 5-acre Residential designation, or 20 acres or larger in the 10-acre Residential designation, a land division creating new parcels smaller than the designated minimum parcel size, subject to the guidelines for cluster development in "Land Divisions and Cluster Development" (350-81-124).

(g) New cultivation, subject to compliance with guidelines for the protection of cultural resources (350-81-540) and natural resources (350-81-560 through 590).

(h) Land divisions, subject to the minimum lot sizes designated on the Land Use Designation Map.

(i) Lot line adjustments that would result in the potential to create additional parcels through subsequent land divisions, subject to the guidelines in "Lot Line Adjustments" (350-81-126).

(j) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(k) Agricultural structures, except buildings, in conjunction with agricultural use.

(l) Agricultural buildings in conjunction with current agricultural use and, if applicable, proposed agricultural use that a landowner would initiate within one year and complete within five years, subject to the standards in "Agricultural Buildings" (350-81-090).

(m) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(n) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

(o) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(p) Commercial events, subject to the guidelines in "Commercial Events" (350-81-108).

(q) Special uses in historic buildings, subject to the guidelines in "Special Uses in Historic Buildings" (350-81-114).

(2) The following uses may be allowed on lands designated SMA-Residential subject to review for compliance with scenic, cultural, natural, and recreation resources guidelines (350-81-520 through 350-81-620):

(a) One single family dwelling per legally created lot or consolidated parcel not less than 40 contiguous acres. The placement of a dwelling shall comply with fire protection standards developed by the county, in accordance with Management Plan SMA Policy 13 in Part II, Chapter 2: Forest Land.

ADMINISTRATIVE RULES

(b) Accessory structures for an existing or approved dwelling that are not otherwise allowed outright, eligible for the expedited development review process, or allowed in (2)(c) below.

(c) Accessory building(s) larger than 200 square feet in area or taller than 10 feet in height for a dwelling on any legal parcel are subject to the following additional standards:

(A) The combined footprints of all accessory buildings on a single parcel shall not exceed 1,500 square feet in area. This combined size limit refers to all accessory buildings on a parcel, including buildings allowed without review, existing buildings and proposed buildings.

(B) The height of any individual accessory building shall not exceed 24 feet.

(d) New utility facilities.

(e) Fire stations.

(f) Home occupations and cottage industries subject to the guidelines in "Home Occupations and Cottage Industries" (350-81-098).

(g) Bed and breakfast inns, subject to the guidelines in "Bed and Breakfast Inns" (350-81-100).

(h) Community parks and playgrounds.

(i) Road and railroad construction and reconstruction.

(j) Forest practices, as specified in 350-81-270(2)(y).

(k) Resource enhancement projects for the purpose of enhancing scenic, cultural, recreation and/or natural resources, subject to the guidelines in "Resource Enhancement Projects" (350-81-104). These projects may include new structures (e.g., fish ladders, sediment barriers) and/or activities (e.g., closing and revegetating unused roads, recontouring abandoned quarries).

(l) On a parcel of 40 acres or greater with an existing dwelling, the temporary use of a mobile home in the case of a family hardship, subject to the guidelines for hardship dwellings in "Temporary Use Hardship Dwelling" (350-81-092).

(m) Additions to existing buildings greater than 200 square feet in area or greater than the height of the existing building.

(n) Removal/demolition of structures that are 50 or more years old, including wells, septic tanks and fuel tanks.

(o) Docks and boathouses, subject to the guidelines in "Docks and Boathouses" (350-81-096).

(p) New cultivation or new agricultural use outside of previously disturbed and regularly worked fields or areas. Clearing trees for new agricultural use is subject to the additional requirements of 350-81-270(2)(x).

Stat. Auth.: ORS 196.150, RCW 43.97.015 & 16 U.S.C. sec. 544c(b)

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 2-2006, f. 6-22-06, cert. ef. 8-1-06; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08; CRGC 1-2012, f. 4-18-12, cert. ef. 6-1-12

350-081-0550

Special Management Area Cultural Resource Review Criteria

(1) General Guidelines for Implementing the Cultural Resources Protection Process

(a) All cultural resource information shall remain confidential, according to Section 6(a)(1)(A) of the Scenic Area Act. Federal agency cultural resource information is also exempt by statute from the Freedom of Information Act under 16 USC 470aa and 36 CFR 296.18.

(b) All cultural resources surveys, evaluations, assessments, and mitigation plans shall be performed by professionals whose expertise reflects the type of cultural resources that are involved. Principal investigators shall meet the professional standards published in 36 CFR 61.

(c) The Forest Service will be responsible for performing the literature review and consultation, inventory, evaluations of significance, assessments of effect, and mitigation requirements in 350-81-550(4) for forest practices and National Forest System lands.

(d) New developments or land uses shall not adversely affect significant cultural resources.

(e) Determination of potential effects to significant cultural resources shall include consideration of cumulative effects of proposed developments that are subject to any of the following: 1) reconnaissance or historic survey; 2) a determination of significance; 3) an assessment of effect; or 4) a mitigation plan.

(2) The procedures and guidelines in 350-81-540 shall be used to review all proposed developments and land uses other than those on all federal lands, federally assisted projects and forest practices.

(3) The procedures and guidelines in 36 CFR 800 and 350-81-550(4) shall be used by the Executive Director and federal agencies to evaluate new developments or land uses on federal lands, federally assisted projects, and forest practices.

(4) The following procedures as well as the provisions in 36 CFR 800.4 for assessing potential effects to cultural resources and 36 CFR 800.5 for assessing adverse effects to cultural resources shall be used to assess potential effects to cultural resources.

(a) Literature Review and Consultation

(A) An assessment shall be made to determine if any cultural resources listed on the National Register of Historic Places at the national, state or county level exist on or within the area of potential direct and indirect impacts.

(B) A search shall be made of state and county government, National Scenic Area/Forest Service and any other pertinent inventories, such as archives and photographs, to identify cultural resources, including consultation with the State Historic Preservation Office and tribal governments. State and tribal government response to the consultation request shall be allowed for 30 days.

(C) Consultation with cultural resource professionals knowledgeable about the area.

(D) A field inventory by a cultural resource professional shall be required if the Forest Service or the Executive Director determines that a recorded or known cultural resource exists on or within the immediate vicinity of a new development or land use, including those reported in consultation with the Tribal governments.

(b) Field Inventory

(A) Tribal representatives shall be invited to participate in the field inventory.

(B) The field inventory shall consist of one or the other of the following guidelines, as determined by the cultural resource professional:

(i) Complete survey: the systematic examination of the ground surface through a controlled procedure, such as walking an area in evenly spaced transects. A complete survey may also require techniques such as clearing of vegetation, augering or shovel probing of subsurface soils for the presence of buried cultural resources.

(ii) Sample survey: the sampling of an area to assess the potential of cultural resources within the area of proposed development or use. This technique is generally used for large or difficult to survey parcels, and is generally accomplished by a stratified random or non stratified random sampling strategy. A parcel is either stratified by variables such as vegetation, topography or elevation, or by non environmental factors such as a survey grid. Under this method, statistically valid samples are selected and surveyed to indicate the probability of presence, numbers and types of cultural resources throughout the sampling strata. Depending on the results of the sample, a complete survey may or may not subsequently be recommended.

(C) A field inventory report shall be prepared, and shall include the following:

(i) A narrative integrating the literature review of section (4)(a) above with the field inventory of section (4)(b) above.

(ii) A description of the field inventory methodology used, including the type and extent of field inventory, supplemented by maps which graphically illustrate the areas surveyed, not surveyed, and the rationale for each.

(iii) A statement of the presence or absence of cultural resources within the area of the new development or land use.

(iv) When cultural resources are not located, a statement of the likelihood of buried or otherwise concealed cultural resources shall be included. Recommendations and standards for monitoring, if appropriate, shall be included.

(D) The report shall follow the format specified by the Washington Office of Archaeology and Historic Preservation for inventories conducted in the State of Washington. Reports for inventories conducted in the State of Oregon shall follow the format specified by the Oregon State Historic Preservation Office.

(E) The field inventory report shall be presented to the Forest Service or the Executive Director for review.

(c) Evaluations of Significance

(A) When cultural resources are found within the area of the new development or land use, an evaluation of significance shall be completed for each cultural resource in accordance with to the criteria of the National Register of Historic Places (36 CFR 60.4).

(B) Evaluations of cultural resource significance shall be guided by previous and current research designs relevant to specific research questions for the area.

(C) Evaluations of the significance of traditional cultural properties shall follow National Register Bulletin 38, Guidelines for the Evaluation and Documentation of Traditional Cultural Properties, within local and regional contexts.

ADMINISTRATIVE RULES

(D) Recommendations for eligibility to the National Register shall be completed for each identified resource, in accordance with National Register criteria A through D (36 CFR 60.4). The Forest Service or the Executive Director shall review evaluations for adequacy.

(E) Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources in the project area, and documentation of their concerns, shall be included as part of the evaluation of significance.

(F) An assessment of effect shall be required if the Forest Service or the Executive Director determines that the inventoried cultural resources are significant.

(d) Assessment of Effect

(A) For each significant (i.e., National Register eligible) cultural resource inventoried within the area of the proposed development or change in use, assessments of effect shall be completed, using the criteria outlined in 36 CFR 800.5 ("Assessing Effects"). Evidence of consultation with tribal governments and individuals with knowledge of the cultural resources of the project area shall be included for sections (4)(d)(B) through (4)(d)(D) below. The Forest Service or Executive Director shall review each determination for adequacy.

(B) If the proposed development or change in use will have "No Adverse Effect," as defined by 36 CFR 800.4, to a significant cultural resource, documentation for that finding shall be completed, following the "Documentation Standards" of 36 CFR 800.11. If the proposed development or change in use will have an effect then the criteria of adverse effect must be applied (36 CFR 800.5).

(C) If the proposed development or change in use will have an "Adverse Effect" as defined by 36 CFR 800.5 to a significant cultural resource, the type and extent of "adverse effect" upon the qualities of the property that make it eligible for the National Register shall be documented (36 CFR 800.6 "Resolution of Adverse Effects"). This documentation shall follow the process outlined under 36 CFR 800.11 ("Failure to Resolve Adverse Effects").

(D) If the "effect" appears to be beneficial (i.e., an enhancement to cultural resources), documentation shall be completed for the recommendation of that effect upon the qualities of the cultural resource that make it eligible to the National Register. This documentation shall follow the process outlined under 36 CFR 800.11 ("Documentation Standards").

(e) Mitigation

(A) If there will be an effect on cultural resources, measures shall be provided for mitigation of effects (36 CFR 800.6 "Resolution of Adverse Effects"). These measures shall address factors such as avoidance of the property through project design or modification and subsequent protection, burial under fill, data recovery excavations, or other measures which are proposed to mitigate effects.

(B) Evidence of consultation with tribal governments and individuals with knowledge of the resources to be affected, and documentation of their concerns, shall be included for all mitigation proposals.

(C) The Forest Service or the Executive Director shall review all mitigation proposals for adequacy.

(5) Discovery During Construction

All authorizations for new developments or land uses shall be conditioned to require the immediate notification of the Forest Service or the Executive Director if cultural resources are discovered during construction or development.

(a) If cultural resources are discovered, particularly human bone or burials, work in the immediate area of discovery shall be suspended until a cultural resource professional can evaluate the potential significance of the discovery and recommend measures to protect and/or recover the resources.

(b) If the discovered material is suspected to be human bone or a burial, the following procedure shall be used:

(A) The applicant shall stop all work in the vicinity of the discovery.

(B) The applicant shall immediately notify the Executive Director, the Forest Service, the applicant's cultural resource professional, the State Medical Examiner, and appropriate law enforcement agencies.

(C) The Forest Service or the Executive Director shall notify the tribal governments if the discovery is determined to be an Indian burial or a cultural resource.

(D) A cultural resource professional shall evaluate the potential significance of the resource pursuant to 350-81-550(4)(c) and report the results to the Forest Service or the Executive Director.

(c) The cultural resource review process shall be complete and work may continue if the Forest Service or the Executive Director determines that the cultural resource is not significant.

(d) The cultural resource professional shall recommend measures to protect and/or recover the resource pursuant to 350-81-550(4)(e) if the Forest Service or the Executive Director determines that the cultural resource is significant.

Stat. Auth.: ORS 196.150, RCW 43.97.015 & 16 U.S.C. sec. 544c(b)

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08; CRGC 1-2012, f. 4-18-12, cert. ef. 6-1-12

350-081-0600

Special Management Areas Natural Resource Review Criteria

(1) All new developments and uses, as described in a site plan prepared by the applicant, shall be evaluated using the following guidelines to ensure that natural resources are protected from adverse effects. Comments from state and federal agencies shall be carefully considered. (Site plans are described in 350-81-032).

(2) Water Resources (Wetlands, Streams, Ponds, Lakes, and Riparian Areas)

(a) All Water Resources shall, in part, be protected by establishing undisturbed buffer zones as specified in subsections (2)(a)(B)(i) and (ii) below. These buffer zones are measured horizontally from a wetland, stream, lake, or pond boundary as defined below.

(A) All buffer zones shall be retained undisturbed and in their natural condition, except as permitted with a mitigation plan.

(B) Buffer zones shall be measured outward from the bank full flow boundary for streams, the high water mark for ponds and lakes, the normal pool elevation for the Columbia River, and the wetland delineation boundary for wetlands on a horizontal scale that is perpendicular to the wetlands, stream, pond or lake boundary. On the main stem of the Columbia River above Bonneville Dam, buffer zones shall be measured landward from the normal pool elevation of the Columbia River. The following buffer zone widths shall be required:

(i) A minimum 200 foot buffer on each wetland, pond, lake, and each bank of a perennial or fish bearing stream, some of which can be intermittent.

(ii) A 50-foot buffer zone along each bank of intermittent (including ephemeral), non-fish bearing streams.

(iii) Maintenance, repair, reconstruction and realignment of roads and railroads within their rights-of-way shall be exempted from the wetlands and riparian guidelines upon demonstration of all of the following:

(I) The wetland within the right-of-way is a drainage ditch not part of a larger wetland outside of the right-of-way.

(II) The wetland is not critical habitat.

(III) Proposed activities within the right-of-way would not adversely affect a wetland adjacent to the right-of-way.

(C) The buffer width shall be increased for the following:

(i) When the channel migration zone exceeds the recommended buffer width, the buffer width shall extend to the outer edge of the channel migration zone.

(ii) When the frequently flooded area exceeds the recommended riparian buffer zone width, the buffer width shall be extended to the outer edge of the frequently flooded area.

(iii) When an erosion or landslide hazard area exceeds the recommended width of the buffer, the buffer width shall be extended to include the hazard area.

(D) Buffer zones can be reconfigured if a project applicant demonstrates all of the following: (1) the integrity and function of the buffer zones is maintained, (2) the total buffer area on the development proposal is not decreased, (3) the width reduction shall not occur within another buffer, and (4) the buffer zone width is not reduced more than 50% at any particular location. Such features as intervening topography, vegetation, man made features, natural plant or wildlife habitat boundaries, and flood plain characteristics could be considered.

(E) Requests to reconfigure buffer zones shall be considered if an appropriate professional (botanist, plant ecologist, wildlife biologist, or hydrologist), hired by the project applicant (1) identifies the precise location of the sensitive wildlife/plant or water resource, (2) describes the biology of the sensitive wildlife/plant or hydrologic condition of the water resource, and (3) demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected wildlife/plant and their surrounding habitat that is vital to their long-term survival or water resource and its long term function.

(F) The Executive Director shall submit all requests to re-configure sensitive wildlife/plant or water resource buffers to the Forest Service and the appropriate state agencies for review. All written comments shall be included in the project file. Based on the comments from the state and fed-

ADMINISTRATIVE RULES

eral agencies, the Executive Director will make a final decision on whether the reconfigured buffer zones are justified. If the final decision contradicts the comments submitted by the federal and state agencies, the Executive Director shall justify how the opposing conclusion was reached.

(b) When a buffer zone is disturbed by a new use, it shall be replanted with only native plant species of the Columbia River Gorge.

(c) The applicant shall be responsible for identifying all water resources and their appropriate buffers. (see above)

(d) Wetlands Boundaries shall be delineated using the following:

(A) The approximate location and extent of wetlands in the Scenic Area is shown on the National Wetlands Inventory (U. S. Department of the Interior 1987). In addition, the list of hydric soils and the soil survey maps shall be used as an indicator of wetlands.

(B) Some wetlands may not be shown on the wetlands inventory or soil survey maps. Wetlands that are discovered by the local planning staff during an inspection of a potential project site shall be delineated and protected.

(C) The project applicant shall be responsible for determining the exact location of a wetlands boundary. Wetlands boundaries shall be delineated using the procedures specified in the '1987 Corps of Engineers Wetland Delineation Manual (on-line Edition)'.

(D) All wetlands delineations shall be conducted by a professional who has been trained to use the federal delineation procedures, such as a soil scientist, botanist, or wetlands ecologist.

(e) Stream, pond, and lake boundaries shall be delineated using the bank full flow boundary for streams and the high water mark for ponds and lakes. The project applicant shall be responsible for determining the exact location of the appropriate boundary for the water resource.

(f) The Executive Director may verify the accuracy of, and render adjustments to, a bank full flow, high water mark, normal pool elevation (for the Columbia River), or wetland boundary delineation. If the adjusted boundary is contested by the project applicant, the Executive Director shall obtain professional services, at the project applicant's expense, or ask for technical assistance from the Forest Service to render a final delineation.

(g) Buffer zones shall be undisturbed unless the following criteria have been satisfied:

(A) The proposed use must have no practicable alternative as determined by the practicable alternative test.

Those portions of a proposed use that have a practicable alternative will not be located in wetlands, stream, pond, lake, and riparian areas and/or their buffer zone.

(B) Filling and draining of wetlands shall be prohibited with exceptions related to public safety or restoration/enhancement activities as permitted when all of the following criteria have been met:

(i) A documented public safety hazard exists or a restoration/enhancement project exists that would benefit the public and is corrected or achieved only by impacting the wetland in question, and

(ii) Impacts to the wetland must be the last possible documented alternative in fixing the public safety concern or completing the restoration/enhancement project, and

(iii) The proposed project minimizes the impacts to the wetland.

(C) Unavoidable impacts to wetlands and aquatic and riparian areas and their buffer zones shall be offset by deliberate restoration and enhancement or creation (wetlands only) measures as required by the completion of a mitigation plan.

(h) Determination of potential natural resources effects shall include consideration of cumulative effects of proposed developments within the following areas: wetlands, streams, ponds, lakes, riparian areas and their buffer zones.

(3) Wildlife and Plants

(a) Protection of sensitive wildlife/plant areas and sites shall begin when proposed new developments or uses are within 1000 ft of a sensitive wildlife/plant site and/or area. Sensitive Wildlife Areas and endemic plants are those areas depicted in the wildlife inventory and listed in the "Types of Wildlife Areas and Sites Inventoried in the Columbia Gorge" and "Columbia Gorge and Vicinity Endemic Plant Species" tables in the Management Plan, including all Priority Habitats listed in this Chapter. The approximate locations of sensitive wildlife and/or plant areas and sites are shown in the wildlife and rare plant inventory. Updated lists of sensitive wildlife and plant species can be found on websites for the Washington Department of Fish and Wildlife, the Wildlife Division of Oregon Department of Fish and Wildlife, and the Oregon or Washington Natural Heritage Programs. A list also is maintained by the USDA Forest Service – Scenic Area Office and available on the Gorge Commission website.

(b) The Executive Director shall submit site plans (of uses that are proposed within 1,000 feet of a sensitive wildlife and/or plant area or site) for review to the Forest Service and the appropriate state agencies (Oregon Department of Fish and Wildlife or the Washington Department of Fish and Wildlife for wildlife issues and by the Oregon or Washington Natural Heritage Program for plant issues).

(c) The Forest Service wildlife biologists and/or botanists, in consultation with the appropriate state biologists, shall review the site plan and their field survey records. They shall:

(A) Identify/verify the precise location of the wildlife and/or plant area or site,

(B) Determine if a field survey will be required,

(C) Determine, based on the biology and habitat requirements of the affected wildlife/plant species, if the proposed use would compromise the integrity and function of or result in adverse affects (including cumulative effects) to the wildlife or plant area or site. This would include considering the time of year when wildlife or plant species are sensitive to disturbance, such as nesting, rearing seasons, or flowering season, and

(D) Delineate the undisturbed 200 ft buffer on the site plan for sensitive plants and/or the appropriate buffer for sensitive wildlife areas or sites, including nesting, roosting and perching sites.

(i) Buffer zones can be reconfigured if a project applicant demonstrates all of the following: (1) the integrity and function of the buffer zones is maintained, (2) the total buffer area on the development proposal is not decreased, (3) the width reduction shall not occur within another buffer, and (4) the buffer zone width is not reduced more than 50% at any particular location. Such features as intervening topography, vegetation, man made features, natural plant or wildlife habitat boundaries, and flood plain characteristics could be considered.

(ii) Requests to reduce buffer zones shall be considered if an appropriate professional (botanist, plant ecologist, wildlife biologist, or hydrologist), hired by the project applicant, (1) identifies the precise location of the sensitive wildlife/plant or water resource, (2) describes the biology of the sensitive wildlife/plant or hydrologic condition of the water resource, and (3) demonstrates that the proposed use will not have any negative effects, either direct or indirect, on the affected wildlife/plant and their surrounding habitat that is vital to their long-term survival or water resource and its long term function.

(iii) The Executive Director shall submit all requests to re-configure sensitive wildlife/plant or water resource buffers to the Forest Service and the appropriate state agencies for review. All written comments shall be included in the record of application and based on the comments from the state and federal agencies, the Executive Director will make a final decision on whether the reduced buffer zone is justified. If the final decision contradicts the comments submitted by the federal and state agencies, the Executive Director shall justify how the opposing conclusion was reached

(d) The Executive Director, in consultation with the State and federal wildlife biologists and/or botanists, shall use the following criteria in reviewing and evaluating the site plan to ensure that the proposed developments or uses do not compromise the integrity and function of or result in adverse affects to the wildlife or plant area or site:

(A) Published guidelines regarding the protection and management of the affected wildlife/plant species. Examples include: the Oregon Department of Forestry has prepared technical papers that include management guidelines for osprey and great blue heron; the Washington Department of Fish and Wildlife has prepared similar guidelines for a variety of species, including the western pond turtle, the peregrine falcon, and the Larch Mountain salamander.

(B) Physical characteristics of the subject parcel and vicinity, including topography and vegetation.

(C) Historic, current, and proposed uses in the vicinity of the sensitive wildlife/plant area or site.

(D) Existing condition of the wildlife/plant area or site and the surrounding habitat and the useful life of the area or site.

(E) In areas of winter range, habitat components, such as forage, and thermal cover, important to the viability of the wildlife must be maintained or, if impacts are to occur, enhancement must mitigate the impacts so as to maintain overall values and function of winter range.

(F) The site plan is consistent with the "Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources" (Oregon Department of Fish and Wildlife 2000) and the Washington guidelines when they become finalized.

(G) The site plan activities coincide with periods when fish and wildlife are least sensitive to disturbance. These would include, among oth-

ADMINISTRATIVE RULES

ers, nesting and brooding periods (from nest building to fledgling of young) and those periods specified.

(H) The site plan illustrates that new developments and uses, including bridges, culverts, and utility corridors, shall not interfere with fish and wildlife passage.

(I) Maintain, protect, and enhance the integrity and function of Priority Habitats (such as old growth forests, talus slopes, and oak woodlands) as listed on the following Priority Habitats Table. This includes maintaining structural, species, and age diversity, maintaining connectivity within and between plant communities, and ensuring that cumulative impacts are considered in documenting integrity and function.

(e) The wildlife/plant protection process may terminate if the Executive Director, in consultation with the Forest Service and state wildlife agency or Heritage program, determines (1) the sensitive wildlife area or site is not active, or (2) the proposed use is not within the buffer zones and would not compromise the integrity of the wildlife/plant area or site, and (3) the proposed use is within the buffer and could be easily moved out of the buffer by simply modifying the project proposal (site plan modifications). If the project applicant accepts these recommendations, the Executive Director shall incorporate them into the final decision and the wildlife/plant protection process may conclude.

(f) If the above measures fail to eliminate the adverse affects, the proposed project shall be prohibited, unless the project applicant can meet the Practicable Alternative Test and prepare a mitigation plan to offset the adverse effects by deliberate restoration and enhancement.

(g) The Executive Director shall submit a copy of all field surveys (if completed) and mitigation plans to the Forest Service and appropriate state agencies. The Executive Director shall include all comments in the record of application and address any written comments submitted by the state and federal wildlife agency/heritage programs in the final decision. Based on the comments from the state and federal wildlife agency/heritage program, the Executive Director shall make a final decision on whether the proposed use would be consistent with the wildlife/plant policies and guidelines. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the Executive Director shall justify how the opposing conclusion was reached.

(h) The Executive Director shall require the project applicant to revise the mitigation plan as necessary to ensure that the proposed use would not adversely affect a sensitive wildlife/plant area or site.

(i) Determination of potential natural resources effects shall include consideration of cumulative effects of proposed developments within the following areas: sites within 1,000 feet of sensitive wildlife areas and sites; and 2) sites within 1,000 feet of rare plants.

(4) Soil Productivity

(a) Soil productivity shall be protected using the following guidelines:

(A) A description or illustration showing the mitigation measures to control soil erosion and stream sedimentation.

(B) New developments and land uses shall control all soil movement within the area shown on the site plan.

(C) The soil area disturbed by new development or land uses, except for new cultivation, shall not exceed 15 percent of the project area.

(D) Within 1 year of project completion, 80 percent of the project area with surface disturbance shall be established with effective native ground cover species or other soil-stabilizing methods to prevent soil erosion until the area has 80 percent vegetative cover.

Practicable Alternative Test

(5) An alternative site for a proposed use shall be considered practicable if it is available and the proposed use can be undertaken on that site after taking into consideration cost, technology, logistics, and overall project purposes. A practicable alternative does not exist if a project applicant satisfactorily demonstrates all of the following: [Table not included. See ED. NOTE.]

(a) The basic purpose of the use cannot be reasonably accomplished using one or more other sites in the vicinity that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife, or plant areas and sites.

(b) The basic purpose of the use cannot be reasonably accomplished by reducing its proposed size, scope, configuration, or density, or by changing the design of the use in a way that would avoid or result in less adverse effects on wetlands, ponds, lakes, riparian areas, wildlife, or plant areas and sites.

(c) Reasonable attempts were made to remove or accommodate constraints that caused a project applicant to reject alternatives to the proposed use. Such constraints include inadequate infrastructure, parcel size, and land use designations. If a land use designation or recreation intensity class

is a constraint, an applicant must request a Management Plan amendment to demonstrate that practicable alternatives do not exist.

Mitigation Plan

(6) Mitigation Plan shall be prepared when:

(a) The proposed development or use is within a buffer zone (wetland, pond, lakes, riparian areas, wildlife or plant areas and/or sites).

(b) There is no practicable alternative (see the "practicable alternative" test).

(7) In all cases, Mitigation Plans are the responsibility of the applicant and shall be prepared by an appropriate professional (botanist/ecologist for plant sites, a wildlife/fish biologist for wildlife/fish sites, and a qualified professional for water resource sites).

(8) The primary purpose of this information is to provide a basis for the project applicant to redesign the proposed use in a manner that protects sensitive water resources, and wildlife/plant areas and sites, that maximizes his/her development options, and that mitigates, through restoration, enhancement, and replacement measures, impacts to the water resources and/or wildlife/plant area or site and/or buffer zones.

(9) The applicant shall submit the mitigation plan to the Executive Director. The Executive Director shall submit a copy of the mitigation plan to the Forest Service, and appropriate state agencies. If the final decision contradicts the comments submitted by the state and federal wildlife agency/heritage program, the Executive Director shall justify how the opposite conclusion was reached.

(10) A project applicant shall demonstrate sufficient fiscal, technical, and administrative competence to successfully execute a mitigation plan involving wetland creation.

(11) Mitigation plans shall include maps, photographs, and text. The text shall:

(a) Describe the biology and/or function of the sensitive resources (e.g. Wildlife/plant species, or wetland) that will be affected by a proposed use. An ecological assessment of the sensitive resource to be altered or destroyed and the condition of the resource that will result after restoration will be required. Reference published protection and management guidelines.

(b) Describe the physical characteristics of the subject parcel, past, present, and future uses, and the past, present, and future potential impacts to the sensitive resources. Include the size, scope, configuration, or density of new uses being proposed within the buffer zone.

(c) Explain the techniques that will be used to protect the sensitive resources and their surrounding habitat that will not be altered or destroyed (for examples, delineation of core habitat of the sensitive wildlife/plant species and key components that are essential to maintain the long-term use and integrity of the wildlife/plant area or site).

(d) Show how restoration, enhancement, and replacement (creation) measures will be applied to ensure that the proposed use results in minimum feasible impacts to sensitive resources, their buffer zones, and associated habitats.

(e) Show how the proposed restoration, enhancement, or replacement (creation) mitigation measures are NOT alternatives to avoidance. A proposed development/use must first avoid a sensitive resource, and only if this is not possible should restoration, enhancement, or creation be considered as mitigation. In reviewing mitigation plans, the local government, appropriate state agencies, and Forest Service shall critically examine all proposals to ensure that they are indeed last resort options.

(12) At a minimum, a project applicant shall provide to the Executive Director a progress report every 3-years that documents milestones, successes, problems, and contingency actions. Photographic monitoring stations shall be established and photographs shall be used to monitor all mitigation progress.

(13) A final monitoring report shall be submitted to the Executive Director for review upon completion of the restoration, enhancement, or replacement activity. This monitoring report shall document successes, problems encountered, resource recovery, status of any sensitive wildlife/plant species and shall demonstrate the success of restoration and/or enhancement actions. The Executive Director shall submit copies of the monitoring report to the Forest Service; who shall offer technical assistance to the Executive Director in helping to evaluate the completion of the mitigation plan. In instances where restoration and enhancement efforts have failed, the monitoring process shall be extended until the applicant satisfies the restoration and enhancement guidelines.

(14) Mitigation measures to offset impacts to resources and/or buffers shall result in no net loss of water quality, natural drainage, fish/wildlife/plant habitat, and water resources by addressing the following:

ADMINISTRATIVE RULES

(a) Restoration and enhancement efforts shall be completed no later than one year after the sensitive resource or buffer zone has been altered or destroyed, or as soon thereafter as is practicable.

(b) All natural vegetation within the buffer zone shall be retained to the greatest extent practicable. Appropriate protection and maintenance techniques shall be applied, such as fencing, conservation buffers, livestock management, and noxious weed control. Within five years, at least 75 percent of the replacement vegetation must survive. All plantings must be with native plant species that replicate the original vegetation community.

(c) Habitat that will be affected by either temporary or permanent uses shall be rehabilitated to a natural condition. Habitat shall be replicated in composition, structure, and function, including tree, shrub and herbaceous species, snags, pool-riffle ratios, substrata, and structures, such as large woody debris and boulders.

(d) If this standard is not feasible or practical because of technical constraints, a sensitive resource of equal or greater benefit may be substituted, provided that no net loss of sensitive resource functions occurs and provided the Executive Director, in consultation with the appropriate State and Federal agency, determine that such substitution is justified.

(e) Sensitive plants that will be destroyed shall be transplanted or replaced, to the maximum extent practicable. Replacement is used here to mean the establishment of a particular plant species in areas of suitable habitat not affected by new uses. Replacement may be accomplished by seeds, cuttings, or other appropriate methods. Replacement shall occur as close to the original plant site as practicable. The project applicant shall ensure that at least 75 percent of the replacement plants survive 3 years after the date they are planted.

(f) Nonstructural controls and natural processes shall be used to the greatest extent practicable.

(A) Bridges, roads, pipeline and utility corridors, and other water crossings shall be minimized and should serve multiple purposes and properties.

(B) Stream channels shall not be placed in culverts unless absolutely necessary for property access. Bridges are preferred for water crossings to reduce disruption to hydrologic and biologic functions. Culverts shall only be permitted if there are no practicable alternatives as demonstrated by the 'Practical Alternative Test'.

(C) Fish passage shall be protected from obstruction.

(D) Restoration of fish passage should occur wherever possible.

(E) Show location and nature of temporary and permanent control measures that shall be applied to minimize erosion and sedimentation when riparian areas are disturbed, including slope netting, berms and ditches, tree protection, sediment barriers, infiltration systems, and culverts.

(F) Groundwater and surface water quality will not be degraded by the proposed use. Natural hydrologic conditions shall be maintained, restored, or enhanced in such a manner that replicates natural conditions, including current patterns (circulation, velocity, volume, and normal water fluctuation), natural stream channel and shoreline dimensions and materials, including slope, depth, width, length, cross-sectional profile, and gradient.

(G) Those portions of a proposed use that are not water-dependent or that have a practicable alternative will be located outside of stream, pond, and lake buffer zones.

(H) Streambank and shoreline stability shall be maintained or restored with natural revegetation.

(I) The size of restored, enhanced, and replacement (creation) wetlands shall equal or exceed the following ratios. The first number specifies the required acreage of replacement wetlands, and the second number specifies the acreage of wetlands altered or destroyed.

Restoration: 2: 1

Creation: 3: 1

Enhancement: 4: 1

(g) Wetland creation mitigation shall be deemed complete when the wetland is self-functioning for 5 consecutive years. Self-functioning is defined by the expected function of the wetland as written in the mitigation plan. The monitoring report shall be submitted to the local government to ensure compliance. The Forest Service, in consultation with appropriate state agencies, shall extend technical assistance to the local government to help evaluate such reports and any subsequent activities associated with compliance.

(h) Wetland restoration/enhancement can be mitigated successfully by donating appropriate funds to a non-profit wetland conservancy or land trust with explicit instructions that those funds are to be used specifically to purchase protection easements or fee title protection of appropriate wetlands acreage in or adjacent to the Columbia River Gorge meeting the ratios given above in guideline (9)(f)(I). These transactions shall be explained in

detail in the Mitigation Plan and shall be fully monitored and documented in the monitoring report.

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

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

Stat. Auth.: ORS 196.150, RCW 43.97.015 & 16 U.S.C. sec. 544c(b)

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2007, f. 11-1-07, cert. ef. 1-1-08;

CRGC 1-2012, f. 4-18-12, cert. ef. 6-1-12

350-081-0620

Special Management Area Recreation Resource Review Criteria

(1) The following shall apply to all new recreation developments and land uses in the Special Management Area:

(a) New developments and land uses shall not displace existing recreational use.

(b) Recreation resources shall be protected from adverse effects by evaluating new developments and land uses as proposed in the site plan. An analysis of both on and off site cumulative effects shall be required.

(c) New pedestrian or equestrian trails shall not have motorized uses, except for emergency services and motorized wheelchairs.

(d) Mitigation measures shall be provided to preclude adverse effects on the recreation resource.

(e) The facility guidelines contained in 350-81-620(1) are intended to apply to individual recreation facilities. For the purposes of these guidelines, a recreation facility is considered a cluster or grouping of recreational developments or improvements located in relatively close proximity to one another. Recreation developments or improvements to be considered a separate facility from other developments or improvements within the same recreation intensity class must be separated by at least one-quarter mile of undeveloped land (excluding trails, pathways, or access roads).

(f) New development and reconstruction of scenic routes (see Part III, Chapter 1 of the Management Plan) shall include provisions for bicycle lanes.

(g) The Executive Director may grant a variance of up to 10 percent to the guidelines of Recreation Intensity Class 4 for parking and campground units upon demonstration that:

(A) Demand and use levels for the proposed activity(s), particularly in the area where the site is proposed, are high and expected to remain so and/or increase. Statewide Comprehensive Outdoor Recreation Plan (SCORP) data and data from National Scenic Area recreation demand studies shall be relied upon to meet the criterion in the absence of current applicable studies.

(B) The proposed use is dependent on resources present at the site.

(C) Reasonable alternative sites offering similar opportunities, including those in Urban Areas, have been evaluated, and it has been demonstrated that the proposed use cannot be adequately accommodated elsewhere.

(D) The proposed use is consistent with the goals, objectives, and policies in Chapter 4, Part 1 of the Management Plan.

(E) Through site design and/or mitigation measures, the proposed use can be implemented without adversely affecting scenic, natural, or cultural resources and adjacent land uses.

(F) Through site design and/or mitigation measures, the proposed use can be implemented without affecting treaty rights.

(G) Mass transportation shall be considered and implemented, if feasible, for all proposed variances to Recreation Intensity Class 4.

(2) Special Management Areas Recreation Intensity Class Guidelines (a) Recreation Intensity Class 1 (Very Low Intensity)

Emphasis is to provide opportunities for semi-primitive recreation.

(A) Permitted uses are those in which people participate in outdoor activities to realize experiences such as solitude, tension reduction, and nature appreciation.

(B) The maximum site design capacity shall not exceed 35 people at one time on the site. The maximum design capacity for parking areas shall be 10 vehicles.

(C) The following uses may be permitted:

(i) Trails and trailheads.

(ii) Parking areas.

(iii) Dispersed campsites accessible only by a trail.

(iv) Viewpoints and overlooks.

(v) Picnic areas.

(vi) Signs.

(vii) Interpretive exhibits and displays.

(viii) Restrooms.

(b) Recreation Intensity Class 2 (Low Intensity) Emphasis is to provide opportunities for semi primitive recreation.

ADMINISTRATIVE RULES

(A) Permitted uses are those that provide settings where people can participate in activities such as physical fitness, outdoor learning, relaxation, and escape from noise and crowds.

(B) The maximum site design capacity shall not exceed 70 people at one time on the site. The maximum design capacity for parking areas shall be 25 vehicles.

(C) All uses permitted in Recreation Intensity Class 1 are permitted in Recreation Intensity Class 2. The following uses may also be permitted:

- (i) Campgrounds for twenty (20) units or less, tent sites only.
- (ii) Boat anchorages designed for no more than 10 boats at one time.
- (iii) Swimming areas.

(c) Recreation Intensity Class 3 (Moderate Intensity) Emphasis is on facilities with design themes emphasizing the natural qualities of the area. Developments are complementary to the natural landscape, yet can accommodate moderate numbers of people.

(A) Permitted uses are those in which people can participate in activities to realize experiences such as group socialization, nature appreciation, relaxation, cultural learning, and physical activity.

(B) The maximum site design capacity shall not exceed 250 people at one time on the site. The maximum design capacity for parking areas shall be 50 vehicles. The GMA vehicle capacity level of 75 vehicles shall be allowed if enhancement or mitigation measures for scenic, cultural, or natural resources are approved for at least 10 percent of the site.

(C) Accommodation of facilities for mass transportation (bus parking, etc.) shall be required for all new Recreation Intensity Class 3 day-use recreation sites, except for sites predominantly devoted to boat access.

(D) All uses permitted in Recreation Intensity Classes 1 and 2 are permitted in Recreation Intensity Class 3. The following uses may also be permitted:

- (i) Campgrounds with improvements that may include vehicle access, water, power, sewer, and sewage dump stations.
- (ii) Boat anchorages designed for not more than 15 boats.
- (iii) Public visitor, interpretive, historic, and environmental education facilities.
- (iv) Full-service restrooms, may include showers.
- (v) Boat ramps.
- (vi) Riding stables.
- (d) Recreation Intensity Class 4 (High Intensity)

Emphasis is on providing roaded natural, rural, and suburban recreation opportunities with a high level of social interaction.

(A) Permitted uses are those in which people can participate in activities to realize experiences such as socialization, cultural and natural history appreciation, and physical activity.

(B) The maximum design capacity shall not exceed 1,000 people at one time on the site. The maximum design capacity for parking areas shall be 200 vehicles. The GMA vehicle capacity level of 250 vehicles shall be allowed if enhancement or mitigation measures for scenic, cultural, or natural resources are approved for at least 20 percent of the site.

(C) Accommodation of facilities for mass transportation (bus parking, etc.) shall be required for all new Recreation Intensity Class 4 day-use recreation sites, except for sites predominantly devoted to boat access.

(D) All uses permitted in Recreation Intensity Classes 1, 2, and 3 are permitted in Recreation Intensity Class 4.

Stat. Auth.: ORS 196.150, RCW 43.97.015 & 16 U.S.C. sec. 544c(b)

Stats. Implemented: ORS 196.150

Hist.: CRGC 1-2005, f. 5-17-05, cert. ef. 7-1-05; CRGC 1-2012, f. 4-18-12, cert. ef. 6-1-12

Construction Contractors Board Chapter 812

Rule Caption: Amend rules to Adopt AG Model Rules dated 1-31-12 and make some housekeeping amendments.

Adm. Order No.: CCB 5-2012

Filed with Sec. of State: 4-25-2012

Certified to be Effective: 5-1-12

Notice Publication Date: 4-1-2012

Rules Adopted: 812-009-0185, 812-009-0350

Rules Amended: 812-001-0120, 812-001-0140, 812-004-0560, 812-005-0100, 812-005-0110, 812-009-0060, 812-009-0085, 812-009-0090, 812-009-0300

Subject: 812-001-0120 is amended to match the January 1, 2012 revision of the AG's Model Rules and to remove a reference to "Uniform Rules." All agencies are subject to Uniform Rules without fur-

ther rulemaking; and to eliminate exemptions from: OAR 137-003-0015; OAR 137-005-0060; and OAR 137-005-0070.

812-001-0140 is amended to conform to the Oregon Attorney General's (AG's) 2012 Model Rules of Procedure under the Administrative Procedures Act (APA).

812-004-0560 is amended to include the term "OAR" which was inadvertently omitted in (2)(a); section (4)(b) is amended to reflect the changes to OAR 137-003-0528:

The standard for a late hearing request changes from "beyond the reasonable control" to "good cause."

OAR 137-003-0528(1)(d) authorizes an agency to require an affidavit.

812-005-0100 is amended to authorize CCB to require an answer to a notice, to apply in "cases the agency determines potentially complex, unique or otherwise significant."

812-005-0110 is amended to allow a party to amend an already filed answer so long as the amended answer is filed not less than 30 days before the first hearing date scheduled.

812-009-0060 is amended to delete the language "beyond the reasonable control" and substitute language "for good cause" and make the rule consistent with OAR 137-003-0525(2)(a).

812-009-0085 is amended to clarify that the rule applies to documents filed in a proceeding conducted by an ALJ and to be consistent with OAR 137-003-0520.

812-009-0090, section (1)(a) is amended because the new AG's Model Rules repeal OAR 137-003-0570 and substitute four rules, OAR 137-003-0566, 137-003-0567, 137-003-0568 and 137-003-0569. The amendments remove the ability of the administrative law judge to authorize a deposition of agency staff or Board members. The AG's rules, provide, in part, that, "An agency may, by rule, limit a party's ability to obtain discovery from the agency when the agency is merely providing a forum for the parties and is not an active participant in the case." OAR 137-003-0566(3).

812-009-0185 adopted a new rule exempting from the 90-day requirement all cases where exceptions are filed with the Board.

812-009-0300 is amended to be consistent with OAR 137-003-0505(1)(i) and that the agency may, if it chooses, enhance the proposed sanction up to and including the maximum amount. This gives the agency latitude to modify the sanction, for example, if facts at hearing disclose a more egregious offense than previously thought to have occurred.

812-009-0350 adopted a new rule exempting from the 90-day requirement all cases where exceptions are filed with the Board.

Rules Coordinator: Catherine Dixon—(503) 934-2185

812-001-0120

Uniform and Model Rules

The Construction Contractors Board adopts the Attorney General's Model Rules of Procedure, OAR 137-001-0005 to 137-005-0070, revised January 31, 2012.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 183.341

Hist.: 1BB 6-1980, f. & ef. 11-4-80; 1BB 1-1982, f. 3-31-82, ef. 4-1-82; 1BB 4-1982, f. & ef. 10-7-82; 1BB 1-1983, f. & ef. 3-1-83; 1BB 2-1983, f. & ef. 7-6-83; 1BB 3-1984, f. & ef. 5-11-84; 1BB 1-1986, f. & ef. 5-30-86; BB 3-1988, f. 11-23-88, cert. ef. 12-1-88; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 4-1990, f. 10-30-90, cert. ef. 11-1-90; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 3-1992(Temp), f. & cert. ef. 4-15-92; CCB 5-1992, f. 7-31-92, cert. ef. 8-1-92; CCB 7-1992, f. & cert. ef. 12-4-92; CCB 1-1994, f. 6-23-94, cert. ef. 7-1-94; CCB 2-1995, f. 6-6-95 cert. ef. 6-15-95; CCB 2-1996, f. & cert. ef. 6-18-96; CCB 4-1997, f. & cert. ef. 11-3-97; CCB 1-1999, f. 3-29-99, cert. ef. 4-1-99; CCB 6-2001, f. & cert. ef. 9-27-01; CCB 8-2004, f. & cert. ef. 10-1-04; Renumbered from 812-001-0003, CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 5-2006, f. & cert. ef. 3-30-06; CCB 7-2008, f. 4-28-08, cert. ef. 5-1-08; CCB 5-2012, f. 4-25-12, cert. ef. 5-1-12

812-001-0140

Response Time to Notices

(1) Time for response to a notice delivered pursuant to ORS 701.117 shall run from the date of mailing.

(2) OAR 137-003-0520(11) shall apply to the computation of time to respond to a notice under this rule, whether the notice is related to a contested case, arbitration or any other matter.

Stat. Auth.: ORS 183.415, 670.310 & 701.235

Stats. Implemented: ORS 183.415 & 701.117

Hist.: 1BB 5, f. 6-15-76, ef. 7-1-76; 1BB 1-1978, f. & ef. 5-23-78; 1BB 6-1980, f. & ef. 11-4-80; 1BB 1-1983, f. & ef. 3-1-83; 1BB 3-1984, f. & ef. 5-11-84; BB 3-1987, f. 12-30-87,

ADMINISTRATIVE RULES

cert. ef. 1-1-88; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 1-1991, f. & cert. ef. 2-4-91; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 5-2002, f. 5-28-02, cert. ef. 6-1-02; CCB 8-2004, f. & cert. ef. 10-1-04; Renumbered from 812-001-0010, CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 5-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-0560

General Requirements for Proposed Default Order or Referral to Office of Administrative Hearings, Hearing Request

(1) A proposed default order on a complaint issued by the agency must include a contested case notice that complies with OAR 137-003-0505.

(2) A referral to the Office of Administrative Hearings for arbitration or a contested case hearing must:

(a) Comply with OAR 812-004-0590, which regulates whether the complaint will be arbitrated or heard as a contested case hearing.

(b) Comply with OAR 137-003-0515, which sets out requirements for the referrals including, but not limited to formal requirements.

(c) Include a contested case notice if the agency did not issue a contested case notice under OAR 137-003-0505 before the agency's referral of the complaint to the Office of Administrative Hearings.

(3) If the agency refers a complaint to the Office of Administrative Hearings for arbitration or a contested case hearing on the amount, if any, that the respondent owes the complainant, the following requirements apply:

(a) The referral to the Office of Administrative Hearings must identify by date the statement of damages or the Breach of Contract Complaint that limits the amount that the respondent may be ordered to pay the complainant and state the amount that the order is limited to under OAR 812-009-0160 and 812-010-0420.

(b) The agency must serve on the parties an explanation of:

(A) The limitation on the amount a respondent may be ordered to pay a complainant under OAR 812-009-0160 and 812-010-0420; and

(B) The procedure to file a new statement of damages under OAR 812-009-0020 and OAR 812-010-0110.

(4)(a) To be timely, a request for hearing must be in writing and be received by the agency within 21 days from the date the agency mails a proposed default order.

(b) An untimely request for a hearing must comply with the requirements of OAR 137-003-0528.

(5) The agency may issue a proposed default order under OAR 137-003-0670(4) that will automatically become a final order 21 days after the date of issue without further notice if no party makes a timely request for a hearing.

(6) A contested case notice issued under this rule must include a statement that the agency's file on the complaint is designated as the record for purposes of a default order under this rule and for purposes of a contested case hearing or arbitration on the complaint. For purposes of this rule, the agency's file consists of all documents submitted by parties, all agency correspondence with the parties and any other material designated by the agency as part of the record.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 183.415, 183.417, 183.460, 183.470, 701.133 & 701.145
Hist.: 1BB 1-1986, f. & ef. 5-30-86; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 4-1997, f. & cert. ef. 11-3-97; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98, Renumbered from 812-001-0004; CCB 1-2000(Temp), f. 1-20-00, cert. ef. 1-24-00 thru 7-22-00; CCB 3-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 2-2001, f. & cert. ef. 4-6-01; CCB 6-2002, f. 6-10-02 cert. ef. 7-1-02; CCB 9-2002(Temp), f. & cert. ef. 9-6-02 thru 3-5-03; CCB 10-2002, f. & cert. ef. 11-20-02; CCB 2-2003, f. & cert. ef. 3-4-03; CCB 7-2003, f. & cert. ef. 8-8-03; CCB 9-2004, f. & cert. ef. 12-10-04; CCB 15-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 7-2007, f. 12-13-07, cert. ef. 1-1-08; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 5-2012, f. 4-25-12, cert. ef. 5-1-12

812-005-0100

Notice of Intent to Take Action

Except as provided under authority of ORS 701.098(4), if the agency intends to revoke or suspend a license, or assess a civil penalty, it shall issue and serve on the respondent a notice of intent to take an action, giving the opportunity for hearing. For cases the agency determines as potentially complex, unique or otherwise significant, the notice may include the statement that an answer to the assertions or charges will be required.

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

Stats. Implemented: ORS 183.413, 183.415, 183.470 & 701.102
Hist.: 1BB 7-1980(Temp), f. & ef. 11-4-80; 1BB 8-1980, f. & ef. 12-9-80; 1BB 2-1981, f. & ef. 6-4-81; 1BB 1-1982, f. 3-31-82, ef. 4-1-82; 1BB 4-1982, f. & ef. 10-7-82; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-11-080; 1BB 4-1985, f. & ef. 12-8-85; BB 3-1987, f. 12-30-87, cert. ef. 1-1-88; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 2-1990, f. 5-17-90, cert. ef. 6-1-90; CCB 2-1991, f. 6-28-91, cert. ef. 7-1-91; CCB 3-1991, f. 9-26-91, cert. ef. 9-29-91; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 7-1992, f. & cert. ef. 12-4-92; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 1-1994, f. 6-23-94, cert. ef. 7-1-94; CCB 4-1995, f. & cert. ef. 10-5-95; CCB 6-1997, f. & cert. ef. 11-26-97; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; Renumbered from 812-005-0000(1)(a), CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 5-2012, f. 4-25-12, cert. ef. 5-1-12

812-005-0110

Hearing Request

A hearing request, and answer when required, shall be made in writing to the agency by the respondent or the respondent's attorney. An answer shall include:

(1) An admission or denial or each factual matter alleged in the notice.

(2) A short and plain statement of each relevant defense the respondent may have. Except where it would be unduly prejudicial to do so, the respondent may amend its answer provided the amended answer is filed at least 30 days before the first scheduled hearing date.

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

Stats. Implemented: ORS 183.413, 183.415 & 701.102

Hist.: 1BB 7-1980(Temp), f. & ef. 11-4-80; 1BB 8-1980, f. & ef. 12-9-80; 1BB 2-1981, f. & ef. 6-4-81; 1BB 1-1982, f. 3-31-82, ef. 4-1-82; 1BB 4-1982, f. & ef. 10-7-82; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-11-080; 1BB 4-1985, f. & ef. 12-8-85; BB 3-1987, f. 12-30-87, cert. ef. 1-1-88; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 2-1990, f. 5-17-90, cert. ef. 6-1-90; CCB 2-1991, f. 6-28-91, cert. ef. 7-1-91; CCB 3-1991, f. 9-26-91, cert. ef. 9-29-91; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 7-1992, f. & cert. ef. 12-4-92; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 1-1994, f. 6-23-94, cert. ef. 7-1-94; CCB 4-1995, f. & cert. ef. 10-5-95; CCB 6-1997, f. & cert. ef. 11-26-97; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; Renumbered from 812-005-0000(1)(b), CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 5-2012, f. 4-25-12, cert. ef. 5-1-12

812-009-0060

Hearing Postponement

If a party requests postponement of a hearing, the request may be granted if:

(1) The request is promptly made after the party receives the notice of hearing or is promptly made after emergency or unforeseen circumstances arise;

(2) The party establishes circumstances that prevent attendance by the party at the scheduled hearing; and

(3) The party provides evidence of good cause why it cannot attend the scheduled hearing.

Stat. Auth.: ORS 670.310, 701.235 & OL 1999, Ch. 849, Sec. 8

Stats. Implemented: ORS 183.413 - 183.470 & 701.145

Hist.: 1BB 5, f. 6-15-76, ef. 7-1-76; 1BB 1-1978, f. & ef. 5-23-78; 1BB 3-1978, f. & ef. 12-4-78; 1BB 2-1979, f. & ef. 12-19-79; 1BB 1-1980, f. & ef. 2-29-80; 1BB 6-1980, f. & ef. 11-4-80; 1BB 1-1983, f. & ef. 3-1-83; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98, Renumbered from 812-001-0005; CCB 1-2000(Temp), f. 1-20-00, cert. ef. 1-24-00 thru 7-22-00; CCB 3-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 5-2012, f. 4-25-12, cert. ef. 5-1-12

812-009-0085

Filing of Documents

Unless otherwise provided in these rules, the agency waives the right to receive copies of documents filed in a proceeding conducted by an administrative law judge, under OAR 137-003-0520.

Stat. Auth.: ORS 670.310, 701.235 & OL 1999, Ch. 849, Sec. 8

Stats. Implemented: ORS 183.413 - 183.470 & 701.145

Hist.: CCB 1-2000(Temp), f. 1-20-00, cert. ef. 1-24-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 5-2012, f. 4-25-12, cert. ef. 5-1-12

812-009-0090

Discovery and Subpoenas

(1) The agency delegates to the administrative law judge assigned to hear a complaint the authority to:

(a) Order and control discovery under OAR 137-003-0566, 137-003-0567, 137-003-0568 and 137-003-0569, related to the hearing on the complaint, except an administrative law judge may not authorize a party to take a deposition of agency staff or board members.

(b) Issue subpoenas under OAR 137-003-0585 that are related to the hearing on the complaint.

(2) The agency waives receipt of notice that a party seeks to take the testimony of a witness by deposition under OAR 137-003-0570.

Stat. Auth.: ORS 670.310, 701.235 & OL 1999, Ch. 849, Sec. 8

Stats. Implemented: ORS 183.425, 183.440, 183.445, 183.450, 701.145, 701.149

Hist.: CCB 1-2000(Temp), f. 1-20-00, cert. ef. 1-24-00 thru 7-22-00; CCB 3-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2003, f. & cert. ef. 8-8-03; CCB 15-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 5-2012, f. 4-25-12, cert. ef. 5-1-12

812-009-0185

Amended Proposed Order or Final Order after Hearing

In accordance with OAR 137-003-0655(7), the agency exempts from the 90-day requirement for an amended proposed order or final order all cases in which written exceptions are filed with the board. In these cases, 90 days normally is an insufficient time in which to issue an amended proposed order or final order.

Stat. Auth.: ORS 183.341, 670.310, 701.235 & 701.992

Stats. Implemented: ORS 183 & 701

Hist.: CCB 5-2012, f. 4-25-12, cert. ef. 5-1-12

ADMINISTRATIVE RULES

812-009-0300

Hearing Notice and Limitation on Final Civil Penalty Order

A notice of hearing shall contain the duration of any suspension and the amount of any civil penalty sought by the agency. The administrative law judge shall not issue a final civil penalty order in an amount greater than that shown in the notice of hearing, except as follows. If the proposed sanction is not the maximum potential sanction, the agency may, in the notice, state the maximum potential sanction for each violation and impose up to the maximum potential sanction, without amending the notice.

Stat. Auth.: ORS 183.310, 670.310, 701.235 & 701.992

Stats. Implemented: ORS 183 & 701

Hist.: CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 3-2000(Temp), f. 3-10-00, cert. ef. 3-10-00 thru 7-22-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2003, f. & cert. ef. 8-8-03; CCB 5-2012, f. 4-25-12, cert. ef. 5-1-12

812-009-0350

Amended Proposed Order or Final Order after Hearing

In accordance with OAR 137-003-0655(7), the agency exempts from the 90-day requirement for an amended proposed order or final order all cases in which written exceptions are filed with the board. In these cases, 90 days normally is an insufficient time in which to issue an amended proposed order or final order.

Stat. Auth.: ORS 183.341, 670.310, 701.235 & 701.992

Stats. Implemented: ORS 183 & 701

Hist.: CCB 5-2012, f. 4-25-12, cert. ef. 5-1-12

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Rule Caption: Amended to update cite references to 2011 statutes, add arbitration awards and determinations, and court judgments.

Adm. Order No.: CCB 6-2012

Filed with Sec. of State: 4-25-2012

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Rules Amended: 812-002-0060, 812-002-0100, 812-002-0160, 812-002-0250, 812-002-0360, 812-002-0673, 812-002-0700, 812-002-0800, 812-004-1001, 812-004-1110, 812-004-1120, 812-004-1140, 812-004-1160, 812-004-1180, 812-004-1195, 812-004-1210, 812-004-1240, 812-004-1250, 812-004-1260, 812-004-1300, 812-004-1320, 812-004-1340, 812-004-1350, 812-004-1360, 812-004-1400, 812-004-1420, 812-004-1440, 812-004-1450, 812-004-1460, 812-004-1480, 812-004-1490, 812-004-1500, 812-004-1505, 812-004-1510, 812-004-1520, 812-004-1530, 812-004-1537, 812-004-1600, 812-004-0200, 812-005-0210, 812-005-0270, 812-005-0280, 812-005-0800

Subject: 812-004-1505; 812-004-1510; 812-004-1520; 812-004-1530; 812-004-1537; 812-004-1600; 812-005-0800 are amended to update statutory references to 2011 statutes.

812-005-0200 is amended to add a reference to arbitration awards, add determinations under the new dispute resolution mediation only program, update cite references, references to out-of-date statutes are repealed, language is added for new statutes, and larger bond requirements for both endorsements.

812-005-0210 is amended to add a reference to arbitration awards, add determinations under the new dispute resolution mediation only program, update cite references, include unpaid judgments arising from construction activity, and larger bond requirements for both endorsements.

812-005-0270 is amended to delete reference to ORS 701.005.

812-005-0280 is amended to reference to arbitration awards, add determinations under the new dispute resolution mediation only program, update cite references, and adds failure to pay judgment or civil penalty as lack of responsibility.

Rules Coordinator: Catherine Dixon—(503) 934-2185

812-002-0060

Bid

“Bid” as used in ORS 701.021 does not include a prospectus for an art project.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 279C.460 & 701

Hist.: CCB 4-1998, f. & cert. ef. 4-30-98; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 18-2008, f. & cert. ef. 11-20-08; CCB 10-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-002-0100

Building Trades or Crafts

“Building trades or crafts”, as used in ORS 701.005(7)(a) and these rules, means the following special trade contractors as defined by the four-digit codes in the 1987 Standard Industrial Classification Manual:

(1) Building trade contractors including:

(a) 1711 — Plumbing, Heating and Air Conditioning.

(b) 1721 — Painting and Paper Hanging.

(c) 1731 — Electrical Work.

(d) 1741 — Masonry, Stone Setting and Other Stone Work.

(e) 1742 — Plastering, Drywall, Acoustical and Insulation Work.

(f) 1743 — Terrazzo, Tile, Marble, and Mosaic Work.

(g) 1751 — Carpentry Work.

(h) 1752 — Floor Laying and Other Floor Work.

(i) 1761 — Roofing, Siding and Sheet Metal Work.

(j) 1771 — Concrete Work.

(k) 1791 — Structural Steel Erection.

(l) 1793 — Glass and Glazing Work.

(m) 1794 — Excavation Work.

(n) 1795 — Wrecking and Demolition Work.

(o) 1796 — Installation or Erection of Building Equipment Not Elsewhere Classified.

(p) 1799 — Special Trade Contractors, Not Elsewhere Classified.

(2) Heavy construction (other than building construction) contractors, when the contractor is performing as a subcontractor, including:

(a) 1611 — Highway and Street Construction.

(b) 1622 — Bridge, Tunnel and Elevated Highways.

(c) 1623 — Water, Sewer, Pipeline and Communication and Power Line Construction.

(d) 1629 — Heavy Construction, Not Elsewhere Classified.

(3) Other

(a) 0783 — Tree Service.

(b) 7342 — Pest Control.

(c) 7363 — Chimney and other structural cleaning.

(d) 7389 — Inspection Services.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.005 & 701.013

Hist.: CCB 4-1998, f. & cert. ef. 4-30-98; CCB 6-2001, f. & cert. ef. 9-27-01; CCB 4-2003, f. & cert. ef. 6-3-03; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-002-0160

Construction Management

“Construction management” is the coordinating of a construction project, including, but not limited to, selecting contractors to perform work on the project, obtaining permits, scheduling specialty contractors’ work, and purchasing materials. “Construction management” does not include consulting work performed by a registered engineer or a licensed architect when operating as provided by ORS 701.010(8).

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.005, 701.021, 701.026 & 701.238

Hist.: CCB 4-1998, f. & cert. ef. 4-30-98; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 10-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-002-0250

Direct Contractual Relationship

“Direct Contractual Relationship” as used in OAR 812-004-0320 or 812-004-1320 has the following meanings:

(1) For an owner, construction lien or primary contractor complaint, “direct contractual relationship” means a relationship created by a contract between the complainant and the respondent providing that the respondent perform construction work in return for valuable consideration conveyed directly from the complainant to the respondent.

(2) For a material complaint or subcontractor complaint, “direct contractual relationship” means a relationship created by a contract between the complainant and the respondent providing that the complainant provide labor, material or rental equipment in return for valuable consideration conveyed directly from the respondent to the complainant.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.235

Hist.: CCB 8-2004, f. & cert. ef. 10-1-04; CCB 15-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-002-0360

Inspect

“Inspect”, as used in ORS 701.005(5), means the examination of a structure or its appurtenances for the purposes of determining the condition of the structure, identifying construction faults, exposing potential mainte-

ADMINISTRATIVE RULES

nance problems, assessing life expectancy, and/or estimating repair costs, and does not include pest control examinations for non-wood-destroying organisms and does not include pest control examinations for wood destroying organisms except when conducted as part of an inspection for the transfer of real estate.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.005
Hist.: CCB 4-1998, f. & cert. ef. 4-30-98; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-002-0673

Signed by Respondent

“Signed by respondent,” as used in OAR 812-004-0340 or 812-004-1340, means signed by the respondent, if the respondent is a sole proprietorship, or an owner, officer, employee or authorized agent of the respondent.

Stat. Auth.: ORS 670.310, 701.133 & 701.235
Stats. Implemented: ORS 701.133
Hist.: CCB 5-2007, f. 6-28-07, cert. ef. 7-1-07; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-002-0700

Structure

“Structure” means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, or an improvement attached to real estate or any part thereof as described in ORS 701.005.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 87.058, 279C.460, 646.605 & 701
Hist.: CCB 4-1998, f. & cert. ef. 4-30-98; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 2-2011, f. 4-28-11, cert. ef. 5-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-002-0800

Work Period

“Work Period” as used in, OAR 812-003-0150, 812-004-0320, 812-004-0600, 812-004-1320 and 812-004-1600 means the time period from the date a contractor accepts a payment, offers a written proposal, enters into a contract or begins construction, whichever occurs first, until the date the contractual work is substantially completed by the contractor, or if not substantially completed, the date the work by the contractor ceased.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.133, 701.139, 701.140, 701.145, & 701.146
Hist.: CCB 4-1998, f. & cert. ef. 4-30-98; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 6-2000(Temp), f. 5-22-00, cert. ef. 5-22-00 thru 11-17-00; CCB 9-2000, f. & cert. ef. 8-24-00; CCB 9-2004, f. & cert. ef. 12-10-04; CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1001

Application of Rules

(1) The rules in 812-004-1001 to 812-004-1600 apply to all complaints filed under ORS 701.145 on or after July 1, 2011.

(2) The following rules apply to a complaint filed under ORS 701.146:

- (a) OAR 812-004-1001 through 812-004-1240;
- (b) OAR 812-004-1260 through 812-004-1320;
- (c) OAR 812-004-1340, except 812-004-1340(2)(c), (2)(i) and (8);
- (c) OAR 812-004-1420;
- (d) OAR 812-004-1520; and
- (e) OAR 812-004-1600.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: OAR 701.133, 701.139, 701.140, 701.145, & 701.146
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1110

Complaint Processing Fee; Waiver of Fee

(1) The complaint processing fee authorized under ORS 701.133 is \$50 for a complaint filed under ORS 701.145. There is no complaint processing fee for a complaint filed under ORS 701.146.

(2) The agency must collect the processing fee under OAR 812-004-1400.

(3) A complainant may request that the agency waive the complaint processing fee described in section (1) of this rule by submitting a properly executed waiver request. The waiver request must be submitted on a form provided by the agency.

(4) The agency may waive the complaint processing fee if the waiver request submitted by the complainant shows that:

- (a) The complainant is an individual;
- (b) The complainant has no significant assets except the home that is the subject of the complaint and one automobile; and

(c) The complainant’s gross income does not exceed the 2011 Department of Health and Human Services Poverty Guidelines published in the Federal Register, Vol. 76, No. 13, January 20, 2011, pp. 3637 - 3638.

(5) A complainant, who requests a waiver of the complaint processing fee under section (3) of this rule, must certify that the information on the request is true.

(6) The agency may require that the complainant pay a complaint processing fee of \$97 if the agency finds that the complainant provided false information on a request for a waiver of the complaint processing fee submitted under section (3) of this rule.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.133 & 701.146
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1120

Liability of Licensee

A licensee, as defined in OAR 812-002-0450, participating in a corporation wholly owned by the licensee, or a limited liability partnership, limited liability company, joint venture, limited partnership or partnership, may be held individually liable for complaints brought under ORS 701.131 to 701.180, whether or not the corporation, limited liability partnership, limited liability company, joint venture, limited partnership, or partnership was licensed as required by ORS chapter 701.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.133 & 701.146
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1140

Liability of Contractor for Complaint Related to Contractor’s Property

(1) If an employee complaint, material complaint or subcontractor complaint arises from property owned by a licensed contractor, the licensed contractor is a contractor subject to ORS chapter 701 unless the contractor supplies pre-contract written notice to suppliers, subcontractors, and other potential complainants that the property is for the contractor’s personal use and that the contractor is not subject to ORS chapter 701, as provided in ORS 701.010(7).

(2) If a licensed contractor files a complaint against another licensed contractor arising from property owned by the contractor filing the complaint, the contractor filing the complaint is a contractor subject to ORS chapter 701 unless the property is for the contractor’s personal use and occupancy.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1160

Establishment of Co-Complainant

The agency may allow a person to become a co-complainant, with the complainant’s permission, even though that person did not sign the complaint form if the person would otherwise qualify as a complainant.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.140 & 701.145
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1180

Complainant’s Responsibility to Pursue Complaint

(1) Throughout the processing of a complaint, a complainant has the responsibility to pursue the complaint and to respond in a timely manner to requests from the agency for information or documents.

(2) The agency may close a complaint under OAR 812-004-1260 if:

(a) The complainant does not respond to a written request from the agency, or to provide requested information or documents within a time limit specified in that request; or

(b) The complainant does not respond in writing to a written request from the agency, after being instructed to do so by the agency.

(3) A written request from the agency under section (2) of this rule must comply with the requirements of OAR 812-004-1260(2).

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.145
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

ADMINISTRATIVE RULES

812-004-1195

Exhibits

(1) If a party to a complaint submits a document that is larger than 8-1/2 inches by 14 inches or a photograph as an exhibit, the agency may require that the party submit four copies of the document or photo.

(2) The disposal of large exhibits is subject to OAR 812-001-0130.
Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.145
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1210

Address of Complainant and Respondent

(1) All communications directed to the last known address of record of a party to a complaint is considered delivered when deposited in the United States mail and sent by regular mail.

(2) A party must notify the agency in writing within 10 days of any change in the party's address, withdrawal or change of the party's attorney or change of address of the party's attorney during the processing of the complaint and until 90 days after the date the agency notifies the parties that the complaint is closed.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.117
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1240

Exhaustion of Surety Bond, Letter of Credit or Cash Deposit

The agency may continue processing a complaint even though the surety bond, letter of credit or cash deposit related to that complaint is exhausted by prior complaints.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.068, 701.088, 701.133, 701.145 & 701.146
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1250

Payments From the Bond for Court Costs, Complaint Processing Fee, Interest and Other Costs

(1) For complaints filed under ORS 701.145, the agency may include the following costs in the amount of a judgment that is subject to payment by a surety or financial institution:

- (a) Court costs;
- (b) Interest;
- (c) Costs, other than attorney fees, to pursue litigation or the complaint; or
- (d) Service charges or fees.

(2) For complaints filed under ORS 701.145, the agency's determination of payment due from a surety or financial institution may not include amounts arising out of claims for anything other than construction work involving negligence, improper work or breach of contract.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.068, 701.088, 701.133, 701.145 & 701.146
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1260

Closing a Complaint

(1) The agency may close a complaint because:

- (a) The complainant did not act in response to a request from the agency;
- (b) The complaint is not the type of complaint that the agency has jurisdiction to determine under ORS 701.140;
- (c) The complaint was not filed within the time allowed under ORS 701.143;
- (d) The complainant failed to pay the complaint processing fee as required under OAR 812-004-1110 and 812-004-1400;
- (e) The complaint contains a mediation or arbitration agreement that the complainant has not waived;
- (f) The complainant does not comply with the on-site meeting requirements as provided in OAR 812-004-1450(2);
- (g) The complainant and respondent settle the complaint as provided in OAR 812-004-1500;
- (h) The complainant does not, within 30 days of the date of completion of the settlement agreement, notify the agency whether the terms of the settlement agreement have been fulfilled;
- (i) The complainant fails to provide documents to the agency as required by OAR 812-004-1520; or

(j) The agency does not timely receive evidence of a stay or counter-suit on a construction lien complaint, as provided in OAR 812-004-1530.

(2) The agency may close a complaint under section (1) of this rule if the agency notifies the complainant that complainant must provide information or that complainant must comply with an agency rule and that:

(a) Failing to respond to the agency's request may result in closing the complaint; and

(b) Closing the complaint will prevent access to the bond, letter of credit or cash deposit.

(3) The agency may not close the complaint sooner than 14 days after giving the notice required in subsection (2) of this rule.

(4) The agency may, within 60 days after closing a complaint, reopen a complaint closed under section (1) of this rule if the complainant did not comply with the agency's request or failed to comply with an agency rule due to excusable neglect by the complainant. The agency may reopen the complaint after receiving evidence supporting reopening the complaint.

(5) The agency's determination to close a complaint is an order in other than a contested case.

(6) The agency's determination to close a complaint is subject to judicial review under ORS 183.484.

(7) A party must file a motion for reconsideration of the agency's determination to close a complaint before seeking judicial review of the order.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.133, 701.140, 701.145 & 701.146
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1300

Filing Date of Complaint

(1) Except as provided under section (3) of this rule, a complaint filed with the agency under ORS 701.139 is deemed to have been filed when a complaint is received by the agency that:

- (a) Meets the requirements of OAR 812-004-1340(1) and (2)(m); and
- (b) Contains information sufficient to identify the complainant and respondent.

(2) The agency must return a complaint that does not meet the requirements of section (1) of this rule to the person who submitted the complaint.

(3) If the agency returns a complaint to a person under section (2) of this rule because the person did not meet the requirements of OAR 812-004-1340(2)(m) related to pre-complaint notice, that person may resubmit the complaint with the required evidence. If the resubmitted complaint satisfies the agency that the person met the requirements under OAR 812-002-1340(2)(m) before the agency received the original complaint, the complaint is deemed to have been filed on the date the complaint was first received by the agency.

(4) A complaint that does not fully comply with the requirements of OAR 812-004-1340 is subject to OAR 812-004-1350.

(5) The date of filing of a complaint submitted to the agency for processing under ORS 701.146 is the date when the complainant complies with ORS 701.133(1) and 701.146(2).

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.133, 701.139, 701.143, 701.145 & 701.146
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1320

Jurisdictional Requirements

(1) A complaint must be of a type described under ORS 701.140.

(2) A complaint must be filed with the agency within the time allowed under ORS 701.143.

(3) A complaint will be processed only against a licensed entity. Whether a respondent is licensed for purposes of this section must be determined as follows:

(a) For an owner, primary contractor or subcontractor complaint, the respondent will be considered licensed if the respondent was licensed during all or part of the work period.

(b) For a material complaint, the respondent will be considered licensed if one or more invoices involve material delivered while the respondent was licensed. A surety company or financial institution is only liable for payments for material delivered within the period of time that the respondent was licensed.

(c) For an employee or employee trust complaint, the respondent will be considered licensed if the respondent was licensed on one or more days that the complainant, or the employee that is the subject of the trust, performed work that was not paid for. A surety company or financial institu-

ADMINISTRATIVE RULES

tion is only liable for payments for unpaid wages or benefits provided on days on which the respondent was licensed.

(4)(a) The complainant must have been properly licensed at the time the bid was made or the contract was entered into and must have remained licensed continuously throughout the work period if:

(A) The work at issue in the complaint requires that the complainant be licensed under ORS 701.021 in order to perform the work; and

(B) The complaint does not arise from defects, deficiencies or inadequate performance of construction work.

(b) As used in section (4) of this rule, "properly licensed" means the complainant:

(A) Had a current valid license issued by the agency and was not on inactive status;

(B) Was licensed for the type of work at issue in the complaint;

(C) Complied with the requirements of ORS 701.035 and OAR 812-003-1250 as they applied to the complainant's license status as an "exempt" or "nonexempt" contractor; and

(D) Complied with any other requirements and restrictions on the complainant's license.

(5) Complaints will be accepted only when one or more of the following relationships exist between the complainant and the respondent:

(a) A direct contractual relationship based on a contract entered into by the complainant and the respondent, or their agents;

(b) An employment relationship or assigned relationship arising from a Bureau of Labor and Industries employee claim;

(c) A contract between the complainant and the respondent providing that the complainant is a trustee authorized to receive employee benefit payments from the respondent for employees of the respondent; or

(d) A real estate purchase conditioned upon repairs made by the respondent.

(6) Complaints will be accepted only for work performed within the boundaries of the State of Oregon or for materials or equipment supplied or rented for fabrication into or use upon structures located within the boundaries of the State of Oregon.

(7) The agency may refuse to process a complaint or any portion of a complaint that includes an allegation of a breach of contract, negligent or improper work or any other act or omission within the scope of ORS 701.140 that is the same as an allegation contained in a complaint previously filed by the same complainant against the same respondent, except that the agency may process a complaint that would otherwise be closed if the previously filed complaint was:

(a) Withdrawn before the on-site meeting;

(b) Closed without a determination on the merits before the on-site meeting;

(c) Closed because the complainant failed to pay the complaint processing fee required under OAR 812-004-0110 or 812-004-1110.

(d) Closed or dismissed with an explicit provision allowing the subsequent filing of a complaint containing the same allegations as the closed or dismissed complaint; or

(e) Closed or withdrawn because the respondent filed bankruptcy.

(8) Nothing in section (7) of this rule extends the time limitation for filing a complaint under ORS 701.143.

(9) A complaint by a person furnishing material, or renting or supplying equipment to a contractor may not include a complaint for non-payment for tools sold to a licensee, for equipment sold to a licensee and not fabricated into a structure, for interest or service charges on an account, or for materials purchased as stock items.

(10) Complaints by a contractor or by persons furnishing material, or renting or supplying equipment to a contractor will not be processed unless they are at least \$150 in amount, not including the processing fee required by 812-004-1110.

(11) The agency may process a complaint against a licensed contractor whose license was inactive under OAR 812-003-0330, 812-003-0340, 812-003-0350, 812-003-0360 and 812-003-0370 during the work period.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.131, 701.133, 701.139, 701.140, 701.143, 701.145 & 701.146

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1340

Form of Complaints, Pre-Complaint Notice

(1) A complaint must be submitted on a complaint form provided by the agency. The agency may require the use of the most recent revision of the complaint form.

(2) The complainant must submit the following information on or with the complaint form required under section (1) of this rule if applicable:

(a) The name, address and telephone number of the complainant;

(b) The name, address, telephone number and license number of the respondent;

(c) The amount, if known at the time the complaint is filed, that the complainant alleges is due from the respondent after crediting payments, offsets and counterclaims in favor of the licensee to which the complainant agrees;

(d) Identification of the type of complaint;

(e) The date on which the contract was entered into;

(f) If the contract was in writing, a copy of the contract, including all relevant attachments, if any;

(g) The location of the work at issue in the complaint, described by a postal address or other description sufficient to locate the work site on a map and on the ground;

(h) The beginning and ending date of the work or invoices;

(i) Payments, offsets and counterclaims of the respondent, if known;

(j) Whether the project involves work on a residential, small commercial or large commercial structure;

(k) A certification by the complainant that the information provided on the complaint form is true;

(l) If a court judgment or judgment based on an arbitration award is the basis for the complaint, a copy of the judgment, arbitration award, the original complaint and any answers or counter-suits related to the parties to the complaint filed in the court action or arbitration;

(m) Documents described in section (9) of this rule that are related to the pre-complaint notice requirement in ORS 701.133.

(n) Additional information required under sections (3) through (8) of this rule.

(3) A subcontractor complaint must include copies of each original invoice relating to the complaint.

(4) An employee complaint must include evidence that an employee worked for a contractor and evidence of the amount of unpaid wages or benefits. Evidence may include:

(a) Time cards;

(b) Paycheck stubs;

(c) W-4 forms; or

(d) A sworn affidavit or written declaration under perjury of a third-person stating facts that indicate the employee worked for the contractor. A written declaration under perjury must contain the following statement, "I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury."

(5) An employee trust complaint must include the name of each employee that is the subject of the complaint, the dates that employee worked without payment of employee benefits and the following information for each date and employee:

(a) The hours worked without payment of employee benefits;

(b) The amount of the unpaid benefits;

(c) The address of the job site where the employee worked; and

(d) Whether the structure at the job site is a residential structure, small commercial structure or large commercial structure.

(6) A construction lien complaint must include evidence that the complainant paid the primary contractor, a copy of the notice of right to lien, a copy of the lien bearing the county recorder's stamp and signature, a copy of each invoice or billing constituting the basis of the lien, a copy of the ledger sheet or other accounting of invoices from the lienor, if applicable, and any foreclosure documents.

(7) A material complaint must include recapitulation of the indebtedness showing the job site address, the date of each invoice, each invoice number, each invoice amount and a copy of each original invoice relating to the complaint.

(8) A complaint involving negligent or improper work must include a list of the alleged negligent or improper work. A complaint involving a breach of contract must describe the nature of the breach of contract.

(9) A complaint must include one of the following:

(a) A copy of the pre-complaint notice required under ORS 701.133 and of the certified or registered mail receipt for the pre-complaint notice; or

(b) Written evidence that the respondent had actual notice of the dispute that is the subject of the complaint at least 30 days before the complainant filed the complaint. The agency will only accept evidence under this subsection (9)(b) if it is in one of the following forms:

ADMINISTRATIVE RULES

(A) A return receipt signed by the respondent indicating receipt of a notice of intent to file a complaint sent to the respondent by the complainant; or

(B) A letter signed by the respondent acknowledging receipt of a notice of intent to file a complaint.

(c) Written evidence that the complainant and the respondent are parties to mediation, arbitration or a court action arising from the same contract or issues that are the subject of the complaint. The agency will only accept evidence under this subsection (9)(c) if it is in one of the following forms:

(A) Copies of a complaint or answer in the court action; or

(B) Copies of a document that initiated the mediation or arbitration.

(d) Evidence that the complainant and the respondent are parties to another complaint filed with the agency arising from the same contract or issues that are the subject of the complaint.

(10) Except as provided in subsections (9)(c) and (9)(d), the agency may not accept a statement by the complainant alleging that the respondent had actual knowledge of the dispute as written evidence required under section (9) of this rule.

(11) The completed complaint form must be signed by the complainant or an agent of the complainant.

(12) A complaint form submitted to the agency that does not comply with the requirements of this rule is subject to OAR 812-004-1350.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.131, 701.133, 701.139, 701.140, 701.143, 701.145 & 701.146

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1350

Procedure if Information on Complaint Form is Incomplete

If the agency receives a complaint form that does not meet the requirements of OAR 812-004-1340, the agency may close the complaint if the complainant does not provide the missing information in response to a written request for the information from the agency. The written request and closure must comply with OAR 812-004-1260.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.131, 701.133, 701.139, 701.140, 701.143, 701.145 & 701.146

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1360

Addition of Complaint Items at On-Site Meeting

If the agency holds an on-site meeting, the complainant may add new complaint items up to and through the initial on-site meeting. New items added to a timely filed complaint under this rule are considered timely filed.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.140 & 701.145

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1400

Initial Administrative Processing of Complaints; Collection of Fee

(1) Upon receipt of a complaint, the agency must:

(a) Send a copy of the complaint to the respondent;

(b) Verify that the complainant has provided information required under OAR 812-004-1340 and request additional information from the complainant if necessary;

(c) Make a preliminary determination that the board has or lacks jurisdiction over the complaint based on the information provided by the complainant;

(2) If the agency makes a preliminary determination under subsection (1)(c) of this rule that it has jurisdiction over the complaint and the agency does not waive the complaint processing fee required under OAR 812-004-1110, the agency must request payment of the complaint processing fee. The agency may suspend processing of the complaint until complainant pays this fee.

(3) If the complainant does not pay the fee required under OAR 812-004-1110 within 14 days of written notification that the fee is due, the agency may close the complaint. The agency may extend the time for payment of the fee upon a showing of good cause by the complainant.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.133, 701.140, 701.143, 701.145 & 701.146

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1420

Processing Owner and Primary Contractor Complaints Together

If an owner complaint based on the same facts and issues is received at any time during the processing of a primary contractor complaint, the two complaints will be processed together.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.140 & 701.145

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1440

Contracts With Arbitration Agreements

(1) If a complaint is based on a contract that contains an agreement by the parties to mediate disputes arising out of the contract, the specific terms of the mediation agreement supersede agency rules except as set forth in ORS 701.180.

(2) If the contract requires mediation, the agency will be the mediator unless the contract requires mediation by a specific mediator other than the agency.

(3) If the contract requires mediation by a specific mediator other than the agency, the agency must inform the respondent by written notice that, if the respondent wants to mediate under the terms of the contract, the respondent must initiate the contractual mediation process within the time allowed under ORS 701.180 and submit evidence to the agency within 40 days from the date of the agency's written notice that respondent initiated mediation under the terms of the contract.

(4) If mediation under the contract is timely commenced under ORS 701.180, the agency must suspend processing the complaint until the mediation is complete.

(5) Notwithstanding receipt of a notice of intent to file a complaint under ORS 701.133 or any prior communication from the agency referencing a complaint, for purposes of ORS 701.180, a respondent receives notice of a complaint when the agency sends the respondent the notice described under section (3) of this rule.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.140 & 701.145

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 8-2011(Temp), f. & cert. ef. 9-2-11 thru 12-28-11; CCB 9-2011(Temp), f. & cert. ef. 9-9-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1450

On-site Meeting and Telephone Mediation; Attendance of the Complainant

(1) The agency may schedule one or more on-site meetings or telephone mediations among the parties for the purpose of discussing a settlement of a complaint under ORS 701.145. The agency must mail notice of an on-site meeting no less than 14 days before the date scheduled for the meeting. The notice must include notice of the requirements of section (2) and (3) of this rule and must comply with the requirements of OAR 812-004-1260(2).

(2) If the agency schedules an on-site meeting, the following apply:

(a) The complainant must allow access to the property that is the subject of the complaint.

(b) The complainant or an agent of the complainant must attend the meeting. An agent of the complainant must have knowledge of all complaint items included in the complaint and must have authority to enter into a settlement of the complaint.

(c) The complainant must allow the respondent to be present at the on-site meeting as required by ORS 701.145.

(3) If the complainant does not comply with the requirements of section (2) of this rule, the agency may close the complaint. OAR 812-004-1260 applies to closure of a complaint under this section.

(4) Notwithstanding subsection (2)(b), the agency may continue to process the complaint if the respondent does not appear at the on-site meeting.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: OAR 701.139, 701.140 & 701.145

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1460

Agency Recommendation of Resolution

If it appears that the respondent has breached a contract or performed work negligently or improperly, the agency may recommend to the complainant and respondent a resolution consistent with the terms of the contract, generally accepted building practices, and industry standards.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.130, 701.145 & 701.150

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

ADMINISTRATIVE RULES

812-004-1480

Resolution by Settlement and Construction of Settlement Agreement

(1) The agency may present a settlement proposal to the complainant and respondent for their consideration and agreement at or after an on-site meeting or telephone mediation conducted under OAR 812-004-1450.

(2) If the complainant and respondent sign a settlement agreement, the agreement shall be binding upon each party unless breached by the other.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.130, 701.145 & 701.150
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1490

Subsequent On-Site Meetings; Determining Compliance; Closing Complaint

(1) If a dispute arises as to whether the respondent complied with the settlement agreement, the agency may schedule a subsequent on-site meeting.

(2) If the agency determines that the respondent complied with the terms of the settlement agreement, the agency may close the complaint.

(3) If the agency determines that the respondent did not comply with the terms of the settlement agreement, the complainant must obtain a judgment and submit the judgment to the agency in order to recover under the respondent's bond.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.139, 701.140 & 701.145
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1500

Closure of Complaint After Settlement

If the complainant and respondent agree to a settlement, within 30 days from the date the settlement agreement requires completion of the terms of the settlement, the complainant must notify the agency in writing whether the terms of the settlement have been fulfilled.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.145
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1505

Complaint Not Settled

(1) For other than a BOLI final order, if the complainant and respondent do not settle the complaint, the complainant must obtain a court judgment, including a judgment on an arbitration award, in order to recover from the respondent's bond.

(2) The agency will process the judgment and issue its determination as to the amount of the judgment that complainant is entitled to recover from respondent's bond.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.145
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1510

Court Judgments, Arbitration Awards and Bureau of Labor and Industries Final Orders

(1) A judgment based on a court action or arbitration award or a Bureau of Labor and Industries (BOLI) final order constitute the basis for a complaint if:

(a) A complaint is filed under OAR 812-004-1300 and 812-004-1340 within the time limit in ORS 701.143; and

(b) All or a portion of the judgment or the BOLI final order is within the jurisdiction of the agency.

(2) A complaint based on a judgment or BOLI final order will be processed under OAR 812-004-1520.

(3) This rule does not apply to a complaint filed and processed under ORS 701.146.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.143, 701.145, 701.146 & 701.150
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1520

Processing of Complaint Based on Judgments and Bureau of Labor and Industries Final Orders

(1) The agency may suspend processing a complaint if:

(a) The complainant or respondent submits to a court, arbitrator or BOLI a complaint based on the same facts and issues contained in the complaint filed with the agency; or

(b) The complainant in an owner complaint involving a residential structure submits copies of a notice of defect required under ORS 701.565 and the registered mail receipt for the notice and the notice of defect relates to the same facts and issues contained in the complaint.

(2) Beginning six months after the date that the agency suspends processing the complaint and no less frequently than every sixth month thereafter, the complainant must deliver to the agency a written report describing the current status of the notice of defect or action before the court, arbitrator or BOLI.

(3) The agency may, at any time, demand from the complainant a written report describing the current status of the notice of defect or the action before the court, arbitrator or BOLI. The complainant must deliver a written response to the agency within 30 days from the date the agency mails the demand letter.

(4) Within 30 days from the date of final action by the court or BOLI, the complainant must deliver to the agency a certified copy of the final judgment or BOLI final order. The agency may extend the time in which to submit the final judgment or BOLI final order if it determines there is good cause to do so.

(5) If the complainant does not comply with sections (2), (3) or (4) of this rule, the agency may close the complaint under OAR 812-004-1260(1)(i).

(6) If the agency suspends processing a complaint because respondent filed a court action, the complainant must file its complaint as a counter-suit, complaint or counter-claim in the court, arbitration or other proceedings and submit evidence, including a copy of the countersuit, complaint or counter claim, to the agency. The complainant must provide this information within 30 days from the date that the agency suspended processing the complaint, unless the agency determines there is good cause to extend the permissible time period.

(7) If the complainant does to submit the evidence required under subsection (6) of this rule, the agency may close the complaint.

(8) At its discretion and with the agreement of the complainant and respondent, the agency may hold an on-site meeting under OAR 812-004-1450 before suspending complaint processing under section (2) of this rule if the agency finds that an on-site meeting may help the parties to resolve the complaint.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 701.133, 701.140, 701.145 & 701.146
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1530

Construction Lien Complaints

(1) The agency may schedule one or more on-site meetings or telephone mediations among the parties to a construction lien complaint filed under ORS 701.145 for the purpose of discussing settlement of the complaint. Notice of the meeting must comply with OAR 812-004-1450(1). The agency may invite the lienor to participate in the settlement discussions. The on-site meeting may be held on the property of the complainant or another mutually agreeable site. OAR 812-004-1450(2), (3) and (4) apply to an on-site meeting held under this section.

(2) If the complaint does not settle, the complainant must:

(a) Join the respondent in an action to foreclose the lien if the lienor has filed such an action; or

(b) File an action against respondent to recover damages caused by respondent's failure to pay for material, rental services, labor or subcontractor services that gave rise to the lien.

(3) The agency will suspend processing the complaint while the complainant complies with section (2) of this rule. If complainant fails, within 60 days from the date of the last on-site meeting or telephone mediation, to comply with section (2) of this rule, the agency may close the complaint. The agency may extend the time to comply with section (2) for good cause.

(4) While the court action described in section (2) is proceeding, the complainant must comply with OAR 812-004-1520.

(5) If a construction lien complaint involves the same facts and issues as any other open complaint, the agency must process the complaints together.

Stat. Auth.: ORS 670.310 & 701.235
Stats. Implemented: ORS 87.057, 87.058, 701.145 & 701.150
Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

ADMINISTRATIVE RULES

812-004-1537

Standards of Care and Workmanship

(1) For purposes of this rule, "NASCLA Standards" mean the Residential Construction Standards, dated March 20, 2009, as adopted by the National Association of State Contractors Licensing Agencies.

(2) Except as provided in section (3) of this rule, the agency will apply NASCLA standards; to the extent such standards cover the work at issue, in order to determine if construction work performed on a residential structure meets the standards of care and workmanship in the industry.

(3) The agency may apply a standard different than the NASCLA standard if:

(a) The contract between the parties provides for a standard of care and workmanship that differs from the NASCLA standard; or

(b) The work involved installation of a product for which the manufacturer provided installation instructions that establish a standard that differs from the NASCLA standard.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-004-1600

Payment From Surety Bond, Letter of Credit or Cash Deposit

(1) The agency must notify the surety company or financial institution the agency's determination. The determination is the amount of the judgment that is subject to payment by the surety or financial institution.

(2) A complaint is ready for payment when there is a court judgment and 30 days have elapsed or there is a BOLI final order and 60 days have elapsed and:

(a) The respondent has not paid the judgment or BOLI order;

(b) A court has not granted a stay of judgment or BOLI has not granted a stay of its final order; and

(c) All other complaints filed against the respondent within the same 90-day filing period under ORS 701.150 are resolved, closed or have reached the same state of processing as the subject complaint.

(3) For purposes of section (2), a BOLI final order is final except that the 60-day period for judicial review has not expired.

(4) Complaints related to a job that are satisfied from a surety bond, letter of credit or cash deposit must be paid as follows:

(a) If a surety bond, letter of credit or cash deposit was in effect when the work period began and that bond, letter of credit or cash deposit was not cancelled more than 14 months before the agency received the complaint, payment must be made from that surety bond, letter of credit or cash deposit.

(b) If no surety bond, letter of credit or cash deposit was in effect when the work period began and that bond, letter of credit or cash deposit was not cancelled more than 14 months before the agency received the complaint, but a surety bond, letter of credit or cash deposit subsequently became effective during the work period of the contract, payment must be made from the first surety bond, letter of credit or cash deposit to become effective after the beginning of the work period.

(c) A surety bond, letter of credit or cash deposit that is liable for a complaint under subsection (4)(a) or (b) of this rule is liable for all complaints related to the job and subsequent surety bonds, letters of credit or cash deposits have no liability for any complaint related to the job.

(5) If during a work period the amount of a surety bond, letter of credit or cash deposit is changed and a complaint is filed relating to work performed during that work period, the complainant may recover from the surety bond, letter of credit or cash deposit up to the amount in effect at the time the contract was entered into.

(6) If the contractor holds a residential surety bond, that bond is available only for payments ordered by the agency involving residential or small commercial structures or for the development of property zoned or intended for use compatible with residential or small commercial structures.

(7) If the contractor holds a commercial surety bond, that bond is available only for payments ordered by the agency involving small or large commercial structures or for development of property zoned or intended for use compatible with small or large commercial structures.

(8) If more than one complaint must be paid from a surety bond, letter of credit or cash deposit under section (4) of this rule and the total amount due to be paid exceeds the total amount available from the surety bond, letter of credit or cash deposit, payment on a complaint must be made in the same proportion that the amount due on that complaint bears to the total due on all complaints that must be paid.

(9) The full penal sum of a bond is available to pay complaints under this rule, notwithstanding that the penal sum may exceed the bond amount required under OAR 812-003-0170 or 812-003-0171.

(10) If two or more respondents are jointly and severally liable for an amount due to a complainant and payment is due from the surety bonds, letter of credit or cash deposit of the respondents, payment must be made in equal amounts from each bond, letter of credit or cash deposit subject to payment. If one or more of the bonds, letters of credit or cash deposits is or becomes exhausted, payment must be made from the remaining bond, letter of credit or cash deposit or in equal amounts from the remaining bonds, letters of credit or cash deposits. If one of the respondents liable on the complaint makes payment on the complaint, that payment shall reduce the payments required from that respondent's bond, letter of credit or cash deposit under this section by an amount equal to the payment made by the respondent.

(11) A surety company or financial institution may not condition payment of a complaint on the execution of a release by the complainant.

(12) Inactive status of the license of the respondent does not excuse payment by a surety company or financial institution required under this rule.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.081, 701.084, 701.088 & 701.150

Hist.: CCB 7-2011(Temp), f. & cert. ef. 7-8-11 thru 1-4-12; CCB 11-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-005-0200

Unpaid Final Orders that Exceed the Contractor's Bond, Letter of Credit or Cash Deposit

(1) Under ORS 701.068(5), the agency must suspend the license of a licensee if the agency issues a final order, arbitration award or determination on a complaint that exceeds the amount of the bond, letter of credit or cash deposit available to pay the order, arbitration award or determination.

(2) A suspension issued under section (1) of this rule must remain in effect until the unpaid amount of the order, arbitration award or determination is paid or until the license of the licensee expires.

(3) The agency may not reinstate or renew a license suspended under section (1) of this rule until the final order, arbitration award or determination described in section (1) of this rule and any subsequently issued order, arbitration award or determination that is unpaid, is paid, or discharged in bankruptcy.

(4) As a condition of ending a suspension or renewing a license that was suspended under ORS 701.068, and section (1) of this rule, the agency may require a licensee to file a bond, letter of credit or cash deposit up to five times as much as the amount required of a licensee under ORS 701.081 or 701.084. The amount of the increased bond, letter of credit or cash deposit required must conform to the following schedule:

(a) If the sum of unpaid amounts on final orders, arbitration awards and determinations described in section (4) of this rule exceeds the licensee's most recent bond, letter of credit or cash deposit by less than 50 percent, the agency may require a bond, letter of credit or cash deposit two times the amount required under ORS 701.081 or 701.084.

(b) If the sum of the unpaid final orders, arbitration awards and determinations described in section (4) of this rule exceeds the licensee's most recent bond, letter of credit or cash deposit by 50 percent or more, but less than 100 percent, the agency may require a bond, letter of credit or cash deposit three times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084.

(c) If the sum of unpaid amounts on final orders, arbitration awards and determinations exceeds the licensee's most recent bond, letter of credit or cash deposit by 100 percent or more, the agency may require a bond, letter of credit or cash deposit in the amount of five times the normal amount required under ORS 701.081 or 701.084.

(d) For purposes of this section, if a contractor has both residential and commercial bonds, the increased bond requirement will apply to both bonds, even if the unpaid amounts occurred only with respect to one of the two bonds.

Stat. Auth.: ORS 670.310, 701.085 (2005), 701.068, 701.088 & 701.235

Stats. Implemented: ORS 701.085 (2005), 701.068 & 701.088

Hist.: CCB 9-2004, f. & cert. ef. 12-10-04; CCB 2-2005, f. 6-29-05, cert. ef. 7-1-05; Renumbered from 812-003-0170(3)(c), CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 15-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 7-2007, f. 12-13-07, cert. ef. 1-1-08; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-005-0210

Conditions to Require an Increased Bond, Letter of Credit or Cash Deposit

(1) Under ORS 701.068(6), the agency may require a bond, letter of credit or cash deposit of up to five times the normally required amount, if

ADMINISTRATIVE RULES

it determines that a licensee or a current or previous owner, officer or responsible managing individual, as those terms are defined in division 2 of these rules, has:

(a) A history of unpaid final orders, arbitration awards or determinations consisting of two or more final orders, arbitration awards or determinations, which remain unpaid for longer than thirty (30) days following the date of issuance.

(b) Five or more complaints filed under ORS 701.140 and processed under ORS 701.145 or 701.146 by five or more separate complainants within a one-year period from the date of filing of the most recent Dispute Resolution Services complaint.

(c) An unpaid construction debt as defined in ORS 701.005(4) or unpaid judgment arising from construction activity that exceeds the amount of the bond, letter of credit or cash deposit.

(d) Board final orders, arbitration awards or determinations issued in favor of one or more complainants under ORS 701.145 where the amount that must be paid exceeds the amount of the residential bond.

(e) Board final orders or determinations issued in favor of one or more complainants under ORS 701.146 where the amount that must be paid exceeds the amount of the commercial bond.

(2) The amount of the increased bond, letter of credit or cash deposit required under subsection (1)(a) of this rule must conform to the following schedule:

(a) If the sum of unpaid amounts on final orders, arbitration awards and determinations exceeds the licensee's most recent bond, letter of credit or cash deposit by less than 50 percent, the agency may require a bond, letter of credit or cash deposit two times the amount required under ORS 701.081 or 701.084.

(b) If the sum of the unpaid final orders, arbitration awards and determinations exceeds the licensee's most recent bond, letter of credit or cash deposit by 50 percent or more, but less than 100 percent, the agency may require a bond, letter of credit or cash deposit three times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084.

(c) If the sum of unpaid amounts on final orders, arbitration awards and determinations exceeds the licensee's most recent bond, letter of credit or cash deposit by 100 percent or more, the agency may require a bond, letter of credit or cash deposit in the amount of five times the normal amount required under ORS 701.081 or 701.084.

(d) For purposes of this section, if a contractor has both residential and commercial bonds, the increased bond requirement will apply to both bonds, even if the unpaid amounts occurred only with respect to one of the two bonds.

(3) The amount of increased bond, letter of credit or cash deposit the agency may require under subsection (1)(b) of this rule will be based on the number of complaints filed and the time period that the complaints were received as follows:

(a) Two times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084 if five or more complaints are received in any twelve-month period.

(b) Three times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084 if five or more complaints are received in any six-month period.

(c) Five times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084 if five or more complaints are received in any three-month period.

(d) For purposes of this section, if a contractor has both residential and commercial bonds, the increased bond requirement will apply to both bonds, even if the unpaid amounts occurred only with respect to one of the two bonds.

(4) The amount of the increased bond, letter of credit or cash deposit required under subsection (1)(c) of this rule must conform to the following schedule:

(a) If the sum of the unpaid construction debt or judgment exceeds the licensee's most recent bond, letter of credit or cash deposit by less than 50 percent, the agency may require a bond, letter of credit or cash deposit two times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084.

(b) If the sum of the unpaid construction debt or judgment exceeds the licensee's most recent bond, letter of credit or cash deposit by 50 percent or more, but less than 100 percent, the agency may require a bond, letter of credit or cash deposit three times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084.

(c) If the sum of the unpaid construction debt or judgment exceeds the licensee's most recent bond, letter of credit or cash deposit by 100 percent or more, the agency may require a bond, letter of credit or cash deposit five

times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084.

(d) For purposes of this section, if a contractor has both residential and commercial bonds, the increased bond requirement will apply to both bonds, even if the unpaid amounts occurred only with respect to one of the two bonds.

(5) The amount of the increased bond, letter of credit or cash deposit required under subsection (1)(d) of this rule must conform to the following schedule:

(a) If the amount of the board final orders, arbitration awards or determinations exceeds the licensee's most recent bond, letter of credit or cash deposit by less than 50 percent, the agency may require [a] bonds, letter of credit or cash deposit two times the bond, letter of credit or cash deposit amount required under ORS 701.081 and 701.084.

(b) If the amount of the board final orders, arbitration awards or determinations exceeds the licensee's most recent bond, letter of credit or cash deposit by 50 percent or more, but less than 100 percent, the agency may require bonds, letter of credit or cash deposit three times the bond, letter of credit or cash deposit amount required under ORS 701.081 and 701.084.

(c) If the amount of the board final orders, arbitrations or determinations exceeds the licensee's most recent bond, letter of credit or cash deposit by 100 percent or more, the agency may require [a] bonds, letter of credit or cash deposit five times the bond, letter of credit or cash deposit amount required under ORS 701.081 or 701.084.

(6) Notwithstanding sections (2) through (5) of this rule, a business (including an individual person) licensed as a residential general contractor or residential specialty contractor that applies to be licensed as, or seeks to change its endorsement to, a residential limited contractor must file a residential bond, letter or credit or cash deposit in an amount of five times the amount of the residential limited contractor bond, namely \$50,000, if the business or its previous owner, officer or responsible managing individual has:

(a) A history of unpaid final orders, arbitration awards or determinations consisting of two or more final orders, arbitration awards or determinations unpaid for longer than thirty (30) days following the date of issuance.

(b) Five or more complaints filed under ORS 701.140 and processed under ORS 701.145 by five or more separate complainants within a one-year period from the date of filing of the most recent Dispute Resolution Services complaint.

(c) An unpaid construction debt as defined in ORS 701.005(4) that exceeds the amount of the residential bond, letter of credit or cash deposit previously held by the business.

(d) Board final orders, arbitration awards or determinations issued in favor of one or more complainants under ORS 701.145 where the amount that must be paid exceeds the amount of the residential bond previously held by the business.

Stat. Auth.: ORS 670.310, 701.085 (2005), 701.068, 701.088 & 701.235

Stats. Implemented: ORS 701.005, 701.085 (2005), 701.068, 701.088 & 701.094

Hist.: CCB 9-2004, f. & cert. ef. 12-10-04; CCB 2-2005, f. 6-29-05, cert. ef. 7-1-05; Renumbered from 812-003-0170(3)(a)-(c), CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 7-2006, f. & cert. ef. 6-23-06; CCB 9-2006, f. & cert. ef. 9-5-06; CCB 12-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 6-2007, f. 8-29-07, cert. ef. 9-1-07; CCB 7-2007, f. 12-13-07, cert. ef. 1-1-08; CCB 9-2008, f. 6-11-08, cert. ef. 7-1-08; CCB 17-2008, f. 9-26-08, cert. ef. 10-1-08; CCB 14-2010, f. 8-24-10, cert. ef. 9-1-10; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-005-0270

Duty to Submit Evidence of Management or Supervisory Authority

Upon request from the agency, a licensee must submit evidence to support compliance with the requirement that a responsible managing individual of the licensee exercises management or supervisory authority over the construction activities of the business as defined under OAR 812-002-0265.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.005 & 701.091

Hist.: CCB 7-2007, f. 12-13-07, cert. ef. 1-1-08; CCB 5-2008, f. 2-29-08, cert. ef. 7-1-08; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-005-0280

Fitness Standards

(1) In considering whether to revoke, suspend, or refuse to issue a license pursuant to ORS 701.098(1)(i)(A)-(I), the agency shall consider whether the applicant's or licensee's criminal conduct is substantially related to the fitness and ability of the applicant or licensee to engage in construction contracting.

(a) Fitness to engage in construction contracting includes, but is not limited to the ability to:

ADMINISTRATIVE RULES

(A) Refrain from violent, threatening, intimidating or sexually predatory behavior;

(B) Refrain from dishonest or fraudulent conduct; or

(C) Be financially responsible.

(b) Factors to be considered in denying or refusing to issue or renew a license include, but are not limited to, the date of the offense and the circumstances of the crime. In addition, factors relating to rehabilitation, or lack thereof, as evidenced by intervening events include, but are not limited to: failure to complete the criminal sentence, including probation or parole; failure to complete court ordered treatment; or failure to pay court ordered restitution.

(c) Upon notice and request from the Board, it will be the duty of an applicant or licensee to provide the requested information in order for the Board to conduct a criminal background check as authorized by 701.098(1)(i)(A)-(I). Requested information includes but is not limited to police reports, record of conviction, parole or probation reports, restitution records, counseling reports, and letters of recommendation.

(d) Failure to provide requested information in (1)(c) of this section may result in the denial of a license.

(2) The agency may revoke, suspend, or refuse to issue a license if the applicant, licensee, or an owner, officer or responsible managing individual of the applicant or licensee demonstrates a lack of financial responsibility pursuant to ORS 701.098(2) and ORS 701.102(2)(d).

(a) Lack of financial responsibility is evidenced by failure to pay a final order, arbitration award or determination of the board, issued under ORS 701.145 or 701.146, where the final order, arbitration award or determination, either alone or combined with any other unpaid final order, arbitration award or determination, exceeds the amount of the applicable bond and the final order, arbitration award or determination was issued against:

(i) The applicant or licensee; or

(ii) A business in which the owner, officer or responsible managing individual of the applicant or licensee is, or was, an owner, officer or responsible managing individual during the work period in which the business' obligation giving rise to the final order, arbitration award or determination arose or was incurred.

(iii) As used in subsection (a) of this rule, "officer" includes any person listed in ORS 701.005(11) or OAR 812-002-0533.

(b) Lack of financial responsibility is evidenced by failure to pay a civil penalty final order of the Director, Department of Consumer and Business Services, issued under ORS 654.086.

(c) Lack of financial responsibility is evidenced by failure to pay a judgment or civil penalty arising from construction activities within the United States, regardless of the fact that the judgment of civil penalty has not yet become final by operation of law.

(3) Pursuant to ORS 701.098(2), the agency may revoke, suspend, or refuse to issue a license if a contractor engages in conduct that harms a consumer by:

(a) Arranging for or undertaking work as a contractor that:

(A) Is performed in a manner not in accordance with state building codes or accepted building standards demonstrating negligent or improper work;

(B) The work causes damage to the consumer or to the consumer's property; and

(C) The work is significantly standard or is part of a pattern of standard work performed by the contractor.

(4) Pursuant to ORS 701.098(2), the agency may revoke, suspend, or refuse to issue a license if the Director, Department of Consumer and Business Services, by final order, sanctions a contractor under OAR 437-001-0160 and 437-001-0165 for a fifth or subsequent repeat violation of any statute, regulation, rule, standard or order relating to the Oregon Safe Employment Act.

(5) Pursuant to ORS 701.098(2), the agency may revoke, suspend, or refuse to issue a license if the Director, Department of Consumer and Business Services, by final order, sanctions a contractor under OAR 437-001-0175 for a willful or egregious violation of any statute, regulation, rule, standard or order relating to the Oregon Safe Employment Act.

Stat. Auth.: ORS 670.310 & 701.235

Stats. Implemented: ORS 701.098 & 701.102

Hist.: CCB 13-2008, f. 6-30-08, cert. ef. 7-1-08; CCB 18-2008, f. & cert. ef. 11-20-08; CCB 4-2009, f. 5-6-09, cert. ef. 6-1-09; CCB 6-2009, f. & cert. ef. 9-1-09; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

812-005-0800

Schedule of Penalties

The agency may assess penalties, not to exceed the amounts shown in the following guidelines:

(1) \$600 for advertising or submitting a bid to do work as a contractor in violation of ORS 701.021 and OAR 812-003-0120, which may be reduced to \$200 if the respondent becomes licensed or to \$50 if the advertisement or bid is withdrawn immediately upon notification from the agency that a violation has occurred and no work was accepted as a result of the advertisement or bid; and

(2) \$700 per offense without possibility of reduction for advertising or submitting a bid to do work as a contractor in violation of ORS 701.021 and OAR 812-003-0120, when one or more previous violations have occurred, or when an inactive, lapsed, invalid, or misleading license number has been used; and

(3) \$1,000 per offense for performing work as a contractor in violation of ORS 701.021 when the Board has no evidence that the person has worked previously without having a license and no consumer has suffered damages from the work, which may be reduced to \$700 if the respondent becomes licensed within a specified time; and

(4)(a) \$5,000 per offense for performing work as a contractor in violation of ORS 701.021, when an owner has filed a complaint for damages caused by performance of that work, which may be reduced to \$700 if the contractor becomes licensed within a specified time and settles or makes reasonable attempts to settle with the owner.

(b) A "complaint for damages" as used in section (4) of this rule includes, but is not limited to:

(A) A Construction Contractors Board Dispute Resolution Services (DRS) complaint; or

(B) A letter to Construction Contractors Board indicating that a citizen has been damaged by the contractor; and

(5) \$5,000 per offense for performing work as a contractor in violation of ORS 701.021, when one or more violations have occurred, or when an inactive, lapsed, invalid, or misleading license number has been used; and

(6) \$500 per offense for failure to respond to the agency's request for the list of subcontractors required in ORS 701.345; and

(7) \$1,000 per offense for hiring a unlicensed subcontractor; and

(8) For failing to provide an "Information Notice to Owners about Construction Liens" as provided in ORS 87.093, when no lien has been filed, \$200 for the first offense, \$400 for the second offense, \$600 for the third offense, \$1,000 for each subsequent offense. Any time a lien has been filed upon the improvement, \$1,000.

(9) Failure to include license number in advertising or on contracts, in violation of OAR 812-003-0120: First offense \$100, second offense \$200, subsequent offenses \$400.

(10) Failure to list with the Construction Contractors Board a business name under which business as a contractor is conducted in violation of OAR 812-003-0260: First offense \$50, second offense \$100, subsequent offenses \$200.

(11) Failure to notify the Construction Contractors Board of a new or additional business name or personal surname (for sole proprietors) under which business as a contractor is conducted, in violation of OAR 812-003-0320: First offense warning, second offense \$50, subsequent offenses \$200.

(12) Failing to use a written contract as required by ORS 701.305: \$500 for the first offense; \$1,000 for the second offense; and \$5,000 for subsequent offenses.

(13) Violation of OAR 812-012-0130(1), failure to provide a Consumer Notification form; \$100 first offense; \$500 second offense; \$1,000 third offense; and \$5,000 for subsequent offenses. Civil penalties shall not be reduced unless the agency determines from clear and convincing evidence that compelling circumstances require a suspension of a portion of the penalty in the interest of justice. In no event shall a civil penalty for this offense be reduced below \$100.

(14) Failure to conform to information provided on the application in violation of ORS 701.046(5), issuance of a \$5,000 civil penalty, and suspension of the license until the contractor provides the agency with proof of conformance with the application and the terms of the application.

(a) If the violator is a limited contractor or residential limited contractor working in violation of the conditions established pursuant to OAR 812-003-0130 or 812-003-0131, the licensee shall be permanently barred from licensure in the limited contractor category or residential limited contractor endorsement.

(b) If the violator is a licensed developer, residential developer or commercial developer working in violation of the conditions established pursuant to ORS 701.005(3), (6) or (14) or 701.042, the licensee shall be permanently barred from licensure in the licensed developer category or residential developer or commercial developer endorsement.

ADMINISTRATIVE RULES

(15) Knowingly assisting an unlicensed contractor to act in violation of ORS chapter 701, \$1,000.

(16) Failure to comply with any part of ORS chapters 316, 656, or 657 or with ORS 701.035, 701.046 or 701.091, \$1,000 and suspension of the license until the contractor provides the agency with proof of compliance with the statute.

(17) Violating an order to stop work as authorized by ORS 701.225(6), \$1,000 per day.

(18) Working without a construction permit in violation of ORS 701.098, \$1,000 for the first offense; \$2,000 and suspension of CCB license for three (3) months for the second offense; \$5,000 and permanent revocation of CCB license for the third and subsequent offenses.

(19) Failure to comply with an investigatory order issued by the Board, \$500 and suspension of the license until the contractor complies with the order.

(20) Violation of ORS 701.098(1)(L) by engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public: first offense, \$1,000, suspension of the license or both; second and subsequent offenses, \$5,000, per violation, revocation or suspension of the license until the fraudulent conduct is mitigated in a manner satisfactory to the agency or both.

(21) Engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public by:

(a) Not paying prevailing wage on a public works job; or

(b) Violating the federal Davis-Bacon Act; or

(c) Failing to pay minimum wages or overtime wages as required under state and federal law; or

(d) Failing to comply with the payroll certification requirements of ORS 279C.845; or

(e) Failing to comply with the posting requirements of ORS 279C.840: \$1,000 and suspension of the license until the money required as wages for employees is paid in full and the contractor is in compliance with the appropriate state and federal laws.

(22) Violation of ORS 701.098(1)(L) by engaging in conduct as a contractor that is dishonest or fraudulent and injurious to the welfare of the public, as described in sections (20) or (21), where more than two violations have occurred: \$5,000 and revocation of the license.

(23) When, as set forth in ORS 701.098(1)(h), the number of licensed contractors working together on the same task on the same job site, where one of the contractors is licensed exempt under ORS 701.035(2)(b), exceeded two sole proprietors, one partnership, or one limited liability company, penalties shall be imposed on each of the persons to whom the contract is awarded and each of the persons who award the contract, as follows: \$1,000 for the first offense, \$2,000 for the second offense, six month suspension of the license for the third offense, and three-year revocation of license for a fourth offense.

(24) Performing home inspections without being an Oregon certified home inspector in violation of OAR 812-008-0030(1): \$5,000.

(25) Using the title Oregon certified home inspector in advertising, bidding or otherwise holding out as a home inspector in violation of OAR 812-008-0030(3): \$5,000.

(26) Failure to conform to the Standards of Practice in violation of OAR 812-008-0202 through 812-008-0214: \$750 per offense.

(27) Failure to conform to the Standards of Behavior in OAR 812-008-0201(2)-(4): \$750 per offense.

(28) Offering to undertake, bidding to undertake or undertaking repairs on a structure inspected by an owner or employee of the business entity within 12 months following the inspection in violation of ORS 701.355: \$5,000 per offense.

(29) Failure to include certification number in all written reports, bids, contracts, and an individual's business cards in violation of OAR 812-008-0202(4): \$400 per offense.

(30) Violation of work practice standards for lead-based paint (LBP) activity pursuant to OAR 812-007-0140 or 812-007-0240 first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000 plus suspension of license for up to one year. The civil penalty is payable to the Construction Contractors Board LBP Activities Fund as provided in ORS 701.995 and OAR 812-007-0025.

(31) Violation of work practice standards for LBP renovation pursuant to OAR 812-007-0340 or violation of recordkeeping and reporting requirements pursuant to OAR 333-070-0110: first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000 and suspension of the certified LBP renovation contractor license for up to one year. The civil penalty is payable to the Construction Contractors Board LBP Activities Fund as provided in ORS 701.995 and OAR 812-007-0025.

(32) Violation of OAR 812-007-0100, 812-007-0200 or 812-007-0300: first offense, \$1,000; second offense, \$3,000; and third offense, \$5,000. The civil penalty is payable to the Construction Contractors Board Lead-Based Paint (LBP) Activities Fund as provided in ORS 701.995 and OAR 812-007-0025.

(33) Violation of ORS 279C.590:

(a) Imposition of a civil penalty on the contractor of up to ten percent of the amount of the subcontract bid submitted by the complaining subcontractor to the contractor or \$15,000, whichever is less; and

(b) Imposition of a civil penalty on the contractor of up to \$1,000; and

(c) Placement of the contractor on a list of contractors not eligible to bid on public contracts established to ORS 701.227(4), for a period of up to six months for a second offense if the offense occurs within three years of the first offense.

(d) Placement of the contractor on a list of contractors not eligible to bid on public contracts established to ORS 701.227(4), for a period of up to one year for a third or subsequent offense if the offense occurs within three years of the first offense.

(34) Violation of ORS 701.315, inclusion of provisions in a contract that preclude a homeowner from filing a breach of contract complaint with the Board: \$1,000 for the first offense, \$2,000 for the second offense, and \$5,000 for the third and subsequent offenses.

(35) Violation of ORS 701.345, failure to maintain the list of subcontractors: \$1,000 for the first offense; \$2,000 for the second offense, and \$5,000 for the third and subsequent offenses.

(36) Violation of 701.098(1)(f), knowingly providing false information to the Board: \$1,000 and suspension of the license for up to three months for the first offense; \$2,000 and suspension of the license for up to one year for the second offense; and \$5,000 and permanent revocation of license for the third offense.

(37) Failing to provide a written contract with the contractual terms provided by ORS 701.305 or OAR 812-012-0110: \$200 for the first offense; \$500 for the second offense; and \$1,000 for subsequent offenses.

(38) Working while the license is suspended if the licensee was required to provide an increased bond under ORS 701.068(5), 701.068(6), or OAR 812-003-0175: revocation.

(39) Working while the license is suspended for any violation of ORS 701.098(4)(a)(A) or ORS 701.098(4)(a)(B): \$5,000 for first offense, and revocation for second or subsequent offense.

(40) Working while the license is suspended for any reason except as otherwise provided for by this rule: revocation.

(41) Failure to comply with ORS 701.106(1)(a); \$1,000 for the first offense, \$5,000 for the second offense; \$5,000 and permanent revocation of CCB license for the third offense.

(42) Failure to deliver as required by ORS 701.109(2) a copy of a final judgment; \$200 first offense, \$400 second offense; \$600 for the third offense; \$1,000 for each subsequent offense.

(43) Failure to maintain insurance as required under ORS 701.073 or to provide proof of insurance as required under OAR 812-003-0200, where there is no claim of loss submitted to the insurance company: first offense, \$500; second offense, \$1,000; third and subsequent offenses, \$5,000.

(44) Failure to maintain insurance as required under ORS 701.073 or to provide proof of insurance as required under OAR 812-003-0200, where there is a claim of loss submitted to the insurance company: first offense, \$2,000; second and subsequent offenses, \$5,000.

(45) Undertaking, offering to undertake, or submitting a bid to work as a locksmith when an individual is not certified as a locksmith or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(46) Undertaking, offering to undertake, or submitting a bid to provide locksmith services when a business is not a licensed construction contractor or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(47) Using the title of locksmith, locksmith professional, commercial locksmith, lock installer or any title using a form of the word "locksmith" that indicates or tends to indicate that the individual is a locksmith, unless an individual is certified as a locksmith or otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(48) Using the title of locksmith, locksmith professional, commercial locksmith, lock installer or any title using a form of the word "locksmith" that indicates or tends to indicate that the business providing locksmith services, unless a business:

(a) Is a licensed construction contractor; and

ADMINISTRATIVE RULES

(b) Is owned by or employs a certified locksmith or is otherwise exempt under ORS 701.490: first offense, \$1,000; second offense, \$3,000; third offense, \$5,000.

(49) Violating any applicable provision of the rules in division 30, including violating any standard of professional conduct other than OAR 812-030-0300(4): first offense, \$1,000; second offense, \$3,000; third offense, \$5,000 and revocation of the certificate.

(50) Violating OAR 812-030-0300(4): first offense, \$200; second offense, \$500; third offense, \$1,000.

Stat. Auth.: ORS 183.310 to 183.500, 670.310, 701.235, 701.515, 701.992 & 701.995
Stats. Implemented: ORS 87.093, 279C.590, 701.005, 701.021, 701.026, 701.042, 701.046, 701.073, 701.091, 701.098, 701.106, 701.109, 701.227, 701.305, 701.315, 701.330, 701.345, 701.480, 701.485, 701.510, 701.515, 701.992 & 701.995
Hist.: 1BB 4-1982, f. & ef. 10-7-82; 1BB 1-1983, f. & ef. 3-1-83; Renumbered from 812-011-0080(13); 1BB 3-1983, f. 10-5-83, ef. 10-15-83; 1BB 3-1984, f. & ef. 5-11-84; 1BB 3-1985, f. & ef. 4-25-85; BB 1-1987, f. & ef. 3-5-87; BB 1-1988(Temp), f. & cert. ef. 1-26-88; BB 2-1988, f. & cert. ef. 6-6-88; CCB 1-1989, f. & cert. ef. 11-1-89; CCB 2-1990, f. 5-17-90, cert. ef. 6-1-90; CCB 3-1990(Temp), f. & cert. ef. 7-27-90; CCB 4-1990, f. 10-30-90, cert. ef. 11-1-90; CCB 3-1991, f. 9-26-91, cert. ef. 9-29-91; CCB 1-1992, f. 1-27-92, cert. ef. 2-1-92; CCB 2-1992, f. & cert. ef. 4-15-92; CCB 4-1992, f. & cert. ef. 6-1-92; CCB 5-1993, f. 12-7-93, cert. ef. 12-8-93; CCB 2-1994, f. 12-29-94, cert. ef. 1-1-95; CCB 3-1995, f. 9-7-95, cert. ef. 9-9-95; CCB 4-1995, f. & cert. ef. 10-5-95; CCB 3-1996, f. & cert. ef. 8-13-96; CCB 8-1998, f. 10-29-98, cert. ef. 11-1-98; CCB 7-1999(Temp), f. & cert. ef. 11-1-99 thru 4-29-00; CCB 4-2000, f. & cert. ef. 5-2-00; CCB 7-2000, f. 6-29-00, cert. ef. 7-1-00; CCB 13-2000(Temp), f. & cert. ef. 11-13-00 thru 5-11-01; CCB 2-2001 f. & cert. ef. 4-6-01; CCB 8-2001, f. 12-12-01, cert. ef. 1-1-02; CCB 1-2002(Temp), f. & cert. ef. 3-1-02 thru 8-26-02; CCB 2-2002, f. & cert. ef. 3-1-02; CCB 7-2002, f. 6-26-02 cert. ef. 7-1-02; CCB 8-2002, f. & cert. ef. 9-3-02; CCB 11-2003, f. 12-5-03, cert. ef. 1-1-04; CCB 6-2004, f. 6-25-04, cert. ef. 9-1-04; CCB 9-2004, f. & cert. ef. 12-10-04; CCB 5-2005, f. 8-24-05, cert. ef. 1-1-06; Renumbered from 812-005-0005, CCB 7-2005, f. 12-7-05, cert. ef. 1-1-06; CCB 2-2006, f. & cert. ef. 1-26-06; CCB 7-2006, f. & cert. ef. 6-23-06; CCB 15-2006, f. 12-12-06, cert. ef. 1-1-07; CCB 4-2007, f. 6-28-07, cert. ef. 7-1-07; CCB 2-2008(Temp), f. & cert. ef. 1-2-08 thru 6-29-08; CCB 5-2008, f. 2-29-08, cert. ef. 7-1-08; CCB 13-2008, f. 6-30-08, cert. ef. 7-1-08; CCB 17-2008, f. 9-26-08, cert. ef. 10-1-08; CCB 19-2008, f. & cert. ef. 11-20-08; CCB 1-2009, f. 1-30-09, cert. ef. 2-1-09; CCB 4-2009, f. 5-6-09, cert. ef. 6-1-09; CCB 6-2009, f. & cert. ef. 9-1-09; CCB 2-2010, f. & cert. ef. 2-1-10; CCB 8-2010, f. & cert. ef. 4-28-10; CCB 13-2010(Temp), f. & cert. ef. 7-7-10 thru 1-2-11; Administrative correction 1-25-11; CCB 1-2011, f. 2-28-11, cert. ef. 3-1-11; CCB 4-2011, f. 6-24-11, cert. ef. 7-1-11; CCB 10-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 16-2011, f. 12-13-11, cert. ef. 1-1-12; CCB 3-2012, f. & cert. ef. 3-2-12; CCB 6-2012, f. 4-25-12, cert. ef. 5-1-12

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Rule Caption: Amend definition of employee for residential continuing education and clarify that only CCB approved residential continuing education providers may offer or provide CE courses.

Adm. Order No.: CCB 7-2012

Filed with Sec. of State: 4-25-2012

Certified to be Effective: 5-1-12

Notice Publication Date: 4-1-2012

Rules Amended: 812-021-0005, 812-021-0025, 812-021-0030, 812-021-0031

Rules Repealed: 812-021-0005(T), 812-021-0030(T), 812-021-0031(T)

Subject: OAR 812-021-0005 is amended to clarify the definition of employee for the purposes of CCB Residential Continuing Education (RCE). The term “employee” does not mean a leased or temporary employee.

OAR 812-021-0025, 812-021-0030, and 812-021-0031, are amended to clarify that only CCB-approved providers may offer or provide CE courses. Those providers may not use intermediaries, nor may they make payment conditional upon passing or failing the courses.

Rules Coordinator: Catherine Dixon—(503) 934-2185

812-021-0005

Definitions — Continuing Education for Residential Contractors

The following definitions apply to OAR 812-021-0000 to 812-021-0047:

(1) “BEST” means Building Exterior Shell Training.

(2) “Building code” means a specialty code as defined in ORS 455.010(7).

(3) “Employee” means any individual employed by a contractor. “Employee” does not include either a subcontractor, which is an independent contractor, or a leased or temporary employee.

(4) “Green” or sustainable building practices” means the practice of increasing the efficiency with which buildings use resources such as energy, water, and materials, while reducing building impacts on human health or the environment.

(5) “License period” means the two-year period from the date a contractor’s license is first issued or last renewed until the date the license is next scheduled to expire.

(6) “Officer” means an individual person as defined in OAR 812-002-0533.

(7) “Owner” means an individual person as defined in OAR 812-002-0537.

(8) “Residential contractor” means a licensed contractor as defined in ORS 701.005(12).

(9) “Responsible managing individual (RMI)” means an individual person as defined in ORS 701.005(15).

Stat. Auth.: ORS 670.310, 701.126 & 701.235

Stats. Implemented: ORS 701.126

Hist.: CCB 5-2009, f. 6-25-09, cert. ef. 7-1-09; CCB 1-2012(Temp), f. & cert. ef. 1-13-12 thru 7-11-12; CCB 7-2012, f. 4-25-12, cert. ef. 5-1-12

812-021-0025

Provider Approval, Standards, Fees and Renewal for Core — Continuing Education for Residential Contractors

(1) The agency will review and approve providers offering core continuing education.

(2) Providers will apply for approval on a form prescribed by the agency. Providers may, but need not, apply for approval at the same time they apply for course approval.

(3) Providers seeking approval to offer training in BEST or building codes must submit the following to the agency:

(a) Name, address and contact information of the provider;

(b) Business entity type of the provider and, if applicable, the Corporation Division business registry number;

(c) Description of provider business plan;

(d) Description of the core subject area(s) provider intends to offer; and

(e) Such other information or documentation as the agency may request.

(4) Notwithstanding sections (1) through (3) of this rule, a provider offering education on “green” or sustainable building practices that obtained provider approval before January 1, 2011, may continue to offer courses qualifying for mandatory core continuing education until September 30, 2011.

(5) Providers must remit to the agency together with their application:

(a) A non-refundable fee of \$2,000 if applying to offer BEST;

(b) A non-refundable fee of \$500 if applying to offer building codes; or

(c) A non-refundable fee of \$2,500 if applying to offer both BEST and building codes.

(6) To qualify for approval, providers must:

(a) Certify the programs offered meet the minimum standards and content objectives established by the Board;

(b) Employ or contract with educators who have at least four years work experience or four years of education, or any combination of both, in the subject that they instruct;

(c) Be capable of entering and transmitting electronic data to the agency;

(d) Describe a process for prompt resolution of complaints by registrants;

(e) Describe a process for cancellations and refunding registrant payments; and

(f) If applying to offer BEST, provide a surety bond in an amount of \$20,000 obligating the surety to pay registrants to whom the provider owes money for cancellation or other refunds that the provider fails to pay. The bond must be in the form adopted by the board as the “Continuing Education Provider Surety Bond” dated December 1, 2009.

(7) Only an approved provider may offer or provide training to a contractor or a contractor’s employees.

(8) An approved provider may not allow any person not approved by the agency as a provider to offer or provide training or courses of the approved provider.

(9) For purposes of this rule, “offer or provide” includes, but is not limited to, assisting the contractor or the contractor’s employees in obtaining or completing the courses or acting on behalf of an approved provider in advertising or soliciting the courses.

(10) Provider approval will be valid for two (2) years from the date the provider is approved by the agency.

(11) Providers must re-submit application and fees required under sections (3) and (5) of this rule for renewal of approval. Renewal of approval will be subject to the same requirements as initial approval.

(12) The agency may withdraw approval issued to any provider that violates ORS 701.126 or any rule of the agency.

Stat. Auth.: ORS 670.310, 701.126 & 701.235

Stats. Implemented: ORS 701.126

ADMINISTRATIVE RULES

Hist.: CCB 5-2009, f. 6-25-09, cert. ef. 7-1-09; CCB 8-2009, f. 12-28-09, cert. ef. 1-1-10; CCB 14-2010, f. 8-24-10, cert. ef. 9-1-10; CCB 13-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 2-2012(Temp), f. & cert. ef. 2-9-12 thru 8-7-12; CCB 4-2012, f. & cert. ef. 3-2-12; CCB 7-2012, f. 4-25-12, cert. ef. 5-1-12

812-021-0030

Core Hours: BEST — Continuing Education for Residential Contractors

(1) Only the agency and providers approved by the agency as BEST providers may offer or provide BEST. For purposes of this section, “offer or provide” includes, but is not limited to, assisting the contractor or the contractor’s employees in obtaining or completing the courses or acting on behalf of the approved provider in advertising or soliciting the courses.

(2) Only the agency or approved providers may charge contractors for BEST. Approved providers may charge contractors an amount determined by the provider.

Stat. Auth.: ORS 670.310, 701.126 & 701.235

Stats. Implemented: ORS 701.126

Hist.: CCB 5-2009, f. 6-25-09, cert. ef. 7-1-09; CCB 2-2012(Temp), f. & cert. ef. 2-9-12 thru 8-7-12; CCB 7-2012, f. 4-25-12, cert. ef. 5-1-12

812-021-0031

Core Hours: Building Codes — Continuing Education for Residential Contractors

(1) Only providers approved by the agency in building codes may offer or provide training in their approved subject area. For purposes of this section, “offer or provide” includes, but is not limited to, assisting the contractor or the contractor’s employees in obtaining or completing the courses or acting on behalf of the approved provider in advertising or soliciting the courses.

(2) Only approved providers may charge contractors for building code training. Approved providers may charge contractors an amount determined by the provider.

(3) Notwithstanding sections (1) and (2) of this rule, a provider approved by the agency before January 1, 2011 as qualified to offer training in “green” or sustainable building practices for mandatory core education may:

(a) Offer such training, so long as the course is completed on or before September 30, 2011; and

(b) Charge contractors for such training in an amount determined by the provider.

Stat. Auth.: ORS 670.310, 701.126 & 701.235

Stats. Implemented: ORS 701.126

Hist.: CCB 5-2009, f. 6-25-09, cert. ef. 7-1-09; CCB 13-2011, f. 9-29-11, cert. ef. 10-1-11; CCB 2-2012(Temp), f. & cert. ef. 2-9-12 thru 8-7-12; CCB 7-2012, f. 4-25-12, cert. ef. 5-1-12

Department of Agriculture Chapter 603

Rule Caption: Amends OAR 603-024-0211 to adopt 2009 revision of Grade A Pasteurized Milk Ordinance.

Adm. Order No.: DOA 9-2012

Filed with Sec. of State: 5-15-2012

Certified to be Effective: 5-15-12

Notice Publication Date: 3-1-2012

Rules Amended: 603-024-0211

Subject: The administrative rule currently refers to the 2003 version of the Pasteurized Milk Ordinance (PMO) and related documents. The amendment updates the rule to refer to the 2009 version of the PMO and related documents to maintain consistency with federal standards. While going through the amendment process, it was also noted that there was a typographical error in the statutory authority that has been amended.

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

603-024-0211

Adoption of the Grade A Pasteurized Milk Ordinance (PMO) and Related Documents

On all dairy farms, plants, and transport tankers, the standards for building construction, equipment construction, sanitation, sampling, pasteurization, transportation and handling of milk and dairy products shall be those given in the 2009 version of the PMO. This adoption shall also include the following related documents:

(1) 2009 version of the Methods of Making Sanitation Ratings (MMSR);

(2) 2009 version of the Single Service Containers and Closures (SSCC); and

(3) The 2009 version of the Evaluation of Milk Laboratories (EML).

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

Stat. Auth.: ORS 561.020 & 621

Stats. Implemented: 621.058

Hist.: DOA 6-2002, f. & cert. ef. 1-28-02; DOA 8-2006, f. & cert. ef. 3-10-06; DOA 9-2012, f. & cert. ef. 5-15-12

Rule Caption: Licensing exemptions for slaughter of 1,000 poultry or fewer per year while meeting other conditions.

Adm. Order No.: DOA 10-2012

Filed with Sec. of State: 5-15-2012

Certified to be Effective: 5-15-12

Notice Publication Date: 3-1-2012

Rules Adopted: 603-028-0710, 603-028-0715, 603-028-0720, 603-028-0725, 603-028-0730, 603-028-0735, 603-028-0740

Subject: The proposed rules create an exemption from food establishment license requirements for a person that slaughters no more than 1,000 poultry per year. The person must raise the poultry from two weeks of age or younger, and the poultry must be free from disease and used as human food. The person must slaughter the poultry at a slaughter facility on his or her premises, and the poultry is subject to interstate commerce restrictions.

The rules implement HB 2872 by providing an exemption with sanitation standards for poultry businesses that sell poultry from the farm and at farmers’ markets, and also provide an exemption which clarifies the required sanitation standards for poultry businesses that limit themselves to on-farm sales. All exempted poultry businesses must maintain sanitation and sales records that will be made available to the Department of Agriculture upon request.

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

603-028-0710

Definitions

In addition to the definitions in ORS Chapter 616 and OAR 603-025-0010, unless otherwise required by the context, the following terms will be construed, respectively, to mean:

(1) “Approved” means acceptable to the Department based on the determination of conformity with principles, practices, and generally recognized standards that protect public health.

(2) “Department” means the Oregon Department of Agriculture.

(3) “Domesticated” means born and raised in captivity so as to live and breed in a tame condition.

(4) “Off-Farm Direct Sale” means sold and delivered to the end-user of the poultry product by the poultry producer.

(5) “On-Farm Direct Sale” means sold and delivered to the end-user of the poultry product at the poultry business.

(6) “Open date” means a date clearly visible to retail consumers showing the pull date or packing date.

(7) “Poultry,” for the purposes of this section, means:

(a) Domesticated species of birds subject to mandatory or voluntary inspection by the Department or the United States Department of Agriculture that are commonly used as a food source; including: chickens, turkeys, ducks, geese, or guinea fowl, whether live or dead.

(b) Poultry does not include ratites, endangered or protected species, wild game birds, non-game wild birds, or pet birds, whether live or dead.

(8) “Poultry business” means the land and improvements within the contiguous property boundary where the slaughter of the poultry being sold has occurred.

(9) “Poultry product” means a whole poultry carcass or part thereof, which is processed for use as human food to the extent that feathers and offal are removed and may include the re-addition of the poultry’s gizzards or giblets.

(10) “Slaughtering Facility” means an area where the poultry slaughter, processing or packaging takes place.

Stat. Auth.: ORS 561.020, 619.046 & (HB 2872 enrolled)

Stats. Implemented: ORS 603.085 & 619.046

Hist.: DOA 10-2012, f. & cert. ef. 5-15-12

603-028-0715

Intent

(1) It is the intent of the Department’s Food Safety Division to promote and enable the Oregon State Legislature’s directive to encourage

ADMINISTRATIVE RULES

Oregon-grown poultry production for consumption in the state of Oregon by Oregonians.

(2) Therefore, the Department promulgates two poultry slaughter exemptions. Poultry businesses may qualify for either the Off-Farm Direct Sale Exemption or the On-Farm Direct Sale Exemption. A person claiming both exemptions within a calendar year shall not slaughter more than 1,000 poultry in that calendar year. A poultry business that qualifies for either exemption shall comply with OAR 603-028-0740.

(3) A poultry business that sells poultry from the poultry business, at farmers' markets, or through other direct sales involving off-farm delivery to customers should refer to the Off-Farm Direct Sale and sanitation requirements found in OAR 603-028-0720 and 603-028-0725.

(4) A poultry business that sells poultry only from the poultry business should refer to the On-Farm Direct Sale Exemption and sanitation requirements found in OAR 603-028-0730 and 603-028-0735.

Stat. Auth.: ORS 561.020, 561.190, 619.046 & (HB 2872 enrolled)
Stats. Implemented: ORS 561.020, 603.085, 619.046
Hist.: DOA 10-2012, f. & cert. ef. 5-15-12

603-028-0720

Off-Farm Direct Sale Exemption

(1) A person is not required to obtain a license under ORS 603.025 or 616.706 if:

- (a) During a calendar year, the person slaughters a total of 1,000 or fewer poultry of all species combined; and
- (b) The person performing the slaughter raised the poultry since the poultry was two weeks of age or younger; and
- (c) The poultry are free from disease; and
- (d) The poultry are for use as human food; and
- (e) The person maintains sanitary records under OAR 603-028-0740; and

(f) The person slaughters the poultry at the person's slaughter facility meeting the sanitary requirements of OAR 603-028-0725 and does not allow other persons to use the slaughter facility.

(2) Poultry may not be adulterated or misbranded in accordance with ORS 616.205 to 616.385.

(3) Persons claiming the exemption under this section may slaughter and process only their own poultry and sell the shell eggs of such poultry.

(a) Poultry must be sold as a whole carcass; and

(b) Shell eggs will be labeled with the open date in accordance with ORS 616.800 to 616.835 (Open Date Labeling).

(4) Poultry and poultry products may not enter into interstate commerce and will be labeled with legible typed lettering a minimum of 0.25 inches in height "THIS PRODUCT MAY NOT LEAVE THE STATE OF OREGON".

(5) The licensing exemptions contained in this section apply only to activities directly related to poultry and poultry products. Activities relating to food other than poultry or poultry products remain subject to licensing by the Department.

Stat. Auth.: ORS 561.190 & 616
Stats. Implemented: ORS 616.835 & (HB 2872 enrolled)
Hist.: DOA 10-2012, f. & cert. ef. 5-15-12

603-028-0725

Sanitation Standards

A person claiming the exemption of OAR 603-028-0720 must slaughter the poultry in slaughtering facilities and conduct activities in accordance with ORS 619.026 and OAR 603-028-0100 on the premises of the person's poultry business.

Stat. Auth.: ORS 561, 616 & 619
Stats. Implemented: ORS 603.085, 619.046 & (HB 2872 enrolled)
Hist.: DOA 10-2012, f. & cert. ef. 5-15-12

603-028-0730

On-Farm Direct Sale Exemption

(1) A person is not required to obtain a license under ORS 603.025 or 616.706 if:

- (a) During a calendar year, the person slaughters a total of 1,000 or fewer poultry of all species combined; and
- (b) The person performing the slaughter raised the poultry since the poultry was two weeks of age or younger; and
- (c) The poultry are free from disease; and
- (d) The poultry are for use as human food; and
- (e) The person maintains sanitary records in accordance with OAR 603-028-0740; and

(f) The person slaughters the poultry at the person's slaughter facility meeting the sanitary requirements of OAR 603-028-0735 and does not allow other persons to use the slaughter facility for any other purpose; and

(g) The poultry products are sold exclusively via on-farm sale.

(2) Poultry may not be adulterated or misbranded in accordance with ORS 616.205 to 616.385.

(3) A person claiming this exemption may not engage in buying or selling poultry products other than those produced from poultry raised on his or her own farm.

(a) Poultry must be sold as a whole carcass; and

(b) Shell eggs will be labeled with the open date in accordance with ORS 616.800 to 616.835 (Open Date Labeling).

(4) Poultry and poultry products may not enter into interstate commerce and will be labeled with legible typed lettering a minimum of 0.25 inches in height "THIS PRODUCT MAY NOT LEAVE THE STATE OF OREGON".

(5) The licensing exemptions contained in this section apply only to activities directly related to poultry and poultry products. Activities relating to other than poultry or poultry products remain subject to licensing by the Department.

Stat. Auth.: ORS 561.020, 561.190, 616.835 & 619.046
Stats. Implemented: ORS 561.020, 603.085, 616.835 & 619.046
Hist.: DOA 10-2012, f. & cert. ef. 5-15-12

603-028-0735

Sanitation Standards

(1) A person claiming the exemption of OAR 603-028-0730 will be exempt from the requirements of ORS 619.026 and OAR 603-028-0100 if the poultry slaughter and processing are conducted on the person's poultry business premises, under sanitary standards, practices, and procedures that produce poultry products that are sound, clean, and fit for human food (not adulterated).

(2) The slaughter facility must be reasonably protected from potential contaminants such as dust, mud, pests and all other adulterants. The protection can be as minimal as a combination of tarps, canopies and floor mats.

Stat. Auth.: ORS 561.020, 561.190 & 619.046
Stats. Implemented: ORS 561.020, 603.085 & 619.046
Hist.: DOA 10-2012, f. & cert. ef. 5-15-12

603-028-0740

Records and Enforcement

(1) The person claiming license exemption under OAR 603-028-0720 or 603-028-0730 will maintain clear and understandable records at the poultry business that:

(a) Demonstrate the person raised the poultry since the poultry was two weeks of age or younger;

(b) Calculate the year-to-date cumulative total of each species and total quantity of poultry slaughtered;

(c) Contain the date of slaughter;

(d) Contain sales information including the:

(A) Purchaser's name and address;

(B) Species and quantity of poultry sold;

(C) Date of the poultry's slaughter and the date of sale; and

(D) Address of the poultry business.

(e) Demonstrate adequate sanitation measures as required to include:

(A) Daily cleaning logs regarding any and all slaughter dates;

(B) Ware washing cleaning logs;

(C) Lists of chemicals used in the sanitation of the facility;

(D) Other records as required by the Department.

(2) Records shall be maintained for two calendar years following the last dated activity recorded and shall be made available to the Department upon request.

(3) At the Department's discretion, the Department may conduct an unscheduled inspection of an exempt poultry slaughtering facility and its records. If deemed necessary for food safety, the Department may take regulatory action, which may include mandatory licensing.

(4) A person claiming exemption from ORS 603.025 or 616.706 will not be an approved food source.

Stat. Auth.: ORS 561.190, 616.835 & (HB 2872 Enrolled)
Stat. Implemented: ORS 603.085 & (HB 2872 Enrolled)
Hist.: DOA 10-2012, f. & cert. ef. 5-15-12

Rule Caption: Consolidates Immediately Supervised Pesticide trainee licenses, adds recordkeeping requirements, clarifies supervision.

Adm. Order No.: DOA 11-2012

Filed with Sec. of State: 5-15-2012

Certified to be Effective: 1-1-13

Notice Publication Date: 4-1-2012

ADMINISTRATIVE RULES

Rules Amended: 603-057-0106

Subject: The rules affect the Immediately Supervised Pesticide Trainee License by removing a “Public” or “Commercial” designation which will allow the licensee more flexibility in the use of this license. This consolidation of two license types into one license type streamlines the process and allows the user more utility from the license. The rules restrict Pesticide Apprentices from applying pesticides by helicopter or fixed wing aircraft and add specific record-keeping requirements for the Immediately Supervised Trainee and the supervising applicator.

The amendments are intended to allow flexibility for employers to hire, train, supervise and utilize Immediately Supervised Pesticide Trainees. Persons with limited written English language skills or test-taking abilities will be allowed to be employed under the supervision of a fully licensed applicator. The rules clarify several trainee responsibilities, ensure documentation of the supervisor-trainee relationship and

The Agency received public comments in support of the rule change as it will streamline the licensing process. This process also allows conditions to use this license that reduces the negative economic impact of the rule on businesses.

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

603-057-0106

Immediately Supervised Pesticide Trainee

(1) There is herewith established a type of pesticide trainee license and a type of public trainee license which shall bear the designation “Immediately Supervised Trainee.”

(2) An immediately supervised pesticide trainee license may only be issued upon receipt by the department of:

- (a) An appropriately completed license application form; and
- (b) Payment of the appropriate fee.

(3) The fee for an immediately supervised pesticide trainee license shall be the same as the fee for a pesticide trainee license.

(4) An immediately supervised pesticide trainee license shall expire on December 31 of the year of issuance, or of the following year if issued a license for two consecutive years.

(5) An immediately supervised trainee license authorizes the holder to conduct pesticide application activities under the immediate supervision of an appropriately licensed supervisor as detailed in OAR 603-057-0001. The immediately supervised pesticide trainee may apply pesticides only in the categories listed under the supervisor’s license. If the supervisor is a licensed public applicator, the immediately supervised pesticide trainee or immediately supervised public trainee may only apply pesticides as described in ORS 634.116(12).

(6) An immediately supervised pesticide trainee license may be renewed.

(7) For each pesticide application made by an immediately supervised pesticide trainee, 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 trainee(s) and their supervisor(s). The employer of the trainee 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.

(8) An immediately supervised pesticide trainee license does not authorize the holder to conduct pesticide applications by helicopter or fixed wing aircraft.

(9) 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 immediately supervised pesticide trainee is currently engaged.

(10) Any immediately supervised pesticide trainee conducting pesticide application activities without an appropriately licensed supervisor, without an appropriately licensed supervisor on the site where the application is being made, 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 11-2012, f. 5-15-12, cert. ef. 1-1-13

Department of Agriculture, Oregon Processed Vegetable Commission Chapter 647

Rule Caption: Amend Commission assessment rates.

Adm. Order No.: OPVC 1-2012

Filed with Sec. of State: 5-14-2012

Certified to be Effective: 7-1-12

Notice Publication Date: 4-1-2012

Rules Amended: 647-010-0010

Subject: These rules establish the assessment rates necessary to fund Commission research projects.

Rules Coordinator: John McCulley—(503) 370-7019

647-010-0010

Assessments

(1) Any first purchaser shall deduct and withhold an assessment of the following amounts from each of the above named vegetable crops:

(a) Beans — 1.047 per ton based on the net weight of the beans delivered.

(b) Sweet Corn — \$.331 per ton based on the gross weight of the sweet corn delivered.

(c) Table Beets — \$.415 per ton based on the net weight of the table beets delivered.

(d) Carrots — \$.529 per ton based on the net weight of the carrots delivered.

(e) Broccoli — \$2.206 per ton based on the net weight of the broccoli delivered.

(f) Cauliflower — \$.909 per ton based on the net weight of the cauliflower delivered.

(2) From the price paid to the producer thereof, after July 1, 2012, for all of the above named vegetables for processing and grown in Oregon.

Stat. Auth.: ORS 576.051 - 576.595

Stats. Implemented: ORS 576.051 - 576.595

Hist.: PVC 2-1985, f. 7-17-85, ef. 7-22-85; PVC 1-1986, f. 5-30-86, ef. 6-1-86; PVC 2-1987, f. & ef. 6-16-87; PVC 1-1988, f. 4-22-88, cert. ef. 6-1-88; PVC 1-1989, f. 5-4-89, cert. ef. 6-1-89; PVC 1-1990, f. 4-24-90, cert. ef. 6-1-90; PVC 1-1991, f. 5-7-91, cert. ef. 6-1-91; PVC 1-1992, f. 4-15-92, cert. ef. 6-1-92; PVC 1-1993, f. 4-28-93, cert. ef. 6-21-93; PVC 1-1994, f. 4-22-94, cert. ef. 6-21-94; PVC 2-1995, f. 5-24-95, cert. ef. 6-1-95; PVC 1-1996, f. 5-14-96, cert. ef. 1-1-96; PVC 1-1997, f. 5-6-97, cert. ef. 6-1-97; OPVC 1-1998, f. 5-28-98, cert. ef. 6-1-98; OPVC 2-1999, f. 4-26-99, cert. ef. 6-1-99; OPVC 1-2000, f. 5-2-00, cert. ef. 6-1-00; OPVC 2-2001, f. 5-15-01, cert. ef. 6-1-01; OPVC 1-2002, f. 4-26-02, cert. ef. 6-1-02; OPVC 1-2003, f. 5-8-03, cert. ef. 6-1-03; OPVC 2-2004, f. 5-11-04, cert. ef. 6-1-04; OPVC 1-2005, f. 5-13-05, cert. ef. 6-1-05; OPVC 1-2006, f. 5-9-06, cert. ef. 6-1-06; OPVC 1-2007, f. 5-14-07, cert. ef. 6-1-07; OPVC 2-2008, f. 5-2-08, cert. ef. 6-1-08; OPVC 1-2009, f. 5-14-09, cert. ef. 7-1-09; OPVC 1-2010, f. 4-26-10, cert. ef. 7-1-10; OPVC 1-2011, f. 5-3-11, cert. ef. 7-1-11; OPVC 1-2012, f. 5-14-12, cert. ef. 7-1-12

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

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

Adm. Order No.: BCD 4-2012(Temp)

Filed with Sec. of State: 5-1-2012

Certified to be Effective: 5-1-12 thru 9-30-12

Notice Publication Date:

Rules Amended: 918-311-0065

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

Rules Coordinator: Stephanie Snyder—(503) 373-7438

918-311-0065

Electric Vehicle Charging Station Statewide Permit and Inspection Protocol

To ensure a path for the emerging technology and enable the installation of charging stations for electric vehicles, the following permit and inspection protocols will apply throughout the state, notwithstanding contrary provisions contained in the **Oregon Electrical Specialty Code**.

ADMINISTRATIVE RULES

(1) Building officials and inspectors shall permit and allow installation of an electric vehicle charging station that has a Building Codes Division's special deputy certification label without further testing or certification.

(2) Persons installing an electric vehicle charging station must obtain a permit for a feeder or branch circuit from the inspecting jurisdiction. No other state building code permit is required.

(3) The jurisdiction may perform up to two inspections under the permit issued in subsection (2) above.

(4) Inspection of the installation is limited to examining the feeder or branch circuit for compliance with the following **Oregon Electrical Specialty Code** provisions:

- (a) Overcurrent protection, per articles 225 and 240;
- (b) Physical protection of conductors, per article 300;
- (c) Separation and sizing of the grounding and neutral conductors, per article 250.20; and
- (d) Provisions for locking out the breaker for maintenance, per chapter 4.

(5) For the purpose of this rule, the service, feeder or branch circuit, and charging station pedestal will be considered a single structure as defined by the **Oregon Electrical Specialty Code**. The structure's owner may opt to install a grounding electrode system to supplement lightning protection, but cannot be required to do so.

(6) An electrical contractor employing a general supervising electrician in accordance with OAR 918-282-0010 is authorized to use a minor installation label to install a new branch circuit limited to 40 amps 240 volts for the purpose of installing a wall mounted Electric Vehicle Supply Equipment (EVSE) unit in the garage of one and two family dwellings, and connect a listed wall mounted EVSE unit to that branch circuit. The electrical panel where the circuit originates must be in the garage within sight from the EVSE unit. This provision does not apply to installations in wet or damp locations.

Stat. Auth: ORS 455.065
Stat. Implemented: ORS 455.065
Hist.: BCD 16-2008(Temp), f. & cert. ef. 9-26-08 thru 3-25-09; BCD 30-2008, f. 12-31-08, cert. ef. 1-1-09; BCD 8-2010, f. 6-15-10, cert. ef. 7-1-10; BCD 4-2012(Temp), f. & cert. ef. 5-1-12 thru 9-30-12

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**Department of Consumer and Business Services,
Insurance Division
Chapter 836**

Rule Caption: Repeal of Rule for Physician Credentialing and Recredentialing in Connection with Health Care Service Contractors.

Adm. Order No.: ID 9-2012

Filed with Sec. of State: 4-27-2012

Certified to be Effective: 5-1-12

Notice Publication Date: 2-1-2012

Rules Repealed: 836-052-0900

Subject: This rulemaking repeals a rule adopted by the Department of Consumer and Business Services (DCBS) related to physician credentialing and recredentialing by health care service contractors. During the 2009 Legislative Session, the statutory authority for adopting this rule was transferred from DCBS to the Oregon Health Authority. Because the Oregon Health Authority has adopted temporary rules to replace this rule and is now proposing to adopt permanent rules to replace this rule, it is necessary for DCBS to repeal the obsolete DCBS rule.

Rules Coordinator: Sue Munson — (503) 947-7272

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

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

Adm. Order No.: OSHA 2-2012

Filed with Sec. of State: 5-11-2012

Certified to be Effective: 7-1-12

Notice Publication Date: 11-1-2011

Rules Amended: 437-001-0015, 437-001-0075, 437-001-0145, 437-001-0160, 437-001-0165, 437-001-0175, 437-001-0230, 437-001-0255, 437-001-0400, 437-001-0405, 437-001-0410, 437-001-0411,

437-001-0415, 437-001-0420, 437-001-0430, 437-001-0435, 437-001-0760

Rules Repealed: 437-001-0260

Subject: The rule as adopted includes most of the provisions of the proposed rule, although some of them were not adopted and several were modified somewhat in response to issues raised during the public comment period. The key issues addressed in the rulemaking include the following:

1. Adjustment for Employer Size: The final rule includes the adjustment to the base penalty for employer size as proposed:

Employees — Percentage Reduction

1–25 — 60%

26–90 — 40%

91–130 — 30%

131–175 — 20%

176–250 — 10%

251 or more none

2. Adjustment Based on Employer Good Faith: The final rule includes adjustments for employer good faith as proposed (leaving the options of a decrease of 20 percent of the base penalty, an increase of 20 percent, or no adjustment), but the description of the criteria for the good faith assessment has been modified for clarity in response to public comments.

3. Adjustment Based on Immediate Correction of Violations : The final rule restores the adjustment for immediate correction of violations found in the current rule but omitted from the rule as proposed. However, the final rule reduces the adjustment to 10 percent of the base penalty and includes guidance limiting such adjustments to situations where substantial, rather than temporary or superficial, steps are taken.

4. Adjustment Based on Employer History: The final rule includes a reduced adjustment for employer history as proposed (leaving the options of a decrease of 10 percent of the base penalty, an increase of 10 percent, or no adjustment), but the description of the criteria has been modified for clarity (clearly including both injury/illness history and overall history of compliance with Oregon OSHA rules). In addition, the time frame for such data has been specified as three years (with the exception of information needed to consider three-year data in the light of longer-term trends).

5. Base Penalty Calculation: The final rule includes the increase in base penalties for death-rated violations as proposed, increasing the base penalties for low, medium and high-probability death-rated violations to \$2,100, \$3,500 and \$7,000, respectively.

6. Application of Adjustments to Repeat and Willful Violations: The final rule includes the proposed provision allowing size adjustments, but no other adjustments, to repeat and willful violations (in contrast to the previous rule, which allowed no adjustments of any kind for repeat and willful violations).

7. Application of Adjustments During Fatality and Accident Investigations: The final rule includes the proposed provision allowing size adjustments, but no other adjustments, to violations that contributed to a fatality or an injury (in contrast to the previous rule, which allowed no adjustments of any kind for such violations).

8. Application of Adjustments for Failure to Abate Violations: The previous rule indicated that no adjustments were made for failure to abate violations. However, this language was confusing, because it was based on the lack of any additional adjustments. Agency practice has long been to calculate penalties for most failure to abate violations using the penalty previously cited as the daily penalty. That original penalty, of course, may have included applicable adjustments. The rule as adopted simply omits any reference to adjustments for failure to abate, eliminating the source of the confusion. This does not represent a substantive change and will have no impact on existing Oregon OSHA practice in calculating the penalty for such violations.

9. Penalties for Multiple Repeat and Willful Violations: The final rule includes the proposed language indicating that a fourth repeat would normally be multiplied by 15 and a fifth repeat by 20, while

ADMINISTRATIVE RULES

a willful violation would normally be multiplied by 25, all instead of relying exclusively on administrator's discretion in setting such penalties as did the previous rule.

10. Administrator's Discretion: The final rule includes the proposed language allowing the administrator to use his or her discretion to set a penalty for any violation, rather than excluding first, second and third repeat violations from that authority, as did the previous rule.

11. Time Frame for Repeat Violations: The final rule retains the existing three-year time frame for repeat violations, rather than adopting the five-year time frame found in the proposal and current federal OSHA guidance.

12. Repeat Violations at Fixed-Site and Mobile Workplaces: The final rule includes a slight modification to the proposed language, allowing the administrator (or a designee) to determine that a repeat violation at certain mobile workplaces should be handled as a fixed-site violation because the span of control and nature of activity for a portion of the state is more readily comparable to fixed location activity.

13. Definition of Repeat Violations: The final rule includes a modified version of the proposal to change the definition of repeat violations so that it is not determined solely by whether the same rule is being cited. Instead, the rule considers a violation a repeat if it involves a substantially similar violation (the rule as proposed referred to a substantially similar hazardous condition).

14. Penalty for Combined Violations: The final rule adopts the proposed language changing penalty calculations for combined violations (violations involving multiple instances of the same violation), making it consistent with other penalty calculations, rather than relying upon the previous approach of calculating a separate penalty for each instance and then totaling the penalties.

15. Guidance Related to Appeals and Informal Conferences: The final rule adopts a revised version of the proposal to clarify language about the relationship between appeal notices and requests for informal conferences. In contrast to the rule as proposed, the final rule achieves greater clarity by discussing notices of appeal and requests for informal conferences as two completely distinct issues (although the same employer request frequently addresses them both).

The rule as adopted also includes a number of other technical and non-substantive changes (such as replacing references to "the division" with the clearer reference to "Oregon OSHA").

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Rules Coordinator: Sue C. Joye—(503) 947-7449

437-001-0015

Definitions

The following definitions shall apply to OAR 437, unless the context requires otherwise:

Abatement – Action by an employer to comply with a cited violation of the Oregon Safe Employment Act.

Accepted disabling claims – Claims accepted for disabling occupational injuries or illnesses only. A disabling injury or illness entitles the worker to compensation for disability or fatality. This type of claim excludes temporary total disability suffered during the first three calendar days after the employee leaves work as a result of the injury unless the worker is an inpatient in a hospital.

Accepted disabling claims rate – The ratio of accepted disabling claims to annual average employment, times 100. Claims and employment figures are based upon the best knowledge of the Department at the time the rate is calculated (ADCR = Number of claims times 100 divided by the number of employees).

Act – The Oregon Safe Employment Act (ORS 654.001 to 654.295, 654.750 to 654.780, and 654.991).

Administrator – The Administrator of the Oregon Occupational Safety and Health Division (Oregon OSHA).

Affected employee – An employee who, in the course and scope of employment, may be or may have been exposed to a condition or practice described in a citation, order, application for an extension date, or variance.

Agent of the employer – Any supervisor or person in charge or control of the work or place of employment including, but not limited to, any manager, superintendent, foreperson, or lead worker.

Appeal – A written request for a hearing to contest a citation, notice or

order, a proposed assessment of civil penalty, and the period of time fixed for correction of a violation, or any of these, by filing with Oregon OSHA, within 30 days after receipt of the citation, notice or order, a written request for a hearing before the Workers' Compensation Board. Such a request need not be in any particular form, but must specify the alleged violation that is contested and the grounds upon which the employer considers the citation or proposed penalty or correction period unjust or unlawful.

Audiometric zero – The lowest sound pressure level that the average young adult with normal hearing can hear.

Board – The Workers' Compensation Board created by ORS 656.712.

Catastrophe – An accident in which two or more employees are fatally injured, or three or more employees are admitted to a hospital or to an equivalent medical facility.

Citation – A document issued by Oregon OSHA according to ORS 654.071 to cite a violation. A citation may include a notice of penalty and a correction order.

Complaint – A written or oral report from an employee, employee representative or other person that an occupational safety or health violation may exist at a place of employment. A complaint may be classified as one of the following:

(a) Imminent danger

(b) Serious

(c) Other than serious

Compliance officer – A designated Oregon OSHA employee responsible for conducting inspections or investigations; identifying possible violations and hazards; proposing citations, penalties, and correction dates; and to assist employers and employees with information to correct violations and hazards.

Comprehensive consultation – A consultation to cover the entire establishment and entails a physical hazard assessment evaluation and a review of records, written programs, and the employer's illness and injury prevention plan. Comprehensive consultations include a written report by the provider including findings, recommendations, and the guidance necessary to resolve the problems noted in the report.

Comprehensive inspection – A substantially complete inspection of the establishment. An inspection may be comprehensive even though, as a result of the exercise of professional judgment, not all potentially hazardous conditions, operations, and practices within those areas are inspected.

Consultant – A designated Oregon OSHA employee whose responsibility is to provide a full range of occupational safety and health assistance including, but not limited to, providing employers, employees, and other agency staff with information, advice, and recommendations on maintaining safe employment or a place of employment; on correcting violations or hazards; and on applicable occupational safety and health rules, techniques, devices, methods, practices, and development of safety and health programs.

DART (Days Away, Restricted, or Transferred) – The number of lost workday injury and illness cases experienced by 100 full-time workers (DART rate = Number of lost workday cases times 200,000 divided by the number of employee hours worked).

NOTE: Lost workday cases include both days away from work and days of restricted time.

Decibel (dB) – Unit of measurement of sound level. For purposes of this rule, decibels refer to the combined average of the readings at 2000, 3000, and 4000 Hz on the audiogram.

Department – The Department of Consumer and Business Services.

Director – The Director of the Department of Consumer and Business Services, or the director's designee.

Division – The Oregon Occupational Safety and Health (Oregon OSHA) Division of the Department of Consumer and Business Services.

Emphasis Program – A special program that targets Oregon OSHA activity to industries that have a high potential for serious injuries or illnesses, according to national or state data.

Employee – Any individual, including a minor, whether lawfully or unlawfully employed, who engages to furnish services for a remuneration, financial or otherwise and who is subject to the direction and control of an employer, and includes:

Salaried, elected and appointed officials of the state, state agencies, counties, cities, school districts, and other public corporations.

Any person provided with workers' compensation coverage as a subject worker under ORS Chapter 656, whether by operation of law or by election.

Employee exposure record – A record of monitoring or measuring that contains qualitative or quantitative information indicative of employee exposures to toxic materials or harmful physical agents. This includes both individual exposure records and general research or statistical studies based on information collected from exposure records.

Employee medical record – A record that contains information concerning the health status of an employee or employees exposed or potentially exposed to toxic materials or harmful physical agents. These records may include, but are not limited to:

(a) The results of medical examinations and tests;

(b) Any opinions or recommendations of a physician or other health professional concerning the health of an employee or employees; and

(c) Any employee medical complaints relating to workplace exposure. Employee medical records include both individual medical records and general research or statistical studies based on information collected from medical records.

Employee representative – A bargaining unit representative, or an individual selected by employees, who serves as their spokesperson.

Employer:

(a) Any person who has one or more employees, or

ADMINISTRATIVE RULES

(b) Any sole proprietor or member of a partnership who elects workers' compensation coverage as a subject worker according to ORS 656.128, or

(c) Any corporation in relation to the exposure of its corporate officers except for corporations without workers' compensation coverage under ORS 656.128 and whose only employee is the sole owner of the corporation, or

(d) Any successor or assignee of an employer. For purposes of this definition and ORS 654.005(5)(c), a business or enterprise is substantially the same entity as the predecessor employer if:

(A) A majority of the current business or enterprise is owned by the former owners or their immediate family members, and

(B) One or more of the following criteria exist for both the current and predecessor business or other enterprise:

Substantially the same type of business or enterprise.

Similar jobs and working conditions.

A majority of the machinery, equipment, facility, or methods of operation.

Similar product or service.

A majority of the same supervisory personnel.

A majority of the same officers and directors.

NOTE: Not every element needs to be present for an employer to be a successor. The cumulative facts will determine the employer's status.

Employer representative – An individual selected by the employer, to serve as spokesperson or, in the absence of a selected spokesperson, the person in charge of the place of employment at the time of the inspection.

Environmental exposure sampling – Sampling of the workplace environment performed for a variety of reasons including identifying contaminants and their sources, determining worker exposures, and checking the effectiveness of controls.

Establishment – An establishment is a single physical location doing business, offering services, or having industrial operations. For activities where employees do not work at a single physical location, such as construction; transportation; communications, electric, gas, and sanitary services; and similar operations, the establishment is the main or branch office, terminal, station, etc. that either supervise such activities or are the base for personnel to carry out these activities.

(a) One location/multiple establishments. Normally, one business location has only one establishment. Under limited conditions, two or more separate businesses that share a single location are separate establishments. An employer may divide one location into two or more establishments only when:

(A) Each of the establishments represents a distinctly separate business;

(B) Each business is engaged in a different economic activity;

(C) Separate reports are routinely prepared for each establishment on the number of employees, their wages and salaries, sales or receipts, and other business information. For example, if an employer operates a construction company at the same location as a lumber yard, each business can be a separate establishment.

(b) Multiple locations/one establishment. Only under certain conditions. An employer may combine two or more physical locations into a single establishment only when:

(A) The employer operates the locations as a single business operation under common management;

(B) The locations are all near each other; and

(C) The employer keeps one set of business records for all the locations, such as records on the number of employees, their wages and salaries, sales or receipts, and other kinds of business information. For example, one manufacturing establishment might include the main plant, a warehouse a few blocks away, and an administrative services building across the street.

(c) Telecommuting from home. For employees who telecommute from home, the employee's home is not a business establishment, and a separate 300 Log is not required. Employees who telecommute must be linked to one of the business' establishments under 437-001-0700(15)(c).

Farm operation – Any operation involved in the growing or harvesting of crops or the raising of livestock or poultry.

Filed – A document is considered to have been filed on the date of postmark if mailed, or on the date of receipt, if transmitted by other means to Oregon OSHA, DCBS, or the WCB.

First aid – Any one-time treatment and subsequent observation of minor scratches, cuts, burns, splinters, or similar injuries that do not ordinarily require medical care. Such one-time treatment and subsequent observation is considered first aid even though it is provided by a physician or registered professional personnel.

Fixed place of employment – The entire facility maintained by an employer at one general location, and operations provided from that facility, regardless of the size or number of departments or buildings in the facility. For the purpose of determining repeat violations, fixed place of employment includes employers or owners engaged in construction activity who will be at a single worksite continuously for more than 24 months. Forest activities are excluded as are construction sites established for a period of 24 months or less.

Hazard – A condition, practice, or act that could result in an injury or illness to an employee.

Health hazard – Health hazards mean carcinogens, lead, silica, toxic metals and fumes, vapors or gases, toxic or highly corrosive liquids or chemicals, chemical sensitizers, pesticides, fungicides, solvents, biological agents, and harmful physical stress agents.

Imminent danger – A condition, practice, or act that exists in any place of employment and could reasonably be expected to cause death or serious physical harm immediately.

Injury or illness – An injury or illness is an abnormal condition or disorder. Injuries include cases such as, but not limited to, a cut, fracture, sprain, or amputation. Illnesses include both acute and chronic illnesses, such as, but not limited to, skin disease, respiratory disorder, or poisoning. (Note: Record injuries and illnesses only if they are new, work-related cases that meet one or more of the recording criteria.)

Inspection – An official examination of a place of employment by a compliance officer to determine if an employer is in compliance with the Act.

(a) Programmed – Inspections conducted under the provisions of OAR 437-001-0057.

(b) Unprogrammed.

(A) Follow-up inspection – An inspection to determine if a previously identified violation has been corrected.

(B) Complaint inspection – An inspection made in response to a complaint.

(C) Accident investigation – A systematic appraisal of an accident sequence to determine causal factors, corrective actions and preventative measures.

(D) Referral inspection – An inspection made in response to a referral.

Letter of corrective action – A letter stating the corrective action(s) taken by the employer to comply with the violation(s) that were not corrected at the time of the inspection.

Lost workdays – The actual number of days after, but not including, the day of injury or illness when the employee would have worked, but could not perform all or any part of their normal assignment during all or any part of the employee's next regular workday or shift because of the occupational injury or illness.

Medical treatment – Treatment administered by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does not include first aid treatment even though provided by a physician or registered professional personnel, nor does it include treatment ordinarily considered diagnostic or preventative in nature.

MOD (Experience Rating Modification Factor) – Experience rating recognizes the differences among individual insureds with respect to safety and loss prevention. It compares the experience of individual insureds with the average insured in the same classification. The differences are reflected by an experience rating modification, based on individual payroll and loss records, that may result in an increase, decrease, or no change in premium.

North American Industry Classification System (NAICS) – A classification system developed by the Executive Office of the President/Office of Management and Budget, for use in classifying establishments by the type of activity in which they are engaged. Each establishment is assigned an industry code for its major activity.

Order to correct – A written Oregon OSHA order that directs an employer to abate a violation within a given period of time.

Owner – Every person having ownership, control, or custody of any place of employment or of the construction, repair, or maintenance of any place of employment.

Partial inspection – An inspection with focus limited to certain potentially hazardous areas, operations, conditions, or practices at the establishment. The inspection may include review of injury and illness records and any required programs relative to the inspection.

Person – One or more individuals, legal representatives, partnerships, joint ventures, associations, corporations (whether or not organized for profit), business trusts, or any organized group of persons, and includes the state, state agencies, counties, municipal corporations, school districts, and other public corporations or subdivisions.

Personal exposure samples – Measurement of contaminants or physical agents to characterize the environment in the breathing or hearing zone of individual workers in order to evaluate their specific work exposures. Personal samplers are placed on the worker to obtain either one continuous sample covering a portion of the workday or consecutive samples covering a stated time period.

Physician or other licensed health care professional – A physician or other licensed health care professional is an individual whose legally permitted scope of practice (i.e., license, registration, or certification) allows them to independently perform, or be delegated the responsibility to perform, the activities described by this regulation.

(a) Includes every place that is fixed or movable; indoors, outdoors, or underground; and the premises and structures appurtenant thereto.

(b) Includes every place where an employee works or intends to work either temporarily or permanently.

(c) Includes every place where there is any process, operation, or activity related, either directly or indirectly, to an employer's industry, trade, business, or occupation, including a labor camp provided by an employer for their employees or by another person engaged in providing living quarters or shelters for employees.

(d) Does not include any place where the only employment involves nonsubject workers employed in or around a private home.

ADMINISTRATIVE RULES

(e) Does not include any corporate farm where the only employment involves the farm's family members, including parents, spouses, sisters, brothers, daughters, sons, daughters-in-law, sons-in-law, nieces, nephews, or grandchildren.

Record – Any recorded information regardless of its physical form or character.

Recordable occupational injuries or illnesses – Any occupational injuries or illnesses that result in:

(a) Fatalities, regardless of the time between the injury and death, or the length of the illness;

(b) Lost workday cases, other than fatalities, that prevent the employee from performing their normal assignment during any part of the employee's next regular, or any subsequent workday or shift; or

(c) Nonfatal cases without lost workdays that result in transferring to another job or terminating employment, require medical treatment (other than first aid), or involve loss of consciousness or restriction of work or motion. This category also includes any diagnosed occupational illnesses that are reported to the employer but are not classified as fatalities or lost workday cases.

Referral – A notification made to the responsible agency of safety or health violations observed by an Oregon OSHA employee, other federal, state or local government representatives, or the media.

Rule – Any agency directive, standard, regulation or statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of the agency and is adopted according to the Administrative Procedure Act. The term includes the amendment or repeal of a prior rule, but does not include, unless a hearing is required by statute, internal management directives, regulations, or statements that do not substantially affect the interests of the public.

Scheduling list – An electronic or paper list of places of employment or employers scheduled for inspection.

Serious physical harm:

(a) Injuries that could shorten life or significantly reduce physical or mental efficiency by inhibiting, either temporarily or permanently, the normal function of a part of the body. Examples of such injuries are amputations, fractures (both simple and compound) of bones, cuts involving significant bleeding or extensive suturing, disabling burns, concussions, internal injuries, and other cases of comparable severity.

(b) Illnesses that could shorten life or significantly reduce physical or mental efficiency by inhibiting, either temporarily or permanently, the normal function of a part of the body, even though the effects may be cured by halting exposure to the cause or by medical treatment. Examples of such illnesses are cancer, pneumoconiosis, narcosis, or occupational infections (caused by biological agents), and other cases of comparable severity.

Standard industrial classification (SIC) – A classification system developed by the Office of Statistical Standards, Executive Office of the President/Office of Management and Budget, for classifying establishments by the type of activity in which they are engaged. Each establishment is assigned an industry code for its major activity, that is determined by the value of receipts or revenue for services rendered or products produced, or in some cases by the employment or payroll. The 1987 edition of the SIC manual is used for coding.

Standard threshold shift (STS) – A change in hearing threshold relative to the baseline audiogram of an average of 10 dB or more in either ear.

Substantially similar – As it relates to a repeat violation, a second violation that is closely related in substance or form to a previous violation.

Suspended penalty – A penalty that is determined but not assessed.

Variance – The written authority given by Oregon OSHA to an employer permitting the use of a specific alternative means or method to comply with the intent of a rule. Specific types of variances are:

(a) Permanent – A variance that remains in effect until modified or revoked according to OAR 437-001-0430;

(b) Temporary – A variance granted for a stated period of time to permit the employer to achieve compliance with a new rule;

(c) Research – A variance granted for a stated period of time to allow industrial or governmental research designed to demonstrate or validate new and improved safety or health techniques or products; and

(d) Interim order – The temporary authority for an employer to use an alternative means or method by which the employer effectively safeguards the safety and health of employees until final action can be taken on the variance request.

Violation – The breach of a person's duty to comply with an Oregon occupational safety or health statute, regulation, rule, standard, or order.

(a) Specific classifications of violations are:

(A) Serious violation – A violation where there is substantial probability that death or serious physical harm could result from an existing condition, or from one or more practices, means, methods, operations, or processes that have been adopted or are in use in a place of employment unless the employer did not, and could not with the exercise of reasonable diligence, know about the violation;

(B) Other than serious violation – A violation that is other than a serious or minimal violation; and

(C) Minimal violation – A violation that does not have a direct or immediate relationship to the safety or health of employees.

(b) Specific types of the above classifications are:

(A) Willful violation – A violation that is committed knowingly by an employer or supervisory employee who, having a free will or choice, intentionally or knowingly disobeys or recklessly disregards the requirements of a statute, regulation, rule, standard, or order.

(B) Unabated violation – A violation that has not been fully corrected by the date ordered.

(C) Repeat violation:

(i) An employer's second or subsequent violation involving a substantially similar violation as the earlier violation or violations.

(ii) In these rules, repeat, repeated and repeatedly are used synonymously.

(D) First-instance violation – An employer's first violation of a particular statute, regulation, rule, standard, or order.

(E) Egregious – Those conditions that normally constitute a flagrant violation of the Oregon Safe Employment Act, or Oregon OSHA standards, or regulations such that each instance of the violation is cited separately.

(c) Combined violation – Multiple violations of the same statute, regulation, rule, standard, or order within an establishment that have been combined as one violation to indicate an overall lack of compliance with a safety or health statute, regulation, rule, standard, or order.

(d) Grouped violation – Multiple violations of different statutes, regulations, rules, standards or orders, within an establishment that have been combined as one violation:

(A) To indicate an increase in the severity or probability of the violation, or

(B) Recordkeeping and posting requirements involving the same document, or

(C) The violations are so closely related as to constitute a single hazardous condition.

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

Stats. Implemented: ORS 654.001 - 654.326, 654.412 - 654.423, 654.991

Hist.: WCB 19-1974, f. 6-5-74, ef. 7-1-74; WCB 8-1975, f. 8-5-75, ef. 9-1-75; WCD 5-1978, f. 6-22-78, ef. 8-15-78; WCD 7-1979, f. 8-20-79, ef. 9-1-79; WCD 4-1981, f. 5-22-81, ef. 7-1-81; WCD 6-1982, f. 6-28-82, ef. 8-1-82; WCD 9-1983, f. & ef. 11-15-83; WCD 2-1984, f. 3-2-84, ef. 3-15-84; WCD 12-1984, f. 9-20-84, ef. 11-1-84; WCD 9-1986, f. 10-7-86, ef. 12-1-86; APD 6-1987, f. 12-23-87, ef. 1-1-88; APD 7-1988, f. 6-17-88, ef. 7-1-74; OSHA 10-1990(Temp), f. & cert. ef. 5-31-90; OSHA 24-1990, F. & cert. ef. 10-10-90; OSHA 7-1992, f. 7-31-92, cert. ef. 10-1-92; OSHA 6-1994, f. & cert. ef. 9-30-94; OSHA 2-1996, f. & cert. ef. 6-13-96; OSHA 5-1998, f. & cert. ef. 10-15-98; OSHA 7-1999, f. & cert. ef. 7-15-99; OSHA 11-1999(Temp), f. & cert. ef. 10-20-99 thru 4-14-00; OSHA 4-2000, f. 4-14-00, cert. ef. 4-15-00; OSHA 11-2001, f. 9-14-01, cert. ef. 1-1-02; OSHA 7-2002, f. & cert. ef. 11-15-02; OSHA 6-2003, f. & cert. ef. 11-26-03; OSHA 7-2006, f. & cert. ef. 9-6-06; OSHA 5-2007(Temp), f. & cert. ef. 9-5-07 thru 2-29-08; OSHA 1-2008, f. 2-22-08, cert. ef. 3-1-08; OSHA 2-2009, f. 1-27-09, cert. ef. 2-3-09; OSHA 10-2009, f. & cert. ef. 10-5-09; OHSA 2-2012, f. 5-11-12, cert. ef. 7-1-12

437-001-0075

Opening Conference

(1) The Compliance Officer shall, if possible, conduct a joint opening conference with the employer or a representative, and a representative of the employees, if any, and shall:

(a) Present credentials as a means of identification;

(b) Explain the purpose, nature and intended scope of the inspection;

(c) Request the records which need to be examined;

(d) Obtain the name of the employer representative, if any, and give that person the opportunity to accompany the Compliance Officer on the inspection;

(e) Obtain the name of the employee representative, if any, and give that person the opportunity to accompany the Compliance Officer on the inspection;

(f) Explain that employee participation may be accomplished through random interviews;

(g) Determine if there are trade secrets to be protected;

(h) Inform the employer that sampling may be done and photographs may be taken;

(i) Explain that past and present efforts will be evaluated to determine good faith penalty adjustments.

(j) Determine what personal protective equipment is required in the place of employment and arrange to have and use such equipment; and

(k) Explain that a closing conference will be held with both the employer or a representative, and a representative of the employees, if any.

(2) Where the Compliance Officer decides it is not practical to hold a joint conference, separate conferences shall be held for the employer or a representative, and a representative of the employees, if any. Notes shall be taken by the Compliance Officer during the separate conferences; these will be available upon request.

(3) Where separate conferences are necessary, the Compliance Officer shall determine if their conduct will delay observation or evaluation of

ADMINISTRATIVE RULES

workplace safety or health hazards. In such cases, the conferences shall be brief and, if appropriate, reconvened after the Compliance Officer's inspection of the place of employment.

(4) Where the holding of an opening conference will prevent timely evaluation of the workplace, it may be abbreviated to a simple introduction and identification of the Compliance Officer. The remainder of the opening conference will be covered as soon as possible.

Stat. Auth.: ORS 654.025(2) & 656.726(3)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: WCB 19-1974, f. 6-5-74, ef. 7-1-74; WCD 5-1978, f. 6-22-78, ef. 8-15-78; WCD 4-1981, f. 5-22-81, ef. 7-1-81; WCD 6-1982, f. 6-28-82, ef. 8-1-82; APD 6-1987, f. 12-23-87, ef. 1-1-88; APD 7-1988, f. 6-17-88, ef. 7-1-74; OSHA 2-2012, f. 5-11-12, cert. ef. 7-1-12

437-001-0145

Penalty for Other than Serious or Serious Violation

(1) A penalty must be assessed for any serious violation and may be assessed for any other than serious violation as established by the intersection of the probability rating and severity rating on the Penalty Schedule (Table 1). In a case where probability and severity are not appropriate considerations, a penalty may be assessed by considering the facts of the violation. [Table not included. See ED. NOTE.]

(2) Penalty adjustments will be made based on an employer's size for all violations except failure to correct. Additional adjustments for an employer's compliance history, injury and illness history, demonstrated good faith efforts and corrective action taken at the time of the inspection will be determined by the Compliance Officer and assessed as follows:

(a) Size adjustments – based on state wide peak employment. [Table not included. See ED. NOTE.]

(b) History adjustments will be based on injuries and illnesses (and trends) during the previous three years, including available information from both Workers' Compensation data and Bureau of Labor Statistics. This assessment will also include a review of the employer's violation history within the past 3 years. Adjustments will be made as follows:

(A) 10% reduction if the compliance officer determines that the information demonstrates a positive history overall.

(B) No reduction if the compliance officer determines that history is what would be expected of a typical employer.

(C) 10% increase if the compliance officer determines that the information demonstrates a negative history overall.

(c) Good faith adjustments will be determined by, but not limited to, review of certain criteria as follows:

- (A) Evidence of an overall safety and health program.
- (B) Effective communication of safety and health policies.
- (C) Promotion of safety and health prior to the inspection.
- (D) Employees are clearly involved in the safety and health program.
- (E) Management's commitment at all levels is apparent.
- (F) Worksite hazard analysis is conducted.
- (G) Employees and managers alike are held accountable for safety and health.

Adjustments will be made as follows:

(H) 20% reduction in penalties if the compliance officer determines that the information demonstrates a better than average effort to comply with the law and rules.

(I) No adjustment if the compliance officer determines that the information demonstrates an employer's good faith effort is at the norm.

(J) May increase penalties by 20% if the compliance officer determines that the information demonstrates a poorer than normal effort to comply with the law and rules.

(d) A 10% reduction will be provided for immediate corrections of violations or other unsafe conditions identified during the inspection provided that such corrective action is substantial and not temporary or superficial.

(3) Penalty adjustments, except for size, will not be applied to repeat violations, willful violations or to any violation which the compliance officer determines contributed to an injury, illness or death of an employee. Adjustments will not reduce the penalty to less than the mandatory minimum penalty which has been established by rule or statute or increase them beyond the maximum penalty established by statute.

(4) The adjusted penalty for a serious violation will not be less than \$100.

(5) Penalties for combined violations will be calculated by taking the number of violations into account when assessing probability. Severity will be determined by identifying the most severe reasonably predictable injury or illness that could occur.

(6) The penalty for grouped violations of different rules is calculated by determining the probability and severity for the entire group.

(7) The Administrator may assess a penalty of up to \$7,000 for any violation after considering the facts.

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

Stat. Auth.: ORS 654.025(2) & 656.726(3)

Stats. Implemented: ORS 654.001 - 654.295

Hist.: WCB 19-1974, f. 6-5-74, ef. 7-1-74; WCB 8-1975, f. 8-5-75, ef. 9-1-75; WCD 5-1978, f. 6-22-78, ef. 8-15-78; WCD 4-1981, f. 5-22-81, ef. 7-1-81; WCD 6-1982, f. 6-28-82, ef. 8-1-82; WCD 12-1982, f. 9-20-84, ef. 11-1-84; APD 6-1987, f. 12-23-87, ef. 1-1-88; APD 5-1988, f. 5-16-88, ef. 5-16-88; APD 7-1988, f. 6-17-88, ef. 7-1-74; OSHA 7-1992, f. 7-31-92, cert. ef. 10-1-92; OSHA 7-1995, f. & cert. ef. 7-5-95; OSHA 2-2012, f. 5-11-12, cert. ef. 7-1-12

437-001-0160

Penalty Criteria — Repeat Violation

Oregon OSHA will identify repeat violations as follows:

(1) An employer's second or subsequent violation involving a substantially similar violation, cited within the previous three years, will be cited as a repeat violation as described below.

(2) When citing an identical standard for a violation of a previously cited statute, regulation, rule, standard or order it will be presumed to be a repeat violation. That presumption can be disproven only if the circumstances clearly demonstrate that the violation is not substantially similar to a previously cited violation.

Example: Previously a citation was issued for a violation of 1910.212(a)(1) for not guarding in-going nip points. A recent inspection of the same establishment revealed a citation of 1910.212(a)(1) for not guarding against flying chips and sparks. Although the same standard was cited, the hazardous conditions are clearly not substantially similar and a repeat violation would not be appropriate.

(3) When citing a different standard, in some circumstances, substantially similar conditions can be demonstrated. In such cases, if the violations found are substantially similar a repeat violation would be appropriate even though the standards are different.

Example #1: Previously a citation was issued for a failure to install appropriate scaffold guardrails under the Division 3 Construction standards. A recent inspection of the same employer found a violation for a failure to install appropriate scaffold guardrails, but this time the operation involved activities covered by the Division 2 General Industry standard. Although two different standards are cited, the violations are substantially similar and would therefore be treated as a repeat.

Example #2: Previously a citation was issued for failure to have a respirator program in a Division 2 General Industry situation where exposure to asbestos would require one. A recent inspection of the same employer found a violation for not requiring employees to wear respirators while performing lead related tasks in the Lead, Division 3 Construction standard that requires respiratory protection. Although two different standards are cited, the violations are substantially similar and would therefore be treated as a repeat.

(4) Where a previously cited violation is under appeal and not yet final:

(a) The second violation will be cited as a repeat violation; and

(b) Such citation will state that the earlier violation is under appeal and the repeat classification of the current violation will be rescinded if the earlier violation does not become final.

(5) At fixed places of employment, "high serious" and "death" rated violations will be issued as repeat violations at all of an employer's places of employment in the state. Repeat violations for all other violation types will be limited to the cited place of employment.

(6) At nonfixed places of employment, repeat violations will be based on earlier violations occurring anywhere within the state. Where the Administrator, or designee, determines in his or her discretion that the span of control and nature of activity for a portion of the state is more readily comparable to fixed location activity, repeat violations will be handled in a manner consistent with fixed places of employment.

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: WCD 5-1978, f. 6-22-78, ef. 8-15-78; WCD 4-1981, f. 5-22-81, ef. 7-1-81; WCD 6-1982, f. 6-28-82, ef. 8-1-82; APD 7-1988, f. 6-17-88, ef. 7-1-74; APD 7-1989(Temp), f. & ef. 5-1-89; APD 10-1989, f. & cert. ef. 7-7-89; OSHA 7-1992, f. 7-31-92, cert. ef. 10-1-92; OSHA 6-1994, f. & cert. ef. 9-30-94; OSHA 2-2009, f. 1-27-09, cert. ef. 2-3-09; OSHA 2-2012, f. 5-11-12, cert. ef. 7-1-12

437-001-0165

Determination of Penalty — Repeat Violation

(1) The penalty for a repeat violation will be calculated by multiplying the penalty for the current violation by the following factors: [Table not included. See ED. NOTE.]

(2) The total penalty for a repeat violation will not be less than \$200, nor more than the statutory maximum of \$70,000.

(3) For a repeated other than serious violation that otherwise would have no initial penalty, a penalty of \$200 will be assessed for the first repeated violation, \$500 if the violation has been cited twice before, and \$1,000 for a third repeat.

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

ADMINISTRATIVE RULES

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: WCB 19-1974, f. 6-5-74, ef. 9-1-76; WCB 33-1974, f. 9-5-74, ef. 9-26-74; WCB 8-1975, f. 8-5-75, ef. 9-1-75; WCD 5-1978, f. 6-22-78, ef. 8-15-78; WCD 4-1981, f. 5-22-81, ef. 7-1-81; WCD 6-1982, f. 6-28-82, ef. 8-1-82; APD 7-1988, f. 6-17-88, ef. 7-1-74; APD 7-1989(Temp), f. & cert. ef. 5-1-89; APD 10-1989, f. & cert. ef. 7-7-89; OSHA 7-1992, f. 7-31-92, cert. ef. 10-1-92; OSHA 2-2012, f. 5-11-12, cert. ef. 7-1-12

437-001-0175

Determination of Penalty — Willful or Egregious Violation

For a willful violation, the Administrator, after considering the facts of the violation, may assess a penalty of not less than \$5,000, or more than \$70,000. The base penalty will normally be multiplied by 25. For egregious violations, the Administrator may assess a separate penalty for each instance of a violation.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: WCB 8-1985, f. 8-5-75, ef. 9-1-75; WCD 5-1978, f. 6-22-78, ef. 8-15-78; APD 7-1988, f. 6-17-88, ef. 7-1-74; OSHA 7-1992, f. 7-31-92, cert. ef. 10-1-92; OSHA 2-2012, f. 5-11-12, cert. ef. 7-1-12

437-001-0230

Correction of Violation

(1) The employer must correct any violation the employer has been ordered to correct except when:

(a) The abatement date of an other than serious violation has been appealed;

(b) An extension has been granted in accordance with OAR 437-001-0240.

(2) If the violation is corrected at the time of inspection, the correction shall be noted in the Compliance Officer's inspection report. However, such correction shall not provide immunity from the issuance of a citation for the violation.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.295
Hist.: WCB 19-1974, f. 6-5-74, ef. 7-1-74; WCD 4-1981, f. 5-22-81, ef. 7-1-81; WCD 6-1982, f. 6-28-82, ef. 8-1-82; APD 6-1987, f. 12-23-87, ef. 1-1-88; APD 7-1988, f. 6-17-88, ef. 7-1-74; OSHA 2-2012, f. 5-11-12, cert. ef. 7-1-12

437-001-0255

Requesting an Appeal and an Informal Conference

(1) In order to appeal a citation, a written request for appeal must be filed with the Department of Consumer and Business Services and must be directed to the Oregon Occupational Safety and Health Division at 350 Winter St. NE, Room 430, Salem, Oregon 97310, or with any permanently staffed office of the Workers' Compensation Board or Oregon OSHA. The appeal must be filed within 30 days of receiving a citation, notice or order, if the employer intends to contest any proposed assessment of civil penalty, the time fixed for correction of a violation or the violative condition cited. The request must clearly state the item(s) to be contested. An employee appeal of the time fixed for correction of a violation must also be filed within 30 days of the employer's receipt of the citation, notice or order.

(2) An informal conference may be requested by either the employer or employee and used to discuss informally with Oregon OSHA any matter affecting occupational safety and health in the place of employment including, but not limited to:

- (a) Clarify statements of observed violations;
- (b) Discuss safety and health requirements;
- (c) Discuss abatement dates;
- (d) Explain the penalty system;
- (e) Improve employer/employee understanding of the Oregon Safe Employment Act;
- (f) Correct errors;
- (g) Narrow issues, or
- (h) Negotiate a settlement agreement with an employer to resolve disputed citations that have not become a final order.

(i) Notwithstanding any other rule in this division, proposed civil penalties may be reduced as part of a settlement agreement resolving disputed claims.

(3) A request for an informal conference alone will not be considered as an appeal to the Workers' Compensation Board (although the same document may both request an informal conference and serve notice of an appeal, provided that it includes the required elements). An informal conference concerning a citation will not extend the 30 days allowed for filing an appeal with the Board.

(4) Informal conferences scheduled to negotiate settlement agreements require that the employer notify employees or their representatives of the opportunity to attend.

(5) When both a request for an informal conference and an appeal have been submitted, the appeal request will be forwarded to the Workers'

Compensation Board to be scheduled for a formal hearing if issues are not resolved at the informal conference.

Stat. Auth.: ORS 654.025(2), 656.726(4)
Stats. Implemented: ORS 654.001-654.295
Hist.: WCB 19-1974, f. 6-5-74, ef. 7-1-74; WCD 5-1978, f. 6-22-78, ef. 8-15-78; WCD 4-1981, f. 5-22-81, ef. 7-1-81; APD 7-1988, f. 6-17-88, ef. 7-1-74; OSHA 7-1992, f. 7-31-92, cert. ef. 10-1-92; OSHA 7-1999, f. & cert. ef. 7-15-99; OSHA 10-2007, f. 12-3-07, cert. ef. 1-1-08; OSHA 2-2012, f. 5-11-12, cert. ef. 7-1-12

437-001-0400

Application for a Variance

(1) Any employer may apply for a variance from any rule which specifically affects working conditions. This application may be submitted:

- (a) On a form provided by Oregon OSHA; or
- (b) In any written form that includes all information required by OAR

437-001-0400(2) and (3).

(2) An application for a variance must contain:

- (a) The name and address of the employer;
- (b) The address and location of the place of employment;
- (c) The rule, identified by number, from which the variance is sought;
- (d) The type of variance desired (see OAR 437-001-0015);
- (e) The means by which employees will be protected from the hazard until final action is taken on the variance request;
- (f) A description of the means proposed to be used to provide employment which is as safe and healthful as that obtained by compliance with the rule;

(g) Certification that all affected employees have been informed of the application and of their right to comment on it by:

(A) Giving a copy of the variance application to the authorized employee representative;

(B) Posting a statement giving a summary of the application and specifying where a copy may be examined, at the place or places where notices to employees are normally posted (or in lieu of such summary, the posting of the application itself); and

(C) By other appropriate means.

(h) A description of how employees have been informed of the application and of their right to comment on it to the Administrator, Oregon OSHA, 350 Winter St. NE, Salem, Oregon, before it becomes final.

(i) A statement of whether the employer has previously filed application for a similar variance with any state or federal agency.

(3) If the employer is applying for a research variance, the application must contain the following additional information:

- (a) The purpose and contribution of the intended research;
- (b) A discussion of the research methods;
- (c) The research schedule, including the projected completion date;
- (d) A description of the hazards to which employees may be exposed and the steps to be taken to protect the employees safety and health;
- (e) Biographical information to indicate the competence of the research staff;
- (f) Assurances that the project will be funded adequately; and
- (g) Assurances that Oregon OSHA will be given a copy of the research report prepared under the variance. However, no trade secret, patented or patentable material or data need be submitted by the employer.

(4) If the employer is applying for a temporary variance, the application must contain the following additional information:

(a) A statement of facts why the applicant is unable to comply with the rule by the effective date which is supported by representations from qualified persons having firsthand knowledge of the facts and include data on:

- (A) Unavailability of professional or technical personnel; or
- (B) Unavailability of materials and equipment needed; or
- (C) Inability to complete the construction or alteration of facilities by the effective date.

(b) An effective program including a timetable for complying with the rule; and

(c) The specific steps taken to protect employees against the hazard.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001-654.295
Hist.: WCB 19-1974, f. 6-5-74, ef. 7-1-74; WCB 8-1975, f. 8-5-75, ef. 9-1-75; WCD 5-1978, f. 6-22-78, ef. 8-15-78; WCD 4-1981, f. 5-22-81, ef. 7-1-81; WCD 6-1982, f. 6-28-82, ef. 8-1-82; APD 7-1988, f. 6-17-88, ef. 7-1-74; OSHA 2-2012, f. 5-11-12, cert. ef. 7-1-12

437-001-0405

Interim Order Relating to a Variance

(1) An employer applying for a variance may request an interim order to be effective until final action is taken on the variance application. The request for an interim order:

- (a) May be included in the variance application;

ADMINISTRATIVE RULES

(b) Must include all information required by OAR 437-001-0400(2); and

(c) Must state the reasons why the interim order should be granted.

(2) The Administrator, or designee, will decide whether to issue an interim order on the basis of information provided in the application.

(3) If an interim order is granted, it will be sent to the employer. The employer must inform affected employees by posting a copy of the interim order for as long as the order is in effect.

(4) If an interim order is granted, the action will be published in the manner required by OAR 437-001-0410(1).

(5) If the interim order is denied, the employer will be given prompt written notice of, and the reasons for, the denial.

(6) An interim order or a written denial must include notice of the employer's and employees' appeal rights as contained in ORS 654.056 and OAR 438-085-0006 through 438-085-0870.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001-654.295
Hist.: WCB 19-1974, f. 6-5-74, ef. 7-1-74; WCD 5-1978, f. 6-22-78, ef. 8-15-78; WCD 4-1981, f. 5-22-81, ef. 7-1-81; WCD 6-1982, f. 6-28-82, ef. 8-1-82; APD 7-1988, f. 6-17-88, ef. 7-1-74; OSHA 2-2012, f. 5-11-12, cert. ef. 7-1-12

437-001-0410

Administrative Action on Variance Application

(1) After a variance request is determined to be complete and procedurally adequate, as provided in OAR 437-001-0400, Oregon OSHA will publish the request for one day in at least one daily newspaper with general circulation throughout Oregon. The notice will include:

(a) The name of the applicant;
(b) The rule, also identified by number, from which the variance is sought;

(c) A brief description of the variance request;
(d) Notice of opportunity for public comment and hearing;
(e) Information on how interested persons may learn of Oregon OSHA's decision on the variance application; and

(f) The address of the Oregon OSHA office from which further information may be obtained.

(2) Oregon OSHA may conduct an on-site review of the equipment or processes involved in the requested variance.

(3) A variance, if granted, will have no retroactive effect. It will not be the basis for amending or withdrawing a citation.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001-654.295
Hist.: WCB 19-1974, f. 6-5-74, ef. 7-1-74; WCB 33-1974, f. 9-5-74, ef. 9-26-74; WCB 8-1975, f. 8-5-75, ef. 9-1-75; WCD 5-1978, f. 6-22-78, ef. 8-15-78; WCD 4-1981, f. 5-22-81, ef. 7-1-81; APD 7-1988, f. 6-17-88, ef. 7-1-74; OSHA 2-2012, f. 5-11-12, cert. ef. 7-1-12

437-001-0411

Hearings for Variance Applications

Affected employers or employees will be given the opportunity to request a hearing on an application.

(1) Request for hearings must be made in the following manner:

(a) The request must be made within 30 days of publication of the application;

(b) A request must be made to Oregon OSHA and must contain:

(A) A concise statement of facts showing how the employer or employee would be affected by the relief applied for;

(B) A statement opposing any or all portions of the application, and a concise summary of the evidence supporting each item opposed; and

(C) Any views or arguments on any issue of fact or law presented.

(2) A notice of hearing will be given to affected persons that contains:

(a) Time, place and nature of hearing;
(b) Legal authority under which the hearing will be held; and
(c) The issues to be discussed.

(3) The hearing will be conducted in a manner that will allow all affected persons to submit information on the application.

(4) All information submitted will be evaluated at the hearing and a determination made on the merits of the application.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001-654.295
Hist.: WCD 67-1982, f. 6-28-82, ef. 8-1-82; APD 7-1988, f. 6-17-88, ef. 7-1-74; OSHA 2-2012, f. 5-11-12, cert. ef. 7-1-12

437-001-0415

Criteria for Variance Approval

(1) An application for a permanent variance will be granted only if the applicant demonstrates, and Oregon OSHA determines, including consideration of employee or public comments, that the conditions, practices, operations or processes proposed by the applicant will provide employment that is as safe and healthful as that obtained by compliance with the rule.

(2) An application for a temporary variance will be granted only if the applicant demonstrates, and Oregon OSHA determines, including consideration of employee or public comments, that the applicant is unable to comply with a new rule by its effective date, that the applicant has an effective program for complying with the rule by the agreed upon timetable and that all available steps are being taken in the interim to safeguard employees against the hazard covered by the rule.

(3) An application for a research variance will be granted only if the applicant demonstrates, and Oregon OSHA determines, including consideration of employee or public comments, that the conditions, practices, operations or processes used adequately safeguard employees against the hazards covered by the rule, while demonstrating or validating new or improved safety or health techniques or products.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001-654.295
Hist.: WCD (Safety) 5-1978, f. 6-22-78, cert. ef. 8-15-78; WCD (Safety) 4-1981, f. 5-22-81, cert. ef. 7-1-81; WCD (Safety) 6-1982, f. 6-28-82, cert. ef. 8-1-82; APD 7-1988, f. 6-17-88, cert. ef. 7-1-74; OSHA 2-2012, f. 5-11-12, cert. ef. 7-1-12

437-001-0420

Decision on Variance Request

(1) If a variance is granted, an order of variance will be issued. The order will include:

(a) The name of the employer to whom the variance is granted;
(b) The place of employment where the variance is applicable;
(c) The type of variance granted;
(d) The specific rule to which the variance applies;
(e) The alternative methods or safeguards to be used by the employer while the variance is in effect;

(f) Notice that the employer may be cited for any violation of the conditions established by the variance;

(g) Information of employees' right to appeal the variance decision; and

(h) Information that if no appeal is filed within 30 days of receipt of the order, the variance approval becomes final and subject to review only as specified in OAR 437-001-0430.

(2) If a variance is denied, a notice of denial will be issued. The notice will include:

(a) The reasons for the denial;
(b) Employer and employee appeal rights;
(c) Information that if no appeal is filed within 30 days of receipt of the notice, the variance denial becomes a final decision without affecting the employer's right to submit another application; and
(d) Information advising the employer that a compliance inspection may be made within 30 days.

(3) A copy of any variance order or denial must be posted for 20 days.
(4) A variance that has been denied, or that has expired, may be followed by a compliance inspection within 30 days.

Stat. Auth.: ORS 654.025(2) & 656.726(4)
Stats. Implemented: ORS 654.001 - 654.326, 654.412 - 654.423 & 654.991
Hist.: WCB 19-1974, f. 6-5-74, ef. 7-1-74; WCB 8-1975, f. 8-5-75, ef. 9-1-75; WCD 5-1978, f. 6-22-78, ef. 8-15-78; WCD 4-1981, f. 5-22-81, ef. 7-1-81; APD 7-1988, f. 6-17-88, ef. 7-1-74; OSHA 10-2009, f. & cert. ef. 10-5-09; OSHA 2-2012, f. 5-11-12, cert. ef. 7-1-12

437-001-0430

Modification or Revocation of a Variance

(1) A variance may be modified or revoked after it has been in effect 6 months or longer upon:

(a) Receiving a request from the employer, an affected employee or an employee representative containing:

(A) The name and address of the applicant;
(B) A description of the relief which is sought;
(C) A statement setting forth with particularity the grounds for relief;
(D) If the applicant is an employer, a certification that the applicant has informed affected employees of the application by:

(i) Giving a copy to their authorized representative;
(ii) Posting at the place or places where notices to employees are normally posted, a statement giving a summary of the application and specifying where a copy of the full application may be examined (or, in lieu of the summary, posting the application itself); and
(iii) Other appropriate means.

(E) If the applicant is an affected employee, they must provide a copy of the application to the employer; and

(F) Any request for a hearing, as provided for in these rules.

(b) Notification and confirmation that the alternative methods or safeguards required by the variance are not fully complied with; or

(c) An Oregon OSHA review.

ADMINISTRATIVE RULES

(2) Oregon OSHA will post the proposed modifications or revocations on the Oregon OSHA web site at www.orsosha.org for 30 days. The posting will include:

- (a) The name of applicant;
- (b) The rule, also identified by number, from which the variance had been granted;
- (c) A brief description of the variance and why relief is sought;
- (d) Notice of opportunity for public comment and hearing and that a request for hearing will be made within 20 days of publication;
- (e) Information on how interested persons may learn of Oregon OSHA's decision on the variance; and
- (f) The address of the Oregon OSHA office from which further information may be obtained.

(3) Oregon OSHA may conduct an on-site review of the equipment or processes involved in the proposed, revoked or modified variance.

(4) The employer and affected employees will be advised in writing of modification or revocation of the variance. The modification or revocation order will include:

- (a) The name and address of the employer;
- (b) The address and location of the place of employment involved;
- (c) The rule, identified by number, from which the variance was granted;

- (d) The type of variance issued;
 - (e) The reasons for modification or revocation of the variance; and
 - (f) The employer's and affected employees appeal rights.
- (5) Any request for a hearing will be made within 30 days of publication and must include a short and plain statement of:

- (a) How the proposed modification or revocation would affect the requesting party; and
- (b) What the requesting party would seek to show on the subjects or issues involved.

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: WCB 19-1974, f. 6-5-74, ef. 7-1-74; WCB 8-1975, f. 8-5-75, ef. 9-1-75; WCD 5-1978, f. 6-22-78, ef. 8-15-78; WCD 4-1981, f. 5-22-81, ef. 7-1-81; WCD 6-1982, f. 6-28-82, ef. 8-1-82; APD 7-1988, f. 6-17-88, ef. 7-1-74; OSHA 6-2003, f. & cert. ef. 11-26-03; OSHA 2-2012, f. 5-11-12, cert. ef. 7-1-12

437-001-0435

Effect of a Variance Granted by the U.S. Secretary of Labor

(1) If an employer requesting a variance from an Oregon rule submits proof that a variance from an equivalent federal rule has been granted by the U.S. Secretary of Labor, the federal variance will be accepted in lieu of the information required by OAR 437-001-0400, Application for a Variance.

(2) If an employer is cited for violating an Oregon rule equivalent to a federal rule for which a variance has been granted by the U.S. Secretary of Labor, and all conditions of that variance are being met, the Administrator will consider the federal variance as a possible defense against the citation.

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

Stats. Implemented: ORS 654.001-654.295

Hist.: WCB 19-1974, f. 6-5-74, ef. 7-1-74; WCD 5-1978, f. 6-22-78, ef. 8-15-78; APD 7-1988, f. 6-17-88, ef. 7-1-74; OSHA 2-2012, f. 5-11-12, cert. ef. 7-1-12

437-001-0760

Rules for All Workplaces

(1) Employers' Responsibilities.

(a) The employer must see that workers are properly instructed and supervised in the safe operation of any machinery, tools, equipment, process, or practice that they are authorized to use or apply. This rule does not require a supervisor on every part of an operation nor prohibit workers from working alone.

(b) The employer must take all reasonable means to require employees:

- (A) To work and act in a safe and healthful manner;
- (B) To conduct their work in compliance with all applicable safety and health rules;

(C) To use all means and methods, including but not limited to, ladders, scaffolds, guardrails, machine guards, safety belts and lifelines, that are necessary to safely accomplish all work where employees are exposed to a hazard; and

(D) Not to remove, displace, damage, destroy or carry off any safety device, guard, notice or warning provided for use in any employment or place of employment while such use is required by applicable safety and health rules.

(c) Every employer is responsible for providing the health hazard control measures necessary to protect the employees' health from harmful or

hazardous conditions and for maintaining such control measures in good working order and in use.

(d) Every employer must inform the employees regarding the known health hazards to which they are exposed, the measures which have been taken for the prevention and control of such hazards, and the proper methods for utilizing such control measures.

(e) Every agent of the employer is responsible for:

(A) The safe performance of the work under the agent's supervision or control;

(B) The safe conduct of all employees under the agent's supervision or control;

(C) The safety of all employees working under the agent's supervision or control.

(2) Employees' Responsibilities.

(a) Employees must conduct their work in compliance with the safety rules contained in this code.

(b) All injuries must be reported immediately to the person in charge or other responsible representative of the employer.

(c) It is the duty of all workers to make full use of safeguards provided for their protection. It is the worker's responsibility to abide by and perform the following requirements:

(A) A worker must not operate a machine unless guard or method of guarding is in good condition, working order, in place, and operative.

(B) A worker must stop the machine or moving parts and properly tagout or lockout the starting control before oiling, adjusting, or repairing, except when such machine is provided with means of oiling or adjusting that will prevent possibility of hazardous contact with moving parts.

(C) A worker must not remove guards or render methods of guarding inoperative except for the purpose of adjustment, oiling, repair, or the setting up a new job.

(D) Workers must report to their supervisor any guard or method of guarding that is not properly adjusted or not accomplishing its intended function.

(E) Workers must not use their hands or any portion of their bodies to reach between moving parts or to remove jams, hangups, etc. (Use hook, stick, tong, jig or other accessory.)

(F) Workers must not work under objects being supported that could accidentally fall (such as loads supported by jacks, the raised body of a dump truck, etc.) until such objects are properly blocked or shored.

(G) Workers must not use defective tools or equipment. No tool or piece of equipment should be used for any purpose for which it is not suited, and none should be abused by straining beyond its safe working load.

(d) Workers must not remove, deface, or destroy any warning, danger sign, or barricade, or interfere with any other form of accident prevention device or practice provided which they are using, or which is being used by any other worker.

(e) Workers must not work underneath or over others exposed to a hazard thereby without first notifying them and seeing that proper safeguards or precautions have been taken.

(f) Workers must not work in unprotected, exposed, hazardous areas under floor openings.

(g) Long or unwieldy articles must not be carried or moved unless adequate means of guarding or guiding are provided to prevent injury.

(h) Hazardous conditions or practices observed at any time must be reported as soon as practicable to the person in charge or some other responsible representative of the employer.

(i) Workers observed working in a manner which might cause immediate injury to either themselves or other workers must be warned of the danger.

(j) Before leaving a job, workers must correct, or arrange to give warning of, any condition which might result in injury to others unfamiliar with existing conditions.

(3) Investigations of Injuries.

(a) Each employer must investigate or cause to be investigated every lost time injury that workers suffer in connection with their employment, to determine the means that should be taken to prevent recurrence. The employer must promptly install any safeguard or take any corrective measure indicated or found advisable.

(b) At the request of authorized Department representatives, it is the duty of employers, their superintendents, supervisors and employees to furnish all pertinent evidence and names of known witnesses to an accident and to give general assistance in producing complete information which might be used in preventing a recurrence of such accident.

ADMINISTRATIVE RULES

At the request of the Department, persons having direct authority must preserve and mark for identification, materials, tools or equipment necessary to the proper investigation of an accident.

(4) Intoxicating Liquor and Drugs. The use of intoxicating liquor on the job is strictly prohibited. Anyone whose ability to work safely is impaired by alcohol, drugs, or medication must not be allowed on the job while in that condition.

(5) Horseplay. There must be no horseplay, scuffling, practical jokes, or any other activity of a similar nature.

(6) Extraordinary Hazards. When conditions arise that cause unusual or extraordinary hazards to workers, additional means and precautions shall be taken to protect workers or to control hazardous exposure. If the operation cannot be made reasonably safe, regular work must be discontinued while such abnormal conditions exist, or until adequate safety of workers is ensured.

(7) Inspections.

(a) All places of employment must be inspected by a qualified person or persons as often as the type of operation or the character of the equipment requires. Defective equipment or unsafe conditions found by these inspections must be replaced or repaired or remedied promptly.

(b) Wherever required in this safety code, a written and dated report, signed by the person or persons making the inspection, must be kept.

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

Stats. Implemented: ORS 654.001 - 654.295

Hist.: WCB 1-1967, f. 1-12-67, ef. 1-15-67; WCB 3-1997, f. 10-6-75, cert. ef. 11-1-75; WCD 11-1976, f. & ef. 5-5-76; WCB 15-1976, f. 7-6-76, cert. ef. 8-1-76; WCD 10-1982, f. & ef. 7-30-82; OSHA 6-1994, f. & cert. ef. 9-30-94, Renumbered from 437-040-0020, 437-040-0025, 437-040-0030, 437-040-0035, 437-040-0040, 437-040-0050, 437-040-0055 & 437-137-0010(1) & (2); OSHA 2-2009, f. 1-27-09, cert. ef. 2-3-09; OSHA 2-2012, f. 5-11-12, cert. ef. 7-1-12

Department of Energy Chapter 330

Rule Caption: Repeal of duplicate renewable Portfolio Standard rules.

Adm. Order No.: DOE 4-2012

Filed with Sec. of State: 5-1-2012

Certified to be Effective: 5-1-12

Notice Publication Date: 4-1-2012

Rules Repealed: 330-150-0005, 330-150-0015, 330-150-0020, 330-150-0025, 330-150-0030

Subject: The department did not complete the rulemaking process for the OAR 330-150 Renewable Portfolio Standard rules, causing the rules to be ineffective. The rules language was correctly filed under OAR 330-160, which provides the current department rules for the Renewable Portfolio Standard.

This rulemaking repeals all rules under OAR 330-150. This change has no impact on the operation of the program or the current rules under OAR 330-160.

Rules Coordinator: Kathy Stuttaford—(503) 373-2127

Department of Energy, Energy Facility Siting Council Chapter 345

Rule Caption: Rules implementing the Council's regulatory authority for siting energy facilities and other matters.

Adm. Order No.: EFSC 1-2012

Filed with Sec. of State: 5-15-2012

Certified to be Effective: 5-15-12

Notice Publication Date: 3-1-2012

Rules Amended: 345-001-0005, 345-001-0010, 345-001-0050, 345-011-0020, 345-011-0050, 345-015-0014, 345-015-0085, 345-015-0110, 345-015-0120, 345-015-0160, 345-015-0180, 345-015-0190, 345-015-0220, 345-015-0230, 345-015-0240, 345-015-0300, 345-015-0310, 345-020-0011, 345-020-0016, 345-020-0040, 345-021-0000, 345-021-0010, 345-021-0050, 345-021-0055, 345-021-0090, 345-022-0020, 345-023-0005, 345-023-0030, 345-023-0040, 345-024-0015, 345-024-0550, 345-024-0560, 345-024-0570, 345-024-0590, 345-024-0600, 345-024-0610, 345-024-0620, 345-024-0630, 345-024-0640, 345-024-0680, 345-024-0710, 345-024-0720, 345-026-0080, 345-026-0170, 345-027-0020, 345-027-0023, 345-027-0028, 345-027-0030, 345-027-0050, 345-027-0060, 345-027-0070,

345-027-0080, 345-027-0090, 345-027-0100, 345-027-0110, 345-027-0210, 345-027-0220, 345-027-0230

Subject: In this rulemaking, the Energy Facility Siting Council (Council) has reviewed Chapter 345 Divisions 1, 11, 15, 20, 21, 22, 23, 24, 26 and 27. The proposed amendments make corrections, modify procedures to increase efficiency and make minor word changes. The Council has corrected cross-references, conformed the rules to changes in Oregon statutes that have occurred since the last review, and clarified procedures based on knowledge gained from recent energy facility siting experience.

Rules Coordinator: Kathy Stuttaford—(503) 373-2127

345-001-0005

Uniform and Model Rules

(1) Except as described in this rule, the Council adopts and incorporates by reference in this chapter the following rules from the Attorney General's Uniform and Model Rules (January 2012): OAR 137-001-0005 through 137-001-0100, 137-002-0010 through 137-002-0060, 137-003-0001 through 137-003-0092, and 137-005-0010 through 137-005-0070.

(2) Notwithstanding the provisions of OAR 137-003-0055(1), following the issuance of notice of a contested case, the Department of Energy shall enter into the record the substance of any significant contact between a Council member and any Department staff from that point forward, concerning facts in the record.

(3) In any conflict between the model rules and Council rules, the Council shall apply its own rules.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.490

Hist.: NTEC 1, f. 12-16-71, ef. 1-1-72; NTEC 6, f. 11-19-73, ef. 12-11-73; EFSC 13, f. & ef. 6-11-76; EFSC 5-1978, f. & ef. 5-9-78; EFSC 4-1981, f. & ef. 3-25-81; EFSC 10-1981, f. & ef. 12-28-81; EFSC 6-1986, f. & ef. 9-12-86; EFSC 2-1992, f. & cert. ef. 8-28-92, Renumbered from 345-010-0026; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 2-2000, f. & cert. ef. 11-20-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-001-0010

Definitions

In this chapter, the following definitions apply unless the context requires otherwise or a term is specifically defined within a division or a rule:

(1) "Adjusted to ISO conditions" as defined in ORS 469.503(2)(e).

(2) "Analysis area" means the area or areas specifically described in the project order issued under 345-015-0160(1), containing resources that the proposed facility may significantly affect. The analysis area is the area for which the applicant shall describe the proposed facility's impacts in the application for a site certificate. A proposed facility might have different analysis areas for different types of resources. For the purpose of submitting an application for a site certificate in an expedited review granted under OAR 345-015-0300 or OAR 345-015-0310, the analysis areas are the study areas defined in this rule, subject to modification in the project order.

(3) "Applicant" as defined in ORS 469.300 or, if an application has not been submitted, a person who has submitted, or intends to submit, a notice of intent or a request for expedited review.

(4) "Associated transmission lines" as defined in ORS 469.300.

(5) "Average electric generating capacity" as defined in ORS 469.300.

(6) "Background radiation" means the direct radiation (gamma) and concentrations of potential radionuclide contaminants in construction materials and the environment in the vicinity of the plant not associated with the nuclear operation and retirement of the facility. Background shall be determined as follows:

(a) For direct radiation, the results of any background measurements taken prior to operation of the facility shall be provided and 6 to 10 measurements shall be taken in areas in the vicinity of the site with materials and/or geological formations representative of the site that have not been affected by the operation and retirement of the facility. Background shall be calculated at the average and at the 95% confidence level.

(b) Environmental samples shall be taken for soil, sediment, water, and other materials present at the facility site that could have been affected by facility operations and retirement. Measurements for these samples shall be calculated at the average and 95% confidence levels, based on 6 to 10 measurements. Background environmental samples shall be taken at locations on site or in the immediate vicinity of the site which are unaffected by plant operations. Background shall be calculated at the average and 95% confidence levels, based on 6 to 10 measurements at each location.

(c) For construction material such as concrete, asphalt, block, brick and other materials used to construct the buildings and systems at the site,

ADMINISTRATIVE RULES

representative samples of materials unaffected by site operations shall be selected and surveyed. Six to ten samples of each material shall be taken to determine the level of naturally occurring and artificially induced concentrations of naturally occurring radioactivity present. Measurements shall include direct radiation (beta-gamma and alpha), wipes and qualitative and quantitative laboratory analyses. Concentrations of fission and activation products from historical fallout shall be characterized as well.

(d) All measurements shall be made using appropriate instruments, properly calibrated, and in sufficient number to determine compliance with requirements.

(7) "Base load gas plant" as defined in ORS 469.503(2)(e).

(8) "Carbon dioxide equivalent" as defined in ORS 469.503(2)(e).

(9) "Certificate holder" means the person to whom a site certificate has been granted by the Council pursuant to this chapter.

(10) "Chair" means the chairman or chairwoman of the Energy Facility Siting Council.

(11) "Committed firm energy and capacity resources" means generating facilities or power purchase contracts that are assured to be available to the energy supplier over a defined time period. Committed firm energy and capacity resources include existing generating facilities, existing power purchase contracts and planned generating facilities that sponsors have made firm commitments to develop.

(12) "Construction" as defined in ORS 469.300.

(13) "Corridor" means a continuous area of land not more than one-half mile in width and running the entire length of a proposed transmission line or pipeline. "Micrositing corridor" is defined below in this rule.

(14) "Council" means the Energy Facility Siting Council established under ORS 469.450.

(15) "Council Secretary" means the person designated by the Director of the Oregon Department of Energy to serve as secretary to the Council.

(16) "Department" means the Office of Energy or the Department of Energy created under ORS 469.030.

(17) "Direct cost" means the discounted sum of all monetary costs to the ultimate consumer over the lifetime of the facility or resource plan or resource strategy.

(18) "Energy facility" means an energy facility as defined in ORS 469.300, including a small generating plant for which an applicant must have a site certificate according to OAR 345-001-0210.

(19) "Energy supplier" means:

(a) A retail electric utility, a federal power marketing agency, or a local gas distribution company, or

(b) A person or public agency generating electric energy for its own consumption, lawfully purchasing electric energy directly from a generator for its own consumption, or transmitting or distributing natural or synthetic gas from an energy facility for its own consumption.

(20) "Existing corridor," as used in ORS 469.300 and ORS 469.442, means the right-of-way of an existing transmission line, not to exceed 100 feet on either side of the physical center line of the transmission line or 100 feet from the physical center line of the outside lines if the corridor contains more than one transmission line.

(21) "Facility" as defined in ORS 469.300 or a small generating plant for which an applicant must have a site certificate according to OAR 345-001-0210 together with any related or supporting facilities

(22) "Facility substantially similar to the proposed facility" means:

(a) A facility that uses the same fuel and substantially similar technology, that has substantially the same in-service date, and that has a direct cost not substantially greater than that of the proposed facility; or

(b) A facility that is demonstrated to provide as good a mix of reliability, compatibility with the power system, strategic flexibility, environmental impact and direct cost as the proposed facility taking into account reasonable trade-offs among such factors.

(23) "Fossil fuel" means natural gas, petroleum, coal and any form of solid, liquid or gaseous fuel derived from such materials that is used to produce useful energy.

(24) "Fossil-fueled power plant" as defined in ORS 469.503(2)(e).

(25) "Fuel chargeable to power heat rate" means the net heat rate of electric power production during the first twelve months of commercial operation. A fuel chargeable to power heat rate is calculated with all factors adjusted to the average temperature, barometric pressure and relative humidity at the site during the times of the year when the facility is intended to operate using the formula, $FCP = (FI - FD) / P$, where:

(a) FCP = Fuel chargeable to power heat rate.

(b) FI = Annual fuel input to the facility applicable to the cogeneration process in British thermal units (higher heating value).

(c) FD = Annual fuel displaced in any industrial or commercial process, heating, or cooling application by supplying useful thermal energy from a cogeneration facility instead of from an alternate source, in British thermal units (higher heating value). (d) P = Annual net electric output of the cogeneration facility in kilowatt-hours.

(26) "Generating facility" as defined in ORS 469.503(2)(e).

(27) "Greenhouse gas" as defined in ORS 469.503(2)(e).

(28) "Gross carbon dioxide emissions" as defined in ORS 469.503(2)(e). The Council shall measure the gross carbon dioxide emissions of a fossil-fueled power plant on a new and clean basis. For non-generating energy facilities that emit carbon dioxide, the Council shall measure the gross carbon dioxide emissions as described in OAR 345-024-0620(1).

(29) "High efficiency cogeneration facility" means an energy facility, except coal and nuclear power plants, that sequentially produces electrical and useful thermal energy from the same fuel source and under average annual operating conditions:

(a) Has a nominal electric generating capacity of less than 50 megawatts and the fuel chargeable to power heat rate value is not greater than 5550 Btu per kilowatt-hour (higher heating value); or

(b) Has a nominal electric generating capacity of 50 megawatts or more and the fuel chargeable to power heat rate value is not greater than 6000 Btu per kilowatt-hour (higher heating value).

(30) "Land use approval" means a final quasi-judicial decision or determination made by a local government that:

(a) Applies existing comprehensive plan provisions or land use regulations to a proposed facility;

(b) Amends a comprehensive plan map or zoning map to accommodate a proposed facility;

(c) Amends comprehensive plan text or land use regulations to accommodate a proposed facility;

(d) Applies the statewide planning goals to a proposed facility; or

(e) Takes an exception to the statewide planning goals adopted by the Land Conservation and Development Commission for a proposed facility.

(31) "Local government" as defined in ORS 469.300.

(32) "Micrositing corridor" means a continuous area of land within which construction of facility components may occur, subject to site certificate conditions.

(33) "Mitigation" means taking one or more of the following actions listed in order of priority:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action;

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation;

(c) Partially or completely rectifying the impact by repairing, rehabilitating or restoring the affected environment;

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate corrective measures;

(e) Partially or completely compensating for the impact by replacing or providing comparable substitute resources or environments; or

(f) Implementing other measures approved by the Council.

(34) "Natural gas" means gas as defined in ORS 520.005.

(35) "Natural gas fired facility" means an energy facility that is intended to be fueled by natural gas except for infrequent periods when the natural gas supply is interrupted, during which an alternate fuel may be used. Such alternate fuel use shall not exceed 10 percent of expected fuel use in British thermal units, higher heating value on an annual basis.

(36) "Net carbon dioxide emissions" as defined in ORS 469.503(2)(e).

(37) "Net electric power output" means the electric power produced or capacity made available for use. Calculation of net electric power output subtracts losses from on-site transformers and power used for any on-site electrical loads from gross capacity as measured or estimated at the generator terminals for each generating unit.

(38) "New and clean basis" means the average carbon dioxide emissions rate per hour and net electric power output of the energy facility, without degradation. The site certificate holder shall determine the new and clean basis:

(a) By a 100-hour test at full power that the site certificate holder completes during the first 12 months of commercial operation of the energy facility, unless the Council specifies a different testing period for a non-base load power plant (or power augmentation) or a nongenerating energy facility. A 100-hour test performed for purposes of the certificate holder's

ADMINISTRATIVE RULES

commercial acceptance of the facility may suffice in lieu of testing after beginning commercial operation;

(b) With the results adjusted for the average annual site condition for temperature, barometric pressure and relative humidity and use of alternative fuels unless the Council specifies that the results for a non-base load power plant (or power augmentation) or a nongenerating energy facility be adjusted for the average temperature, barometric pressure and relative humidity at the site during the times of the year when the facility is intended to operate;

(c) Using a rate of 117 pounds of carbon dioxide per million Btu of natural gas fuel (higher heating value); and,

(d) Using a rate of 161 pounds of carbon dioxide per million Btu of distillate fuel (higher heating value), if such fuel use is proposed by the applicant.

(e) Notwithstanding subsection (a) and including subsections (b) through (d), for a facility that employs major power generating equipment that has previously been used, the new and clean basis shall mean average carbon dioxide emissions rate and net electric power output for the first use of the equipment at the site, as determined by historical data from the previous usage or by testing on site.

(39) "Nominal electric generating capacity" as defined in ORS 469.300.

(40) "Non-base load power plant" means a fossil-fueled generating facility that is limited by the site certificate to an average number of hours of operation per year of not more than 6,600 hours. For a non-base load power plant designed to operate at variable loads, the facility's annual hours of operation are determined by dividing the actual annual electric output of the facility in megawatt-hours by the facility's nominal electric generating capacity in megawatts. The Council shall assume a 30-year life for the plants for purposes of determining gross carbon dioxide emissions, unless the applicant requests and the Council approves a shorter operational life in the site certificate. If the Council approves a shorter operational life, the certificate holder shall operate the facility for no longer than the approved operational life or, before the expiration of the approved operational life, shall request an amendment of the site certificate to extend the operational life.

(41) "Nongenerating facility" as defined in ORS 469.503(2)(e).

(42) "Office of Energy" and "Office" mean the Oregon Office of Energy and the Oregon Department of Energy.

(43) "Offset" as defined in ORS 469.503(2)(e).

(44) "Offset funds" means the amount of funds determined by the Council to satisfy the applicable carbon dioxide emissions standard pursuant to OAR 345-024-0560(3), 345-024-0600(3) or OAR 345-024-0630(2) and (4).

(45) "Owner" means owner or lessee under a capital lease.

(46) "Permit" means any permit, license, certificate or other approval required by federal law, state statute, state administrative rule or local government ordinance.

(47) "Person" as defined in ORS 469.300.

(48) "Power augmentation" means technologies that increase the capacity and the heat rate of the plant above the capacity and heat rate of the base load gas plant. These include, but are not limited to, duct burning and some forms of steam augmentation.

(49) "Project order" as defined in ORS 469.300.

(50) "Qualified organization" means an organization that:

(a) Is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code as amended and in effect on December 31, 1996;

(b) Either is incorporated in the State of Oregon or is a foreign corporation authorized to do business in the State of Oregon;

(c) Has in effect articles of incorporation that:

(A) Require that offset funds received under OAR 345-024-0710(3) are used for offsets;

(B) Require that decisions on the use of the offset funds are made by a decision-making body composed of seven voting members of which three are appointed by the Council, three are Oregon residents appointed by the Bullitt Foundation or an alternative environmental nonprofit organization named by the body, and one is appointed by the applicants for site certificates that are subject to OAR 345-024-0550, OAR 345-024-590, and OAR 345-024-0620 and the holders of such site certificates; and

(C) Require nonvoting membership on the decision-making body for holders of site certificates that have provided funds not yet disbursed under OAR 345-024-0710(3);

(d) Has made available on an annual basis, beginning after the first year of operation, a signed opinion of an independent certified public accountant stating that the qualified organization's use of funds pursuant to

ORS 469.503 conforms with generally accepted accounting procedures except that the qualified organization shall have one year to conform with generally accepted accounting principles in the event of a nonconforming audit;

(e) Has to the extent applicable, except for good cause, entered into contracts obligating at least 60 percent of the offset funds to implement offsets within two years after the commencement of construction of the facility; and

(f) Has to the extent applicable, except for good cause, complied with OAR 345-024-0710(3).

(51) "Related or supporting facilities" as defined in ORS 469.300. The Council interprets the terms "proposed to be built in connection with" as meaning that a structure is a related or supporting facility if it would not be built but for construction or operation of the energy facility. "Related or supporting facilities" does not include any structure existing prior to construction of the energy facility, unless such structure must be significantly modified solely to serve the energy facility.

(52) "Reviewing agency" means any of the following officers, agencies or tribes:

(a) Department of Environmental Quality.

(b) Water Resources Commission and the Water Resources Director through the Water Resources Department.

(c) Fish and Wildlife Commission through the Department of Fish and Wildlife.

(d) State Geologist.

(e) Department of Forestry.

(f) Public Utility Commission.

(g) Department of Agriculture.

(h) Department of Land Conservation and Development.

(i) Pacific Northwest Electric Power and Conservation Planning Council.

(j) Office of State Fire Marshal.

(k) Department of State Lands.

(l) State Historic Preservation Office.

(m) Any other agency identified by the Department of Energy.

(n) Any tribe identified by the Legislative Commission on Indian Services as affected by the proposed facility.

(o) The governing body of any incorporated city or county in Oregon within the study area as defined in OAR 345-001-0010 for impacts to public services.

(p) Any special advisory group designated by the Council under ORS 469.480.

(q) The federal land management agency with jurisdiction if any part of the proposed site is on federal land.

(53) "Significant" means having an important consequence, either alone or in combination with other factors, based upon the magnitude and likelihood of the impact on the affected human population or natural resources, or on the importance of the natural resource affected, considering the context of the action or impact, its intensity and the degree to which possible impacts are caused by the proposed action. Nothing in this definition is intended to require a statistical analysis of the magnitude or likelihood of a particular impact.

(54) "Site" as defined in ORS 469.300. "Energy facility site" means all land upon which an energy facility is located or proposed to be located. "Related or supporting facilities site" means all land upon which related or supporting facilities for an energy facility are located or proposed to be located.

(55) "Site boundary" means the perimeter of the site of a proposed energy facility, its related or supporting facilities, all temporary laydown and staging areas and all corridors and micro-siting corridors proposed by the applicant.

(56) "Site certificate" as defined in ORS 469.300.

(57) "Special nuclear material" means plutonium, uranium-233 or uranium enriched in the isotope 233 or in the isotope 235.

(58) "Strategic flexibility" means the value of a resource as part of a strategy to manage variance in costs or risks caused by future uncertainty.

(59) "Study area" means an area defined in this rule. Except as specified in subsections (f) and (g), the study area is an area that includes all the area within the site boundary and the area within the following distances from the site boundary:

(a) For impacts to threatened and endangered plant and animal species, 5 miles.

(b) For impacts to scenic resources and to public services, 10 miles.

(c) For land use impacts and impacts to fish and wildlife habitat, one-half mile.

ADMINISTRATIVE RULES

(d) For impacts to recreational opportunities, 5 miles.

(e) For impacts to protected areas described in OAR 345-022-0040, 20 miles.

(f) The distance stated in subsection (a) above does not apply to surface facilities related to an underground gas storage reservoir.

(g) The distances stated in subsections (a) and (d) above do not apply to pipelines or transmission lines.

(60) "Substantial loss of steam host" means the thermal energy user associated with a high efficiency cogeneration facility has made such long-term changes in its manner and magnitude of operation as to result in the loss of one or more work shifts for at least a year, accompanied by at least a 30 percent resultant reduction in the use of thermal energy.

(61) "Substantial loss of fuel use efficiency" means an increase in the fuel chargeable to power heat rate at a high efficiency cogeneration facility to greater than 7000 Btu per kilowatt-hour (higher heating value), or reduction of the fraction of energy output going to the thermal energy user associated with the facility to less than 20 percent, as a result of a substantial loss of steam host. Substantial loss of fuel use efficiency does not include efficiency losses due to equipment wear or condition.

(62) "Surface facilities related to an underground gas storage reservoir" means structures or equipment adjacent to and associated with an underground gas storage reservoir that are proposed to be built in connection with an underground gas storage reservoir and include, but are not limited to:

(a) Facilities such as stripping plants, main line dehydration stations, offices, warehouses, equipment shops, odorant storage and injection equipment and compressors;

(b) Pipelines, such as gathering lines and liquid collection lines; and

(c) Roads and road maintenance equipment housing at the reservoir site.

(63) "Thermal power plant" as defined in ORS 469.300.

(64) "Total energy output" means the sum of useful thermal energy output and useful electrical energy output.

(65) "Underground gas storage reservoir" as defined in ORS 469.300.

(66) "Useful thermal energy" means the verifiable thermal energy used in any industrial or commercial process, heating or cooling application;

(67) "Utility" as defined in ORS 469.300.

(68) "Vice-chair" means the vice-chairman or vice-chairwoman of the Energy Facility Siting Council.

(69) "Waste disposal facility" as defined in ORS 469.300.

Stat. Auth.: ORS 469.373 & 469.470

Stats. Implemented: ORS 469.300-570, 469.590-619 & 469.992

Hist.: EFSC 1-1980, f. & ef. 2-28-80; EFSC 1-1981, f. & ef. 1-19-81; EFSC 2-1981, f. & ef. 1-19-81; EFSC 8-1981, f. & ef. 10-29-81; EFSC 4-1982, f. & ef. 5-3-82; EFSC 4-1986, f. & ef. 9-5-86; EFSC 7-1986, f. & ef. 9-18-86; EFSC 2-1992, f. & cert. ef. 8-28-92; EFSC 1-1993, f. & cert. ef. 1-15-93; Renumbered from 345-079-0025, 345-100-0025, 345-111-0020 & 345-125-0025; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2009, f. & cert. ef. 11-24-09; EFSC 1-2012, f. & cert. ef. 5-15-12; EFSC 1-2012, f. & cert. ef. 5-15-12

345-001-0050

Public Records Availability and Fees for Copying

(1) All public records of the Council that are retained by the Department of Energy are available for public inspection and copying at the Department during usual business hours, except for records that the Department has determined to be exempt or conditionally exempt from disclosure in accordance with ORS Chapter 192. Except as protected under ORS 357.875, any permanent record of the Council kept by the State Archivist can be inspected at the State Archive building, subject to applicable rules of the Secretary of State, Archives Division.

(2) To inspect Council records a person shall submit to the Department a written request containing the following information:

(a) Name, address, e-mail address and telephone number of the person requesting the record.

(b) A specific description of the record requested.

(3) After receiving a request to inspect a Council record, the Department shall notify the requesting person whether the record is stored on or off the premises of the Department or is kept by the State Archivist.

(4) If the requested record is stored on the premises of the Department, the person who requested the record may inspect it on the premises without charge.

(5) If the requested record is stored off the premises of the Department, the Department shall charge for the staff time necessary to make the record available for inspection on the premises of the Department.

(6) A person who is receiving a copy of a public record or information from a public record shall pay for the Department's actual cost for:

(a) Staff time necessary to locate and handle the records, to delete material exempt from disclosure and to supervise the inspection by the requester;

(b) Producing the copy or the information; and

(c) Other supplies or services necessary to furnish the copy or information.

(7) The person requesting copies of records shall pay the fees described in section (6) in advance, except that government agencies or parties in proceedings before the Council need not pay before delivery of the copies.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.560

Hist.: EFSC 2-1992, f. & cert. ef. 8-28-92; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-011-0020

Agendas for Regular Meetings

(1) The Council Secretary shall prepare an agenda for each regular Council meeting after consulting with the chair. On the agenda, the Secretary shall specify all matters scheduled to come before the Council at the meeting and shall identify the proponent of agenda items scheduled at the request of a member of the public as described in OAR 345-011-0035.

(2) On the agenda, the Secretary may include a consent calendar, identifying items that the Secretary considers to be routine, such as minutes of previous meetings and personnel recognitions, which will be acted upon without public discussion. However, if a Council member objects to an item on the consent calendar, it will be removed from the consent calendar and placed on the regular agenda for discussion.

(3) The Secretary shall include on each agenda a notice that time will be reserved at each meeting for the presentation of concerns by interested citizens who wish to address the Council regarding any item within the Council's jurisdiction except matters that are closed to public comment as specified in the notice. The chair shall establish the duration of the time for public comment and may lengthen or shorten it at the Council meeting as the length of the meeting and timing and duration of other Council business dictate.

(4) The Secretary shall send the agenda to Council members by regular mail or email at least one week before a regular meeting and shall include draft minutes of previous meetings, as available. The Secretary shall send the agenda to each person or organization on the Council's general mailing list by regular mail or email. The "general mailing list" is the list of persons who have requested all Council meeting and facility siting mailings.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 192.640, 469.460 & 469.470

Hist.: EFSC 7-1980, f. & ef. 10-9-80; EFSC 1-1993, f. & cert. ef. 1-15-93; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-011-0050

Council Files

The Council Secretary shall maintain minutes of all Council meetings, Council committee meetings and other records of the Council.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 192.640 & 469.460

Hist.: EFSC 7-1980, f. & ef. 10-9-80; EFSC 1-1993, f. & cert. ef. 1-15-93; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-015-0014

Contested Case Notices

(1) The Department shall issue notices for Council contested case proceedings as provided in OAR 137-003-0001 and shall include in the notices:

(a) A date by which persons must request party or limited party status.

(b) The date of the pre-hearing conference.

(c) The time and place of the hearing.

(2) In addition to the requirements of section (1), for a contested case notice on a proposed order as described in OAR 345-015-0230 or following a Council decision to grant a contested case hearing under OAR 345-015-0310, the Department shall include in the notice a statement that participation as a party or limited party in the contested case proceeding and the opportunity to raise any issue are subject to the limitations described in OAR 345-015-0016.

(3) The Department shall send a contested case notice by registered or certified mail to the following persons:

ADMINISTRATIVE RULES

(a) For a contested case notice on a proposed order as described in OAR 345-015-0230, to the applicant and to all persons who commented in person or in writing on the record of the public hearing described in OAR 345-015-0220.

(b) Following the Council's decision to grant a contested case proceeding on a proposed order on an application for a site certificate for a special criteria facility, to the applicant and to all persons who commented in person or in writing on the record of the public hearing on the proposed order described in OAR 345-015-0320.

(c) Following a Council decision to grant a contested case proceeding on a proposed site certificate amendment under OAR 345-027-0070, 345-027-0080 or 345-027-0090, to the certificate holder and to all persons who requested a contested case proceeding as described in OAR 345-027-0070(6) or 345-027-0080(5).

(d) For Council contested case proceedings described under OAR 345-029-0070, 345-029-0100 or 345-060-0004, to persons who have an interest or represent a public interest in the outcome of the proceeding.

(4) The Department shall request that the applicant notify the hearing officer and the Department, by the date described in subsection (1)(a), of any issues the applicant desires to raise in the contested case proceedings described in subsections (3)(a) and (b).

Stat. Auth.: ORS 469.373 & 469.470

Stats. Implemented: ORS 183.415, 469.085, 469.370, 469.405, 469.440, 469.605, 469.615 & 469.992

Hist.: EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-015-0085

Hearing Officer's Proposed Contested Case Order

(1) The hearing officer shall allow any party, including any limited party, to propose site certificate conditions that the party believes are necessary or appropriate to implement the policy of ORS 469.310 or to meet the requirements of any other applicable statute, administrative rule or local government ordinance. Parties shall submit proposed site certificate conditions to the hearing officer in writing according to a schedule set by the hearing officer.

(2) In a contested case proceeding on an application for a site certificate or on a proposed site certificate amendment, any party or limited party may present evidence relating to the appropriateness, scope or wording of any other party's proposed site certificate conditions and may present written proposed findings of fact, briefs and other argument concerning proposed conditions.

(3) After the hearing in a contested case proceeding on an application for a site certificate or on a proposed site certificate amendment, the hearing officer shall issue a proposed contested case order stating the hearing officer's findings of fact, conclusions of law, and recommended site certificate conditions on the issues in the contested case. The hearing officer shall serve the proposed order on all parties and limited parties. In the proposed order, the hearing officer shall include recommended resolutions of objections to the local land use record, if any. The hearing officer's recommendations are part of the decision record for the application but are not part of the Council's order.

(4) After the hearing in a contested case proceeding on any matter other than an application for a site certificate or proposed site certificate amendment, the hearing officer shall issue a proposed order stating the hearing officer's findings of fact and conclusions of law. The hearing officer shall serve the proposed order on all parties and limited parties.

(5) Parties and limited parties may file exceptions to the proposed order within the time set by the hearing officer, not to exceed 30 days after the hearing officer issues the proposed order. A party filing exceptions shall serve a copy of the exceptions on all other parties and limited parties. In an exception, the party shall specifically identify the finding of fact, conclusion of law or, in contested case proceedings on an application for a site certificate or a proposed site certificate amendment, recommended site certificate condition to which the party excepts and shall state the basis for the exception.

(6) Parties and limited parties may file responses to exceptions within the time set by the hearing officer, not to exceed 15 days after the time set for filing exceptions. A party filing responses to exceptions shall serve a copy of the responses to exceptions on all other parties and limited parties.

(7) After the period for filing responses to exceptions, the Council shall issue a final order. The Council may adopt, modify or reject the hearing officer's proposed order.

(8) Following a contested case proceeding on an application for a site certificate, the Council, in its final order, shall either grant or deny issuance

of a site certificate. If the Council grants issuance of a site certificate, the Council shall issue a site certificate. The site certificate becomes effective upon execution by the Council and by the applicant. However, for purposes of identification, the Department may refer to a site certificate by the date of the Council action.

(9) Following a contested case proceeding on a proposed site certificate amendment, the Council, in its final order, shall either grant or deny issuance of an amended site certificate. If the Council grants issuance of an amended site certificate, the Council shall issue an amended site certificate. The amended site certificate becomes effective upon execution by the Council and by the applicant. However, for purposes of identification, the Department may refer to a site certificate by the date of the Council action.

(10) The Council shall issue a site certificate or amended site certificate in duplicate counterpart originals and each counterpart, upon signing, will have the same effect.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 183.415, 469.370, 469.405, 469.440, 469.605, 469.615 & 469.992
Hist.: EFSC 8-1980, f. & ef. 10-31-80; EFSC 6-1986, f. & ef. 9-12-86; EFSC 1-1993, f. & cert. ef. 1-15-93, Renumbered from 345-015-0053; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-015-0110

Public Notice of a Notice of Intent

(1) After receiving a notice of intent (NOI), the Department of Energy shall issue a public notice of the NOI by:

(a) Sending notice by mail or email to persons on the Council's general mailing list as defined in OAR 345-011-0020 and any special mailing list set up for the proposed project.

(b) Sending notice by mail to the owners of property whose names and addresses the applicant has supplied as required by OAR 345-020-0011.

(c) Except as provided in subsection (d), publishing notice in a newspaper of general circulation available in the vicinity of the proposed facility; and

(d) If the energy facility is a transmission line or a pipeline or has, as a related or supporting facility, a transmission line or pipeline that, by itself, is an energy facility under the definition in ORS 469.300, publishing notice in one or, if possible, two newspapers of general circulation in the vicinity of the proposed facility.

(2) In the public notice of the NOI, the Department shall include the following information:

(a) A description of the proposed facility.

(b) The location of the site of the proposed facility.

(c) The date when the applicant expects to submit an application for a site certificate.

(d) A brief description of the Council's review process, including an explanation of the difference between the informational meetings described in OAR 345-015-0130 and 345-015-0190(10) and the public hearing described in OAR 345-015-0220.

(e) An explanation that the applicant may choose to meet the Council's land use standard, OAR 345-022-0030, by obtaining local land use approval from the affected local government and that, if the applicant chooses to obtain local land use approval, any person interested in land use issues should participate in that affected local government's land use process if it is not yet complete.

(f) The date, time and location of any informational meeting on the NOI that the Department has scheduled or an explanation of how interested persons may request an informational meeting. If the Department has scheduled an informational meeting, the Department shall state in the notice that public comments on the NOI may be given in person at the meeting.

(g) A explanation that written comments on the NOI must be submitted by a specified date and may be submitted by regular mail, email or fax.

(h) The name, address, email address and telephone number of the Department's project officer to contact for additional information.

(i) If the applicant has identified one or more proposed corridors in Exhibit D of the NOI, as required by OAR 345-020-0011(1)(d):

(A) An explanation that the corridor proposed by the applicant in the NOI is subject to change and that the applicant may propose adjustments to the proposed corridor(s) in the application;

(B) An explanation that the applicant may present adjustments to the proposed corridor(s) at the informational meeting; and

(C) An explanation that, in selecting one or more corridors for analysis in the application for a site certificate, the applicant shall consider public comments on the corridor(s) proposed in the NOI and on any corridor adjustments the applicant presents at the informational meeting.

ADMINISTRATIVE RULES

(3) If the Department learns that an applicant has applied for local land use approval, the Department shall post a notice of the local land use proceeding on its website.

Stat. Auth.: ORS 469.470
Stats. Implemented: ORS 469.330
Hist.: EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-015-0120

Memorandum on a Notice of Intent

The Department of Energy shall prepare a memorandum to accompany the copies of the notice of intent (NOI) distributed as described in OAR 345-020-0040. In the memorandum, the Department shall:

- (1) Request comments from the reviewing agency by a specified date.
- (2) Request the following information:
 - (a) The name, address and telephone number of the agency contact person assigned to review the application.
 - (b) Comments on aspects of the proposed facility that are within the particular responsibility or expertise of the reviewing agency.
 - (c) Recommendations regarding the size and location of analysis area(s).

(d) A list of studies that should be conducted to identify potential impacts of the proposed facility and mitigation measures.

(e) If the applicant has identified one or more proposed corridors in Exhibit D of the NOI as required by OAR 345-020-0011(1)(d), a discussion of the relative merits of the corridors described in the NOI and recommendations, if any, on the selection of a corridor.

(f) A list of statutes, administrative rules and local government ordinances administered by the agency that might apply to construction or operation of the proposed facility and a description of any information needed for determining compliance.

(g) A list of any permits administered by the agency that might apply to construction or operation of the proposed facility and a description of any information needed for reviewing a permit application.

(h) For tribes affected by the proposed facility, a list of tribal codes that the tribe recommends to the Council for its review of the application and specific information regarding the proposed facility or study areas described in the NOI that is necessary for determining compliance with those tribal codes.

(3) State the date, location, agenda and purpose of any informational meeting that the Department has scheduled on the NOI and encourage the recipient to attend and participate in the informational meeting.

Stat. Auth.: ORS 469.470
Stats. Implemented: ORS 469.330
Hist.: EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-015-0160

Project Order

(1) Following the review of a notice of intent or, in the case of an expedited review, following receipt of a preliminary application for a site certificate, the Department of Energy shall send a project order to the applicant establishing the following:

(a) All state statutes and administrative rules containing standards or criteria that must be met for the Council to issue a site certificate for the proposed facility, including applicable standards of Divisions 22, 23 and 24 of this chapter.

(b) All local government ordinances applicable to the Council's decision on the proposed facility.

(c) All application requirements in OAR 345-021-0010 applicable to the proposed facility.

(d) All state and local permits necessary to the construction and operation of the proposed facility and the name of each agency with the authority to issue such permits.

(e) Any other data and information that must be included in the application for a site certificate to allow the Council to determine whether the proposed facility will comply with applicable statutes, administrative rules and local government ordinances.

(f) The analysis area(s) for the proposed facility.

(g) Public concerns that address matters within the jurisdiction of the Council that the applicant shall consider and discuss in the application for a site certificate, based on comments the Department has received in writing or at any informational meeting held under OAR 345-015-0130.

(h) If the applicant has identified one or more proposed corridors in Exhibit D of the notice of intent as required by OAR 345-020-0011(1)(d),

any adjustments to the corridor(s) that the applicant shall evaluate in the corridor selection assessment described in OAR 345-021-0010(1)(b).

(i) If the applicant chooses to demonstrate need for a proposed electric transmission line, natural gas pipeline, or liquefied natural gas storage facility under the economically reasonable rules, OAR 345-023-0030 and OAR 345-023-0040, any alternatives to construction and operation of the proposed facility that the applicant must evaluate in the application in addition to the alternatives described in OAR 345-021-0010(1)(n)(F) or (G).

(j) Except in the case of an expedited review granted under OAR 345-015-0300 or 345-015-0310, the expiration date of the notice of intent, according to OAR 345-020-0060(1).

(2) In determining the application and study requirements to be included in the project order, the Department shall consider the size and type of proposed facility and significant potential impacts of the proposed facility.

(3) The Council or the Department may amend the project order at any time.

(4) The project order is not a final order.

(5) Except in the case of an expedited review granted under OAR 345-015-0300 or 345-015-0310, the Department shall, to the extent practicable, issue the project order within 140 days following the date of submission of the notice of intent.

Stat. Auth.: ORS 469.373 & 469.470
Stats. Implemented: ORS 469.330 & 469.370
Hist.: EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-015-0180

Agency Memorandum on a Site Certificate Application

The Department of Energy shall prepare a memorandum to accompany the copies of the preliminary application distributed as described in OAR 345-021-0050. In the memorandum, the Department shall:

(1) Request the recipient to return comments or recommendations described in OAR 345-021-0050(2) to the Department by a specified date;

(2) Describe the matters to be covered in the comments or recommendations as set forth in OAR 345-021-0050(2) and (4);

(3) Explain that the recipient's written comments, recommendations and reports are part of the decision record for the application for a site certificate;

(4) State that the reviewing agency must comment in person or in writing on the record of the public hearing described in OAR 345-015-0220 to preserve the right to participate in the contested case proceeding as a party, limited party or interested agency and the right to appeal the Council's final decision; and

(5) For any special advisory group designated by the Council under ORS 469.480, request that the special advisory group recommend to the Council the applicable substantive criteria and explain that, as required by ORS 469.504(5), if the special advisory group does not recommend applicable substantive criteria by the specified date, the Council may either determine and apply the applicable substantive criteria or determine compliance with the statewide planning goals under ORS 469.504(1)(b)(B) or (C).

Stat. Auth.: ORS 469.470
Stats. Implemented: ORS 469.350 & 469.504
Hist.: EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-015-0190

Determination of Completeness

(1) Until the Department of Energy determines the application to be complete, it is a preliminary application. Within 60 days after receipt of a preliminary application for a site certificate, the Department shall notify the applicant whether the application is complete. In the notification, the Department shall:

(a) State that the application is complete and state the date of filing;

(b) State that the application is incomplete, describe any information needed to complete the application to the extent known to the Department at the time of the notification, ask the applicant to submit the needed information by the deadline described in section (4) and estimate the additional time the Department will need to make a determination of completeness; or

(c) Explain the reasons why the Department cannot determine completeness and estimate the additional time the Department will need to make a determination of completeness.

(2) If the Department does not notify the applicant as described in section (1), the application is deemed complete and filed 60 days after receipt of the preliminary application. Otherwise, the application is complete as

ADMINISTRATIVE RULES

determined under section (5) and the date of filing is the date determined under section (6).

(3) If the Department finds that the applicant did not give adequate consideration to public concerns about the corridors the applicant identified in Exhibit D of the notice of intent or corridor adjustments presented at the informational hearing described in OAR 345-015-0130, the Department may find the application incomplete and notify the applicant as described under section (1)(b).

(4) The Department may specify a date by which the applicant must submit additional information needed to complete the application. If follow-up requests for additional information are needed, the Department may specify dates by which the applicant must submit the information. At the request of the applicant, the Department may allow additional time for submission of the information. If the applicant does not submit the information by the deadline specified by the Department, including any allowed extension, the Council may reject the application. The rejection of an application is subject to appeal under ORS 469.403(3).

(5) An application is complete when the Department finds that the applicant has submitted information adequate for the Council to make findings or impose conditions on all applicable Council standards. The Department may find that the application is complete without requiring the applicant to submit all information described under OAR 345-021-0000 and 345-021-0010. The Department shall notify the applicant when the Department finds that the application is complete and, if needed, shall request the application supplement described in OAR 345-021-0055.

(6) The date of filing is the date the Department receives the application supplement described in OAR 345-021-0055 or, if no supplement is needed, the date the Department notifies the applicant that the application is complete.

(7) The Department shall inform the public that the application is complete by publishing notice in a newspaper of general circulation available in the vicinity of the proposed facility. In addition, the Department shall send notice by mail or email to persons on the Council's general mailing list as defined in OAR 345-011-0020 and any special mailing list set up for the proposed facility and to the property owners listed in Exhibit F of the application.

(8) In notices described in section (7), the Department shall include the following information:

- (a) A description of the proposed facility.
- (b) The location of the site of the proposed facility
- (c) The date of filing.

(d) A description of the procedure for review of the application, including the date, time and location of any informational meeting that has been scheduled on the application and an explanation of the difference between the informational meeting and the public hearing described in OAR 345-015-0220.

(e) Addresses of locations where the public may review copies of the application.

(f) The name, address and telephone number of the Department of Energy project officer to contact for more information.

(g) If the applicant has elected to seek local land use approvals pursuant to ORS 469.503(2)(a), a statement of the status of the land use approvals, and the name, address and telephone number of the local governments(s) making or having made the land use determination.

(h) If the proposed facility is an energy facility that must comply with a carbon dioxide emissions standard adopted by the Council, a statement of the applicant's proposed means of compliance with the applicable carbon dioxide emissions standard.

(9) After a determination that an application is complete, the applicant shall submit additional information to the Department if the Department identifies a need for that information during its review of the application. Submission of such information does not constitute an amendment of the application.

Stat. Auth.: ORS 469.470
Stats. Implemented: ORS 469.350
Hist.: EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-015-0220

Public Hearing on the Draft Proposed Order

(1) After the issuance of the draft proposed order described in OAR 345-015-0210, the Council or its hearing officer shall conduct at least one public hearing on the draft proposed order in the vicinity of the site of the proposed facility. The public hearing is not a contested case hearing. If there is more than one public hearing, the "close of the record of the public hearing" means the close of the record of the final public hearing.

(2) The Department of Energy shall, at least 20 days before the hearing:

(a) Submit notice for publication in a newspaper of general circulation available in the vicinity of the proposed facility.

(b) Send notice by mail or email to persons on the Council's general mailing list as defined in OAR 345-011-0020 and to any special mailing list set up for the proposed project, including a mailing list made up of those persons listed in Exhibit F of the site certificate application as updated by the applicant upon the request of the Department.

(3) In the notices described in subsections (2)(a) and (2)(b), the Department shall include:

- (a) The date, time and location of the public hearing(s).
- (b) A description of the facility and the facility's general location.
- (c) The name, address, email address and telephone number of the Department's project officer to contact for additional information.

(d) The addresses of locations where the public may inspect copies of the complete application and, if the application is available online, the website where the application can be found.

(e) The website where the draft proposed order can be found.

(f) The deadline for the public to submit written comments to be included in the record of the public hearing and a statement that such comments should be submitted to the presiding officer in care of the Department's project officer.

(g) A statement that to raise an issue on the record of the public hearing, a person must raise the issue in person at the public hearing or in a written comment submitted after the date of the notice and received by the Department before the deadline.

(h) A statement that failure to raise an issue in person or in writing on the record of the public hearing with sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes consideration of the issue in a contested case.

(i) A statement that to raise an issue with sufficient specificity, a person must present facts that support the person's position on the issue.

(j) A statement that the Council will not accept or consider any further public comment on the site certificate application or on the draft proposed order after the close of the record of the public hearing.

(4) During the public hearing, the Department shall explain the application process, including the means and opportunities for the general public to participate in the process. The Department may provide this explanation by a written handout.

(5) At the commencement of the public hearing, the presiding officer shall state that:

(a) A person who intends to raise any issue that may be the basis for a contested case must raise the issue in person at the hearing or in a written comment submitted to the Department of Energy before the deadline stated in the notice of the public hearing.

(b) A person who intends to raise any issue that may be the basis for a contested case must raise the issue with sufficient specificity to afford the Council, the Department of Energy and the applicant an adequate opportunity to respond, including a statement of facts that support the person's position on the issue.

(6) At the public hearing, any person may present information regarding the pending application without administration of an oath. The presiding officer shall record all presentations made during the public hearing. The presentations are part of the decision record for the application and may be rebutted in the contested case proceeding.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.370

Hist.: EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-015-0230

Council Review and the Office of Energy's Proposed Order

(1) Following the close of the record of the public hearing conducted under OAR 345-015-0220, the Council shall review the draft proposed order. In accordance with ORS 469.370(3), when the Council meets to review a draft proposed order, the Council does not permit the applicant, reviewing agencies or the public to comment on any issue that may be the basis for a contested case.

(2) Following the Council's meeting to review the draft proposed order, the Department of Energy shall issue a proposed order in accordance with ORS 469.370(4), taking into consideration the comments of the Council, any public comments made at a public hearing, written comments received before the close of the record of the public hearing, and agency consultation. In the proposed order, the Department shall recommend either

ADMINISTRATIVE RULES

granting a site certificate with conditions or denying a site certificate for the proposed facility.

(3) Following issuance of the proposed order, the Department shall issue a contested case notice, as described in OAR 345-015-0014. In addition, as required under ORS 469.370(4), the Department shall issue a public notice of the proposed order and shall send the notice by mail or email to persons on the Council's general mailing list as defined in OAR 345-011-0020 and to any special mailing list set up for the proposed project, including a mailing list made up of those persons listed in Exhibit F of the site certificate application as updated by the applicant upon the request of the Department.

(4) After the conclusion of the contested case proceeding, the Council will take final action on the site certificate application, as described in OAR 345-015-0085.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.370

Hist.: EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-015-0240

The Decision-Making Record

The decision-making record on an application for a site certificate includes the decision record for the Department of Energy's proposed order and the record of the contested case proceeding.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.370

Hist.: EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-015-0300

Request for Expedited Review of Small Capacity Facilities

(1) In accordance with ORS 469.370(10), any person proposing to construct and operate an energy facility with an average electric generating capacity of less than 100 megawatts who chooses to request expedited review of an application for a site certificate shall submit to the Department of Energy a request for expedited review as described in section (2) with the fee required by the fee schedule established under ORS 469.441, payable to the Oregon Department of Energy. If the proposed energy facility has, as a related or supporting facility, a transmission line or pipeline that, by itself, is an energy facility under the definition in ORS 469.300, the proposed energy facility is not eligible for expedited review.

(2) In the request for expedited review, the applicant shall include:

- (a) A description of the facility and the proposed site;
- (b) The applicant's name and address;
- (c) A schedule stating when the applicant expects to submit a preliminary application for a site certificate;
- (d) A list of all statutes, rules and ordinances applicable to the facility;

(e) A statement indicating whether the applicant intends to satisfy the Council's land use standard, OAR 345-022-0030, by obtaining local land use approval pursuant to ORS 469.504(1)(a) or by seeking a Council determination pursuant to ORS 469.504(1)(b); and

(f) The reason and justification for any request for exception to an analysis area as provided under section (3).

(3) In an expedited review granted under this rule, the Department shall issue a project order following the applicant's submission of a preliminary application for a site certificate. For the purposes of submitting the preliminary application, the analysis areas are the study areas as defined in OAR 345-001-0010, unless the applicant requests an exception in the request for expedited review and the Department approves the exception. The Department may, in the project order, modify the analysis areas. The Department may request additional information from the applicant, as provided in OAR 345-015-0190, before determining the application complete. Submission of the site certificate application and the Department's review of the application in all other respects are the same for expedited review as for other site certificate applications.

(4) The Council hereby grants any request for expedited review from an applicant proposing a facility meeting the definition in section (1) if the Department determines that the request satisfies the requirements of section (2). The Department shall notify the applicant of its determination.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.370

Hist.: EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 2-2000, f. & cert. ef. 11-20-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-015-0310

Request for Expedited Review of Special Criteria Facilities

(1) Any person who proposes to construct and operate a special criteria facility, as defined in section (2), and who chooses to request expedited review of an application for a site certificate shall submit to the Department of Energy a request for expedited review as described in section (3) with the fee required by the fee schedule established under ORS 469.441, payable to the Oregon Department of Energy.

(2) "Special criteria facility" means a facility that meets the criteria stated in ORS 469.373(1).

(3) In the request for expedited review, the applicant shall provide documentation that the proposed facility is a special criteria facility, as defined in section (2), and:

- (a) A description of the facility and the proposed site.
- (b) The applicant's name and address.
- (c) A schedule stating when the applicant expects to submit an application for a site certificate.
- (d) A list of all statutes, rules and ordinances applicable to the facility.

(4) Within 14 days after receiving the request for expedited review, the Department shall determine, on a preliminary, non-binding basis, whether the proposed facility qualifies for expedited review under this rule and shall notify the applicant. The Department may decide, on a preliminary, non-binding basis, that the proposed location of associated transmission lines or new natural gas pipelines outside of existing rights of way imposes no significant impact. The Department shall provide to the applicant a mailing list of persons including but not limited to the agencies listed in ORS 469.373(4).

(5) After the Department has made the determination described in section (4), the applicant may submit a preliminary application for a site certificate, as described in OAR 345-021-0000 and 345-021-0010. The applicant shall submit an original and two printed copies of the preliminary application to the Department. Upon a request by the Department, the applicant must submit printed copies of the preliminary application for members of the Council. In addition to the printed copies, the applicant shall submit the full preliminary application in a non-copy-protected electronic format acceptable to the Department. The applicant shall send a copy of the application to persons on the mailing list described in section (4). The applicant shall provide additional copies of the application to the Department upon request and copies or access to copies to any person requesting copies.

(6) Within 30 days after receiving a preliminary application for a site certificate, the Department shall issue a project order. In the project order, the Department may make changes to the analysis areas. The project order is not a final order. The Council or the Department may amend the project order at any time.

(7) Within 30 days after receiving a preliminary application for a site certificate, the Department shall either:

- (a) Notify the applicant that the application is complete or
- (b) Notify the applicant that the application is not complete and describe the information needed to complete the application, to the extent known to the Department at the time of the notification.

(8) If additional information is needed to complete the application, the applicant shall submit the information to the Department. If follow-up requests for additional information are needed, the Department may specify dates by which the applicant must submit the information. The Department may specify the dates by which the applicant must submit additional information needed to complete the application. At the request of the applicant, the Department may extend the deadline for submission of the information. If the applicant does not submit the information by the deadline specified by the Department, including any allowed extension, the Council may reject the application. The rejection of an application is subject to appeal under ORS 469.403(3).

(9) An application is complete when the Department finds that the applicant has submitted information adequate for the Council to make findings or impose conditions on all applicable Council standards. The Department may find that the application is complete without requiring the applicant to submit all information described under OAR 345-021-0000 and 345-021-0010. The Department shall notify the applicant when the Department finds that the application is complete and, if needed, shall request the application supplement described in OAR 345-021-0055.

(10) The date of filing is the date the Department receives the application supplement described in OAR 345-021-0055 or, if no supplement is needed, the date the Department notifies the applicant that the application is complete.

ADMINISTRATIVE RULES

(11) After a determination that an application is complete, the Department may require additional information from the applicant if the Department identifies a need for that information during its review of the application. Submission of such information does not constitute an amendment of the application.

(12) In the notification to the applicant that the application is complete, as described in section (7)(a) or (9), the Department shall instruct the applicant send a copy of the notice described in section (13) and a copy of the application supplement, if any, to specified persons including but not limited to the agencies listed in ORS 469.373(4).

(13) The Department shall prepare a notice that:

(a) States that the application is complete and specifies the date of filing,

(b) Requests the agency reports as described in OAR 345-015-0200,

(c) Includes the statements required by ORS 469.373(4)(a) and (b).

(14) At the time specified in section (15), the Department shall issue a public notice, including but not limited to:

(a) A description of the proposed facility and the general location of the energy facility,

(b) The date, time and location of a public informational meeting on the application,

(c) A statement that the application has been filed,

(d) Addresses of locations where the public may review copies of the application, and

(e) The name of a Department of Energy representative to contact and the telephone number at which people may obtain additional information.

(15) At least 14 days before the meeting described in section (16), the Department shall:

(a) Submit the notice described in section (14) for publication in a newspaper of general circulation available in the vicinity of the proposed facility, and

(b) Send the notice described in section (14) by mail or email to persons on the Council's general mailing list as defined in OAR 345-011-0020 and to any special mailing list set up for the proposed project, including a mailing list made up of those persons listed in Exhibit F of the site certificate application.

(16) The Department shall hold a public informational meeting on the application.

(17) Within 90 days after the date of filing, the Department shall issue a draft proposed order including, but not limited to:

(a) A description of the proposed facility,

(b) A list of the permits, licenses and certificates that are addressed in the application and that are required for the construction or operation of the proposed facility,

(c) A list of the statutes, rules and local ordinances that are the standards and criteria for approval of any permit, license or certificate addressed in the application and that are required for the construction or operation of the proposed facility, and

(d) Proposed findings regarding compliance with the applicable standards and criteria for approval of a site certificate and specifying conditions that are required for the facility to comply.

(18) The Council shall review the draft proposed order. In accordance with ORS 469.370(3), when the Council meets to review a draft proposed order, the Council does not permit the applicant, reviewing agencies or the public to comment on any issue that may be the basis for a contested case.

(19) After the Council's review as described in section (18), the Department shall issue a proposed order.

(20) At the time specified in section (21), the Department shall issue a public notice, including but not limited to:

(a) A description of the facility and its general location.

(b) The name of a Department of Energy representative to contact and the telephone number at which people may obtain additional information.

(c) A statement that the Department has issued a proposed order and that copies of the application and proposed order are available for inspection at no cost and will be provided at reasonable cost.

(d) The date, time and location of a public hearing on the proposed order.

(e) A statement that the record for public comment on the application will close at the conclusion of the hearing and that failure to raise an issue in person or in writing prior to the close of the record with sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes consideration of the issue in a contested case or by a court on judicial review of the Council's decision.

(f) A statement that to raise an issue with sufficient specificity, a person must present facts that support the person's position on the issue.

(g) A statement that the hearing is the only opportunity for the public to make a factual record for review and that persons having objection to the proposed order must appear at the hearing in person or in writing and present factual evidence, including any expert testimony, and legal argument.

(21) At least 20 days before the hearing described in section (22), the Department shall:

(a) Submit the notice described in section (20) for publication in a newspaper of general circulation available in the vicinity of the proposed facility, and

(b) Send the notice described in section (20) by mail or email to persons on the Council's general mailing list as defined in OAR 345-011-0020 and to any special mailing list set up for the proposed project, including a mailing list made up of those persons listed in Exhibit F of the site certificate application.

(22) The Council shall hold at least one public hearing on the proposed order in the area affected by the proposed facility according to the procedures described in OAR 345-015-0320.

(23) Before the conclusion of the hearing described in section (22), the applicant may either:

(a) Request an opportunity to present additional written evidence, arguments or testimony regarding the application, or

(b) Request a contested case hearing on the application. Not later than 7 days after making a request in the public hearing, the applicant shall submit the request to the Council in writing, including evidence sufficient to show good cause for the contested case hearing.

(24) Except as described in section (27), following the close of the record of the public hearing, the Department shall issue a draft final order for the Council. In preparing the draft final order, the Department shall take into account the entire record, including the summary prepared by the hearing officer described in OAR 345-015-0320.

(25) Except as described in section (27), within six months after the date of filing, the Council shall make its decision on the record and the draft final order. The Council shall:

(a) Grant the site certificate,

(b) Grant the site certificate with conditions,

(c) Deny the site certificate, or

(d) Determine that the proposed facility is not a special criteria facility as defined in section (2) and is not eligible for expedited review under this rule.

(26) The Council shall issue a site certificate for the proposed facility if the Council determines that the proposed facility, with any required conditions to the site certificate, will comply with:

(a) The requirements for expedited review as specified in this rule.

(b) The standards adopted by the Council pursuant to ORS 469.501(1)(a), (c) to (e), (g), (h) and (L) to (o).

(c) The requirements of ORS 469.503(3).

(d) The requirements of ORS 469.504(1)(b).

(27) If the applicant requests a contested case hearing as described in section (23)(b), the Council, after considering the request in a public meeting, may grant the request if the Council finds that the applicant has shown good cause for a contested case hearing.

(28) If the Council grants the request for a contested case hearing, the Department shall issue a notice of a contested case on the proposed order as described in OAR 345-015-0014. The Council shall then consider the application under the same contested case procedures used for a nonexpedited application for a site certificate.

(29) If, as described in section (25), the Council determines that the proposed facility is not a special criteria facility and is not eligible for expedited review under this rule, then the Council shall consider the application under the same review procedures used for a nonexpedited application from the point of the applicant's submission of an application. The Department shall treat the application before the Council at the time of the determination as a preliminary application for the purpose of review under OAR 345-015-0190, except that within 30 days after the Council's determination, the Department shall determine whether the application is complete. The Department shall notify the applicant as described in OAR 345-015-0190(1) and the Department shall issue an amended project order that includes the Council standards that were not applicable under expedited review. For the purpose of the land use standard, the applicant must obtain a Council determination as described under OAR 345-022-0030(2)(b), and the Council shall apply the applicable substantive criteria in effect on the date the application was originally submitted under section (5).

(30) The applicant may withdraw its request for expedited review under this rule at any time and request that the Council consider its application under the same review procedures used for a nonexpedited applica-

ADMINISTRATIVE RULES

tion. After such a request, the Department shall treat the application as a preliminary application for the purpose of review under OAR 345-015-0190 as described in section (29). For the purpose of the land use standard, the applicant must obtain a Council determination as described under OAR 345-022-0030(2)(b), and the Council shall apply the applicable substantive criteria in effect on the date the application was originally submitted under section (5).

[ED. NOTE: Exhibits referenced are available from the agency.]
Stat. Auth.: ORS 469.373 & 469.470
Stats. Implemented: ORS 469.370
Hist.: EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-020-0011

Contents of a Notice of Intent

(1) The applicant shall, to the extent reasonably practicable, include in the notice of intent (NOI) the information described in the following subsections. If the applicant proposes alternative sites, the applicant shall describe each alternative separately. The applicant shall designate the information with the appropriate exhibit label identified in the following subsections.

(a) Exhibit A. Information about the applicant and participating persons, including:

(A) The name and address of the applicant including all co-owners of the proposed facility, the name, mailing address, email address and telephone number of the contact person for the NOI, and if there is a contact person other than the applicant, the name, title, mailing address, email address and telephone number of that person.

(B) The contact name, mailing address, email address and telephone number of all participating persons, other than individuals, including but not limited to any parent corporation of the applicant, persons upon whom the applicant will rely for third-party permits or approvals related to the facility, and persons upon whom the applicant will rely in meeting any facility standard adopted by the Council.

(C) If the applicant is a corporation, it shall give:

(i) The full name, official designation, mailing address, email address and telephone number of the officer responsible for submitting the NOI;

(ii) The date and place of its incorporation;

(iii) A copy of its articles of incorporation and its authorization for submitting the NOI; and

(iv) In the case of a corporation not incorporated in Oregon, the name and address of the resident attorney-in-fact in this state and proof of registration to do business in Oregon.

(D) If the applicant is a wholly owned subsidiary of a company, corporation or other business entity, in addition to the information required by paragraph (C), it shall give the full name and business address of each of the applicant's full or partial owners.

(E) If the person submitting the NOI is an association of citizens, a joint venture or a partnership, it shall give:

(i) The full name, official designation, mailing address, email address and telephone number of the person responsible for submitting the NOI;

(ii) The name, business address and telephone number of each person participating in the association, joint venture or partnership and the percentage interest held by each;

(iii) Proof of registration to do business in Oregon;

(iv) A copy of its articles of association, joint venture agreement or partnership agreement and a list of its members and their cities of residence; and

(v) If there are no articles of association, joint venture agreement or partnership agreement, the applicant shall state that fact over the signature of each member.

(F) If the applicant is a public or governmental entity, it shall give:

(i) The full name, official designation, mailing address, email address and telephone number of the person responsible for submitting the NOI; and

(ii) Written authorization from the entity's governing body to submit an NOI.

(G) If the applicant is an individual, the individual shall give his or her mailing address, email address and telephone number.

(H) If the applicant is a limited liability company, it shall give:

(i) The full name, official designation, mailing address, email address and telephone number of the officer responsible for submitting the NOI;

(ii) The date and place of its formation;

(iii) A copy of its articles of organization and its authorization for submitting the NOI; and

(iv) In the case of a limited liability company not registered in Oregon, the name and address of the resident attorney-in-fact in this state and proof of registration to do business in Oregon.

(b) Exhibit B. Information about the proposed facility, including:

(A) A description of the proposed energy facility, including as applicable:

(i) The nominal electric generating capacity and the average electrical generating capacity, as defined in ORS 469.300.

(ii) Major components, structures and systems, including a description of the size, type and configuration of equipment used to generate electricity and useful thermal energy.

(iii) Methods for waste management and waste disposal, including, to the extent known, the amount of wastewater the applicant anticipates, the applicant's plans for disposal of wastewater and storm water, and the location of disposal.

(iv) For thermal power plants:

(I) A discussion of the source, quantity and availability of all fuels proposed to be used in the facility to generate electricity or useful thermal energy.

(II) Methods for disposal of waste heat.

(v) For transmission lines, approximate transmission line voltage, load carrying capacity and type of current.

(vi) For pipelines, approximate operating pressure and delivery capacity in thousand cubic feet per day.

(vii) For surface facilities related to underground gas storage, estimated daily injection and withdrawal rates, horsepower compression required to operate at design injection or withdrawal rates, operating pressure range and fuel type of compressors.

(viii) For facilities to store liquefied natural gas, the approximate volume, maximum pressure, liquefaction and gasification capacity in thousand cubic feet per hour.

(B) A description of major components, structures and systems of each related or supporting facility.

(C) The approximate dimensions of major facility structures and visible features.

(c) Exhibit C. A description of the location of the proposed energy facility site and the proposed site of each related or supporting facility and all areas that might be temporarily disturbed during construction of the facility, including the approximate land area of each.

(d) Exhibit D. If the proposed energy facility is a pipeline or a transmission line or has, as a related or supporting facility, a transmission line or pipeline that, by itself, is an energy facility under the definition in ORS 469.300, identification of at least two proposed corridors, as defined in OAR 345-001-0010, or identification of a single proposed corridor with an explanation of why alternate corridors are unlikely to better meet the applicant's needs and satisfy the Council's standards. The applicant shall include an explanation of the basis for selecting the proposed corridor(s) and, for each proposed corridor, the information described in subsections (e), (g), (i), (j), (k), (n) and (p) that is available from existing maps, aerial photographs, and a search of readily available literature.

(e) Exhibit E. Identification of all federal, state and local government permits related to the siting of the proposed facility, a legal citation of the statute, rule or ordinance governing each permit, and the name, address, email address and telephone number of the agency or office responsible for each permit. For each permit, the applicant shall provide a preliminary analysis of whether the permit should or should not be included in and governed by the site certificate.

(f) Exhibit F. A list of the names and mailing addresses of all owners of record, as shown on the most recent property tax assessment roll, of property located within or adjacent to the site boundary as defined in OAR 345-001-0010. In addition to incorporating the list in the NOI, the applicant shall submit the list to the Department of Energy in electronic format acceptable to the Department for the production of mailing labels. Property adjacent to the site boundary means property that is:

(A) Within 100 feet of the site boundary where the site, corridor or micro-siting corridor is within an urban growth boundary;

(B) Within 250 feet of the site boundary where the site, corridor or micro-siting corridor is outside an urban growth boundary and not within a farm or forest zone; and

(C) Within 500 feet of the site boundary where the site, corridor or micro-siting corridor is within a farm or forest zone.

(g) Exhibit G. A map or maps showing:

(A) The proposed locations of the energy facility site, all related or supporting facility sites and all areas that might be temporarily disturbed

ADMINISTRATIVE RULES

during construction of the facility in relation to major roads, water bodies, cities and towns, important landmarks and topographic features.

(B) The proposed locations of the corridors the applicant has identified under subsection (d) in relation to major roads, water bodies, cities and towns, important landmarks and topographic features.

(C) The study area(s) for the proposed facility as defined in OAR 345-001-0010.

(D) The topography of the study area(s) including streams, rivers, lakes, major roads and contour lines.

(E) All protected areas in the study area as defined in OAR 345-001-0010 for impacts to protected areas.

(F) The location of any potential waters of the state or waters of the United States that are on or adjacent to the site.

(G) For energy generation facilities, the approximate locations of any other energy generation facilities that are known to the applicant to be permitted at the state or local level within the study area as defined in OAR 345-001-0010 for impacts to public services.

(h) Exhibit H. If the proposed facility is a non-generating energy facility for which the applicant must demonstrate need under OAR 345-023-0005, identification of the rule in Division 23 of this chapter under which the applicant intends to demonstrate need and a summary statement of the need and justification for the proposed facility.

(i) Exhibit I. A statement indicating whether the applicant intends to satisfy the Council's land use standard, OAR 345-022-0030, by obtaining local land use approval under ORS 469.504(1)(a) or by seeking a Council determination under ORS 469.504(1)(b).

(j) Exhibit J. Identification of significant potential environmental impacts of construction and operation of the proposed facility on the study areas, including those impacts affecting air quality, surface and ground water quality and availability, wildlife and wildlife habitat, threatened and endangered plant and animal species, historic, cultural and archaeological resources, scenic and aesthetic areas, recreation, and land use.

(k) Exhibit K. Information about significant potential adverse impacts of construction and operation of the proposed facility on the ability of communities in the study area to provide the services listed in OAR 345-022-0110.

(l) Exhibit L. Information about anticipated water use during construction and operation of the proposed facility, including:

(A) A description of each source of water and the applicant's estimate of the amount of water the facility will need from each source.

(B) If a new water right is required, the approximate location of the points of diversion and the estimated quantity of water to be taken at each point.

(C) For operation, the source of cooling water and the estimated consumptive use of cooling water, based on annual average conditions.

(m) Exhibit M. If the proposed facility would emit carbon dioxide, an estimate of the gross rate of carbon dioxide emissions, a table listing all the factors that form the basis for calculating the estimate, and a statement of the means by which the applicant intends to comply with the applicable carbon dioxide emissions standard under OAR 345-024-560, 345-024-600, or 345-024-630.

(n) Exhibit N. Identification, by legal citation, of all state statutes and administrative rules and local government ordinances containing standards or criteria that the proposed facility must meet for the Council to issue a site certificate, other than statutes, rules and ordinances identified in Exhibit E, and identification of the agencies administering those statutes, administrative rules and ordinances. The applicant shall analyze and describe any problems the applicant foresees in satisfying the requirements of any such statute, rule or ordinance.

(o) Exhibit O. A schedule stating when the applicant expects to submit a preliminary application for a site certificate.

(p) Exhibit P. Evidence of consultation with the Legislative Commission on Indian Services to identify each appropriate tribe to consult with regarding the proposed facility's possible effects on Indian historic and cultural resources.

(2) Documents prepared in connection with an environmental assessment or environmental impact statement for the proposed facility under the National Environmental Policy Act of 1970, if any, may contain some of the information required by section (1) of this rule. The applicant may copy relevant sections of such documents into the appropriate exhibits of the NOI. The applicant may otherwise submit full copies of those documents and include, in the appropriate exhibits of the NOI, cross-references to the relevant sections of those documents. The applicant may use such documents only to avoid duplication. The applicant shall include additional informa-

tion in the NOI as needed to meet the requirements of section (1) of this rule.

(3) The applicant shall include a table of contents in the NOI identifying the location of each exhibit required by this rule. The applicant shall submit an original and two printed copies of the NOI to the Department and shall prepare and distribute additional copies of the NOI as required by OAR 345-020-0040. Upon a request by the Department, the applicant must submit printed copies of the NOI for members of the Council. In addition to the printed copies, the applicant shall submit the full NOI in a non-copy-protected electronic format acceptable to the Department.

(4) The applicant or the applicant's representative shall attend all public informational meetings on the NOI as described in OAR 345-015-0130 to discuss the proposed facility and to answer questions from the public. If the applicant has identified one or more proposed corridors in Exhibit D of the NOI as required by section (1)(d), the applicant may present adjustments to the proposed corridor(s) at any public informational meeting. An adjustment is any change that is outside the boundaries of the corridors proposed in the NOI and may include an entirely new corridor.

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

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.330

Hist.: EFSC 13, f. & cert. ef. 6-11-76; EFSC 2-1991(Temp), f. & cert. ef. 6-5-91; EFSC 1-1992(Temp), f. & cert. ef. 3-4-92; EFSC 2-1992, f. & cert. ef. 8-28-92; EFSC 5-1995, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-020-0016

Amendment of Notice of Intent

(1) The applicant may amend the notice of intent (NOI). The applicant shall submit the original and two printed copies of the amended NOI to the Department of Energy. Upon a request by the Department, the applicant must submit printed copies of the amended NOI for members of the Council. In addition to the printed copies, the applicant shall submit the full amended NOI in a non-copy-protected electronic format acceptable to the Department.

(2) The Department shall inform the public, in the manner described in OAR 345-015-0110, of any amendment that:

(a) Significantly changes the proposed site boundary or location of the proposed energy facility or related or supporting facility;

(b) Changes the proposed fuel type, significantly increases the generating capacity of the proposed energy facility, increases the voltage of a proposed transmission line, or significantly increases the capacity or operating pressure of a proposed pipeline;

(c) Increases water consumption or disposal by more than 5 percent;

(d) Changes the source of water; or

(e) Significantly changes the means of compliance with the carbon dioxide standard, if applicable.

(3) The applicant shall distribute copies of the amended NOI in the manner described in OAR 345-020-0040.

(4) Submission of an amended NOI does not extend the expiration date of the NOI. The applicant, however, may petition the Council to extend the duration of the NOI as provided in OAR 345-020-0060.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.330

Hist.: EFSC 5-1995, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-020-0040

Distribution of a Notice of Intent

(1) After receiving the notice of intent (NOI), the Department will prepare the memorandum described in OAR 345-015-0120 and, in coordination with the applicant, determine a distribution date and compile a distribution list. The applicant shall distribute copies of the NOI to the persons on the distribution list on or before the distribution date. The Department shall include the reviewing agencies as defined in OAR 345-001-0010 on the distribution list and may include additional persons.

(2) The applicant shall attach the memorandum from the Department described in OAR 345-015-0120 to the copies of the NOI distributed according to section (1).

(3) The applicant shall provide additional copies of the NOI to the Department upon request and copies or access to copies to any person requesting copies.

(4) The distribution described in section (1) may be done by courier delivery or mailing of printed copies or, with the approval of the Department, any form of electronic delivery.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.330

ADMINISTRATIVE RULES

Hist.: EFSC 2-1991(Temp), f. & cert. ef. 6-5-91; EFSC 1-1992(Temp), f. & cert. ef. 3-4-92; EFSC 2-1992, f. & cert. ef. 8-28-92; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-96; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

1-2003, f. & cert. ef. 9-3-03; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-021-0000

General Requirements

(1) Except for facilities that the Council has determined exempt as described in OAR 345-015-0350 to 345-015-0370 or for which a separate site certificate is not required according to ORS 469.320(5), a person shall not construct or expand a facility unless the Council has granted a site certificate or an amendment to an existing site certificate.

(2) As used in this division, "energy facility" includes an electric power generating plant with an average electric generating capacity of less than 35 megawatts produced from wind energy for which a person has elected to apply for a site certificate under ORS 469.320(8).

(3) An applicant shall not submit an application for a site certificate before the Department of Energy has issued a project order for the proposed facility as described in OAR 345-015-0160. The applicant may submit a draft application before the issuance of a project order. The applicant must submit the application before the expiration of the notice of intent.

(4) For an expedited review granted under OAR 345-015-0300 or OAR 345-015-0310, section (3) does not apply and the applicant may submit an application for a site certificate any time after the Department determines the request for expedited review satisfies the requirements for expedited review as described in those rules.

(5) If the applicant submits a written request for waiver or modification of requirements in OAR 345-021-0010 to the Department, the Department may waive or modify those requirements that the Department determines are not applicable to the proposed facility.

(6) For any state or local government agency permits, licenses or certificates proposed by the applicant to be included in and governed by the site certificate, the applicant shall include within the site certificate application all information that would otherwise be required by the state or local government agency in an application for such permit, license or certificate.

(7) For any federally-delegated permits that are needed for construction or operation of the proposed facility, the applicant shall submit to the Department one copy of each federally-delegated permit application. The applicant may submit the site certificate application before submitting a copy of a federally-delegated permit application if the applicant submits a schedule of the date by which the applicant intends to submit the federally-delegated permit application. The Department may not find the site certificate application to be complete before receiving copies of all federally-delegated permit applications and a letter or other indication from each agency responsible for issuing a federally-delegated permit stating that the agency has received the permit application, identifying any additional information the agency is likely to need from the applicant and estimating the date when the agency will complete its review and issue a permit decision.

(8) If the proposed facility is a non-generating facility for which the applicant must demonstrate need under OAR 345-023-0005, in addition to the application for a site certificate described in OAR 345-021-0010, the applicant shall submit to the Department three copies of each energy resource plan or combination of plans on which the applicant relies to demonstrate need under OAR 345-023-0020, unless the applicant chooses to incorporate copies of the plan(s) as part of the application for a site certificate. The applicant shall submit the plan(s) to the Department with the site certificate application. The Department may not find the site certificate application to be complete before receiving copies of the plan(s). The plan or plans described in this section are part of the decision record for the Department's proposed order, described in OAR 345-015-0230.

(9) The applicant shall submit an application for a site certificate to the Department with 25 percent of the fee the Department determines necessary for review of the application under ORS 469.421(3), payable to the Oregon Department of Energy. The applicant shall pay the balance of the fee periodically, as specified by the Department.

(10) Until the Department determines the application to be complete as described in OAR 345-015-0190 or 345-015-0310, it is a preliminary application. For the purpose of determining the applicable substantive criteria under ORS 469.504(1)(b)(A), the date the preliminary application is received by the Department is the date the application is submitted.

Stat. Auth.: ORS 469.373 & 469.470

Stats. Implemented: ORS 469.350, 469.370 & 469.421

Hist.: EFSC 1-1993, f. & cert. ef. 1-15-93; EFSC 5-1994, f. & cert. ef. 11-30-95; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 2-2000, f. & cert. ef. 11-20-00; EFSC 2-2001(Temp), f. & cert. ef. 9-17-01 thru 3-10-02; Administrative correction 3-14-02; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC

345-021-0010

Contents of an Application

(1) The project order described in OAR 345-015-0160(1) identifies the provisions of this rule applicable to the application for the proposed facility, including any appropriate modifications to applicable provisions of this rule. The applicant shall include in its application for a site certificate information that addresses each provision of this rule identified in the project order. The applicant shall designate the information with the appropriate exhibit label identified in the following subsections. If the same information is required in each of several exhibits the applicant may provide the required information in one exhibit and include appropriate references in the others. For the purpose of submitting an application for a site certificate in an expedited review granted under OAR 345-015-0300 or OAR 345-015-0310, the applicant shall include information that addresses all provisions of this rule. In such expedited reviews, analysis areas addressed in this rule are the study areas defined in OAR 345-001-0010, subject to later modification in the project order.

(a) Exhibit A. Information about the applicant and participating persons, including:

(A) The name and address of the applicant including all co-owners of the proposed facility, the name, mailing address, email address and telephone number of the contact person for the application, and if there is a contact person other than the applicant, the name, title, mailing address, email address and telephone number of that person.

(B) The contact name, mailing address, email address and telephone number of all participating persons, other than individuals, including but not limited to any parent corporation of the applicant, persons upon whom the applicant will rely for third-party permits or approvals related to the facility, and, if known, other persons upon whom the applicant will rely in meeting any facility standard adopted by the Council.

(C) If the applicant is a corporation, it shall give:

(i) The full name, official designation, mailing address, email address and telephone number of the officer responsible for submitting the application;

(ii) The date and place of its incorporation;

(iii) A copy of its articles of incorporation and its authorization for submitting the application; and

(iv) In the case of a corporation not incorporated in Oregon, the name and address of the resident attorney-in-fact in this state and proof of registration to do business in Oregon.

(D) If the applicant is a wholly owned subsidiary of a company, corporation or other business entity, in addition to the information required by paragraph (C), it shall give the full name and business address of each of the applicant's full or partial owners.

(E) If the applicant is an association of citizens, a joint venture or a partnership, it shall give:

(i) The full name, official designation, mailing address, email address and telephone number of the person responsible for submitting the application;

(ii) The name, business address and telephone number of each person participating in the association, joint venture or partnership and the percentage interest held by each;

(iii) Proof of registration to do business in Oregon;

(iv) A copy of its articles of association, joint venture agreement or partnership agreement and a list of its members and their cities of residence; and

(v) If there are no articles of association, joint venture agreement or partnership agreement, the applicant shall state that fact over the signature of each member.

(F) If the applicant is a public or governmental entity, it shall give:

(i) The full name, official designation, mailing address, email address and telephone number of the person responsible for submitting the application; and

(ii) Written authorization from the entity's governing body to submit an application.

(G) If the applicant is an individual, the individual shall give his or her mailing address, email address and telephone number.

(H) If the applicant is a limited liability company, it shall give:

(i) The full name, official designation, mailing address, email address and telephone number of the officer responsible for submitting the application;

(ii) The date and place of its formation;

ADMINISTRATIVE RULES

(iii) A copy of its articles of organization and its authorization for submitting the application; and

(iv) In the case of a limited liability company not registered in Oregon, the name and address of the resident attorney-in-fact in this state and proof of registration to do business in Oregon.

(b) Exhibit B. Information about the proposed facility, construction schedule and temporary disturbances of the site, including:

(A) A description of the proposed energy facility, including as applicable:

(i) The nominal electric generating capacity and the average electrical generating capacity, as defined in ORS 469.300.

(ii) Major components, structures and systems, including a description of the size, type and configuration of equipment used to generate electricity and useful thermal energy.

(iii) A site plan and general arrangement of buildings, equipment and structures.

(iv) Fuel and chemical storage facilities, including structures and systems for spill containment

(v) Equipment and systems for fire prevention and control.

(vi) For thermal power plants:

(I) A discussion of the source, quantity and availability of all fuels proposed to be used in the facility to generate electricity or useful thermal energy.

(II) Process flow, including power cycle and steam cycle diagrams to describe the energy flows within the system.

(III) Equipment and systems for disposal of waste heat.

(IV) The fuel chargeable to power heat rate.

(vii) For surface facilities related to underground gas storage, estimated daily injection and withdrawal rates, horsepower compression required to operate at design injection or withdrawal rates, operating pressure range and fuel type of compressors.

(viii) For facilities to store liquefied natural gas, the volume, maximum pressure, liquefaction and gasification capacity in thousand cubic feet per hour.

(B) A description of major components, structures and systems of each related or supporting facility.

(C) The approximate dimensions of major facility structures and visible features.

(D) If the proposed energy facility is a pipeline or a transmission line or has, as a related or supporting facility, a transmission line or pipeline that, by itself, is an energy facility under the definition in ORS 469.300, a corridor selection assessment explaining how the applicant selected the corridor(s) for analysis in the application. In the assessment, the applicant shall evaluate the corridor adjustments the Department has described in the project order, if any. The applicant may select any corridor for analysis in the application and may select more than one corridor. However, if the applicant selects a new corridor, then the applicant must explain why the applicant did not present the new corridor for comment at an informational meeting under OAR 345-015-0130. In the assessment, the applicant shall discuss the reasons for selecting the corridor(s), based upon evaluation of the following factors:

(i) Least disturbance to streams, rivers and wetlands during construction.

(ii) Least percentage of the total length of the pipeline or transmission line that would be located within areas of Habitat Category 1, as described by the Oregon Department of Fish and Wildlife.

(iii) Greatest percentage of the total length of the pipeline or transmission line that would be located within or adjacent to public roads and existing pipeline or transmission line rights-of-way.

(iv) Least percentage of the total length of the pipeline or transmission line that would be located within lands that require zone changes, variances or exceptions.

(v) Least percentage of the total length of the pipeline or transmission line that would be located in a protected area as described in OAR 345-022-0040.

(vi) Least disturbance to areas where historical, cultural or archaeological resources are likely to exist.

(vii) Greatest percentage of the total length of the pipeline or transmission line that would be located to avoid seismic, geological and soils hazards.

(viii) Least percentage of the total length of the pipeline or transmission line that would be located within lands zoned for exclusive farm use.

(E) If the proposed energy facility is a pipeline or transmission line or has, as a related or supporting facility, a transmission line or pipeline of any size:

(i) The length of the pipeline or transmission line.

(ii) The proposed right-of-way width of the pipeline or transmission line, including to what extent new right-of-way will be required or existing right-of-way will be widened.

(iii) If the proposed transmission line or pipeline corridor follows or includes public right-of-way, a description of where the transmission line or pipeline would be located within the public right-of-way, to the extent known. If the applicant proposes to locate all or part of a transmission line or pipeline adjacent to but not within the public right-of-way, describe the reasons for locating the transmission line or pipeline outside the public right-of-way. The applicant must include a set of clear and objective criteria and a description of the type of evidence that would support locating the transmission line or pipeline outside the public right-of-way, based on those criteria.

(iv) For pipelines, the operating pressure and delivery capacity in thousand cubic feet per day and the diameter and location, above or below ground, of each pipeline.

(v) For transmission lines, the rated voltage, load carrying capacity, and type of current and a description of transmission line structures and their dimensions.

(F) A construction schedule including the date by which the applicant proposes to begin construction and the date by which the applicant proposes to complete construction. Construction is defined in OAR 345-001-0010. The applicant shall describe in this exhibit all work on the site that the applicant intends to begin before the Council issues a site certificate. The applicant shall include an estimate of the cost of that work. For the purpose of this exhibit, "work on the site" means any work within a site or corridor, other than surveying, exploration or other activities to define or characterize the site or corridor, that the applicant anticipates or has performed as of the time of submitting the application.

(c) Exhibit C. Information about the location of the proposed facility, including:

(A) A map or maps showing the proposed locations of the energy facility site, all related or supporting facility sites and all areas that might be temporarily disturbed during construction of the facility in relation to major roads, water bodies, cities and towns, important landmarks and topographic features, using a scale of 1 inch = 2000 feet or smaller when necessary to show detail.

(B) A description of the location of the proposed energy facility site, the proposed site of each related or supporting facility and areas of temporary disturbance, including the total land area (in acres) within the proposed site boundary, the total area of permanent disturbance, and the total area of temporary disturbance. If a proposed pipeline or transmission line is to follow an existing road, pipeline or transmission line, the applicant shall state to which side of the existing road, pipeline or transmission line the proposed facility will run, to the extent this is known.

(C) For energy generation facilities, a map showing the approximate locations of any other energy generation facilities that are known to the applicant to be permitted at the state or local level within the study area as defined in OAR 345-001-0010 for impacts to public services.

(d) Exhibit D. Information about the organizational expertise of the applicant to construct and operate the proposed facility, providing evidence to support a finding by the Council as required by OAR 345-022-0010, including:

(A) The applicant's previous experience, if any, in constructing and operating similar facilities.

(B) The qualifications of the applicant's personnel who will be responsible for constructing and operating the facility, to the extent that the identities of such personnel are known when the application is submitted.

(C) The qualifications of any architect, engineer, major component vendor, or prime contractor upon whom the applicant will rely in constructing and operating the facility, to the extent that the identities of such persons are known when the application is submitted.

(D) The past performance of the applicant, including but not limited to the number and severity of any regulatory citations in constructing or operating a facility, type of equipment, or process similar to the proposed facility.

(E) If the applicant has no previous experience in constructing or operating similar facilities and has not identified a prime contractor for construction or operation of the proposed facility, other evidence that the applicant can successfully construct and operate the proposed facility. The applicant may include, as evidence, a warranty that it will, through contracts, secure the necessary expertise.

ADMINISTRATIVE RULES

(F) If the applicant has an ISO 9000 or ISO 14000 certified program and proposes to design, construct and operate the facility according to that program, a description of the program.

(G) If the applicant relies on mitigation to demonstrate compliance with any standards of Division 22 or 24 of this chapter, evidence that the applicant can successfully complete such proposed mitigation, including past experience with other projects and the qualifications and experience of personnel upon whom the applicant will rely, to the extent that the identities of such persons are known at the date of submittal.

(e) Exhibit E. Information about permits needed for construction and operation of the facility, including:

(A) Identification of all federal, state and local government permits related to the siting of the proposed facility, a legal citation of the statute, rule or ordinance governing each permit, and the name, mailing address, email address and telephone number of the agency or office responsible for each permit.

(B) A description of each permit, the reasons the permit is needed for construction or operation of the facility and the applicant's analysis of whether the permit should or should not be included in and governed by the site certificate.

(C) For any state or local government agency permits, licenses or certificates that are proposed to be included in and governed by the site certificate, evidence to support findings by the Council that construction and operation of the proposed facility will comply with the statutes, rules and standards applicable to the permit. The applicant may show this evidence:

(i) In Exhibit J for permits related to wetlands.

(ii) In Exhibit O for permits related to water rights.

(D) For federally-delegated permit applications, evidence that the responsible agency has received a permit application and the estimated date when the responsible agency will complete its review and issue a permit decision.

(E) If the applicant relies on a state or local government permit or approval issued to a third party, identification of any such third-party permit and for each:

(i) Evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or other agreement with the third party for access to the resource or service to be secured by that permit.

(ii) Evidence that the third party has, or has a reasonable likelihood of obtaining, the necessary permit.

(iii) An assessment of the impact of the proposed facility on any permits that a third party has obtained and on which the applicant relies to comply with any applicable Council standard.

(F) If the applicant relies on a federally-delegated permit issued to a third party, identification of any such third-party permit and for each:

(i) Evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or other agreement with the third party for access to the resource or service to be secured by that permit.

(ii) Evidence that the responsible agency has received a permit application.

(iii) The estimated date when the responsible agency will complete its review and issue a permit decision.

(G) The applicant's proposed monitoring program, if any, for compliance with permit conditions.

(f) Exhibit F. A list of the names and mailing addresses of all owners of record, as shown on the most recent property tax assessment roll, of property located within or adjacent to the site boundary as defined in OAR 345-001-0010. The applicant shall submit an updated list of property owners as requested by the Department before the Department issues notice of any public hearing on the application for a site certificate as described in OAR 345-015-0220. In addition to incorporating the list in the application for a site certificate, the applicant shall submit the list to the Department in an electronic format approved by the Department. Property adjacent to the site boundary means property that is:

(A) Within 100 feet of the site boundary where the site, corridor or micro-siting corridor is within an urban growth boundary.

(B) Within 250 feet of the site boundary where the site, corridor or micro-siting corridor is outside an urban growth boundary and not within a farm or forest zone.

(C) Within 500 feet of the site boundary where the site, corridor or micro-siting corridor is within a farm or forest zone.

(g) Exhibit G. A materials analysis including:

(A) An inventory of substantial quantities of industrial materials flowing into and out of the proposed facility during construction and operation.

(B) The applicant's plans to manage hazardous substances during construction and operation, including measures to prevent and contain spills.

(C) The applicant's plans to manage non-hazardous waste materials during construction and operation.

(h) Exhibit H. Information from reasonably available sources regarding the geological and soil stability within the analysis area, providing evidence to support findings by the Council as required by OAR 345-022-0020, including:

(A) A geologic report meeting the guidance in Oregon Department of Geology and Mineral Industries open file report 00-04 "Guidelines for Engineering Geologic reports and Site-Specific Seismic Hazard Reports."

(B) A description and schedule of site-specific geotechnical work that will be performed before construction for inclusion in the site certificate as conditions.

(C) Evidence of consultation with the Oregon Department of Geology and Mineral Industries regarding the appropriate site-specific geotechnical work that must be performed before submitting the application for the Department to determine that the application is complete.

(D) For all transmission lines, a description of locations along the proposed route where the applicant proposes to perform site specific geotechnical work, including but not limited to railroad crossings, major road crossings, river crossings, dead ends, corners, and portions of the proposed route where geologic reconnaissance and other site specific studies provide evidence of existing landslides or marginally stable slopes that could be made unstable by the planned construction.

(E) For all pipelines that would carry explosive, flammable or hazardous materials, a description of locations along the proposed route where the applicant proposes to perform site specific geotechnical work, including but not limited to railroad crossings, major road crossings, river crossings and portions of the proposed alignment where geologic reconnaissance and other site specific studies provide evidence of existing landslides or marginally stable slopes that could be made unstable by the planned construction.

(F) An assessment of seismic hazards. For the purposes of this assessment, the maximum probable earthquake (MPE) is the maximum earthquake that could occur under the known tectonic framework with a 10 percent chance of being exceeded in a 50 year period. If seismic sources are not mapped sufficiently to identify the ground motions above, the applicant shall provide a probabilistic seismic hazard analysis to identify the peak ground accelerations expected at the site for a 500 year recurrence interval and a 5000 year recurrence interval. In the assessment, the applicant shall include:

(i) Identification of the Maximum Considered Earthquake Ground Motion as shown for the site under the 2009 International Building Code.

(ii) Identification and characterization of all earthquake sources capable of generating median peak ground accelerations greater than 0.05g on rock at the site. For each earthquake source, the applicant shall assess the magnitude and minimum epicentral distance of the maximum credible earthquake (MCE).

(iii) A description of any recorded earthquakes within 50 miles of the site and of recorded earthquakes greater than 50 miles from the site that caused ground shaking at the site more intense than the Modified Mercalli III intensity. The applicant shall include the date of occurrence and a description of the earthquake that includes its magnitude and highest intensity and its epicenter location or region of highest intensity.

(iv) Assessment of the median ground response spectrum from the MCE and the MPE and identification of the spectral accelerations greater than the design spectrum provided in the 2010 Oregon Structural Specialty Code. The applicant shall include a description of the probable behavior of the subsurface materials and amplification by subsurface materials and any topographic or subsurface conditions that could result in expected ground motions greater than those characteristic of the Maximum Considered Earthquake Ground Motion identified above.

(v) An assessment of seismic hazards expected to result from reasonably probable seismic events. As used in this rule "seismic hazard" includes ground shaking, ground failure, landslide, lateral spreading, liquefaction, tsunami inundation, fault displacement and subsidence.

(G) An assessment of soil-related hazards such as landslides, flooding and erosion which could, in the absence of a seismic event, adversely affect or be aggravated by the construction or operation of the facility.

(H) An explanation of how the applicant will design, engineer and construct the facility to avoid dangers to human safety from the seismic hazards identified in paragraph (F). The applicant shall include proposed

ADMINISTRATIVE RULES

design and engineering features, applicable construction codes, and any monitoring for seismic hazards.

(I) An explanation of how the applicant will design, engineer and construct the facility to adequately avoid dangers to human safety presented by the hazards identified in paragraph (G).

(i) Exhibit I. Information from reasonably available sources regarding soil conditions and uses in the analysis area, providing evidence to support findings by the Council as required by OAR 345-022-0022, including:

(A) Identification and description of the major soil types in the analysis area.

(B) Identification and description of current land uses in the analysis area, such as growing crops, that require or depend on productive soils.

(C) Identification and assessment of significant potential adverse impact to soils from construction, operation and retirement of the facility, including, but not limited to, erosion and chemical factors such as salt deposition from cooling towers, land application of liquid effluent, and chemical spills.

(D) A description of any measures the applicant proposes to avoid or mitigate adverse impact to soils.

(E) The applicant's proposed monitoring program, if any, for adverse impact to soils during construction and operation.

(j) Exhibit J. Information based on literature and field study, as appropriate, about waters of this state, as defined under ORS 196.800, including:

(A) A description of all areas within the site boundary that might be waters of this state and a map showing the location of these features.

(B) An analysis of whether construction or operation of the proposed facility would adversely affect any waters of this state.

(C) A description of the significance of potential adverse impacts to each feature identified in (A), including the nature and amount of material the applicant would remove from or place in the waters analyzed in (B).

(D) If the proposed facility would not need a removal-fill authorization, an explanation of why no such authorization is required for the construction and operation of the proposed facility.

(E) If the proposed facility would need a removal-fill authorization, information to support a determination by the Council that the Oregon Department of State Lands should issue a removal-fill permit, including information in the form required by the Department of State Lands under OAR Chapter 141 Division 85.

(F) A description of proposed actions to mitigate adverse impacts to the features identified in (A) and the applicant's proposed monitoring program, if any, for such impacts.

(k) Exhibit K. Information about the proposed facility's compliance with the statewide planning goals adopted by the Land Conservation and Development Commission, providing evidence to support a finding by the Council as required by OAR 345-022-0030. The applicant shall state whether the applicant elects to address the Council's land use standard by obtaining local land use approvals under ORS 469.504(1)(a) or by obtaining a Council determination under ORS 469.504(1)(b). An applicant may elect different processes for an energy facility and a related or supporting facility but may not otherwise combine the two processes. Once the applicant has made an election, the applicant may not amend the application to make a different election. In this subsection, "affected local government" means a local government that has land use jurisdiction over any part of the proposed site of the facility. In the application, the applicant shall:

(A) Include a map showing the comprehensive plan designations and land use zones in the analysis area.

(B) If the applicant elects to obtain local land use approvals:

(i) Identify the affected local government(s) from which land use approvals will be sought.

(ii) Describe the land use approvals required in order to satisfy the Council's land use standard.

(iii) Describe the status of the applicant's application for each land use approval.

(iv) Provide an estimate of time for issuance of local land use approvals.

(C) If the applicant elects to obtain a Council determination on land use:

(i) Identify the affected local government(s).

(ii) Identify the applicable substantive criteria from the affected local government's acknowledged comprehensive plan and land use regulations that are required by the statewide planning goals and that are in effect on the date the application is submitted and describe how the proposed facility complies with those criteria.

(iii) Identify all Land Conservation and Development Commission administrative rules, statewide planning goals and land use statutes direct-

ly applicable to the facility under ORS 197.646(3) and describe how the proposed facility complies with those rules, goals and statutes.

(iv) If the proposed facility might not comply with all applicable substantive criteria, identify the applicable statewide planning goals and describe how the proposed facility complies with those goals.

(v) If the proposed facility might not comply with all applicable substantive criteria or applicable statewide planning goals, describe why an exception to any applicable statewide planning goal is justified, providing evidence to support all findings by the Council required under ORS 469.504(2).

(D) If the proposed facility will be located on federal land:

(i) Identify the applicable land management plan adopted by the federal agency with jurisdiction over the federal land.

(ii) Explain any differences between state or local land use requirements and federal land management requirements.

(iii) Describe how the proposed facility complies with the applicable federal land management plan.

(iv) Describe any federal land use approvals required for the proposed facility and the status of application for each required federal land use approval.

(v) Provide an estimate of time for issuance of federal land use approvals.

(vi) If federal law or the land management plan conflicts with any applicable state or local land use requirements, explain the differences in the conflicting requirements, state whether the applicant requests Council waiver of the land use standard described under paragraph (B) or (C) of this subsection and explain the basis for a waiver.

(l) Exhibit L. Information about the proposed facility's impact on protected areas, providing evidence to support a finding by the Council as required by OAR 345-022-0040, including:

(A) A list of the protected areas within the analysis area showing the distance and direction from the proposed facility and the basis for protection by reference to a specific subsection under OAR 345-022-0040(1).

(B) A map showing the location of the proposed facility in relation to the protected areas listed in OAR 345-022-0040 located within the analysis area.

(C) A description of significant potential impacts of the proposed facility, if any, on the protected areas including, but not limited to, potential impacts such as:

(i) Noise resulting from facility construction or operation;

(ii) Increased traffic resulting from facility construction or operation;

(iii) Water use during facility construction or operation;

(iv) Wastewater disposal resulting from facility construction or operation;

(v) Visual impacts of facility structures or plumes.

(vi) Visual impacts from air emissions resulting from facility construction or operation, including, but not limited to, impacts on Class 1 Areas as described in OAR 340-204-0050.

(m) Exhibit M. Information about the applicant's financial capability, providing evidence to support a finding by the Council as required by OAR 345-022-0050(2). Nothing in this subsection shall require the disclosure of information or records protected from public disclosure by any provision of state or federal law. The applicant shall include:

(A) An opinion or opinions from legal counsel stating that, to counsel's best knowledge, the applicant has the legal authority to construct and operate the facility without violating its bond indenture provisions, articles of incorporation, common stock covenants, or similar agreements.

(B) The type and amount of the applicant's proposed bond or letter of credit to meet the requirements of OAR 345-022-0050.

(C) Evidence that the applicant has a reasonable likelihood of obtaining the proposed bond or letter of credit in the amount proposed in paragraph (B), before beginning construction of the facility.

(n) Exhibit N. If the proposed facility is a non-generating facility for which the applicant must demonstrate need under OAR 345-023-0005, information about the need for the facility, providing evidence to support a finding by the Council as required by OAR 345-023-0005, including:

(A) Identification of the rule in Division 23 of this chapter under which the applicant chooses to demonstrate need.

(B) If the applicant chooses to demonstrate need for the proposed facility under OAR 345-023-0020(1), the least-cost plan rule:

(i) Identification of the energy resource plan or combination of plans on which the applicant relies to demonstrate need.

(ii) The name, address and telephone number of the person responsible for preparing each energy resource plan identified in subparagraph (i).

ADMINISTRATIVE RULES

(iii) For each plan reviewed by a regulatory agency, the agency's findings and final decision, including:

(I) For a plan reviewed by the Oregon Public Utility Commission, the acknowledgment order; or

(II) For a plan reviewed by any other regulatory agency, a summary of the public process including evidence to support a finding by the Council that the agency's decision process included a full, fair and open public participation and comment process as required by OAR 345-023-0020(1)(L), and the location of and means by which the Department can obtain a complete copy of the public record.

(iv) Identification of the section(s) of the short-term action plan(s) that call(s) for the acquisition of the proposed facility or, as defined in OAR 345-001-0010, a facility substantially similar to the proposed facility.

(v) The attributes of the proposed facility that qualify it as one called for in the short-term action plan of the energy resource plan or combination of plans identified in subparagraph (i) or a demonstration that, as defined in OAR 345-001-0010, a facility substantially similar to the proposed facility is called for in the plan(s).

(C) In addition to the information described in paragraph (B), if the applicant chooses to demonstrate need for the proposed facility under OAR 345-023-0020(1), the least-cost plan rule, and relies on an energy resource plan not acknowledged by the Public Utility Commission of Oregon:

(i) The names, addresses and telephone numbers of members of any public advisory groups that participated in the preparation and review of each plan identified in paragraph (B).

(ii) A discussion of how the plan or combination of plans conforms to the standards in OAR 345-023-0020(1)(a) through (L) including citations to relevant portions of the plan documents or other supporting evidence.

(iii) The expected annual emissions in tons of nitrogen oxides, PM-10 particulate, sulfur dioxide, carbon dioxide and mercury and a discussion of other environmental impacts, as compared to resources in the applicable energy resource plan.

(D) In addition to the information described in paragraphs (B) and (C), if the applicant chooses to demonstrate need for a proposed natural gas pipeline or storage facility for liquefied natural gas under OAR 345-023-0020(1), the least-cost plan rule, and relies on an energy resource plan not acknowledged by the Public Utility Commission of Oregon, the applicant shall include the information described in paragraph (G) of this subsection if the energy resource plan or combination of plans does not contain that information. If the energy resource plan or combination of plans contains the information described in paragraph (G), the applicant shall provide a list of citations to the sections of the energy resource plan(s) that contain the information;

(E) In addition to the information described in paragraphs (B) and (C), if the applicant chooses to demonstrate need for a proposed electric transmission line under OAR 345-023-0020(1), the least-cost plan rule and relies on an energy resource plan not acknowledged by the Public Utility Commission of Oregon, the applicant shall include the information described in paragraph (F) of this subsection if the energy resource plan or combination of plans does not contain that information. If the energy resource plan or combination of plans contains the information described in paragraph (F), the applicant shall provide a list of citations to the sections of the energy resource plan(s) that contain the information.

(F) If the applicant chooses to demonstrate need for a proposed electric transmission line under OAR 345-023-0030, the system reliability rule:

(i) Load-resource balance tables for the area to be served by the proposed facility. In the tables, the applicant shall include firm capacity demands and existing and committed firm resources for each of the years from the date of submission of the application to at least five years after the expected in-service date of the facility.

(ii) Within the tables described in subparagraph (i), a forecast of firm capacity demands for electricity and firm annual electricity sales for the area to be served by the proposed facility. The applicant shall separate firm capacity demands and firm annual electricity sales into loads of retail customers, system losses, reserve margins and each wholesale contract for firm sale. In the forecast, the applicant shall include a discussion of how the forecast incorporates reductions in firm capacity demand and firm annual electricity sales resulting from:

(I) Existing federal, state or local building codes, and equipment standards and conservation programs required by law for the area to be served by the proposed facility;

(II) Conservation programs provided by the energy supplier, as defined in OAR 345-001-0010;

(III) Conservation that results from responses to price; and

(IV) Retail customer fuel choice;

(iii) Within the tables described in subparagraph (i), a forecast of existing and committed firm resources used to meet the demands described in subparagraph (ii). The applicant shall include, as existing and committed firm resources, existing generation and transmission facilities, firm contract resources and committed new resources minus expected resource retirements or displacement. In the forecast, the applicant shall list each resource separately.

(iv) A discussion of the reasons each resource is being retired or displaced if the forecast described in subparagraph (iii) includes expected retirements or displacements.

(v) A discussion of the annual capacity factors assumed for any generating facilities listed in the forecast described in subparagraph (iii).

(vi) A discussion of the reliability criteria the applicant uses to demonstrate the proposed facility is needed, considering the load carrying capability of existing transmission system facilities supporting the area to be served by the proposed facility.

(vii) A discussion of reasons why the proposed facility is economically reasonable compared to the alternatives described below. In the discussion, the applicant shall include a table showing the amounts of firm capacity and firm annual electricity available from the proposed facility and each alternative and the estimated direct cost, as defined in OAR 345-001-0010, of the proposed facility and each alternative. The applicant shall include documentation of assumptions and calculations supporting the table. The applicant shall evaluate alternatives to construction and operation of the proposed facility that include, but are not limited to:

(I) Implementation of cost-effective conservation, peak load management and voluntary customer interruption as a substitute for the proposed facility.

(II) Construction and operation of electric generating facilities as a substitute for the proposed facility.

(III) Direct use of natural gas, solar or geothermal resources at retail loads as a substitute for use of electricity transmitted by the proposed facility.

(IV) Adding standard sized smaller or larger transmission line capacity.

(viii) The earliest and latest expected in-service dates of the facility and a discussion of the circumstances of the energy supplier, as defined in OAR 345-001-0010, that determine these dates.

(G) If the applicant chooses to demonstrate need for a proposed natural gas pipeline or a proposed facility for storing liquefied natural gas under OAR 345-023-0040, the economically reasonable rule:

(i) Load-resource balance tables for the area to be served by the proposed facility. In the tables, the applicant shall include firm demands and resource availability for each of the years from the date of submission of the application to at least five years after the expected in-service date of the proposed facility. In the tables, the applicant shall list flowing supply and storage supply separately.

(ii) Within the tables described in subparagraph (i), a forecast of firm capacity demands for the area to be served by the proposed facility. The applicant shall separate firm capacity demands into firm demands of retail customers, system losses and each wholesale contract for firm sale. The applicant shall accompany the tables with load duration curves of firm capacity and interruptible demands for the most recent historical year, the year the facility is expected to be placed in service and the fifth year after the expected in-service date. In the forecast of firm capacity demands, the applicant shall include a discussion of how the forecast incorporates reductions in firm capacity demand resulting from:

(I) Existing federal, state or local building codes and equipment standards and conservation programs required by law for the area to be served by the proposed facility;

(II) Conservation programs provided by the energy supplier, as defined in OAR 345-001-0010;

(III) Conservation that results from responses to price; and

(IV) Retail customer fuel choice;

(iii) Within the tables described in subparagraph (i), a forecast of existing and committed firm resources used to meet the demands described in subparagraph (ii). The applicant shall include, as existing and committed firm capacity resources, existing pipelines, storage facilities, and scheduled and budgeted new facilities minus expected resource retirements or displacement. In the forecast, the applicant shall list each committed resource separately.

(iv) A discussion of the reasons each resource is being retired or displaced if the forecast described in subparagraph (iii) includes expected retirements or displacements.

ADMINISTRATIVE RULES

(v) A discussion of the capacity factors assumed for any storage facilities listed in the forecast described in subparagraph (iii).

(vi) A discussion of the reliability criteria the applicant uses to demonstrate the proposed facility is needed, considering the capacity of existing gas system facilities supporting the area to be served by the proposed facility;

(vii) A discussion of reasons why the proposed facility is economically reasonable compared to the alternatives described in subparagraphs (viii) or (ix). In the discussion, the applicant shall include a table showing the amounts of firm capacity available from the proposed facility and each alternative and the estimated direct cost, as defined in OAR 345-001-0010, of the proposed facility and each alternative. The applicant shall include documentation of assumptions and calculations supporting the table.

(viii) In an application for a proposed natural gas pipeline, an evaluation of alternatives to construction and operation of the proposed facility including, but not limited to:

(I) Implementation of cost-effective conservation, peak load management and voluntary customer interruption as a substitute for the proposed facility.

(II) Installation of propane storage systems, facilities to store liquefied natural gas and underground gas storage reservoirs as a substitute for the proposed facility.

(III) Direct use of electricity, solar or geothermal resources at retail loads as a substitute for use of natural gas supplied by the proposed facility.

(IV) Adding standard sized smaller or larger pipeline capacity.

(ix) In an application for a proposed liquefied natural gas storage facility, an evaluation of alternatives to construction and operation of the proposed facility including, but not limited to:

(I) Implementation of cost-effective conservation, peak load management and voluntary customer interruption as a substitute for the proposed facility.

(II) Installation of propane storage systems, natural gas pipelines and underground gas storage facilities as a substitute for the proposed facility.

(III) Direct use of electricity, solar or geothermal resources at retail loads as a substitute for use of natural gas supplied by the proposed facility.

(IV) Adding smaller or larger liquefied natural gas storage capacity; and

(x) The earliest and latest expected in-service date of the facility and a discussion of the circumstances of the energy supplier, as defined in OAR 345-001-0010, that determine these dates.

(o) Exhibit O. Information about anticipated water use during construction and operation of the proposed facility. The applicant shall include:

(A) A description of the use of water during construction and operation of the proposed facility.

(B) A description of each source of water and the applicant's estimate of the amount of water the facility will need during construction and during operation from each source under annual average and worst-case conditions.

(C) A description of each avenue of water loss or output from the facility site for the uses described in (A), the applicant's estimate of the amount of water in each avenue under annual average and worst-case conditions and the final disposition of all wastewater.

(D) For thermal power plants, a water balance diagram, including the source of cooling water and the estimated consumptive use of cooling water during operation, based on annual average conditions.

(E) If the proposed facility would not need a groundwater permit, a surface water permit or a water right transfer, an explanation of why no such permit or transfer is required for the construction and operation of the proposed facility.

(F) If the proposed facility would need a groundwater permit, a surface water permit or a water right transfer, information to support a determination by the Council that the Water Resources Department should issue the permit or transfer of a water use, including information in the form required by the Water Resources Department under OAR Chapter 690, Divisions 310 and 380.

(G) A description of proposed actions to mitigate the adverse impacts of water use on affected resources.

(p) Exhibit P. Information about the fish and wildlife habitat and the fish and wildlife species, other than the species addressed in subsection (q) that could be affected by the proposed facility, providing evidence to support a finding by the Council as required by OAR 345-022-0060. The applicant shall include:

(A) A description of biological and botanical surveys performed that support the information in this exhibit, including a discussion of the timing and scope of each survey.

(B) Identification of all fish and wildlife habitat in the analysis area, classified by the habitat categories as set forth in OAR 635-415-0025 and a description of the characteristics and condition of that habitat in the analysis area, including a table of the areas of permanent disturbance and temporary disturbance (in acres) in each habitat category and subtype.

(C) A map showing the locations of the habitat identified in (B).

(D) Based on consultation with the Oregon Department of Fish and Wildlife (ODFW) and appropriate field study and literature review, identification of all State Sensitive Species that might be present in the analysis area and a discussion of any site-specific issues of concern to ODFW.

(E) A baseline survey of the use of habitat in the analysis area by species identified in (D) performed according to a protocol approved by the Department and ODFW.

(F) A description of the nature, extent and duration of potential adverse impacts on the habitat identified in (B) and species identified in (D) that could result from construction, operation and retirement of the proposed facility.

(G) A description of any measures proposed by the applicant to avoid, reduce or mitigate the potential adverse impacts described in (F) in accordance with the ODFW mitigation goals described in OAR 635-415-0025 and a discussion of how the proposed measures would achieve those goals.

(H) A description of the applicant's proposed monitoring plans to evaluate the success of the measures described in (G).

(q) Exhibit Q. Information about threatened and endangered plant and animal species that may be affected by the proposed facility, providing evidence to support a finding by the Council as required by OAR 345-022-0070. The applicant shall include:

(A) Based on appropriate literature and field study, identification of all threatened or endangered species listed under ORS 496.172(2), ORS 564.105(2) or 16 USC § 1533 that may be affected by the proposed facility.

(B) For each species identified under (A), a description of the nature, extent, locations and timing of its occurrence in the analysis area and how the facility might adversely affect it.

(C) For each species identified under (A), a description of measures proposed by the applicant, if any, to avoid or reduce adverse impact.

(D) For each plant species identified under (A), a description of how the proposed facility, including any mitigation measures, complies with the protection and conservation program, if any, that the Oregon Department of Agriculture has adopted under ORS 564.105(3).

(E) For each plant species identified under paragraph (A), if the Oregon Department of Agriculture has not adopted a protection and conservation program under ORS 564.105(3), a description of significant potential impacts of the proposed facility on the continued existence of the species and on the critical habitat of such species and evidence that the proposed facility, including any mitigation measures, is not likely to cause a significant reduction in the likelihood of survival or recovery of the species.

(F) For each animal species identified under (A), a description of significant potential impacts of the proposed facility on the continued existence of such species and on the critical habitat of such species and evidence that the proposed facility, including any mitigation measures, is not likely to cause a significant reduction in the likelihood of survival or recovery of the species.

(G) The applicant's proposed monitoring program, if any, for impacts to threatened and endangered species.

(r) Exhibit R. An analysis of significant potential impacts of the proposed facility, if any, on scenic resources identified as significant or important in local land use plans, tribal land management plans and federal land management plans for any lands located within the analysis area, providing evidence to support a finding by the Council as required by OAR 345-022-0080, including:

(A) A list of the local, tribal and federal plans that address lands within the analysis area.

(B) Identification and description of the scenic resources identified as significant or important in the plans listed in (A), including a copy of the portion of the management plan that identifies the resource as significant or important.

(C) A description of significant potential adverse impacts to the scenic resources identified in (B), including, but not limited to, impacts such as:

(i) Loss of vegetation or alteration of the landscape as a result of construction or operation; and

ADMINISTRATIVE RULES

(ii) Visual impacts of facility structures or plumes.

(D) The measures the applicant proposes to avoid, reduce or otherwise mitigate any significant adverse impacts.

(E) A map or maps showing the location of the scenic resources described under (B).

(F) The applicant's proposed monitoring program, if any, for impacts to scenic resources.

(s) Exhibit S. Information about historic, cultural and archaeological resources. Information concerning the location of archaeological sites or objects may be exempt from public disclosure under ORS 192.502(4) or 192.501(11). The applicant shall submit such information separately, clearly marked as "confidential," and shall request that the Department and the Council keep the information confidential to the extent permitted by law. The applicant shall include information in Exhibit S or in confidential submissions providing evidence to support a finding by the Council as required by OAR 345-022-0090, including:

(A) Historic and cultural resources within the analysis area that have been listed, or would likely be eligible for listing, on the National Register of Historic Places.

(B) For private lands, archaeological objects, as defined in ORS 358.905(1)(a), and archaeological sites, as defined in ORS 358.905(1)(c), within the analysis area.

(C) For public lands, archaeological sites, as defined in ORS 358.905(1)(c), within the analysis area.

(D) The significant potential impacts, if any, of the construction, operation and retirement of the proposed facility on the resources described in paragraphs (A), (B) and (C) and a plan for protection of those resources that includes at least the following:

(i) A description of any discovery measures, such as surveys, inventories, and limited subsurface testing work, recommended by the State Historic Preservation Officer or the National Park Service of the U.S. Department of Interior for the purpose of locating, identifying and assessing the significance of resources listed in paragraphs (A), (B) and (C).

(ii) The results of the discovery measures described in subparagraph (i), together with an explanation by the applicant of any variations from the survey, inventory, or testing recommended.

(iii) A list of measures to prevent destruction of the resources identified during surveys, inventories and subsurface testing referred to in subparagraph (i) or discovered during construction.

(E) The applicant's proposed monitoring program, if any, for impacts to historic, cultural and archaeological resources during construction and operation of the proposed facility.

(t) Exhibit T. Information about the impacts the proposed facility would have on important recreational opportunities in the analysis area, providing evidence to support a finding by the Council as required by OAR 345-022-0100, including:

(A) A description of the recreational opportunities in the analysis area that includes information on the factors listed in OAR 345-022-0100(1) as a basis for identifying important recreational opportunities.

(B) A description of any significant potential adverse impacts to the important opportunities identified in (A) including, but not limited to:

(i) Direct or indirect loss of a recreational opportunity as a result of facility construction or operation.

(ii) Noise resulting from facility construction or operation.

(iii) Increased traffic resulting from facility construction or operation.

(iv) Visual impacts of facility structures or plumes.

(C) A description of any measures the applicant proposes to avoid, reduce or otherwise mitigate the significant adverse impacts identified in (B).

(D) A map of the analysis area showing the locations of important recreational opportunities identified in (A).

(E) The applicant's proposed monitoring program, if any, for impacts to important recreational opportunities.

(u) Exhibit U. Information about significant potential adverse impacts of construction and operation of the proposed facility on the ability of public and private providers in the analysis area to provide the services listed in OAR 345-022-0110, providing evidence to support a finding by the Council as required by OAR 345-022-0110. The applicant shall include:

(A) The important assumptions the applicant used to evaluate potential impacts.

(B) Identification of the public and private providers in the analysis area that would likely be affected.

(C) A description of any likely adverse impact to the ability of the providers identified in (B) to provide the services listed in OAR 345-022-0110.

(D) Evidence that adverse impacts described in (C) are not likely to be significant, taking into account any measures the applicant proposes to avoid, reduce or otherwise mitigate the impacts.

(E) The applicant's proposed monitoring program, if any, for impacts to the ability of the providers identified in (B) to provide the services listed in OAR 345-022-0110.

(v) Exhibit V. Information about the applicant's plans to minimize the generation of solid waste and wastewater and to recycle or reuse solid waste and wastewater, providing evidence to support a finding by the Council as required by OAR 345-022-0120. The applicant shall include:

(A) A description of the major types of solid waste and wastewater that construction, operation and retirement of the facility are likely to generate, including an estimate of the amount of solid waste and wastewater.

(B) A description of any structures, systems and equipment for management and disposal of solid waste, wastewater and storm water.

(C) A discussion of any actions or restrictions proposed by the applicant to reduce consumptive water use during construction and operation of the facility.

(D) The applicant's plans to minimize, recycle or reuse the solid waste and wastewater described in (A).

(E) A description of any adverse impact on surrounding and adjacent areas from the accumulation, storage, disposal and transportation of solid waste, wastewater and stormwater during construction and operation of the facility.

(F) Evidence that adverse impacts described in (D) are likely to be minimal, taking into account any measures the applicant proposes to avoid, reduce or otherwise mitigate the impacts.

(G) The applicant's proposed monitoring program, if any, for minimization of solid waste and wastewater impacts.

(w) Exhibit W. Information about site restoration, providing evidence to support a finding by the Council as required by OAR 345-022-0050(1). The applicant shall include:

(A) The estimated useful life of the proposed facility.

(B) Specific actions and tasks to restore the site to a useful, non-hazardous condition.

(C) An estimate, in current dollars, of the total and unit costs of restoring the site to a useful, non-hazardous condition.

(D) A discussion and justification of the methods and assumptions used to estimate site restoration costs.

(E) For facilities that might produce site contamination by hazardous materials, a proposed monitoring plan, such as periodic environmental site assessment and reporting, or an explanation why a monitoring plan is unnecessary.

(x) Exhibit X. Information about noise generated by construction and operation of the proposed facility, providing evidence to support a finding by the Council that the proposed facility complies with the Oregon Department of Environmental Quality's noise control standards in OAR 340-35-0035. The applicant shall include:

(A) Predicted noise levels resulting from construction and operation of the proposed facility.

(B) An analysis of the proposed facility's compliance with the applicable noise regulations in OAR 340-35-0035, including a discussion and justification of the methods and assumptions used in the analysis.

(C) Any measures the applicant proposes to reduce noise levels or noise impacts or to address public complaints about noise from the facility.

(D) Any measures the applicant proposes to monitor noise generated by operation of the facility.

(E) A list of the names and addresses of all owners of noise sensitive property, as defined in OAR 340-035-0015, within one mile of the proposed site boundary.

(y) Exhibit Y. If the facility is a base load gas plant, a non-base load power plant, or a nongenerating energy facility that emits carbon dioxide, a statement of the means by which the applicant elects to comply with the applicable carbon dioxide emissions standard under OAR 345-024-0560, 345-024-0600, or 345-024-0630 and information, showing detailed calculations, about the carbon dioxide emissions of the energy facility. The applicant may present the calculations in tabular form. The applicant shall include the following information and calculations:

(A) Fuel cycle and usage including the maximum hourly fuel use at net electrical power output at average annual conditions for a base load gas plant and the maximum hourly fuel use at nominal electric generating capacity for a non-base load power plant or a base load gas plant with power augmentation technologies, as applicable.

(B) The gross capacity as estimated at the generator output terminals for each generating unit. For a base load gas plant, gross capacity is based

ADMINISTRATIVE RULES

on the average annual ambient conditions for temperature, barometric pressure and relative humidity. For a non-base load plant, gross capacity is based on the average temperature, barometric pressure and relative humidity at the site during the times of year when the facility is intended to operate. For a baseload gas plant with power augmentation, gross capacity in that mode is based on the average temperature, barometric pressure and relative humidity at the site during the times of year when the facility is intended to operate with power augmentation.

(C) A table showing a reasonable estimate of all on-site electrical loads and losses greater than 50 kilowatts, including losses from on-site transformers, plus a factor for incidental loads, that are required for the normal operation of the plant when the plant is at its designed full power operation.

(D) The maximum number of hours per year and energy content (Btu per year, higher heating value) of alternate fuel use.

(E) The total gross carbon dioxide emissions for 30 years, unless an applicant for a non-base load power plant or nongenerating energy facility proposes to limit operation to a shorter time.

(F) The gross carbon dioxide emissions rate expressed as:

(i) Pounds of carbon dioxide per kilowatt-hour of net electric power output for a base load gas plant, including operation with or without power augmentation, as appropriate, or for a non-base load power plant;

(ii) Pounds of carbon dioxide per horsepower hour for nongenerating facilities for which the output is ordinarily measured in horsepower; or

(iii) A rate comparable to pounds of carbon dioxide per kilowatt-hour of net electric power output for nongenerating facilities other than those measured in horsepower.

(G) The total excess carbon dioxide emissions for 30 years, unless an applicant for a non-base load power plant or a nongenerating energy facility proposes to limit operation to a shorter time.

(H) The excess carbon dioxide emissions rate, using the same measure as required for paragraph (F).

(I) The average annual site conditions, including temperature, barometric pressure and relative humidity, together with a citation of the source and location of the data collection devices.

(J) For a non-base load power plant (or when using power augmentation), the average temperature, barometric pressure and relative humidity at the site during the times of the year when the facility is intended to operate, together with a citation of the source and location of the data collection devices.

(K) The annual fuel input in British thermal units, higher heating value, to the facility for each type of fuel the facility will use, assuming:

(i) For a base load gas plant, a 100-percent capacity factor on a new and clean basis and the maximum number of hours annually that the applicant proposes to use alternative fuels.

(ii) For a non-base load power plant, the applicant's proposed annual hours of operation on a new and clean basis, the maximum number of hours annually that the applicant proposes to use alternative fuels and, if the calculation is based on an operational life of fewer than 30 years, the proposed operational life of the facility.

(iii) For a nongenerating energy facility, the reasonably likely operation of the facility based on one year, 5-year, 15-year, and 30-year averages, unless an applicant proposes to limit operation to a shorter time.

(L) For each type of fuel a base load gas plant or a non-base load power plant will use, the estimated heat rate and capacity of the facility measured on a new and clean basis with no thermal energy to cogeneration, consistent with the data supplied in Exhibit B.

(M) For each type of fuel a nongenerating energy facility will use, the estimated efficiency and capacity of the facility with no thermal energy to cogeneration.

(N) If the facility provides thermal energy for cogeneration to lower its net carbon dioxide emissions rate, the applicant shall include:

(i) The estimated annual useful thermal energy available from the facility for non-electric processes, annual useful thermal energy used by non-electric processes, and annual thermal energy rejected as waste heat.

(ii) For a base load gas plant or non-base load power plant, the estimated annual net electric power output and annual fuel input in British thermal units higher heating value for the facility for each type of fuel the facility will use and the basis of such estimates.

(iii) A description of the non-electric thermal processes, the names and addresses of the persons intending to use the non-electric thermal energy, and a description and an estimate of the fuel displaced by cogeneration, including supporting assumptions.

(iv) A description of the products produced and thermal energy needed for production of the primary products made by the persons intending to

use the non-electric thermal energy produced by the proposed facility, supported by fuel use and steam production records or estimates, if the production facility is new.

(v) The efficiency of each boiler that the thermal energy will displace.

(vi) For each boiler, the annual fossil fuel displaced in million Btu, higher heating value, by type of fuel that will be displaced by the thermal energy.

(vii) The annual carbon dioxide offset by the cogeneration host, using a rate of 117 pounds of carbon dioxide per million Btu of natural gas fuel (higher heating value) and a rate of 161 pounds of carbon dioxide per million Btu of distillate fuel (higher heating value).

(viii) The cumulative carbon dioxide offset by the steam host through the thirtieth year of facility operation, or for a shorter period if an applicant for a nongenerating facility proposes a shorter operational period.

(ix) A copy of the contractual agreement between the applicant and the cogeneration host for the use of the thermal energy.

(x) A description of the guarantees of offsets that the applicant shall provide for cogeneration projects, pursuant to OAR 345-024-0560(1) and OAR 345-024-0600(1).

(xi) A proposed monitoring and evaluation plan and an independent verification plan, pursuant to subparagraphs (O)(xix) and (O)(xx).

(xii) A copy of the instrument by which the certificate holder will transfer the offsets to the Council for it to hold in trust.

(O) If the applicant proposes to offset carbon dioxide emissions as described in OAR 345-024-0550(3), 345-024-0560(2), 345-024-0590(3), 345-024-0600(2), 345-024-0620(3) or 345-024-0630(1), the applicant shall include:

(i) A description of each offset project.

(ii) A description of who will implement the offset project, including qualifications and experience.

(iii) Detailed estimates of the of carbon dioxide offset, measured in short tons, that the offset projects will achieve over the life of the project.

(iv) For each offset project, an explanation of how the applicant quantified its carbon dioxide estimates to a degree of certainty acceptable to the Council though a transparent and replicable calculation methodology.

(v) For each offset project, evidence that the offset project would not likely have been implemented if not for the applicant's activities or funding.

(vi) For each offset project, a description of a "Baseline" projection that does not include the proposed project and a "Project Case" projection that does. The historic Baseline shall use reliable emissions data or pre-project data available for the most recent three years unless the applicant can demonstrate that a different period more closely represents historical operations or unless it can demonstrate that another method provides a more reasonable estimate. The applicant shall show how the Baseline projection changes over time if changes from business-as-usual could be reasonably anticipated during the project life.

(vii) For each offset project, a description, in a transparent and realistic manner, of the assumptions and methodologies used to quantify the Baseline and the Project Case projections, including a description of key parameters and data sources. This shall include a description of the formulae used to estimate carbon dioxide emissions or sequestration within the project boundary and a net change of carbon dioxide emissions or sequestration that occurs outside of the project boundary that is measurable and attributable to the project activity.

(viii) For projects that avoid conventional electricity generation, a description of a Baseline that calculates the carbon dioxide emissions per kilowatt hour in two steps: (1) for the first five years of operation, a description of the rate based on dispatch data or models or, absent that, a weighted average of all resources in a power pool except zero-fuel-cost or must-run facilities, and (2) a description of the rate for any subsequent years based on a group of similar facilities built within the prior five years or under construction in the electrical distribution region of the project or the three most recent plants built in the region, whichever rate is lower.

(ix) For projects that avoid conventional electricity generation, a description of avoided transmission and distribution losses, using average grid area or national losses.

(x) A description of any guarantee for offsets from projects that the applicant proposes pursuant to OAR 345-024-0560(2), 345-024-0600(2), and 345-024-630(1), if the applicant chooses to offer a guarantee.

(xi) A description of the offset project boundary. The boundary shall encompass all carbon dioxide emissions under the control of the project that are significant and reasonably attributable to the project activity. If the project is being conducted by one part of a corporation, the boundary shall include the emissions and reductions of the whole corporate entity and the

ADMINISTRATIVE RULES

carbon dioxide emissions resulting from processes and facilities that are related to the project, with identification of subsidiaries that are affected by the project.

(xii) A description of significant risks and risk mitigation strategies, including an estimate of the range of uncertainty around the expected carbon dioxide offsets.

(xiii) For biological sequestration projects, an assessment of the risk of climate change to natural systems that are sequestering the carbon dioxide, including, if appropriate, the risks from forest fires, pest and other unplanned releases of carbon from sequestration.

(xiv) A description of whether the offset project will permanently avoid or displace emissions of carbon dioxide. If a project only temporarily sequesters carbon, an indication of the duration of sequestration or storage.

(xv) A description of the amount of funding the applicant will provide for each offset project it proposes.

(xvi) If the applicant anticipates that a project will have funding sources in addition to itself, identification of the sources of those funds, the amount of other funding that is required to implement a project, the amount of funds other parties have committed, and the risks of other funds not being available.

(xvii) If the applicant proposes that a project will have funding sources in addition to itself, a description of how ownership of the offsets will be allocated among the several funding sources.

(xviii) A copy of the instrument by which the certificate holder will transfer all the offsets to the Council for it to hold in trust.

(xix) A description of a transparent and replicable methodology for the applicant's monitoring and evaluation plan and for an independent verification plan, including (1) procedures the applicant and the independent entity will employ, (2) how the applicant will assure funds for ongoing monitoring, evaluation and verification, (3) the time frame and frequency over which the applicant will conduct monitoring and evaluation and over which the independent entity will conduct verification, including the frequency of site visits, if applicable, (4) the reporting procedures and guidelines for the plans, and (5) whether the applicant has identified the independent entity that will perform the verification.

(xx) The monitoring and evaluation plan and the verification plan shall identify the data needs and data quality with regard to accuracy, comparability, completeness and validity. It shall include methodologies to be used for data collection, monitoring, storage, reporting and management, including quality assurance and quality control provisions. It shall provide complete calculations used to calculate and estimate carbon dioxide emissions from activity within the project boundary. It shall show any formulae and assumptions the applicant used to calculate offset project leakage.

(xxi) A description of reasonably likely, significant undesirable long-term environmental impacts from the implementation of an offset project.

(P) If the applicant elects to comply with the applicable carbon dioxide emissions standard by using the monetary path under OAR 345-024-0560(3), 345-024-0600(3) or 345-024-0630(2), the applicant shall include:

(i) A statement of the applicant's election to use the monetary path.

(ii) The amount of carbon dioxide reduction, in tons, for which the applicant is taking credit by using the monetary path.

(iii) The qualified organization to whom the applicant will provide offset funds and funds for the cost of selecting and contracting for offsets. The applicant shall include evidence that the organization meets the definition of a qualified organization under OAR 345-001-0010. The applicant may identify an organization that has applied for, but has not received, an exemption from federal income taxation, but the Council shall not find that the organization is a qualified organization unless the organization is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code as amended and in effect on December 31, 1996.

(iv) A statement of whether the applicant intends to provide a bond or letter of credit to secure the funds it must provide to the qualified organization or whether it requests the option of providing either a bond or a letter of credit.

(z) Exhibit Z. If the proposed facility has an evaporative cooling tower, information about the cooling tower plume, including:

(A) The predicted size and frequency of occurrence of a visible plume and an assessment of its visual impact.

(B) The predicted locations and frequency of occurrence of ice formation on surfaces and ground level fogging and an assessment of significant potential adverse impacts, including, but not limited to, traffic hazards on public roads.

(C) The predicted locations and rates of deposition of solids released from the cooling tower (cooling tower drift) and an assessment of significant potential adverse impacts to soils, vegetation and other land uses.

(D) Any measures the applicant proposes to reduce adverse impacts from the cooling tower plume or drift.

(E) The assumptions and methods used in the plume analysis.

(F) The applicant's proposed monitoring program, if any, for cooling tower plume impacts;

(aa) Exhibit AA. If the proposed energy facility is a transmission line or has, as a related or supporting facility, a transmission line of any size:

(A) Information about the expected electric and magnetic fields, including:

(i) The distance in feet from the proposed center line of each proposed transmission line to the edge of the right-of-way.

(ii) The type of each occupied structure, including but not limited to residences, commercial establishments, industrial facilities, schools, day-care centers and hospitals, within 200 feet on each side of the proposed center line of each proposed transmission line.

(iii) The approximate distance in feet from the proposed center line to each structure identified in (A).

(iv) At representative locations along each proposed transmission line, a graph of the predicted electric and magnetic fields levels from the proposed center line to 200 feet on each side of the proposed center line.

(v) Any measures the applicant proposes to reduce electric or magnetic field levels.

(vi) The assumptions and methods used in the electric and magnetic field analysis, including the current in amperes on each proposed transmission line.

(vii) The applicant's proposed monitoring program, if any, for actual electric and magnetic field levels.

(B) An evaluation of alternate methods and costs of reducing radio interference likely to be caused by the transmission line in the primary reception area near interstate, U.S. and state highways.

(bb) Exhibit BB. Any other information that the Department requests in the project order or in a notification regarding expedited review.

(cc) Exhibit CC. Identification, by legal citation, of all state statutes and administrative rules and local government ordinances containing standards or criteria that the proposed facility must meet for the Council to issue a site certificate, other than statutes, rules and ordinances identified in Exhibit E, and identification of the agencies administering those statutes, administrative rules and ordinances. The applicant shall identify all statutes, administrative rules and ordinances that the applicant knows to be applicable to the proposed facility, whether or not identified in the project order. To the extent not addressed by other materials in the application, the applicant shall include a discussion of how the proposed facility meets the requirements of the applicable statutes, administrative rules and ordinances.

(dd) Exhibit DD. If the proposed facility is a facility for which the Council has adopted specific standards, information about the facility providing evidence to support findings by the Council as required by the following rules:

(A) For wind energy facilities, OAR 345-024-0010 and -0015.

(B) For surface facilities related to underground gas storage reservoirs, OAR 345-024-0030, including information required by OAR 345-021-0020.

(C) For any transmission line under Council jurisdiction, OAR 345-024-0090.

(2) Documents prepared in connection with an environmental assessment or environmental impact statement for the proposed facility under the National Environmental Policy Act of 1970, if any, may contain some of the information required under section (1) of this rule. The applicant may copy relevant sections of such documents into the appropriate exhibits of the site certificate application. The applicant may otherwise submit full copies of those documents and include, in the appropriate exhibits of the site certificate application, cross-references to the relevant sections of those documents. The applicant may use such documents only to avoid duplication. The applicant shall include additional information in the site certificate application as needed to meet the requirements of section (1) of this rule.

(3) The applicant shall include a table of contents in the preliminary application identifying the location of each exhibit required by this rule. The applicant shall submit an original and two printed copies of the preliminary application to the Department and shall prepare and distribute additional copies of the application as required by OAR 345-021-0050. Upon a request by the Department, the applicant must submit printed copies of the preliminary application for members of the Council. In addition to the printed copies, the applicant shall submit the full preliminary applica-

ADMINISTRATIVE RULES

tion in a non-copy-protected electronic format acceptable to the Department.

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

Stat. Auth.: ORS 469.373 & 469.470

Stats. Implemented: ORS 469.350, 469.370, 469.501, 469.503 & 469.504

Hist.: EFSC 6-1980, f. & ef. 8-26-80; EFSC 7-1986, f. & ef. 9-18-86; EFSC 9-1980, f. & ef. 12-22-80; EFSC 1-1981, f. & ef. 1-19-81; EFSC 2-1981, f. & ef. 1-19-81; EFSC 4-1986, f. & ef. 9-5-86; EFSC 2-1992, f. & cert. ef. 8-28-92; EFSC 1-1993, f. & cert. ef. 1-15-93; Renumbered from 345-079-0140, 345-080-0090, 345-100-0055, 345-111-0075, 345-115-0055 & 345-125-0100; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 2-2000, f. & cert. ef. 11-20-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-021-0050

Distribution of a Preliminary Application

(1) Until the Department determines the application to be complete as described in OAR 345-015-0190 or 345-015-0310, it is a preliminary application. After receiving the preliminary application, the Department will prepare the memorandum described in 345-015-0180 and, in coordination with the applicant, determine a distribution date and compile a distribution list. The applicant shall distribute copies of the preliminary application to the persons on the distribution list on or before the distribution date. The Department shall include the reviewing agencies as defined in OAR 345-001-0010 on the distribution list and may include additional persons.

(2) If the applicant obtains written consent from the reviewing agency and provides a copy of that written consent to the Department, the applicant may send specified parts of the preliminary application or an electronic copy of all or specified parts of the preliminary application to the reviewing agency instead of sending a full printed copy.

(3) The distribution described in section (1) may be done by courier delivery or mailing of printed copies or, with the approval of the Department, any form of electronic delivery.

(4) After reviewing the preliminary application, each reviewing agency shall submit written comments or recommendations to the Department that:

(a) State whether the reviewing agency needs any additional information from the applicant to review the application under the statutes, administrative rules or ordinances administered by the reviewing agency and describe such information; and

(b) Describe the status of applications for permits, if any, that the applicant has submitted to the reviewing agency and that are necessary for the construction and operation of the proposed facility.

(5) The Department shall, as soon as practicable, send the applicant copies of all comments submitted under section (4) that identify a need for additional information.

(6)(a) If the applicant has elected to demonstrate compliance with the Council's land use standard under ORS 469.504(1)(a), each local government with land use jurisdiction over the proposed facility shall, in the comments or recommendations submitted to the Department under section (4), describe the status of the local land use proceedings and state the date when the local government expects to issue a final land use decision.

(b) If the applicant has elected to obtain a Council determination of compliance with the Council's land use standard under ORS 469.504(1)(b), each local government with land use jurisdiction over the proposed facility shall, in the comments or recommendations submitted to the Department under section (4), include:

(A) A complete list of applicable substantive criteria from the local government's acknowledged comprehensive plan and land use regulations that are required by the statewide planning goals and that are in effect on the date the application was submitted. For the purpose of this rule, the application is submitted on the date that the Department receives the preliminary application. "Applicable substantive criteria" means the criteria and standards that the local government would apply in making all land use decisions necessary to site the proposed facility in the absence of a Council proceeding.

(B) A complete list of Land Conservation and Development Commission administrative rules, statewide planning goals and land use statutes directly applicable to the facility under ORS 197.646(3).

(C) Copies of the criteria listed in (A) and any interpretations of ambiguous terms and matters arising from the local government's land use regulations.

(c) The local government may submit its recommendations, comments and interpretations as described in subsection (b) in the form of a resolution adopted by the local governing body.

(7) The applicant shall provide additional copies of the preliminary application to the Department upon request, and copies or access to copies to any person requesting copies.

(8) After receiving the preliminary application, the Department shall post an announcement on its website to notify the public that a preliminary application has been received. The Department shall include in the announcement the addresses of locations where the public may review copies of the preliminary application. The announcement may include the preliminary application or sections of the preliminary application that may be viewed or downloaded. The announcement may include a link to the applicant's website, if any, where the preliminary application may be viewed or downloaded.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.350

Hist.: EFSC 1-1993, f. & cert. ef. 1-15-93; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-021-0055

Distribution of a Complete Application

(1) After receiving notification from the Department of Energy that the application is complete, the applicant shall prepare an application supplement that includes all amendments to the preliminary application and all additional information requested by the Department before the determination of completeness. The supplement may consist of a total revision of the application when necessary to provide a clear presentation of new information. The applicant shall submit an original and two printed copies of the application supplement to the Department. Upon a request by the Department, the applicant must submit printed copies of the application supplement for members of the Council. In addition to the printed copies, the applicant shall submit the full application supplement in a non-copy-protected electronic format acceptable to the Department.

(2) Except as described in OAR 345-015-0310, the applicant shall distribute copies of the supplement to persons on a mailing list provided by the Department, accompanied by the notice from the Department described in OAR 345-015-0200.

(3) If the applicant obtains written consent from a person named on the mailing list and provides a copy of that written consent to the Department, the applicant may send specified parts of the supplement or an electronic copy of all or specified parts of the supplement to that person instead of sending a full printed copy.

(4) The distribution described in section (2) may be done by courier delivery or mailing of printed copies or, with the approval of the Department, any form of electronic delivery.

(5) A "complete application" consists of the preliminary application together with the supplement described in section (1).

(6) The applicant shall provide additional copies of the complete application to the Department upon request and copies or access to copies to any person requesting copies.

Stat. Auth.: ORS 469.373 & 469.470

Stats. Implemented: ORS 469.350

Hist.: EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-021-0090

Amendment of an Application

(1) When the applicant is preparing to submit an amended application, the applicant shall notify the Department of Energy.

(2) The applicant may amend a preliminary application at any time.

(3) If the applicant submits an amended application after the date of filing as determined under OAR 345-015-0190 or 345-015-0310, the Department may withdraw the filing of the application until the Department has reviewed the amended application for completeness as described under OAR 345-015-0190 or 345-015-0310.

(4) If the applicant submits an amended application after issuance of a contested case notice under OAR 345-015-0014, the Department may, by motion, request that the contested case proceeding be terminated and the Council's hearing officer may issue an order terminating the proceeding. Upon issuance of the order, the Department may withdraw the filing of the application until the Department has reviewed the amended application for completeness as described under OAR 345-015-0190 or 345-015-0310.

(5) The applicant shall submit the original and two printed copies of the amended application to the Department. Upon a request by the Department, the applicant must submit printed copies of the amended application for members of the Council. In addition to the printed copies, the applicant shall submit the full amended application in a non-copy-protected electronic format acceptable to the Department.

(6) The applicant shall distribute copies of the amended application in the manner described in OAR 345-021-0050.

Stat. Auth.: ORS 469.373 & 469.470

ADMINISTRATIVE RULES

Stats. Implemented: ORS 469.350

Hist.: EFSC 1-1993, f. & cert. ef. 1-15-93; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-022-0020

Structural Standard

(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that:

(a) The applicant, through appropriate site-specific study, has adequately characterized the site as to the Maximum Considered Earthquake Ground Motion as shown for the site in the 2009 International Building Code and maximum probable ground motion, taking into account ground failure and amplification for the site specific soil profile under the maximum credible and maximum probable seismic events; and

(b) The applicant can design, engineer, and construct the facility to avoid dangers to human safety presented by seismic hazards affecting the site that are expected to result from maximum probable ground motion events. As used in this rule "seismic hazard" includes ground shaking, ground failure, landslide, liquefaction, lateral spreading, tsunami inundation, fault displacement, and subsidence;

(c) The applicant, through appropriate site-specific study, has adequately characterized the potential geological and soils hazards of the site and its vicinity that could, in the absence of a seismic event, adversely affect, or be aggravated by, the construction and operation of the proposed facility; and

(d) The applicant can design, engineer and construct the facility to avoid dangers to human safety presented by the hazards identified in subsection (c).

(2) The Council may issue a site certificate for a facility that would produce power from wind, solar or geothermal energy without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.

(3) The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.

Stat. Auth.: ORS 469.470 & 469.501

Stats. Implemented: ORS 469.501

Hist.: EFSC 1-1980, f. & ef. 2-28-80; EFSC 1-1981, f. & ef. 1-19-81; EFSC 2-1981, f. & ef. 1-19-81; EFSC 4-1982, f. & ef. 5-3-82; EFSC 4-1986, f. & ef. 9-5-86; EFSC 7-1986, f. & ef. 9-18-86; EFSC 1-1993, f. & cert. ef. 1-15-93, Renumbered from 345-079-0060, 345-100-0040, 345-111-0035; 345-115-0040 & 345-125-0070; EFSC 5-1993(Temp), f. & cert. ef. 8-16-93; EFSC 1-1994, f. & cert. ef. 1-28-94; EFSC 2-1994, f. & cert. ef. 5-6-94; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-023-0005

Need for a Facility

This division applies to nongenerating facilities as defined in ORS 469.503(2)(e), except nongenerating facilities that are related or supporting facilities. To issue a site certificate for a facility described in sections (1) through (3), the Council must find that the applicant has demonstrated the need for the facility. The Council may adopt need standards for other nongenerating facilities. This division describes the methods the applicant shall use to demonstrate need. In accordance with ORS 469.501(1)(L), the Council has no standard requiring a showing of need or cost-effectiveness for generating facilities. The applicant shall demonstrate need:

(1) For electric transmission lines under the least-cost plan rule, OAR 345-023-0020(1), or the system reliability rule for transmission lines, OAR 345-023-0030, or by demonstrating that the transmission line is proposed to be located within a "National Interest Electric Transmission Corridor" designated by the U.S. Department of Energy under Section 216 of the Federal Power Act;

(2) For natural gas pipelines under the least-cost plan rule, OAR 345-023-0020(1), or the economically reasonable rule for natural gas pipelines, OAR 345-023-0040;

(3) For storage facilities for liquefied natural gas with storage capacity of three million gallons or greater under the least-cost plan rule, OAR 345-023-0020(1), or the economically reasonable rule for liquefied natural gas storage facilities, OAR 345-023-0040.

Stat. Auth.: ORS 469.470 & 469.501

Stats. Implemented: ORS 469.501 & 469.503

Hist.: EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-023-0030

System Reliability Rule for Electric Transmission Lines

The Council shall find that the applicant has demonstrated need for an electric transmission line that is an energy facility under the definition in ORS 469.300 if the Council finds that:

(1) The facility is needed to enable the transmission system of which it is to be a part to meet firm capacity demands for electricity or firm annual electricity sales that are reasonably expected to occur within five years of the facility's proposed in-service date based on weather conditions that have at least a 5 percent chance of occurrence in any year in the area to be served by the facility;

(2) The facility is consistent with the minimum operating reliability criteria contained in the Western System Coordinating Council Bulk Power Supply Program 1997-2007, dated April 1, 1998, as it applies either internally or externally to a utility system; and

(3) Construction and operation of the facility is an economically reasonable method of meeting the requirements of sections (1) and (2) compared to the alternatives evaluated in the application for a site certificate.

Stat. Auth.: ORS 469.470 & 469.501

Stats. Implemented: ORS 469.501

Hist.: EFSC 9-1980, f. & ef. 12-22-80; EFSC 1-1993, f. & cert. ef. 1-15-93, Renumbered from 345-080-0043; EFCS 5-1993(Temp), f. & cert. ef. 8-16-93; EFCS 1-1994, f. & cert. ef. 1-28-94; EFCS 2-1994, f. & cert. ef. 5-6-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2012, f. & cert. ef. 5-15-12

345-023-0040

Economically Reasonable Rule for Natural Gas Pipelines or Liquefied Natural Gas Storage Facilities

The Council shall find the applicant has demonstrated need for a natural gas pipeline that is an energy facility under the definition in ORS 469.300 or a facility that stores liquefied natural gas, if the Council finds that:

(1) The facility is needed to enable the natural gas supply system of which it is to be a part to meet firm capacity demands for natural gas that are reasonably expected to occur within five years following the facility's proposed in-service date based on weather conditions that have at least a 5 percent chance of occurrence in any year in the area to be served by the proposed facility; and

(2) Construction and operation of the facility is an economically reasonable method of meeting the demands described in section (1) compared to the alternatives evaluated in the application for a site certificate.

Stat. Auth.: ORS 469.470 & 469.501

Stats. Implemented: ORS 469.501

Hist.: EFSC 4-1986, f. & ef. 9-5-86; EFSC 1-1993, f. & cert. ef. 1-15-93, Renumbered from 345-125-0040; EFCS 5-1993(Temp), f. & cert. ef. 8-16-93; EFCS 1-1994, f. & cert. ef. 1-28-94; EFCS 2-1994, f. & cert. ef. 5-6-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2012, f. & cert. ef. 5-15-12

345-024-0015

Siting Standards for Wind Energy Facilities

To issue a site certificate for a proposed wind energy facility, the Council must find that the applicant can design and construct the facility to reduce cumulative adverse environmental effects in the vicinity by practicable measures including, but not limited to, the following:

(1) Using existing roads to provide access to the facility site, or if new roads are needed, minimizing the amount of land used for new roads and locating them to reduce adverse environmental impacts.

(2) Using underground transmission lines and combining transmission routes.

(3) Connecting the facility to existing substations, or if new substations are needed, minimizing the number of new substations.

(4) Designing the facility to reduce the risk of injury to raptors or other vulnerable wildlife in areas near turbines or electrical equipment.

(5) Designing the components of the facility to minimize adverse visual features.

(6) Using the minimum lighting necessary for safety and security purposes and using techniques to prevent casting glare from the site, except as otherwise required by the Federal Aviation Administration or the Oregon Department of Aviation.

Stat. Auth.: ORS 469.470 & 469.501

Stats. Implemented: ORS 469.501

Hist.: EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-024-0550

Standard for Base Load Gas Plants

To issue a site certificate for a base load gas plant, the Council must find that the net carbon dioxide emissions rate of the proposed facility does

ADMINISTRATIVE RULES

not exceed 0.675 pounds of carbon dioxide per kilowatt-hour of net electric power output, with carbon dioxide emissions and net electric power output measured on a new and clean basis. For a base load gas plant designed with power augmentation technology as defined in OAR 345-001-0010, the Council shall apply the standard for a non-base load power plant, as described in OAR 345-024-0590, to the incremental carbon dioxide emissions from the designed operation of the power augmentation technology. The Council shall determine whether the base load carbon dioxide emissions standard is met as follows:

(1) The Council shall determine the gross carbon dioxide emissions that are reasonably likely to result from the operation of the proposed energy facility. The Council shall base such determination on the proposed design of the energy facility. The Council shall adopt site certificate conditions to ensure that the predicted carbon dioxide emissions are not exceeded on a new and clean basis.

(2) For any remaining emissions reduction necessary to meet the applicable standard, the applicant may elect to use any of the means described in OAR 345-024-0560, or any combination thereof. The Council shall determine the amount of carbon dioxide or other greenhouse gas emissions reduction that is reasonably likely to result from the applicant's offsets and whether the resulting net carbon dioxide emissions meet the applicable carbon dioxide emissions standard. The amount of greenhouse gas emissions means the pounds of carbon dioxide and the carbon dioxide equivalent of other greenhouse gases. For methane, one pound of methane is equivalent to 23 pounds of carbon dioxide. For nitrous oxide, one pound of nitrous oxide is equivalent to 296 pounds of carbon dioxide.

(3) If the applicant elects to comply with the standard using the means described in OAR 345-024-0560(2), the Council shall determine the amount of greenhouse gas emissions reduction that is reasonably likely to result from each of the proposed offsets. In making this determination, the Council shall not allow credit for offsets that have already been allocated or awarded credit for greenhouse gas emissions reduction in another regulatory setting. The fact that an applicant or other parties involved with an offset may derive benefits from the offset other than the reduction of greenhouse gas emissions is not, by itself, a basis for withholding credit for an offset. The Council shall base its determination of the amount of greenhouse gas emission reduction on the following criteria and as provided in OAR 345-024-0680:

(a) The degree of certainty that the predicted quantity of greenhouse gas emissions reduction will be achieved by the offset.

(b) The ability of the Council to determine the actual quantity of greenhouse gas emissions reduction resulting from the offset, taking into consideration any proposed measurement, monitoring and evaluation of mitigation measure performance.

(c) The extent to which the reduction of greenhouse gas emissions would occur in the absence of the offsets.

(4) Before beginning construction, the certificate holder shall notify the Department of Energy in writing of its final selection of a gas turbine vendor and shall submit a written design information report to the Department sufficient to verify the facility's designed new and clean heat rate and its nominal electric generating capacity at average annual site conditions for each fuel type. In the report, the certificate holder shall include the proposed limits on the annual average number of hours of facility operation on distillate fuel oil, if applicable. In the site certificate, the Council may specify other information to be included in the report. The Department shall use the information the certificate holder provides in the report as the basis for calculating, according to the site certificate, the amount of greenhouse gas emissions reductions the certificate holder must provide under OAR 345-024-0560.

Stat. Auth.: ORS 469.470 & 469.503
Stats. Implemented: ORS 469.503

Hist.: EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2003, f. & cert. ef. 9-3-03; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-024-0560

Means of Compliance for Base Load Gas Plants

The applicant may elect to use any of the following means, or any combination thereof, to comply with the carbon dioxide emissions standard for base load gas plants. For a base load gas plant designed with power augmentation technology, the applicant shall comply with the standard for a non-base load power plant in the manner as described in OAR 345-024-0600 for the incremental carbon dioxide emissions from the designed operation of the power augmentation technology.

(1) Designing and operating the facility to produce electrical and thermal energy sequentially from the same fuel source and using the thermal energy to displace another source of carbon dioxide emissions from fossil

fuel that would have otherwise continued to occur. The Council shall adopt site certificate conditions ensuring that the carbon dioxide emissions reduction will be achieved.

(2) Implementing offset projects directly or through a third party, pursuant to OAR 345-024-0680. The Council may adopt site certificate conditions ensuring that the proposed offset projects are implemented by the date specified in the site certificate, but shall not require that predicted levels of avoidance, displacement or sequestration of greenhouse gas emissions be achieved.

(3) Providing offset funds, directly or through a third party, in an amount deemed sufficient to produce the reduction in greenhouse gas emissions necessary to meet the applicable carbon dioxide emissions standard. The applicant or third party shall use the funds as specified in OAR 345-024-0710. The Council shall deem the payment of the monetary offset rate, pursuant to OAR 345-024-0580, to result in a reduction of one ton of carbon dioxide emissions. The Council shall determine the offset funds using the monetary offset rate and the level of emissions reduction required to meet the applicable standard. If the Council issues a site certificate based on this section, the Council may not adjust the amount of the offset funds based on the actual performance of offsets.

(4) Any other means that the Council adopts by rule for demonstrating compliance with the carbon dioxide emissions standard.

(5) If the Council or a court on judicial review concludes that the applicant has not demonstrated compliance with the applicable carbon dioxide emissions standard under sections (1), (2) or (4) of this rule, or any combination thereof, and the applicant agrees to meet the requirements of section (3) for any deficiency, the Council or a court shall find compliance based on such agreement.

Stat. Auth.: ORS 469.470 & 469.503
Stats. Implemented: ORS 469.503

Hist.: EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2000, f. & cert. ef. 9-17-01; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03; EFSC 1-2012, f. & cert. ef. 5-15-12

345-024-0570

Modification of the Standard for Base Load Gas Plants

The Council may by rule modify the carbon dioxide emissions standard for base load gas plants in OAR 345-024-0550 if the Council finds that the most efficient stand alone combined cycle, combustion turbine, natural gas fired energy facility that is commercially demonstrated and operating in the United States has a net heat rate of less than 6,955 Btu per kilowatt hour higher heating value adjusted to ISO conditions. In modifying the carbon dioxide emission standard, the Council shall determine the rate of carbon dioxide emissions per kilowatt hour of net electric output of such energy facility, adjusted to ISO conditions and reset the carbon dioxide emissions standard at 17 percent below this rate.

Stat. Auth.: ORS 469.470 & 469.503

Stats. Implemented: ORS 469.503

Hist.: EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2012, f. & cert. ef. 5-15-12

345-024-0590

Standard for Non-Base Load Power Plants

To issue a site certificate for a non-base load power plant, the Council must find that the net carbon dioxide emissions rate of the proposed facility does not exceed 0.675 pounds of carbon dioxide per kilowatt-hour of net electric power output, with carbon dioxide emissions and net electric power output measured on a new and clean basis. For a base load gas plant designed with power augmentation technology as defined in OAR 345-001-0010, the Council shall apply this standard to the incremental carbon dioxide emissions from the designed operation of the power augmentation technology. The Council shall determine whether the carbon dioxide emissions standard is met as follows:

(1) The Council shall determine the gross carbon dioxide emissions that are reasonably likely to result from the operation of the proposed energy facility. The Council shall base such determination on the proposed design of the energy facility, the limitation on the hours of generation for each fuel type and the average temperature, barometric pressure and relative humidity at the site during the times of the year when the facility is intended to operate. For a base load gas plant designed with power augmentation technology, the Council shall base its determination of the incremental carbon dioxide emissions on the proposed design of the facility, the proposed limitation on the hours of generation using the power augmentation technology and the average temperature, barometric pressure and relative humidity at the site during the times of the year when the facility is intended to operate with power augmentation technology. The Council shall adopt site certificate conditions to ensure that the predicted carbon dioxide emissions are not exceeded on a new and clean basis; however, the Council

ADMINISTRATIVE RULES

may modify the parameters of the new and clean basis to accommodate average conditions at the times when the facility is intended to operate and technical limitations, including operational considerations, of a non-base load power plant or power augmentation technology or for other cause.

(2) For any remaining emissions reduction necessary to meet the applicable standard, the applicant may elect to use any of the means described in OAR 345-024-0600 or any combination thereof. The Council shall determine the amount of carbon dioxide or other greenhouse gas emissions reduction that is reasonably likely to result from the applicant's offsets and whether the resulting net carbon dioxide emissions meet the applicable carbon dioxide emissions standard. The amount of greenhouse gas emissions means the pounds of carbon dioxide and the carbon dioxide equivalent of other greenhouse gases. For methane, one pound of methane is equivalent to 23 pounds of carbon dioxide. For nitrous oxide, one pound of nitrous oxide is equivalent to 296 pounds of carbon dioxide.

(3) If the applicant elects to comply with the standard using the means described in OAR 345-024-0600(2), the Council shall determine the amount of greenhouse gas emissions reduction that is reasonably likely to result from each of the proposed offsets. In making this determination, the Council shall not allow credit for offsets that have already been allocated or awarded credit for greenhouse gas emissions reduction in another regulatory setting. The fact that an applicant or other parties involved with an offset may derive benefits from the offset other than the reduction of greenhouse gas emissions is not, by itself, a basis for withholding credit for an offset. The Council shall base its determination of the amount of greenhouse gas emission reduction on the following criteria and as provided in OAR 345-024-0680:

(a) The degree of certainty that the predicted quantity of greenhouse gas emissions reduction will be achieved by the offset.

(b) The ability of the Council to determine the actual quantity of greenhouse gas emissions reduction resulting from the offset, taking into consideration any proposed measurement, monitoring and evaluation of mitigation measure performance.

(c) The extent to which the reduction of greenhouse gas emissions would occur in the absence of the offsets.

(4) Before beginning construction, the certificate holder shall notify the Department of Energy in writing of its final selection of an equipment vendor and shall submit a written design information report to the Department sufficient to verify the facility's designed new and clean heat rate and its nominal electric generating capacity at average annual site conditions for each fuel type. For a base load gas plant designed with power augmentation technology, the certificate holder shall include in the report information sufficient to verify the facility's designed new and clean heat rate, tested under parameters the Council orders pursuant to section (1), and the nominal electric generating capacity at average site conditions during the intended use for each fuel type from the operation of the proposed facility using the power augmentation technology. The certificate holder shall include the proposed limit on the annual average number of hours for each fuel used, if applicable. The certificate holder shall include the proposed total number of hours of operation for all fuels, subject to the limitation that the total annual average number of hours of operation per year is not more than 6,600 hours. In the site certificate, the Council may specify other information to be included in the report. The Department shall use the information the certificate holder provides in the report as the basis for calculating, according to the site certificate, the gross carbon dioxide emissions from the facility and the amount of greenhouse gas emissions reductions the certificate holder must provide under OAR 345-024-0600.

(5) Every five years after commencing commercial operation, the certificate holder shall report to the Council the facility's actual annual hours of operation by fuel type. If the actual gross carbon dioxide emissions, calculated using the new and clean heat rate and the actual hours of operation on each fuel during the five-year period, exceed the projected gross carbon dioxide emissions for the five-year period calculated under section (4), the certificate holder shall offset any excess emissions for that period and shall offset estimated future excess carbon dioxide emissions using the monetary path as described in OAR 345-024-0600(3) and (4) or as approved by the Council.

(6) For a base load gas plant designed with power augmentation technology, every five years after commencing commercial operation, the certificate holder shall report to the Council the facility's actual hours of operation using the power augmentations technology for each fuel type. If the actual gross carbon dioxide emissions, calculated using the new and clean heat rate, tested under parameters the Council orders pursuant to section (1), and the actual hours of operation using the power augmentation technology on each fuel during the five-year period exceed the projected gross

carbon dioxide emissions for the five-year period calculated under section (4), the certificate holder shall offset any excess emissions for that period and shall offset estimated future excess carbon dioxide emissions using the monetary path as described in OAR 345-024-0600(3) and (4) or as approved by the Council.

Stat. Auth.: ORS 469.470 & 469.503

Stats. Implemented: ORS 469.501 & 469.503

Hist.: EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2009, f. & cert. ef. 11-24-09; EFSC 1-2012, f. & cert. ef. 5-15-12

345-024-0600

Means of Compliance for Non-Base Load Power Plants

The applicant may elect to use any of the following means, or any combination thereof, to comply with the carbon dioxide emissions standard for non-base load power plants or for the incremental carbon dioxide emissions from the operation of a base load gas plant with power augmentation technology:

(1) Designing and operating the facility to produce electrical and thermal energy sequentially from the same fuel source and using the thermal energy to displace another source of carbon dioxide emissions from fossil fuels that would have otherwise continued to occur. The Council shall adopt site certificate conditions ensuring that the carbon dioxide emissions reduction will be achieved.

(2) Implementing offset projects directly or through a third party, pursuant to OAR 345-024-0680. The Council may adopt site certificate conditions ensuring that the proposed offset projects are implemented by the date specified in the site certificate, but shall not require that predicted levels of avoidance, displacement or sequestration of greenhouse gas emissions be achieved.

(3) Providing offset funds, directly or through a third party, in an amount deemed sufficient to produce the reduction in greenhouse gas emissions necessary to meet the applicable carbon dioxide emissions standard. The applicant or third party shall use the funds as specified in OAR 345-024-0710. The Council shall deem the payment of the monetary offset rate, pursuant to OAR 345-024-0580, to result in a reduction of one ton of carbon dioxide emissions. The Council shall determine the offset funds using the monetary offset rate and the level of emissions reduction required to meet the applicable standard. If the Council issues a site certificate based on this section, the Council may not adjust the amount of the offset funds based on the actual performance of offsets.

(4) Notwithstanding sections (1), (2) or (3), if the certificate holder exceeds the projected gross carbon dioxide emissions calculated under OAR 345-024-0590(4) during any five-year reporting period described in OAR 345-024-0590(5) and (6), the certificate holder shall offset excess emissions for the specific reporting period according to subsection (a) and shall offset the estimated future excess emissions according to subsection (b). The certificate holder shall offset excess emissions using the monetary path as described in subsection (c) and OAR 345-024-0710 or as approved by the Council.

(a) In determining the excess carbon dioxide emissions that the certificate holder must offset for a five-year period, the Council shall credit the certificate holder with offsets equal to the difference between the carbon dioxide emissions allowed by the site certificate in previous periods and actual emissions, if actual emissions were lower than allowed. Once a certificate holder has used a credit, the certificate holder shall not use it again.

(b) The Council shall specify in the site certificate a methodology for estimating future excess carbon dioxide emissions. The Department of Energy shall calculate estimated future excess emissions. To estimate excess emissions for the remaining period of the deemed life of the facility, the Department shall use the annual average number of hours of operation during the five-year period in which the certificate holder exceeded the estimated gross carbon dioxide emissions described in OAR 345-024-0590(5) and the new and clean heat rate and capacity for the facility, adjusted for the average temperature, barometric pressure and relative humidity at the site during the times of the year when the facility is intended to operate. If the annual average hours exceed 6,600, the Department shall estimate emissions at 100 percent capacity for the remaining period of a deemed 30-year life of the facility. At the request of the certificate holder, the Council may, by amendment of the site certificate, use an alternative methodology to estimate future excess carbon dioxide emissions.

(c) The certificate holder shall pay for the net excess carbon dioxide emissions calculated pursuant to subsections (a) and (b) at the monetary path offset rate in real dollars for the quarter and year in which the Council issued the final order that applied the carbon dioxide standard. The Council shall specify in the site certificate the methodology for calculating the real dollar value of the monetary offset rate. The Department shall calculate the

ADMINISTRATIVE RULES

net excess carbon dioxide emissions and notify the certificate holder of the amount of the monetary path payment required to offset them. The certificate holder shall pay fully the required amount to the qualified organization within 60 days of notification by the Department of the amount. The certificate holder shall not be eligible for a refund of any monetary path payments due to the calculations in this rule.

(5) Any other means that the Council adopts by rule for demonstrating compliance with the carbon dioxide emissions standard.

(6) If the Council or a court on judicial review concludes that the applicant has not demonstrated compliance with the applicable carbon dioxide emissions standard under sections (1), (2) or (5) of this rule, or any combination thereof, and the applicant agrees to meet the requirements of sections (3) and (4) for any deficiency, the Council or a court shall find compliance based on such agreement.

Stat. Auth.: ORS 469.470 & 469.503
Stats. Implemented: ORS 469.501 & 469.503
Hist.: EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 3-2001, f. & cert. ef. 9-17-01; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-024-0610

Modification of the Standard for Non-Base Load Power Plants

The Council may by rule modify the carbon dioxide emissions standard for non-base load power plants in OAR 345-024-0590 so that the standard remains equivalent to the standard for the net carbon dioxide emissions rate of a base load gas plant, subject to the principles described in OAR 345-024-0510.

Stat. Auth.: ORS 469.470 & 469.503
Stats. Implemented: ORS 469.501 & 469.503
Hist.: EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2012, f. & cert. ef. 5-15-12

345-024-0620

Standard for Nongenerating Energy Facilities

To issue a site certificate for a nongenerating energy facility that emits carbon dioxide, the Council must find that the net carbon dioxide emissions rate of the proposed facility does not exceed 0.504 pounds of carbon dioxide per horsepower hour. The Council shall determine whether the carbon dioxide emissions standard is met as follows:

(1) The Council shall determine the gross carbon dioxide emissions that are reasonably likely to result from the operation of the proposed energy facility. The Council shall base such determination on the proposed design of the energy facility. In determining gross carbon dioxide emissions for a nongenerating facility, the Council shall calculate carbon dioxide emissions for a 30-year period unless the applicant requests, and the Council adopts in the site certificate, a different period. The Council shall determine gross carbon dioxide emissions based on its findings of the reasonably likely operation of the energy facility. The Council shall use a rate of 117 pounds of carbon dioxide per million Btu of natural gas fuel (higher heating value) and a rate of 161 pounds of carbon dioxide per million Btu of distillate fuel (higher heating value), if the applicant proposes to use such fuel. If the applicant proposes to use any other fossil fuel, the Council shall adopt by rule an appropriate carbon dioxide content rate for the fuel.

(2) For any remaining emissions reduction necessary to meet the applicable standard, the applicant may elect to use any of the means described in OAR 345-024-0630 or any combination thereof. The Council shall determine the amount of carbon dioxide or other greenhouse gas emissions reduction that is reasonably likely to result from the applicant's offsets and whether the resulting net carbon dioxide emissions meet the applicable carbon dioxide emissions standard. The amount of greenhouse gas emissions means the pounds of carbon dioxide and the carbon dioxide equivalent of other greenhouse gases. For methane, one pound of methane is equivalent to 23 pounds of carbon dioxide. For nitrous oxide, one pound of nitrous oxide is equivalent to 296 pounds of carbon dioxide.

(3) If the applicant elects to comply with the standard using the means described in OAR 345-024-0630(1), the Council shall determine the amount of greenhouse gas emissions reduction that is reasonably likely to result from each of the proposed offsets. In making this determination, the Council shall not allow credit for offsets that have already been allocated or awarded credit for greenhouse gas emissions reduction in another regulatory setting. The fact that an applicant or other parties involved with an offset may derive benefits from the offset other than the reduction of greenhouse gas emissions is not, by itself, a basis for withholding credit for an offset. The Council shall base its determination of the amount of greenhouse gas emission reduction on the following criteria and as provided in OAR 345-024-0680:

(a) The degree of certainty that the predicted quantity of greenhouse gas emissions reduction will be achieved by the offset.

(b) The ability of the Council to determine the actual quantity of greenhouse gas emissions reduction resulting from the offset, taking into consideration any proposed measurement, monitoring and evaluation of mitigation measure performance.

(c) The extent to which the reduction of greenhouse gas emissions would occur in the absence of the offsets.

(4) Before beginning construction, the certificate holder shall notify the Department of Energy in writing of its final selection of an equipment manufacturer and shall submit a written design information report to the Department sufficient to verify the facility's designed rate of fuel use and its nominal capacity for each fuel type. In the site certificate, the Council may specify other information to be included in the report. The Department shall use the information the certificate holder provides in the report as the basis for calculating, according to the site certificate, the amount of greenhouse gas emissions reductions the certificate holder must provide under OAR 345-024-0630.

(5) In the site certificate, the Council shall specify the schedule by which the certificate holder shall provide offsets. In the schedule, the Council shall specify the amount and timing of offsets the certificate holder must provide to an offset credit account. In determining the amount and timing of offsets, the Council may consider the estimate of total offsets that may be required for the facility and the minimum amount of offsets needed for effective offset projects. The Department shall maintain the record of the offset credit account.

Stat. Auth.: ORS 469.470 & 469.503
Stats. Implemented: ORS 469.501 & 469.503
Hist.: EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-024-0630

Means of Compliance for Nongenerating Energy Facilities

The applicant may elect to use any of the following means, or any combination thereof, to comply with the carbon dioxide emissions standard for nongenerating energy facilities:

(1) Implementing offset projects directly or through a third party, pursuant to OAR 345-024-0680. The Council may adopt site certificate conditions ensuring that the proposed offset projects are implemented by the date specified in the site certificate, but shall not require that predicted levels of avoidance, displacement or sequestration of greenhouse gas emissions be achieved.

(2) Providing offset funds, directly or through a third party, in an amount deemed sufficient to produce the reduction in greenhouse gas emissions necessary to meet the applicable carbon dioxide emissions standard according to the schedule set forth pursuant to OAR 345-024-0620(5). The applicant or third party shall use the funds as specified in OAR 345-024-0710. The Council shall deem the payment of the monetary offset rate, pursuant to OAR 345-024-0580, to result in a reduction of one ton of carbon dioxide emissions. The Council shall determine the offset funds using the monetary offset rate and the level of emissions reduction required to meet the applicable standard. If the Council issues a site certificate based on this section, the Council may not adjust the amount of the offset funds based on the actual performance of offsets.

(3) Any other means that the Council adopts by rule for demonstrating compliance with the carbon dioxide emissions standard.

(4) Each year after beginning commercial operation, the certificate holder shall report to the Department of Energy data showing the amount and type of fossil fuels used by the facility and its horsepower-hours of operation. The Council shall specify in the site certificate how the Department shall use those data to calculate the gross carbon dioxide emissions from the facility during the report year and the net emissions in excess of the carbon dioxide emissions standard. The Department shall then subtract excess emissions from the offset credit account. The Council shall specify in the site certificate the minimum amount of offset credits that a certificate holder shall provide to establish the offset credit account. The Council may specify an amount of offset credits equal to the total offsets required for the facility. The Council shall specify the minimum amount of offset credits that a certificate holder must maintain in the account and the minimum amount of offset credits the certificate holder shall provide to replenish the account. The Department shall notify the certificate holder when it must replenish its offset credit account according to the conditions in the site certificate. The certificate holder shall maintain a positive balance in the offset credit account for 30 years, unless the Council specifies a different period in the site certificate.

(5) If the certificate holder is replenishing its offset credit account by meeting the monetary path payment requirement described in OAR 345-024-710, the certificate holder may replenish its offset credit account with-

ADMINISTRATIVE RULES

out amending the site certificate by using the calculation methodology detailed in conditions that the Council adopts in the site certificate.

(6) If the certificate holder proposes to replenish the offset credit account under OAR 345-024-0630(1), the Council may amend the site certificate conditions to ensure that the proposed offset projects are implemented.

(7) If the Council or a court on judicial review concludes that the applicant has not demonstrated compliance with the applicable carbon dioxide emissions standard under sections (1), (3) or (6) of this rule, or any combination thereof, and the applicant agrees to meet the requirements of section (2) for any deficiency, the Council or a court shall find compliance based on such agreement.

Stat. Auth.: ORS 469.470 & 469.501
Stats. Implemented: ORS 469.501 & 469.503
Hist.: EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 3-2001, f. & cert. ef. 9-17-01; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-024-0640

Modification of the Standard for Nongenerating Energy Facilities

The Council may by rule modify the carbon dioxide emissions standard for nongenerating energy facilities in OAR 345-024-0620 so that it remains equivalent to the standard for the net carbon dioxide emissions rate of a base load power plant.

Stat. Auth.: ORS 469.470 & 469.501
Stats. Implemented: ORS 469.501 & 469.503
Hist.: EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2012, f. & cert. ef. 5-15-12

345-024-0680

Carbon Dioxide Offset Projects

This rule applies if the applicant elects to meet the applicable carbon dioxide emissions standard in whole or in part under OAR 345-024-0550(3), OAR 345-024-0560(2), OAR 345-024-0590(3), OAR 345-024-0600(2), OAR 345-024-0620(3), or OAR 345-024-0630(1).

(1) Types of offset projects include, but are not limited to: energy efficiency, including demand-side management measures for electricity and natural gas; electricity generation from renewable energy; fuel switching; carbon dioxide sequestration through afforestation, reforestation, forest management and forest conservation; flue gas carbon dioxide sequestration; methane capture and destruction from landfill and biogas methane (animal waste and waste water) or from fugitive methane emissions from existing or abandoned coal mines; nitrogen fertilizer management in agricultural applications; and vehicle carbon dioxide emissions reductions.

(2) In order to approve an offset project, the Council must find that:

(a) The offset project is likely to result in an avoidance, reduction or displacement of actual greenhouse gas emissions from fossil fuels or the sequestration of greenhouse gas emissions resulting from specific and identifiable actions;

(b) The Council can quantify the amount of greenhouse gas offsets, taking into consideration any proposed measurement, monitoring, evaluation and verification of offset project measure performance;

(c) The offsets are not susceptible to double-counting. For offsets from demand-side management measures reducing use of utility-provided electricity or natural gas, it may suffice that the certificate holder or its agent notify the utility that the certificate holder claims ownership of the greenhouse gas reductions;

(d) The applicant will own all greenhouse gas offsets that it proposes to provide;

(e) The applicant has provided a form of the instrument, satisfactory to the Council, through which the applicant will transfer all offsets from a project that an applicant will own to the Council for the Council to hold in trust;

(f) The applicant has the financial and institutional capability to deliver the project for its duration; and

(g) The applicant has provided an adequate monitoring and evaluation plan and an adequate plan for independent verification of the offsets. The monitoring and evaluation plan and the verification plan shall detail the record-keeping, data collection, data storage, data management program, and reporting guidelines and procedures.

(3) If the applicant proposes to implement a project in partnership with other parties or through contracts with other parties, the Council must find that:

(a) The other parties have the financial and institutional capability to deliver the project; and

(b) The applicant has a firm commitment from the other parties to participate in the project.

(4) If the applicant is proposing an offset project in another country, the Council must find that the host country has approved the transfer of the ownership of the greenhouse gas offsets to the applicant for the Council to hold in trust.

(5) The Council shall adjust its estimates of offsets to account for leakage, which is the extent to which events occurring outside the offset project boundary affect an offset project's total greenhouse gas emissions.

(6) The Council shall not approve any offsets related to nuclear power.

(7) The Council may reject an offset project based on undesirable long-term environmental impacts from the implementation of the offset project that the Council considers to be significant and reasonably likely to occur.

(8) The applicant may propose offset projects that provide offsets for up to 30 years after beginning commercial operation of a facility, or if an applicant proposes to provide offsets for more than 30 years after the beginning of commercial operation of a facility, the Council must find that:

(a) There will be a viable organization that will continue to manage an offset project for a longer period than the duration of the site certificate;

(b) The Council can maintain oversight of the project and hold the responsible organization to the requirements of the site certificate; and

(c) The responsible organization will transfer offsets to the Council after the certificate holder retires the energy facility.

(9) The certificate holder shall begin implementation of projects approved in the site certificate before beginning construction of its facility, and:

(a) The certificate holder shall provide the Council copies of executed contracts or binding agreements with offset providers, including steam hosts for cogeneration if proposed, before beginning construction of its facility, and

(b) The certificate holder shall ensure that offset project implementation begins immediately upon execution of a contract or binding agreement with an offset provider and that the measures are fully implemented within five years, unless the Council approves a longer implementation period through a site certificate condition.

(10) The certificate holder shall not sell or trade its offsets or allow any other entity to report or use the offsets.

(11) The Council shall hold the offsets in trust for the benefit of the State of Oregon.

(12) If the Council approves, a certificate holder may use offsets in a future national regulatory regimen if the Council determines that such use does not undermine the integrity of the Council's carbon dioxide standard. Such approval shall not require an amendment of the site certificate.

(13) The site certificate holder shall report to the Council annually on the performance of offset projects, pursuant to the monitoring and evaluation plan and to the verification plan, and shall explain changes from the offset benefits projected in the Council's analysis of the offset projects.

(14) The certificate holder shall provide copies of all monitoring and evaluation reports and any verification reports from the independent entity to the Department of Energy.

(15) The certificate holder shall provide any raw data upon the request of the Department.

(16) The site certificate holder shall make its offset project financial records available for the life of the facility for auditing by the Council or by a party that the Council designates.

Stat. Auth.: ORS 469.470 & 469.501
Stats. Implemented: ORS 469.501 & 469.503
Hist.: EFSC 1-2003, f. & cert. ef. 9-3-03; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-024-0710

Monetary Path Payment Requirement

(1) If the applicant elects to meet the applicable carbon dioxide emissions standard in whole or in part under OAR 345-024-0560(3), OAR 345-024-0600(3) or OAR 345-024-0630(2), (4) and (5), the applicant shall provide a bond or letter of credit in a form reasonably acceptable to the Council to ensure the payment of the offset funds and the additional funds required under section (4) of this rule. The applicant shall provide such security by the date specified in the site certificate. In the site certificate, the Council shall specify a date no later than the commencement of construction of the facility for base load gas plants and non-base load power plants. For nongenerating facilities, the Council shall specify a date no later than the commencement of construction of the facility for providing the initial bond or letter of credit, and the Council shall specify conditions for providing subsequent incremental payments to meeting the monetary path payment requirement. The certificate holder for a nongenerating facility must meet its incremental monetary path payment requirements before exhausting its

ADMINISTRATIVE RULES

offset credit account, as described in OAR 345-024-0630(4). In no case shall the applicant diminish the bond or letter of credit or receive a refund from a qualified organization based on the calculations of the facility's emissions on a new and clean basis for a fossil-fueled power plant or any other measure for a nongenerating energy facility. A qualified organization shall not refund any offset funds to a certificate holder based on the operation or performance of a non-base load power plant during any five-year period reported under OAR 345-024-0590(5) or, for a nongenerating facility, on any offset credits the certificate holder provided under OAR 345-024-0620(5).

(2) In the site certificate, the Council shall require the certificate holder to disburse the offset funds and other funds required as specified in sections (3) and (4), unless the Council finds that no qualified organization exists, in which case the Council shall require the certificate holder to disburse the offset funds as specified in OAR 345-024-0720(2).

(3) When the certificate holder receives written notice from the qualified organization certifying that the qualified organization is contractually obligated to pay any funds to implement offsets using the offset funds, the certificate holder shall make the requested amount available to the qualified organization unless the total of the amount requested and any amounts previously requested exceeds the offset funds, in which case the certificate holder shall make available only the remaining amount of the offset funds. The qualified organization shall use at least 80 percent of the offset funds for contracts to implement offsets. The qualified organization shall assess offsets for their potential to qualify in, generate credits in or reduce obligations in other regulatory settings. The qualified organization may use up to 20 percent of the offset funds for monitoring, evaluation, administration and enforcement of contracts to implement offsets.

(4) At the request of the qualified organization and in addition to the offset funds, the certificate holder shall pay the qualified organization an amount equal to 10 percent of the first \$500,000 of the offset funds and 4.286 percent of any offset funds in excess of \$500,000. The certificate holder for a base load gas plant shall pay not less than \$50,000, unless the Council specifies a lesser amount in the site certificate. In the site certificate, the Council may specify a minimum amount that other fossil-fueled power plants or nongenerating energy facilities must pay. This payment compensates the qualified organization for its costs of selecting offsets and contracting for the implementation of offsets.

(5) Notwithstanding any provision to the contrary, a certificate holder subject to this rule has no obligation with regard to offsets, the offset funds or the funds required by section (4) other than to make available to the qualified organization the total amount required under OAR 345-024-0560(3), OAR 345-024-0600(3) and (4), OAR 345-024-0630(2), (4) and (5), and section (4) of this rule. The Council shall not base a revocation of the site certificate or any other enforcement action with respect to the certificate holder on any nonperformance, negligence or misconduct by the qualified organization.

(6) For monetary path payments a certificate holder must make before beginning construction, the certificate holder shall make all offset fund payments and all payments required by section (4) to the qualifying organization in real dollars of the year in which the Council issues a final order applying the carbon dioxide emissions standard to the energy facility. In the site certificate, the Council shall specify an appropriate inflation index for calculating real dollars. For a non-base load power plant, if a certificate holder must make a payment as described in OAR 345-024-0600(4), the certificate holder shall make a payment that has the same present value per ton of carbon dioxide as the monetary path offset rate of the year in which the Council issued the final order applying the carbon dioxide standard. In the site certificate, the Council shall specify the methodology for calculating present value. If the certificate holder of a nongenerating facility must make payments as described in OAR 345-024-0630(4) and (5), the Council shall specify in the site certificate the method for calculating the rate for the dollar value per ton of carbon dioxide required according to subsection (a) or (b) below:

(a) Unless the applicant and the Council agree to the methodology in subsection (b), the certificate holder shall make payments that have the same present value per ton of carbon dioxide as the monetary path offset rate of the year in which the Council issued the final order applying the carbon dioxide standard. The Council shall set an appropriate discount rate for calculating the present value, using the cost of capital most recently approved by a state utility regulatory commission for that utility or a similar utility as a guide; or

(b) If the applicant requests and the Council agrees, the certificate holder shall make payments at the monetary path offset rate in effect on the date the certificate holder makes the payment.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.501 & 469.503

Hist.: EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2012, f. & cert. ef. 5-15-12

345-024-0720

Qualified Organization

(1) If the applicant elects to meet the applicable carbon dioxide emissions standard in whole or in part under OAR 345-024-0560(3), 345-024-0600(3) and (4), or 345-024-0630(2), (4) and (5), the applicant shall identify the qualified organization. The applicant may identify an organization that has applied for, but has not received, an exemption from federal income taxation, but the Council may not find that the organization is a qualified organization unless the organization is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code as amended and in effect on December 31, 1996.

(2) If the Council finds there is no qualified organization, the certificate holder shall disburse the offset funds according to one or more contracts for implementation of offsets as determined by the following process:

(a) The Council shall establish criteria for selection of offsets, based on the reduction of net carbon dioxide emissions and the criteria set forth in OAR 345-024-0550(3) for base load plants, OAR 345-024-0590(3) for non-base load power plants and OAR 345-024-0620(3) for nongenerating facilities. The Council may consider the costs of particular types of offsets in relation to the expected benefits of such offsets. In establishing criteria, the Council shall not require the certificate holder to select particular offsets and shall allow the certificate holder a reasonable range of choices in selecting offsets.

(b) Based on the criteria established by the Council, the certificate holder shall select one or more offsets. The certificate holder shall give written notice of its selections to the Council and to any person requesting notice. For the purposes of this rule, the date of notice is the date the certificate holder places the notice in the United States mail, with first-class postage prepaid.

(c) On petition by the Department of Energy or by any person adversely affected or aggrieved by the certificate holder's selection of offsets, or on the Council's own motion, the Council may review the selection. The petition must be received by the Council within 30 days of the date of notice.

(d) The Council shall approve the certificate holder's selection unless it finds that the selection is not consistent with criteria established under subsection (a).

(e) The certificate holder shall execute one or more contracts to implement the selected offsets within 18 months after commencing construction of the facility unless the Council allows additional time based on a showing of good cause by the certificate holder. If a certificate holder would have made a payment to a qualified organization as described in OAR 345-024-0600(4) or OAR 345-024-0630(4) or (5), the certificate holder shall instead execute one or more contracts to implement the selected offsets, by a method acceptable to the Council, within 18 months after reporting to the Council as described in OAR 345-024-0590(5) or within 18 months after the Department notifies the certificate holder that the certificate holder must replenish the offset credit account as described in OAR 345-024-0630(4). The certificate holder shall, under such contracts, obligate the expenditure of at least 85 percent of the offset funds for the implementation of offsets. The certificate holder may spend no more than 15 percent of the offset funds on monitoring, evaluation and enforcement of such contracts.

(f) The certificate holder's financial liability for implementation, monitoring, evaluation and enforcement of offsets under this subsection (2) is limited to the amount of any offset funds not already contractually obligated. The Council shall not base a revocation of the site certificate or any other enforcement action with respect to the certificate holder on any nonperformance, negligence or misconduct by the entity or entities implementing, monitoring or evaluating the selected offsets.

(3) Every qualified organization that has received funds under this rule shall, at five-year intervals beginning on the date of receipt of such funds, provide the Council with the information the Council requests about the qualified organization's performance. The Council shall evaluate the information requested and, based on such information, shall make recommendations to the Legislative Assembly that the Council deems appropriate.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.501 & 469.503

Hist.: EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

ADMINISTRATIVE RULES

345-026-0080

Reporting Requirements for Energy Facilities

(1) General reporting obligation for energy facilities under construction or operating:

(a) Within six months after beginning construction, and every six months thereafter during construction of the energy facility and related or supporting facilities, the certificate holder shall submit a semiannual construction progress report to the Department of Energy. In each construction progress report, the certificate holder shall describe any significant changes to major milestones for construction. The certificate holder shall report on the progress of construction and shall address the subjects listed in subsections (2)(a), (d), (f) and (g). When the reporting date coincides, the certificate holder may include the construction progress report within the annual report described in this rule.

(b) After January 1 but no later than April 30 of each year after beginning operation of the facility, the certificate holder shall submit an annual report to the Department addressing the subjects listed in subsection (2). For the purposes of this rule, the beginning of operation of the facility means the date when construction of a significant portion of the facility is substantially complete and the certificate holder begins commercial operation of the facility as reported by the certificate holder and accepted by the Department. The Council Secretary and the certificate holder may, by mutual agreement, change the reporting date.

(c) To the extent that information required by this rule is contained in reports the certificate holder submits to other state, federal or local agencies, the certificate holder may submit excerpts from such other reports to satisfy this rule. The Council reserves the right to request full copies of such excerpted reports.

(2) In the annual report, the certificate holder shall include the following information for the calendar year preceding the date of the report:

(a) Facility Status: An overview of site conditions, the status of facilities under construction and a summary of the operating experience of facilities that are in operation. The certificate holder shall describe any unusual events, such as earthquakes, extraordinary windstorms, major accidents or the like that occurred during the year and that had a significant adverse impact on the facility.

(b) Reliability and Efficiency of Power Production: For electric power plants, the plant availability and capacity factors for the reporting year. The certificate holder shall describe any equipment failures or plant breakdowns that had a significant impact on those factors and shall describe any actions taken to prevent the recurrence of such problems.

(c) Fuel Use: For thermal power plants:

(A) The efficiency with which the power plant converts fuel into electric energy. If the fuel chargeable to power heat rate was evaluated when the facility was sited, the certificate holder shall calculate efficiency using the same formula and assumptions, but using actual data; and

(B) The facility's annual hours of operation by fuel type and, every five years after beginning operation, a summary of the annual hours of operation by fuel type as described in OAR 345-024-0590(5).

(d) Status of Surety Information: Documentation demonstrating that bonds or letters of credit as described in the site certificate are in full force and effect and will remain in full force and effect for the term of the next reporting period.

(e) Monitoring Report: A list and description of all significant monitoring and mitigation activities performed during the previous year in accordance with site certificate terms and conditions, a summary of the results of those activities and a discussion of any significant changes to any monitoring or mitigation program, including the reason for any such changes.

(f) Compliance Report: A report describing the certificate holder's compliance with all site certificate conditions that are applicable during the reporting period. For ease of review, the certificate holder shall, in this section of the report, use numbered subparagraphs corresponding to the applicable sections of the site certificate.

(g) Facility Modification Report: A summary of changes to the facility that the certificate holder has made during the reporting period without an amendment of the site certificate in accordance with OAR 345-027-0050.

(h) Nongenerating Facility Carbon Dioxide Emissions: For nongenerating facilities that emit carbon dioxide, a report of the annual fuel use by fuel type and annual hours of operation of the carbon dioxide emitting equipment as described in OAR 345-024-0630(4).

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.310, 469.410, 469.430, 469.501 & 469.507

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75; EFSC 1-1985, f. & ef. 1-7-85; EFSC 3-1994, f. & cert. ef. 6-28-94; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC

1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-026-0170

Notification of Incidents

(1) The certificate holder shall notify the Department of Energy within 72 hours of any occurrence involving the facility if:

(a) There is an attempt by anyone to interfere with its safe operation.

(b) There is a significant natural event such as a fire, earthquake, flood, tsunami or tornado, or human-caused event such as a fire or explosion.

(c) There is any fatal injury at the facility.

(2) For the Trojan Independent Spent Fuel Storage Installation:

(a) In the event of incidents or accidents requiring notification of the Nuclear Regulatory Commission by telephone, the certificate holder also shall notify the Department on the same time schedule.

(b) The certificate holder shall notify the Department of all incidents in accordance with the Emergency Plan, Security Plan, and other agreements as established.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.310, 469.410, 469.430, 469.507 & 469.530

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75; EFSC 1-1985, f. & ef. 1-7-85; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2005, f. & cert. ef. 5-23-05; EFSC 1-2012, f. & cert. ef. 5-15-12

345-027-0020

Mandatory Conditions in Site Certificates

The Council shall impose the following conditions in every site certificate. The Council may impose additional conditions.

(1) The Council shall not change the conditions of the site certificate except as provided for in OAR Chapter 345, Division 27.

(2) The certificate holder shall submit a legal description of the site to the Department of Energy within 90 days after beginning operation of the facility. The legal description required by this rule means a description of metes and bounds or a description of the site by reference to a map and geographic data that clearly and specifically identify the outer boundaries that contain all parts of the facility.

(3) The certificate holder shall design, construct, operate and retire the facility:

(a) Substantially as described in the site certificate;

(b) In compliance with the requirements of ORS Chapter 469, applicable Council rules, and applicable state and local laws, rules and ordinances in effect at the time the site certificate is issued; and

(c) In compliance with all applicable permit requirements of other state agencies.

(4) The certificate holder shall begin and complete construction of the facility by the dates specified in the site certificate.

(5) Except as necessary for the initial survey or as otherwise allowed for wind energy facilities, transmission lines or pipelines under this section, the certificate holder shall not begin construction, as defined in OAR 345-001-0010, or create a clearing on any part of the site until the certificate holder has construction rights on all parts of the site. For the purpose of this rule, "construction rights" means the legal right to engage in construction activities. For wind energy facilities, transmission lines or pipelines, if the certificate holder does not have construction rights on all parts of the site, the certificate holder may nevertheless begin construction, as defined in OAR 345-001-0010, or create a clearing on a part of the site if the certificate holder has construction rights on that part of the site and:

(a) The certificate holder would construct and operate part of the facility on that part of the site even if a change in the planned route of a transmission line or pipeline occurs during the certificate holder's negotiations to acquire construction rights on another part of the site; or

(b) The certificate holder would construct and operate part of a wind energy facility on that part of the site even if other parts of the facility were modified by amendment of the site certificate or were not built.

(6) If the certificate holder becomes aware of a significant environmental change or impact attributable to the facility, the certificate holder shall, as soon as possible, submit a written report to the Department describing the impact on the facility and any affected site certificate conditions.

(7) The certificate holder shall prevent the development of any conditions on the site that would preclude restoration of the site to a useful, non-hazardous condition to the extent that prevention of such site conditions is within the control of the certificate holder.

(8) Before beginning construction of the facility, the certificate holder shall submit to the State of Oregon, through the Council, a bond or letter of credit in a form and amount satisfactory to the Council to restore the site

ADMINISTRATIVE RULES

to a useful, non-hazardous condition. The certificate holder shall maintain a bond or letter of credit in effect at all times until the facility has been retired. The Council may specify different amounts for the bond or letter of credit during construction and during operation of the facility.

(9) The certificate holder shall retire the facility if the certificate holder permanently ceases construction or operation of the facility. The certificate holder shall retire the facility according to a final retirement plan approved by the Council, as described in OAR 345-027-0110. The certificate holder shall pay the actual cost to restore the site to a useful, non-hazardous condition at the time of retirement, notwithstanding the Council's approval in the site certificate of an estimated amount required to restore the site.

(10) The Council shall include as conditions in the site certificate all representations in the site certificate application and supporting record the Council deems to be binding commitments made by the applicant.

(11) Upon completion of construction, the certificate holder shall restore vegetation to the extent practicable and shall landscape all areas disturbed by construction in a manner compatible with the surroundings and proposed use. Upon completion of construction, the certificate holder shall remove all temporary structures not required for facility operation and dispose of all timber, brush, refuse and flammable or combustible material resulting from clearing of land and construction of the facility.

(12) The certificate holder shall design, engineer and construct the facility to avoid dangers to human safety presented by seismic hazards affecting the site that are expected to result from all maximum probable seismic events. As used in this rule "seismic hazard" includes ground shaking, landslide, liquefaction, lateral spreading, tsunami inundation, fault displacement and subsidence.

(13) The certificate holder shall notify the Department, the State Building Codes Division and the Department of Geology and Mineral Industries promptly if site investigations or trenching reveal that conditions in the foundation rocks differ significantly from those described in the application for a site certificate. After the Department receives the notice, the Council may require the certificate holder to consult with the Department of Geology and Mineral Industries and the Building Codes Division and to propose mitigation actions.

(14) The certificate holder shall notify the Department, the State Building Codes Division and the Department of Geology and Mineral Industries promptly if shear zones, artesian aquifers, deformations or clastic dikes are found at or in the vicinity of the site.

(15) Before any transfer of ownership of the facility or ownership of the site certificate holder, the certificate holder shall inform the Department of the proposed new owners. The requirements of OAR 345-027-0100 apply to any transfer of ownership that requires a transfer of the site certificate.

(16) If the Council finds that the certificate holder has permanently ceased construction or operation of the facility without retiring the facility according to a final retirement plan approved by the Council, as described in OAR 345-027-0110, the Council shall notify the certificate holder and request that the certificate holder submit a proposed final retirement plan to the Office within a reasonable time not to exceed 90 days. If the certificate holder does not submit a proposed final retirement plan by the specified date, the Council may direct the Department to prepare a proposed final retirement plan for the Council's approval. Upon the Council's approval of the final retirement plan, the Council may draw on the bond or letter of credit described in section (8) to restore the site to a useful, non-hazardous condition according to the final retirement plan, in addition to any penalties the Council may impose under OAR Chapter 345, Division 29. If the amount of the bond or letter of credit is insufficient to pay the actual cost of retirement, the certificate holder shall pay any additional cost necessary to restore the site to a useful, non-hazardous condition. After completion of site restoration, the Council shall issue an order to terminate the site certificate if the Council finds that the facility has been retired according to the approved final retirement plan.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.401 & 469.501

Hist.: NTEC 9, f. 2-13-75, ef. 3-11-75; EFSC 6-1980, f. & ef. 8-26-80; EFSC 1-1985, f. & ef. 1-7-85; EFSC 4-1986, f. & ef. 9-5-86; EFSC 1-1993, f. & cert. ef. 1-15-93; Renumbered from 345-026-0035, 345-026-0040, 345-026-0130, 345-026-0180; 345-079-0011, 345-100-0011, 345-111-0010, 345-115-0040, 345-125-0060 & 345-125-0065; EFSC 5-1994, f. & cert. f. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-027-0023

Site-Specific Conditions

The Council may include the following conditions, as appropriate, in the site certificate:

(1) If the facility uses coal, the certificate holder shall take all necessary steps to ensure that surface and groundwater are not contaminated by run off or seepage associated with coal or ash storage, transport or disposal. The certificate holder shall handle coal and ash so as to minimize the likelihood of coal dust and ash being windblown and causing an environmental or public health problem. If the certificate holder permanently disposes of ash on the facility site, the certificate holder shall cover the ash with a layer of topsoil and revegetate the area.

(2) If the energy facility or related or supporting facility is a natural gas pipeline, the certificate holder shall submit to the Department copies of all incident reports involving the pipeline required under 49 CFR §191.15.

(3) If the facility includes any pipeline under Council jurisdiction:

(a) The certificate holder shall design, construct and operate the pipeline in accordance with the requirements of the U.S. Department of Transportation as set forth in Title 49, Code of Federal Regulations, Part 192, in effect as of the date of this rule; and

(b) The certificate holder shall develop and implement a program using the best available practicable technology to monitor the proposed pipeline to ensure protection of public health and safety.

(4) If the facility includes any transmission line under Council jurisdiction:

(a) The certificate holder shall design, construct and operate the transmission line in accordance with the requirements of the National Electrical Safety Code (American National Standards Institute, Section C2, 1997 Edition); and

(b) The certificate holder shall develop and implement a program that provides reasonable assurance that all fences, gates, cattle guards, trailers, or other objects or structures of a permanent nature that could become inadvertently charged with electricity are grounded or bonded throughout the life of the line.

(5) If the proposed energy facility is a pipeline or a transmission line or has, as a related or supporting facility, a pipeline or transmission line, the Council shall specify an approved corridor in the site certificate and shall allow the certificate holder to construct the pipeline or transmission line anywhere within the corridor, subject to the conditions of the site certificate. If the applicant has analyzed more than one corridor in its application for a site certificate, the Council may, subject to the Council's standards, approve more than one corridor.

(6) If the facility is a surface facility related to an underground gas storage reservoir, the Council shall, in the site certificate, specify the site boundary and total permitted daily throughput of the facility.

(7) If the facility is subject to a carbon dioxide emissions standard adopted by the Council or enacted by statute, the Council shall include in the site certificate appropriate conditions as described in OAR 345-024-0550, 345-024-0560, 345-024-0590, 345-024-0600, 345-024-0620, 345-024-0630 and 345-024-0710.

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

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.401, 469.501 & 469.503

Hist.: EFSC 5-1994, f. & cert. f. 11-30-94; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2003, f. & cert. ef. 9-3-03; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-027-0028

Monitoring Conditions

In the site certificate, the Council shall include conditions that address monitoring and mitigation to ensure compliance with the standards contained in OAR Chapter 345, Division 22 and Division 24. The site certificate applicant, or for an amendment, the certificate holder, shall develop proposed monitoring and mitigation plans in consultation with the Department and, as appropriate, other state agencies, local governments and tribes. Monitoring and mitigation plans are subject to Council approval. The Council shall incorporate approved monitoring and mitigation plans in applicable site certificate conditions.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.401, 469.501, 469.503 & 469.507

Hist.: EFSC 5-1994, f. & cert. f. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-027-0030

Amendment to Extend Construction Beginning and Completion Deadlines

(1) The certificate holder may request an amendment to extend the deadlines for beginning or completing construction of the facility that the Council has specified in a site certificate or an amended site certificate. The certificate holder shall submit a request that includes an explanation of the need for an extension and that conforms to the requirements of 345-027-

ADMINISTRATIVE RULES

0060 no later than six months before the date of the applicable deadline, or, if the certificate holder demonstrates good cause for the delay in submitting the request, no later than the applicable deadline.

(2) A request within the time allowed in section (1) to extend the deadlines for beginning or completing construction suspends those deadlines until the Council acts on the request.

(3) The Council shall review the request for amendment as described in OAR 345-027-0070.

(4) If the Council grants an amendment under this rule, the Council shall specify new deadlines for beginning or completing construction that are not more than two years from the deadlines in effect before the Council grants the amendment.

(5) To grant an amendment extending the deadline for beginning or completing construction of an energy facility subject to OAR 345 024 0550, 345 024 0590, or 345 024 0620, the Council must find that the facility complies with the carbon dioxide standard in effect at the time of the Council's order on the amendment.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.370, 469.405 & 469.503

Hist.: EFSC 1-1993, f. & cert. ef. 1-15-93; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-027-0050

When an Amendment is Required

(1) Except as allowed under sections (2) and (6), the certificate holder must submit a request to amend the site certificate to design, construct or operate a facility in a manner different from the description in the site certificate if the proposed change:

(a) Could result in a significant adverse impact that the Council has not addressed in an earlier order and the impact affects a resource protected by Council standards;

(b) Could impair the certificate holder's ability to comply with a site certificate condition; or

(c) Could require a new condition or a change to a condition in the site certificate.

(2) A site certificate amendment is not required if a proposed change in the design, construction or operation of a facility is in substantial compliance with the terms and conditions of the site certificate and is a change:

(a) To an electrical generation facility that would increase the electrical generating capacity and would not increase the number of electric generators at the site, change fuel type, increase fuel consumption by more than 10 percent or enlarge the facility site;

(b) To the number or location of pipelines for a surface facility related to an underground gas storage reservoir that would not result in the facility exceeding permitted daily throughput or enlarge the facility site;

(c) To the number, size or location of pipelines for a geothermal energy facility that would not enlarge the facility site;

(d) To a pipeline or transmission line that is a related or supporting facility that would extend or modify the pipeline or transmission line or expand the right-of-way, when the change is to serve customers other than the energy facility; or

(e) To an aspect or feature of the facility, operating procedures or management structures not addressed in the site certificate.

(3) If the certificate holder concludes that a proposed change does not require a site certificate amendment under section (1), the certificate holder shall, nevertheless, complete an investigation sufficient to demonstrate that the proposed change in the design, construction or operation of the facility would comply with applicable Council standards. The certificate holder shall complete the investigation before implementing the proposed change. The certificate holder shall prepare a written evaluation describing the investigation and shall make the evaluation available to the Department for inspection at any time.

(4) In the annual reports and semiannual construction progress reports required by OAR 345-026-0080, the certificate holder shall describe all significant changes made during the reporting period to the design, construction and operation of the facility without an amendment of the site certificate. The certificate holder shall keep a written record of the basis for concluding that an amendment of the site certificate was not required. The Department, at any time, may inspect the changes made to the facility and may inspect the certificate holder's written record of the basis for concluding that an amendment of the site certificate was not required.

(5) A certificate holder may submit a change request in writing to the Department for a determination whether a proposed change requires a site certificate amendment. In the change request, the certificate holder must describe the proposed change, explain the basis for the certificate holder's conclusion that an amendment is not required under section (1), and pro-

vide the written evaluation described in section (3). The Department shall respond in writing as promptly as possible. The Department may refer its determination to the Council for concurrence, modification or rejection. At the request of the certificate holder or a Council member, the Department must refer its determination to the Council for concurrence, modification or rejection.

(6) A site certificate amendment is not required for the construction of a pipeline less than 16 inches in diameter and less than five miles in length that is proposed to be constructed to test or maintain an underground gas storage reservoir. If the proposed pipeline would connect to a surface facility related to an underground gas storage reservoir for which the Council has issued a site certificate or to a gas pipeline for which the Council has issued a site certificate, the certificate holder must obtain, prior to construction, the approval of the Department for the construction, operation and retirement of the proposed pipeline. To obtain Department approval, the certificate holder shall submit a request as described in OAR 345-027-0210 through 345-027-0240.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.405

Hist.: EFSC 1-1993, f. & cert. ef. 1-15-93; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 3-1995, f. & cert. ef. 11-16-95; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-027-0060

Request to Amend Certificate

(1) To request an amendment of a site certificate, the certificate holder shall submit a written request to the Department of Energy that includes the information described in section (2) and the following:

(a) The name and mailing address of the certificate holder and the name, mailing address, email address and phone number of the individual responsible for submitting the request.

(b) A description of the facility including its location and other information relevant to the proposed change.

(c) A detailed description of the proposed change and the certificate holder's analysis of the proposed change under the criteria of OAR 345-027-0050(1).

(d) The specific language of the site certificate, including affected conditions, that the certificate holder proposes to change, add or delete by an amendment.

(e) A list of the Council standards relevant to the proposed change.

(f) An analysis of whether the facility, with the proposed change, would comply with the requirements of ORS Chapter 469, applicable Council rules, and applicable state and local laws, rules and ordinances if the Council amends the site certificate as requested. For the purpose of this rule, a law, rule or ordinance is "applicable" if the Council would apply or consider the law, rule or ordinance under OAR 345-027-0070(10).

(g) An updated list of the owners of property located within or adjacent to the site of the facility, as described in OAR 345-021-0010(1)(f).

(2) In a request to amend a site certificate, the certificate holder shall provide the information described in applicable subsections of OAR 345-021-0000 and OAR 345-021-0010. The certificate holder may incorporate by reference relevant information that the certificate holder has previously submitted to the Department or that is otherwise included in the Department's administrative record on the facility.

(3) Before submitting a request to amend a site certificate, the certificate holder may prepare a draft request and may confer with the Department about the content of the request. Although the Council does not require the certificate holder to prepare a draft request and confer with the Department, the Council recommends that the certificate holder follow this procedure.

(4) The certificate holder shall submit an original and two printed copies of the amendment request to the Department. Upon a request by the Department, the certificate holder must submit printed copies of the amendment request for members of the Council. In addition to the printed copies, the certificate holder shall submit the full amendment request in a non-copy-protected electronic format acceptable to the Department. The certificate holder shall provide additional copies of the amendment request to the Department upon request and copies or access to copies to any person requesting copies. If requested by the Department, the certificate holder shall send copies of the request to persons on a mailing list provided by the Department.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.405

Hist.: EFSC 1-1993, f. & cert. ef. 1-15-93; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

ADMINISTRATIVE RULES

345-027-0070

Review of a Request for Amendment

Except as specified in OAR 345-027-0080, the Council shall review a request for amendment of a site certificate as follows:

(1) Within 15 days after receiving a request to amend a site certificate, the Department of Energy shall determine whether the amendment requires extended review based on the criteria in section (2) and:

(a) Send copies of the request, or instruct the certificate holder to send copies of the request, to the reviewing agencies as defined in OAR 345-001-0010 and ask those agencies to comment on the request by a specified date;

(b) Send a notice of the amendment request to all persons on the Council's general mailing list as defined in OAR 345-011-0020, to any special list established for the facility and to the most recently received list of property owners or the updated list supplied by the certificate holder under OAR 345-027-0060(1)(g) and specify a date by which comments on the request are due; and

(c) Send a notice to the certificate holder specifying a date for issuance of a proposed order. The Department shall specify a date that is no later than 60 days after the date of the notice unless the Department has determined that the amendment requires extended review. For extended review, the Department shall explain the basis of its determination and specify a date that is not more than 180 days after the date of the notice. Within 10 days after the Department sends notification that an amendment requires extended review, the certificate holder may request Council review of the determination. Upon a request for Council review, the Department shall refer its determination to the Council for concurrence, modification or rejection.

(2) The Department may determine that an amendment requires extended review if:

(a) The certificate holder requests extended review;

(b) The Department finds that the amendment request does not contain the information required by OAR 345-027-0060 or does not contain information sufficient for the Department to prepare a proposed order;

(c) The Department needs to hire a consultant to assist in reviewing the request;

(d) The amendment:

(A) Would require construction on land zoned residential or exclusive farm use;

(B) Would require construction in a zone for which the use is not permitted;

(C) Would require construction on land that may qualify as Habitat Category 1 or 2 land as described in OAR 635-415-0025;

(D) Would result in incremental carbon dioxide emissions that the certificate holder elects to offset, in compliance with the applicable carbon dioxide emissions standard, by a means other than by payments described under OAR 345-024-0560(3), 345-024-0600(3) and (4) or 345-024-0630(2), (4) and (5); or

(E) Could require the Council to determine, according to OAR 345-022-0000(2), that the overall public benefits of the facility outweigh the damage to the resource that is protected by a standard the facility would not meet if the amendment is approved; or

(e) The Department anticipates a high volume of public comment.

(3) The Office may hold one or more public meetings during the review of a request for amendment of the site certificate.

(4) Except as otherwise provided in this section, no later than the date the Department has specified in the notice described in subsection (1)(c), the Department shall issue a proposed order, recommending approval, modification or disapproval of the requested amendment. If the Department needs additional time to prepare the proposed order, the Department may issue the proposed order at a later date, but the Department shall, no later than the date the Department has specified in the notice, notify the certificate holder in writing of the circumstances that justify the delay.

(5) After issuing the proposed order, the Department shall send a notice of the proposed order to the persons on the Council's general mailing list as defined in OAR 345-011-0020, to any special list established for the facility and to the most recently received list of property owners or the updated list supplied by the certificate holder under OAR 345-027-0060(1)(g). In the notice, the Department shall specify a deadline for submission of written public comments that is at least 30 days from the date of the notice.

(6) Any person may, by written request submitted to the Department no later than the deadline described in section (5), ask the Council to hold a contested case proceeding on the proposed order. For the purpose of this rule, the request is submitted when it is received by the Department. In the request, the person shall provide a description of the issues to be contested,

a statement of the facts believed to be at issue and the person's mailing address.

(7) To determine that an issue justifies a contested case proceeding under section (8), the Council must find that the request raises a significant issue of fact or law that may affect the Council's determination that the facility, with the change proposed by the amendment, meets an applicable standard. If the Council finds that the request would not affect the Council's determination if the alleged facts were found to be true but that those facts could affect a site certificate condition, the Council may deny the request and may adopt appropriate conditions. If the Council does not have jurisdiction over the issue raised in the request, the Council must deny the request.

(8) The Council shall determine whether any issue identified in a request for a contested case proceeding justifies a contested case proceeding, and:

(a) If the Council finds that the request identifies one or more issues that justify a contested case proceeding, the Council shall conduct a contested case proceeding according to the applicable provisions of OAR 345-015-0012 to 345-015-0085 limited to the issues that the Council found sufficient to justify the proceeding.

(b) If the Council finds that the request identifies one or more issues that an amendment of the proposed order would settle in a manner satisfactory to the Council, the Council may deny the request as to those issues and direct the Department to amend the proposed order and send a notice of the amended proposed order to the persons described in section (5). Any person may, by written request submitted to the Department within 30 days after the Department issues the notice of the amended proposed order, ask the Council to hold a contested case proceeding limited to issues raised by the amendment to the proposed order. For the purpose of this rule, the request is submitted when it is received by the Department. In the request, the person shall provide a description of the issues to be contested, a statement of the facts believed to be at issue and the person's mailing address. As described in this section, the Council shall determine whether any issue identified in the request for a contested case proceeding justifies a contested case proceeding.

(c) If the Council finds that the request does not identify any issue that justifies a contested case proceeding, the Council shall deny the request. In a written order denying the request, the Council shall state the basis for the denial. The Council shall then adopt, modify or reject the proposed order based on the considerations described in section (10). In a written order, the Council shall either grant or deny issuance of an amended site certificate. If the Council grants issuance of an amended site certificate, the Council shall issue an amended site certificate, which is effective upon execution by the Council Chair and by the applicant.

(9) If there is no request for a contested case proceeding as described in section (6) or subsection (8)(b), the Council, may adopt, modify or reject the proposed order based on the considerations described in section (10). In a written order, the Council shall either grant or deny issuance of an amended site certificate. If the Council grants issuance of an amended site certificate, the Council shall issue an amended site certificate, which is effective upon execution by the Council Chair and by the applicant.

(10) In making a decision to grant or deny issuance of an amended site certificate, the Council shall apply the applicable substantive criteria, as described in OAR 345-022-0030, in effect on the date the certificate holder submitted the request for amendment and all other state statutes, administrative rules, and local government ordinances in effect on the date the Council makes its decision. The Council shall consider the following:

(a) For an amendment that would change the site boundary or the legal description of the site, the Council shall consider, for the area added to the site by the amendment, whether the facility complies with all Council standards;

(b) For an amendment that extends the deadlines for beginning or completing construction, the Council shall consider:

(A) Whether the Council has previously granted an extension of the deadline;

(B) Whether there has been any change of circumstances that affects a previous Council finding that was required for issuance of a site certificate or amended site certificate; and

(C) Whether the facility complies with all Council standards, except that the Council may choose not to apply a standard if the Council finds that:

(i) The certificate holder has spent more than 50 percent of the budgeted costs on construction of the facility;

(ii) The inability of the certificate holder to complete the construction of the facility by the deadline in effect before the amendment is the result

ADMINISTRATIVE RULES

of unforeseen circumstances that are outside the control of the certificate holder;

(iii) The standard, if applied, would result in an unreasonable financial burden on the certificate holder; and

(iv) The Council does not need to apply the standard to avoid a significant threat to the public health, safety or the environment;

(c) For any amendment not described above, the Council shall consider whether the amendment would affect any finding made by the Council in an earlier order.

(d) For all amendments, the Council shall consider whether the amount of the bond or letter of credit required under OAR 345-022-0050 is adequate.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.405

Hist.: EFSC 1-1993, f. & cert. ef. 1-15-93; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 2-2000, f. & cert. ef. 11-20-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-027-0080

Review of a Request by a Certificate Holder for Expedited Amendment

(1) A certificate holder may ask the Council Chair to grant expedited review of an amendment request. The certificate holder shall submit a request for expedited review to the Department of Energy in writing and, in addition, the certificate holder shall submit the full amendment request in a non-copy-protected electronic format acceptable to the Department. The certificate holder shall include in the request:

(a) The information listed in OAR 345-027-0060(1) and (2), and

(b) Reasons why the certificate holder needs expedited review of its request and an explanation of why the need for expedited review arose and could not have reasonably been foreseen by the certificate holder.

(2) The Chair may grant a request for expedited review if the Chair finds that a delay would unduly harm the certificate holder and if the facility, with the proposed change, would not likely result in a significant new adverse impact. If the Chair decides not to grant the request for expedited review, the Chair shall issue a written decision as soon as is reasonably practicable. In a written decision denying the request, the Chair shall give an explanation of the reasons for the denial.

(3) Within 7 days after the Chair grants expedited review, the Department shall:

(a) Send copies of the amendment request by mail or email to the reviewing agencies as defined in OAR 345-001-0010 and ask those agencies to comment on the request within not more than 21 days after the date of the notice.

(b) Send a notice of the amendment request by mail or email to all persons on the Council's general mailing list as defined in OAR 345-011-0020, to any special list established for the facility and to the updated property owner lists supplied by the certificate holder under OAR 345-027-0060(1)(g) specifying a date, not more than 21 days after the date of the notice, by which comments are due.

(c) Post an announcement of the amendment request on its website.

(4) Within 60 days after the Chair grants expedited review, the Department shall issue a proposed order, recommending approval, modification or disapproval of the requested amendment. If the Department recommends approval, the Department shall include in the proposed order any new or modified conditions it recommends and shall explain why expedited Council action was warranted.

(5) The Department shall send a notice of the proposed order by mail or email to the persons on the Council's general mailing list, to any special list established for the facility and to the updated property owner list supplied by the certificate holder under OAR 345-027-0060(1)(g). In addition, the Department shall post the notice on its website. In the notice, the Department shall include information on the availability of the proposed order, the date of the Council meeting when the Council will consider the proposed order and issue a temporary order as described in section (5), a date by which comments on the proposed order are due and the deadline for any person to request a contested case proceeding on the Council's temporary order.

(6) After considering the proposed order, the Council may issue an order temporarily amending the site certificate. In making a decision whether to issue a temporary order under this rule, the Council shall consider the factors listed in OAR 345-027-0070(10). The Council shall apply the applicable substantive criteria, as described in OAR 345-022-0030, in effect on the date the certificate holder submitted the request for amendment and all other state statutes, administrative rules, and local government ordinances in effect on the date the Council issues the temporary order.

(7) Before implementing any change approved by the Council's temporary order, the certificate holder must submit an authorized acknowledgement that the certificate holder accepts all terms and conditions of the temporary order. The acknowledgement may be submitted to the Department by fax or email if the certificate holder promptly submits a signed original to the Department by mail or hand delivery.

(8) Any person may, by written request submitted to the Department within 15 days after the date the Council issues the temporary order described in section (5), ask the Council to hold a contested case proceeding on the temporary order. For the purpose of this rule, the request is submitted when it is received by the Department. In the request, the person shall provide a description of the issues to be contested, a statement of the facts believed to be at issue and the person's mailing address and email address.

(9) The Council shall determine whether any issue identified in a request for a contested case proceeding justifies a contested case proceeding.

(a) If the Council finds that the request identifies one or more issues that justify a contested case proceeding, the Council shall conduct a contested case proceeding according to the applicable provisions of OAR 345-015-0012 to OAR 345-015-0085 limited to the issues that the Council found sufficient to justify the proceeding.

(b) If the Council finds that the request does not identify any issue that justifies a contested case proceeding, the Council shall deny the request. In a written order denying the request, the Council shall state the basis for the denial. The Council shall adopt the temporary order as a final order. In the final order, the Council may modify the language of the temporary order, consistent with due process. In the final order, the Council shall either grant or deny issuance of an amended site certificate. If the Council grants issuance of an amended site certificate, the Council shall issue an amended site certificate, which is effective upon execution by the Council Chair and by the applicant.

(10) If there is no request for a contested case proceeding as described in section (8), the Council shall adopt the temporary order as a final order. In the final order, the Council may modify the language of the temporary order, consistent with due process. In the final order, the Council shall either grant or deny issuance of an amended site certificate. If the Council grants issuance of an amended site certificate, the Council shall issue an amended site certificate, which is effective upon execution by the Council Chair and by the applicant.

(11) The certificate holder shall not abuse this rule by failing to make timely application for an amendment and thus creating the need for expedited review.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.405

Hist.: EFSC 1-1993, f. & cert. ef. 1-15-93; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-027-0090

Request by Any Person for Amendment to Apply Subsequent Laws or Rules

(1) Any person may submit to the Department of Energy a request for an amendment of a site certificate to apply a local government ordinance, statute or Council rule adopted after the date the site certificate was executed. The Department itself may initiate such a request.

(2) In an amendment request under this rule, the person shall include the following:

(a) The name, mailing address, email address and telephone number of the person submitting the request;

(b) The name and address of the certificate holder;

(c) Identification of the facility for which the site certificate in question was granted and its location;

(d) Identification of the local government ordinance, statute or Council rule that the person seeks to apply to the facility;

(e) The particular facts that the person believes demonstrate that failure to apply the ordinance, statute or rule identified in subsection (d) presents a significant threat to the public health or safety or to the environment; and

(f) The specific language of the site certificate that the person proposes to change, delete or add by an amendment.

(3) If the Department receives a request to amend a site certificate as described in this rule from any person other than the certificate holder, the Department shall send a copy of the request to the certificate holder with a notice stating the date by which the certificate holder must submit a response.

ADMINISTRATIVE RULES

(4) The Council shall review the request for amendment as described in OAR 345-027-0070, except that:

(a) After receiving the certificate holder's response as requested under (3), the Department may ask the Council to determine whether the request demonstrates that failure to apply the ordinance, statute or rule identified in subsection (2)(d) presents a significant threat to the public health or safety or to the environment. If the Council determines that applying the ordinance, statute or rule is not justified by a significant threat to the public health or safety or to the environment, then the Council may deny the amendment request.

(b) Within 15 days after receiving the certificate holder's response as requested under (3) or within 15 days after a Council determination under (a) that applying the ordinance, statute or rule is justified by a significant threat to the public health or safety or to the environment, the Department shall determine whether the amendment request requires expedited review, based on the criteria in OAR 345-027-0070(2), and shall send the notices described in OAR 345-027-0070(1)(a), (b) and (d).

(c) If the Department recommends approval or modification of the requested amendment, the Department shall include in the proposed order described in OAR 345-027-0070(4) any new or modified site certificate conditions necessary to assure compliance with the statutes, Council rules, and local government ordinances applied to the facility under the proposed order;

(d) If the Department in its proposed order recommends approval or modification of the requested amendment, the certificate holder may, by written request submitted to the Department within 30 days after the Department issues the proposed order, ask the Council to hold a contested case proceeding on the proposed order. For the purpose of this rule, the request is submitted when it is received by the Department. In the request, the certificate holder shall provide a description of the issues to be contested and a statement of the facts believed to be at issue. If the site certificate holder requests a contested case proceeding, the Council shall conduct a contested case proceeding according to the applicable provisions of OAR 345-015-0012 to 345-015-0085 limited to the issues stated by the certificate holder; and

(e) The Council shall include new conditions in a site certificate amended under this rule only if the certificate holder agrees to the new conditions or the Council finds that the conditions are necessary based upon a clear showing of a significant threat to the public health, safety or the environment.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.401 & 469.405

Hist.: EFSC 1-1993, f. & cert. ef. 1-15-93; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-027-0100

Transfer of a Site Certificate

(1) For the purpose of this rule:

(a) A transfer of ownership requires a transfer of the site certificate when the person who will have the legal right to possession and control of the site or the facility does not have authority under the site certificate to construct, operate or retire the facility;

(b) "Transferee" means the person who will become the new applicant and site certificate holder.

(2) When a certificate holder has knowledge that any transfer of ownership of the facility that requires a transfer of the site certificate is or may be pending, the certificate holder shall notify the Department of Energy. In the notice, the certificate holder shall include, if known, the name, mailing address and telephone number of the transferee and the date of the transfer of ownership. If possible, the certificate holder shall notify the Department at least 60 days before the date of the transfer of ownership.

(3) The transferee is not allowed to construct or operate the facility until an amended site certificate as described in section (10) or a temporary amended site certificate as described in section (11) becomes effective.

(4) To request a transfer of the site certificate, the transferee shall submit a written request to the Department that includes the information described in OAR 345-021-0010(1)(a), (d), (f) and (m), a certification that the transferee agrees to abide by all terms and conditions of the site certificate currently in effect and, if known, the date of the transfer of ownership. If applicable, the transferee shall include in the request the information described in OAR 345-021-0010(1)(y)(O)(iv).

(5) The Department may require the transferee to submit a written statement from the current certificate holder, or a certified copy of an order or judgment of a court of competent jurisdiction, verifying the transferee's right, subject to the provisions of ORS Chapter 469 and the rules of this chapter, to possession of the site or the facility.

(6) Within 15 days after receiving a request to transfer a site certificate, the Department shall send a notice of the request by mail or email to the reviewing agencies as defined in OAR 345-001-0010, to all persons on the Council's general mailing list as defined in OAR 345-011-0020, to any special list established for the facility and to the updated property owner list submitted by the transferee under subsection (4). In the notice, the Department shall describe the transfer request, specify a date by which comments are due and state that the date of the Council's informational hearing will be announced on the Department's website.

(7) Before acting on the transfer request, the Council shall hold an informational hearing. The Council shall hold the informational hearing during a Council meeting and shall provide notice of the hearing on its meeting agenda, which will be sent by mail or email to the Council's general mailing list in advance of the meeting. The informational hearing is not a contested case hearing.

(8) At the conclusion of the informational hearing or at a later meeting, the Council may issue an order approving the transfer request if the Council finds that:

(a) The transferee complies with the standards described in OAR 345-022-0010, 345-022-0050 and, if applicable, OAR 345-024-0710(1); and

(b) The transferee is or will be lawfully entitled to possession or control of the site or the facility described in the site certificate.

(9) Except as described in section (12), the Council shall not otherwise change the terms and conditions of the site certificate in an order approving the transfer request.

(10) Upon issuing the order described in section (8), the Council shall issue an amended site certificate that names the transferee as the new certificate holder. The amended site certificate is effective upon execution by the Council chair and the transferee. The Council shall issue the amended site certificate in duplicate counterpart originals and each counterpart, upon signing, will have the same effect.

(11) If the Council chair determines that special circumstances justify emergency action, the Council chair may, upon a written request from the transferee that includes a showing that the transferee can meet the requirements of section (8), issue a temporary amended site certificate that names the transferee as the new certificate holder. The temporary amended site certificate is effective upon execution by the Council chair and the transferee. The temporary amended site certificate expires when an amended site certificate as described in section (10) becomes effective or as the Council otherwise orders.

(12) The Council may act concurrently on a request to transfer a site certificate and any other amendment request subject to the procedures described in this rule for the transfer request and:

(a) The procedures described in OAR 345-027-0030 for an amendment to extend construction beginning and completion deadlines.

(b) The procedures described in OAR 345-027-0090 for an amendment to apply subsequent laws or rules.

(c) The procedures described in OAR 345-027-0060 and 345-027-0070 for any amendment request not described in (a) or (b).

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.401 & 469.405

Hist.: EFSC 1-1993, f. & cert. ef. 1-15-93; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-027-0110

Termination of a Site Certificate

(1) A certificate holder may apply to the Council to terminate a site certificate at any time, subject to the requirements of this rule.

(2) A certificate holder must apply to the Council to terminate a site certificate within two years following cessation of construction or operation of the facility.

(3) If the certificate holder fails to apply to the Council to terminate the site certificate and the Council finds that the certificate holder has permanently ceased construction or operation of the facility, then the Council may terminate the site certificate according to the procedure described in OAR 345-027-0020(16).

(4) In an application for termination of the site certificate, the certificate holder shall include a proposed final retirement plan for the facility and site. The certificate holder shall submit an original and two printed copies of the application for termination and the proposed final retirement plan to the Department. Upon a request by the Department, the certificate holder must submit printed copies of the application for termination and the proposed final retirement plan for members of the Council. In addition to the printed copies, the certificate holder shall submit the full copies of the application for termination and the proposed final retirement plan in a non-copy-protected electronic format acceptable to the Department.

ADMINISTRATIVE RULES

(5) In the proposed final retirement plan, the certificate holder shall include:

(a) A plan for retirement that provides for completion of retirement without significant delay and that protects public health, safety and the environment.

(b) A description of actions the certificate holder proposes to take to restore the site to a useful, non-hazardous condition, including information on how impacts to fish, wildlife and the environment would be minimized during the retirement process.

(c) A current detailed cost estimate and a plan for ensuring the availability of adequate funds for completion of retirement.

(d) An updated list of the owners of property located within or adjacent to the site of the facility, as described in OAR 345-021-0010(1)(f).

(6) Within 15 days after receiving an application for termination of a site certificate, the Department of Energy shall:

(a) Send a notice of the application by mail or email to all persons on the Council's general mailing list as defined in OAR 345-011-0020, to any special list established for the facility and to the updated property owner list submitted by the certificate holder under subsection (5) specifying a date by which comments on the application are due.

(b) Send copies of the application for termination by mail or email to the reviewing agencies as defined in OAR 345-001-0010 and shall ask those agencies to comment by a specified date.

(c) Post an announcement of the application for termination on the Department's website.

(7) The Council shall review the proposed final retirement plan and shall consider any comments received from the public and the reviewing agencies. The Council may approve the proposed final retirement plan or modify the plan to comply with the rules of this chapter and applicable conditions in the site certificate. The Council shall issue an order authorizing retirement according to the approved or modified final retirement plan and subject to any conditions the Council finds appropriate. The Council's order may be appealed as described in ORS 183.480.

(8) When the Council finds that the certificate holder has completed the retirement of the facility according to the Council's order authorizing retirement, the Council shall issue an order terminating the site certificate.

(9) When the Council finds that the site certificate has expired as described in OAR 345-027-0000, the Council shall issue an order terminating the site certificate.

Stat. Auth.: ORS 469.470

Stats. Implemented: ORS 469.405 & 469.501

Hist.: EFSC 1-1993, f. & cert. ef. 1-15-93; EFSC 5-1994, f. & cert. ef. 11-30-94; EFSC 2-1999, f. & cert. ef. 4-14-99; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2003, f. & cert. ef. 9-3-03; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-027-0210

General

(1) A person shall not construct a gas storage testing pipeline unless the certificate holder of the Council certified facility to which the pipeline would connect obtains, before construction, the approval of the Department of Energy for the construction, operation and retirement of the proposed pipeline as required under ORS 469.405(3).

(2) For the purposes of OAR 345-027-0210 through OAR 345-027-0240:

(a) "Gas storage testing pipeline" means a pipeline, but not a temporary pipeline, that is less than 16 inches in diameter and less than five miles in length, that is used to test or maintain an underground gas storage reservoir and that would connect to a Council certified facility if the storage reservoir proves feasible for operational use;

(b) "Temporary pipeline" means a pipeline that has no potential for operational use;

(c) "Council certified facility" means an energy facility for which the Council has issued a site certificate that is either a surface facility related to an underground gas storage reservoir or a gas pipeline;

(d) "Connect" means join for the purpose of operational use;

(e) "Test or maintain" means transporting gas to an underground gas storage reservoir for the purposes of determining whether the reservoir is feasible for operational use or maintaining the gas storage capacity of the reservoir but does not include operational use;

(f) "Operational use" means transporting gas to an underground gas storage reservoir for the purpose of storing gas until it is needed for sale or for withdrawing gas from an underground gas storage reservoir for the purpose of sale;

(g) "Council substantive standards" means the following standards:

(A) Structural Standard, OAR 345-022-0020;

(B) Soil Protection, OAR 345-022-0022;

(C) Protected Areas, OAR 345-022-0040(1) but excluding (2) and (3);

(D) Retirement and Financial Assurance, OAR 345-022-0050;

(E) Fish and Wildlife Habitat, OAR 345-022-0060;

(F) Threatened and Endangered Species, OAR 345-022-0070

(G) Scenic Resources, OAR 345-022-0080;

(H) Historic, Cultural and Archaeological Resources, OAR 345-022-0090;

(I) Recreation, 345-022-0100;

(J) Public Services, OAR 345-022-0110;

(K) Waste Minimization, OAR 345-022-0120; and

(L) Public Health and Safety, OAR 345-024-0030(2), (3) and (4);

(h) "Information requirements" means information that would support the findings described in OAR 345-024-0030(2) and the information described in OAR 345-021-0010(1)(h), (i), (j), (L), (m), (p), (q), (r), (s), (t), (u), (v), and (w).

Stat. Auth.: ORS 469.405

Stats. Implemented: ORS 469.405

Hist.: EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

345-027-0220

Request for Approval

(1) Before submitting a request for approval to construct, operate and retire a gas storage testing pipeline, the certificate holder shall:

(a) Inform the Department of Energy of the proposed pipeline, including its diameter, length, location, capacity and maximum operating pressure; and

(b) Provide to the Department a map showing the location of the proposed pipeline.

(2) After receiving the information described in section (1), the Department shall confer with the certificate holder about the Council substantive standards and information requirements that might apply to the proposed pipeline and any extraordinary circumstances that might affect the time requirements for completing the approval process. Within 7 days after conferring with the certificate holder, the Department shall send a letter to the certificate holder that includes the following:

(a) Identification of the Council substantive standards that are applicable to the request for approval of the proposed pipeline;

(b) Identification of the information requirements that are applicable to the request for approval of the proposed pipeline;

(c) The time requirements for the approval process, if different from the time requirements described in OAR 345-027-0230.

(3) The certificate holder shall submit to the Department a written request for approval to construct, operate and retire a gas storage testing pipeline with the fee required by the fee schedule established under ORS 469.441. The certificate holder shall submit the original and two paper copies of the request to the Department. The certificate holder shall provide additional copies to the Department upon request and copies or access to copies to any person requesting copies. In addition to the printed copies of the request for approval, the certificate holder shall submit the full request in a non-copy-protected electronic format acceptable to the Department.

(4) In a request for approval, the certificate holder shall include:

(a) The name and mailing address of the certificate holder and the name, mailing address, email address and phone number of the individual responsible for submitting the request;

(b) A description of the purpose and operation of the proposed pipeline and a discussion of whether the use of the gas storage testing pipeline for reservoir testing or maintenance will require an increase in the compression available in the Council certified facility to which the proposed pipeline would connect in addition to the compression that is permitted under the site certificate;

(c) Identification of the Council certified facility to which the proposed pipeline would connect;

(d) A description of the proposed pipeline, including its diameter, length, location, capacity and maximum operating pressure;

(e) A map showing the location of the proposed pipeline;

(f) A list of the names and mailing addresses of all owners of record, as shown on the most recent property tax assessment role, of property where the proposed pipeline is located and within 500 feet of the location of the proposed pipeline;

(g) The information that the Department has identified in the letter described in section (2); and

(h) Any other information that the Department requests as needed to make the findings described in the applicable standards.

Stat. Auth.: ORS 469.405

Stats. Implemented: ORS 469.405, 469.421 & 469.441

Hist.: EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

ADMINISTRATIVE RULES

345-027-0230

Review of a Request for Approval

(1) Within 7 days after receiving a request for approval to construct, operate and retire a gas storage testing pipeline, the Department of Energy shall:

(a) Send copies of the request by mail, email or any other form of electronic delivery to the following agencies with a notice asking the agencies to submit written comments on the request within 14 days from the date of the notice:

- (A) Oregon Department of Fish and Wildlife;
- (B) Oregon Department of Geology and Mineral Industries;
- (C) Oregon Public Utility Commission;
- (D) Oregon Department of Agriculture;
- (E) Division of State Lands; and
- (F) State Historic Preservation Office.

(b) Send a notice of the request, including a map showing the location of the proposed pipeline, by mail, email or any other form of electronic delivery to the following stating that the agencies and planning authority may submit written comments on the request within 14 days from the date of the notice:

- (A) Oregon Department of Forestry;
- (B) Oregon Department of Environmental Quality; and
- (C) The planning authority of the county or counties where the proposed pipeline is located

(c) Send a notice of the request, including a map showing the location of the proposed pipeline, by mail or email to the property owners the certificate holder has listed in the request stating that property owners may submit written comments on the request within 14 days from the date of the notice.

(d) Post an announcement of the request on the Department's website.

(2) Within 21 days from the deadline for comments described in section (1) or such longer period as the Department has specified in the letter described in OAR 345-027-0220(2), the Department shall issue a final order stating its findings on the applicable Council substantive standards and its approval or disapproval of the request. In an order approving a request, the Department shall include conditions that the Department finds necessary to ensure compliance with the applicable standards and conditions required by OAR 345-027-0240.

(3) The Department shall send a notice of the final order to the certificate holder, to the property owners the certificate holder listed in the request and to any person who commented on the request. In the notice, the Department shall state that judicial review of the order is as provided in ORS 469.403.

(4) The Department may amend an order approving the construction, operation and retirement of a gas storage testing pipeline.

(5) Notwithstanding ORS 469.503(3), the Department shall not review the proposed pipeline for compliance with other state standards.

(6) Notwithstanding ORS 469.401(3), the approval of a gas storage testing pipeline by the Department does not bind any state or local agency.

Stat. Auth.: ORS 469.405
Stats. Implemented: ORS 469.405 & 469.992
Hist.: EFSC 1-2000, f. & cert. ef. 2-2-00; EFSC 1-2002, f. & cert. ef. 4-3-02; EFSC 1-2007, f. & cert. ef. 5-15-07; EFSC 1-2012, f. & cert. ef. 5-15-12

Department of Fish and Wildlife Chapter 635

Rule Caption: Open Spring Chinook Sport Fishery On the Snake River Below Hells Canyon Dam.

Adm. Order No.: DFW 35-2012(Temp)

Filed with Sec. of State: 4-16-2012

Certified to be Effective: 4-22-12 thru 9-30-12

Notice Publication Date:

Rules Amended: 635-023-0134

Subject: Amended rule opens a spring Chinook fishery from Dug Bar Boat Ramp upstream to the deadline below Hells Canyon Dam on the Snake River beginning on April 22, 2012 to coincide with the State of Idaho's regulations for this fishery.

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

635-023-0134

Snake River Fishery

(1) The 2012 Oregon Sport Fishing Regulations provide requirements for the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any

inconsistency, they supersede the 2012 Oregon Sport Fishing Regulations.

(2) Notwithstanding, all other specifications and restrictions as outlined in the 2012 Oregon Sport Fishing Regulations, the following conditions apply:

(a) The Snake River from Dug Bar boat ramp upstream to the deadline below Hell's Canyon Dam is open seven (7) days per week, effective Sunday, April 22, 2012 until further notice.

(b) Daily bag limit is four (4) adipose fin-clipped spring Chinook salmon per day, of which no more than two (2) can be adults in excess of 24 inches in length. Anglers must cease fishing for salmon for the day when either four (4) salmon or two (2) adult salmon have been retained, whichever comes first.

(c) Barbless hooks are required.

Stat. Auth.: ORS 496.138, 496.146 & 506.119
Stats. Implemented: ORS 496.162 & 506.129
Hist.: DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 47-2005(Temp), f. 5-19-05, cert. ef. 5-21-05 thru 6-20-05; Administrative correction 7-20-05; DFW 31-2006(Temp), f. 5-18-06, cert. ef. 5-20-06 thru 6-19-06; Administrative correction 7-21-06; DFW 31-2007(Temp), f. 5-9-07, cert. ef. 5-11-07 thru 6-18-07; DFW 43-2007(Temp), f. 6-14-07, cert. ef. 6-19-07 thru 7-2-07; Administrative correction 2-8-08; DFW 43-2008(Temp), f. 4-25-08, cert. ef. 4-26-08 thru 7-20-08; DFW 64-2008(Temp), f. 6-18-08, cert. ef. 6-21-08 thru 7-31-08; Administrative correction 8-21-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 58-2009(Temp), f. 5-27-09, cert. ef. 5-30-09 thru 7-12-09; DFW 80-2009(Temp), f. 6-30-09, cert. ef. 7-1-09 thru 7-17-09; Administrative correction 7-21-09; DFW 128-2009(Temp), f. 10-12-09, cert. ef. 10-18-09 thru 4-15-10; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 42-2010(Temp), f. 4-13-10, cert. ef. 4-24-10 thru 7-31-10; DFW 107-2010(Temp), f. 7-26-10, cert. ef. 7-31-10 thru 8-4-10; Administrative correction, 8-18-10; DFW 119-2010(Temp), f. 8-18-10, cert. ef. 9-1-10 thru 12-31-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 29-2011(Temp), f. 4-12-11, cert. ef. 4-23-11 thru 10-19-11; DFW 118-2011(Temp), f. 8-23-11, cert. ef. 9-1-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 35-2012(Temp), f. 4-16-12, cert. ef. 4-22-12 thru 9-30-12

Rule Caption: Commercial Gillnet Fishing Period In Youngs Bay Select Area for April 19th Amended.

Adm. Order No.: DFW 36-2012(Temp)

Filed with Sec. of State: 4-16-2012

Certified to be Effective: 4-19-12 thru 7-31-12

Notice Publication Date:

Rules Amended: 635-042-0145

Rules Suspended: 635-042-0145(T)

Subject: Rule amendments change a previously authorized commercial gillnet fishing period scheduled for 6:00 p.m. until midnight on April 19, 2012, in the Youngs Bay Select Area of the Columbia River to now begin at 4:00 p.m. and run until 9:00 p.m. on the same date. Modifications are consistent with the action taken April 16, 2012 by the State of Oregon.

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

635-042-0145

Youngs Bay Salmon Season

(1) Salmon, white sturgeon, and shad may be taken for commercial purposes in those waters of Youngs Bay.

(a) The 2012 open fishing periods are established in three segments categorized as the winter fishery, subsection (1)(a)(A); the spring fishery, subsection (1)(a)(B); and summer fishery, subsection (1)(a)(C), as follows:

(A) Winter Season: Entire Youngs Bay: Sundays, Tuesdays and Thursdays from February 12 through March 9 (12 days) starting at 12:00 noon through 6:00 a.m. the following morning (18 hours). Also, 6:00 p.m. until midnight Sunday March 11 (6 hours), 10:00 p.m. Thursday March 15 until 4:00 a.m. Friday March 16 (6 hours), 3:00 p.m. until 7:00 p.m. Sunday March 18 (4 hours), 5:00 p.m. until 9:00 p.m. Wednesday March 21 (4 hours); 8:00 a.m. until noon Sunday March 25 (4 hours); 10:00 a.m. until 2:00 p.m. Thursday March 29 (4 hours); 1:00 p.m. until 5:00 p.m. Sunday April 1 (4 hours); and 4:00 p.m. until 8:00 p.m. Thursday April 5 (4 hours).

(B) Spring Season: Entire Youngs Bay: 4:00 p.m. to 9:00 p.m. Thursday, April 19 (5 hours); 6:00 p.m. Tuesday April 24 to 6:00 a.m. Wednesday April 25 (12 hours); 6:00 p.m. Thursday April 26 to 6:00 a.m. Friday April 27 (12 hours); Sundays, Tuesdays, and Thursdays from 6:00 p.m. until noon the following day (18 hours) beginning Sunday, April 29 through Friday, May 11 and Mondays at noon through Fridays at noon (4 days), beginning Monday, May 14 through Friday, June 15 (20 days total).

(C) Summer Season: Entire Youngs Bay: 6:00 a.m. Wednesdays to 6:00 a.m. Fridays (48 hours) beginning Wednesday June 20 through Friday July 27 (12 fishing days).

(b) The fishing areas for the winter, spring and summer fisheries are: From February 12 through April 5 and from April 19 through July 27, the fishing area is identified as the waters of Youngs Bay from the Highway 101

ADMINISTRATIVE RULES

Bridge upstream to the upper boundary markers at the confluence of the Klaskanine and Youngs rivers; except for those waters which are closed southerly of the alternate Highway 101 Bridge (Lewis and Clark River).

(2) Gill nets may not exceed 1,500 feet (250 fathoms) in length and weight may not exceed two pounds per any fathom. A red cork must be placed on the corkline every 25 fathoms as measured from the first mesh of the net. Red corks at 25-fathom intervals must be in color contrast to the corks used in the remainder of the net.

(a) It is unlawful to use a gill net having a mesh size that is less than 7-inches during the winter season. It is unlawful to use a gill net having a mesh size that is more than 9.75-inches during the spring and summer seasons.

(b) The use of additional weights or anchors attached directly to the leadline is allowed upstream of markers located approximately 200 yards upstream of the mouth of the Walluski River during all Youngs Bay commercial fisheries.

(c) Nets not specifically authorized for use in these areas may be onboard a vessel if properly stored. A properly stored net is defined as a net on a drum that is fully covered by a tarp (canvas or plastic) and bound with a minimum of ten revolutions of rope with a diameter of 3/8 (0.375) inches or greater.

(3) A maximum of two white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fisheries are open. During the fishing periods identified in subsections (1)(a)(A), (1)(a)(B) and (1)(a)(C), the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 32-1979, f. & ef. 8-22-79; FWC 28-1980, f. & ef. 6-23-80; FWC 42-1980(Temp), f. & ef. 8-22-80; FWC 30-1981, f. & ef. 8-14-81; FWC 42-1981(Temp), f. & ef. 11-5-81; FWC 54-1982, f. & ef. 8-17-82; FWC 37-1983, f. & ef. 8-18-83; FWC 61-1983(Temp), f. & ef. 10-19-83; FWC 42-1984, f. & ef. 8-20-84; FWC 39-1985, f. & ef. 8-15-85; FWC 37-1986, f. & ef. 8-11-86; FWC 72-1986(Temp), f. & ef. 10-31-86; FWC 64-1987, f. & ef. 8-7-87; FWC 73-1988, f. & cert. ef. 8-19-88; FWC 55-1989(Temp), f. 8-7-89, cert. ef. 8-20-89; FWC 82-1990(Temp), f. 8-14-90, cert. ef. 8-19-90; FWC 86-1991, f. 8-7-91, cert. ef. 8-18-91; FWC 123-1991(Temp), f. & cert. ef. 10-21-91; FWC 30-1992(Temp), f. & cert. ef. 4-27-92; FWC 35-1992(Temp), f. & cert. ef. 5-22-92, cert. ef. 5-25-92; FWC 74-1992 (Temp), f. 8-10-92, cert. ef. 8-16-92; FWC 28-1993(Temp), f. & cert. ef. 4-26-93; FWC 48-1993, f. 8-6-93, cert. ef. 8-9-93; FWC 21-1994(Temp), f. 4-22-94, cert. ef. 4-25-94; FWC 51-1994, f. 8-19-94, cert. ef. 8-22-94; FWC 64-1994(Temp), f. 9-14-94, cert. ef. 9-15-94; FWC 66-1994(Temp), f. & cert. ef. 9-20-94; FWC 27-1995, f. 3-29-95, cert. ef. 4-1-95; FWC 48-1995(Temp), f. & cert. ef. 6-5-95; FWC 66-1995, f. 8-22-95, cert. ef. 8-27-95; FWC 69-1995, f. 8-25-95, cert. ef. 8-27-95; FWC 8-1995, f. 2-28-96, cert. ef. 3-1-96; FWC 37-1996(Temp), f. 6-11-96, cert. ef. 6-12-96; FWC 41-1996, f. & cert. ef. 8-12-96; FWC 45-1996(Temp), f. 8-16-96, cert. ef. 8-19-96; FWC 54-1996(Temp), f. & cert. ef. 9-23-96; FWC 4-1997, f. & cert. ef. 1-30-97; FWC 47-1997, f. & cert. ef. 8-15-97; FWC 8-1998(Temp), f. & cert. ef. 2-5-98 thru 2-28-98; FWC 14-1998, f. & cert. ef. 3-3-98; FWC 18-1998(Temp), f. 3-9-98, cert. ef. 3-11-98 thru 3-31-98; FWC 60-1998(Temp), f. & cert. ef. 8-7-98 thru 8-21-98; FWC 67-1998, f. & cert. ef. 8-24-98; FWC 10-1999, f. & cert. ef. 2-26-99; FWC 52-1999(Temp), f. & cert. ef. 8-2-99 thru 8-6-99; FWC 55-1999, f. & cert. ef. 8-12-99; FWC 9-2000, f. & cert. ef. 2-25-00; FWC 42-2000, f. & cert. ef. 8-3-00; FWC 3-2001, f. & cert. ef. 2-6-01; FWC 66-2001(Temp), f. 8-2-01, cert. ef. 8-6-01 thru 8-14-01; FWC 76-2001(Temp), f. & cert. ef. 8-20-01 thru 10-31-01; FWC 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; FWC 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; FWC 82-2002(Temp), f. 8-5-02, cert. ef. 8-7-02 thru 9-1-02; FWC 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; FWC 12-2003, f. & cert. ef. 2-14-03; FWC 17-2003(Temp), f. 2-27-03, cert. ef. 3-1-03 thru 8-1-03; FWC 32-2003(Temp), f. & cert. ef. 4-23-03 thru 8-1-03; FWC 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; FWC 36-2003(Temp), f. 4-30-03, cert. ef. 5-1-03 thru 10-1-03; FWC 37-2003(Temp), f. & cert. ef. 7-3-03 thru 10-1-03; FWC 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; FWC 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; FWC 11-2004, f. & cert. ef. 2-13-04; FWC 19-2004(Temp), f. & cert. ef. 3-12-04 thru 3-31-04; FWC 22-2004(Temp), f. & cert. ef. 3-18-04 thru 3-31-04; FWC 28-2004(Temp), f. 4-8-04, cert. ef. 4-12-04 thru 4-15-04; FWC 39-2004(Temp), f. 5-5-04, cert. ef. 5-6-04 thru 7-31-04; FWC 44-2004(Temp), f. 5-17-04, cert. ef. 5-20-04 thru 7-31-04; FWC 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; FWC 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; FWC 6-2005, f. & cert. ef. 2-14-05; FWC 15-2005(Temp), f. & cert. ef. 3-10-05 thru 7-31-05; FWC 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; FWC 27-2005(Temp), f. & cert. ef. 4-20-05 thru 6-15-05; FWC 28-2005(Temp), f. & cert. ef. 4-28-05 thru 6-16-05; FWC 37-2005(Temp), f. & cert. ef. 5-5-05 thru 10-16-05; FWC 40-2005(Temp), f. & cert. ef. 5-10-05 thru 10-16-05; FWC 46-2005(Temp), f. 5-17-05, cert. ef. 5-18-05 thru 10-16-05; FWC 73-2005(Temp), f. 7-8-05, cert. ef. 7-11-05 thru 7-31-05; FWC 77-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 7-31-05; FWC 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; FWC 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; FWC 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; FWC 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; FWC 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; FWC 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; FWC 5-2006, f. & cert. ef. 2-15-06; FWC 14-2006(Temp), f. 3-15-06, cert. ef. 3-16-06 thru 7-27-06; FWC 15-2006(Temp), f. & cert. ef. 3-23-06 thru 7-27-06; FWC 17-2006(Temp), f. 3-29-06, cert. ef. 3-30-06 thru 7-27-06; FWC 29-2006(Temp), f. & cert. ef. 5-16-06 thru 7-31-06; FWC 32-2006(Temp), f. & cert. ef. 5-23-06 thru 7-31-06; FWC 35-2006(Temp), f. & cert. ef. 5-30-06 thru 7-31-06; FWC 52-2006(Temp), f. & cert. ef. 6-28-06 thru 7-27-06; FWC 73-2006(Temp), f. 8-1-06, cert. ef. 8-2-06 thru 12-31-06; FWC 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; FWC 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; FWC 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; FWC 9-2007, f. & cert. ef. 2-14-07; FWC 13-2007(Temp), f. & cert. ef. 3-6-07 thru 9-1-07; FWC 16-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; FWC 25-2007(Temp), f. 4-17-07, cert. ef. 4-18-07 thru 7-26-07; FWC 45-2007(Temp), f. 6-15-07, cert. ef. 6-25-07 thru 7-31-07; FWC 50-2007(Temp), f. 6-29-07, cert. ef. 7-4-07 thru 7-31-07; FWC 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; FWC 108-2007(Temp), f. 10-12-07,

cert. ef. 10-14-07 thru 12-31-07; Administrative correction 1-24-08; FWC 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; FWC 16-2008(Temp), f. 2-26-08, cert. ef. 3-2-08 thru 8-28-08; FWC 30-2008(Temp), f. 3-27-08, cert. ef. 3-30-08 thru 8-28-08; FWC 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; FWC 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; FWC 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; FWC 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; FWC 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; FWC 24-2009(Temp), f. 3-10-09, cert. ef. 3-11-09 thru 7-31-09; FWC 49-2009(Temp), f. 5-14-09, cert. ef. 5-17-09 thru 7-31-09; FWC 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; FWC 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; FWC 17-2010(Temp), f. & cert. ef. 2-22-10 thru 7-31-10; FWC 20-2010(Temp), f. & cert. ef. 2-26-10 thru 7-31-10; FWC 30-2010(Temp), f. 3-11-10, cert. ef. 3-14-10 thru 7-31-10; FWC 35-2010(Temp), f. 3-23-10, cert. ef. 3-24-10 thru 7-31-10; FWC 40-2010(Temp), f. & cert. ef. 4-1-10 thru 7-31-10; FWC 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; FWC 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; FWC 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; FWC 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; FWC 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; FWC 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; FWC 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; FWC 23-2011, f. & cert. ef. 3-21-11; FWC 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; FWC 35-2011(Temp), f. & cert. ef. 4-28-11 thru 7-29-11; FWC 46-2011(Temp), f. & cert. ef. 5-12-11 thru 7-29-11; FWC 52-2011(Temp), f. & cert. ef. 5-18-11 thru 7-29-11; FWC 76-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 7-29-11; FWC 106-2011(Temp), f. 8-2-11, cert. ef. 8-3-11 thru 10-31-11; FWC 121-2011(Temp), f. 8-29-11, cert. ef. 9-5-11 thru 10-31-11; Administrative correction, 11-18-11; FWC 12-2012(Temp), f. 2-8-12, cert. ef. 2-12-12 thru 7-31-12; FWC 24-2012(Temp), f. 3-15-12, cert. ef. 3-18-12 thru 7-31-12; FWC 26-2012(Temp), f. 3-20-12, cert. ef. 3-21-12 thru 7-31-12; FWC 27-2012(Temp), f. 3-27-12, cert. ef. 3-29-12 thru 7-31-12; DMAP 28-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-31-12; DMAP 30-2012(Temp), f. 4-4-12, cert. ef. 4-5-12 thru 7-31-12; FWC 36-2012(Temp), f. 4-16-12, cert. ef. 4-19-12 thru 7-31-12

Rule Caption: Amend Rules for Commercial Crab Fisheries.

Adm. Order No.: DFW 37-2012

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Rules Amended: 635-005-0045, 635-005-0055, 635-006-1010, 635-006-1015, 635-006-1065, 635-006-1095

Subject: These rule amendments increase the clarity and enforceability of Oregon's commercial Dungeness crab fishery regulations. The modifications will: (1) Require buoy tags on crab rings that are fished in the Pacific Ocean or Columbia River; (2) Allow crab permitted vessels to retain crab taken while recovering derelict gear; (3) Clarify that vessels must be either en route to or returning from participating in another state's crab fishery to qualify as a "transiting" vessel; and (4) Minimize the number of rule modifications needed in the temporary rule process when crab season openings are delayed in one or more fishing areas. Housekeeping and technical corrections to the regulations were made to ensure rule consistency.

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

635-005-0045

Closed Season in Pacific Ocean and Columbia River

(1) In addition to any closures described in Section 3, it is unlawful to take, land or possess Dungeness crab for commercial purposes from the Pacific Ocean or Columbia River from August 15 through November 30.

(2) It is unlawful to land or to receive, or to buy, Dungeness crab in the first thirty days of the ocean Dungeness crab fishery from a vessel that has not been certified by officials of the State of Oregon, Washington, or California to have been free of Dungeness crab before fishing in the ocean Dungeness crab fishery. Hold inspections shall begin the day prior to the opening of the ocean Dungeness crab fishery. In the event the area between Gray's Harbor, Washington and Point Arena, California is divided into zones with different season opening dates the ocean Dungeness crab fishery refers to the fishery in that zone for the purposes of this rule.

(3) Delay of Season Openings:

(a) The Northern Zone is bounded on the north by Gray's Harbor (at Oyehtut) and on the south by Cascade Head, Oregon: Upon a determination by the Department that pre-season sampling indicates the consistent presence of more than 50 percent Grade II and III (softshell) crab in the samples, the Director, in consultation with the Washington Department of Fish and Wildlife, may adopt a temporary rule delaying the opening date of the commercial crab season in all or part of the Northern Zone area until additional sampling indicates meat recovery is 23 percent or is projected to be 23 percent by the opening date.

(b) The Southern Zone is bounded on the north by Cascade Head and on the south by Point Arena: Upon a determination by the Department that pre-season sampling indicates meat recovery is projected to be less than 25 percent by December 1 in the Oregon portion of the Southern Zone, the Director shall delay the opening date of the commercial crab fishery in all

ADMINISTRATIVE RULES

or part of the Oregon portion of the zone for 15 days and re-open December 16.

(4) In the event the season in the Northern Zone or Southern Zone is delayed, the following applies:

(a) The Director shall adopt rules identifying the boundary between, or within, the Northern and Southern zones. The boundary between or within the zones shall take into account the existence of traditional fishing patterns;

(b) If the opening date for a season is delayed for either zone, or part of a zone, fishers electing to fish in a zone or part of a zone with a December 1 opening date may not fish in an area with the delayed opening date within the first 30 days of the delayed opening date;

(c) For the first 30 days of a fishing zone season, vessels electing to fish a zone shall be certified by officials of the State of Oregon, Washington or California to have been free of Dungeness crab on the day immediately prior to the opening day of the selected fishing zone. At the time of vessel inspection, the vessel operator shall certify the vessel has not been used to take crab in the selected fishing zone.

(5) In the event the area between Gray's Harbor, Washington and Point Arena, California is divided into zones with different season opening dates, the transfer of a permit from one vessel to another is suspended from the earliest season opening date through thirty days after the latest season opening date, except in the event a vessel is unintentionally destroyed due to fire, capsizing, sinking, or other event.

(6) Upon a determination by the Department that catch in Oregon's Pacific Ocean Dungeness crab fishery after May 31 is greater than ten percent of the catch in the previous December 1 through May 31 period, the Director shall adopt a temporary rule closing the commercial season until the following December 1.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.129

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FC 285(74-20), f. 11-27-74, ef. 12-25-74; FC 293(75-6), f. 6-23-75, ef. 7-11-75; FWC 30, f. & ef. 11-28-75; FWC 132, f. & ef. 8-4-77; FWC 30-1985, f. 6-27-1985, ef. 7-1-85, Renumbered from 625-010-0155, Renumbered from 635-036-0125; FWC 56-1982, f. & ef. 8-27-82; FWC 13-1983, f. & ef. 3-24-83; FWC 39-1983(Temp), f. & ef. 8-31-83; FWC 11-1984, f. 3-30-84, ef. 9-16-84, except section (1) per FWC 45-1984, f. & ef. 8-30-84; FWC 30-1985, f. 6-27-85, ef. 7-1-85; FWC 78-1986(Temp), f. & ef. 12-1-86; FWC 36-1987, f. & ef. 7-1-87; FWC 97-1987(Temp), f. & ef. 11-17-87; FWC 102-1988, f. 11-29-88, cert. ef. 12-29-88; FWC 119-1989(Temp), f. 11-29-89, cert. ef. 12-1-89; FWC 135-1991(Temp), f. 12-10-91, cert. ef. 12-11-91; FWC 136-1991(Temp), f. & cert. ef. 12-19-91; FWC 112-1992, f. 10-26-92, cert. ef. 11-1-92; FWC 70-1993, f. 11-9-93, cert. ef. 11-11-93; FWC 88-1994(Temp), f. 11-30-94, cert. ef. 12-1-94; FWC 89-1994(Temp), f. & cert. ef. 12-1-94; FWC 89-1995(Temp), f. 11-28-95, cert. ef. 12-1-95; FWC 1-1996(Temp), f. 1-11-96, cert. ef. 1-13-96; DFW 51-1998(Temp), f. 6-29-98, cert. ef. 7-1-98 thru 9-15-98; DFW 54-1998(Temp), f. & cert. ef. 7-24-98 thru 9-15-98; DFW 40-1999, f. & cert. ef. 5-26-99; DFW 70-2000, f. & cert. ef. 10-23-00; DFW 77-2000(Temp), f. 11-27-00, cert. ef. 12-1-00 thru 12-14-00; DFW 39-2002, f. & cert. ef. 4-26-02; DFW 128-2002(Temp), f. & cert. ef. 11-15-02 thru 1-31-03; DFW 129-2002(Temp), f. & cert. ef. 11-20-02 thru 1-31-03; DFW 132-2002(Temp), f. & cert. ef. 11-25-02 thru 1-31-03 (Suspended by DFW 133-2002(Temp)); DFW 133-2002(Temp), f. & cert. ef. 12-6-02 thru 1-31-03; DFW 117-2003(Temp), f. 11-25-03, cert. ef. 12-1-03 thru 2-29-04; Administrative correction 10-26-04; DFW 113-2004(Temp), f. 11-23-04, cert. ef. 12-1-04 thru 3-1-05; DFW 116-2004(Temp), f. & cert. ef. 12-8-04 thru 3-1-05; DFW 126-2004(Temp), f. & cert. ef. 12-21-04 thru 3-1-05; DFW 132-2004(Temp), f. & cert. ef. 12-30-04 thru 3-1-05; Administrative correction, 3-18-05; DFW 129-2005(Temp), f. & cert. ef. 11-29-05 thru 12-31-05; DFW 140-2005(Temp), f. 12-12-05, cert. ef. 12-30-05 thru 5-31-06; Administrative correction 7-20-06; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 161-2010(Temp), f. 12-9-10, cert. ef. 12-10-10 thru 2-16-11; Administrative correction, 3-29-11; DFW 155-2011(Temp), f. 11-18-11, cert. ef. 12-1-11 thru 12-31-11; DFW 156-2011(Temp), f. 12-9-11, cert. ef. 12-15-11 thru 1-31-12; Administrative correction 4-24-12; DFW 37-2012, f. 4-24-12, cert. ef. 5-1-12

635-005-0055

Fishing Gear

It is *unlawful* for commercial purposes to:

(1) Take crab by any means other than crab rings or crab pots (ORS 509.415). For the purposes of this rule, the following definitions apply:

(a) "Crab pot" means any portable, enclosed device used to harvest crab with one or more gates or entrances that allows crab restricted entry and exit, and has a line attached to surface floats.

(b) "Crab ring" means any fishing device used to harvest crab that allows crab unrestricted entry or exit while fishing, and has a line attached to surface floats.

(c) "Dungeness crab gear" means crab pots, crab rings or a combination thereof used for taking Dungeness crab.

(2) Possess on a vessel, use, control, or operate any crab pot which is greater than thirteen cubic feet in volume, calculated using external dimensions.

(3) Possess on a vessel, use, control, or operate any crab pot which does not include a minimum of two circular escape ports of at least 4-1/4 inches inside diameter located on the top or side of the pot. If escape ports are placed on the side of the pot, they shall be located in the upper half of the pot.

(4) Possess on a vessel, use, control, or operate any crab pot which does not have a release mechanism. Acceptable release mechanisms are:

(a) A single loop of untreated cotton not heavier than 120 thread size between pot lid tiedown hooks and the tiedown straps; or

(b) Any modification of the wire mesh on the top or upper half of the side of the pot, secured with a single strand of untreated cotton not heavier than 120 thread size, which, when removed, will create a minimum opening of at least 5 inches in diameter and will meet the following:

(A) The minimum opening may have not more than a single wire mesh (described as a "V") that protrudes into the opening provided that mesh extends into the opening a distance of not more than 2.5 inches, as measured from the perimeter of the opening along either edge of the protruding wire mesh, to serve as an anchor for the securing cotton. The panel containing the opening and the wire mesh acting as an anchor for the securing cotton must be constructed of a single wire no greater than 0.050 inches in diameter.

(B) Cotton must not be wrapped multiple times around wire mesh and may use no more than one knot securing the wire mesh at each end.

(5) Place, operate, or leave Dungeness crab gear in the Pacific Ocean and Columbia River or in any bay or estuary during the closed season, except that in only the Pacific Ocean and Columbia River, Dungeness crab gear may be placed no more than 64 hours immediately prior to the date the Dungeness crab season opens. In addition, unbaited crab rings or pots with open release mechanisms may be left in the Pacific Ocean (not including the Columbia River) for a period not to exceed 14 days following the closure of the Dungeness crab season.

(6) Have Dungeness crab gear deployed in the Pacific Ocean or Columbia River more than 14 days without making a landing of Dungeness crab.

(7) Use commercial Dungeness crab gear in the Columbia River or Pacific Ocean unless the gear is individually marked with a surface buoy bearing, in a visible, legible and permanent manner, the brand of the owner and the Department buoy tag, provided that:

(a) The brand is a number registered with and approved by the Department;

(b) Only one unique buoy brand shall be registered to any one permitted vessel;

(c) All Dungeness crab gear fished by a permitted vessel must use only the Oregon buoy brand number registered to that vessel in the area off of Oregon;

(d) The Department shall issue crab buoy tags to the owner of each commercial crab permit in the amount determined by OAR 635-006-1015(1)(g)(E);

(e) All buoy tags eligible to a permit holder must be purchased from the Department at cost and attached to the gear prior to setting gear; and

(f) Buoys attached to Dungeness crab gear must have the buoy tag securely attached to the buoy closest to the gear, at the end away from the buoy line;

(g) Additional buoy tags to replace lost tags will be issued by the Department as follows:

(A) As of the first business day after 30 days following the season opening in the area fished, up to ten percent of the tags initially issued for that season; or

(B) For a catastrophic loss, defined as direct loss of non-deployed gear in the event of a vessel being destroyed due to fire, capsizing, or sinking. Documentation of a catastrophic loss may include any information the Department considers appropriate, such as fire department or US Coast Guard reports; or

(C) If the Director finds that the loss of the buoy tags was:

(i) Due to an extraordinary event; and

(ii) The loss was minimized with the exercise of reasonable diligence; and

(iii) Reasonable efforts were taken to recover lost buoy tags and associated fishing gear.

(D) Upon receipt of the declaration of loss required by subsection (7)(g)(E) of this rule, and a request for replacement tags under subsection (7)(g)(C) of this rule, the Director or the Director's designee may provide an opportunity for the permit holder requesting the replacement tags to describe why the buoy tag loss meets the criteria for replacement under subsection (7)(g)(C). The Director or the Director's designee shall provide the Director's order to the permit holder and to the Department's License Services. The permit holder may appeal the Director's findings to the Fishery Permit Review Board under OAR 635-006-1065(1)(g).

(E) Permit holders (or their alternative designated on the buoy tag order form) must obtain, complete, and sign a declaration of loss under

ADMINISTRATIVE RULES

penalty of perjury in the presence of an authorized Department employee. The declaration shall state the number of buoy tags lost, the location and date where lost gear or tags were last observed, and the presumed cause of the loss.

(8) Remove, damage, or otherwise tamper with crab buoy, pot, or ring tags except when lawfully applying or removing tags on the vessel's buoys, pots, or rings.

(9) Possess on a vessel, use, control, or operate any Dungeness crab gear which does not have a tag affixed to the individual pot or ring identifying the gear as that vessel's, a surface buoy bearing the Department buoy brand registered to that vessel and a Department buoy tag issued by the Department to that vessel, except:

(a) To set gear as allowed under OAR 635-006-1015; or

(b) To retrieve from the ocean, including the Columbia River, and transport to shore commercial Dungeness crab gear of another vessel which was lost, forgotten, damaged, abandoned or otherwise derelict; provided that:

(A) The retrieving vessel holds a valid boat license, issued pursuant to ORS 508.260, and the captain and crew of that vessel hold valid commercial fishing license(s), issued pursuant to ORS 508.235; and

(B) No more than twenty-five (25) such pots and rings in aggregate may be retrieved per trip from the opening of the ocean Dungeness crab fishery in the area where retrieval takes place, until the second Monday in June of the same ocean Dungeness crab season and no more than fifty (50) such pots or rings in aggregate may be retrieved per trip during the second Monday in June through August 28; and

(C) Upon retrieval from the ocean or Columbia River, the Dungeness crab gear must be un-baited; and

(D) Crab from the retrieved Dungeness crab gear shall not be retained except crab of legal size and sex may be retained by vessels holding a valid Dungeness crab permit, at such times and in such areas that Dungeness crab may otherwise be legally taken for commercial purposes; and

(E) Immediately upon retrieval of Dungeness crab gear, the retrieving vessel operator must document in the retrieving vessel's logbook the date and time of Dungeness crab gear retrieval, number of retrieved crab pots or rings in aggregate, location of retrieval, and retrieved Dungeness crab gear owner identification information; and

(F) Any retrieved Dungeness crab gear must be transported to shore during the same fishing trip that retrieval took place; or that:

(G) During August 29 through October 31, an unlimited number of such pots or rings in aggregate may be retrieved per trip and transported to shore during the same fishing trip; or

(c) Under a waiver granted by the Department to allow one time retrieval of permitted Dungeness crab gear to shore by another crab permitted vessel provided that:

(A) Vessel is incapacitated due to major mechanical failure or destroyed due to fire, capsizing, or sinking;

(B) Circumstances beyond the control of the permit holder created undue hardship as defined by OAR 635-006-1095(7)(d);

(C) A Request must be in writing and a waiver approved and issued prior to retrieval.

(D) A copy of the waiver must be on board the vessel making the retrieval. (Contact Oregon Department of Fish and Wildlife License Services, Salem for guidelines.)

(d) Under a waiver granted by the Department to allow one time change of buoy tags associated with a Dungeness crab permit transfer under OAR 635-006-1095(7) provided that:

(A) A request must be in writing and a waiver approved and issued prior to change of buoy tags.

(B) A copy of the waiver must be on board the vessel making the change of buoy tags. (Contact Department of Fish and Wildlife License Services, Salem for guidelines.)

(e) A vessel may transit through the Columbia River and the Pacific Ocean adjacent to Oregon while possessing Dungeness crab gear not bearing Oregon buoy tags or Oregon buoy branded surface buoys, provided that the vessel is authorized and en route to participate or returning from participating in the Dungeness crab fishery of an adjacent state.

(f) When operating crab rings in bays or estuaries only a tag affixed to the individual ring is required.

(10) Attach one crab pot or ring to another crab pot or ring by a common groundline or any other means that connects Dungeness crab gear together.

(11) Take crabs for commercial purposes by crab pots from any bay or estuary except the Columbia River.

(12) Operate more than 15 crab rings from any one fishing vessel in bays or estuaries, except the Columbia River.

(13) Take or fish for Dungeness crab for commercial purposes in the Columbia River or Pacific Ocean adjacent to the state of Oregon unless a Dungeness crab gear allocation has been issued to the permit required under OAR 635-006-1015(1)(g).

(14) Deploy or fish more Dungeness crab gear than the number of pots and rings in aggregate assigned by the Dungeness crab gear allocation certificate or to use any vessel other than the vessel designated on the Dungeness crab gear allocation certificate, except to set gear as allowed under OAR 635-006-1015.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109 & 506.129

Hist.: FC 246, f. 5-5-72, ef. 5-15-72; FC 285(74-20), f. 11-27-74, ef. 12-25-74, Renumbered from 625-010-0160; FWC 49-1978, f. & ef. 9-27-78, Renumbered from 635-036-0130; FWC 56-1982, f. & ef. 8-27-82; FWC 81-1982, f. & ef. 11-4-82; FWC 82-1982(Temp), f. & ef. 11-9-82; FWC 13-1983, f. & ef. 3-24-83; FWC 11-1984, f. 3-30-84, ef. 9-16-84, except section (5) per FWC 45-1984, f. & ef. 8-30-84; FWC 72-1984, f. & ef. 10-22-84; FWC 30-1985, f. 6-27-85, ef. 7-1-85; FWC 78-1986 (Temp), f. & ef. 12-1-86; FWC 97-1987(Temp), f. & ef. 11-17-87; FWC 102-1988, f. 11-29-88, cert. ef. 12-1-88; FWC 107-1990, f. & cert. ef. 10-1-90; FWC 70-1993, f. 11-9-93, cert. ef. 11-11-93; FWC 84-1994, f. 10-31-94, cert. ef. 12-1-94; FWC 68-1996(Temp), f. & cert. ef. 12-5-96; FWC 2-1997, f. 1-27-97, cert. ef. 2-1-97; DFW 45-2006, f. 6-20-06, cert. ef. 12-1-06; DWF 96-2006(Temp), f. & cert. ef. 9-8-06 thru 3-6-07; DFW 97-2006(Temp), f. 9-8-06, cert. ef. 9-9-06 thru 3-7-07; DFW 123-2006(Temp), f. 11-28-06, cert. ef. 12-1-06 thru 3-7-06; DFW 135-2006(Temp), f. & cert. ef. 12-26-06 thru 6-15-07; DFW 11-2007, f. & cert. ef. 2-14-07; DFW 41-2007, f. & cert. ef. 6-8-07; DFW 82-2007(Temp), f. 8-31-07, cert. ef. 9-1-07 thru 10-31-07; DFW 113-2007, f. & cert. ef. 10-25-07; DFW 127-2007(Temp), f. & cert. ef. 12-11-07 thru 6-7-08; DFW 129-2007(Temp), f. & cert. ef. 12-14-07 thru 6-7-08; DFW 29-2008(Temp), f. & cert. ef. 3-25-08 thru 8-31-08; DFW 59-2008(Temp), f. & cert. ef. 6-11-08 thru 8-28-08; DFW 98-2008(Temp), f. 8-19-08, cert. ef. 8-29-08 thru 10-31-08; Administrative correction 11-18-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 145-2008(Temp), f. 11-24-08, cert. ef. 12-1-08 thru 5-29-09; DFW 54-2009(Temp), f. 5-19-09, cert. ef. 5-29-09 thru 8-28-09; DFW 101-2009(Temp), f. & cert. ef. 8-29-09 thru 10-31-09; DFW 126-2009, f. & cert. ef. 10-7-09; DFW 114-2010, f. & cert. ef. 8-10-10; DFW 21-2011(Temp), f. 3-14-11, cert. ef. 3-15-11 thru 4-15-11; Administrative correction, 4-25-11; DFW 154-2011(Temp), f. 11-18-11, cert. ef. 12-1-11 thru 5-28-12; DFW 37-2012, f. 4-24-12, cert. ef. 5-1-12

635-006-1010

Definitions

(1) For the purpose of OAR 635-006-1015 through 635-006-1210:

(2) "Bay clam dive fishery" shall mean the commercial fishery for bay clams (including: cockle clams, Clinocardium nuttallii; butter clams, Saxidomus giganteus; gaper clams, Tresus capax, nuttallii; native littleneck clams, Protothaca staminea; and softshell clams, Mya arenaria) from subtidal areas in Oregon estuaries using dive gear.

(3) "Black rockfish/blue rockfish/nearshore fishery" shall mean the commercial fishery for black rockfish, blue rockfish and nearshore fish.

(4) "Brine shrimp fishery" shall mean the commercial fishery for adult Artemia spp. from Lake Abert (Lake County).

(5) "Completion" of a vessel for the purposes of initial eligibility for an Oregon ocean Dungeness crab permit pursuant to ORS 508.931 is defined as:

(a) A date identified in a contract document as the proposed or actual date of completion; or

(b) The date an insurance policy was in effect covering the vessel for loss or liability; or

(c) The date of inspection for certification by the U.S. Coast Guard; or

(d) Other written document acceptable to the Department that establishes the actual date the vessel was completed for the purposes of entering the Oregon ocean Dungeness crab fishery.

(6) "Crab fishing season" is the period from December 1 of one year through August 14 of the next year.

(7) "Crab pot" means any portable, enclosed device used to harvest crab with one or more gates or entrances that allows crab restricted entry and exit, and has a line attached to surface floats.

(8) "Crab ring" means any fishing device used to harvest crab that allows crab unrestricted entry or exit while fishing, and has a line attached to surface floats.

(9) "Dungeness crab gear" means crab pots, crab rings or a combination thereof used for taking Dungeness crab.

(10) "Length" or "Overall Length" of a vessel means the manufacturer's specification of overall length, United States Coast Guard or Marine Board registered length documentation stating overall length or overall length as surveyed by a certified marine surveyor. In determining overall length, marine surveyors shall measure in a straight line parallel to the keel from the foremost part of the vessel to the aftermost part, excluding sheer and excluding bow sprits, boomkins, rudders aft of the transom, outboard motor brackets, or transom extensions as in a dive step or platform. For the

ADMINISTRATIVE RULES

purpose of initial ocean Dungeness crab permit issuance, length of the vessel is overall length of the vessel on September 9, 1995.

(11) "Ocean Dungeness crab fishery" for the purposes of ORS 508.926, means all fishing for Dungeness crab in Oregon waters of the Columbia River and all other ocean water seaward of Oregon's coastline and river mouths.

(12) "Owner" is any ownership interest in a vessel, including interests arising from partnerships, corporations, limited liability corporations, or limited liability partnerships. Owner does not include a leasehold interest.

(13) "Replacement vessel" is a vessel purchased to replace a permitted vessel which has been lost due to fire, capsizing, sinking or other event. For the ocean Dungeness crab fishery, a replacement vessel shall be no more than 10 feet greater than the vessel which it replaces.

(14) "Sardine fishery" shall mean the commercial fishery for Pacific sardines (*Sardinops sagax*) in all ocean waters seaward of Oregon's coastline and river mouths.

(15) "Sea urchin fishery" shall mean the commercial fishing for *Strongylocentrotus franciscanus*, *S. purpuratus*, and *S. droebachiensis*.

(16) "Under construction" for the purposes of initial eligibility for an Oregon ocean Dungeness crab permit pursuant to ORS 508.931, means that between December 1, 1988, and August 14, 1991, a contract was signed and earnest money paid equaling at least 10% of the value of the contract, or invoices have been paid for 10% or more of the total construction cost, to produce a newly constructed vessel, including, but not limited to, the laying of the new vessel's keel.

(17) "Yaquina Bay Roe-herring fishery" shall mean the commercial net fishery for Pacific herring (*Clupea harengus pallasii*) which occurs annually between January 1 and April 15 in Yaquina Bay pursuant to OAR 635-004-0027.

(18) "Initial eligibility for vessels to participate" for the purposes of application for an Ocean Dungeness crab permit pursuant to ORS 508.931 means eligibility of a vessel on which to make permit application is confined to vessels which have never obtained an initial permit.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109, 506.129 & 508.921 - 508.941

Hist.: FWC 76-1995, f. 9-13-95, cert. ef. 9-19-95; FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96; DFW 92-1998, f. & cert. ef. 11-25-98; DFW 11-2003(Temp), f. & cert. ef. 2-10-03 thru 6-30-03; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 154-2011(Temp), f. 11-18-11, cert. ef. 12-1-11 thru 5-28-12; DFW 37-2012, f. 4-24-12, cert. ef. 5-1-12

635-006-1015

Requirement for Permit

(1) The following provide general requirements for permits:

- (a) Gillnet salmon — see ORS 508.775;
- (b) Troll salmon — see ORS 508.801 and 508.828;
- (c) Shrimp — see ORS 508.880 and 508.883;
- (d) Scallop — see ORS 508.840 and 508.843;
- (e) Roe-herring:

(A) It is *unlawful* for an individual to operate a vessel in the Yaquina Bay roe-herring fishery without first obtaining a vessel permit issued pursuant to OAR 635-006-1035 through 635-006-1095;

(B) It is *unlawful* for a wholesaler, canner or buyer to buy or receive roe-herring taken in the Yaquina Bay roe-herring fishery from a vessel for which the permit required by section (1)(e) of this rule has not been issued.

(f) Sea Urchin:

(A) It is *unlawful* for an individual to take or attempt to take sea urchins for commercial purposes without first obtaining a permit issued pursuant to OAR 635-006-1035 through 635-006-1095;

(B) It is *unlawful* for a wholesaler, canner, or buyer to buy or receive sea urchins taken in the sea urchin fishery from a person for which the permit required by section (1)(f) of this rule has not been issued.

(g) Ocean Dungeness crab:

(A) Except as provided under the reciprocity provisions of ORS 508.941(3), it is *unlawful* for an individual to operate a vessel in the ocean Dungeness crab fishery without first obtaining a vessel permit issued pursuant to ORS 508.931 or 508.941. A Dungeness crab vessel permit is not required for vessels that are engaged solely in setting gear for a permitted vessel and which do not retrieve, retain or possess Dungeness crab.

(B) If the Oregon Fish and Wildlife Commission (Commission) establishes a vessel crab pot limitation or allocation system beyond the 2002-03 ocean crab season, August 14, 2001 is the control date for eligibility criteria related to past participation in the ocean fishery.

(C) In addition to certifying that the vessel is free of crab before fishing in the ocean Dungeness crab fishery each year, as required by OAR 635-005-0045(1), each vessel operator must declare and certify on the

Oregon hold inspection certification form the maximum number of pots and rings in aggregate that will be used in that season's fishery before fishing.

(D) A single delivery license may not be substituted for an ocean Dungeness crab permit. Once a vessel has obtained an ocean Dungeness crab permit, Dungeness crab may be landed by the vessel using a combination of an ocean Dungeness crab permit and a single delivery permit in lieu of a commercial fishing and boat license. However, crab may not be landed more than twice in any one crab season using single delivery permits.

(E) Effective December 1, 2006, the amount of Dungeness crab gear allocated to a permit required under section (1)(g)(A) above will be determined as follows:

(i) The allocation will be based on documented landings of Ocean Dungeness crab into Oregon, Washington (excluding landings from the Puget Sound Fishery), or California, using valid Oregon fish receiving tickets, or equivalent valid documents from the states of Washington or California, from December 1, 1995 through August 14, 2001;

(ii) The Dungeness crab gear allocation will be the highest number of pots and rings in aggregate the vessel qualifies for during the six qualifying seasons, December 1 of one year through September 15 of the next year (except through August 14, in 2001);

(iii) A Dungeness crab gear allocation of 200 shall be assigned to a permit with landings less than 15,020 pounds in the 1995 to 1996 season, and 4,010 pounds in the 1996 to 1997 season, and 5,170 pounds in the 1997 to 1998 season, and 7,083 pounds in the 1998 to 1999 season, and 13,160 pounds in the 1999 to 2000 season, and 8,940 pounds in the 2000 to 2001 season;

(iv) A Dungeness crab gear allocation of 300 shall be assigned to a permit with minimum landings of 15,020 pounds in the 1995 to 1996 season, or 4,010 pounds in the 1996 to 1997 season, or 5,170 pounds in the 1997 to 1998 season, or 7,083 pounds in the 1998 to 1999 season, or 13,160 pounds in the 1999 to 2000 season, or 8,940 pounds in the 2000 to 2001 season; and

(v) A Dungeness crab gear allocation of 500 shall be assigned to a permit with minimum landings of 89,020 pounds in the 1995 to 1996 season, or 35,180 pounds in the 1996 to 1997 season, or 39,350 pounds in the 1997 to 1998 season, or 49,450 pounds in the 1998 to 1999 season, or 78,400 pounds in the 1999 to 2000 season, or 37,030 pounds in the 2000 to 2001 season.

(h) Developmental Fisheries: See ORS 506.450 through ORS 506.465 and OAR 635-006-0800 through 635-006-0950.

(i) July 1, 2001 is the control date to establish eligibility criteria for the purpose of future limited entry programs for the commercial groundfish fishery.

(j) Black rockfish/blue rockfish/nearshore fishery — see ORS 508.945.

(k) Brine Shrimp:

(A) It is *unlawful* to take or attempt to take brine shrimp for commercial purposes without first obtaining a brine shrimp fishery permit issued pursuant to OAR 635-006-1035 through OAR 635-006-1095;

(B) It is *unlawful* for a wholesaler, canner, or buyer to buy or receive brine shrimp taken in the brine shrimp fishery from a person for which the permit required by this rule has not been issued.

(C) The Oregon Department of Fish and Wildlife (Department) may issue no more than three permits required by section (1)(k) of this rule.

(l) Bay clam dive fishery:

(A) It is *unlawful*:

(i) To take or attempt to take bay clams, using dive gear, for commercial purposes from subtidal areas in any Oregon estuary without first obtaining a coast-wide bay clam dive fishery permit issued pursuant to OAR 635-006-1025 through 635-006-1095;

(ii) To take or attempt to take bay clams, using dive gear, for commercial purposes from subtidal areas in Oregon estuaries south of Heceta Head without first obtaining a south-coast bay clam dive fishery permit issued pursuant to OAR 635-006-1025 through 635-006-1095;

(iii) For a wholesaler, canner, or buyer to buy or receive bay clams taken in the bay clam dive fishery from a vessel or person not issued the permit required by this rule.

(iv) To take or attempt to take bay clams where more than two divers operating from any one boat were in the water at the same time or where more than two persons without permits, excluding persons authorized by the Department for the performance of official duties, were on board any boat while harvesting, possessing, or transporting bay clams.

ADMINISTRATIVE RULES

(B) The Department may not issue more than ten coast-wide permits required by section (1)(l)(A)(i) of this rule and five south-coast permits required by (1)(l)(A)(ii) of this rule.

(C) Permits may be issued to individuals or to vessels, designated at the beginning of the year. Designation may not change during the year.

(m) Sardine fishery:

(A) It is *unlawful* for an individual to operate a vessel in the Sardine fishery without first obtaining a vessel permit issued pursuant to OAR 635-006-1035 through OAR 635-006-1095. The sardine fishery permit is not required for vessels to retain sardines as incidental catch in other fisheries.

(B) It is *unlawful* for a wholesaler, canner or buyer to buy or receive sardines taken in the Sardine fishery from a vessel for which the permit required by section (1)(m)(A) of this rule has not been issued.

(C) The Department may issue not more than 26 permits required by section (1)(m)(A) of this rule.

(2) The permits required by section (1) of this rule are in addition to and not in lieu of the commercial fishing and boat license required by ORS 508.235 and 508.260.

(3) No vessel may hold more than one vessel permit for a given fishery at any one time.

(4) If permits are issued on an individual basis, no individual may hold more than one permit for a given fishery at any one time.

(5) Unless otherwise provided, permits must be purchased by December 31 of the year the permit is sought for renewal.

(6) No vessel permit may be transferred away from a vessel without the lien holder's written permission.

(7) Applications for permits shall be in such form and contain such information as the Department may prescribe. Proof of length of a vessel may be required at the time of application.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109, 506.129 & 508.921–508.941

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96; DFW 92-1998, f. & cert. ef. 11-25-98; DFW 103-2001, f. & cert. ef. 10-23-01; DFW 95-2002, f. & cert. ef. 8-27-02; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 45-2006, f. 6-20-06, cert. ef. 12-1-06; DFW 74-2006, f. & cert. ef. 8-7-06; DFW 96-2006(Temp), f. & cert. ef. 9-8-06 thru 3-6-07; DFW 97-2006(Temp), f. 9-8-06, cert. ef. 9-9-06 thru 3-7-07; DFW 2-2007, f. & cert. ef. 1-12-07; DFW 135-2006(Temp), f. & cert. ef. 12-26-06 thru 6-15-07; DFW 11-2007, f. & cert. ef. 2-14-07; DFW 114-2007, f. & cert. ef. 10-25-07; DFW 3-2008, f. & cert. ef. 1-15-08; DFW 38-2009, f. & cert. ef. 4-22-09; DFW 154-2011(Temp), f. 11-18-11, cert. ef. 12-1-11 thru 5-28-12; DFW 37-2012, f. 4-24-12, cert. ef. 5-1-12

635-006-1065

Review of Denials (Restricted Participation Systems)

(1) An individual whose application for issuance or renewal of a limited entry permit is denied by the Oregon Department of Fish and Wildlife (Department) may request review of the Department's decision by doing so in writing to the Commercial Fishery Permit Board (Board). The procedure for requesting review and the applicable standard of review shall be as follows:

(a) Gillnet salmon — see ORS 508.796;

(b) Troll salmon — see ORS 508.825;

(c) Shrimp — see ORS 508.910;

(d) Scallop — see ORS 508.867;

(e) Roe-herring — see ORS 508.765. For the roe-herring fishery, the Board may waive requirements for permits if the Board finds that:

(A) The individual for personal or economic reasons chose to actively commercially fish the permit vessel in some other ocean fishery during the roe-herring season; or

(B) The Board finds that the individual failed to meet the requirements as the result of illness, accident or other circumstances beyond the individual's control.

(f) Sea Urchin — see ORS 508.760. For the sea urchin fishery, the Board may waive requirements for permits if the Board finds that failure to meet the requirements was due to illness, injury or circumstances beyond the control of the permittee;

(g) Ocean Dungeness crab — see ORS 508.941. For the Ocean Dungeness crab fishery, a permit holder may request review of the Department's initial Dungeness crab gear allocation, the Department's denial of replacement of lost buoy tags, or denial of permit renewal by doing so in writing to the Commercial Fishery Permit Board. The Board may adjust the number of crab pots allocated to a permit or approve replacement of lost buoy tags as follows:

(A) The Board may adjust the amount of Dungeness crab gear allocated to a permit:

(i) Based on additional landings documentation supplied by permit holder according to criteria under OAR 635-006-1015(1)(g)(E); or

(ii) The Dungeness crab gear allocation may be increased by one tier as described under OAR 635-006-1015(1)(g)(E) based on circumstances during the qualifying seasons described in OAR 635-006-1015(1)(g)(E) beyond the control of the permit holder which created undue hardship as defined by OAR 635-006-1095(7)(d).

(B) The Board may approve replacement of lost buoy tags due to a catastrophic loss as defined under OAR 635-005-0055(1)(6)(g)(B).

(C) The Board may waive the permit renewal date requirement if the Board finds that strict adherence to this requirement would create undue hardship to the individual seeking to renew a permit. For this purpose, undue hardship has the same meaning as in OAR 635-006-1095(7)(d).

(h) Black rockfish/blue rockfish/nearshore fishery — see ORS 508.960.

(2) The Board may delegate to the Department its authority to waive requirements for renewal of permits in all fisheries in such specific instances as the Board sets forth in a letter of delegation to the Department.

(3) For those fisheries requiring a \$75 application fee for Board review, the fee is nonrefundable. However, if the Board grants the applicant's request, the nonrefundable fee shall apply toward the permit fee.

(4) Orders issued by the Board are not subject to review by the Oregon Fish and Wildlife Commission (Commission), but may be appealed as provided in ORS 183.480 to ORS 183.550.

(5) Bay clam dive fishery permit:

(a) An individual whose application for issuance, renewal or transfer of a permit established pursuant to OAR 635-006-1075 through 635-006-1095 is denied may make written request to the Board for review of the denial. The review provided in this subsection is in lieu of any such review by the Department or the Commission. The request shall be in such form and shall contain such information as the Board considers appropriate.

(b) The Board shall review a denial of an application for issuance, renewal or request to transfer a permit according to the applicable provisions of ORS chapter 183. Orders issued by the Board are not subject to review by the Commission, but may be appealed as provided in ORS 183.480 to 183.500. The Board may waive requirements for renewal of permits if the Board finds that the individual failed to meet the requirements as the result of illness, accident or other circumstances beyond the individual's control.

(c) A party must petition for Board review of the hearing officer's proposed order within 30 days of service of the proposed order if the party wants the proposed order changed. A party must identify what parts of the proposed order it objects to, and refer to parts of the administrative record and legal authority supporting its position.

(d) The Board may delegate to the Department its authority to waive requirements for renewal of permits.

(6) Sardine fishery permit:

(a) An individual whose application for issuance, renewal or transfer of a permit established pursuant to 635-006-1075 and 635-006-1095 is denied may make written request to the Board for review of the denial. The review provided in this subsection is in lieu of any such review by the Department or the Commission. The request shall be in such form and shall contain such information as the Board considers appropriate.

(b) The Board shall review a denial of an application for renewal or request to transfer a permit according to the applicable provisions of ORS chapter 183. Orders issued by the Board are not subject to review by the Commission, but may be appealed as provided in ORS 183.480 to 183.500. The Board may waive requirements for renewal of permits if the Board finds that the individual failed to meet the requirements as the result of illness, accident or other circumstances beyond the individual's control.

(c) A party, including the Department, must petition for Board review of the hearing officer's proposed order within 30 days of service of the proposed order if the party wants to file an exception to the proposed order. A party must identify what parts of the proposed order it objects to, and refer to parts of the administrative record and legal authority supporting its position.

(d) The Board may delegate to the Department its authority to waive requirements for renewal of permits.

(7) Brine shrimp fishery permit:

(a) An individual whose application for issuance, renewal or transfer of a permit established pursuant to 635-006-1075 through 635-006-1095 is denied may make written request to the Board for review of the denial. The review provided in this subsection is in lieu of any such review by the Department or the Commission. The request shall be in such form and shall contain such information as the Board considers appropriate.

(b) The Board shall review a denial of an application for issuance, renewal or request to transfer a permit according to the applicable provi-

ADMINISTRATIVE RULES

sions of ORS chapter 183. Orders issued by the Board are not subject to review by the Commission, but may be appealed as provided in ORS 183.480 to 183.500. The Board may waive requirements for renewal of permits if the Board finds that the individual failed to meet the requirements as the result of illness, accident or other circumstances beyond the individual's control.

(c) A party must petition for Board review of the hearing officer's proposed order within 30 days of service of the proposed order if the party wants the proposed order changed. A party must identify what parts of the proposed order it objects to, and refer to parts of the administrative record and legal authority supporting its position.

(d) The Board may delegate to the Department its authority to waive requirements for renewal of permits.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 45-2006, f. 6-20-06, cert. ef. 12-1-06; DFW 96-2006(Temp), f. & cert. ef. 9-8-06 thru 3-6-07; DFW 97-2006(Temp), f. 9-8-06, cert. ef. 9-9-06 thru 3-7-07; DFW 4-2007(Temp), f. & cert. ef. 1-12-07 thru 6-15-07; DFW 11-2007, f. & cert. ef. 2-14-07; DFW 3-2008, f. & cert. ef. 1-15-08; DFW 126-2009, f. & cert. ef. 10-7-09; DFW 154-2011(Temp), f. 11-18-11, cert. ef. 12-1-11 thru 5-28-12; DFW 37-2012, f. 4-24-12, cert. ef. 5-1-12

635-006-1095

Transferability of Permits

Any transfer of a permit away from a vessel without the written consent of each person holding a security interest in such vessel is void. The following rules apply to transfer of limited entry fishery permits:

(1) Gillnet salmon — see ORS 508.793.

(2) Troll salmon — see ORS 508.822.

(3) Shrimp — see ORS 508.907.

(4) Scallop — see ORS 508.864.

(5) Roe-herring:

(a) A permit is transferable to:

(A) A replacement vessel of the permit holder; or, upon request of a permit holder, the Department may authorize transfer of a permit to a replacement vessel owned by an individual other than the permit holder. However, any transfer of a permit away from a vessel without the written consent of each person holding a security interest in such vessel is void;

(B) The purchaser of the vessel when the vessel is sold.

(6) Sea Urchin:

(a) Medical Transfers: If the number of permits is at 31 or more, the Department may authorize a permit to be transferred to a specified individual for up to 90 days upon petition by a permittee on the form provided by the Department. The Department's decision to allow a transfer shall be based on a finding that the current permit holder is unable to participate in the fishery due to injury or illness which prevents diving, based on medical evidence submitted by the permit holder and such other evidence the Department considers reliable. At the end of the transfer period, the transfer may be renewed by the Department to the original transferee or to a new transferee, provided that the permittee again submits medical evidence documenting that the injury or illness continues to prevent the permittee's return to diving. There is a two-year limit on the eligibility of each individual permit for medical transfer status, beginning with the start date of the first medical transfer of that permit on or after January 1, 1996, and ending two years from that date. When the total number of permits reaches 30 or less the Department shall not allow any permit transfers for any medical reason;

(b) If the Department, or the Board, after review of a denial by the Department, allows a transfer, the original permit holder shall give written notice to the Department of the name, address and telephone number of the transferee. The original permit holder may, at any time during the transfer period specified in subsection (6)(a), request the Department to transfer the permit back to the original permit holder. Such transfer requires 30 days' written notice to the Department. In any event, upon expiration of the transfer period specified in (6)(a), or upon cancellation of a transfer due to lack of medical evidence of continuing inability to dive, the permit shall revert automatically to the original permit holder, unless the transfer is renewed, as provided in subsection (6)(a) of this rule;

(c) The total landings of sea urchins by all transferees of a permit shall not exceed the greater of either of the following amounts:

(A) Up to 5,000 pounds per 90-day period, not to exceed 5,000 pounds annually; or

(B) Twenty-five percent of the amount landed by the original permit holder in the previous season's catch, for each 90-day period.

(d) Combination Permit Transfers: If the number of permits is at 31 or more, the Department may transfer permits from one person to another as follows:

(A) The individual receiving the transferred permit (the purchaser) obtains no more than three total permits, each of which is valid for the current year in which the permit is purchased, from existing permit holders;

(B) The Department combines the three permits into a single new permit issued to the purchaser; and

(C) No transferred permit is valid for harvesting sea urchins until conditions (6)(d)(A) and (6)(d)(B) are met. Individual permits which are transferred may not be used individually and are not renewable. Once a permit has been transferred in accordance with (6)(d)(A) the individual to whom the permit has been transferred has up to 24 months from the date of transfer to combine it with two others to create a valid new permit.

(e) When the total number of permits reaches 30 or less, the Department shall approve the transfer of any permit to any purchaser of the permit, provided that not more than one sale or transfer of the permit occurs within that calendar year;

(f) Lottery-issued permit transfers: No permit issued to an individual through the lottery after 1998 may be transferred to another individual until a cumulative total of 20,000 pounds of sea urchins have been landed on commercial fish receiving tickets by the individual issued the permit through the lottery.

(7) Ocean Dungeness crab — see ORS 508.936 and:

(a) The vessel permit is transferable once in any 18-month period provided the vessel holding the permit has landed at least 500 pounds of ocean Dungeness crab into Oregon in each of two crab fishing seasons in the last five crab seasons which includes landings made during any season open at the time of application. Crab fishing season means ocean Dungeness crab season. However, the Board may waive the landing requirement as well as the 18-month waiting period for transfers, if the Board finds that strict adherence to these requirements would create undue hardship to the individual seeking to transfer a permit. The board also may delegate to the Department its authority to waive these requirements in such specific instances as the Board sets forth in a letter of delegation to the Department;

(b) The vessel permit is transferable:

(A) To another vessel; or

(B) To the purchaser of the vessel when the vessel is sold.

(c) The vessel to which a permit is transferred, with the exception of vessels covered by section (7)(e):

(A) Shall not be more than 10 feet longer than the vessel which held the permit on January 1, 2006, and

(B) Shall not be more than 99 feet in length.

(d) For the purpose of section (7)(c)(A), the Commercial Fishery Permit Review Board may waive the boat length restriction if it finds that strict adherence would create undue hardship. For this purpose, undue hardship means significant adverse consequences caused by death, permanent disability injury or serious illness requiring extended care by a physician.

(e) Permits obtained as a result of qualifying under section (1)(e) of ORS 508.931 may only be transferred to vessels of a length of 26 feet or less;

(f) In the event a vessel is destroyed due to fire, capsizing, sinking or other event, the vessel owner has up to two years to transfer the ocean Dungeness crab fishery permit to a replacement vessel.

(g) Ocean Dungeness crab permit transfers are suspended during split season openings pursuant to OAR 635-005-0045(5).

(8) Black rockfish/blue rockfish/nearshore fishery — see ORS 508.957.

(9) Brine shrimp fishery: Permits are transferable.

(10) Bay clam dive fishery:

(a) The permittee may request the Department to transfer, to a replacement vessel that is owned by the same person that owns the vessel to which the permit was originally issued, a bay clam dive permit up to two times per calendar year.

(b) In the event of the death of a permit holder, the permit of the deceased may be issued to an immediate family member upon request, validated by the Department's receipt of a copy of the death certificate and the original permit.

(c) The Department may authorize a permit issued to an individual to be transferred to a specified individual for up to 90 days upon petition by the permittee on the form provided by the Department due to a medical condition.

(A) The Department's decision to allow a transfer shall be based on a finding that the current permit holder is unable to participate in the fishery due to injury or illness which prevents diving, based on medical evidence

ADMINISTRATIVE RULES

submitted by the permit holder, and such other evidence the Department considers reliable.

(B) At the end of the transfer period, the Department may reinstate the permit to the original permit holder or to a new transferee, provided that the original permit holder again submits medical evidence documenting that the injury or illness continues to prevent their return to diving.

(C) There is a two-year limit on the eligibility of each individual permit for medical transfer status, beginning with the start date of the first medical transfer of that permit on or after January 1, 2006, and ending two years from that date.

(D) If the Department, after review of a denial by the Commission, allows a transfer, the original permit holder shall give written notice to the Department of the name, address and telephone number of the transferee. The original permit holder may, at any time during the transfer period specified in subsection (10)(c), request the Department reinstate the permit back to their possession. Such transfer requires 30 days' written notice to the Department. In any event, upon expiration of the transfer period specified in subsection (10)(c), or upon cancellation of a transfer due to lack of medical evidence of continuing inability to dive, the permit shall revert automatically to the original permit holder, unless the transfer is renewed, as provided in subsection (10)(c) of this rule.

(1) Sardine Fishery:

(a) Permits are transferable up to two times in one calendar year.

(b) Applications to transfer a sardine fishery permit shall only be accepted to vessels, which in the judgment of the Department, are capable of operating the gear necessary to legally participate in the fishery. Vessels of a size or design incapable of harvesting sardines are not eligible for transfer.

Stat. Auth.: ORS 506.109

Stats. Implemented: ORS 506.109, 506.129, 508.760 & 508.762

Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96; DFW 94-1998, f. & cert. ef. 11-25-98; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 95-2006(Temp), f. & cert. ef. 9-8-06 thru 11-24-06; Administrative correction 12-16-06; DFW 23-2007(Temp), f. 4-9-07, cert. ef. 4-17-07 thru 10-13-07; Administrative correction 10-16-07; DFW 114-2007, f. & cert. ef. 10-25-07; DFW 162-2010(Temp), f. & cert. ef. 12-15-10 thru 6-12-11; Administrative correction 6-28-11; DFW 37-2012, f. 4-24-12, cert. ef. 5-1-12

Rule Caption: Salmon Seasons for Commercial and Sport Fisheries In the Pacific Ocean.

Adm. Order No.: DFW 38-2012

Filed with Sec. of State: 4-24-2012

Certified to be Effective: 5-1-12

Notice Publication Date: 3-1-2012

Rules Amended: 635-003-0003, 635-013-0003

Subject: Amended rules relate to commercial and sport salmon fisheries in the Pacific ocean. Housekeeping and technical corrections to the regulations were made to ensure rule consistency.

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

635-003-0003

Purpose and Scope

(1) The purpose of Division 003 is to provide for management of commercial salmon fisheries off the Oregon Coast over which the state has jurisdiction.

(2) Division 003 incorporates into Oregon Administrative Rules, by reference, the annual ocean troll salmon specifications and management measures as adopted by the Pacific Fishery Management Council in its annual Ocean Salmon Management Measures and Impacts, as finalized in April 2012, and in addition to the extent they are consistent with these rules, **Code of Federal Regulations (CFR), Title 50, Part 660, Subpart H (61FR34572, July 2, 1996, as amended to incorporate the standards in the Pacific Fishery Management Council referenced document)**. Therefore, persons must consult the **Pacific Fishery Management Council referenced document** and Federal Regulations in addition to Division 003 to determine all applicable troll salmon fishing requirements. A copy of the Pacific Fishery Management Council referenced document and the Federal Regulations may be obtained by contacting the Pacific Fishery Management Council at www.pcouncil.org or at 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.

(3) To the extent not preempted by Federal law, these regulations apply within the State of Oregon's Fisheries Conservation Zone (out to fifty miles from shore).

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 506.129

Hist.: FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 20-1996, f. & cert. ef. 4-29-96; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 38-2000, f. & cert. ef. 7-3-00; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 37-2002, f. & cert. ef. 4-23-02; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; Administrative correction, 11-16-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; DFW 36-2008, f. 4-21-08, cert. ef. 5-1-08; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 72-2010, f. & cert. ef. 5-25-10; DFW 34-2011, f. 4-27-11, cert. ef. 5-1-11; DFW 38-2012, f. 4-24-12, cert. ef. 5-1-12

635-013-0003

Purpose and Scope

(1) The purpose of Division 013 is to provide for management of sport salmon fisheries off the Oregon Coast over which the State has jurisdiction.

(2) This rule incorporates by reference, the annual ocean sport salmon specifications and management measures as adopted by the **Pacific Fishery Management Council** in its annual **Ocean Salmon Management Measures and Impacts**, as finalized in April 2012, and in addition to the extent they are consistent with these rules, **Code of Federal Regulations (CFR), Title 50, Part 660, Subparts A and H**.

(3) This rule also incorporates by reference the 2012 Oregon Sport Fishing Regulations.

(4) A copy of the Pacific Fishery Management Council referenced document and the Federal Regulations may be obtained by contacting the Pacific Fishery Management Council at www.pcouncil.org or at 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.

(5) To the extent not preempted by Federal law, these regulations apply within the State of Oregon's Fisheries Conservation Zone (out to fifty miles from shore).

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162 & 506.129

Hist.: FWC 44-1984(Temp), f. & ef. 8-23-84; FWC 29-1989, f. 4-28-89, cert. ef. 5-1-89; FWC 52-1989(Temp), f. & cert. ef. 7-28-89; FWC 37-1990, f. & cert. ef. 5-1-90; FWC 31-1992, f. 4-29-92, cert. ef. 5-1-92; FWC 25-1994, f. & cert. ef. 5-2-94; FWC 34-1995, f. & cert. ef. 5-1-95; FWC 77-1995, f. 9-13-95, cert. ef. 1-1-95; FWC 20-1996, f. & cert. ef. 4-29-96; FWC 72-1996, f. 12-21-96, cert. ef. 1-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 34-1998, f. & cert. ef. 5-4-98; DFW 100-1998, f. 12-23-98, cert. ef. 1-1-99; DFW 31-1999, f. & cert. ef. 5-3-99; DFW 38-2000, f. & cert. ef. 7-3-00; DFW 1-2001, f. 1-25-01, cert. ef. 2-1-01; DFW 28-2001, f. & cert. ef. 5-1-01; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 35-2003, f. 4-30-03, cert. ef. 5-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; DFW 32-2004, f. 4-22-04, cert. ef. 5-1-04; DFW 117-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 25-2005, f. & cert. ef. 4-15-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 26-2006(Temp), f. 4-20-06, cert. ef. 5-1-06 thru 10-27-06; Administrative correction, 11-16-06; DFW 24-2007, f. 4-16-07, cert. ef. 5-1-07; 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 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 52-2009, f. & cert. ef. 5-18-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 72-2010, f. & cert. ef. 5-25-10; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 34-2011, f. 4-27-11, cert. ef. 5-1-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 38-2012, f. 4-24-12, cert. ef. 5-1-12

Rule Caption: Amend Rules for Sport and Commercial Halibut and Commercial Sardine Fisheries.

Adm. Order No.: DFW 39-2012

Filed with Sec. of State: 4-24-2012

Certified to be Effective: 4-24-12

Notice Publication Date: 3-1-2012

Rules Amended: 635-004-0005, 635-004-0009, 635-004-0017, 635-006-1075, 635-039-0080, 635-039-0085

Subject: Amendments to Oregon's regulations for sport and commercial halibut and commercial sardine fisheries will bring the State concurrent with federally adopted regulations. Modifications establish 2012 seasons and/or quotas for these fisheries. Additionally, some modifications either change or remove sardine permit renewal requirements. Housekeeping and technical corrections to the regulations may occur to ensure rule consistency.

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

635-004-0005

Scope of Rules

(1) The Pacific halibut commercial fishery in Oregon is regulated by the federal government and the International Pacific Halibut Commission (IPHC). OAR chapter 635, division 004 incorporates into Oregon Administrative Rules, by reference:

(a) **Title 50 of the Code of Federal Regulations**, Part 300, Subpart E (October 1, 2011 ed.) as amended; and

(b) **Federal Register Vol. 77, No. 56**, dated March 22, 2012 (77 FR 16740).

(2) Therefore, persons must consult all publications referenced in this rule in addition to Division 004 to determine all rules applicable to halibut fishing requirements.

ADMINISTRATIVE RULES

(3) It is unlawful to take halibut for commercial purposes except as set by Federal Regulations and the IPHC and in accordance with a valid permit issued by the IPHC.

Stat. Auth.: ORS 506.119
Stats. Implemented: ORS 506.129
Hist.: FC 241, f. 4-5-72, cf. 4-15-72, Renumbered from 625-010-0725, Renumbered from 635-036-0330; FWC 25-1989(Temp), f. & cert. ef. 4-5-89; FWC 51-1989, f. & cert. ef. 7-28-89; FWC 32-1990(Temp), f. & cert. ef. 4-4-90; FWC 67-1991, f. 6-25-91, cert. ef. 7-1-91; 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; FWC 25-1997, f. 4-22-97, cert. ef. 5-1-97; DFW 91-1998, f. & cert. ef. 11-25-98; DFW 98-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 81-2000, f. 12-22-00, cert. ef. 1-1-01; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 135-2002, f. 12-23-02, cert. ef. 1-1-03; DFW 128-2003, f. 12-15-03, cert. ef. 1-1-04; DFW 120-2004, f. 12-13-04, cert. ef. 1-1-05; DFW 29-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; Suspended by DFW 72-2005(Temp), f. & cert. ef. 7-7-05 thru 10-27-05; DFW 56-2005, f. 6-21-05, cert. ef. 7-1-05; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 39-2009, f. & cert. ef. 4-27-09; DFW 32-2010, f. & cert. ef. 3-15-10; DFW 37-2010, f. 3-30-10, cert. ef. 4-1-10; DFW 24-2011, f. & cert. ef. 3-22-11; DFW 39-2012, f. & cert. ef. 4-24-12

635-004-0009

Halibut Seasons

(1) The Pacific halibut commercial seasons in Oregon are regulated by the federal government and the International Pacific Halibut Commission (IPHC). OAR chapter 635, division 004 incorporates into Oregon Administrative Rules, by reference:

(a) **Title 50 of the Code of Federal Regulations**, Part 300, Subpart E (October 1, 2011 ed.), as amended; and

(b) **Federal Register Vol. 77, No. 56**, dated March 22, 2012 (77 FR 16740).

(2) Therefore, persons must consult all publications referenced in this rule in addition to Division 004 rules to determine applicable halibut fishing seasons.

Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129
Stats. Implemented: ORS 496.162, & 506.129
Hist.: DFW 56-2005, f. 6-21-05, cert. ef. 7-1-05; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 39-2009, f. & cert. ef. 4-27-09; DFW 32-2010, f. & cert. ef. 3-15-10; DFW 37-2010, f. 3-30-10, cert. ef. 4-1-10; DFW 24-2011, f. & cert. ef. 3-22-11; DFW 39-2012, f. & cert. ef. 4-24-12

635-004-0017

Inclusions and Modifications

(1) OAR chapter 635, division 004, modifies or is in addition to provisions contained in **Code of Federal Regulations, Title 50, Part 660, Subpart I** (October 1, 2011 ed.).

(2) The **Code of Federal Regulations (CFR), Title 50, Part 660, Subpart I** (October 1, 2011 ed.) provides requirements for commercial sardine fishing in the Pacific Ocean. However, additional regulations may be promulgated subsequently, and these supersede, to the extent of any inconsistency, the Code of Federal Regulations.

Stat. Auth.: ORS 506.119
Stats. Implemented: ORS 506.109 & 506.129
Hist.: DFW 38-2009, f. & cert. ef. 4-22-09; DFW 78-2009(Temp), f. 6-30-09, cert. ef. 7-1-09 thru 12-28-09; DFW 85-2009(Temp), f. 7-17-09, cert. ef. 7-18-09 thru 12-31-09; DFW 116-2009(Temp), f. & cert. ef. 9-23-09 thru 12-31-09; Administrative correction 1-25-10; DFW 79-2010(Temp), f. 6-11-10, cert. ef. 6-12-10 thru 6-30-10; Administrative correction 7-27-10; DFW 104-2010(Temp), f. 7-21-10, cert. ef. 7-22-10 thru 9-14-10; Administrative correction 9-22-10; DFW 133-2010(Temp), f. 9-22-10, cert. ef. 9-24-10 thru 12-31-10; Administrative correction 1-25-11; DFW 19-2011(Temp), f. 3-2-11, cert. ef. 3-4-11 thru 6-30-11; DFW 56-2011, f. & cert. ef. 5-26-11; DFW 89-2011(Temp), f. 7-11-11, cert. ef. 7-12-11 thru 9-14-11; Administrative correction 9-23-11; DFW 131-2011(Temp), f. 9-19-11, cert. ef. 9-21-11 thru 12-31-11; DFW 39-2012, f. & cert. ef. 4-24-12

635-006-1075

Renewal of Permit

(1) An individual who obtained a limited entry permit may renew the permit as follows:

(a) Gillnet salmon — Permits may be renewed by submission to the Department of a \$100.00 fee (plus a \$2.00 license agent fee) for resident applicants and \$150.00 fee (plus a \$2.00 license agent fee) for nonresident applicants and a complete application, see ORS 508.781 and 508.790;

(b) Troll salmon — Permits may be renewed by submission to the Department of a \$100.00 fee (plus a \$2.00 license agent fee) for resident applicants and \$150.00 fee (plus a \$2.00 license agent fee) for nonresident applicants and a complete application, see ORS 508.807 and 508.816;

(c) Shrimp — see ORS 508.892 and 508.907;

(d) Scallop — see ORS 508.849 and 508.858;

(e) Roe-herring permit — Permits may be renewed by submission to the Department of a \$125.00 fee (plus a \$2.00 license agent fee) for resident applicants and \$175.00 fee (plus a \$2.00 license agent fee) for nonresident applicants and a complete application;

(f) Sea Urchin permit:

(A) Permits may be renewed by submission to the Department of a \$100.00 fee (plus a \$2.00 license agent fee) for resident applicants and

\$150.00 fee (plus a \$2.00 license agent fee) for nonresident applicants and a complete application date-stamped or postmarked by January 31 of the year for which renewal is sought; and

(B) The permittee shall have annually lawfully landed 5,000 pounds of sea urchins in Oregon. If a permittee obtained a permit later than January of the prior year (because the permit was obtained through the lottery, or as a result of the Commercial Fishery Permit Board actions or surrender of a permit by a permit holder), the permittee shall not be required to make the 5,000 pound landing requirement by the following January. Instead, at the next renewal thereafter, the permittee shall be required to demonstrate that the 5,000 pound landing requirement was fulfilled during the first full year (twelve-month period) in which the permit was held.

(g) Ocean Dungeness crab permit — see ORS 508.941. A permit which is not renewed by December 31 lapses, and may not be renewed for subsequent years.

(h) Black rockfish / blue rockfish / nearshore fishery — see ORS 508.947.

(i) Brine Shrimp permit:

(A) Permits may be renewed by submission to the Department of a \$100.00 fee (plus a \$2.00 license agent fee) and a complete application date-stamped or postmarked by January 31 of the year for which renewal is sought; and

(B) The permittee shall have lawfully landed 5,000 pounds of brine shrimp in Oregon in the prior year.

(j) Bay clam dive fishery:

(A) Permits may be renewed by submitting to the Department \$100.00 fee (plus a \$2.00 license agent fee) and a complete application date-stamped or postmarked by January 31 of the year for which renewal is sought and;

(B) The permittee shall have lawfully made five landings consisting of at least 100 pounds each landing or an annual total of 2,500 pounds of bay clams, using dive gear in Oregon in the prior calendar year;

(C) Logbooks required under OAR 635-006-1110 must be turned into an ODFW office by the application deadline for renewal of a permit.

(D) If a permit is transferred under OAR 635-006-1095(10)(d), annual renewal requirements are waived in the year the transfer occurred.

(k) Sardine fishery: Permits may be renewed for the following year:

(A) By submitting \$100.00 fee (plus a \$2.00 license agent fee) and a complete application to the Department date-stamped or postmarked by December 31 of the year the permit is sought for renewal and;

(B) Submitting the logbooks required under OAR 635-006-1110.

(2) An application for renewal in any limited entry fishery shall be considered complete if it is legible, has all information requested in the form, and is accompanied by the required fee in full. Any application which is not complete shall be returned, and unless it is thereafter resubmitted and deemed complete by December 31 of the permit year sought, the individual shall not be considered to have applied for renewal in a timely manner.

(3) It is the responsibility of the permittee to ensure that an application is complete and is filed in a timely manner. Failure of the Department to return an application for incompleteness or of an individual to receive a returned application shall not be grounds for treating the application as having been filed in a timely and complete manner.

Stat. Auth.: ORS 506.119
Stats. Implemented: ORS 506.109, 506.129 & 508.921 - 508.941
Hist.: FWC 3-1996, f. 1-31-96, cert. ef. 2-1-96; FWC 64-1996, f. 11-13-96, cert. ef. 11-15-96; DFW 92-1998, f. & cert. ef. 11-25-98; DFW 112-2003, f. & cert. ef. 11-14-03; DFW 137-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 139-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 23-2006, f. & cert. ef. 4-21-06; DFW 2-2007, f. & cert. ef. 1-12-07; DFW 86-2007(Temp), f. & cert. ef. 9-10-07 thru 9-17-07; Administrative correction 10-16-07; DFW 3-2008, f. & cert. ef. 1-15-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 38-2009, f. & cert. ef. 4-22-09; DFW 145-2009, f. 12-9-09, cert. ef. 1-1-10; DFW 155-2010(Temp), f. 11-22-10, cert. ef. 11-23-10 thru 5-21-11; Administrative correction 6-28-11; DFW 146-2011, f. & cert. ef. 10-14-11; DFW 39-2012, f. & cert. ef. 4-24-12

635-039-0080

Purpose and Scope

(1) The purpose of Division 039 is to provide for management of sport fisheries for marine fish, shellfish, and marine invertebrates in the Pacific Ocean, coastal bays, and beaches over which the State has jurisdiction.

(2) Division 039 incorporates into Oregon Administrative Rules, by reference:

(a) The sport fishing regulations of the State, included in the document entitled **2012 Oregon Sport Fishing Regulations**;

(b) **Title 50 of the Code of Federal Regulations, Part 300, Subpart E** (October 1, 2012 ed.), as amended;

(c) **Title 50 of the Code of Federal Regulations, Part 660, Subpart G** (October 1, 2012 ed.), as amended;

ADMINISTRATIVE RULES

(d) **Federal Register Vol. 76, No. 43**, dated May 11, 2011 (76 FR 27508);

(e) **Federal Register Vol. 76, No. 339**, dated December 13, 2011 (76 FR 77415); and

(f) **Federal Register Vol. 77, No. 56**, dated March 22, 2012 (77FR 16740).

(3) Therefore, persons must consult all publications referenced in this rule in addition to Division 011 and Division 039 to determine all applicable sport fishing requirements for marine fish, shellfish and marine invertebrates.

[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.: FWC 82-1993, f. 12-22-93, cert. ef. 1-1-94; Renumbered from 635-39-105 - 635-39-135; 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 25-1997, f. 4-22-97, cert. ef. 5-1-97; FWC 75-1997, f. 12-31-97, cert. ef. 1-1-98; DFW 91-1998, f. & cert. ef. 11-25-98; DFW 96-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 98-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 81-2000, f. 12-22-00, cert. ef. 1-1-01; DFW 118-2001, f. 12-24-01, cert. ef. 1-1-02; DFW 26-2002, f. & cert. ef. 3-21-02; DFW 130-2002, f. 11-21-02, cert. ef. 1-1-03; DFW 125-2003, f. 12-11-03, cert. ef. 1-1-04; 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 33-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 54-2005(Temp), f. 6-10-05, cert. ef. 6-12-05 thru 11-30-05; DFW 56-2005, f. 6-21-05, cert. ef. 7-1-05; DFW 71-2005(Temp), f. & cert. ef. 7-7-05 thru 11-30-05; DFW 89-2005(Temp), f. & cert. ef. 8-12-05 thru 12-12-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 138-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 134-2006(Temp), f. 12-21-06, cert. ef. 1-1-07 thru 6-29-07; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 39-2009, f. & cert. ef. 4-27-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 32-2010, f. & cert. ef. 3-15-10; DFW 37-2010, f. 3-30-10, cert. ef. 4-1-10; DFW 157-2010, f. 12-6-10, cert. ef. 1-1-11; DFW 24-2011, f. & cert. ef. 3-22-11; DFW 164-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 39-2012, f. & cert. ef. 4-24-12

635-039-0085

Halibut Seasons

(1) The Pacific halibut sport fishery in Oregon is regulated by the federal government and the International Pacific Halibut Commission (IPHC). OAR chapter 635, division 039 incorporates into Oregon Administrative Rules, by reference:

(a) **Title 50 of the Code of Federal Regulations**, Part 300, Subpart E (October 1, 2012 ed.), as amended; and

(b) **Federal Register Vol. 77, No. 56**, dated March 22, 2012 (77FR 16740).

(2) Therefore, persons must consult all publications referenced in this rule in addition to Division 039 to determine applicable halibut fishing seasons.

Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 496.162 & 506.129

Stat. Auth.: ORS 496.138, 496.162, 506.036, 506.109, 506.119 & 506.129

Stats. Implemented: ORS 496.162 & 506.129

Hist.: DFW 56-2005, f. 6-21-05, cert. ef. 7-1-05; DFW 89-2005(Temp), f. & cert. ef. 8-12-05 thru 12-12-05; DFW 107-2005(Temp), f. 9-14-05, cert. ef. 9-15-05 thru 10-31-05; DFW 121-2005(Temp), f. 10-12-05, cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-19-06; DFW 34-2006(Temp), f. 5-25-06, cert. ef. 5-27-06 thru 8-3-06; Administrative correction 8-22-06; DFW 3-2007, f. & cert. ef. 1-12-07; DFW 35-2007(Temp), f. 5-25-07, cert. ef. 5-26-07 thru 8-2-07; DFW 67-2007(Temp), f. 8-9-07, cert. ef. 8-12-07 thru 9-30-07; DFW 76-2007(Temp), f. 8-17-07, cert. ef. 8-24-07 thru 9-30-07; DFW 84-2007(Temp), f. 9-5-07, cert. ef. 9-15-07 thru 9-30-07; DFW 87-2007(Temp), f. 9-10-07, cert. ef. 9-14-07 thru 10-28-07; DFW 90-2007(Temp), f. 9-19-07, cert. ef. 9-20-07 thru 10-31-07; Administrative correction 11-17-07; DFW 57-2008(Temp), f. 5-30-08, cert. ef. 6-1-08 thru 7-31-08; DFW 81-2008(Temp), f. 7-11-08, cert. ef. 8-2-08 thru 9-30-08; DFW 92-2008(Temp), f. & cert. ef. 8-11-08 thru 9-30-08; DFW 101-2008(Temp), f. 8-25-08, cert. ef. 8-29-08 thru 9-30-08; DFW 107-2008(Temp), f. 9-5-08, cert. ef. 9-7-08 thru 12-31-08; DFW 111-2008(Temp), f. & cert. ef. 9-16-08 thru 12-31-08; DFW 120-2008(Temp), f. 9-25-08, cert. ef. 9-27-08 thru 12-31-08; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 39-2009, f. & cert. ef. 4-27-09; DFW 55-2009(Temp), f. & cert. ef. 5-22-09 thru 8-6-09; DFW 94-2009(Temp), f. 8-14-09, cert. ef. 8-16-09 thru 12-31-09; Administrative correction 1-25-10; DFW 32-2010, f. & cert. ef. 3-15-10; DFW 37-2010, f. 3-30-10, cert. ef. 4-1-10; DFW 100-2010(Temp), f. 7-15-10, cert. ef. 7-17-10 thru 10-31-10; DFW 118-2010(Temp), f. & cert. ef. 8-13-10 thru 10-31-10; Administrative correction 11-23-10; DFW 24-2011, f. & cert. ef. 3-22-11; DFW 58-2011(Temp), f. 5-27-11, cert. ef. 6-4-11 thru 8-4-11; DFW 82-2011(Temp), f. 6-30-11, cert. ef. 7-1-11 thru 8-4-11; DFW 85-2011(Temp), f. 7-5-11, cert. ef. 7-6-11 thru 10-31-11; DFW 114-2011(Temp), f. & cert. ef. 8-12-11 thru 10-31-11; DFW 135-2011(Temp), f. 9-21-11, cert. ef. 10-1-11 thru 12-31-11; DFW 39-2012, f. & cert. ef. 4-24-12

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Rule Caption: Federal In-season Actions and Management Measures Implemented for Commercial Groundfish Fisheries.

Adm. Order No.: DFW 40-2012(Temp)

Filed with Sec. of State: 4-24-2012

Certified to be Effective: 5-1-12 thru 10-27-12

Notice Publication Date:

Rules Amended: 635-004-0019

Subject: This amended rule implements in-season actions adopted by the federal government for 2012 Pacific ocean commercial groundfish fisheries, including but not limited to: (a) Changes in the

trawl rockfish conservation area (RCA); and (b) Changes to limited entry and open access sablefish DTL fishery trip limits.

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

635-004-0019

Inclusions and Modifications

(1) OAR Chapter 635, Division 004, modifies or is in addition to provisions contained in: **Code of Federal Regulations, Title 50, Part 660, Subparts C, D, E and F (October 1, 2011 ed.)**.

(2) The Code of Federal Regulations (CFR), Title 50, Part 660, Subparts C, D, E and F (October 1, 2011 ed.), provides requirements for commercial groundfish fishing in the Pacific Ocean off the Oregon coast. However, additional regulations may be promulgated subsequently, and these supersede, to the extent of any inconsistency, the Code of Federal Regulations.

(3) Notwithstanding, the regulations defined in OAR 635-004-0019, the National Marine Fisheries Service, by means of Federal Register/Vol. 76, No. 245/Wednesday, December 21, 2011, announced inseason actions and management measures effective January 1, 2012, including but not limited to:

(a) Changes in the trawl rockfish conservation area (RCA) and

(b) Changes to limited entry and open access sablefish DTL fishery trip limits.

(4) Notwithstanding, the regulations defined in OAR 635-004-0019, the National Marine Fisheries Service, by means of Federal Register/Vol. 77, No. 74/Tuesday, April 17, 2012, announced inseason actions and management measures effective May 1, 2011, including but not limited to: (a) changes in the trawl rockfish conservation area (RCA).

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109 & 506.129

Hist.: DFW 76-1999(Temp), f. 9-30-99, cert. ef. 10-1-99 thru 12-31-99; DFW 81-1999(Temp), f. & cert. ef. 10-12-99 thru 12-31-99; DFW 98-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 23-2005(Temp), f. & cert. ef. 4-8-05 thru 10-4-05; DFW 30-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 43-2005(Temp), f. & cert. ef. 5-13-05 thru 10-17-05; DFW 68-2005(Temp), 6-30-05, cert. ef. 7-1-05 thru 12-27-05; DFW 114-2005(Temp), f. 9-30-05, cert. ef. 10-1-05 thru 12-31-05; DFW 125-2005(Temp), f. & cert. ef. 10-19-05 thru 12-31-05; DFW 134-2005(Temp), f. & cert. ef. 11-30-05 thru 12-31-05; DFW 147-2005(Temp), f. 12-28-05, cert. ef. 1-1-06 thru 6-28-06; DFW 8-2006(Temp), f. 2-28-06, cert. ef. 3-1-06 thru 8-25-06; DFW 25-2006(Temp), f. 4-28-06, cert. ef. 5-1-06 thru 10-27-06; DFW 55-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-27-06; DFW 110-2006(Temp), f. 9-29-06, cert. ef. 10-1-06 thru 12-31-06; Administrative Correction 1-16-07; DFW 29-2007(Temp), f. & cert. ef. 5-1-07 thru 10-27-07; DFW 58-2007(Temp), f. 7-18-07, cert. ef. 8-1-07 thru 12-31-07; DFW 106-2007(Temp), f. 10-5-07, cert. ef. 10-6-07 thru 12-31-07; DFW 123-2007(Temp), f. 11-26-07, cert. ef. 11-28-07 thru 12-31-07; DFW 126-2007(Temp), f. & cert. ef. 12-11-07 thru 12-31-07; DFW 41-2008(Temp), f. 4-23-08, cert. ef. 5-1-08 thru 10-27-08; DFW 88-2008(Temp), f. & cert. ef. 8-1-08 thru 12-31-08; DFW 146-2008(Temp), f. & cert. ef. 12-4-08 thru 12-31-08; DFW 1-2009(Temp), f. & cert. ef. 1-5-09 thru 5-1-09; DFW 29-2009(Temp), f. & cert. ef. 3-18-09 thru 5-1-09; DFW 41-2009(Temp), f. 4-29-09, cert. ef. 5-1-09 thru 10-27-09; DFW 39-2009, f. & cert. ef. 4-27-09; DFW 81-2009(Temp), f. & cert. ef. 7-2-09 thru 12-28-09; DFW 136-2009, f. 10-28-09 thru 12-31-09; DFW 138-2009(Temp), f. & cert. ef. 11-2-09 thru 12-31-09; Administrative correction 1-25-10; DFW 25-2010(Temp), f. & cert. ef. 3-3-10 thru 8-29-10; DFW 59-2010(Temp), f. & cert. ef. 5-12-10 thru 11-7-10; DFW 109-2010(Temp), f. & cert. ef. 7-30-10 thru 11-30-10; DFW 122-2010(Temp), f. & cert. ef. 8-25-10 thru 11-30-10; DFW 138-2010(Temp), f. & cert. ef. 10-4-10 thru 12-31-10; DFW 157-2010, f. 12-6-10, cert. ef. 1-1-11; DFW 160-2010(Temp), f. & cert. ef. 12-7-10 thru 12-31-10; DFW 167-2010(Temp), f. 12-29-10, cert. ef. 1-1-11 thru 1-31-11; DFW 2-2011(Temp), f. & cert. ef. 1-11-11 thru 7-9-11; DFW 20-2011(Temp), f. & cert. ef. 3-3-11 thru 8-29-11; DFW 47-2011(Temp), f. & cert. ef. 5-13-11 thru 11-8-11; DFW 73-2011(Temp), f. & cert. ef. 6-20-11 thru 11-8-11; DFW 86-2011(Temp), f. 7-6-11, cert. ef. 7-7-11 thru 12-31-11; DFW 164-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 40-2012(Temp), f. 4-24-12, cert. ef. 5-1-12 thru 10-27-12

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Rule Caption: 2012 Commercial Spring Fisheries for Tongue Point and South Channel Select Areas.

Adm. Order No.: DFW 41-2012(Temp)

Filed with Sec. of State: 4-24-2012

Certified to be Effective: 4-26-12 thru 6-30-12

Notice Publication Date:

Rules Amended: 635-042-0170

Subject: Amended rules to set seasons, area boundaries and catch restrictions for Chinook salmon and white sturgeon spring commercial fisheries for the Tongue Point/South Channel select areas of the Columbia River. Modifications are consistent with the action taken January 26, 2012 by the Columbia River Compact agencies of Oregon and Washington.

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

635-042-0170

Tongue Point Basin and South Channel

(1) Tongue Point includes all waters bounded by a line extended from the upstream (southern most) pier (#1) at the Tongue Point Job Corps facil-

ADMINISTRATIVE RULES

ity through navigation marker #6 to Mott Island (new spring lower dead-line), a line from a marker at the southeast end of Mott Island northeasterly to a marker on the northwest tip of Lois Island, and a line from a marker on the southwest end of Lois Island due westerly to a marker on the Oregon shore.

(2) South Channel area includes all waters bounded by a line from a marker on John Day Point through the green USCG buoy "7" thence to a marker on the southwest end of Lois Island upstream to an upper boundary line from a marker on Settler Point northwesterly to the flashing red USCG marker "10" thence northwesterly to a marker on Burnside Island defining the terminus of South Channel.

(3) Salmon, shad and white sturgeon may be taken for commercial purposes in those waters of Tongue Point and South Channel as described in section (1) and section (2) of this rule. The 2012 open fishing periods are:

(a) Spring Season: Monday and Thursday nights from 7:00 p.m. to 7:00 a.m. the following morning (12 hours) beginning Thursday, April 26 through Friday, June 15 (15 nights).

(4) Gear restrictions are as follows:

(a) In waters described in section (1) as Tongue Point basin, gill nets may not exceed 250 fathoms in length and weight limit on the lead line is not to exceed two pounds on any one fathom. It is unlawful to use a gill net having a mesh size that is more than 9.75-inches.

(b) In waters described in section (2) as South Channel, nets are restricted to 100 fathoms in length with no weight restrictions on the lead line. The attachment of additional weight and anchors directly to the lead line is permitted. It is unlawful to use a gill net having a mesh size that is more than 9.75-inches.

(5) A maximum of two white sturgeon may be possessed or sold by each participating vessel during each calendar week (Sunday through Saturday) that the fishery is open. During the fishing periods identified in section (3)(a) above, the weekly white sturgeon limit applies to combined possessions and sales for all open Select Area fisheries.

(6) During April 26 through May 11, transportation or possession of fish outside the fishing area is unlawful except while in transit to the ODFW sampling station and until ODFW staff has biologically sampled individual catches. A sampling station will be established at the Merts dock in the Tongue Point fishing area. Fishers will be able to confirm the location of the sampling station by calling (971) 230-8247. After sampling, fishers will be issued a transportation permit by agency staff. Beginning May 14, fishers are required to call (971) 230-8247 and leave a message including: name, catch, and where and when the fish will be sold.

Stat. Auth.: ORS 496.138, 496.146 & 506.119

Stats. Implemented: ORS 496.162, 506.129 & 507.030

Hist.: FWC 46-1996, f. & cert. ef. 8-23-96; FWC 48-1997, f. & cert. ef. 8-25-97; FWC 61-1997(Temp), f. 9-23-97, cert. ef. 9-24-97; DFW 15-1998, f. & cert. ef. 3-3-98; DFW 41-1998(Temp), f. 5-28-98, cert. ef. 5-29-98; DFW 42-1998(Temp), f. 5-29-98, cert. ef. 5-31-98 thru 6-6-98; DFW 45-1998(Temp), f. 6-5-98, cert. ef. 6-6-98 thru 6-10-98; DFW 67-1998, f. & cert. ef. 8-24-98; DFW 86-1998, f. & cert. ef. 10-28-98 thru 10-30-98; DFW 10-1999, f. & cert. ef. 2-26-99; DFW 55-1999, f. & cert. ef. 8-12-99; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 42-2000, f. & cert. ef. 8-3-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 84-2001(Temp), f. & cert. ef. 8-29-01 thru 12-31-01; DFW 89-2001(Temp), f. & cert. ef. 9-14-01 thru 12-31-01; DFW 106-2001(Temp), f. & cert. ef. 10-26-01 thru 12-31-01; DFW 15-2002(Temp), f. & cert. ef. 2-20-02 thru 8-18-02; DFW 96-2002(Temp), f. & cert. ef. 8-26-02 thru 12-31-02; DFW 12-2003, f. & cert. ef. 2-14-03; DFW 34-2003(Temp), f. & cert. ef. 4-24-03 thru 10-1-03; DFW 36-2003(Temp), f. & cert. ef. 5-1-03 thru 10-1-03; DFW 75-2003(Temp), f. & cert. ef. 8-1-03 thru 12-31-03; DFW 89-2003(Temp), f. 9-8-03, cert. ef. 9-9-03 thru 12-31-03; Administrative correction 7-30-04; DFW 79-2004(Temp), f. 8-2-04, cert. ef. 8-3-04 thru 12-31-04; DFW 95-2004(Temp), f. 9-17-04, cert. ef. 9-19-04 thru 12-31-04; DFW 109-2004(Temp), f. & cert. ef. 10-19-04 thru 12-31-04; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 85-2005(Temp), f. 8-1-05, cert. ef. 8-3-05 thru 12-31-05; DFW 109-2005(Temp), f. & cert. ef. 9-19-05 thru 12-31-05; DFW 110-2005(Temp), f. & cert. ef. 9-26-05 thru 12-31-05; DFW 116-2005(Temp), f. 10-4-05, cert. ef. 10-5-05 thru 12-31-05; DFW 120-2005(Temp), f. & cert. ef. 10-11-05 thru 12-31-05; DFW 124-2005(Temp), f. & cert. ef. 10-18-05 thru 12-31-05; Administrative correction 1-20-06; DFW 76-2006(Temp), f. 8-8-06, cert. ef. 9-5-06 thru 12-31-06; DFW 103-2006(Temp), f. 9-15-06, cert. ef. 9-18-06 thru 12-31-06; DFW 119-2006(Temp), f. & cert. ef. 10-18-06 thru 12-31-06; Administrative correction 1-16-07; DFW 61-2007(Temp), f. 7-30-07, cert. ef. 8-1-07 thru 10-31-07; DFW 108-2007(Temp), f. 10-12-07, cert. ef. 10-14-07 thru 12-31-07; Administrative Correction 1-24-08; DFW 44-2008(Temp), f. 4-25-08, cert. ef. 4-28-08 thru 10-24-08; DFW 48-2008(Temp), f. & cert. ef. 5-12-08 thru 8-28-08; DFW 58-2008(Temp), f. & cert. ef. 6-4-08 thru 8-31-08; DFW 85-2008(Temp), f. 7-24-08, cert. ef. 8-1-08 thru 12-31-08; DFW 108-2008(Temp), f. 9-8-08, cert. ef. 9-9-08 thru 12-31-08; Administrative correction 1-23-09; DFW 12-2009(Temp), f. 2-13-09, cert. ef. 2-15-09 thru 7-31-09; DFW 89-2009(Temp), f. 8-3-09, cert. ef. 8-4-09 thru 12-31-09; DFW 107-2009(Temp), f. 9-2-09, cert. ef. 9-5-09 thru 10-31-09; Administrative correction 11-19-09; DFW 29-2010(Temp), f. 3-9-10, cert. ef. 4-19-10 thru 6-12-10; DFW 46-2010(Temp), f. & cert. ef. 4-21-10 thru 7-31-10; DFW 53-2010(Temp), f. & cert. ef. 5-4-10 thru 7-31-10; DFW 57-2010(Temp), f. & cert. ef. 5-11-10 thru 7-31-10; DFW 69-2010(Temp), f. & cert. ef. 5-18-10 thru 7-31-10; DFW 113-2010(Temp), f. 8-2-10, cert. ef. 8-4-10 thru 10-31-10; DFW 129-2010(Temp), f. & cert. ef. 9-10-10 thru 10-31-10; Administrative correction 11-23-10; DFW 12-2011(Temp), f. 2-10-11, cert. ef. 2-13-11 thru 7-29-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 32-2011(Temp), f. 4-20-11, cert. ef. 4-21-11 thru 7-29-11; DFW 44-2011(Temp), f. & cert. ef. 5-11-11 thru 6-10-11; Administrative correction 6-28-11; DFW 113-2011(Temp), f. 8-10-11, cert. ef. 8-15-11 thru 10-31-11; DFW 122-2011(Temp), f. 8-29-11, cert. ef. 9-19-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 41-2012(Temp), f. 4-24-12, cert. ef. 4-26-12 thru 6-30-12

Rule Caption: Amendments to Sauvie Island Wildlife Area Management Plan.

Adm. Order No.: DFW 42-2012

Filed with Sec. of State: 4-24-2012

Certified to be Effective: 4-24-12

Notice Publication Date: 3-1-2012

Rules Amended: 635-008-0146, 635-008-0147

Subject: Amendments to Oregon Administrative Rules for the Sauvie Island Wildlife Area Management Plan. Amendments will guide management activities for the next 10 years.

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

635-008-0146

Sauvie Island Wildlife Area Management Plan

(1) It is the policy of the Fish and Wildlife Commission that the Sauvie Island Wildlife Area be managed to provide suitable habitat for waterfowl. It is also the policy of the Commission to manage the wildlife area consistent with the statutory obligation of the Department to acquire and manage land for the purpose of providing: wildlife management, wildlife-oriented recreation and public hunting areas (ORS 496.146).

(2) In furtherance of this policy, management goals and objectives for the Sauvie Island Wildlife Area, are found in the 2012 Sauvie Island Wildlife Area Management Plan.

(3) Five-Year Review: The Sauvie Island Wildlife Area Management Plan will be reviewed by the Department every five years and updated every 10 years.

(4) The Sauvie Island Wildlife Area Beach Use Plan dated September 22, 1993 is amended at A. Beach Boundaries and Buffers, 2.2 Collins Beach Buffer North to provide that the buffer extends from private property south 1400 feet and from the ordinary high water line inland to the Reeder Road right-of-way, that public use in the buffer is excluded Memorial Day Weekend through Labor Day annually and that the buffer will be developed for wildlife habitat benefits by plantings of cottonwoods and shrubs.

Stat. Auth.: ORS 496.012, 496.138, 496.146 & 497.071

Stats. Implemented: ORS 496.012, 496.138, 496.146 & 497.071

Hist.: GC 64, f. 4-3-57; GC 232, f. 8-13-70, ef. 9-11-70; GC 252, f. 5-11-72, ef. 6-1-72, Renumbered from 630-010-0500, Renumbered from 635-015-0005; FWC 63-1980, f. & ef. 11-4-80; FWC 2-1981(Temp), f. & ef. 1-20-81; FWC 30-1982, f. & ef. 5-18-82, Renumbered from 635-008-0005(16); FWC 12-1990, f. & cert. ef. 2-2-90, Renumbered from 635-008-0150; FWC 8-1993, f. & cert. ef. 2-8-93; FWC 53-1994, f. & cert. ef. 8-25-94; DFW 41-2001(Temp), f. & cert. ef. 5-25-01 thru 11-21-01; DFW 104-2001, f. & cert. ef. 10-23-01; DFW 42-2012, f. & cert. ef. 4-24-12

635-008-0147

Rules Regarding Public Use for Sauvie Island Wildlife Area

The Sauvie Island Wildlife Area is open to wildlife-oriented public use compatible with the goals and objectives contained in the 2012 Sauvie Island Wildlife Area Management Plan unless otherwise excluded or restricted by the following rules:

(1) Hunting is prohibited except by permit.

(2) Discharging firearms is prohibited except for shotguns on designated Dog Training Areas, Trapshooting Areas, or as authorized during game bird and game mammal season.

(3) Public use is prohibited from 10 p.m. to 4 a.m. daily.

(4) Camping is prohibited.

(5) All dogs must be on leash, except while hunting during seasons authorized on Sauvie Island Wildlife Area, or pursuant to a valid "Competitive Hunting Dog Trial Permit" or "Sauvie Island Wildlife Area Individual Dog Training Permit."

(6) Domestically-raised game birds may only be released, pursued or taken pursuant to:

(a) A valid "Competitive Hunting Dog Trial Permit" or;

(b) A valid "Game Bird Release Permit for Hunting Dog and Raptor Training" and a "Sauvie Island Wildlife Area Individual Dog Training Permit" or;

(c) As authorized by the Department.

(7) Open fires are prohibited.

(8) Any vehicle found parked or unattended on the Wildlife Area between the hours of 10 p.m. and 4 a.m., or obstructing public access, may be towed at the expense of the registered owner or owners.

(9) No person shall possess or use lead shot at any time.

(10) Horses and bicycles are restricted to roads open to vehicles.

(11) Portions of Sauvie Island Wildlife Area are closed to all entry except by hunting permit during authorized waterfowl hunting seasons.

(12) Portions of Sauvie Island Wildlife Area will be closed from the end of waterfowl hunting season through April 30 each year.

ADMINISTRATIVE RULES

(13) The Department may issue special use permits allowing exceptions to these rules for uses or activities compatible with the purpose of the Sauvie Island Wildlife Area, and consistent with the goals and objectives of the 2012 Sauvie Island Wildlife Area Management Plan.

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162 & 496.992
Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162 & 496.992
Hist.: GC 64, f. 4-3-57; GC 232, f. 8-13-70, ef. 9-11-70; GC 252, f. 5-11-72, ef. 6-1-72, Renumbered from 630-010-0500, Renumbered from 635-015-0005; FWC 63-1980, f. & ef. 11-4-80; FWC 2-1981(Temp), f. & ef. 1-20-81; FWC 30-1982, f. & ef. 5-18-82, Renumbered from 635-008-0005(16); FWC 12-1990, f. & cert. ef. 2-2-90, Renumbered from 635-008-0150; FWC 8-1993, f. & cert. ef. 2-8-93; FWC 53-1994, f. & cert. ef. 8-25-94; DFW 26-2009(Temp), f. & cert. ef. 3-11-09 thru 8-10-09; DFW 32-2009(Temp), f. & cert. ef. 3-30-09 thru 8-10-09; DFW 93-2009, f. & cert. ef. 8-12-09; DFW 42-2012, f. & cert. ef. 4-24-12

Rule Caption: Federal In-season Actions and Management Measures Implemented for Commercial Sablefish Fisheries.

Adm. Order No.: DFW 43-2012(Temp)

Filed with Sec. of State: 4-26-2012

Certified to be Effective: 5-1-12 thru 10-27-12

Notice Publication Date:

Rules Amended: 635-004-0019

Rules Suspended: 635-004-0019(T)

Subject: This amended rule implements in-season actions adopted by the federal government for 2012 Pacific ocean commercial groundfish fisheries, including but not limited to: (a) Changes to limited entry and open access sablefish DTL fishery trip limits.

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

635-004-0019

Inclusions and Modifications

(1) OAR Chapter 635, Division 004, modifies or is in addition to provisions contained in: **Code of Federal Regulations**, Title 50, Part 660, Subparts C, D, E and F (October 1, 2011 ed.).

(2) The **Code of Federal Regulations (CFR)**, Title 50, Part 660, Subparts C, D, E and F (October 1, 2011 ed.), provides requirements for commercial groundfish fishing in the Pacific Ocean off the Oregon coast. However, additional regulations may be promulgated subsequently, and these supersede, to the extent of any inconsistency, the Code of Federal Regulations.

(3) Notwithstanding, the regulations defined in OAR 635-004-0019, the National Marine Fisheries Service, by means of Federal Register/Vol. 76, No. 245/Wednesday, December 21, 2011, announced inseason actions and management measures effective January 1, 2012, including but not limited to: (a) changes in the trawl rockfish conservation area (RCA) and (b) changes to limited entry and open access sablefish DTL fishery trip limits.

(4) Notwithstanding, the regulations defined in OAR 635-004-0019, the National Marine Fisheries Service, by means of Federal Register/Vol. 77, No. 74/Tuesday, April 17, 2012, announced inseason actions and management measures effective May 1, 2012, including but not limited to: (a) changes in the trawl rockfish conservation area (RCA).

(5) Notwithstanding, the regulations defined in OAR 635-004-0019, the National Marine Fisheries Service, by means of Federal Register/Vol. 77, No. 80/Wednesday, April 25, 2012, announces inseason actions and management measures effective May 1, 2012, including but not limited to: (a) reduced trip limits for limited entry fixed gear North of 36° N. latitude.

Stat. Auth.: ORS 506.119

Stats. Implemented: ORS 506.109 & 506.129

Hist.: DFW 76-1999(Temp), f. 9-30-99, cert. ef. 10-1-99 thru 12-31-99; DFW 81-1999(Temp), f. & cert. ef. 10-12-99 thru 12-31-99; DFW 98-1999, f. 12-27-99, cert. ef. 1-1-00; DFW 23-2005(Temp), f. & cert. ef. 4-8-05 thru 10-4-05; DFW 30-2005(Temp), f. 4-29-05, cert. ef. 5-1-05 thru 10-27-05; DFW 43-2005(Temp), f. & cert. ef. 5-13-05 thru 10-17-05; DFW 68-2005(Temp), 6-30-05, cert. ef. 7-1-05 thru 12-27-05; DFW 114-2005(Temp), f. 9-30-05, cert. ef. 10-1-05 thru 12-31-05; DFW 125-2005(Temp), f. & cert. ef. 10-19-05 thru 12-31-05; DFW 134-2005(Temp), f. & cert. ef. 11-30-05 thru 12-31-05; DFW 147-2005(Temp), f. 12-28-05, cert. ef. 1-1-06 thru 6-28-06; DFW 8-2006(Temp), f. 2-28-06, cert. ef. 3-1-06 thru 8-25-06; DFW 25-2006(Temp), f. 4-28-06, cert. ef. 5-1-06 thru 10-27-06; DFW 55-2006(Temp), f. 6-30-06, cert. ef. 7-1-06 thru 12-27-06; DFW 110-2006(Temp), f. 9-29-06, cert. ef. 10-1-06 thru 12-31-06; Administrative Correction 1-16-07; DFW 29-2007(Temp), f. & cert. ef. 5-1-07 thru 10-27-07; DFW 58-2007(Temp), f. 7-18-07, cert. ef. 8-1-07 thru 12-31-07; DFW 106-2007(Temp), f. 10-5-07, cert. ef. 10-6-07 thru 12-31-07; DFW 123-2007(Temp), f. 11-26-07, cert. ef. 11-28-07 thru 12-31-07; DFW 126-2007(Temp), f. & cert. ef. 12-11-07 thru 12-31-07; DFW 41-2008(Temp), f. 4-23-08, cert. ef. 5-1-08 thru 10-27-08; DFW 88-2008(Temp), f. & cert. ef. 8-1-08 thru 12-31-08; DFW 146-2008(Temp), f. & cert. ef. 12-4-08 thru 12-31-08; DFW 1-2009(Temp), f. & cert. ef. 1-5-09 thru 5-1-09; DFW 29-2009(Temp), f. & cert. ef. 3-18-09 thru 5-1-09; DFW 41-2009(Temp), f. 4-29-09, cert. ef. 5-1-09 thru 10-27-09; DFW 39-2009, f. & cert. ef. 4-27-09; DFW 81-2009(Temp), f. & cert. ef. 7-2-09 thru 12-28-09; DFW 136-2009, f. 10-28-09 thru 12-31-09; DFW 138-2009(Temp), f. & cert. ef. 11-2-09 thru 12-31-09; Administrative correction 1-25-10; DFW 25-2010(Temp), f. & cert. ef. 3-3-10 thru 8-29-10; DFW 59-2010(Temp), f. & cert. ef. 5-12-10 thru 11-7-10; DFW 109-2010(Temp), f. & cert. ef. 7-30-10 thru 11-30-10; DFW 122-2010(Temp), f. & cert. ef. 8-25-10 thru 11-30-10; DFW 138-2010(Temp), f. & cert. ef. 10-4-10 thru 12-31-10; DFW 157-2010, f. 12-6-10, cert. ef. 1-1-11; DFW 160-2010(Temp), f. & cert. ef. 12-7-10 thru

12-31-10; DFW 167-2010(Temp), f. 12-29-10, cert. ef. 1-1-11 thru 1-31-11; DFW 2-2011(Temp), f. & cert. ef. 1-11-11 thru 7-9-11; DFW 20-2011(Temp), f. & cert. ef. 3-3-11 thru 8-29-11; DFW 47-2011(Temp), f. & cert. ef. 5-13-11 thru 11-8-11; DFW 73-2011(Temp), f. & cert. ef. 6-20-11 thru 11-8-11; DFW 86-2011(Temp), f. 7-6-11, cert. ef. 7-7-11 thru 12-31-11; DFW 164-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 40-2012(Temp), f. 4-24-12, cert. ef. 5-1-12 thru 10-27-12; DFW 43-2012(Temp), f. 4-26-12, cert. ef. 5-1-12 thru 10-27-12

Rule Caption: Recreational Sturgeon Fisheries Upstream of Bonneville Dam Modified.

Adm. Order No.: DFW 44-2012(Temp)

Filed with Sec. of State: 5-1-2012

Certified to be Effective: 5-20-12 thru 7-31-12

Notice Publication Date:

Rules Amended: 635-023-0095

Rules Suspended: 635-023-0095(T)

Subject: This amended rule re-opens the Bonneville Pool of the Columbia River to the recreational harvest of white sturgeon for four days, June 15-16 and June 22-23, 2012. Modifications also close the John Day Pool to retention of white sturgeon effective 12:01 A.m. Monday, May 21, 2012. Modifications are consistent with action taken April 30, 2012 by the Columbia River Compact agencies of Oregon and Washington.

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

635-023-0095

Sturgeon Season

(1) The **2012 Oregon Sport Fishing Regulations** provide requirements for the Columbia River Zone and the Snake River Zone. However, additional regulations may be adopted in this rule division from time to time, and, to the extent of any inconsistency, they supersede the **2012 Oregon Sport Fishing Regulations**.

(2) The mainstem Columbia River from Wauna powerlines (River Mile 40) upstream to Bonneville Dam, excluding the lower Willamette River upstream to Willamette Falls, Multnomah Channel, and the Gilbert River, is open to the retention of white sturgeon with a fork length of 38-54 inches, three days per week, Thursdays through Saturdays, during the following periods:

(a) January 1 through July 31; and

(b) October 20 through December 31.

(3) The retention of white sturgeon in the area identified in section (2) of this rule is prohibited August 1 through October 19.

(4) The mainstem Columbia River from Wauna powerlines (River Mile 40) downstream to the mouth at Buoy 10, including Youngs Bay is open to the retention of white sturgeon seven days per week during the following periods:

(a) January 1 through April 30;

(b) May 12 through July 8 (or until guideline is met).

(5) The retention of white sturgeon in the area identified in section (4) of this rule is prohibited May 1 through May 11 and July 9 through December 31.

(6) During the fishing period as identified in subsection (4)(a) and section (9) of this rule, only white sturgeon with a fork length of 38-54 inches may be retained.

(7) During the fishing periods as identified in subsection (4)(b) of this rule, only white sturgeon with a fork length of 41-54 inches may be retained.

(8) Angling for sturgeon is prohibited from:

(a) Bonneville Dam downstream to a line crossing the Columbia River from Navigation Marker 82 on the Oregon shore through the upstream exposed end of Skamania Island, continuing in a straight line to Washington shore during May 1 through August 31;

(b) Highway 395 Bridge upstream to McNary Dam; and

(c) From the west end of the grain silo at Rufus upstream to John Day Dam during May 1 through July 31.

(d) The upper and lower ends of Sand Island and corresponding markers on the Oregon shoreline (slough at Rooster Rock State Park) from January 1 through April 30.

(9) Effective 12:01 a.m. Saturday February 18, 2012 through June 14, 2012; from June 17 through June 21; and from June 24 until further notice, the retention of white sturgeon in Bonneville Reservoir and adjacent tributaries is prohibited. Retention is allowed June 15-16 (Friday-Saturday) and June 22-23 (Friday-Saturday), 2012 (4 days).

(10) Effective 12:01 a.m. Monday May 21, 2012 the retention of white sturgeon in the John Day Pool and adjacent tributaries is prohibited.

ADMINISTRATIVE RULES

(11) The mainstem Columbia River from McNary Dam upstream to the Oregon-Washington border at river mile 309.5 is open to retention of white sturgeon with a fork length of 43-54 inches, seven days per week from February 1 through July 31.

(12) The retention of white sturgeon in the area identified in section (11) of this rule is prohibited August 1 through January 31.

(13) Retention of green sturgeon is prohibited all year in all areas.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: DFW 129-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 2-28-05; DFW 6-2005, f. & cert. ef. 2-14-05; DFW 22-2005(Temp), f. 4-1-05, cert. ef. 4-30-05 thru 7-31-05; DFW 50-2005(Temp), f. 6-3-05, cert. ef. 6-11-05 thru 11-30-05; DFW 60-2005(Temp), f. 6-21-05, cert. ef. 6-24-05 thru 12-21-05; DFW 65-2005(Temp), f. 6-30-05, cert. ef. 7-10-05 thru 12-31-05; DFW 76-2005(Temp), f. 7-14-05, cert. ef. 7-18-05 thru 12-31-05; DFW 136-2005, f. 12-7-05, cert. ef. 1-1-06; DFW 145-2005(Temp), f. 12-21-05, cert. ef. 1-1-06 thru 3-31-06; DFW 5-2006, f. & cert. ef. 2-15-06; DFW 19-2006(Temp), f. 4-6-06, cert. ef. 4-8-06 thru 7-31-06; DFW 54-2006(Temp), f. 6-29-06, cert. ef. 7-1-06 thru 12-27-06; DFW 62-2006(Temp), f. 7-13-06, cert. ef. 7-24-06 thru 12-31-06; DFW 79-2006, f. 8-11-06, cert. ef. 1-1-07; DFW 131-2006(Temp), f. 12-20-06, cert. ef. 1-1-07 thru 6-29-07; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 20-2007(Temp), f. 3-26-07, cert. ef. 3-28-07 thru 7-30-07; DFW 38-2007(Temp), f. & cert. ef. 5-31-07 thru 11-26-07; DFW 59-2007(Temp), f. 7-18-07, cert. ef. 7-29-07 thru 12-31-07; DFW 75-2007(Temp), f. 8-17-07, cert. ef. 8-18-07 thru 12-31-07; DFW 102-2007(Temp), f. 9-28-07, cert. ef. 10-1-07 thru 12-31-07; DFW 135-2007(Temp), f. 12-28-07, cert. ef. 1-1-08 thru 6-28-08; DFW 136-2007, f. 12-31-07, cert. ef. 1-1-08; DFW 8-2008, f. & cert. ef. 2-11-08; DFW 23-2008(Temp), f. 3-12-08, cert. ef. 3-15-08 thru 9-10-08; DFW 28-2008(Temp), f. 3-24-08, cert. ef. 3-26-08 thru 9-10-08; DFW 72-2008(Temp), f. 6-30-08, cert. ef. 7-10-08 thru 12-31-08; DFW 78-2008(Temp), f. 7-9-08, cert. ef. 7-12-08 thru 12-31-08; DFW 86-2008(Temp), f. & cert. ef. 7-25-08 thru 12-31-08; DFW 148-2008(Temp), f. 12-19-08, cert. ef. 1-1-09 thru 6-29-09; DFW 156-2008, f. 12-31-08, cert. ef. 1-1-09; DFW 18-2009, f. & cert. ef. 2-26-09; DFW 33-2009(Temp), f. 4-2-09, cert. ef. 4-13-09 thru 10-9-09; DFW 63-2009(Temp), f. 6-3-09, cert. ef. 6-6-09 thru 10-9-09; DFW 83-2009(Temp), f. 7-8-09, cert. ef. 7-9-09 thru 12-31-09; DFW 86-2009(Temp), f. 7-22-09, cert. ef. 7-24-09 thru 12-31-09; DFW 144-2009, f. 12-8-09, cert. ef. 1-1-10; DFW 13-2010(Temp), f. 2-16-10, cert. ef. 2-21-10 thru 7-31-10; DFW 19-2010(Temp), f. 2-26-10, cert. ef. 3-1-10 thru 8-27-10; DFW 34-2010, f. 3-16-10, cert. ef. 4-1-10; DFW 49-2010(Temp), f. 4-27-10, cert. ef. 4-29-10 thru 7-31-10; DFW 50-2010(Temp), f. 4-29-10, cert. ef. 5-6-10 thru 11-1-10; DFW 88-2010(Temp), f. 6-25-10, cert. ef. 6-26-10 thru 7-31-10; DFW 91-2010(Temp), f. 6-29-10, cert. ef. 8-1-10 thru 12-31-10; DFW 99-2010(Temp), f. 7-13-10, cert. ef. 7-15-10 thru 12-31-10; DFW 165-2010(Temp), f. 12-28-10, cert. ef. 1-1-11 thru 6-29-11; DFW 171-2010, f. 12-30-10, cert. ef. 1-1-11; DFW 11-2011(Temp), f. 2-10-11, cert. ef. 2-11-11 thru 7-31-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 26-2011(Temp), f. 4-5-11, cert. ef. 4-10-11 thru 9-30-11; DFW 74-2011(Temp), f. 6-24-11, cert. ef. 6-27-11 thru 7-31-11; DFW 87-2011(Temp), f. 7-8-11, cert. ef. 7-9-11 thru 7-31-11; DFW 96-2011(Temp), f. 7-20-11, cert. ef. 7-30-11 thru 12-31-11; DFW 129-2011(Temp), f. 9-15-11, cert. ef. 9-30-11 thru 12-31-11; DFW 163-2011, f. 12-27-11, cert. ef. 1-1-12; DFW 1-2012(Temp), f. & cert. ef. 1-5-12 thru 7-2-12; DFW 10-2012, f. & cert. ef. 2-7-12; DFW 16-2012(Temp), f. 2-14-12, cert. ef. 2-18-12 thru 7-31-12; DFW 44-2012(Temp), f. 5-1-12, cert. ef. 5-20-12 thru 7-31-12

Rule Caption: Recreational Spring Chinook Season in the Columbia River Above Bonneville Dam Extended.

Adm. Order No.: DFW 45-2012(Temp)

Filed with Sec. of State: 5-1-2012

Certified to be Effective: 5-2-12 thru 7-31-12

Notice Publication Date:

Rules Amended: 635-023-0125

Rules Suspended: 635-023-0125(T)

Subject: These rule modifications extend, by four fishing days, the 2012 Columbia River recreational spring Chinook season for harvest of adipose fin-clipped Chinook salmon and adipose fin-clipped steelhead. Revisions are consistent with action taken April 30, 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 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 may be retained per day. Catch limits for jacks remain in effect as per the 2012 Oregon Sport Fishing Regulations.

(3) Effective March 1 through June 15 the daily bag limit in Oregon's Select Areas will be the same as the mainstem fishery on days when the

mainstem Columbia River below Bonneville Dam is open to retention of Chinook. On days when the mainstem Columbia River fishery is closed to Chinook retention, the permanent salmonid bag limit regulations for Select Areas apply.

(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) The Columbia River is open March 16 through May 6 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) Catch limits of two adult adipose fin-clipped Chinook or steelhead per day; or one of each. Only adipose fin-clipped fish may be retained. All non-adipose fin-clipped Chinook salmon and non-adipose fin-clipped steelhead must be released immediately unharmed.

(6) Effective March 1 through May 15, the mainstem Columbia River will be open for retention of adipose fin-clipped steelhead and shad only during days and seasons open for retention of adipose fin-clipped spring Chinook.

[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 9-30-11; 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

Rule Caption: Zone 6 Treaty Indian Spring Commercial Fisheries Commence.

Adm. Order No.: DFW 46-2012(Temp)

Filed with Sec. of State: 5-14-2012

Certified to be Effective: 5-15-12 thru 6-30-12

Notice Publication Date:

Rules Amended: 635-041-0045, 635-041-0065

Rules Suspended: 635-041-0045(T), 635-041-0065(T)

Subject: Rule amendments commence the Treaty Indian spring commercial fisheries in the Columbia River from 6:00 a.m. Tuesday, May 15 until further notice. Modifications are in response to a Treaty Tribes request for authorized sales of fish caught in Tribal commercial spring fisheries both above and below Bonneville Dam. Modifications are consistent with action taken May 14, 2012 by the Columbia River Compact agencies of Oregon and Washington in cooperation with the Columbia River Treaty Tribes.

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

ADMINISTRATIVE RULES

635-041-0045

Closed Commercial Fishing Areas

Unless otherwise specified in this rule and OAR 635-041-0063, the following waters are closed to commercial fishing:

(1) All Oregon tributaries of the Columbia River.

(2) The Columbia River westerly and downstream of the Bridge of the Gods except:

(a) Fisheries conducted by the Yakama, Warm Springs, Nez Perce and Umatilla tribes downstream of Bonneville Dam (bank fishing only) under provisions of the agreements with the states of Oregon and Washington are open until further notice.

(A) Effective 6:00 a.m. May 15, 2012, commercial sales of Chinook, steelhead, sockeye, coho, walleye, shad, yellow perch, catfish, bass and carp are allowed. Sturgeon caught in the tribal fisheries below Bonneville Dam may not be retained or sold. Fish may not be sold on USACE property below Bonneville Dam, but may be caught and transported off USACE property for sale.

(B) Gear is restricted to subsistence fishing gear which includes hoop-nets, dipnets, spears, gaffs, clubs, fouling hooks and rod and reel with hook-and-line.

(C) Salmon, steelhead, walleye, shad, carp, bass, catfish and yellow perch landed during an open treaty commercial fishing period may be sold at any time.

(b) Platform and hook-and-line fisheries from the Bridge of the Gods downstream to the subsistence fishing deadline as described in OAR 635-041-0020(1) are open to commercial sales whenever sales are authorized for platform and hook-and-line fisheries in the remainder of Bonneville Pool.

(3) The Columbia River easterly and upstream of a line extending at a right angle across the thread of the river from a deadline marker one mile downstream of McNary Dam.

(4) The Columbia River between a line extending at a right angle across the thread of the river from a deadline marker at the west end of 3-Mile Rapids located approximately 1.8 miles below The Dalles Dam, upstream to a line from a deadline marker on the Oregon shore located approximately 3/4 mile above The Dalles Dam east fishway exit, thence at a right angle to the thread of the river to a point in midriver, thence downstream to Light "1" on the Washington shore; except that dip nets, bag nets, and hoop nets are permitted during commercial salmon and shad fishing seasons at the Lone Pine Indian fishing site located immediately above The Dalles Interstate Bridge.

(5) The Columbia River between a line extending at a right angle across the thread of the river from a deadline marker at Preachers Eddy light below the John Day Dam and a line approximately 4.3 miles upstream extending from a marker on the Oregon shore approximately one-half mile above the upper easterly bank of the mouth of the John Day River, Oregon, extending at a right angle across the thread of the river to a point in midriver, thence turning downstream to a marker located on the Washington shore approximately opposite the mouth of the John Day River.

(6) The Columbia River within areas at and adjacent to the mouths of the Deschutes River and the Umatilla River. The closed areas are along the Oregon side of the Columbia River and extend out to the midstream from a point one-half mile above the intersection of the upper bank of the tributary with the Columbia River to a point one mile downstream from the intersection of the lower bank of the tributary with the Columbia River. All such points are posted with deadline markers.

(7) The Columbia River within an area and adjacent to the mouth of the Big White Salmon River. The closed area is along the Washington side of the Columbia River and extends out to midstream at right angles to the thread of the Columbia River between a marker located 1/2 mile downstream from the west bank upstream to Light "35".

(8) The Columbia River within an area at and adjacent to the mouth of Drano Lake (Little White Salmon River). The closed area is along the Washington side of the Columbia River and extends out to midstream at right angles to the thread of the Columbia River between Light "27" upstream to a marker located approximately 1/2 mile upriver of the outlet of Drano Lake.

(9) The Columbia River within an area and adjacent to the mouth of the Wind River. The closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between markers located 1 1/4 miles downstream from the west bank and 1/2 mile upstream from the east bank.

(10) The Columbia River within areas at and adjacent to the mouth of Hood River. The closed area is along the Oregon side of the Columbia River and extends to midstream at right angles to the thread of the Columbia

River between markers located approximately 0.85 miles downriver from the west bank at end of the breakwall at the west end of the Port of Hood River and 1/2 mile upriver from the east bank.

(11) The Columbia River within a radius of 150 feet of the Spring Creek Hatchery fishway, except that during the period of August 25-September 20 inclusive the closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between a marker located 1 1/2 miles downriver of the Spring Creek Hatchery fishway up to the downstream marker of the Big White Salmon sanctuary located approximately 1/2 mile upriver of the Spring Creek Hatchery fishway.

(12) Herman Creek upstream from a line between deadline markers near the mouth. One marker is located on the east bank piling and the other is located on the west bank to the north of the boat ramp.

(13) The Columbia River within an area and adjacent to the mouth of the Klickitat River. The closed area is along the Washington side of the Columbia River and extends to midstream at right angles to the thread of the Columbia River between the downstream margin of Lyle Landing downstream to a marker located near the railroad tunnel approximately 1 1/8 miles downstream from the west bank.

Stat. Auth.: ORS 183.325, 506.109 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 133, f. & ef. 8-4-77; FWC 149(Temp), f. & ef. 9-21-77 thru 1-18-78; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79, Renumbered from 635-035-0045; FWC 6-1980, f. & ef. 1-28-80; FWC 44-1980(Temp), f. & ef. 8-22-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 49-1983(Temp), f. & ef. 9-26-83; FWC 4-1984, f. & ef. 1-31-84; FWC 55-1985(Temp), f. & ef. 9-6-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 25-1986(Temp), f. & ef. 6-25-86; FWC 42-1986, f. & ef. 8-15-86; FWC 2-1987, f. & ef. 1-23-87; FWC 10-1988, f. & cert. 3-4-88; FWC 54-1989(Temp), f. & cert. 8-7-89; FWC 90-1989, f. & cert. 9-6-89; FWC 80-1990(Temp), f. & cert. 8-7-90, cert. 8-8-90; DFW 142-2008, f. & cert. 11-21-08; DFW 23-2011, f. & cert. 3-21-11; DFW 40-2011(Temp), f. & cert. 5-5-11 thru 10-31-11; DFW 43-2011(Temp), f. & cert. 5-10-11 thru 10-31-11; DFW 60-2011(Temp), f. & cert. 6-2-11, cert. 6-6-11 thru 10-31-11; DFW 63-2011(Temp), f. & cert. 6-8-11, cert. 6-9-11 thru 10-31-11; DFW 66-2011(Temp), f. & cert. 6-16-11 thru 10-31-11; DFW 88-2011(Temp), f. & cert. 7-8-11, cert. 7-10-11 thru 10-31-11; DFW 119-2011(Temp), f. & cert. 8-29-11 thru 10-31-11; Administrative correction, 11-18-11; DFW 5-2012(Temp), f. 1-30-12, cert. 2-1-12 thru 3-31-12; DFW 18-2012(Temp), f. 2-28-12, cert. 2-29-12 thru 6-15-12; DFW 46-2012(Temp), f. 5-14-12, cert. 5-15-12 thru 6-30-12

635-041-0065

Winter-Spring Salmon Season

(1) Chinook salmon, steelhead, sockeye, coho, shad, white sturgeon, walleye, catfish, bass, yellow perch and carp may be taken for commercial purposes from the Columbia River Treaty Indian Fishery, from 12 noon February 1 to 6:00 p.m. March 21, 2012; and from 6:00 a.m. Tuesday, May 15, 2012 until further notice.

(2) Effective 6:00 a.m. Tuesday, May 15, 2012 fish species listed in section (1) above with the exception of white sturgeon, caught in platform hook-and-line fisheries in all of Zone 6 as well as during regularly scheduled fishery openings in Washington State tributaries downstream of Bonneville Dam including: the Wind River, Drano Lake (Little White Salmon), Klickitat and Icicle Creek, may be sold or retained for subsistence purposes. White sturgeon caught below Bonneville Dam may not be sold or retained for any purpose.

(3) There are no mesh size restrictions. Authorized gear types include: Hoop net, dip net and hook-and-line. Gill nets may only be used in Drano Lake.

(4) Closed areas as set forth in OAR 635-041-0045 remain in effect with the exception of Spring Creek Hatchery sanctuary.

(5) White sturgeon between 43-54 inches fork length in The Dalles and John Day pools and white sturgeon between 38-54 inches fork length in the Bonneville Pool may be kept for subsistence use only.

(6) Sale of platform and hook-and-line caught fish is allowed during open commercial fishing seasons.

Stat. Auth.: ORS 183.325 & 506.119

Stats. Implemented: ORS 506.129 & 507.030

Hist.: FWC 89, f. & ef. 1-28-77; FWC 2-1978, f. & ef. 1-31-78; FWC 7-1978, f. & ef. 2-21-78; FWC 2-1979, f. & ef. 1-25-79; FWC 13-1979(Temp), f. & ef. 3-30-1979, Renumbered from 635-035-0065; FWC 6-1980, f. & ef. 1-28-80; FWC 1-1981, f. & ef. 1-19-81; FWC 6-1982, f. & ef. 1-28-82; FWC 2-1983, f. 1-21-83, ef. 2-1-83; FWC 4-1984, f. & ef. 1-31-84; FWC 2-1985, f. & ef. 1-30-85; FWC 4-1986(Temp), f. & ef. 1-28-86; FWC 79-1986(Temp), f. & ef. 12-22-86; FWC 2-1987, f. & ef. 1-23-87; FWC 3-1988(Temp), f. & cert. 1-29-88; FWC 10-1988, f. & cert. 3-4-88; FWC 5-1989, f. 2-6-89, cert. 2-7-89; FWC 13-1989(Temp), f. & cert. 3-21-89; FWC 15-1990(Temp), f. 2-8-90, cert. 2-9-90; FWC 20-1990, f. 3-6-90, cert. 3-15-90; FWC 13-1992(Temp), f. & cert. 3-5-92; FWC 7-1993, f. & cert. 2-1-93; FWC 12-1993(Temp), f. & cert. 2-22-93; FWC 18-1993(Temp), f. & cert. 3-2-93; FWC 7-1994, f. & cert. 2-1-94; FWC 11-1994(Temp), f. & cert. 2-28-94; FWC 9-1995, f. & cert. 2-1-95; FWC 19-1995(Temp), f. & cert. 3-3-95; FWC 5-1996, f. & cert. 2-7-96; FWC 4-1997, f. & cert. 1-30-97; DFW 8-1998(Temp), f. & cert. 2-5-98 thru 2-28-98; DFW 14-1998, f. & cert. 3-3-98; DFW 20-1998(Temp), f. & cert. 3-13-98 thru 3-20-98; DFW 23-1998(Temp), f. & cert. 3-20-98 thru 6-30-98; DFW 2-1999(Temp), f. & cert. 2-1-99 thru 2-19-99; DFW 9-1999, f. & cert. 2-26-99; DFW 14-1999(Temp), f. 3-5-99, cert. 3-6-99 thru 3-20-99;

ADMINISTRATIVE RULES

Administrative correction 11-17-99; DFW 6-2000(Temp), f. & cert. ef. 2-1-00 thru 2-29-00; DFW 9-2000, f. & cert. ef. 2-25-00; DFW 19-2000, f. 3-18-00, cert. ef. 3-18-00 thru 3-21-00; DFW 26-2000(Temp), f. 5-4-00, cert. ef. 5-6-00 thru 5-28-00; Administrative correction 5-22-00; DFW 3-2001, f. & cert. ef. 2-6-01; DFW 14-2001(Temp), f. 3-12-01, cert. ef. 3-14-01 thru 3-21-01; Administrative correction 6-20-01; DFW 9-2002, f. & cert. ef. 2-1-02; DFW 11-2002(Temp), f. & cert. ef. 2-8-02 thru 8-7-02; DFW 17-2002(Temp), f. 3-7-02, cert. ef. 3-8-02 thru 9-1-02; DFW 18-2002(Temp), f. 3-13-02, cert. ef. 3-15-02 thru 9-11-02; DFW 134-2002(Temp), f. & cert. ef. 12-19-02 thru 4-1-03; DFW 20-2003(Temp), f. 3-12-03, cert. ef. 3-13-03 thru 4-1-03; DFW 131-2003(Temp), f. 12-26-03, cert. ef. 1-1-04 thru 4-1-04; DFW 5-2004(Temp), f. 1-26-04, cert. ef. 2-2-04 thru 4-1-04; DFW 15-2004(Temp), f. 3-8-04, cert. ef. 3-10-04 thru 4-1-04; DFW 130-2004(Temp), f. 12-23-04, cert. ef. 1-1-05 thru 4-1-05; DFW 4-2005(Temp), f. & cert. ef. 1-31-05 thru 4-1-05; DFW 18-2005(Temp), f. & cert. ef. 3-15-05 thru 3-21-05; Administrative correction 4-20-05; DFW 3-2006(Temp), f. & cert. ef. 1-27-06 thru 3-31-06; Administrative correction 4-19-06; DFW 7-2007(Temp), f. 1-31-07, cert. ef. 2-1-07 thru 7-30-07; DFW 9-2007, f. & cert. ef. 2-14-07; DFW 14-2007(Temp), f. & cert. ef. 3-9-07 thru 9-4-07; DFW 15-2007(Temp), f. & cert. ef. 3-14-07 thru 9-9-07; Administrative correction 9-16-07; DFW 6-2008(Temp), f. 1-29-08, cert. ef. 1-31-08 thru 7-28-08; DFW 20-2008(Temp), f. 2-28-08, cert. ef. 2-29-08 thru 7-28-08; DFW 21-2008(Temp), f. & cert. ef. 3-5-08 thru 7-28-08; DFW 22-2008(Temp), f. 3-7-08, cert. ef. 3-10-08 thru 7-28-08; Administrative correction 8-21-08; DFW 142-2008, f. & cert. ef. 11-21-08; DFW 6-2009(Temp), f. 1-30-09, cert. ef. 2-2-09 thru 8-1-09; DFW 11-2009(Temp), f. 2-13-09, cert. ef. 2-16-09 thru 7-31-09; DFW 22-2009(Temp), f. 3-5-09, cert. ef. 3-6-09 thru 7-31-09; Administrative correction 8-21-09; DFW 9-2010(Temp), f. & cert. ef. 2-3-10 thru 8-1-10; DFW 12-2010(Temp), f. 2-10-10, cert. ef. 2-11-10 thru 8-1-10; DFW 18-2010(Temp), f. 2-24-10, cert. ef. 2-26-10 thru 4-1-10; DFW 24-2010(Temp), f. 3-2-10, cert. ef. 3-3-10 thru 4-1-10; Administrative correction 4-21-10; DFW 8-2011(Temp), f. 1-31-11, cert. ef. 2-1-11 thru 4-1-11; DFW 9-2011(Temp), f. 2-9-11, cert. ef. 2-10-11 thru 4-1-11; DFW 23-2011, f. & cert. ef. 3-21-11; DFW 5-2012(Temp), f. 1-30-12, cert. ef. 2-1-12 thru 3-31-12; DFW 18-2012(Temp), f. 2-28-12, cert. ef. 2-29-12 thru 6-15-12; DFW 19-2012(Temp), f. 3-2-12, cert. ef. 3-5-12 thru 6-15-12; DFW 20-2012(Temp), f. & cert. ef. 3-5-12 thru 6-15-12; DFW 46-2012(Temp), f. 5-14-12, cert. ef. 5-15-12 thru 6-30-12

Rule Caption: Columbia River Recreational Sockeye Salmon Season Opens.

Adm. Order No.: DFW 47-2012(Temp)

Filed with Sec. of State: 5-15-2012

Certified to be Effective: 5-16-12 thru 7-31-12

Notice Publication Date:

Rules Amended: 635-023-0125

Rules Suspended: 635-023-0125(T)

Subject: This amended rule allows retention of sockeye salmon during the period from May 16–July 31, 2012 in the Columbia River. Revisions are consistent with action taken during the 2012 Pacific Fisheries Management Council (PFMC) and North of Falcon season setting process and announced May 15, 2012 by the State of Oregon.
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 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 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, 2011, 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.

[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

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 16-2012(Temp)

Filed with Sec. of State: 5-1-2012

Certified to be Effective: 5-1-12 thru 10-28-12

Notice Publication Date:

Rules Amended: 461-110-0340, 461-110-0530, 461-110-0630, 461-145-0870, 461-160-0120

Subject: OAR 461-110-0340 (about filing groups), 461-110-0530 (about financial groups), and 461-110-0630 (about need groups) are being amended to provide a more understandable and streamlined explanation of steps to follow in determining medical eligibility. Although these revisions will not change the outcome of a medical eligibility determination, the changes are intended to provide a smoother process and understanding of the Medical Assistance to Families (MAF) eligibility groups for eligibility staff and the public.

OAR 461-145-0870 about deemed assets and spouses of non-parent caretaker relatives and 461-160-0120 about deemed assets, ineligible non-citizens, and fathers of an unborn are being amended to clarify how to treat the deemed income for the Medical Assistance to Families (MAF) eligibility groups. These amendments clarify what amount to deduct from an individual's income when they are no longer in the MAF filing group but the individual's income must be deemed back in. Although these revisions will not change the outcome of a medical eligibility determination, the changes are intended to provide a smoother process and understanding of the Medical

ADMINISTRATIVE RULES

Assistance to Families (MAF) eligibility groups for eligibility staff and the public.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-110-0340

Filing Group; MAF and SAC

(1) In the MAF program, a filing group must include a *dependent child* (see OAR 461-001-0000) or unborn child and the following *household group* (see OAR 461-110-0210) members:

(a) Each applicant who meets all nonfinancial eligibility requirements.

(b) Each of the following *household group* members, even if the member did not apply or does not meet nonfinancial eligibility requirements:

(A) Each *parent* (see OAR 461-001-0000) of a *dependent child* in the filing group.

(B) Each *parent* of an unborn child, as follows:

(i) If there is no other *dependent child* in the filing group, only the mother and the unborn are in the filing group.

(ii) The father is in the filing group if he is the father of a dependent child in the filing group or is legally married (see OAR 461-001-0000) to the mother.

(C) A needy *caretaker relative* (see OAR 461-001-0000) of a *dependent child*.

(D) Except as provided in subsection (2)(a) of this rule, each *sibling* (see OAR 461-001-0000) of a *dependent child* if the *sibling* meets all of the following nonfinancial eligibility requirements:

(i) The age requirement in OAR 461-120-0510.

(ii) The requirement to live with a *caretaker relative* under OAR 461-120-0630.

(iii) A deprivation requirement of the MAF program, described under OAR 461-125-0010.

(iv) The citizenship or alien status requirements in OAR 461-120-0110.

(2) Notwithstanding the requirements of section (1) of this rule, in the MAF program:

(a) In a two-parent household with common and uncommon children in which the parents are not married, each *parent* may form their own MAF filing group with their uncommon children.

(b) A father of the unborn is excluded from the MAF filing group if there is no other eligible *dependent child* in the filing group and he is not *legally married* to the mother of the unborn.

(c) One or more ineligible noncitizens with income may be excluded from the MAF filing group.

(d) The *spouse* (see OAR 461-001-0000) and any *dependent child* of a needy *caretaker relative* may be excluded from the MAF filing group.

(e) A *sibling* of a *dependent child* may be excluded from the MAF filing group if the *sibling* is receiving *adoption assistance* (see OAR 461-001-0000) or guardianship assistance (see 461-145-0001 and 461-145-0200) and if counting the *sibling's* income causes the filing group to be ineligible for benefits.

(f) A *dependent child* is not included in the MAF filing group if the *dependent child* is or will be receiving foster care payments for more than 30 days.

(3) In the SAC program, the filing group includes each *household group* member who meets all nonfinancial eligibility requirements.

Stat. Auth.: ORS 411.060, 411.070, 411.404 & 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.404, 414.025 & 414.231

Hist.: AFS 9-1997, f. & cert. ef. 7-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 16-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12

461-110-0530

Financial Group

(1) Except as provided in section (5) of this rule, a “financial group” consists of the filing group members whose income and resources the Department considers in determining *eligibility* (see OAR 461-001-0000) and benefits.

(2) In the EXT, MAA, REF, REFM, and SAC programs, the financial group consists of each individual in the filing group, except the following:

(a) A *caretaker relative* (see OAR 461-001-0000) other than a *parent* (see 461-001-0000) who chooses not to be included in the *need group* (see 461-110-0630); and

(b) An individual who is eligible for and receives an SSI cash payment.

(3) In the MAF program, the financial group consists of each individual in the *filing group* (see OAR 461-110-0340), except for an individual who is eligible for and receives an SSI payment.

(4) In the HKC and OHP programs, the financial group consists of each individual in the filing group (including those receiving SSI benefits), except a *caretaker relative* (other than a parent) who chooses not to be included in the *need group*.

(5) In the OSIPM (except OSIPM-EPD) program:

(a) For the purposes of this section of this rule, “ineligible” means an individual not eligible to receive either SSI or TANF program benefits.

(b) When an individual lives in a *standard living arrangement* (see OAR 461-001-0000):

(A) Except as provided in paragraph (B) of this subsection, each member of the filing group is in the financial group.

(B) When an individual is not *assumed eligible* (see OAR 461-135-0010) for OSIPM:

(i) The individual's *spouse* (see OAR 461-001-0000) who is *ineligible* and in the filing group is not in the financial group if the individual's *adjusted income* (see 461-001-0000) using the deductions allowed under 461-160-0550(3) is greater than the OSIPM program *adjusted income* standard for a *need group* of one under 461-155-0250. The financial group consists only of the individual.

(ii) If the *ineligible* spouse's remaining income after allocation (see OAR 461-160-0551) to each *ineligible* child is equal to or less than the difference between the couple and the individual SSI standards: the *spouse* who is *ineligible* is not considered to be in the financial group when determining *income eligibility*; however, the *spouse* is considered to be in the financial group when determining resource *eligibility*.

(c) When an individual lives in a *nonstandard living arrangement* (see OAR 461-001-0000), the financial group consists only of the individual applying for benefits, except that the *community spouse* (see 461-001-0030) is included in the financial group to determine initial *eligibility*. At initial *eligibility*, the resources of the *community spouse* are considered and the provisions of 461-160-0580 apply. The income of the *community spouse* is not considered in determining initial *eligibility*, and the *community spouse* is not included in any other *eligibility* group.

(6) In the TANF program, the financial group consists of each individual in the filing group except the following:

(a) A *caretaker relative*, other than a *parent*, who chooses not to be included in the *need group* and has income less than the *non-needy countable income limit standard* (see OAR 461-155-0030) for the filing group of the *caretaker relative*;

(b) The *spouse* of a *caretaker relative*, when the *caretaker relative* meets the requirements under subsection (a) of this section;

(c) A *dependent child* of a *caretaker relative* when the *caretaker relative* meets the requirements under subsection (a) of this section;

(d) An individual in the filing group solely due to the requirements of OAR 461-110-0310(2)(b); and

(e) An individual who is eligible for and receives an SSI cash payment.

(7) In the ERDC, GA, OSIPM-EPD, QMB, and SNAP programs, the financial group consists of each individual in the filing group.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.006, 412.049, 412.064, 412.124, 414.231 & 414.712

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.006, 412.049, 412.064, 412.124, 414.025, 414.231, 414.712, 414.826, 414.831 & 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 30-1990, f. 12-31-90, cert. ef. 1-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 24-1997, f. 12-31-97, cert. ef. 1-1-98; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 7-2007, f. 6-29-07, cert. ef. 7-1-07; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 8-2009(Temp), f. 4-20-09, cert. ef. 5-1-09 thru 10-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 14-2009(Temp), f. & cert. ef. 7-1-09 thru 10-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 16-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12

461-110-0630

Need Group

(1) The “need group” consists of the individuals whose basic and special needs are used in determining *eligibility* (see OAR 461-001-0000) and benefit level.

(2) In the EA, REF, and REFM programs, the need group consists of the members of the *financial group* (see OAR 461-110-0530) who meet all nonfinancial eligibility requirements, except that members disqualified for an intentional program violation are not in the need group.

(3) In the ERDC, OSIPM-EPD, QMB, and SAC programs, the need group consists of each member of the *financial group*.

ADMINISTRATIVE RULES

(4) In the EXT program, the need group consists of each member of the *financial group* except an individual excluded from the need group for not complying with social security number requirements under OAR 461-120-0210.

(5) In the SNAP program, the need group consists of the members of the *financial group* who meet all nonfinancial eligibility requirements, except the following individuals are not in the need group:

(a) A member disqualified for an *intentional program violation* (see OAR 461-195-0601).

(b) A fleeing felon under OAR 461-135-0560.

(c) An individual violating a condition of state or federal parole, probation, or post-prison supervision under OAR 461-135-0560.

(6) In the GA and GAM programs, the need group consists of each member of the *financial group* except that the following individuals may not be in the need group:

(a) A fleeing felon under OAR 461-135-0560.

(b) An individual in violation of a condition of state or federal parole, probation, or post-prison supervision under OAR 461-135-0560.

(c) An individual not complying with social security number requirements under OAR 461-120-0210.

(7) In the MAA and TANF programs, the need group is formed as follows:

(a) Except as provided in subsection (b) of this section, the need group consists of the members of the *financial group* who meet all nonfinancial eligibility requirements other than the citizenship and alien status requirements of OAR 461-120-0110 or the citizenship documentation requirements of 461-115-0705.

(b) The need group may not include:

(A) A *parent* (see OAR 461-001-0000) who is in foster care and for whom foster care payments are being made.

(B) An unborn child.

(C) In the TANF program:

(i) An individual who may not be in the need group because of a disqualification penalty.

(ii) An individual who may not be in the need group because the individual has exceeded the 60-month time limit and does not meet any of the exceptions listed in OAR 461-135-0075.

(iii) A fleeing felon under OAR 461-135-0560.

(iv) An individual violating a condition of state or federal parole, probation, or post-prison supervision under OAR 461-135-0560.

(8) In the MAF program, the need group consists of the members of the *financial group*, except the following individuals:

(a) A *parent* who is in foster care and for whom foster care payments are being made.

(b) An unborn child.

(9) In the HKC and OHP programs:

(a) An unborn child of a pregnant female is included in the need group.

(b) Except as provided in OAR 461-150-0055(5), the need group consists of each member of the financial group.

(10) In the OSIPM (except OSIPM-EPD) program:

(a) If a child is applying, the need group consists of the child.

(b) In all other situations, the need group consists of each member of the *financial group*.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.049 & 414.231

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.704, 411.706, 411.816, 412.049, 414.025, 414.231, 414.826, 414.831 & 414.839

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 23-1990, f. 9-28-90, cert. ef. 10-1-90; AFS 6-1991(Temp), f. & cert. ef. 2-8-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 10-1995, f. 3-30-95, cert. ef. 4-1-95; AFS 36-1996, f. 10-31-96, cert. ef. 11-1-96; AFS 42-1996, f. 12-31-96, cert. ef. 1-1-97; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 13-2002, f. & cert. ef. 10-1-02; SSP 29-2003(Temp), f. 10-31-03, cert. ef. 11-1-03 thru 3-31-04; SSP 6-2004, f. & cert. ef. 4-1-04; SSP 17-2004, f. & cert. ef. 7-1-04; SSP 6-2006, f. 3-31-06, cert. ef. 4-1-06; SSP 7-2006(Temp), f. 3-31-06, cert. ef. 4-1-06 thru 9-28-06; SSP 10-2006, f. 6-30-06, cert. ef. 7-1-06; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 25-2010(Temp), f. & cert. ef. 8-16-10 thru 2-12-11; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 10-2011, f. 3-31-11, cert. ef. 4-1-11; SSP 16-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12

461-145-0870

Deemed Assets, Spouse of Nonparent Caretaker Relative; MAF

In the MAF program:

(1) The Department deems all the resources of the spouse (see OAR 461-001-0000) of a nonparent *caretaker relative* (see 461-001-0000) back to the MAF *financial group* (see 461-110-0530) if the needy *caretaker rel-*

ative is in the *financial group*. The Department treats the resource according to the TANF rules for the type of resource.

(2) The Department deems the income of the *spouse* as follows:

(a) The Department deducts the following from the spouse's *countable* (see OAR 461-001-0000) income:

(A) The needs of the *spouse* and the spouse's dependents living in the household, who are not in the MAF *filing group* (see OAR 461-110-0340), at the adjusted income standard (see 461-155-0330); and

(B) The \$90 earned income deduction.

(b) The Department counts any remaining income as unearned income to the *financial group*.

Stat. Auth.: ORS 409.050, 411.060, 411.070, 411.404 & 411.700

Stats. Implemented: ORS 409.010, 411.060, 411.070, 411.404 & 411.700

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 9-1999, f. & cert. ef. 7-1-99; SSP 16-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12

461-160-0120

Deemed Assets, Ineligible Non-Citizens and Father of an Unborn; MAF

In the MAF program:

(1) A *need group* (see OAR 461-110-0630) ineligible for the MAA program that includes one or more ineligible non-citizens or a father of an unborn is evaluated for the MAF program by deeming the non-excluded income of the father or the ineligible non-citizens as provided in sections (2) and (3) of this rule. The amount deemed is counted as unearned income to the MAF *financial group* (see 461-110-0530).

(2) If an individual is excluded from the MAF *filing group* (see OAR 461-110-0340) because he is the father of an unborn, the amount of the income deemed back to the MAF *financial group* from the father is determined by deducting from his non-excluded income:

(a) The adjusted income standard in OAR 461-155-0030(2) for one person; and

(b) The first \$90 of earned income.

(3) If one or more individuals are excluded from the MAF *filing group* for failure to meet the requirements of OAR 461-120-0125 (regarding citizenship and alien status), the amount of the income deemed back to the MAF *financial group* from the ineligible non-citizens is determined by deducting from their non-excluded income:

(a) The adjusted income standard in OAR 461-155-0030(2) for the number of people who do not meet the citizenship or alien status requirements; and

(b) The first \$90 of earned income for each ineligible non-citizen.

Stat. Auth.: ORS 411.060, 411.070 & 411.404

Stats. Implemented: ORS 411.060, 411.070 & 411.404

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 20-1990, f. 8-17-90, cert. ef. 9-1-90; AFS 2-1992, f. 1-30-92, cert. ef. 2-1-92; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 10-2002, f. & cert. ef. 7-1-02; SSP 16-2003, f. & cert. ef. 7-1-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 16-2012(Temp), f. & cert. ef. 5-1-12 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 17-2012(Temp)

Filed with Sec. of State: 5-1-2012

Certified to be Effective: 5-1-12 thru 10-28-12

Notice Publication Date:

Rules Amended: 461-001-0000, 461-125-0170, 461-135-0070, 461-135-0075, 461-135-1260, 461-170-0011

Subject: OAR 461-001-0000 defining many terms used in the eligibility rules is being amended to change the definition of "caretaker relative" in the REF, Pre-TANF, SFPSS, and TANF programs so this definition follows state statute and other rules being amended at this time also to follow state statute.

OAR 461-125-0170 about determining deprivation based on under or unemployment in the TANF and Medical Assistance Assumed (MAA) programs and OAR 461-135-0070 about eligibility requirements in the TANF, MAA, and MAF (Medical Assistance to Families) programs are being amended to implement Senate Bill 1579, Section 81 (2012) and as part of the state's budget shortfall strategy. This amendment makes a family ineligible for TANF program benefits for 120 days if the caretaker relative left employment for a

ADMINISTRATIVE RULES

reason without good cause. Prior to this amendment, the period of ineligibility had been 60 days.

OAR 461-135-0075 is being amended to address budget constraints and implement SB 1579 (2012) by changing how time on TANF is counted toward the 60-month time limit for eligibility. Under this amendment, months may be counted and are no longer exempt when the Oregon unemployment rate is equal to or greater than seven percent. Additionally, two-parent households funded with state funds will now accumulate time toward time limits. This amendment also clarifies that adults and minor parent heads of households with 60 countable months in any state will no longer be eligible for TANF, unless subject to certain exemptions. This rule is also being amended to state that months in which individuals receive a Jobs Participation Incentive food benefit do no count toward time limits.

OAR 461-135-1260 about the specific requirements for the Job Participation Incentive (a \$10 monthly food benefit) and OAR 461-170-0011 about changes that must be reported for the Job Participation Incentive are being amended to allow SNAP cases to be considered without being restricted by the reporting system. OAR 461-135-1260 is also being amended to clarify the kinds of employment and self-employment that are counted to be eligible for JPI. OAR 461-135-1260 is also being amended to remove redundant requirements.

Rules Coordinator: Annette Tesch—(503) 945-6067

461-001-0000

Definitions for Chapter 461

Defined terms are often italicized throughout this chapter of rules. If a defined term is accompanied by a cross-reference to a rule defining the term, subsequent usages of that term in the same rule refer to the same definition cross-referenced earlier in the rule. In this chapter of rules, unless the context indicates otherwise:

(1) A reference to Division, Adult and Family Services Division (or AFS), Senior and Disabled Services Division (or SDS), or any other agency formerly part of the Department of Human Services shall be taken to mean the Department of Human Services (DHS), except that the rule in which reference occurs only regulates programs covered by Chapter 461 of the Oregon Administrative Rules.

(2) "Address Confidentiality Program" (ACP) means a program of the Oregon Department of Justice, which provides a substitute mailing address and mail forwarding service for ACP participants who are victims of domestic violence, sexual assault, or stalking.

(3) "Adjusted income" means the amount determined by subtracting income deductions from *countable* income (see OAR 461-140-0010). Specific rules on the deductions are found in division 461-160.

(4) "Adoption assistance" means financial assistance provided to families adopting children with special needs. Adoption assistance may be state or federally funded. Federal adoption assistance is authorized by the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. No. 96-272, 94 Stat. 500 (1980)). State adoption assistance is authorized by ORS 418.330 to 418.335.

(5) "Assets" mean income and resources.

(6) "Basic decision notice" means a *decision notice* mailed no later than the date of action given in the notice.

(7) "Branch office" means any Department or AAA (Area Agency on Aging) office serving a program covered by this chapter of rules.

(8) "Budgeting" means the process of calculating the benefit level.

(9) "Budget month" means the calendar month from which nonfinancial and financial information is used to determine *eligibility* and benefit level for the payment month.

(10) "Cafeteria plan" means a written benefit plan offered by an employer in which:

(a) All participants are employees; and

(b) Participants can choose, cafeteria-style, from a menu of two or more cash or qualified benefits. In this context, qualified benefits are benefits other than cash that the Internal Revenue Services does not consider part of an employee's gross income. Qualified benefits include, but are not limited to:

(A) Accident and health plans (including medical plans, vision plans, dental plans, accident and disability insurance);

(B) Group term life insurance plans (up to \$50,000);

(C) Dependent care assistance plans; and

(D) Certain stock bonus plans under section 401(k)(2) of the Internal Revenue Code (but not 401(k)(1) plans).

(11) "Capital asset" means property that contributes toward earning self-employment income, including self-employment income from a microenterprise, either directly or indirectly. A capital asset generally has a useful life of over one year and a value, alone or in combination, of \$100 or more.

(12) "Caretaker" means an individual who is responsible for the care, control, and supervision of a child. The status of caretaker ends once the individual no longer exercises care, control, and supervision of the child for 30 days.

(13) "Caretaker relative" means:

(a) In the REF, Pre-TANF, SFPSS, and TANF programs, a dependent child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece who lives in a residence maintained by one or more of the relatives as the child's or the relative's own home.

(b) In all programs not covered under subsection (a) of this section, a *caretaker* who meets the requirements of one of the following paragraphs:

(A) Is one of the following relatives of the *dependent child*:

(i) Any blood relative, including those of half-blood, and including first cousins, nephews, or nieces, and individuals of preceding generations as denoted by prefixes of grand, great, or great-great.

(ii) Stepfather, stepmother, stepbrother, and stepsister.

(iii) An individual who legally adopts the child and any individual related to the individual adopting the child, either naturally or through adoption.

(B) Is or was a spouse of an individual listed in paragraph (A) of this subsection.

(C) Met the definition of *caretaker relative* under paragraph (A) or (B) of this subsection before the child was adopted (notwithstanding the child's subsequent adoption).

(14) "Certification period" means the period for which a client is certified eligible for a program.

(15) "Child" includes natural, step, and adoptive children. The term child does not include an unborn.

(a) In the ERDC program, a child need not have a biological or legal relationship to the caretaker but must be in the care and custody of the caretaker, must meet the citizenship or alien status requirements of OAR 461-120-0110, and must be:

(A) Under the age of 18; or

(B) Under the age of 19 and in secondary school or vocational training at least half time.

(b) In the GA, GAM, and OSIP programs, a child is an individual under the age of 18.

(c) In the OHP program, child means an individual, including a minor parent, under the age of 19.

(d) In the OSIPM and QMB programs, child means an unmarried individual living with a parent who is:

(A) Under the age of 18; or

(B) Under the age of 22 and attending full time secondary, post secondary or vocational-technical training designed to prepare the individual for employment.

(16) "Community based care" is any of the following:

(a) Adult foster care — Room and board and 24 hour care and services for the elderly or for disabled people 18 years of age or older. The care is contracted to be provided in a home for five or fewer clients.

(b) Assisted living facility — A program approach, within a physical structure, which provides or coordinates a range of services, available on a 24-hour basis, for support of resident independence in a residential setting.

(c) In-home Services — People living in their home receiving services determined necessary by the Department.

(d) Residential care facility — A facility that provides residential care in one or more buildings on contiguous property for six or more individuals who have physical disabilities or are socially dependent.

(e) Specialized living facility — Identifiable services designed to meet the needs of individuals in specific target groups which exist as the result of a problem, condition or dysfunction resulting from a physical disability or a behavioral disorder and require more than basic services of other established programs.

(f) Independent choices — In-Home Services program wherein the participant is given cash benefits to purchase self-directed personal assistance services or goods and services provided pursuant to a written service plan (see OAR 411-030-0020).

ADMINISTRATIVE RULES

(17) "Continuing benefit decision notice" means a *decision notice* that informs the client of the right to continued benefits and is mailed in time to be received by the date benefits are, or would be, received.

(18) "Countable" means that an available asset (either income or a resource) is not excluded and may be considered by some programs to determine eligibility.

(19) "Custodial parents" mean parents who have physical custody of a child. Custodial parents may be receiving benefits as dependent children or as caretaker relatives for their own children.

(20) "Decision notice" means a written notice of a decision by the Department regarding an individual's eligibility for benefits in a program.

(21) "Department" means the Department of Human Services (DHS).

(22) "Dependent child", in the EXT, MAA, MAF, REF, REFM, and TANF programs, means the following:

(a) An individual who is not a *caretaker relative* of a *child* in the household, is unmarried or married but separated, and is under the age of 18, or 18 years of age and a full time student in secondary school or the equivalent level of vocational or technical training; or

(b) A *minor parent* whose parents have chosen to apply for benefits for the minor parent. This does not apply to a *minor parent* who is married and living with his or her *spouse*.

(23) "Disability" means:

(a) In the SNAP program, see OAR 461-001-0015.

(b) In the REF, SFPSS, TA-DVS, and TANF programs, for purposes other than determining eligibility:

(A) An individual with a physical or mental impairment that substantially limits the individual's ability to meet the requirements of the program; or

(B) An individual with a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or who is regarded as having such an impairment as defined by the Americans with Disabilities Act (42 USC 12102; 28 CFR 35.104).

(24) "Domestic violence" means the occurrence of one or more of the following acts between family members, intimate partners, or household members:

(a) Attempting to cause or intentionally, knowingly or recklessly causing physical injury or emotional, mental or verbal abuse.

(b) Intentionally, knowingly or recklessly placing another in fear of imminent serious physical injury.

(c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.

(d) Using coercive or controlling behavior.

(25) "Domestic violence shelters" are public or private nonprofit residential facilities providing services to victims of domestic violence. If the facility serves other people, a portion must be used solely for victims of domestic violence.

(26) ELA means Express Lane Agency: A public agency identified in the State Medicaid Plan or State CHIP Plan as an agency capable of making determinations regarding one or more eligibility requirements in the OHP-OPC, OHP-CHP, or HKC programs.

(27) ELE means Express Lane Eligibility: In the HKC, OHP-CHP, and OHP-OPC programs, the Department's option to rely on a determination, made within a reasonable period, by an ELA finding that a child satisfies the requirements for OHP-CHP or OHP-OPC program eligibility. ELE qualifies a child for medical assistance benefits based on a finding from another public agency, even when the other agency's eligibility methodology differs from that ordinarily used by the Department to determine HKC, OHP-CHP, and OHP-OPC program eligibility.

(28) "Electronic application" is an application electronically signed and submitted through the internet.

(29) "Eligibility" means the decision as to whether an individual qualifies, under financial and nonfinancial requirements, to receive program benefits.

(30) "Equity value" means fair market value minus encumbrances.

(31) "Fair market value" means the amount an item is worth on the open market.

(32) "Family stability" in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means the characteristics of a family that support healthy child development, including parental mental health, drug and alcohol free environment, stable relationships, and a supportive, flexible, and nurturing home environment.

(33) "Family stability activity" in the JOBS, Pre-TANF, Post-TANF, SFPSS, TA-DVS, and TANF programs means an action or set of actions taken by the client, as specified in a case plan, intended to promote the ability of one or both parents to achieve or maintain *family stability*.

(34) "Financial institution" means a bank, credit union, savings and loan association, investment trust, or other organization held out to the public as a place receiving funds for deposit, savings, checking, or investment.

(35) "HPN" means a health plan new/noncategorical client eligible under OHP-OPU.

(36) "Income producing property" means any real or personal property that generates income for the financial group. Examples of income producing property are:

(a) Livestock, poultry, and other animals.

(b) Farmland, rental homes (including a room or other space in the home or on the property of a member of the financial group), vacation homes, condominiums.

(37) "Initial month" of eligibility means any of the following:

(a) In all programs, the first month a *benefit group* (see OAR 461-110-0750) is eligible for a program benefit in Oregon after a period during which the group is not eligible.

(b) In all programs except the SNAP program, the first month a *benefit group* is eligible for a program benefit after there has been a break in the program benefit of at least one full calendar month. If benefits are suspended for one month, that is not considered a break.

(c) In the SNAP program:

(A) The first month for which the *benefit group* is certified following any period during which they were not certified to participate, except for *migrant* and *seasonal farm workers* (see OAR 461-001-0015).

(B) For *migrant* and *seasonal farmworkers*, the first month for which the *benefit group* is certified following any period of one month or more during which they were not certified to participate.

(d) In the OHP program, the first month of a redetermination or recertification period.

(e) For a new applicant to the GA, GAM, OSIP, or OSIPM program living in a *nonstandard living arrangement*, for the purposes of calculating the correct divisor in OAR 461-140-0296, the month in which the client would have been eligible had it not been for the disqualifying transfer of assets.

(38) "In-kind income" means income in a form other than money (such as food, clothing, cars, furniture, and payments made to a third party).

(39) "Legally married" means a marriage uniting a man and a woman according to the provisions of either:

(a) The statutes of the state where the marriage occurred;

(b) The common law of the state in which the man and woman previously resided while meeting the requirements for common law marriage in that state; or

(c) The laws of a country in which the man and woman previously resided while meeting the requirements for legal or cultural marriage in that country.

(40) "Life estate" means the right to property limited to the lifetime of the individual holding it or the lifetime of some other individual. In general, a life estate enables the owner of the life estate to possess, use, and obtain profits from property during the lifetime of a designated individual while actual ownership of the property is held by another individual. A life estate is created when an individual owns property and then transfers ownership to another individual while retaining, for the rest of his or her life, certain rights to that property. In addition, a life estate is established when a member of the *financial group* (see OAR 461-110-0530) purchases a life estate interest in the home of another individual.

(41) "Lodger" means a member of the *household group* (see OAR 461-110-0210) who:

(a) Is not a member of the filing group; and

(b) Pays the filing group for room and board.

(42) "Long term care" means the system through which the Department provides a broad range of social and health services to eligible adults who are aged, blind, or have disabilities for extended periods of time. This includes nursing homes and state hospitals (Eastern Oregon and Oregon State Hospitals).

(43) "Lump-sum income" means income received too infrequently or irregularly to be reasonably anticipated, or received as a one-time payment. Lump-sum income includes:

(a) Retroactive benefits covering more than one month, whether received in a single payment or several payments.

(b) Income from inheritance, gifts, winnings, and personal injury claims.

(44) "Marriage" means the union of a man and a woman who are *legally married*.

ADMINISTRATIVE RULES

(45) "Microenterprise" means a sole proprietorship, partnership, or family business with fewer than five employees and capital needs no greater than \$35,000.

(46) "Minor parent", in the ERDC, EXT, MAA, MAF, REF, REFM, and TANF programs, means a parent under the age of 18.

(47) "Nonstandard living arrangement" is defined as follows:

(a) In the GA, GAM, OSIP, OSIPM, and QMB programs, a client is considered to be in a nonstandard living arrangement when the client is applying for or receiving services in any of the following locations:

(A) A nursing facility in which the client receives *long-term care* services paid with Medicaid funding, except this subsection does not apply to a Medicare client in a skilled-stay nursing facility.

(B) An intermediate care facility for the mentally retarded (ICF/MR).

(C) A psychiatric institution, if the individual is not yet 21 years of age or has reached the age of 65.

(D) A *community based care* (see section (16) of this rule) setting, except a State Plan Personal Care (SPPC) setting is not considered a nonstandard living arrangement.

(b) In all programs except GA, GAM, OSIP, OSIPM, and QMB, nonstandard living arrangement means each of the following locations:

(A) Foster care.

(B) Residential Care facility.

(C) Drug or alcohol residential treatment facility.

(D) Homeless or *domestic violence shelter*.

(E) Lodging house if paying for room and board.

(F) Correctional facility.

(G) Medical institution.

(48) "Ongoing month" means one of the following:

(a) For all programs except the OHP and SNAP programs, any month following the *initial month* of eligibility, if there is no break in the program benefit of one or more calendar months.

(b) For the OHP and SNAP programs, any month in the *certification period* following the *initial month* of eligibility.

(49) "Parent" means the biological or legal (step or adoptive) mother or father of an individual or unborn child.

(a) If the mother lives with a male and either she or the male claims that he is the father of the child or unborn, and no one else claims to be the father, he is treated as the father even if paternity has not been legally established.

(b) A stepparent relationship exists if:

(A) The individual is *legally married* to the child's biological or adoptive parent; and

(B) The *marriage* has not been terminated by legal separation, divorce, or death.

(c) A legal adoption erases all prior legal and blood relationships and establishes the adoptive parent as the legal parent. However, the biological parent is also considered a parent if both of the following are true:

(A) The child lives with the biological parent; and

(B) The legal parent (the adoptive parent) has given up care, control, and supervision of the child.

(50) "Payment month" means, for all programs except EA, the calendar month for which benefits are issued.

(51) "Payment period" means, for EA, the 30-day period starting with the date the first payment is issued and ending on the 30th day after the date the payment is issued.

(52) "Periodic income" means income received on a regular basis less often than monthly.

(53) "Primary person" for all programs except the SNAP program, means the filing group member who is responsible for providing information necessary to determine eligibility and calculate benefits. The primary person for individual programs is as follows:

(a) For the EXT, MAA, MAF, and TANF programs, the parent or caretaker relative.

(b) For the ERDC program, the caretaker.

(c) For SNAP, see OAR 461-001-0015.

(d) For the GA, GAM, OSIP, OSIPM, and QMB programs, the client or client's spouse.

(e) For the OHP, REF, and REFM programs, the applicant, caretaker, caretaker relative, or parent.

(54) "Qualified Partnership Policy" means a long term care insurance policy meeting the requirements of OAR 836-052-0531 that was either:

(a) Issued while the client was a resident in Oregon on January 1, 2008 or later; or

(b) Issued in another state while the client was a resident of that state on or after the effective date of that state's federally approved State Plan Amendment to issue qualified partnership policies.

(55) "Real property" means land, buildings, and whatever is erected on or affixed to the land and taxed as real property.

(56) "Reimbursement" means money or in-kind compensation provided specifically for an identified expense.

(57) "Safe homes" mean private homes that provide a few nights lodging to victims of domestic violence. The homes must be recognized as such by the local domestic violence agency, such as crisis hot lines and shelters.

(58) "Shelter costs" mean, in all programs except the SNAP program, housing costs (rent or mortgage payments, property taxes) and utility costs, not including cable TV or non-basic telephone charges. In the SNAP program, see OAR 461-160-0420.

(59) "Shelter in kind" means an agency or person outside the *financial group* (see OAR 461-110-0530) provides the shelter of the *financial group*, or makes a payment to a third party for some or all of the *shelter costs* of the *financial group*. *Shelter-in-kind* does not include temporary shelter provided by a domestic violence shelter, homeless shelter, or residential alcohol and drug treatment facilities or situations where no shelter is being provided, such as sleeping in a doorway, park, or bus station.

(60) "Sibling" means the brother or sister of an individual. "Blood related" means they share at least one biological or adoptive parent. "Step" means they are not related by blood, but are related by the *marriage* of their parents.

(61) "Spousal support" means income paid (voluntarily, per court order, or per administrative order) by a separated or divorced spouse to a member of the *financial group* (see OAR 461-110-0530).

(62) "Spouse" means an individual who is *legally married* to another individual. In the ERDC and SNAP programs, *spouse* includes an individual who is not *legally married* to another, but is presenting themselves to the community as the husband or wife by:

(a) Representing themselves as husband and wife to relatives, friends, neighbors, or tradespeople; and

(b) Sharing living expenses or household duties.

(63) "Stable income" means income that is the same amount each time it is received.

(64) "Standard living arrangement" means a location that does not qualify as a *nonstandard living arrangement*.

(65) "Teen parent" means, for TANF and JOBS, a parent under the age of 20 who has not completed a high school diploma or GED.

(66) "Timely continuing benefit decision notice" means a *decision notice* that informs the client of the right to continued benefits and is mailed no later than the time requirements in OAR 461-175-0050.

(67) "Trust funds" mean money, securities, or similar property held by a person or institution for the benefit of another person.

(68) "USDA meal reimbursements" mean cash reimbursements made by the Oregon Department of Education for family day-care providers who serve snacks and meals to children in their care.

(69) "Variable income" means earned or unearned income that is not always received in the same amount each month.

Stat. Auth: ORS 411.060, 411.070, 411.404, 411.816, 412.006, 412.014 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 411.404, 411.816, 412.001, 412.006, 412.014 & 412.049

Hist.: AFS 28-1978, f. & ef. 7-13-78; AFS 54-1984, f. 12-28-84, ef. 1-1-85; AFS 21-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 25-2000, f. 9-29-00, cert. ef. 10-1-00; AFS 27-2001, f. 12-21-01, cert. ef. 1-1-02; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 14-2006, f. 9-29-06, cert. ef. 10-1-06; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 14-2007, f. 12-31-07, cert. ef. 1-1-08; SSP 15-2007(Temp), f. 12-31-07, cert. ef. 1-1-08 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 8-2008, f. & cert. ef. 4-1-08; SSP 17-2008, f. & cert. ef. 7-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 29-2009(Temp), f. & cert. ef. 10-1-09 thru 3-30-10; Administrative correction 4-21-10; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12

461-125-0170

Deprivation Based on Unemployment or Underemployment of the Primary Wage Earner (PWE); MAA, TANF

(1) In the MAA program, deprivation based on the unemployment or underemployment of the primary wage earner (PWE) exists if all the following are true:

(a) A child lives with two parents.

(b) The PWE is unemployed or underemployed.

(c) The PWE is not participating in a labor dispute.

(d) The PWE was not separated from his or her last job held within the previous 60 days from the *date of request* (see OAR 461-115-0030) for

ADMINISTRATIVE RULES

program benefits and for which the individual was hired to work 100 or more hours per month or worked or was scheduled to work 100 or more hours in the last full calendar month of employment, for any of the following reasons:

(A) Discharged or fired without *good cause* (see OAR 461-135-0070) for:

(i) "Misconduct" means willful or wantonly negligent violation of the standards of behavior which an employer has the right to expect of an employee, including an act or series of actions that amount to a willful or wantonly negligent disregard of an employer's interest); or

(ii) Felony or theft.

(B) Voluntary quit:

(i) In anticipation of discharge; or

(ii) Without *good cause*.

(2) In the TANF program, deprivation based on the unemployment or underemployment of the PWE exists if all the following are true:

(a) A child lives with two parents.

(b) The PWE is unemployed or underemployed.

(c) The PWE is not participating in a labor dispute.

Stat. Auth.: ORS 411.060, 411.070, 411.400, 411.404, 412.006, 412.016 & 412.049

Stats. Implemented: ORS 411.060, 411.070, 412.006, 412.016, 412.049, 412.064 & 2011 OL 604, SB 1579 (2012)

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 12-1990, f. 3-30-90, cert. ef. 4-1-90; AFS 28-1992, f. & cert. ef. 10-1-92; AFS 23-1994, f. 9-29-94, cert. ef. 10-1-94; AFS 13-1995, f. 6-29-95, cert. ef. 7-1-95; AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; SSP 18-2009(Temp), f. 7-29-09, cert. ef. 8-1-09 thru 1-28-10; SSP 32-2009(Temp), f. & cert. ef. 10-29-09 thru 1-28-10; SSP 38-2009, f. 12-31-09, cert. ef. 1-1-10; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12

461-135-0070

Specific Requirements; MAA, MAF, and TANF

(1) To be eligible for MAA, MAF, or TANF program benefits, a client must be one of the following:

(a) A *dependent child* (see OAR 461-001-0000). However, a *dependent child* for whom foster care payments are made for more than 30 days is not eligible while the payments are being made for the *dependent child*.

(b) A *caretaker relative* (see OAR 461-001-0000) of an eligible *dependent child*. However, a *caretaker relative* to whom foster care payments are made for more than 30 days is not eligible while the payments are being made to the *caretaker relative*.

(c) A *caretaker relative* of a *dependent child*, when the *dependent child* is ineligible for MAA, MAF, or TANF program benefits because of one of the following reasons:

(A) The child is receiving SSI.

(B) The child is in foster care, but is expected to return home within 30 days.

(C) The child is ineligible for MAA or MAF program benefits because citizenship has not been documented (see OAR 461-115-0705).

(d) An essential person. An essential person is a member of the *household group* (see OAR 461-110-0210) who:

(A) Is not required to be in the filing group;

(B) Provides a service necessary to the health or protection of a member of the *benefit group* (see OAR 461-110-0750) who has a mental or physical disability; and

(C) Is less expensive to include in the *benefit group* than the cost of purchasing this service from another source.

(e) A parent of an unborn, as follows:

(A) For the TANF and MAA programs, any parent whose only child is an unborn child once the mother's pregnancy has reached the calendar month before the month in which the due date falls.

(B) For the TANF and MAA programs, the father of an unborn child, if there is another *dependent child* in the filing group.

(C) For the MAF program, a mother whose only child is an unborn once the mother's pregnancy has reached the calendar month immediately before the month in which the due date falls.

(2) A client is eligible for MAA or MAF program benefits if the client is:

(a) Eligible for MAA or MAF program benefits under OAR 461-135-0010; or

(b) A *minor parent* (see OAR 461-001-0000) ineligible for TANF program benefits only because:

(A) The minor refuses to live with a parent or legal guardian as required by OAR 461-135-0080; or

(B) The income of the minor exceeds the income standards because the Department required the minor to return to live with a parent, if the *minor parent* meets the conditions in OAR 461-135-0080(2).

(3) As used in this rule and OAR 461-125-0170:

(a) Except as provided otherwise in this section, "good cause" means a reasonable person of normal sensitivity, exercising ordinary common sense, would have:

(A) Left work;

(B) Participated in behavior leading to the individual's discharge or to the individual quitting work in anticipation of discharge.

(b) For an individual with a physical or mental impairment (as defined at 29 CFR 1630.2(h)), except as provided otherwise in subsection (c) of this section, "good cause" for leaving work means that a reasonable person with the characteristics and qualities of such individual would have:

(A) Left work;

(B) Participated in behavior leading to the individual's discharge; or

(C) Quit work in anticipation of a discharge.

(c) There is no "good cause" if the reason for separation from employment is a labor dispute.

(4) Except as provided under section (5) of this rule, a *need group* (see OAR 461-110-0630) is not eligible for TANF program benefits for 120 days from the date a *caretaker relative* was separated from employment in which the *caretaker relative* was hired to work 100 or more hours per month or worked or was scheduled to work 100 or more hours in the last full calendar month of employment.

(5) A *need group* (see OAR 461-110-0630) may not be denied TANF program benefits based on section (4) of this rule, or based on not meeting 461-125-0170(1)(c) or (d), if the *caretaker relative* is one of the following:

(a) A Parents as Scholars (PAS) participant who temporarily becomes ineligible for TANF program benefits for four months or less due to income from a *paid work experience* (see OAR 461-190-0199).

(b) A *teen parent* (see OAR 461-001-0000) returning to high school or equivalent.

(c) An individual fleeing from or at risk of *domestic violence* (see OAR 461-001-0000).

(d) An individual in the ninth month of pregnancy or experiencing a medical complication due to the pregnancy which is documented by a qualified and appropriate professional.

(e) An individual unable to work due to a disability or medical condition documented by a qualified and appropriate professional, and which is expected to last for 30 days or more from the *date of request* (see OAR 461-115-0030) for TANF program benefits.

(f) An individual who was separated from employment for a reason the Department determines is *good cause*.

(g) An individual who was separated from employment as a result of a layoff.

(6) If the *need group* is not eligible for TANF program benefits solely under section (4) of this rule, the *need group* is eligible for MAA or MAF program benefits as long as the *need group* meets all other *eligibility* (see OAR 461-001-0000) requirements.

(7) A client is eligible for MAF program benefits even while ineligible for TANF program benefits if the client is ineligible for TANF program benefits only because the client is:

(a) A family who would be eligible for the TANF program benefits if allowed the following deductions from income:

(A) The earned income deductions authorized by OAR 461-160-0190.

(B) The unearned income support deduction authorized by OAR 461 160 0200.

(b) A self-employed family who would be eligible for TANF program benefits if the cost of producing the self-employment income was subtracted from the gross sales or receipts under OAR 461-145-0920.

(c) A family that includes an ineligible non-citizen or the father of an unborn who would be eligible for TANF program benefits if the ineligible non-citizen's or father's income is counted under OAR 461-160-0120.

(d) An individual who would be eligible for TANF program benefits if the assets of the following household members were not counted:

(A) An unmarried parent of a *dependent child* or unborn in the *eligibility group*.

(B) A child in common of parents in the *eligibility group*.

(C) The spouse and each child of a *caretaker relative* in the *need group*.

(e) The spouse of a *caretaker relative*, but only if the spouse is the parent of a *dependent child*.

(8) A family is ineligible for TANF program benefits if the family meets the requirements of all of the following subsections:

(a) The family lives in Klamath County.

(b) The family meets any of the following conditions:

ADMINISTRATIVE RULES

(A) The family has a single custodial parent who is a member of the Klamath Tribes, or the single custodial parent is not a Klamath Tribes member and at least 50 percent of the dependent children are Klamath Tribes members;

(B) The family has two *custodial parents* (see OAR 461-001-0000) who are members of the Klamath Tribes, or only one of the two *custodial parents* is a Klamath Tribes member and at least 50 percent of the dependent children are Klamath Tribes members; or

(C) The family has a *caretaker relative* who is not the custodial parent and at least 50 percent of the dependent children are Klamath Tribes members.

(c) The family is eligible for the Klamath Tribes TANF program or would be eligible for the Klamath Tribes TANF program if not for the failure of the family to cooperate with program requirements.

(9) A family is ineligible for TANF program benefits if all of the following subsections apply to the family:

(a) A parent, *caretaker relative*, or child is a member of the Siletz Tribe (Confederated Tribes of Siletz Indians of Oregon) and lives in one of the eleven service area counties: Benton, Clackamas, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, or Yamhill counties.

(b) The family includes members who are living in the same household and at least one of the following paragraphs applies:

(A) A two-parent family with one enrolled Siletz tribal member with a shared dependent.

(B) A single-parent family with one enrolled Siletz tribal member.

(C) A non-needy caretaker relative or essential person with one enrolled Siletz tribal member who is a minor.

(D) A pregnant enrolled Siletz tribal member in her eighth month of pregnancy.

(c) The family is eligible for the Siletz Tribes TANF program or would be eligible for the Siletz Tribes TANF program if not for the failure of the family to cooperate with Siletz TANF program requirements.

(10) If a parent or *caretaker relative* covered by section (8) or (9) of this rule fails to follow through with a Department referral to the Klamath or Siletz Tribal TANF program, the entire filing group is ineligible for TANF program benefits.

Stat. Auth.: ORS 411.060, 411.070, 411.400, 411.404, 412.006, 412.016, 412.049 & 412.124
Stats. Implemented: ORS 411.060, 411.070, 411.400, 411.404, 412.006, 412.016, 412.049, 412.064, 412.124 & 2011 OL 604, SB 1579 (2012)

Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 9-1991, f. 3-29-91, cert. ef. 4-1-91; AFS 13-1991, f. & cert. ef. 7-1-91; AFS 19-1993, f. & cert. ef. 10-1-93; AFS 26-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 25-1997(Temp), f. 12-31-97, cert. ef. 1-1-98 thru 4-30-98; AFS 8-1998, f. 4-28-98, cert. ef. 5-1-98; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 26-1998(Temp), f. 12-30-98, cert. ef. 1-1-99 thru 3-31-99; AFS 2-1999, f. 3-26-99, cert. ef. 4-1-99; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; AFS 34-2000, f. 12-22-00, cert. ef. 1-1-01; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 8-2009(Temp), f. 4-20-09, cert. ef. 5-1-09 thru 10-28-09; SSP 19-2009(Temp), f. 7-29-09, cert. ef. 8-1-09 thru 10-28-09; SSP 33-2009, f. & cert. ef. 10-29-09; SSP 18-2011(Temp), f. & cert. ef. 7-1-11 thru 12-28-11; SSP 25-2011, f. 9-30-11, cert. ef. 10-1-11; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12

461-135-0075

Limitation on Eligibility Period; TANF

(1) A minor parent head of household or an adult may not receive a TANF grant in Oregon if the minor parent head of household or adult has received a TANF grant in any state or states in excess of 60 months except as allowed in this rule.

(2) The following months do not count toward the time limit in section (1) of this rule:

(a) Months prior to July 1, 2003 in which a minor parent head of household or an adult received a TANF grant in Oregon or another state.

(b) Months between July 1, 2003 and September 30, 2007 in which a minor parent head of household or adult received TANF in Oregon; and

(A) Participated in required JOBS activities or other education, employment, or job training program including teen parent programs; or

(B) Was not required to participate in JOBS activities or other education, employment, or job training program including teen parent programs.

(c) Months beginning July 1, 2003 in which the family resided in Indian Country (as defined in 18 U.S.C. 1151) and 50 percent or more of the adult residents of that area were unemployed.

(d) Months beginning October 1, 2007 in which the minor parent head of household or adult is a participant in the JOBS Plus, Pre-TANF, Post-TANF, or SFPSS programs.

(e) Months beginning October 1, 2011 in which the minor parent head of household or adult is a participant in the JPI program.

(f) Months between October 1, 2007 and June 30, 2009 and months between October 1, 2011 and April 30, 2012 in which the *filing group* (see

OAR 461-110-0330) is a two-parent family receiving cash assistance in Oregon for which deprivation is based on unemployment or underemployment of the primary wage earner.

(g) Months beginning October 1, 2007 in which the individual who is now a parent or pregnant was in that month a minor child and neither the head of a household nor married to the head of a household.

(h) Months beginning October 1, 2007 in which a minor parent head of household or adult received aid in Oregon and is a participant in the *Degree Completion Initiative* (DCI) activity (see OAR 461-001-0025) enrolled in an *educational institution*.

(i) Months beginning October 1, 2008 in which a minor parent head of household or adult received aid in Oregon and is a participant in the *Parents as Scholars* (PAS) activity (see OAR 461-001-0025) enrolled in an *educational institution* consistent with 461-190-0199.

(j) Months beginning October 1, 2007 in which the individual is unable to obtain or maintain employment for a sufficient number of hours in a month to satisfy the *federally required participation rates* (see OAR 461-001-0025) because the individual:

(A) Is a victim of *domestic violence* (see OAR 461-001-0000);

(B) Has a certified learning *disability*;

(C) Has a verified alcohol and drug or mental health condition;

(D) Has a child with a *disability* (see OAR 461-001-0000), which prevents the parent from obtaining or keeping employment;

(E) Is an individual with a *disability*;

(F) Is providing care for a family member who lives in the home and is an individual with a *disability*;

(G) Is deprived of needed medical care; or

(H) Is subjected to battery or extreme cruelty. For purposes of this rule, an individual is subjected to battery or extreme cruelty if the individual has been subjected to one or more of the following:

(i) Physical acts that resulted in, or threatened to result in, physical injury to the individual.

(ii) Sexual abuse.

(iii) Sexual activity involving a dependent child.

(iv) Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities.

(v) Threats of, or attempts at, physical or sexual abuse.

(vi) Mental abuse.

(vii) Neglect or deprivation of medical care.

(k) Months between July 1, 2008 and April 30, 2012 in which the individual did not qualify for any other TANF time-limit exemption under this rule, and was unable to obtain or maintain employment for a sufficient number of hours in a month to satisfy the *federally required participation rates* (see OAR 461-001-0025) when Oregon's statewide average unemployment rate as published by the Oregon Employment Department was equal to or greater than seven percent. For purposes of this rule, this determination:

(A) Through December 31, 2011 is calculated based on a six-month period as follows:

(i) The time period during July 1, 2008 through June 30, 2009 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period July 1, 2008 through December 31, 2008.

(ii) In each six-month period, starting July 1, 2009 and ending December 31, 2011:

(I) The time period during January 1 through June 30 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period April 1 through September 30 of the preceding year.

(II) The time period during July 1 through December 31 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period October 1 through December 31 of the preceding year and January 1 through March 31 of the current year.

(B) From January 1, 2012 through April 30, 2012 was based on Oregon's statewide average unemployment rate as published by the Oregon Employment Department for the period April 1 through September 30, 2011.

(3) Months that do not count toward the time limit based on a condition described in paragraphs (2)(j)(B) to (2)(j)(F) of this rule require documentation from a licensed or certified professional qualified to make such a determination.

(4) A minor parent head of household or an adult may not be denied a TANF grant under section (1) of this rule during months that qualify as exempt from time limits under sections (2), and (3) of this rule.

ADMINISTRATIVE RULES

(5) Each minor parent head of household and adult who qualifies for a TANF grant under this rule must also meet all other TANF eligibility requirements and cooperate with the requirements of his or her case plan, unless *good cause* (see OAR 461-130-0327) exists.

(6) Except as provided otherwise in section (4) of this rule, a minor parent head of household or an adult in the *benefit group* who exceeds the 60-month time limit is removed from the *need group* (see OAR 461-110-0630). When a minor head of household or adult is removed from the *need group* under this section, the remaining *need group* members may continue to receive TANF benefits.

(7) If a minor parent head of household or adult qualifies under sections (2), (3), or (4) of this rule, any disqualifications that have been accrued for the *benefit group* remain in place.

Stat. Auth.: ORS 411.060 & 412.049

Stats. Implemented: ORS 411.060, 411.117, 412.049 & 412.079

Hist.: AFS 27-1996, f. 6-27-96, cert. ef. 7-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 9-1997, f. & cert. ef. 7-1-97; AFS 15-1999, f. 11-30-99, cert. ef. 12-1-99; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 22-2008(Temp), f. & cert. ef. 10-1-08 thru 3-30-09; SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 12-2009(Temp), f. 6-23-09, cert. ef. 7-1-09 thru 12-28-09; SSP 13-2009, f. & cert. ef. 7-1-09; SSP 15-2009(Temp), f. & cert. ef. 7-1-09 thru 12-28-09; SSP 28-2009, f. & cert. ef. 10-1-09; SSP 30-2011(Temp), f. & cert. ef. 11-1-11 thru 4-29-12; SSP 9-2012, f. 3-29-12, cert. ef. 4-1-12; SSP 17-2012(Temp), f. & cert. ef. 5-1-12 thru 10-28-12

461-135-1260

Specific Requirements: Job Participation Incentive

(1) This rule explains specific requirements of the Job Participation Incentive (JPI).

(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.

(c) The individual may only be issued retroactive JPI benefits as allowed under OAR 461-180-0130.

(3) To receive JPI, an individual must:

(a) Be working at an unsubsidized paid employment for an average of at least 20 weekly hours, for self-employment or piece rate work the hours of work must be equivalent to at least 20 weekly hours at Oregon State minimum wage;

(b) Provide the Department with employer-produced documents of paid, unsubsidized work hours covering a consecutive two-week period that has occurred within the last 60 days;

(c) Have reason to anticipate the same weekly employment hours will remain the same for the reporting period;

(d) Provide employer-produced documents of paid, unsubsidized work hours each time requested by the Department or no later than the last day of the sixth month following the date the client provides the verification of work hours in accordance with subsections (a) and (b) of this section;

(e) Be an eligible adult in a SNAP *benefit group* (see OAR 461-110-0750) and the sole parent of an eligible *dependent child* (see 461-001-0000) under age six in the same SNAP *benefit group*; and

(f) Not be receiving Post-TANF, SFPSS, and TANF programs 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 JOBS federal participation requirements due to:

(a) Loss of employment;

(b) A reduction in work hours when it causes the client to no longer meet the JOBS federally required participation rate;

(c) The client's youngest child turns six; or

(d) The client is no longer the sole parent of a qualifying *dependent child* (see subsection (3)(e) of this rule).

Stat. Auth.: ORS 409.050, 411.060, 411.070 & 412.049

Stats. Implemented: ORS 409.010, 411.060, 411.070 & 412.049

Hist.: SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; 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

461-170-0011

Changes That Must Be Reported

(1) A change in employment status is considered to occur as follows:

(a) For a new job, the change occurs the first day of the new job.

(b) For a job separation, the change occurs on the last day of employment.

(2) A change in source of income is considered to occur as follows:

(a) For earned income, the change occurs upon the receipt by the client of the first paycheck from a new job or the first paycheck reflecting a new rate of pay.

(b) For unearned income, the change occurs the day the client receives the new or changed payment.

(3) A client must report, orally or in writing, the following changes:

(a) In the BCCM program, a client must report either of the following changes within 10 days of occurrence:

(A) A change in health care coverage.

(B) A change in residence.

(b) In the ERDC program:

(A) A client not participating in SRS in the SNAP program must report the following changes within 10 days of occurrence:

(i) A change in child care provider.

(ii) A change in employment status.

(iii) A change in mailing address or residence.

(iv) A change in membership of the *filing group* (see OAR 461-110-0350).

(v) A change in source of income expected to continue.

(B) A client participating in SRS in the SNAP program must report the following changes by the tenth day of the month following the month of occurrence:

(i) A change in child care provider.

(ii) Loss of employment.

(iii) Monthly income exceeding the SNAP countable income limit.

(iv) A *parent* (see OAR 461-001-0000) of a child or unborn or the spouse of the caretaker moves into the residence.

(C) The ERDC case may continue to follow the reporting requirements in paragraph (3)(b)(B) of this rule without a companion SNAP case in SRS when:

(i) The ERDC case was certified in the fifth or sixth month of the SNAP *certification period* (see OAR 461-001-0000); and

(ii) The SNAP companion case automatically closes because the Interim Change Report (see OAR 461-170-0010) was not received.

(c) In the EXT program, a client must report any of the following changes within 10 days of occurrence:

(A) A change in health care coverage.

(B) A change in name.

(C) A change in pregnancy status of any member of the *filing group* (see OAR 461-110-0330).

(D) A change in residence.

(E) A member in *filing group* is no longer a *dependent child* (see OAR 461-001-0000).

(d) In the SNAP program:

(A) A client assigned to CRS must report any of the following changes within 10 days of occurrence:

(i) A change in earned income of more than \$100.

(ii) A change in unearned income of more than \$50.

(iii) A change in source of income.

(iv) A change in membership of the *filing group* (see OAR 461-110-0370) and any resulting change in income.

(v) A change in residence and the shelter costs in the new residence.

(vi) A change in the legal obligation to pay child support.

(vii) When the sum of cash on hand, stocks, bond, and money in a bank or savings institution account reaches or exceeds program resource limits.

(viii) Acquisition or change in ownership of a non-excluded vehicle.

(B) A client assigned to SRS must report when the *filing group's* monthly income exceeds the SNAP countable income limit by the tenth day of the month following the month of occurrence.

(C) A client assigned to TBA is not required to report any changes.

(e) For JPI (see OAR 461-135-1260), a client must follow the same reporting requirements as a SNAP client assigned to SRS or TBA reporting systems (see 461-170-0010).

(f) In the GA, GAM, OSIP, OSIPM, and QMB programs a client must report all changes that may affect eligibility within 10 days of occurrence, including any of the following changes:

(A) A change in employment status.

ADMINISTRATIVE RULES

- (B) A change in health care coverage.
- (C) A change in membership of the *household group* (see OAR 461-110-0210).
- (D) A change in marital status.
- (E) A change in residence.
- (F) A change in resources.
- (G) A change in source or amount of income.
- (g) In the MAA, MAF, REF, SAC, SFPSS, and TANF programs, clients assigned to CRS must report any of the following changes within 10 days of occurrence:
 - (A) Acquisition or change in ownership of a non-excluded vehicle.
 - (B) A change in earned income more than \$100.
 - (C) A change in employment status.
 - (D) A change in membership of the *household group* (see OAR 461-110-0210).
 - (E) A change in mailing address or residence.
 - (F) A change in pregnancy status of any member of the filing group.
 - (G) A change in source of income.
 - (H) A change in unearned income more than \$50.
 - (I) A change in who pays the shelter costs if the costs will be paid by a non-custodial *parent*.
 - (J) Sale or receipt of a resource that causes total resources to exceed program resource limits.
 - (h) In the HKC and OHP programs, a client must report any of the following changes within 10 days of occurrence:
 - (A) A change in availability of employer-sponsored health insurance.
 - (B) A change in health care coverage.
 - (C) A change in mailing address or residence.
 - (D) A change in name.
 - (E) A change in pregnancy status of any member of the *filing group* (see OAR 461-110-0400).
 - (i) In the REFM program, clients must report the following changes within 10 days of occurrence:
 - (A) A change in membership of the *household group* (see OAR 461-110-0210).
 - (B) A change in residence.

Stat. Auth.: ORS 411.060, 411.070, 411.404, 411.706, 411.816, 412.014, 412.049 & 414.231
Stats. Implemented: ORS 411.060, 411.070, 411.081, 411.404, 411.704, 411.706, 411.816, 412.014, 412.049, 414.025, 414.231, 414.826 & 414.831
Hist.: AFS 80-1989, f. 12-21-89, cert. ef. 2-1-90; AFS 13-1992, f. & cert. ef. 5-1-92; AFS 17-1992, f. & cert. ef. 7-1-92; AFS 20-1992, f. 7-31-92, cert. ef. 8-1-92; AFS 12-1993, f. & cert. ef. 7-1-93; AFS 2-1994, f. & cert. ef. 2-1-94; AFS 13-1994, f. & cert. ef. 7-1-94; AFS 19-1994, f. & cert. ef. 9-1-94; AFS 22-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 23-1995, f. 9-20-95, cert. ef. 10-1-95; AFS 15-1996, f. 4-29-96, cert. ef. 5-1-96; AFS 3-1997, f. 3-31-97, cert. ef. 4-1-97; AFS 13-1997, f. 8-28-97, cert. ef. 9-1-97; AFS 19-1997, f. & cert. ef. 10-1-97; AFS 17-1998, f. & cert. ef. 10-1-98; AFS 25-1998, f. 12-18-98, cert. ef. 1-1-99; AFS 9-1999, f. & cert. ef. 7-1-99; AFS 11-1999, f. & cert. ef. 10-1-99; AFS 17-2000, f. 6-28-00, cert. ef. 7-1-00; AFS 24-2002(Temp), f. 12-31-02, cert. ef. 1-1-03 thru 6-30-03; SSP 1-2003, f. 1-31-03, cert. ef. 2-1-03; SSP 7-2003, f. & cert. ef. 4-1-03; SSP 13-2003, f. 6-12-03, cert. ef. 6-16-03; SSP 20-2003, f. & cert. ef. 8-15-03; SSP 23-2003, f. & cert. ef. 10-1-03; SSP 14-2005, f. 9-30-05, cert. ef. 10-1-05; SSP 16-2005, f. & cert. ef. 12-1-05; SSP 15-2006, f. 12-29-06, cert. ef. 1-1-07; SSP 4-2007, f. 3-30-07, cert. ef. 4-1-07; SSP 10-2007, f. & cert. ef. 10-1-07; SSP 11-2007(Temp), f. & cert. ef. 10-1-07 thru 3-29-08; SSP 5-2008, f. 2-29-08, cert. ef. 3-1-08; SSP 23-2008, f. & cert. ef. 10-1-08; Renumbered from 461-170-0015, 461-170-0020, 461-170-0025, 461-170-0030, 461-170-0035 by SSP 26-2008, f. 12-31-08, cert. ef. 1-1-09; SSP 5-2009, f. & cert. ef. 4-1-09; SSP 39-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SSP 5-2010, f. & cert. ef. 4-1-10; SSP 7-2010(Temp), f. & cert. ef. 4-1-10 thru 6-30-10; SSP 18-2010, f. & cert. ef. 7-1-10; SSP 32-2010, f. & cert. ef. 10-1-10; SSP 41-2010, f. 12-30-10, cert. ef. 1-1-11; SSP 26-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; 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

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

Rule Caption: Application for Initial Licensure and License Renewal for Residential Care and Assisted Living Facilities.
Adm. Order No.: SPD 4-2012
Filed with Sec. of State: 4-30-2012
Certified to be Effective: 5-1-12
Notice Publication Date: 4-1-2012
Rules Amended: 411-054-0005, 411-054-0013, 411-054-0016
Rules Repealed: 411-054-0005(T), 411-054-0013(T), 411-054-0016(T)
Subject: The Department of Human Services is permanently amending rules in OAR chapter 411, division 054 to clarify the requirement that residential care and assisted living facilities disclose the name and financial interest of any person with an ownership interest of 10

percent or more and who is the license applicant or facility operator.

The existing language was determined by Legislative Counsel to exceed the intent and scope of the enabling statutes.

Rules Coordinator: Christina Hartman—(503) 945-6398

411-054-0005

Definitions

For the purpose of these rules, the following definitions apply:

(1) “Abuse” means abuse as defined in OAR 411-020-0002 (Adult Protective Services).

(2) “Activities of Daily Living (ADL)” mean those personal functional activities required by an individual for continued well being, health, and safety. Activities consist of eating, dressing/grooming, bathing/personal hygiene, mobility (ambulation and transfer), elimination (toileting, bowel, and bladder management), and cognition/behavior.

(3) “Administrator” means the person who is designated by the licensee that is responsible for the daily operation and maintenance of the facility.

(4) “Advance Directive” means a document that contains a health care instruction or a power of attorney for health care.

(5) “Applicant” means the person, persons, or entity, required to complete a facility application for license. Except as set forth in OAR 411-054-0013(1)(a), Applicant includes a sole proprietor, each partner in a partnership, and each member with a 10 percent or more ownership interest in a limited liability company, corporation, or entity that owns the residential care or assisted living facility business. Except as set forth in 411-054-0013(1)(a), Applicant also includes the sole proprietor, each partner in a partnership, and each member with a 10 percent or more ownership interest in a limited liability company, corporation, or entity that operates the assisted living or residential care facility on behalf of the facility business owner.

(6) “Area Agency on Aging (AAA)” as defined in ORS 410.040 means the Department designated agency charged with the responsibility to provide a comprehensive and coordinated system of services to seniors or individuals with disabilities in a planning and service area. For the purpose of these rules, the term Area Agency on Aging is inclusive of both Type A and B Area Agencies on Aging that contract with the Department to perform specific activities in relation to residential care and assisted living facilities including:

(a) Conducting inspections and investigations regarding protective service, abuse, and neglect;

(b) Monitoring; and

(c) Making recommendations to the Division regarding facility license approval, denial, revocation, suspension, non-renewal, and civil penalties.

(7) “Assistant Director” means the assistant director of the Division, or that individual’s designee.

(8) “Assisted Living Facility (ALF)” means a building, complex, or distinct part thereof, consisting of fully, self-contained, individual living units where six or more seniors and adult individuals with disabilities may reside in homelike surroundings. The assisted living facility offers and coordinates a range of supportive services available on a 24-hour basis to meet the activities of daily living, health, and social needs of the residents as described in these rules. A program approach is used to promote resident self-direction and participation in decisions that emphasize choice, dignity, privacy, individuality, and independence.

(9) “Caregiver” means a facility employee who is trained in accordance with OAR 411-054-0070 to provide personal care services to residents. The employee may be either a direct care staff or universal worker as defined in this rule.

(10) “Change of Condition — Short Term” means a change in the resident’s health or functioning that is expected to resolve or be reversed with minimal intervention or is an established, predictable, cyclical pattern associated with a previously diagnosed condition.

(11) “Change of Condition — Significant” means a major deviation from the most recent evaluation that may affect multiple areas of functioning or health that is not expected to be short term and imposes significant risk to the resident. Examples of significant change of condition include but are not limited to:

(a) Broken bones;

(b) Stroke, heart attack, or other acute illness or condition onset;

(c) Unmanaged high blood sugar levels;

(d) Uncontrolled pain;

(e) Fast decline in activities of daily living;

ADMINISTRATIVE RULES

- (f) Significant unplanned weight loss;
 - (g) Pattern of refusing to eat;
 - (h) Level of consciousness change; and
 - (i) Pressure ulcers (stage 2 or greater).
- (12) "Choice" means a resident has viable options that enable the resident to exercise greater control over his or her life. Choice is supported by the provision of sufficient private and common space within the facility that allows residents to select where and how to spend time and receive personal assistance.
- (13) "Condition" means a provision attached to a new or existing license that limits or restricts the scope of the license or imposes additional requirements on the licensee.
- (14) "Department" means the Department of Human Services (DHS).
- (15) "Dignity" means providing support in such a way as to validate the self-worth of the individual. Creating an environment that allows personal assistance to be provided in privacy, supports dignity as does delivering services in a manner that shows courtesy and respect.
- (16) "Direct Care Staff" means a facility employee whose primary responsibility is to provide personal care services to residents. These personal care services may include:
- (a) Medication administration;
 - (b) Resident-focused activities;
 - (c) Assistance with activities of daily living;
 - (d) Supervision and support of residents; and
 - (e) Serving meals, but not meal preparation.
- (17) "Directly Supervised" means that a qualified staff member maintains visual contact with the supervised person.
- (18) "Disaster" means a sudden emergency occurrence beyond the control of the licensee, whether natural, technological, or manmade that renders the licensee unable to operate the facility or the facility is uninhabitable.
- (19) "Disclosure" means the written information the facility is required to provide to consumers to enhance the understanding of facility costs, services, and operations.
- (20) "Division" means the Department of Human Services, Seniors and People with Disabilities Division (SPD).
- (21) "Entity" means an individual, a trust, an estate, a partnership, a corporation, or a state or governmental unit, including associations, joint stock companies, and insurance companies, a state, or a political subdivision, or instrumentality including a municipal corporation.
- (22) "Exception" means a written variance granted by the Division from a regulation or provision of these rules.
- (23) "Facility" means the residential care or assisted living facility licensee and the operations, policies, procedures, and employees of the residential care or assisted living facility.
- (24) "FPS" means the Facilities Planning and Safety Program within the Public Health Division.
- (25) "Homelike Environment" means a living environment that creates an atmosphere supportive of the resident's preferred lifestyle. Homelike environment is also supported by the use of residential building materials and furnishings.
- (26) "Incident of Ownership" means an ownership interest, an indirect ownership interest, or a combination of direct and indirect ownership interest.
- (27) "Independence" means supporting resident capabilities and facilitating the use of those abilities. Creating barrier free structures and careful use of assistive devices supports independence.
- (28) "Indirect Ownership Interest" means an ownership interest in an entity that has an ownership interest in another entity. Indirect ownership interest includes an ownership interest in an entity that has an indirect ownership interest in another entity.
- (29) "Individuality" means recognizing variability in residents' needs and preferences and having flexibility to organize services in response to different needs and preferences.
- (30) "Licensed Nurse" means an Oregon licensed practical or registered nurse.
- (31) "Licensee" means the entity that owns the residential care or assisted living facility business, and to whom an assisted living or residential care facility license has been issued.
- (32) "Managed Risk" means a process by which a resident's high-risk behavior or choices are reviewed with the resident. Alternatives to and consequences of the behavior or choices are explained to the resident and the resident's decision to modify behavior or accept the consequences is documented.
- (33) "Management" or "Operator" means possessing the right to exercise operational or management control over, or directly or indirectly conduct, the day-to-day operation of a facility.
- (34) "Modified Special Diet" means a diet ordered by a physician or other licensed health care professional that may be required to treat a medical condition (e.g., heart disease or diabetes).
- (a) Modified special diets include but are not limited to:
 - (A) Small frequent meals;
 - (B) No added salt;
 - (C) Reduced or no added sugar; and
 - (D) Simple textural modifications.
 - (b) Medically complex diets are not included.
- (35) "New Construction" means:
- (a) A new building;
 - (b) An existing building or part of a building that is not currently licensed;
 - (c) A major alteration to an existing building; or
 - (d) Additions, conversions, renovations, or remodeling of existing buildings.
- (36) "Nursing Care" means the practice of nursing as governed by ORS chapter 678 and OAR chapter 851, division 047.
- (37) "Owner" means a person with an ownership interest.
- (38) "Ownership Interest" means the possession of equity in the capital, the stock, or the profits of an entity.
- (39) "Personal Incidental Funds (PIF)" means the monthly amount allowed each Medicaid resident for personal incidental needs. For purposes of this definition, personal incidental funds include monthly payments, as allowed, and previously accumulated resident savings.
- (40) "Privacy" means a specific area or time over which the resident maintains a large degree of control. Privacy is supported with services that are delivered with respect for the resident's civil rights.
- (41) "P.R.N." means those medications and treatments that have been ordered by a qualified practitioner to be administered as needed.
- (42) "Psychoactive Medications" mean medications used to alter mood, level of anxiety, behavior, or cognitive processes. Psychoactive medications include antidepressants, anti-psychotics, sedatives, hypnotics, and anti-anxiety medications.
- (43) "Resident" means any person who is receiving room, board, care, and services on a 24-hour basis in a residential care or assisted living facility for compensation.
- (44) "Residential Care Facility (RCF)" means a building, complex, or distinct part thereof, consisting of shared or individual living units in a homelike surrounding where six or more seniors and adult individuals with disabilities may reside. The residential care facility offers and coordinates a range of supportive services available on a 24-hour basis to meet the activities of daily living, health, and social needs of the residents as described in these rules. A program approach is used to promote resident self-direction and participation in decisions that emphasize choice, dignity, individuality, and independence.
- (45) "Restraint" means any physical device that the resident cannot manipulate that is used to restrict movement or normal access to the resident's body.
- (46) "Retaliation" means to threaten or intimidate, or take an action that is detrimental to a person (e.g., harassment, abuse, coercion, etc.).
- (47) "Service Plan" means a written, individualized plan for services developed by a service planning team and the resident, or the resident's legal representative, that reflects the resident's capabilities, choices, and if applicable, measurable goals, and managed risk issues. The service plan defines the division of responsibility in the implementation of the services.
- (48) "Service Planning Team" means two or more individuals, as set forth in OAR 411-054-0036 that assist the resident in determining what services and care are needed, preferred, and may be provided to the resident.
- (49) "Services" means supervision or assistance provided in support of a resident's needs, preferences, and comfort, including health care and activities of daily living, that help develop, increase, maintain, or maximize the resident's level of independent, psychosocial, and physical functioning.
- (50) "Subject Individual" means any person 16 years of age or older on whom the Department may conduct a criminal records check and from whom the Department may require fingerprints for the purpose of conducting a national criminal records check.
- (a) For the purpose of these rules, subject individual includes:
 - (A) All applicants, licensees, and operators of a residential care or assisted living facility;

ADMINISTRATIVE RULES

(B) All persons employed or that are receiving training in an assisted living or residential care facility;

(C) Volunteers, if allowed unsupervised access to residents.

(b) For the purpose of these rules, subject individual does not apply to;

(A) Residents and visitors of residents; or

(B) Persons employed by a private business that provides services to residents and is not regulated by the Department.

(51) "Supportive Device" means a device that may have restraining qualities that supports and improves a resident's physical functioning.

(52) "These Rules" mean the rules in OAR chapter 411, division 054.

(53) "Underserved" means services are significantly unavailable within the service area in a comparable setting for:

(a) The general public; or

(b) A specific population, for example, residents with dementia or traumatic brain injury.

(54) "Unit" means an individual living space constructed as a completely private apartment, including living and sleeping space, kitchen area, bathroom, and adequate storage areas.

(55) "Universal Worker" means a facility employee whose assignments include other tasks (e.g., housekeeping, laundry, food service, etc.) in addition to providing direct resident services. Universal worker does not include administrators, clerical or administrative staff, building maintenance staff, or licensed nurses who provide services as specified in OAR 411-054-0034.

Stat. Auth.: ORS 410.070 & 443.450

Stats. Implemented: ORS 443.400 - 443.455 & 443.991

Hist.: SPD 14-2007, f. 8-31-07, cert. ef. 11-1-07; SPD 16-2008, f. 12-31-08, cert. ef. 1-1-09; SPD 13-2009, f. 9-30-09, cert. ef. 10-1-09; SPD 23-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 10-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 24-2010(Temp), f. & cert. ef. 10-5-10 thru 4-2-11; SPD 7-2011, f. 3-31-11, cert. ef. 4-1-11; SPD 23-2011(Temp), f. & cert. ef. 11-10-11 thru 5-7-12; SPD 4-2012, f. 4-30-12, cert. ef. 5-1-12

411-054-0013

Application for Initial Licensure and License Renewal

(1) APPLICATION. Applicants for initial licensure and license renewal must complete an application on a form provided by the Division. The form must be signed by the applicant's legally authorized representative, dated, contain all information requested by the Division, and be accompanied by the required licensing fee.

(a) Applicants must provide all information and documentation as required by the Division including but not limited to identification of financial interest of any person, including stockholders who have an incident of ownership in the applicant representing an interest of 10 percent or more. For purposes of rule, a person with a 10 percent or more ownership interest is presumed to have an effect on the operation of the facility with respect to factors affecting the care or training provided, unless the person can establish the person has no involvement in the operation of the facility.

(b) If the owner of the assisted living or residential care facility is a different entity from the operator or management company of the facility, both the operator and the owner must complete an application for licensure. Only one license fee is required.

(c) The application shall require the identification of any individual with a 10 percent or more incident of ownership that has ever been convicted of a crime associated with the operation of a long-term, community-based, or health care facility or agency under federal law or the laws of any state.

(d) The application shall require the identification of all states where the applicant, or individual having a 10 percent or more incident of ownership in the facility, currently or previously has been licensed as owner or operator of a long-term, community-based, or health care facility or agency under the laws of any state including any facility, currently or previously owned or operated, that had its license denied or revoked or received notice of the same under the laws of any state.

(e) The Division may deny, revoke, or refuse to renew the license if the applicant fails to provide complete and accurate information on the application and the Division concludes that the missing or corrected information is needed to determine if a license should be granted.

(f) Each application for a new license must include a completed and signed credit history and criminal records request form for the applicant and for each person with 10 percent or more incident of ownership in the applicant.

(g) The Division may require financial information as stated in OAR 411-054-0016(3) (New Applicant Qualifications), when considering an applicant's request for renewal of a license.

(h) Applicants must provide other information and documentation as the Division may reasonably require for the proper administration of these

rules, including but not limited to information about ownership interest and involvement in the operation of the facility in other business enterprises, as relevant.

(2) LICENSE RENEWAL. Application for a license renewal must be made at least 45 days prior to the expiration date of the existing license. Filing of an application for renewal and payment of the required non-refundable fee before the date of expiration extends the effective date of expiration until the Division takes action upon such application.

(a) The Division shall refuse to renew a license if the facility is not substantially in compliance with all applicable laws and rules or if the State Fire Marshal or authorized representative has given notice of noncompliance.

(b) An applicant for license renewal must provide the Division with a completed criminal records request form for the applicant and for each person with incident of ownership of 10 percent or more in the applicant when required by the Division.

(c) A building inspection may be requested at the Division's discretion. The Division may require physical improvements if the health or safety of residents is negatively impacted.

(3) DEMONSTRATED CAPABILITY.

(a) Prior to issuance of a license or a license renewal, the applicant must demonstrate to the satisfaction of the Division that the applicant is capable of providing care in a manner consistent with the requirements of these rules.

(b) The Division may consider the background and qualifications of any person with a 10 percent or more incident of ownership in the facility when determining whether an applicant may be licensed.

(c) The Division may consider the applicant's history of compliance with Division rules and orders including the history of compliance of any person with a 10 percent or more incident of ownership in the facility.

Stat. Auth.: ORS 410.070 & 443.450

Stats. Implemented: ORS 443.400 - 443.455 & 443.991

Hist.: SPD 14-2007, f. 8-31-07, cert. ef. 11-1-07; SPD 10-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 23-2011(Temp), f. & cert. ef. 11-10-11 thru 5-7-12; SPD 4-2012, f. 4-30-12, cert. ef. 5-1-12

411-054-0016

New Applicant Qualifications

For the purpose of this rule, "applicant" means each person, as defined in ORS 442.015, who holds 10 percent or more incident of ownership in the facility as described in OAR 411-054-0013(1)(a). Applicants for licensure (excluding license renewal but including all changes of ownership, management, or operator) must meet the following criteria:

(1) CRIMINAL RECORDS. Each applicant may not have convictions of any of the crimes listed in OAR 407-007-0275 and must complete a criminal records check conducted by the Department in accordance with 407-007-0200 to 407-007-0370.

(2) PERFORMANCE HISTORY. The Division shall consider an applicant's performance history, including repeat sanctions or rule violations, before issuing a license.

(a) Each applicant must be free of incident of ownership history in any facility in Oregon that provides or provided (at the time of ownership) care to children, elderly, ill, or individuals with disabilities that had its license or certification involuntarily suspended or voluntarily terminated during any state or federal sanction process during the past five years.

(b) Applicants must be free of incident of ownership history in any facility in any state that had its license or certification involuntarily suspended or voluntarily terminated during any state or federal sanction process during the past five years.

(c) Failure to provide accurate information or demonstrate required performance history could result in the Division's denial of a license.

(3) FINANCIAL HISTORY. Each applicant must:

(a) Be free of incident of ownership history in any facility or business that failed to reimburse any state for Medicaid overpayments or civil penalties during the past five years.

(b) Be free of incident of ownership history in any facility or business that failed to compensate employees or pay worker's compensation, food supplies, utilities, or other costs necessary for facility operation during the past five years.

(c) Submit proof of fiscal responsibility, including an auditor's certified financial statement, and other verifiable documentary evidence of fiscal solvency documenting that the prospective licensee has sufficient resources to operate the facility for 60 days. Proof of fiscal responsibility must include liquid assets sufficient to operate the facility for 45 days. Anticipated Medicaid income is not considered "liquid assets," but may be considered "financial resources." Liquid assets may be demonstrated by:

(A) An unencumbered line of credit;

ADMINISTRATIVE RULES

- (B) A performance bond; or
- (C) Any other method satisfactory to the Division.
- (d) Provide a pro forma (revenues, expenditures, and resident days) by month for the first 12 months of operation of the facility and demonstrate the ability to cover any cash flow problems identified by the pro forma.

(4) **EXPERIENCE.** If an applicant does not have experience in the management of nursing facilities, assisted living, or residential care, the applicant must employ the services of a consultant or management company with experience in the provision of assisted living or residential care for a period of at least six months. The consultant and the terms and length of employment are subject to the approval of the Division.

Stat. Auth.: ORS 410.070 & 443.450
Stats. Implemented: ORS 443.400 - 443.455 & 443.991
Hist.: SPD 14-2007, f. 8-31-07, cert. ef. 11-1-07; SPD 23-2009(Temp), f. 12-31-09, cert. ef. 1-1-10 thru 6-30-10; SPD 10-2010, f. 6-30-10, cert. ef. 7-1-10; SPD 23-2011(Temp), f. & cert. ef. 11-10-11 thru 5-7-12; SPD 4-2012, f. 4-30-12, cert. ef. 5-1-12

Department of Oregon State Police Chapter 257

Rule Caption: Trial Board Procedures.

Adm. Order No.: OSP 1-2012(Temp)

Filed with Sec. of State: 5-9-2012

Certified to be Effective: 5-9-12 thru 11-1-12

Notice Publication Date:

Rules Suspended: 257-080-0000, 257-080-0005, 257-080-0010, 257-080-0015, 257-080-0020, 257-080-0025, 257-080-0030, 257-080-0035, 257-080-0040, 257-080-0045

Subject: Repeal of OAR 257-080-0000 et. Seq.

Rules Coordinator: Shannon Peterson—(503) 934-0183

257-080-0000

Purpose of Rules

These rules implement and give effect to state law mandating procedures for use when considering removal of Department members subject to ORS 181.290–340, with the following objectives:

- (1) To define the statutory grounds for removal of members.
- (2) To provide guidelines for the preparation and filing of written charges.
- (3) To outline the procedures to follow in hearings before the trial board.
- (4) To specify the form and general contents of written Findings and Recommendations.
- (5) To describe the duty of the Superintendent to carry out the written recommendation.
- (6) To assure an expeditious and fair resolution of any charges against a member through the trial board process.

Stat. Auth.: ORS 181.280 & 181.310
Stats. Implemented: ORS 181.290 - 181.340
Hist.: OSP 1-1997, f. & cert. ef. 1-22-97; Suspended by OSP 1-2012(Temp), f. & cert. ef. 5-9-12 thru 11-1-12

257-080-0005

Statutory Authority for Rules

These rules are adopted under the authority provided by ORS 181.200, 181.280, 181.290, 181.310, 181.330 and 181.340.

Stat. Auth.: ORS 181.280 & 181.310
Stats. Implemented: ORS 181.290 - 181.340
Hist.: OSP 1-1997, f. & cert. ef. 1-22-97; Suspended by OSP 1-2012(Temp), f. & cert. ef. 5-9-12 thru 11-1-12

257-080-0010

Definitions

- (1) Department — refers to the Oregon Department of State Police.
- (2) Member — refers to the employee subject to the written charges who is afforded a hearing under these rules.
- (3) Presiding officer — is the Superintendent or any commissioned officer designated by the Superintendent to preside over the trial board proceedings.
- (4) Willful — volitional conduct, of one's own free will; not accidental.

Stat. Auth.: ORS 181.280 & 181.310
Stats. Implemented: ORS 181.290 - 181.340
Hist.: OSP 1-1997, f. & cert. ef. 1-22-97; Suspended by OSP 1-2012(Temp), f. & cert. ef. 5-9-12 thru 11-1-12

257-080-0015

Grounds for Removal

The statutory grounds for removal are defined as follows:

(1) **Inefficiency** means failure to meet expectations for a particular position, including the failure to exercise reasonable judgment, or to produce desired results.

(2) **Misfeasance** means conduct which is improper, inappropriate or unsuitable, including performance of otherwise lawful actions in an illegal or unacceptable manner.

(3) **Malfeasance** means conduct positively wrongful or unwarranted. It is characterized by behavior which is offensive and/or displays a disregard of ethical standards.

(4) **Nonfeasance in office** means the omission to undertake actions, especially those which ought to be done in the particular position.

(5) **Violations of the criminal laws of the state or of the United States** means engaging in conduct which meets the elements of any criminal statutory offense. Proof may be established by either:

- (a) Evidence of the conduct offered before the trial board; or
- (b) Submission to the board of a certified judgment, after trial or plea, from the appropriate tribunal which disposed of the matter. Conduct charged as a crime which does not result in conviction (either because there was no trial or the verdict resulted in acquittal) may still be grounds for removal under the preponderance standard in these rules.

(6) **Willful violation of any rule or regulation of the department** means volitional conduct by a member that is contrary to standards/expectations established in department rules and regulations.

(7) **Insubordination** means refusing to submit to authority as in disobedient and/or the failure to recognize or accept the authority of a superior. It is characterized by the willful refusal to:

- (a) Comply with a written or verbal instruction; or
- (b) At all times maintain toward superior officers the respectful attitude that discipline requires and courtesy demands.

(8) **Forfeiture of license to operate a motor vehicle** means that the member's license has been adjudged by a court of competent jurisdiction or an authorized administrative agency to be revoked or suspended.

(9) **Physical or mental disability not incurred in line of duty** means any condition which prohibits a member from performing the necessary duties of a sworn police officer even if reasonable adjustments were made to assist the member in performing.

Stat. Auth.: ORS 181.280 & 181.310
Stats. Implemented: ORS 181.290 - 181.340
Hist.: OSP 1-1997, f. & cert. ef. 1-22-97; Suspended by OSP 1-2012(Temp), f. & cert. ef. 5-9-12 thru 11-1-12

257-080-0020

Preparation and Filing of Written Charges

(1) Written charges may be prepared by the immediate supervisor of the affected member or by the Office of the Superintendent.

- (2) The document shall include:
 - (a) The name and mailing address of the member.
 - (b) A statement that the document is notice of written charges under the statutes and rules covering removal proceedings.
 - (c) A list of the statutory terms from ORS 181.290 that the trial board will be asked to consider.

(d) A description of information concerning the member's tenure with the department which may be relevant to an understanding of the charges. Examples include:

- (A) Particular training or education provided;
- (B) Prior corrective action;
- (C) Informal discussions or other communications with the member by other managers or supervisors;
- (D) The availability of written standards or expectations — whether formal or informal; and

(E) All other matters which may provide a context in which to review the specific conduct at issue. The contents of this part of the written charges shall not be construed as a limitation on the type or nature of evidence which can be offered at the hearing by either party.

(e) A concise description of the conduct which forms the basis of the charges, arranged either chronologically or by substantive content, so that it is organized in a fashion which is reasonably understandable by the member.

- (3) A suggested format for the written charges is as follows:
 - (a) Member's name;
 - (b) Member's mailing address;
 - (c) As a sworn member of the department, subject to ORS 181.290 through 181.340 and OAR 257, division 80, this is written notice of charges which can result in your removal as a member of the department.

(d) The statutory grounds under ORS 181.290 relied upon are: (cite to each term in ORS 181.290 that applies).

ADMINISTRATIVE RULES

- (e) Relevant background information: (set out particulars).
- (f) The conduct at issue: (set out particulars).

(4) The completed written charges shall be delivered to the Office of the Superintendent, where they will be filed and logged by date and time of receipt.

Stat. Auth.: ORS 181.280 & 181.310
Stats. Implemented: ORS 181.290 - 181.340
Hist.: OSP 1-1997, f. & cert. ef. 1-22-97; Administrative Reformatting 12-1-97; Suspended by OSP 1-2012(Temp), f. & cert. ef. 5-9-12 thru 11-1-12

257-080-0025 Initiating a Trial Board

(1) Upon receipt of written charges, the Superintendent shall, without undue delay, determine their sufficiency and whether to initiate a trial board. The charges may be referred back to the drafter or to the Professional Standards Section for revision or amendment. The revised or amended charges shall be refiled and logged in by date and time.

(2) During the pendency of the matter the Superintendent shall determine the appropriate duty and pay status of the member. Any action to suspend without pay must comply with due process of law.

(3) The Superintendent shall appoint two commissioned officers who are senior in service to serve on the board. If the Superintendent determines to designate a commissioned officer other than the Superintendent to act as presiding officer of the board that shall be done by written order.

(4) The Superintendent shall determine the time and place of the hearing, which designation shall be with no less than ten days notice to the member.

(5) The member shall be notified, in writing, of the following:

- (a) The individuals composing the trial board;
- (b) The location, date and time of the hearing;
- (c) The member's right to have legal counsel represent the member, at the member's expense, before the board;
- (d) The duty and pay status of the member during the hearing process; and

(e) The need to inform the Superintendent within 72 hours whether the member will attend the hearing. Attached to this notice shall be a copy of these rules and a copy of the written charges.

(6) Failure to comply with one or more of the terms of these rules concerning the Trial Board process shall not invalidate any written charges or negate any proceeding before the board. To the extent necessary to protect a member's legal rights, if an extension of time is necessary for the member to prepare a defense, the presiding officer shall grant a reasonable period of time.

Stat. Auth.: ORS 181.280 & 181.310
Stats. Implemented: ORS 181.290 - 181.340
Hist.: OSP 1-1997, f. & cert. ef. 1-22-97; Suspended by OSP 1-2012(Temp), f. & cert. ef. 5-9-12 thru 11-1-12

257-080-0030 Trial Board Proceedings — Generally

(1) The presiding officer shall have full authority to direct all matters connected with the hearing process, including but not limited to the matters specified in these rules and the statute.

(2) To the extent any matter is not covered by these rules, the presiding officer shall have the authority to provide mechanisms necessary to comply with any legal requirements to assure a fair and orderly hearing process.

(3) An audio recording of the proceedings will be made, which shall constitute the official record.

(4) The department has the burden of going forward with its evidence and the burden of proving the written charges by a preponderance of the evidence. The member has the burden to establish any affirmative matters asserted in defense of the charges by a preponderance of the evidence.

(5) Evidence commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible subject to irrelevant or unduly repetitious evidence being excluded by the presiding officer.

Stat. Auth.: ORS 181.280 & 181.310
Stats. Implemented: ORS 181.290 - 181.340
Hist.: OSP 1-1997, f. & cert. ef. 1-22-97; Suspended by OSP 1-2012(Temp), f. & cert. ef. 5-9-12 thru 11-1-12

257-080-0035 Trial Board Proceedings — Prehearing Matters

(1) The Department shall forward to the member, within a reasonable time after the hearing is set, all investigative reports and other documents prepared according to the requirements of the department's personnel review manual that were available at the time the written charges were formulated.

(2) Parties shall make written request to the presiding officer, with a copy to the opposing party, for the issuance of subpoenas. The presiding officer may require an explanation of the testimony expected from the witness and/or the nature of the physical evidence expected to be produced by subpoena and whether the opposing party has been requested to voluntarily produce the person or item sought before deciding whether to issue the subpoena. All fees authorized by the statute and service costs shall be the responsibility of the party requesting the subpoena.

(3) Any request for assistance or relief shall be by written motion; identifying:

- (a) The facts and circumstances supporting the motion;
- (b) The relief sought; and

(c) The authority relied upon in seeking the particular request. There must be proof of service on the other party to the proceeding accompanying the motion.

(4) Prehearing conference(s) may be convened if deemed necessary by the presiding officer or as requested by a party and approved by the presiding officer. During a conference the presiding officer may inquire of each side:

- (a) The number of witnesses and their estimated length of time testifying;
- (b) The number and description of documents;
- (c) Whether stipulations are possible;
- (d) Whether any motions are going to be filed; and
- (e) Any other matter which may facilitate the orderly and efficient presentation of evidence at the hearing.

(5) On a date established by the presiding officer, but in no event less than five days prior to the hearing, the parties shall exchange:

- (a) Marked exhibits;
- (b) A witnesses list; and
- (c) Any materials necessary to comply with prehearing agreements or orders. This provision does not apply to evidence to be used exclusively for impeachment.

(6) Failure to comply with requirements set by these rules or the presiding officer and failure to abide by agreements with the opposing party may result in denial of the right to submit evidence at the hearing on such matter, unless good cause is shown.

(7) The member's official personnel file shall be available for inspection by the parties or their respective representatives upon advance request to the Professional Standards Section at General Headquarters.

(8) A copy of the official personnel file shall be forwarded to the presiding officer in advance of the hearing so that it will be available at the hearing. It shall be entered into evidence so that the parties may refer to it and the panel may have it available during deliberations.

Stat. Auth.: ORS 181.280 & 181.310
Stats. Implemented: ORS 181.290 - 181.340
Hist.: OSP 1-1997, f. & cert. ef. 1-22-97; Suspended by OSP 1-2012(Temp), f. & cert. ef. 5-9-12 thru 11-1-12

257-080-0040 Trial Board Proceedings — The Hearing

(1) The presiding officer shall open the hearing, on the record, by introducing the parties and identifying the purpose of the hearing as required by ORS 183.413.

(2) The parties may make opening statements.

(3) The parties may offer physical and testimonial evidence in support of their respective positions. All exhibits must be marked and the original and three copies submitted to the board and one (previously) supplied to the opposing party. Cross examination of witnesses shall be allowed.

(4) The parties shall make oral closing arguments unless the presiding officer requests a post-hearing written argument. The length and subjects of the written argument shall be specified by the presiding officer.

(5) The presiding officer may rule on objections at the time they are made or defer ruling until the board makes its written determination.

(6) All parties, counsel, witnesses and spectators shall conduct themselves in a respectful manner. Failure to comply with the presiding officer's effort to retain order is ground for removal from the hearing.

Stat. Auth.: ORS 181.280 & 181.310
Stats. Implemented: ORS 181.290 - 181.340
Hist.: OSP 1-1997, f. & cert. ef. 1-22-97; Suspended by OSP 1-2012(Temp), f. & cert. ef. 5-9-12 thru 11-1-12

257-080-0045 Trial Board Proceedings — The Board Findings and Recommendation

(1) The board's Findings and Recommendation shall be in written form.

ADMINISTRATIVE RULES

- (2) The Findings and Recommendation shall contain:
- (a) All rulings on admissibility and/or objections that were deferred;
 - (b) Factual findings, including specific findings of “guilty” to each charge found to be proved; and
 - (c) Conclusions of law which address application of the facts to the controlling law.

(3) The Findings shall state specifically whether removal or other disciplinary punishment is recommended and identify and explain the rationale upon which the board relied. Any recommendation for economic discipline must comply with applicable laws, including the Fair Labor Standards Act.

(4) In assessing the appropriate level of punishment the panel shall consider:

- (a) The rank and corresponding duties and expectations for the position held by the member;
- (b) The number and relative severity of charges proven; and
- (c) Any evidence presented to mitigate the proven charges. The panel shall make credibility determinations as part of its process.

(5) While evidence may mitigate proven charges, the panel is not to apply progressive discipline as a matter of right nor shall it require proof of “just cause” as that term is used in labor agreements.

(6) The Superintendent shall direct the punishment established by the board and so inform the member by sending a copy of the board’s Findings and Recommendations along with the notice of punishment. This notice shall also advise the member of the right to appeal under ORS 181.350.

Stat. Auth.: ORS 181.280 & 181.310
Stats. Implemented: ORS 181.290 - 181.340
Hist.: OSP 1-1997, f. & cert. ef. 1-22-97; Suspended by OSP 1-2012(Temp), f. & cert. ef. 5-9-12 thru 11-1-12

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

Rule Caption: Housekeeping and clarification of fireworks wholesale administrative rules.

Adm. Order No.: OSFM 6-2012

Filed with Sec. of State: 4-23-2012

Certified to be Effective: 8-3-12

Notice Publication Date: 3-1-2012

Rules Amended: 837-012-0515

Subject: Clarify section 837-012-0515 of the wholesale fireworks administrative rules, and make a few housekeeping changes.

Rules Coordinator: Connie Dalke—(503) 934-8211

837-012-0515

General

(1) Definitions. For purposes of this administrative rule, the following definitions apply:

- (a) “Fireworks” has the definition contained in ORS 480.110.
- (b) “Person” means any business, entity, or individual.
- (c) “Wholesaler” means a person that possesses an Oregon wholesale permit issued by the State Fire Marshal.

(2) Any person intending to sell or provide fireworks by any means within the state of Oregon, must first obtain an Oregon wholesale permit.

(3) Any person intending to sell or provide items described in ORS 480.127 by any means within the state of Oregon, must first obtain an Oregon wholesale permit, unless that person possesses an Oregon retail sales permit.

(4) A wholesaler may sell or provide by any means either fireworks or items described in ORS 480.127 in the state of Oregon only to persons having obtained one of the following State Fire Marshal issued permits:

- (a) Fireworks display permit, including general, limited, close proximity, and special effects;
- (b) Retail sales permit for the sale of retail fireworks to the general public; or
- (c) Agricultural fireworks permit for scaring away birds or animals injurious to crops.

(5) Wholesalers desiring to engage in any Fireworks activities, including retail sales, agricultural use, or fireworks displays must meet all applicable requirements of ORS 480.110 through 480.165 and OAR chapter 837, division 12, including obtaining permits for such activities from local, federal, and state authorities.

(6) Wholesale Permit holders must comply with all applicable federal, state, and local laws, rules and regulations pertaining to Fireworks, including:

- (a) ORS 480.110 through 480.165; and
 - (b) OAR chapter 837, division 12
- (7) Wholesalers must notify the State Fire Marshal, in writing, within two weeks of the date of change of:
- (a) Identity of the Wholesaler’s Manager;
 - (b) The Wholesaler’s mailing address or telephone number;
 - (c) Ownership of the Wholesaler’s Site;
 - (d) Ownership of the Wholesaler’s Operation; or
 - (e) The addition, or subtraction, of a Sales Representative for the Wholesaler.

(8) Exempt Fireworks are exempt from the permit requirements set forth in ORS 480.110 through 480.165 and OAR chapter 837, division 12. Exempt Fireworks may be sold and purchased at any time, and do not require a permit.

(9) Wholesalers who provide 1.3g Fireworks must provide a minimum of one general operator certification training course annually as required by OAR 837-012-0780.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 476, 478 & 480
Stats. Implemented: ORS 480.110 - 480.165
Hist.: FM 2-1982(Temp), f. & ef. 3-5-82; FM 3-1982(Temp), f. & ef. 4-16-82; FM 3-1985, f. & ef. 4-17-85; FM 1-1986, f. & ef. 1-9-86; FM 6-1986(Temp), f. & ef. 6-10-86; FM 9-1986, f. & ef. 12-10-86; Suspended by FM 2-1989(Temp), f. & cert. ef. 3-20-89; FM 5-1989, f. & cert. ef. 9-15-89; Renumbered from 837-012-0125; OSFM 6-2000(Temp), f. 6-5-00, cert. ef. 6-5-00 thru 12-1-00; OSFM 15-2000, f. & cert. ef. 12-4-00; OSFM 6-2002, f. & cert. ef. 6-14-02; OSFM 8-2002, f. & cert. ef. 10-4-02; OSFM 6-2004(Temp), f. & cert. ef. 11-17-04 thru 5-15-05; Administrative correction 5-20-05; OSFM 8-2005, f. 5-24-05, cert. ef. 6-7-05; OSFM 5-2010(Temp), f. & cert. ef. 11-3-10 thru 5-2-11; OSFM 1-2011, f. 3-15-11, cert. ef. 5-2-11; OSFM 4-2012(Temp), f. & cert. ef. 2-6-12 thru 8-3-12; OSFM 6-2012, f. 4-23-12, cert. ef. 8-3-12

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

Rule Caption: Clarify discretionary disqualifying crimes which may be considered by Policy Committee.

Adm. Order No.: DPSST 11-2012

Filed with Sec. of State: 4-24-2012

Certified to be Effective: 4-24-12

Notice Publication Date: 4-1-2012

Rules Amended: 259-008-0070

Subject: When the criminal justice denial and revocation rules were updated several years ago, the workgroups, policy committees, and Board on Public Safety Standards and Training identified a list of crimes for which conviction would result in mandatory denial or revocation of certification. They identified that all other convictions would be discretionary, requiring review to determine which of the discretionary misconduct categories most closely matched the elements of the crime. These presumptive categories were identified in the rule. The previous rule language could be construed as limiting committee consideration of a crime whose ORS reference had changed, or which had been added to Oregon’s Criminal Code or found in statutes outside of the Criminal Code. To remedy this potential misinterpretation, a technical clarification was made on the recommendation of legal counsel to more accurately reflect the intent of the rule.

Rules Coordinator: Linsay Hale—(503) 378-2431

259-008-0070

Denial/Revocation

(1) It is the responsibility of the Board to set the standards, and of the Department to uphold them, to insure the highest levels of professionalism and discipline. These standards shall be upheld at all times unless the Board determines that neither the safety of the public or respect of the profession is compromised.

Definitions

(2) For purposes of this rule, the following definitions apply:

(a) “Denial” or “Deny” means the refusal to grant a certification for mandatory grounds or discretionary disqualifying misconduct as identified in this rule, pursuant to the procedures identified in (9) of this rule.

(b) “Discretionary Disqualifying Misconduct” means misconduct identified in OAR 259-008-0070(4).

(c) “Revocation” or “Revoke” means to withdraw the certification of a public safety professional or instructor for mandatory grounds or discretionary disqualifying misconduct as identified in this rule, pursuant to the procedures identified in section (9) of this rule.

ADMINISTRATIVE RULES

Grounds for Mandatory Denial or Revocation of Certification

(3) Mandatory Grounds for Denying or Revoking Certification of a Public Safety Professional or Instructor:

(a) The Department must deny or revoke the certification of any public safety professional or instructor after written notice and hearing, based upon a finding that:

(A) The public safety professional or instructor has been discharged for cause from employment as a public safety professional or instructor. For purposes of this rule, "discharged for cause," means an employer-initiated termination of employment for any of the following reasons after a final determination has been made. If, after service by the Department of a Notice of Intent to Deny or Revoke Certifications (NOI), the public safety professional or instructor provides notice to the Department within the time stated in the NOI that the discharge has not become final, then the Department may stay further action pending a final determination.

(i) Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification; (Comment: Conduct underlying the mandatory disqualifying misdemeanors involving these elements in Subsection (D) and the Category I offenses in section (4), is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(ii) Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public. (Comment: Conduct underlying the Category II offenses identified in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(iii) Gross Misconduct: means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance; (Comment: Conduct underlying the Category IV offenses identified in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(iv) Incompetence: means a demonstrated lack of ability to perform the essential tasks of a public safety professional or instructor that remedial measures have been unable to correct.

(v) Misuse of Authority: Includes abuse of public trust, abuse of authority to obtain a benefit, avoid a detriment, or harm another, and abuse under the color of office. (Comment: Conduct underlying the Category III offenses identified in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(B) The public safety professional or instructor has been convicted in this state or any other jurisdiction of a crime designated under the law where the conviction occurred as being punishable as a felony or as a crime for which a maximum term of imprisonment of more than one year may be imposed;

(C) The public safety professional or instructor has been convicted of violating any law of this state or any other jurisdiction involving the unlawful use, possession, delivery or manufacture of a controlled substance, narcotic or dangerous drug except the Department may deny certification for a conviction of possession of less than one ounce of marijuana, which occurred prior to certification; or

(D) The public safety professional or instructor has been convicted in this state or any of the following offenses, or of their statutory counterpart(s) in any other jurisdiction, designated under the law where the conviction occurred as being punishable as a crime:

- 162.075 (False swearing),
- 162.085 (Unsworn falsification),
- 162.145 (Escape in the third degree),
- 162.175 (Unauthorized departure),
- 162.195 (Failure to appear in the second degree),
- 162.235 (Obstructing governmental or judicial administration),
- 162.247 (Interfering with a peace officer),
- 162.257 (Interfering with a firefighter or emergency medical technician),
- 162.295 (Tampering with physical evidence),
- 162.305 (Tampering with public records),
- 162.315 (Resisting arrest),
- 162.335 (Compounding),
- 162.365 (Criminal impersonation),
- 162.369 (Possession of false law enforcement identification),
- 162.375 (Initiating a false report),
- 162.385 (Giving false information to a peace officer for a citation or arrest warrant),
- 162.415 (Official misconduct in the first degree),
- 163.200 (Criminal mistreatment in the second degree),
- 163.454 (Custodial sexual misconduct in the second degree),
- 163.687 (Encouraging child sexual abuse in the third degree),

- 163.732 (Stalking),
- 164.045 (Theft in the second degree),
- 164.085 (Theft by deception),
- 164.095 (Theft by receiving),
- 164.125 (Theft of services),
- 164.235 (Possession of a burglary tool or theft device),
- 164.877 (Unlawful tree spiking; unlawful possession of substance that can damage certain wood processing equipment)
- 165.007 (Forgery in the second degree),
- 165.017 (Criminal possession of a forged instrument in the second degree),
- 165.037 (Criminal simulation),
- 165.042 (Fraudulently obtaining a signature),
- 165.047 (Unlawfully using slugs),
- 165.055 (Fraudulent use of a credit card),
- 165.065 (Negotiating a bad check),
- 165.080 (Falsifying business records),
- 165.095 (Misapplication of entrusted property),
- 165.100 (Issuing a false financial statement),
- 165.102 (Obtain execution of documents by deception),
- 165.825 (Sale of drugged horse),
- 166.065(1)(b) (Harassment),
- 166.155 (Intimidation in the second degree),
- 166.270 (Possession of weapons by certain felons),
- 166.350 (Unlawful possession of armor-piercing ammunition),
- 166.416 (Providing false information in connection with a transfer of a firearm),
- 166.418 (Improperly transferring a firearm),
- 166.470 (Limitations and conditions for sales of firearms),
- 167.007 (Prostitution),
- 167.054 (Furnishing sexually explicit material to a child),
- * the above listed statute has been declared unconstitutional by the Ninth Circuit Court.
- 167.075 (Exhibiting an obscene performance to a minor),
- 167.080 (Displaying obscene materials to minors),
- 167.132 (Possession of gambling records in the second degree),
- 167.147 (Possession of a gambling device),
- 167.222 (Frequenting a place where controlled substances are used),
- 167.262 (Adult using minor in commission of controlled substance offense),
- 167.320 (Animal abuse in the first degree),
- 167.330 (Animal neglect in the first degree),
- 167.332 (Prohibition against possession of domestic animal),
- 167.333 (Sexual assault of animal),
- 167.337 (Interfering with law enforcement animal),
- 167.355 (Involvement in animal fighting),
- 167.370 (Participation in dogfighting),
- 167.431 (Participation in cockfighting),
- 167.820 (Concealing the birth of an infant),
- 475.525 (Sale of drug paraphernalia),
- 475.840 (Manufacture or deliver a controlled substance),
- 475.860 (Unlawful delivery of marijuana),
- 475.864 (Unlawful possession of marijuana),
- 475.906 (Distribution of controlled substance to minors),
- 475.910 (Application of controlled substance to the body of another person),
- 475.912 (Unlawful delivery of imitation controlled substance),
- 475.914 (Unlawful acts, registrant delivering or dispensing controlled substance),
- 475.916 (Prohibited acts involving records and fraud),
- 475.918 (Falsifying drug test results),
- 475.920 (Providing drug test falsification equipment),
- 475.950 (Failure to report precursor substances transaction),
- 475.955 (Failure to report missing precursor substances),
- 475.960 (Illegally selling drug equipment),
- 475.965 (Providing false information on precursor substances report or record),
- 475.969 (Unlawful possession of phosphorus),
- 475.971 (Unlawful possession of anhydrous ammonia),
- 475.973 (Unlawful possession of ephedrine, pseudoephedrine or phenylpropranolamine; unlawful distribution),
- 475.975 (Unlawful possession of iodine in its elemental form),
- 475.976 (Unlawful possession of iodine matrix),
- 807.520 (False swearing to receive license),
- 807.620 (Giving false information to police officer),

Any offense involving any acts of domestic violence as defined in ORS 135.230.
(b) The Department must take action on a mandatory disqualifying conviction, regardless of when it occurred, unless the Department, or the Board, has previously reviewed the conviction and approved the public safety professional or instructor for certification under a prior set of standards.

Discretionary Disqualifying Misconduct as Grounds for Denying or Revoking Certification

(4) Discretionary disqualifying misconduct as Grounds for Denying or Revoking Certification(s) of a Public Safety Professional or Instructor:

(a) The Department may deny or revoke the certification of any public safety professional or instructor, after written notice, and a hearing, if requested, based upon a finding that:

(A) The public safety professional or instructor falsified any information submitted on the application for certification or on any documents submitted to the Board or Department;

(B) The public safety professional or instructor fails to meet the applicable minimum standards, minimum training or the terms and conditions established under ORS 181.640;

(C) The public safety professional or instructor has been convicted of an offense, punishable as a crime, other than a mandatory disqualifying crime listed in section (3) of this rule, in this state or any other jurisdiction.

ADMINISTRATIVE RULES

Presumptive categories have been identified for the crimes listed in subsection (4), based solely on the elements of the crime. Other categories may apply based on the conduct leading to the conviction; or

(D) A public safety professional failed to attend at least one session with a mental health professional within six months after the public safety professional was involved in using deadly physical force, as required by ORS 181.789.

(b) For purposes of this rule, discretionary disqualifying misconduct includes misconduct falling within the following categories:

(A) Category I: Dishonesty: Includes untruthfulness, dishonesty by admission or omission, deception, misrepresentation, falsification; (Comment: Conduct underlying the mandatory disqualifying misdeemeanors involving these elements in Subsection (D) and the Category I offenses in section (4), is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(B) Category II: Disregard for the Rights of Others: Includes violating the constitutional or civil rights of others, and conduct demonstrating a disregard for the principles of fairness, respect for the rights of others, protecting vulnerable persons, and the fundamental duty to protect and serve the public. (Comment: Conduct underlying the Category II offenses identified in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in criminal conviction.)

(C) Category III: Misuse of Authority: Includes abuse of public trust, obtaining a benefit, avoidance of detriment, or harming another, and abuses under the color of office. (Comment: Conduct underlying the Category III offenses identified in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(D) Category IV: Gross Misconduct: Means an act or failure to act that creates a danger or risk to persons, property, or to the efficient operation of the agency, recognizable as a gross deviation from the standard of care that a reasonable public safety professional or instructor would observe in a similar circumstance; (Comment: Conduct underlying the Category IV offenses identified in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.)

(E) Category V: Misconduct: Misconduct includes conduct that violates the law, practices or standards generally followed in the Oregon public safety profession. NOTE: It is the intent of this rule that "Contempt of Court" meets the definition of Misconduct within this category; (Comment: Conduct underlying the Category V offenses identified in section (4) is illustrative of the types of conduct falling within this definition. However, misconduct need not have resulted in a criminal conviction.) or

(F) Category VI: Insubordination: Includes a refusal by a public safety professional or instructor to comply with a rule or order, where the order was reasonably related to the orderly, efficient, or safe operation of the agency, and where the public safety professional's or instructor's refusal to comply with the rule or order constitutes a substantial breach of that person's duties. (Note: There are no category VI crimes.)

(c) For discretionary disqualifying misconduct, the applicable category will be determined based on the facts of each case. Discretionary disqualifying misconduct under (a)(C) includes, but is not limited to, the following list, which identifies the applicable category for each listed discretionary offense, based on the elements of the crime:

97.931 (Registration of Salesperson for Endowment Care Cemeteries, Pre-construction Sales and Prearrangement Sales) – Category V,
97.933 (Certification of Provider of Prearrangement or Preconstruction) – Category V,
97.937 (Deposit of Trust Funds made by Endowment Care Cemeteries) – Category V,
97.941 (Prearrangement or Preconstruction Trust Fund Deposits) – Category V,
97.990(4) (Maintaining a Nuisance) – Category V,
162.405 (Official Misconduct in the Second Degree) – Category III,
162.425 (Misuse of Confidential Information) – Category III,
162.455 (Interfering with Legislative Operations) – Category V,
162.465 (Unlawful Legislative Lobbying) – Category I,
163.160 (Assault in the Fourth Degree) – Category II,
163.187 (Strangulation) – Category II,
163.190 (Menacing) – Category II,
163.195 (Recklessly Endangering Another Person) – Category IV,
163.212 (Unlawful Use of Stun Gun, Tear Gas or Mace in the Second Degree) – Category IV,
163.415 (Sexual Abuse in the Third Degree) – Category II,
163.435 (Contributing to the Sexual Delinquency of a Minor) – Category II,
163.445 (Sexual Misconduct) – Category II,
163.465 (Public Indecency) – Category II,
163.467 (Private Indecency) – Category II,
163.545 (Child Neglect in the Second Degree) – Category IV,
163.693 (Failure to Report Child Pornography) – Category IV,
163.575 (Endangering the Welfare of a Minor) – Category III,

163.700 (Invasion of Personal Privacy) – Category II,
163.709 (Unlawful Directing of Light from a Laser Pointer) – Category IV,
164.043 (Theft in the Third Degree) – Category V,
164.132 (Unlawful Distribution of Cable Equipment) – Category V,
164.140 (Criminal Possession of Rented or Leased Personal Property) – Category V,
164.162 (Mail Theft or Receipt of Stolen Mail) – Category I,
164.243 (Criminal Trespass in the Second Degree by a Guest) – Category V,
164.245 (Criminal Trespass in the Second Degree) – Category V,
164.255 (Criminal Trespass in the First Degree) – Category V,
164.265 (Criminal Trespass While in Possession of a Firearm) – Category IV,
164.272 (Unlawful Entry into a Motor Vehicle) – Category V,
164.278 (Criminal Trespass at Sports Event) – Category V,
164.335 (Reckless Burning) – Category IV,
164.345 (Criminal Mischief in the Third Degree) – Category V,
164.354 (Criminal Mischief in the Second Degree) – Category V,
164.373 (Tampering with Cable Television Equipment) – Category V,
164.377 (Computer Crime) – Category V,
164.775 (Deposit of Trash Within 100 Yards of Water) – Category V,
164.785 (Placing Offensive Substances in waters/on highways or property) – Category IV,
164.805 (Offensive Littering) – Category V,
164.813 (Unlawful Cutting and Transporting of Special Forest Products) – Category V,
164.815 (Unlawful Transport of Hay) – Category V,
164.825 (Cutting and Transport of Coniferous Trees without Permit/Bill of Sale) – Category V,
164.845 (FTA on Summons for ORS 164.813 or 164.825) – Category V,
164.863 (Unlawful Transport of Meat Animal Carcasses) – Category V,
164.865 (Unlawful Sound Recording) – Category V,
164.875 (Unlawful Video Tape Recording) – Category V,
164.887 (Interference with Agricultural Operations) – Category II,
165.107 (Failing to Maintain a Metal Purchase Record) – Category V,
165.109 (Failing to Maintain a Cedar Purchase Record) – Category V,
165.540 (Obtaining Contents of Communications) – Category V,
165.555 (Unlawful Telephone Solicitation) – Category V,
165.570 (Improper Use of Emergency Reporting System) – Category IV,
165.572 (Interference with Making a Report) – Category II,
165.577 (Cellular Counterfeiting in the Third Degree) – Category I,
165.805 (Misrepresentation of Age by a Minor) – Category I,
166.025 (Disorderly Conduct in the Second Degree) – Category IV,
166.027 (Disorderly Conduct in the First Degree) – Category IV,
166.075 (Abuse of Venerated Objects) – Category II,
166.076 (Abuse of a Memorial to the Dead) – Category II,
166.090 (Telephonic Harassment) – Category II,
166.095 (Misconduct with Emergency Telephone Calls) – Category IV,
166.155 (Intimidation in the Second Degree) – Category II,
166.180 (Negligently Wounding Another) – Category IV,
166.190 (Pointing a Firearm at Another) – Category IV,
166.240 (Carrying a Concealed Weapon) – Category V,
166.250 (Unlawful Possession of a Firearm) – Category V,
166.320 (Setting of a Springgun or Setgun) – Category IV,
166.385 (Possession of Hoax Destructive Device) – Category IV,
166.425 (Unlawful Purchase of Firearm) – Category I,
166.427 (Register of Transfers of Used Firearms) – Category V,
166.480 (Sale or Gift of Explosives to Children) – Category IV,
166.635 (Discharging Weapon or Throwing Object at Trains) – Category IV,
166.638 (Discharging Weapon Across Airport Operational Surfaces) – Category IV,
166.645 (Hunting in Cemeteries) – Category V,
166.649 (Throwing Object off Overpass in the Second Degree) – Category IV,
167.122 (Unlawful Gambling in the Second Degree) – Category V,
167.312 (Research and Animal Interference) – Category II,
167.315 (Animal Abuse in the Second Degree) – Category IV,
167.325 (Animal Neglect in the Second Degree) – Category IV,
167.340 (Animal Abandonment) – Category IV,
167.351 (Trading in Nonambulatory Livestock) – Category V,
167.352 (Interfering with Assistance, Search and Rescue or Therapy Animal) – Category IV,
167.385 (Unauthorized Use of Livestock Animal) – Category II,
167.388 (Interference with Livestock Production) – Category II,
167.390 (Commerce in Fur of Domestic Cats and Dogs) – Category V,
167.502 (Sale of Certain Items at Unused Property Market) – Category V,
167.506 (Record Keeping Requirements) – Category V,
167.808 (Unlawful Possession of Inhalants) – Category IV,
167.810 (Creating a Hazard) – Category IV,
167.822 (Improper Repair Vehicle Inflatable Restraint System) – Category IV,
411.320 (Disclosure and Use of Public Assistance Records) – Category II,
468.922 (Unlawful disposal, storage or treatment of hazardous waste in the second degree) – Category V,
468.929 (Unlawful transport of hazardous waste in the second degree) – Category V,
468.936 (Unlawful Air Pollution in the Second Degree) – Category V,
468.943 (Unlawful Water Pollution in the Second Degree) – Category V,
468.956 (Refusal to Produce Material Subpoenaed by the Commission) – Category V,
471.410 (Providing Liquor to Person under 21 or to Intoxicated Person) – Category IV,
Chapter 496 – 498 (When treated as a misdemeanor crime) – Category based on the elements of the specific crime,
609.341 (Permit Requirement for Keeping of Exotic Animals; Breeding of Animals) – Category V,
609.405 (Requirement for Destroying Dog or Cat) – Category V,
609.505 (Unlawfully Obtaining Dog or Cat) – Category V,
609.520(c) (Animal Dealer Failing to Turn Over Dog or Cat) – Category V,
609.805 (Misrepresentation of Pedigree; Mutilation of Certificate or Proof of Pedigree) – Category I,
609.990(3)(a) (Violation of ORS 609.098 – Maintaining a Dangerous Dog) – Category IV,
717.200 to 717.320 (Any violation) – Category V,

ADMINISTRATIVE RULES

803.225 (Failure to Designate Replica..Vehicle in Title or Registration Application) — Category I,
807.430 (Misuse of Identification Card) — Category I,
807.510 (Transfer of documents for the purpose of misrepresentation) — Category I,
807.530 (False Application for License) — Category I,
807.570 (Failure to Carry or Present License) — Category V,
807.580 (Using Invalid License) — Category I,
807.590 (Permitting Misuse of License) — Category I,
807.600 (Using Another's License) — Category I,
811.060 (Vehicular Assault of Bicyclist or Pedestrian) — Category V,
811.140 (Reckless Driving) — Category IV,
811.172 (Improperly Disposing of Human Waste) — Category V,
811.182 (Criminal Driving While Suspended or Revoked) — Category V,
811.231 (Reckless Endangerment of Highway Workers) — Category IV,
811.540 (Fleeing or Attempt to Elude a Police Officer) — Category IV,
811.700 (Failure to Perform Duties of Driver when Property is Damaged) — Category V,
811.740 (False Accident Report) — Category I, and
813.010 (Driving Under the Influence of Intoxicants) — Category IV.
830.035(2) (Fleeing; Attempts to Elude) — Category IV,
830.053 (False or Fraudulent Report of Theft of Boat) — Category I,
830.315(1) (Reckless Operation) — Category IV,
830.325 (Operation a Boat while Under the Influence of Intoxicating Liquor Controlled Substance) — Category IV,
830.383 (Person Required to Remedy Especially Hazardous Condition) — Category V,
830.460(2) (Prohibited Activities — Operating a Vessel that Fails to Comply with Equipment Requirements) — Category V,
830.460(3) (Prohibited Activities — Operating a Vessel without Liability Protection) — Category V,
830.475(1) (Failure to Perform the Duties of an Operator at Accident) — Category V,
830.730 (False Information) — Category I,
830.909 (Abandoning Boat, Floating Home, or Boathouse) — Category V,
830.955(1) (Prohibition of Installation of Submersible Polystyrene Device) — Category V,
830.992 (Purchase of a Boat or Equipment from which Hull or Component Identification Number Removed) — Category V,
830.994 (Operates a Boat in Violation of a Court Order) — Category V

Initial Periods of Ineligibility

(d) Upon determination to proceed with the denial or revocation of a public safety professional's or instructor's certification based on discretionary disqualifying misconduct identified in subsection (a), an initial minimum period of ineligibility to apply for certification will be determined based upon the category of misconduct (i.e., Dishonesty, Disregard for Rights of Others, Misuse of Authority, Gross Misconduct, Misconduct or Insubordination).

(e) Following review and recommendation by a Policy Committee, the Board will determine the initial minimum period of ineligibility for discretionary disqualifying misconduct identified in subsection (a) from the time frame identified below for each category of discretionary disqualifying misconduct:

- (A) Category I: Dishonesty (5 years to Lifetime).
- (B) Category II: Disregard for Rights of Others (5 years to 15 years).
- (C) Category III: Misuse of Authority (5 years to 10 years).
- (D) Category IV: Gross Misconduct (5 years to 10 years).
- (E) Category V: Misconduct (3 years to 7 years).
- (F) Category VI: Insubordination (3 years to 7 years).

Eligibility to Reapply; Ineligibility Periods

(5) A person is not eligible to reapply for training or certification if the person had training or certification denied or revoked for:

- (a) Mandatory grounds identified in section (3) of this rule; or
- (b) Discretionary Disqualifying Misconduct identified in section (4) of this rule that is determined to be a Category I lifetime disqualifier.

(6) Eligibility to reapply for certification:

(a) In determining the initial minimum period of ineligibility within any category for discretionary disqualifying misconduct listed in section (4) of this rule, the Board will take into consideration any mitigating or aggravating factors, subject to the provisions of section (9) of this rule.

(b) The initial minimum period of ineligibility will be included in any Final Order of the Department.

(c) Any subsequent eligibility to apply for certification will be determined by the Board, after Policy Committee review, subject to the provisions of section (11) of this rule.

Guidelines for Denial or Revocation Based on Discretionary Disqualifying Misconduct

(7) In determining whether to take action on a conviction, the Department must use the following guidelines:

(a) In making a decision on a discretionary denial or revocation, the Department will consider the implementation dates relating to new mandatory conviction notification requirements adopted in 2003 and statutory changes dealing with lifetime disqualifier convictions for public safety officers adopted in 2001.

(b) The Department will not take action on a conviction constituting discretionary disqualifying misconduct that occurred prior to January 1,

2001. However, the Department may consider such conviction as evidence that a public safety professional or instructor does not meet the established moral fitness guidelines.

(c) The Department may take action on any conviction constituting discretionary disqualifying misconduct that occurred after January 1, 2001.

(d) The Board may reconsider any mandatory conviction which subsequently becomes a conviction constituting discretionary disqualifying misconduct, upon the request of the public safety professional or instructor.

(e) The length of ineligibility for training or certification based on a conviction begins on the date of conviction.

(f) The Department will not take action against a public safety professional, instructor, or agency for failing to report, prior to January 1, 2003, a conviction that constitutes discretionary disqualifying misconduct.

(g) The Department may take action against a public safety professional, instructor, or agency for failing to report, after January 1, 2003, any conviction that constitutes discretionary disqualifying misconduct.

Procedure for Denial or Revocation of a Certificate

(8) Scope of Revocation. Whenever the Department revokes the certification of any public safety professional or instructor under the provisions of OAR 259-008-0070, the revocation will encompass all public safety certificates, except fire certification(s), the Department has issued to that person.

(9) Denial and Revocation Procedure.

(a) Agency Initiated Review: When the entity utilizing a public safety professional or instructor requests that a public safety professional's or instructor's certification be denied or revoked, it must submit in writing to the Department the reason for the requested denial or revocation and all factual information supporting the request.

(b) Department Initiated Review: Upon receipt of factual information from any source, and pursuant to ORS 181.662, the Department may request that the public safety professional's or instructor's certification be denied or revoked.

(c) Department Staff Review: When the Department receives information, from any source, that a public safety professional or instructor may not meet the established standards for Oregon public safety professionals or instructors, the Department will review the request and the supporting factual information to determine if the request for denial or revocation meets statutory and administrative rule requirements.

(A) If the reason for the request does not meet the statutory and administrative rule requirements for denial or revocation the Department will notify the requestor.

(B) If the reason for the request does meet statutory and administrative rule requirements but is not supported by adequate factual information, the Department will request further information from the employer or conduct its own investigation of the matter.

(C) If the Department determines that a public safety professional or instructor may have engaged in discretionary disqualifying misconduct listed in subsection (4), the case may be presented to the Board, through a Policy Committee.

(D) The Department will seek input from the affected public safety professional or instructor, allowing him or her to provide, in writing, information for the Policy Committee and Board's review.

(E) In misconduct cases in which there has been an arbitrator's opinion related to the public safety professional's or instructor's employment, the Department will proceed as follows:

(i) If the arbitrator's opinion finds that underlying facts supported the allegations of misconduct, the department will proceed as identified in paragraphs (A) through (D) of this subsection.

(ii) If the arbitrator has ordered employment reinstatement after a discharge for cause without a finding related to whether the misconduct occurred, the Department will proceed as identified in paragraphs (A) through (D) of this subsection.

(iii) If the arbitrator's opinion finds that underlying facts did not support the allegation(s) of misconduct, the Department will proceed as identified in paragraph (A) of this subsection and administratively close the matter.

(d) Policy Committee and Board Review: In making a decision to authorize initiation of proceedings under subsection (e) of this rule, based on discretionary disqualifying misconduct, the Policy Committees and Board will consider mitigating and aggravating circumstances, including, but not limited to, the following:

(A) When the misconduct occurred in relation to the public safety professional's or instructor's employment in public safety (i.e., before, during after);

(B) If the misconduct resulted in a conviction:

ADMINISTRATIVE RULES

- (i) Whether it was a misdemeanor or violation;
- (ii) The date of the conviction(s);
- (iii) Whether the public safety professional or instructor was a minor at the time and tried as an adult;
- (iv) Whether the public safety professional or instructor served time in prison/jail and, if so, the length of incarceration;
- (v) Whether restitution was ordered, and whether the public safety professional or instructor met all obligations;
- (vi) Whether the public safety professional or instructor has ever been on parole or probation. If so, the date on which the parole/probation period expired or is set to expire; and
- (vii) Whether the public safety professional or instructor has more than one conviction and if so, over what period of time;
- (C) Whether the public safety professional or instructor has engaged in the same misconduct more than once, and if so, over what period of time;
- (D) Whether the actions of the public safety professional or instructor reflect adversely on the profession, or would cause a reasonable person to have substantial doubts about the public safety professional's or instructor's honesty, fairness, respect for the rights of others, or for the laws of the state or the nation;
- (E) Whether the misconduct involved domestic violence;
- (F) Whether the public safety professional or instructor self-reported the misconduct;
- (G) Whether the conduct adversely reflects on the fitness of the public safety professional or instructor to perform as a public safety professional or instructor;
- (H) Whether the conduct renders the public safety professional or instructor otherwise unfit to perform their duties because the agency or public has lost confidence in the public safety professional or instructor; and
- (I) What the public safety professional's or instructor's physical or emotional condition was at the time of the conduct.

(e) Initiation of Proceedings: Upon determination that the reason for denial or revocation is supported by factual data meeting the statutory and administrative rule requirements, a contested case notice will be prepared and served on the public safety professional or instructor.

(A) All contested case notices will be prepared in accordance with OAR 137-003-0001 of the Attorney General's Model Rules or Procedures adopted under OAR 259-005-0015.

(B) In discretionary cases heard by a policy committee, the contested case notice will be served on the public safety professional or instructor prior to Board review. If the Board disapproves the policy committee's recommendation, the Department will withdraw the Contested Case Notice.

(f) Response Time:

(A) A party who has been served with a "Contested Case Notice of Intent to Deny Certification" has 60 days from the date of mailing or personal service of the notice in which to file with the Department a written request for a hearing.

(B) A party who has been served with the "Contested Case Notice of Intent to Revoke Certification" has 20 days from the date of mailing or personal service of the notice in which to file with the Department a written request for hearing.

(g) Default Order: If a timely request for a hearing is not received, the Contested Case Notice will become a final order denying or revoking certification pursuant to OAR 137-003-0645.

(h) Hearing Request: When a request for a hearing is received in a timely manner, the Department will refer the matter to the Office of Administrative Hearings in accordance with OAR 137-003-0515.

(i) Proposed Order: The assigned Administrative Law Judge will prepare Findings of Fact, Conclusions of Law and Proposed Final Order and serve a copy on the Department and on each party.

(j) Exceptions and Arguments: A party must file specific written exceptions and arguments with the Department no later than 14 days from date of service of the Findings of Fact, Conclusions of Law, and Proposed Final Order.

(A) The Department may extend the time within which the exceptions and arguments must be filed upon a showing of good cause.

(B) When the exceptions and arguments are filed, the party making the exceptions and arguments must serve a copy on all parties of record in the case and provide the Department with proof of service. A failure to serve copies and provide proof of service will invalidate the filing of exceptions and arguments as being untimely, and the Department may disregard the filing in making a final determination of the case.

(k) Final Order:

(A) A final order will be issued pursuant to OAR 137-003-0070 if a public safety professional or instructor fails to file exceptions and arguments in a timely manner.

(B) Department-proposed amendments to the proposed order in a case that was originally heard by a policy committee must be considered and approved by the policy committee that originally reviewed the case before a final order is issued.

(l) Stipulated Order Revoking Certification: The Department may enter a stipulated order revoking the certification of a public safety professional or instructor upon the person's voluntary agreement to terminate an administrative proceeding to revoke a certification, or to relinquish a certification, under the terms and conditions outlined in the stipulated order.

Appeals, Reapplication, and Eligibility Determinations

(10) Appeal Procedure. A public safety professional or instructor, aggrieved by the findings and Order of the Department may, as provided in ORS 183.480, file an appeal with the Court of Appeals from the final Order of the Department.

(11) Reapplication Process.

(a) Any public safety professional or instructor whose certification has been denied or revoked pursuant to section (4) of this rule, may reapply for certification within the applicable timeframes described in sections (4) through (6) of this rule. The initial minimum ineligibility period will begin on the date an Order of the Department denying or revoking certification becomes final. The initial minimum ineligibility period will cease when the applicable timeframe stated in the Order has been satisfied.

(b) Any public safety professional or instructor whose certification has been denied or revoked based on discretionary disqualifying misconduct may not reapply for certification until:

(A) The initial minimum period of ineligibility stated in an Order of the Department denying or revoking certification has been satisfied;

(i) If the initial period of ineligibility for the individual was for a period of less than the maximum period identified in section (4) of this rule, and the Board determines that an individual must remain ineligible to apply for certification, then the individual may not reapply for certification under the provisions of this rule until after the maximum initial period of ineligibility identified in (4) of this rule has been satisfied.

(ii) If the individual has satisfied the maximum initial period of ineligibility and the Board determines that an individual must remain ineligible to apply for certification, then the individual may not submit any further requests for an eligibility determination, and the original denial or revocation remains permanent.

(B) A written request for an eligibility determination has been submitted to the Department and a Policy Committee has recommended that a public safety professional's or instructor's eligibility to apply for public safety or instructor certification be restored and the Board has upheld the recommendation;

(i) A request for an eligibility determination should include documentation or information that supports the public safety professional's or instructor's request for eligibility to apply for certification.

(ii) In considering a request for an eligibility determination, the Policy Committee and the Board may consider mitigating and aggravating circumstances identified in Section 9(d) of this rule.

(iii) After reviewing a written request for an eligibility determination, the Board, through a Policy Committee, may determine that the individual's eligibility to apply for certification be restored if the criteria for certification have been met; or determine that the factors that originally resulted in denial or revocation have not been satisfactorily mitigated and the individual must remain ineligible to apply for certification.

(C) The public safety professional or instructor is employed or utilized by a public safety agency; and

(D) All requirements for certification have been met.

Stat. Auth.: ORS 181.640, 181.661, 181.662, 181.664 & 183.341

Stats. Implemented: ORS 181.640, 181.661, 181.662 & 181.664

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1980(Temp), f. & ef. 6-26-80; PS 2-1980, f. & ef. 12-8-80; PS 1-1981, f. 9-26-81, ef. 11-2-81; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0055, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 2-1996, f. 5-15-96, cert. ef. 5-20-96; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 6-2000, f. & cert. ef. 9-29-00; BPSST 14-2001(Temp), f. & cert. ef. 10-26-01 thru 4-5-02; BPSST 5-2002(Temp) f. 4-3-02, cert. ef. 4-6-02 thru 8-1-02; BPSST 16-2002, f. & cert. ef. 7-5-02; BPSST 22-2002, f. & cert. ef. 11-18-02; DPSST 7-2003, f. & cert. ef. 4-11-03; DPSST 7-2004, f. & cert. ef. 4-23-04; DPSST 10-2006, f. & cert. ef. 7-6-06; DPSST 16-2008, f. & cert. ef. 10-15-08; DPSST 21-2008, f. 12-15-08, cert. ef. 1-1-09; DPSST 11-2011, f. & cert. ef. 7-1-11; DPSST 11-2012, f. & cert. ef. 4-24-12

Rule Caption: Repeal obsolete rule relating to certified retired officer program.

ADMINISTRATIVE RULES

Adm. Order No.: DPSST 12-2012
Filed with Sec. of State: 5-1-2012
Certified to be Effective: 5-1-12
Notice Publication Date: 4-1-2012
Rules Repealed: 259-008-0068

Subject: For a brief number of years, the Department had a program creating a certified retired officer category for certain police officers. It was determined that there was no ongoing need for the program and the rule was amended to allow for the program to be phased out based on that date that the program was discontinued. All previously issued retired officer certifications have expired and this obsolete rules is being repealed.

Rules Coordinator: Linsay Hale—(503) 378-2431

Rule Caption: Update DOC BCC program/course hours to correspond with DPSST course; Clarify documentation requirements.

Adm. Order No.: DPSST 13-2012(Temp)

Filed with Sec. of State: 5-8-2012

Certified to be Effective: 5-8-12 thru 10-1-12

Notice Publication Date:

Rules Amended: 259-008-0025

Subject: In January 2012 DPSST began delivering the new six-week basic corrections program, which is now the state standard for basic corrections training. The new program represents a substantial restructuring of basic corrections training, both with areas of additional instruction and with a significant increase in participatory learning activities. Specifically, 51 hours of reality based scenarios and eight hours of problem-based learning exercises were added to the program.

This temporary rule increases the overall minimum course hours for DOC BCC to correspond with the new DPSST course and outlines the required program restructuring to reflect those updates. The temporary rule also clarifies the documentation required for purposes of determining equivalency of the overall program structure and of training delivery.

Rules Coordinator: Linsay Hale—(503) 378-2431

259-008-0025

Minimum Standards for Training

(1) Basic Course:

(a) Except as provided in OAR 259-008-0035, all law enforcement officers, telecommunicators, and emergency medical dispatchers must satisfactorily complete the prescribed Basic Course, including the field training portion. The Basic Course and field training portion must be completed within twelve months from the date of employment by corrections officers and within 18 months by police officers, parole and probation officers, telecommunicators, and emergency medical dispatchers.

(b) The field training program shall be conducted under the supervision of the employing department. When the field training manual is properly completed, the sign-off pages of the field training manual must be forwarded to the Department. Upon the approval of the Department, the employee shall receive credit toward basic certification.

(c) Effective July 1, 2007, all police officers must satisfactorily complete the Department's physical fitness standard. The Department's physical standard is:

(A) Successful completion of the OR-PAT at 5:30 (five minutes and thirty seconds) when tested upon entry at the Basic Police Course; or

(B) Successful completion of the OR-PAT at 5:30 (five minutes and thirty seconds) when tested prior to graduation from the Basic Police Course.

(d) Law enforcement officers who have previously completed the Basic Course, but have not been employed as a law enforcement officer as defined in ORS 181.610 and OAR 259-008-0005 during the last five (5) years or more, must satisfactorily complete the full required Basic Course to qualify for certification. This requirement may be waived by the Department upon a finding that the applicant has current knowledge and skills to perform as an officer.

(e) Telecommunicators and emergency medical dispatchers who have previously completed the Basic Course, but have not been employed as a telecommunicator or EMD, as described in ORS 181.610 and OAR 259-008-0005 for two and one-half (2-1/2) years or more, must satisfactorily complete the full required Basic Course to qualify for certification. This

requirement may be waived by the Department upon finding that a Telecommunicator has current knowledge and skills to perform as a Telecommunicator. There is no waiver available for an emergency medical dispatcher.

(f) Previously employed telecommunicators may challenge the Basic Telecommunications Course based on the following criteria:

(A) The department head of the applicant's employing agency shall submit the "challenge request" within the time limits set forth in the Oregon Revised Statutes and Oregon Administrative Rules.

(B) The applicant must provide proof of successful completion of prior equivalent training.

(C) The applicant must provide documentation of the course content with hour and subject breakdown.

(D) The applicant must obtain a minimum passing score on all written examinations for the course.

(E) The applicant must demonstrate performance at the minimum acceptable level for the course.

(F) Failure of written examination or demonstrated performance shall require attendance of the course challenged.

(G) The applicant will only be given one opportunity to challenge a course.

(g) Previously employed police officers, corrections officers and parole and probation officers who are required to attend the Basic Course may not challenge the Basic Course.

(h) All law enforcement officers who have previously completed the Basic Course, but have not been employed as a law enforcement officer as described in ORS 181.610 and OAR 259-008-0005 over two and one-half (2-1/2) years but less than five (5) years must complete a Career Officer Development Course if returning to the same discipline. This requirement may be waived after a staff determination that the applicant has demonstrated the knowledge and skills required for satisfactory completion of a Career Officer Development Course.

(i) Corrections and police officers who have not completed the Basic Course must begin training within 90 days of their initial date of employment.

(A) A police officer must begin training at an academy operated by the Department.

(B) A corrections officer who is employed by Oregon Department of Corrections (DOC) during the period July 1, 2009 through January 1, 2014 must begin DOC Basic Corrections Course (DOC BCC) training provided by DOC as described in section (6) of this rule.

(C) A corrections officer who is not employed by DOC must begin training at an academy operated by the Department.

(D) A 30-day extension of this time period shall be granted by the Board or its designee upon receipt of a written statement of the reasons for the delay from the officer's employer. Any delays caused by the inability of the Department to provide basic training for any reason, shall not be counted as part of the periods set forth above (refer to ORS 181.665 and 181.652).

(j) Law enforcement officers who have previously completed a basic training course out of state while employed by a law enforcement unit, or public or private safety agency, may, upon proper documentation of such training and with approval of the Department, satisfy the requirements of this section by successfully completing a prescribed Career Officer Development Course or other appropriate course of instruction.

(k) The basic course for police officers must include:

(A) Training on the law, theory, policies and practices related to vehicle pursuit driving;

(B) Vehicle pursuit training exercises, subject to the availability of funding; and

(C) A minimum of 24 hours of training in the recognition of mental illnesses utilizing a crisis intervention training model. A minimum of one hour of this training must be on the appropriate use of the medical health database maintained by the Department of State Police within the Law Enforcement Data System.

(2) Career Officer Development Course:

(a) All law enforcement officers who have not been employed as such for between two and one half (2-1/2) years and five (5) years, must satisfactorily complete a Career Officer Development Course approved by the Department.

(b) A law enforcement officer assigned to a Career Officer Development Course must also complete the Board's field training program under the supervision of the employing department and submit to the Department a properly completed Field Training Manual. The Department may waive the Field Training Manual requirement upon demonstration by

ADMINISTRATIVE RULES

the employing agency that it is not necessary [refer to OAR 259-008-0025(1)(b)].

(A) A law enforcement officer who fails to achieve a minimum passing test score after completing a Career Officer Development Course will be given one opportunity to remediate through self-study and re-test within 60 days of the initial date of failure.

(B) A law enforcement officer who fails to achieve a minimum passing test score after re-testing will have been determined to have failed academically and will be required to attend the next available Basic Course.

(C) A law enforcement officer who is scheduled to complete a distance learning COD Course must achieve a minimum passing test score within the timeframe set by the Department. Failure to successfully complete a distance COD Course within the timeframe set by the Department will require an officer to attend the next available COD Course.

(c) The Department may also require successful completion of additional specified courses or remedial training.

(3) Supervision Course. All law enforcement officers, telecommunicators, and emergency medical dispatchers promoted, appointed, or transferred to a first-level supervisory position must satisfactorily complete Supervision training that complies with the requirements outlined in DPSST Form F-21. The required training must be completed within 12 months after initial promotion, appointment, or transfer to such position. This section applies whether the individual is promoted or transferred to a supervisory position within a department, or is appointed from an outside department, without having completed the required Supervision training within the preceding five (5) years.

(4) Middle Management Course. All law enforcement officers, telecommunicators, and emergency medical dispatchers promoted, appointed, or transferred to a middle management position must satisfactorily complete Middle Management training that complies with the requirements outlined in DPSST Form F-22. The required training must be completed within 12 months after initial promotion, appointment, or transfer to such position. This section applies whether the individual is promoted or transferred to a middle management position within a department, or is appointed to the position from an outside department without having completed the required Middle Management training within the preceding five (5) years.

(5) Specialized Courses.

(a) Specialized courses are optional and may be presented at the Academy or regionally. The curriculum is generally selected because of relevancy to current trends and needs in police, corrections, parole and probation, telecommunications, and emergency medical dispatch fields, at the local or statewide level.

(b) Specialized courses may be developed and presented by individual departments of the criminal justice system, local training districts, a college, the Department, or other interested persons. Department staff may be available to provide assistance when resources are not available in the local region.

(c) Police officers, including certified reserve officers, must be trained on how to investigate and report cases of missing children and adults.

(A) The above mandated training is subject to the availability of funds.

(B) Federal training programs must be offered to police officers, including certified reserve officers, when they are made available at no cost to the state.

(6) The DOC Basic Corrections Course.

Course Requirements

(a) Except as provided in OAR 259-008-0035, all corrections officers hired by the Oregon Department of Corrections (DOC) on or after July 1, 2009, but prior to January 1, 2014, must satisfactorily complete the DOC Basic Corrections Course (DOC BCC), including the field training portion. All corrections officers must complete the DOC BCC and field training portion must be completed within twelve months from the date of employment.

(b) Prior to attending a DOC BCC, a corrections officer hired by DOC on or after July 1, 2009, but prior to January 1, 2014, must:

(A) Meet the minimum standards for employment as a law enforcement officer contained in OAR 259-008-0010;

(B) Meet the background investigation requirements for a law enforcement officer contained in OAR 259-008-0015; and

(C) Meet the minimum standards for training contained in this section.

(c) The DOC BCC must conform to the content and standard approved by the Board. The DOC BCC must include, but is not limited to:

(A) Minimum training standards for the basic certification of corrections officer employed by DOC. The minimum training developed by DOC

must be adopted by the Board and must meet or exceed the minimum training standards for the basic certification of corrections officers employed by a law enforcement unit other than DOC.

(B) Minimum Course Hours. The minimum course hours are 240. DOC BCC Course hours refer to hours of training related to DPSST Instructional Goals and may include classroom, scenarios, skills sheets or other related training methodology

(i) The DOC BCC must include hours addressing all Instructional Goals within each of the following sections:

(I) Section A – 20 hours in Legal Considerations;

(II) Section B – 37 hours in Security Procedures;

(III) Section C – 43 hours in Inmate Supervision;

(IV) Section D – 16 hours in Inmate Health Care;

(V) Section E – 16 hours in Professional Skills;

(VI) Section F – 27 hours in Personal Fitness;

(VII) Section G – 41 hours in Defensive Tactics; and

(VIII) Section H – 26 hours in Skills – Firearms.

(ii) Administrative time is not included in the hours identified in subsection (i). Administrative time may be up to 6% of the overall course hours, or a maximum of 14 hours.

(iii) A minimum of 80% of the classes in the DOC BCC must include:

(I) Participatory learning activities which include, but are not limited to, scenario training, hands-on training and problem-based learning; and

(II) Sufficient hours to address the Instructional Goals in subsection (i).

(C) Attendance Standards. Attendance rosters must be kept and copies of these rosters must be submitted to the Department at the conclusion of a student's training, or when requested by the Department. To successfully complete the DOC BCC, a student may not miss more than 10% of the DOC BCC.

(D) Notwithstanding (C) above, successful completion of the DOC BCC requires 100% attendance during classes in which the following Instructional Goals are covered:

(i) B1.2 Instruction and practice applying safe and efficient tactics for inmate monitoring, inmate counts and facility perimeter checks;

(ii) B2.2 Instruction and practice conducting appropriate, safe and systematic searches of inmates and correctional facilities;

(iii) B5.2 Instruction and practice restraining individuals in an appropriate, safe and systematic manner;

(iv) B8 Reality based scenarios that enhance a new corrections professional's understanding and application of security procedures in a correctional facility;

(v) C3.2 Instruction and practice using interpersonal skills to effectively communicate with inmates and other persons in a correctional setting;

(vi) C10 Reality-based scenarios that enhance a new corrections professional's understanding and application of inmate supervision strategies within a correctional facility;

(vii) D3.2 Instruction and practice applying appropriate intervention strategies for dealing with inmates with major mental illnesses;

(viii) G1 Decision-making skills related to the use of reasonable force to effectively overcome and control resistive and/or hostile behavior;

(ix) G2 Instruction and practice using reasonable force tactics to effectively overcome and control resistive and/or hostile behavior;

(x) G3 Reality-based scenarios that enhance a new corrections professional's understanding and application of reasonable force decision-making and tactics within a correctional facility.;

(xi) H1 Basic gun-handling skills; and

(xii) H2 Basic understanding of the use, limitations and techniques of a service handgun, and proficiency in safety, proper gun-handling, marksmanship and firearms tactics.

(E) Conduct. An individual attending a DOC BCC is expected to uphold the minimum moral fitness standards for Oregon public safety officers during their training. DOC will document the date, type, and disposition of any student misconduct relating to the minimum standards for correctional officers. These include, but are not limited to, the following Zero Tolerance Offenses:

(i) Any unlawful act;

(ii) Dishonesty, lying or attempting to conceal violations;

(iii) Cheating;

(iv) Harassment; or

(v) Alcohol possession or use at the training venue.

(F) Course Curriculum.

ADMINISTRATIVE RULES

(i) The DOC BCC will be based on the critical and essential job tasks identified in the most current Job Task Analysis for corrections officers provided to DOC by the Department.

(ii) The DOC BCC will incorporate the most current Instructional Goals provided to DOC by the Department.

(iii) The DOC BCC will incorporate curriculum updates provided to DOC by the Department, when those updates address the critical and essential job tasks or Instructional Goals referenced above.

Testing Requirements

(G) Academic Testing. Academic testing will consist of written test questions that are valid, create reasonable academic rigor, and require students to demonstrate knowledge and application of the essential tasks identified within the DOC BCC curriculum. DOC must administer examinations and maintain a file of examinations conducted.

(i) Academic Testing Passing Score. Except as provided below, to successfully complete the DOC BCC, students must achieve a minimum score of 75% on each academic test. If a student does not attain a 75% score, and DOC retains the student as an employee in a certifiable position, DOC must remediate the student. After remediation, a student will be allowed one opportunity to re-test and achieve a minimum score of 75%.

(ii) Students must attain a score of 100% on all academic test questions on Use of Force topics. If a student fails to attain a 100% score on Use of Force topics, and DOC retains the student as an employee in a certifiable position, DOC must remediate the student. Remediation must include the student completing the DPSST Use of Force Remediation form to demonstrate understanding of each topic missed.

(H) Skills Testing. Skills testing will consist of evaluations documented by use of Skills Sheets during which students must demonstrate competence and achieve a "pass" score in each skill tested.

(I) Test Security and Integrity.

(i) DOC must develop and strictly enforce measures to ensure the security of test questions and integrity of all testing processes.

(ii) DOC must randomize the order of test questions and must develop a sufficient bank of test questions to ensure that students who fail to achieve a passing score and are remediated are given a randomized test that includes some questions that are different than those in the test the student originally failed.

Instructor Requirements

(J) Instructor Qualifications.

(i) All instructors for the DOC BCC must meet or exceed the Instructor Certification standards for instructors at DPSST Basic courses and must be currently certified by the Department in the categories instructed.

(ii) DOC must verify that an instructor providing instruction within a category has the requisite subject matter knowledge, skills and abilities.

(d) The equivalency of the DOC BCC is subject to approval by the Board and verified by ongoing audits.

(K) DOC BCC documentation must include, but is not limited to:

(i) Training schedules, to include all training related to DOC BCC hours, such as classroom, skills sheets, online training and scenarios;

(ii) Classes with associated Instructional Goals and related hours;

(iii) Participatory learning activities within each class;

(iv) Testing Measures for each class; and

(v) Attendance rosters.

(L) DOC BCC Class Training Schedule documentation for each DOC BCC must include, but is not limited to:

(i) Notification of all anticipated DOC BCC training dates to include DOC BCC remediation training;

(ii) Times of DOC BCC training;

(iii) Locations of DOC BCC training; and

(iv) Instructors scheduled to provide training.

(M) Ongoing DOC BCC student documentation during each DOC BCC must include, but is not limited to:

(i) A list of students scheduled to attend training;

(ii) Student names, DPSST numbers, dates of employment and employing institutions;

(iii) Identification of any class or skill failure requiring remediation to including, but not limited to, the date and location of failure, date and location of remediation, the instructor who had oversight over remediation, and the result of remediation.

Certification Requirements

(N) Officer Certification. The applicant must meet the minimum standards for certification as a corrections officer contained in OAR 259-008-0060. DOC must submit the following documents at the time Basic certification is requested:

(i) F-7 (Application for Certification);

(ii) F-6 (Course Roster) for DOC BCC including the number of hours and the final cumulative score;

(iii) F-6 (Course Roster) for DOC Advanced Corrections Course with attached itemized list of classes attended;

(iv) Proof of current First Aid/CPR;

(v) F-11 (Criminal Justice Code of Ethics); and

(vi) FTO Manual Completion Report.

(O) Course Certification. Each DOC BCC class must be certified before officers who complete that BCC may be certified. The following Class Notebook requirements are needed prior to course certification:

(i) F-6 DPSST Class Roster, listing all students who began the course, passed or failed the course, and those who did not complete the course.

(ii) Curriculum for all components of the BCC, to include classroom, skills, online, and scenario training. The curriculum components must include lesson outlines, PowerPoint, handouts and other related documents to support each class.

(iii) Schedule of classes within the course, to include roster for each class, weekly schedule outlining the dates of training, the location of training, the phases of training, the number of hours for each class, the name of the class, the instructors who provided instruction.

(iv) Documentation of all training failures and remediation, to include class, date and location of training failure, the type of failure, the date, location and instructor who had oversight over the remediation of the failure and the result of the remediation.

(v) Testing measures, to include test questions and answers, individual student tests, student scores by student name, DPSST number and date of examination, and the overall class percentage.

(vi) Individual student records, to include evaluation forms, PQC qualification card, training records, and absence reports.

(vii) All skill sheets for every student completing some or all of the required skill sheets.

(7) Waiver. A person requesting a waiver of any course requirements is required to submit to the Department any supporting documents or pertinent expert testimony and evaluation requested. Any expense associated with providing such documentation, testimony or evaluation shall be borne by the person requesting the waiver or the requesting agency.

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

Stat. Auth.: ORS 181.640

Stat. Implemented: ORS 181.640

Hist.: PS 12, f. & ef. 12-19-77; PS 1-1979, f. 10-1-79, ef. 10-3-79; PS 1-1982, f. & ef. 7-2-82; PS 1-1983, f. & ef. 12-15-83; PS 1-1985, f. & ef. 4-24-85; Renumbered from 259-010-0030, PS 1-1990, f. & cert. ef. 2-7-90; PS 2-1995, f. & cert. ef. 9-27-95; PS 5-1997, f. 3-20-97, cert. ef. 3-25-97; PS 10-1997(Temp), f. & cert. ef. 11-5-97; BPSST 1-1998, f. & cert. ef. 5-6-98; BPSST 2-1998(Temp), f. & cert. ef. 5-6-98 thru 6-30-98; BPSST 3-1998, f. & cert. ef. 6-30-98; BPSST 11-2000, f. 11-13-00, cert. ef. 11-15-00; BPSST 13-2001(Temp), f. & cert. ef. 10-26-01 thru 4-10-02; BPSST 2-2002, f. & cert. ef. 2-6-02; BPSST 8-2002, f. & cert. ef. 4-3-02; BPSST 15-2002, f. & cert. ef. 7-5-02; DPSST 14-2003, f. & cert. ef. 12-22-03; DPSST 5-2004, f. & cert. ef. 4-23-04; DPSST 3-2007, f. & cert. ef. 1-12-06; DPSST 3-2007, f. & cert. ef. 1-12-07; DPSST 9-2008, f. & cert. ef. 7-15-08; DPSST 14-2008, f. & cert. ef. 10-15-08; DPSST 3-2009, f. & cert. ef. 4-8-09; DPSST 8-2009(Temp), f. & cert. ef. 9-15-09 thru 3-1-10; DPSST 15-2009, f. & cert. ef. 12-15-09; DPSST 3-2010, f. 4-12-10, cert. ef. 5-1-10; DPSST 2-2011, f. 3-23-11, cert. ef. 5-1-11; DPSST 13-2012(Temp), f. & cert. ef. 5-8-12 thru 10-1-12

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Department of Transportation, Highway Division Chapter 734

Rule Caption: Modification of OAR 734-051-3020 (temp) to conform to 2011 ORS revisions.

Adm. Order No.: HWD 7-2012(Temp)

Filed with Sec. of State: 5-3-2012

Certified to be Effective: 5-3-12 thru 6-29-12

Notice Publication Date:

Rules Amended: 734-051-3020

Rules Suspended: 734-051-3020(T)

Subject: During the 2011 Session, the Oregon Legislature adopted Senate Bill 264 which was signed into law by the Governor with an effective date of January 1, 2012. Temporary rules were adopted and went into effect on January 1, 2012 that implemented the new legislation.

The temporary rules evaluate approach applications that are subject to a change of use under the "moving in the direction of" criteria. In circumstances where ODOT and the applicant enter into a collaborative discussion, the temporary rules authorized ODOT to consider all permitted and grandfathered approaches, including those

ADMINISTRATIVE RULES

that were improved by ODOT during project construction when applying the “moving in the direction of” criteria. The proposed revision to the temporary rule expands the scope of the connections that will be considered and proposes to also include all unpermitted connections that are not grandfathered when applying the “moving in the direction of” criteria.

Although inclusion of unpermitted connections that are not grandfathered when evaluating whether an application is “moving in the direction of” is not expressly authorized by SB 264, ODOT may consider unpermitted connections that are not otherwise grandfathered during a collaborative discussion process. Consideration of unpermitted connections that are not also grandfathered represents a policy change for ODOT. This policy change is directly responsive to the objectives of the stakeholder group to streamline the permitting process to effectively respond to economic development opportunities and objectives. The proposed changes are confined to a limited population of unpermitted connections on parcels subject to a change of use during the collaborative process. If the applicant and ODOT cannot agree to whether an application is “moving in the direction of” then the standards adopted in OAR 734-051-4020 apply and unpermitted connections that are not grandfathered will not be required to be considered.

Rules Coordinator: Lauri Kunze—(503) 986-3171

734-051-3020

Change of Use of a Private Connection

(1) Applicability. An application is required for the purpose of permitting all connections to a property when there is a change of use of an existing private connection to a state highway, as set forth in section (2) of this rule, whether the connection is permitted, grandfathered or unpermitted. Applications shall be processed pursuant to OAR 734-051-3030 through OAR 734-051-3040.

(2) Changes of Use Requiring an Application for State Highway Approach. Except as provided under section (5) of this rule, a change of use occurs when one or more of the criteria in subsections (a) through (e) of this section occurs:

(a) The number of peak hour trips increases by fifty (50) trips or more from that of the property’s prior use and the increase represents a twenty (20) percent or greater increase in the number of peak hour trips from that of the property’s prior use; or

(b) The average daily trips increases by five hundred (500) trips or more from that of the property’s prior use and the increase represents a twenty (20) percent or greater increase in the average daily trips from that of the property’s prior use; or

(c) The daily use of a connection increases by ten (10) or more vehicles with a gross vehicle weight rating of twenty-six thousand (26,000) pounds or greater; or

(d) ODOT demonstrates that safety or operational concerns related to the connection are occurring as identified in OAR 734-051-4020(3); or

(e) The connection does not meet the stopping sight distance standards, as measured in feet, of ten (10) times the speed limit established in ORS 811.111 or the designated speed posted under 810.180 for the highway as measured in miles per hour, or ten (10) times the 85th percentile speed of the highway where the 85th percentile speed is higher or lower than the speed limit established in 811.111 or the designated speed posted under 810.180. The permit holder may perform a study to determine if the 85th percentile speed is higher or lower than the speed limit established in 811.111 or the designated speed posted under 810.180. The sight distance measurement and the study to determine the 85th percentile speed shall be performed according to published department procedures by or under the supervision of an engineer registered in Oregon. The measurement shall be taken under existing and proposed site conditions.

(3) Mandatory Meeting. Unless waived by the department, a meeting between ODOT staff and the applicant is required for a change of use application prior to the department deeming the application complete. It is preferable that the meeting be held prior to submittal of the change of use application.

(4) Determinations of Change of Use. The department shall determine whether a change of use meets the thresholds in section (2) of this rule by using one or more of the following methods:

- (a) Field counts;
- (b) Site observation;
- (c) Traffic impact analysis;

- (d) Field measurement;
- (e) Crash history;
- (f) Trip Generation, 8th Edition: An ITE Informational Report; and Trip Generation Handbook, 2nd Edition; both published by the Institute of Transportation Engineers (ITE); or
- (g) Information and studies provided by the local jurisdiction or the applicant.

(5) Exempt from Application for Change of Use. Buildout of an approved site plan or multi-phased development does not require a new application for an approach road permit where the department determines that the buildout is consistent with the land use approval by the local government and the permit issued by the department for development.

(6) Approval Criteria. The department shall approve an application for a state highway approach that does not pose a safety or highway operations concern, as set forth in OAR 734-051-4020(3), or all such concerns are sufficiently mitigated pursuant to 734-051-3070; and

(a) The application meets the applicable approach road spacing, channelization and sight distance standards; or

(b) The department and the applicant reach agreement that the approach moves in the direction of conforming to approach road spacing, channelization, and sight distance standards pursuant to sections (7) through (9) of this rule; or

(c) The applicant and the department reach agreement under section (b) that the existing condition without change is sufficient to support approval of an application.

(7) Moving in the Direction of Conformity Collaborative Process. The department and applicant, through a collaborative process, shall determine whether an application moves in the direction of conforming to the spacing, channelization or sight distance standards subject to safety and operations concerns. The collaborative process shall be made available to the applicant within thirty (30) days of the date an application for state highway approach is deemed complete.

(8) Criteria for Moving in the Direction of Conformity. In determining whether an application for a private approach to a state highway moves in the direction of conformity with the spacing, channelization and sight distance standards of OAR 734-051-4020, the department shall consider all connections on the subject site, whether permitted, grandfathered or unpermitted. An application moves in the direction of conformity with 734-051-4020 when changes are made to a connection that include, but are not limited to, one or more of the following:

(a) Eliminating or combining existing connections to the highway resulting in a net reduction in the number of connections; or

(b) Improving the distance between connections; or

(c) Improving sight distance; or

(d) Widening an existing connection to accommodate truck turning radius requirements; or

(e) Widening an existing connection to accommodate additional exit lanes; or

(f) Narrowing an existing connection to provide the appropriate number of entry and exit lanes as required for the property; or

(g) Developing a throat on a connection to allow for more efficient movement of motorists from the highway.

(9) Agreement. Where the department and applicant agree that a change of use application moves in the direction of conforming to spacing, channelization, and sight distance standards, the department shall approve the application without requiring separate deviations from those standards. The department, upon application approval, shall issue a permit for the approaches that the department and applicant agree will remain. An agreement to remove, modify, or mitigate a connection is not an appealable decision.

(10) Where Agreement is Not Reached.

(a) If, after participating in a collaborative process pursuant to section (7) of this rule, the applicant and the department cannot agree that an application is moving in the direction of conformity pursuant to sections (8) and (9) of this rule, the Region Manager shall document the issues of agreement and non-agreement with the applicant through a written statement of non-agreement. The applicant may then request further collaboration on the issues of non-agreement under OAR 734-051-3090, sections (1) through (3), and/or a review by the Dispute Review Board under 734-051-3100.

(b) Where agreement cannot be reached under the processes of subsection (a) of this section, the department may require additional information to complete the application and make a decision pursuant to the standards of OAR 734-051-4020 and issue a final decision to approve, deny, or approve with mitigation, consistent with the procedures in 734-051-3030 and 3040. The department’s decision to deny or approve with mitigation

ADMINISTRATIVE RULES

applications under the standards of 734-051-4020 are subject to post-decision review under 734-051-3080.

(11) Unpermitted Connections Not Subject to Moving in the Direction of Conformity Criteria. Notwithstanding sections (6) through (8) above, the “moving in the direction of” criteria as set forth in section (8) of this rule shall not be applied to the unpermitted connections in subsections (a) through (f), below. For these unpermitted connections, the department shall apply the standards of OAR 734-051-4020 to approve, deny, or approve with mitigation the application, consistent with the procedures in 734-051-3040.

(a) To a highway segment with access control where no right of access to the property exists at the location of the existing connection, and a concurrent application for a grant of access or indenture of access is not approved; or

(b) To properties without an approved site plan or land use approval allowing for development of the property; or

(c) Connections that the department proves were constructed after April 1, 2000 without the department’s permission or knowledge; or

(d) To property abutting a statewide classification highway with a posted speed of 50 MPH or greater; or

(e) Any highway designated as an expressway; or

(f) To properties that are within the boundaries of an adopted access management plan, corridor plan, or interchange area management plan area, and the existing connection is inconsistent with the plan, and the planned component for the future access to the site has been constructed or is funded to be constructed within four years at the time of the application.

Stat. Auth.: ORS 184.616, 184.619, 366.290, 373.015, 374.305, 374.310, 374.312, 374.315, 374.330, 374.335, 374.990, 811.430 & 2010 OL Ch. 31 Sec. 2

Stats. Implemented: ORS 374.305 - 374.990

Hist.: HWD 16-2011(Temp), f. 12-22-11, cert. ef. 1-1-12 thru 6-29-12; HWD 7-2012(Temp), f. & cert. ef. 5-3-12 thru 6-29-12

Department of Transportation, Motor Carrier Transportation Division Chapter 740

Rule Caption: Provides exception to allow commercial motor carrier passenger vehicles to haul trailers.

Adm. Order No.: MCTD 4-2012

Filed with Sec. of State: 4-23-2012

Certified to be Effective: 4-23-12

Notice Publication Date: 3-1-2012

Rules Amended: 740-100-0230

Subject: These revisions clarify the original intent of this rule to prohibit a person from using a passenger-carrying commercial motor vehicle (bus or van) to transport passengers in a trailing vehicle. Other revisions establish criteria regarding when authorization from the Department is needed for a passenger-carrying commercial motor vehicle to operate with a trailing vehicle. Authorization is not needed for a passenger-carrying CMV if the trailer does not exceed 8,000 pounds, does not exceed the manufacturer’s gross vehicle weight rating and does not transport passengers. Motor carriers that use passenger-carrying CMVs in combination with trailers to transport passengers in the CMV and transport equipment or supplies on a trailer do not normally create a safety hazard and such operations should be allowed without written authorization from the Department. An existing allowance in the rule that allows passengers to be transported in special equipment remains unchanged.

Rules Coordinator: Lauri Kunze—(503) 986-3171

740-100-0230

Use of Trailers Prohibited

(1) Except as described in subsections (2) or (3) of this rule, a trailer or other vehicle may not be attached to a passenger carrying commercial motor vehicle without special authorization from the Department.

(2) This rule does not require special authorization for a commercial motor vehicle transporting passengers to be operated with a trailer if:

(a) The trailer does not exceed 8,000 pounds gross weight;

(b) Operations do not exceed the manufacturer’s gross combined weight rating for the combination; and

(c) No passengers are allowed to be transported in the trailer.

(3) This rule does not prohibit use of semitrailer equipment specially designated for carrying passengers.

Stat. Auth.: ORS 823.011 & 825.252

Stats. Implemented: ORS 825.210 & 825.252

Hist.: PUC 18, f. 1-21-55, ef. 9-1-54 (Order No. 33203); PUC 120, 10-26-62, ef. 11-15-62 (Order No. 38811); PUC 135, f. 5-9-66, ef. 5-15-66 (Order No. 42332); PUC 148, f. 7-29-68, ef. 9-1-68 (Order No. 44783); PUC 156, f. 8-6-73, ef. 8-15-73 (Order No. 73-507); Renumbered from 860-035-0105; MCT 3-1996, f. & cert. ef. 3-14-96; Renumbered from 860-065-0105; MCTB 5-2000, f. & cert. ef. 9-21-00; MCTD 4-2012, f. & cert. ef. 4-23-12

Employment Department Chapter 471

Rule Caption: Repeal equipment rule.

Adm. Order No.: ED 4-2012

Filed with Sec. of State: 4-30-2012

Certified to be Effective: 5-9-12

Notice Publication Date: 4-1-2012

Rules Repealed: 471-031-0200

Subject: The rule was originally intended to clarify “their equipment” in ORS 657.047(1)(b). It is no longer necessary.

Rules Coordinator: Courtney Brooks—(503) 947-1724

Oregon Criminal Justice Commission Chapter 213

Rule Caption: Amends Oregon’s Sentencing Guidelines.

Adm. Order No.: CJC 2-2012

Filed with Sec. of State: 4-27-2012

Certified to be Effective: 4-27-12

Notice Publication Date: 4-1-2012

Rules Adopted: 213-018-0037

Rules Amended: 213-003-0001, 213-004-0001, 213-005-0001, 213-005-0011, 213-005-0013, 213-017-0006, 213-017-0007, 213-017-0008

Rules Repealed: 213-003-0001(T), 213-017-0006(T), 213-017-0007(T), 213-017-0008(T)

Subject: The Criminal Justice Commission (CJC) is required under ORS 137.667 to review all legislation creating new crimes or modifying existing crimes, and to adopt by rule necessary changes to the sentencing guidelines. CJC may also classify offenses as person felonies or person misdemeanors. ORS 137.667(1). These rule changes make permanent various temporary rules that are currently in place pertaining to the sentencing guidelines. The rule changes also incorporate changes to the guidelines grid and sentencing rules brought about by BM 73 (2010) and SB 395 (2011).

CJC previously classified the offense of Failure to Report as a Sex Offender under ORS 181.599 as a Level 4 on the Crime Seriousness Scale. The offense was erroneously listed as being categorized both as a Level 5 on the Crime Seriousness Scale, as well as a Level 4 on the Crime Seriousness Scale. A temporary rule is currently in place to correct that error, by deleting the listing of Failure to Report as a Sex Offender from Level 5 of the Crime Seriousness Scale. This rule amendment makes permanent that temporary change.

HB 2940 (2011) became effective on January 1, 2012. Section 1 of HB 2940 makes the crime of strangulation under ORS 163.187 a Class C felony under certain circumstances. CJC has classified felony strangulation as a person felony, and as a Crime Category 6 on the crime seriousness scale. A temporary rule is currently in place effectuating these classifications. These rule amendments make permanent those temporary changes.

2011 Or Laws ch 3 § 1 (BM 73) became effective on December 2, 2010. Under BM 73, a Driving Under the Influence of Intoxicants offense under ORS 813.010 committed on or after December 2, 2010 is a class C felony if the defendant has two prior convictions for DUII entered within 10 years of the date of the new offense. Prior to the enactment of 2011 Or Laws ch 598 (SB 395), ORS 813.012(1) required that BM 73 DUIIs be categorized as a Crime Category 6 on the Crime Seriousness Scale. As amended by Section 1 of SB 395, ORS 813.012(1) now provides that a conviction for felony DUII has a crime-seriousness ranking of 6 only if the conviction is a felony under ORS 813.010(5). SB 395 went into effect on June 30, 2011. CJC has classified BM 73 DUII as a Crime Category 4 on the Crime Seriousness Scale. It has also classified BM 73 DUII as a person

ADMINISTRATIVE RULES

felony. There is currently a temporary rule in place effectuating those changes. The temporary rule also clarifies that only felony DUII under ORS 813.010(5), not BM 73 felony DUII, is categorized as a Crime Category 6 on the Crime Seriousness Scale. This rule change makes permanent those temporary changes. Additionally, the rules pertaining to sentencing (Division 5) and the guidelines gridblocks are being amended to incorporate changes to the guidelines grid, changes the periods of sanction units and jail units, and the mandatory minimum 90 days of incarceration, following BM 73 and SB 395. An additional rule is being adopted to delineate the offense sub-categories for Felony Driving Under the Influence of Intoxicants, also brought about by BM 73 and SB 395.

The rule changes also include numbering changes necessitated by adding to and deleting from the list of numerically ordered crimes, and updated statutory citations.

Rules Coordinator: Craig Prins—(503) 378-4830

213-003-0001

Definitions

As used in these rules:

(1) “Bench probation” means a probationary sentence, which directs the probationer to remain under the supervision and control of the sentencing judge.

(2) “Board” means the State Board of Parole and Post-Prison Supervision.

(3) “Correctional supervision status” means any form of incarcerative or non-incarcerative supervision which is served by an offender as part of a sentence for a criminal conviction.

(4) “Department” means the Department of Corrections.

(5) “Departure” means a sentence, except an optional probationary sentence, which is inconsistent with the presumptive sentence for an offender.

(6) “Dispositional departure” means a sentence which imposes probation when the presumptive sentence is prison or prison when the presumptive sentence is probation. An optional probationary sentence is not a dispositional departure.

(7) “Dispositional line” means the solid black line on the Sentencing Guidelines Grid (Appendix 1) which separates the grid blocks in which the presumptive sentence is a term of imprisonment and post-prison supervision from the grid blocks in which the presumptive sentence is probation which may include local custodial sanctions. [Appendix not included. See ED. NOTE.]

(8) “Durational departure” means a sentence which is inconsistent with the presumptive sentence as to term of incarceration, term of supervised probation or number of sanction units which may be imposed as a condition of probation.

(9) “Grid” means the Sentencing Guidelines Grid set forth as Appendix 1. [Appendix not included. See ED. NOTE.]

(10) “Grid block” means a box on the grid formed by the intersection of the crime seriousness ranking of a current crime of conviction and an offender’s criminal history classification.

(11) “Juvenile adjudication” means a formal adjudication or finding by a court that the juvenile has committed an act, which, if committed by an adult, would be punishable as a felony.

(12) “Non-person felonies” are any felonies not defined as a person felony in section (14) of this rule.

(13) “Optional probationary sentence” means any probationary sentence imposed pursuant to OAR 213-005-0006.

(14) “Person felonies” are in numerical statutory order: ORS 162.165 Escape I; ORS 162.185 Supplying Contraband as defined in Crime Categories 6 and 7 (OAR 213-018-0070(1) and (2)); ORS 163.095 Aggravated Murder; ORS 163.115 Murder; ORS 163.115 Felony Murder; ORS 163.118 Manslaughter I; ORS 163.125 Manslaughter II; ORS 163.145 Negligent Homicide; ORS 163.160(3) Felony Domestic Assault; ORS 163.165 Assault III; ORS 163.175 Assault II; ORS 163.185 Assault I; ORS 163.187(4) Felony Strangulation; ORS 163.205 Criminal Mistreatment I; ORS 163.207 Female Genital Mutilation; ORS 163.208 Assaulting a Public Safety Officer; ORS 163.213 Use of Stun Gun, Tear Gas, Mace I; ORS 163.225 Kidnapping II; ORS 163.235 Kidnapping I; ORS 163.275 Coercion as defined in Crime Category 7 (OAR 213-018-0035(1)); ORS 163.355 Rape III; ORS 163.365 Rape II; ORS 163.375 Rape I; ORS 163.385 Sodomy III; ORS 163.395 Sodomy II; ORS 163.405 Sodomy I; ORS 163.408 Sexual Penetration II; ORS 163.411 Sexual Penetration I; ORS 163.425 Sexual Abuse II; ORS 163.427 Sexual Abuse

I; ORS 163.465 Felony Public Indecency; ORS 163.479 Unlawful Contact with a Child; ORS 163.452 Custodial Sexual Misconduct in the First Degree; ORS 163.525 Incest; ORS 163.535 Abandon Child; ORS 163.537 Buying/Selling Custody of a Minor; ORS 163.547 Child Neglect I; ORS 163.670 Using Child In Display of Sexual Conduct; ORS 163.684 Encouraging Child Sex Abuse I; ORS 163.686 Encouraging Child Sex Abuse II; ORS 163.688, Possession of Material Depicting Sexually Explicit Conduct of Child I; ORS 163.689, Possession of Material Depicting Sexually Explicit Conduct of Child II; ORS 163.732 Stalking; ORS 163.750 Violation of Court’s Stalking Order; ORS 164.075 Theft by Extortion as defined in Crime Category 7 (OAR 213-018-0075(1)); ORS 164.225 Burglary I as defined in Crime Categories 8 and 9 (OAR 213-018-0025(1) and (2)); ORS 164.325 Arson I; ORS 164.395 Robbery III; ORS 164.405 Robbery II; ORS 164.415 Robbery I; ORS 164.877(3) Tree Spiking (Injury); ORS 166.087 Abuse of Corpse I; ORS 166.165 Intimidation I; ORS 166.220 Unlawful Use of a Weapon; ORS 166.275 Inmate In Possession of Weapon; ORS 166.385(3), Felony Possession of a Hoax Destructive Device; ORS 166.643 Unlawful Possession of Soft Body Armor as defined in Crime Category 6 (OAR 213-018-0090(1)); ORS 167.012 Promoting Prostitution; ORS 167.017 Compelling Prostitution; ORS 167.320(4) Felony Animal Abuse I; ORS 167.322 Aggravated Animal Abuse I; ORS 468.951 Environmental Endangerment; ORS 475.908 Causing Another to Ingest a Controlled Substance as defined in Crime Categories 8 and 9 (OAR 213-019-0007 and 0008); ORS 475.910 Unlawful Administration of a Controlled Substance as defined in Crime Categories 5, 8, and 9 (OAR 213-019-0007, 0008, and 0011); ORS 609.990(3)(b) Maintaining Dangerous Dog; ORS 811.705 Hit and Run Vehicle (Injury); ORS 813.010(5), Felony Driving Under the Influence of Intoxicants (as provided in OAR 213-004-0009); 2011 Or Laws ch 598, Felony Driving Under the Influence of Intoxicants (as provided in OAR 213-004-0009); ORS 830.475(2) Hit and Run Boat; ORS 97.981 Purchase or Sale of a Body Part for Transplantation or Therapy, ORS 97.982 Alteration of a Document of Gift; Subjecting Another Person to Involuntary Servitude I ORS 163.264, and II ORS 163.422, Trafficking in Persons; ORS 166.149 Aggravated Vehicular Homicide; ORS 167.057 Luring a Minor; Online Sexual Corruption of a Child I ORS 163.433, and II 163.422; ORS 166.070 Aggravated Harassment; 163.196; Aggravated Driving While Suspended or Revoked ORS 475.840(6)(a); Manufacturing or Delivering a Schedule IV Controlled Substance Thereby Causing Death to a Person; and attempts or solicitations to commit any Class A or Class B person felonies as defined herein.

(15) “Person Class A misdemeanors” are in numerical statutory order: ORS 162.315 Resisting Arrest; ORS 163.160 Assault IV; ORS 163.187 Strangulation; ORS 163.190 Menacing; ORS 163.195 Recklessly Endanger Another; ORS 163.200 Criminal Mistreatment II; ORS 163.212 Use of Stun Gun, Tear Gas, Mace II; ORS 163.415 Sexual Abuse III; ORS 163.454 Custodial Sexual Misconduct in the Second Degree; ORS 163.465, Public Indecency; ORS 163.467 Private Indecency; ORS 163.476 Unlawfully Being in a Location Where Children Regularly Congregate; ORS 163.545 Child Neglect II; ORS 163.575 Endanger Welfare of Minor; ORS 163.687 Encouraging Child Sex Abuse III; ORS 163.700 Invasion of Personal Privacy; ORS 163.709 Unlawfully Directing a Laser Pointer; ORS 163.732(1) Stalking; ORS 163.750(1) Violating Court’s Stalking Order; ORS 165.572 Interfering with Making a Police Report; ORS 166.065(4) Harassment/Offensive Sexual Contact; ORS 166.155 Intimidation II; ORS 166.385(2) Misdemeanor Possession of a Hoax Destructive Device; ORS 475.986(1)(d) Unlawful Administration of a Controlled Substance; ORS 609.990(3)(a) Maintaining Dangerous Dog; ORS 813.010, Driving Under the Influence of Intoxicants (as provided in OAR 213-004-0009); ORS 167.054 Furnishing Sexually Explicit Material to a Child; and attempts or solicitations to commit any Class C person felonies as defined in section (14) of this rule.

(16) “Presumptive sentence” means the sentence provided in a grid block for an offender classified in that grid block by the combined effect of the crime seriousness ranking of the current crime of conviction and the offender’s criminal history or a sentence designated as a presumptive sentence by statute.

(17) “Primary offense” means the offense of conviction with the highest crime seriousness ranking. If more than one offense of conviction is classified in the same crime category, the sentencing judge shall designate which offense is the primary offense.

(18) “Supervisory agent” means the local community corrections agency responsible for supervising the offender.

(19) “Supervisory authority” means the state and local corrections agency or official designated in each county by that county’s Board of

ADMINISTRATIVE RULES

County Commissioners or county court to operate corrections supervision services, custodial facilities or both.

(20) "Straight jail" means a sentence of jail imposed instead of a presumptive probationary sentence that is not followed by a term of post-prison supervision defined in OAR 213-005-0002.

[ED. NOTE: Appendices referenced are available from the agency.]
Stat. Auth.: ORS 137.667, 475.986, 475.998 & 2003 OL Ch. 453
Stats. Implemented: ORS 137.667 - 137.669, 2001 OL Ch. 387, 510, 635, 828, 857, 884 & 2003 OL Ch. 453, 577 & 2007 OL Ch. 681, 811, 867, 869, 876 & 2009 OL Ch. 774, 783, 876, 898; 2011 OL Ch. 3 §1; 2011 OL Ch. 598; 2011 OL Ch. 666
Hist.: SSGB 2-1988, f. 12-30-88, cert. ef. 9-1-89; SSGB 1-1989, f. 5-25-89, cert. ef. 9-1-89; SSGB 2-1993, f. 10-28-93, cert. ef. 11-1-93; CJC 2-1995, f. & cert. ef. 11-2-95; CJC 1-1996, f. 3-6-96, cert. ef. 3-8-96, Renumbered from 253-003-0001; CJC 3-1997, f. 10-29-97, cert. ef. 11-1-97; CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 1-2006, f. & cert. ef. 4-12-06; CJC 3-2007, f. 12-31-07 & cert. ef. 1-1-08; CJC 1-2009(Temp), f. 3-24-09, cert. ef. 1-1-10 thru 6-29-10; CJC 2-2009(Temp), f. 3-24-09, cert. ef. 1-1-10 thru 6-29-10; CJC 7-2009, f. 12-31-09, cert. ef. 1-1-10; CJC 1-2011(Temp), f. & cert. ef. 11-1-11 thru 4-27-12; CJC 2-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 4-27-12; DMAP 27-2012(Temp), f. & cert. ef. 5-14-12 thru 10-15-12; CJC 2-2012, f. & cert. ef. 4-27-12

213-004-0001

Sentencing Guidelines Grid

(1) The sentencing guidelines grid is a two-dimensional classification tool. The vertical axis is the Crime Seriousness Scale which classifies current crimes of conviction. The horizontal axis is the Criminal History Scale which classifies criminal histories.

(2) Each grid block states the presumptive sentence for an offender whose crime of conviction and criminal history place him or her in that grid block. The solid black line dividing the grid blocks is the dispositional line. The grid is set forth as Appendix 1.

[ED. NOTE: Appendix referenced is available from the agency.]
Stat. Auth.: ORS 137.667
Stats. Implemented: ORS 137.667 - 137.669
Hist.: SSGB 2-1988, f. 12-30-88, cert. ef. 9-1-89; SSGB 1-1989, f. 5-25-89, cert. ef. 9-1-89; SSGB 2-1993, f. 10-28-93, cert. ef. 11-1-93; CJC 1-1996, f. 3-6-96, cert. ef. 3-8-96, Renumbered from 253-004-0001; CJC 1-2007(Temp), f. & cert. ef. 4-25-07 thru 10-21-07; Administrative correction 12-8-08; CJC 2-2012, f. & cert. ef. 4-27-12

213-005-0001

Place and Term of Incarceration

(1) If an offense is classified in a grid block above the dispositional line, the presumptive sentence shall be a term of imprisonment within the durational range of months stated in the grid block. The sentencing judge should select the center of the range in the usual case and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.

(2) Terms of incarceration 12 months or less shall be served at the direction of the supervisory authority. Terms of incarceration greater than 12 months shall be served in the legal and physical custody of the Department.

(3) Notwithstanding the term of imprisonment imposed by the sentencing court, and as authorized by the court pursuant to ORS 137.750 for crimes committed on or after December 5, 1996, an offender who enters and successfully completes a special alternative incarceration program, in accordance with the rules and procedures adopted by the Department of Corrections pursuant to ORS 421.500 et. seq., may be released early to serve the term of post-prison supervision imposed as part of the original sentence.

(4) Notwithstanding section (2) of this rule:

(a) Terms of incarceration 12 months or less imposed pursuant to ORS 163.165(2) shall be served in the legal and physical custody of the Department; and

(b) Offenders sentenced under 2011 Or Laws ch 598 shall serve a mandatory minimum term of incarceration of 90 days, without reduction for any reason.

Stat. Auth.: ORS 137.667, 421.512 & 2003 OL Ch. 464
Stats. Implemented: ORS 137.667, 137.669, 137.750, 163.165(2), 421.512; 2011 OL Ch. 3 §1; 2011 OL Ch. 598
Hist.: SSGB 2-1988, f. 12-30-88, cert. ef. 9-1-89; SSGB 1-1989, f. 5-25-89, cert. ef. 9-1-89; SSGB 1-1994, f. 6-27-94, cert. ef. 7-1-94; CJC 1-1996, f. 3-6-96, cert. ef. 3-8-96, Renumbered from 253-005-0001; CJC 3-1997, f. 10-29-97, cert. ef. 11-1-97; CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 2-2012, f. & cert. ef. 4-27-12

213-005-0011

Sanction Units

(1) When imposing a probationary sentence, the sentencing judge may require that the offender serve a term of custody supervision in a correctional facility or as part of a custody program. The term of custody supervision shall be imposed as a number of sanction units. Sanction units not used to set an initial term of custody are automatically reserved for use

as sanctions for probation violations or to insure the purposes of probation are being served.

(2) The number of sanction units that may be imposed as part of a presumptive probationary sentence shall be determined by the grid block classification of the offense:

(a) Up to 90 sanction units for offenses classified in Crime Categories 1 and 2 and grid blocks 3-G, 3-H and 3-I;

(b) Up to 120 sanction units for offenses classified in grid blocks 3-A through 3-F, 4-C through 4-I, and 5-G through 5-I; and

(c) Up to 180 sanction units for offenses classified in grid blocks 5-F, 6-F through 6-I, and 7-F through 7-I.

(3) Notwithstanding section (2) of this rule, for offenders sentenced under 2011 Or Laws ch 598, the maximum number of sanction units that may be imposed as a presumptive probation sentence shall be up to 180 sanction units in grid blocks 4-C through 4-D.

(4) If the sentencing judge imposes a probationary sentence as a dispositional departure or as an optional probationary sentence, the sentencing judge may impose up to 180 sanction units as a part of the sentence. Imposition of more than 180 sanction units is a departure.

(5) Notwithstanding the fact that the court has sentenced a person to a term of incarceration, when an offender is committed to the custody of the supervisory authority of a county under ORS 137.124(2) or (4):

(a) The supervisory authority shall incarcerate offenders sentenced under 2011 Or Laws ch 598 for at least the mandatory minimum term of 90 days without reduction for any reason.

(b) Except for the mandatory minimum term of 90 days as provided in (5)(a) above, the supervisory authority may execute any sentence by imposing sanctions other than incarceration if deemed appropriate by the supervisory authority.

(6) Notwithstanding the limits on sanction units established in sections 2 and 3 of this rule, an additional number of non-jail sanction units may be used to sanction violations of conditions of a probation sentence. There shall be no departure on these additional non-jail sanction units, nor may they be used as jail sanction units pursuant to the findings allowed in OAR 213-005-0013(3). These additional non-jail sanction units are:

(a) Up to 30 additional non-jail sanction units for offenses classified in Crime Seriousness Categories 1 and 2 and grid blocks 3-G, 3-H and 3-I;

(b) Up to 60 additional non-jail sanction units for offenses classified in grid blocks 3-A through 3-F, 4-C through 4-I, and 5-G through 5-I; and

(c) Up to 90 additional non-jail sanction units for offenses classified in grid blocks 5-F, 6-F through 6-I, 7-F through 7-I, and offenses in which a sentence of probation was imposed as a departure or pursuant to OAR 213-005-0006 (Optional Probation).

(7) Notwithstanding the limits on sanction units established in sections 2, 3 and 4 of this rule, an additional number of sanction units may be used to sanction violations of conditions of a probation sentence. There shall be no departure on these additional sanction units, nor may they be used as jail sanction units pursuant to the findings allowed in OAR 213-005-0013(3). These additional sanction units are:

(a) Up to 60 additional jail or non-jail sanction units for offenses classified in Crime Seriousness Categories 1 and 2 and grid blocks 3-G, 3-H and 3-I, of which no more than 30 may be jail sanction units;

(b) Up to 105 additional jail or non-jail sanction units for offenses classified in grid blocks 3-A through 3-F, 4-C through 4-I, and 5-G through 5-I, of which no more than 45 may be jail sanction units; and

(c) Up to 150 additional jail or non-jail sanction units for offenses classified in grid blocks 5-F, 6-F through 6-I, 7-F through 7-I, and offenses in which a sentence of probation was imposed as a departure or pursuant to OAR 213-005-0006 (Optional Probation), of which no more than 60 may be jail sanction units.

(8) For crimes committed on or after January 1, 2002, section 6 shall not apply and section 7 shall operate in its place.

Stat. Auth.: ORS 137.667 & 2001 OL Ch. 737 (HB 3461)
Stats. Implemented: ORS 137.667 - 137.669 & 2001 OL Ch. 737 (HB 3461); 2011 OL Ch. 3 §1; 2011 OL Ch. 598
Hist.: SSGB 2-1988, f. 12-30-88, cert. ef. 9-1-89; SSGB 1-1989, f. 5-25-89, cert. ef. 9-1-89; SSGB 1-1993(Temp), f. & cert. ef. 9-15-93; SSGB 2-1993, f. 10-28-93, cert. ef. 11-1-93; CJC 1-1996, f. 3-6-96, cert. ef. 3-8-96, Renumbered from 253-005-0011; CJC 3-1997, f. 10-29-97, cert. ef. 11-1-97; CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02; CJC 2-2012, f. & cert. ef. 4-27-12

213-005-0013

Jail as Part of Probation

(1) Subject to the provisions of sections (2), (3) and (4) of this rule, the maximum number of sanction units that may be used to impose a jail term as part of a probationary sentence shall be as follows:

ADMINISTRATIVE RULES

(a) Up to 30 sanction units for offenses classified in Crime Categories 1 and 2 and grid blocks 3-G, 3-H and 3-I;

(b) Up to 60 sanction units for offenses classified in grid blocks 3-A through 3-F, 4-C through 4-I, and 5-G through 5-I; and

(c) Up to 90 sanction units for offenses classified in grid blocks 5-F, 6-F through 6-I, and 7-F through 7-I, and if a probation sentence is imposed as a departure from a presumptive prison term or as an optional probation sentence.

(2) Within the limitations established by this rule on the use of jail as part of a probation sentence, the sentencing judge may impose:

(a) A jail term of no more than one-third of the jail sanction units described in section 1 of this rule as part of a probation sentence to be served immediately upon sentencing;

(b) One or more jail terms as a sanction for probation violations over the term of probation; or

(c) Subsections (a) and (b) of this section so long as the total length of jail incarceration does not exceed the limits established by this rule on the use of jail as part of a probationary sentence except as provided in OAR 213-005-0011(6).

(3) The limitations established by this rule on the use of jail as part of a probationary sentence may be exceeded if the sentencing judge, after consulting with the appropriate supervisory authority, finds on the record that local jail space provided by the county is available for a longer term. Upon making such a finding, the sentencing judge may, without departure, use:

(a) Up to the maximum number of jail sanction units described in section 1 of this rule at the time of initial sentencing; and

(b) Up to the maximum number of sanction units described in OAR 213-005-0011(2) and (3) to impose jail for violations of conditions of the probation sentence.

(4) The maximum number of sanction units that may be used to impose a jail term as part of a probationary sentence under 2011 Or Laws ch 598 shall be 90, which must be imposed without reduction for any reason. The provisions of subsection (2)(a) shall not apply to sentences imposed under this subsection.

Stat. Auth.: ORS 137.667 & 2001 OL Ch. 737 (HB 3461)
Stats. Implemented: ORS 137.667 - 137.669 & 2001 OL Ch. 737 (HB 3461)
Hist.: SSGB 2-1988, f. 12-30-88, cert. ef. 9-1-89; SSGB 1-1989, f. 5-25-89, cert. ef. 9-1-89; SSGB 1-1993(Temp), f. & cert. ef. 9-15-93; SSGB 2-1993, f. 10-28-93, cert. ef. 11-1-93; CJC 1-1996, f. 3-6-96, cert. ef. 3-8-96, Renumbered from 253-005-0013; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02; CJC 2-2012, f. & cert. ef. 4-27-12

213-017-0006

Crime Category 6

The following offenses are classified at crime category 6 on the Crime Seriousness Scale:

(1) Chapter 59 – BLUE SKY LAWS & SECURITIES LAWS* – (C).

(2) MAJOR DRUG OFFENSES (See division 19.)

(3) ORS 162.015 – BRIBERY – (B).

(4) ORS 162.025 – BRIBE RECEIVING – (B).

(5) ORS 162.065 – PERJURY – (C).

(6) ORS 162.117 – PUBLIC INVESTMENT FRAUD – (B).

(7) ORS 162.155 – ESCAPE II – (C).

(8) ORS 162.185 – SUPPLYING CONTRABAND – (C).

(The contraband involves a dangerous weapon not a firearm CC 7; Otherwise CC 4 or 5.)

(9) ORS 162.265 – BRIBING A WITNESS – (C).

(10) ORS 162.275 – BRIBE RECEIVING BY WITNESS – (C).

(11) ORS 162.285 – TAMPERING W/ WITNESS – (C).

(12) ORS 162.325 – HINDERING PROSECUTION – (C).

(13) ORS 163.160(3) – FELONY DOMESTIC ASSAULT – (C).

(14) ORS 163.165 – ASSAULT III – (C).

(If the offense cannot be ranked at CC 8).

(15) ORS 163.187(4) – FELONY STRANGULATION – (C).

(16) ORS 163.208 – ASSAULT OF A PUBLIC SAFETY OFFICER – (C).

(17) ORS 163.213 – USE OF A STUN GUN, TEAR GAS, MACE I – (C).

(18) ORS 163.257 – CUSTODIAL INTERFERENCE I – (C).

(19) ORS 163.264 – SUBJECTING ANOTHER PERSON TO INVOLUNTARY SERVITUDE I – (B).

(If offender physically restrained or threatened to physically restrain a person; otherwise CC 9.)

(20) ORS 163.275 – COERCION – (C). (No threat of physical injury; otherwise CC 7.)

(21) ORS 163.355 – RAPE III – (C).

(22) ORS 163.385 – SODOMY III – (C).

(23) ORS 163.432 – ONLINE SEXUAL CORRUPTION OF A CHILD II – (C).

(24) ORS 163.465 – FELONY PUBLIC INDECENCY – (C).

(25) ORS 163.525 – INCEST – (C).

(If one of the participants is under the age of 18; otherwise CC 1.)

(26) ORS 163.547 – CHILD NEGLECT IN THE FIRST DEGREE – (B).

(27) ORS 163.688 – POSSESSION OF MATERIAL DEPICTING SEX. EXPLICIT CONDUCT OF A CHILD I – (B).

(28) ORS 164.055 – THEFT I* – (C).

(29) ORS 164.057 – AGGRAVATED THEFT – (B).

(Economic loss was greater than \$50,000; otherwise CC 5.)

(30) ORS 164.065 – THEFT OF LOST/MISLAID PROPERTY * – (C).

(31) ORS 164.075 – THEFT BY EXTORTION* – (B).

(32) ORS 164.085 – THEFT BY DECEPTION* – (C).

(33) ORS 164.125 – THEFT OF SERVICES* – (C).

(34) ORS 164.135 – UNAUTHORIZED USE OF VEHICLE* – (C).

(35) ORS 164.138 – CRIMINAL POSSESSION OF A RENTED OR LEASED MOTOR VEHICLE* – (C).

(36) ORS 164.140(4) – POSSESSION OF RENTED PROPERTY* – (C).

(37) ORS 164.162 – MAIL THEFT OR RECEIPT OF STOLEN MAIL – (C).

(For sentences imposed prior to February 15, 2010, and for sentences imposed for crimes committed on or after January 1, 2012; otherwise a Class A misdemeanor.)

(38) ORS 164.215 – BURGLARY II* – (C).

(39) ORS 164.315 – ARSON II* – (C).

(40) ORS 164.365 – CRIMINAL MISCHIEF I* – (C).

(41) ORS 164.377 – COMPUTER FRAUD (LOTTERY)* – (C).

(42) ORS 164.377(3) – COMPUTER CRIME* – (C).

(43) ORS 164.868 – UNLAWFUL LABEL SOUND RECORDING* – (C).

(44) ORS 164.869 – UNLAWFUL RECORD LIVE PERFORMANCE* – (C).

(45) ORS 164.872 – UNLAWFUL LABEL VIDEOTAPE* – (C).

(46) ORS 164.877(1) – TREE-SPIKING – (C).

(47) ORS 164.889 – INTERFERE W/ AGRICULTURAL RESEARCH* – (C).

(48) ORS 165.013 – FORGERY I* – (C).

(49) ORS 165.022 – CRIMINAL POSSESSION OF FORGED INSTRUMENT I* – (C).

(50) ORS 165.055(3)(A) – CREDIT CARD FRAUD* – (C).

(51) ORS 165.065 – NEGOTIATING BAD CHECKS* – (C).

(52) ORS 165.074 – UNLAWFUL FACTORING PAYMENT CARD* v (C).

(53) ORS 165.692 – FILING A FALSE CLAIM FOR HEALTH CARE PAYMENT – (C).

(54) ORS 165.800 – IDENTITY THEFT* – (C).

(55) ORS 166.015 – RIOT – (C).

(56) ORS 166.070 – AGGRAVATED HARRASSMENT – (C).

(57) ORS 166.165 – INTIMIDATION I – (C).

(58) ORS 166.220 – UNLAWFUL USE OF WEAPON – (C).

(59) ORS 166.270 – EX-CON IN POSSESSION OF FIREARM – (C).

(60) ORS 166.272 – UNLAWFUL POSSESSION OF FIREARM – (B).

(61) ORS 166.370(1) – INTENT POSS. FIREARM OR DANG. WEAP. IN and (5)(a) – PUBLIC BUILDING; DISCHARGE FIREARM IN SCHOOL – (C).

(62) ORS 166.382 – POSSESSION OF DESTRUCTIVE DEVICE – (C).

(63) ORS 166.384 – UNLAWFUL MANUFACTURE OF DESTRUCTIVE DEVICE – (C).

(64) ORS 166.410 – ILLEGAL MANUFACTURE, IMPORTATION OR TRANSFER OF FIREARMS – (B).

(65) ORS 166.643 – UNLAWFUL POSSESS SOFT BODY ARMOR – (B).

(If offender committed or was attempting to commit a person felony or misdemeanor involving violence, otherwise CC 4.)

(66) ORS 167.057 – LURING A MINOR – (C).

(67) ORS 167.339 – ASSAULT OF A LAW ENFORCEMENT ANIMAL – (C).

(68) ORS 167.388 – INTERFERE LIVESTOCK PRODUCTION* – (C).

(69) ORS 647.145 – TRADEMARK COUNTERFEITING II* – (C).

(70) ORS 647.150 – TRADEMARK COUNTERFEITING I* – (B).

ADMINISTRATIVE RULES

- (71) ORS 811.182 – DRIVING WHILE SUSPENDED/REVOKED – (C).
- (72) ORS 811.705 – HIT & RUN VEHICLE (INJURY) – (C).
- (73) ORS 813.010(5) – FELONY DRIVING UNDER THE INFLUENCE – (C).
- (74) ORS 819.300 – POSSESSION OF STOLEN VEHICLE* – (C).
- (75) ORS 819.310 – TRAFFICKING IN STOLEN VEHICLES – (C). (If part of an organized operation or if value of property taken from one or more victims was greater than \$50,000; otherwise CC 5.)
- (76) ORS 830.475 – HIT AND RUN BOAT – (C).
- * Property offenses marked with an asterisk shall be ranked at Crime Category 6 if the value of the property stolen or destroyed was \$50,000 or more, excluding the theft of a motor vehicle used primarily for personal rather than commercial transportation. Stat. Auth.: ORS 137.667, 2003 OL Ch. 453, & 2009 OL Ch. 660
- Stats. Implemented: ORS 137.667 - 137.669, 2001 OL Ch. 147, 635, 828 2003 2001 OL Ch. 383, 453, 543, 2005 OL Ch. 708, 2007 OL Ch. 684, 811, 869, 876, SB 1087 (2008), Ballot Measure 57 (2008), & 2009 OL Ch. 660 & HB 3508 (2009) & 2009 OL Ch. 783; 2011 OL Ch. 3 §1; 2011 OL Ch. 598; 2011 OL Ch. 666
- Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 1-2005(Temp), f. & cert. ef. 10-14-05 thru 4-12-06; CJC 1-2006, f. & cert. ef. 4-12-06; CJC 3-2007, f. 12-31-07 & cert. ef. 1-1-08; CJC 2-2008(Temp), f. 12-31-08, cert. ef. 1-1-09 thru 6-29-09; CJC 2-2009(Temp), f. 3-24-09, cert. ef. 1-1-10 thru 6-29-10; CJC 3-2009(Temp), f. & cert. ef. 6-17-09 thru 12-13-09; CJC 4-2009(Temp), f. & cert. ef. 9-16-09 thru 3-14-10; CJC 5-2009, f. 12-11-09, cert. ef. 12-13-09; CJC 7-2009, f. 12-31-09, cert. ef. 1-1-10; CJC 3-2010(Temp), f. & cert. ef. 6-30-10 thru 12-26-10; CJC 5-2010, f. 12-13-10, cert. ef. 12-26-10; CJC 1-2011(Temp), f. & cert. ef. 11-1-11 thru 4-27-12; CJC 2-2011(Temp), f. 12-30-11, cert. ef. 1-1-12 thru 4-27-12; CJC 2-2012, f. & cert. ef. 4-27-12

213-017-0007

Crime Category 5

The following offenses are classified at crime category 5 on the Crime Seriousness Scale:

- (1) Chapter 59 – BLUE SKY LAWS & SECURITIES LAWS* – (C).
- (2) DRUG-RELATED OFFENSES. (See division 19).
- (3) ORS 162.185 – SUPPLYING CONTRABAND – (C). (If contraband includes a controlled substance but no firearms (CC 7) or dangerous weapons (CC 6); otherwise CC 4.)
- (4) ORS 163.537 – BUYING OR SELLING THE CUSTODY OF A MINOR – (B). (If cannot be ranked at CC 8.)
- (5) ORS 163.686 – ENCOURAGING CHILD SEX ABUSE II – (C).
- (6) ORS 164.055 – THEFT I* – (C).
- (7) ORS 164.057 – AGGRAVATED THEFT – (B). (If not categorized at CC 6.)
- (8) ORS 164.065 – THEFT OF LOST/MISLAID PROPERTY* – (C).
- (9) ORS 164.075 – THEFT BY EXTORTION* – (B).
- (10) ORS 164.085 – THEFT BY DECEPTION* – (C).
- (11) ORS 164.095 – THEFT BY RECEIVING – (C). (If part of an organized operation; otherwise CC 3.)
- (12) ORS 164.125 – THEFT OF SERVICES* – (C).
- (13) ORS 164.135 – UNAUTHORIZED USE OF VEHICLE* – (C).
- (14) ORS 164.140(4) – POSSESSION OF RENTED PROPERTY* – (C).
- (15) ORS 164.215 – BURGLARY II* – (C).
- (16) ORS 164.315 – ARSON II* – (C).
- (17) ORS 164.365 – CRIMINAL MISCHIEF I* – (C).
- (18) ORS 164.377(5) – COMPUTER FRAUD (LOTTERY)* – (C).
- (19) ORS 164.377(5) – COMPUTER CRIME* – (C).
- (20) ORS 164.395 – ROBBERY III – (C).
- (21) ORS 164.868 – UNLAWFUL LABEL SOUND RECORDING* – (C).
- (22) ORS 164.869 – UNLAWFUL RECORD LIVE PERFORMANCE* – (C).
- (23) ORS 164.872 – UNLAWFUL LABEL VIDEOTAPE* – (C).
- (24) ORS 164.889 – INTERFERE W/ AGRICULTURAL RESEARCH* – (C).
- (25) ORS 165.013 – FORGERY I* – (C).
- (26) ORS 165.022 – CRIMINAL POSSESSION OF FORGED INSTRUMENT I* – (C).
- (27) ORS 165.055(3)(A) – CREDIT CARD FRAUD* – (C).
- (28) ORS 165.065 – NEGOTIATING BAD CHECKS* – (C).
- (29) ORS 165.074 – UNLAWFUL FACTORING PAYMENT CARD* – (C).
- (30) ORS 165.800 – IDENTITY THEFT* – (C).
- (31) ORS 166.087 – ABUSE OF CORPSE I – (B).
- (32) ORS 166.385(3) – FELONY POSSESSION OF A HOAX DESTRUCTIVE DEVICE – (C).
- (33) ORS 167.388 – INTERFERE LIVESTOCK PRODUCTION* – (C).
- (34) ORS 609.990(3)(b) – MAINTAINING A DANGEROUS DOG – (C).

- (35) ORS 647.145 – TRADEMARK COUNTERFEITING II* – (C).
- (36) ORS 647.150 – TRADEMARK COUNTERFEITING I* – (B).
- (37) ORS 819.300 – POSSESSION OF STOLEN VEHICLE* – (C).
- (38) ORS 819.310 – TRAFFICKING IN STOLEN VEHICLES – (C).
- (If not categorized at CC 6.)

- (39) 2003 Oregon Laws Ch 804 – UNLAWFUL DISTRIB. CIGARETTES – (C) <120,000.
- (40) 2003 Oregon Laws Ch 804 – UNLAWFUL DISTRIB. TOBACCO PRODUCTS – (C)
- (41) 2007 Oregon Laws Ch 584 – AGGRAVATED IDENTITY THEFT – (B).
- (42) 2007 Oregon Laws Ch 681 – PURCHASE OR SALE OF A BODY PART FOR TRANSPLANTATION OR THERAPY – (C).
- (43) 2007 Oregon Laws Ch 684 – CRIMINAL POSSESSION OF A RENTED OR LEASED MOTOR VEHICLE* – (C).
- (44) 2007 Oregon Laws Ch 811 – SUBJECTING ANOTHER PERSON TO INVOLUNTARY SERVITUDE II – (C).

* Property offenses marked with an asterisk shall be ranked at Crime Category 5 if the value of the property stolen was \$10,000 but less than \$50,000, excluding the theft of a motor vehicle used primarily for personal rather than commercial transportation.

Stat. Auth.: ORS 137.667

Stats. Implemented: ORS 137.667 - 137.669, 164.889, 166.643 & 2003 OL Ch. 383, 453, 543, 632, 2005 OL Ch. 708, 2007 OL Ch. 584, 681, 684, & 811

Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 1-2006, f. & cert. ef. 4-12-06; CJC 3-2007, f. 12-31-07 & cert. ef. 1-1-08; CJC 1-2008, f. & cert. ef. 10-9-08; CJC 1-2012(Temp), f. & cert. ef. 1-27-12 thru 7-24-12; CJC 2-2012, f. & cert. ef. 4-27-12

213-017-0008

Crime Category 4

The following offenses are classified at crime category 4 on the Crime Seriousness Scale:

- (1) Chapter 59 – BLUE SKY LAWS & SECURITIES LAWS* – (C).
- (2) DRUG OFFENSES (See division 19.).
- (3) ORS 162.185 – SUPPLYING CONTRABAND – (C). (If offense cannot be ranked at CC 5, 6 or 7.)
- (4) ORS 162.205 – FAILURE TO APPEAR I – (C).
- (5) ORS 163.245 – CUSTODIAL INTERFERENCE II – (C).
- (6) ORS 163.689 – POSSESSION OF MATERIAL DEPICTING SEX. EXPLICIT CONDUCT OF CHILD II – (C).
- (7) ORS 164.055 – THEFT I* – (C).
- (8) ORS 164.065 – THEFT OF LOST/MISLAID PROPERTY* – (C).
- (9) ORS 164.075 – THEFT BY EXTORTION* – (B).
- (10) ORS 164.085 – THEFT BY DECEPTION* – (C).
- (11) ORS 164.125 – THEFT OF SERVICES* – (C).
- (12) ORS 164.135 – UNAUTHORIZED USE OF VEHICLE* – (C).
- (13) ORS 164.140(4) – POSSESSION OF RENTED PROPERTY* – (C).
- (14) ORS 164.215 – BURGLARY II* – (C).
- (15) ORS 164.315 – ARSON II* – (C).
- (16) ORS 164.365 – CRIMINAL MISCHIEF I* – (C). (Except ORS 164.365(1)(e).)
- (17) ORS 164.377(5) – COMPUTER FRAUD (LOTTERY)* – (C).
- (18) ORS 164.377(5) – COMPUTER CRIME* – (C).
- (19) ORS 164.868 – UNLAWFUL LABEL SOUND RECORDING* – (C).
- (20) ORS 164.869 – UNLAWFUL RECORD LIVE PERFORMANCE* – (C).
- (21) ORS 164.872 – UNLAWFUL LABEL VIDEOTAPE* – (C).
- (22) ORS 165.013 – FORGERY I* – (C).
- (23) ORS 165.022 – CRIMINAL POSSESSION OF FORGED INSTRUMENT I* – (C).
- (24) ORS 165.032 – CRIMINAL POSSESSION OF FORGERY DEVICE – (C).
- (25) ORS 165.055(3)(A) – CREDIT CARD FRAUD* – (C).
- (26) ORS 165.065 – NEGOTIATING BAD CHECKS* – (C).
- (27) ORS 165.074 – UNLAWFUL FACTORING PAYMENT CARD* – (C).
- (28) ORS 165.581 – CELLULAR COUNTERFEITING I – (B).
- (29) ORS 165.800 – IDENTITY THEFT* – (C).
- (30) ORS 165.810 – UNLAWFUL POSSESSION PERSONAL ID DEVICE. – (C).
- (31) ORS 166.023 – DISORDERLY CONDUCT I – (C).
- (32) ORS 166.643 – UNLAWFUL POSSESS SOFT BODY ARMOR – (B). (If not categorized at CC 6)
- (33) ORS 167.262 – USING A MINOR IN CONTROLLED SUBSTANCE OFFENSE – (A). (CC 8 if minor 3 or more yrs. Younger than offender.)

ADMINISTRATIVE RULES

- (34) ORS 167.388 – INTERFERE LIVESTOCK PRODUCTION* – (C).
- (35) ORS 181.599 – FAIL/REPORT SEX OFFENDER – (C).
- (36) ORS 647.145 – TRADEMARK COUNTERFEITING II* – (C).
- (37) ORS 647.150 – TRADEMARK COUNTERFEITING I* – (B).
- (38) ORS 819.300 – POSSESSION OF STOLEN VEHICLE* – (C).
- (39) 2007 Oregon Laws Ch 498 - ORGANIZED RETAIL THEFT – (B).
- (40) 2007 Oregon Laws Ch 681 – ALTERATION OF A DOCUMENT OF GIFT – (C).
- (41) 2007 Oregon Laws Ch 684 – CRIMINAL POSSESSION OF A RENTED OR LEASED MOTOR VEHICLE* – (C).
- (42) 2011 Or Laws Ch 598 – FELONY DRIVING UNDER THE INFLUENCE – (C).

* Property offenses marked with an asterisk shall be ranked at Crime Category 4 if either of the following factors was included in the commission of the offense:

- (a) The value of the property stolen or destroyed was \$5,000 or more but less than \$10,000; or
- (b) The property stolen was a vehicle valued at \$10,000 or more and used primarily for personal rather than commercial transportation.

Stat. Auth.: ORS 137.667 & 2003 OL Ch. 453
Stats. Implemented: ORS 137.667 - 137.669, 164.889, 166.643 & 2003 OL Ch. 383, 453, 543, 632, 2005 OL Ch. 708, 2007 OL Ch. 498, 681 & 684; 2011 OL Ch. 3 §1; 2011 OL Ch. 598
Hist.: CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2001, f. 12-26-01, cert. ef. 1-1-02; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 1-2005(Temp), f. & cert. ef. 10-14-05 thru 4-12-06; CJC 1-2006, f. & cert. ef. 4-12-06; CJC 3-2007, f. 12-31-07 & cert. ef. 1-1-08; CJC 1-2011(Temp), f. & cert. ef. 11-1-11 thru 4-27-12; CJC 2-2012, f. & cert. ef. 4-27-12

213-018-0037

Felony Driving Under the Influence of Intoxicants (ORS 813.010(5) and 2011 Or Laws Ch 598)

(1) CRIME CATEGORY 6: Felony Driving Under the Influence of Intoxicants shall be ranked at Crime Category 6 under the circumstances described in ORS 813.010(5).

(2) CRIME CATEGORY 4: Felony Driving Under the Influence of Intoxicants shall be ranked at Crime Category 4 under the circumstances described in 2011 Or Laws ch 598.

Stat. Auth.: ORS 137.667, ORS 813.012
Stats. Implemented: ORS 137.667 - 137.669, ORS 813.012, 2011 Or Laws ch 1, 2011 Or Laws ch 598.
Hist.: CJC 2-2012, f. & cert. ef. 4-27-12

Rule Caption: Notice rule requirements.

Adm. Order No.: CJC 3-2012(Temp)

Filed with Sec. of State: 4-27-2012

Certified to be Effective: 4-27-12 thru 10-23-12

Notice Publication Date:

Rules Amended: 213-001-0000

Subject: The Criminal Justice Commission (CJC) is required under ORS 137.667(1) to review all legislation creating new crimes or modifying existing crimes, and to adopt by rule necessary changes to the sentencing guidelines. CJC may also classify offenses as person felonies or person misdemeanors. ORS 137.667(1).

Under the Oregon Administrative Procedures Act (APA), agencies are required to adopt rules pertaining to rulemaking procedures. ORS 183.341. The APA also requires that agencies give the public a minimum of 21 days' notice of a proposed rulemaking before the rule becomes effective. ORS 183.335(1)(b). CJC has adopted such rules. However, the public notice period required under the CJC rules is greater than the public notice period required under the APA, i.e., 28 days' notice versus 21 days' notice.

In order to meet the requirements of the current CJC rule to provide 28 days' notice to the public prior to the effective date of the rule, notice would need to be filed with the Secretary of State, Archives Division approximately nine weeks prior to the effective date of the proposed rule. In order to meet the 21 days' public notice requirement of the Administrative Procedures Act, notice would need to be filed with the Secretary of State, Archives Division approximately 5 weeks prior to the effective date of the proposed rule. CJC desires to adopt changes to the sentencing guidelines administrative rules. However, in order to have CJC's proposed changes to the sentencing guidelines administrative rules effective in a timely manner, it is necessary for CJC to provide notice that meets the statutory APA minimum notice requirement of 21 days, but which is earlier than

CJC's existing notice requirement of 28 days. This rule change modifies CJC's existing administrative rules regarding notice to the public of proposed rulemaking so that CJC's notice requirements are consistent with the advance public notice time period required by the APA. This rule change will in turn permit CJC to timely adopt necessary changes to the sentencing guidelines administrative rules as required by law, and have those changes be effective in a timely manner. CJC's advance notice requirements pertaining to legislators, interested parties, and other specific entities listed in CJC's notice rules remain unchanged.

Rules Coordinator: Craig Prins—(503) 378-4830

213-001-0000

Notice Rule for Rulemaking

Prior to the adoption, amendment or repeal of any permanent rule, the chairperson of the Criminal Justice Commission or designee shall give notice of the proposed action:

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

(2) By furnishing a copy of the notice to persons on the Criminal Justice Commission mailing list established pursuant to ORS 183.335(7) at least 28 days prior to the effective date of the proposed rule.

(3) By furnishing a copy of the notice to the legislators specified in ORS 183.335(15) at least 49 days prior to the effective date of the proposed rule.

(4) By furnishing a copy of the notice at least 28 days prior to the effective date of the proposed rule to:

- (a) Associated Press;
- (b) The Oregonian, Portland, Oregon;
- (c) East Oregonian, Pendleton, Oregon;
- (d) Statesman Journal, Salem, Oregon;
- (e) Medford Mail Tribune, Medford, Oregon;
- (f) The Register Guard, Eugene, Oregon;
- (g) The Bulletin, Bend, Oregon;
- (h) Oregon State Bar Bulletin;
- (i) Chief Justice, Oregon Supreme Court;
- (j) Chief Judge, Oregon Court of Appeals;
- (k) Oregon Circuit Judges Association;
- (l) Office of the Attorney General;
- (m) State Court Administrator;
- (n) American Civil Liberties Union;
- (o) Association of Oregon Counties;
- (p) Crime Victims United;
- (q) Oregon Association Chiefs of Police;
- (r) Oregon Community Corrections Directors Association;
- (s) Oregon Criminal Defense Lawyers Association;
- (t) Oregon District Attorneys Association;
- (u) Oregon State Sheriffs Association;
- (v) Office of Public Defense Services;
- (w) Rules Coordinator, Department of Corrections;
- (x) Association of Municipal Court Judges;
- (y) Justices of the Peace Association; and
- (z) Board of Parole and Post-Prison Supervision.

Stat. Auth.: ORS 183.341(2) & (4)
Stats. Implemented: ORS 183.341(2) & (4)
Hist.: SSGB 1-1988, f. & cert. ef. 11-16-88; SSGB 2-1993, f. 10-28-93, cert. ef. 11-1-93; CJC 1-1995(Temp), f. & cert. ef. 9-1-95; CJC 1-1996, f. 3-6-96, cert. ef. 3-8-96, Renumbered from 253-001-0000; CJC 3-1997, f. 10-29-97, cert. ef. 11-1-97; CJC 1-1999, f. & cert. ef. 11-1-99; CJC 2-2003, f. 12-31-03, cert. ef. 1-1-04; CJC 1-2006, f. & cert. ef. 4-12-06; CJC 3-2012(Temp), f. & cert. ef. 4-27-12 thru 10-23-12

Oregon Health Authority Chapter 943

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

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

Filed with Sec. of State: 5-7-2012

Certified to be Effective: 5-7-12 thru 11-2-12

Notice Publication Date:

Rules Adopted: 943-007-0001, 943-007-0335, 943-007-0501

Subject: HB 2009 (2009) created the Oregon Health Authority and transferred to the Authority the Department of Human Services' (Department) Divisions with respect to health and health care. HB 2100 allows the Authority to use abuse investigation reports when

ADMINISTRATIVE RULES

conducting background checks on individuals who are employed, seek employment, volunteer, or seek to be a volunteer, provide care, or seek to be a care provider on behalf of the Authority for clients of the Authority. The Authority needs to adopt and incorporate by reference the Department's rules which provide the Authority with the legal authority to conduct background checks and screenings on behalf of the Authority.

The Authority needs to adopt and incorporate by reference the Department's rules in chapter 407-007-0000 to 0075; 407-007-0090 to 0100; 407-0200 to 0275; 407-007-0340 to 0370; and 407-007-0400 to 0460 for matters that involve Authority employees, volunteers, contractors or providers subject to criminal and abuse checks before the individual may work, volunteer be employed, hold the position, or provide services.

The Authority 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—(503) 932-9663

943-007-0001

Criminal History Checks

Employees, volunteers, providers and contractors for the Oregon Health Authority (Authority) are subject to background checks and screening to determine if they have a history of criminal or abusive behavior such that they should not be allowed to work, volunteer, be employed, or otherwise perform in positions covered by these rules.

(1) The Authority adopts and incorporates by reference the rules established in: OAR 407-007-0000 to 0075 and 407-007-0090 to 0100 (Employees, Volunteers and Contractors); for those matters that involve employees, volunteers, or contractors of the Authority, except as otherwise provided in this rule.

(2) The Authority adopts and incorporates by reference the rules established in: OAR 407-007-0200 to 407-007-0325; and 407-007-0340 to 407-007-0370 (Providers) for those matters that involve any entity or agency licensed, certified, registered, or otherwise regulated by the Authority, except as otherwise provided in this rule.

(3) The Authority adopts and incorporates by reference the rules established in OAR 407-007-0400 to 0460 for those matters that involve abuse checks for Authority employees, volunteers, and applicants for employment or volunteer positions, except as otherwise provided in this rule.

(4) Any reference to any rule from OAR 407-007-0000 to 407-007-0100 or from 407-007-0400 to 407-007-0460 in rules or contracts of the Authority are deemed to be references to the requirements of this rule, and shall be construed to apply to employees, volunteers, or contractors of the Authority.

(5) References in OAR 407-007-0000 to 407-007-0460 to the Department of Human Services (Department) or to the Oregon Health Authority shall be construed to be references to either or both agencies.

(6) The Authority authorizes the Department to act on its behalf in carrying out background checks and screening associated with the administration of programs or activities administered by the Authority.

(7) The Authority shall conduct appeals of a Notice of Intent to Deny for potentially disqualifying abuse pursuant to OAR 943-007-0335. All other appeals shall be conducted by the Authority pursuant to OAR 943-007-0501.

Stat. Auth.: ORS 181.534, 181.537 & 413.042

Stats. Implemented: ORS 181.534, 181.537 & 183.341

Hist.: OHA 2-2012(Temp), f. & cert. ef. 5-7-12 thru 11-2-12

943-007-0335

Decision and Appeal Rights for Providers with Potentially Disqualifying Abuse

(1) This rule applies only to:

(a) Background checks in which an SI has potentially disqualifying abuse under OAR 407-007-0290(11)(d) with no other potentially disqualifying convictions or conditions; and

(b) After a weighing test under OAR 407-007-0300, the Authority determines that more likely than not, SI poses a risk to the physical, emotional, or financial well-being of vulnerable individuals.

(2) The Authority shall provide the SI a written Notice of Intent to Deny.

(a) The Authority shall indicate on the Notice of Intent to Deny the date the final fitness determination was made and the date of the intended action if the SI fails to request an expedited hearing.

(b) The Authority shall mail the Notice of Intent to Deny to the SI using the mailing address provided by the SI by the next business day after the date of the final fitness determination.

(c) The Authority shall include a copy of the background check request and an Expedited Hearing Request form with the Notice of Intent to Deny.

(3) An SI may contest a Notice of Intent to Deny by requesting an expedited hearing. The expedited hearing process is conducted in accordance with ORS 183.411 to 183.497 and the Attorney General's Uniform and Model Rules of Procedure for the Office of Administrative Hearings (OAH), OAR 137-003-0501 to 137-003-0700.

(4) To request an expedited hearing, the SI must submit a completed and signed Expedited Hearing Request form. The request for an expedited hearing must be received by the Authority within 10 calendar days after the date of the final fitness determination.

(5) An SI has the right to represent him or herself or have legal representation during the expedited hearing process. For the purpose of this rule, the term "SI" shall be considered to include the SI's legal representative if the SI has provided the Authority with the information.

(a) An SI appealing a Notice of Intent to Deny regarding the position of homecare worker as defined in ORS 410.600 or personal support worker as defined in ORS 410.600 may be represented by a labor union representative pursuant to ORS 183.459.

(b) For all other SIs, the SI may not be represented by a lay representative.

(6) If the SI fails to request an expedited hearing within the allowed time, the Authority shall issue a Notice of Denial to the SI and to the QE. The SI shall have no further hearing rights under OAR 943-007-0501.

(7) If the SI requests an expedited hearing in a timely manner, the SI shall remain in the same status made in a preliminary fitness determination under OAR 407-007-0315 until the date of a final order or the Notice of Denial.

(8) The Authority may conduct an administrative review before referring the appeal to OAH.

(a) The SI must participate in the administrative review. Participation may include but is not limited to providing additional information or documents requested by the BCU within a specified amount of time.

(b) The administrative review is not open to the public.

(c) The Authority may make an informal disposition based on the administrative review and shall issue a final order and a notice of fitness determination.

(9) The Authority may be represented by a hearing representative in expedited hearings or by the Office of the Attorney General.

(a) The Authority shall provide the administrative law judge and the SI a complete copy of available information used during the background checks and fitness determinations. The claimant is entitled to reasonable notice of all hearing documents either through personal service, electronically, regular mail, or certified mail.

(b) An SI may not have access to confidential information contained in abuse investigation reports or other records collected or developed during the abuse check process without a protective order limiting further disclosure of the information.

(A) A protective order issued pursuant to this section must be issued by an administrative law judge as provided for in OAR 137-003-0570(8) or by a court of law.

(B) In conjunction with a protective order issued pursuant to this section, individually identifying information relating to clients, witnesses, and other individuals identified in abuse investigation reports or other records collected or developed during the abuse check process shall be redacted prior to disclosure, except for the information identifying the SI.

(10) The expedited hearing shall be conducted by the OAH by telephone within 10 business days from the receipt of the completed and signed Expedited Hearing Request form.

(a) The expedited hearing is not open to the public.

(b) The administrative law judge shall make a new fitness determination based on evidence and the record.

(c) The only remedy an administrative law judge may grant is a fitness determination that the subject individual is approved, approved with restrictions, or denied. Under no circumstances shall the Authority or the QE be required to place an SI in any position, nor shall the Authority or the

ADMINISTRATIVE RULES

QE be required to accept services or enter into a contractual agreement with an SI.

(11) The Authority shall issue a dismissal order in the following situations:

(a) The SI may withdraw an expedited hearing request verbally or in writing at any time before the issuance of a final order. A dismissal order due to the withdrawal is effective the date the withdrawal is received by the Authority or the OAH. The SI may cancel the withdrawal in writing within four calendar days after the date of withdrawal.

(b) The Authority shall dismiss a hearing request when the SI fails to participate in the administrative review. Failure to participate in the administrative review shall result in termination of hearing rights. The order is effective on the due date for participation in the administrative review.

(c) The Authority shall dismiss a hearing request when the SI fails to appear at the time specified for the expedited hearing. The order is effective on the date scheduled for the hearing.

(12) After an expedited hearing, the administrative law judge shall issue a final order within three business days.

(a) If the final order maintains the Authority's intent to deny, the Authority shall issue a Notice of Denial by the next business day after the date of the final order. The SI shall have no further hearing rights under OAR 943-007-0501.

(b) If the final order reverses the Authority's intent to deny to an approval or a restricted approval, the Authority shall issue a Notice of Fitness Determination by the next business day after the date of the final order unless the Authority formally stays the final order.

(13) Final orders, including dismissal and default orders, are subject to reconsideration or rehearing petitions within 60 calendar days after the order is served, pursuant to OAR 137-003-0675.

Stat. Auth.: ORS 181.534, 181.537 & 413.042

Stats. Implemented: ORS 181.534, 181.537 & 183.341

Hist.: OHA 2-2012(Temp), f. & cert. ef. 5-7-12 thru 11-2-12

943-007-0501

Contesting a Final Fitness Determination

(1) A final fitness determination of denied or approved with restrictions is considered an adverse outcome. An SI with an adverse outcome may contest that outcome.

(2) If an SI is denied, the SI may not work, volunteer, be employed, hold the position, provide services or be employed, licensed, certified, or registered or otherwise perform in positions covered by these rules. An SI appealing a restricted approval may only work under the terms of the restriction during the appeal.

(3) If an adverse outcome is changed at any time during the appeal process, the change does not guarantee employment or placement.

(4) An SI may challenge the accuracy or completeness of information provided by the OSP, the FBI, or other agencies reporting information to the Authority, by appealing to the entity providing the information. These challenges are not subject to the Authority's appeal process.

(5) The SI has the right to represent him or herself or have legal representation during the appeal process. The SI may not be represented by a lay person. In this rule, the term "SI" shall be considered to include the SI's legal representative.

(a) An SI appealing an adverse outcome regarding the position of personal support worker as defined in ORS 410.600 may be represented by a labor union representative pursuant to ORS 183.459.

(b) For all other SIs, the SI may not be represented by a lay representative.

(6) An SI who is already employed by the Authority at the time of the final fitness determination may appeal through applicable personnel rules, policies, and collective bargaining provisions. The SI's decision to do so is an election of remedies as to the rights of the SI with respect to the fitness determination and constitutes a waiver of the contested case process described in this rule.

(7) An SI may contest an adverse fitness determination by requesting a contested case hearing. The contested case hearing process is conducted pursuant to ORS 183.411 to 183.497 and the Attorney General's Uniform and Model Rules of Procedure for the Office of Administrative Hearings (OAH), OAR 137-003-0501 to 137-003-0700.

(a) To request a contested case hearing the SI must complete and sign the Hearing Request form.

(b) The completed and signed form must be received by the Authority within the following time lines:

(A) For Authority employees and SIs offered employment by the Authority, no later than 15 calendar days after the effective date of action listed on the notice of the fitness determination.

(B) For all other SIs, no later than 45 calendar days after the effective date of action listed on the notice of the fitness determination.

(c) If a request for hearing is not timely, the Authority shall determine, based on a written statement from the SI and available information, if there is good cause to proceed with the appeal.

(d) The Authority may refer an untimely request to OAH for a hearing on the issue of timeliness.

(8) The Authority may conduct an administrative review before referring the appeal to OAH.

(a) The SI must participate in the administrative review. Participation may include but is not limited to providing additional information or additional documents requested by the Authority within a specified amount of time.

(b) The administrative review is not open to the public.

(9) The Authority may conduct additional criminal records or abuse checks during the contested case hearing process to update or verify the SI's potentially disqualifying convictions or conditions and factors to consider in the weighing test. If needed, the Authority may amend the notice of fitness determination during the appeal process while still maintaining the original hearing rights and deadlines.

(10) The Authority shall be represented by a hearing representative in contested case hearings. The Authority may also be represented by the Department of Justice's Office of the Attorney General.

(a) The Authority shall provide the administrative law judge and the SI a complete copy of available information used during the criminal records checks and fitness determinations. The notice of contested case and prehearing summary and all other documents shall be mailed by regular first class mail.

(b) SIs may not have access to confidential information contained in records collected or developed during the criminal records check process without a protective order limiting further disclosure of the information.

(A) A protective order issued pursuant to this section must be issued by an administrative law judge as provided for in OAR 137-003-0570(8) or by a court of law.

(B) In conjunction with a protective order issued pursuant to this section, individually identifying information relating to clients, witnesses, and other persons identified in abuse investigation reports or other records collected or developed during the criminal records check process shall be redacted prior to disclosure, except for the information identifying the SI.

(c) The contested case hearing is not open to the public.

(d) The administrative law judge shall make a new fitness determination based on the evidence and the contested case hearing record.

(e) The only remedy that an administrative law judge may grant is a fitness determination that the SI is approved, approved with restrictions (if allowed by rule), or denied. Under no circumstances shall the Authority or Qualified Entity (QE) be required to place an SI in any position, nor shall the Authority or QE be required to accept services or enter into a contractual agreement with an SI.

(f) For providers, a hearing pursuant to these rules may be conducted in conjunction with a licensure or certification hearing for the SI.

(11) The result of an appeal is a final order.

(a) The notice of fitness determination becomes the final order as if the SI never requested a hearing in the following situations:

(A) The SI failed to request a hearing in the time allotted in this rule. No other document shall be issued after the notice of fitness determination.

(B) The SI withdraws the request for hearing at any time during the appeal process.

(b) The Authority may make an informal disposition based on the administrative review. The Authority shall issue a final order and new notice of fitness determination. If the resulting fitness determination is an adverse outcome, the appeal shall proceed to a contested case hearing.

(c) The Authority shall issue a dismissal order in the following situations:

(A) The SI may withdraw a hearing request verbally or in writing at any time before the issuance of a final order. A dismissal order due to the withdrawal is effective the date the withdrawal is received by the Authority or OAH. The SI may cancel the withdrawal in writing within 14 calendar days after the date of withdrawal.

(B) The Authority shall dismiss a hearing request when the SI fails to participate in the administrative review. Failure to participate in the administrative review shall result in termination of hearing rights. The order is effective on the due date for participation in the administrative review. The Authority shall review a good cause request to reinstate hearing rights if received in writing by the Authority within 14 calendar days.

ADMINISTRATIVE RULES

(C) The Authority shall dismiss a hearing request when the SI fails to appear at the time and place specified for the contested case hearing. The order is effective on the date scheduled for the hearing. The Authority shall review a good cause request to reinstate hearing rights if received in writing by the Authority within 14 calendar days of the order.

(d) After a hearing, the administrative law judge shall issue a proposed and final order.

(A) If no written exceptions are received by the Authority within 14 calendar days after the service of the proposed and final order, the proposed and final order shall become the final order.

(B) If timely written exceptions to the proposed and final order are received by the Authority, the Authority's Director or designee shall consider the exceptions and serve a final order, or request a written response or a revised proposed and final order from the administrative law judge.

(12) Final orders, including dismissal and default orders, are subject to reconsideration or rehearing petitions within 60 calendar days after the final order is served, pursuant to OAR 137-003-0675.

(13) The Authority may provide the QE's QED with the results of the appeal.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 181.534, 181.537 & 413.042
Stats. Implemented: ORS 181.534, 181.537 & 183.341
Hist.: OHA 2-2012(Temp), f. & cert. ef. 5-7-12 thru 11-2-12

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

Rule Caption: Adult Foster Homes.

Adm. Order No.: MHS 4-2012

Filed with Sec. of State: 5-3-2012

Certified to be Effective: 5-4-12

Notice Publication Date: 4-1-2012

Rules Amended: 309-040-0300, 309-040-0305

Rules Repealed: 309-040-0300(T), 309-040-0305(T)

Subject: These rules prescribe standards and procedures for the provision of care and services to residents with mental illness in the Addictions and Mental Health Division of the Oregon Health Authority adult foster homes, as a condition for licensure and payment.

Rules Coordinator: Nola Russell—(503) 945-7652

309-040-0300

Purpose and Scope

(1) Purpose. These rules prescribe the standards and procedures for the provision of care and services to residents with mental illness in the Addictions and Mental Health Division of the Oregon Health Authority (Authority) adult foster homes as a condition for licensure and payment. The care and services are designed to promote the resident's right to independence, choice and decision making while providing a safe, secure, homelike environment. The resident's needs shall be addressed in a manner, which enables the resident to function at the highest level of independence possible.

(2) Scope. These rules apply to adult foster homes for five or fewer residents.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 443.705 - 443.825
Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0000, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 11-2011(Temp), f. & cert. ef. 12-5-11 thru 5-31-12; MHS 4-2012, f. 5-3-12, cert. ef. 5-4-12

309-040-0305

Definitions

As used in these rules the following definitions apply:

(1) "Abuse" includes but is not limited to:

(a) Any death caused by other than accidental or natural means or occurring in unusual circumstances;

(b) Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury;

(c) Willful infliction of physical pain or injury;

(d) Sexual harassment or exploitation including, but not limited to, any sexual contact between an employee of a community facility or community program, or provider, or other caregiver and the adult. For situations other than those involving an employee, provider, or other caregiver and an adult, sexual harassment or exploitation means unwelcome verbal or phys-

ical sexual contact including requests for sexual favors and other verbal or physical conduct directed toward the adult;

(e) Neglect that leads to physical harm through withholding of services necessary to maintain health and well being;

(f) Abuse does not include spiritual treatments by a duly accredited practitioner of a recognized church or religious denomination when voluntarily consented to by the adult.

(2) "Abuse Investigation and Protective Services" means an investigation and any subsequent services or supports necessary to prevent further abuse as required by ORS 430.745 to 430.765 and OAR 407-045-0000 through 407-045-0980, or any other rules established by the Authority applicable to allegations of abuse of residents of an Adult Foster Home licensed by the Division.

(3) "Activities of Daily Living (ADL)" are those individual skills necessary for a resident's continued well being including eating and nutrition, dressing, personal hygiene, mobility, and toileting.

(4) "Administration of Medication" means administration of medicine or a medical treatment to a resident as prescribed by a Licensed Medical Practitioner.

(5) "Adult Foster Home (AFH)" means any home licensed by the Addictions and Mental Health Division of the Oregon Health Authority in which residential care is provided to five or fewer adults who are not related to the provider by blood or marriage as described in ORS 443.705 through 443.825. For the purpose of these rules, if an adult family member receives care, he or she must be included as one of the residents within the total license capacity of the home. A home or person that advertises, including word-of-mouth advertising, to provide room, board, and care and services for adults, is deemed to be an Adult Foster Home. For the purpose of these rules, an Adult Foster Home does not include facilities referenced in 443.715(1)(2)(3)(4).

(6) "Applicant" means any person or entity that makes an application for a license that is also the owner of the business.

(7) "Assessment" means an evaluation of a resident and the resident's level of function completed by a case manager and provides the basis for the development of the resident's Personal Care Plan.

(8) "Authority" means the Oregon Health Authority.

(9) "Authorized Department Representative" means an employee of the Addictions and Mental Health Division or the designee of the local Community Mental Health Program.

(10) "Behavioral Interventions" means those interventions that will modify the resident's behavior or the resident's environment.

(11) "Bill of Rights" means civil, legal or human rights afforded to Adult Foster Home residents, which are in accord with those rights afforded to all other U.S. citizens, including but not limited to those rights delineated in the Adult Foster Home Bill of Rights as described in OAR 309-040-0390(7).

(12) "Board of Nursing Rules" means the standards for Registered Nurse Teaching and Delegation and assignments to Unlicensed Persons according to the statutes and rule of the Oregon State Board of Nursing, chapter 851, division 47, ORS 678.010 to 678.445.

(13) "Care" means the provision of but is not limited to services of room, board, services and assistance with activities of daily living, such as assistance with bathing, dressing, grooming, eating, money management, recreational activities, and medication management. Care also means services that promote maximum resident independence and enhance quality of life.

(14) "Case Management" means identified services provided by qualified persons to residents by local, regional or state allied agencies or other service providers. Case management includes advocating for the resident's treatment needs, providing assistance in obtaining entitlements based on mental or emotional disability, accessing housing or residential programs, coordinating services including mental health treatment, educational or vocational activities, and arranging alternatives to inpatient hospital services.

(15) "Case Manager" means a person employed by a local, regional, or state allied agency approved by the Division to provide case management services. In accordance with OAR 309-032-0545(2)(g)-(j), Standards for Adult Mental Health Services, when a resident resides in a Adult Foster Home, the case manager shall assist in development of the Personal Care Plan. Additionally, the case manager must evaluate the appropriateness of services in relation to the consumer's assessed need and review the Personal Care Plan every 180 days.

(16) "Community Mental Health Program (CMHP)" means the organization of all services for persons with mental or emotional disturbances, drug abuse problems, and alcoholism and alcohol abuse problems,

ADMINISTRATIVE RULES

operated by, or contractually affiliated with, a local mental health authority, operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Division.

(17) "Compensation" means payments made by or on behalf of a resident to a provider in exchange for room and board, care and services, including services described in the resident's Personal Care Plan.

(18) "Complaint Investigation" means an investigation of any allegation that a provider has taken action, which is perceived as contrary to law, rule, or policy but does not meet the criteria for an abuse investigation.

(19) "Condition" means a provision attached to a new or existing license, which limits or restricts the scope of the license or imposes additional requirements on the licensee.

(20) "Contested Case Hearing" means an arbitrated hearing resulting in a directed or recommended action. The hearing is held at the request of the provider or the Division in response to an action, sanction, or notice of finding issued by the Division that would result in the loss of license of the provider or other sanctions that would adversely affect the license of the provider. The hearing group is composed of:

- (a) The provider and if the provider chooses, the provider's attorney;
- (b) The Division as represented by the Attorney General's Office; and
- (c) The Office of Administration Hearings Administrative Law Judge.

(21) "Contract" means a written agreement between a provider and the Division to provide room and board, care and services for compensation for residents of a licensed Adult Foster Home.

(22) "Controlled Substance" means any drug classified as schedules one through five under the Federal Controlled Substance Act.

(23) "Criminal History Check (CHC)" means the Oregon Criminal History Check and when required, a National Criminal History check and or a State-Specific Criminal History check, and the processes and procedures required by the rules OAR 943-007-0000 through 943-007-0500 Criminal History Check.

(24) "Day Care" means care and services in an Adult Foster Home for a person who is not a resident of the Adult Foster Home. Children under the age of five living in the Adult Foster Home are included in the licensed capacity of the home.

(25) "Declaration for Mental Health Treatment" means a document that states the resident's preferences or instructions regarding mental health treatment as defined by ORS 127.700 through 127.737.

(26) "Director" means the Director of the Oregon Health Authority or that person's designee.

(27) "Discharge Summary" means a document that describes the conclusion of the planned course of services described in the resident's individualized personal care plan, regardless of outcome or attainment of goals described in the resident's individualized personal care plan. In addition, the discharge summary addresses resident's monies, financial assets and monies, medication and personal belongings at time of discharge.

(28) "Division" means the Addictions and Mental Health Division of the Oregon Health Authority.

(29) "Employee" means a person who is employed by a licensed Adult Foster Home (AFH), who receives wages, a salary, or is otherwise paid by the AFH for providing the service. The term also includes employees of other providers delivering direct services to clients of AFHs.

(30) "Exempt Area" means a county agency that provides similar programs for licensing and inspection of Adult Foster Homes which the Director finds equal to or superior to the requirements of ORS 443.705 to 443.825 and which has entered into an agreement with the Authority to license, inspect, and collect fees according to the provisions of 443.705 to 443.825.

(31) "Family Member" for the purposes of these rules, means a husband or wife, natural parent, child, sibling, adopted child, domestic partner, adopted parent, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew, or first cousin.

(32) "Home" means the Adult Foster Home (AFH).

(33) "Homelike Environment" means an Adult Foster Home setting, which promotes the dignity, safety, independence, security, health and comfort of residents through the provision of personalized care and services to encourage independence, choice, and decision making of the residents.

(34) "House Rules" means those written standards governing house activities developed by the provider and approved by the Authority or designee. These standards must not conflict with the Adult Foster Home Bill of Rights.

(35) "Incident Report" means a written description and account of any occurrence including but not limited to, any injury, accident, acts of physi-

cal aggression, use of physical restraints, medication error, any unusual incident involving a resident or the home and/or providers.

(36) "Informed Consent for Services" means that the services to be provided by the Adult Foster Home provider to the person have been explained to the person and guardian, if applicable, and explained in a manner that they may comprehend.

(37) "Initial Personal Care Plan (IPCP)" means a written document developed for a resident within 24 hours of admission to the home. The document must address the care and services to be provided for the resident during the first 30 days or less until the Personal Care Plan can be developed. At a minimum the IPCP must contain goals that address the following: Immediate health care support needs, medication management issues, safety and supervision needs, activities of daily living that the resident needs assistance with completing as well as any pertinent information as required by the case manager or their designee at the time of the admission. The provider must develop an Initial Personal Care Plan (IPCP) within 24 hours of admission to the Adult Foster Home.

(38) "Level One Adult Foster Home" means an Adult Foster Home licensed by the Division to provide care and services to individuals with severe and persistent mental illness, who may also have limited medical conditions.

(39) "License" means a document issued by the Authority to applicants who are determined by the Authority or designee to be in substantial compliance with these rules.

(40) "Licensed Medical Practitioner (LMP)" means any person who meets the following minimum qualifications as documented by the CMHP or designee and holds at least one of the following educational degrees and a valid license:

- (a) Physician licensed to practice in the State of Oregon; or
- (b) Nurse practitioner licensed to practice in the State of Oregon.

(41) "Licensee" means the person or entity to whom a license is issued and whose name(s) is on the license.

(42) "Local Mental Health Authority (LMHA)" means the county court or board of county commissioners of one or more counties who choose to operate a community mental health program, or in the case of a Native American reservation, the tribal council, or if the county declines to operate or contract for all or part of a community mental health program, the board of directors of a public or private corporation which directly contracts with the Authority to operate a CMHP for that county.

(43) "Mandatory Reporter" means any public or private official who, while acting in an official capacity, comes in contact with and has reasonable cause to believe that the adult has suffered abuse, or that any person with whom the official contact while acting in an official capacity, has abused the adult. Pursuant to ORS 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.

(44) "Medication" means any drug, chemical, compound, suspension or preparation in suitable form for use as a curative or remedial substance taken either internally or externally by any person.

(45) "Mental or Emotional Disturbances (MED)" means a disorder of emotional reactions, thought processes, or behavior that results in substantial subjective distress or impaired perceptions of reality or impaired ability to control or appreciate the consequences of the person's behavior and constitutes a substantial impairment of the person's social, educational, or economic functioning. Medical diagnosis and classification must be consistent with the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association (DSM-IV). As used in these rules, this term is functionally equivalent to "serious and persistent mental illness."

(46) "Mistreatment" means the following behaviors, displayed by an employee, program staff, provider or volunteer of an AFH when directed toward an individual:

(a) "Abandonment" means desertion or willful forsaking when the desertion or forsaking results in harm or places the individual at a risk of serious harm.

(b) "Financial Exploitation" means:

(A) Wrongfully taking the assets, funds, or property belonging to or intended for the use of an individual.

(B) Alarming an individual by conveying a threat to wrongfully take or appropriate money or property of the individual if the individual would reasonably believe that the threat conveyed would be carried out.

(C) Misappropriating, misusing, or transferring without authorization any money from any account held jointly or singly by an individual.

ADMINISTRATIVE RULES

(D) Failing to use the income or assets of an individual effectively for the support and maintenance of the individual. "Effectively" means use of income or assets for the benefit of the individual.

(c) "Involuntary Restriction" means the involuntary restriction of an individual for the convenience of a caregiver or to discipline the individual. Involuntary restriction may include but is not limited to placing restrictions on an individual's freedom of movement by restriction to his or her room or a specific area, or restriction from access to ordinarily accessible areas of the facility, residence or program, unless agreed to by the treatment plan. Restriction may be permitted on an emergency or short term basis when an individual's presence would pose a risk to health or safety to the individual or others.

(d) "Neglect" means active or passive failure to provide the care, supervision, or services necessary to maintain the physical and mental health of an individual that creates a significant risk of harm to an individual or results in significant mental injury to an individual. Services include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of the individual.

(e) "Verbal Mistreatment" means threatening significant physical harm or emotional harm to an individual through the use of:

(A) Derogatory or inappropriate names, insults, verbal assaults, profanity, or ridicule.

(B) Harassment, coercion, punishment, deprivation, threats, implied threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments.

(C) A threat to withhold services or supports, including an implied or direct threat of termination of services. "Services" include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of an individual.

(D) For purposes of this definition, verbal conduct includes but is not limited to the use of oral, written, or gestured communication that is directed to an individual or within their hearing distance or sight, regardless of their ability to comprehend. In this circumstance the assessment of the conduct is based on a reasonable person standard.

(E) The emotional harm that can result from verbal abuse may include but is not limited to anguish, distress, or fear.

(f) "Wrongful Restraint" means:

(A) A wrongful use of a physical or chemical restraint excluding an act of restraint prescribed by a licensed physician pursuant to OAR 309-033-0730.

(B) Wrongful restraint does not include physical emergency restraint to prevent immediate injury to an individual who is in danger of physically harming himself or herself or others. Provided that only the degree of force reasonably necessary for protection is used for the least amount of time necessary.

(47) "National Criminal History Check" means obtaining and reviewing criminal history outside Oregon's borders. This information may be obtained from the Federal Bureau of Investigation through the use of fingerprint cards and from other criminal information resources in accordance with OAR 943-007-0000 through 943-007-0500 Criminal History Check Rules.

(48) "Neglect" means an action or inaction that leads to physical harm through withholding of services necessary to maintain health and well-being. For purposes of this paragraph, "neglect" does not include a failure of the state or a community program to provide services due to a lack of funding available to provide the services.

(49) "Nurse Practitioner" means a registered nurse who has been certified by the board as qualified to practice in an expanded specialty role within the practice of nursing.

(50) "Nursing Care" means the practice of nursing by a licensed nurse, including tasks and functions relating to the provision of nursing care that are delegated under specified conditions by a registered nurse to persons other than licensed nursing personnel, which is governed by ORS chapter 678 and rules adopted by the Oregon State Board of Nursing in OAR Chapter 851.

(51) "Nursing Delegation" means that a registered nurse authorizes an unlicensed person to perform special tasks of client/nursing care in selected situations and indicates that authorization in writing. The delegation process includes nursing assessment of a client in a specific situation, evaluation of the ability of the unlicensed person, teaching the task and ensuring supervision.

(52) "Personal Care Plan (PCP)" means a written plan outlining the care and services to be provided to a resident. The PCP is based upon the

review of current assessment, referral, observations, resident preference, and input from members of the Personal Care Plan Team. The plan identifies the care, services, activities, and opportunities to be provided by the caregiver to promote the resident's recovery and independence.

(53) "Personal Care Plan Team (PCP Team)" means a group composed of the resident, the case manager or other designated representative CMHP representative, the provider and or resident manager, and others needed including the resident's legal guardian, representatives of all current service providers, advocates or others determined appropriate by the resident receiving services. If the resident is unable or does not express a preference, other appropriate team membership must be determined by the PCP team members.

(54) "Personal Care Services" means services prescribed by a physician or other designated person in accordance with the individual's plan of treatment. The services are provided by a caregiver that is qualified to provide the service and is not a member of the individual's immediate family. For those Adult Foster Home individuals who are Medicaid eligible, Personal Care services are funded under Medicaid.

(55) "Practice of Registered Nursing" means the application of knowledge drawn from broad in-depth education in the social and physical sciences in assessing, planning, ordering, giving, delegating, teaching and supervising care which promotes the person's optimum health and independence.

(56) "Program Staff" means an employee or person who, by contract with an AFH provides a service and who has the applicable competencies, qualifications, and certification, required by the Integrated Services and Supports Rule (ISSR) (OAR 309-032-1500 through 309-032-1565) to provide the service.

(57) "Provider" means a qualified individual or an organizational entity operated by or contractually affiliated with a community mental health program, or contracted directly with the Division for the direct delivery of mental health services and supports to adults receiving residential and supportive services in an AFH.

(58) "Psychiatric Security Review Board (PSRB)" means the Board consisting of five members appointed by the Governor and subject to confirmation by the Senate under Section Four, Article 111 of the Oregon Constitution and described in ORS 161.295 through 161.400 and OAR 309-032-1540.

(59) "Registered Nurse" means an individual licensed and registered to practice nursing by the State of Oregon Board of Nursing in accordance with ORS Chapter 678 and OAR Chapter 851.

(60) "Related" means spouse, domestic partner, natural parent, child sibling, adopted child, adopted parent, stepparent, stepchild, stepbrother, stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, grandchild, aunt, uncle, niece, nephew or first cousin.

(61) "Relative" means any person identified as family members.

(62) "Resident" means any person age 18 or older who receives room, board, care, and services in an Adult Foster Home.

(63) "Resident Manager" means an employee of the provider who is approved by the Division to live in the Adult Foster Home and is responsible for the care and services of residents on a day-to-day basis.

(64) "Residential Care" means the provision of room, board, and services that assist the resident in activities of daily living, such as assistance with bathing, dressing, grooming, eating, medication management, money management or recreation. Residential care includes 24 hour supervision; being aware of the residents' general whereabouts; monitoring the activities of the resident while on the premises of the Adult Foster Home to ensure their health, safety, and welfare; providing social and recreational activities; and assistance with money management as requested.

(65) "Residents' Bill of Rights" means residents of the Adult Foster Home have the following rights as defined in ORS 443.739. Each resident has a right to:

(a) Be treated as an adult, with respect and dignity;

(b) Be informed of all resident rights and all house rules;

(c) Be encouraged and assisted to exercise legal rights, including the right to vote;

(d) Be informed of the resident's medical condition and the right to consent to or refuse treatment;

(e) Receive appropriate care and services, and prompt medical care as needed;

(f) A safe and secure environment;

(g) Be free from mental and physical abuse;

(h) Be free from chemical or physical restraints except as ordered by a physician or other qualified practitioner;

ADMINISTRATIVE RULES

- (i) Complete privacy when receiving treatment or personal care;
 - (j) Associate and communicate privately with any person the resident chooses;
 - (k) Send and receive personal mail unopened;
 - (l) Participate in activities of social, religious and community groups;
 - (m) Have medical and personal information kept confidential;
 - (n) Keep and use a reasonable amount of personal clothing and belongings, and to have a reasonable amount of private, secure storage space;
 - (o) Manage the resident's own money and financial affairs unless legally restricted;
 - (p) Be free from financial exploitation. The provider must not charge or ask for application fees or nonrefundable deposits and must not solicit, accept or receive money or property from a resident other than the amount agreed to for services;
 - (q) A written agreement regarding the services to be provided and the rate schedule to be charged. The provider must give 30 days' written notice before any change in the rates or the ownership of the home;
 - (r) Not to be transferred or moved out of the adult foster home without 30 days' advance written notice and an opportunity for a hearing. A provider may transfer or discharge a resident only for medical reasons including a medical emergency described in ORS 443.738(11)(a), or for the welfare of the resident or other residents, or for nonpayment;
 - (s) Be free of discrimination in regard to race, color, national origin, sexual orientation, disability, sex or religion;
 - (t) Make suggestions and complaints without fear of retaliation.
- (66) "Respite Care" means the provision of room, board, care, and services in an Adult Foster Home for a period of up to 14 days. Respite care residents will be counted in the total licensed capacity of the home. Respite care is not crisis respite care.
- (67) "Restraints" means any physical hold, device, or chemical substance, which restricts, or is meant to restrict, the movement or normal functioning of a resident.
- (68) "Room and Board" means the provision of meals, a place to sleep, laundry and housekeeping.
- (69) "Seclusion" means the involuntary confinement of an individual to a room or area where the person is physically prevented from leaving.
- (70) "Self-Administration of Medication" means the act of a resident placing a medication in or on their own body. The resident identifies the medication and the times and manners of administration, and placed the medication internally or externally on their own body without assistance.
- (71) "Self Preservation" in relation to fire and life safety means the ability of residents to respond to an alarm without additional cues and be able to reach a point of safety without assistance.
- (72) "Services" means those activities which are intended to help the residents develop appropriate skills to increase or maintain their level of functioning and independence. Services include coordination and consultation with other service providers or entities to assure residents access to necessary medical care, treatment, and/or services identified in the resident's personal care plan.
- (73) "Substitute Caregiver" means any person meeting the qualifications of a caregiver who provides care and services in an Adult Foster Home under the jurisdiction of the Authority in the absence of the provider or resident manager. A resident may not be a substitute caregiver.
- (74) "Unusual Incident" means those incidents involving acts of physical aggression, serious illnesses or accidents, any injury or illness of a resident requiring a non-routine visit to a health care practitioner, suicide attempts, death of a resident, a fire requiring the services of a fire Department, or any incident requiring an abuse investigation.
- (75) "Variance" means an exception from a regulation or provision of these rules, granted in writing by the Authority, upon written application from the provider.
- (76) "Volunteer" means a person who provides a service or who takes part in a service provided to individuals receiving supportive services in an AFH or other provider, and who is not a paid employee of the AFH or other provider. The services must be non-clinical unless the person has the required credentials to provide a clinical service.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 426.072 & 443.705 - 443.825

Hist.: MHD 19-1985(Temp), f. & ef. 12-27-85; MHD 6-1986, f. & ef. 7-2-86; MHD 1-1992, f. & cert. ef. 1-7-92 (and corrected 1-31-92); MHD 6-1999, f. 8-24-99, cert. ef. 8-26-99; Renumbered from 309-040-0005, MHD 3-2005, f. & cert. ef. 4-1-05; MHS 6-2007(Temp), f. & cert. ef. 5-25-07 thru 11-21-07; MHS 13-2007, f. & cert. ef. 8-31-07; MHS 11-2011(Temp), f. & cert. ef. 12-5-11 thru 5-31-12; MHS 4-2012, f. 5-3-12, cert. ef. 5-4-12

Rule Caption: Residential Treatment Facilities for Mentally or Emotionally Disturbed Persons.

Adm. Order No.: MHS 5-2012

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Rules Amended: 309-035-0100, 309-035-0105, 309-035-0250, 309-035-0260

Rules Repealed: 309-035-0100(T), 309-035-0105(T), 309-035-0250(T), 309-035-0260(T)

Subject: These rules prescribe standards by which the Addictions and Mental Health Division of the Oregon Health Authority approves residential treatment homes and facilities for adults with mental or emotional disorders.

Rules Coordinator: Nola Russell—(503) 945-7652

309-035-0100

Purpose and Scope

(1) Purpose. These rules prescribe standards by which the Addictions and Mental Health Division of the Oregon Health Authority approves residential treatment facilities for adults with mental or emotional disorders. The standards promote the well-being, health and recovery of adults with mental or emotional disorders through the availability of a wide range of residential service options. They prescribe how services will be provided in safe, secure and homelike environments that recognize the dignity, individuality and right to self-determination of each resident.

(2) Scope. These rules apply to residential treatment facilities for six to 15 residents and to residential treatment facilities serving 16 or more residents. Where standards differ based on the number of residents in a facility, the rules prescribe different requirements.

Stat. Auth.: ORS 413.042 & 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991

Hist.: MHD 9-1984(Temp), f. & ef. 12-10-84; MHD 9-1985, f. & ef. 6-7-85; MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 4-2008, f. & cert. ef. 6-12-08; MHS 10-2011(Temp), f. & cert. ef. 12-5-11 thru 5-31-12; MHS 5-2012, f. 5-3-12, cert. ef. 5-4-12

309-035-0105

Definitions

As used in these rules the following definitions apply:

- (1) "Abuse" includes but is not limited to:
 - (a) Any death caused by other than accidental or natural means or occurring in unusual circumstances;
 - (b) Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury;
 - (c) Willful infliction of physical pain or injury;
 - (d) Sexual harassment or exploitation including, but not limited to, any sexual contact between an employee of a community facility or community program, or provider, or other caregiver and the adult. For situations other than those involving an employee, provider, or other caregiver and an adult, sexual harassment or exploitation means unwelcome verbal or physical sexual contact including requests for sexual favors and other verbal or physical conduct directed toward the adult;
 - (e) Neglect that leads to physical harm through withholding of services necessary to maintain health and well being;
 - (f) Abuse does not include spiritual treatments by a duly accredited practitioner of a recognized church or religious denomination when voluntarily consented to by the individual.
- (2) "Administrator" means the person designated by the licensee as responsible for the daily operation and maintenance of the facility.
- (3) "Adult" means an individual 18 years of age or older.
- (4) "Aid to Physical Functioning" means any special equipment ordered for a resident by a Licensed Medical Professional (LMP) or other qualified health care professional which maintains or enhances the resident's physical functioning.
- (5) "Applicant" means the person(s) or entity, including the Division, who owns or maintains and operates the facility and is applying for the license.
- (6) "Approved" means authorized or allowed by the Division.
- (7) "Authority" means the Oregon Health Authority.
- (8) "Building Code" means the Oregon Structural Specialty Code adopted by the Building Codes Division of the Oregon Department of Consumer and Business Services.
- (9) "Care" means services such as supervision; protection; assistance with activities of daily living such as bathing, dressing, grooming or eating;

ADMINISTRATIVE RULES

management of money; transportation; recreation; and the providing of room and board.

(10) "Caregiver" means an employee, program staff, provider or volunteer of a licensed Residential Treatment Facility (RTF).

(11) "Community Mental Health Program (CMHP)" means the organization of all or a portion of services for persons with mental or emotional disorders, operated by, or contractually affiliated with, a local mental health authority, operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Division.

(12) "Contract" means a formal written agreement between the community mental health program, Oregon Health Plan contractor or the Division and a Residential Treatment Facility (RTF) owner. (13) "Crisis-Respite Services" means the provision of services to individuals for up to 30 days. Individuals receiving crisis-respite services are RTF residents.

(14) "DSM" means the "Diagnostic and Statistical Manual of Mental Disorders (DSM-IV)," published by the American Psychiatric Association.

(15) "Deputy Director" means the Deputy Director of the Addictions and Mental Health Division of the Oregon Health Authority.

(16) "Division" means the Addictions and Mental Health Division of the Oregon Health Authority.

(17) "Direct Care Staff Person" means an employee responsible for providing services to residents.

(18) "Emergency Admission" means an admission to an RTF made on an urgent basis due to the pressing service needs of the individual.

(19) "Employee" means a person who is employed by a licensed Residential Treatment Facility (RTF), who receives wages, a salary, or is otherwise paid by the RTF for providing the service. The term also includes employees of other providers delivering direct services to clients of RTFs.

(20) "Evacuation Capability" means the ability of occupants, including residents and staff as a group, to either evacuate the building or relocate from a point of occupancy to a point of safety as defined in the Oregon Structural Specialty Code. The category of evacuation capability is determined by documented evacuation drill times or scores on National Fire Protective Association (NFPA) 101A 2000 edition worksheets. There are three categories of evacuation capability:

(a) Impractical (SR-2): A group, even with staff assistance, that cannot reliably move to a point of safety in a timely manner, determined by an evacuation capability score of five or greater or with evacuation drill times in excess of 13 minutes.

(b) Slow (SR-1): A group that can move to a point of safety in a timely manner, determined by an evacuation capability score greater than 1.5 and less than five or with evacuation drill times over three minutes but not in excess of 13 minutes.

(c) Prompt: A group with an evacuation capability score of 1.5 or less or equivalent to that of the general population or with evacuation drill times of three minutes or less. The Division is authorized to determine evacuation capability for RTFs in accordance with the NFPA 101A 2000 edition. Facilities that are determined to be "Prompt" may be used in Group R occupancies classified by the building official, in accordance with the building code.

(21) "Facility" means one or more buildings and adjacent grounds on contiguous properties that are used in the operation of a Residential Treatment Facility.

(22) "Fire Code" means the Oregon Fire Code as adopted by the State of Oregon Fire Marshal.

(23) "Individual" means any person being considered for or receiving residential and other services regulated by these rules.

(24) "Licensed Medical Professional (LMP)" means a person who meets the following minimum qualifications as documented by the Local Mental Health Authority (LMHA) or designee:

(a) Holds at least one of the following educational degrees and valid licensures:

(A) Physician licensed to practice in the State of Oregon;

(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

(b) Whose training, experience and competence demonstrate the ability to conduct a Comprehensive Mental Health Assessment and provide medication management.

(25) "Licensee" means the person(s) or entity legally responsible for the operation of the facility to which the Division has issued a license.

(26) "Local Mental Health Authority (LMHA)" means the county court or board of county commissioners of one or more counties who choose to operate a CMHP or MHO; or, if the county declines to operate or contract for all or part of a CMHP or MHO, the board of directors of a pub-

lic or private corporation which contracts with the Division to operate a CMHP or MHO for that county.

(27) "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance either internally or externally by any person.

(28) "Mental or Emotional Disorder" means a primary Axis I or Axis II DSM diagnosis, other than mental retardation or a substance abuse disorder that limits an individual's ability to perform activities of daily living.

(29) "Mental Health Assessment" means a determination by a Qualified Mental Health Professional (QMHP) of the client's need for mental health services. It involves collection and assessment of data pertinent to the client's mental health history and current mental health status obtained through interview, observation, testing, and review of previous treatment records. It concludes with determination of a DSM diagnosis or other justification of priority for mental health services, or a written statement that the person is not in need of community mental health services.

(30) "Mental Health Organization (MHO)" means an approved organization that provides most mental health services through a capitated payment mechanism under the Oregon Health Plan. MHOs may be fully capitated health plans, community mental health programs, private mental health organizations or combinations thereof.

(31) "Mistreatment" means the following behaviors, displayed by an employee, program staff, provider or volunteer of an RTF when directed toward an individual:

(a) "Abandonment" means desertion or willful forsaking when the desertion or forsaking results in harm or places the individual at a risk of serious harm.

(b) "Financial Exploitation" means:

(A) Wrongfully taking the assets, funds, or property belonging to or intended for the use of an individual.

(B) Alarming an individual by conveying a threat to wrongfully take or appropriate money or property of the individual if the individual would reasonably believe that the threat conveyed would be carried out.

(C) Misappropriating, misusing, or transferring without authorization any money from any account held jointly or singly by an individual.

(D) Failing to use the income or assets of an individual effectively for the support and maintenance of the individual. "Effectively" means use of income or assets for the benefit of the individual.

(e) "Involuntary Restriction" means the involuntary restriction of an individual for the convenience of a caregiver or to discipline the individual. Involuntary restriction may include but is not limited to placing restrictions on an individual's freedom of movement by restriction to his or her room or a specific area, or restriction from access to ordinarily accessible areas of the facility, residence or program, unless agreed to by the treatment plan. Restriction may be permitted on an emergency or short term basis when an individual's presence would pose a risk to health or safety to the individual or others.

(d) "Neglect" means active or passive failure to provide the care, supervision, or services necessary to maintain the physical and mental health of an individual that creates a significant risk of harm to an individual or results in significant mental injury to an individual. Services include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of the individual.

(e) "Verbal Mistreatment" means threatening significant physical harm or emotional harm to an individual through the use of:

(A) Derogatory in inappropriate names, insults, verbal assaults, profanity or ridicule.

(B) Harassment, coercion, punishment, deprivation, threats, implied threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments.

(C) A threat to withhold services or supports, including an implied or direct threat of termination of services. "Services" include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of an individual.

(D) For purposes of this definition, verbal conduct includes but is not limited to the use of oral, written, or gestured communication that is directed to an individual or within their hearing distance of sight, regardless of their ability to comprehend. In this circumstance the assessment of the conduct is based on a reasonable person standard.

(E) The emotional harm that can result from verbal abuse may include but is not limited to anguish, distress or fear.

(f) "Wrongful Restraint" means:

ADMINISTRATIVE RULES

(A) A wrongful use of a physical or chemical restraint excluding an act of restraint prescribed by a licensed physician pursuant to OAR 309-033-0730.

(B) Wrongful restraint does not include physical emergency restraint to prevent immediate injury to an individual who is in danger of physically harming himself or herself or others, provided that only the degree of force reasonably necessary for protection is used for the least amount of time necessary.

(32) "Nursing Care" means the practice of nursing by a licensed nurse, including tasks and functions that are delegated by a registered nurse to a person other than a licensed nurse, which are governed by ORS Chapter 678 and rules adopted by the Oregon State Board of Nursing in OAR Chapter 851.

(33) "Owner" means the person(s) or entity, including the Division, that is legally responsible for the operation of the facility.

(34) "P.R.N. (pro re nata) Medications and Treatments" means those medications and treatments which have been ordered to be given as needed.

(35) "Program" means the Residential Treatment Facility and may refer to the owner, staff and/or services as applicable to the context.

(36) "Program Staff" means an employee or person who, by contract with an RTF, provides a service and who has the applicable competencies, qualifications, and certification, required by the Integrated Services and Supports Rule (ISSR), OAR 309-032-1500 through 309-032-1565 to provide the service.

(37) "Progress Notes" means the notations in the resident record documenting significant information concerning the resident and summarizing progress made relevant to the objectives outlined in the residential service plan.

(38) "Protection" means the necessary actions taken by the program to prevent abuse, mistreatment, or exploitation of the residents, to prevent self-destructive acts, and to safeguard residents, property and funds.

(39) "Provider" means a qualified individual or an organizational entity operated by or contractually affiliated with a community mental health program, or contracted directly with the Division for the direct delivery of mental health services and supports to adults receiving residential and supportive services in an RTF.

(40) "Resident" means any adult residing in a facility who receives services on a 24-hour basis, except as excluded under ORS 443.400.

(41) "Residential Service Plan" means an individualized, written plan outlining the care and treatment to be provided to a resident in or through the facility based upon an individual assessment of care and treatment needs. The residential service plan may be a section or subcomponent of the individual's overall mental health treatment plan when the RTF is operated by a mental health service agency that provides other services to the resident.

(42) "Residential Treatment Facility (RTF)" means a facility that is operated to provide services on a 24-hour basis for six or more residents.

(43) "Restraints" means any chemical or physical methods or devices that are intended to restrict or inhibit the movement, functioning, or behavior of a resident.

(44) "Seclusion" means placing an individual in a locked room. A locked room includes a room with any type of door locking device, such as a key lock, spring lock, bolt lock, foot pressure lock, or physically holding the door shut.

(46) "Secure Residential Treatment Facility (SRTF)" means any Residential Treatment Facility, or portion thereof, that restricts a resident's exit from the facility or its grounds through the use of approved locking devices on resident exit doors, gates or other closures. Such locking locking devices will be installed in accordance with Building Code requirements.

(47) "Services" means the care and treatment provided to residents as part of the Residential Treatment Facility plan.

(48) "Supervision" means the daily observation, and monitoring of residents by direct care staff or oversight of staff by the administrator or administrator's designee, as applicable to the context.

(49) "Termination of Residency" means the time at which the resident ceases to live in the RTF, and includes the transfer of the resident to another facility, but does not include absences from the facility for the purpose of taking a planned vacation, visiting family or friends, or receiving time-limited medical or psychiatric treatment.

(50) "Treatment" means a planned, individualized program of medical, psychological or rehabilitative procedures, experiences and activities consistent with ORS 443.400(12).

(51) "Volunteer" means a person who provides a service or who takes part in a service provided to individuals receiving supportive services in an RTF or other provider, and who is not a paid employee of the RTF or other provider. The services must be non-clinical unless the person has the required credentials to provide a clinical service.

Stat. Auth.: ORS 413.042 & 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991

Hist.: MHD 9-1984(Temp), f. & ef. 12-10-84; MHD 9-1985, f. & ef. 6-7-85; MHD 4-1998, f. 5-21-98, cert. ef. 6-1-98; MHD 4-2005, f. & cert. ef. 4-1-05; MHS 6-2007(Temp), f. & cert. ef. 5-25-07 thru 11-21-07; MHS 13-2007, f. & cert. ef. 8-31-07; MHS 4-2008, f. & cert. ef. 6-12-08; MHS 10-2011(Temp), f. & cert. ef. 12-5-11 thru 5-31-12; MHS 5-2012, f. 5-3-12, cert. ef. 5-4-12

309-035-0250

Purpose, Scope and Statutory Authority

(1) Purpose. These rules prescribe standards by which the Addictions and Mental Health Division of the Oregon Health Authority approves residential treatment homes for adults with mental or emotional disorders. The standards promote the well-being, health and recovery of adults with mental or emotional disorders through the availability of a wide range of residential service options. They prescribe how services will be provided in safe, secure and homelike environments that recognize the dignity, individuality and right to self-determination of each resident.

(2) Scope. These rules apply to residential treatment homes for five or fewer residents.

Stat. Auth.: ORS 413.042 & 443.450

Stats. Implemented: ORS 443.400 - 443.465 & 443.991

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05; MHS 10-2011(Temp), f. & cert. ef. 12-5-11 thru 5-31-12; MHS 5-2012, f. 5-3-12, cert. ef. 5-4-12

309-035-0260

Definitions

As used in these rules the following definitions apply:

(1) "Abuse" includes but is not limited to:

(a) Any death caused by other than accidental or natural means or occurring in unusual circumstances;

(b) Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury;

(c) Willful infliction of physical pain or injury;

(d) Sexual harassment or exploitation including, but not limited to, any sexual contact between an employee of a community facility or community program, or provider, or other caregiver and the adult. For situations other than those involving an employee, provider, or other caregiver and an adult, sexual harassment or exploitation means unwelcome verbal or physical sexual contact including requests for sexual favors and other verbal or physical conduct directed toward the adult;

(e) Neglect that leads to physical harm through withholding of services necessary to maintain health and well being;

(f) Abuse does not include spiritual treatments by a duly accredited practitioner of a recognized church or religious denomination when voluntarily consented to by the individual. (2) "Administrator" means the person designated by the licensee as responsible for the daily operation and maintenance of the Residential Treatment Home (RTH).

(3) "Adult" means an individual 18 years of age or older.

(4) "Aid to Physical Functioning" means any special equipment ordered for a resident by a Licensed Medical Professional or other qualified health care professional which maintains or enhances the resident's physical functioning.

(5) "Applicant" means the person(s) or entity that owns the business and is applying for the license.

(6) "Approved" means authorized or allowed by the Department.

(7) "Authority" means the Oregon Health Authority.

(8) "Building Code" means the state building code as defined in ORS 455.010 and includes the Oregon Structural Specialty Code, One and Two Family Dwelling Code and other specialty codes adopted by the Building Codes Division of the Oregon Department of Consumer and Business Services.

(9) "Care" means services such as supervision; protection; assistance with activities of daily living such as bathing, dressing, grooming, or eating; management of money; transportation; recreation; and the providing of room and board.

(10) "Caregiver" means an employee, program staff, provider or volunteer of a licensed Residential Treatment Facility (RTF), Residential Treatment Home (RTH) or Adult Foster Home (AFH).

(11) "Community Mental Health Program (CMHP)" means the organization of all or a portion of services for persons with mental or emotional disorders, and operated by, or contractually affiliated with, a local

ADMINISTRATIVE RULES

mental health authority, operated in a specific geographic area of the state under an intergovernmental agreement or direct contract with the Division.

(12) "Contract" means a formal written agreement between the community mental health program, Mental Health Organization or the Addictions and Mental Health Division and a Residential Treatment Home (RTH) owner.

(13) "Crisis-Respite Services" means the provision of services to individuals for up to 30 days. Individuals receiving crisis-respite services are RTH residents.

(14) "DSM" means the "Diagnostic and Statistical Manual of Mental Disorders (DSM-IV)" published by the American Psychiatric Association.

(15) "Direct Care Staff Person" means an employee responsible for providing services to residents.

(16) "Division" means the Addictions and Mental Health Division of the Oregon Health Authority.

(17) "Electrical Code" means the Uniform Building and Fire Codes adopted on October 1, 2004 by the Building Codes Division of the Oregon Department of Consumer and Business Services.

(18) "Emergency Admission" means an admission to an RTH made on an urgent basis due to the pressing service needs of the individual.

(19) "Employee" means a person who is employed by a licensed Residential Treatment Home (RTH) who receives wages, a salary, or is otherwise paid by the RTH for providing the service. The term also includes employees of other providers delivering direct services to clients of RTHs.

(20) "Evacuation Capability" means the ability of occupants, including residents and staff as a group, to either evacuate the building or relocate from a point of occupancy to a point of safety as defined in the Oregon Structural Specialty Code. The category of evacuation capability is determined by documented evacuation drill times or scores on National Fire Protective Association (NFPA) 101A 2000 edition worksheets. There are three categories of evacuation capability:

(a) Impractical (SR- 2): A group, even with staff assistance, that cannot reliably move to a point of safety in a timely manner, determined by an evacuation capability score of five or greater or with evacuation drill times in excess of 13 minutes.

(b) Slow (SR- 1) for more than 16 residents) and (SR-4 for 6 to 16 residents): A group that can move to a point of safety in a timely manner, determined by an evacuation capability score greater than 1.5 and less than five or with evacuation drill times over three minutes but not in excess of 13 minutes. SR-3 occupancies are those homes with five or fewer occupants having evacuation capabilities of impractical or slow with assistance.

(c) Prompt: A group with an evacuation capability score of 1.5 or less or equivalent to that of the general population or with evacuation drill times of three minutes or less. The Division shall determine evacuation capability for RTH's in accordance with the National Fire Protection Association (NFPA) 101A 2000 edition. Facilities that are determined to be "Prompt" may be used in Group R occupancies classified by the building official, in accordance with the building code.

(21) "Fire Code" means the Oregon Fire Code as adopted by the Office of State Fire Marshal and as amended by local jurisdictions.

(22) "Home" means the building and grounds where the Residential Treatment Home program is operated.

(23) "Individual" means any person being considered for or receiving residential and other services regulated by these rules.

(24) "Licensed Medical Professional (LMP)" means a person who meets the following minimum qualifications as documented by the Local Mental Health Authority (LMHA) or designee:

(a) Holds at least one of the following educational degrees and valid licensures:

(A) Physician licensed to practice in the State of Oregon;

(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

(b) Whose training, experience, and competence demonstrate the ability to conduct a Comprehensive Mental Health Assessment and provide medication management.

(25) "Licensee" means the person or entity legally responsible for the operation of the RTH to which the Division has issued a license.

(26) "Local Mental Health Authority (LMHA)" means the county court or board of county commissioners of one or more counties who choose to operate a CMHP or MHO; or, if the county declines to operate or contract for all or part of a CMHP or MHO, the board of directors of a public or private corporation which contracts with the Division to operate a CMHP or MHO for that county.

(27) "Mechanical Code" means the Oregon Mechanical Specialty Code adopted by the Building Codes Division of the Oregon Department of Consumer and Business Services.

(28) "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance either internally or externally by any person.

(29) "Mental or Emotional Disorder" means a primary Axis I or Axis II DSM diagnosis, other than mental retardation or a substance abuse disorder that limits an individual's ability to perform activities of daily living.

(30) "Mental Health Assessment" means a determination by a Qualified Mental Health Professional of the client's need for mental health services. It involves collection and assessment of data pertinent to the client's mental health history and current mental health status obtained through interview, observation, testing, and review of previous treatment records. It concludes with determination of a DSM diagnosis or other justification of priority for mental health services, or a written statement that the person is not in need of community mental health services.

(31) "Mental Health Organization (MHO)" means an approved organization that provides most mental health services through a capitated payment mechanism under the Oregon Health Plan. MHOs may be fully capitated health plans, community mental health programs, private mental health organizations or combinations thereof.

(32) "Mistreatment" means the following behaviors, displayed by an employee, program staff, provider or volunteer of an RTH when directed toward an individual:

(a) "Abandonment" means desertion or willful forsaking when the desertion or forsaking results in harm or places the individual at a risk of serious harm.

(b) "Financial exploitation" means:

(A) Wrongfully taking the assets, funds, or property belonging to or intended for the use of an individual.

(B) Alarming an individual by conveying a threat to wrongfully take or appropriate money or property of the individual if the individual would reasonably believe that the threat conveyed would be carried out.

(C) Misappropriating, misusing, or transferring without authorization any money from any account held jointly or singly by an individual.

(D) Failing to use the income or assets of an individual effectively for the support and maintenance of the individual. "Effectively" means use of income or assets for the benefit of the individual.

(c) "Involuntary Restriction" means the involuntary restriction of an individual for the convenience of a caregiver or to discipline the individual. Involuntary restriction may include but is not limited to placing restrictions on an individual's freedom of movement by restriction to his or her room or a specific area, or restriction from access to ordinarily accessible areas of the facility, residence or program, unless agreed to by the treatment plan. Restriction may be permitted on an emergency or short term basis when an individual's presence would pose a risk to health or safety to the individual or others.

(d) "Neglect" means active or passive failure to provide the care, supervision, or services necessary to maintain the physical and mental health of an individual that creates a significant risk of harm to an individual or results in significant mental injury to an individual. Services include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of the individual.

(e) "Verbal Mistreatment" means threatening significant physical harm or emotional harm to an individual through the use of:

(A) Derogatory or inappropriate names, insults, verbal assaults, profanity, or ridicule.

(B) Harassment, coercion, punishment, deprivation, threats, implied threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments.

(C) A threat to withhold services or supports, including an implied or direct threat of termination of services. "Services" include but are not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene, or any other services essential to the well-being of an individual.

(D) For purposes of this definition, verbal conduct includes but is not limited to the use of oral, written, or gestured communication that is directed to an individual or within their hearing distance or sight, regardless of their ability to comprehend. In this circumstance the assessment of the conduct is based on a reasonable person standard.

(E) The emotional harm that can result from verbal abuse may include but is not limited to anguish, distress, or fear.

(f) "Wrongful Restraint" means:

ADMINISTRATIVE RULES

(A) A wrongful use of a physical or chemical restraint excluding an act of restraint prescribed by a licensed physician pursuant to OAR 309-033-0730.

(B) Wrongful restraint does not include physical emergency restraint to prevent immediate injury to an individual who is in danger of physically harming himself or herself or others, provided that only the degree of force reasonably necessary for protection is used for the least amount of time necessary.

(33) "Nursing Care" means the practice of nursing by a licensed nurse, including tasks and functions that are delegated by a registered nurse to a person other than a licensed nurse, which are governed by ORS Chapter 678 and rules adopted by the Oregon State Board of Nursing in OAR Chapter 851.

(34) "Owner" means the person or entity including the Division that is legally responsible for the operation of the facility.

(35) "Plumbing Code" means the Oregon Plumbing Specialty Code adopted by the Building Codes Division of the Oregon Department of Consumer and Business Services.

(36) "P.R Nn. (pro re nata) Medications and Treatments" means those medications and treatments that have been ordered to be given as needed.

(37) "Program" means the Residential Treatment Home and may refer to the owner, staff, or services as applicable to the context.

(38) "Program staff" means an employee or person who, by contract with an RTH, provides a service and who has the applicable competencies, qualifications, and certification, required by the Integrated Services and Supports Rule (ISSR) (OAR 309-032-1500 to 309-032-1565) to provide the service.

(39) "Progress Notes" means the notations in the resident record documenting significant information concerning the resident and summarizing progress made relevant to the objectives outlined in the residential service plan.

(40) "Protection" means the necessary actions taken by the program to prevent abuse, mistreatment, or exploitation of the residents, to prevent self-destructive acts, and to safeguard residents, property, and funds.

(41) "Provider" means a qualified individual or an organizational entity operated by or contractually affiliated with a community mental health program, or contracted directly with the Division for the direct delivery of mental health services and supports to adults receiving residential and supportive services in an RTH.

(42) "Qualified Health Care Professional" means a health care professional licensed to practice in the state of Oregon who is approved to perform certain health care tasks referenced in the relevant section of these rules consistent with the scope of practice specified by the licensing board for the profession. In accordance with the referenced health care task, the qualified health care professional may include a physician, a physician's assistant, a nurse practitioner, a registered nurse, or a pharmacist.

(43) "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 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 group therapy within the scope of his or her practice.

(44) "Resident" means any adult residing in the RTH who receives services on a 24-hour basis, except as excluded under ORS 443.400(3).

(45) "Residential Service Plan" means an individualized, written plan outlining the care and treatment to be provided to a resident in or through the RTH based upon an individual assessment of care and treatment needs. The residential service plan may be a section or subcomponent of the individual's overall mental health treatment plan when the RTH is operated by a mental health service agency that provides other services to the resident.

(46) "Residential Treatment Home (RTH)" means a home that is operated to provide services on a 24-hour basis for five or fewer residents.

(47) "Restraints" means any chemical or physical methods or devices that are intended to restrict or inhibit the movement, functioning, or behavior of a resident.

(48) "Seclusion" means placing an individual in a locked room. A locked room includes a room with any type of door locking device, such as a key lock, spring lock, bolt lock, foot pressure lock, or physically holding the door shut.

(49) "Secure Residential Treatment Facility" means any residential treatment facility, or portion thereof, that restricts a resident's exit from the facility or its grounds through the use of approved locking devices on resident exit doors, gates or other closures.

(50) "Services" means the care and treatment provided to residents as part of the RTH program.

(51) "Supervision" means the daily observation, and monitoring of residents by direct care staff or oversight of staff by the administrator or administrator's designee, as applicable to the context.

(52) "Termination of Residency" means the time at which the resident ceases to live in the RTH and includes the transfer of the resident to another facility, but does not include absences from the RTH for the purpose of taking a planned vacation, visiting family or friends, or receiving time-limited medical or psychiatric treatment.

(53) "Treatment" means a planned, individualized program of medical, psychological or rehabilitative procedures, experiences and activities consistent with ORS 443.400(12).

(54) "Volunteer" means a person who provides a service or who takes part in a service provided to individuals receiving supportive services in an RTH or other provider, and who is not a paid employee of the RTH or other provider. The services must be non-clinical unless the person has the required credentials to provide a clinical service.

Stat. Auth.: ORS 413.042 & 443.450

Stats. Implemented: ORS 443.400 - 443.455, 443.875, 443.991

Hist.: MHD 7-1999, f. 11-15-99, cert. ef. 12-1-99; MHD 5-2005, f. & cert. ef. 4-1-05; MHS 6-2007(Temp), f. & cert. ef. 5-25-07 thru 11-21-07; MHS 13-2007, f. & cert. ef. 8-31-07; MHS 10-2011(Temp), f. & cert. ef. 12-5-11 thru 5-31-12; MHS 5-2012, f. 5-3-12, cert. ef. 5-4-12

Rule Caption: State Hospital Admissions and Discharges.

Adm. Order No.: MHS 6-2012

Filed with Sec. of State: 5-3-2012

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Rules Adopted: 309-091-0000, 309-091-0005, 309-091-0010, 309-091-0015, 309-091-0020, 309-091-0025, 309-091-0030, 309-091-0035, 309-091-0040, 309-091-0045, 309-091-0050

Rules Repealed: 309-091-0000(T), 309-091-0005(T), 309-091-0010(T), 309-091-0015(T), 309-091-0020(T), 309-091-0025(T), 309-091-0030(T), 309-091-0035(T), 309-091-0040(T), 309-091-0045(T), 309-091-0050(T)

Subject: These rules establish and define the criteria which support the proper management and utilization of services provided by the Oregon State Hospital system by limiting admissions those most severely symptomatic individuals whose treatment and recovery needs cannot be met in a community treatment setting.

Rules Coordinator: Nola Russell—(503) 945-7652

309-091-0000

Purpose and Scope

(1) These rules establish and define the criteria which support the proper management and utilization of services provided by the Oregon state hospital system, by limiting admissions to those most severely symptomatic individuals whose treatment and recovery needs cannot be met in a community treatment setting.

(2) These rules apply to all individuals admitted into any state hospital setting, and address differences which occur due to each individual's legal status.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 179.321, 426.010, 426.020, 426.072

Hist.: MHS 16-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 6-2012, f. 5-3-12, cert. ef. 5-4-12

309-091-0005

Definitions

(1) "AMH" means the Addictions and Mental Health Division of the Oregon Health Authority.

(2) "Authority" means the Oregon Health Authority.

ADMINISTRATIVE RULES

(3) “Chief Medical Officer” (CMO) means the physician designated by the superintendent of each state institution who is responsible for the administration of medical treatment, or his or her designee.

(4) “Civil Commitment” means the individual has been committed to the Authority for emergency psychiatric care and treatment pursuant to ORS 426.070, 426.228 to 426.235 or 426.237.

(5) “Clinical Reviewer” means the Division employee designated to the role of determining eligibility for state hospital admissions.

(6) “Division” means the Addictions and Mental Health Division of the Oregon Health Authority.

(7) “DSM” means the most recent edition of the Diagnostic and Statistical Manual of Psychiatric Disorders, published by the American Psychiatric Association.

(8) “Forensic” means related to the law, and references individuals committed to treatment and supervision by the courts pursuant to Oregon Revised Statutes (ORS) 161.290 – 161.400.

(9) “Legal Guardian” in this rule means an individual appointed by a court of law to act as guardian of an adult having been determined to be legally incapacitated.

(10) “Licensed Residential Facility or Licensed Residential Home” means those residences defined in OAR 309, Chapter 035.

(11) “Local Mental Health Authority” (LMHA) means one of the following entities:

(a) The Board of County Commissioners of one or more counties that establishes or operates a CMHP;

(b) The tribal council of a federally recognized tribe of Native Americans that elects to enter into an agreement to provide mental health services or

(c) A regional LMHA comprised of two or more boards of county commissioners.

(12) “Primary Diagnosis” means the diagnosis which identified the condition considered the most severe for which the individual receives treatment.

(13) “Psychiatric Security Review Board” (PSRB) means board appointed by the Governor and authorized in ORS 161.385.

(14) “Responsible Party” means the LMHA, community mental health program, the Medicaid managed care organization, when applicable the individual’s legal guardian, and other parties identified by AMH.

(15) “Severe Mental Illness” (SMI) means an individual’s symptoms meet the criteria in OAR 309-091-0010.

(16) “State Hospital” means any campus of the Oregon State Hospital (OSH) system, and the Blue Mountain Recovery Center (BMRC).

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 179.321, 426.010, 426.020, 426.072

Hist.: MHS 16-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 6-2012, f. 5-3-12, cert. ef. 5-4-12

309-091-0010

Civily Committed and Guardian Authorized Admission Criteria

Each non-forensic individual admitted to a state hospital must meet the following criteria:

(1) The individual must be age 18 or older;

(2) The individual must be named in a current civil commitment order, or the individual’s legal guardian must have signed consent for admission;

(3) There must be recent documentation by a qualified professional that the individual is experiencing an Axis I diagnosis of a mental disorder with severe psychotic symptoms, such as schizophrenia, delusional disorder, affective disorder, mood disorder or other disorders which manifest psychotic symptoms as defined in the most recent version of the DSM; and

(4) The current symptoms must be of such severity that the resulting symptoms require extended placement in a 24-hour medically supervised psychiatric hospital. Severity is established by a determination of:

(a) The degree of dangerousness to self;

(b) The degree of dangerousness to others; and

(c) The degree of the individual’s inability to meet his or her basic health and safety needs.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 179.321, 426.010, 426.020, 426.072

Hist.: MHS 16-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 6-2012, f. 5-3-12, cert. ef. 5-4-12

309-091-0015

Determining Need for State Hospital Care

(1) State hospital level of care is determined appropriate when the individual’s condition or symptoms have not improved in an acute care setting despite having received comprehensive psychiatric and medical assess-

ment, treatment and/or community services typical for a psychiatric illness or psychiatric emergency.

(2) Prior to referral for admission to a state hospital, the individual should have received:

(a) A comprehensive medical assessment to identify conditions that may be causing, contributing to, or exacerbating the mental illness;

(b) Services from an appropriate medical professional for the treatment and stabilization of any medical or surgical conditions that may be contributing to or exacerbating the mental illness and

(c) Treatment in an acute setting within the parameters of the most recent version of the American Psychiatric Association Practice Guidelines for the Treatment of Psychiatric Disorders.

(d) In addition there must be evidence of additional treatment and services having been attempted, including:

(A) Use of evidence-based or promising psychosocial interventions which were delivered in relevant culturally-competent, strength-based, person-centered and trauma-informed manners and which adequately treated the assessed and/or expressed needs of the individual. When requested by the individual, treatments should include members of the individual’s family, support network and /or peers;

(B) Documentation of ongoing review and discussion of options for discharge to non-hospital levels of care; and

(C) Documentation of services and supports attempted by the responsible party to divert admission and establish treatment and recovery in a non-hospital setting.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 179.321, 426.010, 426.020, 426.072

Hist.: MHS 16-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 6-2012, f. 5-3-12, cert. ef. 5-4-12

309-091-0020

Neuropsychiatric and Geropsychiatric Admissions

Admissions due primarily to symptoms resulting from a traumatic or acquired brain injury, dementia or other cognitive disorders, or an organic brain syndrome due to a medical condition may occur on a case-by-case basis when, as determined by the designated clinical reviewer, the individual’s condition or symptoms would likely improve if treated in a state hospital, and at least one of the following:

(1) Denial of admission will result in a serious health or safety issue for the individual; or

(2) Denial of admission will cause a specifically described community safety issue; or

(3) Denial of admission will result in the significant worsening of the individual’s condition.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 179.321, 426.010, 426.020, 426.072

Hist.: MHS 16-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 6-2012, f. 5-3-12, cert. ef. 5-4-12

309-091-0025

Exclusion Criteria and Exceptions

(1) State hospitals are intended to provide recovery-oriented intervention for individuals experiencing symptoms related to a severe, persistent and disabling mental illness.

(2) Admissions must not be based upon a primary diagnosis of the following related conditions:

(a) An acute or existing medical or surgical condition which requires primary placement in a medical setting and which cannot be safely or adequately treated within a state hospital facility;

(b) Delirium;

(c) Pervasive Developmental Disorder;

(d) Intellectual Developmental Disorder;

(e) Substance Use or Substance Abuse Disorder or

(f) Personality Disorder.

(3) Administrative transfers from the Oregon Department of Correction of individuals for the purpose of treatment may occur in accordance with OAR 291-047-0021. Individuals civilly committed upon discharge from the Oregon Department of Correction must meet the admission criteria and the process defined in this rule.

(4) Administrative transfers from the Oregon Youth Authority of individuals over the age of 18 for the purpose of stabilization and evaluation not exceeding 30 days may occur in accordance with OAR 416-425-020.

(a) Individuals transferred for the purpose of stabilization and evaluation for a period of time exceeding 30 days may occur in accordance with OAR 416-425-020.

ADMINISTRATIVE RULES

(b) Individuals over the age of 18 who are civilly committed upon discharge from the Oregon Youth Authority must meet the admission criteria and the process defined in this rule.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 179.321, 426.010, 426.020, 426.072
Hist.: MHS 16-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 6-2012, f. 5-3-12, cert. ef. 5-4-12

309-091-0030

Discharge Planning

(1) The state hospital will notify the responsible parties of each admission, unit or campus transfer, and each hospital treatment team determination related to assessing discharge readiness.

(2) The responsible party must arrange housing, treatment and other services assessed as needed to support the continuity of care necessary to maintain the individual's stability in the community.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 179.321, 426.010, 426.020, 426.072
Hist.: MHS 16-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 6-2012, f. 5-3-12, cert. ef. 5-4-12

309-091-0035

Discharge Criteria and Procedures for Civil Commit or Guardian

(1) The state hospital will periodically assess the individual's continued need for state hospital level of care based upon the admission criteria established in these rules.

(2) The state hospital retains the authority to solely determine when someone no longer needs state hospital level of care based on standardized criteria adopted by the hospital. Whenever possible, the decision should be made in collaboration with the responsible party and legal guardian, when applicable.

(3) An individual determined ready for discharge may later be determined not ready for discharge and removed from the discharge ready list.

(4) Individuals with an active discharge and community placement plan who no longer meet the state hospital criteria as defined in these rules shall not remain in an Oregon state hospital.

(5) Prior to an individual no longer needing state hospital level of care, the hospital will collaborate with the responsible party and with the patient's legal guardian if assigned by the courts, to identify appropriate services and supports for the patient.

(6) When an individual no longer needs state hospital level of care, and an appropriate community transition plan and additional necessary supports are in place, the patient will be discharged.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 179.321, 426.010, 426.020, 426.072
Hist.: MHS 16-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 6-2012, f. 5-3-12, cert. ef. 5-4-12

309-091-0040

Forensic Admission Criteria and Procedures

Forensic admissions will occur as prescribed ORS 161.327, 161.328, 161.365, 161.370.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 179.321, 426.010, 426.020, 426.072
Hist.: MHS 16-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 6-2012, f. 5-3-12, cert. ef. 5-4-12

309-091-0045

Discharge Criteria and Procedures

(1) Individuals admitted by court order after a finding of guilty except for insanity of a felony will be discharged when approved by the PSRB and in accordance with the state hospital policies and procedures.

(2) Individuals whose jurisdiction under the PSRB has ended as identified by the state hospital Legal Department shall be allowed to discharge on midnight of the final day of PSRB jurisdiction unless the hospital determines the need for civil commitment or some other legal hold.

(3) The responsible party will assess individuals ending jurisdiction and when determined appropriate, arrange housing, treatment and other services assessed as needed to support the continuity of care necessary to maintain the individual's stability in the community.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 179.321, 426.010, 426.020, 426.072
Hist.: MHS 16-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 6-2012, f. 5-3-12, cert. ef. 5-4-12

309-091-0050

Other Forensic Discharges and Roles of Responsible Parties

(1) Individuals committed to the state hospital pursuant to ORS 161.328 and 161.370 will be discharged upon determination by the super-

intendent that the individual no longer presents a substantial danger to others.

(2) The responsible party must provide assistance to individuals determined through assessment as needing treatment, services or supports upon discharge.

Stat. Auth.: ORS 413.042
Stats. Implemented: ORS 179.321, 426.010, 426.020, 426.072
Hist.: MHS 16-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12; MHS 6-2012, f. 5-3-12, cert. ef. 5-4-12

Oregon Health Authority, Division of Medical Assistance Programs Chapter 410

Rule Caption: Clarification of prior authorization requirements for new drugs.

Adm. Order No.: DMAP 23-2012(Temp)

Filed with Sec. of State: 4-20-2012

Certified to be Effective: 4-20-12 thru 10-15-12

Notice Publication Date:

Rules Amended: 410-121-0040

Subject: The Division needs to temporarily amend OAR 410-121-0040 to clarify prior authorization requirements for new drugs under the Oregon Health Plan (OHP). Based on comments received by the agency after it amended OAR 410-121-0040 for an effective date of January 1, 2012, the Division determined that there was some confusion related to the prior authorization requirements for new drugs under the OHP and the application of ORS 414.325. Consequently, the Division is amending its rule to provide clear guidelines for OHP clients and OHP providers on the prior authorization requirements for new drugs and the Division's process for developing those prior authorization criteria for new drugs.

410-121-0040: Revert language in (5)(a)–(c) back to language that became effective on January 1, 2012

The Division intends to permanently adopt rule revisions through the standard rule process which will allow for input from stakeholders and the public.

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-121-0040

Prior Authorization Required for Drugs and Products

(1) Prescribing practitioners are responsible for obtaining prior authorization (PA) for the drugs and categories of drugs requiring PA in this rule, using the procedures required in OAR 410-121-0060.

(2) All drugs and categories of drugs, including but not limited to those drugs and categories of drugs that require PA as described in this rule, are subject to the following requirements for coverage:

(a) Each drug must be prescribed for conditions funded by Oregon Health Plan (OHP) in a manner consistent with the Oregon Health Services Commission's Prioritized List of Health Services (OAR 410-141-0480 through 410-141-0520). If the medication is for a non-covered diagnosis, the medication shall not be covered unless there is a co-morbid condition for which coverage would be extended. The use of the medication must meet corresponding treatment guidelines, be included within the client's benefit package of covered services, and not otherwise excluded or limited;

(b) Each drug must also meet other criteria applicable to the drug or category of drug in these pharmacy provider rules, including PA requirements imposed in this rule.

(3) The Oregon Health Authority (Authority) may require PA for individual drugs and categories of drugs to ensure that the drugs prescribed are indicated for conditions funded by OHP and consistent with the Prioritized List of Health Services and its corresponding treatment guidelines (see OAR 410-141-0480). The drugs and categories of drugs that the Authority requires PA for this purpose are found in the OHP Fee-For-Service Pharmacy PA Criteria Guide (PA Criteria Guide) dated April 9, 2011, incorporated in rule by reference and found on our Web page at: <http://www.dhs.state.or.us/policy/healthplan/guides/pharmacy/clinical.html>

(4) The Authority may require PA for individual drugs and categories of drugs to ensure medically appropriate use or to address potential client safety risk associated with the particular drug or category of drug, as recommended by the Drug Use Review (DUR) / Pharmacy & Therapeutics Committee (P&T) and adopted by the Authority in this rule (see OAR 410-121-0100 for a description of the DUR program). The drugs and categories

ADMINISTRATIVE RULES

of drugs for which the Authority requires PA for this purpose are found in the Pharmacy PA Criteria Guide.

(5) New drugs shall be evaluated when added to the weekly upload of the First DataBank drug file:

(a) If the new drug is in a class where current PA criteria apply, all associated PA criteria shall be required at the time of the drug file load;

(b) If the new drug is indicated for a condition below the funding line on the Prioritized List of Health Services, PA shall be required to ensure that the drug is prescribed for a condition funded by OHP;

(c) PA criteria for all new drugs shall be reviewed by the DUR/P&T Committee.

(6) PA is required for brand name drugs that have two or more generically equivalent products available and that are NOT determined Narrow Therapeutic Index drugs by the Oregon DUR/P&T Committee:

(a) Immunosuppressant drugs used in connection with an organ transplant must be evaluated for narrow therapeutic index within 180 days after United States patent expiration;

(b) Manufacturers of immunosuppressant drugs used in connection with an organ transplant must notify the department of patent expiration within 30 days of patent expiration for (5)(a) to apply;

(c) Criteria for approval are:

(A) If criteria established in subsection (3) or (4) of this rule applies, follow that criteria;

(B) If (6)(A) does not apply, the prescribing practitioner must document that the use of the generically equivalent drug is medically contraindicated, and provide evidence that either the drug has been used and has failed or that its use is contraindicated based on evidence-based peer reviewed literature that is appropriate to the client's medical condition.

(7) PA is required for non-preferred Preferred Drug List (PDL) products in a class evaluated for the PDL except in the following cases:

(a) The drug is a mental health drug as defined in OAR 410-121-0000;

(b) The original prescription is written prior to 1/1/10;

(c) The prescription is a refill for the treatment of seizures, cancer, HIV or AIDS; or

(d) The prescription is a refill of an immunosuppressant.

(8) PA may not be required:

(a) When the prescription ingredient cost plus the dispensing fee is less than the PA processing fees as determined by the Authority;

(b) For over-the-counter (OTC) covered drugs when prescribed for conditions covered under OHP or;

(c) If a drug is in a class not evaluated from the Practitioner-Managed Prescription Drug Plan under ORS 414.334.

Stat. Auth.: ORS 409.110, 413.042, 414.065 & 414.334

Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 2-1990, f. & cert. ef. 1-16-90; HR 2-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 461-016-0170; HR 10-1991, f. & cert. ef. 2-19-91; HR 14-1993, f. & cert. ef. 7-2-93; HR 25-1994, f. & cert. ef. 7-1-94; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 18-1996(Temp), f. & cert. ef. 10-1-96; HR 8-1997, f. 3-13-97, cert. ef. 3-15-97; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 44-2002, f. & cert. ef. 10-1-02; OMAP 66-2002, f. 10-31-02, cert. ef. 11-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03; OMAP 43-2003(Temp), f. 6-10-03, cert. ef. 7-1-03 thru 12-15-03; OMAP 49-2003, f. 7-31-03 cert. ef. 8-1-03; OMAP 84-2003, f. 11-25-03 cert. ef. 12-1-03; OMAP 87-2003(Temp), f. & cert. ef. 12-15-03 thru 5-15-04; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 71-2004, f. 9-15-04, cert. ef. 10-1-04; OMAP 74-2004, f. 9-23-04, cert. ef. 10-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 4-2006(Temp), f. & cert. ef. 3-15-06 thru 9-7-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06; OMAP 41-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 26-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 9-2008, f. 3-31-08, cert. ef. 4-1-08; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 14-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 40-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 27-2011(Temp), f. & cert. ef. 9-30-11 thru 3-15-12; DMAP 44-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 18-2012, f. 3-30-12, cert. ef. 4-9-12; DMAP 23-2012(Temp), f. & cert. ef. 4-20-12 thru 10-15-12

Rule Caption: Update Managed Care Disenrollment criteria from PHP's and clarify Pharmaceutical Drug List exclusions.

Adm. Order No.: DMAP 24-2012

Filed with Sec. of State: 4-27-2012

Certified to be Effective: 5-1-12

Notice Publication Date: 4-1-2012

Rules Amended: 410-141-0070, 410-141-0080

Rules Repealed: 410-141-0070(T), 410-141-0080(T)

Subject: The Oregon Health Plan (OHP or Managed Care) Program administrative rules govern the Division of Medical Assistance Programs' (Division) payment for services to certain clients. The Division will permanently amend OAR 410-141-0070 Pharmaceutical Drug List Requirements which will mitigate concerns with respect

to how the Division will exclude drugs from the capitation rate that were FDA approved to treat mental health diseases, but were not listed as a class 7 or 11, by First Data Bank. This will also eliminate any concerns with respect to how the Division will address requests from MCOs to exclude from capitation payments drugs that were FDA approved to treat mental health disease but are not listed in class 7 or 11 by First Data Bank.

The Division will also permanently amend OAR 410-141-0080 Managed Care Disenrollment from PHP which incorporates new legislation (SB 201) which allows disenrollment from a managed care plan due to client choice and if 500 or more Division members choose to change plans in order to continue receiving care from a provider that is terminating their contractual relationship with a PHP.
Rules Coordinator: Cheryl Peters—(503) 945-6527

410-141-0070

Managed Care Fully Capitated Health Plan and Physician Care Organization Pharmaceutical Drug List Requirements

(1) Prescription drugs are a covered service based on the funded Condition/Treatment Pairs. Fully Capitated Health Plan (FCHP)'s and Physician Care Organization (PCO)'s shall pay for prescription drugs, except:

(a) As otherwise provided, mental health drugs that are in Class 7 & 11 (based on the National Drug Code (NDC) as submitted by the manufacturer to First Data Bank);

(b) Depakote, Lamictal and those drugs that the Division of Medical Assistance Programs (Division) specifically carved out from capitation according to sections (8) and (9) of this rule;

(c) Any applicable co-payments;

(d) For drugs covered under Medicare Part D when the client is Fully Dual Eligible.

(2) FCHPs and PCOs may use a restrictive drug list as long as it allows access to other drug products not on the drug list through some process such as prior authorization (PA). The drug list must:

(a) Include Federal Drug Administration (FDA) approved drug products for each therapeutic class sufficient to ensure the availability of covered drugs with minimal prior approval intervention by the provider of pharmaceutical services;

(b) Include at least one item in each therapeutic class of over-the-counter medications; and

(c) Be revised periodically to assure compliance with this requirement.

(3) FCHPs and PCOs shall provide their participating providers and their pharmacy subcontractor with:

(a) Their drug list and information about how to make non-drug listed requests;

(b) Updates made to their drug list within 30 days of a change that may include, but is not limited to:

(A) Addition of a new drug;

(B) Removal of a previously listed drug; and

(C) Generic substitution.

(4) If a drug cannot be approved within the 72-hour time requirement for prior authorization of drugs and the medical need for the drug is immediate, FCHPs and PCOs must provide (within 24 hours of receipt of the drug prior authorization request) for the dispensing of at least a 72-hour supply of a drug that requires prior authorization.

(5) FCHPs and PCOs shall authorize the provision of a drug requested by the Primary Care Physician (PCP) or referring provider, if the approved prescriber certifies medical necessity for the drug such as:

(a) The equivalent of the drug listed has been ineffective in treatment; or

(b) The drug listed causes or is reasonably expected to cause adverse or harmful reactions to the Division member.

(6) Prescriptions for Physician Assisted Suicide under the Oregon Death with Dignity Act are excluded; payment is governed solely by OAR 410-121-0150.

(7) FCHPs and PCOs shall not authorize payment for any Drug Efficacy Study Implementation (DESI) Less Than Effective (LTE) drugs which have reached the FDA Notice of Opportunity for Hearing (NOOH) stage, as specified in OAR 410-121-0420 (DESI)(LTE) Drug List. The DESI LTE drug list is available at: <http://www.cms.hhs.gov/MedicaidDrugRebateProgram/12LTEIRSDrugs.asp>.

(8) An FCHP or PCO may seek to add drugs to the list contained in section (1) of this rule by submitting a request to the Division no later than

ADMINISTRATIVE RULES

March 1 of any given contract year that contains all of the following information:

- (a) The name of the drug;
- (b) The FDA approved indications that identifies the drug may be used to treat a severe mental health condition; and
- (c) The reason that the Division should consider this drug for carve out.

(9) Upon receipt of a request from an FCHP or PCO requesting a drug not be paid within the capitation rate of the FCHP or PCO, the Division shall exclude the drug from capitation rate for the following January contract cycle if the Division determines that the drug has an approved FDA indication for the treatment of a severe mental health condition such as major depressive, bi-polar or schizophrenic disorders.

(10) The Division shall pay for a drug that is not included in the capitation rate pursuant to the Pharmaceutical Services rules (chapter 410, division 121). An FCHP or PCO may not reimburse providers for carved out drugs.

(11) FCHPs and PCOs shall submit quarterly utilization data, within 60 days of the date of service, as part of the Centers for Medicare and Medicaid Services (CMS) Medicaid Drug Rebate Program requirements pursuant to Section 2501 of the Affordable Care Act.

Stat. Auth.: ORS 413.042

Stats. Implemented: 414.065

Hist.: OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 57-2005, f. 10-25-05, cert. ef. 11-1-05; OMAP 65-2005, f. 11-30-05, cert. ef. 1-1-06; OMAP 23-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 46-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 16-2010, f. 6-11-10, cert. ef. 7-1-10; DMAP 42-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 32-2011(Temp), f. & cert. ef. 11-21-11 thru 5-15-12; DMAP 24-2012, f. 4-27-12, cert. ef. 5-1-12

410-141-0080

Managed Care Disenrollment from Prepaid Health Plans

(1) All Oregon Health Plan (OHP) Division member-initiated requests for disenrollment from a Prepaid Health Plan (PHP) must be initiated, orally or in writing, by the primary person in the benefit group enrolled with a PHP, where primary person and benefit group are defined in OAR 461-110-0110 and 461-110-0720, respectively. For Division members who are not able to request disenrollment on their own, the request may be initiated by the Division member's Representative.

(2) Division member or Representative requests for disenrollment shall be honored:

(a) Without cause:

(A) After six months of Division member's enrollment. The effective date of disenrollment shall be the first of the month following the Department's approval of disenrollment;

(B) Whenever a Division member's eligibility is redetermined by the Department of Human Services (Department) and the primary person requests disenrollment without cause. The effective date of disenrollment shall be the first of the month following the date that the Division member's eligibility is redetermined by the Department;

(C) Effective retroactively on or after September 1, 2011 and in accordance with SB 201 and the Division's determination, Division members have the right to disenroll from a FCHP or PCO into another FCHP or PCO during their redetermination or enrollment period in, accordance with OAR 410-141-0060, or one additional time during their enrollment period based on the Division member's choice and with OHA approval.

(b) With cause:

(A) At any time;

(B) Division members who disenroll from a Medicare Advantage plan shall also be disenrolled from the corresponding Fully Capitated Health Plan (FCHP) or Physician Care Organization (PCO). The effective date of disenrollment shall be the first of the month that the Division member's Medicare Advantage plan disenrollment is effective;

(C) Division members who are receiving Medicare and who are enrolled in a FCHP or PCO that has a corresponding Medicare Advantage component may disenroll from the FCHP or PCO at any time if they also request disenrollment from the Medicare Advantage plan. The effective date of disenrollment from the FCHP or PCO shall be the first of the month following the date of request for disenrollment;

(D) PHP does not, because of moral or religious objections, cover the service the Division member seeks;

(E) The Division member needs related services (for example a cesarean section and a tubal ligation) to be performed at the same time, not all related services are available within the network, and the Division members' Primary Care Provider or another Provider determines that receiving the services separately would subject the Division member to unnecessary risk; or

(F) Other reasons, including but not limited to, poor quality of care, lack of access to services covered under the contract, or lack of access to Participating Providers experienced in dealing with the Division member's health care needs. Examples of sufficient cause include but are not limited to:

(i) The Division member moves out of the PHP's Service Area;

(ii) The Division member is a Native American or Alaskan Native with Proof of Indian Heritage who wishes to obtain primary care services from his or her Indian Health Service facility, tribal health clinic/program or urban clinic and the Fee-For-Service (FFS) delivery system;

(iii) Continuity of care that is not in conflict with any section of 410-141-0060 or this rule. Participation in the Oregon Health Plan, including managed care, does not guarantee that any Oregon Health Plan client has a right to continued care or treatment by a specific provider. A request for disenrollment based on continuity of care shall be denied if the basis for this request is primarily for the convenience of an Oregon Health Plan client or a provider of a treatment, service or supply, including but not limited to a decision of a provider to participate or decline to participate in a PHP;

(iv) If 500 or more Division members choose to change plans in order to continue receiving care from a provider that is terminating their contractual relationship with a PHP, the Division shall send all of the Division Members a written notice 90 days in advance of the termination date;

(I) The member and all family (case) members shall be transferred to the provider's new PHP;

(II) The transfer shall take effect when the provider's contract with their current PHP contractual relationship ends, or on a date approved by the Division.

(c) If the following conditions are met:

(A) The applicant is in the third trimester of her pregnancy and has just been determined eligible for OHP, or the OHP client has just been re-determined eligible and was not enrolled in a FCHP or PCO within the past 3 months; and

(B) The new FCHP or PCO the Division member is enrolled with does not contract with the Division member's current OB Provider and the Division member wishes to continue obtaining maternity services from that Non-Participating OB Provider; and

(C) The request to change FCHPs, PCOs or return to FFS is made prior to the date of delivery.

(d) Division member disenrollment requests are subject to the following requirements:

(A) The Division member shall join another PHP, unless the Division member resides in a Service Area where enrollment is voluntary, or the Division member meets the exemptions to enrollment as stated in 410-141-0060(4);

(B) If the only PHP available in a mandatory Service Area is the PHP from which the Division member wishes to disenroll, the Division member may not disenroll without cause;

(C) The effective date of disenrollment shall be the end of the month in which disenrollment was requested unless retroactive disenrollment is approved by the Division;

(D) If the Department fails to make a disenrollment determination by the first day of the second month following the month in which the Division member files a request for disenrollment, the disenrollment is considered approved.

(3) Prepaid Health Plan requests for disenrollment:

(a) Causes for disenrollment:

(A) The Division may disenroll Division members for cause when requested by the PHP, subject to American with Disabilities Act requirements. Examples of cause include, but are not limited to the following:

(i) Missed appointments. The number of missed appointments is to be established by the Provider or PHP. The number must be the same as for commercial members or patients. The Provider must document they have attempted to ascertain the reasons for the missed appointments and to assist the Division member in receiving services. This rule does not apply to Medicare members who are enrolled in a FCHP's or PCO's Medicare Advantage plan;

(ii) Division member's behavior is disruptive, unruly, or abusive to the point that his/her continued enrollment in the PHP seriously impairs the PHP's ability to furnish services to either the Division member or other members, subject to the requirements in (3)(a)(B)(vii);

(iii) Division member commits or threatens an act of physical violence directed at a medical Provider or property, the Provider's staff, or other patients, or the PHP's staff to the point that his/her continued enrollment in the PHP seriously impairs the PHP's ability to furnish services to

ADMINISTRATIVE RULES

either this particular Division member or other Division members, subject to the requirements in (3)(a)(B)(vii);

(iv) Division member commits fraudulent or illegal acts such as: permitting use of his/her medical ID card by others, altering a prescription, theft or other criminal acts (other than those addressed in (3)(a)(A)(ii) or (iii)) committed in any Provider or PHP's premises. The PHP shall report any illegal acts to law enforcement authorities or to the office for Children, Adults and Families (CAF) Fraud Unit as appropriate;

(v) OHP clients who have been exempted from mandatory enrollment with a FCHP or PCO, due to the OHP client's eligibility through a hospital hold process and placed in the Adults/Couples category as required under 410-141-0060(4)(b)(F);

(vi) Division member fails to pay co-payment(s) for Covered Services as described in OAR 410-120-1230.

(B) Division members shall not be disenrolled solely for the following reasons:

(i) Because of a physical or mental disability;

(ii) Because of an adverse change in the Division member's health;

(iii) Because of the Division member's utilization of services, either excessive or lack thereof;

(iv) Because the Division member requests a hearing;

(v) Because the Division member has been diagnosed with End Stage Renal Disease (ESRD);

(vi) Because the Division member exercises his/her option to make decisions regarding his/her medical care with which the PHP disagrees;

(vii) Because of uncooperative or disruptive behavior, including but not limited to threats or acts of physical violence, resulting from the Division member's special needs (except when continued enrollment in the PHP seriously impairs the PHP's ability to furnish services to either this Division member or other members).

(C) Requests by the PHP for disenrollment of specific Division members shall be submitted in writing to their PHP Coordinator for approval. The PHP must document the reasons for the request, provide written evidence to support the basis for the request, and document that attempts at intervention were made as described below. The procedures cited below must be followed prior to requesting disenrollment of a Division member:

(i) There shall be notification from the Provider to the PHP at the time the problem is identified. The notification must describe the problem and allow time for appropriate intervention by the PHP. Such notification shall be documented in the Division member's Clinical Record. The PHP shall conduct Provider education regarding the need for early intervention and the services they can offer the Provider;

(ii) The PHP shall contact the Division member either verbally or in writing, depending on the severity of the problem, to inform the Division member of the problem that has been identified, and attempt to develop an agreement with the Division member regarding the issue(s). If contact is verbal, it shall be documented in the Division member's record. The PHP shall inform the Division member that his/her continued behavior may result in disenrollment from the PHP;

(iii) The PHP shall provide individual education, counseling, and/or other interventions with the Division member in a serious effort to resolve the problem;

(iv) The PHP shall contact the Division member's Department caseworker regarding the problem and, if needed, involve the caseworker and other appropriate agencies' caseworkers in the resolution, within the laws governing confidentiality;

(v) If the severity of the problem and intervention warrants, the PHP shall develop a care plan that details how the problem is going to be addressed and/or coordinate a case conference. Involvement of the Provider, caseworker, Division member, family, and other appropriate agencies is encouraged. If necessary, the PHP shall obtain an authorization for release of information from the Division member for the Providers and agencies in order to involve them in the resolution of the problem. If the release is verbal, it must be documented in the Division member's record;

(vi) Any additional information or assessments requested by the Division PHP Coordinator;

(vii) If the Division member's behavior is uncooperative or disruptive, including but not limited to threats or acts of physical violence, as the result of his/her special needs or disability, the PHP must also document each of the following:

(I) A written assessment of the relationship of the behavior to the special needs or disability of the individual and whether the individual's behavior poses a direct threat to the health or safety of others. Direct threat means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures. In determining

whether a Division member poses a direct threat to the health or safety of others, the PHP must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or best available objective evidence to ascertain the nature, duration and severity of the risk to the health or safety of others; the probability that potential injury to others shall actually occur; and whether reasonable modifications of policies, practices, or procedures shall mitigate the risk to others;

(II) A PHP-staffed interdisciplinary team review that includes a mental health professional or behavioral specialist or other health care professionals who have the appropriate clinical expertise in treating the Division member's condition to assess the behavior, the behavioral history, and previous history of efforts to manage behavior;

(III) If warranted, a clinical assessment of whether the behavior will respond to reasonable clinical or social interventions;

(IV) Documentation of any accommodations that have been attempted;

(V) Documentation of the PHP's rationale for concluding that the Division member's continued enrollment in the PHP seriously impairs the PHP's ability to furnish services to either this particular Division member or other members.

(viii) If a Primary Care Provider (PCP) terminates the Provider/patient relationship, the PHP shall attempt to locate another PCP on their panel who will accept the Division member as their patient. If needed, the PHP shall obtain an authorization for release of information from the Division member in order to share the information necessary for a new Provider to evaluate if they can treat the Division member. All terminations of Provider/patient relationships shall be according to the PHP's policies and must be consistent with PHP or PCP's policies for commercial members.

(D) Requests shall be reviewed according to the following process:

(i) If there is sufficient documentation, the request shall be evaluated by the PHP's Coordinator or a team of PHP Coordinators who may request additional information from Ombudsman Services, AMH or other agencies as needed; If the request involves the Division member's mental health condition or behaviors related to substance abuse, the PHP Coordinator should also confer with the OHP Coordinator in AMH;

(ii) If there is not sufficient documentation, the PHP Coordinator shall notify the PHP within 2 business days of what additional documentation is required before the request can be considered;

(iii) The PHP Coordinators shall review the request and notify the PHP of the decision within ten working days of receipt of sufficient documentation from the PHP. Written decisions, including reasons for denials, shall be sent to the PHP within 15 working days from receipt of request and sufficient documentation from the PHP.

(E) If the request is approved the PHP Coordinator must send the Division member a letter within 14 days after the request was approved, with a copy to the PHP, the Division member's Department caseworker and Division's Health Management Unit (HMU). The letter must give the disenrollment date, the reason for disenrollment, and the notice of Division member's right to file a Complaint (as specified in 410-141-0260 through 410-141-0266) and to request an Administrative Hearing. If the Division member requests a hearing, the Division member shall continue to be disenrolled until a hearing decision reversing that disenrollment has been sent to the Division member and the PHP;

(i) In cases where the Division member is also enrolled in the FCHP's or PCO's Medicare Advantage plan and the plan has received permission to disenroll the client, the FCHP or PCO shall provide proof of the CMS approval to disenroll the client and the date of disenrollment shall be the date approved by CMS;

(ii) The disenrollment date is 30 days after the date of approval, except as provided in subsections (iii) and (iv) of this section:

(I) The PHP Coordinator shall determine when enrollment in another PHP or with a PCM is appropriate. If appropriate, the PHP Coordinator shall contact the Division member's Department caseworker to arrange enrollment. The Division may require the Division member and/or the benefit group to obtain services from FFS Providers or a PCM until such time as they can be enrolled in another PHP;

(II) When the disenrollment date has been determined, HMU shall send a letter to the Division member with a copy to the Division member's Department caseworker and the PHP. The letter shall inform the Division member of the requirement to be enrolled in another PHP, if applicable.

(iii) If the PHP Coordinator approves a PHP's request for disenrollment because of the Division member's uncooperative or disruptive behavior, including threats or acts of physical violence directed at a medical Provider, the Provider's staff, or other patients, or because the Division

ADMINISTRATIVE RULES

member commits fraudulent or illegal acts as stated in 410-141-0080(2)(a), the following additional procedures shall apply:

(I) The Division member shall be disenrolled as of the date of the PHP's request for disenrollment;

(II) All Division members in the Division member's benefit group, as defined in OAR 461-110-0720, may be disenrolled if the PHP requests;

(III) At the time of enrollment into another PHP, the Division shall notify the new PHP that the Division member and/or benefit group were previously disenrolled from another PHP at that PHP's request.

(iv) If a Division member who has been disenrolled for cause is reenrolled in the PHP, the PHP may request a disenrollment review by the PHP's PHP Coordinator. A Division member may not be disenrolled from the same PHP for a period of more than 12 months. If the Division member is reenrolled after the 12-month period and is again disenrolled for cause, the disenrollment shall be reviewed by the Department for further action.

(b) Other reasons for the PHP's requests for disenrollment include the following:

(A) If the Division member is enrolled in the FCHP or MHO on the same day the Division member is admitted to the hospital, the FCHP or MHO shall be responsible for said hospitalization. If the Division member is enrolled after the first day of the inpatient stay, the Division member shall be disenrolled, and the date of enrollment shall be the next available enrollment date following discharge from inpatient hospital services;

(B) The Division member has surgery scheduled at the time their enrollment is effective with the PHP, the Provider is not on the PHP's Provider panel, and the Division member wishes to have the services performed by that Provider;

(C) The Medicare member is enrolled in a Medicare Advantage plan and was receiving Hospice Services at the time of enrollment in the PHP;

(D) The Division member had End Stage Renal Disease at the time of enrollment in the PHP;

(E) Excluding the DCO, the PHP determines that the Division member has a third party insurer. If after contacting The Health Insurance Group, the disenrollment is not effective the following month, the PHP may contact HMU to request disenrollment;

(F) If a PHP has knowledge of a Division member's change of address, the PHP shall notify the Department. The Department shall verify the address information and disenroll the Division member from the PHP, if the Division member no longer resides in the PHP's Service Area. Division members shall be disenrolled if out of the PHP's Service Area for more than three (3) months, unless previously arranged with the PHP. The effective date of disenrollment shall be the date specified by the Division and the Division shall recoup the balance of that month's Capitation Payment from the PHP;

(G) The Division member is an inmate who is serving time for a criminal offense or confined involuntarily in a State or Federal prison, jail, detention facility, or other penal institution. This does not include Division members on probation, house arrest, living voluntarily in a facility after their case has been adjudicated, infants living with an inmate, or inmates who become inpatients. The PHP is responsible for identifying the Division members and providing sufficient proof of incarceration to HMU for review of the disenrollment request. The Division shall approve requests for disenrollment from PHPs for Division members who have been incarcerated for at least fourteen (14) calendar days and are currently incarcerated. FCHPs are responsible for inpatient services only during the time a Division member was an inmate;

(H) The Division member is in a state psychiatric institution.

(4) The Division Initiated disenrollments:

(a) The Division may initiate and disenroll Division members as follows:

(A) If the Division determines that the Division member has sufficient third party resources such that health care and services may be cost effectively provided on a FFS basis, the Division may disenroll the Division member. The effective date of disenrollment shall be the end of the month in which the Division makes such a determination. The Division may specify a retroactive effective date of disenrollment if the Division member's third party coverage is through the PHP, or in other situations agreed to by the PHP and the Division;

(B) If the Division member moves out of the PHP's Service Area(s), the effective date of disenrollment shall be the date specified by the Division and the Division shall recoup the balance of that month's Capitation Payment from the PHP;

(C) If the Division member is no longer eligible under the Oregon Health Plan Medicaid Demonstration Project or Children's Health

Insurance Program, the effective date of disenrollment shall be the date specified by the Division;

(D) If the Division member dies, the effective date of disenrollment shall be through the date of death;

(E) When a non-Medicare contracting PHP is assumed by another PHP that is a Medicare Advantage plan, Division members with Medicare shall be disenrolled from the existing PHP. The effective date of disenrollment shall be the day prior to the month the new PHP assumes the existing PHP;

(F) If the Division determines that the PHP's Division member has enrolled with their Employer Sponsored Insurance (ESI) through FHIAP the effective date of the disenrollment shall be the Division member's effective date of coverage with FHIAP.

(b) Unless specified otherwise in these rules or in the Division notification of disenrollment to the PHP, all disenrollments are effective the end of the month after the request for disenrollment is approved by the Division;

(c) The Division shall inform the Division members of the disenrollment decision in writing, including the right to request an Administrative Hearing. OHP clients may request a Division hearing if they dispute a disenrollment decision by the Division;

(d) If the OHP client requests a hearing, the OHP client shall continue to be disenrolled until a hearing decision reversing that disenrollment is sent the OHP client.

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 414.065

Hist.: HR 31-1993, f. 10-14-93, cert. ef. 2-1-94; HR 33-1994, f. & cert. ef. 11-1-94; HR 39-1994, f. 12-30-94, cert. ef. 1-1-95; HR 17-1995, f. 9-28-95, cert. ef. 10-1-95; HR 19-1996, f. & cert. ef. 10-1-96; HR 21-1996(Temp), f. & cert. ef. 11-1-96; HR 11-1997, f. 3-28-97, cert. ef. 4-1-97; HR 14-1997, f. & cert. ef. 7-1-97; HR 25-1997, f. & cert. ef. 10-1-97; OMAP 21-1998, f. & cert. ef. 7-1-98; OMAP 49-1998(Temp), f. 12-31-98, cert. ef. 1-1-99 thru 6-30-99; Administrative correction 8-9-99; OMAP 39-1999, f. & cert. ef. 10-1-99; OMAP 26-2000, f. 9-28-00, cert. ef. 10-1-00; OMAP 29-2001, f. 8-13-01, cert. ef. 10-1-01; OMAP 4-2003, f. 1-31-03, cert. ef. 2-1-03; OMAP 24-2003, f. 3-26-03, cert. ef. 4-1-03; OMAP 61-2003, 9-5-03, cert. ef. 10-1-03; OMAP 37-2004(Temp), f. 5-27-04, cert. ef. 6-1-04 thru 11-15-04; OMAP 47-2004, f. 7-22-04, cert. ef. 8-1-04; OMAP 27-2005, f. 4-20-05, cert. ef. 5-1-05; OMAP 46-2005, f. 9-9-05, cert. ef. 10-1-05; OMAP 65-2005, f. 11-30-05, cert. ef. 1-1-06; OMAP 46-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 42-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 34-2011(Temp), f. 12-9-11, cert. ef. 1-1-12 thru 6-28-12; DMAP 24-2012, f. 4-27-12, cert. ef. 5-1-12

Rule Caption: Align with OAR chapter 461, division 155 medical eligibility rules.

Adm. Order No.: DMAP 25-2012(Temp)

Filed with Sec. of State: 5-1-2012

Certified to be Effective: 5-1-12 thru 7-10-12

Notice Publication Date:

Rules Amended: 410-120-0006

Rules Suspended: 410-120-0006(T)

Subject: The General Rules Program administrative rules govern the Division's payments for services provided to clients, and medical assistance eligibility determinations made by the Oregon Health Authority. In coordination with the Department of Human Services' (Department) temporary revision of medical eligibility rules in chapter 461, the Division is temporarily amending OAR 410-120-0006 to assure that the Division's medical eligibility rule aligns with and reflects information found in the Department's medical eligibility rules. In OAR 410-120-0006, the Division adopts in rule by reference Department eligibility rules and must update OAR 410-120-0006 in conjunction. The Division intends to file this rule permanently on or before July 10, 2012.

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-120-0006

Medical Eligibility Standards

As the state Medicaid and CHIP agency, the Oregon Health Authority (Authority) is responsible for establishing and implementing eligibility policies and procedure consistent with applicable law. As outlined in 943-001-0020, the Authority, and the Department of Human Services (Department) work together to adopt rules to assure that medical assistance eligibility procedures and determinations are consistent across both agencies.

(1) The Authority adopts and incorporates by reference the rules established in OAR Chapter 461, and in effect May 1, 2012, for all medical eligibility requirements for medical assistance when the Authority conducts eligibility determinations.

ADMINISTRATIVE RULES

(2) Any reference to OAR Chapter 461 in Oregon Administrative Rules or contracts of the Authority are deemed to be references to the requirements of this rule, and shall be construed to apply to all eligibility policies, procedures and determinations by or through the Authority.

(3) For purposes of this rule, references in OAR chapter 461 to the Department or to the Authority shall be construed to be references to both agencies.

(4) Effective on or after July 1, 2011 the Authority shall conduct medical eligibility determinations using the OAR chapter 461 rules which are in effect on the date the Authority makes the medical eligibility determination.

(5) A request for a hearing resulting from a determination under this rule, made by the Authority shall be handled pursuant to the hearing procedures set out in division 25 of OAR chapter 461. References to “the Administrator” in division 25 of chapter 461 or “the Department” are hereby incorporated as references to the Authority.”

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

Stat. Auth.: ORS 413.042

Stats. Implemented: ORS 413.042 & 414.065

Hist.: DMAP 10-2011, f. 6-29-11, cert. ef. 7-1-11; DMAP 18-2011(Temp), f. & cert. ef. 7-15-11 thru 1-11-12; DMAP 21-2011(Temp), f. 7-29-11, cert. ef. 8-1-11 thru 1-11-12; DMAP 25-2011(Temp), f. 9-28-11, cert. ef. 10-1-11 thru 1-11-12; DMAP 36-2011, f. 12-13-11, cert. ef. 1-1-12; DMAP 1-2012(Temp), f. & cert. ef. 1-13-12 thru 7-10-12; DMAP 2-2012(Temp), f. & cert. ef. 1-26-12 thru 7-10-12; DMAP 3-2012(Temp), f. & cert. ef. 1-31-12 thru 2-1-12; DMAP 4-2012(Temp), f. 1-31-12, cert. ef. 2-1-12 thru 7-10-12; DMAP 9-2012(Temp), f. & cert. ef. 3-1-12 thru 7-10-12; DMAP 21-2012(Temp), f. 3-30-12, cert. ef. 4-1-12 thru 7-10-12; DMAP 25-2012(Temp), f. & cert. ef. 5-1-12 thru 7-10-12

Rule Caption: Amending Preferred Drug List – February 23, 2012 DUR/P&T Action.

Adm. Order No.: DMAP 26-2012

Filed with Sec. of State: 5-14-2012

Certified to be Effective: 5-14-12

Notice Publication Date: 4-1-2012

Rules Amended: 410-121-0030

Subject: 410-121-0030: Updates to the Preferred Drug List (PDL): Add ribavirin, boceprevir (Victrelis®) and telaprevir (Incivek®) as preferred to the Antiviral Hepatitis C drug class on the PDL.

Add venlafaxine XR as preferred to the Psychiatric Antidepressants – 2nd Generation drug class on the PDL.

Add amitriptyline, doxepine, nortriptyline and clomipramine as preferred to the Psychiatric Antidepressants drug class on the PDL.

Replace tolcapone with entacapone in the Neurologic Parkinson’s Drugs drug class on the PDL.

Add amantadine as preferred to the Neurologic Parkinson’s Drugs drug class on the PDL.

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-121-0030

Practitioner-Managed Prescription Drug Plan

(1) The Practitioner-Managed Prescription Drug Plan (PMPDP) is a plan that ensures that fee-for-service clients of the Oregon Health Plan shall have access to the most effective prescription drugs appropriate for their clinical conditions at the best possible price:

(a) Licensed health care practitioners (informed by the latest peer reviewed research), make decisions concerning the clinical effectiveness of the prescription drugs;

(b) The licensed health care practitioners also consider the health condition of a client or characteristics of a client, including the client’s gender, race or ethnicity.

(2) PMPDP Preferred Drug List (PDL):

(a) The PDL is the primary tool that the Division developed to inform licensed health care practitioners about the results of the latest peer-reviewed research and cost effectiveness of prescription drugs;

(b) The PDL (as defined in 410-121-0000 (cc) consists of prescription drugs that the Division, in consultation with the Drug Use Review (DUR)/Pharmacy & Therapeutics Committee (P&T), has determined represent the most effective drug(s) available at the best possible price;

(c) The PDL shall include drugs that are Medicaid reimbursable and the Food and Drug Administration (FDA) has determined to be safe and effective.

(3) PMPDP PDL Selection Process:

(a) The Division shall utilize the recommendations made by the P&T, that result from an evidence-based evaluation process, as the basis for selecting the most effective drug(s);

(b) The Division shall determine the drugs selected in (3)(a) that are available for the best possible price and shall consider any input from the P&T about other FDA-approved drug(s) in the same class that are available for a lesser relative price. The Division shall determine relative price using the methodology described in subsection (4);

(c) The Division shall evaluate selected drug(s) for the drug classes periodically:

(A) Evaluation shall occur more frequently at the discretion of the Division if new safety information or the release of new drugs in a class or other information which makes an evaluation advisable;

(B) New drugs in classes already evaluated for the PDL shall be non-preferred until the new drug has been reviewed by the P&T;

(C) The Division shall make all changes or revisions to the PDL, using the rulemaking process and shall publish the changes on the Division’s Pharmaceutical Services provider rules Web page.

(4) Relative cost and best possible price determination:

(a) The Division shall determine the relative cost of all drugs in each selected class that are Medicaid reimbursable and that the FDA has determined to be safe and effective;

(b) The Division may also consider dosing issues, patterns of use and compliance issues. The Division shall weigh these factors with any advice provided by the P&T in reaching a final decision;

(5) Pharmacy providers shall dispense prescriptions in the generic form, unless:

(a) The practitioner requests otherwise, subject to the regulations outlined in OAR 410-121-0155;

(b) The brand name medication is listed as preferred on the PDL.

(6) The exception process for obtaining non-preferred physical health drugs that are not on the PDL drugs shall be as follows:

(a) If the prescribing practitioner, in their professional judgment, wishes to prescribe a physical health drug not on the PDL, they may request an exception, subject to the requirements of OAR 410-121-0040;

(b) The prescribing practitioner must request an exception for physical health drugs not listed in the PDL subject to the requirements of OAR 410-121-0060;

(c) Exceptions shall be granted in instances:

(A) Where the prescriber in their professional judgment determines the non-preferred drug is medically appropriate after consulting with the Division or the Oregon Pharmacy Help Desk; or

(B) Where the prescriber requests an exception subject to the requirement of (6)(b) and fails to receive a report of PA status within 24 hours, subject to OAR 410-121-0060.

(7) Table 121-0030-1, PMPDP PDL

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

Stat. Auth.: ORS 409.025, 409.040, 409.110, 414.065, 413.042 & 414.325

Stats. Implemented: ORS 414.065

Hist.: OMAP 25-2002, f. 6-14-02 cert. ef. 7-1-02; OMAP 31-2002, f. & cert. ef. 8-1-02; OMAP 36-2002, f. 8-30-02, cert. ef. 9-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 35-2003, f. & cert. ef. 5-1-03; OMAP 47-2003, f. & cert. ef. 7-1-03; OMAP 57-2003, f. 9-5-03, cert. ef. 10-1-03; OMAP 70-2003(Temp), f. 9-15-03, cert. ef. 10-1-03 thru 3-15-04; OMAP 82-2003, f. 10-31-03, cert. ef. 11-1-03; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 29-2004, f. 4-23-04 cert. ef. 5-1-04; OMAP 34-2004, f. 5-26-04 cert. ef. 6-1-04; OMAP 45-2004, f. 7-22-04 cert. ef. 8-1-04; OMAP 81-2004, f. 10-29-04 cert. ef. 11-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 19-2005, f. 3-21-05, cert. ef. 4-1-05; OMAP 32-2005, f. 6-21-05, cert. ef. 7-1-05; OMAP 58-2005, f. 10-27-05, cert. ef. 11-1-05; OMAP 16-2006, f. 6-12-06, cert. ef. 7-1-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06; OMAP 48-2006, f. 12-28-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 36-2008, f. 12-11-08, cert. ef. 1-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 40-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 2-2011(Temp), f. & cert. ef. 3-1-11 thru 8-20-11; DMAP 19-2011, f. 7-15-11, cert. ef. 7-17-11; DMAP 44-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 18-2012, f. 3-30-12, cert. ef. 4-9-12; DMAP 26-2012, f. & cert. ef. 5-14-12

Rule Caption: Clarification of prior authorization requirements for new drugs.

Adm. Order No.: DMAP 27-2012(Temp)

Filed with Sec. of State: 5-14-2012

Certified to be Effective: 5-14-12 thru 10-15-12

Notice Publication Date:

Rules Amended: 410-121-0040

Rules Suspended: 410-121-0040(T)

Subject: Amend: 410-121-0040 to include suspended language, update the date the OHP Fee for Service Pharmacy PA Criteria Guide

ADMINISTRATIVE RULES

is incorporated in rule by reference and make the following criteria guide changes:

- Pegylated Interferon and Ribavirin – criteria re-written.
- Erythropoiesis Stimulating Proteins (Hematopoietic Agents) – criteria re-written.
- Proton Pump Inhibitors (PPI) – update criteria.
- Topomax (Topiramate) – update criteria.
- Hormones – Testosterone – update criteria.
- Pulmonary Arterial Hypertension (PAH) – update criteria.
- Roflumilast – new criteria.
- Indacaterol (LABA) – new criteria.
- Analgesics, Non-Steroidal, Anti-Inflammatory Drugs – update criteria.

Suspend: 410-121-0040: Revert language in (5)(a)–(c) back to language that became effective on January 1, 2012

Rules Coordinator: Cheryl Peters—(503) 945-6527

410-121-0040

Prior Authorization Required for Drugs and Products

(1) Prescribing practitioners are responsible for obtaining prior authorization (PA) for the drugs and categories of drugs requiring PA in this rule, using the procedures required in OAR 410-121-0060.

(2) All drugs and categories of drugs, including but not limited to those drugs and categories of drugs that require PA as described in this rule, are subject to the following requirements for coverage:

(a) Each drug must be prescribed for conditions funded by Oregon Health Plan (OHP) in a manner consistent with the Oregon Health Services Commission's Prioritized List of Health Services (OAR 410-141-0480 through 410-141-0520). If the medication is for a non-covered diagnosis, the medication shall not be covered unless there is a co-morbid condition for which coverage would be extended. The use of the medication must meet corresponding treatment guidelines, be included within the client's benefit package of covered services, and not otherwise excluded or limited;

(b) Each drug must also meet other criteria applicable to the drug or category of drug in these pharmacy provider rules, including PA requirements imposed in this rule.

(3) The Oregon Health Authority (Authority) may require PA for individual drugs and categories of drugs to ensure that the drugs prescribed are indicated for conditions funded by OHP and consistent with the Prioritized List of Health Services and its corresponding treatment guidelines (see OAR 410-141-0480). The drugs and categories of drugs that the Authority requires PA for this purpose are found in the OHP Fee-For-Service Pharmacy PA Criteria Guide (PA Criteria Guide) dated May 14, 2011, incorporated in rule by reference and found on our Web page at: <http://www.dhs.state.or.us/policy/healthplan/guides/pharmacy/clinical.html>

(4) The Authority may require PA for individual drugs and categories of drugs to ensure medically appropriate use or to address potential client safety risk associated with the particular drug or category of drug, as recommended by the Pharmacy & Therapeutics Committee (P&T) and adopted by the Authority in this rule (see OAR 410-121-0100 for a description of the DUR program). The drugs and categories of drugs for which the Authority requires PA for this purpose are found in the Pharmacy PA Criteria Guide.

(5) New drugs shall be evaluated when added to the weekly upload of the First DataBank drug file:

(a) If the new drug is in a class where current PA criteria apply, all associated PA criteria shall be required at the time of the drug file load;

(b) If the new drug is indicated for a condition below the funding line on the Prioritized List of Health Services, PA shall be required to ensure that the drug is prescribed for a condition funded by OHP;

(c) PA criteria for all new drugs shall be reviewed by the DUR/P&T Committee.

(6) PA is required for brand name drugs that have two or more generically equivalent products available and that are NOT determined Narrow Therapeutic Index drugs by the Oregon DUR/P&T Committee:

(a) Immunosuppressant drugs used in connection with an organ transplant must be evaluated for narrow therapeutic index within 180 days after United States patent expiration;

(b) Manufacturers of immunosuppressant drugs used in connection with an organ transplant must notify the department of patent expiration within 30 days of patent expiration for (5)(a) to apply;

(c) Criteria for approval are:

(A) If criteria established in subsection (3) or (4) of this rule applies, follow that criteria;

(B) If (6)(A) does not apply, the prescribing practitioner must document that the use of the generically equivalent drug is medically contraindicated, and provide evidence that either the drug has been used and has failed or that its use is contraindicated based on evidence-based peer reviewed literature that is appropriate to the client's medical condition.

(7) PA is required for non-preferred Preferred Drug List (PDL) products in a class evaluated for the PDL except in the following cases:

(a) The drug is a mental health drug as defined in OAR 410-121-0000;

(b) The original prescription is written prior to 1/1/10;

(c) The prescription is a refill for the treatment of seizures, cancer, HIV or AIDS; or

(d) The prescription is a refill of an immunosuppressant.

(8) PA may not be required:

(a) When the prescription ingredient cost plus the dispensing fee is less than the PA processing fees as determined by the Authority;

(b) For over-the-counter (OTC) covered drugs when prescribed for conditions covered under OHP or;

(c) If a drug is in a class not evaluated from the Practitioner-Managed Prescription Drug Plan under ORS 414.334.

Stat. Auth.: ORS 409.110, 413.042, 414.065 & 414.334

Stats. Implemented: ORS 414.065

Hist.: AFS 56-1989, f. 9-28-89, cert. ef. 10-1-89; AFS 2-1990, f. & cert. ef. 1-16-90; HR 29-1990, f. 8-31-90, cert. ef. 9-1-90, Renumbered from 461-016-0170; HR 10-1991, f. & cert. ef. 2-19-91; HR 14-1993, f. & cert. ef. 7-2-93; HR 25-1994, f. & cert. ef. 7-1-94; HR 6-1995, f. 3-31-95, cert. ef. 4-1-95; HR 18-1996(Temp), f. & cert. ef. 10-1-96; HR 8-1997, f. 3-13-97, cert. ef. 3-15-97; OMAP 1-1999, f. & cert. ef. 2-1-99; OMAP 29-2000, f. 9-29-00, cert. ef. 10-1-00; OMAP 31-2001, f. 9-24-01, cert. ef. 10-1-01; OMAP 44-2002, f. & cert. ef. 10-1-02; OMAP 66-2002, f. 10-31-02, cert. ef. 11-1-02; OMAP 29-2003, f. 3-31-03 cert. ef. 4-1-03; OMAP 40-2003, f. 5-27-03, cert. ef. 6-1-03; OMAP 43-2003(Temp), f. 6-10-03, cert. ef. 7-1-03 thru 12-15-03; OMAP 49-2003, f. 7-31-03 cert. ef. 8-1-03; OMAP 84-2003, f. 11-25-03 cert. ef. 12-1-03; OMAP 87-2003(Temp), f. & cert. ef. 12-15-03 thru 5-15-04; OMAP 9-2004, f. 2-27-04, cert. ef. 3-1-04; OMAP 71-2004, f. 9-15-04, cert. ef. 10-1-04; OMAP 74-2004, f. 9-23-04, cert. ef. 10-1-04; OMAP 89-2004, f. 11-24-04 cert. ef. 12-1-04; OMAP 4-2006(Temp), f. & cert. ef. 3-15-06 thru 9-7-06; OMAP 32-2006, f. 8-31-06, cert. ef. 9-1-06; OMAP 41-2006, f. 12-15-06, cert. ef. 1-1-07; DMAP 4-2007, f. 6-14-07, cert. ef. 7-1-07; DMAP 26-2007, f. 12-11-07, cert. ef. 1-1-08; DMAP 9-2008, f. 3-31-08, cert. ef. 4-1-08; DMAP 16-2008, f. 6-13-08, cert. ef. 7-1-08; DMAP 34-2008, f. 11-26-08, cert. ef. 12-1-08; DMAP 14-2009 f. 6-12-09, cert. ef. 7-1-09; DMAP 39-2009, f. 12-15-09, cert. ef. 1-1-10; DMAP 17-2010, f. 6-15-10, cert. ef. 7-1-10; DMAP 40-2010, f. 12-28-10, cert. ef. 1-1-11; DMAP 27-2011(Temp), f. & cert. ef. 9-30-11 thru 3-15-12; DMAP 44-2011, f. 12-21-11, cert. ef. 1-1-12; DMAP 12-2012(Temp), f. & cert. ef. 3-16-12 thru 9-11-12; DMAP 18-2012, f. 3-30-12, cert. ef. 4-9-12; DMAP 23-2012(Temp), f. & cert. ef. 4-20-12 thru 10-15-12; DMAP 27-2012(Temp), f. & cert. ef. 5-14-12 thru 10-15-12

Oregon Health Authority, Office for Oregon Health Policy and Research Chapter 409

Rule Caption: Physician Credentialing and Recredentialing Rules.

Adm. Order No.: OHP 3-2012

Filed with Sec. of State: 5-1-2012

Certified to be Effective: 5-1-12

Notice Publication Date: 2-1-2012

Rules Amended: 409-045-0000

Rules Repealed: 409-045-0000(T)

Subject: The Oregon Health Authority, Office for Oregon Health Policy and Research is implementing amendments to the Physician Credentialing and Recredentialing forms for 2012 as approved by the Advisory Committee on Physician Credentialing Information on September 28, 2011.

Rules Coordinator: Zarie Haverkate—(503) 373-1574

409-045-0000

Physician Credentialing, Health Care Service Contractors

(1) The Oregon Practitioner Credentialing Application and the Oregon Practitioner Recredentialing Application, both of which were approved by the Advisory Committee on Physician Credentialing Information (ACPCI) on September 28, 2011, and both of which carry that date, are adopted with respect to hospitals and health care service contractors as Exhibits 1 and 2 to this rule.

(2) Each hospital and health care service contractor shall use the application forms adopted in section (1) of this rule.

(3) This rule is adopted pursuant to the authority of ORS 442.807 for the purpose of enabling the collection of uniform information necessary for hospitals and health care service contractors to credential physicians seeking designation as a participating practitioner for a health plan, thereby implementing ORS 442.800 to 442.807 with respect to hospitals and health care service contractors.

Stat. Auth.: ORS 442.807

Stats. Implemented: ORS 442.800 - 442.807

ADMINISTRATIVE RULES

Hist.: OHP 1-2012(Temp), f. & cert. ef. 1-11-12 thru 6-30-12; OHP 3-2012, f. & cert. ef. 5-1-12

**Oregon Health Authority,
Oregon Educators Benefit Board
Chapter 111**

Rule Caption: Amendments to the OEBB procurement and contracting rules.

Adm. Order No.: OEBB 2-2012

Filed with Sec. of State: 4-18-2012

Certified to be Effective: 4-18-12

Notice Publication Date: 3-1-2012

Rules Amended: 111-005-0040, 111-005-0042

Rules Repealed: 111-005-0040(T), 111-005-0042(T)

Subject: The current rule language in 111-005-0040 and 111-005-0042 does not specifically support the most judicious process for releasing the names of vendors submitting proposals for the OEBB Board's consideration. The amendments made in 111-005-0040 and 111-005-0042 reflects the process OEBB has used since its inception and is consistent with the type of services the OEBB Board contracts for.

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

111-005-0040

Extensive Procurement Process

The Board will use the following procedure except as provided for under OAR 111-005-0046 or 111-005-0048.

(1) Announcement. The Board will post solicitation notices for benefits via the Oregon Procurement and Information Network (ORPIN). The Board may also post solicitation notices for benefits in trade periodicals or newspapers of general or specialized circulation. The solicitation notice will include a description of the benefits or services sought, the scope of the services required, evaluation and selection criteria, and a description of any special requirements. The notice will invite qualified prospective proposers to submit proposals. The notice will specify when and where to obtain the RFP, where to return the proposal, the method of submission, and the closing date.

(2) No remuneration will be offered to prospective proposers for attendance, travel, document preparation, etc. Unless otherwise specified in the RFP, the pre-proposal conference will:

- (a) Be voluntary; and
 - (b) Be held in Salem, Oregon.
- (3) RFP protest; request for change or request for clarification.

(a) Protest.

(A) A proposer may deliver a protest to the Board not less than ten calendar days prior to closing, unless otherwise specified in the RFP.

(B) Proposer protests must be in writing and must include:

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

(ii) A description of the resulting prejudice to the proposer; and

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

(C) The Board will not consider a proposer's protest after the submission deadline.

(i) The Board will provide notice to the applicable entity if it entirely rejects a protest. If the Board agrees with the entity's protest, in whole or in part, the Board will issue an addendum reflecting its determination under OAR 137-030-0055 and 137-047-0430 or cancel the solicitation under 137-030-0115.

(ii) If the Board receives a written protest from a proposer according to this rule, the closing may be extended if the Board determines an extension is necessary to consider the protest and to issue any addendum to the RFP.

(b) Request for change.

(A) A proposer may request in writing a change to the RFP specifications, unless otherwise specified in the RFP. If the RFP allows a proposer to make a request for changes and does not specify otherwise, proposer must deliver the written request for change to the Board not less than ten calendar days prior to closing.

(B) A proposer's written request for change must include a statement of the requested changes to the RFP specifications, including the reason for the requested change.

(C) The Board will not consider a proposer's request for change after the submission deadline.

(i) The Board will provide notice to the applicable entity if it entirely rejects a change. If the Board agrees with the entity's request for change, in whole or in part, the Board will issue an addendum reflecting its determination under OAR 137-030-0055 and 137-047-0430 or cancel the solicitation under 137-030-0115.

(ii) If the Board receives a written request for a change from a proposer according to this rule, closing may be extended if the Board determines an extension is necessary to consider the request and to issue any addendum to the RFP.

(c) Request for clarification.

(A) A proposer may request in writing clarification of the RFP specifications, unless otherwise specified in the RFP. If the RFP allows a proposer to make a request for clarification and does not specify otherwise, a proposer must deliver the written request for clarification to the Board not less than ten calendar days prior to closing.

(B) A proposer may request that the Board clarify any provision of the RFP.

(C) The Board will not consider a proposer's request for clarification after the submission deadline. The Board's clarification to a proposer, whether orally or in writing, does not change the RFP and is not binding on the Board unless the Board amends the RFP by addendum.

(4) Addenda to an RFP following an appeal or request for change or clarification.

(a) Issuance; receipt. The Board may change an RFP only by written addenda. A proposer must provide written acknowledgement of receipt of all issued addenda with its proposal, unless the Board otherwise specifies in the addenda.

(b) Notice and distribution. The RFP must specify how the Board will provide notice of addenda and how the Board will make the addenda available.

(c) Timelines; extensions. The Board will issue addenda within a reasonable time to allow prospective proposers to consider the addenda in preparing their proposals. The Board may extend the closing if the Board determines prospective proposers need additional time to review and respond to addenda. The Board will not issue addenda less than 72 hours before the closing unless an addendum also extends the closing, except to the extent required by public interest.

(d) Request for change or protest. A proposer may submit a written request for change or protest to the addendum by the close of the Board's next business day after issuance of the addendum, unless a different deadline is set forth in an addendum.

(5) Submission. All proposals submitted must comply with the procurement's specifications.

(a) If portions of the proposal to any solicitation are deemed unacceptable or non-responsive to the specifications of the solicitation, the proposal will be deemed non-responsive and will not be given further evaluation or consideration. If a proposal to any solicitation is delivered late, it will be deemed non-responsive to the specification of the solicitation and will be returned to the proposer unopened.

(b) Submission of proposals must be in written hard copy or electronic format and delivered, as required by the specifications of the solicitation. OEGB is not responsible for unreadable or incomplete electronic transmissions of proposals or for electronic transmissions that are not received by the designated OEGB recipient by the closing date and time stated in the RFP.

(6) Evaluation. The Selection Committee will evaluate proposals only in accordance with criteria set forth in the RFP and applicable law. The Selection Committee and/or Consultants will provide their recommendations to the Board on the apparent successful proposer(s).

(7) Rejection of proposal. The Board may reject any proposal for good cause and deem it as non-responsive upon written finding that it is in the states', Educational Entities', or Employees, Early Retirees and their Dependents' interest to do so or acceptance of the proposal may impair the integrity of the procurement process. The Board will notify the proposer of its rejection of the proposal in writing and provide the good cause justification and finding. OEGB is not liable to any Proposer for any loss or expense caused by or resulting from any rejection, cancellation, delay or suspension. Without limiting the generality of the foregoing, the Board may reject any Proposal upon OEGB's finding that the Proposal:

(a) Is contingent upon OEGB's acceptance of terms and conditions (including Specifications) that differ from the RFP;

(b) Takes exception to terms and conditions set forth in the RFP;

(c) Attempts to prevent public disclosure of matters in contravention of the terms and conditions of the RFP or in contravention of applicable law;

ADMINISTRATIVE RULES

(d) Offers services that fail to meet the specifications of the RFP;
(e) Is late;
(f) Is not in substantial compliance with the RFP;
(g) Is not in substantial compliance with all prescribed procurement procedures;

(h) Is from a Proposer that has been debarred as set forth in ORS 279B.130;

(i) Has failed to provide the certification of non-discrimination required under ORS 279A.110(4); or

(j) Is from a Proposer found non-responsible as described in OAR 111-005-0055.

(8) Intent to award, discuss or negotiate. After the protest period provided in subsection (3)(a) expires, or after the Board has provided a final response to any protest, whichever date is later, the Board may engage in discussions and negotiations with proposers in the competitive range.

(9) Discussions and negotiations. If the Board chooses to enter into discussions and negotiations with the Proposers in the competitive range, the Board will proceed as follows:

(a) Initiating discussions. The Board must initiate oral or written discussions and negotiations with all of the proposers in the competitive range regarding their proposals.

(b) Conducting discussions. The Board may conduct discussions and negotiations with each proposer in the competitive range as necessary to fulfill the purposes of this section, but need not conduct the same amount of discussions or negotiations with each proposer. The Board may terminate discussions and negotiations with any proposer in the competitive range at any time. All proposers in the competitive range will be offered the opportunity to discuss their proposals with the Board before the Board notifies proposers of the award decisions. In conducting discussions, the Board and any designated representatives:

(A) Will treat all proposers fairly and will not favor any proposer over another.

(B) Will not discuss proposers' proposals with any other proposers and will maintain all proposals as confidential documents to the extent permitted by the Public Records Law.

(C) Will not divulge the name of the proposers or the content of the proposals until cost negotiations are complete or an apparent successful proposer has been announced.

(D) Will determine whether other factors, including but not limited to, Oregon residency of the primary business office and proposer demonstration of services and products, will be used to determine the apparent successful proposer, if a tie between proposers occurs.

(c) At any time during the period allowed for discussions and negotiations, the Board may:

(A) Continue discussions and negotiations with a particular proposer or proposers; or

(B) Terminate discussions with a particular proposer and continue discussions with other proposers in the competitive range.

(d) The Board may continue discussions and negotiations with proposers until determining who will be awarded contracts.

(10) Notice of intent to award. The Board will provide written notice to all proposers of intent to award the contract, unless otherwise provided in the RFP. The Board's award will not be final until the later of the following:

(a) Seven calendar days after the date of the notice, unless the RFP provided a different period for protest; or

(b) The Board's written response to all timely filed protests that denies the protests and affirms the award.

(11) Right to protest award. An adversely affected or aggrieved proposer may submit to the Board a written protest of the Board's intent to award. The protest must be made within seven calendar days after issuance of the notice of intent to award the contract, unless otherwise specified in the RFP.

(a) The proposer's protest must be in writing and must specify the grounds upon which the protest is based.

(b) A proposer is adversely affected or aggrieved only if the Proposer would be eligible to be awarded the contract in the event that the protest were successful, and the reason for the protest is that:

(A) All higher ranked Proposals are nonresponsive;

(B) OEBB has failed to conduct the evaluation of Proposals in accordance with the criteria or processes described in the RFP;

(C) OEBB has abused its discretion in rejecting the protestor's Proposal as nonresponsive; or

(D) OEBB's evaluation of Proposals or OEBB's subsequent determination of award is otherwise in violation of OEBB's rules or ORS 243.860 to 243.886.

(c) The Board will not consider a protest submitted after the time period specified in this section or a different period if provided in the RFP.

(d) The Board Chair, or designee, has the authority to settle or resolve a written protest meeting the submission requirements of this rule.

(e) If a protest is not settled, the Board Chair, or designee, will promptly issue a written decision on the protest. Judicial review of this decision will be available if provided by statute.

(12) Award of contracts. The Board will approve the apparent successful proposer(s) based on the Selection Committee and/or Consultants recommendation and the evaluation criteria included in OAR 111-002-0005(3) and the RFP including, but not limited to, contractor or consultant availability; capability; experience; approach; compensation requirements; previous litigation and remedy applied; customer service history with the OEBB, members and clients; debarment status; and references.

(13) Confidentiality: Until after the notice of intent to award and contract is issued, Proposals are not required to be open for public inspection, and OEBB shall in good faith seek to protect Proposals from disclosure under ORS 192.502(4) as a confidential submission or under other applicable exemptions from disclosure. There will be no public opening of proposals. OEBB will not disclose the content of proposals, the number of proposals submitted, or the names of the proposers that submitted proposals until after the notice of intent to award. That information may then be obtained by means of a "Public Records Request" submitted to OEBB. The Intent to Award letter sent to each individual proposer will include the name of the Apparent Successful Proposer and the name and ranking of each proposer that ranked higher than the individual proposer receiving the Intent to Award letter. After the notice of intent to award and contract is issued, OEBB may withhold from disclosure to the public, materials included in a Proposal that are exempt or conditionally exempt from disclosure under ORS 192.501 or 192.502.

(14) Contract. The successful proposer must promptly execute the contract after the award is final and all contractual terms and conditions have been negotiated and agreed upon. The Board Chair, or designee, will execute the contract only after it has obtained all applicable required documents and contractor signatures.

Stat. Auth.: Ch. 7 OL 2007

Stats. Implemented: Sec. 19, Ch. 7 OL 2007

Hist.: OEBB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08; OEBB 1-2008, f. & cert. ef. 1-4-08; OEBB 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEBB 10-2011, f. & cert. ef. 5-3-11; OEBB 1-2012(Temp), f. & cert. ef. 1-13-12 thru 7-10-12; OEBB 2-2012, f. & cert. ef. 4-18-12

111-005-0042

Intermediate Procurement Process

For an intermediate procurement, the Board will use the following procedure except as provided for under OAR 111-005-0046 or 111-005-0048.

(1) Announcement. The Board will post solicitation notices for benefits via the Oregon Procurement and Information Network (ORPIN). The Board may also post solicitation notices for benefits in trade periodicals or newspapers of general or specialized circulation. The notice will include a description of the benefits or services sought, the scope of the services required, and a description of any special requirements. The notice will invite qualified prospective proposers to submit proposals. The notice will specify when and where to obtain the RFP and return the proposal and the closing date.

(2) Submission. All submitted proposals must comply with the RFP's specifications. If portions of the proposal to any solicitation are deemed unacceptable or non-responsive to the specifications of the solicitation, the proposal will be deemed non-responsive and will not be given further evaluation or consideration. If a proposal to any solicitation is delivered late, it will be deemed non-responsive to the specification of the solicitation and will be returned to the proposer unopened.

(a) Submission of proposals must be in written hard copy or electronic format and delivered as required by the specifications of the solicitation. OEBB is not responsible for unreadable or incomplete electronic transmissions of proposals or for electronic transmissions that are not received by the designated OEBB recipient by the closing date and time stated in the RFP.

(b) The proposal from the prospective proposer will describe the proposer's credentials, performance data and other information sufficient to establish proposer's qualifications for providing the benefits sought and all other information requested in the RFP.

ADMINISTRATIVE RULES

(3) Opening. There will be no public opening of proposals. OEGB will not disclose the content of proposals, the number of proposals submitted, or the names of the proposers that submitted proposals until after the notice of intent to award. That information may then be obtained by means of a "Public Records Request" submitted to OEGB. The Intent to Award letter sent to each individual proposer will include the name of the Apparent Successful Proposer and the name and ranking of each proposer that ranked higher than the individual proposer receiving the Intent to Award letter.

(4) Evaluation. The Selection Committee will evaluate proposals only in accordance with criteria set forth in the RFP and applicable law. The Selection Committee and/or Consultants will provide their recommendations to the Board on the apparent successful proposer(s).

(5) Discussions and negotiations. If the Board chooses to enter into discussions and negotiations with the proposers, the Board:

(a) Will treat all proposers fairly and will not favor any proposer over another.

(b) Will not discuss proposers' proposals with any other proposers and will maintain all proposals as confidential documents.

(c) Will not divulge the name of the proposers or the content of the proposals until cost negotiations are complete. (d) Will determine whether other factors, including but not limited to, Oregon residency of the primary business office and proposer demonstration of services and products, will be used to award the contract.

(6) Notice of intent to award. The Board will provide written notice to all proposers of intent to award the contract, unless otherwise provided in the RFP. The Board's award will not be final until the later of the following:

(a) Seven calendar days after the date of the notice, unless the RFP provided a different period for protest; or

(b) The Board's written response to all timely filed protests that denies the protests and affirms the award.

(7) Right to protest award. An adversely affected or aggrieved proposer may submit to the Board a written protest of the Board's intent to award. The protest must be made within seven calendar days after issuance of the notice of intent to award the contract, unless otherwise specified in the RFP.

(a) The proposer's protest must be in writing and must specify the grounds upon which the protest is based.

(b) A proposer is adversely affected or aggrieved only if:

(A) the proposer is eligible for award of the contract as a responsible proposer; and

(B) the Board committed a substantial violation of a provision in the RFP or of an applicable procurement statute or administrative rule.

(c) The Board will not consider a protest submitted after the time period specified in this section or a different period if provided in the RFP.

(d) The Board Chair, or designee, has the authority to settle or resolve a written protest meeting the submission requirements of this rule.

(e) If a protest is not settled, the Board Chair, or designee, will promptly issue a written decision on the protest. Judicial review of this decision will be available if provided by statute.

(8) Award of contracts. The Board will approve the apparent successful proposer(s) based on the evaluation the Selection Committee and/or Consultant recommendation and the criteria included in OAR 111-002-0005(3) and the RFP including, but not limited to, contractor availability; capability; experience; approach; compensation requirements; previous litigation and remedy applied; customer service history with the OEGB, members and clients; debarment status; and references. The Board will place emphasis on employee choice among high-quality plans, plan performance and information, a competitive marketplace, employer flexibility in plan design and contracting, quality customer service, creativity and innovation and the improvement of employee health.

(9) Confidentiality: Until after the notice of intent to award and contract is issued, Proposals are not required to be open for public inspection, and OEGB shall in good faith seek to protect Proposals from disclosure under ORS 192.502(4) as a confidential submission or under other applicable exemptions from disclosure. After the notice of intent to award and contract is issued, OEGB may withhold from disclosure to the public, materials included in a Proposal that are exempt or conditionally exempt from disclosure under ORS 192.501 or 192.502.

(10) Contract. The successful proposer must promptly execute the contract after the award is final. The Board Chair, or designee, will execute the contract only after it has obtained all applicable required documents and contractor signatures.

(11) An amendment for additional services shall not increase the total contract cost to a sum that is greater than twenty-five percent of the original contract cost.

Stat. Auth.: ORS 243.860 – 243.886

Stats. Implemented: ORS 243.864

Hist.: OEGB 1-2007(Temp), f. & cert. ef. 7-23-07 thru 1-4-08; OEGB 1-2008, f. & cert. ef. 1-4-08; OEGB 18-2010(Temp), f. & cert. ef. 12-13-10 thru 6-10-11; OEGB 10-2011, f. & cert. ef. 5-3-11; OEGB 1-2012(Temp), f. & cert. ef. 1-13-12 thru 7-10-12; OEGB 2-2012, f. & cert. ef. 4-18-12

Rule Caption: Removes limits on plan selection options and adopts language for a new benefit plan offering.

Adm. Order No.: OEGB 3-2012(Temp)

Filed with Sec. of State: 4-20-2012

Certified to be Effective: 4-20-12 thru 10-16-12

Notice Publication Date:

Rules Adopted: 111-030-0047

Rules Amended: 111-030-0005, 111-030-0010

Subject: Amended language in 111-030-0005 and 111-030-0010 removes limits on the number of plan options effective the 2012–2013 plan year. 111-030-0047 is new language that details the development of a new benefit plan, flexible spending accounts.

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

111-030-0005

Benefit Plans Selection through OEGB

(1) As used in this section, "benefit plans" includes medical, dental, pharmaceutical, dental, basic life and accidental death and dismemberment, optional life and AD&D, short and long term disability, long term care and employee assistance program.

(2) OEGB will offer a range of benefit plans that provide the flexibility to choose between a number of high quality plan options.

(3) The process for the 2012-13 Plan Year benefit plan selection includes:

(a) OEGB releases preliminary designs and costs for all benefit plan options to Educational Entities no later than 45 days prior to final selection date. The total number offered may vary each year.

(b) OEGB will pre-populate the MyOEGB Educational Entity Plan Management section with all medical, dental and vision plans available in the Educational Entity's service area.

(c) Educational Entities may choose to, or allow each Employee Group to choose to, de-select benefit plan options to be offered to each Employee Group unless otherwise specified in an OEGB administrative rule.

(d) Final benefit plan selections for each Employee Group must be submitted through the MyOEGB Educational Entity plan management section or an approved electronic format to OEGB no later than June 15 each year for the following plan year. Plan selections must be authorized by an official with the Educational Entity.

Stat. Auth.: ORS 243.860 – 243.886

Stats. Implemented: ORS 243.864(1)(a), 243.868 (1) & 243.872(2)

Hist.: OEGB 8-2008, f. 6-25-08, cert. ef. 6-26-08; OEGB 13-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEGB 20-2009, f. & cert. ef. 12-17-09; OEGB 8-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEGB 2-2011, f. & cert. ef. 2-11-11; OEGB 3-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-030-0010

Medical, Pharmaceutical, Dental and Vision Plan Selection Criteria

Effective October 1, 2012, Educational Entities may choose or allow all medical, dental and vision plans available in the service area to be available to some or all Entity Employee Groups with the following exception: The HMO vision plan offered through Kaiser Permanente is only available if the HMO medical plan offered through Kaiser Permanente is available.

Stat. Auth.: ORS 243.860 – 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEGB 8-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEGB 2-2011, f. & cert. ef. 2-11-11; OEGB 3-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-030-0047

Development of Flexible Spending Accounts

(1) Effective October 1, 2012, OEGB will offer the use of an employer sponsored vendor for Flexible Spending Accounts (FSAs) including a Health Care Flexible Spending Account, Limited Health Care Spending Account and Dependent Care Flexible Spending Account.

(2) If an Educational Entity chooses to offer an employer sponsored FSA, the Educational Entity may offer this plan through the OEGB-contracted FSA vendor.

ADMINISTRATIVE RULES

(3) Eligible employees who are eligible to enroll in an FSA, and choose the employer sponsored FSA vendor, do so directly through their Educational Entity.

(4) Eligible employees must meet requirements established by the Internal Revenue Service (IRS) to qualify for enrollment in an FSA. Once enrolled in an FSA, members are responsible to adhere to tax requirements of the IRS.

Stat. Auth.: ORS 243.860 – 243.886
Stats. Implemented: ORS 243.874(5)
Hist.: OEBB 3-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

Rule Caption: Amendments to these enrollment rules clarifies existing language.

Adm. Order No.: OEBB 4-2012(Temp)

Filed with Sec. of State: 4-20-2012

Certified to be Effective: 4-20-12 thru 10-16-12

Notice Publication Date:

Rules Amended: 111-040-0001, 111-040-0005, 111-040-0010, 111-040-0015, 111-040-0020, 111-040-0025, 111-040-0030, 111-040-0040, 111-040-0050

Subject: Amendments to 111-040-0001, 111-040-0005, 111-040-0010, 111-040-0020, 111-040-0030 and 111-040-0050 clarify existing language in rule. 111-040-0015 expands language on eligibility audits. 111-040-0025 tightens the timeframe on correcting processing errors and also gives the OEBB Administrator the authority to grant exceptions to the OEBB Administrative Rules. 111-040-0040 removes some events as Qualified Status Change events which are written and explained in other parts of the rule. OEBB's review of these rules prompted revisions to keep language used in contracts with carriers, communication materials and everyday language consistent with our administrative rules.

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

111-040-0001

Effective Dates

(1) Effective Dates for Newly Eligible Employees. Initial benefit elections, unless otherwise specified in a collective bargaining agreement or documented district policy in effect on June 30, 2008, are effective on the later of:

(a) The first of the month following a completed online enrollment in the OEBB benefit management system or submission of a paper enrollment or change form, or

(b)(A) The first of the month following the date of hire or the date of eligibility; with the following exception:

(B) The first of the month following approval of Evidence of Insurability for Optional Life Insurance above the guarantee issue amount, Long Term Disability, or Long Term Care insurance.

(2) Effective Dates for Qualified Status Changes. Covered dependent changes are effective the first of the month following the date of the event causing the dependent to be eligible under OEBB administrative rules with the following exceptions:

(a) Coverage for a newborn child is effective on the date of birth. The active eligible employee must add the newborn child to their benefit plans within 60 calendar days from the date of birth in order for the newborn child to be eligible for benefit coverage.

(b) Coverage for a newly adopted child is effective the date of the adoption decree or date of placement for adoption. The active eligible employee must add the adopted child to their benefit plans within 60 calendar days from the date of the decree or placement in order for the newly adopted child to be eligible for benefit coverage; and

(A) The active eligible employee must submit the adoption agreement with the enrollment forms to the Educational Entity.

(B) Claims payments will not be made for expenses incurred prior to the date of decree or placement.

(c) Coverage for an eligible grandchild is as follows:

(A) If the legal guardianship is finalized within the first 60 days following the birth of the grandchild, coverage will be effective retroactive to the date of the birth.

(B) If the legal guardianship is finalized 61 or more days from the date of birth of the grandchild, the coverage will be effective the first of the month following the date the guardianship documents are finalized.

(C) If the legal guardianship is finalized 61 to 180 days from the date of birth of the grandchild, and the effective date of legal guardianship is retroactive to the grandchild's date of birth, coverage will be effective

retroactive to the date of birth. If legal guardianship is finalized after 180 days coverage will be effective the first of the month following the date the guardianship documents are finalized.

(d) The first of the month following approval of Evidence of Insurability for Optional Spouse/Domestic Partner Life insurance above the guaranteed issue amount, if applicable, or Long Term Care Insurance.

(3) Elections made during an open enrollment period are effective on the first day of the new plan year. There will be a 12-month waiting period for services other than preventive dental exams and cleanings and/or routine vision exams for coverage added during the open enrollment period if enrolling in a dental or vision plan in which the employee and/or dependents were previously eligible.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 14-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 21-2009, f. & cert. ef. 12-17-09; OEBB 9-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 12-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 3-2011, f. & cert. ef. 2-11-11; OEBB 17-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; OEBB 23-2011, f. & cert. ef. 12-14-11; OEBB 4-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-040-0005

Termination Dates

(1) Effective October 1, 2011, if an active eligible employee requests a termination of coverage for them self, a spouse, a domestic partner, or a child, coverage ends on the last day of the month that eligibility is lost. Requests for coverage termination must be made consistent with a Qualified Status Change as defined by 111-040-0040.

(2) Retroactive termination of coverage may be made in the event of a delay in the Educational Entities' reconciliation process and shall generally be within 14 days of receiving notification from the employee of the qualified status change event and requested benefit changes.

(3) Effective October 1, 2011, benefit coverage termination that is considered by OEBB to be intentional misrepresentation may be rescinded in compliance with the law. If this occurs, OEBB shall give the affected individual 30 days notice of the rescission of benefit coverage and an opportunity to appeal before the rescission takes effect.

(4) Benefit coverage for active eligible employees ends on the last day of the month that they retire, unless otherwise determined in a collective bargaining agreement or documented district policy in effect on June 30, 2008. Benefit coverage may be continued based on the requirements and limitations in OARs 111-050-0001 through 111-050-0050.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 12-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 3-2011, f. & cert. ef. 2-11-11; OEBB 23-2011, f. & cert. ef. 12-14-11; OEBB 4-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-040-0010

Newly-hired and Newly-eligible Active Eligible Employees

(1) Newly-hired and newly-eligible employees must enroll in OEBB-sponsored benefit plans through the OEBB benefit management system or paper equivalent within 31 calendar days of the date of hire or date of eligibility, unless determined otherwise in a separate OEBB administrative rule or in a collective bargaining agreement or documented district policy in effect on June 30, 2008.

(2) An employee enrolling in OEBB-sponsored benefit plans and terminating employment before the effective date of benefit coverage is not eligible to receive benefits.

Stat. Auth.: 2007 OL Ch. 7

Stats. Implemented: 2007 OL Ch. 7, Sec. 3

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 4-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-040-0015

Removing an Ineligible Individual from Benefit Plans

(1) An active employee who enrolls them self and / or an eligible person is responsible for removing spouses, domestic partners and children from their OEBB-sponsored benefit plans by submitting completed, applicable forms to their Educational Entity benefits administrator within 31 calendar days after the date the individual becomes ineligible. Coverage ends on the date identified under OAR 111-040-0005.

(2) An Educational Entity is responsible for removing ineligible individuals from the OEBB benefits management system. The Educational Entity must complete such removal within 14 calendar days after:

(a) An event resulting in loss of the employee's eligibility, or

(b) The receipt of notification of an event resulting in loss of eligibility of the employee's spouse, domestic partner or child.

ADMINISTRATIVE RULES

(3) If coverage of an employee's spouse, domestic partner or child is terminated retroactively then:

(a) The employee may be responsible for claims previously paid by the benefit plans to the providers during the period of ineligibility at the carrier's discretion; and

(b) Premium adjustments will be made retroactively based on the coverage end date.

(4) OEBB shall conduct audits to monitor compliance with OEBB administrative rules governing eligibility and enrollment. Eligibility audits will occur at different times throughout the plan year. The member is responsible to submit documentation upon request. In the event the member does not provide the required documentation in a timely manner to sufficiently prove the dependent meets eligibility requirements, or the documentation provided is insufficient, the dependent's coverage will be terminated. Retroactive terminations may occur if the documentation provided shows the dependent was not eligible for coverage and the member misrepresented the dependent as being an eligible dependent as defined by OAR 111-080-0045.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 9-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 12-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 3-2011, f. & cert. ef. 2-11-11; OEBB 17-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; OEBB 23-2011, f. & cert. ef. 12-14-11; OEBB 4-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-040-0020

Open Enrollment

(1) Eligible employees may make benefit plan changes or elections and add or remove eligible dependents during open enrollment periods as designated by OEBB.

(2) Coverage under OEBB-sponsored benefits plans for an eligible individual added during open enrollment begins on the first day of the new plan year. Dental and vision coverage added during the open enrollment period will be limited to preventive dental exams and cleanings and routine vision exams for the first 12 months of coverage, if the eligible individual and/or their eligible dependents were eligible for the coverage directly prior to the beginning of the new plan year. Coverage for an individual terminated during open enrollment ends on the last day of the month of the current plan year.

(3) Benefit plan elections are irrevocable for the new plan year except as specified in OAR 111-040-0040.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 12-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 3-2011, f. & cert. ef. 2-11-11; OEBB 4-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-040-0025

Correcting Enrollment and Processing Errors

(1) Employee Enrollment Errors. Enrollment errors occur when an Eligible Employee provides incorrect information or fails to make correct selections when making benefit plan elections. The Eligible Employee is responsible for identifying enrollment errors or omissions.

(a) OEBB authorizes Educational Entities to correct enrollment errors reported by the Eligible Employee within 45 calendar days of the original eligibility date, open enrollment period end date, or Qualified Status Change date.

(b) Enrollment errors identified after 45 calendar days of the eligibility date, open enrollment period end date or Qualified Status Change date must be submitted to OEBB for review and approval based on OAR 111-080-0030.

(2) Benefit Administrator Processing Errors. Processing errors or omissions occur when benefit plan elections are processed incorrectly in the benefit system or when a newly eligible employee does not receive correct enrollment information.

(a) OEBB authorizes Educational Entities to correct processing errors identified within 45 calendar days of the eligibility date, open enrollment period end date, or Qualified Status Change date. The Educational Entity must reconcile all premium discrepancies.

(b) Processing errors identified after 45 calendar days of the eligibility date, open enrollment period end date, or Qualified Status Change date must be submitted to OEBB for review and approval based on OAR 111-080-0030. The Educational Entity must reconcile all premium discrepancies within 30 calendar days of any adjustments made in the system.

(3) The effective date for the correction of either an employee enrollment error or benefit administrator error is retroactive to the original effective date as identified in OAR 111-040-0001.

(4) The OEBB Administrator has the authority to grant exceptions to OEBB's Administrative Rules when there are extenuating circumstances which can be supported by documentation and verified by OEBB staff.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 14-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 21-2009, f. & cert. ef. 12-17-09; OEBB 9-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 3-2011, f. & cert. ef. 2-11-11; OEBB 17-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; OEBB 23-2011, f. & cert. ef. 12-14-11; OEBB 4-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-040-0030

Late Enrollment

(1) Late enrollment occurs when an active eligible employee fails to notify their educational entity of the Qualified Status Change within 31 calendar days of:

(a) The date of hire or other benefit eligibility date as identified in OAR 111-040-0001;

(b) The date a spouse, domestic partner, or child gains eligibility;

(c) The date of marriage to a spouse who was most recently enrolled as a domestic partner; or

(d) The date of birth of the employee's biological newborn child;

(e) The date the child was adopted or the date the employee became the legal guardian.

(2) OEBB authorizes Educational Entities to add and/or enroll eligible employees and dependents within 45 calendar days of the eligibility dates referenced in sections (1)(a), (1)(b), and (1)(c) and within 60 calendar days of the eligibility dates referenced in (1)(d) and (1)(e).

(3) OEBB must review and approve all late enrollment requests based on OAR 111-080-0030 when the request and enrollment is made more than 45 calendar days after the eligibility dates referenced in sections (1)(a), (1)(b), and (1)(c), and more than 60 calendar days after the eligibility dates referenced in sections (1)(d) and (1)(e).

(4) Approved late enrollment requests, unless determined otherwise in a collective bargaining agreement or documented district policy in effect on June 30, 2008, are effective the first of the month following the date the request is received by a district benefits administrator or OEBB, except for approved requests to add newborn children or newly adopted child which are retroactive to the month the child was born or adopted along with any premium adjustments.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 14-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 21-2009, f. & cert. ef. 12-17-09; OEBB 9-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 3-2011, f. & cert. ef. 2-11-11; OEBB 4-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-040-0040

Qualified Status Changes (QSC's)

(1) An Eligible Employees experiencing a change in family or work status as noted below after annual open enrollment, or anytime during the plan year, has 31 calendar days beginning on the date of the event to make changes. If the event is gaining a child, as defined by 111-040-0040(2)(c), or results in a loss of eligibility, the Eligible Employee has 60 calendar days after the event to make changes.

(2) An Eligible Employee can only make changes that are consistent with the event for them self and/or dependents.

(3) An Eligible Employee must report the Qualified Status Change (QSC) to the employee's Educational Entity within the specified timeframe. Failure to report a QSC that will result in removal of a spouse, domestic partner, or child within the timeframe stated in 111-040-0040(1) may be considered intentional misrepresentation, and OEBB may rescind the individual's coverage back to the last day of the month in which the individual lost eligibility. Please refer to the QSC matrix for details on what changes can occur with each event.

(4) Qualified Status Changes which allow the employee to make changes to his or her coverage are:

(a) Gain spouse by marriage or domestic partner by meeting domestic partner eligibility;

(b) Loss of spouse or domestic partner by divorce, annulment, death or termination of domestic partnership,

(c) Gain a child by birth, placement for/or adoption, or Domestic Partner's children (by affidavit of domestic partnership),

(d) Change in employee group which affects plan option availability;

(e) Spouse or domestic partner starts new employment or other change in employment status which affects eligibility;

ADMINISTRATIVE RULES

(f) Spouse or domestic partner's employment ends or other change in employment status resulting in a loss of eligibility under their employer's plan;

(g) Event by which a child satisfies eligibility requirements under OEBB plans;

(h) Event by which a child ceases to satisfy eligibility requirements under OEBB plans;

(i) Changes in the residence of the active eligible employee, spouse, domestic partner, or child (i.e., moving out of the service area of an HMO);

(j) Reinstatement of coverage. Reinstatement can be used in the following situations:

(A) Military (USERRA);

(B) When coverage was continued under COBRA

(C) When coverage was terminated in error and there is no lapse in coverage.

(k) Significant changes in cost of the Eligible Employee's or Early Retiree's current plan and tier level that result in a negative impact of 10 percent or more to:

(A) The amount an active Eligible Employee or Early Retiree must contribute toward benefits.

(B) The amount a spouse or domestic partner must contribute toward his or her group health insurance plan cost.

(l) Different Open Enrollment/Plan Year under a spouse/domestic partner's employer plan.

(m) Related laws or court orders. For example: Qualified Medical Child Support Order (QMSCO), Medicare, HIPAA, or Family Health Insurance Assistance Program (FHIAP). Changes are determined by the applicable law or court order.

(5) Changes in coverage, or contribution amounts that result in a reduced amount that an employee or eligible dependent must contribute toward benefits, do not constitute a Qualified Status Change.

(6) The following applies to the Long Term Care benefit plans only:

(a) Cancel the plan at anytime without a QSC event.

(b) Plan additions or changes require a QSC event as defined 111-040-0040(2). The addition of a plan or change in plans with a QSC is subject to a medical evidence review by the LTC carrier.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 14-2008, f. & cert. ef. 8-15-08; OEBB 10-2009(Temp), f. 5-4-09, cert. ef. 5-5-09 thru 10-31-09; OEBB 11-2009, f. & cert. ef. 7-31-09; OEBB 17-2009(Temp), f. & cert. ef. 10-7-09 thru 4-4-10; OEBB 22-2009, f. & cert. ef. 12-17-09; OEBB 2-2010(Temp), f. & cert. ef. 3-3-10 thru 8-29-10; OEBB 6-2010, f. & cert. ef. 8-3-10; OEBB 9-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 12-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 3-2011, f. & cert. ef. 2-11-11; OEBB 7-2011(Temp), f. & cert. ef. 2-15-11 thru 8-13-11; OEBB 11-2011, f. & cert. ef. 6-22-11; OEBB 17-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; OEBB 23-2011, f. & cert. ef. 12-14-11; OEBB 4-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-040-0050

Declination of Coverage

(1) As used in this section:

(a) "Opting out of coverage" means that an otherwise Eligible Employee elects not to enroll in a medical plan and is eligible to receive a portion of the cash contribution or other type of remuneration as provided for under a collective bargaining agreement, documented district policy, or employment contract.

(b) "Waiving benefits" means that an otherwise Eligible Employee elects not to enroll in any one of the benefit plans available under the OEBB-sponsored benefits program and is not eligible to receive any portion of a cash contribution or other type of remuneration.

(2) Unless otherwise specified in a collective bargaining agreement, documented district policy or employment contract in effect on July 1, 2008, an Eligible Employee may opt out of the OEBB-sponsored medical benefit plans. Eligible Employees electing to opt out must:

(a) Maintain coverage under another employer-sponsored group medical benefit plan;

(b) Meet the requirements of the district opt out program in which they are participating;

(c) Submit their election to opt out through the OEBB benefit management system; and

(d) If requested, provide proof of current coverage under another employer-sponsored group medical benefit plan.

(3) Eligible Employees electing to opt out of the OEBB-sponsored medical benefit plans may enroll in the dental benefit plans, vision benefit plans, and optional benefit plans.

(4) The level and type of funds and allowances retained by Eligible Employees and districts as a result of opt out programs are determined through collective bargaining agreements and documented district policies.

(5) An Educational Entity will provide OEBB with a written description of its opt out program upon request.

(6) An otherwise Eligible Employee may opt-out of medical if the criteria above are met, decline dental and/or vision, or elect any combination of benefits provided under the OEBB-sponsored benefits program, unless otherwise stated in a collective bargaining agreement or documented district policy.

(7) Elections to opt out of the medical benefit plans or waive benefits must be made at the time of hire, when initially meeting eligibility, during an open enrollment period, or following a QSC event whereby the OEBB QSC Matrix allows this as an option.

(a) Coverage for previously OEBB-eligible employees or a previously OEBB-eligible dependent enrolling in the dental and/or vision plans during an open enrollment period will be limited to routine and preventive care for the first 12 months and subject to a 12-month waiting period for orthodontia coverage.

(b) An Eligible Employee who enrolls in the dental or vision plans, or adds previously OEBB-eligible dependents to the dental and vision plans following and consistent with a QSC event will not be subject to waiting periods.

(9) An Eligible Employee electing to not enroll when initially eligible for optional insurance plans, or enrolling for more than the guarantee issue amount, will have to go through a medical review. Failure to remit a medical history statement or complete other requirements will result in a declination of requested amounts, or the amount above the guaranteed amount, if applicable.

(10) An Eligible Employee electing to not enroll when initially eligible for optional short term disability will be subject to a late enrollment penalty upon enrollment.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 9-2008, f. 6-25-08, cert. ef. 6-26-08; OEBB 14-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 21-2009, f. & cert. ef. 12-17-09; OEBB 9-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 3-2011, f. & cert. ef. 2-11-11; OEBB 4-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

Rule Caption: Amendments to these continuation of coverage rules clarifies existing language.

Adm. Order No.: OEBB 5-2012(Temp)

Filed with Sec. of State: 4-20-2012

Certified to be Effective: 4-20-12 thru 10-16-12

Notice Publication Date:

Rules Amended: 111-050-0010, 111-050-0015, 111-050-0016, 111-050-0020, 111-050-0025, 111-050-0030, 111-050-0035, 111-050-0045, 111-050-0050

Subject: Amendments to our Continuation of Coverage Division 50 rules are similar to those amendments in division 40, but apply to COBRA and Early Retiree population. OEBB's review of these rules prompted revisions to keep language used in contracts with carriers, communication materials and everyday language consistent with our administrative rules.

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

111-050-0010

Eligibility for Retiree Insurance Coverage

(1) An Eligible Early Retiree and their eligible dependents enrolled in an OEBB benefit plan or district benefit plan for active employees may continue participation in any OEBB retiree, dental, vision, life or accidental death and dismemberment insurance plan or plans available to his or her Employee Group if selected by an Educational Entity. Insurance coverage under the OEBB or district active benefit plans, as an employee or as a dependent of an employee, and retiree benefit plans must be continuous.

(2) Eligible Early Retirees and eligible dependents not yet eligible for Medicare due to age or a disability will have the option to continue enrollment in an OEBB retiree medical plan. Insurance coverage under the OEBB or district active benefit plan, as an employee or as a dependent of any employee, and the retiree benefit plan must be continuous.

(3) An Eligible Early Retiree must be:

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

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

ADMINISTRATIVE RULES

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

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

(4) An Eligible Early Retiree may continue medical, dental, vision, optional life and accidental death and dismemberment coverage for themselves only or may continue to cover any eligible dependents who were enrolled in the employee's active plan immediately prior to the retirement as long as the coverage and plan options are included in the plans offered by the Educational Entity.

(5) Basic life and basic accidental death and dismemberment requires 100 percent mandatory enrollment unless otherwise specified in a collective bargaining agreement in effect on or before September 30, 2009, and the Educational Entity can provide documentation that supports the administration of this benefit.

(6) A former Eligible Employee who elects COBRA and is also eligible for early retiree benefits or later becomes eligible as an Eligible Early Retiree will have the right to transfer the COBRA medical, dental, and vision insurance coverage to the OEBB early retiree benefit plans at any time during COBRA or within 30 days of the COBRA end date. Insurance coverage under the OEBB active, COBRA and early retiree benefit plans must be continuous.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 2-2007(Temp), f. & cert. ef. 9-21-07 thru 3-18-08; OEBB 7-2008, f. & cert. ef. 4-15-08; OEBB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 15-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 1-2010, f. & cert. ef. 2-1-10; OEBB 10-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11; OEBB 5-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-050-0015

Medical, Dental and Vision Termination Dates for Retirees

(1) An Eligible Early retiree enrolled in OEBB early retiree insurance plan that becomes eligible for Medicare coverage may not continue on an OEBB medical or vision plan, unless they are eligible as a result of end-stage renal disease. OEBB benefits end the last day of the month prior to the Medicare effective date. The retiree is responsible for reporting to their Educational Entity and to OEBB when the retiree is covered by Medicare within 31 days after the Medicare coverage effective date. Failure to report within this timeframe may be considered intentional misrepresentation by OEBB and OEBB may rescind OEBB coverage back to the last day of the month prior to the Medicare effective date.

(2) If an Eligible Early retiree becomes eligible for Medicare coverage, but his or her currently-enrolled eligible dependents are not, these eligible individuals may continue OEBB medical, dental and vision insurance coverage until such time as they no longer meet OEBB eligibility requirements or become eligible for Medicare coverage for reasons other than end-stage renal disease, whichever occurs first. The eligible individuals must confirm intent to continue coverage with the retiree plan administrator within 31 days after the retiree's eligibility for Medicare.

(3) Eligible dependents who were covered on a plan at the time of retirement who are eligible for Medicare, or who become eligible for Medicare, may not continue coverage on an OEBB medical or vision plan unless it is stated in a collective bargaining agreement or documented district policy in effect on or before February 1, 2010, that they may continue on OEBB medical plans until the retiree becomes eligible for Medicare with the following exception: OEBB coverage must end for Medicare-eligible dependents of a retiree enrolled on a Kaiser Permanente medical plan.

(4) If the Eligible Early retiree is responsible for self-paying all or partial premiums and fails to remit the premium amount to their Educational Entity, all coverage will terminate on the last day of the month in which premiums are paid in full to OEBB.

(5) Dental coverage may be continued subject to the Educational Entity's documented district policy or collective bargaining agreement. Coverage is based on the OEBB dental plans that the Educational Entity offers to retired OEBB Medicare-eligible individuals.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 2-2007(Temp), f. & cert. ef. 9-21-07 thru 3-18-08; OEBB 7-2008, f. & cert. ef. 4-15-08; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 15-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 1-2010, f. & cert. ef. 2-1-10; OEBB 13-2010(Temp), f. & cert. ef. 10-1-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11; OEBB 18-2011(Temp), f. & cert. ef. 10-1-11 thru 3-29-12; OEBB 24-2011, f. & cert. ef. 12-14-11; OEBB 5-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-050-0016

Life and Accidental Death and Dismemberment Termination Dates for Early Retirees

(1) Eligible Early Retirees may continue to participate in any or all coverage and plan options selected by the Educational Entity for his or her Employee Group until they reach age 65, unless otherwise specified in a documented district policy or collective bargaining agreement effective on or before February 1, 2010.

(2) Eligible Early Retirees or dependents of retirees who lose eligibility for basic or optional life insurance plans due to reaching age 65 can convert their coverage if requested within 31 days of the date the coverage ends. Requests for conversion of coverage must be made to the Life and AD&D insurance carrier.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 1-2010, f. & cert. ef. 2-1-10; OEBB 10-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11; OEBB 5-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-050-0020

Initial Enrollment

(1) An Eligible Early Retiree has 60 calendar days from the end date of active eligible employee insurance coverage to:

(a) Continue enrollment in OEBB-sponsored medical, dental, vision, basic life, basic accidental death and dismemberment, optional life and optional accidental death and dismemberment plans with the same eligible dependents which were included on your coverage as an active employee; provided they are offered by the Educational Entity.

(b) Disenroll eligible dependents covered during active enrollment. Dependents cannot be re-enrolled once they are dropped from coverage.

(c) Disenroll in any or all plans. Once a retiree drops coverage the retiree cannot re-enroll.

(d) Change medical plan to a less expensive medical plan if the Eligible Early Retiree is no longer receiving a monetary contribution.

(2) All coverage and dependent enrollments must be continuous from the date the active coverage ends.

(3) Coverage not elected at the time of initial eligibility for early retiree benefits cannot be added at a later date.

(4) An Eligible Early Retiree may choose to continue enrollment in an OEBB-sponsored medical plan, dental plan, basic life, basic accidental death and dismemberment, optional life, or optional accidental death and dismemberment plan, or any combination of these, unless determined otherwise by a collective bargaining agreement or documented district policy with the following restrictions:

(a) The Eligible Early Retiree must enroll in an OEBB-sponsored medical plan to continue an OEBB-sponsored vision plan; and

(b) The Eligible Early Retiree must be enrolled in an OEBB-sponsored optional life or optional accidental death and dismemberment plan to continue optional spouse or dependent life or accidental death and dismemberment, respectively.

(c) The Educational Entity offers the plan(s) to their retiree group.

(5) Plan Change Periods: OEBB will offer an annual plan change period for Eligible Early Retirees.

(6) An Eligible Early Retiree can change benefit plans consistent with members of their former active Employee Group.

(7) An Eligible Early Retiree may not add dependents or enroll in coverage(s) he or she did not select during the initial enrollment period.

(8) An Eligible Early Retiree may choose to reduce the amount of optional life and optional accidental death and dismemberment coverage for themselves and/or their dependents, but may not increase coverage in these plans.

(9) Qualified Status Changes (QSC): An Eligible Early Retiree may make changes consistent with the OEBB QSC Matrix.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 15-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 1-2010, f. & cert. ef. 2-1-10; OEBB 10-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11; OEBB 5-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-050-0025

Effective Dates

(1) Benefit plan changes or initial elections, unless otherwise specified in a collective bargaining agreement or documented district policy in effect on June 30, 2008, are effective on the first of the month following termination of the active employee coverages.

(2) Effective Dates for Qualified Status Changes. Covered dependent changes are effective the first of the month following the date of the event

ADMINISTRATIVE RULES

causing the dependent to be eligible under OEBB administrative rules with the following exceptions:

(a) Coverage for a newborn child is effective on the date of birth. Retired eligible employee must add the newborn child to their benefit plans within 60 calendar days from the date of birth for the newborn child to be eligible for benefit coverage.

(b) Coverage for a newly adopted child is effective the date of the adoption decree or date of placement for adoption. Retired eligible employee must add the adopted child to their benefit plans within 60 calendar days from the date of the decree or placement for the newly adopted child to be eligible for benefit coverage; and

(A) Eligible Early Retiree must submit the adoption agreement with the enrollment forms to the Educational Entity.

(B) Claims payments will not be made for expenses incurred prior to the date of decree or placement.

(c) Coverage for an eligible grandchild is as follows:

(A) If the legal guardianship is finalized within the first 60 days following the birth of the grandchild, coverage will be effective retroactive to the date of the birth.

(B) If the legal guardianship is finalized 61 or more days from the date of birth of the grandchild, the coverage will be effective the first of the month following the date the guardianship documents are finalized.

(C) If the legal guardianship is finalized 61 to 180 days from the date of birth of the grandchild, and the effective date of legal guardianship is retroactive to the grandchild's date of birth, coverage will be effective retroactive to the date of birth. If legal guardianship is finalized after 180 days coverage will be effective the first of the month following the date the guardianship documents are finalized.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 15-2009(Temp), f. & cert. ef. 7-31-09 thru 1-26-10; OEBB 1-2010, f. & cert. ef. 2-1-10; OEBB 10-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11; OEBB 18-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; OEBB 24-2011, f. & cert. ef. 12-14-11; OEBB 5-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-050-0030

Correcting Enrollment and Processing Errors

(1) Enrollment Errors. Enrollment errors occur when an Eligible Early Retiree provides incorrect information or fails to make correct selections when making benefit plan changes. The Eligible Early Retiree is responsible for identifying enrollment errors or omissions.

(a) OEBB authorizes Educational Entities to correct enrollment errors reported by the Eligible Early Retiree within 45 calendar days of the original eligibility date, annual plan change period end date, or Qualified Status Change date.

(b) Enrollment errors identified after 45 calendar days of the eligibility date, annual plan change period end date or Qualified Status Change date must be submitted to OEBB for review and approval based on OAR 111-080-0030.

(2) Benefit Administrator Processing Errors. Processing errors or omissions occur when benefit plan changes are processed incorrectly in the benefit system.

(a) OEBB authorizes Educational Entities to correct processing errors identified within 45 calendar days of the eligibility date, annual plan change period end date, or Qualified Status Change date. The Educational Entities must reconcile all premium discrepancies.

(b) Processing errors identified after 45 calendar days of the eligibility date, annual plan change period end date, or Qualified Status Change date must be submitted to OEBB for review and approval based on OAR 111-080-0030. If approved, corrections are retroactive to the original effective date as identified in 111-040-0001. The Educational Entity must reconcile all premium discrepancies within 30 calendar days of any adjustments made in the system.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 10-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 13-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11; OEBB 18-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; OEBB 24-2011, f. & cert. ef. 12-14-11; OEBB 5-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-050-0035

Late Enrollment

(1) Late enrollment occurs when an Eligible Early Retiree fails to enroll for benefits within 60 days of retirement or fails to notify their educational entity of the Qualified Status Change within 31 calendar days of:

(a) The date a spouse, domestic partner, or child gains eligibility;

(b) The date of marriage to a spouse who was most recently enrolled as a domestic partner; or

(c) The date of birth of the retired eligible employee's biological newborn child.

(d) The date the child was adopted of the date the retiree became the legal guardian.

(2) OEBB authorizes Educational Entities to add and/or enroll Eligible Early Retirees and dependents within 45 calendar days of the eligibility dates referenced in sections (1)(a) and (1)(b), and within 60 calendar days of the eligibility dates referenced in (1)(c) and (1)(d).

(3) OEBB must review and approve all late enrollment requests based on OAR 111-080-0030 when the request and enrollment is made more than 45 calendar days after the eligibility dates referenced in sections (1)(a) and (1)(b), and more than 60 calendar days after the eligibility dates referenced in sections (1)(c) and (1)(d).

(4) Approved late enrollment requests, unless determined otherwise in a collective bargaining agreement or documented district policy in effect on June 30, 2008, are effective the first of the month following the date the request is received by a district benefits administrator or OEBB, except for approved requests to add newborn children or newly adopted child which are retroactive to the month the child was born or adopted along with any premium adjustments.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 10-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11; OEBB 5-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-050-0045

Termination Dates

(1) Effective October 1, 2011, if an Eligible Early Retiree requests a termination of coverage for them self, a spouse, a domestic partner, or a child, coverage ends on the last day of the month that eligibility is lost. Requests for coverage termination must be made consistent with a Qualified Status Change, as defined by 111-040-0040.

(2) Retroactive termination of coverage may be made in the event of a delay in the Educational Entities' reconciliation process and shall generally be within 14 days of receiving notification from the Eligible Early Retiree of the qualified status change event and requested benefit changes.

(2) Effective October 1, 2011, benefit coverage termination that is considered by OEBB to be intentional misrepresentation may be rescinded in compliance with the law. If this occurs, OEBB shall give the affected individual 30 days notice of the rescission of benefit coverage and an opportunity to appeal before the rescission takes effect.

(3) Benefit coverage for a spouse, domestic partner, or child ends on the last day of the month that a retired eligible employee dies, unless otherwise determined by a collective bargaining agreement or documented district policy in effect on June 30, 2008.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 13-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11; OEBB 18-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; OEBB 24-2011, f. & cert. ef. 12-14-11; OEBB 5-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-050-0050

Removing an Ineligible Individual from Benefit Plans

(1) An Eligible Early Retiree who enrolls themselves and/or an eligible person is responsible for removing ineligible spouses, domestic partners and children from their OEBB-sponsored benefit plans by submitting completed, applicable forms to their Educational Entity benefits administrator within 31 calendar days after the date the individual becomes ineligible. Coverage ends on the date identified under OAR 111-050-0045.

(2) An Educational Entity is responsible for removing ineligible individuals from the OEBB benefits management system. The Educational Entity must complete such removal within 14 calendar days after:

(a) An event resulting in loss of the early retiree's eligibility, or

(b) The receipt of notification of an event resulting in loss of eligibility of the early retiree's spouse, domestic partner or child.

(3) If coverage of an early retiree's spouse, domestic partner or child is terminated retroactively then:

(a) The early retiree may be responsible for claims previously paid by the benefit plans to the providers during the period of ineligibility at the carrier's discretion; and

(b) Premium adjustments will be made retroactively based on the coverage end date.

(5) OEBB shall conduct audits to monitor compliance with OEBB administrative rules governing eligibility and enrollment. Eligibility audits

ADMINISTRATIVE RULES

will occur at different times throughout the plan year. The member is responsible to submit documentation upon request. In the event the member does not provide the required documentation in a timely manner to sufficiently prove the dependent meets eligibility requirements, or the documentation provided is insufficient, the dependent's coverage will be terminated. Retroactive terminations may occur if the documentation provided shows the dependent was not eligible for coverage and the member misrepresented the dependent as being an eligible dependent as defined by OAR 111-080-0045.

Stat. Auth.: ORS 243.860 - 243.886
Stats. Implemented: ORS 243.864(1)(a)
Hist.: OEBB 13-2008(Temp), f. & cert. ef. 8-15-08 thru 2-11-09; OEBB 3-2009, f. & cert. ef. 1-30-09; OEBB 10-2010(Temp), f. & cert. ef. 8-3-10 thru 1-29-11; OEBB 13-2010(Temp), f. 9-30-10, cert. ef. 10-1-10 thru 1-29-11; OEBB 4-2011, f. & cert. ef. 2-11-11; OEBB 18-2011(Temp), f. 9-30-11, cert. ef. 10-1-11 thru 3-29-12; OEBB 24-2011, f. & cert. ef. 12-14-11; OEBB 5-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

Rule Caption: Adopts new rules for the OEBB Administration of Early Retiree Group.

Adm. Order No.: OEBB 6-2012(Temp)

Filed with Sec. of State: 4-20-2012

Certified to be Effective: 4-20-12 thru 10-16-12

Notice Publication Date:

Rules Adopted: 111-065-0001, 111-065-0005, 111-065-0010, 111-065-0015, 111-065-0020, 111-065-0025, 111-065-0030, 111-065-0035, 111-065-0040

Subject: These new rules govern the processes and procedures for which OEBB plans to administer the new self pay early retiree groups.

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

111-065-0001

Definitions

For the purpose of this rule:

(1) "Electronic funds transfer" refers to a payment through an Automated Clearing House (ACH) credit or ACH debit that initiates the movement of funds from the early retiree's individual banking account to the OEBB Treasury account electronically.

(2) "OEBB Administered Early Retiree" means an individual who meets the definition of Eligible Early Retiree in OAR 111-010-0015 and whose benefits are administered by OEBB.

(3) "Overpayment" means the amount of the early retiree's monthly payment to OEBB that exceeded the amount due.

(4) "Payment in full" means payment received by OEBB which is equal to the current monthly amount due for all benefit premiums which the early retiree is currently enrolled in.

(5) "Underpayment" means a payment submitted on or before the due date by the early retiree that is less than the invoiced amount.

Stat. Auth.: 243.860 - 243.886
Stats. Implemented: ORS 243.864(1)(a)
Hist.: OEBB 6-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-065-0005

Untitled

The following administrative rules in Division 65 pertain to OEBB Administered Early Retirees in addition to OEBB's Division 50 rules which pertain to all Early Retirees.

Stat. Auth.: 243.860 - 243.886
Stats. Implemented: ORS 243.864(1)(a)
Hist.: OEBB 6-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-065-0010

OEBB Early Retiree Invoicing

(1) OEBB will enroll the early retiree after the member has completed their online enrollments and one of the following is completed:

(a) The required ACH payment agreement for electronic transfer of funds is received from the early retiree, processed and set-up with their financial institution; or

(b) The Exception Request Form is received from the early retiree, reviewed and approved;

(2) OEBB will send payment invoices to early retirees that will provide notification of the amount and payment due date or the date the automatic checking deduction will occur. OEBB will send invoices on the 15th of the month with payment due by the 25th of the month.

(3) Advance payments may be made only within the same Plan Year. Any remaining balances will be carried into the next Plan Year.

Stat. Auth.: 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)
Hist.: OEBB 6-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-065-0015

Early Retiree Payment Methods and Due Dates

(1) Early retirees will submit payment to OEBB for benefits by electronic funds transfer (EFT).

(2) OEBB may grant an exception from the requirement in section (1) to pay by EFT if the early retiree demonstrates their financial institution cannot accommodate an EFT transfer, or the member does not maintain an account at a financial institution.

(3) Notwithstanding administrative rules in 111-065-0010, all premium payments must be received by the 25th calendar day of the month for next month's health care coverage. All payments will be subject to this due date.

Stat. Auth.: 243.860 - 243.886
Stats. Implemented: ORS 243.864(1)(a)
Hist.: OEBB 6-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-065-0020

Early Retiree Overpayments

(1) OEBB will include overpayment amounts on the monthly invoice. The invoice will include the total payment received, the date it was received, the amount of premium payment due, and any remaining balance of additional premiums paid.

(2) OEBB will automatically apply any overpayments to the next month's premium due. The early retiree may complete a Request for Reimbursement form if a refund of an overpayment is desired. The early retiree may be responsible for processing fees associated with refunds less than \$100.

(3) Remaining balances on coverage that has ended will be refunded in full within 30 days of the coverage end date or the date OEBB is notified that coverage should end, whichever occurs later.

Stat. Auth.: 243.860 - 243.886
Stats. Implemented: ORS 243.864(1)(a)
Hist.: OEBB 6-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-065-0025

Early Retiree Underpayments

(1) Premiums that are not paid in full by the 25th calendar day of the month prior to the coverage effective month will result in the early retirees and dependents coverage being terminated at the end of the month for which premiums were paid in full.

(2)(a) Early retirees will be notified if their coverage was terminated due to the premium not being paid in full, including payments returned by the bank for Non-Sufficient Funds (NSF).

(b) A check or ACH transaction that is returned for NSF is considered non-payment of premiums.

Stat. Auth.: 243.860 - 243.886
Stats. Implemented: ORS 243.864(1)(a)
Hist.: OEBB 6-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-065-0030

Termination

(1) OEBB shall not be responsible for any unpaid portion of premiums for coverage and will terminate the early retiree and dependent coverage for non-payment or underpayment of premiums due.

(2) OEBB coverage will be terminated under the following circumstances:

(a) Premiums are not paid in full by the due date. If the payment is not received in full by the 25th calendar day of the month, the early retiree's coverage will be terminated on the last day of the month in which a full premium payment was received; or

(b) As referenced in 111-050-0015.

Stat. Auth.: 243.860 - 243.886
Stats. Implemented: ORS 243.864(1)(a)
Hist.: OEBB 6-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

111-065-0035

Appeals

Early retirees have the right to use the OEBB Appeals and Administrative Review process as defined in OAR 111-080-0030.

(1) Early retirees may appeal OEBB's eligibility decision.

(2) Early retirees have the right to request a review of benefit and claim issues that are not resolved following the completion of the carrier appeal process. Administrative Review requests relating to denied benefits are limited to a determination of whether or not a benefit was intended to be covered under the current contract.

Stat. Auth.: 243.860 - 243.886
Stats. Implemented: ORS 243.864(1)(a)
Hist.: OEBB 6-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

ADMINISTRATIVE RULES

111-065-0040

Continuation of Coverage

(1) Early Retirees and dependents have COBRA rights consistent with 111-050-0001.

(2) Loss of coverage due to failure to make a premium payment is not a qualifying event.

Stat. Auth.: 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

Hist.: OEBB 6-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

Rule Caption: Amends Appeals and Administrative Review rule.

Adm. Order No.: OEBB 7-2012(Temp)

Filed with Sec. of State: 4-20-2012

Certified to be Effective: 4-20-12 thru 10-16-12

Notice Publication Date:

Rules Amended: 111-080-0030

Subject: The amendment to the Appeals and Administrative Reviews rule, 111-080-0030 gives the Administrative Review Committee (ARC) the authority to make exceptions to our administrative rules.

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

111-080-0030

Appeals and Administrative Reviews

(1) Eligibility, enrollment issues or rescissions. OEBB has an Appeal process consisting of three levels that a member can use if they disagree with an eligibility determination or enrollment record. If the appeal is a result of a rescission, or a determination that the benefit is not a covered benefit, coverage will continue pending the outcome of the appeal. These three levels are:

(A) Appeal. An Appeal is the first level and must be received by OEBB in writing. OEBB staff gathers all information and sets up the Appeal file. OEBB Staff reviews the Appeal and makes a decision. The member is then notified in writing of the OEBB staff's decision. If the decision is an adverse benefit determination, the notice will include the specific reason(s) for the decision, a reference to the specific plan provision or OAR on which the determination was based a description of any additional information required and a description of the OEBB appeals process.

(B) Request for Reconsideration. A Request for Reconsideration is the second level and can be used if the member is not satisfied with the outcome on their Appeal. The request by the member must be received in writing within 31 days of receiving the Appeal decision notification. OEBB staff requests any additional information needed and includes in the Appeal file. The OEBB Management Team reviews all the information contained in the file (from the Appeal and the Request for Reconsideration) and makes a decision. The member is then notified in writing of the OEBB Management Team's decision. If the decision is an adverse benefit determination, the notice will include the specific reason(s) for the decision, a reference to the specific plan provision or OAR on which the determination was based, a description of any additional information required and a description of the OEBB appeals process.

(C) Administrative Review Request. An Administrative Review Request is the third level and can be used if the member is not satisfied with the outcome on their Request for Reconsideration. The request by the member must be in writing OEBB staff requests any additional information and adds it to the Appeal file. OEBB staff will schedule an Administrative Review Committee meeting. OEBB staff will notify the member and all applicable parties of the date, time and location. At the meeting, the Administrative Review Request will be presented to the Administrative Review Committee members and after considering all documentation and possible public comment, a decision is made. The Administrative Review Committee has the authority to grant exceptions to OEBB's Administrative Rules when there are extenuating circumstances which can be supported by documentation and verified by OEBB staff. All such documentation will be included in the member's Appeal file. The member will be notified in writing of the Administrative Review Committee's decision. If the decision is an adverse benefit determination, the notice will include the specific reason(s) for the decision, a reference to the specific plan provision or OAR on which the determination was based a description of any additional information required and a description of the OEBB appeals process.

(2) Benefit and claim issues. Following the Insurance Carrier's appeals process, a member can request an administrative review by OEBB. An Administrative Review Request can be made to OEBB if the member is not satisfied with the outcome after completing the carrier's appeal process. OEBB staff gathers all information and sets up the file. The OEBB Contracts Officer will complete an initial review of the file to ensure it is

limited to a determination of whether or not a service or benefit was intended to be covered under the current contract. The initial review will assess whether there is documentation contained within the contract or member handbook relating to the benefit that was denied. If the Administrative Review request does not meet the specified criteria the Contracts Officer will refer it to the OEBB Management Team and the member will be notified in writing of the OEBB Management Team's decision. If the request does meet the specified criteria, OEBB staff will schedule an Administrative Review Committee meeting. OEBB staff will notify the member and all applicable parties of the date, time and location. At the meeting, the Administrative Review Request will be presented to the Administrative Review Committee. They will consider all documentation and public comment and make a decision in accordance with the information presented. The member will be notified in writing of the Administrative Review Committee's decision. If the decision is an adverse benefit determination, the notice will include the specific reason(s) for the decision, a reference to the specific plan provision or OAR on which the determination was based a description of any additional information required and a description of the OEBB appeals process.

Stat. Auth.: ORS 243.860 - 243.886

Stats. Implemented: ORS 243.864(1)(a)

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

cert. ef. 4-1-09; OEBB 18-2009(Temp), f. & cert. ef. 10-26-09 thru 4-23-10; OEBB 5-

2010(Temp), f. & cert. ef. 4-26-10 thru 10-22-10; OEBB 15-2010, f. 9-29-30, cert. ef. 10-1-

10; OEBB 7-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

Oregon Health Licensing Agency Chapter 331

Rule Caption: Modifies education requirements for issuance of temporary tattoo license.

Adm. Order No.: HLA 7-2012(Temp)

Filed with Sec. of State: 4-20-2012

Certified to be Effective: 4-20-12 thru 10-16-12

Notice Publication Date:

Rules Amended: 331-915-0025

Subject: The proposed amendment would remove the requirements that applicants for a temporary tattoo license provide evidence of a high school diploma or General Educational Development (GED) certificate.

Rules Coordinator: Samantha Patnode—(503) 373-1917

331-915-0025

Application Requirements for Temporary Tattoo License

An individual applying for a Temporary Tattoo License must:

(1) Meet the requirements of OAR 331 division 30;

(2) Submit a completed application form prescribed by the Agency, which must contain the information listed in OAR 331-030-0000 and be accompanied by payment of the required application fees;

(3) Submit proof of being 18 years of age. Documentation may include identification listed under OAR 331-030-0000;

(4) Submit proof of current training in blood-borne pathogens; and

(5) Attest to six months of training or experience, within the last two years, performing tattooing on a form prescribed by the Agency; or

(6) Submit affidavit of licensure pursuant to OAR 331-030-0040.

(7) Applications must be received 15 days before tattooing services are provided.

(8) For the purpose of this rule training or experience includes attendance or participation at an instructional program presented, recognized, or under the sponsorship of any permanently organized institution, agency, or professional organization or association recognized by the Agency.

Stat. Auth.: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 7-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12

Rule Caption: Modifies education requirements for issuance of temporary tattoo license.

Adm. Order No.: HLA 8-2012(Temp)

Filed with Sec. of State: 5-3-2012

Certified to be Effective: 5-3-12 thru 10-16-12

Notice Publication Date:

Rules Amended: 331-915-0025

ADMINISTRATIVE RULES

Subject: The proposed amendment would remove the requirement that applicants for a temporary tattoo license provide evidence of a high school diploma or General Educational Development (GED) certificate.

Rules Coordinator: Samantha Patnode—(503) 373-1917

331-915-0025

Application Requirements for Temporary Tattoo License

An individual applying for a Temporary Tattoo License must:

(1) Meet the requirements of OAR 331 division 30;
(2) Submit a completed application form prescribed by the Agency, which must contain the information listed in OAR 331-030-0000 and be accompanied by payment of the required application fees;

(3) Submit proof of being 18 years of age. Documentation may include identification listed under OAR 331-030-0000;

(4) Submit proof of current training in blood-borne pathogens; and

(5) Attest to six months of training or experience, within the last two years, performing tattooing on a form prescribed by the Agency; or

(6) Submit affidavit of licensure pursuant to OAR 331-030-0040.

(7) Applications must be received 15 days before tattooing services are provided.

(8) For the purpose of this rule training or experience includes attendance or participation at an instructional program presented, recognized, or under the sponsorship of any permanently organized institution, agency, or professional organization or association recognized by the Agency.

Stat. Auth.: ORS 345, 676.607, 676.615, 676.625, 690.365, 690.370, 690.385, 690.390, 690, 405, 690.407, 690.410 & 690.415

Stats. Implemented: ORS 676.607, 676.608, 676.612, 676.615, 676.625, 690.350, 690.360, 690.365, 690.370, 690.380, 390.385, 690.390, 690.405, 690.407, 690.410, 690.415 & 2011 OL Ch. 346 § 22 & 35

Hist.: HLA 16-2011, f. 12-30-11, cert. ef. 1-1-12; HLA 7-2012(Temp), f. & cert. ef. 4-20-12 thru 10-16-12; HLA 8-2012(Temp), f. & cert. ef. 5-3-12 thru 10-16-12

Rule Caption: Specify hearing request and answer requirements for certain programs OHLA related to potential disciplinary action.

Adm. Order No.: HLA 9-2012

Filed with Sec. of State: 5-10-2012

Certified to be Effective: 5-15-12

Notice Publication Date: 4-1-2012

Rules Amended: 331-020-0020

Rules Suspended: 331-020-0020(T)

Subject: Amend OAR 331-020-0020 to delineate which programs under OHLA have more complexity and warrant a more specific response from the respondent when requesting a hearing. The following practices have been deemed more complex: direct entry midwifery, sex offender treatment therapy, respiratory care and polysomnography. The amendment would also allow the respondent to amend the response and answer within 10 day before the scheduled contested case hearing. Hearing requests under all other OHLA programs are deemed a general denial of the matters alleged in the notice and no specific response is necessary.

Rules Coordinator: Samantha Patnode—(503) 373-1917

331-020-0020

Hearing Requests and Answers; Consequences of Failure to Answer

(1) A hearing request, and answer when required, shall be made in writing to the Agency by the party or the party's attorney.

(2) An answer shall be made in writing to the Agency with any request for a hearing on a matter related to violations alleged under ORS 675.360 to 675.410, 687.405 to 687.495, 688.808 to 688.840, the rules adopted thereunder, or violations alleged under 676.612 when related to the practice of direct entry midwifery, sex offender treatment, respiratory care or polysomnography. The answer shall include the following:

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

(b) A short, concise statement of each relevant affirmative defense the party may have.

(3) When an answer is required:

(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 the answer.

(4) When an answer is required, the party or party's attorney may amend the response and answer, but no later than 10 days before the scheduled contested case hearing.

Stat. Auth.: ORS 183

Stats. Implemented: ORS 183

Hist.: HLO 1-2004, f. & cert. ef. 2-13-04; HLA 1-2012(Temp), f. & cert. ef. 3-1-12 thru 8-27-12; HLA 9-2012, f. 5-10-12, cert. ef. 5-15-12

Oregon Health Licensing Agency, Board of Direct Entry Midwifery Chapter 332

Rule Caption: Revise requirements related to risk information which is must be provided by licensed direct entry midwives to clients.

Adm. Order No.: DEM 3-2012(Temp)

Filed with Sec. of State: 5-10-2012

Certified to be Effective: 5-10-12 thru 9-30-12

Notice Publication Date:

Rules Amended: 332-025-0120

Rules Suspended: 332-025-0120(T)

Subject: Suspend current temporary rule regarding implementation of risk information packets.

Amend permanent rule temporarily (OAR 332-025-0120) to remove specific date in which a licensed direct entry midwife (LDM) must provide risk information to client and broaden the types of care for which the LDM must provide risk information to include all planned out-of-hospital births. Require that LDMs provide evidence-based risk information and obtain informed consent from each client for all out-of-hospital births and for each non-absolute risk factor, as soon as it is revealed, discovered, or suspected.

Rules Coordinator: Samantha Patnode—(503) 373-1917

332-025-0120

Informed Consent and Risk Information Practice Standards

(1) Informed consent means the consent obtained following a thorough and easily understood explanation of the information to the mother or mother's guardian.

(2) The explanation must be both verbal and written.

(3) An LDM must document the verbal explanation and the written informed consent process in the client's record. Informed consent information must include the following:

(a) Definition of procedure or process;

(b) Benefits of procedure or process;

(c) Risk(s) of procedure or process;

(d) Description of adverse outcomes;

(e) Risk of adverse outcomes; and

(f) Alternative procedures or processes and any risk(s) associated with them.

(4) An LDM must obtain mother's dated signature acknowledging she has received, reviewed, and understands the information, and has made an informed choice.

(5) Upon filing of this rule an LDM must provide written and verbal risk information and obtain informed consent for all out-of-hospital births.

(6) In addition to the requirements of subsection (5) of this rule, an LDM must also:

(a) Provide written and verbal risk information and obtain informed consent for all planned out-of-hospital births that include any of the non-absolute risk factors listed under OAR 332-025-0021(5);

(b) Provide written and verbal the risk information and obtain informed consent for an out-of hospital birth for each of the non-absolute risk factors that is present; and

(c) Provide the risk information and obtain informed consent for an out-of-hospital birth for each non-absolute risk factor present immediately once the non-absolute risk factor is discovered, disclosed, or suspected.

(7) If an absolute risk is discovered LDM must follow the requirements of OAR 332-025-0021 related to absolute risk.

Stat. Auth.: ORS 487.485 & 676.615

Stats. Implemented: ORS 687.425, 687.480, 687.485, 676.606 & 676.607

Hist.: DEM 6-2010, f. 12-30-10, cert. ef. 1-1-11; DEM 2-2011(Temp), f. & cert. ef. 5-19-11 thru 11-15-11; Renumbered from 332-025-0080 by DEM 5-2011, f. & cert. ef. 9-26-11; DEM 6-2011(Temp), f. 10-14-11, cert. ef. 10-15-11 thru 4-11-12; DEM 1-2012(Temp), f. 3-1-12, cert. ef. 4-12-12 thru 9-30-12; DEM 3-2012(Temp), f. & cert. ef. 5-10-12 thru 9-30-12

ADMINISTRATIVE RULES

Oregon Liquor Control Commission Chapter 845

Hist.: ME 1-1988, f. & cert. ef. 1-29-88; ME 20-1994, f. & cert. ef. 10-26-94; BME 13-2004, f. & cert. ef. 7-13-04; BME 14-2006, f. & cert. ef. 7-25-06; OMB 1-2012(Temp), f. & cert. ef. 2-7-12 thru 8-5-12; OMB 12-2012, f. & cert. ef. 4-17-12

Rule Caption: Amend rule to adopt most current Attorney General's Model Rules of Procedure.

Adm. Order No.: OLCC 5-2012

Filed with Sec. of State: 5-14-2012

Certified to be Effective: 6-1-12

Notice Publication Date:

Rules Amended: 845-001-0007

Subject: This rule adopts the Attorney General's Model Rules of Procedure in their entirety. We are amending the effective date of the Model Rules we are adopting to reflect the most current version of the Attorney General's Model Rules of Procedure, effective January 1, 2012.

Rules Coordinator: Jennifer Huntsman—(503) 872-5004

845-001-0007

Attorney General's Model Rules of Procedure

The Commission adopts, by reference, the Attorney General's Model Rules of Procedure, effective January 1, 2012. The Commission's supplemental rules for contested cases are in division 3 of this chapter.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Liquor Control Commission.]

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

Stats. Implemented: ORS 183.341(1)

Hist.: LCC 10-1986, f. 6-4-86, ef. 7-1-86; OLCC 4-1989, f. 4-28-89, cert. ef. 7-1-89; OLCC 9-1992, f. 10-7-92, cert. ef. 12-1-92; OLCC 1-1994, f. & cert. ef. 5-2-94; OLCC 9-1995, f. 12-4-95, cert. ef. 1-1-96; OLCC 3-1999, f. 2-16-99, cert. ef. 3-1-99; OLCC 8-2001, f. 8-15-01, cert. ef. 9-1-01; OLCC 10-2004, f. 10-15-04 cert. ef. 11-1-04; OLCC 4-2007, f. 3-22-07, cert. ef. 4-1-07; OLCC 5-2008, f. 3-25-08, cert. ef. 4-1-08; OLCC 5-2012, f. 5-14-12, cert. ef. 6-1-12

Oregon Medical Board Chapter 847

Rule Caption: Incorporates changes in the Attorney General's Model Rules of Procedure for Office of Administrative Hearings.

Adm. Order No.: OMB 12-2012

Filed with Sec. of State: 4-17-2012

Certified to be Effective: 4-17-12

Notice Publication Date: 3-1-2012

Rules Amended: 847-001-0000, 847-001-0015, 847-001-0020, 847-001-0030

Rules Repealed: 847-001-0000(T), 847-001-0005(T), 847-001-0010(T), 847-001-0015(T), 847-001-0020(T), 847-001-0022(T), 847-001-0025(T), 847-001-0030(T)

Subject: The rule amendments incorporate the changes in the Attorney General's Model Rules of Procedure for the Office of Administrative Hearings, which became effective 1/31/2012. A late request for a hearing will be considered using a "good cause" standard; agency review of certain legal actions has been omitted; the agency may consider a request for a delay of hearing on emergency suspension; discovery rules have been reorganized and now include requests for admission and written interrogatories; and a method is provided for denying a discovery request.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-001-0000

Notice of Proposed Rule

Prior to adoption, amendment or repeal of any permanent rule, the Oregon Medical Board must give notice of the intended action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the intended action.

(2) Mail a copy of the notice to persons on the Oregon Medical Board's mailing list established pursuant to ORS 183.335 (8) at least 28 days before the effective date of the rule;

(3) In regard to rules adopted on or after January 1, 2006, at least 49 days before the effective date of the rule, the Board must provide notice to the persons specified in ORS 183.335(15); and

(4) Mail or furnish a copy of the notice to:

(a) The Associated Press; and

(b) The Capitol Press Room.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 183.335, 183.341, 677.275

847-001-0015

Delegation of Authority

(1) The Oregon Medical Board (Board) has delegated to the Executive Director the authority to make certain procedural determinations on its behalf on matters arising under the Attorney General's Model Rules for Contested Cases in OAR 137-003-0001 to OAR 137-003-0700. The procedural functions include, but are not limited to:

(a) For discovery requests before the Board, to authorize or deny requested discovery in a contested case, to include specifying the methods, timing and extent of discovery;

(b) To review all requests to take a deposition of a witness and to authorize or deny any request for deposition. If a request to take a deposition is authorized, the Executive Director may specify the terms on which the deposition is taken, to include, but not limited to the location, the manner of recording, the time of day, the persons permitted to be present, and the duration of the deposition;

(c) Whether a request for hearing filed after the prescribed time will be accepted, based upon a finding of good cause. In making this determination, the Executive Director may require the request to be supported by an affidavit or other writing to explain why the request is late and may conduct such further inquiry as deemed appropriate. The Executive Director may authorize a hearing on whether the late filing should be accepted. If any party disputes the facts contained in the explanation as to why the request was late or the accuracy of the reason that the request was late, the requestor has a right to a hearing before an Administrative Law Judge (ALJ) on the reasons for that factual dispute;

(d) Whether the late filing of a document may be accepted based upon a finding of good cause;

(e) Whether to issue a subpoena for the attendance of witnesses or to produce documents at the hearing;

(f) Prior to the issuance of a proposed order issued by an ALJ, whether the Board will consider taking notice of judicially cognizable facts or of general, technical or scientific facts in writing which are within the specialized knowledge of the Board;

(g) Whether to submit to the Board prior to an ALJ's proposed final order the following issues:

(A) The Board's interpretation of its rules and applicable statutes;

(B) Which rules or statutes are applicable to a proceeding;

(C) Whether the Board will answer a question transmitted to it by the ALJ;

(h) In regard to a proposed order issued by an ALJ, whether the Board's legal representative will file exceptions and present argument to the Board; and

(i) Whether a request for delay of hearing on emergency suspension will be accepted.

(2) All actions taken under this delegation must be reported to the Board at the regularly scheduled meeting in which the Board deliberates on the proposed order in the case.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 183.335, 183.341, 677.275

Hist.: BME 13-2000, f. & cert. ef. 10-30-00; BME 13-2004, f. & cert. ef. 7-13-04; BME 14-2006, f. & cert. ef. 7-25-06; OMB 6-2011, f. & cert. ef. 4-25-11; OMB 1-2012(Temp), f. & cert. ef. 2-7-12 thru 8-5-12; OMB 12-2012, f. & cert. ef. 4-17-12

847-001-0020

Discovery

(1) Before the hearing, upon request by the Board or by a licensee or applicant, the Board and the licensee or applicant must provide:

(a) The names, telephone numbers, and addresses of witnesses expected to testify at the hearing, except rebuttal witnesses;

(b) Documents expected to be offered as evidence;

(c) Objects for inspection, if expected to be offered as evidence;

(d) Responses to no more than 20 requests for admission (each subpart to count as a separate request) unless otherwise authorized, limited, or prohibited by the administrative law judge; and

(e) Responses to no more than 20 written interrogatories (each subpart to count as a separate interrogatory), unless otherwise authorized, limited, or prohibited by the administrative law judge.

(2) The Board may deny any discovery request under this section if:

(a) The request would unduly complicate or interfere with the hearing process, and

(b) Alternative procedures for sharing relevant information exist.

ADMINISTRATIVE RULES

(3) Parties must provide the list of witnesses and documents no later than ten working days prior to the beginning of the contested case hearing.
Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 183.335, 183.341, 677.275
Hist.: BME 13-2004, f. & cert. ef. 7-13-04; BME 14-2006, f. & cert. ef. 7-25-06; OMB 1-2012(Temp), f. & cert. ef. 2-7-12 thru 8-5-12; OMB 12-2012, f. & cert. ef. 4-17-12

847-001-0030

Approval of Interim Stipulated Orders

(1) The Executive Director, via his/her signature, has the authority to grant approval of an Interim Stipulated Order that has been signed by a licensee of the Board.

(2) The Executive Director's or Medical Director's signature grants approval of the Interim Stipulated Order, which allows the Order to become a public document. As a public document, the Interim Stipulated Order may be released to hospitals, clinics, and other practice locations.

(3) The Executive Director or Medical Director must forward Interim Stipulated Orders to the Board in a timely manner.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.265 & 677.275
Hist.: BME 13-2008(Temp), f. & cert. ef. 5-16-08 thru 10-31-08; BME 22-2008, f. & cert. ef. 10-31-08; BME 7-2009, f. & cert. ef. 5-1-09; OMB 1-2012(Temp), f. & cert. ef. 2-7-12 thru 8-5-12; OMB 12-2012, f. & cert. ef. 4-17-12

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Rule Caption: Implements a fine for providing false, misleading or deceptive information on a license application.

Adm. Order No.: OMB 13-2012

Filed with Sec. of State: 4-17-2012

Certified to be Effective: 4-17-12

Notice Publication Date: 3-1-2012

Rules Amended: 847-008-0010

Subject: Rule amendment adds a fine for violating ORS 677.190(8), providing false, misleading or deceptive information on an application for licensure. Proposed rule amendment also contains general grammar housekeeping.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-008-0010

Initial Registration

(1) An applicant for licensure as a physician (MD/DO), podiatrist, physician assistant, or acupuncturist, whose application file is complete, must submit to the Board the initial registration form and fee prior to being granted a license by the Board.

(2) If the initial registration form and fee are not received by the Board within three months from the date mailed to the applicant, the applicant must update the application for licensure by completing an affidavit and submitting it to the Board with the affidavit fee.

(3) Per OAR 847-020-0110(2), a person applying for licensure who has not completed the licensure process within a 12 month consecutive period must file a new application, documents, letters and pay a full filing fee as if filing for the first time.

(4) An individual who initially becomes licensed, certified or registered by the Board at any time during the first 12 months of a biennial registration period must pay the entire biennial registration fee for that period, except as provided in OAR 847-008-0015 and 847-008-0025.

(5) An individual who initially becomes licensed, certified, or registered by the Board at any time during the second 12 months of the biennial registration period must pay the registration fee for one year.

(6) Omissions or false, misleading or deceptive statements or information on an application for licensure is a violation of ORS 677.190(8) and is grounds for a \$195 fine. The applicant may be subject to further disciplinary action by the Board.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.172, 677.190, 677.205
Hist.: ME 5-1990, f. & cert. ef. 4-25-90; ME 5-1991, f. & cert. ef. 7-24-91; BME 8-1998, f. & cert. ef. 7-22-98; BME 6-2000, f. & cert. ef. 7-27-00; BME 2-2002, f. & cert. ef. 1-28-02; OMB 13-2012, f. & cert. ef. 4-17-12

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

Adm. Order No.: OMB 14-2012

Filed with Sec. of State: 4-17-2012

Certified to be Effective: 4-17-12

Notice Publication Date: 3-1-2012

Rules Amended: 847-035-0011

Subject: Rule amendment corrects a statutory reference in the rule for compensation of committee members and contains language and grammar housekeeping.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-035-0011

EMT Advisory Committee

(1) There is created an EMT Advisory Committee, consisting of five members appointed by the Oregon Medical Board. The Board must appoint two physicians and three EMTs from nominations provided from EMS agencies, organizations, and individuals.

(a) The two physician members must be actively practicing physicians licensed under this chapter who are supervising physicians, medical directors, or practicing emergency medicine physicians.

(b) The three EMT members must be Oregon certified emergency medical technicians who have been residents of this state for at least two years, certified as emergency medical technicians for not less than two years. At least two of the three EMT members must be actively practicing prehospital care, and at least one of the three EMT members must be an EMT-Paramedic.

(c) Two of the five committee members must be from rural or frontier Oregon.

(2)(a) The term of office of a member of the committee is three years and members may be reappointed to serve not more than two terms.

(b) Vacancies in the committee must be filled by appointment by the board for the balance of an unexpired term and each member must serve until a successor is appointed and qualified.

(3) The members of the advisory committee are entitled to compensation and expenses as provided for Board members in ORS 677.235.

Stat. Auth.: ORS 677.265
Stats. Implemented: ORS 677.265 & 682.245
Hist.: BME 12-2001, f. & cert. ef. 10-30-01; BME 18-2009, f. & cert. ef. 10-23-09; OMB 14-2012, f. & cert. ef. 4-17-12

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Rule Caption: Clarifies administration of medication, revises type of injuries treated, and allows tuberculosis testing.

Adm. Order No.: OMB 15-2012

Filed with Sec. of State: 4-17-2012

Certified to be Effective: 4-17-12

Notice Publication Date: 3-1-2012

Rules Amended: 847-035-0030

Subject: Rule amendment clarifies administration of medication, replaces "soft tissue injuries" and "suspected fractures" with "musculoskeletal injuries," adds tuberculosis skin testing for EMS agency personnel, and makes housekeeping changes.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-035-0030

Scope of Practice

(1) The Oregon Medical Board has established a scope of practice for emergency and nonemergency care for First Responders and EMTs. First Responders and EMTs may provide emergency and nonemergency care in the course of providing prehospital care as an incident of the operation of ambulance and as incidents of other public or private safety duties, but is not limited to "emergency care" as defined in OAR 847-035-0001(5).

(2) The scope of practice for First Responders and EMTs is not intended as statewide standing orders or protocols. The scope of practice is the maximum functions which may be assigned to a First Responder or EMT by a Board-approved supervising physician.

(3) Supervising physicians may not assign functions exceeding the scope of practice; however, they may limit the functions within the scope at their discretion.

(4) Standing orders for an individual EMT may be requested by the Board or Authority and must be furnished upon request.

(5) No EMT may function without assigned standing orders issued by Board-approved supervising physician.

(6) An Oregon-certified First Responder or EMT, acting through standing orders, must respect the patient's wishes including life-sustaining treatments. Physician supervised First Responders and EMTs must request and honor life-sustaining treatment orders executed by a physician, nurse practitioner or physician assistant if available. A patient with life-sustaining treatment orders always requires respect, comfort and hygienic care.

(7) Whenever possible, medications should be prepared by the First Responder or EMT who will administer the medication to the patient.

ADMINISTRATIVE RULES

(8) A First Responder may perform the following procedures without having signed standing orders from a supervising physician:

- (a) Conduct primary and secondary patient examinations;
- (b) Take and record vital signs;
- (c) Utilize noninvasive diagnostic devices in accordance with manufacturer's recommendation;
- (d) Open and maintain an airway by positioning the patient's head;
- (e) Provide external cardiopulmonary resuscitation and obstructed airway care for infants, children, and adults;
- (f) Provide care for musculoskeletal injuries;
- (g) Assist with prehospital childbirth; and
- (h) Complete a clear and accurate prehospital emergency care report form on all patient contacts and provide a copy of that report to the senior EMT with the transporting ambulance.

(9) A First Responder may perform the following additional procedures only when the First Responder is part of an agency which has a Board-approved supervising physician who has issued written standing orders to that First Responder authorizing the following:

- (a) Administration of medical oxygen;
- (b) Maintain an open airway through the use of:
 - (A) A nasopharyngeal airway device;
 - (B) A noncuffed oropharyngeal airway device;
 - (C) A Pharyngeal suctioning device;
- (c) Operate a bag mask ventilation device with reservoir;
- (d) Provision of care for suspected medical emergencies, including administering liquid oral glucose for hypoglycemia;
- (e) Prepare and administer epinephrine by automatic injection device for anaphylaxis; and
- (f) Perform cardiac defibrillation with an automatic or semi-automatic defibrillator, only when the First Responder:
 - (A) Has successfully completed an Authority-approved course of instruction in the use of the automatic or semi-automatic defibrillator; and
 - (B) Complies with the periodic requalification requirements for automatic or semi-automatic defibrillator as established by the Authority.

(10) An Oregon-certified EMT-Basic may perform the following procedures:

- (a) Perform all procedures that an Oregon-certified First Responder can perform;
- (b) Ventilate with a non-invasive positive pressure delivery device;
- (c) Insert a cuffed pharyngeal airway device in the practice of airway maintenance. A cuffed pharyngeal airway device is:
 - (A) A single lumen airway device designed for blind insertion into the esophagus providing airway protection where the cuffed tube prevents gastric contents from entering the pharyngeal space; or
 - (B) A multi-lumen airway device designed to function either as the single lumen device when placed in the esophagus, or by insertion into the trachea where the distal cuff creates an endotracheal seal around the ventilatory tube preventing aspiration of gastric contents.
- (d) Perform tracheobronchial tube suctioning on the endotracheal intubated patient;
- (e) Provide care for suspected shock, including the use of the pneumatic anti-shock garment;
- (f) Provide care for suspected medical emergencies, including:
 - (A) Obtaining a capillary blood specimen for blood glucose monitoring;
 - (B) Prepare and administer epinephrine by subcutaneous injection or automatic injection device for anaphylaxis;
 - (C) Administer activated charcoal for poisonings; and
 - (D) Administer aspirin for suspected myocardial infarction.
- (g) Perform cardiac defibrillation with an automatic or semi-automatic defibrillator;
- (h) Transport stable patients with saline locks, heparin locks, foley catheters, or in-dwelling vascular devices;
- (i) Assist the on-scene Advanced EMT, EMT-Intermediate, or EMT-Paramedic by:
 - (A) Assembling and priming IV fluid administration sets; and
 - (B) Opening, assembling and uncapping preloaded medication syringes and vials;
- (j) Perform other emergency tasks as requested if under the direct visual supervision of a physician and then only under the order of that physician;
- (k) Complete a clear and accurate prehospital emergency care report form on all patient contacts;
- (l) Assist a patient with administration of sublingual nitroglycerine tablets or spray and with metered dose inhalers that have been previously

prescribed by that patient's personal physician and that are in the possession of the patient at the time the EMT-Basic is summoned to assist that patient;

(m) In the event of a release of military chemical warfare agents from the Umatilla Army Depot, the EMT-Basic who is a member or employee of an EMS agency serving the DOD-designated Immediate Response Zone who has completed an Authority-approved training program may prepare and administer atropine sulfate and pralidoxime chloride from an Authority-approved pre-loaded auto-injector device, and perform endotracheal intubation, using protocols promulgated by the Authority and adopted by the supervising physician. 100% of EMT-Basic actions taken pursuant to this section must be reported to the Authority via a copy of the pre-hospital emergency care report and must be reviewed for appropriateness by Authority staff and the Subcommittee on EMT Certification, Education and Discipline;

(n) In the event of a release of organophosphate agents, the EMT-Basic who has completed Authority-approved training may prepare and administer atropine sulfate and pralidoxime chloride by autoinjector, using protocols approved by the Authority and adopted by the supervising physician; and

(o) In the event of a declared Mass Casualty Incident (MCI) as defined in the local Mass Casualty Incident plan, monitor patients who have isotonic intravenous fluids flowing.

(11) An Oregon certified Advanced Emergency Medical Technician (AEMT) may perform the following procedures:

- (a) Perform all procedures that an Oregon-certified EMT-Basic can perform;
- (b) Initiate and maintain peripheral intravenous (I.V.) lines;
- (c) Initiate saline or similar locks;
- (d) Draw peripheral blood specimens;
- (e) Initiate and maintain an intraosseous in the pediatric patient;
- (f) Tracheobronchial suctioning of an already intubated patient;
- (g) Prepare and administer the following medications under specific written protocols authorized by the supervising physician or direct orders from a licensed physician:
 - (A) Physiologic isotonic crystalloid solution;
 - (B) Anaphylaxis: epinephrine;
 - (C) Antidotes: Naloxene hydrochloride;
 - (D) Anthihypoglycemics:
 - (i) Hypertonic glucose;
 - (ii) Glucagon;
 - (E) Vasodilators: Nitroglycerine;
 - (F) Nebulized bronchodilators:
 - (i) Albuterol;
 - (ii) Ipratropium bromide;
 - (G) Analgesics for acute pain: nitrous oxide.

(12) An Oregon certified EMT-Intermediate may perform the following procedures:

- (a) Perform all procedures that an Oregon-certified Advanced EMT can perform;
- (b) Initiate and maintain an intraosseous infusion;
- (c) Prepare and administer the following medications under specific written protocols authorized by the supervising physician, or direct orders from a licensed physician:
 - (A) Vasoconstrictors:
 - (i) Epinephrine;
 - (ii) Vasopressin;
 - (B) Antiarrhythmics:
 - (i) Atropine sulfate;
 - (ii) Lidocaine;
 - (iii) Amiodarone;
 - (C) Analgesics for acute pain:
 - (i) Morphine;
 - (ii) Nalbuphine Hydrochloride;
 - (iii) Ketorolac tromethamine;
 - (iv) Fentanyl;
 - (D) Antihistamine: Diphenhydramine;
 - (E) Diuretic: Furosemide;
 - (F) Intraosseous infusion anesthetic; Lidocaine;
 - (G) Anti-Emetic: Ondansetron;
- (d) Prepare and administer immunizations in the event of an outbreak or epidemic as declared by the Governor of the state of Oregon, the State Public Health Officer or a county health officer, as part of an emergency immunization program, under the agency's supervising physician's standing order;

ADMINISTRATIVE RULES

OMB 1-2011, f. & cert. ef. 2-11-11; OMB 5-2011, f. & cert. ef. 4-8-11; OMB 8-2011, f. & cert. ef. 4-25-11; OMB 15-2012, f. & cert. ef. 4-17-12

(e) Prepare and administer immunizations for seasonal and pandemic influenza vaccinations according to the CDC Advisory Committee on Immunization Practices (ACIP), and/or the Oregon State Public Health Officer's recommended immunization guidelines as directed by the agency's supervising physician's standing order;

(f) Distribute medications at the direction of the Oregon State Public Health Officer as a component of a mass distribution effort;

(g) Prepare and administer routine or emergency immunizations and tuberculosis skin testing, as part of an EMS Agency's occupational health program, to the EMT's EMS agency personnel, under the supervising physician's standing order;

(h) Insert an orogastric tube;

(i) Maintain during transport any intravenous medication infusions or other procedures which were initiated in a medical facility, and if clear and understandable written and verbal instructions for such maintenance have been provided by the physician, nurse practitioner or physician assistant at the sending medical facility;

(j) Electrocardiographic rhythm interpretation; and

(k) Perform cardiac defibrillation with a manual defibrillator.

(13) An Oregon-certified EMT-Paramedic may perform the following procedures:

(a) Perform all procedures that an Oregon-certified EMT-Intermediate can perform;

(b) Initiate the following airway management techniques:

(A) Endotracheal intubation;

(B) Cricothyrotomy; and

(C) Transtracheal jet insufflation which may be used when no other mechanism is available for establishing an airway;

(c) Initiate a nasogastric tube;

(d) Provide advanced life support in the resuscitation of patients in cardiac arrest;

(e) Perform emergency cardioversion in the compromised patient;

(f) Attempt external transcutaneous pacing of bradycardia that is causing hemodynamic compromise;

(g) Electrocardiographic interpretation;

(h) Initiate needle thoracocentesis for tension pneumothorax in a pre-hospital setting;

(i) Access indwelling catheters and implanted central IV ports for fluid and medication administration;

(j) Initiate placement of a urinary catheter for trauma patients in a pre-hospital setting who have received diuretics and where the transport time is greater than thirty minutes; and

(k) Prepare and initiate or administer any medications or blood products under specific written protocols authorized by the supervising physician, or direct orders from a licensed physician.

(14) The Board has delegated to the Authority the following responsibilities for ensuring that these rules are adhered to:

(a) Designing the supervising physician and agent application;

(b) Approving a supervising physician or agent; and

(c) Investigating and disciplining any EMT or First Responder who violates their scope of practice.

(15) The Authority must provide copies of any supervising physician or agent applications and any EMT or First Responder disciplinary action reports to the Board upon request.

(16) The Authority must immediately notify the Board when questions arise regarding the qualifications or responsibilities of the supervising physician or agent of the supervising physician.

Stat. Auth.: ORS 682.245

Stats. Implemented: ORS 682.245

Hist.: ME 2-1983, f. & ef. 7-21-83; ME 3-1984, f. & ef. 1-20-84; ME 12-1984, f. & ef. 8-2-84; ME 7-1985, f. & ef. 8-5-85; ME 12-1987, f. & ef. 4-28-87; ME 27-1987(Temp), f. & ef. 11-5-87; ME 5-1988, f. & cert. ef. 1-29-88; ME 12-1988, f. & cert. ef. 8-5-88; ME 15-1988, f. & cert. ef. 10-20-88; ME 2-1989, f. & cert. ef. 1-25-89; ME 15-1989, f. & cert. ef. 9-5-89, & corrected 9-22-89; ME 6-1991, f. & cert. ef. 7-24-91; ME 10-1993, f. & cert. ef. 7-27-93; ME 3-1995, f. & cert. ef. 2-1-95; ME 1-1996, f. & cert. ef. 2-15-96; ME 3-1996, f. & cert. ef. 7-25-96; BME 6-1998, f. & cert. ef. 4-27-98; BME 13-1998(Temp), f. & cert. ef. 8-6-98 thru 2-2-99; BME 14-1998, f. & cert. ef. 10-26-98; BME 16-1998, f. & cert. ef. 11-24-98; BME 13-1999, f. & cert. ef. 7-23-99; BME 14-2000, f. & cert. ef. 10-30-00; BME 11-2001, f. & cert. ef. 10-30-01; BME 9-2002, f. & cert. ef. 7-17-02; BME 10-2002, f. & cert. ef. 7-22-02; BME 1-2003, f. & cert. ef. 1-27-03; BME 12-2003, f. & cert. ef. 7-15-03; BME 4-2004, f. & cert. ef. 1-27-04; BME 11-2004(Temp), f. & cert. ef. 4-22-04 thru 10-15-04; BME 12-2004(Temp), f. & cert. ef. 6-11-04 thru 12-8-04; BME 21-2004(Temp), f. & cert. ef. 11-15-04 thru 4-15-05; BME 2-2005, f. & cert. ef. 1-27-05; BME 5-2005, f. & cert. ef. 4-21-05; BME 9-2005, f. & cert. ef. 7-20-05; BME 18-2006, f. & cert. ef. 7-25-06; BME 22-2006, f. & cert. ef. 10-23-06; BME 7-2007, f. & cert. ef. 1-24-07; BME 11-2007, f. & cert. ef. 4-26-07; BME 24-2007, f. & cert. ef. 10-24-07; BME 11-2008, f. & cert. ef. 4-24-08; BME 19-2008, f. & cert. ef. 7-21-08; BME 10-2009, f. & cert. ef. 5-1-09; BME 13-2009, f. & cert. ef. 7-20-09; BME 18-2009, f. & cert. ef. 10-23-09; BME 22-2009(Temp), f. & cert. ef. 10-23-09 thru 4-15-10; BME 5-2010, f. & cert. ef. 1-26-10; BME 8-2010(Temp), f. & cert. ef. 4-26-10 thru 10-15-10; BME 12-2010, f. & cert. ef. 7-26-10; BME 18-2010, f. & cert. ef. 10-25-10;

Rule Caption: Implements 2012 Senate Bill 1565 related to physician assistant dispensing.

Adm. Order No.: OMB 16-2012(Temp)

Filed with Sec. of State: 5-8-2012

Certified to be Effective: 6-1-12 thru 11-28-12

Notice Publication Date:

Rules Amended: 847-050-0041, 847-050-0065

Subject: Proposed rule amendments implement 2012 Senate Bill 1565 related to physician assistant dispensing and contain general language and grammar housekeeping.

Rules Coordinator: Nicole Krishnaswami—(971) 673-2667

847-050-0041

Prescribing and Dispensing Privileges

(1) An Oregon grandfathered physician assistant may issue written, electronic or oral prescriptions for medications, Schedule III-V, which the supervising physician has determined the physician assistant is qualified to prescribe commensurate with the practice agreement or Board-approved practice description if the physician assistant has passed a specialty examination approved by the Board prior to July 12, 1984, and the following conditions are met:

(a) The Oregon grandfathered physician assistant has passed the Physician Assistant National Certifying Examination (PANCE); and

(b) The Oregon grandfathered physician assistant has documented adequate education or experience in pharmacology commensurate with the practice agreement or Board-approved practice description.

(2) A physician assistant may issue written, electronic or oral prescriptions for medications, Schedule III-V, which the supervising physician has determined the physician assistant is qualified to prescribe commensurate with the practice agreement or Board-approved practice description, if the physician assistant has met the requirements of OAR 847-050-0020(1).

(3) A physician assistant may issue written, electronic or oral prescriptions for medications, Schedule II if the requirements in (1) or (2) are fulfilled and if the following conditions are met:

(a) A statement regarding Schedule II controlled substances prescription privileges is included in the practice agreement or Board-approved practice description. The Schedule II controlled substances prescription privileges of a physician assistant are limited by the practice agreement or Board-approved practice description and may be restricted further by the supervising physician at any time.

(b) The physician assistant is currently certified by the National Commission for the Certification of Physician Assistants (NCCPA) and must complete all required continuing medical education coursework.

(4) All prescriptions given whether written, electronic, or oral must include the name, office address, and telephone number of the supervising physician and the name of the physician assistant. The prescription must also bear the name of the patient and the date on which the prescription was written. The physician assistant must sign the prescription and the signature must be followed by the letters "P.A." Also the physician assistant's Federal Drug Enforcement Administration number must be shown on prescriptions for controlled substances.

(5) A supervising physician or primary supervising physician of a supervising physician organization may apply to the Board for a physician assistant to dispense drugs specified by the supervising physician or supervising physician organization.

(a) The physician assistant must have prescribing privileges and be in good standing with the Board and the NCCPA to qualify for dispensing authority. The physician assistant may dispense Schedule II medications only if the physician assistant has been delegated Schedule II prescription privileges by the supervising physician.

(b) If the facility where the physician assistant will dispense medications serves population groups federally designated as underserved, geographic areas federally designated as health professional shortage areas or medically underserved areas, or areas designated as medically disadvantaged and in need of primary health care providers as designated by the State, the application must include:

(A) Location of the practice site;

(B) Accessibility to the nearest pharmacy; and

(C) Medical necessity for dispensing.

(c) If the facility where the physician assistant will be dispensing medications is not in one of the designated areas or populations described in subsection (5)(b) of this rule:

ADMINISTRATIVE RULES

(A) The physician assistant may not dispense Schedule I through IV controlled substances.

(B) The physician assistant must complete a drug dispensing training program jointly developed by the Oregon Medical Board and the State Board of Pharmacy; and

(C) The supervising physician or primary supervising physician of a supervising physician organization must submit to the Board:

(i) A plan for drug delivery and control;

(ii) An annual report on the physician assistant's use of dispensing authority;

(iii) A list of the drugs or classes of drugs the physician assistant will dispense; and

(iv) A list of all facilities where the physician assistant will dispense and documentation that each of these facilities has been registered with the State Board of Pharmacy as a supervising physician dispensing outlet.

(6) A physician assistant with dispensing authority must:

(a) Dispense medications personally;

(b) Dispense only medications that are pre-packaged by a licensed pharmacist, manufacturing drug outlet or wholesale drug outlet authorized to do so under ORS 689, and the physician assistant must maintain records of receipt and dispensing; and

(c) Register with the Drug Enforcement Administration and maintain a controlled substances log as required in OAR 847-015-0015.

(7) Distribution of samples, without charge, is not dispensing under this rule. Administering drugs in the facility is not dispensing under this rule.

(8) A supervising physician or primary supervising physician of a supervising physician organization for a physician assistant who is applying for dispensing authority must be registered with the Oregon Medical Board as a dispensing physician.

(9) Failure to comply with any subsection of this rule is a violation of the ORS Chapter 677 and is grounds for a \$195 fine. The licensee may be subject to further disciplinary action by the Board.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.190, 677.205, 677.470, 677.515 & 677.545

Hist.: ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 6-1982, f. & ef. 10-27-82; ME 10-1984, f. & ef. 7-20-84; ME 5-1986, f. & ef. 4-23-86; ME 16-1987, f. & ef. 8-3-87; ME 2-1990, f. & cert. ef. 1-29-90; ME 10-1992, f. & cert. ef. 7-17-92; ME 5-1994, f. & cert. ef. 1-24-94; BME 2-2000, f. & cert. ef. 2-7-00; BME 4-2002, f. & cert. ef. 4-23-02; BME 4-2002, f. & cert. ef. 4-23-02; BME 13-2003, f. & cert. ef. 7-15-03; BME 8-2004, f. & cert. ef. 4-22-04; BME 3-2005, f. & cert. ef. 1-27-05; BME 6-2006, f. & cert. ef. 2-8-06; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12; OMB 16-2012(Temp), f. 5-8-12, cert. ef. 6-1-12 thru 11-28-12

847-050-0065

Duties of the Committee

(1) The Physician Assistant Committee must:

(a) Review physician assistants' applications for licensure and renewal of licensure.

(b) Recommend approval or disapproval of physician assistants' applications for licensure and renewal of licensure.

(c) Review requests to use the services of physician assistants.

(d) Review the criteria for prescriptive privileges for physician assistants.

(e) Review any other matters related to physician assistant practice in Oregon.

(2) All actions of the physician assistant committee are subject to review and approval by the Board.

Stat. Auth.: ORS 677.265

Stats. Implemented: ORS 677.540 & 677.545

Hist.: ME 23(Temp), f. & ef. 10-12-71; ME 25, f. 1-20-72, ef. 2-1-72; ME 1-1979, f. & ef. 1-29-79; ME 5-1979, f. & ef. 11-30-79; ME 4-1980(Temp), f. 8-5-80, ef. 8-6-80; ME 7-1980, f. & ef. 11-3-80; ME 4-1981(Temp), f. & ef. 10-20-81; ME 2-1982, f. & ef. 1-28-82; ME 2-1990, f. & cert. ef. 1-29-90; BME 15-1999, f. & cert. ef. 10-28-99; BME 6-2006, f. & cert. ef. 2-8-06; [OMB 21-2011(Temp), f. & cert. ef. 10-13-11 thru 4-10-12; Suspend temporary by OBDD 28-2011(Temp), f. & cert. ef. 10-26-11 thru 4-10-12]; OMB 32-2011(Temp), f. 12-15-11, cert. ef. 1-1-12 thru 6-29-12; OMB 7-2012, f. & cert. ef. 2-10-12; OMB 16-2012(Temp), f. 5-8-12, cert. ef. 6-1-12 thru 11-28-12

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Oregon State Lottery Chapter 177

Rule Caption: Increases amount available from set prize reserve account from \$25,000,000 to \$40,000,000.

Adm. Order No.: LOTT 2-2012

Filed with Sec. of State: 4-30-2012

Certified to be Effective: 5-1-12

Notice Publication Date: 2-1-2012

Rules Amended: 177-085-0025, 177-085-0065

Rules Repealed: 177-085-0025(T), 177-085-0065(T)

Subject: The Oregon Lottery® adopted permanent rules to increase the set prize reserve account from \$25,000,000 to \$40,000,000. The set prize reserve account is only used when the total of the set prizes awarded in a drawing exceeds the percentage of the prize pool allocated to the set prizes, and any amount allocated to the set prizes that was carried forward from previous draws.

Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-085-0025

Powerball® Prize Pool

(1) **Prize Pool:** The prize pool for all prize categories shall consist of 50 percent of each drawing period's sales, including any specific statutorily-mandated tax on a Party Lottery to be included in the price of a lottery ticket, after funding the prize reserve accounts to the amounts established by the Product Group. Any amount remaining in the prize pool at the end of the Powerball® game shall be carried forward to a replacement game or expended in a manner as directed by the Product Group in accordance with state law.

(2) **Prize Reserve Accounts:** An amount equal to up to two percent of a Party Lottery's sales, including any specific statutorily-mandated tax on a Party Lottery to be included in the price of a lottery ticket, shall be deducted from the Party Lottery's Grand Prize Pool and placed in trust in one or more prize reserve accounts until the Party Lottery's share of the prize reserve accounts reaches the amounts designated by the Product Group. Once the Party Lottery's share of the prize reserve accounts exceeds the designated amounts, the excess shall become part of the Grand Prize pool. Any amount remaining in a prize reserve account at the end of the Powerball® game shall be carried forward to a replacement prize reserve account or expended in a manner as directed by the Product Group in accordance with state law.

(3) **Expected Prize Payout Percentages:** The Grand Prize shall be determined on a pari-mutuel basis. Except as otherwise provided in these rules, all other prizes awarded shall be paid as set lump sum prizes with the following expected prize payout percentages: [Table not included. See ED. NOTE.]

(a) **Division of Grand Prize Among Winners:** The prize money allocated to the Grand Prize category shall be divided equally by the number of game plays winning the Grand Prize.

(b) **Set Prizes:** The prize pool percentage allocated to the set prizes (the single lump sum prizes of \$1,000,000 or less) shall be carried forward to subsequent draws if all or a portion of it is not needed to pay the set prizes awarded in the current draw. If the total of the set prizes awarded in a drawing exceeds the percentage of the prize pool allocated to the set prizes, then the amount needed to fund the set prizes awarded shall be drawn from the following sources, in the following order:

(A) The amount allocated to the set prizes and carried forward from previous draws, if any;

(B) An amount from the Set Prize Reserve Account, if available, not to exceed \$40,000,000 per drawing.

(c) **Lack of Sufficient Prize Funds:** If, after these sources are depleted, there are not sufficient funds to pay the set prizes awarded, then the highest set prize shall become a pari-mutuel prize. If the amount of the highest set prize, when paid on a pari-mutuel basis, drops to or below the next highest set prize and there are still not sufficient funds to pay the remaining set prizes awarded, then the next highest set prize shall become a pari-mutuel prize. This procedure shall continue down through all set prize levels, if necessary, until all set prize levels become pari-mutuel prize levels. In that instance, the money available from the funding sources listed in this rule shall be divided among the winning plays in proportion to their respective prize percentages.

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

Stat. Auth.: OR Const. Art. XV, Sec. 4(4)

Stat. Implemented: ORS 461.220

Hist.: LC 6-1988(Temp), f. & cert. ef. 1-26-88; LC 9-1988, f. & cert. ef. 2-23-88; LC 17-1988(Temp), f. & cert. ef. 6-2-88; LC 18-1988, f. & cert. ef. 6-28-88; LC 3-1989(Temp), f. & cert. ef. 1-23-89; LC 6-1989, f. 2-28-89, cert. ef. 3-2-89; LC 1-1992, f. 2-25-92, cert. ef. 4-19-92; LC 4-1993, f. & cert. ef. 4-2-93; LC 11-1995, f. 10-30-95, cert. ef. 11-1-95; LC 10-1996, f. & cert. ef. 9-4-96; LC 7-1997, f. 10-30-97, cert. ef. 11-2-97; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03; LOTT 7-2005(Temp), f. 8-8-05, cert. ef. 8-28-05 thru 2-23-06; LOTT 23-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 11-2008, f. 11-21-08, cert. ef. 1-4-09; LOTT 9-2011, f. 12-20-11, cert. ef. 1-15-12; LOTT 10-2011(Temp), f. 12-22-11, cert. ef. 1-15-12 thru 7-7-12; LOTT 2-2012, f. 4-30-12, cert. ef. 5-1-12

ADMINISTRATIVE RULES

177-085-0065

Power Play®

(1) **General:** Power Play® is an optional, limited extension of the Powerball® Game described in OAR Division 85. The Lottery Director, in the Lottery Director's sole discretion and based on agreements with MUSL, is authorized to initiate and terminate the Power Play® option.

(2) **Set Prizes Only:** Power Play® increases the amount of any of the cash Set Prizes (the cash prizes normally paying \$4 to \$1,000,000) won in a drawing. The Grand Prize Jackpot is not a Set Prize and will not be increased.

(3) **Power Play® Purchase:** A qualifying Power Play® option play is any single Powerball® Play for which the player selects the Power Play® option on either the game slip or by selecting the Power Play® option through a clerk-activated or player-activated terminal, pays one extra dollar for the Power Play® option play, and which is recorded at the Party Lottery's central computer as a qualifying play.

(4) **Qualifying Play:** Except as otherwise provided in these rules, a qualifying play which wins one of the eight lump sum Set Prizes (excluding the Grand Prize Jackpot) shall be paid as follows: [Table not included. See ED. NOTE.]

(5) **Power Play® Prize Pool:** The prize pool for all prize categories shall consist of up to 49.96 percent of each drawing period's sales, including any specific statutorily mandated tax on a Party Lottery to be included in the price of a lottery ticket, after the Powerball® prize reserve accounts are funded to the amounts set by the Product Group. Any amount remaining in the prize pool at the end of the Powerball® game shall be carried forward to a replacement game or expended in a manner as directed by the Product Group in accordance with state law.

(6) **Power Play® Prize Reserve Accounts:** An additional 0.04 percent of sales, including any specific statutorily mandated tax on a Party Lottery to be included in the price of a lottery ticket, may be collected and placed in the rollover account or in trust in one or more prize reserve accounts until the prize reserve accounts reach the amounts designated by the Product Group.

(7) **Power Play® Payout:** Except as otherwise provided in these rules, all prizes awarded shall be paid as lump sum set prizes. Instead of the Powerball® set prize amounts, qualifying Power Play® option plays will pay the Power Play® prize amounts shown in section (4) of this rule. In certain rare instances, and as determined under OAR 177-085-0025(3)(c) and section (9) of this rule, the Powerball® set prize amount may be less than the amount shown in section (4) of this rule. In such case, the eight Power Play® prize amounts will be changed to an amount announced after the draw.

(8) **Prize Pool Carried Forward:** The prize pool percentage allocated to the Power Play® set prizes shall be carried forward to subsequent draws if all or a portion of it is not needed to pay the set prizes awarded in the current draw.

(9) **Pari-Mutuel Prizes — All Prize Amounts:** If the total of the original Powerball® set prizes and the Power Play® prizes awarded in a drawing exceeds the percentage of the prize pools allocated to the set prizes, then the amount needed to fund the set prizes (including the Power Play® prize amounts) awarded shall be drawn from the following sources, in the following order:

(a) The amount allocated to the set prizes and carried forward from previous draws, if any;

(b) An amount from the Powerball® Set-Prize Reserve Account, if available in the account, not to exceed \$40,000,000 per drawing; and

(c) If, after these sources are depleted, there are not sufficient funds to pay the set prizes awarded (including Power Play® prize amounts), then the highest set prize (including the Power Play® prize amounts) shall become a pari-mutuel prize. If the amount of the highest set prize, when paid on a pari-mutuel basis, drops to or below the next highest set prize and there are still not sufficient funds to pay the remaining set prizes awarded, then the next highest set prize, including the Power Play® prize amount, shall become a pari-mutuel prize. This procedure shall continue down through all set prizes levels, if necessary, until all set prize levels become pari-mutuel prize levels. In that instance, the money available from the funding sources listed in this rule shall be divided among the winning plays in proportion to their respective prize percentages. In rare instances, where the Powerball® set prize amount may be funded but the money available to pay the full Power Play® prize amount may not be available due to an unanticipated number of winners, the Product Group may announce pari-mutuel shares of the available pool for the Power Play® payment only.

(10) **Prize Payment:** All Power Play® prizes shall be paid in one lump sum. The Lottery may begin paying Power Play® prizes after receiving authorization to pay from the MUSL central office.

(11) **Prizes Rounded:** Prizes, which under these rules may become pari-mutuel prizes, may be rounded down so that prizes can be paid in whole dollars. Breakage resulting from rounding these prizes shall be carried forward to the prize pool for the next drawing.

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

Stat. Auth.: OR Const. Art. XV, Sec. 4(4) & ORS 461

Stats. Implemented: ORS 461

Hist.: LOTT 3-2001(Temp), f. 3-1-01, cert. ef. 3-2-01 thru 8-29-01; LOTT 10-2001, f. 5-25-01, cert. ef. 5-29-01; LOTT 9-2002(Temp), f. 9-4-02, cert. ef. 10-6-02 thru 3-31-03; LOTT 1-2003, f. & cert. ef. 2-3-03; LOTT 7-2005(Temp), f. 8-8-05, cert. ef. 8-28-05 thru 2-23-06; LOTT 23-2005, f. 12-21-05, cert. ef. 12-31-05; LOTT 11-2008, f. 11-21-08, cert. ef. 1-4-09; LOTT 10-2010, f. 11-19-10, cert. ef. 12-12-10; LOTT 9-2011, f. 12-20-11, cert. ef. 1-15-12; LOTT 10-2011(Temp), f. 12-22-11, cert. ef. 1-15-12 thru 7-7-12; LOTT 2-2012, f. 4-30-12, cert. ef. 5-1-12

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Rule Caption: Clarifies amount of Match 5+0 prize with Megaplier® option and conduct of Megaplier® drawing.

Adm. Order No.: LOTT 3-2012

Filed with Sec. of State: 4-30-2012

Certified to be Effective: 5-1-12

Notice Publication Date: 2-1-2012

Rules Amended: 177-098-0110

Rules Repealed: 177-098-0110(T)

Subject: The Oregon Lottery® (ADOPT) a permanent rule which clarifies when the Match 5+0 prize with the Megaplier® option, which normally pays \$1 million, will be reduced by the same percentage as the Match 5+0 \$250,000 prize is reduced. The rulemaking also clarifies that in the event the multiplier drawing does not occur prior to the Mega Millions® drawing, the multiplier number will be a 4.
Rules Coordinator: Mark W. Hohlt—(503) 540-1417

177-098-0110

Megaplier®

(1) **General:** Megaplier® is an optional, limited extension promotion of the Mega Millions® Game described in OAR division 98. The Lottery Director, in the Lottery Director's sole discretion and based on agreements with MUSL, is authorized to initiate and terminate the Megaplier® option.

(2) **Set Prizes Only:** Megaplier® multiplies or increases the amount of any of the cash Set Prizes (the cash prizes normally paying \$2 to \$250,000) won in a drawing held during the promotion. The Jackpot Prize is not a Set Prize and will not be multiplied or increased by means of the Megaplier® promotion.

(3) **Qualifying Play:** A qualifying Megaplier® option play is any single Mega Millions® Play for which the player selects the Megaplier® option on either the Play Slip or by selecting the Megaplier® option through a clerk-activated or player-activated terminal, pays one extra dollar for the Megaplier® option play, and which is recorded at the Party Lottery's central computer as a qualifying play.

(4) **Prizes to be Multiplied or Increased:**

(a) **Set Prizes:** A qualifying play which wins one of the seven lowest lump sum Set Prizes will be multiplied by the number selected (either 2, 3, or 4), in a separate random Megaplier® drawing announced in a manner determined by the Product Group.

(b) **Match 5+0 Prize:** The Match 5+0 prize, for players selecting the Megaplier® option, shall be \$1,000,000 unless a higher limited promotional dollar amount is announced by the Product Group or unless a lower dollar amount is announced by the Product Group under section (8) of this rule.

(5) **Selection of Multiplier®:** MUSL will either itself conduct, or authorize a U.S. Lottery to conduct on its behalf, a separate random "Megaplier®" drawing. Before each Mega Millions® drawing a single number (2, 3 or 4) shall be drawn. The Mega Millions® Product Group may change one or more of these multiplier numbers and/or the Match 5+0 Megaplier® prize amount for special promotions from time to time. In the event the "Megaplier®" drawing does not occur prior to the Mega Millions® drawing, the multiplier number will be a 4, which shall solely be determined by the lottery authorized to conduct the Megaplier® drawing.

(6) **Megaplier® Prize Pool:** The prize pool for all prize categories offered by the Party Lotteries shall consist of up to fifty-five percent (55%) of each drawing period's sales, as determined by the Product Group, including any specific statutorily-mandated tax of a Party Lottery to be included in the price of a lottery ticket, after the Mega Millions® prize reserve accounts are funded to the amounts set by the Product Group. Any amount

ADMINISTRATIVE RULES

remaining in the prize pool at the end of the Mega Millions® game shall be carried forward to a replacement game or expended in a manner as directed by the Product Group in accordance with state or jurisdiction law.

(7) **Megaplier® Prize Rollover or Reserve Accounts:** Any amount not used to pay for multiplied prizes may be collected and placed in the rollover account or in trust in one or more prize reserve accounts until the prize reserve accounts reach the amounts designated by the Product Group.

(8) **Expected Prize Payout:** Except as provided in these rules, all prizes awarded shall be paid as lump sum set prizes. Instead of the Mega Millions® set prize amounts, qualifying Megaplier® plays will pay the amounts shown below when matched with the Megaplier® number drawn: [Table not included. See ED. NOTE.] In certain rare instances, the Mega Millions® set prize amount may be less than the amount shown. In such case, the seven lowest Megaplier® prizes will be a multiple of the changed Mega Millions® prize amount announced after the draw. For example, if the Match 4+1 Mega Millions® set prize amount of \$10,000 becomes \$5,000 under the rules of the Mega Millions® game, then a Megaplier® player winning that prize amount with a 4X multiplier would win \$20,000 (\$5,000 x 4). The Match 5+0 prize with the Megaplier® option, which normally pays \$1 million, will be reduced by the same percentage as the Match 5+0 \$250,000 prize is reduced.

(9) **Probability of Winning:** The following table sets forth the probability of the various Megaplier® numbers being drawn during a single Mega Millions® drawing. The Product Group may elect to run limited promotions that may increase the multiplier numbers. [Table not included. See ED. NOTE.]

(10) **Prize Pool Carried Forward:** The prize pool percentage allocated to the Megaplier® set prizes shall be carried forward to subsequent draws if all or a portion of it is not needed to pay the set prizes awarded in the current draw or may be held in a prize reserve account.

(11) **Pari-Mutuel Prizes — All Prize Amounts:** If the total of the original Mega Millions® set prizes and the Megaplier® prize amounts awarded in a drawing exceeds the percentage of the prize pools allocated to the set prizes, then the amount needed to fund the set prizes (including the Megaplier® prize amounts) awarded shall be drawn from the following sources, in the following order:

(a) The amount allocated to the set prizes and carried forward from previous draws, if any.

(b) An amount from the Mega Millions® reserve accounts not to exceed the lesser of 300% of draw sales or 50% of draw sales plus \$50 million.

(c) If, after these sources are depleted, there are not sufficient funds to pay the set prizes awarded (including Megaplier® prize amounts), then the prize levels two through five shall become a pari-mutuel prize, as set out in OAR 177-098-0040. The Mega Millions® and Megaplier® prize pools shall be combined in the rare instance when the set prizes, pursuant to the rules, are paid on a pari-mutuel basis, so that the multipliers, as provided for in the rules, will remain in effect for all applicable prize levels. The Match 5+0 prizes may be reduced as announced by the Product Group.

(12) **Prize Payment:** All Megaplier® prizes shall be paid in one lump sum. The Lottery may begin paying Megaplier® prizes after receiving authorization to pay from the MUSL central office.

(13) **Prizes Rounded:** Prizes, which under these rules may become pari-mutuel prizes, may be rounded down so that prizes can be paid in whole dollars. Breakage resulting from rounding these prizes shall be carried forward to the prize pool for the next drawing.

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

Stat. Auth.: ORS 190, 461, OR Const. Art. XV, Sec. 4(4) &

Stats. Implemented: ORS 461

Hist.: LOTT 6-2010, f. 3-18-10, cert. ef. 3-21-10; LOTT 12-2010, f. 11-19-10, cert. ef. 12-12-10; LOTT 1-2012(Temp), f. & cert. ef. 1-9-12 thru 7-2-12; LOTT 3-2012, f. 4-30-12, cert. ef. 5-1-12

Oregon State Marine Board Chapter 250

Rule Caption: Clarifies exemptions for commercial operation and sets construction safety zones in Multnomah County.

Adm. Order No.: OSMB 5-2012

Filed with Sec. of State: 4-20-2012

Certified to be Effective: 4-20-12

Notice Publication Date: 3-1-2012

Rules Amended: 250-010-0150, 250-020-0280

Rules Repealed: 250-020-0280(T)

Subject: This rule action clarifies the inconsistency of commercial vessels exemptions by specifically exempting “federally document-

ed commercial vessels” required to be inspected under Federal law including those operated for sand and gravel operations with the exception of passenger vessels of less than 100 gross tons which are subject to the restriction. This rule also prohibits boating within a specified area of the Sellwood Bridge Construction Project and establishes a 5- mph-slow-no-wake zone.

Rules Coordinator: June LeTarte — (503) 378-2617

250-010-0150

Exemptions

(1) Undocumented vessels used exclusively for racing shall be exempt from the numbering and title requirements of ORS830.770 and 830.810.

(2) The provisions of ORS 830.220 and 830.230 shall not apply to motorboats propelled by outboard motors while competing in any race previously arranged and announced or, if such boats be designed and intended solely for racing, while engaged in such navigation as is incidental to the tuning up of the boats and engines for the race.

(3) Boats classified as “University or College” racing shells which compete in intercollegiate crew races shall be exempt from the requirements of carrying life-saving devices.

(4) The Lightship Columbia shall be exempt from the numbering and titling requirements of ORS Chapter 830.

(5) Federally documented commercial vessels are exempt from the numbering and title requirements of ORS 830.705, 830.710, 830.770, 830.780, 830.785, 830.795 to 830.805 and 830.830 to 830.870.

Stat. Auth.: ORS 830

Stats. Implemented: ORS 830.110 & 830.175

Hist.: MB 7, f. 8-19-60; MB 8, f. 6-30-61; MB 11, f. 11-14-61; MB 24, f. 3-13-64; MB 33, f. 3-30-67; MB 10-1984, f. 8-13-84, ef. 8-14-84; OSMB 5-2012, f. & cert. ef. 4-20-12

250-020-0280

Boat Operations in Multnomah County

(1) No person shall operate a boat in excess of 5 MPH:

(a) In North Portland Harbor (Oregon Slough):

(A) From the east end of North Portland Harbor (Oregon Slough) to a point 800 yards west of the Burlington Northern Railroad Bridge, as marked;

(B) Within 200 feet of a launching ramp, moorage or houseboat from the east end of North Portland Harbor (Oregon Slough) eastward along the south shore to the Lower Airport wing dike.

(b) Within 300 feet of the entrance to and in Rooster Rock boat channel;

(c) Within 200 feet of west shore, as buoyed, between the southern boundary of Willamette Park Launch Ramp and the northern boundary of the Willamette Sailing Club;

(d) Within Hayden Bay. The Bay is considered to be all waters south and west of a line 200 feet north of the Northeast point of Hayden Island and 200 feet north of the Northwest point of Tomahawk Island as marked;

(e) Within 200 feet of the Oregon Yacht Club floating home moorage as buoyed (a distance of approximately 1,500 feet);

(f) Within 200 feet of houseboat moorages in the Government Island South Channel;

(g) No person shall operate a boat in excess of a maximum 5 MPH, “Slow – No Wake” speed on the Columbia River south of the buoys along the northern shore of Government Island in the waters adjacent to the I-205 Bridge, commonly referred to as Commodore’s Cove, as marked;

(h) Within 100 feet of the Landing Boat Club at RM 15, Willamette River.

(2) No person shall operate a watercraft in excess of slow-no-wake in:

(a) the Ross Island Lagoon; and

(b) the Holgate Channel from a line extending northeast from the north side of the Ross Island Lagoon mouth to the east side of the channel, and to a line extending from the southern (upstream) tip of Ross Island due south to the Oregon Yacht Club.

(c) This restriction does not apply to:

(A) Federally documented commercial vessels required to be inspected under Federal law, including those operated for sand and gravel operations, with the exception of passenger vessels of less than 100 gross tons, which are subject to the restriction;

(B) Safety launches while accompanying an organized rowing or paddling program, club or school.

(3) No person shall operate a boat in excess of a maximum 5 MPH, “Slow – No Wake” speed on the Columbia River within 300 feet of shore between the Big Eddy Wing dike and the wing dike east of the entrance to the Chinook Landing boat Basin and within the Chinook Landing Boat Basin, as marked.

ADMINISTRATIVE RULES

(4) A “pass-through” zone is established in the south channel of the Columbia River, adjacent to McGuire Island between the east end of Big Eddy Marina and the west end of McGuire Point Marina as marked.

(a) No person shall operate a motorboat pulling a water skier or towed device in this zone.

(b) No person shall operate a personal watercraft, as defined in OAR 250-021-0020, in continuous operation above 5 MPH in this area, except to transit directly through this zone.

(c) No person shall operate any motorboat in excess of slow-no wake maximum 5 MPH speed within 200 feet of any houseboat moorage within the “pass-through” zone.

(5) No person shall operate a boat in excess of 3 MPH in Rooster Rock Boat Basin.

(6) The following locations are designated racing motorboat testing areas:

(a) On the Willamette River in Swan Island Lagoon. Testing is limited to the hours of 3–6 p.m. on Thursdays, Fridays, and Saturdays;

(b) On the Columbia River between the county launching ramp at 43rd Street and Buoy #18 (NOS Chart #18531). Testing is limited to the hours of 8 a.m.–12 noon, Tuesday through Friday.

(7) No person shall operate a motorboat on Benson Lake.

(8) No person shall operate a boat for any reason within any restricted area at any time without first obtaining permission from the District Engineer, Corps of Engineers, U.S. Army, or his duly authorized representative.

(9) At Bonneville Dam.

(a) The Waters restricted to only Government vessels are described as all waters of the Columbia River and Bradford Slough within 1,000 feet above and 2,000 feet below the powerhouse. The restricted areas will be designated by signs;

(b) No person shall operate a boat, including a commercial recreational tour boat subject to inspection and licensing by the U.S. Coast Guard, within the Boating Restricted Zone located below Bonneville lock and dam bounded by a line commencing from the westernmost tip of Robins Island on the Oregon side of the Columbia River and running at a South 65 degrees West direction a distance of approximately 2100 feet to a point 50 feet upstream of the Hamilton Island Boat Ramp on the Washington side of the Columbia River, as marked.

(10) No person shall operate or anchor a boat in the following described zone in Oregon Slough (North Portland Harbor):

(a) Commencing at the northwesterly corner of that tract of land described in a Bargain and Sale Deed to RHODIA, Inc., recorded as Document No. 98028586, Multnomah County Deed Records; Thence, along the northeasterly line of said tract, S 47°46' E, 513.54 feet to the northwest corner of the Alexander Brown Donation Land Claim; Thence, along the north line of said Claim S 48°30' E, 764.51 feet to the POINT OF BEGINNING of the SITE AREA being described herein; Thence, N 29°58'25" E, 133.84 feet; Thence, S 62°44'22" E, 461.47 feet; Thence, S 29°58'25" W, 227.76 feet to the northeasterly line of said tract; Thence, along said northeasterly line, N 61°15' W, 60.85 feet; Thence, along said northeasterly line, N 52°30' W, 115.5 feet; Thence, along said northeasterly line, N 48°30' W, 291.49 feet to the POINT OF BEGINNING as marked.

(b) This area of land contains 2.0 acres (87,008 sq. Ft.), more or less.

(c) The intent of this description is to describe a line that surrounds the limits of the sediment cap location, plus a buffer zone.

(d) Bearings based on Document No. 98028586, Multnomah County Deed Records.

(11) No person shall anchor a boat at approximately River Mile 7 of the Willamette River in Multnomah County described in Department of State Lands Easement No. 31530-EA, Exhibit A — Legal Description — Permanent Easement.

(12) No person shall operate a boat in the Willamette River:

(a) Beginning June 15, 2011, in the area beneath the temporary construction bridges or lifting cranes used for construction of the Portland-Milwaukie Light Rail Bridge near river mile 13.8.

(b) In excess of 5 MPH Slow-No-Wake as marked 500 feet upriver and 500 feet downriver from the centerline of the bridge construction project from June 15, 2011 to December 31, 2012.

(c) In the area of the Sellwood Bridge Construction Project, from approximately 375 feet from the west river bank and 200 feet upstream and downstream of the bridge measured at the bridge centerline; and about 420 feet from the east river bank and about 200 feet upstream and downstream of the bridge measured at the bridge centerline.

(d) In excess of 5 mph Slow-No-Wake as marked 500 feet upriver and 500 feet downriver from the centerline of the Sellwood Bridge construction project.

(13) The Sellwood Bridge Construction rule provisions will sunset at the completion of construction in December 2015.

Stat. Auth.: ORS 830

Stats. Implemented: ORS 830.175

Hist.: MB 23, f. 9-24-63; MB 26, f. 7-20-64; MB 51, f. 5-3-73, ef. 5-15-73; MB 61, f. 7-26-74, ef. 7-26-74(Temp) & 8-25-74(Perm); Renumbered from 250-020-0155; MB 10-1982, f. 10-13-82, ef. 10-15-82; MB 12-1982, f. 12-29-82, ef. 12-31-82; MB 6-1983, f. 9-28-83, ef. 10-3-83; MB 17-1984, f. & ef. 12-3-84; MB 6-1985, f. & ef. 2-5-85; MB 10-1985, f. & ef. 4-24-85; MB 15-1985, f. 10-18-85, ef. 10-21-85; MB 20-1987, f. 11-4-87, ef. 11-15-87; MB 5-1990, f. & cert. ef. 7-19-90; MB 11-1992, f. & cert. ef. 9-16-92; MB 2-1993, f. & cert. ef. 2-3-93; MB 13-1996, f. & cert. ef. 12-4-96; OSMB 7-1998(Temp), f. & cert. ef. 5-19-98 thru 11-15-98; OSMB 7-1999, f. & cert. ef. 6-18-99; OSMB 2-2005, f. & cert. ef. 1-20-05; OSMB 8-2006, f. & cert. ef. 10-12-06; OSMB 3-2009, f. 10-21-09, cert. ef. 1-1-10; OSMB 4-2011, f. 3-7-11, cert. ef. 5-25-11; OSMB 8-2011, f. 4-25-11, cert. ef. 6-1-11; OSMB 9-2011(Temp), f. 5-13-11, cert. ef. 6-15-11 thru 10-31-11; Administrative correction, 11-18-11; OSMB 16-2011(Temp), f. 11-22-11, cert. ef. 12-1-11 thru 5-28-12; OSMB 17-2011(Temp), f. 12-22-11, cert. ef. 1-1-12 thru 5-28-12; OSMB 5-2012, f. & cert. ef. 4-20-12

Rule Caption: Maintenance Assistance Program rules update.

Adm. Order No.: OSMB 6-2012

Filed with Sec. of State: 4-20-2012

Certified to be Effective: 5-1-12

Notice Publication Date: 12-1-2011

Rules Amended: 250-014-0001, 250-014-0004

Subject: Changes amend, modify and consolidate current Maintenance Assistance Program (MAP) rules. Changes in the administrative rules could affect how much funding participating agencies receive.

Rules Coordinator: June LeTarte—(503) 378-2617

250-014-0001

Definitions

For the purposes of OAR 250-014-0001 to 250-014-0005, the following definitions shall apply:

(1) “Annual Maintenance” means routine maintenance and operation activities performed by the participant during the one-year allocation period.

(2) “Biennium” means the 24-month period beginning July 1 of each odd numbered year and ending June 30 of the next odd numbered year.

(3) “Board” means the State Marine Board.

(4) “Boarding Float” means a floating structure on or adjacent to a launch ramp that provides temporary short term use for loading or off-loading from a boat. Floats are normally 6 to 8 feet wide.

(5) “Boating Facility Grant Program” means the program authorized by ORS 830.150. Funds are available for the acquisition, development and rehabilitation of public boating facilities available to, and ordinarily used by, motorized boats.

(6) “Boating Infrastructure Grants Program” (BIG) means the federal program authorized by 50 CFR Part 80 and ORS 830.150. Funds are available for the development and rehabilitation of non-home port transient tie-up facilities at public and private facilities used principally by non-trailerered recreational boats.

(7) “Clean Vessel Act (CVA) Grant Program” means the federal program authorized by 50 CFR Part 85 and ORS 830.150. Clean Vessel Act grants can be used to develop, refurbish, or maintain floating restrooms and vessel waste collection systems ordinarily used by recreational boats at public and private boating facilities.

(8) “Director” means the State Marine Board Director.

(9) “Fiscal Year” means the twelve-month period beginning July 1 of any year and ending June 30 of the next year.

(10) “Floating Restroom” means a floating structure moored in open water that is not connected to shore and provides toilet facilities to boaters.

(11) “Grounds” includes the area at or immediately adjacent to an improved boating facility where garbage pickup and maintenance of turf, vegetation, trees/shrubs, bank stabilization and small picnic areas occurs.

(12) “Improved Public Boating Facility” means developed public facilities with hard surface launch ramps, boarding floats, parking areas, access roads, restrooms, grounds, transient tie-up floats or vessel waste collection facilities.

(13) “Launch Ramp” is an inclined hard surface consisting of asphalt or concrete used to launch and retrieve boats. A launch ramp consists of one or more launch lanes. Each launch lane is normally 15 to 20 feet wide.

ADMINISTRATIVE RULES

(14) "Maintenance Assistance Program" (MAP), means funding assistance to eligible public participants for the routine maintenance and operations of improved public boating facilities.

(15) "Mixed Use Site" means a boating facility where annual use is mixed (31%-69%) between motorized (or registered) and non-motorized (or non-registered boats).

(16) "Motorized Use Site" means a boating facility where annual use by motorized (or registered) boats is 70% or more of all boat use.

(17) "Non-Motorized Use Site" means a boating facility where the annual use by motorized (or registered) boats is 30% or less of all boat use.

(18) "Off-Season" means the six-month period of lowest motorized (or registered) boat use generally the period from October 15 to April 15.

(19) "Parking Area" means a developed gravel and/or asphalt surface with a least six boat trailer spaces (10' x 40') and two single car spaces (10' x 20') associated with a launch ramp. This includes any required accessible parking spaces.

(20) "Participant" means any public or private party that qualifies to receive funds from the Boating Facility Grant Program or Maintenance Assistance Program and voluntarily participates in either program.

(21) "Peak Season" means the three month period of heaviest boat use generally the period from June 1 to August 31.

(22) "Public Boating Facility Grant Project" means a project to develop, improve, rehabilitate or replace public boating facilities or to acquire property for the development of an improved boating facility.

(23) "Private Boating Facility Grant Project" means a project to develop, improve, rehabilitate or replace private marina facility vessel waste collection systems and transient tie-up facilities that are available/open for public use.

(24) "Public Boating Facility" or "Public Marine Facility" means public launch ramps, parking, boarding floats, transient tie-up facilities, restrooms, access roads, floating restrooms, vessel waste collection systems, signing and water markers, potable water systems and related facilities for the use and convenience of the boating public.

(25) "Private Marine Facility" or "Private Marina Facility" means private facilities that have the capability to provide vessel waste collection systems or transient tie-up facilities that are open and available for public use.

(26) "Public Project Sponsor," "Eligible Public Participants," or "Public Entity" means cities, counties, park and recreation districts, port districts and state agencies that own and or operate public boating facilities as specified in these rules.

(27) "Private Project Sponsor," "Eligible Private Participants," or "Private Entity" means any individual firm, corporation, association, partnership, consortium, joint venture, industry, or any other nonpublic entity that operates a marina facility as specified in these rules.

(28) "Restroom" means all types of landside facilities used to collect human waste to include flush, vault, composting and portable toilets. A restroom may include one or more stalls (urinal and/or toilet).

(29) "Routine Maintenance" means all types of ordinary maintenance activities completed on a regular basis (daily, weekly or monthly).

(30) "Shoulder Season" means the three month period of moderate boat use generally the period from April 15 to May 31 and September 1 to October 15.

(31) "Transient Tie-Up" means a floating structure at least 100 feet in length used for short term boat tie-up and broadside tie-up or space for mooring at least six non-trailer boats. Transient tie-up does not include tenant based moorage or facilities that allow stays longer than ten consecutive days.

(32) "Use Fee" means any form of user fee charged to boaters for access or use of a boating facility. This includes day use, launch, parking, tie-up or any other general entrance or use fee.

(33) "Vessel Waste Collection System" means all types of stationary or portable systems that pump or remove human waste from a recreational boat holding tank or portable potties. This includes pumpouts, dump stations, related forward sewage lift stations, necessary floats, piles, and gangways, and related facilities.

Stat. Auth.: ORS 830.110 & 830.150
Stats. Implemented ORS 830.150

Hist.: MB 18-1985, f. & ef. 10-21-85; MB 11-1987, f. 5-20-87, ef. 6-1-87; MB 12-1987, f. & ef. 6-15-87; MB 7-1992, f. & cert. ef. 5-15-92; MB 8-1995, f. & cert. ef. 11-6-95; OSMB 6-1998, f. & cert. ef. 4-15-98; OSMB 8-2001, f. & cert. ef. 7-30-01; OSMB 10-2006, f. 11-22-06, cert. ef. 7-1-07; OSMB 6-2012, f. 4-20-12, cert. ef. 5-1-12

250-014-0004

Maintenance Assistance Program

(1) Program Description:

(a) The Board is authorized by ORS 830.150(2)(a) to provide funds for annual maintenance of improved public boating facilities.

(b) The Board is also authorized to provide federal Clean Vessel Act CFR 50 Part 85 funds made available through the U.S. Fish and Wildlife Service, to assist in the maintenance of vessel waste collection facilities, floating restrooms, and related support facilities.

(c) Federal Clean Vessel Act funds require at least a 25% non-federal match of funds, which is provided by participants and documented in expenditure reports and maintenance activity logs. All participants receiving federal funds must agree to comply with any and all federal funding requirements.

(d) The Program is voluntary and by accepting MAP funds the participant agrees to comply with all program rules, policies and procedures.

(e) The Program provides annual matching grants, which are intended to augment existing levels of routine maintenance at improved public boating facilities.

(f) Eligible participants include cities, counties, park and recreation districts, port districts and state agencies.

(g) MAP funds may only be used for routine and ordinary maintenance of boating facilities to include but not limited to: cleaning launch ramps, floats, parking areas, restrooms, garbage service, grounds keeping, utilities, and minor repairs to eligible facilities. Federal Clean Vessel Act funds may be used for routine and ordinary maintenance of vessel waste collection facilities and floating restrooms to include cleaning, septic disposal, utilities, minor repairs, deployment and winterization.

(h) Only motorized and mixed use facilities are eligible for MAP.

(i) Eligible facilities include launch ramps, boarding floats, restrooms, parking areas, access roads, transient tie-up floats, ski floats, floating restrooms, vessel waste collection systems grounds and garbage service. To be eligible, a facility must be open at least during the peak season of use and, at a minimum, provide:

(A) A single-lane launch ramp with at least six vehicle/boat trailer and two single car parking spaces or at least 100 linear feet of transient tie-up floats; Vessel waste collection facilities; or floating restrooms. (Item B and C are not required for Vessel waste collection facilities or floating restrooms).

(B) A single-stall restroom; and

(C) One garbage can.

(j) MAP funds may not be used for operation, maintenance or overhead costs associated with fish cleaning stations, boat wash stations, marine fuel stations, long-term marina or moorage facilities, campgrounds, trails, picnic areas or shelters, swim areas, other large day-use components. MAP funds may also not be used for the operation, maintenance or overhead of any eligible improved boating facility or portion of eligible improved boating facility used for commercial activities that limit public recreational boating use or access, unless the commercial activities are incidental.

(2) Allocation:

(a) MAP funds are provided, on an allocation basis each fiscal year, to eligible participants who own or operate eligible facilities. The amount of MAP funds available in any biennium will be contingent upon the legislatively adopted budget.

(b) Federal Clean Vessel Act funds are provided to eligible participants contingent on availability and approval by the U.S. Fish and Wildlife Service.

(c) The MAP allocation formula uses a point system based on site elements found at eligible facilities. Each point has a value of \$100. MAP payment shall be made to eligible participants annually after receipt and approval of all required reports and logs using the allocation methodology as follows:

(A) Determine the Base Allocation for each boating facility. Calculate the number of launch lanes, boat trailer parking spaces, restroom stalls, length of boarding floats, length of transient tie-up floats, grounds and garbage service by the point values as prescribed by the Board. Eligible boating facilities accessible only by boat receive additional points. Participants who provide four or more eligible facilities also receive additional points.

(B) Adjust the Base Allocation for fees charged. Facility fees may be any day use, entry, launch, parking or other fee charged to users for a single use of the boating facility. The highest of any single use fee paid by the boater for use of an improved boating facility will be used to adjust the base allocation. The highest fee does not include annual passes or donation boxes. Any fee charged over \$5 will disqualify that facility from receiving any MAP funds. The Board may prescribe other fee reduction values for transient tie-up facilities based on local or regional market conditions. Eligible participants who have transient tie-up facilities that have utility connections are allowed to charge use fees to recover direct utility costs

ADMINISTRATIVE RULES

without reduction to their MAP allocation. Adjust the Base Allocation for fees charged as follows:

- \$0-\$2.00 – no reduction
- \$2.01-\$3.00 – 15% reduction
- \$3.01-\$4.00 – 40% reduction
- \$4.01-\$5.00 – 75% reduction
- \$5.01 and above – not eligible

(C) The Allocation may further be adjusted to balance the number of launch lanes to the number of parking spaces in conformance with the Board's Design Guidelines for Recreational Boating Facilities; to account for restrooms and parking that clearly serve other developed activity areas besides boating, such as large day use areas, marinas, campgrounds and downtown areas (these facilities will assume to have joint use and points will be adjusted accordingly); and restrooms that have seasonal closures where the restroom facility is not open to the public.

(D) Adjust the Boating Facility Allocation for boating facility seasonal availability:

(i) Receive 50% adjusted Boating Facility Allocation for each site element at an eligible facility that is open, available, and operational only during the required minimum three-month peak season;

(ii) Receive 75% of the Boating Facility Allocation for each site element at an eligible facility that is open, available, and operational during the required minimum three-month peak season and three-month shoulder season.

(E) Determine Total Eligible Boating Facility Participant Allocation. Participant's annual allocation is the sum total of each eligible facility as adjusted for season of use and fees.

(d) Determine the Base Allocation for each vessel waste collection facility. Calculate the number of pumpouts, dump stations and floating restrooms by the point values as prescribed by the Board.

(A) Boat waste collection facilities built with Boating Facility Grants are required to provide free use for the public. No user fees may be collected or charged. The facility must be open and available to the general boating public to include hoses, adapters, power and other necessary items for operation and use.

(B) Adjust the Vessel Waste Collection Systems Base Allocation for seasonal closures when the facility is not open for public use or non-operational, based on the following:

(i) Receive 50% of the Base Facility Allocation for each eligible element that is open, available, and operational during the required minimum three-month peak season.

(ii) Receive 75% of the Base Facility Allocation for each eligible element at an eligible facility that is open, available, and operational during the required minimum three-month peak season and the three-month peak seasons.

(C) Determine Total Eligible Vessel Waste Collection Systems Participant Allocation. Participant's annual allocation is the sum total of each eligible facility as adjusted for season of use. The Base Allocation for eligible Vessel Waste Collection System elements is not reduced if user fees are charged at the site but there is no additional fee to use the eligible Vessel Waste Collection System elements.

(e) The Board shall re-allocate any MAP funds remaining in the biennium to the Marine Facility Grant Program.

(3) Procedures:

(a) Prior to the beginning of each fiscal year, the Board determines the funds available, and using the point system, estimates each participant's allocation.

(b) Eligible participants shall be notified in writing of their estimated allocation for the ensuing fiscal year.

(c) In order to participate in the MAP Program each participant must provide a completed Allocation Certification Agreement to the Board each fiscal year certifying the following:

(A) The participant has adopted a budget that includes the estimated MAP allocation; and

(B) The number of eligible improved marine facilities and site elements maintained by the participant; and

(C) That the MAP funds will be spent only to maintain improved marine facilities in accordance with the MAP procedures and policies; and

(D) The season(s) of use that the improved boating facility will be open and maintained for public use; and

(E) The amount of any user fees to be charged during the fiscal year for use of the eligible boating facility by boaters. User fees include the highest of any entrance, day use, launch ramp, parking, transient moorage or other fees paid excluding annual passes and donations

(F) The Participant will allow representatives of the Board access to all eligible boating facilities, provide park maintenance expenditure and performance records upon request, and cooperate during any audit.

(G) MAP funds will not exceed sixty percent of the overall maintenance cost of eligible boating facilities.

(H) Participant match does not include any cash or in-kind activities expended on campgrounds, marinas, fuel stations, trails, picnic shelters, swim areas or other large day-use components. The Participant has documented percentages for shared use facilities such as restrooms and parking that serve eligible marine facilities and other park uses.

(I) That MAP funds are principally targeted for labor, supplies, or contract services that will be expended at the site. Justification will be required for expenditures for overhead, program administration, supervision or other general service assessments/charges that amount to 15% or more of MAP funds received.

(J) MAP funds may not be used for capital projects or as match to other grants.

(d) Any participant that does not certify to the Board by August 1, as required above, may be deemed to have waived participation in the MAP program.

(e) Participants shall submit to the Board an estimated expenditure report at the end of each fiscal year period and an operations and maintenance budget outlining actual MAP and participant expenditures for labor, supplies, materials and services for all eligible sites individually. Reports shall be in the manner and form as required by the Board. Failure to submit this report within the specified time may result in participant disqualification.

(f) At the end of each fiscal year period, participants that have eligible pumpouts, dump stations and floating restrooms shall submit Maintenance Reporting Logs for these elements.

(4) Policies:

(a) It is the policy of the Board that the MAP program is designed to supplement funds expended by an eligible participant in the maintenance of improved boating facilities. The intent of the Board is to assist in improving the quality of maintenance at improved boating facilities.

(b) It is the policy of the Board to encourage free public access to improved public marine facilities.

(c) It is the policy of the Board to allow participants to expend MAP funds to purchase small tools or equipment for the maintenance of improved marine facilities, not to exceed ten percent of the annual allocation. This is contingent upon the applicant providing sufficient maintenance that complies with expectations as established by the Board.

(d) Participants shall reimburse the Board for any funds not expended within the fiscal year. However, a participant may request permission to carry over a maximum of ten percent of the total MAP Allocation from one fiscal year to the next but must be expended within that fiscal year. Unexpended funds allocated to maintain pumpouts, dump stations, and floating restrooms cannot be carried over from one fiscal year to the next and must be returned to the Board.

(e) MAP participants are encouraged to develop a cost accounting system that separates out MAP funds by line item revenue and expenditures. Expenditure detail should be sufficient to demonstrate that MAP funds provided are being appropriately expended.

(f) MAP participants that provide four or more sites may shift up to 25% of the individual MAP site allocation in a fiscal year to other eligible MAP sites to accommodate changing use patterns, water conditions or maintenance needs, provided that minimum maintenance expectations are met at all sites. Written justification will be required for fund shifts in excess of 25%. Funds allocated to maintain pumpouts, dump stations, and floating restrooms cannot be shifted to other eligible MAP sites.

(g) Any daily, monthly or annual use fees charged at MAP sites must be uniform for a specific class of users. No differential in-area or out-of-area annual, seasonal or day use fees may be charged at MAP sites.

(h) It is a policy of the Board to encourage participants to allow for full public use and access to improved public boating facilities. MAP funds may not be used for the operation, maintenance or overhead associated with any public boating facilities or portions of public boating facilities where commercial use is allowed. Commercial use means any regular or non-incidental activity or event at an improved public boating facility that is conducted by a business, concessionaire, or any non-public entity for the purpose of selling products or providing goods or services for a profit or private financial gain and displaces or precludes recreational boat use or public access, including the loss of public parking or dock space or regular or prolonged closures of portions of an improved public boating facility that results as a part of the activity or event. Any use that is permitted, licensed, or allowed by agreement from the site owner or managing agent that conveys exclusive use or a preference in use to any individual, group or entity and not the general boating public may be considered by the Board as a

ADMINISTRATIVE RULES

commercial use. Examples include: permanent or portable stores, restaurants, shops, commercial fishing vessel moorage, ocean charterboat moorage, fish cleaning services, tour or excursion boats boarding or moorage, shuttle services, ticket sales, watercraft rentals, etc. Incidental or occasional use by boat manufacturers or dealers to test or demonstrate boats or use by outfitters and guides will not be considered commercial use by the Board as long as the use is not exclusive or guaranteed or a proprietary preference is not given to this use over use by the general boating public. Single or annual events such as festivals, contests, etc. are not considered a commercial use by the Board unless the event is repetitive, extensive, and results in the loss of access or use by the public boating facility for an excessive amount of time or the event has the potential to damage or degrade public boating facilities more than the Board considers reasonable. The Board encourages participants to charge all commercial users a use fee to help offset the added operation and maintenance costs associated with the activities generated by the commercial use. Commercial use fees are not considered as a fee for the purpose of calculating the participants MAP allocation.

(i) Funding for the program may be denied to an eligible participant if the Board determines that a sponsor has expended MAP funds for purposes other than those allowed by these rules, failed to provide an adequate level of maintenance, failed to provide additional funds beyond MAP, or failed to report any changes in facility user fees or season of use. Participants are required to reimburse MAP funds in the event the Participant has unexpended MAP funds or makes any changes (fee increase, seasonal closures or facility components) within the fiscal year that would affect the approved allocation. The amount of reimbursement can be prorated based upon the effective date of the changes that affect the allocation. Failure to notify the Board of changes and make prompt reimbursement of the allocation overpayment may result in disqualification from the program or other action as deemed necessary by the Board.

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

Stat. Auth.: ORS 830.110 & 830.150

Stats. Implemented: ORS 830.150

Hist.: MB 18-1985, f. & ef. 10-21-85; MB 11-1987, f. 5-20-87, ef. 6-1-87; MB 12-1987, f. & ef. 6-15-87; MB 7-1992, f. & cert. ef. 5-15-92; MB 9-1994, f. & cert. ef. 8-5-94; MB 8-1995, f. & cert. ef. 11-6-95; OSMB 6-1998, f. & cert. ef. 4-15-98; OSMB 8-2001, f. & cert. ef. 7-30-01; OSMB 10-2006, f. 11-22-06, cert. ef. 7-1-07; OSMB 6-2012, f. 4-20-12, cert. ef. 5-1-12

Rule Caption: Clarification to rule change for BUUI Qualification and Training.

Adm. Order No.: OSMB 7-2012

Filed with Sec. of State: 4-20-2012

Certified to be Effective: 4-20-12

Notice Publication Date: 2-1-2012

Rules Amended: 250-010-0440

Rules Repealed: 250-010-0440(T)

Subject: This action will remove the reference of the Director's authority in the Qualification and Training of Breath Test Equipment Operators rule. This authority remains with the Board.

Rules Coordinator: June LeTarte—(503) 378-2617

250-010-0440

Qualifications and Training of Breath Test Equipment Operators

(1) No individual shall operate approved breath testing equipment to determine the alcohol content of the blood of a person in accordance with the provisions of ORS 830.535 unless that individual has been issued a permit to operate such equipment by the Oregon State Police or the Board.

(2) To qualify for training in the operation of approved breath testing equipment, an individual must be a police officer as defined under ORS 181.610 or a technician of the Marine Board, or a technician of the Oregon State Police.

(3) Upon request of the administrative head of a city, port or county law enforcement unit, as defined in ORS 181.610, the Oregon State Police, or the Board will provide training in the operation of approved breath test equipment for individuals qualified under OAR 250-010-0440.

(4) The Oregon State Police or the Board will provide a course of instruction as outlined in OAR 257-030-0160.

Stat. Auth.: ORS 830.110 & 830.505 - 830.550

Stats. Implemented: ORS 830.535

Hist.: MB 2-1992, f. & cert. ef. 3-13-92; MB 4-1995, f. & cert. ef. 7-14-95; OSMB 14-2011, f. & cert. ef. 11-1-11; OSMB 18-2011(Temp), f. & cert. ef. 12-22-11 thru 6-18-12; OSMB 7-2012, f. & cert. ef. 4-20-12

Rule Caption: Rule prohibits internal combustion motors in boats operating on Waldo Lake.

Adm. Order No.: OSMB 8-2012

Filed with Sec. of State: 4-24-2012

Certified to be Effective: 5-1-12

Notice Publication Date: 3-1-2012

Rules Amended: 250-020-0221, 250-030-0030

Subject: These rules prohibit internal combustion motors in boats operating on Waldo Lake. Exemptions include watercraft used for official purposes such as search and rescue, law enforcement and fire suppression. Previous approval by the Willamette National Forest Supervisor is required for other activities undertaken by local, state or federal government officials or agents that involve use of internal combustion motors in watercraft operated on Waldo Lake. These rules do not apply to seaplanes on Waldo Lake.

Rules Coordinator: June LeTarte—(503) 378-2617

250-020-0221

Boat Operations on Certain Waters in Lane County

(1) No person shall operate a motorboat in excess of 5 MPH ("Slow No Wake") in the following areas:

(a) Triangle Lake: Within 200 feet of a marked swimming area or a designated public launching ramp;

(b) Fern Ridge Lake:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp;

(B) In the Coyote Creek Channel;

(C) Between shore and buoy line which extends southerly from the north shore to a point approximately 200 feet of the northern most Eugene Yacht Club mooring dock thence generally south and west approximately 200 feet of the docks to a point approximately 200 feet south of the Tri Pass Club mooring dock thence generally west to the southern tip of the Tri Pass Club dock as buoyed except for the buoyed corridor immediately south of the Eugene Yacht Club southernmost dock;

(D) South of the buoy line which extends easterly from a point approximately 100 yards north of the Perkins Boat Ramp to the adjacent shoreline;

(E) In the Main Long Tom River Channel.

(c) Dexter Dam Reservoir:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp;

(B) Within 50 feet of the causeway crossing the reservoir.

(d) Lookout Point Reservoir:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp;

(B) East of the Southern Pacific Railroad bridge.

(e) Dorena Dam Reservoir:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp.

(B) Southeast of a line between markers on Humphrey Point and the northeast shore.

(f) Cottage Grove Reservoir:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp;

(B) South of a line between a marker on the east shore, near the Wilson Creek area, and on the west shore near Cedar Creek.

(g) Hills Creek Reservoir:

(A) Within 200 feet of a marked swimming area or a designated public launching ramp;

(B) On Packard Creek arm west of Rigdon Road (USFS Road #21);

(C) On Hills Creek south of the Hills Creek Crossing Bridge;

(D) On the Middle Fork, Willamette River south of the Rigdon Road (USFS #21) (Upper Crossing) Bridge;

(E) No person shall operate a motorboat for any purpose on Larison Creek arm west of Rigdon Road (USFS Road #21).

(h) Collard Lakes;

(i) Picket Lake;

(j) Munsel Lake — west of the line of marker buoys;

(k) Fall Creek Lake:

(A) Within 200 feet of a designated public launching ramp or marked swimming area;

(B) On Fall Creek upriver from the buoys located approximately 200 feet downstream of the Big Fall Creek Road;

(C) On Winberry Creek upriver from the buoys located approximately 1800 feet downstream of the Winberry Creek Road Bridge.

(l) Siltcoos Lake:

ADMINISTRATIVE RULES

(A) Within 200 feet of a designated public launching ramp or marked swimming area;

(B) Between shore and buoy line at the mouth of Kiechle Arm beginning at a point at the east shoreline of Arrowhead Point and extending northerly approximately 900 yards to a point approximately 100 yards off shore of Camp Baker during the period of June 1 through September 30.

(C) In Miller Arm north of the buoy line, located at the entrance near Nightingales' Fishing Camp, during the period of May 1 through September 31.

(2) No person shall operate a motorboat in excess of 5 MPH on Leaburg Reservoir and the McKenzie River from the dam upstream to Good Pasture Bridge.

(3) No person shall operate a motorboat in excess of a "Slow-No Wake" speed within 300 feet of a boat launching ramp or a boat moorage on the following bodies of water (for purpose of this regulation, "Slow-No Wake" speed means the speed of a boat shall not exceed 5 MPH):

- (a) Cougar Reservoir;
- (b) Blue River Reservoir;

(c) Siuslaw River — between the river entrance and the highway bridge at Mapleton.

(4) No person shall operate a motorboat for any purpose on the following lakes: Scott, Melakwa, Hidden, Blair, Upper Erma Bell, Middle Erma Bell, Lower Erma Bell, Torrey, Whig, Wahanna, Rigdon, Lower Rigdon, Kiwa, Upper Eddeleo, Round, Betty, and Alameda.

(5) No person shall operate a motorboat for any purpose in excess of 10 MPH on Munsel Lake east of the line of marker buoys, except from June 1 through September 30, between the hours of 10 a.m. and 5 p.m.

(6) No person shall operate a motorboat on the McKenzie River above Good Pasture Bridge, except a representative of the Oregon State Police or the County Sheriff's Office pursuant to a criminal investigation or search and rescue operation.

(7) No person shall operate a motorboat, except with an electric motor:

- (a) In the Old Long Tom River Channel;
- (b) On Fern Ridge Reservoir south of State Highway 126;
- (c) On Hult Reservoir.

(8) No person shall operate a propeller-driven airboat or non-displacement hull type hovercraft in the following areas on Fern Ridge Reservoir where there is emergent vegetation present:

(a) Coyote Creek area — east of a line beginning at the West Coyote Creek bridge at Highway 126 extending north approximately one mile to a point near the mouth of Coyote Creek, then extending north approximately 1.4 miles to a point located approximately 100 yards off shore of the northwest corner of Gibson Island;

(b) Amazon Bay area — east of a line beginning at a point located approximately 100 yards off shore of the northwest corner of Gibson Island extending northeast approximately one mile to the Shore Lane access;

(c) South Marsh area — west of a line extending from a point on the shoreline at the southern boundary of Zumwalt Park near the end of Vista Drive extending southeast approximately one mile to a point on the shoreline at the tip of Perkins Peninsula;

(d) Long Tom Area — southwest of a line beginning at a point on the shore line at the end of Moyer Lane extending southeast approximately 0.9 miles to a point on the west shoreline of the Jeans Peninsula at the north end of Winter Lane.

(9) No person shall operate a motorboat north and east of a line across the entrance of Bannister Cove on Lookout Point Reservoir, as marked.

(10) Use of internal combustion motors in boats operating on Waldo Lake is prohibited year round. Official use of internal combustion motors in watercraft operated on Waldo Lake by local, state or federal governmental officials or agents is allowed for the following activities: search and rescue, law enforcement and fire suppression. Previous approval by the Willamette National Forest Supervisor is required for other activities undertaken by local, state or federal government officials or agents that involve use of internal combustion motors in watercraft operated on Waldo Lake. This rule does not apply to seaplanes on Waldo Lake.

Stat. Auth.: ORS 830.110 & 830.175

Stats. Implemented: ORS 830.175

Hist.: MB 21, f. 8-23-63; MB 27, f. 6-3-65; MB 31, f. 6-20-66; MB 42, f. 12-3-68; MB 44, f. 8-21-69; MB 48, f. 6-28-71, ef. 7-25-71; MB 49, f. 8-14-72, ef. 9-1-72; MB 3-1979(Temp), f. & ef. 6-22-79; MB 5-1979, f. 7-31-79, ef. 8-1-79; Renumbered from 250-020-0131; MB 8-1981, f. & ef. 11-16-81; MB 5-1982, f. & ef. 6-1-82; MB 6-1982, f. & ef. 6-1-82; MB 15-1984, f. 11-30-84, ef. 12-1-84; MB 6-1995, f. & cert. ef. 7-14-95; MB 9-1996, f. & cert. ef. 5-29-96; OSMB 2-2000, f. & cert. ef. 7-14-00; OSMB 2-2001, f. & cert. ef. 1-25-01; OSMB 1-2008, f. & cert. ef. 1-15-08; OSMB 3-2010, f. & cert. ef. 1-15-10; OSMB 9-2010(Temp), f. & cert. ef. 5-6-10 thru 9-30-10; Administrative correction 10-26-10; OSMB 13-2010, f. & cert. ef. 11-1-10; OSMB 5-2011(Temp), f. 3-28-11, cert. ef. 4-8-11 thru 4-11-11; Administrative correction, 4-25-11; [OSMB 10-2011(Temp), f. 6-30-11, cert. ef. 7-1-11 thru

10-1-11; OSMB 10-2011(Temp) Suspended by OSMB 11-2011(Temp), f. & cert. ef. 8-5-11 thru 10-1-11, Administrative correction, 8-25-11]; OSMB 4-2012(Temp), f. & cert. ef. 4-2-12 thru 4-30-12; OSMB 8-2012, f. 4-24-12, cert. ef. 5-1-12

250-030-0030 Regulations

The State Marine Board is authorized to carry out the provisions of the Federal Wild and Scenic Rivers Act (PL 90-542) and the State Scenic Waterways Act (ORS 390.805 to 390.925) under ORS 830.175 by regulating boat use through a permit system initiated by the Board. Authority to limit or prohibit motorboat use is also granted by this statute. The specific regulations which follow are adopted in accordance with these statutory provisions:

(1) In order to meet the goals and objectives of management and recreation plans for the subsequently named rivers, the State Marine Board will regulate commercial and noncommercial boat use, both for non-powered boats and for motorboats, by means of a permit system. On occasion the Board may find it necessary to establish interim boat use levels in order to protect the riverine environment and assure to the users a quality recreation experience. Such limits may be prescribed in those instances where, in the absence of river management or recreation plans, it finds it necessary to act to assure compliance with the objectives of appropriate federal and state laws.

(2) It is the policy of the State Marine Board to provide for equitable use of certain designated rivers by commercial and noncommercial boaters. A system of permits for all boaters, whether they plan to run a river as private individuals or as patrons of a commercial entrepreneur, may be initiated on controlled rivers when use approaches or exceeds approved levels or capacity.

(3) No person, other than a member of the Department of State Police, county sheriff, and governmental agencies of this state and the federal government having jurisdiction over the following described waters, shall use a motor for propelling a boat for any purpose on the following described waters, with the exceptions stated:

(a) Deschutes River:

(A) That portion bordering the Warm Springs Reservation, no motors year round. (ORS 830.180)

(B) Between the northern boundary of the Warm Springs Reservation and the mouth of Buckhollow Creek (downstream from Sherars Falls), no person shall operate a motorboat with the exception of ingress/egress by landowners under permit issued by the Board.

(C) Between the mouth of Buckhollow Creek and Macks Canyon Campground, no motors from June 15 to September 30, with the exception of ingress/egress by landowners under permit by the Board.

(D) Between Macks Canyon Campground and the Heritage Landing boat ramp, motors will be prohibited during alternating Thursday, Friday, Saturday and Sunday periods commencing with the first Thursday to Sunday period that falls on or after June 15, continuing until September 30. No daily restrictions on motorized use from October 1 to June 14.

(E) Between Heritage Landing boat ramp and the confluence with the Columbia River, no prohibitions on motors, except for OAR 250-030-0041 rule for slow no wake, maximum 5 MPH.

(b) Illinois River — From Deer Creek downstream to Nancy Creek, which is located in the area immediately upstream of Oak Flat.

(c) John Day River — From State Highway 218 bridge at Clarno downstream to Tumwater Falls between May 1 and October 1.

(d) Minam River — From Minam Lake downstream to the Wallowa River.

(e) Owyhee River System:

(A) West Little Owyhee;

(B) North Fork Owyhee; and

(C) The mainstem Owyhee River above approximately river mile 70 at Pinnacle Rock, as marked.

(f) Rogue River — from Grave Creek downstream to the lowermost portion of Blossom Bar Rapids approximately 250 feet upstream of the top of Devil's Staircase Rapids as marked, between May 15 and November 15.

(g) Sandy River — From Dodge Park downstream to Dabney State Park.

(4) Use of internal combustion motors in boats operating on Waldo Lake is prohibited year round. Official use of internal combustion motors in watercraft operated on Waldo Lake by local, state or federal governmental officials or agents is allowed for the following activities: search and rescue, law enforcement and fire suppression. Previous approval by the Willamette National Forest Supervisor is required for other activities undertaken by local, state or federal government officials or agents that involve

ADMINISTRATIVE RULES

use of internal combustion motors in watercraft operated on Waldo Lake. This rule does not apply to seaplanes on Waldo Lake.

Stat. Auth.: ORS 830.110 & 830.175
Stats. Implemented: ORS 830.110 & 830.175
Hist.: MB 53, f. 9-25-73, ef. 1-1-74; MB 64, f. 2-18-75, ef. 3-11-75; MB 66, ef. 4-22-75(Temp), 5-11-75(Perm); MB 76, f. & ef. 5-27-76; MB 79, f. 1-20-77, ef. 5-27-77; MB 89, f. 12-27-77, ef. 1-1-78; MB 12-1984, f. 8-13-84, ef. 8-14-84; MB 12-1985, f. & ef. 7-31-85; MB 21-1985, f. & ef. 12-4-85; MB 3-1993, f. 2-4-93, cert. ef. 5-15-93; MB 4-1994, f. & cert. ef. 3-23-94; MB 15-1996, f. & cert. ef. 12-4-96; MB 6-1997, f. & cert. ef. 5-30-97; OSMB 5-1998, f. & cert. ef. 4-3-98; OSMB 5-2010(Temp), f. & cert. ef. 1-15-10 thru 6-30-10; OSMB 10-2010, f. & cert. ef. 5-6-10; OSMB 8-2012, f. 4-24-12, cert. ef. 5-1-12

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

Rule Caption: Amend Special Student and Course Fees.

Adm. Order No.: EOU 1-2012

Filed with Sec. of State: 4-23-2012

Certified to be Effective: 4-23-2012

Notice Publication Date: 4-1-2012

Rules Amended: 579-020-0006

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

Rules Coordinator: Teresa Carson-Mastrude—(541) 962-3773

579-020-0006

Special Student Fees

Eastern Oregon University intends to adopt by reference Special Student Fees for the 2012-2013 school year.

Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070
Hist.: EOSC 3, f. & ef. 6-23-76; EOSC 8, f. & ef. 6-16-77; EOSC 6-1978, f. & ef. 10-2-78; EOSC 1-1979, f. & ef. 6-27-79; EOSC 1-1981, f. & ef. 1-12-81; EOSC 3-1981, f. & ef. 7-1-81; EOSC 2-1983, f. & ef. 12-16-83; EOSC 2-1984, f. & ef. 10-25-84; EOSC 1-1986, f. & ef. 2-13-86; EOSC 2-1988, f. & cert. ef. 10-28-88; EOSC 2-1989, f. & cert. ef. 7-31-89; EOSC 2-1990, f. & cert. ef. 10-9-90; EOSC 3-1991, f. & cert. ef. 9-20-91; EOSC 5-1990, f. & cert. ef. 12-20-91 (and corrected 1-24-92); EOSC 1-1992, f. & cert. ef. 5-13-92; EOSC 2-1992, f. & cert. ef. 8-24-92; EOSC 4-1993, f. & cert. ef. 8-2-93; EOSC 4-1994, f. & cert. ef. 7-25-94; EOSC 1-1996, f. & cert. ef. 8-15-96; EOU 1-2001, f. & cert. ef. 9-28-01; EOU 1-2003, f. & cert. ef. 7-31-03; EOU 1-2005, f. & cert. ef. 5-16-05; EOU 1-2006, f. & cert. ef. 4-14-06; EOU 1-2007, f. & cert. ef. 5-14-07; EOU 4-2007(Temp), f. & cert. ef. 8-15-07 thru 1-15-08; Administrative Correction 1-24-08; EOU 1-2008, f. & cert. ef. 3-14-08; EOU 5-2008, f. & cert. ef. 8-15-08; EOU 1-2009, f. & cert. ef. 3-12-09; EOU 2-2009, f. & cert. ef. 8-14-09; EOU 3-2009, f. & cert. ef. 12-15-09; EOU 1-2010, f. & cert. ef. 5-13-10; EOU 2-2010, f. & cert. ef. 7-15-10; EOU 1-2011, f. & cert. ef. 6-6-11; EOU 3-2011, f. & cert. ef. 8-5-11; EOU 4-2011(Temp), f. & cert. ef. 11-14-11 thru 5-6-12; EOU 5-2011(Temp), f. & cert. ef. 12-1-11 thru 5-6-12; EOU 1-2012, f. & cert. ef. 4-23-12

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

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

Filed with Sec. of State: 4-23-2012

Certified to be Effective: 7-1-12 thru 12-27-12

Notice Publication Date:

Rules Amended: 579-030-0010

Subject: Effective July 1, 2012 monthly rate: Family Housing two bedroom units £350, includes water, sewer and garbage service. \$30.00 application deposit required.

Rules Coordinator: Teresa Carson-Mastrude—(541) 962-3773

579-030-0010

Special Rental Rates for EOCENE Courts at Eastern Oregon State College

- (1) Effective July 1, 2012 monthly rent.
- (2) Family Housing two bedroom units: \$350, includes water, sewer and garbage service. \$30.00 application deposit required.

Stat. Auth.: ORS 351.070
Stats. Implemented: ORS 351.070
Hist.: EOSC 9, f. & ef. 8-15-77; EOSC 3-1978, f. & ef. 6-29-78; EOSC 6-1979, f. & ef. 6-27-79; EOSC 4-1991, f. & cert. ef. 9-20-91; EOU 2-2008, f. & cert. ef. 3-14-08; EOU 2-2012(Temp), f. 4-23-12, cert. ef. 7-1-12 thru 12-27-12

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

Rule Caption: Amending rules regarding prohibition of firearms on University property.

Adm. Order No.: OSU 2-2012

Filed with Sec. of State: 5-9-2012

Certified to be Effective: 5-9-12

Notice Publication Date: 4-1-2012

Rules Amended: 576-015-0020, 576-024-0000, 576-065-0000, 576-065-0010

Subject: The Oregon Court of Appeals has held that the Board of Higher Education is not authorized to regulate firearms on campus through its rulemaking authority. The University is proposing to amend its rules to remove firearm prohibitions.

See Oregon Court of Appeals opinion in Oregon Firearms Educational Foundation v. Board of Higher Education and Oregon University System, Case No. A142974, September 28, 2011 (<http://www.publications.ojd.state.or.us/A142974.pdf>)

Rules Coordinator: Beth Giddens—(541) 737-2449

576-015-0020

Offenses Proscribed by the University

A Student or Student Organization found to have committed any of the following proscribed acts is subject to sanctions under these rules:

(1) Obstruction or disruption of teaching, learning, research, administration, disciplinary procedures, or other institutional activities, including the institution's public service functions or other authorized activities on institutionally-owned or controlled property. Disruptive behavior may include but is not limited to the following, where it has the effect of obstructing or disrupting the University activities listed above:

(a) Repeatedly leaving and entering the classroom without authorization;

(b) Making loud or distracting noises;

(c) Arriving late or leaving early;

(d) Persisting in speaking without being recognized;

(e) Behavior that would cause a reasonable person to fear for his or her safety. The instructor has authority to manage the classroom environment, which may include requiring a Student to leave when the Student's behavior disrupts the teaching or learning environment. If the Student refuses to leave, the instructor may call the Department of Public Safety for assistance and should submit an Incident Report Form to SCCS to initiate disciplinary proceedings.

(2) Academic or Scholarly Dishonesty:

(a) Academic or Scholarly Dishonesty is defined as an act of deception in which a Student seeks to claim credit for the work or effort of another person, or uses unauthorized materials or fabricated information in any academic work or research, either through the Student's own efforts or the efforts of another.

(b) It includes:

(A) CHEATING — use or attempted use of unauthorized materials, information or study aids, or an act of deceit by which a Student attempts to misrepresent mastery of academic effort or information. This includes but is not limited to unauthorized copying or collaboration on a test or assignment, using prohibited materials and texts, any misuse of an electronic device, or using any deceptive means to gain academic credit.

(B) FABRICATION — falsification or invention of any information including but not limited to falsifying research, inventing or exaggerating data, or listing incorrect or fictitious references.

(C) ASSISTING — helping another commit an act of academic dishonesty. This includes but is not limited to paying or bribing someone to acquire a test or assignment, changing someone's grades or academic records, taking a test/doing an assignment for someone else by any means, including misuse of an electronic device. It is a violation of Oregon state law to create and offer to sell part or all of an educational assignment to another person (ORS 165.114).

(D) TAMPERING — altering or interfering with evaluation instruments or documents.

(E) PLAGIARISM — representing the words or ideas of another person or presenting someone else's words, ideas, artistry or data as one's own, or using one's own previously submitted work. Plagiarism includes but is not limited to copying another person's work (including unpublished material) without appropriate referencing, presenting someone else's opinions and theories as one's own, or working jointly on a project and then submitting it as one's own.

(c) Academic Dishonesty cases are handled initially by the academic units, following the process outlined in the University's Academic Dishonesty Report Form, and will also be referred to SCCS for action under these rules.

ADMINISTRATIVE RULES

(3) Obstruction or disruption that interferes with freedom of movement, either pedestrian or vehicular, on institutionally-owned or controlled property.

(4) Hazing, defined as any action that endangers the physical, emotional, mental health or safety of an individual, or destroys or damages personal property for the purpose of initiation, membership, admission or participation in a group or organization. Expressed or implied consent of the person subject to hazing is not a defense. Apathy and acquiescence in the presence of hazing are not neutral acts; they are violations of this rule. Acts that constitute hazing when they endanger the physical, emotional, mental health or safety of an individual, or destroy or damage personal property, include but are not limited to:

(a) Acts that are prohibited under any applicable law, including but not limited to ORS 163.197, under which hazing is a criminal violation;

(b) Interfering with a Student's academic performance by denying sufficient time for class, study or other academic activities;

(c) Compelling ingestion of any substance;

(d) Compelling participation in physical activities such as calisthenics, exercise, or other games or activities requiring physical exertion;

(e) Compelling exposure to weather elements or other physically or emotionally uncomfortable situations;

(f) Compelling excessive fatigue from sleep deprivation, physical activities, or exercise;

(g) Committing any act of physical brutality against another including but not limited to paddling, striking with fists, open hands or objects, and branding;

(h) Kidnapping or transporting another with the intent of stranding him or her;

(i) Compelling conduct that can be reasonably expected to embarrass or adversely affect the dignity of another, including the performance of public stunts and activities such as scavenger hunts;

(j) Intentionally creating work or labor for another;

(k) Compelling another to commit any sexual act or engage in lewd behavior

(l) Compelling any act that results in the destruction, defacement or removal of private or public property

(5) Harassment, defined as conduct of any sort directed at another that is severe, pervasive or persistent, and is of a nature that would cause a reasonable person in the victim's position substantial emotional distress and undermine his or her ability to work, study or participate in his or her regular life activities or participate in the activities of the University, and actually does cause the victim substantial emotional distress and undermines the victim's ability to work, study, or participate in the victim's regular life activities or participate in the activities of the University. Stalking behavior that meets this definition constitutes Harassment within the meaning of this rule.

(6) Sexual Harassment, as defined in the University's Policy on Sexual Harassment.

(7) Discriminatory Harassment, as defined in the University's Policy on Discriminatory Harassment.

(8) Possession or use of explosives, dangerous chemicals, or other dangerous instrumentalities on institutionally-owned or controlled property, in contravention of law or institutional rules.

(9) Illegal use, possession, or distribution of drugs or illegal substances on institutionally-owned or controlled property.

(10) Alcohol violations, including possession or consumption of alcohol by persons less than 21 years of age, furnishing alcohol to persons less than 21 years, or consumption of alcohol by a Student of any age in violation of the University's rules or policies on alcoholic beverages on University owned or controlled property or at University sponsored or supervised activities.

(11) Rape, sexual assault, or unwanted sexual contact of any kind, and the threat of such contact, are prohibited, as is any physical abuse. Sexual contact shall be considered "unwanted" or without consent if no clear consent is freely given; if inflicted through force, threat of force, or coercion; or if inflicted upon a person who is unconscious or otherwise without the physical or mental capacity to consent. If sexual contact is inflicted on someone who is intoxicated or impaired in the exercise of their judgment by alcohol or drugs, it may be considered without consent.

(12) Detention or physical abuse of any person or conduct that threatens imminent bodily harm or endangers the health of any person on any institutionally-owned or controlled property.

(13) Invasion of another's privacy, where that person has a reasonable expectation of privacy, including but not limited to the use of electronic devices to make an unauthorized audio or video recording of any person

while on University owned or controlled property without his or her prior knowledge, or without his or her effective consent, when such a recording is of information or of images taken from or of a person at a time and place where she or he has a reasonable expectation of privacy and where the recording is reasonably likely to cause injury or distress.

(14) Unauthorized recording of a class or of organizational or University meetings. To obtain the required authorization, the Student or Student Organization must obtain expressed permission from the faculty member, Student Organization, or University representative or official in charge of the class, meeting, or activity.

(15) Malicious damage, misuse or theft of institutional property, or the property of any other person where such property is located on institutionally-owned or controlled property or, regardless of location, is in the care, custody, or control of an institution.

(16) Refusal by any person while on institutional property to comply with an order of the President or appropriate authorized official to leave such premises because of conduct proscribed by this rule when such conduct constitutes a danger to personal safety, property, or educational or other appropriate institutional activities on such premises.

(17) Unauthorized entry to or use of institutional facilities, including buildings and grounds.

(18) Smoking in unauthorized areas in violation of OAR 576-040-0010.

(19) Falsification or misuse of University information, including but not limited to records, permits, documents, computer resources, identification cards, etc.; or the furnishing of false or misleading information to the University or its representative; or refusal to provide one's name, class, school, and local address when requested by a University official, provided the official is identified and indicates legitimate reason for the request.

(20) Unauthorized use of University computing resources in violation of the University's Acceptable Use of Computing Resources Policy.

(21) Inciting others to engage in any of the conduct or to perform any of the acts prohibited herein. Inciting means that advocacy of proscribed conduct which calls on the person or persons addressed for imminent action, and is coupled with a reasonable apprehension of imminent danger to the functions and purposes of the institution, including the safety of persons and the protection of its property.

(22) Violating the State Board of Higher Education's Policy on Intercollegiate Athletics as described in Section 8 of its Internal Management Directives, specifically including the subsection thereof entitled Code of Ethics.

(23) Violation of any federal or state law or city or local ordinance or University rule or policy that applies to the Student.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: OSU 1-1991, f. & cert. ef. 3-6-91; OSU 8-1995, f. & cert. ef. 12-29-95; OSU 4-1996, f. & cert. ef. 6-21-96; OSU 4-1998, f. & cert. ef. 6-24-98; OSU 4-1999, f. & cert. ef. 7-17-99; OSU 2-2002, f. & cert. ef. 2-25-02; OSU 2-2010, f. 6-30-10, cert. ef. 7-1-10; OSU 4-2011, f. & cert. ef. 6-13-11; OSU 1-2012(Temp), f. & cert. ef. 3-30-12 thru 6-30-12; OSU 2-2012, f. & cert. ef. 5-9-12

576-024-0000

Prohibited Articles

(1) The following items are not allowed anywhere within Reser Stadium or within the defining fence around it, or anywhere within Gill Coliseum during periods when it is being used for an event open and advertised to the public:

(a) Glass containers of any kind;

(b) Metal cans;

(c) Weapons, and destructive devices, as provided in OAR 576-065-0000 to 576-065-0020;

(d) Fireworks, explosives or explosive devices, inflammables, and artificial noisemakers as provided in the rules of the Pacific 12 Conference, available in the OSU Department of Intercollegiate Athletics;

(e) Alcohol or alcoholic beverages, except as provided in OAR 576-060-0010 to 576-060-0039;

(f) Briefcases, athletic bags, packages, duffel bags, coolers, ice chests, picnic baskets, and other similar containers capable of concealing prohibited articles, except that backpacks and other small bags may be used for carrying personal possessions;

(g) Signs on sticks or poles;

(h) Umbrellas.

(2) Exceptions to the above prohibitions are limited to:

(a) Alcoholic beverages and alcoholic beverage containers belonging to Oregon State University concessionaire or catering services contracting with the University for its officially sponsored social functions, e.g. receptions, meetings, promotional activities, etc.;

ADMINISTRATIVE RULES

(b) Weapons of law enforcement officials while on duty for the scheduled event;

(c) Megaphones used by cheerleaders;

(d) Functions held within the Valley Football Center or elsewhere in Reser Stadium, including the press box structure, which have been approved by the Department of Intercollegiate Athletics.

(3) University employees or agents shall request, as a condition of the license to enter the facility, that persons about to enter allow them to look inside all backpacks and other bags for carrying personal possessions, purses and diaper bags.

(a) The person(s) entering the facility will be asked by University staff or agents to reveal the items in the backpack, purse or bag. Staff or agents shall inform person(s) in possession of the backpack, purse or bag of the reason for the inspection. Staff or agents shall further inform the persons entering the facility that they may decline the inspection and shall inform them of the following options available if they decline inspection:

(A) The person(s) will be denied admission to the facility, and will then be entitled to receive an immediate refund of the price of the ticket at the "Will Call" booth; or

(B) The person(s) may return the backpack, purse or bag to a vehicle and then enter the facility without such item.

(b) If the container is opened for inspection, and prohibited items are found by staff or agents, the possessor of such items shall be offered a choice of discarding the item(s), or returning them to a vehicle as provided in (3)(a)(B) of this rule;

(c) Personnel making the inspection requests are not obliged to cause persons to wait in line unduly while other inspections are proceeding. They must, however, request the inspection of the next person who appears carrying inspectable containers as soon as they have completed any given inspection;

(d) Inspections made under this rule do not include pat-down inspection of clothing being worn but do extend to carried items. Entering persons will be encouraged to keep moving through gates and doorways.

(4) If prohibited articles are openly possessed by a person inside the facility, that person shall be considered to have violated the license to enter and view the event. The license is then revoked and the person(s) shall be requested to leave immediately. A refusal or failure to leave following such a request can cause the person to be treated as a trespasser.

(5) If a refund is requested under the provisions of subsection (3)(a)(A) of this rule, a bearer coupon shall be delivered promptly by University officials. This bearer coupon may be exchanged for a full refund immediately at the "Will Call" or other appropriate ticket booth.

(6) Prohibited items which may be seen without inspection are subject to the same consequences as specified in section (3) of this rule.

(7) Signs shall be prominently displayed at entrances to the facilities listing prohibited articles, and providing notification of the request for inspection and the right to decline options.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: OSU 4-1993, f. & cert. ef. 6-4-93; OSU 7-2001(Temp), f. & cert. ef. 9-28-01 thru 3-26-02; OSU 3-2002, f. & cert. ef. 2-25-02; OSU 6-2008, f. 6-27-08, cert. ef. 7-1-08; OSU 1-2012(Temp), f. & cert. ef. 3-30-12 thru 6-30-12; OSU 2-2012, f. & cert. ef. 5-9-12

576-065-0000

Definitions

(1) "Weapon" means any knife having a blade that projects or swings into position by force of a spring, by centrifugal force or by gravity and is commonly known as a switchblade knife; any hunting or target bow, any crossbow; any dirk, dagger, slingshot, metal knuckles; or any similar instrument by the use of which injury could be inflicted upon the person or property of any other person.

(2) "Destructive Device" means:

(a) A projectile containing an explosive or incendiary material or any other chemical substance; or

(b) A bomb, grenade, missile, or similar device or any launching device therefor.

(3) "University Sanctioned Use" means: R.O.T.C., OSU Pistol Club, OSU Rifle Club, or other uses approved by the Vice President for Finance and Administration.

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070

Hist.: OSU 5-1992, f. & cert. ef. 6-5-92; OSU 4-1995, f. & cert. ef. 6-20-95; OSU 1-1999, f. & cert. ef. 2-25-99; OSU 1-2012(Temp), f. & cert. ef. 3-30-12 thru 6-30-12; OSU 2-2012, f. & cert. ef. 5-9-12

576-065-0010

Prohibitions and Regulations

(1) Possession, use, or threatened use of dangerous chemicals, weapons, or destructive devices, are not allowed on property owned or controlled by Oregon State University except as expressly authorized by law or authorized in this rule.

(2) Weapons or destructive devices may be used on campus owned or controlled property only in connection with a University sanctioned use. Use must be consistent with the regulations of the organization conducting the sanctioned use.

(3) This rule does not apply to University family housing units or University-owned single family dwellings.

Stat. Auth.: ORS 351.060 & 351.070

Stats. Implemented: ORS 351.060 & 351.070

Hist.: OSU 5-1992, f. & cert. ef. 6-5-92; OSU 4-1995, f. & cert. ef. 6-20-95; OSU 9-1998(Temp), f. & cert. ef. 10-2-98 thru 3-31-99; OSU 1-1999, f. & cert. ef. 2-25-99; OSU 3-2001, f. & cert. ef. 2-21-01; OSU 1-2012(Temp), f. & cert. ef. 3-30-12 thru 6-30-12; OSU 2-2012, f. & cert. ef. 5-9-12

Oregon University System, Southern Oregon University Chapter 573

Rule Caption: Special Fees.

Adm. Order No.: SOU 1-2012

Filed with Sec. of State: 5-10-2012

Certified to be Effective: 5-10-12

Notice Publication Date: 4-1-2012

Rules Amended: 573-040-0005

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

Rules Coordinator: Treasa Sprague—(541) 552-6319

573-040-0005

Special Fees

The Special Fees for certain courses and general services approved by Southern Oregon University are hereby adopted by reference.

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

Stat. Auth.: ORS 351.070

Stats. Implemented: ORS 351.070 & OAR 580-040-0010

Hist.: SOSC 4, f. & cert. ef. 9-2-76; SOSC 10, f. & cert. ef. 5-9-77; SOSC 6-1978, f. & cert. ef. 6-2-77; SOSC 8-1978, f. & cert. ef. 12-15-78; SOSC 2-1979, f. & cert. ef. 6-20-79; SOSC 4-1980, f. & cert. ef. 5-20-80; SOSC 4-1980, f. & cert. ef. 5-20-80; SOSC 2-1981, f. & cert. ef. 6-2-81; SOSC 3-1982, f. & cert. ef. 7-1-82; SOSC 4-1983, f. & cert. ef. 5-26-83; SOSC 1-1984, f. & cert. ef. 6-20-84; SOSC 4-1985, f. & cert. ef. 6-3-85; SOSC 9-1985, f. & cert. ef. 12-17-85; SOSC 2-1986, f. & cert. ef. 5-30-86; SOSC 1-1987, f. & cert. ef. 6-5-87; SOSC 4-1987, f. & cert. ef. 9-4-87; SOSC 1-1988, f. & cert. ef. 5-19-88; SOSC 2-1988(Temp), f. & cert. ef. 9-2-88; SOSC 4-1988, f. & cert. ef. 11-23-88; SOSC 3-1989, f. & cert. ef. 6-1-89; SOSC 3-1990, f. & cert. ef. 5-31-90; SOSC 3-1991, f. & cert. ef. 5-30-91; SOSC 1-1992, f. & cert. ef. 6-3-92; SOSC 3-1993, f. & cert. ef. 5-21-93; SOSC 2-1994, f. & cert. ef. 6-10-94; SOSC 1-1995, f. & cert. ef. 6-7-95; SOSC 1-1996, f. & cert. ef. 6-5-96; SOU 1-1997, f. & cert. ef. 5-20-97; SOU 1-1998, f. & cert. ef. 4-23-98; SOU 2-1999, f. & cert. ef. 5-7-99; SOU 1-2000, f. & cert. ef. 4-10-00; SOU 1-2001, f. & cert. ef. 4-4-01; SOU 1-2002, f. & cert. ef. 4-11-02; SOU 1-2003, f. & cert. ef. 4-16-03; SOU 1-2004, f. & cert. ef. 4-5-04; SOU 1-2005, f. & cert. ef. 4-11-05; SOU 1-2006, f. & cert. ef. 3-31-06; SOU 1-2007, f. & cert. ef. 4-25-07; SOU 4-2008, f. 4-9-08, cert. ef. 4-15-08; SOU 1-2009, f. 6-4-09, cert. ef. 6-15-09; SOU 4-2010, f. & cert. ef. 7-12-10; SOU 1-2011, f. & cert. ef. 6-13-11; SOU 1-2012, f. & cert. ef. 5-10-12

Parks and Recreation Department Chapter 736

Rule Caption: Register significant natural heritage resources and special species in Oregon.

Adm. Order No.: PRD 2-2012

Filed with Sec. of State: 5-4-2012

Certified to be Effective: 5-4-12

Notice Publication Date: 11-1-2011

Rules Adopted: 736-045-0006, 736-045-0011, 736-045-0100, 736-045-0200, 736-045-0300, 736-045-0305, 736-045-0310, 736-045-0320, 736-045-0330, 736-045-0340, 736-045-0400, 736-045-0405, 736-045-0410, 736-045-0412, 736-045-0414, 736-045-0416, 736-045-0418, 736-045-0420, 736-045-0422, 736-045-0424, 736-045-0426, 736-045-0428, 736-045-0430, 736-045-0432, 736-045-0434, 736-045-0436, 736-045-0438, 736-045-0440, 736-045-0442, 736-045-0444, 736-045-0446, 736-045-0448, 736-045-0500, 736-045-0505

ADMINISTRATIVE RULES

Subject: Director of Oregon Parks and Recreation Department may appoint Natural Areas Advisory Committee to advise the department and Parks Commission in managing the Oregon Natural Areas Program. The rules provide guidelines for program administration by the department, provides guidance for the registration and dedication of state natural areas, and describes documentation needed to integrate the program throughout the state consistent with similar national programs.

Rules Coordinator: Vanessa DeMoe—(503) 986-0719

736-045-0006

Purpose

The purpose of these rules is to provide a central and continuing register of areas in Oregon which contain significant natural heritage resources and special species, and describe the process used to register properties on the Oregon Register of Natural Areas. Ref. ORS 273.581, Chapter 208, Oregon Laws 1981.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0011

Definitions

As used in these rules, unless the context provides otherwise:

(1) "Agency" means any federal, state or local government agency, department, board, or commission.

(2) "Commission" means the Oregon Parks and Recreation Commission.

(3) "Committee" means the Natural Areas Advisory Committee.

(4) "Candidate Natural Area" means a natural resource area which may be considered for registration or dedication.

(5) "Data bank" means the Natural Areas Program inventory of natural heritage resources classification, data analysis, priority setting, owner and other data maintained by the Institute for Natural Resources under ORS 352.239.

(6) "Dedicated" means the formal recognition and protection of a natural area conservation purposes.

(7) "Department" means Oregon Parks and Recreation Department.

(8) "Document" means a documented record, report or map pertaining to the Natural Heritage Program data.

(9) "Instrument" means any written document intended to convey an interest in real property pursuant to ORS 93.710, or an agreement between parties pursuant to the Natural Areas Program, the Oregon Natural Areas Plan.

(10) "Introduced Species" means exotic or non-native species.

(11) "Managed Area" means a registered or dedicated State Natural Area Reserve that, by management agreement between the Commission and private landowner, or agency, the area and its natural heritage resources are maintained in a manner to protect the natural character.

(12) "Management Scheme" means a plan that sets forth in detail the responsibilities for the administration of an individual State Natural Area Reserve.

(13) "Natural Area" means a unit of land or water, or both, which may be considered for dedication under ORS 273.563 to 273.591. It means a natural heritage resource area which has substantially retained its natural character, or, if altered in character, shall in addition to its natural heritage resource values be valuable as habitat for plant and animal species or for the study and appreciation of natural features. Ref. ORS 273.566(1).

(14) "State Natural Area Reserve" means an area as defined as "Natural Area" above, that an individual, organization or public agency dedicates under the provisions of ORS 273.586.

(15) "Natural heritage resources" means the terrestrial ecosystems types, aquatic ecosystems types, and unique geologic types as defined in the Oregon Natural Areas Plan; means a unit of land or water which contains a natural resource(s).

(16) "Plan" means the Oregon Natural Areas Plan as established in ORS 273.576, which governs the Natural Areas Program in the selection of natural areas for conservation. Ref. ORS 273.566, Oregon Laws 1981, C. 208.

(17) "Program" means the Natural Areas Program as established in ORS 273.566, which provides for the establishment of a limited system of State Natural Area Reserves representing a full range of Oregon's natural resources and includes special species of plants and animals.

(18) "Register" means the Oregon Register of Natural Areas as established in ORS 273.581. The Register contains an official list of areas which have significant natural resources and special species.

(19) "Special Species" means those species of plants and animals determined by the Department to be of significant value in a state natural area reserve and defined in the Plan.

(20) "Wildlife" means any wild or free living vertebrate or invertebrate animal.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0100

Composition and Roles

(1) Natural Areas Advisory Committee may be appointed by and serve at the will of the Director of Oregon Parks and Recreation Department, comprised of members chosen as follows and who shall elect from its membership a chairperson:

(a) Individuals recognized experts in the ecology of natural areas. Desirable fields of expertise are botany, zoology, terrestrial ecology, aquatic biology and geology;

(b) Citizens selected from the various regions of the state. These members shall have interest in natural resource conservation, management or the commodity use of natural resources; and,

(c) Authorized representatives of state and federal natural resources management agencies.

(2) The Committee may assist the Department in:

(a) The development of policy for the Natural Areas Program through the review and approval of the Oregon Areas Plan;

(b) Reviewing nominations for registration and the voluntary dedication of State Natural Area Reserves, and review instruments of dedication for such areas;

(c) Providing recommendations to the State Parks and Recreation Commission State Land Board, State Board of Forestry, State Fish and Wildlife Commission, State Board of Higher Education and Oregon Transportation Commission regarding areas under their respective jurisdictions which are appropriate for dedication; and

(d) Advising the Commission in the adoption of rules that may be considered necessary in carrying out ORS 273.563 to 273.591.

(3) Members of the advisory committee are not entitled to compensation, but in the discretion of the director may be reimbursed from funds available to the department for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amount provided in ORS 292.495.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0200

Acceptance of Funds

(1) The Department may accept monies for, but not limited to, documents and services under these rules.

(2) The Department may apply for and accept grants, contributions and assistance from any federal, state or local government agency and any private foundation for the purpose of carrying out the provisions of ORS 273.561 to 273.591 and Chapter 208, Oregon Laws 1981.

(3) All monies received by the Department shall be paid into the State Treasury and credited to the account of the Natural Areas Program. Ref. ORS 273.591.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0300

Criteria for Inclusion in Register

Criteria to be included within the Register must be determined by the Commission to fulfill not only the definition of a natural area but the natural heritage resources and site considerations within the priorities and criteria for conservation in the Plan, ORS 273.563 to 273.591 and Chapter 208, Oregon Laws 1981. The following criteria will be used in evaluating a natural area proposed for inclusion in the Register:

(1) The priority for protection of the primary natural heritage resources objective and other natural heritage resources in the site as presented in the Plan;

(2) The natural heritage resource occurrence(s) is an adequate representative of the type;

ADMINISTRATIVE RULES

(3) The extent to which each natural heritage resource has retained its natural character, i.e., a measurement of the degree of human caused disturbance;

(4) The health and viability of the natural heritage resource occurrence(s), i.e., the ability of each natural heritage resource occurrence to perpetuate itself or its natural sequence of development in the area;

(5) The number of natural heritage resources or natural heritage resources which will be adequately represented in the area;

(6) The degree of uniqueness, and educational and natural interpretation values of a geologic resource(s);

(7) The priority of protection given to each special species of plant or animal presented in the Plan;

(8) The contribution the particular area will make to the protection of the special species; and

(9) Manageability, i.e., the capability of being managed so as to protect and to maintain the natural values, as well as to make it available and useful for its designated purposes.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0305

Procedures for Registering

Each proposal for the Register, together with field evaluation, maps and sufficient data to complete the register file, shall be reviewed by the Commission:

(1) A proposal for the Register of private land shall contain the written consent of the landowner.

(2) The Commission may place a site onto the Register, or remove a site from the Register. The Department will review and provide recommendation to the Commission for their consideration.

(3) A voluntary management agreement may be developed between the Commission and a private landowner, or agency, of a site on the Register, with the assistance of the Department.

(4) Any area(s) designated by a federal or state agency, having been established by public hearing, may be entered onto the Register by the Commission.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0310

Register File

The Register may include file(s) of registered natural areas:

(1) The card file may include name of natural area, location, size, ownership, register category, and principal Natural Heritage Resource(s) and special species. The card file may be cross referenced by county and principal resource.

(2) The data file may include:

(a) Data Form – Comprehensive information compiled for each natural area;

(b) Instrument of Dedication – Or other documents certifying official dedication;

(c) Consent Form – Written consent for natural areas on private land;

(d) Supportive Data – Includes maps, photographs, remote sensing imagery, species lists, field notes, reports, research papers, and references to other information available;

(e) Cross references to the Data Bank – To data file, computer and manual file consistent with data bank components;

(f) Implementation Data – Written management agreement pertaining to the natural area;

(g) Summary Sheet – A map and one page summary of information about each area which can be duplicated and circulated to appropriate authorities.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0320

Location and Maintenance of Register

The data files of the Oregon Register of Natural Areas will be located at the Department's office in Salem, OR, and will be maintained by the Department.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0330

Register Review

The Register shall be reviewed and updated every five years by the Department.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0340

Register Withdrawal

Registered natural areas may be withdrawn from the Register by the Commission.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0400

Purpose

The purpose and scope of dedication is to establish and maintain the integrity of the Plan, and the Program, by means of written formal recognition and protection of an area of land and/or water for natural heritage conservation purposes.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0405

Instruments of Dedication

(1) Private Dedication – A private individual or organization which is the owner of any registered natural area may voluntarily agree to dedicate that area as a State Natural Area Reserve by executing with the Commission, following review by the Department, an instrument of dedication. Instrument provisions and policies include, but are not limited to, the following:

(a) An agreement that provides each natural heritage resource in the State Natural Area Reserve with the most secure protection obtainable;

(b) An unlimited period of time, or a term sufficiently long to warrant dedication protection;

(c) Permission for conducting scientific research and other activities shall be commensurate with Program objectives;

(e) Termination of dedication may occur upon written notification to the Commission, including specific reasons for termination, and provision by the Commission of opportunity for adequate public notice and hearing.

(2) The Instrument of Dedication of an area under private ownership shall be filed by the Commission in the office of the clerk of the county in which any or all of the State Natural Area Reserve is located, and shall be effective upon its recording.

(3) A copy of the dedication and management agreement(s) shall be provided to the private owner of a State Natural Area Reserve.

(4) Public Agency Dedication – Any public agency may dedicate lands under the provisions of ORS 273.563 to 273.591, and the Plan, after providing the opportunity for adequate public notice and hearing.

(5) The Oregon Transportation Commission, the State Fish and Wildlife Commission, the State Board of Forestry, the State Board of Higher Education and the State Land Board shall, with the advice and assistance of the Department, establish procedures for the dedication of State Natural Area Reserves on land or water, the title of which is held by the State of Oregon, and which is under that agency's management and control. The instrument(s) of dedication and management shall contain any information or provisions as the agency and Department consider necessary to complete the dedication.

(6) Termination of the dedication of a State Natural Area Reserve by a public agency requires:

(a) Provision of opportunity for adequate public notice and hearing; and

(b) A finding by the agency of an imperative and unavoidable necessity due to natural disaster in the site, need of the natural resource during time of declared war, or the need of the natural resource because of extreme economic crisis of the state; or

(c) A finding by that agency, with the approval of the Department that the State Natural Area Reserve is no longer needed according to the guidelines of the Plan, or has permanently lost its character.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

ADMINISTRATIVE RULES

736-045-0410

Publicity

Information about a State Natural Area Reserve and appropriate descriptive material may be developed and made available to interested persons. However, publicity which would tend to encourage the general public to visit a State Natural Area Reserve in greater numbers than its carrying capacity shall be avoided.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0412

Reports

At regular intervals the Department shall make or cause to be made for each State Natural Area Reserve a record of management activities and other influences affecting each State Natural Area Reserve.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0414

Instruments

The instruments of dedication shall include, but not be limited to:

- (1) The size, location, purpose, and resources of the State Natural Area Reserve;
- (2) A management scheme written for each State Natural Area Reserve which describes:
 - (a) The conservation objective of the area;
 - (b) Proscribed, allowed and prohibited activities on the area; and
 - (c) Provisions as consistent as possible with the following practices in OAR 736-045-0952 through 736-045-0996, which shall, unless otherwise noted, are a part of each management scheme.
- (3) Agreements between the Commission and any agency necessary to establish the State Natural Area Reserve.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0416

State Natural Area Reserve Manager

Notwithstanding the instruments of dedication, managers of a State Natural Area Reserve shall not take any action or fail to take any action which is in conflict with a statute, rule regulation or policy relating to an agency having an interest in or responsibility for the State Natural Area Reserve.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0418

Fire

Prescribed fire may only be used as a management tool in such areas or situations where fire is needed to maintain or protect a State Natural Area Reserve as an ecosystem type specified in the management scheme

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0420

Water Level Control

State Natural Area Reserves shall be managed to maintain their natural water levels. Water levels which have previously been altered by man may be changed if provided for in the management scheme as essential for the restoration of natural conditions.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0422

Disturbance of Natural Features

The management of State Natural Area Reserves shall not include the cutting or removal of vegetation or the disturbance of other natural features, except that which is essential to carry out the management scheme enumerated in these rules.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0424

Visitor Protection

Guard rails, fences, steps, and bridges may be provided when essential to the safety of a reasonable alert and cautious visitor.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0426

Erosion Control

Erosion and soil deposition due to disturbances of natural conditions by man within or outside a State Natural Area Reserve may be controlled as provided in the management scheme.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0428

Scenic or Landscape Management

No measures or actions shall be taken to alter the natural growth or features of a State Natural Area Reserve for the purpose of enhancing its neatness, beauty, or amenities.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0430

Control of Succession

Control of succession may be undertaken only if maintenance or restoration of a particular ecosystem type or preservation of threatened or endangered species is designated in the instruments of dedication as an objective of the State Natural Area Reserve. Based on scientific evidence of necessity, successional control measures may be undertaken as provided in the management scheme. Such measures shall be applied with caution and only to that part of the area as is necessary.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0432

Control of Introduced Plant Species

Control of introduced plant species may be undertaken as provided in the management scheme.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0434

Control of Wildlife Populations

The control of wildlife populations on State Natural Area Reserves shall be by agreements between the Commission and Oregon Department of Fish and Wildlife, or other agency. Insofar as practical any control measures applied shall be to correct those situations where wildlife populations are significantly affecting natural conditions on a State Natural Area Reserve.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0436

Introduction and Management of Special Species

The introduction into or the management of a State Natural Area Reserve for special wildlife species shall be by agreement between the Commission and the Oregon Department of Fish and Wildlife, Oregon Department of Agriculture or other agency as provided in the management scheme.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0438

Use Tolerance

The management scheme shall set forth the use tolerance or durability of all or any portion of a State Natural Area Reserve and specify the steps to be taken if overuse occurs.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

ADMINISTRATIVE RULES

736-045-0440

Collecting Permits

A person wishing to collect material from a site for the purposes of research, education or restoration within a State Natural Area Reserve shall secure written permission from:

- (1) Oregon Parks and Recreation Department; and
- (2) The owner of the land; and
- (3) The appropriate agency if any, including but not limited to the

Oregon Department of Fish and Wildlife.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0442

Boundary Markers

When feasible, boundaries of a State Natural Area Reserve may be made clearly evident by placing markers at corners or other strategic locations or by boundary signs.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0444

Fences

Fences and barriers may be installed as provided in the management scheme.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0446

Trails

The location and specifications of any trails may be established in the management scheme. Trails shall be adequate to provide for permitted use of a State Natural Area Reserve, but otherwise kept to a minimum. The use of paving materials, footbridges and elevated walks may be permitted when necessary.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0448

Other Structures and Improvements

Signs and temporary research installations may be permitted within a State Natural Area Reserve. No other structures or facilities shall be located within a State Natural Area Reserve except as provided in the management scheme on these rules.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0500

Amendments

The Commission may review and approve or disapprove any modification to the Plan submitted by the Department.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

736-045-0505

Waiver of Rules

The Commission may waive all or any part of these rules which would prevent the establishment, management, or protection of a State Natural Area Reserve if such rule is in conflict with a statute, rule, regulation, or policy relating to an agency having an interest in or responsibility for the State Natural Area Reserve.

Stat. Auth.: ORS 273
Stats. Implemented: ORS 273.563 - 273.591
Hist.: PRD 2-2012, f. & cert. ef. 5-4-12

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Rule Caption: Local Government Grant Program Rule Changes as Required by Senate Bill 342.

Adm. Order No.: PRD 3-2012

Filed with Sec. of State: 5-11-2012

Certified to be Effective: 5-11-12

Notice Publication Date: 1-1-2012

Rules Amended: 736-006-0110, 736-006-0115, 736-006-0125, 736-006-0145, 736-006-0150

Subject: The proposed rules codify procedures necessary to implement Senate Bill 342 from the 76th Legislative Assembly – 2011 Regular Session.

Rules Coordinator: Vanessa DeMoe—(503) 986-0719

736-006-0110

Definitions

As used in this division, unless the context requires otherwise:

(1) “Acquisition” – Means the gaining of property rights, including but not limited to fee title or easements, for public use.

(2) “Bicycle Recreation” – Means the use of bicycles for enjoyment, social interaction, education, or physical well-being while on recreational trails or paths that are not along or adjacent to public roads or streets, and that are primarily recreational rather than transportation in nature.

(3) “Commission” – Means the Oregon Parks and Recreation Commission.

(4) “Committee” – Means the Local Government Grant Advisory Committee appointed by the Director to prioritize local government project applications.

(5) “Conversion” – Means the act of utilizing property acquired or developed using either Local Government Grant Program funds or Land and Water Conservation Funds for purposes other than public outdoor recreation uses.

(6) “Current Master Plan” – Means a site-specific resource-based plan guiding recreational site acquisition, development, protection, and management of park areas and facilities.

(7) “Department” – Means the Oregon Parks and Recreation Department (OPRD).

(8) “Development” – Means the construction or rehabilitation of facilities necessary for the use and enjoyment of public outdoor recreation resources.

(9) “Director” – Means the Director of the Oregon Parks and Recreation Department.

(10) “Eligible Project” – Means an acquisition, development, major rehabilitation undertaking, or planning or feasibility studies which satisfies the requirements of the Local Government Grant Program.

(11) “Force Account” – Means the governmental entity’s own work force performing project work rather than contracting out for the services.

(12) “LWCF or Land and Water Conservation Fund” – Means those funds made available to the state through the Land and Water Conservation Fund Act of 1965 (Public Law 88-578).

(13) “Local Comprehensive Plan” – Means the acknowledged comprehensive land use plan prepared by each local jurisdiction within the state, as required by ORS chapter 197.

(14) “Local Governments” – Means cities, municipal corporations, counties, political subdivisions, park and recreation districts, port districts, and metropolitan service districts.

(15) “Local Government Grant Policies and Procedures Manual” – Means a manual prepared by the Department containing state and federal policies, procedures and instructions to assist local government agencies wishing to participate in the Local Government Grant Program.

(16) “Local Government Grant Program” – Means the program and process for distributing state monies to eligible local governments for outdoor park and recreation areas and facilities located on properties controlled or managed by the eligible local government.

(17) “Major Rehabilitation” – Means the repair, restoration, or reconstruction of facilities, which is necessitated by obsolescence, building code changes, or normal wear and tear not attributed to lack of maintenance.

(18) “OPRD” – Means the Oregon Parks and Recreation Department.

(19) “Outdoor Recreation” – Means structured and unstructured leisure and fitness activities that occur in open air and are not provided in a roofed and enclosed facility.

(20) “Project” – Means the planning or feasibility study documents or the site and associated improvements where acquisition, development, or major rehabilitation will occur.

(21) “Project Authorization” – Means the State/Local Agreement that authorizes the project to begin effective on or after the date signed by both the Director and Project Sponsor or their designee.

(22) “Project Sponsor” – Means the recipient of the grant funds and the entity responsible for implementation of the project and the maintenance and operation of the site.

(23) “SCORP” – Means the Statewide Comprehensive Outdoor Recreation Plan that is Oregon’s basic five-year plan for outdoor recreation and that provides the state with an up-to-date regional information and planning tool serving as the basis by which all Oregon recreation providers

ADMINISTRATIVE RULES

(state, federal, local, and private) catalogue and rank their recreation needs, obtain funding through partnerships and grants, and affirm their respective roles.

(24) “State/Local Agreement” – Means the signed agreement between the Department and Project Sponsor, which authorizes the project to begin on, or after the date signed by both the Director and the Project Sponsor and that describes the contractual relationship and responsibilities of the parties to the Project.

(25) “Sustainability” – Means using, developing, protecting, and managing the resource in a manner that enables people to meet current and future generation needs from the multiple perspective of environmental, economic, and community objectives.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

Hist.: PRD 7-1999, f. & cert. ef. 11-23-99; PRD 6-2004, f. & cert. ef. 5-5-04; PRD 1-2008(Temp), f. 2-15-08, cert. ef. 3-1-08 thru 8-1-08; PRD 5-2008, f. & cert. ef. 5-15-08; PRD 3-2012, f. & cert. ef. 5-11-12

736-006-0115

Apportionment of Monies Between Small and Large Grants

(1) Up to 15 percent of available funds shall be set aside for small grants. Small grants are projects with a maximum \$75,000 grant request.

(2) Other than for land acquisitions, the remainder of available funds shall be for large projects with a maximum \$750,000 grant request.

(3) A Project Sponsor may request grant funding for land acquisitions in an amount not to exceed \$1,000,000.

(4) In consultation with the Committee, the Commission and the Director may set the maximum at less than that above amounts based upon the availability of funds.

(5) Based on the quality and quantity of Eligible Projects, the Committee, with concurrence of the Director, may dedicate a portion of the funds for projects expected to be completed within 12 months of grant award.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

Hist.: PRD 7-1999, f. & cert. ef. 11-23-99; PRD 6-2004, f. & cert. ef. 5-5-04; PRD 4-2008, f. 2-15-08, cert. ef. 3-1-08; PRD 3-2012, f. & cert. ef. 5-11-12

736-006-0125

Application Procedure

The purpose of this rule is to set forth requirements that must be met by local government applicants in submitting an application for Local Government Grant Program funding assistance.

(1) Eligibility for Funding Assistance. Public agencies eligible for state funding assistance are:

- (a) Cities, Municipal Corporations;
- (b) Counties, Political Subdivisions;
- (c) Park and Recreation Districts;
- (d) Port Districts;
- (e) Metropolitan Service Districts.

(2) Matching Requirements:

(a) Cities and districts with a population greater than 25,000 and counties with a population greater than 50,000 must provide a match of at least 50 percent of total project costs.

(b) Cities and districts with a population between 5,000 and 25,000 and counties with a population between 30,000 and 50,000 must provide a match of at least 40 percent of total project costs.

(c) Cities and districts with a population of less than 5,000 and counties with a population of less than 30,000 must provide a match of at least 20 percent of total project costs.

(d) If an applicant established that a situation of extreme economic hardship impacts a project, the applicant may request that the Director authorize a reduced match down to a minimum of 20 percent of total project costs. The Director has sole discretion to authorize a reduced match under this subsection based on consideration of the applicant's request, the project, and the project's eligible match; the availability of funds; the scope and need of projects available for funding; and the urgency and statewide importance of prospective projects.

(e) The eligible match by the Project Sponsor may include local budgeted funds, local agency labor or equipment, federal revenue sharing, other eligible grants, state and county inmate labor, donated funds, the value of private donated property, equipment, materials, labor, the value of land acquired within the past six year period, cost of appraisals, pre-development costs within the past two year period or any combination thereof. Engineering and administration costs and costs incurred prior to the State/Local Agreement cannot exceed 15 percent of the total project costs.

(3) Eligible Projects:

(a) Acquisition, development, major rehabilitation, planning, or feasibility study projects that are consistent with the outdoor recreation goals and objectives contained in the SCORP, the recreation elements of local comprehensive plans and local master plans or both. Projects may support traditional outdoor recreation settings such as parks, or funds may be provided for: projects that ensure natural and cultural resource protection while maintaining public access for recreation; projects that protect public open space; bicycle recreation; non-motorized water recreation; trails for non-motorized recreation; or emerging new outdoor recreation trends. Only outdoor park and recreation areas and facilities are eligible.

(b) Water based outdoor recreation facilities such as short-term transient moorages and non-motorized boat and watercraft projects, trails, support facilities for non-motorized water recreation, and water access.

(4) Planning Requirements. Project Sponsors participating in the funding assistance program must show that:

(a) There is a current master plan in effect and that the project is consistent with the local comprehensive land use plan and SCORP,

(b) There is not a current master plan in effect, but the project is consistent with the local comprehensive land use plan and SCORP, or

(c) The project request is for planning assistance.

(5) Application Form. All applications for funding assistance for outdoor park and recreation program projects must be submitted on forms as prescribed and supplied by the Department. All applications must be consistent with the Local Government Grant Policies and Procedures Manual and contain the following information:

(a) Program narrative;

(b) Environmental assessment;

(c) Vicinity map;

(d) Project boundary map;

(e) Civil Rights compliance;

(f) Copy of property deed or lease or formal and binding control and tenure agreement showing cooperation with the landowner to ensure long-term use, generally not less than 25 years, of facilities for public recreation;

(g) Preliminary plans and specifications for construction projects;

(h) Estimate of development costs and project construction schedule;

(i) Copy of property Purchase Agreement (for acquisitions only);

(j) Local/County Planning Department Certification/Review;

(k) All required permits and certifications as identified in the Local Government Grant Policies and Procedure Manual;

(l) Government-to-Government Inquiries (Tribal) – Certification to the Department that the Project Sponsor has communicated their grant proposal to the appropriate federally recognized tribe for the review and determination of tribal interest or concern for those areas of known or suspected tribal archeological resources.

(m) Other documentation that may be required by the Department.

(6) Project Award Procedure:

(a) Upon receipt of the application by the Department, the Grants Program staff shall perform a technical review of all applications and forward eligible large grant applications to the Committee. The Committee will meet to evaluate the applications and make recommendations to the Director for Commission approval. The Commission may deny any or all recommendations of the Committee.

(b) Project Sponsors with large project grant requests may be expected to provide a presentation to the Committee under a procedure established by the Department.

(c) Project Sponsors whose projects have been approved by the Commission and are scheduled for funding assistance must submit to the Department the following project information:

(A) Certification by project sponsor of availability of local match;

(B) Preliminary plans and specifications (for construction projects);

(C) Appraisal for acquisition projects. Appraisals must conform to the Uniform Appraisal Standards for Federal Land Acquisitions;

(D) Preliminary title report for acquisitions;

(E) Verification that the applicant has a Compliance Plan that meets the requirements of the Americans with Disabilities Act of 1990 and its 2010 regulations.

(d) The Department will remove those project applications from the Commission approved list that are unable to provide the required documentation required in subsection (c) of this section.

(e) In the event that the funding assistance available cannot fully fund the last priority project, a Project Sponsor may be given the option of reducing the scope of the project. The Department, at its discretion, may pass the available funds to another priority project or hold the remaining funds and combine them with the next planned distribution of funds.

ADMINISTRATIVE RULES

(f) Projects that do not receive funding assistance for the fiscal year submitted will be returned to the applicant without prejudice.

(7) Project Agreement:

(a) A signed State/Local Agreement shall constitute project authorization. No grant funds may be disbursed without a signed State/Local Agreement from the Department.

(b) The Project Sponsor shall have six months from the date of authorization to begin substantial work (e.g. the award of contracts or completion of at least 25 percent of the work, if done by force account). The Department may cancel a grant when the Project not conforming to this schedule, unless the Project Sponsor provides substantial justification to warrant an extension.

(c) The Project Sponsor shall complete and bill all projects by the dates as specified in the State/Local Agreement.

(d) The Department may inspect all projects.

(e) Partial payments up to 90 percent of the grant amount may be billed during the project for work completed. Final payment will be made upon certification of project completion by the Project Sponsor. Real property acquisitions may receive the full grant amount if the funds are to be dispersed in escrow for the closing of a property acquisition.

(f) The Department may provide the Project sponsor partial payments of up to 25 percent of the grant amount after the Department issues the Notice to Proceed and in advance of work completed if a general contractor requires advanced funding prior to construction/development work or ordering materials/supplies.

(g) Project amendments that increase the Local Government Grant award amount will generally not be allowed.

(h) The Project Sponsor must submit requests for time extensions to complete work to the Department in writing and must be approved prior to the expiration of the approved project period as set forth in the State/Local Agreement.

(8) The Project Sponsor shall install and maintain throughout the life of the agreement appropriate signage for each project indicating the Oregon Parks and Recreation Department Grant Program's assistance and shall certify that signage is in place prior to requesting final payment.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

Hist.: PRD 7-1999, f. & cert. ef. 11-23-99; PRD 6-2004, f. & cert. ef. 5-5-04; PRD 4-2008, f. 2-15-08, cert. ef. 3-1-08; PRD 3-2012, f. & cert. ef. 5-11-12

736-006-0145

Local Government Grant Advisory Committee

(1) The Committee shall be composed of ten (10) members appointed by the Director to four-year terms and shall represent the following interests:

(a) Counties east of the Cascade Mountains;

(b) Counties west of the Cascade Mountains;

(c) Cities under 15,000 people;

(d) Cities over 15,000 people;

(e) Park and Recreation Districts, Metropolitan Service Districts or Port Districts;

(f) Oregon Parks and Recreation Department;

(g) People with Disabilities; and

(h) Three members of the public at large, with at least one member who represents the ethnic diversity of the state's population;

(i) The chair shall be appointed by the Director from the Committee membership, considering the recommendations of the Committee.

(2) Committee members shall be selected for each position by:

(a) County representation shall be from lists supplied by the Oregon Parks Association and the Association of Oregon Counties;

(b) City representation shall be from lists supplied by the Oregon Recreation and Park Association and the League of Oregon Cities;

(c) Park and Recreation Districts, Port Districts, or Metropolitan Service Districts representation shall be from a list supplied by the Special Districts Association of Oregon;

(d) Representatives for Public at Large, People with Disabilities, and the Department shall be selected by the Director.

(3) The travel, meals and lodging expenses of all members of the Committee will be reimbursed by the Department according to the rates established by the Department of Administrative Services and approved by the Director.

(4) Function of Local Government Grant Advisory Committee:

(a) The Committee shall meet upon the call of the Director. The Committee will establish a priority order of eligible local government projects for state funding assistance and provide other assistance as requested

by the Department. The meeting will assure full and open project selection processes that will include an outreach to citizens of the state.

(b) The Department will provide public notice of all projects to be presented to the Committee at least 30 days prior to their meeting.

(5) Priority Selection Criteria. Large projects shall be prioritized by the Committee based on at least the following:

(a) Department review and recommendations, including a technical review of each project to confirm eligibility of the local government and the proposed project.

(b) The Committee shall score all applications using project selection criteria, including but not limited to the following:

(A) Extent the project demonstrates user benefits, public interest and support;

(B) Extent the project demonstrates conformance with local and state planning guidelines, the Statewide Comprehensive Outdoor Recreation Plan (SCORP) and local Park Master Plans; all projects must be identified in local comprehensive plans and current master plans;

(C) Financial considerations, including cost/benefit ratio;

(D) Environmental assessment as defined in the Local Government Grant Procedure Manual;

(E) Extent the project increases outdoor recreation opportunity in the service area;

(F) Extent the Project Sponsor employs the principles of sustainability in their project(s);

(G) How well the project's design accommodates people with disabilities.

(c) Small project requests will be scored and prioritized for funding by a committee appointed by the Director using the above criteria in subsection (b) of this section.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

Hist.: PRD 7-1999, f. & cert. ef. 11-23-99 ; Renumbered from 736-006-0130, PRD 6-2004, f. & cert. ef. 5-5-04; PRD 3-2012, f. & cert. ef. 5-11-12

736-006-0150

Emergency Procedure

(1) Under certain conditions such as, but not limited to, reduction or increase of these funds, an emergency procedure for awarding or canceling grants may be initiated at the discretion of the Director.

(2) In implementing the emergency procedure, the Director shall consider the availability of funds; the scope and need of projects available for funding; the urgency and statewide importance of prospective projects; and the need to expend additional funds that may become available in a timely manner. The Director may propose projects to the Commission for funding under this section and the Commission may waive other requirements of this rule for the purpose of obligating funds in a timely manner.

Stat. Auth.: ORS 390.180

Stats. Implemented: ORS 390.180

Hist.: PRD 7-1999, f. & cert. ef. 11-23-99 ; Renumbered from 736-006-0135, PRD 6-2004, f. & cert. ef. 5-5-04; PRD 4-2008, f. 2-15-08, cert. ef. 3-1-08; PRD 3-2012, f. & cert. ef. 5-11-12

Rule Caption: Veterans and War Memorial Grant Program Changes as Required by Senate Bill 342.

Adm. Order No.: PRD 4-2012

Filed with Sec. of State: 5-11-2012

Certified to be Effective: 5-11-12

Notice Publication Date: 3-1-2012

Rules Amended: 736-017-0005, 736-017-0010, 736-017-0020, 736-017-0035

Subject: The proposed rules redefine the grant applicant as being a local government entity instead of a non-profit veteran's organization per Section 6 of Senate Bill 342 from the 76 Oregon Legislative Assembly – 2011 Regular Session.

Rules Coordinator: Vanessa DeMoe—(503) 986-0719

736-017-0005

Definitions

As used in this division, unless the context requires otherwise, the following definitions apply:

(1) "Agreement" means the formal contract between OPRD and the Project Sponsor describing the terms and conditions associated with any granting of funds. Also called "Grant Agreement."

(2) "Commission" means the Oregon Parks and Recreation Commission.

ADMINISTRATIVE RULES

(3) "Committee" means the Veterans and War Memorial Grant Review Committee described in OAR 736-017-0010.

(4) "Department" means the Oregon Parks and Recreation Department (OPRD).

(5) "Construction" means the creation of a new memorial on public property.

(6) "Director" means the director of the Oregon Parks and Recreation Department.

(7) "Eligible Project" means a construction or restoration undertaking which satisfies the requirements of the Veterans and War Memorial Grant Program.

(8) "Governmental Entity" means a body of government, whether district, local or regional that owns or leases the property on which the project is to reside.

(9) "Grant" means an award from the Veterans and War Memorial Grant Program.

(10) "Grant Application" means the form and its format as developed by the OPRD that an applicant uses to request a grant.

(11) "Match" means project sponsor's budgeted funds, donated funds, value of equipment, materials, labor, planning, or any combination thereof.

(12) "Maintenance" means the continuation or preservation of a memorial. It includes the routine maintenance of or around a memorial such as landscaping, power washing, general cleaning, dusting, or removal of trash.

(13) "Memorial" means a monument or place designed to commemorate or preserve the memory of wars involving the United States of America or to honor veterans of the Armed Forces of the United States of America.

(14) "Nonprofit Veterans' Organization" means a group that:

(a) Is a nonprofit group that represents veterans of the Armed Forces of the United States, or is established for the purpose of supporting or recognizing such veterans;

(b) Has an established membership, that includes officers, and bylaws; and

(c) Is physically located in Oregon or has a chapter that is physically located in Oregon.

(d) Is also called a "Veterans' Nonprofit Organization".

(e) Is recognized as an existing non-profit status by the Internal Revenue Service.

(15) "OPRD" means the Oregon Parks and Recreation Department.

(16) "Planning" means the research, design, engineering, environmental, and site survey of any Memorial construction or restoration project.

(17) "Project Completion" means satisfaction of all requirements of a grant agreement as determined after review or inspection by OPRD.

(18) "Project Authorization" means the Agreement that authorizes the project as signed by the director and the Project Sponsor.

(19) "Project Sponsor" means the recipient of the grant funds and the responsible party for implementation of the project.

(20) "Public Property" means public lands, premises and buildings, including but not limited to any building used in connection with the transaction of public business or any lands, premises or buildings owned or leased by a local or regional government.

(21) "Restoration" means the improvement, rehabilitation, repair, or reconstruction of an existing memorial. It does not include routine maintenance.

(22) "Veterans and War Memorial Grant Instruction Manual" means a manual prepared by the OPRD containing state policies, procedures, instructions and grant criteria to assist applicants and Project Sponsors wishing to participate in the Veterans and War Memorial Grant Program.

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.180(1)(d)

Hist.: PRD 6-2006, f. & cert. ef. 12-15-06; PRD 4-2012, f. & cert. ef. 5-11-12

736-017-0010

Veterans and War Memorial Grant Review Committee

(1) The Veterans and War Memorial Grant Review Committee shall be composed of 12 members. The committee shall include:

(a) The Local Government Grant Advisory Committee described in OAR 736-006-0145; and

(b) Two people appointed by the director to four-year terms that represent either a veterans' organization or a governmental agency responsible for the administration of law relating to veterans.

(2) The director shall appoint the chair from the committee membership, considering the recommendations of the committee.

(3) The committee shall meet upon the call of the director.

(4) The Veterans and War Memorial Grant Review Committee shall follow grant application review procedures as provided in this division.

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.180(1)(d)

Hist.: PRD 6-2006, f. & cert. ef. 12-15-06; PRD 4-2012, f. & cert. ef. 5-11-12

736-017-0020

Eligibility

(1) The department may consider a grant application from any local or regional government that meets the requirements of this section.

(2) Site. To be eligible for a grant, a memorial must be placed on public property owned or controlled by a local or regional government.

(3) The project sponsor must agree in writing to:

(a) Having the memorial sited and maintained for not less than 20 years from completion of the project.

(b) An applicant must provide in their grant application:

(A) General description of the intended construction or restoration project;

(B) Documentation that demonstrates cooperation with a non-profit veterans' organization assisting in the construction or restoration of a memorial;

(C) Location of project with site maps;

(D) Conceptual design drawings, engineering plans, or both.

(E) Description of project time period including proposed beginning and completion dates;

(F) Roles and responsibilities of the project sponsor and veterans' organization including post-project completion responsibilities;

(G) Description of financing plan for eligible projects, including sources of funds and match;

(H) Summary of proposed budget for the eligible project;

(I) Allowance by the state for any audits.

(4) Matching Requirements. The Veterans and War Memorial Grant program provides, subject to the availability of funds, for up to 80 percent funding assistance with a minimum of 10 percent cash match. The project sponsor shall provide a minimum 10 percent cash match. The project sponsor may provide the remaining match by planning work done prior to project authorization or planning, construction, or restoration work performed following project authorization.

(5) Ineligible costs for grant:

(a) Overhead – The regular operating expenses of either the applicant or the governmental entity receiving the memorial such as rent, building upkeep, utilities, and all fixed costs associated with the daily operations of a business, agency or group;

(b) Overtime;

(c) Expenses for equipment or materials used outside the scope of this project;

(d) Costs or expenses incurred prior to a Grant Agreement except planning work done prior to project authorization under section (4) above.

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.180(1)(d)

Hist.: PRD 6-2006, f. & cert. ef. 12-15-06; PRD 4-2012, f. & cert. ef. 5-11-12

736-017-0035

Award of Grants

(1) Grants will be subject to binding grant agreements between the OPRD and the Project Sponsor. The grant agreement will specify the terms and conditions of the grant, generally including:

(a) The total project costs, the match to be provided by the Project Sponsor, and the amount of the grant;

(b) A statement of the work to be accomplished;

(c) When the grant-assisted project may begin and a schedule for accomplishing work, reporting on progress, delivering products, and project completion.

(2) If grant funds remain or become unobligated, the department may reallocate such funds to other department grant programs.

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.180(1)(d)

Hist.: PRD 6-2006, f. & cert. ef. 12-15-06; PRD 4-2012, f. & cert. ef. 5-11-12

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Psychiatric Security Review Board Chapter 859

Rule Caption: PSRB Conditional Release Plan Review of Tier Two Offenders.

Adm. Order No.: PSRB 2-2012

Filed with Sec. of State: 4-16-2012

Certified to be Effective: 4-16-12

ADMINISTRATIVE RULES

Notice Publication Date: 3-1-2012

Rules Adopted: 859-070-0040

Rules Amended: 859-030-0005, 859-030-0010

Rules Repealed: 859-030-0005(T), 859-030-0010(T), 859-070-0040(T)

Subject: Section 11a of SB 420 (act) classifies individuals who have been found guilty except for insanity into tier-one offenders (i.e. Measure 11 offenders) and tier-two offenders (i.e. non-Measure 11 offenders). The Act directed that tier-two offenders who are committed to the state hospital be placed under the jurisdiction of the Oregon Health Authority (OHA), effective January 1, 2012. After OHA orders tier-two offenders to be placed on conditional release, their jurisdiction transfers to the PSRB pursuant to Section 1 of the Act. Section 5 of the Act directs OHA to notify PSRB prior to conducting a conditional release hearing. The Act also permits PSRB to provide OHA with conditions of release that PSRB determines are advisable.

PSRB's current rules for not describe a permanent process for PSRB to provide conditions for release to OHA as described in Section 5 of the Act. The adoption 859-070-0040 creates this process. The amendments to 859-030-0005 and 0010 are necessary in order to update the Board's existing administrative rules to reflect its new responsibilities as noted above as well as housekeeping changes to reflect the Oregon Health authority's new name.

Rules Coordinator: Mary Claire Buckley—(503) 229-5596

859-030-0005

Responsibilities, Function and Purpose of PSRB

The Board shall monitor the mental and physical health and treatment of any person placed under its jurisdiction as a result of a finding by a court of guilty except for insanity or any subsequent transfer of jurisdiction of an individual from the Oregon Health Authority. The Board shall have as its primary concern the protection of society. In addition, the Board's responsibilities shall include but not be limited to:

(1) Holding hearings as required by law to determine the appropriate status of persons under its jurisdiction;

(2) Providing the State Hospital Review Panel with conditions of release the Board finds advisable to be included in the Panel's order of conditional release of a Tier Two Offender;

(3) Overseeing the supervision of persons placed on conditional release in the community;

(4) Modifying or terminating conditional release plans;

(5) Maintaining and keeping current medical, social and criminal histories of all persons under the Board's jurisdiction;

(6) Observing the confidentiality of records as required by law.

Stat. Auth.: ORS 161.387, Or Law 2011, ch 708, § 33(2) (SB 420)

Stats. Implemented: ORS 161.315 - ORS 161.351, Or Law 2011, ch 708, §§ 5, 33, 41 (SB 420)

Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 1-1995, f. & cert. ef. 1-11-95; PSRB 1-2012(Temp), f. & cert. ef. 2-3-12 thru 7-31-12; PSRB 2-2012, f. & cert. ef. 4-16-12

859-030-0010

Jurisdiction of Persons Under the PSRB

The Board shall take jurisdiction over persons adjudged by the court to be guilty except for insanity and presenting a substantial danger to others:

(1) The court must find that the person would have been guilty of a felony, or if adjudged guilty except for insanity prior to January 1, 2012 of a misdemeanor during a criminal episode in the course of which the person caused physical injury or risk of physical injury to another.

(2) The period of jurisdiction of the Board shall be equal to the maximum sentence the court finds the person could have received had the person been found guilty. The Board does not consider time spent on unauthorized leave from the custody of the Oregon Health Authority as part of the jurisdictional time.

(3) The Board has jurisdiction over all persons who used the insanity defense successfully and were placed on conditional release or committed to a state mental hospital by the court prior to January 1, 1978. The period of jurisdiction in these cases shall be equal to the maximum sentence the person could have received if found guilty and shall be measured from the date of judgment.

(4) The Board shall maintain jurisdiction over persons who are legally placed under its jurisdiction by any court of the State of Oregon or transferred from the jurisdiction of the Oregon Health Authority.

(5) The Board shall not retain jurisdiction over persons if the court order places the person under the Board only because of a judgment of guilty except for insanity for a probation violation. The person must be placed under the Board's jurisdiction for the initial offense.

(6) The Board shall not accept jurisdiction of juveniles found guilty except for insanity unless remanded to adult court.

(7) Upon receipt of verified information of time spent in custody, persons placed under the Board's jurisdiction shall receive credit for:

(a) Time spent in any correctional facility for the offense for which the person was placed under the Board's jurisdiction; and

(b) Time spent in custody of the Oregon Health Authority at a state mental hospital for determination of the defendant's fitness to proceed or for treatment until fit to proceed under a detainer for the criminal charges for which the person ultimately was found guilty except for insanity as well as a result of being committed by a court after being found guilty except for insanity of a charge.

Stat. Auth.: ORS 161.387, Or Law 2011, ch 708, §33(2) (SB 420)

Stats. Implemented: ORS 161.315 - ORS 161.351, Or Law 2011, ch 708, §§5, 33, 41 (SB 420)

Hist.: PSRB 1-1985, f. 1-3-85, ef. 1-15-85; PSRB 2-1987, f. 9-30-87, ef. 10-1-87; PSRB 1-1995, f. & cert. ef. 1-11-95; PSRB 1-2012(Temp), f. & cert. ef. 2-3-12 thru 7-31-12; PSRB 2-2012, f. & cert. ef. 4-16-12

859-070-0040

PSRB Conditional Release Plan Review of Tier Two Offenders

(1) As used in this section, "Condition" is defined as an event or circumstance that should occur or action that the individual should take for the individual to be eligible for release from the Oregon State Hospital. Conditions may include, but are not limited to, the elements of conditional release listed in 859-070-0015(1) through (6), such as an individual's compliance with supervision, mental health treatment, or a particular level of residential placement.

(2) Upon receipt of notice from the State Hospital Review Panel (SHRP) that it intends to conduct a hearing under ORS 161.315 to 161.351 and the documents listed in (3)(a) through (e) of this rule, the Board shall conduct an administrative review of the conditions proposed in the summary of conditional release plan. After that review, the Board may provide SHRP with conditions of release to be included in SHRP's order of conditional release.

(3) The Board shall conduct the administrative review of the Tier Two offender's conditional release plan within 21 days of receiving all of the following documents from SHRP:

(a) SHRP's order for evaluation of possible conditional release of a Tier Two offender;

(b) The Tier Two offender's current updated SHRP exhibit file;

(c) The evaluation by the proposed community provider;

(d) A summary of conditional release plan form which outlines the proposed conditions; and

(e) A Progress Note Update authored by the treating psychiatrist dated within 30 days of the signed summary of the conditional release plan form.

(4) Notwithstanding the 21-day timeframe defined in section (3) of this rule, the Board may postpone the administrative review of the offender's conditional release plan for good cause, including, but not limited to, delays in placement availability and need for updated information.

(5) The administrative review conducted by the Board under this rule is not a hearing.

(6) The sole issue in the Board's administrative review is whether the Board would eliminate, add to, or modify the proposed conditions for the Tier Two offender.

(7) The PSRB shall provide to SHRP a report of its review of the proposed conditions for the Tier Two offender including any conditions that the Board determines are advisable within two working days of the conclusion of that review. Conditions are "advisable" if those are the conditions that the Board would impose if SHRP orders the conditional release of the Tier Two offender and transfer of jurisdiction to the Board.

Stat. Auth.: ORS 161.387, Or Law 2011, ch 708, §33(2) (SB 420)

Stats. Implemented: ORS 161.315 - ORS 161.351, Or Law 2011, ch 708, §§5, 33, 41 (SB 420)

Hist.: PSRB 1-2012(Temp), f. & cert. ef. 2-3-12 thru 7-31-12; PSRB 2-2012, f. & cert. ef. 4-16-12

Public Utility Commission Chapter 860

Rule Caption: In the matter of Rule Changes Related to Utility Tax Information (SB 967) and Confidential Information.

Adm. Order No.: PUC 4-2012

Filed with Sec. of State: 4-17-2012

ADMINISTRATIVE RULES

Certified to be Effective: 4-17-12

Notice Publication Date: 1-1-2012

Rules Amended: 860-001-0080, 860-001-0500, 860-022-0019, 860-027-0200

Rules Repealed: 860-022-0041

Subject: These rule changes implement Senate Bill (SB) 967 (2011), which repealed existing statutes governing adjustment of public utility rates to account for taxes paid by certain utilities. Subsection 1(4) of SB 967 requires the Commission to adopt rules that identify documents and tax information that a utility must include in identified proceedings. SB 967 also requires the Commission to determine the procedures under which intervenors may obtain and use documents and tax information to fully participate in the proceedings, recognizing that tax information of unregulated nonutility business in a utility's affiliated group is sensitive.

Rules Coordinator: Diane Davis—(503) 378-4372

860-001-0080

Protective Orders

(1) Upon request by a party and for good cause shown, an ALJ may issue protective orders to limit disclosure of confidential information in specific Commission proceedings. Decisions by the ALJ regarding protective orders may be appealed to the Commission under OAR 860-001-0720.

(2) General Protective Order. The Commission's general protective order adopts a process for parties to resolve discovery disputes that include confidential information. The order allows the broadest possible discovery consistent with the need to protect confidential information; it does not determine whether a particular document is exempt from disclosure.

(a) Under the terms of a general protective order, a party may designate information that it reasonably believes falls within the scope of ORCP 36(C)(7) or is exempt from public disclosure under the Public Records Law. Information designated as confidential may be disclosed only to a "qualified person" as defined in the general protective order.

(b) A confidential designation must be made in good faith and be limited to the portions of the document that qualify as a protected trade secret or other confidential research, development, or commercial information.

(c) Except for Commission Staff, a party must sign the "consent to be bound" section of the protective order to receive confidential information. By signing the "consent to be bound," the party certifies that it has an interest in the proceedings that is not adequately represented by other parties to the proceedings, that the party will not use or disclose the information for any purpose other than to participate in the proceedings unless the designating party gives written consent, and that the party will take all reasonable precautions to keep the confidential information secure.

(d) A party may challenge the designation of information as confidential by notifying the designating party. Once notified, the designating party must show that the challenged information is covered by ORCP 36(C)(7) or exempt from disclosure under the Public Records Law.

(e) If the parties are unable to resolve a dispute about a confidential designation informally, then any party may request that the ALJ conduct a conference to facilitate the resolution of discovery disputes. A challenging party may also file an objection to the confidential designation. The objection must identify the information in dispute and include a certification that the parties have made reasonable efforts to achieve a resolution, but have been unable to resolve the controversy without the ALJ's assistance. Within 7 days of the objection, the designating party must either remove the confidential designation or file a written response identifying the legal basis for the claim of confidentiality. The challenging party may file a written reply to the response within 7 days.

(3) Motion for Additional Protection. A party may request that the ALJ issue a modified protective order that provides additional protection beyond that provided by the general protective order.

(a) A motion for additional protection must include:

(A) The parties involved;

(B) A detailed description of the information to be protected;

(C) Legal authority for the claim that the information is protected under the ORCP 36(C)(7) or the Public Records Law;

(D) The reasons the general protective order is inadequate to protect the information at issue;

(E) A description of the intermediate measures, including selected redaction, explored by the parties and why these measures are insufficient; and

(F) A description of the measures of additional protection sought, why they are necessary, and how they are narrowly tailored to address the circumstances presented in the docket.

(b) In determining whether to issue a modified protective order to provide additional protection of designated information, the ALJ will, at minimum, consider the following as applicable:

(A) The extent to which the information is known outside of the moving party's business;

(B) The extent to which the information is known by employees and others involved in the moving party's business;

(C) The extent of measures taken by the moving party to guard the secrecy of the information;

(D) The value of the information to the moving party and its competitors;

(E) The amount of effort or money expended by the moving party in developing the information;

(F) The ease or difficulty with which the information could be properly acquired or duplicated by others;

(G) The extent, kind, and likelihood of harm that may occur should the information be disclosed;

(H) Whether the additional protection sought would unreasonably restrict the intervenors from fully participating in the proceeding, recognizing that the tax information of an unregulated nonutility business in a regulated utility's affiliated group is sensitive;

(I) Whether the additional protection sought would unreasonably restrict the ability of the Commission to develop a full and complete record of all facts relevant to the proceeding; and

(J) Other considerations the Commission deems relevant.

(c) To receive access to confidential information that has been given additional protection beyond that of the general protective order, a party may be required to certify that it intends to fully participate in the proceedings. Fully participating means being actively involved in the docket, as appropriate, by filing testimony; participating in settlement negotiations, participating in workshops, participating in conferences, participating in hearings; and filing other pleadings as required. If a certifying party fails to fully participate in the proceedings, the party may decertify itself or, upon the request of a party or the ALJ's own motion, be decertified as eligible to receive information under a modified protective order.

(d) Challenges to the designation of information as warranting additional protection under a modified protective order are to be handled as described in section (2) above, unless the modified protective order provides otherwise.

(e) If, during the course of the subject proceedings, a dispute arises regarding the application of a modified protective order, any of the affected parties may ask the ALJ to conduct a conference to facilitate resolution of the dispute. The ALJ will schedule a conference to take place within three business days, or as soon as practicable, to expedite the resolution of the dispute. The ALJ may require in camera inspection of the documents for which a party seeks additional protection.

(4) The Commission may expel from the subject proceedings any person who fails to comply with the terms of a protective order, prohibit the person from appearing in future proceedings, and impose penalties under ORS 756.990(2)(c). If an attorney violates a protective order, the Commission will report the violation to the bar associations in all states where the attorney is admitted to practice law.

Stat. Auth.: ORS 756.040 & 756.060

Stat. Implemented: ORCP(36), ORS 756.040, 756.055 & 756.990

Hist.: PUC 5-2010, f. & cert. ef. 10-22-10; PUC 4-2012, f. & cert. ef. 4-17-12

860-001-0500

Discovery in Contested Case Proceedings

(1) Discovery must be commensurate with the needs of the case, the resources available to the parties, and the importance of the issues to which the discovery relates.

(2) Discovery that is unreasonably cumulative, duplicative, burdensome, or overly broad is not allowed. Instructions and definitions included in discovery requests must be consistent with these rules and ORS Chapters 756, 757, and 759.

(3) Privileged material is not discoverable except as provided under the Oregon Rules of Evidence.

(4) A party will not be required to develop information or prepare a study for another party, unless the capability to prepare the study is possessed uniquely by the party from whom discovery is sought, the discovery request is not unduly burdensome, and the information sought has a high degree of relevance to the issues in the proceedings.

ADMINISTRATIVE RULES

(5) Parties must make every effort to engage in cooperative informal discovery and to resolve disputes themselves. If a party receives a data request that is likely to lead to a discovery dispute, then that party must inform the requesting party of the dispute as soon as practicable and attempt to resolve it informally.

(6) If parties are unable to resolve a dispute informally, then any of the parties involved in the dispute may request that the ALJ conduct a conference to facilitate the resolution of discovery disputes. A requesting party must identify the specific discovery sought and describe the efforts of the parties to resolve the dispute informally.

(7) A party may file a motion to compel discovery. The motion must contain a certification that the parties have conferred and been unable to resolve the dispute. A party filing a motion to compel will be allowed the opportunity to file a reply to the response to the motion.

(8) A party's assertion that information responsive to a discovery request is confidential may not be used to delay the discovery process; provided, however, a party pursuing protection will not be required to produce information that it claims is inadequately protected until such time as its claim for the need for a general protective order or a modified protective order is resolved. If an answering party believes that a response to a discovery request involves confidential information that is inadequately protected by the safeguards existing in the docket, the answering party must notify the requesting party of this belief as soon as practicable and, if appropriate, promptly move for an appropriate protective order.

(9) A party may by motion, or the ALJ may on the ALJ's own motion, propose that sanctions be imposed if a party fails or refuses to comply with an oral or written ruling resolving a discovery dispute. The ALJ may impose sanctions including: default; dismissal; or striking of testimony, evidence, or cross-examination.

Stat. Auth.: ORS 756.040 & 756.060

Stat. Implemented: ORS 183.425, 183.450, 756.040 & 756.500 – 756.575

Hist.: PUC 5-2010, f. & cert. ef. 10-22-10; PUC 4-2012, f. & cert. ef. 4-17-12

860-022-0019

General Rate Revisions

(1) Any utility filing new or revised tariff schedules that constitute a general rate revision must include supporting testimony and exhibits, work papers, and an executive summary. A general rate revision is a filing by a utility that affects all or most of the utility's rate schedules. The term "general rate revision" does not include the exclusions in OAR 860-022-0017(1). The executive summary must contain an exhibit showing in summary form the following information:

(a) The dollar amount of total revenues that would be collected under the proposed rates;

(b) The dollar amount of revenue change requested, total revenues, and revenues net of any credits from federal agencies;

(c) The percentage change in revenues requested, total revenues, and revenues net of any credits from federal agencies;

(d) The test period;

(e) The requested return on capital and return on equity;

(f) The rate base proposed in the filing;

(g) The results of operations before and after the proposed rate change; and

(h) The proposed effect of the rate change on each class of customers.

(2) The initial filing of a general rate revision must contain the following:

(a) All information required by the most recent version of the Standard Data Requests for Energy Rate Cases, available at <http://www.puc.state.or.us> including tax-related information; and

(b) A motion for a general protective order or modified protective order under OAR 860-001-0080, if necessary for the release of information under sections (1)(a) through (g), and (2)(a) of this rule.

(3) Telecommunications utilities partially exempt from regulation under ORS 759.040 must file tariffs as specified in OAR 860-034-0300.

Stat. Auth.: ORS 756.040 & 756.060

Stat. Implemented: ORS 756.040, 757.205 and 759.175

Hist.: PUC 1-1985, f. & ef. 2-1-85 (Order No. 85-075); PUC 10-1994, f. & cert. ef. 7-21-94 (Order No. 94-1127); PUC 15-1997, f. & cert. ef. 11-20-97; PUC 12-1999, f. & cert. ef. 11-18-99; PUC 3-2002, f. & cert. ef. 2-5-02; PUC 18-2004, f. & cert. ef. 12-30-04; Renumbered from 860-013-0075, PUC 5-2010, f. & cert. ef. 10-22-10; PUC 4-2012, f. & cert. ef. 4-17-12

860-027-0200

Energy Utility Acquisition

In addition to the information required by ORS 757.511, any person filing an application pursuant to that statute, shall also provide:

(1) The information required by OAR 860-027-0030(1)(a) through (d), inclusive;

(2) A schedule detailing the existing capital structure of the energy utility to be acquired, as well as a pro forma utility capital structure as of 12 months after the acquisition is to be completed;

(3) An explanation of how the bond ratings and capital costs of the acquired utility will be affected by the acquisition;

(4) A description of existing and planned nonutility businesses which are or will become affiliated interests of the acquired utility under ORS 757.015, and a description of the organizational structure under which the applicant intends to operate its businesses;

(5) A description of the method by which management, personnel, property, income, losses, costs, and expenses (including tax-related expense) will be allocated by the applicant between its utility and nonutility operations (if applicable);

(6) A description of any planned changes that may have a significant impact upon the policy, management, operations, or rates of the energy utility;

(7) A description of any plans to cause the energy utility to sell, exchange, pledge, or otherwise transfer its assets;

(8) A copy of any existing or proposed agreement between the energy utility and any businesses which will become affiliated interests of the acquired utility under ORS 757.015; and

(9) A motion for a general protective order or modified protective order under OAR 860-001-0080, if necessary for the release of information under sections (1) through (8) of this rule.

Stat. Auth.: ORS 183.756, 757 & 759

Stats. Implemented: ORS 756.105 & 757.511

Hist.: PUC 6-1986, f. & ef. 7-22-86 (Order No. 86-731); PUC 12-1997, f. & cert. ef. 10-30-97; PUC 16-2001, f. & cert. ef. 6-21-01; PUC 4-2012, f. & cert. ef. 4-17-12

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**Secretary of State,
Archives Division
Chapter 166**

Rule Caption: Amending rules that set forth the manner and form for filing administrative rules.

Adm. Order No.: OSA 1-2012(Temp)

Filed with Sec. of State: 5-1-2012

Certified to be Effective: 5-1-12 thru 10-26-12

Notice Publication Date:

Rules Amended: 166-500-0030

Subject: This rule amendment changes administrative rule filing language to describe an electronic filing system rather than a paper-based system with hand delivery of hard copies. It sets forth the manner and form for filing administrative rulemaking notices using and on-line filing system.

Rules Coordinator: Julie Yamaka—(503) 378-5199

166-500-0030

Components of a Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking Filing

(1) A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking filing consists of two items filed through the on-line filing system. These are:

(a) One completed Notice of Proposed Rulemaking Hearing or Notice of Proposed Rulemaking form;

(b) One completed Statement of Need and Fiscal Impact form.

(2) In cases when the on-line system is unavailable, Notices may be filed using one of the methods described in OAR 166-500-0020(3). Forms are available from the Administrative Rules Unit or downloadable from the Administrative Rules Unit website at <<http://arcweb.sos.state.or.us/pages/rules/index.html>>.

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

Stat. Auth.: ORS 183.360

Stats. Implemented: ORS 183.335 & 183.360

Hist.: OSA 9-1997(Temp), f. & cert. ef. 10-6-97; OSA 13-1997, f. & cert. ef. 11-3-97; OSA 2-2000, f. & cert. ef. 3-9-00; OSA 2-2007, f. & cert. ef. 7-31-07; OSA 1-2012(Temp), f. & cert. ef. 5-1-12 thru 10-26-12

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

Rule Caption: Incorporating 2012 revisions into the Vote by Mail Manual.

Adm. Order No.: ELECT 10-2012

Filed with Sec. of State: 4-24-2012

ADMINISTRATIVE RULES

Certified to be Effective: 4-24-12

Notice Publication Date: 4-1-2012

Rules Amended: 165-007-0030

Subject: This proposed rule amendments adopts the Vote by Mail Manual which incorporates 2012 revisions as the processes, procedures and requirements for conducting an election by mail.

Rules Coordinator: Brenda Bayes—(503) 986-1518

165-007-0030

Designating the Vote By Mail Manual

The Secretary of State designates the Vote By Mail Manual and associated forms, as the procedures for conducting all vote by mail elections. All vote by mail elections shall be conducted following the requirements of ORS Chapter 254 and the Vote By Mail Manual.

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

Stat. Auth.: ORS 246.150, 254.465 & 254.470

Stats. Implemented: ORS 247 & 254

Hist.: ELECT 5-1989, f. & cert. ef. 8-16-89; ELECT 9-2003, f. & cert. ef. 9-3-03; ELECT 26-2003, f. & cert. ef. 12-31-03; ELECT 10-2007 f. & cert. ef. 12-31-07; ELECT 10-2012, f. & cert. ef. 4-24-12

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
111-005-0040	1-13-2012	Amend(T)	2-1-2012	111-065-0035	4-20-2012	Adopt(T)	6-1-2012
111-005-0040	4-18-2012	Amend	6-1-2012	111-065-0040	4-20-2012	Adopt(T)	6-1-2012
111-005-0040(T)	4-18-2012	Repeal	6-1-2012	111-080-0005	12-14-2011	Amend	1-1-2012
111-005-0042	1-13-2012	Amend(T)	2-1-2012	111-080-0005(T)	12-14-2011	Repeal	1-1-2012
111-005-0042	4-18-2012	Amend	6-1-2012	111-080-0030	4-20-2012	Amend(T)	6-1-2012
111-005-0042(T)	4-18-2012	Repeal	6-1-2012	115-010-0012	12-29-2011	Amend	2-1-2012
111-010-0015	12-14-2011	Amend	1-1-2012	115-035-0000	12-29-2011	Amend	2-1-2012
111-010-0015(T)	12-14-2011	Repeal	1-1-2012	115-035-0035	12-29-2011	Amend	2-1-2012
111-030-0005	4-20-2012	Amend(T)	6-1-2012	115-035-0045	12-29-2011	Amend	2-1-2012
111-030-0010	4-20-2012	Amend(T)	6-1-2012	115-040-0005	12-29-2011	Amend	2-1-2012
111-030-0047	4-20-2012	Adopt(T)	6-1-2012	115-070-0000	12-29-2011	Amend	2-1-2012
111-040-0001	12-14-2011	Amend	1-1-2012	115-070-0035	12-29-2011	Amend	2-1-2012
111-040-0001	4-20-2012	Amend(T)	6-1-2012	115-070-0050	12-29-2011	Amend	2-1-2012
111-040-0001(T)	12-14-2011	Repeal	1-1-2012	115-080-0010	12-29-2011	Amend	2-1-2012
111-040-0005	12-14-2011	Amend	1-1-2012	122-070-0000	2-1-2012	Repeal	3-1-2012
111-040-0005	4-20-2012	Amend(T)	6-1-2012	122-070-0010	2-1-2012	Repeal	3-1-2012
111-040-0005(T)	12-14-2011	Repeal	1-1-2012	122-070-0020	2-1-2012	Repeal	3-1-2012
111-040-0010	4-20-2012	Amend(T)	6-1-2012	122-070-0030	2-1-2012	Repeal	3-1-2012
111-040-0015	12-14-2011	Amend	1-1-2012	122-070-0040	2-1-2012	Repeal	3-1-2012
111-040-0015	4-20-2012	Amend(T)	6-1-2012	122-070-0050	2-1-2012	Repeal	3-1-2012
111-040-0015(T)	12-14-2011	Repeal	1-1-2012	122-070-0060	2-1-2012	Repeal	3-1-2012
111-040-0020	4-20-2012	Amend(T)	6-1-2012	122-070-0065	2-1-2012	Repeal	3-1-2012
111-040-0025	12-14-2011	Amend	1-1-2012	122-070-0070	2-1-2012	Repeal	3-1-2012
111-040-0025	4-20-2012	Amend(T)	6-1-2012	122-070-0080	2-1-2012	Repeal	3-1-2012
111-040-0025(T)	12-14-2011	Repeal	1-1-2012	122-070-0100	2-1-2012	Adopt	3-1-2012
111-040-0030	4-20-2012	Amend(T)	6-1-2012	122-070-0110	2-1-2012	Adopt	3-1-2012
111-040-0040	12-14-2011	Amend	1-1-2012	122-070-0120	2-1-2012	Adopt	3-1-2012
111-040-0040	4-20-2012	Amend(T)	6-1-2012	122-070-0130	2-1-2012	Adopt	3-1-2012
111-040-0040(T)	12-14-2011	Repeal	1-1-2012	122-070-0140	2-1-2012	Adopt	3-1-2012
111-040-0050	4-20-2012	Amend(T)	6-1-2012	122-070-0150	2-1-2012	Adopt	3-1-2012
111-050-0010	4-20-2012	Amend(T)	6-1-2012	122-070-0160	2-1-2012	Adopt	3-1-2012
111-050-0015	12-14-2011	Amend	1-1-2012	122-070-0100	2-1-2012	Adopt	3-1-2012
111-050-0015	4-20-2012	Amend(T)	6-1-2012	122-075-0110	2-1-2012	Adopt	3-1-2012
111-050-0015(T)	12-14-2011	Repeal	1-1-2012	122-075-0120	2-1-2012	Adopt	3-1-2012
111-050-0016	4-20-2012	Amend(T)	6-1-2012	122-075-0150	2-1-2012	Adopt	3-1-2012
111-050-0020	4-20-2012	Amend(T)	6-1-2012	122-075-0160	2-1-2012	Adopt	3-1-2012
111-050-0025	12-14-2011	Amend	1-1-2012	123-006-0035	4-2-2012	Amend	5-1-2012
111-050-0025	4-20-2012	Amend(T)	6-1-2012	123-011-0035	12-8-2011	Amend(T)	1-1-2012
111-050-0025(T)	12-14-2011	Repeal	1-1-2012	123-011-0045	12-8-2011	Amend(T)	1-1-2012
111-050-0030	12-14-2011	Amend	1-1-2012	123-017-0080	2-23-2012	Amend(T)	4-1-2012
111-050-0030	4-20-2012	Amend(T)	6-1-2012	123-018-0010	12-19-2011	Amend(T)	2-1-2012
111-050-0030(T)	12-14-2011	Repeal	1-1-2012	123-018-0065	12-19-2011	Amend(T)	2-1-2012
111-050-0035	4-20-2012	Amend(T)	6-1-2012	123-018-0140	12-19-2011	Amend(T)	2-1-2012
111-050-0045	12-14-2011	Amend	1-1-2012	123-021-0000	12-8-2011	Amend(T)	1-1-2012
111-050-0045	4-20-2012	Amend(T)	6-1-2012	123-021-0010	12-8-2011	Amend(T)	1-1-2012
111-050-0045(T)	12-14-2011	Repeal	1-1-2012	123-021-0015	12-8-2011	Amend(T)	1-1-2012
111-050-0050	12-14-2011	Amend	1-1-2012	123-021-0020	12-8-2011	Amend(T)	1-1-2012
111-050-0050	4-20-2012	Amend(T)	6-1-2012	123-021-0040	12-8-2011	Amend(T)	1-1-2012
111-050-0050(T)	12-14-2011	Repeal	1-1-2012	123-021-0080	12-8-2011	Amend(T)	1-1-2012
111-065-0001	4-20-2012	Adopt(T)	6-1-2012	123-021-0090	12-8-2011	Amend(T)	1-1-2012
111-065-0005	4-20-2012	Adopt(T)	6-1-2012	123-021-0110	12-8-2011	Amend(T)	1-1-2012
111-065-0010	4-20-2012	Adopt(T)	6-1-2012	123-021-0130	12-8-2011	Amend(T)	1-1-2012
111-065-0015	4-20-2012	Adopt(T)	6-1-2012	123-042-0026	1-1-2012	Amend	2-1-2012
111-065-0020	4-20-2012	Adopt(T)	6-1-2012	123-042-0045	1-1-2012	Amend	2-1-2012
111-065-0025	4-20-2012	Adopt(T)	6-1-2012	123-043-0010	4-2-2012	Amend	5-1-2012
111-065-0030	4-20-2012	Adopt(T)	6-1-2012	123-043-0010(T)	4-2-2012	Repeal	5-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
125-249-0900	1-1-2012	Amend	2-1-2012	137-048-0230	1-1-2012	Amend	1-1-2012
125-249-0910	1-1-2012	Amend	2-1-2012	137-048-0240	1-1-2012	Amend	1-1-2012
137-003-0501	1-31-2012	Amend	2-1-2012	137-048-0250	1-1-2012	Amend	1-1-2012
137-003-0505	1-31-2012	Amend	2-1-2012	137-048-0260	1-1-2012	Amend	1-1-2012
137-003-0510	1-31-2012	Amend	2-1-2012	137-048-0270	1-1-2012	Adopt	1-1-2012
137-003-0520	1-31-2012	Amend	2-1-2012	137-048-0300	1-1-2012	Amend	1-1-2012
137-003-0525	1-31-2012	Amend	2-1-2012	137-048-0310	1-1-2012	Amend	1-1-2012
137-003-0528	1-31-2012	Amend	2-1-2012	137-048-0320	1-1-2012	Amend	1-1-2012
137-003-0530	1-31-2012	Amend	2-1-2012	137-049-0380	1-1-2012	Amend	1-1-2012
137-003-0545	1-31-2012	Amend	2-1-2012	137-049-0650	1-1-2012	Amend	1-1-2012
137-003-0550	1-31-2012	Amend	2-1-2012	137-049-0860	1-1-2012	Amend	1-1-2012
137-003-0555	1-31-2012	Amend	2-1-2012	137-050-0750	1-3-2012	Amend	2-1-2012
137-003-0560	1-31-2012	Amend	2-1-2012	137-055-1100	1-3-2012	Amend	2-1-2012
137-003-0570	1-31-2012	Am. & Ren.	2-1-2012	137-055-1140	12-5-2011	Amend(T)	1-1-2012
137-003-0570	1-31-2012	Am. & Ren.	2-1-2012	137-055-1140	1-3-2012	Amend	2-1-2012
137-003-0570	1-31-2012	Am. & Ren.	2-1-2012	137-055-1145	12-5-2011	Suspend	1-1-2012
137-003-0570	1-31-2012	Am. & Ren.	2-1-2012	137-055-1145	1-3-2012	Repeal	2-1-2012
137-003-0575	1-31-2012	Amend	2-1-2012	137-055-1160	1-3-2012	Amend	2-1-2012
137-003-0580	1-31-2012	Amend	2-1-2012	137-055-1800	1-3-2012	Amend	2-1-2012
137-003-0600	1-31-2012	Amend	2-1-2012	137-055-2100	1-3-2012	Adopt	2-1-2012
137-003-0605	1-31-2012	Amend	2-1-2012	137-055-2160	1-3-2012	Amend	2-1-2012
137-003-0625	1-31-2012	Amend	2-1-2012	137-055-3220	1-3-2012	Amend	2-1-2012
137-003-0635	1-31-2012	Amend	2-1-2012	137-055-3430	1-3-2012	Amend	2-1-2012
137-003-0640	1-31-2012	Amend	2-1-2012	137-055-3640	1-3-2012	Amend	2-1-2012
137-003-0645	1-31-2012	Amend	2-1-2012	137-055-4130	1-3-2012	Amend	2-1-2012
137-003-0655	1-31-2012	Amend	2-1-2012	137-055-4440	1-3-2012	Amend	2-1-2012
137-003-0665	1-31-2012	Amend	2-1-2012	137-055-4520	1-3-2012	Amend	2-1-2012
137-003-0670	1-31-2012	Amend	2-1-2012	137-055-5400	1-3-2012	Amend	2-1-2012
137-003-0672	1-31-2012	Amend	2-1-2012	137-055-5420	1-3-2012	Amend	2-1-2012
137-003-0690	1-31-2012	Amend	2-1-2012	137-055-6021	1-3-2012	Amend	2-1-2012
137-020-0800	1-27-2012	Adopt(T)	3-1-2012	137-055-6100	1-3-2012	Repeal	2-1-2012
137-020-0800(T)	2-15-2012	Suspend	3-1-2012	137-055-6200	1-3-2012	Amend	2-1-2012
137-020-0805	2-15-2012	Adopt(T)	3-1-2012	137-055-6220	1-3-2012	Amend	2-1-2012
137-045-0030	1-1-2012	Amend	1-1-2012	137-055-6240	1-3-2012	Amend	2-1-2012
137-045-0090	1-1-2012	Amend	1-1-2012	137-055-6260	1-3-2012	Amend	2-1-2012
137-046-0110	1-1-2012	Amend	1-1-2012	137-060-0130	2-2-2012	Amend	3-1-2012
137-046-0300	1-1-2012	Amend	1-1-2012	137-060-0150	2-2-2012	Amend	3-1-2012
137-047-0257	1-1-2012	Amend	1-1-2012	137-060-0160	2-2-2012	Amend	3-1-2012
137-047-0260	1-1-2012	Amend	1-1-2012	137-060-0230	2-2-2012	Amend	3-1-2012
137-047-0261	1-1-2012	Amend	1-1-2012	137-060-0250	2-2-2012	Amend	3-1-2012
137-047-0262	1-1-2012	Repeal	1-1-2012	137-060-0330	2-2-2012	Amend	3-1-2012
137-047-0263	1-1-2012	Repeal	1-1-2012	137-060-0350	2-2-2012	Amend	3-1-2012
137-047-0270	2-27-2012	Amend	4-1-2012	137-060-0360	2-2-2012	Amend	3-1-2012
137-047-0310	1-1-2012	Amend	1-1-2012	137-060-0430	2-2-2012	Amend	3-1-2012
137-047-0430	1-1-2012	Amend	1-1-2012	137-060-0450	2-2-2012	Amend	3-1-2012
137-047-0460	1-1-2012	Amend	1-1-2012	141-093-0107	4-1-2012	Amend	4-1-2012
137-047-0600	1-1-2012	Amend	1-1-2012	141-093-0115	4-1-2012	Amend	4-1-2012
137-047-0620	1-1-2012	Amend	1-1-2012	141-093-0135	4-1-2012	Amend	4-1-2012
137-047-0800	1-1-2012	Amend	1-1-2012	141-093-0180	4-1-2012	Adopt	4-1-2012
137-048-0100	1-1-2012	Amend	1-1-2012	141-093-0185	4-1-2012	Adopt	4-1-2012
137-048-0110	1-1-2012	Amend	1-1-2012	141-093-0187	4-1-2012	Adopt	4-1-2012
137-048-0120	1-1-2012	Amend	1-1-2012	141-093-0190	4-1-2012	Adopt	4-1-2012
137-048-0130	1-1-2012	Amend	1-1-2012	141-093-0195	4-1-2012	Adopt	4-1-2012
137-048-0200	1-1-2012	Amend	1-1-2012	141-093-0200	4-1-2012	Adopt	4-1-2012
137-048-0210	1-1-2012	Amend	1-1-2012	141-093-0205	4-1-2012	Adopt	4-1-2012
137-048-0220	1-1-2012	Amend	1-1-2012	141-093-0215	4-1-2012	Adopt	4-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
141-093-0220	4-2-2012	Adopt(T)	5-1-2012	161-500-0000	1-1-2012	Adopt(T)	2-1-2012
141-093-0225	4-2-2012	Adopt(T)	5-1-2012	161-510-0010	1-1-2012	Adopt(T)	2-1-2012
141-093-0230	4-2-2012	Adopt(T)	5-1-2012	161-510-0030	1-1-2012	Adopt(T)	2-1-2012
141-093-0235	4-2-2012	Adopt(T)	5-1-2012	161-520-0010	1-1-2012	Adopt(T)	2-1-2012
141-093-0240	4-2-2012	Adopt(T)	5-1-2012	161-520-0020	1-1-2012	Adopt(T)	2-1-2012
141-110-0080	12-13-2011	Amend	1-1-2012	161-520-0030	1-1-2012	Adopt(T)	2-1-2012
150-18.385	1-1-2012	Amend	2-1-2012	161-520-0040	1-1-2012	Adopt(T)	2-1-2012
150-18.385(A)	1-1-2012	Amend	2-1-2012	161-530-0010	1-1-2012	Adopt(T)	2-1-2012
150-267.380(2)	1-1-2012	Amend	2-1-2012	161-530-0020	1-1-2012	Adopt(T)	2-1-2012
150-294.435(1)-(A)	1-1-2012	Amend	2-1-2012	161-530-0030	1-1-2012	Adopt(T)	2-1-2012
150-294.435(1)-(C)	1-1-2012	Amend	2-1-2012	161-530-0040	1-1-2012	Adopt(T)	2-1-2012
150-294.480	1-1-2012	Amend	2-1-2012	161-540-0010	1-1-2012	Adopt(T)	2-1-2012
150-294.525-(A)	1-1-2012	Amend	2-1-2012	161-550-0010	1-1-2012	Adopt(T)	2-1-2012
150-305.810	2-1-2012	Amend(T)	3-1-2012	161-560-0010	1-1-2012	Adopt(T)	2-1-2012
150-307.250(1)(c)	1-1-2012	Am. & Ren.	2-1-2012	161-560-0020	1-1-2012	Adopt(T)	2-1-2012
150-308.290(4)(b)	1-1-2012	Am. & Ren.	2-1-2012	161-570-0010	1-1-2012	Adopt(T)	2-1-2012
150-308.505(3)	2-1-2012	Adopt(T)	3-1-2012	162-040-0001	4-1-2012	Amend	3-1-2012
150-311.216	1-1-2012	Amend	2-1-2012	162-040-0002	4-1-2012	Amend	3-1-2012
150-314.280-(F)	1-1-2012	Amend	2-1-2012	162-040-0005	4-1-2012	Amend	3-1-2012
150-314.360	1-1-2012	Amend	2-1-2012	162-040-0010	4-1-2012	Amend	3-1-2012
150-314.HB2071(A)	1-1-2012	Adopt	2-1-2012	162-040-0015	4-1-2012	Repeal	3-1-2012
150-314.HB2071(B)	1-1-2012	Adopt	2-1-2012	162-040-0020	4-1-2012	Amend	3-1-2012
150-315.326	1-1-2012	Adopt	2-1-2012	162-040-0050	4-1-2012	Amend	3-1-2012
150-315.354	1-1-2012	Repeal	2-1-2012	162-040-0054	4-1-2012	Amend	3-1-2012
150-315.HB 3672	11-29-2011	Adopt(T)	1-1-2012	162-040-0055	4-1-2012	Amend	3-1-2012
150-315.HB 3672(T)	11-29-2011	Suspend	1-1-2012	162-040-0060	4-1-2012	Amend	3-1-2012
150-315.HB3672	1-1-2012	Suspend	2-1-2012	162-040-0065	4-1-2012	Amend	3-1-2012
150-317.710(5)(b)	1-1-2012	Amend	2-1-2012	162-040-0070	4-1-2012	Amend	3-1-2012
160-010-0030	3-1-2012	Adopt	4-1-2012	162-040-0075	4-1-2012	Amend	3-1-2012
160-010-0310	3-1-2012	Amend	4-1-2012	162-040-0090	4-1-2012	Repeal	3-1-2012
160-010-0400	3-1-2012	Amend	4-1-2012	162-040-0095	4-1-2012	Amend	3-1-2012
160-010-0450	3-1-2012	Adopt	4-1-2012	162-040-0096	4-1-2012	Adopt	3-1-2012
160-050-0115	3-1-2012	Adopt	4-1-2012	162-040-0110	4-1-2012	Repeal	3-1-2012
160-050-0200	3-1-2012	Amend	4-1-2012	162-040-0115	4-1-2012	Repeal	3-1-2012
160-050-0210	3-1-2012	Amend	4-1-2012	162-040-0120	4-1-2012	Repeal	3-1-2012
161-002-0000	11-17-2011	Amend	1-1-2012	162-040-0125	4-1-2012	Repeal	3-1-2012
161-002-0000	1-1-2012	Amend(T)	2-1-2012	162-040-0130	4-1-2012	Repeal	3-1-2012
161-006-0000	11-17-2011	Amend	1-1-2012	162-040-0135	4-1-2012	Repeal	3-1-2012
161-006-0025	11-17-2011	Amend	1-1-2012	162-040-0136	4-1-2012	Repeal	3-1-2012
161-006-0025(T)	11-17-2011	Repeal	1-1-2012	162-040-0140	4-1-2012	Repeal	3-1-2012
161-006-0160	11-17-2011	Amend	1-1-2012	162-040-0146	4-1-2012	Repeal	3-1-2012
161-006-0175	11-17-2011	Amend	1-1-2012	162-040-0148	4-1-2012	Repeal	3-1-2012
161-008-0040	11-17-2011	Amend	1-1-2012	162-040-0155	4-1-2012	Amend	3-1-2012
161-010-0020	11-17-2011	Amend	1-1-2012	165-001-0015	1-3-2012	Amend	2-1-2012
161-010-0025	11-17-2011	Amend	1-1-2012	165-001-0016	1-3-2012	Amend	2-1-2012
161-010-0035	11-17-2011	Amend	1-1-2012	165-001-0025	1-3-2012	Amend	2-1-2012
161-010-0045	11-17-2011	Amend	1-1-2012	165-001-0034	1-3-2012	Amend	2-1-2012
161-010-0085	11-17-2011	Amend	1-1-2012	165-007-0030	4-24-2012	Amend	6-1-2012
161-020-0015	11-17-2011	Amend	1-1-2012	165-007-0300	1-3-2012	Amend	2-1-2012
161-020-0045	11-17-2011	Amend	1-1-2012	165-007-0320	1-3-2012	Repeal	2-1-2012
161-020-0055	11-17-2011	Amend	1-1-2012	165-010-0005	1-3-2012	Amend	2-1-2012
161-020-0140	11-17-2011	Amend	1-1-2012	165-010-0060	1-3-2012	Amend	2-1-2012
161-020-0150	11-17-2011	Amend	1-1-2012	165-010-0085	1-3-2012	Repeal	2-1-2012
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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
165-013-0010	1-3-2012	Amend	2-1-2012	213-017-0006(T)	1-1-2012	Suspend	2-1-2012
165-013-0020	1-3-2012	Amend	2-1-2012	213-017-0006(T)	4-27-2012	Repeal	6-1-2012
165-014-0005	1-3-2012	Amend	2-1-2012	213-017-0007	1-27-2012	Amend(T)	3-1-2012
165-014-0270	1-3-2012	Amend	2-1-2012	213-017-0007	4-27-2012	Amend	6-1-2012
165-020-0005	1-3-2012	Repeal	2-1-2012	213-017-0007(T)	4-27-2012	Repeal	6-1-2012
166-500-0030	5-1-2012	Amend(T)	6-1-2012	213-017-0008	4-27-2012	Amend	6-1-2012
170-061-0015	1-26-2012	Amend(T)	3-1-2012	213-017-0008(T)	4-27-2012	Repeal	6-1-2012
177-052-0000	12-1-2011	Adopt	1-1-2012	213-018-0037	4-27-2012	Adopt	6-1-2012
177-052-0000(T)	12-1-2011	Repeal	1-1-2012	250-010-0150	4-20-2012	Amend	6-1-2012
177-052-0010	12-1-2011	Adopt	1-1-2012	250-010-0440	12-22-2011	Amend(T)	2-1-2012
177-052-0010(T)	12-1-2011	Repeal	1-1-2012	250-010-0440	4-20-2012	Amend	6-1-2012
177-052-0020	12-1-2011	Adopt	1-1-2012	250-010-0440(T)	4-20-2012	Repeal	6-1-2012
177-052-0020(T)	12-1-2011	Repeal	1-1-2012	250-010-0650	2-1-2012	Amend	2-1-2012
177-052-0030	12-1-2011	Adopt	1-1-2012	250-010-0650	3-14-2012	Amend	4-1-2012
177-052-0030(T)	12-1-2011	Repeal	1-1-2012	250-010-0650(T)	2-1-2012	Repeal	2-1-2012
177-052-0040	12-1-2011	Adopt	1-1-2012	250-010-0660	2-1-2012	Adopt	2-1-2012
177-052-0040(T)	12-1-2011	Repeal	1-1-2012	250-010-0660(T)	2-1-2012	Repeal	2-1-2012
177-052-0050	12-1-2011	Adopt	1-1-2012	250-014-0001	5-1-2012	Amend	6-1-2012
177-052-0050(T)	12-1-2011	Repeal	1-1-2012	250-014-0004	5-1-2012	Amend	6-1-2012
177-052-0060	12-1-2011	Adopt	1-1-2012	250-017-0000	2-1-2012	Amend	2-1-2012
177-052-0060(T)	12-1-2011	Repeal	1-1-2012	250-017-0010	2-1-2012	Amend	2-1-2012
177-052-0070	12-1-2011	Adopt	1-1-2012	250-017-0020	2-1-2012	Amend	2-1-2012
177-052-0070(T)	12-1-2011	Repeal	1-1-2012	250-017-0030	2-1-2012	Amend	2-1-2012
177-085-0000	1-15-2012	Amend	2-1-2012	250-017-0040	2-1-2012	Amend	2-1-2012
177-085-0005	1-15-2012	Amend	2-1-2012	250-020-0221	4-2-2012	Amend(T)	5-1-2012
177-085-0010	1-15-2012	Amend	2-1-2012	250-020-0221	5-1-2012	Amend	6-1-2012
177-085-0015	1-15-2012	Amend	2-1-2012	250-020-0280	12-1-2011	Amend(T)	1-1-2012
177-085-0020	1-15-2012	Amend	2-1-2012	250-020-0280	1-1-2012	Amend(T)	2-1-2012
177-085-0025	1-15-2012	Amend	2-1-2012	250-020-0280	4-20-2012	Amend	6-1-2012
177-085-0025	1-15-2012	Amend(T)	2-1-2012	250-020-0280(T)	1-1-2012	Suspend	2-1-2012
177-085-0025	5-1-2012	Amend	6-1-2012	250-020-0280(T)	4-20-2012	Repeal	6-1-2012
177-085-0025(T)	5-1-2012	Repeal	6-1-2012	250-030-0030	5-1-2012	Amend	6-1-2012
177-085-0030	1-15-2012	Amend	2-1-2012	255-032-0005	3-13-2012	Amend	4-1-2012
177-085-0035	1-15-2012	Amend	2-1-2012	255-032-0011	3-13-2012	Repeal	4-1-2012
177-085-0065	1-15-2012	Amend	2-1-2012	255-032-0035	11-30-2011	Amend	1-1-2012
177-085-0065	1-15-2012	Amend(T)	2-1-2012	255-032-0037	11-30-2011	Adopt	1-1-2012
177-085-0065	5-1-2012	Amend	6-1-2012	255-032-0037	3-13-2012	Amend	4-1-2012
177-085-0065(T)	5-1-2012	Repeal	6-1-2012	257-010-0060	12-15-2011	Adopt(T)	1-1-2012
177-098-0110	1-9-2012	Amend(T)	2-1-2012	257-080-0000	5-9-2012	Suspend	6-1-2012
177-098-0110	5-1-2012	Amend	6-1-2012	257-080-0005	5-9-2012	Suspend	6-1-2012
177-098-0110(T)	5-1-2012	Repeal	6-1-2012	257-080-0010	5-9-2012	Suspend	6-1-2012
177-200-0020	12-1-2011	Amend	1-1-2012	257-080-0015	5-9-2012	Suspend	6-1-2012
177-200-0020(T)	12-1-2011	Repeal	1-1-2012	257-080-0020	5-9-2012	Suspend	6-1-2012
177-200-0032	12-1-2011	Amend	1-1-2012	257-080-0025	5-9-2012	Suspend	6-1-2012
177-200-0032(T)	12-1-2011	Repeal	1-1-2012	257-080-0030	5-9-2012	Suspend	6-1-2012
213-001-0000	4-27-2012	Amend(T)	6-1-2012	257-080-0035	5-9-2012	Suspend	6-1-2012
213-003-0001	1-1-2012	Amend(T)	2-1-2012	257-080-0040	5-9-2012	Suspend	6-1-2012
213-003-0001	4-27-2012	Amend	6-1-2012	257-080-0045	5-9-2012	Suspend	6-1-2012
213-003-0001(T)	1-1-2012	Suspend	2-1-2012	259-001-0015	3-7-2012	Amend	4-1-2012
213-003-0001(T)	4-27-2012	Repeal	6-1-2012	259-003-0015	3-7-2012	Amend	4-1-2012
213-004-0001	4-27-2012	Amend	6-1-2012	259-005-0015	3-7-2012	Amend	4-1-2012
213-005-0001	4-27-2012	Amend	6-1-2012	259-008-0005	3-27-2012	Amend	5-1-2012
213-005-0011	4-27-2012	Amend	6-1-2012	259-008-0011	3-26-2012	Amend	5-1-2012
213-005-0013	4-27-2012	Amend	6-1-2012	259-008-0025	5-8-2012	Amend(T)	6-1-2012
213-017-0006	1-1-2012	Amend(T)	2-1-2012	259-008-0060	12-23-2011	Amend	2-1-2012
213-017-0006	4-27-2012	Amend	6-1-2012	259-008-0066	3-29-2012	Amend	5-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
259-008-0068	5-1-2012	Repeal	6-1-2012	291-180-0315	12-7-2011	Repeal	1-1-2012
259-008-0069	11-28-2011	Amend(T)	1-1-2012	291-180-0325	12-7-2011	Repeal	1-1-2012
259-008-0069	2-29-2012	Adopt	4-1-2012	291-180-0335	12-7-2011	Repeal	1-1-2012
259-008-0069(T)	2-29-2012	Repeal	4-1-2012	291-180-0345	12-7-2011	Repeal	1-1-2012
259-008-0070	4-24-2012	Amend	6-1-2012	291-180-0355	12-7-2011	Repeal	1-1-2012
259-008-0100	4-9-2012	Amend	5-1-2012	291-180-0365	12-7-2011	Repeal	1-1-2012
259-009-0062	3-28-2012	Amend	5-1-2012	291-180-0375	12-7-2011	Repeal	1-1-2012
259-020-0015	12-30-2011	Amend	2-1-2012	291-180-0385	12-7-2011	Repeal	1-1-2012
259-020-0015	2-24-2012	Amend(T)	4-1-2012	291-180-0395	12-7-2011	Repeal	1-1-2012
259-060-0015	4-2-2012	Amend	5-1-2012	291-180-0405	12-7-2011	Repeal	1-1-2012
259-061-0018	2-6-2012	Adopt(T)	3-1-2012	291-180-0415	12-7-2011	Repeal	1-1-2012
259-070-0010	12-28-2011	Amend	2-1-2012	291-180-0425	12-7-2011	Repeal	1-1-2012
274-015-0010	2-22-2012	Amend	4-1-2012	291-180-0435	12-7-2011	Repeal	1-1-2012
274-015-0020	2-22-2012	Adopt	4-1-2012	291-180-0445	12-7-2011	Repeal	1-1-2012
291-024-0081	11-17-2011	Adopt(T)	1-1-2012	291-180-0455	12-7-2011	Repeal	1-1-2012
291-031-0025	1-27-2012	Amend	3-1-2012	291-180-0465	12-7-2011	Repeal	1-1-2012
291-062-0110	3-1-2012	Amend	4-1-2012	291-180-0475	12-7-2011	Repeal	1-1-2012
291-062-0140	3-1-2012	Amend	4-1-2012	291-180-0485	12-7-2011	Repeal	1-1-2012
291-082-0105	3-1-2012	Amend	4-1-2012	291-180-0495	12-7-2011	Repeal	1-1-2012
291-082-0110	3-1-2012	Amend	4-1-2012	291-180-0505	12-7-2011	Repeal	1-1-2012
291-105-0005	12-7-2011	Amend	1-1-2012	291-180-0515	12-7-2011	Repeal	1-1-2012
291-105-0010	12-7-2011	Amend	1-1-2012	291-180-0525	12-7-2011	Repeal	1-1-2012
291-105-0013	12-7-2011	Amend	1-1-2012	291-180-0535	12-7-2011	Repeal	1-1-2012
291-105-0015	12-7-2011	Amend	1-1-2012	291-180-0545	12-7-2011	Repeal	1-1-2012
291-105-0021	12-7-2011	Amend	1-1-2012	291-180-0555	12-7-2011	Repeal	1-1-2012
291-105-0026	12-7-2011	Amend	1-1-2012	291-180-0565	12-7-2011	Repeal	1-1-2012
291-105-0028	12-7-2011	Amend	1-1-2012	291-180-0575	12-7-2011	Repeal	1-1-2012
291-105-0031	12-7-2011	Amend	1-1-2012	291-180-0585	12-7-2011	Repeal	1-1-2012
291-105-0036	12-7-2011	Amend	1-1-2012	291-180-0595	12-7-2011	Repeal	1-1-2012
291-105-0041	12-7-2011	Amend	1-1-2012	291-180-0605	12-7-2011	Repeal	1-1-2012
291-105-0046	12-7-2011	Amend	1-1-2012	291-180-0615	12-7-2011	Repeal	1-1-2012
291-105-0066	12-7-2011	Amend	1-1-2012	291-180-0625	12-7-2011	Repeal	1-1-2012
291-105-0069	12-7-2011	Amend	1-1-2012	291-180-0635	12-7-2011	Repeal	1-1-2012
291-105-0081	12-7-2011	Amend	1-1-2012	291-180-0645	12-7-2011	Repeal	1-1-2012
291-105-0100	12-7-2011	Amend	1-1-2012	291-180-0655	12-7-2011	Repeal	1-1-2012
291-180-0115	12-7-2011	Repeal	1-1-2012	291-180-0665	12-7-2011	Repeal	1-1-2012
291-180-0125	12-7-2011	Repeal	1-1-2012	291-208-0010	1-27-2012	Adopt	3-1-2012
291-180-0135	12-7-2011	Repeal	1-1-2012	291-208-0020	1-27-2012	Adopt	3-1-2012
291-180-0145	12-7-2011	Repeal	1-1-2012	291-208-0030	1-27-2012	Adopt	3-1-2012
291-180-0155	12-7-2011	Repeal	1-1-2012	291-208-0040	1-27-2012	Adopt	3-1-2012
291-180-0165	12-7-2011	Repeal	1-1-2012	291-208-0050	1-27-2012	Adopt	3-1-2012
291-180-0175	12-7-2011	Repeal	1-1-2012	309-014-0300	2-23-2012	Adopt	4-1-2012
291-180-0185	12-7-2011	Repeal	1-1-2012	309-014-0300(T)	2-23-2012	Repeal	4-1-2012
291-180-0195	12-7-2011	Repeal	1-1-2012	309-014-0310	2-23-2012	Adopt	4-1-2012
291-180-0205	12-7-2011	Repeal	1-1-2012	309-014-0310(T)	2-23-2012	Repeal	4-1-2012
291-180-0215	12-7-2011	Repeal	1-1-2012	309-014-0320	2-23-2012	Adopt	4-1-2012
291-180-0225	12-7-2011	Repeal	1-1-2012	309-014-0320(T)	2-23-2012	Repeal	4-1-2012
291-180-0235	12-7-2011	Repeal	1-1-2012	309-014-0330	2-23-2012	Adopt	4-1-2012
291-180-0245	12-7-2011	Repeal	1-1-2012	309-014-0330(T)	2-23-2012	Repeal	4-1-2012
291-180-0252	12-7-2011	Adopt	1-1-2012	309-014-0340	2-23-2012	Adopt	4-1-2012
291-180-0255	12-7-2011	Repeal	1-1-2012	309-014-0340(T)	2-23-2012	Repeal	4-1-2012
291-180-0262	12-7-2011	Adopt	1-1-2012	309-016-0600	1-1-2012	Amend(T)	2-1-2012
291-180-0275	1-10-2012	Amend(T)	2-1-2012	309-016-0605	1-1-2012	Amend(T)	2-1-2012
291-180-0285	12-7-2011	Repeal	1-1-2012	309-016-0610	1-1-2012	Amend(T)	2-1-2012
291-180-0295	12-7-2011	Repeal	1-1-2012	309-016-0630	1-1-2012	Amend(T)	2-1-2012
291-180-0305	12-7-2011	Repeal	1-1-2012	309-016-0675	1-1-2012	Amend(T)	2-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
309-016-0685	1-1-2012	Amend(T)	2-1-2012	309-035-0250	12-5-2011	Amend(T)	1-1-2012
309-016-0745	1-1-2012	Amend(T)	2-1-2012	309-035-0250	5-4-2012	Amend	6-1-2012
309-016-0750	1-1-2012	Amend(T)	2-1-2012	309-035-0250(T)	5-4-2012	Repeal	6-1-2012
309-031-0200	1-1-2012	Suspend	2-1-2012	309-035-0260	12-5-2011	Amend(T)	1-1-2012
309-031-0205	1-1-2012	Suspend	2-1-2012	309-035-0260	5-4-2012	Amend	6-1-2012
309-031-0210	1-1-2012	Suspend	2-1-2012	309-035-0260(T)	5-4-2012	Repeal	6-1-2012
309-031-0215	1-1-2012	Suspend	2-1-2012	309-040-0300	12-5-2011	Amend(T)	1-1-2012
309-031-0220	1-1-2012	Suspend	2-1-2012	309-040-0300	5-4-2012	Amend	6-1-2012
309-031-0250	1-1-2012	Suspend	2-1-2012	309-040-0300(T)	5-4-2012	Repeal	6-1-2012
309-031-0255	1-1-2012	Suspend	2-1-2012	309-040-0305	12-5-2011	Amend(T)	1-1-2012
309-032-0175	11-22-2011	Suspend	1-1-2012	309-040-0305	5-4-2012	Amend	6-1-2012
309-032-0180	11-22-2011	Suspend	1-1-2012	309-040-0305(T)	5-4-2012	Repeal	6-1-2012
309-032-0185	11-22-2011	Suspend	1-1-2012	309-090-0000	1-1-2012	Adopt(T)	2-1-2012
309-032-0190	11-22-2011	Suspend	1-1-2012	309-090-0005	1-1-2012	Adopt(T)	2-1-2012
309-032-0195	11-22-2011	Suspend	1-1-2012	309-090-0010	1-1-2012	Adopt(T)	2-1-2012
309-032-0200	11-22-2011	Suspend	1-1-2012	309-090-0015	1-1-2012	Adopt(T)	2-1-2012
309-032-0205	11-22-2011	Suspend	1-1-2012	309-090-0020	1-1-2012	Adopt(T)	2-1-2012
309-032-0210	11-22-2011	Suspend	1-1-2012	309-090-0025	1-1-2012	Adopt(T)	2-1-2012
309-032-0301	11-22-2011	Adopt(T)	1-1-2012	309-090-0030	1-1-2012	Adopt(T)	2-1-2012
309-032-0301	2-9-2012	Adopt	3-1-2012	309-090-0035	1-1-2012	Adopt(T)	2-1-2012
309-032-0301(T)	2-9-2012	Repeal	3-1-2012	309-090-0040	1-1-2012	Adopt(T)	2-1-2012
309-032-0311	11-22-2011	Adopt(T)	1-1-2012	309-091-0000	1-1-2012	Adopt(T)	2-1-2012
309-032-0311	2-9-2012	Adopt	3-1-2012	309-091-0000	5-4-2012	Adopt	6-1-2012
309-032-0311(T)	2-9-2012	Repeal	3-1-2012	309-091-0000(T)	5-4-2012	Repeal	6-1-2012
309-032-0321	11-22-2011	Adopt(T)	1-1-2012	309-091-0005	1-1-2012	Adopt(T)	2-1-2012
309-032-0321	2-9-2012	Adopt	3-1-2012	309-091-0005	5-4-2012	Adopt	6-1-2012
309-032-0321(T)	2-9-2012	Repeal	3-1-2012	309-091-0005(T)	5-4-2012	Repeal	6-1-2012
309-032-0331	11-22-2011	Adopt(T)	1-1-2012	309-091-0010	1-1-2012	Adopt(T)	2-1-2012
309-032-0331	2-9-2012	Adopt	3-1-2012	309-091-0010	5-4-2012	Adopt	6-1-2012
309-032-0331(T)	2-9-2012	Repeal	3-1-2012	309-091-0010(T)	5-4-2012	Repeal	6-1-2012
309-032-0341	11-22-2011	Adopt(T)	1-1-2012	309-091-0015	1-1-2012	Adopt(T)	2-1-2012
309-032-0341	2-9-2012	Adopt	3-1-2012	309-091-0015	5-4-2012	Adopt	6-1-2012
309-032-0341(T)	2-9-2012	Repeal	3-1-2012	309-091-0015(T)	5-4-2012	Repeal	6-1-2012
309-032-0351	11-22-2011	Adopt(T)	1-1-2012	309-091-0020	1-1-2012	Adopt(T)	2-1-2012
309-032-0351	2-9-2012	Adopt	3-1-2012	309-091-0020	5-4-2012	Adopt	6-1-2012
309-032-0351(T)	2-9-2012	Repeal	3-1-2012	309-091-0020(T)	5-4-2012	Repeal	6-1-2012
309-032-1500	1-1-2012	Amend(T)	2-1-2012	309-091-0025	1-1-2012	Adopt(T)	2-1-2012
309-032-1505	1-1-2012	Amend(T)	2-1-2012	309-091-0025	5-4-2012	Adopt	6-1-2012
309-032-1510	1-1-2012	Amend(T)	2-1-2012	309-091-0025(T)	5-4-2012	Repeal	6-1-2012
309-032-1515	1-1-2012	Amend(T)	2-1-2012	309-091-0030	1-1-2012	Adopt(T)	2-1-2012
309-032-1520	1-1-2012	Amend(T)	2-1-2012	309-091-0030	5-4-2012	Adopt	6-1-2012
309-032-1525	1-1-2012	Amend(T)	2-1-2012	309-091-0030(T)	5-4-2012	Repeal	6-1-2012
309-032-1530	1-1-2012	Amend(T)	2-1-2012	309-091-0035	1-1-2012	Adopt(T)	2-1-2012
309-032-1535	1-1-2012	Amend(T)	2-1-2012	309-091-0035	5-4-2012	Adopt	6-1-2012
309-032-1540	1-1-2012	Amend(T)	2-1-2012	309-091-0035(T)	5-4-2012	Repeal	6-1-2012
309-032-1545	1-1-2012	Amend(T)	2-1-2012	309-091-0040	1-1-2012	Adopt(T)	2-1-2012
309-032-1550	1-1-2012	Amend(T)	2-1-2012	309-091-0040	5-4-2012	Adopt	6-1-2012
309-032-1555	1-1-2012	Amend(T)	2-1-2012	309-091-0040(T)	5-4-2012	Repeal	6-1-2012
309-032-1560	1-1-2012	Amend(T)	2-1-2012	309-091-0045	1-1-2012	Adopt(T)	2-1-2012
309-032-1565	1-1-2012	Amend(T)	2-1-2012	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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
309-092-0010	1-1-2012	Adopt(T)	2-1-2012	309-102-0140(T)	2-9-2012	Repeal	3-1-2012
309-092-0015	1-1-2012	Adopt(T)	2-1-2012	309-102-0150	2-9-2012	Adopt	3-1-2012
309-092-0020	1-1-2012	Adopt(T)	2-1-2012	309-102-0150(T)	2-9-2012	Repeal	3-1-2012
309-092-0025	1-1-2012	Adopt(T)	2-1-2012	325-005-0015	4-1-2012	Amend	5-1-2012
309-092-0030	1-1-2012	Adopt(T)	2-1-2012	330-070-0013	1-1-2012	Amend	2-1-2012
309-092-0035	1-1-2012	Adopt(T)	2-1-2012	330-070-0014	1-1-2012	Amend	2-1-2012
309-092-0040	1-1-2012	Adopt(T)	2-1-2012	330-070-0019	1-1-2012	Amend	2-1-2012
309-092-0045	1-1-2012	Adopt(T)	2-1-2012	330-070-0020	1-1-2012	Amend	2-1-2012
309-092-0050	1-1-2012	Adopt(T)	2-1-2012	330-070-0021	1-1-2012	Amend	2-1-2012
309-092-0055	1-1-2012	Adopt(T)	2-1-2012	330-070-0022	1-1-2012	Amend	2-1-2012
309-092-0060	1-1-2012	Adopt(T)	2-1-2012	330-070-0024	1-1-2012	Amend	2-1-2012
309-092-0065	1-1-2012	Adopt(T)	2-1-2012	330-070-0025	1-1-2012	Amend	2-1-2012
309-092-0070	1-1-2012	Adopt(T)	2-1-2012	330-070-0026	1-1-2012	Amend	2-1-2012
309-092-0075	1-1-2012	Adopt(T)	2-1-2012	330-070-0027	1-1-2012	Amend	2-1-2012
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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
330-210-0050	12-23-2011	Adopt(T)	2-1-2012	331-225-0060	1-1-2012	Repeal	2-1-2012
330-210-0060	12-23-2011	Adopt(T)	2-1-2012	331-225-0070	1-1-2012	Repeal	2-1-2012
330-210-0070	12-23-2011	Adopt(T)	2-1-2012	331-225-0080	1-1-2012	Repeal	2-1-2012
330-210-0080	12-23-2011	Adopt(T)	2-1-2012	331-225-0090	1-1-2012	Repeal	2-1-2012
330-210-0090	12-23-2011	Adopt(T)	2-1-2012	331-225-0100	1-1-2012	Repeal	2-1-2012
330-210-0100	12-23-2011	Adopt(T)	2-1-2012	331-225-0110	1-1-2012	Repeal	2-1-2012
330-210-0150	12-23-2011	Adopt(T)	2-1-2012	331-225-0120	1-1-2012	Repeal	2-1-2012
330-220-0000	2-7-2012	Adopt(T)	3-1-2012	331-225-0130	1-1-2012	Repeal	2-1-2012
330-220-0010	2-7-2012	Adopt(T)	3-1-2012	331-225-0140	1-1-2012	Repeal	2-1-2012
330-220-0020	2-7-2012	Adopt(T)	3-1-2012	331-225-0150	1-1-2012	Repeal	2-1-2012
330-220-0030	2-7-2012	Adopt(T)	3-1-2012	331-225-0160	1-1-2012	Repeal	2-1-2012
330-220-0040	2-7-2012	Adopt(T)	3-1-2012	331-505-0000	1-1-2012	Repeal	2-1-2012
330-220-0050	2-7-2012	Adopt(T)	3-1-2012	331-505-0010	1-1-2012	Repeal	2-1-2012
330-220-0070	2-7-2012	Adopt(T)	3-1-2012	331-510-0000	1-1-2012	Repeal	2-1-2012
330-220-0080	2-7-2012	Adopt(T)	3-1-2012	331-515-0000	1-1-2012	Repeal	2-1-2012
330-220-0090	2-7-2012	Adopt(T)	3-1-2012	331-515-0010	1-1-2012	Repeal	2-1-2012
330-220-0100	2-7-2012	Adopt(T)	3-1-2012	331-515-0020	1-1-2012	Repeal	2-1-2012
330-220-0150	2-7-2012	Adopt(T)	3-1-2012	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	Suspend	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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
331-560-0040	1-1-2012	Repeal	2-1-2012	331-720-0015	1-1-2012	Adopt	2-1-2012
331-560-0060	1-1-2012	Repeal	2-1-2012	331-725-0020	1-1-2012	Repeal	2-1-2012
331-565-0000	1-1-2012	Repeal	2-1-2012	331-740-0000	1-1-2012	Adopt	2-1-2012
331-565-0020	1-1-2012	Repeal	2-1-2012	331-900-0000	1-1-2012	Adopt	2-1-2012
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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
331-905-0025	1-1-2012	Adopt(T)	2-1-2012	331-915-0005	1-1-2012	Adopt	2-1-2012
331-905-0025	3-1-2012	Adopt(T)	4-1-2012	331-915-0010	1-1-2012	Adopt	2-1-2012
331-905-0025(T)	3-1-2012	Suspend	4-1-2012	331-915-0010	3-1-2012	Amend(T)	4-1-2012
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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
331-930-0020	3-1-2012	Amend(T)	4-1-2012	333-015-0045	2-1-2012	Amend	3-1-2012
331-930-0025	1-1-2012	Adopt	2-1-2012	333-015-0064	2-1-2012	Amend	3-1-2012
331-930-0025	3-1-2012	Amend(T)	4-1-2012	333-015-0066	2-1-2012	Amend	3-1-2012
331-930-0030	1-1-2012	Adopt	2-1-2012	333-015-0068	2-1-2012	Amend	3-1-2012
331-930-0030	3-1-2012	Amend(T)	4-1-2012	333-015-0069	2-1-2012	Amend	3-1-2012
331-940-0000	1-1-2012	Adopt	2-1-2012	333-015-0070	2-1-2012	Amend	3-1-2012
331-940-0000	3-5-2012	Amend(T)	4-1-2012	333-015-0075	2-1-2012	Amend	3-1-2012
331-950-0010	1-1-2012	Adopt	2-1-2012	333-015-0080	2-1-2012	Amend	3-1-2012
331-950-0020	1-1-2012	Adopt	2-1-2012	333-015-0082	2-1-2012	Amend	3-1-2012
331-950-0030	1-1-2012	Adopt	2-1-2012	333-015-0085	2-1-2012	Amend	3-1-2012
331-950-0040	1-1-2012	Adopt	2-1-2012	333-015-0090	2-1-2012	Repeal	3-1-2012
331-950-0050	1-1-2012	Adopt	2-1-2012	333-019-0041	12-14-2011	Amend	1-1-2012
331-950-0060	1-1-2012	Adopt	2-1-2012	333-019-0042	12-14-2011	Adopt	1-1-2012
331-950-0070	1-1-2012	Adopt	2-1-2012	333-027-0000	4-1-2012	Amend	5-1-2012
332-025-0120	4-12-2012	Amend(T)	4-1-2012	333-027-0005	4-1-2012	Amend	5-1-2012
332-025-0120	5-10-2012	Amend(T)	6-1-2012	333-027-0010	4-1-2012	Amend	5-1-2012
332-025-0120(T)	5-10-2012	Suspend	6-1-2012	333-027-0015	4-1-2012	Amend	5-1-2012
332-040-0000	1-1-2012	Amend(T)	2-1-2012	333-027-0017	4-1-2012	Adopt	5-1-2012
332-040-0000	3-9-2012	Amend(T)	4-1-2012	333-027-0018	4-1-2012	Adopt	5-1-2012
333-003-0105	4-1-2012	Amend	5-1-2012	333-027-0020	4-1-2012	Amend	5-1-2012
333-003-0110	4-1-2012	Amend	5-1-2012	333-027-0025	4-1-2012	Amend	5-1-2012
333-003-0115	4-1-2012	Amend	5-1-2012	333-027-0029	4-1-2012	Adopt	5-1-2012
333-003-0117	4-1-2012	Adopt	5-1-2012	333-027-0030	4-1-2012	Repeal	5-1-2012
333-003-0118	4-1-2012	Amend	5-1-2012	333-027-0033	4-1-2012	Adopt	5-1-2012
333-003-0119	4-1-2012	Adopt	5-1-2012	333-027-0035	4-1-2012	Repeal	5-1-2012
333-003-0125	4-1-2012	Amend	5-1-2012	333-027-0036	4-1-2012	Adopt	5-1-2012
333-003-0140	4-1-2012	Amend	5-1-2012	333-027-0037	4-1-2012	Adopt	5-1-2012
333-003-0210	4-1-2012	Amend	5-1-2012	333-027-0038	4-1-2012	Adopt	5-1-2012
333-010-0000	1-1-2012	Amend	2-1-2012	333-027-0040	4-1-2012	Amend	5-1-2012
333-010-0010	1-1-2012	Amend	2-1-2012	333-027-0050	4-1-2012	Amend	5-1-2012
333-010-0020	1-1-2012	Amend	2-1-2012	333-027-0060	4-1-2012	Amend	5-1-2012
333-010-0030	1-1-2012	Amend	2-1-2012	333-027-0064	4-1-2012	Adopt	5-1-2012
333-010-0032	1-1-2012	Adopt	2-1-2012	333-027-0080	4-1-2012	Amend	5-1-2012
333-010-0035	1-1-2012	Amend	2-1-2012	333-027-0090	4-1-2012	Amend	5-1-2012
333-010-0040	1-1-2012	Amend	2-1-2012	333-027-0100	4-1-2012	Amend	5-1-2012
333-010-0050	1-1-2012	Amend	2-1-2012	333-027-0110	4-1-2012	Amend	5-1-2012
333-010-0055	1-1-2012	Amend	2-1-2012	333-027-0120	4-1-2012	Amend	5-1-2012
333-010-0060	1-1-2012	Amend	2-1-2012	333-027-0130	4-1-2012	Amend	5-1-2012
333-010-0070	1-1-2012	Amend	2-1-2012	333-027-0140	4-1-2012	Amend	5-1-2012
333-010-0080	1-1-2012	Amend	2-1-2012	333-027-0150	4-1-2012	Amend	5-1-2012
333-010-0100	1-17-2012	Amend	3-1-2012	333-027-0170	4-1-2012	Amend	5-1-2012
333-010-0105	1-17-2012	Amend	3-1-2012	333-027-0175	4-1-2012	Adopt	5-1-2012
333-010-0110	1-17-2012	Amend	3-1-2012	333-027-0180	4-1-2012	Adopt	5-1-2012
333-010-0115	1-17-2012	Amend	3-1-2012	333-027-0185	4-1-2012	Adopt	5-1-2012
333-010-0130	1-17-2012	Amend	3-1-2012	333-027-0190	4-1-2012	Adopt	5-1-2012
333-010-0197	1-17-2012	Adopt	3-1-2012	333-047-0010	1-1-2012	Adopt	2-1-2012
333-011-0006	1-1-2012	Amend	2-1-2012	333-047-0030	1-1-2012	Adopt	2-1-2012
333-011-0016	1-1-2012	Amend	2-1-2012	333-047-0040	1-1-2012	Adopt	2-1-2012
333-011-0061	1-1-2012	Amend	2-1-2012	333-047-0050	1-1-2012	Adopt	2-1-2012
333-011-0101	1-1-2012	Amend	2-1-2012	333-049-0010	1-1-2012	Amend	2-1-2012
333-012-0053	3-1-2012	Amend	4-1-2012	333-049-0040	1-1-2012	Amend	2-1-2012
333-012-0055	3-1-2012	Amend	4-1-2012	333-049-0050	1-1-2012	Amend	2-1-2012
333-015-0025	2-1-2012	Amend	3-1-2012	333-049-0065	1-1-2012	Amend	2-1-2012
333-015-0030	2-1-2012	Amend	3-1-2012	333-049-0070	1-1-2012	Amend	2-1-2012
333-015-0035	2-1-2012	Amend	3-1-2012	333-049-0090	1-1-2012	Amend	2-1-2012
333-015-0040	2-1-2012	Amend	3-1-2012	333-076-0001	4-1-2012	Adopt	5-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
333-700-0019	4-1-2012	Adopt	5-1-2012	334-030-0005	1-1-2012	Amend	1-1-2012
333-700-0020	4-1-2012	Amend	5-1-2012	334-040-0001	1-1-2012	Amend	1-1-2012
333-700-0025	4-1-2012	Amend	5-1-2012	334-040-0010	1-1-2012	Amend	1-1-2012
333-700-0030	4-1-2012	Amend	5-1-2012	335-060-0006	2-23-2012	Amend	4-1-2012
333-700-0035	4-1-2012	Amend	5-1-2012	335-060-0007	2-23-2012	Amend	4-1-2012
333-700-0040	4-1-2012	Amend	5-1-2012	335-060-0010	2-23-2012	Amend	4-1-2012
333-700-0045	4-1-2012	Amend	5-1-2012	337-010-0030	1-12-2012	Amend	2-1-2012
333-700-0050	4-1-2012	Amend	5-1-2012	337-010-0045	5-1-2012	Amend	6-1-2012
333-700-0053	4-1-2012	Adopt	5-1-2012	340-045-0100	11-18-2011	Amend	1-1-2012
333-700-0055	4-1-2012	Repeal	5-1-2012	340-200-0040	12-21-2011	Amend	2-1-2012
333-700-0057	4-1-2012	Adopt	5-1-2012	340-204-0010	12-21-2011	Amend	2-1-2012
333-700-0060	4-1-2012	Amend	5-1-2012	340-204-0030	12-21-2011	Amend	2-1-2012
333-700-0061	4-1-2012	Adopt	5-1-2012	340-204-0040	12-21-2011	Amend	2-1-2012
333-700-0062	4-1-2012	Adopt	5-1-2012	345-001-0005	5-15-2012	Amend	6-1-2012
333-700-0063	4-1-2012	Adopt	5-1-2012	345-001-0010	5-15-2012	Amend	6-1-2012
333-700-0064	4-1-2012	Adopt	5-1-2012	345-001-0050	5-15-2012	Amend	6-1-2012
333-700-0065	4-1-2012	Amend	5-1-2012	345-011-0020	5-15-2012	Amend	6-1-2012
333-700-0070	4-1-2012	Repeal	5-1-2012	345-011-0050	5-15-2012	Amend	6-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
345-023-0040	5-15-2012	Amend	6-1-2012	407-007-0300	2-27-2012	Amend(T)	4-1-2012
345-024-0015	5-15-2012	Amend	6-1-2012	407-007-0315	2-27-2012	Amend(T)	4-1-2012
345-024-0550	5-15-2012	Amend	6-1-2012	407-007-0320	2-27-2012	Amend(T)	4-1-2012
345-024-0560	5-15-2012	Amend	6-1-2012	407-007-0325	2-27-2012	Amend(T)	4-1-2012
345-024-0570	5-15-2012	Amend	6-1-2012	407-007-0330	2-27-2012	Amend(T)	4-1-2012
345-024-0590	5-15-2012	Amend	6-1-2012	407-007-0335	2-27-2012	Amend(T)	4-1-2012
345-024-0600	5-15-2012	Amend	6-1-2012	407-007-0340	2-27-2012	Amend(T)	4-1-2012
345-024-0610	5-15-2012	Amend	6-1-2012	407-007-0350	2-27-2012	Amend(T)	4-1-2012
345-024-0620	5-15-2012	Amend	6-1-2012	407-007-0370	2-27-2012	Amend(T)	4-1-2012
345-024-0630	5-15-2012	Amend	6-1-2012	407-014-0000	12-16-2011	Amend	2-1-2012
345-024-0640	5-15-2012	Amend	6-1-2012	407-014-0000(T)	12-16-2011	Repeal	2-1-2012
345-024-0680	5-15-2012	Amend	6-1-2012	407-014-0015	12-16-2011	Adopt	2-1-2012
345-024-0710	5-15-2012	Amend	6-1-2012	407-014-0015(T)	12-16-2011	Repeal	2-1-2012
345-024-0720	5-15-2012	Amend	6-1-2012	407-014-0020	12-16-2011	Amend	2-1-2012
345-026-0080	5-15-2012	Amend	6-1-2012	407-014-0020(T)	12-16-2011	Repeal	2-1-2012
345-026-0170	5-15-2012	Amend	6-1-2012	407-014-0030	12-16-2011	Amend	2-1-2012
345-027-0020	5-15-2012	Amend	6-1-2012	407-014-0030(T)	12-16-2011	Repeal	2-1-2012
345-027-0023	5-15-2012	Amend	6-1-2012	407-014-0040	12-16-2011	Amend	2-1-2012
345-027-0028	5-15-2012	Amend	6-1-2012	407-014-0040(T)	12-16-2011	Repeal	2-1-2012
345-027-0030	5-15-2012	Amend	6-1-2012	407-014-0050	12-16-2011	Amend	2-1-2012
345-027-0050	5-15-2012	Amend	6-1-2012	407-014-0050(T)	12-16-2011	Repeal	2-1-2012
345-027-0060	5-15-2012	Amend	6-1-2012	407-014-0060	12-16-2011	Amend	2-1-2012
345-027-0070	5-15-2012	Amend	6-1-2012	407-014-0060(T)	12-16-2011	Repeal	2-1-2012
345-027-0080	5-15-2012	Amend	6-1-2012	407-014-0070	12-16-2011	Amend	2-1-2012
345-027-0090	5-15-2012	Amend	6-1-2012	407-014-0070(T)	12-16-2011	Repeal	2-1-2012
345-027-0100	5-15-2012	Amend	6-1-2012	407-014-0300	2-1-2012	Amend	3-1-2012
345-027-0110	5-15-2012	Amend	6-1-2012	407-014-0300(T)	2-1-2012	Repeal	3-1-2012
345-027-0210	5-15-2012	Amend	6-1-2012	407-014-0305	2-1-2012	Amend	3-1-2012
345-027-0220	5-15-2012	Amend	6-1-2012	407-014-0305(T)	2-1-2012	Repeal	3-1-2012
345-027-0230	5-15-2012	Amend	6-1-2012	407-014-0310	2-1-2012	Amend	3-1-2012
350-081-0020	6-1-2012	Amend	6-1-2012	407-014-0310(T)	2-1-2012	Repeal	3-1-2012
350-081-0036	6-1-2012	Amend	6-1-2012	407-014-0315	2-1-2012	Amend	3-1-2012
350-081-0038	6-1-2012	Amend	6-1-2012	407-014-0315(T)	2-1-2012	Repeal	3-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
407-014-0320	2-1-2012	Amend	3-1-2012	409-055-0070	3-1-2012	Amend	4-1-2012
407-014-0320(T)	2-1-2012	Repeal	3-1-2012	409-055-0070(T)	3-1-2012	Repeal	4-1-2012
407-043-0020	12-27-2011	Adopt	2-1-2012	409-055-0080	3-1-2012	Amend	4-1-2012
407-043-0020(T)	12-27-2011	Repeal	2-1-2012	409-055-0080(T)	3-1-2012	Repeal	4-1-2012
407-045-0250	12-5-2011	Amend	1-1-2012	409-055-0090	3-1-2012	Adopt	4-1-2012
407-045-0260	12-5-2011	Amend	1-1-2012	410-050-0861	1-1-2012	Amend(T)	2-1-2012
407-045-0280	12-5-2011	Amend	1-1-2012	410-050-0861	3-1-2012	Amend	4-1-2012
407-045-0290	12-5-2011	Amend	1-1-2012	410-050-0861(T)	3-1-2012	Repeal	4-1-2012
407-045-0320	12-5-2011	Amend	1-1-2012	410-120-0000	1-1-2012	Amend	1-1-2012
407-045-0400	12-1-2011	Amend	1-1-2012	410-120-0000	3-16-2012	Amend(T)	5-1-2012
407-045-0400(T)	12-1-2011	Repeal	1-1-2012	410-120-0006	1-1-2012	Amend	1-1-2012
407-045-0410	12-1-2011	Repeal	1-1-2012	410-120-0006	1-13-2012	Amend(T)	2-1-2012
407-045-0420	12-1-2011	Repeal	1-1-2012	410-120-0006	1-26-2012	Amend(T)	3-1-2012
407-045-0430	12-1-2011	Repeal	1-1-2012	410-120-0006	1-31-2012	Amend(T)	3-1-2012
407-045-0440	12-1-2011	Repeal	1-1-2012	410-120-0006	2-1-2012	Amend(T)	3-1-2012
407-045-0450	12-1-2011	Repeal	1-1-2012	410-120-0006	3-1-2012	Amend(T)	4-1-2012
407-045-0460	12-1-2011	Repeal	1-1-2012	410-120-0006	4-1-2012	Amend(T)	5-1-2012
407-045-0470	12-1-2011	Repeal	1-1-2012	410-120-0006	5-1-2012	Amend(T)	6-1-2012
407-045-0480	12-1-2011	Repeal	1-1-2012	410-120-0006(T)	1-1-2012	Repeal	1-1-2012
407-045-0490	12-1-2011	Repeal	1-1-2012	410-120-0006(T)	1-26-2012	Suspend	3-1-2012
407-045-0500	12-1-2011	Repeal	1-1-2012	410-120-0006(T)	3-1-2012	Suspend	4-1-2012
407-045-0510	12-1-2011	Repeal	1-1-2012	410-120-0006(T)	4-1-2012	Suspend	5-1-2012
407-045-0520	12-1-2011	Repeal	1-1-2012	410-120-0006(T)	5-1-2012	Suspend	6-1-2012
407-120-0100	12-27-2011	Amend	2-1-2012	410-120-0030	4-1-2012	Amend	5-1-2012
407-120-0100(T)	12-27-2011	Repeal	2-1-2012	410-120-1160	1-1-2012	Amend	1-1-2012
407-120-0112	12-27-2011	Amend	2-1-2012	410-120-1200	1-1-2012	Amend	1-1-2012
407-120-0112(T)	12-27-2011	Repeal	2-1-2012	410-120-1210	1-1-2012	Amend	1-1-2012
407-120-0114	12-27-2011	Amend	2-1-2012	410-120-1295	3-22-2012	Amend	5-1-2012
407-120-0114(T)	12-27-2011	Repeal	2-1-2012	410-120-1295(T)	3-22-2012	Repeal	5-1-2012
407-120-0150	12-27-2011	Amend	2-1-2012	410-120-1340	1-1-2012	Amend	1-1-2012
407-120-0150(T)	12-27-2011	Repeal	2-1-2012	410-120-1340(T)	1-1-2012	Repeal	1-1-2012
407-120-0200	12-27-2011	Amend	2-1-2012	410-120-1510	1-1-2012	Amend	1-1-2012
407-120-0200(T)	12-27-2011	Repeal	2-1-2012	410-120-1860	2-1-2012	Amend(T)	3-1-2012
409-045-0000	1-11-2012	Adopt(T)	2-1-2012	410-120-1920	1-1-2012	Amend	1-1-2012
409-045-0000	5-1-2012	Amend	6-1-2012	410-120-1960	1-1-2012	Amend	1-1-2012
409-045-0000(T)	5-1-2012	Repeal	6-1-2012	410-121-0000	1-1-2012	Amend	2-1-2012
409-050-0110	12-1-2011	Amend	1-1-2012	410-121-0030	1-1-2012	Amend	2-1-2012
409-050-0110(T)	12-1-2011	Repeal	1-1-2012	410-121-0030	3-16-2012	Amend(T)	5-1-2012
409-050-0120	12-1-2011	Amend	1-1-2012	410-121-0030	4-9-2012	Amend	5-1-2012
409-050-0120(T)	12-1-2011	Repeal	1-1-2012	410-121-0030	5-14-2012	Amend	6-1-2012
409-050-0130	12-22-2011	Amend	2-1-2012	410-121-0030(T)	4-9-2012	Repeal	5-1-2012
409-050-0130(T)	12-22-2011	Repeal	2-1-2012	410-121-0032	1-1-2012	Amend	2-1-2012
409-055-0000	3-1-2012	Amend	4-1-2012	410-121-0033	3-16-2012	Amend(T)	5-1-2012
409-055-0000(T)	3-1-2012	Repeal	4-1-2012	410-121-0040	1-1-2012	Amend	2-1-2012
409-055-0010	3-1-2012	Amend	4-1-2012	410-121-0040	3-16-2012	Amend(T)	5-1-2012
409-055-0010(T)	3-1-2012	Repeal	4-1-2012	410-121-0040	4-9-2012	Amend	5-1-2012
409-055-0020	3-1-2012	Amend	4-1-2012	410-121-0040	4-20-2012	Amend(T)	6-1-2012
409-055-0020(T)	3-1-2012	Repeal	4-1-2012	410-121-0040	5-14-2012	Amend(T)	6-1-2012
409-055-0030	3-1-2012	Amend	4-1-2012	410-121-0040(T)	4-9-2012	Repeal	5-1-2012
409-055-0030(T)	3-1-2012	Repeal	4-1-2012	410-121-0040(T)	5-14-2012	Suspend	6-1-2012
409-055-0040	3-1-2012	Amend	4-1-2012	410-121-0061	1-1-2012	Amend	2-1-2012
409-055-0040(T)	3-1-2012	Repeal	4-1-2012	410-121-0100	3-16-2012	Amend(T)	5-1-2012
409-055-0050	3-1-2012	Amend	4-1-2012	410-121-0111	3-16-2012	Adopt(T)	5-1-2012
409-055-0050(T)	3-1-2012	Repeal	4-1-2012	410-121-0146	1-1-2012	Amend	2-1-2012
409-055-0060	3-1-2012	Amend	4-1-2012	410-121-0147	1-1-2012	Amend	2-1-2012
409-055-0060(T)	3-1-2012	Repeal	4-1-2012	410-121-0160	1-1-2012	Amend	2-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
410-122-0630	1-1-2012	Amend	2-1-2012	410-141-0520(T)	12-23-2011	Repeal	2-1-2012
410-122-0630	4-1-2012	Amend	5-1-2012	410-141-0520(T)	4-1-2012	Suspend	5-1-2012
410-122-0630(T)	1-1-2012	Repeal	2-1-2012	410-141-0860	3-22-2012	Amend	5-1-2012
410-122-0660	4-1-2012	Amend	5-1-2012	410-141-0860(T)	3-22-2012	Repeal	5-1-2012
410-123-1000	1-1-2012	Amend	2-1-2012	410-141-3000	3-16-2012	Adopt(T)	5-1-2012
410-123-1060	1-1-2012	Amend	2-1-2012	410-141-3010	3-16-2012	Adopt(T)	5-1-2012
410-123-1060	1-1-2012	Amend	2-1-2012	410-141-3015	3-26-2012	Adopt(T)	5-1-2012
410-123-1220	1-1-2012	Amend	2-1-2012	410-141-3020	3-26-2012	Adopt(T)	5-1-2012
410-123-1220	1-1-2012	Amend	2-1-2012	410-141-3030	3-26-2012	Adopt(T)	5-1-2012
410-123-1260	1-1-2012	Amend	2-1-2012	410-141-3050	3-26-2012	Adopt(T)	5-1-2012
410-123-1260	1-1-2012	Amend	2-1-2012	410-141-3060	3-26-2012	Adopt(T)	5-1-2012
410-123-1490	1-1-2012	Amend	2-1-2012	410-141-3070	3-26-2012	Adopt(T)	5-1-2012
410-123-1490	1-1-2012	Amend	2-1-2012	410-141-3080	3-26-2012	Adopt(T)	5-1-2012
410-125-0045	1-1-2012	Amend	1-1-2012	410-141-3120	3-30-2012	Adopt(T)	5-1-2012
410-125-0047	1-1-2012	Amend	1-1-2012	410-141-3140	3-26-2012	Adopt(T)	5-1-2012
410-125-0080	1-1-2012	Amend	1-1-2012	410-141-3145	3-26-2012	Adopt(T)	5-1-2012
410-125-0085	1-1-2012	Amend	1-1-2012	410-141-3160	3-26-2012	Adopt(T)	5-1-2012
410-125-0140	1-1-2012	Amend	1-1-2012	410-141-3170	3-26-2012	Adopt(T)	5-1-2012
410-125-0195	1-1-2012	Amend(T)	2-1-2012	410-141-3180	3-26-2012	Adopt(T)	5-1-2012
410-125-0220	1-1-2012	Amend	1-1-2012	410-141-3200	3-26-2012	Adopt(T)	5-1-2012
410-125-0450	1-1-2012	Amend(T)	2-1-2012	410-141-3220	3-26-2012	Adopt(T)	5-1-2012
410-127-0060	1-1-2012	Amend	1-1-2012	410-141-3260	3-26-2012	Adopt(T)	5-1-2012
410-130-0000	1-1-2012	Amend	2-1-2012	410-141-3261	3-26-2012	Adopt(T)	5-1-2012
410-130-0200	1-1-2012	Amend	2-1-2012	410-141-3262	3-26-2012	Adopt(T)	5-1-2012
410-130-0220	1-1-2012	Amend	2-1-2012	410-141-3263	3-26-2012	Adopt(T)	5-1-2012
410-130-0255	1-1-2012	Amend	2-1-2012	410-141-3264	3-26-2012	Adopt(T)	5-1-2012
410-130-0368	1-1-2012	Amend	2-1-2012	410-141-3265	3-26-2012	Adopt(T)	5-1-2012
410-130-0595	1-1-2012	Amend	2-1-2012	410-141-3266	3-26-2012	Adopt(T)	5-1-2012
410-130-0595(T)	1-1-2012	Repeal	2-1-2012	410-141-3268	3-26-2012	Adopt(T)	5-1-2012
410-131-0040	1-1-2012	Amend	1-1-2012	410-141-3270	3-26-2012	Adopt(T)	5-1-2012
410-131-0060	1-1-2012	Repeal	1-1-2012	410-141-3280	3-26-2012	Adopt(T)	5-1-2012
410-131-0080	1-1-2012	Amend	1-1-2012	410-141-3300	3-26-2012	Adopt(T)	5-1-2012
410-131-0100	1-1-2012	Amend	1-1-2012	410-141-3320	3-26-2012	Adopt(T)	5-1-2012
410-131-0120	1-1-2012	Amend	1-1-2012	410-141-3340	3-20-2012	Adopt(T)	5-1-2012
410-131-0140	1-1-2012	Repeal	1-1-2012	410-141-3345	3-20-2012	Adopt(T)	5-1-2012
410-131-0160	1-1-2012	Amend	1-1-2012	410-141-3350	3-20-2012	Adopt(T)	5-1-2012
410-131-0180	1-1-2012	Repeal	1-1-2012	410-141-3355	3-20-2012	Adopt(T)	5-1-2012
410-131-0200	1-1-2012	Repeal	1-1-2012	410-141-3360	3-20-2012	Adopt(T)	5-1-2012
410-131-0270	1-1-2012	Repeal	1-1-2012	410-141-3365	3-20-2012	Adopt(T)	5-1-2012
410-131-0275	1-1-2012	Repeal	1-1-2012	410-141-3370	3-20-2012	Adopt(T)	5-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
410-141-3375	3-20-2012	Adopt(T)	5-1-2012	411-325-0025(T)	1-6-2012	Repeal	2-1-2012
410-141-3380	3-20-2012	Adopt(T)	5-1-2012	411-325-0060	1-6-2012	Amend	2-1-2012
410-141-3385	3-20-2012	Adopt(T)	5-1-2012	411-325-0060(T)	1-6-2012	Repeal	2-1-2012
410-141-3390	3-20-2012	Adopt(T)	5-1-2012	411-325-0080	1-6-2012	Repeal	2-1-2012
410-141-3395	3-20-2012	Adopt(T)	5-1-2012	411-325-0100	1-6-2012	Repeal	2-1-2012
410-141-3420	3-26-2012	Adopt(T)	5-1-2012	411-325-0110	1-6-2012	Amend	2-1-2012
410-142-0020	1-1-2012	Amend	1-1-2012	411-325-0150	1-6-2012	Amend	2-1-2012
410-142-0040	1-1-2012	Amend	1-1-2012	411-325-0160	1-6-2012	Repeal	2-1-2012
410-146-0020	3-22-2012	Amend	5-1-2012	411-325-0210	1-6-2012	Repeal	2-1-2012
410-146-0020(T)	3-22-2012	Repeal	5-1-2012	411-325-0310	1-6-2012	Repeal	2-1-2012
410-147-0362	3-22-2012	Amend	5-1-2012	411-325-0320	1-6-2012	Amend	2-1-2012
410-147-0362(T)	3-22-2012	Repeal	5-1-2012	411-325-0320(T)	1-6-2012	Repeal	2-1-2012
410-148-0060	1-1-2012	Amend	1-1-2012	411-325-0430	1-6-2012	Amend	2-1-2012
410-500-0000	1-31-2012	Adopt(T)	3-1-2012	411-325-0450	1-6-2012	Repeal	2-1-2012
410-500-0010	1-31-2012	Adopt(T)	3-1-2012	411-325-0460	1-6-2012	Amend	2-1-2012
410-500-0020	1-31-2012	Adopt(T)	3-1-2012	411-325-0460(T)	1-6-2012	Repeal	2-1-2012
410-500-0030	1-31-2012	Adopt(T)	3-1-2012	411-328-0560	1-6-2012	Amend	2-1-2012
410-500-0040	1-31-2012	Adopt(T)	3-1-2012	411-328-0560(T)	1-6-2012	Repeal	2-1-2012
410-500-0050	1-31-2012	Adopt(T)	3-1-2012	411-328-0570	1-6-2012	Amend	2-1-2012
410-500-0060	1-31-2012	Adopt(T)	3-1-2012	411-328-0570(T)	1-6-2012	Repeal	2-1-2012
411-040-0000	12-20-2011	Amend(T)	2-1-2012	411-328-0580	1-6-2012	Repeal	2-1-2012
411-054-0005	5-1-2012	Amend	6-1-2012	411-328-0590	1-6-2012	Repeal	2-1-2012
411-054-0005(T)	5-1-2012	Repeal	6-1-2012	411-328-0600	1-6-2012	Repeal	2-1-2012
411-054-0013	5-1-2012	Amend	6-1-2012	411-328-0610	1-6-2012	Repeal	2-1-2012
411-054-0013(T)	5-1-2012	Repeal	6-1-2012	411-328-0620	1-6-2012	Amend	2-1-2012
411-054-0016	5-1-2012	Amend	6-1-2012	411-328-0630	1-6-2012	Amend	2-1-2012
411-054-0016(T)	5-1-2012	Repeal	6-1-2012	411-328-0630(T)	1-6-2012	Repeal	2-1-2012
411-085-0010	4-10-2012	Amend	5-1-2012	411-328-0670	1-6-2012	Repeal	2-1-2012
411-085-0015	4-10-2012	Amend	5-1-2012	411-328-0730	1-6-2012	Repeal	2-1-2012
411-320-0020	1-1-2012	Amend	2-1-2012	411-328-0740	1-6-2012	Amend	2-1-2012
411-320-0080	1-1-2012	Amend	2-1-2012	411-328-0740(T)	1-6-2012	Repeal	2-1-2012
411-320-0090	12-28-2011	Amend	2-1-2012	411-328-0805	1-6-2012	Repeal	2-1-2012
411-320-0090(T)	12-28-2011	Repeal	2-1-2012	411-328-0810	1-6-2012	Repeal	2-1-2012
411-320-0110	12-28-2011	Amend	2-1-2012	411-328-0820	1-6-2012	Repeal	2-1-2012
411-320-0110(T)	12-28-2011	Repeal	2-1-2012	411-328-0830	1-6-2012	Repeal	2-1-2012
411-320-0175	1-1-2012	Amend(T)	2-1-2012	411-335-0010	1-6-2012	Amend	2-1-2012
411-320-0190	1-1-2012	Amend	2-1-2012	411-335-0010(T)	1-6-2012	Repeal	2-1-2012
411-323-0010	1-6-2012	Amend	2-1-2012	411-335-0020	1-6-2012	Amend	2-1-2012
411-323-0010(T)	1-6-2012	Repeal	2-1-2012	411-335-0020(T)	1-6-2012	Repeal	2-1-2012
411-323-0020	1-6-2012	Amend	2-1-2012	411-335-0030	1-6-2012	Amend	2-1-2012
411-323-0020(T)	1-6-2012	Repeal	2-1-2012	411-335-0030(T)	1-6-2012	Repeal	2-1-2012
411-323-0030	1-6-2012	Amend	2-1-2012	411-335-0050	1-6-2012	Repeal	2-1-2012
411-323-0030(T)	1-6-2012	Repeal	2-1-2012	411-335-0060	1-6-2012	Amend	2-1-2012
411-323-0035	1-6-2012	Adopt	2-1-2012	411-335-0060(T)	1-6-2012	Repeal	2-1-2012
411-323-0035(T)	1-6-2012	Repeal	2-1-2012	411-335-0070	1-6-2012	Repeal	2-1-2012
411-323-0040	1-6-2012	Amend	2-1-2012	411-335-0080	1-6-2012	Repeal	2-1-2012
411-323-0040(T)	1-6-2012	Repeal	2-1-2012	411-335-0090	1-6-2012	Repeal	2-1-2012
411-323-0050	1-6-2012	Amend	2-1-2012	411-335-0100	1-6-2012	Repeal	2-1-2012
411-323-0050(T)	1-6-2012	Repeal	2-1-2012	411-335-0110	1-6-2012	Repeal	2-1-2012
411-323-0060	1-6-2012	Amend	2-1-2012	411-335-0120	1-6-2012	Amend	2-1-2012
411-323-0060(T)	1-6-2012	Repeal	2-1-2012	411-335-0140	1-6-2012	Repeal	2-1-2012
411-323-0070	1-6-2012	Amend	2-1-2012	411-335-0230	1-6-2012	Amend	2-1-2012
411-323-0070(T)	1-6-2012	Repeal	2-1-2012	411-335-0300	1-6-2012	Repeal	2-1-2012
411-325-0020	1-6-2012	Amend	2-1-2012	411-335-0310	1-6-2012	Amend	2-1-2012
411-325-0020(T)	1-6-2012	Repeal	2-1-2012	411-335-0310(T)	1-6-2012	Repeal	2-1-2012
411-325-0025	1-6-2012	Adopt	2-1-2012	411-335-0370	1-6-2012	Repeal	2-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
411-335-0380	1-6-2012	Repeal	2-1-2012	413-010-0717	4-4-2012	Amend	5-1-2012
411-335-0390	1-6-2012	Repeal	2-1-2012	413-010-0718	4-4-2012	Amend	5-1-2012
411-340-0020	12-28-2011	Amend	2-1-2012	413-010-0720	4-4-2012	Amend	5-1-2012
411-340-0100	12-28-2011	Amend	2-1-2012	413-010-0721	4-4-2012	Amend	5-1-2012
411-340-0100(T)	12-28-2011	Repeal	2-1-2012	413-010-0722	4-4-2012	Amend	5-1-2012
411-340-0110	12-28-2011	Amend	2-1-2012	413-010-0723	4-4-2012	Amend	5-1-2012
411-340-0110(T)	12-28-2011	Repeal	2-1-2012	413-010-0732	4-4-2012	Amend	5-1-2012
411-340-0120	12-28-2011	Amend	2-1-2012	413-010-0735	4-4-2012	Amend	5-1-2012
411-340-0125	12-28-2011	Adopt	2-1-2012	413-010-0738	4-4-2012	Amend	5-1-2012
411-340-0130	12-28-2011	Amend	2-1-2012	413-010-0740	4-4-2012	Amend	5-1-2012
411-340-0140	12-28-2011	Amend	2-1-2012	413-010-0743	4-4-2012	Amend	5-1-2012
411-340-0150	12-28-2011	Amend	2-1-2012	413-010-0745	4-4-2012	Amend	5-1-2012
411-345-0010	1-6-2012	Amend	2-1-2012	413-010-0746	4-4-2012	Amend	5-1-2012
411-345-0010(T)	1-6-2012	Repeal	2-1-2012	413-010-0748	4-4-2012	Amend	5-1-2012
411-345-0020	1-6-2012	Amend	2-1-2012	413-010-0750	4-4-2012	Amend	5-1-2012
411-345-0020(T)	1-6-2012	Repeal	2-1-2012	413-015-0470	3-12-2012	Amend(T)	4-1-2012
411-345-0030	1-6-2012	Amend	2-1-2012	413-020-0200	12-28-2011	Amend	2-1-2012
411-345-0030(T)	1-6-2012	Repeal	2-1-2012	413-020-0210	12-28-2011	Amend	2-1-2012
411-345-0050	1-6-2012	Amend	2-1-2012	413-020-0230	12-28-2011	Amend	2-1-2012
411-345-0050(T)	1-6-2012	Repeal	2-1-2012	413-020-0233	12-28-2011	Amend	2-1-2012
411-345-0080	1-6-2012	Repeal	2-1-2012	413-020-0236	12-28-2011	Amend	2-1-2012
411-345-0090	1-6-2012	Amend	2-1-2012	413-020-0240	12-28-2011	Amend	2-1-2012
411-345-0100	1-6-2012	Amend	2-1-2012	413-020-0245	12-28-2011	Amend	2-1-2012
411-345-0100(T)	1-6-2012	Repeal	2-1-2012	413-020-0255	12-28-2011	Amend	2-1-2012
411-345-0110	1-6-2012	Amend	2-1-2012	413-070-0063	12-28-2011	Amend	2-1-2012
411-345-0110(T)	1-6-2012	Repeal	2-1-2012	413-070-0900	12-28-2011	Amend	2-1-2012
411-345-0130	1-6-2012	Amend	2-1-2012	413-070-0905	12-28-2011	Amend	2-1-2012
411-345-0130(T)	1-6-2012	Repeal	2-1-2012	413-070-0909	12-28-2011	Amend	2-1-2012
411-345-0190	1-6-2012	Amend	2-1-2012	413-070-0917	12-28-2011	Amend	2-1-2012
411-345-0190(T)	1-6-2012	Repeal	2-1-2012	413-070-0919	12-28-2011	Amend	2-1-2012
411-360-0130	12-1-2011	Amend(T)	1-1-2012	413-070-0925	12-28-2011	Amend	2-1-2012
411-360-0170	12-1-2011	Amend(T)	1-1-2012	413-070-0929	12-28-2011	Repeal	2-1-2012
411-360-0170	12-30-2011	Amend(T)	2-1-2012	413-070-0934	12-28-2011	Amend	2-1-2012
411-360-0170(T)	12-30-2011	Suspend	2-1-2012	413-070-0939	12-28-2011	Amend	2-1-2012
411-360-0190	12-1-2011	Amend(T)	1-1-2012	413-070-0944	12-28-2011	Amend	2-1-2012
411-360-0190	12-30-2011	Amend(T)	2-1-2012	413-070-0949	12-28-2011	Amend	2-1-2012
411-360-0190(T)	12-30-2011	Suspend	2-1-2012	413-070-0959	12-28-2011	Amend	2-1-2012
411-365-0100	3-1-2012	Amend	4-1-2012	413-070-0964	12-28-2011	Amend	2-1-2012
411-365-0120	3-1-2012	Amend	4-1-2012	413-070-0969	12-28-2011	Amend	2-1-2012
411-365-0140	3-1-2012	Amend	4-1-2012	413-070-0970	12-28-2011	Amend	2-1-2012
411-365-0160	3-1-2012	Amend	4-1-2012	413-070-0974	12-28-2011	Amend	2-1-2012
411-365-0180	3-1-2012	Amend	4-1-2012	413-070-0979	12-28-2011	Repeal	2-1-2012
411-365-0200	3-1-2012	Amend	4-1-2012	413-100-0135	12-28-2011	Amend	2-1-2012
411-365-0220	3-1-2012	Amend	4-1-2012	413-100-0150	12-28-2011	Amend	2-1-2012
411-365-0240	3-1-2012	Amend	4-1-2012	413-100-0900	12-28-2011	Amend	2-1-2012
411-365-0260	3-1-2012	Amend	4-1-2012	413-100-0905	12-28-2011	Amend	2-1-2012
411-365-0280	3-1-2012	Amend	4-1-2012	413-100-0910	12-28-2011	Amend	2-1-2012
411-365-0300	3-1-2012	Amend	4-1-2012	413-100-0915	12-28-2011	Amend	2-1-2012
411-365-0320	3-1-2012	Amend	4-1-2012	413-100-0920	12-28-2011	Amend	2-1-2012
413-010-0700	4-4-2012	Amend	5-1-2012	413-100-0925	12-28-2011	Amend	2-1-2012
413-010-0705	4-4-2012	Amend	5-1-2012	413-100-0930	12-28-2011	Amend	2-1-2012
413-010-0710	4-4-2012	Amend	5-1-2012	413-100-0940	12-28-2011	Amend	2-1-2012
413-010-0712	4-4-2012	Repeal	5-1-2012	413-120-0420	12-28-2011	Amend(T)	2-1-2012
413-010-0714	4-4-2012	Amend	5-1-2012	413-120-0460	12-28-2011	Amend(T)	2-1-2012
413-010-0715	4-4-2012	Amend	5-1-2012	413-120-0470	12-28-2011	Suspend	2-1-2012
413-010-0716	4-4-2012	Amend	5-1-2012	413-130-0000	12-28-2011	Amend	2-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
413-130-0010	12-28-2011	Amend	2-1-2012	413-200-0409(T)	1-3-2012	Repeal	2-1-2012
413-130-0015	12-28-2011	Adopt	2-1-2012	413-200-0414	1-3-2012	Amend	2-1-2012
413-130-0020	12-28-2011	Amend	2-1-2012	413-200-0414(T)	1-3-2012	Repeal	2-1-2012
413-130-0030	12-28-2011	Am. & Ren.	2-1-2012	413-200-0419	1-3-2012	Amend	2-1-2012
413-130-0040	12-28-2011	Amend	2-1-2012	413-200-0419(T)	1-3-2012	Repeal	2-1-2012
413-130-0045	12-28-2011	Repeal	2-1-2012	413-200-0424	1-3-2012	Amend	2-1-2012
413-130-0050	12-28-2011	Amend	2-1-2012	413-200-0424(T)	1-3-2012	Repeal	2-1-2012
413-130-0055	12-28-2011	Adopt	2-1-2012	415-056-0000	2-9-2012	Repeal	3-1-2012
413-130-0060	12-28-2011	Repeal	2-1-2012	415-056-0005	2-9-2012	Repeal	3-1-2012
413-130-0070	12-28-2011	Amend	2-1-2012	415-056-0010	2-9-2012	Repeal	3-1-2012
413-130-0075	12-28-2011	Amend	2-1-2012	415-056-0015	2-9-2012	Repeal	3-1-2012
413-130-0080	12-28-2011	Amend	2-1-2012	415-056-0020	2-9-2012	Repeal	3-1-2012
413-130-0090	12-28-2011	Amend	2-1-2012	415-056-0025	2-9-2012	Repeal	3-1-2012
413-130-0100	12-28-2011	Amend	2-1-2012	415-056-0030	2-9-2012	Adopt	3-1-2012
413-130-0110	12-28-2011	Amend	2-1-2012	415-056-0035	2-9-2012	Adopt	3-1-2012
413-130-0115	12-28-2011	Repeal	2-1-2012	415-056-0040	2-9-2012	Adopt	3-1-2012
413-130-0125	12-28-2011	Amend	2-1-2012	415-056-0045	2-9-2012	Adopt	3-1-2012
413-130-0130	12-28-2011	Amend	2-1-2012	415-056-0050	2-9-2012	Adopt	3-1-2012
413-200-0270	12-28-2011	Amend	2-1-2012	415-065-0010	2-9-2012	Amend	3-1-2012
413-200-0272	12-28-2011	Amend	2-1-2012	415-065-0015	2-9-2012	Amend	3-1-2012
413-200-0274	12-28-2011	Amend	2-1-2012	415-065-0025	2-9-2012	Amend	3-1-2012
413-200-0276	12-28-2011	Amend	2-1-2012	415-065-0030	2-9-2012	Amend	3-1-2012
413-200-0278	12-28-2011	Amend	2-1-2012	415-065-0035	2-9-2012	Amend	3-1-2012
413-200-0281	12-28-2011	Amend	2-1-2012	415-065-0040	2-9-2012	Amend	3-1-2012
413-200-0283	12-28-2011	Amend	2-1-2012	415-065-0045	2-9-2012	Amend	3-1-2012
413-200-0285	12-28-2011	Amend	2-1-2012	415-065-0050	2-9-2012	Amend	3-1-2012
413-200-0287	12-28-2011	Amend	2-1-2012	415-065-0055	2-9-2012	Amend	3-1-2012
413-200-0289	12-28-2011	Amend	2-1-2012	415-065-0060	2-9-2012	Amend	3-1-2012
413-200-0292	12-28-2011	Amend	2-1-2012	415-065-0065	2-9-2012	Amend	3-1-2012
413-200-0294	12-28-2011	Amend	2-1-2012	416-100-0000	4-3-2012	Amend	5-1-2012
413-200-0296	12-28-2011	Amend	2-1-2012	416-100-0005	4-3-2012	Amend	5-1-2012
413-200-0301	12-28-2011	Amend	2-1-2012	416-100-0010	4-3-2012	Amend	5-1-2012
413-200-0305	12-28-2011	Amend	2-1-2012	416-100-0020	4-3-2012	Amend	5-1-2012
413-200-0306	12-28-2011	Amend	2-1-2012	416-100-0030	4-3-2012	Amend	5-1-2012
413-200-0308	12-28-2011	Amend	2-1-2012	416-100-0040	4-3-2012	Amend	5-1-2012
413-200-0314	12-28-2011	Amend	2-1-2012	416-100-0050	4-3-2012	Amend	5-1-2012
413-200-0335	12-28-2011	Amend	2-1-2012	416-100-0060	4-3-2012	Amend	5-1-2012
413-200-0348	12-28-2011	Amend	2-1-2012	416-100-0070	4-3-2012	Repeal	5-1-2012
413-200-0352	12-28-2011	Amend	2-1-2012	416-115-0000	12-14-2011	Repeal	1-1-2012
413-200-0354	12-28-2011	Amend	2-1-2012	416-115-0010	12-14-2011	Amend	1-1-2012
413-200-0358	12-28-2011	Amend	2-1-2012	416-115-0020	12-14-2011	Amend	1-1-2012
413-200-0362	12-28-2011	Amend	2-1-2012	416-115-0025	12-14-2011	Adopt	1-1-2012
413-200-0371	12-28-2011	Amend	2-1-2012	416-115-0030	12-14-2011	Amend	1-1-2012
413-200-0377	12-28-2011	Amend	2-1-2012	416-115-0040	12-14-2011	Repeal	1-1-2012
413-200-0379	12-28-2011	Amend	2-1-2012	416-115-0050	12-14-2011	Repeal	1-1-2012
413-200-0383	12-28-2011	Amend	2-1-2012	416-115-0060	12-14-2011	Repeal	1-1-2012
413-200-0386	12-28-2011	Amend	2-1-2012	416-115-0070	12-14-2011	Repeal	1-1-2012
413-200-0388	12-28-2011	Amend	2-1-2012	416-115-0080	12-14-2011	Repeal	1-1-2012
413-200-0390	12-28-2011	Amend	2-1-2012	416-115-0090	12-14-2011	Repeal	1-1-2012
413-200-0393	12-28-2011	Amend	2-1-2012	416-115-0100	12-14-2011	Repeal	1-1-2012
413-200-0394	12-28-2011	Amend	2-1-2012	416-115-0110	12-14-2011	Repeal	1-1-2012
413-200-0395	12-28-2011	Amend	2-1-2012	416-115-0120	12-14-2011	Repeal	1-1-2012
413-200-0396	12-28-2011	Amend	2-1-2012	416-115-0130	12-14-2011	Repeal	1-1-2012
413-200-0404	1-3-2012	Amend	2-1-2012	416-115-0140	12-14-2011	Repeal	1-1-2012
413-200-0404(T)	1-3-2012	Repeal	2-1-2012	416-115-0150	12-14-2011	Repeal	1-1-2012
413-200-0409	1-3-2012	Amend	2-1-2012	416-115-0160	12-14-2011	Repeal	1-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
416-115-0170	12-14-2011	Repeal	1-1-2012	436-009-0200	4-1-2012	Amend	4-1-2012
416-115-0180	12-14-2011	Repeal	1-1-2012	436-009-0205	4-1-2012	Amend	4-1-2012
416-115-0190	12-14-2011	Repeal	1-1-2012	436-009-0206	4-1-2012	Amend	4-1-2012
416-115-0200	12-14-2011	Repeal	1-1-2012	436-009-0207	4-1-2012	Amend	4-1-2012
416-115-0210	12-14-2011	Repeal	1-1-2012	436-009-0210	4-1-2012	Amend	4-1-2012
416-115-0220	12-14-2011	Repeal	1-1-2012	436-009-0215	4-1-2012	Amend	4-1-2012
416-115-0230	12-14-2011	Repeal	1-1-2012	436-009-0220	4-1-2012	Amend	4-1-2012
416-115-0240	12-14-2011	Repeal	1-1-2012	436-009-0225	4-1-2012	Amend	4-1-2012
416-115-0250	12-14-2011	Repeal	1-1-2012	436-009-0230	4-1-2012	Amend	4-1-2012
416-115-0260	12-14-2011	Repeal	1-1-2012	436-009-0235	4-1-2012	Amend	4-1-2012
416-115-0270	12-14-2011	Repeal	1-1-2012	436-009-0240	4-1-2012	Amend	4-1-2012
416-115-0280	12-14-2011	Repeal	1-1-2012	436-009-0245	4-1-2012	Amend	4-1-2012
416-170-0000	2-3-2012	Amend	3-1-2012	436-009-0250	4-1-2012	Repeal	4-1-2012
416-170-0005	2-3-2012	Amend	3-1-2012	436-009-0255	4-1-2012	Amend	4-1-2012
416-170-0010	2-3-2012	Amend	3-1-2012	436-009-0260	4-1-2012	Amend	4-1-2012
416-170-0020	2-3-2012	Amend	3-1-2012	436-009-0260	4-23-2012	Amend(T)	5-1-2012
416-170-0030	2-3-2012	Amend	3-1-2012	436-009-0265	4-1-2012	Amend	4-1-2012
416-410-0010	4-3-2012	Amend	5-1-2012	436-009-0270	4-1-2012	Amend	4-1-2012
416-450-0000	4-3-2012	Amend	5-1-2012	436-009-0275	4-1-2012	Amend	4-1-2012
416-450-0010	4-3-2012	Amend	5-1-2012	436-009-0280	4-1-2012	Repeal	4-1-2012
416-450-0020	4-3-2012	Amend	5-1-2012	436-009-0285	4-1-2012	Amend	4-1-2012
416-450-0030	4-3-2012	Amend	5-1-2012	436-009-0290	4-1-2012	Amend	4-1-2012
416-450-0040	4-3-2012	Amend	5-1-2012	436-010-0210	1-1-2012	Amend	1-1-2012
416-450-0050	4-3-2012	Amend	5-1-2012	436-010-0230	1-1-2012	Amend	1-1-2012
416-450-0060	4-3-2012	Amend	5-1-2012	436-010-0280	1-1-2012	Amend	1-1-2012
416-450-0070	4-3-2012	Amend	5-1-2012	436-010-0330	4-1-2012	Amend	4-1-2012
436-009-0003	4-1-2012	Amend	4-1-2012	436-015-0003	4-1-2012	Amend	4-1-2012
436-009-0004	4-1-2012	Amend	4-1-2012	436-015-0005	4-1-2012	Amend	4-1-2012
436-009-0010	4-1-2012	Amend	4-1-2012	436-015-0007	4-1-2012	Amend	4-1-2012
436-009-0022	4-1-2012	Repeal	4-1-2012	436-015-0008	1-1-2012	Amend	1-1-2012
436-009-0030	4-1-2012	Amend	4-1-2012	436-015-0009	4-1-2012	Amend	4-1-2012
436-009-0040	4-1-2012	Amend	4-1-2012	436-015-0010	4-1-2012	Amend	4-1-2012
436-009-0050	4-1-2012	Amend	4-1-2012	436-015-0020	4-1-2012	Repeal	4-1-2012
436-009-0060	4-1-2012	Amend	4-1-2012	436-015-0030	4-1-2012	Amend	4-1-2012
436-009-0070	4-1-2012	Amend	4-1-2012	436-015-0050	4-1-2012	Amend	4-1-2012
436-009-0080	1-1-2012	Amend	1-1-2012	436-015-0075	4-1-2012	Adopt	4-1-2012
436-009-0080	4-1-2012	Amend	4-1-2012	436-015-0080	4-1-2012	Amend	4-1-2012
436-009-0080	4-23-2012	Amend(T)	5-1-2012	436-015-0110	4-1-2012	Amend	4-1-2012
436-009-0090	4-1-2012	Amend	4-1-2012	436-030-0003	1-1-2012	Amend	1-1-2012
436-009-0110	4-1-2012	Amend	4-1-2012	436-030-0036	1-1-2012	Amend	1-1-2012
436-009-0115	4-1-2012	Amend	4-1-2012	436-030-0145	1-1-2012	Amend	1-1-2012
436-009-0120	4-1-2012	Amend	4-1-2012	436-030-0165	1-1-2012	Amend	1-1-2012
436-009-0125	4-1-2012	Amend	4-1-2012	437-001-0015	7-1-2012	Amend	6-1-2012
436-009-0130	4-1-2012	Amend	4-1-2012	437-001-0075	7-1-2012	Amend	6-1-2012
436-009-0135	4-1-2012	Amend	4-1-2012	437-001-0145	7-1-2012	Amend	6-1-2012
436-009-0140	4-1-2012	Amend	4-1-2012	437-001-0160	7-1-2012	Amend	6-1-2012
436-009-0145	4-1-2012	Amend	4-1-2012	437-001-0165	7-1-2012	Amend	6-1-2012
436-009-0150	4-1-2012	Repeal	4-1-2012	437-001-0175	7-1-2012	Amend	6-1-2012
436-009-0155	4-1-2012	Amend	4-1-2012	437-001-0230	7-1-2012	Amend	6-1-2012
436-009-0160	4-1-2012	Amend	4-1-2012	437-001-0255	7-1-2012	Amend	6-1-2012
436-009-0165	4-1-2012	Amend	4-1-2012	437-001-0260	7-1-2012	Repeal	6-1-2012
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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
437-001-0420	7-1-2012	Amend	6-1-2012	437-003-0875	4-10-2012	Amend	5-1-2012
437-001-0430	7-1-2012	Amend	6-1-2012	437-003-1101	7-1-2012	Adopt	1-1-2012
437-001-0435	7-1-2012	Amend	6-1-2012	437-003-1127	7-1-2012	Adopt	1-1-2012
437-001-0760	7-1-2012	Amend	6-1-2012	437-003-3060	7-1-2012	Adopt	1-1-2012
437-002-0005	12-8-2011	Amend	1-1-2012	437-004-1110	12-8-2011	Amend	1-1-2012
437-002-0080	4-10-2012	Amend	5-1-2012	437-005-0001	12-8-2011	Amend	1-1-2012
437-002-0100	4-10-2012	Amend	5-1-2012	437-005-0001	4-10-2012	Amend	5-1-2012
437-002-0120	12-8-2011	Amend	1-1-2012	437-005-0002	12-8-2011	Amend	1-1-2012
437-002-0120	4-10-2012	Amend	5-1-2012	437-005-0003	12-8-2011	Amend	1-1-2012
437-002-0123	12-8-2011	Repeal	1-1-2012	441-505-3046	12-15-2011	Amend(T)	1-1-2012
437-002-0125	12-8-2011	Repeal	1-1-2012	441-674-0005	1-1-2012	Repeal	2-1-2012
437-002-0127	12-8-2011	Repeal	1-1-2012	441-674-0100	1-1-2012	Repeal	2-1-2012
437-002-0128	12-8-2011	Repeal	1-1-2012	441-674-0120	1-1-2012	Repeal	2-1-2012
437-002-0130	12-8-2011	Repeal	1-1-2012	441-674-0130	1-1-2012	Repeal	2-1-2012
437-002-0134	12-8-2011	Adopt	1-1-2012	441-674-0140	1-1-2012	Repeal	2-1-2012
437-002-0135	12-8-2011	Repeal	1-1-2012	441-674-0210	1-1-2012	Repeal	2-1-2012
437-002-0136	12-8-2011	Repeal	1-1-2012	441-674-0220	1-1-2012	Repeal	2-1-2012
437-002-0137	12-8-2011	Repeal	1-1-2012	441-674-0230	1-1-2012	Repeal	2-1-2012
437-002-0140	12-8-2011	Amend	1-1-2012	441-674-0240	1-1-2012	Repeal	2-1-2012
437-002-0161	4-10-2012	Amend	5-1-2012	441-674-0250	1-1-2012	Repeal	2-1-2012
437-002-0180	4-10-2012	Amend	5-1-2012	441-674-0310	1-1-2012	Repeal	2-1-2012
437-002-0182	4-10-2012	Amend	5-1-2012	441-674-0510	1-1-2012	Repeal	2-1-2012
437-002-0220	12-8-2011	Amend	1-1-2012	441-674-0520	1-1-2012	Repeal	2-1-2012
437-002-0220	4-10-2012	Amend	5-1-2012	441-674-0910	1-1-2012	Repeal	2-1-2012
437-002-0240	4-10-2012	Amend	5-1-2012	441-674-0915	1-1-2012	Repeal	2-1-2012
437-002-0280	4-10-2012	Amend	5-1-2012	441-674-0920	1-1-2012	Repeal	2-1-2012
437-002-0300	4-10-2012	Amend	5-1-2012	441-710-0540	12-15-2011	Amend(T)	1-1-2012
437-002-0312	4-10-2012	Amend	5-1-2012	441-730-0246	12-15-2011	Amend(T)	1-1-2012
437-002-0340	12-8-2011	Amend	1-1-2012	441-830-0010	11-23-2011	Repeal	1-1-2012
437-002-0340	4-10-2012	Amend	5-1-2012	441-830-0015	11-23-2011	Repeal	1-1-2012
437-002-0360	12-8-2011	Amend	1-1-2012	441-830-0020	11-23-2011	Repeal	1-1-2012
437-002-0360	4-10-2012	Amend	5-1-2012	441-830-0030	11-23-2011	Repeal	1-1-2012
437-002-0360	7-1-2012	Amend	1-1-2012	441-830-0040	11-23-2011	Repeal	1-1-2012
437-002-0364	12-8-2011	Amend	1-1-2012	441-850-0042	12-15-2011	Amend(T)	1-1-2012
437-002-0373	4-10-2012	Amend	5-1-2012	441-880-0005	11-23-2011	Adopt	1-1-2012
437-002-1001	7-1-2012	Adopt	1-1-2012	441-880-0006	11-23-2011	Adopt	1-1-2012
437-002-1017	7-1-2012	Adopt	1-1-2012	441-880-0007	11-23-2011	Adopt	1-1-2012
437-002-1018	7-1-2012	Adopt	1-1-2012	441-880-0008	11-23-2011	Adopt	1-1-2012
437-002-1025	7-1-2012	Adopt	1-1-2012	441-910-0000	1-1-2012	Amend	1-1-2012
437-002-1027	7-1-2012	Adopt	1-1-2012	441-910-0092	1-1-2012	Repeal	1-1-2012
437-002-1028	7-1-2012	Adopt	1-1-2012	442-005-0020	1-13-2012	Amend	2-1-2012
437-002-1029	7-1-2012	Adopt	1-1-2012	442-005-0030	1-13-2012	Amend	2-1-2012
437-002-1043	7-1-2012	Adopt	1-1-2012	442-005-0050	1-13-2012	Amend	2-1-2012
437-002-1044	7-1-2012	Adopt	1-1-2012	442-005-0070	1-13-2012	Amend	2-1-2012
437-002-1045	7-1-2012	Adopt	1-1-2012	442-010-0020	12-22-2011	Amend	2-1-2012
437-002-1047	7-1-2012	Adopt	1-1-2012	442-010-0020(T)	12-22-2011	Repeal	2-1-2012
437-002-1048	7-1-2012	Adopt	1-1-2012	442-010-0030	12-22-2011	Amend	2-1-2012
437-002-1050	7-1-2012	Adopt	1-1-2012	442-010-0040	12-22-2011	Amend	2-1-2012
437-002-1051	7-1-2012	Adopt	1-1-2012	442-010-0055	12-22-2011	Amend	2-1-2012
437-002-1052	7-1-2012	Adopt	1-1-2012	442-010-0060	12-22-2011	Amend	2-1-2012
437-003-0001	12-8-2011	Amend	1-1-2012	442-010-0060(T)	12-22-2011	Repeal	2-1-2012
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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
442-010-0085	12-22-2011	Amend	2-1-2012	461-115-0230	2-29-2012	Amend(T)	4-1-2012
442-010-0090	12-22-2011	Amend	2-1-2012	461-115-0230(T)	1-1-2012	Repeal	2-1-2012
442-010-0100	12-22-2011	Amend	2-1-2012	461-115-0690	1-1-2012	Amend	2-1-2012
442-010-0110	12-22-2011	Amend	2-1-2012	461-115-0690(T)	1-1-2012	Repeal	2-1-2012
442-010-0120	12-22-2011	Amend	2-1-2012	461-115-0705	1-1-2012	Amend(T)	2-1-2012
442-010-0160	12-22-2011	Amend	2-1-2012	461-115-0705	4-1-2012	Amend	5-1-2012
442-010-0170	12-22-2011	Amend	2-1-2012	461-115-0705(T)	4-1-2012	Repeal	5-1-2012
442-010-0180	12-22-2011	Amend	2-1-2012	461-120-0010	4-1-2012	Amend	5-1-2012
442-010-0190	12-22-2011	Amend	2-1-2012	461-120-0030	4-1-2012	Amend	5-1-2012
442-010-0200	12-22-2011	Repeal	2-1-2012	461-120-0050	4-1-2012	Amend	5-1-2012
442-010-0210	12-22-2011	Amend	2-1-2012	461-120-0110	4-1-2012	Amend	5-1-2012
442-010-0215	12-22-2011	Amend	2-1-2012	461-120-0120	4-1-2012	Repeal	5-1-2012
442-010-0220	12-22-2011	Amend	2-1-2012	461-120-0125	4-1-2012	Amend	5-1-2012
442-010-0230	12-22-2011	Amend	2-1-2012	461-120-0130	4-1-2012	Amend	5-1-2012
442-010-0240	12-22-2011	Amend	2-1-2012	461-120-0210	4-1-2012	Amend	5-1-2012
442-010-0250	12-22-2011	Repeal	2-1-2012	461-120-0315	4-1-2012	Amend	5-1-2012
442-010-0260	12-22-2011	Amend	2-1-2012	461-120-0330	4-1-2012	Amend	5-1-2012
443-002-0070	2-6-2012	Amend	3-1-2012	461-120-0340	4-1-2012	Amend	5-1-2012
443-002-0190	2-6-2012	Amend	3-1-2012	461-120-0340(T)	4-1-2012	Repeal	5-1-2012
459-001-0025	3-28-2012	Amend	5-1-2012	461-120-0350	4-1-2012	Amend	5-1-2012
459-005-0001	2-1-2012	Amend	3-1-2012	461-120-0510	4-1-2012	Amend	5-1-2012
459-005-0525	2-1-2012	Amend	3-1-2012	461-120-0530	4-1-2012	Repeal	5-1-2012
459-005-0545	2-1-2012	Amend	3-1-2012	461-120-0630	4-1-2012	Amend	5-1-2012
459-005-0615	3-28-2012	Adopt	5-1-2012	461-125-0170	5-1-2012	Amend(T)	6-1-2012
459-005-0620	11-22-2011	Adopt(T)	1-1-2012	461-130-0327	12-29-2011	Amend	2-1-2012
459-005-0620	2-1-2012	Adopt	3-1-2012	461-130-0330	1-1-2012	Amend	2-1-2012
459-007-0090	3-28-2012	Amend	5-1-2012	461-130-0330(T)	1-1-2012	Repeal	2-1-2012
459-007-0270	3-28-2012	Amend	5-1-2012	461-130-0335	1-1-2012	Amend	2-1-2012
459-010-0005	11-23-2011	Repeal	1-1-2012	461-130-0335(T)	1-1-2012	Repeal	2-1-2012
459-013-0310	3-28-2012	Adopt	5-1-2012	461-135-0010	1-13-2012	Amend(T)	2-1-2012
459-013-0320	3-28-2012	Adopt	5-1-2012	461-135-0070	5-1-2012	Amend(T)	6-1-2012
459-014-0030	2-1-2012	Amend	3-1-2012	461-135-0075	4-1-2012	Amend	5-1-2012
459-014-0040	2-1-2012	Adopt	3-1-2012	461-135-0075	5-1-2012	Amend(T)	6-1-2012
459-014-0050	2-1-2012	Adopt	3-1-2012	461-135-0075(T)	4-1-2012	Repeal	5-1-2012
459-015-0005	11-23-2011	Amend	1-1-2012	461-135-0089	1-1-2012	Amend	2-1-2012
459-017-0060	3-28-2012	Amend	5-1-2012	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	461-135-1195	1-1-2012	Amend	2-1-2012
461-115-0030(T)	1-1-2012	Repeal	2-1-2012	461-135-1195(T)	1-1-2012	Repeal	2-1-2012
461-115-0050	1-1-2012	Amend	2-1-2012	461-135-1210	4-1-2012	Repeal	5-1-2012
461-115-0050(T)	1-1-2012	Repeal	2-1-2012	461-135-1250	4-12-2012	Amend(T)	5-1-2012
461-115-0230	1-1-2012	Amend	2-1-2012	461-135-1250	4-13-2012	Amend(T)	5-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
461-135-1250(T)	4-13-2012	Suspend	5-1-2012	471-030-0053	12-5-2011	Amend	1-1-2012
461-135-1260	3-30-2012	Adopt	5-1-2012	471-030-0053(T)	12-5-2011	Repeal	1-1-2012
461-135-1260	5-1-2012	Amend(T)	6-1-2012	471-030-0080	3-5-2012	Amend	4-1-2012
461-145-0080	4-1-2012	Amend	5-1-2012	471-030-0080(T)	3-5-2012	Repeal	4-1-2012
461-145-0080(T)	4-1-2012	Repeal	5-1-2012	471-030-0230	1-1-2012	Adopt(T)	2-1-2012
461-145-0130	1-1-2012	Amend	2-1-2012	471-030-0230	2-29-2012	Adopt(T)	4-1-2012
461-145-0220	1-1-2012	Amend	2-1-2012	471-030-0230(T)	2-29-2012	Suspend	4-1-2012
461-145-0410	1-1-2012	Amend	2-1-2012	471-031-0200	5-9-2012	Repeal	6-1-2012
461-145-0410	1-1-2012	Amend(T)	2-1-2012	471-040-0010	2-10-2012	Amend	3-1-2012
461-145-0410	4-1-2012	Amend	5-1-2012	471-040-0010(T)	2-10-2012	Repeal	3-1-2012
461-145-0410(T)	1-1-2012	Repeal	2-1-2012	471-040-0040	2-10-2012	Amend	3-1-2012
461-145-0410(T)	4-1-2012	Repeal	5-1-2012	471-040-0040(T)	2-10-2012	Repeal	3-1-2012
461-145-0870	5-1-2012	Amend(T)	6-1-2012	471-040-0041	2-10-2012	Amend	3-1-2012
461-155-0030	1-26-2012	Amend(T)	3-1-2012	471-040-0041(T)	2-10-2012	Repeal	3-1-2012
461-155-0030	4-1-2012	Amend	5-1-2012	573-040-0005	5-10-2012	Amend	6-1-2012
461-155-0150	1-1-2012	Amend	2-1-2012	574-050-0005	1-27-2012	Amend	3-1-2012
461-155-0150	4-10-2012	Amend(T)	5-1-2012	576-001-0060	12-27-2011	Adopt	2-1-2012
461-155-0180	1-25-2012	Amend	3-1-2012	576-010-0000	12-27-2011	Amend	2-1-2012
461-155-0235	1-25-2012	Amend	3-1-2012	576-015-0020	3-30-2012	Amend(T)	5-1-2012
461-155-0250	1-1-2012	Amend	2-1-2012	576-015-0020	5-9-2012	Amend	6-1-2012
461-155-0250	2-1-2012	Amend(T)	3-1-2012	576-024-0000	3-30-2012	Amend(T)	5-1-2012
461-155-0270	1-1-2012	Amend	2-1-2012	576-024-0000	5-9-2012	Amend	6-1-2012
461-155-0290	3-1-2012	Amend	4-1-2012	576-040-0010	12-27-2011	Amend	2-1-2012
461-155-0291	3-1-2012	Amend	4-1-2012	576-040-0012	12-27-2011	Amend	2-1-2012
461-155-0295	3-1-2012	Amend	4-1-2012	576-040-0015	12-27-2011	Amend	2-1-2012
461-155-0300	1-1-2012	Amend	2-1-2012	576-040-0025	12-27-2011	Repeal	2-1-2012
461-155-0320	1-1-2012	Amend	2-1-2012	576-040-0030	12-27-2011	Repeal	2-1-2012
461-155-0320(T)	1-1-2012	Repeal	2-1-2012	576-040-0035	12-27-2011	Repeal	2-1-2012
461-155-0360	1-1-2012	Amend	2-1-2012	576-065-0000	3-30-2012	Amend(T)	5-1-2012
461-155-0500	4-1-2012	Amend	5-1-2012	576-065-0000	5-9-2012	Amend	6-1-2012
461-155-0528	1-1-2012	Repeal	2-1-2012	576-065-0010	3-30-2012	Amend(T)	5-1-2012
461-155-0575	12-1-2011	Amend(T)	1-1-2012	576-065-0010	5-9-2012	Amend	6-1-2012
461-155-0575(T)	12-1-2011	Suspend	1-1-2012	577-031-0135	3-12-2012	Amend(T)	4-1-2012
461-155-0693	1-1-2012	Repeal	2-1-2012	579-020-0006	12-1-2011	Amend(T)	1-1-2012
461-160-0015	1-1-2012	Amend	2-1-2012	579-020-0006	4-23-2012	Amend	6-1-2012
461-160-0015(T)	1-1-2012	Repeal	2-1-2012	579-030-0010	7-1-2012	Amend(T)	6-1-2012
461-160-0120	5-1-2012	Amend(T)	6-1-2012	580-020-0005	1-12-2012	Amend	2-1-2012
461-160-0580	1-1-2012	Amend	2-1-2012	580-022-0045	3-16-2012	Amend(T)	5-1-2012
461-160-0620	1-1-2012	Amend	2-1-2012	580-040-0030	3-16-2012	Amend(T)	5-1-2012
461-165-0035	2-27-2012	Amend(T)	4-1-2012	580-040-0035	1-12-2012	Amend	2-1-2012
461-170-0011	3-30-2012	Amend	5-1-2012	581-001-0000	4-2-2012	Amend	5-1-2012
461-170-0011	5-1-2012	Amend(T)	6-1-2012	581-001-0005	4-2-2012	Amend	5-1-2012
461-175-0210	1-1-2012	Amend(T)	2-1-2012	581-015-2000	4-2-2012	Amend	5-1-2012
461-175-0290	1-1-2012	Amend	2-1-2012	581-015-2005	2-17-2012	Amend	4-1-2012
461-180-0050	1-1-2012	Amend	2-1-2012	581-015-2010	2-17-2012	Amend	4-1-2012
461-180-0050(T)	1-1-2012	Repeal	2-1-2012	581-015-2040	2-17-2012	Amend	4-1-2012
461-180-0070	1-1-2012	Amend	2-1-2012	581-015-2075	2-17-2012	Amend	4-1-2012
461-180-0070(T)	1-1-2012	Repeal	2-1-2012	581-015-2080	2-17-2012	Amend	4-1-2012
461-180-0085	1-1-2012	Amend	2-1-2012	581-015-2080	4-2-2012	Amend	5-1-2012
461-180-0130	12-27-2011	Amend	2-1-2012	581-015-2300	4-2-2012	Amend(T)	5-1-2012
461-180-0130	12-27-2011	Amend(T)	2-1-2012	581-015-2570	12-15-2011	Amend	1-1-2012
461-180-0130	4-1-2012	Amend	5-1-2012	581-015-2571	12-15-2011	Amend	1-1-2012
461-180-0130(T)	4-1-2012	Repeal	5-1-2012	581-015-2572	12-15-2011	Amend	1-1-2012
461-190-0211	4-6-2012	Amend	5-1-2012	581-015-2573	12-15-2011	Amend	1-1-2012
461-190-0211	4-6-2012	Amend(T)	5-1-2012	581-015-2574	12-15-2011	Amend	1-1-2012
461-190-0211(T)	4-6-2012	Repeal	5-1-2012	581-015-2700	4-2-2012	Amend	5-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
581-015-2712	4-2-2012	Adopt	5-1-2012	581-023-0112	1-1-2012	Amend	1-1-2012
581-015-2713	4-2-2012	Adopt	5-1-2012	581-040-0000	12-15-2011	Repeal	1-1-2012
581-015-2730	4-2-2012	Amend	5-1-2012	581-044-0080	12-15-2011	Repeal	1-1-2012
581-015-2770	4-2-2012	Amend(T)	5-1-2012	581-044-0090	12-15-2011	Repeal	1-1-2012
581-015-2774	4-2-2012	Adopt	5-1-2012	581-044-0100	12-15-2011	Repeal	1-1-2012
581-015-2775	4-2-2012	Amend	5-1-2012	581-044-0110	12-15-2011	Repeal	1-1-2012
581-015-2780	4-2-2012	Amend	5-1-2012	581-044-0120	12-15-2011	Repeal	1-1-2012
581-015-2790	4-2-2012	Amend	5-1-2012	581-044-0130	12-15-2011	Repeal	1-1-2012
581-015-2805	4-2-2012	Amend	5-1-2012	581-044-0140	12-15-2011	Repeal	1-1-2012
581-015-2810	4-2-2012	Amend	5-1-2012	581-044-0200	12-15-2011	Repeal	1-1-2012
581-015-2815	4-2-2012	Amend	5-1-2012	581-044-0210	4-2-2012	Adopt	5-1-2012
581-015-2825	4-2-2012	Amend	5-1-2012	581-044-0220	4-2-2012	Adopt	5-1-2012
581-015-2830	4-2-2012	Amend	5-1-2012	581-044-0230	4-2-2012	Adopt	5-1-2012
581-015-2835	4-2-2012	Amend	5-1-2012	581-044-0240	4-2-2012	Adopt	5-1-2012
581-015-2840	4-2-2012	Amend	5-1-2012	581-044-0250	4-2-2012	Adopt	5-1-2012
581-015-2863	4-2-2012	Adopt	5-1-2012	581-044-0260	4-2-2012	Adopt	5-1-2012
581-015-2870	4-2-2012	Amend	5-1-2012	581-045-0500	2-3-2012	Repeal	3-1-2012
581-015-2885	4-2-2012	Amend	5-1-2012	581-045-0505	2-3-2012	Repeal	3-1-2012
581-015-2890	4-2-2012	Amend	5-1-2012	581-045-0510	2-3-2012	Repeal	3-1-2012
581-020-0334	12-15-2011	Amend	1-1-2012	581-045-0515	2-3-2012	Repeal	3-1-2012
581-020-0336	1-1-2012	Amend	1-1-2012	581-045-0520	2-3-2012	Repeal	3-1-2012
581-020-0339	12-15-2011	Repeal	1-1-2012	581-045-0522	2-3-2012	Repeal	3-1-2012
581-020-0342	12-15-2011	Adopt	1-1-2012	581-045-0525	2-3-2012	Repeal	3-1-2012
581-020-0342(T)	12-15-2011	Repeal	1-1-2012	581-045-0530	2-3-2012	Repeal	3-1-2012
581-020-0343	12-15-2011	Adopt	1-1-2012	581-045-0535	2-3-2012	Repeal	3-1-2012
581-020-0343(T)	12-15-2011	Repeal	1-1-2012	581-045-0538	2-3-2012	Repeal	3-1-2012
581-021-00032	1-1-2012	Repeal	1-1-2012	581-045-0540	2-3-2012	Repeal	3-1-2012
581-021-0019	2-3-2012	Amend	3-1-2012	581-045-0545	2-3-2012	Repeal	3-1-2012
581-021-0034	1-1-2012	Repeal	1-1-2012	581-045-0550	2-3-2012	Repeal	3-1-2012
581-021-0035	1-1-2012	Repeal	1-1-2012	581-045-0555	2-3-2012	Repeal	3-1-2012
581-021-0042	1-1-2012	Repeal	1-1-2012	581-045-0560	2-3-2012	Repeal	3-1-2012
581-021-0044	1-1-2012	Repeal	1-1-2012	581-045-0565	2-3-2012	Repeal	3-1-2012
581-021-0220	4-2-2012	Amend	5-1-2012	581-045-0570	2-3-2012	Repeal	3-1-2012
581-021-0255	1-1-2012	Amend	1-1-2012	581-045-0580	2-3-2012	Repeal	3-1-2012
581-021-0270	4-2-2012	Amend	5-1-2012	581-045-0586	2-3-2012	Amend	3-1-2012
581-021-0500	2-3-2012	Amend	3-1-2012	581-060-0005	12-15-2011	Repeal	1-1-2012
581-021-0550	5-1-2012	Adopt	5-1-2012	581-060-0010	12-15-2011	Repeal	1-1-2012
581-021-0553	5-1-2012	Adopt	5-1-2012	581-060-0015	12-15-2011	Repeal	1-1-2012
581-021-0556	5-1-2012	Adopt	5-1-2012	581-060-0020	12-15-2011	Repeal	1-1-2012
581-021-0559	5-1-2012	Adopt	5-1-2012	581-070-0000	12-15-2011	Repeal	1-1-2012
581-021-0563	5-1-2012	Adopt	5-1-2012	581-070-0010	12-15-2011	Repeal	1-1-2012
581-021-0566	5-1-2012	Adopt	5-1-2012	581-070-0020	12-15-2011	Repeal	1-1-2012
581-022-1060	1-1-2012	Amend	1-1-2012	581-070-0030	12-15-2011	Repeal	1-1-2012
581-022-1133	2-3-2012	Amend	3-1-2012	581-070-0040	12-15-2011	Repeal	1-1-2012
581-022-1134	2-3-2012	Amend	3-1-2012	581-070-0050	12-15-2011	Repeal	1-1-2012
581-022-1135	2-3-2012	Amend	3-1-2012	581-070-0060	12-15-2011	Repeal	1-1-2012
581-022-1330	12-15-2011	Amend	1-1-2012	581-070-0070	12-15-2011	Repeal	1-1-2012
581-022-1369	1-1-2012	Repeal	1-1-2012	581-070-0080	12-15-2011	Repeal	1-1-2012
581-022-1680	1-1-2012	Repeal	1-1-2012	581-070-0090	12-15-2011	Repeal	1-1-2012
581-022-1720	12-15-2011	Amend	1-1-2012	581-070-0110	12-15-2011	Repeal	1-1-2012
581-022-1723	12-15-2011	Adopt	1-1-2012	581-070-0130	12-15-2011	Repeal	1-1-2012
581-022-1724	12-15-2011	Adopt	1-1-2012	581-070-0140	12-15-2011	Repeal	1-1-2012
581-022-1725	12-15-2011	Adopt	1-1-2012	581-070-0150	12-15-2011	Repeal	1-1-2012
581-023-0012	1-1-2012	Repeal	1-1-2012	581-070-0170	12-15-2011	Repeal	1-1-2012
581-023-0040	12-15-2011	Amend	1-1-2012	581-070-0180	12-15-2011	Repeal	1-1-2012
581-023-0110	1-1-2012	Repeal	1-1-2012	581-070-0190	12-15-2011	Repeal	1-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
581-070-0200	12-15-2011	Repeal	1-1-2012	584-018-0130	3-9-2012	Adopt	4-1-2012
581-070-0210	12-15-2011	Repeal	1-1-2012	584-018-0135	3-9-2012	Adopt	4-1-2012
581-070-0220	12-15-2011	Repeal	1-1-2012	584-018-0140	3-9-2012	Adopt	4-1-2012
581-070-0230	12-15-2011	Repeal	1-1-2012	584-018-0205	3-9-2012	Adopt	4-1-2012
581-070-0240	12-15-2011	Repeal	1-1-2012	584-018-0315	3-9-2012	Adopt	4-1-2012
581-070-0250	12-15-2011	Repeal	1-1-2012	584-018-0405	3-9-2012	Adopt	4-1-2012
581-070-0380	12-15-2011	Repeal	1-1-2012	584-018-0410	3-9-2012	Adopt	4-1-2012
581-070-0390	12-15-2011	Repeal	1-1-2012	584-018-0415	3-9-2012	Adopt	4-1-2012
581-070-0400	12-15-2011	Repeal	1-1-2012	584-018-0505	3-9-2012	Adopt	4-1-2012
581-070-0410	12-15-2011	Repeal	1-1-2012	584-018-0510	3-9-2012	Adopt	4-1-2012
581-070-0420	12-15-2011	Repeal	1-1-2012	584-018-0515	3-9-2012	Adopt	4-1-2012
581-070-0500	12-15-2011	Repeal	1-1-2012	584-036-0055	2-15-2012	Amend	3-1-2012
581-070-0510	12-15-2011	Repeal	1-1-2012	584-042-0008	2-15-2012	Amend	3-1-2012
581-071-0005	12-15-2011	Repeal	1-1-2012	584-042-0012	2-15-2012	Amend	3-1-2012
581-071-0010	12-15-2011	Repeal	1-1-2012	584-042-0021	2-15-2012	Amend	3-1-2012
584-010-0001	3-9-2012	Amend	4-1-2012	584-042-0031	2-15-2012	Amend	3-1-2012
584-010-0010	3-9-2012	Amend	4-1-2012	584-042-0036	2-15-2012	Amend	3-1-2012
584-010-0015	3-9-2012	Amend	4-1-2012	584-042-0044	2-15-2012	Amend	3-1-2012
584-010-0020	3-9-2012	Amend	4-1-2012	584-042-0051	2-15-2012	Amend	3-1-2012
584-010-0022	3-9-2012	Adopt	4-1-2012	584-042-0081	2-15-2012	Amend	3-1-2012
584-010-0025	3-9-2012	Amend	4-1-2012	584-060-0051	2-15-2012	Amend(T)	3-1-2012
584-010-0030	3-9-2012	Amend	4-1-2012	584-060-0250	1-15-2012	Adopt	1-1-2012
584-010-0035	3-9-2012	Amend	4-1-2012	589-007-0700	12-9-2011	Amend	1-1-2012
584-010-0045	3-9-2012	Amend	4-1-2012	589-007-0800	12-9-2011	Adopt	1-1-2012
584-010-0050	3-9-2012	Amend	4-1-2012	603-018-0001	12-28-2011	Adopt(T)	2-1-2012
584-010-0055	3-9-2012	Amend	4-1-2012	603-018-0003	12-28-2011	Adopt(T)	2-1-2012
584-010-0060	3-9-2012	Amend	4-1-2012	603-018-0007	12-28-2011	Adopt(T)	2-1-2012
584-010-0080	3-9-2012	Repeal	4-1-2012	603-018-0009	12-28-2011	Adopt(T)	2-1-2012
584-010-0090	3-9-2012	Amend	4-1-2012	603-018-0011	12-28-2011	Adopt(T)	2-1-2012
584-010-0100	3-9-2012	Amend	4-1-2012	603-018-0013	12-28-2011	Adopt(T)	2-1-2012
584-010-0140	3-9-2012	Repeal	4-1-2012	603-019-0001	12-28-2011	Adopt	2-1-2012
584-017-1005	3-9-2012	Adopt	4-1-2012	603-019-0005	12-28-2011	Adopt	2-1-2012
584-017-1008	3-9-2012	Adopt	4-1-2012	603-019-0010	12-28-2011	Adopt	2-1-2012
584-017-1010	3-9-2012	Adopt	4-1-2012	603-019-0015	12-28-2011	Adopt	2-1-2012
584-017-1012	3-9-2012	Adopt	4-1-2012	603-019-0020	12-28-2011	Adopt	2-1-2012
584-017-1015	3-9-2012	Adopt	4-1-2012	603-019-0025	12-28-2011	Adopt	2-1-2012
584-017-1020	3-9-2012	Adopt	4-1-2012	603-019-0030	12-28-2011	Adopt	2-1-2012
584-017-1022	3-9-2012	Adopt	4-1-2012	603-019-0035	12-28-2011	Adopt	2-1-2012
584-017-1025	3-9-2012	Adopt	4-1-2012	603-019-0040	12-28-2011	Adopt	2-1-2012
584-017-1030	3-9-2012	Adopt	4-1-2012	603-024-0211	5-15-2012	Amend	6-1-2012
584-017-1032	3-9-2012	Adopt	4-1-2012	603-024-0592	7-1-2012	Amend	5-1-2012
584-017-1035	3-9-2012	Adopt	4-1-2012	603-027-0410	12-14-2011	Amend	1-1-2012
584-017-1038	3-9-2012	Adopt	4-1-2012	603-027-0420	12-14-2011	Amend	1-1-2012
584-017-1040	3-9-2012	Adopt	4-1-2012	603-027-0430	12-14-2011	Amend	1-1-2012
584-017-1042	3-9-2012	Adopt	4-1-2012	603-027-0440	12-14-2011	Amend	1-1-2012
584-017-1045	3-9-2012	Adopt	4-1-2012	603-027-0490	12-14-2011	Amend	1-1-2012
584-017-1048	3-9-2012	Adopt	4-1-2012	603-028-0710	5-15-2012	Adopt	6-1-2012
584-017-1050	3-9-2012	Adopt	4-1-2012	603-028-0715	5-15-2012	Adopt	6-1-2012
584-017-1052	3-9-2012	Adopt	4-1-2012	603-028-0720	5-15-2012	Adopt	6-1-2012
584-017-1055	3-9-2012	Adopt	4-1-2012	603-028-0725	5-15-2012	Adopt	6-1-2012
584-018-0100	3-9-2012	Adopt	4-1-2012	603-028-0730	5-15-2012	Adopt	6-1-2012
584-018-0105	3-9-2012	Adopt	4-1-2012	603-028-0735	5-15-2012	Adopt	6-1-2012
584-018-0110	3-9-2012	Adopt	4-1-2012	603-028-0740	5-15-2012	Adopt	6-1-2012
584-018-0115	3-9-2012	Adopt	4-1-2012	603-051-0365	2-9-2012	Amend	3-1-2012
584-018-0120	3-9-2012	Adopt	4-1-2012	603-051-0366	2-9-2012	Adopt	3-1-2012
584-018-0125	3-9-2012	Adopt	4-1-2012	603-051-0370	2-9-2012	Amend	3-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
603-051-0375	2-9-2012	Amend	3-1-2012	635-005-0055	12-1-2011	Amend(T)	1-1-2012
603-051-0380	2-9-2012	Repeal	3-1-2012	635-005-0055	5-1-2012	Amend	6-1-2012
603-051-0385	2-9-2012	Repeal	3-1-2012	635-006-0210	1-1-2012	Amend	2-1-2012
603-051-0390	2-9-2012	Amend	3-1-2012	635-006-0211	1-1-2012	Amend	2-1-2012
603-051-0395	2-9-2012	Amend	3-1-2012	635-006-0215	1-1-2012	Amend	2-1-2012
603-051-0775	2-1-2012	Adopt	3-1-2012	635-006-0232	1-1-2012	Amend(T)	2-1-2012
603-051-0777	2-1-2012	Adopt	3-1-2012	635-006-0232	2-7-2012	Amend	3-1-2012
603-051-0779	2-1-2012	Adopt	3-1-2012	635-006-0232(T)	2-7-2012	Repeal	3-1-2012
603-051-0780	2-1-2012	Adopt	3-1-2012	635-006-1010	12-1-2011	Amend(T)	1-1-2012
603-051-0785	2-1-2012	Adopt	3-1-2012	635-006-1010	5-1-2012	Amend	6-1-2012
603-052-0115	3-26-2012	Amend	5-1-2012	635-006-1015	12-1-2011	Amend(T)	1-1-2012
603-052-0116	3-26-2012	Amend	5-1-2012	635-006-1015	5-1-2012	Amend	6-1-2012
603-052-0117	3-22-2012	Repeal	5-1-2012	635-006-1065	12-1-2011	Amend(T)	1-1-2012
603-052-0118	3-26-2012	Amend	5-1-2012	635-006-1065	5-1-2012	Amend	6-1-2012
603-052-0126	3-26-2012	Amend	5-1-2012	635-006-1075	4-24-2012	Amend	6-1-2012
603-052-0150	3-26-2012	Amend	5-1-2012	635-006-1095	5-1-2012	Amend	6-1-2012
603-052-0201	3-22-2012	Repeal	5-1-2012	635-008-0123	1-1-2012	Amend	1-1-2012
603-052-0206	3-22-2012	Repeal	5-1-2012	635-008-0135	1-1-2012	Amend	1-1-2012
603-052-0207	3-22-2012	Repeal	5-1-2012	635-008-0146	4-24-2012	Amend	6-1-2012
603-052-0208	3-22-2012	Repeal	5-1-2012	635-008-0147	4-24-2012	Amend	6-1-2012
603-052-0209	3-22-2012	Repeal	5-1-2012	635-008-0151	2-6-2012	Amend(T)	3-1-2012
603-052-0334	3-22-2012	Repeal	5-1-2012	635-008-0155	1-1-2012	Amend	1-1-2012
603-052-0800	3-22-2012	Repeal	5-1-2012	635-010-0170	2-6-2012	Amend(T)	3-1-2012
603-052-1025	3-26-2012	Amend	5-1-2012	635-011-0100	1-1-2012	Amend	2-1-2012
603-052-1230	3-22-2012	Amend	5-1-2012	635-012-0020	12-25-2011	Amend(T)	1-1-2012
603-057-0001	1-1-2013	Amend	2-1-2012	635-012-0020(T)	12-25-2011	Suspend	1-1-2012
603-057-0100	1-1-2013	Amend	2-1-2012	635-012-0030	12-25-2011	Suspend	1-1-2012
603-057-0106	1-1-2013	Amend	6-1-2012	635-012-0040	12-25-2011	Suspend	1-1-2012
603-057-0127	1-1-2013	Amend	2-1-2012	635-012-0050	12-25-2011	Suspend	1-1-2012
603-076-0052	12-8-2011	Amend(T)	1-1-2012	635-012-0060	12-25-2011	Suspend	1-1-2012
603-095-0200	1-12-2012	Repeal	2-1-2012	635-013-0003	1-1-2012	Amend	2-1-2012
603-095-0220	1-12-2012	Repeal	2-1-2012	635-013-0003	5-1-2012	Amend	6-1-2012
603-095-0240	1-12-2012	Repeal	2-1-2012	635-013-0004	1-1-2012	Amend	2-1-2012
603-095-0260	1-12-2012	Repeal	2-1-2012	635-014-0080	1-1-2012	Amend	2-1-2012
603-095-0280	1-12-2012	Repeal	2-1-2012	635-014-0090	1-1-2012	Amend	2-1-2012
603-095-1400	1-12-2012	Amend	2-1-2012	635-016-0080	1-1-2012	Amend	2-1-2012
603-095-1420	1-12-2012	Amend	2-1-2012	635-016-0090	1-1-2012	Amend	2-1-2012
603-095-1440	1-12-2012	Amend	2-1-2012	635-017-0080	1-1-2012	Amend	2-1-2012
603-095-1460	1-12-2012	Adopt	2-1-2012	635-017-0090	1-1-2012	Amend	2-1-2012
629-035-0105	1-1-2012	Amend	1-1-2012	635-017-0090	1-1-2012	Amend(T)	1-1-2012
632-001-0020	12-14-2011	Adopt	1-1-2012	635-017-0090	3-12-2012	Amend	4-1-2012
635-003-0003	5-1-2012	Amend	6-1-2012	635-017-0095	1-1-2012	Amend	2-1-2012
635-004-0005	4-24-2012	Amend	6-1-2012	635-017-0095	2-17-2012	Amend(T)	3-1-2012
635-004-0009	4-24-2012	Amend	6-1-2012	635-017-0095	2-23-2012	Amend(T)	4-1-2012
635-004-0017	4-24-2012	Amend	6-1-2012	635-017-0095(T)	2-23-2012	Suspend	4-1-2012
635-004-0018	1-1-2012	Amend	2-1-2012	635-018-0080	1-1-2012	Amend	2-1-2012
635-004-0019	1-1-2012	Amend	2-1-2012	635-018-0090	1-1-2012	Amend	2-1-2012
635-004-0019	5-1-2012	Amend(T)	6-1-2012	635-018-0090	1-1-2012	Amend(T)	2-1-2012
635-004-0019	5-1-2012	Amend(T)	6-1-2012	635-018-0090	3-12-2012	Amend	4-1-2012
635-004-0019(T)	5-1-2012	Suspend	6-1-2012	635-018-0090	4-15-2012	Amend(T)	5-1-2012
635-004-0027	1-9-2012	Amend(T)	2-1-2012	635-018-0090(T)	4-15-2012	Suspend	5-1-2012
635-004-0033	1-1-2012	Amend	2-1-2012	635-019-0080	1-1-2012	Amend	2-1-2012
635-005-0045	12-1-2011	Amend(T)	1-1-2012	635-019-0090	1-1-2012	Amend	2-1-2012
635-005-0045	12-15-2011	Amend(T)	1-1-2012	635-021-0080	1-1-2012	Amend	2-1-2012
635-005-0045	5-1-2012	Amend	6-1-2012	635-021-0090	1-1-2012	Amend	2-1-2012
635-005-0045(T)	12-15-2011	Suspend	1-1-2012	635-023-0080	1-1-2012	Amend	2-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
635-023-0090	1-1-2012	Amend	2-1-2012	635-042-0145(T)	3-21-2012	Suspend	5-1-2012
635-023-0095	1-1-2012	Amend	2-1-2012	635-042-0145(T)	3-29-2012	Suspend	5-1-2012
635-023-0095	1-5-2012	Amend(T)	2-1-2012	635-042-0145(T)	4-1-2012	Suspend	5-1-2012
635-023-0095	2-7-2012	Amend	3-1-2012	635-042-0145(T)	4-5-2012	Suspend	5-1-2012
635-023-0095	2-18-2012	Amend(T)	3-1-2012	635-042-0145(T)	4-19-2012	Suspend	6-1-2012
635-023-0095	5-20-2012	Amend(T)	6-1-2012	635-042-0160	2-12-2012	Amend(T)	3-1-2012
635-023-0095(T)	2-7-2012	Repeal	3-1-2012	635-042-0170	4-26-2012	Amend(T)	6-1-2012
635-023-0095(T)	5-20-2012	Suspend	6-1-2012	635-042-0180	2-12-2012	Amend(T)	3-1-2012
635-023-0125	1-1-2012	Amend	2-1-2012	635-043-0051	12-30-2011	Amend(T)	2-1-2012
635-023-0125	2-15-2012	Amend(T)	3-1-2012	635-053-0035	12-21-2011	Amend(T)	2-1-2012
635-023-0125	4-6-2012	Amend(T)	5-1-2012	635-060-0023	4-1-2012	Amend	4-1-2012
635-023-0125	4-14-2012	Amend(T)	5-1-2012	635-060-0046	2-10-2012	Amend(T)	3-1-2012
635-023-0125	5-2-2012	Amend(T)	6-1-2012	635-065-0001	1-1-2012	Amend	1-1-2012
635-023-0125	5-16-2012	Amend(T)	6-1-2012	635-065-0015	1-1-2012	Amend	1-1-2012
635-023-0125(T)	4-6-2012	Suspend	5-1-2012	635-065-0090	1-1-2012	Amend	1-1-2012
635-023-0125(T)	4-14-2012	Suspend	5-1-2012	635-065-0401	1-1-2012	Amend	1-1-2012
635-023-0125(T)	5-2-2012	Suspend	6-1-2012	635-065-0625	1-1-2012	Amend	1-1-2012
635-023-0125(T)	5-16-2012	Suspend	6-1-2012	635-065-0635	1-1-2012	Amend	1-1-2012
635-023-0128	1-1-2012	Amend	2-1-2012	635-065-0733	1-1-2012	Amend	1-1-2012
635-023-0130	1-1-2012	Amend	2-1-2012	635-065-0740	1-1-2012	Amend	1-1-2012
635-023-0134	1-1-2012	Amend	2-1-2012	635-065-0760	1-1-2012	Amend	1-1-2012
635-023-0134	4-22-2012	Amend(T)	6-1-2012	635-066-0000	1-1-2012	Amend	1-1-2012
635-039-0080	1-1-2012	Amend	2-1-2012	635-066-0010	1-1-2012	Amend	1-1-2012
635-039-0080	4-24-2012	Amend	6-1-2012	635-067-0000	1-1-2012	Amend	1-1-2012
635-039-0085	4-24-2012	Amend	6-1-2012	635-067-0004	1-1-2012	Amend	1-1-2012
635-039-0090	12-1-2011	Amend(T)	1-1-2012	635-067-0030	1-1-2012	Amend	1-1-2012
635-039-0090	12-15-2011	Amend(T)	1-1-2012	635-067-0040	1-1-2012	Amend	1-1-2012
635-039-0090	1-1-2012	Amend	2-1-2012	635-068-0000	3-1-2012	Amend	3-1-2012
635-039-0090(T)	12-1-2011	Suspend	1-1-2012	635-069-0000	2-1-2012	Amend	2-1-2012
635-039-0090(T)	12-15-2011	Suspend	1-1-2012	635-070-0000	4-1-2012	Amend	4-1-2012
635-041-0045	2-1-2012	Amend(T)	3-1-2012	635-071-0000	4-1-2012	Amend	4-1-2012
635-041-0045	2-29-2012	Amend(T)	4-1-2012	635-072-0000	1-1-2012	Amend	1-1-2012
635-041-0045	5-15-2012	Amend(T)	6-1-2012	635-073-0000	2-1-2012	Amend	2-1-2012
635-041-0045(T)	2-29-2012	Suspend	4-1-2012	635-073-0065	2-1-2012	Amend	2-1-2012
635-041-0045(T)	5-15-2012	Suspend	6-1-2012	635-073-0070	2-1-2012	Amend	2-1-2012
635-041-0065	2-1-2012	Amend(T)	3-1-2012	635-078-0011	4-1-2012	Amend	4-1-2012
635-041-0065	2-29-2012	Amend(T)	4-1-2012	635-095-0100	2-10-2012	Adopt	3-1-2012
635-041-0065	3-5-2012	Amend(T)	4-1-2012	635-095-0105	2-10-2012	Adopt	3-1-2012
635-041-0065	3-5-2012	Amend(T)	4-1-2012	635-095-0111	2-10-2012	Adopt	3-1-2012
635-041-0065	5-15-2012	Amend(T)	6-1-2012	635-095-0125	2-10-2012	Adopt	3-1-2012
635-041-0065(T)	2-29-2012	Suspend	4-1-2012	635-100-0125	3-14-2012	Amend	4-1-2012
635-041-0065(T)	3-5-2012	Suspend	4-1-2012	635-435-0000	3-16-2012	Amend	5-1-2012
635-041-0065(T)	3-5-2012	Suspend	4-1-2012	635-435-0005	3-16-2012	Amend	5-1-2012
635-041-0065(T)	5-15-2012	Suspend	6-1-2012	635-435-0010	3-16-2012	Amend	5-1-2012
635-042-0022	4-3-2012	Amend(T)	5-1-2012	635-435-0015	3-16-2012	Amend	5-1-2012
635-042-0022	4-10-2012	Amend(T)	5-1-2012	635-435-0025	3-16-2012	Amend	5-1-2012
635-042-0022(T)	4-10-2012	Suspend	5-1-2012	635-435-0030	3-16-2012	Amend	5-1-2012
635-042-0135	1-30-2012	Amend(T)	3-1-2012	635-435-0035	3-16-2012	Amend	5-1-2012
635-042-0145	2-12-2012	Amend(T)	3-1-2012	635-435-0040	3-16-2012	Amend	5-1-2012
635-042-0145	3-18-2012	Amend(T)	4-1-2012	635-435-0060	3-16-2012	Amend	5-1-2012
635-042-0145	3-21-2012	Amend(T)	5-1-2012	647-010-0010	7-1-2012	Amend	6-1-2012
635-042-0145	3-29-2012	Amend(T)	5-1-2012	656-010-0000	11-30-2011	Amend	1-1-2012
635-042-0145	4-1-2012	Amend(T)	5-1-2012	656-010-0010	11-30-2011	Amend	1-1-2012
635-042-0145	4-5-2012	Amend(T)	5-1-2012	660-007-0000	2-14-2012	Amend	3-1-2012
635-042-0145	4-19-2012	Amend(T)	6-1-2012	660-007-0005	2-14-2012	Amend	3-1-2012
635-042-0145(T)	3-18-2012	Suspend	4-1-2012	660-007-0015	2-14-2012	Amend	3-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
660-007-0018	2-14-2012	Amend	3-1-2012	660-025-0100	2-14-2012	Amend	3-1-2012
660-007-0020	2-14-2012	Amend	3-1-2012	660-025-0110	2-14-2012	Amend	3-1-2012
660-007-0022	2-14-2012	Amend	3-1-2012	660-025-0130	2-14-2012	Amend	3-1-2012
660-007-0030	2-14-2012	Amend	3-1-2012	660-025-0140	2-14-2012	Amend	3-1-2012
660-007-0033	2-14-2012	Amend	3-1-2012	660-025-0150	2-14-2012	Amend	3-1-2012
660-007-0035	2-14-2012	Amend	3-1-2012	660-025-0160	2-14-2012	Amend	3-1-2012
660-007-0037	2-14-2012	Amend	3-1-2012	660-025-0170	2-14-2012	Amend	3-1-2012
660-007-0045	2-14-2012	Amend	3-1-2012	660-025-0175	2-14-2012	Amend	3-1-2012
660-007-0050	2-14-2012	Amend	3-1-2012	660-025-0180	2-14-2012	Amend	3-1-2012
660-007-0060	2-14-2012	Amend	3-1-2012	660-025-0210	2-14-2012	Amend	3-1-2012
660-008-0000	2-14-2012	Amend	3-1-2012	660-025-0220	2-14-2012	Amend	3-1-2012
660-008-0005	2-14-2012	Amend	3-1-2012	660-025-0230	2-14-2012	Amend	3-1-2012
660-008-0010	2-14-2012	Amend	3-1-2012	660-025-0250	2-14-2012	Amend	3-1-2012
660-008-0015	2-14-2012	Amend	3-1-2012	660-027-0070	2-14-2012	Amend	3-1-2012
660-008-0020	2-14-2012	Amend	3-1-2012	660-028-0010	2-14-2012	Amend	3-1-2012
660-008-0025	2-14-2012	Amend	3-1-2012	660-028-0020	2-14-2012	Amend	3-1-2012
660-008-0030	2-14-2012	Amend	3-1-2012	660-028-0030	2-14-2012	Amend	3-1-2012
660-008-0035	2-14-2012	Amend	3-1-2012	660-033-0030	12-20-2011	Amend	2-1-2012
660-008-0040	2-14-2012	Amend	3-1-2012	660-033-0030	2-14-2012	Amend	3-1-2012
660-012-0005	1-1-2012	Amend	2-1-2012	660-033-0045	2-14-2012	Adopt	3-1-2012
660-012-0060	1-1-2012	Amend	2-1-2012	660-033-0100	2-14-2012	Amend	3-1-2012
660-018-0005	2-14-2012	Amend	3-1-2012	660-033-0120	11-23-2011	Amend	1-1-2012
660-018-0010	2-14-2012	Amend	3-1-2012	660-033-0120	2-14-2012	Amend	3-1-2012
660-018-0020	1-1-2012	Amend(T)	2-1-2012	660-033-0130	11-23-2011	Amend	1-1-2012
660-018-0020	2-14-2012	Amend	3-1-2012	660-033-0130	2-14-2012	Amend	3-1-2012
660-018-0020(T)	2-14-2012	Repeal	3-1-2012	660-033-0135	2-14-2012	Amend	3-1-2012
660-018-0021	1-1-2012	Amend(T)	2-1-2012	668-010-0015	4-12-2012	Amend	5-1-2012
660-018-0021	2-14-2012	Amend	3-1-2012	668-030-0020	4-12-2012	Amend	5-1-2012
660-018-0021(T)	2-14-2012	Repeal	3-1-2012	690-013-0100	2-1-2012	Amend	3-1-2012
660-018-0022	1-1-2012	Amend(T)	2-1-2012	690-013-0310	2-1-2012	Amend	3-1-2012
660-018-0022	2-14-2012	Amend	3-1-2012	690-018-0050	2-1-2012	Amend	3-1-2012
660-018-0022(T)	2-14-2012	Repeal	3-1-2012	690-019-0080	2-1-2012	Amend	3-1-2012
660-018-0025	2-14-2012	Amend	3-1-2012	690-053-0015	2-1-2012	Amend	3-1-2012
660-018-0030	2-14-2012	Repeal	3-1-2012	690-053-0030	2-1-2012	Amend	3-1-2012
660-018-0035	2-14-2012	Amend	3-1-2012	690-053-0035	2-1-2012	Amend	3-1-2012
660-018-0040	1-1-2012	Amend(T)	2-1-2012	690-077-0029	2-1-2012	Amend	3-1-2012
660-018-0040	2-14-2012	Amend	3-1-2012	690-077-0031	2-1-2012	Amend	3-1-2012
660-018-0040(T)	2-14-2012	Repeal	3-1-2012	690-077-0039	2-1-2012	Amend	3-1-2012
660-018-0045	2-14-2012	Amend	3-1-2012	690-077-0077	2-1-2012	Amend	3-1-2012
660-018-0050	2-14-2012	Amend	3-1-2012	690-240-0010	2-2-2012	Amend	3-1-2012
660-018-0055	2-14-2012	Amend	3-1-2012	690-240-0035	2-2-2012	Amend	3-1-2012
660-018-0060	2-14-2012	Amend	3-1-2012	690-240-0040	2-2-2012	Adopt	3-1-2012
660-018-0085	2-14-2012	Amend	3-1-2012	690-240-0043	2-2-2012	Adopt	3-1-2012
660-018-0140	2-14-2012	Repeal	3-1-2012	690-240-0046	2-2-2012	Adopt	3-1-2012
660-018-0150	2-14-2012	Amend	3-1-2012	690-240-0049	2-2-2012	Adopt	3-1-2012
660-025-0010	2-14-2012	Amend	3-1-2012	690-300-0010	2-1-2012	Amend	3-1-2012
660-025-0020	2-14-2012	Amend	3-1-2012	690-310-0020	2-1-2012	Amend	3-1-2012
660-025-0030	2-14-2012	Amend	3-1-2012	690-310-0050	2-1-2012	Amend	3-1-2012
660-025-0035	2-14-2012	Amend	3-1-2012	690-310-0080	2-1-2012	Amend	3-1-2012
660-025-0040	2-14-2012	Amend	3-1-2012	690-310-0090	2-1-2012	Amend	3-1-2012
660-025-0050	2-14-2012	Amend	3-1-2012	690-310-0100	2-1-2012	Amend	3-1-2012
660-025-0060	2-14-2012	Amend	3-1-2012	690-310-0150	2-1-2012	Amend	3-1-2012
660-025-0070	2-14-2012	Amend	3-1-2012	690-315-0050	2-1-2012	Amend	3-1-2012
660-025-0080	2-14-2012	Amend	3-1-2012	690-330-0010	2-1-2012	Amend	3-1-2012
660-025-0085	2-14-2012	Amend	3-1-2012	690-380-2260	2-1-2012	Amend	3-1-2012
660-025-0090	2-14-2012	Amend	3-1-2012	690-380-3100	2-1-2012	Amend	3-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
690-380-4000	2-1-2012	Amend	3-1-2012	734-020-0135	3-26-2012	Repeal	5-1-2012
690-380-4020	2-1-2012	Amend	3-1-2012	734-020-0140	3-26-2012	Repeal	5-1-2012
690-380-6040	2-1-2012	Amend	3-1-2012	734-020-0400	3-26-2012	Amend	5-1-2012
690-382-0600	2-1-2012	Amend	3-1-2012	734-020-0420	3-26-2012	Amend	5-1-2012
690-382-0800	2-1-2012	Amend	3-1-2012	734-020-0430	3-26-2012	Amend	5-1-2012
690-385-4100	2-1-2012	Amend	3-1-2012	734-020-0440	3-26-2012	Repeal	5-1-2012
690-385-4600	2-1-2012	Amend	3-1-2012	734-020-0450	3-26-2012	Repeal	5-1-2012
690-385-7600	2-1-2012	Amend	3-1-2012	734-020-0460	3-26-2012	Repeal	5-1-2012
705-001-0000	3-28-2012	Adopt(T)	5-1-2012	734-020-0470	3-26-2012	Amend	5-1-2012
705-001-0005	3-28-2012	Adopt(T)	5-1-2012	734-020-0480	3-26-2012	Amend	5-1-2012
705-001-0010	3-28-2012	Adopt(T)	5-1-2012	734-020-0485	3-26-2012	Adopt	5-1-2012
705-010-0005	3-29-2012	Adopt(T)	5-1-2012	734-020-0490	3-26-2012	Repeal	5-1-2012
705-010-0010	3-29-2012	Adopt(T)	5-1-2012	734-020-0500	3-26-2012	Amend	5-1-2012
705-010-0015	3-29-2012	Adopt(T)	5-1-2012	734-026-0010	1-1-2012	Adopt	2-1-2012
705-010-0020	3-29-2012	Adopt(T)	5-1-2012	734-026-0020	1-1-2012	Adopt	2-1-2012
705-010-0025	3-29-2012	Adopt(T)	5-1-2012	734-026-0030	1-1-2012	Adopt	2-1-2012
705-010-0030	3-29-2012	Adopt(T)	5-1-2012	734-026-0040	1-1-2012	Adopt	2-1-2012
705-010-0035	3-29-2012	Adopt(T)	5-1-2012	734-026-0045	1-1-2012	Adopt	2-1-2012
705-010-0040	3-29-2012	Adopt(T)	5-1-2012	734-035-0010	2-24-2012	Amend	4-1-2012
705-010-0045	3-29-2012	Adopt(T)	5-1-2012	734-035-0040	2-24-2012	Amend	4-1-2012
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

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
734-051-0520	1-1-2012	Suspend	2-1-2012	734-060-0010	3-26-2012	Amend	5-1-2012
734-051-0530	1-1-2012	Suspend	2-1-2012	734-065-0015	3-26-2012	Amend	5-1-2012
734-051-0540	1-1-2012	Suspend	2-1-2012	734-065-0020	3-26-2012	Amend	5-1-2012
734-051-0550	1-1-2012	Suspend	2-1-2012	734-065-0025	3-26-2012	Amend	5-1-2012
734-051-0560	1-1-2012	Suspend	2-1-2012	734-070-0010	1-27-2012	Amend	3-1-2012
734-051-1010	1-1-2012	Adopt(T)	2-1-2012	734-075-0005	1-27-2012	Amend	3-1-2012
734-051-1020	1-1-2012	Adopt(T)	2-1-2012	734-075-0008	1-27-2012	Amend	3-1-2012
734-051-1030	1-1-2012	Adopt(T)	2-1-2012	734-075-0010	1-27-2012	Amend	3-1-2012
734-051-1050	1-1-2012	Adopt(T)	2-1-2012	734-075-0011	1-27-2012	Amend	3-1-2012
734-051-1060	1-1-2012	Adopt(T)	2-1-2012	734-075-0015	1-27-2012	Amend	3-1-2012
734-051-1070	1-1-2012	Adopt(T)	2-1-2012	734-075-0020	1-27-2012	Amend	3-1-2012
734-051-2010	1-1-2012	Adopt(T)	2-1-2012	734-075-0022	1-27-2012	Amend	3-1-2012
734-051-2020	1-1-2012	Adopt(T)	2-1-2012	734-075-0025	1-27-2012	Amend	3-1-2012
734-051-2030	1-1-2012	Adopt(T)	2-1-2012	734-075-0035	1-27-2012	Amend	3-1-2012
734-051-3010	1-1-2012	Adopt(T)	2-1-2012	734-075-0036	1-27-2012	Amend	3-1-2012
734-051-3020	1-1-2012	Adopt(T)	2-1-2012	734-075-0037	1-27-2012	Amend	3-1-2012
734-051-3020	5-3-2012	Amend(T)	6-1-2012	734-075-0040	1-27-2012	Amend	3-1-2012
734-051-3020(T)	5-3-2012	Suspend	6-1-2012	734-075-0041	1-27-2012	Amend	3-1-2012
734-051-3030	1-1-2012	Adopt(T)	2-1-2012	734-075-0045	1-27-2012	Amend	3-1-2012
734-051-3040	1-1-2012	Adopt(T)	2-1-2012	734-075-0055	1-27-2012	Amend	3-1-2012
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	735-030-0330	1-1-2012	Amend	2-1-2012
734-051-5070	1-1-2012	Adopt(T)	2-1-2012	735-032-0010	4-1-2012	Amend	5-1-2012
734-051-5080	1-1-2012	Adopt(T)	2-1-2012	735-040-0030	1-1-2012	Amend	2-1-2012
734-051-5090	1-1-2012	Adopt(T)	2-1-2012	735-050-0090	12-22-2011	Repeal	2-1-2012
734-051-5100	1-1-2012	Adopt(T)	2-1-2012	735-062-0002	1-30-2012	Amend	3-1-2012
734-051-5110	1-1-2012	Adopt(T)	2-1-2012	735-062-0005	1-1-2012	Amend	2-1-2012
734-051-5120	1-1-2012	Adopt(T)	2-1-2012	735-062-0007	1-30-2012	Amend	3-1-2012
734-051-6010	1-1-2012	Adopt(T)	2-1-2012	735-062-0010	1-1-2012	Amend	2-1-2012
734-051-6020	1-1-2012	Adopt(T)	2-1-2012	735-062-0015	1-1-2012	Amend	2-1-2012
734-051-6030	1-1-2012	Adopt(T)	2-1-2012	735-062-0016	11-23-2011	Amend	1-1-2012
734-051-6040	1-1-2012	Adopt(T)	2-1-2012	735-062-0032	1-1-2012	Amend	2-1-2012
734-051-6050	1-1-2012	Adopt(T)	2-1-2012	735-062-0033	1-1-2012	Amend	2-1-2012
734-051-6060	1-1-2012	Adopt(T)	2-1-2012	735-062-0080	1-30-2012	Amend	3-1-2012
734-051-6070	1-1-2012	Adopt(T)	2-1-2012	735-062-0085	1-30-2012	Amend	3-1-2012
734-051-7010	1-1-2012	Adopt(T)	2-1-2012	735-062-0090	1-30-2012	Amend	3-1-2012
734-060-0000	3-26-2012	Amend	5-1-2012	735-062-0110	1-30-2012	Amend	3-1-2012
734-060-0000(T)	3-26-2012	Repeal	5-1-2012	735-062-0120	1-1-2012	Amend	2-1-2012
734-060-0007	3-26-2012	Adopt	5-1-2012	735-062-0125	1-1-2012	Amend	2-1-2012
734-060-0007(T)	3-26-2012	Repeal	5-1-2012	735-062-0135	1-1-2012	Amend	2-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
735-062-0200	1-30-2012	Amend	3-1-2012	736-045-0300	5-4-2012	Adopt	6-1-2012
735-063-0000	1-30-2012	Amend	3-1-2012	736-045-0305	5-4-2012	Adopt	6-1-2012
735-063-0050	1-30-2012	Amend	3-1-2012	736-045-0310	5-4-2012	Adopt	6-1-2012
735-063-0060	1-30-2012	Amend	3-1-2012	736-045-0320	5-4-2012	Adopt	6-1-2012
735-063-0065	1-30-2012	Amend	3-1-2012	736-045-0330	5-4-2012	Adopt	6-1-2012
735-063-0067	1-30-2012	Adopt	3-1-2012	736-045-0340	5-4-2012	Adopt	6-1-2012
735-064-0085	12-22-2011	Repeal	2-1-2012	736-045-0400	5-4-2012	Adopt	6-1-2012
735-064-0220	1-1-2012	Amend	2-1-2012	736-045-0405	5-4-2012	Adopt	6-1-2012
735-070-0004	11-23-2011	Amend	1-1-2012	736-045-0410	5-4-2012	Adopt	6-1-2012
735-070-0010	1-1-2012	Amend	2-1-2012	736-045-0412	5-4-2012	Adopt	6-1-2012
735-070-0054	11-23-2011	Amend	1-1-2012	736-045-0414	5-4-2012	Adopt	6-1-2012
735-070-0085	3-26-2012	Amend(T)	5-1-2012	736-045-0416	5-4-2012	Adopt	6-1-2012
735-072-0035	1-1-2012	Amend	2-1-2012	736-045-0418	5-4-2012	Adopt	6-1-2012
735-074-0140	1-1-2012	Amend	2-1-2012	736-045-0420	5-4-2012	Adopt	6-1-2012
735-076-0020	1-1-2012	Amend	2-1-2012	736-045-0422	5-4-2012	Adopt	6-1-2012
735-152-0000	1-1-2012	Amend	2-1-2012	736-045-0424	5-4-2012	Adopt	6-1-2012
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	740-055-0010	12-22-2011	Amend	2-1-2012
736-004-0095	2-15-2012	Amend	3-1-2012	740-055-0100	11-23-2011	Amend	1-1-2012
736-004-0100	2-15-2012	Amend	3-1-2012	740-100-0010	4-1-2012	Amend	4-1-2012
736-004-0105	2-15-2012	Amend	3-1-2012	740-100-0065	4-1-2012	Amend	4-1-2012
736-004-0115	2-15-2012	Amend	3-1-2012	740-100-0070	4-1-2012	Amend	4-1-2012
736-004-0120	2-15-2012	Amend	3-1-2012	740-100-0080	4-1-2012	Amend	4-1-2012
736-004-0125	2-15-2012	Amend	3-1-2012	740-100-0085	4-1-2012	Amend	4-1-2012
736-004-0130	2-15-2012	Adopt	3-1-2012	740-100-0090	4-1-2012	Amend	4-1-2012
736-006-0110	5-11-2012	Amend	6-1-2012	740-100-0100	1-1-2012	Amend	2-1-2012
736-006-0115	5-11-2012	Amend	6-1-2012	740-100-0230	4-23-2012	Amend	6-1-2012
736-006-0125	5-11-2012	Amend	6-1-2012	740-110-0010	4-1-2012	Amend	4-1-2012
736-006-0145	5-11-2012	Amend	6-1-2012	740-200-0020	2-21-2012	Amend	4-1-2012
736-006-0150	5-11-2012	Amend	6-1-2012	740-200-0040	2-21-2012	Amend	4-1-2012
736-015-0010	11-28-2011	Amend	1-1-2012	740-300-0010	11-23-2011	Amend	1-1-2012
736-015-0020	11-28-2011	Amend	1-1-2012	740-300-0060	3-26-2012	Amend	5-1-2012
736-015-0026	11-28-2011	Amend	1-1-2012	741-040-0010	1-27-2012	Adopt	3-1-2012
736-015-0030	11-28-2011	Amend	1-1-2012	741-040-0020	1-27-2012	Adopt	3-1-2012
736-017-0005	5-11-2012	Amend	6-1-2012	741-040-0030	1-27-2012	Adopt	3-1-2012
736-017-0010	5-11-2012	Amend	6-1-2012	741-040-0040	1-27-2012	Adopt	3-1-2012
736-017-0020	5-11-2012	Amend	6-1-2012	741-040-0050	1-27-2012	Adopt	3-1-2012
736-017-0035	5-11-2012	Amend	6-1-2012	741-040-0060	1-27-2012	Adopt	3-1-2012
736-045-0006	5-4-2012	Adopt	6-1-2012	741-040-0070	1-27-2012	Adopt	3-1-2012
736-045-0011	5-4-2012	Adopt	6-1-2012	800-010-0015	2-1-2012	Amend	3-1-2012
736-045-0100	5-4-2012	Adopt	6-1-2012	800-010-0040	2-1-2012	Amend	3-1-2012
736-045-0200	5-4-2012	Adopt	6-1-2012	800-015-0005	2-1-2012	Amend	3-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
800-015-0010	2-1-2012	Amend	3-1-2012	808-040-0050	4-1-2012	Amend(T)	5-1-2012
800-015-0015	2-1-2012	Amend	3-1-2012	808-040-0080	1-1-2012	Amend	2-1-2012
800-015-0020	2-1-2012	Amend	3-1-2012	808-040-0080	4-1-2012	Amend	5-1-2012
800-015-0030	2-1-2012	Amend	3-1-2012	812-001-0120	5-1-2012	Amend	6-1-2012
800-020-0015	2-1-2012	Amend	3-1-2012	812-001-0140	5-1-2012	Amend	6-1-2012
800-020-0022	2-1-2012	Amend	3-1-2012	812-002-0060	5-1-2012	Amend	6-1-2012
800-020-0025	2-1-2012	Amend	3-1-2012	812-002-0100	5-1-2012	Amend	6-1-2012
800-025-0020	2-1-2012	Amend	3-1-2012	812-002-0160	5-1-2012	Amend	6-1-2012
800-025-0027	2-1-2012	Amend	3-1-2012	812-002-0250	5-1-2012	Amend	6-1-2012
801-001-0035	1-1-2012	Amend	2-1-2012	812-002-0260	1-1-2012	Amend	1-1-2012
801-001-0045	1-1-2012	Adopt	2-1-2012	812-002-0360	5-1-2012	Amend	6-1-2012
801-005-0010	1-1-2012	Amend	2-1-2012	812-002-0443	3-2-2012	Amend	4-1-2012
801-005-0300	1-1-2012	Amend	2-1-2012	812-002-0673	5-1-2012	Amend	6-1-2012
801-010-0010	1-1-2012	Amend	2-1-2012	812-002-0700	5-1-2012	Amend	6-1-2012
801-010-0040	1-1-2012	Amend	2-1-2012	812-002-0800	5-1-2012	Amend	6-1-2012
801-010-0050	1-1-2012	Amend	2-1-2012	812-004-0200	5-1-2012	Amend	6-1-2012
801-010-0065	1-1-2012	Amend	2-1-2012	812-004-0560	5-1-2012	Amend	6-1-2012
801-010-0073	1-1-2012	Amend	2-1-2012	812-004-1001	5-1-2012	Amend	6-1-2012
801-010-0075	1-1-2012	Amend	2-1-2012	812-004-1110	5-1-2012	Amend	6-1-2012
801-010-0079	1-1-2012	Amend	2-1-2012	812-004-1120	5-1-2012	Amend	6-1-2012
801-010-0080	1-1-2012	Amend	2-1-2012	812-004-1140	5-1-2012	Amend	6-1-2012
801-010-0085	1-1-2012	Amend	2-1-2012	812-004-1160	5-1-2012	Amend	6-1-2012
801-010-0110	1-1-2012	Amend	2-1-2012	812-004-1180	5-1-2012	Amend	6-1-2012
801-010-0115	1-1-2012	Amend	2-1-2012	812-004-1195	5-1-2012	Amend	6-1-2012
801-010-0120	1-1-2012	Amend	2-1-2012	812-004-1210	5-1-2012	Amend	6-1-2012
801-010-0125	1-1-2012	Amend	2-1-2012	812-004-1240	5-1-2012	Amend	6-1-2012
801-010-0130	1-1-2012	Amend	2-1-2012	812-004-1250	5-1-2012	Amend	6-1-2012
801-010-0190	1-1-2012	Am. & Ren.	2-1-2012	812-004-1260	5-1-2012	Amend	6-1-2012
801-010-0340	1-1-2012	Amend	2-1-2012	812-004-1300	5-1-2012	Amend	6-1-2012
801-010-0345	1-1-2012	Amend	2-1-2012	812-004-1320	5-1-2012	Amend	6-1-2012
801-040-0010	1-1-2012	Amend	2-1-2012	812-004-1340	5-1-2012	Amend	6-1-2012
801-040-0020	1-1-2012	Amend	2-1-2012	812-004-1350	5-1-2012	Amend	6-1-2012
801-040-0090	1-1-2012	Amend	2-1-2012	812-004-1360	5-1-2012	Amend	6-1-2012
801-040-0100	1-1-2012	Amend	2-1-2012	812-004-1400	5-1-2012	Amend	6-1-2012
801-040-0160	1-1-2012	Amend	2-1-2012	812-004-1420	5-1-2012	Amend	6-1-2012
801-050-0010	1-1-2012	Amend	2-1-2012	812-004-1440	5-1-2012	Amend	6-1-2012
801-050-0020	1-1-2012	Amend	2-1-2012	812-004-1450	5-1-2012	Amend	6-1-2012
801-050-0040	1-1-2012	Amend	2-1-2012	812-004-1460	5-1-2012	Amend	6-1-2012
806-010-0045	1-4-2012	Amend	2-1-2012	812-004-1480	5-1-2012	Amend	6-1-2012
808-002-0020	1-1-2012	Amend	2-1-2012	812-004-1490	5-1-2012	Amend	6-1-2012
808-002-0390	1-1-2012	Adopt	2-1-2012	812-004-1500	5-1-2012	Amend	6-1-2012
808-002-0625	1-1-2012	Amend	2-1-2012	812-004-1505	5-1-2012	Amend	6-1-2012
808-003-0015	1-1-2012	Amend	2-1-2012	812-004-1510	5-1-2012	Amend	6-1-2012
808-003-0025	1-1-2012	Amend	2-1-2012	812-004-1520	5-1-2012	Amend	6-1-2012
808-003-0030	1-1-2012	Amend	2-1-2012	812-004-1530	5-1-2012	Amend	6-1-2012
808-003-0040	1-1-2012	Amend	2-1-2012	812-004-1537	5-1-2012	Amend	6-1-2012
808-003-0065	1-1-2012	Amend	2-1-2012	812-004-1600	5-1-2012	Amend	6-1-2012
808-003-0090	1-1-2012	Amend	2-1-2012	812-005-0100	5-1-2012	Amend	6-1-2012
808-003-0126	1-1-2012	Adopt	2-1-2012	812-005-0110	5-1-2012	Amend	6-1-2012
808-003-0130	1-1-2012	Amend	2-1-2012	812-005-0140	3-2-2012	Amend	4-1-2012
808-003-0620	1-1-2012	Adopt	2-1-2012	812-005-0140(T)	3-2-2012	Repeal	4-1-2012
808-004-0320	1-1-2012	Amend	2-1-2012	812-005-0210	5-1-2012	Amend	6-1-2012
808-005-0020	1-1-2012	Amend	2-1-2012	812-005-0250	3-2-2012	Amend	4-1-2012
808-040-0020	1-1-2012	Amend	2-1-2012	812-005-0270	5-1-2012	Amend	6-1-2012
808-040-0020	4-1-2012	Amend	5-1-2012	812-005-0280	5-1-2012	Amend	6-1-2012
808-040-0025	4-1-2012	Amend	5-1-2012	812-005-0800	1-1-2012	Amend	1-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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	820-010-0204	5-10-2012	Amend	6-1-2012
812-021-0030	2-9-2012	Amend(T)	3-1-2012	820-010-0206	5-10-2012	Amend	6-1-2012
812-021-0030	5-1-2012	Amend	6-1-2012	820-010-0208	5-10-2012	Amend	6-1-2012
812-021-0030(T)	5-1-2012	Repeal	6-1-2012	820-010-0209	5-10-2012	Amend	6-1-2012
812-021-0031	2-9-2012	Amend(T)	3-1-2012	820-010-0210	5-10-2012	Amend	6-1-2012
812-021-0031	5-1-2012	Amend	6-1-2012	820-010-0212	5-10-2012	Amend	6-1-2012
812-021-0031(T)	5-1-2012	Repeal	6-1-2012	820-010-0213	5-10-2012	Amend	6-1-2012
812-021-0040	3-2-2012	Amend	4-1-2012	820-010-0214	5-10-2012	Amend	6-1-2012
813-006-0025	4-2-2012	Amend(T)	5-1-2012	820-010-0215	5-10-2012	Amend	6-1-2012
813-020-0005	3-27-2012	Amend	5-1-2012	820-010-0260	5-10-2012	Amend	6-1-2012
813-020-0005(T)	3-27-2012	Repeal	5-1-2012	820-010-0300	5-10-2012	Amend	6-1-2012
813-020-0010	3-27-2012	Repeal	5-1-2012	820-010-0305	3-16-2012	Amend(T)	5-1-2012
813-020-0015	3-27-2012	Repeal	5-1-2012	820-010-0305	5-10-2012	Amend	6-1-2012
813-020-0016	3-27-2012	Repeal	5-1-2012	820-010-0305(T)	5-10-2012	Repeal	6-1-2012
813-020-0017	3-27-2012	Renumber	5-1-2012	820-010-0442	5-10-2012	Amend	6-1-2012
813-020-0020	3-27-2012	Amend	5-1-2012	820-010-0465	5-10-2012	Amend	6-1-2012
813-020-0020(T)	3-27-2012	Repeal	5-1-2012	820-010-0505	3-16-2012	Amend(T)	5-1-2012
813-020-0024	3-27-2012	Renumber	5-1-2012	820-010-0505	5-10-2012	Amend	6-1-2012
813-020-0025	3-27-2012	Amend	5-1-2012	820-010-0505(T)	5-10-2012	Repeal	6-1-2012
813-020-0025(T)	3-27-2012	Repeal	5-1-2012	820-010-0520	5-10-2012	Amend	6-1-2012
813-020-0030	3-27-2012	Renumber	5-1-2012	820-010-0530	5-10-2012	Amend	6-1-2012
813-020-0032	3-27-2012	Renumber	5-1-2012	820-010-0621	5-10-2012	Amend	6-1-2012
813-020-0033	3-27-2012	Repeal	5-1-2012	820-010-0622	5-10-2012	Amend	6-1-2012
813-020-0035	3-27-2012	Amend	5-1-2012	820-010-0730	5-10-2012	Adopt	6-1-2012
813-020-0035(T)	3-27-2012	Repeal	5-1-2012	830-011-0000	4-1-2012	Amend	5-1-2012
813-020-0040	3-27-2012	Renumber	5-1-2012	830-011-0020	4-1-2012	Amend	5-1-2012
813-020-0041	3-27-2012	Renumber	5-1-2012	830-011-0070	4-1-2012	Amend	5-1-2012
813-020-0042	3-27-2012	Renumber	5-1-2012	830-020-0030	4-1-2012	Amend	5-1-2012
813-020-0045	3-27-2012	Amend	5-1-2012	830-020-0040	4-1-2012	Amend	5-1-2012
813-020-0045(T)	3-27-2012	Repeal	5-1-2012	830-020-0050	4-1-2012	Amend	5-1-2012
813-020-0050	3-27-2012	Renumber	5-1-2012	830-030-0000	4-1-2012	Amend	5-1-2012
813-020-0051	3-27-2012	Renumber	5-1-2012	830-030-0008	4-1-2012	Amend	5-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
830-030-0010	4-1-2012	Amend	5-1-2012	836-053-1342	12-19-2011	Amend	2-1-2012
830-030-0030	4-1-2012	Amend	5-1-2012	836-053-1350	12-19-2011	Amend	2-1-2012
830-030-0040	4-1-2012	Amend	5-1-2012	836-071-0500	1-1-2012	Amend	2-1-2012
830-030-0050	4-1-2012	Amend	5-1-2012	836-071-0501	1-1-2012	Adopt	2-1-2012
830-030-0090	4-1-2012	Amend	5-1-2012	836-071-0550	1-1-2012	Adopt	2-1-2012
830-030-0100	4-1-2012	Amend	5-1-2012	836-071-0560	1-1-2012	Adopt	2-1-2012
830-040-0000	4-1-2012	Amend	5-1-2012	836-071-0565	1-1-2012	Adopt	2-1-2012
830-040-0010	4-1-2012	Amend	5-1-2012	836-071-0570	1-1-2012	Adopt	2-1-2012
830-040-0020	4-1-2012	Amend	5-1-2012	836-200-0250	1-1-2012	Adopt	1-1-2012
830-040-0040	4-1-2012	Amend	5-1-2012	836-200-0255	1-1-2012	Adopt	1-1-2012
830-040-0050	4-1-2012	Amend	5-1-2012	836-200-0300	1-1-2012	Adopt	1-1-2012
833-020-0021	5-15-2012	Amend	6-1-2012	836-200-0305	1-1-2012	Adopt	1-1-2012
833-020-0075	5-15-2012	Adopt	6-1-2012	836-200-0310	1-1-2012	Adopt	1-1-2012
833-120-0011	12-15-2011	Amend	1-1-2012	836-200-0315	1-1-2012	Adopt	1-1-2012
833-120-0021	12-15-2011	Amend	1-1-2012	837-012-0515	2-6-2012	Amend(T)	3-1-2012
833-120-0031	12-15-2011	Amend	1-1-2012	837-012-0515	8-3-2012	Amend	6-1-2012
833-120-0041	12-15-2011	Amend	1-1-2012	837-020-0080	1-24-2012	Amend	3-1-2012
834-040-0000	3-28-2012	Adopt	5-1-2012	837-020-0085	1-24-2012	Amend	3-1-2012
836-005-0107	3-27-2012	Amend	5-1-2012	837-020-0115	1-24-2012	Amend	3-1-2012
836-010-0000	1-1-2012	Amend	2-1-2012	837-035-0000	1-24-2012	Amend	3-1-2012
836-010-0011	1-1-2012	Amend	2-1-2012	837-035-0060	1-24-2012	Amend	3-1-2012
836-010-0012	1-1-2012	Repeal	2-1-2012	837-035-0080	1-24-2012	Amend	3-1-2012
836-011-0000	2-7-2012	Amend	3-1-2012	837-035-0100	1-24-2012	Amend	3-1-2012
836-011-0600	2-16-2012	Adopt	4-1-2012	837-035-0160	1-24-2012	Amend	3-1-2012
836-052-0138	1-1-2013	Amend	4-1-2012	837-035-0200	1-24-2012	Amend	3-1-2012
836-052-0143	1-1-2013	Adopt	4-1-2012	837-035-0220	1-24-2012	Amend	3-1-2012
836-052-0508	2-14-2012	Amend	3-1-2012	837-035-0240	1-24-2012	Amend	3-1-2012
836-052-0768	2-14-2012	Adopt	3-1-2012	837-040-0020	2-10-2012	Amend(T)	3-1-2012
836-052-0770	2-14-2012	Adopt	3-1-2012	837-040-0020	3-1-2012	Amend	3-1-2012
836-052-0900	1-13-2012	Suspend	2-1-2012	839-001-0300	1-1-2012	Adopt	2-1-2012
836-052-0900	5-1-2012	Repeal	6-1-2012	839-001-0560	1-1-2012	Amend	2-1-2012
836-052-1000	4-5-2012	Amend	5-1-2012	839-002-0001	1-1-2012	Amend	2-1-2012
836-053-0410	12-19-2011	Amend	2-1-2012	839-002-0002	1-1-2012	Amend	2-1-2012
836-053-0415	12-19-2011	Adopt	2-1-2012	839-002-0005	1-1-2012	Amend	2-1-2012
836-053-0825	12-19-2011	Adopt	2-1-2012	839-002-0015	1-1-2012	Amend	2-1-2012
836-053-0830	12-19-2011	Adopt	2-1-2012	839-002-0020	1-1-2012	Amend	2-1-2012
836-053-0851	12-19-2011	Amend	2-1-2012	839-002-0025	1-1-2012	Amend	2-1-2012
836-053-0856	12-19-2011	Repeal	2-1-2012	839-002-0030	1-1-2012	Amend	2-1-2012
836-053-0857	12-19-2011	Adopt	2-1-2012	839-002-0035	1-1-2012	Amend	2-1-2012
836-053-0861	12-19-2011	Repeal	2-1-2012	839-002-0040	1-1-2012	Amend	2-1-2012
836-053-0862	12-19-2011	Adopt	2-1-2012	839-002-0045	1-1-2012	Amend	2-1-2012
836-053-0862	4-15-2012	Suspend	5-1-2012	839-002-0050	1-1-2012	Amend	2-1-2012
836-053-0863	4-15-2012	Adopt(T)	5-1-2012	839-002-0055	1-1-2012	Amend	2-1-2012
836-053-0866	12-19-2011	Repeal	2-1-2012	839-002-0060	1-1-2012	Amend	2-1-2012
836-053-1000	12-19-2011	Amend	2-1-2012	839-002-0065	1-1-2012	Amend	2-1-2012
836-053-1030	12-19-2011	Amend	2-1-2012	839-002-0070	1-1-2012	Amend	2-1-2012
836-053-1033	12-19-2011	Adopt	2-1-2012	839-002-0075	1-1-2012	Amend	2-1-2012
836-053-1035	12-19-2011	Adopt	2-1-2012	839-002-0080	1-1-2012	Amend	2-1-2012
836-053-1060	12-19-2011	Amend	2-1-2012	839-005-0033	1-1-2012	Renumber	2-1-2012
836-053-1070	12-19-2011	Amend	2-1-2012	839-005-0033	2-8-2012	Am. & Ren.	3-1-2012
836-053-1080	12-19-2011	Amend	2-1-2012	839-005-0075	1-1-2012	Adopt	2-1-2012
836-053-1100	12-19-2011	Amend	2-1-2012	839-005-0075	2-8-2012	Adopt	3-1-2012
836-053-1110	12-19-2011	Amend	2-1-2012	839-005-0130	1-1-2012	Adopt	2-1-2012
836-053-1140	12-19-2011	Amend	2-1-2012	839-005-0130	2-8-2012	Adopt	3-1-2012
836-053-1310	12-19-2011	Amend	2-1-2012	839-005-0135	1-1-2012	Adopt	2-1-2012
836-053-1340	12-19-2011	Amend	2-1-2012	839-005-0135	2-8-2012	Adopt	3-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
839-009-0330	1-1-2012	Amend	2-1-2012	845-015-0185	1-1-2012	Amend	1-1-2012
839-009-0330	2-8-2012	Amend	3-1-2012	845-015-0190	1-1-2012	Amend	1-1-2012
839-009-0340	1-1-2012	Amend	2-1-2012	845-015-0196	1-1-2012	Amend	1-1-2012
839-009-0340	2-8-2012	Amend	3-1-2012	845-015-0210	1-1-2012	Adopt	1-1-2012
839-009-0345	1-1-2012	Amend	2-1-2012	847-001-0000	2-7-2012	Amend(T)	3-1-2012
839-009-0345	2-8-2012	Amend	3-1-2012	847-001-0000	4-17-2012	Amend	6-1-2012
839-009-0355	1-1-2012	Amend	2-1-2012	847-001-0000(T)	4-17-2012	Repeal	6-1-2012
839-009-0355	2-8-2012	Amend	3-1-2012	847-001-0005	2-7-2012	Amend(T)	3-1-2012
839-009-0360	1-1-2012	Amend	2-1-2012	847-001-0005(T)	4-17-2012	Repeal	6-1-2012
839-009-0360	2-8-2012	Amend	3-1-2012	847-001-0007	2-10-2012	Adopt	3-1-2012
839-009-0362	1-1-2012	Amend	2-1-2012	847-001-0010	2-7-2012	Amend(T)	3-1-2012
839-009-0362	2-8-2012	Amend	3-1-2012	847-001-0010(T)	4-17-2012	Repeal	6-1-2012
839-009-0365	1-1-2012	Amend	2-1-2012	847-001-0015	2-7-2012	Amend(T)	3-1-2012
839-009-0365	2-8-2012	Amend	3-1-2012	847-001-0015	4-17-2012	Amend	6-1-2012
839-011-0020	1-3-2012	Amend	2-1-2012	847-001-0015(T)	4-17-2012	Repeal	6-1-2012
839-011-0050	1-3-2012	Amend	2-1-2012	847-001-0020	2-7-2012	Amend(T)	3-1-2012
839-011-0051	1-3-2012	Amend	2-1-2012	847-001-0020	4-17-2012	Amend	6-1-2012
839-011-0060	1-3-2012	Amend	2-1-2012	847-001-0020(T)	4-17-2012	Repeal	6-1-2012
839-011-0070	1-3-2012	Amend	2-1-2012	847-001-0022	2-7-2012	Amend(T)	3-1-2012
839-011-0072	1-3-2012	Amend	2-1-2012	847-001-0022(T)	4-17-2012	Repeal	6-1-2012
839-011-0074	1-3-2012	Amend	2-1-2012	847-001-0025	2-7-2012	Amend(T)	3-1-2012
839-011-0082	1-3-2012	Amend	2-1-2012	847-001-0025(T)	4-17-2012	Repeal	6-1-2012
839-011-0084	1-3-2012	Amend	2-1-2012	847-001-0030	2-7-2012	Amend(T)	3-1-2012
839-011-0088	1-3-2012	Amend	2-1-2012	847-001-0030	4-17-2012	Amend	6-1-2012
839-011-0090	1-3-2012	Amend	2-1-2012	847-001-0030(T)	4-17-2012	Repeal	6-1-2012
839-011-0140	1-3-2012	Amend	2-1-2012	847-005-0005	1-1-2012	Amend(T)	2-1-2012
839-011-0141	1-3-2012	Amend	2-1-2012	847-005-0005	2-10-2012	Amend	3-1-2012
839-011-0142	1-3-2012	Amend	2-1-2012	847-005-0005	3-2-2012	Amend(T)	4-1-2012
839-011-0143	1-3-2012	Amend	2-1-2012	847-005-0005(T)	2-10-2012	Repeal	3-1-2012
839-011-0145	1-3-2012	Amend	2-1-2012	847-008-0010	4-17-2012	Amend	6-1-2012
839-011-0162	1-3-2012	Amend	2-1-2012	847-008-0040	1-1-2012	Amend(T)	1-1-2012
839-011-0175	1-3-2012	Amend	2-1-2012	847-008-0040	2-10-2012	Amend	3-1-2012
839-011-0265	1-3-2012	Amend	2-1-2012	847-008-0040(T)	2-10-2012	Repeal	3-1-2012
839-011-0270	1-3-2012	Amend	2-1-2012	847-020-0155	2-10-2012	Amend	3-1-2012
839-011-0290	1-3-2012	Amend	2-1-2012	847-020-0155	3-2-2012	Amend(T)	4-1-2012
839-011-0310	1-3-2012	Amend	2-1-2012	847-020-0155(T)	2-10-2012	Repeal	3-1-2012
839-011-0320	1-3-2012	Amend	2-1-2012	847-035-0011	4-17-2012	Amend	6-1-2012
839-011-0334	1-3-2012	Amend	2-1-2012	847-035-0020	2-10-2012	Amend	3-1-2012
839-025-0700	1-1-2012	Amend	2-1-2012	847-035-0030	4-17-2012	Amend	6-1-2012
839-025-0700	3-29-2012	Amend	5-1-2012	847-050-0005	1-1-2012	Amend(T)	1-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
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
847-050-0025(T)	2-10-2012	Repeal	3-1-2012	848-010-0035	3-1-2012	Amend	3-1-2012
847-050-0026	1-1-2012	Amend(T)	1-1-2012	848-035-0030	3-1-2012	Amend	3-1-2012
847-050-0026	2-10-2012	Amend	3-1-2012	848-035-0040	3-1-2012	Amend	3-1-2012
847-050-0026(T)	2-10-2012	Repeal	3-1-2012	848-040-0125	3-1-2012	Amend	3-1-2012
847-050-0027	1-1-2012	Amend(T)	1-1-2012	848-045-0010	3-1-2012	Amend	3-1-2012
847-050-0027	2-10-2012	Amend	3-1-2012	850-030-0010	4-12-2012	Amend(T)	5-1-2012
847-050-0027	3-2-2012	Amend(T)	4-1-2012	850-030-0030	4-12-2012	Amend(T)	5-1-2012
847-050-0027(T)	2-10-2012	Repeal	3-1-2012	850-030-0031	4-12-2012	Adopt(T)	5-1-2012
847-050-0029	1-1-2012	Amend(T)	1-1-2012	850-030-0070	4-12-2012	Amend(T)	5-1-2012
847-050-0029	2-10-2012	Amend	3-1-2012	850-050-0120	12-23-2011	Amend	1-1-2012
847-050-0029(T)	2-10-2012	Repeal	3-1-2012	850-060-0215	12-23-2011	Amend	1-1-2012
847-050-0035	1-1-2012	Amend(T)	1-1-2012	851-002-0000	11-22-2011	Amend	1-1-2012
847-050-0035	2-10-2012	Amend	3-1-2012	851-045-0030	6-1-2012	Amend	6-1-2012
847-050-0035(T)	2-10-2012	Repeal	3-1-2012	851-045-0070	6-1-2012	Amend	6-1-2012
847-050-0037	1-1-2012	Amend(T)	1-1-2012	851-045-0100	4-26-2012	Amend(T)	6-1-2012
847-050-0037	2-10-2012	Amend	3-1-2012	851-045-0100	6-1-2012	Amend	6-1-2012
847-050-0037(T)	2-10-2012	Repeal	3-1-2012	851-050-0004	6-1-2012	Amend	6-1-2012
847-050-0038	1-1-2012	Amend(T)	1-1-2012	851-050-0009	6-1-2012	Adopt	6-1-2012
847-050-0038	2-10-2012	Amend	3-1-2012	851-050-0150	4-26-2012	Suspend	6-1-2012
847-050-0038(T)	2-10-2012	Repeal	3-1-2012	851-052-0040	6-1-2012	Amend	6-1-2012
847-050-0040	1-1-2012	Amend(T)	1-1-2012	851-054-0060	6-1-2012	Adopt	6-1-2012
847-050-0040	2-10-2012	Amend	3-1-2012	851-062-0090	4-1-2012	Amend	4-1-2012
847-050-0040(T)	2-10-2012	Repeal	3-1-2012	851-062-0110	4-1-2012	Amend	4-1-2012
847-050-0041	1-1-2012	Amend(T)	1-1-2012	851-070-0090	4-26-2012	Amend(T)	6-1-2012
847-050-0041	2-10-2012	Amend	3-1-2012	853-001-0000	1-1-2012	Repeal	1-1-2012
847-050-0041	6-1-2012	Amend(T)	6-1-2012	853-001-0005	1-1-2012	Repeal	1-1-2012
847-050-0041(T)	2-10-2012	Repeal	3-1-2012	853-001-0020	1-1-2012	Repeal	1-1-2012
847-050-0042	1-1-2012	Amend(T)	1-1-2012	853-001-0025	1-1-2012	Repeal	1-1-2012
847-050-0042	2-10-2012	Amend	3-1-2012	853-001-0030	1-1-2012	Repeal	1-1-2012
847-050-0042(T)	2-10-2012	Repeal	3-1-2012	853-010-0010	1-1-2012	Repeal	1-1-2012
847-050-0043	1-1-2012	Amend(T)	1-1-2012	853-010-0015	1-1-2012	Repeal	1-1-2012
847-050-0043	2-10-2012	Amend	3-1-2012	853-010-0017	1-1-2012	Repeal	1-1-2012
847-050-0043(T)	2-10-2012	Repeal	3-1-2012	853-010-0020	1-1-2012	Repeal	1-1-2012
847-050-0046	1-1-2012	Amend(T)	1-1-2012	853-010-0025	1-1-2012	Repeal	1-1-2012
847-050-0046	2-10-2012	Amend	3-1-2012	853-010-0035	1-1-2012	Repeal	1-1-2012
847-050-0046(T)	2-10-2012	Repeal	3-1-2012	853-010-0040	1-1-2012	Repeal	1-1-2012
847-050-0050	1-1-2012	Amend(T)	1-1-2012	853-010-0045	1-1-2012	Repeal	1-1-2012
847-050-0050	2-10-2012	Amend	3-1-2012	853-010-0050	1-1-2012	Repeal	1-1-2012
847-050-0050(T)	2-10-2012	Repeal	3-1-2012	853-010-0055	1-1-2012	Repeal	1-1-2012
847-050-0055	1-1-2012	Amend(T)	1-1-2012	853-010-0060	1-1-2012	Repeal	1-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
853-010-0065	1-1-2012	Repeal	1-1-2012	858-010-0017	2-15-2012	Amend(T)	3-1-2012
853-010-0070	1-1-2012	Repeal	1-1-2012	859-030-0005	2-3-2012	Amend(T)	3-1-2012
853-010-0074	1-1-2012	Repeal	1-1-2012	859-030-0005	4-16-2012	Amend	6-1-2012
853-010-0075	1-1-2012	Repeal	1-1-2012	859-030-0005(T)	4-16-2012	Repeal	6-1-2012
853-010-0076	1-1-2012	Repeal	1-1-2012	859-030-0010	2-3-2012	Amend(T)	3-1-2012
853-010-0077	1-1-2012	Repeal	1-1-2012	859-030-0010	4-16-2012	Amend	6-1-2012
853-010-0078	1-1-2012	Repeal	1-1-2012	859-030-0010(T)	4-16-2012	Repeal	6-1-2012
853-010-0079	1-1-2012	Repeal	1-1-2012	859-070-0040	2-3-2012	Adopt(T)	3-1-2012
853-010-0080	1-1-2012	Repeal	1-1-2012	859-070-0040	4-16-2012	Adopt	6-1-2012
853-020-0000	1-1-2012	Adopt	1-1-2012	859-070-0040(T)	4-16-2012	Repeal	6-1-2012
853-030-0000	1-1-2012	Adopt	1-1-2012	859-200-0001	12-22-2011	Adopt(T)	2-1-2012
853-030-0010	1-1-2012	Adopt	1-1-2012	859-300-0050	12-13-2011	Amend	1-1-2012
853-030-0020	1-1-2012	Adopt	1-1-2012	859-300-0050(T)	12-13-2011	Repeal	1-1-2012
853-030-0030	1-1-2012	Adopt	1-1-2012	860-001-0080	4-17-2012	Amend	6-1-2012
853-030-0040	1-1-2012	Adopt	1-1-2012	860-001-0500	4-17-2012	Amend	6-1-2012
853-030-0050	1-1-2012	Adopt	1-1-2012	860-022-0019	4-17-2012	Amend	6-1-2012
853-030-0060	1-1-2012	Adopt	1-1-2012	860-022-0041	4-17-2012	Repeal	6-1-2012
853-030-0070	1-1-2012	Adopt	1-1-2012	860-023-0080	1-1-2012	Repeal	1-1-2012
853-040-0000	1-1-2012	Adopt	1-1-2012	860-023-0090	1-1-2012	Repeal	1-1-2012
853-050-0000	1-1-2012	Adopt	1-1-2012	860-023-0100	1-1-2012	Repeal	1-1-2012
853-050-0010	1-1-2012	Adopt	1-1-2012	860-023-0110	1-1-2012	Repeal	1-1-2012
853-060-0000	1-1-2012	Adopt	1-1-2012	860-023-0120	1-1-2012	Repeal	1-1-2012
853-060-0010	1-1-2012	Adopt	1-1-2012	860-023-0130	1-1-2012	Repeal	1-1-2012
855-019-0260	1-1-2012	Amend	2-1-2012	860-023-0140	1-1-2012	Repeal	1-1-2012
855-019-0280	1-1-2012	Amend	2-1-2012	860-023-0150	1-1-2012	Repeal	1-1-2012
855-019-0290	1-1-2012	Amend	2-1-2012	860-023-0160	1-1-2012	Repeal	1-1-2012
855-031-0010	1-1-2012	Amend	2-1-2012	860-024-0010	3-9-2012	Amend	4-1-2012
855-031-0020	1-1-2012	Amend	2-1-2012	860-027-0200	4-17-2012	Amend	6-1-2012
855-031-0026	1-1-2012	Adopt	2-1-2012	860-036-0001	1-1-2012	Amend	2-1-2012
855-031-0045	1-1-2012	Amend	2-1-2012	860-036-0010	1-1-2012	Amend	2-1-2012
855-041-0095	1-1-2012	Amend	2-1-2012	860-036-0015	1-1-2012	Amend	2-1-2012
855-041-0095	5-1-2012	Amend	6-1-2012	860-036-0030	1-1-2012	Amend	2-1-2012
855-041-0105	5-1-2012	Am. & Ren.	6-1-2012	860-036-0040	1-1-2012	Amend	2-1-2012
855-041-0110	5-1-2012	Repeal	6-1-2012	860-036-0050	1-1-2012	Amend	2-1-2012
855-041-0115	5-1-2012	Am. & Ren.	6-1-2012	860-036-0060	1-1-2012	Amend	2-1-2012
855-041-5100	5-1-2012	Adopt	6-1-2012	860-036-0065	1-1-2012	Amend	2-1-2012
855-041-5120	5-1-2012	Adopt	6-1-2012	860-036-0097	1-1-2012	Amend	2-1-2012
855-041-5130	5-1-2012	Adopt	6-1-2012	860-036-0130	1-1-2012	Amend	2-1-2012
855-041-5140	5-1-2012	Adopt	6-1-2012	860-036-0405	1-1-2012	Amend	2-1-2012
855-041-5150	5-1-2012	Adopt	6-1-2012	860-036-0407	1-1-2012	Repeal	2-1-2012
855-041-5160	5-1-2012	Adopt	6-1-2012	860-036-0425	1-1-2012	Adopt	2-1-2012
855-041-5170	5-1-2012	Adopt	6-1-2012	860-036-0505	1-1-2012	Amend	2-1-2012
855-060-0004	1-1-2012	Adopt	2-1-2012	860-036-0605	1-1-2012	Amend	2-1-2012
855-080-0100	12-15-2011	Amend(T)	1-1-2012	860-036-0610	1-1-2012	Amend	2-1-2012
855-080-0100(T)	12-15-2011	Suspend	1-1-2012	860-036-0615	1-1-2012	Amend	2-1-2012
855-080-0103(T)	12-15-2011	Suspend	1-1-2012	860-036-0625	1-1-2012	Am. & Ren.	2-1-2012
855-110-0005	12-15-2011	Amend	1-1-2012	860-036-0640	1-1-2012	Amend	2-1-2012
855-110-0007	12-15-2011	Amend	1-1-2012	860-036-0705	1-1-2012	Amend	2-1-2012
855-110-0010	12-15-2011	Amend	1-1-2012	860-036-0708	1-1-2012	Adopt	2-1-2012
856-010-0015	12-30-2011	Amend	2-1-2012	860-036-0710	1-1-2012	Amend	2-1-2012
856-010-0027	12-30-2011	Adopt	2-1-2012	860-036-0715	1-1-2012	Amend	2-1-2012
858-010-0010	2-15-2012	Amend(T)	3-1-2012	860-036-0737	1-1-2012	Amend	2-1-2012
858-010-0011	2-15-2012	Amend(T)	3-1-2012	860-036-0739	1-1-2012	Amend	2-1-2012
858-010-0012	2-15-2012	Amend(T)	3-1-2012	860-036-0740	1-1-2012	Amend	2-1-2012
858-010-0013	2-15-2012	Amend(T)	3-1-2012	860-036-0745	1-1-2012	Amend	2-1-2012
858-010-0016	2-15-2012	Amend(T)	3-1-2012	860-036-0750	1-1-2012	Amend	2-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
860-036-0756	1-1-2012	Amend	2-1-2012	943-014-0310(T)	12-1-2011	Repeal	1-1-2012
860-036-0757	1-1-2012	Amend	2-1-2012	943-014-0315	12-1-2011	Adopt	1-1-2012
860-036-0815	1-1-2012	Amend	2-1-2012	943-014-0315(T)	12-1-2011	Repeal	1-1-2012
860-036-0816	1-1-2012	Adopt	2-1-2012	943-014-0320	12-1-2011	Adopt	1-1-2012
860-038-0480	3-15-2012	Amend	4-1-2012	943-014-0320(T)	12-1-2011	Repeal	1-1-2012
860-038-0480(T)	3-15-2012	Repeal	4-1-2012	943-045-0000	12-4-2011	Adopt	1-1-2012
860-039-0005	2-22-2012	Amend	4-1-2012	943-045-0000(T)	12-4-2011	Repeal	1-1-2012
875-005-0005	12-12-2011	Amend(T)	1-1-2012	943-045-0250	12-5-2011	Adopt	1-1-2012
875-040-0005	12-12-2011	Adopt(T)	1-1-2012	943-045-0250(T)	12-5-2011	Repeal	1-1-2012
877-001-0020	12-29-2011	Amend	2-1-2012	943-045-0260	12-5-2011	Adopt	1-1-2012
877-010-0015	12-29-2011	Amend	2-1-2012	943-045-0260(T)	12-5-2011	Repeal	1-1-2012
877-010-0020	12-29-2011	Amend	2-1-2012	943-045-0280	12-5-2011	Adopt	1-1-2012
877-015-0105	12-29-2011	Amend	2-1-2012	943-045-0280(T)	12-5-2011	Repeal	1-1-2012
877-015-0108	12-29-2011	Amend	2-1-2012	943-045-0290	12-5-2011	Adopt	1-1-2012
877-015-0136	12-29-2011	Amend	2-1-2012	943-045-0290(T)	12-5-2011	Repeal	1-1-2012
877-020-0005	12-29-2011	Amend	2-1-2012	943-045-0300	12-5-2011	Adopt	1-1-2012
877-020-0008	12-29-2011	Amend	2-1-2012	943-045-0300(T)	12-5-2011	Repeal	1-1-2012
877-020-0010	12-29-2011	Amend	2-1-2012	943-045-0310	12-5-2011	Adopt	1-1-2012
877-020-0016	12-29-2011	Amend	2-1-2012	943-045-0310(T)	12-5-2011	Repeal	1-1-2012
877-020-0036	12-29-2011	Amend	2-1-2012	943-045-0320	12-5-2011	Adopt	1-1-2012
877-025-0006	12-29-2011	Amend	2-1-2012	943-045-0320(T)	12-5-2011	Repeal	1-1-2012
877-025-0011	12-29-2011	Amend	2-1-2012	943-045-0330	12-5-2011	Adopt	1-1-2012
877-040-0050	12-29-2011	Amend	2-1-2012	943-045-0330(T)	12-5-2011	Repeal	1-1-2012
918-098-1000	1-1-2012	Amend	2-1-2012	943-045-0340	12-5-2011	Adopt	1-1-2012
918-098-1510	3-1-2012	Amend(T)	4-1-2012	943-045-0340(T)	12-5-2011	Repeal	1-1-2012
918-098-1530	3-1-2012	Amend(T)	4-1-2012	943-045-0350	12-5-2011	Adopt	1-1-2012
918-098-1590	3-1-2012	Adopt(T)	4-1-2012	943-045-0350(T)	12-5-2011	Repeal	1-1-2012
918-098-1620	1-1-2012	Amend	2-1-2012	943-045-0360	12-5-2011	Adopt	1-1-2012
918-225-0240	1-1-2012	Amend	2-1-2012	943-045-0360(T)	12-5-2011	Repeal	1-1-2012
918-225-0430	1-1-2012	Amend	2-1-2012	943-045-0370	12-5-2011	Adopt	1-1-2012
918-225-0435	1-1-2012	Amend	2-1-2012	943-045-0370(T)	12-5-2011	Repeal	1-1-2012
918-225-0570	1-1-2012	Amend	2-1-2012	943-045-0400	12-23-2011	Adopt	2-1-2012
918-225-0600	1-1-2012	Amend	2-1-2012	943-045-0400(T)	12-23-2011	Repeal	2-1-2012
918-225-0600	1-1-2012	Amend	2-1-2012	943-045-0410	12-23-2011	Adopt	2-1-2012
918-225-0606	1-1-2012	Adopt	2-1-2012	943-045-0410(T)	12-23-2011	Repeal	2-1-2012
918-225-0609	1-1-2012	Adopt	2-1-2012	943-045-0420	12-23-2011	Adopt	2-1-2012
918-225-0612	1-1-2012	Adopt	2-1-2012	943-045-0420(T)	12-23-2011	Repeal	2-1-2012
918-225-0615	1-1-2012	Adopt	2-1-2012	943-045-0430	12-23-2011	Adopt	2-1-2012
918-225-0618	1-1-2012	Adopt	2-1-2012	943-045-0430(T)	12-23-2011	Repeal	2-1-2012
918-225-0620	1-1-2012	Amend	2-1-2012	943-045-0440	12-23-2011	Adopt	2-1-2012
918-311-0065	5-1-2012	Amend(T)	6-1-2012	943-045-0440(T)	12-23-2011	Repeal	2-1-2012
918-400-0455	1-1-2012	Amend	2-1-2012	943-045-0450	12-23-2011	Adopt	2-1-2012
918-400-0458	1-1-2012	Amend	2-1-2012	943-045-0450(T)	12-23-2011	Repeal	2-1-2012
918-440-0012	1-1-2012	Amend	2-1-2012	943-045-0460	12-23-2011	Adopt	2-1-2012
918-460-0015	1-1-2012	Amend	2-1-2012	943-045-0460(T)	12-23-2011	Repeal	2-1-2012
918-460-0015	2-1-2012	Amend	3-1-2012	943-045-0470	12-23-2011	Adopt	2-1-2012
918-460-0510	1-1-2012	Amend	2-1-2012	943-045-0470(T)	12-23-2011	Repeal	2-1-2012
918-525-0042	4-9-2012	Amend(T)	5-1-2012	943-045-0480	12-23-2011	Adopt	2-1-2012
943-007-0001	5-7-2012	Adopt(T)	6-1-2012	943-045-0480(T)	12-23-2011	Repeal	2-1-2012
943-007-0335	5-7-2012	Adopt(T)	6-1-2012	943-045-0490	12-23-2011	Adopt	2-1-2012
943-007-0501	5-7-2012	Adopt(T)	6-1-2012	943-045-0490(T)	12-23-2011	Repeal	2-1-2012
943-014-0300	12-1-2011	Adopt	1-1-2012	943-045-0500	12-23-2011	Adopt	2-1-2012
943-014-0300(T)	12-1-2011	Repeal	1-1-2012	943-045-0500(T)	12-23-2011	Repeal	2-1-2012
943-014-0305	12-1-2011	Adopt	1-1-2012	943-045-0510	12-23-2011	Adopt	2-1-2012
943-014-0305(T)	12-1-2011	Repeal	1-1-2012	943-045-0510(T)	12-23-2011	Repeal	2-1-2012
943-014-0310	12-1-2011	Adopt	1-1-2012	943-045-0520	12-23-2011	Adopt	2-1-2012

OAR REVISION CUMULATIVE INDEX

OAR Number	Effective	Action	Bulletin	OAR Number	Effective	Action	Bulletin
943-045-0520(T)	12-23-2011	Repeal	2-1-2012				
943-060-0050	2-17-2012	Adopt(T)	4-1-2012				
945-001-0001	3-6-2012	Adopt	4-1-2012				
945-001-0006	3-6-2012	Adopt	4-1-2012				
945-001-0011	3-6-2012	Adopt	4-1-2012				
945-010-0001	3-6-2012	Adopt	4-1-2012				
945-010-0006	3-6-2012	Adopt	4-1-2012				
945-010-0011	3-6-2012	Adopt	4-1-2012				
945-010-0021	3-6-2012	Adopt	4-1-2012				
945-010-0031	3-6-2012	Adopt	4-1-2012				
945-010-0041	3-6-2012	Adopt	4-1-2012				
945-010-0051	3-6-2012	Adopt	4-1-2012				
945-010-0061	3-6-2012	Adopt	4-1-2012				
945-010-0071	3-6-2012	Adopt	4-1-2012				
945-010-0081	3-6-2012	Adopt	4-1-2012				
945-010-0091	3-6-2012	Adopt	4-1-2012				
945-010-0101	3-6-2012	Adopt	4-1-2012				
951-004-0003	1-1-2012	Amend	1-1-2012				
951-004-0004	1-1-2012	Amend	1-1-2012				